

EXPLANATORY STATEMENT

Customs By-law No. 1301009

Customs Act 1901

Section 271 of the *Customs Act 1901* (the Act) provides, in part, that where an item of a Customs Tariff is expressed to apply to goods, or to a class or kind of goods, as prescribed by by-law, the Chief Executive Officer of Customs may make by-laws for the purposes of that item. A Customs Tariff is defined in section 4 of the Act to mean an act imposing duties of customs. The *Customs Tariff Act 1995* (the Customs Tariff Act) is a Customs Tariff for the purposes of the Act.

Background

The *Customs Tariff Amendment (Schedule 4) Act 2012* will repeal the existing Schedule 4 of the Customs Tariff Act and replace it with a new Schedule 4. As part of this process, new by-laws are required for all items that provide for goods to be prescribed by by-law.

Item 23 in new Schedule 4 combines items 23A and 23B of the previous Schedule 4 to the Customs Tariff Act. Item 23 paragraph (a) provides that goods, as prescribed by by-law, that have been donated or bequeathed, by a person, company or organisation resident or established outside Australia to an organisation established in Australia, are dutiable at the rate of “Free”.

New By-law No. 1301009 replaces previous By-law No. 1104437.

Instrument

By-law No. 1301009 prescribes goods donated or bequeathed, for purposes in connection with disaster relief, by a person, company or organisation resident or established outside Australia to an organisation established in Australia that is:

- (a) a registered charity; or
- (b) a library, museum, gallery or institution, gifts to which are deductible because it is covered by item 12.1.2, 12.1.3, 12.1.4 or 12.1.5 of the table in subsection 30 100(1) of the *Income Tax Assessment Act 1997*.

The prescribed goods must not be sold, traded, exchanged, hired out or used for any commercial activities in Australia. A “disaster” is defined in the by-law to be an event or circumstance declared to be a disaster by, or with the approval of, a Minister of the Commonwealth, State or Territory.

Consultation

No consultation was undertaken in relation to By-law No. 1301009 as it does not alter existing arrangements.

Human Rights Implications

This by-law does not engage, impact on, or limit in any way, the human rights and freedoms recognised or declared in the international instruments listed in the definition of human rights at section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

Commencement

By-law No. 1301009 takes effect on and from the date that the *Customs Tariff Amendment (Schedule 4) Act 2012* commences, that is 1 March 2013.