

## EXPLANATORY STATEMENT

### Customs By-law No. 0176871

#### *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**

On 1 March 2013 *The Customs Tariff Amendment (Schedule 4) Act 2012* commenced. This legislation repealed the previous Schedule 4 of the Customs Tariff Act and replaced it with a new Schedule 4. As part of this process, new by-laws were required for all items that provide for goods to be prescribed by by-law.

Item 17 of Schedule 4 provides that goods which have been exported from Australia and returned in an unaltered condition are dutiable at the rate of “Free”. However, the current by-law attached to item 17, By-law No. 1300533, failed to specify all the conditions of use of item 17 – specifically the requirement that eligible goods be either Australian made or imported goods on which duty has been paid or is payable. As a result, the current item 17 by-law will be revoked and replaced by a new by-law that clearly sets out all conditions of use.

#### **Instrument**

By-law No. 0176871 prescribes goods that have been made in Australia, or imported goods on which duty has been paid or is payable on first importation; that have been exported from Australia and returned in an unaltered condition; and have not been subject to treatment, repair, renovation, alteration or any other process.

The goods prescribed by the by-law do not include goods, including excisable goods in respect of which duties of the Commonwealth were payable prior to exportation, but were not paid. It also does not include goods for which a refund or drawback has been paid and an amount equal to such refund or drawback has not been paid to the Commonwealth.

#### **Consultation**

No consultation was undertaken in relation to By-law No. 0176871 as it does not alter the intended scope of the concession.

#### **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. 0176871 takes effect on and from the date 1 July 2013.