



Customs (Korean Rules of Origin) Regulation 2014

Select Legislative Instrument No. 161, 2014

made under the

Customs Act 1901

Compilation No. 1

Compilation date: 9 April 2021

Includes amendments up to: F2021L00418

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Prepared by the Office of Parliamentary Counsel, Canberra

About this compilation

This compilation

This is a compilation of the *Customs (Korean Rules of Origin) Regulation 2014* that shows the text of the law as amended and in force on 9 April 2021 (the **compilation date**).

The notes at the end of this compilation (the **endnotes**) include information about amending laws and the amendment history of provisions of the compiled law.

Uncommenced amendments

The effect of uncommenced amendments is not shown in the text of the compiled law. Any uncommenced amendments affecting the law are accessible on the Legislation Register (www.legislation.gov.au). The details of amendments made up to, but not commenced at, the compilation date are underlined in the endnotes. For more information on any uncommenced amendments, see the series page on the Legislation Register for the compiled law.

Application, saving and transitional provisions for provisions and amendments

If the operation of a provision or amendment of the compiled law is affected by an application, saving or transitional provision that is not included in this compilation, details are included in the endnotes.

Editorial changes

For more information about any editorial changes made in this compilation, see the endnotes.

Modifications

If the compiled law is modified by another law, the compiled law operates as modified but the modification does not amend the text of the law. Accordingly, this compilation does not show the text of the compiled law as modified. For more information on any modifications, see the series page on the Legislation Register for the compiled law.

Self-repealing provisions

If a provision of the compiled law has been repealed in accordance with a provision of the law, details are included in the endnotes.

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Part 1—Preliminary

1 Name

This is the *Customs (Korean Rules of Origin) Regulation 2014*.

3 Authority

This instrument is made under the *Customs Act 1901*.

4 Definitions

In this instrument:

Act means the *Customs Act 1901*.

Agreement has the meaning given by section 153ZMB of the Act.

Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade 1994 means the Agreement of that name set out in Annex 1A of the Marrakesh Agreement Establishing the World Trade Organization, done at Marrakesh on 15 April 1994.

Note: The Marrakesh Agreement Establishing the World Trade Organization is in Australian Treaty Series [1995] ATS 8 and could in 2014 be viewed in the Australian Treaties Library on the AustLII website (<http://www.austlii.edu.au>).

Australian originating goods has the meaning given by section 153ZMB of the Act.

Certificate of Origin has the meaning given by section 153ZMB of the Act.

Harmonized System has the meaning given by section 153ZMB of the Act.

non-originating materials has the meaning given by section 153ZMB of the Act.

originating materials has the meaning given by section 153ZMB of the Act.

produce has the meaning given by section 153ZMB of the Act.

territory of Australia has the meaning given by section 153ZMB of the Act.

territory of Korea has the meaning given by section 153ZMB of the Act.

Part 2—Tariff change requirement

5 Change in tariff classification requirement for non-originating materials

For the purposes of subsection 153ZME(3) of the Act, a non-originating material used in the production of goods that does not satisfy a particular change in tariff classification is taken to satisfy the change in tariff classification if:

- (a) it was produced entirely in the territory of Korea, or entirely in the territory of Korea and the territory of Australia, from other non-originating materials; and
- (b) each of those other non-originating materials satisfies the change in tariff classification, including by one or more applications of this section.

Part 3—Regional value content requirement

6 Build-down method

- (1) For the purposes of subsection 153ZME(7) of the Act, the regional value content of goods under the build-down method is worked out using the formula:

$$\frac{\text{Customs value} - \text{Value of non-originating materials}}{\text{Customs value}} \times 100$$

where:

customs value means the customs value of the goods worked out under Division 2 of Part VIII of the Act.

value of non-originating materials means the value, worked out under Part 4, of the non-originating materials used in the production of the goods.

- (2) Regional value content must be expressed as a percentage.

7 Build-up method

- (1) For the purposes of subsection 153ZME(7) of the Act, the regional value content of goods under the build-up method is worked out using the formula:

$$\frac{\text{Value of originating materials}}{\text{Customs value}} \times 100$$

where:

customs value means the customs value of the goods worked out under Division 2 of Part VIII of the Act.

value of originating materials means the value, worked out under Part 4, of the originating materials used in the production of the goods.

- (2) Regional value content must be expressed as a percentage.

Part 4—Determination of value

8 Value of goods that are originating materials or non-originating materials

- (1) For the purposes of subsection 153ZMB(3) of the Act, this section explains how to work out the value of originating materials or non-originating materials used in the production of goods.
- (2) The value of the materials is as follows:
 - (a) for materials imported into the territory of Korea by the producer of the goods—the value of the materials worked out in accordance with the Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade 1994;
 - (b) for materials acquired in the territory of Korea—the earliest ascertainable cost of acquisition of the materials;
 - (c) for materials that are produced by the producer of the goods—the sum of:
 - (i) all the costs incurred in the production of the materials, including general expenses; and
 - (ii) an amount that is the equivalent of the amount of profit that the producer would make for the materials in the normal course of trade.
- (3) In working out the value of particular originating materials under subsection (2), the following may be included, to the extent that they have not been taken into account under that subsection:
 - (a) the costs of freight, insurance, packing and all other costs incurred to transport the materials within the territory of Korea, or between the territory of Australia and the territory of Korea, to the location of the producer of the goods;
 - (b) duties, taxes and customs brokerage fees on the materials that:
 - (i) have been paid in either or both of the territory of Korea and the territory of Australia; and
 - (ii) have not been waived or refunded; and
 - (iii) are not refundable or otherwise recoverable;including any credit against duties or taxes that have been paid or that are payable.
- (4) In working out the value of particular non-originating materials under subsection (2), the following may be deducted if they were included under that subsection:
 - (a) the costs of originating materials used in the production of the non-originating materials in the territory of Korea;
 - (b) the costs of freight, insurance, packing and all other costs incurred to transport the non-originating materials within the territory of Korea, or between the territory of Australia and the territory of Korea, to the location of the producer of the goods;

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- (c) duties, taxes and customs brokerage fees on the non-originating materials that:
 - (i) have been paid in either or both of the territory of Korea and the territory of Australia; and
 - (ii) have not been waived or refunded; and
 - (iii) are not refundable or otherwise recoverable;including any credit against duties or taxes that have been paid or that are payable;
 - (d) the costs of processing incurred in either or both of the territory of Korea and the territory of Australia in the production of the non-originating materials.

9 Value of accessories, spare parts or tools

If paragraphs 153ZME(8)(a), (b), (c) and (d) of the Act are satisfied in relation to goods:

- (a) the value of the accessories, spare parts or tools must be taken into account for the purposes of working out the regional value content of the goods under Part 3 of this instrument; and
- (b) if the accessories, spare parts or tools are non-originating materials—for the purposes of sections 6 and 8 of this instrument, those accessories, spare parts or tools are taken to be non-originating materials used in the production of the goods; and
- (c) if the accessories, spare parts or tools are originating materials—for the purposes of sections 7 and 8 of this instrument, those accessories, spare parts or tools are taken to be originating materials used in the production of the goods.

10 Value of packaging material and container

If paragraphs 153ZMF(1)(a) and (b) of the Act are satisfied in relation to goods and the goods must have a regional value content of not less than a particular percentage worked out in a particular way:

- (a) the value of the packaging material or container in which the goods are packaged must be taken into account for the purposes of working out the regional value content of the goods under Part 3 of this instrument; and
- (b) if that packaging material or container is a non-originating material—for the purposes of sections 6 and 8 of this instrument, that packaging material or container is taken to be a non-originating material used in the production of the goods; and
- (c) if that packaging material or container is an originating material—for the purposes of sections 7 and 8 of this instrument, that packaging material or container is taken to be an originating material used in the production of the goods.

Part 5—Record keeping obligations

12 Exportation of goods to Korea—record keeping by exporter who is not the producer of the goods

- (1) For subsection 126AMB(1) of the Act, an exporter of goods mentioned in that subsection, who is not also the producer of goods, must keep the following records:
 - (a) records of the purchase of the goods by the exporter;
 - (b) records of the purchase of the goods by the person to whom the goods are exported;
 - (c) evidence that payment has been made for the goods;
 - (d) evidence of the classification of the goods under the Harmonized System;
 - (e) if the goods include any spare parts, accessories or tools that were purchased by the exporter:
 - (i) records of the purchase of the spare parts, accessories or tools; and
 - (ii) evidence of the value of the spare parts, accessories or tools;
 - (f) if the goods include any spare parts, accessories or tools that were produced by the exporter:
 - (i) records of the purchase of all materials that were purchased for use or consumption in the production of the spare parts, accessories or tools; and
 - (ii) evidence of the value of the materials; and
 - (iii) records of the production of the spare parts, accessories or tools;
 - (g) if the goods are packaged for retail sale in packaging material or a container that was purchased by the exporter:
 - (i) records of the purchase of the packaging material or container; and
 - (ii) evidence of the value of the packaging material or container;
 - (h) if the goods are packaged for retail sale in packaging material or a container that was produced by the exporter:
 - (i) records of the purchase of the materials that were purchased for use or consumption in the production of the packaging material or container; and
 - (ii) evidence of the value of the materials; and
 - (iii) records of the production of the packaging material or container;
 - (i) a copy of the Certificate of Origin for the goods.
- (2) The records must be kept for at least 5 years starting on the date the Certificate of Origin for the goods is signed.
- (3) The exporter:
 - (a) may keep the record at any place (whether or not in Australia); and
 - (b) must ensure that:

- (i) the record is kept in a form that would enable a determination of whether the goods are Australian originating goods in accordance with the Agreement; and
- (ii) if the record is not in English—the record is kept in a place and form that would enable an English translation to be readily made; and
- (iii) if the record is kept by mechanical or electronic means—the record is readily convertible into a hard copy in English.

13 Exportation of goods to Korea—record keeping by the producer of the goods

- (1) For subsection 126AMB(1) of the Act, a producer of goods mentioned in that subsection, whether or not the producer is also the exporter of the goods, must keep the following records:
- (a) records of the purchase of the goods;
 - (b) if the producer is the exporter of the goods—evidence of the classification of the goods under the Harmonized System;
 - (c) evidence that payment has been made for the goods;
 - (d) evidence of the value of the goods;
 - (e) records of the purchase of all materials that were purchased for use or consumption in the production of the goods and evidence of the classification of the materials under the Harmonized System;
 - (f) evidence of the value of those materials;
 - (g) records of the production of the goods;
 - (h) if the goods include any spare parts, accessories or tools that were purchased by the producer:
 - (i) records of the purchase of the spare parts, accessories or tools; and
 - (ii) evidence of the value of the spare parts, accessories or tools;
 - (i) if the goods include any spare parts, accessories or tools that were produced by the producer:
 - (i) records of the purchase of all materials that were purchased for use or consumption in the production of the spare parts, accessories or tools; and
 - (ii) evidence of the value of the materials; and
 - (iii) records of the production of the spare parts, accessories or tools;
 - (j) if the goods are packaged for retail sale in packaging material or a container that was purchased by the producer:
 - (i) records of the purchase of the packaging material or container; and
 - (ii) evidence of the value of the packaging material or container;
 - (k) if the goods are packaged for retail sale in packaging material or a container that was produced by the producer:
 - (i) records of the purchase of all materials that were purchased for use or consumption in the production of the packaging material or container; and
 - (ii) evidence of the value of the materials; and
 - (iii) records of the production of the packaging material or container;

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- (1) a copy of the Certificate of Origin for the goods.
- (2) The records must be kept for at least 5 years starting on the date the Certificate of Origin for the goods is signed.
- (3) The producer:
 - (a) may keep the record at any place (whether or not in Australia); and
 - (b) must ensure that:
 - (i) the record is kept in a form that would enable a determination of whether the goods are Australian originating goods in accordance with the Agreement; and
 - (ii) if the record is not in English—the record is kept in a place and form that would enable an English translation to be readily made; and
 - (iii) if the record is kept by mechanical or electronic means—the record is readily convertible into a hard copy in English.

Endnotes

Endnote 1—About the endnotes

The endnotes provide information about this compilation and the compiled law.

The following endnotes are included in every compilation:

Endnote 1—About the endnotes

Endnote 2—Abbreviation key

Endnote 3—Legislation history

Endnote 4—Amendment history

Abbreviation key—Endnote 2

The abbreviation key sets out abbreviations that may be used in the endnotes.

Legislation history and amendment history—Endnotes 3 and 4

Amending laws are annotated in the legislation history and amendment history.

The legislation history in endnote 3 provides information about each law that has amended (or will amend) the compiled law. The information includes commencement details for amending laws and details of any application, saving or transitional provisions that are not included in this compilation.

The amendment history in endnote 4 provides information about amendments at the provision (generally section or equivalent) level. It also includes information about any provision of the compiled law that has been repealed in accordance with a provision of the law.

Editorial changes

The *Legislation Act 2003* authorises First Parliamentary Counsel to make editorial and presentational changes to a compiled law in preparing a compilation of the law for registration. The changes must not change the effect of the law. Editorial changes take effect from the compilation registration date.

If the compilation includes editorial changes, the endnotes include a brief outline of the changes in general terms. Full details of any changes can be obtained from the Office of Parliamentary Counsel.

Misdescribed amendments

A misdescribed amendment is an amendment that does not accurately describe the amendment to be made. If, despite the misdescription, the amendment can be given effect as intended, the amendment is incorporated into the compiled law and the abbreviation “(md)” added to the details of the amendment included in the amendment history.

If a misdescribed amendment cannot be given effect as intended, the abbreviation “(md not incorp)” is added to the details of the amendment included in the amendment history.

Endnotes

Endnote 2—Abbreviation key

Endnote 2—Abbreviation key

ad = added or inserted	o = order(s)
am = amended	Ord = Ordinance
amdt = amendment	orig = original
c = clause(s)	par = paragraph(s)/subparagraph(s) /sub-subparagraph(s)
C[x] = Compilation No. x	pres = present
Ch = Chapter(s)	prev = previous
def = definition(s)	(prev...) = previously
Dict = Dictionary	Pt = Part(s)
disallowed = disallowed by Parliament	r = regulation(s)/rule(s)
Div = Division(s)	reloc = relocated
ed = editorial change	renum = renumbered
exp = expires/expired or ceases/ceased to have effect	rep = repealed
F = Federal Register of Legislation	rs = repealed and substituted
gaz = gazette	s = section(s)/subsection(s)
LA = <i>Legislation Act 2003</i>	Sch = Schedule(s)
LIA = <i>Legislative Instruments Act 2003</i>	Sdiv = Subdivision(s)
(md) = misdescribed amendment can be given effect	SLI = Select Legislative Instrument
(md not incorp) = misdescribed amendment cannot be given effect	SR = Statutory Rules
mod = modified/modification	Sub-Ch = Sub-Chapter(s)
No. = Number(s)	SubPt = Subpart(s)
	<u>underlining</u> = whole or part not commenced or to be commenced

Endnote 3—Legislation history

Endnote 3—Legislation history

Name	Registration	Commencement	Application, saving and transitional provisions
Customs (Korean Rules of Origin) Regulation 2014 (SLI No. 161, 2014)	3 Nov 2014 (F2014L01474)	s 5–13 and Sch 1: 12 Dec 2014 (s 2 items 2, 3) Remainder: 4 Nov 2014 (s 2 item 1)	—
Customs Amendment (Product Specific Rule Modernisation) Regulations 2021	6 Apr 2021 (F2021L00418)	Sch 1 (items 16–19): 9 Apr 2021	—

Endnotes

Endnote 4—Amendment history

Endnote 4—Amendment history

Provision affected	How affected
Part 1	
s 2	rep LA s 48D
s 4	am F2021L00418
Part 2	
Part 2	rs F2021L00418
s 5	rs F2021L00418
Part 3	
Part 3	rs F2021L00418
s 6	rs F2021L00418
s 7	rs F2021L00418
Part 4	
Part 4	rs F2021L00418
s 8	rs F2021L00418
s 9	rs F2021L00418
s 10	rs F2021L00418
s 11	rep F2021L00418
Schedule 1	rep F2021L00418
