

## **EXPLANATORY STATEMENT**

### **Select Legislative Instrument 2016 No.**

Issued by the Assistant Minister for Immigration and Border Protection  
Parliamentary Secretary to the Minister for Immigration and Border Protection

#### *Customs Tariff Act 1995*

#### *Customs Tariff Amendment (2017 Harmonized System) Regulation 2016*

The *Customs Tariff Act 1995* (the Customs Tariff Act) gives effect to Australia's import trade classification system. It assigns rates of customs duty, both general and preferential, to imported goods and enables the collection of these duties. It also allows for the regulation of certain goods and the collection of trade statistics.

Subsection 20A of the Customs Tariff Act provides, in part, that the Governor-General may make regulations, not inconsistent with this Act, prescribing all matters which by this Act are required or permitted to be prescribed, or which are necessary or convenient to be prescribed for giving effect to this Act.

#### **Background and purpose**

The purpose of the *Customs Tariff Amendment (2017 Harmonized System) Regulation 2016* (the Amendment Regulation) is to amend the *Customs Tariff Regulations 2004* (the Customs Tariff Regulations) to give effect to the World Customs Organisation's fifth review of the International Convention on the Harmonized Commodity Description and Coding System, commonly referred to as the Harmonized System. The Harmonized System is a system of goods classification based on internationally agreed descriptors for goods and related four and six digit codes. These four and six digit tariff classifications uniquely identify all traded goods and commodities and are uniform across all countries that have adopted the Harmonized System. The Customs Tariff Act provides an eight digit tariff classification for domestic purposes, which is based on the Harmonized System.

Australia is a signatory to the Harmonized System and has implemented it through the Customs Tariff Act. Australia is obliged to apply the changes resulting from the fifth review on 1 January 2017.

The *Customs Tariff Amendment (2017 Harmonized System Changes) Act 2016* (the Amendment Act) amends the Customs Tariff Act to implement approximately 950 changes resulting from the review of the Harmonized System. The Amendment Regulation is consequential to the Amendment Act and enables the Customs Tariff Regulations to reflect the changes in the Customs Tariff Act.

The Customs Tariff Regulations contain several references to tariff headings and subheadings in the Customs Tariff Act. As a consequence of amendments made by the Amendment Act to some of these headings and subheadings, and the resulting reclassification of some goods, it

is also necessary to amend the Customs Tariff Regulations to update these references and classifications. These amendments are of a technical nature only, and involve no change in policy.

The purpose of the Amendment Regulation is to amend the Customs Tariff Regulations to update Schedule 2 in relation to ASEAN and New Zealand originating goods under Australia's regional agreement with ASEAN and New Zealand, the ASEAN-Australia-New Zealand Free Trade Agreement (AANZFTA).

Schedule 2 of the Customs Tariff Regulations prescribes goods for the purposes of Schedule 8 of the Customs Tariff Act. Schedule 8 sets out phasing rates of duty for the purposes of the AANZFTA. Some phasing rates apply in respect of prescribed goods only. The prescription of these goods ensures that the phasing rates of duty for these items in Schedule 8 only apply to certain goods, in accordance with the AANZFTA. The Harmonized System changes required the tariff subheading relating to item 362A to be repealed and substituted with new tariff subheading 3808.52.90 and the creation of five new items 123A, 362A, 362B, 362J and 362K in Schedule 8 of the Customs Tariff Act, which apply in respect of prescribed goods only. The Amendment Regulation inserts new items 3A, 15A, 15B, 15C and 15D into Schedule 2 of the Customs Tariff Regulations, which prescribe goods for the purposes of new items 123A, 362A, 362B, 362J and 362K.

Complementary amendments are also made to the *Customs Regulation 2015* by the *Customs Amendment (Harmonized System 2017) Regulation 2016*, to implement the changes to the Harmonized System.

Details of the Amendment Regulation are set out in [Attachment A](#).

A Statement of Compatibility with Human Rights has been prepared and is at [Attachment B](#).

During the Harmonized System review process, consultations were undertaken with local industry groups that might be affected by the changes. In addition, bodies directly involved in international trade (such as the Customs Brokers and Forwarders Council of Australia; the Export Council of Australia and the Australian Federation of International Forwarders) have been kept abreast of changes to the Harmonized System and will be supported by the Department of Immigration and Border Protection during implementation of the classification amendments.

The Amendment Regulation commences on the commencement of Schedule 1 to the *Customs Tariff Amendment (2017 Harmonized System Changes) Act 2016*. That Schedule commences on 1 January 2017.

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**Details of the *Customs Tariff Amendment (2017 Harmonized System) Regulation 2016***

**Section 1 – Name of Regulation**

This section provides that the title of the Regulation is the *Customs Tariff Amendment (2017 Harmonized System) Regulation 2016* (the Amendment Regulation).

**Section 2 – Commencement**

This section provides that the Amendment Regulation is to commence immediately after the commencement of Schedule 1 to the *Customs Tariff Amendment (2017 Harmonized System Changes) Act 2016*. That Schedule commences on 1 January 2017.

**Section 3 – Authority**

This section provides that the Amendment Regulation is made under the *Customs Tariff Act 1995* (the Customs Tariff Act).

The purpose of this section is to set out the Act under which the Amendment Regulation is to be made.

**Section 4 – Schedule(s)**

This section provides for each instrument that is specified in a Schedule to this instrument is to be amended or repealed as set out in the applicable items in the Schedule concerned, and for any other item in a Schedule to this instrument to have effect according to its own terms. The instrument that is being amended is the *Customs Tariff Regulations 2004* (the Customs Tariff Regulations).

**Schedule 1 – Amendments**

**Item 1 – Schedule 2 (table item 3)**

Schedule 2 prescribes goods for certain items listed in Schedule 8 of the Customs Tariff Act.

This item:

- a) repeals the tariff subheading 3808.50.90 at table item 3 and substitutes tariff subheading 3808.52.90.
- b) inserts a new item at table item 3A with the goods description “Insecticides, herbicides, anti-sprouting products and plant-growth regulators classified in 3808.59.90 of Schedule 3 to the Act”, and tariff subheading 3808.59.90.

These amendments to the Customs Tariff Regulations will implement changes to tariff classification resulting from the fifth review of the Harmonized System.

Item 2 – Schedule 2 (after table item 15)

This item inserts four new items, as follows:

- a) new item at table item 15A with the goods description “Vehicles, from Indonesia, of a cylinder capacity not exceeding 3,000 cm<sup>3</sup>, except vehicles that only use a small secondary petrol engine to recharge their batteries, and that are normally driven solely by use of the electric motor, classified in 8703.40.19 of Schedule 3 to the Act”, and tariff subheading 8703.40.19;
- b) new item at table item 15B with the goods description “Vehicles, from Indonesia, that only use a small secondary petrol engine to recharge their batteries, and that are normally driven solely by use of the electric motor, classified in 8703.40.19 of Schedule 3 to the Act”, and tariff subheading 8703.40.19;
- c) new item at table item 15C with the goods description “Vehicles, from Indonesia, of a cylinder capacity not exceeding 3,000cm<sup>3</sup>, except vehicles that only use a small secondary petrol engine to recharge their batteries, and that are normally driven solely by use of the electric motor, classified in 8703.60.19 of Schedule 3 to the Act”, and tariff subheading 8703.60.19: and
- d) new item at table item 15D with the goods description “Vehicles, from Indonesia, that only use a small secondary petrol engine to recharge their batteries, and that are normally driven solely by use of the electric motor, classified in 8703.60.19 of Schedule 3 to the Act”, and tariff subheading 8703.60.19.

These amendments to the Customs Tariff Regulations will implement changes to tariff classifications resulting from the fifth review of the Harmonized System.

**Statement of Compatibility with Human Rights**

Prepared in accordance with Part 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*

***Customs Tariff Amendment (2017 Harmonized System) Regulation 2016***

This legislative instrument, titled the *Customs Tariff Amendment (2017 Harmonized System) Regulation 2016* (the Amendment Regulation), is compatible with human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

**Overview**

The purpose of this Amendment Regulation is to amend the *Customs Tariff Regulations 2004* (the Customs Tariff Regulations) to give effect to the World Customs Organisation's fifth review of the International Convention on the Harmonized Commodity Description and Coding System, commonly referred to as the Harmonized System.

Australia is a signatory to the Harmonized System, and has implemented it through the *Customs Tariff Act 1995* (the Customs Tariff Act). The *Customs Tariff Amendment (2017 Harmonized System Changes) Act 2016* (the Amendment Act) amends the Customs Tariff Act to implement approximately 950 changes resulting from the review of the Harmonized System. The Amendment Regulation is consequential to the Amendment Act and enables the Customs Tariff Regulations to reflect the changes in the Customs Tariff Act resulting from the review of the Harmonized System. The changes are to tariff classifications and descriptions of certain goods.

The Amendment Regulation commences on the day of commencement of Schedule 1 to the *Customs Tariff Amendment (2017 Harmonized System Changes) Act 2016*. That Schedule commences on 1 January 2017.

***Human Rights implications***

This Amendment Regulation does not engage any of the applicable rights or freedoms.

***Conclusion***

This Amendment Regulation is compatible with human rights as it does not raise any human rights issues.

**The Hon Alex Hawke MP, Assistant Minister for Immigration and Border Protection  
Parliamentary Secretary to the Minister for Immigration and Border Protection**