

EXPLANATORY STATEMENT

Subject – *Product Stewardship Act 2011*

Product Stewardship (Televisions and Computers) Amendment (Product Codes) Regulations 2017

The *Product Stewardship Act 2011* (the Act) establishes a framework for product stewardship and seeks to address the environmental, human and safety impacts of products and materials across their full lifecycles, from manufacture to disposal.

Section 111 of the Act provides that the Governor-General may make regulations prescribing matters required or permitted by the Act to be prescribed, or necessary or convenient to be prescribed for carrying out or giving effect to the Act.

The *Product Stewardship (Televisions and Computers) Regulations 2011* (the Principal Regulations) give effect to the National Television and Computer Recycling Scheme (the Scheme). The objectives of the Scheme include minimising the amount of television and computer materials (particularly hazardous materials) that are disposed of to landfill and maximising the recovery of resources from end-of-life television or computer products in a safe, scientific and environmentally sound manner.

In each financial year, an importer or manufacturer is covered by the Scheme if they are a constitutional corporation (a foreign corporation or a trading or financial corporation formed within Australia) and imported or manufactured more than a threshold amount of products during the previous financial year. The Principal Regulations prescribe the two product classes that the Scheme applies to: television or computer products. The products and their corresponding product codes are listed in the schedules to the Principal Regulations.

The *Customs Tariff Act 1995* (the Tariff Act) gives effect to the *Combined Australian Customs Tariff Nomenclature and Statistical Classification* (the Working Tariff), published by the Department of Immigration and Border Protection. The product codes for television or computer products listed in the schedules to the Principal Regulations align with product codes in the Working Tariff. Alignment with the product codes in the Working Tariff is important because Department of Immigration and Border Protection data is used by the Department of Environment and Energy to determine if importers are covered by the Scheme and for compliance purposes under the Act.

The *Customs Tariff Amendment (2017 Harmonized System Changes) Act 2016* amended the Tariff Act to update some of the product codes and descriptions set out in the Harmonised Tariff. These changes took effect on 1 January 2017.

The purpose of the *Product Stewardship (Televisions and Computers) Amendment (Product Codes) Regulations 2017* (the Regulations) is to amend the Principal Regulations to update the relevant product codes and descriptions to be applied to products imported or manufactured from 1 January 2017. The amendments ensure the product codes in the Principal Regulations align with the codes under the Working Tariff.

The Regulations also amends the explanatory note to the definition of the term *product code* in the Principal Regulations to clarify that the Working Tariff refers to tariff classifications in the Tariff Act.

The Department of the Environment and Energy consulted with the coregulatory arrangements on the amendments to the Principal Regulations. The Department of Immigration and Border Protection has also been consulted.

The Office of Best Practice Regulation (OBPR) was consulted in relation to the making of the Regulations. OBPR advised that a Regulation Impact Statement was not required as the changes do not have more than a minor regulatory impact on business, community organisations or individuals.

Details of the Regulations are set out in the Attachment.

The Act does not specify any conditions that need to be satisfied before the power to make the Regulations is exercised.

The Regulations are a legislative instrument for the purposes of the *Legislative Instruments Act 2003*.

The Regulations commence the day after the instrument is registered.

The Minute recommends that the Regulations be made in the form proposed.

Authority: Section 111 of the *Product Stewardship Act 2011*

Details of the *Product Stewardship (Televisions and Computers) Amendment (Product Codes) Regulations 2017*

Section 1 – Name of Regulations

This section provides that the title of the Regulations is the *Product Stewardship (Televisions and Computers) Amendment (Product Codes) Regulations 2017* (the Regulations).

Section 2 – Commencement

This section provides for the Regulations to commence on the day after this instrument is registered.

Section 3 – Authority

This section provides that the Regulations is made under the *Product Stewardship Act 2011* (the Act).

Section 4 – Schedule(s)

This section provides that each instrument specified in a Schedule to the Regulation is amended or repealed as set out in the applicable terms in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

Schedule 1 – Amendments

Item 1 – Regulations 1.03 (note at the end of the definition of product code)

Regulation 1.03 defines the term *product code* by reference to a document called the Combined Customs Tariff Nomenclature and Statistical Classification (the Working Tariff). This definition aligns the product codes under the *Product Stewardship (Television and Computers Regulations) 2011* (Principal Regulations) with the definition of the statistical codes under the Working Tariff. The Working Tariff is used by the Department of Immigration and Border Protection and the Australian Bureau of Statistics to identify imported products under the Customs Tariff Act 1995 (Tariff Act).

This item amends the explanatory note to the definition of *product code* in regulation 1.03 to clarify that the Harmonised Tariff refers to the tariff classifications in the Tariff Act. This ensures that the Principal Regulations will be considered for consequential amendment when future amendments to the Tariff Act occur.

The note to the definition of *product code* in regulation 1.03 will continue to provide a link to the Department of Immigration and Border Protection website where the Working Tariff can be viewed. This provides an easily accessible method for members of the public to view the most current version of the document.

Item 2 – Part 2 of Schedule 1D (table item 3.2, column 1)

Item 2 amends table item 3.2 of Schedule 1D of the Principal Regulations to provide that the product codes and descriptions prescribed in that table item apply to products imported or manufactured on or after 1 July 2015 and before 1 January 2017. This amendment reflects the updates to the Working Tariff that took effect from 1 January 2017.

Item 3 – Part 2 of Schedule 1D (after table item 3.2)

Item 3 amends the Principal Regulations to update the product codes and descriptions that apply to television or computer products imported or manufactured on or after 1 January 2017 through a new subregulation 3.3. These amendments align the product codes and descriptions with those included in the Working Tariff.

Whilst this amendment updates the product codes and descriptions that apply to television or computer products imported or manufactured on or after 1 January 2017, it has prospective (not retrospective) effect. This is because determining whether importers and manufacturers are covered by the Scheme in a financial year is determined by the number of television or computer products they imported or manufactured in the previous financial year. This amendment updates product codes and descriptions, which will be used to determine whether corporations are covered by the Scheme in the 2017-2018 financial year (starting 30 June 2017), based on their importing and manufacturing activities in the 2016-2017 financial year. As such, the obligations that are imposed by these amendments are prospective. It is only the application of those obligations that are determined by reference to past events. Consequently, this amendment does not offend subsection 12(2) of the *Legislation Act 2003*.

Statement of Compatibility with Human Rights

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

Product Stewardship (Televisions and Computers) Amendment (Product Codes) Regulations 2017

Overview of the Legislative Instrument

The *Product Stewardship (Televisions and Computers) Amendment (Product Codes) Regulations 2017* amends the *Product Stewardship (Televisions and Computers) Regulations 2011* (the Principal Regulations) to update the product codes listed in Schedule 1D to align with the product codes used by the *Customs Tariff Act 1995*.

Human rights implications

This legislative instrument has been assessed against the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*. This legislative instrument does not engage any of the applicable rights or freedoms.

Conclusion

This legislative instrument is compatible with human rights as it does not raise any human rights issues.

The Hon Josh Frydenberg MP, Minister for the Environment and Energy

