

EXPLANATORY STATEMENT

Issued by the authority of the Minister for Industry, Science and Technology

Tradex Scheme Act 1999

Tradex Scheme Regulations 2018

Purpose and Operation

The purpose of the *Tradex Scheme Regulations 2018* is to facilitate the operation of the Tradex Scheme in conjunction with the *Tradex Scheme Act 1999*. The *Tradex Scheme Regulations 2018* will remake and update the *Tradex Scheme Regulations 2008*, which are due to sunset on 1 October 2018.

Together with the *Tradex Scheme Act 1999*, these regulations assist the Australian Government to abide by the international principle that goods should only be taxed in the country in which they are consumed.

Export may be carried out by the importer or a third party but must occur within twelve months of the time of import.

The Tradex Scheme provides access to up-front exemption from duties imposed by the *Customs Tariff Act 1995* and other taxes, including the Goods and Services Tax.

The *Tradex Scheme Regulations 2018* have no significant financial implications. The regulations are administrative in nature.

Authority

Section 49 of the *Tradex Scheme Act 1999* (the Act) provides, in part, 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 giving effect to the Act.

Consultation

Consultation was undertaken as part of the Tradex Monitoring Review conducted in 2018 and included relevant stakeholders including government departments and industry. Stakeholders consulted considered the Tradex Scheme operated effectively and the regulations were fit for purpose.

Regulatory Impact

The Office of Best Practice Regulation advised a regulation impact statement did not need to be prepared (OBPR ID: 22776).

Details of the *Tradex Scheme Regulations 2018*

PART 1 – PRELIMINARY

Section 1 – Name of Instrument

This section provides that the name of the Regulations is the *Tradex Scheme Regulations 2018*.

Section 2 – Commencement

This section provides that the Regulations commence on the day after they are registered on the Federal Register of Legislation.

Section 3 – Authority

This section provides that the Regulations are made under the *Tradex Scheme Act 1999*.

Section 4 Schedules

This section provides that each instrument that is specified in a Schedule to the Regulations is amended or repealed as set out in the applicable items in the Schedule concerned and any other items in a Schedule to these Regulations has effect according to its terms.

Section 5 – Definitions

This item provides for definitions of terms used in the Regulations.

Section 6 – Core criteria – imported goods not to be consumed or used

This section provides the core criteria for applying for or holding a tradex order.

Subsection 6(1): In accordance with the Act, to apply for a tradex order the goods nominated in the application must not be intended to be consumed or used in Australia. This is to be applied in conjunction with the permitted uses allowed by section 8 of these Regulations.

Subsection 6(2): In accordance with the Act, the core criterion for holding a tradex order is that the goods nominated in the tradex order must not have been consumed or used in Australia. This is to be applied in conjunction with the permitted uses allowed by section 8 of these Regulations.

PART 2 – Liability to pay tradex duty in respect of nominated goods in certain circumstances

Section 7 – Value of goods

This section outlines that if goods are to be valued for the purpose of calculating tradex duty in certain circumstances that the value of the goods is their customs value as described in Division 2 part VIII of the *Customs Act 1901*.

The Regulations incorporate reference to Division 2 of Part VIII of the *Customs Act 1901*. The *Customs Act 1901* is freely available and accessible at www.legislation.gov.au.

Section 8 – Permitted consumption or use

Subsection 8(1): In accordance with the Act, this subsection describes certain circumstances in which the core criteria for applying and holding a tradex order may not be met, and which if not otherwise permitted by this section of the Regulations would incur a tradex duty liability. The permitted consumption and uses in subsection 8(1) allows nominated goods to not be exported due to accidental damage or destruction in Australia, inspection or exhibition in Australia prior to the goods being exported, or incidental use that occurs immediately prior to the goods export. This section also provides for the permitted use of writing on travellers cheques which are then subsequently exported.

Subsection 8(2): This subsection limits the application of subsection 8(1). If the nominated goods meet the criteria set out in paragraphs 8(2)(a) and 8(2)(b) then the nominated goods will incur tradex duty.

PART 3 – Miscellaneous

Section 9 – Request for refund of overpaid tradex duty

This section describes the requirements for requesting a refund of tradex duty in circumstances where it has been overpaid.

Schedule 1 – Repeals

This Schedule provides for the repeal of the *Tradex Scheme Regulations 2008* as the instrument is due to sunset on 1 October 2018 and is being remade by these Regulations.

Statement of Compatibility with Human Rights

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

Tradex Scheme Regulations 2018

These Regulations are compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

Overview of the Legislative Instrument

The *Tradex Scheme Regulations 2018* remake the *Tradex Scheme Regulations 2008*, which are scheduled to sunset on 1 October 2018, by amending or removing provisions and updating terminology and references.

The key provisions enable the Tradex Scheme, which provides an up-front exemption from customs duty or other taxes for eligible imported goods that are subsequently exported, or incorporated into other goods which are then exported.

Human rights implications

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 Honourable Karen Andrews MP
Minister for Industry, Science and Technology