

EXPLANATORY STATEMENT

Issued by the Assistant Minister for Customs, Community Safety and Multicultural Affairs
and Parliamentary Secretary to the Minister for Home Affairs

Customs Tariff Act 1995

*Customs Tariff Amendment (Peru-Australia Free Trade Agreement
Implementation) Regulations 2019*

The *Customs Tariff Act 1995* (the 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. The Act also allows for the regulation of certain goods and the collection of trade statistics.

Section 20A of the Act provides, in part, that the Governor-General may make regulations, prescribing matters, which by the Act are required or permitted to be prescribed, or which are necessary or convenient to be prescribed for carrying out or giving effect to the Act.

The Peru-Australia Free Trade Agreement (PAFTA) was signed on 12 February 2018, in Canberra, by the Hon Steven Ciobo MP, then Minister for Trade, Tourism and Investment, and his Peruvian counterpart Mr Eduardo Ferreyros. PAFTA sets out comprehensive provisions for trade in goods and services, related customs procedures and the rules of origin for claiming preferential rates of customs duty. These rules determine whether goods imported into Australia from the territory of Peru are Peruvian originating goods and are thereby eligible for preferential rates of customs duty.

The purpose of the *Customs Tariff Amendment (Peru-Australia Free Trade Agreement Implementation) Regulations 2019* (the Regulations) is to amend the *Customs Tariff Regulation 2004* (the principal Regulations) to prescribe goods as required in new Schedule 6A to the Act inserted by Schedule 1 to the *Customs Tariff Amendment (Growing Australian Export Opportunities Across the Asia-Pacific) Act 2019* (the Tariff Amendment Act).

The Tariff Amendment Act amends the Act to implement PAFTA by:

- providing preferential rates of customs duty, on entry into force of the PAFTA, for all goods, excluding excise-equivalent goods, that are Peruvian originating goods determined in accordance with new Division 1EA of Part VIII of the *Customs Act 1901* (the Customs Act). New Division 1EA is inserted by the Customs Amendment (Peru-Australia Free Trade Agreement Implementation) Act 2018 (the Customs Amendment Act);
- inserting new Schedule 6A to provide for excise-equivalent rates of duty on certain alcohol, tobacco, fuel and petroleum products, and phasing rates for certain goods, in accordance with PAFTA; and
- amending certain concessional items in Schedule 4 to the Customs Tariff Act to maintain customs duty rates in line with the applicable concessional item and in accordance with PAFTA.

Government Departments conducted extensive public and targeted stakeholder consultations during the negotiations of PAFTA. Consequently, the consultation process undertaken for PAFTA also encompassed all matters set out in the Regulations. Details of these consultations were set out in the consultation attachment to the National Interest Analysis of the PAFTA.

The Joint Standing Committee on Treaties also conducted an enquiry on PAFTA. The enquiry included written submissions and a public hearing that resulted in a report recommending binding treaty action be taken.

Details of the Regulations are set out in Attachment A. A Statement of Compatibility with Human Rights has been prepared in accordance with the *Human Rights (Parliamentary Scrutiny) Act 2011*, and is at Attachment B.

Sections 1 to 4 of the Regulations and anything in the Regulations that is not covered by the table commence on the day after the registration of the Regulations on the Federal Register of Legislation. Schedule 1 to the Regulations commences at the same time as Schedule 1 to the *Customs Amendment (Growing Australian Export Opportunities Across the Asia-Pacific) Act 2019*.

OPC63563 - B

Details of the *Customs Tariff Amendment (Peru-Australia Free Trade Agreement Implementation) Regulations 2019*

Section 1 – Name of Regulation

This section provides that the title of the Regulation is the *Customs Tariff Amendment (Peru-Australia Free Trade Agreement Implementation) Regulations 2019* (the Regulations).

Section 2 – Commencement

This section sets out the date on which each of the provisions contained in the Regulations commence.

Table item 1 provides for sections 1 to 4 and anything in the Regulations that is not covered by the table to commence on the day after the registration of the Regulations on the Federal Register of Legislation.

Table item 2 provides for Schedule 1 to the Regulations to commence at the same time as Schedule 1 to the *Customs Amendment (Growing Australian Export Opportunities Across the Asia-Pacific) Act 2019*.

Section 3 – Authority

This section sets out the authority under which the Regulations are made, which is the *Customs Tariff Act 1995*.

Section 4 – Schedules

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

Schedule 1—Amendments

Part 1—Main amendments

Customs Tariff Regulations 2004

Item 1 – Regulation 3

This item inserts a new definition for the purposes of the *Customs Tariff Regulations 2004* (the Customs Tariff Regulations). The definition inserted is ‘Schedule 6A item’ which means an item in the table in Schedule 6A to the *Customs Tariff Act 1995* (the Customs Tariff Act).

The *Customs Tariff Amendment (Growing Australian Export Opportunities Across the Asia-Pacific) Act 2019* (the Customs Tariff Amendment Act) in part inserts new Schedule 6A to

provide for excise-equivalent rates of duty on certain alcohol, tobacco, fuel and petroleum products, and phasing rates for certain goods, in accordance with the Peru-Australia Free Trade Agreement (PAFTA).

The purpose of this item is to insert in the Regulations a definition of items listed under this new Schedule 6A in the Act.

Item 2 – After Regulation 4

This item inserts new regulation:

4A Peruvian origination goods –prescribed goods

To provide that:

For each Schedule 6A item mentioned in column 2 of an item in Schedule 1A, the goods mentioned in column 3 of the item in Schedule 1A are prescribed

The purpose of this item is to describe the operation of the table for Peruvian originating goods that is inserted by item 5.

Item 3 – Regulation 4B (heading)

This item repeals the heading and substitutes a new heading:

4B Chilean originating goods—prescribed goods

Item 4 – Regulation 5 (heading)

This item repeals the heading and substitutes a new heading:

5 ASEAN-Australia-New Zealand (AANZ) originating goods—prescribed goods

Item 5 – After Schedule 1

This item inserts new Schedule 1A –Peruvian originating goods. New Schedule 1A prescribes goods for certain items listed in Schedule 6A of the Customs Tariff Act.

This item inserts four items as follows:

- a) table item 1 with the goods description “Insecticides, herbicides, anti-sprouting products and plant-growth regulators” classified to tariff subheading 3808.52.90 in Schedule 3 to the Customs Tariff Act;
- b) table item 2 with the goods description “Insecticides, herbicides, anti-sprouting products and plant-growth regulators” classified to tariff subheading 3808.59.90 in Schedule 3 to the Customs Tariff Act;
- c) table item 3 with the goods description “Sanitary articles, as follows: (a) men’s or boys’ underpants or briefs: (i) knitted or crocheted, other than of man-made fibres; or (ii) woven, of cotton; (b) women’s or girls’ briefs or panties: (i) knitted or crocheted, other than of cotton or man-made fibres; or (ii) woven” classified to tariff subheading 9619.00.30 in Schedule 3 to the Customs Tariff Act; and
- d) table item 4 with the goods description “Sanitary articles, being articles for babies, other than goods of cotton or of synthetic fibres” classified to tariff subheading 9619.00.41 in Schedule 3 to the Customs Tariff Act

Item 6 – Schedule 1B (heading)

This item repeals the heading and substitutes a new heading:

Schedule 2—ASEAN-Australia-New Zealand (AANZ) originating goods

Statement of Compatibility with Human Rights

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

Customs Tariff Amendment (Peru-Australia Free Trade Agreement Implementation) Regulations 2019

Customs Tariff Amendment (Peru-Australia Free Trade Agreement Implementation) Regulations 2019 (the Regulations) are 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 Peru-Australia Free Trade Agreement (PAFTA) was signed on 12 February 2018, in Canberra, by the Hon Steven Ciobo MP, then Minister for Trade, Tourism and Investment, and his Peruvian counterpart Mr Eduardo Ferreyros. PAFTA sets out comprehensive provisions for trade in goods and services, related customs procedures and the rules of origin for claiming preferential rates of customs duty. Rules of Origin are used to determine whether goods imported into Australia from the territory of Peru are Peruvian originating goods and are thereby eligible for preferential rates of customs duty.

The *Customs Tariff Amendment (Peru-Australia Free Trade Agreement Implementation) Act 2018* (the Tariff Amendment Act) amends the *Customs Tariff Act 1995* (the Tariff Act) to implement PAFTA by:

- providing preferential rates of customs duty, on entry into force of the PAFTA, for all goods, excluding excise-equivalent goods, that are Peruvian originating goods determined in accordance with new Division 1EA of Part VIII of the *Customs Act 1901* (the Customs Act). New Division 1EA is inserted by the *Customs Amendment (Growing Australian Export Opportunities Across the Asia-Pacific) Act 2019* (the Customs Amendment Act);
- inserting new Schedule 6A to provide for excise-equivalent rates of duty on certain alcohol, tobacco, fuel and petroleum products, and phasing rates for certain goods, in accordance with PAFTA; and
- amending certain concessional items in Schedule 4 to the Customs Tariff Act to maintain customs duty rates in line with the applicable concessional item and in accordance with PAFTA.

The purpose of the *Customs Tariff Amendment (Peru-Australia Free Trade Agreement Implementation) Regulations 2019* (the Regulations) is to amend the *Customs Tariff Regulation 2004* to include prescribed goods as required in new Schedule 6A of the Customs Tariff Act inserted by Schedule 1 to the Tariff Amendment Act.

Human rights implications

The Amendment Regulations do not engage any of the applicable rights or freedoms.

Conclusion

The Amendment Regulations are compatible with human rights as it does not raise any human rights issues.

The Hon Jason Wood MP

**Assistant Minister for Customs, Community Safety and Multicultural Affairs and
Parliamentary Secretary to the Minister for Home Affairs**