**EXPLANATORY STATEMENT**

Issued by the Delegate of the Minister for Home Affairs

*Customs Act 1901*

*Notice of Intention to Propose Customs Tariff Alterations (No. 2) 2022*

The *Customs Act 1901* (the Customs Act) concerns customs related functions and is the legislative authority that sets out the customs requirements for the importation and exportation of goods to and from Australia.

The *Customs Tariff Act 1995* (the Customs Tariff Act) gives effect to Australia’s import trade classification system. It is used to assign rates of customs duty, both general and preferential, to imported goods and enables the collection of these duties.

Subsection 273EA(1) of the Customs Act provides that where Parliament is not sitting for a period exceeding 7 days, the Minister may, under section 273EA of the Customs Act, publish a notice that within 7 sitting days of the House of Representatives after the date of publication of the notice, the Minister will propose in Parliament a Customs Tariff alteration in accordance with particulars in the notice and operating as from such time as is specified in the notice.

This mechanism is used for initially effecting alterations to the Customs Tariff Act, particularly when such alterations are required to have effect in a short timeframe that cannot be achieved through a Customs Tariff Amendment Bill. Following the introduction of a Customs Tariff Proposal in the House of Representatives, the alterations contained in the Proposal will be incorporated into the Customs Tariff Act by a Customs Tariff Amendment Bill.

The *Notice of Intention to Propose Customs Tariff Alterations (No. 2) 2022* (the Notice) advises of the intention to permanently extend the concession for medical products and hygiene products capable of use in combatting COVID‑19 starting on 1 April 2022. The Notice also advises of the intention to expand the scope of that concession, starting on 1 July 2022, to such products used in other contexts, as well as to ingredients and containers for certain medicaments and other goods. The concessional rate for these goods is ‘Free’. These expanded concessions will only apply to goods of this kind that are prescribed by by‑law.

The Department of Home Affairs consulted the Department of the Treasury and the Department of the Prime Minister and Cabinet on the measure.

The Office of Best Practice Regulation (OBPR) has been consulted in relation to the amendments and has advised that the amendments are likely to have no more than minor regulatory impacts on business, individuals and organisations, and a Regulation Impact Statement will not be required. The OBPR reference number is OBPR22‑01491.

This Notice is a Legislative Instrument under the *Legislation Act 2003*.

Details of the Notice are set out in Attachment A.

Details of the Statement of Compatibility with Human Rights are set out in Attachment B.

The proposed tariff alterations to permanently extend the concession for medical products and hygiene products capable of use in combatting COVID‑19 outlined in Schedule 1 to the Notice operate starting on 1 April 2022. The proposed tariff alterations to expand the scope of that concession to such products used in other contexts outlined in Schedule 2 to the Notice operate starting on 1 July 2022.

**ATTACHMENT A**

**Details of the *Notice of Intention to Propose Customs Tariff Alterations (No. 2) 2022***

Schedule 1 – Alteration to the *Customs Tariff Act 1995* operating starting on 1 April 2022

Schedule 1 to the *Notice of Intention to Propose Customs Tariff Alterations (No. 2) 2022* (the Notice) outlines theproposed alterations to the *Customs Tariff Act 1995* (the Customs Tariff Act) to permanently extend the concession for medical products and hygiene products capable of use in combatting COVID‑19. The proposed alterations operate starting on 1 April 2022.

***Customs Tariff Act 1995***

**Item [1] – Schedule 4 (table item 57, column headed “Description of goods”, paragraph (b))**

**Item [2] – Schedule 4 (table item 57, column headed “Description of goods”, paragraph (c))**

Item [2] repeals paragraph (c) from the description of goods covered by the concession in item 57 of Schedule 4 to the Customs Tariff Act. This amendment removes the current time limitation on this concession, making the concession permanent. The concessional rate for these goods is ‘Free’.

Item [1] makes a consequential amendment to paragraph (b) of the description of goods.

Schedule 2 – Alteration to the *Customs Tariff Act 1995* operating starting on 1 April 2022

Schedule 2 to the *Notice of Intention to Propose Customs Tariff Alterations (No. 2) 2022* (the Notice) outlines theproposed alterations to the *Customs Tariff Act 1995* (the Customs Tariff Act) to expand the scope of the concession for medical products and hygiene products capable of use in combatting COVID‑19 to those products, and related products, used in other contexts. The proposed alterations operate starting on 1 July 2022.

***Customs Tariff Act 1995***

**Item [1] – Schedule 4 (cell at table item 57, column headed “Description of goods”)**

Item [1] replaces the description of goods covered by the concession in item 57 of Schedule 4 to the Customs Tariff Act. The new description removes the requirement for the goods to be capable of use in combatting COVID‑19. It also expands the scope of the concession to ingredients in the production of, and containers for, medicaments and other goods covered by Chapter 30 of Schedule 3 to the Customs Tariff Act (i.e. pharmaceutical products). The concessional rate for these goods is ‘Free’. These expanded concessions will only apply to goods of this kind that are prescribed by by‑law.

**ATTACHMENT B**

**Statement of Compatibility with Human Rights**

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

***Notice of Intention to Propose Customs Tariff Alterations (No. 2) 2022***

The *Notice of Intention to Propose Customs Tariff Alterations (No. 2) 2022* (the Notice) is compatible with the human rights and freedoms recognised or declared in the international instruments listed in the definition of human rights in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

**Overview**

The *Customs Act 1901* (the Customs Act) concerns customs related functions and is the legislative authority that sets out the customs requirements for the importation and exportation of goods to and from Australia.

The *Customs Tariff Act 1995* (the Customs Tariff Act) gives effect to Australia’s import trade classification system. It is used to assign rates of customs duty, both general and preferential, to imported goods and enables the collection of these duties.

Subsection 273EA(1) of the Customs Act provides that where Parliament is not sitting for a period exceeding 7 days, the Minister may, under section 273EA of the Customs Act, publish a notice that within 7 sitting days of the House of Representatives after the date of publication of the notice, the Minister will propose in Parliament a Customs Tariff alteration in accordance with particulars in the notice and operating from such time as is specified in the notice.

The *Notice of Intention to Propose Customs Tariff Alterations (No. 2) 2022* (the Notice) advises of the intention to permanently extend the concession for medical products and hygiene products capable of use in combatting COVID‑19 starting on 1 April 2022. The Notice also advises of the intention to expand the scope of that concession, starting on 1 July 2022, to such products used in other contexts, as well as to ingredients and containers for certain medicaments and other goods. The concessional rate for these goods is ‘Free’. These expanded concessions will only apply to goods of this kind that are prescribed by by‑law.

**Human rights implications**

The amendment in the Notice engages the following human rights:

* the right to the enjoyment of the highest attainable standard of physical and mental health in Article 12 of the *International Covenant on Economic, Social and Cultural Rights* (ICESCR); and
* the right to life in Article 6 of the International Covenant on Civil and Political Rights (ICCPR).

*The right to the enjoyment of the highest attainable standard of physical and mental health*

The Notice proposes to permanently extend the concessional rate of customs duty applicable to prescribed medical and hygiene products that are capable of use in combating the coronavirus that causes COVID‑19. Starting on 1 July 2022, the Notice then proposes to expand the scope of that concession to medical and hygiene products used in other contexts, as well as ingredients and containers for certain medicaments and other goods.

Providing a ‘Free’ rate of customs duty for imported medical products or hygiene products, ingredients for the manufacture of medicaments and containers for those medicaments promotes the right to enjoyment of the highest attainable standard of physical and mental health under Article 12 of ICESCR. This Article requires that State Parties take steps to achieve the full realisation of this right, including those necessary for the prevention, treatment and control of epidemics.

The amendments, in ending the temporary nature of the concession and expanding the scope of goods, will promote the right by continuing to facilitate the importation into Australia of essential medical and hygiene products, as well input to the domestic manufacture of medicaments. Together with such products manufactured in Australia, the amendment will facilitate continued greater access to such products for people in Australia.

*The right to life*

The Notice also positively engages the right to life in Article 6(1) of the ICCPR; specifically, the responsibility that a State Party has to take appropriate steps to protect the right to life.

The right to life includes a duty on governments to take appropriate steps to protect the right to life of those within its jurisdiction.

This amendment facilitates the continued access to medical products or hygiene products imported into Australia at a lower cost. Access to these products inhibits the spread of communicable diseases and limits the potential for death due to the spread of COVID‑19. As a result, this amendment promotes the right to life.

**Conclusion**

The Notice is compatible with human rights because it promotes human rights, specifically the rights in Article 12 of the ICESCR and Article 6(1) of the ICCPR.

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