

EXPLANATORY STATEMENT

Issued by authority of the Minister for Home Affairs

Customs Tariff Act 1995

Customs Tariff (Suspension of Preferential Tariffs for Certain UK Originating Goods) Notice 2024

The *Customs Tariff Act 1995* (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.

Section 16A of the Tariff Act allows the Minister to make a legislative instrument (a notice) to effect a suspension of preferential tariffs for certain UK originating goods that are steel or iron goods if those goods are imported during the period specified in the notice. This is in accordance with the *Free Trade Agreement between Australia and the United Kingdom of Great Britain and Northern Ireland* (Agreement).

The United Kingdom currently has a safeguard in place over certain goods listed in Chapters 72 and 73 of the Harmonized Commodity Description and Coding System (as contained in the *International Convention on the Harmonized Commodity Description and Coding System*, and implemented in Australia under the Tariff Act until 30 June 2026 (UK Steel Safeguard). This was an extension of the previous safeguard which was due to end on 30 June 2024.

The *Customs Tariff (Suspension of Preferential Tariffs for Certain UK Originating Goods) Notice 2024* (Notice) is made under section 16A of the Tariff Act and its purpose is to maintain the general rate of customs duty in relation to equivalent goods covered by the UK Steel Safeguard. The Notice commences on 24 December 2024 and remains in effect while the United Kingdom's safeguard is in effect (until 30 June 2026). If the United Kingdom subsequently indicates that it will extend the safeguard, the Minister may choose to make another notice that applies to the equivalent products for the same amount of time as the extension of the safeguard.

The Notice specifies safeguard goods covered by the Notice by reference to particular subheadings in Schedule 3 to the Tariff Act, and by reference to goods covered by a particular subheading that match a particular description.

The Notice repeals *Customs Tariff (Suspension of Preferential Tariff for Certain UK Originating Goods) Notice 2023* (2023 Notice) which covered certain goods subject to a UK steel safeguard until 30 June 2024. The Notice increases the scope of goods for which preferential rates of customs duty are suspended to align the list of goods with the goods covered by the current UK Steel Safeguard.

The Notice was developed in consultation with the Department of Foreign Affairs and Trade (DFAT). No public consultation was undertaken on the Notice specifically because the Notice gives effect to measures included within consultation for the *Customs Tariff Amendment (Australia-United Kingdom Free Trade Agreement Implementation) Act 2022* which inserted section 16A into the Tariff Act. The Explanatory Statement to that Act

provides that the purpose of section 16A is to allow Australia to suspend preferential tariff treatment for the same Chapter 72 and 73 goods subject to a UK global safeguard.

Consultation on the Agreement was undertaken prior to and during its negotiation. DFAT consulted with industry, representatives of the business sector, academia and civil society organisations. Peak body industry events and meetings were held, as were Ministerial Advisory Council meetings. Consultation was also hosted by the Australian British Chamber of Commerce and/or the UK Chamber of Commerce consultation after each negotiating round.

Details of the Notice are set out in **Attachment A**.

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

The Notice is a legislative instrument for the purposes of the *Legislation Act 2003*.

The Notice commences on 24 December 2024 to align with commencement of the *Customs Tariff (Suspension of Preferential Tariffs for Trans-Pacific Partnership Originating Goods) Notice 2024* which maintains the general rate of customs duty in relation to equivalent goods covered by the United Kingdom's steel safeguard in respect of Trans-Pacific Partnership originating goods imported from the United Kingdom.

Details of the *Customs Tariff (Suspension of Preferential Tariffs for Certain UK Originating Goods) Notice 2024*

Section 1 – Name

This section provides that the title of the instrument is the *Customs Tariff (Suspension of Preferential Tariffs for Certain UK Originating Goods) Notice 2024* (Notice).

Section 2 – Commencement

This section provides that the Notice commences on 24 December 2024.

Section 3 – Authority

This section sets out the authority under which the Notice is made, which is the *Customs Tariff Act 1995* (Tariff Act).

Section 4 – Repeals

This section repeals the *Customs Tariff (Suspension of Preferential Tariff for Certain UK Originating Goods) Notice 2023* made under section 16A of the Tariff Act. That instrument maintained the general rate of customs duty in relation to equivalent goods covered by the United Kingdom's steel safeguard that was due to end on 30 June 2024.

Section 5 – Definitions

This section sets out interpretative provisions that apply to the Notice.

Note 1 to this section indicates a number of terms and expressions which adopt the same meaning in section 3 of the Tariff Act.

Note 2 to this section indicates the expression 'safeguard goods' used in this instrument is defined in subsection 16A(5) of the Tariff Act.

Note 3 to this section indicates the expression 'UK originating goods' used in this instrument is defined in section 13M of the Tariff Act.

The term 'safeguard goods' means UK originating goods that are classified to a heading or subheading in Schedule 3 to the Tariff Act that is specified in column 2 in any of the items ranging from items 150 to 238 in the table in Schedule 15 to the Tariff Act. These items correspond to the tariff subheadings identified with an asterisk as being subject to the UK global safeguard in the table in Part 2A-2 of Section 2A of Annex 2A to the *Free Trade Agreement between Australia and the United Kingdom of Great Britain and Northern Ireland* (Agreement).

The effect of this definition is that preferential tariff treatment is only suspended on goods falling under certain tariff headings and subheadings identified with an asterisk in the table in Part 2A-2 of Section 2A of Annex 2A to the Agreement. The Agreement can in 2024 be viewed, free of charge, in the Australian Treaties Library on the AustLII website (<http://www.austlii.edu.au>).

Subsection 5(1) sets out definitions for the following terms for the purposes of the Notice:

- Act;
- electrical;
- relevant composition; and
- tool steel.

The purpose of defining the words *electrical*, *relevant composition*, and *tool steel* is to ensure that the types and composition of goods identified by tariff subheadings reflects what is covered by the United Kingdom's global safeguard. The United Kingdom's global safeguard, including Trade remedies notice 2024/08 and Trade remedies notice 2024/06, is publically available on the United Kingdom's government website (<http://www.gov.uk> at <https://www.gov.uk/government/publications/trade-remedies-notices-tariff-rate-quotas-on-steel-goods>).

Subsection 5(2) sets out that an expression used in this instrument has the meaning given by, or has a meaning affected by, any relevant Note, Subheading Note, or Additional Note to Chapter 72 or Chapter 73 of Schedule 3 to the Tariff Act. Schedule 3 sets out the general rate of customs duty for all goods, including goods which are iron and steel.

Section 6 – Suspension of preferential tariffs for certain UK originating goods

This section specifies the safeguard goods and the period of time for the purposes of paragraphs 16A(1)(a) and 16A(1)(b) of the Tariff Act.

Subsection 6(1) of the Notice sets out that the safeguard goods covered by subsection (2) or (3) are specified and the period for which they are specified.

General rate of duty

Subsection 16A(1) of the Tariff Act has the effect of applying the general rates of customs duty in Schedule 3 of the Tariff Act to safeguard goods, instead of the preferential rates of customs duty identified in paragraph 16(1)(u) of the Tariff Act. Paragraph 16A(1)(b) provides that the Schedule 3 rates apply during the period specified in a notice made by the Minister under this section.

Specified timeframe

The timeframe specified in this Notice, beginning at the commencement of the instrument and ending at the end of 30 June 2026, corresponds with the application of the global safeguard measure imposed by the United Kingdom on equivalent goods imported into the United Kingdom from Australia.

This timeframe is specified consistent with subsection 16A(4) of the Tariff Act, which relevantly provides that the Minister must not specify a period commencing before the Notice. Essentially, this provision prevents a notice from applying retrospectively.

The period of time specified in the instrument is limited to times when the importation of products under Chapters 72 or 73 are subject to a global safeguard measure under a law of the United Kingdom.

The specified end date aligns with the currently specified end date to the United Kingdom's global safeguard on steel.

Specified goods

The goods covered by the Notice are safeguard goods set out in the tables in subsections 6(2) and 6(3) of the Notice.

Subsection 6(2) sets out goods which are specified safeguard goods if they are classified to a heading or subheading in Schedule 3 to the Tariff Act and identified in column 2 of an item in the table under subsection 6(2).

Subsection 6(3) sets out goods which are specified safeguard goods if they are classified to a heading or subheading in Schedule 3 to the Tariff Act identified in column 2 of an item in the table under subsection 6(3), and if they also meet the description set out in column 3 of that item.

Statement of Compatibility with Human Rights

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

***Customs Tariff (Suspension of Preferential Tariffs for Certain UK Originating Goods)
Notice 2024***

This Disallowable Legislative Instrument is 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 Disallowable Legislative Instrument

The *Customs Tariff Act 1995* (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.

Section 16A of the Tariff Act allows the Minister to make a legislative instrument (a notice) to effect a suspension of preferential tariffs for certain United Kingdom (UK) originating goods that are steel or iron goods if those goods are imported during the period specified in the notice. This is in accordance with the *Free Trade Agreement between Australia and the United Kingdom of Great Britain and Northern Ireland* (Agreement).

The United Kingdom currently has a safeguard in place over certain goods listed in Chapters 72 and 73 of the Harmonized Commodity Description and Coding System (as contained in the *International Convention on the Harmonized Commodity Description and Coding System*, and implemented in Australia under the Tariff Act until 30 June 2026 (UK Steel Safeguard). This was an extension of the previous safeguard which was due to end on 30 June 2024.

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The Notice specifies safeguard goods covered by the Notice by reference to particular subheadings in Schedule 3 to the Tariff Act, and by reference to goods covered by a particular subheading that match a particular description.

The Notice repeals *Customs Tariff (Suspension of Preferential Tariff for Certain UK Originating Goods) Notice 2023* which covered certain goods subject to a UK steel safeguard until 30 June 2024. The current Notice increases the scope of goods for which preferential rates of customs duty are suspended to align the list of goods with the goods covered by the current UK Steel Safeguard.

Human rights implications

The Notice is technical in nature and does not engage any of the applicable rights or freedoms.

Conclusion

The Notice is compatible with human rights as it does not raise any human rights issues.

The Hon Tony Burke MP
Minister for Home Affairs