



Customs Tariff (Miscellaneous Amendments) Act 1996

No. 15, 1996

**An Act to make consequential amendments and
transitional provisions relating to the *Customs
Tariff Act 1995***

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Customs Tariff (Miscellaneous Amendments) Act 1996

No. 15, 1996

An Act to make consequential amendments and transitional provisions relating to the *Customs Tariff Act 1995*

[Assented to 24 June 1996]

The Parliament of Australia enacts:

1 Short title

This Act may be cited as the *Customs Tariff (Miscellaneous Amendments) Act 1996*.

2 Commencement

This Act commences on 1 July 1996 immediately after the commencement of the *Customs Tariff Act 1995*.

3 Schedule(s)

Each Act that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

Schedule 1—Amendment of Acts

Part 1—Amendment of Acts to update references to the Customs Tariff Act 1987

1 Amendment of Acts

The specified provisions of the Acts listed in this Part are amended by omitting “*Customs Tariff Act 1987*” and substituting “*Customs Tariff Act 1995*”.

Administrative Decisions (Judicial Review) Act 1977

2 Schedule 1, paragraph (e)

Bounty (Books) Act 1986

3 Subsection 4(1) (definition of *Tariff Act*)

Bounty (Computers) Act 1984

4 Subsection 3(1) (definition of *Tariff Act*)

Bounty (Machine Tools and Robots) Act 1985

5 Subsection 4(1) (definition of *Tariff Act*)

Bounty (Photographic Film) Act 1989

6 Subsection 4(1) (definition of *Tariff Act*)

Bounty (Ships) Act 1989

7 Subsection 4(1) (definition of *Tariff Act*)

Consular Privileges and Immunities Act 1972

8 Subsection 6(2)

Customs Act 1901

- 9 Subsections 4(3A) and (3B)**
- 10 Section 153B (definitions of *Forum Island Country* and *preference country*)**
- 11 Paragraph 267(1)(a)**
- 12 Subsection 269B(1) (definition of *capital equipment*)**
- 13 Subsection 269B(1) (definition of *prescribed item*)**
- 14 Subsections 269Zl(4), (7) and (8)**
- 15 Subsection 273F(2)**

Excise Tariff Act 1921

- 16 Schedule, item 21, paragraph (c)**

Forest Industries Research Import Charge Act 1993

- 17 Subsection 3(1) (paragraph (b) of the definition of *forest products*)**

Industry Commission Act 1989

- 18 Subparagraph 12(1)(a)(i)**

Sales Tax Assessment Act 1992

- 19 Section 5 (definition of *Customs Tariff*)**

Part 2—Amendment of Acts to update references to particular provisions of the Customs Tariff Act 1987

Bounty (Computers) Act 1984

20 Subsection 3(1) (paragraph (ec) of the definition of *bountiable equipment*)

Omit “8543.80.90”, substitute “8543.89.00”

Customs Act 1901

21 Paragraphs 4(3B)(d) and (e)

Repeal the paragraphs.

22 Subsections 4(3C) and (3D)

Repeal the subsections, substitute:

(3C) Unless the contrary intention appears, if the word “Free” is set out in section 16 or 18 of the *Customs Tariff Act 1995* or in the third column of Schedule 3 or 4 to that Act, that word is taken to be a rate of duty for the purposes of this Act or any other law of the Commonwealth.

(3D) Unless the contrary intention appears, any words or words and figures, set out in the third column of Schedule 3 or 4 to the *Customs Tariff Act 1995*, that enable the duty to be worked out in respect of goods, are taken to be a rate of duty for the purposes of this Act or any other law of the Commonwealth.

23 Subsection 69(1) (definition of *like customable goods*)

Omit “section 26 of the *Customs Tariff Act 1987*”, substitute “section 19 of the *Customs Tariff Act 1995*”.

24 Section 153B (definition of *Developing Country*)

Repeal the definition, substitute:

Developing Country has the same meaning as in the *Customs Tariff Act 1995*.

25 Subsection 269B(1) (definition of *Customs Tariff Act 1987*)

Repeal the definition, substitute:

Customs Tariff Act 1995 includes that Act as proposed to be altered by a Customs Tariff alteration proposed, or intended to be proposed, in the Parliament.

26 Subsection 273H(1)

Omit "section 13 of the *Customs Tariff Act 1987*", substitute "section 9 of the *Customs Tariff Act 1995*".

Customs Tariff (Anti-Dumping) Act 1975

27 Subparagraphs 8(7)(c)(i) and 10(8)(b)(i)

Omit "section 11 of the *Customs Tariff Act 1987*", substitute "section 8 of the *Customs Tariff Act 1995*".

Sales Tax (Exemptions and Classifications) Act 1992

28 Subitem 106(1) of Schedule 1

Omit "paragraph (d) of item 32", substitute "item 33A".

29 Subitem 114(1) of Schedule 1

Omit "paragraph (c) of item 23", substitute "item 23C".

30 Item 122 of Schedule 1

Repeal the item, substitute:

Item 122: [Imported trophies, medallions, prizes etc.]

- (1) Imported goods being trophies covered by item 25A in Schedule 4 to the Customs Tariff.
[local entry only]
- (2) Imported goods being decorations, medallions or certificates covered by item 25B in Schedule 4 to the Customs Tariff.
[local entry only]
- (3) Imported goods being trophies or prizes covered by item 25C in Schedule 4 to the Customs Tariff.
[local entry only]

31 Item 187 of Schedule 1

Repeal the item, substitute:

Item 187: [Imported goods of insubstantial or negligible value]

- (1) Imported goods of insubstantial value that are covered by item 32A in Schedule 4 to the Customs Tariff.
[local entry only]
- (2) Imported goods of insubstantial value that are covered by item 32B in Schedule 4 to the Customs Tariff.
[local entry only]
- (3) Imported goods being samples of negligible value that are covered by item 33B in Schedule 4 to the Customs Tariff.
[local entry only]

Part 3—Other amendment

Customs Act 1901

32 After section 273H

Insert:

273HA Review of decisions under the *Customs Tariff (Miscellaneous Amendments) Act 1996*

- (1) Applications may be made to the Administrative Appeals Tribunal for review of a decision of the CEO to remake a Commercial Tariff Concession Order or Tariff Concession Order under paragraph (5)(d) of item 3 of Schedule 2 to the *Customs Tariff (Miscellaneous Amendments) Act 1996*.
- (2) In subsection (1), *decision* has the same meaning as in the *Administrative Appeals Tribunal Act 1975*.

Schedule 2—Transitional provisions

1 Definitions

In this Schedule, unless the contrary intention appears:

CEO means the Chief Executive Officer of Customs.

CTCO means a Commercial Tariff Concession Order having effect under Part XVA of the *Customs Act 1901* as that Part is continued in force by section 20 of the *Customs Legislation (Tariff Concessions and Anti-Dumping) Amendment Act 1992*.

Customs Act means the *Customs Act 1901*.

heading, in relation to the 1987 Act or the 1995 Act, means a heading or subheading in Schedule 3 to the Act or the Act as proposed to be altered by a Customs Tariff alteration proposed in the Parliament.

item, in relation to the 1987 Act or the 1995 Act, means an item in Schedule 4 to the Act or the Act as proposed to be altered by a Customs Tariff alteration proposed in the Parliament.

partial concordance means the instrument prepared by the CEO under item 4 of this Schedule.

TCO means a Tariff Concession Order in force under Part XVA of the *Customs Act 1901*.

1987 Act means the *Customs Tariff Act 1987*.

1995 Act means the *Customs Tariff Act 1995*.

2 By-laws and determinations made or taken to have been made in relation to the 1987 Act

- (1) This item applies to a by-law made under section 271 of the Customs Act or a determination made under section 273 of that Act that was in force immediately before 1 July 1996.
- (2) If:
 - (a) a by-law or determination to which this item applies was made in relation to item 1A, 1C, 1D, 1E, 7, 13, 15, 27, 28A, 34, 39A, 40A, 43, 45, 46, 47, 48, 49, 52, 56, 57, 59 or 62 in Schedule 4 to the 1987 Act; or
 - (b) a determination to which this item applies was made in relation to item 41A in Schedule 4 to the 1987 Act;

then, on and after 1 July 1996:

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- (c) the by-law or determination is taken to have been made in relation to the item having the same item number (whether alphanumerical or not) in Schedule 4 to the 1995 Act; and
 - (d) the by-law or determination has effect as if the reference in it to that item were a reference to the item having the same item number (whether alphanumerical or not) in Schedule 4 to the 1995 Act.
- (3) Subitem (2) does not affect the operation of the by-law or determination in relation to the 1987 Act.
- (4) Any other by-law or determination to which this item applies (including any by-law or determination that was taken to have been made in relation to an item in Schedule 4 to the 1987 Act) ceases to have effect on 1 July 1996.

3 TCOs and CTCOs

- (1) Subject to this item, if a TCO or CTCO made or taken to have been made in relation to the 1987 Act is in force immediately before 1 July 1996 (a *concession order*), it is taken, on and after that date, to have been made in relation to the 1995 Act.
- (2) Subitem (1) does not affect the operation of the concession order in relation to the 1987 Act.
- (3) If:
 - (a) a concession order contains, or is taken to contain, a reference to a heading in Schedule 3 to the 1987 Act; and
 - (b) a heading having the same heading number also occurs in Schedule 3 to the 1995 Act but does not feature in the partial concordance;

then, on and after 1 July 1996, the concession order has effect as if the reference were a reference to the heading in Schedule 3 to the 1995 Act.

- (4) If:
 - (a) a concession order contains, or is taken to contain, a reference to a particular heading in Schedule 3 to the 1987 Act; and
 - (b) in accordance with the partial concordance, that heading:
 - (i) corresponds with a heading in Schedule 3 to the 1995 Act; but

(ii) does not correspond with more than one heading in Schedule 3 to the 1995 Act;

then, on and after 1 July 1996, the concession order has effect as if the reference to that particular heading were a reference to the corresponding heading in Schedule 3 to the 1995 Act, whether or not that heading in Schedule 3 to the 1995 Act also corresponds with another heading in Schedule 3 to the 1987 Act.

(5) If:

- (a) a concession order contains, or is taken to contain, a reference to a heading in Schedule 3 to the 1987 Act; and
- (b) in accordance with the partial concordance, that heading corresponds with more than one heading in Schedule 3 to the 1995 Act;

then:

- (c) the concession order ceases to have effect on 1 July 1996; and
- (d) the CEO must, for the sole purpose of identifying the Customs tariff classification that now applies to the goods the subject of the concession order and in accordance with subitem (6), remake the concession order to take effect on and after 1 July 1996.

(6) For the purposes of paragraph (5)(d), the CEO remakes a concession order by written order or orders in relation to each heading in Schedule 3 to the 1995 Act (the *corresponding heading*) that:

- (a) in accordance with the partial concordance, corresponds to the heading in Schedule 3 to the 1987 Act referred to in the original concession order; and
- (b) applies to the goods concerned having regard to the description of the goods contained in the original concession order and the description contained in the corresponding heading.

(7) An order remaking a concession order has effect as if:

- (a) in the case of a concession order that is a CTCO—the order were a CTCO that is referred to in section 20 of the *Customs Legislation (Tariff Concessions and Anti-Dumping) Amendment Act 1992*; and
- (b) in the case of a concession order that is a TCO:
 - (i) the order were a TCO made under Part XVA of the Customs Act; and

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- (ii) the requirements under subsection 269R(1) of the Customs Act concerning the making of a TCO had been complied with in relation to the making of the order.
- (8) An order remaking a concession order must be published in the *Gazette* as soon as practicable after it is made.
- (9) A failure to comply with subitem (8) in relation to an order made under paragraph (5)(d) of this item does not affect the validity of that order.

4 CEO to prepare a partial concordance

- (1) The CEO must, as soon as practicable after the commencement of this Act, prepare a written instrument showing, in relation to a particular heading in Schedule 3 to the 1987 Act, any heading in Schedule 3 to the 1995 Act that corresponds to that particular heading.
- (2) The instrument must not include a heading in the 1987 Act if there is a heading having the same heading number in Schedule 3 to the 1995 Act and both headings cover the same goods.
- (3) As soon as practicable after the instrument has been made, the CEO must:
 - (a) publish the instrument in the *Gazette*, and
 - (b) by notice published in the *Gazette*, inform all interested persons of the making of the instrument and state in the notice that a copy of the instrument may be inspected at the principal office of the Australian Customs Service in each State and Territory at any reasonable time.
- (4) The CEO must cause a copy of the instrument to be kept at the principal office of the Australian Customs Service in each State and Territory so that a person may inspect the copy at any reasonable time.

5 TCO applications made before 1 July 1996

- (1) If:
 - (a) an application for a TCO is lodged but has not been finally determined before 1 July 1996; and
 - (b) a decision is made under Part XVA of the Customs Act to make the TCO to take effect before that day;then, in making the TCO under that Part, the CEO must:

- (c) make a TCO that relates to the period before 1 July 1996 during which the TCO is taken to be in force by reference to the heading in Schedule 3 to the 1987 Act that applies to the goods concerned; and
- (d) make a further TCO or further TCOs that relate to any subsequent period during which the TCO is in force by reference to the heading or each heading in Schedule 3 to the 1995 Act that applies to the goods concerned.

(2) If:

- (a) an application for an internal review concerning a reconsideration of a TCO application is lodged under section 269SH of the Customs Act but has not been finally determined before 1 July 1996; and
- (b) a decision is made under that section to make the TCO to take effect before that day;

the CEO must:

- (c) make a TCO that relates to the period before 1 July 1996 during which the TCO is taken to be in force by reference to the heading in Schedule 3 to the 1987 Act that applies to the goods concerned; and
- (d) make a further TCO or further TCOs that relate to any subsequent period during which the TCO is in force by reference to the heading or each heading in Schedule 3 to the 1995 Act that applies to the goods concerned.

(3) If:

- (a) an application for review by the Administrative Appeals Tribunal (the *AAT*) is made before 1 July 1996 but has not been finally determined before that day in relation to a reconsideration of a decision under subsection 269P(1) of the Customs Act concerning a TCO application; and
- (b) the *AAT* decides under subsection 269P(1) of the Customs Act that the TCO application meets the core criteria; and
- (c) as a result of the *AAT*'s decision, the CEO is to make the TCO under section 269P of that Act to take effect before 1 July 1996;

then, in making the TCO under that section, the CEO must:

- (d) make a TCO that relates to the period before 1 July 1996 during which the TCO is taken to be in force by reference to the heading in Schedule 3 to the 1987 Act that applies to the goods concerned; and

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- (e) make a further TCO or further TCOs that relate to any subsequent period during which the TCO is in force by reference to the heading or each heading in Schedule 3 to the 1995 Act that applies to the goods concerned.
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*[Minister's second reading speech made in—
House of Representatives on 22 May 1996
Senate on 30 May 1996]*