

Customs Amendment Regulations 2003 (No. 1) 2003 No. 16

EXPLANATORY STATEMENT

STATUTORY RULES 2003 No. 16

Issued by the Authority of the Minister for Justice and Customs

Customs Act 1901

Customs Amendment Regulations 2003 (No. 1)

Section 270 of the *Customs Act 1901* (the Act) provides in part that the Governor-General may make regulations not inconsistent with the Act prescribing all matters which by the Act are required or permitted to be prescribed for giving effect to the Act.

Section 233BAB of the Act provides in part that the regulations may provide that specified human body tissue and other specified goods constitute tier 2 goods. If the importation of a particular tier 2 good is prohibited under the Customs (Prohibited Imports) Regulations 1956 (the PI Regulations), it is an offence under section 233BAB to import those goods. Similarly, if the exportation of a particular tier 2 good is prohibited under the Customs (Prohibited Exports) Regulations 1958 (the PE Regulations), it is an offence under section 233BAB to export those goods. Those offences are punishable by a fine not exceeding \$250,000 or imprisonment for 10 years, or both. Part 2 of Schedule 1AA to the Customs Regulations 1926 lists those goods that are tier 2 goods for the purposes of section 233BAB.

The *Prohibition of Human Cloning Act 2002* (the Prohibition of Human Cloning Act) prohibits the importation and exportation of human embryo clones and prohibited embryos.

Regulation 7 of the PE Regulations prohibits the exportation of human embryos for a period of 12 months after gazettal and item 27 of Schedule 1 to the PI Regulations prohibits the importation of viable material derived from human embryo clones.

The purpose of the amending Regulations is to make human embryos and viable material derived from human embryo clones tier 2 goods (item 3 of the amending Regulations refers). Human embryos will cease to be tier 2 goods when regulation 7 of the PE Regulations ceases to have effect, that is 12 months after gazettal of the regulations.

The terms 'human embryo' and 'human embryo clone' have the same meanings as in section 8 of the Prohibition of Human Cloning Act (item 1 of the amending Regulations refers). 'Viable material' is defined to mean living tissue and cells (item 2 of the amending Regulations refers).

The amending Regulations commence on gazettal.