

EXPLANATORY STATEMENT

Select Legislative Instrument No. 4, 2014

Issued by the Authority of the Assistant Minister for Immigration and Border Protection

Customs Act 1901

Customs Amendment Regulation 2014 (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 or as may be necessary or convenient to be prescribed for giving effect to the Act.

Part XVA of the Act provides for the making of Tariff Concession Orders (TCOs) in certain circumstances; goods that are covered by a TCO may then be imported into Australia free from customs duty. The Tariff Concession System (TCS) which governs TCOs is designed to help industry become more internationally competitive and allows duty-free entry of certain goods where there is no local industry that produces these goods. However, subsection 269SJ(1) of the Act provides, in part, that the Chief Executive Officer (CEO) of Customs must not make a TCO in respect of goods declared by the regulations to be goods to which a TCO should not extend.

The *Customs Regulations 1926* (the Principal Regulations) provide, in part, that for the purposes of subsection 269SJ(1), a TCO cannot be made for a good classified to a tariff heading or subheading in column 2 of Schedule 2 to the Principal Regulations. However, if the same good is also listed in column 3, a TCO can be made in respect of those goods. The reason for the exception is that, in general, there is no known local manufacturer of that good.

Currently a TCO for mastectomy bras (bras designed to conceal a mammary prosthesis and hold it securely in place) cannot be made as these goods may be classified under a tariff heading listed in column 2 of Schedule 2 to the Principal Regulations. The purpose of the Regulation is to include mastectomy bras in column 3 of Schedule 2 and therefore allow a TCO to be made in respect of these goods. This would reduce the duty payable on the importation of mastectomy bras from 10 per cent to nil.

The Act does not specify any conditions that need to be met before the power to make the Regulation may be exercised.

The Regulation is minor or machinery in nature and therefore no formal consultation was undertaken in relation to the amendment.

The Regulation commences on the day after it is registered.

Statement of Compatibility with Human Rights

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

Customs Amendment Regulation 2014 (No. 1)

This legislative instrument 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 of the Regulation

This Regulation amends the *Customs Regulations 1926* (the Principal Regulations) to allow a Tariff Concession Order (TCO) to be made in respect of mastectomy bras (bras designed to conceal a mammary prosthesis and hold it securely in place). The effect of making a TCO would be to reduce the rate of duty payable on the importation of mastectomy bras to nil.

The Regulation commences on the day after registration.

Human Rights implications

This legislative instrument does not engage, impact on or limit in any way, the human rights and freedoms recognised or declared in the international instruments listed in the definition of human rights at section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

Conclusion

This legislative instrument does not raise any human rights issues.

Assistant Minister for Immigration and Border Protection