

## **EXPLANATORY STATEMENT**

### **Select Legislative Instrument 2016 No.**

Issued by the Assistant Minister for Immigration and Border Protection  
Parliamentary Secretary to the Minister for Immigration and Border Protection

#### *Customs Tariff Act 1901*

#### *Customs Tariff Amendment (Expanded Information Technology Agreement Implementation) Regulation 2016*

The *Customs Tariff Act 1995* (the Customs 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. It also allows for the regulation of certain goods and the collection of trade statistics.

Subsection 20A of the Customs Tariff Act provides, in part, that the Governor-General may make regulations, not inconsistent with this Act, prescribing all matters which by this Act are required or permitted to be prescribed, or which are necessary or convenient to be prescribed for giving effect to this Act.

### **Background and purpose**

The purpose of the *Customs Tariff Amendment (Expanded Information Technology Agreement Implementation) Regulation 2016* (the Amendment Regulation) is to amend the *Customs Tariff Regulations 2004* (the Customs Tariff Regulations), to give effect to Australia's commitments made under the World Trade Organization's Expanded Information Technology Agreement (the Expanded ITA).

In the 2016-17 Budget, the Government committed to reduce the customs duty rates incrementally for certain information technology products to Free, over time, and to do so in a manner consistent with the commitments made under the Expanded ITA.

Under the Expanded ITA, the customs duty rate for particular subsets of goods within certain tariff classifications will be reduced. The customs duty rate for the other goods within the tariff classification will remain unchanged. This requires the creation of new tariff classifications to identify and distinguish these subsets of goods.

The *Customs Tariff Amendment (Expanded Information Technology Agreement Implementation and Other Measures) Act 2016* (the Amendment Act) amends the Customs Tariff Act to implement changes resulting from the Expanded ITA commitments. The Amendment Regulation is consequential to the Amendment Act and enables the Customs Tariff Regulations to reflect the changes in the Customs Tariff Act.

The Customs Tariff Regulations contain references to certain tariff headings and subheadings. As a consequence of amendments made by the Amendment Act to some tariff headings and subheadings, and the resulting reclassification of goods, it is also necessary to amend the Customs Tariff Regulations to update these references and classifications. These amendments are of a technical nature only, and involve no change in policy.

The Amendment Regulation amends the Customs Tariff Regulations to update Schedule 2 in relation to ASEAN and New Zealand originating goods under Australia's regional agreement with ASEAN and New Zealand, the ASEAN-Australia-New Zealand Free Trade Agreement (AANZFTA).

Schedule 2 of the Customs Tariff Regulations prescribes goods for the purposes of Schedule 8 of the Customs Tariff Act. Schedule 8 sets out phasing rates of duty for the purposes of the AANZFTA. Some phasing rates apply in respect of prescribed goods only. The prescription of these goods ensures that the phasing rates of duty for these items in Schedule 8 only apply to certain goods, in accordance with the AANZFTA. The implementation of the Expanded ITA commitments requires the update of the description of table items 14 and 15 in Schedule 8 of the Customs Tariff Act, which apply in respect of prescribed goods only.

Details of the Amendment Regulation are set out in [Attachment A](#).

A Statement of Compatibility with Human Rights has been prepared and is at [Attachment B](#).

During the negotiation of the Expanded ITA, targeted consultation was undertaken with a number of industry bodies, including:

- The Australian Industry Group;
- The Australian Information Industry Association
- The Interactive Games and Entertainment Association
- The Consumer Electronics Society of Australia
- Telstra
- Cochlear
- The Australian arms of IBM and Hewlett Packard.

There was strong support of the Expanded ITA and no objections were received.

The Amendment Regulation commences on the commencement of Schedule 1 to the *Customs Amendment (Expanded Information Technology Agreement Implementation and Other Measures) Act 2016*. That Schedule commences on 1 January 2017.

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**Details of the *Customs Tariff Amendment (Expanded Information Technology Agreement) Regulation 2016***

**Section 1 – Name of Regulation**

This section provides that the title of the Regulation is the *Customs Tariff Amendment (Expanded Information Technology Agreement Implementation) Regulation 2016* (the Amendment Regulation).

**Section 2 – Commencement**

This section provides that the Amendment Regulation is to commence immediately after the commencement of Schedule 1 to the *Customs Tariff Amendment (Expanded Information Technology Agreement Implementation and Other Measures) Act 2016*. That Schedule commences on 1 January 2017.

**Section 3 – Authority**

This section provides that the Amendment Regulation is made under the *Customs Tariff Act 1995* (the Customs Tariff Act).

The purpose of this section is to set out the Act under which the Amendment Regulation is to be made.

**Section 4 – Schedule(s)**

This section provides for each instrument that is specified in a Schedule to this instrument is to be amended or repealed as set out in the applicable items in the Schedule concerned, and for any other item in a Schedule to this instrument to have effect according to its own terms. The instrument that is being amended is the *Customs Tariff Regulations 2004*.

**Schedule 1 – Amendments**

*Customs Tariff Regulations 2004* (the Customs Tariff Regulations)

**Item 1 – Schedule 2(table items 14 and 15)**

Schedule 2 prescribes goods for certain items listed in Schedule 8 of the Customs Tariff Act.

This item:

- a) repeals the description of the prescribed good and the tariff classification 8486.40.90 at table item 14 and replaces it with a new description: “Machines and apparatus which, but for the operation of Note 9 (C)(iii) to Chapter 84 of Schedule 3 to the Act, would be classified in 8428.90.00 of Schedule 3 to the Act”, and new tariff classification 8486.40.91.

- b) inserts a new item to refer to item 338A to Schedule 8 of the Customs Tariff Act to specifically prescribe “machines and apparatus which, but for the operation of Note 9 (C)(i) or (ii) to Chapter 84 of Schedule 3 to the Act, would be classified in 8428.90.00 of Schedule 3 to the Act”, with tariff classification 8486.40.99.

These amendments implement the changes to the Customs Tariff Regulations required by Australia’s commitments under the Expanded Information Technology Agreement.

**Statement of Compatibility with Human Rights**

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

***Customs Tariff Amendment (Expanded Information Technology Agreement Implementation) Regulation 2016***

This legislative instrument, titled the *Customs Tariff Amendment (Expanded Information Technology Agreement) Regulation 2016* (the Amendment Regulation), is compatible with human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

**Overview**

In the 2016-17 Budget, the Government committed to reduce the customs duty rates incrementally for certain information technology products to Free, over time, and to do so in a manner consistent with the commitments made under the World Trade Organization's Expanded Information Technology Agreement (the Expanded ITA).

Under the Expanded ITA, commitments have been made to reduce the customs duty rate for particular subsets of goods within a classification. The customs duty rate for the other goods within the classification will remain unchanged. This requires the creation of new tariff classifications to identify and distinguish these subsets of goods.

The *Customs Tariff Amendment (Expanded Information Technology Agreement Implementation and Other Measures) Act 2016* (the Amendment Act) amends the *Customs Tariff Act 1995* (the Customs Tariff Act) to implement commitments under the Expanded ITA. The proposed Amendment Regulation is consequential to the Amendment Act.

The purpose of the Amendment Regulation is to amend the *Customs Tariff Regulations 2004* (the Customs Tariff Regulation) to create new tariff subheadings. This enables the Customs Tariff Regulations to reflect the changes in the Customs Tariff Act. The changes are to tariff classifications and descriptions of certain goods.

The Amendment Regulation commences on the day of commencement of Schedule 1 to the Amendment Act. That Schedule commences on 1 January 2017.

***Human Rights implications***

This Amendment Regulation does not engage any of the applicable rights or freedoms.

***Conclusion***

This Amendment Regulation is compatible with human rights as it does not raise any human rights issues.

**The Hon Alex Hawke MP, Assistant Minister for Immigration and Border Protection  
Parliamentary Secretary to the Minister for Immigration and Border Protection**