

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 Act 1901

Customs Amendment (2017 Harmonized System) Regulation 2016

The *Customs Act 1901* (the Customs Act) relates to customs functions and provides, amongst other things, for the importation and exportation of goods, to and from Australia.

Subsection 270(1) of the Customs 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 Amendment (2017 Harmonized System) Regulation 2016* (the Amendment Regulation) is to amend the *Customs Regulation 2015* (the Customs Regulation) to give effect to the World Customs Organisation's fifth review of the International Convention on the Harmonized Commodity Description and Coding System, commonly referred to as the Harmonized System. The Harmonized System is a system of goods classification based on internationally agreed descriptors for goods and related four and six digit codes. These four and six digit tariff classifications uniquely identify all traded goods and commodities and are uniform across all countries that have adopted the Harmonized System. The *Customs Tariff Act 1995* (the Customs Tariff Act) provides an eight digit tariff classification for domestic purposes, which is based on the Harmonized System.

Australia is a signatory to the Harmonized System and has implemented it through the Customs Tariff Act. Australia is obliged to apply the changes resulting from the fifth review on 1 January 2017.

The *Customs Tariff Amendment (2017 Harmonized System Changes) Act 2016* (the Amendment Act) amends the Customs Tariff Act to implement approximately 950 changes resulting from the review of the Harmonized System. The Amendment Regulation is consequential to the Amendment Act and enables the Customs Regulation to reflect the changes to the Customs Tariff Act.

The Customs Regulation contains several references to 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 some goods, it is also necessary to amend the Customs Regulation 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 Regulation to update Schedule 1, which provides tariff subheadings for excise-equivalent goods (in the table at clause 1), like

customable goods (in the table at clause 2) and customable beverages (in the table at clause 4). To apply changes in the Harmonized System, the Amendment Regulation inserts new tariff subheadings 2204.22.30 and 2204.22.90 into the tables at clauses 1, 2 and 4 of Schedule 1. In addition, the Amendment Regulation repeals tariff subheadings 3824.90.50 and 3824.90.60 and substitutes them with new tariff subheadings 3824.99.30 and 3824.99.40 in the tables at clauses 1 and 2 of Schedule 1.

Associated amendments are also made to the *Customs Tariff Regulations 2004* by the *Customs Tariff Amendment (2017 Harmonized System) Regulation 2016*, to implement the changes to the Harmonized System.

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 Harmonized System review process, consultations were undertaken with local industry groups that might be affected by the changes. In addition, bodies directly involved in international trade (such as the Customs Brokers and Forwarders Council of Australia; the Export Council of Australia and the Australian Federation of International Forwarders) have been kept abreast of changes to the Harmonized System and will be supported by the Department of Immigration and Border Protection during implementation of the classification amendments.

The Amendment Regulation commences on the commencement of Schedule 1 to the *Customs Tariff Amendment (2017 Harmonized System Changes) Act 2016*. That Schedule commences on 1 January 2017.

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Details of the *Customs Amendment (2017 Harmonized System) Regulation 2016*

Section 1 – Name of Regulation

This section provides that the title of the Regulation is the *Customs Amendment (2017 Harmonized System) 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 (2017 Harmonization System Changes) Act 2016*. That Schedule commences on 1 January 2017.

Section 3 – Authority

This section provides that the Amendment Regulation is made under the *Customs Act 1901* (the Customs 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 Regulation 2015*.

Schedule 1 – Amendments

Customs Regulation 2015 (the Customs Regulation)

Item 1 – Clause 1 of Schedule 1 (after table item 14)

Clause 1 of Schedule 1 of the Amendment Regulation lists tariff subheadings for excise-equivalent goods.

This item inserts two new tariff subheadings for wine in containers, 2204.22.30 and 2204.22.90 at table items 13A and 13B respectively. Insertion of these new subheadings will preserve existing customs duty rates for these goods.

Item 2 - Clause 1 of Schedule 1 (table items 131 and 132)

This item repeals two tariff subheadings for prepared binders for foundry moulds or cores; chemical goods and preparations of the chemical or allied industries (including those consisting of mixtures of natural goods), not elsewhere specified or included. The tariff subheadings repealed are 3824.90.50 at table item 131 and 3824.90.60 at table item 132.

Two new subheadings are substituted. These are subheading 3824.99.30 at table item 131 and subheading 3824.99.40 at table item 132. Insertion of these new subheadings will preserve existing customs duty rates for these goods.

Item 3 - Clause 2 of Schedule 1 (after table item 20)

Clause 2 of Schedule 1 to the Customs Regulation lists tariff subheadings for like customizable goods.

This item inserts two new tariff subheadings, 2204.22.30 at table item 20A, and 2204.22.90 at table item 20B. Insertion of these new subheadings will preserve existing customs duty rates for these goods.

Item 4 - Clause 2 of Schedule 1 (after table items 134 and 135)

This item repeals the tariff subheadings 3824.90.50 and 3824.90.60, at table items 134 and 135 respectively and substitutes them with the new tariff subheadings 3824.99.30, at table item 134, and 3824.99.40, at table item 135. Insertion of these new subheadings will preserve existing customs duty rates for these goods.

Item 5 – Clause 4 of Schedule 1 (after table item 4)

Clause 4 of Schedule 2 to the Customs Regulation lists tariff subheadings for customizable beverages.

This item inserts two new tariff subheadings, 2204.22.30 at table item 4A, and 2204.22.90 at table item 4B. Insertion of these new subheadings will preserve existing customs duty rates for these goods.

Statement of Compatibility with Human Rights

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

Customs Amendment (2017 Harmonized System) Regulation 2016

This legislative instrument, titled the *Customs Amendment (2017 Harmonized System) 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

The purpose of this Amendment Regulation is to amend the *Customs Regulation 2015* (the Customs Regulation) to give effect to the World Customs Organisation's fifth review of the International Convention on the Harmonized Commodity Description and Coding System, commonly referred to as the Harmonized System.

Australia is a signatory to the Harmonized System, and has implemented it through the *Customs Tariff Act 1995* (the Customs Tariff Act). The *Customs Tariff Amendment (2017 Harmonized System Changes) Act 2016* (the Amendment Act) amends the Customs Tariff Act to implement approximately 950 changes resulting from the review of the Harmonized System. The Amendment Regulation is consequential to the Amendment Act and enables the Customs Regulation to reflect the changes in the Customs Tariff Act resulting from the review of the Harmonized System. Australia is obliged to apply the changes resulting from the fifth review on 1 January 2017. The changes are to tariff classifications for certain goods.

The Amendment Regulation commences on the day of commencement of Schedule 1 to the *Customs Tariff Amendment (2017 Harmonized System Changes) Act 2016*. 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.

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Parliamentary Secretary to the Minister for Immigration and Border Protection**