



## **Customs Legislation Amendment (Asbestos) Regulations 2019**

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I, General the Honourable Sir Peter Cosgrove AK MC (Ret'd), Governor-General of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following regulations.

Dated 21 March 2019

Peter Cosgrove  
Governor-General

By His Excellency's Command

Peter Dutton  
Minister for Home Affairs

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## 1 Name

This instrument is the *Customs Legislation Amendment (Asbestos) Regulations 2019*.

## 2 Commencement

- (1) Each provision of this instrument specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

<b>Commencement information</b>		
<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<b>Provisions</b>	<b>Commencement</b>	<b>Date/Details</b>
1. The whole of this instrument	The day after this instrument is registered.	26 March 2019

Note: This table relates only to the provisions of this instrument as originally made. It will not be amended to deal with any later amendments of this instrument.

- (2) Any information in column 3 of the table is not part of this instrument. Information may be inserted in this column, or information in it may be edited, in any published version of this instrument.

## 3 Authority

This instrument is made under the *Customs Act 1901*.

## 4 Schedules

Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

## Schedule 1—Amendments

### *Customs (Prohibited Exports) Regulations 1958*

#### **1 Subregulation 2(1) (definition of asbestos)**

Repeal the definition, substitute:

*asbestos* has the same meaning as in the *Work Health and Safety Regulations 2011*.

#### **2 Subregulation 2(1)**

Insert:

*Work Health and Safety Minister* means the Minister administering the *Work Health and Safety Act 2011*.

#### **3 Regulation 4 (heading)**

Repeal the heading, substitute:

#### **4 Exportation of asbestos or certain goods containing asbestos**

#### **4 Subregulation 4(1)**

Omit “Part 1 of”.

#### **5 Paragraphs 4(1)(b) to (f)**

Repeal the paragraphs, substitute:

- (b) for the exportation:
  - (i) a confirmation from an authority of a State or Territory is in force stating that the asbestos is, or goods are, for research, analysis or display; and
  - (ii) a copy of the confirmation is produced to a Collector if the Collector requests; or
- (c) for the exportation:
  - (i) a permission is in force under subregulation (3); and
  - (ii) a copy of the permission is produced to a Collector if the Collector requests; or
- (d) the exportation is of raw materials that contain naturally occurring traces of asbestos.

#### **6 Subregulations 4(3), (4) and (5)**

Repeal the subregulations, substitute:

- (3) For the purposes of paragraph (1)(c), the Work Health and Safety Minister, or a person authorised by that Minister, may in writing grant permission for the exportation of asbestos or goods containing asbestos.
- (4) A permission under subregulation (3) may be granted subject to conditions or requirements to be complied with by a person either before or after the exportation.

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**7 In the appropriate position in Part 5**

Insert:

**19 Transitional matters—effect of the *Customs Legislation Amendment (Asbestos) Regulations 2019* on permissions and confirmations**

- (1) A confirmation:
- (a) provided in accordance with subregulation 4(3) for the purposes of paragraph 4(1)(b); and
  - (b) in force immediately before the commencement of the *Customs Legislation Amendment (Asbestos) Regulations 2019* (the **amending regulations**); continues in force (and may be dealt with) as if it were a confirmation for the purposes of paragraph 4(1)(b) as amended by the amending regulations.
- (2) A permission:
- (a) granted under subregulation 4(4); and
  - (b) in force immediately before the commencement of the amending regulations; continues in force (and may be dealt with) as if it had been granted under subregulation 4(3) as amended by the amending regulations.

**8 Schedule 1 (heading)**

Repeal the heading (not including the note), substitute:

**Schedule 1—Goods containing asbestos****9 Part 1 of Schedule 1 (heading)**

Repeal the heading.

**10 Part 2 of Schedule 1**

Repeal the Part.

***Customs (Prohibited Imports) Regulations 1956*****11 Subregulation 2(1) (definition of *amphibole asbestos*)**

Repeal the definition.

**12 Subregulation 2(1) (definition of *asbestos*)**

Repeal the definition, substitute:

*asbestos* has the same meaning as in the *Work Health and Safety Regulations 2011*.

**13 Subregulation 2(1)**

Insert:

***Work Health and Safety Minister*** means the Minister administering the *Work Health and Safety Act 2011*.

**14 Subregulation 4C(1)**

Omit “amphibole” (wherever occurring).

## 15 Paragraph 4C(1)(b)

Repeal the paragraph, substitute:

- (b) for the importation:
  - (i) a permission is in force under subregulation (2); and
  - (ii) a copy of the permission is produced to a Collector if the Collector requests; or
- (ba) for the importation:
  - (i) a confirmation from an authority of a State or Territory is in force stating that the proposed use of the asbestos or goods is research, analysis or display in accordance with the law of the State or Territory relating to work health and safety; and
  - (ii) a copy of the confirmation is produced to a Collector if the Collector requests; or

## 16 Subregulations 4C(2) to (7)

Repeal the subregulations, substitute:

- (2) For the purposes of paragraph (1)(b), the Work Health and Safety Minister, or a person authorised by that Minister, may in writing grant permission for the importation of asbestos or goods containing asbestos.
- (3) However, that Minister or authorised person may grant the permission only if that Minister or person is satisfied that the asbestos is, or the goods are, to be imported only for one or more of the following purposes:
  - (a) in any case—research, analysis or display;
  - (b) if the importation is from an external Territory—disposal in a State or Territory.
- (4) A permission under subregulation (2) may be granted subject to conditions or requirements to be complied with by a person either before or after the importation.

## 17 After regulation 9

Insert:

### 10 Transitional matters—effect of the *Customs Legislation Amendment (Asbestos) Regulations 2019* on permissions and confirmations

- (1) A permission:
  - (a) granted under subregulation 4C(2); and
  - (b) in force immediately before the commencement of the *Customs Legislation Amendment (Asbestos) Regulations 2019* (the **amending regulations**);continues in force (and may be dealt with) as if it had been granted under that subregulation as amended by the amending regulations.
- (2) A confirmation:
  - (a) provided in accordance with paragraph 4C(3)(b); and
  - (b) in force immediately before the commencement of the amending regulations;continues in force (and may be dealt with) as if it were a confirmation for the purposes of paragraph 4C(1)(ba) as amended by the amending regulations.



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**18 Schedule 3B**

Repeal the Schedule.

**19 Schedule 12 (table item 8)**

Repeal the item.

***Customs Regulation 2015*****20 In the appropriate position in Part 18**

Insert:

**156 Amendments made by the *Customs Legislation Amendment (Asbestos) Regulations 2019***

The amendments of these Regulations made by the *Customs Legislation Amendment (Asbestos) Regulations 2019* apply in relation to:

- (a) goods imported into Australia on or after the commencement of those Regulations; or
- (b) goods exported from Australia on or after the commencement of those Regulations.

**21 Subclause 1(1) of Schedule 7 (at the end of the table)**

Add:

24 The following:

- (a) asbestos;
- (b) in the case of exportation—goods mentioned in Schedule 1 to the *Customs (Prohibited Exports) Regulations 1958* that contain asbestos;
- (c) in the case of importation—goods containing asbestos