

EXPLANATORY STATEMENT

Customs By-law No. 2020321

Customs Act 1901

Section 271 of the *Customs Act 1901* (the Act) provides, in part, that where an item of a Customs Tariff is expressed to apply to goods, or to a class or kind of goods, as prescribed by by-law, the Comptroller-General of Customs may make by-laws for the purposes of that item.

A Customs Tariff is defined in section 4 of the Act to mean an Act imposing duties of customs. The *Customs Tariff Act 1995* (the Customs Tariff Act) is an Act imposing duties of customs, and is therefore a Customs Tariff for the purposes of the Act.

Section 18 of the Customs Tariff Act provides for calculation of concessional duty.

Background

For the purposes of proposed item 57B to Schedule 4 to the Customs Tariff Act, goods, as prescribed by by-law, that are medical products or hygiene products, capable of use in combating the novel coronavirus that causes the disease known as COVID-19, are dutiable at the rate of “Free”. Item 57B is a temporary measure covering imported goods where the time for working out the rate of duty on the goods is in the period beginning on 1 January 2021 and ending at the end of 30 June 2021.

Instrument

By-law 2020321 covers certain medical products and hygiene products imported as part of the response to the COVID-19 pandemic. The by-law will reduce the rate of duty on prescribed medical products or hygiene products required in the response to the COVID-19 pandemic to ‘Free’. As such, goods listed in this by-law are only those goods that have a duty rate other than ‘Free’ in Schedule 3 of the Customs Tariff Act, or for which there is no other Schedule 4 concession available, including Item 50 Tariff Concession Orders.

Paragraph 3 of the Schedule to the By-law sets out a list of the medical or hygiene products to which by-law 2020321 applies. Subparagraph 3(a) covers a range of Personal Protective Equipment capable of limiting the transmission of organisms to humans. Goods covered in this paragraph include facemasks, gloves, clothes or gowns, goggles, eyeglasses, eye visors or face shields, of any material.

Subparagraph 3(b) of the Schedule to the By-law covers disinfectant preparations of heading 3808 of the Schedule 3 of the Customs Tariff Act, excluding hand sanitisers. The by-law covers disinfectant products able to disinfect surfaces or objects of the novel coronavirus that causes COVID-19, put up in forms or packaging for retail sale.

Subparagraph 3(b) does not cover disinfectant products of heading 3808 in Schedule 3 to the Customs Tariff Act capable of disinfecting human skin of the novel coronavirus that causes COVID-19, commonly referred to as hand sanitisers. There is currently significant manufacturing capacity in Australia for hand sanitiser. The exclusion of hand sanitiser reflects this capacity and the fact that Australian businesses have refocused their operations to increase domestic supply in response to COVID-19.

Subparagraph 3(c) of the Schedule to the By-law covers all soaps of heading 3401 of Schedule 3 of the Customs Tariff Act.

Subparagraph 3(d) of the Schedule to the By-law covers COVID-19 test kits and reagents used in the procedures to detect the novel coronavirus that causes COVID-19.

Consultation

The following Australian Government Departments were consulted in relation to by-law 2020321.

- Department of Industry, Science, Energy and Resources
- Department of Foreign Affairs and Trade
- Department of the Prime Minister and Cabinet
- Department of Health
- Department of the Treasury

Commencement

This By-law commences on 1 January 2021.