

## **SUPPLEMENTARY EXPLANATORY STATEMENT**

Issued by the Assistant Minister for Customs, Community Safety and Multicultural Affairs,  
Parliamentary Secretary to the Minister for Home Affairs

*Customs Act 1901*

*Customs (Regional Comprehensive Economic Partnership Rules of Origin) Regulations  
2021*

### **Purpose of supplementary explanatory statement**

This supplementary explanatory statement amends the initial explanatory statement (the explanatory statement) to the *Customs (Regional Comprehensive Economic Partnership Rules of Origin) Regulations 2021* (the Regulations), at the request of the Senate Standing Committee for the Scrutiny of Delegated Legislation. It provides information on the incorporation of the ‘Harmonized System’ from the *Customs Act 1901* (the Customs Act) into the Regulations, and details how that System may be freely accessed.

### **Incorporation of the Harmonized System**

*At the end of the section headed ‘Section 4 – Definitions’ in Attachment A to the explanatory statement, include the following paragraphs:*

#### Incorporation by reference of ‘Harmonized System’ in the Regulations

The Regulations incorporate the Harmonized System defined under subsection 153ZQB(1) of the Customs Act, in accordance with subparagraph 14(1)(a)(i) of the *Legislation Act 2003*. This expression is used in the record-keeping obligations in sections 11 and 12 of the Regulations to require records be kept of the classification of goods or materials under the Harmonized System.

Subsection 153ZQB(1) was inserted in the Customs Act by the *Customs Amendment (Regional Comprehensive Economic Partnership Implementation) Act 2021* on 1 January 2022, and defines the ‘Harmonized System’ as:

- (a) the Harmonized Commodity Description and Coding System as in force immediately before 1 January 2017: or
- (b) if the table in Annex 3A is amended or replaced to refer to Chapters, headings and subheadings of a later version of the Harmonized Commodity Description and Coding System – the later version of the Harmonized Commodity Description and Coding System.

These provisions implement the Regional Comprehensive Economic Partnership Agreement (the Agreement). The reference to the Harmonized System in the Customs Act and Regulations is in relation to the record keeping obligations under the Agreement.

The Harmonized Commodity Description and Coding System (the Harmonized System) is defined in the Customs Act as the Harmonized Commodity Description and Coding System established by or under the International Convention on the Harmonized Commodity Description and Coding System (the Convention) done at Brussels on 14 June 1983, as in force from time to time.

The Harmonized System is a structure for classifying goods based on internationally agreed descriptors for goods and related six-digit codes administered by the World Customs Organization (the WCO). This six-digit classification uniquely identifies all traded goods and commodities and is uniform across all countries that have adopted the Harmonized System. The WCO, and member countries, review the system every five years to reflect changes in industry practice, technological developments and evolving international trade patterns.

While each signatory to the Convention is required to implement amendments to the Harmonized System in their domestic legislation on the date when the amendments enter into force, the pace at which the amendments are implemented varies from country to country.

The Agreement uses the tariff classification codes of the Harmonized System. In particular, Annex 3A to the Agreement identifies goods that must satisfy the product specific rules by reference to their tariff classification codes under the Harmonized System. The tariff classification codes in the Agreement are the codes from the version of the Harmonized System in place immediately before 1 January 2017, commonly referred to as the 2012 version of the Harmonized System.

Paragraph (a) of the definition of ‘Harmonized System’ in new subsection 153ZQB(1) of the Customs Act will therefore incorporate into the Regulations the version of the Harmonized System on which the Agreement was based (being the version in place immediately before 1 January 2017). Paragraph (b) of that definition will also allow later versions of the Harmonized System to be incorporated into the Regulations if Annex 3A of the Agreement is amended to reflect such later versions.

The 2012 version of the Harmonized System is available free of charge on webpages administered by the WCO ([www.wcoomd.org](http://www.wcoomd.org)).

Annex 3A to the Agreement is available free of charge on the webpage administered by the Department of Foreign Affairs and Trade in relation to the Agreement, and on the Australian Treaties Library on the AustLII website ([www.austlii.edu.au](http://www.austlii.edu.au)). Any revisions to Annex 3A to the Agreement will also be available free of charge on these webpages.