

EXPLANATORY STATEMENT

Customs By-law No. 2200082

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 item 57 to Schedule 4 to the Customs Tariff Act, goods, as prescribed by by-law, that are goods that are medical products or hygiene products, capable of use in combating pathogens that are transmitted through droplet or airborne spread, are dutiable at the rate of 'Free'.

Instrument

By-law No. 2200082 (the By-law) prescribes goods that are equipment that when worn, is capable of limiting the transmission of pathogens to humans, disinfectant preparations classified to heading 3808 (excluding hand sanitisers), soaps and test kits, reagents and viral transport media. For the purposes of this by-law only goods that are capable of use in combatting pathogens that are transmitted through droplet or airborne spread are prescribed.

Subsection 33(3) of the *Acts Interpretation Act 1901* provides that, where an Act confers a power to make, grant or issue an instrument of a legislative or administrative character (including rules, regulations or by-laws) the power shall be construed as including a power exercisable in the like manner and subject to the like conditions (if any) to repeal, rescind, revoke, amend, or vary any such instrument. The By-law repeals By-Laws No. 2019608, No. 2041552, No. 2020321 and No. 2100131.

Consultation

The Department the Prime Minister and Cabinet and the Department of the Treasury were consulted on the development of this measure.

Commencement

By-law No. 2200082 commences on 1 July 2022.