

EXPLANATORY STATEMENT

Issued by the Delegate of the Minister for Home Affairs

Customs Act 1901

Notice of Intention to Propose Customs Tariff Alterations (No. 6) 2022

The *Customs Act 1901* (the Customs Act) concerns customs related functions and is the legislative authority that sets out the customs requirements for the importation and exportation of goods to and from Australia.

The *Customs Tariff Act 1995* (the Customs Tariff Act) gives effect to Australia's import trade classification system. It is used to assign rates of customs duty, both general and preferential, to imported goods and enables the collection of these duties.

Subsection 273EA(1) of the Customs Act provides that where Parliament is not sitting for a period of at least 7 days, the Minister may, under section 273EA of the *Customs Act 1901* (the Customs Act), publish a notice that, within 7 sitting days of the House of Representatives after the date of publication of the notice, the Minister will propose in Parliament a Customs Tariff alteration in accordance with particulars in the notice and operating as from such time as is specified in the notice. Subsection 273EA(1) further provides that a notice that does not raise duty may apply retrospectively up to six months before the time of publication.

This mechanism is used for initially effecting alterations to the Customs Tariff Act, particularly when such alterations are required to have effect before a Customs Tariff Amendment Bill can be passed. Following the introduction of a Customs Tariff Proposal in the House of Representatives, the alterations contained in the Proposal would be incorporated into the Customs Tariff Act by a Customs Tariff Amendment Bill.

The *Notice of Intention to Propose Customs Tariff Alterations (No. 6) 2022* (the Notice) advises of the intention to reduce the rates of customs duty for certain types of passenger motor vehicles. The reduction in the duty rate for battery electric cars, hydrogen fuel cell electric cars, and hybrid electric cars that are capable of being charged by plugging into an external source of power, is part of the Australian Government's commitment to increasing the affordability of electric cars.

The Notice outlines the insertion of new tariff classifications with a 'Free' rate of customs duty for new electric cars that have a customs value below the fuel-efficient car limit, within the meaning of the *A New Tax System (Luxury Car Tax) Act 1999*. This will reduce the 5% general duty rate that currently applies to these vehicles to 'Free'. The amendments will also reduce from 5% or 4% to 'Free' the preferential duty rate of certain electric cars that are Regional Comprehensive Economic Partnership (RCEP) originating within the meaning of Division 1N of the Customs Act.

The electric cars for which a ‘Free’ rate of customs duty is proposed are those passenger motor vehicles:

- with a spark-ignition or compression-ignition internal combustion piston engine and electric motor as motors for propulsion, and which are capable of being charged by plugging to external sources of electric power;
- with only an electric motor for propulsion, or
- with an engine or motor other than a spark-ignition or compression-ignition internal combustion piston engine and an electric motor for propulsion, and which are capable of being charged by plugging to external sources of electric power.

This Notice is a Legislative Instrument under the *Legislation Act 2003*.

Details of the Notice are set out in [Attachment A](#).

Details of the Statement of Compatibility with Human Rights are set out in [Attachment B](#).

The proposed tariff alterations outlined in the Notice operate starting on 1 July 2022.

ATTACHMENT A

Details of the Notice of Intention to Propose Customs Tariff Alterations (No. 6) 2022

The Schedule to the *Notice of Intention to Propose Customs Tariff Alterations (No. 6) 2022* (the Notice) outlines the proposed alterations to the *Customs Tariff Act 1995* (the Customs Tariff Act). The proposed alterations operate starting on 1 July 2022.

Schedule – Alteration to the Customs Tariff Act 1995 operating starting on 1 July 2022

Customs Tariff Act 1995

Item [1] – Schedule 3 (Chapter 87, after Additional Note 5)

The proposed amendment is the insertion of an Additional Note that directs the tariff classification of certain motor vehicles that have a customs value that is less than the fuel-efficient car limit, within the meaning of the *A New Tax System (Luxury Car Tax) Act 1999* for the financial year in which the time for working out the rate of import duty on the goods occurs.

The effect of the proposed amendment, with the amendments proposed by items [3] to [6], is to direct some goods previously classified to tariff subheadings 8703.60.19, 8703.70.19, 8703.80.19 and 8703.90.19 to tariff subheadings 8703.60.12, 8703.70.12, 8703.80.12 and 8703.90.12, respectively.

Item [2] – Schedule 3 (Chapter 87, Additional Notes 6 to 8)

The effect of the proposed amendment is that Additional Notes 6, 7 and 8 will be referred to as Additional Notes 7, 8 and 9.

Item [3] – Schedule 3 (after subheading 8703.60.11)

Inserts new subheading 8703.60.12 which provides for the classification of goods with a value less than the fuel-efficient car limit for the goods as defined in Additional Note 6.

The effect of the proposed amendment is to reduce to ‘Free’ the 5% rate of duty payable on the import of passenger motor vehicles that are not used or second-hand, and have both a spark-ignition internal combustion piston engine and electric motor for propulsion, and are capable of being charged by plugging to an external source of electric power. This applies to such vehicles with a customs value below the fuel-efficient car limit.

Item [4] – Schedule 3 (after subheading 8703.70.11)

Inserts new subheading 8703.70.12 which provides for the classification of goods with a value less than the fuel-efficient car limit for the goods as defined in Additional Note 6.

The effect of the proposed amendment is to reduce to ‘Free’ the 5% rate of duty payable on the import of passenger motor vehicles that are not used or second-hand, and have a

compression-ignition internal combustion piston engine and an electric motor for propulsion, and are capable of being charged by plugging to external sources of power. This applies to such vehicles with a customs value below the fuel-efficient car limit.

Item [5] – Schedule 3 (after subheading 8703.80.11)

Inserts new subheading 8703.80.12 which provides for the classification of goods with a value less than the fuel-efficient car limit for the goods as defined in Additional Note 6.

The effect of the proposed amendment is to reduce to ‘Free’ the 5% rate of duty payable on the import of passenger motor vehicles that are not used or second-hand and that have only an electric motor for propulsion. This applies to such vehicles with a customs value below the fuel-efficient car limit.

Item [6] – Schedule 3 (after subheading 8703.90.11)

Inserts new subheading 8703.90.12 which provides for the classification of goods with a value less than the fuel-efficient car limit for the goods as defined in Additional Note 6.

The effect of the proposed amendment is to reduce to ‘Free’ the 5% rate of duty payable on the import of passenger motor vehicles that are not used or second-hand and have for propulsion an electric motor and another engine or motor that is neither a spark-ignition nor compression-ignition internal combustion piston engine, and are capable of being charged by plugging to an external source of electric power. This applies to such vehicles with a customs value below the fuel-efficient car limit.

Item [7] – Schedule 4 (table item 36, column headed “Description of goods”, paragraph (a))

The effect of the proposed amendment is to repeal the reference to ‘Additional Note 7’ and substitute ‘Additional Note 8’ as a consequence of the amendment made by Item 2 to renumber Additional Note 7.

ATTACHMENT B

Statement of Compatibility with Human Rights

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

Notice of Intention to Propose Customs Tariff Alterations (No. 6) 2022

The *Notice of Intention to Propose Customs Tariff Alterations (No. 6) 2022* (the Notice) is compatible with the human rights and freedoms recognised or declared in the international instruments listed in the definition of human rights in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

Overview

The *Customs Act 1901* (the Customs Act) concerns customs related functions and is the legislative authority that sets out the customs requirements for the importation and exportation of goods to and from Australia.

The *Customs Tariff Act 1995* (the Customs Tariff Act) gives effect to Australia's import trade classification system. It is used to assign rates of customs duty, both general and preferential, to imported goods and enables the collection of these duties.

Subsection 273EA(1) of the Customs Act provides that where Parliament is not sitting for a period of at least 7 days, the Minister may under section 273EA of the *Customs Act 1901* (the Customs Act) publish a notice that within 7 sitting days of the House of Representatives after the date of publication of the notice, the Minister will propose in Parliament a Customs Tariff alteration in accordance with particulars in the notice and operating as from such time as is specified in the notice.

The *Notice of Intention to Propose Customs Tariff Alterations (No. 6) 2022* (the Notice) advises of the intention to reduce from 5% to 'Free' the rate of customs duty for certain new electric passenger motor vehicles with a customs value that is below the fuel-efficient car limit, within the meaning of the *A New Tax (Luxury Car Tax) Act 1999*. New tariff classifications will be created for the vehicles that meet these conditions and have one of the following:

- a spark-ignition or compression-ignition internal combustion piston engine and electric motor as motors for propulsion, which is capable of being charged by plugging to external sources of electric power
- only an electric motor for propulsion
- an engine or motor other than a spark-ignition or compression-ignition internal combustion piston engine and an electric motor for propulsion

The amendments will also reduce from 5% or 4% to 'Free' the rate of customs duty for these vehicles where they are Regional Comprehensive Economic Partnership (RCEP) originating goods within the meaning of Division 1N of the Customs Act 1901.

The measure will commence retrospectively starting on 1 July 2022.

Human rights implications

The Notice does not engage, impact on or limit in any way, the human rights and freedoms recognised or declared in the international instruments listed in the definition of human rights at section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

Conclusion

The Notice is compatible with human rights, as it does not raise human rights issues.

Clare O’Neil, Minister for Home Affairs