



# **Customs Legislation Amendment (ASEAN-Australia-New Zealand Free Trade Area Second Protocol Implementation and Other Measures) Regulations 2025**

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I, the Honourable Sam Mostyn AC, Governor-General of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following regulations.

Dated 20 February 2025

Sam Mostyn AC  
Governor-General

By Her Excellency's Command

Tony Burke  
Minister for Home Affairs

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## 1 Name

This instrument is the *Customs Legislation Amendment (ASEAN-Australia-New Zealand Free Trade Area Second Protocol Implementation and Other Measures) Regulations 2025*.

## 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.

Commencement information		
Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
1. Sections 1 to 4 and anything in this instrument not elsewhere covered by this table	The day after this instrument is registered.	21 February 2025
2. Schedule 1	At the same time as Schedule 1 to the <i>Customs Amendment (ASEAN-Australia-New Zealand Free Trade Area Second Protocol Implementation and Other Measures) Act 2024</i> commences.	
3. Schedule 2	At the same time as Schedule 2 to the <i>Customs Amendment (ASEAN-Australia-New Zealand Free Trade Area Second Protocol Implementation and Other Measures) Act 2024</i> commences.	

Note: This table relates only to the provisions of this instrument as originally made.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Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.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—ASEAN-Australia-New Zealand Free Trade Area Second Protocol amendments

### *Customs (ASEAN-Australia-New Zealand Rules of Origin) Regulations 2009*

#### 1 Regulation 1.1

Omit “*Customs (ASEAN-Australia-New Zealand Rules of Origin) Regulations 2009*”, substitute “*Customs (ASEAN-Australia-New Zealand) Regulations 2009*”.

#### 2 Regulation 1.4

Insert:

*Harmonized System* has the meaning given by subsection 153ZKB(1) of the Act.

*Participating Party* has the same meaning as in Article 6 of Chapter 3 of the Agreement.

*Proof of Origin* has the meaning given by subsection 153ZKB(1) of the Act.

#### 3 At the end of regulation 4.1

Add:

- (4) For the purposes of paragraph (2)(a) or (c), in working out the value of particular non-originating materials used in the production of goods where the last process of production occurs in a Participating Party, the following may be deducted:
  - (a) the value of any production undertaken on the non-originating materials in any other Participating Party;
  - (b) the amount of the value added to the non-originating materials in any other Participating Party.

#### 4 After Part 4

Insert:

## Part 5—Record keeping obligations

### 5.1 Exportation of goods to a Party—record keeping by exporter who is not the producer of the goods

- (1) For the purposes of subsection 126AKDB(1) of the Act, an exporter of goods mentioned in that subsection, who is not also the producer of the goods, must keep the following records:
  - (a) records of the purchase of the goods by the exporter;
  - (b) records of the purchase of the goods by the person to whom the goods are exported;
  - (c) evidence that payment has been made for the goods;
  - (d) evidence of the classification of the goods under the Harmonized System;

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- (e) if the goods include any accessories, spare parts, tools or instructional or other information materials that were purchased by the exporter:
    - (i) records of the purchase of the accessories, spare parts, tools or instructional or other information materials; and
    - (ii) evidence of the value of the accessories, spare parts, tools or instructional or other information materials;
  - (f) if the goods include any accessories, spare parts, tools or instructional or other information materials that were produced by the exporter:
    - (i) records of the purchase of all materials that were purchased for use or consumption in the production of the accessories, spare parts, tools or instructional or other information materials; and
    - (ii) evidence of the value of the materials so purchased; and
    - (iii) records of the production of the accessories, spare parts, tools or instructional or other information materials;
  - (g) if the goods are packaged for retail sale in packaging material or a container that was purchased by the exporter:
    - (i) records of the purchase of the packaging material or container; and
    - (ii) evidence of the value of the packaging material or container;
  - (h) if the goods are packaged for retail sale in packaging material or a container that was produced by the exporter:
    - (i) records of the purchase of all materials that were purchased for use or consumption in the production of the packaging material or container; and
    - (ii) evidence of the value of the materials so purchased; and
    - (iii) records of the production of the packaging material or container;
  - (i) a copy of the Proof of Origin for the goods;
  - (j) any other documents in support of the goods being originating goods in accordance with Chapter 3 of the Agreement (including documents from the producer or supplier of the goods).
- (2) The records must be kept for at least 5 years starting on the date the Proof of Origin for the goods is issued.
- (3) The exporter:
- (a) may keep the records at any place (whether or not in Australia); and
  - (b) must ensure that:
    - (i) the records are kept in a form that would enable a determination of whether the goods are originating goods in accordance with Chapter 3 of the Agreement; and
    - (ii) if the records are not in English—the records are kept in a place and form that would enable an English translation to be readily made; and
    - (iii) if the records are kept by mechanical or electronic means—the records are readily convertible into a hard copy in English.

## **5.2 Exportation of goods to a Party—record keeping by the producer of the goods**

- (1) For the purposes of subsection 126AKDB(1) of the Act, a producer of goods mentioned in that subsection, whether or not the producer is the exporter of the goods, must keep the following records:

- (a) records of the purchase of the goods;
  - (b) if the producer is the exporter of the goods—evidence of the classification of the goods under the Harmonized System;
  - (c) evidence that payment has been made for the goods;
  - (d) evidence of the value of the goods;
  - (e) records of the purchase of all materials that were purchased for use or consumption in the production of the goods and evidence of the classification of the materials under the Harmonized System;
  - (f) evidence of the value of those materials;
  - (g) records of the production of the goods;
  - (h) if the goods include any accessories, spare parts, tools or instructional or other information materials that were purchased by the producer:
    - (i) records of the purchase of the accessories, spare parts, tools or instructional or other information materials; and
    - (ii) evidence of the value of the accessories, spare parts, tools or instructional or other information materials;
  - (i) if the goods include any accessories, spare parts, tools or instructional or other information materials that were produced by the producer:
    - (i) records of the purchase of all materials that were purchased for use or consumption in the production of the accessories, spare parts, tools or instructional or other information materials; and
    - (ii) evidence of the value of the materials so purchased; and
    - (iii) records of the production of the accessories, spare parts, tools or instructional or other information materials;
  - (j) if the goods are packaged for retail sale in packaging material or a container that was purchased by the producer:
    - (i) records of the purchase of the packaging material or container; and
    - (ii) evidence of the value of the packaging material or container;
  - (k) if the goods are packaged for retail sale in packaging material or a container that was produced by the producer:
    - (i) records of the purchase of all materials that were purchased for use or consumption in the production of the packaging material or container; and
    - (ii) evidence of the value of the materials so purchased; and
    - (iii) records of the production of the packaging material or container;
  - (l) a copy of the Proof of Origin for the goods.
- (2) The records must be kept for at least 5 years starting on the date the Proof of Origin for the goods is issued.
- (3) The producer:
- (a) may keep the records at any place (whether or not in Australia); and
  - (b) must ensure that:
    - (i) the records are kept in a form that would enable a determination of whether the goods are originating goods in accordance with Chapter 3 of the Agreement; and
    - (ii) if the records are not in English—the records are kept in a place and form that would enable an English translation to be readily made; and



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- (iii) if the records are kept by mechanical or electronic means—the records are readily convertible into a hard copy in English.

## **Part 6—Approved exporters**

### **6.1 Application for approval as approved exporter**

- (1) For the purposes of section 126AKDE of the Act, an entity may make an application to the Comptroller-General of Customs for approval as an approved exporter.
- (2) An application may be made by document or electronically.
- (3) A documentary application must:
  - (a) be communicated to the Comptroller-General of Customs; and
  - (b) be in an approved form; and
  - (c) contain the information required by the approved form; and
  - (d) be signed in a manner indicated by the approved form.
- (4) An electronic application must communicate such information as is set out in an approved statement.
- (5) An entity may withdraw an application at any time by notice in writing given to the Comptroller-General of Customs.

### **6.2 Eligibility criteria**

For the purposes of section 126AKDE of the Act, the eligibility criteria that an entity must meet in order for the Comptroller-General of Customs to approve the entity as an approved exporter are the following:

- (a) a trusted trader agreement with the entity is in force under section 176A of the Act;
- (b) the Comptroller-General is satisfied that the entity knows and understands the rules of origin as set out in Annex 3A to Chapter 3 of the Agreement;
- (c) the Comptroller-General is satisfied that, if the entity were to complete a Declaration of Origin for goods exported to a Party, the entity would be able to obtain from the producer of the goods a declaration:
  - (i) claiming that the goods are originating goods in accordance with Chapter 3 of the Agreement; and
  - (ii) stating that the producer is willing to cooperate with any verification process in accordance with Rules 19 and 20 of Annex 3A to Chapter 3 of the Agreement and is able to meet the requirements of that Annex.

### **6.3 Comptroller-General of Customs to decide application**

- (1) For the purposes of section 126AKDE of the Act, the Comptroller-General of Customs may, in writing, approve an entity as an approved exporter if:
  - (a) the entity makes an application in accordance with regulation 6.1; and
  - (b) the Comptroller-General is satisfied that the entity meets the eligibility criteria under regulation 6.2.

- (2) For the purposes of section 126AKDE of the Act, the Comptroller-General must consider the following matters in deciding whether to approve an entity as an approved exporter:
- (a) whether a trusted trader agreement between the entity and the Comptroller-General has been varied, suspended or terminated under section 178A of the Act;
  - (b) whether the Comptroller-General is considering varying, suspending or terminating a trusted trader agreement between the entity and the Comptroller-General.
- (3) Subregulation (2) does not limit the matters the Comptroller-General may consider in deciding whether to approve an entity as an approved exporter.

*Approved exporter code*

- (4) An approval under subregulation (1) must specify the entity's approved exporter code.

*Copy of approval to be given to entity*

- (5) The Comptroller-General of Customs must give a copy of an approval under subregulation (1) to the entity.

*Period for which approval is in force*

- (6) An approval under subregulation (1) must specify the period for which it is in force.

Note: See regulation 6.5 for variation, suspension or termination of an approval.

*Refusal to approve entity as approved exporter*

- (7) If an entity makes an application for approval as an approved exporter and the application is in accordance with regulation 6.1, the Comptroller-General of Customs may, in writing, refuse to approve the entity as an approved exporter.
- (8) If the Comptroller-General does so, the Comptroller-General must notify the entity of the refusal and of the reasons for the refusal.

*Review*

- (9) An application may be made to the Administrative Review Tribunal for review of a decision to refuse to approve an entity as an approved exporter.

## 6.4 Conditions of approval

For the purposes of section 126AKDE of the Act, an approval of an entity as an approved exporter is subject to the following conditions:

- (a) the entity complies with paragraph 4 of Rule 15 of Annex 3A to Chapter 3 of the Agreement;
- (b) any other conditions specified in the approval by the Comptroller-General of Customs.

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## 6.5 Variation, suspension or termination of approval

- (1) For the purposes of section 126AKDE of the Act, the Comptroller-General of Customs may, in writing, vary, suspend or terminate an entity's approval as an approved exporter if the Comptroller-General is satisfied that:
  - (a) the entity no longer meets the eligibility criteria under regulation 6.2; or
  - (b) the entity has not complied, or is not complying, with any condition of the entity's approval.
- (2) Without limiting subregulation (1), a variation of an approval may involve imposing new conditions on the approval or varying or removing existing conditions.

### *Process for making decision*

- (3) Before making a decision under subregulation (1), the Comptroller-General of Customs must give the entity notice in writing:
  - (a) stating the decision the Comptroller-General is considering making; and
  - (b) stating the reasons why the Comptroller-General is considering making the decision; and
  - (c) inviting the entity to make written submissions to the Comptroller-General within the period specified in the notice (which must be a period of at least 10 business days starting on the day on which the notice is given).
- (4) In deciding whether to make a decision under subregulation (1), the Comptroller-General must consider any submissions received from the entity within the period specified in the notice.
- (5) Subregulation (4) does not limit the matters the Comptroller-General may consider in deciding whether to make a decision under subregulation (1).

### *Notice of decisions*

- (6) The Comptroller-General must give notice of a variation, suspension or termination to the entity.
- (7) The notice must specify the day the variation, suspension or termination takes effect (which must not be before the day after the notice is given to the entity).
- (8) The Comptroller-General must give the entity notice in writing of any decision not to vary, suspend or terminate the entity's approval as an approved exporter.

### *Consequences of suspension*

- (9) An approval has no effect while suspended, but the period for which it remains in force continues to run despite the suspension.
- (10) The Comptroller-General of Customs may, under subregulation (1), vary or terminate an approval while it is suspended.

### *Revocation of suspension*

- (11) The Comptroller-General of Customs may, in writing, revoke a suspension under subregulation (1).

- (12) The Comptroller-General must give notice of the revocation of the suspension to the entity. The notice must specify the day the revocation takes effect.

*Review*

- (13) An application may be made to the Administrative Review Tribunal for review of a decision to vary, suspend or terminate an entity's approval as an approved exporter.

***Customs (International Obligations) Regulation 2015***

**5 Section 4 (paragraph (b) of the definition of *Certificate of Origin*)**

Repeal the paragraph.

**6 Section 4**

Insert:

***Proof of Origin:***

- (a) in relation to AANZ originating goods—has the meaning given by subsection 153ZKB(1) of the Act; or
- (b) in relation to RCEP originating goods—has the meaning given by subsection 153ZQB(1) of the Act.

**7 Section 23 (table item 8)**

Omit “Certificate of Origin or a copy of a Certificate of Origin” (wherever occurring), substitute “Proof of Origin, or a copy of one,”.

**8 Section 23 (table item 18)**

Omit “(within the meaning of subsection 153ZQB(1) of the Act)” (wherever occurring).

## **Schedule 2—Approved exporters for Regional Comprehensive Economic Partnership Agreement**

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

#### **1 Section 1**

Omit “*Customs (Regional Comprehensive Economic Partnership Rules of Origin) Regulations 2021*”, substitute “*Customs (Regional Comprehensive Economic Partnership) Regulations 2021*”.

#### **2 At the end of subsection 11(1)**

Add:

- ; (j) any other documents in support of the goods being originating goods in accordance with Chapter 3 of the Agreement (including documents from the producer or supplier of the goods).

#### **3 At the end of the instrument**

Add:

## **Part 6—Approved exporters**

### **13 Application for approval as approved exporter**

- (1) For the purposes of section 126AQE of the Act, an entity may make an application to the Comptroller-General of Customs for approval as an approved exporter.
- (2) An application may be made by document or electronically.
- (3) A documentary application must:
  - (a) be communicated to the Comptroller-General of Customs; and
  - (b) be in an approved form; and
  - (c) contain the information required by the approved form; and
  - (d) be signed in a manner indicated by the approved form.
- (4) An electronic application must communicate such information as is set out in an approved statement.
- (5) An entity may withdraw an application at any time by notice in writing given to the Comptroller-General of Customs.

### **14 Eligibility criteria**

For the purposes of section 126AQE of the Act, the eligibility criteria that an entity must meet in order for the Comptroller-General of Customs to approve the entity as an approved exporter are the following:

- (a) a trusted trader agreement with the entity is in force under section 176A of the Act;
- (b) the Comptroller-General is satisfied that the entity knows and understands the rules of origin as set out in Section B of Chapter 3 of the Agreement;
- (c) the Comptroller-General is satisfied that, if the entity were to complete a Declaration of Origin for goods exported to a Party, the entity would be able to obtain from the producer of the goods a declaration:
  - (i) claiming that the goods are originating goods in accordance with Chapter 3 of the Agreement; and
  - (ii) stating that the producer is willing to cooperate with any verification process in accordance with Article 3.24 of Chapter 3 of the Agreement and is able to meet the requirements of Section B of that Chapter.

## 15 Comptroller-General of Customs to decide application

- (1) For the purposes of section 126AQE of the Act, the Comptroller-General of Customs may, in writing, approve an entity as an approved exporter if:
  - (a) the entity makes an application in accordance with section 13 of this instrument; and
  - (b) the Comptroller-General is satisfied that the entity meets the eligibility criteria under section 14 of this instrument.
- (2) For the purposes of section 126AQE of the Act, the Comptroller-General must consider the following matters in deciding whether to approve an entity as an approved exporter:
  - (a) whether a trusted trader agreement between the entity and the Comptroller-General has been varied, suspended or terminated under section 178A of the Act;
  - (b) whether the Comptroller-General is considering varying, suspending or terminating a trusted trader agreement between the entity and the Comptroller-General.
- (3) Subsection (2) does not limit the matters the Comptroller-General may consider in deciding whether to approve an entity as an approved exporter.

### *Approved exporter code*

- (4) An approval under subsection (1) must specify the entity's approved exporter code.

### *Copy of approval to be given to entity*

- (5) The Comptroller-General of Customs must give a copy of an approval under subsection (1) to the entity.

### *Period for which approval is in force*

- (6) An approval under subsection (1) must specify the period for which it is in force.

Note: See section 17 for variation, suspension or termination of an approval.

*Refusal to approve entity as approved exporter*

- (7) If an entity makes an application for approval as an approved exporter and the application is in accordance with section 13, the Comptroller-General of Customs may, in writing, refuse to approve the entity as an approved exporter.
- (8) If the Comptroller-General does so, the Comptroller-General must notify the entity of the refusal and of the reasons for the refusal.

*Review*

- (9) An application may be made to the Administrative Review Tribunal for review of a decision to refuse to approve an entity as an approved exporter.

## **16 Conditions of approval**

For the purposes of section 126AQE of the Act, an approval of an entity as an approved exporter is subject to the following conditions:

- (a) the entity complies with paragraph 3 of Article 3.21 of Chapter 3 of the Agreement;
- (b) any other conditions specified in the approval by the Comptroller-General of Customs.

## **17 Variation, suspension or termination of approval**

- (1) For the purposes of section 126AQE of the Act, the Comptroller-General of Customs may, in writing, vary, suspend or terminate an entity's approval as an approved exporter if the Comptroller-General is satisfied that:
  - (a) the entity no longer meets the eligibility criteria under section 14 of this instrument; or
  - (b) the entity has not complied, or is not complying, with any condition of the entity's approval.
- (2) Without limiting subsection (1), a variation of an approval may involve imposing new conditions on the approval or varying or removing existing conditions.

*Process for making decision*

- (3) Before making a decision under subsection (1), the Comptroller-General of Customs must give the entity notice in writing:
  - (a) stating the decision the Comptroller-General is considering making; and
  - (b) stating the reasons why the Comptroller-General is considering making the decision; and
  - (c) inviting the entity to make written submissions to the Comptroller-General within the period specified in the notice (which must be a period of at least 10 business days starting on the day on which the notice is given).
- (4) In deciding whether to make a decision under subsection (1), the Comptroller-General must consider any submissions received from the entity within the period specified in the notice.
- (5) Subsection (4) does not limit the matters the Comptroller-General may consider in deciding whether to make a decision under subsection (1).

*Notice of decisions*

- (6) The Comptroller-General must give notice of a variation, suspension or termination to the entity.
- (7) The notice must specify the day the variation, suspension or termination takes effect (which must not be before the day after the notice is given to the entity).
- (8) The Comptroller-General must give the entity notice in writing of any decision not to vary, suspend or terminate the entity's approval as an approved exporter.

*Consequences of suspension*

- (9) An approval has no effect while suspended, but the period for which it remains in force continues to run despite the suspension.
- (10) The Comptroller-General of Customs may, under subsection (1), vary or terminate an approval while it is suspended.

*Revocation of suspension*

- (11) The Comptroller-General of Customs may, in writing, revoke a suspension under subsection (1).
- (12) The Comptroller-General must give notice of the revocation of the suspension to the entity. The notice must specify the day the revocation takes effect.

*Review*

- (13) An application may be made to the Administrative Review Tribunal for review of a decision to vary, suspend or terminate an entity's approval as an approved exporter.

## **Part 7—Application provisions**

### **18 Amendments made by the *Customs Legislation Amendment (ASEAN-Australia-New Zealand Free Trade Area Second Protocol Implementation and Other Measures) Regulations 2025***

The amendment of subsection 11(1) made by Schedule 2 to the *Customs Legislation Amendment (ASEAN-Australia-New Zealand Free Trade Area Second Protocol Implementation and Other Measures) Regulations 2025* applies in relation to goods produced on or after the commencement of that Schedule.