



Customs Amendment (Anti-dumping Improvements) Act (No. 1) 2012

No. 205, 2012

**An Act to amend the *Customs Act 1901*, and for
related purposes**

Note: An electronic version of this Act is available in ComLaw (<http://www.comlaw.gov.au/>)

Contents

| | | |
|------------------------------|-------------------------|----------|
| 1 | Short title | 1 |
| 2 | Commencement | 2 |
| 3 | Schedule(s) | 2 |
| Schedule 1—Amendments | | 3 |
| | <i>Customs Act 1901</i> | 3 |



Customs Amendment (Anti-dumping Improvements) Act (No. 1) 2012

No. 205, 2012

An Act to amend the *Customs Act 1901*, and for related purposes

[Assented to 13 December 2012]

The Parliament of Australia enacts:

1 Short title

This Act may be cited as the *Customs Amendment (Anti-dumping Improvements) Act (No. 1) 2012*.

Schedule 1 Amendments

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2 Commencement

- (1) Each provision of this Act 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 |
| Provision(s) | Commencement | Date/Details |
| 1. Sections 1 to 3 and anything in this Act not elsewhere covered by this table | The day this Act receives the Royal Assent. | 13 December 2012 |
| 2. Schedule 1 | A single day to be fixed by Proclamation. However, if the provision(s) do not commence within the period of 6 months beginning on the day this Act receives the Royal Assent, they commence on the day after the end of that period. | |

Note: This table relates only to the provisions of this Act as originally enacted. It will not be amended to deal with any later amendments of this Act.

- (2) Any information in column 3 of the table is not part of this Act. Information may be inserted in this column, or information in it may be edited, in any published version of this Act.

3 Schedule(s)

Each Act that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

Schedule 1—Amendments

Customs Act 1901

1 Subsection 269SM(9)

Omit “an independent reviewer, the Trade Measures Review Officer, and provide for the Review Officer to review Ministerial decisions to publish or not to publish dumping duty notices or countervailing duty notices”, substitute “an independent panel, the Review Panel, and provide for the Panel to review a range of Ministerial decisions (including decisions to publish or not to publish dumping duty notices or countervailing duty notices)”.

2 Subsection 269T(1) (definition of *Review Officer*)

Repeal the definition.

3 Subsection 269T(1)

Insert:

Review Panel means the Review Panel established under section 269ZL.

4 Paragraph 269TC(3)(b)

Omit “Review Officer”, substitute “Review Panel”.

5 Subparagraph 269TC(4)(bf)(ii)

Repeal the subparagraph, substitute:

- (ii) within such longer period as the Minister allows under section 269ZHI;

6 Paragraph 269TDA(15)(c)

Omit “Review Officer”, substitute “Review Panel”.

7 Subsection 269TEA(1)

Omit “before the end of the period for reporting to the Minister that is referred to in paragraph 269TC(4)(bf)”, substitute “within 155 days after the date of initiation of the investigation or such longer period as the Minister allows under section 269ZHI”.

8 Subsection 269X(1)

Omit “but not more than 155 days after the lodgment of that application”, substitute “and within 155 days after the lodgment of that application or such longer period as the Minister allows under section 269ZHI”.

9 Subparagraph 269X(7)(b)(ii)

Omit “Review Officer”, substitute “Review Panel”.

10 Paragraph 269X(8)(b)

Omit “Review Officer”, substitute “Review Panel”.

11 Subsection 269Y(1)

Omit “Review Officer”, substitute “Review Panel”.

12 Subparagraph 269YA(5)(a)(iii)

Omit “Review Officer”, substitute “Review Panel”.

13 Subparagraph 269ZC(7)(c)(ii)

Repeal the subparagraph, substitute:

- (ii) within such longer period as the Minister allows under section 269ZHI; and

14 Subsection 269ZD(1)

Omit “within the time limit specified for so doing on that notice”, substitute “within 110 days after the publication of the notice or such longer period as the Minister allows under section 269ZHI”.

15 Subsection 269ZDA(1)

Omit “before the end of the period referred to in paragraph 269ZC(7)(c) as it applies to those measures”, substitute “within 155 days after the date of publication of the notice under subsection 269ZC(4), (5) or (6) in relation to those measures or such longer period as the Minister allows under section 269ZHI”.

16 Subparagraph 269ZHD(5)(c)(ii)

Repeal the subparagraph, substitute:

- (ii) within such longer period as the Minister allows under section 269ZHI; and

17 Subsection 269ZHE(1)

Omit “within the time limit specified for so doing in the notice”, substitute “within 110 days after the publication of the notice or such longer period as the Minister allows under section 269ZHI”.

18 Subsection 269ZHF(1)

Omit “before the end of the period referred to in paragraph 269ZHD(5)(c) as it applies to those measures”, substitute “within 155 days after the date of publication of the notice under subsection 269ZHD(4) in relation to those measures or such longer period as the Minister allows under section 269ZHI”.

19 Section 269ZHH

Omit “the period for placing statements of essential facts on the public record”, substitute “various periods for doing things under this Part”.

20Section 269ZHI

Repeal the section, substitute:

269ZHI Minister may extend certain periods of time

- (1) The CEO may give the Minister a written request for one or more of the following:
 - (a) an extension of the 110-day period referred to in subsection 269TDAA(1);
 - (b) an extension of the 155-day period referred to in subsection 269TEA(1);
 - (c) an extension of the 155-day period referred to in subsection 269X(1);
 - (d) an extension of the 110-day period referred to in subsection 269ZD(1);
 - (e) an extension of the 155-day period referred to in subsection 269ZDA(1);
 - (f) an extension of the 110-day period referred to in subsection 269ZHE(1);
 - (g) an extension of the 155-day period referred to in subsection 269ZHF(1).
- (2) The CEO must give reasons for the request.

Schedule 1 Amendments

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- (3) The Minister may approve a request if the Minister is satisfied that it is reasonable to do so. The Minister must notify the CEO of the extension period.
- (4) If the Minister refuses a request, the Minister must notify the CEO of the refusal.
- (5) The Minister may grant more than one extension of a period referred to in subsection (1).

21 Division 8 of Part XVB (heading)

Repeal the heading, substitute:

Division 8—Review Panel

22 Sections 269ZK to 269ZT

Repeal the sections, substitute:

269ZK What this Division is about

This Division establishes the Review Panel. It:

- deals with the appointment of members to the Panel; and
- deals with the terms and conditions for members; and
- provides for the provision of resources to the Panel; and
- regulates the disclosure of information in the Panel's control.

269ZL Establishment of Review Panel

The Review Panel is established by this section.

269ZM Membership of the Review Panel

The Review Panel consists of the following members:

- (a) a SeniorMember;
- (b) at least 2 other members.

269ZN Review Panel's powers

The Review Panel has power to do all things necessary or convenient to be done for or in connection with the performance of its functions under this Part in relation to the review of certain decisions made by the Minister or the CEO.

Note: Sections 269ZZA and 269ZZN set out these reviewable decisions.

269ZO Protection of members

A member of the Review Panel has, in the performance of his or her duties as a member, the same protection and immunity as a Justice of the High Court.

269ZP Appointment of members

- (1) Each member of the Review Panel is to be appointed by the Minister by written instrument.
- (2) A member of the Review Panel holds office on a part-time basis.
- (3) The Minister must not appoint an officer of Customs as a member of the Review Panel.
- (4) A person must not be appointed as a member of the Review Panel unless the Minister is satisfied that the person has appropriate qualifications, knowledge or experience.

269ZQ Period of appointment for members

A member of the Review Panel holds office for the period specified in the instrument of appointment. The period must not exceed 3 years.

Note: For reappointment, see section 33AA of the *Acts Interpretation Act 1901*.

269ZR Terms and conditions of appointment

- (1) A member of the Review Panel holds office on such terms and conditions as are determined in writing by the Minister.
- (2) An office of Review Panel member is not a public office for the purposes of Part II of the *Remuneration Tribunal Act 1973*.

269ZS Disclosure of interests to the Minister

A member of the Review Panel must give written notice to the Minister of any direct or indirect pecuniary interest that the member has or acquires and that conflicts or could conflict with the proper performance of the member's functions.

269ZT Outside employment

A member of the Review Panel must not engage in any paid employment that, in the Minister's opinion, conflicts or may conflict with the proper performance of the member's duties.

269ZTA Resignation

- (1) A member of the Review Panel may resign his or her appointment by giving the Minister a written resignation.
- (2) The resignation takes effect on the day it is received by the Minister or, if a later day is specified in the resignation, on that later day.

269ZTB Termination of appointment

- (1) The Minister may terminate the appointment of a member of the Review Panel for misbehaviour or physical or mental incapacity.
- (2) The Minister may terminate the appointment of a member of the Review Panel if:
 - (a) the member:
 - (i) becomes bankrupt; or
 - (ii) applies to take the benefit of any law for the relief of bankrupt or insolvent debtors; or
 - (iii) compounds with his or her creditors; or
 - (iv) makes an assignment of his or her remuneration for the benefit of his or her creditors; or
 - (b) the member engages in paid employment that, in the Minister's opinion, conflicts or may conflict with the proper performance of the member's duties (see section 269ZT); or
 - (c) the member fails, without reasonable excuse, to comply with section 269ZS; or

-
- (d) the member is absent from duty, except on leave of absence, for 14 consecutive days or for 28 days in any 12 months.

269ZTC Acting appointments

The Minister may, by written instrument, appoint a person to act as a member of the Review Panel:

- (a) during a vacancy in the office of the member (whether or not an appointment has previously been made to the office); or
- (b) during any period, or during all periods, when the member:
 - (i) is absent from duty or from Australia; or
 - (ii) is, for any reason, unable to perform the duties of the office.

Note: For rules that apply to acting appointments, see sections 33AB and 33A of the *Acts Interpretation Act 1901*.

269ZTD Provision of resources to Review Panel

- (1) The Minister must arrange with the Review Panel for sufficient resources (including personnel) to be made available to the Panel to enable the Panel to perform the Panel's functions effectively.
- (2) If a person is performing services for the Review Panel under such an arrangement, the person must perform those services in accordance with the directions of the Panel.

23 Section 269ZU (heading)

Repeal the heading, substitute:

269ZU Review Panel may supply information**24 Subsections 269ZU(1) and (2)**

Omit "Review Officer" (wherever occurring), substitute "Review Panel".

25 Subsection 269ZU(2)

Omit "section 269ZT", substitute "section 269ZTD".

26 Subsections 269ZV(1) and (2)

Schedule 1 Amendments

Error! No text of specified style in document.**Error! No text of specified style in document.**

Omit “Review Officer” (wherever occurring), substitute “Review Panel”.

27 Division 9 of Part XVB (heading)

Repeal the heading, substitute:

Division 9—Review by Review Panel

28 Section 269ZW

Repeal the section, substitute:

269ZW What this Division is about

This Division sets out the procedures for review by the Review Panel of certain decisions by the Minister or the CEO. It includes:

- provisions dealing with definitions and other preliminary matters (Subdivision A); and
- the mechanism for review of certain Ministerial decisions (Subdivision B); and
- the mechanism for review of certain decisions made by the CEO (Subdivision C); and
- the keeping of a public record in relation to certain reviews conducted under this Division (Subdivision D).

This Division does not provide for a right of review of a decision made by the Minister following a review under Division 6 or Subdivision B of this Division.

29 Section 269ZX (definition of *approved form*)

Repeal the definition.

30 Section 269ZX (after paragraph (a) of the definition of *interested party*)

Insert:

-
- (aa) if there was an application under subsection 269ZA(1) that led to the making of the reviewable decision—the applicant in relation to that application;
 - (ab) if there was an application under section 269ZHB that led to the making of the reviewable decision—the applicant in relation to that application;

31 Sections 269ZXA and 269ZY

Repeal the sections, substitute:

269ZY Form and manner of applications

The CEO must, by writing:

- (a) approve a form for applications for a review under Subdivision B or C; and
- (b) approve the manner of making those applications.

269ZYA Constitution of Review Panel for purposes of review

For the purposes of a particular review under Subdivision B or C, the Review Panel is to be constituted by a single member of the Panel specified in a written direction given by the Senior Member of the Panel.

269ZYP Member unavailable to complete review

- (1) This section applies if:
 - (a) the Review Panel is undertaking a review under Subdivision B or C; and
 - (b) before the review has been completed, the member who constitutes the Panel for the purposes of the review has:
 - (i) ceased to be a member; or
 - (ii) ceased to be available for the purposes of the review.
- (2) The Senior Member of the Review Panel must give a written direction reconstituting the Panel for the purposes of the review.
- (3) The Review Panel, as so reconstituted, must complete the review and may, for that purpose, have regard to any record of the proceedings of the review made by the Panel as previously constituted.

32 Section 269ZZ (heading)

Repeal the heading, substitute:

269ZZ Review Panel to have regard to same considerations as Minister

33 Subsection 269ZZ(1)

Omit “Review Officer” (wherever occurring), substitute “Review Panel”.

34 Paragraph 269ZZ(1)(a)

Omit “he or she”, substitute “it”.

35 Subsection 269ZZ(2)

Omit “Review Officer’s” (wherever occurring), substitute “Review Panel’s”.

36 Subsection 269ZZA(1)

Omit “Review Officer”, substitute “Review Panel”.

37 At the end of subsection 269ZZA(1)

Add:

- ; (c) a decision by the Minister under subsection 269ZDB(1);
- (d) a decision by the Minister under subsection 269ZHG(1).

38 Subsection 269ZZA(2)

Omit “paragraph (1)(a) or (b)”, substitute “subsection (1)”.

39 Subsection 269ZZA(2)

Omit “5 or”.

40 Subsection 269ZZA(2) (note)

Omit “Review Officer” (wherever occurring), substitute “Review Panel”.

41 Section 269ZZB

Repeal the section, substitute:

269ZZB Overview of a review of Minister's decision

The following diagram gives an overview of a review under this Subdivision of a reviewable decision.

**42 Section 269ZZD**

Repeal the section, substitute:

269ZZD When must an application be made?

An application for a review must be made within 30 days after:

- (a) for a decision referred to in paragraph 269ZZA(1)(a) or (b)—a public notice of the decision is first published in a newspaper under section 269ZI; or
- (b) for a decision referred to in paragraph 269ZZA(1)(c)—a notice of the decision is first published in a newspaper under subsection 269ZDB(1); or
- (c) for a decision referred to in paragraph 269ZZA(1)(d)—a notice of the decision is first published in a newspaper under subsection 269ZHG(1).

43 Paragraph 269ZZE(1)(b)

Omit “an approved form”, substitute “accordance with a form approved under section 269ZY”.

44 At the end of subsection 269ZZE(1)

Add:

; and (e) be made in the manner approved under section 269ZY.

45 Paragraphs 269ZZE(2)(b) and (c)

Repeal the paragraphs, substitute:

- (b) contain a statement setting out the applicant’s reasons for believing that the reviewable decision is not the correct or preferable decision.

46 Subsection 269ZZE(3)

Repeal the subsection.

47 Sections 269ZZF and 269ZZG

Repeal the sections, substitute:

269ZZG Rejection of application—failure to establish decision not the correct or preferable decision

(1) If:

- (a) an application contains a statement mentioned in paragraph 269ZZE(2)(b); and

-
- (b) the Review Panel is not satisfied that the statement sets out reasonable grounds for the reviewable decision not being the correct or preferable decision;
- the Panel may, by notice given to the applicant, request the applicant to amend the statement, within the 30-day period referred to in section 269ZZD, to set out reasonable grounds for the reviewable decision not being the correct or preferable decision.
- (2) The Review Panel may reject an application if, at the end of the 30-day period referred to in section 269ZZD, the Panel is not satisfied that the applicant has given the Panel information setting out reasonable grounds for the reviewable decision not being the correct or preferable decision.
- (3) Subsection (2) applies whether or not a notice is given under subsection (1).
- (4) Nothing in subsection (1) prevents the Review Panel from seeking further information from an applicant within the 30-day period referred to in section 269ZZD.

48 Section 269ZZH

Omit “Review Officer” (wherever occurring), substitute “Review Panel”.

49 Subsection 269ZZI(1)

Omit “Review Officer” (wherever occurring), substitute “Review Panel”.

50 Paragraph 269ZZI(2)(b)

Omit “(including the particular finding or findings the reinvestigation of which is sought by the applicant)”.

51 Paragraph 269ZZI(2)(c)

Omit “Review Officer”, substitute “Review Panel”.

52 Paragraph 269ZZI(2)(c)

Omit “public”.

53 Section 269ZZJ

Repeal the section, substitute:

269ZZJ Submissions in relation to reviewable decision

Within 30 days after the publication of a notice under section 269ZZI in relation to a review of a reviewable decision, the following may make submissions to the Review Panel in accordance with that notice:

- (a) interested parties in relation to the reviewable decision;
- (b) a trade union representing one or more persons employed in the Australian industry producing, or likely to produce, like goods to the goods the subject of the reviewable decision;
- (c) a person who uses the goods the subject of the reviewable decision, or like goods, in the production or manufacture of other goods in Australia.

Note: Sections 269ZZX and 269ZZY set out requirements concerning confidential or sensitive commercial information that might be contained in a submission, including the need to accompany the submission with a summary of such information.

54 Subsection 269ZZK(1)

Omit “Review Officer”, substitute “Review Panel”.

55 Paragraph 269ZZK(1)(b)

Repeal the paragraph, substitute:

- (b) recommending that the Minister revoke the reviewable decision and substitute a specified new decision.

56 Subsection 269ZZK(2)

Repeal the subsection, substitute:

- (2) A report under subsection (1) must set out the reasons for the Review Panel’s recommendation.

57 Subsection 269ZZK(3)

Omit “The report”, substitute “A report under subsection (1)”.

58 Paragraph 269ZZK(3)(b)

Repeal the paragraph, substitute:

- (b) before the end of:
 - (i) unless subparagraph (ii) applies—the period of 60 days beginning on the day of that notification, or such longer

period allowed by the Minister in writing because of special circumstances; or

- (ii) if the Review Panel gives the CEO a notice under subsection 269ZZL(1)—the period of 30 days beginning on the day the CEO gives the Panel the report under subsection 269ZZL(2).

59 Subsection 269ZZK(4)

Omit “In”, substitute “Subject to subsections (4A) and (5), in”.

60 Subsection 269ZZK(4)

Omit “Review Officer”, substitute “Review Panel”.

61 Paragraph 269ZZK(4)(b)

Omit “subject to subsection (5),”.

62 Paragraph 269ZZK(4)(b)

Omit “from interested parties within 30 days as mentioned in section 269ZZJ”, substitute “under section 269ZZJ within the period of 30 days referred to in that section”.

63 After subsection 269ZZK(4)

Insert:

- (4A) If the Review Panel gives the CEO a notice under subsection 269ZZL(1), then, in making the recommendation, the Review Panel must have regard to the report the CEO gives the Panel under subsection 269ZZL(2).

64 Subsection 269ZZK(5)

Omit “Review Officer” (wherever occurring), substitute “Review Panel”.

65 Subsection 269ZZK(6) (at the end of the definition of *relevant information*)

Add:

- ; and (c) if the reviewable decision was made because of an application under subsection 269ZA(1)—the information the CEO had regard to, or was, under paragraph 269ZDA(3)(a), required to have regard to, when making the findings set out

Schedule 1 Amendments

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in the report under section 269ZDA to the Minister in relation to the making of the reviewable decision; and

- (d) if the reviewable decision was made because of an application under section 269ZHB—the information the CEO had regard to, or was, under paragraph 269ZHF(3)(a), required to have regard to, when making the findings set out in the report under section 269ZHF to the Minister in relation to the making of the reviewable decision.

66 Section 269ZZL

Repeal the section, substitute:

269ZZL Review Panel may require reinvestigation by CEO before making recommendation to Minister

- (1) Before making a recommendation under subsection 269ZZK(1) and before the end of the period of 60 days beginning on the day of the public notification of the review under section 269ZZI, the Review Panel may, by written notice, require the CEO to:
 - (a) reinvestigate a specific finding or findings that formed the basis of the reviewable decision; and
 - (b) report the result of the reinvestigation to the Panel within a specified period.
- (2) The CEO must conduct a reinvestigation in accordance with the Review Panel's requirements under subsection (1) and give the Panel a report of the reinvestigation concerning the finding or findings within the specified period.
- (3) In a report under subsection (2), the CEO must:
 - (a) if the CEO is of the view that the finding or any of the findings the subject of reinvestigation should be affirmed—affirm the finding or findings; and
 - (b) set out any new finding or findings that the CEO made as a result of the reinvestigation; and
 - (c) set out the evidence or other material on which the new finding or findings are based; and
 - (d) set out the reasons for the CEO's decision.

67 Section 269ZZM (heading)

Repeal the heading, substitute:

269ZM Minister's decision

68 Subsection 269ZM(1)

Omit "CEO in respect of a reinvestigation under subsection 269ZZL(3)", substitute "Review Panel under subsection 269ZZK(1)".

69 Paragraph 269ZM(3)(b)

After "vary", insert "or revoke".

70 At the end of subsection 269ZM(3)

Add:

; or (d) if the following apply:

- (i) the reviewable decision is a decision by the Minister under subsection 269ZHG(1) not to secure the continuation of anti-dumping measures;
- (ii) those measures comprised a dumping duty notice or a countervailing duty notice;
- (iii) the notice expired under subsection 269ZHG(3) on a day;

declare that the notice, as in force immediately before its expiry, is reinstated; or

(e) if the following apply:

- (i) the reviewable decision is a decision by the Minister under subsection 269ZHG(1) not to secure the continuation of anti-dumping measures;
- (ii) those measures comprised the giving of an undertaking by a person;
- (iii) the person was released from the undertaking under subsection 269ZHG(3);
- (iv) the person, by notice in writing given to the Minister, agrees to the undertaking being reinstated;

declare that the undertaking, as in force immediately before the person was released from the undertaking, is reinstated.

71 Paragraph 269ZM(5)(a)

Omit "reinvestigation", substitute "review".

72 After paragraph 269ZM(5)(a)

Insert:

Schedule 1 Amendments

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(aa) in the case of a notice published where the following applies:

- (i) the reviewable decision is a decision by the Minister under subsection 269ZHG(1) not to secure the continuation of anti-dumping measures;
- (ii) those measures comprised the giving of an undertaking by a person;
- (iii) the person was released from the undertaking under subsection 269ZHG(3);
- (iv) the person does not agree to the undertaking being reinstated;

5 years after the day the decision to publish the notice takes effect; or

73 After subsection 269ZZM(5)

Insert:

(5A) A notice that is reinstated under subsection (1), as mentioned in paragraph (3)(d), expires 5 years after the day the decision to reinstate the notice takes effect, unless the reinstated notice is revoked before the end of that period.

(5B) An undertaking that is reinstated under subsection (1), as mentioned in paragraph (3)(e), expires 5 years after the day the decision to reinstate the undertaking takes effect, unless provision is made for its earlier expiration.

74 Paragraph 269ZZQ(1)(b)

Omit “an approved form”, substitute “accordance with a form approved under section 269ZY”.

75 At the end of subsection 269ZZQ(1) (before the note)

Add:

; and (e) be made in the manner approved under section 269ZY.

76 After subsection 269ZZQ(1)

Insert:

(1A) Without limiting paragraph (1)(c), an application must contain a statement setting out the applicant’s reasons for believing that the reviewable decision is not the correct or preferable decision.

77 Subsection 269ZZQ(2)

Repeal the subsection.

78 After section 269ZZQ

Insert:

269ZZQA Rejection of application—failure to establish decision not the correct or preferable decision

- (1) If:
 - (a) an application contains a statement mentioned in subsection 269ZZQ(1A); and
 - (b) the Review Panel is not satisfied that the statement sets out reasonable grounds for the reviewable decision not being the correct or preferable decision;
the Panel may, by notice given to the applicant, request the applicant to amend the statement, within the 30-day period referred to in section 269ZZP, to set out reasonable grounds for the reviewable decision not being the correct or preferable decision.
- (2) The Review Panel may reject an application if, at the end of the 30-day period referred to in section 269ZZP, the Panel is not satisfied that the applicant has given the Panel information setting out reasonable grounds for the reviewable decision not being the correct or preferable decision.
- (3) Subsection (2) applies whether or not a notice is given under subsection (1).
- (4) Nothing in subsection (1) prevents the Review Panel from seeking further information from an applicant within the 30-day period referred to in section 269ZZP.

79 Section 269ZZR

Omit “Review Officer” (wherever occurring), substitute “Review Panel”.

80 Subsection 269ZZS(1)

Schedule 1 Amendments

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Omit “The Review Officer must make a decision on an application for the review of a negative prima facie decision by”, substitute “If an application for the review of a negative prima facie decision is not rejected under section 269ZZQA, the Review Panel must make a decision on the application by”.

81 Subsection 269ZZS(3)

Omit “Review Officer”, substitute “Review Panel”.

82 Subsection 269ZZS(4)

Omit “Review Officer’s”, substitute “Review Panel’s”.

83 Subsection 269ZZT(1)

After “section”, insert “269ZZQA or”.

84 Subsections 269ZZT(1), (2) and (4)

Omit “Review Officer”, substitute “Review Panel”.

85 Subsection 269ZZT(5)

Omit “Review Officer’s”, substitute “Review Panel’s”.

86 Subsection 269ZZT(6)

Omit “Review Officer”, substitute “Review Panel”.

87 Subsection 269ZZT(6)

Omit “his or her”, substitute “its”.

88 Subsection 269ZZU(1)

Omit “The Review Officer must make a decision on an application for the review of a negative preliminary decision by”, substitute “If an application for the review of a negative preliminary decision is not rejected under section 269ZZQA, the Review Panel must make a decision on the application by”.

89 Subsections 269ZZU(2) and (3)

Omit “Review Officer” (wherever occurring), substitute “Review Panel”.

90 Subsection 269ZZU(4)

Omit “Review Officer’s”, substitute “Review Panel’s”.

91 Subsection 269ZZUA(1)

Omit “The Review Officer must make a decision on an application for the review of a rejection decision by”, substitute “If an application for the review of a rejection decision is not rejected under section 269ZZQA, the Review Panel must make a decision on the application by”.

92 Subsections 269ZZUA(2), (3), (4) and (5)

Omit “Review Officer”, substitute “Review Panel”.

93 Subsection 269ZZUA(6)

Omit “Review Officer’s”, substitute “Review Panel’s”.

94 Section 269ZZV (heading)

Repeal the heading, substitute:

269ZZV Effect of Review Panel’s decision

95 Section 269ZZV

Omit “Review Officer’s”, substitute “Review Panel’s”.

96 Paragraph 269ZZV(b)

Omit “Review Officer”, substitute “Review Panel”.

97 Section 269ZZX (heading)

Repeal the heading, substitute:

269ZZX Public record maintained by Review Panel

98 Subsection 269ZZX(1)

Omit “Review Officer” (first occurring), substitute “Review Panel”.

99 Subparagraph 269ZZX(1)(a)(ii)

Omit “Review Officer” (wherever occurring), substitute “Review Panel”.

100 Subparagraph 269ZZX(1)(a)(iii)

Schedule 1 Amendments

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Omit “from interested parties concerning the application that were received by the Review Officer under section 269ZZI”, substitute “received under section 269ZZJ within the period of 30 days referred to in that section”.

101 Subsection 269ZZX(2)

Omit “Review Officer”, substitute “Review Panel”.

102 Subsection 269ZZY(1)

Omit “Review Officer” (wherever occurring), substitute “Review Panel”.

103 Subsection 269ZZY(2) (note)

Omit “sections 269ZZG and 269ZZQ and subsection 269ZZJ(5)”, substitute “sections 269ZZH and 269ZZR and subsection 269ZZK(5)”.

104 After Part XVB

Insert:

Part XVC—International Trade Remedies Forum

269ZZYA Simplified outline

The following is a simplified outline of this Part:

- This Part establishes the International Trade Remedies Forum.
- The Forum is to advise the Minister on the anti-dumping provisions in Part XVB and in the *Customs Tariff (Anti-Dumping) Act 1975*.

269ZZYB Establishment of International Trade Remedies Forum

The International Trade Remedies Forum is established by this section.

269ZZYC Functions of the Forum

The Forum has the following functions:

- (a) to advise the Minister on the operation of Part XVB and of the *Customs Tariff (Anti-Dumping) Act 1975*;
- (b) to advise the Minister on improvements that could be made to that Part or Act.

269ZZYD Membership of the Forum

- (1) The Forum consists of the following members:
 - (a) the CEO;
 - (b) 11 members, each of whom represents one or more of the following groups:
 - (i) Australian producers;
 - (ii) Australian manufacturers;
 - (iii) Australian industry bodies;
 - (iv) Australian importers;
 - (c) 4 members who represent Australian trade unions;
 - (d) such number of members to represent the Commonwealth as the Minister thinks fit;
 - (e) such other members (if any) as the Minister thinks fit.
- (2) Each of the groups mentioned in paragraph (1)(b) must be represented by at least one of the 11 members referred to in that paragraph.

269ZZYE Appointment of Forum members

- (1) Each member of the Forum (except the CEO) is to be appointed by the Minister by written instrument.
- (2) Each member of the Forum (except the CEO) holds office on a part-time basis.
- (3) Each member of the Forum (except the CEO) holds office for the period specified in the instrument of appointment. The period must not exceed 3 years.

Note: For reappointment, see section 33AA of the *Acts Interpretation Act 1901*.

- (4) An appointment under this section is not a public office for the purposes of Part II of the *Remuneration Tribunal Act 1973*.

Schedule 1 Amendments

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269ZZYF Resignation

- (1) A member of the Forum (except the CEO) may resign his or her appointment by giving the Minister a written resignation.
- (2) The resignation takes effect on the day it is received by the Minister or, if a later day is specified in the resignation, on that later day.

269ZZYG Forum meetings

Number of meetings

- (1) The Forum must meet at least twice each calendar year.

CEO to convene meetings

- (2) The CEO may convene a meeting at any time.

Presiding member

- (3) The CEO presides at all meetings at which he or she is present. The CEO may nominate a person to attend a meeting in his or her place and, if the CEO does so, that person presides.

Conduct of meetings

- (4) The Minister may, by writing, determine the procedures to be followed at meetings of the Forum, including the number of members who are to constitute a quorum.
- (5) A determination made under subsection (4) is not a legislative instrument.

105 Application

- (1) The amendments made by items 5,7and 20 (to the extent it inserts paragraphs 269ZHI(1)(a) and (b) of the *Customs Act 1901*) apply in relation to dates of initiation of investigations, where those dates are on or after the commencement of those items.
- (2) The amendments made by items 8 and 20 (to the extent it inserts paragraph 269ZHI(1)(c) of the *Customs Act 1901*) apply in relation to

applications for assessment of duty that are lodged on or after the commencement of those items.

- (3) The amendments made by items 13, 14, 15 and 20 (to the extent it inserts paragraphs 269ZHI(1)(d) and (e) of the *Customs Act 1901*) apply in relation to notices that are published under subsection 269ZC(4), (5) or (6) of that Act on or after the commencement of those items.
- (4) The amendments made by items 16, 17, 18 and 20 (to the extent it inserts paragraphs 269ZHI(1)(f) and (g) of the *Customs Act 1901*) apply in relation to notices that are published under subsection 269ZHD(4) of that Act on or after the commencement of those items.
- (5) The amendments made by items 29, 31 (to the extent it inserts section 269ZY of the *Customs Act 1901*), 43, 44, 46, 74, 75 and 77 apply in relation to applications for review made on or after the commencement of those items.
- (6) The amendments made by items 30, 37, 38, 39, 42, 45, 47, 50, 52, 53, 55, 56, 57, 58, 59, 61, 62, 63, 65, 66, 68, 69, 70, 71, 72, 73, 76, 78, 80, 83, 88, 91 and 100 apply in relation to reviewable decisions made on or after the commencement of those items.

106 Transitional—completion of reviews by Review Panel

Reviews started but not completed

- (1) If, before the commencement of this item, the Review Officer had started to conduct a review but had not completed the review by that commencement, then the following apply:
 - (a) after that commencement, the Senior Member of the Review Panel must give a direction under section 269ZYA of the amended Act constituting the Review Panel for the purposes of the review;
 - (b) the Review Panel, as so constituted, must complete the review under the amended Act and for that purpose:
 - (i) the Review Panel may have regard to any record of the proceedings of the review made by the Review Officer before that commencement; and
 - (ii) anything done by, or in relation to, the Review Officer for the purpose of the review is taken to have been done by, or in relation to, the Review Panel.

Schedule 1 Amendments

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Reviews not yet started

- (2) If, before the commencement of this item, an application for review had been properly made to the Review Officer but the Review Officer had not started to conduct the review by that commencement, then the following apply:
- (a) after that commencement, the Review Panel must deal with the application and conduct the review under the amended Act as if the application had been properly made under the amended Act;
 - (b) for that purpose, anything done by, or in relation to, the Review Officer after the making of the application is taken to have been done by, or in relation to, the Review Panel.

Timing of review

- (3) If:
- (a) subitem (1) or (2) applies; and
 - (b) before the commencement of this item, the Review Officer gave public notification of the review under section 269ZZI of the *Customs Act 1901*;

then, for the purposes of subparagraph 269ZZK(3)(b)(i) and subsection 269ZZL(1) of the amended Act, the day of that notification is taken to be the day this item commences.

Note: Subitem (3) deals with when the Review Panel must complete the review.

Definition

- (4) In this item:
- amended Act* means the *Customs Act 1901* as amended by this Act.

107 Transitional—things done by, or in relation to, Review Officer

- (1) If, before the commencement of this item, a thing was done by, or in relation to, the Review Officer, then, for the purposes of the operation of the *Customs Act 1901* on and after that commencement, the thing is taken to have been done by, or in relation to, the Review Panel.
- (2) The Minister may, by writing, determine that subitem (1) does not apply in relation to a specified thing.
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(3) A determination made under subitem (2) is not a legislative instrument.

*[Minister's second reading speech made in—
House of Representatives on 23 November 2011
Senate on 29 February 2012]*

(246/11)