



Customs Amendment (Australian Trusted Trader Programme) Act 2015

No. 73, 2015

**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/>)

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No. 73, 2015

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

[Assented to 25 June 2015]

The Parliament of Australia enacts:

1 Short title

This Act may be cited as the *Customs Amendment (Australian
Trusted Trader Programme) Act 2015*.

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
Provisions	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.	25 June 2015
2. Schedule 1, Part 1	As follows: (a) if this Act receives the Royal Assent before 1 July 2015—1 July 2015; (b) if this Act receives the Royal Assent on or after 1 July 2015—the day after this Act receives the Royal Assent.	1 July 2015 (paragraph (a) applies)
3. Schedule 1, Part 2	As follows: (a) if this Act receives the Royal Assent before 1 July 2015—immediately after the commencement of section 54 of the <i>Australian Border Force Act 2015</i> ; (b) if this Act receives the Royal Assent on or after 1 July 2015—the day after this Act receives the Royal Assent.	1 July 2015 (paragraph (a) applies)

Note: This table relates only to the provisions of this Act as originally enacted.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 Schedules

Legislation that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.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

Part 1—Main amendments

Customs Act 1901

1 Subsection 4(1)

Insert:

rules, in relation to Part XA, has the meaning given by section 179.

trusted trader agreement means an agreement entered into under section 176A between the Comptroller-General of Customs and an entity, and includes such an agreement as varied and in force from time to time.

2 At the end of Division 1A of Part IV

Add:

49C Obligations under this Part may be satisfied in accordance with a trusted trader agreement

- (1) An entity is released from an obligation that the entity would otherwise be required to satisfy under a provision of this Part (other than Division 1) if the obligation:
 - (a) is of a kind prescribed by rules for the purposes of Part XA; and
 - (b) is specified in those rules as an obligation from which an entity may be released; and
 - (c) is specified in a trusted trader agreement between the Comptroller-General of Customs and the entity.
- (2) If:
 - (a) an obligation must be satisfied under a provision of this Part (other than Division 1); and
 - (b) the obligation:

- (i) is of a kind prescribed by rules for the purposes of Part XA; and
- (ii) is specified in those rules as an obligation that may be satisfied in a way other than required by this Part; and
- (iii) is specified in a trusted trader agreement between the Comptroller-General of Customs and an entity;

then, despite the relevant provision, the entity may satisfy the obligation in the way specified in the trusted trader agreement.

3 Before Division 1 of Part VI

Insert:

Division 1AAA—Preliminary

107 Obligations under this Part may be satisfied in accordance with a trusted trader agreement

- (1) An entity is released from an obligation that the entity would otherwise be required to satisfy under a provision of this Part (other than Division 1) if the obligation:
 - (a) is of a kind prescribed by rules for the purposes of Part XA; and
 - (b) is specified in those rules as an obligation from which an entity may be released; and
 - (c) is specified in a trusted trader agreement between the Comptroller-General of Customs and the entity.
- (2) If:
 - (a) an obligation must be satisfied under a provision of this Part (other than Division 1); and
 - (b) the obligation:
 - (i) is of a kind prescribed by rules for the purposes of Part XA; and
 - (ii) is specified in those rules as an obligation that may be satisfied in a way other than required by this Part; and
 - (iii) is specified in a trusted trader agreement between the Comptroller-General of Customs and an entity;

then, despite the relevant provision, the entity may satisfy the obligation in the way specified in the trusted trader agreement.

4 After Part X

Insert:

Part XA—Australian Trusted Trader Programme

Division 1—Preliminary

176 Establishment of the Australian Trusted Trader Programme

- (1) The Comptroller-General of Customs may, in accordance with this Part, establish a programme to provide trade facilitation benefits to entities.
- (2) The programme is to be known as the Australian Trusted Trader Programme.

Division 2—Trusted trader agreement

Subdivision A—Assessment of qualification criteria based on documentary evidence

176A Trusted trader agreement may be entered into

- (1) The Comptroller-General of Customs may enter into an agreement (a *trusted trader agreement*) with an entity if:
 - (a) the entity nominates itself to participate in the Australian Trusted Trader Programme; and
 - (b) the Comptroller-General of Customs considers that it is reasonably likely that the entity will satisfy the qualification criteria set out in the rules.
- (2) In deciding whether to enter into a trusted trader agreement, the Comptroller-General of Customs must consider:
 - (a) any matter set out in the rules; and
 - (b) any other matter that he or she considers relevant.

- (3) If a trusted trader agreement is entered into with an entity:
 - (a) the agreement confers interim trusted trader status on the entity; and
 - (b) the entity may receive benefits of a kind prescribed by the rules and specified in the agreement.

176B Nomination process

- (1) A nomination to participate in the Australian Trusted Trader Programme may be made by an entity by document or electronically.
- (2) A documentary nomination 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.
- (3) An electronic nomination must communicate such information as is set out in an approved statement.

Subdivision B—Validation of qualification criteria based on physical inspection and audit

177 Variation of a trusted trader agreement

- (1) This section applies if:
 - (a) a trusted trader agreement is entered into with an entity; and
 - (b) the Comptroller-General of Customs is satisfied that the entity satisfies the qualification criteria set out in the rules.
- (2) The Comptroller-General of Customs may vary a trusted trader agreement to provide for:
 - (a) the entity to be released from an obligation, of a kind prescribed by the rules and specified in the agreement, that the entity would otherwise be required to satisfy under Part IV (other than Division 1) or Part VI (other than Division 1); or

- (b) the entity to satisfy an obligation, of a kind prescribed by the rules and specified in the agreement, that the entity would otherwise be required to satisfy under Part IV (other than Division 1) or Part VI (other than Division 1) in a way specified in the agreement.

Note: Parts IV and VI deal with the importation and the exportation of goods, respectively.

- (3) The Comptroller-General of Customs may vary a trusted trader agreement to provide for benefits of a kind prescribed by the rules and specified in the agreement.
- (4) In deciding whether to vary a trusted trader agreement, the Comptroller-General of Customs must consider:
 - (a) any matter set out in the rules; and
 - (b) any other matter that he or she considers relevant.
- (5) If a trusted trader agreement is varied:
 - (a) the agreement confers ongoing trusted trader status on the entity; and
 - (b) the entity may receive benefits of a kind prescribed by the rules and specified in the agreement.

Subdivision C—General provisions relating to trusted trader agreements

178 Terms and conditions of trusted trader agreements

A trusted trader agreement may be subject to:

- (a) conditions prescribed by the rules; and
- (b) terms and conditions specified in the agreement.

178A Variation, suspension or termination of trusted trader agreements

- (1) The Comptroller-General of Customs may vary, suspend or terminate a trusted trader agreement if the Comptroller-General of Customs reasonably believes that the entity to which the agreement relates has not complied, or is not complying, with:
 - (a) any condition prescribed by the rules; or
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- (b) any term or condition specified in the agreement.
- (2) In deciding whether to vary, suspend or terminate a trusted trader agreement, the Comptroller-General of Customs must consider:
 - (a) any matter set out in the rules; and
 - (b) any other matter that he or she considers relevant.
- (3) If subsection (1) applies, the trusted trader agreement must be varied, suspended or terminated in accordance with the procedure prescribed by the rules.

Division 3—Register of Trusted Trader Agreements

178B Register of Trusted Trader Agreements

- (1) The Comptroller-General of Customs may maintain a register, to be known as the Register of Trusted Trader Agreements, containing information of a kind prescribed by the rules in relation to each trusted trader agreement entered into under this Part.
- (2) The Register of Trusted Trader Agreements is to be made publicly available.
- (3) The Register of Trusted Trader Agreements is not a legislative instrument.

Division 4—Rules

179 Rules

- (1) The Comptroller-General of Customs may, by legislative instrument, prescribe rules for and in relation to the following:
 - (a) the qualification criteria in relation to which a trusted trader agreement may be:
 - (i) entered into under section 176A; or
 - (ii) varied under section 177;
 - (b) the matters that the Comptroller-General of Customs must consider when deciding whether to:
 - (i) enter into a trusted trader agreement under section 176A; or

- (ii) vary the agreement under section 177;
 - (c) the conditions on which an entity participates in the Australian Trusted Trader Programme;
 - (d) the kind of obligation:
 - (i) that an entity may be released from under Part IV (other than Division 1) or Part VI (other than Division 1); or
 - (ii) that an entity may be required to satisfy under Part IV (other than Division 1) or Part VI (other than Division 1) in a way other than required by the relevant Part;
 - (e) the kind of benefits that an entity may receive under a trusted trader agreement;
 - (f) any criteria to be satisfied for an entity to receive benefits of a kind mentioned in paragraph (e);
 - (g) any other conditions to which a trusted trader agreement may be subject;
 - (h) the procedures that the Comptroller-General of Customs must follow when varying, suspending or terminating a trusted trader agreement under section 178A;
 - (i) the matters that the Comptroller-General of Customs must consider when deciding whether to vary, suspend or terminate a trusted trader agreement under section 178A;
 - (j) the kinds of information that may be published on the Register of Trusted Trader Agreements, including:
 - (i) that an entity has entered into a trusted trader agreement; and
 - (ii) whether the agreement confers interim or ongoing trusted trader status on the entity; and
 - (iii) the kinds of benefits that the entity is receiving, or will receive, under the agreement; and
 - (iv) whether the agreement is in force; and
 - (v) whether the agreement is or has been suspended; and
 - (vi) whether the agreement has been terminated.
- (2) For the purpose of paragraph (1)(d):
- (a) a rule prescribed for the purposes of subparagraph (1)(d)(i) must specify that the obligation is one from which an entity may be released; and

- (b) a rule prescribed for the purposes of subparagraph (1)(d)(ii) must specify that the obligation is one that may be satisfied by an entity in a way other than required by Part IV (other than Division 1) or Part VI (other than Division 1).
- (3) The Comptroller-General of Customs may, by legislative instrument, also make rules prescribing matters:
 - (a) required or permitted by this Part to be prescribed by the rules; or
 - (b) necessary or convenient to be prescribed for carrying out or giving effect to this Part.
- (4) To avoid doubt, rules made under this section may not do the following:
 - (a) create an offence or civil penalty;
 - (b) provide powers of:
 - (i) arrest or detention; or
 - (ii) entry, search or seizure;
 - (c) impose a tax;
 - (d) set an amount to be appropriated from the Consolidated Revenue Fund under an appropriation in this Act;
 - (e) directly amend the text of this Act.

5 After paragraph 273GA(1)(jb)

Insert:

- (jc) a decision of the Comptroller-General of Customs to refuse to enter into a trusted trader agreement under subsection 176A(1);
- (jd) a decision of the Comptroller-General of Customs to refuse to vary a trusted trader agreement under subsection 177(2);
- (je) a decision of the Comptroller-General of Customs to vary, suspend or terminate a trusted trader agreement under subsection 178A(1);

Part 2—Consequential amendments

Australian Border Force Act 2015

6 Subsection 54(1)

After “law of the Commonwealth”, insert “(other than section 179 of the *Customs Act 1901*)”.

[*Minister’s second reading speech made in—
House of Representatives on 3 June 2015
Senate on 17 June 2015*]

(86/15)
