





# **Customs Amendment (Product Specific Rule Modernisation) Act 2018**

**No. 151, 2018**

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

Note: An electronic version of this Act is available on the Federal Register of Legislation (<https://www.legislation.gov.au/>)



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# Customs Amendment (Product Specific Rule Modernisation) Act 2018

No. 151, 2018

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

[Assented to 10 December 2018]

The Parliament of Australia enacts:

## **1 Short title**

This Act is the *Customs Amendment (Product Specific Rule Modernisation) Act 2018*.

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No. 151, 2018    *Customs Amendment (Product Specific Rule Modernisation) Act 2018*

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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.

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<b>Commencement information</b>		
<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<b>Provisions</b>	<b>Commencement</b>	<b>Date/Details</b>
1. The whole of this Act	A single day to be fixed by Proclamation. However, if the provisions 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.	

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Note: This table relates only to the provisions of this Act as originally enacted.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Legislation that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.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—Amendments**

### **Part 1—Singaporean originating goods**

#### *Customs Act 1901*

##### **1 Paragraph 153XG(1)(a)**

Repeal the paragraph, substitute:

- (a) they are classified to a Chapter, heading or subheading of the Harmonized System that is covered by the table in Annex 2 to the Agreement; and

##### **2 Paragraph 153XG(1)(c)**

Repeal the paragraph, substitute:

- (c) the goods satisfy the requirements applicable to the goods in that Annex; and

##### **3 Subsection 153XG(2)**

Repeal the subsection, substitute:

- (2) Without limiting paragraph (1)(c), a requirement may be specified in the table in Annex 2 to the Agreement by using an abbreviation that is given a meaning for the purposes of that Annex.

##### **4 At the end of section 153XG**

Add:

*Goods put up in a set for retail sale*

- (9) If:
  - (a) goods are put up in a set for retail sale; and
  - (b) the goods are classified in accordance with Rule 3(c) of the Interpretation Rules;the goods are Singaporean originating goods under this section only if:
  - (c) all of the goods in the set, when considered separately, are Singaporean originating goods; or

**Schedule 1** Amendments

**Part 1** Singaporean originating goods

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- (d) the total customs value of the goods (if any) in the set that are not Singaporean originating goods does not exceed 10% of the customs value of the set of goods.

Example: A mirror, brush and comb are put up in a set for retail sale. The mirror, brush and comb have been classified under Rule 3(c) of the Interpretation Rules according to the tariff classification applicable to combs.

The effect of paragraph (c) of this subsection is that the origin of the mirror and brush must now be determined according to the tariff classifications applicable to mirrors and brushes.

## **Part 2—ASEAN-Australia-New Zealand originating goods**

### ***Customs Act 1901***

#### **5 At the end of section 153ZKA**

Add:

- |   |
|---|
| <ul style="list-style-type: none"><li>• Subdivision G allows regulations to make provision for and in relation to determining whether goods are AANZ originating goods.</li></ul> |
|---|

#### **6 Subsection 153ZKB(1) (definition of *Agreement*)**

After “amended”, insert “and in force for Australia”.

#### **7 Subsection 153ZKB(1)**

Insert:

***Harmonized Commodity Description and Coding System*** means the Harmonized Commodity Description and Coding System that is established by or under the Convention.

#### **8 Subsection 153ZKB(1) (definition of *Harmonized System*)**

Repeal the definition, substitute:

***Harmonized System*** means:

- (a) the Harmonized Commodity Description and Coding System as in force immediately before 1 January 2017; or
- (b) if the table in Annex 2 to the Agreement is amended or replaced to refer to Chapters, headings and subheadings of a later version of the Harmonized Commodity Description and Coding System—the later version of the Harmonized Commodity Description and Coding System.

#### **9 Subsection 153ZKB(2)**

Repeal the subsection.

### 10 Paragraph 153ZKC(1)(b)

Repeal the paragraph, substitute:

- (b) either:
  - (i) the importer of the goods has, at the time the goods are imported, a Certificate of Origin, or a copy of one, for the goods; or
  - (ii) Australia has waived the requirement for a Certificate of Origin for the goods.

### 11 Paragraph 153ZKD(b)

Repeal the paragraph, substitute:

- (b) either:
  - (i) the importer of the goods has, at the time the goods are imported, a Certificate of Origin, or a copy of one, for the goods; or
  - (ii) Australia has waived the requirement for a Certificate of Origin for the goods.

### 12 Sections 153ZKE and 153ZKF

Repeal the sections, substitute:

#### 153ZKE Goods produced from non-originating materials

- (1) Goods are *AANZ originating goods* if:
  - (a) they are classified to a Chapter, heading or subheading of the Harmonized System that is covered by the table in Annex 2 to the Agreement; and
  - (b) they are produced entirely in a Party from non-originating materials only or from non-originating materials and originating materials; and
  - (c) the goods satisfy the requirements applicable to the goods in that Annex; and
  - (d) either:
    - (i) the importer of the goods has, at the time the goods are imported, a Certificate of Origin, or a copy of one, for the goods; or
    - (ii) Australia has waived the requirement for a Certificate of Origin for the goods.

- (2) Without limiting paragraph (1)(c), a requirement may be specified in the table in Annex 2 to the Agreement by using an abbreviation that is given a meaning for the purposes of that Annex.

*Change in tariff classification*

- (3) If a requirement that applies in relation to the goods is that all non-originating materials used in the production of the goods must have undergone a particular change in tariff classification, the regulations may prescribe when a non-originating material used in the production of the goods is taken to satisfy the change in tariff classification.
- (4) If:
- (a) a requirement that applies in relation to the goods is that all non-originating materials used in the production of the goods must have undergone a particular change in tariff classification; and
  - (b) one or more of the non-originating materials used in the production of the goods do not satisfy the change in tariff classification;
- then the requirement is taken to be satisfied if the total value of the non-originating materials covered by paragraph (b) does not exceed 10% of the customs value of the goods.

- (5) If:
- (a) a requirement that applies in relation to the goods is that all non-originating materials used in the production of the goods must have undergone a particular change in tariff classification; and
  - (b) the goods are classified to any of Chapters 50 to 63 of the Harmonized System; and
  - (c) one or more of the non-originating materials used in the production of the goods do not satisfy the change in tariff classification;
- then the requirement is taken to be satisfied if the total weight of the non-originating materials covered by paragraph (c) does not exceed 10% of the total weight of the goods.

*Regional value content*

- (6) If a requirement that applies in relation to the goods is that the goods must have a regional value content of not less than a particular percentage worked out in a particular way:
- (a) the regional value content of the goods is to be worked out in accordance with the Agreement; or
  - (b) if the regulations prescribe how to work out the regional value content of the goods—the regional value content of the goods is to be worked out in accordance with the regulations.
- (7) If:
- (a) a requirement that applies in relation to the goods is that the goods must have a regional value content of not less than a particular percentage worked out in a particular way; and
  - (b) the goods are imported into Australia with accessories, spare parts, tools or instructional or other information materials; and
  - (c) the accessories, spare parts, tools or instructional or other information materials are not imported solely for the purpose of artificially raising the regional value content of the goods; and
  - (d) the accessories, spare parts, tools or instructional or other information materials are not invoiced separately from the goods; and
  - (e) the quantities and value of the accessories, spare parts, tools or instructional or other information materials are customary for the goods;
- the regulations must provide for the value of the accessories, spare parts, tools or instructional or other information materials to be taken into account for the purposes of working out the regional value content of the goods (whether the accessories, spare parts, tools or instructional or other information materials are originating materials or non-originating materials).
- Note: The value of the accessories, spare parts, tools or instructional or other information materials is to be worked out in accordance with the regulations: see subsection 153ZKB(3).
- (8) For the purposes of subsection (7), disregard section 153ZKI in working out whether the accessories, spare parts, tools or

instructional or other information materials are originating materials or non-originating materials.

### **13 Subsection 153ZKG(1)**

Repeal the subsection, substitute:

- (1) This section applies for the purposes of working out if goods are AANZ originating goods under section 153ZKE where the goods are claimed to be AANZ originating goods solely on the basis that the goods have a regional value content of not less than a particular percentage worked out in a particular way.

### **14 Subsection 153ZKH(2)**

Repeal the subsection, substitute:

#### *Regional value content*

- (2) However, if a requirement that applies in relation to the goods is that the goods must have a regional value content of not less than a particular percentage worked out in a particular way, the regulations must provide for the value of the packaging material or container to be taken into account for the purposes of working out the regional value content of the goods (whether the packaging material or container is an originating material or non-originating material).

Note: The value of the packaging material or container is to be worked out in accordance with the regulations: see subsection 153ZKB(3).

### **15 At the end of Division 1G of Part VIII**

Add:

#### **Subdivision G—Regulations**

##### **153ZKJA Regulations**

The regulations may make provision for and in relation to determining whether goods are AANZ originating goods under this Division.

## Part 3—Japanese originating goods

### *Customs Act 1901*

#### 16 At the end of section 153ZNA

Add:

- Subdivision F allows regulations to make provision for and in relation to determining whether goods are Japanese originating goods.

#### 17 Subsection 153ZNB(1) (note to the definition of *Agreement*)

Repeal the note, substitute:

- Note 1: The Agreement is in Australian Treaty Series 2015 No. 2 ([2015] ATS 2) and could in 2018 be viewed in the Australian Treaties Library on the AustLII website (<http://www.austlii.edu.au>).
- Note 2: There is also a separate agreement (known as the Implementing Agreement) that sets out the details and procedures for the implementation of the Japan-Australia Economic Partnership Agreement. The Implementing Agreement is in that same Australian Treaty Series.

#### 18 Subsection 153ZNB(1)

Insert:

*Harmonized Commodity Description and Coding System* means the Harmonized Commodity Description and Coding System that is established by or under the Convention.

#### 19 Subsection 153ZNB(1) (definition of *Harmonized System*)

Repeal the definition, substitute:

*Harmonized System* means:

- (a) the Harmonized Commodity Description and Coding System as in force immediately before 1 January 2017; or
- (b) if the table in Annex 2 to the Agreement is amended or replaced to refer to Chapters, headings and subheadings of a

later version of the Harmonized Commodity Description and Coding System—the later version of the Harmonized Commodity Description and Coding System.

## **20 Subsection 153ZNB(2)**

Repeal the subsection.

## **21 Section 153ZNE**

Repeal the section, substitute:

### **153ZNE Goods produced in Japan, or in Japan and Australia, from non-originating materials**

- (1) Goods are *Japanese originating goods* if:
  - (a) they are classified to a Chapter, heading or subheading of the Harmonized System that is covered by the table in Annex 2 to the Agreement; and
  - (b) they are produced entirely in Japan, or entirely in Japan and Australia, from non-originating materials only or from non-originating materials and originating materials; and
  - (c) the goods satisfy the requirements applicable to the goods in that Annex; and
  - (d) either:
    - (i) the importer of the goods has, at the time the goods are imported, a Certificate of Origin or an origin certification document, or a copy of one, for the goods; or
    - (ii) Australia has waived the requirement for a Certificate of Origin or an origin certification document for the goods.
- (2) Without limiting paragraph (1)(c), a requirement may be specified in the table in Annex 2 to the Agreement by using an abbreviation or other code that is given a meaning for the purposes of that Annex.

#### *Change in tariff classification*

- (3) If a requirement that applies in relation to the goods is that all non-originating materials used in the production of the goods must have undergone a particular change in tariff classification, the regulations may prescribe when a non-originating material used in

the production of the goods is taken to satisfy the change in tariff classification.

- (4) If:
- (a) a requirement that applies in relation to the goods is that all non-originating materials used in the production of the goods must have undergone a particular change in tariff classification; and
  - (b) one or more of the non-originating materials used in the production of the goods do not satisfy the change in tariff classification;

then the requirement is taken to be satisfied if the total value of the non-originating materials covered by paragraph (b) does not exceed 10% of the customs value of the goods.

- (5) If:
- (a) a requirement that applies in relation to the goods is that all non-originating materials used in the production of the goods must have undergone a particular change in tariff classification; and
  - (b) the goods are classified to any of Chapters 50 to 63 of the Harmonized System; and
  - (c) one or more of the non-originating materials used in the production of the goods do not satisfy the change in tariff classification;

then the requirement is taken to be satisfied if the total weight of the non-originating materials covered by paragraph (c) does not exceed 10% of the total weight of the goods.

*Qualifying value content*

- (6) If a requirement that applies in relation to the goods is that the goods must have a qualifying value content of not less than a particular percentage worked out in a particular way:
- (a) the qualifying value content of the goods is to be worked out in accordance with the Agreement; or
  - (b) if the regulations prescribe how to work out the qualifying value content of the goods—the qualifying value content of the goods is to be worked out in accordance with the regulations.

(7) If:

- (a) a requirement that applies in relation to the goods is that the goods must have a qualifying value content of not less than a particular percentage worked out in a particular way; and
- (b) the goods are imported into Australia with accessories, spare parts or tools; and
- (c) the accessories, spare parts or tools are not invoiced separately from the goods; and
- (d) the quantities and value of the accessories, spare parts or tools are customary for the goods; and
- (e) the accessories, spare parts or tools are non-originating materials;

the regulations must provide for the value of the accessories, spare parts or tools covered by paragraph (e) to be taken into account for the purposes of working out the qualifying value content of the goods.

Note: The value of the accessories, spare parts or tools is to be worked out in accordance with the regulations: see subsection 153ZNB(3).

## **22 Subsection 153ZNF(2)**

Repeal the subsection, substitute:

### *Qualifying value content*

(2) However, if:

- (a) a requirement that applies in relation to the goods is that the goods must have a qualifying value content of not less than a particular percentage worked out in a particular way; and
- (b) the packaging material or container is a non-originating material;

the regulations must provide for the value of the packaging material or container to be taken into account for the purposes of working out the qualifying value content of the goods.

Note: The value of the packaging material or container is to be worked out in accordance with the regulations: see subsection 153ZNB(3).

## **23 At the end of Division 1K of Part VIII**

Add:

## **Subdivision F—Regulations**

### **153ZNI Regulations**

The regulations may make provision for and in relation to determining whether goods are Japanese originating goods under this Division.

## **Part 4—Chinese originating goods**

### *Customs Act 1901*

#### **24 At the end of section 153ZOA**

Add:

- Subdivision H allows regulations to make provision for and in relation to determining whether goods are Chinese originating goods.

#### **25 Subsection 153ZOB(1)**

Insert:

*Harmonized Commodity Description and Coding System* means the Harmonized Commodity Description and Coding System that is established by or under the Convention.

#### **26 Subsection 153ZOB(1) (definition of *Harmonized System*)**

Repeal the definition, substitute:

*Harmonized System* means:

- (a) the Harmonized Commodity Description and Coding System as in force immediately before 1 January 2017; or
- (b) if the table in Annex II to the Agreement is amended or replaced to refer to Chapters, headings and subheadings of a later version of the Harmonized Commodity Description and Coding System—the later version of the Harmonized Commodity Description and Coding System.

#### **27 Subsection 153ZOB(2)**

Repeal the subsection.

#### **28 Section 153ZOE**

Repeal the section, substitute:

**153ZOE Goods produced in China, or in China and Australia, from non-originating materials**

- (1) Goods are *Chinese originating goods* if:
- (a) they are classified to a Chapter, heading or subheading of the Harmonized System that is covered by the table in Annex II to the Agreement; and
  - (b) they are produced entirely in the territory of China, or entirely in the territory of China and the territory of Australia, from non-originating materials only or from non-originating materials and originating materials; and
  - (c) the goods satisfy the requirements applicable to the goods in that Annex; and
  - (d) either:
    - (i) the importer of the goods has, at the time the goods are imported, a Certificate of Origin or a Declaration of Origin, or a copy of one, for the goods; or
    - (ii) Australia has waived the requirement for a Certificate of Origin or a Declaration of Origin for the goods.
- (2) Without limiting paragraph (1)(c), a requirement may be specified in the table in Annex II to the Agreement by using an abbreviation that is given a meaning for the purposes of that Annex.

*Change in tariff classification*

- (3) If a requirement that applies in relation to the goods is that all non-originating materials used in the production of the goods must have undergone a particular change in tariff classification, the regulations may prescribe when a non-originating material used in the production of the goods is taken to satisfy the change in tariff classification.
- (4) If:
- (a) a requirement that applies in relation to the goods is that all non-originating materials used in the production of the goods must have undergone a particular change in tariff classification; and
  - (b) one or more of the non-originating materials used in the production of the goods do not satisfy the change in tariff classification;

then the requirement is taken to be satisfied if the total value of the non-originating materials covered by paragraph (b) does not exceed 10% of the customs value of the goods.

*Regional value content*

- (5) If a requirement that applies in relation to the goods is that the goods must have a minimum requirement of regional value content worked out in a particular way:
- (a) the regional value content of the goods is to be worked out in accordance with the Agreement; or
  - (b) if the regulations prescribe how to work out the regional value content of the goods—the regional value content of the goods is to be worked out in accordance with the regulations.
- (6) If:
- (a) a requirement that applies in relation to the goods is that the goods must have a minimum requirement of regional value content worked out in a particular way; and
  - (b) the goods are imported into Australia with accessories, spare parts or tools; and
  - (c) the accessories, spare parts or tools are classified and invoiced with the goods and are included in the price of the goods; and
  - (d) the accessories, spare parts or tools are not imported solely for the purpose of artificially raising the regional value content of the goods; and
  - (e) the quantities and value of the accessories, spare parts or tools are customary for the goods; and
  - (f) the accessories, spare parts or tools are non-originating materials;
- the regulations must provide for the value of the accessories, spare parts or tools covered by paragraph (f) to be taken into account for the purposes of working out the regional value content of the goods.
- Note: The value of the accessories, spare parts or tools is to be worked out in accordance with the regulations: see subsection 153ZOB(3).
- (7) For the purposes of subsection (6), disregard section 153ZOG in working out whether the accessories, spare parts or tools are non-originating materials.
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## 29 Subsection 153ZOF(2)

Repeal the subsection, substitute:

### *Regional value content*

(2) However, if:

- (a) a requirement that applies in relation to the goods is that the goods must have a minimum requirement of regional value content worked out in a particular way; and
- (b) the packaging material or container is a non-originating material;

the regulations must provide for the value of the packaging material or container to be taken into account for the purposes of working out the regional value content of the goods.

Note: The value of the packaging material or container is to be worked out in accordance with the regulations: see subsection 153ZOB(3).

## 30 At the end of Division 1L of Part VIII

Add:

### **Subdivision H—Regulations**

#### **153ZOJ Regulations**

The regulations may make provision for and in relation to determining whether goods are Chinese originating goods under this Division.

## **Part 5—Other amendments**

### ***Customs Act 1901***

#### **31 Paragraph 153ZB(1)(b)**

Repeal the paragraph, substitute:

(b) either:

- (i) the importer of the goods has, at the time the goods are imported, a Certificate of Origin, or a copy of one, for the goods; or
- (ii) Australia has waived the requirement for a Certificate of Origin for the goods.

#### **32 Paragraph 153ZD(1)(d)**

Repeal the paragraph, substitute:

(d) either:

- (i) the importer of the goods has, at the time the goods are imported, a Certificate of Origin, or a copy of one, for the goods; or
- (ii) Australia has waived the requirement for a Certificate of Origin for the goods.

#### **33 Paragraph 153ZE(d)**

Repeal the paragraph, substitute:

(d) either:

- (i) the importer of the goods has, at the time the goods are imported, a Certificate of Origin, or a copy of one, for the goods; or
- (ii) Australia has waived the requirement for a Certificate of Origin for the goods.

#### **34 Subsection 153ZJB(1) (definition of *Certificate of Origin*)**

Omit “paragraph 2 of”.

#### **35 Paragraph 153ZJC(1)(b)**

Repeal the paragraph, substitute:

(b) either:

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- (i) the importer of the goods has, at the time the goods are imported, a Certificate of Origin, or a copy of one, for the goods; or
- (ii) Australia has waived the requirement for a Certificate of Origin for the goods.

**36 Paragraph 153ZJD(b)**

Repeal the paragraph, substitute:

(b) either:

- (i) the importer of the goods has, at the time the goods are imported, a Certificate of Origin, or a copy of one, for the goods; or
- (ii) Australia has waived the requirement for a Certificate of Origin for the goods.

**37 Paragraph 153ZJE(1)(d)**

Repeal the paragraph, substitute:

(d) either:

- (i) the importer of the goods has, at the time the goods are imported, a Certificate of Origin, or a copy of one, for the goods; or
- (ii) Australia has waived the requirement for a Certificate of Origin for the goods.

**38 Paragraph 153ZLC(1)(b)**

Repeal the paragraph, substitute:

(b) either:

- (i) the importer of the goods has, at the time the goods are imported, a Declaration of Origin or a Certificate of Origin, or a copy of one, for the goods; or
- (ii) Australia has waived the requirement for a Declaration of Origin or a Certificate of Origin for the goods.

**39 Paragraph 153ZLD(b)**

Repeal the paragraph, substitute:

(b) either:

- (i) the importer of the goods has, at the time the goods are imported, a Declaration of Origin or a Certificate of Origin, or a copy of one, for the goods; or

- (ii) Australia has waived the requirement for a Declaration of Origin or a Certificate of Origin for the goods.

**40 Paragraph 153ZLE(1)(d)**

Repeal the paragraph, substitute:

- (d) either:
  - (i) the importer of the goods has, at the time the goods are imported, a Declaration of Origin or a Certificate of Origin, or a copy of one, for the goods; or
  - (ii) Australia has waived the requirement for a Declaration of Origin or a Certificate of Origin for the goods.

## Part 6—Application provision

### 41 Application provision

The amendments made by this Schedule apply in relation to:

- (a) goods imported into Australia on or after the commencement of this Schedule; and
- (b) goods imported into Australia before the commencement of this Schedule, where the time for working out the rate of import duty on the goods had not occurred before the commencement of this Schedule.

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*[Minister's second reading speech made in—  
House of Representatives on 19 September 2018  
Senate on 17 October 2018]*

(191/18)

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