

Regional Comprehensive Economic Partnership (RCEP) Legislation Bill

Government Bill

Explanatory note

General policy statement

This Bill is an omnibus Bill that amends the Customs and Excise Act 2018, the Tariff Act 1988, and the Tariff. This Bill is introduced under Standing Order 267(1)(a) because the amendments deal with an interrelated topic that can be regarded as implementing a single broad policy. That single broad policy is to amend New Zealand law as part of the implementation of the Regional Comprehensive Economic Partnership (the **RCEP**).

The RCEP is a free trade agreement negotiated between New Zealand, Australia, China, Japan, South Korea, and the 10 members of the Association of Southeast Asian Nations (ASEAN), ie, Brunei-Darussalam, Cambodia, Indonesia, Laos PDR, Malaysia, Myanmar, the Philippines, Singapore, Thailand, and Vietnam. The RCEP was signed at Hanoi, Vietnam, on 15 November 2020.

This Bill will enable—

- the issue of New Zealand certificates of origin in respect of goods for export to the RCEP parties; and
- the application of preferential tariff rates under the RCEP; and
- transitional safeguard measures to be applied in appropriate circumstances on imports originating from the RCEP parties.

The RCEP will also be implemented by regulations, which will amend—

- the Tariff to enable the application of preferential tariff rates for imports originating from the RCEP parties; and
- the Customs and Excise Regulations 1996 to give effect to the rules of origin applicable to imports into New Zealand that originate from the RCEP parties.

Departmental disclosure statement

The Ministry of Foreign Affairs and Trade is required to prepare a disclosure statement to assist with the scrutiny of this Bill. The disclosure statement provides access to information about the policy development of the Bill and identifies any significant or unusual legislative features of the Bill.

A copy of the statement can be found at <http://legislation.govt.nz/disclosure.aspx?type=bill&subtype=government&year=2021&no=33>

National interest analysis

An extended national interest analysis has been prepared that takes the place of a regulatory impact assessment. The Ministry of Foreign Affairs and Trade produced the national interest analysis on 22 October 2020 to help inform the main policy decisions taken by the Government relating to the contents of this Bill. The national interest analysis was presented to the House of Representatives on 8 December 2020, in accordance with Standing Order 405(2) (presentation of national interest analyses for international treaties).

A copy of this national interest analysis can be found at—

- <https://www.mfat.govt.nz/assets/Uploads/RCEP-National-Interest-Analysis.pdf>
- <http://www.treasury.govt.nz/publications/informationreleases/ria>

Clause by clause analysis

Clause 1 is the Title clause.

Clause 2 states that the Bill will commence on a date appointed by Order in Council. This form of commencement is necessary in order to co-ordinate the Bill's commencement with the entry into force of the RCEP for New Zealand.

Part 1

Amendments to Customs and Excise Act 2018

Clause 3 states that *Part 1* amends the Customs and Excise Act 2018.

Clause 4 amends section 435. The amendments will enable the issue of New Zealand certificates of origin, under that section, in respect of goods for export to the RCEP parties. The amendments will further enable the Governor-General to declare, by Order in Council, countries that are parties to the RCEP to be specified RCEP parties for the purposes of that section.

Part 2

Amendments to Tariff Act 1988

Clause 5 states that *Part 2* amends the Tariff Act 1988.

Clause 6 inserts definitions of RCEP and specified RCEP party into section 2(1).

Clause 7 amends section 7A. The effect of the amendment to section 7A(1) is to allow the Governor-General, by Order in Council, to declare a country that is a party to the RCEP a specified RCEP party for the purposes of the Tariff Act 1988. Section 7A(3) is amended with the effect that no modification under section 7A(2)(b) relating to a specified RCEP party may impose a higher duty on any goods than that set out in respect of those goods in the Normal Tariff, unless the Governor-General is satisfied that the modification is necessary or advisable in the public interest and consistent with New Zealand's international obligations.

Clause 8 amends section 15A to include the RCEP in the definition of free trade agreement.

Clause 9 amends section 15H(1)(b)(ii) so that, where the chief executive initiates a transitional safeguard or emergency action investigation under section 15B, the Minister may make a determination for a provisional transitional safeguard measure to apply under the RCEP, if the Minister is satisfied that critical circumstances exist.

Part 3

Amendments to Tariff

Clause 10 provides that *Part 3* amends the Tariff. A copy of the Tariff as from time to time amended, modified, or revoked and replaced on or after 1 January 2010 is, as required by section 9B of the Tariff Act 1988, published at the following Internet site: <https://www.customs.govt.nz/business/tariffs/working-tariff-document/>

Clause 11 inserts an abbreviation of the name of the RCEP into a list of preferential abbreviations (relating to countries whose produce or manufactured goods may enter New Zealand free of duty in defined circumstances) in note 2 of the Tariff.

Clause 12 inserts a reference to a country that is a specified RCEP party and its abbreviated name into the list of preferential countries and preferential abbreviations in note 3 of the Tariff. This has the effect of enabling preferential Tariff rates to be applied to goods imported from specified RCEP parties.

Hon Phil Twyford

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The Parliament of New Zealand enacts as follows:

1 Title

This Act is the Regional Comprehensive Economic Partnership (RCEP) Legislation Act **2021**.

2 Commencement

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This Act comes into force on a date appointed by the Governor-General by Order in Council.

Part 1

Amendments to Customs and Excise Act 2018

3 Amendments to Customs and Excise Act 2018

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This Part amends the Customs and Excise Act 2018.

4 Section 435 amended (Certificates of origin)

(1) After section 435(6)(b), insert:

(c) the Regional Comprehensive Economic Partnership done at Hanoi, Vietnam, on 15 November 2020 (the **RCEP**).

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(2) After section 435(7)(b), insert:

(c) in relation to the RCEP, a specified RCEP party (*see subsection (8)*).

(3) Replace section 435(8) with:

(8) For the purposes of this section, the Governor-General may, by Order in Council, declare—

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(a) a country that is a party to AANZFTA to be a specified AANZFTA party:

(b) a country that is a party to the RCEP to be a specified RCEP party.

Part 2

Amendments to Tariff Act 1988

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5 Amendments to Tariff Act 1988

This Part amends the Tariff Act 1988.

6 Section 2 amended (Interpretation)

In section 2(1), insert in their appropriate alphabetical order:

RCEP means the Regional Comprehensive Economic Partnership done at Hanoi, Vietnam, on 15 November 2020

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specified RCEP party means a country that is for the time being declared by Order in Council under **section 7A(1)(bc)** to be a specified RCEP party for the purposes of this Act

7 Section 7A amended (Order in Council about preferential countries)

(1) After section 7A(1)(bb), insert: 5

(bc) declare a country that is a party to the RCEP to be a specified RCEP party for the purposes of this Act:

(2) In section 7A(3), after “specified TPA party,”, insert “a specified RCEP party.”

8 Section 15A amended (Interpretation)

In section 15A, definition of **free trade agreement**, after paragraph (g), insert: 10

(h) the RCEP

9 Section 15H amended (Provisional transitional safeguard measure)

In section 15H(1)(b)(ii), replace “or the Republic of Korea FTA,” with “the Republic of Korea FTA, or the RCEP.”

Part 3 15

Amendments to Tariff

10 Tariff amended

This Part, in accordance with section 9F(1) of the Tariff Act 1988, amends the Tariff.

11 Tariff, note 2 amended 20

In the notes to the Tariff, note 2, penultimate paragraph, after “PPP,”, insert “RCEP.”

12 Tariff, note 3 amended

In the notes to the Tariff, note 3, after the item relating to a country that is a specified PACER Plus party, insert: 25

Country that is a specified RCEP party RCEP