

Customs and Excise (Rules of Origin for Australian Goods) Amendment Regulations 2007

Preamble

At Wellington this 12th day of November 2007

Pursuant to the Customs and Excise Act 1996, His Excellency the Governor-General, acting on the advice and with the consent of the Executive Council, makes the following regulations.

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1 Title

These regulations are the Customs and Excise (Rules of Origin for Australian Goods) Amendment Regulations 2007.

2 Commencement

These regulations come into force on the 28th day after the date of their notification in the *Gazette*.

3 Principal regulations amended

These regulations amend the Customs and Excise Regulations 1996.

4 Interpretation

- (1) Regulation 32 is amended by revoking the definition of **adjusted value** and substituting the following definition:

“**adjusted value**, in relation to any goods, means the value of the goods determined in accordance with Schedule 2 of the Act”.

- (2) Paragraph (b)(xiii) of the definition of **allowable expenditure** in regulation 32 is amended by omitting “returned stock” and substituting “financial returns”.

- (3) The definition of **Customs Valuation Agreement** in regulation 32 is revoked.

- (4) Regulation 32 is amended by inserting the following definition in its appropriate alphabetical order:

“**ANZCERTA** means the Australia New Zealand Closer Economic Relations Trade Agreement done at Canberra on 28 March 1983”.

5 Originating goods

Regulation 33 is amended by revoking subclause (2) and substituting the following subclause:

- “(2) The classes of goods are—

“(a) goods that are wholly obtained in the territory of either or both parties:

“(b) goods that are entirely produced in the territory of either or both parties exclusively from originating materials:

“(c) goods that are entirely produced in the territory of either or both parties and meet the requirements specified in Schedule 7 (which imposes change in tariff classifications and, in some cases, regional value content requirements for goods produced from non-originating materials):

- “(d) goods that are wholly manufactured in the territory of either or both parties from 1 or more of the following:
 - “(i) unmanufactured raw products:
 - “(ii) materials wholly manufactured in the territory of either or both parties:
 - “(iii) materials that have been imported (from a place outside the territories of the parties), and that the Chief Executive has determined, for the purposes of Article 3(1)(c)(ii)(III) of ANZCERTA, to be manufactured raw materials:
- “(e) goods imported from Australia before 1 January 2012 that meet the following conditions:
 - “(i) the last process in the manufacture of the goods was performed in Australia; and
 - “(ii) the regional value content of the goods is not less than 50% based on the factory cost method:
- “(f) goods that are taken to be originating goods under any of regulations 34 to 39C.”

6 Regional value content

Regulation 36 is amended by revoking subclauses (1) and (2) and substituting the following subclauses:

- “(1) In any case where Schedule 7 requires the regional value content of specified goods to be calculated by the build-down method, the value of that content is calculated as follows:

$$\text{RVC} = \frac{\text{AV} - \text{VNM}}{\text{AV}} \times 100$$

where—

RVC is the regional value content, expressed as a percentage

AV is the adjusted value

VNM is the value of non-originating materials (not including materials that are self-produced) that are acquired and used or consumed by the producer in the production of the goods.

- “(2) In any case where Schedule 7 requires the regional value content of specified goods to be calculated by the build-up method, the value of that content is calculated as follows:”

$$\text{RVC} = \frac{\text{VOM}}{\text{AV}} \times 100$$

where—

RVC is the regional value content, expressed as a percentage

AV is the adjusted value

VOM is the value of originating materials that are acquired or self-produced, and used or consumed by the producer in the production of the goods.

7 Value of materials

Regulation 38(1) is amended by revoking paragraph (a) and substituting the following paragraph:

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“(a) for materials that the producer of the goods imports—

“(i) into Australia, the value of the materials as calculated under the Customs Act 1901 (Australia):

“(ii) into New Zealand, the adjusted value of the materials:”.

8 Packaging materials and containers

Regulation 39B(1) is amended by inserting “or consumed” after “non-originating materials used”.

9 Claims for preference based on, or supported by, declaration of exporter

Regulation 39D(2) is amended by omitting “Customs” and substituting “Chief Executive”.

10 Records

Regulation 39E(2) is amended by omitting “or exportation” and substituting “, exportation, or production”.

11 Verification of origin

(1) Regulation 39F is amended by omitting “Customs” in the first place where it appears and substituting “Chief Executive”.

(2) Regulation 39F(a)(ii) and (b) are amended by inserting “, producer, or principal manufacturer” after “exporter”.

12 New regulation 39G substituted

Regulation 39G is revoked and the following regulation substituted:

“39G Decision on origin

- “(1) If the Chief Executive is satisfied, under regulation 39D or 39F, that goods are originating goods, the Chief Executive must grant the claim for preferential treatment for the goods.
- “(2) Preferential treatment may be denied if the importer fails to comply with a requirement imposed by or under these regulations.
- “(3) If preferential treatment is denied, the Customs must give a written explanation for the decision to the person who made the claim for preferential treatment.”

Diane Morcom,
Clerk of the Executive Council.

Explanatory note

This note is not part of the regulations, but is intended to indicate their general effect.

These regulations, which come into force on the 28th day after their notification in the *Gazette*, amend the provisions of the Customs and Excise Regulations 1996 that set out the rules for determining whether goods originate from Australia.

The amendments make drafting corrections and align the regulations more closely with the corresponding Australian legislation.