Australian Customs Notice 1996 42

**"IN TRANSIT" PROVISIONS FOR MADE-TO-ORDER CAPITAL EQUIPMENT - FIRM ORDER DATE (FOD)**

On 26 June 1996 a new field called Firm Order Date (FOD) was created in COMPILE to cater for the TCO "in transit" provision contained in subsection 269SG(4) of the Customs Act1901. On Monday 15 July 1996 the operation of this field was modified to take into account changes included in the Customs Amendment Act 1996.

The FOD field may be used for goods entered under Commercial Tariff Concession Orders (CTCOs), Tariff Concession Orders (TCOs), By-Laws (BLs) and Determinations (MDs) that have been revoked and are subject to "in transit" provisions under item 43 of Schedule 1 to the Customs Amendment Act 1996 or sub-section 269SG(4) of the Customs Act1901, as amended by the forementioned Act. These provisions apply to made-to-order capital equipment for which firm orders had been placed between the date the relevant revoked instrument came into force and the date it was revoked.

The FOD field allows such equipment to be entered under the instrument despite its revocation, provided the goods comply with the terms of the revoked instrument and the Schedule 4 item to which it was written, as amended or proposed to be altered. The duty rate that will apply to the goods is the rate applicable to the relevant item at the time the goods are entered for home consumption. These provisions do not permit goods to be entered at a duty rate other than that which would have applied had the instrument not been revoked.

For the purposes of these provisions, the operative or start date of a revoked instrument will be taken to be the date the instrument came into force. The definition of "made-to-order capital equipment", derived from subsections 269B(1) and 269SG(5) of the Customs Act 1901, as amended by the Customs Amendment

Act 1996, is as follows:

A particular item of equipment to which Chapters 84, 85, 86, 87, 89 or 90 of Schedule 3 to the Customs Tariff

Act 1995 applies:

1. that is made on a one-off basis to meet a specific order rather than being the subject of regular or intermittent production; and
2. that is not produced in quantities indicative of a production run.

Goods eligible for other "in transit" provisions [for example, subsection 269SG(2) of the Customs Act 1901] do not need to use the FOD field. The Customs Commercial System should process such entries automatically.

An example of where FOD could be used would be where a user inputs a revoked TCO on an entry and receives the error "Instrument is not current". As long as the circumstances surrounding the entry comply with the rules set out below, and the goods are made-to-order capital equipment which meets the terms of the relevant instrument and item, the user will be able to use FOD. The user simply inputs in the Miscellaneous Header field (MISC HDR) or Additional Information (ADD INFO) field on a single or parent line, the date on which the firm order for the goods was placed, in the form "FOD=ddmmyy" (for example, "FOD=101295" would be input for a firm order placed on 10 December 1995). FOD may be used on COMPILE or Manual entries.

The rules governing FOD are set out below.

1. FOD is allowed on nature 10, 11, 12, 30, 31 or 32 entries only.
2. FOD must be a valid date.
3. FOD must be earlier than Valuation Date (DTVA) if used on a Nature 10.
4. The Reference Files must specify that the instrument quoted has an 'In Transit Provisions Apply' report code (report code 60).
5. The tariff classification must fall within one of the chapters covering capital equipment for the purposes of the "in transit" provisions, namely Chapters 84, 85, 86, 87, 89 or 90 of Schedule 3.
6. The instrument quoted must be a CTCO, TCO, BL or MD.

7a) If the instrument quoted is a CTCO or TCO it must be linked with a six or eight digit tariff classification, respectively.

7b) If the tariff classification linked to the CTCO or TCO does not match the tariff classification input on the entry line, an Entry Message Advice (EMA) will be generated stating: "Check Tariff classification - Special Gazette S248 of 3/7/96 or ACN 96/03 as amended by 96/23".

1. If the instrument is a BL or MD, FOD will not be accepted after 15 Feb 1997.
2. FOD must be within the date range when the instrument was current.
3. FOD will not be accepted if conditions are satisfied for either of the other "in transit" provisions which are:
4. the goods arrive before the instrument is revoked and are entered within 28 days of revocation; or
5. the instrument was valid at the time of exportation and the entry is made within 28 days of arrival of the goods.
6. Entries quoting FOD will be sent RED LINE to check the validity of the firm order date, to confirm that the goods comply with the definition of made-to-order capital equipment, the current terms of the item and the terms of the instrument, and to verify other entry data.
7. When Effective Duty Date (EFD) is quoted on an entry with an instrument that has an "in transit" code, an EMA will be generated stating: "EFD should not be used for in transit purposes - use FOD if applicable".
8. Two other EMAs will be generated whenever FOD is quoted. These will be:
9. "Firm Order Date quoted [see Customs Act s.269SG (4) and (5)]".
10. "Check made-to-order capital equipment - Customs Amendment Act 1996 operates 15/7/96".

As all FOD entries will be directed Red Line, all documents necessary to support eligibility for this provision should be lodged with Customs, including evidence of placement of the firm order for the goods, illustrative descriptive material (IDM) and, should a determination be involved, a copy of the actual instrument made.

If you have any difficulties with entry processing when using FOD, please contact your regional User Liaison area. (J. M. Drury)

Deputy Chief Executive Officer

12 September 1996 **Contact Officers:**

**Industry Branch**(TCOs and CTCOs) Alan McInnes (06) 275 6282

**Tariff and Valuation Branch** (By-laws and determinations) Lyndall Milward-Bason (06) 275 6551