

**Australian Government Department of Home Affairs**

DEPARTMENT OF HOME AFFAIRS NOTICE No. 2018/02

**Amendments to the Customs Act 1901 – Tariff Concession System**

This notice is to explain legislative changes to the Tariff Concession System (TCS) and to advise importers and local manufacturers to use the correct forms with effect from 1 February 2018.

The *Customs and Other Legislation Amendment Act 2017* (Amendment Act) took effect on 5 April 2017. The Amendment Act contains changes to the requirements concerning the revocation and objection to the making of tariff concession orders (TCOs) under the *Customs Act 1901* (the Customs Act).

Specifically, these changes are:

* Removal of the requirement that 25 per cent or more of the factory or work costs of the goods must be incurred in Australia for goods to be taken to be produced in Australia. The new subsection 269D(1) provides that goods are taken to be produced in Australia if they are wholly or partly manufactured in Australia. For partly manufactured goods, at least one substantial process in the manufacture of the substitutable goods must be carried out in Australia. Incidental provisions (subsection 269D(4) and (5)) have also been repealed as a result of this change.
* Clarification of the requirement in relation to substitutable goods that are made-to-order capital equipment. The amended subsection 269E(2) emphasises the capacity of the manufacturer to produce the made-to-order capital equipment with existing facilities, rather than actual production of such goods by the producer in the past. Actual production would, of course, demonstrate the capacity to produce substitutable goods, but is not required.
* The timeframe that an Australian manufacturer must have made goods (substitutable goods that are made-to-order capital equipment), requiring the same labour skills, technology and design expertise as the subject of a TCO, has been extended from two years to five years under subsection 269E(2)(c).

Consistent with the Australian Government’s deregulation agenda, these changes reduce the regulatory burden on Australian manufacturers and simplify the test under which goods are taken to have been produced in Australia. The extension of the timeframe in relation to made-to-order capital equipment benefits Australian manufacturers by allowing for a longer period to demonstrate their capabilities to produce the substitutable goods.

The relevant forms have been updated to reflect the legislative changes and they are available from the Department’s website at [www.homeaffairs.gov.au.](http://www.homeaffairs.gov.au/) The new forms for TCO applications, objections to the making of TCO applications and requests for revocation of existing TCOs must be used from

1 February 2018. Old forms are accepted prior to this date; however, information relating to the requirement of “25 per cent or more of the factory or work costs of the goods be incurred in Australia” is not required.

[signed] Andrew Tankey

A/g Assistant Secretary Trade and Customs Branch 15 January 2018