

1993

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

HOUSE OF REPRESENTATIVES

CUSTOMS TARIFF AMENDMENT BILL 1993

EXPLANATORY MEMORANDUM

(Circulated by the authority of the Minister for Industry, Technology and Regional
Development, the Hon Alan Griffiths MP)



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OUTLINE

The purpose of this Bill is to amend the *Customs Tariff Act 1987* to overcome a problem with the structure of item 41A of Schedule 4 and thereby confirm the Government's policy intent under the Passenger Motor Vehicle Manufacturing Plan, that for an importer to benefit under paragraph 41A(a) that importer must be the owner of a determination under the Export Facilitation Scheme.

The proposed amendments to paragraph 41A(a) (Clauses 3 and 4 refer) are intended to remove any doubt as to the operation of paragraph 41A(a), and in so doing, remove the possibility that a non-plan producer could import motor vehicles duty free and without export credits under the Export Facilitation Scheme.

Financial Impact Statement

The amendments will remove a potential liability of the Commonwealth to refund duty paid in respect of motor vehicle importations since 1 January 1991. But for the amendments, the extent of that liability could be in the vicinity of \$500 million.

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NOTES ON CLAUSES

Short title etc.

- Clause 1 provides for the Act to be cited as the *Customs Tariff Amendment Act 1993*, and provides that the *Customs Tariff Act 1987* is the Act referred to as the "Principal Act" in the amending legislation.

Commencement

- Clause 2 provides for the Act to commence on the day on which it receives the Royal Assent (subclause (1)), with the exception of:
- . clause 3 (subclause (2)), relating to the amendment to paragraph 41A(a) of Schedule 4 to the Principal Act, which is taken to have commenced on 1 January 1991, the date that item 41A was amended by the addition of a paragraph (d) allowing non-plan producers to benefit directly from export credits they had earned under the Export Facilitation Scheme. (Previously they could only benefit from selling such export credits to plan producers).
 - . clause 4 (subclause (3)), also relating to the amendment to paragraph 41A(a) of Schedule 4 to the Principal Act, which is taken to have commenced on 1 January 1992, the date on which paragraph 41A(a) was last amended.

The separate commencements referred to in clauses 3 and 4 are necessary to maintain continuity of the requirement for non-plan producers to hold determinations under the Export Facilitation Scheme in order to gain the benefit of duty free entry of motor vehicles.

Amendment of Schedule 4 having effect from 1 January 1991

- Clause 3 provides that the Principal Act is amended as set out in Schedule 1.
- . Paragraph 41A(a) has always been intended to benefit only the 5 "plan producers" under the Passenger Motor Vehicle Manufacturing Plan. It allows them a duty free importation of certain vehicles if, in accordance with the plan and with by-laws made for the purposes of item 41A, they own determinations (effectively, export credits) under the Export Facilitation Scheme. Paragraph 41A(a), however, does not expressly advert to the need for such determinations.

In January 1991, item 41A was amended by the addition of a paragraph (d) allowing non-plan producers to benefit directly from

export credits they had earned under the Export Facilitation Scheme. (Previously they could only benefit from selling such export credits to plan producers.) The by-law that was drafted for the purpose of the new paragraph (d) did not state, however, that it was made for the purposes of paragraph (d) alone, with the unintended consequence that a non-plan producer may seek to import motor vehicles duty free, without a determination by relying on paragraph 41A(a) which did not expressly refer to the need for determinations. This amendment is intended to overcome any doubt in this regard by making that express statement previously lacking in paragraph 41A(a). The amendment is not intended to alter however, the scope or manner of operation of paragraph (a).

Amendment of Schedule 4 having effect from 1 January 1992

Clause 4 provides that the Principal Act is amended as set out in Schedule 2.

Schedule 2 effects the same amendment as that outlined above in relation to Schedule 1, but in respect of paragraph 41A(a) as amended by the *Customs Tariff Amendment Act 1992* (Act No. 96 of 1992), with effect from 1 January 1992. The same rationale for the amendment applies in this case as explained above in relation to Schedule 1.