



AUSTRALIAN CUSTOMS AND BORDER PROTECTION NOTICE NO. 2015/14

Commencement of the New *Customs Regulation 2015* and *Customs (International Obligations) Regulation 2015*

The *Customs Regulation 2015* (2015 Regulation) and *Customs (International Obligations) Regulation 2015* (International Obligations Regulation) take effect from 1 April 2015. These regulations remake the *Customs Regulations 1926* (the 1926 Regulations), which sunset on the same date.

The new regulations have undergone changes to significantly improve their operation including repealing redundant provisions, simplifying language and restructuring provisions that were difficult to navigate in the 1926 Regulations. Exposure drafts of the new regulations were published earlier in 2015 (Australian Customs and Border Protection Notices 2015/05 and 2015/07 refer).

Provisions relating to Australia's international obligations including Free Trade Agreements, Duty Drawback Scheme and Dumping and Countervailing measures are contained in the International Obligations Regulation. These provisions are exempt from sunset requirements and have been placed in a separate instrument to ensure that they are not subject to sunset in the future.

The [2015 Regulation](#) and the [International Obligations Regulation](#) can be found on the ComLaw website.

Why are these changes necessary?

The *Legislative Instruments Act 2003* (LIA) provides that all legislative instruments, other than exempt instruments, progressively 'sunset' according to the relevant table set out in the LIA. The purpose of this is to ensure that a suitable review mechanism exists so that legislative instruments remain relevant, necessary and fit-for-purpose. The relevant table provides that any legislative instrument made a year before 1930 is to sunset on 1 April 2015. As such it was necessary to re-make the 1926 Regulations to ensure that relevant provisions continued post 1 April 2015.

What does this mean for me?

In keeping with the scope of the LIA sunset exercise, the new regulations do not introduce any substantive changes to existing government policy.

What you will notice is that the regulations have a different look and feel to the 1926 Regulations. Sections and numbering within the 1926 Regulations have necessarily been restructured and the contents split into two instruments as part of the process to enhance its overall operation.

To assist you to become familiar with the new format, explanatory statements about the [2015 Regulation](#) and the [International Obligations Regulation](#) are available. [Finding tables](#) are also available indicating the location of sections from the previous 1926 Regulations within the remade regulations and vice versa.

I am applying for a refund of customs import duty, what changes should I be aware of?

If you are applying for a refund of customs import duty, the refund reason codes provided in the Integrated Cargo System (ICS) remain the same for now. You should continue to use these when applying for a refund through either the ICS or a manual application form.

However, it is important that you note that the refund reason codes are no longer a shorthand for the location of a refund reason in a particular paragraph in the regulation. The new section numbering means the location of the refund reason types within the new regulations differ from their location within the 1926 Regulations. More detail about these changes is available within the updated '[Refunds of Customs Import Duty](#)' fact sheet. The fact sheet includes a finding table that maps the current refund reason types in the 1926 Regulations to their corresponding section references in the 2015 Regulation and the International Obligations Regulation. There is also general information about the refund application process.

Transitional matters

The new regulations contain transitional provisions to ensure that things done under the 1926 Regulations, before those regulations were repealed, will continue to have effect (if there is a corresponding provision in the new regulation) as if it had been done under the new regulation. For example, if a fee for the grant of a warehouse licence was paid in accordance with regulation 50B of the 1926 Regulations, then that fee will be taken to have been paid in accordance with regulation 37 of the 2015 Regulation (the relevant corresponding provision).

With respect to approved forms and statements the new regulations contain transitional provisions to ensure that forms or statements approved under section 4A of the *Customs Act 1901* for the purposes of a provision in the 1926 Regulations, before those regulations were repealed, will continue to have effect (if there is a corresponding provision in the new regulation) as if they'd been approved for the purposes of the corresponding provision. For example a form approved for the purposes of Regulation 128 of the 1926 Regulation (application for a refund, rebate or remission of duty) will be taken to be an approved form for the purposes of new section 107 of the 2015 Regulation.

These provisions are important because they provide continuity between the 1926 Regulations and the new regulations, including the flexibility for updates to be made over time to relevant existing material containing references to the 1926 Regulations.

We are currently reviewing this material and will be making the appropriate changes over time. However until such time, you should continue to use the available resources provided by us which may contain references to the 1926 Regulations.

Contact us

Enquiries concerning the introduction of the new regulations can be made to regulationsreview@customs.gov.au.

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31 March 2015