

**Reprint
as at 1 January 2010**



**Tariff (AANZFTA) Amendment
Act 2009**

Public Act 2009 No 20
Date of assent 22 July 2009
Commencement see section 2

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The Parliament of New Zealand enacts as follows:

1 Title

This Act is the Tariff (AANZFTA) Amendment Act 2009.

2 Commencement

This Act comes into force on a date appointed by the Governor-General by Order in Council.

Section 2: Tariff (AANZFTA) Amendment Act 2009 brought into force, on 1 January 2010, by the Tariff (AANZFTA) Amendment Act 2009 Commencement Order 2009 (SR 2009/347).

3 Principal Act amended

This Act amends the Tariff Act 1988.

Implementation of preferential tariffs

4 Purpose of sections 5, 6, and 10

The purpose of sections 5, 6, and 10 is to amend the principal Act to enable the implementation of preferential tariffs in accordance with the Agreement Establishing the ASEAN–Australia–New Zealand Free Trade Area done at Cha-am, Phetchaburi, Thailand on 27 February 2009.

5 Interpretation

- (1) The definition of **least developed country** in section 2(1) is amended by omitting “section 7 of this Act” and substituting “section 7A(1)(c)”.
- (2) The definition of **less developed country** in section 2(1) is amended by omitting “section 7 of this Act” and substituting “section 7A(1)(d)”.

- (3) The definition of **specified TPA party** is amended by inserting “under section 7A(1)(b)” after “Order in Council”.
- (4) Section 2(1) is amended by inserting the following definitions in their appropriate alphabetical order:
- “**AANZFTA** means the Agreement Establishing the ASEAN–Australia–New Zealand Free Trade Area done at Cha-am, Phetchaburi, Thailand on 27 February 2009
- “**ASEAN** means the Association of South East Asian Nations
- “**preferential abbreviation** has the meaning given to it by section 7(3)
- “**preferential country** has the meaning given to it by section 7(3)
- “**specified AANZFTA party** means a country that is for the time being declared by Order in Council under section 7A(1)(a) to be a specified AANZFTA party for the purposes of this Act”.

6 New sections 7 to 7B substituted

Sections 7 and 7A are repealed and the following sections substituted:

“**7 Application of Tariff**

- “(1) The Tariff applies to goods in a Tariff item that are the product or manufacture of a preferential country at the rate—
- “(a) specified after the preferential abbreviation (if any) in the column of the Tariff headed Preferential Tariff; or
- “(b) specified in some other way (for example, in a footnote or other indicator) in the Tariff by reference to the preferential country or the preferential abbreviation.
- “(2) The liability to duty of any goods that are the produce or manufacture of a country must, for the purposes of this section, be determined according to the status of that country at the time when the goods are imported into New Zealand.
- “(3) In this section, unless the context otherwise requires,—
- “**preferential abbreviation**, in relation to a preferential country listed or described in the first column of note 3 of Schedule 1, means the abbreviation specified opposite that country in the second column of that note

“**preferential country** means a country listed or described in the first column of note 3 of Schedule 1.

“**7A Orders in Council about preferential countries**

- “(1) The Governor-General may, by Order in Council, do all or any of the following:
- “(a) declare a country that is a party to the AANZFTA to be a specified AANZFTA party for the purposes of this Act:
 - “(b) declare a country to be a specified TPA party for the purposes of this Act if the country—
 - “(i) is a party to the TPA; or
 - “(ii) is provisionally applying the terms of the TPA:
 - “(c) declare a country to be, or not to be, a least developed country for the purposes of this Act:
 - “(d) declare a country to be, or not to be, a less developed country for the purposes of this Act.
- “(2) The Governor-General may, by an Order in Council making a declaration under subsection (1) about a country or any other Order in Council relating to that country,—
- “(a) declare that, in relation to any specified Tariff items, any rate of duty or exemption from duty otherwise applicable to that country is not to apply to that country:
 - “(b) modify, in whole or in part, the Tariff rates of duty applicable to goods from that country.
- “(3) No modification under subsection (2)(b) relating to a specified TPA party or a specified AANZFTA party may have the effect of imposing on any goods a higher duty than that set out in respect of those goods in the Normal Tariff, unless the Governor-General is satisfied that the modification is—
- “(a) necessary or advisable in the public interest; and
 - “(b) consistent with New Zealand’s international obligations.
- “(4) No modification under subsection (2)(b) relating to a less developed country or a least developed country may have the effect of imposing on any goods a higher duty than that set out in respect of those goods in the Normal Tariff.

“7B Evidence of whether South Pacific Regional Trade and Economic Co-operation Agreement is in force in relation to country

“(1) A certificate given by the Secretary of Foreign Affairs and Trade to the effect that any country is or is not one in relation to which, at the time of the importation or entry of the goods into New Zealand, the South Pacific Regional Trade and Economic Co-operation Agreement was in force for the purposes of this Act is conclusive evidence of that fact.

“(2) Any court or any person acting judicially to which or to whom, in any proceeding, any certificate under subsection (1) is produced must take judicial notice of the signature on it of the Secretary of Foreign Affairs and Trade.

“(3) For the purposes of this section,—

“**court** includes the Supreme Court, the Court of Appeal, the High Court, and any District Court

“**District Court** includes—

“(a) a Family Court; and

“(b) a Youth Court

“**person acting judicially** means any person having in New Zealand by law authority to hear, receive, and examine evidence

“**proceeding** means—

“(a) a proceeding conducted by a court; and

“(b) any interlocutory or other application to a court connected with a proceeding.”

*Application of transitional safeguard measures
and provisional transitional safeguard measures*

7 Purpose of sections 8 and 9

The purpose of sections 8 and 9 is to amend the principal Act to provide for the application of transitional safeguard measures and provisional transitional safeguard measures in relation to the Agreement Establishing the ASEAN–Australia–New Zealand Free Trade Area done at Cha-am, Phetchaburi, Thailand on 27 February 2009.

8 Interpretation

The definition of **free trade agreement** in section 15A is amended by adding “; or” and also by adding the following paragraph:

“(c) the AANZFTA and AANZFTA side instruments that relate to safeguards”.

9 Provisional transitional safeguard measure

Section 15H(1)(b)(ii) is amended by inserting “or the AANZFTA” after “the China FTA”.

10 Schedule 1 amended

(1) Note 2 of Schedule 1 is amended by omitting the last paragraph and substituting the following paragraph:

“The rate of duty of Free, appearing by itself in the Preferential Tariff duty column, means that goods from the following countries are entered free of duty (goods that are the produce or manufacture of countries in respect of which the following preferential abbreviations apply: AAN, AU, CA, CN, LDC, LLDC, Pac, SG, TH, or TPA).”

(2) Note 2 of Schedule 1 is amended by adding the following paragraph:

“The rate of duty of Free applies under the Tariff to all goods that are the produce or manufacture of Singapore.”

(3) Schedule 1 is amended by inserting the note set out in the Schedule of this Act after note 2.

Schedule

s 10

New note 3 inserted in Schedule 1

3 Preferential countries and preferential abbreviations

Preferential country	Preferential abbreviation
Country that is a specified AANZFTA party (<i>see</i> section 2(1))	AAN
Australia	AU
Canada	CA
China	CN
United Kingdom of Great Britain and Northern Ireland, the Isle of Man, and the Channel Islands	GB
Country that is a less developed country (<i>see</i> section 2(1))	LDC
Country that is a least developed country (<i>see</i> section 2(1))	LLDC
Malaysia	MY
Country in relation to which the South Pacific Regional Trade and Economic Co-operation Agreement is in force	Pac
Singapore	SG
Thailand	TH
Country that is a specified TPA party (<i>see</i> section 2(1))	TPA

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Notes**1 General**

This is a reprint of the Tariff (AANZFTA) Amendment Act 2009. The reprint incorporates all the amendments to the Act as at 1 January 2010, as specified in the list of amendments at the end of these notes.

Relevant provisions of any amending enactments that have yet to come into force or that contain relevant transitional or savings provisions are also included, after the principal enactment, in chronological order.

2 Status of reprints

Under section 16D of the Acts and Regulations Publication Act 1989, reprints are presumed to correctly state, as at the date of the reprint, the law enacted by the principal enactment and by the amendments to that enactment. This presumption applies even though editorial changes authorised by section 17C of the Acts and Regulations Publication Act 1989 have been made in the reprint.

This presumption may be rebutted by producing the official volumes of statutes or statutory regulations in which the principal enactment and its amendments are contained.

3 How reprints are prepared

A number of editorial conventions are followed in the preparation of reprints. For example, the enacting words are not included in Acts, and provisions that are repealed or revoked are omitted.

For a detailed list of the editorial conventions, see <http://www.pco.parliament.govt.nz/editorial-conventions/> or Part 8 of the *Tables of New Zealand Acts and Ordinances and Statutory Regulations and Deemed Regulations in Force*.

4 Changes made under section 17C of the Acts and Regulations Publication Act 1989

Section 17C of the Acts and Regulations Publication Act 1989 authorises the making of editorial changes in a reprint as set out in sections 17D and 17E of that Act so that, to the extent permitted, the format and style of the reprinted enactment is consistent with current legislative drafting practice. Changes that would alter the effect of the legislation are not permitted. A new format of legislation was introduced on 1 January 2000. Changes to legislative drafting style have also been made since 1997, and are ongoing. To the extent permitted by section 17C of the Acts and Regulations Publication Act 1989, all legislation reprinted after 1 January 2000 is in the new format for legislation and reflects current drafting practice at the time of the reprint.

In outline, the editorial changes made in reprints under the authority of section 17C of the Acts and Regulations Publication Act 1989 are set out below, and they have been applied, where relevant, in the preparation of this reprint:

- omission of unnecessary referential words (such as “of this section” and “of this Act”)
- typeface and type size (Times Roman, generally in 11.5 point)
- layout of provisions, including:
 - indentation
 - position of section headings (eg, the number and heading now appear above the section)
- format of definitions (eg, the defined term now appears in bold type, without quotation marks)
- format of dates (eg, a date formerly expressed as “the 1st day of January 1999” is now expressed as “1 January 1999”)

- position of the date of assent (it now appears on the front page of each Act)
- punctuation (eg, colons are not used after definitions)
- Parts numbered with roman numerals are replaced with arabic numerals, and all cross-references are changed accordingly
- case and appearance of letters and words, including:
 - format of headings (eg, headings where each word formerly appeared with an initial capital letter followed by small capital letters are amended so that the heading appears in bold, with only the first word (and any proper nouns) appearing with an initial capital letter)
 - small capital letters in section and subsection references are now capital letters
- schedules are renumbered (eg, Schedule 1 replaces First Schedule), and all cross-references are changed accordingly
- running heads (the information that appears at the top of each page)
- format of two-column schedules of consequential amendments, and schedules of repeals (eg, they are rearranged into alphabetical order, rather than chronological).

5 *List of amendments incorporated in this reprint
(most recent first)*

Tariff (AANZFTA) Amendment Act 2009 Commencement Order 2009
(SR 2009/347)
