



AUSTRALIAN CUSTOMS AND BORDER PROTECTION NOTICE 2012/73

Customs broker obligations – standard letter

Customs and Border Protection has imposed a number of new conditions on all customs broker licences issued on or after 1 July 2012 (Australian Customs and Border Protection Notice 2012/29 refers). We provided additional guidance to assist customs brokers to meet their obligations (Notice 2012/43 refers).

We ran a series of compliance industry awareness sessions in August 2012 and during those sessions, a number of licensed customs brokers requested a standard Customs and Border Protection letter that they could use to inform clients and prospective clients about the obligations of a customs broker.

Please find attached a standard letter that customs brokers could provide to clients and prospective clients that outlines key aspects of broker licensing under the *Customs Act 1901* and in particular the key obligations of a customs broker. There is no requirement for a customs broker to use this letter.

[signed]
Anthony Seebach
National Manager
Compliance Assurance

11 December 2012



Australian Government
**Australian Customs and
Border Protection Service**

Customs House
5 Constitution Avenue
CANBERRA ACT 2601

To Clients and Prospective Clients of Licensed Customs Brokers

Customs broker obligations

A number of licensed customs brokers have requested a standard letter such as this to inform clients and prospective clients about key aspects of broker licensing under the *Customs Act 1901*, particularly key obligations of a customs broker.

The Customs Act provides that only the owner of goods or a customs broker licensed by the Chief Executive Officer (CEO) of Customs can submit an import declaration to import those goods.

Because of the complexity of the laws governing the importation of goods into Australia (similarly to those of most other countries) and the potential financial and other implications of lodging an incorrect entry, most importers of goods choose to engage a customs broker to act on their behalf.

The Customs Act deems a declaration made by a customs broker on behalf of an owner of goods as made with the knowledge and consent of the owner. The Customs Act can operate to deem a customs broker the owner of the goods but this does not relieve the owner of the goods from liability.

Customs and Border Protection issues licences subject to a number of mandatory obligations specified in the Customs Act, and the CEO or his delegate may impose other obligations or conditions. We issue licences for a period of (up to) three years, which we can also renew on payment of a prescribed fee.

A summary of key customs broker obligations follows.

- The licence holder must perform the duties of a customs broker in a satisfactory and responsible manner and they must not abuse the rights and privileges arising from the licence.
- The licence holder must advise Customs and Border Protection if they are convicted of a prescribed offence.
- The licence holder must advise Customs and Border Protection if in the case of a natural person, they become bankrupt, or in the case of a company, they are being wound up or had an administrator appointed.
- The licence holder must do all things necessary to ensure that persons that participate in the work of the customs broker are persons of integrity.
- If the licence holder becomes aware that information that has been provided to Customs and Border Protection by or on behalf of a client of the broker is false,

misleading or incomplete, the broker must, as soon as practicable after becoming aware of the error or omission provide written particulars of the incident to the CEO.

- The licence holder must not allow Customs and Border Protection systems or information provided by Customs and Border Protection to be used for an unauthorised purpose or to assist, aid, facilitate or participate in any unlawful or illegal activity.
- A natural person who holds a licence must undertake accredited Continuing Professional Development.

The statutory scheme for the licensing of customs brokers has two distinct but complementary purposes.

- Protection of the Commonwealth Revenue – because it is simply impossible for Customs and Border Protection to conduct a 100% check of every entry, it is essential that Customs and Border Protection has a high degree of confidence that customs brokers will exercise their function in a professional, correct and ethical manner in order to ensure that the duty and tax properly payable on goods is in fact paid – no more, but no less – and that import and export data is entered accurately for statistical purposes.
- Protection of the community – over and above the public interest in the correct revenue being collected on any importation of goods, the public has other significant interests in the performance of licensed customs brokers, such as
 - government agencies should be able to establish the true identity of parties undertaking international trade in goods and in a self-assessment context customs brokers should take responsible steps to establish the identity of their clients for the purpose of the Customs Act,
 - clients who engage customs brokers should be able to rely upon their expertise to provide the services they offer in a professional and ethical manner, and
 - consumers of imported goods and others affected by their use should be able to rely on customs brokers to ensure, for example, that potentially dangerous goods are not imported if prohibited or are properly identified and labelled if allowed to be imported.

If you have any concerns about the conduct of a licensed customs broker or you want to confirm that a person is a licensed customs broker, please contact the Broker Licensing Section by telephone on 02 6275 5784 or email at brokers.licensing@customs.gov.au. Under the Customs Act, where a licence holder breaches any obligations, the CEO or his delegate may suspend or cancel the licence, or they may refuse the renewal of a licence.

Yours sincerely

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11 December 2012