



LEGISLATIVE CHANGES TO EXPORT CONTROLS

The *Customs Amendment (Export Controls and Other Measures) Act 2011* (the Act) received Royal Assent on 29 June 2011 and is proposed to commence by Proclamation.

A primary focus of the Act is to strengthen the Australian Customs and Border Protection Service (Customs and Border Protection) controls over export cargo. This includes:

- extending Customs control to include 'goods no longer for export';
- changes to applications for permission to move, alter or interfere with export goods under Customs control;
- powers to direct the movement/storage of goods in the exports environment; and
- powers to suspend an authority to deal for export goods and request additional information.

CUSTOMS CONTROL OF GOODS THAT ARE 'NO LONGER FOR EXPORT'

Customs control has been extended to include goods that are 'no longer for export' located at a prescribed place for export.

Goods become no longer for export, for instance, when an Export Declaration Number (EDN) is withdrawn, or an authority to deal is suspended or cancelled.

PERMISSION TO MOVE, ALTER OR INTERFERE WITH EXPORT GOODS UNDER CUSTOMS CONTROL

Permission must be sought from Customs and Border Protection to move, alter or interfere with export goods that are under Customs control (which now includes goods no longer for export).

Goods for export

Existing section 119AA of the *Customs Act 1901* is the mechanism by which goods **for export** may be accessed for legitimate purposes such as adding, removing or exchanging goods in a consignment.

This section applies to goods for export under Customs control that have been entered for export (with an allocated EDN) and for which an authority to deal is in place.

Goods no longer for export

New section 119AB of the *Customs Act 1901* is the mechanism by which goods under Customs control that are **no longer for export** may be accessed for legitimate purposes.

When is permission required?

This application process applies to goods that are at a wharf or airport (Cargo Terminal Operator (CTO)); and prescribed warehouse goods at a Section 77G depot.

Unless Customs and Border Protection advises otherwise¹, permission **is not** required for:

- goods that do not have, nor require, an export declaration to be lodged;
- non-prescribed warehouse goods at a 77G depot;
- stockpiled bulk goods and new motor vehicles at a wharf or airport, not yet entered for export;
- transshipment cargo (an Underbond Movement Request should be used).

Lodging an application (Form B959)

To apply for permission to move, alter or interfere with export goods under Customs control, the exporter (or their agent) must complete a Form B959.

There is a typeable version of **Form B959** on the Customs and Border Protection website. The form should be completed and signed, then lodged via email to the nominated Customs and Border Protection mailbox in each region.

The applicant is required to ensure that the goods are held in the place where they are currently located until a decision is made on the application.

¹ In exceptional circumstances, Customs and Border Protection may advise that the application process be followed for other goods at a 77G depot or any other prescribed place for export as permitted by the definition of 'Customs control'.

If an application **is** approved, it is returned to the applicant giving them permission to access the goods either unconditionally or subject to specified conditions.

If the application **is not** approved, it is returned to the applicant setting out the reasons for refusal and the goods must not be accessed.

If a person moves, alters or interferes with goods otherwise than in accordance with these decisions, this access will be taken as not to have been authorised and the goods will be forfeited.

Note to CTOs/77G depots: This process does **not** replace the electronic reporting of a CTO removal/77G depot release notice.

DIRECTIONS RELATING TO GOODS IN THE EXPORT ENVIRONMENT

Customs and Border Protection may now give a written direction to move or not move, or about the storage of, goods for export etc that are subject to Customs control (which also includes goods no longer for export).

However, this power will only be used in limited circumstances and only for the purpose of protecting revenue, or ensuring compliance with prescribed laws or regulations.

Who can be given directions?

Directions can now be given to any party who may be involved with export goods under Customs control (owner, EDN reporting party, CTO, etc). Customs and Border Protection already has the power to give written directions to 77G depots.

When and how will directions be given?

The new directions power is intended for situations where Customs and Border Protection determines that cargo should not be loaded after it has been received at a CTO, etc. This may occur, for instance, where further information is received about a consignment and examination is required.

CTOs etc may be unaware of changes to the Integrated Cargo System (ICS) movement status after the goods are received into these places. Customs and Border Protection will therefore notify parties by means other than the ICS, for instance, by email or fax.

Refusal or failure to comply with such directions is an offence.

SUSPENSION OF AN AUTHORITY TO DEAL FOR GOODS ENTERED FOR EXPORT AND REQUESTING ADDITIONAL INFORMATION

An officer may now suspend an authority to deal for a specified period in order to verify particulars of goods in an export declaration. Additional information may be requested.

However, this power will only be used in limited circumstances and only for the length of time until the particulars of the goods are verified.

Suspension of an authority to deal

For **documentary** export declarations, a signed notice will be served on the affected party (exporter, 77G depot, CTO etc) advising that the authority to deal has been suspended, including the reasons for, and commencement of, the suspension.

For **electronic** export declarations, a message will be sent by ICS to the EDN reporting party advising that the authority to deal has been suspended. Affected parties (exporter, 77G depot, CTO, etc) will be advised directly of the suspension, including the reasons for, and commencement of, the suspension.

The suspension will be revoked as soon as possible after the particulars of the goods are verified. Affected parties (exporter, 77G depot, CTO, etc) will be advised accordingly.

Request for additional information (Form B961)

If an authority to deal is suspended, an officer may request additional information, or ask questions relating to the goods, in order to verify particulars of the goods in an export declaration.

If the owner is required to deliver commercial documents or information, Customs and Border Protection will send a request using **Form B961**. The request will be sent to the EDN reporting party.

When the documents have been dealt with, they will be returned to the owner.

FOR MORE INFORMATION

For more information on these legislative changes to export controls, contact Import/Export Policy by email importexportpolicy@customs.gov.au

For more information on any Customs and Border Protection matter, contact the Customs Information and Support Centre on 1300 363 263 or email information@customs.gov.au or browse the website at www.customs.gov.au

Nominated Customs and Border Protection mailbox in each region for lodgement of B959

During business hours Monday to Friday 8:30 to 17:00

Region	Email address
NSW	NSWlodgementsStaff@customs.gov.au
NT	ComplianceNT@customs.gov.au
QLD	expremqld@customs.gov.au
SA	sa119aaapplications@customs.gov.au
TAS Launceston	acs.launceston@customs.gov.au
TAS Hobart and Burnie	hobart@customs.gov.au
VIC	cargoservices@customs.gov.au
WA	wa119applications@customs.gov.au

Out of hours (all regions): cmc@customs.gov.au