



AUSTRALIAN CUSTOMS NOTICE NO. 2009/55

INCREASED PENALTIES FOR 'COMMERCIAL' IMPORT/EXPORT OF OBJECTIONABLE GOODS

The penalties applying to the commercial importation and exportation of objectionable goods have increased with effect from 16 December 2009.

Penalties exist for all breaches of the *Customs (Prohibited Imports) Regulations 1956* and *Customs (Prohibited Exports) Regulations 1958*. For more serious breaches, the *Customs Regulations 1926* provide higher levels known as Tier 1 and Tier 2 that attract higher penalties. Tier 1 offences currently attract penalties of up to \$110,000 in fines and/or five years imprisonment. Tier 2 currently attracts penalties of \$275,000 and /or 10 years imprisonment.

The importation and exportation of objectionable goods is prohibited by regulation 4A of the *Customs (Prohibited Imports) Regulations 1956* and Regulation 3 of the *Customs (Prohibited Exports) Regulations 1958*. The criteria for determining objectionable goods are consistent with the RC (Refused Classification) criteria in the National Classification Code and the *Classification (Publications, Films and Computer Games) Act 1995*.

'Objectionable' covers a wide range of material, including offensive or sexualised violence, illustrations of bestiality, harmful or disgusting fetishes, offensive fantasies, terrorist material and drug use. It can be contained in publications, films, computer games or computer generated images. It may also include the more serious offences of child pornography and child abuse material that are already subject to Tier 2 penalties.

From 16 December 2009 'commercial quantities' of objectionable goods are listed as Tier 1 goods under the *Customs Regulations 1926* (the Regulations). The new penalties apply to the import/export of objectionable goods above a set threshold or the import of objectionable goods for a prescribed purpose (as described below).

Tier 1 penalties apply to categories of objectionable material defined in the *Customs Regulations 1926* as either:

- i) The import or export of 25 items or more; or
- ii) Goods imported for the purpose of:
 - (a) selling the good;
 - (b) letting the good for hire;
 - (c) by way of trade, offering or exposing the good for sale or hire;
 - (d) distributing the good for the purpose of trade; or
 - (e) exhibiting or displaying the good in public.

The new provisions do not affect the existing Tier 2 penalties for more serious offences involving child pornography and child abuse material.

Enquiries regarding the policy can be made to the Attorney-General's Department on telephone (02) 6141 3464 or via email to christopher.lee@ag.gov.au. Further information on classification requirements can be found at www.classification.gov.au

Enquiries regarding this notice may be directed to Community Protection Policy on telephone (02) 6275 6114 or via email to community.protection@customs.gov.au