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## AUSTRALIAN CUSTOMS AND BORDER PROTECTION NOTICE NO. 2011/56

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### Industry advice on changes to the Infringement Notice Scheme and Infringement Notice Scheme Guidelines

On 28 November 2011 the *Customs Amendment (Export Controls and Other Measures) Act 2011* (the Act) came into effect.

The Act's primary focus is to strengthen controls over export cargo, enhancing Customs and Border Protection's ability to respond to specific security concerns and to detect and respond to high-risk export cargo.

The amended INS Guidelines (2010) now incorporate the new offences.

As with previous introductions of new offences with associated penalties under the INS, a six-month 'administrative moratorium' will be in place until 31 May 2012.

Consequently, there will be no infringement notice action in relation to breaches of offences against 77R(1), 77Y(4), 82C(1) or 112D(2), until 1 June 2012.

It should be noted however that as 77R(1) and 77Y(4) are existing offences, prosecution action may result from breaches despite the moratorium period being in effect.

#### **New Strict Liability offences under the INS**

- Subsections 82C(1): requires that the holder of a warehouse licence must not breach a licence condition(s).
- Subsection 112D(2): it is an offence if a person refuses or fails to comply with a written direction in relation to goods for export.

#### **Existing offences now included as Strict Liability offences under the INS**

- Subsection 77R(1): the holder of a depot licence must not breach a condition of their licence
- Subsection 77Y(4): it is an offence if a person refuses or fails to comply with a written direction given in relation to goods in a licensed depot.

#### **Applicable Penalties**

The applicable penalty for the new strict liability offences under the INS is 10 penalty units (\$1100.00).

## **New inclusion of goods subject to the control of Customs**

The new legislation also tightens Customs control in relation to goods brought into a prescribed place for export that are 'no longer for export'.

One of the changes implemented is a requirement for Customs and Border Protection's permission to be sought before goods (located in a prescribed place for export) that have become 'no longer for export' can be moved, altered or interfered with. Goods may become 'no longer for export' if, for instance, the relevant Export Declaration is withdrawn or Authority to Deal is cancelled or suspended.

Movement, alteration or interference with these goods may attract INS action under the existing section 33 offences.

Should you require further information on the impact of these changes, please contact [compliance1@customs.gov.au](mailto:compliance1@customs.gov.au) or call 1300 363 263.



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