



AUSTRALIAN CUSTOMS NOTICE NO. 2007/56

Owners of Goods and Authorised Agents: Authorities to Act

The purpose of this Notice is to clarify the legislative requirements concerning agents acting with the appropriate authority on behalf of owners for the purposes of the Customs Acts and also to provide advice on how that written authority may be given.

Subsection 181(1) of the *Customs Act 1901* (the Act) states that an owner of goods may, in writing, authorise a person to be their agent for the purposes of the Customs Acts at a place or places specified by the owner.

Under subsection 181(2) of the Act an owner of goods shall not authorise a person to be their agent unless that person is either:

- (i) a natural person who is an employee of the owner and is not an employee of any other person; or
- (ii) a customs broker.

This is extended by subsection 181(3) of the Act to also include corporate customs brokers as authorised agents. Subsection 181(2) of the Act does not apply to the making of an export entry or self-assessed clearance (SAC) declarations under section 71AAAF of the Act.

This means that under the Act, where a Freight Forwarder offers customs clearance services to an owner including the making of an import declaration by a customs broker, the owner will need to give written authority for the customs broker to act on their behalf for the purpose of making the import declaration. The written authority will meet the purposes of section 181 of the Act if:

- the person giving the authorisation is an owner of the goods; and
- the owner of the goods is authorising another person (agent) to act on their behalf; and
- the agent is a customs broker, or a natural person who is an employee of the owner and is not an employee of any other person.

The written authority must show the name of the customs broker appointed to act for the purposes of the Customs Acts and should be signed by the owner of the goods.

The written authority of a person to act on behalf of an owner of goods can be in the form of an electronic communication such as an email, if the customs broker consents to the authority being given in that manner. If the written authority is given electronically the electronic communication should identify the person who is giving the authority (that is, the owner of the goods) and the customs broker appointed to act on behalf of the owner of the goods for the purposes of the Customs Acts.

Subsection 182(1) of the Act provides that Customs may refuse to recognise the authority of a person to act on behalf of an owner if the person does not produce the written authority of that person to act on behalf of the owner. Risk assessment techniques are used by Customs to select importations for which a written authority to act on behalf of an owner of goods is required to be produced.

An offence under subsection 181(5) of the Act may be committed by a person who does not have the proper written authority to act on behalf of an owner of goods, if that person:

- Does any act or thing in relation to the goods that is required or permitted to be done by the owner of the goods under the Customs Act; or
- Represents that they are able to do, or able to arrange to be done, any act or thing in relation to the goods that is required or permitted to be done by the owner under the Customs Acts.

The maximum penalty a court may impose for an offence under subsection 181(5) of the Act is \$1100.

Inquiries regarding this notice may be directed by e-mail to Compliance1@customs.gov.au .

Sharon Nyakuengama
A/g National Director
Compliance Division
for
Chief Executive Officer
28 September 2007