



AUSTRALIAN CUSTOMS NOTICE NO. 98/52

INSTRUCTIONS FOR: THE COMPLETION OF THE COMPILE/EDIFICE/EFT USER AGREEMENT and RELEASE AND NOMINATION OF CUSTOMS BROKERS AFTER INITIAL ISSUE OF PIN NUMBERS.

As a result of amendments in procedures and licensing locations, this notice replaces ACN 92/138.

A: INITIAL COMPLETION OF THE COMPILE/EDIFICE/EFT USER AGREEMENT (the Agreement)

New applicants seeking registration as a COMPILE/EDIFICE/EFT User will need to apply for registration in an approved form. The approved form is available from Customs Houses in each capital city. Upon execution of the Agreement, Customs will issue sufficient PIN Numbers to cover the persons nominated in Schedule B of the Agreement. The Agreement sets out the terms and conditions relating to COMPILE/EDIFICE/EFT and contains various schedules to be completed by the registered user.

Procedure

1. Completing the Agreement.

Please note, care should be exercised to ensure that this agreement is completed correctly:

- Each page must be initialled by all signatories.
- The Agreement must be dated on Page 2.
- Sole Trader, Partnership or Corporate Name (and if applicable Corporate Licence number) and address must be completed in full on pages 2 and 12.
- Sole Trader or Partnerships should sign alongside the 'Signed, sealed and delivered by' section on page 12.
- The Common Seal should be affixed by the Corporate Bodies and each signatory should sign through the Seal on page 12.

2. Collection of PIN Numbers.

A sealed, numbered envelope with a letter listing all the PIN Numbers for the User will be prepared by Customs.

When the nominated representative of the User collects the PIN Numbers, the envelope number and Users details will be entered into a register. The User or their nominated representative must sign and date the register in recognition of receipt of that numbered envelope.

Proof of identity, as the nominated representative of the User, must be given and noted in the register. The ideal form of identification will be a drivers licence. Alternatively a credit card may be used.

3. Nationally Incorporated Agencies.

These agencies need only complete one Agreement for Australia wide application. In Schedule B of the Agreement, all nominees of the company should be listed with an indication of the region in which each nominee usually operates.

The region in which the head office is situated will be responsible for the initial issue of PIN Numbers for the nominees in all other states.

B: RELEASE AND NOMINATION OF CUSTOMS BROKERS AFTER INITIAL ISSUE OF PIN NUMBERS

General

This notice covers updated procedures for nominee brokers changing agencies. These measures are designed to integrate the requirements of the Customs Act 1901 (the Act), brokers licensing and the COMPILE/EDIFICE/EFT User Agreement. Attachments A & B contain the Act and clauses stated below.

1. Background to Release Procedure

A corporate agency or sole trader must notify Customs in writing when a nominee agent ceases to act as a nominee of the agency, as per subsection 183CG(3)(b) of the Act and clause 13.7 of the Agreement.

Clause 13.7 of the Agreement states that the User agrees “... *it will forthwith notify the ACS in writing ...*” when a nominee ceases acting for the agency. Customs may then cancel the released nominee’s PIN Number.

2. Background to Nomination Procedure

A corporate agency or sole trader must notify Customs in writing when a broker is nominated to the agency, as per subsection 183CG(3)(a) of the Act and clause 13.8 of the Agreement.

Clause 13.8 of the Agreement states that the User must notify Customs in writing prior to the issue of an additional PIN Number. The letter must contain the Schedule B details of the Agreement.

3. Nominee's Responsibility

Subsection 183CF(4) of the Act states that a person **shall not be endorsed** as a nominee of a broker unless that person consents in writing to the nomination.

4. Procedure for a Nominee Changing Agencies

Three letters must be submitted to Customs when a nominee changes agencies. This requirement has not changed. In order to enable Customs to provide COMPILE access at the nominee's new agency, these letters must now provide more detail. Attachment C is an example of the format for an agency release letter. Attachment D is an example of the format for an agency nomination letter, including Schedule B of the Agreement. Attachment E is an example of the nominee brokers consent letter.

An agency's nomination letter must be presented with the nominee brokers consent letter. The agency release letter must be received before, or at the same time, as the nominating letters. The responsibility lies with the three parties involved to co-ordinate this. PIN Numbers will not be issued if the nominee has not been released. The person who signs the agency letters must be a director or partner of the agency, or a person nominated by the directors or partners to direct the nominees of the agency (such as a Customs or Office Manager). A sole trader must sign his/her agency's letters.

Please note that PIN Numbers will not be issued unless all three letters are provided in the correct format.

5. Where to Present the Letters

The letters are to be either mailed or faxed to the following:

Brokers Licensing Group
Import/Exports Management Branch
Australian Customs Service
5 Constitution Ave
Canberra ACT 2601
Fax: 02 6275 6601

6. Brokers moving out of the Customs Brokers Industry

When a broker leaves an agency and joins a company outside the Customs brokers industry, the letters must state this fact. In this case, only two (2) letters are required - a letter from the broker to inform Customs about the termination of his employment with the releasing agency in the format provided in Attachment 'F' and a letter in the format provided in Attachment 'C' from the releasing agency.

Further Information

Any enquires regarding this Notice should be directed to your Local User Liaison section.

Sandra Caligari
a/g National Manager
Import/Export Management Branch
for
Chief Executive Officer
Canberra ACT 2601
09 July 1998

CUSTOMS ACT 1901 - SECT 183CF

Variation of licences

SECT

183CF. (1) Subject to subsection (3), the CEO may, upon application in writing by a customs agent and the production of his agents licence, vary the endorsements on the licence so that a place is specified, or ceases to be specified, in the licence as a place at which the holder of the licence may act as a customs agent.

(2) Subject to subsection (3), the CEO may, upon application in writing by a customs agent and the production of its agents licence, vary the endorsements on the licence so that a person is specified, or ceases to be specified, in the licence as a nominee of the customs agent.

(3) The CEO shall not vary the endorsements on a licence so that the licence ceases to comply with subsection 183C (2).

(4) A person shall not be endorsed under subsection (2) as a nominee of a customs agent unless he has consented, in writing, to the endorsement.

CUSTOMS ACT 1901 - SECT 183CG

Licence granted subject to conditions

SECT

183CG. (1) An agents licence is subject to the condition that if:

- (a) the holder of the licence is convicted of a prescribed offence;
 - (b) in the case of a licence held by a natural person - the holder of the licence becomes bankrupt; or
 - (c) in the case of a licence held by a company:
 - (i) a receiver of the property, or part of the property, of the company is appointed; or
 - (ii) an administrator of the company is appointed under section 436A, 436B or 436C of the Corporations Law; or
 - (iii) the company executes a deed of company arrangement under Part 5.3A of that Law; or
 - (iv) the company begins to be wound up;
- the holder of the licence shall, within 30 days after the occurrence of the conviction, bankruptcy or event referred to in paragraph (c), as the case requires, give the CEO particulars in writing of the conviction, bankruptcy or event referred to in paragraph (c), as the case requires.

(2) An agents licence held by a natural person is subject to the condition that the holder of the licence shall not act as a customs agent in his own right at any time at which he is a nominee of a customs agent.

ATTACHMENT A CONTINUED

- (3) An agents licence held by a customs agent is subject to the condition that if:
- (a) a person not described in the application for the licence as participating in the work of the customs agent commences so to participate;
 - (b) a nominee of the customs agent dies or ceases to act as nominee of the customs agent;
 - (c) a person who participates in the work of the customs agent is convicted of a prescribed offence or becomes bankrupt; or
 - (d) in the case of a licence held by a partnership:
 - (i) a member of the partnership is convicted of a prescribed offence or becomes bankrupt; or
 - (ii) there is a change in the membership of the partnership;
- the holder of the licence shall, within 30 days after the occurrence of the event, change, conviction or bankruptcy, as the case requires, give the CEO particulars in writing of that event, change, conviction or bankruptcy, as the case requires.
- (4) An agents licence held by a customs agent is subject to the condition that the agent shall do all things necessary to ensure that:
- (a) all persons who participate in the work of the customs agent are persons of integrity; and
 - (b) in the case of a licence held by a partnership - all members of the partnership are persons of integrity.
- (5) An agents licence is subject to such other conditions (if any) as are prescribed.
- (6) An agents licence is subject to such other conditions (if any) as are specified in the licence, being conditions considered by the CEO to be necessary or desirable for the protection of the revenue or for the purpose of ensuring compliance with the Customs Acts.
- (7) The CEO may, upon application in writing by a customs agent and the production of the licence held by the customs agent, vary the conditions specified in the licence by making an alteration to, or an endorsement on, the licence.
- (8) Where a customs agent fails to comply with a condition of his licence the CEO may, by notice in writing served on him, require him to comply with that condition within the time specified in the notice.

Clause 13.7 & 13.8 as per User Agreement:

- 13.7** The User agrees it will forthwith notify the ACS in writing upon its becoming aware that a person to whom the User has allocated a PIN number ceases to be a permanent employee of the User or where the User is a partnership a partner to whom a PIN number has been allocated leaves the partnership and upon receipt of that notification the ACS may immediately cancel that PIN number.
- 13.8** The User agrees that if at any time following the execution of this Agreement the User should require additional or substitute PIN numbers it shall make a request to the ACS in writing and shall acknowledge in that request that it is bound by the conditions of this Agreement and shall complete a proforma containing the details in Schedule A and upon receipt of that request the ACS will as soon as possible issue the requisite number of PIN numbers in accordance with the procedures contained in clause 13.4.

ATTACHMENT C

ABC CUSTOMS AGENCY PTY LTD
Customs and Forwarding Agency
373 Tariff Street
MASCOT NSW 2020
Tel: (02) 9334 5678

ACN 088 88 888

07 July 1998

Brokers Licensing Group
Imports/Exports Management Branch
Australian Customs Service
5 Constitution Ave
Canberra ACT 2601

Attention: Brokers Licensing Officer

Dear Sir,

Re: Corporate Licence Number 97971

We wish to advise that John Citizen, brokers licence number 9999, has ceased employment with this agency and is no longer a nominee of our Corporate licence.

We request the cancellation of PIN Number E1SZZ8, which was used by Mr Citizen.

Yours faithfully,

(B. Broker)
Director

ATTACHMENT TO ACN 98/52

XYZ CUSTOMS & FORWARDING AGENCY PTY LTD

Customs Brokers & Tariff Consultants

24 Bylaw Crescent

BOTANY NSW 2019

Tel: (02) 9233 3333

ACN 099 999 999

07 July 1998

Brokers Licensing Group
Imports/Exports Management Branch
Australian Customs Service
5 Constitution Ave
Canberra ACT 2601

Attention: Brokers Licensing Officer

Dear Sir,

Re: Corporate Licence Number 99889

John Citizen, Customs broker's licence number 9999, has commenced employment with this agency and we wish to nominate him to act on our behalf.

We request the issue of an additional PIN Number for his use.

I nominatewhose signature appears below, as my personal representative to take delivery from the Australian Customs Service the sealed envelope containing the PIN(s) to be issued under the terms of this Agreement.

Signature of the user

Signature of the witness

Signature of the personal
representative of the user

Signature of the witness

07 July 1998

Brokers Licensing Group
Imports/Exports Management Branch
Australian Customs Service
5 Constitution Ave
Canberra ACT 2601

Attention: Brokers Licensing Officer

Dear Sir,

Re: Brokers Licence Number 9999

This letter is to inform you that I have ceased employment with ABC Customs Agency Pty Ltd, Corporate Licence No. 97971, and have accepted nomination and employment with XYZ Customs and Forwarding Agency Pty Ltd, Corporate Licence No. 99889.

Date of effect is 07 July 1998.

For your information and records.

Yours faithfully,

John Citizen

ATTACHMENT F

07 July 1998

Brokers Licensing Group
Imports/Exports Management Branch
Australian Customs Service
5 Constitution Ave
Canberra ACT 2601

Attention: Brokers Licensing Officer

Dear Sir,

Re: Brokers Licence Number 9999

This letter is to inform you that I have ceased employment with ABC Customs Agency Pty Ltd, Corporate Licence No. 97971.

Date of effect is 07 July 1998.

For your information and records.

Yours faithfully,

John Citizen