



Australian
BORDER FORCE

Australian Customs Notice No. 2024/21

New Obligations on Customs Broker Licences

Notification to all customs broker licence holders

The purpose of this notice is to inform customs broker licence holders of the changes to customs broker additional licence conditions that come into effect on **01 July 2024** as the Comptroller-General of Customs (Comptroller-General) considers it necessary in accordance with section 183CGA of the *Customs Act 1901* (the Act).

Additional licence conditions are imposed by the Comptroller-General under section 183CG(6) of the Act, and apply to all customs broker licences. These additional conditions are being imposed as they are considered necessary or desirable for the protection of the revenue and ensuring compliance with the Customs Acts.

A full list of customs broker licence conditions can be found at **Attachment A**. A copy will be provided to all licensed customs brokers as part of their licence renewal documentation.

Guidance on the additional licence conditions can be found at **Attachment B**.

Additional Licence Conditions 1 to 8

Additional licence conditions 1 to 8 are existing licence conditions that were in force prior to 01 July 2024. These conditions have been amended, however, to reflect references to the Australian Border Force (ABF); and a 14 day timeframe has been introduced for additional licence conditions one, two, three, six and eight.

Additional Licence Conditions 9 to 19

Additional licence conditions 9 to 19 are new additional licence conditions. **These conditions apply to corporate and sole trader customs brokers** and are related to the expansion of the fit and proper requirements to entities *participating in the operations of the customs broker*.

Notification of Changes

The detailed breakdown of all changes and additions to the licence conditions were provided to all licensed customs brokers as a part of their renewal pack issued in May 2024.

Notifying the Australian Border Force

Communications from customs broker licence holders to the ABF in relation to any matters referenced in the obligations outlined in this Notice (other than condition 4) can be addressed to brokers.licensing@abf.gov.au quoting the respective licence number.

If the information to be provided is in relation to additional licence condition 4, per existing requirements this will need to be provided to Border Watch as specified on the ABF website (<https://www.abf.gov.au/about-us/what-we-do/borderwatch>).

Complying with notification requirements

Failure to meet any condition(s) of the licence constitutes a breach under section 183CGC(1) of the Act. Breaching this section of the Act can result in an infringement notice being issued, prosecution in court, further conditions being placed on the licence, suspension and/or the cancellation of the licence.



Asha Rajah-Clarke
Commander
Customs and Trade Compliance
National Operations Group
Australian Border Force
26 June 2024



Australian
BORDER FORCE

CUSTOMS BROKER LICENCE

LICENCE No: <LICENCE NUMBER>

Pursuant to Part XI of the Customs Act 1901 (the Act) and subject to the Act and the regulations being in force under the Act and to the attached conditions, I hereby licence:

<p><ABD/CCID></p> <p><NAME></p>

The licence shall commence on

<p><START DATE></p>

The licence shall expire on

<p><FINISH DATE></p>

The licence shall expire on the above date unless renewed in accordance with section 183CJ of the Customs Act 1901.

The licence is valid for all places in the Commonwealth.



Delegate of the Comptroller-General of Customs

Dated <PRINT DATE>

Statutory Conditions

This licence is subject to the statutory conditions set out in Division 3 of Part XI of the Act as amended from time to time. The statutory conditions of this licence are:

- (1) A broker's licence is subject to the condition that if:
 - (a) the holder of the broker's licence is convicted of a prescribed offence;
or
 - (b) in the case of a licence held by a natural person—the holder of the licence:
 - (i) becomes bankrupt; or
 - (ii) has been refused a transport security identification card, or has had such a card suspended or cancelled, after the licence was granted or last renewed, or within the 10 years immediately preceding that grant or renewal; 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 Act 2001*; or
 - (iii) the company executes a deed of company arrangement under Part 5.3A of that Act; or
 - (iv) the company begins to be wound up;

the holder of the licence shall, within 30 days after the occurrence of the event referred to in paragraph (a), (b) or (c), give the Comptroller-General of Customs particulars in writing of that event.
- (2) A broker's licence held by a natural person is subject to the condition that the holder of the broker's licence shall not act as a customs broker in his or her own right at any time at which he or she is a nominee of a customs broker.
- (3) A broker's licence held by a customs broker 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 broker commences so to participate; or
 - (b) a nominee of the customs broker dies or ceases to act as nominee of the customs broker; or

- (c) a person who participates in the work of the customs broker:
 - (i) is convicted of a prescribed offence; or
 - (ii) becomes bankrupt; or
 - (iii) has been refused a transport security identification card, or has had such a card suspended or cancelled, after the licence was granted or last renewed, or within the 10 years immediately preceding that grant or renewal; 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
- (ia) a member of the partnership has been refused a transport security identification card, or has had such a card suspended or cancelled, after the licence was granted or last renewed, or within the 10 years immediately preceding that grant or renewal; 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 referred to in whichever of the preceding paragraphs applies, give the Comptroller-General of Customs particulars in writing of that event.

- (4) A broker's licence held by a customs broker is subject to the condition that the broker shall do all things necessary to ensure that:
 - (a) all persons who participate in the work of the customs broker are fit and proper persons; and
 - (b) in the case of a licence held by a partnership—all members of the partnership are fit and proper persons.
- (5) A broker's licence is subject to such other conditions (if any) as are prescribed.
- (6) A broker's licence is subject to such other conditions (if any) as are specified in the licence, being conditions considered by the Comptroller-General of Customs to be necessary or desirable:
 - (a) for the protection of the revenue; or
 - (b) for the purpose of ensuring compliance with the Customs Acts; or
 - (c) for any other purpose.
- (7) The Comptroller-General of Customs may, upon application in writing by a customs broker and the production of the licence held by the customs

broker, vary the conditions specified in the licence by making an alteration to, or an endorsement on, the licence.

(7A) Subsection (7) does not limit section 183CGB.

(8) Where a customs broker fails to comply with a condition of his or her licence the Comptroller-General of Customs may, by notice in writing served on the customs broker, require the customs broker to comply with that condition within the time specified in the notice.

Additional Conditions

This licence is also subject to the following additional conditions pursuant to subsection 183CG(6):

- (1) The customs broker (broker) must within fourteen (14) days of a request by the Australian Border Force (ABF) complete and provide the required documentation to the ABF to allow fit and proper person checks to be conducted. The meaning of "required documentation" is defined in the Notes.
- (2) Where the broker is a company and there is a change in any of the directors or officers the broker must, within fourteen (14) after the occurrence of the event, provide in writing full details of the change to the ABF. If there is a change in a shareholder or member of the company the broker must, within thirty (30) days after the occurrence of the event, provide in writing full details of the change to the ABF.
- (3) Where the broker is a company, when requested by the ABF the company must ensure that each director, officer, shareholder or member, within fourteen (14) days of the request provides the required documentation to the ABF to allow a fit and proper person check to be conducted.
- (4) If the broker becomes aware that information that has been provided to the ABF or the Department of Home Affairs (Department) is false, misleading or incomplete, the broker must as soon as practicable after becoming aware provide written particulars of the incident to the ABF via Border Watch as specified on the ABF website.
- (5) The broker must not allow Departmental systems or information provided by the ABF or the Department to be used for any unauthorised purpose or to assist, aid, facilitate or participate in any unlawful or illegal activity.
- (6) All brokers that are a natural person must each CPD year complete Continuing Professional Development (CPD) in accordance with the requirements set forth on the ABF website at (Professional development for customs brokers (abf.gov.au)). The CPD year is the period 1 April in a year to 31 March the following year.

- (a) The broker must keep accurate, auditable, written records of the successful completion of accredited CPD activities and provide the records on request to the ABF. For the avoidance of doubt, records includes any method of recording their CPD activities on a document. Note: “document” is defined in s4 of the Customs Act 1901.
 - (b) The broker must notify the ABF within fourteen (14) days of the end of a CPD year if he or she has failed to complete the required number of CPD points for that CPD year together with a written explanation of the reasons for the failure.
- (7) The broker must not lodge an Import Declaration from outside Australia. For the avoidance of doubt, the customs broker must be physically located in Australia at the time they lodge an import declaration.
- (8) A broker that is a company or a natural person (other than a person that is a nominee of a customs broker) must maintain suitable professional indemnity insurance for the protection of their clients and the Commonwealth. The broker must forward evidence of insurance to the ABF within fourteen (14) days of a request by the ABF.
- (9) A broker that is a company or a natural person (other than a person that is a nominee of a customs broker) must within seven (7) days of a request by the ABF, provide to the ABF a list of all persons participating in the work of the customs broker, and a list of all persons participating in the operations of the customs broker. The meaning of “participating in the operations of the customs broker” is defined in the Notes.

The lists must contain the full name, date of birth, position held and, in the case of persons participating in the operations of the customs broker, whether they have completed the B1555 ‘Consent Form - Fit and Proper Checks’ and provided the required identity documentation to allow the broker or ABF to undertake a fit and proper person check on all such persons.

- (10) A broker that is a company or a natural person (other than a person that is a nominee of a customs broker) must ensure that a person who the Comptroller-General of Customs (Comptroller-General) is satisfied is not a fit and proper person does not participate in the operations of the customs broker. Without limiting the factors that the Comptroller-General may take into account to determine whether a person is a fit and proper person to participate in the operations of the customs broker, the Comptroller-General may have regard to:
- (a) whether the person has been convicted of a prescribed offence, or an equivalent offence in another country or part of a country.
 - (b) whether the person has been refused a transport security identification card (defined in section 4 of the Customs Act 1901 – which may be found at <https://www.legislation.gov.au/Details/C2022C00061>), or has had such a card suspended or cancelled; and

- (c) if the person is not an Australian citizen, whether the person has breached any condition of their visa to reside in Australia.

Note: a “prescribed offence” is defined in s180 of the Customs Act 1901.

- (11) A broker that is a company or a natural person (other than a person that is a nominee of a customs broker) must ensure that any person the broker is aware or informed by the Comptroller-General is an unlawful non-citizen (which has the same meaning as in the Migration Act 1958 – which may be found at <https://www.legislation.gov.au/Details/C2021C00357>) does not participate in the operations of the customs broker.
- (12) A broker that is a company or a natural person (other than a person that is a nominee of a customs broker) must notify the Comptroller-General as soon as practicable if the customs broker becomes aware that a person who participates in the operations of the customs broker:
 - (a) has been convicted of a prescribed offence, or any offence in another country or part of a country;
 - (b) has been refused a transport security identification card (defined in section 4 of the Customs Act 1901), or has had such a card suspended or cancelled;
 - (c) has breached any condition of their visa to reside in Australia, if the person is not an Australian citizen; or
 - (d) is an unlawful non-citizen.
- (13) In response to a request by the ABF, a broker that is a company or a natural person (other than a person that is a nominee of a customs broker) must co-operate with and as soon as practicable provide to the ABF any information in the possession of the broker regarding a person who participates or has participated in the operations of the customs broker that may be relevant to an assessment of whether that person is a fit and proper person.
- (14) Without limiting any other provision of these conditions, a broker that is a company or a natural person (other than a person that is a nominee of a customs broker) must:
 - (a) within ninety (90) days of the publication of this condition, with respect to any person who at the date of publication participates in the operations of the customs broker; and
 - (b) within seven (7) days of any other person commencing to participate in the operations of the customs broker, obtain from all such persons a duly completed and signed B1555 ‘Consent Form - Fit and Proper Checks’. The Form will contain a Declaration by the person that:

- (i) the person has not been convicted of an offence against a law of the Commonwealth, or of a State or Territory, or of any other country or part of a country;
- (ii) the person has been deemed not eligible or been refused a transport security identification card (as defined in section 4 of the Customs Act 1901), or has had such a card suspended or cancelled;
- (iii) if the person is not an Australian citizen, the person has not breached any condition of their visa to reside in Australia; and
- (iv) the person is not an unlawful non-citizen.

If a person who at the date of publication participates in the operations of the customs broker is unable to attest to the facts outlined at paragraph 14(b)(i)-(iv), that person is to provide to the broker within the same period of time that the person would otherwise provide a B1555 'Consent Form - Fit and Proper Checks', a Statutory Declaration that explains the circumstances relating to any of the matters outlined at paragraph 14(b)(i)-(iv) and sets out, as relevant:

- (a) the offences of which the person has been convicted and the date of the convictions;
- (b) the date they were deemed not eligible or had a transport security identification card refused, suspended or cancelled; and
- (c) a list of all visa conditions breached by the person.

For the purpose of these conditions the term convicted of an offence has the same meaning as in s85ZM(1) of the Crimes Act 1914 (Cth) – which may be found at <https://www.legislation.gov.au/Details/C2022C00147>.

- (15) A broker that is a company or a natural person (other than a person that is a nominee of a customs broker) must:
- (a) within ninety (90) days of the publication of this condition, with respect to any person who as at that date participates in the operations of the customs broker; and
 - (b) within seven (7) days of any other person commencing to participate in the operations of the customs broker.

Verify the identity of all such persons by ensuring that those persons provide to the broker a legible copy of their identification documents in the English language (or, where the original document is in a foreign language, accompanied by a certified English language translation) that satisfy the proof of identity requirements outlined in the ABF's Form 1538i "Proof of Identity Requirements" (Identification Documents). The Form can be found at <https://www.abf.gov.au/form-listing/forms/1538i.pdf>.

(16) The broker must retain a legible copy of the B1555 Form and Identification Documents referred to in these conditions for a period of not less than five (5) years from the date on which those documents were provided to the broker.

(17) Within fourteen (14) days of a request by the ABF, a broker that is a company or a natural person (other than a person that is a nominee of a customs broker) must provide to the ABF in respect of any person who participates in the operations of the customs broker and who is specified by the ABF the following documents:

(a) National Police Check; and/or

(b) Right to Work Check.

For the purpose of these conditions:

- A National Police Check means a criminal history check conducted by the Australian Federal Police or an Australian Criminal Intelligence Commission (ACIC) Accredited body; and
- A Right to Work Check means an Entitlement to Work Check of a Visa Holder utilising the Visa Entitlement Verification Online system (VEVO) or through an accredited agency that can access VEVO to verify the applicant's VISA conditions are not being breached.

(18) Within seven (7) days of a request by the ABF, a broker that is a company or a natural person (other than a person that is a nominee of a customs broker) must provide to the ABF the original of the B1555 Form and the Identification Documents with respect to any person specified by the ABF and who participates or has previously participated in the operations of the broker.

Note: The B1555 Form is approved by the Comptroller-General and includes the relevant person's consent for the broker to obtain and retain a copy of the Form and Identification Documents and to obtain a National Police Check and Right to Work Check with respect to that person and for the broker to provide a copy of those documents to the Comptroller-General.

(19) A broker that is a company or a natural person (other than a person that is a nominee of a customs broker) must ensure that any person who does not complete the B1555 Form, or provide the Identification Documents, or provide the necessary information for a National Police Check or Right to Work Check, or withdraws their consent in the Form, does not participate in the operations of the customs broker.

Other Conditions

Nil

General Notes:

- (1) The Australian Border Force (ABF) is a constituent part of the Department of Home Affairs and acts for and on behalf of the Comptroller-General of Customs.
- (2) Section 183B provides that a person “participates in the work of a customs broker” if
 - (a) he or she has authority as a nominee of, or as an agent, officer or employee of, the customs broker, to do any act or thing for the purposes of the Customs Acts on behalf of an owner of goods; or
 - (b) he or she has authority to direct a person who has authority referred to in paragraph (a) in the exercise of that authority.
- (3) For the purpose of these conditions a person, including persons located outside of Australia, “participates in the operations of a customs broker” if the person (other than a customs broker) is:
 - (a) authorised by the broker to populate, pre-populate, answer any questions or edit any fields of an Import Declaration related to the classification, currency or valuation of imported goods within the Integrated Cargo System (ICS) or any third party software that communicates with the ICS; or
 - (b) The person is authorised by the broker to answer or prepopulate the Community Protection (CP) questions for an import declaration.
- (4) Required documentation means proof of identity in accordance with the Department’s proof of identity requirements as shown at (<https://www.abf.gov.au/form-listing/forms/1538i.pdf>). For the avoidance of doubt this includes a personal information form, privacy notice and general consent form.
- (5) Where a condition (other than condition 4) provides that information is to be provided to the ABF or Comptroller-General of Customs, the information is to be provided to the Broker Licensing team via email to brokers.licensing@abf.gov.au.

Attachment B

Guidance on Additional Licence Conditions

Why are these changes happening?

In 2020 – 2021, the Australian Border Force (ABF) participated in the Australian Federal Police led covert investigation into transnational and serious organised crime, known as Operation Ironside. Operation Ironside contributed to more than 280 arrests, the discovery of approximately 4,000 kilograms of border controlled drugs and over \$50 million in cash seized within Australia.

In Australia, the international supply chain is a dynamic and complex environment that sees industry and various government departments work hand in glove, under various legislative frameworks, to facilitate legitimate trade and ecommerce. It encompasses over 500 licensed depots, 160 licensed warehouses, 400 airports, seaports and cargo terminals, 2,100 licensed brokers and an unquantifiable number of freight forwarders and cargo reporters.

Transnational, serious and organised crime and their embedded trusted insiders have taken hold at our border and international supply chain. These trusted insiders operate across the entire international supply chain, embedding inside our regional and remote ports, occupying positions of trust, with ongoing access to customs controlled cargo and information. Intelligence indicates that more than half of Australia's major border controlled drug importations are facilitated by trusted insiders.

In response, the ABF have strengthened fit and proper requirements, bolstering the regime around licensed entities such as customs brokers and operators of depots and warehouses, and employees and contractors of those entities.

Definition of 'participating in the work of the customs broker'?

Section 183B provides that a person "participates in the work of a customs broker" if:

- (a) he or she has authority as a nominee of, or as an agent, officer or employee of, the customs broker, to do any act or thing for the purposes of the Customs Acts on behalf of an owner of goods; or
- (b) he or she has authority to direct a person who has authority referred to in paragraph (a) in the exercise of that authority.

Definition of 'participating in the operations of the customs broker'?

For the purpose of these conditions a person, including persons located outside of Australia, "participates in the operations of a customs broker" if the person (other than a customs broker) is:

- (a) authorised by the broker to populate, pre-populate, answer any questions or edit any fields of an Import Declaration related to the classification, currency or valuation of imported goods within the Integrated Cargo System (ICS) or any third party software that communicates with the ICS; or
- (b) The person is authorised by the broker to answer or prepopulate the Community Protection (CP) questions for an import declaration.

What is the difference from ‘participating in the work of a customs broker’?

Participating in the work of a customs brokers only refers to entities that can act on behalf of the owner of the goods, i.e. a sole trader or a nominee customs broker, or anyone who has the authority to direct them, such as a Director or Secretary of a corporate customs broker.

What are some examples of participating in the operations of the customs broker?

Individuals in traditional compiler and classifier roles and people in data entry positions that have the authority to enter data related to the classification, currency or valuation of imported goods directly into a customs broker’s third party software are considered to be participating in the operations of the customs broker.

Any person that has authority to answer or prepopulate the Community Protection questions for an import declaration is also considered to be participating in the operations of the customs broker.

Can a person located overseas be considered to be participating in the operations of the customs broker?

Yes, a person located or residing overseas will be considered to be participating in the operations of the customs broker if they meet the definition.

Who is not considered to be participating in the operations of the customs broker?

Nominee customs brokers, sole trader customs brokers and Directors/Secretaries of corporate customs broker do not fall within this definition as they are captured under the definition of ‘Participates in the work of a customs broker’. Persons in these positions do not need to complete a [B1555](#) ‘Consent form – Fit and Proper Checks’ (B1555) or provide the associated identity documents to the customs broker as part of the new additional licence conditions.

What is the corporate and sole trader custom broker required to do in relation to a person that participates in the operations of the customs broker?

For any person participating in the operations of the custom broker, including persons located outside of Australia, the corporate or sole trader customs broker must:

- Obtain a completed [B1555](#) form; and
- Verify the persons identity by obtaining a copy of their identification documents in accordance with the [1538i](#) form –“Proof of identity requirements’ (1538i); and
- Retain the completed B1555 form and the obtained identity documents for not less than 5 years from the date which the documents were provided to the customs broker; and
- Upon request by the ABF, provide to the ABF a National Police Check and/or Right to Work Check in relation to a specified person who participates in the operations of the customs broker; and

- Upon request by the ABF, provide to the ABF the completed B1555 form and the obtained identity documents in relation to a specified person who participates, or has participated, in the operations of the customs broker.

When will customs brokers need to obtain the required forms and identity documents for entities participating in the operations of the customs broker?

The publication date for all new additional licence conditions is 1 July 2024.

For entities that are already participating in the operations of the customs broker, as of 1 July 2024 customs brokers have 90 Days to obtain a completed B1555 form and the required identity documents.

For example, if a person has been in a role that meets the definition of participating in the operations of the customs broker since January 2024, the customs broker has 90 days from 1 July 2024 to obtain a completed B1555 form and the required identity documents.

For entities who commence participating in the operations of the customs broker after 1 July 2024, customs brokers have 7 days to obtain a completed B1555 form and the required identity documents.

For example, if a person commences employment with a customs broker on 5 July 2024 and they meet the definition of participating in the operations of the customs broker, the customs broker has 7 days to obtain a completed B1555 form and the required identity documents.

How long does the customs broker have to retain the required form and identity documents, and in what format must they be retained?

The customs broker is required to retain a copy of the B1555 form and identity documents for a period not less than five (5) years. The documents can be retained as a hard copy or in a digital format.

Can these documents be retained on an overseas server?

Yes, the B1555 form and supporting documents can be retained in a digital format on an overseas server but must be provided to the ABF upon request.

Under the new conditions, do any fit and proper checks have to be conducted by the customs broker on an entity participating in the operations of the customs broker?

There is no requirement for the customs broker to conduct any fit and proper checks on an entity that is participating in the operations of the customs broker unless requested by the ABF.

What Identity documents are suitable for overseas residents?

The 1538i form will be updated prior to 1 July 2024, and will support an overseas resident in meeting the identity requirements.

Overseas residents who are unable to provide the documents listed on the 1538i form will be required to provide the equivalent documents in their country i.e. a passport, a birth certificate, a government issued photo identity card, a bankcard etc.

In instances where the entity is unable to provide equivalent identity documents, the entity or the customs broker will need to contact the broker licensing team via email to brokers.licensing@abf.gov.au for specific advice on what will be accepted.

What if a person cannot provide the required documentation or is deemed not fit and proper by the ABF?

If a person is unable to provide the customs broker with the required documentation or is assessed by the ABF as not fit and proper to participate in the operations of the customs broker, the customs broker is required to remove that person from participating in the operations of the customs broker.

What if I also work in a Customs licensed Depot or Warehouse and have completed a B301 Form?

Persons who are operating in a licensed Depot or Warehouse and have completed a B301 are not required to also complete a B1555; however, they will need to be reflected on a customs broker's staff list if requested by the ABF in accordance with additional condition 9.

Where can I seek more information or ask a question?

Additional information can be found on the ABF website and any questions should be directed to Brokers Licensing via brokers.licensing@abf.gov.au.