

# AUSTRALIAN CUSTOMS NOTICE NO. 2002/69

**Border Security Legislation Amendment Act 2002 – changes to air cargo reporting**

The *Border Security Legislation Amendment Act 2002* increases national security by further protecting Australia’s borders.

The Act contains amendments that affect a range of Customs activities that contribute to the security of our borders, and includes new requirements that deal with the movement of goods. Specifically, the Act requires pilots and owners of aircraft to report to Customs

* in-transit cargo and
* mail and airline mail.

Customs has undertaken consultation with sections of industry during the past

6 months to assist in the implementation of the new reporting arrangements. These reporting changes will begin on 5 January 2003. This Notice details requirements relevant to in-transit reporting and mail reporting in the air cargo environment.

# In-transit cargo

In-transit air cargo is cargo intended to be kept on board an aircraft arriving from overseas while it is in Australia for shipment to an overseas airport. Currently, goods in transit through Australia are not required to be reported to Customs, as they are not intended to be unshipped in Australia. In implementing the new legislation, it is the Government’s intention that there be more effective border controls on in-transit cargo.

## Reporting in-transit cargo

The Border Security Legislation Amendment Act amends section 64AB of the Customs Act to provide that, where an aircraft arrives at its first Australian airport after having called at any airport outside Australia, the pilot or owner of the aircraft must communicate to Customs a report of any cargo onboard that is intended to be kept on board for transportation to a place outside Australia.

The in-transit report must be communicated to meet the following requirements:

*In the case of an aircraft*

A report made to Air Cargo Automation must be made at least two hours prior to arrival of the aircraft at the first Australian airport.

A report made by document must be made no later than three hours after the arrival of the aircraft at the first Australian airport.

Commencing 5 January 2003, Customs will require the pilot or owner of an aircraft to report the details of in-transit cargo arriving in Australia at the master air waybill (MAWB) level.

*Electronic in-transit cargo report*

The Air Cargo Automation System (ACA) will accept cargo reports only where there is an Australian discharge port cited. With the limited life expectancy of ACA pending the introduction of the Integrated Cargo System under CMR in June 2004, and in order to avoid unnecessary costs to Customs and industry, electronic in-transit cargo reports will be accepted by Customs in the current transhipment format. That is, when reporting in-transit MAWB information to Customs, cargo reporters should substitute the first Australian port of call of the aircraft in the discharge port data field. Further, in order to distinguish these reports from bona fide transhipment reports, the goods description field should contain the term “in-transit”. Customs will apply a P300 (tranship) status to these in-transit reports. However, as this cargo will not normally be discharged, this status can be disregarded.

Customs is developing in-transit reporting functionality in the Integrated Cargo System (ICS) to be introduced in 2004. The report of in-transit cargo will then be able to be made in a dedicated format.

*Manual in-transit cargo report*

Cargo reporters wishing to make a manual in-transit cargo report may do so as follows. Within three hours of the aircraft’s arrival, a copy of all in-transit MAWBs must be presented to Customs in the first airport of arrival along with a signed *Form 8(A) - Aircraft Report of In-transit Cargo*. Where the MAWB represents a cargo consolidation, a copy of the house air waybill manifest must be attached to the relevant MAWB. Although a manual report has to be made within three hours of an aircraft’s arrival, where the aircraft will be departing from Australia within that three hours, cargo reporters are requested to communicate manual in-transit reports prior to the aircraft’s departure. This will assist Customs to perform its border security functions in a timely way.

There is no charge for making a documentary cargo report in respect of in-transit goods.

The Border Security Legislation Amendment Act amends subsection 64ABA(1) to allow amendments to be made to in-transit cargo reports up until the time of the aircraft’s departure for an overseas port.

*Offence provisions*

A two-tier offence penalty provision will apply, the first tier for an intentional contravention and the second is a strict liability offence.

## Examination of in-transit cargo

Under section 186, Customs may require in-transit cargo to be unloaded from an aircraft for examination. The costs associated with any such examination will be borne by the owner.

## Seizure of in-transit cargo

The Border Security Legislation Amendment Act amendments also allow Customs, under warrant, to seize in-transit cargo where a judicial officer is satisfied that the Minister has reasonable grounds for suspecting that the goods are:

* connected, directly or indirectly, with the carrying out of a terrorist act, and/or
* the existence of the shipment or the goods prejudices or is likely to prejudice Australia’s defence or security or international peace and security.

The owner of the goods may apply to a court of competent jurisdiction for the return of the goods. If the court finds that the goods are not associated with terrorist activity or do not impact on Australia’s defence or security or international peace and security and the goods were not used or otherwise involved in the commission of an offence, the court must order the return of the goods.

# Mail and airline mail

The Border Security Legislation Amendment Act amendments to sections 63A and 64AB of the Customs Act will require the electronic report of Universal Postal Union (UPU) mail and airline mail (sometimes referred to as on company service) at the container and loose-bag level.

From 5 January 2003, this will mean a change of practice for airline operators carrying UPU mail and airline mail, as cargo reporters will have to report these goods electronically within the timeframes specified for electronically reported cargo, that is, two hours before arrival in the airport of discharge.

The Border Security Legislation Amendment Act amendments to section 63A of the Customs Act will define *cargo* and *mail* for the purposes of Part IV Division 3 of the Act. The definitions are as follows:

***Cargo:*** “in relation to a ship or aircraft, includes any mail carried on the ship or aircraft”

***Mail***, in relation to a ship or aircraft means: any goods consigned through the Post Office that are carried on the ship or aircraft and

any other correspondence carried on the ship or aircraft that is not consigned as cargo and that is not the accompanied personal or household effects of a passenger or member of the crew.

New subsection 64AB(3AAA) provides that, to the extent that a cargo report relates to mail that is to be *unloaded* from an aircraft, the report must be made electronically.

New subsection 64ABA(1A) provides that any variation of a cargo report that relates to mail must be communicated electronically.

In the case of air, these reports will be communicated by the relevant airline in a MAWB format to ACA. The reports will provide details of the number of air cargo containers and loose bags containing UPU mail.

Customs will require a single MAWB equivalent report of UPU mail on a port of uplift basis and port of destination basis.

## Post Office mail report data elements

The MAWB report will need to include the following data elements:

**MAWB number Consignee**: Australia Post

**Consigno**r: Postal Administration at origin port or where mail has been hubbed at that port “Multiple Post Offices”

**Number of packages**: the number of loose bags and number of ULDs/pallets/containers of UPU mail covered by the MAWB report

**Goods description**: This must include the term “UPU MAIL” but other terms may also be included, for identification purposes – for example, Parcel Force, or Interline Mail

**Load port**

**Origin:** Port of uplift where multiple origins exist

**Destination**: Destination port **Discharge**: Discharge port **Flight**

**Date of arrival Weight**

## Receiving air cargo terminal operator responsibilities

The report of UPU mail under section 64AB of the Customs Act will require the responsible cargo terminal operator to acquit the report for overs and unders based on an accounting of the cargo once discharged. Any discrepancies can be communicated to Customs by amending the landed packages field in ACA or providing an additional MAWB report. Airline cargo terminal operators will not be required to account for the number of bags in an airline container unless the report details that information.

However, where the UPU mail must be accounted for at the bag level for contractual reasons, any subsequent underbond movements must be able to be linked to the original report details.

The movement of this cargo from the airline cargo terminal operator to any subsequent International Mail Centre licensed under section 77G will need to be approved under section 71E of the Customs Act. Customs will approve continuing permissions or B200s (*Application For Permission To Move Goods Subject To Control of Customs*) to underbond applicants to enable the movement of this cargo.

Customs will provide an A160 (*Mail - may be released for underbond movement*) status to the cargo terminal operator where the goods are intended to be moved to an Australia Post operated licensed depot. This movement will usually be intraport. In Sydney, this status will allow the discharging cargo terminal operator to release goods to the Qantas-operated airside mail facility.

Goods being moved interport at the MAWB level to another cargo terminal operator will require an A120 (*interstate underbond movement*) status prior to movement.

Where the goods are being transhipped at the MAWB level, a P300 status will be required. Where the CTO is in receipt of a hold status for UPU mail, the goods must be held by the cargo terminal operator until further notice.

*Airline mail (On Company Service)*

The Border Security Legislation Amendment Act also requires electronic reporting of airline mail. From 5 January 2003, these goods will have to be reported at the straight- line MAWB level to Air Cargo Automation on a port of uplift and port of destination basis and will receive a screen free status on flight transmission where relevant. These reports will detail airline mail at the airline container and loose-bag level. Where the aircraft is carrying airline mail from or to more than one airline consignor or consignee, at least two MAWB reports will be required. Underbond and transhipment

requirements as described above will also apply to airline mail. Subsequent to aircraft discharge, these reports will be accounted for by the receiving CTO.

Where the reports have a goods description of “Airline mail”, the contents of the consignment should be limited to inter-office correspondence.

*Other mail*

Airlines also carry other types of mail to Australia such as military mail. The Border Security Legislation Amendment Act will require these goods to be reported to Customs electronically at the aircraft container and loose-bag level. Where these goods will not be dealt with by Australia Post on arrival, the report should reflect the military administration to whom the goods are consigned.

Any inquiries in relation to this Notice should be referred The Manager Transport Policy, Air Cargo on (02) 9317 7439 or by facsimile (02) 6275 5745.

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for Chief Executive Officer