**Australian Government**



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**Australian Customs and Border Protection Service**

AUSTRALIAN CUSTOMS AND BORDER PROTECTION NOTICE NO. 2015/09

Major Sporting Events (lndicia and Images) Protection Act 2014

The *Major Sporting Events (lndicia and Images) Protection Act 2014* (the Act) was introduced in July 2014 to protect indicia (for example signs, indications or distinguishing marks) and images associated with certain major sporting events that the Australian Government has committed to support.

Import provisions within the Act permit a rights holder or authorised user of indicia and images to object to the unauthorised use of protected indicia and images on goods imported into Australia. Section 25 of the Act gives the Australian Customs and Border Protection Service (ACBPS) the power to seize goods in cases where it is suspected that the user of protected indicia and images is not authorised to do so. The ACBPS will manage the import provisions through the existing Notice of Objection Scheme.

# Notice of Objection to Importation

A Notice of Objection can be lodged at any time by a rights holder or authorised user (objector) under section 23 of the Act. The Notice of Objection will have effect in relation to imported goods bearing protected indicia and images associated with a major sporting event, where the use of the indicia and images by the designated owner is not authorised. Once accepted by the ACBPS, and unless revoked, a Notice of Objection will remain in force for that event's protection period, as defined by the Act.

The legislative scheme does not provide for the seizure of goods which are imported for personal use and not intended to be used for commercial purposes. It is important to note that the seizure powers are drawn directly from section 25 of the Act and should not be confused with the more general seizure provisions relating to customs search and seizure contained in the *Customs Act 1901.*

The ACBPS is required by law to seize the imported goods unless there are no reasonable grounds for believing that the Act would be contravened.

The following three events are covered in the Act, and designated owners/importers should make themselves aware of any Notices of Objection in place with the ACBPS in relation to those events:

* *Asian Cup 2015*
* *Cricket World Cup 2015*
* *Gold Coast Commonwealth Games 2018*

Additional major sporting events may also be added to the Act at any time.

# Notice of Seizure

Following the seizure of goods suspected of bearing protected indicia and images without authorisation, the ACBPS will issue a written notification (Notice of Seizure) identifying the goods and stating that the goods have been seized to both the designated owner and objector.

# Claim for Release of Goods

If a designated owner considers there to be suitable grounds for the release of their seized goods, they may make a claim to have the goods released by the ACBPS. A claim for the release of goods must be submitted to the ACBPS within 10 working days from the day the Notice of Seizure was issued.



Designated owners should be aware that making a claim for the release of goods does not constitute automatic release. If a claim for the release of seized goods is made the objector will be notified and will have the opportunity to, within 10 working days, commence court action. If an objector does not commence court action within the designated timeframe the seized goods may be released to the designated owner subject to all other requirements being met.

If the ACBPS does not receive a claim for release of goods within the designated timeframe, the seized goods will be deemed to be forfeited to the Commonwealth and will be disposed of after being held for an additional 30 days. In cases where a designated owner is not able to make a claim within the designated timeframe, a late claim for the release of goods may be submitted. The ACBPS will assess the late claim, and may release goods if:

1. there are reasonable circumstances for the late claim
2. court action has not been commenced by the objector, and
3. the goods have not been disposed of.

# Consent to Forfeit Goods

The designated owner of seized goods may, at any time before an objector commences court action in relation to the goods, consent to the goods being forfeited to the Commonwealth by giving written notice to the ACBPS.

# Release of Goods

If the seized goods are not forfeited, a claim for release has been submitted, and the objector has not commenced court action within their designated timeframe, the ACBPS must release the goods to the designated owner. The decision by the ACBPS to release goods will be subject to all other requirements being met.

# Assistance to the ACBPS

The ACBPS will take all reasonable steps to carry out its obligations under this legislation. The ACBPS welcomes any information that may assist in identifying shipments that may contain infringing goods. Such information may include:

* name of importer/designated owner
* name of supplier/manufacturer
* expected date/port of arrival
* details/description/quantity/country of origin of goods All information will be treated in a confidential manner. **Further Information**

Further information and copies of relevant forms relating to the import provisions of the Act may be obtained via the ACBPS website at [www.customs.gov.au,](http://www.customs.gov.au/) or by contacting the Intellectual Property Rights team via [iprights@customs.gov.au](mailto:iprights@customs.gov.au) or (02) 6275 6445.

Designated owners may also wish to seek independent legal advice prior to importing any goods that may contravene the Act.



Anita Langford

A/g Assistant Secretary Trade Branch CANBERRA ACT

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