

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 holder of a customs broker licence must, when requested by the Department of Home Affairs (the Department), complete and forward the required documentation to allow the Department to undertake a fit and proper person check on the licence holder.
- (2) In the case of a customs broker licence held by a company; if there is a change in the director, officer, shareholder or member of the company the holder of the licence must, within 30 days after the occurrence of the event, notify the Comptroller-General of Customs of that event.
- (3) A director, officer, shareholder or member of a licensed company must, when requested by the Department, complete and forward the required documentation to allow the Department to undertake a fit and proper person check on that person.
- (4) If a holder of a customs broker licence becomes aware that information that has been provided to the Department is false, misleading or incomplete, the customs broker must, as soon as practicable after becoming aware provide written particulars of the incident to the Comptroller-General of Customs.
- (5) The holder of a customs broker licence must not allow Departmental systems or information provided by the Department to be used for an unauthorised purpose or to assist, aid, facilitate or participate in any unlawful or illegal activity.
- (6) A natural person who holds a customs broker licence must undertake accredited Continuing Professional Development (CPD) as per the following requirements:
 - (a) for the purposes of this condition, accredited CPD activities are the activities accredited by the Comptroller-General of Customs or by a CPD provider that has been granted Accredited CPD Provider status by the Department. A customs broker must complete sufficient accredited CPD activities, as detailed on the Australian Border Force

(ABF) website, to acquire the minimum number of points each CPD year, which commences on 1 April each year and ends 31 March the following year.

- (b) the holder of the customs broker licence must keep accurate, auditable, written records of completion of accredited CPD activities and provide them upon request to the Comptroller-General of Customs.
 - (c) the holder of a customs broker licence must notify the Comptroller-General of Customs if the holder of the customs broker licence has failed to complete the required number of points and provide a written explanation of the circumstances surrounding the failure prior to the end of the CPD year.
- (7) The holder of a customs broker licence must not lodge import declarations from outside Australia.
- (8) The holder of a corporate customs broker licence must maintain suitable professional indemnity insurance for the protection of their clients and the Commonwealth. The licence holder must forward evidence of insurance to the Comptroller-General of Customs if requested.

Other Conditions

Nil

General Notes:

- (1) The Department of Home Affairs contains the entirety of the Australian Border Force (ABF).
- (2) Pursuant to section 183B, 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 additional condition 1 and 3 the required documentation includes; providing proof of identity in accordance with the Department’s proof of identity requirements and; completing a personal information form and a privacy notice and general consent form.

- (4) For the purpose of additional condition 6 a natural person is a nominee customs broker or a sole trader customs broker.
- (5) Where a licence condition states that information is to be provided to the Comptroller-General of Customs, the information is to be provided to the Broker Licensing team via email to brokers.licensing@abf.gov.au. If the information to be provided is in relation to additional licence condition 4 this will need to be provided to Border Watch as specified on the ABF website.