



Australian Government

**Australian Customs and
Border Protection Service**

INFRINGEMENT NOTICE SCHEME - GUIDE

Issued January 2014

INFRINGEMENT NOTICE SCHEME - GUIDE (January 2014)

CONTENTS

1. WHAT IS THE PURPOSE OF THIS GUIDE?.....	3
2. WHAT IS THE MEANING OF CERTAIN WORDS OR PHRASES IN THE GUIDE? 3	
3. WHAT IS AN INFRINGEMENT NOTICE?	3
4. WHAT IS THE LEGISLATIVE FRAMEWORK?	4
5. WHEN IS ACBPS LIKELY TO ISSUE AN INFRINGEMENT NOTICE?	5
6. WHO DECIDES TO ISSUE AN INFRINGEMENT NOTICE?.....	5
8. WHAT DETAILS WILL BE INCLUDED IN THE INFRINGEMENT NOTICE?.....	6
9. WHAT CAN A PERSON DO IF THEY RECEIVE AN INFRINGEMENT NOTICE? ..	6
9.1 HOW DO YOU REQUEST AN EXTENSION TO THE PERIOD OF PAYMENT?.....	6
9.2 HOW DO YOU REQUEST A WITHDRAWAL OF AN INFRINGEMENT NOTICE?..	7
10. WHAT ARE THE CONSEQUENCES OF PAYING AND NOT PAYING THE INFRINGEMENT NOTICE PENALTY?.....	7
11. WHAT ARE THE RELEVANT OFFENCES AND AMOUNTS PAYABLE?	8
11.1. NATURAL PERSON.....	8
11.2 CORPORATE MULTIPLIER.....	8
12. WHAT ARE THE TRANSITIONAL ARRANGEMENTS?.....	13

1. WHAT IS THE PURPOSE OF THIS GUIDE?

The purpose of this Guide is to explain the Australian Customs and Border Protection Service (ACBPS) approach to issuing an infringement notice.

While the decision-maker should consider the Guide before issuing an infringement notice, it does not give directions as to whether the decision-maker should issue an infringement notice in any particular circumstance. Whether or not to issue an infringement notice is a matter for the decision-maker to determine on the facts of the case.

This Guide should be read in conjunction with the *Customs Act 1901* and *Customs Regulations 1926*

This Guide does not constitute legal advice. You are encouraged to obtain professional advice about the consequences of ACBPS issuing an infringement notice.

2. WHAT IS THE MEANING OF CERTAIN WORDS OR PHRASES IN THE GUIDE?

In this document:

the Customs Act	means	the <i>Customs Act 1901</i>
the Customs Regulations	means	the <i>Customs Regulations 1926</i>
the CEO	means	the Chief Executive Officer of the Australian Customs and Border Protection Service
the decision-maker	means	an infringement officer authorised in writing by the CEO
person	means	a natural person or a body corporate

Also, unless otherwise indicated:

- references to section numbers are to sections of the Customs Act; and
- words and phrases defined in the Customs Act have the same meaning in this document.

3. WHAT IS AN INFRINGEMENT NOTICE?

An infringement notice is an administrative enforcement remedy that ACBPS may issue in certain circumstances. Infringement notices are a valuable enforcement and regulatory tool as they can provide a timely and cost-efficient outcome for both ACBPS and the person that is the subject of an investigation.

In issuing the infringement notice, ACBPS puts the recipient on notice that it has reasonable grounds to believe that they have contravened the law. The recipient has the option of resolving the matter immediately by paying the penalty specified in the infringement notice or having the matter determined by the relevant court.

The Customs Act and this Guide set the amount payable under an infringement notice. These infringement notice penalties are significantly less than the penalties that a court could otherwise impose.

4. WHAT IS THE LEGISLATIVE FRAMEWORK?

Subsection 243X(1) of the Customs Act provides a regulation making power to establish an infringement notice scheme. Regulation 179ABA of the Customs Regulations notes that Schedule 1ABA of the Customs Regulations is made for subsection 243X(1) of the Customs Act.

Schedule 1ABA of the Customs Regulations specifies most matters in relation to the infringement notice scheme except the maximum penalty, which the Customs Act prescribes. The Customs Act also specifies that an infringement notice may only apply to strict liability and absolute liability offences contained in the Act.

Subsection 243X(2) provides that the maximum penalty under the scheme must not exceed either:

- one-quarter of the maximum penalty a court could impose on a person for that offence, or
- either 15 penalty units for a natural person or 75 penalty units for a body corporate.

A note at the end of new subsection 243X(2) highlights that subsection 4B(3) of the *Crimes Act 1914* allows a court to impose a fine on a body corporate that is up to five times the maximum that could be imposed on an individual convicted of the same offence. This note is included for the purposes of new subsection 243X(2)(a) to clarify that the corporate multiplier applies to infringement notice penalties.

Subsection 243X(3) provides an exception to maximum penalties in paragraph 243X(2)(b). In some cases under the Customs Act, the maximum penalty a court can impose for a strict or absolute liability offence is determined by reference to the amount of duty or value of the goods. Section 243T of the Customs Act is an example. The amount payable under an infringement notice will be limited to one quarter of the maximum penalty a court could impose only.

Previously the amount payable under an infringement notice by a natural person was one fifth of the maximum penalty a court could impose and the amount payable by a body corporate was the same (that is, no corporate multiplier applied).

The key aspects of the infringement notice scheme contained in the Customs Regulations are:

- when an infringement notice can be issued
- the offences for which an infringement notice may be issued
- what matters must be included in an infringement notice
- the process for seeking a withdrawal of an infringement notice, and
- the process for seeking to extend the period for payment of the penalty.

In addition to the regulation making power, the Customs Act also contains provisions regarding forfeiture of goods that are prohibited imports if an infringement notice is paid.

Paragraph 11 of this Guide lists the offences to which the infringement notice scheme applies and the amount payable under an infringement for a natural person or body corporate who has allegedly committed the offence.

5. WHEN IS ACBPS LIKELY TO ISSUE AN INFRINGEMENT NOTICE?

The decision-maker must have reasonable grounds to believe that that the person has committed a prescribed offence before issuing an infringement notice.

In determining whether an infringement notice is an appropriate enforcement response, the ACBPS takes into account a broad range of factors. Circumstances where ACBPS is more likely to give an infringement notice rather than prosecute for an offence may include:

- where the alleged offence is isolated or non-systematic
- where remedial or risk mitigation action was taken following ACBPS bringing the issues of concern to the person's attention (for example, through a formal warning)
- where the facts that led to the alleged offence are straight forward and are not in dispute
- where the alleged offence does not pose a significant risk to the border or the collection of revenue, or
- where ACBPS considers the infringement notice is necessary to form part of a broader industry or sector compliance and enforcement program.

Circumstances where prosecution is more likely to be an appropriate enforcement response may include:

- where ACBPS has previously taken action against the person for similar breaches of the law
- where the alleged offence is more serious in nature and the consequences to the community could be severe
- where the alleged offender has a substantial record of non-compliance and recidivism, for which an infringement notice would not be an effective deterrent, or
- where the person has, as a consequence of alleged offences, obtained a financial or other advantage, to the detriment of others.

6. WHO DECIDES TO ISSUE AN INFRINGEMENT NOTICE?

An infringement officer decides whether to issue an infringement notice to a person in lieu of prosecution for an alleged offence. The CEO will authorise in writing an infringement officer to exercise this function and it will be restricted to officers of relevant seniority and expertise, and who have received appropriate training.

7. WHEN CAN AN INFRINGEMENT NOTICE BE ISSUED?

The time for serving an infringement notice for any offence covered by the ACBPS infringement notice scheme is within one year of the offence being detected or four years of the offence being committed, whichever period ends first.

The period for issuing an infringement notice does not limit in any way the application of section 15B of the *Crimes Act 1914*. This means for example that where section 15B

imposes a 12-month limitation on commencing prosecution for an offence, then it would not be practical to issue an infringement notice for that offence 12 months or more after the alleged contravention occurred.

8. WHAT DETAILS WILL BE INCLUDED IN THE INFRINGEMENT NOTICE?

Clause 6 of Schedule 1ABA of the Customs Regulations lists the matters that **must** be included in an infringement notice. This includes for example, the name of the person to whom the notice is given, brief details of the alleged contravention, the amount payable, as well as advising of the consequences of paying and not paying the notice. The notice will also include administrative information regarding the process of paying the notice, seeking a withdrawal of the notice and contacting ACBPS.

The notice **may** include any other matters that the infringement officer considers necessary.

9. WHAT CAN A PERSON DO IF THEY RECEIVE AN INFRINGEMENT NOTICE?

A recipient of an infringement notice is not obliged to pay the penalty, but may do so to avoid prosecution.

Payment of an infringement notice is not an admission of guilt or does not count in any way as a criminal record.

In most cases, the recipient will have had some contact with ACBPS prior to receiving an infringement notice. This will often include a discussion of the circumstances that led to the alleged offence and the person may be able to provide any documents or information relevant to ACBPS concerns.

A decision to give an infringement notice is not subject to an external merits review. However, a recipient is entitled to take the following action:

- request an extension to the period of payment of the penalty
- request a withdrawal of the infringement notice, or
- refuse to pay the penalty and have the matter heard by a court.

9.1 HOW DO YOU REQUEST AN EXTENSION TO THE PERIOD OF PAYMENT?

The Customs Regulations specify the time for payment of an infringement notice penalty as does the infringement notice.

A recipient of an infringement notice can request an extension of the period of payment, in writing, to the decision maker. In making a request, the person should set out the reasons why ACBPS should grant the extension. The request should explain:

- whether the recipient intends to pay the penalty
- the circumstances as to why the recipient is unable to pay the penalty in the payment period (including the financial circumstances of the recipient)

- the circumstances as to why the recipient anticipates that they will be able to comply if the payment period is extended, and
- whether the recipient is requesting a withdrawal of the infringement notice in accordance with paragraph 9.2.

9.2 HOW DO YOU REQUEST A WITHDRAWAL OF AN INFRINGEMENT NOTICE?

ACBPS may withdraw an infringement notice of its own volition or following a request for withdrawal from the recipient of the notice.

The decision as to who should consider an application for withdrawal will be made in light of the facts of the case including the basis/reasons for the request. In some cases, the officer who issued the notice is best placed to consider the request. As the issuing officer, they will be aware of the factual issues and in a position to make an informed and timely decision, taking into account the reasons for the request and any new information or facts presented.

If a recipient of an infringement notice believes that they have not engaged in the alleged conduct or there is additional information that ACBPS has not considered, the recipient may seek withdrawal of the notice. A request to withdraw an infringement notice:

- must be made in writing to ACBPS
- must be made prior to the date for payment of the infringement notice, and
- should provide evidence or information to assist the ACBPS in deciding whether or not to withdraw the infringement notice.

ACBPS will notify the recipient of the infringement notice of its decision, in writing.

The Customs Act provides no right of internal appeal or Administrative Appeals Tribunal review of a decision not to withdraw a notice, yet a person ultimately has the right to refuse to pay the penalty in an infringement notice and to defend that matter in court if prosecuted.

If ACBPS withdraws the infringement notice after payment of the penalty specified in the notice, then ACBPS will arrange for a refund of the penalty amount.

10. WHAT ARE THE CONSEQUENCES OF PAYING AND NOT PAYING THE INFRINGEMENT NOTICE PENALTY?

If a recipient **pays** the infringement notice penalty, within the specified period, and the notice is not withdrawn:

- any liability of the person for the offence specified in the notice is discharged
- the person is not regarded as having been convicted of the offence
- the payment is not taken to be an admission by that person of any liability for the alleged offence, and
- if the alleged offence is for importing prohibited imports, the goods are taken to be condemned as forfeited to the Crown.

If a recipient **does not pay** the infringement notice penalty, ACBPS may prosecute them for the alleged offence or refer the matter to the Commonwealth Director of Public Prosecutions

for further action. In such cases, the recipient could face the maximum penalty that a court can impose for the offence.

11. WHAT ARE THE RELEVANT OFFENCES AND AMOUNTS PAYABLE?

Subsections 243X(2) and (3) of the Customs Act provide the maximum penalty payable under an infringement notice. ACBPS has flexibility to set the amount payable provided it does not exceed the maximum penalty set out in the Customs Act.

Clause 4 of Schedule 1 ABA of the Customs Regulations prescribes all the offences to which the infringement notice scheme applies.

The relevant offences and the amount payable are set out in the table below.

11.1. NATURAL PERSON

ACBPS has set the amount payable by a natural person at the maximum amount permitted by the Customs Act, except for certain offences allegedly committed by a natural person who is in a section 234AA place and is either embarking or disembarking from a ship or aircraft or is in that place without authorisation.

ACBPS recognises that significant numbers of people move through section 234AA places, some of them Australian residents, some of them not. To minimise disruption to legitimate travellers and ensure the swift and effective imposition of sanctions for relatively minor breaches of the Customs Act, the amount payable for an infringement notice in these cases is two penalty units. In addition, where the person is embarking or disembarking from a ship or aircraft, ACBPS officers give notice to the person at the time of the alleged offence and the person must pay the penalty before leaving the Customs controlled area, unless granted extra time to pay by an authorised officer. In all other instances, infringement notice recipients are given 28 days to pay.

11.2 CORPORATE MULTIPLIER

ACBPS has set the amount payable by a body corporate under an infringement notice at three times the amount that is payable by a natural person. This is a significant increase, which could be enough to have a positive and lasting impact on corporate behaviour. Previously the amount payable under an infringement notice by a body corporate was the same as the amount payable by a natural person (that is, no corporate multiplier applied). If a multiple of three does not improve compliance, then ACBPS has flexibility to increase the amount payable by a body corporate under an infringement notice to four or five times the amount payable by a natural person.

SUBSECTION	DESCRIPTION	NATURAL PERSON	BODY CORPORATE
33(2), (3) AND (6)	Moving altering or interfering with goods subject to Customs control without authority	\$2550 (15 penalty units)	\$7650 (45 penalty units)
36(2), (6) and (7)	Failure to keep goods safely or failure to account for goods	\$2550 (15 penalty units)	\$7650 (45 penalty units)
50(4)	Breach of the conditions of a licence to import prohibited goods	\$2550 (15 penalty units)	\$7650 (45 penalty units)
60(1), (2) AND (3)	Failure to bring ship or aircraft for boarding at appointed boarding station	\$2550 (15 penalty units)	\$7650 (45 penalty units)
61(1)	Master to facilitate boarding	\$2550 (15 penalty units)	\$7650 (45 penalty units)
64(13)	Failure to meet reporting requirements for the impending arrival of a ship or aircraft	\$2550 (15 penalty units)	\$7650 (45 penalty units)
64AA(10)	Failure to meet reporting requirements for the arrival of a ship or aircraft	\$2550 (15 penalty units)	\$7650 (45 penalty units)
64AAB(7)	Failure to meet reporting requirements for particulars of other cargo reporters	\$2550 (15 penalty units)	\$7650 (45 penalty units)
64AAC(6)	Failure to meet reporting requirements for persons engaged to unload cargo	\$2550 (15 penalty units)	\$7650 (45 penalty units)
64AB(10)	Failure to meet reporting requirements for the report of cargo	\$2550 (15 penalty units)	\$7650 (45 penalty units)
64ABAA(9)	Failure to meet reporting requirements for outturn reports	\$2550 (15 penalty units)	\$7650 (45 penalty units)
64ACD(2)	Failure to report on passengers and crew	\$2550 (15 penalty units)	\$7650 (45 penalty units)
64AE(1)	Obligation to answer questions and produce documents	\$1275 (7.5 penalty units)	\$3825 (22.5 penalty units)
64A(1)	Failure to meet reporting requirements for a ship or aircraft arriving at certain places	\$2550 (15 penalty units)	\$7650 (45 penalty units)
64A(2 & 3)	Failure to answer questions or produce documents relating to a ship or aircraft, or its cargo ,crew, passengers, stores or its voyage or flight	\$1275 (7.5 penalty units)	\$3825 (22.5 penalty units)
71AAAQ(1)	Making more than one self-assessed clearance declaration in respect of goods	\$2550 (15 penalty units)	\$7650 (45 penalty units)
71G(1)	Entering goods that have already been entered for home consumption	\$2550 (15 penalty units)	\$7650 (45 penalty units)
73(1)	Unauthorised break of the bulk cargo of a	\$2550	\$7650

	ship	(15 penalty units)	(45 penalty units)
73(2)	Unauthorised break of the bulk cargo of an aircraft	\$2550 (15 penalty units)	\$7650 (45 penalty units)
74(6)	Failure to store goods as directed by an authorised officer	\$2550 (15 penalty units)	\$7650 (45 penalty units)
77R(1)	Breach of conditions of depot licence	\$2550 (15 penalty units)	\$7650 (45 penalty units)
77Y(4)	Failure to comply with directions	\$2550 (15 penalty units)	\$7650 (45 penalty units)
82C(1)	Breach of conditions of a warehouse licence	\$2550 (15 penalty units)	\$7650 (45 penalty units)
99(3)	Delivery of goods for export without authority	\$2550 (15 penalty units)	\$7650 (45 penalty units)
100(7)	Failure to give particulars of the further entry to the intended warehouse licence holder	\$2550 (15 penalty units)	\$7650 (45 penalty units)
102A(4)	Failure of a holder of a warehouse licence to notify Customs of release of prescribed goods for export	\$2550 (15 penalty units)	\$7650 (45 penalty units)
102CK(1)	Failure of a CTO to comply with obligations or requirements	\$2550 (15 penalty units)	\$7650 (45 penalty units)
102DE(1)	Failure of a cargo handler to comply with obligations or requirements	\$2550 (15 penalty units)	\$7650 (45 penalty units)
106B(3)	Failure to report 48 hours before a prescribed ship or aircraft depart	\$2550 (15 penalty units)	\$7650 (45 penalty units)
106C(3)	Failure to report 4 hours before a prescribed ship or aircraft depart	\$2550 (15 penalty units)	\$7650 (45 penalty units)
106D(3)	Failure to report just before a prescribed ship or aircraft depart	\$2550 (15 penalty units)	\$7650 (45 penalty units)
112(2B)	Breach of the conditions of a licence to export prohibited goods	\$2550 (15 penalty units)	\$7650 (45 penalty units)
112D(2)	Failure to comply with directions	\$2550 (15 penalty units)	\$7650 (45 penalty units)
113(1)	Failure to enter goods for export and loading/exporting without authority to deal	\$2550 (15 penalty units)	\$7650 (45 penalty units)
114B(7)	Failure to comply with confirming exporter conditions	\$1275 (7.5 penalty units)	\$3825 (22.5 penalty units)
114E(1)	Delivering goods to a wharf or airport for export without authority	\$2550 (15 penalty units)	\$7650 (45 penalty units)

114F(2)	Failure to notify of delivery to or release from a wharf or airport	\$2550 (15 penalty units)	\$7650 (45 penalty units)
115(1)	Permitting goods to be taken on board a ship or aircraft without authority	\$2550 (15 penalty units)	\$7650 (45 penalty units)
116(2)	Failure to withdraw or amend an export declaration	\$2550 (15 penalty units)	\$7650 (45 penalty units)
117AA(1)	Consolidation of prescribed goods other than at a prescribed place	\$2550 (15 penalty units)	\$7650 (45 penalty units)
117AA(2)	Failure to notify of receipt of prescribed goods	\$2550 (15 penalty units)	\$7650 (45 penalty units)
117AA(3)	Release of prescribed goods without ascertaining status or permission	\$2550 (15 penalty units)	\$7650 (45 penalty units)
117AA(4)	Failure to notify Customs of release of prescribed goods	\$2550 (15 penalty units)	\$7650 (45 penalty units)
117A(1)	Failure to provide sub-manifests	\$2550 (15 penalty units)	\$7650 (45 penalty units)
118(1)	Departing without Certificate of Clearance	\$2550 (15 penalty units)	\$7650 (45 penalty units)
119(3)	Failure to communicate outward manifest	\$2550 (15 penalty units)	\$7650 (45 penalty units)
123(2)	Failure of departing aircraft to go to the boarding station appointed and facilitate boarding and not depart	\$1275 (7.5 penalty units)	\$3825 (22.5 penalty units)
127(1)	A person unshipped, unloaded or used a ships or aircraft's stores unless for the use of the passengers or crew, or for the service, of the ship or aircraft	\$2550 (15 penalty units)	\$7650 (45 penalty units)
129(3)	Ships' and aircraft's stores taken on board without approval	\$2550 (15 penalty units)	\$7650 (45 penalty units)
130B(3)	Failure to provide particulars of an aircraft's stores, goods taken on board as aircraft stores and if any are prohibited imports	\$2550 (15 penalty units)	\$7650 (45 penalty units)
175(7)	Failure to comply with conditions of permission given under s175(4)	\$2550 (15 penalty units)	\$7650 (45 penalty units)
181(5)	A person other than the owner or under the provision acts on behalf of the owner, does or represents he or she is able to do any act or thing in relation to the goods that is required or permitted to be done by the owner	\$1275 (7.5 penalty units)	\$3825 (22.5 penalty units)
183CGC(1)	Breach of conditions of a broker's license	\$2550	\$7650

		(15 penalty units)	(45 penalty units)
197(6)	Failure to stop conveyance	\$2550 (15 penalty units)	\$7650 (45 penalty units)
214AI(4)	Failure by the owner to facilitate a monitoring officer on premises	\$1275 (7.5 penalty units)	\$3825 (22.5 penalty units)
233(1)(b)	Prohibited imports (in all cases except in the section 234AA circumstance that immediately follows)	\$2550 (15 penalty units)	\$7650 (45 penalty units)
233(1)(b)	Prohibited imports – natural person who is in a section 234AA place and is embarking or disembarking from a ship or aircraft	\$340 (2 penalty units)	N/A
233(1)(c)	Prohibited exports (in all cases except in the section 234AA circumstance that immediately follows)	\$2550 (15 penalty units)	\$7650 (45 penalty units)
233(1)(c)	Prohibited exports – natural person who is in a section 234AA place and is embarking or disembarking from a ship or aircraft	\$340 (2 penalty units)	N/A
233(1)(d)	Unlawfully convey or have in possession any smuggled goods or prohibited imports or prohibited exports	\$2550 (15 penalty units)	\$7650 (45 penalty units)
234A(1)	Unlawfully enter or be in or on a place when the personal baggage of passengers disembarking from or embarking on the ship or aircraft is being examined	\$340 (2 penalty units)	\$1020 (6 penalty units)
234AB(3)	Failure to comply with a direction given to a person by an officer regarding unauthorised use of an electronic device	\$340 (2 penalty units)	\$1020 (6 penalty units)
240(1), (1AA), (1A), and (1B)	Failure to keep commercial documents for 5 years	\$1275 (7.5 penalty units)	\$3825 (22.5 penalty units)
240(5) and (6B)	Failure to maintain integrity of documents for collector	\$1275 (7.5 penalty units)	\$3825 (22.5 penalty units)
240(6A)	Failure to keep a document if required so by a collector	\$1275 (7.5 penalty units)	\$3825 (22.5 penalty units)
240AB(3), (3A) and (7)	Failure of a person to keep a communication to Customs for the specified period	\$1275 (7.5 penalty units)	\$3825 (22.5 penalty units)
243SA	Failure to answer questions	\$1275 (7.5 penalty units)	\$3825 (22.5 penalty units)
243SB	Failure to produce documents or records	\$1275	\$3825

		(7.5 penalty units)	(22.5 penalty units)
243T(1)	False or misleading statements resulting in a loss of duty	\$2550 (15 penalty units) Or 25% of duty short paid, whichever is greater	\$7650 (45 penalty units) Or 75% of duty short paid, whichever is greater
243U(1)	False or misleading statements not resulting in a loss of duty	\$2550 (15 penalty units)	\$7650 (45 penalty units)
243V(1)	False or misleading statements in a cargo report or outturn report	\$2550 (15 penalty units)	\$7650 (45 penalty units)

12. WHAT ARE THE TRANSITIONAL ARRANGEMENTS?

The *Customs and AusCheck Legislation Amendment (Organised Crime and Other Measures) Act 2013* made significant changes to the Customs Act infringement notice scheme. The changes improve the utility of the infringement notice scheme by increasing penalties to encourage greater compliance and to move some aspects of the scheme into the Customs Regulations to provide some flexibility and simplification.

This Act contains the following savings provision that provides that the existing Division 5 in Part XIII of the Customs Act will continue to operate until regulations made under new subsection 243X(1) come into effect on 1 February 2014.

58 Savings provision

- (1) *Despite the repeal of Division 5 of Part XIII of the former Act by this Schedule, that Division and the provisions of the former Act amended by this Part continue to apply on and after commencement in relation to an act or omission constituting an alleged offence that occurs before a regulation makes provision as mentioned in subsection 243X(1) of the amended Act.*
- (2) *In this item:*
amended Act means the Customs Act 1901, as in force at the commencement.
commencement means the commencement of this item.
former Act means the Customs Act 1901, as in force immediately before the commencement.

ACBPS will issue an infringement notice in accordance with the Customs Act, Customs Regulation and INS Guidelines/Guide as in force on the date the alleged offence occurred.

The table below illustrates the transitional arrangements.

Customs Act offence	Offence and corresponding INS penalty for conduct that occurred before the commencement of the new regulations		Offence and INS penalty for conduct that occurs on or after the commencement of the new regulations	
	Natural Person	Body Corporate	Natural Person	Body Corporate
Sections 33(2), (3) and (6) interfering with goods subject to Customs control	Up to 60 penalty units (\$10,200) INS – 12 penalty units (\$2,040)	Up to 300 penalty units (\$51,000) INS - 12 penalty units (\$2,040)	Up to 60 penalty units (\$10,200) INS – 15 penalty units (\$2,550)	Up to 300 penalty units (\$51,000) INS - 45 penalty units (\$7,650)
Section 243T	Up to the amount of the duty short paid INS – 20% of the duty short paid	Up to five times the amount of the duty short paid INS – 20% of the duty short paid	Up to 60 penalty units (\$10,200) or the amount of the duty short paid, whichever is greater INS – 15 penalty units (\$2,550) or 25% of the duty short paid, whichever is greater	Up to 300 penalty units (\$51,000) or five times the amount of the duty short paid, whichever is greater INS – 45 penalty units (\$7,650) or 75% of the duty short paid, whichever is greater