Australian
BORDER FORCE

Australian Customs Notice No. 2021/01

Definition of ‘consignment’ for the purposes of section 68 of the *Customs Act 1901*

This advice supersedes ACN 2006/59.

Importers should take steps to understand their obligations. Providing false or misleading information to the Australian Border Force (ABF) is a strict liability offence under sections 243T and 243U of the *Customs Act 1901* (Customs Act).

Meaning of Consignment

Section 68 of the Customs Act requires imported goods to be entered for home consumption or for warehousing, by submitting an import or warehouse declaration. Paragraphs 68(1)(e) and (f) provide that section 68 does not apply to goods (other than prescribed goods) included in a consignment that has a value not exceeding AUD1000 (see section 26 of the *Customs Regulation* 2015).

The fundamental factor when determining whether goods form a consignment is whether the goods are a single arranged shipment from a consignor to a consignee. A consignment may be initiated unilaterally by the consignor (for example, a company sending unsolicited promotional material), but most commercial consignments will be made by the consignor upon receipt of an order from the consignee. At its simplest, a consignment will consist of a single order and will generally (but not always) be transported to Australia in the same ship or aircraft. Multiple packages will also form a single consignment where those packages are ‘known to be part of the same order’. Therefore, where the total value of all the packages forming an order from a consignor to a consignee exceeds AUD1000, the goods must be formally entered in accordance with the provisions of section 68.

A consignment with a value of AUD1000 or less must be entered on a self-assessed clearance (SAC) declaration (except if it is consigned through the Post Office). While a SAC declaration is not required for a consignment of goods imported by post with a value of AUD1000 or less (paragraph 29(d) of the *Customs Regulation 2015* refers), the same principle for determining the composition of a consignment applies equally to postal goods.

Where the ABF questions the legitimacy of the consignment, ABF officers can seek further information or supporting documentation (for example order records, invoices, packing lists), to assist in verifying whether or not goods constitute one consignment.

Definition of ‘consignor’ and ‘consignee’

Paragraph 64AB(5)(a) of the Customs Act defines a consignor for the purposes of cargo reports as a supplier of goods who is located outside of Australia and who either initiates the sending of goods to a person in Australia, or complies with a request from a person in Australia to send goods to the person.

Unless they initiate the sending of the goods or are the actual supplier of the goods, the consignor is not a person or entity that:

- consolidates goods for export to Australia; or
- is a freight forwarder or other logistical services provider; or
- is a buying agent.

Paragraph 64AB(5)(b) of the Customs Act defines a consignee for the purposes of cargo reports as the ultimate recipient of the goods that have been sent from outside Australia whether or not the person ordered or paid for the goods.

Split consignments

A 'split consignment' is a consignment that is sent from one consignor to one consignee that is made up of more than one package, with one or more packages arriving at the Australian border separately to the others. While the packages arrive at different times, for the purposes of section 68 of the Customs Act, they are considered to be one consignment.

Where it is suspected that a split consignment has been falsely declared as two or more separate consignments, an ABF officer may seek further information or supporting documentation (for example, order records, invoices, packing lists) from the consignee to assist in verifying whether or not the goods constitute one consignment.

Structured ordering

Structured ordering is where multiple orders are placed with one supplier in a relatively short timeframe (for example, within hours or days), with all orders having a customs value at or below the AUD1000 threshold, and all orders arriving in Australia at the same time (or within a relatively short timeframe). It is not acceptable for an importer to deliberately structure orders in such a way as to ensure consignments have a value at or below the AUD1000 threshold in order to avoid customs duty and GST liabilities. Goods that are 'known to be part of the same order' are one consignment (even if the goods arrive in separate packages on separate days). If the total value of the consignment is over AUD1000, an import or warehouse declaration is required to be completed.

However, the ABF does not consider businesses that normally place multiple small orders at ad hoc intervals and ad hoc values, as attempting structured ordering. If the importer objects to the ABF's assessment of whether multiple orders of goods are separate consignments, the onus is on them to provide additional information, such as evidence of ordering patterns over previous months that would support a different conclusion.

Customs duty and GST treatment of low value goods and 'bulk orders'

A consignment with a value at or below the import entry threshold described in section 68 of the Customs Act (AUD1000) will be duty free provided the requirements of Customs By-law No. 1305011 to Item 26 of Schedule 4 of the *Customs Tariff Act 1995* are met. Customs By-law No. 1305011 aligns the duty threshold with the entry threshold at less than AUD1000.01. Tobacco, tobacco products and alcohol beverages are excluded from this concession and will liable for duty irrespective of their value. Customs By-law No. 1305011 also excludes 'goods forming part of a bulk order' from receiving this concessional treatment. The term 'bulk order' is used to refer to goods which are ordered together and shipped separately in two or more shipments.

It follows that there are circumstances where a consignment that is valued at AUD1000 or less may not require a formal entry under section 68 but will not be eligible for concessional treatment under Customs By-law No. 1305011. It is inconsistent with the requirements of section 68 and Customs By-law No. 1305011 to structure a consignment in such a way as to deliberately avoid duty and GST liability.

Further information

For further information on importation requirements, please consult the *Customs Act 1901* and the *Customs Regulation 2015*.



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