

CUSTOMS AND MINISTRY FOR PRIMARY INDUSTRIES REQUIREMENTS FOR MOVING CONTAINERS OFF WHARF

This fact sheet details the requirements of the New Zealand Customs Service and Ministry for Primary Industries for brokers, freight forwarders, and removal companies when moving containers off wharf.

CUSTOMS DEFINITIONS RELATING TO SEA CONTAINERS

The following definitions relating to sea containers are applicable to this fact sheet:

- Empty – Where the container is an empty shipping container.
- Full Container Load (FCL) – Where only one consignment is packed in the container and that consignment contains the goods of only one consignee.
- Less than a Container Load (LCL) – Where more than one consignment is packed in the container and the consignments are for more than one consignee.

WHAT ARE THE REQUIREMENTS FOR FULL CONTAINER LOAD (FCL) CONSIGNMENTS?

Imported goods are required to be entered for Customs purposes. A Customs entry made showing the container status as Full Container Load (FCL) must account for all goods within that container for both Ministry for Primary Industries (MPI) and Customs purposes. For risk assessment purposes, it is vital that all goods are declared at

the time an import entry is made for an FCL consignment.

Once an entry showing FCL status has cleared Customs, an electronic delivery message is routed to the port company and the container may be released from Customs control. Release from Customs control does not constitute release from MPI control.

The MPI Sea Container Quarantine Declaration is submitted electronically as part of the Customs entry process. If MPI do not require any action to be taken on the wharf with the container, a message is transmitted to the port company advising that the blanket port hold has been lifted and the container can then be moved to a MPI-approved transitional facility (ATF). Please note the MPI direction to move the container from the wharf to an ATF is not a final MPI clearance for the container or its contents.

Some containers will require MPI intervention before leaving the wharf. For these consignments, MPI will require the agent/importer to make application for a Biosecurity Authority Clearance (BACC). The MPI message

will indicate what type of action is required before the MPI hold can be lifted. These messages include:

- MAF EXTERNAL
- MAF WASH
- MAF FUMIGATE
- MAF HOLD
- MAF INTERNAL
- MAF AUDIT.

Please note that some consignments may require more than one action, and there will be combinations of messages. Further information is available in MPI Fact Sheet 01 Electronic Messages to Port Companies and Declarants, available from the MPI website at www.biosecurity.govt.nz

Where an FCL container is required to be moved off the wharf without having cleared Customs, this can be facilitated using the Customs transshipment scheme or Customs permit. Transshipment is used to move containers between Customs Controlled Areas in different regions (for example, Auckland to Napier), and Customs permits are used to move containers between Customs Controlled Areas within the same region.

A MPI Biosecurity Authority Clearance Certificate (BACC) is required prior to removing the container under these circumstances.

Prior to moving containers to Customs Controlled Areas, importers should ensure that these areas are also MPI-approved transitional facilities (ATF). A list of Customs Controlled Areas is available from the Customs website www.customs.govt.nz. A list of MPI-approved transitional facilities is available at <http://containerchecks.maf.govt.nz/Default.aspx> (see Approved Transitional Facilities).

WHAT ARE THE REQUIREMENTS FOR LESS THAN A FULL CONTAINER LOAD (LCL) CONSIGNMENTS?

A container carrying more than a single consignment (i.e. not FCL) is classified as an LCL container. The terms FAK (freight all kinds) or Groupage are also used to describe this type of container.

All consignments being carried in these containers must, in the Import Entry, have the container status shown as Less than a Full Container Load (LCL).

All LCL containers are required to be moved to a Customs Controlled Area which is also a MPI-approved transitional facility (ATF) for devanning.

For Customs purposes, the Customs Transshipment scheme or Customs permit is used to move containers from the wharf to other Customs Controlled Areas. Transshipment is used to move containers between Customs Controlled Areas in different regions (for example, Auckland to Napier) and Customs permits are used to move containers between Customs Controlled Areas within the same region.

For MPI purposes, a MPI Biosecurity Authority Clearance Certificate (BACC) is required prior to removing the container. Please note that, to move the container to a Customs Controlled Area for devanning, the MPI wharf hold will need to be lifted. This can only be achieved by obtaining a BACC.

Prior to moving containers to Customs Controlled Areas, importers should ensure that these areas are also MPI-approved transitional facilities (ATF). A list of Customs Controlled Areas is available from the Customs website www.customs.govt.nz. A list of MPI-approved transitional facilities is available at <http://containerchecks.maf.govt.nz/Default.aspx> (see Approved Transitional Facilities).

CUSTOMS OFFENCE PROVISIONS FOR NON-COMPLIANCE

Outlined below are the Customs offence provisions that apply when:

- the container status field on the entry is not correctly recorded
- the container status is recorded as FCL but the entry does not account for all goods in the container.

Offences in relation to entries

Section 364(1)(a) of the Customs and Excise Act provides that it is an offence to make an entry that is erroneous or defective in a material particular. Upon conviction of an offence against section 364(1)(a), the following penalties apply:

- In the case of an individual, a fine not exceeding \$1,000.
- In the case of a body corporate, a fine not exceeding \$5,000.

Section 364(4)(a) provides that every person commits an offence in the making of an entry the person knows is erroneous or defective in a material particular. Upon conviction of an offence against section 364(4)(a), the following penalties apply:

- In the case of an individual, imprisonment for a term not exceeding 6 months or a fine not exceeding \$10,000.
- In the case of a body corporate, a fine not exceeding \$50,000.
- In either case, a fine of an amount not exceeding three times the value of the goods to which the offence relates.

Goods forfeited/seizure

Section 176 of the Customs and Excise Act 2018 provides that the following goods shall be forfeited to the Crown:

- Goods in which an offence has been committed under section 364 of this Act.
- Goods in any package where those goods are not fully accounted for in the entry or declaration relating to that package.

Section 178 of the Customs and Excise Act 2018 provides that forfeit goods may be seized.

MPI PROVISIONS FOR NON-COMPLIANCE

From the Biosecurity Act (1993)

- Uncleared goods may only leave a craft to go to a transitional facility or a biosecurity control area (section 25).
- Goods in a biosecurity control area or a transitional facility may only leave that place if cleared or, if not cleared, to go with the authority of an inspector to another biosecurity control area or transitional facility (section 25).
- All goods (including containers) must be cleared for entry into New Zealand (section 26).
- Inspectors are required to consider the matters specified in section 27 in determining whether a clearance may be granted.

Offences and Penalties

Section 154(d): The person in control of any container does not do what they have been lawfully directed to do in respect of that container. The penalty under section 157(4) is up to 3 months imprisonment and/or a fine of up to \$50,000 for an individual and up to \$100,000 for a corporate.

Section 154(e): The person in charge of a container does not comply with a reasonable requirement made by an inspector (or an assistant of an

inspector) or an authorised person (or an assistant of an authorised person) (e.g. treat the container). Penalty is the same as for section 154(d).

Section 154(h): Where the goods are under the control of an inspector or an authorised person, any person who alters the condition or unpacks or repacks the container without the permission of an inspector or authorised person commits an offence. The penalty for an individual is a term of imprisonment for up to 5 years or a fine of up to \$100,000 or both. For a corporate, the penalty is a fine of up to \$200,000.

Section 154(i): Any person who knows that the container (risk goods) is under the control of an authorised person or inspector and is stored where it has been directed to be stored, and who removes the container without the permission of an inspector or authorised person, commits an offence. The penalty is same as for section 154(h).

Section 154(p): When the container is in a biosecurity control area and the person in control of the container is in that area and does not answer or does not correctly answer the reasonable questions of an inspector (as set out in the offence) relating to the container, that person commits an offence. The penalty for an individual is a fine of up to \$5,000 and up to \$15,000 for a corporate.

FOR FURTHER INFORMATION

Contact your nearest office of the New Zealand Customs Service, visit the Customs website www.customs.govt.nz or call Customs on 0800 428 786 (0800 4 CUSTOMS).