

## **FREQUENTLY ASKED QUESTIONS BY IMPORTERS REGARDING ASBESTOS IN VEHICLES AND MOTORCYCLES**

### **1. What vehicles need to be tested/inspected for asbestos?**

The Australian Border Force (ABF) targets both imported and exported goods, considered to be at high risk of containing asbestos. A list of high risk goods is available from the Department of Immigration and Border Protection's (the Department's) website.

<http://www.border.gov.au/Busi/Impo/Proh/Asbestos>

Any unauthorised goods found to contain asbestos will be seized and the importer may face penalties and/or prosecution.

If the ABF suspects that goods arriving at the border contain asbestos, the goods are detained and examined. Documentation that provides sufficient assurance must be provided. The importer may be required to arrange testing and certification by a 'competent person' to ensure there is no presence of asbestos. The arrangement and cost of any independent inspection, testing and storage of the goods is the responsibility of the importer/exporter in Australia in accordance with section 186 of the *Customs Act 1901 (the Act)*. If Australian importers can demonstrate their own supply chain assurance programme they could avoid delays to the clearance of their goods at the point of importation.

Information on sufficient assurances is also available on our website at:

<http://www.border.gov.au/Customsnotices/Documents/dibp-notice-2017-21.pdf>

### **2. Is there any exceptions?**

Details of import and export exceptions, exemptions and permissions is available on our website at: <http://www.border.gov.au/Importingandbuyinggoodsfromoverseas/Pages/Asbestos.aspx>

### **3. Can I provide data sheets of brakes/clutches etc to avoid inspection?**

Data sheets or supplier statements alone are not sufficient assurances the goods do not contain asbestos. Information on sufficient assurances is available on our website at:

<http://www.border.gov.au/Customsnotices/Documents/dibp-notice-2017-21.pdf>

### **4. Can I just remove the brakes pads to avoid inspection?**

It is important to note that not only brake pads, linings and blocks are a risk for asbestos, gaskets and seals and clutch linings also pose a risk. Removal of all risk parts prior to exporting the motorcycle may be a viable option. If this is done, documentation to certify the removal of such parts would be required to be presented at the border to provide assurance that the motorcycle does not pose a risk for asbestos. Where the ABF is not provided with sufficient assurance that risk parts have been removed, and examination may be required.

## **5. Do vehicles need to be inspected prior by shipping?**

Certain testing certificates, laboratory reports or supply chain documentation can provide assurance that asbestos is not present in imported goods. Please note supply chain documentation may not be appropriate for one off vehicles due to age and possible replacement of parts that may introduce an asbestos risk. As such it is recommended testing and certification be undertaken by a 'competent person' to ensure there is no presence of asbestos before the vehicle is imported into Australia.

Importers can also import samples into Australia (with prior Ministerial permission) for testing, or undertake testing overseas.

For testing in Australia, the ABF will only accept certification from a laboratory, that is accredited by NATA to undertake asbestos testing, that confirms asbestos was not detected.

For testing undertaken overseas, the ABF will only accept certification confirming no asbestos was detected in samples from a laboratory accredited to undertake asbestos testing by a NATA-recognised equivalent through a Mutual Recognition Arrangement (MRA).

It is important that any international testing certificates clearly state that any level of asbestos detected is noted in the report, as some countries allow small levels of asbestos (<0.1%, or in some economies <1%). The report must indicate that no levels of asbestos were detected, regardless of the testing standard of that economy. The DIBP website provides more detail around engaging an international laboratory including links to NATA industry guides.

Information on sufficient assurances is available on our website at:

<http://www.border.gov.au/Customsnotices/Documents/dibp-notice-2017-21.pdf>

## **6. What documents are required to avoid asbestos inspection on arrival?**

Information on sufficient assurances is available on our website at:

<http://www.border.gov.au/Customsnotices/Documents/dibp-notice-2017-21.pdf>

## **7. If my vehicle is inspected on arrival in Australia and is found with any asbestos will I be fined?**

Importers of goods that are found to contain asbestos may be subject to penalties or prosecution.

Border offences relating to asbestos can attract fines for individuals up to \$210,000 or three times the value of the goods (if the court can determine the value of the goods), whichever is the greater, pursuant to the Customs Act 1901 (Cth).

Where a body corporate is convicted of an offence, relating to asbestos, against a law of the Commonwealth, the court may impose a fine up to \$1,050,000 or 15 times the value of the goods (if the court can determine the value of the goods), whichever is the greater, pursuant to the Crimes Act 1914 (Cth).

## **8. What is considered due diligence?**

Importers and customs brokers must be aware of Australia's asbestos import prohibition.

Before goods are imported into Australia, importers must have adequate assurance that the goods being imported do not contain asbestos.

Importers must not assume that goods contain nil asbestos content.

The ABF expects importers to undertake adequate assurance measures to demonstrate that the goods they are importing that are known to be at risk of containing asbestos, or goods supplied from countries with asbestos producing industries, do not contain asbestos.

Information on sufficient assurances is available on our website at:

<http://www.border.gov.au/Customsnotices/Documents/dibp-notice-2017-21.pdf>

#### **9. What is the penalty if my vehicle is found with asbestos on arrival?**

Importers of goods that are found to contain asbestos may be subject to penalties or prosecution.

Border offences relating to asbestos can attract fines for individuals up to \$210,000 or three times the value of the goods (if the court can determine the value of the goods), whichever is the greater, pursuant to the Customs Act 1901 (Cth).

Where a body corporate is convicted of an offence, relating to asbestos, against a law of the Commonwealth, the court may impose a fine up to \$1,050,000 or 15 times the value of the goods (if the court can determine the value of the goods), whichever is the greater, pursuant to the Crimes Act 1914 (Cth).

#### **10. Will I be targeted by redline on future imports if I have a vehicle?**

The ABF must be satisfied that goods entering Australia do not contain asbestos.

The Australian Border Force (ABF) targets both imported and exported goods, considered to be at high risk of containing asbestos. A list of high risk goods is available from the Department of Immigration and Border Protection's (the Department's) website at:

<http://www.border.gov.au/Busi/Impo/Proh/Asbestos>.

Shipments from overseas suppliers who have been identified as sending asbestos or Asbestos Containing Material (ACM) to Australia may be targeted for intervention action at the border. Goods that have previously been imported from these suppliers may also be identified and referred to state and territory WHS regulators for further investigation.

#### **11. What is the penalty if any for a customs broker if an entry is lodged without sufficient evidence the vehicle is asbestos free?**

Customs brokers must be aware of Australia's asbestos import prohibition.

Solely relying on a declaration that states the goods have nil asbestos content from an importer and/or supplier may not provide adequate assurance. In the event that a customs broker receives a declaration from an importer that the goods have nil asbestos content, before relying on that declaration, the customs broker should ensure they have an understanding of what assurances/supporting documentation the importer obtained to support the making of the declaration.

Licensed customs brokers have an obligation to declare accurate information to the ABF. They should exercise due diligence to ensure that the information they report to the ABF on behalf of their clients is correct.

**12. Does border force pay the costs for removal and/or disposal of the asbestos?**

If asbestos is detected in goods being imported, the goods are seized as a prohibited import, and will be forfeited to the Crown for disposal. If this occurs, the costs associated with disposal will not be the responsibility of the importer, unless a successful prosecution orders the payment of such costs by the importer.

**13. Can I remove the wheels, brakes, gaskets etc for testing or disposal to save costs?**

Removal of all risk parts prior to exporting vehicles may be a viable option. It is important to note that not only brake pads, linings and blocks are a risk for asbestos, gaskets and seals and clutch linings also pose a risk. If this is done, documentation to certify the removal of such parts would be required to be presented at the border to provide assurance that the vehicle does not pose a risk for asbestos. The removal of such parts cannot be undertaken after the goods have been exported to Australia.

Where the ABF is not provided with sufficient assurance that risk parts have been removed, and examination may be required and only 'competent persons' qualified in the examination and removal of asbestos may remove parts for the purposes of examination and testing.

It is important to note that asbestos has been used in a wide number of products due to its flexibility, tensile strength, insulation, chemical inertness and affordability and is still used outside Australia in many applications. A list of high risk goods is available from the Department of Immigration and Border Protection's (the Department's) website.

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