

Australian Government Attorney-General's Department

Proposed Permit Scheme for Importation of Tablet Presses

Introduction

On 19 June 2009, the Minister for Home Affairs, the Hon Brendan O'Connor MP, announced the Government's intention to make tablet presses a prohibited import. To fulfil this commitment it is intended to amend the *Customs (Prohibited Imports) Regulations 1956* to include tablet presses. This proposed import control will complement existing state and territory laws which make it an offence to possess a tablet press without lawful excuse.

The purpose of this paper is to provide industry stakeholders with an overview of the proposed import permit regime with a view to generating feedback. The paper describes, in general terms, grounds for importation, grounds for refusal, the process for considering applications and the use of information gathered to assess an application. Feedback received from this consultation process will be used to further refine, where appropriate, the import permit scheme.

Proposed Scheme

The scheme proposes to amend the *Customs (Prohibited Imports) Regulations 1956* to make tablet presses a prohibited import. Legitimate importers would be able to continue importing machines with the approval of the Minister or the Minister's delegate.

What is to be regulated?

Whole tablet presses will be the subject of an import permit, based on the following proposed definition:

The term tableting machine means any manual, semi automatic, or fully automatic equipment which may be used for the compaction or molding of powdered or granular solids, or semi solid material, to produce coherent solid tablets.

Does the definition accurately describe tablet presses?

Will other types of machinery be inadvertently be captured by this definition?

Consideration is being given to controlling individual punches/dies that are not imported as part of an assembled tablet press.

Does your business(es) import punches/dies separately from tablet press machines and if so, in what numbers per annum?

Does your business(es) source punches/dies manufactured within Australia?

Delegation and nature of power

The authority to make a decision to grant an import permit will be delegated from the Minister to an appropriate position within the regulating agency. The decision maker will have full discretion to make a decision to either grant or deny an import permit.

Review of decisions

Decisions relating to the granting of an import permit for tablet presses will be subject to judicial review before the Federal Court of Australia pursuant to the *Administrative Decisions (Judicial Review) Act 1977*.

Is the review of decisions sufficient?
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What will be the import control mechanism?

The scheme will require that an import permit be acquired before a tablet press can be imported. There will be no requirement to hold an importation licence in order to apply for an import permit.

Import permits will be single-use only. Each permit will authorise an applicant to import one or more specific machines and will expire after a set time period. Therefore, an application will need to be made for each shipment of tablet presses entering the country.

The proposal does not encompass any ongoing licensing scheme for the possession of tablet presses.

<i>Will the import permit process significantly impact on the operation of your business(es)?</i>

Penalties

Importing a tablet press without permit would constitute an offence under section 233 of the *Customs Act 1901*, attracting penalties of either a fine of up to three times the value of the goods, or 1000 penalty units (currently amounting to \$110,000), whichever is greater.

Conditions over permits

The Delegate would have the power to grant import permits subject to conditions, such as, for example, requiring the permit to be endorsed by Customs and Border Protection and returned to the permit issuing agency within a specified period of time after importation.

Administration of the Scheme

The proposed scheme will require entities to obtain permission to import before importing a tablet press into the country. An application will be made to the regulatory agency, where an authorised person will determine whether or not to grant permission to import.

An application will need to be made by an individual, representing either themselves or the company they work for. Customs and Border Protection may release the item upon presentation of a valid permit.

What information will be sought?

Applicants will be requested to provide a range of information to support their application. This will include personal information of the applicant, contact and

operational details of the company, information supporting the intended purpose of the import, and descriptions of each machine to be imported. Information to be requested is listed in the table at **Attachment A**.

Is there additional information the regulatory body could require to assist with determining the legitimacy of the application to import?

Who will the information be provided to?

Application information may be provided to third parties for the purposes of verification. The decision maker may also seek further information from third parties to determine if the applicant is a fit and proper person. Information held in relation to applications may be disclosed to law enforcement agencies to assist with investigations in accordance with relevant laws.

On what basis will the decision be made?

The decision maker may exercise discretion to issue a permit where satisfied, on the balance of probabilities, that the tablet press is not to be imported for unlawful purposes.

Relevant considerations in making a decision

Determining lawful purpose will require consideration of a range of indicators. Indicators include an assessment of whether the:

- applicant is a fit and proper person;
- business is engaged in lawful trade (lawful may include trades such as manufacture, research and development and wholesale/retail);
- intended purpose for the tablet press is lawful; and
- features of the tablet press are consistent with the stated purpose for which it is required.

The applicant will be responsible for providing sufficient evidence to satisfy the decision maker.

An assessment of whether an applicant is a fit and proper person would be based on evidence that could include character references and criminal history checks.

Engagement in lawful trade could be determined by taking account of the applicant or company's membership of recognised peak industry associations, and history of applications for a tablet press or chemical importation permits.

Other than manufacturing, research and development and wholesale/retail, are there other legitimate purposes for which tablet presses are used? Feedback on specific industries (pharmaceutical/ confectionary/ veterinarian/ etc.) utilising tablet presses is welcome.

Attachment A: Information to be provided in support of an application to import a tablet press

Personal Information	Company Information	Machine and Import Information
<ul style="list-style-type: none"> • Full name • Position held within company • Date of birth • Drivers license number • Previous names (if applicable) • Contact phone number (landline) and email • Current residential address • Previous residential addresses (within last 5 years) • Criminal record – Crime, Date of Conviction, State of Conviction, Sentence/Penalty • Declaration and Consent 	<ul style="list-style-type: none"> • Name of company • Names and positions of office holders • Nature of company – (manufacturer, retailer, research institution) • ABN/ACN • Website • Membership of industry association • Why the tablet press is required • Number of machines currently possessed by the company • Contact details <ul style="list-style-type: none"> ○ Street address and postal address ○ Phone number, fax number, mobile, email address 	<ul style="list-style-type: none"> • Number of machines sought to import • Name of supplier • Evidence of purchase (purchase order, invoice) • Brand/manufacture of machine <ul style="list-style-type: none"> ○ Model of machine • Size of machine – single punch or multistage (eg.16, 32) • Capacity of production – pills/hour • Automatic/semi-automatic/manual • Weight • Net cost (excluding shipping/brokerage fees) • Country of origin • Port of export • Method of importation (air freight, sea freight) • Australian port of entry • Approximate date of arrival • Name/contact details of customs broker (if broker is being used)