



Australian Government

Department of Immigration
and Border Protection

Guide to lodging a Notice of Objection under the *Copyright Act 1968*

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1. Requirements to lodge a Notice of Objection under the Copyright Act 1968

- 1.1. This guide provides information to assist copyright owners to complete the required information for a Notice of Objection to be lodged.
- 1.2. For a Notice of Objection to be registered, the following must be provided:
 - A completed Copyright Act 1968 Notice of Objection form (B470).
 - A letter of authorisation, if required (see section 4).
 - A completed Copyright Act 1968 Security Under Section 135 - Deed of Undertaking form (B466). Please be aware that the original deed must be mailed to the Department.

2. Completing the Copyright Act 1968 Notice of Objection form (B470)

2.1. Details for completing the Notice of Objection form B470:

2.1.1. Full name of the company lodging the Notice:

- When the Notice is filed in the name of the owner this should be the full name of the company or individual who is claiming the copyright.
- When the Notice is filed in the name of an exclusive licensee it should reflect the same name as appears in the authorisation letter/s issued by the copyright owner.
- Completed documents can be emailed to IPRights@border.gov.au or mailed to the Department of Immigration and Border Protection, PO Box 25 Belconnen ACT 2616.

2.1.2. Company ABN, Client Activity Centre (CAC) or Customs Client ID (CCID), if applicable:

- Australian owned companies should have an ABN or an ABN/CAC.
- International companies should have a CCID.

2.1.3. Full address of the company lodging the Notice must match the address registered:

- against the ABN with the Australian Taxation Office; or
- match a registered CCID.

2.1.4. Indicate if the company lodging the Notice is the owner or exclusive licensee of the copyright material being covered by the Notice.

- Place an X in the box which accurately reflects the ownership status of the copyright material. The Notice may cover material the objector owns as well as material that they are licensed to use. In these instances both boxes should be selected.

2.1.5. Signature, title and full name of an appropriately authorised person on behalf of the company lodging the Notice.

- This may be the legal representative or the company representative.

2.1.6. Details of the legal representative for the company lodging the Notice:

- Contact details for the law firm/organisation and contact person representing the company lodging the Notice, where applicable.
- The address provided must be the physical address.

2.1.7. Contact details for the person and/or company for any seizures made on behalf of the company lodging the Notice:

- Details for the company and contact person that should be advised by the Australian Border Force (ABF) of any seizures made.
- The address provided must be the physical address.

2.1.8. Authorised importers

- A list of companies or individuals authorised to import goods incorporating the copyright material covered by the Notice of Objection should be provided. This will assist the ABF to target alleged infringing shipments on your behalf more effectively.

Copyright Act 1968 Notice of Objection form (B470)

Australian Government
Department of Immigration and Border Protection

Copyright Act 1968
NOTICE OF OBJECTION

To: Comptroller-General of Customs
Department of Immigration and Border Protection
6 Chan Street
Belconnen ACT 2617

Attention: Intellectual Property Rights

2.1.1 Full name of the person/company lodging the Notice.

2.1.2 Company ABN or Customs Client ID (CCID), if known.

2.1.3 Full address of the company lodging the Notice.

2.1.4 Indicate if the company lodging the Notice is the owner or the exclusive licensee of the copyright material being covered by the Notice (both boxes may be selected).

2.1.5 Signature, title and full name of an appropriately authorised person on behalf of the company lodging the Notice.

2.1.6 Details of the legal representative for the company lodging the Notice.

2.1.7 Contact details for the person and/or company for any seizures made on behalf of the company lodging the Notice.

2.1.8 List of companies and/or individuals authorised to import the copyrighted material.

Legal Notice: If this form is completed by an individual, then the Privacy Act 1988 says we must tell you why we are collecting this information, how we will use it and whether you have to give it to us. We require this information under the Copyright Act 1968 to allow us to seize goods which are imported and may contravene s135(7) of that Act if not seized. The Department of Immigration and Border Protection is not permitted to disclose this information or any supplementary information you give, except when required or authorized by law.

B470 (Sept 2015)

3. Copyright Schedule

3.1. The Schedule should be listed on the reverse side of the Notice of Objection form (B470).

3.1.1. Information regarding the copyright material to be covered by the Notice should be listed including a detailed description of the material to be covered (i.e. list of movie titles, artists, record labels, images etc). This list should be emailed to IPRights@border.gov.au.

4. Authorisation letter/s

4.1. For any copyright material covered that is not owned by the company lodging the Notice, a letter authorisation to file the Notice on the copyright owner's behalf must be provided to the Department of Immigration and Border Protection (DIBP), in some cases this may require several letters from the various copyright owners.

5. Security

5.1. The objector must complete a Copyright Act 1968 Security Under Section 135 - Deed of Undertaking form (B466) (Deed). The Deed must be executed by the company lodging the Notice;


5.1.1. The Deed is a formal undertaking from the objector acknowledging they will pay any costs incurred by the Department of Immigration and Border Protection and the Australian Border Force while enforcing the Notice of Objection.

5.1.2. Details for completing the Deed (B466) (please refer to example on pages 7 and 8):

- The date the Deed is signed (executed);
- Full name of the company providing the Deed;
- Full address of the company providing the Deed;
- There are four options in which to execute the Deed:
 - Option 1: If an individual is lodging the Notice of Objection and Deed;
 - Option 2: If the company lodging the Notice has a sole director who is also the sole company secretary;
 - Option 3: When the company lodging the Notice has two directors or one director and one company secretary; or
 - Option 4: If the company lodging the Notice has a common seal; or the company is a proprietary company with a seal and has a sole director that is also the company secretary.

5.1.3. All signatures must be witnessed.

Copyright Act 1968 Security Under Section 135 - Deed of Undertaking form (B466)

 **Australian Government**
Department of Immigration and Border Protection

Copyright Act 1968

SECURITY UNDER SECTION 135 - DEED OF UNDERTAKING

THE DEED IS MADE

on the _____ day of _____ 20____

Y _____
Company

of _____ hereinafter referred to as the Undertaking Giver.
Address

Recital

A. The Undertaking Giver has given to the Comptroller-General of Customs a written notice, under s135(2) of the Copyright Act 1968 (the Act) that they are the owner of the copyright in the 'copyright material' as defined in s134B of the Act and listed in the Schedule to the written notice and that they object to the importation into Australia of copies of that copyright material to which s135 of the Act applies.

B. Pursuant to s135(7) of the Act the Comptroller-General of Customs must seize the copies.

C. Pursuant to s135AA(1) of the Act, the Comptroller-General of Customs has decided not to seize the copies unless the Undertaking Giver has given a written undertaking, in the terms of this Deed, to repay the Commonwealth the expenses of seizing the copies.

The Deed Witnesses:

Where, after the date of the Deed, the Comptroller-General of Customs seizes the copies pursuant to s135(7) of the Act, the Undertaking Giver shall, upon demand, pay to the Commonwealth the expenses of seizing the copies.

- The expenses of seizing the copies are as defined in s135AA(4) of the Act as being the expenses that may be incurred by the Commonwealth if the copies were seized.
- Any demand made under this Deed upon the Undertaking Giver shall be deemed to have been duly made if it is in writing and signed by the Comptroller-General of Customs, or a delegate, and sent by prepaid post as a letter to the Undertaking Giver, or their nominated legal representative, or left by hand, at the address set forth in this deed or at the address last notified to the Department of Immigration and Border Protection under clause 5 here of. Any such demand sent by prepaid post shall be deemed to have been received by the Undertaking Giver, at the time when such demand could in the ordinary course of post have been delivered.
- Pursuant to s135AJ(2) of the Act the amount payable under Clause 1 hereof is a debt due to the Commonwealth and may be recovered by an action taken in a court of competent jurisdiction.
- If there is an alteration to the name or address of the Undertaking Giver or their nominated legal representative, then the Undertaking Giver shall give to the Department of Immigration and Border Protection written notice of the fact within seven working days after the date on which the alteration takes place.

OR

- If there is an alteration to the name or address of the Undertaking Giver or their nominated legal representative, or if the Undertaking Giver ceases to carry on business, or there is an alteration to the ownership or control of the Undertaking Giver, then the Undertaking Giver shall give to the Department of Immigration and Border Protection written notice of the fact within seven working days after the date on which the alteration or cessation takes place.

NOTE: This clause 5 may vary depending on whether the Undertaking Giver is a natural or corporate person.

- A reference in this Deed to a provision of the *Copyright Act 1968* shall be read as a reference to that provision as in force as amended at the date of execution of this Deed, and to any provision re-enacting or replacing the same.

B466 (Dec 2015)
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4.1.2 Full name of the company providing the Deed. **MUST BE THE COMPANY LODGING THE NOTICE.**

4.1.2 The date the Deed of Undertaking is executed.

4.1.2 Full address of the company providing the Deed.

Option 1

Executed as a Deed

[Note: Where Undertaking Giver is a natural person]

Signed, sealed and delivered by:

Signature:

Name of Undertaking Giver

In the presence of:

Signature:

Name of witness

OR

Executed as a Deed

[Note: Where executed for a proprietary company that has a sole Director where that Director is also the Secretary]

Signed, sealed and delivered by:

Signature:

Name of sole Director / Company Secretary

Signature:

Name of witness

OR

Executed as a Deed

[Note: Where executed by two or more persons of a company, or a Director and a company secretary]

Signed, sealed and delivered by:

Signature:

Name of Director

Signature:

Name of witness

Signature:

Name of Director / Secretary

Signature:

Name of witness

OR

Executed as a Deed

[Note: Where executed by a proprietary company with a common seal or where executed by a proprietary company with a common seal that has a sole Director who is the company secretary]

Signed, sealed and delivered by:

Company Seal

Option 4

Witnessed By:

Signature:

Name of Director or sole Director/Company Secretary

Signature:

Name of Director / Secretary (not required where executed by sole Director who is the Company Secretary)

Note: Please check advice on the correct form of execution on a case basis.

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6. Information on suspected infringing goods

- 6.1. If any information comes to hand, which may assist the ABF to enforce the Notice of Objection (e.g. companies or individuals importing alleged infringing goods into Australia, including any particulars of shipments due to arrive), please complete the form B253 'Intellectual Property and Commerce labelling Referral Details' and email to IPRights@border.gov.au. The form can be found at: <https://www.border.gov.au/Forms/Documents/B253.pdf>.

7. Additional assistance

- 7.1. If you require assistance or information regarding the lodgement of notices please contact the IPRights team at IPRights@border.gov.au.
- 7.2. Completed documents can be mailed to:
The Department of Immigration and Border Protection
PO Box 25
Belconnen ACT 2616