



Application for Review of Seizure

Section 291 of the Customs Revenue and Border Protection Act 2012

To: Comptroller
Cook Islands Customs Service
PO Box 120
Avarua, Rarotonga
Cook Islands

I
(Full name of applicant)

of
(Name of company if applicable)

Address for correspondence:

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.....
.....

Having an interest in the goods listed below that have been seized under section 191 of the Customs Revenue and Border Protection Act 2012 (the Act), apply for review of seizure in accordance with section 292 of the Act.

Goods (as described on the seizure notice):
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.....
.....

My interest in these goods is:
(eg, importer, owner, purchaser, etc)

State the grounds for review of seizure, in line with sections 292(3) and 295 of the Act (see over):

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Additional written submissions and any documents that may assist in the review should be attached.

Signature of applicant: Date:

Extracts from the Customs Revenue and Border Protection Act 2012

Section 292 - Application for review of seizure

1. Any person who has an interest in goods that have been seized under section 226 may, within the time specified in subsection (2), apply in writing to the Comptroller for a review of the seizure.
2. The time is—
 - (a) 20 working days after the date on which the notice of seizure is given to the applicant; or
 - (b) any further time allowed by the Comptroller if satisfied that the applicant did not receive the notice of seizure or that a further period is otherwise required in the interests of justice.
3. An application under this section may be made on either or both of the following grounds:
 - (a) that there was no legal basis for the seizure of the goods:
 - (b) that the applicant should, in all the circumstances, be granted relief.
4. The application must—
 - (a) state the ground or grounds on which it is made; and
 - (b) give an address at which the applicant wishes to receive correspondence relating to the application; and
 - (c) be sent to the Comptroller.

Section 293 - Conduct of review

1. On receipt of an application under section 292, the Comptroller must conduct the review on the papers unless the Comptroller otherwise directs.
2. In undertaking the review, the Comptroller—
 - (a) must consider the application and any written submissions made by the applicant; and
 - (b) may consider any statement, document, information, or matter that in the Comptroller's opinion may assist the Comptroller to deal effectively with the subject of the review, whether or not it would be admissible in a court of law.
3. The Comptroller may ask the applicant for supplementary information and have regard to that supplementary information.
4. The applicant must establish, on the balance of probabilities, that the applicant has an interest in the seized goods and acquired that interest in good faith.

Section 295 - Matters concerning grant of relief

The matters the Comptroller may take into account when deciding whether or not to grant relief include, without limitation:

- (a) the seriousness and nature of any act or omission giving rise to the seizure:
- (b) whether or not the person who is alleged to have done any act or omitted to do any act giving rise to the seizure has previously engaged in any similar conduct:
- (c) whether the seizure has arisen from, or is related to, a deliberate breach of the law:
- (d) the nature, quality, quantity, and estimated value of the seized goods:
- (e) the nature and extent of any loss or damage suffered by any person as a consequence of the seizure:
- (f) whether or not granting relief would undermine the purpose or objective of any import or export prohibition or restriction imposed by this Act:
- (g) the effect of any other action that has been taken or is proposed to be taken in respect of any offending related to the seizure.

Section 296 - Determinations where relief granted

1. If the Comptroller decides, under section 294(1)(c), to grant relief, the Comptroller may do so by making any of the following determinations:
 - (a) that the goods be given to the applicant or to another person who, but for the seizure, is entitled to their possession:
 - (b) that the goods be sold and that 1 or more of the following persons be paid the part or parts of the proceeds that the Chief Executive specifies:
 - (i) the applicant:
 - (ii) any other person who has an interest in the goods:
 - (iii) the state.
2. The Comptroller may make a determination described in this section subject to any conditions that the Comptroller thinks just.
3. Without limiting subsection (2), the Comptroller may impose any of the following conditions:
 - (a) that there be paid to the Customs in respect of the seized goods a sum equal to the whole or any part of 1 or more of the following:
 - (i) any costs or expenses incurred by the Customs in transporting, storing, or disposing of the goods (including returning or giving the goods to any person), or any incidental costs or expenses relating to their detention:
 - (ii) any duty not already paid:
 - (iii) any duty already refunded:
 - (iv) the value of the detained goods, as determined by the Comptroller
 - (b) that the goods be modified, in a manner directed by the Comptroller, so as to render them inoperable for unlawful purposes:
 - (c) that the costs or expenses incurred by the Customs in modifying the goods in accordance with a direction under paragraph (b) be paid to the Customs
4. The Comptroller must not make a determination described in this section if he or she is of the opinion that all or any of the goods may be required to be produced in evidence in any criminal proceedings.