

Authors:  
**Andrew Hudson, Partner**  
T +61 3 8602 9231 E [ahudson@hunthunt.com.au](mailto:ahudson@hunthunt.com.au)



**Kim Lean, Graduate**  
T +61 3 8602 9218 E [klean@hunthunt.com.au](mailto:klean@hunthunt.com.au)

11 May 2010

## Customs, Trade and Transport Law e-alert

### Insulation Industry Assistance Package

On the 6 May 2010 the Honourable Greg Combet AM MP and the Honourable Senator Kim Carr announced that applications had opened for further assistance to support the insulation industry. The Insulation Industry Assistance Package ("**IIAP**") allows eligible businesses to seek a once off cash payment of 15 per cent of the dollar value of their ceiling insulation stock holding as at 30 April 2010 subject to certain eligibility criteria.

While the package will assist installers, manufacturers, distributors and importers of insulation products with payments of up to \$500,000, recent reports suggest that the financial cap will mean that numerous large scale industries will still be significantly disadvantaged. We further note that the package only extends to covering the costs of insulation products that were on the Home Insulation Program Approved List of Products as at 19 February 2010.

The Federal Government, in limiting the range of industries that can access the IIAP, appears to have failed to recognise the impact that the failure of the Home Insulation Program ("**HIP**") has had on the "legitimate operators" in the supply chain. The announcement made on the 6 May 2010 has given little comfort to affected parties such as customs brokers, forwarders and warehouse owners as it has now been confirmed that they are ineligible to apply for the IIAP.

The position of these parties had already been adversely affected by the recent announcement by the Federal Government that it was not going to resume the HIP in June as it had previously announced. This further reduced the market value of any insulation they held.

As you are aware, we are acting for a number of the affected service providers and given the announcement of the Federal Government seemed to have closed off avenues for recovery of costs, we will now move to a more direct call for compensation for those parties without unnecessary delay or inconvenience. For those for whom we act, we will send a combined submission to the Federal Government. That submission will point out that the combined effect of the Government's action has been to leave our clients with significant losses and costs which are increasing with little prospect of covering those costs and losses from the sale of the insulation.

### Government withholding 51,000 insulation rebates

Following the announcement of the first charges being laid as a result of the HIP, news reports have reported that a letter had been sent to all insulation installers warning that 51,000 rebates currently unpaid would be withheld until investigations in the possibility of fraud had been conducted. Clearly, this severely affects many installers owed money by the Federal Government.

### Remember: Caution when exercising lien over goods

For those currently considering exercising their power to sell goods under a lien we remind you that certain procedures must be followed to ensure their liens are properly exercised. Further, to protect your rights, the best price should be obtained for the goods and documentation of all transactions should be maintained including all efforts to sell the goods. We also recommend continuing to pursue your clients for monies owing. At all times those affected must act to mitigate their losses.

### Mitigating losses: Container Detention Fees

In attempting to mitigate losses, those parties who are currently paying 'Container Detention Fees' should note the recent decision of the New South Wales Consumer Trader and Tenancy Tribunal which held such fees to be unenforceable if they are deemed excessive. This decision may provide affected parties the opportunity to re-negotiate the terms of their contracts in relation to fees charged. Last week an E-Alert was sent out from our office regarding this decision, if you would like a copy please do not hesitate to contact us.

Should you have any further queries in relation to your rights and obligations please contact Andrew Hudson.

### Contacts

Andrew Hudson, Melbourne

+61 3 8602 9231

[ahudson@hunthunt.com.au](mailto:ahudson@hunthunt.com.au)

Disclaimer: The information contained in this e-alert is not advice and should not be relied upon as legal advice. Hunt & Hunt recommends that if you have a matter that is legal, or has legal implications, you consult with your legal adviser. If you no longer wish to receive this e-alert or any other publication from Hunt & Hunt, please email us at [unsubscribe@hunthunt.com.au](mailto:unsubscribe@hunthunt.com.au).