



**Australian
BORDER FORCE**

Australian Customs Notice No. 2021/23

New Obligations on Customs Depot and Warehouse Licences

The purpose of this Notice is to inform existing customs depot and warehouse licence holders that additional conditions will come into effect on 1 July 2021. The additional conditions do not apply to Australian Taxation Office-administered warehouses.

The additional conditions are imposed by the Comptroller-General of Customs and will apply to all depot licences under section 77Q of the *Customs Act 1901* (the Act) and will apply to all warehouse licences (including duty free shops) under section 82A of the Act.

Updated additional conditions are available at:

- Customs Depot Licences – Attachment A
- Customs Warehouse Licences – Attachment B

This Notice supersedes all previous Notices that outline obligations on customs depot and warehouse licences.

Background

The Australian Border Force has undertaken a review of all additional conditions on customs depot and warehouse licences in order to:

- Strengthen existing controls within the supply chain.
- Provide timings when notifying the Australian Border Force of particular matters.
- Additional controls on persons accessing customs licensed places.
- Clear delineation of additional conditions as they relate to specific licence types.
- Alignment of compliance controls for licence holders with the *Aviation Transport Security Act 2004* and *Aviation Transport Security Regulations 2005*.
- Alignment of compliance controls for licence holders with the *Biosecurity Act 2015*.

Types of Conditions

The additional conditions are categorised into the following:

Statutory Conditions

These conditions are outlined in the Act, under section 77N and section 77P for customs depot licences and under section 82 for customs warehouse licences. They are applicable to all customs depot and warehouse licence holders.

Additional Conditions

These conditions are imposed under section 77Q of the Act for customs depot licences and section 82A of the Act for customs warehouse licences. They are applicable to all customs depot and warehouse licence holders.

Specific Conditions

These conditions are imposed under section 77Q of the Act for customs depot licences and section 82A of the Act for customs warehouse licences. Specific conditions are only applicable to certain categories of licences.

Depending on the customs licence type, certain specific conditions may apply to reflect the operating environment. In the respective attachments to this Notice, specific conditions are marked to each licence type.

Examples of licence types are below:

- Duty Free Shops
- Provedores
- Catering Bonds
- Off-Airport Cargo Terminal Operators

Notifying the Australian Border Force

Communications from customs depot and warehouse licence holders to the Australian Border Force in relation to any matters referenced to in the obligations outlined in this Notice can be addressed to licensing@abf.gov.au quoting the respective licence number.

Complying with notification requirements

Failure to meet any condition(s) of the licence constitutes a breach under section 77R or section 82C of the Act (depots and warehouses respectively). Breaching these sections of the Act can result in an infringement notice being issued, prosecution in court, further conditions being placed on the licence or the cancellation of the licence.

[Signed]

Brett Cox
Assistant Secretary
Trusted Trader and Trade Compliance Branch
Customs Group
Australian Border Force
01 July 2021

Attachment A – Customs Depot Licence Conditions from 1 July 2021

Statutory Conditions

This licence is subject to the statutory conditions set out in the *Customs Act 1901* as amended from time to time. The statutory conditions of this licence are:

Section 77N – Conditions of a depot licence – General

- 1) A depot licence is subject to the conditions set out in subsections (2) to (10).
- 2) The holder of a licence must, within 30 days after the occurrence of an event referred to in any of the following paragraphs, give the Comptroller-General of Customs particulars in writing of that event:
 - a) a person not described in the application for the licence as participating in the management or control of the depot commences so to participate;
 - b) in the case of a licence held by a partnership--there is a change in the membership of the partnership;
 - c) in the case of a licence held by a company:
 - i) the company is convicted of an offence of a kind referred to in paragraph 77K(3)(a) or (b); or
 - ii) a receiver of the property, or part of the property, of the company is appointed; or
 - iii) an administrator of the company is appointed under section 436A, 436B or 436C of the *Corporations Act 2001* ; or
 - iv) the company executes a deed of company arrangement under Part 5.3A of that Act;
 - d) a person who participates in the management or control of the depot, the holder of the licence or, if a licence is held by a partnership, a member of the partnership:
 - i) is convicted of an offence referred to in paragraph 77K(2)(a) or (b); or
 - ii) becomes an insolvent under administration; or
 - iii) has been refused a transport security identification card, or has had such a card suspended or cancelled, within the applicable period referred to in paragraph 77V(2)(e).
- 2A) The holder of a licence must not cause or permit a substantial change to be made in:
 - a) a matter affecting the physical security of the depot; or
 - b) the keeping of records in relation to the depot;unless the holder has given to the Comptroller-General of Customs 30 days' notice of the proposed change.
- 3) The holder of the licence must pay to the Commonwealth any prescribed travelling expenses payable by the holder under the regulations in relation to travelling to and from the depot by a Collector for the purposes of the Customs Acts. For that purpose, the regulations may prescribe particular rates of

travelling expenses in relation to particular circumstances concerning travelling to and from a depot by a Collector for the purposes of the Customs Acts.

- 4) The holder of the licence must stack and arrange goods in the depot so that authorised officers have reasonable access to, and are able to examine, the goods.
- 5) The holders of the licence must provide authorised officers with:
 - a) adequate space and facilities for the examination of goods in the depot; and
 - b) secure storage space for holding those goods.
- 6) The holder of the licence must, when requested to do so, allow an authorised officer to enter and remain in the depot to examine goods:
 - a) which are subject to customs control; or
 - b) which an authorised officer has reasonable grounds to believe are subject to customs control.
- 7) The holder of the licence must, when requested to do so, provide an authorised officer with information, which is in the holder's possession or within the holder's knowledge, in relation to determining whether or not goods in the depot are subject to customs control.
- 8) The holder of the licence must retain all commercial records and records created in accordance with the Customs Acts that:
 - a) relate to goods received into a depot; and
 - b) come into the possession or control of the holder of the licence;for 5 years beginning on the day on which the goods were received into the depot.
- 9) The holder of the licence must keep the records referred to in subsection (8) at:
 - a) the depot; or
 - b) if the holder has notified the Department in writing of the location of any other places occupied and controlled by the holder where the records are to be kept--those other places.
- 10) At any reasonable time within the 5 years referred to in subsection (8), the holder of the licence must, when requested to do so:
 - a) permit an authorised officer:
 - i) to enter and remain in a place that is occupied and controlled by the holder and which the officer has reasonable grounds to believe to be a place where records referred to in subsection (8) are kept; and
 - ii) to have full and free access to any such records in that place; and
 - iii) to inspect, examine, make copies of, or take extracts from any such records in that place; and
 - b) provide the officer with all reasonable facilities and assistance for the purpose of doing all of the things referred to in subparagraphs (a)(i) to (iii) (including providing access to any electronic equipment in the place for those purposes).

- 11) The holder of the licence is not obliged to comply with a request referred to in subsection (6), (7) or (10) unless the request is made by a person who produces written evidence of the fact that the person is an authorised officer.

Section 77P – Conditions of a depot licence – Imported goods

- 1) If imported goods were received into a depot during a particular month, it is a condition of the licence that the holder of the licence must:
 - a) if paragraph (b) does not apply--cause the removal of those goods into a warehouse before the end of the following month; or
 - b) if the Comptroller-General of Customs, on written request by the holder made before the end of that following month, grants an extension under this section--cause the removal of the goods into a warehouse within 30 days after the end of that following month.

- 2) In this section:

"month" means month of a year.

NOTES:

1. A substantial change in a matter affecting the physical security of the depot includes a change to the approved site plan.
2. Adequate facilities for the examination of goods in the depot includes designated car park space(s) for the exclusive use of the Australian Border Force.

Additional Conditions

This licence is also subject to the following additional conditions pursuant to section 77Q of the *Customs Act 1901*:

- 1) The holder of the licence must not attempt to transfer the licence to any other person or corporate body. The holder of the licence must surrender their licence within 14 days, if they cease to occupy or control the place covered by the licence. In cases where the licence holder cannot continue to operate the licensed place the licence holder must ensure goods under customs control (includes goods that have an authorised authority to deal) are entered into home consumption or moved to another licensed place immediately and surrender the licence within 14 days.
- 2) The holder of the licence must, when requested by the Australian Border Force, ensure that the holder of the licence and all persons in positions of management or control complete an Australian Border Force '*Consent to Obtain Personal Information*' form within 14 days of the person commencing, or if there is a change in circumstances relevant to matters covered in the form, to assist the Australian Border Force to undertake inquiries and make a fit and proper person determination for each relevant person.
 - a. The Australian Border Force may direct the holder of a licence to provide a new '*Consent to Obtain Personal Information*' form within 14 days for any persons in a position of management or control at any time, and the licence holder must ensure that consent is given.
- 3) The holder of the licence must, when requested by the Australian Border Force provide a comprehensive list of all staff and other persons with access to the licensed place containing full name, full residential address, date of birth, position in the licensed place (including any questions to determine they are in a

position of management or control and if they have submitted a 'Consent to Personal Information' form) and the details of a current and valid form of identification including, but not limited to, ASIC/MSIC card, drivers licence, passport, or proof of age card.

- a. For the purposes of this condition all persons who have access to the licensed place include, but are not limited to, security personnel, contractors and casual staff, even if they are not in the direct employment of the licence holder. This does not include those visiting the licensed place or recorded in the visitor log.
 - b. The licence holder must provide a staff list upon licence renewal and within 7 days if requested by the Australian Border Force.
 - c. The holder of the licence must ensure that the person whose personal information is being collected has provided written consent to allow the release of the information to the Australian Border Force.
 - d. Licence holders who are accredited under the Australian Trusted Trader Programme may seek an exemption from this condition by written approval from the Australian Border Force.
- 4) A holder of the licence must not allow any person to enter the licensed place without making a record of their entry and exit. The record shall include the visitor's full name, full residential address, valid photo identification sighted (such as State and Territory driver's licence number, suitable proof of age card or passport and the reason and the name of person being visited). This includes, but is not limited to, truck and delivery drivers, contractors, and maintenance crew who enter the licensed area.
- a. The licence holder is responsible (i.e. escort, monitor and clearly identify as a visitor) for the visitor during the time in which they enter the licensed place until they exit the licensed place. Visiting persons who have a valid ID for the licensed premises and approved on-going access to the premises are not required to be escorted but their entry into the licensed place should be recorded or they should be recorded on the staff list.
 - b. The holder of the licence must ensure that the person whose personal information is being collected has provided written consent to allow the release of the information to the Australian Border Force.
 - c. Records are to be kept for a minimum of five years, unless the licence holder has written approval from the Australian Border Force to retain the visitor records for a shorter period.
 - d. If directed the licence holder must make records available within 14 days of the request.
 - e. This condition does not apply to Commonwealth, State or Territory officials.
- 5) In the event of the holder of the licence becoming aware of an event causing theft, loss, breakage, damage and/or pillage of goods including break-ins and attempted break-ins, fires or accidental destruction within the licensed place, the holder of the licence must provide written particulars of the incident to the Australian Border Force as soon as practicable and always within 24 hours.
- a. This condition applies to customs controlled goods (including goods that have an authorised authority to deal) whether they are located inside or outside of the licensed place.
 - b. If the licensed place has been affected to the extent that the integrity or security of the place has been compromised, the goods under customs control must be moved to either a secure area

within the licensed place, moved underbond to another licensed place, entered for warehousing (if applicable) or entered for home consumption.

- 6) The holder of the licence must not remove, reproduce or move any Australian Border Force signage without prior written approval from the Australian Border Force. If any Australian Border Force signage is damaged or stolen, the licence holder is required to notify the Australian Border Force as soon as practicable but no later than 14 days.
- 7) The holder of the licence must install and maintain unobstructed closed circuit television (CCTV) that provides continuous coverage of the entire licensed area.
 - a. This is to include all access points such as entry and exit points and a dedicated unobstructed camera monitoring the deadhouse at all times.
 - b. CCTV must be of high definition quality (minimum of 720p), digital, hard wired and protected from possible tampering.
 - c. CCTV should work in tandem with other security systems in place and be backed up offsite or within the licensed place in a fire resistant and secure cabinet.
 - d. The licence holder is required to keep the footage for a period of 30 days. The Australian Border Force may direct a longer retention time of up to 90 days, in writing at any time.
 - e. The holder of the licence must allow Australian Border Force to access CCTV on site at any time. The holder of the licence will provide any requested footage to the Australian Border Force within 24 hours of the request.
 - f. All recording file details and any data recorded with the CCTV footage such as time, date and file name(s) must be in English.
- 8) The holder of the licence must install and maintain monitored alarm systems for the entire licensed place, and ensure it is operational at all times. In case of an unavoidable temporary outage, the licence holder must ensure suitable alternative security arrangements are put in place until the monitored alarm system is operational. The Australian Border Force can direct additional monitored alarm systems where necessary to ensure the integrity and security of the licensed place.
- 9) The holder of the licence must inform the Australian Border Force of any suspected breaches or offences of Customs-related law, by any persons related to the premises, whether or not it is related to the licensed place, as soon as practicable or always within 24 hours.

Note: Customs-related law is defined in section 4B of the *Customs Act 1901*.
- 10) The holder of the licence must inform the Australian Border Force of any breaches of security at the premises at which the licensed place is located, whether or not it is related to the licensed place, as soon as practicable or always within 24 hours.
- 11) The holder of the licence must ensure that the deadhouse is locked at all times with a suitable secure mechanism (such as a digital lock or chain and padlock) that aligns with the standard directed by the Australian Border Force unless the deadhouse is being accessed to store or remove goods.
- 12) The holder of the licence must not alter or dispose of any goods subject to customs control without prior written permission from the Australian Border Force. If requested by the Australian Border Force, the licence holder is to provide adequate resources and staff to complete any disposal activity under Australian Border Force supervision.

- 13) The holder of the licence must monitor the security of the licensed place and notify the Australian Border Force within 24 hours of becoming aware of a substantial change affecting the security of the licensed place and take such remedial action as directed by the Australian Border Force as soon as practicable or always within 24 hours.
- 14) The holder of the licence must not handle types of goods that are not specified in the licence unless prior written authorisation is obtained from the Australian Border Force.
- 15) The holder of the licence must not;
 - a. purport to change the physical location of the licensed place (within the licensed address or to another address); or
 - b. make substantial changes within the current licensed place; or
 - c. make substantial changes to the security of the licensed place;unless they have lodged an application for variation and received written approval from the Australian Border Force.
- 16) The holder of the licence must not unpack, move or store any goods subject to customs control outside the licensed place unless the licence holder has obtained prior written authorisation from the Australian Border Force.
- 17) The holder of the licence must allow the Australian Border Force to take into the licensed place any equipment or material reasonably necessary to assist any Australian Border Force related activities (including the examination of any goods subject to customs control). The holder of the licence must provide the Australian Border Force with all reasonable assistance to carry out their duties.
- 18) The holder of the licence must implement and maintain an effective cargo accounting system for all goods within the licence holder's control and subject to customs control at all times. If requested by the Australian Border Force, the licence holder is to make requested records available within 7 days of a written request and as soon as practicable if requested by the Australian Border Force at the licensed place.
- 19) The holder of the licence must use the Integrated Cargo System (ICS) for communication with the Australian Border Force, unless alternative arrangements such as third party reporting arrangements have been documented and approved by the Australian Border Force. This includes the communication of information from the holder of the licence to the Department of Home Affairs relating to the receipt and acquittal of all goods under Customs control at the licensed place, and communication of information from the Australian Border Force to the holder of the licence in relation to the release of all goods under Customs control at the licensed place.
- 20) The holder of the licence must not allow Australian Border Force systems or any information provided by the Australian Border Force to be used for any unauthorised purpose or to assist, aid, facilitate or participate in any unlawful or illegal activity.
- 21) The holder of the licence must not move, alter or interfere with goods unless the requirements of Customs-related law have been complied with.

Note: Customs-related law is defined in section 4B of the *Customs Act 1901*.
- 22) The holder of the licence must ensure that cargo outturn reports are lodged electronically to the Australian Border Force in the timeframes set out in s64ABAB(4) of the Act. If there is a declared outage

of the Integrated Cargo System (ICS), a Cargo Outturn Report must be communicated electronically to the Australian Border Force within 24 hours after notice is given that the system is operative again. The cargo Outturn Report must include details of all surplus, short landed and pillaged cargo.

- 23) The holder of the licence must supply to the Australian Border Force, the cargo reporter, or the person responsible for adjusting the report of cargo in respect of s64AAC and s64AB of the Act, the details of goods surplus to or short landed from expected receipts that are needed in order to report the cargo fully. Those details must be supplied no later than 24 hours after the check-in or unpack of the goods at the premises.
- 24) When Prescribed Warehoused Goods (PWGs) for export are received at a depot the holder of the depot licence must communicate to the Australian Border Force a Depot Receiving Notice within 3 hours of receipt of that cargo. (Note: Prescribed Warehouse Goods cannot be consolidated unless the holder of the licence is in possession of an appropriate movement status.) When Prescribed Warehouse Goods for export are delivered from a depot the holder of the licence must communicate a Depot Release Notice to the Australian Border Force within 3 hours of the cargo being released from the depot.

Note: PWGs may be dutiable or excisable goods. Dutiable and excisable goods are often referred to as underbond goods. Requirements to give notice of the movement of PWGs are outlined in sections 102A and 117AA of the *Customs Act 1901*.
- 25) Goods subject to customs control must be kept in a marked (i.e. painted line or fenced) and distinct area within the licensed place and separate from goods not subject to Customs control.
- 26) The holder of the licence must ensure the deadhouse is of sufficient size in relation to the volume of goods being received. All high risk goods under customs control (including, but not limited to firearms, restricted and prohibited imports, or high value goods) must be stored in the deadhouse.
 - a. Where there is not enough room in the deadhouse, the licence holder must provide additional security measures to secure the goods.
- 27) The holder of the licence must not facilitate transshipment or export of goods where there is a held status on the import declaration or cargo report that the goods are subject to.
- 28) The holder of the licence must provide suitable and ongoing training to make staff aware of their obligations in dealing with goods subject to customs control and must ensure ongoing quality assurance processes are in place. The licence holder must demonstrate ongoing training and an ongoing review of processes to ensure compliance and provide evidence annually or as requested by the Australian Border Force.
- 29) Un-entered goods and goods found in a licensed place that are not required to be entered or that cannot be entered, can be disposed of after 90 days or immediately if there is reasonable grounds to believe the owner has abandoned them, with permission from the Australian Border Force.

Specific Conditions

This licence is also subject to the following additional conditions pursuant to section 77Q of the *Customs Act 1901*:

General

- 30) If directed by the Australian Border Force, the holder of the licence must ensure CCTV coverage allows for individual identification in all light conditions to ensure facial recognition at all times. Motion sensor cameras are not suitable.
 - a. The Australian Border Force can direct the installation of additional or alternate CCTV capability where relevant to the nature of the goods being stored at the licensed place.
- 31) A licence holder shall at all times comply with its obligations under the *Aviation Transport Security Act 2004* and the *Aviation Transport Security Regulations 2005*.
- 32) A licence holder shall at all times comply with its obligations under the *Biosecurity Act 2015*.

Container Parks

- 33) The holder of the licence must not allow the unpacking of containers under customs control in container parks.
- 34) The holder of the licence must ensure that goods stored in containers under customs control are stacked door-to-door.

Post

- 35) The holder of the licence must ensure that all international mail is available to be presented to the Australian Border Force for screening.
- 36) The holder of the licence must ensure that International mail is not delivered into home consumption until it has been approved for delivery by the Australian Border Force.

Off-Airport Cargo Terminal Operators

- 37) The applicant must hold a current contract with an international airline to provide CTO services at the specified airport (shared contractual arrangements may be considered, however in the case of freighters it must be demonstrated that a minimum of one entire fortnightly flight will be serviced by the applicant and in the case of below deck freight on a passenger aircraft, a minimum of one entire weekly flight will be serviced).
- 38) The applicant must ensure that all cargo discharged at the airport is reported at the master air waybill level prior to movement from the airport and that the report is transmitted electronically to the Australian Border Force via the ICS.
- 39) The applicant must establish contingency arrangements to ensure ICS cargo reporting and status acceptance in cases of IT systems failure.

- 40) The applicant must establish a procedure to ensure that the condition and quantity of cargo (including pallets and loose pieces) is checked and that an accountable record is made when the applicant receives the cargo and before that cargo departs the airport.
- 41) The applicant must ensure that all approved cargo movements from the airport are completed promptly and by a direct route to the off-airport licensed site.
- 42) An applicant must also provide the Australian Border Force with an outline of the application (e.g. temporary or ongoing facility), a detailed description of the proposed cargo movement process and a list of all third party service providers who will have access to the cargo (e.g. ramp handlers, land side transport providers etc.).
- 43) All records regarding the condition and quantity of cargo are accountable and must be retained by the licence holder for a period of five years or such other period as the Australian Border Force determines. Accountable records may be stored in either electronic or paper format. They must be made available for the Australian Border Force examination when requested.

Attachment B – Customs Warehouse Licence Conditions from 1 July 2021

Statutory Conditions

This licence is subject to the statutory conditions set out in Part V of the *Customs Act 1901* as amended from time to time. The statutory conditions of this licence are:

Section 82 – Conditions of warehouse licences

- 1) A warehouse licence is subject to the condition that, if:
 - a) a person not described in the application for the licence as participating in the management or control of the warehouse commences so to participate; or
 - b) in the case of a licence held by a partnership--there is a change in the membership of the partnership; or
 - ba) in the case of a licence held by a company--any of the following events occurs:
 - i) the company is convicted of an offence of a kind referred to in paragraph 81(3)(a) or (b);
 - ii) a receiver of the property, or part of the property, of the company is appointed;
 - iii) an administrator of the company is appointed under section 436A, 436B or 436C of the *Corporations Act 2001* ;
 - iv) the company executes a deed of company arrangement under Part 5.3A of that Act;
 - v) the company begins to be wound up; or
 - c) a person who participates in the management or control of the warehouse, the holder of the licence or, in the case of a licence held by a partnership, a member of the partnership:
 - i) is convicted of an offence referred to in paragraph 81(2)(a) or (b); or
 - ii) becomes bankrupt; or
 - iii) has been refused a transport security identification card, or has had such a card suspended or cancelled, within the applicable period referred to in paragraph 86(1A)(d); or
 - d) there is a substantial change in a matter affecting the physical security of the warehouse; or
 - e) there is a substantial change in plant or equipment used in relation to goods in the warehouse; or
 - f) there is a substantial change in the keeping of accounts or records kept in relation to the warehouse;

the holder of the licence shall, within 30 days after the occurrence of the event referred to in whichever of the preceding paragraphs applies, give the Comptroller-General of Customs particulars in writing of that event.
- 2) A warehouse licence is subject to the condition that no tobacco products will be warehoused in the warehouse.
- 3) A warehouse licence is subject to such other conditions (if any) as are specified in the licence that the Comptroller-General of Customs considers to be necessary or desirable:

- a) for the protection of the revenue; or
 - b) for ensuring compliance with the Customs Acts, any other law of the Commonwealth prescribed by the regulations or a law of a State or Territory prescribed by the regulations; or
 - c) for any other purpose.
- 4) The conditions specified in a warehouse licence may include:
- a) conditions specifying the persons or classes of persons whose goods may be warehoused in the warehouse; and
 - b) conditions limiting the operations that may be performed upon, or in relation to, goods in the warehouse.
- 5) The Comptroller-General of Customs may, upon application by the holder of a warehouse licence and production of the licence, vary the conditions specified in the licence by making an alteration to, or an endorsement on, the licence.
- 6) Subsection (5) does not limit section 82B.

NOTE:

- 1) A substantial change in a matter affecting the physical security of the warehouse includes a change to the approved site plan.
- 2) Warehouse condition 82(2) does not apply until 1 January 2020 to:
 - a) an outwards duty free shop (within the meaning of section 96A of the *Customs Act 1901*).
 - b) an inwards duty free shop (within the meaning of section 96B of that Act).
 - c) a warehouse that only warehouses either or both of the following:
 - i) ship's stores (within the meaning of section 130C of that Act);
 - ii) aircraft's stores (within the meaning of section 130C of that Act).
- 3) Warehouse condition 82(2) does not prevent a duty free operator, or a warehouse licence authorised by the Comptroller-General of Customs to provide aircraft's and ship's stores as defined in s.130C of the *Customs Act 1901* from storing duty refunded tobacco.

Section 90 – Obligations of holders of warehouse licences

- 1) The holder of a warehouse licence shall:
 - a) stack and arrange goods in the warehouse so that officers have reasonable access to, and are able to examine, the goods;
 - b) provide officers with adequate space and facilities for the examination of goods in the warehouse and with devices for accurately measuring and weighing such goods;
 - c) if required by a Collector, provide adequate office space and furniture and a telephone service, for the official use of officers performing duties at the warehouse; and
 - d) provide sufficient labour and materials for use by a Collector in dealing with goods in the warehouse for the purposes of this Act.

Penalty: 30 penalty units.

1A) Subsection (1) is an offence of strict liability.

Note: For strict liability, see section 6.1 of the Criminal Code.

2) A requirement imposed on the holder of a warehouse licence under paragraph (1)(c) shall be set out in a notice in writing served, either personally or by post, on the holder of the licence.

Additional Conditions

This licence is also subject to the following additional conditions pursuant to section 82A of the

Customs Act 1901:

- 1) The holder of the licence must not attempt to transfer the licence to any other person or corporate body. The holder of the licence must surrender their licence within 14 days, if they cease to occupy or control the place covered by the licence. In cases where the licence holder cannot continue to operate the licensed place the licence holder must ensure goods under customs control (includes goods that have an authorised authority to deal) are entered into home consumption or moved to another licensed place immediately and surrender the licence within 14 days.
- 2) The holder of the licence must, when requested by the Australian Border Force, ensure that the holder of the licence and all persons in positions of management or control complete an Australian Border Force '*Consent to Obtain Personal Information*' form within 14 days of the person commencing, or if there is a change in circumstances relevant to matters covered in the form, to assist the Australian Border Force to undertake inquiries and make a fit and proper person determination for each relevant person.
 - a. The Australian Border Force may direct the holder of a licence to provide a new '*Consent to Obtain Personal Information*' form within 14 days for any persons in a position of management or control at any time, and the licence holder must ensure that consent is given.
- 3) The holder of the licence must, when requested by the Australian Border Force provide a comprehensive list of all staff and other persons with access to the licensed place containing full name, full residential address, date of birth, position in the licensed place (including any questions to determine if they are in a position of management or control and if they have submitted a '*Consent to Personal Information*' form) and the details of a current and valid form of identification including, but not limited to, ASIC/MSIC card, drivers licence, passport, or proof of age card.
 - a. For the purposes of this condition all persons who have access to the licensed place include, but are not limited to, security personnel, contractors and casual staff, even if they are not in the direct employment of the licence holder. This does not include those visiting the licensed place or recorded in the visitor log.
 - b. The licence holder must provide a staff list upon licence renewal and within 7 days if requested by the Australian Border Force.
 - c. The holder of the licence must ensure that the person whose personal information is being collected has provided written consent to allow the release of the information to the Australian Border Force.

- d. Licence holders who are accredited under the Australian Trusted Trader Programme may seek an exemption from this condition by written approval from the Australian Border Force.
- 4) The holder of the licence must, when requested to do so, provide the Australian Border Force with information which is in the holder's possession or within the holder's knowledge, in relation to determining whether or not goods in the warehouse are subject to customs control.
- 5) In the event of the holder of the licence becoming aware of an event causing theft, loss, breakage, damage and/or pillage of goods including break-ins and attempted break-ins, fires or accidental destruction within the licensed place, the holder of the licence must provide written particulars of the incident to the Australian Border Force as soon as practicable and always within 24 hours.
 - a. This condition applies to customs controlled goods (including goods that have an authorised authority to deal) whether they are located inside or outside of the licensed place.
 - b. If the licensed place has been affected to the extent that the integrity or security of the place has been compromised, the goods under customs control must be moved to either a secure area within the licensed place, moved underbond to another licensed place, entered for warehousing (if applicable) or entered for home consumption.
 - c. Licence holders may seek written approval from the Australian Border Force to submit quarterly incident reports for theft, loss, and breakages.
- 6) The holder of the licence must not remove, reproduce or move any Australian Border Force signage without prior written approval from the Australian Border Force. If any Australian Border Force signage is damaged or stolen, the licence holder is required to notify the Australian Border Force as soon as practicable but no later than 14 days.
- 7) The holder of the licence must install and maintain unobstructed closed circuit television (CCTV) that provides continuous coverage of the entire licensed area.
 - a. This is to include all access points such as entry and exit points.
 - b. CCTV must be of high definition quality (minimum of 720p), digital, hard wired and protected from possible tampering.
 - c. CCTV should work in tandem with other security systems in place and be backed up offsite or within the licensed place in a fire resistant and secure cabinet.
 - d. The licence holder is required to keep the footage for a period of 30 days. The Australian Border Force may direct a longer retention time of up to 90 days, in writing at any time.
 - e. The holder of the licence must allow Australian Border Force to access CCTV on site at any time. The holder of the licence will provide any requested footage to the Australian Border Force within 24 hours of the request.
 - f. All recording file details and any data recorded with the CCTV footage such as time, date and file name(s) must be in English.
- 8) The holder of the licence must install and maintain monitored alarm systems for the entire licensed place, and ensure it is operational at all times. In case of an unavoidable temporary outage, the licence holder must ensure suitable alternative security arrangements are put in place until the monitored alarm system is operational. The Australian Border Force can direct additional monitored alarm systems where necessary to ensure the integrity and security of the licensed place.

- 9) The holder of the licence must inform the Australian Border Force of any suspected breaches or offences of Customs-related law, by any persons related to the premises, whether or not it is related to the licensed place, as soon as practicable or always within 24 hours.

Note: Customs-related law is defined in section 4B of the *Customs Act 1901*.

- 10) The holder of the licence must inform the Australian Border Force of any breaches of security at the premises at which the licensed place is located, whether or not it is related to the licensed place, as soon as practicable or always within 24 hours.
- 11) The holder of the licence must not alter or dispose of any goods subject to customs control without prior written permission from the Australian Border Force. If requested by the Australian Border Force, the licence holder is to provide adequate resources and staff to complete any disposal activity under Australian Border Force supervision.
- 12) The holder of the licence must monitor the security of the licensed place and notify the Australian Border Force within 24 hours of becoming aware of a substantial change affecting the security of the licensed place and take such remedial action as directed by the Australian Border Force as soon as practicable or always within 24 hours.
- 13) The holder of the licence must not handle types of goods that are not specified in the licence unless prior written authorisation is obtained from the Australian Border Force.
- 14) The holder of the licence must not;
 - a. purport to change the physical location of the licensed place (within the licensed address or to another address); or
 - b. make substantial changes within the current licensed place; or
 - c. make substantial changes to the security of the licensed place.

unless they have lodged an application for variation and received written approval from the Australian Border Force.

- 15) The holder of the licence must not unpack, move or store any goods subject to customs control outside the licensed place unless the licence holder has obtained prior written authorisation from the Australian Border Force.
- 16) Under section 90 of the *Customs Act 1901* the holder of the licence must stack and arrange goods in the warehouse so that the Australian Border Force have reasonable access to, and are able to examine, the goods.
- 17) Under section 90 of the *Customs Act 1901* the holder of the licence must provide the Australian Border Force with adequate space, office accommodation, car parking and facilities (such as an examination bench, audit office and other relevant facilities at the standards directed by the Australian Border Force) for use by the Australian Border Force to undertake their duties (including the examination of goods) at the licensed place.
- 18) Under section 91 of the *Customs Act 1901* the holder of the licence must, when requested to do so, allow the Australian Border Force to enter and remain in the warehouse to conduct Australian Border Force related activities (including the examination of goods which are subject to customs control or which the Australian Border Force has reasonable grounds to believe are subject to customs control).

- 19) The holder of the licence must allow the Australian Border Force to take into the licensed place any equipment or material reasonably necessary to assist any Australian Border Force related activities (including the examination of any goods subject to customs control). The holder of the licence must provide the Australian Border Force with all reasonable assistance to carry out their duties.
- 20) The holder of the licence must;
- a. retain all commercial records and records created in accordance with *Customs Act 1901* that relate to goods received into, or found in the warehouse beginning on the day on which the goods were received into the warehouse until five years after the authorised release of the goods from the warehouse;
 - b. make and retain accountable and auditable records of the condition and quantity of goods received, released, the movement and unpacking of the goods until five years after the authorised release of the goods from the warehouse; and
 - c. keep the records referred to at the warehouse or if the holder has notified the Australian Border Force in writing of the location of any other places occupied and controlled by the holder where the records are to be kept—those other places.
- 21) At any reasonable time within the time period referred to in the above condition, the holder of the licence must, when requested to do so:
- a. Permit the Australian Border Force;
 - i. to enter and remain in a place that is occupied and controlled by the holder and which the Australian Border Force has reasonable grounds to believe to be a place where records referred to are kept;
 - ii. to have full and free access to any such records in that place; and
 - iii. to inspect, examine, make copies of, or take extracts from any such records in that place.
 - b. Provide the Australian Border Force with all reasonable facilities and assistance for the purpose of doing all of the things referred to above (including providing access to any electronic equipment in the place for those purposes).
- 22) The holder of the licence must implement and maintain an effective cargo accounting system for all goods within the licence holder's control and subject to customs control at all times. If requested by the Australian Border Force, the licence holder is to make requested records available within 7 days of a written request and as soon as practicable if requested by the Australian Border Force at the licensed place.
- 23) The holder of the licence must not allow Australian Border Force systems or any information provided by the Australian Border Force to be used for any unauthorised purpose or to assist, aid, facilitate or participate in any unlawful or illegal activity.
- 24) The holder of the licence must communicate to the Australian Border Force any substantial change (i.e. not specified in the licence) in the type of goods or the amount of goods to be stored within the warehouse as soon as practicable or always within 7 days of the change.
- 25) The holder of the licence must report to the Australian Border Force any un-entered goods held for more than 6 months. The reports must include the date the goods were received, a description of the goods

and any other relevant information. Un-entered goods must not be unpacked or repacked without the permission of the Australian Border Force.

- 26) The holder of the warehouse licence shall report to the Australian Border Force on a monthly basis;
- a. any goods or property not belonging to the holder of the licence, other than unclaimed passenger or crew baggage, where rent or charges have been in arrears for more than 6 months;
 - b. any unclaimed passenger or crew baggage where rent or charges have been in arrears for 30 days or more; and
 - c. any goods that have been destroyed and where the duty has been remitted.

The reports shall include the date the goods were received, a description of the goods, and information on whether an application to the Australian Border Force to sell the goods has been made.

- 27) The holder of the warehouse licence must conduct a full stocktake at least once per financial year or when requested by the Australian Border Force. Any discrepancies must be reported to the Australian Border Force as soon as practicable or always within 28 days. The holder of the warehouse licence can seek an alternative reporting time with the written approval from the Australian Border Force.

- 28) The holder of the licence must not move, alter or interfere with goods unless the requirements of Customs-related law have been complied with.

Note: Customs-related law is defined in section 4B of the *Customs Act 1901*.

- 29) The holder of the warehouse licence must not allow the unpacking of goods unless prior approval has been obtained from the Australian Border Force.

Note: Written approval may be given on a single or continuing basis from the Australian Border Force.

- 30) Goods subject to customs control must be kept in a marked (i.e. painted line or fenced) and distinct area within the licensed place and separate from goods not subject to Customs control.

- 31) For licensed warehouses that have written approval from the Australian Border Force to move goods on a Continuing Permission. The holder of the licence must comply with the conditions of the Continuing Permission:

- a. The permission holder is required to account to the Australian Border Force for all goods removed under a permission until such time as the goods are received into and recorded at the nominated destination.
- b. Goods which have been warehoused on a Nature 20 Warehouse Declaration which carries a Customs impediment may not be removed under a Continuing Permission. Approval must be sought from the Australian Border Force before removing such goods.
- c. A company document being one of a consecutively numbered system of documents, showing at least the following particulars is to be forwarded by the permission holder to the proprietor of the nominated destination with the goods:
 - i. N20 Entry and Line Number
 - ii. The place from where the goods were dispatched and where destined
 - iii. Date of dispatch

- iv. The number and type of packages
 - v. Description of the goods
 - vi. A statement that the goods are underbond
 - vii. Importing vessels, or aircraft particulars and lodgement number where appropriate
 - viii. Any other information necessary to permit the goods to be further dealt with on receipt at the destination
- d. Notwithstanding anything contained in the preceding requirement where the permission holder fails to keep the specified goods safely or when so requested by the Collector does not account for the said goods to the satisfaction of the Collector, the permission holder shall on demand in writing made by the Collector, pay to the Commonwealth an amount equal to the amount of Customs duty which would have been payable on those goods if they had been entered for home consumption on the day on which the demand was made.
- e. The licence holder must notify the Australian Border Force of any change in circumstances that impact the conditions of the Continuing Permission as soon as practicable or always within 14 days.
- 32) The holder of the licence must not facilitate transshipment or export of goods where there is a held status on the import declaration or cargo report that the goods are subject to.
- 33) The holder of the licence must provide suitable and ongoing training to make staff aware of their obligations in dealing with goods subject to customs control and must ensure ongoing quality assurance processes are in place. The licence holder must demonstrate ongoing training and an ongoing review of processes to ensure compliance and provide evidence annually or as requested by the Australian Border Force.

Specific Conditions

This licence is also subject to the following additional conditions pursuant to section 82A of the *Customs Act 1901*:

General

- 34) The holder of the licence must ensure that goods stored in FCL containers are stacked door-to-door.
- 35) A holder of the licence must not allow any person to enter the licensed place without making a record of their entry and exit. The record shall include the visitor's full name, full residential address, valid photo identification sighted (such as State and Territory driver's licence number, suitable proof of age card or passport and the reason and the name of person being visited). This includes, but is not limited to, truck and delivery drivers, contractors, and maintenance crew who enter the licensed area.
- The licence holder is responsible (i.e. escort, monitor and clearly identify as a visitor) for the visitor during the time in which they enter the licensed place until they exit the licensed place. Visiting persons who have a valid ID for the licensed premises and approved on-going access to the premises are not required to be escorted but their entry into the licensed place should be recorded or they should be recorded on the staff list.
 - The holder of the licence must ensure that the person whose personal information is being collected has provided written consent to allow the release of the information to the Australian Border Force.
 - Records are to be kept for a minimum of five years, unless the licence holder has written approval from the Australian Border Force to retain the visitor records for a shorter period.
 - If directed the licence holder must make records available within 14 days of the request.
 - This condition does not apply to Commonwealth, State or Territory officials.
- 36) If directed by the Australian Border Force, the holder of the licence must ensure CCTV coverage allows for individual identification in all light conditions to ensure facial recognition at all times. Motion sensor cameras are not suitable.
- The Australian Border Force can direct the installation of additional or alternate CCTV capability where relevant to the nature of the goods being stored at the licensed place.

Duty Free Shops, Provedores and Catering Bonds

- 37) The holder of a warehouse licence is authorised by the Comptroller-General of Customs to provide aircraft's and ship's stores as defined in s.130C *Customs Act 1901* must:
- If duty refunded tobacco is provided as aircraft's stores or ship's stores, but the licence holder cannot prove that tobacco was taken on board as authorised ship's or aircraft's stores, the licence holder must pay on demand in writing by a Collector, an amount equal to the duty refunded and the unpaid GST with respect to that duty refunded tobacco.
- 38) The holder of a warehouse licence used as a duty free shop must ensure:
- For inwards on-airport duty free shops, the maximum amount of duty refunded tobacco sold to a relevant traveller is no more than the duty free concessional amount.

- b. For outwards on-airport duty free shops, if the licensee cannot prove to the Collector's satisfaction that any duty refunded tobacco sold to a relevant traveller has been exported, the licence holder must pay on demand in writing by the Collector, an amount equal to the refunded duty and unpaid GST in relation to that duty refunded tobacco.
 - c. For off-airport duty free shops, duty refunded tobacco must be exported in a transparent bag or container so the contents of the bag or container can be easily identified and with a docket to be plucked for proof of export.
- 39) The holder of a warehouse licence that operate as a duty free shop, or is authorised by the Comptroller-General of Customs to provide ship's stores or aircraft's stores as defined in the *Customs Act 1901*:
- a. Must not accept, hold, store or on-sell tobacco products that have not been entered for delivery into home consumption.
 - b. Any uncleared tobacco product must be entered into home consumption with relevant duties and taxes paid or otherwise exported. Proof of export must be provided to the Australian Border Force within 7 days.
- 40) The Australian Border Force may at any time specify a maximum amount of duty refunded tobacco the licence holder can store within the licensed warehouse.
- 41) The licence holder must:
- a. Not purchase tobacco products on which duty has been or will be refunded (duty refunded tobacco) unless;
 - i. it has a warehouse that is licensed as a duty free shop; or
 - ii. has been authorised by the Comptroller-General in a condition of the warehouse licence to provide ship's stores or aircraft's stores as those terms are defined in s.130C of the *Customs Act 1901*.
 - b. Ensure duty refunded tobacco is only: sold to a "relevant traveller" as defined in section 96A(1) and section 96B(1) of the *Customs Act 1901* if the warehouse is a duty free shop; or provided as aircraft's stores and ship's stores as those terms are defined in section 130C of the *Customs Act 1901*, if authorised to do so.
 - c. Ensure duty refunded tobacco is only stored in a warehouse licensed by the Comptroller-General of Customs as a duty free shop, or in other licenced premises approved by the Comptroller General of Customs to store duty refunded tobacco.
 - d. Ensure duty refunded tobacco is securely stored within the permitted licensed warehouse.
 - e. Not allow any duty refunded tobacco to be moved from or to a licensed warehouse without an approval sought and provided by the same means as for a s.71E *Customs Act 1901* approval.
 - f. Maintain an electronic register of all duty refunded tobacco that is received and that is on-sold to a relevant traveller or provided as aircraft's or ship's stores. Records are to be provided to the Australian Border Force quarterly and forthwith at any other time or times upon request by a Collector. Within the register, the licence holder should make a record of;

- i. any duty refunded tobacco that cannot be accounted for or has been obtained by a person who is not a relevant traveller or provided otherwise than as aircraft's stores or ship's stores; and
 - ii. any loss, theft, diversion, or unauthorised removal of duty refunded tobacco.
 - g. Pay on demand in writing by the Collector an amount equal to the duty refunded on any duty refunded tobacco that has not been kept safely or is unable to be accounted for to the satisfaction of the Collector.
- 42) The holder of the licence must not enter into, allow or facilitate an arrangement that would infringe the *Customs Act 1901* or any other law of the Commonwealth of Australia.

Duty Free Shops

- 43) The holder of the licence must ensure that duty free items are only displayed in the licensed premises. Demonstration of consumables is permitted only if the goods have been entered into home consumption.
- 44) The holder of the licence must inform a relevant traveller of their concession allowances. Signs must be displayed in the duty free shop, as per the 'Duty Free Operators Guide'. The holder of the licence must not knowingly facilitate any transaction that would permit a relevant traveller to exceed their duty free allowance.
- 45) For off-airport duty free shops, duty free items must be exported in a transparent bag or container so the goods can be easily identified and with a docket to be plucked for proof of export.
- 46) The holder of the licence must ensure that the duty free shop lodges a return to the Australian Border Force within 21 days of the end of the month, outlining the duty payable to the Australian Border Force. This return must include the name of the duty free shop, the invoice number of each invoice and a payment equal to the duty payable on the return.
- 47) This licence constitutes permission under section 96A of the *Customs Act 1901*. The permission relates to all goods specified in this licence. The permission may be revoked, suspended, varied, cancelled or suspended from time to time in accordance with section 33 of the Acts Interpretation Act 1901 or section 96A of the *Customs Act 1901*. The holder of the licence must comply with the conditions of the permission.
- 48) This licence constitutes permission under section 96B of the *Customs Act 1901*. The permission relates to all goods specified in this licence. The permission may be revoked, suspended, varied, cancelled or suspended from time to time in accordance with section 33 of the Acts Interpretation Act 1901 or section 96B of the *Customs Act 1901*. The holder of the licence must comply with the conditions of the permission.
- 49) The holder of the licence must not enter into, allow or facilitate an arrangement that would facilitate or result in the avoidance of duty. For example, without limiting the foregoing, the holder of the licence must not enter into an arrangement with a relevant traveller to deliver goods to a relevant traveller with the intent that the goods would be exported then returned to the holder of the licence.

Providores and Catering Bonds

- 50) Warehoused goods must not be provided as aircraft's stores or ship's stores as defined in s.130C of the *Customs Act 1901*, unless the licence holder is authorised in writing by the Comptroller-General of Customs to do so in another condition of the licence.
- 51) Upon being requested to do so by the Collector, the licence holder must provide additional information to the Collector on the movement, storage and record keeping of the warehoused goods sold as aircraft's stores or ship's stores. This can include but not limited to; any contract in place between the warehouse and catering companies, airlines and or shipping agencies.