



DEPARTMENT OF HOME AFFAIRS

NOTICE No. 2019/27

New Obligations on Customs Depot and Warehouse Licences

The purpose of this Notice is to inform existing customs depot and warehouse licence holders that new additional conditions will come into effect on 1 July 2019. The new additional conditions do not apply to Australian Taxation Office-administered warehouses.

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

Updated additional conditions are available at:

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

Background

Recent Government initiatives necessitated an update to the additional conditions for depot and warehouse licence holders.

Black Economy Package – Combatting Illicit Tobacco

The Australian Government introduced measures to combat the illicit tobacco trade as part of the 2018-19 Budget 'Black Economy Package – combatting illicit tobacco'.

From 1 July 2019, specific changes to support these measures include:

- Warehouses will no longer be able to accept additional tobacco for warehousing;
 - Importers will be required to enter tobacco products into home consumption upon importation into Australia, paying relevant duties and taxes.
- Warehouse operators will:
 - Only be able to store tobacco in their warehouse that has been entered for home consumption and duty paid on it – duty-paid tobacco must be separated from any other underbond goods.
 - Be in breach of licence conditions if they store tobacco that has not had duty paid on it.
- Warehouse operators licensed as Duty Free Shops, and warehouses authorised in their specific conditions to provide ship's stores and aircraft's stores:

- Maintain their ability to sell tobacco products at duty free rates to those entitled to tobacco at a rate free of duty, such as relevant travellers, and as aircraft's stores and ship's stores.
- May continue to warehouse tobacco that was warehoused on 30 June 2019, until 30 December 2019. That will enable such warehouses to sell down their duty free stocks during that additional six month period.
- Be able to purchase and store imported tobacco which has had duties refunded to the owner (duty refunded tobacco).
- Maintain compliance and record keeping processes for duty-refunded tobacco in accordance with licence conditions.

Customs and AusCheck Legislation Amendment Act 2013

The *Customs and AusCheck Legislation Amendment (Organised Crime and Other Measures) Act 2013* received Royal Assent on 28 May 2013. These amendments placed new obligations on depot and warehouse licence holders, which commenced on 28 November 2013.

The previous amendments to the Act as a result of the Organised Crime Act are still in effect. The additional conditions in this notice build upon the conditions that took effect in 2013.

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]

Tim Fitzgerald
Assistant Secretary
Trusted Trader and Trade Services Branch
Trade and Customs Division
Infrastructure, Transport Security and Customs Group
Department of Home Affairs

21 June 2019

Attachment A – Customs Depot Licence Conditions from 1 July 2019

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 if they cease to occupy or control the place covered by the licence.
- 2) The holder of the licence must, when requested by the Australian Border Force, ensure that the holder of the licence and all staff in positions of management or control complete an Australian Border Force Consent to Obtain Personal Information form to allow the Australian Border Force to undertake and make a fit and proper person determination for each relevant person.
- 3) The holder of the licence must, when requested by the Australian Border Force and subject to privacy legislation or other law, provide a comprehensive staff list containing full name, gender, date of birth, position in the depot and the details of a valid form of identification including, but not limited to, ASIC/MSIC card, drivers licence, passport, or proof of age card.
- 4) A holder of the licence must not allow for any person to enter the licensed depot without the holder of the licence making a record of their entry to the licensed depot. The record shall include full name, address, driver's licence number (if applicable) and the name of person being visited. The holder of the licence must ensure that the person whose personal information is being collected has provided sufficient acknowledgment on consent to allow the release of the information to the Australian Border Force under Commonwealth privacy laws. 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, the holder of the licence must provide written particulars of the incident to the Comptroller-General of Customs as soon as practicable.
- 6) The holder of the licence must not remove or move any Australian Border Force signage without prior written approval from the Australian Border Force.

- 7) If directed by the Australian Border Force, the holder of the licence must install and maintain CCTV coverage of the licensed area, including all entry and exit points and keep the footage for a period of 30 days. The holder of the licence will provide the footage to the Australian Border Force when requested.
- 8) The holder of the licence must install and maintain monitored alarm systems.
- 9) The holder of the licence must inform the Australian Border Force of any suspected breaches or offences of Customs related laws, by any persons, related to the licensed premises.
- 10) The holder of the licence must inform the Australian Border Force of any breaches of security at the premises, whether or not it is related to the licensed area.
- 11) The holder of the licence must ensure that the deadhouse is locked.
- 12) The holder of the licence must not dispose of any goods subject to the control of Customs without prior written permission from the Australian Border Force.
- 13) The holder of the licence must monitor the security of the premises, notify the Australian Border Force on becoming aware of a substantial change affecting the physical security of the depot and take such remedial action as directed by the Australian Border Force.
- 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. change the location of the depot; or
 - b. make substantial changes to or within the current licensed area unless they have the written approval and variation of licence from the Comptroller-General of Customs.
- 16) The holder of the licence must not unpack, move or store any goods subject to the control of Customs outside the licensed area unless prior written authorisation is obtained from the Australian Border Force.
- 17) The holder of the licence must allow officers to take into the depot any equipment or material reasonably necessary to assist any Customs related activities (including the examination of any goods subject to the control of Customs). The holder of the licence must provide the officers with all reasonable assistance to carry out their duties.
- 18) The holder of the licence must implement and maintain an effective accounting system for all goods within the holder of the licence's control and subject to the control of Customs at all times.

- 19) The holder of the licence must use the ICS for communication with Customs unless alternative arrangements have been documented and approved by Customs. This includes the communication of information from the holder of the licence to Customs relating to the receipt and acquittal of all goods under Customs control at the depot, and communication of information from Customs to the holder of the licence in relation to the release of all goods under Customs control at the depot.
- 20) The holder of the licence must not allow Australian Border Force systems or information provided by the Australian Border Force to be used for an 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 the Customs Acts have been complied with.
- 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 cargo reporter, or the person responsible for adjusting the report of cargo in respect of 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 1 working day after the check-in or unpack of the goods at the premises.
- 24) When Prescribed Warehoused Goods are received at a depot the holder of the 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 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.
- 25) Goods not subject to the control of Customs must be kept in a separate and distinct area from goods subject to Customs control.
- 26) The holder of the licence must ensure that any high risk items (such as firearms, prohibited imports, damaged cargo or packages which have become opened during transport, surplus goods, or high value goods) are stored in a deadhouse.
- 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 adequate training to make staff aware of their obligations in dealing with goods subject to the control of Customs and must demonstrate ongoing quality assurance processes in place when requested by 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*:

- The holder of the licence must not allow the unpacking of FCL containers in container parks.
- The holder of the licence must ensure that goods stored in FCL containers are stacked door-to-door.
- The holder of the licence must ensure that all international mail is presented to Customs for screening.
- The holder of the licence must ensure that International mail is not delivered into home consumption until it has been screened and approved for delivery by the Australian Border Force.

Attachment B – Customs Warehouse Licence Conditions from 1 July 2019

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 warehouse that is licensed as a duty free shop, 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.

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 if they cease to occupy or control the place covered by the licence.
- 2) The holder of the licence must, when requested by the Australian Border Force, ensure that the holder of the licence and all staff in positions of management or control complete an Australian Border Force Consent to Obtain Personal Information form to allow the Australian Border Force to undertake and make a fit and proper person determination for each relevant person.
- 3) The holder of the licence must, when requested by the Australian Border Force and subject to privacy legislation or other law, provide a comprehensive staff list containing full name, gender, date of birth, position in the warehouse and the details of a valid form of identification including, but not limited to, ASIC/MSIC card, drivers licence, passport, or proof of age card.
- 4) 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 warehouse are subject to the control of Customs.
- 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, the holder of the licence must provide written particulars of the incident to the Comptroller-General of Customs as soon as practicable.
- 6) The holder of the licence must not remove or move any Australian Border Force signage without prior written approval from the Australian Border Force.

- 7) If directed by the Australian Border Force, the holder of the licence must install and maintain CCTV coverage of the licensed area, including all entry and exit points and keep the footage for a period of 30 days. The holder of the licence will provide the footage to the Australian Border Force when requested.
- 8) The holder of the licence must install and maintain monitored alarm systems.
- 9) The holder of the licence must inform the Australian Border Force of any suspected breaches or offences of the Customs Acts, by any persons, related to the licensed premises.
- 10) The holder of the licence must inform the Australian Border Force of any breaches of security at the premises, whether or not it is related to the licensed area.
- 11) The holder of the licence must not dispose of any goods subject to the control of Customs without prior written permission from the Australian Border Force.
- 12) The holder of the licence must monitor the security of the premises, notify the Australian Border Force on becoming aware of a substantial change affecting the physical security of the warehouse and take such remedial action as directed by the Australian Border Force.
- 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. change the location of the warehouse; or
 - b. make substantial changes to or within the current licensed area unless they have the written approval and variation of the licence from the Comptroller-General of Customs.
- 15) The holder of the licence must not move or store any goods subject to the control of Customs outside the licensed area unless prior written authorisation is obtained from the Australian Border Force.
- 16) The holder of the licence must stack and arrange goods in the warehouse so that authorised officers have reasonable access to, and are able to examine, the goods.
- 17) The holder of the licence must provide authorised officers with adequate space, office accommodation, car parking and facilities for use by authorised officers while undertaking their duties (including the examination of goods) at the licensed premises.
- 18) The holder of the licence must, when requested to do so, allow an authorised officer to enter and remain in the warehouse to conduct Australian Border Force related activities (including the examination of goods which are subject to the control of Customs or which an authorised officer has reasonable grounds to believe are subject to the control of Customs).

- 19) The holder of the licence must allow authorised officers to take into the warehouse any equipment or material reasonably necessary to assist any Australian Border Force related activities (including the examination of any goods subject to the control of Customs). The holder of the licence must provide the officers 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 the Customs Acts that relate to goods received into a warehouse and come into the possession or control of the holder of the licence 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 cargo received, the movement and unpacking of the cargo; 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 an authorised officer:
 - i. to enter and remain in a place that is occupied and controlled by the holder and which the authorised officer 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; and
 - b. provide the officer 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 accounting system for all goods within the control of the holder of the licence and subject to the control of Customs at all times.
- 23) The holder of the licence must not allow Australian Border Force systems or information provided by the Australian Border Force to be used for an 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 in the type of goods or the amount of goods to be stored within the warehouse as soon as practicable.
- 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.
- 26) The holder of the 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; and
 - b. any unclaimed passenger or crew baggage where rent or charges have been in arrears for 30 days or more.

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 licence must conduct a 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.
- 28) The holder of the licence must not move, alter or interfere with goods unless the requirements of the Customs Acts have been complied with.
- 29) The holder of the licence must not allow the unpacking of goods unless prior approval has been obtained from the Australian Border Force. Note: Approval may be given on a single or continuing basis.
- 30) Goods subject to the control of Customs must be kept in a separate and distinct area within the licensed area.
- 31) For warehouses that have approval to move goods on a Continuing Permission, the holder of the licence must comply with the conditions of the Continuing Permission.
- 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 adequate training to make staff aware of their obligations in dealing with goods subject to the control of Customs and must demonstrate ongoing quality assurance processes in place when requested by the Australian Border Force.

- 34) 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.
- 35) Upon being requested to do so by a 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.
- 36) The licence holder must:
- a. not purchase tobacco products on which duty has been or will be refunded (duty refunded tobacco) unless: it has a warehouse that is licensed as a duty free shop; or has been authorised by the Comptroller-General in a condition of the warehouse licence to provide ship's stores or aircraft's stores as defined in s.130C of the *Customs Act 1901*.
 - b. ensure duty refunded tobacco is only: sold to "relevant travellers" 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 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 licensed warehouse.
 - e. not allow any duty refunded tobacco to be moved from or to a licensed place 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 on the last working day of each calendar month and forthwith at any other time or times upon request by a Collector.
 - g. notify in writing to the Australian Border Force as soon as practicable and in any event within 24 hours of the holder of the licence becoming aware: 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.
 - h. notify in writing to the Australian Border Force as soon as practicable and in any event within 24 hours of the holder of the licence becoming aware of any loss, theft, diversion, or unauthorised removal of duty refunded tobacco.

- i. pay on demand in writing by a 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.

37) The holder of a warehouse licence used as a duty free shop must ensure:

- a. 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 a 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.

38) The holder of a warehouse licence authorised by the Comptroller-General of Customs to provide aircraft's and ship's stores as defined in s.130C *Customs Act 1901* must:

- a. 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 aircraft's stores or ship'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.

39) From 1 January 2020, 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.

40) The Comptroller-General of Customs may at any time specify a maximum amount of duty refunded tobacco the licence holder can store within the licensed place(s).

Specific Conditions

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

- The holder of the licence must ensure that goods stored in FCL containers are stacked door-to-door.
- A holder of the licence must not allow for any person to enter the licensed warehouse without the holder of the licence making a record of their entry to the licensed warehouse. The record shall include full name, address, driver's licence number (if applicable) and the name of person being visited. The holder of the licence must ensure that the person whose personal information is being collected has provided sufficient acknowledgment on consent to allow the release of the information to the Australian Border Force under Commonwealth privacy laws. This condition does not apply to Commonwealth, State or Territory officials.
- The licence holder is permitted to provide warehoused goods as [ship's stores and/or aircraft's stores as appropriate] as defined in s.130C *Customs Act 1901*
- Duty free items must be exported in a transparent bag or container so that the contents of the bag or container can be easily identified and with a docket to be plucked for proof of export.
- The holder of the licence must inform relevant travellers of their concession allowances. Signs must be displayed in the duty free shop, in accordance with the Duty Free Operators Guide.
- 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.