



Australian
BORDER FORCE

Cargo terminal operator obligations under the Customs Act 1901

Fact sheet for industry on the obligations of cargo terminal operators under Part VAAA of the *Customs Act 1901*

Cargo terminal operators (CTOs) at wharves and airports handling international cargo have obligations under Part VAAA of the *Customs Act 1901* (the Customs Act) to ensure the physical security of the cargo terminal and goods under customs control. These obligations strengthen the cargo supply chain against organised crime and criminal infiltration.

They are statutory obligations and non-compliance is a strict liability offence under the Customs Act.

Cargo handlers also have obligations under the Customs Act (refer to website *Factsheet: Cargo handler obligations under the Customs Act 1901*). A CTO may also fulfil the role of cargo handler.

What are the obligations of a cargo terminal operator?

Register the cargo terminal

The CTO must notify the Australian Border Force (ABF) of the operation of a cargo terminal by submitting a Cargo Terminal Operator Notification Form (B1239). This form should also be used by registered CTOs to update their registration details with the ABF. Providing a site map of the cargo terminal as part of the registration process is also strongly encouraged, but is not mandatory.

Protect the cargo terminal with adequate fencing

A cargo terminal needs adequate fencing. There is no single standard of fencing for cargo terminals. It is not mandatory for the entire perimeter of a cargo terminal to be fenced if other restrictions are in place, for example, the cargo terminal sits within a secure airport or seaport boundary fence. As the ABF determines whether cargo terminal fencing is adequate, CTOs are encouraged to consult the ABF ahead of any fence construction.

Protect the cargo terminal with a monitored alarm system

A cargo terminal must be protected by a monitored alarm system. The purpose of a monitored alarm system is to alert the CTO of any unauthorised access to the cargo terminal. It may not be practical for the alarm to cover the entire cargo terminal or perimeter. Instead, an alarm could focus on critical areas within the cargo terminal boundary such as the terminal building.

The requirement to have a monitored alarm system may be met by a range of security measures. It is recommended that CTOs consult with the local ABF office on this.

Control the entry and exit points to the cargo terminal

Access to the cargo terminal must be restricted. A CTO can achieve this through a range of procedures and processes. For example, entry points could use electronic swipe card access to control entry based on a cardholder's profile. Alternatively, access points can be physically manned. Fencing and gates also assist with managing access.

Record who enters and exits the cargo terminal

A CTO must record details of everyone who enters and exits its cargo terminal with the only exceptions being:

- a CTO employee, or
- an employee or officer of the Commonwealth, or state or territory government.

Workers contracted by the CTO must have their entry and exit movements recorded.

When recording the details of who enters the cargo terminal, the CTO needs to be satisfied of the person's identity. The CTO determines what identification they will accept to meet this obligation. The CTO can refuse entry to a person who does not provide the required identification. The records can be electronic or paper based and must be kept for five years. Regulation 72 of the Customs Regulation 2015 details the information to be recorded, for subsection 102CE(3) of the

Act.

Ensure procedures are in place to secure goods

The CTO must have procedures in place to maintain security at the cargo terminal. A CTO may already have processes in place to meet obligations under other Commonwealth or state legislation that could also apply to CTO obligations. For example, the use of aviation or maritime security zones under the *Aviation Transport Security Act 2004* or *Maritime Transport and Offshore Facilities Security Act 2003*.

Notify the ABF of events relating to goods

CTO reporting obligations relate to goods under customs control. Notifications are to be made to the local ABF office in writing no later than five days after the CTO becomes aware of certain events. Reportable events are:

- unauthorised access to or movement of goods under customs control
- unauthorised access to an information system relating to goods under customs control
- an enquiry from a person with no commercial connection to goods under customs control
- theft, loss or damage of goods subject to customs control
- break in and entry, or attempted break in, of the cargo terminal
- a change that may affect the physical security of the cargo terminal
- a suspected breach of a Customs-related law in the cargo terminal
- unclaimed goods left in the cargo terminal for over 30 days.

Ensure executive officers are fit and proper

The CTO must take all reasonable steps to ensure permanent and contracted employees who work in executive officer positions for the CTO are fit and proper persons to do so. The CTO is not required to assess all of its employees, or workers employed by a cargo handler. The ABF does not conduct fit and proper assessments on behalf of CTOs.

Section 102BA of the Customs Act sets out matters that must be considered in assessing whether a person is fit and proper. A critical consideration is a person's criminal conviction history in the past 10 years. Whether the person has been refused an Aviation Security Identification Card (ASIC) or Maritime Security Identification Card (MSIC), or has had such a card suspended or cancelled, within the previous 10 years must also be considered. If a person currently holds an MSIC or ASIC, that can be factored into an assessment. However, it is not sufficient on its own to determine whether a person is fit and proper.

The ABF may ask the CTO to provide information that supports a fit and proper assessment.

Comply with the ABF CCTV system related obligations

The *Customs (Obligations on Cargo Terminal Operators) Instrument 2023* in summary requires CTOs to:

- provide relevant persons (ABF officers and contractors acting on behalf of the ABF) with access to cargo terminals for installation preparatory works, the installation, operation, maintenance or removal of the Departmental CCTV systems on request; and
- provide all reasonable facilities and assistance to relevant persons to perform these functions.

Full details of these obligations are set out in the Instrument.

Failure to comply with these obligations is a strict liability offence under section 102CK of the Customs Act, and punishable by a maximum of 60 penalty units.

Notify the ABF of any changes affecting security

At least 30 days before it occurs, the CTO must give the local ABF office notice of any substantial change that would affect the physical security of the cargo terminal or the security of goods at the cargo terminal. This includes changes to security infrastructure and security processes. Unless the change is in response to an emergency or disaster, the notice must be in writing to the local ABF office.

Ensure adequate training of staff on CTO obligations

People who work for the CTO or are involved in the CTO's business need to be aware of the CTO's responsibilities and obligations in relation to goods subject to Customs control. The CTO must take all reasonable steps to educate and train these people on CTO obligations.

Where to get more information

Further detail can be obtained from your local ABF Office. Find your nearest [ABF office](#).