



Customs Amendment (Strengthening and Modernising Licensing and Other Measures) Act 2024

No. 79, 2024

**An Act to amend the *Customs Act 1901*, and for
related purposes**

Note: An electronic version of this Act is available on the Federal Register of Legislation
(<https://www.legislation.gov.au/>)

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Customs Amendment (Strengthening and Modernising Licensing and Other Measures) Act 2024

No. 79, 2024

An Act to amend the *Customs Act 1901*, and for related purposes

[Assented to 5 September 2024]

The Parliament of Australia enacts:

1 Short title

This Act is the *Customs Amendment (Strengthening and Modernising Licensing and Other Measures) Act 2024*.

No. 79, 2024 *Customs Amendment (Strengthening and Modernising Licensing and Other Measures) Act 2024* 1

2 Commencement

- (1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Commencement information		
Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
1. Sections 1 to 3 and anything in this Act not elsewhere covered by this table	The day this Act receives the Royal Assent.	5 September 2024
2. Schedule 1, Parts 1 to 13	A single day to be fixed by Proclamation. However, if the provisions do not commence within the period of 6 months beginning on the day this Act receives the Royal Assent, they commence on the day after the end of that period.	
3. Schedule 1, Part 14	The later of: (a) immediately after the commencement of the provisions covered by table item 2; and (b) immediately after the commencement of the <i>Excise and Customs Legislation Amendment (Streamlining Administration) Act 2024</i> . However, the provisions do not commence at all if the event mentioned in paragraph (b) does not occur.	
Note:	This table relates only to the provisions of this Act as originally enacted. It will not be amended to deal with any later amendments of this Act.	

- (2) Any information in column 3 of the table is not part of this Act. Information may be inserted in this column, or information in it may be edited, in any published version of this Act.

3 Schedules

Legislation that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

Schedule 1—Amendments

Part 1—Licence applications

Customs Act 1901

1 After subsection 77H(1)

Insert:

- (1A) An application under subsection (1) may be made by document or electronically.

2 Subsection 77H(2)

Omit “The application”, substitute “A documentary application”.

3 After paragraph 77H(2)(c)

Insert:

- (ca) be accompanied by any documents required by the form; and

4 After subsection 77H(2)

Insert:

- (2A) An electronic application must:
- (a) communicate such information as is set out in an approved statement; and
 - (b) be accompanied by any documents required by the approved statement; and
 - (c) subject to subsection (3), be accompanied by the depot licence application charge.

5 At the end of subsection 77H(3)

Add “or (2A)”.

6 Section 77J (at the end of the heading)

Add “or documents”.

7 Subsection 77J(1)

After “further information”, insert “or documents”.

8 Paragraph 77J(3)(a)

After “further information”, insert “or documents”.

9 Paragraph 77J(3)(b)

After “information”, insert “or documents”.

10 Subsection 77J(3)

After “take the information”, insert “or documents”.

11 Paragraph 77L(1)(b)

Omit “further information relating to the application to be supplied by the applicant under section 77J and the applicant supplied the information in accordance with that section—the receipt of the information”, substitute “further information or documents relating to the application to be supplied by the applicant under section 77J and the applicant supplied the information or documents in accordance with that section—the receipt of the information or documents”.

12 After subsection 77LA(1)

Insert:

- (1A) An application under subsection (1) may be made by document or electronically.

13 Subsection 77LA(2)

Omit “The application”, substitute “A documentary application”.

14 After subsection 77LA(2)

Insert:

- (2A) An electronic application must:
- (a) communicate such information as is set out in an approved statement; and
 - (b) be accompanied by payment of the depot licence variation charge.

15 Section 80A (at the end of the heading)

Add “or documents”.

16 Subsection 80A(1)

After “further information”, insert “or documents”.

17 Paragraph 80A(3)(a)

After “further information”, insert “or documents”.

18 Paragraph 80A(3)(b)

After “information”, insert “or documents”.

19 Subsection 80A(3)

After “take the information”, insert “or documents”.

20 Paragraph 81A(1)(b)

Omit “further information in relation to the application and the applicant supplies the information in accordance with that section—the receipt of the information”, substitute “further information or documents in relation to the application and the applicant supplies the information or documents in accordance with that section—the receipt of the information or documents”.

21 Subsection 183CA(1)

Repeal the subsection, substitute:

- (1) An application for a broker’s licence may be made by document or electronically.
- (1A) A documentary application must:
 - (a) be in writing; and
 - (b) be in an approved form; and
 - (c) contain such information as the form requires; and
 - (d) be accompanied by any documents required by the form; and
 - (e) be accompanied by the customs broker licence application charge.
- (1B) An electronic application must:

- (a) communicate such information as is set out in an approved statement; and
- (b) be accompanied by any documents required by the approved statement; and
- (c) be accompanied by the customs broker licence application charge.

22 Subsection 183CA(2)

Omit “shall not”, substitute “must not, in the application,”.

23 Subsection 183CA(3)

Omit “shall not be proposed under paragraph (1)(c)”, substitute “must not, in an application, be proposed as a nominee”.

24 Paragraph 273GA(1)(aar)

Omit “further information concerning a depot licence application is”, substitute “further information or documents concerning a depot licence application is or are”.

25 Application provision

The amendments made by this Part apply in relation to an application made on or after the day on which this item commences.

Part 2—Notice of decisions etc.

Customs Act 1901

26 At the end of subsection 77J(1)

Add:

Note: See section 77ZA for the ways in which the notice may be given to the applicant.

27 At the end of subsection 77LA(3)

Add:

Note: See section 77ZA for the ways in which the notice may be given to the applicant.

28 At the end of subsections 77Q(1B) and (2)

Add:

Note: See section 77ZA for the ways in which the notice may be given to the holder of the licence.

29 At the end of subsection 77V(1)

Add:

Note: See section 77ZA for the ways in which the notice may be given to the holder of the licence.

30 Subsection 77V(4)

Repeal the subsection.

31 Paragraph 77V(5)(a)

Omit “served”, substitute “given”.

32 Subsection 77V(6)

Omit “service”, substitute “giving”.

33 Paragraph 77VA(2)(d)

Omit “by notice in a prescribed manner”, substitute “by notice given”.

34 Subsection 77VA(2) (note)

Omit “Note”, substitute “Note 1”.

35 At the end of subsection 77VA(2) (after the note)

Add:

Note 2: See section 77ZA for the ways in which a notice may be given to the owner of goods or the holder of the licence.

36 Subsection 77VC(1)

Omit “by notice in writing, cancel a depot licence”, substitute “by notice in writing given to the holder of a depot licence, cancel the licence”.

37 At the end of subsection 77VC(1)

Add:

Note: See section 77ZA for the ways in which the notice may be given to the holder of the licence.

38 Subsection 77VC(2)

Omit “by notice in writing, cancel a depot licence”, substitute “by notice in writing given to the holder of a depot licence, cancel the licence”.

39 At the end of subsection 77VC(2)

Add:

Note: See section 77ZA for the ways in which the notice may be given to the holder of the licence.

40 Subsection 77VC(3)

Repeal the subsection.

41 At the end of subsection 77X(2)

Add:

Note: See section 77ZA for the ways in which the notice may be given to the former holder.

42 Section 77ZA

Repeal the section, substitute:

77ZA Giving of notices

Notices to persons

- (1) A notice under this Part from the Comptroller-General of Customs or a Collector to a person must be given to the person by:
 - (a) sending it by email to the last known email address of the person; or
 - (b) sending it by other electronic means to the person; or
 - (c) delivering it personally to the person; or
 - (d) sending it to the person by pre-paid post or registered post to the person's last known place of residence or business; or
 - (e) leaving it at:
 - (i) the person's last known place of residence with some person apparently a resident of that place and apparently not less than 16 years of age; or
 - (ii) the person's last known place of business with some person apparently employed at that place and apparently not less than 16 years of age; or
 - (f) for a notice to the holder of a depot licence (and in addition to paragraphs (a) to (e))—delivering it personally to a person who, at the time of delivery, apparently participates in the management or control of the depot.

Notices to partnerships

- (2) A notice under this Part from the Comptroller-General of Customs or a Collector to a partnership must be given to the partnership by:
 - (a) sending it by email to the last known email address of the partnership or a partner in the partnership; or
 - (b) sending it by other electronic means to the partnership or a partner in the partnership; or
 - (c) delivering it personally to a partner in the partnership; or
 - (d) sending it to the partnership by pre-paid post or registered post to the partnership's last known place of business; or

- (e) leaving it at the partnership's last known place of business with some person apparently employed at that place and apparently not less than 16 years of age; or
- (f) for a notice to the holder of a depot licence (and in addition to paragraphs (a) to (e))—delivering it personally to a person who, at the time of delivery, apparently participates in the management or control of the depot.

Common rule

- (3) For the purpose of the application of section 29 of the *Acts Interpretation Act 1901* to the sending by post of a notice under this Part on a person or partnership who holds or held a depot licence, if the notice is posted as a letter addressed to the person or partnership at the address of the place that is or was the depot, the notice is taken to be properly addressed.

43 At the end of subsection 80A(1)

Add:

Note: See section 102AA for the ways in which the notice may be given to the applicant.

44 At the end of subsection 81B(3)

Add:

Note: See section 102AA for the ways in which the notice may be given to the applicant.

45 Subsection 82(5)

Repeal the subsection, substitute:

- (5) The Comptroller-General of Customs must, in writing and upon application by the holder of a warehouse licence for a variation of the conditions to which the licence is subject:
 - (a) vary those conditions; or
 - (b) refuse to vary those conditions.

46 At the end of section 82

Add:

Kind of application

- (7) An application under subsection (5) may be made by document or electronically.
- (8) A documentary application must:
 - (a) be in writing; and
 - (b) be in an approved form; and
 - (c) contain such information as the form requires; and
 - (d) be accompanied by any documents required by the form; and
 - (e) be signed in the manner indicated in the form.
- (9) An electronic application must:
 - (a) communicate such information as is set out in an approved statement; and
 - (b) be accompanied by any documents required by the approved statement.

Notification of decisions

- (10) If the Comptroller-General of Customs, under subsection (5), varies the conditions to which the licence is subject, the Comptroller-General must give the holder of the licence a copy of the variation. The variation takes effect at the time the copy is given.
- (11) If the Comptroller-General of Customs, under subsection (5), refuses to vary the conditions to which the licence is subject, the Comptroller-General must give the holder of the licence written notice of the refusal and of the reasons for the refusal.

Note: See section 102AA for the ways in which the notice may be given to the holder of the licence.

47 At the end of subsection 82A(2)

Add:

Note: See section 102AA for the ways in which the notice may be given to the holder of the licence.

48 At the end of subsection 82B(1)

Add:

Note: See section 102AA for the ways in which the notice may be given to the holder of the licence.

49 At the end of subsection 83(2)

Add:

Note: See section 102AA for the ways in which the notice may be given to the last holder of the licence.

50 Paragraph 86(7)(d)

Omit “by notice in a prescribed manner”, substitute “by notice given”.

51 At the end of subsection 86(7)

Add:

Note: See section 102AA for the ways in which the notice may be given to the owner of goods or the holder of the licence.

52 Subsection 90(2)

Omit “served, either personally or by post, on the holder of the licence”, substitute “given to the holder of the licence”.

53 At the end of subsection 90(2)

Add:

Note: See section 102AA for the ways in which the notice may be given to the holder of the licence.

54 Subsection 96A(8)

Omit “served on”, substitute “given to”.

55 Subsection 96A(8)

Omit “was served”, substitute “was given”.

56 At the end of subsection 96A(8)

Add:

Note: See section 102AA for the ways in which the notice may be given to the proprietor of the shop.

57 Subsection 96A(14)

Omit “he or she shall cause to be served, either personally or by post, on the proprietor of the shop, a notice in writing setting out the Collector’s findings on material questions of fact, referring to the evidence or other material on which those findings were based and giving the reasons for the decision”, substitute “the Collector must give the proprietor of the shop written notice of the decision and of the reasons for the decision”.

58 At the end of subsection 96A(14)

Add:

Note: See section 102AA for the ways in which the notice may be given to the proprietor of the shop.

59 Subsection 96B(8)

Omit “served on”, substitute “given to”.

60 Subsection 96B(8)

Omit “was served”, substitute “was given”.

61 At the end of subsection 96B(8)

Add:

Note: See section 102AA for the ways in which the notice may be given to the proprietor of the shop.

62 Subsection 96B(13)

Omit “the Collector shall cause to be served, either personally or by post, on the proprietor of the shop, a notice in writing setting out the Collector’s findings on material questions of fact, referring to the evidence or other material on which those findings were based and giving the reasons for the decision”, substitute “the Collector must give the proprietor of the shop written notice of the decision and of the reasons for the decision”.

63 At the end of subsection 96B(13)

Add:

Note: See section 102AA for the ways in which the notice may be given to the proprietor of the shop.

64 Subsection 100(6)

After “notice in writing”, insert “given to the person”.

65 At the end of subsection 100(6)

Add:

Note: See section 102AA for the ways in which the notice may be given to the person.

66 After section 102A

Insert:

102AA Giving of notices

Notices to persons

- (1) A notice under this Part from the Comptroller-General of Customs or a Collector to a person must be given to the person by:
- (a) sending it by email to the last known email address of the person; or
 - (b) sending it by other electronic means to the person; or
 - (c) delivering it personally to the person; or
 - (d) sending it to the person by pre-paid post or registered post to the person’s last known place of residence or business; or
 - (e) leaving it at:
 - (i) the person’s last known place of residence with some person apparently a resident of that place and apparently not less than 16 years of age; or
 - (ii) the person’s last known place of business with some person apparently employed at that place and apparently not less than 16 years of age; or
 - (f) for a notice to the holder of a warehouse licence (and in addition to paragraphs (a) to (e))—delivering it personally to a person who, at the time of delivery, apparently participates in the management or control of a warehouse covered by the licence.

Notices to partnerships

- (2) A notice under this Part from the Comptroller-General of Customs or a Collector to a partnership must be given to the partnership by:
- (a) sending it by email to the last known email address of the partnership or a partner in the partnership; or
 - (b) sending it by other electronic means to the partnership or a partner in the partnership; or
 - (c) delivering it personally to a partner in the partnership; or
 - (d) sending it to the partnership by pre-paid post or registered post to the partnership's last known place of business; or
 - (e) leaving it at the partnership's last known place of business with some person apparently employed at that place and apparently not less than 16 years of age; or
 - (f) for a notice to the holder of a warehouse licence (and in addition to paragraphs (a) to (e))—delivering it personally to a person who, at the time of delivery, apparently participates in the management or control of a warehouse covered by the licence.

Common rule

- (3) For the purpose of the application of section 29 of the *Acts Interpretation Act 1901* to the sending by post of a notice under this Part on a person or partnership who holds or held a warehouse licence, if the notice is posted as a letter addressed to the person or partnership at the address of a place that is or was covered by the licence, the notice is taken to be properly addressed.

67 Subsection 183C(1)

Repeal the subsection, substitute:

- (1) Subject to this Part, the Comptroller-General of Customs must, upon application by a person for the grant of a broker's licence:
- (a) grant the person a licence, in writing, to act as a customs broker at a place or places specified in the licence; or
 - (b) refuse, in writing, to grant the person a broker's licence.

68 After section 183CC

Insert:

183CCA Notice of refusal to grant a broker's licence

If the Comptroller-General of Customs refuses to grant a broker's licence to a person, the Comptroller-General must give the person written notice of the refusal and of the reasons for the refusal.

69 Subsections 183CF(1) and (2)

Repeal the subsections, substitute:

Places

- (1) Subject to subsection (3), the Comptroller-General of Customs must, upon application by a customs broker:
 - (a) vary the licence so that a place is specified, or ceases to be specified, in the licence as a place at which the holder of the licence may act as a customs broker; or
 - (b) refuse, in writing, to vary the licence.

Nominees

- (2) Subject to subsection (3), the Comptroller-General of Customs must, upon application by a customs broker:
 - (a) vary the licence so that a person is specified, or ceases to be specified, in the licence as a nominee of the customs broker; or
 - (b) refuse, in writing, to vary the licence.

Kind of application

- (2A) An application under subsection (1) or (2) may be made by document or electronically.
- (2B) A documentary application must:
 - (a) be in writing; and
 - (b) be in an approved form; and
 - (c) contain such information as the form requires; and
 - (d) be accompanied by any documents required by the form; and
 - (e) be signed in the manner indicated in the form.
- (2C) An electronic application must:

- (a) communicate such information as is set out in an approved statement; and
- (b) be accompanied by any documents required by the approved statement.

70 Before subsection 183CF(3)

Insert:

Limitations

71 Subsection 183CF(3)

Omit “shall not vary the endorsements on a licence”, substitute “must not vary the licence”.

72 Subsection 183CF(4)

Omit “shall not be endorsed”, substitute “must not be specified”.

73 Subsection 183CF(4)

Omit “endorsement”, substitute “specification”.

74 At the end of section 183CF

Add:

Notification of decisions

- (5) If the Comptroller-General of Customs varies the licence, the Comptroller-General must give the holder of the licence a copy of the variation. The variation takes effect at the time the copy is given.
- (6) If the Comptroller-General of Customs refuses to vary the licence, the Comptroller-General must give the holder of the licence written notice of the refusal and of the reasons for the refusal.

Note: See section 183UAA for the ways in which the notice may be given to the holder of the licence.

75 Subsection 183CG(7)

Repeal the subsection, substitute:

- (7) The Comptroller-General of Customs must, in writing and upon application by the holder of a broker's licence for a variation of the conditions to which the licence is subject:
- (a) vary those conditions; or
 - (b) refuse to vary those conditions.

76 After subsection 183CG(7A)

Insert:

Kind of application

- (7B) An application under subsection (7) may be made by document or electronically.
- (7C) A documentary application must:
- (a) be in writing; and
 - (b) be in an approved form; and
 - (c) contain such information as the form requires; and
 - (d) be accompanied by any documents required by the form; and
 - (e) be signed in the manner indicated in the form.
- (7D) An electronic application must:
- (a) communicate such information as is set out in an approved statement; and
 - (b) be accompanied by any documents required by the approved statement.

Notification of decisions

- (7E) If the Comptroller-General of Customs, under subsection (7), varies the conditions to which the licence is subject, the Comptroller-General must give the holder of the licence a copy of the variation. The variation takes effect at the time the copy is given.
- (7F) If the Comptroller-General of Customs, under subsection (7), refuses to vary the conditions to which the licence is subject, the Comptroller-General must give the holder of the licence written notice of the refusal and of the reasons for the refusal.

Schedule 1 Amendments

Part 2 Notice of decisions etc.

Note: See section 183UAA for the ways in which the notice may be given to the holder of the licence.

77 At the end of subsection 183CGA(2)

Add:

Note: See section 183UAA for the ways in which the notice may be given to the holder of the licence.

78 At the end of subsection 183CGB(1)

Add:

Note: See section 183UAA for the ways in which the notice may be given to the holder of the licence.

79 Subsection 183CK(1)

Omit “served on”, substitute “given to”.

80 At the end of subsection 183CK(1)

Add:

Note: See section 183UAA for the ways in which the notice may be given to the applicant or the holder of the licence.

81 At the end of subsection 183CK(2)

Add:

Note: See section 183UAA for the ways in which the notice may be given to the customs broker.

82 Subsection 183CK(3)

After “may”, insert “, under subsection 183C(1),”.

83 Section 183CP

Omit “served on”, substitute “given to”.

84 Section 183CP

Omit “the endorsements on”.

85 At the end of section 183CP

Add:

Note: See section 183UAA for the ways in which the notice may be given to the customs broker.

86 Subsection 183CQ(1)

Omit “in accordance with this section”.

87 At the end of subsection 183CQ(1)

Add:

Note: See section 183UAA for the ways in which the notice may be given to the customs broker.

88 Subsection 183CQ(3)

Repeal the subsection.

89 Subsection 183CR(1)

Omit “notice in accordance with”, substitute “a notice under”.

90 At the end of subsection 183CR(2)

Add:

Note: See section 183UAA for the ways in which a notice may be given to the customs broker.

91 At the end of subsection 183CS(1)

Add:

Note: See section 183UAA for the ways in which a notice may be given to the customs broker.

92 After subsection 183CS(1)

Insert:

(1A) The notice under subsection (1) must set out the reasons for the giving of the notice.

93 At the end of subsection 183CS(2)

Add:

Note: See section 183UAA for the ways in which a notice may be given to the customs broker.

94 Subsection 183CS(3)

Repeal the subsection.

95 Section 183CU

Repeal the section.

96 Subsection 183J(1)

Omit “served on”, substitute “given to”.

97 At the end of subsection 183J(1)

Add:

Note: See section 183UAA for the ways in which a notice may be given to the applicant or the holder of the licence.

98 Subsections 183J(2) and (3)

Omit “served in pursuance of”, substitute “given under”.

99 Subsection 183J(4)

Omit “served on”, substitute “given to”.

100 At the end of subsection 183J(4)

Add:

Note: See section 183UAA for the ways in which a notice may be given to a person.

101 At the end of subsection 183K(1)

Add:

Note: See section 183UAA for the ways in which the summons may be given to the person.

102 Section 183L

Repeal the section.

103 At the end of Part XI

Add:

Division 6—Giving of notices or summons

183UAA Giving of notices or summons

A notice or summons under this Part from the Comptroller-General of Customs or the Chair of the Committee to a person must be given to the person by:

- (a) sending it by email to:
 - (i) in any case—the last known email address of the person; or
 - (ii) in the case of a partnership—the last known email address of a partner in the partnership; or
- (b) sending it by other electronic means to:
 - (i) in any case—the person; or
 - (ii) in the case of a partnership—a partner in the partnership; or
- (c) delivering it personally to:
 - (i) in any case—the person; or
 - (ii) in the case of a partnership—a partner in the partnership; or
- (d) sending it to the person by pre-paid post or registered post to the person's last known place of residence or business; or
- (e) leaving it at:
 - (i) the person's last known place of residence with some person apparently a resident of that place and apparently not less than 16 years of age; or
 - (ii) the person's last known place of business with some person apparently employed at that place and apparently not less than 16 years of age.

104 Paragraphs 273GAA(2)(b), (d), (e) and (f)

Repeal the paragraphs.

105 Subsection 273GAA(9)

Repeal the subsection.

106 Application provisions

- (1) The amendments made by this Part apply in relation to a notice or summons given on or after the day on which this item commences.
- (2) The amendments of sections 82, 183C, 183CF and 183CG of the *Customs Act 1901* made by this Part apply in relation to an application made on or after the day on which this item commences.

Part 3—Streamlined publication requirements

Customs Act 1901

107 Subsection 77VC(4)

Repeal the subsection, substitute:

- (4) If under this section the Comptroller-General of Customs cancels a depot licence and goods remain in the former depot, the Comptroller-General must publish a notice, by any means the Comptroller-General considers appropriate, informing owners of goods in that former depot of the cancellation and the date of the cancellation.

108 Subsections 83(3) and (4)

Repeal the subsections, substitute:

- (3) Subject to subsection (4), if a warehouse licence has not been renewed and goods remain in the former warehouse, the Comptroller-General of Customs must publish a notice, by any means the Comptroller-General considers appropriate, informing owners of goods in the former warehouse:
 - (a) that they are required, within a time specified in the notice or any further time allowed by the Comptroller-General, to:
 - (i) pay to the Collector duty payable in respect of their goods in the former warehouse; or
 - (ii) remove their goods in the former warehouse to another place in accordance with permission obtained from the Collector; and
 - (b) that, if they do not comply with the requirements of the notice, their goods in that former warehouse will be sold.
- (4) If the Comptroller-General of Customs is satisfied that all the goods in the former warehouse are the property of the person who held the licence, the Comptroller-General is not required to publish a notice under subsection (3) in relation to the former warehouse. Instead, the Comptroller-General must give a notice to the person informing the person:

- (a) that the person is required, within a time specified in the notice or any further time allowed by the Comptroller-General, to:
 - (i) pay to the Collector duty payable in respect of the person's goods in the former warehouse; or
 - (ii) remove the person's goods in the former warehouse to another place in accordance with permission obtained from the Collector; and
- (b) that, if the person does not comply with the requirements of the notice, the person's goods in the former warehouse will be sold.

Note: See section 102AA for the ways in which the notice may be given to the person.

109 Subsection 83(5)

After "subsection (3)", insert "or (4)".

110 Application provision

The amendments made by this Part apply in relation to a notice published or given on or after the day on which this item commences.

Part 4—Streamlined disciplinary process for customs brokers

Customs Act 1901

111 Subsection 183CG(8)

Repeal the subsection.

112 Paragraph 183CQ(1)(h)

Omit “and, having been served with a notice under subsection 183CG(8) in relation to the non-compliance with that condition, the customs broker has not, within the time specified in the notice, complied with that condition”.

113 Subsection 183CQ(4)

Repeal the subsection, substitute:

Notice where no referral to Committee

- (4) If the Comptroller-General of Customs gives a customs broker a notice under this section because of paragraph (1)(a), (c) or (f), the notice must:
- (a) state the grounds on which the notice is given; and
 - (b) state the things the Comptroller-General may do in relation to the broker’s licence under subsection 183CS(1); and
 - (c) invite the broker to make a written submission to the Comptroller-General in relation to the matter within the period specified in the notice (which must be at least 14 days after the day the notice is given).

Notice where referral to Committee

- (4A) If the Comptroller-General of Customs gives a customs broker a notice under this section and subsection (4) does not apply, the notice must:
- (a) state the grounds on which the notice is given; and
 - (b) state that the Comptroller-General is going to refer to the Committee, for investigation and report to the

Comptroller-General, the question whether the Comptroller-General should take action in relation to the broker's licence under subsection 183CS(1); and

- (c) state the things the Comptroller-General may do in relation to that licence under subsection 183CS(1); and
- (d) state the rights of the customs broker under sections 183J and 183S to take part in the proceedings before the Committee.

114 Subsection 183CQ(5)

Omit "notice in accordance with this section to a customs broker", substitute "a notice under this section to a customs broker where subsection (4A) applies".

115 Subsection 183CR(1)

Omit "investigation and report of the Committee", substitute "making of a submission (if any) under paragraph 183CQ(4)(c) by the customs broker or pending the investigation and report of the Committee under subsection 183CQ(7) in relation to the customs broker".

116 Subsection 183CS(1)

Omit "Where the Comptroller-General of Customs, after considering a report under subsection 183CQ(7) in relation to a broker's licence, is", substitute "If the Comptroller-General of Customs, after considering a submission (if any) under paragraph 183CQ(4)(c) by a customs broker, or after considering a report of the Committee under subsection 183CQ(7) in relation to a customs broker, is".

117 Subsection 183CS(2)

Omit "considering a report under subsection 183CQ(7) in relation to a broker's licence", substitute "considering a submission (if any) under paragraph 183CQ(4)(c) by a customs broker or after considering a report of the Committee under subsection 183CQ(7) in relation to a customs broker".

118 Application provisions

- (1) The repeal of subsection 183CG(8), and the amendment of paragraph 183CQ(1)(h), of the *Customs Act 1901* made by this Part apply in relation to a failure to comply with a condition, where the
-

failure occurs on or after the day on which this item commences (whether the condition was imposed before, on or after that day).

- (2) The amendments of section 183CQ of the *Customs Act 1901* made by this Part apply in relation to a notice given under that section on or after the day on which this item commences, whether the broker's licence was granted before, on or after that day.
- (3) In addition to subitem (2), subsection 183CQ(4) of the *Customs Act 1901*, as substituted by this Part, applies in relation to the following:
 - (a) a conviction for a prescribed offence that occurs on or after the day on which this item commences;
 - (b) a company that goes into liquidation on or after the day on which this item commences;
 - (c) customs broker licence charge that becomes payable on or after the day on which this item commences.

Part 5—Nominees of customs brokers

Customs Act 1901

119 Paragraphs 183CD(d) and (e)

Repeal the paragraphs.

120 Application provision

The amendment made by this Part applies in relation to an application for a broker's licence that is made on or after the day on which this item commences.

Part 6—Disclosure of information about transport security identification cards

AusCheck Act 2007

121 At the end of subsection 15(2) (before the note)

Add:

- ; (e) if the information is AusCheck scheme personal information—a disclosure to an officer of customs (within the meaning of the *Customs Act 1901*) for the purposes of assisting in the performance of the officer’s functions, or the exercise of the officer’s powers, under that Act.

122 Application provision

The amendment made by this Part applies in relation to the disclosure of information on or after the day on which this item commences, whether the information was obtained or generated before, on or after that day.

Part 7—Fit and proper person test

Customs Act 1901

123 At the end of section 77F

Add:

- (4) For the purposes of this Part, a person is taken to participate in the management or control of a depot if:
 - (a) the person has authority:
 - (i) to direct the operations, or an important or substantial part of the operations, of the depot; or
 - (ii) to direct activities in the depot; or
 - (iii) to remove goods from the depot; or
 - (b) the person has authority to direct a person who has authority referred to in paragraph (a) in the exercise of that authority.

124 Paragraphs 77K(1)(a) to (g)

Repeal the paragraphs, substitute:

- (a) if the applicant is a natural person:
 - (i) the applicant is not a fit and proper person to hold a depot licence; or
 - (ii) the applicant would not be in a position to occupy and control the proposed depot if the licence were granted; or
 - (iii) a person who would participate in the management or control of, or in the operations carried out at, the proposed depot (whether or not the person would be present at the proposed depot) is not a fit and proper person to so participate; or
- (b) if the applicant is a partnership:
 - (i) any of the partners is not a fit and proper person to be a member of a partnership holding a depot licence; or
 - (ii) none of the partners in the partnership would be in a position to occupy and control the proposed depot if the licence were granted; or

- (iii) a person who would participate in the management or control of, or in the operations carried out at, the proposed depot (whether or not the person would be present at the proposed depot) is not a fit and proper person to so participate; or
- (c) if the applicant is a company:
 - (i) any of the directors of the company is not a fit and proper person to be a director of a company holding a depot licence; or
 - (ii) the company would not be in a position to occupy and control the proposed depot if the licence were granted; or
 - (iii) a person who would participate in the management or control of, or in the operations carried out at, the proposed depot (whether or not the person would be present at the proposed depot) is not a fit and proper person to so participate; or
 - (iv) the company is not a fit and proper company to hold a depot licence; or

125 Subsection 77K(2)

Omit “, (c) or (d)”, substitute “or (c) (other than subparagraph (1)(c)(iv))”.

126 Subsection 77K(3)

Omit “paragraph (1)(e)”, substitute “subparagraph (1)(c)(iv)”.

127 Paragraph 77N(2)(d)

After “control of”, insert “, or in the operations carried out at,”.

128 Subparagraphs 77V(1)(a)(ii) to (vi)

Repeal the subparagraphs.

129 After paragraph 77V(1)(a)

Insert:

- (aa) if the licence is held by a natural person—the Comptroller-General of Customs is satisfied that:

- (i) the applicant is not a fit and proper person to hold a depot licence; or
- (ii) a person participating in the management or control of, or in the operations carried out at, the depot (whether or not the person is present at the depot) is not a fit and proper person to so participate; or
- (ab) if the licence is held by a partnership—the Comptroller-General of Customs is satisfied that:
 - (i) a member of the partnership is not a fit and proper person to be a member of a partnership holding a depot licence; or
 - (ii) a person participating in the management or control of, or in the operations carried out at, the depot (whether or not the person is present at the depot) is not a fit and proper person to so participate; or
- (ac) if the licence is held by a company—the Comptroller-General of Customs is satisfied that:
 - (i) a director of the company is not a fit and proper person to be a director of a company holding a depot licence; or
 - (ii) a person participating in the management or control of, or in the operations carried out at, the depot (whether or not the person is present at the depot) is not a fit and proper person to so participate; or
 - (iii) the company is not a fit and proper company to hold a depot licence; or

130 Subsection 77V(2)

Omit “subparagraphs (1)(a)(ii) to (v)”, substitute “paragraph (1)(aa), (ab) or (ac) (other than subparagraph (1)(ac)(iii))”.

131 Subsection 77V(3)

Omit “subparagraph (1)(a)(vi)”, substitute “subparagraph (1)(ac)(iii)”.

132 Subsection 77VC(1)

Omit “any matter mentioned in subparagraphs 77V(1)(a)(i) to (viii), or of the matter mentioned in paragraph 77V(1)(b),”, substitute “a matter mentioned in subsection 77V(1)”.

133 Subsection 78(3)

Repeal the subsection, substitute:

- (3) For the purposes of this Part, a person is taken to participate in the management or control of a warehouse if:
- (a) the person has authority:
 - (i) to direct the operations, or an important or substantial part of the operations, of the warehouse; or
 - (ii) to direct activities in the warehouse; or
 - (iii) to remove goods from the warehouse; or
 - (b) the person has authority to direct a person who has authority referred to in paragraph (a) in the exercise of that authority.

134 Section 82 (heading)

Repeal the heading, substitute:

82 Conditions of a warehouse licence—general

135 Paragraph 82(1)(c)

After “control of”, insert “, or in the operations carried out at,”.

136 Paragraphs 183B(2)(a) and (b)

Omit “he or she”, substitute “the person”.

137 At the end of subsection 183B(2)

Add:

- ; or (c) the person has authority to do any act or thing on behalf of the customs broker.

138 Subparagraph 183CC(1)(a)(iii)

Repeal the subparagraph, substitute:

- (iii) a person who would participate in the work of the applicant, if the applicant were a customs broker, is not a fit and proper person; or

139 Subparagraphs 183CC(1)(b)(i) and (ii)

Repeal the subparagraphs, substitute:

- (i) a director of the company is not a fit and proper person;
or
- (ii) a person who would participate in the work of the company, if the company were a customs broker, is not a fit and proper person; or

140 Subparagraph 183CC(1)(c)(ii)

Repeal the subparagraph, substitute:

- (ii) a person who would participate in the work of the partnership, if the partnership were a customs broker, is not a fit and proper person.

141 Subsection 183CC(4)

Omit “subsection (1)”, substitute “paragraph (1)(a), (b) or (c) (other than subparagraph (1)(b)(iii))”.

142 After paragraph 183CG(4)(a)

Insert:

- (aa) in the case of a licence held by a company—all directors of the company are fit and proper persons; and

143 Application provisions

Depot licences

- (1) The amendments of section 77K of the *Customs Act 1901* made by this Part apply in relation to an application for a depot licence that is made on or after the day on which this item commences.
- (2) The amendment of paragraph 77N(2)(d) of the *Customs Act 1901* made by this Part applies in relation to a matter referred to in subparagraph 77N(2)(d)(i), (ii) or (iii) of that Act that occurs on or after the day on which this item commences in relation to a person who participates in the operations carried out at a depot.
- (3) The amendments of section 77V of the *Customs Act 1901* made by this Part apply in relation to a notice given under subsection 77V(1) of that Act on or after the day on which this item commences, whether the depot licence was granted before, on or after that day.

- (4) The amendment of subsection 77VC(1) of the *Customs Act 1901* made by this Part applies in relation to a notice given under that subsection on or after the day on which this item commences, whether the depot licence was granted before, on or after that day.

Warehouse licences

- (5) The amendment of paragraph 82(1)(c) of the *Customs Act 1901* made by this Part applies in relation to a matter referred to in subparagraph 82(1)(c)(i), (ii) or (iii) of that Act that occurs on or after the day on which this item commences in relation to a person who participates in the operations carried out at a warehouse.

Broker's licences

- (6) The amendments of section 183CC of the *Customs Act 1901* made by this Part apply in relation to an application for a broker's licence that is made on or after the day on which this item commences.
- (7) Paragraph 183CG(4)(aa) of the *Customs Act 1901*, as inserted by this Part, applies on and after the day on which this item commences in relation to a broker's licence granted before, on or after that day.

Part 8—Strengthening integrity controls

Customs Act 1901

144 At the end of subsection 77K(1)

Add:

- ; or (j) it is inappropriate in all the circumstances to grant the licence, having regard to the matters covered by subsection (3A).

145 After subsection 77K(3)

Insert:

- (3A) For the purposes of paragraph (1)(j), the matters covered by this subsection are the following:
- (a) if the applicant is a natural person—the experience of the following in operations that would be performed upon, or in relation to, goods at the proposed depot:
 - (i) the applicant;
 - (ii) each person, known to the Comptroller-General of Customs, who would participate in the management or control of, or in the operations carried out at, the proposed depot (whether or not the person would be present at the proposed depot);
 - (b) if the applicant is a partnership—the experience of the following in operations that would be performed upon, or in relation to, goods at the proposed depot:
 - (i) each partner in the partnership;
 - (ii) each person, known to the Comptroller-General of Customs, who would participate in the management or control of, or in the operations carried out at, the proposed depot (whether or not the person would be present at the proposed depot);
 - (c) if the applicant is a company—the experience of the following in operations that would be performed upon, or in relation to, goods at the proposed depot:
 - (i) the company;

- (ii) each director of the company;
- (iii) each person, known to the Comptroller-General of Customs, who would participate in the management or control of, or in the operations carried out at, the proposed depot (whether or not the person would be present at the proposed depot);
- (d) in any case—the applicant’s operating procedures and processes that would apply at the proposed depot in relation to goods at the proposed depot.

146 Before subsection 77LA(1)

Insert:

Variation on application

147 At the end of subsection 77LA(1)

Add:

Note: See subsection (8) for variation on the Comptroller-General’s own initiative.

148 At the end of section 77LA

Add:

Variation on own initiative

- (8) The Comptroller-General of Customs may, on the Comptroller-General’s own initiative, vary a depot licence by:
 - (a) omitting the description of the place that is currently described in the licence and substituting a description of another place; or
 - (b) altering the description of the place that is currently described in the licence.
- (9) The Comptroller-General of Customs must give the holder of the depot licence a copy of the variation under subsection (8). The variation takes effect at the time the copy is given.

149 After paragraph 77N(2)(a)

Insert:

- (aa) a person described in the application for the licence as participating in the management or control of the depot ceases to do so;

150 Subsection 77N(2A)

Omit “made in”, substitute “made”.

151 Paragraph 77N(2A)(a)

Before “a”, insert “to”.

152 Paragraph 77N(2A)(b)

Before “the keeping”, insert “to”.

153 After paragraph 77N(2A)(b)

Insert:

- or (c) to the holder’s operating procedures or processes that apply at the depot in relation to goods at the depot;

154 Subparagraph 77V(1)(a)(viii)

Omit “a licence charge payable in respect of the grant of the depot”, substitute “the depot licence charge payable in respect of the grant of the licence”.

155 Before paragraph 77V(1)(b)

Insert:

- (ad) the Comptroller-General of Customs is satisfied that it is appropriate in all the circumstances to cancel the licence, having regard to the matters covered by subsection (3A); or

156 After subsection 77V(3)

Insert:

- (3A) For the purposes of paragraph (1)(ad), the matters covered by this subsection are the following:
 - (a) if the licence is held by a natural person—the experience of the following in operations that are performed upon, or in relation to, goods at the depot:
 - (i) the holder;

- (ii) each person, known to the Comptroller-General of Customs, who is participating in the management or control of, or in the operations carried out at, the depot (whether or not the person is present at the depot);
- (b) if the licence is held by a company—the experience of the following in operations that are performed upon, or in relation to, goods at the depot:
 - (i) the company;
 - (ii) each director of the company;
 - (iii) each person, known to the Comptroller-General of Customs, who is participating in the management or control of, or in the operations carried out at, the depot (whether or not the person is present at the depot);
- (c) if the licence is held by a partnership—the experience of the following in operations that are performed upon, or in relation to, goods at the depot:
 - (i) each partner in the partnership;
 - (ii) each person, known to the Comptroller-General of Customs, who is participating in the management or control of, or in the operations carried out at, the depot (whether or not the person is present at the depot);
- (d) in any case—the holder’s operating procedures or processes that apply at the depot in relation to goods at the depot.

157 Paragraph 77V(5)(b)

Repeal the paragraph, substitute:

- (b) may state that the licence is suspended if the notice is given because of the operation of paragraph (1)(ad) or (b).

158 Section 77Y (heading)

After “**relation to**”, insert “**depot or**”.

159 Subsection 77Y(1)

After “in relation to”, insert “the depot or to”.

160 At the end of subsection 77Y(2)

Add:

- ; or (f) about the physical security of the depot; or
-

- (g) to give to the Collector, within the specified period and in the specified manner, specified information in relation to the management of controlled goods; or
- (h) to produce to the Collector, within the specified period and in the specified manner, specified documents in relation to the management of controlled goods; or
- (i) to make specified changes, within the specified period, to specified information, or specified documents, in relation to the management of controlled goods.

161 After subsection 77Y(2)

Insert:

- (2A) For the purposes of paragraph (2)(g), (h) or (i), the period specified in the direction must be at least 7 days after the day the direction is given.

162 After section 77Z

Insert:

77ZAA Access to depots

A Collector may, at any time, gain access to and enter, if necessary by force, any place covered by a depot licence and examine any goods at the place.

163 After paragraph 82(1)(a)

Insert:

- (aa) a person described in the application for the licence as participating in the management or control of a warehouse covered by the licence ceases to do so; or

164 Subparagraph 82(1)(c)(iii)

Omit “or” (last occurring).

165 Paragraphs 82(1)(d) to (f)

Repeal the paragraphs.

166 After subsection 82(1)

Insert:

- (1A) A warehouse licence is subject to the condition that the holder of the licence must not cause or permit a substantial change to be made:
- (a) to a matter affecting the physical security of a warehouse covered by the licence; or
 - (b) to plant or equipment used in relation to goods in a warehouse covered by the licence; or
 - (c) to the keeping of accounts or records in relation to a warehouse covered by the licence; or
 - (d) to the holder's operating procedures or processes that apply at a warehouse covered by the licence in relation to goods at the warehouse;
- unless the holder has given to the Comptroller-General of Customs 30 days' notice of the proposed change.

167 Before section 88

Insert:

87C Collector may give directions in relation to warehouse or to goods subject to customs control

- (1) A Collector may, for the protection of the revenue or for the purpose of 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, give written directions under this section to:
- (a) the holder of a warehouse licence; or
 - (b) a person participating in the management or control of a warehouse covered by a warehouse licence;
- in relation to a warehouse covered by the licence or to goods in a warehouse covered by the licence that are subject to customs control (the *controlled goods*).
- (2) A direction under subsection (1) must be a direction:
- (a) to move, or not to move, controlled goods within the warehouse; or

- (b) about the storage of controlled goods in the warehouse; or
 - (c) to move controlled goods to another warehouse or a depot; or
 - (d) about the unpacking from receptacles of controlled goods; or
 - (e) about the packing into receptacles of controlled goods; or
 - (f) about the physical security of the warehouse; or
 - (g) about plant or equipment used in relation to controlled goods;
or
 - (h) to give to the Collector, within the specified period and in the specified manner, specified information in relation to the management of controlled goods; or
 - (i) to produce to the Collector, within the specified period and in the specified manner, specified documents in relation to the management of controlled goods; or
 - (j) to make specified changes, within the specified period, to specified information, or specified documents, in relation to the management of controlled goods.
- (3) For the purposes of paragraph (2)(h), (i) or (j), the period specified in the direction must be at least 7 days after the day the direction is given.
- (4) A Collector may, for the purpose of:
- (a) preventing interference with controlled goods in a warehouse covered by a warehouse licence; or
 - (b) preventing interference with the exercise of the powers or the performance of the functions of a Collector in respect of a warehouse covered by a warehouse licence or of controlled goods at the warehouse;
- give directions, in relation to the controlled goods, to any person at the warehouse.
- (5) A person commits an offence if:
- (a) the person is given a direction under subsection (1) or (4);
and
 - (b) the person refuses or fails to comply with the direction.

Penalty: 120 penalty units.

- (6) A person commits an offence of strict liability if:
-

- (a) the person is given a direction under subsection (1) or (4);
and
- (b) the person refuses or fails to comply with the direction.

Penalty: 60 penalty units.

- (7) This section does not limit the directions that a Collector may give under section 112C.

168 At the end of subsection 112C(3)

Add “or 87C”.

169 Subsection 243SB(1)

After “71DL,”, insert “77Y, 87C,”.

170 After paragraph 273GA(1)(aarb)

Insert:

- (aarc) a decision by the Comptroller-General of Customs under subsection 77LA(8) to vary a depot licence;

171 Application provisions

Depot licences

- (1) The amendments of section 77K of the *Customs Act 1901* made by this Part apply in relation to an application for a depot licence that is made on or after the day on which this item commences.
- (2) The amendments of section 77LA of the *Customs Act 1901* made by this Part apply in relation to a depot licence granted before, on or after the day on which this item commences.
- (3) Paragraph 77N(2)(aa) of the *Customs Act 1901*, as inserted by this Part, applies in relation to a person who ceases to participate in the management or control of a depot on or after the day on which this item commences, whether the depot licence was granted before, on or after that day.
- (4) The amendments of subsection 77N(2A) of the *Customs Act 1901* made by this Part apply in relation to a substantial change to be made on or

after the day on which this item commences, whether the depot licence was granted before, on or after that day.

- (5) The amendments of section 77V of the *Customs Act 1901* made by this Part apply in relation to a notice given under subsection 77V(1) of that Act on or after the day on which this item commences, whether the depot licence was granted before, on or after that day.
- (6) The amendments of section 77Y of the *Customs Act 1901* made by this Part apply in relation to a direction given on or after the day on which this item commences, whether the depot licence was granted before, on or after that day.
- (7) Section 77ZAA of the *Customs Act 1901*, as inserted by this Part, applies in relation to a depot licence granted before, on or after the day on which this item commences.

Warehouse licences

- (8) Paragraph 82(1)(aa) of the *Customs Act 1901*, as inserted by this Part, applies in relation to a person who ceases to participate in the management or control of a warehouse on or after the day on which this item commences, whether the warehouse licence was granted before, on or after that day.
- (9) The repeal of paragraphs 82(1)(d) to (f) of the *Customs Act 1901* made by this Part, and subsection 82(1A) of that Act as inserted by this Part, apply in relation to a substantial change to be made on or after the day on which this item commences, whether the warehouse licence was granted before, on or after that day.
- (10) Section 87C of the *Customs Act 1901*, as inserted by this Part, applies in relation to a direction given on or after the day on which this item commences, whether the warehouse licence was granted before, on or after that day.

Part 9—Renewal of licences

Customs Act 1901

172 Section 77S (note)

Omit “90”, substitute “30”.

173 Subsection 77T(1)

After “financial year”, insert “(the *current financial year*)”.

174 Before subsection 77T(2)

Insert:

Licence renewed if holder pays charge before end of current financial year

175 Subsection 77T(2)

Omit “a depot licence charge for the renewal of the licence before the end of the financial year”, substitute “the depot licence charge for the renewal of the licence before the end of the current financial year”.

176 Subsection 77T(2)

Omit “at the end of the financial year”, substitute “beginning on 1 July of the next financial year after the current financial year”.

177 Subsections 77T(3) to (5)

Repeal the subsections, substitute:

Consequences if charge not paid before end of current financial year

- (3) If the holder fails to pay the depot licence charge for the renewal of the licence before the end of the current financial year, the licence is taken to be suspended for the period beginning on 1 July of the next financial year after the current financial year and ending at the earlier of the following times:
 - (a) the time the holder pays the charge;

(b) the end of 30 July of that next financial year.

Licence renewed if holder pays charge before 30 July of the next financial year

- (4) If the holder pays the depot licence charge for the renewal of the licence during the period of 30 days beginning on 1 July of the next financial year after the current financial year, the licence is taken to have been renewed for another period of 12 months beginning on 1 July of that next financial year.

Licence expires if holder does not pay charge before 30 July of the next financial year

- (5) If the holder fails to pay the depot licence charge for the renewal of the licence before the end of 30 July of the next financial year after the current financial year, the licence expires at the end of that 30 July.

Multiple renewals

178 Subsections 77VA(1) and (2)

After “under section”, insert “77T or”.

179 Application provisions

- (1) The amendments of section 77T of the *Customs Act 1901* made by this Part apply in relation to a financial year ending on or after the day on which this item commences, whether the depot licence was granted before, on or after that day.
- (2) The amendments of subsections 77VA(1) and (2) of the *Customs Act 1901* made by this Part apply in relation to a suspension that occurs on or after the day on which this item commences, whether the depot licence was granted before, on or after that day.

Part 10—Cancellation and return of licences

Customs Act 1901

180 Subsection 77VC(2)

Omit “must”, substitute “may”.

181 Subsection 77VC(5)

Repeal the subsection.

182 Subsections 87(7) and (8)

Repeal the subsections.

183 Subsection 183CN(1)

Omit “(1)”.

184 Subsection 183CN(2)

Repeal the subsection.

185 Division 4 of Part XI (heading)

Repeal the heading, substitute:

Division 4—Suspension, cancellation and non-renewal of licences

186 After section 183CS

Insert:

183CSA Cancellation of broker’s licence on request

The Comptroller-General of Customs may, by notice in writing given to the holder of a broker’s licence, cancel the licence if the Comptroller-General receives a written request from the holder of the licence that the licence be cancelled on and after a specified day.

Note: See section 183UAA for the ways in which the notice may be given to the holder of the licence.

187 Application provisions

- (1) The amendment of subsection 77VC(2) of the *Customs Act 1901* made by this Part applies in relation to a request made on or after the day on which this item commences, whether the depot licence was granted before, on or after that day.
- (2) The repeal of subsection 77VC(5) of the *Customs Act 1901* made by this Part applies in relation to the cancellation of a depot licence on or after the day on which this item commences.
- (3) The repeal of subsections 87(7) and (8) of the *Customs Act 1901* made by this Part applies in relation to the cancellation of a warehouse licence on or after the day on which this item commences.
- (4) The amendments of section 183CN of the *Customs Act 1901* made by this Part apply in relation to the deletion of the name of a nominee from a broker's licence on or after the day on which this item commences.
- (5) Section 183CSA of the *Customs Act 1901*, as inserted by this Part, applies in relation to a request made on or after the day on which this item commences, whether the broker's licence was granted before, on or after that day.

Part 11—Refund of charges

Customs Act 1901

188 Section 77W (at the end of the heading)

Add “on request”.

189 Paragraph 77W(1)(a)

After “cancelled”, insert “under subsection 77VC(2)”.

190 Subsection 77W(2)

After “If”, insert “subsection (1) applies and”.

191 Section 87A (heading)

Repeal the heading, substitute:

87A Refund of warehouse licence charge on cancellation of a warehouse licence on request

192 Section 87A

Before “If”, insert “(1)”.

193 Paragraph 87A(a)

After “cancelled”, insert “under subsection 87(1A)”.

194 At the end of section 87A

Add:

- (2) If subsection (1) applies and the former holder has paid the warehouse licence charge in respect of the renewal of the licence for the following financial year, the former holder is entitled to a refund of the full amount of that charge.

195 Application provisions

Depot licences

- (1) The amendments of section 77W of the *Customs Act 1901* made by this Part apply in relation to the cancellation of a depot licence on or after the day on which this item commences, whether the depot licence was granted before, on or after that day.

Warehouse licences

- (2) The amendments of section 87A of the *Customs Act 1901* made by this Part apply in relation to the cancellation of a warehouse licence on or after the day on which this item commences, whether the warehouse licence was granted before, on or after that day.

Part 12—Approvals for ships' and aircraft's stores

Customs Act 1901

196 After subsection 127(5)

Insert:

(5A) An application under subsection (5) may be made by document or electronically.

197 Subsection 127(6)

Omit “An application”, substitute “A documentary application”.

198 After subsection 127(6)

Insert:

(6A) An electronic application under subsection (5) must communicate such information as is set out in an approved statement.

199 Subsection 127(7)

Omit “different forms for applications to be made under subsection (5)”, substitute “different forms for documentary applications, and different statements for electronic applications, to be made under subsection (5)”.

200 Subsection 129(1) (note)

Omit “subsection (5)”, substitute “subsections (4) to (5A)”.

201 After subsection 129(4)

Insert:

(4A) An application under subsection (1) may be made by document or electronically.

202 Subsection 129(5)

Omit “An application”, substitute “A documentary application”.

203 After subsection 129(5)

Insert:

- (5A) An electronic application under subsection (1) must communicate such information as is set out in an approved statement.

204 Subsection 129(6)

Omit “different forms for applications to be made under subsection (1)”, substitute “different forms for documentary applications, and different statements for electronic applications, to be made under subsection (1)”.

205 Application provision

The amendments of sections 127 and 129 of the *Customs Act 1901* made by this Part apply in relation to an application made on or after the day on which this item commences.

Part 13—Claims for return of goods seized

Customs Act 1901

206 After subsection 205B(1B)

Insert:

- (1C) A claim under subsection (1) may be made by document or electronically.

207 Subsection 205B(2)

Omit “A claim”, substitute “A documentary claim”.

208 After subsection 205B(2)

Insert:

(2A) An electronic claim:

- (a) must communicate such information as is set out in an approved statement; and
- (b) must specify the grounds on which the claim is made; and
- (c) if it is made by a person who does not reside or have a place of business in Australia, must:
 - (i) appoint an agent in Australia with authority to accept service of documents, including process in any proceedings, arising out of the matter; and
 - (ii) specify the address of the agent for service; and
 - (iii) be accompanied by the written consent of the agent signed by the agent, agreeing to act as agent.

209 Application provision

The amendments of section 205B of the *Customs Act 1901* made by this Part apply in relation to a claim made on or after the day on which this item commences.

Part 14—Contingent amendments

Customs Act 1901

210 Section 80

Repeal the section, substitute:

80 Application for a warehouse licence

- (1) An application for a warehouse licence may be made to the Comptroller-General of Customs.
- (2) An application under subsection (1) may be made by document or electronically.
- (3) A documentary application must:
 - (a) be in writing; and
 - (b) be in an approved form; and
 - (c) contain such information as the form requires; and
 - (d) be accompanied by any documents required by the form; and
 - (e) be signed in the manner indicated in the form; and
 - (f) except if the application is for an excise-equivalent warehouse licence—be accompanied by the warehouse licence application charge.
- (4) An electronic application must:
 - (a) communicate such information as is set out in an approved statement; and
 - (b) be accompanied by any documents required by the approved statement; and
 - (c) except if the application is for an excise-equivalent warehouse licence—be accompanied by the warehouse licence application charge.
- (5) An application cannot be made under subsection (1) to use a place described in the application to warehouse tobacco products.

211 Paragraph 81(1)(da)

Repeal the paragraph, substitute:

- (da) where the applicant is a company:
 - (i) the company is not a fit and proper company to hold a warehouse licence; or
 - (ii) any of the directors of the company is not a fit and proper person to be a director of a company holding a warehouse licence.

212 Paragraphs 81(1A)(a) and (b)

Repeal the paragraphs, substitute:

- (a) if the applicant is a natural person:
 - (i) the applicant would not be in a position to occupy and control the place if the licence were granted; or
 - (ii) a person who would participate in the management or control of, or in the operations carried out at, the place (whether or not the person would be present at the place) is not a fit and proper person to so participate; or
- (b) if the applicant is a partnership:
 - (i) none of the partners in the partnership would be in a position to occupy and control the place if the licence were granted; or
 - (ii) a person who would participate in the management or control of, or in the operations carried out at, the place (whether or not the person would be present at the place) is not a fit and proper person to so participate; or
- (ba) if the applicant is a company:
 - (i) the company would not be in a position to occupy and control the place if the licence were granted; or
 - (ii) a person who would participate in the management or control of, or in the operations carried out at, the place (whether or not the person would be present at the place) is not a fit and proper person to so participate; or

213 At the end of subsection 81(1A)

Add:

; or (f) it is inappropriate in all the circumstances to grant the licence covering the place, having regard to the matters covered by subsection (3A).

214 Subsection 81(2)

Omit “paragraph (1)(a) or (b) or (1A)(a) or (b)”, substitute “paragraph (1)(a) or (b) or subparagraph (1)(da)(ii) or (1A)(a)(ii), (b)(ii) or (ba)(ii)”.

215 Subsection 81(3)

Omit “paragraph (1)(da)”, substitute “subparagraph (1)(da)(i)”.

216 After subsection 81(3)

Insert:

- (3A) For the purposes of paragraph (1A)(f), the matters covered by this subsection are the following:
- (a) if the applicant is a natural person—the experience of the following in operations that would be performed upon, or in relation to, goods at the place:
 - (i) the applicant;
 - (ii) each person, known to the Comptroller-General of Customs, who would participate in the management or control of, or in the operations carried out at, the place (whether or not the person would be present at the place);
 - (b) if the applicant is a partnership—the experience of the following in operations that would be performed upon, or in relation to, goods at the place:
 - (i) each partner in the partnership;
 - (ii) each person, known to the Comptroller-General of Customs, who would participate in the management or control of, or in the operations carried out at, the place (whether or not the person would be present at the place);
 - (c) if the applicant is a company—the experience of the following in operations that would be performed upon, or in relation to, goods at the place:
 - (i) the company;
-

- (ii) each director of the company;
- (iii) each person, known to the Comptroller-General of Customs, who would participate in the management or control of, or in the operations carried out at, the place (whether or not the person would be present at the place);
- (d) in any case—the applicant’s operating procedures and processes that would apply at the place in relation to goods at that place.

217 After section 81A

Insert:

81AA Notice of refusal to grant a warehouse licence

If, in relation to an applicant for a warehouse licence, the Comptroller-General of Customs refuses to grant a warehouse licence, or refuses to grant a warehouse licence in relation to a particular place, the Comptroller-General must give the applicant written notice of the refusal and of the reasons for the refusal.

Note: See section 102AA for the ways in which the notice may be given to the applicant.

218 Before subsection 81B(1)

Insert:

Variation on application

219 Subsection 81B(1) (note)

Omit “Note”, substitute “Note 1”.

220 At the end of subsection 81B(1)

Add:

Note 2: See subsection (9) for variation on the Comptroller-General’s own initiative.

221 After subsection 81B(1)

Insert:

(1A) An application under subsection (1) may be made by document or electronically.

222 Subsection 81B(2)

Omit “The application”, substitute “A documentary application”.

223 After subsection 81B(2)

Insert:

(2AA) An electronic application must:

- (a) communicate such information as is set out in an approved statement; and
- (b) except if the application is in relation to an excise-equivalent warehouse licence—be accompanied by the warehouse licence variation charge.

224 At the end of subsection 81B(8)

Add:

Note: See section 102AA for the ways in which the notice may be given to the licence holder.

225 At the end of section 81B

Add:

Variation on own initiative

- (9) The Comptroller-General of Customs may, on the Comptroller-General’s own initiative, vary a warehouse licence by:
- (a) in any case—removing any place covered by the licence and substituting a different place; or
 - (b) if the licence is an excise-equivalent warehouse licence:
 - (i) removing a place from the places covered by the licence without substituting or adding any places, provided that after the variation there is at least one place that is covered by the licence; or
 - (ii) adding a place to the places covered by the licence.

Note: To change the boundaries or other details of a place covered by a warehouse licence, the licence may be varied as mentioned in paragraph (a).

- (10) The Comptroller-General of Customs must give the holder of the warehouse licence a copy of the variation under subsection (9). The variation takes effect at the time the copy is given.

226 Paragraph 83(1B)(b)

After “section 84—”, insert “subject to that section,”.

227 Section 84

Repeal the section, substitute:

84 Renewal of warehouse licences that are not excise-equivalent warehouse licences

- (1) The Comptroller-General of Customs must, before the end of a financial year (the *current financial year*), notify each holder of a warehouse licence, that is not an excise-equivalent warehouse licence, of the terms of this section.

Note: An excise-equivalent warehouse licence remains in force unless it is cancelled.

Licence renewed if holder pays charge before end of current financial year

- (2) If the holder pays the warehouse licence charge for the renewal of the licence before the end of the current financial year, the licence is renewed for another period of 12 months beginning on 1 July of the next financial year after the current financial year.

Consequences if charge not paid before end of current financial year

- (3) If the holder fails to pay the warehouse licence charge for the renewal of the licence before the end of the current financial year, the licence is taken to be suspended for the period beginning on 1 July of the next financial year after the current financial year and ending at the earlier of the following times:
- (a) the time the holder pays the charge;
 - (b) the end of 30 July of that next financial year.

Licence renewed if holder pays charge before 30 July of the next financial year

- (4) If the holder pays the warehouse licence charge for the renewal of the licence during the period of 30 days beginning on 1 July of the next financial year after the current financial year, the licence is taken to have been renewed for another period of 12 months beginning on 1 July of that next financial year.

Licence expires if holder does not pay charge before 30 July of the next financial year

- (5) If the holder fails to pay the warehouse licence charge for the renewal of the licence before the end of 30 July of the next financial year after the current financial year, the licence expires at the end of that 30 July.

Multiple renewals

- (6) A warehouse licence that has been renewed under this section may be further renewed.

228 Subsections 85(3) and (4)

Repeal the subsections, substitute:

Renewal of licence

- (3) A warehouse licence charge in respect of the renewal of a warehouse licence, that is not an excise-equivalent warehouse licence, is payable by the holder of the licence in accordance with section 84.

229 Section 85A (at the end of the heading)

Add “in respect of grant of warehouse licence”.

230 Subsection 85A(1)

Omit “, or the renewal, of a warehouse licence”, substitute “of a warehouse licence, that is not an excise-equivalent warehouse licence,”.

231 Paragraph 86(1)(a)

Omit “(f)”, substitute “(g)”.

232 Paragraph 86(1)(fa)

Repeal the paragraph, substitute:

(fa) where the licence is held by a company:

- (i) the company is not a fit and proper company to hold a warehouse licence; or
- (ii) a director of the company is not a fit and proper person to be a director of a company holding a warehouse licence; or

233 Paragraph 86(1)(h)

Omit “a warehouse licence charge payable in respect of the licence”, substitute “the warehouse licence charge payable in respect of the grant of the licence”.

234 Paragraph 86(1AA)(a)

Omit “served”, substitute “given”.

235 After paragraph 86(1AA)(a)

Insert:

(aa) must state the reasons for the giving of the notice; and

236 At the end of subsection 86(1AA)

Add:

Note: See section 102AA for the ways in which the notice may be given to the licence holder.

237 Subsection 86(1AB)

Omit “service”, substitute “giving”.

238 Paragraphs 86(1AC)(c) and (d)

Repeal the paragraphs, substitute:

- (c) a person participating in the management or control of, or in the operations carried out at, a warehouse covered by the licence (whether or not the person is present at the warehouse) is not a fit and proper person to so participate; or

239 At the end of subsection 86(1AC)

Add:

; or (g) it is appropriate in all the circumstances to vary the licence to no longer cover a particular warehouse, having regard to the matters covered by subsection (2).

240 Paragraph 86(1AD)(a)

Omit “served”, substitute “given”.

241 After paragraph 86(1AD)(a)

Insert:

(aa) must state the reasons for the giving of the notice; and

242 At the end of subsection 86(1AD)

Add:

Note: See section 102AA for the ways in which the notice may be given to the licence holder.

243 Subsection 86(1AE)

Omit “service”, substitute “giving”.

244 Subsection 86(1A)

Omit “paragraph (1)(c) or (d) or (1AC)(c) or (d)”, substitute “paragraph (1)(c) or (d), subparagraph (1)(fa)(ii) or paragraph (1AC)(c)”.

245 Subparagraphs 86(1A)(a)(ii) and (iii)

Repeal the subparagraphs, substitute:

(ii) if the licence has been renewed on one or more occasions—after the latest renewal or within 10 years immediately before the latest renewal; and

246 Subparagraphs 86(1A)(b)(ii) and (iii)

Repeal the subparagraphs, substitute:

(ii) if the licence has been renewed on one or more occasions—after the latest renewal or within 10 years immediately before the latest renewal; and

247 Subparagraphs 86(1A)(d)(ii) and (iii)

Repeal the subparagraphs, substitute:

- (ii) if the licence has been renewed on one or more occasions—after the latest renewal or within 10 years immediately before the latest renewal.

248 Subsection 86(1B)

Omit “paragraph (1)(fa)”, substitute “subparagraph (1)(fa)(i)”.

249 Subparagraphs 86(1B)(a)(ii) and (iii)

Repeal the subparagraphs, substitute:

- (ii) if the licence has been renewed on one or more occasions—committed after the latest renewal; or

250 Sub-subparagraphs 86(1B)(a)(iv)(B) and (C)

Repeal the sub-subparagraphs, substitute:

- (B) if the licence has been renewed on one or more occasions—within 10 years immediately before the latest renewal;

251 Subparagraphs 86(1B)(b)(ii) and (iii)

Repeal the subparagraphs, substitute:

- (ii) if the licence has been renewed on one or more occasions—committed after the latest renewal; or

252 Sub-subparagraphs 86(1B)(b)(iv)(B) and (C)

Repeal the sub-subparagraphs, substitute:

- (B) if the licence has been renewed on one or more occasions—within 10 years immediately before the latest renewal;

253 Subsection 86(2)

Repeal the subsection, substitute.

- (2) For the purposes of paragraph (1AC)(g), the matters covered by this subsection are the following:

- (a) if the licence is held by a natural person—the experience of the following in operations that are performed upon, or in relation to, goods at a warehouse covered by the licence:
 - (i) the holder;
 - (ii) each person, known to the Comptroller-General of Customs, who is participating in the management or control of, or in the operations carried out at, the warehouse (whether or not the person is present at the warehouse);
- (b) if the licence is held by a partnership—the experience of the following in operations that are performed upon, or in relation to, goods at a warehouse covered by the licence:
 - (i) each partner in the partnership;
 - (ii) each person, known to the Comptroller-General of Customs, who is participating in the management or control of, or in the operations carried out at, the warehouse (whether or not the person is present at the warehouse);
- (c) if the licence is held by a company—the experience of the following in operations that are performed upon, or in relation to, goods at a warehouse covered by the licence:
 - (i) the company;
 - (ii) each director of the company;
 - (iii) each person, known to the Comptroller-General of Customs, who is participating in the management or control of, or in the operations carried out at, the warehouse (whether or not the person is present at the warehouse);
- (d) in any case—the holder’s operating procedures or processes that apply at a warehouse covered by the licence in relation to goods at the warehouse.

254 Paragraph 87(1)(a)

Omit “(h)”, substitute “(i)”.

255 Subsection 87(1A)

Omit “must”, substitute “may”.

256 Subsection 87(2)

Repeal the subsection, substitute:

- (2) The Comptroller-General of Customs must, under this section, cancel a warehouse licence by notice in writing:
- (a) given to the holder of the licence; and
 - (b) setting out the reasons for the cancellation.

Note: See section 102AA for the ways in which the notice may be given to the holder of the licence.

257 Subsections 87(4) and (5)

Repeal the subsections, substitute:

- (4) Subject to subsection (5), if under this section the Comptroller-General of Customs cancels a warehouse licence and goods remain in a place that was a warehouse covered by the licence (a **former warehouse**), the Comptroller-General must publish a notice, by any means the Comptroller-General considers appropriate, informing owners of goods in the former warehouse:
- (a) that they are required, within a time specified in the notice or any further time allowed by the Comptroller-General, to:
 - (i) pay to the Collector duty payable in respect of their goods in the former warehouse; or
 - (ii) remove their goods in the former warehouse to another place in accordance with permission obtained from the Collector; and
 - (b) that, if they do not comply with the requirements of the notice, their goods in the former warehouse will be sold.
- (5) If the Comptroller-General of Customs is satisfied that all the goods in a former warehouse are the property of the person who held the licence, the Comptroller-General is not required to publish a notice under subsection (4) in relation to the former warehouse. Instead, the Comptroller-General must give a notice to the person informing the person:
- (a) that the person is required, within a time specified in the notice or any further time allowed by the Comptroller-General, to:

- (i) pay to the Collector duty payable in respect of the person's goods in the former warehouse; or
 - (ii) remove the person's goods in the former warehouse to another place in accordance with permission obtained from the Collector; and
- (b) that, if the person does not comply with the requirements of the notice, the person's goods in the former warehouse will be sold.

Note 1: The Comptroller-General of Customs will still need to publish the notice as required by subsection (4) in relation to a former warehouse in respect of which the Comptroller-General is not so satisfied.

Note 2: See section 102AA for the ways in which the notice may be given to the person.

258 Subsection 87(6)

After "subsection (4)", insert "or (5)".

259 Paragraph 87B(1)(b)

Omit "(f)", substitute "(g)".

260 Subsection 87B(3)

Repeal the subsection, substitute:

- (3) The Comptroller-General must, under subsection (1), vary a licence by written notice given to the licence holder.

Note: See section 102AA for the ways in which the notice may be given to the licence holder.

261 At the end of subsection 87B(4)

Add:

Note: See section 102AA for the ways in which the notice may be given to the licence holder.

262 Subsections 87B(5) and (6)

Repeal the subsections, substitute:

- (5) Subject to subsection (6), if under subsection (1) the Comptroller-General of Customs varies a warehouse licence and goods remain in a former warehouse, the Comptroller-General

must publish a notice, by any means the Comptroller-General considers appropriate, informing owners of goods in the former warehouse:

- (a) that they are required, within a time specified in the notice or any further time allowed by the Comptroller-General, to:
 - (i) pay to the Collector duty payable in respect of their goods in the former warehouse; or
 - (ii) remove their goods in the former warehouse to another place in accordance with permission obtained from the Collector; and
 - (b) that, if they do not comply with the requirements of the notice, their goods in the former warehouse will be sold.
- (6) If the Comptroller-General of Customs is satisfied that all the goods in a former warehouse are the property of the person who holds the licence, the Comptroller-General is not required to publish a notice under subsection (5) in relation to the former warehouse. Instead, the Comptroller-General must give a notice to the person informing the person:
- (a) that the person is required, within a time specified in the notice or any further time allowed by the Comptroller-General, to:
 - (i) pay to the Collector duty payable in respect of the person's goods in the former warehouse; or
 - (ii) remove the person's goods in the former warehouse to another place in accordance with permission obtained from the Collector; and
 - (b) that, if the person does not comply with the requirements of the notice, the person's goods in the former warehouse will be sold.

Note 1: The Comptroller-General of Customs will still need to publish the notice as required by subsection (5) in relation to a former warehouse in respect of which the Comptroller-General is not so satisfied.

Note 2: See section 102AA for the ways in which the notice may be given to the person.

263 Subsection 87B(7)

After "subsection (5)", insert "or (6)".

264 Section 88

Repeal the section.

265 Subsections 273GAA(1), (2), (7) and (8)

Repeal the subsections.

266 Application provisions

- (1) The repeal and substitution of section 80 of the *Customs Act 1901* made by this Part, and the amendments of section 81 of that Act made by this Part, apply in relation to an application for a warehouse licence that is made on or after the day on which this item commences.
- (2) Section 81AA of the *Customs Act 1901*, as inserted by this Part, applies in relation to a decision made on or after the day on which this item commences.
- (3) Subsection 81B(1A) of the *Customs Act 1901* as inserted by this Part, the amendment of subsection 81B(2) of that Act made by this Part and subsection 81B(2AA) of that Act as inserted by this Part apply in relation to an application made on or after the day on which this item commences.
- (4) Subsections 81B(9) and (10) of the *Customs Act 1901*, as added by this Part, apply in relation to a warehouse licence granted before, on or after the day on which this item commences.
- (5) Subject to subitem (6), the repeal and substitution of section 84 of the *Customs Act 1901* made by this Part, and the amendments of sections 85 and 85A of that Act made by this Part, apply in relation to a financial year ending on or after the day on which this item commences, whether the warehouse licence was granted before, on or after that day.
- (6) Sections 84, 85 and 85A of the *Customs Act 1901*, as in force immediately before the commencement of this item, continue to apply on and after that commencement in relation to an application made under subsection 84(1) of that Act before that commencement.
- (7) The amendments of section 86 of the *Customs Act 1901* made by this Part apply in relation to a notice given under that section on or after the day on which this item commences, whether the warehouse licence was granted before, on or after that day.

- (8) In addition to subitem (7), the amendment of paragraph 86(1)(h) of the *Customs Act 1901* made by this Part applies in relation to a warehouse licence charge that becomes payable on or after the day on which this item commences, whether the warehouse licence was granted before, on or after that day.
- (9) The amendment of paragraph 87(1)(a) of the *Customs Act 1901* made by this Part applies in relation to the cancellation of a warehouse licence on or after the day on which this item commences, whether the warehouse licence was granted before, on or after that day.
- (10) The amendment of subsection 87(1A) of the *Customs Act 1901* made by this Part applies in relation to a request or application made on or after the day on which this item commences, whether the warehouse licence was granted before, on or after that day.
- (11) The repeal and substitution of subsections 87(2), (4) and (5) of the *Customs Act 1901* made by this Part, and the amendment of subsection 87(6) of that Act made by this Part, apply in relation to the cancellation of a warehouse licence on or after the day on which this item commences, whether the warehouse licence was granted before, on or after that day.
- (12) The amendments of section 87B of the *Customs Act 1901* made by this Part apply in relation to the variation of a warehouse licence on or after the day on which this item commences, whether the warehouse licence was granted before, on or after that day.

[Minister's second reading speech made in—
House of Representatives on 26 June 2024
Senate on 15 August 2024]

(75/24)
