



AUSTRALIAN CUSTOMS AND BORDER PROTECTION NOTICE NO. 2011/54

Customs legislation changes commence for cargo and licensed depots and warehouses

Changes to the *Customs Act 1901* (Customs Act) and the *Customs Regulations 1926* (Customs Regulations) commenced on 28 November 2011 for cargo at licensed depots and warehouses. The changes were included in Schedules 1 and 2 of the *Customs Amendment (Export Controls and Other Measures) Act 2011* (Export Controls Act) and the Customs Amendment Regulations (No.3) 2011 (Amendment Regulations).

Australian Customs and Border Protection Notice 2011/56 provides further detail on changes to the Infringement Notice Guidelines and information on the new offences included in the Export Controls Act.

A fact sheet on the changes that apply to export cargo is available at <http://www.customs.gov.au/webdata/resources/files/Legislativechangestoexportcontrols.pdf>

A summary of the changes in the two pieces of legislation is below.

Customs Amendment (Export Controls and Other Measures) Act 2011

The measures in the Act form part of the Australian Government's initiatives to increase the level of security in ports, airports and cargo storage facilities.

The list below outlines the changes that commenced on 28 November 2011.

- Customs and Border Protection can now give directions relating to goods in the export environment and can seek additional information in relation to goods being exported.
- The changes ensure the continued Customs control of goods at a prescribed place for export.
- Depot operators will be able to comply with a direction of the Secretary of the Department of Infrastructure and Transport without breaching their depot licence conditions.
- Customs and Border Protection now have the ability to impose new conditions on depot and warehouse licences at any time.
- There are new offences for breaches of the conditions of a depot or warehouse licence.
- The amendments strengthen the powers of officers to give directions to depot licence holders.
- The Chief Executive Officer (CEO) now has the ability to suspend or cancel depot licences.
- The Act now sets out the timeframes within which the CEO must decide whether or not to grant a warehouse licence.
- Warehouse licence holders will be able to apply to the CEO to vary the place covered by a warehouse licence.
- The Act provides for the refunds of warehouse licence fees on cancellation of a warehouse licence.

Customs Amendment Regulations (No.3) 2011

The changes included in the Amendment Regulations support the Export Controls Act amendments and make a number of other minor changes.

- The Export Controls Act inserted a new circumstance in section 30 of the Customs Act establishing customs control over goods that are in prescribed places for export and that are no longer for export. The Amendment Regulations add the new circumstance to regulation 23 specifying certain places as prescribed places for the reception or manufacture of goods for export.
- The Amendment Regulations specify new arrangements for calculating the amount of a refund for a cancelled warehouse licence.
- The Amendment Regulations prescribe the *Aviation Transport Security Act 2004* for a range of purposes added or amended by the Export Controls Act. These purposes include applying conditions to depot and warehouse licences including duty free stores and giving directions in relation to goods for export.
- The Amendment Regulations clarify that the requirement that the goods for which a refund application is made must be goods covered by the same import declaration or self-assessed clearance document, also applies to returns under subsections 69(5), 70(7) or 105(2) of the Customs Act.
- The Amendment Regulations insert a reference to '2208.90.00' under the second heading in the Schedule 1AAA covering 'certain undenatured ethyl alcohol etc'. Schedule 1AAA lists particular Australian Harmonized Export Commodity Classification (AHECC) Codes for which particular requirements apply in relation to goods when they are released from a Customs warehouse for export.

The new legislation is available on the Commonwealth Government's legislation page.
<http://www.comlaw.gov.au>

If you have any questions or want more detail on the legislation changes, please email
traderevenuepolicy@customs.gov.au

[signed]

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