

Customs Licensing Charges Act 1997

No. 4, 1997

**Compilation No. 6**

**Compilation date:** 1 January 2016

**Includes amendments up to:** Act No. 140, 2015

**Registered:** 28 January 2016

**About this compilation**

**This compilation**

This is a compilation of the *Customs Licensing Charges Act 1997* that shows the text of the law as amended and in force on 1 January 2016 (the ***compilation date***).

This compilation was prepared on 25 January 2016.

The notes at the end of this compilation (the ***endnotes***) include information about amending laws and the amendment history of provisions of the compiled law.

**Uncommenced amendments**

The effect of uncommenced amendments is not shown in the text of the compiled law. Any uncommenced amendments affecting the law are accessible on ComLaw (www.comlaw.gov.au). The details of amendments made up to, but not commenced at, the compilation date are underlined in the endnotes. For more information on any uncommenced amendments, see the series page on ComLaw for the compiled law.

**Application, saving and transitional provisions for provisions and amendments**

If the operation of a provision or amendment of the compiled law is affected by an application, saving or transitional provision that is not included in this compilation, details are included in the endnotes.

**Modifications**

If the compiled law is modified by another law, the compiled law operates as modified but the modification does not amend the text of the law. Accordingly, this compilation does not show the text of the compiled law as modified. For more information on any modifications, see the series page on ComLaw for the compiled law.

**Self‑repealing provisions**

If a provision of the compiled law has been repealed in accordance with a provision of the law, details are included in the endnotes.

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An Act to impose charges in relation to the licensing of depots, warehouses and customs brokers under the *Customs Act 1901*

Part 1—Preliminary

1 Short title

This Act may be cited as the *Customs Licensing Charges Act 1997*.

2 Commencement

This Act commences at the same time as item 25 of Schedule 1 to the *Customs Amendment Act (No. 1) 1997* commences.

3 Definitions

In this Act:

***broker’s licence*** means a licence to act as a customs broker granted under section 183C of the Customs Act and includes such a licence that has been renewed under section 183CJ of that Act.

***cargo report*** means a cargo report under section 64AB of the Customs Act.

***commencement day*** means the day on which Part IVA of the Customs Act commences.

***Comptroller‑General of Customs*** means the person who is the Comptroller‑General of Customs in accordance with subsection 11(3) or 14(2) of the *Australian Border Force Act 2015*.

***Customs Act*** means the *Customs Act 1901*.

***customs broker licence application charge*** means the customs broker licence application charge payable as set out in section 183CA of the Customs Act.

***customs broker licence charge*** means the customs broker licence charge payable as set out in section 183CJA of the Customs Act.

***depot licence*** means a licence granted under section 77G of the Customs Act and includes such a licence that has been renewed under section 77T of that Act.

***depot licence application charge*** means the depot licence application charge payable as set out in section 77H of the Customs Act.

***depot licence charge*** means the depot licence charge payable as set out in section 77U of the Customs Act.

***depot licence variation charge*** means the depot licence variation charge payable as set out in section 77LA of the Customs Act.

***line of cargo*** means cargo covered by that part of a cargo report that constitutes a reference to:

(a) a single air waybill or similar document; or

(b) a single bill of lading or similar document.

***transactions handled***, in relation to a place that is, or becomes, a depot licensed under Part IVA of the Customs Act and to a period, means lines of cargo received into that place during that period.

***warehouse licence*** means a licence granted under section 79 of the Customs Act and includes such a licence that has been renewed under section 84 of that Act.

***warehouse licence application charge*** means the warehouse licence application charge payable as set out in section 80 of the Customs Act.

***warehouse licence charge*** means the warehouse licence charge payable as set out in section 85 of the Customs Act.

***warehouse licence variation charge*** means the warehouse licence variation charge payable as set out in section 81B of the Customs Act.

Part 2—Depots

4 Imposition of charges

(1) Depot licence application charge payable as set out in section 77H of the Customs Act is imposed.

(3) Depot licence charge payable as set out in section 77U of the Customs Act is imposed.

(4) Depot licence variation charge payable as set out in section 77LA of the Customs Act is imposed.

5 Amount of depot licence application charge

The amount of depot licence application charge payable by an applicant for a depot licence is $3,000, or, if another amount not exceeding $4,500 is prescribed, that other amount.

6 Amount of depot licence charge

(1) Except where subsection (5) applies, the amount of depot licence charge payable in respect of the grant or renewal of a licence as set out in section 77U of the Customs Act is the annual rate of that charge determined in accordance with subsection (2).

(2) For the purposes of this section and subject to subsection (3), the annual rate of depot licence charge payable in respect of the grant or renewal of a licence as set out in section 77U of the Customs Act is:

(a) if the depot concerned was not licensed under Part IVA of that Act immediately before the commencement of the period for which the grant is sought—$4,000, or, if another amount not exceeding $6,000 is prescribed, that other amount; or

(b) if the depot concerned was licensed under Part IVA of that Act during the whole of the year (the ***reference year***) ending on the 31 March preceding the commencement of the financial year for which the renewal is sought and the depot handled not less than 300 transactions during the reference year—$4,000, or, if another amount not exceeding $6,000 is prescribed, that other amount; or

(c) if the depot concerned was licensed under Part IVA of that Act during the whole of the year (the ***reference year***) ending on the 31 March preceding the commencement of the financial year for which the renewal is sought and the depot handled less than 300 transactions during the reference year—$1,500, or, if another amount not exceeding $2,250 is prescribed, that other amount.

(3) If the depot concerned commenced to be licensed under Part IVA of the Customs Act during the course of the year (the ***reference year***) ending on the 31 March preceding the commencement of the financial year for which the renewal is sought and did not cease to be so licensed during that year, subsection (2) has effect as if:

(a) the depot had been licensed under that Part for the whole of the reference year; and

(b) the number of transactions handled by the depot during the reference year were worked out to the nearest whole number using the formula:



(4) In subsection (3):

***number of reference day transactions*** is the total number of transactions handled by the depot during the reference days.

***days in the reference year*** means:

(a) if paragraph (b) does not apply—365; or

(b) if the reference year is not constituted by 365 days—the number of days in the reference year.

***reference days*** means the number of days in relation to a depot in the reference year during which the depot was licensed under Part IVA of the Customs Act.

(5) If a depot licence is granted for a period that is less than a year, the amount of depot licence charge payable as set out in section 77U in respect of that grant is the amount worked out using the formula:



where:

***annual rate*** is the amount determined in accordance with subsection (2).

***licence days*** is the number of days during which the licence is in force under that grant.

***days in the year*** means:

(a) if paragraph (b) does not apply—365; or

(b) if the financial year in which the licence is in force is not constituted by 365 days—the number of days in that financial year.

6A Amount of depot licence variation charge

The amount of depot licence variation charge payable by an applicant for the variation of a depot licence is $300 or, if another amount, not exceeding $450, is prescribed, that other amount.

Part 3—Warehouses

6B Imposition of charges

(1) Warehouse licence application charge payable as set out in section 80 of the Customs Act is imposed.

(2) Warehouse licence charge payable as set out in section 85 of the Customs Act is imposed.

(3) Warehouse licence variation charge payable as set out in section 81B of the Customs Act is imposed.

6C Amount of warehouse licence application charge

The amount of warehouse licence application charge payable by an applicant for a warehouse licence is $3,000, or, if another amount not exceeding $4,500 is prescribed, that other amount.

6D Amount of warehouse licence charge—general

Grant of licence

(1) The amount of warehouse licence charge payable in respect of the grant of a warehouse licence is:

(a) for the grant of a warehouse licence that comes into force on a 1 July—$4,000, or, if another amount not exceeding $6,000 is prescribed, that other amount; or

(b) for the grant of a warehouse licence that comes into force on a day in a financial year other than 1 July—the amount worked out using the formula:



Renewal of licence

(2) The amount of warehouse licence charge payable in respect of the renewal of a warehouse licence is $4,000, or, if another amount not exceeding $6,000 is prescribed, that other amount.

Section subject to section 6E

(3) This section is subject to section 6E.

6E Amount of warehouse licence charge—dual‑licensed place

(1) The amount of warehouse licence charge payable in respect of the grant or renewal of a warehouse licence is worked out under this section if:

(a) the warehouse licence is for a place that is also a premises specified in a manufacturer licence granted under the *Excise Act 1901*; and

(b) the place is used primarily for the manufacture of excisable goods classified under item 10 of the Schedule to the *Excise Tariff Act 1921*; and

(c) goods determined in an instrument under subsection (2) of this section are used in the manufacture of those excisable goods.

(2) The Comptroller‑General of Customs may, by legislative instrument, determine goods for the purposes of paragraph (1)(c).

Grant of licence

(3) The amount of warehouse licence charge payable in respect of the grant of the warehouse licence is $1,000.

Renewal of licence

(4) The amount of warehouse licence charge payable in respect of the renewal of the warehouse licence is $0.

Note: If paragraphs (1)(a), (b) and (c) are not satisfied, the amount of warehouse licence charge payable in respect of the renewal of the warehouse licence is worked out under section 6D.

6F Amount of warehouse licence variation charge

The amount of warehouse licence variation charge payable by an applicant for the variation of a warehouse licence is $300, or, if another amount not exceeding $450 is prescribed, that other amount.

Part 4—Customs brokers

6G Imposition of charges

(1) Customs broker licence application charge payable as set out in section 183CA of the Customs Act is imposed.

(2) Customs broker licence charge payable as set out in section 183CJA of the Customs Act is imposed.

6H Amount of customs broker licence application charge

The amount of customs broker licence application charge payable by an applicant for a broker’s licence is:

(a) if the applicant is a natural person who does not intend to act as a customs broker in his or her own right when the licence is in force—$130, or, if another amount not exceeding $195 is prescribed, that other amount; or

(b) in any other case—$1,300, or, if another amount not exceeding $1,950 is prescribed, that other amount.

6J Amount of customs broker licence charge

The amount of customs broker licence charge payable in respect of the grant or renewal of a broker’s licence is:

(a) if the holder of the licence is a natural person who does not intend to act as a customs broker in his or her own right when the licence is in force—$240, or, if another amount not exceeding $360 is prescribed, that other amount; or

(b) in any other case—$2,400, or, if another amount not exceeding $3,600 is prescribed, that other amount.

Part 5—Regulations

7 Regulations

The Governor‑General may make regulations for the purposes of this Act.

Endnotes

Endnote 1—About the endnotes

The endnotes provide information about this compilation and the compiled law.

The following endnotes are included in every compilation:

Endnote 1—About the endnotes

Endnote 2—Abbreviation key

Endnote 3—Legislation history

Endnote 4—Amendment history

Endnotes about misdescribed amendments and other matters are included in a compilation only as necessary.

**Abbreviation key—Endnote 2**

The abbreviation key sets out abbreviations that may be used in the endnotes.

**Legislation history and amendment history—Endnotes 3 and 4**

Amending laws are annotated in the legislation history and amendment history.

The legislation history in endnote 3 provides information about each law that has amended (or will amend) the compiled law. The information includes commencement details for amending laws and details of any application, saving or transitional provisions that are not included in this compilation.

The amendment history in endnote 4 provides information about amendments at the provision (generally section or equivalent) level. It also includes information about any provision of the compiled law that has been repealed in accordance with a provision of the law.

**Misdescribed amendments**

A misdescribed amendment is an amendment that does not accurately describe the amendment to be made. If, despite the misdescription, the amendment can be given effect as intended, the amendment is incorporated into the compiled law and the abbreviation “(md)” added to the details of the amendment included in the amendment history.

If a misdescribed amendment cannot be given effect as intended, the abbreviation “(md not incorp)” is added to the details of the amendment included in the amendment history.

Endnote 2—Abbreviation key

|  |  |
| --- | --- |
| A = Act | o = order(s) |
| ad = added or inserted | Ord = Ordinance |
| am = amended | orig = original |
| amdt = amendment | par = paragraph(s)/subparagraph(s) |
| c = clause(s) | /sub‑subparagraph(s) |
| C[x] = Compilation No. x | pres = present |
| Ch = Chapter(s) | prev = previous |
| def = definition(s) | (prev…) = previously |
| Dict = Dictionary | Pt = Part(s) |
| disallowed = disallowed by Parliament | r = regulation(s)/rule(s) |
| Div = Division(s) | Reg = Regulation/Regulations |
| exp = expires/expired or ceases/ceased to have | reloc = relocated |
| effect | renum = renumbered |
| F = Federal Register of Legislative Instruments | rep = repealed |
| gaz = gazette | rs = repealed and substituted |
| LI = Legislative Instrument | s = section(s)/subsection(s) |
| LIA = *Legislative Instruments Act 2003* | Sch = Schedule(s) |
| (md) = misdescribed amendment can be given | Sdiv = Subdivision(s) |
| effect | SLI = Select Legislative Instrument |
| (md not incorp) = misdescribed amendment | SR = Statutory Rules |
| cannot be given effect | Sub‑Ch = Sub‑Chapter(s) |
| mod = modified/modification | SubPt = Subpart(s) |
| No. = Number(s) | underlining = whole or part not |
|  | commenced or to be commenced |

Endnote 3—Legislation history

| Act | Number and year | Assent | Commencement | Application, saving and transitional provisions |
| --- | --- | --- | --- | --- |
| Customs Depot Licensing Charges Act 1997 | 4, 1997 | 28 Feb 1997 | 1 Apr 1997 (s 2) |  |
| Customs Depot Licensing Charges Amendment Act 2001 | 91, 2001 | 18 July 2001 | Sch 1: 1 July 2002 (s 2(2)) Remainder: 18 July 2001 (s 2(1)) | Sch 1 (item 6) |
| Customs Amendment (Export Controls and Other Measures) Act 2011 | 63, 2011 | 29 June 2011 | Sch 2 (items 33–38): 28 Nov 2011 (s 2(1) item 2) | — |
| Customs and Other Legislation Amendment (Australian Border Force) Act 2015 | 41, 2015 | 20 May 2015 | Sch 5 (items 61, 62) and Sch 9: 1 July 2015 (s 2(1) items 2, 7) | Sch 9 |
| Customs Depot Licensing Charges Amendment Act 2015 | 140, 2015 | 12 Nov 2015 | Sch 1: 1 Jan 2016 (s 2(1) item 2) | — |

Endnote 4—Amendment history

| Provision affected | How affected |
| --- | --- |
| Title | am No 140, 2015 |
| **Part 1** |  |
| Part 1 heading | ad No 140, 2015 |
| s 1 | am No 140, 2015 |
| s 3 | am. No. 91, 2001; No. 63, 2011; No 41, 2015; No 140, 2015 |
| **Part 2** |  |
| Part 2 heading | ad No 140, 2015 |
| s 4 | am. No. 91, 2001; No. 63, 2011 |
| s. 5 | am. No. 63, 2011 |
| s. 6 | am. No. 91, 2001; No. 63, 2011 |
| s. 6A | ad. No. 91, 2001 |
| **Part 3** |  |
| Part 3 | ad No 140, 2015 |
| s 6B | ad No 140, 2015 |
| s 6C | ad No 140, 2015 |
| s 6D | ad No 140, 2015 |
| s 6E | ad No 140, 2015 |
| s 6F | ad No 140, 2015 |
| **Part 4** |  |
| Part 4 | ad No 140, 2015 |
| s 6G | ad No 140, 2015 |
| s 6H | ad No 140, 2015 |
| s 6J | ad No 140, 2015 |
| **Part 5** |  |
| Part 5 heading | ad No 140, 2015 |
| s 7 | am. No 91, 2001; No 140, 2015 |