

EXPLANATORY STATEMENT

Issued by authority of the Minister for Home Affairs

Customs Act 1901

Customs Amendment (Renewal of Warehouse Licences) Regulations 2025

Legislative authority

The *Customs Act 1901* (the Customs Act) concerns customs-related functions and is the legislative authority that sets out the customs requirements for the importation of goods into, and the exportation of goods from Australia.

Subsection 270(1) of the Customs Act provides, in part, that the Governor-General may make regulations, not inconsistent with the Customs Act, prescribing all matters, which by the Customs Act are required or permitted to be prescribed, or which are necessary or convenient to be prescribed for giving effect to the Customs Act.

Purpose and background

The *Customs Amendment (Renewal of Warehouse Licences) Regulations 2025* (Amendment Regulations) amends the *Customs Regulation 2015* (Customs Regulation) to repeal section 36 of the Customs Regulation to remove the provisions setting out payment of the warehouse licence charge in respect of renewal of a warehouse licence.

The Amendment Regulations are consequential to Part 14 of Schedule 1 to the *Customs Amendment (Strengthening and Modernising Licensing and Other Measures) Act 2024* (Licensing Amendment Act) which, among other things, amends the Customs Act so that payment of the charge for the renewal of a warehouse licence is provided for in the Customs Act rather than the Customs Regulation.

The Licensing Amendment Act received the Royal Assent on 5 September 2024 and Part 14 of Schedule 1 will commence on 5 March 2025 by automatic operation of section 2 of the Licensing Amendment Act.

The amendments contained in the Amendment Regulations will:

- ensure that the provisions setting out payment of the warehouse licence charge in respect of a renewal of a warehouse licence are removed from the Customs Regulation as they will be provided for in the Customs Act by the Licensing Amendment Act;
- remove the option for a licence holder, when renewing a warehouse licence, to pay the warehouse licence charge by quarterly instalments to align with the administration of depot licences where quarterly instalments are not available; and
- remove obsolete references to the Customs Act.

The Amendment Regulations do not affect warehouses that store excise-equivalent goods as those warehouses do not attract a licence renewal charge.

Transitional provisions are included in the Amendment Regulations for those licence holders who have already elected to pay by instalments in the current financial year.

Administratively, the full payment is being sought from affected parties by 1 March 2025 for the last quarterly payment of the 2024-25 financial year.

Streamlining licence fee processes and aligning payment requirements between customs licence types supports businesses to be better equipped in complying with their obligations under customs legislation. The reforms also benefit Government by reducing the administrative processes burden associated with managing across the customs licensing regime.

Consultation

Broad consultation on the Amendment Regulations was not required because the amendments are consequential to the Licensing Amendment Act. The provisions in the Licensing Amendment Act are informed by the outcomes of industry consultation conducted by the Department of Home Affairs and the Review of Customs Licensing Regimes 2017.

The Office of Impact Analysis was consulted and advised that a detailed analysis is not required (OBPR22-03814).

Other matters

The Amendment Regulations are a legislative instrument for the purposes of the *Legislation Act 2003*.

The Amendment Regulations commence at the same time as Part 14 of Schedule 1 to the Licensing Amendment Act, as the Amendment Regulations are consequential to the amendments in that Part.

A Statement of Compatibility with Human Rights (the Statement) has been completed in accordance with the *Human Rights (Parliamentary Scrutiny) Act 2011*. The Statement concludes the Amendment Regulations are compatible with human rights. A copy of the Statement is at **Attachment A**.

Details of the Amendment Regulations are set out in **Attachment B**.

Statement of Compatibility with Human Rights

Prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011

Customs Amendment (Renewal of Warehouse Licences) Regulations 2025

The *Customs Amendment (Renewal of Warehouse Licences) Regulations 2025* (Disallowable Legislative Instrument) is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

Overview of the Disallowable Legislative Instrument

The *Customs Amendment (Renewal of Warehouse Licences) Regulations 2025* (Disallowable Legislative Instrument) amends the *Customs Regulation 2015* (Customs Regulation) to repeal section 36 of the Customs Regulation to remove the provisions setting out payment of the warehouse licence charge in respect of renewal of a warehouse licence.

The Disallowable Legislative Instrument is consequential to Part 14 of Schedule 1 to the *Customs Amendment (Strengthening and Modernising Licensing and Other Measures) Act 2024* (Licensing Amendment Act), which, among other things, amends the *Customs Act 1901* (Customs Act) so that payment of the charge for the renewal of a warehouse licence is provided for in the Customs Act rather than the Customs Regulation.

In addition to this, the Disallowable Legislative Instrument removes the option for a licence holder, when renewing a warehouse licence, to pay the warehouse licence charge by quarterly instalments. This streamlines the administration of warehouse licences and aligns it with the administration of depot licences under the Customs Act where quarterly instalments are not available.

Streamlining licence fee processes and aligning payment requirements between customs licence types supports businesses to be better equipped in complying with their obligations under customs legislation.

The amendments also benefit government by reducing administrative processes across the customs licensing regime.

Transitional provisions are included in the Disallowable Legislative Instrument for those licence holders who have already elected to pay by instalments in the 2024-25 financial year.

The Licensing Amendment Act received the Royal Assent on 5 September 2024 and Part 14 of Schedule 1 commence on 5 March 2025 by automatic operation of section 2 of the Licensing Amendment Act.

Human rights implications

This Disallowable Legislative Instrument does not engage any of the applicable rights or freedoms.

Conclusion

This Disallowable Legislative Instrument is compatible with human rights as it does not raise any human rights issues.

The Hon. Tony Burke MP
Minister for Home Affairs

Details of the *Customs Amendment (Renewal of Warehouse Licences) Regulations 2025*

Section 1 – Name

This section provides that the title of the Regulations is the *Customs Amendment (Renewal of Warehouse Licences) Regulations 2025* (Amendment Regulations).

Section 2 – Commencement

This section provides that the Amendment Regulations commence at the same time as Part 14 of Schedule 1 to the *Customs Amendment (Strengthening and Modernising Licensing and Other Measures) Act 2024* (Licensing Amendment Act).

Section 3 – Authority

This section provides that the Amendment Regulations are made under the *Customs Act 1901* (the Customs Act).

Section 4 – Schedules

This section provides that each instrument that is specified in the Amendment Regulations is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

Schedule 1—Amendments

Customs Regulation 2015

Item 1 Section 36

This item repeals section 36 of the *Customs Regulation 2015* (Customs Regulation).

Previously, section 36 of the Customs Regulation sets out how a warehouse licence charge in respect of the renewal of a warehouse licence must be paid, including options for paying the warehouse licence charge in full before the end of 1 July of that financial year, or for the payment to be made in four equal instalments before the end of 1 July, 1 October, 1 January and 1 April in that financial year.

Section 36 was made for the purpose of current section 85A of the Customs Act (prior to amendment by the Licensing Charges Act), as the operation of current subsection 85(4) and section 85A of the Customs Act when read together have the effect that the warehouse licence charge in respect of renewal of the licence is to be paid in accordance with the Customs Regulation.

Warehouse licence charge is defined in subsection 78(1) of the Customs Act to mean the warehouse licence charge imposed by the *Customs Licensing Charges Act 1997* and payable as set out in section 85 of the Customs Act. The amount of the warehouse licence charge to

renew a warehouse licence is currently \$4,000 at the time of preparing this Explanatory Statement.

On commencement of Part 14 of Schedule 1 to the Licensing Amendment Act, payment of a warehouse licence charge in respect of the renewal of a warehouse licence will be governed by new section 84 and amended section 85 of the Customs Act as inserted by Items 227 and 228 of Part 14 of Schedule 1 to the Licensing Amendment Act.

Subsections 85(3) and (4) of the Customs Act will be repealed and substituted with new subsection 85(3) that will, on commencement of Part 14 of Schedule 1 to the Licensing Amendment Act, provide that payment of the charge to renew a warehouse licence is payable by the holder of the licence in accordance with new section 84 of the Customs Act. The effect of this provision is that payment of the warehouse licence charge for renewal of a licence will be provided for solely in the Customs Act, rather than in the Customs Regulation.

New section 84 of the Customs Act will provide the process for renewal of warehouse licences that are not excise-equivalent warehouse licences. The section will provide that the warehouse licence charge must be paid before the end of the current financial year to ensure renewal for 12 months in the next financial year. There will be no option for payment by instalment. New section 84 will also set out the consequences where the charge is not paid before the end of the current financial year, and allows for multiple renewals.

This is intended to streamline and align administration of payment of the charge for the renewal of warehouse and depot licences in the Customs Act, particularly because there is no option to pay the charge to renew a depot licence by instalment.

Items 229 and 230 of Part 14 of Schedule 1 to the Licensing Amendment Act will amend current section 85A to remove references to renewal of a warehouse licence because payment of the warehouse licence charge to renew a warehouse licence will not be set out in regulations. As such, the reference to section 85A in section 36 of the Customs Regulation will become obsolete and will be removed by this item as a consequence of that obsolescence.

Item 2 In the appropriate position in Part 18

This item inserts new section 165 in the appropriate position in Part 18 of the Customs Regulation, which provides for transitional matters. Inclusion of this item provides that section 36 of the Customs Regulation, as in force immediately before the commencement of this item, continues to apply on and after that commencement in relation to an application made under subsection 84(1) of the Customs Act before that commencement.

The effect of this item is that it will preserve current section 36 of the Customs Regulation for any application made in writing to the Comptroller-General by the holder of the licence to renew the warehouse licence made before commencement of the Amendment Regulations. This ensures that any licence holder who has elected to pay the warehouse licence charge by instalment will continue to pay by instalment for the remainder of the financial year they had elected.

This item is consistent with the transitional provision set out in subitem 266(6) of Part 14 of Schedule 1 to the Licensing Amendment Act which preserves sections 84, 85 and 85A of the Customs Act as in force immediately prior to the commencement of that subitem, in effectively the same circumstances.