

CUSTOMS-CONTROLLED AREA LICENCE HOLDER GUIDE OFF-SITE STORAGE AREA ALCOHOL PRODUCTS

OCTOBER 2018



NEW ZEALAND
CUSTOMS SERVICE
TE MANA ĀRAI O AOTEAROA

Protecting
New Zealand's
Border

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YOUR BUSINESS OPERATION

These guidelines are intended to provide an introduction to your obligations as a Customs-controlled area (CCA) licence holder who is storing alcohol products.

Your licence has been issued under [section 61](#) of the Customs and Excise Act 2018, which specifies the area it is granted for, and specifies you as the licensee. The Alcohol Excise Plan (AEP) issued with your licence specifies the purpose for which the area is licensed and sets out any terms, conditions or restrictions that apply.

You must let Customs know as soon as there are any changes to key personnel in your business. Customs also needs to know immediately when the operating state of your business changes, including if you intend to cease storing/trading in the products you were licensed for, or there is any alteration to your licensed area.

FIT AND PROPER PERSON REQUIREMENT

The entity (company, partnership etc.) applying to be a licensed CCA must be considered a fit and proper person. In legal terms an entity can be considered a person.

The fit and proper person status of the owner(s), director(s), and certain employees demonstrate the entity's status to be granted, or to hold, a licence as a fit and proper person.

A declaration in support of a Customs-controlled area licence application (form C12), which helps determine whether an applicant is a fit and proper person must be completed by the:

- applicant or person legally authorised to complete the application in the case of a corporate entity
- person listed in section 4 of the application for a Customs-controlled area licence (form C11) i.e. the person who would have day to day responsibility for the CCA.

The declaration must be accompanied by a Ministry of Justice (MOJ) criminal record report, which is available from the Ministry of Justice website (www.justice.govt.nz).

Note: when considering the application for a Customs-controlled area licence, a Customs officer may ask for additional persons, i.e. senior managers and/or directors, to complete the declaration and provide an MOJ criminal record report.

A person may be eligible under the Criminal Records (Clean Slate) Act 2004 to state that they have no criminal record(s) even if they do have a conviction(s). For more information, please refer to the Ministry of Justice website (www.justice.govt.nz).

ALCOHOL EXCISABLE PRODUCT LIABILITY

Alcohol product stored in your CCA is liable for excise duty and constitutes a Crown debt. Excise payment is triggered upon the physical removal of alcohol products from the CCA, unless approved by Customs, or removed for export or to an export warehouse.

BUSINESS RECORDS

You must keep business records as provided for in Regulation, including annual financial statements that are sufficient for Customs to assess your excise liability. This includes records that cover all aspects of the storage and removal of all specified alcohol products.

Your record keeping must include:

- A stock account of all product stored in the CCA. Details must show litres, and where applicable, the litres of alcohol, stored, and removed to and from the licensed area.
- Transfers of product when removed to another CCA without the payment of excise duty. This includes removals for further manufacture, removals to duty free shops and export warehouses, and transfers between entities within your company's structure.
- Any temporary removals approved by Customs under a Customs permit or authorisation.
- Excisable products received from other CCAs, and details of the subsequent movement of these products.
- The Customs and Excise Act 2018 requires that licensees of Customs-controlled areas store business records for seven years. This is so Customs can perform its data verification and revenue assurance functions for the Crown. All records stored on computer systems are to be backed-up regularly to ensure there is no loss of information in the event of equipment failure.
- Records must be stored in New Zealand, unless a person has been authorised by Customs to store records outside New Zealand, e.g. store records in the 'cloud' on servers located outside New Zealand.
- For further information please refer to the policy and procedure documents relating to the storage of business records on our website, www.customs.govt.nz.

STOCKTAKING

You must undertake regular (at least annual) stocktakes of all goods held in your CCA. If there are discrepancies, you must investigate and resolve those discrepancies. If the final result is a loss i.e. missing stock cannot be accounted for, and the losses are confirmed by you as the licensee, then duty is payable and you must advise Customs as soon as possible. You must not alter the stock database (i.e. amend theoretical to meet physical count).

Stock identified as surplus (overs)

If stock is identified as surplus during a stock take, you are not entitled to claim a credit of excise duty against that surplus. Instead, you should identify that stock within your accounting system so that when it is removed for home consumption from the CCA you do not pay excise twice.

Offsetting overs against unders

Customs will allow some "offsetting" of overs against unders as long as Customs accepts that due to the similarity in types and quantities of alcohol being offset, it is reasonable to assume an error such as a picking or invoicing error could have gone unchallenged when the alcohol was removed. For example a customer did not complain when they received a 2016 instead of a 2015 vintage red wine.

USE OF OFF-SITE STORAGE

If you require additional off-site storage after this AEP has been issued, you will need to apply to your nearest Customs office for either:

- authorisation to use an existing off-site storage CCA (use NZCS form 247)
- a licence for a new off-site storage CCA (use form C11 or apply in Trade Single Window, and form NZCS 247).

EXCISE ACCOUNTING AND PAYMENT

Excise entries are made in Trade Single Window (TSW). In TSW an excise entry is referred to as an excise declaration.

You may be required to lodge an excise entry electronically within a prescribed timeframe.

A manufacturer and a licensed first owner have excise entry and payment responsibilities, as shown in the following table.

If you are a third party storage CCA, your excise entry must only include removals for product owned by unlicensed first owners. Your excise entry must not include removals for product owned by licensed manufacturers.

The excise entry must be used to declare all excisable product consumed at, or removed for home consumption from, the CCA during the preceding period according to the prescribed timeframe.

If you are storing product for licensed manufacturers only, no excise entry is required.

Timeframes for excise entries and payments are shown in the table following. Note that your assigned excise entry and payment timeframe is stipulated in your AEP.

Excise entry and payment timeframes

Timeframes for excise entries and payments are shown in the table below. Your assigned excise entry and payment timeframe is stipulated in your AEP.

If you are a....	Frequency	Entry timeframe	Payment timeframe
<ul style="list-style-type: none"> new licensee licensee with an annual excise duty liability¹ over \$100,000 	Monthly	15 th working day from the end of the month in which the goods were removed	Last working day of the month following the month the goods were removed
licensee with an annual excise duty liability over \$50,000 and less than \$100,000	Six monthly	15 th working day of January for goods removed between 1 July and 31 December	Last working day of January
		15 th working day of July for goods removed between 1 January and 30 June	Last working day of July
licensee with an annual excise duty liability of \$50,000 or less	Annual	1 August following the year ending 30 June	Last working day of July

¹ This is your estimated excise duty liability for any year commencing 1 July in respect of specified alcoholic products removed from the CCA in that year.

If you are a...	Frequency	Entry timeframe	Payment timeframe
licensee with no excise duty liability (e.g. a third party storage CCA)	Monthly	15 th working day from the end of the month in which the goods were removed	Last working day of the month following the month the goods were removed Note: The manufacturer or first owner of the alcohol is responsible for payment.

Nil returns

If you hold specified alcoholic products in your CCA, but do not remove them for home consumption, you must enter a nil return at the time you would have normally made an excise entry. A nil return must also include product that is removed but the removal does not constitute a removal for home consumption.

How to make a nil return

You enter your details as usual in TSW in the excise declaration (entry). In the **Detail Lines** section, enter:

- a product description (e.g. grape wine, beer, whisky) in the **Goods Description** field
 - the relevant excise item number(s) relating to the alcohol types(s) in the **Excise Item** field.
- To reflect nil removals for your filing period, type "0" in the:
- **Statistical Quantity** field
 - **Supplementary Quantify** field, if required.

Note: "0" should be shown in the payable amount fields.

Example of completed nil return in TSW

WORK SEARCH REGISTRATION SEARCH LODGEMENT NEW REGISTRATION NEW LODGEMENT

Response History
Declaration
Detail Lines
Summary

Override Request

Edit Excise Declaration - 66792719

Detail Lines

Line Item Number
1

Goods Description (required)
Gin - NIL Entry

Excise Item (required) [View Working Tariff Document](#)
994535A

Statistical Quantity
0

Statistical Unit
Litre Pure Alcohol (LAL)

Supplementary Quantity
0

Supplementary Unit
Litre (L)

Percentage (%) Volume of Alcohol
0.00

Excise Credit
0.00

Tariff Duty in NZD
0.00

Goods and Services Tax in NZD
0.00

Other Duty Tax Fees

Calculate

Duty Type	Calculated Duty Amount in NZD	Override Duty Amount
Nothing to display		

i Goods and Services Tax (GST) The state and territory governments should trade numbers a tariff heading class account partition on the Excise State of the with equip sect Work New docu http://new.orkin/def State singl CHE trans (e.g. Stati

It is possible to not have a normal filing period

It is possible that you may not have a normal filing period, due to an intention to hold but not release alcoholic products during a given year. In this case, the excise entry timeframe will be the fifteenth working day of July following the year ending 30 June.

Health Promotion Agency (HPA)

You are required to pay a Health Promotion Agency (HPA) levy on alcohol products that attract the levy and this is collected with excise duty. The levy funds the HPA's alcohol-related activities. The levy rates are set out in the New Zealand Public Health & Disability (Health Promotion Agency Levy) Order and are listed on the [Customs website](#). Goods and Services Tax is charged on the HPA levy and is collected by Customs on behalf of Inland Revenue.

Excise duty and HPA levy rates are subject to change

Excise duty and HPA levy rates are subject to change, usually on 1 July each year. Further details on excise duty rates can be found on the [Customs website](#).

Payment

Payment can be made by using internet banking, cheque, or by cash or EFTPOS at a Customs office. Your excise code or excise entry number must be used as a reference number.

Change to excise entry and payment timeframes

[Note – this section does not apply to third party storage CCAs – delete as applicable]

All new licensees are required to complete monthly excise entries and payments for at least six months, unless the licensee is not required to lodge an excise entry. A monthly nil return may however be required.

To become eligible for extended timeframes, new licensees need to demonstrate compliance with excise entry and payment requirements and show that they have adequate and effective systems to meet these requirements.

Licensees can apply to Customs for extended excise entry and payment timeframes (based on their excise liability as set out in the previous table) if they have met the following conditions:

- held their licence for at least six months (as at 1 July of any year)
- not been suspended from using extended timeframes at any time during the previous six months
- met all excise entry and payment requirements as at 1 August for the previous 12 months
- provided 'specified evidence' that they have adequate and effective systems that provide reasonable assurance that all entries and payments will be made within the required timeframes.

Excise entry and payment timeframes may be changed if your estimated excise liability changes, or if you request (and are approved for) an increase or decrease in frequency for payment.

You may make an excise entry at any time before the due date for payment. However, no compensatory interest will accrue when lodging a voluntary-entry outside your specified lodgement timeframe unless the excise duty is not paid by the due date of your specified payment timeframe. This includes any licensee who would otherwise qualify for a six monthly or annual timeframe because of their estimated excise duty liability, but opts to lodge a monthly excise entry.

Excise entry and payment timeframes can be reduced to monthly if the licensee has not complied with the reporting and payment requirements in the previous year, and is therefore no longer eligible for the extended timeframe. This will be assessed at the end of the June excise year and the reduction will be implemented at the start of the new excise year on 1 July.

In addition, if Customs has concerns about a licensee's ability to comply it may request 'specified evidence' that the licensee has adequate and effective systems that provide reasonable assurance that all excise entries and payments will be made within the required timeframes. If Customs is not satisfied with the 'specified evidence' the licensee's eligibility to use extended payment timeframes will be suspended, and the licensee required to make monthly excise entries and payments.

If your timeframe is suspended you must submit an excise entry by the 15th working day of the following month, and pay excise on any alcohol product removed for home consumption in the year up to the suspension, by the last working day of the month following the month the suspension takes effect.

Unpaid duty by due date is subject to penalty payments

If any excise duty is unpaid by the due date of your specified period, it immediately

becomes subject to:

- a late payment penalty, and
- compensatory interest.

This is a statutory requirement and Customs has no discretion to not issue these penalties.

Note: *The Customs and Excise Act 2018 replaced the additional duty sanction with a new compensatory interest and late payment penalties (CILPP) regime. For information on the CILPP see 'Compensatory interest and late payment penalties: Operational policy' and associated documents.*

For the purpose of transitioning between the 1996 and 2018 Acts, the additional duty sanction provisions continue if goods were imported, or if alcohol products goods were manufactured, before 1 October 2018 and prior to that date:

- *The goods were entered, deemed to be entered, or exempted from being entered*
- *Customs had assessed or demanded duty under [ss. 88\(2\)](#), [103\(4\)](#) or [104\(2\)](#) of the 1996 Act².*
- *Duty was due and payable, or a debt due to the Crown, including under [sections 16](#), [86\(3\)\(c\) or \(d\)](#), [110\(2\)](#) or [76\(1\)\(b\)](#)³*
- *Duty became payable on imports where a default had been made in the entry or the goods were not claimed in the prescribed time.*
- *Part A goods were used, lost or destroyed etc., without having been removed for home consumption or were found to be of faulty manufacture.*
- *A refund or remission was granted on Part A goods damaged, lost or abandoned to the Crown prior to their release from Customs' control.*

See [Schedule 1, clause 4](#) of the Customs and Excise Act 2018 for further detail.

Administrative penalties

Excise entries are subject to an Administrative Penalty that may be imposed on any person making an entry to Customs containing an error or omission that has not been voluntarily disclosed.

For further information refer to the Administrative Penalties Operational Policy and Administrative Penalties Process.

Infringement Notices

On 1 October 2018 the new Act will provide that infringement offences can be prescribed. For a period of six months Customs will run an education period until commencement on 1 April 2019 when infringement notices will be served for a number of prescribed minor offences.

For example, under [section 363](#) of the Customs and Excise Act 2018 (the Act) it is an offence to fail to make an entry as required.

These are strict liability offences and a set prescribed fee of \$400 for an individual or \$800 for a body corporate will be applied.

² These sections deal with duty owing following assessment or demand by the Chief executive such as in situations where an importer has failed to make an entry.

³ These sections deal with situations where duty is due and payable through the operation of the law, such as following the closing a of customs controlled area, an importer, exporter or licensee leaving New Zealand with duty unpaid, or Part A goods being manufactured outside of a licensed manufacturing area.

For a list of offences please contact your local Customs office.

REMOVALS FROM YOUR CCA

Goods exported directly overseas from your CCA are exempt from excise duty. You must retain export documentation as proof of export, (a copy of the Customs Export Entry and Bill of Lading / Airway Bill where FOB value is over NZ\$1,000, or other relevant order and shipping documentation where the FOB value is less than NZ\$1,000).

Goods removed to a licensed export warehouse are exempt from excise duty. Transfer documentation should be kept as evidence of the removal.

Goods removed to unlicensed premises for future export (e.g. an export consolidator, broker, or similar), are subject to excise duty at the time of removal from the licensed CCA. However, goods for export packing/consolidation can be removed to a General CCA without incurring excise duty provided they are being loaded for export directly.

Transfers of product when removed to another CCA licensed for the purposes of manufacture or storage of Part A goods can be made without the payment of excise duty. This includes removals for further manufacture, removals to duty free shops and export warehouses, and transfers between licensed CCAs of entities within your company's structure.

Any temporary removals that are approved by Customs under a Customs permit or authorisation are not subject to excise duty.

Duty paid products which are exported may be subject to a drawback of duty at the time of export. Customs website has further information on the requirements for drawbacks.

REFUNDS AND REMISSIONS

Excise duty is only refunded or remitted in full if goods subject to Customs control have been:

- damaged or deteriorated in condition
- destroyed, pillaged or lost
- diminished in value in an export warehouse
- exported (only in relation to goods damaged or deteriorated in condition, or goods of faulty manufacture).

Goods of faulty manufacture may qualify for a refund or remission of duty.

Applications for refund or remission must be made using form NZCS 248. Customs will consider your application and decide whether to grant a refund or remission of duty, or decline the application.

Customs may decline your refund or remission application if the damage, destruction, pillage or loss of the goods was caused by the wilful act or negligence by the licensee, or any of your employees. If the refund or remission is declined, you have the right to appeal to a Customs Appeal Authority against this decision.

Once an application is granted, supervision of destruction by Customs (either in person or by direction with evidence provided) is required for full refund or remission on all types of loss, except for goods that have been destroyed, pillaged or lost.

Excise duty credits do not apply to licensees of off-site storage areas.

CALCULATING EXCISE DUTY

The amount of excise duty is assessed either on the:

- volume of manufactured product (litres)
- volume of alcohol (lal) contained in the manufactured product.

This assessment could be based on either the:

- actual strength of the product, as confirmed by an approved testing procedure
- label or target strength of the product.

The requirements for calculating excise duty and for testing alcoholic product, vary by product type and in some cases by the volume of production.

Details of the requirements and approved testing procedures are available in the [Customs \(Volume of Alcohol\) Rules 2013](#).

If an entry is made that requires excise duty to be paid on the volume of alcohol (lal), the alcohol strength is to be specified in accordance with the Customs Rules. Determining the volume of alcohol in an alcohol product is the responsibility of the manufacturer.

PRODUCT FOR INTERNAL/OTHER USES

You must pay excise duty on product that is given away, or used for client samples, demonstration or tasting.

You may take samples free of excise duty for testing purposes in whatever quantities are reasonably required. Details of samples are to be recorded.

Customs may take samples for analysis at any time as part of the audit process.

No excise duty is payable on library stock held in your CCA. The alcohol must be recorded as 'library stock' and be used for comparison or for replicating previous products.

Duty is payable on any library stock consumed or removed for home consumption.

REVOCATION OR SUSPENSION OF LICENCE

Your licence may at any time, be revoked or suspended if:

- a term, condition or restriction specified in the licence has been contravened; or
- the area for which the licence was granted ceases to be used for the purpose in which it was licensed; or
- you cease to be the owner or occupier of, or operator in, the area for which the licence was granted; or
- you are considered to no longer be a fit and proper person to hold a licence.

SURRENDER OF LICENCE

You may surrender your licence by giving one month's notice in writing to Customs. The original licence should be forwarded to the Customs port where your licence was issued.

CLOSING OF CCA

If your licence is suspended, revoked or surrendered, duty will become due and payable on all goods within that area that are, or were, subject to control of Customs immediately prior to the suspension, revocation or surrender, unless Customs permits the goods to be removed to another CCA or to be exported.

LICENSED CCAS IN NEW ZEALAND

The list of licensed excise CCAs, including export warehouses and duty free shops throughout New Zealand by region, is available on the Customs [website](#).

HEALTH AND SAFETY

You must store any spirit in accordance with the [Hazardous Substances and New Organisms Act 1996 \(HSNO\)](#).

You must understand and be fully compliant with your relevant health and safety responsibilities under the [Health and Safety at Work Act 2015](#), which includes taking all reasonable and practicable steps to ensure that the safety of Customs officers working in your CCA is maintained.

DEFINITIONS

Term	Definition
Alcohol excise plan (AEP)	Customised plan issued with a CCA licence outlining the terms, conditions or restrictions, approvals and authorisations of the licence.
Alcohol excisable product	Product where part or complete fermentation has taken place, and includes fermented and distilled beverages, or products containing alcohol.
CCA	Customs-controlled area.
Customs officer or officer	A person appointed by the Chief executive of Customs as a Customs officer for the purposes of the Act, or any other person employed by the Chief executive who is declared by the Chief executive to be a Customs officer for the purposes of the Act, whether at the time of appointment or otherwise.
Damaged or deteriorated in condition	Goods are deemed to have been damaged or deteriorated when there has been an alteration in condition that has reduced their value or their ability to be used for the purpose for which they were intended.
Destroyed	Goods are deemed to have been destroyed when through some action (e.g. fire) they have ceased to exist in their original form, or when they have been rendered completely useless for their intended purpose and have no residual value.
Diminished in value	Goods manufactured in a manufacturing area are deemed to have diminished in value where their condition has been altered, which has reduced their value or their ability to be used for the purpose for which they were intended.
Duty	Duty means a duty, additional duty, tax, fee, charge, or levy imposed on goods by any of the provisions of the Act, and includes — <ul style="list-style-type: none"> • excise duty and excise-equivalent duty imposed under Part 7: • a duty imposed under the Tariff Act 1988: • a duty imposed pursuant to sections 14, 16, 17, 17A, or 17B of the Dumping and Countervailing Duties Act 1988, including a duty resulting from the application of section 18 or section 19 of that Act; and • a duty or tax imposed by section 12 of the Goods and Services Tax Act 1985: • levies imposed by section 213(2)(c) of the Accident Compensation Act 2001: • levies imposed by the Energy (Fuels, Levies, and References) Act 1989.
Excise duty	See Duty.
Excise entry	The prescribed manner used to declare goods removed for home consumption from the CCA and completed in accordance with the Customs (Excisable Goods Entry) Rules 1997. An excise entry is also referred to as an excise declaration in Trade Single Window.
Faulty manufacture	Goods are deemed to be of faulty manufacture where they contain any fault within them that occurred during their manufacture, and where that fault prevents or is likely to prevent the goods from being used for the purpose for which they were designed.

Term	Definition
First owner	<p>The owner of the alcohol label where they are not also the manufacturer of the alcohol. For example a vineyard may grow grapes or source grape juice and then contract an independent facility to manufacture and bottle wine or grape juice. The same applies to a person who contracts a brewer to make beer on their behalf.</p> <p>First owners may be:</p> <ul style="list-style-type: none"> • licensed – they own/occupy/operate in a CCA licensed for off-site storage • unlicensed – they use a third party off-site storage CCA.
Home consumption	<p>Home consumption is the point at which your manufactured excisable products leave a CCA and are not exempted from the payment of excise duty as per Removal from CCA. Typically this would be delivery of your product to a distributor (e.g. a liquor retail outlet) or direct to the consumer (e.g. cellar door sales).</p>
LMA	Licensed Manufacturing Area – a type of CCA.
Lost	<p>Goods are deemed lost when removed from the place they have been lawfully stored, and are unable to be recovered. Lost goods differ from pillaged goods in that there is no intention to steal. For example, failure of a control valve could allow a storage tank containing a liquid or gas product to empty into the atmosphere or down a drain.</p>
Manufacture	<p>Manufacture in relation to alcohol is:</p> <ol style="list-style-type: none"> any operation, or process, involved in production of the goods; and any ancillary process that takes place on premises that are not licensed, or required to be licensed, under the Sale and Supply of Alcohol Act 2012. <p>Ancillary process means one or more of the following processes:</p> <ol style="list-style-type: none"> filtering the goods, diluting the goods, or blending the goods with other goods (whether the other goods are the same as, similar to, or different from, the goods) putting the goods for the first time into a container (for example, a bag, barrel, bottle, can, cask, drum, or keg) in which they might be presented, or from which they might be dispensed, for sale to the public or any member of the public labelling or marking, for the first time, containers filled with the goods.
Negligence	<p>Where there has been a failure to take reasonable care to avoid acts or omissions which could have been reasonably foreseen as likely to cause damage or loss, then a refund or remission may be declined.</p>
Part A goods	<p>Goods specified in excise items 99.05 to 99.75 of Part A of the Excise and Excise-equivalent Duties Table.</p>
Pillage	<p>Goods are deemed pillaged when they have been unlawfully removed from the shipment they were imported in, or from the place where they were lawfully stored.</p>
Refund	Giving back duty after it has been paid.
Remission	Waiving duty due on goods before it is paid.
Specified alcohol products	<p>Goods specified in items 99.10 to 99.50 of Part A of the Excise and Excise-equivalent Duties Table.</p>