

1997

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

SENATE

CUSTOMS DEPOT LICENSING CHARGES BILL 1996

SUPPLEMENTARY EXPLANATORY MEMORANDUM
(Requests for amendments to be moved on behalf of the Government)

(Circulated by authority of the Minister for Industry, Science and Tourism, the
Honourable John Moore, MP)



Customs Depot Licensing Charges Bill 1996
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OUTLINE

The purposes of the schedule of amendments is to introduce a two tier annual licence fee to replace the flat \$4000 annual fee proposed in Clause 6 of the Customs Depot Licensing Charges Bill 1996 (the Bill).

The Bill is one of three in the legislation package for the implementation of a cost recovery regime for import related services delivered by the Australian Customs Service, which was announced by the Government in the 1996-97 Budget. It contains the charges which are associated with the new depot licensing regime for paragraph 17(b) Customs Act premises, appointed for the examination of goods, or for the consolidation of goods for export or the deconsolidation of goods after importation (ie. the Customs depots).

Following the introduction of the Bill and representations by various sections of the industry, the Government has agreed to provide a two tier annual licence charge system, to replace the flat \$4000 annual charge proposed by the Bill.

Under the two tier proposal those depots which over the period of the relevant previous 12 months had less than 100 transactions will be subject to a licence charge of \$1500 annually (amendment No. 4, paragraph 1A(c) refers). Those depots which had more than 100 transactions for the previous relevant 12 months will be subject to a licence charge of \$4000 annually (amendment No. 4, paragraph 1A(b) refers). Customs records indicate that about 15% of current depots would fall into the category of less than 100 transactions per year, many of which are located in smaller States or in regional centres.

A similar two tier system will also apply in respect of the initial granting of a depot licence for premises which are currently appointed places under paragraph 17(b) of the *Customs Act 1901* at the time that the new depot licensing regime commences (amendment No. 6 refers).

FINANCIAL IMPACT STATEMENT

The proposed two tiered annual licence charge arrangement will result in an estimated reduction to revenue of \$75,000 per annum from the projected \$1,470,000 increase to revenue from the Customs Depot Licensing Charges Bill 1996.

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NOTES ON AMENDMENTS

Amendment 1

This amendment inserts a number of definitions into Clause 3 of the Customs Depot Licensing Bill (the Bill). Among the terms defined are *cargo report*, *electronic*, *line of cargo* and *transactions handled*. The terms *line of cargo* and *transactions handled* assist in determining the volume of cargo entering a depot and consequently whether the depot licensee will be liable for a depot licence fee of \$1500 or \$4000 (amendment No. 4 refers). The term "line of cargo" picks up the broad definition of that term in clause 3 of the Import Processing Charges Bill 1996.

Amendment 2

This amendment amends clause 5 of the Bill by omitting the reference to "April" in paragraph 5(1)(b) and substituting "July".

Clause 5 sets out the amount of depot licence application charge payable by an applicant for a depot licence. In relation to an application for a place that is an appointed place under paragraph 17(b) of the Customs Act, the application charge is \$1,000. Under the present transitional provisions for places appointed under paragraph 17(b), there is a three month period from the commencement of the new licensing regime within which an application may be made for a depot licence. Previously, this legislative package had an expected commencement of 1 January 1997 and thus such applications had to be made before 1 April 1997. It is now proposed to commence the package on 1 April 1997. In order to maintain the three month application period, such applications will now need to be made before 1 July 1997.

Amendment 3

This amendment amends clause 6 of the Bill. It is a technical drafting amendment to delete the amount of the depot licence charge and reflects the new formula referred to in amendment No. 4 of these amendments.

Amendment 4

This amendment inserts new subclauses (1A), (1B) and (1C) after subclause (1) of clause 6 of the Bill.

Subclause (1A) sets out the circumstances under which the two tier depot licence charge will apply. Paragraph (a) of subclause (1A) states that if the depot was not previously licensed under Part IVA of the Customs Act (ie. the new depot licensing regime inserted into the Customs Act by item 25 of the Customs Amendment Bill (No. 2) 1996) then the licence charge will be \$4000 for the first year of operation. There is no provision for the lesser charge in this circumstance because the depot has not

established a record of lines of cargo received into the depot, which forms the basis for determining whether the lesser annual fee (ie. \$1500) should apply.

Paragraph (b) of subclause (1A) states that where the depot licence was in operation for the whole of the previous year and had received not less than 100 lines of cargo into the depot, then the licence charge will be \$4000, or such other amount as prescribed providing the amount does not exceed \$6000.

The period for determining receipts of lines of cargo into the depot is set for the 12 months ending 31 March each year. Specifying 31 March rather than 30 June provides Customs with time to collate these figures and send notices to depot licensees regarding the charge for the following year (as required by new section 77T of the Customs Act; part of the new Part IVA licensing regime).

Paragraph (c) of subclause (1A) states that where the depot licence was in operation for the whole of the previous year and had received less than 100 lines of cargo into the depot, then the licence charge will be \$1500, or such other amount as prescribed providing the amount does not exceed \$2250.

Again, the period for determining receipts of lines of cargo into the depot is set for the 12 months ending 31 March each year. Specifying 31 March rather than 30 June provides Customs with time to collate these figures and send notices to depot licensees regarding the charge for the following year.

Subclause (1B) sets out the provisions to determine to amount of licence charge payable under subclause (1A) in relation to a depot that is licensed for only part of the previous year. The subclause provides that subsection (1A) shall have effect as if the depot had been licensed for the whole of the year. This subclause also sets out a formula to extrapolate, over a full year, the number of transactions handled by a depot during the part year. This extrapolated number will then provide the basis for determining whether the amount of the licence fee which will be payable in the following financial year is the "large" depot fee (\$4,000 for 100 or more transactions) or the "small" depot fee (\$1,500 for less than 100 transactions).

Subclause (1C) defines the terms *number of reference day transactions*, *days in the reference year* and *reference days* which are used in subclause (1B) in determining the number of days which are allowed to be used in calculating the number of receipts of lines of cargo into the depot.

Amendment 5

This amendment replaces the definition of *annual rate*. This is a consequence of the replacement of the previous \$4000 annual flat rate with a two tier annual licence fee regime (Amendment No. 4 refers).

Amendment 6

This amendment omits subclause 3 of Clause 6 and inserts new subclauses 3 and 4. The new subclause 3 relates to those depots currently appointed under section 17(b) of

the Customs Act and which become licensed under the new Part IVA, inserted by item 25 of the Customs Amendment Bill (no. 2) 1996.

Paragraph (a) of subclause 3 states that where the depot was previously appointed under section 17(b) of the Customs Act and the depot was in operation for the whole of the previous year and had received not less than 100 lines of cargo into the depot, then the licence charge will be \$5000, which is the annual \$4000 for the period 1 July 1997 to 30 June 1998, and \$1000 for the quarter year period from 1 April 1997 to 30 June 1997.

The period for determining the record of receipts of lines of cargo into the depot for such depots will be the 12 months period immediately before the commencement of the licence. Under these circumstances, by virtue of subsection 77M(6), as proposed to be amended, such depots become licensed on 1 April 1997, so that the previous year will be 1 April 1996 to 31 March 1997.

Paragraph (b) of subclause 3 states that where the depot was previously appointed under section 17(b) of the Customs Act and the depot was in operation for the whole of the previous year and had received less than 100 lines of cargo into the depot, then the licence charge will be \$1,875, which is the new annual fee of \$1500 for the period 1 July 1997 to 30 June 1998, and \$375 for the quarter year period from 1 April 1997 to 30 June 1997.

Again, the period for determining the number of lines of cargo received into the depot will be the 12 months period immediately before the commencement of the licence. Under these circumstances, by virtue of subsection 77M(6), as proposed to be amended, such depots become licensed on 1 April 1997, so that the previous year will be 1 April 1996 to 31 March 1997.

Subclause 4, similar to new subclause 6(1B) above, sets out the provisions to determine to amount of licence charge payable under subclause (3) in relation to place appointed under paragraph 17(b) that is appointed for only part of the previous year. The subclause provides that subsection (3) shall have effect as if the place had been appointed for the whole of the year. This subclause also sets out a formula to extrapolate, over a full year, the number of transactions handled by a place during the part year. This extrapolated number will then provide the basis for determining whether the amount of the licence fee which will be payable in the following financial year is the "large" depot fee (\$4,000 for 100 or more transactions) or the "small" depot fee (\$1,500 for less than 100 transactions).

Subclause (5) defines the terms *number of reference day transactions*, *days in the reference year* and *reference days* which are used in subclause (4) in determining the number of days which are allowed to be used in calculating the number of receipts of lines of cargo into the place.





