

CUSTOMS AREAS

AT A GLANCE

Customs designates and licenses certain areas so we can perform the duties required to keep the border secure, as well as ensuring that revenue is collected in the most effective way. These areas are called Customs places, Customs Controlled Areas and Customs-approved Areas for Storing Exports.

Customs wants to make sure the legislative provisions for those areas are designed and operated in ways that support effective Customs operations without interfering with efficient business practices.

Getting your feedback

We would like to get your views and gather information on the following issues:

- the absence of a clear framework for designating or revoking Customs places
- the purposes of Customs Controlled Areas and a separate provision for Customs-approved Areas for Storing Exports.
- whether to review the current 24-hour grace period before storage charges are imposed
- possibly aligning the controlled areas operated by different border agencies.

Terms used in this chapter

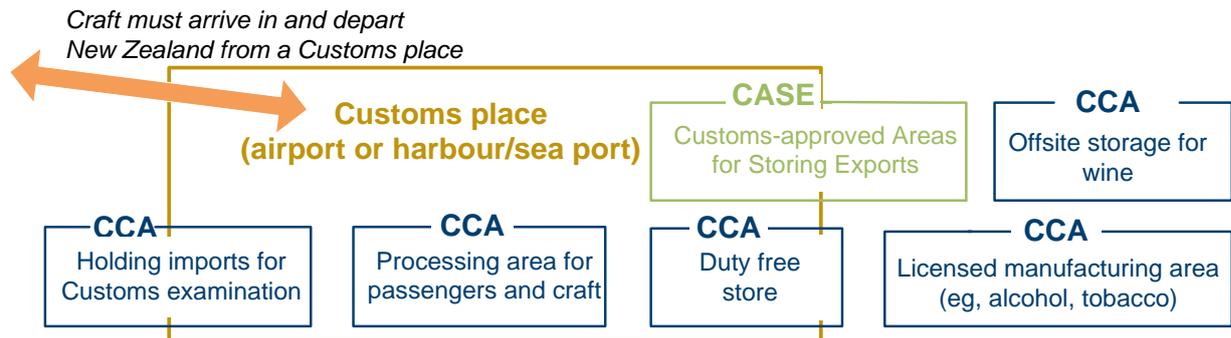
Customs places: officially designated and authorised areas where passengers, goods and marine craft must enter and leave the country. Examples are Auckland Harbour and Auckland Airport. Customs places currently include 16 harbours/sea ports and 10 airports.

Customs Controlled Areas (CCAs): specific areas licensed for purposes relating to Customs' border and excise functions. Examples include processing areas within airports and seaports, and areas where excisable goods are manufactured. There were approximately 1,087 Customs Controlled Areas as at December 2014 – 345 of these were in Auckland.

Customs-approved Areas for Storing Exports: licensed areas for storing goods for export under the control of Customs to ensure that the goods are secure. There is currently only one licensed Customs-approved Area for Storing Exports.

Customs control: measures applied by Customs to ensure compliance with processes and requirements as defined by law.

The diagram below shows how these three types of areas relate to each other:



Some Customs Controlled Areas are always within a Customs place – for example, Customs Controlled Areas for processing passengers and craft. Some Customs Controlled Areas can exist within or outside of a Customs place – for example, duty-free stores and Customs Controlled Areas for Customs examination purposes.

Other areas are generally outside of a Customs place – for example, licensed manufacturing areas for goods subject to excise.



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Customs areas: The law as it stands

The provision for Customs places in the Customs and Excise Act states that they are designated by the Customs chief executive by a notice in the *New Zealand Gazette*. The provision gives the chief executive the power to impose conditions or restrictions, and revoke designations.

The provisions for Customs Controlled Areas and Customs-approved Areas for Storing Exports include processes for applying for licences, the purpose of licensed areas, and when a licence can be varied, revoked or suspended. The legislation gives our chief executive the power to specify terms and conditions that will be applied when licensing Customs Controlled Areas and Customs-approved Areas for Storing Exports.

Customs areas: Our goal

Our goal is to make sure the legislative provisions for Customs places, Customs Controlled Areas, and Customs-approved Areas for Storing Exports are designed and operated in ways that support effective Customs operations without interfering with efficient business practices.

WHAT A FRAMEWORK FOR CUSTOMS AREAS MUST DO	WHICH WILL RESULT IN THE FOLLOWING BENEFITS
<ul style="list-style-type: none"> • provide a clear and transparent process for designation and licensing • ensure that Customs control is exercised effectively • ensure that Customs can manage its resources efficiently • support flexibility in the way that Customs and its customers work • balance the needs of businesses and Customs • ensure that Customs decisions about delivery of our services are co-ordinated with other border agencies. 	<ul style="list-style-type: none"> • all parties can plan and make decisions • better border security and protection • revenue is collected effectively • future changes in business processes are supported • greater collaboration with other government agencies to reduce compliance costs for businesses.

Customs areas: Key issues and opportunities

Customs has identified three issues, and a specific opportunity, that need further investigation. We are interested in gathering more information on these issues and how they affect businesses.

The key issues Customs has identified are:

- designation of Customs places
- purposes for Customs Controlled Areas, including whether a separate provision for Customs-approved Areas for Storing Exports is needed
- storage charges.

We have also identified an opportunity to possibly align Customs areas with controlled areas operated by other border agencies.

Designation of Customs places

The Customs and Excise Act provides us with limited guidance for setting up a framework with clear procedures and processes around designating or revoking a Customs place. The absence of a clear framework carries the following risks:

- uncertainty for businesses and Customs
- our arrangements not being aligned with those of other border agencies
- lack of clarity around when Customs places stop having this status because the original needs are no longer relevant

- uncertainty for seaport and airport operators because:
 - they do not know the criteria they have to meet to be designated as a Customs place
 - they have to rely on ad hoc arrival processes when they are not operating in a Customs place.

We would like to hear how the absence of a clear framework affects your business and what benefits there would be if our approach to designating and revoking Customs places were clarified.

Purposes of Customs Controlled Areas, and a separate provision for Customs-approved Areas for Storing Exports

Purposes of Customs Controlled Areas

The Customs and Excise Act sets out the purposes of Customs Controlled Areas as follows, specifying the activities that can only be undertaken in these areas:

“No area shall be used for—

- (a) the manufacture of goods specified in Part A of the Excise and Excise-equivalent Duties Table; or
- (b) the deposit, keeping, or securing of imported or excisable goods, without payment of duty on the goods, pending the export of those goods; or
- (c) the temporary holding of imported goods for the purposes of the examination of those goods under section 151 (including the holding of the goods while they are awaiting examination); or
- (d) the disembarkation, embarkation, or processing of persons arriving in or departing from New Zealand; or
- (e) the processing of craft arriving in or departing from New Zealand or the loading or unloading of goods onto or from such craft; or
- (f) any other prescribed purpose,—

unless that area is licensed as a Customs controlled area.”

While that provision does not itself prevent other activities taking place in Customs Controlled Areas, the licences are also subject to terms, conditions and restrictions set by the chief executive (under section 12(1)) that are designed to ensure that Customs’ control is maintained.

This has created the potential for ambiguity, particularly for businesses looking for greater flexibility in using warehouse space that is licensed as a Customs Controlled Area. This includes, for example, ambiguity around whether cargo can be taken out of a container and deconsolidated in a Customs Controlled Area.

We think it is useful to consider whether the current descriptions of the purposes of Customs Controlled Areas are still adequate, and whether current arrangements, both in the legislation and under conditions imposed by Customs, limit your ability to use Customs areas for a wider range of activities.

Separate provision for Customs-approved Areas for Storing Exports

In addition, the Customs and Excise Act includes a provision for Customs-approved Areas for Storing Exports. As the name indicates, these areas can be used only for storing goods for export, not imported or excisable goods. This provision was introduced to support the Secure Export Scheme.²⁰

Currently, only one company operates a Customs-approved Area for Storing Exports – all other exporters using the same facilities for exports as those used for imports. Having the separate provision for exports does not reflect the fact that many exporters are also importers.

We think it is timely to question whether the provisions for Customs Controlled Areas and for Customs-approved Areas for Storing Exports should continue to distinguish between imports and exports, or whether the legislation should be amended to provide for both imports and exports in a more coherent way.

We would like to hear your views on how the current legislative provisions affect your business.

Storage charges

The Customs and Excise Regulations allow a 24-hour period of grace for importers to store their goods in a Customs Controlled Area without charge by operators or owners of the area. The principle behind this grace period is that the goods should not be subject to storage charges while they are waiting for Customs clearance or examination.

Although this principle is still valid, we think that there may be a need to review this current arrangement given most goods arriving in New Zealand are now pre-cleared.

Customs would like your views on whether the current arrangement for a 24-hour grace period for both cleared and uncleared goods arriving in a Customs Controlled Area is appropriate, or whether cleared and uncleared goods should be treated differently.

²⁰ The Secure Export Scheme is a voluntary arrangement between exporters and Customs, designed to protect the exporters' international supply chain against tampering, sabotage, smuggling and other trans-national crime.

Possible alignment with other border agencies

There are also potential opportunities for aligning controlled areas across border agencies. Customs currently licenses a number of areas that are also certified or licensed areas for other government agencies – for example the Ministry for Primary Industries' transitional or containment facilities and Immigration New Zealand's immigration control areas.

Aligning these designated areas across government agencies may reduce compliance costs for businesses by reducing overlapping requirements. We are interested in your suggestions on how we could potentially increase the alignment of controlled areas between Customs and other border agencies.

CUSTOMS AREAS: WHAT DO YOU THINK?

- Q 112 How is your business affected by the absence of clearly defined procedures and processes around designating and revoking Customs places?
- Q 113 What benefits could there be for you and your business if Customs' approach to designating and revoking Customs places were clarified?
- Q 114 Should the legislation better prescribe the purposes of Customs Controlled Areas? Please give your reasons.
- Q 115 Should the legislation continue to have a separate provision for storage of exports under Customs control? Alternatively, is there value in aligning the export and import Regulations for goods subject to Customs' control? Please give your reasons.
- Q 116 How is your business affected by the current arrangement for a 24-hour grace period before storage charges are imposed on goods in Customs Controlled Areas? Should the current arrangement be reviewed? Please give your reasons.
- Q 117 Do you have suggestions for ways to potentially increase the alignment of controlled areas between Customs and other border agencies?