

DISALLOWABLE INSTRUMENT



PURSUANT to section 421(1) of the Customs and Excise Act 2018

I, Carolyn Tremain, Chief Executive of the New Zealand Customs Service, make the following rules:

Customs (Applications for Customs-controlled Area Licences) Rules 2018

Signed at Wellington

This 12th day of August 2018

Carolyn Tremain

Comptroller of Customs

**Customs (Applications for Customs-controlled Area
Licences) Rules 2018**

CR 2018/CCA1

Table of Contents

Part 1	Rules	3
Section 1	Title, application, and commencement	3
1.1	Title	3
1.2	Application and purpose	3
1.3	Commencement	3
1.4	Interpretation	3
1.5	Revocation	3
Section 2	Applications	4
2.1	Application for an area to be licensed must be made in the way prescribed	4
2.2	Form of application	4
2.3	Fit and Proper Person Declarations	4
2.4	Requirement to provide answers	4
2.5	Notes	4
Part 2	Schedules	5
Schedule 1	Form C11	5
Schedule 2	Form C12	9

Part 1

Rules

Section 1 Title, application, commencement, and revocation

1.1 Title

These Rules are the *Customs (Applications for Customs-controlled Area Licences) Rules 2018*.

1.2 Application of rules

These Rules apply to applications for areas to be licensed as Customs-controlled areas in accordance with section 57(1) of the Act and are made for the purpose of prescribing the way in which applications must be made.

1.3 Commencement

These Rules come into force on 1 October 2018.

1.4 Interpretation

1.4(1) In these Rules, unless the context otherwise requires—

Act means the Customs and Excise Act 2018

Form means a form prescribed by the Chief Executive and set out in these Rules and includes a form in an electronic message format the content of which is prescribed by the Chief Executive

Joint Border Management System (JBMS) has the meaning given to it in section 302 of the Act

Regulations means the Customs and Excise Regulations 1996

Trade Single Window (TSW) means the computer system application jointly managed by Customs and the Ministry for Primary Industries as part of the JBMS that enables parties involved in international trade and transport to submit craft and cargo clearance data that is required by New Zealand border agencies electronically, once, through one entry point

1.4(2) Unless the context otherwise requires, a term that is used in these Rules and defined in the Act but not defined in these rules has the meaning given in the Act.

1.5 Revocations

The Customs (Application for Customs Controlled Area Licences) Rules 2014 (CR1AAA/2014) are revoked.

Section 2 Applications

2.1 Application for an area to be licensed must be made in the way prescribed

Every application for an area to be licensed as a Customs-controlled area must be made in accordance with 2.2 and 2.3.

2.2 Form of application

An application for a Customs-controlled area licence must be in Form C11 as set out in Schedule 1 to these Rules and be accompanied by the declaration(s) required under 2.3.

2.3 Fit and Proper Person Declarations

2.3(1) This clause applies to the following persons:

- (a) the applicant, if a natural person; or
- (b) If the applicant is a body corporate:
 - (i) The applicant's director; and
 - (ii) the applicant's senior managers; and
- (c) in either case, every person employed by the applicant with day to day responsibility for the operation of the area to be licensed as a Customs-controlled area.

2.3(2) Those persons must complete the form prescribed in Schedule 2 and make the required declaration.

2.3(3) Any form required under 2.3(2) must be submitted at the time an application for a Customs-controlled area licence is made.

2.4 Requirement to provide answers

A person making an application under 2.2 or completing a form in accordance 2.3 must provide the answers to all matters as are required in or by that form.

2.5 Notes

Where a prescribed form contains any explanatory or other notes, such notes do not form part of the prescription but are intended to assist the applicant in the completion of the application.

Part 2 Schedules

Schedule 1

2.2 – Form C11



FORM C11 | OCTOBER 2018

Application for Customs-controlled area licence

Section 57, Customs and Excise Act 2018

To the New Zealand Customs Service at (nearest Customs port):

1 **Name of applicant:** ..
(Full registered company name or partnership/sole trader/trust names to be shown)

Trading as (where applicable)

2 **New Zealand Company Registration Number OR New Zealand Business Number (NZBN)** (if applicable):

3 **Applicant TSW Registration Number** (if available) ..

4 **Name of person who will be responsible for the general day to day operation of the Customs-controlled area:**

Date of Birth: ..

Country of Birth: ..

Gender: ..

5 **Applicant Contact Details**

Contact numbers:

Email address:

6 **External Reference Number** ..

7 **Physical Address of the applicant:**

Street Number: ..

Unit Number: .. Floor Level: ..

Property Name: .. Property Type: ..

Street Name: .. Street Type: ..

Suburb: .. Town/City: ..

State: .. Country: ..

Postcode: ..

8 **Postal Address of the applicant** (if not same as above)

Street Number: ..

Unit Number: .. Floor Level: ..

Property Name: .. Property Type: ..

PO Box: .. Private Bag: ..

Street Name: .. Street Type: ..

Suburb: .. Town/City: ..

State: .. Country: ..

Postcode: ..

9 **Names, Position Held, Phone Number and Email Address of other key personnel responsible for the operation of the Customs-controlled area (e.g. operational decision-making, finance, staffing or record keeping) if applicable**

.....
.....
.....
.....

P1 of 4

10 **Full Premises Name:**
 Trading as (where applicable)

11 **Contact Details for the area to be licensed**
 Contact numbers:
 Email address:

12 **Physical Address of area to be licensed:**
 Street Number:
 Unit Number: .. Floor Level:
 Property Name: Property Type:
 Street Name: Street Type:
 Suburb: Town/City:
 State: Country:
 Postcode:

13 **Postal Address of area to be licensed (if not same as above):**
 Street Number:
 Unit Number: .. Floor Level:
 Property Name: Property Type:
 PO Box: Private Bag:
 Street Name: Street Type:
 Suburb: Town/City:
 State: Country:
 Postcode:

14 **Billing Address of area to be licensed (if not same as above):**
 Street Number:
 Unit Number: .. Floor Level:
 Property Name: Property Type:
 PO Box: Private Bag:
 Street Name: Street Type:
 Suburb: Town/City:
 State: Country:
 Postcode:

15 **Legal description of the area to be licensed:**
 Lot:
 Deposit Number:

16 **Application is hereby made for a Customs-controlled area licence for the purposes of:**
 Note: Delete the categories in (a) to (g) that are not appropriate. Customs should be consulted if you are unsure which purpose is appropriate.
 (a) The manufacture of Part A goods. (*manufacturing area*)
 (b) The deposit, keeping, or securing of imported goods, or of Part A goods, without payment of duty, pending their export. (*export warehouse*)
 (c) The temporary holding of imported goods for the purpose of examining those goods under section 227 (*general goods*)

- (d) The disembarkation, embarkation, or processing of persons arriving in or departing from New Zealand. (*passenger arrival / departure halls*)
- (e) The processing of craft arriving in or departing from New Zealand (*craft arrivals and departures*)
- (f) The loading or unloading of goods onto or from craft arriving in, or departing from, New Zealand
- (g) Any other prescribed purpose.

17 Activity to be undertaken in the area to be licensed

.....

.....

.....

18 Security measures are in place at the area to be licensed (e.g. alarms, cameras etc)

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.....

.....

19 Excisable goods that are to be manufactured or stored in the area to be licensed
(e.g. wine, beer, spirits, fuel, tobacco)

.....

.....

.....

20 Additional information or comments to support the application

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.....

.....

21 Address of other places at which the applicant carries on, or proposes to carry on, business (indicate the nature of the business at each place):

.....

.....

.....

Notification Preferences															
To receive TSW notifications for lodgements - select ONE of the following notification methods:															
Do not notify	<input type="checkbox"/>	Email	<input type="checkbox"/>	B2B Messaging	<input type="checkbox"/>										
Add name(s) to be notified:				Email:											
If TSW notification preferences requested - select any/all of the following WCO lodgement types:															
Import	<input type="checkbox"/>	Export	<input type="checkbox"/>	OCR	<input type="checkbox"/>	CRE	<input type="checkbox"/>	ICR	<input type="checkbox"/>	ANA	<input type="checkbox"/>	AND	<input type="checkbox"/>	Excise	<input type="checkbox"/>
For the lodgement type requested - select any/all of the following lodgement status:															
Cancelled	<input type="checkbox"/>	Cleared	<input type="checkbox"/>	Directions given	<input type="checkbox"/>	Declaration Required	<input type="checkbox"/>	Error	<input type="checkbox"/>	Written Off	<input type="checkbox"/>				

Declaration

I hereby declare that the particulars contained in this application are true and correct.

Signature of applicant or person legally authorised to represent the applicant: Date: / /

Full name of signatory:

Designation of signatory:

General information

- (a) This application should be accompanied by the following:
- (i) a letter supporting the application
 - (ii) a site plan
 - (iii) a copy of the Certificate of Incorporation of the company (where applicable)
 - (iv) photo ID of persons listed under sections 4 and 9 of this application
 - (v) a completed *Declaration in support of a Customs-controlled area Licence Application* to support an applicant's fit and proper person status and a Ministry of Justice criminal record for the applicant or person legally authorised to complete the application in the case of a corporate entity **and** person named in section 4 of this application form. The criminal record must not be older than three months from the receipt by Customs of this application. If this person has lived overseas for more than 12 consecutive months within the last five years, a criminal record from the country or countries concerned is also required. These should be dated to within three months of the person leaving that country
- (b) An annual licence fee may be payable in accordance with the scale set out in the First Schedule to the Customs and Excise Regulations 1996
- (c) A security may be required as a condition of the licence
- (d) Further information may be required as set out in the Customs and Excise Act 2018.

Privacy Act 1993

Section 59(2) of the Customs and Excise Act 2018 requires that the chief executive of the New Zealand Customs Service be satisfied that an applicant for a Customs-controlled area licence be a fit and proper person.

The personal information on this form will be used as part of the assessment of the licence application. Some of this information may be put into a NZ Customs Service database, which includes the Joint Border Management System (JBMS). Exceptions to this are the:

- Declaration in support of a Customs-controlled area Licence Application (form C12); and
- Accompanying Ministry of Justice criminal record

supplied by individuals as part of the licence application. These will be kept on an electronic file with access limited to those Customs officers who need access to the information to undertake their duties.

If you do not provide the information required, your application may be refused under section 59(1)(b) of the Customs and Excise Act 2018.

The Privacy Act 1993 provides the right to request access to, and correction of, personal information. If you wish to exercise these rights please contact the New Zealand Customs Service on 0800 428 786 or email: feedback@customs.govt.nz or write to us at PO Box 2218, Wellington.



FORM C12 | 1 OCTOBER 2018

Declaration in support of a Customs-controlled area licence application

Use this form with the *Application for Customs-controlled area licence (form C11)* to apply for a Customs-controlled area licence.

Section 59(2) of the Customs and Excise Act 2018 requires that the chief executive of the New Zealand Customs Service be satisfied that an applicant for a Customs-controlled area licence be a fit and proper person.

If the applicant is a corporate entity this includes evaluating information relating to individuals employed by the entity, including senior managers, any person assuming the responsibility for the day to day operation of a Customs-controlled area, and any other person the chief executive considers relevant to the likely compliance within the Customs and Excise Act 2018.

This declaration helps determine whether an applicant is a fit and proper person. Each application will be considered on its individual merits.

A declaration must be completed by the applicant or person legally authorised to complete the application in the case of a corporate entity and the person listed in section 4 of the *Application for Customs-controlled Area licence (form C11)*.

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). See the [Ministry of Justice website](#) for more information

Please tick

1. In the past five years, have you ever received any warnings, diversions, petty offence charges, administrative penalties or infringement notices for non-compliance under the Customs and Excise Act 2018 or Biosecurity Act 1993? Yes No
2. Have you ever been convicted for an offence under the Customs and Excise Act 2018, the Hazardous Substances and New Organisms Act 1996, the Biosecurity Act 1993, the Immigration Act 2009, the Civil Aviation Act 1990, the Wine Act 2003 or the Maritime Transport Act 1994? Yes No
3. Have you ever been convicted in New Zealand or in any other country for an offence involving dishonesty or drugs? Yes No
4. Are you presently facing criminal charges in any areas described in 1, 2 or 3 above? Yes No
5. Are you currently bankrupt or have had a previous bankruptcy under the Insolvency Act 1967 or the Insolvency Act 2006? Yes No
6. Have you ever been prohibited under section 382, 383, 385 or 386A of the Companies Act 1993 from being a director or a promoter of, or taking part in, the management of a company? Yes No
7. Is there any other information that is relevant to your fit and proper person status that has not been addressed in the questions above? Yes No

Important information about filling in this declaration

1. You must tick all boxes that apply.
 2. This declaration must be accompanied by a Ministry of Justice criminal record, which is available from the [Ministry of Justice website](#). The declaration and criminal record must not be older than **three months** from the receipt by Customs of the *Application for Customs-controlled area licence (form C11)*. If the person has lived overseas for more than 12 consecutive months within the last five years, a criminal record from that country or countries is also required. This should be dated to within three months of the person leaving that country.
 3. Any persons listed in section 9 of the *Application for Customs-controlled area licence (form C11)* (or others involved in the Customs-controlled area as owners, directors or senior managers etc.) may also be required to complete a declaration and provide a copy of their criminal record, if requested to do so by the chief executive.
 4. A Customs-controlled area licence may be suspended or revoked under section 64 of the Customs and Excise Act 2018 if any false information is provided in relation to the matters on this declaration, or if the chief executive considers the fit and proper person status of the applicant is unsatisfactory.
 5. If you don't send us the information we need – your application could be refused under section 59(1)(b) of the Customs and Excise Act 2018.
 6. Any information you give us is used only for the purpose of this Customs-controlled area licence application.
 7. You have the right to add information or request a correction to this information. You can do this by contacting the CCA licensing officer at your local Customs office.
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