



NEW ZEALAND
CUSTOMS SERVICE
TE MANA ĀRAI O AOTEAROA

Under section 421(1) of the Customs and Excise Act 2018,

I, Christine Stevenson, Chief Executive of the New Zealand Customs Service, make the following rules:

Customs (Applications for CASE Licences) Rules 2024

Signed at Wellington

This 18th day of April 2024

Christine Stevenson

Chief Executive, New Zealand Customs Service

Customs (Applications for CASE Licences) Rules 2024

Table of Contents

Part 1	Rules	3
Section 1	Preliminary provisions	3
1.1	Title	3
1.2	Commencement	3
1.3	Application and purpose	3
1.4	Interpretation	3
1.5	Revocation	3
Section 2	Applications for CASE licences	3
2.1	Application for an area to be licensed as a CASE must be made in the way prescribed	3
2.2	Form of CASE licence application	4
2.3	Form of fit and proper person declarations	4
2.4	Requirement to provide answers and make declaration	4
2.5	Approval of forms	4
2.6	Alterations to forms	5
Part 2	Schedules	6
Schedule 1	Prescribed Information for an application for an area to be licensed as a CASE	7
Schedule 2	Prescribed Information for fit and proper person declarations	10
	Explanatory note	12

Part 1

Rules

Section 1 Preliminary provisions

1.1 Title

These rules are the Customs (Applications for CASE Licences) Rules 2024.

1.2 Commencement

These rules come into force on 20 May 2024.

1.3 Application and purpose

1.3(1) These Rules apply to persons making an application for areas to be licenced as Customs-approved areas for storing exports (CASE) under section 277 of the Act.

1.3(2) These rules prescribe the way in which an application is to be made for the purposes of section 277 of the Act.

1.4 Interpretation

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

Act means the Customs and Excise Act 2018

Customs-approved area for storing exports or **CASE** has the meaning given to it under section 5 of the Act

1.4(2) Unless the context otherwise requires, in these rules a reference to a person includes a corporation sole, a body corporate, and an unincorporated body.

1.4(3) 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 Revocation

The Customs (Applications for CASE Licences) Rules 2018 are revoked.

Section 2 Applications for CASE licences

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

Every application for an area to be licensed as a CASE under section 277 of the Act must be made in accordance with rules 2.2 to 2.4.

2.2 Form of CASE licence application

- 2.2(1) An application for a CASE licence must—
- (a) include the information specified in Schedule 1; and
 - (b) be provided in a form or medium approved by the chief executive (*see* rule 2.5).
- 2.2(2) An application for a CASE licence must be accompanied by a declaration required under rule 2.3.

2.3 Form of fit and proper person declarations

- 2.3(1) This clause applies to the following persons in relation to an application for an area to be licensed as a CASE:
- (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 licenced as a CASE.
- 2.3(2) Persons to whom this clause applies must—
- (a) provide Customs with the information specified in Schedule 2; and
 - (b) provide that information in a form or medium approved by the chief executive (*see* rule 2.5).
- 2.3(3) Any declaration required under this rule 2.3 must be submitted at the time an application for a CASE licence is made.

2.4 Requirement to provide answers and make declaration

- 2.4(1) The person making an application under these Rules must provide the answers to all matters as are required in or by the applicable form.
- 2.4(2) Where the form in these Rules requires a declaration to be made, the person must make any such declaration.

2.5 Approval of forms

The chief executive may approve the form or medium by which a person must supply the information specified in Schedules 1 and 2.

Note: Approvals by the chief executive under this rule are published on Customs' website at www.customs.govt.nz.

2.6 Alterations to forms

2.6(1) Without limiting the generality of section 52 of the Legislation Act 2019, the forms prescribed under these rules—

- (a) may be altered in design to suit Customs' business processes; and
- (b) may contain additional material not inconsistent with the prescribed information in these rules.

2.6(2) 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 person in the completion of the form.

Part 2

Schedules

Schedule 1	Prescribed Information for an application for an area to be licensed as a CASE	7
Schedule 2	Prescribed Information for fit and proper person declarations	10

Schedule 1

Prescribed Information for an application for an area to be licensed as a CASE

r 2.2

General requirements and notes:

As well as the information provided below, the application is to be accompanied by:

- (a) a letter supporting the application
- (b) a site plan for the area to be licensed
- (c) a copy of the certificate of incorporation of the applicant company (if applicable)
- (d) photo identification of all persons listed as applicant and key personnel in the application
- (e) a completed fit and proper person declaration, required under rule 2.3 of these rules
- (f) further information as may be required under the Customs and Excise Act 2018.

Application recipient

The name of the nearest Customs port that is the intended recipient of the application.

Applicant details

The following information in relation to the applicant:

- Name (full registered company name, or partnership/sole trade/trust names, must be shown)
- Trading name (if applicable)
- New Zealand company registration number or New Zealand business number (NZBN) (if applicable)
- Trade Single Window registration number (if applicable)
- Contact numbers
- Email address
- External Reference Number
- Physical address
- Postal address (if not the same as the applicant's physical address)
- Details of any CASE license that the applicant currently holds or has previously held

- Details of any Customs-controlled area licence that the applicant currently holds or has previously held

License area

The following information in relation to the area to be licensed:

- The name of the person who will be responsible for the general day to day operation of the area to be licensed and that person's:
 - Date of Birth
 - Country of Birth
 - Gender
- If applicable, the names of other key personnel responsible for operation of the area to be licensed (for example, personnel responsible for operational decision-making, finance, staffing and/or record keeping), and for each of those personnel:
 - Position held
 - Contact number
 - Email address
- Full premises name
- Trading name of premises (if applicable)
- Contact numbers
- Email address
- Physical address
- Postal address (if not the same as physical address of the area to be licensed)
- Billing address (if not the same as physical address of the area to be licensed)
- Legal description, comprising lot reference and deposit number
- Description of activity to be undertaken in the area to be licensed
- Hours of operation
- Security measures that will be applied to the area to be licensed
- Details of procedures and records used to account for the consolidating, packing, repacking, treating, and/or other handling and storage of goods subject to the control of Customs (if applicable)
- Estimate of cargo volumes for the next 3 years for the area to be licensed
- Nature of cargo to be handled, and equipment for handling cargo in respect of the area to be licensed

Further Information

Additional information or comments to support the application may be provided by the applicant.

Declaration

The application is to include a declaration that the particulars contained in the application are true and correct, together with:

- Signature of applicant or person legally authorised to represent the applicant
- Date of declaration
- Full name of signatory
- Designation of signatory

Schedule 2

Prescribed Information for fit and proper person declarations

r 2.3

General requirements and notes:

- (a) This form is to be used alongside an application for a CASE licence, as required under rule 2.2 of these rules (a **CASE licence application**). This declaration cannot be older than three months from the receipt of a CASE licence application.
- (b) 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 specified in the related CASE licence application as the person responsible for the general day-to-day operation of the area to be licensed. Other key personnel specified in the CASE licence application may be requested to complete this declaration.

Information for fit and proper person assessment

In relation to the person making a declaration:

- Whether, in the past five years, they have ever received any warnings, diversions, petty offence charges, administrative penalties or infringement notices, or is presently facing criminal charges, for non-compliance under the Customs and Excise Act 2018 or Biosecurity Act 1993.
- Whether they have ever been convicted for an offence, or is presently facing criminal charges, 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.
- Whether they have ever been convicted in New Zealand or in any other country, or is presently facing criminal charges, for an offence involving dishonesty or drugs.
- Whether they are currently bankrupt or have had a previous bankruptcy under the Insolvency Act 1967 or the Insolvency Act 2006.
- Whether they have 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.
- Whether there is any other information that is relevant to their fit and proper person status that has not been addressed through the information already required.

If a person answers in the affirmative in response to any of the questions listed above in this Schedule, then the person must provide further details. This includes an explanation of the circumstances and steps taken to address the issue and attach any evidence to demonstrate these steps (for example, references or certificates).

Declaration and consent

Declaration that the particulars contained in the declaration are true and correct, together with:

- Full name
- Position held
- Name of applicant for CASE license
- Signature of the relevant individual and date of signature

Confirmation that the declarant consents to the collection by the chief executive of the New Zealand Customs Service (or their delegate) from, and the disclosure to the chief executive by, any person, organisation or government department in any country of any information about them for the purposes of determining the eligibility of the applicant for a CASE licence. This is together with an acknowledgement that the chief executive may, at any time, require further information from the declarant relevant for the purposes of the application.

Accompanying information

The person making the declaration must supply:

- A Ministry of Justice criminal record that is not older than three months from the date Customs receives the relevant CASE licence application.
- If the person has lived outside New Zealand for more than 12 consecutive months in the 5 years preceding completion of the declaration, a criminal record from the relevant overseas country, or countries, dated to within three months of the person leaving that country or countries.

Explanatory Note

This note is not part of the rules, but is intended to indicate their general effect.

These rules, which come into force on 20 May 2024, are the Customs (Applications for CASE Licences) Rules 2024. These rules replace the Customs (Applications for CASE Licences) Rules 2018 (the **Former Rules**).

These rules prescribe the ways by which an application for a licence for a Customs-approved area for storing exports (CASE) may be made under section 277 (and via section 57) of the Customs and Excise Act 2018 (the **Act**):

- *Rule 2.1* sets out the rules applicable to an application for an area to be licensed as a CASE.
- *Rule 2.2* sets out the requirements for a CASE application.
- *Rule 2.3* sets out the requirements for a fit and proper person declaration, which is required together with a CASE application.
- *Schedule 1* sets out the information that must be provided in an application for an area to be licensed as a CASE.
- *Schedule 2* sets out the information that must be provided in a fit and proper person declaration.

These rules do not substantially alter the effect of the Former Rules, but instead modernise the drafting and structure of them.

Reliance on section 53 of the Legislation Act 2019

These rules are made under sections 57(2) and 421 of the Act, as extended by section 53(2) of the Legislation Act 2019. Section 53(2) of the Legislation Act 2019 provides that a power in legislation to approve or prescribe a form includes a power to authorise a prescribed person to approve or prescribe a form or medium for supplying information or making information available.

Rule 2.5 therefore provides for the chief executive of the New Zealand Customs Service to approve the form or medium in which the information set out in the Schedules to these Rules must be provided to Customs.

These rules are secondary legislation, under the Legislation Act 2019. They are published on the New Zealand Customs Service's website: www.customs.govt.nz.

These rules are administered by the New Zealand Customs Service.

Date of notification in the *Gazette*: 19 April 2024.
