



SUMMARY OF CUSTOMS NOTIFICATION - MAY 2016

**WAREHOUSE RULES - LICENCING OF SPECIAL, PRIVATE
AND PUBLIC WAREHOUSE**

SPECIAL WAREHOUSE (SECTION 58A)

The new Section 58A of the Customs Act 1962 (“Act”), introduced the concept of Special Warehouse, which has been included in the definition of “warehouse” under the Act.

Relevant Notifications: The government has notified the following rules relating to the licensing of a Special Warehouse as per the new provision:

Title	Notification No.
The Special Warehouse Licensing Regulations, 2016	No. 72 /2016 Customs (N.T.), dated: May 14, 2016
The Special Warehouse (Custody and Handling of Goods) Regulations, 2016	No. 69 /2016 Customs (N.T.), dated May 14, 2016
Notified class of Goods under section 58A(2) of the Customs Act, 1962	No. 66 /2016 Customs (N.T.), dated: May 14, 2016

The above tabulated notifications are summarised herein below:

Definition: "special warehouse" has been defined to mean a site or building that is licensed as such by the Principal Commissioner of Customs or Commissioner of Customs, as the case may be, under section 58A, wherein dutiable goods may be deposited.

Obtaining License:

Eligibility Criteria:

- a. is a citizen of India or is an entity incorporated or registered under any law for the time being in force;
- b. furnishes a solvency certificate from a scheduled bank for an amount as may be specified by the Principal Commissioner of Customs or Commissioner of Customs, as the case may be. This condition not applicable to an undertaking of the Central Government or State Government or Union territory.
- c. proposes to store the Notified Goods;

Notified Goods:

- (1) gold, silver, other precious metals and semiprecious metals and articles thereof;
- (2) goods warehoused for the purpose of:
 - supply to duty free shops in a customs area;
 - supply as stores to vessels or aircrafts under Chapter XI of the Act;
 - supply to foreign privileged persons in terms of the Foreign Privileged Persons (Regulation of Customs Privileges) Rules, 1957.
- d. submits an undertaking to comply with such terms and conditions as may be specified by the Principal Commissioner of Customs or Commissioner of Customs, as the case may be; and
- e. undertakes to pay for the services of supervision of the warehouse by officers of customs on recovery of costs.

Licence may be denied if:

- a. he has been declared an insolvent or bankrupt by a Court or Tribunal;
- b. he has been convicted for an offence under any law for the time being in force;

- c. he has been penalised for an offence under the Act, the Central Excise Act, 1944 (1 of 1944) or Chapter V of the Finance Act, 1994 (32 of 1994);
- d. he is of unsound mind and stands so declared by a competent Court;
- e. the Principal Commissioner of Customs or the Commissioner of Customs, as the case may be, is satisfied that:
 - the site or building of the proposed special warehouse is not suitable for secured storage of dutiable goods;
 - the site or building of the proposed special warehouse is not suitable for general supervision by officers of customs;
 - bankruptcy proceedings are pending against the applicant; or
 - criminal proceedings are pending against the applicant and the offences involved are of such nature that he is not a fit person for grant of licence.

Conditions to be fulfilled by eligible applicants:

- a. provide an all risk insurance policy, that includes natural calamities, riots, fire, theft, skillful pilferage and commercial crime in favour of the President of India for a sum equivalent to the amount of duty involved on the dutiable goods proposed to be stored in the special warehouse at any point of time;
- b. provide an undertaking binding himself to pay any duties, interest, fine and penalties payable in respect of warehoused goods under subsection (3) of section 73A of the Act or under the Special Warehouse (Custody and Handling of Goods) Regulations, 2016¹;
- c. provide an undertaking indemnifying the Principal Commissioner of Customs or Commissioner of Customs, as the case may be, from any liability arising on account of loss suffered in respect of warehoused goods due to accident, damage, deterioration, destruction or any other unnatural cause during their receipt, delivery, storage, despatch or handling; and
- d. appoint a person who has sufficient experience in warehousing operations and customs procedures as warehouse keeper².

Other Licensing Provisions:

- Validity: The licence remains valid until and unless it is cancelled due to contravention of the terms of the Act, as per the provisions under the newly inserted Section 58B of the Act, or where surrendered under the notified rules.
- Transferability: The licence shall not be transferable.
- Surrender: A licensee may surrender the licence granted to him by making a request in writing to the Principal Commissioner of Customs or the Commissioner of Customs, as the case may be, and the license will be cancelled if:
 - (a) the licensee has paid all monies due to the Central Government under the provisions of the Act, rules or regulations made thereunder;
 - (b) no warehoused goods remain deposited in the special warehouse or are deposited in the special warehouse from the date of request for surrender; and

¹ The Special Warehouse (Custody and Handling of Goods) Regulations, 2016, notified under Customs Notification No. 69 /2016Customs (N.T.), dated May 14, 2016.

² A warehouse keeper is to be appointed as per regulation 3 of the The Special Warehouse (Custody and Handling of Goods) Regulations, 2016.



(c) no proceedings are pending against the licensee under the Act or the rules or regulations made thereunder.

- Licence for existing warehouses: A public warehouse appointed under section 57 or a private warehouse licensed under section 58 as it stood immediately before the commencement of the Finance Act, 2016 (28 of 2016), may continue to carry out operations in respect of goods notified under subsection of section 58A for a period of three months from the date of coming into force of these regulations provided that such a warehouse shall remain under the lock of customs. However, where such warehouse intends to store Notified Goods beyond the period of three months, it shall apply for a license under these regulations within a period of one month from the date of commencement of these regulations.

Rules for Storing, Handling and Removal of Goods:

The rules for storing, handling and Removal of goods stored in a special warehouse shall be as per The Special Warehouse (Custody and Handling of Goods) Regulations, 2016, notified under Customs Notification No. 69 /2016 Customs (N.T.) and The Warehoused Goods (Removal) Regulations, 2016, notified under 67/2016 Customs (N.T.), both dated May 14, 2016.

PRIVATE WAREHOUSE (SECTION 58)

Section 58 of the Act had been amended to remove the concept of warehousing station and provide for licensing of private warehouses by the Principal Commissioner or Commissioner, in place of Deputy/Assistant Commissioner, subject to conditions as may be prescribed.

Relevant Notification: The government has notified the following rules relating to the licensing of a Private Warehouse as per the amended provision:

Title	Notification No.
The Private Warehouse Licensing Regulations, 2016	No. 71 /2016Customs (N.T.), Dated: May 14, 2016

The above tabulated notifications are summarised herein below:

Definition: "private warehouse" means a site or building that is licensed as such by the Principal Commissioner of Customs or Commissioner of Customs, as the case may be, under section 58 wherein dutiable goods imported by or on behalf of the licensee may be deposited.

Obtaining License:

Eligibility Criteria:

- a. is a citizen of India or is an entity incorporated or registered under any law for the time being in force;
- b. furnishes a solvency certificate from a scheduled bank for an amount as may be specified by the Principal Commissioner of Customs or Commissioner of Customs, as the case may be. This condition not applicable to an undertaking of the Central Government or State Government or Union territory.
- c. submits an undertaking to comply with such terms and conditions as may be specified by the Principal Commissioner of Customs or Commissioner of Customs, as the case may be; and

Licence may be denied if:

- a. he has been declared an insolvent or bankrupt by a Court or Tribunal;
- b. he has been convicted for an offence under any law for the time being in force;
- c. he has been penalised for an offence under the Act, the Central Excise Act, 1944 (1 of 1944) or Chapter V of the Finance Act, 1994 (32 of 1994);
- d. he is of unsound mind and stands so declared by a competent Court;
- e. the Principal Commissioner of Customs or the Commissioner of Customs, as the case may be, is satisfied that:
 - the site or building of the proposed private warehouse is not suitable for secured storage of dutiable goods;
 - the site or building of the proposed private warehouse is not suitable for general supervision by officers of customs;
 - bankruptcy proceedings are pending against the applicant; or
 - criminal proceedings are pending against the applicant and the offences involved are of such nature that he is not a fit person for grant of licence.

Conditions to be fulfilled by eligible applicants:

- a. Provide an all risk insurance policy, that includes natural calamities, riots, fire, theft, skillful pilferage and commercial crime in favour of the President of India for a sum equivalent to the amount of duty involved on the dutiable goods proposed to be stored in the private warehouse at any point of time;
- b. Provide an undertaking binding himself to pay any duties, interest, fine and penalties payable in respect of warehoused goods under subsection (3) of section 73A of the Act or under the Warehouse (Custody and Handling of Goods) Regulations, 2016³;
- c. provide an undertaking indemnifying the Principal Commissioner of Customs or Commissioner of Customs, as the case may be, from any liability arising on account of loss suffered in respect of warehoused goods due to accident, damage, deterioration, destruction or any other unnatural cause during their receipt, delivery, storage, despatch or handling; and
- d. appoint a person who has sufficient experience in warehousing operations and customs procedures as warehouse keeper⁴.

Other Provisions:

- **Validity:** The licence remains valid until and unless it is cancelled due to contravention of the terms of the Act, as per the provisions under the newly inserted Section 58B of the Act, or where surrendered under the notified rules.
- **Transferability:** The licence shall not be transferable.
- **Surrender:** A licensee may surrender the licence granted to him by making a request in writing to the Principal Commissioner of Customs or the Commissioner of Customs, as the case may be and the license will be cancelled if:
 - (a) the licensee has paid all monies due to the Central Government under the provisions of the Act, rules or regulations made thereunder;
 - (b) no warehoused goods remain deposited in the private warehouse or are deposited in the private warehouse from the date of request for cancellation; and
 - (c) no proceedings are pending against the licensee under the Act or the rules or regulations made thereunder.
- **Licence for existing warehouses:** A private warehouse licensed under section 58 as it stood immediately before the commencement of the Finance Act 2016 (28 of 2016), shall be valid under these regulations provided such warehouse fulfils the requirement specified and the conditions specified in the regulations for a private warehouse within a period of three months from the date of commencement of these regulations.

Rules for Storing, Handling and Removal of Goods:

The rules for storing, handling and removal of goods stored in a private warehouse shall be as per The Warehouse (Custody and Handling of Goods) Regulations, 2016, notified under Customs Notification No. 68 /2016 Customs (N.T.), and The Warehoused Goods (Removal) Regulations, 2016, notified under 67/2016 Customs (N.T.), both dated May 14, 2016.

³ The Warehouse (Custody and Handling of Goods) Regulations, 2016, notified under the Customs Notification No. 68 /2016 Customs (N.T.), Dated: May 14, 2016.

⁴ A warehouse keeper is to be appointed as per regulation 3 of the The Warehouse (Custody and Handling of Goods) Regulations, 2016.

PUBLIC WAREHOUSE (SECTION 57)

Section 57 of the Act had been amended to remove the concept of warehousing station and provide for licensing of public warehouses by the Principal Commissioner or Commissioner, in place of Deputy/Assistant Commissioner, subject to conditions as may be prescribed.

Relevant Notification: The government has notified the following rules relating to the licensing of a Public Warehouse as per the amended provision:

Title	Notification No.
The Public Warehouse Licensing Regulations, 2016	No. 70/2016 Customs (N.T.), Dated: May 14, 2016

The above tabulated notifications are summarised herein below:

Definition: "public warehouse" means a site or building that is licensed as such by the Principal Commissioner of Customs or Commissioner of Customs, as the case may be, under section 57 of the Act, wherein dutiable goods may be deposited.

Obtaining License:

Eligibility Criteria:

- a. is a citizen of India or is an entity incorporated or registered under any law for the time being in force;
- b. furnishes a solvency certificate from a scheduled bank for a sum of 2 crore rupees. This condition shall not be applicable to an undertaking of the Central Government or State Government or Union territory or to ports notified under the Major Port Trusts Act, 1963 (38 of 1963);
- c. submits an undertaking to comply with such terms and conditions as may be specified by the Principal Commissioner of Customs or Commissioner of Customs, as the case may be; and

Licence may be denied if:

- a. he has been declared an insolvent or bankrupt by a Court or Tribunal;
- b. he has been convicted for an offence under any law for the time being in force;
- c. he has been penalised for an offence under the Act, the Central Excise Act, 1944 (1 of 1944) or Chapter V of the Finance Act, 1994 (32 of 1994);
- d. he is of unsound mind and stands so declared by a competent Court;
- e. the Principal Commissioner of Customs or the Commissioner of Customs, as the case may be, is satisfied that:
 - the site or building of the proposed public warehouse is not suitable for secured storage of dutiable goods;
 - the site or building of the proposed public warehouse is not suitable for general supervision by officers of customs;
 - bankruptcy proceedings are pending against the applicant; or
 - criminal proceedings are pending against the applicant and the offences involved are of such nature that he is not a fit person for grant of licence.

Conditions to be fulfilled by eligible applicants:

- a. provide an all risk insurance policy, that includes natural calamities, riots, fire, theft, skilful pilferage and commercial crime in favour of the President of India for a sum equivalent to the amount of duty involved on the dutiable goods proposed to be stored in the public warehouse at any point of time;
- b. provide an undertaking binding himself to pay any duties, interest, fine and penalties payable in respect of warehoused goods under subsection (3) of section 73A of the Act or under the Warehouse (Custody and Handling of Goods) Regulations, 2016⁵;
- c. provide an undertaking indemnifying the Principal Commissioner of Customs or Commissioner of Customs, as the case may be, from any liability arising on account of loss suffered in respect of warehoused goods due to accident, damage, deterioration, destruction or any other unnatural cause during their receipt, delivery, storage, despatch or handling; and
- d. appoint a person who has sufficient experience in warehousing operations and customs procedures as warehouse keeper⁶.

Other Provisions:

- **Validity:** The licence remains valid until and unless it is cancelled due to contravention of the terms of the Act, as per the provisions under the newly inserted Section 58B of the Act, or where surrendered under the notified rules.
- **Transferability:** The licence shall not be transferable.
- **Surrender:** A licensee may surrender the licence granted to him by making a request in writing to the Principal Commissioner of Customs or the Commissioner of Customs, as the case may be.
 - (a) the licensee has paid all monies due to the Central Government under the provisions of the Act, rules or regulations made thereunder;
 - (b) no warehoused goods remain deposited in the public warehouse from the date of request for cancellation; and
 - (c) no proceedings are pending against the licensee under the Act or the rules or regulations made thereunder.
- **Licence for existing warehouses:** A public warehouse appointed under section 57 as it stood immediately before the commencement of the Finance Act, 2016 (28 of 2016), shall be valid under these regulations provided such warehouse fulfil the requirements and conditions specified in the regulations for a public warehouse within a period of three months from the date of commencement of these regulations.

Rules for Storing, Handling and Removal of Goods:

The rules for storing, handling and removal of goods stored in a public warehouse shall be as per The Warehouse (Custody and Handling of Goods) Regulations, 2016, notified under Customs Notification No. 68 /2016 Customs (N.T.), and The Warehoused Goods (Removal) Regulations, 2016, notified under 67/2016 Customs (N.T.), both dated May 14, 2016.

⁵ The Warehouse (Custody and Handling of Goods) Regulations, 2016, notified under the Customs Notification No. 68 /2016 Customs (N.T.), Dated: May 14, 2016.

⁶ A warehouse keeper is to be appointed as per regulation 3 of the The Warehouse (Custody and Handling of Goods) Regulations, 2016.