



ANALYSIS

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1968, No. 31

An Act to amend the Customs Act 1966

[25 November 1968

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:

1. **Short Title**—This Act may be cited as the Customs Amendment Act 1968, and shall be read together with and deemed part of the Customs Act 1966 (hereinafter referred to as the principal Act).

Bulk Cargo Containers, Pallets

2. Interpretation—(1) Section 2 of the principal Act is hereby amended by inserting in subsection (1), in their appropriate alphabetical order, the following definitions:

“‘Bulk cargo container’ means an article of transport equipment, being a lift van, movable tank, or other similar structure,—

“(a) Of a permanent character and accordingly strong enough to be suitable for repeated use; and

“(b) Specially designed to facilitate the carriage of goods by one or more modes of transport, without immediate repacking; and

“(c) Fitted with devices permitting its ready handling and its transfer from one mode of transport to another; and

“(d) So designed as to be easy to fill and empty; and

“(e) Having an internal volume of one cubic metre (35.3 cubic feet) or more—

and includes the normal accessories and equipment of the container, when imported with the container and used exclusively with it; but does not include any vehicle, or any ordinary packing case, crate, box, or other similar article used for packing:

“‘Customs containerbase’ means a place appointed under this Act for the reception, examination, or protection of goods subject to the control of the Customs and imported or to be exported in bulk cargo containers:

“‘Pallet’, except in the Tariff, means a device on the deck of which a quantity of goods can be assembled to form a unit load for the purposes of transportation, handling, or stacking with the aid of mechanical devices; but does not include a bulk cargo container; and, in relation to a pallet that is imported laden, does not include any goods laden thereon:”.

(2) The said section 2 is hereby further amended by revoking the definition of the term “controlling authority”, in subsection (1), and substituting the following definition:

“‘Controlling authority’, in relation to any wharf, Customs airport, examining place, or Customs containerbase, means the owner or occupier thereof, or any person having the control thereof; and includes any Harbour Board or local authority or public body having the control thereof:”.

(3) The said section 2 is hereby further amended by adding to the definition of the term "package", in subsection (1), the words "; but does not include a bulk cargo container or a pallet".

3. Control of the Customs—Section 16 of the principal Act is hereby amended by inserting in paragraph (c), after the word "airport", the words "or Customs containerbase".

4. Customs containerbases—The principal Act is hereby amended by inserting, after section 32, the following section:

"32A. (1) The Comptroller may from time to time by notice in the *Gazette* appoint places, at any port or Customs airport, to be Customs containerbases for the reception, examination, or protection of goods that are subject to the control of the Customs and are carried or to be carried in bulk cargo containers.

"(2) The Comptroller may in like manner impose such conditions and restrictions as he thinks fit in respect of the use of any Customs containerbase, and vary or revoke any such conditions or restrictions.

"(3) Subject to the succeeding provisions of this section, the Comptroller may by notice in writing to the controlling authority of any Customs containerbase revoke the appointment of the containerbase.

"(4) Before revoking any such appointment the Comptroller shall give to the controlling authority notice in writing stating that he intends to do so and that within fourteen days after the receipt of the notice the controlling authority may appeal to the Minister against the Comptroller's decision. The notice shall also state the reasons why he intends to revoke the appointment.

"(5) Within fourteen days after the receipt by the controlling authority of the notice under subsection (4) of this section, the controlling authority may appeal to the Minister by giving to the Collector a notice of appeal in writing addressed to the Minister. The notice of appeal shall state fully the grounds of the appeal.

"(6) The Minister shall consider the notice of appeal, and any further representations made by the controlling authority within the said period of fourteen days or within such further period as he may allow, and, if the controlling authority so requests, shall afford to the controlling authority an opportunity of being heard by him within such period or further period as aforesaid.

“(7) On any such appeal the Minister may confirm or reverse the Comptroller’s decision, and the Minister’s decision shall be final.

“(8) Where an appointment is revoked under this section, the revocation shall take effect on such date as is specified in the notice of revocation or, if no date is so specified, from the time of the receipt by the controlling authority of the notice of revocation.

“(9) Notice of the revocation of any such appointment shall be published by the Comptroller in the *Gazette*.”

5. Duties of controlling authorities—Section 33 of the principal Act is hereby amended—

- (a) By inserting, after the words “Customs airport”, wherever those words occur in subsections (1) and (2), the words “or Customs containerbase”:
- (b) By inserting in subsection (1), after the words “wharf or airport”, in both places where those words occur, the words “or containerbase”.

6. Security in respect of Customs containerbases—Section 35 of the principal Act is hereby amended—

- (a) By inserting in subsections (1) and (2), after the words “sufferance wharf” in each case, the words “Customs containerbase”:
- (b) By inserting in subsection (1), after the words “that wharf”, in both places where those words occur, the word “containerbase”.

7. Prohibited imports—Section 48 of the principal Act is hereby amended by inserting in paragraphs (b) and (c) of subsection (8), after the words “Customs airport” in each case, the words “Customs containerbase”.

8. Goods not to be landed without permission—Section 50 of the principal Act is hereby amended by repealing subsection (3), and substituting the following subsection:

“(3) Subsection (1) of this section shall not apply to any pallet that has a value of less than twenty dollars and is imported laden.”

9. Removal of goods from wharf, airport, etc.—The principal Act is hereby further amended by inserting, after section 52, the following section:

“52A. (1) Except as provided by this Act, no goods that are subject to the control of the Customs shall be removed from any wharf, Customs airport, Customs containerbase, or examining place except—

“(a) With the permission of the proper officer of Customs after entry has been made and passed in respect thereof; or

“(b) In pursuance of a written permit granted by the Collector in respect thereof.

“(2) Any bulk cargo container (including its contents, if any) may, in pursuance of a written permit granted by the Collector, be removed by the holder of the permit—

“(a) From a wharf to a Customs containerbase or an examining place only; or

“(b) From an examination station or an examining place at a Customs airport to a Customs containerbase or an examining place only.

“(3) Subsection (1) of this section shall not apply to any pallet that has a value of less than twenty dollars and is imported laden.

“(4) Every person who acts in contravention of any provision of this section commits an offence and shall be liable to a fine not exceeding four hundred dollars, and the goods in respect of which the offence is committed shall be forfeited.”

10. Collector's permits—The principal Act is hereby further amended by inserting, after section 52A (as inserted by section 9 of this Act), the following section:

“52B. (1) Goods unshipped, landed, or removed under a Collector's permit shall be dealt with in accordance with the permit and with any directions given by the Collector from time to time.

“(2) This Act shall apply to such goods in the same manner as if they had not been unshipped, landed, or removed, and for this purpose they shall be deemed constructively to have remained upon or in the ship, aircraft, wharf, Customs airport, Customs containerbase, or examining place from which they were so unshipped, landed, or removed.

“(3) If at any time such goods are dealt with by any person contrary to the terms of the permit or to the directions of the Collector, they shall be deemed for all the purposes of this Act to have been unlawfully unshipped, landed, or removed by that person as if the permit had not been granted.

“(4) Any permit issued for the unshipment, landing, or removal of bulk cargo containers shall be issued to the con-

trolling authority of a Customs containerbase or an examining place and shall relate to such containers generally.

“(5) A permit for the unshipment, landing, or removal of pallets may relate to pallets generally, or to pallets imported in any particular ship or aircraft, or to any specified class of pallets, or to pallets imported in specified circumstances.

“(6) Any permit may be granted subject to such conditions and restrictions as the Collector thinks fit.

“(7) Subject to the succeeding provisions of this section, if in the case of a permit granted to the controlling authority of a Customs containerbase or an examining place pursuant to subsection (4) of this section the Collector has reasonable cause to believe that the controlling authority has committed a breach of any provision of this Act or of any regulations thereunder or of any condition or restriction imposed under this Act or such regulations, he may, by notice in writing to the controlling authority, revoke the permit, or suspend it for any period specified in the notice.

“(8) Before revoking or suspending any such permit, the Collector shall give to the controlling authority notice in writing stating that he intends to do so and that within fourteen days after the receipt of the notice the controlling authority may appeal to the Minister against the Collector's decision. The notice shall also state the reasons why he intends to revoke or suspend the permit.

“(9) Within fourteen days after the receipt by the controlling authority of the notice under subsection (8) of this section, the controlling authority may appeal to the Minister by giving to the Collector a notice of appeal in writing addressed to the Minister. The notice of appeal shall state fully the grounds of the appeal.

“(10) The Minister shall consider the notice of appeal, and any further representations made by the controlling authority within the said period of fourteen days or within such further period as he may allow, and, if the controlling authority so requests, shall afford to the controlling authority an opportunity of being heard by him within such period or further period as aforesaid.

“(11) On any such appeal the Minister may confirm, reverse, or modify the Collector's decision, and the Minister's decision shall be final.

“(12) Where a permit is revoked or suspended under this section, the revocation or suspension shall take effect on such date as is specified in the notice of revocation or suspension or, if no date is so specified, from the time of the receipt by

the controlling authority of the notice of revocation or suspension.”

11. Consequential repeal—Section 51 of the principal Act is hereby repealed.

12. Certain goods exempt from entry—(1) The principal Act is hereby further amended by inserting, after section 54, the following section:

“54A. The following goods may, subject to any prescribed conditions, be imported or exported without entry:

“(a) Such bulk cargo containers, and such wagons, trolleys, or wheeled pallets specially designed for the handling of bulk cargo containers, as may be prescribed:

“(b) Any pallet which has a value of less than twenty dollars and is imported laden:

“Provided that in any case where the Collector is satisfied that the pallet is imported for sale or re-use in New Zealand he may require that entry be made:

“(c) Any pallet which has a value of less than twenty dollars and is imported unladen, and any pallet (whether imported laden or unladen) which has a value of twenty dollars or more, being in either case a pallet which is imported temporarily and in respect of which a Collector’s permit for removal is granted under section 52A of this Act:

“(d) Such other goods or classes of goods as may be prescribed.”

(2) Section 53 of the principal Act is hereby consequentially amended by inserting, after the words “section 54”, the words “or section 54A”.

13. Removal of imported goods within New Zealand—Section 62 of the principal Act is hereby amended by omitting from subsection (5) the words “an examining place”, and substituting the words “a wharf or an examining place or a Customs containerbase (as the case may require)”.

14. Export of goods subject to control of Customs—(1) Section 63 of the principal Act is hereby amended by omitting from subsection (1) (as amended by section 2 of the Customs Amendment Act 1967) the words “or loaded into any aircraft”, and substituting the words “or loaded into any aircraft, or packed into any bulk cargo container in a Customs containerbase,”.

(2) Section 2 of the Customs Amendment Act 1967 is hereby consequentially repealed.

15. Drawbacks of duty on goods exported—(1) Section 183 of the principal Act is hereby amended by repealing subsection (3), and substituting the following subsection:

“(3) Where the Collector is satisfied that any goods have been shipped for export, or where any goods have been packed, for export, into a bulk cargo container in a Customs containerbase and the container has been secured to the satisfaction of the Collector, he may for the purposes of this section, if he thinks fit, treat them as having been exported.”

(2) The said section 183 is hereby further amended—

- (a) By inserting in subsections (4) and (5), after the word “relanded” in each case, the words “or unpacked”:
- (b) By inserting in subsections (5), (7), and (8), after the word “relanding”, wherever that word occurs in those subsections, the words “or unpacking”.

16. Bulk cargo container or pallet not to be forfeited—Section 271 of the principal Act is hereby amended by inserting, after the word “enclosure”, the words “, not being a bulk cargo container or a pallet,”.

Miscellaneous Amendments

17. Storage charges—(1) The principal Act is hereby further amended by repealing section 34, and substituting the following section:

“34. (1) No charges shall be made by any controlling authority for the reception or storage in any transit building or on any wharf of any goods, being goods subject to the control of the Customs, during the period of twenty-four hours (exclusive of holidays) from the time of the landing of the goods.

“(2) Without limiting subsection (1) of this section, where any such goods are detained by any officer of Customs for examination, weighing, analysis, or testing for Customs purposes, no storage charges shall be payable to any controlling authority in respect of the storage of the goods in any transit building or on any wharf during any period of such detention up to ninety-six hours (exclusive of holidays) from the time of their landing; but after those goods cease to be so detained there shall be payable in respect of them by the importer or exporter such storage charges as the controlling authority determines by bylaws made in that behalf.”

(2) Any bylaws made by any controlling authority, and any storage charges made under any such bylaws, before the commencement of this section which, if this section had been in force at the time of their making, would have been validly made, shall be deemed to have been validly made.

18. Importation of brandy—Section 49 of the principal Act is hereby amended by omitting from paragraph (b) of subsection (1) the word “five”, and substituting the word “three”.

19. Licensing of warehouses—Section 80 of the principal Act is hereby amended by inserting in subsection (1), after the words “licensed under this Act”, the words “for any one or more of the following purposes”.

20. Entry of warehoused goods for removal—Section 110 of the principal Act is hereby amended by adding the following subsection:

“(3) Notwithstanding anything in subsection (5) of section 62 of this Act, warehoused goods so removed may, with the permission of the Collector, be placed directly in a warehouse on their arrival at the port or place of destination.”

21. Duty on goods temporarily imported—The principal Act is hereby further amended by repealing section 181, and substituting the following section:

“181. (1) Where the Collector is satisfied that any goods have been temporarily imported, the duty payable on the goods may be secured by way of deposit of money or, in such cases or classes of cases as may be approved by the Comptroller, by such other security as is provided for in this Act; and on receipt of such security the Collector may deliver the goods from the control of the Customs.

“(2) Subject to subsection (3) of this section and to such conditions (if any) as may be prescribed, the deposit so made shall be returned to the person by whom it was made, or, as the case may require, the security shall be released, if—

“(a) The goods, being goods imported to be used temporarily in New Zealand for industrial or commercial purposes, are exported within twelve months from the date of their landing (in this section referred to as the prescribed period) or within such longer period as the Comptroller may determine in any particular case; or

- “(b) The goods, not being goods to which paragraph (a) of this subsection applies, are exported—
- “(i) Within the prescribed period; or
 - “(ii) Within such longer period as the Comptroller may determine in any case where he is satisfied that the importer is prevented by *force majeure* from exporting them within the prescribed period; or
- “(c) The Comptroller is satisfied that the goods have been accidentally destroyed at any time within the period prescribed by or determined under this subsection.
- “(3) Where in any case to which subsection (2) of this section applies—
- “(a) Goods imported to be used temporarily in New Zealand for industrial or commercial purposes are exported within the period prescribed by or determined under this section; or
 - “(b) Any other goods, being goods on which in the opinion of the Minister duty should be paid, are so exported; or
 - “(c) The Comptroller is satisfied that any such goods have been accidentally destroyed at any time within the period prescribed by or determined under this section—
- duty shall be payable in respect of the goods on the amount by which their value for duty, as assessed by the Collector at the time of their exportation or destruction, is less than their value for duty, as ascertained in accordance with the Customs Acts, at the time of their importation.
- “(4) Where the Collector is satisfied that any goods have been shipped for export, or where any goods have been packed, for export, into a bulk cargo container in a Customs containerbase and the container has been secured to the satisfaction of the Collector, he may for the purposes of this section, if he thinks fit, treat them as having been exported.
- “(5) If at the expiry of the period prescribed by or determined under this section any security has not been dealt with in accordance with subsection (2) of this section—
- “(a) Any duty so secured by way of deposit of money shall be dealt with as Customs revenue; and
 - “(b) Any duty otherwise so secured shall be paid to the Collector by the importer within fourteen days after the expiry of that period, and on such payment the security shall be released.”

22. Entry for exportation under drawback—Section 184 of the principal Act is hereby amended by adding to subsection (3) the words “unless the Comptroller in any particular case determines otherwise”.

This Act is administered in the Customs Department.
