



ANALYSIS

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1990, No. 89

An Act to amend the Customs Act 1966

[8 August 1990]

BE IT ENACTED by the Parliament of New Zealand as follows:

1. Short Title and commencement—(1) This Act may be cited as the Customs Amendment Act 1990, and shall be read together with and deemed part of the Customs Act 1966 (hereinafter referred to as the principal Act).

(2) Except as provided in sections 4 (3), 5 (2), 6 (2), 7 (2), 10 (3), 11 (4), and 12 (5) of this Act, this Act shall come into force on the day on which it receives the Royal assent.

2. Control of the Customs—Section 16 of the principal Act is hereby amended by repealing paragraph (a), and substituting the following paragraph:

“(a) In the case of all goods imported, from the time of importation until either—

“(i) The goods are lawfully removed for home consumption from a wharf, Customs containerbase, Customs airport, or examining place; or

“(ii) The goods are exported to any country outside New Zealand,—
whichever first happens.”.

3. Delivery for home consumption—Section 17 of the principal Act is hereby amended by adding the following subsection:

“(3) While goods remain subject to the control of the Customs the Collector may revoke any notice of delivery given in respect of those goods.”

4. Entry of goods—(1) The principal Act is hereby amended by repealing section 19 (as amended by section 2 of the Customs Amendment Act (No. 2) 1987), and substituting the following section:

“19. (1) Every entry of goods under this Act shall be made in such form and within such time and in such manner as may be prescribed.

“(2) Any person making any entry shall truly answer all questions asked by the Collector or other proper officer relating to the goods referred to in the entry.”

(2) Section 2 of the Customs Amendment Act (No. 2) 1987 is hereby consequentially repealed.

(3) This section shall come into force on a day to be fixed by the Governor-General by Order in Council.

5. Making and passing of entries—(1) The principal Act is hereby amended by repealing section 22, and substituting the following section:

“22. (1) Any regulations made under section 306 of this Act may prescribe for the purposes of this Act—

“(a) The conditions under which an entry of goods will be deemed to have been made; and

“(b) The conditions under which an entry of goods will be deemed to have been passed,—

and on the passing of the entry the goods shall be deemed to be entered.

“(2) Any entry so passed shall be warrant for dealing with the goods in accordance with the entry.”

(2) This section shall come into force on a day to be fixed by the Governor-General by Order in Council.

6. Importers to keep records—(1) The principal Act is hereby amended by inserting, after section 25, the following section:

“25A. (1) Every person who imports goods, or causes goods to be imported, for sale or for any industrial, occupational, commercial, institutional or other like use, shall keep at his or

her place of business in New Zealand, or at such other place in New Zealand as may be approved by the Comptroller, such records in respect of those goods in such manner, and for such period of time not exceeding 10 years, as may be prescribed.

“(2) Where an officer of Customs so requests, a person who is required pursuant to subsection (1) of this section to keep any records shall—

“(a) Make those records available to the officer; and

“(b) Answer truthfully any questions asked by the officer in respect of such records.

“(3) Where any records required to be kept pursuant to subsection (1) of this section are kept on or in any mechanical or electronic device, including any computer, the owner or operator of that device shall operate or cause the device to be operated, at the person’s own expense, so as to make the records readily available to the officer.

“(4) Every person who fails to comply with any of the provisions of this section commits an offence.”

(2) This section shall come into force on a day to be fixed by the Governor-General by Order in Council.

7. Entry for home consumption—(1) Section 116 (4) (b) of the principal Act (as inserted by section 11 of the Customs Amendment Act 1986) is hereby amended by inserting, after the expression “1986,”, the words “(but not being a motor vehicle (as defined in section 11 (3) of the Customs Amendment Act 1990) that, at the date of that purchase for resale, is or has been registered under Part I of the Transport (Vehicle and Driver Registration and Licensing) Act 1986)”.

(2) This section shall be deemed to have come into force on the 25th day of July 1990.

8. Inspection of records—The principal Act is hereby amended by inserting, after section 215A, the following section:

“215B. Any officer of Customs may at all reasonable times enter any premises or place where records are kept pursuant to this Act, and may examine and audit such records.”

9. Regulations—Section 306 of the principal Act is hereby amended by inserting, after paragraph (ga), the following paragraph:

“(gb) Prescribing the matters in respect of which fees are payable under this Act; the amounts of those fees or the method by which they are to be assessed; the persons liable for payment of the fees; and the

circumstances in which fees may be remitted or waived, in whole or in part:".

10. Third Schedule amended—(1) The principal Act is hereby amended by repealing so much of the Third Schedule (as substituted by section 4 (1) of the Customs Amendment Act 1989) as relates to items 99.75.15c, 99.75.20k, 99.75.35H, and 99.75.65k, and substituting the items and rates of duty specified in the Schedule to this Act.

(2) The Third Schedule to the principal Act (as so substituted) is hereby amended by repealing item 99.80.00j.

(3) This section shall be deemed to have come into force on the 25th day of July 1990.

11. Refund of duty on imported motor vehicles—

(1) Where—

- (a) Any motor vehicle has been both imported and entered by an importer on or after the 1st day of April 1990; and
- (b) The importer was, as at the 24th day of July 1990, a person approved under section 152A (2) of the principal Act for the purposes of deferral of payment of duty under section 152 of that Act; and
- (c) The duty that, immediately before the commencement of this section, was imposed on motor vehicles by the Tariff Act 1988 has been paid in respect of that motor vehicle by the importer; and
- (d) The motor vehicle was, at the 24th day of July 1990,—
 - (i) Still in the possession of the importer, or in the possession of a licensed motor vehicle dealer (within the meaning of the Motor Vehicle Dealers Act 1975); and
 - (ii) Not yet registered under Part I of the Transport (Vehicle and Driver Registration and Licensing) Act 1986,—

the importer shall, on application made in accordance with subsection (2) of this section, be entitled to a refund of 7.5 percent of the value for duty of that motor vehicle.

(2) An application for a refund under subsection (1) of this section—

- (a) Shall be made to the Collector at the port at which the vehicle or vehicles in respect of which the refund is claimed was or were entered; and
- (b) Shall be accompanied by such information and documentation relating to the importation and entry

of the vehicle or vehicles as the Collector may require; and

(c) Shall be accompanied by a statutory declaration by the importer stating, in relation to the vehicle or vehicles in respect of which the refund is claimed,—

(i) That each such vehicle was, as at the 24th day of July 1990, in the possession of the importer or of a licensed motor vehicle dealer, as the case may be; and

(ii) That each such vehicle was not, as at that date, registered under Part I of the Transport (Vehicle and Driver Registration and Licensing) Act 1986.

(3) In this section, the term “motor vehicle” means a vehicle of a kind referred to in Excise Item Number 99.80.00j in the Third Schedule to the principal Act, as that item existed before its repeal by section 10 (2) of this Act.

(4) This section shall be deemed to have come into force on the 25th day of July 1990.

12. Refund of duty on motor vehicles manufactured in New Zealand—(1) Where—

(a) In relation to a motor vehicle manufactured by a licensee of a manufacturing area, that licensee has paid the excise duty that, immediately before the commencement of this section, was payable on motor vehicles; and

(b) The motor vehicle was, as at the 24th day of July 1990,—

(i) In the possession of that licensee or of a licensed motor vehicle dealer (within the meaning of the Motor Vehicle Dealers Act 1975); and

(ii) Not yet registered under Part I of the Transport (Vehicle and Driver Registration and Licensing) Act 1986,—

the licensee shall be entitled, on application made in accordance with subsection (2) of this section, to a refund of the excise duty paid in respect of that motor vehicle.

(2) An application for a refund under subsection (1) of this section—

(a) Shall be made to the Collector in whose district the licensed manufacturing area is licensed; and

(b) Shall be accompanied by such information and documentation relating to the vehicle or vehicles in respect of which the refund is claimed as the Collector may require; and

- (c) Shall be accompanied by a statutory declaration by the licensee stating, in relation to the vehicle or vehicles in respect of which the refund is claimed,—
- (i) That each such vehicle was, as at the 24th day of July 1990, in the possession of the licensee or of a licensed motor vehicle dealer; and
 - (ii) That each such vehicle was not, as at that date, registered under Part I of the Transport (Vehicle and Driver Registration and Licensing) Act 1986.
- (3) In this section, the term “motor vehicle” has the same meaning as in section 11 (3) of this Act.
- (4) Where—
- (a) A licensee of a manufacturing area would, on application made in accordance with subsection (2) of this section, be entitled to a refund under this section in respect of the excise duty paid by that licensee in respect of a motor vehicle; and
 - (b) That licensee would, but for this subsection, be entitled, under subsection (4) of section 116 of the principal Act, to claim as a credit the amount of the excise duty paid by that licensee in respect of that motor vehicle,—
- notwithstanding anything in that subsection, that credit shall not be claimable by or allowable to that licensee.
- (5) This section shall be deemed to have come into force on the 25th day of July 1990.
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SCHEDULE
AMENDMENTS TO THIRD SCHEDULE TO PRINCIPAL ACT
EXCISE DUTIES

Section 10 (1)

1406

Excise item Number	Goods	Unit	Rates of Duty
99.75	Fuels:		
99.75.15c	-Motor spirit with a Research Octane No. (RON) less than 92 (regular grade) which, if imported, would be classified within Tariff item 2710.00.11 or 2710.00.32	per ℓ	32.2¢ 1/91 30.2¢ <i>plus</i> 6.6¢ per g of Pb
99.75.20k	-Motor spirit derived from ethanol, petroleum or methanol which, if imported, would be classified within Tariff item 2207.20.29, 2710.00.19, 2710.00.38, 3606.10.09, or 3823.90.29	per ℓ	32.7¢ 1/91 30.7¢ <i>plus</i> 6.6¢ per g of Pb
99.75.35H	-Automotive diesel which, if imported, would be classified within Tariff item 2710.00.63	per ℓ	11.2¢ 1/91 Free
99.75.65k	-Methanol when declared for use solely as racing fuel and which, if imported, would be classified within Tariff item 2905.11.09	per ℓ	32.7¢ 1/91 30.7¢

Customs Amendment

1990, No. 89

This Act is administered in the Customs Department.