

Hon. Mr. Nordmeyer

CUSTOMS ACTS AMENDMENT

ANALYSIS

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A BILL INTITULED

Title. AN ACT to impose Additional Duties of Customs and Excise, to increase the Rate of Sales Tax payable in respect of certain Classes of Goods, and to amend the Customs Acts.

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

Short Title. 1. This Act may be cited as the Customs Acts Amendment Act, 1942.

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PART I.

CUSTOMS DUTIES.

This Part to be read with Customs Act, 1913.

See Reprint of Statutes, Vol. VII, p. 97

Increase of Customs duties in respect of goods mentioned in First Schedule hereto.

2. This Part of this Act shall be read together with and deemed part of the Customs Act, 1913 (hereinafter in this Part referred to as the principal Act).

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3. (1) In respect of goods of the kinds or classes mentioned in the *First* Schedule to this Act that are imported into New Zealand or entered therein for home consumption after the passing of this Act, there shall, in addition to the duties fixed in respect of such goods by or pursuant to any Act, and notwithstanding anything to the contrary in any Act, but subject to the provisions of section one hundred and forty-three of the principal Act, be payable further duties of Customs at the appropriate rate specified in the third column of the said Schedule.

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Repeal. 1939, No. 30

Special provisions as to Cook Islands.

(2) Section four of the Customs Acts Amendment Act, 1939, is hereby repealed.

4. (1) The duties provided for in the *last preceding* section shall be in force in the Cook Islands on and from a date to be determined by the Governor-General by Order in Council, and until an Order in Council under this section comes into force the duties in force in those Islands on the passing of this Act shall continue to be in force.

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1939, No. 30

(2) On the coming into force of any such Order in Council the duties provided for in the *last preceding* section in respect of any goods shall be in force in the Cook Islands, and the duties in force in those Islands with respect to such goods by virtue of sections four and five of the Customs Acts Amendment Act, 1939, shall thereupon cease and determine:

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Provided that nothing herein shall affect the provisions of Part XXI of the principal Act.

5 5. Section six of the Customs Acts Amendment Act, 1939, is hereby amended by inserting, after subsection six thereof, the following subsection:—

10 “ (6A) Notwithstanding the provisions of section two hundred and forty of the principal Act, any information under the Justices of the Peace Act, 1927, for an offence against this section may be laid by a Collector, or by the Registrar of Motor-vehicles, or by any constable.”

Section 6 of Customs Acts Amendment Act, 1939, amended. 1939, No. 30

PART II.

EXCISE DUTIES.

Beer Duty.

15 6. (1) Duty in accordance with Part III of the Finance Act, 1915, shall be payable on all beer brewed in New Zealand of which the worts are pitched for fermentation after the passing of this Act, as follows:—

Fixing rates of duty on beer brewed in New Zealand.

20 (a) Where the specific gravity of the worts used in the production of the beer is 1,036, the duty shall be at the rate of three shillings per gallon of the beer;

See Reprint of Statutes, Vol. VII, p. 246

25 (b) Where the specific gravity of the worts exceeds 1,036, the duty per gallon shall be at the rate aforesaid, increased by one penny for every unit of specific gravity above 1,036; and

30 (c) Where the specific gravity of the worts is less than 1,036, the duty shall be at the rate aforesaid, decreased by one penny for every unit of specific gravity below 1,036, but shall not be less in any case than two shillings and threepence per gallon.

35 (2) Such duty shall be deemed to be revenue of Customs within the meaning of the Customs Act, 1913, and shall be recoverable accordingly by action at the suit of the Crown.

40 (3) For the purposes of Part III of the Finance Act, 1915, the specific gravity of distilled water at sixty degrees Fahrenheit shall be taken at 1,000 and the specific gravity of worts shall be considered in relation thereto.

Repeal.
1939, No. 30

(4) Section thirteen of the Customs Acts Amendment Act, 1939, is hereby repealed.

(5) This section shall be read together with and deemed part of Part III of the Finance Act, 1915.

Tobacco Duty.

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Increase of
excise duty on
tobacco
manufactured
in
New Zealand.
1934, No. 14

7. (1) In addition to the duties fixed by subsection one of section twenty-two of the Customs Acts Amendment Act, 1934, there shall be levied, collected, and paid on tobacco manufactured in New Zealand that is entered for home consumption after the passing of this Act the further excise duties hereinafter specified in respect of the following classes of such tobacco, namely:—

(a) On tobacco (whether cut or not) Seven shillings and 15
two pence the
pound.

(b) On cigars and snuff .. Two shillings the
pound.

(c) On cigarettes— 20

(i) Not exceeding
in weight two and one-
half pounds the
thousand Twenty shillings the
thousand. 25

(ii) Exceeding in
weight two and one-half
pounds the thousand .. Eight shillings the
pound.

Repeal.

(2) Section fourteen of the Customs Acts Amendment Act, 1939, is hereby repealed.

(3) This section shall be read together with and deemed part of the Tobacco Act, 1908.

See Reprint
of Statutes,
Vol. VII, p. 231

Section 25 of
Customs Acts
Amendment
Act, 1930,
amended.

Ibid., p. 243
1934, No. 14

8. Section twenty-five of the Customs Acts Amendment Act, 1930, as amended by section forty-three of the Customs Acts Amendment Act, 1934, is hereby further amended by omitting from subsection one the words "six shillings", and substituting the words "fourteen shillings". 35

PART III.

SALES TAX.

9. This Part of this Act shall be read together with and deemed part of the Sales Tax Act, 1932-33 (hereinafter in this Part referred to as the principal Act).

This Part to be read with Sales Tax Act, 1932-33. 1932-33, No. 33

10. (1) Except in respect of goods of the kinds or classes mentioned in the *Second* Schedule to this Act or of goods that are exempt from sales tax, there shall, subject to the provisions of the principal Act, be levied, collected, and paid in lieu of sales tax at the rate imposed by section eleven of the principal Act as amended by section twenty-two of the Finance Act, 1940, sales tax at the rate of twenty per centum of the sale value of all goods—

Increasing rate of sales tax on certain classes of goods.

1940, No. 6

(a) Sold by a wholesaler after the passing of this Act otherwise than to a licensed wholesaler for resale by him; or

20 (b) Manufactured by a manufacturing retailer after the passing of this Act for use by him or for sale otherwise than to a licensed wholesaler for resale by him; or

25 (c) Imported into New Zealand after the passing of this Act and entered therein for home consumption under the Customs Act, 1913, otherwise than by a licensed wholesaler for sale by him.

(2) With respect to sales tax paid in respect of any goods by an importer pursuant to this section the following special provisions shall apply:—

30 (a) On the sale of any such goods by the importer to a licensed wholesaler, for resale, or for use by the licensed wholesaler in the manufacture of goods for sale, the importer shall, on application to the Collector and on compliance with the prescribed conditions, be entitled to a refund of the sales tax paid by him in respect of the goods sold by him as aforesaid:

35 (b) On the sale of any such goods by the importer to a manufacturing retailer for use by him in the manufacture for sale of goods in respect of which sales tax at the rate of ten per centum of their sale value is payable,

the importer shall, on satisfying the Collector that the goods sold by him have been actually used by the manufacturing retailer as aforesaid, and on compliance with the prescribed conditions, be entitled to a refund of one-half of the sales tax paid by him in respect of the goods sold by him and actually used as aforesaid. 5

(3) Subsection one of section eleven of the principal Act, as amended by section twenty-two of the Finance Act, 1940, shall be read subject to the foregoing provisions of this section. Any reference in the principal Act or in any other Act to the said subsection one shall, unless the context otherwise requires, be hereafter construed to include a reference to subsection one of this section. 10 15

Additional sales tax on wine manufactured in New Zealand.

11. (1) In addition to the sales tax payable in accordance with the *last preceding* section on wine manufactured in New Zealand, there shall, subject to the provisions of the principal Act, be levied, collected, and paid on all such wine that is sold by a wholesaler in accordance with paragraph (a) of subsection one of the *last preceding* section or that is manufactured by a manufacturing retailer in accordance with paragraph (b) of that subsection, further sales tax at the rate of twenty per centum of the sale value of such wine. 20 25

(2) Notwithstanding anything to the contrary in subsection two of section eleven of the principal Act, no deduction shall be made under that subsection in respect of the additional sales tax imposed by this section. 30

(3) Notwithstanding anything to the contrary in the principal Act, all sales tax payable in accordance with this section in respect of wine that is sold after the passing of this Act by a licensed wholesaler, being the holder of a wine-maker's license granted under section eleven of the Licensing Amendment Act, 1914, shall be payable by and shall be recoverable from the holder of that license. 35 40

See Reprint of Statutes, Vol. IV, p. 369

(4) For the purposes of this section the sale value of any wine sold after the passing of this Act by the holder of a wine-maker's license as aforesaid shall be the fair market value thereof as if the wine were sold by a wholesaler to a retailer in the ordinary course of business. 45

12. Where any wine manufactured in New Zealand is sold as part of an admixture intended for use as a beverage, whether sold by the holder of a wine-maker's license in accordance with the *last preceding* section or
 5 sold by a wholesaler or manufacturing retailer in accordance with section *ten* of this Act, the sales tax imposed by this Act on wine manufactured in New Zealand shall be levied on the sale value of all such wine that is contained in the admixture.
- 10 **13.** (1) The Governor-General may from time to time, by Order in Council, amend the *Second Schedule* hereto by adding thereto or omitting therefrom any specified kinds or classes of goods. Governor-General may alter *Second Schedule*.
- (2) Every Order in Council under this section may
 15 be at any time in like manner amended or revoked.
- (3) Every Order in Council under this section shall have effect according to its tenor and shall come into force on a date to be specified therein in that behalf (being the date of the making of the Order in Council
 20 or an earlier or later date).
- 14.** (1) Section thirteen of the principal Act is hereby amended by adding to paragraph (*b*) of subsection one thereof the following additional proviso:— Amendments of former Acts consequential on fixing differential rates of sales tax.
- 25 " Provided also that where sales tax at the rate of ten per centum has been paid on any taxable goods used in the manufacture of any goods in respect of which sales tax is payable at a rate in excess of ten per centum of the sale value thereof, the sale value of the manufactured goods shall be ascertained either by
 30 deducting from their fair market value fifty per centum and no more of the sale value of the taxable goods used in their manufacture or in accordance with the second alternative provided for in the foregoing provisions of this paragraph."
- 35 (2) Subsection two of section three of the Sales Tax Amendment Act, 1933, is hereby amended by inserting, after the words " taxable materials " in paragraph (*a*) thereof, the words " in respect of which sales tax at the rate payable in respect of the manufactured goods
 40 has been paid or is payable ".
- (3) Section five of the Sales Tax Amendment Act, 1933, is hereby amended by repealing subsections two, three, and four thereof, and substituting the following subsections:—
- 45 "(2) In any case to which this section applies, the wholesaler or manufacturing retailer, as the case may be, shall, in the return furnished by him in accordance

Sales tax to be paid on New Zealand wine contained in any admixture.

Governor-General may alter *Second Schedule*.

Amendments of former Acts consequential on fixing differential rates of sales tax.

1933, No. 42

with section fourteen of the principal Act, be entitled to deduct from the sales tax payable on goods sold or manufactured by him during the month to which the return relates the amount of sales tax which would have been payable if the goods purchased by him had been sold by a wholesaler to a retailer at the price at which the goods were purchased. 5

“(3) Where a wholesaler or manufacturing retailer has in accordance with the *last preceding* subsection made a deduction from the sales tax payable in respect of any goods sold or manufactured by him no deduction from the sales tax payable in respect of the same goods shall be made pursuant to subsection two of section eleven of the principal Act, and no deduction from the fair market value shall be made pursuant to paragraph (b) of subsection one of section thirteen of the principal Act.” 10 15

Section 21 of principal Act modified.
1940, No. 6

15. Notwithstanding anything to the contrary in section twenty-one of the principal Act, as amended by section twenty-three of the Finance Act, 1940, where sales tax in respect of any goods is payable at a rate in excess of ten per centum of the sale value thereof, and such tax is paid on or before the date on which, in accordance with the provisions of the principal Act, it is payable, the taxpayer shall be entitled only to a discount at the rate of one and one-quarter per centum of the sales tax so payable. 20 25

PART IV.

MISCELLANEOUS.

Portion of revenue received under this Act to be paid into War Expenses Account.

16. (1) Notwithstanding anything to the contrary in any other Act, there shall be paid into the War Expenses Account— 30

(a) All revenues derived from the additional Customs duties imposed by section *three* of this Act: 35

(b) The revenues derived from the duty imposed by section *six* of this Act on beer brewed in New Zealand, to the extent of one shilling and threepence a gallon of such beer:

- 5 (c) All revenues derived from the additional duties imposed by section *seven* of this Act on tobacco manufactured in New Zealand and all revenue derived from any duty in excess of six shillings a pound prescribed pursuant to section twenty-five of the Customs Acts Amendment Act, 1930, in respect of cigars and snuff manufactured in New Zealand:
- 10 (d) So much of the revenue derived from sales tax as exceeds the amount that would have been derived if the rate levied in respect of all taxable goods were five per centum of the sale value thereof.
- 15 (2) For the purposes of this section Customs and excise duties and sales tax imposed and levied by virtue of certain resolutions of the House of Representatives passed on the thirtieth day of April, nineteen hundred and forty-two, shall be deemed to have been imposed and levied by this Act.
- 20 (3) Section eight of the Finance Act, 1940, is hereby amended by repealing paragraph (b) of subsection one thereof. Repeal.
1940, No. 6
- 25 17. (1) The resolutions of the House of Representatives passed on the thirtieth day of April, nineteen hundred and forty-two, purporting to impose duties of Customs or excise, or to levy sales tax, shall be deemed to have taken effect and to have had the force of law, according to their tenor, and to have so continued until the passing of this Act. Ratification
of certain
resolutions
imposing
duties of
Customs and
excise, and
sales tax.
- 30 (2) The resolutions mentioned in the *last preceding* subsection shall be deemed to be revoked on the passing of this Act:
- 35 Provided that all duties and all sales tax which, by virtue of the said resolutions, have become due and payable since the passing thereof and before the passing of this Act, and all penalties and forfeitures which have been incurred, shall be recovered and enforced notwithstanding the revocation of the said resolutions by this section.
- 40 18. All duties of Customs and excise and all sales tax that have become due and payable, and all penalties and forfeitures that have been incurred prior to the passing of this Act, may be recovered and enforced in the same manner as if this Act had not been passed. Saving of
existing
rights of
action.

Schedules.

SCHEDULES.

FIRST SCHEDULE.

GOODS (AS SPECIFIED IN THE FIRST SCHEDULE TO THE CUSTOMS ACTS AMENDMENT ACT, 1934) IN RESPECT OF WHICH ADDITIONAL CUSTOMS DUTIES ARE IMPOSED BY SECTION 3 OF THIS ACT.

Item No.	Tariff Items.	Rate of Additional Duties.
74	Cigarettes n.e.i.	20s. per 1,000
75	Cigarettes, exceeding in weight 2½ lb. per 1,000	8s. per lb.
76	Cigars, including the weight of every band, wrapper, or attachment, to any cigar	8s. per-lb.
77	Snuff	8s. per lb.
79	Tobacco, cut	7s. 2d. per lb.
80	Tobacco n.e.i., including the weight of every label, tag, or other attachment	7s. 2d. per lb.
81	(1) Tobacco, unmanufactured, entered to be manufactured in New Zealand in any bonded tobacco-factory licensed under the Tobacco Act, 1908, for manufacturing purposes only, into cigarettes	9d. per lb.
	(2) Tobacco, unmanufactured, entered to be manufactured in New Zealand in any bonded tobacco-factory licensed under the Tobacco Act, 1908, on declaration that it will be used only in the manufacture of tobacco, cigars, or snuff	6d. per lb.
83	Ale, beer of all sorts, porter, cider, and perry, when containing more than 2 per cent. of proof spirit	1s. 3d. per gal.
84	Spirits, viz. :—	50 per cent. of the amount of the duties of Customs otherwise payable (exclusive of surtax).
	(1) Cordials, bitters, and liqueurs, when exceeding the strength of 40 per cent. of proof spirit, but not exceeding the strength of proof	
	(2) Cordials, bitters, and liqueurs, when exceeding the strength of proof	
	(3) Spirits, and spirituous mixtures, the strength of which can be ascertained by Sikes's hydrometer or other similar instrument, viz. :—	
	(a) <i>Rum</i>	
	(b) Other kinds	
	(4) Spirits, and spirituous mixtures, sweetened, n.e.i., when not exceeding the strength of proof	
	(5) Spirits, and spirituous mixtures, sweetened, n.e.i., when exceeding the strength of proof	
	(6) Spirits, and spirituous mixtures, containing more than 40 per cent. of proof spirit, but not exceeding the strength of proof, in combination with other ingredients	
	(7) Spirits, and spirituous mixtures, exceeding the strength of proof, in combination with other ingredients	
90	Wine containing not more than 40 per cent. of proof spirit, viz. :—	
	(1) Sparkling, all kinds	
	(2) Other kinds	
91	Wine of any kind containing more than 40 per cent. of proof spirit	

SECOND SCHEDULE.

GOODS WHICH, IF NOT EXEMPT FROM SALES TAX, ARE SUBJECT TO SALES TAX AT THE RATE OF 10 PER CENTUM OF THEIR SALE VALUE.

APPAREL, clothing, and hosiery, not including hats and other headwear except miners' and firemen's helmets.

Blankets of wool or containing wool.

Boots, shoes, sandals, slippers, and other footwear.

Sole leather.

Textile piece goods, of wool or containing wool.

Yarns of wool or containing wool.

Foodstuffs, viz. :—

Baking powder.

Coffee roasted.

Cream of tartar, and cream of tartar substitutes.

Gluten flour.

Tea.

Timber hewn, sawn or dressed, and joinery.

Tobacco manufactured, viz. :—

Cigars.

Snuff.

Tobacco, cut.

Tobacco, other manufactured.