

CUSTOMS ACTS AMENDMENT BILL

EXPLANATORY NOTE

THIS Bill amends the Customs Act 1966, the Sales Tax Act 1974, the Beer Duty Act 1977, the Distillation Act 1971, and the Motor Spirits Duty Act 1961.

Clause 1 relates to the Short Title.

PART I

CUSTOMS

Clause 2 provides that this Part of the Bill is to be read together with and deemed part of the Customs Act 1966.

Clause 3 is an amendment to the definition of the expression "tonnage" in section 2 of the Act. It aligns the definition to that in the Harbours Act 1950 and thereby brings it into line with the various definitions used in the Shipping and Seamen Act 1952.

Clause 4 is an amendment to section 42 of the Act and regularises the current practice of allowing ships coming from overseas to proceed directly to a wharf instead of anchoring first at a boarding station. This amendment allows a ship to go directly to a wharf unless directed by the Collector to a boarding station.

Clause 5 is an amendment to section 80A of the Act to clarify the law so as to allow the current practice of spirituous liquor made by the process of distillation or fermentation being used in the manufacture or processing of goods in a licensed manufacturing warehouse.

Clause 6 is an amendment to section 92 of the Act to allow conditions to be imposed by the Comptroller from time to time on warehouse licences and not manufacturing warehouse licences as at present.

Clause 7 is an amendment to section 120 of the Act to allow a variation of rates of duty in the Preferential Tariff to individual developing countries. At present, all developing country rates of duty are the same.

Clause 8 is an amendment to section 122 of the Act to allow the Minister to set a rate of duty not exceeding the Normal Tariff rate in the case of goods which can be admitted free of duty in the Customs Tariff. At present the Minister can in such a case only impose a rate of duty not exceeding 25 percent *ad valorem*.

Clause 9 revokes section 139 of the Act. With the introduction of the new Customs valuation of goods on 1 July this year, Customs invoices will no longer be required.

Clause 10 is an amendment to section 210 of the Act and allows Customs officers the right to patrol and pass freely along off-wharf containerbases, examining places, and transit buildings. At present the section limits such powers to those places adjoining the seashore.

Clause 11 is an amendment to section 236 of the Act which will permit vehicles subject to the control of the Customs being driven by the importer or his agent and not require, as at present, the services of a licensed Customs carrier.

Clause 12 amends section 266.

Subclause (1) allows the Collector to deal with petty offences related to imported goods under the Sales Tax Act 1974. At present it is confined to the Customs Act 1966. A further amendment extends the Collector's jurisdiction to include cases where the Customs duty or sales tax on imported goods would not exceed \$500. At present the Collector's jurisdiction is limited to goods whose value for Customs duty does not exceed \$500.

Subclause (2) increases from \$50 to \$200 the maximum amount the Collector can levy on a person admitting his guilt in relation to an offence and requesting to be dealt with by the Collector.

Clause 13 is an amendment to section 268 of the Act to allow the payment of rewards to informers who have given the Customs information which has led to the recovery of any money properly due to the Crown under the Customs Acts. At present, the section is limited to cases where a seizure of goods or prosecution occurs following the receipt of information.

Clause 14 is an amendment to section 272 of the Act to provide for the forfeiture of vessels and their equipment not exceeding 250 tons. At present forfeiture is limited to vessels of 50 tons.

Clause 15 is an amendment to section 275 to allow the seizure of prohibited, restricted, or unlawfully imported goods at any time after the cause of forfeiture has arisen. At present the section limits such seizure to a period of 2 years from which the cause of forfeiture arose.

Clause 16 increases the maximum fines payable in respect of certain offences, as set out in the Schedule to this Bill.

PART II

SALES TAX

Clause 17 provides that this Part is to be read with and deemed part of the Sales Tax Act 1974.

Clause 18 amends the definition of the term "retailer" in section 2 to include a person who is not exclusively engaged in selling goods by retail.

Clause 19 is an amendment to section 45 of the Act and makes it clear that the liquidator must, before setting aside a sum of money for payment of arrears of sales tax, pay the wages, salaries, and holiday pay of workers, as well as the liquidation costs. At present the position is unclear as to whether these payments in fact take priority.

Clause 20 is an amendment to section 49 by inserting the word "taxable" before the word "goods". This ensures that credits are only given on taxable goods and not on both taxable and exempt goods as at present.

Clause 21 increases the maximum fines payable in respect of certain offences.

PART III

BEER DUTY

Clause 22 provides that this Part is to be read with and deemed part of the Beer Duty Act 1977.

Clause 23 amends section 16 of the Act to allow beer brewed for export to be removed from the brewery on the lodging of an entry for removal to a licensed warehouse. At present, provision is made only for an entry for export to be lodged. This clause is consequential upon the new section 16A, as inserted by *clause 24* of the Bill.

Clause 24 inserts a new section 16A into the Act to allow beer brewed for export to be entered for removal to a licensed warehouse under the Customs Act 1966. At present the Act only allows for beer brewed for export to be entered for export and thereby required by the Customs Act 1966 to be directly exported. This amendment will allow beer to be entered into a licensed warehouse under the Customs Act 1966 before it is exported.

Clause 25 increases the maximum fines payable in respect of certain offences.

Clause 26 corrects a drafting error.

PART IV

DISTILLATION

Clause 27 provides that this Part is to be read with and deemed part of the Distillation Act 1971.

Clause 28 is an amendment to section 2 of the Act and inserts a definition of "wine" into the Act based on the definition of "wine" in section 2 of the Wine Makers Act 1981.

Clause 29 increases the maximum fines payable in respect of certain offences.

PART V

MOTOR SPIRITS DUTY

Clause 30 provides that this Part is to be read with and deemed part of the Motor Spirits Duty Act 1961.

Clause 31 increases the maximum fines payable in respect of certain offences.

Hon. Mr Templeton

CUSTOMS ACTS AMENDMENT

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A BILL INTITULED

An Act to amend the Customs Acts

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 and commencement—This Act may be cited as the Customs Acts Amendment Act 1982.

No. 4—1

PART I

CUSTOMS

2. This Part to be read with Customs Act 1966—This Part of this Act shall be read together with and deemed part of the Customs Act 1966* (in this Part referred to as the principal Act). 5

3. Interpretation—(1) Section 2 (1) of the principal Act is hereby amended by repealing the definition of the term “gross tonnage” (as inserted by section 2 of the Customs Amendment Act 1976 and amended by section 11 (2) of the Customs Acts Amendment Act (No. 2) 1977). 10

(2) Section 2 (1) of the principal Act is hereby further amended by inserting after the definition of the term “tobacco”, the following definition:

“‘Tonnage’, in relation to any ship, means the tonnage determined in accordance with section 100 of the Harbours Act 1950:” 15

(3) Section 2 of the Customs Amendment Act 1976 and section 11 (2) of the Customs Acts Amendment Act (No. 2) 1977 are hereby consequentially repealed. 20

4. Ships to proceed as directed—Section 42 (1) of the principal Act is hereby amended by repealing subsection (1), and substituting the following subsection:

“(1) The master of every ship arriving at any port from any country outside New Zealand shall cause his ship to proceed directly to a wharf or, if so directed by the Collector or other proper officer of Customs, to the boarding station appointed for that port under this Act, and shall by all reasonable means facilitate the safe access to and egress from the ship by the officers of Customs.” 25 30

5. Manufacturing warehouse licence—Section 80A (1) of the principal Act (as inserted by section 5 of the Customs Acts Amendment Act (No. 2) 1975) is hereby amended by omitting the words “spirituous liquor of a kind not produced by the process of distillation or fermentation”, and substituting the words “such liquor, other than by a process involving distillation or fermentation”. 35

*R.S. Vol. 2, p. 57

Amendments: 1979, No. 7, Part I; 1979, No. 137, Part I; 1980, No. 5, Part I; 1980, No. 33, Part I; 1981, No. 2, Part I; 1981, No. 6, Part I; 1981, No. 20

6. Restrictions on use of warehouses—Section 92 of the principal Act is hereby amended by omitting the words “manufacturing warehouse for the purpose of manufacture”, and substituting the word “warehouse”.

5 **7. Application of Tariff**—Section 120 of the principal Act (as substituted by section 5 of the Customs Acts Amendment Act (No. 2) 1977) is hereby amended by repealing subsection (4), and substituting the following subsection:

10 “(4) Where, by any Order in Council made under subsection (3) of this section, any country is declared to be a developing country for the purposes of this Act, the Governor-General may by the same or any subsequent Order in Council—

15 “(a) Declare that, in relation to any specified Tariff items, any rates of duty or exemptions from duty otherwise applicable to developing countries shall not apply to that country:

20 “(b) Modify the Tariff rates of duty applicable to goods from that country, in whole or in part, but so that such modification shall not have the effect of imposing on any goods a higher duty than set forth in respect of those goods in the Normal Tariff.”

25 **8. Variations of duties under powers of direction or approval**—Section 122 (1) of the principal Act (as substituted by section 6 (1) of the Customs Acts Amendment Act (No. 2) 1977) is hereby amended—

(a) By omitting the words “other than goods”:

30 (b) By omitting the words “a rate of 25 percent *ad valorem*”, and substituting the words “the rate which would otherwise be payable if no approval or direction had been given”.

9. Blank invoices—(1) The principal Act is hereby amended by repealing section 139 (as substituted by section 9 of the Customs Acts Amendment Act (No. 2) 1979).

35 (2) The Customs Acts Amendment Act (No. 2) 1979 is hereby consequentially amended by repealing section 9.

10. Patrolling sea coast and inspecting aerodromes—Section 210 (a) of the principal Act (as substituted by section 3 of the Customs Acts Amendment Act (No. 2) 1974) is hereby amended by omitting the words “including any Customs containerbase, examining places, wharfs, and

transit buildings thereon, immediately adjoining the seashore or such shores or banks”, and substituting the words “and any Customs containerbase, examining place, wharf, and transit building”.

11. Conveyance of goods subject to the control of the Customs—Section 236 (2) of the principal Act (as amended by section 37 of the Customs Acts Amendment Act (No. 2) 1977) is hereby further amended by inserting, after paragraph (c), the following paragraph:

“(ca) Vehicles that are subject to the control of the Customs and are driven by the importer or the exporter or his agent; or”.

12. Power of Collector to deal with petty offences—(1) Section 266 of the principal Act is hereby amended by repealing subsection (1) (as substituted by section 10 of the Customs Acts Amendment Act (No. 2) 1979), and substituting the following subsection:

“(1) This section applies to any offence against this Act or, in relation to imported goods, against the Sales Tax Act 1974 that is committed in relation to any goods the value of which does not exceed \$500 or on which any duty payable under this Act, or any sales tax payable under the Sales Tax Act 1974, does not exceed \$500.”

(2) Section 266 (2) of the principal Act is hereby amended by omitting the expression “\$50”, and substituting the expression “\$200”.

(3) The Customs Acts Amendment Act (No. 2) 1979 is hereby consequentially amended by repealing section 10.

13. Payment of rewards to informers—Section 268 of the principal Act (as substituted by section 10 (1) of the Customs Acts Amendment Act (No. 2) 1976) is hereby amended by inserting after the words “in relation to any such goods”, the words, “or to the recovery of any money properly due to the Crown under the Customs Acts”.

14. Vessels, vehicles, aircraft, and animals forfeited—(1) Section 272 of the principal Act (as substituted by section 11 (1) of the Customs Acts Amendment Act (No. 2) 1979) is hereby amended by omitting the words “gross tonnage that does not exceed 50 tons”, and substituting the words “tonnage that does not exceed 250 tons”.

(2) Section 273 of the principal Act (as amended by section 11 (2) of the Customs Acts Amendment Act (No. 2) 1979) is hereby further amended by omitting the words “gross tonnage that does not exceed 50 tons”, and substituting the 5 words “tonnage that does not exceed 250 tons”.

15. Seizure of forfeited goods—Section 275 (4) of the principal Act is hereby amended by adding the following proviso:

10 “Provided that goods which are forfeited by virtue of their being prohibited, restricted, or unlawfully imported goods may be so seized at any time after the cause of forfeiture has arisen.”

16. Penalties—The provisions of the principal Act specified in the Schedule to this Act are hereby amended in 15 the manner indicated in that Schedule.

PART II

SALES TAX

17. This Part to be read with Sales Tax Act 1974—This Part of this Act is to be read together with and deemed part of 20 the Sales Tax Act 1974* (in this Part referred to as the principal Act).

18. Interpretation—Section 2 (1) of the principal Act is hereby amended by repealing the definition of the expression “retailer”, and substituting the following definition:

25 “ ‘Retailer’ means a person (not being a wholesaler) who, whether exclusively or not, engages in the trade or business of selling goods:”.

19. Liquidator of company to give notice of winding up, and to provide for payment of tax—Section 45 of the 30 principal Act is hereby amended by repealing subsection (4), and substituting the following subsection:

“(4) Notwithstanding anything in this section, the liquidator shall, before setting aside any sum out of the assets to provide for any sales tax in accordance with the provisions 35 of this section, pay all the amounts set out in section 308 (1) (a) to (c) of the Companies Act 1955.”

*1974, No. 18

Amendments: 1974, No. 40; 1974, No. 142, Part II; 1975, No. 3, Part II; 1975, No. 38, Part II; 1976, No. 5, Part II; 1976, No. 142, Part II; 1977, No. 16, Part II; 1977, No. 85, Part II; 1978, No. 60, Part II; 1979, No. 79, Part II; 1979, No. 137, Part II; 1980, No. 5, Part II; 1980, No. 33, Part II; 1981, No. 2, Part II

20. Credit for sales tax paid on goods or materials purchased—Section 49 (1) of the principal Act (as substituted by section 8 of the Customs Acts Amendment Act (No. 2) 1974) is hereby amended by inserting in paragraph (a) and also in paragraph (b), before the words “goods purchased”, in each case the word “taxable”.

21. Penalties increased—(1) Section 11 of the principal Act (as amended by section 15 of the Customs Acts Amendment Act (No. 2) 1979) is hereby further amended by omitting the expression “\$200”, and substituting the expression “\$400”.

(2) Section 29 (3) of the principal Act is hereby amended by omitting the words “\$200 or the amount of the sale value of the taxable goods”, and substituting the words “\$500 or the amount of the total tax payable”.

(3) Section 80 (g) of the principal Act is hereby amended by omitting the expression “\$200”, and substituting the expression “\$400”.

PART III

BEER DUTY

22. This Part to be read with Beer Duty Act 1977—This Part of this Act shall be read together with and deemed part of the Beer Duty Act 1977* (in this Part referred to as the principal Act).

23. Delivery of beer brewed for export—The principal Act is hereby amended by repealing section 16, and substituting the following section:

“16. No beer brewed for export may be delivered from any brewery—

“(a) Until an export entry or an entry for removal under the Customs Act 1966 has been lodged with the Collector; or

“(b) Without the permission of the Collector under such conditions as he may require.”

24. Removal of beer brewed for export—The principal Act is hereby further amended by inserting, after section 16 (as amended by section 23 of this Act), the following section:

*1977, No. 71

Amendments: 1979, No. 137, Part III; 1980, No. 5, Part III; 1981, No. 2, Part III; 1981, No. 6, Part II

“16A. A Collector may permit beer brewed for export to be entered for removal under the Customs Act 1966 and to be delivered to a warehouse licensed under the Customs Act 1966 there to be dealt with under that Act:

- 5 “Provided that the Collector may permit the beer so delivered to be returned to the brewery at a later time, subject to such conditions as he may impose.”

25. Penalties increased—(1) Section 6 (3) of the principal Act is hereby amended by omitting the expression
10 “\$1,000”, and substituting the expression “\$2,000”.

(2) Section 38 (2) of the principal Act is hereby amended by omitting the expression “\$1,000”, and substituting the expression “\$2,000”.

(3) Section 48 (3) of the principal Act is hereby amended
15 by omitting the expression “\$200”, and substituting the expression “\$400”.

(4) Section 53 (i) of the principal Act is hereby amended by omitting the expression “\$200”, and substituting the expression “\$400”.

- 20 **26. Rates of duty on beer brewed in New Zealand**—Section 7 (2) (a) of the Customs Acts Amendment Act (No. 2) 1981 is hereby amended as from its commencement by omitting the expression “(No. 2)”.

PART IV

DISTILLATION

- 25 **27. This Part to be read with Distillation Act 1971**—This Part of this Act shall be read together with and deemed part of the Distillation Act 1971* (in this Part referred to as the principal Act).

- 30 **28. Interpretation**—Section 2 of the principal Act is hereby amended by inserting, after the definition of the term “wash”, the following definition:

“ ‘Wine’ has the same meaning as in section 2 of the Wine Makers Act 1981:”.

*1971, No. 38

Amendments: 1974, No. 4, Part III; 1976, No. 5, Part III; 1976, No. 142, Part IV; 1977, No. 16, Part IV; 1977, No. 85, Part III; 1979, No. 137, Part IV; 1980, No. 5, Part IV; 1980, No. 33, Part III; 1981, No. 2, Part IV; 1981, No. 6, Part III

29. Penalties increased—(1) Section 8 (3) (a) of the principal Act is hereby amended by omitting the expression “\$1,000”, and substituting the expression “\$2,000”.

(2) Section 37 (2) of the principal Act is hereby amended by omitting the expression “\$500”, and substituting the expression “\$1,000”. 5

(3) Section 39 (2) of the principal Act is hereby amended by omitting the expression “\$500”, and substituting the expression “\$1,000”.

(4) Section 86 (3) (a) of the principal Act is hereby amended by omitting the expression “\$1,000”, and substituting the expression “\$2,000”. 10

(5) Section 87 of the principal Act is hereby amended by omitting the expression “\$500”, and substituting the expression “\$1,000”. 15

(6) Section 88 of the principal Act is hereby amended by omitting the expression “\$200”, and substituting the expression “\$400”.

(7) Section 98 (g) of the principal Act is hereby amended—

(a) By omitting the expression “\$200”, and substituting the expression “\$400”: 20

(b) By omitting the expression “\$20”, and substituting the expression “\$40”.

PART V

MOTOR SPIRITS DUTY

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30. This Part to be read with Motor Spirits Duty Act 1961—This Part of this Act shall be read together with and deemed part of the Motor Spirits Duty Act 1961* (in this Part referred to as the principal Act).

31. Penalties increased—(1) Section 5 (2) of the principal Act is hereby amended— 30

(a) By omitting the expression “\$1,000”, and substituting the expression “\$2,000”:

(b) By omitting the expression “\$40”, and substituting the expression “\$100”. 35

(2) Section 22 (2) of the principal Act is hereby amended by omitting the expression “\$200”, and substituting the expression “\$400”.

*1961, No. 10

Amendments: 1963, No. 37, Part III; 1966, No. 96, Part II; 1967, No. 2, Part IV; 1974, No. 4, Part IV; 1975, No. 3, Part III; 1976, No. 142, Part V; 1978, No. 2, Part II; 1978, No. 60, Part III; 1979, No. 137, Part V

SCHEDULE

Section 16

AMENDMENTS TO CUSTOMS ACT 1966

Provision Amended	How Amended
Section 35A (6) (as substituted by section 17 (1) of the Customs Acts Amendment Act (No. 2) 1977)	By omitting the expression "\$1,000", and substituting the expression "\$2,000".
Section 36 (2)	... By omitting the expression "\$1,000", and substituting the expression "\$2,000".
Section 37 (3)	... By omitting the expression "\$1,000", and substituting the expression "\$2,000".
Section 38 (7)	... By omitting the expression "\$1,000", and substituting the expression "\$2,000".
Section 39 (3)	... By omitting the expression "\$1,000", and substituting the expression "\$2,000".
Section 40 By omitting the expression "\$400", and substituting the expression "\$800".
Section 41 (2)	... By omitting the expression "\$400", and substituting the expression "\$800".
Section 42 (2)	... By omitting the expression "\$200", and substituting the expression "\$400".
Section 43 (3)	... By omitting the expression "\$200", and substituting the expression "\$400".
Section 44 (4)	... By omitting the expression "\$200", and substituting the expression "\$400".
Section 45 (3)	... By omitting the expression "\$200", and substituting the expression "\$400".
Section 45 (4)	... By omitting the expression "\$500", and substituting the expression "\$1,000".
Section 46 (2)	... By omitting the expression "\$200", and substituting the expression "\$400".
Section 52 (3)	... By omitting the expression "\$200", and substituting the expression "\$400".
Section 59 (2)	... By omitting the expression "\$200", and substituting the expression "\$400".
Section 65 (2)	... By omitting the expression "\$200", and substituting the expression "\$400".
Section 68 (3)	... By omitting the expression "\$200", and substituting the expression "\$400".
Section 71 (2)	... By omitting the expression "\$200", and substituting the expression "\$400".
Section 93 (2)	... By omitting the expression "\$200", and substituting the expression "\$400".
Section 100 (2)	... By omitting the expression "\$10", and substituting the expression "\$20".
Section 118 By omitting the expression "\$200", and substituting the expression "\$400".
Section 185 (2)	... By omitting the expression "\$400", and substituting the expression "\$800".

SCHEDULE—*continued*AMENDMENTS TO CUSTOMS ACT 1966—*continued*

Provision Amended	How Amended
Section 187 (2) ...	By omitting the expression "\$200", and substituting the expression "\$400".
Section 204 (3) ...	By omitting the expression "\$200", and substituting the expression "\$400".
Section 205 (3) ...	By omitting the expression "\$10", and substituting the expression "\$20".
Section 209 (2) ...	By omitting the expression "\$400", and substituting the expression "\$800".
Section 212 (2) ...	By omitting the expression "\$200", and substituting the expression "\$400".
Section 218 (4) ...	By omitting the expression "\$400", and substituting the expression "\$800".
Section 241 ...	By omitting the expression "\$200", and substituting the expression "\$400".
Section 242 ...	By omitting the expression "\$400", and substituting the expression "\$800".
Section 243 ...	By omitting the expression "\$400", and substituting the expression "\$800".
Section 244 ...	By omitting the expression "\$200", and substituting the expression "\$400".
Section 245 ...	By omitting the expression "\$200", and substituting the expression "\$400".
Section 247 ...	By omitting the expression "\$400", and substituting the expression "\$800".
Section 248 (2) ...	By omitting the expression "\$400", and substituting the expression "\$800".
Section 248A (as inserted by section 7 of the Customs Amendment Act 1973)	By omitting the expression "\$200", and substituting the expression "\$400".
Section 250 ...	By omitting the expression "\$1,000", and substituting the expression "\$2,000".
Section 251 (1) ...	By omitting the expression "\$400", and substituting the expression "\$800".
Section 252 (2) ...	By omitting the expression "\$400", and substituting the expression "\$800".
Section 253 ...	By omitting the expression "\$400", and substituting the expression "\$800".
Section 254 ...	By omitting the expression "\$400", and substituting the expression "\$800".
Section 255 ...	By omitting the expression "\$200", and substituting the expression "\$400".
Section 262 ...	By omitting the expression "\$100", and substituting the expression "\$200".
Section 307 ...	By omitting the expression "\$200", and substituting the expression "\$400".