

[AS REPORTED FROM THE COMMERCE AND ENERGY COMMITTEE]

House of Representatives, 21 July 1982.

Words struck out are shown in italics within bold round brackets, or with black rule at beginning and after last line; words inserted are shown in roman underlined with a double rule, or with double rule before first line and after last line.

[AS REPORTED FROM THE COMMITTEE OF THE WHOLE HOUSE]

House of Representatives, 19 November 1982.

Words inserted are shown with triple rule before first line and after last line.

Hon. Mr Allen

CUSTOMS ACTS AMENDMENT

ANALYSIS

Title	18. Interpretation	
1. Short Title and commencement	19. Liquidator of company to give notice of winding up, and to provide for payment of tax	
PART I		
CUSTOMS		
2. This Part to be read with Customs Act 1966	20. Credit for sales tax paid on goods or materials purchased	
3. Interpretation	21. Penalties increased	
4. Ships to proceed as directed	PART III	
5. Manufacturing warehouse licence	BEER DUTY	
6. Restrictions on use of warehouses	22. This Part to be read with Beer Duty Act 1977	
7. Application of Tariff	23. Delivery of beer brewed for export	
8. Variations of duties under powers of direction or approval	24. Removal of beer brewed for export	
9. Blank invoices	25. Penalties increased	
10. Patrolling sea coast and inspecting aerodromes	26. Rates of duty on beer brewed in New Zealand	
11. Conveyance of goods subject to the control of the Customs	PART IV	
12. Power of Collector to deal with petty offences	DISTILLATION	
13. Payment of rewards to informers	27. This Part to be read with Distillation Act 1971	
14. Vessels, vehicles, aircraft, and animals forfeited	28. Interpretation	
15. Seizure of forfeited goods	29. Penalties increased	
16. Penalties	PART V	
PART II		
SALES TAX		
17. This Part to be read with Sales Tax Act 1974	MOTOR SPIRITS DUTY	
	30. This Part to be read with Motor Spirits Duty Act 1961	
	31. Penalties increased Schedule	

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:

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1. Short Title (and commencement)—This Act may be cited as the Customs Acts Amendment Act 1982.

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). 10

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). 15

(2) Section 2 (1) of the principal Act is hereby further amended by inserting after the definition of the term “tobacco”, the following definition: 20

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

(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. 25

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: 30

“(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.” 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

5 **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”.

10 **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”.

15 **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:

20 “(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—

“(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:

25 “(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.”

30 **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”:
 35 (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”.

New

8A. Dumping duty—(1) Section 129 (14) (a) of the principal Act (as added by section 4 of the Customs Amendment Act 1981) is hereby amended by omitting from subparagraph (i) of the proviso the words “or because of any special arrangement concerning the export of the goods or the exclusive right to their sale within certain territorial limits, or because of any royalty payable on patent rights but not payable when goods are so exported.” 5

(2) Section 129 (14) (a) of the principal Act (as so added) is hereby further amended by adding to the proviso the following subparagraph: 10

“(iv) The value of such goods shall be adjusted by the Minister to take account of differences (if any) in terms and conditions of sale, taxation, or other factors which affect a comparison with the export selling price of the goods.” 15

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). 20

(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”. 25 30

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: 35

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

“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 the manner indicated in that Schedule.

PART II

SALES TAX

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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 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:

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

15

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

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“(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 of this section, pay all the amounts set out in section 308 (1) (a) to (c) of the Companies Act 1955.”

25

New

“(4) Notwithstanding anything in this section, the liquidator shall, before setting aside and paying to the Collector any sum out of the assets to provide for any sales tax in accordance with the foregoing provisions of this section, retain such sums as may be necessary for the payment of—

30

“(a) The costs and expenses of the winding up; and

“(b) The preferential debts set out in paragraphs (a), (b), (c), and (ca) of subsection (1) of section 308 of the Companies Act 1955:

35

“Provided that the sum retained under this paragraph shall be subject to subsections (2), (3), (4), and (5) of the said section 308.”

*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 5 (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 10 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 15 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

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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).

25 **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—

30 “(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.”

*1977, No. 71

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

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:

“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.” 10

25. Penalties increased—(1) Section 6 (3) of the principal Act is hereby amended by omitting the expression “\$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”. 15

(3) Section 48 (3) of the principal Act is hereby amended 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)”. 25

PART IV

DISTILLATION

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: 35

“‘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

New

28A. Wines above strength to be forfeited—Section 49 of the principal Act (as amended by section 26 of the Customs Acts Amendment Act 1981) is hereby further amended by
 5 omitting the words “distilled by a vigneron pursuant to his licence”.

28B. Spirits for fortifying wine—Section 67 of the principal Act (as amended by section 44 of the Customs Acts Amendment Act (No. 2) 1977 and section 33 of the Wine
 10 Makers Act 1981) is hereby further amended—

(a) By inserting, after the words “a vigneron’s licence and”, the words “any other spirits and in either case”:

(b) By inserting in the proviso after the words “more
 15 spirits”, the words “distilled under the authority of his vigneron’s licence”.

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”.

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

(3) Section 39 (2) of the principal Act is hereby amended
 25 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”.

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

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

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

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

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

PART V

MOTOR SPIRITS DUTY

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). 5

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

- (a) By omitting the expression “\$1,000”, and substituting the expression “\$2,000”:
- (b) By omitting the expression “\$40”, and substituting the expression “\$100”. 10

(2) Section 22 (2) of the principal Act is hereby amended by omitting the expression “\$200”, and substituting the expression “\$400”. 15

*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

Section 16

SCHEDULE

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”.

SCHEDULE—continued

AMENDMENTS TO CUSTOMS ACT 1966—continued

Provision Amended	How Amended
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".
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".

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

Provision Amended	How Amended
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".