

CUSTOMS ACTS AMENDMENT BILL (NO. 2)

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.

In particular new dumping duty and countervailing duty provisions are included.

Clause 1 relates to the Short Title of the Bill.

PART I CUSTOMS

Clause 3 amends section 9 of the Customs Act 1966 to allow the Collector of Customs to delegate his powers in the same manner as the Minister and the Comptroller can delegate their powers at present.

Clause 4 amends section 32 by inserting a new subsection (8) to allow the Governor-General, by Order in Council, to make regulations prescribing an annual fee to be paid by operators of examining places.

Clause 5 repeals sections 58 and 59 and substitutes a new section 58 which, although substantially repeating the contents of the repealed sections, streamlines the existing law relating to the making of sight entries in cases where a complete entry cannot immediately be made.

Clause 6 amends section 70 (7), relating to prohibited exports, by aligning the forfeiture of goods in that section to the commission of an offence under that section. This brings section 70 into line with the provisions relating to the forfeiture and offence provisions relating to prohibited imports in both section 48 (11) of the principal Act and section 16C (5) of the Trade and Industry Act 1956.

Clause 7 re-enacts section 123 to correct an error in the reprint of the principal Act.

Clause 8 amends section 137 to give power to the Collector or other proper officer to conduct an audit of documents relating to any commercial importation within 12 months of that importation.

Clause 9 amends section 158 by providing that where a dispute arises as to whether or not goods are within a Minister's approval or determination for the purposes of the Tariff, that dispute is to be resolved by the Minister and his decision is to be final.

Clause 10 amends section 181 to make it clear that duty on goods temporarily imported for industrial or commercial purposes is to be valued for duty not only when those goods are exported but also in the other situations specified in that section.

Clause 11 amends the principal Act by repealing the present provisions relating to dumping duty and substituting a new Part VA (sections 186A to 186E) setting out separate provisions relating to dumping duty and countervailing duty.

The new section 186A sets out the circumstances in which dumping duty may be imposed by the Minister. Subsection (5) is new and provides that the Minister may suspend his consideration of imposing dumping duty in relation to any consignment of goods if he is given and accepts a price undertaking by the exporter.

The new section 186B defines normal value and the new section 186C defines export price for the purposes of the new Part.

The new section 186D sets out the circumstances in which countervailing duty may be imposed by the Minister, basically where subsidies, bounties, or concessions have been allowed in the manufacture, production, or export of goods. Subsection (4) provides that the Minister may consult the Government of the country of export to New Zealand with a view to arriving at a mutually acceptable solution before imposing the duty.

The new section 186E provides for the imposition of provisional dumping duty and countervailing duty.

Clauses 12, 13, and 14 amend sections 205 (1), 206, and 207, respectively, which all deal with the boarding and searching of ships and aircraft by Customs officers. These amendments extend each of these provisions to any person acting in the aid of a Customs officer.

Clause 15 inserts a new section 215A in the principal Act providing that every provision in any of the Customs Acts giving any officer power to enter any building is to be subject to the following conditions:

- (a) Reasonable notice of the intention to enter is to be given, except where it would frustrate the purpose of the entry;
- (b) Entry is to be made at a time reasonable in the particular circumstances;
- (c) Identification is to be produced on initial entry and, if requested, at any subsequent time;
- (d) Authority for the entry and the purpose of the entry are to be stated.

Clause 16: Subclause (1) provides that the Customs warrant may now be used where an officer has reasonable cause to believe that there are any goods, books, or other documents which are evidence as to the commission of any offence against any of the Customs Acts in the premises.

Subclause (2): At present use of the Customs warrant to enter any premises is authorised by the Collector. Under this subclause the use of the warrant is normally to be sanctioned by a District Court Judge, Justice of the Peace, or a Registrar or Deputy Registrar of any Court on application made in writing on oath.

If however the case is one of great emergency where immediate action is necessary, the Collector may sanction the use of the Customs warrant.

The subclause also provides that on each occasion that the Customs warrant is used, the Collector is, within 3 days, to furnish the Comptroller with a written report on the use of the Customs warrant and the circumstances in which it came to be exercised.

Clause 17 empowers any officer of Customs or member of the Police, who is carrying out any lawful search, inspection, or examination under the Customs Acts or otherwise, and who has reasonable grounds to believe that any documents or goods coming into his possession during such search, inspection, or examination are evidence of an offence against any of the Customs Acts, to remove the documents or goods. In the case of documents he may either make copies, and return the originals, or may impound and retain the originals and return copies, and in the case of goods, may impound and retain the goods.

It also provides, in a similar manner to that provided in respect of things seized under a search warrant issued under the Summary Proceedings Act 1957, for appropriate procedures for the ultimate return or disposal of the goods and documents which have been impounded.

Clause 18 amends section 248 to ensure that it is an offence to interfere not only with imported goods, but with any goods subject to the control of the Customs.

Clause 19 amends section 266 (2) to make a consequential reference to the Sales Tax Act 1974, following amendments made to that section in 1982 to include sales tax.

Clause 20 amends section 279 (1) by adding a proviso to the effect that goods are not deemed to be condemned if at a later stage forfeiture is found not to have occurred. In such a case, the Comptroller is given power to restore the goods to the person entitled to them.

Clause 21 amends section 280 (6) to allow a Judge of the High Court to enter judgment of condemnation where a statement of defence is filed in response to an information *in rem*, but no person appears in Court to answer that information.

Clause 22 rewrites section 282 to provide that condemnation proceedings in the District Court are to be proceeded with as if they were civil proceedings rather than as criminal proceedings pursuant to the Summary Proceedings Act 1957 as at present. This will bring the section into line with the civil procedure available in High Court condemnation proceedings pursuant to section 280.

Clause 23 amends section 283 (1) to provide that condemnation of goods can occur independently of any later conviction by the District Court.

Clause 24 increases various penalty provisions set out in the *First Schedule* to the Bill.

Clause 25 amends the *First Schedule* to the principal Act by providing that bona fide gifts made in overseas prisons and sent to persons in New Zealand are not prohibited imports for the purposes of the Customs Act 1966.

Clause 26 amends the *Third Schedule* to ensure that all goods specified in the *Third Schedule* that are contained in ornamental containers are to pay excise duty at the rate applicable to those goods under that Schedule.

Clause 27 repeals the Trade Agreement (New Zealand and Canada) Ratification Act 1932, which has now been superseded by a new trade agreement between both countries.

PART II

SALES TAX

Clause 29 amends section 2 of the Sales Tax Act 1974 by making various amendments to the definitions of the expressions “contractor”, “manufacturing retailer”, and “wholesaler”, to make it clearer into which definitions various persons fall for the purposes of the Act.

Clause 30 amends section 12 (1) (a) (i) to make it clear that there is a liability for sales tax on goods, not only entered for home consumption as at present, but for goods delivered for home consumption without necessarily having been so entered, e.g., passengers’ baggage and goods arriving through parcels post.

Clause 31 amends section 26 (c) to remove an ambiguity.

Clause 32 amends section 27 by making it clear that sales tax is payable to a Collector or other proper officer.

Clause 33 amends section 31 by making it clear when sales tax is assessable and payable on imported goods.

Clause 34 amends section 34 to make it clear that sales tax on goods temporarily imported for industrial or commercial purposes is payable not only when those goods are exported but also in the other situations specified in that section.

Clause 35 amends section 37 to provide for additional sales tax to be paid on imported goods when sales tax remains outstanding after the date of its assessment under section 31 of this Act.

Clauses 36 and 39 make minor consequential amendments to section 49 (2) and the First Schedule to the principal Act, respectively, resulting from other amendments made in 1982.

Clause 37 amends the provisions relating to sales tax warrants in the same manner as *clause 16* amends the provisions relating to Customs warrants.

Clause 38 increases various penalty provisions set out in the *Second* Schedule to the Bill.

Clause 40 repeals spent provisions relating to sales tax.

PART III

BEER DUTY

Clause 42 amends section 37 (2) and (3) of the Beer Duty Act 1977 by omitting all reference to the Department of Scientific and Industrial Research, and substituting a reference to a laboratory approved by the Comptroller.

PART IV

DISTILLATION ACT

Clause 44 makes a similar change to duty charged under the Distillation Act 1971 as that made by *clause 26* in relation to excise duty.

PART V

MOTOR SPIRITS DUTY

Clause 46 provides that the Governor-General may by Order in Council authorise the remission or refund of motor spirits duty paid in respect of motor spirits supplied in New Zealand solely for the use of such organisations, expeditions, or other bodies as may be approved by the Minister and may be established or temporarily based in New Zealand under any agreement entered into by the Government of New Zealand with the Government of any other country or with the United Nations, or for the use of members thereof temporarily resident in New Zealand.

Hon. Mr Allen

CUSTOMS ACTS AMENDMENT (NO. 2)

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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:

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1. Short Title—This Act may be cited as the Customs Acts Amendment Act (No. 2) 1983.

PART I

CUSTOMS

2. This Part to be read with Customs Act 1966—This Part 10 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).

3. Delegation of powers—(1) Section 9 of the principal Act is hereby amended by inserting, after subsection (2), the 15 following subsection:

“(2A) With the written consent of the Comptroller, a Collector may similarly delegate to any officer of Customs all or any of the powers (except this present power of delegation) exercisable by him under the Customs Acts.” 20

(2) Section 9 of the principal Act is hereby further amended by inserting, after the words “or the Comptroller” wherever they occur in subsections (3), (6), and (7), in each place the words “or a Collector”.

4. Examining places—Section 32 of the principal Act (as 25 substituted by section 4 of the Customs Acts Amendment Act (No. 2) 1976 and amended by section 4 of the Customs Acts Amendment Act (No. 2) 1979) is hereby amended by inserting, after subsection (7), the following subsection:

“(8) The Governor-General may from time to time, by Order 30 in Council, make regulations prescribing examining places or any class or classes of examining places in respect of which annual fees are payable, the amount of the fees, and the persons liable to pay them.”

*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; 1982, No. 9, Part I; 1982, No. 112, Part I; 1982, No. 126; 1983, No. 5, Part I

5. Sight entries—(1) The principal Act is hereby further amended by repealing section 58, and substituting the following section:

“58. (1) Notwithstanding anything in section 53 of this Act, but subject to this section, if the importer cannot immediately supply the full particulars for making entry of goods as required by section 53 of this Act, he may make a sight entry in the prescribed form.

“(2) A sight entry on being passed by the Collector shall be warrant for dealing with the goods in such manner as may be approved by the Collector.

“(3) The Collector may, if he thinks fit, deliver goods from the control of the Customs for home consumption in pursuance of a sight entry and the goods so delivered shall be deemed to have been entered for home consumption, but only on receiving such security as he thinks sufficient to cover the full amount of duty, sales tax, surtax, and import deposit which would otherwise be payable on making complete entry.

“(4) Complete entry of the goods shall thereafter be made by the importer of the goods within such time as the Collector appoints and in the same manner as if complete entry had been made at the time of the passing of the sight entry.

“(5) Every person who acts in contravention of any provision of this section commits an offence and shall be liable to a fine not exceeding \$400, and the goods may be dealt with by the Collector as if no sight entry had been made.”

(2) Section 59 of the principal Act is hereby consequentially repealed.

6. Prohibited exports—The principal Act is hereby further amended by repealing section 70 (7), and substituting the following subsection:

“(7) Any goods in respect of which any offence against this section is committed shall be forfeited.”

7. Alterations to nomenclature—(1) The principal Act is hereby further amended by repealing section 123 (as substituted by section 7 of the Customs Acts Amendment Act (No. 2) 1977), and substituting the following section:

“123. (1) The Governor-General may from time to time, by Order in Council, amend the Tariff—

“(a) By revoking, or amending any heading, heading number, subheading, item, or item number, or the title of any Part, section, chapter, or subchapter of the Tariff, or by inserting any new heading, heading

number, subheading, item, item number, or title, in such manner as he thinks necessary for the purpose of ensuring that the Tariff conforms to any international nomenclature; or

“(b) By revoking, suspending, or amending any provision of the notes forming part of the Tariff, or by inserting any new provision in the notes, for the purpose of ensuring the proper operation of the Tariff; or

“(c) By revoking, suspending, or amending any statistical requirement of the Tariff.

“(2) Notwithstanding anything in **subsection (1) (c)** of this section, the Minister may, by notice in the *Gazette*, revoke, suspend, or amend any statistical requirement in the Tariff.

“(3) The statistical requirements of the Tariff shall be those set out in the columns headed ‘Statistical Key’ in the Tariff, including any amendment thereof that may hereafter be made.

“(4) No amendment made pursuant to this section shall alter the duties or exemptions from duty applicable to goods classified under any item or heading so amended.”

(2) The Customs Acts Amendment Act (No. 2) 1977 is hereby consequentially amended by repealing section 7.

(3) This section shall be deemed to have come into force on the 16th day of December 1977, being the date on which the Customs Acts Amendment Act (No. 2) 1977 received the Governor-General’s assent.

8. Valuation declaration and other documentary evidence of value—Section 137 of the principal Act (as substituted by section 6 of the Customs Amendment Act 1981) is hereby amended by adding the following subsections:

“(4) Unless the Comptroller otherwise directs in relation to any class or classes of goods or transactions, every importer, or such other person as may be prescribed, who is required pursuant to this Act to make entry of any goods, shall keep all documents, or legible copies thereof, which evidence the particulars of the goods and the price paid or payable for those goods between the seller of the goods and the buyer of the goods for a period of not less than 12 months from the date on which such entry was required to be made under this Act.

“(5) Subject to any conditions that the Collector may impose, any importer, or such other person as may be prescribed, who is required pursuant to **subsection (4)** of this section to keep documents or legible copies thereof as aforesaid, may, in lieu thereof, transfer the information contained therein on to or into any mechanical or electronic device and shall keep that

information for a period of not less than 12 months from the date on which the entry was required to be made under this Act.

“(6) The Collector or other proper officer may enter the
5 business premises of the importer or such other person as may be prescribed to examine any document or legible copy thereof required to be kept pursuant to **subsection (4)** of this section, or information required to be kept pursuant to **subsection (5)** of this section, and require him to truly answer all questions
10 put to him by the Collector or other proper officer relating to such document or legible copy thereof, or information as aforesaid, and in the case of any information transferred on to or into any mechanical or electronic device pursuant to
15 **subsection (5)** of this section, require him to operate the mechanical or electronic device at his own expense so as to allow the Collector or other proper officer to readily ascertain the information contained therein.

“(7) Every person who fails to comply with this section commits an offence and shall be liable to a fine not exceeding
20 \$400.”

9. Approvals and determinations under Tariff—Section 158 of the principal Act is hereby amended by adding the following subsection:

“(2) If any dispute arises as to whether any approval or
25 determination has been given or made by the Minister in respect of goods of any class or kind under any provision in the Tariff, such dispute shall be determined by the Minister in such manner as he thinks just, and his decision shall be final.”

30 **10. Goods temporarily imported**—Section 181 (4) of the principal Act (as substituted by section 8 of the Customs Acts Amendment Act (No. 2) 1980) is hereby amended by repealing subsection (4), and substituting the following subsection:

“(4) Where in any case goods temporarily imported are used
35 for industrial or commercial purposes or such other purposes as the Minister may consider applicable, duty shall be payable in respect of the goods on the amount by which their value for duty, as determined by the Collector at the time that he is satisfied, pursuant to subsection (2) of this section, that the

goods have been dealt with under any of paragraphs (a) to (f) of that subsection, is less than their value for duty, as ascertained in accordance with this Act, at the time of their importation.”

11. New Part VA inserted—(1) The principal Act is hereby further amended by inserting, after section 186, the following Part:

“PART VA

“DUMPING AND COUNTERVAILING DUTIES

“186A. **Dumping duty**—(1) The Comptroller may initiate an investigation on being satisfied that there is sufficient evidence of the elements of dumping set out in this section.

“(2) Where, pursuant to an investigation under **subsection (1)** of this section, the Minister forms the opinion that the importation into New Zealand from any country of any goods of a class or kind produced or manufactured or intended to be produced or manufactured in New Zealand, or in any other country which is a contracting party to the General Agreement on Tariffs and Trade, causes or is likely to cause material injury to any industry in New Zealand or in the other country, or materially retards the establishment of any industry in New Zealand or in that other country, the Minister may, from time to time by notice in the *Gazette*, direct that there shall, in addition to any other duties of Customs, be imposed on any such goods imported into New Zealand a special duty of Customs (in this Act referred to as a dumping duty) and such duty shall be levied, collected, and paid in respect of any such goods in any of the following cases, namely:

“(a) If the export price of the goods to any importer is less than their normal value determined in accordance with **section 186B** of this Act:

“(b) If the export price of the goods to any importer is, in the opinion of the Minister, less than the cost of production, with an amount for administrative and selling costs, profit, and any charges added thereto, of similar goods in the country of origin or the country of exportation to New Zealand at the time of such exportation:

“(c) If the Minister is satisfied that goods exported to New Zealand have been carried, whether within the country of exportation for the purpose of exporting the goods to New Zealand or from the country of exportation to New Zealand or both, without a charge for freight, or there has been allowed, taken,

or granted any special concession in freight (whether by way of remission, reduction, rebate, refund, or otherwise):

5 “(d) If the Minister is satisfied that, because of an association in business or a compensatory agreement between the exporter or a third party, the goods are being sold on the open market in New Zealand at a loss, or at a profit lower than the profit normally made on sales on the open market of identical or
10 equivalent goods.

“(3) The rate or amount of dumping duty levied under this section shall be determined as follows:

15 “(a) In the case of goods to which **subsection (2) (a)** of this section applies, the dumping duty shall be a rate or amount to be determined by the Minister, not exceeding the difference between the export price of the goods and their normal value:

20 “(b) In the case of goods to which **subsection (2) (b)** of this section applies, the dumping duty shall be a rate or amount to be determined by the Minister, not exceeding the difference between the export price of the goods and the cost of production, with a reasonable amount for administrative and selling costs, profit, and any charges added thereto, of
25 similar goods in the country of origin or (as the case may require), the country of exportation to New Zealand at the time of such exportation:

30 “(c) In the case of goods to which **subsection (2) (c)** of this section applies, the dumping duty shall be a rate or amount to be determined by the Minister, not exceeding the amount of the reduction, rebate, refund or other allowance in freight referred to in the said **subsection (2) (c)**:

35 “(d) In the case of goods to which **subsection (2) (d)** of this section applies, the dumping duty shall be a rate or amount to be determined by the Minister, not exceeding the difference between the price at which the goods are being sold on the open market in
40 New Zealand and such selling price as the Minister may determine, having regard to the profit margin normally made by an independent seller in New Zealand on sales of identical or equivalent goods to an independent purchaser:

45 “Provided that the amount or rate of dumping duty levied under this section shall not exceed a rate or amount which in the opinion of the Minister is sufficient to remove the material injury referred to in **subsection (2)** of this section.

“(4) For the purposes of this Part of this Act, the Minister may determine the rate or amount of the special concession in freight to which **subsection (2) (c)** of this section relates.

“(5) Where, in relation to the exportation of any consignment of goods to New Zealand, the Minister is considering whether a dumping duty should be imposed under **subsection (1)** of this section, the Minister may suspend his consideration of that consignment if he is given and accepts an undertaking by the exporter that the exporter will so conduct his future export trade to New Zealand in goods of the same kind as the goods in the consignment as to avoid causing or threatening material injury to any industry in New Zealand or any other country which is a contracting party to the General Agreement on Tariffs and Trade or to avoid materially retarding the establishment of any industry in New Zealand or in that other country:

“Provided that the Minister may—

“(a) Be given and accept any amendment to an undertaking because of altered circumstances; and

“(b) In the event of an interested party offering satisfactory evidence substantiating the need for a review, or otherwise at the Minister’s own initiative, at any time decide that the need for an undertaking no longer exists and that the investigation is accordingly terminated.

“(6) For the purposes of this Part of this Act, 2 persons shall be deemed to be associated in business with each other if, whether directly or indirectly, either of them has any interest in the business or property of the other, or both have a common interest in any business or property, or some third person has an interest in the business or property of both of them.

“(7) For the purposes of **subsections (2) (d) and (3) (d)** of this section, the goods referred to as being sold on the open market in New Zealand shall include not only such goods sold in the same state as imported, but also any goods sold in New Zealand which use such goods, either in a further form of manufacture, or mixed with, in combination with, or sold in conjunction with any other goods, whether imported or otherwise.

“(8) If at any time it appears to the Minister that the payment of any dumping duty is being evaded or avoided by the importation of any goods otherwise than on sale or in any other manner, he may determine, for the purposes of this section, the normal value of the goods in accordance with **section 186b** of this Act, and the export price thereof in accordance with **section 186c** of this Act, and dumping duty may be levied accordingly.

“(9) The Minister may, by notice in the *Gazette*, revoke any notice made under the authority of this section, and, upon revocation, dumping duty imposed by that notice shall cease to be payable.

5 “(10) Any direction given under this section may, in the discretion of the Minister, require the imposition of dumping duty on goods imported into New Zealand before the date on which the direction is given, except goods imported earlier than 90 days immediately preceding—

10 “(a) The date on which the Collector has received from any person a written complaint that he has been or will be materially injured by the dumping of any of the goods to which the direction relates; or

15 “(b) The date of the giving of a provisional direction in respect of the goods under **section 186E** of this Act; or

“ (c) The date of the giving of the direction.

“(11) Every determination of the Minister made under the authority of this section shall be final.

20 “(12) Subject to the Official Information Act 1982, the Comptroller, upon request, shall afford any interested party to an investigation access to all relevant information and the Comptroller shall take into account any views expressed by any such interested party.

25 “**186B. Normal value**—(1) For the purposes of this Part of this Act, the normal value of goods shall, subject to this section, be taken to be the price of like goods when sold by the exporter—

30 “(a) In the ordinary course of business for home consumption in the country of exportation:

“ (b) In the same or substantially the same quantities as the sale of the goods to the importer:

35 “ (c) To purchasers with whom the exporter is not associated, and who are at the same or substantially the same trade level as the importer,—

adjusted to reflect any differences in terms and conditions of sale, in taxation, and in price comparability between the goods sold to the importer and the like goods sold by the exporter.

40 “(2) In determining the normal value of any goods under this section there shall not be taken into account—

45 “(a) Any sale of like goods for home consumption by the exporter to a buyer in the country of exportation if the exporter did not, at the same or substantially the same time, sell like goods in the ordinary course of business to other persons in the country of exportation at the same trade level as and not associated with the buyer; or

“(b) Any sale of like goods that forms part of a series of sales of goods at prices that do not provide for recovery within a reasonable period of time of the cost of production of the goods, with a reasonable amount for administrative and selling costs, profit, and any charges added thereto. 5

“(3) If there was not a sufficient number of sales of like goods made by the exporter by reason of the fact that the exporter sold goods solely or primarily for export, or the like goods sold by the exporter for home consumption in the country of exportation were sold to purchasers with whom the exporter is associated or to purchasers not of the same or substantially the same trade level as the importer, but there were sales of like goods for home consumption in the country of exportation by other sellers, there may be substituted for the exporter any one of such sellers as the Minister may specify. 10 15

“(4) Where the Government of the country of exportation has a monopoly or substantial monopoly of the trade of that country, or determines or substantially influences the domestic price of goods in that country, the Minister may determine the normal value of the goods to be an amount equal to— 20

“(a) The price of like goods produced or manufactured in a third country determined by the Minister and in the ordinary course of business sold for home consumption in, or exportation from, that country; or 25

“(b) The cost of production of like goods in a third country determined by the Minister, with a reasonable amount for administrative and selling costs, profit, and any charges added thereto; or

“(c) The price payable for like goods produced or manufactured in New Zealand and sold for home consumption in the ordinary course of business in New Zealand. 30

“(5) Notwithstanding anything in the foregoing provisions of this section, if, in the opinion of the Minister, the normal value of goods cannot be determined in accordance with those provisions, the value of the goods shall be determined by the Minister as— 35

“(a) The price of like goods when recently sold by the exporter or an exporter of like goods to importers in any country other than New Zealand which fairly reflects the market value of the goods at the time of the sale of the goods to the importer in New Zealand, adjusted to reflect the differences in terms and conditions of sale, in taxation, and other differences relating to the price comparability between the goods sold to the importer in New 40 45

Zealand and the like goods sold by the exporter to importers in any country other than New Zealand;
or

5 “(b) The cost of production of like goods with a reasonable amount for administrative and selling costs, profit, and any charges added thereto.

10 “(6) Where goods in respect of which the Minister may give a direction under **section 186A (1)** of this Act are exported to New Zealand from more than one exporter, whether or not the goods are exported from more than one country, the Minister may determine the normal value of such goods by taking the normal values of the goods of such of those exporters as he thinks fit and selecting a normal value based upon a representation of the normal values so taken.

15 “(7) Where the Minister is satisfied that sufficient information has not been furnished or is not available to enable the normal value of goods to be ascertained under the foregoing provisions of this section, the normal value of the goods shall be an amount determined by the Minister that is fair and reasonable
20 having regard to all relevant information.

“186C. **Export price**—(1) For the purposes of this Part of this Act, the export price of any goods sold to an importer in New Zealand, notwithstanding any invoice or affidavit to the contrary, shall be the exporter’s sale price for the goods, or
25 the price at which the importer has purchased or agreed to purchase the goods, adjusted by deducting therefrom, where applicable,—

30 “(a) The costs, charges, and expenses incurred in preparing the imported goods for shipment to New Zealand that are additional to those costs, charges, and expenses generally incurred on sales for home consumption:

“ (b) Duties and taxes imposed by virtue of the Customs Acts, whether paid by the importer or any other person:

35 “(c) All other costs, charges, and expenses resulting from the exportation of the imported goods, or arising after their shipment from the country of export or, as the case may require, from the country of origin:

40 “(d) Where credit terms granted to the importer with respect to the sale of the goods are more favourable than credit terms granted by the exporter to purchasers with respect to the sale of like goods for home consumption, an amount determined to reflect the value to the importer of the more favourable credit terms.

- “(2) Notwithstanding anything in **subsection (1)** of this section, the Minister may determine the export price of goods where—
- “(a) There is no exporter’s sale price or no price at which the importer in New Zealand has purchased or agreed to purchase the goods; or 5
- “(b) Goods are shipped to New Zealand on consignment and there is no known purchaser in New Zealand for the goods; or
- “(c) The sale of the goods for exportation was a sale between associated persons; or 10
- “(d) The export price is influenced by reason of any compensatory arrangement which directly or indirectly affects or relates to—
- “(i) The price of the goods; or
- “(ii) The sale of the goods; or 15
- “(iii) The net return to the exporter, vendor, manufacturer, or producer of the goods; or
- “(iv) The net cost to the importer of the goods; or
- “(e) The Minister is satisfied that sufficient information has not been furnished or is not available to enable the export price of the goods to be ascertained in accordance with **subsection (1)** of this section, or for any other reason the export price cannot be ascertained in accordance with that subsection. 25

“186D. **Countervailing duty**—(1) The Comptroller may initiate an investigation on being satisfied that there is sufficient evidence of the elements of countervailing duty set out in this section.

“(2) Where, pursuant to an investigation under **subsection (1)** 30 of this section, the Minister establishes that any country is providing, directly or indirectly, any subsidy, bounty, or concession with respect to the manufacture, production, or export of any class or kind of goods imported into New Zealand and it is established also that the importation of such goods 35 causes or threatens to cause material injury to any industry in New Zealand or in any other country which is a contracting party to the General Agreement on Tariffs and Trade, or materially retards the establishment of any industry in New Zealand or in that other country, the Minister may from time 40 to time by notice in the *Gazette*, direct that there shall, in addition to any other duties of Customs, be imposed on any such goods imported into New Zealand a special duty of Customs (in this Act referred to as countervailing duty) and such duty shall be levied, collected, and paid in respect of any 45 such goods.

“(3) The amount or rate of countervailing duty levied under this section in respect of any goods shall be determined by the Minister but shall not exceed the amount of the subsidy,

bounty, or concession found to exist, calculated in terms of subsidisation per unit of the subsidised and exported products:

“Provided that the amount or rate of countervailing duty levied under this section shall not exceed a rate or amount
5 which, in the opinion of the Minister, is sufficient to remove the material injury referred to in **subsection (2)** of this section.

“(4) Where the Minister has reasonable cause to believe that any subsidy, bounty, or concession has been allowed, taken,
10 or granted, either directly or indirectly, upon the manufacture, production, or exportation of any goods exported to New Zealand, he may consult with the Government of the country of exportation with a view to arriving at a mutually acceptable solution before giving a direction under **subsection (1)** of this section or under **section 186E** of this Act.

“(5) Where, in relation to the exportation of any consignment of goods to New Zealand, the Minister is considering whether a countervailing duty may be imposed under **subsection (1)** of this section, the Minister may suspend his consideration of that consignment if he is given and accepts—

20 “(a) An undertaking by the Government of the country of exportation or country of origin that the Government will, in relation to any future export trade to New Zealand in goods of the same kind as the goods in the consignment, review any subsidy,
25 bounty, or concession referred to in **subsection (2)** of this section, and make any changes that may be found to be necessary to avoid causing or threatening material injury to any industry in New Zealand or in any other country which is a contracting party to the General Agreement on
30 Tariffs and Trade, or avoid materially retarding the establishment of any industry in New Zealand or in that other country; or

35 “(b) Any undertaking by the exporter of the goods in the consignment that the exporter will so conduct his future export trade to New Zealand in goods of the same kind as the goods in the consignment as to avoid causing or threatening material injury to any industry in New Zealand or in any other country
40 which is a contracting party to the General Agreement on Tariffs and Trade, or to avoid materially retarding the establishment of any industry in New Zealand or in that other country:

“Provided that the Minister may—

45 “(c) Be given and accept any amendment to an undertaking because of altered circumstances; and

“(d) In the event of an interested party offering satisfactory evidence substantiating the need for a review, or otherwise at the Minister’s own initiative, he may at any time decide that the need for an undertaking no longer exists and that the investigation is accordingly terminated. 5

“(6) The Minister may, by notice in the *Gazette*, revoke any notice made under the authority of this section, and upon revocation countervailing duty imposed by that notice shall cease to be payable. 10

“(7) Any direction given under this section may, in the discretion of the Minister, require the imposition of countervailing duty on goods imported into New Zealand before the date on which the direction is given where material injury to any industry in New Zealand has been caused by a substantial importation of such goods, and the goods were not imported earlier than 90 days immediately preceding— 15

“(a) The date of the giving of a provisional direction in respect of the goods under **section 186E** of this Act; or

“(b) The date of the giving of the direction under this section. 20

“(8) Every determination of the Minister made under the authority of this section shall be final.

“(9) Subject to the Official Information Act 1982, the Comptroller, upon request, shall afford any interested party to an investigation access to all relevant information and the Comptroller shall take into account any views expressed by any such interested party. 25

“186E. **Provisional dumping and countervailing duty—**

(1) If, during the course of an investigation made pursuant to **section 186A** or **section 186D** of this Act, the Minister has reasonable cause to believe that— 30

“(a) Any goods which have been imported into New Zealand are goods in respect of which he may direct the imposition of dumping duty or countervailing duty; and 35

“(b) Action is necessary to prevent injury being caused during the period of the investigation,—

he may give a provisional direction that payment of such duty in respect of those goods shall be secured in accordance with Part IX of this Act, in such amount as he may determine. 40

“(2) A provisional direction given under **subsection (1)** of this section (unless in the meantime it is replaced by a direction given under **section 186A** or **section 186D** of this Act) shall cease to have effect at the expiry of the period of—

“(a) In the case of dumping duty, 6 months following the date on which the provisional direction was first given; or 45

“(b) In the case of countervailing duty, 4 months following the date on which the provisional direction was first given.

“(3) If any provisional direction given under **subsection (1)** of this section ceases to have effect, any security given pursuant to the provisional direction shall be released, except to the extent that the duty secured is payable pursuant to a direction given under **section 186A or section 186D** of this Act:

“Provided that where the countervailing duty imposed under **section 186D** of this Act exceeds the amount of provisional duty imposed by **subsection (1)** of this section, the amount of the excess shall be remitted.”

(2) The following enactments are hereby consequentially repealed:

- (a) Section 129 of the principal Act:
- (b) Section 6 of the Customs Amendment Act 1971:
- (c) Section 4 of the Customs Acts Amendment Act 1973:
- (d) Section 4 of the Customs Amendment Act 1981:
- (e) Section 9 of the Customs Acts Amendment Act (No. 2) 1982.

12. Boarding of ships and aircraft—Section 205 (1) of the principal Act is hereby amended by inserting, after the words “officer of Customs”, the words “, together with any person acting in his aid,”.

13. Searching of ships and aircraft—Section 206 of the principal Act is hereby amended—

- (a) By inserting in subsection (1), after the words “officer of Customs”, the words “, together with any person acting in his aid,”:
- (b) By inserting in subsection (2), after the word “officer”, the words “, together with any person acting in his aid,”.

14. Boarding and searching Her Majesty’s ships and aircraft—Section 207 of the principal Act is hereby amended by inserting, after the words “officer of Customs”, the words “, together with any person acting in his aid,”.

15. Conditions as to powers of entry under Customs Acts—The principal Act is hereby amended by inserting, after section 215, the following section:

“215A. Notwithstanding anything in any of the Customs Acts, every provision in any of those Acts giving any officer power to enter any building, whether under the authority of a warrant or otherwise, shall be subject to the following conditions—

“(a) Reasonable notice of the intention to enter shall be given, except where it would frustrate the purpose of the entry:

“(b) Entry shall be made at a time reasonable in the particular circumstances: 5

“(c) Identification shall be produced on initial entry and, if requested, at any subsequent time:

“(d) The authority for the entry and the purpose of the entry shall be stated.”

16. Entry and search under Customs warrant—(1) Section 10
217 (1) of the principal Act is hereby amended—

(a) By inserting after the words “or other money under the Customs Acts”, the words “or any goods, books, or other documents which are evidence as to the commission of any offence against any of the Customs Acts,”: 15

(b) By omitting the words “such goods, books, or documents”, and substituting the words “such goods, books, other documents, or evidence”.

(2) Section 217 of the principal Act is hereby further amended 20
by repealing subsection (2), and substituting the following subsections:

“(2) On each occasion on which any officer proposes to use his warrant, for the purposes of this section, he shall first apply to the Collector who shall, if he considers that such reasonable 25
cause as aforesaid exists—

“(a) Give permission to the officer to make application in writing on oath to a District Court Judge, a Justice of the Peace, or a Registrar or a Deputy Registrar of any Court who, if he has reason to believe such 30
reasonable cause exists, shall sanction in the prescribed form the use of the warrant; or

“(b) If he considers that the case is one of great emergency where immediate action is necessary, the Collector 35
may authorise the use of the warrant.

“(2A) On each occasion on which a Customs warrant is used, whether pursuant to **paragraph (a) or paragraph (b) of subsection (2)** of this section, the Collector shall, within 3 days thereafter, furnish to the Comptroller a written report on the use of the warrant and the circumstances in which it came to be 40
exercised.”

17. Impounding documents and other evidence—Section 220 of the principal Act is hereby amended by adding the following subsections:

“(2) Where any officer of Customs or member of the Police 45
carries out any lawful search, inspection, or examination under

any of the Customs Acts or otherwise and has reasonable grounds to believe that any documents coming into his possession during such search, inspection, or examination are evidence of the commission of an offence against any of the
5 Customs Acts, he may remove them for the purposes of making copies therefrom, after which, unless he retains the documents pursuant to **subsection (3)** of this section, he shall return them to the person otherwise entitled to them; and in all Courts and
10 in all proceedings such a copy as aforesaid, if certified by the Collector under the seal of the Customs shall be received as evidence instead of the original.

“(3) Where any officer of Customs or member of the Police carries out any lawful search, inspection, or examination under any of the Customs Acts or otherwise and has reasonable
15 grounds to believe that any documents or goods coming into his possession during such search, inspection, or examination are evidence of the commission of an offence against any of the Customs Acts, he may impound and retain subject to **subsection (4)** of this section any such documents or goods; but
20 the person otherwise entitled to any such documents shall instead be entitled to a copy certified as correct by the Collector under the seal of the Customs and the copy so certified shall be received in all Courts and in all proceedings as evidence instead of the original.

“(4) Where any officer of Customs or member of the Police impounds and retains any goods or documents under **subsection (3)** of this section, the following provisions shall apply:

“(a) In any proceedings for an offence relating to the documents or goods, the Court may order, either
30 at the hearing or on a subsequent application, that the documents or goods be delivered to the person appearing to the Court to be entitled to them, or that they be otherwise disposed of in such manner as the Court thinks fit:

“(b) Any officer of Customs or member of the Police may
35 at any time, unless an order has been made under **paragraph (a)** of this subsection, return the documents or goods to the person from whom they were impounded, or apply to a District Court Judge for an order as to their disposal; and on any such
40 application the District Court Judge may make any order that a Court may make under **paragraph (a)** of this subsection:

“(c) If proceedings for an offence relating to the goods or
45 documents are not brought within a period of 3 months after the date of the impounding, any person claiming to be entitled to the goods or

documents may, after the expiration of that period, apply to a District Court Judge for an order that they be delivered to him; and on any such application the District Court Judge may adjourn the application, on such terms as he thinks fit, for proceedings to be brought, or may make any order that a Court may make under **paragraph (a)** of this subsection. 5

“(5) Where any person is convicted in any proceedings for an offence relating to any documents or goods to which this section applies, and any order is made under this section, the operation of the order shall be suspended— 10

“(a) In any case until the expiration of the time prescribed by the Summary Proceedings Act 1957 or, as the case may require, the time prescribed by the Crimes Act 1961 for the filing of notice of appeal or of an application for leave to appeal; and 15

“(b) Where notice of appeal is filed within the time so prescribed, until the determination of the appeal; and 20

“(c) Where application for leave to appeal is filed within the time so prescribed, until the application is determined and, where leave to appeal is granted, until the determination of the appeal.

“(6) Where the operation of any such order is suspended until the determination of the appeal, the Court determining the appeal may by order annul or vary the order made under this section; and that order, if annulled, shall not take effect, and, if varied, shall take effect as so varied. 25

“(7) In this section the term Court includes the High Court.” 30

18. Interference with goods—Section 248 (1) of the principal Act is hereby amended by omitting the words “imported goods or goods for export”, and substituting the word “goods”.

19. Power of Collector to deal with petty offences— 35
Section 266 (2) of the principal Act (as amended by section 13 (2) of the Customs Acts Amendment Act (No. 2) 1982) is hereby further amended by inserting, after the words “under this Act”, the words, “or under the Sales Tax Act 1974”.

20. Condemnation without suit—Section 279 (1) of the 40
principal Act is hereby amended by adding the following proviso:

“Provided that no goods seized as forfeited shall be deemed to be condemned as if by suit and judgment of condemnation where it is established, to the satisfaction of the Comptroller, 45

that a cause of forfeiture did not accrue and the Comptroller may, prior to any sale, destruction, or disposal of the goods seized as forfeited, direct the restoration of the goods so seized to the person entitled thereto, on and subject to such terms
5 and conditions (if any) as he may determine.”

21. Condemnation by High Court—Section 280 (6) of the principal Act is hereby amended by inserting, after the words “any person,” the words, “or if, a statement of defence having been filed, no person appears to answer the information,”.

10 **22. Condemnation by District Court**—(1) The principal Act is hereby further amended by repealing section 282 (as amended by section 10 of the Customs Acts Amendment Act (No. 2) 1980), and substituting the following section:

15 “282. (1) If in any case the Collector at or nearest to the place of seizure is satisfied that the value of the goods seized as forfeited does not exceed \$12,000, proceedings for their condemnation may be instituted by him in the District Court by information *in rem* by the Collector, in accordance with this section instead of in the High Court.

20 “(2) The procedure on any such information shall, subject to this Act, be in accordance with rules of Court to be made in that behalf, and in default of such rules, or so far as they do not extend, then in accordance with the usual practice of the District Court in civil proceedings so far as applicable or,
25 so far as not applicable, then in accordance with the directions of the Court or a Judge thereof.

“(3) On the filing of any such information in the District Court by the Collector notice of the proceedings shall be served on or given to such persons and in such manner as the Court
30 or a Judge thereof directs.

“(4) Any person claiming any interest in the goods to which the information relates may at any time within one month after the filing of the information, or within such further time as the Court or a Judge allows, file a statement of defence,
35 and shall thereupon become a party to the proceedings.

“(5) Every statement of defence shall set out the interest of the defendant in the goods to which the information relates, and shall be accompanied by an affidavit verifying the existence and nature of that interest.

40 “(6) If no such statement of defence is duly filed by any person, or if a statement of defence having been filed, no person appears to answer the information, judgment of condemnation of the goods to which the information relates shall be entered.

“(7) On any such information costs may be awarded to or against the Collector or any other party to the proceedings.”

(2) The Customs Acts Amendment Act (No. 2) 1980 is hereby consequentially amended by repealing section 10.

23. Conviction to operate as a condemnation of forfeited goods—Section 283 (1) of the principal Act is hereby amended by omitting the words “Notwithstanding anything in the foregoing provisions of this Part of this Act relating to condemnation, but”.

24. Penalties increased—(1) The provisions of the principal Act specified in the **First Schedule** to this Act are hereby amended in the manner indicated in that Schedule.

(2) The Customs Acts Amendment Act (No. 2) 1982 is hereby consequentially amended by repealing so much of the Schedule as relates to sections 242 and 243 of the principal Act.

25. First Schedule—The First Schedule to the principal Act is hereby amended by adding to the last item, after the word “penitentiary”, the words “, excluding a bona fide gift made by a prisoner for the personal use of a private individual”.

26. Third Schedule—The Third Schedule to the principal Act (as substituted by section 4 (1) of the Customs Acts Amendment Act (No. 2) 1981 and amended by section 5 of the Customs Acts Amendment Act 1982) is hereby further amended by omitting the words “Interpretation of this Schedule shall be governed by the same Rules of Interpretation applicable to the Second Schedule”, and substituting the following notes:

“NOTES

“1. Subject to these notes, interpretation of this Schedule shall be governed by the same rules of interpretation applicable to the Second Schedule of this Act.

“2. All goods specified in this Schedule that are contained in ornamental containers shall pay duty applicable to those goods under this Schedule.”

27. Repeals—(1) The Trade Agreement (New Zealand and Canada) Ratification Act 1932 is hereby repealed.

(2) The principal Act is hereby consequentially amended by repealing section 3 (1) (d).

PART II

SALES TAX

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

29. Interpretation—(1) Section 2 (1) of the principal Act is hereby amended by omitting from the definition of the expression “contractor” the words “producing the goods”, and
10 substituting the words “the work”.

(2) Section 2 (1) of the principal Act is hereby further amended by inserting in the definition of the expression “manufacturing retailer”, after paragraph (a), the following paragraph:

15 “(aa) Any person, not being a wholesaler, who manufactures taxable goods; and”.

(3) Section 2 (1) of the principal Act is hereby further amended by omitting from paragraph (b) of the definition of the expression “manufacturing retailer” the word “produces”, and substituting the words “does work on or in respect of”.

20 (4) Section 2 (1) of the principal Act is hereby further amended—

(a) By omitting from the definition of the expression “wholesaler” the words “(not being a manufacturing retailer)”:

25 (b) By inserting in paragraph (c) of the definition of the expression “wholesaler”, after the words “taxable goods”, the words “for sale to retailers”:

(c) By omitting from paragraph (d) of the definition of the expression “wholesaler” the words “produces taxable
30 goods”, and substituting the words “does work on or in respect of taxable goods for retailers”.

30. Sales tax on goods imported, sold, or manufactured—(1) Section 12 (1) (a) (i) of the principal Act is hereby amended by inserting, after the words “entered
35 therein”, the words “or delivered”.

(2) Section 12 (1A) of the principal Act (as inserted by section 8 of the Customs Acts Amendment Act 1977) is hereby repealed.

*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; 1981, No. 29, s.5; 1982, No. 9, Part II; 1982, No. 112, Part II; 1983, No. 5, Part II

31. Special provisions as to valuation—Section 26 (c) of the principal Act (as substituted by section 11 of the Customs Acts Amendment Act 1982) is hereby amended by omitting the words “vendor by reason of”, and substituting the words “vendor, by reason of”. 5

32. Sales tax a Crown debt—(1) Section 27 (2) of the principal Act is hereby amended by inserting in paragraph (a), after the word “entered”, the words “or delivered”.

(2) Section 27 (2) of the principal Act is hereby further amended by inserting in paragraphs (a) and (b), after the words “shall be payable”, in both places where they occur, the words “to the Collector or other proper officer”. 10

(3) Section 27 (2) of the principal Act is hereby further amended by inserting in paragraph (c), after the words “the sales tax shall be payable”, the words “to the Collector or 15 other proper officer”.

33. Assessment and payment of tax on goods imported—The principal Act is hereby further amended by repealing section 31, and substituting the following section:

“31. (1) The sales tax payable on any goods under section 20 12 (1) (a) (i) of this Act shall be assessed by the Collector or other proper officer, and except as provided in section 28 (3) or section 34 of this Act, shall be paid to him at the time the goods are entered or delivered for home consumption under the Customs Act 1966. 25

“(2) The sales tax payable on any goods under section 12 (1) (a) (ii) of this Act shall be assessed by the Collector or other proper officer, and shall be paid to him at the time of the assessment.

“(3) Where the Collector or other proper officer has reason 30 to believe or suspect that sales tax is payable on any imported goods pursuant to section 12 (1) (a) of this Act, and—

“(a) No assessment has been made pursuant to this section; or

“(b) A deficient or incorrect assessment has been made as 35 aforesaid,—

the Collector or other proper officer may assess the sales tax at such amount as he thinks is properly payable under this Act and such amount shall be paid to the Collector or other proper officer at the time of the assessment.” 40

34. Goods temporarily imported—Section 34 of the principal Act (as substituted by section 15 of the Customs Acts Amendment Act (No. 2) 1980) is hereby amended by repealing subsection (4), and substituting the following subsection:

“(4) Where in any case goods temporarily imported are used for industrial or commercial purposes or such other purposes as the Minister may consider applicable, sales tax shall be payable in respect of the goods on the amount by which their value for sales tax, as assessed by the Collector at the time that he is satisfied, pursuant to subsection (2) of this section, that the goods have been dealt with under any of paragraphs (a) to (f) of that subsection, is less than their value for sales tax, as ascertained in accordance with this Act, at the time of their importation.”

35. Additional tax on default in payment—Section 37 of the principal Act is hereby amended by repealing subsection (1) (as substituted by section 12 of the Customs Acts Amendment Act 1982), and substituting the following subsection:

“(1) For the purposes of this section, the expression ‘due date’ in relation to sales tax payable on taxable goods—

“(a) Under section 12 (1) (a) of this Act means—

“(i) Where subsection (3) of section 31 of this Act applies, 28 days after the date of the assessment of sales tax under that subsection:

“(ii) In all other cases, the time for payment of sales tax under subsection (1) or subsection (2) of section 31 of this Act, as the case may require:

“(b) Under section 12 (1) (b) or section 12 (1) (c) of this Act means the date on which a return is required to be lodged under this Act in relation to those goods:

“Provided that where, in relation to sales tax on any taxable goods, an assessment is not made until after that date and the Comptroller is satisfied that the taxpayer has not been guilty of wilful neglect or default in making due and complete return, the due date in relation to sales tax on those goods shall be 28 days after the date of the assessment.”

36. Credit for sales tax paid on goods or materials purchased—(1) Section 49 (2) of the principal Act (as substituted by section 16 of the Customs Acts Amendment Act (No. 2) 1980) is hereby amended by omitting the expression “section 24”, and substituting the expression “section 23”.

(2) This section shall be deemed to have come into force on the 6th day of August 1982.

37. Sales tax warrants—(1) Section 63 (2) of the principal Act is hereby amended—

(a) By inserting, after the words “any money under this Act”, the words “or any goods, books, or other documents which are evidence as to the commission of any offence against any of the Customs Acts,”: 5

(b) By omitting the words “such goods or records”, and substituting the words “such goods, records, or evidence”.

(2) Section 63 of the principal Act is hereby further amended 10 by repealing subsection (3), and substituting the following subsections:

“(3) On each occasion on which any officer proposes to use his warrant, for the purposes of this section, he shall first apply to the Collector who shall, if he considers that such reasonable 15 cause as aforesaid exists—

“(a) Give permission to the officer to make application in writing on oath to a District Court Judge, a Justice of the Peace, or a Registrar or a Deputy Registrar of any Court who, if he has reason to believe such 20 reasonable cause exists, shall sanction in the prescribed form the use of the warrant; or

“(b) If he considers that the case is one of great emergency where immediate action is necessary, the Collector 25 may authorise the use of the warrant.

“(3A) On each occasion on which a warrant is used, whether pursuant to **paragraph (a) or paragraph (b) of subsection (3)** of this section, the Collector shall, within 3 days thereafter, furnish to the Comptroller a written report on the use of the warrant and the circumstances in which it came to be exercised.” 30

38. Penalties increased—(1) The provisions of the principal Act specified in the **Second Schedule** to this Act are hereby amended in the manner indicated in that Schedule.

(2) The Customs Acts Amendment Act 1980 is hereby 35 consequentially amended by repealing section 18.

39. First Schedule—(1) The First Schedule to the principal Act (as substituted by section 15 of the Customs Acts Amendment Act 1982) is hereby amended by omitting from Part G, Item 2, the expression “H to R”, and substituting the expression “H to S”. 40

(2) This section shall be deemed to have come into force on the 1st day of October 1982.

40. Repeals—The following enactments are hereby repealed:

- (a) Section 12 (1A) of the Sales Tax Act 1974:
- (b) Section 3 of the Sales Tax Amendment Act 1974:
- 5 (c) Part II of the Customs Acts Amendment Act 1975 and the Third Schedule thereto:
- (d) Part II of the Customs Acts Amendment Act 1976 and the Second Schedule thereto:
- (e) The Third Schedule to the Customs Acts Amendment Act 1977:
- 10 (f) Part II of the Customs Acts Amendment Act (No. 2) 1977:
- (g) Part II of the Customs Acts Amendment Act 1979 and the Second, Third, and Fourth Schedules thereto:
- (h) Section 10 of the Customs Acts Amendment Act 1981 and the Third Schedule thereto.

15

PART III

BEER DUTY

41. 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
20 principal Act).

42. Taking of samples—(1) Section 37 (2) of the principal Act is hereby amended by omitting the words “the Department of Scientific and Industrial Research”, and substituting the words “a laboratory approved for the purpose by the
25 Comptroller”.

(2) Section 37 (3) of the principal Act is hereby amended by omitting the word “Department”, and substituting the word “laboratory”.

PART IV

30

DISTILLATION

43. 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).

35 **44. Third Schedule**—The Third Schedule to the principal Act (as inserted by section 20 (4) of the Customs Acts Amendment Act 1982) is hereby amended by adding, after note 2, the following note:

*1977, No. 71

Amendments: 1979, No. 137, Part III; 1980, No. 5, Part III; 1981, No. 2, Part III; 1981, No. 6, Part II; 1982, No. 9, Part III; 1982, No. 112, Part III; 1983, No. 5, Part III

†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; 1982, No. 9, Part IV; 1982, No. 112, Part IV; 1983, No. 5, Part IV

“3. Notwithstanding anything in this Act or in the Customs Act 1966, all spirits specified in this Schedule that are contained in ornamental containers shall be subject to duty at the rate applicable to those spirits under this Schedule.”

PART V

5

MOTOR SPIRITS DUTY

45. This Part is 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).

10

46. Refund of duty on motor spirits supplied to certain organisations and their members—The principal Act is hereby amended by inserting, before section 27, the following section:

“26A. (1) The Governor-General may from time to time, by 15
Order in Council, authorise the remission or refund of any
motor spirits duty paid in respect of motor spirits supplied in
New Zealand solely for the use of—

“(a) Such organisations, expeditions, or other bodies as may
be approved by the Minister and as may from time 20
to time be established or temporarily based in New
Zealand under any agreement or arrangement
entered into by or on behalf of the Government of
New Zealand with the Government of any other
country or with the United Nations; or 25

“(b) Persons temporarily resident in New Zealand for the
purpose of serving as members of any such
approved organisation, expedition, or other such
body.

“(2) In respect of any motor spirits to which any Order in 30
Council made for the purpose of this section relates, the
Comptroller may at any time impose such conditions as he
thinks fit.”

*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; 1979,
No. 137, Part V; 1982, No. 9, Part V; 1982, No. 112, Part V

SCHEDULES

FIRST SCHEDULE

Section 24

CUSTOMS ACT 1966

Increase in Penalties for Offences

Provision of Customs Act 1966	Amendment
<p>Section 48 (as amended by section 7 of the Customs Amendment Act 1968 and section 23 (2) of the Commerce Amendment Act 1976)</p>	<p>By repealing subsection (10), and substituting the following subsection: “(10) Every person who commits an offence against this section is liable to a fine not exceeding,— “(a) In the case of an individual, \$5,000, and in the case of a body corporate, \$25,000; or “(b) In either case, an amount equal to 3 times the value of the goods to which the offence relates— whichever is the greater.”</p>
<p>Section 242 (as amended by section 17 of the Customs Acts Amendment Act (No. 2) 1982)</p>	<p>By repealing the section, and substituting the following section: “242. (1) If any person smuggles any goods he commits an offence and the goods shall be forfeited. “(2) Every person who commits an offence against this section is liable to a fine not exceeding,— “(a) In the case of an individual, \$5,000, and in the case of a body corporate, \$25,000; or “(b) In either case, an amount equal to 3 times the value of the goods to which the offence relates,— whichever is the greater.”</p>

FIRST SCHEDULE—*continued*

CUSTOMS ACT 1966

Increase in Penalties for Offences

Provision of Customs Act 1966	Amendment
Section 243 (as amended by section 17 of the Customs Acts Amendment Act (No. 2) 1982)	<p>By repealing the section, and substituting the following section:</p> <p>“243. (1) If any person contravenes any provision of this Act, or does any other act, with intent to defraud the revenue of Customs—</p> <p>“(a) By evading or enabling any other person to evade payment of duty or full duty on any goods; or</p> <p>“(b) By obtaining or enabling any other person to obtain any money by way of drawback or refund of duty on any goods; or</p> <p>“(c) In any other manner whatever in relation to any goods—</p> <p>or conspires with any other person (whether that other person is in New Zealand or not) so to defraud the revenue of Customs in relation to any goods, he commits an offence and the goods shall be forfeited.</p> <p>“(2) Every person who commits an offence against this section is liable to a fine not exceeding,—</p> <p>“(a) In the case of an individual, \$5,000, and in the case of a body corporate, \$25,000; or</p> <p>“(b) In either case, an amount equal to 3 times the value of the goods to which the offence relates—</p> <p>whichever is the greater.”</p>

SECOND SCHEDULE

Section 38

SALES TAX ACT 1974

Increases in Penalties for Offences

Provision of Sales Tax Act 1974	Amendment
Section 40	<p>By repealing subsection (2), and substituting the following subsection: “(2) Every person who fails or refuses to comply with a notice under this section commits an offence and shall be liable to a fine not exceeding \$500.”</p>
Section 64 (as amended by section 18 of the Customs Acts Amendment Act (No. 2) 1980)	<p>By repealing the section, and substituting the following section: “64. (1) Every person who contravenes any provision of this Act, or does any other act, with intent to defraud the revenue of Customs— “(a) By evading or enabling any other person to evade payment of the sales tax or any part of the sales tax on any goods; or “(b) By obtaining or enabling any other person to obtain any money by way of drawback or refund of sales tax on any goods; or “(c) In any other manner whatever in relation to any goods,— or who conspires with any other person (whether that other person is in New Zealand or not) so to defraud the revenue of Customs in relation to any goods, commits an offence. “(2) Every person who commits an offence against this section is liable to a fine not exceeding,— “(a) In the case of an individual, \$5,000, and in the case of a body corporate, \$25,000; or “(b) In either case, an amount equal to 3 times the price for which the goods to which the offence relates are sold, or, in the case of goods deemed to have been sold under section 13 of this Act, an amount equal to 3 times the value of the goods to which the offence relates, as determined in accordance with section 23 of this Act,— whichever is the greater:</p>

SECOND SCHEDULE—continued

SALES TAX ACT 1974

Increases in Penalties for Offences

Provision of Sales Tax Act 1974	Amendment
Section 64 (as amended by section 18 of the Customs Acts Amendment Act (No. 2) 1980) — <i>continued</i>	“Provided that, where any offence against this section relates to imported goods, those goods shall be forfeited and the provisions of Part XII of the Customs Act 1966 shall apply to any such goods in the same manner as they apply to goods forfeited under the Customs Act 1966.”