

## CUSTOMS AMENDMENT BILL

### EXPLANATORY NOTE

THIS Bill amends the Customs Act 1966 for the purpose of giving effect to the Budget announcement in respect of the imposition of a tax on each visit of a foreign fishing vessel to a New Zealand port.

*Clause 1* relates to the Short Title and the commencement. The Bill is to come into force on 1 September 1976.

*Clause 2* inserts definitions in the interpretation section of the principal Act for the purposes of the imposition of the tax.

*Clause 3* inserts sections 36A to 36E in the principal Act.

Section 36A deals with the imposition of the tax.

Subsection (1) provides that every foreign fishing vessel shall pay entry tax at the rates set out in the new Ninth Schedule to the principal Act, as added by *subclause* (2) of this clause, on every entry to any New Zealand port.

Subsection (2) empowers the Governor-General, by Order in Council, to amend, in whole or in part, the rates of entry tax but not so as to increase the rates above those set out in the Ninth Schedule.

Subsection (3) provides that the tax is to be paid within 24 hours of the arrival of the vessel, or within such further time as the Collector sees fit to allow.

Subsection (4) provides that entry tax shall constitute a debt due to the Crown.

Subsection (5) provides that the debt shall be owing, jointly and severally, by—

- (a) The master of the vessel;
- (b) The owner of the vessel or, in appropriate cases, by the charterer or other person responsible for the navigation and management of the vessel;
- (c) Any agent of any person liable under paragraph (a) or paragraph (b) above.

Subsection (6) enables the Collector to recover the tax on behalf of the Crown.

Subsection (7) provides that the imposition and collection of the tax shall not be affected by the fact that the vessel has entered any port other than a port of entry.

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Subsection (8) gives the Comptroller a discretion to exempt any vessel from the tax when its entry is due to an emergency.

Subsection (9) defines the term "port" for the purposes of the tax.

Section 36B deals with the powers of the Collector to recover tax by distraint of cargo and other property.

Section 36C empowers the Collector to detain the vessel until the tax is paid.

Section 36D empowers the Collector to refund tax paid in error.

Section 36E empowers the Collector to recover money refunded in error.

*Subclause (2)* adds a new Ninth Schedule to the principal Act setting out the rates of tax.

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*Hon. Mr Wilkinson*

## CUSTOMS AMENDMENT

### ANALYSIS

Title	36c. Foreign fishing vessel may be detained until entry tax paid
1. Short Title and commencement	36d. Refund of entry tax paid in error
2. Interpretation	36e. Recovery of entry tax refunded in error
3. New sections relating to foreign fishing vessel entry tax inserted	Schedule
36a. Imposition of foreign fishing vessel entry tax	
36b. Recovery of entry tax	

### A BILL INTITULED

#### An Act to amend the Customs Act 1966

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

1. Short Title and commencement—(1) This Act may be cited as the Customs Amendment Act 1976, and shall be read together with and deemed part of the Customs Act 1966\* (hereinafter referred to as the principal Act).

10 (2) This Act shall come into force on the 1st day of September 1976.

\*1966, No. 19

Amendments: 1967, No. 2, Part I; 1967, No. 137; 1968, No. 31; 1968, No. 142, Part I; 1970, No. 28, Part I; 1970, No. 44; 1971, No. 42; 1972, No. 7; 1973, No. 110; 1974, No. 4, Part I; 1974, No. 142, Part I; 1975, No. 3, Part I; 1976, No. 5, Part I

**2. Interpretation**—Section 2 (1) of the principal Act is hereby amended by inserting, in their appropriate alphabetical order, the following definitions:

- “Entry tax’ means entry tax imposed under section 36A of this Act: 5
- “Foreign fishing vessel’ means any ship or boat used in connection with the catching or processing of fish, whales, seals, walrus, or other living resources of the sea for the purpose of profit or sale, excluding any ship or boat required to be registered under Part I of the Fisheries Act 1908: 10
- “Gross tonnage’, in relation to a foreign fishing vessel, means—
- “(a) The gross tonnage entered in the vessel’s certificate of registry or other national papers; or 15
- “(b) Where no such gross tonnage is entered, the gross tonnage ascertained in accordance with the Shipping Tonnage Regulations 1969 or in such other manner as may be acceptable to the Collector:”.

**3. New sections relating to foreign fishing vessel entry tax** 20  
**inserted**—(1) The principal Act is hereby amended by inserting, after section 36, the following sections:

**“36A. Imposition of foreign fishing vessel entry tax—**  
 (1) There shall be levied, collected, and paid in respect of every entry of every foreign fishing vessel at any New Zealand port entry tax at the rate specified in the Ninth Schedule to this Act. 25

“(2) The Governor-General may from time to time, by Order in Council, suspend the Ninth Schedule to this Act, in whole or in part, and by the same or a subsequent Order in Council, in lieu thereof impose on any foreign fishing vessel such rates of entry tax as appear to him to be just, but so that such modification shall not impose on any foreign fishing vessel a higher rate of entry tax than that set forth in respect of that foreign fishing vessel in the Ninth Schedule to this Act. 30 35

“(3) Entry tax shall be paid to the Collector within 24 hours of the arrival at any port of any foreign fishing vessel, or within such further time as the Collector may see fit to allow. 40

“(4) The entry tax shall, immediately upon the arrival of the vessel at any port, constitute a debt due to the Crown.

“(5) Such debt shall be owing, both jointly and severally,  
by—

“(a) The master of the vessel:

5 “(b) The owner, or, in any case where, by virtue of any  
charter or demise or for any other reason, the  
owner is not responsible for the navigation and  
management of the vessel, the charterer or other  
person so responsible:

10 “(c) Any agent of any person liable to pay such tax by  
virtue of paragraph (a) or paragraph (b) of this  
subsection.

“(6) Such debt shall be recoverable by action at the suit  
of the Collector on behalf of the Crown.

15 “(7) The imposition of the entry tax and the right to  
recover the entry tax as a debt due to the Crown shall not be  
affected by the fact that the foreign fishing vessel has entered  
any port other than a port of entry.

20 “(8) Where the arrival of a foreign fishing vessel at a port  
is due solely to an emergency, the Comptroller may, in his  
discretion, exempt such vessel from the payment of entry tax.

25 “(9) For the purposes of this section and sections 36B and  
36C of this Act, the term ‘port’ includes any natural or arti-  
ficial harbour, and any place where there is any dock, pier,  
jetty, or work in or at which ships do or can obtain shelter,  
or ship or unship goods or passengers, whether or not any such  
harbour or place is a port of entry.

30 “36B. Recovery of entry tax—(1) If the owner or other  
person for the time being responsible for the navigation and  
management of any foreign fishing vessel or the master of any  
such vessel fails on demand of the Collector at any port to  
pay the entry tax which is payable in respect of that vessel  
to the Collector at that port, the Collector may, in addition  
to any other remedy, enter on the ship and distrain the cargo  
and any other property belonging to or on board the ship,  
35 and may detain the cargo and other property distrained until  
that tax is paid.

40 “(2) If payment of entry tax is not made within the period  
of 3 days next ensuing the distress, the Collector may at any  
time during the continuance of the non-payment sell the  
cargo and other property distrained, and apply the proceeds  
in payment of entry tax, together with all reasonable expenses  
incurred by him under this section, paying the surplus (if  
any), on demand, to the owner or other person for the time  
being responsible for the navigation and management of the  
45 vessel or to the master of the vessel.

“36C. Foreign fishing vessel may be detained until entry tax paid—(1) A receipt for entry tax shall be given to every person paying the same to a Collector.

“(2) Where any such entry tax is payable in respect of any vessel that vessel may be detained at any port until the receipt for entry tax is produced to the Collector at that port. 5

“36D. Refund of entry tax paid in error—If the Comptroller is satisfied that any entry tax has been paid in error, whether of law or of fact, he may refund it on application made within 28 days after it has been paid or within such further time as the Comptroller may see fit to allow. 10

“36E. Recovery of entry tax refunded in error—All money refunded in error, whether of law or of fact, by the Comptroller shall be recoverable by action at the suit of the Crown at any time within 3 years after the payment thereof or without limit of time if the refund has been obtained by fraud.” 15

(2) The principal Act is hereby further amended by adding, after the Eighth Schedule, the Ninth Schedule set out in the Schedule to this Act. 20

## SCHEDULE

### NEW NINTH SCHEDULE TO PRINCIPAL ACT

#### “NINTH SCHEDULE

##### RATES OF ENTRY TAX PAYABLE BY FOREIGN FISHING VESSELS

Vessels having a gross tonnage of:					\$
Less than 1000 .....	.....	.....	.....	.....	1,000
1000 but less than 2000 .....	.....	.....	.....	.....	1,500
2000 but less than 3000 .....	.....	.....	.....	.....	2,000
3000 but less than 4000 .....	.....	.....	.....	.....	3,000
4000 but less than 5000 .....	.....	.....	.....	.....	4,000
5000 and over .....	.....	.....	.....	.....	5,000”