

## FINANCE BILL (NO. 5)

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### EXPLANATORY NOTE

THIS Bill—

- (a) Increases the rate of excise duty on loose tobacco to the same level as that applying to cigarettes (*Parts I and II*);
- (b) Validates the proceedings of the Clinical Dental Technicians Disciplinary Tribunal, the Dental Technicians Disciplinary Tribunal, and the Nursing Council (and certain related bodies) in relation to certain periods during which persons who were not legally appointed as members of those bodies purported to act as such members (*Part III*);
- (c) Corrects an error in the Maritime Transport Act 1994 to, among other things, enable the making of refunds (*Part IV*).

*Clause by Clause Analysis*

*Clause 1* relates to the Short Title.

#### PART I

##### AMENDMENTS TO CUSTOMS ACT 1966

*Clause 3* amends the Third Schedule to the Customs Act 1966 to raise the rate of excise duty applying to loose tobacco to the same level as that applying to cigarettes.

#### PART II

##### AMENDMENTS TO TARIFF ACT 1988

*Clause 5* amends the First Schedule to the Tariff Act 1988 to reflect the changes in excise duty made by *Part I* of the Bill.

#### PART III

##### VALIDATIONS IN RELATION TO CERTAIN HEALTH SECTOR BODIES

*Clause 6* relates to the Clinical Dental Technicians Disciplinary Tribunal and the Dental Technicians Disciplinary Tribunal under the Dental Act 1988.

During the period beginning on 15 October 1992 and ending on 8 August 1995, 2 persons who were not validly appointed as lay members of either Tribunal acted as such on the basis that they had been so appointed. The error was rectified with the appointment of those persons as such members with effect from 9 August 1995.

*Clause 6* provides—

- (a) That those 2 persons are deemed to have been lawfully appointed as such members for that period; and
- (b) That the validity of—
  - (i) Every purported meeting of each Tribunal held during that period; and
  - (ii) Every action and decision of each Tribunal taken during that period—
 is to be determined having regard to that deeming provision.

*Clause 7* relates to the Nursing Council and certain other bodies under the Nurses Act 1977.

Before 1 July 1993, the Nurses Act 1977 provided that the Director-General of Health was an *ex officio* member of the Nursing Council. There was also provision in that Act for the Director-General to authorise a nurse employed by the Department of Health to attend meetings of the Nursing Council in place of the Director-General.

As from 1 July 1993, the Health Reforms (Transitional Provisions) Act 1993 amended the Nurses Act 1977 so that the Director-General of Health is no longer an *ex officio* member of the Nursing Council. Instead, provision is made for an officer of the Ministry of Health nominated by the Director-General to be appointed as a member of the Nursing Council.

During the period beginning on 1 July 1993 and ending on 13 August 1995, an employee of the Ministry of Health (who had previously been authorised to deputise for the Director-General at meetings of the Nursing Council) purported to attend meetings of the Council on the basis that she was deputising for the Director-General of Health. She had not been appointed as a member of the Council in her own right. Further, another employee of the Ministry purported to deputise for the first-mentioned employee at meetings of the Council, and also attended meetings of the Preliminary Proceedings Committee.

As from 14 August 1995, the first-mentioned employee of the Ministry of Health has held a valid appointment as a member of the Nursing Council in her own right.

*Clause 7* provides that—

- (a) For the period from 1 July 1993 to 13 August 1995, the first-mentioned employee of the Ministry of Health is deemed to have been lawfully appointed as a member of the Nursing Council; and
- (b) For that period, the Nurses Act 1977 is deemed to have contained a provision authorising an employee of the Ministry to deputise for that member, and the latter employee is deemed to have been acting under that provision; and
- (c) For that period, the latter employee is deemed to have been a member of the Council and the Preliminary Proceedings Committee in respect of every meeting of the Preliminary Proceedings Committee attended by her; and
- (d) The validity of—
  - (i) Every purported meeting of the Council, a committee of the Council, or the Preliminary Proceedings Committee held during that period; and
  - (ii) Every action and decision of the Council, a committee of the Council, or the Preliminary Proceedings Committee taken during that period; and

(iii) Every action and decision of the chairman or deputy chairman of the Council taken pursuant to section 5 (6) of the Act during that period; and

(iv) Every action and decision of the convenor of the Preliminary Proceedings Committee taken during that period—  
is to be determined having regard to those deeming provisions.

#### PART IV

##### AMENDMENT TO MARITIME TRANSPORT ACT 1994

*Clause 9* amends section 204 (2) (a) of the Maritime Transport Act 1994 by providing that regulations, rules, or orders existing before the commencement of the Act and continued in force by the Act may also be amended by providing for any purpose for which a regulation may be made under the Act.

At present, section 204 (2) (a) provides that regulations, rules, or orders continued in force may be amended only by providing for any purpose for which a maritime rule may be made under the Act.

The need for the amendment has arisen from a decision to refund marine safety charges paid under the Marine Safety Charges Regulations 1990. Those regulations are, by virtue of section 204 (1) of the Maritime Transport Act 1994, deemed to have been made under that Act. As noted above, those regulations can be amended only for a purpose for which a maritime rule can be made. The Act does not allow for the making of maritime rules relating to marine safety charges. Such charges can be imposed only by regulations under that Act and refunds can be made only if authorised by such regulations.

The power to amend the existing regulations so as to provide for a matter for which regulations can be made will enable the regulations to be amended to enable refunds to be made. It will also allow amendments to regulations carried over to the new Act if the amendments relate to matters for which regulations under that Act may be made.

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*Right Hon. W. F. Birch*

**FINANCE (NO. 5)**

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ANALYSIS

Title 1. Short Title	PART I AMENDMENTS TO CUSTOMS ACT 1966 2. Part to be read with Customs Act 1966 3. Third Schedule amended	PART III VALIDATIONS IN RELATION TO CERTAIN HEALTH SECTOR BODIES 6. Validation of appointments to Clinical Dental Technicians Disciplinary Tribunal and Dental Technicians Disciplinary Tribunal 7. Validation of proceedings of Nursing Council and other bodies
PART II AMENDMENTS TO TARIFF ACT 1988 4. This Part to be read with Tariff Act 1988 5. Tariff amended	PART IV AMENDMENT TO MARITIME TRANSPORT ACT 1994 8. Part to be read with Maritime Transport Act 1994 9. Regulations, etc., deemed made under this Act Schedules	

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A BILL INTITULED

**An Act to make provision with respect to public  
finances and other matters**

BE IT ENACTED by the Parliament of New Zealand as follows:

- 5     **1. Short Title**—This Act may be cited as the Finance Act  
(No. 5) 1995.

PART I

AMENDMENTS TO CUSTOMS ACT 1966

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

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

Amendments: 1979, No. 7; 1979, No. 137, Part I; 1980, No. 5, Part I; 1980, No. 33, Part I;  
1981, No. 2, Part I; 1981, No. 5, Part I; 1981, No. 20; 1982, No. 9, Part I; 1982, No. 112,  
Part I; 1982, No. 126; 1983, No. 5, Part I; 1983, No. 41, Part I; 1984, No. 6, Part I; 1985,  
No. 131; 1985, No. 145, Part I; 1986, No. 44; 1987, No. 63; 1987, No. 75; 1987, No. 89;  
1987, No. 128; 1988, No. 17; 1988, No. 127; 1988, No. 182; 1989, No. 13, Part IV; 1989,  
No. 47; 1990, No. 89; 1990, No. 117; 1991, No. 73; 1991, No. 84; 1991, No. 130; 1992,  
No. 30; 1993, No. 83; 1994, No. 129; 1994, No. 136; 1995, No. 7

**3. Third Schedule amended**—(1) The Third Schedule to the principal Act (as substituted by section 4 (1) of the Customs Amendment Act 1989) is hereby amended by inserting, after Note 3 at the beginning of the Schedule, the following Note:

“4. The term ‘KTC’ means kilogram(s) of tobacco content.” 5

(2) The principal Act is hereby amended by repealing so much of the Third Schedule (as substituted by section 4 (1) of the Customs Amendment Act 1989) as relates to Excise item numbers 99.60.16D, 99.60.30K, 99.60.40C, 99.65.10G, 99.65.20D, 99.65.30A, 99.65.40J, 99.65.45K, and 99.65.70L, and substituting the Excise item numbers and rates of duty specified in the **First Schedule** to this Act. 10

(3) The Excise Duty (Tobacco Products Indexation) Amendment Order (No. 2) 1995 (S.R. 1995/264) is hereby consequentially revoked. 15

## PART II

### AMENDMENTS TO TARIFF ACT 1988

**4. This Part to be read with Tariff Act 1988**—This Part of this Act and the **Second Schedule** to this Act shall be read together with and deemed part of the Tariff Act 1988\* (in this Part referred to as the principal Act). 20

**5. Tariff amended**—(1) The First Schedule to the principal Act is hereby amended by inserting in the list of terms, abbreviations, and symbols in Note 2 at the beginning of the Tariff, after the item “kPa”, the following item: 25  
“KTC . . . kilogram(s) of tobacco content”.

(2) The First Schedule to the principal Act is hereby amended by repealing so much of Part I as relates to Tariff items 2402.10.00, 2402.20.02, 2402.20.08, 2403.10.01, 2403.10.09, 2403.91.01, 2403.91.09, 2403.99.01, and 2403.99.29, and substituting the items, rates of duty, and statistical keys specified in the **Second Schedule** to this Act. 30

(3) The Tariff (Tobacco Products Indexation) Amendment Order (No. 2) 1995 (S.R. 1995/265) is hereby consequentially revoked. 35

## PART III

### VALIDATIONS IN RELATION TO CERTAIN HEALTH SECTOR BODIES

**6. Validation of appointments to Clinical Dental Technicians Disciplinary Tribunal and Dental Technicians Disciplinary Tribunal**—(1) In this section,— 40

\*1988, No. 155

Amendments: 1989, No. 48; 1990, No. 88; 1991, No. 74; 1994, No. 163

“The Act” means the Dental Act 1988:

“Clinical Dental Technicians Disciplinary Tribunal” means the Clinical Dental Technicians Disciplinary Tribunal constituted under section 47 (1) of the Act:

5 “Dental Technicians Disciplinary Tribunal” means the Dental Technicians Disciplinary Tribunal constituted under section 48 (1) of the Act:

10 “Relevant period” means the period beginning on the 15th day of October 1992 and ending with the close of the 8th day of August 1995:

“Specified person” means—

(a) Judith Margaret Waters, of Christchurch, investment consultant:

15 (b) Brent Maxwell Smallbone, of Wellington, Disputes Tribunal Referee and trainer:

“Tribunal” means—

(a) The Clinical Dental Technicians Disciplinary Tribunal:

20 (b) The Dental Technicians Disciplinary Tribunal.

(2) Notwithstanding that the specified persons were not appointed as members of each Tribunal in accordance with the Act for the relevant period, the specified persons are hereby deemed to have been on the 15th day of October 1992 lawfully appointed—

25 (a) Under section 47 (1) (b) of the Act as members of the Clinical Dental Technicians Disciplinary Tribunal; and

30 (b) Under section 48 (1) (b) of the Act as members of the Dental Technicians Disciplinary Tribunal— for a term beginning on that day and ending with the expiry of the relevant period.

(3) The validity of—

35 (a) Every purported meeting of a Tribunal held during the relevant period; and

(b) Every action and decision of a Tribunal taken during the relevant period—

shall be determined having regard to **subsection (2)** of this section.

**7. Validation of proceedings of Nursing Council and other bodies—**(1) In this section,—

40 “The Act” means the Nurses Act 1977:

“Committee” means a committee of the Council appointed under section 13 of the Act:

“Council” means the Nursing Council of New Zealand continued by section 3 of the Act:

“Gillian Grew” means Gillian Dorothy Anne Grew, of Wellington, employee of the Ministry of Health:

“Pamela Messervy” means Pamela Anne Messervy, of Wellington, former employee of the Ministry of Health:

“Preliminary Proceedings Committee” means the Preliminary Proceedings Committee constituted under section 12 of the Act:

“Relevant period” means the period beginning on the 1st day of July 1993 and ending with the close of the 13th day of August 1995.

(2) Notwithstanding that Gillian Grew was not appointed as a member of the Council in accordance with the Act for the relevant period, Gillian Grew is hereby deemed to have been on the 1st day of July 1993 lawfully appointed under section 4 (1) (a) of the Act as a member of the Council for a term beginning on that day and ending with the expiry of the relevant period.

(3) The Act shall apply as if, during the relevant period,—

(a) The Act had contained a provision—

(i) Providing for the Director-General of Health to authorise a nurse employed in the Ministry of Health to attend any meeting of the Council in place of the person holding office as a member of the Council under section 4 (1) (a) of the Act, if that member was unable to attend that meeting; and

(ii) Providing that while any person was attending any meeting of the Council pursuant to that provision, that person was deemed for all purposes to be a member of the Council; and

(iii) Providing that the fact that any person was so attending any such meeting was sufficient evidence of that person’s authority so to do in the absence of proof to the contrary; and

(b) Pamela Messervy had been authorised, pursuant to that provision, to attend meetings of the Council in place of Gillian Grew.

(4) Notwithstanding that Pamela Messervy was not appointed, in accordance with the Act, as a member of the Council or the Preliminary Proceedings Committee for the relevant period, Pamela Messervy is hereby deemed, in respect of every meeting of the Preliminary Proceedings Committee attended by her during the relevant period, to have been on the 1st day of July 1993 lawfully appointed—

(a) Under section 4 (1) (a) of the Act as a member of the Council; and

- (b) Under section 12 (2) of the Act as a member of the Preliminary Proceedings Committee—  
for a term beginning on that day and ending with the expiry of the relevant period.
- 5 (5) The validity of—  
(a) Every purported meeting of—  
(i) The Council:  
(ii) The Preliminary Proceedings Committee:  
(iii) A committee—  
10 held during the relevant period; and  
(b) Every action and decision of—  
(i) The Council:  
(ii) The Preliminary Proceedings Committee:  
(iii) A committee—  
15 taken during the relevant period; and  
(c) Every action and decision of the chairman or deputy chairman of the Council taken pursuant to section 5 (6) of the Act during the relevant period; and  
(d) Every action and decision of the convener of the  
20 Preliminary Proceedings Committee taken during the relevant period—  
shall be determined having regard to **subsections (2) to (4)** of this section.

## PART IV

## 25 AMENDMENT TO MARITIME TRANSPORT ACT 1994

**8. Part to be read with Maritime Transport Act 1994**—This Part of this Act shall be read together with and deemed part of the Maritime Transport Act 1994\* (in this Part referred to as the principal Act).

\*1994, No. 104

30 **9. Regulations, etc., deemed made under this Act**—Section 204 (2) of the principal Act is hereby amended by inserting in paragraph (a), after the words “maritime rule”, the words “or regulation”.

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## Section 3

SCHEDULES  
FIRST SCHEDULE  
AMENDMENTS TO THIRD SCHEDULE TO CUSTOMS ACT 1966  
EXCISE DUTIES

Excise Item Number	Goods	Unit	Rates of Duty
99.60	Cigars, cheroots, cigarillos and cigarettes of tobacco or of tobacco substitutes which, if imported, would be classified within Tariff item 2402.10.00, 2402.20.10, 2402.20.90, 2402.90.01, 2402.90.12 or 2402.90.18:		
	— Cigars, cheroots, cigarillos, and cigarettes containing tobacco:		
99.60.09A	— — Cigars, cheroots, and cigarillos	per KTC	\$198.29
99.60.19J	— — Cigarettes exceeding in weight 0.8 kg actual tobacco content per 1,000 cigarettes	per KTC	\$198.29
99.60.29F	— — Cigarettes not exceeding in weight 0.8 kg actual tobacco content per 1,000 cigarettes	per 1,000	\$158.63
99.60.39C	— Cigars, cheroots, cigarillos, and cigarettes containing tobacco substitutes		Free
99.65	Other manufactured tobacco and manufactured tobacco substitutes, and "homogenised" or "reconstituted" tobacco which, if imported, would be classified within Tariff item 2403.10.90, 2403.91.90, 2403.99.02 or 2403.99.90:		
	— Smoking tobacco, whether or not containing tobacco substitutes:		
99.65.09C	— — Pipe	per KTC	\$198.29
99.65.19L	— — Cigarette	per KTC	\$198.29

99.65.29H	-- Other:		
99.65.39B	-- "Homogenised" or "reconstituted" tobacco:		
	--- Pipe	per KTC	\$198.29
	--- Cigarette	per KTC	\$198.29
	--- Other:		
99.65.49B	--- Snuff	per KTC	\$198.29
99.65.59K	--- Other	per KTC	\$198.29

SECOND SCHEDULE  
 AMENDMENTS TO FIRST SCHEDULE TO TARIFF ACT 1988  
 THE STANDARD TARIFF

Section 5

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Number	Statistical Key		Goods	Rates of Duty	
	Code	Unit		Normal Tariff	Preferential Tariff

Chapter 24

**Tobacco and manufactured tobacco substitutes**

<b>24.02</b>			<b>Cigars, cheroots, cigarillos and cigarettes, of tobacco or of tobacco substitutes:</b>		
			- Cigars, cheroots and cigarillos, containing tobacco	<i>per KTC</i>	\$ 198.29
2402.10.00	02D	KTC	Weighing less than 500 g per 100		
	08C	KTC	Other		
2402.20			- Cigarettes containing tobacco:		
2402.20.10	00G	KTC	- Exceeding in weight 0.8 kg actual tobacco content per 1,000 cigarettes	<i>per KTC</i>	AU \$198.29 CA 5 <i>plus</i> \$198.29 7/96 8.5 <i>plus</i> \$198.29 7/96 3.5 7/97 7.5 <i>plus</i> \$198.29 7/97 2.5 <i>plus</i> \$198.29 7/98 6.5 <i>plus</i> \$198.29 7/98 1.5 <i>plus</i> \$198.29 7/99 5 <i>plus</i> \$198.29
					LDC 8 <i>plus</i> \$198.29 7/96 7 <i>plus</i> \$198.29 7/97 6 <i>plus</i> \$198.29

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2402.20.90	00L	Th	--	Not exceeding in weight 0.8 kg per actual tobacco content per 1,000 cigarettes	per 1,000	7/98 5 plus \$198.29 7/99 4 plus \$198.29 LLDC \$198.29 Pac \$198.29
						AU \$158.63 CA 5 plus \$158.63 7/96 3.5 plus \$158.63 7/97 2.5 plus \$158.63 7/98 1.5 plus \$158.63 7/99 Free plus \$158.63 LDC 8 plus \$158.63 7/96 7 plus \$158.63 7/97 6 plus \$158.63 7/98 5 plus \$158.63 7/99 4 plus \$158.63 LLDC \$158.63 Pac \$158.63
						10 plus \$158.63 7/96 8.5 plus \$158.63 7/97 7.5 plus \$158.63 7/98 6.5 plus \$158.63 7/99 5 plus \$158.63

SECOND SCHEDULE  
 AMENDMENTS TO FIRST SCHEDULE TO TARIFF ACT 1988—continued

Number	Statistical Key		Goods	Rates of Duty	
	Code	Unit		Normal Tariff	Preferential Tariff
<b>24.03</b>			<b>Other manufactured tobacco and manufactured tobacco substitutes; "homogenised" or "reconstituted" tobacco; tobacco extracts and essences:</b>		
2403.10			- Smoking tobacco, whether or not containing tobacco substitutes in any proportion:		
2403.10.10	00A	KTC	- - For further manufacture in a licensed manufacturing area	10 7/96 8.5 7/97 7.5 7/98 6.5 7/99 5	AU Free CA 5 7/96 3.5 7/97 2.5 7/98 1.5 7/99 Free LLDC Free Pac Free
2403.10.90			- - Other	10 plus \$198.29 7/96 8.5 plus \$198.29 7/97 7.5 plus \$198.29 7/98 6.5 plus \$198.29 7/99 5 plus \$198.29	AU \$198.29 CA 5 plus \$198.29 7/96 3.5 plus \$198.29 7/97 2.5 plus \$198.29 7/98 1.5 plus \$198.29 7/99 Free plus \$198.29 LDC 8 7/96 7 plus \$198.29

7/97 6  
plus \$198.29  
7/98 5  
plus \$198.29  
7/99 4  
plus \$198.29  
LLDC \$198.29  
Pac \$198.29

01c	KTC	. . .	Pipe
05F	KTC	. . .	Cigarette
09j	KTC	. . .	Other

SECOND SCHEDULE  
 AMENDMENTS TO FIRST SCHEDULE TO TARIFF ACT 1988—continued

Number	Statistical Key		Goods	Rates of Duty	
	Code	Unit		Normal Tariff	Preferential Tariff

Other manufactured tobacco and manufactured, etc.—continued

-- Other:

-- "Homogenised" or "reconstituted" tobacco:

---- For further manufacture in a licensed manufacturing area

2403.91

00E KTC

10 AU Free  
 7/96 8.5 CA 5  
 7/97 7.5 7/96 3.5  
 7/98 6.5 7/97 2.5  
 7/99 5 7/98 1.5

2403.91.90

---- Other

per KTC

10 AU \$198.29  
 plus \$198.29 CA 5  
 7/96 8.5 plus \$198.29  
 plus \$198.29 7/96 3.5  
 7/97 7.5 plus \$198.29  
 plus \$198.29 7/97 2.5  
 7/98 6.5 plus \$198.29  
 plus \$198.29 7/98 1.5  
 7/99 5 plus \$198.29  
 plus \$198.29 7/99 Free  
 LDC 8 plus \$198.29  
 plus \$198.29 7/96 7  
 plus \$198.29

7/97 6  
plus \$198.29  
7/98 5  
plus \$198.29  
7/99 4  
plus \$198.29  
LLDC \$198.29  
Pac \$198.29

01G KTC . . . . Pipe  
05K KTC . . . . Cigarette  
09B KTC . . . . Other



SECOND SCHEDULE  
AMENDMENTS TO FIRST SCHEDULE TO TARIFF ACT 1988—continued

Number	Statistical Key		Goods	Rates of Duty	
	Code	Unit		Normal Tariff	Preferential Tariff

Other manufactured tobacco and manufactured, etc.—continued

2403.99							
2403.99.02	00j	KTC		per KTC	\$198.29		..
2403.99.90				per KTC	10		AU \$198.29
					plus \$198.29		CA 5
					7/96 8.5		plus \$198.29
					plus \$198.29		7/96 3.5
					7/97 7.5		plus \$198.29
					plus \$198.29		7/97 2.5
					7/98 6.5		plus \$198.29
					plus \$198.29		7/98 1.5
					7/99 5		plus \$198.29
					plus \$198.29		7/99 Free
							plus \$198.29
							LDC 8
							plus \$198.29
							7/96 7
							plus \$198.29
							7/97 6
							plus \$198.29
							7/98 5
							plus \$198.29
							7/99 4
							plus \$198.29
							LLDC \$198.29
							Pac \$198.29

01C . . . . Pulverised waste tobacco in liquid form  
 05F . . . . Binders and wrappers of tobacco for use in the  
 . . . . manufacture of cigars and cheroots  
 09j . . . . Other