

House of Representatives

Supplementary Order Paper

Tuesday, 13 February 2018

Customs and Excise Bill

Proposed amendments

Hon Meka Whitiri, in Committee, to move the following amendments:

Clause 2

In *clause 2(5)*, replace the definition of **specified date** (page 19, lines 5 to 8) with:

specified date means—

- (a) the date that immediately follows the 12-month period that starts with the date of Royal assent; or
- (b) an earlier date specified by the Governor-General by Order in Council.

Clause 5

In *clause 5(1)*, definition of **duty**, replace *paragraph (d)* (page 27, lines 26 to 28) with:

- (d) a duty imposed under the Trade (Anti-dumping and Countervailing Duties) Act 1988:

In *clause 5(1)*, definition of **manufacture**, replace “**manufacture,—**” (page 29, line 26) with “**manufacture**, in relation to goods specified in the Excise and Excise-equivalent Duties Table,—”.

In *clause 5(1)*, replace the definition of **New Zealand** (page 30, lines 24 to 28) with:

New Zealand, subject to **section 169(1)**, means the land and waters enclosed by the outer limits of the territorial sea of New Zealand (as described in section 3 of the Territorial Sea, Contiguous Zone, and Exclusive Economic Zone Act 1977)

In *clause 5(1)*, replace the definition of **prohibited imports** (page 32, lines 20 and 21) with:

prohibited imports—

- (a) means goods whose importation is prohibited under **section 95 or 96** (whether conditionally or unconditionally); and
- (b) includes goods whose importation is absolutely prohibited by a notice issued under section 22(1A) of the Misuse of Drugs Act 1975

Clause 26

In *clause 26(1)(c)*, after “New Zealand” (page 44, line 26), insert “or the contiguous zone”.

In *clause 26(1)(d)*, after “New Zealand” (page 44, line 29), insert “or the contiguous zone”.

After *clause 26(5)* (page 45, after line 12), insert:

- (5A) A power under this section that may be exercised in the contiguous zone as a result of **subsection (1)(c) or (d)** may be exercised in the contiguous zone only in accordance with article 33 of the United Nations Convention on the Law of the Sea.

Clause 37

Before *clause 37(1)* (page 49, before line 10), insert:

- (1AA) A Customs officer may grant a certificate of clearance in respect of a craft.

In *clause 37(2)*, replace “granting a certificate of clearance” (page 49, line 24) with “a certificate of clearance is granted”.

In *clause 37(3)*, replace “Despite **subsection (1)**, a” (page 49, line 30) with “A”.

In *clause 37(4)*, replace “given” (page 49, line 33) with “granted”.

In *clause 37(5)*, replace “given” (page 49, line 35) with “granted”.

Clause 102

In *clause 102(1)(a)(iii)*, replace “that binding ruling” (page 80, line 3) with “the transfer pricing arrangement”.

Cross-heading above clause III

In the cross-heading above *clause III*, after “licensee” (page 86, line 5), insert “or owner”.

Clause III

In the heading to *clause III*, after “licensee” (page 86, line 6), insert “or owner”.

In *clause III*, after “licensee” (page 86, line 8), insert “or owner”.

Clause 136

In *clause 136(4)*, replace “Dumping and Countervailing Duties Act 1988” (page 101, lines 9 and 10) with “Trade (Anti-dumping and Countervailing Duties) Act 1988”.

Clause 137

In *clause 137(9)*, replace “Dumping and Countervailing Duties Act 1988” (page 102, lines 26 and 27) with “Trade (Anti-dumping and Countervailing Duties) Act 1988”.

Clause 146

In *clause 146(5)*, replace “Dumping and Countervailing Duties Act 1988” (page 107, lines 6 and 7) with “Trade (Anti-dumping and Countervailing Duties) Act 1988”.

Clause 149

In *clause 149(5)*, replace “Dumping and Countervailing Duties Act 1988” (page 108, lines 12 and 13) with “Trade (Anti-dumping and Countervailing Duties) Act 1988”.

Clause 154A

After *clause 154A(5)* (page 112, after line 5), insert:

- (5A) The power to prescribe a rate of interest for the purposes of item r in **subsection (3)** may be exercised for the following purposes:
 - (a) to compensate the Crown for the loss of use of money;
 - (b) to encourage duty payers to pay to Customs the correct amount of duty on time.

Clause 154C

In *clause 154C(1)(b)*, after “licensee” (page 112, line 26), insert “or an owner”.

Clause 154H

After *clause 154H(5)* (page 115, after line 33), insert:

- (5A) The power to prescribe a rate of interest for the purposes of item r in **subsection (3)** may be exercised for the following purposes:
 - (a) to compensate the Crown for the loss of use of money;
 - (b) to encourage the repayment to Customs of refunds and drawback in the relevant circumstances.

Clause 154M

In *clause 154M(1)*, replace “a proportion of” (page 118, line 34) with “in part”.

In *clause 154M(1)(a)*, after “licensee’s” (page 118, line 36), insert “or owner’s”.

In *clause 154M(2)*, replace “proportion” (page 119, line 1) with “amount”.

Clause 154U

In *clause 154U(3)*, replace “**151A(2)(b)**” (page 122, line 20) with “**151A(2)(a) and (b)**”.

Replace *clause 154U(6)* (page 122, lines 29 to 32) with:

- (6) Regulations may do any of the following:
 - (a) prescribe an amount of interest or penalty below which interest or penalties under this subpart need not be collected:
 - (b) prescribe an amount of duty, refund, or drawback and provide that interest or penalties under this subpart need not be collected in respect of any duty, refund, or drawback that is below the prescribed amount:
 - (c) provide that any provision made for the purposes of **paragraph (a) or (b)**—
 - (i) applies only in prescribed circumstances:
 - (ii) does not apply in prescribed circumstances.

After *clause 154U(7)* (page 122, after line 36), insert:

- (8) This subpart applies to levies imposed by section 24 of the Energy (Fuels, Levies, and References) Act 1989 as it applies to excise duty levied under **clause 1(1) or (3) of Schedule 3** (as the case requires) to the extent that those levies apply to goods manufactured in New Zealand.
- (9) This subpart does not apply to levies imposed by section 213(2)(c) of the Accident Compensation Act 2001 (*see* section 250 of that Act instead).

Clause 156

In *clause 156(4)(a)*, replace “**18**” (page 125, line 19) with “**18(1)**”.

Clause 165

Replace *clause 165(3)(b)* (page 128, lines 20 to 23) with:

- (b) if the application is dismissed by the chief executive, at the close of the period of 20 working days after notice of the decision is given under **clause 8 of Schedule 5** unless an appeal against the decision is lodged within that period under **clause 9** of that schedule.

Clause 166

In *clause 166*, delete “, as referred to in **section 165(3)(b)**,” (page 128, lines 26 and 27).

In *clause 166(a)*, after “appeal” (page 128, line 28), insert “is against the dismissal of an application for a review and the appeal”.

New clause 166A

After *clause 166* (page 128, after line 34), insert:

166A Condemnation of goods where relief granted but condition of relief not met within time limit

- (1) This section applies to goods that have been seized under **section 158** if—
 - (a) relief is granted under **clause 4(2)(b) of Schedule 5** by—
 - (i) the chief executive; or
 - (ii) a Customs Appeal Authority applying **clause 4(2)(b)** under **clause 13 of Schedule 8**; and
 - (b) the relief is subject to a condition for which a time limit is set under **clause 6(4A) of Schedule 5**; and
 - (c) the condition is not met within that time limit.
- (2) The goods are condemned to the Crown when the time limit expires.
- (3) In relation to a time limit set by the chief executive, **subsection (2)** applies subject to any appeal in respect of the chief executive's decision to grant relief (whether or not the time limit expires before the appeal is lodged) if the appeal—
 - (a) is lodged under **clause 9 of Schedule 5** within the period of 20 working days after notice of the decision is given under **clause 8** of that schedule; and
 - (b) is not discontinued.

Clause 169

After *clause 169(2)(g)* (page 130, after line 6), insert:

- (ga) **section 223**:

Clause 170

Replace *clause 170(2)* (page 130, lines 31 to 34) with:

- (2) A Customs officer may board the craft.
- (2A) A Customs officer may search the craft for the purpose of carrying out any function under this Act.

Clause 183

In *clause 183(4)*, replace “This” (page 136, line 27) with “To avoid doubt, this”.

After *clause 183(4)* (page 136, after line 31), insert:

- (5) In this section, **detain** includes deliver a person to a Police station or into the custody of a constable.

Clause 185

After *clause 185(3)* (page 138, after line 5), insert:

- (4) To avoid doubt, this section does not prevent a person—
 - (a) being detained or further detained under any other provision of this Act or under any other enactment (if there are lawful grounds for that detention); or
 - (b) being arrested under **section 242**.

Clause 191

In *clause 191(5)*, replace “However, **subsection (4)**” (page 142, line 31) with “To avoid doubt, this section”.

Clause 192

In *clause 192(5)*, replace “However, **subsection (4)**” (page 143, line 23) with “To avoid doubt, this section”.

Clause 199

After *clause 199(6)* (page 148, after line 2), insert:

- (7) To avoid doubt, this section does not prevent a person—
 - (a) being detained or further detained under any other provision of this Act or under any other enactment (if there are lawful grounds for that detention); or
 - (b) being arrested under **section 242**.

Clause 223

Replace *clause 223(1)(a)* (page 162, lines 24 to 26) with:

- (a) the officer is satisfied that the goods are being, have been, or are intended to be exported or imported; and

Clause 242

In *clause 242(1)*, after “arrest” (page 173, line 13), insert “without warrant”.

Clause 252

In *clause 252(1)(b)(i)*, replace “Police Act” (page 178, line 15) with “Policing Act”.

Clause 281

In *clause 281(4)*, definition of **border information**, *paragraph (c)*, delete “:” (page 193, line 29).

Clause 283

In *clause 283*, definition of **government agency**, after *paragraph (a)(ii)* (page 196, after line 9), insert:

- (iia) the New Zealand Security Intelligence Service; and

Clause 288

In *clause 288(3)*, replace “the Customs” (page 201, line 27) with “Customs”.

Clause 298

Replace *clause 298* (page 213, lines 28 to 32) with:

298 Relationship between section 297 and treaties, etc

- (1) Nothing in **section 297** limits, or prevents, the disclosure of information that is authorised or required under any treaty, agreement, or arrangement concluded by the Government of New Zealand.
- (2) *See also sections 282 and 283A.*

Compare: 1996 No 27 s 282(2)

Clause 298A

In *clause 298A(3)(b)*, after “variation of an agreement” (page 214, line 9), insert “that”.

Clause 300

In *clause 300(2)(b)*, replace “executive—” (page 215, line 12) with “executive (subject to any restrictions or other requirements provided for in the regulations)—”.

Clause 302

In *clause 302(3)*, before the definition of **Ministry** (page 216, before line 20), insert:

border information has the meaning given to that term in **section 281(4)**

Clause 333

Replace *clause 333(1)* (page 228, lines 30 and 31) with:

- (1) A person commits an offence if the person, without reasonable excuse, fails to comply with **section 331(1)(a)**.
- (1A) A person who commits an offence under **subsection (1)** is liable on conviction,—
- (a) in the case of an individual,—
- (i) for a first conviction, to a fine not exceeding \$2,000:
- (ii) for a second conviction, to a fine not exceeding \$4,000:
- (iii) for any subsequent conviction, to a fine not exceeding \$6,000:
- (b) in the case of a body corporate,—
- (i) for a first conviction, to a fine not exceeding \$10,000:

- (ii) for a second conviction, to a fine not exceeding \$20,000:
- (iii) for any subsequent conviction, to a fine not exceeding \$30,000.

In *clause 333(3)*, replace “this section” (page 228, line 34) with “**subsection (2)**”.

Clause 376

After *clause 376(2)* (page 250, after line 33), insert:

- (3) A person who is alleged to have committed an infringement offence may either—
 - (a) be proceeded against by the filing of a charging document under section 14 of the Criminal Procedure Act 2011; or
 - (b) be served with an infringement notice (*see sections 377 and 378*).
- (4) Proceedings commenced in the way described in **subsection (3)(a)** do not require the leave of a District Court Judge or Registrar under section 21(1)(a) of the Summary Proceedings Act 1957.

Clause 377

In *clause 377(1)*, delete “(the **infringer**)” (page 250, line 35).

In *clause 377(1)*, replace “infringer is” (page 250, line 36) with “person is”.

In *clause 377(2)(a)*, replace “infringer” (page 251, line 2) with “person to whom the infringement notice was issued”.

Clause 378

Replace *clause 378(3)(b)(i)* (page 251, lines 26 and 27) with:

- (i) details of the alleged infringement offence that are sufficient fairly to inform a person of the time, place, and nature of the alleged offence; and

In *clause 378(3)(b)(vi)*, replace “infringer” (page 251, line 34) with “person served with the notice”.

In *clause 378(3)(b)(vii)*, replace “infringer” (page 251, line 35) with “person served with the notice”.

Replace *clause 378(4) and (5)* (page 252, lines 1 to 7) with:

- (4) If an infringement notice is issued, the procedure under section 21 of the Summary Proceedings Act 1957 may be used in respect of the infringement offence to which the notice relates and, in that case, that section applies with all necessary modifications.

Clause 380

After *clause 380(6A)* (page 253, after line 9), insert:

- (6B) A power to prescribe a rate of interest includes the power to prescribe the way in which the rate is to be determined.

Schedule 1

In *Schedule 1*, replace *clause 1(2) and (3)* (page 274, lines 10 to 19) with:

- (2) In this Part, references to the 1996 Act, or to a provision of the 1996 Act, include that Act or provision as applied (with or without modification) before the specified date by any other enactment.
- (3) Where this Part provides for the 1996 Act, or a provision of the 1996 Act, to continue to apply, that Act or provision continues to apply as if this Act had not been enacted.
- (4) Where this Part provides for a provision of the 1996 Act to continue to apply, the reference to that provision includes the following:
 - (a) any relevant enactment or other instrument made under the 1996 Act:
 - (b) any other relevant provision of the 1996 Act (for example, a relevant power under Part 12, a relevant offence under Part 13, or a relevant power to make an enactment or other instrument).
- (5) Except as provided in this Part (including any Order in Council made under **clause 14**), this Part does not limit the application of the Interpretation Act 1999 in relation to the repeal of any enactment by this Act.
- (6) A provision of this Part that provides for the 1996 Act, or a provision of the 1996 Act, to continue to apply does not limit any other provision of this Part that provides for the 1996 Act, or a provision of the 1996 Act, to continue to apply.
- (7) In **clauses 4, 4A(2), and 9AB(2)**, **duty** includes the following:
 - (a) anything that is duty as that term is defined in section 2(1) of the 1996 Act:
 - (b) research levies imposed on imported goods under the Heavy Engineering Research Levy Act 1978:
 - (c) levies imposed under Schedule 4A of the New Zealand Public Health and Disability Act 2000:
 - (d) levies imposed on imported goods under section 227 of the Climate Change Response Act 2002.
- (8) In this Part, references to goods are to be read in accordance with section 54(1A) or 56(1A) of the 1996 Act where necessary or appropriate for giving effect to this Part.
- (9) **Sections 109 and 110** of this Act apply in relation to the continuing functions under the 1996 Act that the chief executive, Customs,

or any Customs officer has as a result of this Part or otherwise, and references to duty in those sections are to be read accordingly.

In *Schedule 1*, after *clause 1* (page 274, after line 19), insert:

1A Goods subject to the control of Customs

- (1) **Subclause (2)** applies to goods that are subject to the control of the Customs under a paragraph of section 20(1) of the 1996 Act immediately before the specified date.
- (2) The goods—
 - (a) are, at the start of the specified date, subject to the control of Customs under the corresponding paragraph of **section 6** of this Act; and
 - (b) continue to be subject to the control of Customs in accordance with that paragraph.
- (3) For the purposes of **sections 83 and 85(1)(a)** of this Act, an entry made in accordance with section 39 of the 1996 Act is treated as an entry made in accordance with **section 75** of this Act.

In *Schedule 1*, *clause 2(8)*, after “in” (page 275, line 17), insert “**sections 19(b), 74(a), 156(1)(m)(i), and 337(1)(b) and (2)(b)** of”.

In *Schedule 1*, after *clause 2(9)* (page 275, after line 26), insert:

Certificate of clearance

- (9A) **Subclause (9B)** applies if,—
 - (a) before the specified date, a certificate of clearance is granted to the person in charge of a craft under section 33 of the 1996 Act; but
 - (b) the craft does not depart from New Zealand before the specified date.
- (9B) This Act applies as if the certificate of clearance were granted under **section 37** of this Act.

In *Schedule 1*, before *clause 2(10)* (page 275, before line 28), insert:

- (9C) **Section 45** of this Act does not apply to cargo on a craft that departs from New Zealand before the specified date.
- (9D) Section 37A of the 1996 Act continues to apply to cargo on a craft that departs from New Zealand before the specified date.

In *Schedule 1*, *clause 2(10)*, after “requirement” (page 275, line 30), insert “, and the requirements of **section 45(5)** of this Act.”.

In *Schedule 1*, after *clause 2(10)* (page 275, after line 34), insert:

Updating of information supplied in advance

- (11) If **subclause (1)(a), (5)(a), (9)(a), or (10)(a)** applies to a person, section 204A of the 1996 Act continues to apply to any information provided under the relevant provision of the 1996 Act.

In *Schedule 1*, after *clause 2* (page 275, after line 34), insert:

2A Customs places

A notice issued under section 9 of the 1996 Act that is in force immediately before the specified date continues in force as if it had been issued under **section 55** of this Act (and may be amended or revoked accordingly).

In *Schedule 1*, *clause 3(1)(b)*, after “15” (page 276, line 1), insert “or 19C(1)”.

In *Schedule 1*, *clause 3(2)*, replace “, and this Act applies to the licence, direction, or thing accordingly” (page 276, lines 6 and 7) with “or under **section 256(1)** of this Act”.

In *Schedule 1*, replace *clause 3(3)* (page 276, lines 8 and 9) with:

- (3) Without limiting **subclause (2)**, a licence that continues in force in accordance with that subclause may be revoked or suspended under **section 64(1)(a) or (b)** of this Act for a failure before the specified date—
- (a) to pay on time an annual licence fee prescribed for the purposes of section 12(2)(b) of the 1996 Act; or
- (b) to comply with a term, condition, or restriction of the licence.

In *Schedule 1*, *clause 3(4)*, replace “**256**” (page 276, line 11) with “**256(2)**”.

In *Schedule 1*, after *clause 3(4)* (page 276, after line 11), insert:

- (5) A requirement imposed on a licensee under section 18(1) or (4) or 19H(1) or (3) of the 1996 Act that is in force immediately before the specified date continues in force as if it had been imposed under **section 70(1)(a) or (b) or 258(1)(a) or (b)** of this Act.

In *Schedule 1*, *clause 3A(2)(b)(i)*, before “1” (page 276, line 21), insert “most recent”.

In *Schedule 1*, after *clause 3B* (page 276, after line 29), insert:

3C Prohibited imports: goods prohibited under Schedule 1 of 1996 Act

- (1) This clause applies to any goods that are specified in Schedule 1 of the 1996 Act immediately before the specified date unless the importation of the goods—
- (a) is prohibited (conditionally or unconditionally) under **section 95 or 96** of this Act; or
- (b) is absolutely prohibited by a notice issued under section 22(1A) of the Misuse of Drugs Act 1975.

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- (2) The importation of the goods is prohibited and the goods are prohibited imports for the purposes of this Act.
- (3) This clause is repealed at the close of the 12-month period that starts with the specified date.

In *Schedule 1*, in the heading to *clause 4*, after “**manufactured**” (page 276, line 30), insert “**in New Zealand**”.

In *Schedule 1*, before *clause 4(1)* (page 276, before line 31), insert:

Imported goods

In *Schedule 1*, *clause 4(1)(c)(ii)*, replace “Act.” (page 277, line 8) with “Act; or”.

In *Schedule 1*, after *clause 4(1)(c)* (page 277, after line 8), insert:

- (d) before the specified date, duty becomes due and payable in respect of the goods under section 16, 39(4), 86(3)(c) or (d), or 110(2) of the 1996 Act.

In *Schedule 1*, *clause 4(2)*, after “apply” (page 277, line 9), insert “in relation”.

In *Schedule 1*, *clause 4(4)*, after “applies” (page 277, line 16), insert “in relation”.

In *Schedule 1*, before *clause 4(5)* (page 277, before line 21), insert:

Goods manufactured in New Zealand

In *Schedule 1*, *clause 4(5)*, after “been manufactured,” (page 277, line 22), insert “in New Zealand”.

In *Schedule 1*, delete *clause 4(5)(b)* (page 277, lines 25 to 27).

In *Schedule 1*, *clause 4(5)(c)*, replace “excise duty levied under the 1996 Act” (page 277, line 28) with “duty”.

In *Schedule 1*, *clause 4(5)(c)(ii)*, replace “Act.” (page 277, line 32) with “Act; or”.

In *Schedule 1*, after *clause 4(5)(c)* (page 277, after line 32), insert:

- (d) before the specified date, duty becomes due and payable in respect of the goods under section 16 or 110(2) of the 1996 Act; or
- (e) before the specified date, duty becomes a debt due to the Crown in respect of the goods under section 76(1)(b) of the 1996 Act; or
- (f) before the specified date,—
 - (i) the goods are used, or are destroyed, lost, or otherwise physically disposed of, without having been removed for home consumption under section 72 of the 1996 Act; or
 - (ii) an event referred to in section 113(1)(a) or (c) of the 1996 Act occurs in relation to the goods; or
- (g) the goods are of faulty manufacture.

In *Schedule 1, clause 4(6)*, after “apply” (page 277, line 33), insert “in relation”.

In *Schedule 1, clause 4(6)(b)*, replace “excise duty levied under the 1996 Act” (page 277, lines 35 and 36) with “duty”.

In *Schedule 1, clause 4(6)(c)*, replace “excise duty levied under the 1996 Act” (page 277, line 37) with “duty”.

In *Schedule 1, clause 4(7)*, after “been manufactured,” (page 278, line 2), insert “in New Zealand”.

In *Schedule 1*, replace *clause 4(8) to (10)* (page 278, lines 4 to 18) with:

- (8) This Act applies in relation to—
 - (a) the entry of the goods; and
 - (b) the assessment, payment, collection, and recovery of duty in respect of the goods; and
 - (c) any other matter relating to duty in respect of the goods.

Supplementary provision

- (9) For the purpose of giving effect to **subclauses (4) and (8)**, where necessary or appropriate,—
 - (a) excise duty levied in respect of any goods under section 73(1) of the 1996 Act is treated as if it were excise duty levied in respect of the goods under **clause 1(1) of Schedule 3** of this Act:
 - (b) excise-equivalent duty levied in respect of any goods under section 75(1) of the 1996 Act is treated as if it were excise-equivalent duty levied in respect of the goods under **clause 14 of Schedule 3** of this Act:
 - (c) any other duty imposed in respect of any goods under a provision of the 1996 Act is treated as if it were duty imposed in respect of the goods under the corresponding provision of this Act:
 - (d) anything done under a provision of the 1996 Act before the specified date that is relevant to any matter covered by **sub-clause (4) or (8)** is treated as having been done under the corresponding provision of this Act:
 - (e) without limiting **paragraph (d)**,—
 - (i) goods manufactured, or treated as manufactured, in a manufacturing area under the 1996 Act before the specified date are treated as if they were manufactured in a manufacturing area under this Act:
 - (ii) goods removed for home consumption under section 72 of the 1996 Act before the specified date are treated

as if they were removed for home consumption under **clause 3 of Schedule 3** of this Act.

In *Schedule 1*, after *clause 4* (page 278, after line 18), insert:

4AA Entries made before specified date for goods imported on or after specified date

- (1) This clause applies if goods imported on or after the specified date are entered under section 39(1) of the 1996 Act before the specified date.
- (2) The entry continues to be effective as if it had been made under **section 75** of this Act (and is an assessment under **section 111** accordingly).

4AB Deferred period for payment of duty in respect of imported goods

Any decision of the chief executive that is made under section 86(6) of the 1996 Act and that is in force immediately before the specified date continues in force as if it had been made under **section 123** of this Act.

4AC Exports

Goods for export

- (1) The 1996 Act continues to apply in relation to any goods for export that depart from New Zealand before the specified date.
- (2) This Act applies in relation to any goods for export that do not depart from New Zealand before the specified date.
- (3) Anything done under a provision of the 1996 Act before the specified date that is relevant to any matter covered by **subclause (2)** is, so far as is necessary or appropriate for giving effect to **subclause (2)**, treated as having been done under the corresponding provision of this Act.
- (4) Without limiting **subclause (3)**, the reference to anything done under a provision of the 1996 Act includes the following:
 - (a) the entering of any goods under section 49 of the 1996 Act;
 - (b) the securing of any goods in a Customs-approved secure package (as that term is defined in section 2(1) of the 1996 Act);
 - (c) the applying of a Customs seal (as that term is defined in section 2(1) of the 1996 Act) to a package.

Customs-approved secure export schemes

- (5) **Subclause (6)** applies to the following:

- (a) an approval that is given under section 53C of the 1996 Act and that is in force immediately before the specified date:
 - (b) any other thing that is done under section 53C of the 1996 Act and that is in force or otherwise effective immediately before the specified date.
- (6) The approval given or the other thing done continues in force or to be otherwise effective as if it had been given or done under the corresponding provision of **section 260 and Schedule 6** of this Act.
- Appointments authorising use of Customs seals*
- (7) A notice of appointment that is in effect under section 53A of the 1996 Act immediately before the specified date continues in effect as if it had been made under **section 261** of this Act.

In *Schedule 1*, after *clause 4A* (page 278, after line 27), insert:

4B Forfeiture, seizure, and condemnation

- (1) Part 14 of the 1996 Act continues to apply to any goods seized under that Part before the specified date.
- (2) The following goods, other than goods covered by **subclause (1)**, are forfeited goods for the purposes of this Act and this Act applies accordingly:
 - (a) goods forfeited to the Crown before the specified date under the 1996 Act:
 - (b) goods forfeited to the Crown on or after the specified date under the 1996 Act as that Act continues to apply under this Part or otherwise.
- (3) For the purpose of applying **section 158(2) and (3)** of this Act in accordance with **subclause (2)**, goods that are forfeited under the 1996 Act because they are prohibited goods under that Act are treated as if they are forfeited under this Act because they are prohibited goods under this Act.
- (4) For the purpose of applying **section 167(1)(a)(ii)** of this Act in accordance with **subclause (2)**, the reference to goods that are forfeited under **section 156(3) or (4)** of this Act includes goods that are forfeited under section 225(3), (4), or (5) of the 1996 Act.

4C Customs powers

- (1) **Subclause (2)** applies to the exercise of a power under Part 12 of the 1996 Act before the specified date (whether or not the exercise of the power is completed before that date).
- (2) Part 12 of the 1996 Act continues to apply in relation to the exercise of the power.

- (3) The powers under Part 12 of the 1996 Act continue to be exercisable in relation to matters arising before the specified date.
- (4) A power under **Part 4** of this Act (the **new power**) that corresponds to a power under Part 12 of the 1996 Act (the **old power**) includes the power to do anything that may be done under the old power to the extent that the old power continues to be exercisable under **subclause (2) or (3)**, any other provision of this Part, or otherwise.
- (5) Anything done under the new power, as authorised by **subclause (4)**, is treated as having been done under the old power for the purposes of the 1996 Act as that Act continues to apply under this Part or otherwise.
- (6) In this clause, references to Part 12 of the 1996 Act include sections 23, 32A to 32C, 32E, and 32F of that Act.

In *Schedule 1*, replace *clause 5(1) and (2)* (page 278, lines 29 to 33) with:

- (1) **Subclause (2)** applies to a person who is a Customs officer under the 1996 Act immediately before the specified date.
- (2) The person's appointment or declaration as a Customs officer continues in force as if the appointment or declaration were an appointment that had been made under **section 249** of this Act.
- (2A) **Subclause (2B)** applies to a person who is, immediately before the specified date, an authorised person under the 1996 Act in relation to any function under that Act (the **1996 Act function**).
- (2B) The person's authorisation continues in force as if the authorisation were an authorisation that had been made under **section 250** of this Act in relation to any function under this Act that corresponds to the 1996 Act function.

In *Schedule 1*, *clause 5(3)*, replace "identification given to the person" (page 278, line 34) with "identification given to a person to whom **subclause (2) or (2B)** applies".

In *Schedule 1*, after *clause 5(3)* (page 278, after line 37), insert:

- (4) A person who is a Customs officer under **section 249** of this Act at any time is, for the purposes of the 1996 Act as that Act continues to apply under this Part or otherwise, also a Customs officer under that Act at that time.
- (5) A person who is an authorised person under **section 250** of this Act in relation to any function under this Act (the **new function**) at any time is, for the purposes of the 1996 Act as that Act continues to apply under this Part or otherwise, also an authorised person under that Act at that time in relation to any function under that Act that corresponds to the new function.

In *Schedule 1*, after *clause 5* (page 278, after line 37), insert:

5A Administrative penalties

- (1) Part 10 of the 1996 Act continues to apply in relation to the following:
 - (a) entries made before the specified date under the 1996 Act:
 - (b) entries made on or after the specified date under the 1996 Act as that Act continues to apply under this Part or otherwise.
- (2) In **subclause (1), entries** is to be read in accordance with section 128 of the 1996 Act.

5B Automated electronic systems

- (1) An arrangement that is made under section 274A of the 1996 Act in relation to any matter under that Act and that is in force immediately before the specified date continues in force in relation to any corresponding matter under this Act as if the arrangement were the subject of an approval under **section 275** of this Act.
- (2) Any consultation that is carried out (wholly or partly) under section 274A(4) of the 1996 Act before the specified date may be treated as having been carried out under **section 275(4)** of this Act.
- (3) Sections 274C and 274D of the 1996 Act continue to apply in relation to any decision made, or other relevant matter arising, before the specified date.

In *Schedule 1*, delete *clause 6(2) and (3)* (page 279, lines 4 to 9).

In *Schedule 1*, replace *clause 6(5)* (page 279, lines 15 and 16) with:

- (5) In **sections 47(1)(a) and 334(5)(a)** of this Act, references to this Act include the 1996 Act as that Act continues to apply under this Part or otherwise.
- (6) The definition of border information in **section 281(4)** of this Act includes anything that was border information before the specified date under the definition of that term in section 282D of the 1996 Act.
- (7) The definition of border information in section 41A(1) of the Biosecurity Act 1993 includes anything that was border information under that definition before its amendment on the specified date by this Act (*see Part 3 of Schedule 9*).
- (8) In the following definitions, references to this Act include the 1996 Act as that Act continues to apply under this Part or otherwise:
 - (a) the definitions of border information and border protection purpose in **section 281(4)** of this Act:
 - (b) the definitions of border information and customs-related border management function in section 41A(1) of the Biosecurity Act 1993.

In *Schedule 1, clause 8(2)*, replace “**(3) to**” (page 280, line 13) with “**(4) and**”.

In *Schedule 1*, delete *clause 8(3)* (page 280, line 15).

In *Schedule 1, clause 8(6)*, replace “Regulations under” (page 280, line 24) with “Regulations made for the purposes of”.

In *Schedule 1*, after *clause 8(7)* (page 280, after line 30), insert:

- (8) Records that Customs becomes required to keep on or after the specified date under section 136 of the 1996 Act, as that section continues to apply under this Part or otherwise, must be kept under **section 309** of this Act (instead of section 136 of the 1996 Act) for the period given by **section 309(2)(a) or (b)**.

In *Schedule 1*, after *clause 8* (page 280, after line 30), insert:

8A Customs rulings

- (1) This clause applies to the following:
 - (a) a Customs ruling that is made under Part 9 of the 1996 Act and that is in force immediately before the specified date:
 - (b) any other thing that is done under any provision of Part 9 of the 1996 Act and that is in force or otherwise effective immediately before the specified date.
- (2) The Customs ruling made or the other thing done continues in force or to be otherwise effective as if it had been made or done under the corresponding provision of **subpart 8 of Part 5** of this Act.
- (3) Without limiting **subclause (2)**, in **section 320(1)(f)** of this Act, if relevant,—
 - (a) the reference to the date on which notice of the Customs ruling is given is to the date on which it is given under Part 9 of the 1996 Act:
 - (b) the reference to the date on which notice of any amendment of that Customs ruling is given is to the date on which it is given under Part 9 of the 1996 Act.

8B Customs Appeal Authorities

Appointments

- (1) **Subclause (2)** applies to a person who is a Customs Appeal Authority under the 1996 Act immediately before the specified date.
- (2) The person’s appointment continues as if the appointment were an appointment that had been made under **subpart 10 of Part 5** of this Act.
- (3) **Subclause (4)** applies to a person who is a Registrar of a Customs Appeal Authority under the 1996 Act immediately before the specified date.

- (4) The person's appointment continues as if the appointment were an appointment that had been made in accordance with **clause 8 of Schedule 8** of this Act.

Continuation of Part 16 of 1996 Act

- (5) Part 16 of the 1996 Act continues to apply for the following purposes:
- (a) any appeal made to a Customs Appeal Authority before the specified date:
 - (b) any right of appeal to a Customs Appeal Authority that arises before the specified date if the appeal is not made before that date.
- (6) **Subclauses (7) and (8)** apply to an appeal under Part 16 of the 1996 Act as that Part continues to apply under **subclause (5)**, any other provision of this Part, or otherwise.
- (7) If an outcome of the appeal is the making of a decision under a provision of the 1996 Act that, had it been originally made by the chief executive, would, under this Part or otherwise, have continued in force or to be otherwise effective as if it had been made under the corresponding provision of this Act, the decision must be implemented under this Act accordingly.
- (8) If an outcome of the appeal is the overturning of a decision under a provision of the 1996 Act that, under this Part or otherwise, has continued in force or to be otherwise effective as if it had been made under the corresponding provision of this Act, the overturning of the decision must be implemented under this Act accordingly.
- (9) In **subclauses (7) and (8)**, **decision** includes an assessment, a ruling, a determination, and a direction.
- (10) A person who is a Customs Appeal Authority under **subpart 10 of Part 5** of this Act at any time is, for the purposes of Part 16 of the 1996 Act as that Part continues to apply under **subclause (5)**, any other provision of this Part, or otherwise, also a Customs Appeal Authority under Part 16 of the 1996 Act at that time, and the appointment of the Authority's Registrar applies accordingly.

In *Schedule 1*, replace *clause 9* (page 280, lines 31 to 35) with:

9 Keeping of records

- (1) **Subclause (2)** applies to the following:
- (a) records that a person is required to keep immediately before the specified date under section 95 of the 1996 Act:

- (b) records that a person becomes required to keep on or after the specified date under section 95 of the 1996 Act as that section continues to apply under this Part or otherwise.
- (2) The records must be kept under **section 331(1)(a)** of this Act (instead of section 95 of the 1996 Act)—
 - (a) as if—
 - (i) the person were a specified person under **section 331(4)**; and
 - (ii) the records were prescribed for the purposes of **section 331(1)(a)**; and
 - (b) for, as the case may be,—
 - (i) the remainder of the period prescribed for the purposes of **section 331(1)(a)**; or
 - (ii) the period prescribed for the purposes of **section 331(1)(a)**.
- (3) The other provisions of **subpart 1 of Part 6** of this Act apply in relation to the person and the records accordingly.
- (4) Without limiting **section 331(1)(b)** of this Act, a direction may be given under that section for the purposes of the 1996 Act as that Act continues to apply under this Part or otherwise.
- (5) Section 95 of the 1996 Act continues to apply to a requirement imposed under section 95(2) before the specified date.
- (6) In relation to the giving of access to records on and after the specified date, a notice given under section 95A(1)(b) of the 1996 Act before the specified date is treated as having been given under **section 334(2)** of this Act.

9AA Filing of charging document

- (1) A nomination that is in force under section 221(1)(b) or (c) of the 1996 Act immediately before the specified date continues in force as if it had been made under **section 375(1)(b)** of this Act.
- (2) A Customs officer, an agent, or other employee who is a nominated person under **section 375(1)(b)** of this Act at any time is, for the purposes of the 1996 Act as that Act continues to apply under this Part or otherwise, also a nominated person under section 221(1)(b) or (c) (as the case requires) of that Act at that time.

9AB Other liabilities under 1996 Act

- (1) The 1996 Act continues to apply in relation to—
 - (a) the payment, collection, and recovery of any levy, fee, charge, or other amount for which a person becomes liable

under the 1996 Act before the specified date (whether or not the time for payment of the levy, fee, charge, or other amount expires before the specified date); and

- (b) any other matter relating to the levy, fee, charge, or other amount.
- (2) **Subclause (1)** does not apply to duty or to a levy under section 288B of the 1996 Act.

In *Schedule 1*, heading to *clause 9B*, replace “**Customs and Excise (Border Processing Levy) Order 2015**” (page 281, line 1) with “**Border processing levy**”.

In *Schedule 1*, *clause 9B*, insert as *subclause (1)* (page 281, before line 2):

- (1) Sections 288B to 288I of the 1996 Act continue to apply in relation to—
 - (a) the payment, collection, and recovery of levies under section 288B of the 1996 Act in respect of travellers who arrive in, or depart from, New Zealand before the specified date; and
 - (b) any other matter relating to levies under section 288B of the 1996 Act in respect of those travellers.

In *Schedule 1*, *clause 9B*, replace “The” (page 281, line 2) with “For levies in respect of travellers who arrive in, or depart from, New Zealand on or after the specified date, the”.

In *Schedule 1*, *clause 10(a)*, after “2014” (page 281, line 9), insert “and the Customs (Trade Single Window Inward Cargo Report) Rules 2017”.

In *Schedule 1*, delete *clause 10(n)* (page 281, lines 35 and 36).

In *Schedule 1*, *clause 10A*, insert as *subclause (1)* (page 282, before line 2):

- (1) A designation that is made under section 64B of the 1996 Act and that is in force immediately before the specified date continues in force as if it had been made under **section 413(3)** of this Act.

In *Schedule 1*, replace *clause 11* (page 282, lines 6 to 17) with:

11 Excise and excise-equivalent duty: provisions relating to refunds, etc, to cover duty levied under 1996 Act

- (1) In **section 107(3)** of this Act, the references to excise duty and excise-equivalent duty include excise duty and excise-equivalent duty levied under the 1996 Act (but not any additional duty imposed under section 87 of that Act).
- (2) In **section 107(4)(a)** of this Act, the reference to excise duty includes excise duty levied under the 1996 Act.
- (3) In **section 108(1)(a)** of this Act, the reference to Part A goods that are manufactured in a manufacturing area includes goods specified in Part A of the Excise and Excise-equivalent Duties Table

under the 1996 Act that are manufactured in a manufacturing area under that Act before the specified date.

- (4) In **section 108(3)** of this Act, the reference to excise duty includes excise duty levied under the 1996 Act (but not any additional duty imposed under section 87 of that Act).
- (5) In **section 108(4)(a)** of this Act, the reference to excise duty includes excise duty levied under the 1996 Act.
- (6) In **sections 147(a), 149(4), and 154S(a)** of this Act, references to duty include excise duty and excise-equivalent duty levied under the 1996 Act.
- (7) Drawback may be allowed under **section 149** of this Act in respect of excise duty or excise-equivalent duty levied under the 1996 Act, and references in this Act to duty include those duties where relevant.

In *Schedule 1, clause 13(1)*, replace “Customs and Excise Act 1996” (page 282, lines 37 and 38) with “1996 Act”.

In *Schedule 1, clause 13(2)*, replace “Customs and Excise Act 1996” (page 283, line 5) with “1996 Act”.

In *Schedule 1*, replace *clause 13A* (page 283, lines 8 to 11) with:

13A Excise and excise-equivalent duty: application of Part 5 of Schedule 3

The Excise and Excise-equivalent Duties Table applies to goods that are manufactured or imported (as the case may be) before the specified date as if the amendments in **Part 5 of Schedule 3** of this Act had not been made.

Schedule 3

In *Schedule 3, clause 10(4)*, replace “proportion” (page 294, line 2) with “volume”.

In *Schedule 3, clause 10(6)*, replace “proportion” (page 294, lines 8 and 9) with “volume”.

In *Schedule 3*, after *clause 10(6)* (page 294, after line 10), insert:

- (6A) Regulations may, in consequence of regulations made for the purposes of **subclause (4)** in accordance with **subclause (6)**, provide that credit—
 - (a) may not be claimed under **section 107** for excise duty or excise-equivalent duty levied in respect of any of the other substances; or
 - (b) may be so claimed only to the extent permitted by the regulations.

(6B) In **subclause (4)**, the reference to the excise duty levied under **clause 1(1)** includes, if relevant, the following:

- (a) any levy imposed by section 213(2)(c) of the Accident Compensation Act 2001;
- (b) any levy imposed by section 24 of the Energy (Fuels, Levies, and References) Act 1989.

In *Schedule 3, clause 16(2)*, after “order” (page 297, line 24), insert “under **subclause (1)**”.

In *Schedule 3*, after *clause 16(2)* (page 297, after line 27), insert:

- (2A) The rates of duty set out in the amendments in **Part 5** of this schedule are the same as certain rates of duty set out in the Excise and Excise-equivalent Duties Table under the Customs and Excise Act 1996 as at 1 July 2017.
- (2B) **Subclause (2C)** applies if any of those rates of duty set out in the Excise and Excise-equivalent Duties Table under the Customs and Excise Act 1996 as at 1 July 2017 is changed on 1 or more occasions before the specified date by an Order in Council made under Part 7 of that Act.
- (2C) The amendments in **Part 5** of this schedule must be incorporated into the Excise and Excise-equivalent Duties Table set out in the order under **subclause (1)** with the rates of duty changed as appropriate to reflect the changes to any rates of duty as referred to in **subclause (2B)**.

In *Schedule 3, clause 21(5)*, replace “2018, 2019,” (page 300, line 8) with “2019”.

In *Schedule 3, clause 21(5)(b)*, replace “2017, 2018,” (page 300, line 13) with “2018”.

In *Schedule 3, clause 22(2)(b)*, replace “2018, 2019,” (page 300, line 30) with “2019”.

In *Schedule 3, clause 30(2)*, replace *new item 99.30.01K* (page 304) with:

99.30.01K	-- Containing not more than 14% vol.	per l	\$2.9054
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In *Schedule 3, clause 30(2)*, *new item 99.30.02H*, replace “\$51.795” (page 304) with “\$52.916”.

In *Schedule 3, clause 30(2)*, *new item 99.30.03F*, replace “\$51.795” (page 304) with “\$52.916”.

In *Schedule 3, clause 30(2)*, *new item 99.30.21D*, replace “42.650¢” (page 304) with “43.573¢”.

In *Schedule 3, clause 30(2)*, *new item 99.30.26E*, replace “\$28.438” (page 304) with “\$29.054”.

In *Schedule 3, clause 30(2)*, *new item 99.30.32K*, replace “\$2.2750” (page 304) with “\$2.3243”.

**Proposed amendments to
Customs and Excise Bill**

SOP No 12

In *Schedule 3, clause 30(2), new item 99.30.47H*, replace “\$2.8438” (page 304) with “\$2.9054”.

In *Schedule 3, clause 30(2), new item 99.30.59A*, replace “\$51.795” (page 304) with “\$52.916”.

In *Schedule 3, clause 30(2), new item 99.30.62A*, replace “\$51.795” (page 304) with “\$52.916”.

In *Schedule 3, clause 30(3), new item 99.44.22C*, replace “42.650¢” (page 304) with “43.573¢”.

In *Schedule 3, clause 30(3), new item 99.44.23A*, replace “\$28.438” (page 304) with “\$29.054”.

In *Schedule 3, clause 30(3), new item 99.44.24K*, replace “\$2.2750” (page 304) with “\$2.3243”.

In *Schedule 3, clause 30(3), new item 99.44.25H*, replace “\$2.8438” (page 305) with “\$2.9054”.

In *Schedule 3, clause 30(3), new item 99.44.26F*, replace “\$51.795” (page 305) with “\$52.916”.

In *Schedule 3, clause 30(3), new item 99.44.27D*, replace “\$51.795” (page 305) with “\$52.916”.

In *Schedule 3, clause 30(3), new item 99.44.42H*, replace “42.650¢” (page 305) with “43.573¢”.

In *Schedule 3, clause 30(3), new item 99.44.43F*, replace “\$28.438” (page 305) with “\$29.054”.

In *Schedule 3, clause 30(3), new item 99.44.44D*, replace “\$2.2750” (page 305) with “\$2.3243”.

In *Schedule 3, clause 30(3), new item 99.44.45B*, replace “\$2.8438” (page 305) with “\$2.9054”.

In *Schedule 3, clause 30(3), new item 99.44.46L*, replace “\$51.795” (page 305) with “\$52.916”.

In *Schedule 3, clause 30(3), new item 99.44.47J*, replace “\$51.795” (page 305) with “\$52.916”.

In *Schedule 3*, after *clause 30(3)* (page 305), insert:

(3A) After **item 99.55**, insert:

99.59	Tobacco, cured, not ready for smoking which, if imported, would be classified in Tariff heading 24.01		
99.59.10G	Cured leaf	per kg	Free

In *Schedule 3, clause 31(3)*, each *new item 2208.90.62*, replace “42.650¢” (page 306) with “43.573¢”.

In *Schedule 3, clause 31(3)*, each *new item 2208.90.68*, replace “\$28.438” (page 306) with “\$29.054”.

In *Schedule 3, clause 31(3)*, each *new item 2208.90.72*, replace “\$2.2750” (page 306) with “\$2.3243”.

In *Schedule 3, clause 31(3)*, each *new item 2208.90.78*, replace “\$2.8438” (pages 306 and 307) with “\$2.9054”.

In *Schedule 3, clause 31(3)*, each *new item 2208.90.85*, replace “\$51.795” (pages 306 and 307) with “\$52.916”.

In *Schedule 3, clause 31(3)*, each *new item 2208.90.97*, replace “\$51.795” (pages 306 and 307) with “\$52.916”.

Schedule 5

In *Schedule 5, clause 4(2A)*, after “goods” (page 329, line 9), insert “and, if the chief executive does so, this Act applies in relation to each different part of the goods as if it had been seized separately”.

In *Schedule 5*, after *clause 6(4)* (page 330, after line 31), insert:

- (4A) In relation to a condition that requires something to be done by the applicant or any other person who has an interest in the seized goods, the chief executive may set a time limit for the meeting of the condition for the purposes of **section 166A**.

Schedule 9

In *Schedule 9, Part 3*, delete the item relating to the Dumping and Countervailing Duties Act 1988 (page 359, lines 18 to 30).

In *Schedule 9, Part 3*, item relating to the Misuse of Drugs Act 1975, *new section 36(1)*, replace “**210,**” (page 369, line 8) with “**206, 210, 216,**”.

In *Schedule 9, Part 3*, delete the item relating to the Mutual Assistance in Criminal Matters Act 1992 (page 369, lines 24 to 27).

In *Schedule 9, Part 3*, item relating to the Summary Proceedings Act 1957, replace “(jb)” (page 376, line 2) with “(ha)”.

In *Schedule 9, Part 3*, item relating to the Summary Proceedings Act 1957, *new paragraph (jc)*, replace “(jc)” (page 376, line 3) with “(hb)”.

In *Schedule 9, Part 3*, after the item relating to the Terrorism Suppression Act 2002 (page 377, after line 4), insert:

Trade (Anti-dumping and Countervailing Duties) Act 1988 (1988 No 158)

In section 3(1), definition of **Customs** or **the Customs**, replace “it by section 2(1) of the Customs and Excise Act 1996” with “Customs by **section 5(1)** of the Customs and Excise Act **2016**”.

In section 3(1), definition of **exporter**, replace “section 2(1) of the Customs and Excise Act 1996” with “**section 5(1)** of the Customs and Excise Act **2016**”.

Trade (Anti-dumping and Countervailing Duties) Act 1988 (1988 No 158)—continued

In section 3(1), definition of **importer**, replace “section 2(1) of the Customs and Excise Act 1996” with “**section 5(1)** of the Customs and Excise Act **2016**”.

Repeal section 3D(2).

In section 16(1), replace “sections 156 and 157 of the Customs and Excise Act 1996” with “**sections 219 and 220** of the Customs and Excise Act **2016**”.

In section 16(2), replace “sections 156 and 157 of the Customs and Excise Act 1996” with “**sections 219 and 220** of the Customs and Excise Act **2016**”.

In *Schedule 9, Part 4*, replace the item relating to the Accident Compensation (Motor Vehicle Account Levies) Regulations 2016 (page 379, lines 3 to 7) with:

Accident Compensation (Motor Vehicle Account Levies) Regulations 2017 (LI 2017/71)

In regulation 3, definition of **motor spirits**, replace “section 79A(2) of the Customs and Excise Act 1996” with “**clause 23(3) of Schedule 3** of the Customs and Excise Act **2016**”.

In *Schedule 9, Part 4*, replace the item relating to regulation 21(d) of the Customs and Excise Regulations 1996 (page 382, line 3) with:

In regulation 21(d), replace “executive in rules made under section 288(1)(d)” with “executive’s rules made for the purposes of **section 75(1)(a)**”.

In *Schedule 9, Part 4*, after the item relating to regulation 54 of the Customs and Excise Regulations 1996 (page 384, after line 19), insert:

In regulation 54(a), after “JBMS”, insert “(as defined in **section 281(4)** of the Act)”.

In *Schedule 9, Part 4*, after the item relating to regulation 55 of the Customs and Excise Regulations 1996 (page 384, after line 20), insert:

In regulation 55(a), after “JBMS”, insert “(as defined in **section 281(4)** of the Act)”.

In *Schedule 9, Part 4*, item relating to regulation 84 of the Customs and Excise Regulations 1996, replace *new regulation 84* (page 385, lines 21 to 25) with:

84 Form of declaration

For the purposes of **section 406(1)(b)** of the Act, a declaration must be in form 15 unless otherwise prescribed by these regulations.

In *Schedule 9, Part 4*, delete the item relating to the Energy (Petroleum or Engine Fuel Monitoring Levy) Regulations 2015 (page 387, lines 11 to 14).

Explanatory note

This Supplementary Order Paper (SOP) proposes amendments to the Customs and Excise Bill.

The SOP proposes an amendment to *clause 2*, which is the Bill's commencement provision. The effect of the amendment is that most of the provisions of the Bill will come into force 12 months after Royal assent or at an earlier time specified by Order in Council, instead of 6 months after Royal assent as currently provided for by *clause 2*. The purpose of the amendment is to provide flexibility so that the Bill can be brought into force at a time that does not clash with those periods during which Customs must deal with peak seasonal passenger and cargo movements.

The SOP proposes an amendment to the definition of duty in *clause 5(1)* and amendments to *clauses 136, 137, 146, and 149*. These amendments are in consequence of the renaming of the Dumping and Countervailing Duties Act 1988 as the Trade (Anti-dumping and Countervailing Duties) Act 1988 by the Trade (Anti-dumping and Countervailing Duties) Amendment Act 2017, as well as the amendments to the Customs and Excise Act 1996 made by Part 1 of Schedule 3 of that 2017 amendment Act. Amendments are also proposed to *Schedule 9* to take account of the renaming.

The SOP proposes the replacement of the definition of prohibited imports in *clause 5(1)* so that the definition will cover goods whose importation is absolutely prohibited by a notice issued under section 22(1A) of the Misuse of Drugs Act 1975. These types of goods are prohibited imports under the Customs and Excise Act 1996 (*see* Schedule 1 of that Act).

The SOP proposes amendments to *clause 26* to provide that the powers under that clause may be exercised in certain cases in the contiguous zone. The corresponding powers under the Customs and Excise Act 1996 are exercisable in the contiguous zone.

The SOP proposes amendments to *clauses 154A and 154H* that insert purpose provisions relating to the prescribing of rates of interest for late payment of duty, etc. The wording used is based on section 120A(1)(a)(ii) and (b) of the Tax Administration Act 1994.

The SOP proposes the replacement of *clause 154U(6)* to allow for regulations to prescribe an amount of duty, refund, or drawback and to provide that interest and penalties under *subpart 7A of Part 3* need not be collected in respect of any duty, refund, or drawback that is below the prescribed amount.

The SOP proposes *new clause 166A*, and related *new clause 6(4A) of Schedule 5*, to deal with the condemnation to the Crown of forfeited goods where conditional relief has been granted to a person with an interest in the goods under *clause 4(2)(b) of Schedule 5* but the person fails to meet the condition within a set time limit.

The SOP proposes amendments to *clauses 169 and 223* to provide that the powers under *clause 223* may be exercised in the contiguous zone. The corresponding powers under the Customs and Excise Act 1996 are exercisable in the contiguous zone.

The SOP proposes an amendment to *clause 242* to clarify that the power of arrest under that clause is exercisable without a warrant. This reflects the current position under section 174 of the Customs and Excise Act 1996.

The SOP proposes an amendment to *clause 283* to reflect section 280M(7) of the Customs and Excise Act 1996, paragraph (a)(ii) of the definition of agency, as inserted by section 257 of the Intelligence and Security Act 2017.

The SOP proposes the replacement of *clause 333(1)* to clarify that the offence is intended to cover any failure to comply with *clause 331(1)(a)*.

The SOP proposes an amendment to *clause 380* to clarify that any power in the Bill to prescribe a rate of interest by regulations includes the power to prescribe the way in which the rate is to be determined.

The SOP proposes amendments to *Schedule 1*. *Schedule 1* contains transitional, savings, and related provisions concerning the transition to the Bill from the Customs and Excise Act 1996. These amendments are primarily new provisions to clarify how this transition will work for certain cases.

The SOP proposes amendments to *Schedule 3*. These include amendments that update specified rates of duty on alcoholic beverages to take account of the Excise and Excise-equivalent Duties Table (Alcoholic Beverages Indexation) Amendment Order 2017 and that insert a mechanism for further updating the rates if appropriate.

The amendments to *Schedule 3* also include a provision that will add cured tobacco leaf to Part A of the Excise and Excise-equivalent Duties Table in consequence of the inclusion of “curing” in *paragraph (a)(i)* of the definition of manufacture in *clause 5(1)* of the Bill.

The other amendments proposed by the SOP are minor corrections or technical or drafting changes.

Departmental disclosure statement

The New Zealand Customs Service considers that a departmental disclosure statement is not required to be prepared for this Supplementary Order Paper.