

Customs and Excise Amendment Regulations 2002

Pursuant to sections 40A, 71(aa), 286(1)(o) and (ff), and 287(1)(a) of the Customs and Excise Act 1996, Her Excellency the Governor-General, acting on the advice and with the consent of the Executive Council, makes the following regulations.

Contents

		Page
1	Title	1
2	Commencement	1
3	New regulation 24A inserted	2
	24A Import transaction fee	2
4	New regulation 52A substituted	3
	52A Circumstances in which entry must be made by owner	3
5	Duty credits	3
6	Search warrant	4
7	Second Schedule amended	4
	Schedule	4
	New form 11 substituted	

1 Title

- (1) These regulations are the Customs and Excise Amendment Regulations 2002.
- (2) In these regulations, the Customs and Excise Regulations 1996 SR 1996/232 are called “the principal regulations”.

2 Commencement

- (1) Regulation 3 comes into force on 1 December 2002.

- (2) The rest of these regulations come into force on 9 January 2003.

3 New regulation 24A inserted

The principal regulations are amended by inserting, after regulation 24, the following regulation:

“24A Import transaction fee

- “(1) Every person who makes an entry under section 39(1) of the Act or who lodges a document under regulation 25(i)(iii) or regulation 26(2) must, when paying the duty payable on the goods in relation to which the entry is made or the document is lodged, pay an import transaction fee of \$18 for the entry or document.
- “(2) Despite subclause (1), the fee is not payable if the entry or document relates only to—
- “(a) goods that the Chief Executive is satisfied, under section 116(1) of the Act, have been temporarily imported; or
 - “(b) goods conveyed, removed, or transhipped for export; or
 - “(c) goods subject to the control of the Customs that are to be transported from one Customs controlled area to another Customs controlled area for future Customs clearance; or
 - “(d) goods in respect of which an entry has already been made and the duty paid because an entry was made in respect of those goods when an earlier consignment was found to be short packed, short shipped, or short landed; or
 - “(e) goods in respect of which full details are not available in order to make a full or complete entry; or
 - “(f) goods on which no duty is payable or on which the total duty payable is less than \$50; or
 - “(g) goods that—
 - “(i) are for the person’s own personal, non-commercial use and not for resale; and
 - “(ii) have a Customs value that, together with the Customs value of any other goods imported by or for the person on the same craft on which those goods arrived, or, in the case of a postal article, together with the Customs value of any other

goods imported by or for the person in the same dispatch of mail, amounts to less than \$1,000.

- “(3) If an entry is cancelled under section 42 of the Act, or a document is withdrawn or cancelled with the permission of a Customs officer, and—
- “(a) No import transaction fee has been paid in relation to that entry or document, then no fee is payable; or
 - “(b) an import transaction fee has been paid in relation to that entry or document, then that fee must be refunded.
- “(4) The fee is inclusive of goods and services tax.”

4 New regulation 52A substituted

The principal regulations are amended by revoking regulation 52A, and substituting the following regulation:

“52A Circumstances in which entry must be made by owner

- “(1) This regulation applies if—
- “(a) wine is removed from a Customs controlled area that is required to be licensed solely because of regulation 6(a); and
 - “(b) the wine was manufactured in New Zealand; and
 - “(c) as permitted by regulation 56, no entry was made in respect of the wine when it was taken into that Customs controlled area; and
 - “(d) at the time of its removal from that Customs controlled area, the wine is owned by a licensee of an area licensed for the purpose described in section 10(a) of the Act.
- “(2) If this regulation applies, any entry that is required to be made in respect of the removal of the wine—
- “(a) does not have to be made by the licensee of the Customs controlled area; and
 - “(b) must, instead, be made by the owner of the wine.”

5 Duty credits

Regulation 58 of the principal regulations is amended by inserting, after the words “excise duty”, the words “or excise-equivalent duty”.

6 Search warrant

Regulation 78 of the principal regulations is amended by omitting the words “shall be”, and substituting the words “must be in”.

7 Second Schedule amended

The Second Schedule of the principal regulations is amended by revoking form 11, and substituting the form 11 set out in the Schedule of these regulations.

Schedule
New form 11 substituted
Form 11
Search warrant

r 7

r 78

Form 11—*continued**Section 167, Customs and Excise Act 1996*

To every Customs officer (or [full name], Customs officer)

I am satisfied on an application, in writing made on oath, that there are reasonable grounds to believe that there is in or on [specify place or thing] the following thing, namely:

- * (a) any thing that there are reasonable grounds to believe may be evidence of—
 - (i) the commission of an offence against [specify offence]; or
 - (ii) the unlawful exportation or importation of [specify goods]; or
- * (b) any thing that there are reasonable grounds to believe is intended to be used for the purpose of—
 - (i) committing an offence against [specify offence]; or
 - (ii) unlawfully exporting or importing [specify goods]; or
- * (c) any thing that is liable to seizure under the Customs and Excise Act 1996.

*Delete if inapplicable.

This is to authorise you—

- (a) to enter and search the place or thing specified above on 1 occasion within 10 working days of the date of issue of this warrant at any time that is reasonable in the circumstances, subject to the following conditions (if any) [specify conditions]; and
- (b) to use any assistance that is reasonable in the circumstances; and
- (c) to use any force that is reasonable in the circumstances for making entry (whether by breaking open doors or otherwise) and for breaking open any thing and for preventing the removal from the premises of any thing; and
- (d) to search for and seize any thing referred to in this warrant, and to seize any other thing that you have reasonable cause to suspect may be evidence of the commission of an offence in respect of which you could have obtained a warrant; and
- (e) to detain a person who is at the specified place, or who arrives at that place while you are executing this warrant, until you are satisfied that the person is not connected with any thing referred to in this warrant; and
- (f) to search a person who is at the specified place, or who arrives at that place while you are executing this warrant, if, while you are executing this warrant, you reasonably believe that the thing referred to in this warrant may be on the person's body.

Form 11—*continued*

When executing this warrant, you are required to comply with sections 168(3D) and (5) to (8), 169, and 173 of the Customs and Excise Act 1996.

If you seize any thing under this warrant, you are required to comply with section 170 of the Customs and Excise Act 1996.

Dated: [*date*]

.....
District Court Judge
(*or* Community Magistrate
or Justice of the Peace
or Registrar of a District Court)

Marie Shroff,
Clerk of the Executive Council.

Explanatory note

This note is not part of the regulations, but is intended to indicate their general effect.

These regulations amend the Customs and Excise Regulations 1996 “(the principal regulations”).

Regulation 3 inserts in the principal regulations a new regulation 24A that prescribes an import transaction fee of \$18 payable on all standard import entries unless the goods to which the entry relates are—

- goods that the Chief Executive is satisfied have been temporarily imported; or
- goods that are conveyed, removed, or transhipped for export; or
- goods that are subject to the control of the Customs and are to be transported from one Customs controlled area to another for future Customs clearance; or
- goods in respect of which entry has already been made and the duty paid; or
- goods in respect of which full details are not available in order to make a full or complete entry; or

- goods on which no duty is payable or the total duty payable is less than \$50; or
- goods imported for the importer's personal use that have a total Customs value of less than \$1,000.

Regulation 4 amends the principal regulations by substituting a new regulation 52A, which specifies who must make a Customs entry when wine is removed from a Customs controlled area in certain circumstances. Currently, if the conditions specified in regulation 52A are met, an entry must be made by the manufacturer of the wine. Under new regulation 52A, that entry must instead be made by the person who, at the time of the removal of the wine, owns the wine.

Regulation 5 amends regulation 58 of the principal regulations to ensure that it refers not just to excise duty but also to excise-equivalent duty. This amendment is to align the regulation with section 85(2) of the Customs and Excise Act 1996.

Regulation 6 amends regulation 78 of the principal regulations to correct a minor drafting error.

Regulation 7 amends the Second Schedule of the principal regulations by substituting the new form 11 set out in the Schedule. New form 11 is the form of search warrant to be used when a search is to be conducted under section 167 of the Customs and Excise Act 1996. New form 11 reflects the amendments that were made to section 167 by the Customs and Excise Amendment Act (No 2) 2002.

The amendment made by regulation 3 comes into effect on 1 December 2002. The other amendments come into force on 9 January 2003.