



ANALYSIS

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1976, No. 15

An Act to amend the Customs Act 1966

[31 August 1976]

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, 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).

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

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:

“ ‘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:

“ ‘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

“(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 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.

“(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.

“(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.

“(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:

“(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:

“(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.

“(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.

“(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.

“(9) For the purposes of this section and sections 36B and 36C of this Act, the term ‘port’ includes any natural or artificial 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.

“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, and may detain the cargo and other property distrained until that tax is paid.

“(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 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.

“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.

“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.”

(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.

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”

This Act is administered in the Customs Department.
