



ANALYSIS

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1994, No. 129

An Act to amend the Customs Act 1966

[9 December 1994]

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

1. Short Title and commencement—(1) This Act may be cited as the Customs Amendment Act 1994, 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 a date to be appointed by the Governor-General by Order in Council; and one or more orders may be made bringing different provisions into force on different dates.

2. Delivery for home consumption—(1) Section 17 (1) of the principal Act is hereby amended by omitting the words “proper officer” in both places where they occur, and substituting the word “Customs”.

(2) Section 17 (3) of the principal Act (as added by section 3 of the Customs Amendment Act 1990) is hereby amended by omitting the words “the Collector”, and substituting the words “a Collector”.

3. Exemption by Comptroller—The principal Act is hereby amended by inserting, after section 35A (as inserted by section 17 (1) of the Customs Acts Amendment Act (No. 2) 1977), the following section:

“35B. (1) The Comptroller may, from time to time, and on such terms and conditions, if any, as he or she thinks fit, by notice in writing, exempt—

“(a) Any person or any class or classes of persons; or

“(b) Any goods or any class or classes of goods—
from compliance with any of sections 50, 52A, 53, 62, or 65 of this Act.

“(2) The Comptroller may, by notice in writing, revoke or vary any exemption granted under subsection (1) of this section or any term or condition to which it is subject.”

4. Repeal of section 49 relating to importation of brandy, whisky, and rum—(1) Section 49 of the principal Act (as amended by section 18 of the Customs Amendment Act 1968 and section 5 of the Customs Acts Amendment Act 1985) is hereby repealed.

(2) The following enactments are hereby consequentially repealed:

(a) Section 18 of the Customs Amendment Act 1968:

(b) Section 5 of the Customs Acts Amendment Act 1985.

5. Kinds of entry of imported goods—(1) The principal Act is hereby amended by repealing section 53 (as amended by section 12 (2) of the Customs Amendment Act 1968 and section 7 of the Customs Amendment Act 1986), and substituting the following section:

“53. (1) Except as provided in section 54 or section 54A of this Act, every importer shall enter all goods imported, or intended to be imported, by the importer in such manner (including by electronic means into a computer or other device) and within such times as may be prescribed.

“(2) Goods shall be entered under subsection (1) of this section for one or more of the following categories of entry:

“(a) For home consumption:

“(b) For delivery to a licensed manufacturing area or an export warehouse:

“(c) For export:

“(d) For removal.”

(2) The following enactments are hereby consequentially repealed:

(a) Section 12 (2) of the Customs Amendment Act 1968:

(b) Section 7 of the Customs Amendment Act 1986.

6. When entry to be made—Section 55 (1) of the principal Act is hereby amended by omitting the words “respective times after the arrival of the goods at that port”, and substituting the word “times”.

7. New sections inserted—The principal Act is hereby amended by inserting, after section 151 (as substituted by section 13 of the Customs Acts Amendment Act 1985), the following heading and sections:

“Determination of Origin of Imported Goods

“151A. **Interpretation**—In sections 151B to 151J of this Act, unless the context otherwise requires,—

“‘Applicant’ means a person who has made an application:

“‘Application’ means an application under section 151B of this Act for a determination:

“‘Determination’ means a determination by the Comptroller under section 151c of this Act whether or not particular goods are, for the purposes of the Tariff, the produce or manufacture of a particular country or group of countries; and includes a determination that has been amended by the Comptroller under section 151G of this Act or varied by the Court under section 151i of this Act:

“‘Origin regulations’ means regulations made from time to time under section 148 of this Act prescribing conditions to be fulfilled before goods shall be deemed, for the purposes of the Tariff, to be the produce or manufacture of a particular country or group of countries.

“151B. **Application for determination**—(1) A person may make an application, in respect of particular goods specified in the application, to the Comptroller for a determination whether or not those goods are, for the purposes of the Tariff, the produce or manufacture of a particular country or group of countries referred to in the application.

“(2) An application may be made—

“(a) At any time before the date of importation into New Zealand of the goods that are the subject of the application; or

“(b) Within 6 months of that date; or

“(c) At any later time, if the Comptroller in his or her discretion permits.

“(3) Every application must be in the prescribed form, and must—

“(a) State the name and address of the applicant; and

“(b) Specify the particular goods that are the subject of the application; and

“(c) Specify, in respect of those goods, the country or the group of countries of which, for the purposes of the Tariff, the applicant considers those goods to be the produce or manufacture and in respect of which a determination is applied for; and

“(d) Unless the Comptroller agrees otherwise, be accompanied by the goods or a sample of the goods; and

“(e) Contain, or have attached, all information that is relevant to a proper consideration of the application.

“(4) The Comptroller may, at any time, request further information from an applicant if the Comptroller considers that the information is relevant to the application.

“151c. **Making of determination**—(1) Subject to subsection (5) of this section, the Comptroller shall make a determination in respect of any particular goods specified in an application whether or not the goods are, for the purposes of the Tariff, the produce or manufacture of the particular country or group of countries specified in the application.

“(2) The Comptroller must make every determination in accordance with the origin regulations.

“(3) The Comptroller must make a determination under subsection (1) of this section promptly (and in any event within 150 days) after receipt of—

“(a) A properly completed application in respect of particular goods; and

“(b) The goods or a sample of the goods, unless the Comptroller has agreed not to require receipt of the goods; and

“(c) All information that the Comptroller considers relevant to a proper consideration of the application; and

“(d) All information which the Comptroller requests under section 151b (4) of this Act.

“(4) A determination may be made subject to such conditions as the Comptroller thinks fit.

“(5) The Comptroller may decline to make a determination if, in the Comptroller’s opinion, he or she has insufficient information to do so.

“151D. **Notice of determination**—The Comptroller shall promptly give notice in writing to the applicant of—

“(a) A determination, together with the reasons for the determination, and the conditions (if any) to which it is subject; or

“(b) A decision to decline to make a determination, together with the reasons for that decision.

“151E. **Effect of determination**—(1) Subject to section 151H of this Act, a determination in respect of goods is conclusive evidence for the purposes of this Act and the Tariff Act 1988 that the goods are or are not, as the case may be, the produce or manufacture of a particular country or group of countries for the purposes of the Tariff.

“(2) Notwithstanding sections 149, 150, and 151 of this Act, but subject to section 151H of this Act, presentation to the Collector of a determination in respect of goods is conclusive evidence for the purposes of those sections that the particular goods in respect of which the determination is made are or are not, as the case may be, the produce or manufacture of a particular country or group of countries for the purposes of the Tariff.

“151F. **Confirmation of basis of determination**—Where a determination is made in respect of particular goods before the importation of those goods, the Collector may, by notice in writing, on or after the importation of the goods, require the applicant to satisfy him or her in such manner and within such time limits as the Collector considers appropriate,—

“(a) That the facts or information on which the determination was made remain correct; and

“(b) That the conditions on which the determination was made have been complied with.

“151G. **Amendment of determination**—(1) The Comptroller may from time to time, with the prior agreement in writing of the applicant, amend a determination.

“(2) The Comptroller shall, promptly after making the amendment, give notice in writing to the applicant of the amended determination.

“151H. **Cessation of determination**—(1) A determination in respect of goods ceases to have effect on the earliest to occur of the following dates:

- “(a) The date on which any information on which the determination was made ceases to be correct in all material respects; or
 - “(b) The date of a material change in any of the information or facts on which the determination was made; or
 - “(c) The date of a material change in the origin regulations if that date occurs before the importation of the relevant goods; or
 - “(d) The date on which any of the conditions to which the determination was made subject cease to be met or complied with; or
 - “(e) The date of a failure to satisfy the requirements of the Collector under section 151F of this Act; or
 - “(f) The date of the expiry of 3 years from the date notice of the determination, or any amendment to that determination under section 151C of this Act, is given to the applicant.
- “(2) A determination shall not come into effect if—
- “(a) Information on which it was made was not correct in all material respects; or
 - “(b) A material change has occurred in any information or facts on which it was made.

“151. **Appeal from decisions of Comptroller**—(1) An applicant who is dissatisfied with a determination, or a decision to decline to make a determination, under section 151c of this Act may appeal to the High Court against the determination, or that decision, as the case may be.

- “(2) Every appeal must be made by giving notice of appeal—
- “(a) Within 28 days of receiving notice of the determination or of the decision to decline to make a determination, as the case may be; or
 - “(b) Within such further time as the Court may allow, on application made either before or after the expiration of those 28 days.

“(3) On hearing any appeal under this section, the Court may confirm or vary or revoke the determination or decision to decline to make a determination, as the case may be.

“(4) The procedure in respect of any appeal under this section shall be in accordance with Rules of Court, and in default of such Rules, or so far as they do not extend, then in accordance with the usual practice of the High Court in civil proceedings so far as applicable or, so far as not applicable, then in accordance with the directions of the Court or a Judge of the Court.

“151J. **Delivery of notices**—Every notice required to be given to an applicant under section 151D or section 151F or section 151G of this Act may be given to the applicant by—

“(a) Personal delivery to the applicant; or

“(b) Posting it to the address of the applicant provided in the applicant’s application or to the applicant’s last known address, in which case, it shall be deemed to have been given to the applicant at the time at which it would have been delivered in the ordinary course of post; and in proving posting—

“(i) It shall be sufficient to prove that the notice was properly addressed; and

“(ii) It shall be presumed, in the absence of proof to the contrary, that the notice was posted on the day on which it was dated; or

“(c) Sending it by facsimile to a facsimile number provided by the applicant, in which case, it shall, in the absence of proof to the contrary, be deemed to have been given to the applicant on the day after the day on which it was sent; and, in proving sending, it shall be sufficient to prove that a facsimile machine generated a record of the transmission of the notice to the facsimile number provided by the applicant.”

This Act is administered in the Customs Department.
