



ANALYSIS

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1987, No. 75

An Act to amend the Customs Act 1966

[21 April 1987

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

1. Short Title—This Act may be cited as the Customs Amendment Act (No. 2) 1987, and shall be read together with and deemed part of the Customs Act 1966 (in this Act referred to as the principal Act).

2. Making of entries—Section 19 of the principal Act (as amended by section 3 of the Customs Act Amendment Act (No. 2) 1978) is hereby further amended by adding the following subsection:

“(4) The Governor-General may from time to time by regulations made under this Act prescribe annual or other fees to be paid for the processing of entries and for goods entered pursuant to an approved item under Part I of the Tariff or entered under Part II of the Tariff.”

3. New sections inserted relating to Tariff classification opinions—The principal Act is hereby amended by inserting, after section 19 (as amended by section 2 of this Act), the following sections:

“19A. **Tariff classification opinions**—(1) Any person may apply in writing to the Collector, giving full particulars of any goods, for a Tariff classification opinion in respect of the goods.

“(2) The Collector may, on receipt of the prescribed fee, give in writing a Tariff classification opinion in respect of all or any of the goods referred to in the application and, subject to subsections (4) and (5) of this section and sections 19B and 19C of this Act, the Tariff classification of the goods as stated in the opinion shall apply in respect of the entry of the goods on importation by or on behalf of the applicant.

“(3) Where there is a dispute between the person applying for a Tariff classification opinion and the Collector as to the classification of any goods referred to in the application, the applicant may request the Collector to refer the matter to the Comptroller and the Comptroller shall investigate the matter and amend or confirm the Tariff classification opinion accordingly.

“(4) Notwithstanding subsection (2) of this section, a Tariff classification opinion in respect of any goods shall not apply on importation of the goods—

“(a) Where the goods imported do not accord with the particulars of the goods supplied with the application for the opinion; or

“(b) Where there has been an amendment to the Tariff in relation to the classification of the goods after the date on which the opinion was given and on or before the date of importation.

“(5) The Collector may at any time cancel in writing the whole or any part of any Tariff classification opinion in respect of any goods and the opinion shall have no force or effect in relation to the goods on or after the date of the cancellation:

“Provided that the opinion shall, notwithstanding the cancellation, but subject to subsection (4) of this section, continue to apply in respect of any goods,—

“(a) Where the goods are imported within 6 months of the date of cancellation of the opinion pursuant to a binding contract entered into before that date; or

“(b) Where the goods have left the place of manufacture or warehouse in the country from which they are being exported for direct shipment to New Zealand at the date of the cancellation of the opinion; or

“(c) Where the goods are imported on or before the date of the cancellation of the opinion but have not been entered for home consumption.

“(6) The Governor-General may from time to time by regulations made under this Act prescribe the fees, sufficient to

cover the reasonable costs involved, for supplying Tariff classification opinions.

“19B. Appeal to Mediator—(1) The Minister may from time to time appoint suitable persons to be Tariff Classification Mediators.

“(2) Where there is a dispute between the person applying for a Tariff Classification opinion and the Comptroller as to the classification of the goods referred to in the application, either party may refer the matter to a Tariff Classification Mediator to investigate and decide the matter.

“(3) In his investigation a Mediator may make such inquiries and follow procedures, whether formal or informal, as he considers fair and reasonable and likely to facilitate disposal of the matter in question; and may obtain such expert assistance as he requires; and may receive in evidence any statement, document, information, or matter that he considers may assist him to deal effectively with that matter, whether or not the same would be admissible in a Court of Law.

“(4) Subject to this section, the procedure of a Mediator shall be such as the Mediator thinks fit.

“(5) Subject to section 19C of this Act, every decision of a Mediator shall be final and conclusive.

“19C. Appeal to Administrative Division of High Court—(1) Any party to the proceedings before a Tariff Classification Mediator who is dissatisfied with any decision may appeal to the Administrative Division of the High Court against the Mediator’s decision.

“(2) Every such appeal shall be made by giving notice of appeal within 28 days after the date on which the appellant was notified of the decision appealed against or within such further time as the Court may allow on application made either before or after the expiration of those 28 days.

“(3) In its determination of any appeal the Court may confirm or reverse or amend the decision appealed against.

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