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1976, No. 142

An Act to amend the Customs Acts*[10 December 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—This Act may be cited as the Customs Acts Amendment Act (No. 2) 1976.

PART I
CUSTOMS

2. This Part to be read with Customs Act 1966—This Part of this Act shall be read together with and deemed part of the Customs Act 1966 (in this Part referred to as the principal Act).

3. Interpretation—Section 2 (1) of the principal Act is hereby amended by inserting, after the definition of the term “uncustomed goods”, the following definition:

“‘Unlawfully imported’ means imported in breach of the provisions of this Act or any other Act.”.

4. Examining places—The principal Act is hereby further amended by repealing section 32, and substituting the following section:

“32. (1) The Comptroller may from time to time, by writing under his hand, appoint at any port or Customs airport places for the examination by the Customs of goods subject to the control of the Customs.

“(2) The Comptroller may in like manner impose such conditions and restrictions as he thinks fit in respect of the use of any examining place, and vary or revoke any such conditions or restrictions.

“(3) Subject to this section, the Comptroller may by notice in writing to the controlling authority of any examining place revoke the appointment of the examining place.

“(4) Before revoking any such appointment the Comptroller shall give to the controlling authority notice in writing stating that he intends to do so and that within 28 days after the receipt of the notice the controlling authority may appeal to the Administrative Division of the Supreme Court against the Comptroller’s decision. The notice shall also state the reasons why he intends to revoke the appointment.

“(5) 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 Comptroller’s decision or within such further time as the Court may allow on application made either before or after the expiration of those 28 days.

“(6) In its determination of any appeal, the Court may confirm, modify, or reverse the decision appealed against.

“(7) Subject to this section, the procedure in respect of any such appeal shall be in accordance with the rules of the Court.”

5. Customs containerbases—(1) Section 32A of the principal Act (as inserted by section 4 of the Customs Amendment Act 1968) is hereby amended by omitting from subsection (4) the words “within 14 days after the receipt of the notice the controlling authority may appeal to the Minister”, and substituting the words “within 28 days after the receipt of the notice the controlling authority may appeal to the Administrative Division of the Supreme Court”.

(2) The said section 32A is hereby further amended by repealing subsections (5), (6), (7), (8), and (9) and substituting the following subsections:

“(5) 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 Comptroller’s decision or within such further time as the Court may allow on application made either before or after the expiration of those 28 days.

“(6) In its determination of any appeal, the Court may confirm, modify, or reverse the decision appealed against.

“(7) Subject to this section, the procedure in respect of any such appeal shall be in accordance with the rules of the Court.”

6. Ships entering at place other than port of entry—
(1) The principal Act is hereby further amended by inserting, after section 36, the following section:

“36A. (1) Section 36 of this Act shall not apply in relation to any ship arriving from any country outside New Zealand if the ship is compelled by accident, stress of weather, or other necessity to enter at a place other than a port of entry.

“(2) The master of any ship that is so required or compelled to enter—

“(a) Shall forthwith report to an officer of Customs or to a member of the Police:

“(b) Shall not, without the consent of an officer of Customs, permit any goods carried in the ship to be unloaded from it or any of the crew or passengers to depart from its vicinity:

“(c) Shall comply with any directions given by an officer of Customs in respect of any goods carried in the ship.

“(3) No passenger or member of the crew of any ship that is so required or compelled to enter shall leave the vicinity of the ship without the consent of an officer of Customs or member of the Police.

“(4) Nothing in this section shall prohibit the departure of crew or passengers from the vicinity of a ship or the removal of goods from it if that departure or removal is necessary for reasons of health or safety, or for the preservation of life or property.

“(5) The master of any ship to which this section applies shall not be held to have committed a breach of this section if he proves that—

“(a) No officer of Customs or member of the Police was readily accessible; and

“(b) As soon as was practicable, he resumed and completed his voyage.

“(6) Every person who acts in contravention of any of the provisions of this section commits an offence and shall be liable to a fine not exceeding \$1,000.”

(2) Section 36 (1) of the principal Act is hereby consequentially amended by inserting, before the words “The master of any ship”, the words “Subject to section 36A of this Act”.

7. Collector's permit—(1) Section 52B of the principal Act (as inserted by section 10 of the Customs Acts Amendment Act 1968 and amended by section 4 of the Customs Acts Amendment Act (No. 2) 1975) is hereby amended by omitting from subsection (8) the words “that within 14 days after the receipt of the notice the controlling authority may appeal to the Minister”, and substituting the words “that within 28 days after the receipt of the notice the controlling authority may appeal to the Administrative Division of the Supreme Court”.

(2) The said section 52B is hereby further amended by repealing subsections (9), (10), and (11), and substituting the following subsections:

“(9) 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 Comptroller’s decision or within such further time as the Court may allow on application made either before or after the expiration of those 28 days.

“(10) In its determination of any appeal, the Court may confirm, modify, or reverse the decision appealed against.

“(11) Subject to this section, the procedure in respect of any such appeal shall be in accordance with the rules of the Court.”

8. When entry to be made—(1) Section 55 of the principal Act is hereby amended by repealing subsection (2), and substituting the following subsection:

“(2) If default is made in the entry of any goods pursuant to this section and if the goods are not claimed and entries passed therefor within 3 months after the prescribed time has elapsed, duty shall thereupon become due and payable on the goods as if entered for home consumption, and the goods may be sold or otherwise disposed of by the Collector.”

(2) Section 55 (3) is hereby consequentially amended by omitting the words “, either before or after warehousing”.

9. Modification of rates of duty on goods produced in manufacturing warehouse—The principal Act is hereby further amended by inserting, after section 134, the following section:

“134A. (1) Subject to subsection (2) of this section, the Governor-General may from time to time, by Order in Council, suspend the Third 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 goods specified in the said Third Schedule such duties of Customs as he thinks fit.

“(2) Any duties imposed on any goods pursuant to subsection (1) of this section shall not exceed the rate of duty on those goods as set out in the Third Schedule to this Act.”

10. Payment of rewards to informers—(1) The principal Act is hereby further amended by repealing section 268 (as substituted by section 8 of the Customs Amendment Act 1973), and substituting the following section:

“268. The Minister may order to be paid or distributed out of the revenue of Customs such rewards as the Minister thinks fit to or among any officers or other persons who provide

information which in the Minister's opinion may lead to any forfeiture or seizure of any uncustomed, unlawfully imported, forfeited, or restricted goods, or any goods subject to the control of the Customs, or to the prosecution of any person for an offence in relation to any such goods:

"Provided that, where any such forfeiture, seizure, or prosecution in relation to such goods result from an attempt to defraud the revenue of Customs, such rewards shall not exceed in the aggregate half the value as determined by the Minister of the goods seized or, as the case may be, half the amount of the fine."

(2) The Customs Acts Amendment Act 1973 is hereby consequentially amended by repealing section 8.

11. Goods forfeited—Section 270 of the principal Act is hereby amended by adding, after paragraph (f), the following paragraph:

"(g) All goods unlawfully imported:".

12. Waiver of forfeiture by Minister—Section 287 of the principal Act (as amended by section 10 of the Customs Acts Amendment Act 1970) is hereby amended by omitting from subsection (3) the words "the Governor-General may, on the recommendation of the Minister, and", and substituting the words "the Minister may".

13. Power of Comptroller to prescribe forms—(1) The principal Act is hereby further amended by inserting, after section 305, the following section:

"305A. (1) For the purposes of this Act the Comptroller may from time to time prescribe any forms that are not otherwise specifically prescribed.

"(2) The production of any document under the hand of a Collector purporting to be a prescribed form or an extract from a prescribed form or a copy of any such form or extract shall in all Courts and in all proceedings be sufficient evidence of the fact that the form was prescribed; and all Courts shall in all proceedings take judicial notice of the signature of the Collector either to the prescribed form or to any such extract or copy."

(2) All forms purporting to have been prescribed by the Comptroller shall be deemed at all times heretofore to have been as valid in all respects as if this section had been in force when the Comptroller had prescribed the forms.

14. Amendment of Customs Tariff—(1) The Second Schedule to the principal Act is hereby amended by repealing so much of Part I of the Customs Tariff as relates to items—

22.08.012	27.10.205	29.04.002
22.08.013	27.10.206	36.08.002
27.10.201	27.10.207	36.08.003
27.10.204	27.10.208	38.19.244
		38.19.245,

and substituting the items, rates of duty, and exemptions from duty set out in the Schedule hereto.

(2) Every reference in any other enactment (including any Order in Council) in force at the commencement of this Act to any Tariff item referred to in subsection (1) of this section shall thereafter, unless the context otherwise requires, be read as a reference to the corresponding item of the Tariff as substituted by that subsection.

(3) This section shall come into force on the 1st day of April 1977.

PART II

SALES TAX

15. This Part to be read with Sales Tax Act 1974—This Part of this Act is to be read together with and deemed part of the Sales Tax Act 1974 (in this Part referred to as the principal Act).

16. Refusal or revocation of licence in certain cases—(1) Section 6 of the principal Act is hereby amended by omitting from subsection (3) the words “appeal to the Minister”, and substituting the words “appeal to the Administrative Division of the Supreme Court”.

(2) The said section 6 is further amended by repealing subsections (4) and (5), and substituting the following subsections:

“(4) 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 refusal or notice of revocation 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.

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

“(6) Subject to the provisions of this section, the procedure in respect of any such appeal shall be in accordance with the rules of the Court.”

17. Revocation of licence in certain circumstances—Section 7 of the principal Act is hereby amended by repealing paragraph (a), and substituting the following paragraph:

“(a) Has not traded as a wholesaler or as a manufacturing retailer, as the case may be, for a period exceeding one year:”.

18. Modification of rates of sales tax—The principal Act is hereby further amended by inserting, after section 12, the following section:

“12A. (1) Subject to subsection (2) of this section, the Governor-General may from time to time, by Order in Council, suspend the First 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 goods such rates of sales tax as he thinks fit.

“(2) Any sales tax imposed on any goods pursuant to subsection (1) of this section shall not exceed the rate of sales tax on those goods as set out in the First Schedule to this Act.”

19. Goods deemed to have been sold—Section 13 of the principal Act is hereby amended by repealing subparagraph (i) of paragraph (b), and substituting the following subparagraph:

“(i) On the use in any way by him or for his benefit of any goods—

“(A) Other than goods used as material in the manufacture of goods for sale;

“(B) Other than goods purchased by him for his own use from a person exempted from licensing under this Act; or”.

20. Appeal from assessment to Administrative Division of Supreme Court—(1) The principal Act is hereby further amended by repealing section 33, and substituting the following section:

“33. (1) Where any taxpayer is dissatisfied with any assessment made by the Collector under this Part of this Act, the taxpayer may appeal to the Administrative Division of the Supreme Court against that assessment.

“(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 assessment 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, modify, or reverse the assessment appealed against.

“(4) Subject to the provisions of this section, the procedure in respect of any such appeal shall be in accordance with the rules of the Court.”

(2) Section 32 of the principal Act is hereby consequentially amended by omitting the words “to the Minister”.

21. Discount on prompt payment—(1) The principal Act is hereby further amended by repealing section 36 (as amended by section 3 of the Sales Tax Amendment Act 1974), and substituting the following section:

“36. (1) The Governor-General may, from time to time, by Order in Council allow a taxpayer a discount, at such rates as he thinks fit, in respect of the sales tax on—

“(a) Any specified goods:

“(b) Goods of any specified class or classes:

“(c) All goods except goods of a specified class or of specified classes:

“(d) All goods whatsoever (without specification of any such goods or of the class or classes to which they belong),—

where, pursuant to paragraph (a) (i) of subsection (1) of section 12 of this Act, the sales tax is paid on or before the entry of the goods for home consumption, or where the sales tax which is payable in respect of any goods pursuant to paragraph (b) or paragraph (c) of the said subsection is paid not later than 28 days after the end of the month in which the goods were sold.

“(2) Notwithstanding subsection (1) of this section, the Minister may, for reasons which, in his discretion, he thinks sufficient, allow the discount prescribed by Order in Council under this section in respect of any sales tax paid after the expiration of the time within which the taxpayer was entitled to the discount.”

(2) Notwithstanding anything in this section, section 36 of the principal Act shall continue in force as if this Act had not been passed, until such time as the Governor-General, by Order in Council, prescribes the rates of discount as aforesaid.

22. Recovery of sales tax where there are no executors or administrators—Section 48 of the principal Act is hereby amended by repealing subsections (3), (4), (5), (6), (7), and (8), and substituting the following subsections:

“(3) Any administrator and any person claiming an interest in the estate of any deceased taxpayer, may within 42 days after the first publication of the notice of the assessment, appeal to the Administrative Division of the Supreme Court and section 33 of this Act shall, with any necessary modifications, apply in relation to the appeal as if that person were the taxpayer and as if the assessment had been made under Part V of this Act.

“(4) In this section the terms “administration” and “administrator” have the same meaning as in the Administration Act 1969.”

23. Power to question persons—The principal Act is hereby further amended by repealing section 60, and substituting the following section:

“60. (1) Where any question has arisen under this Act, the Collector may question any person as to the particulars shown in any return delivered to him by a taxpayer in accordance with this Act, or any person dealing in taxable goods for any purpose relating to the administration or enforcement of this Act.

“(2) Any person who, on being so questioned refuses or fails to answer any question so put to him or to answer any such question in writing if so required by the Collector, or answers any such question incorrectly, commits an offence.”

24. Power of Comptroller to prescribe forms—(1) The principal Act is hereby further amended by inserting, after section 79, the following section:

“79A. (1) For the purpose of this Act the Comptroller may from time to time prescribe any forms that are not otherwise specifically prescribed.

“(2) The production of any document under the hand of a Collector purporting to be a prescribed form or an extract from a prescribed form or a copy of any such form or extract shall in all Courts and in all proceedings be sufficient evidence of the fact that the form was prescribed; and all Courts shall in all proceedings take judicial notice of the signature of the Collector either to the prescribed form or to any such extract or copy.”

(2) All forms purporting to have been prescribed by the Comptroller shall be deemed at all times heretofore to have been as valid in all respects as if this section had been in force when the Comptroller had prescribed the forms.

PART III

BEER DUTY

25. This Part to be read with Part III of Finance Act 1915—This Part of this Act shall be read together with and deemed part of Part III of the Finance Act 1915 (in this Part referred to as the principal Act).

26. Modification of duty on beer brewed in New Zealand—
 (1) Subject to subsection (2) of this section, the Governor-General may from time to time, by Order in Council, suspend the existing rates of duty fixed by section 17 of the Customs Acts Amendment Act 1974 in whole or in part, and by the same or a subsequent Order in Council, in lieu thereof, impose on beer brewed in New Zealand such rates of duty as he thinks fit.

(2) Any duty imposed on beer brewed in New Zealand pursuant to subsection (1) of this section shall not exceed the rate of duty on that beer as fixed by section 17 of the Customs Acts Amendment Act 1974.

PART IV

DISTILLATION ACT

27. This Part to be read with Distillation Act 1971—This Part of this Act shall be read together with and deemed part of the Distillation Act 1971 (in this Part referred to as the principal Act).

28. Appeal against refusal of licence—The principal Act is hereby amended by repealing section 11, and substituting the following section:

“11. (1) Any person who is refused a licence under section 10 of this Act may appeal to the Administrative Division of the Supreme Court against the Minister’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 Minister’s 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 the decision appealed against.

“(4) Subject to the provisions of this section, the procedure in respect of any such appeal shall be in accordance with the rules of the Court.”

29. Appeal against revocation or suspension of licence—The principal Act is hereby further amended by repealing section 20, and substituting the following section:

“20. (1) If the Minister revokes or suspends a licence under section 19 of this Act, the holder of the licence may appeal to the Administrative Division of the Supreme Court against the revocation or suspension.

“(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 Minister’s 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 the decision appealed against.

“(4) Subject to the provisions of this section, the procedure in respect of any such appeal shall be in accordance with the rules of the Court.”

PART V

MOTOR SPIRITS DUTY

30. This Part to be read with Motor Spirits Duty Act 1961—This Part of this Act shall be read together with and deemed part of the Motor Spirits Duty Act 1961 (in this Part referred to as the principal Act).

31. Motor spirits duty—(1) Section 10 (1) (b) of the principal Act (as substituted by section 8 of the Customs Acts Amendment Act 1975) is hereby amended by omitting the words “8.70 cents per litre”, and substituting the words “9.70 cents per litre”.

(2) This section shall come into force on the 1st day of April 1977.

32. Appeal from assessment to Administrative Division of Supreme Court—The principal Act is hereby further amended by repealing section 16, and substituting the following section:

"16. (1) Where any licensee is dissatisfied with any assessment made by the Collector under this Part of this Act, the licensee may appeal to the Administrative Division of the Supreme Court against that assessment.

"(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 assessment 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, modify, or reverse the assessment appealed against.

"(4) Subject to the provisions of this section, the procedure in respect of any such appeal shall be in accordance with the rules of the Court."

33. Penalty for late payment of duty—Section 20 of the principal Act is hereby amended by inserting in the proviso, before the word "remit", the words "refund or".

SCHEDULE

DUTIES IMPOSED AND EXEMPTIONS SUBSTITUTED

PART I

THE STANDARD TARIFF

Number	Description	Unit	Rates of Duty			Other Preferential Rates of Duty
			Year	Normal Tariff	British Preferential	

Chapter 22 Beverages, spirits and vinegar

22.08	Ethyl alcohol or neutral spirits, undenatured, containing not less than 140% of proof spirit; denatured spirits (including ethyl alcohol and neutral spirits) of any strength: Ethyl alcohol or neutral spirits, denatured, to which has been added ethyl ether, benzol or approved petroleum products, in such proportions as may be approved by the Minister and under such conditions as he may prescribe:					
22.08.012	As may be determined by the Minister <i>per l</i>	1	1 April 1977 1 April 1977	9.36c	9.36c	
22.08.013	Other <i>per l</i>	1		9.7c	9.7c	Aul 9.7c <i>per l</i>

Chapter 27

**Mineral fuels, mineral oils and products of their distillation;
bituminous substances; mineral waxes**

27.10	Petroleum oils and oils obtained from bituminous minerals, other than crude; preparations not elsewhere specified or included, containing not less than 70% by weight of petroleum oils or of oils obtained from bituminous minerals, these oils being the basic constituents of the preparations:							
27.10.201	Motor spirit: In bulk in ships' bottoms or in containers of a capacity of 4.546 litres or more: Imported by the holder of a licence under the Motor Spirits Duty Act 1961 Otherwise imported:	1	1 April 1977	Free	Free	Aul Free		
27.10.204	As may be determined by the Minister per l	1	1 April 1977	9.36c	9.36c			
27.10.205	Other per l	1	1 April 1977	9.7c	9.7c	Aul 9.7c per l		

SCHEDULE—*continued*

Number	Description	Unit	Rates of Duty			Other Preferential Rates of Duty
			Year	Normal Tariff	British Preferential	

Chapter 27—*continued*
**Mineral fuels, mineral oils and products of their distillation;
bituminous substances; mineral waxes—*continued***

27.10.206	Petroleum oils, etc.— <i>continued</i>						
	Motor spirit— <i>continued</i>						
	In other containers:						
	As may be determined by the Minister	per l	1	1 April 1977	9.36c	9.36c	
27.10.207	Other	per l	1	1 April 1977	25% plus 6.87c or†	25% plus 6.87c or†	Aul 20% plus 6.87c per l or†
							Can 20% plus 6.87c per l or†
							CPC 20% plus 6.87c per l or†
							DC 20% plus 6.87c per l

27.10.208	<i>per l</i>	1	1 April 1977	10.17c	10.17c	Aul 9.51c <i>per l</i> Can 9.51c <i>per l</i> CPC 9.51c <i>per l</i>
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Chapter 29

Organic chemicals

II—ALCOHOLS AND THEIR HALOGENATED, SULPHONATED, NITRATED OR NITROSATED DERIVATIVES

29.04	Acyclic alcohols and their halogenated, sulphonated, nitrated or nitrosated derivatives: Methanol (methyl alcohol):					
29.04.002	When declared for use solely as racing fuel <i>per l</i>	1	1 April 1977	9.7c	9.7c	

†Where alternative rates are shown the rate chargeable is that which returns the higher duty.

SCHEDULE—*continued*

Number	Description	Unit	Rates of Duty			Other Preferential Rates of Duty
			Year	Normal Tariff	British Preferential	

Chapter 36

Explosives; pyrotechnic products; matches; pyrophoric alloys; certain combustible preparations

36.08	Other combustible preparations and products: Liquid fuels of a kind used in mechanical lighters, in containers of a capacity not exceeding 300 cm ³ :		1 April 1977			
36.08.002	Motor spirit as defined in Note 5 to Chapter 27 <i>per l</i>	1		25% plus 6.87c or†	25% plus 6.87c or†	Aul 20% plus 6.87c per l or† Can 20% plus 6.87c per l or† CPC 20% plus 6.87c per l or† DC 20% plus 6.87c per l

This Act is administered in the Customs Department.

36.08.003		<i>per l</i>	1	1 April 1977	10.17c	10.17c	Aul 9.51c <i>per l</i> Can 9.51c <i>per l</i> CPC 9.51c <i>per l</i>
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Chapter 38
Miscellaneous chemical products

38.19	Chemical products and preparations of the chemical or allied industries (including those consisting of mixtures of natural products), not elsewhere specified or included; residual products of the chemical or allied industries, not elsewhere specified or included: Methanol (methyl alcohol) to which has been added ethyl ether, benzol or approved petroleum products, in such proportions as to make it suitable for use as fuel in piston engines of motor vehicles or aircraft:						
38.19.244	As may be determined by the Minister <i>per l</i>	1	1 April 1977	9.36c	9.36c		
38.19.245	Other <i>per l</i>	1	1 April 1977	9.7c	9.7c		

†Where alternative rates are shown the rate chargeable is that which returns the higher duty.