



ANALYSIS

<p>Title</p> <p>1. Short Title</p> <p style="text-align: center;">PART I</p> <p style="text-align: center;">CUSTOMS</p> <p>2. This Part to be read with Customs Act 1966</p> <p>3. Interpretation</p> <p>4. Examining places</p> <p>5. Customs containerbases</p> <p>6. Abolition of foreign fishing vessel entry tax</p> <p>7. Collectors' permits</p> <p>8. Application of Tariff</p> <p>9. Blank invoices</p> <p>10. Power of Collector to deal with petty offences</p> <p>11. Vessels, vehicles, aircraft, and animals forfeited</p> <p style="text-align: center;">PART II</p> <p style="text-align: center;">SALES TAX ACT</p> <p>12. This Part to be read with Sales Tax Act 1974</p> <p>13. Interpretation</p> <p>14. Refusal or revocation of licence in certain cases</p> <p>15. Selling or manufacturing goods while unlicensed</p> <p>16. Sales tax on goods imported, sold, or manufactured</p> <p>17. Sale value of goods sold by wholesaler</p>	<p>18. Determination of sale value</p> <p>19. Monthly returns by wholesalers and manufacturing retailers</p> <p>20. Appeal from assessment to Administrative Division of Supreme Court</p> <p>21. Refund in cases of exemption from sales tax</p> <p>22. Refund of tax on farm motor cycles</p> <p>23. Stores for ships and aircraft exempt from sales tax</p> <p style="text-align: center;">PART III</p> <p style="text-align: center;">BEER DUTY ACT</p> <p>24. This Part to be read with Beer Duty Act 1977</p> <p>25. Rates of duty on beer brewed in New Zealand</p> <p style="text-align: center;">PART IV</p> <p style="text-align: center;">DISTILLATION ACT</p> <p>26. This Part to be read with Distillation Act 1971</p> <p>27. Appeal against refusal to license</p> <p>28. Appeal against revocation or suspension of licence</p> <p style="text-align: center;">PART V</p> <p style="text-align: center;">MOTOR SPIRITS DUTY ACT</p> <p>29. This Part to be read with Motor Spirits Duty Act 1961</p> <p>30. Appeal from assessment to Administrative Division of Supreme Court</p>
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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) 1979.

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—(1) The Customs Act 1966 is hereby amended by repealing the definition of the term “documents” in section 2, and substituting the following definition:

“‘Documents’ means all papers, books, registers, discs, films, tapes, sound tracks, or other devices or things in or on which information is recorded or stored.”

(2) Section 2 (1) of the principal Act is hereby amended by repealing the definitions of the terms “entry tax”, and “foreign fishing vessel” (as amended by section 2 of the Customs Amendment Act 1976).

(3) The Customs Acts Amendment Act (No. 2) 1977 is hereby consequentially amended by repealing section 11 (3).

4. Examining places—Section 32 of the principal Act (as amended by section 4 of the Customs Acts Amendment Act (No. 2) 1976) is hereby amended by repealing subsection (7), and substituting the following subsection:

“(7) The procedure in respect of any such appeal shall be in accordance with the rules of the Court, and in default of such rules, or so far as they do not extend, then in accordance with the usual practice of the Supreme 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 thereof.”

5. Customs containerbases—Section 32A of the principal Act (as amended by section 5 of the Customs Acts Amendment Act (No. 2) 1976) is hereby amended by repealing subsection (7), and substituting the following subsection:

“(7) The procedure in respect of any such appeal shall be in accordance with the rules of the Court, and in default of such rules, or so far as they do not extend, then in accordance with the usual practice of the Supreme 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 thereof.”

6. Abolition of foreign fishing vessel entry tax—(1) The principal Act is hereby amended by repealing sections 36A, 36B, 36c, 36D, and 36E, and the Ninth Schedule (as inserted by section 3 of the Customs Amendment Act 1976).

(2) The Customs Amendment Act 1976 is hereby amended by repealing section 3 and the Schedule.

7. Collectors' permits—Section 52B of the principal Act (as amended by section 7 of the Customs Acts Amendment Act (No. 2) 1976) is hereby amended by repealing subsection (11), and substituting the following subsection:

“(11) The procedure in respect of any such appeal shall be in accordance with the rules of the Court, and in default of such rules, or so far as they do not extend, then in accordance with the usual practice of the Supreme 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 thereof.”

8. Application of Tariff—(1) Section 120 (1) of the principal Act (as amended by section 5 of the Customs Acts Amendment Act (No. 2) 1977) is hereby amended—

(a) By omitting from paragraph (c) (ii) the expression “Mal”, and substituting the expression “MYS”:

(b) By omitting from paragraph (d) (ii) the expression “UK”, and substituting the expression “GBR”.

(2) The Second Schedule to the principal Act (as amended) is hereby further amended—

(a) By omitting the expression “Mal” wherever it occurs, and substituting the expression “MYS”:

(b) By omitting the expression “UK” wherever it occurs, and substituting the expression “GBR”.

9. Blank invoices—The principal Act is hereby further amended by repealing section 139, and substituting the following section:

“139. If any person has in his possession without reasonable excuse, any blank or partly blank invoice forms, capable of being filled up and used as an invoice in such manner as to be likely to deceive the officers of the Customs, he commits an offence and shall be liable to a fine not exceeding \$400 and the invoices shall be forfeited.”

10. Power of Collector to deal with petty offences—Section 266 of the principal Act is hereby amended by repealing subsection (1), and substituting the following subsection:

“266. (1) This section applies to any offence against this Act that is committed in relation to any goods the value of which does not exceed \$500.”

11. Vessels, vehicles, aircraft, and animals forfeited—(1) The principal Act is hereby further amended by repealing section 272, and substituting the following section:

“272. Every vessel (being a vessel having a gross tonnage that does not exceed 50 tons), vehicle, aircraft, or animal used in smuggling goods, or in unlawfully conveying goods with intent to defraud the revenue of customs, or in the importation or conveyance of prohibited imports or forfeited goods, shall be forfeited.”

(2) Section 273 of the principal Act is hereby consequentially amended by omitting the words “boat, vehicle”, and substituting the words “vessel (being a vessel having a gross tonnage that does not exceed 50 tons), vehicle, aircraft”.

PART II

SALES TAX ACT

12. 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).

13. Interpretation—Section 2 of the principal Act is hereby amended by inserting in the definition of the expression “wholesaler”, after paragraph (a), the following paragraph: “(aa) Being licensed or deemed to be licensed as a wholesaler under the Sale of Liquor Act 1962, sells taxable goods; or”.

14. Refusal or revocation of licence in certain cases—Section 6 of the principal Act (as amended by section 16 of the Customs Acts Amendment Act (No. 2) 1976) is hereby amended by repealing subsection (6), and substituting the following subsection:

“(6) The procedure in respect of any such appeal shall be in accordance with the rules of the Court, and in default of such rules, or so far as they do not extend, then in accordance with the usual practice of the Supreme 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 thereof.”

15. Selling or manufacturing goods while unlicensed—Section 11 of the principal Act is hereby amended by omitting the words “to any other person”.

16. Sales tax on goods imported, sold, or manufactured—
(1) Section 12 (1) of the principal Act (as amended by section 8 of the Customs Acts Amendment Act 1977) is hereby amended by omitting the words “the sale value of”.
(2) The Customs Acts Amendment Act 1977 is hereby amended by repealing section 8.

17. Sale value of goods sold by wholesaler—Section 22 of the principal Act is hereby amended by adding the following proviso:

“Provided also that where the goods are sold to persons for their own use at a price higher than identical goods are sold by other wholesalers to retailers, the sale value of those goods shall be their fair market value.”

18. Determination of sale value—Section 25 of the principal Act is hereby amended by inserting, after the words “goods should be”, the words “the price for which the goods are actually sold or”.

19. Monthly returns by wholesalers and manufacturing retailers—Section 29 (1) of the principal Act is hereby amended by adding the following proviso:

“Provided that the Comptroller may, by notice in the *Gazette*, specify any other Collector to whom the return is to be delivered.”

20. Appeal from assessment to Administrative Division of Supreme Court—Section 33 of the principal Act (as amended by section 20 of the Customs Acts Amendment Act (No. 2) 1976) is hereby further amended by repealing subsection (4), and substituting the following subsections:

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

“(5) The obligation to pay and the right to receive and recover any tax shall not be suspended by any appeal; but if the appellant succeeds, the amount (if any) of the tax received by the Collector in excess of the amount which, according to the decision on the hearing of the appeal, was properly payable shall forthwith be refunded to him by the Collector.”

21. Refund in cases of exemption from sales tax—The principal Act is hereby further amended by inserting, after section 55, the following section:

“55A. Where a person other than a taxpayer is entitled to an exemption from sales tax pursuant to an Order in Council made under section 15 of this Act in respect of any goods, the Collector shall refund to that person the sales tax paid on those goods.”

22. Refund of tax on farm motor cycles—(1) Section 56 of the principal Act is hereby amended by repealing subsections (1) and (1A) (as inserted by section 13 of the Customs Acts Amendment Act (No. 2) 1978 and amended by section 5 of the Customs Acts Amendment Act 1979), and substituting the following subsections:

“56. (1) For the purposes of this section, the expression ‘exempted vehicle’ means an exempted vehicle within the meaning of paragraph (a) or paragraph (c) of the definition of that expression in section 188 of the Transport Act 1962.

“(1A) Where any person—

“(a) Either—

“(i) Purchases a new motor cycle, being a two-wheeled motorised vehicle classified in heading

87.09 of the Customs Tariff, having a total piston displacement not exceeding 350 cubic centimetres; or

“(ii) Being a person suffering from a permanent disability who satisfies the Collector that he is unable to operate a two-wheeled motorised vehicle, purchases a new motor cycle, being a three-wheeled motorised vehicle classified in heading 87.09 of the Customs Tariff, having a total piston displacement not exceeding 350 cubic centimetres; and

“(b) Satisfies the Collector that the motor cycle is an exempted vehicle; and

“(c) Makes a declaration under this Act that the motor cycle is new and will be used exclusively on a farm for agricultural purposes and on a road for such other purposes for which a farm motor cycle, being an exempted vehicle, may be used pursuant to regulations for the time being in force under the Transport Act 1962; and

“(d) Gives a written undertaking in such form as the Collector may require, that, if at any time within 2 years after the date of purchase of the motor cycle,—

“(i) It is sold or otherwise disposed of; or

“(ii) It ceases to be an exempted vehicle; or

“(iii) It is no longer used exclusively on a farm for agricultural purposes and on a road for such other purposes for which a farm motor cycle, being an exempted vehicle, may be used pursuant to regulations for the time being in force under the Transport Act 1962—

he will notify the Collector and pay a sum equal to the sales tax paid on it or such lesser sum as the Collector may require,—

the Collector may, subject to such conditions as the Minister may impose (either generally or in any particular case), refund to that person the amount of any sales tax paid on that motor cycle.”

(2) The Customs Acts Amendment Act (No. 2) 1978 is hereby consequentially amended by repealing section 13.

(3) The Customs Acts Amendment Act 1979 is hereby consequentially amended by repealing section 5.

23. Stores for ships and aircraft exempt from sales tax—The principal Act is hereby further amended by inserting, after section 57, the following section:

“57A. Stores for ships and aircraft shall be exempt from sales tax under the like conditions and restrictions as are applicable to stores exempt from duty under section 78 of the Customs Act 1966.”

PART III

BEER DUTY ACT

24. This Part to be read with Beer Duty Act 1977—This Part of this Act is to be read together with and deemed part of the Beer Duty Act 1977 (in this Part referred to as the principal Act).

25. Rates of duty on beer brewed in New Zealand—Section 15 (3) of the principal Act is hereby amended by omitting the words “holder of the brewer’s licence to”, and substituting the words “holder of the brewer’s licence by”.

PART IV

DISTILLATION ACT

26. 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).

27. Appeal against refusal to license—Section 11 of the principal Act (as amended by section 28 of the Customs Acts Amendment Act (No. 2) 1976) is hereby amended by repealing subsection (4), and substituting the following subsection:

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

28. Appeal against revocation or suspension of licence—Section 20 of the principal Act (as amended by section 29 of the Customs Acts Amendment Act (No. 2) 1976) is hereby amended by repealing subsection (4), and substituting the following subsection:

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

PART V

MOTOR SPIRITS DUTY ACT

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

30. Appeal from assessment to Administrative Division of Supreme Court—Section 16 of the principal Act (as amended by section 32 of the Customs Acts Amendment Act (No. 2) 1976) is hereby amended by repealing subsection (4), and substituting the following subsections:

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

“(5) The obligation to pay and the right to receive and recover any tax shall not be suspended by any appeal; but if the appellant succeeds, the amount (if any) of the tax received by the Collector in excess of the amount which, according to the decision on the hearing of the appeal, was properly payable, shall forthwith be refunded to him by the Collector.”