



ANALYSIS

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1998, No. 38

An Act to amend the Customs and Excise Act 1996

[3 June 1998

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

1. Short Title—This Act may be cited as the Customs and Excise Amendment Act (No. 2) 1998, and is part of the Customs and Excise Act 1996 (“the principal Act”).

2. Interpretation—(1) Section 2 (1) of the principal Act is amended as from the commencement of that Act by repealing the definition of the term “New Zealand” (as substituted by section 2 of the Customs and Excise Amendment Act 1996), and substituting the following definition:

“New Zealand”—

“(a) Means the land and the waters enclosed by the outer limits of the territorial sea of New Zealand (as described in section 3 of the Territorial Sea, Contiguous Zone, and Exclusive Economic Zone Act 1977); and

“(b) Includes the contiguous zone of New Zealand (as described in section 8A of the Territorial Sea, Contiguous Zone, and Exclusive Economic Zone Act 1977) in—

- “(i) Sections 23 (1) and (4) and 142; and
- “(ii) Sections 22 (1) (c) and (d), 28 (1), 139 (1) and (2), 140 (1), 143 (1), and 149 (1) (a) and (b), in relation to a craft that is a ship, boat, or other machine or vessel, used or capable of being used for the carriage or transportation of persons or goods, or both, by water or over or under water; and
- “(iii) Section 149 (1) (c) and (3), in relation to a person who has entered into or has arrived in or is about to depart from New Zealand in a craft that is a ship, boat, or other machine or vessel, used or capable of being used for the carriage or transportation of persons or goods, or both, by water or over or under water; and
- “(iv) Section 226 (2), in relation to goods found on a ship, boat, or other machine or vessel, used or capable of being used for the carriage or transportation of persons or goods, or both, by water or over or under water.”

(2) Section 2 (2) of the Customs and Excise Amendment Act 1996 is consequentially repealed.

3. Goods subject to control of Customs—(1) Section 20 of the principal Act is amended by repealing paragraph (a), and substituting the following paragraphs:

- “(a) Where the goods have been imported, from the time of importation until the time the goods are lawfully removed for home consumption or exportation from a Customs controlled area; or
- “(aa) Where the goods are lawfully removed from a Customs controlled area under a conditional permit granted pursuant to section 47 (1) (c), until such time as the Chief Executive is satisfied that the conditions of the permit have been met; or”.

(2) Section 20 of the principal Act is amended by adding the following subsection:

“(2) For the purposes of subsection (1), goods that are removed from a Customs controlled area to another Customs controlled area are not removed for home consumption.”

4. Entry of excisable goods—(1) Section 70 (1) of the principal Act is amended by omitting the words “by the licensee of that area”.

(2) Section 70 of the principal Act is amended by inserting, after subsection (1), the following subsection:

“(1A) Goods required to be entered under subsection (1) must be entered—

“(a) By the licensee of the Customs controlled area from which the goods are removed; or

“(b) In such circumstances as may be prescribed by regulations made under section 71, by the manufacturer of the goods.”

5. Regulations relating to entry of excisable goods—Section 71 of the principal Act is amended by inserting, after paragraph (a), the following paragraph:

“(aa) Prescribing the circumstances in which an entry of excisable goods must be made by the manufacturer of the goods rather than by the licensee of the Customs controlled area from which the goods are removed; and”.

6. Other refunds and remissions of duty—Section 113 (3) of the principal Act is amended by omitting the word “shall”, and substituting the word “may”.

7. Imposition of penalty—(1) Section 128 (7) (f) of the principal Act is amended by omitting the words “and date, and the invoice amount”.

(2) Section 128 (7) of the principal Act is amended by repealing paragraph (j), and substituting the following paragraph:

“(j) The currency code for the currency in which the goods are traded:”.

(3) Section 128 (7) of the principal Act is amended by repealing paragraph (o), and substituting the following paragraphs:

“(o) The amount paid or payable to transport the goods to New Zealand from the country of exportation, including any amount paid or payable for internal transportation of the goods in that country:

“(p) The insurance costs associated with transporting the goods to New Zealand, inclusive of any insurance costs in the country of exportation.”

8. Giving of notice—(1) Section 284 (1) of the principal Act is amended by repealing paragraph (g), and substituting the following paragraph:

“(g) Where an individual who is a director, or an employee, or an agent of the company is a registered user of a Customs computerised entry processing system and uses the system for the purposes of the business of the company, by transmitting it by electronic means to the registered user at the company’s registered office or at its head office or principal place of business or otherwise in accordance with the normal procedure of operation of the relevant Customs computerised entry processing system in relation to that registered user in respect of the business of the company.”

(2) Section 284 (2) of the principal Act is amended by repealing paragraph (f), and substituting the following paragraph:

“(f) Where an individual who is a director, or an employee, or an agent of the overseas company is a registered user of a Customs computerised entry processing system and uses the system for the purposes of the business of the overseas company, by transmitting it by electronic means to the registered user at the principal place of business in New Zealand of the overseas company or otherwise in accordance with the normal procedure of operation of the relevant Customs computerised entry processing system in relation to that registered user in respect of the business of the overseas company.”

(3) Section 284 (3) is amended by repealing paragraph (e), and substituting the following paragraph:

“(e) Where an individual who is an employee or an agent of the body corporate is a registered user of a Customs computerised entry processing system and uses the system for the purposes of the business of the body corporate, by transmitting it by electronic means to the registered user at the principal office or principal place of business of the body corporate or otherwise in accordance with the normal procedure of operation of the relevant Customs computerised entry processing system in relation to that registered user in respect of the business of the body corporate.”

9. Transitional provisions relating to investigations of offences under Customs Act 1966—The principal Act is amended by inserting, after section 305, the following section:

“305A. (1) A person who may exercise a power under any of sections 146, 152, 160, 161, 165, 166, 167, and 171 for the purpose of investigating offences suspected of having been committed against this Act may also exercise that power in accordance with this Act for the purpose of investigating offences suspected of having been committed against the Customs Act 1966.

“(2) For the purposes of subsection (1), a reference to this Act—

“(a) In relation to any offence in sections 152 (1), 165 (1), 166 (1), and 167 (1):

“(b) In relation to goods in section 160 (1):

“(c) In relation to a thing in section 167 (1) (c),—

is taken to include a reference to the Customs Act 1966.

“(3) After exercising, by virtue of subsection (1), any power under this Act in relation to a suspected offence against the Customs Act 1966, the Chief Executive or a Customs officer, as the case may be, must not exercise any corresponding power under the Customs Act 1966 in relation to that suspected offence.

“(4) Nothing in this section limits or affects the application of section 20 (h) of the Acts Interpretation Act 1924 in relation to the prosecution of offences against the Customs Act 1966.”