



ANALYSIS

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1978, No. 81

An Act to authorise the levying of persons engaged in heavy engineering manufacture and related industries to provide funds for research into heavy engineering

[18 October 1978]

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 and commencement**—(1) This Act may be cited as the Heavy Engineering Research Levy Act 1978.
 (2) This Act shall come into force on the 1st day of April 1979.

2. Interpretation—In this Act, unless the context otherwise requires,—

“Association” means the New Zealand Heavy Engineering Research Association (Incorporated):

“Collector of Customs” has the same meaning as in section 2 of the Customs Act 1966:

“Director-General” means the Director-General of the Department of Scientific and Industrial Research:

“Fabricate” means to use any levied item to make machines, equipment, or structures in which the original form of the levied item is substantially modified; and “fabrication” has a corresponding meaning:

“Financial year” means the period of 12 months ending with the 31st day of March in any year:

“Heavy engineering” means that branch of engineering—

(a) Which characteristically but not exclusively uses as its raw material ferrous or non-ferrous metals in the form of plate having a thickness greater than 4.5 mm or in the form of angles, shapes, and sections exceeding 80 mm by 80 mm in cross-section; or

(b) Which is engaged in the machining of components or items large enough to require craneage to present or locate the workpiece to or in a machine tool being used in the fabrication of machines, equipment, or structures,—

and which typically produces items of the kind described in the First Schedule to this Act:

“Importer” has the same meaning as in section 2 of the Customs Act 1966:

“Levied items” means those goods specified and described in the Second Schedule to this Act and subjected to a research levy:

“Minister” means the Minister of Science and Technology:

“Produce” means to manufacture any levied item; and includes the making of any levied item in the form of sheet from coiled material:

“Research levy” means the levy imposed under section 4 of this Act.

3. Act to bind the Crown—This Act shall bind the Crown.

Heavy Engineering Research Levy

4. Heavy engineering research levy imposed—(1) There is hereby imposed and shall be paid in accordance with this Act a levy on all goods comprising those items of the Customs Tariff that are specified in Column 1 of the Second Schedule to this Act and which are more particularly described in Column 2 of that Schedule.

(2) The person liable to pay the levy on any levied items shall be the person who is the importer of any levied item into New Zealand or who produces any levied item within New Zealand.

(3) Notwithstanding subsection (1) or subsection (2) of this section, any levied item produced either wholly or in part from any other levied item, being a levied item on which a research levy has already been paid, shall, to the extent of that research levy already paid, be exempt from the payment of research levy.

(4) The Governor-General may, from time to time by Order in Council, amend Column 2 of the Second Schedule to this Act by amending such Customs Tariff statistical key code numbers and descriptions as will accord with any amendments made to the Customs Tariff.

5. Minister may prescribe rates of research levy—
(1) Subject to this Act, the Minister may from time to time, on the recommendation of the Association, and after consultation with the New Zealand Manufacturing Engineer's Federation (Incorporated), prescribe, by notice in the *Gazette*, rates of research levy payable on any levied items.

(2) The prescribed rates shall not exceed \$5 for each tonne of goods upon which the levy is imposed apportioned rateably in respect of goods weighing less than one tonne.

(3) The rates of research levy shall be published in the *Gazette* at least 28 days before they are to come into force.

(4) The Minister may at any time, in like manner, vary or revoke any notice made under subsection (1) of this section.

6. Recovery and collection—(1) All research levies imposed under this Act shall be recoverable in any Court of competent jurisdiction as a debt due to the Association.

(2) Research levies imposed on levied items produced within New Zealand shall be payable by the producer directly to the Association within such period after the items were produced as may be specified by the Association.

(3) Research levies imposed on levied items imported into New Zealand shall be payable to and collected by the Collector of Customs on behalf of the Association in addition to any duty and sales tax payable to the Collector under any other enactment, and shall be payable when the levied items are entered for home consumption under the Customs Act 1966.

7. Association may require information and returns—

(1) The Association may require any person who produces within New Zealand any levied item to provide the Association with such information in writing or make such return relating to that person's manufacturing operations as may be necessary to enable the Association to assess the amount of levy due; and all such information or every such return may be verified by statutory declaration or by such other means as the Association thinks fit.

(2) Subject to subsection (3) of this section, no person shall disclose otherwise than to the board of the Association, or any officer or employee of the Association, any information provided pursuant to subsection (1) of this section without the consent of the producer from whom the information was obtained.

(3) Subsection (2) of this section shall not apply—

- (a) To the disclosure of information in the form of a summary of information which is so framed as not to enable particulars relating to any particular business to be ascertained from it; or
- (b) To any disclosure of information made for the purpose of any legal proceedings pursuant to this Act or the Customs Act 1966, or for the purposes of any report of any such proceedings.

(4) The provision of any information or the making of any return under this section shall not constitute a condition precedent to the right of the Association to assess, sue for, and recover any research levy payable under this Act.

8. Powers of Minister, Comptroller, and Collectors of Customs—(1) The powers and authorities of the Minister of Customs, the Comptroller of Customs, and every Collector under the Customs Act 1966 shall, with all necessary modifications, apply in the same manner to the collection of a research levy under this Act as they apply to the collection of duty under that Act.

(2) Without limiting subsection (1) of this section and notwithstanding section 6 (1) of this Act, sections 152 and 154 of the Customs Act 1966 shall apply in respect of any research levy required to be collected by the Collector of Customs as if it were duty to be collected under that Act.

9. All research levies collected to be paid to Association— Subject to section 10 of this Act, all research levies received under this Act by the Collector of Customs shall be paid to the Association by the Collector.

10. Crown may be reimbursed for collection of research levies— For the purpose of reimbursing the Crown for any expenses incurred by the Collector of Customs in collecting any research levy under this Act, the Collector may retain such percentage of every levy collected by him as may be determined by the Minister of Finance after consultation with the Association.

11. Refunds—(1) Notwithstanding section 9 of this Act, in any case where a research levy has been paid to or collected by the Collector of Customs in error or in excess of the amount properly payable, the Collector of Customs may refund the amount of such levy paid or collected in error or, as the case may be, the amount of the excess, to the person by whom the levy was paid from money in the Collector of Customs' hands which would otherwise be payable to the Association.

(2) In any case where the Association is satisfied that any person who has paid a research levy is not engaged in heavy engineering or has paid a research levy in error or in excess of the amount properly payable, it may refund to that person the amount of research levy which has been so paid.

(3) In any case where the Minister is satisfied that, having regard to the purposes of this Act, it would be inequitable for a research levy to be paid by any particular person or in respect of any particular levied items, he may authorise the Association to remit or refund any research levy payable by that person or in respect of those levied items.

12. Expenditure of research levy—(1) The money received by the Association from any research levy or from any other source shall be used by the Association for the purposes of promoting and conducting research and other scientific work into or relating to the heavy engineering industry.

(2) Without limiting the generality of subsection (1) of this section, the money collected by way of research levy or from any other source may be used by the Association for all or any of the following purposes:

- (a) The establishment and equipment of laboratories for the purpose of facilitating heavy engineering research;
- (b) The carrying out of tests and experiments on materials used in the heavy engineering industry;
- (c) The carrying out of experiments to discover improved techniques for use in the heavy engineering industry;
- (d) The establishment and maintenance of a library relating to heavy engineering techniques and materials;
- (e) The encouragement of the study of heavy engineering research and related matters;
- (f) The allocation of grants to any person, institution, or body conducting research into or relating to techniques or materials used in the heavy engineering industry in New Zealand;
- (g) The holding of lectures, seminars, exhibitions, or public meetings for the purpose of disseminating information relating to developments in the field of heavy engineering research;
- (h) The publication from time to time of information relating to the activities of the Association and to any developments in the field of heavy engineering research;
- (i) The provision of general advisory services to or on behalf of members relating to heavy engineering techniques and materials;
- (j) The acquisition of land and premises (whether by purchase, lease, or otherwise) for the purposes of the Association;
- (k) The erection of premises for the purposes of the Association, and the maintenance, alteration, repair, decoration, or improvement of the Association's premises;
- (l) The acquisition of patents and licences relating to heavy engineering techniques and materials;
- (m) The refunding of any research levy paid in error or excess;

- (n) The payment of honoraria to officers of the Association, the payment of salaries, wages, and superannuation benefits to its employees, and the payment of travelling and accommodation expenses to or in respect of any of them in connection with the carrying out of their duties;
- (o) The payment of expenses incurred in connection with—
 - (i) The day to day administration of the Association;
 - (ii) Meetings of persons conducting the affairs of the Association, or meetings of any committee appointed by the Association.

Membership of Association

13. Membership of Association—(1) Notwithstanding anything to the contrary in the rules of the Association, but subject to subsection (3) of this section, every person engaged in heavy engineering and using goods subject to a levy under this Act shall be entitled, by virtue of that fact and without payment of any membership or other fee, to become an associate member of the Association on his making written application to the Association for the purpose.

(2) Every person who is an associate member of the Association shall, subject to his fulfilling his obligations as an associate member, be entitled to all the benefits of the Association conferred on associate members by its rules, but shall not have any right to exercise a vote at any general meeting of the association.

(3) Every person who is entitled pursuant to subsection (1) of this section to become an associate member of the Association, and who agrees to pay an annual subscription as determined by the executive of the Association, shall be entitled to become, or to continue to be, an ordinary member of the Association having the right to vote at any general meeting of the Association.

(4) Nothing in this section shall preclude the Association from admitting to membership in accordance with its rules any person other than one who is entitled to be an associate member of the Association by virtue of subsection (1) of this section or an ordinary member of the Association by virtue of subsection (3) of this section.

Financial Provisions

14. Annual accounts, etc.—(1) The Association shall at all times ensure that full and correct records of all its financial transactions, assets, liabilities, and funds are kept.

(2) The Association shall appoint some fit person to act as its secretary, and to keep all records and books of account.

(3) At the end of each financial year, the Association shall prepare an income and expenditure account showing its financial transactions for that year, together with a balance sheet as at the last day of that year. Every such balance sheet shall give a true and fair view of the state of affairs of the Association as at the end of its financial year, and every such income and expenditure account shall give a true and fair view of the income and expenditure for that year.

(4) The Association shall cause the accounts prepared under subsection (3) of this section to be audited, but no person who is an officer, employee, or member of the Association shall be capable of being appointed auditor for this purpose.

15. Copy of accounts to be sent to Minister and members—

(1) The Association shall, within 3 months after the expiration of each financial year or within such extended period as the Minister may allow, provide the Minister and the Director-General with a report on its proceedings and activities during that financial year. There shall be annexed to the report copies of the income and expenditure account and balance sheet of the Association together with a copy of the report of the auditor or auditors on them.

(2) The Minister shall, as soon as practicable after its receipt by him, lay before Parliament a copy of the report sent to him under subsection (1) of this section (together with a copy of the Association's income and expenditure account and balance sheet for the year to which the report relates).

(3) Within 3 months after the expiration of its financial year, the Association shall send to each of its members a copy of the report sent to the Minister under subsection (1) of this section, together with a copy of its income and expenditure account and balance sheet for that year and a copy of the report of the auditor or auditors on them.

(4) Nothing in this section shall limit the application of the Incorporated Societies Act 1908 to the Association.

16. Copy of rules to be sent to Minister—If so required by the Minister, the Association shall, within such reasonable time as the Minister may specify, send him a copy of its rules, together with any amendments to them. Any such copy shall be duly certified by the Registrar of Incorporated Societies as being the registered rules of the Association.

17. Financial provisions to apply notwithstanding anything to the contrary in Association's rules—The provisions of sections 14 to 16 of this Act shall apply to the Association notwithstanding anything to the contrary in its rules.

Offences and Penalties

18. Offences and penalties—(1) Every person commits an offence, and is liable on summary conviction to a fine not exceeding \$250 or, in the case of a second or subsequent conviction for a similar offence, \$500, who without reasonable excuse fails to provide any information or deliver any return as and when required by the Association pursuant to any provision of this Act.

(2) Every person commits an offence, and is liable on summary conviction to a fine not exceeding \$500, who—

(a) Provides any information or makes any return pursuant to this Act which to his knowledge is false in any material particular;

(b) Fraudulently avoids or attempts to avoid paying any research levy payable by him pursuant to this Act;

(c) Wilfully or recklessly discloses any information in contravention of section 7 of this Act.

(3) Where an offence under this section committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary, or other similar officer of the body corporate, or any person who was purporting to act in any such capacity, he, as well as the body corporate, shall be liable to be proceeded against for the offence and punished accordingly.

19. Offences by officers of Association—(1) Every officer of the Association commits an offence, and is liable on summary conviction to a fine not exceeding \$500, who—

(a) Fails, without reasonable excuse, to take all reasonable steps to secure compliance by the Association with any requirement imposed on it by this Act; or

- (b) Wilfully does any act in contravention of the provisions of this Act, or, in any case where the Association contravenes any such provisions, connives at the contravention.
- (2) For the purposes of this section, the term "officer" means any member of the board of the Association and any paid secretary of it.
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SCHEDULES

FIRST SCHEDULE

Section 2

TYPICAL ITEMS PRODUCED BY THE HEAVY ENGINEERING INDUSTRY

1. Steel fabrication for hydro-electric projects, being penstocks, gates, and lifting-gear.
 2. Steel fabrication for buildings, bridges, and towers.
 3. Storage tanks and containers, such as grain silos, and cement and petrol storage tanks.
 4. Pressure vessels.
 5. Firetube boilers and ancillary equipment.
 6. Process machinery, such as cheese-making equipment, drying plants, heat exchangers, vats and vessels, and brewing plant.
 7. Metal-working machinery, such as hydraulic guillotines, press brakes, and roll-formers.
 8. Saw-milling and log-handling equipment.
 9. Cranes, hoists, forklift trucks, rail wagons, and transporters.
 10. Construction and mining equipment, such as crushing plant, concrete mixers, and loader buckets.
 11. Equipment used in the energy industry, in fertiliser manufacture, and in pulp and paper manufacture.
 12. Ships.
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Section 4

SECOND SCHEDULE
LEVIED ITEMS

	<i>Column 1</i> Customs Tariff item number and general description of goods	<i>Column 2</i> Customs Tariff statistical key code number and description (if all items not included)
73.11	Angles, shapes and sections, of iron or steel, hot-rolled, forged, extruded, cold-formed or cold-finished; sheet piling of iron or steel, whether or not drilled, punched or made from assembled elements: — Angles, shapes and sections, 80 mm or more:	
73.11.011	— Worked	All items
73.11.021	— As may be determined by the Minister	All items
73.11.031	— Other	All items
73.13	Sheets and plates, of iron or steel, hot-rolled or cold-rolled: — 3 mm or more in thickness, other than tinned:	All items
73.13.001	— Coiled	Rolled but not further treated or worked, of a thickness: 01 A Exceeding 4.75 mm. 21 F Other, exceeding 4.75 mm.
73.13.009	— Other	Rolled but not further treated or worked, of a thickness: 01 B Exceeding 4.75 mm. 21 G Other, exceeding 4.75 mm.
73.18	Tubes and pipes and blanks therefor, of iron (other than of cast iron) or steel, excluding high-pressure hydro-electric conduits:	
73.18.009	— Other	Rectangular hollow sections of a maximum dimension: 51 G Less than 102 mm. 55 K 102 mm or more but less than 229 mm. 61 D 229 mm or more.