



ANALYSIS

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1988, No. 157

An Act to provide for import control

[29 November 1988]

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

1. Short Title and commencement—(1) This Act may be cited as the Import Control Act 1988.

(2) This Act shall come into force on the 1st day of December 1988.

2. Interpretation—(1) In this Act, unless the context otherwise requires,—

“Minister” means the Minister of Commerce:

“Prescribed” means prescribed by Orders in Council for the time being in force under section 3 of this Act and, in relation to forms, includes prescribed by the Secretary:

“Secretary” means the Secretary of Commerce.

(2) The terms “Collector”, “Customs airport”, “Customs containerbase”, “examining place”, “goods” and “wharf” have the same meanings as in section 2 (1) of the Customs Act 1966.

(3) For the purposes of this Act, section 47 of the Customs Act 1966 shall apply with respect to the importation of goods in the same manner as it applies with respect to the importation of goods for the purposes of that Act.

(4) For the purposes of Part VIII, Part X, Part XI, Part XII, Part XIV (excluding section 303), and section 305 of the

Customs Act 1966, this Act shall be deemed to be a Customs Act.

3. Control of imports—(1) The Governor-General may from time to time by Order in Council prohibit, in the public interest, the importation into New Zealand of—

- (a) Any specified goods:
 - (b) Goods of any specified class or classes:
 - (c) All goods except goods of a specified class or specified classes:
 - (d) All goods whatever (without specification of any such goods or of the class or classes to which they belong).
- (2) Any prohibition imposed pursuant to this section—
- (a) May be general; or
 - (b) May be limited to the importation of goods from any specified place or by or from any specified person or class of persons; or
 - (c) May, whether general or limited, be absolute or conditional.
- (3) Any such conditional prohibition may—
- (a) Allow the importation of goods—
 - (i) Under the authority of a licence or a permit (whether granted before or after the importation of goods) to be granted by the Minister or by any other prescribed person upon or subject to such terms or conditions (if any), not inconsistent with the provisions of the prohibition, as may be imposed by the Minister or other person granting the licence or permit; or
 - (ii) On or subject to any other prescribed conditions whatever:
 - (b) Require the payment of consideration to the Crown in respect of the application for or the granting of the licence or permit under paragraph (a) (i) of this subsection.
- (4) For the purposes of this Act—
- (a) The Secretary may from time to time prescribe any form the Secretary deems necessary:
 - (b) The production of any document under the hand of the Secretary 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 Secretary either to the prescribed form or to any such extract or copy.

(5) Without limiting the Acts Interpretation Act 1924, no Order in Council under this section shall be invalid because it leaves any matter to the discretion of the Minister or any other person or because it authorises the Minister or any other person to issue any licence, permit, or other instrument on or subject to conditions to be imposed or approved by the Minister.

4. Offences—(1) Every person commits an offence who—

(a) Imports into New Zealand or unships or lands in New Zealand any goods whose importation is prohibited by any Order in Council made under section 3 of this Act and in force at the time of importation; or

(b) Commits any breach of, or fails in any respect to comply with, any term or condition on or subject to which there has been granted, under any Order in Council made under section 3 of this Act, any licence or permit under the authority of which any goods are imported into New Zealand.

(2) Every person commits an offence who—

(a) Is knowingly concerned in any importation, unshipment, landing, breach, or non-compliance to which subsection (1) of this section applies; or

(b) Without lawful justification or excuse, removes from any wharf, Customs airport, Customs containerbase, or examining place any imported goods whose importation constitutes an offence under this section; or

(c) Is knowingly concerned in or connives at the removal from any wharf, Customs airport, Customs containerbase, or examining place of any goods whose importation constitutes an offence under this section.

(3) Where any goods are imported into New Zealand under the authority of a licence or permit granted under an Order in Council made under section 3 of this Act, and any person has knowingly made any false declaration or statement—

(a) For the purpose of obtaining that licence or permit; or

(b) As to compliance with any condition on or subject to which the licence or permit was granted—

or has otherwise knowingly made a false declaration or statement in relation to the importation of goods, that person shall be guilty of an offence.

(4) Every person who commits an offence against this section is liable to a fine not exceeding,—

(a) In the case of an individual, \$5,000, and in the case of a body corporate, \$25,000; or

(b) In either case, an amount equal to 3 times the value of the goods to which the offence relates,—

whichever is the greater.

(5) Any goods in respect of which any offence against this section is committed shall be forfeited.

(6) Any Order in Council made under section 3 of this Act may prescribe fines, in the case of an individual, not exceeding \$5,000, and in the case of a body corporate, not exceeding \$25,000, for the breach of any provision of any such Order in Council not being a breach which is an offence against any of the foregoing provisions of this section.

(7) Every offence against this section or against any Order in Council made under section 3 of this Act shall be punishable on summary conviction.

(8) Every information under the Summary Proceedings Act 1957 for an offence against this section or against any Order in Council made under section 3 of this Act shall be laid by a Collector.

(9) Notwithstanding anything in the Summary Proceedings Act 1957, any information for an offence against this section or against any Order in Council made under section 3 of this Act may be laid within 3 years after the date of the offence.

(10) When the amount of a fine under this section is to be determined by reference to the value of any goods, their value shall be estimated according to the price for which goods of the like kind and of the best quality, on which duties (if any) have been paid, are available in New Zealand at the time of the offence.

5. Delegation of powers by Minister and Secretary—

Every delegation under section 10 or section 11 of the Trade and Industry Act 1956 in relation to sections 16A, 16B, and 16C of that Act, that was in force immediately before the commencement of this Act, shall continue to have effect according to its tenor as if it had been made on that commencement under section 28 or section 41 of the State Sector Act 1988.

6. Regulations—(1) The Governor-General may from time to time, by Order in Council, make all such regulations as may be necessary or expedient for giving effect to the provisions of this Act and for the due administration thereof.

(2) Without limiting the general power to make regulations conferred by this section, regulations may be made under this section prescribing fines for offences against the regulations not exceeding \$5,000 in the case of an individual, and \$25,000 in the case of a body corporate.

7. Savings—After the commencement of this Act, the Import Control Regulations 1988 shall have effect as if they had been made under this Act and may be amended or revoked accordingly, and the repeal of the Trade and Industry Act 1956 shall not affect the validity of those regulations or any amendment to those regulations.

This Act is administered in the Ministry of Commerce.
