

CUSTOMS ACTS AMENDMENT BILL

EXPLANATORY NOTE

THIS Bill gives effect to the resolutions of the House of Representatives passed on 26 June 1958, imposing duties of Customs and excise on certain goods, increasing the sales tax on motor vehicles, and creating certain exemptions from sales tax. *Clause 5* also amends a provision of the Customs Act 1913 for the purpose of removing doubts that have arisen as to its effect.

PART I

CUSTOMS DUTIES

Clause 2 provides that this Part of the Bill is to be read with the Customs Act 1913.

Clause 3 imposes, in respect of the goods specified in the *First Schedule*, the additional Customs duties set out in the third column of that Schedule. *Subclause (2)* provides that no surtax is to be payable on the additional duties.

Clause 4: The effect of this clause is that the additional duties will not apply in the Cook Islands unless they are brought into force there by Order in Council.

Clause 5 re-enacts in an amended form the provisions of subsections (1) to (3) of section 24 of the Customs Act 1913, relating to the security to be given by the owner of any place appointed as a wharf or examining place by the Minister of Customs. The effect of the new provisions is to make it clear that the liability of the owner of the wharf or landing place for payment of duty on any goods wrongfully removed therefrom by any person is absolute and is not affected in any way by any other provision of the Customs Acts, or because any security previously given has been cancelled, or for any other reason.

PART II

BEER DUTY

Clause 6 provides that this Part is to be read with Part III of the Finance Act 1915 (which relates to beer duty).

Clause 7 imposes an additional duty of 3s. a gallon on beer brewed in New Zealand where the specific gravity of the worts used in the production of the beer does not exceed 1,036. Where the specific gravity exceeds 1,036, the additional duty of 3s. is to be increased by 1d. for every unit of specific gravity above 1,036.

PART III

TOBACCO DUTY

Clause 8 provides that this Part is to be read with the Tobacco Act 1908.

Clause 9 imposes on tobacco, cigars and snuff, and cigarettes manufactured in New Zealand additional rates of excise duty corresponding to the additional Customs duties imposed on imported goods by *clause 3*.

Clause 10 amends section 25 of the Customs Acts Amendment Act 1930. Under that section the rate of excise duty on cigars and snuff made in New Zealand, and containing less than 75 per cent of tobacco grown in New Zealand, may be varied by Order in Council, but not so as to exceed 14s. per pound. This clause alters that maximum rate to 20s.

PART IV

SALES TAX

Clause 11 provides that this Part is to be read with the Sales Tax Act 1932-33.

Clause 12 increases to 40 per cent the rate of sales tax payable on motor vehicles, including trailers but excluding motor cycles (see the *Second Schedule*).

Clause 13 provides that where sales tax is paid at the rate of 40 per cent the discount for prompt payment is to be $\frac{3}{4}$ per cent of the tax. The present discount is $2\frac{1}{2}$ per cent where sales tax is paid at the rate of 10 per cent, and $1\frac{1}{4}$ per cent where sales tax is paid at the rate of 20 per cent.

Clause 14 exempts from sales tax all goods of the classes or kinds specified in the *Third Schedule*, and repeals the existing provisions under which field drainage pipes and tiles, omnibuses, and tramcars are subject to sales tax at the rate of 10 per cent. The clause also revokes the existing exemptions relating to certain pipes, under the Finance Act (No. 2) 1955 and the Sales Tax Exemption Order 1955 (S.R. 1955/82). The exemptions revoked are redundant because the specific items to which they relate (*Fourth Schedule*) are included in the general exemptions in the *Third Schedule*.

PART V

MISCELLANEOUS PROVISIONS

Clause 15 ratifies the resolutions passed by the House on 26 June 1958, so that they have effect up to the passing of the Bill.

Clause 16 is a savings clause relating to the recovery and enforcement of existing duties and penalties that have become payable before the passing of the Bill.



Hon. Mr Boord

CUSTOMS ACTS AMENDMENT

ANALYSIS

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CUSTOMS DUTIES

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3. Increase of Customs duties in respect of certain goods
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PART II

BEER DUTY

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PART III

TOBACCO DUTY

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SALES TAX

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A BILL INTITULED

An Act to amend the Customs Acts

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:

No. 37—1

1. Short Title—This Act may be cited as the Customs Acts Amendment Act 1958.

PART I

CUSTOMS DUTIES

2. This Part to be read with Customs Act 1913—This Part 5
of this Act shall be read together with and deemed part of
the Customs Act 1913 (in this Part referred to as the
principal Act).

3. Increase of Customs duties in respect of certain goods—
(1) In respect of goods of the kinds or classes specified in 10
the First Schedule to this Act that are imported into New
Zealand or entered therein for home consumption after the
passing of this Act, there shall be payable, in addition to the
duties fixed in respect of such goods by or pursuant to any
Act, and notwithstanding anything to the contrary in any 15
Act, but subject to the provisions of section one hundred and
forty-three of the principal Act, further duties of Customs at
the appropriate rate specified in the third column of that
Schedule.

(2) Notwithstanding anything in section five of the 20
Customs Acts Amendment Act 1930, or in any other enact-
ment, surtax shall not be payable in respect of the additional
duties imposed by subsection one of this section.

4. Special provisions as to Cook Islands—(1) The duties
provided for in section three of this Act shall not be in force 25
in the Cook Islands unless and until the Governor-General
by Order in Council so determines, and until an Order in
Council under this section comes into force the duties in force
in those Islands on the passing of this Act shall continue to
be in force. 30

(2) On the coming into force of any such Order in Council
the duties provided for in section three of this Act in respect
of any goods shall be in force in the Cook Islands, and the
duties in force in those Islands with respect to those goods on
the passing of this Act shall be deemed to be altered 35
accordingly:

Provided that nothing in this section shall affect the pro-
visions of Part XXI of the principal Act.

5. Security in respect of wharves and examining places—
Section twenty-four of the principal Act is hereby amended by repealing subsections one, two, and three, and substituting the following subsections:

5 “(1) Before appointing any wharf or examining place under this Act, or as a condition of the continuance of any such appointment, the Minister shall require the owner, occupier, or other person having the control or use of that wharf or place to give security to the satisfaction of the Minister for
10 the payment of duty on all goods which are wrongfully removed by any person from that wharf or place.

“ (2) To the extent of that security the owner, occupier, or other person having the control or use of a wharf or place duly appointed in accordance with the provisions of this Act shall
15 be liable from time to time for all duty payable on goods which the Collector is satisfied have been so wrongfully removed, in the same manner as if those goods had been imported by that owner, occupier, or other person and entered for home consumption, and he shall not be released
20 from his liability under this section by virtue of any other provisions of the Customs Acts or because a security previously given has been cancelled or for any other reason.

“ (3) The Comptroller shall in like manner require security in respect of a sufferance wharf, and the provisions of this
25 section shall extend and apply accordingly.”

PART II

BEER DUTY

6. This Part to be read with Part III of Finance Act 1915—
This Part of this Act shall be read together with and deemed
30 part of Part III of the Finance Act 1915.

7. Increase of duty on beer brewed in New Zealand—
(1) In addition to the rates of duty fixed by section seven of the Customs Acts Amendment Act 1947, further duty in accordance with Part III of the Finance Act 1915 shall be
35 payable on all beer brewed in New Zealand of which the worts are pitched for fermentation after the passing of this Act, as follows:

(a) Where the specific gravity of the worts used in the
40 production of the beer does not exceed 1,036, the additional duty shall be at the rate of three shillings per gallon of the beer; and

- (b) Where the specific gravity of the worts exceeds 1,036, the additional duty per gallon shall be at the rate aforesaid, increased by one penny for every unit of specific gravity above 1,036.
- (2) Such additional duty shall be deemed to be revenue of Customs within the meaning of the Customs Act 1913, and shall be recoverable accordingly by action at the suit of the Crown. 5
- (3) For the purposes of Part III of the Finance Act 1915, the specific gravity of distilled water at sixty degrees Fahrenheit shall be taken at 1,000 and the specific gravity of the worts shall be considered in relation thereto. 10

PART III

TOBACCO DUTY

8. This Part to be read with Tobacco Act 1908—This Part of this Act shall be read together with and deemed Part of the Tobacco Act 1908. 15

9. Increase of excise duty on tobacco manufactured in New Zealand—(1) In addition to the duties fixed by subsection one of section twenty-two of the Customs Acts Amendment Act 1934 and section seven of the Customs Acts Amendment Act 1942, there shall be levied, collected, and paid on tobacco manufactured in New Zealand that is entered for home consumption after the passing of this Act the further excise duties hereinafter specified in respect of the following classes of such tobacco, namely: 25

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|--|-------|---|----|
| (a) On tobacco, cut | | Eleven shillings and one penny the pound. | |
| (b) On other tobacco | | Eleven shillings and three-pence the pound. | 30 |
| (c) On cigars and snuff | | Six shillings the pound. | |
| (d) On cigarettes— | | | |
| (i) Not exceeding in weight two and a half pounds the thousand | | Thirty-six shillings and sixpence the thousand. | 35 |
| (ii) Exceeding in weight two and a half pounds the thousand | | Fourteen shillings and six-pence the pound. | |

10. Authority to vary rates of excise duty on cigars and snuff—(1) Section twenty-five of the Customs Acts Amendment Act 1930, as amended by section forty-three of the Customs Acts Amendment Act 1934, and section eight of the
 5 Customs Acts Amendment Act 1942, is hereby further amended by omitting from subsection one the words “fourteen shillings”, and substituting the words “twenty shillings”.

(2) Section eight of the Customs Acts Amendment Act 1942 is hereby consequentially repealed.

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PART IV

SALES TAX

11. This part to be read with Sales Tax Act 1932-33—This Part of this Act shall be read together with and deemed part of the Sales Tax Act 1932-33 (in this Part referred to as the
 15 principal Act).

12. Increase of sales tax on certain motor vehicles—(1) In respect of goods of the class or kind specified in the Second Schedule to this Act, except any such goods that are exempt from sales tax, there shall, subject to the provisions of the
 20 principal Act, be levied, collected, and paid, instead of sales tax at the rate imposed by section ten of the Customs Acts Amendment Act 1942, sales tax at the rate of forty per cent of the sale value of all such goods—

25 (a) Sold by a wholesaler, after the passing of this Act, otherwise than to a licensed wholesaler for resale by him; or

(b) Manufactured by a manufacturing retailer, after the passing of this Act, for use by him or for sale otherwise than to a licensed wholesaler for resale by him;
 30 or

(c) Imported into New Zealand after the passing of this Act, and entered therein for home consumption under the Customs Act 1913 otherwise than by a licensed wholesaler for sale by him.

35 (2) With respect to sales tax paid on any goods by an importer pursuant to this section, the following provisions shall apply:

40 (a) On the sale of any such goods by the importer to a licensed wholesaler, for resale, or for use by the licensed wholesaler in the manufacture of goods for

sale, the importer shall, on application to the Collector and on compliance with the prescribed conditions, be entitled to a refund of the sales tax paid by him on the goods sold by him as aforesaid:

- (b) On the sale of any such goods by the importer to a manufacturing retailer for use by him in the manufacture of goods for sale, the importer shall, on satisfying the Collector that the goods sold by him have been actually used by the manufacturing retailer as aforesaid, and on compliance with the prescribed conditions, be entitled to a refund of the sales tax paid by him on the goods sold by him and actually used as aforesaid. 5 10

(3) Subsection one of section eleven of the principal Act, as amended by section twenty-two of the Finance Act 1940 and modified by section ten of the Customs Acts Amendment Act 1942, shall be read subject to the foregoing provisions of this section. Any reference in the principal Act or in any other Act to the said subsection one shall, unless the context otherwise requires, be hereafter construed to include a reference to subsection one of this section. 15 20

13. Rate of discount for prompt payment—Notwithstanding anything in section twenty-one of the principal Act, as amended by section twenty-three of the Finance Act 1940 and section fifteen of the Customs Acts Amendment Act 1942, where sales tax in respect of any goods is payable at the rate of forty per cent of the sale value thereof, and such tax is paid on or before the date on which it is payable in accordance with the provisions of the principal Act, the taxpayer shall be entitled only to a discount at the rate of three-quarters per cent of the sales tax so payable. 25 30

14. Exemptions from sales tax—(1) Subject to the provisions of this section, goods of the classes or kinds specified in the Third Schedule to this Act shall be exempt from sales tax. 35

(2) The Governor-General may from time to time, by Order in Council, revoke the exemption from sales tax of any goods of a class or kind exempted under this section.

(3) Every Order in Council under this section shall come into force on the date of its notification in the *Gazette* or on such earlier or later date as may be specified in that behalf in the Order.

5 (4) The Customs Acts Amendment Act 1942 is hereby amended by repealing so much of the Second Schedule (as amended by the Sales Tax Order 1942 and by section thirteen of the Finance Act 1948 and by the Sales Tax (School Omnibuses) Order 1957) as relates to field drainage pipes and tiles,
10 omnibuses, and tramcars.

(5) Paragraph (a) of subsection three of section five of the Finance Act (No. 2) 1942 is hereby amended by repealing subparagraph (iii) (as added by section four of the Finance Act 1949).

15 (6) Section thirteen of the Finance Act 1948 and section four of the Finance Act 1949 are hereby consequentially repealed.

(7) The Finance Act (No. 2) 1955 is hereby amended by repealing so much of the First Schedule as relates to the
20 classes or kinds of goods specified in Part I of the Fourth Schedule to this Act.

(8) The Sales Tax Exemption Order 1955 is hereby amended by revoking so much of the Second Schedule as relates to the classes or kinds of goods specified in Part II of
25 the Fourth Schedule to this Act.

(9) The Sales Tax (School Omnibuses) Order 1957 is hereby consequentially revoked.

PART V

MISCELLANEOUS PROVISIONS

30 **15. Ratification of certain resolutions**—(1) Every resolution of the House of Representatives passed on the twenty-sixth day of June, nineteen hundred and fifty-eight, purporting to impose any duties of Customs or excise, or to impose sales tax, or to create any exemptions from any such duties or
35 sales tax, shall be deemed to have taken effect and to have had the force of law, according to its tenor, and to have so continued until the passing of this Act.

(2) Every such resolution as is mentioned in subsection one of this section shall be deemed to be revoked on the passing of this Act:

Provided that all duties and all sales tax that, by virtue of the said resolutions, have become due and payable since the 5 passing thereof and before the passing of this Act, and all penalties and forfeitures that have been incurred, shall be recovered and enforced notwithstanding the revocation of the said resolutions by this section.

16. Saving of existing rights of action—All duties of Cus- 10
toms and excise, and all sales tax, that have become due and payable, and all penalties and forfeitures that have been incurred, before the passing of this Act, shall be recovered and enforced in the same manner as if this Act had not been 15
passed.

SCHEDULES

Section 3

FIRST SCHEDULE

GOODS (AS SPECIFIED IN THE FIRST SCHEDULE TO THE CUSTOMS ACTS AMENDMENT ACT 1934) IN RESPECT OF WHICH ADDITIONAL CUSTOMS DUTIES ARE IMPOSED BY SECTION 3 OF THIS ACT

Item No.	Tariff Item	Additional Rates of Duty Imposed
74	Cigarettes, n.e.i.	36s. 6d. per 1,000.
75	Cigarettes, exceeding in weight 2½ lb. per 1,000	14s. 6d. per lb.
76	Cigars, including the weight of every band, wrapper, or attachment, to any cigar	6s. per lb.
77	Snuff	6s. per lb.
79	Tobacco, cut	11s. 1d. per lb.
80	Tobacco n.e.i., including the weight of every label, tag, or other attachment	11s. 3d. per lb.
83	Ale, beer of all sorts, porter, cider, and perry, when containing more than 2 per cent of proof spirit; per gallon, or for six reputed quart bottles or the reputed equivalent in bottles of a larger or smaller reputed capacity	3s.
84	Spirits, viz:	
	(1) Cordials, bitters, and liqueurs, when exceeding the strength of 40 per cent of proof spirit, but not exceeding the strength of proof	60s. per liquid gallon.
	(2) Cordials, bitters, and liqueurs, when exceeding the strength of proof	60s. per proof gallon.
	(3) Spirits, and spirituous mixtures, the strength of which can be ascertained by Sikes's hydrometer or other similar instrument, viz:	
	(a) <i>Rum</i>	60s. per proof gallon.
	(b) Other kinds	60s. per proof gallon.
	(4) Spirits, and spirituous mixtures, sweetened, n.e.i., when not exceeding the strength of proof	60s. per liquid gallon.
	(5) Spirits, and spirituous mixtures, sweetened, n.e.i., when exceeding the strength of proof	60s. per proof gallon.
	(6) Spirits, and spirituous mixtures, containing more than 40 per cent of proof spirit, but not exceeding the strength of proof, in combination with other ingredients	60s. per liquid gallon.
	(7) Spirits, and spirituous mixtures, exceeding the strength of proof, in combination with other ingredients	60s. per proof gallon.
394	Oils in vessels capable of containing one gallon or more, viz:	
	(7) <i>Motor spirits</i>	1s. per gallon.
395	Oils in vessels having a capacity of less than one gallon, viz:	
	(2) <i>Motor spirit.</i>	1s. per gallon.

SECOND SCHEDULE

Section 12

GOODS WHICH, IF NOT EXEMPT FROM SALES TAX, ARE SUBJECT TO SALES TAX AT THE RATE OF FORTY PER CENT OF THEIR SALE VALUE

Motor vehicles, including trailers therefor but excluding motor cycles.

THIRD SCHEDULE

Section 14 (1)

GOODS EXEMPTED FROM SALES TAX

Equipment, apparatus, and materials, as may be approved by the Minister, specially suited for use in the distribution and control of electricity.

Field drainage pipes and tiles.

Omnibuses, being passenger service vehicles as defined in section 2 of the Transport Act 1949, and designed to carry seated passengers exceeding nine in number.

Omnibuses purchased and operated by the Education Department solely for the transport of school children.

Pipes, piping, tubes, and tubing, and fittings therefor.

Tramcars.

FOURTH SCHEDULE

Section 14 (7), (8)

SALES TAX EXEMPTIONS REVOKED

PART I

Items Omitted from First Schedule to Finance Act (No. 2) 1955

Pipes, aluminium, and fittings therefor.

PART II

Items Omitted from Second Schedule to Sales Tax Exemption Order 1955

Pipes, viz.:

Brass, internally tinned, whether plated or unplated externally, and fittings therefor.

Lead, and lead bends.

(Other than hose) not exceeding 2 inches in internal diameter, and fittings therefor.

Rainwater downpipes.

Soil and drain, not exceeding 6 inches in internal diameter, and fittings therefor.

Stainless steel, internally polished, and fittings therefor.