

CUSTOMS ACTS AMENDMENT BILL

EXPLANATORY NOTE

PART I of this Bill amends the Customs Act 1966.

Part II amends the Sales Tax Act 1932-33.

Clause 1 relates to the Short Title.

PART I

CUSTOMS

Clause 2: This Part of the Bill is to be read together with the Customs Act 1966.

Clause 3: The definition of "Customs containerbase" inserted in section 2 of the principal Act by the Customs Amendment Act 1968 confines the operation of Customs containerbases to the reception, examination, or protection of goods subject to the control of the Customs and "imported or to be exported" in bulk cargo containers.

This clause amends the definition by removing the present reference to goods imported or to be exported, and substituting a reference to goods carried or to be carried. The purpose of the amendment is to enable goods manufactured in New Zealand and being moved within New Zealand under bond in bulk cargo containers to be handled in containerbases.

Clause 4: Under section 49 (2) (a) of the principal Act, no whisky imported into New Zealand may be delivered from the control of the Customs until the Comptroller is satisfied that it has been matured by storage in wood for not less than 5 years. This clause reduces that period to 3 years.

Clause 5: This clause inserts in the principal Act a new section 117A providing that no one may refine any sugar except in a licensed manufacturing warehouse. At present there is no obligation to use only a licensed warehouse, but the production of sugar in such a warehouse is permitted by regulations under section 80 (1) (c) of the principal Act.

Clause 6: This clause repeals section 160 (2) of the principal Act, under which, when goods are imported in packages reputed to be of a quantity greater than their actual quantity, duty is assessed and payable on the reputed quantity. The effect of the repeal is that the duty is to be assessed and payable on the actual quantity.

Clause 7 is merely a drafting amendment which alters the order of the existing words to avoid any possible ambiguity.

Clause 8: There is no power under the principal Act to refund duty or sales tax paid on goods that have been forfeited and condemned under Part XII of the Act. This means that importers who have paid duty and sales tax may on subsequent forfeiture suffer the loss of the goods plus duty and sales tax, while others (where no duty or tax has yet been paid) lose only the goods. *Subclause (1)* of this clause inserts in the principal Act a new section giving the Comptroller a discretion in the first-mentioned case to refund the amount of duty and tax paid. A refund may be made within 3 years after seizure of the goods, or at any later time on application made within 3 years after seizure.

Subclause (2) extends the new section to duty and sales tax paid before the passing of the Bill.

Clause 9: Section 223 (f) of the principal Act provides that the net proceeds of the sale of goods sold by the Collector under the powers conferred on him by the Act are to be paid to the person entitled thereto. This clause amends the section to make it clear that the payment is to be made to the person appearing to the Collector to be entitled to it.

Clause 10: Section 287 of the principal Act authorises the Governor-General to waive any forfeiture that has accrued under the Customs Acts.

This clause substitutes a new section 287 re-enacting the power of the Governor-General to waive forfeiture, but limiting it to cases where the application for waiver is made within 3 months after condemnation.

PART II

SALES TAX

Clause 11: This Part is to be read together with the Sales Tax Act 1932-33.

Clause 12: Subclause (1) inserts in the principal Act a new section 33A, which provides that a Collector of Customs may refund sales tax paid on a new motor cycle that is licensed as a Class A or Class B vehicle under the Transport Act 1962, if the purchaser makes a declaration that it is new and will be used only as a farm vehicle for agricultural purposes, and undertakes to pay the sales tax, or such lesser sum as the Collector may require, if within 2 years after the purchase the motor cycle is sold or otherwise disposed of or becomes licensed otherwise than as a Class A or Class B vehicle. (Vehicles of Class A, which are not used on public highways, are exempt under the Motor Vehicle Taxation Regulations 1966 from payment of registration and annual licence fees, and their users are eligible for refunds of motor spirits duty under section 188 of the Transport Act 1962. Users of farm vehicles of Class B are also eligible for refunds of motor spirits duty under that section.)

Subclause (2): The new section 33A is deemed to have come into force on 26 June 1970.

Hon. Mr Adams-Schneider

CUSTOMS ACTS AMENDMENT

ANALYSIS

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1. Short Title

PART I

CUSTOMS

2. This Part to be read with Customs Act 1966
3. Interpretation
4. Importation of whisky
5. Refining of sugar
6. Assessment of duty in particular cases

7. Comptroller may refund duty paid in error
8. Comptroller may refund duty on forfeited goods
9. Mode of exercising power of sale
10. Waiver of forfeiture by Governor-General

PART II

SALES TAX

11. This Part to be read with Sales Tax Act 1932-33
12. Refund of tax on farm motor cycles

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:

1. Short Title—This Act may be cited as the Customs Acts Amendment Act 1970.

PART I

CUSTOMS

- 10 **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).

*1966, No. 19
Amendments: 1967, No. 2, Part I; 1967, No. 137; 1968, No. 31; 1968, No. 142, Part I

3. Interpretation—Section 2 of the principal Act (as amended by section 2 (1) of the Customs Amendment Act 1968) is hereby further amended by omitting from the definition of the expression “Customs containerbase” in subsection (1) the words “and imported or to be exported”, and substituting the words “and carried or to be carried”.

4. Importation of whisky—Section 49 of the principal Act is hereby amended by omitting from paragraph (a) of subsection (2) the word “Five”, and substituting the word “Three”.

5. Refining of sugar—The principal Act is hereby amended by inserting, after section 117, the following section:

“117A. (1) No person shall manufacture any sugar by refining, except in a manufacturing warehouse licensed under this Act.

“(2) Every person who acts in contravention of this section commits an offence and shall be liable to a fine not exceeding \$200, or three times the amount of duty that would have been payable on the sugar to which the offence relates if it had been manufactured in a manufacturing warehouse licensed as aforesaid and duly entered for home consumption, whichever sum is the greater.

“(3) In this section, the term ‘sugar’ means sugar of any kind, of any degree of polarisation; and includes invert sugar, invert syrup, treacle, molasses, golden syrup, and any other product obtained from the refining of sugar.”

6. Assessment of duty in particular cases—Section 160 of the principal Act is hereby amended by repealing subsection (2).

7. Comptroller may refund duty paid in error—Section 172 of the principal Act is hereby amended by repealing paragraph (b) of subsection (1), and substituting the following paragraph:

“(b) At any later time, on an application made within such 3 years.”

8. Comptroller may refund duty on forfeited goods—(1) The principal Act is hereby further amended by inserting, after section 172, the following section:

“172A. When any duty or sales tax has been paid on any goods that are condemned or deemed to be condemned under Part XII of this Act, the Comptroller in his discretion may pay to any person appearing to him to be entitled thereto a sum equal to the amount of that duty or tax—

“(a) At any time within 3 years after seizure of the goods; or

“(b) At any later time, on an application made within such 3 years:

10 “Provided that such sum shall not exceed the amount that would be available for payment of duty under paragraph (e) of section 223 of this Act.”

(2) Section 172A of the principal Act, as inserted by sub-section (1) of this section, shall extend and apply to duty 15 and sales tax paid before or after the passing of this Act.

9. Mode of exercising power of sale—Section 223 of the principal Act is hereby amended by inserting in paragraph (f), after the word “person”, the words “appearing to the Collector to be”.

20 **10. Waiver of forfeiture by Governor-General**—The principal Act is hereby amended by repealing section 287, and substituting the following section:

25 “287. (1) When any forfeiture has accrued under the Customs Acts, the person who, but for the forfeiture, would be entitled to the forfeited goods or property may apply to the Comptroller for a waiver of the forfeiture.

“(2) Every application for a waiver under this section may be made—

30 “(a) Before or after the seizure or condemnation of the goods or property; but

“(b) Not later than 3 months after the date on which the condemnation of the goods or property takes effect.

35 “(3) On any such application the Governor-General may, on the recommendation of the Minister, waive the forfeiture (either in whole or in part) and may direct the restoration of any goods or property so seized.”

PART II

SALES TAX

40 **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 principal Act).

12. Refund of tax on farm motor cycles—(1) The principal Act is hereby amended by inserting in Part V, after section 33, the following section:

“33A. (1) If a new motor cycle, being a motor cycle within the meaning of the Transport Act 1962, is purchased by any person who— 5

“(a) Satisfies the Collector that the motor cycle has been licensed under the Transport Act 1962 as a motor vehicle of Class A or Class B within the meaning of section 188 of that Act; and 10

“(b) Makes a declaration under this Act that the motor cycle is new and will be used exclusively for agricultural purposes on a farm and for other purposes for which a farm motor cycle of the said Class A or Class B may be used pursuant to regulations for the time being in force under the Transport Act 1962; and 15

“(c) Gives a written undertaking, in such form as the Collector may require, that if at any time within 2 years after the date of its purchase the motor cycle is sold or otherwise disposed of, or becomes licensed otherwise than as a motor vehicle of the said Class A or Class B, he will forthwith pay to the Collector a sum equal to the sales tax paid on it or such lesser sum as the Collector may require— 25
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 the sales tax so paid.

“(2) Any refund made under subsection (1) of this section may be made— 30

“(a) At any time within 1 year after the date on which the motor cycle is so purchased; or

“(b) At any later time, on an application made within the said year.”

(2) Section 33A of the principal Act, as inserted by sub-section (1) of this section, shall be deemed to have come into force on the 26th day of June 1970. 35

*1957 Reprint, Vol. 13, p. 643

Amendments: 1958, No. 33, Part IV; 1960, No. 27, Part III; 1961, No. 10; 1961, No. 57, Part II; 1963, No. 37, Part IV; 1967, No. 2, Part III; 1968, No. 41; 1968, No. 142, Part II