

CUSTOMS AMENDMENT BILL

EXPLANATORY NOTE

This Bill amends the Customs Act 1966.

Clause 1 relates to the Short Title.

Clause 2 amends section 63 of the Customs Act 1966 to provide that, where the Collector is satisfied that the exportation of any goods subject to the control of Customs is not prohibited under section 70 of the Act, entry may be made within 6 days after shipment and not, as at present, before the goods are shipped. This extension of time brings the section into accord with the provision dealing with the exportation of goods not subject to the control of Customs.

Clause 3: Section 70 of the principal Act provides that the export of goods may be prohibited by Order in Council except where a licence is obtained. The section makes it an offence to export prohibited goods without a licence, but, in contrast to section 48 of the Act which deals with the prohibition of the import of goods, omits to make it an offence to obtain a licence by knowingly making a false declaration or statement. This clause amends section 70 by rectifying this omission.

Clause 4: This clause amends section 129 of the principal Act which enables the Minister to impose a special dumping duty on goods imported into New Zealand in certain cases.

Subclause (1): Paragraph (d) of subsection (2) of the section provides that the Minister may impose a special dumping duty where he is satisfied that, because of an association in business or a compensatory arrangement between the exporter and the importer or a third party, the goods are being sold on the open market in New Zealand at a loss or at a profit lower than the normal profit on such sales of identical or equivalent goods. This subclause extends this provision to cover cases where the imported goods are sold either in a further form of manufacture or mixed with or in combination with other goods.

Subclause (2) adds a new subsection providing that the Collector may take security for the payment of the special dumping duty which may become due in the same manner as he may take security for normal customs duty which may become due pursuant to Part IX of the principal Act.

No. 63—1

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Clause 5: Section 131 of the principal Act provides that every Order in Council made under section 124 of the principal Act and laid before Parliament in any session pursuant to the Regulations Act 1936 shall expire on the last day of that session except so far as it is expressly validated or confirmed by an Act of Parliament passed during that session.

This clause preserves this provision for every such Order in Council made on or before 30 June in any calendar year, but provides that every such Order in Council made on or after 1 July in any calendar year shall expire on the last day of the next session of Parliament in the following calendar year, except so far as it is expressly validated or confirmed by an Act of Parliament passed during that next session.

Clause 6 corrects a drafting error in section 157 of the principal Act.

Clause 7 inserts a new provision in the Act making it an offence for any person, without the permission of the proper officer of Customs, to enter on or remain in any area set aside for the examination of passengers disembarking from or embarking on any ship or aircraft. The maximum penalty is to be \$200.

Clause 8: Section 268 provides that the Minister may pay to any officers of Customs or any other persons by or through whom any seizure of goods is made or fine recovered a reward restricted to an amount not exceeding half the value of the goods or the amount of the fine.

This clause amends this provision by providing that the restriction shall only apply where the seizure or fine results from an attempt to defraud the revenue of Customs. The restriction will therefore not apply in the case of prohibited imports or exports.

Clause 9 amends section 270 of the principal Act, which deals with the forfeiture of goods, to extend the provision to include goods found in any bulk cargo container.

Clause 10 corrects a drafting error in section 282 of the principal Act.

Hon. Mr Connelly

CUSTOMS AMENDMENT

ANALYSIS

Title	
1. Short Title	5. Orders in Council relating to Customs duties and Tariff
2. Export of goods subject to the control of the Customs	6. Incidence of altered duties
3. Prohibited exports	7. Unauthorised entry into passenger processing areas
4. Dumping duty	8. Rewards for seizures and convictions
	9. Goods forfeited
	10. Condemnation by Magistrate

A BILL INTITULED

An Act to amend the Customs Act 1966

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

1. **Short Title**—This Act may be cited as the Customs Amendment Act 1973, and shall be read together with and deemed part of the Customs Act 1966* (hereinafter referred to as the principal Act).

10 **2. Export of goods subject to the control of the Customs**—
(1) Section 63 of the principal Act is hereby amended by repealing subsection (1) (as amended by section 14 (1) of the Customs Amendment Act 1968), and substituting the following subsection:

*1966, No. 19

Amendments: 1967, No. 2, Part I; 1967, No. 137; 1968, No. 31; 1968, No. 142, Part I; 1970, No. 44; 1971, No. 42; 1972, No. 7

“(1) No goods subject to the control of the Customs shall be placed on board any ship, boat, lighter, or other vessel or loaded into any aircraft or packed into any bulk cargo container in a Customs containerbase, to be shipped for export until entry has been duly made and passed therefor 5 in the prescribed form and manner:

“Provided that, where the Collector is satisfied in respect of any goods that their exportation is not prohibited by any Order in Council made under section 70 of this Act, he may permit such entry to be made within 6 days after 10 the goods have been so shipped.”

(2) Section 14 of the Customs Amendment Act 1968 is hereby consequentially repealed.

3. Prohibited exports—Section 70 of the principal Act is hereby amended by repealing subsection (6), and 15 substituting the following subsections:

“(6) Every person commits an offence against this section who—

“(a) Exports, or ships, with intent to export, or conspires with any other person (whether that other person 20 is in New Zealand or not) to export, any goods from New Zealand, contrary to the terms of any prohibitions in force with respect thereto; or

“(b) Commits any breach of, or fails in any respect to comply with, any term or condition on or subject 25 to which there has been granted, under any Order in Council made under this section, any licence, permit, or consent; or

“(c) Knowingly makes any false declaration or statement for the purpose of obtaining any such licence, 30 permit, or consent; or

“(d) Is knowingly concerned in any exportation, shipment, breach, or non-compliance to which paragraph (a) or paragraph (b) of this subsection applies.

“(6A) Any person who commits an offence against this 35 section is liable to a fine not exceeding \$1,000 or 3 times the value of the goods to which the offence relates, whichever is the greater.”

4. Dumping duty—(1) Section 129 of the principal Act (as substituted by section 6 of the Customs Amendment Act 1971) is hereby amended by inserting, after subsection (5), the following subsection:

5 “(5A) For the purposes of paragraph (d) of subsection (2) and paragraph (d) of subsection (4) of this section the goods referred to as being sold on the open market in New Zealand shall include not only such goods sold in the
10 Zealand which use such goods, either in a further form of manufacture, or mixed with, in combination with, or sold in conjunction with any other goods, whether imported or otherwise.”

(2) The said section 129 (as so substituted) is hereby
15 further amended by adding the following subsection:

“ (13) Notwithstanding anything in this section, a Collector of Customs shall have the right to require and take security for the payment of any revenue which may become
20 given pursuant to Part IX of this Act, he may refuse to pass any entry or to do any other act in the execution of his office in relation to any matter in respect of which the security is required.”

**5. Orders in Council relating to Customs duties and
25 Tariff**—(1) Section 131 of the principal Act is hereby amended by repealing subsection (2), and substituting the following subsection:

“ (2) Every Order in Council made under section 124 of this Act and laid before Parliament in any session pursuant
30 to the Regulations Act 1936 (as amended by the Regulations Act 1962) shall—

“ (a) Where the Order in Council is made on or before the 30th day of June in any calendar year, expire on the close of the last day of that session except
35 so far as it is expressly validated or confirmed by Act of Parliament passed during that session; and

“ (b) Where the Order in Council is made on or after the 1st day of July in any calendar year, expire on the close of the last day of the next ensuing session of Parliament in the following calendar year
40 except so far as it is expressly validated or confirmed by Act of Parliament passed during that session.”

(2) This section shall apply to every Order in Council made under section 124 of the principal Act on or after the 1st day of January 1974.

6. Incidence of altered duties—Section 157 of the principal Act is hereby amended by omitting from subsection (2) the words “alteration of the law”, and substituting the words “alteration in the law”. 5

7. Unauthorised entry into passenger processing areas—The principal Act is hereby further amended by inserting, after section 248, the following section: 10

“248A. Every person who, without the permission of the proper officer of Customs, enters on or remains in any area set aside for the examination, for the purposes of this Act, of the personal baggage of passengers disembarking from or embarking on any ship or aircraft at any time when such area is being used for such examination, commits an offence and shall be liable to a fine not exceeding \$200.” 15

8. Rewards for seizures and convictions—The principal Act is hereby further amended by repealing section 268, and substituting the following section: 20

“263. The Minister may order to be paid or distributed out of the revenue of Customs, to or among any officers or other persons by or through whom any seizure is made or fine recovered under the Customs Act, such rewards as the Minister thinks fit: 25

“Provided that, where any such seizure or fine results from an attempt to defraud the revenue of Customs, such rewards shall not exceed in the aggregate half the value as determined by the Minister of the goods seized or, as the case may be, half the amount of the fine.” 30

9. Goods forfeited—Section 270 of the principal Act is hereby amended by inserting in paragraph (a) and also in paragraphs (b) and (c), in each case after the word “aircraft”, the words “or bulk cargo container”.

10. Condemnation by Magistrate—Section 282 of the principal Act is hereby amended by omitting from subsection (10) the words “by or against any party”, and substituting the words “to or against any party”. 35