

TRADE AND INDUSTRY AMENDMENT BILL

EXPLANATORY NOTE

THE purpose of this Bill is to enable the control of import licensing to be transferred from the Minister of Customs to the Minister of Trade and Industry.

Clause 1 relates to the Short Title.

Clause 2 inserts 3 new sections, relating to the control of imports, in the principal Act.

The new section 16A is the interpretation section.

Subclause (1) defines the expression "prescribed" and gives certain other expressions the same meanings as defined in the Customs Act 1966.

Subclause (2) deems the new sections to be a Customs Act for the purposes of Part VIII (Powers of Officers of Customs), Part XI (Offences), Part XII (Forfeitures), Part XIV (Evidence), and section 305 (Application of Customs Acts to goods passing through Post Office) of the Customs Act 1966.

The new section 16B empowers the prohibition, in the public interest, of the importation of all or any goods, or class or classes of goods, by Order in Council. The prohibition may be absolute or conditional, and the conditional prohibition may allow the importation of goods under the authority of a licence or permit granted by the Minister of Trade and Industry or other prescribed person. The section is based on subsections (2) to (5) of section 48 and section 308 of the Customs Act 1966 under which import licensing is at present carried out.

The new section 16C sets out the offences in relation to the control of imports and is similar to the present provisions under the Customs Act 1966.

Section 48 of the Customs Act 1966 has been retained in order that the Minister of Customs may deal with the prohibition of imports for other reasons than import licensing, e.g., on health grounds.

Clause 3 deals with consequential amendments. *Subclause (1)* amends the provisions relating to the delegation by the Secretary of Trade and Industry of his powers to enable him to delegate them to officers and employees of the Customs Department.

Clause 4 preserves the continuity of powers exercised under the Import Control Regulations 1964 where any Order in Council replacing those Regulations is made under the new section 16B.

Hon. Mr Freer

TRADE AND INDUSTRY AMENDMENT

ANALYSIS

Title		<i>Control of Imports</i>
1. Short Title		16A. Interpretation
2. New sections (relating to control of imports) inserted		16B. Control of imports
		16C. Offences
	3. Consequential amendments	
	4. Savings	

A BILL INTITULED

An Act to amend the Trade and Industry Act 1956

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 Trade and Industry Amendment Act 1973, and shall be read together with and deemed part of the Trade and Industry Act 1956* (hereinafter referred to as the principal Act).

10 **2. New sections (relating to control of imports) inserted**—
The principal Act is hereby amended by inserting, after section 16, the following heading and sections:

*1957 Reprint, Vol. 6, p. 577
Amendments: 1956, No. 84; 1972, No. 107

Control of Imports

“**16A. Interpretation**—(1) For the purposes of sections 16B and 16C of this Act,—

“(a) The expression ‘prescribed’ means prescribed by Orders in Council for the time being in force under section 16B of this Act: 5

“(b) The expressions ‘Collector’, ‘Customs airport’, ‘Customs containerbase’, ‘declaration’, ‘examining place’, ‘goods’, and ‘wharf’ have the same meanings as in the Customs Act 1966: 10

“(c) Section 47 of the Customs Act 1966 shall apply with respect to the import of goods in the same manner as it applies with respect to the import of goods for the purposes of that Act.

“(2) For the purposes of Part VIII, Part XI, Part XII, Part XIV, and section 305 of the Customs Act 1966, this section and sections 16B and 16C of this Act shall be deemed to be a Customs Act. 15

“**16B. 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— 20

“(a) Any specified goods:

“(b) Goods of any specified class or classes:

“(c) All goods except goods of a specified class or specified classes: 25

“(d) All goods whatsoever (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 30

“(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. 35

“(3) Any such conditional prohibition may allow the importation of goods—

“(a) Under the authority of a licence or a permit (whether granted before or after the importation of the goods) to be granted by the Minister or by any 40

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

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“(b) On or subject to any other prescribed conditions whatsoever.

“(4) 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 of 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.

15 “16c. 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 16B of this Act and in force at the time of importation; or

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“(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 16B of this Act, any licence or permit under the authority of which any goods are imported into New Zealand.

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“(2) Every person commits an offence who—

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“(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

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“(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.

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“(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 16B of this Act, and any person has knowingly made any false declaration or statement—

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“(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—
he shall be guilty of an offence.

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

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

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“(6) Any Order in Council made under section 16B of this Act may prescribe fines, not exceeding in any one case \$200, 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 the section.

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“(7) Every offence against this section or against any Order in Council made under section 16B 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 16B of this Act shall be laid by a Collector.

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“(9) Notwithstanding anything in the Summary Proceedings Act 1957, any information for an offence against this section or against an Order in Council made under section 16B of this Act may be laid within 3 years after the date of the offence.

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“(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 saleable in New Zealand at the time of the offence.”

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3. Consequential amendments—(1) Section 11 of the principal Act is hereby amended by inserting in subsection (1), after the words “of the Department”, the words “or of the Customs Department”.

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(2) The principal Act is hereby further amended by inserting, before section 17, the heading “*Miscellaneous Provisions*”.

4. **Savings**—Any Order in Council made under section 16B of the principal Act (as inserted by section 2 of this Act) may revoke the Import Control Regulations 1964 and where such Order in Council contains provisions substantially corresponding to those in the revoked Regulations for—
- (a) The appointment of licensing officers; or
 - (b) The delegation of powers to licensing officers; or
 - (c) The granting or issuing or modification or use by any person other than the holder or revocation or withdrawal of any licence or permit for the importation of goods into New Zealand; or
 - (d) The exemption from the requirement of a licence or permit for the importation into New Zealand of any particular goods or class or classes of goods or goods imported from any particular country or countries; or
 - (e) Other similar exercise of powers under the revoked Regulations,—
- all such powers duly exercised under the revoked Regulations shall, in so far as they are not inconsistent with the Order in Council, continue with the like operation and effect as if they had been exercised under the corresponding provisions of the Order in Council and as if all things done by the Minister of Customs under those revoked Regulations had been done by the Minister of Trade and Industry under the Order in Council.