



Customs and Excise Amendment Regulations 2000

Michael Hardie Boys, Governor-General

Order in Council

At Wellington this 14th day of December 2000

Present:

His Excellency the Governor-General in Council

Pursuant to the Customs and Excise Act 1996, His Excellency the Governor-General, acting on the advice and with the consent of the Executive Council, makes the following regulations.

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Regulations

1 Title

- (1) These regulations are the Customs and Excise Amendment Regulations 2000.
- (2) In these regulations, the Customs and Excise Regulations 1996¹ are called “the principal regulations”.

¹ SR 1996/232

2 Commencement

These regulations come into force on 1 January 2001.

3 New heading and regulations 51A to 51E inserted

The principal regulations are amended by inserting, after regulation 51, the following heading and regulations:

“Provisions relating to Singapore

“51A Interpretation

In regulations 51B to 51E, unless the context otherwise requires,—

“**factory or works** means the place in Singapore where the last process of manufacture of the goods was performed

“**factory or works cost**, in relation to goods manufactured in a factory or works, means expenditure—

“(a) that either—

“(i) is incurred directly by the manufacturer in the production of the goods; or

“(ii) can reasonably be allocated to the production of the goods; and

“(b) is determined in accordance with regulation 51C

“**inner containers**—

“(a) includes any container or containers into or on which goods are packed for export to New Zealand; but

“(b) does not include a shipping container, pallet, or similar article carried by a ship or aircraft

“**last process of manufacture** does not include minimal processes, including pressing, labelling, ticketing, packaging, and preparation for sale

“**manufacturer**, in relation to any goods, means the person who undertakes the last process of manufacture of the goods

“**materials**—

“(a) means all inputs into the manufacturing process (other than materials treated as overheads) used or consumed in the production of the finished goods, in the form in which they are received at the factory or works; and

“(b) includes inner containers

“**other duties** includes goods and services tax, sales tax, anti-dumping duty, and countervailing duty

“**process of manufacture** includes quality control checking and testing procedures if those procedures are applied to goods or materials other than goods classified in the Tariff as textiles or textile articles, clothing, headwear, or footwear under any of the following Tariff headings, Tariff sub-headings, or Tariff items:

- “(a) 3926.20 and 3926.90.01:
- “(b) 4015.11, 4015.19, and 4015.90:
- “(c) 42.03:
- “(d) 43.03 and 43.04:
- “(e) 4818.50:
- “(f) 50.01 to 65.07:
- “(g) 70.19:
- “(h) 9404.21, 9404.29, 9404.30, and 9404.90:
- “(i) 9606.21, 9606.22, 9606.29, 9606.30, and 96.07

“**qualifying area content**, in relation to goods, means the items of expenditure specified in regulation 51B(2)(a)

“**specified product** means any of the following products wholly produced or obtained in Singapore or New Zealand, as the case may be:

- “(a) mineral products extracted from its soil, waters, or seabed, or from beneath the seabed:
- “(b) vegetable products harvested or gathered there:
- “(c) live animals born and raised there:
- “(d) products obtained from live animals born and raised there:
- “(e) products obtained by hunting, fishing, or aquaculture conducted there:
- “(f) products of fishing and other marine products taken outside its waters by vessels registered or recorded there:
- “(g) products processed or made, on board factory ships registered or recorded there, exclusively from the products referred to in paragraph (f):
- “(h) products taken, as the case may be,—
 - “(i) by Singapore, or by a citizen or resident, or legal person, of Singapore, from the seabed or beneath the seabed outside its territorial waters if Singapore is lawfully entitled to exploit that seabed; or
 - “(ii) by New Zealand, or by a citizen or resident, or legal person, of New Zealand, from the seabed or

beneath the seabed outside its territorial waters if New Zealand is lawfully entitled to exploit that seabed:

- “(i) waste and scrap resulting from production there and fit only for the recovery of raw materials:
- “(j) waste and scrap fit only for the recovery of raw materials derived from used articles collected there:
- “(k) goods or materials produced there exclusively from the products referred to in paragraphs (a) to (j).

“51B Singapore

- “(1) The following classes of goods are, for the purposes of the Act and the Tariff Act 1988, the produce or manufacture of Singapore, namely—
 - “(a) goods that are wholly produced or obtained in Singapore and are specified products of that country:
 - “(b) goods partly manufactured in Singapore, subject to the conditions in subclauses (2) and (3).
- “(2) For the purposes of subclause (1)(b), the conditions are that the last process of manufacture of the goods was performed in Singapore and either—
 - “(a) that, in respect of the goods and subject to regulations 51D and 51E, the expenditure on 1 or more of the following items is not less than 40% of the factory or works cost of the goods in their finished state:
 - “(i) qualifying materials (as defined in regulation 51D); or
 - “(ii) labour and overheads (as defined in regulation 51C(1)) incurred in either Singapore or New Zealand or both; or
 - “(iii) partly on those qualifying materials and partly on labour and overheads incurred in either Singapore or New Zealand or both; or
 - “(b) that, in respect of goods that do not contain any qualifying area content and for which quality control checking and testing procedures performed in Singapore are the last process of manufacture, the expenditure on those procedures is not less than 50% of the factory or works cost of the goods calculated after completion of the process of manufacture.

- “(3) In relation to goods that contain some qualifying area content, and for which quality control checking and testing procedures performed in Singapore are the last process of manufacture, expenditure on those procedures may only be included in the calculation under subclause (2)(a) if that expenditure is not less than 8% of the factory or works cost of the goods calculated after completion of the process of manufacture.
- “(4) Subclause (1) applies only to—
- “(a) goods exported directly from Singapore to New Zealand without entering the commerce of another country; and
 - “(b) goods that, after being exported from Singapore and before importation into New Zealand, enter the commerce of Australia only for the purposes of unloading and reloading.
- “(5) For the purposes of subclause (1)(a), packing materials (including labels) and packing containers in which the goods are packed must be disregarded when determining whether or not the goods are wholly produced or obtained in Singapore.

“51C Calculation of factory or works cost

- “(1) For the purposes of subclauses (2) and (3) of regulation 51B, the factory or works cost of any goods is the sum of the following items:
- “(a) subject to regulation 51E, the actual cost to the manufacturer of bringing materials into the factory or works,—
 - “(i) including any freight costs; but
 - “(ii) excluding customs duty or excise duty or other duties paid or payable in respect of those materials;
 - “(b) labour costs incurred in connection with the manufacturing process, namely—
 - “(i) salaries and wages; and
 - “(ii) benefits, including productivity bonuses, company vehicles, employers’ Central Provident Fund contributions, accident insurance or compensation, and dental and medical benefits; and
 - “(iii) other factory or works labour costs incurred in connection with the manufacturing process, including—

- “(A) Skills Development Fund contributions:
 - “(B) Foreign Worker levies:
 - “(C) Workmen’s Compensation Scheme contributions:
 - “(D) the management of the process of manufacturing:
 - “(E) the receipt of materials:
 - “(F) the handling and storage of materials and the goods within the factory or works:
 - “(G) supervision:
 - “(H) training:
 - “(I) quality control:
 - “(J) the packing of the goods into containers (including inner containers, and shipping and airfreight containers) within the factory or works:
- “(c) factory overhead expenses, being any of the following costs incurred in connection with the manufacturing process:
- “(i) inspecting and testing materials and the goods:
 - “(ii) insuring real property, plant, equipment, and materials used in the production of the goods, insuring work in progress and finished goods, liability insurance, accident compensation, and insurance against consequential loss from accident to plant and equipment:
 - “(iii) dies, moulds, tooling, and the depreciation, maintenance, and repair of plant and equipment, whether or not those items originate in Singapore or New Zealand:
 - “(iv) interest payments for plant and equipment:
 - “(v) research, development, design, and engineering:
 - “(vi) rent, leasing, mortgage interest, depreciation on buildings, maintenance, repair, rates, and taxes in respect of real property used in the production of the goods:
 - “(vii) leasing of plant and equipment, whether or not those items originate in Singapore or New Zealand:
 - “(viii) materials and supplies not being directly incorporated into the manufactured goods, including

- energy, fuel, water, lighting, lubricants, and rags, whether or not those items originate in Singapore or New Zealand:
- “(ix) storage of materials and the goods at the factory or works:
 - “(x) royalties or licences in respect of patented machines or processes used in the manufacture of the goods, or in respect of the right to manufacture the goods:
 - “(xi) subscriptions to standards institutions, and industry and research associations:
 - “(xii) factory security, the provision of medical care (including the provision of first-aid kits and medical supplies), cleaning services, cleaning materials and equipment, training materials, disposal of waste, safety and protective clothing and equipment, and the subsidisation of a factory cafeteria to the extent not covered by returns:
 - “(xiii) computer facilities allocated to the process of manufacture of the goods:
 - “(xiv) contracting out of part of the manufacturing process in Singapore or New Zealand:
 - “(xv) employee transport, factory vehicle expenses, and any tax in the nature of a fringe benefits tax payable on a cost specified in this paragraph or paragraph (b).
- “(2) In calculating the expenditure on an item of factory or works cost, none of the following may be included, except to the extent that they are specified in subclause (1):
- “(a) costs relating to the general expense of doing business, including the cost of providing executive, financial, sales, advertising, marketing, accounting, and legal services, or insurance:
 - “(b) costs for telephone, mail, and other means of communication:
 - “(c) the cost of shipping and airfreight containers:
 - “(d) the cost of conveying, insuring, or shipping the goods after their manufacture is completed:
 - “(e) royalty payments relating to a licensing agreement to distribute or sell the goods:

- “(f) rent, mortgage interest, depreciation on buildings, property insurance premiums, maintenance, repair, taxes, or rates in respect of real property used by personnel charged with administrative functions:
 - “(g) international travel expenses, including fares and accommodation:
 - “(h) manufacturer’s profits, or the profit or remuneration of any trader, agent, broker, or other person dealing in the goods after their manufacture:
 - “(i) any other costs or expenses incurred after the completion of the manufacture of the goods.
- “(3) In calculating any item of cost included in subclause (1), a cost incurred by the manufacturer of the goods must be included once only in the calculation of the factory or works cost.
- “(4) Depreciation of plant, equipment, and buildings must be calculated in accordance with generally accepted accounting principles, as applied by the manufacturer.

“51D **Qualifying materials**

- “(1) For the purposes of regulation 51B(2)(a), a material is a **qualifying material** if—
- “(a) it is wholly produced or obtained in Singapore or New Zealand and is a specified product; or
 - “(b) it contains both—
 - “(i) qualifying area content of Singapore or New Zealand (or both); and
 - “(ii) content imported from any other country.
- “(2) The total expenditure by the manufacturer on the materials referred to in subclause (1)(a) must be treated as expenditure on qualifying materials.
- “(3) Expenditure by the manufacturer on the materials referred to in subclause (1)(b) must be treated as expenditure on qualifying materials in the following manner:
- “(a) 100% of the expenditure on that material must be treated as expenditure on qualifying materials if—
 - “(i) the material has or is deemed to have no less than 40% qualifying area content of Singapore or New Zealand (or both); and

- “(ii) the last process of manufacture of the material takes place in Singapore or New Zealand:
- “(b) if the material has less than 40% qualifying area content of Singapore or New Zealand (or both), then the percentage of the expenditure on that material that may be treated as expenditure on qualifying materials is equal to the percentage of qualifying area content in the factory or works cost of that material:
- “(c) the cost of that material to the factory or works (excluding the cost of any material or processes not incurred in Singapore or New Zealand) must be treated as expenditure on qualifying materials if—
 - “(i) the material has or is deemed to have no less than 40% qualifying area content of Singapore or New Zealand (or both); and
 - “(ii) the last process of manufacture of the material does not take place in Singapore or New Zealand; and
 - “(iii) the material is subsequently received or acquired by a factory in Singapore.

“51E Special provisions for allocation of expenditure

- “(1) For the purposes of regulation 51C, if a material has been supplied free of charge or at a reduced cost,—
 - “(a) the amount to be determined as expenditure on that material must be determined—
 - “(i) in accordance with clause 3(1)(a)(iii) of the Second Schedule of the Act; and
 - “(ii) by adding to the amount referred to in subparagraph (i) the costs of freight, insurance, packing, and all other costs incurred in transporting the materials into the factory or works, whether or not those costs have been incurred by the manufacturer:
 - “(b) the materials must be treated as if they had been purchased by the manufacturer.
- “(2) If the Chief Executive is satisfied that the circumstances of a particular case so require, the Chief Executive may treat an earlier supply of material free of charge or at a reduced cost as if the materials had been purchased by the manufacturer.

- “(3) The Chief Executive may exclude expenditure on any materials from the calculation of factory or works cost under regulation 51C if the Chief Executive is satisfied that the materials have been added or attached to the goods solely for the purpose of artificially raising the qualifying area content of the goods.
- “(4) If the Chief Executive is satisfied that the cost to the manufacturer of materials exceeds the normal market value of the materials, the Chief Executive may exclude from the calculation of the factory or works cost under regulation 51C the amount determined by the Chief Executive to be the excess.”

Martin Bell,
for Clerk of the Executive Council.

Explanatory note

This note is not part of the regulations, but is intended to indicate their general effect.

These regulations, which come into force on 1 January 2001, amend the Customs and Excise Regulations 1996. The regulations provide rules for determining whether or not goods are the produce or manufacture of Singapore for the purposes of the Customs and Excise Act 1996 and the Tariff Act 1988.

The Tariff Act 1988 has been amended by the New Zealand/Singapore Closer Economic Partnership Act 2000 (with effect from 1 January 2001) to provide that goods that are the produce or manufacture of Singapore are entered under the Tariff free of duty.

The amendments made by the New Zealand/Singapore Closer Economic Partnership Act 2000 and by these regulations give effect to New Zealand's obligations under the Agreement between New Zealand and Singapore on a Closer Economic Partnership.

**Customs and Excise Amendment
Regulations 2000**

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These regulations are administered in the New Zealand Customs Service.
