

Reprint
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Customs and Excise Act 1996

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Note

Changes authorised by section 17C of the Acts and Regulations Publication Act 1989 have been made in this eprint.

A general outline of these changes is set out in the notes at the end of this eprint, together with other explanatory material about this eprint.

This Act is administered in the New Zealand Customs Service

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Substituted Tariff items

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An Act to—

- (a) **Reform the law relating to customs, excise, and other duties; and**
- (b) **Provide for the administration and enforcement of Customs controls at the border; and**
- (c) **Repeal the Customs Act 1966; and**
- (d) **Provide for related matters**

BE IT ENACTED by the Parliament of New Zealand as follows:

1 Short Title and commencement

- (1) This Act may be cited as the Customs and Excise Act 1996.
- (2) Except as provided in subsection (3) of this section, this Act shall come into force on a date to be appointed by the Governor-General by Order in Council.
- (3) Sections 81 and 306 of this Act shall come into force on the date on which this Act receives the Royal assent.

2 Interpretation

- (1) In this Act, unless the context otherwise requires,—

Aircraft means a machine that can derive support in the atmosphere from the reaction of the air

Armed Forces has the meaning given to that term by section 2 of the Defence Act 1990

Arrival,—

- (a) In relation to a craft, includes the arrival of the craft, whether lawfully or unlawfully, in New Zealand from a point outside New Zealand whether or not the craft lands at, hovers above, berths, moors, anchors, or stops at, or otherwise arrives at any place within New Zealand; and
- (b) In relation to a person, means the entry of the person by any means, whether lawfully or unlawfully, into

New Zealand from a point outside New Zealand; and **arriving** and **arrived** have corresponding meanings:

Arrival hall means a place licensed under section 12 of this Act for the processing of persons arriving in New Zealand

Authorised person means a person for the time being authorised under section 6 of this Act

Beer means the product of the alcoholic fermentation by yeast of liquid derived from a mash of drinking water and malt grains with hops or their extract

Boat means a vessel other than a ship

Chief Executive means the person holding office under the State Sector Act 1988 as the Chief Executive of the New Zealand Customs Service

Coastal cargo, in relation to any ship, means goods loaded on the ship at any port in New Zealand for carriage to and unloading at any other port in New Zealand

Compounding means the manufacture of spirituous liquor, (other than perfume, culinary essences, or medicinal or toilet preparations) by imparting a flavour to, or mixing a material or ingredient with, spirits by a method of which the process of distillation is part; and **to compound** and **compounder** have corresponding meanings

Contractor means a person who does work for valuable consideration on or in respect of any goods at the request of any other person (otherwise than as an employee of that other person) in circumstances where that other person supplies, but retains ownership of, some or all of the material used in the work

Craft includes any aircraft, ship, boat, or other machine or vessel, used or capable of being used for the carriage or transportation of persons or goods, or both, by air or water or over or under water

the Customs means the New Zealand Customs Service

Customs airport means an aerodrome designated as a Customs airport under section 9 of this Act

Customs Appeal Authority or **Authority** means an Authority established under section 244 of this Act

Customs-approved area for storing exports or CASE means an area—

- (a) that is used for the purpose in section 19B (whether or not it is used for any other purpose); and
- (b) that is not required to be, but that is, licensed as a Customs-approved area for storing exports (or CASE) under section 12(1) (as applied by section 19C(2))

Customs-approved area for storing exports or CASE: this definition was inserted, as from 2 July 2004, by section 3(1) Customs and Excise Amendment Act 2004 (2004 No 55).

Customs-approved secure exports scheme means, in relation to goods that are to be exported (whether under drawback or not), a scheme, approved by the Chief Executive under section 53C,—

- (a) for the packing of the goods, in a Customs-approved secure package, by approved persons, in approved conditions, and subject to approved requirements (including, without limitation, a requirement that a seal or markings in an approved form be applied to the package, as soon as it is secured,—
 - (i) to show that, when it was secured, the package contained only the goods, and was secured in an approved way; and
 - (ii) to help to identify interference or tampering with the package after it is secured); and
- (b) for the immediate conveyance (on the completion of the packing of the goods in that way) of the Customs-approved secure package, by approved persons and in an approved manner, to the place of shipment for shipping, or, if it is not in that way immediately conveyed and shipped, to some approved place or places of security en route to the place of shipment; and
- (c) for the goods, from the time when they are first secured in a Customs-approved secure package until the exportation of the goods to a point outside New Zealand, to be goods subject to the control of the Customs; and
- (d) for the powers of detention and search in section 144(4) to be available in respect of a vehicle in New

- Zealand if there are suspected to be in or on the vehicle goods that are, or are suspected to be,—
- (i) subject to the control of the Customs; and
 - (ii) in a Customs-approved secure package; and
- (e) for a Customs officer to be empowered, under section 146(2), to question any or all of the following persons about any cargo destined to be exported from New Zealand:
- (i) a person who is the owner or operator of a vehicle that a Customs officer has reasonable cause to suspect has in or on it, or has within the previous 72 hours had in or on it, goods subject to the control of the Customs and in a Customs-approved secure package:
 - (ii) a person who is the owner or occupier of premises that a Customs officer has reasonable cause to suspect have in or on them, or have within the previous 72 hours had in or on them, goods subject to the control of the Customs and in a Customs-approved secure package:
 - (iii) a person employed by a person described in subparagraph (i) or (ii); and
- (f) for the powers in section 151 (which include powers of examination) to be available in respect of goods that are, or are suspected to be,—
- (i) subject to the control of the Customs; and
 - (ii) in a Customs-approved secure package

Customs-approved secure exports scheme: this definition was inserted, as from 2 July 2004, by section 3(1) Customs and Excise Amendment Act 2004 (2004 No 55).

Customs-approved secure package means a package of a kind that is approved by the Chief Executive under section 53C for the purposes of a Customs-approved secure exports scheme.

Customs-approved secure package: this definition was inserted, as from 2 July 2004, by section 3(1) Customs and Excise Amendment Act 2004 (2004 No 55).

Customs controlled area means an area that is required, for one or more of the purposes described in section 10 of this Act, to be licensed and that is so licensed

Customs direction means a lawful request, order, command, or instruction given by a Customs officer to any person to do or to refrain from doing an act or to submit to a procedure for the purposes of this Act; and includes any notice, poster, or sign publicly displayed in a Customs place or Customs controlled area; and includes a direction contained in a form prescribed under this Act

Customs officer or **officer** means a person appointed by the Chief Executive as a Customs officer for the purpose of this Act, or any other person employed by the Chief Executive who is declared by the Chief Executive to be a Customs officer for the purpose of this Act, whether at the time of appointment or otherwise

Customs place means a Customs port or Customs airport designated under section 9 of this Act

Customs port means a port of entry designated as a Customs port under section 9 of this Act

Customs revenue or **revenue of the Customs** means revenue managed by the Customs on behalf of the Crown

Customs seal, in relation to a package of goods to be exported, means a seal approved by the Chief Executive for application to the package, as soon as it is secured (and in accordance with a notice under section 53A)—

- (a) to show that, when it was secured, the package contained only the goods, and was secured in an approved way; and
- (b) to help to identify interference or tampering with the package after it is secured

Customs seal: this definition was inserted, as from 2 July 2004, by section 3(2) Customs and Excise Amendment Act 2004 (2004 No 55).

Customs value or **value**, in relation to goods, means the Customs value of those goods determined in accordance with Schedule 2 to this Act

dangerous item means—

- (a) any firearm (as defined in section 11(2) of the Aviation Crimes Act 1972); or
- (b) any dangerous or offensive weapon or instrument of any kind whatsoever; or
- (c) any ammunition; or

- (d) any explosive substance or device, or any other injurious substance or device of any kind whatsoever that could be used to endanger a person's safety

dangerous item: this definition was inserted, as from 6 March 2007, by section 4(1) Customs and Excise Amendment Act 2007 (2007 No 9).

Defence area has the meaning given to that term by section 2 of the Defence Act 1990

Defence Force has the meaning given to that term by section 2 of the Defence Act 1990

Departure hall means a place licensed under section 12 of this Act for the processing of persons departing from New Zealand

Document—

- (a) Means a document in any form, whether or not signed or initialled or otherwise authenticated by the maker; and
- (b) Includes—
- (i) Any form of writing on material:
 - (ii) Information recorded, transmitted, or stored by means of a tape recorder, computer, or other device, and material subsequently derived from information so recorded, transmitted, or stored:
 - (iii) A label, marking, or other form of writing that identifies any thing of which it forms part or to which it is attached by any means:
 - (iv) A book, map, plan, graph, or drawing:
 - (v) A photograph, film, negative, tape, or other device in which one or more visual images are embodied so as to be capable (with or without the aid of some other equipment) of being reproduced:

Domestic cargo means goods that, having been brought within a Customs controlled area at one Customs place for carriage by air or sea to any other Customs place in New Zealand on either—

- (a) A craft that—
- (i) Begins its journey outside New Zealand; and
 - (ii) In the course of that journey, enters New Zealand and travels between at least two Customs places in New Zealand; or
- (b) A craft that—

- (i) Begins its journey at a Customs place in New Zealand; and
- (ii) In the course of that journey, travels to at least one other Customs place in New Zealand before leaving New Zealand,—

are within that Customs controlled area or are being carried on such a craft from one Customs place to another Customs place or, having been so carried on such a craft, are awaiting removal from a Customs controlled area at a Customs place:

Domestic passenger means a passenger, not being an internationally ticketed passenger, who has an entitlement to air or sea travel for a domestic sector on either—

- (a) A craft that—
 - (i) Begins its journey outside New Zealand; and
 - (ii) In the course of that journey, enters New Zealand and travels between at least 2 Customs places in New Zealand; or
- (b) A craft that—
 - (i) Begins its journey at a Customs place in New Zealand; and
 - (ii) In the course of that journey, travels to at least one other Customs place in New Zealand before leaving New Zealand:

Domestic sector means a journey from one Customs place to another within New Zealand

Dutiable goods means goods of a kind subject to duty within the meaning of this Act

Duty means a duty, additional duty, tax, fee, charge, or levy imposed on goods by any of the provisions of this Act, and includes—

- (a) Excise duty and excise-equivalent duty imposed under Part 7 of this Act;
- (b) A duty imposed under the Tariff Act 1988;
- (c) A duty imposed pursuant to sections 14, 16, 17, 17A, or 17B of the Dumping and Countervailing Duties Act 1988, including a duty resulting from the application of section 18 or section 19 of that Act; and

- (d) A duty or tax imposed by section 12 of the Goods and Services Tax Act 1985:
- (e) levies imposed by section 213(2)(c) of the Injury Prevention, Rehabilitation, and Compensation Act 2001
- (f) levies imposed by the Energy (Fuels, Levies, and References) Act 1989

electronic publication means a thing (including, but not limited to, a disc, or an electronic or computer file) on which is recorded or stored information that, by the use of a computer or other electronic device, is capable of being reproduced or shown as 1 or more (or a combination of 1 or more) images, representations, signs, statements, or words

electronic publication: this definition was inserted, as from 9 October 2002, by section 3(1) Customs and Excise Amendment Act (No 2) 2002 (2002 No 31).

electronic publication: this definition was substituted, as from 22 February 2005, by section 39 Films, Videos, and Publications Classification Amendment Act 2005 (2005 No 2).

Excisable goods means goods on which excise duty is payable in accordance with Part A of Schedule 3 to this Act

exportation,—

- (a) except where otherwise expressly provided, means any shipment in any craft for transportation to a point outside New Zealand; and
- (b) in relation to an electronic publication referred to in section 56, includes the sending of the electronic publication from New Zealand by any means (other than by broadcasting) to a point outside New Zealand

exportation: this definition was substituted, as from 22 February 2005, by section 39 Films, Videos, and Publications Classification Amendment Act 2005 (2005 No 2).

exportation: paragraph (b) of this definition was amended, as from 6 March 2007, by section 4(2) Customs and Excise Amendment Act 2007 (2007 No 9) by substituting “section 56” for “section 56(1)(a)”.

Exporter means a person by or for whom goods are exported; and includes a person who is or becomes the owner of or entitled to the possession of or is beneficially interested in goods on or at any time after entry for export and before they are exported

Export warehouse means a place licensed under section 12 of this Act for the purpose described in section 10(b) of this Act

Forfeited goods means goods that are forfeited to the Crown under section 225 of this Act

Goods means all kinds of movable personal property, including animals

Goods subject to the control of the Customs has the meaning given to that term by section 20 of this Act

importation,—

- (a) in relation to any goods, means the arrival of the goods in New Zealand in any manner, whether lawfully or unlawfully, from a point outside New Zealand; and
- (b) in relation to electronic publications referred to in section 54(1)(aa), includes the arrival of the electronic publication in New Zealand by transmission by any means (other than by broadcasting) from a point outside New Zealand

Importation: this definition was substituted, as from 9 October 2002, by section 3(2) Customs and Excise Amendment Act (No 2) 2002 (2002 No 31).

Importer means a person by or for whom goods are imported; and includes the consignee of goods and a person who is or becomes the owner of or entitled to the possession of or beneficially interested in any goods on or at any time after their importation and before they have ceased to be subject to the control of the Customs

International cargo means any cargo that has arrived from a point outside New Zealand or is destined to be exported from New Zealand

International crew means the crew or any member of the crew of a craft that is on a journey that—

- (a) Began outside New Zealand; or
- (b) Began in New Zealand and is to continue outside New Zealand:

Internationally ticketed passenger means a person who has an entitlement to air or sea travel for a domestic sector, being a sector included in tickets for an international journey that—

- (a) Began outside New Zealand; or

- (b) Began in New Zealand and is to continue outside New Zealand:

International passenger means a person who has an entitlement to travel on a craft within New Zealand where that travel is part of an international journey that—

- (a) Began outside New Zealand; or
(b) Began in New Zealand and is to continue outside New Zealand:

Liquefied petroleum gas means propane, propylene, butane, butylene, or isobutane; and includes a mixture consisting wholly or principally of any such substance, whether or not the mixture contains any other hydrocarbon

manufacture, in relation to goods specified in Schedule 3, means,—

- (a) if the goods are tobacco, the process of cutting, pressing, grinding, crushing, or rubbing raw or leaf tobacco, or otherwise preparing raw or leaf tobacco or manufactured or partially manufactured tobacco, and of making cigarettes whether from duty-paid or from non-duty-paid tobacco, and of putting up for use or consumption scraps, waste, chippings, stems, or deposits of tobacco resulting from processing tobacco:
(b) if the goods are a fuel, any operation, or process, involved in the production of the goods:
(c) if the goods are neither tobacco nor a fuel,—
(i) any operation, or process, involved in the production of the goods; and
(ii) any ancillary process (as defined in subsection (3)) that takes place on premises that are not licensed, or required to be licensed, under the Sale of Liquor Act 1989

Manufacture: this definition was substituted, as from 9 October 2002, by section 3(3) Customs and Excise Amendment Act (No 2) 2002 (2002 No 31).

Manufactured tobacco means tobacco that has been manufactured or prepared for smoking or any other purpose

Manufacturing area means a place licensed under section 12 of this Act for the purpose described in section 10(a) of this Act

Minister means the Minister of Customs

Minister: this definition was amended, as from 1 October 1996, by section 2(1) Customs and Excise Amendment Act 1996 (1996 No 80) by omitting “and Excise”. *See* clause 2 Customs and Excise Amendment Act Commencement Order 1996 (SR 1996/230).

New Zealand—

- (a) Means the land and the waters enclosed by the outer limits of the territorial sea of New Zealand (as described in section 3 of the Territorial Sea, Contiguous Zone, and Exclusive Economic Zone Act 1977); and
- (b) Includes the contiguous zone of New Zealand (as described in section 8A of the Territorial Sea, Contiguous Zone, and Exclusive Economic Zone Act 1977) in—
 - (i) Sections 23(1) and (4) and 142; and
 - (ii) Sections 22(1)(c) and (d), 28(1), 139(1) and (2), 140(1), 143(1AA), 143(1), and 149(a) and (b) in relation to a craft that is a ship, boat, or other machine or vessel, used or capable of being used for the carriage or transportation of persons or goods, or both, by water or over or under water; and
 - (iii) Section 149(a) and (b) and 149B(2), in relation to a person who has entered into or has arrived in or is about to depart from New Zealand in a craft that is a ship, boat, or other machine or vessel, used or capable of being used for the carriage or transportation of persons or goods, or both, by water or over or under water; and
 - (iv) sections 166A and 226(2), in relation to goods found on a ship, boat, or other machine or vessel, used or capable of being used for the carriage or transportation of persons or goods, or both, by water or over or under water.

New Zealand: this definition was substituted, as from 1 October 1996, by section 2(2) Customs and Excise Amendment Act 1996 (1996 No 80). *See* clause 2 Customs and Excise Amendment Act Commencement Order 1996 (SR 1996/230).

New Zealand: this definition was substituted, as from 3 June 1998, by section 2(1) Customs and Excise Amendment (No 2) 1998 (1998 No 38).

New Zealand: paragraph (b)(ii) of this definition was amended, as from 9 October 2002, by section 47(1)(a) Customs and Excise Amendment Act 2004 (2004 No 55) by substituting “149(a) and (b)” for “149(1)(a) and (b)”.

New Zealand: paragraph (b)(ii) of this definition was amended, as from 6 March 2007, by section 4(3) Customs and Excise Amendment Act 2007 (2007 No 9) by inserting “143(1AA),” after “140(1),”.

New Zealand: paragraph (b)(iii) of this definition was amended, as from 9 October 2002, by section 47(1)(b) Customs and Excise Amendment Act 2004 (2004 No 55) by substituting “149(a) and (b) and 149B(2)” for “149(1)(c) and (3)”.

New Zealand: paragraph (b)(iv) of this definition was amended, as from 2 July 2004, by section 3(3) Customs and Excise Amendment Act 2004 (2004 No 55) by substituting “sections 166A and 226(2)” for “section 226(2)”.

New Zealand Customs Service means the department of State referred to in section 5 of this Act

Occupier, in relation to land, means the owner; and includes a lessee or tenant, a licensee, or a person who has the right to occupy land under other authority

Operator, in relation to a business, means the person actively engaged, whether alone or with others, in the carrying on of the business, and whether registered as such; and, in the case of a body corporate, includes every director, manager, secretary, or other similar officer engaged in the direct control or management of its business, and a person who purports to act in any of those capacities

Overseas company has the meaning given to that term by section 2 of the Companies Act 1993

Overseas register has the meaning given to that term by section 2 of the Companies Act 1993

Owner,—

- (a) In relation to a craft, includes the owner or charterer of the craft, and a person acting as agent for the owner or charterer; and
- (b) In relation to goods, includes the importer or a person having possession of or who is beneficially interested in the goods; and
- (c) In relation to land, means the person entitled to receive the rack rent thereof, or who would be so entitled if the land were let to a tenant at the rack rent:

Package includes any means used or capable of being used to pack, cover, enclose, contain, or encase goods for carriage, a bulk cargo container, a pallet, or a similar device

Prescribed means,—

- (a) In respect of the matters described in section 288 of this Act, prescribed by the Chief Executive; and
- (b) In respect of all other matters, prescribed by regulations made under this Act:

prohibited exports means goods or electronic publications the exportation of which is prohibited, whether conditionally or unconditionally, by or under section 56

prohibited exports: this definition was substituted, as from 22 February 2005, by section 39 Films, Videos, and Publications Classification Amendment Act 2005 (2005 No 2).

prohibited exports: this definition was amended, as from 6 March 2007, by section 4(4) Customs and Excise Amendment Act 2007 (2007 No 9) by inserting “or electronic publications” after “goods”.

Prohibited goods means prohibited exports or prohibited imports

prohibited imports means goods the importation of which is prohibited, whether conditionally or unconditionally, by or under section 54.

prohibited imports: this definition was substituted, as from 22 February 2005, by section 39 Films, Videos, and Publications Classification Amendment Act 2005 (2005 No 2).

Public Service has the meaning given to that term by section 2 of the State Sector Act 1988

Rectifying, in relation to spirits, means purifying by a process of redistillation

Research Octane Number (RON) means the octane rating as measured by the standard method of test for knock characteristics of motor fuels below 100 octane rating by the research method currently designated ASTM D2699:79 as set out in the American Standards for Testing Material

Responsible Minister of the Crown means the Minister of the Crown who, under the authority of any enactment or a warrant signed by the Prime Minister, is responsible for a function or matter to which a provision in this Act refers

Secretary of Commerce*[Repealed]*

Secretary of Commerce: this definition was repealed, as from 7 September 2000, by section 8(1) Ministry of Economic Development Act 2000 (2000 No 28).

[Repealed]

Ship means a vessel used in navigation, not being a vessel propelled only by oars; and includes a hovercraft or submarine

Shipment includes loading into a craft; and **to ship** and cognate expressions have corresponding meanings

Spirits means ethyl alcohol, whether denatured or not, and includes spirituous beverages, including brandy, gin, rum, vodka, whisky and every description of spirituous liquor derived from ethyl alcohol

Tobacco includes cigars, cigarettes, and snuff

Uncustomed goods means goods on which duty has become due and payable but is unpaid

Unlawfully exported means exported in breach of this Act or any other Act

Unlawfully imported means imported in breach of this Act or any other Act

Vehicle means a conveyance for use on land, whether or not it is also capable of being used on or over water

Working day means a day of the week other than Saturday, Sunday, Good Friday, Easter Monday, Christmas Day, Boxing Day, New Year's Day, Anzac Day, the Sovereign's Birthday, Labour Day, and Waitangi Day.

(2) For the purposes of this Act,—

- (a) The term **alcoholic strength** means alcoholic strength by volume at a temperature of 20°C:
- (b) The alcoholic strength by volume of a mixture of water and ethyl alcohol is the ratio of the volume of alcohol present in the mixture at 20°C to the total volume of the mixture at the same temperature:
- (c) The expressions **percent volume** and **% vol** are used to express alcoholic strength in parts of alcohol per 100 parts of the mixture:
- (d) the term 'per litre', in respect of the levying of excise duty, for all Excise items under the heading **Fuels** in

Part A of Schedule 3, means the quantity of product expressed in litres at a temperature of 15°C:

- (e) the term ‘per litre’, in respect of the levying of excise-equivalent duty, for all Tariff items under the heading **Fuels** in Part B of Schedule 3, means the quantity of product expressed in litres at a temperature of 15°C.
- (3) For the purposes of paragraph (c)(ii) of the definition of **manufacture** in subsection (1), the term **ancillary process**, in relation to the manufacture of goods specified in Schedule 3 that are neither tobacco nor a fuel, means any 1 or more of the following processes:
- (a) filtering the goods, diluting the goods, or blending the goods with other goods (whether the other goods are the same as, similar to, or different from, the goods):
 - (b) putting the goods for the first time into a container (for example, a bag, barrel, bottle, can, cask, drum, or keg) in which they might be presented, or from which they might be dispensed, for sale to the public or any member of the public:
 - (c) labelling or marking, for the first time, containers filled with the goods.

duty: paragraph (c) of this definition was amended, as from 22 November 2006, by section 6(2) Dumping and Countervailing Duties Amendment Act 2006 (2006 No 63) by substituting “17, 17A, or 17B” for “or 17”.

duty: paragraph (e) of this definition was inserted, as from 1 July 2003, by section 13(1) Injury Prevention, Rehabilitation, and Compensation Amendment Act 2003 (2003 No 29).

Section 2(1) **duty** paragraph (f): added, on 1 October 2008, by section 4(1) of the Customs and Excise Amendment Act (No 2) 2008 (2008 No 61).

Section 2(2)(d): substituted, on 1 October 2008, by section 4(2) of the Customs and Excise Amendment Act (No 2) 2008 (2008 No 61).

Section 2(2)(e): substituted, on 1 October 2008, by section 4(2) of the Customs and Excise Amendment Act (No 2) 2008 (2008 No 61).

Subsection (3) was inserted, as from 9 October 2002, by section 3(4) Customs and Excise Amendment Act (No 2) 2002 (2002 No 31).

3 Act to bind the Crown

Except as provided in section 4 of this Act, this Act binds the Crown.

4 Application of Act in certain cases

- (1) The circumstances in which and the conditions on which the powers conferred by Part 12 of this Act may be exercised in relation to—
- (a) A member of the Armed Forces; or
 - (b) Access to a Defence area; or
 - (c) A craft under the control of the Defence Force—
shall be prescribed by regulations, and those powers may only be exercised in the circumstances and on the conditions so prescribed.
- (2) For the purposes of subsection (1) of this section, the Governor-General shall, by Order in Council, make regulations prescribing the circumstances in which and the conditions on which the powers conferred by Part 12 of this Act may be exercised in relation to—
- (a) A member of the Armed Forces; or
 - (b) Access to a Defence area; or
 - (c) A craft under the control of the Defence Force.
- (3) Subject to subsection (6) of this section, sections 30 to 37 of this Act shall not apply to any member of the Armed Forces or any craft under the control of the Defence Force during such time as that person or craft is required to respond to an emergency.
- (4) For the purposes of this section, **emergency** means—
- (a) an emergency due to an actual or imminent attack on New Zealand by an enemy, or to any actual or imminent warlike act whether directed against New Zealand or not, if loss of life or injury or distress to persons or danger to the safety of the public is caused or threatened to be caused in New Zealand or in any part of New Zealand; or
 - (b) A search and rescue event at any point outside New Zealand involving a serious and imminent threat to the safety of persons or craft; or
 - (c) A state of war or other like emergency in any place outside New Zealand; or
 - (d) Such other circumstances as are agreed between the Chief Executive and the Chief of the Defence Force.

- (5) Subject to subsection (6) of this section, sections 21 to 29 of this Act shall not apply to any member of the Armed Forces or any craft under the control of the Defence Force during such time as that person or craft is involved in an emergency described in paragraph (a) or (d) of subsection (4) of this section.
- (6) Where a craft under the control of the Defence Force that is involved in, or is required to respond to, an emergency departs from or returns to New Zealand, the Defence Force shall, within a period of 48 hours or such longer period as the Chief Executive may reasonably determine, notify the Customs that the craft has departed from or arrived in New Zealand, as the case may be, and provide to the Customs such details relating to goods and persons on the craft as the Chief Executive specifies.
- (7) The power of the Chief Executive under subsection (6) of this section to determine a time or specify details required may be exercised generally or in respect of any particular case.
- (8) Nothing in this Act or in any regulations made under this Act shall be interpreted as limiting the immunities of—
 - (a) Any foreign warship or other foreign governmental ship operated for non-commercial purposes; or
 - (b) Any foreign military aircraft; or
 - (c) Members of the crew of any ship or aircraft to which paragraph (a) or paragraph (b) of this subsection applies.

Subsection (4)(a) was substituted, as from 1 December 2002, by section 117 Civil Defence Emergency Management Act 2002 (2002 No 33). *See* sections 118 to 121 of that Act as to the transitional provisions.

Part 1 Administration

5 New Zealand Customs Service

- (1) There shall be a department of State called the New Zealand Customs Service which shall be the same entity known, before the commencement of this Act, as the Customs Department.
- (2) The Chief Executive of the New Zealand Customs Service shall be known as the Comptroller of Customs.

6 Authorised persons

- (1) The Chief Executive may authorise a suitably qualified and trained person who is not a Customs officer to perform or exercise any function or power that may be performed or exercised by a Customs officer under this Act.
- (2) The authorisation under subsection (1) of this section shall be in writing (including any writing in electronic form) and shall specify—
 - (a) The function or power that may be performed or exercised by the authorised person; and
 - (b) The term of the authorisation, which shall be such period, not exceeding 3 years, as the Chief Executive thinks fit.
- (3) The Chief Executive may from time to time renew any authorisation given under this section for such further period, not exceeding 3 years, as the Chief Executive thinks fit.
- (4) A person who is authorised under this section shall be deemed to be a Customs officer for the purposes of this Act for the duration of the term of that person's authorisation.
- (5) The Chief Executive may revoke an authorisation given under this section for incapacity, neglect of duty, or misconduct, or where the authorised person gives written notice to the Chief Executive that he or she wishes the authorisation to be revoked, or in any other circumstance where, in the opinion of the Chief Executive, the authorisation is no longer necessary.
- (6) Where a person ceases to be an authorised person under this section, that person shall surrender to the Chief Executive all articles and documents received by him or her in relation to the authorisation.

Compare: 1966 No 19 s 8A; 1980 No 33 s 3

7 Identity cards

- (1) The Chief Executive shall give an identity card or other means of identification to each Customs officer and any authorised person other than a member of the Police or the Armed Forces.
- (2) Whenever a Customs officer or authorised person exercises any power under this Act he or she shall, on request, produce the identity card or other means of identification for inspection.

- (3) A person who ceases to be a Customs officer or authorised person shall, as soon as possible, return the identity card or other means of identification to the Chief Executive.

8 Customs flag

The Customs flag shall be the New Zealand Ensign with the addition in the fly of the words “NZ Customs Service” in bold characters.

Compare: 1966 No 19 s 11

Part 2
Customs places, Customs controlled
areas, and Customs-approved areas for
storing exports

The heading to Part 2 was amended, as from 2 July 2004, by section 4 Customs and Excise Amendment Act 2004 (2004 No 55) by substituting “Customs controlled areas, and Customs-approved areas for storing exports” for “and Customs controlled areas”.

Customs places

This heading was inserted, as from 2 July 2004, by section 5 Customs and Excise Amendment Act 2004 (2004 No 55).

9 Customs places

- (1) For the purposes of this Act, the Chief Executive may from time to time, by notice in the *Gazette* and subject to such conditions or restrictions as the Chief Executive may determine, designate as a Customs port or as a Customs airport any port or airport specified in the notice, and such Customs ports and Customs airports shall be known collectively as **Customs places**.
- (2) The Chief Executive may in like manner vary or revoke a designation under this section or vary or revoke the conditions or restrictions to which it was subject or revoke those conditions or restrictions and impose new conditions or restrictions.

Compare: 1966 No 19 ss 26, 30

Customs controlled areas

This heading was inserted, as from 2 July 2004, by section 6 Customs and Excise Amendment Act 2004 (2004 No 55).

10 Customs controlled areas

Subject to such exemptions as may be prescribed and to sections 12(4) and 68A of this Act, no area shall be used for—

- (a) The manufacture of goods specified in Part A of Schedule 3 to this Act; or
- (b) The deposit, keeping, or securing of imported or excisable goods, without payment of duty on the goods, pending the export of those goods; or
- (c) The temporary holding of imported goods for the purposes of the examination of those goods under section 151 of this Act (including the holding of the goods while they are awaiting examination); or
- (d) The disembarkation, embarkation, or processing of persons arriving in or departing from New Zealand; or
- (e) The processing of craft arriving in or departing from New Zealand or the loading or unloading of goods onto or from such craft; or
- (f) Any other prescribed purpose,—
unless that area is licensed as a Customs controlled area.

Section 10: amended, on 1 October 2008, by section 4 of the Customs and Excise Amendment Act (No 3) 2008 (2008 No 68).

11 Application for licence

- (1) An application for an area to be licensed as a Customs controlled area may be made by the owner or occupier of, or person operating in, the area and shall be made in such form and shall contain such particulars as may be prescribed.
- (2) The Chief Executive may, at any time, request further information from an applicant if the Chief Executive considers that the information is relevant to the application.
- (3) An applicant may, at any time before the Chief Executive makes a decision on the application, advise the Chief Executive of any variations that the applicant wishes to make to the application.

12 Grant or refusal of licence

- (1) On receipt of—
 - (a) An application for a licence; and
 - (b) Any information requested by the Chief Executive under section 11(2) of this Act; and
 - (c) Any variations to the application made under section 11(3) of this Act,—

the Chief Executive may grant a licence for the area, or may refuse the application.
- (2) A licence granted under subsection (1) of this section may be granted subject to—
 - (a) Such terms, conditions, or restrictions as the Chief Executive thinks fit; and
 - (b) The payment by the licensee of the prescribed annual licence fee (if any).
- (3) The licence shall—
 - (a) Specify the area in respect of which it is granted; and
 - (b) Specify the applicant as the licensee; and
 - (c) Specify the purpose or purposes described in paragraphs (a) to (f) of section 10 of this Act for which the area is licensed.
- (4) Where, on an application for an area to be licensed as a Customs controlled area, the Chief Executive is of the opinion that—
 - (a) It is not in the public interest; or
 - (b) It is impracticable or unnecessary—

that the area should be licensed as a Customs controlled area, the Chief Executive may, in his or her discretion, and under such conditions as the Chief Executive thinks fit, direct that the area need not be licensed as a Customs controlled area.
- (5) A direction given under subsection (4) of this section may be given in respect of the whole or any specified part of the business carried on in the area, and shall exempt the area from such provisions of this Act as may be specified in the direction.
- (6) The applicant shall be advised by notice in writing of any decision of the Chief Executive under this section.
- (7) An applicant who is dissatisfied with a decision of the Chief Executive under this section may, within 20 working days after

the date on which notice of the decision is given, appeal to a Customs Appeal Authority against that decision.

Compare: 1966 No 19 ss 84, 110; 1986 No 44 s 11

13 Variation or revocation of conditions

- (1) The Chief Executive may, by notice in writing, vary or revoke the terms, conditions, or restrictions to which the licence is subject or revoke those terms, conditions, or restrictions and impose new terms, conditions, or restrictions.
- (2) A licensee who is dissatisfied with a decision of the Chief Executive under this section may, within 20 working days after the date on which notice of the decision is given, appeal to a Customs Appeal Authority against that decision.

14 Revocation or suspension of licence

- (1) A licence issued under section 12 of this Act may, at any time, be revoked or suspended by the Chief Executive where—
 - (a) A term, condition, or restriction specified in the licence has been contravened; or
 - (b) The area in respect of which the licence was granted ceases to be used for any of the purposes described in paragraphs (a) to (f) of section 10 of this Act for which the area is licensed; or
 - (c) The licensee ceases to be the owner or occupier of, or operator in, the area in respect of which the licence was granted; or
 - (d) The Chief Executive considers that the licensee is no longer a fit and proper person to hold a licence; or
 - (e) The prescribed annual licence fee (if any) is due and has not been paid.
- (2) Notice in writing of the Chief Executive's intention to revoke or suspend a licence shall be given to the licensee unless the Chief Executive considers that there is good reason not to give such a notice.
- (3) Where the Chief Executive revokes or suspends a licence under subsection (1) of this section, the Chief Executive shall notify the licensee in writing of the revocation or suspension.

- (4) A person who is dissatisfied with a decision of the Chief Executive under this section may, within 20 working days after the date on which notice of the decision is given, appeal to a Customs Appeal Authority against that decision.

15 Surrender of licence

A licence for a Customs controlled area may be surrendered at any time by the licensee by the giving of one month's notice in writing to the Chief Executive.

Compare: 1966 No 19 s 88; 1986 No 44 s 11

16 Closing of Customs controlled area

Where any licence issued under section 12 of this Act is suspended, revoked, or surrendered, duty shall thereupon become due and payable on all goods within that area that are or were subject to the control of the Customs immediately prior to the suspension, revocation, or surrender, unless the Chief Executive permits the goods to be removed to another Customs controlled area or to be exported.

17 Liabilities not affected by ceasing to act as licensee

The obligations and liabilities under this Act of a licensee in respect of anything done or omitted to be done by the licensee while licensed shall not be affected by the fact that the licensee ceases to act as such nor by the fact that the licence is surrendered or suspended or revoked.

Compare: 1966 No 19 s 90; 1986 No 44 s 11

18 Customs facilities in Customs controlled areas

- (1) The licensee of any Customs controlled area licensed under this Act shall provide and maintain such operating areas, accommodation, facilities, buildings, equipment, and storage as the Chief Executive shall determine are reasonably necessary and suitable for the carrying out of the functions and responsibilities of the Customs.
- (2) Subject to subsection (3) of this section, the licensee may levy the Customs such charge or charges as are reasonable for any operating areas, accommodation, facilities, buildings,

- equipment, and storage provided in accordance with subsection (1) of this section.
- (3) Notwithstanding anything in the Airport Authorities Act 1966, no charge shall be levied on the Customs in respect of any operating area in a Customs controlled area where that operating area is used for—
- (a) The processing of persons arriving in or departing from New Zealand; or
 - (b) The processing of craft arriving in or departing from New Zealand; or
 - (c) The processing of postal articles arriving in or departing from New Zealand.
- (4) The licensee of every Customs controlled area shall store goods subject to the control of the Customs in such manner and in such location as the Chief Executive may direct.
- (5) The licensee shall be advised by notice in writing of any determination of the Chief Executive under subsection (1) of this section or any direction of the Chief Executive under subsection (4) of this section.
- (6) A licensee who is dissatisfied with a determination by the Chief Executive under subsection (1) of this section or a direction by the Chief Executive under subsection (4) of this section may, within 20 working days after the date on which notice of the determination or direction is given, appeal to a Customs Appeal Authority against that determination or direction.

Compare: 1966 No 19 s 33; 1992 No 30 s 3(1)

The heading to section 18 was amended, as from 2 July 2004, by section 7 Customs and Excise Amendment Act 2004 (2004 No 55) by inserting “in Customs controlled areas”.

19 Storage charges

In such circumstances and for such period of time as may be prescribed, no charges shall be made by a licensee of a Customs controlled area for the reception or storage in that area of any imported goods.

Compare: 1966 No 19 s 34

*Customs-approved areas for storing exports
(CASEs)*

This heading was inserted, as from 2 July 2004, by section 8 Customs and Excise Amendment Act 2004 (2004 No 55).

19A Purpose of sections 19B to 19H

The purpose of sections 19B to 19H is to enable an area to be licensed as a CASE so that—

- (a) goods to be exported are (under section 20(1)(b) and (c)), from the time they are brought to the area (whether or not the goods are later transported from that area to another area of any kind, and, if the goods are so transported, during the transportation) until they are exported to a point outside New Zealand, subject to the control of the Customs:
- (b) the Customs may, as provided in section 19E, access the area under section 150:
- (c) the powers in section 151 (which include powers of examination) are available in respect of goods that are subject to the control of the Customs because they are goods—
 - (i) to be exported; and
 - (ii) that have been brought to a CASE:
- (d) the powers of detention and search in section 144(3) are available in respect of a vehicle if there are suspected to be in or on the vehicle goods that are subject to the control of the Customs because they are goods—
 - (i) to be exported; and
 - (ii) that have been brought to a CASE:
- (e) the owner or occupier of the area or person operating in the area may be required to provide and maintain operating areas, accommodation, facilities, buildings, equipment, and storage reasonably necessary and suitable for the carrying out of the functions and responsibilities of the Customs.

Sections 19A to 19H were inserted, as from 2 July 2004, by section 8 Customs and Excise Amendment Act 2004 (2004 No 55).

19B Areas that may be licensed as CASEs

- (1) An area may be licensed as a CASE only if the area is used (whether or not it is used for any other purpose) for the purpose of storing goods for export (temporarily or otherwise) until they are transported (either directly or via another area or areas) to the place of shipment and shipped.
- (2) An area used for the purpose of storing goods for export is used for the purpose stated in this section even though the area is also used for the purpose of consolidating, packing, repacking, treating, or otherwise handling those goods.

Sections 19A to 19H were inserted, as from 2 July 2004, by section 8 Customs and Excise Amendment Act 2004 (2004 No 55).

19C Application for area to be licensed as CASE

- (1) An application for an area to be licensed as a CASE—
 - (a) may be made by the owner or occupier of, or person operating in, the area; and
 - (b) must be made in such form, and contain such particulars, as may be prescribed.
- (2) The following sections apply to an application under this section as if it were an application for the area concerned to be licensed as a Customs controlled area:
 - (a) section 11(2) and (3) (which relates to an application for a licence); and
 - (b) section 12 (except subsections (3)(c), (4), and (5)) (which relates to the grant or refusal of a licence).

Sections 19A to 19H were inserted, as from 2 July 2004, by section 8 Customs and Excise Amendment Act 2004 (2004 No 55).

19D Licences for CASEs

- (1) If a licence for a CASE is granted under section 12(1) (as applied by section 19C(2)) and is subject to terms, conditions, or restrictions, section 13 (variation or revocation of conditions) applies to those terms, conditions, or restrictions as if the licence were a licence for a Customs controlled area.
- (2) Section 14 (revocation or suspension of licence) applies to a licence for a CASE that is granted under section 12(1) (as applied by section 19C(2)) as if it were a licence for a Customs controlled area.

- (3) However, for the purposes of subsection (2), section 14(1)(b) must be read as if for the words “any of the purposes described in paragraphs (a) to (f) of section 10 of this Act for which the area is licensed” there were substituted the words “the purpose in section 19B (whether or not it is used for any other purpose).”

Sections 19A to 19H were inserted, as from 2 July 2004, by section 8 Customs and Excise Amendment Act 2004 (2004 No 55).

19E Access of Customs officers to CASEs

Section 150 applies to a CASE as if the area were a Customs controlled area; and section 173 applies accordingly.

Sections 19A to 19H were inserted, as from 2 July 2004, by section 8 Customs and Excise Amendment Act 2004 (2004 No 55).

19F Examination of goods to be exported and that have been brought to CASE

- (1) The powers in section 151 are available in respect of goods that a Customs officer has reasonable cause to suspect are subject to the control of the Customs because they are goods—
- (a) to be exported; and
 - (b) that have been brought to a CASE.

- (2) Nothing in this section limits section 20 or section 151.

Sections 19A to 19H were inserted, as from 2 July 2004, by section 8 Customs and Excise Amendment Act 2004 (2004 No 55).

19G Detaining and searching vehicles for goods to be exported and that have been brought to CASE

- (1) The powers in section 144(3) are available in respect of goods that a Customs officer has reasonable cause to suspect are subject to the control of the Customs because they are goods—
- (a) to be exported; and
 - (b) that have been brought to a CASE.

- (2) Nothing in this section limits section 20 or section 144.

Sections 19A to 19H were inserted, as from 2 July 2004, by section 8 Customs and Excise Amendment Act 2004 (2004 No 55).

19H Customs facilities in CASEs

- (1) The licensee of any CASE licensed under this Act must provide and maintain any operating areas, accommodation, facilities, buildings, equipment, and storage that the Chief Executive determines are reasonably necessary and suitable for the carrying out of the functions and responsibilities of the Customs.
- (2) The licensee may levy the Customs such charge or charges as are reasonable for any operating areas, accommodation, facilities, buildings, equipment, and storage provided in accordance with subsection (1).
- (3) The licensee of every CASE must store goods subject to the control of the Customs in such manner and in such location as the Chief Executive may direct.
- (4) The licensee must be advised by notice in writing of a determination by the Chief Executive under subsection (1) or a direction by the Chief Executive under subsection (3).
- (5) A licensee who is dissatisfied with a determination by the Chief Executive under subsection (1) or a direction by the Chief Executive under subsection (3) may, within 20 working days after the date on which notice of the determination or direction is given, appeal to a Customs Appeal Authority against that determination or direction.

Sections 19A to 19H were inserted, as from 2 July 2004, by section 8 Customs and Excise Amendment Act 2004 (2004 No 55).

Part 3**Arrival and departure of goods, persons,
and craft****20 Goods subject to control of Customs**

- (1) Goods are subject to the control of the Customs,—
 - (a) Where the goods have been imported, from the time of importation until the time the goods are lawfully removed for home consumption or exportation from a Customs controlled area; or
 - (aa) Where the goods are lawfully removed from a Customs controlled area under a conditional permit granted pursuant to section 47(1)(c), until such time as the Chief

Executive is satisfied that the conditions of the permit have been met; or.

- (ab) where the goods are to be exported (whether under drawback or not) and are in a package to which a Customs seal has been applied (whether or not any other paragraph of this subsection applies to the goods), from the time when a Customs seal is first applied to the package until the exportation of the goods to a point outside New Zealand; or
- (ac) where the goods are to be exported (whether under drawback or not) under a Customs-approved secure exports scheme (whether or not any other paragraph of this subsection applies to the goods), from the time when the goods are first secured in a Customs-approved secure package until the exportation of the goods to a point outside New Zealand; or
- (b) where the goods are to be exported under drawback, from whichever is the earlier of the following times until the exportation of the goods to a point outside New Zealand:—
 - (i) the time of the claim for drawback; or
 - (ii) the time when the goods are brought to a Customs controlled area or to a CASE (whether or not the goods are later transported from that area to another area of any kind, and, if the goods are so transported, during the transportation); or
- (c) where the goods are to be exported otherwise than under drawback, from the time when the goods are brought to a Customs controlled area or to a CASE (whether or not the goods are later transported from that area to another area of any kind, and, if the goods are so transported, during the transportation), until their exportation to a point outside New Zealand; or
- (d) Where the goods are on board any craft described in section 139(1) of this Act, at all times that the craft is within New Zealand; or
- (e) Where the goods are manufactured in a Customs controlled area, from the time of manufacture until the goods are lawfully removed for home consumption

- from a Customs controlled area, or the goods are exported to a point outside New Zealand, whichever happens first; or
- (f) Where the goods are owned by or in the possession of an internationally ticketed passenger who is using air or sea travel for a domestic sector or a domestic passenger who is using air or sea travel for a domestic sector, from the time when, at the commencement of the domestic sector, the goods are—
- (i) Brought into a Customs controlled area licensed for the disembarkation, embarkation, or processing of persons arriving in or departing from New Zealand; or
- (ii) Accepted for carriage by an airline or shipping company—
- until the time when, at the end of the domestic sector, the goods are lawfully removed from a Customs controlled area licensed for the disembarkation, embarkation, or processing of persons arriving in or departing from New Zealand; or
- (g) In the case of domestic cargo (not being goods to which paragraph (f) of this section applies), from the time when the goods are brought within a Customs controlled area that is in a Customs place until the time when the goods are lawfully removed from that or any other Customs controlled area.
- (2) For the purposes of subsection (1), goods that are removed from a Customs controlled area to another Customs controlled area are not removed for home consumption.

Compare: 1966 No 19 s 16

Subsection (1)(a) was substituted, as from 3 June 1998, by section 3(1) Customs and Excise Amendment (No 2) 1998 (1998 No 38).

Subsection (1)(aa) was inserted, as from 3 June 1998, by section 3(1) Customs and Excise Amendment (No 2) 1998 (1998 No 38).

Subsection (1)(ab) and (c) was inserted, as from 2 July 2004, by section 9 Customs and Excise Amendment Act 2004 (2004 No 55).

Subsection (1)(b) and (c) was substituted, as from 2 July 2004, by section 9 Customs and Excise Amendment Act 2004 (2004 No 55).

Subsection (2) was inserted, as from 3 June 1998, by section 2(1) Customs and Excise Amendment (No 2) 1998 (1998 No 38).

Arrival of craft into New Zealand

21 Advice of arrival, etc

- (1) The person in charge of a craft that is en route to New Zealand from a point outside New Zealand must, unless otherwise approved by the Chief Executive,—
- (a) give to the Customs, in such form and manner (for example, in an electronic form and manner) as may be approved in writing by the Chief Executive (either generally or for a particular case or class of case), such advance notice as may be prescribed of any or all of the following matters:—
 - (i) the impending arrival of the craft:
 - (ii) its voyage:
 - (iii) its crew:
 - (iv) its passengers:
 - (v) its cargo for discharge within New Zealand (whether commercial or non-commercial):
 - (vi) its commercial cargo not intended for discharge within New Zealand (if any):
 - (vii) the Customs place at which the craft will arrive; and
 - (b) On arriving within New Zealand, proceed directly to that Customs place, unless directed elsewhere by a Customs officer.
- (2) The owner or operator of the craft referred to in subsection (1) of this section, or an agent of the owner or operator, may provide the information referred to in paragraph (a) of that subsection to the Customs on behalf of the person in charge of the craft.

Subsection (1)(a) was substituted, as from 1 October 2004, by section 10 Customs and Excise Amendment Act 2004 (2004 No 55).

22 Requirement to answer questions

- (1) Subsection (2) applies to—
- (a) A craft that has arrived in New Zealand from a point outside New Zealand:
 - (b) A craft departing from New Zealand for a point outside New Zealand:

- (c) A craft that is within New Zealand and that is carrying international cargo or international crew or any international passenger, whether or not the craft is also carrying domestic cargo:
 - (d) Any other craft that is within New Zealand and that a Customs officer has reasonable cause to suspect has been, or is about to be, involved in the commission of an offence against this Act or the importation or exportation of any dutiable, uncustomed, prohibited, or forfeited goods.
- (2) The person in charge of, the owner of, any member of the crew of, and any passenger on a craft to which this subsection applies must—
- (a) Answer any question asked by a Customs officer under this Act relating to the craft and its voyage and any persons or goods that are or have been carried by the craft; and
 - (b) Forthwith at the request of any Customs officer produce any documents within that person's possession or control relating to any of those matters.
- (3) A person referred to in section 145A(1) must—
- (a) answer any questions asked by a Customs officer under section 145A; and
 - (b) produce any documents within his or her possession or control that a Customs officer demands under section 147A.

Subsection (1) was amended, as from 2 July 2004, by section 11(1) Customs and Excise Amendment Act 2004 (2004 No 55) by substituting "Subsection (2)" for "This section".

Subsection (1)(c) was amended, as from 1 October 1996, by section 3(1) Customs and Excise Amendment Act 1996 (1996 No 80) by inserting "that is within New Zealand and". See clause 2 Customs and Excise Amendment Act Commencement Order 1996 (SR 1996/230).

Subsection (1)(d) was amended, as from 1 October 1996, by section 3(2) Customs and Excise Amendment Act 1996 (1996 No 80) by inserting "that is within New Zealand and". See clause 2 Customs and Excise Amendment Act Commencement Order 1996 (SR 1996/230).

Subsection (2) was amended, as from 2 July 2004, by section 11(2) Customs and Excise Amendment Act 2004 (2004 No 55) by substituting "subsection" for "section".

Subsection (3) was inserted, as from 2 July 2004, by section 11(3) Customs and Excise Amendment Act 2004 (2004 No 55).

23 Bringing-to of ship

- (1) The master of a ship arriving within New Zealand must, on being directed by a Customs officer to do so,—
 - (a) Stop and bring the ship to for boarding; and
 - (b) Ensure that the ship remains stopped until a Customs officer directs that the ship may proceed.
- (2) The craft carrying the Customs officer or officers or other authorised persons shall identify itself as being a craft in the service of the Crown.
- (3) The master of the ship must by all reasonable means facilitate the boarding of the ship by Customs officers or authorised persons.
- (4) The master of a ship within New Zealand must, if so directed by any Customs officer, cause that ship to leave New Zealand forthwith.
- (5) A Customs officer who proposes to give a direction under subsection (4) of this section shall consult with the Chief Executive or a person authorised by the Chief Executive.

Compare: 1966 No 19 s 41

24 Craft to arrive at nominated Customs place only

- (1) Subject to sections 21 and 25 of this Act, the person in charge of a craft—
 - (a) That arrives within New Zealand on a journey from a point outside New Zealand; or
 - (b) That is carrying—
 - (i) Persons; or
 - (ii) Goods subject to the control of the Customs—brought in that craft or any other craft from a point outside New Zealand—must ensure that the craft lands, anchors, or otherwise arrives only at a Customs place, which, in the case of a craft to which section 21 of this Act applies, shall be the Customs place nominated by that person in accordance with that section.
- (2) On arrival at the nominated Customs place or Customs controlled area within that place, and until an inward report in accordance with section 26 of this Act has been made, no person

shall leave or board the craft unless authorised to do so by a Customs officer.

Compare: 1966 No 19 ss 36, 37

25 Craft arriving at place other than nominated Customs place

- (1) Nothing in section 24 of this Act applies to a craft that is required or compelled to berth, land, anchor, or otherwise arrive at a place other than the Customs place nominated in accordance with section 21(1)(a) of this Act, if the arrival—
 - (a) Is required by any statutory or other requirement relating to navigation; or
 - (b) Is compelled by accident, stress of weather, or other necessity; or
 - (c) Is authorised by the Chief Executive.
- (2) The person in charge of the craft—
 - (a) Must forthwith report to a Customs officer or to a member of the Police; and
 - (b) Must not, without the consent of a Customs officer, permit any goods carried in the craft to be unloaded from it or any of the crew or passengers to depart from its vicinity; and
 - (c) Must comply with any directions given by a Customs officer in respect of any goods, crew, or passengers carried in the craft.
- (3) Subject to section 43(a) of this Act, no member of the crew and no passenger on the craft shall without the consent of a Customs officer—
 - (a) Unload goods from the craft; or
 - (b) Depart from the vicinity of the craft,—and all such persons must comply with any directions given by a Customs officer.
- (4) Where a craft is directed by a Customs officer pursuant to section 21(1)(b) of this Act to arrive at a place other than the Customs place nominated in accordance with section 21(1)(a) of this Act, no person shall depart from or board the craft unless authorised to do so by a Customs officer.

Compare: 1966 No 19 ss 35A, 38

26 Inward report

- (1) Unless otherwise approved by the Chief Executive, this section applies to a craft—
 - (a) That arrives within New Zealand on a journey from a point outside New Zealand; or
 - (b) That is carrying—
 - (i) Persons; or
 - (ii) Goods subject to the control of the Customs—brought in that craft or any other craft from a point outside New Zealand.
- (2) On the arrival at a Customs place of craft to which this section applies, the person in charge or the owner of the craft, as the case may be, must—
 - (a) Deliver to the Customs within such time or times as may be prescribed an inward report in such form and manner and containing such particulars verified by declaration as may be prescribed and accompanied by such supporting documents as the Chief Executive may require; and
 - (b) Comply with any Customs direction as to the movement of the craft within the Customs place, and as to the unloading of goods or the disembarkation of crew or passengers from the craft.
- (3) The particulars and supporting documents referred to in subsection (2)(a) need not include information that has already been supplied to the Customs in any form and manner approved in writing by the Chief Executive under section 21(1)(a) or otherwise.

Compare: 1966 No 19 ss 44, 45

Subsection (3) was inserted, as from 6 March 2007, by section 5 Customs and Excise Amendment Act 2007 (2007 No 9).

Arrival of persons

27 Persons arriving in New Zealand to report to Customs officer or Police station

- (1) Unless otherwise required under any provision of this Act, every person arriving in New Zealand must, on his or her arrival, report to a Customs officer or to a Police station forthwith.

- (2) A person who reports to a Customs officer or to a Police station in accordance with subsection (1) of this section shall remain at the place where the person reported for such reasonable time as the Customs may require for the purposes of enabling any Customs officer to exercise in relation to that person any power under this Act.

28 Disembarkation

- (1) Subject to such exemptions as may be prescribed, a person who is on board a craft that has arrived in New Zealand from a point outside New Zealand must comply with any Customs direction concerning disembarkation.
- (2) For the purposes of this section, a Customs direction includes a direction given by the person in charge of the craft or by a crew member at the direction of a Customs officer.
- (3) Subject to such exemptions as may be prescribed, every person who has disembarked from a craft to which this section applies must, unless otherwise directed by the Customs,—
- (a) Go to a Customs controlled area; and
 - (b) Remain there for such reasonable time as the Customs may require for the purposes of enabling any Customs officer to exercise in relation to that person any power under this Act.

29 Baggage to be presented

- (1) Subject to such exemptions as may be prescribed, every person who disembarks from a craft that has arrived in New Zealand from a point outside New Zealand or a craft that is at the end of a domestic sector must—
- (a) Make his or her accompanying baggage available for examination by a Customs officer; and
 - (b) Comply with any Customs direction relating to the movement of the baggage within the Customs place or Customs controlled area or from any craft to a Customs controlled area.
- (2) Any person who is moving or handling the baggage referred to in subsection (1) of this section shall comply with any Customs direction relating to the movement of the baggage within the

Customs place or Customs controlled area or from any craft to a Customs controlled area.

Departure of persons

30 Persons departing from New Zealand to depart from Customs place

Subject to such exemptions as may be prescribed or unless otherwise authorised by the Customs, a person must not depart from New Zealand unless he or she departs from a Customs place.

31 Embarkation

A person preparing to board a craft for departure from New Zealand must comply with any Customs direction given to the person concerning embarkation.

32 Outgoing baggage to be presented

(1) Subject to such exemptions as may be prescribed, every person who arrives at a Customs place or a Customs controlled area for embarkation on to a craft that has, as its destination, a point outside New Zealand must—

- (a) Make his or her accompanying baggage available for examination by a Customs officer; and
- (b) Comply with any Customs direction relating to the movement of the baggage within the Customs place or Customs controlled area or from a Customs controlled area to any craft.

(2) Any person who is moving or handling the baggage referred to in subsection (1) of this section shall comply with any Customs direction relating to the movement of the baggage within the Customs place or Customs controlled area or from a Customs controlled area to any craft.

*Further requirements relating to persons
arriving in or departing from New Zealand*

This heading was inserted, as from 6 March 2007, by section 6 Customs and Excise Amendment Act 2007 (2007 No 9).

32A Use of electronic communication devices prohibited in certain places

- (1) This section applies to any Customs place or Customs controlled area that is used by persons arriving in or departing from New Zealand.
- (2) A Customs officer may erect a sign prohibiting in a place or area to which this section applies the use of any electronic communication device identified on the sign (by words, or images, or both).
- (3) If a sign has been erected in a place under subsection (2), a Customs officer may require a person in that place not to use, or to stop using, an electronic communication device identified on the sign.
- (4) Every person must comply with a requirement by a Customs officer under subsection (3).
- (5) In this section, **electronic communication device** includes an electronic communication device (except for a device that is being used to assist with a disability) that is capable of any or all of the following actions:
 - (a) transmitting sound:
 - (b) computing information:
 - (c) functioning as a telephone:
 - (d) communicating in any other way using any technology (including telecommunication, radiocommunication, and broadcasting technology).

Sections 32A to 32C were inserted, as from 6 March 2007, by section 6 Customs and Excise Amendment Act 2007 (2007 No 9).

32B Completion of processing under Immigration Act 1987 and Biosecurity Act 1993

- (1) This section applies to a person in a designated place who has arrived in New Zealand or who departs, or attempts to depart, from New Zealand.
- (2) The person must remain in the designated place until the processing, under the Immigration Act 1987 and, if applicable, the Biosecurity Act 1993, in respect of the person's arrival in, or departure from, New Zealand, is completed.
- (3) A Customs officer may direct the person to comply with the person's obligation under subsection (2).

- (4) For the purposes of subsection (2), the processing referred to in that subsection is completed when—
- (a) the person has complied with all obligations imposed on the person, in respect of the person's arrival in, or departure from, New Zealand, under the Immigration Act 1987 and, if applicable, the Biosecurity Act 1993; and
 - (b) the powers and duties under those Acts that are, in relation to the person, required to be exercised or performed in the designated place have, so far as practicable, been exercised or performed in that place.
- (5) In this section,—
- authorised officer** means an officer authorised under the Immigration Act 1987 or the Biosecurity Act 1993
- designated place means—**
- (a) a Customs controlled area; or
 - (b) a Customs place; or
 - (c) a place approved by the Chief Executive for the purposes of—
 - (i) the arrival of a craft in New Zealand; or
 - (ii) the departure of a craft from New Zealand; or
 - (d) a police station to which a person reports under section 27(1)
- processing** includes—
- (a) consideration by any authorised officer as to the applicability of powers and duties under the Immigration Act 1987 or the Biosecurity Act 1993 to the person; and
 - (b) reconsideration by any authorised officer, in the light of any new information, of a previous exercise or performance of a power or duty under the Immigration Act 1987 or the Biosecurity Act 1993; and
 - (c) any reasonable time following a request by a Customs officer that an authorised officer who is not present at the designated place consider, exercise, or perform a particular power or duty under the Immigration Act 1987 or the Biosecurity Act 1993 that—
 - (i) may, in the opinion of the Customs officer, be applicable to the person; and

- (ii) may not be exercised or performed by any authorised officer present at the designated place at the time of the request; but
- (iii) may be exercised or performed by the authorised officer to whom that request is made.

Sections 32A to 32C were inserted, as from 6 March 2007, by section 6 Customs and Excise Amendment Act 2007 (2007 No 9).

32C Cases requiring investigation for public health or law enforcement purposes

- (1) This section applies to a person in a designated place who has arrived in New Zealand or who departs, or attempts to depart, from New Zealand, if a Customs officer has reasonable cause to suspect that the person—
- (a) is, under an enactment, liable to be detained because of an infectious disease; or
 - (b) is liable to be arrested under a warrant issued by a court or by any registrar; or
 - (c) is, in attempting to depart from New Zealand or in attempting to remove another person from New Zealand, contravening, or about to contravene, an enactment or an order issued by a court; or
 - (d) is liable to be prosecuted for an offence punishable by imprisonment; or
 - (e) has contravened any of the following enactments:
 - (i) the Biosecurity Act 1993;
 - (ii) the Human Assisted Reproductive Technology Act 2004;
 - (iii) the Misuse of Drugs Act 1975;
 - (iv) the Passports Act 1992;
 - (v) the Terrorism Suppression Act 2002;
 - (vi) the Trade in Endangered Species Act 1989;
 - (vii) regulations under the United Nations Act 1946;
 - (viii) any enactment specified for the purposes of this section by the Governor-General in Council, being an enactment that contains an offence involving the unlawful entry into New Zealand, or the unlawful removal from New Zealand, of a person, matter, or thing; or

- (f) is endangering, or threatening to endanger, the life, health, or safety of a person or group of persons.
- (2) The Customs officer may direct the person to remain in the designated place for the purposes of obtaining the attendance of, or making inquiries of, another officer who is authorised, in respect of a matter specified in subsection (1), to do 1 or more of the following:
 - (a) question the person:
 - (b) ascertain or determine the status of the person:
 - (c) detain the person:
 - (d) arrest the person.
- (3) The person must comply with any direction given under this section.
- (4) A direction under this section ceases to have effect 4 hours after it is given.
- (5) In this section,—
 - another officer** means—
 - (a) a member of the police; or
 - (b) a bailiff; or
 - (c) an employee or agent of a department of State
 - designated place** means—
 - (a) a Customs controlled area; or
 - (b) a Customs place; or
 - (c) a place approved by the Chief Executive for the purposes of—
 - (i) the arrival of a craft in New Zealand; or
 - (ii) the departure of a craft from New Zealand.

Sections 32A to 32C were inserted, as from 6 March 2007, by section 6 Customs and Excise Amendment Act 2007 (2007 No 9).

Departure of craft

33 Clearance of craft

- (1) Unless otherwise approved by the Chief Executive, no person in charge of a craft that has, as its destination, a point outside New Zealand shall cause that craft to depart from any Customs place unless that person has received a certificate of clearance in the prescribed form.

- (2) Subject to such exemptions as may be prescribed, no person in charge of a craft that has arrived in New Zealand from a point outside New Zealand shall cause that craft to depart from the place in New Zealand that it first arrived at, or from any subsequent place of call within New Zealand, without the permission of the Customs and subject to the production to the Customs of any documents that the Chief Executive may require and to any conditions imposed by the Chief Executive.

Compare: 1966 No 19 s 72

34 Certificate of clearance

Unless otherwise approved by the Chief Executive, before any certificate of clearance is granted to the person in charge of any craft to which section 33 applies, that person must—

- (a) deliver to the Customs, within any time or times prescribed, an outward report in the prescribed form and manner that contains the prescribed particulars verified by declaration, and which is accompanied by any supporting documents the Chief Executive may require (the outward report and any supporting documents may be delivered to the Customs within any time or times after departure that is or are prescribed either generally or for a particular case or class of case); and
- (b) answer any question asked by a Customs officer relating to the craft and its passengers, crew, cargo, stores, and intended voyage or journey; and
- (c) produce any other documents required by a Customs officer relating to the craft and its passengers, crew, cargo, stores, and intended voyage or journey; and
- (d) comply with all requirements in this or any other Act concerning the craft and its passengers, crew, cargo, stores, and intended voyage or journey.

Paragraph (a) was amended, as from 2 July 2004, by section 12 Customs and Excise Amendment Act 2004 (2004 No 55) by inserting “within such time or times as may be prescribed” after the word “Customs”.

Section 34 was substituted, as from 6 March 2007, by section 7 Customs and Excise Amendment Act 2007 (2007 No 9).

34A Fees and charges relating to granting certificate of clearance

- (1) The Governor-General may, on the recommendation of the Minister, make regulations under section 287(1)(a) prescribing fees or charges, or both, that are payable to the Customs to meet or assist in meeting costs and expenses incurred by the Customs in granting a certificate of clearance (for example, the costs and expenses incurred by the Customs in determining whether a person in charge of a craft that is departing New Zealand has complied with the requirements stated or referred to in or imposed under section 34).
- (2) No fees or charges prescribed by regulations of the kind described in subsection (1) may meet or assist in meeting costs or expenses that are—
 - (a) incurred by the Customs in granting a certificate of clearance; and
 - (b) related to clearance of passengers.
- (3) The provisions of Part 8 that relate to the collection and recovery of duty apply to fees and charges prescribed by regulations of the kind described in subsection (1), as if those fees and charges were a duty.
- (4) Before making a recommendation under subsection (1) in relation to any proposed regulations, the Minister must be satisfied that the persons that the Minister considers are representative of interests likely to be substantially affected by the proposed regulations have been consulted about the proposed regulations to the extent that is reasonably practicable having regard to the circumstances of the case.
- (5) For the purposes of subsection (4), the Minister may take into account any relevant consultation undertaken by or on behalf of the Minister before this section comes into force.
- (6) A failure to comply with subsection (4) does not affect the validity of any regulations of the kind described in subsection (1)
- (7) Subsection (1) does not limit section 287.

Section 34A was inserted, as from 2 July 2004, by section 13 Customs and Excise Amendment Act 2004 (2004 No 55).

35 Boarding of outward craft

The person in charge of a craft departing from a Customs place, whether or not the immediate destination of the craft is a point outside New Zealand, shall, if required to do so by any Customs officer, by all reasonable means, facilitate boarding by Customs officers.

Compare: 1966 No 19 s 75

36 Production of certificate of clearance

The person in charge of a craft to whom a certificate of clearance has been granted must, on demand by a Customs officer, produce the certificate of clearance for examination by the officer and answer any question that the officer may put to him or her concerning the craft and its passengers, crew, cargo, stores, and its intended voyage or journey.

Compare: 1966 No 19 s 76

37 Departure to be from Customs place only

- (1) Subject to such exemptions as may be prescribed and subject to subsection (2) of this section, except with the prior permission of the Chief Executive, no person in charge of any craft shall—
- (a) Cause that craft to depart for a point outside New Zealand from a place in New Zealand other than a Customs place; or
 - (b) having obtained a certificate of clearance from a Customs place in New Zealand to depart for any point outside New Zealand, cause that craft—
 - (i) to not depart immediately from that place; or
 - (ii) to go to any other place in New Zealand.
- (2) Subsection (1) of this section does not apply to a craft that is compelled by accident, stress of weather, or other necessity to return to a place in New Zealand, and in any such case the provisions of section 25 of this Act apply subject to such modification as may be necessary.

Subsection (1)(b) was substituted, as from 2 July 2004, by section 14 Customs and Excise Amendment Act 2004 (2004 No 55).

38 Regulations relating to stores for craft

Without limiting the power to make regulations conferred by section 286 of this Act, the Governor-General may from time to time, by Order in Council, make regulations prescribing—

- (a) The classes of goods that are, or are not, deemed to be stores for the use of passengers and crew or the service of craft about to depart from any Customs place; and
- (b) The conditions under which any such stores may be shipped free of duty or under drawback of duty; and
- (c) The conditions under which any such stores are subject to duty, and the form and manner in which those stores shall be entered.

Compare: 1966 No 19 ss 78, 79

Part 3A
Customs access to and use of information
about border-crossing goods, persons,
and craft

Part 3A (sections 38A to 38Q) was inserted, as from 1 October 2004, by section 15 Customs and Excise Amendment Act 2004 (2004 No 55).

Preliminary provisions

38A Interpretation

In this Part, unless the context otherwise requires,—

border-crossing goods means goods that are recorded by a person concerned in the movement of goods, persons, or craft—

- (a) as having been imported into, or exported from, New Zealand; or
- (b) as being imported into, or exported from, New Zealand; or
- (c) as intended to be imported into, or exported from, New Zealand

border-crossing person or craft means a person (for example, a passenger or a member of the crew of a craft) who, or craft that, is recorded by a person concerned in the movement of goods, persons, or craft—

- (a) as having arrived in, or departed from, New Zealand; or

- (b) as arriving in, or departing from, New Zealand; or
 - (c) as intending to arrive in, or depart from, New Zealand
- person concerned in the movement of goods, persons, or craft** means any of the following:—
- (a) an owner or an operator of a craft that carries or transports goods or persons, or both, from New Zealand to a point outside New Zealand, or from a point outside New Zealand to New Zealand, for commercial purposes, or the agent of an owner or an operator of that kind:
 - (b) a travel operator (being a person who organises the carriage, handling, or transportation of goods or persons, or both, from New Zealand to a point outside New Zealand, or from a point outside New Zealand to New Zealand, for commercial purposes) or the agent of a travel operator:
 - (c) an owner, occupier, or operator of a Customs controlled area used for the purpose specified in section 10(d) or (e):
 - (d) an operator of a business that handles, packs, stores, or transports goods that are to be transported from New Zealand to a point outside New Zealand:
 - (e) any persons, or classes of persons, involved in any other way in the carriage, handling, or transportation of goods, or persons, or both, from New Zealand to a point outside New Zealand, or from a point outside New Zealand to New Zealand, for commercial purposes, being persons or classes of persons prescribed for the purposes of this paragraph.

Part 3A (sections 38A to 38Q) was inserted, as from 1 October 2004, by section 15 Customs and Excise Amendment Act 2004 (2004 No 55).

38B Purpose of this Part

- (1) The purpose of this Part is to facilitate—
 - (a) the exercise or performance of powers, functions, or duties under this Act:
 - (b) the prevention, detection, investigation, prosecution, and punishment of offences that are, or that if committed in New Zealand would be,—
 - (i) customs offences of any kind; or

- (ii) other offences punishable by imprisonment:
 - (c) the processing of international passengers at the border by public authorities:
 - (d) the protection of border security:
 - (e) the protection of the health and safety of members of the public.
- (2) To that end, this Part—
- (a) requires certain persons concerned in the movement of goods, persons, or craft to give the Customs access to certain information about border-crossing goods, persons, and craft; and
 - (b) controls the use of that information by the Customs.

Part 3A (sections 38A to 38Q) was inserted, as from 1 October 2004, by section 15 Customs and Excise Amendment Act 2004 (2004 No 55).

Who must give Customs access to information

38C Persons to whom section 38D or section 38E applies

Section 38D or section 38E applies to a person only if the person—

- (a) is a person concerned in the movement of goods, persons, or craft; and
- (b) has been required by the Chief Executive by notice in writing to comply with that section on and after a date specified in the notice in writing.

Part 3A (sections 38A to 38Q) was inserted, as from 1 October 2004, by section 15 Customs and Excise Amendment Act 2004 (2004 No 55).

Information to which access must be given

38D Information about border-crossing craft

- (1) A person to whom this section applies must give the Customs access, on and after the date specified in the notice referred to in section 38C(b), to information—
- (a) that is of the kind specified in subsection (2); and
 - (b) that the person holds (whether in New Zealand or overseas) or has access to about any border-crossing craft.
- (2) The information referred to in subsection (1)(a) is information about the border-crossing craft, about what it is carrying or transporting, about its journey to or from New Zealand, and

about its arrival at, or departure from, New Zealand, whether that journey or arrival or departure has occurred, is occurring, or will occur.

- (3) That information may include, but is not limited to, the following information about the border-crossing craft:
- (a) if the craft is carrying or transporting goods,—
 - (i) loading and discharge details;
 - (ii) goods storage details;
 - (iii) goods records; and
 - (b) if the craft is carrying or transporting persons,—
 - (i) the number of persons on the craft (whether passengers or crew or other persons);
 - (ii) the seating arrangements or on-board accommodation arrangements;
 - (iii) baggage storage details; and
 - (c) if the craft is carrying or transporting goods and persons, the information in paragraphs (a) and (b).

Part 3A (sections 38A to 38Q) was inserted, as from 1 October 2004, by section 15 Customs and Excise Amendment Act 2004 (2004 No 55).

38E Information about border-crossing persons

- (1) A person to whom this section applies must give the Customs access, on and after the date specified in the notice referred to in section 38C(b), to information—
- (a) that is of the kind specified in subsection (2); and
 - (b) that the person holds (whether in New Zealand or overseas) or has access to about any border-crossing person.
- (2) The information referred to in subsection (1)(a) is information held by the person, or to which the person has access, for the purpose of facilitating the border-crossing person's travel to, or departure from, New Zealand, whether that travel or departure has occurred, is occurring, or will occur.
- (3) That information may include, but is not limited to, the following information about the border-crossing person:—
- (a) the person's name, date of birth, place of birth, nationality, sex, and passport details;
 - (b) the person's contact details (including telephone number, address, and email address):

- (c) information identifying the craft on which the person has travelled, is travelling, or intends to travel:
- (d) any special conditions or arrangements the person has made regarding his or her travel:
- (e) where the person booked his or her travel:
- (f) on what date the person booked his or her travel:
- (g) whether the person has checked baggage.

Part 3A (sections 38A to 38Q) was inserted, as from 1 October 2004, by section 15 Customs and Excise Amendment Act 2004 (2004 No 55).

38F Further provisions about giving Customs access to information under section 38D or section 38E

- (1) A person to whom section 38D or section 38E applies must give the Customs access to the information referred to in the section in the form and manner prescribed (for example, in an electronic form and manner).
- (2) The Chief Executive may, by notice in writing, in all or any specified circumstances, exempt a person to whom section 38D or section 38E applies—
 - (a) from complying with some or all of the person's obligations under that section; and
 - (b) from complying with some or all of the person's obligations under subsection (1) of this section.
- (3) Nothing in section 38D or section 38E requires a person to whom the section applies to give the Customs access to information the person holds or has access to about an employee (for example, about a member of the crew of a craft), unless the information is information of a kind also generally held by the person, or to which the person generally has access, in relation to passengers.

Part 3A (sections 38A to 38Q) was inserted, as from 1 October 2004, by section 15 Customs and Excise Amendment Act 2004 (2004 No 55).

Use of information to which access must be given

38G Controls on use by Customs of information

- (1) The Customs may without warrant view all information to which access is given under section 38D.

- (2) However, the Customs may view information to which access is given under section 38E only as provided in sections 38H to 38K.
- (3) Section 282A applies to the collection, use, and disclosure by the Customs of information viewed by the Customs under this section or any of sections 38H to 38K.

Part 3A (sections 38A to 38Q) was inserted, as from 1 October 2004, by section 15 Customs and Excise Amendment Act 2004 (2004 No 55).

*Searching and viewing by Customs of
information about border-crossing persons*

38H Information about travel within 28-day period

- (1) Information to which access is given under section 38E may be viewed by the Customs without warrant if it is information about travel within the 28-day period.
- (2) The Customs may without warrant search information that it may view under subsection (1) to determine whether that information includes information that is relevant to search criteria specified by the Customs.
- (3) However, if information is viewed under subsection (1), the Customs may collect, use, and disclose that information in accordance with section 282A whether or not it came to the attention of the Customs as a result of a search.
- (4) Powers under this section of viewing or searching are exercisable in a particular case even though, in the circumstances of that case, the purpose of the viewing or searching would not be, or would not be likely to be, frustrated if the viewing or searching were delayed until a warrant under section 38J could be obtained to authorise it.
- (5) For the purposes of this section and section 38I, **information about travel within the 28-day period** means information that, at any particular time, relates—
 - (a) to an arrival in, or departure from, New Zealand that, according to the information,—
 - (i) occurred within 14 days before that time; or
 - (ii) is occurring at that time; or
 - (iii) will occur within 14 days after that time; or

- (b) to travel that, according to the information, occurred, is occurring, or will occur, in connection with an arrival or departure referred to in paragraph (a),—
 - (i) whether that travel is travel within New Zealand or overseas; and
 - (ii) whether that travel is travel that occurred, is occurring, or will occur, before or after the arrival or departure of that kind.

Part 3A (sections 38A to 38Q) was inserted, as from 1 October 2004, by section 15 Customs and Excise Amendment Act 2004 (2004 No 55).

38I Information about other travel may be searched for information relating to travellers within 28-day period

- (1) In this section, **information about other travel** means information—
 - (a) to which access is given under section 38E; and
 - (b) that is not information about travel within the 28-day period.
- (2) This section applies to the following situation:—
 - (a) the Customs, in considering information viewed under section 38H, finds information about travel within the 28-day period that relates to an arrival or departure, and to travel, by a person:
 - (b) the Customs wishes—
 - (i) to search information about other travel to determine whether it includes information that relates to that person; and
 - (ii) to view any information that relates to that person and is found as a result of the search.
- (3) In that situation, the Customs may without warrant—
 - (a) search information about other travel to determine whether it includes information that relates to the person; and
 - (b) view information in accordance with subsection (5).
- (4) However, the search may be conducted only if it can be completed within 14 days after the arrival or departure to which the information about travel within the 28-day period relates (see section 38H(5)(a)).

- (5) The Customs must not view information about other travel unless that information relates to the person and is found as a result of the search.
- (6) Powers under this section of viewing or searching are exercisable in a particular case even though, in the circumstances of that case, the purpose of the viewing or searching would not be, or would not be likely to be, frustrated if the viewing or searching were delayed until a warrant under section 38J could be obtained to authorise it.

Part 3A (sections 38A to 38Q) was inserted, as from 1 October 2004, by section 15 Customs and Excise Amendment Act 2004 (2004 No 55).

38J Search and viewing warrants

- (1) This section applies to the following situation:—
 - (a) the Chief Executive considers, in the light of information of any kind that is available to the Customs, that there are reasonable grounds to suspect that—
 - (i) there exists a risk or threat relevant to the purpose stated in section 38B(1); or
 - (ii) a relevant offence (as defined in subsection (6)) has been, is being, or will be committed:
 - (b) the Customs wishes—
 - (i) to search information to which access is given under section 38E to determine whether it includes information that is relevant to search criteria specified by the Customs (being search criteria that are reasonably related to the information available to the Customs that gives rise to the reasonable grounds to suspect required by paragraph (a)); and
 - (ii) to view any information that is relevant to the search criteria specified by the Customs and is found as a result of the search:
 - (c) the search cannot be conducted and the viewing done under section 38H or section 38I, or the Customs considers it would be inexpedient for those things to be done under section 38H or section 38I.

- (2) In that situation, the Chief Executive may, by application in writing made on oath, apply to a District Court Judge for a search and viewing warrant authorising—
 - (a) the carrying out of the search within 14 days after the day on which the warrant is granted (or within any extension of that period granted by a District Court Judge on an application in writing for the purpose made within that period); and
 - (b) the viewing by the Customs of any information that is relevant to the search criteria specified by the Customs and that is included in information to which access is given under section 38E, but of no other information.
- (3) The application must give details of the reasonable grounds to suspect required by subsection (1), of the information available to the Customs that gives rise to those reasonable grounds to suspect, and of the search criteria specified by the Customs, and it must also indicate whether the search is to be of all, or of only a specified part or parts, of the information to which access is given under section 38E.
- (4) On an application under subsection (2), a District Court Judge may grant a search and viewing warrant in the prescribed form, but only if he or she is satisfied that—
 - (a) the reasonable grounds to suspect required by subsection (1) exist; and
 - (b) the search criteria specified by the Customs are reasonably related to the information available to the Customs that gives rise to those reasonable grounds to suspect.
- (5) The warrant is sufficient authority for the doing of the things specified in subsection (2)(a) and (b).
- (6) In this section and section 38K, **relevant offence** means an offence described in section 38B(1)(b), or relevant to the purpose stated in section 38B(1) (except paragraph (b)).

Part 3A (sections 38A to 38Q) was inserted, as from 1 October 2004, by section 15 Customs and Excise Amendment Act 2004 (2004 No 55).

38K Search and viewing without warrant in emergencies

- (1) This section applies to the following situation:—
 - (a) the situation specified in section 38J(1) applies:

- (b) the Chief Executive considers that, if he or she were to apply to a District Court Judge for a search and viewing warrant under section 38J, the District Court Judge would grant the warrant:
 - (c) the Chief Executive also considers that delaying a search and any resulting viewing until a search and viewing warrant can be obtained under section 38J would create a real risk that—
 - (i) the countering of the risk or threat referred to in section 38J(1)(a)(i) would be frustrated; or (as the case requires)
 - (ii) the prevention, detection, investigation, prosecution, or punishment of the relevant offence would be frustrated.
- (2) In that situation, the Chief Executive may, with no further authority than this section, have the things specified in section 38J(2)(a) and (b) done as if the doing of those things were authorised by a search and viewing warrant under section 38J(4).
- (3) However, if the Chief Executive acts under subsection (2), he or she must within 72 hours apply under section 38J(2) for a search and viewing warrant in relation to the matter.

Part 3A (sections 38A to 38Q) was inserted, as from 1 October 2004, by section 15 Customs and Excise Amendment Act 2004 (2004 No 55).

38L Procedure if viewing of information not authorised

- (1) This subsection applies to both of the following situations:
- (a) the 72-hour period referred to in section 38K(3) expires and the Chief Executive has not made the application required by that subsection:
 - (b) the application required by section 38K(3) is made but, in response to it, either no warrant is granted under section 38J(4), or a warrant is granted under section 38J(4) authorising the doing of some only of the things done in reliance on section 38K(2).
- (2) In a situation to which subsection (1) applies, things done in reliance on section 38K(2) must, to the extent that the doing of those things is not authorised by a warrant granted under section 38J(4), be treated for the purposes only of the countering of the risk or threat referred to in section 38J(1)(a)(i) or (as

the case requires) of the prevention, detection, investigation, prosecution, or punishment of the relevant offence, as if they were done without the authority of section 38K or of a warrant granted under section 38J(4).

- (3) In a situation to which subsection (1) applies,—
 - (a) the Customs must destroy immediately information viewed by it in reliance on section 38K(2) and that is collected by it for a purpose specified in section 282A if the viewing of that information is not authorised by a warrant granted under section 38J(4); and
 - (b) other persons or bodies must destroy immediately information viewed by the Customs in reliance on section 38K(2) and disclosed by it to the other persons or bodies for a purpose specified in section 282A(2) and collected by the other persons or bodies if the viewing of that information is not authorised by a warrant granted under section 38J(4).

Part 3A (sections 38A to 38Q) was inserted, as from 1 October 2004, by section 15 Customs and Excise Amendment Act 2004 (2004 No 55).

38M Security of applications for warrants

- (1) As soon as an application under section 38J(2) has been determined by the Judge, the Registrar must place all documents relating to the application (except the warrant itself) in a packet, seal the packet, and thereafter keep it in safe custody, except as provided in this section.
- (2) Despite any enactment or rule of law or rules of Court entitling a party to proceedings to demand the production of documents, no party of that kind is entitled to demand the production of documents held in safe custody under subsection (1), except in accordance with this section.
- (3) Every party of that kind who requires the production of a document held in safe custody under subsection (1) must, except in a case to which subsection (9) or subsection (10) applies, apply in writing to the Registrar, who must promptly notify the Chief Executive.
- (4) If, within 3 days after notice is given to the Chief Executive under subsection (3), the Chief Executive gives written notice to the Registrar that he or she intends to oppose the produc-

tion of the documents, the Registrar must refer the matter to a District Court Judge.

- (5) If the Chief Executive does not give the written notice referred to in subsection (4), the Registrar must produce the documents to the party applying for production.
- (6) If a matter is referred to a Judge under subsection (4), both the person requesting production of the documents and the Chief Executive opposing production must be given an opportunity to be heard.
- (7) The Judge may order that all or a specified part of a document the production of which is in dispute not be produced if he or she is satisfied that—
 - (a) the document or part contains information of a kind referred to in section 38N(1); and
 - (b) production of that information would involve disclosure of a kind referred to in section 38N(2).
- (8) Subject to subsection (7), the Judge must order the production of the documents to the party requesting it.
- (9) If a request for the production of a document kept in safe custody under subsection (1) is made in the course of proceedings presided over by a District Court Judge and the request is opposed, the Judge must adjudicate upon the matter as if it had been referred to him or her under subsection (4).
- (10) If a request of that kind is made in the course of any other proceedings, the presiding judicial officer must promptly refer the matter to a District Court Judge for adjudication of the kind referred to in subsection (9).
- (11) Despite anything in this section, every District Court Judge or Judge of the High Court who is presiding over any proceedings in which the issue of a warrant under section 38J is in issue is entitled to inspect any relevant document held under subsection (1).

Compare: 1978 No 65 s 20

Part 3A (sections 38A to 38Q) was inserted, as from 1 October 2004, by section 15 Customs and Excise Amendment Act 2004 (2004 No 55).

38N Information and disclosure in section 38M(7)

- (1) Information falls within section 38M(7)(a) if it—

- (a) might lead to the identification of, or provide details of, the source of the information, the nature, content, or scope of the information, or the nature or type of the assistance or operational methods available to the Customs; or
 - (b) is about particular operations that have been undertaken, or are being or are proposed to be undertaken, in pursuance of any of the functions of the Customs; or
 - (c) has been provided to the Customs by the government of another country or by an agency of a government of another country or by an international organisation, and is information that cannot be disclosed by the Customs because the government or agency or organisation by which the information has been provided will not consent to the disclosure.
- (2) Disclosure of information falls within section 38M(7)(b) if the disclosure would be likely—
- (a) to prejudice the security or defence of New Zealand or the international relations of the Government of New Zealand; or
 - (b) to prejudice the entrusting of information to the Government of New Zealand on a basis of confidence by the government of another country or any agency of such a government, or by any international organisation; or
 - (c) to prejudice the maintenance of the law, including the prevention, investigation, and detection of offences, and the right to a fair trial; or
 - (d) to endanger the safety of any person.
- (3) In this section,—
- country** includes any State, territory, province, or other part of a country
- international organisation** means any organisation of States or Governments of States, or any organ or agency of any organisation of that kind.

Part 3A (sections 38A to 38Q) was inserted, as from 1 October 2004, by section 15 Customs and Excise Amendment Act 2004 (2004 No 55).

*Miscellaneous provisions***38O Disposal of information collected by Customs**

- (1) This section applies to information—
 - (a) viewed under any of sections 38G to 38K; and
 - (b) collected for a purpose specified in section 282A(2).
- (2) The Customs must, at least once every 6 months after this section comes into force, determine whether the retention of the information by the Customs continues to be necessary for that purpose and, if it is not, must dispose of the information promptly.
- (3) This section does not limit section 38L(3)(a).

Part 3A (sections 38A to 38Q) was inserted, as from 1 October 2004, by section 15 Customs and Excise Amendment Act 2004 (2004 No 55).

38P Protection of persons acting under authority of Part

Neither the Crown nor the Chief Executive or a Customs officer or an authorised person is liable for anything done or omitted to be done or purporting to have been done by a person in the exercise of a power conferred by this Part unless the person has not acted in good faith or has acted without reasonable care.

Part 3A (sections 38A to 38Q) was inserted, as from 1 October 2004, by section 15 Customs and Excise Amendment Act 2004 (2004 No 55).

38Q Part does not limit other access to or use of information

Nothing in this Part—

- (a) prevents a person concerned in the movement of goods, persons, or craft from giving Customs access to information otherwise than as required by or under this Part;
- (b) prevents the Customs from using otherwise than as provided in this Part information to which Customs is given access otherwise than as required by or under this Part;
- (c) affects any obligation a person may have to give the Customs advance notice of matters under section 21;
- (d) affects any obligation a person may have under this Act to make an entry in respect of goods that are imported or that are to be imported;
- (e) affects any powers the Customs has to collect and use information under section 279.

Part 3A (sections 38A to 38Q) was inserted, as from 1 October 2004, by section 15 Customs and Excise Amendment Act 2004 (2004 No 55).

Part 4

Entry and accounting for goods

Importation of goods

39 Entry of imported goods

- (1) Subject to any regulations made under section 40 of this Act, goods that are imported or that are to be imported must be entered by the importer—
 - (a) In such form and manner (including by electronic means into a computer or other device) as may be prescribed; and
 - (b) Within such time as may be prescribed or such further time as the Chief Executive may allow.
 - (2) Where any entry required by this section relates to goods that are dutiable in accordance with the volume of alcohol present in the goods, the person making the entry shall specify the volume of alcohol in the prescribed manner.
 - (3) Every person entering goods under this section must—
 - (a) Answer any question asked by a Customs officer with respect to the goods; and
 - (b) On the request of a Customs officer, present the goods to the officer, remove any covering from the goods, unload any conveyance or open any part of it, or open and unpack any package that the officer wishes to examine.
 - (3A) Every person entering goods under this section may, in accordance with any conditions a Customs officer may impose,—
 - (a) inspect the goods; or
 - (b) draw samples from the goods.
 - (4) If—
 - (a) Default is made in the entry of goods pursuant to this section; or
 - (b) The goods are not claimed within such period as may be prescribed,—duty becomes due and payable on the goods, and the goods may be sold or otherwise disposed of by the Chief Executive.
- Compare: 1966 No 19 ss 19, 55

Subsection (3A) was inserted, as from 27 September 2001, by section 3 Customs and Excise Amendment Act 2001 (2001 No 61).

40 Regulations relating to entry of imported goods

Without limiting the power to make regulations under section 286 of this Act, the Governor-General may from time to time, by Order in Council, make regulations—

- (a) Prescribing when an entry is deemed to have been made for the purposes of this Act; and
- (b) Prescribing the conditions under which an entry is deemed to have been passed for the purposes of this Act; and
- (c) Exempting specified goods or goods of a specified class from the requirements of section 39(1) of this Act, subject to such conditions as may be prescribed; and
- (d) Prescribing goods or classes of goods that shall be deemed to have been entered under section 39(1) of this Act and the circumstances in which and the conditions subject to which those goods shall be so deemed.

Compare: 1966 No 19 s 22; 1990 No 89 s 5

40A Fees and charges relating to importation of goods

- (1) Without limiting the power to make regulations under section 287, the Governor-General may, on the recommendation of the Minister, make regulations under section 287(1)(a) prescribing fees or charges, or both, that are payable to the Customs to meet or assist in meeting costs and expenses incurred by the Customs in exercising functions or powers, or performing duties, or providing services, under this Act that relate to the importation of goods.
- (2) The provisions of Part 8 that relate to the collection and recovery of duty apply to fees and charges prescribed by regulations of the kind described in subsection (1), as if those fees and charges were a duty.
- (3) Before making a recommendation under subsection (1) in relation to any proposed regulations, the Minister must be satisfied that the persons that the Minister considers are representative of interests likely to be substantially affected by the proposed regulations have been consulted about the proposed regula-

tions to the extent that is reasonably practicable having regard to the circumstances of the case.

- (4) For the purposes of subsection (3), the Minister may take into account any relevant consultation undertaken by or on behalf of the Minister before this section comes into force.
- (5) A failure to comply with subsection (3) does not affect the validity of any regulations of the kind described in subsection (1).

Section 40A was inserted, as from 9 October 2002, by section 4 Customs and Excise Amendment Act (No 2) 2002 (2002 No 31).

41 Imported goods to be dealt with according to entry

Goods in respect of which entry has been made and passed must forthwith be dealt with in accordance with the entry and with the provisions of this Act in respect of the goods so entered.

Compare: 1966 No 19 s 25(1)

42 Cancellation and amendments of entries

[Repealed]

Section 42 was repealed, as from 6 March 2007, by section 25 Customs and Excise Amendment Act 2007 (2007 No 9).

43 Unloading goods

No person shall unload goods that are subject to the control of the Customs from a craft except—

- (a) Pursuant to a permit or other authorisation granted by the Chief Executive, which permit or other authorisation shall be subject to such conditions as the Chief Executive may determine; or
- (b) Where the safety of the craft, or the goods or persons in the craft, is threatened by collision, fire, the stress of weather, or similar circumstances, or such other circumstances as may be prescribed.

Compare: 1966 No 19 s 50(1)

44 Craft imported otherwise than as cargo

- (1) Notwithstanding anything in this Act, such entries shall be made in respect of a craft imported into New Zealand other-

wise than as cargo as the Chief Executive may from time to time determine in relation to any craft or class of craft by notice in the *Gazette*.

- (2) For the purpose of making entries in respect of a craft imported into New Zealand otherwise than as cargo, the craft shall be deemed to have been imported as cargo and unloaded as such on its arrival.

Compare: 1966 No 19 s 56

45 Samples or illustrations

- (1) The importer of goods must furnish free of charge, such samples, illustrations, drawings, documents, or plans relating to the goods as may be required by a Customs officer for the purposes of analysis, classification, or record.
- (2) Any sample required to be furnished in accordance with subsection (1) must be as small as possible for the purpose for which it is taken.

Compare: 1966 No 19 s 61

Subsection (2) was inserted, as from 27 September 2001, by section 4 Customs and Excise Amendment Act 2001 (2001 No 61).

Transportation within New Zealand

46 Transportation of imported goods

Except as otherwise permitted by the Chief Executive, no goods subject to the control of the Customs shall be placed in a craft, vehicle, or other conveyance for transportation within New Zealand until entry has been made in accordance with section 39(1) of this Act.

Compare: 1966 No 19 s 62(1)

47 Removal of goods from Customs controlled area

- (1) Goods that are subject to the control of the Customs must not be delivered or removed from a Customs controlled area except—
- (a) As provided by this Act; or
 - (b) Subject to subsection (3) of this section, with the permission of a Customs officer after entry has been made and passed in the prescribed form and manner; or

- (c) Pursuant to a permit or other authorisation granted by the Chief Executive in respect of those goods, subject to such conditions as the Chief Executive may determine; or
 - (d) By a Customs officer in the performance of his or her duties under this Act.
- (2) The Chief Executive may, by notice in writing, vary or revoke any conditions to which a permit granted by the Chief Executive under subsection (1)(c) of this section is subject, or may revoke those conditions and impose new conditions or may revoke the permit completely.
 - (3) Notwithstanding subsection (1)(b) of this section, while goods remain subject to the control of the Customs, the Chief Executive may revoke any notice of delivery given in respect of those goods.
 - (4) A person who is dissatisfied with a decision of the Chief Executive under subsection (1)(c) or subsection (2) of this section may, within 20 working days after the date on which notice of the decision is given, appeal to a Customs Appeal Authority against that decision.

Compare: 1966 No 19 ss 52A(1) and 99(1)

48 Temporary removal of goods from Customs controlled area

- (1) Subject to section 156 of this Act and to any other provisions of this Act, the Chief Executive may permit goods to be temporarily removed from a Customs controlled area without payment of duty for such time and in such quantities as he or she may approve.
- (2) Goods so removed remain subject to the control of the Customs and are deemed to be within the Customs controlled area from which they were so removed, and the provisions of this Act continue to apply to them accordingly.

Compare: 1966 No 19 s 101

*Exportation of goods***49 Entry of goods for export**

- (1) Subject to any regulations made under section 50 of this Act, goods that are exported or that are to be exported must be entered by the exporter—
 - (a) In such form and manner (including by electronic means into a computer or other device) as may be prescribed; and
 - (b) Within such time as may be prescribed or such further time as the Chief Executive may allow.
- (2) Every person who makes an entry under this section must—
 - (a) Answer any question relevant to matters arising under this Act asked by a Customs officer with respect to the goods; and
 - (b) At the request of a Customs officer, present the goods to the officer, remove any covering from the goods, unload any conveyance or open any part of it, or open and unpack any package that the officer wishes to examine.
- (3) In the case of goods to be exported under drawback, the making of any such entry is deemed to be the making of a claim for drawback.
- (4) Unless the Chief Executive in any particular case otherwise determines, no right to drawback exists in the case of goods placed on a craft before entry has been made and passed.
- (5) Except as otherwise permitted by the Chief Executive, goods must not be loaded for export until entry has been made and passed in the prescribed form and manner.

Compare: 1966 No 19 ss 53, 63, 184

Subsection (5) was amended, as from 1 October 2004, by section 16 Customs and Excise Amendment Act 2004 (2004 No 55) by inserting “and passed” after the word “made”.

50 Regulations relating to entry of goods for export

Without limiting the power to make regulations under section 286 of this Act, the Governor-General may from time to time, by Order in Council, make regulations—

- (aa) prescribing the conditions under which an entry is deemed to have been passed for the purposes of this Act; and

- (a) Exempting specified goods or goods of a specified class from the requirements of section 49(1) of this Act, subject to such conditions as may be prescribed; and
- (b) Prescribing goods or classes of goods that shall be deemed to have been entered under section 49(1) of this Act and the circumstances in which and the conditions subject to which those goods shall be so deemed.

Paragraph (aa) was inserted, as from 1 October 2004, by section 17 Customs and Excise Amendment Act 2004 (2004 No 55).

50A Fees and charges relating to exportation of goods

- (1) The Governor-General may, on the recommendation of the Minister, make regulations under section 287(1)(a) prescribing fees or charges, or both, that are payable to the Customs to meet or assist in meeting costs and expenses incurred by the Customs in exercising functions or powers, or performing duties, or providing services, under this Act that relate to the exportation of goods.
- (2) The provisions of Part 8 that relate to the collection and recovery of duty apply to fees and charges prescribed by regulations of the kind described in subsection (1), as if those fees and charges were a duty.
- (3) Before making a recommendation under subsection (1) in relation to any proposed regulations, the Minister must be satisfied that the persons that the Minister considers are representative of interests likely to be substantially affected by the proposed regulations have been consulted about the proposed regulations to the extent that is reasonably practicable having regard to the circumstances of the case.
- (4) For the purposes of subsection (3), the Minister may take into account any relevant consultation undertaken by or on behalf of the Minister before this section comes into force.
- (5) A failure to comply with subsection (3) does not affect the validity of any regulations of the kind described in subsection (1).
- (6) Subsection (1) does not limit section 287.

Section 50A was inserted, as from 2 July 2004, by section 18 Customs and Excise Amendment Act 2004 (2004 No 55).

51 Goods for export to be dealt with according to entry

- (1) In the case of goods that have been entered for export, the person making the entry, or the owner of the goods, as the case may be, must forthwith export the goods to a point outside New Zealand in accordance with the entry and with the provisions of this Act relating to the exportation of goods.
- (2) If goods entered for export are not exported according to the entry, the person making the entry must immediately give notice to the Customs of the failure to export and the reasons for it and, in any such case, the Chief Executive—
 - (a) Shall cancel or amend the entry; and
 - (b) May, where applicable, allow the goods to be released from the control of the Customs.
- (3) Notwithstanding subsection (1) of this section, where the licence conditions of a Customs controlled area allow, an export entry may be made in the case of goods removed from that area for sales made for delivery to persons on their arrival in New Zealand from a point outside New Zealand.

Compare: 1966 No 19 ss 25, 66(1)

52 Goods for export not to be landed

No goods loaded for export shall, without the permission of a Customs officer, be landed except at a point outside New Zealand.

Compare: 1966 No 19 s 68(1)

53 Time of exportation

For the purposes of this Act, the time of exportation is the time when the exporting craft leaves the last Customs place at which that craft calls immediately before proceeding to a point outside New Zealand.

Compare: 1966 No 19 s 69

Customs seals

This heading was inserted, as from 2 July 2004, by section 19 Customs and Excise Amendment Act 2004 (2004 No 55).

53A Customs seal may be applied to goods for export

- (1) The Chief Executive may, by notice in writing specifying the date on and after which the appointment takes effect, appoint a Customs officer or other person to apply (including to reapply) Customs seals to packages of goods to be exported.
- (2) The notice must specify the circumstances in which the officer or other person may apply a Customs seal to a package of goods, and must prohibit him or her from applying a Customs seal in all other circumstances.
- (3) Without limiting the generality of subsection (2), the notice must specify that the officer or other person may apply a Customs seal to a package of goods to which no Customs seal has earlier been applied only if—
 - (a) the exporter concerned (or his or her agent or employee) consents to the seal being applied; or
 - (b) the seal is applied incidental to, and immediately after, the exercise by any person of a power under this Act to examine or search for goods of any kind.
- (4) The notice must also specify the circumstances in which the officer or other person may alter, remove, damage, dispose of, or otherwise interfere with a Customs seal applied to a package of goods, and must prohibit him or her from interfering in any way with a Customs seal of that kind in all other circumstances.
- (5) A notice of appointment under this section may be amended or revoked by the Chief Executive by a further notice in writing given to the officer or other person concerned and specifying the date on or after which the amendment or revocation takes effect.

Sections 53A to 53J were inserted, as from 2 July 2004, by section 19 Customs and Excise Amendment Act 2004 (2004 No 55).

53B Warning notices for packages to which seal applied

A notice of appointment under section 53A must also require the officer or other person concerned, on applying a Customs seal to a package of goods that are not goods to be exported under a Customs-approved secure exports scheme, to ensure that there is attached to the package a warning notice that explains in terms approved by the Chief Executive—

- (a) that the goods in the package are, from the time when a Customs seal is first applied to the package until the exportation of the goods to a point outside New Zealand, goods subject to the control of the Customs:
- (b) that the powers of detention and search in section 144(4) are available in respect of a vehicle in New Zealand if there are suspected to be in or on the vehicle goods that are, or are suspected to be,—
 - (i) subject to the control of the Customs; and
 - (ii) in a package to which a Customs seal has been applied:
- (c) that a Customs officer may, under section 146(2), question any or all of the following persons about any cargo destined to be exported from New Zealand:
 - (i) a person who is the owner or operator of a vehicle that a Customs officer has reasonable cause to suspect has in or on it, or has within the previous 72 hours had in or on it, goods subject to the control of the Customs and in a package to which a Customs seal has been applied:
 - (ii) a person who is the owner or occupier of premises that a Customs officer has reasonable cause to suspect have in or on them, or have within the previous 72 hours had in or on them, goods subject to the control of the Customs and in a package to which a Customs seal has been applied:
 - (iii) a person employed by a person described in subparagraph (i) or (ii):
- (d) that the powers in section 151 (which include powers of examination) are available in respect of goods that are, or are suspected to be,—
 - (i) subject to the control of the Customs; and
 - (ii) in a package to which a Customs seal has been applied.

Sections 53A to 53J were inserted, as from 2 July 2004, by section 19 Customs and Excise Amendment Act 2004 (2004 No 55).

Customs-approved secure exports schemes

This heading was inserted, as from 2 July 2004, by section 19 Customs and Excise Amendment Act 2004 (2004 No 55).

53C Chief Executive may approve secure exports scheme

- (1) On an application for the purpose in writing by a person involved in the carriage, handling, transportation, or exportation of goods for export (in this section and sections 53F and 53I called an **exporter**), the Chief Executive may approve a secure exports scheme, and so make it a Customs-approved secure exports scheme.
- (2) The Chief Executive must ensure that the exporter concerned is notified promptly and in writing of any decision to give or to decline an approval under this section.
- (3) An approval under this section must be in writing, may be given subject to any conditions the Chief Executive specifies in the approval, and takes effect either on the day after the date on which it is given or on any later date specified in the approval.
- (4) An approval under this section may be revoked by the Chief Executive by notice in writing given to the exporter concerned and specifying both any conditions to which the revocation is subject and the date on or after which the revocation takes effect.
- (5) Subsections (1) to (4) apply (with all necessary modifications) to any amendment to a secure exports scheme.
- (6) On an application for the purpose by the exporter concerned, the Chief Executive must revoke an approval under this section of all of a secure exports scheme. However, the revocation must be subject to the condition that goods remain subject to the scheme until exported if, at the time the revocation takes effect, the goods have been secured in a Customs-approved secure package under the scheme but not yet exported.
- (7) An applicant who is dissatisfied with a decision of the Chief Executive under this section may, within 20 working days after the date on which notice of the decision is given, appeal to a Customs Appeal Authority against that decision.

Sections 53A to 53J were inserted, as from 2 July 2004, by section 19 Customs and Excise Amendment Act 2004 (2004 No 55).

53D Purpose of secure exports scheme

The purpose of a secure exports scheme is to help to ensure that goods to be exported under the scheme are—

- (a) packaged securely and with no other goods; and
- (b) conveyed securely and without interference to the place of shipment and shipped.

Sections 53A to 53J were inserted, as from 2 July 2004, by section 19 Customs and Excise Amendment Act 2004 (2004 No 55).

53E Matters to be specified in secure exports scheme

- (1) A secure exports scheme must specify how the goods to be exported under the scheme are to be packed, including—
 - (a) the secure package to be used;
 - (b) the seal or markings to be applied to the package, as soon as it is secured,—
 - (i) to show that, when it was secured, the package contained only the goods, and was secured in an approved way; and
 - (ii) to help to identify tampering or interference with the package after it is secured.
- (2) A secure exports scheme must also specify any conditions required by the Chief Executive as to—
 - (a) the persons who are to pack the goods, and the security checks to be applied to those persons;
 - (b) the conditions in which packing is to occur (for example, the area or areas in which packing is to occur, and the controls on the entry and exit of persons and goods to that area or those areas);
 - (c) any other requirements relating to how the goods are to be packed.
- (3) A secure exports scheme must also specify how, on the completion of the packing of the goods, the goods are to be conveyed to the place of shipment and shipped, including any conditions required by the Chief Executive as to—
 - (a) the persons who are to convey the goods, and the security checks to be applied to those persons;
 - (b) the manner in which the goods are to be conveyed;
 - (c) any place or places of security en route to the place of shipment in which the goods are to be stored in the course of being conveyed to the place of shipment and shipped.

Sections 53A to 53J were inserted, as from 2 July 2004, by section 19 Customs and Excise Amendment Act 2004 (2004 No 55).

53F Matters to be acknowledged in secure exports scheme

A secure exports scheme must include express acknowledgements by the exporter concerned—

- (a) that the goods to be exported under the scheme are, from the time when they are first secured in a Customs-approved secure package until the exportation of the goods to a point outside New Zealand, goods subject to the control of the Customs:
- (b) that the powers of detention and search in section 144(4) are available in respect of a vehicle in New Zealand if there are suspected to be in or on the vehicle goods that are, or are suspected to be,—
 - (i) subject to the control of the Customs; and
 - (ii) in a Customs-approved secure package:
- (c) that a Customs officer may, under section 146(2), question any or all of the following persons about any cargo destined to be exported from New Zealand:—
 - (i) a person who is the owner or operator of a vehicle that a Customs officer has reasonable cause to suspect has in or on it, or has within the previous 72 hours had in or on it, goods subject to the control of the Customs and in a Customs-approved secure package:
 - (ii) a person who is the owner or occupier of premises that a Customs officer has reasonable cause to suspect have in or on them, or have within the previous 72 hours had in or on them, goods subject to the control of the Customs and in a Customs-approved secure package:
 - (iii) a person employed by a person described in subparagraph (i) or (ii):
- (d) that the powers in section 151 (which include powers of examination) are available in respect of goods that are, or are suspected to be,—
 - (i) subject to the control of the Customs; and
 - (ii) in a Customs-approved secure package.

Sections 53A to 53J were inserted, as from 2 July 2004, by section 19 Customs and Excise Amendment Act 2004 (2004 No 55).

53G Goods to be exported under Customs-approved secure exports scheme may be exported under drawback

- (1) Goods to be exported under a Customs-approved secure exports scheme may be exported under drawback.
- (2) If goods to be exported under a Customs-approved secure exports scheme are exported under drawback, then all conditions (if any) as may be prescribed for allowing drawback of duty must be satisfied, even though satisfying those conditions may involve conveying or handling or storing the goods in a way not specified in the scheme.

Sections 53A to 53J were inserted, as from 2 July 2004, by section 19 Customs and Excise Amendment Act 2004 (2004 No 55).

53H Application of Customs seals to goods to be exported under Customs-approved secure exports schemes

- (1) Nothing in this Act prevents a Customs seal from being applied to a Customs-approved secure package after an approved seal or markings of the kind referred to in section 53E(1)(b) have been applied to the package in accordance with the relevant Customs-approved secure exports scheme.
- (2) Goods to be exported under a Customs-approved secure exports scheme must not be regarded as no longer to be exported under the scheme just because 1 or more Customs seals have been applied to the Customs-approved secure package concerned.

Sections 53A to 53J were inserted, as from 2 July 2004, by section 19 Customs and Excise Amendment Act 2004 (2004 No 55).

53I Exporters may be involved in exportation of goods outside Customs-approved secure exports scheme

- (1) This section applies to an exporter involved in the carriage, handling, transportation, or exportation of goods for export under 1 or more Customs-approved secure exports schemes.
- (2) Nothing in this Act prevents the exporter from being involved in the carrying, handling, transportation, or exportation of

goods for export otherwise than under that scheme or those schemes.

Sections 53A to 53J were inserted, as from 2 July 2004, by section 19 Customs and Excise Amendment Act 2004 (2004 No 55).

53J Review of Customs-approved secure exports scheme

The Chief Executive may, at any time, review the operation of any Customs-approved secure exports scheme.

Sections 53A to 53J were inserted, as from 2 July 2004, by section 19 Customs and Excise Amendment Act 2004 (2004 No 55).

Part 5
Prohibited imports and prohibited exports

54 Prohibited imports

- (1) It is unlawful to import into New Zealand—
- (a) Any of the goods specified in Schedule 1 to this Act; or
 - (aa) all publications as defined in section 2 of the Films, Videos, and Publications Classification Act 1993 that are objectionable within the meaning of that Act in the hands of all persons and for all purposes; and all other indecent or obscene articles; or
 - (b) Goods the importation of which is prohibited by an Order in Council made under subsection (2) of this section.
- (1A) Electronic publications the importation of which is prohibited by subsection (1)(aa) must be treated as if they were goods for the purposes of this Act (except for section 12 of the Goods and Services Tax Act 1985 which is deemed by section 1(3) of that Act to be part of this Act).
- (2) The Governor-General may from time to time, by Order in Council, prohibit the importation into New Zealand of—
- (a) Any specified goods; or
 - (b) Goods of a specified class or classes,—
if, in the opinion of the Governor-General, the prohibition is necessary in the public interest.
- (3) A prohibition imposed under this section—
- (a) May be general; or

- (b) May be limited to the importation of goods from a specified place or by or from a specified person or class of persons; or
 - (c) May, whether general or limited, be absolute or conditional.
- (4) A 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), or a consent, to be granted by the Chief Executive or by any other person named in the Order in Council, on or subject to such terms or conditions (if any) not inconsistent with the provisions of the prohibition, as may be imposed by the Chief Executive or other person granting the licence, permit, or consent; or
 - (b) On or subject to any other prescribed conditions.
- (5) An Order in Council made under subsection (2) of this section shall,—
 - (a) If made on or before the 30th day of June in any year, expire on the close of the 31st day of December of that year except so far as it is expressly confirmed by Act of Parliament passed during that year; and
 - (b) If made on or after the 1st day of July in any year, expire on the close of the 31st day of December in the following year except so far as it is expressly confirmed by Act of Parliament passed before the end of that following year.
- (6) The expiry of an Order in Council under subsection (5) of this section shall not affect the validity of any act done pursuant to or in accordance with the provisions of that Order in Council before the date on which the Order in Council expires in accordance with that subsection.
- (7) No goods otherwise dutiable are exempt from duty because their importation is unlawful.
- (8) All Orders in Council made under the Customs Act 1966 in force at the commencement of this Act prohibiting the importation of goods into New Zealand are deemed to have been made and confirmed under this section and shall continue in

force in accordance with the provisions of section 55 of this Act.

Compare: 1966 No 19 s 48(2), (3)(a), (4), (5), (6), (12)

Subsection (1)(aa) was inserted, as from 9 October 2002, by section 5(1) Customs and Excise Amendment Act (No 2) 2002 (2002 No 31).

Subsection (1)(aa) was substituted, as from 22 February 2005, by section 40 Films, Videos, and Publications Classification Amendment Act 2005 (2005 No 2).

Subsection (1A) was inserted, as from 9 October 2002, by section 5(2) Customs and Excise Amendment Act (No 2) 2002 (2002 No 31).

55 Duration of Orders in Council prohibiting imports

- (1) Subject to subsection (2) of this section, an Order in Council made under section 54 of this Act shall expire 3 years after the date on which it comes into force.
- (2) Subsection (1) of this section shall not apply where it is expressly provided in the Order in Council that it will expire after a period of less than 3 years, or if the Order in Council is sooner revoked.
- (3) Where an Order in Council made under section 54 of this Act would otherwise expire under subsection (1) of this section, the Governor-General may from time to time, by Order in Council, extend for a further period of 3 years or such lesser period as may be specified, the period for which that Order in Council shall be in force.
- (4) For the purposes of subsections (1) to (3) of this section, but not for any other purposes, the Orders in Council referred to in section 54(8) of this Act shall be deemed to have been made on the date that this Act comes into force.

56 Prohibited exports

- (1) It is unlawful to export from New Zealand—
 - (a) all publications as defined in section 2 of the Films, Videos, and Publications Classification Act 1993 that are objectionable within the meaning of that Act in the hands of all persons and for all purposes; and
 - (b) goods or electronic publications the exportation of which is prohibited by an order under subsection (2)(a) or (b); and

- (c) goods or electronic publications the exportation of which the Secretary has determined is prohibited under an order under subsection (2)(c).
- (1A) Electronic publications the exportation of which is prohibited by subsection (1) must be treated as if they were goods for the purposes of this Act (except for section 12 of the Goods and Services Tax Act 1985 which is deemed by section 1(3) of that Act to be part of this Act).
- (2) If the Governor-General considers prohibition is necessary in the public interest, the Governor-General may by Order in Council prohibit the exportation from New Zealand of any or all of the following:
- (a) any specified—
 - (i) electronic publications that have or may have a strategic use; or
 - (ii) goods; or
 - (b) a specified class or classes of—
 - (i) electronic publications that have or may have a strategic use; or
 - (ii) goods; or
 - (c) goods or electronic publications described by any use to which—
 - (i) they may be put; or
 - (ii) any information recorded on them may be put; or
 - (iii) any information capable of being derived from them may be put.
- (2A) For the purposes of this section,—
- military** includes any armed force, paramilitary force, police force, or militia
- Secretary** means the Secretary of Foreign Affairs and Trade
- software** is, depending on its form, either goods or an electronic publication
- strategic use**, in relation to goods or an electronic publication, means use of the goods or electronic publication for any or all of the following
- (a) the development, production, or deployment of nuclear explosive devices (as defined in section 2 of the New

- Zealand Nuclear Free Zone, Disarmament, and Arms Control Act 1987) and their means of delivery:
- (b) the development, production, or deployment of biological weapons (as defined in section 2 of the New Zealand Nuclear Free Zone, Disarmament, and Arms Control Act 1987) and their means of delivery:
 - (c) the development, production, or deployment of chemical weapons (as defined in the Schedule of the Chemical Weapons (Prohibition) Act 1996) and their means of delivery:
 - (d) military use or applications; or the development, production, or deployment of military goods or other goods that have a civilian use but that are intended for military use or that may have military applications.
- (2B) An order under subsection (2)(c) must describe goods or electronic publications by reference only to uses that relate (directly or indirectly) to either or both of the following:
- (a) where contrary to New Zealand's interests, strategic uses:
 - (b) terrorist acts (as defined in section 5 of the Terrorism Suppression Act 2002).
- (2C) The Secretary may determine that any goods or electronic publications are goods or electronic publications described by an order under subsection (2)(c).
- (2D) As soon as practicable after making a determination under subsection (2C), the Secretary must give notice in writing (which includes, without limitation, by facsimile or electronic means) of the determination to the Chief Executive and to each relevant exporter.
- (2E) The relevant exporter is deemed to have received the Secretary's notice under subsection (2D) in accordance with section 285.
- (2F) If any person is aware or should reasonably be aware that any goods or electronic publications the person wishes to export are intended for or may have any of the uses described in an order made under subsection (2)(c), the person must, before exporting the goods or electronic publications, inform the Secretary.

- (2G) The Secretary must maintain an up-to-date list of all goods, classes of goods, electronic publications, and classes of electronic publications that are prohibited under subsection (2)(a) and (b) because they have or may have a strategic use.
- (2H) The Secretary must make the list maintained under subsection (2G) available by—
- (a) notifying the Chief Executive of it; and
 - (b) publishing it on the Internet (at all reasonable times) on a website maintained by, or on behalf of, the Secretary.
- (2I) Any failure to publish a list under subsection (2H) does not invalidate the prohibition of goods or electronic publications mentioned in the list.
- (3) A prohibition imposed under this section—
- (a) May be general; or
 - (b) May be limited to the export of goods or electronic publications to a specified place or by or to a specified person or class of persons; or
 - (c) May, whether general or limited, be absolute or conditional.
- (4) A conditional prohibition may allow the exportation of goods or electronic publications—
- (a) Under the authority of a licence, permit, or consent, to be granted by the Chief Executive or by any other person named in the Order in Council, on or subject to such terms or conditions (if any) not inconsistent with the provisions of the prohibition, as may be imposed by the Chief Executive or other person granting the licence, permit, or consent; or
 - (b) On or subject to any other prescribed conditions.
- (5) An Order in Council made under subsection (2) of this section shall,—
- (a) If made on or before the 30th day of June in any year, expire on the close of the 31st day of December of that year except so far as it is expressly confirmed by Act of Parliament passed during that year; and
 - (b) If made on or after the 1st day of July in any year, expire on the close of the 31st day of December in the following year except so far as it is expressly confirmed by

Act of Parliament passed before the end of that following year.

- (6) The expiry of an Order in Council under subsection (5) of this section shall not affect the validity of any act done pursuant to or in accordance with the provisions of that Order in Council before the date on which the Order in Council expires in accordance with that subsection.
- (7) No prohibition under this section applies to goods that are already loaded into the exporting craft at the time when the prohibition comes into force.
- (8) Unless otherwise specified in the order, an Order in Council under this section prohibiting the exportation of goods extends to and applies to the shipment of the goods for use as stores by a craft.

Compare: 1966 No 19 s 70(2)-(4), (8), (9)

Subsection (1) was substituted, as from 22 February 2005, by section 41 Films, Videos, and Publications Classification Amendment Act 2005 (2005 No 2).

Subsection (1)(b) was substituted, as from 6 March 2007, by section 8(1) Customs and Excise Amendment Act 2007 (2007 No 9).

Subsection (1)(c) was inserted, as from 6 March 2007, by section 8(1) Customs and Excise Amendment Act 2007 (2007 No 9).

Subsection (1A) was inserted, as from 22 February 2005, by section 41 Films, Videos, and Publications Classification Amendment Act 2005 (2005 No 2).

Subsection (1A) was amended, as from 6 March 2007, by section 8(2) Customs and Excise Amendment Act 2007 (2007 No 9) by substituting “subsection (1)” for “subsection (1)(a)”.

Subsection (2) was substituted, as from 6 March 2007, by section 8(3) Customs and Excise Amendment Act 2007 (2007 No 9).

Subsections (2A) to (2I) were inserted, as from 6 March 2007, by section 8(3) Customs and Excise Amendment Act 2007 (2007 No 9).

Subsection (3)(b) was amended, as from 6 March 2007, by section 8(4) Customs and Excise Amendment Act 2007 (2007 No 9) by inserting “or electronic publications” after “goods”.

Subsection (4) was amended, as from 6 March 2007, by section 8(5) Customs and Excise Amendment Act 2007 (2007 No 9) by inserting “or electronic publications” after “goods”.

57 Duration of Orders in Council prohibiting exports

- (1) Subject to subsection (2) of this section, an Order in Council made under section 56 of this Act shall expire 3 years after the date on which it comes into force.

- (2) Subsection (1) of this section shall not apply where it is expressly provided in the Order in Council that it will expire after a period of less than 3 years, or if the Order in Council is sooner revoked.
- (3) Where an Order in Council made under section 56 of this Act would otherwise expire under subsection (1) of this section, the Governor-General may from time to time, by Order in Council, extend for a further period of 3 years or such lesser period as may be specified, the period for which that Order in Council shall be in force.

58 Production of licence or permit for goods

Where, under this Act or any other Act or under any regulations or order made under this Act or any other Act, the importation or exportation of goods, or of goods of any class or kind, is prohibited except under the authority of a licence or permit, the Chief Executive may, if he or she thinks fit, refuse to pass an entry for those goods, or for goods of that class or kind until he or she is satisfied that a licence or permit has been issued.

Compare: 1966 No 19 s 57

Part 6 Duties

59 Certain terms defined in Tariff Act 1988

For the purposes of this Act, unless the context otherwise requires, the terms **Normal Tariff**, **Preferential Tariff**, **rate of duty**, **Standard Tariff**, **Tariff**, **Tariff heading**, and **Tariff item** have the meanings given to them by section 2 of the Tariff Act 1988.

Valuation of goods

60 Importer to specify Customs value on entry

- (1) Every person who makes entry of goods imported or to be imported must, on making entry, specify the Customs value of the goods, determined in accordance with Schedule 2 to this Act.

- (2) Every importer or agent of an importer who makes an assessment pursuant to subsection (1) of this section must—
- (a) Keep the documents, records, and information in respect of that entry in such manner and for such period as is required by section 95 of this Act and any regulations made for the purposes of that section; and
 - (b) When required by the Customs, produce those documents, records, and information for the purpose of establishing the accuracy of the assessment.

Compare: 1966 No 19 section 140; 1981 No 20 s 10

61 Amendment of valuation assessment

- (1) If the Chief Executive is satisfied, whether as the result of an investigation carried out pursuant to section 155 of this Act, or as the result of an audit or examination carried out pursuant to section 159 of this Act, or for any other reason, that an assessment made under section 60(1) of this Act in respect of goods is—
- (a) Inconsistent with Schedule 2 to this Act; or
 - (b) For any other reason, incorrect,—
- the Chief Executive may amend that assessment, and that amended assessment shall be the Customs value for the purposes of this Act.
- (2) Notice in writing must be given to the importer of—
- (a) An amended assessment made pursuant to subsection (1) of this section; and
 - (b) The basis for the amended assessment, and where applicable, the provisions of Schedule 2 to this Act that are relevant to the amended assessment.
- (3) Subsection (1) of this section applies whether or not the goods have been released from the control of the Customs or whether or not any duty assessed has been paid.
- (4) An importer who is dissatisfied with a decision of the Chief Executive under this section may, within 20 working days after the date on which notice of the decision is given, appeal to a Customs Appeal Authority against that decision.

Compare: 1966 No 19 s 140, 152B; 1981 No 20 s 7

62 Foreign currency

- (1) Where an amount that is required under a provision of this Act to be taken into account for the purpose of assessing duty or for any other purpose is not an amount in New Zealand currency, the amount to be so taken into account shall be the equivalent amount in New Zealand currency in accordance with a fair rate of exchange determined by the Chief Executive and notified by such method as may be prescribed.
- (2) Where an amount is required to be converted into New Zealand currency pursuant to subsection (1) of this section, the amount shall be converted,—
 - (a) In the case of goods in respect of which an entry has been made, at the rate applying as at the date of the making of the first entry (not being an entry for removal) for those goods:
 - (b) In the case of other goods, at the rate applying as at the date of the first assessment of Customs duty on those goods.

Compare: 1966 No 19 s 143; 1985 No 145 s 10

63 Crown's right of compulsory acquisition

- (1) For the protection of the revenue against the undervaluation of goods subject to ad valorem duty, goods in respect of which entry is made may, at any time while they remain subject to the control of the Customs, be acquired by the Crown.
- (2) The right of taking goods under subsection (1) of this section may be exercised by the Chief Executive, and the acquisition of the goods is effected as soon as a warrant in the prescribed form for their acquisition is signed by the Chief Executive.
- (3) Goods become the property of the Crown under this section on the signing of the warrant.
- (4) Notice in writing that the Chief Executive has signed a warrant under this section shall be given to the importer immediately after the signing of the warrant.
- (5) Goods acquired by the Crown under this section must, where no appeal is made under subsection (8) of this section, be sold by the Chief Executive or by his or her agent and the proceeds of sale must be accounted for as Customs revenue.

- (6) The price payable by the Crown for the goods acquired under this section shall be—
- (a) Equal to their declared Customs value with the addition of—
 - (i) Such charges for freight, insurance, and other matters incidental to their importation as the Chief Executive thinks reasonable; and
 - (ii) Any duties already paid on the goods; and
 - (b) Paid to the importer without further appropriation than this section within 10 working days of the acquisition of the goods.
- (7) Nothing in this section limits or affects any other powers of the Customs in respect of the goods or any liability of the importer or any other person in respect of an offence committed in respect of the goods.
- (8) An importer who is dissatisfied with a decision of the Chief Executive under this section may, within 20 working days after the date on which notice of the decision is given, appeal to a Customs Appeal Authority against that decision.

Compare: 1966 No 19 s 147; 1981 No 20 s 11

Origin and Preferential Tariff provisions

64 Origin of fish or other produce of the sea

- (1) In the case of fish or other produce of the sea, or goods produced or manufactured wholly or partly therefrom at sea, anything done by or on board a ship belonging to a country (other than New Zealand) is deemed, for the purposes of this Act and the Tariff Act 1988, to have been done in that country, and any such produce of the sea or goods so produced or manufactured at sea, if brought direct to New Zealand, are deemed to be imported into New Zealand from that country.
- (2) If any question arises as to the country to which any ship belongs for the purposes of subsection (1) of this section, the question shall be determined by the Chief Executive.
- (3) A person who is dissatisfied with a decision of the Chief Executive under this section may, within 20 working days after

the date on which notice of the decision is given, appeal to the Customs Appeal Authority against that decision.

Compare: 1966 No 19 s 148(2), (3)

Subsection (2) was amended, as from 27 September 2001, by section 5(1) Customs and Excise Amendment Act 2001 (2001 No 61) by omitting “, whose decision shall be final”.

Subsection (3) was inserted, as from 27 September 2001, by section 5(2) Customs and Excise Amendment Act 2001 (2001 No 61).

64A New Zealand certificates of origin for goods for export to China

- (1) A body authorised by the chief executive under section 64B (a **certification body**) may issue a New Zealand certificate of origin in respect of goods for export to China.
- (2) A New Zealand certificate of origin, in respect of goods for export to China, is a document issued by a certification body that—
 - (a) identifies the goods to which it relates; and
 - (b) certifies that those goods originate in New Zealand.
- (3) Goods originate in New Zealand if, for the purposes of the China FTA, the goods satisfy the requirements of the rules of origin prescribed for the China FTA.
- (4) For the purposes of this section, **China FTA** means the Free Trade Agreement between the Government of New Zealand and the Government of the People’s Republic of China done at Beijing on 7 April 2008.

Section 64A: inserted, on 29 July 2008, by section 5 of the Customs and Excise Amendment Act 2008 (2008 No 50).

64B Bodies authorised to issue New Zealand certificates of origin

- (1) The chief executive may designate a body as a certification body if the chief executive is satisfied that the body meets the prescribed criteria (if any).
- (2) A designation may be subject to any prescribed terms and conditions and any additional terms and conditions the chief executive thinks fit.

Section 64B: inserted, on 29 July 2008, by section 5 of the Customs and Excise Amendment Act 2008 (2008 No 50).

64C Regulations relating to New Zealand certificates of origin and certification bodies

Without limiting the power to make regulations conferred by section 286, the Governor-General may make regulations for any of the following purposes:

- (a) prescribing forms for the purposes of sections 64A and 64B; and
- (b) prescribing the manner in which applications for designation as a certification body must be made; and
- (c) prescribing criteria for certification bodies; and
- (d) prescribing terms and conditions subject to which designations as a certification body may be made; and
- (e) prescribing fees.

Section 64C: inserted, on 29 July 2008, by section 5 of the Customs and Excise Amendment Act 2008 (2008 No 50).

65 Regulations for determining country of produce or manufacture

Without limiting the power to make regulations conferred by section 286, the Governor-General may from time to time, by Order in Council, make regulations for all the following purposes:

- (a) prescribing the goods or any type or class of goods that are deemed to be the produce or manufacture of any country or group of countries—
 - (i) for the purposes of this Act; or
 - (ii) for the purposes of the Tariff Act 1988, on the recommendation of the Minister after consultation with the Minister of Commerce; and
- (b) prescribing the conditions to be fulfilled before goods are deemed to be the produce or manufacture of any country; and
- (c) authorising the Chief Executive to determine (in relation to specific goods)—
 - (i) that the percentage of the goods' factory or works costs is to be increased or decreased:
 - (ii) the valuation or method of valuation (including a reduced or zero valuation) if any material, labour,

- or overhead used in the goods production has been supplied free of charge or at a reduced cost:
- (iii) the required percentage of qualifying area content in case of unforeseen circumstances that are unlikely to continue:
 - (iv) variations or conditions relating to the goods entering the commerce of another country.

Section 65 was substituted, as from 6 March 2007, by section 9 Customs and Excise Amendment Act 2007 (2007 No 9).

66 Conditions precedent to entry of goods at preferential rates of duty

- (1) Where it is claimed in respect of any goods that they are entitled under this Act or any other Act or authority to be entered free of duty or at any rate of duty lower than that set forth in the Normal Tariff in respect of such goods, the Chief Executive may require the claim to be verified at the time of entry or at any subsequent time (including any time after the goods have ceased to be subject to the control of the Customs).
- (2) Where the Chief Executive requires such a claim to be verified at the time of entry of the goods and the claim is not verified to the satisfaction of the Chief Executive at that time, the goods in respect of which the claim has been made shall not be so entered.

Compare: 1966 No 19 s 150; 1981 No 20 s 12; 1988 No 155 s 18; 1991 No 84 s 4(1)

67 Unsubstantiated preference claims

- (1) If the Chief Executive is satisfied, whether as the result of an investigation carried out pursuant to section 155 of this Act, or as the result of an audit or examination carried out pursuant to section 159 of this Act, or for any other reason, that the country of which goods are the produce or manufacture cannot be ascertained because no evidence can be found, or the available evidence is inconclusive as to that country, the goods are deemed, for the purposes of this Act or any other Act or authority to be the produce or manufacture of a country subject to the rates of duty set out in the Normal Tariff.

- (2) An importer shall be advised by notice in writing of a decision of the Chief Executive under this section.
- (3) An importer who is dissatisfied with a decision of the Chief Executive under this section may, within 20 working days after the date on which notice of the decision is given, appeal to a Customs Appeal Authority against that decision.
- (4) This section applies whether or not the goods have been released from the control of the Customs.

Compare: 1966 No 19 s 151(1), (4); 1985 No 145 s 13

Part 7

Excise and excise-equivalent duties

68 Manufacture of excisable goods

Subject to such exceptions as may be provided for under this Act, no person shall manufacture goods specified in Part A of Schedule 3 to this Act except in a manufacturing area that is licensed under this Act.

Compare: 1966 No 19 s 108; 1986 No 44 s 11

68A Exemption for tobacco manufactured for personal use

- (1) Section 68 does not apply to the manufacture of tobacco in a private house or dwelling place, but only if and as long as the conditions specified in subsection (2) are met.
- (2) The conditions are as follows:
 - (a) the tobacco must be manufactured by an individual (the **individual**) who is 18 years or older;
 - (b) the individual must manufacture the tobacco in the individual's private house or dwelling place, for the individual's personal use and not for sale to any other person;
 - (c) the leaves or plants used in the manufacture of the tobacco must have been grown—
 - (i) on the land on which the individual's private house or dwelling place is located; and
 - (ii) for the individual's personal use and not for sale or other disposition to any other person;
 - (d) the amount of manufactured tobacco that is manufactured in the individual's private house or dwelling place,

in any year ending with 30 June, must not exceed 15 kilograms.

Section 68A: inserted, on 1 October 2008, by section 8 of the Customs and Excise Amendment Act (No 3) 2008 (2008 No 68).

69 Goods deemed to have been manufactured

For the purposes of this Act,—

- (a) Compressed natural gas is deemed to have been manufactured by a licensee of a manufacturing area when natural gas supplied by the licensee to a compressed natural gas fuelling facility is compressed for use as a motor vehicle fuel:
- (b) Goods on which work has been done by a contractor shall be deemed to have been manufactured by the contractor.

Compare: 1966 No 19 s 113(1); 1986 No 44 s 11

70 Entry of excisable goods

- (1) Subject to any regulations made under section 71 of this Act, all goods that are specified in Part A of Schedule 3 to this Act must, on removal from a Customs controlled area, be entered—
 - (a) In such form and manner (including by electronic means into a computer or other device) as may be prescribed; and
 - (b) Within such time as may be prescribed.
- (1A) Goods required to be entered under subsection (1) must be entered—
 - (a) By the licensee of the Customs controlled area from which the goods are removed; or
 - (b) In such circumstances as may be prescribed by regulations made under section 71, by the owner of the goods.
- (2) Where any entry required by this section relates to goods that are dutiable in accordance with the volume of alcohol present in the goods, the person making the entry shall specify the volume of alcohol in the prescribed manner.
- (3) Goods in respect of which entry has been made and passed must forthwith be dealt with in accordance with the entry and

with the provisions of this Act in respect of the goods so entered.

Compare: 1966 No 19 ss 115, 116, 117, 118; 1986 No 44 s 11

Subsection (1) was amended, as from 3 June 1998, by section 4(1) Customs and Excise Amendment (No 2) 1998 (1998 No 38) by omitting “by the licensee of that area”.

Subsection (1A) was inserted, as from 3 June 1998, by section 4(2) Customs and Excise Amendment (No 2) 1998 (1998 No 38).

Subsection (1A)(b) was amended, as from 8 January 2003, by section 6 Customs and Excise Amendment Act (No 2) 2002 (2002 No 31) by substituting “owner” for “manufacturer”.

71 Regulations relating to entry of excisable goods

Without limiting the power to make regulations under section 286 of this Act, the Governor-General may from time to time, by Order in Council, make regulations—

- (a) Prescribing when entries of excisable goods are deemed to have been made for the purposes of this Act; and
- (aa) Prescribing the circumstances in which an entry of excisable goods must be made by the owner of the goods rather than by the licensee of the Customs controlled area from which the goods are removed; and
- (b) Prescribing the conditions under which entries of excisable goods are deemed to have been passed for the purposes of this Act; and
- (c) Exempting specified goods or goods of a specified class from the requirements of section 70 of this Act, subject to such conditions as may be prescribed.

Paragraph (aa) was inserted, as from 3 June 1998, by section 5 Customs and Excise Amendment (No 2) 1998 (1998 No 38).

Paragraph (aa) was amended, as from 8 January 2003, by section 7 Customs and Excise Amendment Act (No 2) 2002 (2002 No 31) by substituting “owner” for “manufacturer”.

72 Removal for home consumption

For the purposes of this Part of this Act, goods are deemed to be removed for home consumption when the goods are physically removed from a Customs controlled area otherwise than when they are—

- (a) Moved to another Customs controlled area pursuant to an approval given by the Chief Executive and for such

purposes as may be approved by the Chief Executive;
or

- (b) Temporarily removed pursuant to an approval given by the Chief Executive and for such purposes as may be approved by the Chief Executive; or
- (c) Removed for export or to an export warehouse.

Compare: 1966 No 19 s 17A; 1986 No 44 s 5

73 Excise duty on goods manufactured in manufacturing areas

- (1) In respect of all goods that are manufactured in a manufacturing area and that are specified in Part A of Schedule 3 to this Act there shall be levied, collected, and paid excise duties, if any, at the appropriate rates set out in Part A of Schedule 3 to this Act.
- (2) Subsection (1) of this section does not apply to beer manufactured in quantities of not more than 100 litres per month by an individual other than the licensee where—
 - (a) The beer is exclusively for that individual's personal use and not for sale to any other person; and
 - (b) The licensee of the premises does not engage in any aspect or part of the brewing or bottling operation and provides no equipment, ingredients, or service other than—
 - (i) The equipment for the brewing and bottling of beer and the filling of kegs:
 - (ii) Kegs, bottles, bottle caps, and labels:
 - (iii) The ingredients for brewing beer, in an unmixed and unfermented state:
 - (iv) The written or oral instructions for the manufacture of the beer.
- (2A) Subsection (1) does not apply to wine manufactured in quantities of not more than 45 litres per month by an individual other than the licensee where—
 - (a) the wine is exclusively for that individual's personal use and not for sale to any other person; and
 - (b) the licensee of the premises does not engage in any aspect or part of the wine making or bottling operation and provides no equipment, ingredients, or service other than—

- (i) the equipment for the making and bottling of wine and the filling of casks or vats:
 - (ii) casks, vats, bottles, corks, and labels:
 - (iii) the ingredients for making wine, in an unmixed and unfermented state:
 - (iv) the written or oral instructions for making the wine.
- (3) If the excise duty applicable to any goods pursuant to subsection (1) of this section is an ad valorem excise duty, the value of the goods for the purposes of such excise duty shall be determined in accordance with Schedule 4 to this Act.
- (4) Notwithstanding anything in this Part of this Act, if the excise duty is a combination of a specific rate and an ad valorem rate, the excise duty payable shall be determined as the aggregate of—
- (a) The amount of excise duty calculated by applying the specific rate; and
 - (b) The amount of excise duty calculated by applying the ad valorem rate to the value for duty.
- (5) For the purposes of this section, **wine** means the goods referred to in any of excise item numbers 99.20.20L, 99.25.20B, 99.30.21D, 99.30.26E, 99.30.32K, and 99.30.47H of Part A of Schedule 3.

Compare: 1966 No 19 s 118B(1)-(4); 1986 No 44 s 12

Subsection (2A) was inserted, as from 15 November 2000, by section 3(1) Customs and Excise Amendment Act (No 2) 2000 (2000 No 58).

Subsection (5) was inserted, as from 15 November 2000, by section 3(2) Customs and Excise Amendment Act (No 2) 2000 (2000 No 58).

74 Excise duty on goods manufactured otherwise than in a manufacturing area

- (1) Subject to subsection (2) of this section, where goods specified in Part A of Schedule 3 to this Act are manufactured in an area that is not licensed pursuant to section 12 of this Act, the provisions of this Part and Part 8 of this Act shall apply as if the area were licensed as a manufacturing area under this Act.
- (2) Subsection (1) of this section does not apply in respect of goods—

- (a) That are manufactured in an area that pursuant to a direction of the Chief Executive under section 12(4) of this Act is not required to be licensed; or
- (b) That are covered by an exemption prescribed under section 10 of this Act; or
- (c) that are manufactured in accordance with the conditions specified by section 68A.

Section 74(2)(b): amended, on 1 October 2008, by section 9 of the Customs and Excise Amendment Act (No 3) 2008 (2008 No 68).

Section 74(2)(c): added, on 1 October 2008, by section 9 of the Customs and Excise Amendment Act (No 3) 2008 (2008 No 68).

75 Excise-equivalent duty on imported goods

- (1) Subject to this Act, and in addition to any other duties or levies payable on imported goods, excise-equivalent duty at the appropriate rate specified in Part B of Schedule 3 to this Act shall be levied, collected, and paid on all goods specified in Part B of Schedule 3 to this Act, that are imported.
- (2) Where goods on which excise-equivalent duty is payable under this section are dutiable in accordance with the volume of alcohol present in the goods, the person making the entry in respect of those goods shall specify the volume of alcohol in the prescribed manner.
- (3) Excise-equivalent duty becomes payable—
 - (a) When entry for home consumption is passed; or
 - (b) If, before entry for home consumption, the goods are dealt with in breach of a provision of this Act.
- (4) If the excise-equivalent duty applicable to such goods is an ad valorem duty, the value of the goods for the purposes of that excise-equivalent duty shall be determined in accordance with Schedule 2 to this Act.

75A Accident compensation levies are additional to excise duty on motor spirits

[Repealed]

Section 75A was inserted, as from 1 April 2002, by section 337(1) Injury Prevention, Rehabilitation, and Compensation Act 2001 (2001 No 49). See Part 10 of that Act for provisions relating to transition from competitive provision of workplace accident insurance. See Part 11 of that Act for transitional provisions relating to entitlements provided by Corporation.

Section 75A was repealed, as from 1 July 2003, by section 13(2) Injury Prevention, Rehabilitation, and Compensation Amendment Act 2003 (2003 No 29).

76 Excise duty a Crown debt

- (1) The excise duty on goods specified in Part A of Schedule 3 to this Act that are—
 - (a) Manufactured in a manufacturing area; or
 - (b) Subject to section 74(2) of this Act, manufactured otherwise than in a manufacturing area,—
constitutes, immediately on removal of the goods for home consumption in accordance with section 72 of this Act, a debt due to the Crown and is recoverable by action at the suit of the Chief Executive on behalf of the Crown.
- (2) Such duty is owed by—
 - (a) The licensee of the manufacturing area; and
 - (b) Every person who is or who becomes the owner of the goods before the excise duty has been fully paid.
- (3) The liability of the persons referred to in subsection (2) of this section is joint and several.
- (4) For the purposes of this section, excise duty on goods that is owing by the manufacturer of those goods or by a person who is or who becomes the owner of the goods must be paid to the Customs within such time as may be prescribed.

Compare: 1966 No 19 s 118F; 1986 No 44 s 12

77 Modification of rates of excise duty and excise-equivalent duty

- (1) Subject to subsection (2) of this section, the Governor-General may, from time to time, by Order in Council, suspend Schedule 3 to this Act in whole or in part, and by the same or a subsequent Order in Council, in lieu thereof, impose on any goods specified in Schedule 3 such excise duties and excise-equivalent duties as the Governor-General thinks fit.
- (2) Excise duties and excise-equivalent duties imposed on goods pursuant to subsection (1) of this section must not exceed the rate of excise duty or excise-equivalent duty on those goods set out in Schedule 3 to this Act.

Compare: 1966 No 19 s 118C; 1986 No 44 s 12

78 Power to amend Schedule 3 for certain purposes

- (1) The Governor-General may, from time to time, by Order in Council, amend Schedule 3 to this Act—
- (a) By revoking, inserting, or amending any heading, heading number, subheading, item, or item number, or the title of any Part, section, chapter, or subchapter of the Tariff referred to in Schedule 3 in such manner as is necessary to ensure that Schedule 3 conforms to the Tariff; or
 - (b) By revoking, suspending, or amending a provision of the notes forming part of Schedule 3, or by inserting a new provision in the notes, for the purpose of ensuring the proper operation of Schedule 3; or
 - (c) By revoking, suspending, inserting, or amending a statistical unit in Schedule 3.
- (2) Notwithstanding anything in subsection (1)(c) of this section, the Chief Executive may, by notice in the *Gazette*, revoke, suspend, insert, or amend a statistical unit in Schedule 3.
- (3) No amendment made pursuant to this section shall alter the duties or exemptions from duty under this Act applicable to goods classified under an item or heading so amended.

Compare: 1966 No 19 s 118CA; 1987 No 128 s 4

79 Indexation of rates of excise duty and excise-equivalent duty on alcoholic beverages and tobacco products

- (1) Subject to this section, the Governor-General may from time to time, by Order in Council, amend Schedule 3 to this Act to impose such rates of excise duty and excise-equivalent duty as the Governor-General thinks fit on all or any of the alcoholic beverages and tobacco products as defined in subsection (4) of this section.
- (2) Any change in the rates of excise duty and excise-equivalent duty made by Order in Council under subsection (1) of this section,—
- (a) Shall be limited in accordance with this section having regard to movements in the Consumers Price Index All Groups excluding credit services; and
 - (b) In the case of a change in the rates of excise duty and excise-equivalent duty for alcoholic beverages, may come

into force only on the 1st day of July in any calendar year; and

- (c) In the case of a change in the rates of excise duty and excise-equivalent duty for tobacco products, may come into force only on the 1st day of January in any calendar year.
- (3) No new rate of excise duty or excise-equivalent duty imposed on any goods under subsection (1) of this section shall exceed a rate calculated in accordance with the following formula:

$$\frac{a}{b} \times c$$

where—

- a is the Index number of the Consumers Price Index All Groups excluding credit services issued by the Government Statistician for—
- (i) The quarter ending on the 31st day of March in the calendar year in which the order is to come into force, in the case of an order relating to alcoholic beverages; or
- (ii) The quarter ending on the 30th day of September immediately before the calendar year in which the order is to come into force, in the case of an order relating to tobacco products; and
- b is the Index number of the quarterly Consumers Price Index All Groups excluding credit services issued by the Government Statistician for the quarter ending 12 months before, and expressed on the same base quarter as, the relevant quarter specified in item a of this formula; and
- c is the existing rate of duty in respect of the goods to which the order relates.
- (4) In this section,—
- Alcoholic beverages** means goods specified in headings 22.03, 22.04, 22.05, 22.06, 22.08, 99.10, 99.20, 99.25, 99.30, 99.45, and 99.50 of Schedule 3 to this Act, not being goods which are exempt from excise duty and excise-equivalent duty; and includes undenatured ethyl alcohol and other goods specified in headings 21.05, 21.06, 22.07, 33.02, 99.05, 99.06,

99.35, 99.42, and 99.43 of that Schedule (also not being goods exempt from excise duty and excise-equivalent duty)

Tobacco products means goods specified in headings 24.02, 24.03, 99.60 and 99.65 of Schedule 3 to this Act.

Compare: 1966 No 19 s 118CB; 1993 No 83 s 3(1)

Subsection (2)(b) was amended, as from 6 March 2007, by section 10(1) Customs and Excise Amendment Act 2007 (2007 No 9) by substituting “July” for “June”.

Subsection (2)(c) was amended, as from 6 March 2007, by section 10(2) Customs and Excise Amendment Act 2007 (2007 No 9) by substituting “January” for “December”.

Subsection (3) was amended, as from 6 March 2007, by section 10(3) Customs and Excise Amendment Act 2007 (2007 No 9) by substituting “30th day of September immediately before” for “30th day of September in”.

Subsection (4) was amended, as from 15 November 2000, by section 4 Customs and Excise Amendment Act (No 2) 2000 (2000 No 58) by substituting “headings” for “subheadings”.

Subsection (4) was amended, as from 9 October 2002, by section 8(a) Customs and Excise Amendment Act (No 2) 2002 (2002 No 31) by inserting “21.05,” before “21.06”.

Subsection (4) was amended, as from 9 October 2002, by section 8(b) Customs and Excise Amendment Act (No 2) 2002 (2002 No 31) by inserting “99.05, 99.06,” before “99.35”.

79A Power to alter rates of excise duty and excise-equivalent duty on motor spirits by Order in Council

- (1) At any time during the second financial year, or the third financial year, that follows the financial year in which the current rates of excise duty and excise-equivalent duty on motor spirits came into force, the Governor-General may, by Order in Council, reduce or increase any or all of those rates of excise duty and excise-equivalent duty by amending Schedule 3.

- (2) In this section,—

financial year means the 12 months ending on the close of 30 June or any other date determined for the entity by the Minister of Finance

motor spirits means motor spirit and fuels containing motor spirit specified in Excise item numbers 99.75.05F, 99.75.23D, 99.75.29C, 99.75.37D, 99.75.51K, 99.75.59E, 99.75.73L, 99.75.81A, and 99.75.93E and Tariff items 2207.20.23, 2207.20.35, 2710.19.13, 2710.19.15, 2710.19.21, 2710.19.25,

2710.19.27, 2710.19.39, 2710.19.64, 2710.19.70, 3824.90.87, 3824.90.93, and 3824.90.97 set out in Schedule 3.

Section 79A: substituted, on 1 August 2008, by section 49(2) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 79A(2) **motor spirits**: substituted, on 1 October 2008, by section 5 of the Customs and Excise Amendment Act (No 2) 2008 (2008 No 61).

Section 79A was inserted, as from 1 January 2006, by section 4 Customs and Excise (Motor Spirits) Amendment Act 2005 (2005 No 1).

80 Certain Orders in Council subject to confirmation

- (1) This section applies to the following Orders in Council:
 - (a) an Order in Council made under section 77(1); and
 - (b) an Order in Council made under section 79(1); and
 - (c) an Order in Council made under section 79A(1) that has the effect of increasing the rates of excise duty or excise-equivalent duty on motor spirits (as defined in section 79A(2)).
- (1A) An Order in Council to which this section applies must,—
 - (a) if made on or before 30 June in any year, expire on the close of 31 December of that year except so far as it is expressly confirmed by Act of Parliament passed during that year; and
 - (b) if made on or after 1 July in any year, expire on the close of 31 December in the following year except so far as it is expressly confirmed by Act of Parliament passed before the end of that following year.
- (2) If any Order in Council or any provision of any Order in Council expires by virtue of subsection (1A) of this section, any duty collected under that Order in Council or provision shall, except in so far as any other provision is made by an Act of Parliament in respect thereof, be refunded.
- (3) If the House of Representatives resolves that any Order in Council to which this section applies should be revoked or varied, it shall thereupon be revoked or varied in accordance with the terms of the resolution, and any duty collected thereunder in excess of the duty otherwise payable shall, so far as such resolution provides, be refunded.
- (4) The repeal of any Act of Parliament passed for the purpose of expressly validating or confirming any Orders in Council

pursuant to subsection (1) of this section shall not, unless there is any express provision to the contrary, affect the validity or confirmation of those Orders in Council.

Section 80(1): substituted, on 1 August 2008, by section 49(3) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 80(1A): inserted, on 1 August 2008, by section 49(3) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 80(2): amended, on 1 August 2008, by section 49(4) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 80(3): amended, on 1 August 2008, by section 49(5) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Subsections (1) and (3) were amended, as from 1 January 2006, by section 5 Customs and Excise (Motor Spirits) Amendment Act 2005 (2005 No 1) by substituting “or section 79A(1)” for “of this Act”.

81 Power of Governor-General in Council to suspend, remit, refund, or create exemptions from excise duties and excise-equivalent duties on goods supplied to certain organisations and their members

- (1) The Governor-General may from time to time, by Order in Council, suspend, order the remission or refund of, or create exemptions from, excise duty and excise-equivalent duties in respect of goods or classes of goods manufactured in New Zealand or imported into New Zealand that are—
- (a) Supplied solely for the use of such organisations, expeditions, or other bodies as may be approved by the Minister and as may, from time to time, be established or temporarily based in New Zealand under an agreement or arrangement entered into by or on behalf of the Government of New Zealand with the Government of any other country or with the United Nations; or
 - (b) Supplied solely for the use of persons temporarily resident in New Zealand for the purpose of serving as a member of any such approved organisation, expedition, or other body.
- (2) The Chief Executive may at any time impose such conditions as he or she thinks fit in respect of goods or a class of goods to which an Order in Council made for the purposes of this section relates.

Compare: 1966 No 19 s 167

Miscellaneous duty provisions

82 Duty payable on goods consumed before removal from manufacturing area

- (1) Duty is payable on goods consumed before removal from a manufacturing area in the same manner as if the goods had been removed on the date they had been consumed and the provisions of this Act apply, with all necessary modifications, accordingly.
- (2) Notwithstanding subsection (1) of this section, no liability for duty arises where excisable products manufactured within a manufacturing area are used in the manufacturing process carried on in that manufacturing area.
- (3) If, after making an allowance of not more than 2 percent on the quantity of spirits delivered to be rectified or compounded, it is found that the volume of alcohol rectified or compounded is less than the volume delivered, the full excise duty on the deficiency so found must immediately be paid by the rectifier or compounder to the Chief Executive.

Compare: 1966 No 19 ss 98, 118D(4); 1986 No 44 ss 11, 12

83 Excise duty and excise-equivalent duty on spirits and other alcoholic beverages if approval not complied with

- (1) The Chief Executive may make an assessment of duty if the Chief Executive has reasonable cause to suspect that a person granted an approval to which this subsection applies has not complied with the conditions of the approval.
- (2) Subsection (1) applies to an approval granted under any of the following:
 - (a) excise item number 99.35.30E in Part A of Schedule 3:
 - (b) excise item number 99.55.00D in Part A of Schedule 3:
 - (c) tariff item number 2207.10.29 in Part B of Schedule 3.
- (3) Where an assessment is made under subsection (1), the rate of duty to be applied must be the rate that would be applicable if the goods to which the relevant approval relates were entered for home consumption.
- (4) The duty assessed in accordance with this section must be paid in accordance with subsection (5) by the person to whom the approval was granted.

- (5) The due date for the payment of any duty assessed in accordance with this section is the date that is 20 working days after the date on which written notice of the assessment is given by the Chief Executive.
- (6) The Chief Executive must, if satisfied that the non-compliance with the conditions was neither intentional nor negligent, remit or refund the duty on the goods.
- (7) A person liable for the payment of the excise duty who is dissatisfied with a decision of the Chief Executive under this section may, within 20 working days after the date on which notice of the decision is given, appeal to a Customs Appeal Authority against that decision.

Subsection (1) was amended, as from 27 September 2001, by section 6 Customs and Excise Amendment Act 2001 (2001 No 61) by substituting “99.55.00D” for “99.55.00A”.

Section 83 was substituted, as from 6 March 2007, by section 11 Customs and Excise Amendment Act 2007 (2007 No 9).

84 Assessment of excise duty on beer otherwise exempt

- (1) If the Chief Executive has reasonable cause to suspect that any quantity of beer or wine that has been entered as exempt from excise duty under section 73(2) or (2A), as the case may be, has later been dealt with in any manner otherwise than in accordance with the provisions of section 73(2)(a) or (2A)(a), as the case may require, the Chief Executive may make an assessment of excise duty.
- (2) The duty assessed in accordance with this section is owed by—
 - (a) the licensee of the manufacturing area in which the beer or the wine was manufactured; and
 - (b) the individual who manufactured the beer or the wine.
- (3) The liability of the persons referred to in subsection (2) of this section is joint and several.
- (4) The due date for the payment of any duty assessed in accordance with this section is the date that is 20 working days after the date on which written notice of the assessment is given by the Chief Executive.

Subsections (1) and (2) were substituted, as from 15 November 2000, by section 5 Customs and Excise Amendment Act (No 2) 2000 (2000 No 58).

85 Duty credits

- (1) Where the licensee of a manufacturing area purchases materials or goods for use in manufacture, the licensee may, at the time of making an entry for home consumption as required by section 70 of this Act, claim, as a credit, excise duty or excise-equivalent duty paid in respect of those materials or goods.
- (2) Where the licensee of a manufacturing area repurchases goods manufactured by the licensee at the same price at which the goods were sold, the licensee may, in such circumstances as may be prescribed, claim, as a credit in the home consumption entry required by section 70 of this Act, excise duty or excise-equivalent duty paid in respect of the goods.
- (3) The amount of the excise duty or excise-equivalent duty that may be claimed by the licensee of a manufacturing area as a credit relating to materials—
 - (a) To which subsection (1) of this section applies, is the amount of excise duty or excise-equivalent duty originally paid by the licensee of a Customs controlled area, importer, or owner in respect of the materials; or
 - (b) To which subsection (2) of this section applies, is the amount of excise duty or excise-equivalent duty paid by the licensee—but, in either case, does not include any additional excise duty paid pursuant to section 87 of this Act.
- (4) Where the amount of the credit exceeds the amount of excise duty payable by the licensee in the home consumption entry in which the credit is claimed, the amount of the excess may, at the discretion of the Chief Executive, be applied towards any other excise duty that is payable by the licensee or may be refunded to the licensee.

Compare: 1966 No 19 s 116(4); 1986 No 44 s 11

Subsections (1), (2), and (3) were amended, as from 1 December 2001, by section 7(1) Customs and Excise Amendment Act 2001 (2001 No 61), by inserting after “excise duty” the words “or excise-equivalent duty”.

Part 8

Assessment and recovery of duty

86 Duty on imported goods a Crown debt

- (1) The duty on all goods imported constitutes, immediately on importation of the goods, a debt due to the Crown.
- (2) Such duty is owed by the importer of the goods, and, if more than one (whether at or at any time after the time of importation) then jointly and severally by all of them.
- (3) Subject to this Act, such debt becomes due and payable when—
 - (a) Goods have been entered in accordance with section 39 of this Act and the entry has been passed for home consumption; or
 - (b) Goods have been entered in accordance with section 39 of this Act for removal to a manufacturing area; or
 - (c) Goods have been wrongfully landed or otherwise wrongfully dealt with without having been entered pursuant to section 39 of this Act; or
 - (d) An offence has been committed against this Act in respect of the goods.
- (4) Such debt is recoverable by action at the suit of the Chief Executive on behalf of the Crown.
- (5) The right to recover duty as a debt due to the Crown is not affected by the fact that—
 - (a) The goods have ceased to be subject to the control of the Customs; or
 - (b) A bond or other security has been given for the payment of duty; or
 - (c) No proper assessment of duty has been made under this Act or that a deficient assessment of duty has been made.
- (6) The Chief Executive may, subject to such terms and conditions as he or she may impose, approve any person or class of persons as persons who may defer the payment of duty due under this section and, for that purpose, may determine a duty accounting period; and may suspend or withdraw that approval or vary any term or condition under which the approval is given or vary the duty accounting period.

- (7) Where the Chief Executive makes any decision under subsection (6) of this section, the persons or class of persons affected shall be advised of the decision by notice in writing.
- (8) All goods specified in the inward report of any craft shall be presumed to have been actually imported unless the contrary is proved.
- (9) A person who is dissatisfied with a decision of the Chief Executive under subsection (6) of this section may, within 20 working days after the date on which notice of the decision is given, appeal to a Customs Appeal Authority against that decision.

Compare: 1966 No 19 ss 152, 152A; 1986 No 44 s 14

87 Additional duty imposed

- (1) Where any duty the payment of which has been deferred in accordance with section 86(6) of this Act, or which is due in accordance with section 76(4) of this Act remains unpaid by the due date for payment, there shall be imposed—
 - (a) Additional duty of 5 percent of the amount of duty unpaid by the due date; and
 - (b) Additional duty of 2 percent of the amount of duty, including additional duty, unpaid at the end of the period of one month after the due date; and
 - (c) Additional duty of 2 percent of the amount of duty, including additional duty, unpaid at the end of each succeeding period of one month.
- (2) Notwithstanding subsection (1) of this section, the Chief Executive may, in his or her discretion, remit or refund the whole or any part of any additional duty imposed by that subsection.
- (3) Where, for any reason the amount of duty in respect of which additional duty has been imposed under subsection (1) of this section is amended, the additional duty shall, where necessary, be adjusted accordingly.
- (4) A person liable for the payment of the duty who is dissatisfied with a decision of the Chief Executive under subsection (2) of this section may, within 20 working days after the date on which notice of the decision is given, appeal to a Customs Appeal Authority against that decision.

Compare: 1966 No 19 s 118G; 1986 No 44 s 12

88 Assessment of duty

- (1) An entry for goods made under this Act is deemed to be an assessment by the importer or licensee, as the case may be, as to the duty payable in respect of those goods.
- (2) If the Chief Executive has reasonable cause to suspect that duty is payable on goods by a person who has not made an entry in respect of the goods, the Chief Executive may assess the duty at such amount as the Chief Executive thinks proper.
- (3) The person liable for the payment of the duty shall be advised of the assessment by notice in writing.
- (4) A person liable for the payment of the duty who is dissatisfied with a decision of the Chief Executive under subsection (2) of this section may, within 20 working days after the date on which notice of the decision is given, appeal to a Customs Appeal Authority against that decision.

89 Amendment of assessment

- (1) Subject to section 94 of this Act, the Chief Executive may from time to time make such amendments to an assessment of duty as he or she thinks necessary in order to ensure the correctness of the assessment even though the goods to which the duty relates are no longer subject to the control of the Customs or that the duty originally assessed has been paid.
- (2) If the amendment has the effect of imposing a fresh liability or altering an existing liability, notice in writing shall be given by the Chief Executive to the person liable for the duty.
- (3) A person liable for the payment of the duty who is dissatisfied with a decision of the Chief Executive under this section may, within 20 working days after the date on which notice of the decision is given, appeal to a Customs Appeal Authority against that decision.

Compare: 1966 No 19 s 152B; 1987 No 128 s 8

90 Due date for payment of duty

- (1) Unless otherwise specified in this Act, the due date for the payment of duty assessed under section 88(2) of this Act or reassessed under section 89 of this Act or demanded under section 103 or section 104 of this Act is the date that is 20

working days after the date on which written notice of the assessment or amended assessment or demand, as the case may be, is given by the Chief Executive.

- (2) Where all or part of any duty remains unpaid by the due date, the amount outstanding is deemed to have been increased by an amount calculated in accordance with section 87(1) of this Act.

91 Assessment presumed to be correct

- (1) Every assessment made by the Chief Executive under this Act, including an assessment made by way of amendment, shall be taken to be correct and duty shall be payable accordingly unless on an appeal a different amount is determined to be the duty payable on the goods or it is determined that no duty is payable.
- (2) Notwithstanding anything in this Act, where an appeal has been lodged under Part 6, VII, VIII or X of this Act, the Chief Executive may, subject to receiving such security as he or she thinks sufficient to cover the full amount of duty, release the goods from the control of the Customs.

Compare: 1966 No 19 s 118E; 1986 No 44 s 12

92 Obligation to pay duty not suspended by appeal

- (1) Subject to subsection (3) of this section, the obligation to pay and the right to receive and recover duty under this Act are not suspended by any appeal or legal proceedings.
- (2) Subject to subsection (3) of this section, if the appellant is successful in the appeal or the proceedings, the amount (if any) of the duty or any security received by the Chief Executive in excess of the amount that, in accordance with the decision on the appeal or the proceedings, was properly payable shall forthwith be refunded to the appellant by the Chief Executive, or as the case may be, the appellant shall be released from the conditions of the security imposed under section 156 of this Act.
- (3) Any obligation on the Chief Executive under subsection (2) of this section shall be suspended pending the outcome of any

appeal filed by the Chief Executive under this Act or any other Act against the decision requiring the duty to be refunded.

Compare: 1966 No 19 s 118H(5); 1986 No 44 s 12

93 Chief Executive to pay interest on duty refunded on appeal

- (1) Subject to subsection (5) of this section, where duty is required to be refunded in accordance with section 92(2) of this Act, there shall be paid by the Chief Executive interest calculated in accordance with subsection (2) of this section.
- (2) Interest payable in accordance with this section shall be calculated by reference to qualifying periods consisting of 12 consecutive months from the 1st day of April in any year until the 31st day of March in the following year, and shall be the sum of the amounts of interest payable in respect of each applicable qualifying period, the amount of interest in respect of an applicable qualifying period being determined in accordance with the following formula:

$$\frac{X \times Y \times Z}{365}$$

where—

- X is the number of days in the period that commences on the later of—
- (a) The day on which the relevant duty is lodged to the credit of the Chief Executive; or
 - (b) The first day of the qualifying period of 12 consecutive months;—
- and ends on the earlier of—
- (c) The day on which the relevant duty is refunded by the Chief Executive in accordance with this section; or
 - (d) The last day of the qualifying period of 12 consecutive months; and
- Y is the amount of any duty being the relevant duty, which, having been paid in accordance with section 91(1) of this Act, is caused to be refunded in accordance with the outcome of a successful appeal; and

Z is the specified rate of interest as determined in accordance with subsection (3) of this section.

- (3) The specified rate of interest per annum that is to apply for the purposes of this section shall be the rate determined by the Secretary to the Treasury pursuant to section 120(5) of the Tax Administration Act 1994, and that rate shall have application for the same period as specified for the purposes of section 120 of that Act.
- (4) Where the Chief Executive is satisfied that the amount of any interest paid to an appellant in accordance with subsection (2) of this section is in excess of the proper amount, the Chief Executive may recover the amount of the excess in accordance with the provisions of section 115 of this Act as if that amount were money refunded by the Customs in error.
- (5) Any obligation on the Chief Executive under this section shall be suspended pending any appeal by the Chief Executive under this Act or any other Act against the decision requiring duty to be refunded.

94 Limitation of time for amendment of assessments

- (1) Where an assessment of duty has been made under this Act, the Chief Executive is not entitled to alter that assessment so as to increase the amount of the assessment after the expiration of 4 years from the date on which the original assessment was made.
- (2) Notwithstanding subsection (1) of this section, in any case where, in the opinion of the Chief Executive, the entry or any declaration made in relation to the goods was fraudulent or wilfully misleading, the Chief Executive may amend the assessment at any time so as to increase the amount of the assessment.

Compare: 1976 No 75 s 25; 1992 No 1 s 7

95 Keeping of business records

- (1) Every licensee, importer, exporter, and body authorised to issue a New Zealand certificate of origin under section 64B must keep or cause to be kept in New Zealand such

records, for such period of time not exceeding 7 years, as may be prescribed.

- (2) Every such person must, as and when required by a Customs officer,—
 - (a) Make the records available to the Customs; and
 - (b) Provide copies of the records as required; and
 - (c) Answer any questions relevant to matters arising under this Act asked by any officer in respect of them.
- (3) Where, for the purposes of complying with subsection (2) of this section, information is recorded or stored by means of an electronic or other device, the licensee, importer, exporter, or agent thereof, shall, at the request of a Customs officer, operate the device, or cause it to be operated, to make the information available to the Customs officer.

Compare: 1966 No 19 ss 25A, 96; 1990 No 89 s 6(1)

Section 95(1): amended, on 29 July 2008, by section 6 of the Customs and Excise Amendment Act 2008 (2008 No 50).

95A Giving Customs access to business records

- (1) This section applies to a person only if the person—
 - (a) is a person to whom section 95(1) applies or a person otherwise involved in the carriage, handling, or transportation of goods that are being imported to, or exported from, New Zealand (for example, a person involved in the transportation of goods to a Customs place from which goods for export will proceed to a point outside New Zealand); and
 - (b) has been required by the Chief Executive by notice in writing to comply with this section on and after a date specified in the notice in writing.
- (2) On and after the date specified in the notice in writing a person to whom this section applies must,—
 - (a) if the person is a person to whom section 95(1) applies, give the Customs access to the records the person is required to keep under section 95; and
 - (b) if the person is a person otherwise involved in the carriage, handling, or transportation of goods that are being imported to, or exported from, New Zealand, give the

Customs access to any records the person may currently keep of the kind required to be kept under section 95.

- (3) A person to whom this section applies must give the Customs that access in the form and manner prescribed (for example, in an electronic form and manner), and must ensure that the Customs has that access at all reasonable times.
- (4) The Chief Executive may, by notice in writing, exempt a person to whom this section applies from complying with some or all of the person's obligations under this section in all or any specified circumstances.
- (5) To avoid doubt, nothing in this section affects any obligation under section 95 to keep or cause to be kept, make available, provide copies of, or answer questions in respect of, records.

Section 95A was inserted, as from 1 October 2004, by section 20 Customs and Excise Amendment Act 2004 (2004 No 55).

96 Meaning of related

For the purposes of section 97 of this Act, one person is related to another person,—

- (a) Where the person is connected to the other person by blood relationship, marriage, civil union, de facto relationship, or adoption, or where the person is a trustee for the other person; and for the purposes of this paragraph—
 - (i) Persons are connected by blood relationship if within the fourth degree of relationship traced through a common ancestor:
 - (ii) persons are connected by marriage, civil union, or de facto relationship if one—
 - (A) is married to, or in a civil union or a de facto relationship with, the other; or
 - (B) is married to, or in a civil union or a de facto relationship with, a person who is connected by blood relationship to the other:
 - (iii) Persons are connected by adoption if one has been adopted as the child of the other or as a child of a person who is within the third degree of relationship to the other:

- (b) If the other person is a company, where the person is a director or officer of the other person, or is related (within the meaning of paragraph (a) of this subsection) to a director or officer of the other person, or is directly or indirectly able to exercise control over the affairs of the other person:
- (c) If the person is a company, where the other person is a director or officer of the person, or is related (within the meaning of paragraph (a) of this subsection) to a director or officer of the person, or is directly or indirectly able to exercise control over the affairs of the person:
- (d) If the person and the other person are companies,—
 - (i) Where the person is a holding company or a subsidiary of the other person within the meaning of section 158 of the Companies Act 1955 or section 5 of the Companies Act 1993, as the case may be; or
 - (ii) Where the person owns or controls shares that in aggregate carry the right to exercise or control the exercise of 20 percent or more of the voting power at meetings of the other person or the other person owns or controls shares that in aggregate carry the right to exercise or control the exercise of 20 percent or more of the voting power at meetings of the person; or
 - (iii) Where the person and the other person have the same holding company within the meaning of section 158 of the Companies Act 1955 or section 5 of the Companies Act 1993, or a third person owns or controls shares in each of them that carry the right to exercise or control the exercise of 20 percent or more of the voting power at meetings of each of them.

Paragraph (a) was amended, as from 26 April 2005, by section 7 Relationships (Statutory References) Act 2005 (2005 No 3) by inserting “civil union, de facto relationship,” after the word “marriage,” where it first appears.

Paragraph (a)(ii) was substituted, as from 26 April 2005, by section 7 Relationships (Statutory References) Act 2005 (2005 No 3).

97 Duty a charge on goods

- (1) Subject to subsection (3) of this section, the duty on any goods shall constitute a charge on those goods until fully paid.
- (2) Subject to the provisions of this section, if any duty charged on any goods under this section is due and unpaid, the Chief Executive may, whether or not the property in the goods has passed to a third party, take possession of the goods, and sell them or any part of them in satisfaction or part satisfaction of the charge.
- (3) Subsection (1) of this section shall not apply as against a purchaser of the goods for valuable consideration and without knowledge that the duty was owing but had not been paid.
- (4) For the purposes of this section, **purchaser** means—
 - (a) A person (other than a person liable to pay the duty) who acquired the goods from a person liable to pay the duty; or
 - (b) A subsequent purchaser of the goods.
- (5) In any case where a person claims, at or before the taking of possession of the goods by the Chief Executive, that he or she is a purchaser to whom subsection (3) of this section applies, and there is a dispute as to whether that subsection applies, the Chief Executive may,—
 - (a) Where the goods are in the possession or control of the importer, take possession of the goods and, subject to subsection (7) of this section, retain possession of them;
 - (b) Where the goods are in the possession or control of the purchaser, by notice in writing, direct the purchaser, subject to subsection (7) of this section, to retain the possession or control of the goods,—
pending the resolution of the dispute, and subsections (7) to (9) of this section shall apply.
- (6) In any case where—
 - (a) Possession of the goods has been taken by the Chief Executive but the goods have not been sold; and
 - (b) A person notifies the Chief Executive that he or she claims that he or she is a purchaser to whom subsection (3) of this section applies; and
 - (c) There is a dispute as to whether that subsection applies,—

the Chief Executive shall, subject to subsection (7) of this section, retain possession of the goods pending the resolution of the dispute, and subsections (7) to (9) of this section shall apply.

- (7) Where any goods that the Chief Executive has taken possession of or has directed a purchaser to retain under this section consist wholly or partly of any living creature or any thing which, in the opinion of the Chief Executive, is of a perishable nature or which may otherwise lose its value if not sold as soon as possible, the Chief Executive may, or the purchaser in possession or control of the goods may with the prior consent of the Chief Executive, sell the goods, and the net proceeds of such sale shall be deemed to be substituted for the thing so sold.
- (8) The Chief Executive or the purchaser of the goods may apply to the court for a declaration as to whether the goods were acquired by the purchaser for valuable consideration and without knowledge that the duty was owing and unpaid.
- (9) In any proceeding under subsection (8) of this section, where the purchaser and a person liable to pay the duty are related, the onus of proving that the goods were acquired by the purchaser for valuable consideration and without knowledge that the duty was owing but unpaid shall be on the purchaser.

Compare: 1966 No 19 s 154; 1995 No 7 s 2

98 Application of section 99

- (1) Section 99 of this Act applies to the recovery of unpaid duty that is due in relation to goods by—
 - (a) An individual who is bankrupt; or
 - (b) A company that is in liquidation; or
 - (c) A company in respect of the property of which a receiver has been appointed in circumstances to which section 30 of the Receiverships Act 1993 applies; or
 - (d) An unincorporated body of persons (including a partnership or a joint venture or the trustees of a trust) that is put into liquidation; or
 - (e) An unincorporated body of persons (including a partnership or a joint venture or the trustees of a trust) in

respect of the property of which a receiver is appointed
by the High Court—

where the unpaid duty is a charge on the goods.

- (2) In any case to which section 99 of this Act applies, the provisions of section 279 of the Companies Act 1955, section 305 of the Companies Act 1993, and sections 243, 244, and 246 to 250 of the Insolvency Act 2006 shall not apply.

Section 98(2): amended, on 3 December 2007, by section 445 of the Insolvency Act 2006 (2006 No 55).

99 Rights and duties of Chief Executive in recovery of duty

- (1) In any case to which this section applies, the Chief Executive shall notify the Official Assignee or the liquidator or the receiver, as the case may be, that the unpaid duty constitutes a charge on the goods in accordance with section 97 of this Act.
- (2) Every notice under subsection (1) of this section shall be given within 60 days after,—
- (a) In the case of an individual, the date of the notice in the *Gazette* that the individual has been adjudicated bankrupt; or
 - (b) In the case of a company, the date of the notice in the *Gazette* of the commencement of the liquidation, or of the appointment of a receiver, as the case may be; or
 - (c) In the case of an unincorporated body of persons described in subsection (1)(d) of section 98 of this Act, the date of the notice in the *Gazette* of the commencement of the liquidation; or
 - (d) In the case of an unincorporated body of persons described in subsection (1)(e) of section 98 of this Act, the date of the notice in the *Gazette* of the appointment of a receiver—

or, if there is a dispute as to whether section 97(3) of this Act applies, within 30 days after the dispute is resolved or determined.

- (3) If any duty to which this section applies is due and unpaid, the Chief Executive may—
- (a) Realise the property subject to the charge; or
 - (b) Value the property subject to the charge and claim in the bankruptcy, liquidation, or receivership, as the case may

- be, in accordance with the provisions of section 101 of this Act, for the balance of the unpaid duty (if any); or
- (c) Realise the property subject to the charge and claim in the bankruptcy, liquidation, or receivership, as the case may be, in accordance with the provisions of section 101 of this Act, for any balance of the unpaid duty after deducting the amount realised; or
 - (d) Surrender the charge to the Official Assignee or the liquidator or the receiver, as the case may be, for the general benefit of creditors and claim in the bankruptcy, liquidation, or receivership, as the case may be, in accordance with the provisions of section 101 of this Act, for the whole debt.
- (4) If the Chief Executive values the property subject to the charge and claims for the balance of unpaid duty (if any) in accordance with subsection (3)(b) of this section, the valuation and claim must—
- (a) Contain full particulars of the valuation and claim; and
 - (b) Contain full particulars of the charge; and
 - (c) Identify any documents that substantiate the claim and the charge.
- (5) The Official Assignee or the liquidator or the receiver, as the case may be, may require production of any document referred to in subsection (4) of this section.
- (6) Where the Chief Executive realises the property subject to the charge, the provisions of any regulations made under section 286(dd) of this Act shall apply.
- (7) Where a claim is made by the Chief Executive under subsection (4) of this section, the Official Assignee, liquidator, or receiver, as the case may be, must—
- (a) Accept the valuation and claim; or
 - (b) Reject the valuation and claim in whole or in part, but,—
 - (i) Where a valuation and claim is rejected in whole or in part, the Chief Executive may make a revised valuation and claim within 20 days of receiving notice of the rejection; and
 - (ii) The Official Assignee, liquidator, or receiver, as the case may be, may, if he or she subsequently

considers that a valuation and claim was wrongly rejected in whole or in part, revoke or amend that decision.

- (8) Where the Official Assignee, liquidator, or receiver, as the case may be,—
- (a) Accepts a valuation and claim under subsection (7)(a) of this section; or
 - (b) Accepts a revised valuation and claim under subsection (7)(b)(i) of this section; or
 - (c) Accepts a valuation and claim on revoking or amending a decision to reject a claim under subsection (7)(b)(ii) of this section,—
- the Official Assignee, liquidator, or receiver, as the case may be, may, unless the Chief Executive has realised the property, at any time, redeem the charge on payment of the assessed value.
- (9) The Official Assignee, the liquidator, or the receiver, as the case may be, may at any time, by notice in writing, require the Chief Executive, within 30 days after receipt of the notice, to—
- (a) Elect which of the rights referred to in subsection (3) of this section the Chief Executive wishes to exercise; and
 - (b) If the Chief Executive elects to exercise the right referred to in paragraph (b) or paragraph (c) or paragraph (d) of subsection (3) of this section, exercise the right within that period.
- (10) If—
- (a) The Chief Executive fails to give notice to the Official Assignee or the liquidator or the receiver, as the case may be, in accordance with subsection (1) of this section within the time specified in subsection (2) of this section; or
 - (b) Having been required to make an election in accordance with subsection (9) of this section, the Chief Executive fails to do so within the time specified in that subsection,—
- the Chief Executive shall be taken to have surrendered the charge to the Official Assignee, or liquidator, or receiver, as the case may be, under subsection (3)(d) of this section for the

general benefit of creditors and the Chief Executive may claim in the bankruptcy, liquidation, or receivership, as the case may be, in accordance with the provisions of section 101 of this Act.

- (11) Where the Chief Executive has surrendered a charge under subsection (3)(d) of this section or is taken as having surrendered a charge under subsection (10) of this section, the Chief Executive may, with the leave of the Court or the Official Assignee or the liquidator or the receiver, as the case may be, and subject to such terms and conditions as the Court or the Official Assignee or the liquidator or the receiver, as the case may be, thinks fit, at any time before the Official Assignee, liquidator, or receiver, as the case may be, has realised the property charged,—
- (a) Withdraw the surrender and rely on the charge; or
 - (b) Submit a new claim under this section.

Compare: 1966 No 19 s 154A; 1995 No 7 s 2

Subsection (2)(b) was amended, as from 26 April 1999, by section 18 Companies Amendment Act 1999 (1999 No 19) by omitting “the date of”.

100 Application of section 101

Section 101 of this Act applies to the recovery of unpaid duty—

- (a) That is owing by—
 - (i) An individual who is bankrupt; or
 - (ii) A company that is in liquidation; or
 - (iii) A company in respect of the property of which a receiver has been appointed in circumstances to which section 30 of the Receiverships Act 1993 applies; or
 - (iv) An unincorporated body of persons (including a partnership or a joint venture or the trustees of a trust) that is put into liquidation; or
 - (v) An unincorporated body of persons (including a partnership or a joint venture or the trustees of a trust) in respect of the property of which a receiver is appointed by the High Court—
that does not constitute a charge on goods; or

- (b) That the Chief Executive is entitled to claim under this section pursuant to section 99 of this Act.

101 Ranking of duty

- (1) Unpaid duty to which this section applies shall be paid in accordance with the following provisions of this section.
- (2) In the case of an individual who is declared bankrupt, the amount of any duty to which this section applies shall be paid in accordance with the requirements of section 274(5) of the Insolvency Act 2006.
- (3) In the case of a company that is in liquidation, the amount of any duty to which this section applies shall be paid in accordance with the requirements of section 286 of, and Schedule 8C to, the Companies Act 1955, or section 312 of, and Schedule 7 to the Companies Act 1993, as the case may be.
- (4) In the case of a company in respect of the property of which a receiver is appointed in circumstances to which section 30 of the Receiverships Act 1993 applies, the amount of duty to which this section applies shall be paid in accordance with the requirements of section 30(2) of the Receiverships Act 1993.
- (5) In the case of an unincorporated body of persons (including a partnership or a joint venture or the trustees of a trust) that is put into liquidation, the amount of any duty to which this section applies shall be paid in accordance with section 17B of the Judicature Act 1908.
- (6) In the case of an unincorporated body of persons (including a partnership or a joint venture or the trustees of a trust) in respect of the property of which a receiver is appointed by the High Court, the amount of duty to which this section applies shall be paid in accordance with the directions of the Court.
- (7) This section applies notwithstanding anything in any other Act.
- (8) Nothing in this section or in section 97 or section 99 of this Act derogates from section 102 of this Act.

Compare: 1966 No 19 s 154B; 1995 No 7 s 2

Section 101(2): amended, on 3 December 2007, by section 445 of the Insolvency Act 2006 (2006 No 55).

102 Release of goods subject to duty

- (1) Except as otherwise provided in this Act, or in such cases as may be approved by the Chief Executive, and subject to such securities as the Chief Executive may require, no person is entitled to obtain release of goods from the control of the Customs until the sum payable by way of duty on the goods is paid in full.
- (2) No action or other proceeding shall be instituted against the Crown or the Chief Executive or any Customs officer in respect of the detention of any such goods during any period before the payment of the full sum so payable.
- (3) In any case where the Chief Executive considers that undue hardship would result from the payment of duty as required by this section, the Chief Executive may, subject to such conditions as he or she may think fit to impose, direct the release of the goods from the control of the Customs and accept payment of duty by instalment over a specified period.
- (4) Subsection (3) of this section does not apply to duties imposed under the Dumping and Countervailing Duties Act 1988.

Compare: 1966 No 19 s 155

103 Liability for duty on goods wrongfully removed or missing

- (1) The licensee of a Customs controlled area is liable for duty payable on goods that the Chief Executive is satisfied have been wrongfully removed from or are missing from that Customs controlled area as if the goods had been imported or manufactured by the licensee and entered pursuant to section 39 or section 70 of this Act, as the case may be.
- (2) The licensee shall not be released from liability under this section by virtue of any other provision of this Act or any other Act.
- (3) If—
 - (a) Dutiable goods are removed from a Customs controlled area without the authority of the Customs; or
 - (b) Dutiable goods are not produced by the licensee to the Customs and are not accounted for as having been lawfully delivered from the Customs controlled area,—

duty becomes due and payable as if the goods were removed for home consumption, or entry has been made and passed for home consumption.

- (4) The Chief Executive may, by notice in writing, demand from the owner or importer of the goods or the licensee of a Customs controlled area payment of any sum that the Chief Executive has reasonable cause to suspect is owing under this section.
- (5) Duty payable under this section constitutes a debt due to the Crown by the licensee and the importer of the goods and the owner of the goods, whose liability is joint and several.
- (6) A person liable for the payment of the duty who is dissatisfied with a decision of the Chief Executive under this section may, within 20 working days after the date on which notice of the decision is given, appeal to a Customs Appeal Authority against that decision.

Compare: 1966 No 19 s 35(2), s 102

104 Liability of owners of craft for duty on goods unlawfully landed

- (1) If cargo or stores or other goods are unlawfully landed in New Zealand in or from a craft that is within New Zealand, the owner and the person in charge of the craft (without prejudice to the liability of any other person) are jointly and severally liable for the payment of the duty on that cargo, stores, or other goods, as if that cargo or those stores or other goods had been imported by them and entry had been made and passed for home consumption pursuant to section 39 of this Act.
- (2) The Chief Executive may, by notice in writing, demand from the owner or the person in charge of any craft payment of any sum that the Chief Executive has reasonable cause to suspect is owing under this section.
- (3) In any proceedings for the recovery of duty under this section, or for a refund of duty paid under this section, the sum so demanded by the Chief Executive shall be presumed to be due and payable unless the contrary is proved.
- (4) A person liable for the payment of the duty who is dissatisfied with a decision of the Chief Executive under this section may, within 20 working days after the date on which notice of

the decision is given, appeal to a Customs Appeal Authority against that decision.

Compare: 1966 No 19 s 170(1), (2), (4)

105 Effect of payment of duty by one person on liability of other persons

The liability of a person under a provision of this Act for the payment of duty on goods is extinguished by the payment of that duty by any other person liable for the payment of it under any provision of this Act, unless that duty is subsequently refunded or remitted.

Compare: 1966 No 19 s 156

106 Incidence of altered duties

- (1) In the case of an alteration in the law relating to the liability of goods to duty or the rate of duty to which goods are liable, such liability or rate shall, except where otherwise expressly provided, be determined—
 - (a) In the case of goods held in an export warehouse, or produced in a manufacturing area, by the law in force at the time the goods are removed from the export warehouse or manufacturing area:
 - (b) In the case of other goods, by the law in force at the time the goods are imported into New Zealand.
- (2) In this section the term **alteration in the law** includes a variation that takes place at any time or periodically in the liability of goods to duty or in the rate of duty to which they are liable.

Compare: 1966 No 19 s 157; 1973 No 110 s 6; 1977 No 85 s 30

107 Assessment of duty in particular cases

- (1) When duties are imposed according to a specified quantity, weight, size, or value, the duties shall be charged proportionately on a greater or smaller quantity, weight, size, or value.
- (2) For the purposes of assessing duty on alcoholic beverages where the duty is to be calculated relative to the alcohol content of the beverage,—
 - (a) The means of ascertaining the volume of alcohol present in an alcoholic beverage is to be as determined from time to time by the Chief Executive; and

- (b) If, on entry pursuant to sections 39 or 70 of this Act, it is ascertained that the volume of alcohol has increased or diminished by natural process of change while subject to the control of the Customs, duty is payable in accordance with the volume of alcohol as so increased or diminished.

Compare: 1966 No 19 s 160; 1981 No 2 s 5

108 Goods from the Cook Islands and Niue

- (1) Goods imported into New Zealand from the Cook Islands or Niue, whether the produce or manufacture of the Cook Islands or Niue or not, are to be admitted into New Zealand free of duty.
- (2) Nothing in this section applies to—
 - (a) Goods in respect of which, on their exportation from the Cook Islands or Niue, a claim for drawback of duty has been made and allowed:
 - (b) Goods that, by reason of warehousing or for any other reason, have been exported from the Cook Islands or Niue without payment of duty on their importation into the Cook Islands or Niue:
 - (c) Goods produced in a manufacturing warehouse in the Cook Islands or Niue, unless they have been entered in the Cook Islands or Niue for home consumption and the duty (if any) paid on them:
 - (d) Goods on which a rate of duty had been paid in the Cook Islands or Niue lower than that to which the goods would be subject in New Zealand at the time of their importation into New Zealand if imported directly from their country of origin or where the valuation of the goods for duty has been assessed in the Cook Islands or Niue on a different basis from that applying in New Zealand as at the date of the importation of the goods into New Zealand:
 - (e) Goods subject to excise duty in the Cook Islands or Niue, unless such duty has been paid on them as if they had not been exported.

Compare: 1966 No 19 s 304

109 Reimportation of goods exported

- (1) Subject to subsection (2) of this section, goods exported from New Zealand may, in such cases and under such conditions as may from time to time be approved by the Chief Executive, be admitted free of duty, or at such rate of duty as may be determined by the Chief Executive, not exceeding the duty that would be payable on the goods if imported for the first time.
- (2) This section applies to goods which, when reimported, are in substantially the same condition as when exported.

Compare: 1966 No 19 s 164; 1967 No 137 s 7

110 Importer, etc, leaving New Zealand

- (1) If the Chief Executive has reasonable cause to believe that an importer, exporter, or licensee is about to leave New Zealand before duty owing by the importer, exporter, or licensee, as the case may be, becomes payable under this Act, the Chief Executive may, by notice in writing, require the importer, exporter, or licensee to pay the duty on such date that is earlier than the date on which the duty becomes payable as the Chief Executive fixes and notifies to the importer, exporter, or licensee.
- (2) A notice issued under subsection (1) of this section constitutes a demand for payment and the duty becomes due and payable on the date fixed by the Chief Executive.
- (3) A person liable for the payment of the duty who is dissatisfied with a decision of the Chief Executive under this section may, within 20 working days after the date on which notice of the decision is given, appeal to a Customs Appeal Authority against that decision.
- (4) Section 109 of the District Courts Act 1947 or section 55 of the Judicature Act 1908, as the case may be, extends and applies in relation to a notice under this section as if it were a proceeding for the recovery of duty made in the ordinary course.

Compare: 1966 No 19 s 112; 1986 No 44 s 11

Refunds, remissions, and drawbacks of duty

111 Chief Executive may refund duty paid in error

- (1) If the Chief Executive is satisfied that duty has been paid in error, either of law or of fact, the Chief Executive shall, unless there is good reason not to, refund the duty—
 - (a) At any time within 4 years after it has been paid; or
 - (b) At any later time, on an application made within 4 years after it has been paid.
- (2) This section extends and applies to duties paid in error before the commencement of this Act.
- (3) Where a calculation or a re-calculation of duty that apparently gives rise to an entitlement to a refund in accordance with subsection (1) of this section is based on a manifest error in the legal instrument which establishes the duty that is payable, that shall be good reason under that subsection for the Chief Executive not to refund the duty.
- (4) A person who is dissatisfied with a decision of the Chief Executive under this section may, within 20 working days after the date on which notice of the decision is given, appeal to a Customs Appeal Authority against that decision.

Compare: 1966 No 19 s 172(1), (3); 1986 No 44 s 10

112 Refunds of duty on goods under Part 2 of Tariff

- (1) Where duty has been paid on imported goods and the Minister of Commerce subsequently approves, pursuant to section 8 of the Tariff Act 1988, a lower rate of duty or exempts the goods from duty, the Chief Executive shall refund in whole or in part the duty paid so that the total duty paid on the goods is in accordance with the terms (including the effective date) of the approval.
- (2) A person who is dissatisfied with a decision of the Chief Executive under this section may, within 20 working days after the date on which notice of the decision is given, appeal to a Customs Appeal Authority against that decision.

Compare: 1966 No 19 s 172B(1); 1988 No 182 s 2

113 Other refunds and remissions of duty

- (1) Subject to any prescribed exceptions, restrictions, or conditions, the Chief Executive may refund or remit any duty where the Chief Executive is satisfied that imported goods, or goods manufactured in New Zealand, as the case may be,—
 - (a) Have been damaged, destroyed, pillaged, or lost, or have diminished in value or deteriorated in condition, prior to their release from the control of the Customs; or
 - (b) Are of faulty manufacture; or
 - (c) Have been abandoned to the Crown for destruction or other form of disposal prior to their release from the control of the Customs.
- (2) Sample goods of such nature or value as may be prescribed and samples of the bulk of goods subject to the control of the Customs may, subject to such conditions as may be prescribed, be delivered free of duty.
- (3) The Chief Executive may refund or remit any excise-equivalent duty imposed under section 75—
 - (a) on goods of a class or kind that have been exempted from duty by the Minister of Commerce under section 8 of the Tariff Act 1988; or
 - (b) on alcoholic beverages (except ethyl alcohol of Tariff items 2207.10.19, 2207.10.29, 2207.20.01, or 2207.20.39) for use by the persons, in the places, and in the quantities that the Chief Executive may approve, and subject to any conditions that the Chief Executive thinks fit in the manufacture of any products approved in writing by the Chief Executive.
- (4) A person who is dissatisfied with a decision of the Chief Executive under this section may, within 20 working days after the date on which notice of the decision is given, appeal to a Customs Appeal Authority against that decision.
- (5) Except as the chief executive of the Ministry of Economic Development may permit, this section does not apply to duties imposed under the Dumping and Countervailing Duties Act 1988.

Compare: 1966 No 19 ss 168 and 173; 1977 No 85 s 31; 1986 No 182 s 2

Subsection (3) was amended, as from 3 June 1998, by section 6 Customs and Excise Amendment (No 2) 1998 (1998 No 38) by substituting “may” for “shall”.

Subsection (3) was substituted, as from 27 September 2001, by section 8 Customs and Excise Amendment Act 2001 (2001 No 61)

Subsection (5) was amended, as from 7 September 2000, by section 8(1) Ministry of Economic Development Act 2000 (2000 No 28) by substituting “chief executive of the Ministry of Economic Development” for “Secretary of Commerce”.

114 Power to apply refunds towards payment of other duties

Where under any provision of this Act duty is or becomes refundable to any person, the Chief Executive may, in his or her discretion, apply the whole or any part of the sum so refundable towards the payment of any other duty that is payable by that person, or may refund the whole sum to that person.

115 Recovery of duty refunded in error

Money refunded by the Customs in error of fact or law is recoverable by action at the suit of the Chief Executive on behalf of the Crown at any time within 4 years after the date of its payment, or at any time if the refund has been obtained by fraud.

Compare: 1966 No 19 s 182

116 Goods temporarily imported

- (1) Subject to this section, where the Chief Executive is satisfied that goods have been temporarily imported, a sum equal to the amount of the duty payable on the goods may be secured, pursuant to section 156 of this Act, in such cases as may be approved by the Chief Executive, and on receipt of such security the Chief Executive may release the goods from the control of the Customs without payment of duty.
- (2) Subject to such conditions (if any) as may be prescribed, the person giving the security must be released from the conditions of the security or, as the case may be, subject to subsection (4) of this section, a deposit of money made must be returned to the person by whom it was made if, within 12 months from the date of their importation or within such longer period as the Chief Executive may determine in any particular case, the Chief Executive is satisfied that the goods have been—

- (a) Exported; or
 - (b) Shipped for export; or
 - (c) Packed for export into a bulk cargo container in a Customs controlled area and the container secured to the satisfaction of the Chief Executive; or
 - (d) Destroyed; or
 - (e) Dealt with in such manner as the Chief Executive may allow.
- (3) Where in any case goods temporarily imported are used for industrial or commercial purposes or such other purposes as the Chief Executive may consider applicable, duty shall be payable in respect of the goods on the amount by which their value for duty, as determined by the Chief Executive at the time that he or she is satisfied pursuant to subsection (2) of this section that the goods have been dealt with under any of paragraphs (a) to (e) of that subsection, is less than their value for duty, as ascertained in accordance with this Act, at the time of their importation.
- (4) Where an amount of duty is payable in accordance with subsection (3) of this section, that duty may be deducted from any deposit of money given as security under subsection (1) of this section.
- (5) Notwithstanding subsection (3) of this section, but subject to such conditions as the Chief Executive may impose, duty is not payable on goods temporarily imported in accordance with any treaty, agreement, or arrangement concluded by the Government of New Zealand.
- (6) If, at the expiry of the period prescribed by subsection (2) of this section, the goods have not been dealt with in accordance with that subsection,—
- (a) Any sum secured by way of deposit of money must be retained by the Crown; or
 - (b) Any sum otherwise so secured must be paid to the Crown by the importer within 10 working days after the expiry of that period or such longer period as the Chief Executive may allow, and on such payment the security shall be released.
- (7) Except as the chief executive of the Ministry of Economic Development may permit, this section does not apply to duties

imposed under the Dumping and Countervailing Duties Act 1988.

- (8) This section does not apply to any goods that are, by regulations made under the Tariff Act 1988, declared to be goods to which this section does not apply.

Compare: 1966 No 19 s 181; 1980 No 33 s 8

Subsection (7) was amended, as from 7 September 2000, by section 8(1) Ministry of Economic Development Act 2000 (2000 No 28) by substituting “chief executive of the Ministry of Economic Development” for “Secretary of Commerce”.

117 Drawbacks of duty on certain goods

- (1) Subject to this section, drawbacks of duty may be allowed, at such amounts and subject to such conditions as may be prescribed, on—

- (a) Goods imported into New Zealand that are later exported from New Zealand:
- (b) Goods that are produced in a manufacturing area and exported from New Zealand:
- (c) Imported parts and materials used in, worked into, or attached to, goods manufactured or produced in New Zealand and exported from New Zealand:
- (d) Imported materials, except fuel or plant equipment, consumed in the manufacture or production of goods produced in New Zealand and exported from New Zealand.

- (2) Where—

- (a) The Chief Executive is satisfied that goods have been shipped for export; or
- (b) Goods have been packed for export into a bulk cargo container in a Customs place or Customs controlled area and the container has been secured to the satisfaction of the Chief Executive; or
- (c) Goods have been entered into an export warehouse and the Chief Executive is satisfied that they will be exported,—

the Chief Executive may, for the purposes of this section, if he or she thinks fit, treat the goods as having been exported.

- (3) Where drawback has been allowed on any goods so treated as exported or on goods consumed in the manufacture of those

goods, the goods must not, without the permission of the Chief Executive, be unshipped or relanded or unpacked before export.

- (4) Where drawback has been allowed on goods so treated as exported or on goods consumed in the manufacture of those goods and drawback has been paid in respect of any goods that are unshipped or relanded or unpacked before export, the amount of drawback allowed in respect of those goods or on goods consumed in the manufacture of those goods shall, immediately on their unshipment or relanding or unpacking, constitute a debt due to the Crown; and such debt shall immediately be payable by the owner of the goods at the time of their unshipment or relanding or unpacking.
- (5) Such debt is recoverable by action at the suit of the Chief Executive on behalf of the Crown.
- (6) The right to recover drawback as a debt due to the Crown under this section is not affected by the fact that a bond or other security has been given in respect of the unshipment or relanding or unpacking of the goods before export.
- (7) Where under this section drawback is allowed to any person, the Chief Executive may, in his or her discretion, apply the whole or any part of the sum allowed towards the payment of any duty that is payable by that person.
- (8) Except as the chief executive of the Ministry of Economic Development may permit, this section does not apply to duties imposed under the Dumping and Countervailing Duties Act 1988.
- (9) This section does not apply to any goods that are, by regulations made under the Tariff Act 1988, declared to be goods to which this section does not apply.

Compare: 1966 No 19 s 183; 1968 No 31 s 15; 1977 No 85 s 35; 1980 No 33 s 9(1); 1986 No 44 s 21

Subsection (8) was amended, as from 7 September 2000, by section 8(1) Ministry of Economic Development Act 2000 (2000 No 28) by substituting “chief executive of the Ministry of Economic Development” for “Secretary of Commerce”.

118 Regulations may prescribe minimum duty collectable or refundable and minimum drawback allowable

Without limiting the power to make regulations conferred by section 286 of this Act, regulations made under that section may prescribe—

- (a) An amount of duty below which that duty need not be collected, and the circumstances in which that duty need not be collected; and
- (b) The minimum amount of duty refundable on goods, and the circumstances in which duty below the prescribed amount shall not be refunded; and
- (c) The minimum amount of drawback of duty allowable on goods, and the circumstances in which drawback below the prescribed amount will not be allowed.

Compare: 1966 No 19 s 162

Part 9
Customs rulings

119 Application for Customs ruling

- (1) A person may make an application, in respect of particular goods specified in the application, to the Chief Executive for a Customs ruling in respect of any one or more of the following matters:
 - (a) The Tariff classification of those goods under Part 1 of Schedule 1 to the Tariff Act 1988:
 - (b) The excise classification of those goods under Schedule 3 to this Act:
 - (c) Whether or not those goods are, for the purposes of the Tariff and in accordance with any applicable regulations made under this Act, the produce or manufacture of a particular country or group of countries, referred to in the application:
 - (d) Whether or not those goods are subject to a specified duty concession under Part 2 of Schedule 1 to the Tariff Act 1988 referred to in the application.
- (2) An application under subsection (1) of this section may be made—
 - (a) In respect of imported goods—

- (i) At any time before the date of importation into New Zealand of the goods that are the subject of the application; or
 - (ii) At any later time, if the Chief Executive in his or her discretion permits; or
 - (b) In respect of goods manufactured in a manufacturing area—
 - (i) At any time before the date of manufacture of the goods; or
 - (ii) At any later time, if the Chief Executive in his or her discretion permits.
- (3) A person may make an application in relation to a particular matter specified in the application, to the Chief Executive for a Customs ruling as to the correct application of any provision contained in regulations made under section 65 of this Act.
- (4) Every application under subsection (1) or subsection (3) of this section must be in the prescribed form, and must—
 - (a) State the name and address of the applicant; and
 - (b) In the case of an application under subsection (1) of this section,—
 - (i) Specify the particular goods that are the subject of the application; and
 - (ii) Specify, in respect of those goods, the matter or matters listed under subsection (1) of this section on which the applicant requests a Customs ruling and the applicant's opinion as to what the Customs ruling should be; and
 - (iii) Unless the Chief Executive agrees otherwise, be accompanied by the goods or a sample of the goods; and
 - (c) Contain, or have attached, all information that is relevant to a proper consideration of the application; and
 - (d) Be accompanied by the prescribed fee.
- (5) The Chief Executive may, at any time, request further information from an applicant if the Chief Executive considers that the information is relevant to the application.

Compare: 1966 No 19 s 151B; 1994 No 129 s 7

120 Making of Customs ruling

- (1) Subject to subsection (4) of this section, the Chief Executive shall—
- (a) In the case of an application made under section 119(1) of this Act, make a Customs ruling in respect of any particular goods specified in the application and in respect of the matter or matters on which the ruling is sought; or
 - (b) In the case of an application made under section 119(3) of this Act, make a Customs ruling in respect of the particular matter specified in the application.
- (2) The Chief Executive must make a Customs ruling under subsection (1) of this section within such time or times as may be prescribed after receipt of,—
- (a) In the case of an application under section 119(1) of this Act,—
 - (i) A properly completed application in respect of particular goods; and
 - (ii) The goods or a sample of the goods, unless the Chief Executive has agreed not to require receipt of the goods; and
 - (b) All information that the Chief Executive considers relevant to a proper consideration of the application; and
 - (c) All information that the Chief Executive requests under section 119(5) of this Act; and
 - (d) Payment of the prescribed fee.
- (3) A Customs ruling may be made subject to such conditions as the Chief Executive thinks fit.
- (4) The Chief Executive may decline to make a Customs ruling if, in the Chief Executive's opinion, he or she has insufficient information to do so.

Compare: 1966 No 19 s 151C; 1994 No 129 s 7

121 Notice of Customs ruling

The Chief Executive shall promptly give notice in writing to the applicant of—

- (a) A Customs ruling, together with the reasons for the ruling, and the conditions (if any) to which it is subject; or

- (b) A decision to decline to make a Customs ruling, together with the reasons for that decision.

Compare: 1966 No 19 s 151D; 1994 No 129 s 7

122 Effect of Customs ruling

- (1) Subject to section 125 of this Act, a Customs ruling in respect of particular goods is conclusive evidence for the purposes of this Act and, where applicable, the Tariff Act 1988, that the goods—
 - (a) Have a particular Tariff classification under Part 1 of Schedule 1 to the Tariff Act 1988; or
 - (b) Have a particular excise classification under Schedule 3 to this Act; or
 - (c) Are or are not, as the case may be in accordance with applicable regulations made under this Act, the produce or manufacture of a particular country, or group of countries, for the purposes of the Tariff Act 1988; or
 - (d) Are or are not, as the case may be, subject to a specified duty concession under Part 2 of Schedule 1 to the Tariff Act 1988.
- (2) Subject to section 125 of this Act, a Customs ruling in respect of a particular matter in respect of which a ruling has been given under section 120(1)(b) of this Act is conclusive evidence for the purposes of this Act and, where applicable, the Tariff Act 1988, of the application of the regulation or regulations on which the ruling was made in relation to that matter.

Compare: 1966 No 19 s 151E(1); 1994 No 129 s 7

123 Confirmation of basis of Customs ruling

At any time after a Customs ruling is made, the Chief Executive may, by notice in writing, require the applicant to satisfy the Chief Executive in such manner and within 20 working days or such longer period as the Chief Executive considers appropriate,—

- (a) That the facts or information on which the Customs ruling was made remain correct; and
- (b) That any conditions on which the Customs ruling was made have been complied with.

Compare: 1966 No 19 s 151F; 1994 No 129 s 7

124 Amendment of Customs ruling

- (1) The Chief Executive may from time to time amend a Customs ruling to correct any error contained in that ruling.
- (2) The Chief Executive shall, promptly after making the amendment, give notice in writing to the applicant of the amended Customs ruling and, subject to subsection (3) of this section, the ruling as amended shall be applied to the applicant as from the date on which notice of the amendment was given to the applicant.
- (3) Notwithstanding subsection (2) of this section, if the amendment to the ruling has the effect of increasing any duty liability in respect of any goods,—
 - (a) Where the goods are imported within 3 months of the date notice of the amendment is given, pursuant to a binding contract entered into before that date; or
 - (b) Where the goods have left the place of manufacture or warehouse in the country from which they are being exported for direct shipment to New Zealand at the date notice of the amendment of the ruling is given; or
 - (c) Where the goods are imported on or before the date notice of the amendment is given but have not been entered for home consumption,—then the ruling as given prior to amendment under this section shall be applied to those goods.
- (4) Notwithstanding subsection (2) of this section, if the amendment to the ruling has the effect of decreasing any duty liability in respect of any goods, then the provisions of section 111 of this Act shall apply as if the higher duty had been paid in error.
Compare: 1966 No 19 s 151G; 1994 No 129 s 7

125 Cessation of Customs ruling

- (1) A Customs ruling ceases to have effect on the earliest to occur of the following dates:
 - (a) The date on which any information on which the Customs ruling was made ceases to be correct in all material respects; or
 - (b) The date of a material change in any of the information or facts on which the Customs ruling was made; or

- (c) The date of a material change in the Tariff Act 1988, or to Schedule 3 to this Act, or to any applicable regulations made under this Act or the Tariff Act 1988, if that date occurs prior to importation or manufacture of the relevant goods, as the case may be; or
 - (d) The date on which any of the conditions to which the Customs ruling was made subject cease to be met or complied with; or
 - (e) The date of a failure to satisfy the requirements of the Chief Executive under section 123 of this Act; or
 - (f) The date of expiry of 3 years from the date that notice of the Customs ruling, or any amendment to that Customs ruling under section 124 of this Act, is given to the applicant.
- (2) A Customs ruling shall not come into effect if—
- (a) Information on which it was made was not correct in all material respects; or
 - (b) A material change has occurred in any information or facts on which it was made.

Compare: 1966 No 19 s 151H; 1994 No 129 s 7

126 Appeal from decisions of Chief Executive

An applicant who is dissatisfied with a Customs ruling, or a decision to decline to make a Customs ruling, or a decision to amend a Customs ruling, under this Part of this Act may, within 20 working days after the date on which notice of the ruling or decision is given, appeal to a Customs Appeal Authority against that ruling or decision.

Compare: 1966 No 19 s 151I; 1994 No 129 s 7

127 No liability where Customs ruling relied on

- (1) Where an applicant has relied on a Customs ruling in relation to specific goods or a specific matter, and, as a result,—
- (a) The applicant has not paid the amount of duty that, but for this section, is payable on the goods; or
 - (b) The applicant would, but for this section, be liable to the imposition of a penalty under section 128 of this Act; or
 - (c) Goods, but for this section, would be liable to seizure under this Act,—

the amount of the duty otherwise payable is not recoverable as a debt due to the Crown and no penalty shall be imposed under section 128 of this Act and the goods shall not be liable to seizure under this Act, as the case may be.

- (2) Subsection (1) of this section applies only in relation to a matter on which the Customs ruling was given and where the Customs ruling has not ceased under section 125 of this Act, and in accordance with any amendment to a Customs ruling that the applicant has received notice of under section 124 of this Act.

Part 10

Administrative penalties

128 Imposition of penalty

- (1AA) In this Part, **entry**, in relation to any goods or class of goods deemed by regulations made under section 40(d) to have been entered under section 39(1), includes a document that, under those regulations, the Chief Executive requires to be lodged with the Customs before the goods or class of goods will be deemed to be entered.
- (1) Subject to section 130 of this Act, where the Chief Executive is satisfied that an entry of goods pursuant to section 39 of this Act contains an error or omission and that as a result—
- (a) An amount of duty payable under this Act has not been paid or declared for payment or would not have been paid or declared for payment; or
- (b) The entry is otherwise materially incorrect,—
- the Chief Executive may give notice in writing to the person who made the entry stating that unless, within 20 working days after the date on which notice is given, that person satisfies the Chief Executive that the person is entitled to be exempted from the imposition of a penalty under section 130 of this Act, the Chief Executive will issue a penalty notice under subsection (2) of this section.
- (2) Where a person to whom a notice is given under subsection (1) of this section does not, within the period referred to in that subsection, satisfy the Chief Executive that the person is entitled to be exempted under section 130 of this Act from the

imposition of a penalty under this section, the Chief Executive shall issue a notice to that person requiring that person to pay to the Chief Executive by way of penalty and in addition to the duty, if any, payable under this Act,—

- (a) In any case where, as a result of the error or omission, an amount of duty payable under this Act (not consisting solely of goods and services tax) has not been paid or declared for payment,—
 - (i) \$50; or
 - (ii) An amount equal to 20 percent of the duty unpaid or not declared, up to a maximum amount of \$10,000,—
whichever is the greater:
 - (b) In any case (to which paragraph (a) of this subsection does not apply) where the error or omission has resulted in the entry being materially incorrect or, as a result of the error or omission, an amount of goods and services tax was not paid or declared for payment, as the case may be, \$50 in respect of each such entry.
- (3) The due date for the payment of any penalty imposed under this section is the date that is 20 working days after the date on which notice of the penalty is given by the Chief Executive.
 - (4) The amount of the penalty constitutes a debt due to the Crown and is recoverable by action at the suit of the Chief Executive.
 - (5) No person by or on whose behalf the amount of the penalty is paid is liable to prosecution for an offence in relation to the error or omission and the goods in relation to which the error or omission occurred are not liable to seizure under this Act.
 - (6) Nothing in subsection (5) of this section applies to a prosecution or seizure in relation to goods that have been forfeited to the Crown by reason of the importation of the goods being prohibited or unlawful.
 - (7) For the purposes of this section, **materially incorrect** means that the entry contains an error or omission in relation to any of the following matters:
 - (a) The identity of the overseas supplier;
 - (b) The identity of the importer;
 - (c) The identity of the person making the entry:

- (d) The identification of the importing craft or its voyage number:
 - (e) The Bill of Lading, Air Waybill, or container identification details:
 - (f) The supplier's invoice number:
 - (g) Any permit number or code:
 - (h) The Tariff item in which the goods are classified under the Tariff Act 1988:
 - (i) The statistical quantity of the goods:
 - (j) The currency code for the currency in which the goods are traded:
 - (k) The value for duty expressed in the currency in which the goods are traded:
 - (l) The value for duty expressed in New Zealand currency:
 - (m) The country of origin of the goods:
 - (n) The country from which the goods have been exported:
 - (o) The amount paid or payable to transport the goods to New Zealand from the country of exportation, including any amount paid or payable for internal transportation of the goods in that country:
 - (p) The insurance costs associated with transporting the goods to New Zealand, inclusive of any insurance costs in the country of exportation.
- (8) Where any penalty imposed under this section remains unpaid by the due date for payment, there shall be imposed—
- (a) An additional penalty of 5 percent of the amount of the penalty unpaid by the due date; and
 - (b) An additional penalty of 2 percent of the amount of the penalty, including any additional penalty, unpaid at the end of the period of one month after the due date; and
 - (c) An additional penalty of 2 percent of the amount of the penalty, including additional penalty, unpaid at the end of each succeeding period of one month.
- (9) Notwithstanding subsection (8) of this section, the Chief Executive may, in his or her discretion, remit or refund the whole or any part of any additional penalty imposed by that subsection.
- (10) Where the goods referred to in subsection (1) of this section become free of duty or subject to a lower rate of duty under

Part 1 or Part 2 of Schedule 1 to the Tariff Act 1988 after the entry is made, then the penalty shall be calculated according to the provisions of subsection (2)(a) of this section as if the duty liability had not so changed.

- (11) A person who is dissatisfied with a decision of the Chief Executive under this section may, within 20 working days after the date on which notice of the decision is given, appeal to a Customs Appeal Authority against that decision.

Subsection (1AA) was inserted, as from 9 October 2002, by section 9 Customs and Excise Amendment Act (No 2) 2002 (2002 No 31).

Subsection (7)(f) was amended, as from 3 June 1998, by section 7(1) Customs and Excise Amendment (No 2) 1998 (1998 No 38) by omitting “and date, and the invoice amount”.

Subsection (7)(j) was substituted, as from 3 June 1998, by section 7(2) Customs and Excise Amendment (No 2) 1998 (1998 No 38).

Subsection (7)(o) was substituted, as from 3 June 1998, by section 7(3) Customs and Excise Amendment (No 2) 1998 (1998 No 38).

Subsection (7)(p) was inserted, as from 3 June 1998, by section 7(3) Customs and Excise Amendment (No 2) 1998 (1998 No 38).

129 Obligation to pay penalty not suspended by appeal

- (1) The obligation to pay and the right to receive and recover any penalty imposed under section 128 of this Act are not suspended by any appeal or legal proceedings.
- (2) Subject to the provisions of subsection (3) of this section, if the appellant is successful in the appeal, the amount of the penalty imposed under this section shall forthwith be refunded to the appellant by the Chief Executive.
- (3) The provisions of section 92(3) and section 93 of this Act shall, with all necessary modifications, apply to an administrative penalty required to be refunded under this section as if such penalty were duty.

130 No penalty in certain cases

A person is not liable to the imposition of a penalty under section 128 of this Act, if—

- (a) That person has voluntarily disclosed the error or omission to the Customs before the Customs has notified the person that—

- (i) The goods to which the entry relates have been selected for examination by the Customs;
 - (ii) Documentation is required to be presented to the Customs in relation to that entry;
 - (iii) The Customs intends to conduct an audit or investigation in relation to a selection of entries that includes that entry, or in relation to entries made over a period of time that includes the time the entry was made; or
- (b) That person satisfies the Chief Executive that the person formed a view as to the relevant facts pertaining to the entry which, while incorrect, was reasonable having regard to the information available to that person when the entry was prepared; or
 - (c) That person satisfies the Chief Executive that he or she acted in good faith on information provided by the importer or supplier of the goods to which the entry relates, and reliance on the accuracy or completeness of the information so provided was reasonable in the circumstances; or
 - (d) The total correct value for duty of the goods to which the error on the entry relates is less than \$1,000; or
 - (e) An information for an offence against this Act has been laid in relation to the error or omission; or
 - (f) The period between the date of lodgement of the entry of the goods and the date on which the error or omission was first identified exceeds 4 years; or
 - (g) The provisions of section 127 of this Act apply.

Part 11

Customs computerised entry processing systems

- 131 Access to Customs computerised entry processing systems**
No person shall transmit to, or receive information from, a Customs computerised entry processing system unless that person is an individual who is registered by the Chief Executive as a user of that Customs computerised entry processing system.

132 Application to be registered user

- (1) An individual who wishes to be registered as a user of a Customs computerised entry processing system may apply in writing to the Chief Executive in the prescribed form and shall provide such information in relation to the application as is prescribed.
- (2) The Chief Executive may require an applicant for registration to provide either or both of the following:—
 - (a) any additional information the Chief Executive considers necessary for the purposes of the application;
 - (b) evidence of his or her competence in any area the Chief Executive considers relevant to the application (for example, tariff classification).
- (3) The Chief Executive may—
 - (a) Grant the application subject to such conditions as the Chief Executive thinks fit; or
 - (b) Refuse the application.
- (4) The Chief Executive shall give notice in writing to the applicant of his or her decision.
- (5) An applicant who is dissatisfied with a decision of the Chief Executive under this section may, within 20 working days after the date on which notice of the decision is given, appeal to a Customs Appeal Authority against that decision.

The heading to section 132 was substituted, as from 2 July 2004, by section 21(1) Customs and Excise Amendment Act 2004 (2004 No 55).

Subsection (2) was substituted, as from 2 July 2004, by section 21(2) Customs and Excise Amendment Act 2004 (2004 No 55).

133 Registered users to be allocated unique user identifier

- (1) An individual who is registered as a user of a Customs computerised entry processing system shall be allocated a unique user identifier for use in relation to that Customs computerised entry processing system by the Chief Executive in such form or of such a nature as the Chief Executive may determine.
- (2) The unique user identifier allocated pursuant to subsection (1) of this section shall be used by the registered user for the purpose of transmitting information to or receiving information from that Customs computerised entry processing system.

- (3) The Chief Executive may, by notice in writing, impose conditions on a particular registered user, or on registered users generally, relating to the use and security of unique user identifiers.

134 Use of unique user identifier

- (1) Where information is transmitted to a Customs computerised entry processing system using a unique user identifier issued to a registered user by the Chief Executive for that purpose, the transmission of that information shall, in the absence of proof to the contrary, be sufficient evidence that the registered user to whom the unique user identifier has been issued has transmitted that information.
- (2) Where a unique user identifier is used by an individual who is not entitled to use it, subsection (1) of this section does not apply if the registered user to whom the unique user identifier was issued has, prior to the unauthorised use of that unique user identifier, notified the Customs that the unique user identifier is no longer secure.

134A Conditions may be imposed on registered users

- (1) The Chief Executive may impose a condition on the registration of either or both of the following:—
- (a) a specified registered user or class of registered users:
 - (b) all registered users.
- (2) A condition imposed under subsection (1) must be notified in writing to the 1 or more registered users concerned and must, unless the 1 or more registered users concerned appeals under subsection (3), be complied with on or before—
- (a) the 20th working day after the date of notification of the imposition of the condition on the registered user's registration; or
 - (b) a later date specified by the Chief Executive.
- (3) A registered user who is dissatisfied with the imposition of a condition on his or her user registration under subsection (1) may appeal in writing to the Customs Appeal Authority within 20 working days after the date of notification of the imposition of the condition on the registered user's registration.

- (4) If the Customs Appeal Authority is of the view that the imposition of the condition under subsection (1) was reasonable in the circumstances the registered user must comply with the condition on or before—
- (a) the 10th working day after the date of notification of the Authority's decision; or
 - (b) a later date specified by the Customs Appeal Authority.

Section 134A was inserted, as from 2 July 2004, by section 22 Customs and Excise Amendment Act 2004 (2004 No 55).

135 Cancellation of registration of registered user

- (1) The Chief Executive may by written notice to a registered user (which must state grounds for the cancellation) cancel that user's registration if satisfied that the user—
- (a) has failed to comply with a condition imposed by the Chief Executive under section 132(3) or section 133(3); or
 - (b) has failed to comply with a condition imposed by the Chief Executive under section 134A(1) within the time frame specified in that section; or
 - (c) has been convicted of—
 - (i) an offence against this Act or the Misuse of Drugs Act 1975; or
 - (ii) a crime involving dishonesty (as defined in section 2 of the Crimes Act 1961); or
 - (d) is, on 1 or more prescribed grounds, unfit to continue to be a registered user.
- (2) If the person whose registration is cancelled is dissatisfied with the decision of the Chief Executive under this section, that person may, within 20 working days after the date on which notice of the decision is given, appeal to a Customs Appeal Authority against that decision.

Subsection (1) was substituted, as from 2 July 2004, by section 23 Customs and Excise Amendment Act 2004 (2004 No 55).

136 Customs to keep records of transmissions

- (1) The Customs must keep a record of every transmission sent to or received from a registered user using a Customs computerised entry processing system.

- (2) The record described in subsection (1) of this section must be kept for a period of 7 years from the date of the sending of or the receipt of the transmission, or for such other period as may be prescribed.

Part 12

Powers of Customs officers

137 Patrols and surveillance

Any Customs officer and any authorised person assisting the officer may, for the purposes of the detection of offences against this Act, at any time and in such manner as the officer considers appropriate,—

- (a) Patrol on or over any part of the foreshore or the shore of any lake or lagoon or the banks of any river and any structure extending therefrom, or any part of the adjacent land, or any Customs place or Customs controlled area; and
- (b) Enter and inspect any aircraft landing strip and any building thereon,—

and may remain in any such area for the purposes of carrying out investigations or surveillance.

Compare: 1966 No 19 s 210; 1982 No 112 s 11

138 Landing or mooring of Customs craft

A Customs officer or other person in charge of any craft employed in the service of the Customs may anchor, moor, berth, or land the craft, or haul the craft ashore, at any place within New Zealand and, in any such case, no charge shall be levied against the Customs.

Compare: 1966 No 19 s 211

139 Boarding craft

- (1) Any Customs officer and any authorised person assisting the officer may at any time board a craft that is within New Zealand if—

- (a) The craft has arrived in New Zealand from a point outside New Zealand; or

- (b) The craft is departing from New Zealand to a point outside New Zealand, including while the craft is travelling within New Zealand en route to a point outside New Zealand; or
 - (c) The craft (not being a craft to which paragraph (a) or paragraph (b) of this subsection applies) is carrying any domestic cargo or international cargo while the craft remains within New Zealand; or
 - (d) The Customs officer has reasonable cause to suspect that the craft (not being a craft to which paragraph (a) or paragraph (b) or paragraph (c) of this subsection applies)—
 - (i) Is carrying any dutiable, uncustomed, prohibited, or forfeited goods; or
 - (ii) Has been, is being, or is about to be, involved in the commission of an offence against this Act.
- (2) The Chief Executive may station Customs officers on board any craft that has arrived in New Zealand from a point outside New Zealand for the purposes of performing any function or exercising any power that the officers may be required, authorised, or empowered to perform or exercise under this Act.
- (3) Where a Customs officer is stationed on board a craft pursuant to subsection (2) of this section, the person in charge of the craft must ensure that the officer is provided with—
- (a) Suitable accommodation and board in accordance with the reasonable requirements of that officer; and
 - (b) Safe access to any part of the craft; and
 - (c) Safe means of leaving the craft.
- (4) No charge shall be levied against the Customs for the carriage of a Customs officer who is stationed on board a craft or for his or her accommodation and board.

Compare: 1966 No 19 s 205(1), (2); 1983 No 41 s 12

140 Searching of craft

- (1) Any Customs officer and any authorised person assisting the officer may search—
- (a) A craft that has arrived in New Zealand from a point outside New Zealand; or

- (b) A craft that is departing from New Zealand to a point outside New Zealand and at all times while the craft is travelling within New Zealand en route to a point outside New Zealand; or
 - (c) A craft (not being a craft to which paragraph (a) or paragraph (b) of this subsection applies) that is carrying any domestic cargo or international cargo while the craft remains within New Zealand; or
 - (d) A craft (not being a craft to which paragraph (a) or paragraph (b) or paragraph (c) of this subsection applies) that is within New Zealand and that a Customs officer has reasonable cause to suspect—
 - (i) Is carrying any dutiable, uncustomed, prohibited, or forfeited goods; or
 - (ii) Has been, is being, or is about to be, involved in the commission of an offence against this Act—for the purpose of performing any function or exercising any power that the officer may be required, authorised, or empowered to perform or exercise under this Act.
- (2) In the exercise of the power conferred by subsection (1) of this section, any Customs officer and any authorised person assisting the officer, may, using such force as in the circumstances is reasonable, enter every part of the craft and open any package, locker, or other place, and may examine all goods found on the craft.

Compare: 1966 No 19 s 206; 1983 No 41 s 13

Subsection (1)(d) was amended, as from 1 October 1996, by section 4 Customs and Excise Amendment Act 1996 (1996 No 80) by inserting “that is within New Zealand and”. See clause 2 Customs and Excise Amendment Act Commencement Order 1996 (SR 1996/230).

141 Securing goods on craft

For the purpose of performing any function or exercising any power that the Customs is required, authorised, or empowered to perform or exercise under this Act, a Customs officer and an authorised person assisting the officer may at any time while boarding or searching any craft under section 139 or section 140 of this Act,—

- (a) Secure, by appropriate means, goods on board that craft;
or

(b) Remove goods on board that craft to a secure place.

Compare: 1966 No 19 s 209(1)

142 Firing on ship

The officer commanding or in charge of any craft in Her Majesty's service having hoisted and carrying or displaying the proper ensign or the Customs flag shall, at the request of the Chief Executive, within New Zealand, chase any ship where—

(a) The ship does not immediately bring-to when signalled or required to do so; or

(b) The master refuses to permit the ship to be boarded,— and may, as a last resort after having fired a warning, fire at or onto the ship to compel it to bring-to.

Compare: 1966 No 19 s 208

143 Detention of craft

(1AA) Subsection (1) applies to a customs officer and a craft—

(a) if the officer has reasonable cause to believe that an offence against this Act has been, is being, or is about to be committed on or in respect of the craft while it was or is within New Zealand; or

(b) if the craft is within New Zealand, and the officer has reasonable cause to believe that—

(i) there is on the craft a person who was carried into New Zealand on it; and

(ii) the carriage of the person into New Zealand on the craft constituted an offence against section 98C(1) of the Crimes Act 1961.

(1) If subsection (1AA) applies to a Customs officer and a craft, the Customs officer—

(a) may—

(i) direct the craft to proceed to the nearest Customs place, or any other place the officer considers appropriate; or

(ii) direct that the craft remain where it is; and

(b) in either case, may detain the craft for any time and for any purposes reasonably necessary to carry out an

investigation into the commission of the offence concerned.

- (2) If the person in charge of a craft attempts or threatens to cause the craft to depart from a place to which the craft has been directed to proceed or in which the craft has been directed to remain pursuant to subsection (1) of this section without a certificate of clearance, a Customs officer may (in addition to any power of seizure under Part 14 of this Act for any offence so committed) seize and detain the craft until a certificate of clearance has been obtained, and, in any such case, section 215 of this Act applies in the same manner as if the craft had been seized under Part 14 of this Act.

Compare: 1966 No 19 ss 72(3), 289

Subsection (1AA) was inserted, as from 18 June 2002, by section 8(1) Crimes Amendment Act 2002 (2002 No 20)

Subsection (1) was substituted, as from 18 June 2002, by section 8(1) Crimes Amendment Act 2002 (2002 No 20)

144 Searching vehicles

- (1) A Customs officer who has reasonable cause to suspect that—
- (a) There are in or on any vehicle that is within a Customs place any dutiable, uncustomed, prohibited, or forfeited goods; or
 - (b) There is evidence relating to any such goods; or
 - (c) There is evidence relating to any offence against this Act,—
- may stop the vehicle and search it and may detain the vehicle for such period as may be reasonably necessary for that purpose.
- (2) A Customs officer or member of the Police who has reasonable grounds to believe that—
- (a) There are in, or on, any vehicle (not being a vehicle to which subsection (1) of this section applies) any goods that have been unlawfully imported or are in the process of being unlawfully exported; or
 - (b) There is evidence relating to the unlawful importation of any goods or an attempt to unlawfully export any goods,—

may stop the vehicle and search it and may detain the vehicle for such period as may be reasonably necessary for that purpose.

- (3) A Customs officer who has reasonable cause to suspect that there are in or on a vehicle goods subject to the control of the Customs because they are goods to be exported and that have been brought to a CASE—
- (a) may stop the vehicle and search it; and
 - (b) may detain the vehicle for such period as may be reasonably necessary for that purpose and for exercising powers under section 151 in relation to any goods of that kind.
- (4) A Customs officer who has reasonable cause to suspect that there are in or on a vehicle goods subject to the control of the Customs and in a Customs-approved secure package or in a package to which a Customs seal has been applied—
- (a) may stop the vehicle and search it; and
 - (b) may detain the vehicle for such period as may be reasonably necessary for that purpose and for exercising powers under section 151 in relation to any goods of that kind.

Compare: 1966 No 19 s 215

Subsection (1)(a) was amended, as from 2 July 2004, by section 24(1) Customs and Excise Amendment Act 2004 (2004 No 55) by substituting “are” for “is” in the first place where it occurs.

Subsection (2)(a) was amended, as from 2 July 2004, by section 24(2) Customs and Excise Amendment Act 2004 (2004 No 55) by substituting “are” for “is”.

Subsections (3) and (4) were inserted, as from 2 July 2004, by section 24(3) Customs and Excise Amendment Act 2004 (2004 No 55).

145 Questioning persons about goods and debt

- (1) This section applies to—
- (a) Any person who—
 - (i) Has within the preceding 72 hours arrived in New Zealand; or
 - (ii) Is departing from New Zealand; or
 - (b) Any person, not being a person to whom paragraph (a) of this subsection applies, who is within a Customs controlled area licensed for—

- (i) The temporary holding of imported goods for the purposes of the examination of those goods under section 151 of this Act (including the holding of the goods while they are awaiting examination); or
 - (ii) The disembarkation, embarkation, or processing of persons arriving in or departing from New Zealand; or
 - (iii) The processing of craft arriving in or departing from New Zealand or the loading or unloading of goods onto or from such craft; or
 - (c) Any person, not being a person to whom paragraph (a) of this subsection applies, who is on board or is in the process of embarking onto or disembarking from a craft that has arrived from, or is departing to, a point outside New Zealand, while the craft is within New Zealand.
- (2) A Customs officer may question a person to whom this section applies as to any 1 or more of the following matters:
- (a) whether or not that person has or has had in that person's possession any dutiable, prohibited, uncustomed, or forfeited goods:
 - (b) the nature, origin, value, ownership, or intended destination of any goods of that kind:
 - (c) whether, under this Act, any debt (for example, in respect of any duty, duty refunded in error, recovery of the drawback of any duty, or penalty) is due to the Crown and payable by the person, or by a company, trust, partnership, or other enterprise of which that person is or was a director, manager, secretary, officer, or agent:
 - (d) the nature and extent of the debt (if any) of that kind.

Compare: 1966 No 19 s 212(1), (1A); 1994 No 100 s 7

The heading to section 145 was amended, as from 2 July 2004, by section 25 Customs and Excise Amendment Act 2004 (2004 No 55) by inserting "about goods and debt".

Subsection (2) was substituted, as from 9 October 2002, by section 10 Customs and Excise Amendment Act (No 2) 2002 (2002 No 31).

145A Questioning persons about identity, address, travel movements and entitlement, and other matters

- (1) This section and sections 147A and 148A apply to the following persons:—
- (a) a person who—
 - (i) has, or is suspected of having, disembarked from a craft that has arrived in New Zealand; and
 - (ii) has not, or is suspected of having not, reported to a Customs officer or a police station on his or her arrival, contrary to section 27:
 - (b) a person who is, or is suspected of, attempting to depart from New Zealand from a place other than from a Customs place, contrary to section 30.
- (2) This section and sections 147A and 148A do not apply,—
- (a) in the case of a person referred to in subsection (1)(a), to a person whose actions are authorised by another section of this Act; and
 - (b) in the case of a person referred to in subsection (1)(b), to a person who is complying with an exemption prescribed by regulations made under this Act or whose actions are authorised by the Customs.
- (3) A Customs officer may question a person to whom this section applies as to any 1 or more of the following matters:—
- (a) the person's identity:
 - (b) the person's residential address:
 - (c) the person's travel movements:
 - (d) the person's entitlement to travel:
 - (e) any of the matters specified in section 145(2):
 - (f) the craft—
 - (i) from which the person disembarked or is suspected of disembarking; or
 - (ii) on which the person attempted to depart, or is suspected of attempting to depart, from New Zealand:
 - (g) any other person who is, or was, involved in the person's arrival, suspected arrival, departure, attempted departure, or suspected departure, whether or not the other person was on the craft—

- (i) from which the person disembarked or is suspected of disembarking; or
 - (ii) on which the person attempted to depart, or is suspected of attempting to depart, from New Zealand.
- (4) A question under subsection (3)(f) may, but need not, relate to the craft's voyage and any persons or goods carried by the craft.
- (5) Section 185(3) does not apply in respect of a question asked under this section (and so it is a reasonable excuse for the purposes of section 185(1)(a) if a person fails or refuses to answer the question on the basis that the person's answer would incriminate or tend to incriminate the person).

Section 145A was inserted, as from 2 July 2004, by section 26 Customs and Excise Amendment Act 2004 (2004 No 55).

146 Questioning employees of airlines, shipping companies, owners or operators of certain vehicles, etc

- (1) A Customs officer may question any or all of the following about any international cargo or domestic cargo:—
- (a) a person who, as an employee of an airline or shipping company, manages or carries out the receipt, handling, custody, or dispatch of international cargo or domestic cargo by that airline or shipping company:
 - (b) a person employed by the licensee of a Customs controlled area licensed for—
 - (i) the temporary holding of imported goods for the purposes of the examination of those goods under section 151 of this Act (including the holding of the goods while they are awaiting examination); or
 - (ii) the processing of craft arriving in or departing from New Zealand or the loading or unloading of goods onto or from such craft:
 - (c) a person (not being a person described in paragraph (a) or (b)) who is in a Customs controlled area licensed for a purpose described in paragraph (b)(i) or (ii).
- (2) A Customs officer may question any or all of the following about any cargo destined to be exported from New Zealand:—

- (a) a person who is the owner or operator of a vehicle that a Customs officer has reasonable cause to suspect has in or on it, or has within the previous 72 hours had in or on it, goods subject to the control of the Customs and in a Customs-approved secure package or in a package to which a Customs seal has been applied:
 - (b) a person who is the owner or occupier of premises that a Customs officer has reasonable cause to suspect have in or on them, or have within the previous 72 hours had in or on them, goods subject to the control of the Customs and in a Customs-approved secure package or in a package to which a Customs seal has been applied:
 - (c) a person employed by a person described in paragraph (a) or paragraph (b).
- (3) A question under subsection (2) about cargo destined to be exported from New Zealand may relate to any or all of the following:—
- (a) whether, and if so how, goods that are or were some or all of the cargo are or were packed in a package to which a Customs seal was applied or in a Customs-approved secure package to which a seal or marking of the kind referred to in section 53E(1)(b) was applied:
 - (b) the transportation or storage of packages of the kind referred to in paragraph (a) at any time before they are or were exported:
 - (c) tampering or interference with a package of the kind referred to in paragraph (a) or with a seal or marking of the kind referred to in that paragraph.
- (4) Subsection (3) does not limit subsection (2).
- (5) Section 185(3) does not apply in respect of a question asked under this section (and so it is a reasonable excuse for the purposes of section 185(1)(a) if a person fails or refuses to answer the question on the basis that the person's answer would incriminate or tend to incriminate the person).
- (6) Nothing in this section limits sections 145 and 145A.

Section 146 was substituted, as from 2 July 2004, by section 27 Customs and Excise Amendment Act 2004 (2004 No 55).

147 Evidence of identity and entitlement to travel

- (1) This section applies to a person who is—
 - (a) An internationally ticketed passenger using air or sea travel for a domestic sector; or
 - (b) A domestic passenger using air or sea travel for a domestic sector; or
 - (c) Within a Customs controlled area licensed for the disembarkation, embarkation, or processing of persons arriving in or departing from New Zealand.
- (2) A person to whom this section applies shall, on demand by a Customs officer,—
 - (a) State that person's full name and residential address; and
 - (b) If required, produce for inspection such prescribed document as the officer may specify; or
 - (c) If the person is unable to produce the prescribed document specified, complete a declaration in the prescribed form.
- (3) A demand under paragraph (b) or (c) of subsection (2) of this section may be made of a person only for the purpose of enabling the Customs officer to establish that person's identity or that person's travel movements or that person's entitlement to air or sea travel for a domestic sector, or all of those.
- (4) A document produced by a person to a Customs officer under subsection (2)(b) of this section shall be either—
 - (a) Inspected immediately and returned to the person as soon as the inspection has concluded; or
 - (b) Retained by the Customs officer for as long as is necessary to ascertain whether or not the Chief Executive wishes to exercise his or her power under section 164 of this Act to retain the document.
- (5) This section is subject to section 175B.

Compare: 1966 No 19 s 218B, 1994 No 100 s 9

Subsection (5) was inserted, as from 6 March 2007, by section 26 Customs and Excise Amendment Act 2007 (2007 No 9).

147A Evidence of answers to questions under section 145A

- (1) A person to whom this section applies in accordance with section 145A must, on demand by a Customs officer, produce documents that—
- (a) are in the person's possession or control; and
 - (b) relate to the matters the person has been questioned about under section 145A.
- (2) When a person produces a document in response to a demand under subsection (1), a Customs officer may do any of the following things:
- (a) inspect the document immediately and return it to the person when the officer has finished inspecting it;
 - (b) inspect the document and retain it for the length of the person's detention under section 148A;
 - (c) inspect the document and retain it for as long as necessary to ascertain whether or not the Chief Executive wishes to exercise his or her power under section 164 to retain the document;
 - (d) inspect the document and remove it for the purpose of making a copy under section 165;
 - (e) inspect the document and retain it under section 166.
- (3) This section is subject to section 175B.

Section 147A was inserted, as from 2 July 2004, by section 28 Customs and Excise Amendment Act 2004 (2004 No 55).

Subsection (3) was inserted, as from 6 March 2007, by section 27 Customs and Excise Amendment Act 2007 (2007 No 9).

148 Detention of persons questioned about goods or debt

- (1) Where a Customs officer—
- (a) Is not satisfied that the answer to a question put to the person under section 145 of this Act is correct; or
 - (b) Has not been given an answer to a question put to the person under that section; or
 - (c) Is not satisfied as to a reason or explanation given by the person in respect of goods that are or have been, or that the officer suspects are or have been, in that person's possession or under that person's control,—
- and the officer has reasonable cause to suspect that an offence has been, is being, or is about to be, committed against this Act

by that person or any other person associated with that person, the officer may detain that person.

- (2) A Customs officer may detain a person under subsection (1) only for either or both of the following purposes:
- (a) to enable the officer to make any inquiries necessary to establish whether the answer to the question or the reason or explanation is correct:
 - (b) to obtain the attendance of, or make inquiries of, another Customs officer or a person who is entitled to exercise any power to question, detain, or arrest a person under this Act.
- (3) A person must not be detained under this section for a period exceeding 4 hours.

The heading to section 148 was amended, as from 2 July 2004, by section 29 Customs and Excise Amendment Act 2004 (2004 No 55) by inserting “questioned about goods or debt”.

Subsection (2) was substituted, as from 3 July 1998, by section 2 Customs and Excise Amendment Act (No 3) 1998 (1998 No 83).

Subsection (2)(b)(v) was inserted, as from 22 November 2004, by section 85 Human Assisted Reproductive Technology Act 2004 (2004 No 92).

Subsection (2) was substituted, as from 6 March 2007, by section 28 Customs and Excise Amendment Act 2007 (2007 No 9).

148A Detention of person questioned under section 145A

- (1) A Customs officer may detain a person to whom this section applies in accordance with section 145A for 1 or more of the following purposes:—
- (a) to question him or her under section 145A:
 - (b) to enable the officer to make the inquiries that are necessary to establish whether an answer to a question asked under section 145A is correct:
 - (c) to obtain the attendance of, or make inquiries of, another Customs officer or an officer entitled to exercise a power to question, detain, or arrest a person under this Act or the Crimes Act 1961 following the questioning of a person under section 145A.
- (2) A Customs officer may detain a person under subsection (1) for up to 12 hours.

- (3) The questioning of a person under section 145A must take place as soon as practicable after the person is detained under subsection (1).
- (4) A Customs officer must release a person detained under subsection (1) immediately after the person answers the questions asked under section 145A if the officer—
 - (a) is satisfied that the person has correctly answered the questions; and
 - (b) has no reasonable cause to suspect that the person questioned under that section has—
 - (i) committed an offence under section 180(1) by not complying with section 27 or section 30; or
 - (ii) committed an offence under section 98C(1) of the Crimes Act 1961.
- (5) A Customs officer may continue to detain a person under subsection (1) after the person is questioned under section 145A if the Customs officer—
 - (a) is not satisfied that the person has correctly answered a question asked under section 145A; or
 - (b) is not satisfied that the person has given an answer to a question asked under section 145A; or
 - (c) has reasonable cause to suspect that the person questioned under that section has—
 - (i) committed an offence under section 180(1) by not complying with section 27 or section 30; or
 - (ii) committed an offence under section 98C(1) of the Crimes Act 1961.
- (6) Despite subsection (2), a person may be detained for a further reasonable period if, and only if, accident, stress of weather, or some other difficulty of transport or special circumstance makes it impossible for a Customs officer to do what is specified in subsection (1) within the 12-hour period specified in subsection (2).
- (7) Reasonable force may be used, if it is necessary, to detain a person under subsection (1).
- (8) In this section, unless the context otherwise requires,—

detain, in relation to a person, includes to move the person to a Customs place or police station where the person may be, or may continue to be, questioned

further reasonable period means a period no longer than is necessary in the circumstances for a Customs officer to do what is specified in subsection (1).

Sections 148A and 148B were inserted, as from 2 July 2004, by section 30 Customs and Excise Amendment Act 2004 (2004 No 55).

148B Detention of persons committing or about to commit certain offences

- (1) A Customs officer and, in the case of paragraph (b), a member of the police may detain a person who, the Customs officer or, if applicable, the member of the police believes on reasonable grounds is committing, or is about to commit, an offence under section 180 or 191(1)(e) by,—
- (a) if a craft has arrived at a nominated Customs place or a Customs controlled area within that place under section 24, leaving or boarding the craft without the authority of a Customs officer before an inward report is made under section 26 (in contravention of section 24(2)); or
 - (b) if the person has arrived in New Zealand, not reporting forthwith to a Customs officer or a police station (in contravention of section 27(1)); or
 - (c) if the person has arrived in New Zealand and reported to a Customs officer or a police station under section 27(1), leaving the Customs officer or police station to which he or she reported, despite a Customs officer or, if applicable, a member of the police requiring the person to remain for a reasonable time in order that the Customs officer or, if applicable, the member of police might exercise a power under this Act in relation to that person (in contravention of section 27(2)); or
 - (d) if the person is on board a craft that has arrived in New Zealand, not complying with any Customs direction concerning disembarkation (in contravention of section 28(1)); or
 - (e) having disembarked from a craft that has arrived in New Zealand, leaving a Customs controlled area when the

- Customs requires the person to remain there for such reasonable time as is required to enable a Customs officer to exercise a power under this Act in relation to that person (in contravention of section 28(3)); or
- (f) if the person is required to comply with a direction given under section 32B(3), failing to comply with that direction.
- (2) A Customs officer or, if applicable, a member of the police may only detain a person under subsection (1) for the purpose of ensuring the person's compliance with 1 or more of the provisions referred to in subsection (1).
- (3)
- (4) A Customs officer or, if applicable, a member of the police must release a person detained under subsection (1) immediately after the person has complied with the requirements of the provision in relation to which he or she was detained and any other applicable provision referred to in subsection (1).
- (5) Reasonable force may be used, if necessary, to detain a person under subsection (1).
- (6) A person must not be detained under subsection (1) if a Customs officer or, if applicable, a member of the police believes on reasonable grounds that a person has already committed an offence under section 180 by contravening a provision referred to in subsection (1).
- (7) Nothing in this section prevents a person—
- (a) being detained or further detained under another provision of this Act or under any other enactment if there are lawful grounds for that detention; or
- (b) being arrested under section 174.
- (8) In this section, unless the context otherwise requires, **detention** includes the delivery of a person to a police station or the custody of a member of the police.

Sections 148A and 148B were inserted, as from 2 July 2004, by section 30 Customs and Excise Amendment Act 2004 (2004 No 55).

Section 148B(1): amended, on 17 September 2008, by section 10 of the Customs and Excise Amendment Act (No 3) 2008 (2008 No 68).

Subsection (1)(e) was amended, as from 6 March 2007, by section 29(1) Customs and Excise Amendment Act 2007 (2007 No 9) by adding “; or”.

Subsection (1)(f) was inserted, as from 6 March 2007, by section 29(1) Customs and Excise Amendment Act 2007 (2007 No 9).

Subsection (3) was repealed, as from 6 March 2007, by section 29(2) Customs and Excise Amendment Act 2007 (2007 No 9).

Subsection (4) was substituted, as from 6 March 2007, by section 29(3) Customs and Excise Amendment Act 2007 (2007 No 9).

148C Detention for public health or law enforcement purposes

- (1) A Customs officer may detain a person who is required to comply with a direction given under section 32C and who fails to comply with that direction.
- (2) If a Customs officer has reasonable cause to suspect that a person who is detained under section 148 or 148A or 148B is a person to whom 1 or more of the provisions of section 32C(1) apply, the Customs officer may—
 - (a) detain the person under this section as well as the other section; or
 - (b) if the detention under the other section has ended or is about to end, further detain the person under this section.
- (3) A Customs officer may detain or further detain a person under this section only for the purposes of obtaining the attendance of, or making inquiries of, another officer who is authorised, in respect of a matter specified in section 32C(1), to do 1 or more of the following:
 - (a) question the person:
 - (b) ascertain or determine a matter relating to the status of the person:
 - (c) detain the person:
 - (d) arrest the person.
- (4) A person must not be detained or further detained under this section for a period exceeding the shorter of—
 - (a) 4 hours; or
 - (b) if the person's detention commenced under section 148 or 148A, the maximum period for which the person could, at the time of his or her detention or further detention under subsection (2), have been detained under section 148 or, as the case requires, section 148A.

- (5) Reasonable force may be used, if necessary, to detain or further detain a person under this section.
- (6) Nothing in this section prevents a person—
- (a) being detained or further detained under another provision of this Act or under any other enactment if there are lawful grounds for that detention; or
 - (b) being arrested under section 174.
- (7) In this section,—
- another officer** means—
- (a) a member of the police; or
 - (b) a bailiff; or
 - (c) an employee or agent of a department of State

detention includes the delivery of a person to a police station or into the custody of a member of the police.

Section 148C was inserted, as from 6 March 2007, by section 12 Customs and Excise Amendment Act 2007 (2007 No 9).

149 Persons to whom sections 149A, 149B(1), and 149BA apply

Sections 149A, 149B(1), and 149BA apply to—

- (a) a person on board a craft that has arrived in, or is departing from, New Zealand; or
- (b) a person in the process of disembarking from, or embarking on to, a craft described in paragraph (a); or
- (c) a person who, having entered into New Zealand at a Customs place, remains in that Customs place.

Subsections (6) to (8) were amended, as from 30 June 1998, by section 7 District Courts Amendment Act 1998 (1998 No 76), by inserting “or Community Magistrate”.

Section 149 was substituted, as from 9 October 2002, by section 11 Customs and Excise Amendment Act (No 2) 2002 (2002 No 31).

The heading to section 149 was amended, as from 2 July 2004, by section 31(1) Customs and Excise Amendment Act 2004 (2004 No 55) by substituting “, 149B(1), and 149BA” for “and 149B(1)”.

Section 149 was amended, as from 2 July 2004, by section 31(2) Customs and Excise Amendment Act 2004 (2004 No 55) by substituting “, 149B(1), and 149BA” for “and 149B(1)”.

149A Preliminary search of persons by use of aids

- (1) A Customs officer or member of the police may conduct a preliminary search of a person to whom this section applies,

and may detain that person for the purposes of conducting that preliminary search.

- (2) A **preliminary search** is a search that—
- (a) involves little or no physical contact between the person conducting the search and the person being searched; and
 - (b) is conducted by using an aid or aids such as a dog, or a chemical substance, or x-ray or imaging equipment, or some other mechanical, electrical, or electronic device, or other similar aid, but not by any more invasive means.
- (3) If, after a preliminary search under subsection (1), a Customs officer or member of the police has reasonable cause to suspect that a person has hidden on or about his or her person any thing described in section 149B(1)(a), (b), or (c), sections 149B to 149D apply.

Sections 149A to 149D were inserted, as from 9 October 2002, by section 11 Customs and Excise Amendment Act (No 2) 2002 (2002 No 31).

Subsection (2)(b) was amended, as from 2 July 2004, by section 34(2) Customs and Excise Amendment Act 2004 (2004 No 55) by substituting “or x-ray or imaging equipment, or some other mechanical, electrical, or electronic device” for “or a mechanical, electrical, x-ray, imaging, or electronic device”.

149B Searching of persons if reasonable cause to suspect items hidden

- (1) A Customs officer or a member of the police may cause to be detained and searched a person to whom this subsection applies if the officer or member has reasonable cause to suspect that the person has hidden on or about his or her person—
- (a) any dutiable, uncustomed, prohibited, or forfeited goods; or
 - (b) evidence relating to any such goods; or
 - (c) any thing that is or might be evidence of the contravention or possible contravention of this Act.
- (2) A Customs officer or a member of the police may also cause a person to be detained and searched if the officer or member has reasonable cause to believe that the person—
- (a) either—

- (i) has, within the preceding 24 hours, arrived in New Zealand at a place other than a Customs place; or
 - (ii) is about to depart from New Zealand from any place other than a Customs place; and
- (b) has hidden on or about his or her person any thing described in subsection (1)(a), (b), or (c).
- (3) A Customs officer or member of the police may also cause a person to be detained and searched if the officer or member has reasonable cause to believe that the person—
 - (a) is not a person described in subsection (2) or section 149; and
 - (b) is in a Customs place; and
 - (c) has hidden on or about his or her person any thing described in subsection (1)(a), (b), or (c).
- (4) Reasonable force may be used if it is necessary for either or both of the following purposes:
 - (a) to detain the person:
 - (b) to search the person.
- (5) If a person is detained under subsection (1) or subsection (2) or subsection (3), and there is no suitable searcher available at the place where the search is to take place, the person detained may be taken to another place to be searched.
- (6) Any Customs officer or member of the police who searches a person under this section may require any person that the officer or member thinks necessary to assist him or her.
- (7) A search of a person may be conducted under this section whether or not that person has earlier been the subject of a preliminary search under section 149A.

Sections 149A to 149D were inserted, as from 9 October 2002, by section 11 Customs and Excise Amendment Act (No 2) 2002 (2002 No 31).

149BA Searching of persons for dangerous items

- (1) A Customs officer or member of the police may immediately detain and search a person to whom this section applies if, and only if, the Customs officer or member of the police has reasonable grounds to believe that—
 - (a) the person has a dangerous item hidden or in clear view on or about his or her person; and

- (b) the item poses a threat to the safety of the officer or member, or any other person; and
 - (c) there is a need to act immediately in order to address that threat; and
 - (d) a search under section 149A or section 149B(1) would expose the Customs officer or member of the police, or any other person, to greater risk from the threat.
- (2)
- (3) If necessary, reasonable force may be used for either or both of the following purposes:—
- (a) to detain the person:
 - (b) to search the person.
- (4) To avoid doubt, a search may be conducted under this section whether or not the person has earlier been the subject of a search under section 149A or section 149B(1).
- (5) A customs officer or member of the police who undertakes a search under this section must, within 3 working days of the search, give a written report of the search, the circumstances in which it was conducted, and the matters that gave rise to the reasonable grounds to believe required by subsection (1) to,—
- (a) in the case of a customs officer, the Chief Executive; and
 - (b) in the case of a member of the police, the Commissioner of Police.

Section 149BA was inserted, as from 2 July 2004, by section 32 Customs and Excise Amendment Act 2004 (2004 No 55).

Subsection (2) was repealed, as from 6 March 2007, by section 30(1) Customs and Excise Amendment Act 2007 (2007 No 9).

Subsection (5)(a) was amended, as from 6 March 2007, by section 30(2) Customs and Excise Amendment Act 2007 (2007 No 9) by substituting “Chief Executive” for “Comptroller of Customs”.

149C Seizure of items found

- (1) A Customs officer or member of the police may seize any thing found on or about a person when carrying out a search under section 149B(1), (2), or (3) that the Customs officer or member of the police has reasonable cause to suspect is—
- (a) a thing described in section 149B(1)(a), (b), or (c); or
 - (b) a dangerous item.

- (1A) A Customs officer or member of the police may seize any thing found on or about a person when carrying out a search under section 149BA that the Customs officer or member of the police has reasonable cause to suspect is—
- (a) a dangerous item; or
 - (b) a thing described in section 149B(1)(a), (b), or (c).
- (2) Reasonable force may be used if it is necessary to seize the thing.

Sections 149A to 149D were inserted, as from 9 October 2002, by section 11 Customs and Excise Amendment Act (No 2) 2002 (2002 No 31).

Subsection (1) was substituted, as from 2 July 2004, by section 33 Customs and Excise Amendment Act 2004 (2004 No 55).

Subsection (1A) was inserted, as from 2 July 2004, by section 33 Customs and Excise Amendment Act 2004 (2004 No 55).

149D Rights of persons detained under section 149B

- (1) A person detained under section 149B(1), (2), or (3) must be informed of his or her right to be taken, before being searched, before an officer nominated for that purpose by the Chief Executive, or before a Justice of the Peace or Community Magistrate (a “reviewer”).
- (2) If a person detained under section 149B(1), (2), or (3) asks to be taken before a reviewer, in accordance with subsection (1), the Customs officer, or member of the police, as the case may be, must immediately take the person before the reviewer.
- (3) The reviewer before whom the person is taken may,—
- (a) in the case of a person detained under section 149B(1),—
 - (i) if it appears to the reviewer that there is reasonable cause to suspect that the person has hidden on or about his or her person any thing described in section 149B(1)(a), (b), or (c), direct that the person be searched; or
 - (ii) if it does not appear to the reviewer that there is reasonable cause to suspect that the person has hidden on or about his or her person any thing described in section 149B(1)(a), (b), or (c), direct that the person be released; or

- (b) in the case of a person detained under section 149B(2) or (3),—
- (i) if it appears to the reviewer that there is reasonable cause to believe that the person has hidden on or about his or her person any thing described in section 149B(1)(a), (b), or (c), direct that the person be searched; or
 - (ii) if it does not appear to the reviewer that there is reasonable cause to believe that the person has hidden on or about his or her person any thing described in section 149B(1)(a), (b), or (c), direct that the person be released.

Sections 149A to 149D were inserted, as from 9 October 2002, by section 11 Customs and Excise Amendment Act (No 2) 2002 (2002 No 31).

150 Access of Customs officers to Customs controlled area

Subject to section 173 of this Act, the Customs may, at any time of the day or night, enter any part of a Customs controlled area and examine goods in that area, and may, for that purpose, enter any other area that it is necessary to pass through.

Compare: 1966 No 19 s 94; 1986 No 44 s 11

151 Examination of goods subject to control of Customs

- (1) A Customs officer may examine, weigh, analyse, or test, or cause to be examined, weighed, analysed, or tested goods subject to the control of the Customs or goods that the officer has reasonable cause to suspect are subject to the control of the Customs, and may, for that purpose, open or cause to be opened any packages in which the goods are contained or suspected to be contained.
- (2) All reasonable expenses incurred by the Customs under subsection (1) of this section, are a debt due to the Crown by the importer or exporter or the owner of the goods, as the case may be, and are recoverable in the same manner as duty under this Act.
- (3) The powers conferred by subsection (1) of this section extend to the examination, weighing, analysing, or testing of a suitcase, pallet, bulk cargo container, or other package.
- (4) The examination—

- (a) may include the physical or chemical testing of, or the drilling into, or the dismantling of, the goods; and
 - (b) may be facilitated by any means whatever (for example, by a dog, a chemical substance, x-ray or imaging equipment, or some other mechanical, electrical, or electronic device).
- (5) Samples of goods subject to the control of the Customs or suspected to be subject to the control of the Customs may be taken and used by the Customs for the purposes of this section, and disposed of in the prescribed manner.
- (6) Any sample taken in accordance with subsection (5) must be as small as possible for the purpose for which it is taken.
- (7) A Customs officer must, subject to section 173, be allowed free access to all lands, buildings, and places, and to all goods in or on any lands, buildings, or places, for the purpose of exercising powers under this section in respect of goods that are, or are suspected to be,—
- (a) subject to the control of the Customs; and
 - (b) in a Customs-approved secure package or in a package to which a Customs seal has been applied.
- (8) Despite subsection (7), a Customs officer must not enter a private dwelling except with the consent of an occupier or owner of that dwelling or pursuant to a warrant issued under this Act.

Compare: 1966 No 19 ss 203, 221, 222

Subsection (4) was substituted, as from 2 July 2004, by section 34(1) Customs and Excise Amendment Act 2004 (2004 No 55).

Subsection (6) was inserted, as from 27 September 2001, by section 9 Customs and Excise Amendment Act 2001 (2001 No 61).

Subsections (7) and (8) were inserted, as from 2 July 2004, by section 34(4) Customs and Excise Amendment Act 2004 (2004 No 55).

152 Examination of goods no longer subject to control of Customs

- (1) This section applies to goods that have ceased to be subject to the control of the Customs but that the Chief Executive has reasonable grounds to suspect are—
- (a) goods in respect of which an offence against this Act has been committed; or
 - (b) goods that are forfeited to the Crown under section 225.

- (2) The Chief Executive may require a person who has, or who the Chief Executive believes has, possession or control of the goods to produce them for inspection by a Customs officer.
- (3) A Customs officer may exercise in respect of the goods all the powers given by section 151.
- (4) A Customs officer may take and retain possession of goods produced under subsection (2) for the purposes of exercising the powers given by subsection (3), and may retain possession of the goods until the completion of the investigation into the grounds for suspecting that the goods—
 - (a) are goods in respect of which an offence against this Act has been committed; or
 - (b) are goods that are forfeited to the Crown under section 225.

Section 152 was substituted, as from 9 October 2002, by section 12 Customs and Excise Amendment Act (No 2) 2002 (2002 No 31).

153 Accounting for goods

The Chief Executive may, from time to time by notice in writing, require the licensee of a Customs controlled area to—

- (a) Account forthwith for goods that the Chief Executive believes have been entered into that Customs controlled area; and
- (b) Produce any documents relating to the movement of goods into or out of that Customs controlled area.

154 Production of goods

A Customs officer may require the licensee of a Customs controlled area to produce to that officer goods that are shown in any record as being within that area.

155 Verification of entries

- (1) The Chief Executive may require from a person making entry of goods proof by declaration or the production of documents (in addition to any declaration or documents otherwise required by this Act or by regulations made under this Act) of the correctness of the entry, and may refuse to deliver the goods or to pass the entry before such proof is provided.

- (2) This section extends and applies to entries made pursuant to section 70 of this Act.
- (3) Where the Chief Executive is not satisfied with the correctness of any entry in relation to any goods, or with any other aspect of the importation or exportation of those goods, as the case may be, he or she may detain the goods for a period that is reasonably necessary to enable the goods to be examined and, if necessary, to cause an investigation to be made, whether in New Zealand or elsewhere, into the importation or exportation, as the case may be, of those goods.

Compare: 1966 No 19 s 20(1), (2); 1985 No 145 s 4

155A Cancellation and amendment of entries

- (1) The Chief Executive may cancel or amend any entry required under this Act for the purpose of preventing duplication of entries or for the purpose of correcting any entry or any part of an entry.
- (2) No cancellation or amendment of an entry by the Chief Executive in accordance with subsection (1) affects any penalty, liability to seizure, or criminal liability already accrued or incurred in respect of that entry by the person making it.
- (3) The Chief Executive may make a refund of duty in accordance with any cancellation or amendment of an entry.
- (4) A person who is dissatisfied with a decision of the Chief Executive under subsection (3) may, within 20 working days after the date on which notice of the decision is given, appeal to a Customs Appeal Authority against that decision.
- (5) Subsection (3) is subject to section 111.

Section 155A was inserted, as from 6 March 2007, by section 13 Customs and Excise Amendment Act 2007 (2007 No 9).

156 Securities for payment of duty

- (1) The Chief Executive may require and take securities of such kinds as may be prescribed for payment of duty.
- (2) The Chief Executive may, pending the giving of the required security, refuse to pass an entry or to do any other act in relation to any matter in respect of which the security is required.

- (3) A security may be required in relation to a particular transaction, or in relation to transactions generally or to a class of transactions, and for such period and amount, and on such conditions as to penalty or otherwise, as the Chief Executive may direct.
- (4) The security shall be in such form as the Chief Executive approves.
- (4A) If the Chief Executive is satisfied that the obligations for which any security given in accordance with this section have been fulfilled, the person who gave the security must be released from the conditions of the security as soon as possible.
- (4B) Subsection (4A) is subject to section 92 and section 116.
- (5) A person who is dissatisfied with a decision of the Chief Executive under this section may, within 20 working days after the date on which notice of the decision is given, appeal to a Customs Appeal Authority against that decision.

Compare: 1966 No 19 s 229(1)-(3), (5); 1986 No 44 s 23

Subsections (4A) and (4B) were inserted, as from 27 September 2001, by section 10 Customs and Excise Amendment Act 2001 (2001 No 61).

157 New securities may be required

- (1) If at any time the Chief Executive is dissatisfied with the sufficiency of any security, he or she may require a new security in place of or in addition to the existing security.
- (2) If the new security is not given, the Chief Executive may refuse to pass an entry or to do any other act in relation to any matter in respect of which the new security is required.
- (3) A person who is dissatisfied with a decision of the Chief Executive under this section may, within 20 working days after the date on which notice of the decision is given, appeal to a Customs Appeal Authority against that decision.

Compare: 1966 No 19 s 230; 1986 No 44 s 24

158 Written authority of agents

A Customs officer may require a person acting or holding himself or herself out as the agent of another person in any matter relating to this Act to produce a written authority from his or

her principal, and if such an authority is not produced the officer may refuse to recognise the agency.

Compare: 1966 No 19 s 233

159 Audit or examination of records

- (1) A Customs officer may at all reasonable times enter any premises or place where records are kept pursuant to section 95 of this Act and audit or examine those records either in relation to specific transactions or to the adequacy and integrity of the manual or electronic system or systems by which such records are created and stored.
- (2) For the purposes of subsection (1) of this section, a Customs officer shall, subject to section 173 of this Act, have full and free access to all lands, buildings, and places and to all books, records, and documents, whether in the custody or under the control of the licensee, importer, or exporter, or any other person, for the purpose of inspecting any books, records, and documents and any property, process, or matter that the officer considers—
 - (a) Necessary or relevant for the purpose of collecting any duty under this Act or for the purpose of carrying out any other function lawfully conferred on the officer; or
 - (b) Likely to provide any information otherwise required for the purposes of this Act or any of those functions.
- (3) The Customs officer may, without fee or reward, make extracts from or copies of any such books or documents.
- (4) Notwithstanding subsection (2) and subsection (3) of this section, a Customs officer shall not enter any private dwelling except with the consent of an occupier or owner thereof or pursuant to a warrant issued under this Act.

Compare: 1966 No 19 s 215B; 1990 No 89 s 8

160 Requisition to produce documents

- (1) Where—
 - (a) A Customs officer has reasonable cause to suspect that goods have been unlawfully imported, exported, manufactured, undervalued, entered, removed, or otherwise unlawfully dealt with by any person contrary to this Act or that any person intends to so import, export, manu-

facture, undervalue, enter, remove, or otherwise deal with any goods; or

- (b) Goods have been seized under this Act,—
the Chief Executive may, by notice in writing, require that person or any person whom the officer suspects to be or to have been the owner or importer or exporter or manufacturer of those goods, or agent thereof, as the case may be, as and when required, to produce and deliver to that officer or any other specified Customs officer all books of account, invoice-books, or other books, records, or documents in which any entry or memorandum appears or may be supposed to appear in respect of the purchase, importation, exportation, manufacture, cost, or value of, or payment for, the goods and any other goods so imported or exported or manufactured or otherwise dealt with within a period of 7 years preceding the date of the notice.
- (2) In addition to the requirements of subsection (1) of this section, the Chief Executive may require the owner or importer or exporter or manufacturer of those goods, or agent thereof, as the case may be, as and when required, to—
- (a) Produce for the inspection of the officer or any specified Customs officer, and allow the officer to make copies of or extracts from, any of the documents, books, or records referred to in that subsection; and
- (b) Answer any question concerning those documents, books, or records.

Compare: 1966 No 19 s 218(1)

161 Further powers in relation to documents

- (1) The Chief Executive may, by notice in writing, require a person, as and when specified in the notice,—
- (a) to produce for inspection by a specified Customs officer documents or records that the Chief Executive considers necessary or relevant to—
- (i) an investigation under this Act; or
- (ii) an audit under this Act; or
- (iii) the recovery of a debt due and payable to the Crown under this Act:

- (b) to allow the specified Customs officer to take extracts from, or make copies of, documents or records of the kind referred to in paragraph (a):
 - (c) to appear before a specified Customs officer and answer all questions put to the person concerning—
 - (i) goods, or transactions relating to those goods, that are the subject of the investigation or audit, or that are relevant to the recovery of the debt, referred to in paragraph (a); or
 - (ii) documents or records of the kind referred to in paragraph (a).
- (2) In this section, **person** includes an officer employed in, or in connection with, a government department, corporation, or local authority or, despite section 75 of the Evidence Act 2006, an officer employed in, or in connection with, a bank.

Section 161 was substituted, as from 9 October 2002, by section 13 Customs and Excise Amendment Act (No 2) 2002 (2002 No 31).

Subsection (2) was amended, as from 1 August 2007, by section 216 Evidence Act 2006 (2006 No 69) by substituting “, despite section 75 of the Evidence Act 2006,” for “, despite section 47B or 47C of the Evidence Act 1908,”. *See* clause 2(2) Evidence Act 2006 Commencement Order 2007 (SR 2007/190).

162 Privilege in respect of confidential communications between legal practitioners and between legal practitioners and their clients

- (1) Subject to subsection (2) of this section, any information or document is, for the purposes of sections 160 and 161 of this Act, privileged from disclosure if—
- (a) It is a confidential communication, whether oral or written, passing between—
 - (i) A legal practitioner in his or her professional capacity and another legal practitioner in that capacity; or
 - (ii) A legal practitioner in his or her professional capacity and his or her client,—
 whether made directly or indirectly through an agent of either; and
 - (b) It is made or brought into existence for the purpose of obtaining or giving legal advice or assistance; and

- (c) It is not made or brought into existence for the purpose of committing or furthering the commission of an illegal or wrongful act.
- (2) Where the information or document consists wholly of payments, income, expenditure, or financial transactions of a specified person (whether a legal practitioner, his or her client, or any other person), it shall not be privileged from disclosure if it is contained in, or comprises the whole or part of, any book, account, statement, or other record prepared or kept by the legal practitioner in connection with a trust account of the legal practitioner within the meaning of section 6 of the Lawyers and Conveyancers Act 2006.
- (3) Except as provided in subsection (1) of this section, no information or document shall, for the purposes of sections 160 and 161 of this Act, be privileged from disclosure on the ground that it is a communication passing between one legal practitioner and another legal practitioner or between a legal practitioner and his or her client.
- (4) Where a person refuses to disclose any information or document on the ground that it is privileged under this section, a Customs officer or that person may apply to a District Court Judge for an order determining whether or not the claim of privilege is valid; and, for the purposes of determining any such application, the District Court Judge may request the information or document to be produced to him or her.
- (5) For the purposes of this section, the term **legal practitioner** means a barrister or solicitor of the High Court, and references to a legal practitioner include a firm or an incorporated law firm (within the meaning of the Lawyers and Conveyancers Act 2006) in which he or she is, or is held out to be, a partner, director, or shareholder.

Compare: 1966 No 19 s 218A; 1985 No 145 s 15

Section 162(2): amended, on 1 August 2008, by section 348 of the Lawyers and Conveyancers Act 2006 (2006 No 1).

Section 162(5): substituted, on 1 August 2008, by section 348 of the Lawyers and Conveyancers Act 2006 (2006 No 1).

163 Documents in foreign language

Where a document in a foreign language is presented to a Customs officer in relation to the carrying out of any duty or the exercise of any power of the Customs under this Act or any other Act, the officer may require the person who presented the document to supply to the officer an English translation of the document prepared by such person as the officer may approve and at the expense of the person who presented it.

Compare: 1966 No 19 s 219

164 Chief Executive may take possession of and retain documents and records

- (1) The Chief Executive may take possession of and retain any document or record presented in connection with any entry or required to be produced under this Act.
- (2) Where the Chief Executive takes possession of a document or record under subsection (1) of this section, the Chief Executive shall, at the request of the person otherwise entitled to the document or record, provide that person with a copy of the document certified by or on behalf of the Chief Executive under the seal of the Customs as a true copy.
- (3) Every copy so certified is admissible as evidence in all Courts as if it were the original.

Compare: 1966 No 19 s 220(1)

165 Copying of documents obtained during search

- (1) Where a Customs officer or an authorised person carries out any lawful search, inspection, audit, or examination under this Act, and has reasonable cause to believe that documents coming into his or her possession during such search, inspection, audit, or examination are evidence of the commission of an offence against this Act, he or she may remove the documents for the purpose of making copies.
- (2) Subject to section 166 of this Act, the documents must, as soon as practicable after copies of the documents have been taken, be returned to the person otherwise entitled to them.

- (3) A copy of any such document certified by or on behalf of the Chief Executive under the seal of the Customs is admissible in evidence in all Courts as if it were the original.

Compare: 1966 No 19 s 220(2); 1983 No 41 s 17

166 Retention of documents and goods obtained during search

- (1) Where a Customs officer or authorised person carries out any lawful search, inspection, audit, or examination under this Act, and has reasonable cause to believe that any documents or goods coming into his or her possession during such search, inspection, audit, or examination are evidence of the commission of an offence against this Act, or are intended to be used for the purpose of committing any offence against this Act, the officer or authorised person may, subject to subsection (4) of this section, take possession of and retain the documents or goods.
- (2) Where a Customs officer or authorised person takes possession of a document under subsection (1) of this section, he or she shall, at the request of the person otherwise entitled to the document, provide that person with a copy of the document certified by or on behalf of the Chief Executive under the seal of the Customs as a true copy.
- (3) Every copy so certified is admissible in evidence in all Courts as if it were the original.
- (4) Where a Customs officer or authorised person takes possession of and retains documents or goods under this section, the following provisions shall apply:
- (a) In any proceedings for an offence relating to the documents or goods, the Court may order, either at the hearing or on a subsequent application, that the documents or goods be delivered to the person appearing to the Court to be entitled to them, or that they be otherwise disposed of in such manner and under such conditions as the Court thinks fit:
- (b) A Customs officer or an authorised person may at any time, unless an order has been made under paragraph (a) of this subsection, return the documents or goods to the person from whom they were taken or apply to a District Court Judge for an order as to their disposal; and

on any such application the District Court Judge may make any order that a Court may make under paragraph (a) of this subsection:

- (c) If proceedings for an offence relating to the goods or documents are not brought within a period of 3 months after the date on which possession of the document or goods was taken, any person claiming to be entitled to the goods or documents may, after the expiration of that period, apply to a District Court Judge for an order that they be delivered to that person; and on any such application the District Court Judge may adjourn the application, on such terms as he or she thinks fit, for proceedings to be brought, or may make any order that a Court may make under paragraph (a) of this subsection.
- (5) Where a person is convicted in proceedings for an offence relating to documents or goods to which this section applies, and an order is made under this section, the operation of the order shall be suspended,—
- (a) In any case until the expiration of the time prescribed by the Summary Proceedings Act 1957 or, as the case may require, the time prescribed by the Crimes Act 1961 for the filing of notice of appeal or of an application for leave to appeal; and
 - (b) Where notice of appeal is filed within the time so prescribed, until the determination of the appeal; and
 - (c) Where application for leave to appeal is filed within the time so prescribed, until the application is determined and, where leave to appeal is granted, until the determination of the appeal.
- (6) Where the operation of any such order is suspended until the determination of the appeal, the Court determining the appeal may by order annul or vary the order made under this section; and that order, if annulled shall not take effect, and, if varied, shall take effect as so varied.
- (7) In this section the term **Court** includes the High Court, and any reference to a District Court Judge includes a reference to a High Court Judge.

Compare: 1966 No 19 s 220; 1983 No 41 s 17

166A Detention of goods suspected to be tainted property

A Customs officer or authorised person may, without warrant, seize and detain goods if—

- (a) the goods are in New Zealand and he or she is satisfied that they either—
 - (i) are being, or are intended to be, exported from New Zealand; or
 - (ii) are being, or have been, imported into New Zealand; and
- (b) the goods came to his or her attention, or into his or her possession, during a search, inspection, audit, or examination under—
 - (i) this Act; or
 - (ii) Part 5 of the Financial Transactions Reporting Act 1996 (which relates to reporting of imports and exports of cash); and
- (c) he or she has good cause to suspect that the goods are tainted property (as defined in section 2(1) of the Proceeds of Crime Act 1991).

Sections 166A to 166F were inserted, as from 2 July 2004, by section 35 Customs and Excise Amendment Act 2004 (2004 No 55).

166B Return of cash necessary to satisfy essential human needs

- (1) The power to detain goods under section 166A does not extend to, and the Customs must if practicable return immediately, cash seized under section 166A if the Customs is satisfied that the cash is (or that things for which it might be exchanged are) necessary to satisfy essential human needs—
 - (a) of (or of a dependant of) an individual from whom the cash has been seized; and
 - (b) arising on, or within 7 days after, the date on which detention would otherwise be effected.
- (2) Nothing in subsection (1) requires the Customs to return any cash that the Customs is satisfied is not necessary for the purpose specified in that subsection.
- (3) If the 7-day period referred to in section 166D(1)(a) is extended under section 166E, subsection (1) of this section applies to the extension, and the reference in subsection (1)(b) of

this section to 7 days must be read as a reference to the number of days (not exceeding 21) of that 7-day period as extended.

Sections 166A to 166F were inserted, as from 2 July 2004, by section 35 Customs and Excise Amendment Act 2004 (2004 No 55).

166C Further provisions about detention under section 166A

- (1) Reasonable force may be used if it is necessary for any of the following purposes:—
 - (a) to seize goods under section 166A:
 - (b) to detain goods under section 166A.
- (2) If the person from whom goods have been seized and detained under section 166A is identified but is not present when the seizure and detention occurs (for example, because the goods concerned are in mail or cargo or in unaccompanied baggage), the Customs must make all reasonable efforts to notify that person of the detention and seizure as soon as practicable.
- (3) Goods detained under section 166A must be taken to such place of security as a Customs officer or authorised person directs, and there detained, unless section 166F applies.
- (4) Nothing in section 166A limits or affects powers under the following enactments:—
 - (a) the rest of this Act (for example, Part 14):
 - (b) Financial Transactions Reporting Act 1996:
 - (c) Mutual Assistance in Criminal Matters Act 1992:
 - (d) Proceeds of Crime Act 1991:
 - (e) Terrorism Suppression Act 2002.

Sections 166A to 166F were inserted, as from 2 July 2004, by section 35 Customs and Excise Amendment Act 2004 (2004 No 55).

166D Return of goods detained under section 166A

- (1) In this section, **investigation period**, in relation to goods seized and detained under section 166A,—
 - (a) means the period of 7 days after the date on which the goods were seized and detained; and
 - (b) includes any extension of that period granted by the High Court under section 166E.
- (2) Goods seized and detained under section 166A must be returned to the person from whom they were seized as soon as practicable after whichever of the following occurs first:—

- (a) the completion of all relevant investigations, if they show that the goods are not tainted property:
 - (b) the expiry of the investigation period.
- (3) However, the Customs need not return the goods as provided in subsection (2), and may continue to detain them until the relevant proceedings or requests (including any resulting applications) are determined if, on or before the expiry of the investigation period,—
- (a) an information is laid in respect of the relevant serious offence (as defined in section 2(1) of the Proceeds of Crime Act 1991); or
 - (b) a foreign country makes a request to the Attorney-General under any of the following sections of the Mutual Assistance in Criminal Matters Act 1992:
 - (i) section 55 (which relates to registration of foreign restraining orders):
 - (ii) section 60 (which relates to the issue in New Zealand of a restraining order).

Sections 166A to 166F were inserted, as from 2 July 2004, by section 35 Customs and Excise Amendment Act 2004 (2004 No 55).

166E Extension of 7-day period in section 166D(1)(a)

- (1) The 7-day period in section 166D(1)(a) may be extended (once only) by order of the High Court for a reasonable period up to a further 14 days if, on an application for the purpose made before the expiry of that 7-day period, that Court is satisfied—
- (a) that the good cause to suspect required by section 166A(c) exists; and
 - (b) that the extension to be granted is necessary to enable investigations in or outside New Zealand in relation to the goods to be completed.
- (2) The application must be made in writing and served on the person from whom the goods were seized (if that person can be identified and located), and must include the following particulars:—
- (a) a description of the goods detained:
 - (b) the date on which the detention commenced:
 - (c) a statement of the facts supporting the good cause to suspect required by section 166A(c):

- (d) a statement of reasons why the extension sought is necessary to enable investigations in or outside New Zealand in relation to the goods to be completed.
- (3) The person from whom the goods were seized is entitled to appear and be heard on the application.
- (4) The Customs must make all reasonable efforts to notify the person from whom the goods were seized, at least 24 hours before the hearing of the application, of the time and place of that hearing.

Sections 166A to 166F were inserted, as from 2 July 2004, by section 35 Customs and Excise Amendment Act 2004 (2004 No 55).

166F Custody of certain goods detained under section 166A

- (1) If goods detained under section 166A are a craft, vehicle, or animal, a Customs officer may leave those goods in the custody of either—
 - (a) the person from whom the goods have been seized; or
 - (b) any other person authorised by the Customs officer and who consents to having such custody.
- (2) Every person who has the custody of goods under subsection (1) must, until a final decision is made under section 166D as to whether or not they are to be returned, hold them in safe-keeping, without charge to the Crown and in accordance with any reasonable conditions that may be imposed by the Customs.
- (3) A person to whom subsection (2) applies must also—
 - (a) make the goods available to a Customs officer on request; and
 - (b) not alter, or dispose of, the goods, or remove them from New Zealand, unless he or she is authorised to do so by a Customs officer; and
 - (c) return the goods on demand to the custody of the Customs.

Sections 166A to 166F were inserted, as from 2 July 2004, by section 35 Customs and Excise Amendment Act 2004 (2004 No 55).

167 Search warrants

- (1) A District Court Judge, Justice of the Peace, Community Magistrate, or Registrar (not being a constable) may issue a search warrant in the prescribed form if he or she is satisfied,

on an application by a Customs officer in writing made on oath, that there are reasonable grounds to believe that there is, in or on any place or thing,—

- (a) any thing that there are reasonable grounds to believe may be evidence of—
 - (i) the commission of an offence against this Act or regulations made under this Act; or
 - (ii) the unlawful exportation or importation of goods; or
 - (b) any thing that there are reasonable grounds to believe is intended to be used for the purpose of—
 - (i) committing an offence against this Act or regulations made under this Act; or
 - (ii) unlawfully exporting or importing goods; or
 - (c) any thing that is liable to seizure under this Act.
- (2) The Customs officer, when applying for a warrant must, having made reasonable enquiries, disclose on the application details of any other applications that the Customs officer knows have been made within the previous 20 working days in respect of the place or thing specified, the offence or offences alleged, and the result of such application or applications.
- (3) Every search warrant shall be—
- (a) Directed to and executed by a designated Customs officer; or
 - (b) Directed to Customs officers generally and be executed by a Customs officer or Customs officers.
- (4) Any warrant may be issued subject to such reasonable conditions as the issuer specifies in the warrant.

Subsection (1) was amended, as from 30 June 1998, by section 7 District Courts Amendment Act 1998 (1998 No 76), by inserting “or Community Magistrate”.

Subsection (1) was substituted, as from 8 January 2003, by section 14 Customs and Excise Amendment Act (No 2) 2002 (2002 No 31).

168 Entry and search under warrant

- (1) Every search warrant shall authorise the Customs officer executing the warrant—
- (a) To enter and search the place or thing on one occasion within 10 working days of the date of issue of the warrant at any time that is reasonable in the circum-

- stances, but subject to any conditions imposed by the issuer under section 167(4) of this Act; and
- (b) To use such assistance as is reasonable in the circumstances; and
 - (c) To use such force for making entry (whether by breaking open doors or otherwise) and for breaking open any thing as is reasonable in the circumstances and for preventing the removal from the premises of any thing as is reasonable in the circumstances.
- (2) Every search warrant authorises the officer executing the warrant to search for and seize any thing referred to in section 167(1) and, while on the premises in accordance with the warrant, to seize either or both of the following:
- (a) any other thing that the officer finds and has reasonable cause to suspect may be evidence of the commission of an offence in respect of which that officer could have obtained a warrant under section 167(1); or
 - (b) any dangerous item in the circumstances described in section 168A(2).
- (3) Every search warrant authorises the officer executing it—
- (a) to detain a person who is at the place referred to in the warrant when the officer arrives at that place, or who arrives at that place when the officer is executing the warrant, until the officer is satisfied that the person is not connected with the thing referred to in the warrant; and
 - (b) to search a person who is at the place referred to in the warrant when the officer arrives at that place, or who arrives at that place while the officer is executing the warrant if, at any time while executing the warrant, the officer reasonably believes that the thing referred to in the warrant may be on the person's body.
- (3A) A person who is at the place referred to in the warrant when the officer executing the warrant arrives at that place, or who arrives at that place while the officer is executing the warrant, must remain at that place until the earlier of the following events:
- (a) the search of that place is completed; or

- (b) the officer, being satisfied that the person is not connected with the thing referred to in the warrant, permits the person to leave.
- (3B) A person who is being searched under subsection (3)(b) must remain at the place where he or she is being searched until the search is completed.
- (3C) A Customs officer or member of the police who has reasonable grounds to suspect that a person has refused or failed to comply with subsection (3A) or subsection (3B) may arrest that person without warrant under section 174(1).
- (3D) No person may be detained under subsection (3)(a) or (b) for a period of time that is unreasonable.
- (4) Reasonable force may be used if it is necessary for either or both of the following purposes:
 - (a) to detain a person under subsection (3)(a):
 - (b) to search a person under subsection (3)(b).
- (5) A person to be searched shall be informed of his or her right to be taken, before being searched, before an officer nominated for that purpose by the Chief Executive, or before a Justice of the Peace or Community Magistrate.
- (6) Where a person to be searched asks to be taken before a nominated officer or a Justice of the Peace or Community Magistrate in accordance with subsection (5) of this section, the Customs officer or member of the Police, as the case may be, must take the person forthwith before a nominated officer, or before a Justice of the Peace or Community Magistrate, as the case may be.
- (7) The nominated officer or Justice of the Peace or Community Magistrate before whom the person is taken may,—
 - (a) If it appears to that nominated officer or Justice of the Peace or Community Magistrate that there is reasonable cause to believe that the thing referred to in the warrant may be on that person's body, direct that the person be searched; or
 - (b) If it does not appear to that nominated officer or Justice of the Peace or Community Magistrate that there is reasonable cause to believe that the thing referred to in

the warrant may be on that person's body, direct that the person not be searched.

- (8) Where there is no suitable searcher available at the place where the search is to take place, the person to be searched may be taken to another place to be searched.
- (9) A Customs officer or member of the Police may seize any thing found in carrying out the search of the person that the Customs officer or member of the Police has reasonable cause to believe is a thing referred to in the warrant, and reasonable force may be used to seize the thing.
- (10) Every person called upon to assist the officer executing the warrant has, for that purpose, the powers referred to in subsections (1)(c) and (2) of this section.

Compare: 1966 No 19 s 217; 1983 No 41 s 16

Subsection (2) was substituted, as from 6 March 2007, by section 14 Customs and Excise Amendment Act 2007 (2007 No 9).

Subsection (3) was substituted, as from 8 January 2003, by section 15 Customs and Excise Amendment Act (No 2) 2002 (2002 No 31).

Subsections 3A to 3D were inserted, as from 8 January 2003, by section 15 Customs and Excise Amendment Act (No 2) 2002 (2002 No 31).

Subsection (4) was substituted, as from 8 January 2003, by section 15 Customs and Excise Amendment Act (No 2) 2002 (2002 No 31).

Subsections (5) to (7) were amended, as from 30 June 1998, by section 7 District Courts Amendment Act 1998 (1998 No 76) by inserting "or Community Magistrate".

168A Searching of persons for dangerous items when executing search warrant

- (1) This section applies to any person who is at the place referred to in the search warrant when the Customs officer arrives at that place, or who arrives at that place when the officer is executing the warrant.
- (2) A Customs officer may immediately detain and search a person to whom this section applies for dangerous items, and may seize such items under section 168(2) if, and only if, the officer has reasonable grounds to believe that—
- (a) the person has a dangerous item hidden or in clear view on or about his or her person; and
 - (b) the item poses a threat to the safety of the officer or any other person; and

- (c) there is a need to act immediately in order to address that threat.
- (3) If necessary, reasonable force may be used for any or all of the following purposes:
 - (a) to detain the person:
 - (b) to search the person:
 - (c) to seize any dangerous item found in carrying out a search under subsection (2).
- (4) To avoid doubt, a search may be conducted under this section whether or not the person has earlier been the subject of a search under section 168.
- (5) A Customs officer who undertakes a search under this section must, within 3 working days of the search, give the Chief Executive a written report of the search, the circumstances in which it was conducted, and the matters that gave rise to the reasonable grounds to believe required by subsection (2).

Sections 168A and 168B were inserted, as from 6 March 2007, by section 15 Customs and Excise Amendment Act 2007 (2007 No 9).

168B Detention of dangerous items

- (1) A Customs officer may detain goods that he or she seizes in the course of exercising a power of search under section 168 or 168A(2), if he or she believes on reasonable grounds that the goods are dangerous items as defined in section 2(1).
- (2) If a Customs officer detains goods under subsection (1), he or she must—
 - (a) as soon as practicable, deliver those goods into the custody of the police; or
 - (b) comply with section 170 and retain those goods if the goods may be required for a proceeding under this Act.
- (3) Once goods have been delivered under subsection (2), responsibility for them passes from the Customs to the police.
- (4) Section 199 of the Summary Proceedings Act 1957 applies with any necessary modifications to goods detained under subsection (1).

Sections 168A and 168B were inserted, as from 6 March 2007, by section 15 Customs and Excise Amendment Act 2007 (2007 No 9).

169 Search warrant to be produced

- (1) Every Customs officer executing a search warrant must produce it for inspection upon initial entry and in response to any reasonable request thereafter and, when requested by or on behalf of the owner or occupier, must provide a copy of the warrant no later than 7 days after the making of the request.
- (2) Subject to subsection (3) of this section, if the owner or occupier of the place being searched or the owner of the thing being searched, as the case may be, is not present at the time of the search, the Customs officer executing the warrant must leave in a prominent position at the place being searched or attached to the thing searched, as the case may be, a written notice stating the date and time of the execution of the warrant and the name of the officer in charge of the search.
- (3) Where the officer executing the warrant believes that a notice under subsection (2) of this section would unduly prejudice subsequent investigations, that officer may refrain from leaving such notice and, in that event, must, within 7 days, apply to a Judge for confirmation of his or her decision.
- (4) If the Judge refuses to confirm the decision, the officer who executed the warrant must forthwith notify, or cause to be notified, the owner or occupier of the place searched or the owner of the thing searched, as the case may be, of the particulars referred to in subsection (2) of this section.

170 Duty to inform owner where thing seized

- (1) Except in any case to which section 169(3) of this Act applies and continues to apply following a ruling under section 169(3) of this Act or unless a Judge because of exceptional circumstances otherwise orders, the person executing the warrant must, within 7 days after the seizure of any thing, inform the owner or occupier of the place searched or the owner of the thing searched of the fact that any thing has been seized and of the place from where it was seized.
- (2) The person executing the warrant must inform the owner or occupier by—
 - (a) Delivering to him or her a written notice containing such information; or

- (b) Leaving such a notice in a prominent position at the place searched or attached to the thing searched, as the case may be; or
 - (c) By sending such a notice to the owner or occupier by registered mail; or
 - (d) In such other manner as a Judge may direct in any particular case.
- (3) A person affected by the execution of a search warrant may apply to a Judge for an order for the disclosure of the application for the warrant, and any documents submitted in support of the application, and the Judge may, if satisfied that the disclosure of the information will not prejudice the prevention, investigation, or detection of offences, or endanger the safety of any person, order the disclosure of the whole or any part of the application and supporting documents.

171 Emergency warrants

- (1) In any case where a District Court Judge or Justice or Community Magistrate, or any Registrar (not being a constable) is satisfied, on an application made by a Customs officer, that circumstances exist that would justify the grant of a search warrant under section 167 of this Act, but the urgency of the situation requires that the search should begin before a warrant under that section could with all practicable diligence be obtained, the District Court Judge or Justice or Community Magistrate, or any Registrar (not being a constable) may, orally or in writing, grant an emergency warrant to the Customs officer making the application to search for and seize the thing that is believed to be in or on a particular place, premises, or thing.
- (2) Any application for an emergency warrant may be made orally, but otherwise every such application shall comply with the requirements of section 167 of this Act.
- (3) The Customs officer making the application shall, at the time of making the application, make a note in writing of the particulars of the application.
- (4) Where the District Court Judge or Justice or Community Magistrate, or any Registrar (not being a constable) grants the application for an emergency warrant, he or she shall

forthwith make a note in writing of the particulars of the application. The note shall be filed in the District Court Registry nearest to where the application is made, and shall, for the purposes of section 167(1) of this Act, be deemed to be an application under that section. The District Court Judge or Justice or Community Magistrate, or any Registrar (not being a constable) shall also make a note of the terms under which the emergency warrant is issued.

- (5) Every Customs officer executing an emergency warrant must produce the note made in accordance with subsection (3) of this section for inspection upon initial entry and in response to any reasonable request thereafter and, when requested, must provide a copy of the note no later than 7 days after the making of the request.
- (6) The provisions of sections 168, 169(2) to (4) and 170 of this Act, so far as they are applicable and with the necessary modifications, shall apply to emergency warrants in the same manner as they apply to search warrants.
- (7) Every emergency warrant shall remain valid for 6 hours from the time when the authorisation is given, and shall then expire.
- (8) As soon as practicable after an emergency warrant has expired, the Customs officer who applied for it, or, if that officer is not able to do so, another Customs officer, shall provide a written report, in the prescribed form, to the Judge or Justice or Community Magistrate or Registrar who granted the emergency warrant setting out the manner in which the emergency warrant has been executed and the results obtained by the execution of the warrant.

Subsections (1), (4), and (8) were amended, as from 30 June 1998, by section 7 District Courts Amendment Act 1998 (1998 No 76), by inserting “or Community Magistrate”.

172 Use of aids by Customs officer

- (1) In exercising any power of boarding, entry, or search conferred by this Act, a Customs officer or any member of the Police may have with him or her, and use for the purposes of searching, a dog, a chemical substance, x-ray or imaging equipment, or some other mechanical, electrical, or electronic device.

- (2) Nothing in this section applies to a search carried out on residential premises except pursuant to a warrant issued under section 167 or 171 of this Act.

Compare: 1966 No 19 s 217A; 1974 No 142 s 4

Subsection (1) was amended, as from 2 July 2004, by section 34(3) Customs and Excise Amendment Act 2004 (2004 No 55) by substituting “x-ray or imaging equipment, or some other” for “or a”.

173 Conditions applying to entry of buildings

Notwithstanding anything in this Act, every provision of this Act that confers on a Customs officer the power to enter any building, whether under the authority of a warrant or otherwise, is subject to the following conditions:

- (a) Reasonable notice of the intention to enter must be given, except where it would frustrate the purpose of the entry:
- (b) Entry must be made at a time that is reasonable in the particular circumstances except where it would frustrate the purpose of the entry:
- (c) Identification must be produced on initial entry and, if requested, at any subsequent time:
- (d) The authority for the entry and the purpose of the entry must be clearly stated to the owner or occupier of the building if he or she is present.

Compare: 1966 No 19 s 215A; 1983 No 41 s 15

174 Arrest of offenders

- (1) A Customs officer or member of the Police who has reasonable cause to suspect that a person has committed an offence against section 176 or section 188A or section 209 or section 211 of this Act may, at any time within 7 days after the date on which such cause to suspect arises, arrest that person without warrant.
- (2) Notwithstanding subsection (1), a Customs officer may arrest without warrant any person found on a craft if the officer believes on reasonable grounds—
 - (a) that the person has committed, is committing, or is attempting to commit, or is otherwise concerned in the commission of, an offence against this Act that is punishable by imprisonment; or

- (b) that—
- (i) the person carried into New Zealand some other person who is on the craft; and
 - (ii) the carriage of the other person into New Zealand on the craft constituted an offence against section 98C(1) of the Crimes Act 1961.
- (3) Where a Customs officer arrests a person under a power conferred by this section, the officer shall, unless the person is sooner released, as soon as practicable call a member of the Police to his or her aid and deliver the arrested person into the custody of that member of the Police.
- (4) If the person delivered into custody is released by a constable without bail pursuant to section 19A of the Summary Proceedings Act 1957, the duties under subsections (3) to (5) of that section relating to the laying and filing of an information shall be the duties of a Customs officer and not of a constable.

Compare: 1966 No 19 s 267

Subsection (1) was amended, as from 8 January 2003, by section 16 Customs and Excise Amendment Act (No 2) 2002 (2002 No 31) by inserting “or section 188A” after the expression “176”.

Subsection (2) was substituted, as from 18 June 2002, by section 8(2) Crimes Amendment Act 2002 (2002 No 20)

175 Protection of persons acting under authority of Act

Neither the Crown nor a Customs officer, member of the Police, a member of the Armed Forces, an authorised person, or a person lawfully assisting any such person is liable for the loss of or damage to any document, goods, vehicle, or craft occasioned by anything done or omitted to be done or purporting to have been done by a Customs officer, member of the Police, member of the Armed Forces, authorised person, or person lawfully assisting in the exercise of any power conferred on him or her by this Act unless he or she has not acted in good faith or has acted without reasonable care.

Compare: 1966 No 19 s 228A; 1971 No 42 s 10

175A Seizure and detention of dangerous civil aviation goods

- (1) A Customs officer may seize and detain goods that are presented or located in the course of exercising any power of inspection, search, or examination under this Act, if he or she has cause to suspect on reasonable grounds that the goods—
 - (a) are dangerous civil aviation goods that may not be lawfully carried on an aircraft; and
 - (b) are proposed to be carried by an operator.
- (2) If a Customs officer detains goods under subsection (1), he or she must, as soon as practicable, deliver those goods into the custody of the Aviation Security Service or the operator.
- (3) Once goods have been delivered under subsection (2), responsibility for them passes from the Customs to the Aviation Security Service or to the operator.
- (4) In this section,—

Aviation Security Service has the same meaning as in section 2 of the Civil Aviation Act 1990

dangerous civil aviation goods has the same meaning as dangerous goods in section 2 of the Civil Aviation Act 1990

operator has the same meaning as in section 2 of the Civil Aviation Act 1990.

Section 175A was inserted, as from 9 October 2002, by section 17 Customs and Excise Amendment Act (No 2) 2002 (2002 No 31).

Section 175A was substituted, as from 6 March 2007, by section 16 Customs and Excise Amendment Act 2007 (2007 No 9).

175B Unlawful travel document

- (1) In this section—

false, in relation to a travel document, means that the travel document contains information purporting to relate to the person to whom it was issued (being information supplied by or on behalf of the person as part of or in connection with the person's application for the document) that—

 - (a) is false; or
 - (b) relates in fact to some other person

forged, in relation to a travel document, means that the travel document—

- (a) has not been issued by the government by which it purports to have been issued; or
- (b) has been altered without authority

misused, in relation to a travel document, means that the travel document has been, is being, or is intended to be used for the purposes of identification by a person who is not the person in respect of whom the document was issued

travel document means any document that is or purports to be—

- (a) a New Zealand travel document within the meaning of the Passports Act 1992; or
- (b) a passport (within the meaning of that Act) that has been issued by the government of a country other than New Zealand; or
- (c) a certificate of identity (within the meaning of that Act) that has been issued by the government of a country other than New Zealand; or
- (d) a refugee travel document that has been issued by the government of a country other than New Zealand

unlawful travel document means—

- (a) a travel document that is false, forged, or misused; and
- (b) includes any item involved in the production of a document referred to in paragraph (a) or in the unauthorised alteration of a travel document.

- (2) A Customs officer may retain or seize any document presented for inspection if the Customs officer has reasonable cause to suspect that the document is an unlawful travel document.
- (3) A Customs officer may seize any goods found in the course of a search or examination under this Act if the Customs officer has reasonable cause to suspect that the goods are unlawful travel documents.
- (4) Sections 22, 139, 140, 144, 145, 148, and 149B must each be read as if unlawful travel documents were prohibited goods.
- (5) Any documents or goods retained or seized under this section must be dealt with in accordance with section 175C.

- (6) Section 175C(2) to (5) apply with all necessary modifications to any documents or goods retained or seized under this section.

Sections 175B and 175C were inserted, as from 6 March 2007, by section 16 Customs and Excise Amendment Act 2007 (2007 No 9).

175C Seizure and detention of goods suspected to be certain risk goods or evidence of commission of certain offences

- (1) A Customs officer may seize and detain goods or documents that are presented or located in the course of exercising any power of inspection, search, or examination under this Act, if he or she has cause to suspect on reasonable grounds that the goods—
- (a) are risk goods (within the meaning of the Biosecurity Act 1993) for which no biosecurity clearance has been given under that Act; or
 - (b) are evidence of the commission of 1 or more offences under 1 or more of the following enactments:
 - (i) section 130 of the Animal Products Act 1999;
 - (ii) section 98C of the Crimes Act 1961;
 - (iii) section 232 or 233 of the Fisheries Act 1996;
 - (iv) section 126(4) or 142(1)(d) of the Immigration Act 1987;
 - (v) section 37 or 43 of the Medicines Act 1981;
 - (vi) section 29A, 30, or 31 of the Passports Act 1992.
- (2) A Customs officer who detains goods under subsection (1) must, as soon as practicable, deliver those goods into the custody of the appropriate person specified in subsection (4).
- (3) Once goods have been delivered to a person under subsection (2), responsibility for those goods passes to that person.
- (4) The appropriate person referred to in subsection (2) is—
- (a) if the Customs officer believes that subsection (1)(b)(ii), (iv), or (vi) applies to the goods, a member of the police; and
 - (b) if the Customs officer believes that another provision of subsection (1) applies to the goods, an appropriately authorised officer who holds office under the Act specified in that provision or is employed by the department of State that administers the Act.

- (5) Section 199 of the Summary Proceedings Act 1957 applies with any necessary modifications to goods detained under subsection (1).

Sections 175B and 175C were inserted, as from 6 March 2007, by section 16 Customs and Excise Amendment Act 2007 (2007 No 9).

Part 13 Offences and penalties

Offences in relation to Customs

176 Threatening or resisting Customs officer

- (1) Every person commits an offence who—
- (a) Threatens or assaults; or
 - (b) By force resists or intentionally obstructs or intimidates,—
- any Customs officer in the execution of his or her duties or a person acting in the officer's aid.
- (2) Every person who commits an offence against this section is liable on conviction to imprisonment for a term not exceeding 12 months or to a fine not exceeding \$15,000.

Compare: 1966 No 19 s 238

177 Obstructing Customs officer or interfering with Customs property

- (1) Every person commits an offence who,—
- (a) Otherwise than by force, intentionally obstructs any Customs officer or authorised person acting in the execution of his or her duties; or
 - (b) Intentionally interferes with any equipment, vehicle, craft, dog, communications system, or other aid used, or intended for use, by the Customs; or
 - (c) Does any act with the intention of impairing the effectiveness of any equipment, vehicle, craft, dog, communications system, or other aid used, or intended for use, by the Customs.
- (2) Every person who commits an offence against this section is liable on conviction to imprisonment for a term not exceeding 3 months or to a fine not exceeding \$1,000.

Compare: 1966 No 19 s 239; 1982 No 112 s 17

178 Personation of Customs officer

- (1) Every person commits an offence, who,—
 - (a) Not being a Customs officer or authorised person for the purposes of this Act, by words, conduct, or demeanour pretends to be a Customs officer or an authorised person or wears or uses the uniform, name, designation, or description of a Customs officer or authorised person; or
 - (b) Without authority represents any craft, vehicle, or other conveyance as being in the service of the Customs.
- (2) Every person who commits an offence against this section is liable on conviction to imprisonment for a term not exceeding 12 months or to a fine not exceeding \$15,000.

Compare: 1966 No 19 s 241; 1982 No 112 s 17

179 Counterfeit seals or marks

- (1) Every person commits an offence who, without lawful authority or excuse, has in his or her possession, or makes, or uses any counterfeit seal, stamp, or mark in imitation of or closely resembling any seal, stamp, or mark used by the Customs for the purposes of this Act.
- (2) Every person who commits an offence against this section is liable on conviction,—
 - (a) In the case of an individual, to a fine not exceeding \$2,000;
 - (b) In the case of a body corporate, to a fine not exceeding \$12,000.

Compare: 1966 No 19 s 251; 1982 No 112 s 17

180 Obligations of persons arriving in or departing from New Zealand

- (1) Every person commits an offence who wilfully fails to comply with any requirement imposed on that person by or under any of sections 27 to 32C (other than section 32A).
- (2) Every person who commits an offence against this section is liable on conviction to a fine not exceeding \$1,000.

Compare: 1966 No 19 s 212(2); 1982 No 112 s 17

Subsection (1) was amended, as from 6 March 2007, by section 31 Customs and Excise Amendment Act 2007 (2007 No 9) by substituting “sections 27 to 32C (other than section 32A)” for “sections 27 to 32 of this Act”.

181 Unauthorised presence in certain Customs controlled areas

- (1) Every person commits an offence who, without the permission of a Customs officer, enters into, or remains in when directed by a Customs officer to leave, a Customs controlled area licensed for—
- (a) The temporary holding of imported goods for the purposes of the examination of those goods under section 151 of this Act (including the holding of the goods while they are awaiting examination); or
 - (b) The disembarkation, embarkation, or processing of persons arriving in or departing from New Zealand; or
 - (c) The processing of craft arriving in or departing from New Zealand or the loading or unloading of goods onto or from such craft,—
- when that area is being, or is about to be, used for any of the purposes for which it is licensed.
- (2) Every person who commits an offence against this section is liable on conviction to a fine not exceeding \$1,000.

Compare: 1966 No 19 s 248A; 1973 No 110 s 7

182 Unauthorised access to or improper use of Customs computerised entry processing system

- (1) Every person commits an offence who,—
- (a) Knowingly and without lawful authority by any means gains access to or attempts to gain access to any Customs computerised entry processing system; or
 - (b) Having lawful access to any Customs computerised entry processing system, knowingly uses or discloses information obtained from such a computer system for a purpose that is not authorised; or
 - (c) Knowing that he or she is not authorised to do so, receives information obtained from any Customs computerised entry processing system, and uses, discloses, publishes, or otherwise disseminates such information.

- (2) Every person who commits an offence against this section is liable on conviction on indictment,—
- (a) In the case of an individual, to imprisonment for a term not exceeding 2 years or to a fine not exceeding \$15,000;
 - (b) In the case of a body corporate, to a fine not exceeding \$50,000.

183 Interference with Customs computerised entry processing system

- (1) Every person commits an offence who—
- (a) By any means knowingly falsifies any record or information stored in any Customs computerised entry processing system; or
 - (b) Knowingly damages or impairs any Customs computerised entry processing system; or
 - (c) Knowingly damages or impairs any duplicate tape or disc or other medium on which any information obtained from a Customs computerised entry processing system is held or stored otherwise than with the permission of the Chief Executive.
- (2) Every person who commits an offence against this section is liable on conviction on indictment to imprisonment for a term not exceeding 3 years or to a fine not exceeding \$25,000.

184 Offences in relation to security of, or unauthorised use of, unique user identifiers

- (1) A registered user of a Customs computerised entry processing system who fails to comply with or acts in contravention of any condition imposed by the Chief Executive relating to the security of that registered user's unique user identifier commits an offence.
- (2) A person who,—
- (a) Not being a registered user, uses a unique user identifier; or
 - (b) Being a registered user, uses the unique user identifier of any other registered user,—
- to authenticate a transmission of information to the Customs computerised entry processing system commits an offence.

- (3) Every person who commits an offence against this section is liable on conviction to a fine not exceeding \$5,000.

Offences in relation to Customs officers' powers

185 Failure to answer questions

- (1) Every person commits an offence who, when required under this Act to answer any question put to that person,—
- (a) Without reasonable excuse, fails or refuses to answer it; or
 - (b) Gives an incorrect answer.
- (2) It is a defence to a prosecution for an offence against this section if the person proves that he or she did not, when required to answer the question, have the information required to answer the question in his or her knowledge, possession, or control, or honestly and reasonably believed that the answer he or she gave was, in all the circumstances, correct at that time.
- (3) It is not a reasonable excuse for the purposes of subsection (1)(a) of this section if a person fails or refuses to answer a question on the ground that to answer the question would or might incriminate or tend to incriminate that person.
- (4) Every person who commits an offence against this section is liable on conviction,—
- (a) In the case of an individual, to a fine not exceeding \$1,000; and
 - (b) In the case of a body corporate, to a fine not exceeding \$5,000.

Compare: 1966 No 19 ss 19, 212(2), 212A(2), 218(4), 255; 1985 No 145 s 14(2); 1990 No 89 s 4; 1994 No 100 ss 7, 8

186 Failure to produce evidence of identity, entitlement to travel, or other matters

- (1) Every person commits an offence who fails without reasonable excuse to comply with a demand made under section 147 or section 147A.
- (2) Every person who commits an offence against this section is liable on conviction to a fine not exceeding \$1,000.

Compare: 1966 No 19 s 218B; 1994 No 100 s 9

The heading to section 186 was amended, as from 2 July 2004, by section 36(1) Customs and Excise Amendment Act 2004 (2004 No 55) by substituting “, entitlement to travel, or other matters” for “and entitlement to travel”.

Subsection (1) was amended, as from 2 July 2004, by section 36(2) Customs and Excise Amendment Act 2004 (2004 No 55) by substituting “or section 147A” for “of this Act”.

187 Failure to produce or account for goods

- (1) Every person commits an offence who fails or refuses to produce or account for any goods when required to do so under section 152(2) or section 153 or section 154.
- (2) It is a defence to a prosecution for an offence against this section if the person proves that he or she did not have possession or control of the goods or was otherwise unable, for good reason, to comply with the Chief Executive’s requirements.
- (3) Every person who commits an offence against this section is liable on conviction to a fine not exceeding \$5,000.

Compare: 1966 No 19 s 204(3); 1982 No 112 s 17

Subsection (1) was amended, as from 9 October 2002, by section 18(a) Customs and Excise Amendment Act (No 2) 2002 (2002 No 31) by substituting “152(2)” for “152”.

Subsection (1) was amended, as from 9 October 2002, by section 18(b) Customs and Excise Amendment Act (No 2) 2002 (2002 No 31) by omitting “of this Act”.

188 Failure to comply with requisition

- (1) Every person commits an offence who fails or refuses to comply with a requirement of the Chief Executive under section 160 or section 161 of this Act.
- (2) It is a defence to a prosecution for an offence against this section if the defendant proves that he or she did not have possession or control of the documents or information or did not have knowledge of the relevant documents, books, or records.
- (3) Every person who commits an offence against this section is liable on conviction,—
 - (a) In the case of an individual, to a fine not exceeding \$1,000;
 - (b) In the case of a body corporate, to a fine not exceeding \$5,000.

Compare: 1966 No 19 s 218(4); 1985 No 145 s 14

188A Failure or refusal to remain at place

- (1) A person commits an offence who—
 - (a) fails or refuses to remain at the place that is being searched under section 168(1)(a) until the earlier of the events specified in section 168(3A)(a) and (b); or
 - (b) fails or refuses to remain at the place where that person is being searched under section 168(3)(b) until that search is completed.
- (2) Every person who commits an offence against this section is liable on conviction to a term of imprisonment not exceeding 3 months, or to a fine not exceeding \$1,000, or both.

Section 188A was inserted, as from 8 January 2003, by section 19 Customs and Excise Amendment Act (No 2) 2002 (2002 No 31).

*Offences in relation to Customs controlled areas***189 Use of area without licence**

- (1) Every person who contravenes section 10 of this Act commits an offence.
- (2) Every person who commits an offence against this section is liable on conviction,—
 - (a) In the case of an individual, to a fine not exceeding \$5,000;
 - (b) In the case of a body corporate, to a fine not exceeding \$10,000.

190 Failure to comply with conditions of licence

- (1) Every person commits an offence who fails to comply with, or acts in contravention of, any term, condition, or restriction subject to which a licence has been granted under section 12 of this Act.
- (2) Every person who commits an offence against this section is liable on conviction,—
 - (a) In the case of an individual, to a fine not exceeding \$1,000;
 - (b) In the case of a body corporate, to a fine not exceeding \$5,000.

*Offences in relation to arrival and departure of
craft and persons*

This heading was amended, as from 6 March 2007, by section 32 Customs and Excise Amendment Act 2007 (2007 No 9) by adding “and persons”.

191 Offences in relation to arrival of craft

- (1) Every person commits an offence who,—
- (a) being the person in charge of any craft, fails to comply with any of the following requirements in section 21(1) (which relates to advice of arrival):
 - (i) to give advance notice of any or all of the matters prescribed; or
 - (ii) to give advance notice in the form and manner approved in writing by the Chief Executive; or
 - (iii) to give advance notice within the time prescribed; or
 - (iv) to proceed to a Customs place; or
 - (v) to proceed as directed by a Customs officer:
 - (b) Being the person in charge of, or the owner of, or a member of the crew of, or a passenger on, any craft,—
 - (i) Refuses to answer any question put to that person by a Customs officer under subsection (2)(a) of section 22 of this Act (which relates to a requirement to answer questions) or knowingly gives a false answer to the question; or
 - (ii) Fails to comply with any request made under subsection (2)(b) of that section:
 - (c) Being the master of a ship, fails to comply with any direction of a Customs officer under subsection (1) or subsection (4) of section 23 of this Act (which relates to the bringing to of a ship), or fails to comply with subsection (3) of that section:
 - (d) Being the person in charge of any craft, fails to comply with section 24(1) of this Act (which relates to the arrival of craft at a nominated Customs place only):
 - (e) Being a member of the crew of, or a passenger on, any craft, or being any other person (other than a Customs officer or authorised person), acts in contravention of section 24(2) of this Act:

- (f) Being a person in charge of any craft, fails to comply with, or acts in contravention of, section 25(2) of this Act (which relates to craft arriving at a place other than a nominated Customs place):
 - (g) Being a member of the crew of, or a passenger on, any craft, acts in contravention of section 25(3) or (4) of this Act:
 - (h) Being the person in charge of or the owner of any craft,—
 - (i) Fails to comply with subsection (2)(a) of section 26 of this Act (which relates to inward reports); or
 - (ii) Fails to obey a Customs direction given under subsection (2)(b) of that section.
- (2) Every person who commits an offence against paragraph (a), (c), or (d) of subsection (1) of this section is liable on conviction,—
- (a) In the case of an individual, to imprisonment for a term not exceeding 12 months or to a fine not exceeding \$15,000:
 - (b) In the case of a body corporate, to a fine not exceeding \$75,000.
- (3) Every person who commits an offence against subsection (1)(b) of this section is liable on conviction,—
- (a) In the case of an individual, to a fine not exceeding \$5,000:
 - (b) In the case of a body corporate, to a fine not exceeding \$15,000.
- (4) Every person who commits an offence against paragraph (e), (f), (g), or (h) of subsection (1) of this section is liable on conviction to a fine not exceeding \$5,000.

Subsection (1)(a) was substituted, as from 6 March 2007, by section 17 Customs and Excise Amendment Act 2007 (2007 No 9).

Subsection (1)(e) was amended, as from 2 July 2004, by section 37 Customs and Excise Amendment Act 2004 (2004 No 55) by inserting “or being any other person (other than a Customs officer or authorised person),” after “any craft.”

192 Offences in relation to inward report

- (1) If—

- (a) An inward report delivered pursuant to section 26 of this Act is erroneous, misleading, or defective in any material particular; or
 - (b) A document delivered in support of the report is not genuine or is erroneous or misleading,—
the person in charge of the craft and the owner of the craft each commits an offence.
- (2) Every person who commits an offence against this section is liable on conviction,—
- (a) In the case of an individual, to a fine not exceeding \$5,000;
 - (b) In the case of a body corporate, to a fine not exceeding \$15,000.

Compare: 1966 No 19 s 45(4); 1982 No 112 s 17

193 Offences in relation to departure of craft

- (1) Every person commits an offence who,—
- (a) Being the person in charge of any craft, contravenes section 33 of this Act (which relates to clearance of craft):
 - (b) being the person in charge of any craft,—
 - (i) fails to comply with section 34(a) (which relates to outward reports); or
 - (ii) refuses to answer any question put to that person by a Customs officer under section 34(b) or knowingly gives a false answer to the question; or
 - (iii) fails to produce any documents required by a Customs officer under section 34(c):
 - (c) Being a person in charge of or a member of the crew, of any craft, fails to comply with section 35 of this Act (which relates to boarding of outward craft):
 - (d) Being a person in charge of any craft, fails to comply with a demand made by a Customs officer under section 36 of this Act (which relates to the production of a certificate of clearance), or refuses to answer any question put to that person under that section or knowingly gives a false answer to the question:

- (e) Being a person in charge of any craft, acts in contravention of section 37 (which relates to the departure of craft only from a Customs place).
- (2) Every person who commits an offence against paragraph (a), (c), or (e) of subsection (1) of this section is liable on conviction to imprisonment for a term not exceeding 12 months or to a fine not exceeding \$15,000.
- (3) Every person who commits an offence against paragraphs (b) or (d) of subsection (1) of this section is liable on conviction to a fine not exceeding \$5,000.

Subsection (1)(b) was substituted, as from 6 March 2007, by section 18 Customs and Excise Amendment Act 2007 (2007 No 9).

194 Offences in relation to outward report

- (1) If—
 - (a) An outward report delivered pursuant to section 34 of this Act is erroneous, misleading, or defective in any material particular; or
 - (b) Any document delivered in support of the report is not genuine or is erroneous or misleading,—the person in charge of the craft and the owner of the craft each commits an offence.
- (2) Every person who commits an offence against this section is liable on conviction,—
 - (a) In the case of an individual, to a fine not exceeding \$5,000; and
 - (b) In the case of a body corporate, to a fine not exceeding \$15,000.

Compare: 1966 No 19 s 73

194A Failure to comply with requirement to cease using electronic communication device

- (1) Every person commits an offence who fails to comply with any requirement imposed on that person by or under section 32A(3).
- (2) Every person who commits an offence against this section is liable on conviction to a fine not exceeding \$1,000.

Section 194A was inserted, as from 6 March 2007, by section 19 Customs and Excise Amendment Act 2007 (2007 No 9).

195 Defences

It is a defence to any prosecution for an offence against sections 191 to 194A if the defendant proves—

- (a) That, in any case where it is alleged that anything required to be done was not done, the defendant took all reasonable steps to ensure that it was done; or
- (b) That, in any case where it is alleged that anything unlawful was done, the defendant took all reasonable steps to ensure that it was not done.

Section 195 was amended, as from 6 March 2007, by section 33 Customs and Excise Amendment Act 2007 (2007 No 9) by substituting “sections 191 to 194A” for “sections 191 to 194 of this Act”.

Other offences

196 Adapting craft for smuggling

- (1) If any craft comes to or is found within New Zealand having—
 - (a) Any part or place adapted for the purpose of concealing goods or persons; or
 - (b) Any hole, pipe, or device adapted for the purpose of concealing goods or persons,—the person in charge and the owner of the craft each commits an offence.
- (2) Every person who commits an offence against this section is liable on conviction to a fine not exceeding \$10,000.

Compare: 1966 No 19 s 250

197 Interference with seals and fastenings

- (1) Where any fastening, lock, mark, or seal that has been placed by a Customs officer on any goods or on a hatchway, opening, or other place or device on any craft is, without the authority of a Customs officer, opened, altered, broken, or erased by any person while the craft is within New Zealand, the person so acting and the person in charge of the craft each commits an offence.
- (2) Every person who commits an offence against this section is liable on conviction to a fine not exceeding \$5,000.

Compare: 1966 No 19 s 209(2)

198 Interference with cargo

- (1) If at any time after any craft carrying goods from a point outside New Zealand arrives within New Zealand, and before a report is made in accordance with section 26 of this Act,—
- (a) Any cargo is interfered with; or
 - (b) Any alteration is made in the storage of goods carried, so as to facilitate the unloading of any of the goods before the report has been made; or
 - (c) Any of the goods are staved, removed, destroyed, or thrown overboard, or any package is opened,—
- the person so acting and the person in charge of the craft each commits an offence.
- (2) Subsection (1) of this section does not apply if the act—
- (a) Was authorised by the Chief Executive or a Customs officer; or
 - (b) Was required by any statutory or other requirement relating to navigation; or
 - (c) Was compelled by accident, stress of weather, or other necessity.
- (3) Every person who commits an offence against this section is liable on conviction to a fine not exceeding \$5,000.

Compare: 1966 No 19 s 40

199 Unloading goods without authorisation

- (1) Every person who acts in contravention of section 43 of this Act commits an offence.
- (2) Every person who commits an offence against this section is liable on conviction to a fine not exceeding \$5,000.

Compare: 1966 No 19 s 50(4)

200 Offences in relation to manufacture, movement, and storage of goods

- (1) Every person commits an offence who—
- (a) fails to comply with subsection (1) or subsection (4) of section 18 (which relates to Customs facilities in Customs controlled areas);
 - (ab) fails to comply with subsection (1) or subsection (3) of section 19H (which relates to Customs facilities in CASEs):

- (b) Acts in contravention of section 46 of this Act (which relates to transportation of imported goods):
 - (c) Acts in contravention of section 47 of this Act (which relates to the removal of goods from a Customs controlled area):
 - (d) Takes goods out of a Customs controlled area or does any act in relation to goods taken out of a Customs controlled area that constitutes a contravention of the permission granted by the Chief Executive under section 48 of this Act (which relates to the temporary removal of goods from a Customs controlled area):
 - (e) Manufactures any excisable goods in contravention of section 68 of this Act (which relates to manufacture of excisable goods).
- (2) Every person who commits an offence against paragraphs (a) to (d) of subsection (1) of this section is liable on conviction,—
- (a) In the case of an individual, to a fine not exceeding \$5,000:
 - (b) In the case of a body corporate, to a fine not exceeding \$25,000.
- (3) Every person who commits an offence against paragraph (e) of subsection (1) of this section is liable on conviction,—
- (a) In the case of an individual, to a fine not exceeding \$5,000; or
 - (b) In the case of a body corporate, to a fine not exceeding \$25,000; or
 - (c) In either case, to a fine of an amount not exceeding 3 times the value of the goods to which the offence relates.

Subsection (1)(a) was substituted, as from 2 July 2004, by section 38 Customs and Excise Amendment Act 2004 (2004 No 55).

Subsection (1)(ab) was inserted, as from 2 July 2004, by section 38 Customs and Excise Amendment Act 2004 (2004 No 55).

201 Interference with goods

- (1) Every person commits an offence who, except with the permission of a Customs officer,—
- (a) Makes any alteration in the condition of goods subject to the control of Customs; or

- (b) Interferes with, including by way of addition to or taking away from, such goods; or
 - (c) Unpacks or repacks such goods; or
 - (d) Removes such goods from any place in which a Customs officer has directed that the goods are to be stored.
- (2) Every person who commits an offence against this section is liable on conviction to a fine not exceeding,—
- (a) In the case of an individual, \$5,000;
 - (b) In the case of a body corporate, \$25,000.

Compare: 1966 No 19 s 248; 1983 No 41 s 8

202 Contravention of direction of Chief Executive under section 97

- (1) Any purchaser who, except with the consent of the Chief Executive, takes any action in contravention of a direction given by the Chief Executive under section 97(5) of this Act, commits an offence and is liable on conviction,—
- (a) In the case of an individual, to a fine not exceeding \$5,000;
 - (b) In the case of a body corporate, to a fine not exceeding \$15,000.
- (2) Any purchaser who, knowingly and without the consent of the Chief Executive, takes any action in contravention of a direction given by the Chief Executive under section 97(5) of this Act, commits an offence and is liable on conviction,—
- (a) In the case of an individual, to a fine not exceeding \$15,000; or
 - (b) In the case of a body corporate, to a fine not exceeding \$50,000; or
 - (c) In either case, to an amount not exceeding 3 times the value of the goods to which the offence relates.

203 Offences in relation to entries

- (1) Every person commits an offence who—
- (a) Fails to make an entry required under this Act;
 - (b) Makes an entry required under this Act that is erroneous or defective in a material particular.
- (2) It is a defence to a prosecution for an offence against subsection (1) of this section if the person proves—

- (a) That, in the case of a prosecution for an offence against subsection (1)(a) of this section, the person took all reasonable steps to ensure that an entry was made; or
 - (b) That, in the case of a prosecution for an offence against subsection (1)(b) of this section, the person took all reasonable steps to ensure that the entry was not erroneous or defective.
- (3) Every person who commits an offence against subsection (1) of this section is liable on conviction,—
- (a) In the case of an individual, to a fine not exceeding \$1,000;
 - (b) In the case of a body corporate, to a fine not exceeding \$5,000.
- (4) Every person commits an offence who is concerned in the making of an entry that the person knows is erroneous or defective in a material particular.
- (5) Every person who commits an offence against subsection (4) of this section is liable on conviction,—
- (a) In the case of an individual, to imprisonment for a term not exceeding 6 months or a fine not exceeding \$10,000; or
 - (b) In the case of a body corporate, to a fine not exceeding \$50,000; or
 - (c) In either case, to a fine of an amount not exceeding 3 times the value of the goods to which the offence relates.

Compare: 1966 No 19 ss 21, 21A; 1986 No 44 s 6

204 Offences in relation to declarations and documents

- (1) Every person commits an offence who—
- (a) Makes a declaration or a written statement under this Act that is erroneous in a material particular;
 - (b) Produces or delivers to a Customs officer any document that is not genuine;
 - (c) Produces or delivers to a Customs officer any document that is erroneous in any material particular.
- (2) It is a defence to a prosecution for an offence against subsection (1) of this section if the person proves that the person took all reasonable steps to ensure—

- (a) That the declaration, statement, or document, as the case may be, was not erroneous; or
 - (b) In the case of a prosecution for an offence against subsection (1)(b) of this section, that the document was genuine.
- (3) Every person who commits an offence against subsection (1) of this section is liable on conviction,—
- (a) In the case of an individual, to a fine not exceeding \$1,000;
 - (b) In the case of a body corporate, to a fine not exceeding \$5,000.
- (4) Every person commits an offence who—
- (a) Makes a false declaration under this Act, knowing it to be false;
 - (b) Produces or delivers to a Customs officer any document that is not genuine, knowing that it is not genuine;
 - (c) Produces or delivers to a Customs officer any document that is erroneous in any material particular, knowing that it is erroneous.
- (5) Every person who commits an offence against subsection (4) of this section is liable on conviction,—
- (a) In the case of an individual, to imprisonment for a term not exceeding 6 months or to a fine not exceeding \$10,000; or
 - (b) In the case of a body corporate, to a fine not exceeding \$50,000; or
 - (c) In either case, to a fine of an amount not exceeding 3 times the value of the goods to which the offence relates.

205 Offences in relation to records

- (1) Every person commits an offence who fails to keep records that are required to be kept by section 95 of this Act.
- (2) Every person who commits an offence against subsection (1) of this section is liable on conviction,—
- (a) In the case of the first conviction of that person, to a fine not exceeding \$2,000;
 - (b) In the case of the second conviction, to a fine not exceeding \$4,000:

- (c) In the case of every subsequent conviction, to a fine not exceeding \$6,000.
- (3) Every person commits an offence who—
 - (a) Fails without reasonable excuse to make available to the Customs, on the request of a Customs officer, the records that are required to be kept by section 95 of this Act:
 - (b) Fails, when requested by a Customs officer, to operate any mechanical, or electronic device on which any records are, or information is, stored for the purpose of enabling the Customs officer to obtain those records or that information.
- (4) Every person who commits an offence against subsection (3) of this section is liable on conviction,—
 - (a) In the case of the first conviction of that person, to a fine not exceeding \$2,000:
 - (b) In the case of the second conviction of that person, to a fine not exceeding \$4,000:
 - (c) In the case of any subsequent conviction, to a fine not exceeding \$6,000.
- (5) Every person commits an offence who, with intent to defeat the purposes of this Act, destroys, alters, or conceals any book, document, or record required to be kept under this Act, or sends or attempts to send out of New Zealand any such book, document, or record.
- (6) Every person who commits an offence under subsection (5) of this section is liable on conviction on indictment to imprisonment for a term not exceeding 2 years or to a fine not exceeding \$50,000.
- (7) If, in any prosecution for an offence alleged to have been committed against subsection (5) of this section, it is proved that the person charged with the offence has destroyed, altered, or concealed any book, document, or record, or has sent, or attempted to send, out of New Zealand, any such book, document, or record, it shall be presumed in the absence of evidence to the contrary that in so doing that person intended to defeat the purposes of this Act.

205A Offences relating to failure to give Customs access to information

- (1) Every person commits an offence who fails, without reasonable excuse, to give the Customs access to information under any of sections 38D and 38E and 95A.
- (2) Every person who commits an offence under subsection (1) is liable on conviction,—
 - (a) in the case of an individual, to a fine not exceeding \$5,000; or
 - (b) in the case of a body corporate, to a fine not exceeding \$15,000.
- (3) Every person commits an offence who fails, without reasonable excuse, to give the Customs access to information under any of sections 38D and 38E and 95A in the form and manner prescribed.
- (4) Every person who commits an offence under subsection (3) is liable on conviction,—
 - (a) in the case of an individual, to a fine not exceeding \$5,000; or
 - (b) in the case of a body corporate, to a fine not exceeding \$15,000.

Sections 205A and 205B were inserted, as from 1 October 2004, by section 39 Customs and Excise Amendment Act 2004 (2004 No 55).

205B Offence relating to disclosing whether required to give Customs access to information

- (1) This section applies to a person if the person is a person concerned in the movement of goods, persons, or craft (as defined in section 38A).
- (2) The person must not disclose to another person who is not the Chief Executive, a Customs Officer, an authorised person, or an agent or employee of the person—
 - (a) whether the person is a person to whom section 38D or section 38E applies; or
 - (b) whether the person has been exempted from complying with obligations under that section.
- (3) If the person, without reasonable excuse, contravenes subsection (2), the person commits an offence and is liable on conviction to a fine not exceeding,—

- (a) in the case of an individual, \$5,000;
- (b) in the case of a body corporate, \$25,000.

Sections 205A and 205B were inserted, as from 1 October 2004, by section 39 Customs and Excise Amendment Act 2004 (2004 No 55).

206 Possession of incomplete documents

- (1) Every person commits an offence who, without lawful authority or excuse, has in his or her possession or brings into New Zealand any uncompleted document or form capable of being used for any purpose under this Act if the document is signed or certified or bears any such mark or inscription to indicate that it is correct or authentic.
- (2) Every person who commits an offence against this section is liable on conviction to a fine not exceeding \$5,000.

Compare: 1966 No 19 s 251A; 1985 No 145 s 16

207 Offences in relation to use of goods

- (1) Where under any provision of this Act or of the Tariff Act 1988 goods are, if entered for a particular purpose or under any condition imposed by the Minister or other responsible Minister of the Crown, exempt from duty or liable to a lower rate of duty than if entered otherwise than for that purpose or under that condition, and any goods have been entered under that provision, every person commits an offence who knowingly—
 - (a) Uses or deals with those goods for a purpose other than that for which they have been so entered; or
 - (b) Fails to comply with a condition imposed by the responsible Minister in respect of the goods so entered.
- (2) Whenever beer is entered as exempt from excise duty under section 73(2), or wine is entered as exempt from excise duty under section 73(2A), the beer or the wine is, for the purposes of this section, to be regarded as having been entered for the purpose of the personal use of the individual who manufactured the beer or the wine and not for sale to any other person.
- (3) Every person who commits an offence against this section is liable on conviction to a fine not exceeding an amount equal to 3 times the amount of the duty that would have been payable if the goods had been entered otherwise than under the provision

under which they were entered, or a fine not exceeding \$5,000, whichever sum is the greater.

Compare: 1966 No 19 s 252

Subsection (2) was substituted, as from 15 November 2000, by section 6 Customs and Excise Amendment Act (No 2) 2000 (2000 No 58).

208 Provisions relating to offences against sections 203 to 207

For the purposes of this Act,—

- (a) Every declaration, invoice, certificate, written statement, or other document required or authorised by or under this Act to be made or produced by a person making an entry is deemed to form part of that entry:
- (b) Every amendment of an entry is deemed to form part of that entry, but an amendment to an entry does not relieve a person from liability to the imposition of a penalty or liability to seizure of goods or criminal liability incurred in respect of the entry before its amendment.

Compare: 1966 No 19 s 21(3), (4)

209 Offences in relation to importation or exportation of prohibited goods

- (1) Every person commits an offence who—
 - (a) Imports into New Zealand or unships or lands in New Zealand goods the importation of which is prohibited by or under section 54; or
 - (b) Exports, or transports with intent to export, goods from New Zealand the exportation of which is prohibited by or under section 56; or
 - (c) Is knowingly concerned in any importation, exportation, transportation, shipment, unshipment, or landing of goods (other than objectionable publications) to which paragraph (a) or (b) of this subsection applies; or
 - (ca) fails, in breach of section 56(2F), to inform the Secretary of Foreign Affairs and Trade that any goods or electronic publications he or she wishes to export are intended for or may have any of the uses described in an order made under section 56(2)(c); or

- (d) Without lawful justification or excuse, removes from a Customs controlled area imported goods the importation of which is prohibited by or under section 54; or
 - (e) Is knowingly concerned or conspires, in the removal from a Customs controlled area of goods (other than objectionable publications) the importation of which is prohibited by or under section 54; or
 - (f) Commits a breach of, or fails to comply with, a term or condition on or subject to which a licence, permit, or consent has been granted, under an Order in Council made under section 54(2) or section 56(2) of this Act; or
 - (g) Is knowingly concerned in a breach or failure to comply to which paragraph (f) of this subsection applies.
- (1A) Every person commits an offence who—
- (a) is knowingly concerned in any importation, exportation, transportation, shipment, unshipment, or landing of an objectionable publication; or
 - (b) is knowingly concerned in the removal from a Customs controlled area of an objectionable publication or conspires to remove an objectionable publication from a Customs controlled area.
- (1B) In this section, **objectionable publication** means, as the case requires, a publication as defined in section 2 of the Films, Videos, and Publications Classification Act 1993—
- (a) the importation of which is prohibited by or under section 54; or
 - (b) the exportation of which is prohibited by or under section 56.
- (2) Every person who commits an offence against any of paragraphs (c), (e), or (g) of subsection (1) of this section is liable on conviction,—
- (a) In the case of an individual, to imprisonment for a term not exceeding 6 months or to a fine not exceeding \$10,000; or
 - (b) In the case of a body corporate, to a fine not exceeding \$50,000; or
 - (c) In either case, to a fine of an amount not exceeding 3 times the value of the goods to which the offence relates.

- (3) Every person who commits an offence against paragraph (a), (b), (ca), (d), or (f) of subsection (1) of this section is liable on conviction,—
- (a) In the case of an individual to a fine not exceeding \$5,000; or
 - (b) In the case of a body corporate to a fine not exceeding \$10,000.
- (4) It is not a defence in a prosecution for an offence referred to in subsection (3) of this section that the defendant had no knowledge or no reasonable cause to believe that the goods in respect of which the offence was committed were prohibited imports or prohibited exports, as the case may be.
- (4A) However, it is a defence in a prosecution for an offence relating to an export of goods prohibited by or under section 56(1)(c) if the defendant proves that, through no fault of the relevant exporter, the relevant exporter did not actually receive the Secretary's notice of the prohibition sent under section 56(2D).
- (5) Every person who commits an offence against subsection (1A) is liable on conviction on indictment,—
- (a) in the case of an individual, to imprisonment for a term not exceeding 5 years; or
 - (b) in the case of a body corporate, to a fine not exceeding \$100,000.
- (6) Section 132A of the Films, Videos, and Publications Classification Act 1993 (which specifies an aggravating factor to be taken into account in sentencing, etc, for certain publications offences) applies to an offence against subsection (1A) of this section, and an offence of that kind is also a relevant offence as defined in section 145A(1) of that Act (which relates to extraterritorial jurisdiction).

Compare: 1966 No 19 ss 48(7), (8), 70(6)

Subsection (1)(a) was amended, as from 22 February 2005, by section 42(1) Films, Videos, and Publications Classification Amendment Act 2005 (2005 No 2) by substituting “by or under section 54” for “under section 54 of this Act”.

Subsection (1)(b) was amended, as from 22 February 2005, by section 42(2) Films, Videos, and Publications Classification Amendment Act 2005 (2005 No 2) by substituting “or under section 56” for “an Order in Council made under section 56(2) of this Act”.

Subsection (1)(c) was amended, as from 22 February 2005, by section 42(4) Films, Videos, and Publications Classification Amendment Act 2005

(2005 No 2) by inserting “(other than objectionable publications)” after the word “goods”.

Subsection (1)(ca) was inserted, as from 6 March 2007, by section 20(1) Customs and Excise Amendment Act 2007 (2007 No 9).

Subsection (1)(d) and (e) was amended, as from 22 February 2005, by section 42(1) Films, Videos, and Publications Classification Amendment Act 2005 (2005 No 2) by substituting “by or under section 54” for “under section 54 of this Act”.

Subsection (1)(e) was amended, as from 22 February 2005, by section 42(4) Films, Videos, and Publications Classification Amendment Act 2005 (2005 No 2) by inserting “(other than objectionable publications)” after “goods”.

Section 209(1A): substituted, on 17 September 2008, by section 12 of the Customs and Excise Amendment Act (No 3) 2008 (2008 No 68).

Subsections (1A) and (1B) were inserted, as from 22 February 2005, by section 42(3) Films, Videos, and Publications Classification Amendment Act 2005 (2005 No 2).

Subsection (3) was amended, as from 6 March 2007, by section 20(2) Customs and Excise Amendment Act 2007 (2007 No 9) by inserting “(ca)” after “(b)”.

Subsection (4A) was inserted, as from 6 March 2007, by section 20(3) Customs and Excise Amendment Act 2007 (2007 No 9).

Subsections (5) and (6) were inserted, as from 22 February 2005, by section 42(5) Films, Videos, and Publications Classification Amendment Act 2005 (2005 No 2).

209A Publications imported or exported in course of official duties

- (1) Nothing in section 209 makes it an offence for a New Zealand official to do either or both of the following things for the purpose of, and in connection with, his or her official duties:
 - (a) import a publication (whether with the involvement of an overseas official or not):
 - (b) export a publication (for example, an electronic publication) to an overseas official.
- (2) In this section,—

New Zealand official means a person referred to in any of paragraphs (a) to (l) of section 131(4) of the Films, Videos, and Publications Classification Act 1993

overseas official means a person in a country other than New Zealand who holds an office in that country that corresponds to an office referred to in section 131(4) of the Films, Videos, and

Publications Classification Act 1993, and who is exercising or performing the duties, functions, or powers of that office

publication has the same meaning as in section 2 of the Films, Videos, and Publications Classification Act 1993.

Section 209A was inserted, as from 9 October 2002, by section 20 Customs and Excise Amendment Act (No 2) 2002 (2002 No 31).

The heading to section 209A was amended, as from 22 February 2005, by section 43(1) Films, Videos, and Publications Classification Amendment Act 2005 (2005 No 2) by inserting “or exported” after the word “imported”.

Subsection (1) was substituted, as from 22 February 2005, by section 43(2) Films, Videos, and Publications Classification Amendment Act 2005 (2005 No 2).

210 Offences in relation to exportation of goods

- (1) Every person commits an offence who—
 - (a) Acts in contravention of subsection (1) or subsection (5) of section 49 of this Act (which relates to entries required):
 - (b) Fails to comply with a request made under section 49(2)(b) of this Act:
 - (c) Fails, or is knowingly concerned in any failure, to comply with section 51 of this Act (which requires goods for export to be dealt with according to entry):
 - (d) Acts in contravention of section 52 of this Act (which relates to the requirement for goods for export not to be landed):
 - (e) Is knowingly concerned in a contravention of section 117(3) of this Act (which relates to drawbacks of duty on certain goods).
- (2) Every person who commits an offence against paragraph (a), (b), (c), or (d) of subsection (1) of this section is liable on conviction to a fine not exceeding \$5,000.
- (3) Every person who commits an offence against paragraph (e) of subsection (1) of this section is liable on conviction,—
 - (a) In the case of an individual, to imprisonment for a term not exceeding 6 months or to a fine not exceeding \$10,000; or
 - (b) In the case of a body corporate, to a fine not exceeding \$50,000; or

- (c) In either case, to a fine of an amount not exceeding 3 times the value of the goods to which the offence relates.

210A Offences in relation to Customs seals and Customs-approved secure exports schemes

- (1) Every person commits an offence who, without lawful justification or reasonable excuse,—
 - (a) applies a Customs seal to a package of goods otherwise than in accordance with the relevant notice of appointment under section 53A; or
 - (b) alters, removes, damages, disposes of, or otherwise interferes with a Customs seal applied to a package of goods otherwise than in accordance with the relevant notice of appointment under section 53A; or
 - (c) applies an approved seal or markings of the kind referred to in section 53E(1)(b) to a Customs-approved secure package otherwise than in accordance with the relevant Customs-approved secure exports scheme.
- (2) This subsection applies to a package if the package is—
 - (a) a package to which a Customs seal has been lawfully applied; or
 - (b) a Customs-approved secure package to which a seal or marking of the kind referred to in section 53E(1)(b) has been lawfully applied.
- (3) Every person commits an offence who, without lawful justification or reasonable excuse, tampers or interferes with a package to which subsection (2) applies by adding other goods to the goods in it when it was secured.
- (4) Every person who commits an offence against this section is liable on conviction to a fine not exceeding,—
 - (a) in the case of an individual, \$5,000;
 - (b) in the case of a body corporate, \$25,000.

Section 210A was inserted, as from 2 July 2004, by section 40 Customs and Excise Amendment Act 2004 (2004 No 55).

211 Defrauding the revenue of Customs

- (1) Every person commits an offence who does any act or omits to do any act for the purpose of—

- (a) Evading, or enabling any other person to evade, payment of duty or full duty on goods:
 - (b) Obtaining, or enabling any other person to obtain, money by way of drawback or a refund of duty on goods to which that person or that other person is not entitled under this Act:
 - (c) Conspiring with any other person (whether that other person is in New Zealand or not) to defraud the revenue of the Customs in relation to goods:
 - (d) Defrauding in any other manner the revenue of the Customs in relation to goods.
- (2) Every person who commits an offence against this section is liable on conviction,—
- (a) In the case of an individual, to imprisonment for a term not exceeding 6 months or to a fine not exceeding \$10,000; or
 - (b) In the case of a body corporate, to a fine not exceeding \$50,000; or
 - (c) In either case, to a fine of an amount not exceeding 3 times the value of the goods to which the offence relates.

Compare: 1966 No 19 s 243; 1983 No 41 s 24(1)

212 Possession or custody of uncustomed goods or prohibited imports

- (1) Every person commits an offence who knowingly and without lawful justification has in his or her possession or custody goods that the person knows are uncustomed goods or prohibited imports.
- (2) Every person who commits an offence against this section is liable on conviction,—
- (a) In the case of an individual, to a fine not exceeding \$10,000; or
 - (b) In the case of a body corporate, to a fine not exceeding \$50,000; or
 - (c) In either case, to a fine of an amount not exceeding 3 times the value of the goods to which the offence relates.

Compare: 1966 No 19 s 253

213 Purchase, sale, exchange, etc, of uncustomed goods or prohibited imports

- (1) Every person commits an offence who knowingly and without lawful justification purchases, sells, exchanges, or otherwise acquires or disposes of, goods that the person knows are uncustomed goods or prohibited imports.
- (2) Every person who commits an offence against this section is liable on conviction,—
 - (a) In the case of an individual, to a fine not exceeding \$10,000; or
 - (b) In the case of a body corporate to a fine not exceeding \$50,000; or
 - (c) In either case, to a fine of an amount not exceeding 3 times the value of the goods to which the offence relates.

214 Possession or control of concealed goods

- (1) Every person commits an offence who knowingly conceals any goods that the person knows are dutiable or prohibited goods.
- (2) Every person who commits an offence against this section is liable on conviction,—
 - (a) In the case of an individual, to a fine not exceeding \$10,000; or
 - (b) In the case of a body corporate, to a fine not exceeding \$50,000; or
 - (c) In either case, to a fine of an amount not exceeding 3 times the value of the goods to which the offence relates.

Compare: 1966 No 19 s 254; 1982 No 112 s 17

215 Offences in relation to seized goods

- (1) Every person commits an offence who, having custody of goods pursuant to section 226 of this Act, acts in breach of any requirement of or imposed pursuant to subsection (8) of that section.
- (2) Every person who commits an offence against subsection (1) of this section is liable on conviction to a fine not exceeding \$5,000.

- (3) Every person commits an offence who, without the permission of the Chief Executive, takes or carries away or otherwise converts to his or her own use goods, including any vehicle or craft, that have been seized as forfeited.
- (4) Every person who commits an offence against subsection (3) of this section is liable on conviction to imprisonment for a term not exceeding 12 months, or to a fine not exceeding an amount equal to 3 times the value of the goods to which the offence relates.

Compare: 1966 No 19 s 277, s 292

215A Offences in relation to certain detained goods

- (1) Every person commits an offence who, having custody of goods pursuant to section 166F(1), acts in breach of any requirement of or imposed pursuant to section 166F(2) or (3).
- (2) Every person who commits an offence against subsection (1) is liable on conviction to a fine not exceeding \$5,000.
- (3) Every person commits an offence who, without the permission of the Chief Executive, takes or carries away or otherwise converts to his or her own use goods to which section 166F(2) and (3) applies.
- (4) Every person who commits an offence against subsection (3) is liable on conviction to imprisonment for a term not exceeding 12 months, or to a fine not exceeding an amount equal to 3 times the value of the goods to which the offence relates.

Section 215A was inserted, as from 2 July 2004, by section 41 Customs and Excise Amendment Act 2004 (2004 No 55).

216 Offences in relation to Customs Appeal Authorities

- (1) Every person commits an offence who, with intent to deceive, makes any false or misleading statement or any material omission in any information given to a Customs Appeal Authority for the purposes of this Act.
- (2) Every person who commits an offence against subsection (1) of this section is liable on conviction,—
 - (a) In the case of an individual, to a fine not exceeding \$15,000;
 - (b) In the case of a body corporate, to a fine not exceeding \$50,000.

- (3) Every person commits an offence who, after being summoned to attend to give evidence before an Authority or to produce to it any papers, documents, records, or things, without sufficient cause—
 - (a) Fails to attend in accordance with the summons; or
 - (b) Refuses to be sworn or to give evidence, or having been sworn refuses to answer any question that the person is lawfully required by the Authority to answer concerning the subject of the proceedings; or
 - (c) Fails to produce any paper, document, record, or thing.
- (4) No person summoned to attend proceedings before an Authority shall be convicted of an offence against subsection (3) of this section unless at the time of the service of the summons, or at some other reasonable time before the date on which that person was required to attend, there was made to that person a payment or tender of the amount fixed under section 265(2) of this Act.
- (5) Every person commits an offence who—
 - (a) Wilfully obstructs or hinders an Authority or any person authorised by an Authority in any inspection or examination of papers, documents, records, or things pursuant to section 261(1)(a) of this Act; or
 - (b) Without sufficient cause, fails to comply with any requirement of an Authority or any person authorised by an Authority made under section 261(1)(b) of this Act; or
 - (c) Without sufficient cause, acts in contravention of or fails to comply with any order made by an Authority under section 261(3) of this Act or any term or condition of the order.
- (6) Every person who commits an offence against subsection (3) or subsection (5) of this section is liable on conviction to a fine not exceeding \$1,000.

Miscellaneous provisions relating to offences

217 Liability of officers of corporations

- (1) For the purposes of this section, the term **corporation** includes a company, trust, partnership, or other enterprise.

- (2) If a corporation commits an offence against any provision of this Act, every director, manager, secretary, officer, or agent of the corporation and every person purporting to act in any such capacity, who participated in, directed, authorised, acquiesced in, or assented to the act or omission constituting the offence also commits an offence against that provision.
- (3) Every individual who commits an offence under this Act as provided by subsection (2) of this section is liable on conviction to the penalty prescribed by the section creating the offence in respect of any individual who is convicted of the offence or, if no penalty is prescribed in respect of an individual, to the penalty prescribed for the offence.
- (4) A person may be convicted of the offence, even though the corporation has not itself been charged with, or convicted of, the offence.

Compare: 1966 No 19 s 256

218 Liability of principal and agent

- (1) Every declaration made or other act done by an agent, whether or not the agent is in New Zealand, in the course of his or her agency in relation to the report, entry, or clearance of any craft or goods or any other matter under this Act is deemed also to have been made or done by the agent's principal, and the principal is liable accordingly to the penalties imposed by this Act.
- (2) For the purposes of this section, the knowledge or intent of the agent is imputed to the principal in addition to the principal's own knowledge or intent.
- (3) For the purposes of this section,—
 - (a) An employee of the agent; or
 - (b) A person performing any function of or for the agent; or
 - (c) A person acting under the instruction of the agent,—is deemed also to be the agent of the principal.
- (4) Where any person acts or purports to act as the agent of any other person in relation to the report, entry, or clearance of any craft or goods or any other matter under this Act, that person is liable to the same penalties as if he or she were the principal for whom he or she so acts or purports to act.

Compare: 1966 No 19 s 235

219 Attempts

An attempt to commit an offence against this Act is an offence punishable in the same manner and gives rise to the same cause for seizure as if the offence attempted had been committed.

Compare: 1966 No 19 s 257

220 Offences punishable on summary conviction

Except where this Act otherwise provides, every offence against this Act, or against any regulations made under this Act, is punishable on summary conviction.

Compare: 1966 No 19 s 258

221 Laying of information

- (1) Subject to subsection (3) of this section, every information under the Summary Proceedings Act 1957 for an offence against this Act shall be laid by the Chief Executive or any Customs officer nominated by the Chief Executive.
- (2) Any Customs officer purporting to act pursuant to a nomination of the Chief Executive under subsection (1) of this section is, in the absence of proof to the contrary, presumed to have been so nominated.
- (3) An information under the Summary Proceedings Act 1957 for an offence against section 216 of this Act shall be laid by the Registrar of a Customs Appeal Authority.
- (4) Notwithstanding anything in the Summary Proceedings Act 1957, any information for an offence against this Act may be laid at any time within 5 years after the date of the offence.

Compare: 1966 No 19 s 259, s 260

222 Court may order payment of money in respect of duty

- (1) Where any person is convicted of an offence against section 176, 177, 187, or 188 of this Act and the Court is of the opinion that the offence has been committed for the purpose of enabling the destruction or concealment of any evidence that would support a claim for duty under this Act, the Court may, in addition to any other penalty, order the defendant to pay to the Crown such further sum in respect of that claim as it thinks fit.

- (2) Any order for payment under this section may be enforced in the same manner as a fine.
- (3) The recovery of any amount under this section in respect of a claim does not extinguish the claim for duty, but shall be taken into account in determining the amount (if any) to be awarded in any subsequent proceedings that may be taken in respect of that claim.

Compare: 1966 No 19 s 264

223 Power of Chief Executive to deal with petty offences

- (1) Subsection (2) applies to the following offences:
 - (a) an offence against this Act that is committed in relation to goods—
 - (i) the Customs value of which does not exceed \$1,000; or
 - (ii) on which duty payable under this Act does not exceed \$1,000; or
 - (iii) on which the duty evaded or attempted to be evaded does not exceed \$1,000;
 - (b) an offence against any of sections 180, 181, 186, and 194A.
- (2) If a person admits in writing that he or she has committed an offence to which this subsection applies and requests that the offence be dealt with summarily by the Chief Executive, the Chief Executive may, at any time before an information has been laid in respect of the offence, accept from that person payment of any sum, not exceeding \$500, that the Chief Executive thinks just in the circumstances of the case in full satisfaction of any fine or other penalty to which the person would otherwise be liable under this Act.
- (3) If the Chief Executive accepts any sum under subsection (2), the offender is not liable to be prosecuted for the offence in respect of which the payment was made.
- (4) If the Chief Executive declines to exercise his or her power under subsection (2), the admission in writing made by the offender is not admissible as evidence in any prosecution for that offence.

Section 223 was substituted, as from 9 October 2002, by section 21 Customs and Excise Amendment Act (No 2) 2002 (2002 No 31).

Subsection (1)(b) was amended, as from 6 March 2007, by section 34 Customs and Excise Amendment Act 2007 (2007 No 9) by substituting “, 186, and 194A” for “and 186”.

Part 14

Forfeiture and seizure

224 Application of this Part

This Part of this Act shall apply to all forfeitures that arise under this Act.

Compare: 1966 No 19 s 269

225 Goods forfeited

- (1) The following goods shall be forfeited to the Crown:
- (a) Goods in respect of which an offence has been committed under—
 - (i) Section 179 of this Act (which relates to counterfeit seals or marks):
 - (ii) Section 203 of this Act (which relates to offences in relation to entries):
 - (iii) Section 204 of this Act (which relates to offences in relation to declarations and documents):
 - (iv) Section 206 of this Act (which relates to possession of incomplete documents):
 - (v) Section 209 of this Act (which relates to offences in relation to importation or exportation of prohibited goods):
 - (vi) Section 210 of this Act (which relates to offences in relation to exportation of goods):
 - (vii) Section 211 of this Act (which relates to defrauding the revenue of Customs):
 - (viii) Section 212 of this Act (which relates to possession or custody of uncustomed goods or prohibited imports):
 - (ix) Section 213 of this Act (which relates to purchase, sale, exchange, etc of uncustomed goods or prohibited imports):
 - (x) Section 214 of this Act (which relates to possession or control of concealed goods):

- (b) Goods dealt with in contravention of section 41, 43, 46, or 47 of this Act:
- (c) Dutiable or prohibited goods found in the possession of any person who, when questioned under section 145 or section 146 of this Act, denied or failed to disclose the possession of those goods:
- (d) dutiable or prohibited goods found in the course of a search under section 144 or seized under section 149C(1) or section 149C(1A)(b):
- (da) dangerous items seized under section 149C(1A)(a) or section 149C(1)(b):
- (e) Goods in respect of which an erroneous statement, declaration, certificate, or claim as to the country of which the goods are the produce or manufacture has been made or produced to any Customs officer:
- (f) Dutiable or prohibited goods found on or in any craft, bulk cargo container, or pallet or a similar device that is unlawfully in any place:
- (g) Dutiable or prohibited goods found on or in any craft, bulk cargo container, or pallet or a similar device after arrival in any Customs place from a point outside New Zealand, not being goods specified or referred to in the inward report or baggage belonging to the crew or passengers, and not being accounted for to the satisfaction of a Customs officer:
- (h) Dutiable or prohibited goods found concealed in or on any craft, vehicle, bulk cargo container, pallet or a similar device, or any other thing:
- (i) Goods in any package where those goods are not fully accounted for in the entry or declaration relating to that package:
- (j) Dutiable or prohibited goods found so packed as to be likely to deceive the Customs officers:
- (k) Uncustomed goods that are found in any place:
- (l) Goods imported into New Zealand that have been acquired in a country outside New Zealand, whether by the importer or some other person, by an act which, if done in New Zealand would have amounted to a

- crime involving dishonesty within the meaning of section 2(1) of the Crimes Act 1961:
- (la) goods exported, or in respect of which an attempt to export has been made, that have been acquired in New Zealand, whether by the exporter or some other person, by an act that amounts to a crime involving dishonesty within the meaning of section 2(1) of the Crimes Act 1961:
 - (m) All goods unlawfully exported or in respect of which an attempt to so export has been made:
 - (n) All goods that have been unlawfully imported into New Zealand:
 - (o) Any goods, equipment, or apparatus used or intended for use in contravention of section 68 of this Act and any goods manufactured wholly or partly using such goods, equipment, or apparatus.
- (2) Notwithstanding section 53 of this Act, for the purposes of subsection (1)(m) of this section, goods the exportation of which is prohibited under this Act are deemed to have been exported as soon as they are placed in or on any craft for exportation.
 - (3) The forfeiture of goods extends to the forfeiture of the case, covering, or other enclosure, not being a bulk cargo container, pallet or a similar device, in or on which the goods are contained at the time of seizure, importation, or exportation.
 - (4) Notwithstanding subsection (3) of this section, forfeiture of goods extends to the forfeiture of a bulk cargo container, pallet or a similar device where that bulk cargo container, pallet, or other similar device has been adapted for the purpose of concealing goods.
 - (5) Every craft, vehicle, or any other thing, including any machinery or equipment on or in the craft or vehicle or thing, or any animal that is being or has been used for the carriage, handling, deposit, or concealment of any goods referred to in subsection (1) of this section, whether at or after the time of any alleged offence in relation to those goods, is also forfeited to the Crown.
 - (6) Without limiting subsection (5), a craft is also forfeited to the Crown if—

- (a) the craft is one in respect of which an offence under section 191(1)(a) or (d) is committed; and
- (b) that offence was committed to facilitate non-compliance with a requirement in any of sections 27 to 29 by a person or persons who arrived in New Zealand having been brought (in that craft or in any other craft) from a point outside New Zealand.

Compare: 1966 No 19 ss 270, 271, 272, 273; 1979 No 137 s 11; 1982 No 112 s 15

Subsection (1)(d) was substituted, as from 9 October 2002, by section 47(2) Customs and Excise Amendment Act 2004 (2004 No 55).

Subsection (1)(d) was amended, as from 6 March 2007, by section 21(1) Customs and Excise Amendment Act 2007 (2007 No 9) by adding “or section 149C(1A)(b)”.

Subsection (1)(da) was inserted, as from 9 October 2002, by section 47(3) Customs and Excise Amendment Act 2004 (2004 No 55).

Subsection (1)(da) was amended, as from 6 March 2007, by section 21(2) Customs and Excise Amendment Act 2007 (2007 No 9) by adding “or section 149C(1)(b)”.

Subsection (1)(l) was amended, as from 9 October 2002, by section 22(1) Customs and Excise Amendment Act (No 2) 2002 (2002 No 31) by substituting “section 2(1)” for “section 2”.

Subsection (1)(la) was inserted, as from 9 October 2002, by section 22(2) Customs and Excise Amendment Act (No 2) 2002 (2002 No 31).

Subsection (6) was inserted, as from 2 July 2004, by section 42 Customs and Excise Amendment Act 2004 (2004 No 55).

226 Procedure for seizure

- (1) A Customs officer or member of the Police may seize any forfeited goods or any goods that he or she has reasonable cause to suspect are forfeited.
- (2) Goods may be seized as forfeited wherever the goods are found within New Zealand.
- (3) Forfeited goods, other than prohibited goods, may be seized at any time within 2 years after the forfeiture has arisen.
- (4) Goods that are forfeited because they are prohibited goods may be seized at any time after the forfeiture has arisen.
- (5) A Customs officer or member of the Police may use such force as is reasonably necessary for effecting the seizure and securing the goods.

- (6) Except as provided in subsections (7) and (8) of this section, all goods seized shall be taken to such place of security as a Customs officer directs, and there detained.
- (7) Where goods, including any craft, vehicle, or animal, have been seized under this section, any Customs officer may leave those goods in the custody of either—
 - (a) The person from whom the goods have been seized; or
 - (b) Any other person authorised by the Customs officer and who consents to having such custody.
- (8) Every person who has the custody of goods under subsection (7) of this section must hold them in safekeeping, without charge to the Crown and in accordance with any reasonable conditions that may be imposed by the Customs, until a final decision is made as to whether or not they are to remain forfeit, and must—
 - (a) Make the goods available to a Customs officer on request; and
 - (b) Not alter, or dispose of, or remove the goods from New Zealand, unless he or she is authorised to do so by a Customs officer; and
 - (c) Return the goods on demand to the custody of the Customs.

Compare: 1966 No 19 ss 275, 276; 1986 No 44 s 26; 1982 No 112 s 16

227 Notice of seizure

- (1) When any goods have been seized under section 226 of this Act, the Customs must, as soon thereafter as is reasonably practicable in the circumstances, give notice in writing of the seizure and the reasons for the seizure, in the prescribed form, to any person known or believed to have an interest in the goods, or where that person is overseas, to his or her agent in New Zealand.
- (2) A seizure is not invalidated or illegal by reason of any failure to give such notice if reasonable steps were taken to give the notice.

Compare: 1966 No 19 s 278

228 Forfeiture to relate back

Where, pursuant to section 225 of this Act, goods are forfeited and the goods are seized the forfeiture relates back to the date of the act or event from which the forfeiture arose.

Compare: 1966 No 19 s 274

229 Delivery of goods seized on deposit of value

- (1) Where any goods have been seized as forfeited, the Chief Executive may, at any time before their condemnation, deliver the goods to the owner or other person from whom they were seized, on the deposit with the Customs of a cash sum equal,—
- (a) In the case of imported goods, to the Customs value of the goods; or
 - (b) In the case of goods manufactured in a Customs controlled area, to the excise value of the goods as determined in accordance with Schedule 4 to this Act,—
- together with any duty to which the goods may be liable as determined by the Chief Executive.
- (2) The money deposited is deemed to be substituted for the goods seized, and all the provisions of this Part of this Act so far as they are applicable extend and apply to the money accordingly.

Compare: 1966 No 19 s 284

230 Sale of certain seized goods

- (1) Where—
- (a) A living creature; or
 - (b) Any thing that, in the opinion of the Chief Executive, is of a perishable nature; or
 - (c) Any thing that, in the opinion of the Chief Executive, is likely to deteriorate or diminish in value by keeping; or
 - (d) Any thing that, in the opinion of the Chief Executive, it is desirable to sell—
- has been seized as forfeited, the Chief Executive may sell the thing seized before its condemnation.
- (2) The net proceeds of sale are deemed to be substituted for the thing sold, and all the provisions of this Part of this Act so far as they are applicable extend and apply to those proceeds accordingly.

Compare: 1966 No 19 s 285

Appeals against seizure

231 Application for order disallowing seizure

- (1) Any person claiming an interest in goods seized as forfeited under section 225 of this Act, may, within 20 working days after the date on which a notice is given to that person under section 227 of this Act or within such further time as the District Court may allow, apply to a District Court for an order—
 - (a) That the seizure be disallowed on the grounds that no reasonable cause for the seizure, or the continued detention, exists under this Act and that the goods be returned or otherwise made available to the applicant; and
 - (b) That the Crown pay to the applicant such sum by way of compensation for any depreciation in the value of the goods resulting from their seizure or detention, and for any transport and storage costs, as the Court thinks fit.
- (2) Every application to the Court under this section shall be made and dealt with by way of originating application filed in the office of the Court nearest to the place where the goods in dispute were seized.
- (3) A copy of the application shall be served on the respondent in accordance with the rules relating to the practice and procedure of District Courts.
- (4) Except as modified by subsections (2) and (3) of this section, the rules relating to the practice and procedure of District Courts for the time being in force under the District Courts Act 1947 apply with respect to every application to the Court under this section.
- (5) In every case where the goods seized exceed \$200,000 in value, every reference in this section to the District Court shall, with any necessary modifications, be read as a reference to the High Court and the reference to the rules relating to the practice and procedure of District Courts referred to in subsection (4) of this section shall be read as a reference to the High Court Rules.

232 Court may disallow seizure

- (1) Where an application is made under section 231 of this Act, the Court may dismiss the application or make an order—

- (a) That the seizure be disallowed in whole or in part and the goods returned; and
 - (b) That the Crown pay to the applicant such sum by way of compensation for any depreciation in the value of the goods resulting from their seizure or detention, and for any transport and storage costs, as the Court thinks fit,— and any such order may be made upon and subject to such terms and conditions as the Court thinks fit.
- (2) Where the Court makes an order dismissing the application, that order is deemed to be an order for condemnation of the goods to the Crown.
 - (3) No order that the seizure of the goods be disallowed shall be made if the Court is of the opinion that the goods or any of them are required to be produced in evidence in any proceedings pending under this Act or where there are proceedings pending which may result in condemnation of the goods.
 - (4) No order for the payment of compensation shall be made except in respect of goods that, in the opinion of the Court, were seized or detained without reasonable cause, and except to the extent that the Court disallows the seizure.
 - (5) Where the Court makes an order for the payment of any sum by way of compensation to any person under this section, the sum so awarded is recoverable by that person as a debt due from the Crown.

233 Application for order disallowing seizure where notice not received

- (1) Except where the goods have already been condemned to the Crown under this section or section 232 or section 234A or section 236 of this Act, any person claiming an interest in goods seized as forfeited under section 226 of this Act who did not receive notice under section 227 of this Act, may, within 6 months after the date on which the goods were seized, apply to a District Court for an order,—
 - (a) Where the goods seized have not been sold, destroyed, or otherwise disposed of, of the kind specified in section 231(1) of this Act; or
 - (b) Where the goods seized have been sold, destroyed, or otherwise disposed of, that compensation be paid by the

Crown for the whole or part of any loss suffered by the applicant.

- (2) The provisions of subsections (2) to (5) of section 231 of this Act shall apply to any application made under this section.
- (3) On any such application the Court may dismiss the application or make an order,—
 - (a) Where the goods seized have not been sold, destroyed, or otherwise disposed of, of the kind specified in section 232(1) of this Act; or
 - (b) Where the goods seized have been sold, destroyed, or otherwise disposed of, that compensation of such amount as the Court thinks fit be paid by the Crown to the applicant for the whole or any part of any loss suffered by the applicant, and such order may be made on such terms and conditions as the Court thinks fit.
- (4) No order for the payment of compensation shall be made except in respect of goods that, in the opinion of the Court, were seized or detained without reasonable cause, and except to the extent that the Court disallows the seizure.
- (5) Where the Court makes an order dismissing the application, that order is deemed to be an order for condemnation of the goods to the Crown unless the goods have already been condemned under section 234 of this Act.
- (6) Without limiting subsection (3) of this section, the Court may dismiss an application under subsection (1) of this section that is not made as soon as reasonably practicable after the applicant became aware of the seizure of the goods.

Subsection (1) was amended, as from 9 October 2002, by section 23 Customs and Excise Amendment Act (No 2) 2002 (2002 No 31) by inserting “or section 234A” after the expression “232”.

234 Condemnation if no appeal against seizure

Where no application is made under section 231(1) of this Act within the time specified in that section, the goods shall be deemed to be condemned to the Crown as if such an application had been made and dismissed.

234A Condemnation if application discontinued

If an application under section 231(1) or section 233(1) is discontinued, the goods are condemned to the Crown as if that application had been dismissed.

Section 234A was inserted, as from 9 October 2002, by section 24 Customs and Excise Amendment Act (No 2) 2002 (2002 No 31).

235 Waiver of forfeiture

- (1) Where any goods are forfeited under section 225 of this Act, the person who, but for the forfeiture, would be entitled to the goods may apply to the Minister for a waiver of the forfeiture.
- (2) Every application for a waiver under this section may be made before or after the seizure of the goods but must be made,—
 - (a) In the case of a person who received notice of the seizure under section 227 of this Act, not later than 20 working days after the date on which notice was given to that person; and
 - (b) In the case of a person who did not receive notice of the seizure under section 227 of this Act, not later than 30 working days after the date of the seizure.
- (3) On any such application the Minister may, where he or she considers it equitable to do so and subject to such terms and conditions (if any) as he or she may determine, waive the forfeiture either in whole or in part, and direct the return of the goods or property or part thereof so seized.
- (4) Without limiting subsection (3) of this section, any such waiver may be made subject to the condition that there is paid to the Crown in respect of the goods or property a sum equal to the whole or any part of any one or more of the following, namely—
 - (a) Any costs or expenses incurred by the Customs:
 - (b) Any duty not already paid:
 - (c) Any duty already refunded:
 - (d) The value of the goods or property, as determined by the Chief Executive.
- (5) The Minister may, from time to time, either generally or particularly, by writing under his or her hand, delegate to the Chief Executive or a Customs officer or Customs officers by name

any of the Minister's powers under this section, except this power of delegation.

Compare: 1966 No 19 s 287; 1970 No 28 s 10

Subsection (5) was amended, as from 9 October 2002, by section 25 Customs and Excise Amendment Act (No 2) 2002 (2002 No 31) by substituting "any of the Minister's powers under this section, except this power of delegation" for "the power to waive forfeiture exercisable under this section".

General provisions as to forfeiture

236 Condemnation of seized goods on conviction

- (1) Subject to subsection (2) of this section, where this Act provides that on the commission of any offence any goods are forfeited, the conviction of any person for that offence has effect as a condemnation, without suit or judgment, of any goods that have been seized in accordance with this Act and—
 - (a) In respect of which the offence was committed; or
 - (b) Which were forfeited under any of subsections (3), (4), or (5) of section 225 of this Act.
- (2) Where the Court imposes a sentence on any person on the conviction of that person for an offence to which subsection (1) of this section applies, the Court may, if it thinks fit, order the restoration of the goods forfeited to the person from whom the goods were seized and, where such an order is made, the conviction does not have effect as a condemnation of those goods.
- (3) In making an order pursuant to subsection (2) of this section the Court may impose such conditions as it thinks fit.
- (4) Subsection (2) of this section does not apply where the goods have, before the conviction, been sold, or restored to the person from whom they were seized, or otherwise disposed of by the Chief Executive under any other provision of this Act.

Compare: 1966 No 19 s 283(1); 1983 No 41 s 23

237 Disposal of forfeited goods

- (1) The Crown has the property in forfeited goods, or in any deposit made under section 229 of this Act or in the proceeds of sale under section 230 of this Act, as the case may be.

- (2) In the case of goods, the goods may be sold, used, destroyed, or otherwise disposed of after their condemnation as the Chief Executive may direct.

Compare: 1966 No 19 s 286

238 Application of forfeiture provisions

All the provisions of this Act with respect to the forfeiture of goods extend and apply to any craft, vehicle, or other thing forfeited under this Act.

Part 15 Evidence

239 Burden of proof

- (1) In any proceedings under this Act instituted by or on behalf of or against the Crown (other than a prosecution for an indictable offence) every allegation made on behalf of the Crown in any statement of claim, statement of defence, plea, or information, that relates to—
- (a) The identity or nature of any goods; or
 - (b) The value of any goods for duty; or
 - (c) The country or time of exportation of any goods; or
 - (d) The fact or time of the importation of any goods; or
 - (e) The place of manufacture, production, or origin of any goods; or
 - (f) The payment of any duty on goods,—
- shall be presumed to be true unless the contrary is proved.
- (2) The presumption in subsection (1) of this section shall not be excluded by the fact that evidence is produced on behalf of the Crown in support of any such allegation.
- (3) The provisions of this section shall extend and apply to proceedings in which the existence of an intent to defraud the revenue of the Customs is in issue.
- (4) Notwithstanding the foregoing provisions of this section, in any proceedings for an offence against this Act where it is alleged that the defendant intended to commit the offence, the prosecution has the burden of proving that intent beyond reasonable doubt.

Compare: 1966 No 19 s 299

240 Documents made overseas

In any proceeding under this Act (other than a prosecution for an indictable offence) the Court may admit in evidence as proof of any fact in issue a document made in a country outside New Zealand, whether the document is legally admissible as evidence in other proceedings or not.

Compare: 1966 No 19 s 302.

241 Proof of rules made under section 288

- (1) The production of a copy of the *Gazette* purporting to contain a copy of any rule made under section 288(1) of this Act that is required to be published in the *Gazette* shall, in all courts and in all proceedings, be sufficient evidence, until the contrary is proved, of the existence, publication, and provisions of the rule, and of the date of its coming into force.
- (2) The production of—
 - (a) Any document under the hand of a Customs officer purporting to be a rule or an extract from a rule that is required to be notified in the *Gazette* in accordance with section 288(6) of this Act, or a copy of any such rule or extract; and
 - (b) A copy of the *Gazette* in which the rule was notified,—shall, in all courts and in all proceedings, be sufficient evidence, until the contrary is proved, of the existence, notification, and provisions of the rule, and of the date of its coming into force.

242 Customs record of computer transmission admissible in evidence

In any proceedings under this Act or any other Act a computer printout of an extract of a record kept by the Customs under section 136 of this Act, certified by or on behalf of the Chief Executive under the seal of the Customs as a true copy, shall in all Courts, be admissible as evidence of the electronic message received by or sent to the Customs set out in that printout, unless the contrary is proved.

243 Presumption of authenticity of documents

All documents purporting to be signed by or on behalf of the Chief Executive, or to be sealed with the seal of the Customs, are, in all Courts and in all proceedings under this Act and any other Act, deemed to have been so signed or sealed with due authority, unless the contrary is proved.

Compare: 1966 No 19 s 301

Part 16 Customs Appeal Authorities

Customs Appeal Authorities

244 Establishment of Customs Appeal Authorities

- (1) There shall be established one or more Customs Appeal Authorities.
- (2) If more than one, any Authority may be given such distinctive designation as the Governor-General determines, and any such designation may from time to time be changed by the Governor-General.
- (3) Every Authority shall consist of one person, being a District Court Judge or a barrister or solicitor of the High Court of not less than 7 years' practice.
- (4) Every Authority shall be appointed by the Governor-General on the joint recommendation of the Minister of Customs and the Minister of Justice.
- (5) No person shall be deemed to be employed in the service of Her Majesty for the purpose of the State Sector Act 1988 or the Government Superannuation Fund Act 1956 by reason only of that person being an Authority.
- (6) Customs Appeal Authorities shall be administered by the Department for Courts.

245 Term of office of Authority

- (1) Except as otherwise provided in this Act, every person appointed as an Authority shall be appointed for such term, not exceeding 7 years, as the Governor-General thinks fit, and may from time to time be reappointed.

- (2) Subject to subsection (3) of this section, any person appointed as an Authority may at any time be suspended or removed from office by the Governor-General for engaging in any occupation for reward outside the duties of his or her office, or for inability to perform the functions of the office, bankruptcy, neglect of duty, or misconduct proved to the satisfaction of the Governor-General, or may at any time resign his or her office by writing addressed to the Minister of Customs and the Minister of Justice.
- (3) Where the terms of appointment of any person appointed as an Authority permit that person to engage in any occupation for reward outside the duties of his or her office, he or she is not liable to be suspended or removed from office under subsection (2) of this section by reason of his or her so engaging in any occupation for reward so permitted.
- (4) Notwithstanding that the term of office of a person appointed as an Authority has expired or that the person has resigned his or her office, he or she shall be deemed to continue to be an Authority for the purpose of deciding any appeal that was wholly heard before the expiration of his or her term of office or before his or her resignation took effect, as the case may be.

Subsection (2) was amended, as from 1 January 2002, by section 70(1) Human Rights Amendment Act 2001 (2001 No 96), by substituting “inability to perform the functions of the office” for “disability”.

246 Oath to be taken by Authority

Before entering upon the exercise of the duties of his or her office, every person appointed as an Authority shall take and subscribe an oath before a Judge of the High Court that he or she will faithfully and impartially perform the duties of his or her office.

247 Remuneration and travelling expenses

There shall be paid out of money appropriated by Parliament for the purpose to any person appointed as an Authority remuneration by way of fees, salary, or allowances and travelling allowances and expenses in accordance with the Fees and Travelling Allowances Act 1951, and the provisions of that

Act shall apply accordingly as if that person were a statutory Board within the meaning of that Act.

248 Sickness or incapacity

- (1) In the event of the sickness or other incapacity of an Authority, the Minister of Customs and the Minister of Justice, jointly, may appoint any person who is qualified to be appointed as an Authority to act in the place of that person during the incapacity.
- (2) Any person so appointed has authority to act on behalf of the Authority, and while so acting, is deemed to be an Authority.

249 Validity of appointment not to be questioned in proceedings

No appointment of a person under section 248 of this Act and no act done by any person by virtue of such appointment shall in any proceedings be questioned on the ground that the occasion of the appointment had not arisen or had ceased.

250 Authority not personally liable

No person appointed as an Authority and no person appointed under section 248 of this Act is personally liable for any act done or omitted to be done by him or her in good faith in pursuance or intended pursuance of his or her powers and authorities under this Act.

251 Registrars of Authorities

- (1) There shall from time to time be appointed under the State Sector Act 1988 such Registrars of the Authorities as may be required, and one person may be appointed Registrar of 2 or more Authorities.
- (2) The office of Registrar may be held either separately or in conjunction with any other office in the Public Service.

252 Seal

Every Authority shall have a seal which shall be judicially noted in all Courts.

253 Functions of Authority

The functions of an Authority shall be to sit as a judicial authority for hearing and deciding such appeals as are authorised by this Act or any other Act against assessments, decisions, rulings, determinations, and directions of the Chief Executive.

Proceedings

254 Procedure

- (1) The procedure of an Authority shall be in accordance with this Act and any regulations made under this Act and, subject to this Act and those regulations, shall be such procedure as an Authority thinks fit.
- (2) Proceedings before an Authority shall be commenced by the lodging of an application in the prescribed form, together with the prescribed fee (if any), with the Authority.

255 Nature of appeal

- (1) Appeals shall be by way of a hearing *de novo*.
- (2) For the purpose of hearing and deciding any appeal, an Authority shall have all the powers, duties, functions, and discretions of the Chief Executive in making the assessment, decision, ruling, determination, or direction appealed from.

256 Authority may extend time for appeal

Where under this Act a person is entitled to appeal to a Customs Appeal Authority within a specified time, an Authority may, on an application made within the specified time, extend the time within which the appeal may be brought.

257 Hearing

- (1) Subject to section 258 of this Act, as soon as an Authority considers that an appeal is ready to be heard, the Authority shall fix a date, time, and place for the hearing of the appeal and shall notify the appellant and the Chief Executive of the date, time, and place fixed.
- (2) A notice to the appellant under subsection (1) of this section—

- (a) Shall, in addition to the matters referred to in subsection (1) of this section, inform the appellant of the provisions of subsections (5) and (6) of this section; and
 - (b) Shall be served on the appellant by personal service or by post in accordance with section 284(4)(b) of this Act.
- (3) At the hearing of an appeal before an Authority the appellant and the Chief Executive may call evidence and shall be given an opportunity to be heard either in person or by a person authorised by the appellant or the Chief Executive, as the case may be, in that behalf whether or not that person is a barrister or solicitor of the High Court.
- (4) If the appellant or the Chief Executive, or both, fail to appear before an Authority at the time and place appointed, the Authority may nevertheless, upon proof of service of the notice of the hearing, proceed to determine the appeal.
- (5) Subject to subsection (6) of this section, the hearing of an appeal before an Authority shall be in public.
- (6) If the Authority is of the opinion that it is proper to do so, having regard to the interests of any party and to the public interest, it may hold a hearing or any part of a hearing in private.
- (7) The Authority may order that any part of any evidence given or the name of any witness not be published, and any such order may be subject to such conditions as the Authority thinks fit.

258 Authority may decide appeal without oral hearing if both parties consent

- (1) Notwithstanding section 257 of this Act, an Authority may, if it thinks fit and if both parties consent, decide an appeal without holding an oral hearing.
- (2) If an Authority at any time during its consideration of an appeal in accordance with subsection (1) of this section considers that an oral hearing should be held, the Authority shall fix a date, time, and place for the hearing of the appeal in accordance with section 257 of this Act.

259 Authority's powers

For the purposes of dealing with the matters before it, an Authority shall have the powers of a District Court, in the exercise

of its civil jurisdiction, in respect of citing parties and conducting and maintaining order at the hearings of the Authority.

260 Evidence

- (1) An Authority may receive as evidence any statement, document, information, or matter that, in the opinion of the Authority, may assist the Authority to deal effectually with the proceedings, whether or not it would be admissible in a Court of law.
- (2) An Authority may take evidence on oath.
- (3) An Authority may permit a person appearing as a witness before it to give evidence by tendering a written statement and, if the Authority thinks fit, verifying it by oath.

261 Powers of investigation

- (1) For the purposes of dealing with the matters before it, an Authority or any person authorised by the Authority in writing to do so may—
 - (a) Inspect and examine any papers, documents, records, or things:
 - (b) Require any person to produce for examination any papers, documents, records, or things in that person's possession or under that person's control, and to allow copies of or extracts from any such papers, documents, or records to be made:
 - (c) Require any person to furnish, in a form approved by or acceptable to the Authority, any information or particulars that may be required by it, and any copies of or extracts from any papers, documents, or records in that person's possession or under that person's control.
- (2) The Authority may, if it thinks fit, require that any written information or particulars or any copies or extracts furnished under this section shall be verified by statutory declaration or otherwise as the Authority may require.
- (3) For the purposes of dealing with the matters before it, an Authority may of its own motion, or on application, order that any information or particulars, or a copy of the whole or any part of any paper, document, or record, furnished or produced

to it be supplied to any person appearing before the Authority, and in the order impose such terms and conditions as it thinks fit in respect of such supply and of the use that is to be made of the information, particulars, or copy.

- (4) Every person shall have the same privileges in relation to the giving of information to the Authority, the answering of questions put by the Authority, and the production of papers, documents, records, and things to the Authority as witnesses have in Courts of law.

262 Power to summon witnesses

For the purposes of dealing with the matters before it, an Authority may of its own motion, or on application, issue in writing a summons requiring any person to attend at the time and place specified in the summons and to give evidence, and to produce any papers, documents, records, or things in that person's possession or under that person's control that are relevant to the matters before the Authority.

263 Service of summons

- (1) A summons to a witness may be served—
- (a) By delivering it to the person summoned; or
 - (b) By posting it by registered letter addressed to the person summoned at that person's usual place of residence or business.
- (2) The summons shall—
- (a) Where it is served under subsection (1)(a) of this section, be served at least 24 hours before the attendance of the witness is required;
 - (b) Where it is served under subsection (1)(b) of this section, be served at least 10 days before the date on which the attendance of the witness is required.
- (3) If the summons is posted by registered letter it shall be deemed for the purposes of subsection (2)(b) of this section to have been served at the time when the letter would be delivered in the ordinary course of post.

264 Protection of persons appearing

Every witness giving evidence, and every counsel or agent or other person appearing before the Authority, shall have the same privileges and immunities as witnesses and counsel in Courts of law.

265 Witnesses' allowances

- (1) Every witness attending the hearing to give evidence pursuant to a summons shall be entitled to be paid witnesses' fees, allowances, and travelling expenses according to the scales for the time being prescribed by regulations made under the Summary Proceedings Act 1957, and those regulations shall apply accordingly.
- (2) On each occasion on which the Authority issues a summons under section 262 of this Act, the Authority shall fix an amount which, on the service of the summons, or at some other reasonable time before the date on which the witness is required to attend, shall be paid or tendered to the witness.
- (3) The amount fixed under subsection (2) of this section shall be the estimated amount of the allowances and travelling expenses to which, in the opinion of the Authority, the witness will be entitled according to the prescribed scales if the witness attends at the time and place specified in the summons.
- (4) The whole or part of any amount fixed under subsection (2) of this section may, with the consent of the witness, be paid or tendered in the form of vouchers or tickets.

266 Payment of witnesses' allowances

- (1) Where a party to the proceedings has requested the issue of a witness summons, that party—
 - (a) Shall be liable for payment of the witness's fees, allowances, and expenses; and
 - (b) Shall, on making application for the issue of a witness summons, deposit with the Authority such sums as the Authority thinks sufficient.
- (2) The amounts of a witness's fees, allowances, and expenses shall be paid out of the sum deposited under subsection (1)(b) of this section.

- (3) Where the Authority has of its own motion issued the witness summons, the Authority may direct that the amount of those fees, allowances, and travelling expenses shall be paid by the Crown.

267 Grounds of appeal and burden of proof

- (1) Subject to subsection (2) of this section, in an appeal the appellant is limited to the grounds stated in the appellant's notice of appeal, and the burden of proof is on the appellant.
- (2) The Authority may, either on the application of the appellant or of its own motion, amend the grounds stated in the notice of appeal.

268 Sittings of Authority

- (1) Sittings of an Authority shall be held at such times and places as the Authority from time to time appoints.
- (2) An Authority may adjourn a sitting from time to time or place to place before the time of the sitting or at the sitting.
- (3) During the absence of the Authority or his or her inability from any cause to act, the Registrar of the Authority has the same powers as the Authority to adjourn a sitting.

269 Authority may dismiss frivolous or vexatious appeal

An Authority may at any time dismiss an appeal if it is satisfied that the appeal is frivolous or vexatious.

270 Decision of Authority

- (1) Every decision of an Authority shall be given in writing, with a statement of the Authority's reasons for the decision.
- (2) A copy of the decision shall be given to the appellant and to the Chief Executive and shall be accompanied by a written statement of the provisions of section 272(1) of this Act.

271 Power to award costs

- (1) An Authority may in any proceedings order a party to pay to the other party such costs and expenses (including witnesses' expenses) as it considers reasonable, and may apportion any

such costs between the parties or any of them in such manner as it thinks fit.

- (2) Where, through failure to prosecute any proceedings at the time fixed for a hearing or to give adequate notice of the abandonment of any proceedings, an Authority considers it proper to do so, the Authority may order the party in default to pay to the Crown such sum for costs as it considers reasonable.

272 Appeals to High Court

- (1) Any party who is dissatisfied with a decision of an Authority under this Act as being erroneous in point of law or fact may appeal to the High Court.
- (2) Every such appeal shall be made by filing a notice of appeal in the appropriate registry of the High Court within 20 working days after the date of the decision appealed against or within such further time as the High Court may allow.
- (3) Where a notice of appeal is filed in accordance with subsection (2) of this section, the appellant shall also, within the time specified in that subsection, file with the Authority a notice of appeal specifying the registry of the High Court in which the appellant intends to file the case on appeal, and, except in the case of an appeal by the Chief Executive, shall give security for the costs of the appeal of such amount and in such form as may be fixed by the Authority.
- (4) The appellant shall prepare a case setting forth the facts and the questions of law or fact arising for the determination of the High Court, and shall, within 2 months after the date of the giving by the Authority of his or her decision, submit the case to the Authority.
- (5) An Authority may return to an appellant a case submitted to the Authority under subsection (4) of this section or further submitted under this subsection for such amendment as the Authority shall direct, and the appellant shall further submit the case to the Authority within such time as the Authority shall allow.
- (6) Where an Authority accepts a case submitted or further submitted to him or her under subsection (4) or subsection (5) of

this section, the Authority shall sign the case, and shall deliver the case to the appellant.

- (7) The appellant shall, within 14 days after the date of receipt of the case delivered by the Authority pursuant to subsection (6) of this section, transmit it to the Registrar of the High Court in the registry specified in the notice of appeal, and the Registrar shall thereupon enter the appeal for hearing at the first practicable sitting of the Court.
- (8) On the hearing of the appeal the High Court may, if it thinks fit, cause the case so stated to be sent back to the Authority for amendment, and subsections (5), (6) and (7) of this section shall, with any necessary modifications, apply as if the case had been submitted to the Authority under subsection (4) of this section.

273 Appeal to Court of Appeal

Any party who is dissatisfied with a decision of the High Court on any case on appeal under section 272 of this Act as being erroneous in point of law may appeal to the Court of Appeal.

274 Stating case for High Court

- (1) An Authority may at any time, on the application of the appellant or the Chief Executive or of its own motion, state a case for the opinion of the High Court on any question of law arising in respect of any appeal before the Authority.
- (2) The Authority shall give notice to the Chief Executive and the appellant of the Authority's intention to state a case under this section specifying the registry of the High Court in which the case is to be filed.
- (3) Subsections (4), (5), (6), (7), and (8) of section 272 of this Act shall apply to a case stated under this section as if the case were an appeal to the High Court on a question of law in which the party on whose application the Authority intends to state the case, or the Chief Executive where the Authority intends to state the case of its own motion, is the appellant, except that the time for submitting a case to the Authority shall be within 20 working days after the date of the giving by the Authority

of notice under subsection (2) of this section, or such further time as the Authority may allow.

Part 17

Miscellaneous provisions

275 Payments by Chief Executive out of public money

Subject to any limitations imposed in regulations made under this Act, the Chief Executive may incur expenses without further appropriation than this section to pay—

- (a) All lawful refunds of duty:
- (b) All lawful drawbacks of duty:
- (c) All lawful refunds of administrative penalties under section 129(2) of this Act:
- (d) All lawful payments of interest pursuant to section 93(1) of this Act.

Compare: 1966 No 19 s 226; 1989 No 44 s 86(1)

276 Application of Act to postal articles

- (1) Subject to any regulations made under subsection (3) of this section, the provisions of this Act apply to postal articles and to goods contained in postal articles in the same manner as those provisions apply to other goods.
- (2) In this section,—
 - (a) The term **postal article** means any letter, parcel, packet, or other article whatever received or transmitted by or through a postal operator; and includes any such articles imported by air courier companies:
 - (b) The term **postal operator** means a postal operator within the meaning of the Postal Services Act 1998.
- (3) Without limiting the power to make regulations conferred by section 286 of this Act, the Governor-General may from time to time, by Order in Council, make regulations for all or any of the following purposes:
 - (a) Providing that any separate postal articles and goods contained in them, whether addressed to the same or to different persons, may be treated for the purposes of this Act as a single postal article consigned to a single person:

- (b) Prescribing the persons who are to be deemed for the purposes of this Act to be the importers or exporters of such postal articles or goods.

Compare: 1966 No 19 s 305(1), (2)(e), (f), (3)

Subsection (2) was substituted, as from 1 April 1998, by section 62(1) Postal Services Act 1998 (1998 No 2). See clause 2 Postal Services Act Commencement Order 1998 (SR 1998/49).

277 Declarations under this Act

- (1) Every declaration, including a declaration that is made and transmitted electronically, that is required or authorised by this Act must be made in the prescribed form.
- (2) Where any form requires that a declaration must be made before any person, the declaration may be made before a Customs officer, or before a person authorised under the Oaths and Declarations Act 1957 to take declarations, or before such other person as may be prescribed.

Compare: 1966 No 19 s 303

278 Power of Chief Executive to determine seals, stamps, and marks

The Chief Executive may, from time to time, determine any seal, stamp, or mark for the use of the Customs.

279 Arrival and departure information

The Customs may, for the purposes of monitoring the movement of craft and persons, passenger and crew processing and border security, collect and use the following information about craft and persons arriving in or departing from New Zealand:

- (a) Details of craft movements including the craft name, and registration number or identifier, estimated date and time of arrival or departure and place of origin and destination; and
- (b) Personal information including the person's name, date of birth, gender, passport number, nationality, and travel movements.

280 Supply of arrival and departure information for benefit and benefit debt recovery purposes

- (1) In this section, unless the context otherwise requires, the term **benefit** has the same meaning as in section 3(1) of the Social Security Act 1964; and includes—
 - (a) A lump sum payable under section 61DA or section 61DC or section 61DD of that Act;
 - (b) Any special assistance granted out of the Crown Bank Account from money appropriated by Parliament under section 124(1)(d) or (da) of that Act.
 - (c) an allowance established by regulations made under section 303 of the Education Act 1989.
- (2) The purpose of this section is to facilitate the exchange of information between the Customs and the department for the time being responsible for the administration of the Social Security Act 1964 for all or any of the following purposes:
 - (a) to verify the entitlement or eligibility of any person to or for any benefit;
 - (b) to verify the amount of any benefit to which a person is or was entitled or for which a person is or was eligible;
 - (c) to enable the recovery of any debt due to the Crown in respect of any benefit.
- (3) For the purposes of this section, the chief executive of the department for the time being responsible for the administration of the Social Security Act 1964 may from time to time, in accordance with arrangements made from time to time between that chief executive and the Chief Executive of the Customs, request the supply, in respect of persons who depart from New Zealand or persons who arrive in New Zealand from another country, or both, of the information specified in subsection (5).
- (4) Nothing in subsection (3) applies in respect of persons who are exempted, by regulations made under the Immigration Act 1987 or by virtue of any special direction under that Act, from the requirement to surrender an arrival card pursuant to section 126(1)(a) of that Act, or, as the case may be, a departure card pursuant to section 126(2) of that Act.
- (5) The information referred to in subsection (3) is as follows:
 - (a) The person's full name;
 - (b) The person's date of birth;

- (c) The person's sex:
 - (d) The person's passport number:
 - (e) The person's country of citizenship:
 - (f) If the person arrived or, as the case may be, departed by aircraft, the flight number:
 - (g) If the person arrived or, as the case may be, departed by ship, the name of the ship:
 - (h) The date on which the person arrived in or, as the case may be, departed from New Zealand.
- (6) On receipt of a request made under subsection (3), the Chief Executive of the Customs may supply the information requested to any officer or employee or agent of the other department who is authorised for the purpose by the chief executive of that department.
- (7) Information supplied under a request made under subsection (3) may be supplied in such a form as is determined by agreement between those chief executives.

Compare: 1966 No 19 s 305B; 1991 No 130 s 2

Section 280 was substituted, as from 1 October 1998, by section 11 Employment Services and Income Support (Integrated Administration) Act 1998 (1998 No 96).

Section 280 heading: amended, on 9 April 2008, by section 5(1) of the Customs and Excise (Social Assistance) Amendment Act 2008 (2008 No 25).

Subsection (1)(c) was inserted, as from 6 March 2007, by section 22 Customs and Excise Amendment Act 2007 (2007 No 9).

Section 280(2): substituted, on 9 April 2008, by section 5(2) of the Customs and Excise (Social Assistance) Amendment Act 2008 (2008 No 25).

280A Interpretation

In section 280B, unless the context otherwise requires,—

authorised officer means any officer, employee, or agent of the department who, with the approval of the chief executive of the Customs, is authorised by the chief executive of the department to supply information or receive information from the chief executive of the Customs under section 280B

department means the department for the time being responsible for the administration of the Social Security Act 1964

identifying information means personal information that identifies an individual, which may include the individual's passport number

social security agreement means an agreement or convention, or alteration to an agreement or convention, in respect of which an Order in Council has been made under section 19 of the Social Welfare (Transitional Provisions) Act 1990.

Compare: 1994 No 166 ss 85B and 85C

Sections 280A and 280B were inserted, as from 27 April 2002, by section 8 Social Welfare (Transitional Provisions—Overseas Pensions) Amendment Act 2002 (2002 No 8).

280B Disclosure of arrival and departure information for purposes of mutual assistance provision contained in social security agreement

- (1) The purpose of this section is to facilitate the exchange of information between the Customs and the department for the purpose of giving assistance to the Government of a country with which New Zealand has a social security agreement that contains a mutual assistance provision of the kind referred to in section 19A(2)(b) of the Social Welfare (Transitional Provisions) Act 1990, to enable compliance with that agreement.
- (2) For the purpose of this section, the chief executive of the department may supply to the chief executive of Customs—
 - (a) any identifying information supplied to the department by the Government of that country; and
 - (b) any identifying information obtained by the department about a person who has applied for a benefit to which that social security agreement applies.
- (3) If, in relation to any person, identifying information is supplied in accordance with subsection (2), the chief executive of the Customs may compare that information with any arrival and departure information held by the Customs that relates to that person.
- (4) If the Customs has arrival or departure information relating to a person, the chief executive of the Customs may, for the purpose of this section, supply to an authorised officer any of the following information held by the Customs if that information is of a type specified in an agreement made under section 19C(1)(d) of the Social Welfare (Transitional Provisions) Act 1990:

- (a) the person's full name:
 - (b) the person's date of birth:
 - (c) the person's sex:
 - (d) the person's passport number:
 - (e) the person's nationality:
 - (f) if the person arrived or, as the case may be, departed by aircraft, the flight number:
 - (g) if the person arrived or, as the case may be, departed by ship, the name of the ship:
 - (h) the date on which the person arrived in, or, as the case may be, departed from, New Zealand.
- (5) If the chief executive of the Customs has supplied information under subsection (4) to an authorised officer, the department may supply that information to the competent institution of the Government of the other country in accordance with the mutual assistance provision of the social security agreement.
- (6) If information is supplied to the chief executive of the Customs under subsection (2), that chief executive—
- (a) may use that information for the purposes set out in subsections (3) and (4):
 - (b) may not supply that information to any other country without the prior written consent of the chief executive of the department, and that supply or consent may be subject to any conditions that the chief executive of the department considers appropriate to impose.

Sections 280A and 280B were inserted, as from 27 April 2002, by section 8 Social Welfare (Transitional Provisions—Overseas Pensions) Amendment Act 2002 (2002 No 8).

280C Interpretation

In sections 280D and 280E, unless the context otherwise requires,—

authorised officer—

- (a) means any officer, employee, or agent of the Department who is authorised by the chief executive of the Department to supply information to, or receive information from, the chief executive of the Customs under section 280D; and
- (b) includes any sworn member of the police

Department means the Ministry of Justice or other department of State that, with the authority of the Prime Minister, is for the time being responsible for the enforcement of fines

fine means—

- (a) a fine within the meaning of section 79 of the Summary Proceedings Act 1957 or an amount of reparation;
- (b) a fine or other sum of money to which any of sections 19 to 19E of the Crimes Act 1961 applies;
- (c) a fine to which any of sections 43 to 46 of the Misuse of Drugs Amendment Act 1978 applies

fines enforcement action includes the execution of a warrant to arrest a person in respect of the non-payment of the whole, or of any part, of any fine

identifying information means personal information that identifies an individual, which may include the individual's passport number

reparation means—

- (a) any amount that is required to be paid under a sentence of reparation; or
- (b) any amount that is required to be paid under any order of reparation as defined in section 145D of the Sentencing Act 2002

serious default, in relation to a person, means that—

- (a) the person owes—
 - (i) an amount of \$1,000 (or any other amount that may be fixed by the Governor-General by Order in Council) or more in relation to 1 or more unpaid fines (other than an amount of reparation); or
 - (ii) any amount of reparation; and
- (b) a warrant to arrest the person has been issued in respect of the non-payment of the whole, or of any part, of any amount referred to in paragraph (a); and
- (c) the warrant has not been withdrawn or executed.

Sections 280C to 280F were inserted, as from 10 April 2006, by section 4 Customs and Excise Amendment Act 2006 (2006 No 7).

280D Disclosure of arrival and departure information for fines enforcement purposes

- (1) The purpose of this section is to facilitate the exchange of information between the Customs and the Department to enable—
 - (a) the Department to locate any person who is in serious default in the payment of any fine; and
 - (b) appropriate fines enforcement action to be taken against that person.
- (2) For the purpose of this section, an authorised officer may supply to the chief executive of the Customs any identifying information about a person who is in serious default.
- (3) If, in relation to a person who is in serious default, identifying information is supplied in accordance with subsection (2), the chief executive of the Customs may compare that information with any information held by the Customs that relates to that person.
- (4) If the Customs has information relating to a person who is in serious default, the chief executive of the Customs may, for the purpose of this section, supply to an authorised officer any of the following information relating to that person held by the Customs:
 - (a) the person's full name:
 - (b) the person's date of birth:
 - (c) the person's sex:
 - (d) the person's passport number:
 - (e) the person's nationality:
 - (f) if the person arrived or, as the case may be, departed by aircraft, the flight number of the aircraft:
 - (g) if the person arrived or, as the case may be, departed by ship, the name of the ship:
 - (h) the date on which the person arrived in, or (as the case may be) departed from, New Zealand.
- (5) The chief executive of the Customs and the chief executive of the Department may, for the purpose of this section, determine by agreement between them—
 - (a) the frequency with which information may be supplied; and
 - (b) the form in which information may be supplied; and

- (c) the method by which information may be supplied.

Sections 280C to 280F were inserted, as from 10 April 2006, by section 4 Customs and Excise Amendment Act 2006 (2006 No 7).

280E No Crown liability to third parties for fines enforcement action

- (1) This section applies to the taking of any fines enforcement action against a person who is alleged to be in serious default (the **alleged defaulter**), or to the questioning of any alleged defaulter with a view to taking any fines enforcement action, immediately—
- (a) after the arrival of the alleged defaulter in New Zealand;
or
- (b) before the departure of the alleged defaulter from New Zealand.
- (2) The Crown is not liable to any person (for example, an airline operator or a passenger on an airline) for any loss or damage caused as a result of, or in connection with, the actions described in subsection (1) unless the person or persons taking those actions, or any employee of the Crown performing any function directly or indirectly connected with those actions, has not acted in good faith or has been grossly negligent.
- (3) Nothing in subsection (2) applies to or affects any question of the liability of the Crown to the alleged defaulter.

Sections 280C to 280F were inserted, as from 10 April 2006, by section 4 Customs and Excise Amendment Act 2006 (2006 No 7).

280F Customs may supply information concerning specified fines defaulters to chief executive of Department of Labour

- (1) The chief executive of the Customs may supply to the chief executive of the Department of Labour the following information about a person who is a specified fines defaulter:
- (a) the person's full name:
- (b) the person's date of birth:
- (c) the person's sex:
- (d) the person's passport number:
- (e) notice of the fact that the person is a specified fines defaulter.

- (2) The information given under subsection (1)—
- (a) may be given in any form and by any method agreed upon by the chief executive of the Department (as that term is defined in section 280C), the chief executive of the Customs, and the chief executive of the Department of Labour; and
 - (b) may, in whole or in part, be in the form of a code representing the information.
- (3) In this section,—
- fine** means a fine within the meaning of that term in section 280C, other than a fine imposed by, or resulting from the enforcement of, an order made or deemed to have been made under section 21(5), (5A), or (9) of the Summary Proceedings Act 1957
- specified fines defaulter** means a person—
- (a) who owes—
 - (i) an amount of \$5,000 (or any other amount that may be fixed by the Governor-General by Order in Council) or more in relation to 1 or more unpaid fines (other than an amount of reparation); or
 - (ii) any amount of reparation within the meaning of that term in section 280C; and
 - (b) for whom a warrant to arrest has been issued (and not withdrawn or executed) in respect of the non-payment of the whole or any part of any amount referred to in paragraph (a).

Sections 280C to 280F were inserted, as from 10 April 2006, by section 4 Customs and Excise Amendment Act 2006 (2006 No 7).

280G Defined terms for sections 280H and 280I

In sections 280H and 280I, unless the context otherwise requires,—

borrower has the meaning given to it by section 2 of the Student Loan Scheme Act 1992

Commissioner means the Commissioner of Inland Revenue as defined in section 3(1) of the Tax Administration Act 1994

Department means the Inland Revenue Department

identifying information means the information set out in section 62A(2) of the Student Loan Scheme Act 1992 that identifies a borrower

officer of the Department has the meaning given to it by section 3(1) of the Tax Administration Act 1994.

Sections 280G to 280I were inserted, as from 28 March 2007, by section 41 Student Loan Scheme Amendment Act 2007 (2007 No 13).

280H Disclosure of arrival and departure information for purposes of Student Loan Scheme Act 1992

- (1) The purpose of this section is to facilitate the exchange of information between the Customs and the Department for the purpose of assisting the Commissioner to verify—
 - (a) borrowers' entitlements to a full interest write-off under section 38AA of the Student Loan Scheme Act 1992;
 - (b) whether borrowers are New Zealand based or overseas based for the purposes of that Act;
 - (c) whether borrowers are resident or non-resident for the purposes of that Act.
- (2) For the purpose of this section, the Commissioner may supply any identifying information to the Chief Executive.
- (3) If, in relation to any borrower, identifying information is supplied in accordance with subsection (2), the Chief Executive may compare that information with any arrival and departure information held by the Customs that relates to that borrower.
- (4) If the Customs has arrival or departure information relating to a borrower, the Chief Executive may, for the purpose of this section, supply to the Commissioner any of the following information held by the Customs:
 - (a) the borrower's name;
 - (b) the borrower's date of birth;
 - (c) the borrower's tax file number;
 - (d) the time and date on which the borrower arrived in, or, as the case may be, departed from, New Zealand.
- (5) The Chief Executive and the Commissioner may, for the purpose of this section, determine by written agreement between them—
 - (a) the frequency with which information may be supplied;and

- (b) the form in which information may be supplied; and
- (c) the method by which information may be supplied.

Sections 280G to 280I were inserted, as from 28 March 2007, by section 41 Student Loan Scheme Amendment Act 2007 (2007 No 13).

280I Direct access to arrival and departure information for purposes of Student Loan Scheme Act 1992

- (1) The purpose of this section is to facilitate the Department's access to information stored in a database for the purpose of assisting the Commissioner to verify—
 - (a) borrowers' entitlements to a interest under section 38AA of the Student Loan Scheme Act 1992;
 - (b) whether borrowers are New Zealand based or overseas based for the purposes of that Act;
 - (c) whether borrowers are resident or non-resident for the purposes of that Act;
 - (d) for the purposes of that Act, whether borrowers are in New Zealand.
- (2) The Chief Executive may, for the purpose of this section, allow the Commissioner to access a database in accordance with a written agreement entered into by the Chief Executive and the Commissioner.
- (3) In accessing a database for the purpose of this section, the Commissioner—
 - (a) may only search for arrival or departure information relating to pre-selected borrowers who are of interest to the Commissioner; and
 - (b) must not search for—
 - (i) any information other than arrival or departure information; or
 - (ii) any information about a person who is not a borrower.
- (4) The Commissioner must take all reasonable steps to ensure that—
 - (a) only persons who have had appropriate powers delegated to them by the Commissioner—
 - (i) have access to the database; and
 - (ii) use the database; and
 - (b) a record is kept of—

- (i) every occasion on which persons access a database; and
 - (ii) the reason for accessing the database; and
 - (iii) the identity of the person who accessed the database; and
- (c) every person who accesses a database for the purpose of this section complies with subsection (3).
- (5) In this section,—

access a database includes remote access to a database

database means any information recording system used by the Customs to store arrival or departure information.

Sections 280G to 280I were inserted, as from 28 March 2007, by section 41 Student Loan Scheme Amendment Act 2007 (2007 No 13).

280J Defined terms for sections 280K and 280L

In sections 280K and 280L, unless the context otherwise requires,—

Commissioner means the Commissioner of Inland Revenue as defined in section 3(1) of the Tax Administration Act 1994

Department means the Inland Revenue Department

financial support debt means an amount owing to the Commissioner of—

- (a) financial support as defined in section 2 of the Child Support Act 1991;
- (b) a penalty or interest under the Child Support Act 1991

identifying information means personal information that identifies an individual

officer of the Department has the meaning given to it by section 3(1) of the Tax Administration Act 1994

serious default means the state of having an amount of financial support debt due and owing to the Commissioner of Inland Revenue and satisfying criteria agreed by the Commissioner and the Privacy Commissioner in consultation with the Chief Executive.

Section 280J: inserted, on 8 August 2008, by section 293 of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

280K Disclosure of arrival and departure information for purposes of Child Support Act 1991

- (1) The purpose of this section is to facilitate the exchange of information between the Customs and the Department for the purpose of assisting the Commissioner to—
 - (a) locate any person who is in serious default in the payment of any financial support debt; and
 - (b) take appropriate debt recovery action against that person.
- (2) For the purpose of this section, the Commissioner may supply any identifying information to the Chief Executive.
- (3) If, in relation to a person who is in serious default, identifying information is supplied in accordance with subsection (2), the Chief Executive may compare that information with any arrival and departure information held by the Customs that may relate to that person.
- (4) If the Customs has arrival or departure information relating to a person who is in serious default, the Chief Executive may, for the purpose of this section, supply to the Commissioner any of the following information held by the Customs:
 - (a) the person's name:
 - (b) the person's date of birth:
 - (c) the person's tax file number:
 - (d) the time and date on which the person arrived in New Zealand or, as the case may be, departed from New Zealand:
 - (e) information provided by the person when arriving in New Zealand or, as the case may be, departing from New Zealand.
- (5) The Chief Executive and the Commissioner may, for the purpose of this section, determine by written agreement between them—
 - (a) the frequency with which information may be supplied:
 - (b) the form in which information may be supplied:
 - (c) the method by which information may be supplied.

Section 280K: inserted, on 8 August 2008, by section 293 of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

280L Direct access to arrival and departure information for purposes of Child Support Act 1991

- (1) The purpose of this section is to facilitate the Department's access to information stored in a database for the purpose of assisting the Commissioner to—
 - (a) locate any person who is in serious default in the payment of any financial support debt;
 - (b) take appropriate debt recovery action against that person.
- (2) The Chief Executive may, for the purpose of this section, allow the Commissioner to access a database in accordance with a written agreement entered into by the Chief Executive and the Commissioner.
- (3) In accessing a database for the purpose of this section, the Commissioner—
 - (a) may only search for arrival or departure information relating to preselected persons who are of interest to the Commissioner; and
 - (b) must not search for—
 - (i) any information other than arrival or departure information;
 - (ii) any information about a person who is not in serious default.
- (4) The Commissioner must take all reasonable steps to ensure that—
 - (a) only persons with appropriate powers delegated to them by the Commissioner—
 - (i) have access to the database; and
 - (ii) use the database; and
 - (b) a record is kept of—
 - (i) every occasion on which persons access a database; and
 - (ii) the reason for accessing the database; and
 - (iii) the identity of the person who accessed the database; and
 - (c) every person who accesses a database for the purpose of this section complies with subsection (3).
- (5) In this section,—

access a database includes remote access to a database

database means any information recording system used by the Customs to store arrival or departure information.

Section 280L: inserted, on 8 August 2008, by section 293 of the Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109).

281 Disclosure of information overseas

- (1) The Chief Executive may disclose any information specified in section 282(1) to an overseas agency, body, or person, whose functions include—
 - (a) the prevention, detection, investigation, prosecution, or punishment of offences that are, or that if committed in New Zealand would be,—
 - (i) customs offences of any kind; or
 - (ii) other offences punishable by imprisonment; or
 - (b) the processing of international passengers at the border by public authorities; or
 - (c) border security; or
 - (d) the enforcement of a law imposing a pecuniary penalty; or
 - (e) the protection of public revenue.
- (2) The disclosure of information under subsection (1) must be—
 - (a) in accordance with an agreement between the Chief Executive and the agency, body, or person concerned that complies with subsections (3) and (4); or
 - (b) in accordance with subsection (8).
- (3) The Chief Executive must not enter into an agreement for the purpose of subsection (2)(a) unless satisfied that it is justified to help prevent, identify, or respond to violations of New Zealand law or,—
 - (a) in the case of an agreement with an international agency or body, to help prevent, identify, or respond to actions of a kind whose prevention or identification, or responding to which, is among the functions of the agency or body;
 - (b) in any other case, to help prevent, identify, or respond to violations of the law of the State concerned.
- (4) For the purposes of subsection (2)(a), an agreement—
 - (a) must be in writing; and

- (b) must state criteria for the disclosure of information under it; and
 - (c) must state, in respect of information to be disclosed,—
 - (i) the use that the agency, body, or person may make of it; and
 - (ii) either—
 - (A) that the agency, body, or person must not disclose it to any other agency, body, or person; or
 - (B) the other agencies, bodies, or persons to which the agency, body, or person may disclose any of it, and the extent to which, and conditions subject to which, the agency, body, or person may do so; and
 - (d) may state—
 - (i) the form in which the information may be disclosed;
 - (ii) the method by which the information may be disclosed; and
 - (e) may be varied from time to time.
- (5) The Chief Executive—
- (a) must consult the Privacy Commissioner before entering into an agreement under this section, or varying such an agreement; and
 - (b) if the Privacy Commissioner so requires, must undertake a review of the agreement under this section, and the arrangements for disclosure under it; and
 - (c) as soon as practicable after conducting a review required to be undertaken under paragraph (b), must report the result to the Privacy Commissioner.
- (6) The Privacy Commissioner must not require the Chief Executive to undertake a review of an agreement under subsection (5)(b) within 12 months of last doing so.
- (7) This section does not limit the general powers. of the Chief Executive to enter into agreements not related to the disclosure of information with any overseas agency, body, or person.

- (8) The Chief Executive may disclose information to an overseas agency, body, or person without a written agreement specified in subsection (2)(a) if—
- (a) the functions of the agency, body, or person include the prevention, detection, investigation, prosecution, or punishment of customs offences of any kind or of other offences punishable by imprisonment; and
 - (b) the information is disclosed subject to conditions stating—
 - (i) the use that the agency, body, or person may make of it, and
 - (ii) either—
 - (A) that the agency, body, or person must not disclose it to any other agency, body, or person; or
 - (B) the other agencies, bodies, or persons to which the agency, body, or person may disclose any of it, and the extent to which, and conditions subject to which, the agency, body, or person may do so; and
 - (c) the Chief Executive makes and keeps a record of—
 - (i) the information that was disclosed; and
 - (ii) the agency, body, or person to which it was disclosed; and
 - (iii) the conditions subject to which it was disclosed.
- (9) If, before the commencement of this Act, the Government of New Zealand or Chief Executive has entered into any agreement or arrangement with any overseas agency, body, or person and that agreement or arrangement could have been made or entered into under this section, the agreement or arrangement continues and has effect as if it had been made or entered into under this section. This subsection prevails over subsection (4).
- (10) The Chief Executive must not disclose any information under subsection (8) unless satisfied that it relates to a suspected violation of New Zealand law or,—
- (a) in the case of disclosure to an international agency or body, to a suspected action of a kind whose prevention

or identification, or responding to which, is among the functions of the agency or body:

- (b) in any other case, to a suspected violation of the law of the State concerned.

Sections 281 and 282 were substituted, as from 2 July 2004, by section 43 Customs and Excise Amendment Act 2004 (2004 No 55).

282 Information that may be disclosed

- (1) The information that may be disclosed under section 281 is—
 - (a) airline passenger and crew lists:
 - (b) craft movements (which may include passenger and crew lists):
 - (c) past travel movements of specified people:
 - (d) previous convictions of specified people:
 - (e) general history of specified people (which may include associates and networks):
 - (f) modus operandi of specified people:
 - (g) known currency and other financial transactions of relevant interest, including involvement in money laundering:
 - (h) intelligence analysis assessments and reports:—
 - (i) details of mail interceptions:
 - (j) personal identification details (which may include photographs, distinguishing features, and details of identity or travel documents):
 - (k) names and details of Customs personnel, freight forwarding and transport personnel, and personnel in the trade and travel business:
 - (l) details of known or suspected involvement of persons in illicit activities.
- (2) Section 281 does not prevent or limit any disclosure of information otherwise than under that section that may be required or authorised by or under law, or any treaty, agreement, or arrangement concluded by the Government of New Zealand.

Sections 281 and 282 were substituted, as from 2 July 2004, by section 43 Customs and Excise Amendment Act 2004 (2004 No 55).

282A Customs may for certain purposes collect, use, or disclose certain information

- (1) This section applies to information viewed by the Customs under any of sections 38G to 38K, and to information to which the Customs is given access under section 95A.
- (2) The Customs may collect, use, or disclose the information for any of the following purposes (and, in the case of personal information, despite anything in information privacy principles 2, 3, 10, or 11 of the Privacy Act 1993):
 - (a) exercising or performing a power, function, or duty under this Act:
 - (b) the prevention, detection, investigation, prosecution, and punishment of offences that are, or that if committed in New Zealand would be,—
 - (i) customs offences of any kind; or
 - (ii) other offences punishable by imprisonment:
 - (c) the processing of international passengers at the border by public authorities:
 - (d) the protection of border security:
 - (e) the protection of the health and safety of members of the public.
- (3) To avoid doubt, if the information is personal information and is disclosed by the Customs to an agency, body, or person under subsection (2) and for a purpose specified in that subsection, then the agency, body, or person—
 - (a) is authorised by this section to obtain and collect that information for that purpose; but
 - (b) may keep, use, or disclose that information only in accordance with the Privacy Act 1993.
- (4) Section 281 applies, with all necessary modifications, to the disclosure of the information to an overseas agency, body, or person whose functions include—
 - (a) the prevention, detection, investigation, prosecution, and punishment of offences that are, or that if committed in New Zealand would be,—
 - (i) customs offences of any kind; or
 - (ii) other offences punishable by imprisonment; or
 - (b) the processing of international passengers at the border by public authorities; or

- (c) border security; or
 - (d) the protection of the health and safety of members of the public.
- (5) Nothing in this section limits section 38L(3)(a) or section 38O.
- Section 282A was inserted, as from 2 July 2004, by section 43 Customs and Excise Amendment Act 2004 (2004 No 55).

283 Chief Executive to give written reasons for decisions open to appeal to Customs Appeal Authority

Without limiting any other obligation imposed on the Chief Executive to give notice in writing or to give reasons, in any case where a decision of the Chief Executive is open to an appeal to a Customs Appeal Authority, the notice of the decision of the Chief Executive must be given without undue delay and shall include or be accompanied by a written statement of the reasons for that decision.

Section 283 was amended, as from 27 September 2001, by section 11 Customs and Excise Amendment Act 2001 (2001 No 61) by inserting “must be given without undue delay and” after “Chief Executive” in the third place where it occurs.

284 Giving of notice

- (1) A notice by the Chief Executive or an officer of Customs to a company may be given,—
- (a) In the case of a company within the meaning of section 2 of the Companies Act 1955, by delivery to a person named as a director in the most recent particulars sent to the Registrar under section 200 of that Act; or
 - (b) In the case of a company within the meaning of section 2 of the Companies Act 1993, by delivery to a person named as a director of the company on the New Zealand register; or
 - (c) By delivery to an employee of the company at the company’s head office or principal place of business; or
 - (d) By leaving it at the company’s registered office; or
 - (e) By posting it to the company’s registered office or delivering it to a box at a document exchange which the company is using at the time; or
 - (f) By sending it by facsimile machine to a telephone number used for the transmission of documents by facsimile

- at the company's registered office or its head office or principal place of business; or
- (g) Where an individual who is a director, or an employee, or an agent of the company is a registered user of a Customs computerised entry processing system and uses the system for the purposes of the business of the company, by transmitting it by electronic means to the registered user at the company's registered office or at its head office or principal place of business or otherwise in accordance with the normal procedure of operation of the relevant Customs computerised entry processing system in relation to that registered user in respect of the business of the company.
- (2) A notice by the Chief Executive or an officer of Customs to an overseas company may be given,—
- (a) By delivery to a person named in the overseas register as a director of the overseas company and who is resident in New Zealand; or
 - (b) By delivery to a person named in the overseas register as being authorised to accept service in New Zealand of documents on behalf of the overseas company; or
 - (c) By delivery to an employee of the overseas company at the overseas company's place of business in New Zealand or, if the overseas company has more than one place of business in New Zealand, at the overseas company's principal place of business in New Zealand; or
 - (d) By posting it to the address of the overseas company's principal place of business in New Zealand or delivering it to a box at a document exchange which the overseas company is using at the time; or
 - (e) By sending it by facsimile machine to a telephone number used for the transmission of documents by facsimile at the principal place of business in New Zealand of the overseas company; or
 - (f) Where an individual who is a director, or an employee, or an agent of the overseas company is a registered user of a Customs computerised entry processing system and uses the system for the purposes of the business of the overseas company, by transmitting it by elec-

tronic means to the registered user at the principal place of business in New Zealand of the overseas company or otherwise in accordance with the normal procedure of operation of the relevant Customs computerised entry processing system in relation to that registered user in respect of the business of the overseas company.

- (3) A notice by the Chief Executive or an officer of Customs to a body corporate, other than a company or an overseas company, may be given,—
- (a) By delivery to a person who is a principal officer of the body corporate; or
 - (b) By delivery to an employee of the body corporate at the principal office or principal place of business of the body corporate; or
 - (c) By posting it to the address of the principal office of the body corporate or delivering it to a box at a document exchange which the body corporate is using at the time; or
 - (d) By sending it by facsimile machine to a telephone number used for the transmission of documents by facsimile at the principal office or principal place of business of the body corporate; or
 - (e) Where an individual who is an employee or an agent of the body corporate is a registered user of a Customs computerised entry processing system and uses the system for the purposes of the business of the body corporate, by transmitting it by electronic means to the registered user at the principal office or principal place of business of the body corporate or otherwise in accordance with the normal procedure of operation of the relevant Customs computerised entry processing system in relation to that registered user in respect of the business of the body corporate.
- (4) A notice by the Chief Executive or an officer of Customs to an individual may be given,—
- (a) By delivery to that person; or
 - (b) By posting it to that person's address or delivering it to a box at a document exchange which that person is using at the time; or

- (c) By sending it by facsimile machine to a telephone number used by that person for the transmission of documents by facsimile; or
- (d) Where the individual is a registered user of a Customs computerised entry processing system, by transmitting it by electronic means to that individual in accordance with the normal procedure of operation of the relevant Customs computerised entry processing system in relation to that individual.

Subsection (1)(g) was substituted, as from 3 June 1998, by section 8(1) Customs and Excise Amendment (No 2) 1998 (1998 No 38).

Subsection (2)(f) was substituted, as from 3 June 1998, by section 8(2) Customs and Excise Amendment (No 2) 1998 (1998 No 38).

Subsection (3)(e) was substituted, as from 3 June 1998, by section 8(3) Customs and Excise Amendment (No 2) 1998 (1998 No 38).

285 Additional provision relating to notices under this Act

- (1) For the purposes of this Act, a notice is deemed to be given when it is deemed to be received in accordance with subsection (2) of this section.
- (2) For the purposes of this Act,—
 - (a) A notice posted or delivered to a document exchange is deemed to be received 5 working days after it is posted or delivered:
 - (b) A notice sent by facsimile machine is deemed to have been received on the working day following the day on which it was sent, except that a notice sent under section 56(2D) is deemed to have been received at the time it is sent:
 - (c) A notice transmitted by electronic means is deemed to have been received on the working day following the day on which it was transmitted, except that a notice sent under section 56(2D) is deemed to have been received at the time it is sent:
 - (d) In proving the giving of notice by post or by delivery to a document exchange, it is sufficient to prove that—
 - (i) The document was properly addressed; and
 - (ii) All postal or delivery charges were paid; and
 - (iii) The document was posted or was delivered to the document exchange:

- (e) In proving the giving of notice by facsimile machine, it is sufficient to prove that the document was properly transmitted by facsimile machine to the person concerned:
 - (f) In proving the transmitting of notice by electronic means, it is sufficient to prove that the notice was properly transmitted by electronic means in accordance with the normal operating procedure of the relevant Customs computerised entry processing system.
- (3) A notice is not to be deemed to have been given to a person if the person proves that, through no fault on the person's part, the notice was not received within the time specified or was not received at all.

Subsection (2)(b) was amended, as from 6 March 2007, by section 23(1) Customs and Excise Amendment Act 2007 (2007 No 9) by adding “, except that a notice sent under section 56(2D) is deemed to have been received at the time it is sent”.

Subsection (2)(c) was amended, as from 6 March 2007, by section 23(2) Customs and Excise Amendment Act 2007 (2007 No 9) by adding “, except that a notice sent under section 56(2D) is deemed to have been received at the time it is sent”.

Subsection (3) was amended, as from 6 March 2007, by section 23(3) Customs and Excise Amendment Act 2007 (2007 No 9) by adding “or was not received at all”.

286 Regulations

- (1) The Governor-General may from time to time, by Order in Council, make regulations for all or any of the following purposes:
- (a) prescribing purposes in respect of which areas used for those purposes are or are not required to be licensed as Customs controlled areas; and prescribing circumstances in respect of which areas used in any or all of those circumstances are—
 - (i) exempted from the requirement to be licensed as a Customs controlled area (whether or not the exemption is on terms and conditions set by the Chief Executive);
 - (ii) required to be licensed as a Customs controlled area:

- (b) Prescribing the form and content of, and the procedure to be followed in making, an application for an area to be licensed as a Customs controlled area:
- (ba) prescribing the form and content of, and the procedure to be followed in making, an application for an area to be licensed as a CASE:
- (c) Prescribing the circumstances in which and the period or periods of time for which no charges shall be made by the licensee of a Customs controlled area for the reception or storage of imported goods:
- (d) Prescribing the content of the notice required to be given to the Customs by the person in charge of a craft under section 21 of this Act, and prescribing the period of advance notice required to be given for the purposes of that section:
- (e) Prescribing the time within which inward reports must be delivered under this Act:
- (f) Prescribing the persons or classes of persons who are exempted from the requirements of sections 28, 29, 30, and 32 of this Act:
- (g) Prescribing the craft or classes of craft that are exempt from the application of section 33 or section 37 of this Act:
- (ga) prescribing the form and content of outward reports required by section 34, and the manner in which, and time within which, those reports must be delivered to the Customs:
- (gb) prescribing, for the purposes of paragraph (e) of the definition of **person concerned in the movement of goods, persons, or craft** in section 38A, persons, or classes of persons, involved in the carriage, handling, or transportation of goods, or persons, or both, from New Zealand to a point outside New Zealand, or from a point outside New Zealand to New Zealand, for commercial purposes:
- (gc) prescribing the form and manner in which the Customs must be given access to information under section 38D or section 38E or both:

- (h) Prescribing the time within which goods to which section 39(1) of this Act applies must be entered:
- (i) Prescribing the time within which goods must be claimed for the purposes of section 39(4)(b) of this Act:
- (j) Prescribing the circumstances in which goods subject to the control of the Customs may be unloaded:
- (k) Prescribing the time within which goods to which section 49(1) of this Act applies must be entered:
- (l) Prescribing the method by which the Chief Executive shall notify the rates of exchange of foreign currency to New Zealand currency:
- (m) Prescribing the time within which goods to which section 70 of this Act applies must be entered, the time within which excise duty owing must be paid, and the manner in which the volume of alcohol is to be specified on entry:
- (n) Prescribing the manner in which the volume of alcohol in an alcoholic beverage shall be specified on entry:
- (o) Prescribing, for the purposes of section 85(2) of this Act, the circumstances in which a licensee may claim as a duty credit excise duty or excise-equivalent duty already paid on goods repurchased by that licensee:
- (p) Prescribing the records that are required to be kept for the purposes of section 95 of this Act by each category or sub-category of persons described in subsection (1) of that section, and the period of time, not exceeding 7 years, for which the records are required to be kept:
- (pa) prescribing the form and manner in which the Customs must be given access to information under section 95A:
- (q) Prescribing exceptions, restrictions, or conditions to which the Chief Executive's power to refund or remit duty is subject:
- (r) Prescribing the nature or value of sample goods that may be delivered free of duty and the conditions subject to which sample goods may be delivered free of duty:
- (s) Prescribing the conditions subject to which a person may be released from a security given for the payment of duty on goods temporarily imported:

- (t) Prescribing the conditions subject to which drawbacks of duty may be allowed, and the amounts of drawback that may be allowed:
- (u) Prescribing the times within which Customs rulings must be made by the Chief Executive, which time shall, in the case of a ruling described in section 119(1)(c) of this Act, not exceed 150 days after the requirements specified in section 120(2) of this Act have been met:
- (v) Providing for the manner of taking, use, and disposal of samples of goods taken by Customs officers for the purpose of section 151 of this Act:
- (w) Prescribing the kinds of securities that may be taken under section 156 of this Act:
- (x) Prescribing the form of application for registration as a user of a Customs computerised entry processing system, and the information to be provided by the applicant:
- (xa) prescribing, for the purposes of section 135(1)(d), 1 or more other grounds on which a registered user may be considered unfit to continue to be a registered user.
- (y) Prescribing the period for which records of transmissions to or from a Customs computerised entry processing system shall be kept by the Customs:
- (z) Prescribing the documents that a Customs officer may require and the form of declaration to be completed under section 147(2) of this Act:
- (aa) Prescribing the form and content of the written report required by section 171(8) of this Act:
- (bb) Prescribing the procedure to be followed in the making of applications to Customs Appeal Authorities and in the conduct of appeals by Customs Appeal Authorities:
- (cc) Making any provision which may be necessary or desirable to enable Customs Appeal Authorities to publish their decisions:
- (dd) Prescribing the manner by which the Chief Executive may exercise any power to sell goods under this Act, and the manner (including the order of priority) in which the proceeds of sale shall be dispersed:

- (ee) Prescribing the working hours of the Customs, and providing for the fixing by the Chief Executive of particular working hours in respect of any particular place:
- (ff) Prescribing the form of warrants, declarations, and notices for the purposes of this Act:
- (gg) Prescribing offences in respect of the contravention of, or non-compliance with, any regulations made under this Act; and prescribing the fines, not exceeding \$1,000, that may be imposed in respect of any such offence:
- (hh) Conferring or providing for exemptions from any provision of any regulation made under this Act:
- (ii) Providing for such matters as are contemplated by or necessary for giving full effect to the provisions of this Act and for its due administration.

- (2) Different dates for the payment of excise duty may be prescribed in accordance with subsection (1)(m) of this section in respect of different classes of goods subject to excise duty, or different classes of persons, or on any other differential basis.

Compare: 1966 No 19 s 306; 1990 No 89 s 9

Section 286(1)(a): substituted, on 1 October 2008, by section 6 of the Customs and Excise Amendment Act (No 2) 2008 (2008 No 61).

Subsection (1)(ba) was inserted, as from 2 July 2004, by section 44(1) Customs and Excise Amendment Act 2004 (2004 No 55).

Subsection (1)(ga) was inserted, as from 2 July 2004, by section 44(2) Customs and Excise Amendment Act 2004 (2004 No 55).

Subsection (1)(gb) and (gc) was inserted, as from 1 October 2004, by section 44(3) Customs and Excise Amendment Act 2004 (2004 No 55).

Subsection (1)(o) was amended, as from 9 October 2002, by section 26 Customs and Excise Amendment Act (No 2) 2002 (2002 No 31) by inserting “or excise-equivalent duty” after “excise duty”.

Subsection (1)(pa) was inserted, as from 1 October 2004, by section 44(4) Customs and Excise Amendment Act 2004 (2004 No 55).

Subsection (1)(xa) was inserted, as from 2 July 2004, by section 44(5) Customs and Excise Amendment Act 2004 (2004 No 55).

287 Regulations for fees, charges, and expenses

- (1) Without limiting the power to make regulations conferred by any other section of this Act, but subject to the provisions of this Act, the Governor-General may from time to time, by Order in Council, make regulations—

- (a) Prescribing the amounts of fees and charges payable under this Act or the method by which they are to be assessed, and the persons liable for payment of the fees and charges:
 - (b) Prescribing a rate or rates of charges for the attendance of Customs officers for the purposes of this Act:
 - (c) Providing for the liability of any person to pay any actual and reasonable expenses incurred by any Customs officer in respect of any attendance by that officer for the purposes of this Act:
 - (d) Prescribing the person or persons or classes of persons by whom the charges or expenses referred to in paragraphs (b) and (c) of this subsection shall be paid, or authorising the Chief Executive to determine the person by whom they shall be paid.
- (2) Different rates of fees or charges, or both, may be prescribed in accordance with subsection (1)(a) of this section in respect of different classes of persons, or different types of Customs controlled areas, or on any other differential basis.
- (3) Different rates of charges may be prescribed in accordance with subsection (1)(b) of this section in respect of attendances during the working hours of the Customs or attendances outside the working hours of the Customs, or on any other differential basis.
- (4) Any regulation made under subsection (1) of this section may—
- (a) Prescribe the circumstances in which any fee, charge, or expense may be refunded, remitted, or waived, in whole or in part:
 - (b) Fix a date by which any fee or charge is to be paid.

288 Chief Executive may make rules for certain purposes

- (1) The Chief Executive may from time to time make rules for all or any of the following purposes:
- (a) Prescribing the form and content of, and the particulars to be verified by declaration in, inward reports required to be delivered under this Act and the manner in which those reports must be delivered to the Customs:
 - (b)

- (c) Prescribing the form, or forms, of certificates of clearance to be issued under this Act:
 - (d) Prescribing the form and manner in which goods to which section 39(1) of this Act applies must be entered, and the particulars to be provided in the entry, and the form of any declaration to be made in the entry:
 - (e) Prescribing the form and manner in which goods to which section 49(1) of this Act applies must be entered, and the particulars to be provided in the entry, and the form of any declaration to be made in the entry:
 - (f) Prescribing the form and manner in which goods to which section 70 of this Act applies must be entered, and the particulars to be provided in the entry, and the form of any declaration to be made in the entry:
 - (g) Prescribing the manner in which the volume of alcohol in an alcoholic beverage is to be ascertained for the purposes of this Act:
 - (h) Prescribing the form of application for a Customs ruling.
 - (i) prescribing the form and manner in which, and the time within which, the following goods must be reported to the Customs:
 - (i) goods exempted from the requirements of section 39(1) by regulations made under section 40(c):
 - (ii) goods deemed to be entered for the purposes of section 39(1) by regulations made under section 40(d):
 - (iii) goods exempted from the requirements of section 49(1) by regulations made under section 50(a):
 - (iv) goods deemed to be entered for the purposes of section 49(1) by regulations made under section 50(b).
- (2) The power to prescribe forms under this section includes the power to prescribe electronic message formats to be used for the electronic transmission of data to or between computers.
- (3) Every rule made under this section shall be signed by the Chief Executive.
- (4) The power of the Chief Executive to make rules under this section shall not be delegated to any other person.

- (5) Every rule made under paragraph (a), (b), (c), (g), (h), or (i) of subsection (1) of this section shall be published in the *Gazette*.
- (6) Where any rule is made under paragraph (d), (e), or (f) of subsection (1) of this section, the Chief Executive shall arrange for the publication in the *Gazette* of a notice indicating that the rule has been made.
- (7) Where any rule is published or notified in the *Gazette* in accordance with subsections (5) and (6) of this section, there shall also be included a notice showing a place at which copies of the rules made under subsection (1) of this section are available for inspection free of charge and for purchase.
- (8) The Chief Executive shall make copies of the rules available—
 - (a) For inspection by members of the public free of charge; and
 - (b) For purchase by members of the public at a reasonable price.
- (9) On the revocation of any rule made under subsection (1) of this section, subsection (8) of this section shall cease to apply in relation to that rule.
- (10) Every rule made under this section shall come into force on the 28th day after the date of its publication or notification, as the case may be, in the *Gazette* in accordance with the provisions of this section, or on such later date as may be specified in the rule.
- (11) Every rule made under subsection (1) of this section is hereby deemed to be a regulation for the purposes of the Regulations (Disallowance) Act 1989, but shall not be a regulation or an instrument for the purposes of the Acts and Regulations Publication Act 1989.
- (12) The Chief Executive may, from time to time, amend or revoke any rules made under subsection (1) of this section, and the provisions of this section, with all necessary modifications, shall apply in respect of any such amendment or revocation.

Subsection (1)(a) was amended, as from 2 July 2004, by section 45(a) Customs and Excise Amendment Act 2004 (2004 No 55) by inserting “and the manner in which those reports must be delivered to the Customs”.

Subsection (1)(b) was amended, as from 2 July 2004, by section 45(b) Customs and Excise Amendment Act 2004 (2004 No 55) by inserting “and the manner in which those reports must be delivered to the Customs”.

Subsection (1)(b) was repealed, as from 6 March 2007, by section 24(1) Customs and Excise Amendment Act 2007 (2007 No 9).

Subsection (1)(i) was inserted, as from 9 October 2002, by section 27 Customs and Excise Amendment Act (No 2) 2002 (2002 No 31).

Subsection (1)(i) was amended, as from 2 July 2004, by section 45(c) Customs and Excise Amendment Act 2004 (2004 No 55) by inserting “, and the time within which,” after the word “which”.

Subsection (5) was amended, as from 6 March 2007, by section 24(2) Customs and Excise Amendment Act 2007 (2007 No 9) by substituting “(h), or (i)” for “or (h)”.

288A Use of reasonable force must be reported

A Customs officer must, within 5 working days of using reasonable force under any provision of this Act, give the Chief Executive a written report on—

- (a) the use of the force; and
- (b) the circumstances in which it was used.

Section 288A was inserted, as from 2 July 2004, by section 46 Customs and Excise Amendment Act 2004 (2004 No 55).

289 Acts and regulations amended

- (1) The Acts specified in Schedule 5 to this Act are hereby amended in the manner indicated in that Schedule.
- (2) The regulations specified in Schedule 6 to this Act are hereby amended in the manner indicated in that Schedule.

290 Repeals and revocations

- (1) The enactments specified in Schedule 7 to this Act are hereby repealed.
- (2) The regulations, orders, and notices specified in Schedule 8 to this Act are hereby revoked.

Validation and savings provisions

291 Validation of acts done pursuant to Customs Duties Suspension (Inter-Governmental Agreements) Order 1963

Any act done pursuant to and in accordance with the provisions of the Customs Duties Suspension (Inter-Governmental Agreements) Order 1963 (SR 1963/150) before the com-

mencement of this Act is hereby declared to be and to always have been validly done.

292 Savings for proceedings and other matters

- (1) The repeal of the Customs Act 1966 by section 290 of this Act does not affect—
- (a) Proceedings commenced in any Court before the commencement of this Act:
 - (b) The laying of any information pursuant to section 259 of the Customs Act 1966 by any person who was a Collector under that Act in respect of an alleged offence committed before the commencement of this Act:
 - (c) An application under subsection (1) of section 19A of the Customs Act 1966 made before the commencement of this Act:
 - (d) Any Tariff classification opinion given by a Collector of Customs under section 19A of the Customs Act 1966 on or after the 1st day of May 1994 or by the Comptroller of Customs on or after the 9th day of December 1994:
 - (e) Any referral under section 19B(2) of the Customs Act 1966 made before the commencement of this Act:
 - (f) Any appeal under section 19C(1) of the Customs Act 1966 made before the commencement of this Act or the right of appeal under that section where the initial application made under section 19A of that Act was made before the commencement of this Act:
 - (g) Any application under section 140(3) of the Customs Act 1966 made before the commencement of this Act:
 - (h) Any appeal under section 140A(1) of the Customs Act 1966 made before the commencement of this Act or the right to appeal under that section when the initial application for the determination was made before the commencement of this Act:
 - (i) Any application for a determination or any determination made under section 151C of the Customs Act 1966 before the commencement of this Act:
 - (j) Any appeal under section 151I of the Customs Act 1966 made before the commencement of this Act or the right to appeal under that section where the initial application

under section 151C of that Act was made before the commencement of this Act:

- (k) Any right or proceedings relating to a refund, remission, or drawback of duty under any of sections 171 to 177, and 183 of the Customs Act 1966 existing before the commencement of this Act:
 - (l) Any right to recover money under section 182 of the Customs Act 1966 whether paid before or after the commencement of this Act:
 - (m) Any application made to the Comptroller of Customs under section 287 of the Customs Act 1966 for the waiver by the Minister of any forfeiture:
 - (n) The condemnation of any goods in accordance with section 283 of the Customs Act 1966.
- (2) For the purposes of subsection (1) of this section, the provisions of the Customs Act 1966 referred to in that subsection shall continue in force as if that Act had not been repealed.

293 Savings provision in relation to Customs officers

A person who, immediately before the commencement of this Act, was an officer of Customs appointed in accordance with section 8 of the Customs Act 1966 shall be deemed to be a Customs officer appointed by the Chief Executive for the purposes of this Act.

Transitional provisions

294 Transitional provision relating to terminology

- (1) Subject to any other provisions of this Act, and unless the context otherwise requires, every reference in any enactment, regulation, rule, order, or in any document in force or existing immediately before the commencement of this Act to the Customs Department shall, on and after the commencement of this Act, be read as a reference to the New Zealand Customs Service established by this Act.
- (2) Subject to any other provisions of this Act, and unless the context otherwise requires, every reference in any enactment, regulation, rule, order, or in any document in force or existing immediately before the commencement of this Act to an

officer of Customs shall, on and after the commencement of this Act, be read as a reference to a Customs officer appointed under this Act.

- (3) Subject to any other provisions of this Act, and unless the context otherwise requires, every reference in any enactment, regulation, rule, order, or in any document in force or existing immediately before the commencement of this Act to the Comptroller of Customs shall, on and after the commencement of this Act, also be read as a reference to the Chief Executive of the New Zealand Customs Service.
- (4) On and after the commencement of this Act,—
 - (a) All proceedings that were pending by or against the Customs Department immediately before the commencement of this Act may be carried on, completed, or enforced by or against the New Zealand Customs Service; and
 - (b) All rights and obligations of the Customs Department existing immediately before the commencement of this Act shall become the rights and obligations of the New Zealand Customs Service.
- (5) Every reference in any enactment or Order in Council in force immediately before the commencement of this Act to Schedule 3 to the Customs Act 1966 shall, on and after the commencement of this Act, be read as a reference to Schedule 3 to this Act.

295 Transitional provision concerning assessment and payment of duty

The provisions of the Customs Act 1966 and all regulations, Orders in Council, warrants, and acts of authority under that Act shall continue in force and apply to—

- (a) The payment of duty payable before the commencement of this Act;
- (b) The assessment and payment of duty assessable before the commencement of this Act—
as if this Act had not been passed.

296 Examination station deemed to be Customs controlled area

Any place that was, immediately before the commencement of this Act, an examination station appointed by the Comptroller of Customs in accordance with section 31 of the Customs Act 1966 shall be deemed for the purposes of this Act to be a Customs controlled area licensed under section 12 of this Act for the purposes described in paragraphs (d) and (e) of section 10 of this Act.

297 Examining place, Customs containerbase, sufferance wharf, and wharf deemed to be Customs controlled area

(1) Any place that was, immediately before the commencement of this Act,—

- (a) An examining place appointed by the Comptroller of Customs in accordance with section 32 of the Customs Act 1966; or
- (b) A Customs containerbase appointed by the Comptroller of Customs in accordance with section 32A of the Customs Act 1966; or
- (c) A sufferance wharf appointed by the Comptroller of Customs in accordance with section 29 of the Customs Act 1966—

shall be deemed for the purposes of this Act to be a Customs controlled area licensed under section 12 of this Act for the purpose described in section 10(c) of this Act.

(2) Any place that was, immediately before the commencement of this Act, a wharf appointed by the Comptroller of Customs in accordance with section 28 of the Customs Act 1966 shall be deemed for the purposes of this Act to be a Customs controlled area licensed under section 12 of this Act for the purpose described in section 10(d) of this Act.

298 Staff accommodation, facilities, and transit buildings deemed to be Customs controlled area

(1) Any place that was, immediately before the commencement of this Act,—

- (a) Staff accommodation or facilities directed by the Minister of Customs to be for the exclusive use of officers

of Customs pursuant to section 33(1)(a) of the Customs Act 1966; or

- (b) A transit building declared by the Minister of Customs to be required pursuant to section 33(1)(b) of the Customs Act 1966—

shall be deemed for the purposes of this Act to be a Customs controlled area licensed under section 12 of this Act for the purposes described in paragraphs (d) and (e) of section 10 of this Act.

- (2) Where any area in any place referred to in subsection (1)(a) of this section was, immediately before the commencement of this Act, entitled to be exempt from charges in accordance with section 33(2A) of the Customs Act 1966, that area shall continue to be exempt from those charges until an application in respect of that area has been made in accordance with section 302 of this Act and dealt with in accordance with this Act.

299 Export warehouse deemed to be Customs controlled area

Any place that was, immediately before the commencement of this Act, an export warehouse licensed under the Customs Act 1966 shall be deemed for the purposes of this Act to be a Customs controlled area licensed under section 12 of this Act for the purpose described in section 10(b) of this Act.

300 Manufacturing area deemed to be Customs controlled area

Any place that was, immediately before the commencement of this Act, a manufacturing area licensed under the Customs Act 1966 shall be deemed for the purposes of this Act to be a Customs controlled area licensed under section 12 of this Act for the purpose described in section 10(a) of this Act.

301 Transitional provision relating to conditions of appointment or licence

Any specification, limitation, condition, or restriction that, immediately before the commencement of this Act, applied to any examination station, examining place, Customs container-base, wharf, sufferance wharf, export warehouse, or manufacturing area shall continue to apply notwithstanding the passing

of this Act until an application in respect of that area has been made in accordance with section 302 of this Act and dealt with in accordance with this Act.

302 Application for licence as Customs controlled area to be made within 40 working days

Not later than 40 working days after the commencement of this Act the owner or occupier of or person operating in any area to which sections 296 to 300 of this Act apply shall make an application in accordance with section 11 of this Act for the area to be licensed as a Customs controlled area and all the provisions of this Act shall apply to that application.

303 Transitional status to continue until application made and disposed of

- (1) Subject to subsection (2) of this section, an area that is deemed to be a Customs controlled area under any of sections 296 to 300 of this Act shall continue to be a Customs controlled area until an application in respect of that area has been made in accordance with section 302 of this Act and dealt with in accordance with this Act.
- (2) Where, at the expiry of the period specified in section 302 of this Act, no application has been made in accordance with that section in respect of an area to which any of sections 296 to 300 of this Act apply, that area shall cease to be a Customs controlled area.

304 Transitional provision relating to persons approved to defer payment of duty

- (1) Subject to subsection (2) of this section, every person who, immediately before the commencement of this Act, was approved under section 152A(2) of the Customs Act 1966 to defer the payment of duty shall be deemed to be an approved person for the purposes of section 86(6) of this Act.
- (2) As soon as practicable after the commencement of this Act the Chief Executive shall issue to the person referred to in subsection (1) of this section a notice under this Act specifying the terms and conditions applicable for the deferment of duty

in place of the conditions imposed under section 152A of the Customs Act 1966.

- (3) Notwithstanding the provisions of subsection (2) of this section, the Chief Executive may vary or cancel any approval to which subsection (1) of this section applies, or may vary or cancel any term or condition affecting the approval.

305 Transitional provision relating to businesses not required to be licensed

- (1) Where, immediately before the commencement of this Act, a person carrying on business as a manufacturer of goods specified in Schedule 3 to this Act was, pursuant to a direction given by the Minister of Customs under section 110 of the Customs Act 1966, not required to be licensed, the area in which that person carries on the business shall be deemed to be an area in respect of which the Chief Executive has given a direction under section 12(4) of this Act.
- (2) A direction of the Chief Executive deemed to be given under subsection (1) of this section shall be deemed to be given in respect of the part of the business and the areas specified in the direction given by the Minister under the Customs Act 1966.
- (3) Not later than 40 working days after the commencement of this Act, a person to whom this section applies shall make an application under this Act for the area in which the person carries on business as described in subsection (1) of this section to be licensed as a Customs controlled area, and all the provisions of this Act shall apply to that application.
- (4) An area described in subsection (1) of this section shall continue to be deemed to be an area in respect of which the Chief Executive has given a direction under section 12(4) of this Act until an application in respect of that area has been made in accordance with subsection (3) of this section and dealt with in accordance with this Act.
- (5) Where, at the expiry of the period specified in subsection (3) of this section, no application has been made in accordance with that subsection, that area shall cease to be an area in respect of which the Chief Executive has given a direction under section 12(4) of this Act.

305A Transitional provisions relating to investigations of offences under Customs Act 1966

- (1) A person who may exercise a power under any of sections 146, 152, 160, 161, 165, 166, 167, and 171 for the purpose of investigating offences suspected of having been committed against this Act may also exercise that power in accordance with this Act for the purpose of investigating offences suspected of having been committed against the Customs Act 1966.
- (2) For the purposes of subsection (1), a reference to this Act—
 - (a) In relation to any offence in sections 152(1), 165(1), 166(1), and 167(1):
 - (b) In relation to goods in section 160(1):
 - (c) In relation to a thing in section 167(1)(c),—is taken to include a reference to the Customs Act 1966.
- (3) After exercising, by virtue of subsection (1), any power under this Act in relation to a suspected offence against the Customs Act 1966, the Chief Executive or a Customs officer, as the case may be, must not exercise any corresponding power under the Customs Act 1966 in relation to that suspected offence.
- (4) Nothing in this section limits or affects the application of section 20(h) of the Acts Interpretation Act 1924 in relation to the prosecution of offences against the Customs Act 1966.

Section 305A was inserted, as from 3 June 1998, by section 9 Customs and Excise Amendment (No 2) 1998 (1998 No 38).

306 Power to amend Schedule 3 before this Act comes into force

- (1) Without limiting section 12 of the Acts Interpretation Act 1924, the Governor-General may, before the commencement of this Act, from time to time after the date on which this Act receives the Royal assent and before it comes into force, exercise in relation to Schedule 3 to this Act and with effect on the commencement of this Act, any of the powers conferred by this Act to alter or modify that Schedule or create exceptions in respect of goods.
- (2) Where, before the commencement of section 79 of this Act, any Orders in Council have been made and not revoked under section 118CB of the Customs Act 1966 or section 9A of the Tariff Act 1988, the Governor-General may, before the com-

mencement of this Act, by Order in Council amend Schedule 3 to this Act so that the rates of excise duty and excise-equivalent duty in that Schedule correspond with the rates of duty set out in those orders.

Amendment to Goods and Services Tax Act 1985

307 Zero-rating—duty-free goods

(1) Section 11(1) of the Goods and Services Tax Act 1985 is hereby amended by repealing paragraph (af) of section 11(1) (as inserted by section 3(1) of the Goods and Services Tax Amendment Act 1992), and substituting the following paragraph:

“(af) The goods are supplied, by a supplier licensed pursuant to section 12 of the Customs and Excise Act 1996, to—

“(i) An inbound air traveller; or

“(ii) An outbound air traveller who uplifts the goods upon returning to New Zealand—

within an area licensed pursuant to section 12 of the Customs and Excise Act 1996 as a Customs controlled area for the processing of persons arriving in or departing from New Zealand; or”.

(2) This section shall apply to supplies made on or after the 1st day of October 1986.

Amendments to Tariff Act 1988

308 Tariff items substituted

Part 1 of Schedule 1 to the Tariff Act 1988 is hereby amended by omitting the items specified in Schedule 9 to this Act, and substituting the items specified in Schedule 10 to this Act.

309 New concession reference inserted

Part 2 of Schedule 1 to the Tariff Act 1988 is hereby amended by inserting, after the item relating to Reference Number 90, the following Reference Number and item:

- 91 Goods imported into New Zealand that are partly the manufacture or produce of another country or countries and partly the manufacture or produce of New Zealand Free
-

Schedule 1

Section 54(1)

Prohibited imports

False or counterfeit coin or banknotes; and any coin that is not of the established standard in weight or composition; and any coin or banknotes that are intended for circulation in New Zealand and are not legal tender in New Zealand.

Goods manufactured or produced wholly or in part by prison labour, or within or in connection with any prison, jail, or penitentiary, excluding a bona fide gift made by a prisoner for the personal use of a private individual, also goods similar in character to those manufactured or produced in such institutions when sold or offered for sale by any person, firm, or corporation having a contract for the manufacture or production of such articles in such institutions, or by an agent of such person, firm, or corporation, or when originally purchased from or transferred by any such contractor.

Every article whose sale in New Zealand would be an offence against the Food Act 1981 or the Food (Safety) Regulations 2002.

Every pipe or other utensil whose importation into New Zealand is absolutely prohibited by a notice issued under section 22(1A) of the Misuse of Drugs Act 1975.

An item relating to all publications within the meaning of the Films, Videos, and Publications Classification Act 1993 that are objectionable was repealed, as from 22 February 2005, by section 44 Films, Videos, and Publications Classification Amendment Act 2005 (2005 No 2).

The item relating to articles was amended, as from 6 March 2007, by section 35 Customs and Excise Amendment Act 2007 (2007 No 9) by substituting “Food (Safety) Regulations 2002” for “Food Regulations 1984”.

The item relating to pipes and other utensils was inserted, as from 21 August 1997, by section 3 Misuse of Drugs Amendment Act 1997 (1997 No 57).

Schedule 2

Sections 60, 61

**Valuation of goods for the purposes of the
Tariff****1 Interpretation**

(1) In this Schedule—

Computed value means the value determined in accordance with clause 7 of this Schedule

Country of export, or the country from which any goods are exported, means the country from which the goods are shipped directly to New Zealand, or, as the case may be, the country from which the goods are deemed to be shipped pursuant to this Act

Deductive value means the value determined in accordance with clause 6 of this Schedule

Goods of the same class or kind, means imported goods that—

- (a) Are within a group or range of imported goods produced by a particular industry or industry sector that includes identical goods or similar goods in relation to the goods being valued; and
- (b) For the purposes of—
 - (i) Clause 6, were exported from any country; and
 - (ii) Clause 7, were produced in and exported from the country in and from which the goods being valued were produced and exported:

Identical goods means imported goods that—

- (a) Are the same in all respects, including physical characteristics, quality, and reputation, as the goods being valued, except for minor differences in appearance that do not affect the value of the goods; and
- (b) Were produced in the country in which the goods being valued were produced; and
- (c) Were produced by or on behalf of the person who produced the goods being valued,—

but does not include imported goods where engineering, development work, artwork, designwork, plans, or sketches undertaken in New Zealand were supplied, directly or indirectly, by the buyer of those imported goods free of charge or at a re-

duced cost for use in connection with the production and sale for export of those imported goods

Price paid or payable, in relation to any goods, means the aggregate of all amounts paid or payable by the buyer to or for the benefit of the seller in respect of the goods

To produce includes to grow, to manufacture, and to mine

Similar goods means imported goods that—

- (a) Closely resemble the goods being valued in respect of component materials and parts and characteristics and are functionally and commercially interchangeable with the goods being valued having regard to the quality and reputation of the goods and the goods being valued; and
- (b) Were produced in the country in which the goods being valued were produced; and
- (c) Were produced by or on behalf of the person who produced the goods being valued,—

but does not include imported goods where engineering, development work, artwork, designwork, plans, or sketches undertaken in New Zealand were supplied, directly or indirectly, by the buyer of those imported goods free of charge or at a reduced cost for use in connection with the production and sale for export of those imported goods

Sufficient information, in respect of the determination of any amount, difference, or adjustment, means objective and quantifiable information that clearly establishes the accuracy of the amount, difference, or adjustment

Transaction value means the value determined in accordance with clauses 2 and 3 of this Schedule.

- (2) For the purposes of this Schedule, persons shall be deemed to be related only if—
 - (a) They are officers or directors of one another's business; or
 - (b) They are legally recognised partners in business; or
 - (c) They are employer and employee; or
 - (d) Any person directly or indirectly owns, controls, or holds 5 percent or more of the outstanding voting stock or shares of both of them; or
 - (e) One of them directly or indirectly controls the other; or

- (f) Both of them are directly or indirectly controlled by a third person; or
 - (g) Together they directly or indirectly control a third person; or
 - (h) They are members of the same family.
- (3) For the purposes of this Schedule persons shall be deemed to be members of the same family if—
- (a) They are connected by blood relationship within the fourth degree of relationship; or
 - (b) they are married to, or in a civil union or a de facto relationship with, one another or if one is married to, or in a civil union or a de facto relationship with, a person who is within the fourth degree of relationship to the other; or
 - (c) One has been adopted as the child of the other or as a child of a person who is within the third degree of relationship to the other.
- (4) For the purposes of this Schedule, where there are no goods that were produced by or on behalf of the person who produced the goods being valued and that are otherwise identical goods or similar goods, goods that were produced by or on behalf of a different person and that are otherwise identical goods or similar goods shall be deemed to be identical goods or similar goods, as the case may be.
- (5) For the purposes of this Schedule, charges for interest under a financing arrangement entered into by the buyer and relating to the purchase of imported goods shall not be regarded as part of the Customs value in any case where—
- (a) The charges are distinguished from the price actually paid or payable for the goods; and
 - (b) Such goods are actually sold at the price declared as the price actually paid or payable; and
 - (c) The buyer, if required, can demonstrate that—
 - (i) The financing arrangement was made in writing;
 - (ii) The claimed rate of interest does not exceed the level for such transactions prevailing in the country where, and at the time when, the finance was provided.

Subclause (3)(b) was substituted, as from 26 April 2005, by section 7 Relationships (Statutory References) Act 2005 (2005 No 3).

2 Transaction value as primary basis of valuation

- (1) The Customs value of imported goods shall be their transaction value, that is, the price paid or payable for the goods when sold for export to New Zealand, adjusted in accordance with clause 3 of this Schedule, if—
- (a) There are no restrictions respecting the disposition or use of the goods by the buyer, other than restrictions that—
 - (i) Are imposed by law; or
 - (ii) Limit the geographical area in which the goods may be resold; or
 - (iii) Do not substantially affect the value of the goods;or
 - (b) The sale of the goods or the price paid or payable for the goods is not subject to some condition or consideration in respect of which a value cannot be determined; or
 - (c) Where any part of the proceeds of any subsequent resale, disposal, or use of the goods by the buyer is to accrue, directly or indirectly, to the seller, the price paid or payable for the goods includes the value of that part of the proceeds or can be adjusted in accordance with clause 3 of this Schedule; or
 - (d) The buyer and seller of the goods are not related at the time the goods are sold for export or, where the buyer and seller are related at that time,—
 - (i) Their relationship did not influence the price paid or payable for the goods; or
 - (ii) The importer demonstrates that the transaction value of the goods meets the requirements set out in subclause (2) of this clause.
- (2) In a sale between related persons, for the purpose of showing that the relationship did not influence the transaction value, the importer shall produce evidence that the transaction value of the goods being valued, taking into consideration any relevant factors including such factors and differences as may be prescribed, closely approximates the Customs value of other

- goods exported at the time or substantially at the same time as the goods being valued, being—
- (a) The transaction value of identical goods or similar goods in respect of a sale of those goods for export to New Zealand between a seller and buyer who are not related at the time of the sale; or
 - (b) The deductive value of identical or similar goods determined in accordance with clause 6 of this Schedule; or
 - (c) The computed value of identical or similar goods determined in accordance with clause 7 of this Schedule.
- (3) In any case where the Chief Executive is of the opinion that the relationship between the buyer and seller of any goods influenced the price paid or payable for the goods, the Chief Executive shall inform the importer, in writing if so requested, of the grounds on which the Chief Executive formed that opinion, and shall give the importer a reasonable opportunity to satisfy the Chief Executive that the relationship did not influence the price.
- (4) Where subclause (2) of this clause applies, the importer shall, without limiting the generality of subclause (2), provide the following information:
- (a) The nature of the goods being valued:
 - (b) The nature of the industry that produces the goods being valued:
 - (c) The season in which the goods being valued are imported:
 - (d) Whether a difference in values is commercially significant:
 - (e) The trade levels at which the sales take place:
 - (f) The quantity levels of the sales:
 - (g) Any of the amounts referred to in clause 3 of this Schedule:
 - (h) The costs, charges, or expenses incurred by a seller when the seller sells to a buyer to whom the seller is not related that are not incurred when the seller sells to a buyer to whom the seller is related.
- (5) Where,—
- (a) In the opinion of the Chief Executive, the Customs value cannot be determined under this clause; or

- (b) The Chief Executive has reason to doubt the truth or accuracy of the declared Customs value and, after having sought further explanation or other evidence that the declared Customs value represents the total amount actually paid or payable for the imported goods, the Chief Executive is still not satisfied that the Customs value can be determined under this clause—

the Chief Executive may determine the Customs value of the goods by proceeding sequentially through clauses 4 to 8 of this Schedule to the first such clause of this Schedule under which the Customs value can, in the opinion of the Chief Executive, be determined.

- (6) Notwithstanding subclause (5) of this clause, on the written request of the importer to the Chief Executive, the order of consideration of the valuation basis provided for in clauses 6 and 7 of this Schedule shall be reversed.

3 Adjustment of price paid or payable

- (1) In determining the transaction value of goods under clause 2 of this Schedule, the price paid or payable for the goods shall be adjusted—

- (a) By adding thereto amounts, to the extent that each such amount is not otherwise included in the price paid or payable for the goods and is determined on the basis of sufficient information, equal to—

- (i) Commissions and brokerage in respect of the goods incurred by the buyer, other than fees paid or payable by the buyer to the buyer's agent for the service of representing the buyer overseas in respect of the purchase of the goods; and
- (ii) The packing costs and charges incurred by the buyer in respect of the goods, including the cost of cartons, cases, and other containers and coverings that are treated for customs purposes as being part of the imported goods and all expenses of packing incidental to placing the goods in the condition in which they are shipped to New Zealand; and

- (iii) The value of any of the following goods and services:
 - (A) Materials, component parts, and other goods incorporated in the imported goods:
 - (B) Tools, dies, moulds, and other goods utilised in the production of the imported goods:
 - (C) Materials consumed in the production of the imported goods:
 - (D) Engineering, development work, artwork, designwork, plans, and sketches undertaken elsewhere than in New Zealand and necessary for the production of the imported goods,—
determined in accordance with subclause (2) of this clause, that are supplied, directly or indirectly, by the buyer free of charge or at a reduced cost for use in connection with the production and sale for export of the imported goods, apportioned to the imported goods in a reasonable manner and in accordance with generally accepted accounting principles; and
- (iv) Royalties and licence fees, including payments for patents, trademarks, and copyrights in respect of the imported goods that the buyer must pay, directly or indirectly, as a condition of the sale of the goods for export to New Zealand, exclusive of charges for the right to reproduce the imported goods in New Zealand; and
- (v) The value of any part of the proceeds of any subsequent resale, disposal, or use of the goods by the buyer that accrues or is to accrue, directly or indirectly, to the seller; and
- (vi) The value of any materials, component parts, and other goods incorporated in the imported goods for the purpose of repair to, or refurbishment of, those goods prior to export of the goods to New Zealand, and the price paid for the service of repair or refurbishment, as the case may be; and

- (vii) The costs of transportation and insurance of, and the loading, unloading, and handling charges, and other charges and expenses associated with the transportation of, the imported goods until the goods have left the country of export if such costs, charges, and expenses are paid or payable by the buyer, directly or indirectly, to or for the benefit of the seller as a condition of the transaction:
- (b) By deducting therefrom amounts, to the extent that each such amount is otherwise included in the price paid or payable for the goods, equal to—
 - (i) The costs of transportation and insurance of, and the loading, unloading, and handling charges, and other charges and expenses associated with the transportation of, the imported goods from the time the goods have left the country of export, other than any cost, charge, or expense referred to in subparagraph (ii)(B) of this clause; and
 - (ii) Any of the following costs, charges, or expenses:
 - (A) Any reasonable cost, charge, or expense that is incurred for the construction, erection, assembly, or maintenance of, or technical assistance provided in respect of, the goods after the goods are imported:
 - (B) Any reasonable cost, charge, or expense that is incurred in respect of the transportation or insurance of the goods within New Zealand and any reasonable cost, charge, or expense associated therewith:
 - (C) Any Customs duties or other taxes payable in New Zealand by reason of the importation or sale of the goods,—
if the cost, charge, or expense is identified separately from the balance of the price paid or payable for the goods:
- (c) In respect of carrier media bearing data or instructions, by deducting the value of the data or instructions from the price paid or payable for the goods if:

- (i) The value of the data or instructions is distinguished from the cost or value of the carrier media; and
 - (ii) The data or instructions are not incorporated in data processing equipment.
- (2) The value of the goods and services described in subclause (1)(a)(iii) of this clause shall be determined—
 - (a) In the case of materials, components, parts and other goods incorporated in the goods being valued or any materials consumed in the production of the goods being valued—
 - (i) By ascertaining—
 - (A) Their cost of acquisition where they were acquired by the buyer from a person who was not related to the buyer at the time of their acquisition; or
 - (B) Their cost of acquisition incurred by the person related to the buyer, where the goods were acquired by the buyer from a person who was related to the buyer at the time of their acquisition but who did not produce them; or
 - (C) Their cost of production where they were produced by the buyer or a person related to the buyer at the time of their production; and
 - (ii) By adding thereto—
 - (A) The cost of their transportation to the place of production of the goods being valued; and
 - (B) The value added to them by any repairs or modifications made to them after they were so acquired or produced:
 - (b) In the case of tools, dies, moulds, and other goods, utilised in the production of the goods being valued—
 - (i) By ascertaining—
 - (A) Their cost of acquisition where they were acquired by the buyer from a person who

- was not related to the buyer at the time they were so acquired; or
- (B) Their cost of acquisition incurred by the person related to the buyer, where they were acquired by the buyer from a person related to the buyer at the time they were so acquired but who did not produce them; or
 - (C) Their cost of production where they were produced by the buyer or a person related to the buyer at the time of their production; and
- (ii) By adding thereto—
 - (A) The cost of their transportation to the place of production of the goods being valued; and
 - (B) The value added to them by any repairs or modifications made to them after they were so acquired or produced; and
 - (iii) By deducting therefrom an amount to account for any previous use of the goods made after the goods were so acquired or produced.
- (c) In the case of engineering, development work, artwork, designwork, plans and sketches, undertaken elsewhere than in New Zealand and necessary for the production of the goods being valued by ascertaining—
 - (i) Their cost of acquisition or of the lease thereof, where they were acquired or leased by the buyer from a person who was not related to the buyer at the time they were so acquired or leased and are not generally available to the public; or
 - (ii) Their cost of acquisition or of the lease thereof incurred by the person related to the buyer, where they were acquired or leased by the buyer from a person related to the buyer at the time they were so acquired or leased, but who did not produce them and are not generally available to the public; or

- (iii) The cost to the public of obtaining them where they are available generally to the public; or
 - (iv) The cost of production thereof where they were produced by the buyer or a person related to the buyer at the time of their production.
- (3) For the purposes of paragraph (c) of subclause (1) of this clause, the expression **carrier media** does not include integrated circuits, semi-conductors and similar devices, or articles incorporating such circuits or devices; and the expression **data or instructions** does not include sound, cinematic, or video recordings.
- (4) Where any adjustment in terms of the foregoing subclause cannot, in the opinion of the Chief Executive, be made because of the lack of sufficient information, the transaction value of the goods being valued cannot be determined under clause 2 of this Schedule.

4 Transaction value of identical goods as Customs value

- (1) Subject to subclauses (2) to (4) of this clause, where the Customs value of imported goods cannot, in the opinion of the Chief Executive, be determined under clause 2 of this Schedule, the Customs value of the goods shall be the transaction value of identical goods in respect of a sale of those goods for export to New Zealand if that transaction value is the Customs value of the identical goods and the identical goods were exported at the same or substantially the same time as the goods being valued and were sold under the following conditions:
 - (a) To a buyer at the same or substantially the same trade level as the buyer of the goods being valued; and
 - (b) In the same or substantially the same quantities as the goods being valued.
- (2) Where the Customs value of imported goods cannot be determined under subclause (1) of this clause because identical goods were not sold under the conditions described in subclause (1)(a) and (b) of this clause, there shall be substituted therefor identical goods sold under any of the following conditions:
 - (a) To a buyer at the same or substantially the same trade level as the buyer of the goods being valued but in quan-

- tities different from the quantities in which those goods were sold; or
- (b) To a buyer at a trade level different from that of the buyer of the goods being valued but in the same or substantially the same quantities as the quantities in which those goods were sold; or
 - (c) To a buyer at a trade level different from that of the buyer of the goods being valued and in quantities different from the quantities in which those goods were sold.
- (3) For the purposes of determining the Customs value of imported goods under subclause (1) of this clause, the transaction value of identical goods shall be adjusted by adding thereto or deducting therefrom, as the case may be, amounts to account for—
- (a) Commercially significant differences between the costs, charges, and expenses referred to in clause 3(1)(a)(vii) of this Schedule in respect of the identical goods and those costs, charges, and expenses in respect of the goods being valued that are attributable to differences in distances and modes of transport:
 - (b) Where the transaction value is in respect of identical goods sold under the conditions described in any of paragraphs (a) to (c) of subclause (2) of this clause, differences in the trade levels of the buyers of the identical goods and the goods being valued or the quantities in which the identical goods and the goods being valued were sold or both, as the case may be,—
- if each amount can, in the opinion of the Chief Executive, be determined on the basis of sufficient information. Where any such amount cannot be so determined, the Customs value of the goods being valued shall not be determined on the basis of the transaction value of those identical goods under this clause.
- (4) Where, in relation to imported goods being valued, there are 2 or more transaction values of identical goods that meet all the requirements set out in subclauses (1) and (3) of this clause or where there is no such transaction value but there are 2 or more transaction values of identical goods sold under the conditions described in any of paragraphs (a) to (c) of subclause (2) of

this clause that meet all the requirements set out in this clause that are applicable by virtue of subclause (2) of this clause, the Customs value of the goods being valued shall be determined on the basis of the lowest such transaction value.

5 Transaction value of similar goods as Customs value

- (1) Subject to subclause (2) of this clause and subclauses (2) to (4) of clause 4 of this Schedule, where the Customs value of imported goods cannot, in the opinion of the Chief Executive, be determined under clause 4 of this Schedule, the Customs value of the goods shall be the transaction value of similar goods in respect of a sale of those goods for export to New Zealand if that transaction value is the Customs value of the similar goods and the similar goods were exported at the same or substantially the same time as the goods being valued and were sold under the following conditions:
 - (a) To a buyer at the same or substantially the same trade level as the buyer of the goods being valued; and
 - (b) In the same or substantially the same quantities as the goods being valued.
- (2) Subclauses (2) to (4) of clause 4 of this Schedule shall apply to this clause in respect of similar goods as if every reference in those subclauses to **identical goods** were a reference to **similar goods**.

6 Deductive value as Customs value

- (1) Subject to subclauses (5) and (6) of clause 2 of this Schedule, where the Customs value cannot, in the opinion of the Chief Executive, be determined under clause 5 of this Schedule, the Customs value of the goods shall be the deductive value in respect of the goods.
- (2) Where the goods being valued or identical goods or similar goods are sold in New Zealand in the condition in which they were imported at the same or substantially the same time as the time of importation of the goods being valued, the deductive value of the goods being valued shall be the price per unit in respect of sales described in subclause (5) of this clause, determined in accordance with that subclause and adjusted in accordance with subclause (6) of this clause, at which the

greatest number of units of the goods being valued or identical goods or similar goods are so sold.

- (3) Where the goods being valued or identical goods or similar goods are sold in New Zealand in the condition in which they were imported before the expiration of 90 days after the importation of the goods being valued but are not so sold at the same or substantially the same time as the time of that importation, the deductive value of the goods being valued shall be the price per unit in respect of sales described in subclause (5) of this clause, determined in accordance with that subclause and adjusted in accordance with subclause (6) of this clause, at which the greatest number of units of the goods being valued or identical goods or similar goods are so sold at the earliest date after the importation of the goods being valued.
- (4) Where the goods being valued or identical goods or similar goods are not sold in New Zealand in the circumstances described in subclause (2) or subclause (3) of this clause, but the goods being valued, after being assembled, packaged, or further processed in New Zealand, are sold in New Zealand before the expiration of 90 days after the importation thereof and the importer of the goods being valued requests that this subclause be applied in the determination of the Customs value of those goods, the deductive value of the goods being valued shall be the price per unit, in respect of sales described in subclause (5) of this clause, determined in accordance with that subclause and adjusted in accordance with subclause (6) of this clause, at which the greatest number of units of the goods being valued are so sold.
- (5) For the purposes of subclauses (2) to (4) of this clause, the price per unit in respect of any goods being valued or identical goods or similar goods, shall be determined by ascertaining the unit price in respect of sales of the goods at the first trade level after their importation to persons who—
 - (a) Are not related to the persons from whom they buy the goods at the time the goods are sold to them; and
 - (b) Have not supplied, directly or indirectly, free of charge or at a reduced cost for use in connection with the production and sale for export of the goods, any of the

- goods or services referred to in clause 3(1)(a)(iii) of this Schedule,—
at which the greatest number of units of the goods is sold where, in the opinion of the Chief Executive, a sufficient number of such sales have been made to permit a determination of the price per unit of the goods.
- (6) For the purposes of subclauses (2) to (4) of this clause, the price per unit in respect of any goods being valued or identical goods or similar goods, shall be adjusted by deducting therefrom an amount equal to the aggregate of—
- (a) An amount, determined in accordance with subclause (7) of this clause, equal to—
 - (i) The amount of commission generally earned on a unit basis; or
 - (ii) The amount for profit and general expenses, including all costs of marketing the goods, considered together as a whole, that is generally reflected on a unit basis—
in connection with sales in New Zealand of goods of the same class or kind as those goods:
 - (b) Reasonable costs, charges, and expenses that are incurred in respect of the transportation and insurance of the goods within New Zealand and reasonable costs, charges, and expenses associated therewith to the extent that an amount for such costs, charges, and expenses is not deducted in respect of general expenses under paragraph (a) of this subclause:
 - (c) The costs, charges, and expenses referred to in clause 3(1)(b)(i) of this Schedule incurred in respect of the goods, to the extent that an amount for such costs, charges, and expenses is not deducted in respect of general expenses under paragraph (a) of this subclause:
 - (d) Any Customs duties or other taxes payable in New Zealand by reason of the importation or sale of the goods, to the extent that an amount for such duties and taxes is not deducted in respect of general expenses under paragraph (a) of this subclause:
 - (e) Where subclause (4) of this clause applies, the amount of the value added to the goods that is attributable to

the assembly, packaging, or further processing in New Zealand of the goods, if that amount is determined, in the opinion of the Chief Executive, on the basis of sufficient information.

- (7) The amount considered to be equal to the amount of commission or the amount for profit and general expenses referred to in subclause (6)(a) shall be calculated on a percentage basis and determined on the basis of information prepared in a manner consistent with generally accepted accounting principles that is supplied—
- (a) By or on behalf of the importer of the goods being valued; or
 - (b) Where the information supplied by or on behalf of the importer of the goods being valued is not sufficient information, but an examination of sales in New Zealand of the narrowest group or range of goods of the same class or kind as the goods being valued from which sufficient information can, in the opinion of the Chief Executive, be obtained.
- (8) Where an amount referred to in subclause (6)(e) of this clause in respect of any goods being valued cannot, in the opinion of the Chief Executive, be determined on the basis of sufficient information, the Customs value of the goods cannot be determined on the basis of the deductive value under subclause (4) of this clause.

7 Computed value as Customs value

- (1) Subject to subclauses (3) and (5) of clause 2 of this Schedule, where the Customs value of imported goods cannot, in the opinion of the Chief Executive be determined under clause 6 of this Schedule, the Customs value of the goods shall be the computed value in respect of those goods.
- (2) The computed value of the goods being valued is the aggregate of amounts equal to—
- (a) The costs, charges, and expenses incurred in respect of, or the value of,—
 - (i) Materials employed in producing the goods being valued; and

- (ii) The production or other processing of the goods being valued,—
determined on the basis of—
 - (A) The commercial accounts of the producer of the goods being valued; or
 - (B) Any other sufficient information relating to the production of the goods being valued—
that are supplied by or on behalf of the producer of the goods and prepared in a manner consistent with the generally accepted accounting principles of the country of production of the goods being valued, including, without limiting the generality of the foregoing,—
 - (iii) The costs, charges, and expenses referred to in clause 3(1)(a)(ii) of this Schedule:
 - (iv) The value of any of the goods and services referred to in clause 3(1)(a)(iii) and (vi) of this Schedule, determined and apportioned to the goods being valued as referred to in that clause, whether or not such goods and services have been supplied free of charge or at a reduced cost:
 - (v) The costs, charges, and expenses incurred by the producer in respect of engineering, development work, artwork, designwork, plans, or sketches undertaken in New Zealand that were supplied, directly or indirectly, by the buyer of the goods being valued for use in connection with the production and sale for export of those goods to the extent that such elements are charged to the producer of the goods, apportioned to the goods being valued as referred to in clause 3(1)(a)(iii) of this Schedule:
- (b) The amount, determined in accordance with subclause (4) of this clause, for profit and general expenses, considered together as a whole, generally reflected in sales for export to New Zealand of goods of the same class or kind as the goods being valued, made by the producers of the goods to buyers in New Zealand who are not related to the producers from whom they buy the goods at the time the goods are sold to them.

- (3) For the purposes of this clause, the expression **general expenses** means the direct and indirect costs, charges, and expenses of producing and selling goods for export, other than the costs, charges, and expenses referred to in subclause (2)(a) of this clause.
- (4) The amount of profit and general expenses referred to in subclause (2)(b) of this clause shall be calculated on a percentage basis and determined on the basis of information prepared in a manner consistent with generally acceptable accounting principles of the country of production of the goods being valued and that is supplied—
 - (a) By or on behalf of the producer of the goods being valued; or
 - (b) Where the information supplied by or on behalf of the producer of the goods being valued is not sufficient information, by an examination of sales for export to New Zealand of the narrowest group or range of goods of the same class or kind from which sufficient information can, in the opinion of the Chief Executive, be obtained.

8 Residual basis of valuation

- (1) Where the Customs value of imported goods cannot, in the opinion of the Chief Executive, be determined under clause 7 of this Schedule, it shall be determined on information available in New Zealand on the basis of a value derived from the methods of valuation set out in clauses 2 to 7 of this Schedule interpreted in a flexible manner and reasonably adjusted to the extent necessary to arrive at a Customs value of the goods.
- (2) A Customs value shall not be determined on the basis of—
 - (a) The selling price in New Zealand of goods produced in New Zealand; or
 - (b) A basis which provides for the acceptance of the higher of 2 alternative values; or
 - (c) The price of goods on the domestic market of the country of exportation; or
 - (d) The cost of production, other than computed values that have been determined for identical or similar goods in accordance with clause 7 of this Schedule; or

- (e) The price of goods for export to a country other than New Zealand, unless the goods were imported into New Zealand; or
 - (f) Minimum customs values; or
 - (g) Arbitrary or fictitious values.
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Schedule 3

Sections 68, 70, 73, 75

Excise and excise-equivalent duties

The complete "Schedule 3" is not available on this website. For the latest version of "Schedule 3" see www.customs.govt.nz.

Notes—

1. Subject to these Notes, interpretation of this Schedule shall be governed by the same General Rules of Interpretation applicable to Schedule 1 to the Tariff Act 1988.
2. For the purpose of the description of goods in this Schedule, the terms **Tariff item** and **Tariff heading** have the same meaning as in section 2 of the Tariff Act 1988.
3. The term **Excise item number** means excise items identified by six digits and one alphabetical check letter and includes the heading thereto so identified.
4. Duties specified in Part A of this Schedule are duties imposed pursuant to section 73 of this Act.
5. Duties specified in Part B of this Schedule are duties imposed pursuant to section 75 of this Act.

A Goods manufactured in New Zealand

B Imported goods

Schedule 3 note 2: amended, on 1 October 2008, by section 7(1) of the Customs and Excise Amendment Act (No 2) 2008 (2008 No 61).

Schedule 3: amended, on 1 July 2008, by clause 3 of the Excise and Excise-equivalent Duties (Alcoholic Beverages Indexation) Amendment Order 2008 (SR 2008/124).

Schedule 3: amended, on 1 January 2008, by clause 3 of the Excise and Excise-equivalent Duties (Tobacco Products Indexation) Amendment Order 2007 (SR 2007/345).

Schedule 3 Part A: amended, on 1 January 2009, by clause 3 of the Excise and Excise-equivalent Duties (Tobacco Products Indexation) Amendment Order 2008 (SR 2008/441).

Schedule 3 Part A: amended, on 1 October 2008, by section 7(2) of the Customs and Excise Amendment Act (No 2) 2008 (2008 No 61).

Schedule 3 Part A: amended, on 1 October 2008, by section 7(3) of the Customs and Excise Amendment Act (No 2) 2008 (2008 No 61).

Schedule 3 Part A: amended, on 1 October 2008, by section 7(4) of the Customs and Excise Amendment Act (No 2) 2008 (2008 No 61).

Schedule 3 Part A: amended, on 1 October 2008, by clause 3 of the Excise and Excise-equivalent Duties (Other Spirits Restructure) Amendment Order 2008 (SR 2008/260).

Schedule 3 Part B: amended, on 1 January 2009, by clause 3 of the Excise and Excise-equivalent Duties (Tobacco Products Indexation) Amendment Order 2008 (SR 2008/441).

Schedule 3 Part B: amended, on 1 October 2008, by section 7(5) of the Customs and Excise Amendment Act (No 2) 2008 (2008 No 61).

Schedule 3 Part B: amended, on 1 October 2008, by section 7(6) of the Customs and Excise Amendment Act (No 2) 2008 (2008 No 61).

Schedule 3 Part B: amended, on 1 October 2008, by section 7(7) of the Customs and Excise Amendment Act (No 2) 2008 (2008 No 61).

Schedule 3 Part B: amended, on 1 October 2008, by section 7(8)(a) of the Customs and Excise Amendment Act (No 2) 2008 (2008 No 61).

Schedule 3 Part B: amended, on 1 October 2008, by section 7(8)(b) of the Customs and Excise Amendment Act (No 2) 2008 (2008 No 61).

Schedule 3 Part B: amended, on 1 October 2008, by section 7(8)(c) of the Customs and Excise Amendment Act (No 2) 2008 (2008 No 61).

Schedule 3 Part B: amended, on 1 October 2008, by section 7(9) of the Customs and Excise Amendment Act (No 2) 2008 (2008 No 61).

B—continued

Schedule 3 Part B: amended, on 1 October 2008, by clause 4 of the Excise and Excise-equivalent Duties (Other Spirits Restructure) Amendment Order 2008 (SR 2008/260).

Schedule 3 was amended, as from 15 May 1998, by section 2(1) Customs and Excise Amendment Act 1998 (1998 No 18).

Schedule 3 was amended, as from 1 June 1998, by clause 2 Excise and Excise-Equivalent Duties (Alcoholic Beverages Indexation) Amendment Order 1997, by revoking so much of the schedule that relates to Excise item numbers 99.10.25F, 99.10.50G, 99.20.10C, 99.20.20L, 99.25.10E, 99.25.20B, 99.30.21D, 99.30.26E, 99.30.32K, 99.30.47H, 99.30.58C, 99.30.62A, 99.35.20H, 99.35.40B, 99.35.50K, 99.42.02F, 99.42.03D, 99.42.05L, 99.42.06J, 99.42.08E, 99.42.09C, 99.43.02B, 99.43.03L, 99.43.05G, 99.43.06E, 99.43.08A, 99.43.09K, 99.45.10F, 99.45.15G, 99.45.20C, 99.45.25D, 99.45.30L, 99.45.35A, 99.45.40H, 99.45.45J, 99.45.72F, 99.45.76J, 99.45.78E, 99.45.80G, 99.45.85H, 99.45.90D, 99.50.11H, 99.50.14B, 99.50.40A, 99.50.50J, 99.50.60F, 99.50.65G, 99.50.75D, and 99.50.85A, and Tariff items 2106.90.39, 2106.90.49, 2106.90.59, 2106.90.69, 2106.90.79, 2106.90.89, 2203.00.12, 2203.00.22, 2203.00.31, 2203.00.39, 2204.21.12, 2204.29.12, 2204.10.01, 2204.10.18, 2204.21.18, 2204.29.18, 2205.10.11, 2205.10.32, 2205.90.11, 2205.90.32, 2205.10.19, 2205.10.38, 2205.90.19, 2205.90.38, 2206.00.08, 2206.00.18, 2206.00.28, 2206.00.37, 2206.00.47, 2206.00.57, 2206.00.68, 2206.00.79, 2206.00.89, 2207.10.19, 2207.10.29, 2207.20.39, 2208.20.04, 2208.20.08, 2208.30.04, 2208.30.08, 2208.40.04, 2208.40.08, 2208.50.04, 2208.50.08, 2208.60.19, 2208.60.29, 2208.20.19, 2208.90.48, 2208.90.56, 2208.90.60, 2208.90.67, 2208.90.79, 2208.90.89, 2208.20.29, 2208.30.19, 2208.40.19, 2208.50.19, 2208.60.99, 2208.90.99, 2208.70.30, 2208.70.40, 2208.70.50, 2208.70.60, 2208.70.70, 2208.70.80, 2208.90.05, 2208.90.08, 3302.10.39, 3302.10.49, 3302.10.59, 3302.10.69, 3302.10.79, and 3302.10.89, and inserted the Excise item numbers and Tariff items and rates of duty specified in the Schedule of that order.

Schedule 3 was amended, as from 1 December 1998, by clause 2 Excise and Excise-Equivalent Duties (Tobacco Products Indexation) Amendment Order 1998 (SR 1998/337).

Schedule 3 was amended, as from 1 June 1999, by clause 2 Excise-Equivalent Duties (Alcoholic Beverages Indexation) Amendment Order 1999 (SR 1999/114).

Schedule 3 was amended, as from 1 June 2000, by clause 3 Excise-Equivalent Duties (Alcoholic Beverages Indexation) Amendment Order 2000 (SR 2000/70) by substituting the Excise item numbers and Tariff items and rates of duty specified in the Schedule to that Order for the Excise item numbers 99.10.25F, 99.10.50G, 99.20.10C, 99.20.20L, 99.25.10E, 99.25.20B, 99.30.21D, 99.30.26E, 99.30.32K, 99.30.47H, 99.30.58C, 99.30.62A, 99.35.20H, 99.35.40B, 99.35.50K, 99.42.02F, 99.42.03D, 99.42.05L, 99.42.06J, 99.42.08E, 99.42.09C, 99.43.02B, 99.43.03L, 99.43.05G, 99.43.06E, 99.43.08A, 99.43.09K, 99.45.10F, 99.45.15G, 99.45.20C, 99.45.25D, 99.45.30L, 99.45.35A, 99.45.40H, 99.45.45J, 99.45.72F, 99.45.76J, 99.45.78E, 99.45.80G, 99.45.85H, 99.45.90D, 99.50.11H, 99.50.14B, 99.50.40A, 99.50.50J, 99.50.60F, 99.50.65G, 99.50.75D, and 99.50.85A, and Tariff items 2106.90.39, 2106.90.49, 2106.90.59, 2106.90.69, 2106.90.79,

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2106.90.89, 2203.00.12, 2203.00.22, 2203.00.31, 2203.00.39, 2204.21.12, 2204.29.12, 2204.10.01, 2204.10.18, 2204.21.18, 2204.29.18, 2205.10.11, 2205.10.32, 2205.90.11, 2205.90.32, 2205.10.19, 2205.10.38, 2205.90.19, 2205.90.38, 2206.00.08, 2206.00.18, 2206.00.28, 2206.00.37, 2206.00.47, 2206.00.57, 2206.00.68, 2206.00.79, 2206.00.89, 2207.10.19, 2207.10.29, 2207.20.39, 2208.20.04, 2208.20.08, 2208.30.04, 2208.30.08, 2208.40.04, 2208.40.08, 2208.50.04, 2208.50.08, 2208.60.19, 2208.60.29, 2208.20.19, 2208.90.48, 2208.90.56, 2208.90.60, 2208.90.67, 2208.90.79, 2208.90.89, 2208.20.29, 2208.30.19, 2208.40.19, 2208.50.19, 2208.60.99, 2208.90.99, 2208.70.30, 2208.70.40, 2208.70.50, 2208.70.60, 2208.70.70, 2208.70.80, 2208.90.05, 2208.90.08, 3302.10.39, 3302.10.49, 3302.10.59, 3302.10.69, 3302.10.79, and 3302.10.89.

Schedule 3 was amended, as from 1 June 2000, by clause 4 Excise and Excise-Equivalent Duties (Alcoholic Beverages Indexation) Amendment Order 2000 (SR 2000/70) by substituting the Excise item numbers and Tariff items and rates of duty specified in the Schedule to that Order for the Excise item numbers 99.10.25F, 99.10.50G, 99.20.10C, 99.20.20L, 99.25.10E, 99.25.20B, 99.30.21D, 99.30.26E, 99.30.32K, 99.30.47H, 99.30.58C, 99.30.62A, 99.35.20H, 99.35.40B, 99.35.50K, 99.42.02F, 99.42.03D, 99.42.05L, 99.42.06J, 99.42.08E, 99.42.09C, 99.43.02B, 99.43.03L, 99.43.05G, 99.43.06E, 99.43.08A, 99.43.09K, 99.45.10F, 99.45.15G, 99.45.20C, 99.45.25D, 99.45.30L, 99.45.35A, 99.45.40H, 99.45.45J, 99.45.72F, 99.45.76J, 99.45.78E, 99.45.80G, 99.45.85H, 99.45.90D, 99.50.11H, 99.50.14B, 99.50.40A, 99.50.50J, 99.50.60F, 99.50.65G, 99.50.75D, and 99.50.85A, and Tariff items 2106.90.39, 2106.90.49, 2106.90.59, 2106.90.69, 2106.90.79, 2106.90.89, 2203.00.12, 2203.00.22, 2203.00.31, 2203.00.39, 2204.21.12, 2204.29.12, 2204.10.01, 2204.10.18, 2204.21.18, 2204.29.18, 2205.10.11, 2205.10.32, 2205.90.11, 2205.90.32, 2205.10.19, 2205.10.38, 2205.90.19, 2205.90.38, 2206.00.08, 2206.00.18, 2206.00.28, 2206.00.37, 2206.00.47, 2206.00.57, 2206.00.68, 2206.00.79, 2206.00.89, 2207.10.19, 2207.10.29, 2207.20.39, 2208.20.04, 2208.20.08, 2208.30.04, 2208.30.08, 2208.40.04, 2208.40.08, 2208.50.04, 2208.50.08, 2208.60.19, 2208.60.29, 2208.20.19, 2208.90.48, 2208.90.56, 2208.90.60, 2208.90.67, 2208.90.79, 2208.90.89, 2208.20.29, 2208.30.19, 2208.40.19, 2208.50.19, 2208.60.99, 2208.90.99, 2208.70.30, 2208.70.40, 2208.70.50, 2208.70.60, 2208.70.70, 2208.70.80, 2208.90.05, 2208.90.08, 3302.10.39, 3302.10.49, 3302.10.59, 3302.10.69, 3302.10.79, and 3302.10.89.

Schedule 3 was amended, as from 1 December 2000, by clause 3 Excise And Excise-Equivalent Duties (Tobacco Products Indexation) Amendment Order 2000 (SR 2000/238) by substituting the Excise item numbers and Tariffs items and rates of duty specified in the Schedule to that Order for the Excise item numbers 99.60.09A, 99.60.19J, 99.60.29F, 99.65.09C, 99.65.19L, 99.65.29H, 99.65.39E, 99.65.49B, and 99.65.59K, and Tariff items 2402.10.00, 2402.20.10, 2402.20.90, 2403.10.90, 2403.91.90, 2403.99.02, and 2403.99.90.

Schedule 3 was amended, as from 1 June 2001, by clause 3 Excise and Excise-Equivalent Duties (Tobacco Products Indexation) Amendment Order 2001 (SR 2001/84) by substituting the Excise item numbers and Tariffs items and rates of duty specified in the Schedule to that Order for the Excise item numbers 99.10.25F, 99.10.50G, 99.20.10C, 99.20.20L, 99.25.10E, 99.25.20B,

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99.30.21D, 99.30.26E, 99.30.32K, 99.30.47H, 99.30.58C, 99.30.62A, 99.35.20H, 99.35.40B, 99.35.50K, 99.45.10F, 99.45.15G, 99.45.20C, 99.45.25D, 99.45.30L, 99.45.35A, 99.45.40H, 99.45.45J, 99.45.72F, 99.45.76J, 99.45.78E, 99.45.80G, 99.45.85H, 99.45.90D, 99.50.11H, 99.50.14B, 99.50.40A, 99.50.50J, 99.50.60F, 99.50.65G, 99.50.75D, and 99.50.85A, and Tariff items 2203.00.12, 2203.00.22, 2203.00.31, 2203.00.39, 2204.21.12, 2204.29.12, 2204.10.01, 2204.10.18, 2204.21.18, 2204.29.18, 2205.10.11, 2205.10.32, 2205.90.11, 2205.90.32, 2205.10.19, 2205.10.38, 2205.90.19, 2205.90.38, 2206.00.08, 2206.00.18, 2206.00.28, 2206.00.37, 2206.00.47, 2206.00.57, 2206.00.68, 2206.00.79, 2206.00.89, 2207.10.19, 2207.10.29, 2207.20.39, 2208.20.04, 2208.20.08, 2208.30.04, 2208.30.08, 2208.40.04, 2208.40.08, 2208.50.04, 2208.50.08, 2208.60.19, 2208.60.29, 2208.20.19, 2208.90.48, 2208.90.56, 2208.90.60, 2208.90.67, 2208.90.79, 2208.90.89, 2208.20.29, 2208.30.19, 2208.40.19, 2208.50.19, 2208.60.99, 2208.90.99, 2208.70.30, 2208.70.40, 2208.70.50, 2208.70.60, 2208.70.70, 2208.70.80, 2208.90.05, and 2208.90.08.

Schedule 3 was amended, as from 27 September 2001, by section 12(1) Customs and Excise Amendment Act 2001 (2001 No 61) by inserting before the items relating to excise item 99.10, the new Excise item numbers 99.05.10D, 99.05.20A, 99.05.30J, 99.05.40F, 99.05.50C, 99.05.60L

Schedule 3 was amended, as from 27 September 2001, by section 12(2) Customs and Excise Amendment Act 2001 (2001 No 61) by repealing so much of Part A of Schedule 3 as relates to Excise item number 99.35.30E (but not including the heading relating to that number), and substituting the Excise item number and rate of duty set out in Part 2 of the Schedule of the Customs and Excise Amendment Act 2001 (2001 No 61).

Schedule 3 was amended, as from 27 September 2001, by section 12(3) Customs and Excise Amendment Act 2001 (2001 No 61) by repealing so much of Part A of Schedule 3 as relates to Excise item number 99.55.00A, and substituting the Excise item number and rate of duty set out in Part 3 of the Schedule of the Customs and Excise Amendment Act 2001 (2001 No 61).

Schedule 3 was amended, as from 27 September 2001, by section 12(4) Customs and Excise Amendment Act 2001 (2001 No 61) by inserting in Part B, before the items relating to Tariff item 21.06, the Tariff items and rates of duty set out in Part 4 of the Schedule of the Customs and Excise Amendment Act 2001 (2001 No 61).

Schedule 3 was amended, as from 27 September 2001, by section 12(5) Customs and Excise Amendment Act 2001 (2001 No 61) by repealing so much of Part B, as relates to Tariff item number 2207.10.29 (but not including the heading relating to that number), and substituting the Tariff item number and rate of duty set out in Part 5 of the Schedule of the Customs and Excise Amendment Act 2001 (2001 No 61).

Schedule 3 was amended, as from 1 December 2001, by clause 3 Excise and Excise-Equivalent Duties (Tobacco Products Indexation) Amendment Order 2001 (SR 2001/330) by repealing so much as relates to Excise item numbers 99.60.09A, 99.60.19J, 99.60.29F, 99.65.09C, 99.65.19L, 99.65.29H, 99.65.39E, 99.65.49B, and 99.65.59K, and Tariff items 2402.10.00, 2402.20.10,

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2402.20.90, 2403.10.90, 2403.91.90, 2403.99.02, and 2403.99.90, and substituting the Excise item numbers and Tariff items and rates of duty specified in the Schedule of the Excise and Excise-Equivalent Duties (Tobacco Products Indexation) Amendment Order 2001 (SR 2001/330).

Schedule 3 was amended, as from 1 January 2002, by clause 3 Excise and Excise-Equivalent Duties (Harmonised System) Amendment Order 2001 (SR 2001/401) by revoking so much as relates to Excise item numbers 99.75.15C, 99.75.18H, and 99.75.35H (but not including the heading relating to those numbers) and Tariff item numbers 2710.00.18, 2710.00.28, and 2710.00.63 (but not including the heading relating to those numbers), and substituting the Excise item numbers and Tariff item numbers and rates of duty specified in the schedule of that Order.

Schedule 3 was amended, as from 1 March 2002, by section 4 Customs and Excise Amendment Act 2002 (2002 No 2) by revoking so much as relates to Excise item numbers 99.75.15C and 99.75.18H and Tariff items 2710.19.11 and 2710.19.29, and substituting the Excise item numbers and Tariff items and rates of duty specified in the Schedule of that Act.

Schedule 3 was amended, as from 1 June 2002, by clause 3 Excise and Excise-Equivalent Duties (Alcoholic Beverages Indexation) Amendment Order 2002 (SR 2002/117), by revoking so much as relates to Excise item numbers 99.10.25F, 99.10.50G, 99.20.10C, 99.20.20L, 99.25.10E, 99.25.20B, 99.30.21D, 99.30.26E, 99.30.32K, 99.30.47H, 99.30.58C, 99.30.62A, 99.35.20H, 99.35.40B, 99.35.50K, 99.45.10F, 99.45.15G, 99.45.20C, 99.45.25D, 99.45.30L, 99.45.35A, 99.45.40H, 99.45.45J, 99.45.72F, 99.45.76J, 99.45.78E, 99.45.80G, 99.45.85H, 99.45.90D, 99.50.11H, 99.50.14B, 99.50.40A, 99.50.50J, 99.50.60F, 99.50.65G, 99.50.75D, and 99.50.85A, and Tariff items 2203.00.12, 2203.00.22, 2203.00.31, 2203.00.39, 2204.21.12, 2204.29.12, 2204.10.01, 2204.10.18, 2204.21.18, 2204.29.18, 2205.10.11, 2205.10.32, 2205.90.11, 2205.90.32, 2205.10.19, 2205.10.38, 2205.90.19, 2205.90.38, 2206.00.08, 2206.00.18, 2206.00.28, 2206.00.37, 2206.00.47, 2206.00.57, 2206.00.68, 2206.00.79, 2206.00.89, 2207.10.19, 2207.10.29, 2207.20.39, 2208.20.04, 2208.20.08, 2208.30.04, 2208.30.08, 2208.40.04, 2208.40.08, 2208.50.04, 2208.50.08, 2208.60.19, 2208.60.29, 2208.20.19, 2208.90.48, 2208.90.56, 2208.90.60, 2208.90.67, 2208.90.79, 2208.90.89, 2208.20.29, 2208.30.19, 2208.40.19, 2208.50.19, 2208.60.99, 2208.90.99, 2208.70.30, 2208.70.40, 2208.70.50, 2208.70.60, 2208.70.70, 2208.70.80, 2208.90.05, and 2208.90.08, and substituting the Excise item numbers and Tariff items and rates of duty specified in the Schedule of the Excise and Excise-Equivalent Duties (Alcoholic Beverages Indexation) Amendment Order 2002 (SR 2002/117).

Schedule 3 was amended, as from 1 December 2002, by clause 3 Excise and Excise-Equivalent Duties (Tobacco Products Indexation) Amendment Order 2002 (SR 2002/370) by revoking so much as relates to Excise item numbers 99.60.09A, 99.60.19J, 99.60.29F, 99.65.09C, 99.65.19L, 99.65.29H, 99.65.39E, 99.65.49B, and 99.65.59K, and Tariff items 2402.10.00, 2402.20.10, 2402.20.90, 2403.10.90, 2403.91.90, 2403.99.02, and 2403.99.90, and substituting the Excise item numbers and Tariff items and rates of duty specified in the Schedule.

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Part A of Schedule 3 was amended, as from 9 October 2002, by section 28(1)(a) Customs and Excise Amendment Act (No 2) 2002 (2002 No 31) by inserting, before the items relating to Excise item 99.10, the Excise item numbers and rates of duty set out in Part A of Schedule 1 Customs and Excise Amendment Act (No 2) 2002 (2002 No 31).

Part A of Schedule 3 was amended, as from 9 October 2002, by section 28(1)(b) Customs and Excise Amendment Act (No 2) 2002 (2002 No 31) by substituting “3606.10.09” for “3606.10.19” in Excise item number 99.75.22F.

Part A of Schedule 3 was amended, as from 9 October 2002, by section 28(3) Customs and Excise Amendment Act (No 2) 2002 (2002 No 31) by substituting the Excise item numbers and rates of duty specified in Part A of Schedule 2 of that Act for so much as relates to Excise item numbers 99.05.10D, 99.05.20A, 99.05.30J, 99.05.40F, 99.05.50C, and 99.05.60L.

Part A of Schedule 3 was amended, as from 1 July 2003, by section 13(3) Injury Prevention, Rehabilitation, and Compensation Amendment Act 2003 (2003 No 29) by substituting so much as relates to Excise item numbers 99.75.15C and 99.75.18H.

Part B of Schedule 3 was amended, as from 9 October 2002, by section 28(2) Customs and Excise Amendment Act (No 2) 2002 (2002 No 31) by inserting, after Tariff item number 2106.90.89, the Tariff items and rates of duty set out in Part B of Schedule 1 Customs and Excise Amendment Act (No 2) 2002 (2002 No 31).

Part B of Schedule 3 was amended, as from 9 October 2002, by section 28(4) Customs and Excise Amendment Act (No 2) 2002 (2002 No 31) by substituting the Tariff items and rates of duty specified in Part B of Schedule 2 of that Act for so much as relates to Tariff items 2105.00.21, 2105.00.29, 2105.00.31, 2105.00.39, 2105.00.41, and 2105.00.49.

Part B of Schedule 3 was amended, as from 1 July 2003, by section 13(4) Injury Prevention, Rehabilitation, and Compensation Amendment Act 2003 (2003 No 29) by substituting so much as relates to Tariff item numbers 2710.19.11 and 2710.19.29.

Schedule 3 was amended, as from 7 May 2003, by section 4 Customs and Excise (Alcoholic Beverages) Amendment Act 2003 (2003 No 22) by revoking so much as relates to Excise item numbers 99.05.50C, 99.06.50K, 99.20.10C, 99.25.10E, 99.30.58C, 99.45.85H, 99.50.11H, and 99.50.75D, and Tariff items 2105.00.41, 2106.90.96, 2204.21.12, 2204.29.12, 2205.10.11, 2205.10.32, 2205.90.11, 2205.90.32, 2206.00.18, 2206.00.79, 2208.90.89, 2208.70.70, and 2208.90.05 and substituting the Excise item numbers and Tariff items and rates of duty specified in Schedule 1 of the Customs and Excise (Alcoholic Beverages) Amendment Act 2003.

Schedule 3 was amended, as from 1 June 2003, by section 5 Customs and Excise (Alcoholic Beverages) Amendment Act 2003 (2003 No 22) by revoking so much as relates to Excise item numbers 99.05.10D, 99.05.20A, 99.05.30J, 99.05.40F, 99.05.60L, 99.06.10L, 99.06.20H, 99.06.30E, 99.06.40B, 99.06.60G, 99.10.25F, 99.10.50G, 99.20.20L, 99.25.20B, 99.30.21D, 99.30.26E, 99.30.32K, 99.30.47H, 99.30.62A, 99.35.20H, 99.35.40B, 99.35.50K, 99.45.10F, 99.45.15G, 99.45.20C, 99.45.25D, 99.45.30L,

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99.45.35A, 99.45.40H, 99.45.45J, 99.45.72F, 99.45.76J, 99.45.78E, 99.45.80G, 99.45.90D, 99.50.14B, 99.50.40A, 99.50.50J, 99.50.60F, 99.50.65G, and 99.50.85A, and Tariff items 2105.00.21, 2105.00.29, 2105.00.31, 2105.00.39, 2105.00.49, 2106.90.92, 2106.90.93, 2106.90.94, 2106.90.95, 2106.90.97, 2203.00.12, 2203.00.22, 2203.00.31, 2203.00.39, 2204.10.01, 2204.10.18, 2204.21.18, 2204.29.18, 2205.10.19, 2205.10.38, 2205.90.19, 2205.90.38, 2206.00.08, 2206.00.28, 2206.00.37, 2206.00.47, 2206.00.57, 2206.00.68, 2206.00.89, 2207.10.19, 2207.10.29, 2207.20.39, 2208.20.04, 2208.20.08, 2208.30.04, 2208.30.08, 2208.40.04, 2208.40.08, 2208.50.04, 2208.50.08, 2208.60.19, 2208.60.29, 2208.20.19, 2208.90.48, 2208.90.56, 2208.90.60, 2208.90.67, 2208.90.79, 2208.20.29, 2208.30.19, 2208.40.19, 2208.50.19, 2208.60.99, 2208.90.99, 2208.70.30, 2208.70.40, 2208.70.50, 2208.70.60, 2208.70.80, and 2208.90.08 and substituting the Excise item numbers and Tariff items and rates of duty specified in Schedule 2 of the Customs and Excise (Alcoholic Beverages) Amendment Act 2003.

Schedule 3 was amended, as from 1 December 2003, by clause 3 Excise and Excise-Equivalent Duties (Tobacco Products Indexation) Amendment Order 2003 (SR 2003/320) by substituting the Excise item numbers and Tariff items and rates of duty specified in the Schedule of that Order for so much as relates to Excise item numbers 99.60.09A, 99.60.19J, 99.60.29F, 99.65.09C, 99.65.19L, 99.65.29H, 99.65.39E, 99.65.49B, and 99.65.59K, and, Tariff items 2402.10.00, 2402.20.10, 2402.20.90, 2403.10.90, 2403.91.90, 2403.99.02, and 2403.99.90.

Schedule 3 was amended, as from 1 June 2004, by clause 3 Excise and Excise-Equivalent Duties (Alcoholic Beverages Indexation) Amendment Order 2004 (SR 2004/118) by substituting the Excise item numbers and Tariff items and rates of duty specified in the Schedule of that Order for so much as relates to excise item numbers 99.05.10D, 99.05.20A, 99.05.30J, 99.05.40F, 99.05.51A, 99.05.60L, 99.06.10L, 99.06.20H, 99.06.30E, 99.06.40B, 99.06.51H, 99.06.60G, 99.10.25F, 99.10.50G, 99.20.11A, 99.20.20L, 99.25.11C, 99.25.20B, 99.30.21D, 99.30.26E, 99.30.32K, 99.30.47H, 99.30.59A, 99.30.62A, 99.35.20H, 99.35.40B, 99.35.50K, 99.45.10F, 99.45.15G, 99.45.20C, 99.45.25D, 99.45.30L, 99.45.35A, 99.45.40H, 99.45.45J, 99.45.72F, 99.45.76J, 99.45.78E, 99.45.80G, 99.45.86F, 99.45.90D, 99.50.10K, 99.50.14B, 99.50.40A, 99.50.50J, 99.50.60F, 99.50.65G, 99.50.76B, and 99.50.85A, and Tariff items 2105.00.21, 2105.00.29, 2105.00.31, 2105.00.39, 2105.00.42, 2105.00.49, 2106.90.92, 2106.90.93, 2106.90.94, 2106.90.95, 2106.90.98, 2106.90.99, 2203.00.12, 2203.00.22, 2203.00.31, 2203.00.39, 2204.21.13, 2204.29.13, 2204.10.01, 2204.10.18, 2204.21.18, 2204.29.18, 2205.10.12, 2205.10.33, 2205.90.12, 2205.90.33, 2205.10.19, 2205.10.38, 2205.90.19, 2205.90.38, 2206.00.08, 2206.00.17, 2206.00.28, 2206.00.37, 2206.00.47, 2206.00.57, 2206.00.68, 2206.00.78, 2206.00.89, 2207.10.19, 2207.10.29, 2207.20.39, 2208.20.04, 2208.20.08, 2208.30.04, 2208.30.08, 2208.40.04, 2208.40.08, 2208.50.04, 2208.50.08, 2208.60.19, 2208.60.29, 2208.20.19, 2208.90.48, 2208.90.56, 2208.90.60, 2208.90.67, 2208.90.79, 2208.90.88, 2208.20.29, 2208.30.19, 2208.40.19, 2208.50.19, 2208.60.99, 2208.90.99, 2208.70.30, 2208.70.40, 2208.70.50, 2208.70.60, 2208.70.71, 2208.70.80, 2208.90.06, and 2208.90.08.

Schedule 3 was amended, as from 1 December 2004, by clause 3 Excise and Excise-Equivalent Duties (Tobacco Products Indexation) Amendment Order 2004

B—continued

(SR 2004/390) by substituting the Excise item numbers and Tariff items and rates of duty specified in the Schedule of that Order for so much as relates to Excise item numbers 99.60.09A, 99.60.19J, 99.60.29F, 99.65.09C, 99.65.19L, 99.65.29H, 99.65.39E, 99.65.49B, and 99.65.59K, and Tariff items 2402.10.00, 2402.20.10, 2402.20.90, 2403.10.90, 2403.91.90, 2403.99.02, and 2403.99.90.

Part A of Schedule 3 was amended, as from 1 April 2005, by section 7(1) Customs and Excise (Motor Spirits) Amendment Act 2005 (2005 No 1) by omitting so much as relates to Excise item numbers 99.75.15C and 99.75.18H, and substituting the Excise item numbers and rates of duty specified in Part A of the Schedule of that Act. *See* clause 2 Customs and Excise (Motor Spirits) Amendment Act Commencement Order 2005 (SR 2005/41).

Part B of Schedule 3 was amended, as from 1 April 2005, by section 7(2) Customs and Excise (Motor Spirits) Amendment Act 2005 (2005 No 1) by omitting so much as relates to Tariff items 2710.19.11 and 2710.19.29, and substituting the Tariff items and rates of duty specified in Part B of the Schedule of that Act. *See* clause 2 Customs and Excise (Motor Spirits) Amendment Act Commencement Order 2005 (SR 2005/41).

Schedule 3 was amended, as from 1 June 2005, by clause 3 Excise and Excise-Equivalent Duties (Alcoholic Beverages Indexation) Amendment Order 2005 (SR 2005/122) by substituting the Excise item numbers and Tariff items and rates of duty specified in the Schedule of that Order for so much as relates to excise item numbers 99.05.10D, 99.05.20A, 99.05.30J, 99.05.40F, 99.05.51A, 99.05.60L, 99.06.10L, 99.06.20H, 99.06.30E, 99.06.40B, 99.06.51H, 99.06.60G, 99.10.25F, 99.10.50G, 99.20.11A, 99.20.20L, 99.25.11C, 99.25.20B, 99.30.21D, 99.30.26E, 99.30.32K, 99.30.47H, 99.30.59A, 99.30.62A, 99.35.20H, 99.35.40B, 99.35.50K, 99.45.10F, 99.45.15G, 99.45.20C, 99.45.25D, 99.45.30L, 99.45.35A, 99.45.40H, 99.45.45J, 99.45.72F, 99.45.76J, 99.45.78E, 99.45.80G, 99.45.86F, 99.45.90D, 99.50.10K, 99.50.14B, 99.50.40A, 99.50.50J, 99.50.60F, 99.50.65G, 99.50.76B, and 99.50.85A, and Tariff items 2105.00.21, 2105.00.29, 2105.00.31, 2105.00.39, 2105.00.42, 2105.00.49, 2106.90.92, 2106.90.93, 2106.90.94, 2106.90.95, 2106.90.98, 2106.90.97, 2203.00.12, 2203.00.22, 2203.00.31, 2203.00.39, 2204.21.13, 2204.29.13, 2204.10.01, 2204.10.18, 2204.21.18, 2204.29.18, 2205.10.12, 2205.10.33, 2205.90.12, 2205.90.33, 2205.10.19, 2205.10.38, 2205.90.19, 2205.90.38, 2206.00.08, 2206.00.17, 2206.00.28, 2206.00.37, 2206.00.47, 2206.00.57, 2206.00.68, 2206.00.78, 2206.00.89, 2207.10.19, 2207.10.29, 2207.20.39, 2208.20.04, 2208.20.08, 2208.30.04, 2208.30.08, 2208.40.04, 2208.40.08, 2208.50.04, 2208.50.08, 2208.60.19, 2208.60.29, 2208.20.19, 2208.90.48, 2208.90.56, 2208.90.60, 2208.90.67, 2208.90.79, 2208.90.88, 2208.20.29, 2208.30.19, 2208.40.19, 2208.50.19, 2208.60.99, 2208.90.99, 2208.70.30, 2208.70.40, 2208.70.50, 2208.70.60, 2208.70.71, 2208.70.80, 2208.90.06, and 2208.90.08.

Schedule 3 was amended, as from 1 December 2005, by clause 3 Excise and Excise-Equivalent Duties (Tobacco Products Indexation) Amendment Order 2005 (SR 2005/296) by substituting the Excise item numbers and Tariff items and rates of duty specified in the Schedule of that Order for so much as relates to excise item numbers 99.60.09A, 99.60.19J, 99.60.29F, 99.65.09C, 99.65.19L, 99.65.29H, 99.65.39E, 99.65.49B, and 99.65.59K, and Tariff items 2402.10.00, 2402.20.10, 2402.20.90, 2403.10.90, 2403.91.90, 2403.99.02, and 2403.99.90.

B—continued

Schedule 3 was amended, as from 1 April 2006, by clause 3 Excise and Excise-Equivalent Duties (Motor Spirits Indexation) Amendment Order 2006 (SR 2006/33) by substituting the Excise item numbers and Tariff items and rates of duty specified in the Schedule of that Order for so much as relates to Excise item numbers 99.75.15C and 99.75.18H, and Tariff items 2710.19.11 and 2710.19.29.

Schedule 3 was amended, as from 1 June 2006, by clause 3 Excise and Excise-Equivalent Duties (Alcoholic Beverages Indexation) Amendment Order 2006 (SR 2006/124) by substituting the Excise item numbers and Tariff items and rates of duty specified in the Schedule of that Order for so much as relates to excise item numbers 99.05.10D, 99.05.20A, 99.05.30J, 99.05.40F, 99.05.51A, 99.05.60L, 99.06.10L, 99.06.20H, 99.06.30E, 99.06.40B, 99.06.51H, 99.06.60G, 99.10.25F, 99.10.50G, 99.20.11A, 99.20.20L, 99.25.11C, 99.25.20B, 99.30.21D, 99.30.26E, 99.30.32K, 99.30.47H, 99.30.59A, 99.30.62A, 99.35.20H, 99.35.40B, 99.35.50K, 99.45.10F, 99.45.15G, 99.45.20C, 99.45.25D, 99.45.30L, 99.45.35A, 99.45.40H, 99.45.45J, 99.45.72F, 99.45.76J, 99.45.78E, 99.45.80G, 99.45.86F, 99.45.90D, 99.50.10K, 99.50.14B, 99.50.40A, 99.50.50J, 99.50.60F, 99.50.65G, 99.50.76B, and 99.50.85A, and Tariff items 2105.00.21, 2105.00.29, 2105.00.31, 2105.00.39, 2105.00.42, 2105.00.49, 2106.90.92, 2106.90.93, 2106.90.94, 2106.90.95, 2106.90.98, 2106.90.97, 2203.00.12, 2203.00.22, 2203.00.31, 2203.00.39, 2204.21.13, 2204.29.13, 2204.10.01, 2204.10.18, 2204.21.18, 2204.29.18, 2205.10.12, 2205.10.33, 2205.90.12, 2205.90.33, 2205.10.19, 2205.10.38, 2205.90.19, 2205.90.38, 2206.00.08, 2206.00.17, 2206.00.28, 2206.00.37, 2206.00.47, 2206.00.57, 2206.00.68, 2206.00.78, 2206.00.89, 2207.10.19, 2207.10.29, 2207.20.39, 2208.20.04, 2208.20.08, 2208.30.04, 2208.30.08, 2208.40.04, 2208.40.08, 2208.50.04, 2208.50.08, 2208.60.19, 2208.60.29, 2208.20.19, 2208.90.48, 2208.90.56, 2208.90.60, 2208.90.67, 2208.90.79, 2208.90.88, 2208.20.29, 2208.30.19, 2208.40.19, 2208.50.19, 2208.60.99, 2208.90.99, 2208.70.30, 2208.70.40, 2208.70.50, 2208.70.60, 2208.70.71, 2208.70.80, 2208.90.06, and 2208.90.08.

Schedule 3 was amended, as from 1 December 2006, by clause 3 Excise and Excise-Equivalent Duties (Tobacco Products Indexation) Amendment Order 2006 (SR 2006/351) by substituting the Excise item numbers and Tariff items and rates of duty specified in the Schedule of that Order for so much as relates to Excise item numbers 99.60.09A, 99.60.19J, 99.60.29F, 99.65.09C, 99.65.19L, 99.65.29H, 99.65.39E, 99.65.49B, and 99.65.59K, and Tariff items 2402.10.00, 2402.20.10, 2402.20.90, 2403.10.90, 2403.91.90, 2403.99.02, and 2403.99.90.

Schedule 3 was amended, as from 1 April 2007, by clause 3 Excise and Excise-Equivalent Duties (Motor Spirits Indexation) Amendment Order 2007 (SR 2007/44) by substituting the Excise item numbers and Tariff items and rates of duty specified in the Schedule of that Order for so much as relates to Excise item numbers 99.75.15C and 99.75.18H, and Tariff items 2710.19.11 and 2710.19.29.

Schedule 3 was amended, as from 1 July 2007, by clause 3 Excise and Excise-Equivalent Duties (Alcoholic Beverages Indexation) Amendment Order 2007 (SR 2007/123) by substituting the Excise item numbers and Tariff items and rates of duty specified in the Schedule of that Order for so much as relates to Excise item numbers 99.05.10D, 99.05.20A, 99.05.30J, 99.05.40F, 99.05.51A,

B—continued

99.05.60L, 99.06.10L, 99.06.20H, 99.06.30E, 99.06.40B, 99.06.51H, 99.06.60G, 99.10.25F, 99.10.50G, 99.20.11A, 99.20.20L, 99.25.11C, 99.25.20B, 99.30.21D, 99.30.26E, 99.30.32K, 99.30.47H, 99.30.59A, 99.30.62A, 99.35.20H, 99.35.40B, 99.35.50K, 99.45.10F, 99.45.15G, 99.45.20C, 99.45.25D, 99.45.30L, 99.45.35A, 99.45.40H, 99.45.45J, 99.45.72F, 99.45.76J, 99.45.78E, 99.45.80G, 99.45.86F, 99.45.90D, 99.50.10K, 99.50.14B, 99.50.40A, 99.50.50J, 99.50.60F, 99.50.65G, 99.50.76B, and 99.50.85A, and Tariff items 2105.00.21, 2105.00.29, 2105.00.31, 2105.00.39, 2105.00.42, 2105.00.49, 2106.90.92, 2106.90.93, 2106.90.94, 2106.90.95, 2106.90.98, 2106.90.97, 2203.00.12, 2203.00.22, 2203.00.31, 2203.00.39, 2204.21.13, 2204.29.13, 2204.10.01, 2204.10.18, 2204.21.18, 2204.29.18, 2205.10.12, 2205.10.33, 2205.90.12, 2205.90.33, 2205.10.19, 2205.10.38, 2205.90.19, 2205.90.38, 2206.00.08, 2206.00.17, 2206.00.28, 2206.00.37, 2206.00.47, 2206.00.57, 2206.00.68, 2206.00.78, 2206.00.89, 2207.10.19, 2207.10.29, 2207.20.39, 2208.20.04, 2208.20.08, 2208.30.04, 2208.30.08, 2208.40.04, 2208.40.08, 2208.50.04, 2208.50.08, 2208.60.19, 2208.60.29, 2208.20.19, 2208.90.48, 2208.90.56, 2208.90.60, 2208.90.67, 2208.90.79, 2208.90.88, 2208.20.29, 2208.30.19, 2208.40.19, 2208.50.19, 2208.60.99, 2208.90.99, 2208.70.30, 2208.70.40, 2208.70.50, 2208.70.60, 2208.70.71, 2208.70.80, 2208.90.06, and 2208.90.08.

Schedule 4

Section 73(3)

**Valuation of goods for the purposes of
excise**

1 Value of goods for excise duty

The value of any goods for the purposes of section 73(3) of this Act shall be the price at which the goods are sold exclusive of excise duty and goods and services tax by a person licensed under section 12 of this Act if—

- (a) The sale is a sale in the open market as defined in clause 4(1)(c) of this Schedule; and
- (b) The sale is made on or prior to the date on which the goods are removed from the manufacturing area.

2 Value of goods manufactured by contractor

The value of any goods for the purposes of section 69 of this Act that are deemed to have been manufactured by a contractor shall be their fair market value as determined under clause 4 of this Schedule.

3 Value of goods not sold in open market

Where the value of the goods cannot be determined under clause 1 of this Schedule for the reason that the goods were not sold under the conditions specified in paragraphs (a) and (b) of that clause, the value shall be the fair market value of those goods as determined under clause 4 of this Schedule.

4 Fair market value

(1) For the purposes of this section,—

- (a) The expression **identical goods** means goods that are the same in all respects, including physical characteristics, quality, and reputation, as the goods being valued, except for minor differences (if any) in appearance that do not affect the value of the goods:
- (b) The expression **similar goods** means goods that closely resemble the goods being valued in respect of component materials and parts and characteristics and are functionally and commercially interchangeable with the goods being valued, having regard to the quality and reputation of the goods being valued:
- (c) A sale in the open market means—
 - (i) That the price is the sole consideration; and
 - (ii) That the price is not influenced by any commercial, financial, or other ties, whether by contract or otherwise, between the seller, or any person associated in business with the seller, and the buyer, or any person associated in business with the buyer (other than the relationship created by the sale of the goods in question); and
 - (iii) That no part of the proceeds of any subsequent resale, use, or disposal of the goods will accrue, either directly or indirectly, to the seller, or to any person associated in business with the seller.
- (d) Two persons shall be deemed to be associated in business with each other if, whether directly or indirectly, either of them has any interest in the business or property of the other, or both have a common interest in any business or property, or some third person has an interest in the business or property of both of them:

- (e) In determining a fair market value in accordance with this section, the Chief Executive shall—
 - (i) Use only those prices which represent a sale between buyers and sellers independent of each other; and
 - (ii) Exclude from the price any excise duty and goods and services tax.
- (2) For the purposes of this Schedule, the fair market value of any goods shall be determined by proceeding sequentially through subclauses (3) to (8) of this clause to the first such subclause under which fair market value can be determined.
- (3) The fair market value of any goods at the date of removal shall be the lowest price for which identical goods in the same or substantially the same quantities are generally sold at that date in the open market in New Zealand on sales freely offered and made on ordinary trade terms by the licensee of an area licensed under section 12 of this Act, other than a contractor.
- (4) Where, in the opinion of the Chief Executive, the fair market value cannot be determined under subclause (3) of this clause, it shall be deemed to be the lowest price for which identical goods in quantities different from those being sold are generally sold at that date in the open market in New Zealand on sales freely offered and made on ordinary trade terms by the licensee of an area licensed under section 12 of this Act, other than a contractor.
- (5) Where, in the opinion of the Chief Executive, the fair market value cannot be determined under subclause (4) of this clause, it shall be deemed to be the lowest price for which similar goods in the same or substantially the same quantities are generally sold at that date in the open market in New Zealand on sales freely offered and made on ordinary trade terms by the licensee of an area licensed under section 12 of this Act, other than a contractor.
- (6) Where, in the opinion of the Chief Executive, the fair market value cannot be determined under subclause (5) of this clause, it shall be deemed to be the lowest price for which similar goods in quantities different from those being sold are generally sold at that date in the open market in New Zealand on sales freely offered and made on ordinary trade terms by the

licensee of an area licensed under section 12 of this Act, other than a contractor.

- (7) Where, in the opinion of the Chief Executive, the fair market value cannot be determined under subclause (6) of this clause, the Chief Executive shall ascertain the price which the goods would generally fetch at the retail level and deduct from that price such amount as would reasonably represent the profit margin and other costs beyond the manufacturing level on those goods.
- (8) Where, in the opinion of the Chief Executive, the fair market value cannot be determined under subclause (7) of this clause, the Chief Executive shall compute the value of the goods by taking the costs of the production of the goods and adding such amount as reasonably represents the profit margin and other costs to the manufacturing level of those goods.

Schedule 5 Acts amended

Section 289(1)

Title of Act	Amendment
1908, No 36—The Customs Law Act 1908 (RS Vol 2, p 273)	By omitting from section 204(2) the words “Collector of Customs”, and substituting the word “Customs”.
1915, No 40—The Cook Islands Act 1915 (Reprinted 1976, Vol 4, p 3119)	By repealing the definition of the term Collector of Customs in section 2(1), and substituting the following definition: Collector of Customs or Collector means any officer appointed as Collector of Customs at any port or in respect of any district and includes the Comptroller of Customs; and also includes the chief officer of Customs at any port or other place, and any proper officer acting for the time being in place of the Collector either generally or in respect

Title of Act	Amendment
<p>1921-22, No 73—The Meat Export Control Act 1921-22 (RS Vol 26, p 537)</p>	<p>of any of his powers or functions, whether during any vacancy in the office of Collector or otherwise</p> <p>By omitting from section 9 the words “Customs Act 1966 and its amendments”, and substituting the words “Customs and Excise Act 1996”.</p> <p>By repealing subsection (3) of section 12, and substituting the following subsection:</p> <p>“(3) Every person other than the Board who, after the passing of this Act, or after such later date as aforesaid, exports any meat from New Zealand shall, on making entry therefore under the Customs and Excise Act 1996 and before such entry has been passed, produce to the Customs sufficient evidence to satisfy the Customs that the contract for the carriage of that meat has been approved by the Board.</p>
<p>1949, No 19—The Forests Act 1949 (RS Vol 23, p 473)</p>	<p>By omitting from section 71C(2) (as inserted by section 4 of the Forests Amendment Act 1993), the words “Comptroller of Customs” and “Comptroller”, and substituting the words “Chief Executive of the New Zealand Customs Service” and “Chief Executive” respectively.</p>

Title of Act	Amendment
<p>1950, No 34—The Harbours Act 1950 (RS Vol 2, p 551)</p>	<p>By repealing from section 2(1) the definition of the term Collector of Customs.</p> <p>By inserting in section 2(1) before the definition of the term Debentures, the following definition: “Customs or the Customs has the meaning given to it by section 2(1) of the Customs and Excise Act 1996</p> <p>By repealing section 109 (as amended by section 15 of the Harbours Amendment Act (No 2) 1988), and substituting the following section: “109 Power for Customs to withhold clearance until dues are paid The Customs may refuse to receive any entry or give any shipping bill, discharge, or clearance, or to take any report inwards or outwards, of any ship liable to dues payable to a Board or port company, until the master of the ship produces to a Customs officer a certificate, under the hand of the collector of those dues, that the dues so payable in respect of the ship have been paid, or, if there is any difference as to the dues payable, until the Customs officer is satisfied that sufficient security has been given for the payment of the dues when ascertained and of the expenses arising from non-payment thereof.</p> <p>By omitting from section 223(1) (as amended by section 42 of the Harbours Amendment Act (No 2) 1988) the words “Collector of Customs of the port”, and substituting the word “Customs”.</p> <p>By omitting from section 228(f) (as amended by section 45 of the Harbours Amendment Act (No 2) 1988) the words “principal officer of Customs”, and substituting the words “Customs officer”.</p>

Title of Act	Amendment
<p>1950, No 65—The Limitation Act 1950 (RS Vol 6, p 845)</p>	<p>By omitting from the proviso to section 32 the words “Customs Acts within the meaning of section 3 of the Customs Act 1966”, and substituting the words “Customs and Excise Act 1996”.</p>
<p>1953, No 66—The Trade Marks Act 1953 (RS Vol 11, p 563)</p>	<p>By repealing the definitions of the terms Collector and Comptroller in section 54A (as inserted by section 21 of the Trade Marks Amendment Act 1994), and substituting the following definition: “Chief Executive has the meaning given to it by section 2(1) of the Customs and Excise Act 1996 By repealing the definition of the term Control of the Customs in section 54A (as so inserted), and substituting the following definition: “Control of the Customs has the meaning given to it by section 20 of the Customs and Excise Act 1996 By repealing the definition of the term Officer of Customs in section 54A (as so inserted), and substituting the following definition: “Customs officer has the meaning given to it in section 2(1) of the Customs and Excise Act 1996 By repealing section 54B (as inserted by section 21 of the Trade Marks Amendment Act 1994), and substituting the following section: “54B Notice may be given to Chief Executive “(1) A person who is the proprietor of a registered trade mark may give a notice in writing to the Chief Executive— “(a) Claiming that he or she is the proprietor of a trade mark that is registered in respect of the goods specified in the notice; and “(b) Requesting the Chief Executive to detain any goods, upon or in physical re-</p>

Title of Act	Amendment
	<p>lation to which an infringing sign is used, that are or at any time come into the control of the Customs.</p> <p>“(2) A notice under subsection (1) of this section shall—</p> <p>“(a) Contain such particulars in support of the request as may be prescribed in regulations made under this Act; and</p> <p>“(b) Specify the period for which the notice is to be in force, which period shall be—</p> <p>“(i) Not longer than 5 years from the date of the notice; or</p> <p>“(ii) If the registration of the trade mark to which the notice relates will expire within the period of 5 years from the date of the notice, not longer than the period for which the current registration will last.</p> <p>“(3) The Chief Executive shall, in relation to any notice given under subsection (1) of this section,—</p> <p>“(a) Accept the notice if the claimant and the notice given by the claimant comply with the requirements of this section and any regulations made under this Act:</p> <p>“(b) Decline the notice if the claimant or the notice given by the claimant does not comply with the requirements of this section and any regulations made under this Act,—</p> <p>and shall, within a reasonable period of receiving the notice, advise the claimant whether the notice has been accepted or declined.</p>

Title of Act	Amendment
	<p>“(4) A notice accepted under subsection (3)(a) of this section remains in force for the period specified in the notice unless—</p> <p>“(a) It is revoked by the claimant by notice in writing; or</p> <p>“(b) The Court orders, in proceedings under section 54G of this Act, that the notice be discharged.</p> <p>“(5) Nothing in this section applies in relation to any infringing sign that has been applied to goods in an overseas country by or with the licence of the proprietor of the registered trade mark to which the infringing sign relates.</p> <p>“(6) Subject to any agreement subsisting between a registered user of a registered trade mark and the proprietor of that trade mark, a registered user shall be entitled to call upon the proprietor to give notice under subsection (1) of this section in relation to that trade mark and, if the proprietor refuses or neglects to do so within 2 months of being so called upon, the registered user may give notice under that subsection as if he or she were the proprietor.</p> <p>By omitting from section 54C (as so inserted) the words “A Collector” and “the Collector” wherever they occur, and substituting in each case the words “the Chief Executive”.</p> <p>By omitting from section 54D (as so inserted) the words “A Collector” and “the Collector” wherever they occur, and substituting in each case the words “the Chief Executive”.</p> <p>By repealing subsection (1) of section 54E (as so inserted), and substituting the following subsection:</p> <p>“(1) Where the Chief Executive makes a determination under section 54C(3) of this Act,</p>

Title of Act	Amendment
	<p>the Chief Executive shall cause written notice of the determination to be served on—</p> <p>“(a) The claimant; and</p> <p>“(b) Any other person appearing to the Chief Executive to have an interest in the goods—</p> <p>within such period as may reasonably be necessary to effect service.</p> <p>By repealing section 54F (as so inserted), and substituting the following section:</p> <p>“54F Detention of goods bearing infringing sign</p> <p>“(1) Where the Chief Executive has formed an opinion that any goods that have been imported and that are in the control of the Customs may be goods to which a notice accepted under section 54B(3)(a) of this Act relates, those goods shall be detained in the custody of the Chief Executive or any Customs officer until—</p> <p>“(a) The Chief Executive is served with an order made in proceedings under section 54G(1) of this Act that the notice be discharged; or</p> <p>“(b) The Chief Executive is served with an order made in proceedings under section 54G(2) of this Act that the goods be released; or</p> <p>“(c) Any proceedings under section 54G(3) of this Act in respect of those goods (including any appeal) are determined by a decision that the goods are not goods upon or in physical relation to which an infringing sign is used that have been imported other than for private and domestic use; or</p>

Title of Act	Amendment
	<p>“(d) Any proceedings under section 54G(3) of this Act in respect of those goods, including any appeal, are abandoned; or</p> <p>“(e) Ten working days have elapsed since notice was served under section 54E of this Act and the Chief Executive has not been served with notice of proceedings brought under section 54G(3) of this Act by a person other than the importer or consignee;— whereupon the goods shall, subject to subsection (3) of this section, be released to the person entitled to them.</p> <p>“(2) The Chief Executive may, in any particular case, extend the period referred to in subsection (1)(e) of this section to 20 working days if he or she considers it appropriate to do so in all the circumstances.</p> <p>“(3) The Chief Executive or any Customs officer shall not release any goods under subsection (1) of this section unless—</p> <p>“(a) Any other legal requirements as to importation of the goods are satisfied; and</p> <p>“(b) Any requirements made pursuant to any regulations under this Act requiring the deposit of a security have been satisfied; and</p> <p>“(c) The release of the goods is not otherwise contrary to law.</p> <p>By omitting from subsection (4) of section 54G (as so inserted) the words “Comptroller or any Collector”, and substituting the words “Chief Executive”.</p> <p>By repealing section 54H (as so inserted), and substituting the following section:</p>

Title of Act	Amendment
	<p>“54H Forfeiture of goods by consent</p> <p>Where any goods have been detained in the custody of the Chief Executive or any Customs officer, the importer or consignee of the goods may, by notice in writing to the Chief Executive, consent to the goods being forfeited to the Crown and, on the giving of any such notice, the goods shall be forfeited to the Crown.</p> <p>By omitting from subsection (1) of section 54J (as so inserted) the words “Comptroller or a Collector or officer of Customs”, and substituting the words “Chief Executive or a Customs officer”.</p> <p>By repealing subsection (2) of section 54J, and substituting the following subsection:</p> <p>“(2) A person referred to in subsection (1) of this section may—</p> <p>“(a) Inspect the goods during normal office hours; or</p> <p>“(b) With the approval of the Chief Executive or Customs officer, remove the goods or a sample thereof to such place, for such period, and on such conditions as the Chief Executive or Customs officer may specify, for the purpose of inspecting them.</p> <p>By omitting from subsection (3) of section 54J the words “Comptroller or Collector or officer of Customs”, and substituting the words “Chief Executive or Customs officer”.</p> <p>By repealing section 54K (as so inserted), and substituting the following section:</p> <p>“54K Delegation of powers, duties, and functions</p> <p>“(1) With the written consent of the Minister of Customs, the Chief Executive may from time to time, either generally or particularly,</p>

Title of Act	Amendment
	<p>by writing under his or her hand, delegate to any Customs officer all or any of the powers, duties, and functions conferred or imposed on, the Chief Executive by or under this Act.</p> <p>“(2) No delegation under subsection (1) of this section shall include the power to delegate under that subsection.</p> <p>“(3) Subject to any general or special directions given or conditions imposed from time to time by the Minister of Customs or the Chief Executive, as the case may be, the officer to whom any powers are so delegated may exercise those powers in the same manner and with the same effect as if they had been conferred on him or her directly by this Act and not by delegation.</p> <p>“(4) Every Customs officer purporting to act pursuant to any delegation under this section shall, in the absence of proof to the contrary, be presumed to be acting in accordance with the terms of the delegation.</p> <p>“(5) Any delegation under this section may be made to any specified person or to the holder or holders for the time being of any specified office or class of offices.</p> <p>“(6) Every such delegation, shall be revocable at will, and no such delegation shall prevent the exercise of any power by the Chief Executive.</p> <p>“(7) Any such delegation shall, until revoked, continue in force according to its tenor, notwithstanding the fact that the Chief Executive by whom it was made has ceased to hold office, and shall continue to have effect as if made by the successor in office of the Chief Executive.</p>

Title of Act	Amendment
	<p>By omitting from section 54L (as so inserted) the words “Comptroller nor any Collector nor any officer of Customs”, and substituting the words “Chief Executive nor any Customs officer”.</p> <p>By omitting from section 54L the words “Comptroller or any Collector or any officer of Customs”, and substituting the words “Chief Executive or any Customs officer”.</p> <p>By omitting from paragraph (d) of section 54M (as so inserted) the word “Comptroller”, and substituting the words “Chief Executive”.</p>
<p>1955, No 63—The Companies Act 1955 (RS Vol 15, p 89)</p>	<p>By repealing clause 5(e) of Schedule 8C (as substituted by section 3(1) of the Customs Amendment Act 1995), and substituting the following paragraph:</p> <p>“(e) Duty payable by the company within the meaning of section 2(1) of the Customs and Excise Act 1996—</p> <p>By omitting from clause 5 of Schedule 8C the words “Collector of Customs”, and substituting the word “Customs”.</p>
<p>1957, No 19—The Explosives Act 1957 (RS Vol 6, p 361)</p>	<p>By inserting in section 2, before the definition of the term Detonator, the following definition:</p> <p>“Customs or the Customs has the meaning given to it by section 2(1) of the Customs and Excise Act 1996</p> <p>By omitting from section 3(3) the words “any port of entry established under the Customs Act 1966”, and substituting the words “any Customs port designated under section 9 of the Customs and Excise Act 1996”.</p>

Title of Act	Amendment
<p>1957, No 87—The Summary Proceedings Act 1957 (RS Vol 9, p 583)</p>	<p>By omitting from section 12(3) the words “Minister of Customs, and shall remain under his control”, and substituting the words “Customs, and shall remain under its control”.</p> <p>By omitting from section 12(4) the words “Minister of Customs”, and substituting the word “Customs”.</p> <p>By omitting from section 13(2) the words “Minister of Customs”, and substituting the word “Customs”.</p> <p>By omitting from Part 2 of Schedule 1 the item relating to the Customs Act 1966, and substituting the following item:</p> <p style="padding-left: 40px;">182 Unauthorised access to or improper use of Customs computerised entry processing system</p> <p>“Customs and Excise Act 1996</p> <p style="padding-left: 40px;">183 Interference with Customs computerised entry processing system.</p> <p style="padding-left: 40px;">205 Offences in relation to records”.</p>

Title of Act	Amendment
1961, No 15—The Cook Islands Amendment Act 1961 (1976, Vol 4, p 3313)	By repealing section 6.
1966, No 38—The Niue Act 1966 (1976, Vol 5, p 4005)	By repealing section 624 and section 658(1)(a).
1967, No 51—The Animal Remedies Act 1967 (RS Vol 21, p 11)	By omitting from section 66 the words “Customs Act 1966”, and substituting the words “Customs and Excise Act 1996”.
1967, No 54—The Insolvency Act 1967 (RS Vol 18, p 289)	By repealing subparagraph (iv) of section 104(1)(e) (as added by section 3(2) of the Customs Amendment Act 1995), and substituting the following subparagraph: “(iv) Duty payable within the meaning of section 2(1) of the Customs and Excise Act 1996:

Title of Act	Amendment
<p>1974, No 26—The Dangerous Goods Act 1974 (RS Vol 24, p 241)</p>	<p>By omitting from section 42 the words “Collector of Customs”, and substituting the word “Customs”.</p>
<p>1975, No 9—The Ombudsmen Act 1975 (RS Vol 21, p 657)</p>	<p>By omitting from Schedule 1 the item “The Customs Department”, and substituting the item “The New Zealand Customs Service”.</p>
<p>1975, No 41—The Antiquities Act 1975 (RS Vol 26, p 31)</p>	<p>By repealing section 10, and substituting the following section:</p> <p>“10 Application of Customs and Excise Act 1996</p> <p>“(1) Subject to the provisions of this Act, any antiquity exported or attempted to be exported in breach of this Act shall be forfeited to the Crown and the provisions of the Customs and Excise Act 1996 (other than section 235) relating to forfeited goods shall apply to any such article in the same manner as they apply to goods forfeited under the Customs and Excise Act 1996.</p> <p>“(2) Where any antiquity is condemned as forfeited to the Crown pursuant to this section, it shall be delivered to the Minister and retained in safe custody in accordance with the Minister’s directions:</p> <p>“Provided that the Minister may, at his or her discretion, direct that the antiquity be returned to the person who was the owner</p>

Title of Act	Amendment
<p>1975, No 116—The Misuse of Drugs Act 1975 (RS Vol 26, p 567)</p>	<p>of the antiquity immediately before forfeiture subject to such conditions (if any) as the Minister may think fit to impose.</p> <p>By repealing section 36, and substituting the following section:</p> <p>“36 Application of Customs and Excise Act 1996 Sections 137, 139, 140, 143-145, 148, 149, 151, 152, 161, 165-172, 225, and 226 of the Customs and Excise Act 1996 shall apply in relation to the importation and exportation of controlled drugs, except controlled drugs specified or described in Part IV, Part V, or Part VI of the Third Schedule to this Act, as if such controlled drugs were prohibited imports or exports within the meaning of that Act.</p>
<p>1976, No 143—The Alcoholic Liquor Advisory Council Act 1976</p>	<p>By omitting from section 2(1) the definition of the term Collector of Customs or Collector.</p> <p>By inserting in section 2(1) after the definition of the term Council, the following definition: “Customs or the Customs has the meaning given to it by section 2(1) of the Customs and Excise Act 1996</p> <p>By omitting from subsections (2) and (3) of section 28 (as substituted by section 9(1) of the Alcoholic Liquor Advisory Council Amendment Act 1989) the words “any of the Customs Acts”, and substituting in each case the words “the Customs and Excise Act 1996”.</p> <p>By repealing section 28(4) (as so substituted), and substituting the following subsection:</p>

Title of Act	Amendment
	<p>“(4) In this section the term Customs duty has the meaning given to the term duty by section 2(1) of the Customs and Excise Act 1996</p> <p>By repealing section 29A (as substituted by section 29(1) of the Customs Amendment Act 1986), and substituting the following section:</p> <p>“29A Payment and collection of levies in respect of beer and spirits</p> <p>“(1) All levies payable under this Act in respect of any beer and spirits shall be payable to the Customs in addition to any duty payable to the Customs in respect of the beer or spirits under the Customs and Excise Act 1996.</p> <p>“(2) For the purposes of subsection (1) of this section, all amounts payable by way of levies on any beer or spirits shall be payable to the Customs at the same time as the excise duty is payable in respect of the beer or, as the case may be, the spirits under the Customs and Excise Act 1996.</p> <p>By omitting from paragraph (c) of subsection (1) of section 31 (as substituted by section 230(1) of the Sale of Liquor Act 1989) the words “Collector of Customs” in both places where it occurs, and substituting in each case the word “Customs”.</p> <p>By repealing paragraph (c) of section 31(2) (as so substituted), and substituting the following paragraph:</p> <p>“(c) All amounts payable by way of levies on any wine imported into New Zealand shall be payable to the Customs at the same time as the excise duty is payable in respect of the wine under the Customs and Excise Act 1996.</p> <p>By repealing subsection (4) of section 31 (as so substituted).</p>

Title of Act	Amendment
<p>1977, No 92—The Wool Industry Act 1977 (RS Vol 24, p 861)</p>	<p>By repealing section 32 (as amended by section 12 of the Alcoholic Liquor Advisory Council Amendment Act 1978), and substituting the following section:</p> <p>“32 Powers of the Customs The powers and authorities of the Customs under the Customs and Excise Act 1996 shall, with any necessary modifications, apply in the same manner to the collection of a levy under this Act as they apply to the collection of duty under that Act.</p> <p>By omitting from sections 33 and 34(1) (as amended by section 230(1) of the Sale of Liquor Act 1989) the words “Collector of Customs” and also the word “Collector”, and substituting in each case the word “Customs”.</p> <p>By omitting from section 34(3) (as amended by section 13(1) of the Alcoholic Liquor Advisory Council Amendment Act 1978) the words “Collector of Customs”, and substituting the word “Customs”.</p> <p>By repealing section 19(3), and substituting the following subsection:</p> <p>“(3) Every person other than the Board who exports any wool from New Zealand shall, on making entry of that wool under the Customs and Excise Act 1996, and before the entry has been passed, produce to a Customs officer sufficient evidence to satisfy the officer that the carriage of that wool is in conformity with conditions (if any) prescribed or approved by the Board.</p>

Title of Act	Amendment
<p>1978, No 7—The Alcoholic Liquor Advisory Council Amendment Act 1978</p>	<p>By repealing section 12.</p>
<p>1978, No 65—The Misuse of Drugs Amendment Act 1978 (RS Vol 26, p 618)</p>	<p>By repealing the definition of the term Proper officer of Customs in section 10(1).</p> <p>By repealing section 10(3), and substituting the following subsection:</p> <p>“(3) For the purposes of sections 12 and 13 of this Act,—</p> <p> “Craft, goods, package, and vehicle have the same meanings as in section 2(1) of the Customs and Excise Act 1996</p> <p> “Postal article has the meaning given to that term for the purposes of section 276(2) of the Customs and Excise Act 1996.</p> <p>By omitting from section 11 the words “Customs Act 1966”, and substituting the words “Customs and Excise Act 1996”.</p> <p>By repealing section 12, and substituting the following section:</p> <p>“12 Allowing delivery of unlawfully imported drugs for purpose of detection, etc</p> <p>“(1) Where any Customs officer acting in the course of his or her official duties believes on reasonable grounds that there is in or on any craft, package, postal article, vehicle, or goods any controlled drug that has been imported into New Zealand in contravention of section 6(1)(a) of the principal Act, he or she may, for the purpose of his or her inves-</p>

Title of Act	Amendment
	<p> tigation of the matter, leave or replace that drug, or any portion of it, in or on the craft, package, postal article, vehicle, or goods and may, in the same manner as if there had been delivery from Customs control,— </p> <p> “(a) Allow the craft or vehicle to leave; or “(b) Allow the package or goods to be collected by or delivered to or on behalf of the consignee; or “(c) Return the postal article to New Zealand Post Limited for delivery to the addressee,— </p> <p> as the case may require. </p> <p> “(2) No Customs officer who exercises any power conferred by subsection (1) of this section, and no officer or employee of New Zealand Post Limited who, in the course of his or her duties, does any thing in respect of any postal article returned to New Zealand Post Limited in accordance with that subsection (whether or not he or she knows that the postal article contains a controlled drug), shall be under any criminal or civil liability in respect thereof. </p> <p> By repealing subsections (1) and (2) of section 13, and substituting the following subsections: </p> <p> “(1) Where any member of the Police or a Customs officer believes on reasonable grounds that— </p> <p> “(a) A drug dealing offence has been or is being or is about to be committed; and “(b) The drug is in or on any craft, package, vehicle, or goods, or any person involved or suspected to be involved in the offence is in or on any craft or vehicle,— </p>

Title of Act	Amendment
	<p>he or she may, for the purpose of his or her investigation of the matter, place a tracking device in or on that craft, package, vehicle, or goods.</p> <p>“(2) The power conferred by subsection (1) of this section may be exercised in respect of any postal article that any Customs officer intends to return to New Zealand Post Limited pursuant to section 12(1)(c) of this Act, but shall not be exercisable in respect of any other postal article.</p> <p>By omitting from section 13(3) the words “proper officer of Customs”, and substituting the words “the Customs officer”.</p> <p>By omitting from section 13(4) the words “Comptroller of Customs”, and substituting the words “Chief Executive of the New Zealand Customs Service”.</p> <p>By omitting from paragraph (c) of section 13B (as inserted by section 2 of the Misuse of Drugs Amendment Act 1985), the words “Comptroller of Customs”, and substituting the words “Chief Executive of the New Zealand Customs Service”.</p> <p>By omitting from paragraph (a) of section 13C(1) (as so inserted) the words “Comptroller of Customs”, and substituting the words “Chief Executive of the New Zealand Customs Service”.</p> <p>By repealing section 13M (as so inserted), and substituting the following section:</p> <p>“13M Commissioner of Police and Chief Executive of New Zealand Customs Service to report to Parliament</p> <p>The Commissioner of Police shall include in every annual report prepared by the Commissioner for the purposes of section 65 of the Police Act 1958, and the Chief Executive of the New Zealand Customs Service shall</p>

Title of Act	Amendment
	<p>include in every annual report prepared by the Chief Executive for submission to Parliament, the following information in respect of the period under review:</p> <p>“(a) The number of applications for detention warrants made under section 13E of this Act by any member of the Police or (as the case may require) any officer of Customs:</p> <p>“(b) The number of applications for renewals of detention warrants made under section 13I of this Act by any member of the Police or (as the case may require) any officer of Customs:</p> <p>“(c) The number of such applications referred to in each of the preceding paragraphs of this section that were granted and the number that were refused:</p> <p>“(d) The average duration of the detention warrants (including renewals) granted on applications by members of the Police or (as the case may require) officers of Customs:</p> <p>“(e) The number of prosecutions that have been instituted in which has been adduced evidence obtained directly during the detention of any persons pursuant to detention warrants granted on applications by members of the Police or (as the case may require) officers of Customs, and the results of those prosecutions.</p> <p>By omitting from section 16(1)(c) the word “proper”.</p> <p>By omitting from section 16(1)(d) the words “aircraft, ship, hovercraft,”, and substituting the word “craft,”.</p>

Title of Act	Amendment
1978, No 80—The Marine Mammals Protection Act 1978	By omitting from section 4(3) the words “section 48 or section 70 of the Customs Act 1966”, and substituting the words “section 54 or section 56 of the Customs and Excise Act 1996.”
1978, No 81—The Heavy Engineering Research Levy Act 1978	<p>By omitting from section 2 the definition of the term Collector of Customs.</p> <p>By inserting in section 2, before the definition of the term Fabricate, the following definition: “Customs or the Customs has the meaning given to it by section 2(1) of the Customs and Excise Act 1996</p> <p>By omitting from the definition of the term Importer in section 2 the words “Customs Act 1966”, and substituting the words “Customs and Excise Act 1996”.</p> <p>By inserting in section 2, after the definition of the term Research levy, the following definition: “Tariff has the meaning given to it by section 2(1) of the Tariff Act 1988</p> <p>By omitting from section 4(1) (as amended by section 3(1) of the Heavy Engineering Research Levy Amendment Act 1986) the words “Customs Tariff” in both places where they are found, and substituting in each case the word “Tariff”.</p> <p>By omitting from section 4(4) (as amended by section 3(2) of the Heavy Engineering Research Levy Amendment Act 1986) the words “Customs Tariff” in both places where they are found, and substituting in each case the word “Tariff”.</p> <p>By repealing section 6(3) (as substituted by section 29(4) of the Customs Amendment Act 1986), and substituting the following subsection:</p>

Title of Act	Amendment
	<p data-bbox="579 526 1203 770">“(3) Research levies imposed on any levied item imported into New Zealand shall be payable on demand by the Customs in addition to duties (if any) payable to the Customs under any other enactment, and shall be payable as if the levies were duty under the Customs and Excise Act 1996.</p> <p data-bbox="579 779 1203 880">By omitting from section 7(3)(b) the words “Customs Act 1966”, and substituting the words “Customs and Excise Act 1996”.</p> <p data-bbox="579 889 1203 954">By repealing section 8, and substituting the following section:</p> <p data-bbox="579 963 914 994">“8 Powers of Customs</p> <p data-bbox="579 1003 1203 1205">“(1) The powers and authorities of the Customs under the Customs and Excise Act 1996 shall, with all necessary modifications, apply in the same manner to the collection of a research levy under this Act as they apply to the collection of duty under that Act.</p> <p data-bbox="579 1214 1203 1460">“(2) Without limiting subsection (1) of this section and notwithstanding section 6(1) of this Act, sections 86 and 96 to 101 of the Customs and Excise Act 1996 shall apply in respect of any research levy required to be collected by the Customs as if it were duty to be collected under that Act</p> <p data-bbox="579 1469 1203 1570">By omitting from section 9 the words “Collector of Customs” and the word “Collector”, and substituting in each case the word “Customs”.</p> <p data-bbox="579 1579 1203 1680">By omitting from section 10 the words “Collector of Customs” and the word “Collector”, and substituting in each case the word “Customs”.</p> <p data-bbox="579 1688 1203 1789">By omitting from section 11(1) the words “Collector of Customs” wherever they occur, and substituting in each case the word “Customs”.</p> <p data-bbox="579 1798 1203 1859">By omitting from the headings to Column 1 and Column 2 of Schedule 2 (as substituted by sec-</p>

Title of Act	Amendment
<p>1979, No 27—The Toxic Substances Act 1979</p>	<p>tion 2(1) of the Heavy Engineering Research Levy Amendment Act 1987) the words “Customs Tariff” and substituting in each case the word “Tariff”.</p> <p>By omitting from the headings to Column 1 and Column 2 of Schedule 3 (as substituted by section 3(1) of the Heavy Engineering Research Levy Amendment Act 1987) the words “Customs Tariff” and substituting in each case the word “Tariff”.</p> <p>By omitting from section 2(1) the definition of the term Collector of Customs.</p> <p>By inserting in section 2(1) after the definition of the term Container, the following definition: “Customs or the Customs has the meaning giving to it by section 2(1) of the Customs and Excise Act 1996</p> <p>By omitting from section 2(4) the words “Customs Act 1966”, and substituting the words “Customs and Excise Act 1996”.</p> <p>By omitting from paragraph (c) of section 44(1) the words “Customs Act 1966”, and substituting the words “Customs and Excise Act 1996”.</p> <p>By omitting from section 47(1) (as amended by section 92(1) of the Building Act 1991) the words “Customs Act 1966”, and substituting the words “Customs and Excise Act 1996”.</p> <p>By omitting from section 47(4) the words “section 45 of the Customs Act 1966”, and substituting the words “section 26 of the Customs and Excise Act 1996”.</p> <p>By omitting from section 49(8) the words “Customs Act 1966”, and substituting the words “Customs and Excise Act 1996”.</p> <p>By omitting from section 57(1)(d)(ii) the words “Customs Act 1966”, and substituting the words “Customs and Excise Act 1996”.</p>

Title of Act	Amendment
1981, No 45—The Food Act 1981	<p>By omitting from section 57(2) the words “Collector of Customs”, and substituting the word “Customs”.</p> <p>By repealing section 79, and substituting the following section:</p> <p>“79 Examination of customs entries For the purposes of this Act, every officer shall have the right at all times, subject to the convenience of the Customs, to inspect any Customs entry relating to any goods imported or proposed to be imported into New Zealand, or to inspect any certificate or invoice relating to those goods, if and so long as any such document is in the possession or control of the Customs.</p> <p>By inserting in section 2, before the definition of the term Description, the following definition: “Customs or the Customs has the meaning given to it by section 2(1) of the Customs and Excise Act 1996</p> <p>By omitting from the definition of the term Importer in section 2, the words “Customs Act 1966”, and substituting the words “Customs and Excise Act 1996”.</p> <p>By omitting the definition of the term Port in section 2, and substituting the following definition: “Port means either a Customs port or a Customs airport designated as such under section 9 of the Customs and Excise Act 1996</p> <p>By omitting from section 24(1)(b) the words “Collector of Customs”, and substituting the word “Customs”.</p> <p>By omitting from section 24(1)(g) the words “Customs Act 1966”, and substituting the words “Customs and Excise Act 1996”.</p>

Title of Act	Amendment
	<p>By omitting from section 24(2) the words “Collector of Customs”, and substituting the word “Customs”.</p> <p>By omitting from section 24(4) the words “Customs Act 1966”, and substituting the words “Customs and Excise Act 1996”.</p> <p>By omitting from section 38 the words “Collector or other responsible officer of Customs” and “Collector or other responsible officer”, and substituting in each case the word “Customs”.</p>
<p>1981, No 47—The Flags, Emblems, and Names Protection Act 1981</p>	<p>By omitting from section 7 the words “section 11 of the Customs Act 1966”, and substituting the words “section 8 of the Customs and Excise Act 1996”.</p>
<p>1981, No 118—The Medicines Act 1981</p>	<p>By inserting in section 2, before the definition of the term Decision, the following definition: “Customs or the Customs has the meaning given to it by section 2(1) of the Customs and Excise Act 1996</p> <p>By omitting from the definition of the term Importer in section 2 the words “Customs Act 1966”, and substituting the words “Customs and Excise Act 1996”.</p> <p>By omitting from section 65(10) the words “Customs Act 1966”, and substituting the words “Customs and Excise Act 1996”.</p> <p>By omitting from section 72(1)(b) the words “Collector of Customs”, and substituting the word “Customs”.</p>

Title of Act	Amendment
<p>1981, No 125—The Wine Makers Act 1981</p>	<p>By omitting from section 72(1)(g) the words “Customs Act 1966”, and substituting the words “Customs and Excise Act 1996”.</p> <p>By omitting from section 72(2) the words “Collector of Customs”, and substituting the word “Customs”.</p> <p>By omitting from section 72(4) the words “Customs Act 1966”, and substituting the words “Customs and Excise Act 1996”.</p> <p>By omitting from section 101 the words “Collector or other responsible officer of Customs” in both places where they occur, and substituting in each case the word “Customs”.</p> <p>By repealing paragraph (d) of section 15(1), and substituting the following paragraph: “(d) The Customs and Excise Act 1996; or By repealing section 26, and substituting the following section: “26 Enforcement of prohibition against export of uncertificated New Zealand wine “(1) All the provisions of the Customs and Excise Act 1996 with respect to prohibited goods shall extend and apply with respect to wine the exportation of which is prohibited by section 25 of this Act in all respects as if the exportation of the wine were prohibited under section 56 of the Customs and Excise Act 1996. “(2) Nothing in section 25 of this Act shall limit or affect the operation of the Customs and Excise Act 1996.</p>

Title of Act	Amendment
<p>1985, No 141—The Goods and Services Tax Act 1985 (RS Vol 27, p 425)</p>	<p>By repealing section 1(3) (as amended by section 2 of the Goods and Services Tax Amendment Act 1993), and substituting the following subsection: “(3) Section 12 of this Act shall be deemed to be part of the Customs and Excise Act 1996</p> <p>By repealing paragraph (b) of the definition of input tax, and substituting the following paragraph: “(b) Tax levied under section 12(1) of this Act on goods entered for home consumption under the Customs and Excise Act 1996 by that person:</p> <p>By omitting from paragraphs (a), (aa), (ac) and (ad) of section 11(1) the words “Customs Act 1966” wherever they occur, and substituting in each case the words “Customs and Excise Act 1996”.</p> <p>By repealing paragraph (ae) of section 11(1), and substituting the following paragraph: “(ae) Subject to subsection (1D) of this section, the goods are supplied by a supplier licensed, pursuant to section 12 of the Customs and Excise Act 1996, and—</p> <p>“(i) The supplier has been licensed by the Chief Executive of the New Zealand Customs Service to operate a sealed bag system; and</p> <p>“(ii) The goods are supplied in accordance with the sealed bag system; and</p> <p>“(iii) The goods are entered, or are deemed to be entered, for export pursuant to the Customs and Excise Act 1996; or</p> <p>By omitting from paragraph (b) of section 11(1) (as substituted by section 3(1) of the Goods and Services Tax Amendment Act 1994) the words “Customs Act 1966”, and substituting the words “Customs and Excise Act 1996”.</p>

Title of Act	Amendment
	<p>By omitting from section 11(1A) the definition of the term Comptroller.</p> <p>By omitting from paragraphs (b) and (c) of the definition of Sealed bag system in section 11(1A) the word “Comptroller”, and substituting in each case the words “Chief Executive of the New Zealand Customs Service”.</p> <p>By omitting from section 11(1D) the word “Comptroller”, and substituting the words “Chief Executive of the New Zealand Customs Service”.</p> <p>By repealing paragraph (ca) of section 11(2) (as substituted by section 4(1) of the Goods and Services Tax Amendment Act 1992), and substituting the following paragraph:</p> <p>“(ca) The services—</p> <p style="padding-left: 2em;">“(i) Are provided in relation to—</p> <p style="padding-left: 4em;">“(A) Goods supplied from outside New Zealand and whose destination is outside New Zealand, including stores for craft, provided that those goods are not removed from the ship or aircraft in which they arrived while the ship or aircraft is within New Zealand; or</p> <p style="padding-left: 4em;">“(B) Goods referred to in section 116 of the Customs and Excise Act 1996; and</p> <p style="padding-left: 2em;">“(ii) Are supplied to a person who is not resident in New Zealand at the time the services are performed; or</p> <p>By repealing section 12, and substituting the following section:</p> <p>“12 Imposition of goods and services tax on imports</p> <p>“(1) Notwithstanding anything in this Act, a tax to be known as goods and services tax shall</p>

Title of Act	Amendment
	<p>be levied, collected, and paid in accordance with the provisions of this section at the rate of 12.5 percent on the importation of goods (not being fine metal) into New Zealand, being goods that are—</p> <p>“(a) Entered therein, or delivered, for home consumption under the Customs and Excise Act 1996; or</p> <p>“(b) Entered for delivery to a manufacturing area licensed under section 12 of the Customs and Excise Act 1996; or</p> <p>“(c) Before their entry, or delivery, for home consumption or, as the case may be, entry for delivery to a manufacturing area licensed under section 12 of the Customs and Excise Act 1996, dealt with in breach of any provision of the Customs and Excise Act 1996,—</p> <p>by reference to the value of the goods as determined under subsection (2) of this section.</p> <p>“(2) For the purposes of subsection (1) of this section, the value of goods imported into New Zealand shall be the sum of the following amounts (excluding any tax charged under this Act):</p> <p>“(a) The amount of the value of the goods determined in accordance with the Second Schedule to the Customs and Excise Act 1996 (whether or not duty is payable under that Act); and</p> <p>“(b) The amounts of duty (if any) and tax (if any) payable on those goods under the Customs and Excise Act 1996, but not including any tax levied or charged under this Act; and</p>

Title of Act	Amendment
	<p data-bbox="660 528 1206 703">“(c) The amount paid or payable to transport the goods to New Zealand and to insure the goods for such transport, if not already included under paragraph (a) of this subsection.</p> <p data-bbox="580 712 1206 846">“(3) Subject to this section, tax levied under subsection (1) of this section shall be collected and paid in accordance with the Customs and Excise Act 1996.</p> <p data-bbox="580 855 1206 990">“(4) The following provisions shall apply to the collection, payment, and enforcement of goods and services tax levied under subsection (1) of this section:</p> <p data-bbox="660 999 1206 1281">“(a) Sections 2 and 3, Parts I and II, Part III (except for section 38), Part IV, Part V, Part VI, Part VII (except for section 81), Part VIII (except for sections 106, 107, 108, 110, 112, 113, 114), Parts X, XI, XII, XIII, XIV, XV, XVI, and XVII of the Customs and Excise Act 1996; and</p> <p data-bbox="660 1290 1206 1357">“(b) Section 109 of the Customs and Excise Act 1996:</p> <p data-bbox="740 1366 1206 1608">“Provided that this paragraph shall apply only in respect of goods that are imported by the same person as the person who exported them from New Zealand if, at the time of their export from New Zealand, those goods were not—</p> <p data-bbox="740 1617 1206 1751">“(i) A supply of goods charged with tax at the rate of zero percent pursuant to section 11 of this Act; or</p> <p data-bbox="740 1760 1206 1863">“(ii) A supply of goods, made before the 1st day of October 1986, that would have been</p>

Title of Act	Amendment
	<p>charged with tax at the rate of zero percent pursuant to section 11 of this Act if the supply of those goods had taken place on the 1st day of October 1986; and</p> <p>“(c) Sections 112, 113, 114, 116, and 117 of the Customs and Excise Act 1996: “Provided that this paragraph shall not apply to any registered person in respect of goods imported for the purpose of carrying on that person’s taxable activity; and</p> <p>“(d) Section 119 of the Customs and Excise Act 1996, where—</p> <p>“(i) The specifications of the imported goods are not in accordance with the specifications of the goods ordered, or the imported goods are faulty; and</p> <p>“(ii) The recipient is either not a registered person, or is a registered person but does not qualify for an input tax credit in relation to the imported goods; and</p> <p>“(iii) The person who imported the goods exports the goods—</p> <p>“(A) In the case of goods with the wrong specifications, within 2 months after their importation, or such longer period not exceeding 12 months after their importation as may be approved by the Customs; or</p>

Title of Act	Amendment
	<p data-bbox="820 528 1203 667">“(B) In the case of faulty goods, within 12 months after their importation; and</p> <p data-bbox="660 674 1203 880">“(e) Where the goods are entitled to be entered under any of the following concession reference numbers of Part II of the First Schedule to the Tariff Act 1988: 40, 45, 70, 75, 80, 81, and 82; and</p> <p data-bbox="660 887 1203 1238">“(f) Where the goods are entitled to be entered duty free under Part I of the First Schedule to the Tariff Act 1988, but would have been entitled to be entered under any of the concession reference numbers specified in paragraph (e) of this subsection if those goods had been dutiable under Part I of the First Schedule to the Tariff Act 1988.</p> <p data-bbox="580 1245 1203 1420">“(5) No liability to goods and services tax shall arise under any provision of the Customs and Excise Act 1996 by virtue of the operation of subsection (3) or subsection (4) of this section.</p> <p data-bbox="580 1426 1203 1715">“(6) For the purposes of this section— “(a) The terms fine metal, New Zealand person, and registered person have the same meanings as defined in section 2 of this Act: “(b) The term taxable activity has the same meaning as defined in section 6 of this Act.</p> <p data-bbox="580 1722 1203 1823">By repealing section 13. By omitting from paragraphs (a)(ii) and (b)(ii) of section 20(3) the words “or section 13”.</p>

Title of Act	Amendment
	<p>By omitting from section 22 the words “or section 13(1)” in both places where they occur.</p> <p>By omitting from section 79(1)(b) the words “the Comptroller of Customs”, and substituting the words “The Chief Executive of the New Zealand Customs Service”.</p>
<p>1986, No 43—The Goods and Services Tax Amendment Act 1986</p>	<p>By repealing section 10(4) and section 11.</p>
<p>1986, No 121—The Fair Trading Act 1986</p>	<p>By omitting from section 26(2) the words “section 48 of the Customs Act 1966”, and substituting the words “section 54 of the Customs and Excise Act 1996”.</p> <p>By omitting from section 33 the words “section 48 of the Customs Act 1966”, and substituting the words “section 54 of the Customs and Excise Act 1996”.</p>
<p>1987, No 74—The Immigration Act 1987</p>	<p>By inserting after the definition of Act of terrorism, the following definition: “Arrival hall means a place licensed under section 12 of the Customs and Excise Act 1996 for the processing of persons arriving in New Zealand</p> <p>By omitting from section 2(1) the definition of the term Boarding Station (as substituted by section 7(1) of the Air Facilitation Act 1993).</p> <p>By omitting the definition of the term Customs airport, and substituting the following definition:</p>

Title of Act	Amendment
	<p>“Customs airport means an aerodrome designated as a Customs airport under section 9 of the Customs and Excise Act 1996</p> <p>By omitting the definition of the term Port of entry.</p> <p>By omitting from section 2(1) the definition of the term Customs officer, and substituting the following definitions:</p> <p>“Customs controlled area has the meaning given to it by section 2(1) of the Customs and Excise Act 1996</p> <p>“Customs officer has the meaning given to it by section 2(1) of the Customs and Excise Act 1996</p> <p>“Customs place means a Customs port or Customs airport under section 9 of the Customs and Excise Act 1996</p> <p>“Customs port means a port of entry designated as a Customs port under section 9 of the Customs and Excise Act 1996</p> <p>“Departure hall means a place licensed under section 12 of the Customs and Excise Act 1996 for the processing of persons departing from New Zealand</p> <p>By omitting the definition of the term Examination station (as substituted by section 7(3) of the Air Facilitation Act 1993).</p> <p>By omitting from paragraph (b) of the definition of the term Transit passenger in section 2(1) (as inserted by section 2(8) of the Immigration Amendment Act 1991) the words “boarding station or examination station”, and substituting the words “Customs controlled area”.</p> <p>By omitting from paragraphs (c) and (d) of section 11(1) the words “port of entry” wherever they occur, and substituting the words “Customs place” in each case.</p> <p>By omitting from paragraph (g) of section 11(1) (as inserted by section 203 of the Maritime Transport</p>

Title of Act	Amendment
	<p>Act 1994) the words “port of entry”, and substituting the words “Customs place”.</p> <p>By omitting from section 14E(4) (as inserted by section 8 of the Immigration Amendment Act 1991) the words “the boarding station or examination station”, and substituting the words “a Customs controlled area”.</p> <p>By omitting from paragraph (b)(i) of section 17(1) (as substituted by section 4 of the Immigration Amendment Act 1993) the words “examination station”, and substituting the words “arrival hall”.</p> <p>By omitting from subsections (1) and (2) of section 19 the words “boarding station or examination station” in each place where they occur, and substituting in each case the words “arrival hall”.</p> <p>By omitting from subsection (1) of section 32 the words “boarding station or examination station”, and substituting the words “arrival hall”.</p> <p>By omitting from subsection (2) of section 32 (as amended by section 16 of the Immigration Amendment Act 1991) the words “boarding station or examination station”, and substituting the words “arrival hall”.</p> <p>By omitting from section 35E(5) (as inserted by section 2 of the Immigration Amendment Act 1993) the words “examination station”, and substituting the words “arrival hall”.</p> <p>By omitting from section 35F(1) (as inserted by section 2 of the Immigration Amendment Act 1993) the words “examination station”, and substituting the words “arrival hall”.</p> <p>By omitting from section 125(2)(b) the words “port of entry or Customs airport”, and substituting the words “Customs place”.</p> <p>By omitting from section 125(2)(b)(ii) the words “boarding station or examination station”, and substituting the words “Customs controlled area”.</p>

Title of Act	Amendment
	<p>By repealing section 125(2)(e), and substituting the following paragraph:</p> <p>“(e) Subject to the provisions of section 25 of the Customs and Excise Act 1996, where the craft arrives, or is to arrive, in New Zealand elsewhere than at a Customs place because of weather conditions or other unforeseen circumstances, to make appropriate arrangements for all persons on board the craft to report to an immigration officer at a Customs place within 72 hours after arriving in New Zealand:</p> <p>By omitting from section 126(1)(a) (as amended by section 12 of the Immigration Amendment Act 1993) the words “the port of entry or customs airport”, and substituting the words “the Customs place”.</p> <p>By repealing section 126(1)(c), and substituting the following paragraph:</p> <p>“(c) Subject to the provisions of section 25 of the Customs and Excise Act 1996, where the person arrives in New Zealand elsewhere than at a Customs place, to report to an immigration officer at a Customs place within 72 hours after arriving in New Zealand, and thereafter to comply with the responsibilities specified in paragraphs (a) and (b) of this subsection.</p> <p>By omitting from section 126(2)(a) the words “the port of entry or Customs airport”, and substituting the words “a Customs place”.</p> <p>By omitting from section 126(5)(a) the words “boarding station or examination station”, and substituting the words “arrival hall”.</p> <p>By repealing subsection (1) of section 126A (as inserted by section 8 of the Air Facilitation Act 1993), and substituting the following subsection:</p>

Title of Act	Amendment
	<p>“(1) Where an internationally ticketed passenger is using air travel for a domestic sector, this section shall apply to that passenger from the time at which that passenger enters the departure hall at the commencement of the domestic sector until the time at which the passenger leaves the arrival hall at the end of the domestic sector.</p> <p>By repealing paragraph (a) of section 126A(4) (as so inserted), and substituting the following paragraph:</p> <p>“(a) Shall, if the person is a New Zealand citizen or holds a permit or is exempt under this Act from the requirement to hold a permit, be inspected immediately and returned to that person as soon as the inspection has concluded; or</p> <p>By repealing subsection (1) of section 126B (as inserted by section 13 of the Air Facilitation (Domestic Passengers and Cargo) Act 1994), and substituting the following subsection:</p> <p>“(1) Where any domestic passenger is using air travel for a domestic sector, this section shall apply to that passenger from the time at which that passenger enters the departure hall at the commencement of the domestic sector until the time at which the passenger leaves the arrival hall at the end of the domestic sector.</p> <p>By omitting from section 129(1) (as substituted by section 39 of the Immigration Amendment Act 1991) the words “the boarding station or examination station”, and substituting the words “a Customs controlled area”.</p> <p>By repealing section 133(5)(a), and substituting the following paragraph:</p> <p>“(a) In the case of a Customs officer exercising the powers of an immigration officer, the</p>

Title of Act	Amendment
	<p>officer produces his or her identity card or other means of identification as provided for in section 7 of the Customs and Excise Act 1996:</p> <p>By omitting from section 137(2)(b) the words “examination station” and substituting the words “Customs place or Customs controlled area”.</p> <p>By omitting from section 137(3) the words “boarding station”, and substituting the words “Customs place, Customs controlled area,”.</p> <p>By adding to section 143 (as amended by section 46 of the Immigration Amendment Act 1991), after subsection (5), the following subsection:</p> <p>“(6) In any proceedings relating to any matter under this Act, a certificate signed by the Chief Executive of the New Zealand Customs Service stating that a particular place is or was a Customs controlled area of any particular type or a Customs place shall be sufficient evidence of the fact that that place is or was a Customs controlled area of that type or a Customs place, as the case may be.</p>
1987, No 88—The Temporary Safeguard Authorities Act 1987	<p>By repealing section 7(3)(b) (as substituted by section 5 of the Temporary Safeguard Authorities Amendment Act 1994), and substituting the following paragraph:</p> <p>“(b) The restriction of the importation of the goods under the Customs and Excise Act 1996 or the Import Control Act 1988:</p>

Title of Act	Amendment
1988, No 7—The Goods and Services Tax Amendment Act 1988	By repealing section 9.
1988, No 20—The State Sector Act 1988	By omitting from Schedule 1 (as substituted by section 28(1) of the State Sector Amendment Act (No 2) 1989) the item “Customs Department”, and substituting the item “New Zealand Customs Service”.
1988, No 92—The Harbours Amendment Act (No 2) 1988	By repealing section 15.
1988, No 155—The Tariff Act 1988	<p>By omitting from section 2(1) the definition of the terms Collector, Comptroller, and Customs, and substituting the following definition: “Customs or the Customs has the meaning given to it by section 2(1) of the Customs and Excise Act 1996</p> <p>By omitting from the definition of the term Customs value in section 2(1) the words “Ninth Schedule to the Customs Act 1966”, and substituting the words “Second Schedule to the Customs and Excise Act 1996”.</p> <p>By inserting in section 2(1) before the definition of the term Importer, the following definition: “Imported has the meaning given to it by section 2(1) of the Customs and Excise Act 1996</p> <p>By omitting from section 2(1) the definition of the term Manufacturing area, and substituting the following definition:</p>

Title of Act	Amendment
	<p>“Manufacturing area has the meaning given to it by section 2(1) of the Customs and Excise Act 1996 By repealing section 2(2). By inserting, after section 2, the following section: “2A Act to bind the Crown This Act binds the Crown. By repealing section 4(2), and substituting the following subsection: “(2) Part II, Part III, Part IV, Part VI, Part VIII, Part IX, Part X, Part XI, Part XII (except section 142), Part XIII, Part XIV, Part XV, Part XVI, and Part XVII of the Customs and Excise Act 1996 shall apply to the administration of the Tariff and the enforcement, collection, and payment of duties payable under this Act. By repealing section 9A (as inserted by section 2 of the Tariff Amendment Act 1989). By omitting from section 11(1) (as amended by section 2(2) of the Tariff Amendment Act 1989) the words “or section 9A”. By inserting, after section 16A (as inserted by section 2 of the Tariff Amendment Act 1990), the following section: “16B Regulations relating to goods temporarily imported and drawbacks of duty The Governor-General may from time to time, by Order in Council, make regulations— “(a) Declaring specified goods or classes of goods subject to duty under this Act to be goods in respect of which the provisions of section 116 of the Customs and Excise Act 1996 shall not be applied: “(b) Declaring specified goods or classes of goods subject to duty under this</p>

Title of Act	Amendment
<p>1988, No 157—The Import Control Act 1988</p>	<p>Act to be goods in respect of which the provisions of section 117 of the Customs and Excise Act 1996 shall not be applied.</p> <p>By omitting from Reference Numbers 75 and 80 in Part 2 of Schedule 1 all references to “Collector” or “Collector of Customs”, and substituting in each place where they occur the word “Customs”.</p> <p>By repealing subsections (2) to (4) of section 2, and substituting the following subsections:</p> <p>“(2) The terms Chief Executive, Customs controlled area, Customs place, goods, and importation have the same meanings as in section 2(1) of the Customs and Excise Act 1996.</p> <p>“(3) Parts II, III, IV, X, XII (except section 142), XIII (except sections 209 and 214), XIV, XV, and XVII of the Customs and Excise Act 1996 shall apply to any goods the importation of which is prohibited pursuant to this Act.</p> <p>By repealing paragraphs (b) and (c) of section 4(2), and substituting the following paragraphs:</p> <p>“(b) Without lawful justification or excuse, removes from any Customs place or Customs controlled area any imported goods whose importation constitutes an offence under this section; or</p> <p>“(c) Is knowingly concerned in or connives at the removal from any Customs place or Customs controlled area of any goods whose importation constitutes an offence under this section.</p>

Title of Act	Amendment
1988, No 158—The Dumping and Countervailing Duties Act 1988	<p>By omitting from section 4(8) the words “a Collector”, and substituting the words “the Chief Executive.”</p> <p>By omitting from section 3(1) (as substituted by section 2 of the Dumping and Countervailing Duties Amendment Act 1994) the definition of the term Collector.</p> <p>By inserting in section 3(1) (as so substituted), before the definition of the term Dumping, the following definition: “Customs or the Customs has the meaning given to it by section 2(1) of the Customs and Excise Act 1996.</p> <p>By omitting from the definition of the term Exporter the words “Customs Act 1966” and substituting the words “Customs and Excise Act 1996”.</p> <p>By omitting from the definition of the term Importer the words “Customs Act 1966” and substituting the words “Customs and Excise Act 1996”.</p> <p>By inserting after section 3C (as inserted by section 5 of the Dumping and Countervailing Duties Amendment Act 1990) the following section: “3D Enforcement of Act “(1) The enforcement and collection of duties payable under this Act shall be a function of the Customs. “(2) Parts II, III, IV, VI (except section 65), VIII, X, XI, XII (except section 142), XIII, XIV, XV, XVI, and XVII of the Customs and Excise Act 1996 shall apply to the enforcement, collection, and payment of duties payable under this Act.</p> <p>By omitting from section 14(10) (as so substituted) the word “Collector”, and substituting the word “Customs”.</p>

Title of Act	Amendment
	<p>By omitting from section 16(1) (as substituted by section 17 of the Dumping and Countervailing Duties Amendment Act 1994) the words “Part IX of the Customs Act 1966” and substituting the words “sections 156 and 157 of the Customs and Excise Act 1996”.</p> <p>By omitting from section 16(2) (as so substituted) the words “Part XI of the Customs Act 1966”, and substituting the words “sections 156 and 157 of the Customs and Excise Act 1996”.</p> <p>By omitting from section 16(5) (as so substituted) the word “Collector”, and substituting the word “Customs”.</p> <p>By omitting from subsection (3) of section 17 (as substituted by section 13 of the Dumping and Countervailing Duties Amendment Act 1990 and amended by section 18(2) of the Dumping and Countervailing Duties Amendment Act 1994) the words “deemed to have been delivered for home consumption in accordance with section 17 of the Customs Act 1966 or deemed to have been removed from home consumption under section 17A of that Act”, and substituting the words “entered in accordance with section 39 of the Customs and Excise Act 1996”.</p> <p>By omitting from subsection (4) of section 17 (as so substituted) the words “deemed to have been delivered for home consumption in accordance with section 17 of the Customs Act 1966 or deemed to have been removed for home consumption under section 17A of that Act”, in both places where they occur, and substituting in each case the words “entered in accordance with section 39 of the Customs and Excise Act 1996”.</p>

Title of Act	Amendment
1989, No 8—The Goods and Services Tax Amendment Act 1989 (RS Vol 27, p 595)	By repealing section 4.
1989, No 13—The Finance Act 1989	By repealing section 17 and section 18.
1989, No 18—The Trade in Endangered Species Act 1989	<p>By omitting from section 27(1) (as amended by section 2 of the Trade in Endangered Species Amendment Act 1991) the words “officer of Customs” and substituting the words “Customs officer”.</p> <p>By omitting from section 35(1) (as substituted by section 168(1) of the Biosecurity Act 1993) the words “officer of Customs”, and substituting the words “Customs officer”.</p> <p>By inserting, after section 38, the following section:</p> <p>“38A Application of Customs and Excise Act 1996</p> <p>Sections 149, 160, and 161 of the Customs and Excise Act 1996 shall apply in relation to the importation or exportation of any endangered, threatened, or exploited species as if such endangered, threatened, or exploited species were a prohibited import or prohibited export within the meaning of that Act.</p>

Title of Act	Amendment
1989, No 48—The Tariff Amendment Act 1989	By repealing section 2.
1989, No 64—The Wheat Industry Research Levies Act 1989	<p>By repealing the definition of importer in section 2, and substituting the following definition: “Importer has the meaning given to it by section 2(1) of the Customs and Excise Act 1996</p> <p>By repealing sections 13 and 14, and substituting the following sections:</p> <p>“13 Bakers Association may arrange for collection of levy by New Zealand Customs Service</p> <p>“(1) The Chief Executive of the New Zealand Customs Service may from time to time, on behalf of the Crown, enter into an arrangement with the Bakers Association for the collection, by the New Zealand Customs Service, of the levy imposed by section 4(1)(d) of this Act.</p> <p>“(2) Any arrangement under subsection (1) of this section may be made on such terms and conditions as may be agreed between the Chief Executive of the New Zealand Customs Service and the Bakers Association.</p> <p>“14 New Zealand Customs Service to supply Bakers Association with information on imports of flour and wheatmeal</p> <p>“(1) The New Zealand Customs Service shall, at the request of the Bakers Association, and on payment by the Bakers Association of such reasonable fee (if any) as the Chief Executive of the New Zealand Customs Service</p>

Title of Act	Amendment
<p>1989, No 75—The Transit New Zealand Act 1989</p>	<p>may determine, supply to the Bakers Association such information relating to the importation into New Zealand of flour and wheatmeal as is held by the New Zealand Customs Service and is necessary to enable the Bakers Association to collect the levy imposed by section 4(1)(d) of this Act.</p> <p>“(2) No person shall communicate to any other person, except for the purpose of collecting or recovering the levy imposed by section 4(1)(d) of this Act or in respect of any prosecution under this Act or for some other purpose authorised by law, any information relating to the importation into New Zealand of flour or wheatmeal, where that information comes to the knowledge of the first-mentioned person pursuant to subsection (1) of this section.</p> <p>“(3) Nothing in subsection (1) of this section limits or affects the Official Information Act 1982.</p> <p>By repealing the definition of the term excise duty in section 2(1), and substituting the following definition: “Excise duty means excise duty payable on motor spirits, compressed natural gas, and liquefied petroleum gas under the Customs and Excise Act 1996 By omitting from the term motor spirits in section 99 the words “Third Schedule to the Customs Act 1966”, and substituting the words “Third Schedule to the Customs and Excise Act 1996”. By omitting from section 100 (as substituted by section 35(1) of the Land Transport Act 1993) the words “Customs Act 1966”, and substituting the words “Customs and Excise Act 1996”.</p>

Title of Act	Amendment
1989, No 96—The Alcoholic Liquor Advisory Council Amendment Act 1989	By omitting from section 10(2) the words “any collector of Customs” and substituting the words “the Customs”.
1989, No 152—The Goods and Services Tax Amendment Act (No 2) 1989 (RS Vol 27, p 598)	By repealing section 7.
1990, No 50—The Ozone Layer Protection Act 1990	<p>By omitting from section 2 the definition of the term Exportation (as inserted by section 2(2) of the Ozone Layer Protection Amendment Act 1993), and substituting the following definition: “Exportation has the meaning given to it by section 2(1) of the Customs and Excise Act 1996, and export has a corresponding meaning By omitting the definition of the term Importation, and substituting the following definition: “Importation or import has the same meaning as in section 2(1) of the Customs and Excise Act 1996 By repealing section 17B (as inserted by section 4 of the Ozone Layer Protection Amendment Act 1993), and substituting the following section:</p>

Title of Act	Amendment
	<p>“17B Customs and Excise Act 1996 to apply to prohibited exports under this Part</p> <p>The provisions of the Customs and Excise Act 1996 shall apply in respect of the export of any bulk controlled substances in contravention of this Part of this Act in all respects as if the export of those substances was prohibited under section 56 of the Customs and Excise Act 1996.</p> <p>By omitting from section 29A(2) (as inserted by section 10 of the Ozone Layer Protection Amendment Act 1993) the words “Comptroller of Customs”, and substituting the words “Chief Executive of the New Zealand Customs Service”.</p> <p>By omitting from section 40 the words “Customs Act 1966”, and substituting the words “Customs and Excise Act 1996”.</p> <p>By omitting from section 41(2) the words “Comptroller of Customs”, and substituting the words “Chief Executive of the New Zealand Customs Service”.</p>
<p>1990, No 64—The Goods and Services Tax Amendment Act 1990 (RS Vol 27, p 601)</p>	<p>By repealing section 5.</p>
<p>1990, No 98—The Civil Aviation Act 1990</p>	<p>By omitting from section 96(1) the words “Customs Act 1966”, and substituting the words “Customs and Excise Act 1996”.</p>

Title of Act	Amendment
1991, No 100—The Trade in Endangered Species Amendment Act 1991	By repealing section 14.
1992, No 2—The Goods and Services Tax Amendment Act 1992	By repealing section 3.
1992, No 13—The Accident Rehabilitation and Compensation Insurance Act 1992	By omitting from section 109(1) the words “Customs Act 1966”, and substituting the words “Customs and Excise Act 1996”. By omitting from section 164(2) the words “Customs Department”, and substituting the words “New Zealand Customs Service”.
1992, No 89—The Ship Registration Act 1992	By omitting from the definition of the term Certificate of clearance in section 2(1) the words “Customs Act 1966”, and substituting the words “Customs and Excise Act 1996”. By repealing the definition of the term Collector of Customs . By repealing the definition of the term Proper officer of Customs , and substituting the following definition: “ Customs officer has the meaning given to it by section 2(1) of the Customs and Excise Act 1996 By omitting from section 11(2) the words “proper officer of Customs”, and substituting the words “Customs officer”.

Title of Act	Amendment
<p>1992, No 92—The Passports Act 1992</p>	<p>By omitting from paragraph (b) of section 25(2) the words “proper officer of Customs”, and substituting the words “Customs officer”.</p> <p>By omitting from section 59(1) the words “proper officer of Customs”, and substituting the words “Customs officer”.</p> <p>By omitting paragraph (d) of section 71(1), and substituting the following paragraph: “(d) Any Customs officer.</p> <p>By omitting from section 71(2) the words “proper officer of Customs”, and substituting the word “Customs officer”.</p> <p>By repealing section 35, and substituting the following section: “35 Disclosure of information to Chief Executive of New Zealand Customs Service “(1) The Secretary may disclose to the Chief Executive of the New Zealand Customs Service, for the purpose of facilitating, at international airports and sea ports in New Zealand, border security and the processing of passengers, the information specified in section 37 of this Act in respect of the holders of New Zealand passports, certificates of identity, and emergency travel documents. “(2) The disclosure of any such information shall be in accordance with an agreement in writing made between the Secretary and the Chief Executive of the New Zealand Customs Service. “(3) Any such agreement— “(a) Shall state the use that the New Zealand Customs Service may make of the information:</p>

Title of Act	Amendment
	<p>“(b) Shall state that the information is not to be disclosed by the New Zealand Customs Service other than—</p> <p>“(i) To the New Zealand Police; or</p> <p>“(ii) To any other person in accordance with a statutory authority in any other Act:</p> <p>“(c) Shall state the use that the New Zealand Police or any other person to whom paragraph (b) of this subsection applies may make of the information:</p> <p>“(d) Shall state that the information is not to be disclosed by the New Zealand Police other than for the purpose of law enforcement:</p> <p>“(e) May determine the form in which and the method by which the information may be disclosed:</p> <p>“(f) May be varied from time to time.</p> <p>“(4) The Secretary shall ensure that the agreement, and any variations of the agreement, are approved by the Privacy Commissioner.</p> <p>“(5) The Secretary and the Chief Executive of the New Zealand Customs Service shall—</p> <p>“(a) Review the agreement, and the arrangements for disclosure made pursuant to the agreement, at intervals of no more than 12 months; and</p> <p>“(b) Report the result of any such review to the Privacy Commissioner as soon as practicable after conducting the review.</p>

Title of Act	Amendment
1993, No 3—The Ozone Layer Protection Amendment Act 1993	By repealing section 2(2)
1993, No 6—The Air Facilitation Act 1993	By repealing Part 1.
1993, No 28—The Privacy Act 1993	<p>By omitting paragraph (b) of the definition of specified agency in section 97, and substituting the following paragraph:</p> <p>“(b) The New Zealand Customs Service:</p> <p>By omitting from section 103(1A) (as inserted by section 2 of the Privacy Amendment Act 1993) the words “section 305B of the Customs Act 1966”, and substituting the words “section 280 of the Customs and Excise Act 1996”.</p> <p>By omitting from the first column of Schedule 3 the words “Customs Act 1966” and substituting the words “Customs and Excise Act 1996”, and by omitting from the second column of that schedule the corresponding words “Section 305B”, and substituting the words “Section 280”.</p>
1993, No 83—The Finance Act (No 2) 1993	By repealing Part 1

Title of Act	Amendment
<p>1993, No 94—The Films, Videos, and Publications Classification Act 1993</p>	<p>By omitting from subsections (1)(a) and (3) of section 13 the words “Comptroller of Customs”, and substituting in each case the words “Chief Executive of the New Zealand Customs Service”.</p> <p>By repealing so much of Schedule 2 as relates to the Customs Act 1966.</p>
<p>1993, No 95—The Biosecurity Act 1993</p>	<p>By omitting from section 7(1) the words “Customs Act 1966”, and substituting the words “Customs and Excise Act 1996”.</p> <p>By omitting from section 7(2)(a) the words “Customs Act 1966”, and substituting the words “Customs and Excise Act 1996”.</p> <p>By omitting from section 32(2)(a) the words “Customs Department”, and substituting the words “New Zealand Customs Service”.</p> <p>By omitting from section 37(7)(a) the words “Customs Department”, and substituting the words “New Zealand Customs Service”.</p>
<p>1993, No 105—The Companies Act 1993</p>	<p>By repealing clause 5(e) of Schedule 7 (as substituted by section 3(3) of the Customs Amendment Act 1995), and substituting the following paragraph:</p> <p>“(e) Duty payable within the meaning of section 2(1) of the Customs and Excise Act 1996—</p>

Title of Act	Amendment
1994, No 100—The Air Facilitation (Domestic Passengers and Cargo) Act 1994	By repealing Part 1.
1994, No 104—The Maritime Transport Act 1994	<p>By omitting from section 21(2) the words “Customs Act 1966”, and substituting the words “Customs and Excise Act 1996”.</p> <p>By omitting from section 103(1) the words “any Collector of Customs”, and substituting the words “the Chief Executive of the New Zealand Customs Service”.</p> <p>By omitting from section 144(6) the words “Collector of Customs”, and substituting the words “Customs officer”.</p> <p>By omitting from section 173(10) the words “Comptroller of Customs”, and substituting the words “Chief Executive of the New Zealand Customs Service”.</p> <p>By omitting from section 193(1) the words “Collector of Customs at any port”, and substituting the words “Chief Executive of the New Zealand Customs Service”.</p> <p>By omitting from section 195(1) the words “Collector of Customs at any port”, and substituting the words “Chief Executive of the New Zealand Customs Service”.</p> <p>By omitting from section 195(3) the words “Collector of Customs at any port”, and substituting the words “Chief Executive of the New Zealand Customs Service”.</p> <p>By omitting from section 197(1) the words “Collector of Customs”, and substituting the words</p>

Title of Act	Amendment
	<p>“Chief Executive of the New Zealand Customs Service”.</p> <p>By omitting from section 197(3) the words “Collector of Customs”, and substituting the words “Chief Executive of the New Zealand Customs Service”.</p> <p>By repealing section 197(4), and substituting the following subsection:</p> <p>“(4) The Chief Executive of the New Zealand Customs Service shall advise the Director of every ship detained pursuant to subsection (1) of this section by the Chief Executive or by a person acting under the Chief Executive’s direction or authority.</p> <p>By omitting from section 459(3) the words “a Collector of Customs”, and substituting the words “the Chief Executive of the New Zealand Customs Service”.</p> <p>By omitting from section 460(1) the words “a Collector of Customs”, and substituting the words “the Chief Executive of the New Zealand Customs Service”.</p> <p>By omitting from section 460(3) the words “Collector of Customs”, in both places where they occur, and substituting in each case the words “Customs officer”.</p> <p>By omitting from section 463(2) the words “officer of Customs”, and substituting the words “Customs officer”.</p>

Title of Act	Amendment
1994, No 143—The Copyright Act 1994	<p>By repealing the definition of the term Collector in section 135.</p> <p>By repealing the definition of the term Comptroller in section 135, and substituting the following definition: “Chief Executive has the meaning given to it by section 2(1) of the Customs and Excise Act 1996</p> <p>By repealing the definition of the term Control of the Customs in section 135, and substituting the following definition: “Control of the Customs has the meaning given to it by section 20 of the Customs and Excise Act 1996</p> <p>By repealing the definition of the term Officer of Customs in section 135, and substituting the following definition: “Customs officer has the meaning given to it in section 2(1) of the Customs and Excise Act 1996</p> <p>By repealing section 140, and substituting the following section: “140 Detention of pirated copy “(1) Where the Chief Executive has formed an opinion that an item that has been imported and that is in the control of the Customs may be a pirated copy to which a notice accepted under section 136(3)(a) of this Act relates, that item shall be detained in the custody of the Chief Executive or any Customs officer until— “(a) The Chief Executive is served with an order made in proceedings under section 141(1) of this Act that the notice be discharged; or “(b) The Chief Executive is served with an order made in proceedings under</p>

Title of Act	Amendment
	<p>section 141(2) of this Act that the item be released; or</p> <p>“(c) Any proceedings under section 141(3) of this Act in respect of that item (including any appeal) are determined by a decision that the item is not a pirated copy that has been imported other than for private and domestic use; or</p> <p>“(d) Any proceedings under section 141(3) of this Act in respect of that item, including any appeal, are abandoned; or</p> <p>“(e) Ten working days have elapsed since notice was served under section 139 of this Act and the Chief Executive has not been served with notice of proceedings brought under section 141(3) of this Act by a person other than the importer or consignee;— whereupon the item shall, subject to subsection (3) of this section, be released to the person entitled to it.</p> <p>“(2) The Chief Executive may in any particular case extend the period referred to in subsection (1)(e) of this section to 20 working days if he or she considers it appropriate to do so in all the circumstances.</p> <p>“(3) The Chief Executive or any Customs officer shall not release any item under subsection (1) of this section unless—</p> <p>“(a) Any other legal requirements as to importation of the item are satisfied; and</p> <p>“(b) Any requirements made pursuant to any regulations made under this Act requiring the deposit of a security have been satisfied; and</p>

Title of Act	Amendment
	<p>“(c) The release of the item is not otherwise contrary to law.</p> <p>By omitting from section 141(4) the words “Comptroller or any Collector”, and substituting the words “Chief Executive”.</p> <p>By omitting from section 143(1) the words “Comptroller or a Collector or an officer of Customs”, and substituting the words “Chief Executive or a Customs officer”.</p> <p>By repealing section 143(2), and substituting the following subsection:</p> <p>“(2) A person referred to in subsection (1) of this section may—</p> <p> “(a) Inspect the item during normal office hours; or</p> <p> “(b) With the approval of the Chief Executive or a Customs officer, remove the item or an example of the item to such place, for such period, and on such conditions as the Chief Executive or Customs officer may specify, for the purpose of inspecting it.</p> <p>By omitting from section 143(3) the words “Comptroller or Collector or officer of Customs”, and substituting the words “Chief Executive or Customs officer”.</p> <p>By repealing section 144, and substituting the following section:</p> <p>“144 Notice of parallel import may be given to Chief Executive</p> <p>“(1) Any person who owns the copyright in any literary, dramatic, musical, or artistic work, or the typographical arrangement of a published edition, or a sound recording, or a film, may give a notice in writing to the Chief Executive—</p> <p> “(a) Claiming—</p>

Title of Act	Amendment
	<p>“(i) That an object specified in the notice is an infringing copy under section 12(3) of this Act; and</p> <p>“(ii) That the person is the person whose copyright would be infringed by the importation of the object; and</p> <p>“(b) Requesting the Chief Executive to inform the person—</p> <p>“(i) If the Chief Executive becomes aware that any such object is intended to be imported into New Zealand; or</p> <p>“(ii) If any such object is in, or at any time comes into, the control of the Customs.</p> <p>“(2) A notice under subsection (1) of this section shall—</p> <p>“(a) Contain such particulars in support of the claims referred to in subsection (1)(a) of this section as may be required in a form approved by the Chief Executive; and</p> <p>“(b) Specify the period for which the notice is to be in force, which period shall be—</p> <p>“(i) Not longer than 5 years from the date of the notice; or</p> <p>“(ii) If copyright in the work to which the notice relates will expire within the period of 5 years from the date of the notice, not longer than the period for which copyright will last; and</p> <p>“(c) Be accompanied by the prescribed fee.</p>

Title of Act	Amendment
	<p>“(3) The Chief Executive shall, in relation to any notice given under subsection (1) of this section,—</p> <p>“(a) Accept the notice if the person and the notice given by the person comply with the requirements of this section:</p> <p>“(b) Decline the notice if the person or the notice given by the person does not comply with the requirements of this section;—</p> <p>and shall within a reasonable period of receiving the notice advise the claimant whether the notice has been accepted or declined.</p> <p>“(4) A notice accepted under subsection (3)(a) of this section remains in force for the period specified in the notice unless—</p> <p>“(a) It is revoked by the person by notice in writing; or</p> <p>“(b) The Court orders in any proceedings under Part VI of this Act that the notice be discharged.</p> <p>By repealing section 145, and substituting the following section:</p> <p>“145 Delegation of powers, duties, and functions</p> <p>“(1) With the written consent of the Minister of Customs, the Chief Executive may from time to time, either generally or particularly, by writing under his or her hand, delegate to any Customs officer all or any of the powers, duties, and functions conferred or imposed on the Chief Executive by or under this Part of this Act.</p> <p>“(2) No delegation under subsection (1) of this section shall include the power to delegate under that subsection.</p>

Title of Act	Amendment
	<p>“(3) Subject to any general or special directions given or conditions imposed from time to time by the Minister of Customs or the Chief Executive, as the case may be, the officer to whom any powers are so delegated may exercise those powers in the same manner and with the same effect as if they had been conferred on that officer directly by this Act and not by delegation.</p> <p>“(4) Every Customs officer purporting to act pursuant to any delegation under this section shall, in the absence of proof to the contrary, be presumed to be acting in accordance with the terms of the delegation.</p> <p>“(5) Any delegation under this section may be made to any specified person or to the holder or holders for the time being of any specified office or class of offices.</p> <p>“(6) Every such delegation shall be revocable at will, and no such delegation shall prevent the exercise of any power by the Chief Executive.</p> <p>“(7) Any such delegation shall, until revoked, continue in force according to its tenor, notwithstanding the fact that the Chief Executive by whom it was made has ceased to hold office, and shall continue to have effect as if made by the successor in office of the Chief Executive.</p> <p>By omitting from section 146 the words “Comptroller nor any Collector nor any officer of Customs”, and substituting the words “Chief Executive nor any Customs officer”.</p> <p>By omitting from section 146 the words “Comptroller or any Collector or any officer of Customs”, and substituting the words “Chief Executive or any Customs officer”.</p>

Title of Act	Amendment
1994, No 164—The Income Tax Act 1994	By omitting from section 234(i) the word “Comptroller”, and substituting the words “Chief Executive of the New Zealand Customs Service”.
1996, No 9—The Financial Transactions Reporting Act 1996	<p>By repealing the definition of the term Collector in section 2(1).</p> <p>By omitting from the definition of the term control of the Customs in section 2(1) the words “section 16 of the Customs Act 1966”, and substituting the words “section 20 of the Customs and Excise Act 1996”.</p> <p>By repealing the definition of the term officer of Customs in section 2(1), and substituting the following definition: “Customs officer has the same meaning as it has in section 2(1) of the Customs and Excise Act 1996</p> <p>By omitting from section 37(2)(d) the words “an officer of Customs”, and substituting the words “a Customs officer”.</p> <p>By omitting from section 38(1) the words “officer of Customs”, in both places where they occur, and substituting in each case the words “Customs officer”.</p> <p>By omitting from section 38(2) the word “Collector”, and substituting the words “Customs officer nominated for the purpose by the Chief Executive of the New Zealand Customs Service”.</p> <p>By omitting from section 38(3) the word “Collector”, and substituting the words “Customs officer referred to in subsection (2) of this section”.</p>

Title of Act	Amendment
	<p>By omitting from section 38(4)(a) the word “Collector”, and substituting the words “Customs officer referred to in subsection (2) of this section”.</p> <p>By omitting from section 38(5) the words “officer of Customs”, and substituting the words “Customs officer”.</p> <p>By omitting from section 39(1) the words “officer of Customs”, in both places where they occur, and substituting in each case the words “Customs officer”.</p> <p>By omitting from section 39(2) the words “an officer of Customs”, and substituting the words “a Customs officer”.</p> <p>By omitting from section 40(2) the words “officer of Customs”, and substituting the words “Customs officer”.</p> <p>By omitting from section 40(3) the words “an officer of Customs”, and substituting the words “a Customs officer”.</p> <p>By repealing section 41, and substituting the following section:</p> <p>“41 Chief Executive of New Zealand Customs Service may deal with cash reporting offences</p> <p>“(1) If, in any case to which section 40(1)(a) of this Act applies, any person admits in writing that he or she has committed the offence, and requests that the offence be dealt with summarily by the Chief Executive of the New Zealand Customs Service, the Chief Executive may, at any time before an information has been laid in respect of the offence, accept from that person such sum, not exceeding \$200, as the Chief Executive thinks just in the circumstances of the case, in full satisfaction of any fine to which the person would otherwise be liable under section 40 of this Act.</p>

Title of Act	Amendment
	<p>“(2) If the Chief Executive accepts any sum pursuant to this section, the offender shall not be liable to be prosecuted for the offence in respect of which the payment was made.</p> <p>By omitting from section 42(1) the words “an officer of Customs”, and substituting the words “a Customs officer”.</p> <p>By omitting from section 42(2) the words “an officer of Customs”, and substituting the words “a Customs officer”.</p> <p>By omitting from section 42(3) the words “Comptroller of Customs”, and substituting the words “Chief Executive of the New Zealand Customs Service”.</p> <p>By omitting from section 42(4) the words “Comptroller of Customs”, and substituting the words “Chief Executive of the New Zealand Customs Service”.</p> <p>By omitting from section 42(4) the words “an officer of Customs”, and substituting the words “a Customs officer”.</p>

An item relating to Schedule 1 of the Misuse of Drugs Amendment Act 1978 was omitted, as from 1 February 1998, by section 17(2) Misuse of Drugs Amendment Act (No 2) 1997 (1997 No 96).

An item relating to the Postal Services Act 1987 was omitted, as from 1 April 1998, by section 62(2)(f) Postal Services Act 1998 (1998 No 2). *See* clause 2 Postal Services Act Commencement Order 1998 (SR 1998/49).

The item relating to the Income Tax Act 1994 was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

Schedule 6
Regulations amended

Section 289(2)

Title of Regulations	Amendment
<p>The Anthrax Prevention Regulations 1987 (SR 1987/345)</p>	<p>By omitting from regulation 2(1) the definitions of Customs airport and Port of entry, and substituting the following definition:</p> <p>“Customs place has the meaning given to it by section 2(1) of the Customs and Excise Act 1996</p> <p>By omitting from regulation 4(1) the words “port of entry or a Customs airport”, and substituting the words “Customs place”.</p> <p>By omitting from regulation 11(2) the words “port of entry or Customs airport”, and substituting the words “Customs place”.</p>
<p>The Forest Produce Import and Export Regulations 1989 (SR 1989/235)</p>	<p>By inserting in regulation 2(1), before the definition of the term Domestic Cargo, the following definition:</p> <p>“Customs or the Customs has the meaning given to it in section 2(1) of the Customs and Excise Act 1996</p> <p>By omitting from regulation 13(2) the words “Collector of Customs”, and substituting the word “Customs”.</p> <p>By omitting from regulation 15(2), in both places where they occur, the words “Collector of Customs”, and substituting in each case the word “Customs”.</p> <p>By omitting from regulation 15(3) the words “Collector of Customs”, and substituting the word “Customs”.</p>

Title of Regulations	Amendment
	<p>By omitting from Form MF-MI in Schedule 1 the words “Collector of Customs”, and substituting the words “the Customs”. By omitting from Form MF-M3 in Schedule 1 the words COLLECTOR OF CUSTOMS, and substituting the words “THE CUSTOMS”.</p>
<p>The Wine Makers Regulations 1990 (SR 1990/77)</p>	<p>By omitting from regulation 14(1) the words “section 64 of the Customs Act 1966”, and substituting the words “section 49 of the Customs and Excise Act 1996”.</p>
<p>The United Nations Sanctions (Iraq) Regulations 1991 (SR 1991/92)</p>	<p>By omitting from regulation 2(1) the definition of the terms The Customs Acts, Collector, and Comptroller, and substituting the following definition: “Customs or the Customs, Customs officer, and Chief Executive have the same meaning as in section 2(1) of the Customs and Excise Act 1996 By omitting from the definition of the term Importer the words “Customs Act 1966”, and substituting the words “Customs and Excise Act 1996”. By revoking regulation 4, and substituting the following regulation: “4 Application of Customs and Excise Act 1996 to prohibited imports All the provisions of the Customs and Excise Act 1996 with respect to prohibited imports (except section 209) shall extend and apply with respect to goods whose importation is prohibited by regulation 3 of these</p>

Title of Regulations	Amendment
	<p>regulations, in all respects as if the importation of the goods were prohibited under section 54 of the Customs and Excise Act 1996.</p> <p>By omitting from regulation 5(1) the words “a Collector”, and substituting the words “any Customs officer”.</p> <p>By omitting from regulation 5(2) the words “Customs Department”, and substituting the words “New Zealand Customs Service”.</p> <p>By omitting from regulation 5(5) the words “section 284 of the Customs Act 1966”, and substituting the words “section 229 of the Customs and Excise Act 1996”.</p> <p>By omitting from regulation 5(6) the word “Comptroller”, in both places where it occurs, and substituting in each case the words “Chief Executive”.</p> <p>By revoking regulation 7, and substituting the following regulation:</p> <p>“7 Application of Customs and Excise Act 1996 to prohibited exports</p> <p>All the provisions of the Customs and Excise Act 1996 with respect to prohibited exports (except section 209) shall extend and apply with respect to goods whose exportation is prohibited by regulation 6 of these regulations, in all respects as if the exportation of the goods were prohibited under section 56 of the Customs and Excise Act 1996.</p> <p>By omitting from regulation 8 the words “a Collector” and “that Collector”, and substituting the words “any Customs of-</p>

Title of Regulations	Amendment
<p>The United Nations Sanctions (Yugoslavia) Regulations 1991 (SR 1991/237)</p>	<p>ficer” and “that Customs officer” respectively.</p> <p>By revoking regulation 10, and substituting the following regulation:</p> <p>“10 Power to withhold clearance of ship or aircraft</p> <p>The Customs may withhold the clearance of any ship or aircraft so long as there are on board the ship or aircraft any goods known to a Customs officer to be goods whose exportation is prohibited by regulation 6 of these regulations.</p> <p>By revoking regulation 25, and substituting the following regulation:</p> <p>“25 Customs and Excise Act 1996 not affected</p> <p>Nothing in these regulations shall limit or affect the operation of the Customs and Excise Act 1996.</p> <p>By omitting from regulation 2 the definition of the terms The Customs Acts and Collector, and substituting the following definition:</p> <p>“Customs or the Customs, and Customs officer have the same meaning as in section 2(1) of the Customs and Excise Act 1996</p> <p>By revoking regulation 4, and substituting the following regulation:</p> <p>“4 Application of Customs and Excise Act 1996 to prohibited exports</p> <p>All the provisions of the Customs and Excise Act 1996 with respect to</p>

Title of Regulations	Amendment
	<p>prohibited exports (except section 209) shall extend and apply with respect to goods whose exportation is prohibited by regulation 3 of these regulations, in all respects as if the exportation of the goods were prohibited under section 56 of the Customs and Excise Act 1996.</p> <p>By revoking regulation 5, and substituting the following regulation:</p> <p>“5 Detention of prohibited exports If a Customs officer has reason to suspect that any goods being exported are goods whose exportation is prohibited by regulation 3 of these regulations, the Customs officer may detain the goods.</p> <p>By revoking regulation 7, and substituting the following regulation:</p> <p>“7 Power to withhold clearance of ship or aircraft The Customs may withhold the clearance of any ship or aircraft so long as there are on board the ship or aircraft any goods known to a Customs officer to be goods whose exportation is prohibited by regulation 3 of these regulations.</p> <p>By revoking regulation 13, and substituting the following regulation:</p> <p>“13 Customs and Excise Act 1996 not affected Nothing in these regulations shall limit or affect the operation of the Customs and Excise Act 1996.</p>

Title of Regulations	Amendment
<p>The Immigration Regulations 1991 (SR 1991/241)</p>	<p>By omitting from regulation 8(2) the words “port of entry or Customs airport”, and substituting the words “Customs place”.</p> <p>By omitting from regulation 11(2) the words “port of entry or Customs airport”, and substituting the words “Customs place”.</p> <p>By omitting from regulation 12(1) the words “port of entry or Customs airport”, and substituting the words “Customs place”.</p> <p>By omitting from regulation 31 the words “port of entry or Customs airport”, and substituting the words “Customs place”.</p> <p>By omitting from the note to Part 1 of Schedule 3 the words “port of entry or Customs airport”, and substituting the words “Customs place”.</p>
<p>The United Nations Sanctions (Somalia) Regulations 1992 (SR 1992/42)</p>	<p>By omitting from regulation 2 the definition of the terms The Customs Acts and Collector, and substituting the following definition:</p> <p>“Customs or the Customs, and Customs officer have the same meaning as in section 2(1) of the Customs and Excise Act 1996</p> <p>By revoking regulation 4, and substituting the following regulation:</p> <p>“4 Application of Customs and Excise Act 1996 to prohibited exports</p> <p>All the provisions of the Customs and Excise Act 1996 with respect to</p>

Title of Regulations	Amendment
	<p>prohibited exports (except section 209) shall extend and apply with respect to goods whose exportation is prohibited by regulation 3 of these regulations, in all respects as if the exportation of the goods were prohibited under section 56 of the Customs and Excise Act 1996.</p> <p>By revoking regulation 5, and substituting the following regulation:</p> <p>“5 Detention of prohibited exports If a Customs officer has reason to suspect that any goods being exported are goods whose exportation is prohibited by regulation 3 of these regulations, the Customs officer may detain the goods.</p> <p>By revoking regulation 7, and substituting the following regulation:</p> <p>“7 Power to withhold clearance of ship or aircraft The Customs may withhold the clearance of any ship or aircraft so long as there are on board the ship or aircraft any goods known to a Customs officer to be goods whose exportation is prohibited by regulation 3 of these regulations.</p> <p>By revoking regulation 13, and substituting the following regulation:</p> <p>“13 Customs and Excise Act 1996 not affected Nothing in these regulations shall limit or affect the operation of the Customs and Excise Act 1996.</p>

Title of Regulations	Amendment
<p>The United Nations Sanctions (Federal Republic of Yugoslavia (Serbia and Montenegro)) Regulations 1992 (SR 1992/160)</p>	<p>By omitting from regulation 2(1) the definition of the terms The Customs Acts, Collector, and Comptroller, and substituting the following definition: “Customs or the Customs, Customs officer, and Chief Executive have the same meaning as in section 2(1) of the Customs and Excise Act 1996</p> <p>By omitting from the definition of the term Importer the words “Customs Act 1966”, and substituting the words “Customs and Excise Act 1996”.</p> <p>By revoking regulation 4, and substituting the following regulation:</p> <p>“4 Application of Customs and Excise Act 1996 to prohibited imports</p> <p>All the provisions of the Customs and Excise Act 1996 with respect to prohibited imports (except section 209) shall extend and apply with respect to goods whose importation is prohibited by regulation 3 of these regulations, in all respects as if the importation of the goods were prohibited under section 54 of the Customs and Excise Act 1996.</p> <p>By omitting from regulation 5(1) the words “a Collector”, and substituting the words “any Customs officer”.</p> <p>By omitting from regulation 5(2) the words “Customs Department”, and substituting the words “New Zealand Customs Service”.</p> <p>By omitting from regulation 5(5) the words “section 284 of the Customs Act</p>

Title of Regulations	Amendment
	<p>1966”, and substituting the words “section 229 of the Customs and Excise Act 1996”. By omitting from regulation 5(6) the word “Comptroller”, in both places where it occurs, and substituting in each case the words “Chief Executive”. By revoking regulation 7, and substituting the following regulation:</p> <p>“7 Application of Customs and Excise Act 1996 to prohibited exports All the provisions of the Customs and Excise Act 1996 with respect to prohibited exports (except section 209) shall extend and apply with respect to goods whose exportation is prohibited by regulation 6 of these regulations, in all respects as if the exportation of the goods were prohibited under section 56 of the Customs and Excise Act 1996.</p> <p>By omitting from regulation 8 the words “a Collector” and “that Collector”, and substituting the words “any Customs officer” and “the Customs officer” respectively. By revoking regulation 10, and substituting the following regulation:</p> <p>“10 Power to withhold clearance of ship or aircraft The Customs may withhold the clearance of any ship or aircraft so long as there are on board the ship or aircraft any goods known to a Customs officer to be goods whose exportation is prohibited by regulation 6 of these regulations.</p>

Title of Regulations	Amendment
	<p>By omitting from regulation 20A(2) (as inserted by regulation 7 of the United Nations Sanctions (Federal Republic of Yugoslavia (Serbia and Montenegro)) Regulations 1992, Amendment No 2) the word “Collector”, in both places where it occurs, and substituting the words “Customs officer” and “Customs” respectively.</p> <p>By revoking subclause (1) of regulation 20B (as so inserted), and substituting the following subclause:</p> <p>“(1) If a Customs officer is satisfied that a vessel, freight vehicle, aircraft, or cargo-</p> <p> “(a) Is being used in connection with a contravention of these regulations; or</p> <p> “(b) Has at any time been used in connection with a contravention of these regulations,— the Customs may, by notice in writing, give directions for the detention of the vessel, freight vehicle, aircraft, or cargo by such persons, in such manner, and for such period as shall be specified in the notice, and once detained, that vessel, freight vehicle, aircraft, or cargo may, by direction of the Chief Executive, be forfeited.</p> <p>By omitting from regulation 20B(2) the word “Comptroller”, and substituting the words “Chief Executive”.</p> <p>By revoking regulation 25, and substituting the following regulation:</p>

Title of Regulations	Amendment
<p>The United Nations Sanctions (Liberia) Regulations 1992 (SR 1992/371)</p>	<p>“25 Customs and Excise Act 1996 not affected Nothing in these regulations shall limit or affect the operation of the Customs and Excise Act 1996.</p> <p>By omitting from regulation 2 the definition of the terms The Customs Acts and Collector, and substituting the following definition: “Customs or the Customs, and Customs officer have the same meaning as in section 2(1) of the Customs and Excise Act 1996</p> <p>By revoking regulation 4, and substituting the following regulation: “4 Application of Customs and Excise Act 1996 to prohibited exports All the provisions of the Customs and Excise Act 1996 with respect to prohibited exports (except section 209) shall extend and apply with respect to goods whose exportation is prohibited by regulation 3 of these regulations, in all respects as if the exportation of the goods were prohibited under section 56 of the Customs and Excise Act 1996.</p> <p>By revoking regulation 5, and substituting the following regulation: “5 Detention of prohibited exports If any Customs officer has reason to suspect that any goods being exported are goods whose export-</p>

Title of Regulations	Amendment
<p>The United Nations Sanctions (Angola) Regulations 1993 (SR 1993/336)</p>	<p>ation is prohibited by regulation 3 of these regulations, the Customs officer may detain the goods.</p> <p>By revoking regulation 7, and substituting the following regulation:</p> <p>“7 Power to withhold clearance of ship or aircraft</p> <p>The Customs may withhold the clearance of any ship or aircraft so long as there are on board the ship or aircraft any goods known to a Customs officer to be goods whose exportation is prohibited by regulation 3 of these regulations.</p> <p>By revoking regulation 13, and substituting the following regulation:</p> <p>“13 Customs and Excise Act 1996 not affected</p> <p>Nothing in these regulations shall limit or affect the operation of the Customs and Excise Act 1996.</p> <p>By omitting from regulation 2 the definition of the terms The Customs Acts and Collector, and substituting the following definition:</p> <p>“Customs or the Customs, and Customs officer have the same meaning as in section 2(1) of the Customs and Excise Act 1996</p> <p>By revoking regulation 4, and substituting the following regulation:</p>

Title of Regulations	Amendment
	<p>“4 Application of Customs and Excise Act 1996 to prohibited exports All the provisions of the Customs and Excise Act 1996 with respect to prohibited exports (except section 209) shall extend and apply with respect to goods whose exportation is prohibited by regulation 3 of these regulations, in all respects as if the exportation of the goods were prohibited under section 56 of the Customs and Excise Act 1996. By revoking regulation 5, and substituting the following regulation:</p> <p>“5 Detention of prohibited exports If a Customs officer has reason to suspect that any goods being exported are goods whose exportation is prohibited by regulation 3 of these regulations, the Customs officer may detain the goods. By revoking regulation 7, and substituting the following regulation:</p> <p>“7 Power to withhold clearance of ship or aircraft The Customs may withhold the clearance of any ship or aircraft so long as there are on board the ship or aircraft any goods known to a Customs officer to be goods whose exportation is prohibited by regulation 3 of these regulations. By revoking regulation 13, and substituting the following regulation:</p>

Title of Regulations	Amendment
<p>The United Nations Sanctions (Libya) Regulations 1993 (SR 1993/377)</p>	<p>“13 Customs and Excise Act 1996 not affected Nothing in these regulations shall limit or affect the operation of the Customs and Excise Act 1996.</p> <p>By omitting from regulation 2 the definition of the terms The Customs Acts and Collector, and substituting the following definition: “Customs or the Customs, and Customs officer have the same meaning as in section 2(1) of the Customs and Excise Act 1996</p> <p>By revoking regulation 4, and substituting the following regulation: “4 Application of Customs and Excise Act 1996 to prohibited exports All the provisions of the Customs and Excise Act 1996 with respect to prohibited exports (except section 209) shall extend and apply with respect to goods whose exportation is prohibited by regulation 3 of these regulations, in all respects as if the exportation of the goods were prohibited under section 56 of the Customs and Excise Act 1996.</p> <p>By revoking regulation 5, and substituting the following regulation: “5 Detention of prohibited exports If a Customs officer has reason to suspect that any goods being exported are goods whose exportation</p>

Title of Regulations	Amendment
<p>The United Nations Sanctions (Haiti) Regulations 1994 (SR 1994/113)</p>	<p>is prohibited by regulation 3 of these regulations, the Customs officer may detain the goods.</p> <p>By revoking regulation 7, and substituting the following regulation:</p> <p>“7 Power to withhold clearance of ship or aircraft</p> <p>The Customs may withhold the clearance of any ship or aircraft so long as there are on board the ship or aircraft any goods known to a Customs officer to be goods whose exportation is prohibited by regulation 3 of these regulations.</p> <p>By revoking regulation 15, and substituting the following regulation:</p> <p>“15 Customs and Excise Act 1996 not affected</p> <p>Nothing in these regulations shall limit or affect the operation of the Customs and Excise Act 1996.</p> <p>By omitting from regulation 2 the definition of the terms The Customs Acts and Collector, and substituting the following definition:</p> <p>“Customs or the Customs, Customs officer, and Chief Executive have the same meaning as in section 2(1) of the Customs and Excise Act 1996</p> <p>By revoking regulation 4, and substituting the following regulation:</p>

Title of Regulations	Amendment
	<p>“4 Application of Customs and Excise Act 1996 to prohibited imports</p> <p>All the provisions of the Customs and Excise Act 1996 with respect to prohibited imports (except section 209) shall extend and apply with respect to goods whose importation is prohibited by regulation 3 of these regulations, in all respects as if the importation of the goods were prohibited under section 54 of the Customs and Excise Act 1996.</p> <p>By omitting from regulation 5(1) the word “Collector”, and substituting the words “Customs officer”.</p> <p>By omitting from regulation 5(2) the words “Customs Department”, and substituting the words “New Zealand Customs Service”.</p> <p>By omitting from regulation 5(5) the words “section 284 of the Customs Act 1966”, and substituting the words “section 229 of the Customs and Excise Act 1996”.</p> <p>By omitting from regulation 5(6) the word “Comptroller”, in both places where it occurs, and substituting in each case the words “Chief Executive”.</p> <p>By revoking regulation 7, and substituting the following regulation:</p> <p>“7 Application of Customs and Excise Act 1996 to prohibited exports</p> <p>All the provisions of the Customs and Excise Act 1996 with respect to prohibited exports (except section 209) shall extend and apply with re-</p>

Title of Regulations	Amendment
	<p>spect to goods whose exportation is prohibited by regulation 6 of these regulations, in all respects as if the exportation of the goods were prohibited under section 56 of the Customs and Excise Act 1996.</p> <p>By revoking regulation 8, and substituting the following regulation:</p> <p>“8 Detention of prohibited exports If a Customs officer has reason to suspect that any goods being exported are goods whose exportation is prohibited by regulation 6 of these regulations, the Customs officer may detain the goods.</p> <p>By revoking regulation 10, and substituting the following regulation:</p> <p>“10 Power to withhold clearance of ship or aircraft The Customs may withhold the clearance of any ship or aircraft so long as there are on board the ship or aircraft any goods known to a Customs officer to be goods whose exportation is prohibited by regulation 6 of these regulations.</p> <p>By revoking regulation 24, and substituting the following regulation:</p> <p>“24 Customs and Excise Act 1996 not affected Nothing in these regulations shall limit or affect the operation of the Customs and Excise Act 1996.</p>

Title of Regulations	Amendment
<p>The United Nations Sanctions (Rwanda) Regulations 1994 (SR 1994/114)</p>	<p>By omitting from regulation 2 the definition of the terms The Customs Acts and Collector, and substituting the following definition:</p> <p>“Customs or the Customs, and Customs officer have the same meaning as in section 2(1) of the Customs and Excise Act 1996</p> <p>By revoking regulation 4, and substituting the following regulation:</p> <p>“4 Application of Customs and Excise Act 1996 to prohibited exports</p> <p>All the provisions of the Customs and Excise Act 1996 with respect to prohibited exports (except section 209) shall extend and apply with respect to goods whose exportation is prohibited by regulation 3 of these regulations, in all respects as if the exportation of the goods were prohibited under section 56 of the Customs and Excise Act 1996.</p> <p>By revoking regulation 5, and substituting the following regulation:</p> <p>“5 Detention of prohibited exports</p> <p>If a Customs officer has reason to suspect that any goods being exported are goods whose exportation is prohibited by regulation 3 of these regulations, the Customs officer may detain the goods.</p> <p>By revoking regulation 7, and substituting the following regulation:</p>

Title of Regulations	Amendment
<p>The United Nations Sanctions (Republic of Bosnia and Herzegovina) Regulations 1994 (SR 1994/281)</p>	<p>“7 Power to withhold clearance of ship or aircraft The Customs may withhold the clearance of any ship or aircraft so long as there are on board the ship or aircraft any goods known to a Customs officer to be goods whose exportation is prohibited by regulation 3 of these regulations. By revoking regulation 13, and substituting the following regulation: “13 Customs and Excise Act 1996 not affected Nothing in these regulations shall limit or affect the operation of the Customs and Excise Act 1996.</p> <p>By revoking regulation 10, and substituting the following regulation: “10 Customs and Excise Act 1996 not affected Nothing in these regulations shall limit or affect the operation of the Customs and Excise Act 1996.</p>

Title of Regulations	Amendment
<p>The Trade Marks (Border Protection and Transitional Applications) Regulations 1994 (SR 1994/306)</p>	<p>By omitting from regulation 4(1) the word “Comptroller”, and substituting the words “Chief Executive”.</p> <p>By omitting from regulation 4(2) the word “Comptroller”, and substituting the words “Chief Executive”.</p> <p>By omitting from regulation 6(1) the word “Comptroller”, and substituting the words “Chief Executive”.</p> <p>By omitting from regulation 6(2) the word “Comptroller”, and substituting the words “Chief Executive”.</p> <p>By omitting from regulation 6(3) the word “Comptroller”, and substituting the words “Chief Executive”.</p> <p>By omitting from regulation 7(1) the word “Comptroller”, and substituting the words “Chief Executive”.</p> <p>By omitting from regulation 7(2) the word “Comptroller”, and substituting the words “Chief Executive”.</p> <p>By omitting from the form of notice set out in Schedule 1 the words “Comptroller of Customs”, in both places where they occur, and substituting in each case the words “Chief Executive of the New Zealand Customs Service”.</p>
<p>The Copyright (Border Protection) Regulations 1994 (SR 1994/309)</p>	<p>By omitting from regulation 4(1) the word “Comptroller”, and substituting the words “Chief Executive”.</p> <p>By omitting from regulation 4(2) the word “Comptroller”, and substituting the words “Chief Executive”.</p>

Title of Regulations	Amendment
	<p>By omitting from regulation 5 the word “Comptroller”, in both places where it occurs, and substituting the words “Chief Executive”.</p> <p>By omitting from regulation 6(1) the word “Comptroller”, in both places where it occurs, and substituting the words “Chief Executive”.</p> <p>By omitting from regulation 6(2) the word “Comptroller”, in both places where it occurs, and substituting the words “Chief Executive”.</p> <p>By omitting from regulation 6(3) the word “Comptroller”, in both places where it occurs, and substituting the words “Chief Executive”.</p> <p>By omitting from regulation 7(1) the word “Comptroller”, in both places where it occurs, and substituting the words “Chief Executive”.</p> <p>By omitting from regulation 7(2) the words “Comptroller or a Collector”, and substituting the words “Chief Executive”.</p> <p>By omitting from the form of notice set out in the Schedule the words “Comptroller of Customs”, in each place where they occur, and substituting in each case the words “Chief Executive of the New Zealand Customs Service”.</p>

Schedule 7

Section 290(1)

Enactments repealed

1966, No 19—The Customs Act 1966. (RS Vol 2, p 57.)

- 1966, No 96—The Customs Acts Amendment Act 1966. (RS Vol 2, p 246.)
- 1967, No 137—The Customs Amendment Act 1967. (RS Vol 2, p 217.)
- 1968, No 31—The Customs Amendment Act 1968. (RS Vol 2, p 219.)
- 1970, No 28—The Customs Acts Amendment Act 1970. (RS Vol 2, p 249.)
- 1970, No 137—The Age of Majority Act 1970: So much of Schedule 1 as relates to the Customs Act 1966. (RS Vol 21, p 1.)
- 1971, No 42—The Customs Amendment Act 1971. (RS Vol 2, p 221.)
- 1972, No 7—The Customs Amendment Act 1972. (RS Vol 2, p 225.)
- 1973, No 110—The Customs Amendment Act 1973. (RS Vol 2, p 225.)
- 1974, No 4—The Customs Acts Amendment Act 1974. (RS Vol 2, p 249.)
- 1974, No 142—The Customs Acts Amendment Act (No 2) 1974. (RS Vol 2, p 251.)
- 1975, No 3—The Customs Acts Amendment Act 1975. (RS Vol 2, p 252.)
- 1976, No 5—The Customs Acts Amendment Act 1976. (RS Vol 2, p 255.)
- 1976, No 15—The Customs Amendment Act 1976. (RS Vol 2, p 232.)
- 1977, No 85—The Customs Acts Amendment Act (No 2) 1977. (RS Vol 2, p 266.)
- 1978, No 2—The Customs Acts Amendment Act 1978. (RS Vol 2, p 268.)
- 1978, No 78—The Customs Acts Amendment Act (No 2) 1978. (RS Vol 2, p 269.)
- 1979, No 137—The Customs Acts Amendment Act (No 2) 1979.
- 1980, No 5—The Customs Acts Amendment Act 1980.
- 1980, No 33—The Customs Acts Amendment Act (No 2) 1980.
- 1981, No 2—The Customs Acts Amendment Act 1981.
- 1981, No 6—The Customs Acts Amendment Act (No 2) 1981.

- 1981, No 20—The Customs Amendment Act 1981.
- 1982, No 9—The Customs Acts Amendment Act 1982.
- 1982, No 112—The Customs Acts Amendment Act (No 2) 1982.
- 1982, No 126—The Customs Amendment Act 1982.
- 1983, No 5—The Customs Acts Amendment Act 1983.
- 1983, No 41—The Customs Acts Amendment Act (No 2) 1983.
- 1984, No 6—The Customs Acts Amendment Act 1984.
- 1985, No 131—The Customs Amendment Act 1985.
- 1985, No 145—The Customs Acts Amendment Act 1985.
- 1986, No 43—The Goods and Services Tax Amendment Act 1986: Section 10. (RS Vol 19, p 485.)
- 1986, No 44—The Customs Amendment Act 1986.
- 1986, No 114—The Constitution Act 1986: So much of Schedule 1 as relates to the Customs Act 1966.
- 1987, No 8—The Official Information Amendment Act 1987: So much of Schedule 3 as relates to the Customs Act 1966. (RS Vol 21, p 634.)
- 1987, No 63—The Customs Amendment Act 1987.
- 1987, No 75—The Customs Amendment Act (No 2) 1987.
- 1987, No 117—The State-Owned Enterprises Amendment Act 1987: So much of Schedule 1 as relates to the Customs Act 1966.
- 1987, No 128—The Customs Amendment Act (No 4) 1987.
- 1988, No 7—The Goods and Services Tax Amendment Act 1988: Section 9.
- 1988, No 17—The Customs Amendment Act 1988.
- 1988, No 20—The State Sector Act 1988: So much of Schedule 5 as relates to the Customs Act 1966.
- 1988, No 127—The Customs Amendment Act (No 2) 1988.
- 1988, No 155—The Tariff Act 1988: So much of Schedule 2 as relates to the Customs Act 1966.
- 1988, No 158—The Dumping and Countervailing Duties Act 1988: Section 20.
- 1988, No 182—The Customs Amendment Act (No 3) 1988.
- 1989, No 8—The Goods and Services Tax Amendment Act 1989: Section 4.
- 1989, No 13—The Finance Act 1989: Section 17.

1989, No 44—The Public Finance Act 1989: So much of Schedule 1 as relates to the Customs Act 1966.
 1989, No 47—The Customs Amendment Act 1989.
 1989, No 48—The Tariff Amendment Act 1989.
 1990, No 89—The Customs Amendment Act 1990.
 1990, No 117—The Customs Amendment Act (No 2) 1990.
 1991, No 73—The Customs Amendment Act 1991.
 1991, No 84—The Customs Amendment Act (No 2) 1991.
 1991, No 130—The Customs Amendment Act (No 3) 1991.
 1992, No 30—The Customs Amendment Act 1992.
 1994, No 129—The Customs Amendment Act 1994.
 1994, No 136—The Customs Amendment Act (No 2) 1994.
 1995, No 7—The Customs Amendment Act 1995.

Schedule 8
Regulations, orders, and notices revoked

Section 290(2)

Title of Regulation, Order, or Notice	Statutory Regulations Serial Number or <i>Gazette</i> Reference
The Order Prohibiting the Importation of certain Egg Pulp, and White or Yolk of Eggs made on the 21st day of April 1921	<i>Gazette</i> , 1921, p 1019
The Customs Acts Amendment Act Commencement Order 1967	1967/135
The Appointment of Customs Airports Notice 1969	<i>Gazette</i> , 1969, p 1836
The Customs Duties (Timber) Suspension Order 1974	1974/97
The Customs Regulations 1968	1968/169

Title of Regulation, Order, or Notice	Statutory Regulations Serial Number or <i>Gazette</i> Reference
The Customs Regulations 1968, Amendment No 1	1969/196
The Customs Regulations 1968, Amendment No 2	1969/260
The Customs Regulations 1968, Amendment No 3	1970/189
The Customs Regulations 1968, Amendment No 4	1970/241
The Customs Regulations 1968, Amendment No 5	1971/258
The Customs Regulations 1968, Amendment No 6	1972/238
The Customs Regulations 1968, Amendment No 7	1973/66
The Customs Regulations 1968, Amendment No 8	1974/154
The Customs Regulations 1968, Amendment No 9	1975/229
The Customs Regulations 1968, Amendment No 10	1976/331
The Customs Regulations 1968, Amendment No 11	1977/69
The Customs Regulations 1968, Amendment No 12	1977/146

Title of Regulation, Order, or Notice	Statutory Regulations Serial Number or <i>Gazette</i> Reference
The Distillation Regulations 1977	1977/284
The Customs Regulations 1968, Amendment No 13	1978/278
The Customs Regulations 1968, Amendment No 14	1979/97
The Customs Ports of Entry Notice 1980	1980/122
The Customs Regulations 1968, Amendment No 15	1980/190
The Customs Regulations 1968, Amendment No 16	1980/238
The Customs Regulations 1968, Amendment No 17	1981/163
The Distillation Regulations 1977, Amendment No 1	1981/164
The Customs Regulations 1968, Amendment No 18	1981/238
The Customs Regulations 1968, Amendment No 19	1981/303
The Customs Regulations 1968, Amendment No 20	1982/136
The Customs Regulations 1968, Amendment No 21	1983/143
The Customs Regulations 1968, Amendment No 22	1983/183

Title of Regulation, Order, or Notice	Statutory Regulations Serial Number or <i>Gazette</i> Reference
The Distillation Regulations 1977, Amendment No 2	1983/261
The Customs Regulations 1968, Amendment No 23	1984/277
The Customs Ports of Entry Notice 1980, Amendment No 1	1984/311
The Customs Examining Place Fees Regulations 1985	1985/275
The Customs Duty on Government Goods Order 1986	1986/212
The Distillation Regulations 1977, Amendment No 3	1986/280
The Customs Regulations 1968, Amendment No 24	1986/282
The Customs Examining Place Fees Regulations 1985, Amendment No 1	1986/317
The Customs Ports of Entry Notice 1980, Amendment No 2	<i>Gazette</i> , 1986, p 5095
The Customs Regulations 1968, Amendment No 26	1986/383
The Customs Ports of Entry Notice 1980, Amendment No 3	1987/25
The Customs Airports Examination Stations Notice 1987	1987/35

Title of Regulation, Order, or Notice	Statutory Regulations Serial Number or <i>Gazette</i> Reference
The Customs Regulations 1968, Amendment No 27	1987/94
The Customs Regulations 1968, Amendment No 28	1988/21
The Customs Regulations 1968, Amendment No 29	1988/236
The Customs Tariff Classification Opinion Fees Regulations 1988	1988/237
The Customs (Excise) Amendment Order 1988	1988/307
The Customs Regulations 1968, Amendment No 30	1989/129
The Tariff Classification Opinion Fees Regulations 1988, Amendment No 2	1989/130
The Customs Regulations 1968, Amendment No 31	1989/244
The Customs Ports of Entry Notice 1980, Amendment No 4	1989/273
The Excise Duty (Alcoholic Beverages Indexation) Amendment Order 1989	1989/347
The Customs Districts Notice 1989	1989/349
The Excise Duty (Tobacco Products Indexation) Amendment Order 1990	1990/20
The Customs Wharves Notice 1990	1990/137

Title of Regulation, Order, or Notice	Statutory Regulations Serial Number or <i>Gazette</i> Reference
The Excise Duty (Tobacco Products Indexation) Amendment Order (No 2) 1990	1990/184
The Customs Ports of Entry Notice 1980, Amendment No 5	1990/253
The Excise Duty (Tobacco Products Indexation) Amendment Order 1991	1991/12
The Customs Import Prohibition (Brazilian Fila Dogs) Order 1991	1991/31
The Customs Wharves Notice 1990, Amendment No 1	1991/48
The Excise Duty (Alcoholic Beverages Indexation) Amendment Order 1991	1991/74
The Customs Amendment Act Commencement Order 1992	1992/339
The Customs Regulations 1968, Amendment No 32	1992/340
The Customs Regulations 1968, Amendment No 33	1992/389
The Excise Duty (Alcoholic Beverages Indexation) Amendment Order 1993	1993/10
The Excise Duty (Alcoholic Beverages Indexation) Amendment Order 1994	1994/6
The Excise Duty (Tobacco Products Indexation) Amendment Order 1994	1994/72

Title of Regulation, Order, or Notice	Statutory Regulations Serial Number or <i>Gazette</i> Reference
The Excise Duty (Tobacco Substitutes) Amendment Order 1994	1994/102
The Customs Regulations 1968, Amendment No 34	1994/146
The Customs Regulations 1968, Amendment No 35	1994/238
The Excise Duty (Tobacco Products Indexation) Amendment Order (No 2) 1994	1994/247
The Customs Amendment Act Commencement Order 1994	1994/313
The Customs Regulations 1968, Amendment No 36	1994/314
The Customs Regulations 1968, Amendment No 37	1995/4
The Customs Regulations 1968, Amendment No 38	1995/8
The Customs Amendment Act Commencement Order 1995	1995/9

Schedule 9

Section 308

Tariff items removed from Tariff

2106.90.39, 2106.90.49, 2106.90.59, 2106.90.69, 2106.90.79,
 2106.90.89, 2203.00.12, 2203.00.22, 2203.00.31, 2203.00.39,
 2204.10.01, 2204.10.18, 2204.21.12, 2204.21.18, 2204.29.12,

2204.29.18, 2205.10.11, 2205.10.19, 2205.10.32, 2205.10.38,
2205.90.11, 2205.90.19, 2205.90.32, 2205.90.38, 2206.00.08,
2206.00.18, 2206.00.28, 2206.00.37, 2206.00.47, 2206.00.57,
2206.00.68, 2206.00.79, 2206.00.89, 2207.10.19, 2207.10.29,
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3302.10.79, 3302.10.89, 3606.10.09, and 3824.90.29

Schedule 10
Substituted Tariff items

Section 308

Customs and Excise Amendment Act (No 3) 2008

Public Act 2008 No 68
Date of assent
Commencement see section 2

1 Title

This Act is the Customs and Excise Amendment Act (No 3) 2008.

2 Commencement

- (1) Sections 3, 10, and 12 come into force on the day after the date on which this Act receives the Royal assent.
- (2) Sections 4, 8, 9, 20, and 23 come into force on 1 October 2008.
- (3) The rest of this Act comes into force on a day to be appointed by the Governor-General by Order in Council, and 1 or more orders may be made bringing different provisions into force on different dates.

Part 2

Consequential amendments and transitional provisions

Transitional provisions

23 Transitional provision relating to exemption for tobacco manufactured for personal use

Until the close of 30 June 2009, section 68A(2)(d) of the principal Act, as inserted by section 8 of this Act, must be read as if for “any year ending with 30 June” there were substituted “the period commencing on 1 October 2008 and ending with the close of 30 June 2009”.

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Notes

1 General

This is an eprint of the Customs and Excise Act 1996. It incorporates all the amendments to the Act as at 1 January 2009. The list of amendments at the end of these notes specifies all the amendments incorporated into this eprint since 3 September 2007. Relevant provisions of any amending enactments that contain transitional, savings, or application provisions are also included, after the Principal enactment, in chronological order.

2 About this eprint

This eprint has not been officialised. For more information about officialisation, please see “Making online legislation official” under “Status of legislation on this site” in the About section of this website.

3 List of amendments incorporated in this eprint (most recent first)

Excise and Excise-equivalent Duties (Tobacco Products Indexation) Amendment Order 2008 (SR 2008/441)
Customs and Excise Amendment Act (No 3) 2008 (2008 No 68)
Customs and Excise Amendment Act (No 2) 2008 (2008 No 61)
Excise and Excise-equivalent Duties (Other Spirits Restructure) Amendment Order 2008 (SR 2008/260)
Customs and Excise Amendment Act 2008 (2008 No 50)
Land Transport Management Amendment Act 2008 (2008 No 47) section 49
Excise and Excise-equivalent Duties (Alcoholic Beverages Indexation) Amendment Order 2008 (SR 2008/124): clause 3
Customs and Excise (Social Assistance) Amendment Act 2008 (2008 No 25)
Taxation (Business Taxation and Remedial Matters) Act 2007 (2007 No 109): section 293

Excise and Excise-equivalent Duties (Tobacco Products Indexation)
Amendment Order 2007 (SR 2007/345): clause 3
Insolvency Act 2006 (2006 No 55): section 445
Lawyers and Conveyancers Act 2006 (2006 No 1): section 348
