



## ANALYSIS

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1983, No. 41

**An Act to amend the Customs Acts***[23 November 1983]*

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

**1. Short Title**—This Act may be cited as the Customs Acts Amendment Act (No. 2) 1983.

## PART I

## CUSTOMS

**2. This Part to be read with Customs Act 1966**—This Part of this Act shall be read together with and deemed part of the Customs Act 1966 (in this Part referred to as the principal Act).

**3. Delegation of powers**—(1) Section 9 of the principal Act is hereby amended by inserting, after subsection (2), the following subsection:

“(2A) With the written consent of the Comptroller, a Collector may similarly delegate to any officer of Customs all or any of the powers (except this present power of delegation) exercisable by him under the Customs Acts.”

(2) Section 9 of the principal Act is hereby further amended by inserting, after the words “or the Comptroller” wherever they occur in subsections (3), (6), and (7), in each place the words “or a Collector”.

**4. Examining places**—Section 32 of the principal Act (as substituted by section 4 of the Customs Acts Amendment Act (No. 2) 1976 and amended by section 4 of the Customs Acts Amendment Act (No. 2) 1979) is hereby amended by inserting, after subsection (7), the following subsection:

“(8) The Governor-General may from time to time, by Order in Council, make regulations prescribing examining places or any class or classes of examining places in respect of which annual fees are payable, the amount of the fees, and the persons liable to pay them.”

**5. Sight entries**—(1) The principal Act is hereby further amended by repealing section 58, and substituting the following section:

“58. (1) Notwithstanding anything in section 53 of this Act, but subject to this section, if the importer cannot immediately supply the full particulars for making entry of goods as required by section 53 of this Act, he may make a sight entry in the prescribed form.

“(2) A sight entry on being passed by the Collector shall be warrant for dealing with the goods in such manner as may be approved by the Collector.

“(3) The Collector may, if he thinks fit, deliver goods from the control of the Customs for home consumption in pursuance of a sight entry and the goods so delivered shall be deemed to have been entered for home consumption, but only on receiving such security as he thinks sufficient to cover the full amount of duty, sales tax, surtax, and import deposit which would otherwise be payable on making complete entry.

“(4) Complete entry of the goods shall thereafter be made by the importer of the goods within such time as the Collector appoints and in the same manner as if complete entry had been made at the time of the passing of the sight entry.

“(5) Every person who acts in contravention of any provision of this section commits an offence and shall be liable to a fine not exceeding \$400, and the goods may be dealt with by the Collector as if no sight entry had been made.”

(2) Section 59 of the principal Act is hereby consequentially repealed.

**6. Prohibited exports**—The principal Act is hereby further amended by repealing section 70 (7), and substituting the following subsection:

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

**7. Alterations to nomenclature**—(1) The principal Act is hereby further amended by repealing section 123 (as substituted by section 7 of the Customs Acts Amendment Act (No. 2) 1977), and substituting the following section:

“123. (1) The Governor-General may from time to time, by Order in Council, amend the Tariff—

“(a) By revoking, or amending any heading, heading number, subheading, item, or item number, or the title of any Part, section, chapter, or subchapter of the Tariff, or by inserting any new heading, heading

number, subheading, item, item number, or title, in such manner as he thinks necessary for the purpose of ensuring that the Tariff conforms to any international nomenclature; or

“(b) By revoking, suspending, or amending any provision of the notes forming part of the Tariff, or by inserting any new provision in the notes, for the purpose of ensuring the proper operation of the Tariff; or

“(c) By revoking, suspending, or amending any statistical requirement of the Tariff.

“(2) Notwithstanding anything in subsection (1)(c) of this section, the Minister may, by notice in the *Gazette*, revoke, suspend, or amend any statistical requirement in the Tariff.

“(3) The statistical requirements of the Tariff shall be those set out in the columns headed ‘Statistical Key’ in the Tariff, including any amendment thereof that may hereafter be made.

“(4) No amendment made pursuant to this section shall alter the duties or exemptions from duty applicable to goods classified under any item or heading so amended.”

(2) The Customs Acts Amendment Act (No. 2) 1977 is hereby consequentially amended by repealing section 7.

(3) This section shall be deemed to have come into force on the 16th day of December 1977, being the date on which the Customs Acts Amendment Act (No. 2) 1977 received the Governor-General’s assent.

**8. Valuation declaration and other documentary evidence of value**—Section 137 of the principal Act (as substituted by section 6 of the Customs Amendment Act 1981) is hereby amended by adding the following subsections:

“(4) Unless the Comptroller otherwise directs in relation to any class or classes of goods or transactions, every importer, or such other person as may be prescribed, who is required pursuant to this Act to make entry of any goods, shall keep all documents, or legible copies thereof, which evidence the particulars of the goods and the price paid or payable for those goods between the seller of the goods and the buyer of the goods for a period of not less than 12 months from the date on which such entry was required to be made under this Act.

“(5) Subject to any conditions that the Collector may impose, any importer, or such other person as may be prescribed, who is required pursuant to subsection (4) of this section to keep documents or legible copies thereof as aforesaid, may, in lieu thereof, transfer the information contained therein on to or into any mechanical or electronic device and shall keep that

information for a period of not less than 12 months from the date on which the entry was required to be made under this Act.

“(6) The Collector or other proper officer may enter the business premises of the importer or such other person as may be prescribed to examine any document or legible copy thereof required to be kept pursuant to subsection (4) of this section, or information required to be kept pursuant to subsection (5) of this section, and require him to truly answer all questions put to him by the Collector or other proper officer relating to such document or legible copy thereof, or information as aforesaid, and in the case of any information transferred on to or into any mechanical or electronic device pursuant to subsection (5) of this section, require him to operate the mechanical or electronic device at his own expense so as to allow the Collector or other proper officer to readily ascertain the information contained therein.

“(7) Every person who fails to comply with this section commits an offence and shall be liable to a fine not exceeding \$400.”

**9. Approvals and determinations under Tariff**—Section 158 of the principal Act is hereby amended by adding the following subsection:

“(2) If any dispute arises as to whether any approval or determination has been given or made by the Minister in respect of goods of any class or kind under any provision in the Tariff, such dispute shall be determined by the Minister in such manner as he thinks just, and his decision shall be final.”

**10. Goods temporarily imported**—Section 181 (4) of the principal Act (as substituted by section 8 of the Customs Acts Amendment Act (No. 2) 1980) is hereby amended by repealing subsection (4), and substituting the following subsection:

“(4) Where in any case goods temporarily imported are used for industrial or commercial purposes or such other purposes as the Minister 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 Collector at the time that he is satisfied, pursuant to subsection (2) of this section, that the goods have been dealt with under any of paragraphs (a) to (f) of that subsection, is less than their value for duty, as ascertained in accordance with this Act, at the time of their importation.”

**11. New Part VA inserted**—(1) The principal Act is hereby further amended by inserting, after section 186, the following Part:

“PART VA

“DUMPING AND COUNTERVAILING DUTIES

“186A. **Dumping duty**—(1) The Comptroller may initiate an investigation on being satisfied that there is sufficient evidence of the elements of dumping set out in this section.

“(2) Where, pursuant to an investigation under subsection (1) of this section, the Minister forms the opinion that the importation into New Zealand from any country of any goods of a class or kind produced or manufactured or intended to be produced or manufactured in New Zealand, or in any other country which is a contracting party to the General Agreement on Tariffs and Trade, causes or is likely to cause material injury to any industry in New Zealand or in the other country, or materially retards the establishment of any industry in New Zealand or in that other country, the Minister may, from time to time by notice in the *Gazette*, direct that there shall, in addition to any other duties of Customs, be imposed on any such goods imported into New Zealand a special duty of Customs (in this Act referred to as a dumping duty) and such duty shall be levied, collected, and paid in respect of any such goods in any of the following cases, namely:

“(a) If the export price of the goods to any importer is less than their normal value determined in accordance with section 186B of this Act:

“(b) If the export price of the goods to any importer is, in the opinion of the Minister, less than the cost of production, with an amount for administrative and selling costs, profit, and any charges added thereto, of similar goods in the country of origin or the country of exportation to New Zealand at the time of such exportation:

“(c) If the Minister is satisfied that goods exported to New Zealand have been carried, whether within the country of exportation for the purpose of exporting the goods to New Zealand or from the country of exportation to New Zealand or both, without a charge for freight, or there has been allowed, taken, or granted any special concession in freight (whether by way of remission, reduction, rebate, refund, or otherwise):

“(d) If the Minister is satisfied that, because of an association in business or a compensatory agreement between

the exporter or a third party, the goods are being sold on the open market in New Zealand at a loss, or at a profit lower than the profit normally made on sales on the open market of identical or equivalent goods.

“(3) The rate or amount of dumping duty levied under this section shall be determined as follows:

“(a) In the case of goods to which subsection (2) (a) of this section applies, the dumping duty shall be a rate or amount to be determined by the Minister, not exceeding the difference between the export price of the goods and their normal value:

“(b) In the case of goods to which subsection (2) (b) of this section applies, the dumping duty shall be a rate or amount to be determined by the Minister, not exceeding the difference between the export price of the goods and the cost of production, with a reasonable amount for administrative and selling costs, profit, and any charges added thereto, of similar goods in the country of origin or (as the case may require), the country of exportation to New Zealand at the time of such exportation:

“(c) In the case of goods to which subsection (2) (c) of this section applies, the dumping duty shall be a rate or amount to be determined by the Minister, not exceeding the amount of the reduction, rebate, refund or other allowance in freight referred to in the said subsection (2) (c):

“(d) In the case of goods to which subsection (2) (d) of this section applies, the dumping duty shall be a rate or amount to be determined by the Minister, not exceeding the difference between the price at which the goods are being sold on the open market in New Zealand and such selling price as the Minister may determine, having regard to the profit margin normally made by an independent seller in New Zealand on sales of identical or equivalent goods to an independent purchaser:

“Provided that the amount or rate of dumping duty levied under this section shall not exceed a rate or amount which in the opinion of the Minister is sufficient to remove the material injury referred to in subsection (2) of this section.

“(4) For the purposes of this Part of this Act, the Minister may determine the rate or amount of the special concession in freight to which subsection (2) (c) of this section relates.

“(5) Where, in relation to the exportation of any consignment of goods to New Zealand, the Minister is considering whether a dumping duty should be imposed under subsection (1) of this section, the Minister may suspend his consideration of that consignment if he is given and accepts an undertaking by the exporter that the exporter will so conduct his future export trade to New Zealand in goods of the same kind as the goods in the consignment as to avoid causing or threatening material injury to any industry in New Zealand or any other country which is a contracting party to the General Agreement on Tariffs and Trade or to avoid materially retarding the establishment of any industry in New Zealand or in that other country:

“Provided that the Minister may—

“(a) Be given and accept any amendment to an undertaking because of altered circumstances; and

“(b) In the event of an interested party offering satisfactory evidence substantiating the need for a review, or otherwise at the Minister’s own initiative, at any time decide that the need for an undertaking no longer exists and that the investigation is accordingly terminated.

“(6) For the purposes of this Part of this Act, 2 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.

“(7) For the purposes of subsections (2) (d) and (3) (d) of this section, the goods referred to as being sold on the open market in New Zealand shall include not only such goods sold in the same state as imported, but also any goods sold in New Zealand which use such goods, either in a further form of manufacture, or mixed with, in combination with, or sold in conjunction with any other goods, whether imported or otherwise.

“(8) If at any time it appears to the Minister that the payment of any dumping duty is being evaded or avoided by the importation of any goods otherwise than on sale or in any other manner, he may determine, for the purposes of this section, the normal value of the goods in accordance with section 186B of this Act, and the export price thereof in accordance with section 186C of this Act, and dumping duty may be levied accordingly.



“(9) The Minister may, by notice in the *Gazette*, revoke any notice made under the authority of this section, and, upon revocation, dumping duty imposed by that notice shall cease to be payable.

“(10) Any direction given under this section may, in the discretion of the Minister, require the imposition of dumping duty on goods imported into New Zealand before the date on which the direction is given, except goods imported earlier than 90 days immediately preceding—

“(a) The date on which the Collector has received from any person a written complaint that he has been or will be materially injured by the dumping of any of the goods to which the direction relates; or

“(b) The date of the giving of a provisional direction in respect of the goods under section 186E of this Act; or

“(c) The date of the giving of the direction.

“(11) Every determination of the Minister made under the authority of this section shall be final.

“(12) Subject to the Official Information Act 1982, the Comptroller, upon request, shall afford any interested party to an investigation access to all relevant information and the Comptroller shall take into account any views expressed by any such interested party.

“186B. **Normal value**—(1) For the purposes of this Part of this Act, the normal value of goods shall, subject to this section, be taken to be the price of like goods when sold by the exporter—

“(a) In the ordinary course of business for home consumption in the country of exportation:

“(b) In the same or substantially the same quantities as the sale of the goods to the importer:

“(c) To purchasers with whom the exporter is not associated, and who are at the same or substantially the same trade level as the importer,—

adjusted to reflect any differences in terms and conditions of sale, in taxation, and in price comparability between the goods sold to the importer and the like goods sold by the exporter.

“(2) In determining the normal value of any goods under this section there shall not be taken into account—

“(a) Any sale of like goods for home consumption by the exporter to a buyer in the country of exportation if the exporter did not, at the same or substantially the same time, sell like goods in the ordinary course

of business to other persons in the country of exportation at the same trade level as and not associated with the buyer; or

“(b) Any sale of like goods that forms part of a series of sales of goods at prices that do not provide for recovery within a reasonable period of time of the cost of production of the goods, with a reasonable amount for administrative and selling costs, profit, and any charges added thereto.

“(3) If there was not a sufficient number of sales of like goods made by the exporter by reason of the fact that the exporter sold goods solely or primarily for export, or the like goods sold by the exporter for home consumption in the country of exportation were sold to purchasers with whom the exporter is associated or to purchasers not of the same or substantially the same trade level as the importer, but there were sales of like goods for home consumption in the country of exportation by other sellers, there may be substituted for the exporter any one of such sellers as the Minister may specify.

“(4) Where the Government of the country of exportation has a monopoly or substantial monopoly of the trade of that country, or determines or substantially influences the domestic price of goods in that country, the Minister may determine the normal value of the goods to be an amount equal to—

“(a) The price of like goods produced or manufactured in a third country determined by the Minister and in the ordinary course of business sold for home consumption in, or exportation from, that country; or

“(b) The cost of production of like goods in a third country determined by the Minister, with a reasonable amount for administrative and selling costs, profit, and any charges added thereto; or

“(c) The price payable for like goods produced or manufactured in New Zealand and sold for home consumption in the ordinary course of business in New Zealand.

“(5) Notwithstanding anything in the foregoing provisions of this section, if, in the opinion of the Minister, the normal value of goods cannot be determined in accordance with those provisions, the value of the goods shall be determined by the Minister as—

“(a) The price of like goods when recently sold by the exporter or an exporter of like goods to importers in any country other than New Zealand which fairly

reflects the market value of the goods at the time of the sale of the goods to the importer in New Zealand, adjusted to reflect the differences in terms and conditions of sale, in taxation, and other differences relating to the price comparability between the goods sold to the importer in New Zealand and the like goods sold by the exporter to importers in any country other than New Zealand;  
or

“(b) The cost of production of like goods with a reasonable amount for administrative and selling costs, profit, and any charges added thereto.

“(6) Where goods in respect of which the Minister may give a direction under section 186A (1) of this Act are exported to New Zealand from more than one exporter, whether or not the goods are exported from more than one country, the Minister may determine the normal value of such goods by taking the normal values of the goods of such of those exporters as he thinks fit and selecting a normal value based upon a representation of the normal values so taken.

“(7) Where the Minister is satisfied that sufficient information has not been furnished or is not available to enable the normal value of goods to be ascertained under the foregoing provisions of this section, the normal value of the goods shall be an amount determined by the Minister that is fair and reasonable having regard to all relevant information.

“186c. **Export price**—(1) For the purposes of this Part of this Act, the export price of any goods sold to an importer in New Zealand, notwithstanding any invoice or affidavit to the contrary, shall be the exporter’s sale price for the goods, or the price at which the importer has purchased or agreed to purchase the goods, adjusted by deducting therefrom, where applicable,—

“(a) The costs, charges, and expenses incurred in preparing the imported goods for shipment to New Zealand that are additional to those costs, charges, and expenses generally incurred on sales for home consumption:

“(b) Duties and taxes imposed by virtue of the Customs Acts, whether paid by the importer or any other person:

“(c) All other costs, charges, and expenses resulting from the exportation of the imported goods, or arising after their shipment from the country of export or, as the case may require, from the country of origin:

“(d) Where credit terms granted to the importer with respect to the sale of the goods are more favourable than credit terms granted by the exporter to purchasers with respect to the sale of like goods for home consumption, an amount determined to reflect the value to the importer of the more favourable credit terms.

“(2) Notwithstanding anything in subsection (1) of this section, the Minister may determine the export price of goods where—

“(a) There is no exporter’s sale price or no price at which the importer in New Zealand has purchased or agreed to purchase the goods; or

“(b) Goods are shipped to New Zealand on consignment and there is no known purchaser in New Zealand for the goods; or

“(c) The sale of the goods for exportation was a sale between associated persons; or

“(d) The export price is influenced by reason of any compensatory arrangement which directly or indirectly affects or relates to—

“(i) The price of the goods; or

“(ii) The sale of the goods; or

“(iii) The net return to the exporter, vendor, manufacturer, or producer of the goods; or

“(iv) The net cost to the importer of the goods;

or

“(e) The Minister is satisfied that sufficient information has not been furnished or is not available to enable the export price of the goods to be ascertained in accordance with subsection (1) of this section, or for any other reason the export price cannot be ascertained in accordance with that subsection.

“186D. **Countervailing duty**—(1) The Comptroller may initiate an investigation on being satisfied that there is sufficient evidence of the elements of countervailing duty set out in this section.

“(2) Where, pursuant to an investigation under subsection (1) of this section, the Minister establishes that any country is providing, directly or indirectly, any subsidy, bounty, or concession with respect to the manufacture, production, or export of any class or kind of goods imported into New Zealand and it is established also that the importation of such goods causes or threatens to cause material injury to any industry in New Zealand or in any other country which is a contracting

party to the General Agreement on Tariffs and Trade, or materially retards the establishment of any industry in New Zealand or in that other country, the Minister may from time to time by notice in the *Gazette*, direct that there shall, in addition to any other duties of Customs, be imposed on any such goods imported into New Zealand a special duty of Customs (in this Act referred to as countervailing duty) and such duty shall be levied, collected, and paid in respect of any such goods.

“(3) The amount or rate of countervailing duty levied under this section in respect of any goods shall be determined by the Minister but shall not exceed the amount of the subsidy, bounty, or concession found to exist, calculated in terms of subsidisation per unit of the subsidised and exported products:

“Provided that the amount or rate of countervailing duty levied under this section shall not exceed a rate or amount which, in the opinion of the Minister, is sufficient to remove the material injury referred to in subsection (2) of this section.

“(4) Where the Minister has reasonable cause to believe that any subsidy, bounty, or concession has been allowed, taken, or granted, either directly or indirectly, upon the manufacture, production, or exportation of any goods exported to New Zealand, he may consult with the Government of the country of exportation with a view to arriving at a mutually acceptable solution before giving a direction under subsection (1) of this section or under section 186E of this Act.

“(5) Where, in relation to the exportation of any consignment of goods to New Zealand, the Minister is considering whether a countervailing duty may be imposed under subsection (1) of this section, the Minister may suspend his consideration of that consignment if he is given and accepts—

“(a) An undertaking by the Government of the country of exportation or country of origin that the Government will, in relation to any future export trade to New Zealand in goods of the same kind as the goods in the consignment, review any subsidy, bounty, or concession referred to in subsection (2) of this section, and make any changes that may be found to be necessary to avoid causing or threatening material injury to any industry in New Zealand or in any other country which is a contracting party to the General Agreement on Tariffs and Trade, or avoid materially retarding the establishment of any industry in New Zealand or in that other country; or

“(b) Any undertaking by the exporter of the goods in the consignment that the exporter will so conduct his future export trade to New Zealand in goods of the same kind as the goods in the consignment as to avoid causing or threatening material injury to any industry in New Zealand or in any other country which is a contracting party to the General Agreement on Tariffs and Trade, or to avoid materially retarding the establishment of any industry in New Zealand or in that other country:

“Provided that the Minister may—

“(c) Be given and accept any amendment to an undertaking because of altered circumstances; and

“(d) In the event of an interested party offering satisfactory evidence substantiating the need for a review, or otherwise at the Minister’s own initiative, he may at any time decide that the need for an undertaking no longer exists and that the investigation is accordingly terminated.

“(6) The Minister may, by notice in the *Gazette*, revoke any notice made under the authority of this section, and upon revocation countervailing duty imposed by that notice shall cease to be payable.

“(7) Any direction given under this section may, in the discretion of the Minister, require the imposition of countervailing duty on goods imported into New Zealand before the date on which the direction is given where material injury to any industry in New Zealand has been caused by a substantial importation of such goods, and the goods were not imported earlier than 90 days immediately preceding—

“(a) The date of the giving of a provisional direction in respect of the goods under section 186E of this Act; or

“(b) The date of the giving of the direction under this section.

“(8) Every determination of the Minister made under the authority of this section shall be final.

“(9) Subject to the Official Information Act 1982, the Comptroller, upon request, shall afford any interested party to an investigation access to all relevant information and the Comptroller shall take into account any views expressed by any such interested party.

“186E. **Provisional dumping and countervailing duty—**

(1) If, during the course of an investigation made pursuant to section 186A or section 186D of this Act, the Minister has reasonable cause to believe that—

“(a) Any goods which have been imported into New Zealand are goods in respect of which he may direct the imposition of dumping duty or countervailing duty; and

“(b) Action is necessary to prevent injury being caused during the period of the investigation,—

he may give a provisional direction that payment of such duty in respect of those goods shall be secured in accordance with Part IX of this Act, in such amount as he may determine.

“(2) A provisional direction given under subsection (1) of this section (unless in the meantime it is replaced by a direction given under section 186A or section 186D of this Act) shall cease to have effect at the expiry of the period of—

“(a) In the case of dumping duty, 6 months following the date on which the provisional direction was first given; or

“(b) In the case of countervailing duty, 4 months following the date on which the provisional direction was first given.

“(3) If any provisional direction given under subsection (1) of this section ceases to have effect, any security given pursuant to the provisional direction shall be released, except to the extent that the duty secured is payable pursuant to a direction given under section 186A or section 186D of this Act:

“Provided that where the countervailing duty imposed under section 186D of this Act exceeds the amount of provisional duty imposed by subsection (1) of this section, the amount of the excess shall be remitted.”

(2) The following enactments are hereby consequentially repealed:

(a) Section 129 of the principal Act:

(b) Section 6 of the Customs Amendment Act 1971:

(c) Section 4 of the Customs Amendment Act 1973:

(d) Section 4 of the Customs Amendment Act 1981:

(e) Section 9 of the Customs Acts Amendment Act (No. 2) 1982.

**12. Boarding of ships and aircraft**—Section 205 (1) of the principal Act is hereby amended by inserting, after the words “officer of Customs”, the words “, together with any person acting in his aid,”.

**13. Searching of ships and aircraft**—Section 206 of the principal Act is hereby amended—

- (a) By inserting in subsection (1), after the words “officer of Customs”, the words “, together with any person acting in his aid,”:
- (b) By inserting in subsection (2), after the word “officer”, the words “, together with any person acting in his aid,”.

**14. Boarding and searching Her Majesty’s ships and aircraft**—Section 207 of the principal Act is hereby amended by inserting, after the words “officer of Customs”, the words “, together with any person acting in his aid,”.

**15. Conditions as to powers of entry under Customs Acts**—The principal Act is hereby amended by inserting, after section 215, the following section:

“215A. Notwithstanding anything in any of the Customs Acts, every provision in any of those Acts giving any officer power to enter any building, whether under the authority of a warrant or otherwise, shall be subject to the following conditions—

- “(a) Reasonable notice of the intention to enter shall be given, except where it would frustrate the purpose of the entry:
- “(b) Entry shall be made at a time reasonable in the particular circumstances:
- “(c) Identification shall be produced on initial entry and, if requested, at any subsequent time:
- “(d) The authority for the entry and the purpose of the entry shall be stated.”

**16. Entry and search under Customs warrant**—(1) Section 217 (1) of the principal Act is hereby amended—

- (a) By inserting after the words “or other money under the Customs Acts”, the words “or any goods, books, or other documents which are evidence as to the commission of any offence against any of the Customs Acts,”:
- (b) By omitting the words “such goods, books, or documents”, and substituting the words “such goods, books, other documents, or evidence”.

(2) Section 217 of the principal Act is hereby further amended by repealing subsection (2), and substituting the following subsections:

“(2) On each occasion on which any officer proposes to use his warrant, for the purposes of this section, he shall first apply to the Collector who shall, if he considers that such reasonable cause as aforesaid exists—



“(a) Give permission to the officer to make application in writing on oath to a District Court Judge, a Justice of the Peace, or a Registrar or a Deputy Registrar of any Court who, if he has reason to believe such reasonable cause exists, shall sanction in the prescribed form the use of the warrant; or

“(b) If he considers that the case is one of great emergency where immediate action is necessary, the Collector may authorise the use of the warrant.

“(2A) On each occasion on which a Customs warrant is used, whether pursuant to paragraph (a) or paragraph (b) of subsection (2) of this section, the Collector shall, within 3 days thereafter, furnish to the Comptroller a written report on the use of the warrant and the circumstances in which it came to be exercised.”

**17. Impounding documents and other evidence**—Section 220 of the principal Act is hereby amended by adding the following subsections:

“(2) Where any officer of Customs or member of the Police carries out any lawful search, inspection, or examination under any of the Customs Acts or otherwise and has reasonable grounds to believe that any documents coming into his possession during such search, inspection, or examination are evidence of the commission of an offence against any of the Customs Acts, he may remove them for the purposes of making copies therefrom, after which, unless he retains the documents pursuant to subsection (3) of this section, he shall return them to the person otherwise entitled to them; and in all Courts and in all proceedings such a copy as aforesaid, if certified by the Collector under the seal of the Customs shall be received as evidence instead of the original.

“(3) Where any officer of Customs or member of the Police carries out any lawful search, inspection, or examination under any of the Customs Acts or otherwise and has reasonable grounds to believe that any documents or goods coming into his possession during such search, inspection, or examination are evidence of the commission of an offence against any of the Customs Acts, he may impound and retain subject to subsection (4) of this section any such documents or goods; but the person otherwise entitled to any such documents shall instead be entitled to a copy certified as correct by the Collector under the seal of the Customs and the copy so certified shall be received in all Courts and in all proceedings as evidence instead of the original.

“(4) Where any officer of Customs or member of the Police impounds and retains any goods or documents under subsection (3) of 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 as the Court thinks fit:

“(b) Any officer of Customs or member of the Police 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 impounded, 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 of the impounding, 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 him; and on any such application the District Court Judge may adjourn the application, on such terms as he 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 any person is convicted in any proceedings for an offence relating to any documents or goods to which this section applies, and any 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.”

**18. Interference with goods**—Section 248 (1) of the principal Act is hereby amended by omitting the words “imported goods or goods for export”, and substituting the word “goods”.

**19. Power of Collector to deal with petty offences**—Section 266 (2) of the principal Act (as amended by section 13 (2) of the Customs Acts Amendment Act (No. 2) 1982) is hereby further amended by inserting, after the words “under this Act”, the words, “or under the Sales Tax Act 1974”.

**20. Condemnation without suit**—Section 279 (1) of the principal Act is hereby amended by adding the following proviso:

“Provided that no goods seized as forfeited shall be deemed to be condemned as if by suit and judgment of condemnation where it is established, to the satisfaction of the Comptroller, that a cause of forfeiture did not accrue and the Comptroller may, prior to any sale, destruction, or disposal of the goods seized as forfeited, direct the restoration of the goods so seized to the person entitled thereto, on and subject to such terms and conditions (if any) as he may determine.”

**21. Condemnation by High Court**—Section 280 (6) of the principal Act is hereby amended by inserting, after the words “any person,”, the words, “or if, a statement of defence having been filed, no person appears to answer the information,”.

**22. Condemnation by District Court**—(1) The principal Act is hereby further amended by repealing section 282 (as amended by section 10 of the Customs Acts Amendment Act (No. 2) 1980), and substituting the following section:

“282. (1) If in any case the Collector at or nearest to the place of seizure is satisfied that the value of the goods seized

as forfeited does not exceed \$12,000, proceedings for their condemnation may be instituted by him in the District Court by information *in rem* by the Collector, in accordance with this section instead of in the High Court.

“(2) The procedure on any such information shall, subject to this Act, be in accordance with rules of Court to be made in that behalf, and in default of such rules, or so far as they do not extend, then in accordance with the usual practice of the District Court in civil proceedings so far as applicable or, so far as not applicable, then in accordance with the directions of the Court or a Judge thereof.

“(3) On the filing of any such information in the District Court by the Collector notice of the proceedings shall be served on or given to such persons and in such manner as the Court or a Judge thereof directs.

“(4) Any person claiming any interest in the goods to which the information relates may at any time within one month after the filing of the information, or within such further time as the Court or a Judge allows, file a statement of defence, and shall thereupon become a party to the proceedings.

“(5) Every statement of defence shall set out the interest of the defendant in the goods to which the information relates, and shall be accompanied by an affidavit verifying the existence and nature of that interest.

“(6) If no such statement of defence is duly filed by any person, or if a statement of defence having been filed, no person appears to answer the information, judgment of condemnation of the goods to which the information relates shall be entered.

“(7) On any such information costs may be awarded to or against the Collector or any other party to the proceedings.”

(2) The Customs Acts Amendment Act (No. 2) 1980 is hereby consequentially amended by repealing section 10.

**23. Conviction to operate as a condemnation of forfeited goods**—Section 283 (1) of the principal Act is hereby amended by omitting the words “Notwithstanding anything in the foregoing provisions of this Part of this Act relating to condemnation, but”.

**24. Penalties increased**—(1) The provisions of the principal Act specified in the First Schedule to this Act are hereby amended in the manner indicated in that Schedule.

(2) The Customs Acts Amendment Act (No. 2) 1982 is hereby consequentially amended by repealing so much of the Schedule as relates to sections 242 and 243 of the principal Act.

**25. First Schedule**—The First Schedule to the principal Act is hereby amended by adding to the last item, after the word “penitentiary”, the words “, excluding a bona fide gift made by a prisoner for the personal use of a private individual”.

**26. Third Schedule**—The Third Schedule to the principal Act (as substituted by section 4 (1) of the Customs Acts Amendment Act (No. 2) 1981 and amended by section 5 of the Customs Acts Amendment Act 1982) is hereby further amended by omitting the words “Interpretation of this Schedule shall be governed by the same Rules of Interpretation applicable to the Second Schedule”, and substituting the following notes:

“NOTES

“1. Subject to these notes, interpretation of this Schedule shall be governed by the same rules of interpretation applicable to the Second Schedule of this Act.

“2. All goods specified in this Schedule that are contained in ornamental containers shall pay duty applicable to those goods under this Schedule.”

**27. Repeals**—(1) The Trade Agreement (New Zealand and Canada) Ratification Act 1932 is hereby repealed.

(2) The principal Act is hereby consequentially amended by repealing section 3 (1) (d).

PART II

SALES TAX

**28. This Part to be read with Sales Tax Act 1974**—This Part of this Act shall be read together with and deemed part of the Sales Tax Act 1974 (in this Part referred to as the principal Act).

**29. Interpretation**—(1) Section 2 (1) of the principal Act is hereby amended by omitting from the definition of the expression “contractor” the words “producing the goods”, and substituting the words “the work”.

(2) Section 2 (1) of the principal Act is hereby further amended by inserting in the definition of the expression “manufacturing retailer”, after paragraph (a), the following paragraph:

“(aa) Any person, not being a wholesaler, who manufactures taxable goods; and”.

(3) Section 2 (1) of the principal Act is hereby further amended by omitting from paragraph (b) of the definition of the

expression “manufacturing retailer” the word “produces”, and substituting the words “does work on or in respect of”.

(4) Section 2 (1) of the principal Act is hereby further amended—

- (a) By omitting from the definition of the expression “wholesaler” the words “(not being a manufacturing retailer)”:
- (b) By inserting in paragraph (c) of the definition of the expression “wholesaler”, after the words “taxable goods”, the words “for sale to retailers”:
- (c) By omitting from paragraph (d) of the definition of the expression “wholesaler” the words “produces taxable goods”, and substituting the words “does work on or in respect of taxable goods for retailers”.

**30. Sales tax on goods imported, sold, or manufactured**—(1) Section 12 (1) (a) (i) of the principal Act is hereby amended by inserting, after the words “entered therein”, the words “or delivered”.

(2) Section 12 (1A) of the principal Act (as inserted by section 8 of the Customs Acts Amendment Act 1977) is hereby repealed.

**31. Special provisions as to valuation**—Section 26 (c) of the principal Act (as substituted by section 11 of the Customs Acts Amendment Act 1982) is hereby amended by omitting the words “vendor by reason of”, and substituting the words “vendor, by reason of”.

**32. Sales tax a Crown debt**—(1) Section 27 (2) of the principal Act is hereby amended by inserting in paragraph (a), after the word “entered”, the words “or delivered”.

(2) Section 27 (2) of the principal Act is hereby further amended by inserting in paragraphs (a) and (b), after the words “shall be payable”, in both places where they occur, the words “to the Collector or other proper officer”.

(3) Section 27 (2) of the principal Act is hereby further amended by inserting in paragraph (c), after the words “the sales tax shall be payable”, the words “to the Collector or other proper officer”.

**33. Assessment and payment of tax on goods imported**—The principal Act is hereby further amended by repealing section 31, and substituting the following section:

“31. (1) The sales tax payable on any goods under section 12 (1) (a) (i) of this Act shall be assessed by the Collector or other proper officer, and except as provided in section 28 (3) or section 34 of this Act, shall be paid to him at the time the goods are entered or delivered for home consumption under the Customs Act 1966.

“(2) The sales tax payable on any goods under section 12 (1) (a) (ii) of this Act shall be assessed by the Collector or other proper officer, and shall be paid to him at the time of the assessment.

“(3) Where the Collector or other proper officer has reason to believe or suspect that sales tax is payable on any imported goods pursuant to section 12 (1) (a) of this Act, and—

“(a) No assessment has been made pursuant to this section;

or

“(b) A deficient or incorrect assessment has been made as aforesaid,—

the Collector or other proper officer may assess the sales tax at such amount as he thinks is properly payable under this Act and such amount shall be paid to the Collector or other proper officer at the time of the assessment.”

**34. Goods temporarily imported**—Section 34 of the principal Act (as substituted by section 15 of the Customs Acts Amendment Act (No. 2) 1980) is hereby amended by repealing subsection (4), and substituting the following subsection:

“(4) Where in any case goods temporarily imported are used for industrial or commercial purposes or such other purposes as the Minister may consider applicable, sales tax shall be payable in respect of the goods on the amount by which their value for sales tax, as assessed by the Collector at the time that he is satisfied, pursuant to subsection (2) of this section, that the goods have been dealt with under any of paragraphs (a) to (f) of that subsection, is less than their value for sales tax, as ascertained in accordance with this Act, at the time of their importation.”

**35. Additional tax on default in payment**—Section 37 of the principal Act is hereby amended by repealing subsection (1) (as substituted by section 12 of the Customs Acts Amendment Act 1982), and substituting the following subsection:

“(1) For the purposes of this section, the expression ‘due date’ in relation to sales tax payable on taxable goods—

“(a) Under section 12 (1) (a) of this Act means—

“(i) Where subsection (3) of section 31 of this Act applies, 28 days after the date of the assessment of sales tax under that subsection:

“(ii) In all other cases, the time for payment of sales tax under subsection (1) or subsection (2) of section 31 of this Act, as the case may require:

“(b) Under section 12 (1) (b) or section 12 (1) (c) of this Act means the date on which a return is required to be lodged under this Act in relation to those goods:

“Provided that where, in relation to sales tax on any taxable goods, an assessment is not made until after that date and the Comptroller is satisfied that the taxpayer has not been guilty of wilful neglect or default in making due and complete return, the due date in relation to sales tax on those goods shall be 28 days after the date of the assessment.”

**36. Credit for sales tax paid on goods or materials purchased**—(1) Section 49 (2) of the principal Act (as substituted by section 16 of the Customs Acts Amendment Act (No. 2) 1980) is hereby amended by omitting the expression “section 24”, and substituting the expression “section 23”.

(2) This section shall be deemed to have come into force on the 6th day of August 1982.

**37. Sales tax warrants**—(1) Section 63 (2) of the principal Act is hereby amended—

(a) By inserting, after the words “any money under this Act”, the words “or any goods, books, or other documents which are evidence as to the commission of any offence against any of the Customs Acts,”:

(b) By omitting the words “such goods or records”, and substituting the words “such goods, records, or evidence”.

(2) Section 63 of the principal Act is hereby further amended by repealing subsection (3), and substituting the following subsections:

“(3) On each occasion on which any officer proposes to use his warrant, for the purposes of this section, he shall first apply to the Collector who shall, if he considers that such reasonable cause as aforesaid exists—

“(a) Give permission to the officer to make application in writing on oath to a District Court Judge, a Justice of the Peace, or a Registrar or a Deputy Registrar of any Court who, if he has reason to believe such



reasonable cause exists, shall sanction in the prescribed form the use of the warrant; or

“(b) If he considers that the case is one of great emergency where immediate action is necessary, the Collector may authorise the use of the warrant.

“(3A) On each occasion on which a warrant is used, whether pursuant to paragraph (a) or paragraph (b) of subsection (3) of this section, the Collector shall, within 3 days thereafter, furnish to the Comptroller a written report on the use of the warrant and the circumstances in which it came to be exercised.”

**38. Penalties increased**—(1) The provisions of the principal Act specified in the Second Schedule to this Act are hereby amended in the manner indicated in that Schedule.

(2) The Customs Acts Amendment Act (No. 2) 1980 is hereby consequentially amended by repealing section 18.

**39. First Schedule**—(1) The First Schedule to the principal Act (as substituted by section 15 of the Customs Acts Amendment Act 1982) is hereby amended by omitting from Part G, Item 2, the expression “H to R”, and substituting the expression “H to S”.

(2) This section shall be deemed to have come into force on the 1st day of October 1982.

**40. Repeals**—The following enactments are hereby repealed:

- (a) Section 12 (1A) of the Sales Tax Act 1974;
- (b) Section 3 of the Sales Tax Amendment Act 1974;
- (c) Part II of the Customs Acts Amendment Act 1975 and the Third Schedule thereto;
- (d) Part II of the Customs Acts Amendment Act 1976 and the Second Schedule thereto;
- (e) The Third Schedule to the Customs Acts Amendment Act 1977;
- (f) Part II of the Customs Acts Amendment Act (No. 2) 1977;
- (g) Part II of the Customs Acts Amendment Act 1979 and the Second, Third, and Fourth Schedules thereto;
- (h) Section 10 of the Customs Acts Amendment Act 1981 and the Third Schedule thereto.

### PART III BEER DUTY

**41. This Part to be read with Beer Duty Act 1977**—This Part of this Act shall be read together with and deemed part of the Beer Duty Act 1977 (in this Part referred to as the principal Act).

**42. Taking of samples**—(1) Section 37 (2) of the principal Act is hereby amended by omitting the words “the Department of Scientific and Industrial Research”, and substituting the words “a laboratory approved for the purpose by the Comptroller”.

(2) Section 37 (3) of the principal Act is hereby amended by omitting the word “Department”, and substituting the word “laboratory”.

#### PART IV

##### DISTILLATION

**43. This Part to be read with Distillation Act 1971**—This Part of this Act shall be read together with and deemed part of the Distillation Act 1971 (in this Part referred to as the principal Act).

**44. Third Schedule**—The Third Schedule to the principal Act (as inserted by section 20 (4) of the Customs Acts Amendment Act 1982) is hereby amended by adding, after note 2, the following note:

“3. Notwithstanding anything in this Act or in the Customs Act 1966, all spirits specified in this Schedule that are contained in ornamental containers shall be subject to duty at the rate applicable to those spirits under this Schedule.”

#### PART V

##### MOTOR SPIRITS DUTY

**45. This Part is to be read with Motor Spirits Duty Act 1961**—This Part of this Act shall be read together with and deemed part of the Motor Spirits Duty Act 1961 (in this Part referred to as the principal Act).

**46. Refund of duty on motor spirits supplied to certain organisations and their members**—The principal Act is hereby amended by inserting, before section 27, the following section:

“26A. (1) The Governor-General may from time to time, by Order in Council, authorise the remission or refund of any motor spirits duty paid in respect of motor spirits supplied in New Zealand solely for the use of—

“(a) 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 any 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) Persons temporarily resident in New Zealand for the purpose of serving as members of any such approved organisation, expedition, or other such body.

“(2) In respect of any motor spirits to which any Order in Council made for the purpose of this section relates, the Comptroller may at any time impose such conditions as he thinks fit.”

## SCHEDULES

### FIRST SCHEDULE

Section 24

#### CUSTOMS ACT 1966

#### *Increase in Penalties for Offences*

Provision of Customs Act 1966	Amendment
Section 48 (as amended by section 7 of the Customs Amendment Act 1968 and section 23 (2) of the Commerce Amendment Act 1976)	<p>By repealing subsection (10), and substituting the following subsection:</p> <p>“(10) Every person who commits an offence against this section is liable to a fine not exceeding,—</p> <p>“(a) In the case of an individual, \$5,000, and in the case of a body corporate, \$25,000; or</p> <p>“(b) In either case, an amount equal to 3 times the value of the goods to which the offence relates—</p> <p>whichever is the greater.”</p>
Section 242 (as amended by section 17 of the Customs Acts Amendment Act (No. 2) 1982)	<p>By repealing the section, and substituting the following section:</p> <p>“242. (1) If any person smuggles any goods he commits an offence and the goods shall be forfeited.</p> <p>“(2) Every person who commits an offence against this section is liable to a fine not exceeding,—</p> <p>“(a) In the case of an individual, \$5,000, and in the case of a body corporate, \$25,000; or</p> <p>“(b) In either case, an amount equal to 3 times the value of the goods to which the offence relates,—</p> <p>whichever is the greater.”</p>

FIRST SCHEDULE—*continued*  
 CUSTOMS ACT 1966—*continued*  
*Increase in Penalties for Offences—continued*

Provision of Customs Act 1966	Amendment
Section 243 (as amended by section 17 of the Customs Acts Amendment Act (No. 2) 1982)	<p>By repealing the section, and substituting the following section:</p> <p>“243. (1) If any person contravenes any provision of this Act, or does any other act, with intent to defraud the revenue of Customs—</p> <p>“(a) By evading or enabling any other person to evade payment of duty or full duty on any goods; or</p> <p>“(b) By obtaining or enabling any other person to obtain any money by way of drawback or refund of duty on any goods; or</p> <p>“(c) In any other manner whatever in relation to any goods—</p> <p>or conspires with any other person (whether that other person is in New Zealand or not) so to defraud the revenue of Customs in relation to any goods, he commits an offence and the goods shall be forfeited.</p> <p>“(2) Every person who commits an offence against this section is liable to a fine not exceeding,—</p> <p>“(a) In the case of an individual, \$5,000, and in the case of a body corporate, \$25,000; or</p> <p>“(b) In either case, an amount equal to 3 times the value of the goods to which the offence relates—</p> <p>whichever is the greater.”</p>

## SECOND SCHEDULE

Section 38

## SALES TAX ACT 1974

*Increases in Penalties for Offences*

Provision of Sales Tax Act 1974	Amendment
Section 40	<p>By repealing subsection (2), and substituting the following subsection:</p> <p>“(2) Every person who fails or refuses to comply with a notice under this section commits an offence and shall be liable to a fine not exceeding \$500.”</p>
Section 64 (as amended by section 18 of the Customs Acts Amendment Act (No. 2) 1980)	<p>By repealing the section, and substituting the following section:</p> <p>“64. (1) Every person who contravenes any provision of this Act, or does any other act, with intent to defraud the revenue of Customs—</p> <p>“(a) By evading or enabling any other person to evade payment of the sales tax or any part of the sales tax on any goods; or</p> <p>“(b) By obtaining or enabling any other person to obtain any money by way of drawback or refund of sales tax on any goods; or</p> <p>“(c) In any other manner whatever in relation to any goods,—</p> <p>or who conspires with any other person (whether that other person is in New Zealand or not) so to defraud the revenue of Customs in relation to any goods, commits an offence.</p> <p>“(2) Every person who commits an offence against this section is liable to a fine not exceeding,—</p> <p>“(a) In the case of an individual, \$5,000, and in the case of a body corporate, \$25,000; or</p> <p>“(b) In either case, an amount equal to 3 times the price for which the goods to which the offence relates are sold, or, in the case of goods deemed to have been sold under section 13 of this Act, an amount equal to 3 times the value of the goods to which the offence relates, as determined in accordance with section 23 of this Act,—</p> <p>whichever is the greater:</p>

SECOND SCHEDULE—*continued*SALES TAX ACT 1974—*continued**Increases in Penalties for Offences—continued*

Provision of Sales Tax Act 1974	Amendment
Section 64 (as amended by section 18 of the Customs Acts Amendment Act (No. 2) 1980)— <i>continued</i>	“Provided that, where any offence against this section relates to imported goods, those goods shall be forfeited and the provisions of Part XII of the Customs Act 1966 shall apply to any such goods in the same manner as they apply to goods forfeited under the Customs Act 1966.”

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This Act is administered in the Customs Department.

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