Version
as at 28 August 2025

Customs and Excise Act 2018

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Commencement	see section 2

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Note

The Parliamentary Counsel Office has made editorial and format changes to this version using the powers under subpart 2 of Part 3 of the Legislation Act 2019.

Note 4 at the end of this version provides a list of the amendments included in it.

This Act is administered by the New Zealand Customs Service.

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[Repealed]

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Consequential repeal, revocations, and amendments

The Parliament of New Zealand enacts as follows:

1 Title

This Act is the Customs and Excise Act 2018.

2 Commencement

(1) The following provisions of Schedule 3 come into force on the day after the date of Royal assent:

(a) clauses 16 and 26(1) to (3):

(b) Part 5.

(2) Sections 113(3)(a), 114(6)(a), 115(5)(a), 116(6)(a), 117(3)(a), 138(6)(a), and 139(6)(a) come into force on—

(a) the date that immediately follows the specified 6-month period; or

(b) an earlier date specified by the Governor-General by Order in Council.

(3) Subpart 3 of Part 5 comes into force as follows:

(a) in relation to entries under section 89, on—

(i) the date that immediately follows the specified 6-month period; or

(ii) an earlier date specified by the Governor-General by Order in Council:

(b) in relation to all other entries, on the specified date.

(4) The rest of this Act comes into force on the specified date.

(5) In this section,—

entries is to be read in accordance with the definition of entry in section 284

specified 6-month period means the 6-month period that starts with the specified date

specified date means—

(a) the date that immediately follows the 12-month period that starts with the date of Royal assent; or

(b) an earlier date specified by the Governor-General by Order in Council.

(6) An order under this section is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Legislation Act 2019 requirements for secondary legislation made under this section

Publication	PCO must publish it on the legislation website and notify it in the *Gazette*	LA19 s 69(1)(c)

Presentation	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 2(2): sections 113(3)(a), 114(6)(a), 115(5)(a), 116(6)(a), 117(3)(a), 138(6)(a), and 139(6)(a) brought into force, on 1 October 2018, by clause 2(1) of the Customs and Excise Act 2018 Commencement Order 2018 (LI 2018/148).

Section 2(3): subpart 3 of Part 5 brought into force, on 1 October 2018, by clause 2 of the Customs and Excise Act 2018 Commencement Order 2018 (LI 2018/148).

Section 2(4): the rest of this Act brought into force, on 1 October 2018, by clause 2(2) of the Customs and Excise Act 2018 Commencement Order 2018 (LI 2018/148).

Section 2(6): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Part 1
Preliminary provisions

Purposes and overview

3 Purposes of Act

The purposes of this Act are as follows:

(a) to levy excise duty and excise-equivalent duty:

(b) to enable the collection of—

(i) duty imposed under the Tariff Act 1988; and

(ii) excise duty and excise-equivalent duty; and

(iii) other types of duties, taxes, and levies:

(c) to provide for the administration and enforcement of customs controls at the border and to facilitate border control through risk management:

(d) to set out obligations of—

(i) persons who cross the border; and

(ii) persons who cause or allow goods, persons, or craft to cross the border:

(e) to set out the powers of Customs in relation to goods, persons, and craft:

(f) to restate, with some modifications, the law relating to customs:

(g) to repeal the Customs and Excise Act 1996.

Compare: 1996 No 27 Long Title

4 Overview of Act

(1) This Act is divided into 6 Parts.

Part 1

(2) This Part (Part 1) deals with preliminary matters, including the following:

(a) definitions of terms used in this Act (sections 5 and 6):

(b) the application of this Act (sections 7 and 8):

(c) transitional, savings, and related provisions (section 9 and Schedule 1):

(d) how this Act binds the Crown (section 10 and Schedule 2).

Part 2

(3) Part 2 levies excise duty and excise-equivalent duty (section 11 and Schedule 3).

Part 3

(4) Part 3 is about the entry and exit of goods, persons, and craft into and out of New Zealand, including the following:

(a) what is to happen when a craft transporting goods or persons—

(i) is en route to New Zealand; or

(ii) has arrived in New Zealand; or

(iii) is departing from New Zealand (subpart 1):

(b) the designation of ports and airports as Customs places and the licensing of Customs-controlled areas, including a requirement that certain activities relating to goods, persons, or craft must be carried out only in Customs-controlled areas that are licensed for those activities (subpart 2):

(c) the entry of, and accounting for, imported goods, goods on which excise duty is levied, and goods that are being exported (subpart 3):

(d) prohibitions on the importation and exportation of—

(i) objectionable publications; and

(ii) goods that are designed, manufactured, or adapted for a dishonest purpose; and

(iia) tobacco; and

(iii) other goods prohibited by Order in Council or by the Secretary of Foreign Affairs and Trade (subpart 4 and Schedules 3A and 3B):

(e) matters relating to duty on imported goods, including the valuation of imported goods for the purposes of duty (subpart 5 (including Schedule 4)):

(f) excise duty and excise-equivalent duty credits (subpart 6):

(g) the assessment, payment, and recovery of duty (subpart 7):

(h) interest and penalties for late or incorrect payments of duty, incorrect refunds of duty, and drawback incorrectly allowed (subpart 8):

(i) the forfeiture, seizure, and condemnation of goods (subpart 9 (including Schedule 5)).

Part 4

(5) Part 4 sets out powers that are given to Customs, including the following:

(a) powers in relation to craft:

(b) powers in relation to persons:

(c) powers to enter certain places:

(d) powers to examine goods, search for goods, ask questions about goods, and do other things in relation to goods:

(e) powers to require documents to be produced, to examine, copy, and retain documents, and to do other things in relation to documents.

Part 5

(6) Part 5 deals with administrative matters, including the following:

(a) the organisation of Customs (subpart 1):

(b) the licensing of Customs-approved areas for storing exports, the approval of Customs-approved secure export schemes, and the use of Customs-approved export seals (subpart 2 (including Schedule 6)):

(c) the imposing of administrative penalties for incorrect entries relating to goods (subpart 3):

(d) the use of automated electronic systems for the making of decisions (subpart 4):

(e) the use of information by Customs and joint border management systems (subpart 5):

(f) the disclosure of information by Customs to other government agencies, private sector organisations, and overseas authorities (subpart 6):

(g) the regulation of electronic systems established by Customs to enable documents to be provided to Customs by persons registered to use the systems or by Customs to those persons (subpart 7):

(h) the making of binding rulings by Customs (subpart 8):

(i) administrative reviews of certain decisions made by Customs under this Act (subpart 9 (including Schedule 7)):

(j) the establishment of Customs Appeal Authorities to determine appeals against certain decisions made by Customs under this Act (subpart 10 (including Schedule 8)).

Part 6

(7) Part 6 deals with final and miscellaneous matters, including the following:

(a) the keeping of records (subpart 1):

(b) offences (subpart 2):

(c) regulations, orders, and rules (subpart 3):

(d) the giving of notices and other miscellaneous matters (subpart 4):

(e) the repeal of the Customs and Excise Act 1996 and other consequential repeals, revocations, and amendments (subpart 5 (including Schedule 9)).

(8) This section is only a guide to the provisions of this Act.

Section 4(4)(d)(iia): inserted, on 1 July 2020, by section 4(1) of the Customs and Excise (Tobacco) Amendment Act 2020 (2020 No 16).

Section 4(4)(d)(iii): amended, on 1 July 2020, by section 4(2) of the Customs and Excise (Tobacco) Amendment Act 2020 (2020 No 16).

Section 4(5): amended, on 21 May 2022, by section 50 of the Maritime Powers Act 2022 (2022 No 23).

Section 4(5): amended, on 1 October 2018, by section 9 of the Maritime Powers Extension Act 2018 (2018 No 38).

Definitions, application, and transitional provision

5 Definitions for Act

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

administrative review means a review under section 347 and Schedule 7

aircraft means any machine that can derive support in the atmosphere from the reactions of the air otherwise than by the reactions of the air against the surface of the earth

Armed Forces has the meaning given to that term in section 2(1) of the Defence Act 1990

arrive, as in arrive in New Zealand,—

(a) in relation to a person, means to enter into New Zealand from a point outside New Zealand by any means, whether lawfully or unlawfully; and

(b) in relation to a craft, means to arrive in New Zealand from a point outside New Zealand,—

(i) whether lawfully or unlawfully; and

(ii) whether or not the craft does any of the following:

(A) lands, berths, moors, anchors, or stops at any place within New Zealand:

(B) hovers above any place within New Zealand:

(C) otherwise arrives at any place within New Zealand

authorised certification body means a body designated as an authorised certification body under section 435

authorised person means—

(a) a person authorised under section 271 to carry out a function of a Customs officer under this Act; or

(b) a person within a class of persons authorised under section 272 to carry out a function of a Customs officer under this Act

beer means an alcoholic drink made from yeast-fermented malt, water, and hops

biofuel means any gaseous or liquid fuel produced from biomass that can be used as a fuel for engines

biofuel blend means any product that results from blending biofuel with petrol, diesel, or other substances

biometric information, in relation to a person, means information that comprises—

(a) 1 or more of the following kinds of information:

(i) a photograph of all or any part of the person's head and shoulders:

(ii) impressions of the person's fingerprints:

(iii) a scan of the person's irises; and

(b) an electronic record of the information that is capable of being used for biometric matching

cargo aggregator means a person who, for reward, aggregates cargo to be transported for different persons for transportation together on a craft—

(a) in bulk cargo containers or otherwise; and

(b) under a shared space, or other negotiated volume of cargo, arrangement with the craft's owner or operator

cargo device means—

(a) an intermodal container; or

(b) a unit load device; or

(c) a pallet; or

(d) anything that is similar to anything referred to in paragraphs (a) to (c)

certified copy, in relation to a document, means a document certified as a true copy of the document by or on behalf of the chief executive under the seal of Customs

chief executive means the chief executive of the New Zealand Customs Service

chief executive's rules means rules made by the chief executive under section 421(1)

commercial transportation operator means any of the following:

(a) an owner or operator of a craft that transports goods or persons for commercial purposes—

(i) from New Zealand to a point outside New Zealand; or

(ii) from a point outside New Zealand to a point within New Zealand:

(b) an agent of an owner or operator referred to in paragraph (a):

(c) a person who organises the handling or transportation of goods or persons for commercial purposes—

(i) from New Zealand to a point outside New Zealand; or

(ii) from a point outside New Zealand to a point within New Zealand:

(d) an agent of a person who organises the handling or transportation of goods or persons as referred to in paragraph (c):

(e) an owner, occupier, or operator of a Customs-controlled area that is licensed to be used for—

(i) the disembarkation, embarkation, or processing of persons arriving in, or departing from, New Zealand; or

(ii) the processing of craft arriving in, or departing from, New Zealand; or

(iii) the loading or unloading of goods onto or from craft arriving in, or departing from, New Zealand:

(f) any prescribed persons, or prescribed classes of persons, involved in any other way in the handling or transportation of goods or persons for commercial purposes—

(i) from New Zealand to a point outside New Zealand; or

(ii) from a point outside New Zealand to a point within New Zealand

contiguous zone is to be read in accordance with section 8A of the Territorial Sea, Contiguous Zone, and Exclusive Economic Zone Act 1977

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

country includes a territory or a part of a country or territory

craft includes any aircraft, ship, or other machine or vessel, used or capable of being used for the transportation of goods or persons by air or by water

crime involving dishonesty has the meaning given to that term in section 2(1) of the Crimes Act 1961

Customs means the New Zealand Customs Service

Customs airport means an airport designated as a Customs airport under section 55

Customs Appeal Authority means an Authority established under section 348

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

(a) is used for the purpose described in section 276(1) (whether or not it is used for any other purpose); and

(b) is licensed as a CASE under section 276(1)

Customs-approved export seal has the meaning given to that term in section 282(2)

Customs-approved secure exports scheme means a scheme approved by the chief executive as a Customs-approved secure exports scheme under section 281

Customs-approved secure package means a package of a kind approved by the chief executive under Schedule 6 for the purposes of a Customs-approved secure exports scheme (*see* clause 2(a) of that schedule)

Customs-controlled area means an area that—

(a) is required to be licensed under section 56; and

(b) is so licensed

Customs craft means any craft employed (wholly or partly) in the service of Customs

Customs direction—

(a) means any request, direction, order, command, or instruction given by a Customs officer to any person—

  (i) to do, or to refrain from doing, any act; or

  (ii) to submit to a procedure for the purposes of this Act; and

(b) includes—

  (i) any notice, poster, or sign publicly displayed by Customs in a Customs place or Customs-controlled area; and

  (ii) any direction contained in a form prescribed by regulations or the chief executive's rules; and

  (iii) in relation to embarkation onto, or disembarkation from, a craft, any direction given by the person in charge of the craft, or by a crew member, at the direction of a Customs officer

Customs dog means a dog that is being used, or is intended for use, by Customs

Customs officer—

(a) means a person appointed as a Customs officer under section 270; and

(b) includes, except in section 273, an authorised person in relation to the carrying out by that person of a function in accordance with—

  (i) that person's authorisation under section 271; or

  (ii) section 272(5)

Customs place means a Customs port or Customs airport

Customs port means a port designated as a Customs port under section 55

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

Customs value, in relation to goods, means the Customs value of the goods determined in accordance with Schedule 4

dangerous item means any of the following:

(a) a firearm (as that term is defined in section 11(2) of the Aviation Crimes Act 1972):

(b) any dangerous or offensive weapon or instrument of any kind:

(c) any ammunition:

(d) any explosive substance or device:

(e) any injurious substance or device of any kind that could be used to endanger a person's safety

defence area has the meaning given to that term in section 2(1) of the Defence Act 1990

Defence Force has the meaning given to that term in section 2(1) of the Defence Act 1990

designated place means—

(a) a Customs-controlled area; or

(b) a Customs place; or

(c) a Police station to which a person reports under section 28; or

(d) a place the chief executive authorises a craft to arrive at, or depart from, under section 21 or 43

Director-General of Biosecurity means the chief executive of the department of State that, with the authority of the Prime Minister, is responsible for the administration of the Biosecurity Act 1993

dishonest purpose, in relation to goods, is to be read in accordance with subsection (2)

document includes any of the following:

(a) any form of writing on material:

(b) information recorded, transmitted, or stored digitally or electronically, and any material subsequently derived from that information:

(c) any label or mark:

(d) any book, map, plan, graph, or drawing:

(e) any photograph, film, negative, or device in, on, or from which 1 or more visual images are capable of being stored or reproduced

domestic cargo means goods that—

(a) are brought into a Customs-controlled area at a Customs place for transportation by air or sea to another Customs place on a craft that—

(i) begins its journey outside New Zealand and, in the course of that journey, enters New Zealand and travels between at least 2 Customs places; or

(ii) begins its journey at a Customs place and, in the course of that journey, travels to at least 1 other Customs place before departing from New Zealand; and

(b) are—

(i) within the Customs-controlled area referred to in paragraph (a); or

(ii) on the craft referred to in paragraph (a)(i) or (ii) being transported from one Customs place to another Customs place; or

(iii) having been transported from one Customs place to another Customs place, awaiting removal from a Customs-controlled area at the latter 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—

(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; or

(b) a craft that—

(i) begins its journey at a Customs place; and

(ii) in the course of that journey, travels to at least 1 other Customs place before departing from New Zealand

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

dutiable goods means goods of a kind subject to duty

duty means any of the following:

(a) any duty, tax, fee, charge, or levy imposed on goods under this Act:

(b) a duty imposed under the Tariff Act 1988:

(c) provisional safeguard duty, safeguard duty, and extended safeguard duty imposed under the Trade (Safeguard Measures) Act 2014:

(d) a duty imposed under the Trade (Anti-dumping and Countervailing Duties) Act 1988:

(e) a duty or tax imposed by section 12 of the Goods and Services Tax Act 1985:

(f) levies imposed by section 213(2)(c) of the Accident Compensation Act 2001:

(g) levies imposed by the Energy (Fuels, Levies, and References) Act 1989

duty-free store means a Customs-controlled area that is licensed to be used for the storing of dutiable goods on which the duty has not been paid, pending their sale to persons arriving in, or departing from, New Zealand

eligible person, in relation to an area, means a person who—

(a) is the owner or occupier of the area; or

(b) is operating in the area

Excise and Excise-equivalent Duties Order has the meaning given to that term in clause 16(7) of Schedule 3

Excise and Excise-equivalent Duties Table has the meaning given to that term in clause 16(7) of Schedule 3

export warehouse means a Customs-controlled area that is licensed to be used for the deposit, keeping, or securing of imported goods, or of Part A goods, without payment of duty, pending their export

exportation,—

(a) in relation to goods, means the shipment of the goods in any craft for transportation to a point outside New Zealand, except where otherwise expressly provided; and

(b) in relation to prohibited exports that are objectionable publications or other documents, includes their transmission by any means (other than by broadcasting) from New Zealand to a point outside New Zealand

exporter—

(a) means any person by or for whom goods are exported; and

(b) includes any person who, on or at any time after entry of the goods for export but before the goods are exported, is or becomes—

(i) the owner of the goods; or

(ii) entitled to the possession of the goods; or

(iii) beneficially interested in the goods

fail to comply includes contravene

forfeited goods means goods that are forfeited to the Crown under section 176

function, as in a function of a person or body, includes the following:

(a) a power of the person or body:

(b) an obligation of the person or body:

(c) a service that the person or body provides

goods means all kinds of movable personal property (including animals), subject to sections 95(3) to (6), 96(11) and (12), 97(10) and (11), and 243(5)

importation,—

(a) in relation to goods, means the arrival of the goods in New Zealand in any manner, whether lawful or unlawful, from a point outside New Zealand; and

(b) in relation to prohibited imports that are objectionable publications or other indecent or obscene articles or other documents, includes their transmission by any means (other than by broadcasting) into New Zealand from a point outside New Zealand

importer—

(a) means any person by or for whom goods are imported; and

(b) includes—

(i) the consignee of the goods; and

(ii) any person who, on or at any time after the importation of the goods but before the goods cease to be subject to the control of Customs, is or becomes—

(A) the owner of the goods; or

(B) entitled to the possession of the goods; or

(C) beneficially interested in the goods

international cargo means any cargo that—

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

(b) is to be exported from New Zealand

internationally ticketed passenger means a person who has an entitlement to air or sea travel for a domestic sector that is a domestic 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

liquefied petroleum gas—

(a) means propane, propylene, butane, butylene, or isobutane; and

(b) includes a mixture consisting wholly or principally of any substance or substances referred to in paragraph (a), whether or not the mixture also contains any other hydrocarbon

manufacture, in relation to goods specified in the Excise and Excise-equivalent Duties Table,—

(a) in relation to goods that are tobacco, means any of the following processes:

(i) curing, cutting, pressing, grinding, crushing, or rubbing raw or leaf tobacco, or otherwise preparing raw or leaf tobacco or manufactured or partially manufactured tobacco:

(ii) making cigarettes from tobacco:

(iii) putting up for use or consumption scraps, waste, chippings, stems, or deposits of tobacco resulting from processing tobacco; and

(b) in relation to goods that are a fuel, means any operation or process that is involved in the production of the goods; and

(c) in relation to goods that are neither tobacco nor a fuel, means any of the following:

(i) any operation or process that is involved in the production of the goods:

(ii) any of the following processes that takes place on premises that are not licensed, or required to be licensed, under the Sale and Supply of Alcohol Act 2012:

(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

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

manufacturing area means a Customs-controlled area that is licensed to be used for the manufacture of Part A goods

marae includes the area of land on which all buildings, such as the wharenui (meeting house), the wharekai (dining room), ablution blocks, and any other associated buildings, are situated

Minister means the Minister of Customs

New Zealand, subject to section 190(1), means the land and 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)

Normal Tariff has the meaning given to that term in section 2(1) of the Tariff Act 1988

objectionable publication means a publication (as that term is defined in section 2 of the Films, Videos, and Publications Classification Act 1993) that is objectionable within the meaning of that Act in the hands of all persons and for all purposes

occupier, in relation to land,—

(a) means the owner of the land; and

(b) includes a lessee or tenant, a licensee, or a person who has the right to occupy the land under other authority

operator,—

(a) in relation to a business, means any person actively engaged (whether alone or with others) in the carrying on of the business; and

(b) in the case of a body corporate, includes—

(i) every director, manager, secretary, or other similar officer engaged in the direct control or management of the body corporate's business; and

(ii) a person who purports to act in any of the capacities referred to in subparagraph (i)

owner,—

(a) in relation to a craft, includes—

(i) the charterer of the craft; and

(ii) any person acting as agent for the owner or charterer; and

(b) in relation to goods, includes—

(i) the importer; and

(ii) any person having possession of the goods; and

(iii) any person who is beneficially interested in the goods; and

(c) in relation to land, means—

(i) the person who is entitled to receive the rack rent in respect of the land; or

(ii) the person who would be entitled to receive the rack rent in respect of the land if the land were let to a tenant at the rack rent

package includes—

(a) any means used or capable of being used to pack, cover, enclose, contain, or encase goods for transportation; and

(b) any cargo device

Part A goods has the meaning given to that term in section 11(8)

passenger name record or **PNR**, in relation to any person, means the electronic record created by a commercial transportation operator for a journey booked by or for the person, which typically includes the following information:

(a) the person's name:

(b) the person's contact details:

(c) the place where the person, or another person, booked the intended travel:

(d) the date on which the person, or another person, booked the intended travel:

(e) the name of any other person with whom the person intends to travel:

(f) whether the person paid for his or her own intended travel, and the manner of payment:

(g) the person's travel movements before the intended travel:

(h) any change in the person's travel from the travel originally booked:

(i) whether the person has checked baggage

personal information means information about an identifiable person (including (without limitation) biometric information)

postal article means any article or thing of any kind (including a letter, parcel, or package) received by or transmitted through—

(a) a registered postal operator; or

(b) an air courier company

prescribed means prescribed by regulations, except—

(a) where it is stated that a matter is to be prescribed by the chief executive's rules; and

(b) in sections 413, 414, and 421

prohibited exports means goods whose exportation is prohibited under section 95, 96, or 97 (whether conditionally or unconditionally)

prohibited goods means prohibited exports or prohibited imports

prohibited imports—

(a) means goods whose importation is prohibited under section 95, 95A, or 96 (whether conditionally or unconditionally); and

(b) includes goods whose importation is absolutely prohibited by a notice issued under section 22(1A) of the Misuse of Drugs Act 1975

public service has the meaning in section 10 of the Public Service Act 2020

reasonable period means a period that is not longer than necessary in the circumstances

registered postal operator means a person who is registered as a postal operator under the Postal Services Act 1998

registered user has the meaning given to that term in section 322(3)

registered user system has the meaning given to that term in section 322(3)

regulations means regulations made by Order in Council under section 403(1)

removed for home consumption, in relation to Part A goods that are manufactured in a manufacturing area, is to be read in accordance with clause 3 of Schedule 3 (except where clause 3(6) applies)

sealed Customs package means—

(a) a Customs-approved secure package; or

(b) a package in relation to which a Customs-approved export seal has been used

ship—

(a) means a ship, boat, or other vessel used in navigation, whether or not it has any means of propulsion; and

(b) includes—

(i) a hovercraft or any other thing deriving full or partial support in the atmosphere from the reaction of air against the surface of the water over which it operates; and

(ii) a submarine or other submersible

shipment, in relation to goods, includes loading the goods into or onto a craft

spirits—

(a) means ethyl alcohol, whether denatured or not; and

(b) includes—

(i) spirituous beverages, including brandy, gin, rum, vodka, and whisky; and

(ii) every description of spirituous liquor derived from ethyl alcohol

subject to the control of Customs, in relation to goods, is to be read in accordance with section 6

Tariff has the meaning given to that term in section 2(1) of the Tariff Act 1988

Tariff classification, in relation to goods, means the classification of those goods under Part 1 of the Tariff

Tariff heading has the meaning given to that term in section 2(1) of the Tariff Act 1988

Tariff item has the meaning given to that term in section 2(1) of the Tariff Act 1988

tobacco includes cigars, cigarettes, and snuff

tobacco refuse means any scraps, waste, chippings, stems, or deposits of tobacco resulting from the processing of tobacco

transport includes carry or convey

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

unlawfully exported means exported in contravention of this Act or any other enactment

unlawfully imported means imported in contravention of this Act or any other enactment

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

(2) For the purposes of this Act, goods are for a **dishonest purpose** if—

(a) the goods have been designed, manufactured, or adapted with intent to facilitate the commission of a crime involving dishonesty; or

(b) the goods, having regard to all relevant circumstances, can reasonably be considered to be—

(i) part of, or involved in, an attempt to commit a crime involving dishonesty to which section 72 of the Crimes Act 1961 applies; or

(ii) related to a conspiracy to commit a crime involving dishonesty to which section 310 of the Crimes Act 1961 applies.

(3) For the purposes of this Act, a contractor who does work on or in respect of any goods is treated as having manufactured them.

(4) In this Act, a reference to an item in the Excise and Excise-equivalent Duties Table includes any item that is subsequently included in the table and that, with or without modification, replaces or corresponds to the earlier item.

Compare: 1996 No 27 ss 2(1), (3), 28(2), 32B(5), 38A, 54(1)(aa), (ab), (ac), (9), 56(1)(a), (ab), (ac), (2A), 59, 64A(1), 69(1)(b), 79A(2), 138, 209(1)(cab), (7), 225(1)(l), (la), 276(2)

Section 5(1) **prohibited imports** paragraph (a): amended, on 1 July 2020, by section 5(2) of the Customs and Excise (Tobacco) Amendment Act 2020 (2020 No 16).

Section 5(1) **public service**: replaced, on 7 August 2020, by section 135 of the Public Service Act 2020 (2020 No 40).

Section 5(1) **tobacco refuse**: inserted, on 1 July 2020, by section 5(1) of the Customs and Excise (Tobacco) Amendment Act 2020 (2020 No 16).

6 Definition: subject to the control of Customs

For the purposes of this Act, goods are **subject to the control of Customs**,—

(a) if the goods are imported goods,—

(i) from the time of importation:

(ii) until the time when the goods are lawfully removed for home consumption or exportation from a Customs-controlled area:

(b) if the goods are lawfully removed from a Customs-controlled area under a conditional permit or other authorisation granted under section 85(1)(b),—

(i) from the time of their removal:

(ii) until the time when the chief executive is satisfied that the conditions of the permit or other authorisation have been met:

(c) if the goods are to be exported (whether or not under drawback) and are in a package in relation to which a Customs-approved export seal has been used,—

(i) from the time when the seal is first used:

(ii) until the goods depart from New Zealand:

(d) if the goods are to be exported (whether or not under drawback) under a Customs-approved secure exports scheme,—

(i) from the time when the goods are first secured in a Customs-approved secure package:

(ii) until the goods depart from New Zealand:

(e) if the goods are to be exported under drawback,—

(i) from the earlier of the following:

(A) the time of the claim for drawback:

(B) the time when the goods are brought into a Customs-controlled area or 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):

(ii) until the goods depart from New Zealand:

(f) if the goods are to be exported otherwise than under drawback,—

(i) from the time when the goods are brought into a Customs-controlled area or 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):

(ii) until the goods depart from New Zealand:

(g) if the goods are on board any craft to which section 191 applies, at all times that the craft is within New Zealand:

(h) if the goods are Part A goods that are manufactured in a manufacturing area,—

(i) from the time of manufacture:

(ii) until—

(A) the goods are removed for home consumption; or

(B) the goods depart from New Zealand, if that occurs without the goods having been removed for home consumption:

(i) if 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,—

(i) from the time, at the commencement of the domestic sector, when the goods are—

(A) brought into a Customs-controlled area that is licensed to be used for the disembarkation, embarkation, or processing of persons arriving in, or departing from, New Zealand; or

(B) accepted for transportation by an airline or a shipping company:

(ii) until the time, at the end of the domestic sector, when the goods are lawfully removed from a Customs-controlled area that is licensed to be used for the disembarkation, embarkation, or processing of persons arriving in, or departing from, New Zealand:

(j) if the goods are owned by, or in the possession of, a domestic passenger who is using air or sea travel for a domestic sector,—

(i) from the time, at the commencement of the domestic sector, when the goods are—

(A) brought into a Customs-controlled area that is licensed to be used for the disembarkation, embarkation, or processing of persons arriving in, or departing from, New Zealand; or

(B) accepted for transportation by an airline or a shipping company:

(ii) until the time, at the end of the domestic sector, when the goods are lawfully removed from a Customs-controlled area that is licensed to be used for the disembarkation, embarkation, or processing of persons arriving in, or departing from, New Zealand:

(k) if the goods are domestic cargo to which neither paragraph (i) nor paragraph (j) applies,—

(i) from the time when the goods are brought into a Customs-controlled area at a Customs place:

(ii) until the time when the goods are lawfully removed from that or any other Customs-controlled area.

Compare: 1996 No 27 s 20(1)

7 Application of Act to postal articles

(1) This Act applies to postal articles, and goods contained in postal articles, in the same way that it applies to other goods, subject to regulations made for the purposes of subsection (3).

(2) For the purposes of this Act, a postal article is treated as being produced or delivered to a Customs officer when it is brought into a Customs-controlled area.

(3) Regulations may do any of the following:

(a) provide that any separate postal articles (and the goods contained in them) may be treated as a single postal article consigned to a single

person (whether the postal articles are addressed to the same person or different persons):

(b) prescribe the persons who are treated as the importers or exporters of those postal articles or goods.

Compare: 1996 No 27 s 276(1), (3), (4)

8 Application of Act to foreign Government ships

Nothing in this Act or in any enactment made under this Act limits the immunities of the following:

(a) any foreign warship:

(b) any other foreign governmental ship operated for non-commercial purposes:

(c) any foreign military aircraft:

(d) members of the crew of any ship or aircraft to which paragraphs (a) to (c) apply.

Compare: 1996 No 27 s 4(8)

9 Transitional, savings, and related provisions

The transitional, savings, and related provisions set out in Schedule 1 have effect according to their terms.

10 Act binds the Crown

This Act binds the Crown except as provided in Schedule 2.

Compare: 1996 No 27 s 3

Part 2
Excise duty and excise-equivalent duty

11 Excise duty and excise-equivalent duty levied

(1) Excise duty and excise-equivalent duty are levied when goods are manufactured or imported in accordance with Schedule 3.

(2) Excise duty is a duty levied in respect of alcohol, tobacco, and fuel that are manufactured in New Zealand (Part 1 of Schedule 3).

(3) Excise-equivalent duty is a duty levied in respect of imported alcohol, tobacco, and fuel where excise duty would have been levied in respect of the alcohol, tobacco, or fuel had it been manufactured in New Zealand (Part 2 of Schedule 3).

(4) Details of the alcohol, tobacco, and fuel in respect of which excise duty and excise-equivalent duty are levied, and the rates at which those duties are levied, are set out in the Excise and Excise-equivalent Duties Table (Part 3 of Schedule 3).

(5) For excise duty, *see* Part A of the Excise and Excise-equivalent Duties Table.

(6) For excise-equivalent duty, *see* Part B of the Excise and Excise-equivalent Duties Table.

(7) Subsections (2) to (6) are only a guide to Schedule 3.

(8) In this Act, **Part A goods** means goods specified in Part A of the Excise and Excise-equivalent Duties Table.

Part 3
Entry and exit of goods, persons, and craft

Subpart 1—Arrival and departure of goods, persons, and craft

Pre-arrival of craft in New Zealand

12 Advance notice 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, within the prescribed time, provide Customs with an advance notice of arrival, unless otherwise approved by the chief executive.

(2) The advance notice of arrival must—

(a) be provided in the way prescribed by the chief executive's rules; and

(b) be accompanied by any supporting documents that the chief executive considers appropriate.

(3) The person in charge of the craft must ensure that the craft, on its arrival in New Zealand, proceeds directly to the Customs place notified in the advance notice of arrival (*see* subsection (5)(e)), unless otherwise directed by a Customs officer.

(4) The advance notice of arrival, and any supporting documents, may be provided to Customs on behalf of the person in charge of the craft by—

(a) the owner or operator of the craft; or

(b) an agent of the owner or operator.

(5) Rules made for the purposes of subsection (2)(a) must, at a minimum, require an advance notice of arrival to include details of the following:

(a) the impending arrival of the craft:

(b) its journey:

(c) its crew:

(d) its passengers:

(e) the Customs place at which the craft will arrive.

Compare: 1996 No 27 s 21

13 Offences in relation to advance notice of arrival, etc

(1) The person in charge of a craft commits an offence if the person fails to comply with—

(a) section 12(1) to (3); or

(b) a direction given by a Customs officer under section 12(3).

(2) A person who commits an offence under subsection (1) is liable on conviction to—

(a) imprisonment for a term not exceeding 12 months; or

(b) a fine not exceeding $15,000.

(3) A person commits an offence if the person provides Customs with—

(a) an advance notice of arrival under section 12(1) that is erroneous in a material particular, misleading, or not genuine; or

(b) a supporting document under section 12(2)(b) that is erroneous in a material particular, misleading, or not genuine.

(4) A person who commits an offence under subsection (3) is liable on conviction—

(a) in the case of an individual, to—

(i) imprisonment for a term not exceeding 12 months; or

(ii) a fine not exceeding $15,000:

(b) in the case of a body corporate, to a fine not exceeding $75,000.

Compare: 1996 No 27 s 191(1)(a), (2)

14 Inward cargo report

(1) This section applies to cargo on a craft if the craft—

(a) is en route to New Zealand (from a point outside New Zealand) or has arrived in New Zealand; or

(b) is transporting goods that—

(i) are subject to the control of Customs; and

(ii) were brought into New Zealand (from a point outside New Zealand) by that craft or any other craft.

(2) The persons referred to in subsections (3) and (4) must, within the prescribed time, provide Customs with an inward cargo report in respect of cargo on the craft in accordance with those subsections (whether or not the person owns, or has any proprietary interest of any kind in, all or any part of the cargo).

(3) Any person who is, or who is the agent of, the owner or operator of the craft must provide an inward cargo report in respect of all the cargo on the craft.

(4) Any cargo aggregator who, in the course of that cargo aggregator's business, has arranged with the owner or operator of the craft for the transportation of

cargo on the craft under a shared space, or other negotiated volume of cargo, arrangement must provide an inward cargo report in respect of the cargo that is the subject of the arrangement.

(5) An inward cargo report must—

(a) be provided in the way prescribed by the chief executive's rules; and

(b) be accompanied by any supporting documents that the chief executive considers appropriate.

(6) The chief executive may allow a person not to provide an inward cargo report in respect of all or any part of any cargo—

(a) if 1 or more other persons have already provided an inward cargo report in respect of the cargo or the part of it; or

(b) for any other reason that the chief executive considers appropriate.

Compare: 1996 No 27 s 21A

15 Offences in relation to inward cargo report

(1) A person referred to in section 14(3) or (4) commits an offence if the person—

(a) fails to comply with section 14(2) and (5); or

(b) provides Customs with an inward cargo report under section 14(2) that is erroneous in a material particular, misleading, or not genuine; or

(c) provides Customs with a supporting document under section 14(5)(b) that is erroneous, misleading, or not genuine.

(2) A person who commits an offence under this section is liable on conviction,—

(a) in the case of an individual, to a fine not exceeding $20,000:

(b) in the case of a body corporate, to a fine not exceeding $100,000.

Compare: 1996 No 27 s 192A

Arrival of craft in New Zealand

16 Application of sections 17 to 25

(1) Sections 17 to 25 apply to any craft that—

(a) arrives in New Zealand; or

(b) is transporting persons, or goods subject to the control of Customs, brought into New Zealand (from a point outside New Zealand) by that craft or any other craft.

(2) In those sections, references to a craft arriving at a place include references to a craft landing, berthing, mooring, anchoring, or stopping at a place or hovering above a place.

Compare: 1996 No 27 s 24(1)

17 Craft must arrive at Customs place

(1) If section 12(3) applies to a craft, the person in charge of the craft must ensure that the craft arrives only at the Customs place notified in the advance notice of arrival, unless otherwise directed by a Customs officer under section 12(3).

(2) The person in charge of any other craft must ensure that the craft arrives only at a Customs place.

(3) If a craft is directed by a Customs officer under section 12(3) to arrive at a place other than the Customs place notified in the advance notice of arrival, no person may leave or board the craft unless authorised to do so by a Customs officer.

(4) This section does not apply to a craft that—

(a) is compelled by accident, stress of weather, or other necessity to arrive at a place otherwise than in accordance with subsection (1) or (2); or

(b) is required by any statutory or other requirement relating to navigation to arrive at a place otherwise than in accordance with subsection (1) or (2); or

(c) is authorised under section 21 to arrive at a place other than a Customs place, but only if—

(i) the craft arrives only at that place; and

(ii) any conditions of the authorisation are met.

Compare: 1996 No 27 ss 21(1)(b), 24(1), 25(1), (4)

18 Offences in relation to craft that arrive at place other than Customs place, etc

(1) The person in charge of a craft commits an offence if the person fails to comply with section 17(1) or (2).

(2) A person who commits an offence under subsection (1) is liable on conviction to—

(a) imprisonment for a term not exceeding 12 months; or

(b) a fine not exceeding $15,000.

(3) A person (other than a Customs officer) commits an offence if the person fails to comply with section 17(3).

(4) A person who commits an offence under subsection (3) is liable on conviction to a fine not exceeding $5,000.

Compare: 1996 No 27 s 191(1)(a)(v), (d), (g), (2), (4)

19 Persons leaving or boarding arriving craft before inward report made

No person may leave or board a craft unless authorised to do so by a Customs officer—

(a) from the time of the craft's arrival at a Customs place:

(b) until an inward report has been provided to Customs under section 24(1)(a).

Compare: 1996 No 27 s 24(2)

20 Offence in relation to leaving or boarding arriving craft before inward report made

(1) A person (other than a Customs officer) commits an offence if the person fails to comply with section 19.

(2) A person who commits an offence under this section is liable on conviction to a fine not exceeding $5,000.

Compare: 1996 No 27 s 191(1)(e), (4)

21 Authorisation for craft to arrive at place other than Customs place

(1) The chief executive may authorise a craft to arrive at a place other than a Customs place.

(2) Before giving an authorisation under subsection (1), the chief executive must consult the following persons:

(a) the Director-General of Biosecurity:

(b) the chief executive of the Ministry of Health:

(c) the Commissioner of Police:

(d) if the proposed authorisation relates to an aircraft, the Director of Civil Aviation:

(e) if the proposed authorisation relates to a ship, the Director of Maritime New Zealand:

(f) every other department of State whose operations may, in the opinion of the chief executive, be affected by the giving of the authorisation.

(3) An authorisation under subsection (1) may be given subject to any conditions that the chief executive considers appropriate (for example, conditions about the goods or persons that may be transported on the craft).

Compare: 1996 No 27 s 25(1)(b), (1A), (1B)

22 Craft that have arrived at place other than Customs place

(1) This section applies if a craft arrives at a place other than a Customs place.

(2) The same powers may be exercised, and the same obligations apply, under this Act in relation to—

(a) the craft as if it arrived at a Customs place; and

(b) the goods and persons on the craft as if those goods and persons were in a Customs-controlled area following the arrival of the craft.

(3) The person in charge of the craft—

(a) must immediately report to a Customs officer or to a constable; and

(b) must not, without the consent of a Customs officer, allow—

(i) any goods to be unloaded from the craft; or

(ii) any of the crew or passengers to leave the vicinity of the craft; and

(c) must comply with any directions given by a Customs officer in respect of any goods or persons transported on the craft.

(4) No person may unload goods from the craft without the consent of a Customs officer, except where section 78(a) or (b) applies.

(5) No member of the crew and no passenger may leave the vicinity of the craft without the consent of a Customs officer.

(6) Every member of the crew and every passenger must comply with any directions given by a Customs officer.

Compare: 1996 No 27 s 25(1C)–(3)

23 Offences in relation to craft that have arrived at place other than Customs place

(1) The person in charge of a craft commits an offence if the person fails to comply with section 22(3).

(2) A person commits an offence if the person fails to comply with—

(a) section 22(4) or (5); or

(b) a direction given by a Customs officer under section 22(6).

(3) A person who commits an offence under this section is liable on conviction to a fine not exceeding $5,000.

Compare: 1996 No 27 s 191(1)(f), (g), (4)

24 Inward report, etc

(1) On the arrival of a craft at a Customs place,—

(a) the owner of the craft and the person in charge of the craft must ensure that an inward report is provided to Customs within the prescribed time, unless otherwise approved by the chief executive; and

(b) the person in charge of the craft must comply with any Customs direction as to—

(i) the movement of the craft within the Customs place; or

(ii) the unloading of goods, or the disembarkation of persons, from the craft.

(2) The inward report must—

(a) be provided in the way prescribed by the chief executive's rules; and

(b) be accompanied by any supporting documents that the chief executive considers appropriate.

(3) The inward report and supporting documents need not include information that has already been provided to Customs under section 12(1) or (2)(b) or 14(2) or (5)(b).

Compare: 1996 No 27 s 26

25 Offences in relation to inward report, etc

(1) The owner of a craft and the person in charge of the craft each commit an offence if—

(a) they fail to comply with section 24(1)(a); or

(b) an inward report that is provided is not provided in accordance with section 24(2).

(2) The person in charge of a craft commits an offence if the person fails to comply with a Customs direction given to the person under section 24(1)(b).

(3) A person who commits an offence under subsection (1) or (2) is liable on conviction to a fine not exceeding $5,000.

(4) The owner of a craft and the person in charge of the craft each commit an offence if—

(a) an inward report that is provided under section 24(1)(a) is erroneous, misleading, or defective in any material particular; or

(b) any supporting document that is provided under section 24(2)(b) is erroneous, misleading, or not genuine.

(5) A person who commits an offence under subsection (4) is liable on conviction,—

(a) in the case of an individual, to a fine not exceeding $20,000:

(b) in the case of a body corporate, to a fine not exceeding $100,000.

Compare: 1996 No 27 ss 191(1)(h), (4), 192

26 Requirement to answer questions and produce documents

(1) This section applies to the following:

(a) a craft that has arrived in New Zealand:

(b) a craft that is departing from New Zealand:

(c) a craft that is within New Zealand or the contiguous zone and that is transporting international cargo or international crew or any international passenger, whether or not the craft is also transporting domestic cargo or any other persons:

(d) a craft that is within New Zealand or the contiguous zone and that a Customs officer has reasonable cause to suspect has been, or is about to be, involved in—

(i) the commission of an offence under this Act; or

(ii) the importation or exportation of any dutiable, uncustomed, prohibited, or forfeited goods.

(2) A Customs officer may question any person referred to in subsection (4) about any of the matters referred to in subsection (5), and the person must answer the Customs officer's questions.

(3) A Customs officer may request a person referred to in subsection (4) to produce to the officer any document relating to any of the matters referred to in subsection (5) that is in the person's possession or under the person's control.

(4) The persons are as follows:

(a) the owner of the craft:

(b) the person in charge of the craft:

(c) a member of the crew of the craft:

(d) a passenger on the craft.

(5) The matters are as follows:

(a) the craft:

(b) the craft's journey:

(c) any goods or persons that are on, or have been on, the craft.

(6) A power under this section that may be exercised in the contiguous zone as a result of subsection (1)(c) or (d) may be exercised in the contiguous zone only in accordance with article 33 of the United Nations Convention on the Law of the Sea.

(7) In this section,—

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

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.

Compare: 1996 No 27 s 22(1), (2)

27 Offences in relation to failure to answer questions or produce documents

(1) A person referred to in section 26(4) commits an offence if the person—

(a) refuses to answer any question put to that person by a Customs officer under section 26(2); or

(b) knowingly gives a false answer to any question put to that person by a Customs officer under section 26(2); or

(c) fails to comply immediately with any request made to that person by a Customs officer under section 26(3).

(2) A person who commits an offence under 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.

Compare: 1996 No 27 s 191(1)(b), (3)

Arrival and departure of persons

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

Except as otherwise provided in this Act, every person arriving in New Zealand must, on his or her arrival,—

(a) immediately report to—

(i) a Customs officer; or

(ii) a Police station; and

(b) remain at the place where he or she reported to the Customs officer, or at the Police station, for any reasonable time that Customs requires to enable a Customs officer to carry out any function under this Act in relation to that person.

Compare: 1996 No 27 s 27

28A Persons arriving in New Zealand to provide information

(1) Every person arriving in New Zealand must provide Customs with the information prescribed by the chief executive's rules.

(2) The information must be provided—

(a) in the way prescribed by the chief executive's rules; and

(b) by the prescribed time.

(3) The prescribed time may be before a person arrives in New Zealand.

(4) In that case, the person is to be treated as complying with subsections (1) and (2) if (and only if) they have provided the information—

(a) in the way prescribed by the chief executive's rules; and

(b) by that prescribed time.

(5) Regulations may prescribe exemptions from subsection (1).

Section 28A: inserted, on 21 June 2023, by section 4 of the Customs and Excise (Arrival Information) Amendment Act 2023 (2023 No 21).

28B Offences in relation to providing information

(1) A person commits an offence if the person—

(a) fails to comply with section 28A(1) or (2); or

(b) provides Customs with information under section 28A(1) that is erroneous in a material particular.

(2) A person who commits an offence under this section is liable on conviction to a fine not exceeding $1,000.

Section 28B: inserted, on 21 June 2023, by section 4 of the Customs and Excise (Arrival Information) Amendment Act 2023 (2023 No 21).

29 Disembarkation

(1) This section applies to every person who is on board a craft that arrives in New Zealand.

(2) The person must comply with every Customs direction concerning disembarkation.

(3) Every person who has disembarked must, unless otherwise directed by Customs,—

(a) proceed to a Customs-controlled area; and

(b) remain there for any reasonable time that Customs requires to enable a Customs officer to carry out any function under this Act in relation to that person.

(4) Regulations may prescribe exemptions from subsection (2) or (3).

Compare: 1996 No 27 s 28

30 Baggage to be presented on disembarkation, etc

(1) This section applies to—

(a) every person who—

(i) disembarks from a craft that has arrived in New Zealand; or

(ii) disembarks from a craft that is at the end of a domestic sector, if the domestic sector is part of a journey of the kind referred to in paragraph (a) or (b) of the definition of domestic passenger in section 5(1); and

(b) the person's accompanying baggage and any other goods in the person's possession or under the person's control.

(2) The person must—

(a) make the baggage and other goods available for an examination under this Act by a Customs officer; and

(b) comply with any Customs direction relating to the movement of the baggage or other goods—

(i) within a Customs place or Customs-controlled area; or

(ii) from any craft to a Customs-controlled area; and

(c) comply with any other Customs direction given to facilitate an examination as referred to in paragraph (a).

(3) Regulations may prescribe exemptions from subsection (2).

(4) Any person who is moving or handling any baggage or other goods to which this section applies must comply with any Customs direction relating to the movement of the baggage or other goods—

(a) within a Customs place or Customs-controlled area; or

(b) from any craft to a Customs-controlled area.

Compare: 1996 No 27 s 29

31 Persons departing from New Zealand to depart from Customs place

(1) Every person who departs from New Zealand must depart from a Customs place unless otherwise authorised by a Customs officer.

(2) Regulations may prescribe exemptions from subsection (1).

(3) This section does not apply to a person who departs from New Zealand on a craft that is not required to depart from a Customs place in accordance with section 41(3) and (4).

Compare: 1996 No 27 s 30

32 Embarkation

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

Compare: 1996 No 27 s 31

33 Outgoing baggage to be presented, etc

(1) This section applies to—

(a) every person who arrives at a Customs place or a Customs-controlled area for embarkation onto a craft that has, as its destination, a point outside New Zealand; and

(b) the person's accompanying baggage and any other goods in the person's possession or under the person's control.

(2) The person must—

(a) make the baggage and other goods available for an examination under this Act by a Customs officer; and

(b) comply with any Customs direction relating to the movement of the baggage or other goods—

(i) within the Customs place or Customs-controlled area; or

(ii) from a Customs-controlled area to any craft; and

(c) comply with any other Customs direction given to facilitate an examination as referred to in paragraph (a).

(3) Regulations may prescribe exemptions from subsection (2).

(4) Any person who is moving or handling any baggage or other goods to which this section applies must comply with any Customs direction relating to the movement of the baggage or other goods—

(a) within the Customs place or Customs-controlled area; or

(b) from a Customs-controlled area to any craft.

Compare: 1996 No 27 s 32

34 Offence in relation to wilful failure to comply with requirements when arriving in, or departing from, New Zealand

(1) A person commits an offence if the person wilfully fails to comply with any requirement imposed on the person by or under section 28 or any of sections 29 to 33.

(2) A person who commits an offence under this section is liable on conviction to a fine not exceeding $5,000.

Compare: 1996 No 27 s 180

Section 34(1): amended, on 21 June 2023, by section 5 of the Customs and Excise (Arrival Information) Amendment Act 2023 (2023 No 21).

Departure of craft

35 Craft may not depart without certificate of clearance, etc

(1) The person in charge of a craft must not cause or allow the craft to depart from a Customs place for a point outside New Zealand without a certificate of clearance granted under section 37, unless otherwise approved by the chief executive.

(2) The person in charge of a craft that has arrived in New Zealand must not cause or allow the craft to depart from any place in New Zealand (whether or not its destination is a point outside New Zealand) without the permission of Customs.

(3) A permission under subsection (2) may be given subject to—

(a) the production of any documents required by the chief executive; or

(b) any other conditions that the chief executive considers appropriate.

(4) Regulations may prescribe exemptions from subsection (2).

Compare: 1996 No 27 s 33

36 Offence in relation to craft departing without certificate of clearance, etc

(1) The person in charge of a craft commits an offence if the person fails to comply with section 35(1) or (2).

(2) A person who commits an offence under this section is liable on conviction to—

(a) imprisonment for a term not exceeding 12 months; or

(b) a fine not exceeding $15,000.

Compare: 1996 No 27 s 193(1)(a), (2)

37 Certificates of clearance

(1) A Customs officer may grant a certificate of clearance in respect of a craft.

(2) Before a certificate of clearance is granted in respect of a craft, the person in charge of the craft must—

(a) within the prescribed time, provide Customs with an advance notice of departure; and

(b) produce any other documents required by a Customs officer in relation to any of the following:

(i) the craft:

(ii) the craft's passengers, crew, cargo, or stores:

(iii) the craft's intended journey; and

(c) comply with all requirements under this Act or any other enactment in relation to the following:

(i) the craft:

(ii) the craft's passengers, crew, cargo, or stores:

(iii) the craft's intended journey.

(3) Before a certificate of clearance is granted in respect of a craft, a Customs officer may ask the person in charge of the craft any question in relation to any of the following, and the person must answer the question:

(a) the craft:

(b) the craft's passengers, crew, cargo, or stores:

(c) the craft's intended journey.

(4) A Customs officer must not grant a certificate of clearance in respect of a craft if the person in charge of the craft refuses or fails to answer any question asked under subsection (3).

(5) A certificate of clearance may be granted subject to any conditions that the chief executive considers appropriate.

(6) A certificate of clearance must be granted in the form prescribed by the chief executive's rules.

(7) The advance notice of departure referred to in subsection (2)(a) must—

(a) be provided in the way prescribed by the chief executive's rules; and

(b) be accompanied by any supporting documents that the chief executive considers appropriate.

(8) The advance notice of departure and any supporting documents may be provided, on behalf of the person in charge of the craft, by—

(a) the owner or operator of the craft; or

(b) an agent of the owner or operator.

Compare: 1996 No 27 ss 33(1), 34, 34AA

38 Offences in relation to granting of certificate of clearance

(1) The person in charge of a craft commits an offence if the person—

(a) fails to comply with section 37(2)(a) and (7); or

(b) fails to produce any documents required by a Customs officer under section 37(2)(b); or

(c) refuses to answer any question put to that person by a Customs officer under section 37(3); or

(d) knowingly gives a false answer to a question put to that person by a Customs officer under section 37(3).

(2) A person who commits an offence under subsection (1) is liable on conviction to a fine not exceeding $5,000.

(3) The owner of a craft and the person in charge of the craft each commit an offence if—

(a) an advance notice of departure that is provided under section 37(2)(a) is erroneous, misleading, or defective in any material particular; or

(b) any supporting document that is provided under section 37(7)(b) is erroneous, misleading, or not genuine.

(4) A person who commits an offence under subsection (3) is liable on conviction,—

(a) in the case of an individual, to a fine not exceeding $20,000:

(b) in the case of a body corporate, to a fine not exceeding $100,000.

Compare: 1996 No 27 ss 193(1)(b), (3), 194

39 Production of certificate of clearance, etc

(1) This section applies to the person in charge of a craft in respect of which a certificate of clearance has been granted under section 37.

(2) A Customs officer may require the person to produce the certificate of clearance for examination by a Customs officer.

(3) A Customs officer may ask the person any question in relation to any of the following matters, and the person must answer the question:

(a) the craft:

(b) the craft's passengers, crew, cargo, or stores:

(c) the craft's intended journey.

Compare: 1996 No 27 s 36

40 Offences in relation to production of certificate of clearance, etc

(1) The person in charge of a craft commits an offence if the person—

(a) fails to produce a certificate of clearance when required by a Customs officer under section 39(2); or

(b) refuses to answer any question put to that person by a Customs officer under section 39(3); or

(c) knowingly gives a false answer to a question put to that person by a Customs officer under section 39(3).

(2) A person who commits an offence under this section is liable on conviction to a fine not exceeding $5,000.

Compare: 1996 No 27 s 193(1)(d), (3)

41 Departure only from Customs place

(1) The person in charge of a craft must not cause or allow the craft to depart for a point outside New Zealand other than from a Customs place.

(2) The person in charge of a craft, in respect of which a certificate of clearance to depart from a Customs place for any point outside New Zealand has been granted under section 37, must ensure the following, unless otherwise approved by the chief executive:

(a) that the craft departs immediately from that Customs place:

(b) that the craft does not go to any other place in New Zealand.

(3) Regulations may prescribe exemptions from subsection (1) or (2).

(4) This section does not apply to—

(a) a craft that is authorised to depart from a place other than a Customs place under section 43, but only if—

(i) the craft departs from that place; and

(ii) any conditions of the authorisation are met; or

(b) a craft that departed from a Customs place in accordance with subsection (1) or (2), or from a place authorised under section 43, but was required or compelled to berth, land, anchor, or return to a place that is not a Customs place by—

(i) any statutory or other requirement relating to navigation; or

(ii) accident, stress of weather, or other necessity.

Compare: 1996 No 27 s 37

42 Offences in relation to departure only from Customs place

(1) The person in charge of a craft commits an offence if the person fails to comply with section 41(1) or (2).

(2) A person who commits an offence under this section is liable on conviction to—

(a) imprisonment for a term not exceeding 12 months; or

(b) a fine not exceeding $15,000.

Compare: 1996 No 27 s 193(1)(e), (2)

43 Authorisation for craft to depart from place other than Customs place

(1) The chief executive may authorise a craft to depart from New Zealand from a place other than a Customs place.

(2) Before giving an authorisation under subsection (1), the chief executive must consult the following persons:

(a) the Director-General of Biosecurity:

(b) the chief executive of the Ministry of Health:

(c) the Commissioner of Police:

(d) if the proposed authorisation relates to an aircraft, the Director of Civil Aviation:

(e) if the proposed authorisation relates to a ship, the Director of Maritime New Zealand:

(f) every other department of State whose operations may, in the opinion of the chief executive, be affected by the granting of the authorisation.

(3) An authorisation under subsection (1) may be given subject to any conditions that the chief executive considers appropriate (for example, conditions about the goods or persons that may be transported on the craft).

Compare: 1996 No 27 ss 25(1A), (1B), 37(3)

44 Craft departing from place other than Customs place

If any craft is to depart, or has departed, for a point outside New Zealand from a place other than a Customs place, the same powers may be exercised, and the same obligations apply, under this Act in relation to—

(a) the craft as if it were to depart, or had departed, from a Customs place; and

(b) the goods and persons that are to be on, or are on, the craft as if those goods and persons are or were in a Customs-controlled area preceding the departure of the craft.

Compare: 1996 No 27 ss 25(1C), 37(3)

45 Outward cargo report

(1) This section applies to cargo on a craft if—

(a) the craft is to depart, or has departed, for a point outside New Zealand from a place in New Zealand; and

(b) the cargo is for discharge outside New Zealand.

(2) The persons referred to in subsections (3) and (4) must, within the prescribed time (which may be a time before or after the craft's departure from New Zealand), provide Customs with an outward cargo report in respect of cargo on the craft in accordance with those subsections (whether or not the person owns, or has any proprietary interest of any kind in, all or any part of the cargo).

(3) Any person who is, or who is the agent of, the owner or operator of the craft must provide an outward cargo report in respect of all the cargo on the craft.

(4) Any cargo aggregator who, in the course of that cargo aggregator's business, has arranged with the owner or operator of the craft for the transportation of cargo on the craft under a shared space, or other negotiated volume of cargo, arrangement must provide an outward cargo report in respect of the cargo that is the subject of the arrangement.

(5) An outward cargo report must—

(a) be provided in the way prescribed by the chief executive's rules; and

(b) be accompanied by any supporting documents that the chief executive considers appropriate.

(6) The chief executive may allow a person not to provide an outward cargo report in respect of all or any part of any cargo—

(a) if 1 or more other persons have already provided an outward cargo report in respect of the cargo or the part of it; or

(b) for any other reason that the chief executive considers appropriate.

Compare: 1996 No 27 s 37A

46 Offences in relation to outward cargo report

(1) A person referred to in section 45(3) or (4) commits an offence if the person—

(a) fails to comply with section 45(2) and (5); or

(b) provides Customs with an outward cargo report under section 45(2) that is erroneous in a material particular, misleading, or not genuine; or

(c) provides Customs with a supporting document under section 45(5)(b) that is erroneous, misleading, or not genuine.

(2) A person who commits an offence under this section is liable on conviction,—

(a) in the case of an individual, to a fine not exceeding $20,000:

(b) in the case of a body corporate, to a fine not exceeding $100,000.

Compare: 1996 No 27 s 194B

Further powers in relation to arrival and departure information

47 Purposes for which powers under sections 48 and 49 may be exercised

The chief executive's powers under sections 48 and 49 may be exercised for any of the following purposes:

(a) the carrying out of any function of the chief executive, Customs, or a Customs officer under this Act (other than subpart 6 of Part 5):

(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.

Compare: 1996 No 27 ss 38B(1), 282A(1), (2)

48 Chief executive may require commercial transportation operator to provide craft information

(1) The chief executive may, by notice in writing, require a commercial transportation operator to comply with this section on and after the specified date.

(2) The commercial transportation operator must provide Customs with all specified information—

(a) that relates to any craft referred to in subsection (3); and

(b) that the operator holds (whether in New Zealand or elsewhere) or has access to.

(3) The craft are craft that—

(a) have arrived in, or departed from, New Zealand on or after the specified date; or

(b) are arriving in, or departing from, New Zealand on or after the specified date; or

(c) are scheduled to arrive in, or depart from, New Zealand on or after the specified date.

(4) The specified information in relation to any craft must be provided—

(a) within the specified time or, if there is no specified time, as and when required by Customs; and

(b) in the specified way.

(5) In this section, **specified** means specified in the chief executive's notice under subsection (1).

(6) The information that may be specified for the purposes of subsection (2) includes (without limitation) the following:

(a) what the craft is transporting:

(b) the date and time of the craft's arrival in, or departure from, New Zealand:

(c) whether the craft's arrival or departure has occurred, is occurring, or will occur:

(d) if the craft is transporting goods,—

(i) loading and discharge particulars:

(ii) storage details of the goods:

(iii) other records relating to the goods:

(e) if the craft is transporting persons,—

(i) the number of persons on the craft:

(ii) the seating arrangements or on-board accommodation arrangements:

(iii) baggage storage details.

Compare: 1996 No 27 ss 38D, 38F(1)

49 Chief executive may require commercial transportation operator to provide PNR information

(1) The chief executive may, by notice in writing, require a commercial transportation operator to comply with this section on and after the specified date.

(2) The commercial transportation operator must provide Customs with all specified information—

(a) that is included in the passenger name record of any person referred to in subsection (3); and

(b) that the operator holds (whether in New Zealand or elsewhere) or has access to.

(3) The persons are persons who—

(a) have arrived in, or departed from, New Zealand on or after the specified date; or

(b) are arriving in, or departing from, New Zealand on or after the specified date; or

(c) are intending to arrive in, or depart from, New Zealand on or after the specified date.

(4) The specified information in relation to any person must be provided—

(a) not earlier than 72 hours before the scheduled departure of the craft on which the person is travelling to or from New Zealand; and

(b) not later than 24 hours after the scheduled departure of that craft; and

(c) in the specified way.

(5) In this section, **specified** means specified in the chief executive's notice under subsection (1).

(6) The chief executive must have regard to the standards and recommended practices for the conduct of the international civil aviation system established by the International Civil Aviation Organization under the Convention on International Civil Aviation when specifying—

(a) the information required to be provided by the commercial transportation operator; and

(b) the way in which that information is to be provided.

Compare: 1996 No 27 ss 38E, 38F(1)

50 Supplementary provision relating to requirement to provide craft or PNR information

(1) The chief executive's powers under sections 48 and 49 to specify the way in which any information is to be provided to Customs include (without limitation) the power to specify any of the following:

(a) the form in which the information is to be provided:

(b) any declaration that must be provided with the information.

(2) The chief executive may, by notice in writing, in any circumstances specified in the notice, exempt a commercial transportation operator from complying with some or all of the operator's obligations under section 48 or 49.

(3) However, an exemption under subsection (2) from providing information in the way specified in the chief executive's notice under section 48(1) or 49(1) must be conditional on the provision of that information in some other way that is acceptable to the chief executive.

(4) To avoid doubt, a commercial transportation operator is not required to provide information under section 48 or 49 that the operator holds, or has access to, about an employee unless the information is information of a kind that is also generally held by the operator, or to which the operator generally has access, in relation to passengers.

Compare: 1996 No 27 s 38F(2), (3)

51 Disposal of craft or PNR information

Customs must not keep information provided under section 48 or 49 for longer than 3 years, unless—

(a) all identifying particulars are deleted from the information; or

(b) the retention of the information is required for the purpose of—

(i) investigating and prosecuting an offence under this Act or any other enactment; or

(ii) protecting border security.

Compare: 1996 No 27 s 38O

52 Offence in relation to failure to provide Customs with PNR information

(1) A commercial transportation operator commits an offence if the operator fails, without reasonable excuse, to provide Customs with—

(a) any specified information required under section 48(2) in accordance with section 48(4); or

(b) any specified information required under section 49(2) in accordance with section 49(4).

(2) A person who commits an offence under this section is liable on conviction,—

(a) in the case of an individual, to a fine not exceeding $20,000:

(b) in the case of a body corporate, to a fine not exceeding $100,000.

Compare: 1996 No 27 s 205A

53 Other provision about arrival and departure information

Customs may, for the purposes of passenger and crew processing, monitoring the movement of craft and persons, and border security, collect any of 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:

(b) personal information, including the person's name, date of birth, sex, biometric information, passport number, nationality, and travel movements.

Compare: 1996 No 27 s 279

Power to collect other arrival information

Heading: inserted, on 21 June 2023, by section 8 of the Customs and Excise (Arrival Information) Amendment Act 2023 (2023 No 21).

53A Power to collect information designated as arrival information

(1) Customs may collect information from a person to verify their compliance with a requirement under another Act if—

(a) the information is designated as arrival information by 1 or more provisions of that Act (the **relevant provisions**); and

(b) the relevant provisions are listed in subsection (2); and

(c) the person must comply with the requirement before or when they arrive in New Zealand.

(2) There are no relevant provisions for the purpose of this section as enacted.

(3) Section 28A does not apply to information designated as arrival information for the purposes of this section (*see* the relevant provisions for requirements relating to how and when the information is to be provided).

Section 53A: inserted, on 21 June 2023, by section 8 of the Customs and Excise (Arrival Information) Amendment Act 2023 (2023 No 21).

Defences

54 Defences for offences under subpart

(1) It is a defence to a prosecution for an offence under this subpart 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.

(2) Subsection (1) does not apply to an offence under section 34 or 52.

(3) It is a defence to a prosecution for an offence under section 28B(1)(b) if the defendant proves that the defendant took all reasonable steps to ensure that the information provided was not erroneous in a material particular.

Compare: 1996 No 27 s 195

Section 54(3): inserted, on 21 June 2023, by section 6 of the Customs and Excise (Arrival Information) Amendment Act 2023 (2023 No 21).

Subpart 2—Customs places and Customs-controlled areas

Customs places

55 Designation of Customs places

(1) The chief executive may, by notice in the *Gazette*, designate any port or airport as a Customs port or Customs airport.

(2) A designation under subsection (1) may be subject to any conditions or restrictions that the chief executive considers appropriate.

Compare: 1996 No 27 s 9

Customs-controlled areas

56 Areas required to be licensed as Customs-controlled areas

(1) An area may not be used for any of the following purposes unless it is licensed by the chief executive as a Customs-controlled area:

(a) the manufacture of Part A goods:

(b) the deposit, keeping, or securing of imported goods, or of Part A goods, without payment of duty, pending their export:

(c) the temporary holding of imported goods for the purpose of examining those goods under section 227:

(d) the disembarkation, embarkation, or processing of persons arriving in, or departing from, New Zealand:

(e) the processing of craft arriving in, or departing from, New Zealand:

(f) the loading or unloading of goods onto or from craft arriving in, or departing from, New Zealand:

(g) any other prescribed purpose.

(2) Subsection (1) is subject to sections 62 and 67.

Compare: 1996 No 27 ss 10, 68

57 Application for licence

(1) An eligible person may apply to the chief executive for an area to be licensed as a Customs-controlled area.

(2) An application must be made in the way prescribed by the chief executive's rules.

Compare: 1996 No 27 s 11(1)

58 Chief executive may request further information

The chief executive may, at any time, require an applicant to provide any further information the chief executive considers relevant for the purposes of the application.

Compare: 1996 No 27 s 11(2)

59 Chief executive must determine application

(1) The chief executive must determine an application by—

(a) granting a licence for the area; or

(b) refusing the application; or

(c) giving a direction under section 62.

(2) The chief executive must not grant a licence for the area unless the chief executive is satisfied that the applicant is a fit and proper person to be granted a licence for the area.

(3) Subsection (2) does not limit the chief executive's discretion to decide on other grounds not to grant a licence.

(4) The chief executive must notify an applicant in writing of any decision made by the chief executive under this section.

(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.

Compare: 1996 No 27 s 12(1), (6), (7)

60 Fit and proper person test

(1) In determining whether an applicant is a fit and proper person to be granted a licence for an area, the chief executive may consider any of the following:

(a) any serious or repeated failure by the applicant to comply with this Act or the Biosecurity Act 1993:

(b) any conviction of the applicant for an offence under the Hazardous Substances and New Organisms Act 1996, the Immigration Act 2009, the Civil Aviation Act 2023, the Wine Act 2003, or the Maritime Transport Act 1994:

(c) any current or previous bankruptcy of the applicant under the Insolvency Act 1967 or the Insolvency Act 2006:

(d) any conviction of the applicant, in New Zealand or in another country, for an offence involving dishonesty or drugs:

(e) whether the applicant is or has been prohibited, under section 382, 383, 385, or 386A of the Companies Act 1993, from being a director or a promoter of, or from taking part in the management of, a company:

(f) any prescribed matters:

(g) any other matters that the chief executive considers relevant.

(2) In subsection (1)(a) to (e), references to the applicant include references to any of the applicant's directors or senior managers.

Section 60(1)(b): amended, on 5 April 2025, by section 486 of the Civil Aviation Act 2023 (2023 No 10).

61 Grant of licence

A licence for a Customs-controlled area—

(a) must specify—

(i) the applicant as the licensee; and

(ii) the area for which it is granted; and

(iii) the purpose or purposes referred to in section 56(1) for which the area is licensed; and

(b) may be granted subject to the payment by the licensee of the prescribed annual licence fee (if any); and

(c) may be granted subject to any other terms, conditions, or restrictions that the chief executive considers appropriate.

Compare: 1996 No 27 s 12(2), (3)

62 Exemption from requirement to be licensed directed by chief executive

(1) Subsection (2) applies if—

(a) an eligible person applies for an area to be licensed as a Customs-controlled area; and

(b) the chief executive considers that it is not in the public interest, or that it is impracticable or unnecessary, for the area to be licensed as a Customs-controlled area.

(2) The chief executive may direct that the area—

(a) need not be licensed as a Customs-controlled area; and

(b) is exempt from the provisions of this Act specified in the direction.

(3) A direction under subsection (2) may be given—

(a) in respect of the whole or any specified part of the business carried on in the area; and

(b) subject to any terms, conditions, or restrictions that the chief executive considers appropriate.

Compare: 1996 No 27 s 12(4), (5)

63 Variation of terms, conditions, or restrictions

(1) The chief executive may, by notice in writing to the licensee of a Customs-controlled area,—

(a) vary or revoke a term, condition, or restriction imposed under section 61(c); or

(b) impose a new term, condition, or restriction under section 61(c).

(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.

Compare: 1996 No 27 s 13

64 Revocation or suspension of licence

(1) The chief executive may revoke or suspend a licence for a Customs-controlled area if—

(a) the licensee has not paid the annual licence fee prescribed for the purposes of section 61(b) (if any) at or within the time the licensee is required to pay it; or

(b) there has been a failure to comply with a term, condition, or restriction imposed under section 61(c); or

(c) the area in respect of which the licence was granted is being used solely for purposes other than the purpose or purposes for which the area is licensed or is not being used for any purpose at all; or

(d) the licensee is no longer an eligible person in relation to the area; or

(e) the chief executive is not satisfied, in accordance with section 60, that the licensee is a fit and proper person to hold the licence.

(2) The chief executive must notify the licensee in writing if the chief executive intends to revoke or suspend a licence.

(3) Subsection (2) does not apply if the chief executive considers that there is good reason not to give notice of the revocation or suspension.

(4) If the chief executive revokes or suspends a licence, the chief executive must notify the licensee in writing of the revocation or suspension.

(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: 1996 No 27 s 14

65 Surrender of licence

A licence for a Customs-controlled area may be surrendered at any time by the licensee giving 1 month's notice in writing to the chief executive.

Compare: 1996 No 27 s 15

66 Closing of Customs-controlled area

Duty is immediately due and payable on all goods within a Customs-controlled area that are or were subject to the control of Customs if—

(a) the licence for that Customs-controlled area is revoked, suspended, or surrendered; and

(b) the chief executive does not allow the goods to be—

(i) removed to another Customs-controlled area; or

(ii) exported.

Compare: 1996 No 27 s 16

67 Exemptions in relation to Customs-controlled areas

(1) Regulations may prescribe exemptions from section 56(1).

(2) Subsection (1) does not apply in relation to the manufacture of tobacco.

(3) Regulations exempting an area used for the manufacture of Part A goods from section 56(1)(a) may (without limitation) prescribe any of the following conditions in accordance with section 403(3):

(a) conditions as to the nature of the goods being manufactured:

(b) conditions as to the source of any product used in the manufacture of the goods:

(c) conditions limiting the use that may be made of the goods (for example, permitting personal use only):

(d) conditions limiting the age of any person involved in the manufacture or use of the goods:

(e) conditions limiting the quantity of goods that may be manufactured by any measure or other form of description.

(4) Section 56(1)(a) does not apply to—

(a) the manufacture of tobacco by an individual in the individual's private dwelling if—

(i) the individual is 18 years or over; and

(ii) the individual manufactures the tobacco exclusively for his or her personal use and not for sale or other disposition to any other person; and

(iii) the leaves or plants used in the manufacture of the tobacco are grown—

(A) on the land on which the individual's private dwelling is located; and

(B) exclusively for the individual's personal use and not for sale or other disposition to any other person; or

(b) the manufacture by an individual of beer, wine, or spirits in his or her private dwelling if the individual manufactures the beer, wine, or spirits exclusively for the individual's personal use and not for sale or other disposition to any other person; or

(c) the manufacture of biofuel or a biofuel blend by an individual on the land where his or her private dwelling is located if the individual manufactures the biofuel or biofuel blend exclusively for the individual's personal use and not for sale or other disposition to any other person.

(5) The maximum amount of tobacco that an individual may manufacture under subsection (4)(a) in any period of 12 months beginning with 1 July and ending with 30 June is 5 kilograms.

Compare: 1996 No 27 ss 10, 68(2), 68A, 68B, 68C, 286(1)(a)(i), (1A)

68 Offences in relation to Customs-controlled areas

(1) A person commits an offence if the person, without reasonable excuse, fails to comply with section 56(1)(a).

(2) A person who commits an offence under subsection (1), other than an offence involving goods that are tobacco, is liable on conviction,—

(a) in the case of an individual, to a fine not exceeding the greater of the following:

(i) $5,000:

(ii) an amount equal to 3 times the value of the goods to which the offence relates:

(b) in the case of a body corporate, to a fine not exceeding the greater of the following:

(i) $25,000:

(ii) an amount equal to 3 times the value of the goods to which the offence relates.

(3) A person who commits an offence under subsection (1) involving goods that are tobacco is liable on conviction,—

(a) in the case of an individual, to—

(i) imprisonment for a term not exceeding 6 months; or

(ii) a fine not exceeding $20,000; or

(iii) both:

(b) in the case of a body corporate, to a fine not exceeding $100,000.

(4) A person commits an offence if the person, without reasonable excuse, fails to comply with section 56(1)(b) to (g).

(5) A person who commits an offence under subsection (4) 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.

Compare: 1996 No 27 ss 189, 200(1)(e), (3), (4)

69 Offence in relation to failure to comply with term, condition, or restriction of licence

(1) A person commits an offence if the person, without reasonable excuse, fails to comply with a term, condition, or restriction imposed under section 61(c) in relation to a licence for a Customs-controlled area.

(2) A person who commits an offence under 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.

Compare: 1996 No 27 s 190

70 Customs facilities in Customs-controlled areas, etc

(1) The chief executive may, by notice in writing, require the licensee of a Customs-controlled area to do any of the following:

(a) provide and maintain any operating areas, accommodation, facilities, buildings, equipment, or storage that the chief executive considers reasonably necessary and suitable for Customs to carry out any of its functions under this Act:

(b) store goods subject to the control of Customs in any manner and location that the chief executive considers appropriate.

(1A) The chief executive must, when considering for the purpose of subsection (1) what is reasonably necessary and suitable at an airport, have regard to any regulatory airport spatial undertaking given by the airport operator under subpart 3 of Part 7 of the Civil Aviation Act 2023 that is in effect.

(2) A licensee who is dissatisfied with a requirement imposed by the chief executive under subsection (1) may, within 20 working days after the date on which

notice of the requirement is given, appeal to a Customs Appeal Authority against the requirement.

(3) The licensee of a Customs-controlled area may, subject to subsection (4), levy Customs a reasonable charge for any operating areas, accommodation, facilities, buildings, equipment, or storage provided in accordance with subsection (1)(a).

(4) A licensee may not levy any charge on Customs for any operating area in a Customs-controlled area where that operating area is used for processing persons, craft, or postal articles arriving in, or departing from, New Zealand.

(5) Subsection (4) applies despite anything to the contrary in the Airport Authorities Act 1966 or Part 7 of the Civil Aviation Act 2023.

Compare: 1996 No 27 s 18

Section 70(1A): inserted, on 5 April 2025, by section 486 of the Civil Aviation Act 2023 (2023 No 10).

Section 70(5): amended, on 5 April 2025, by section 486 of the Civil Aviation Act 2023 (2023 No 10).

71 Offence in relation to Customs facilities in Customs-controlled areas, etc

(1) The licensee of a Customs-controlled area commits an offence if the licensee, without reasonable excuse, fails to comply with a requirement imposed on the licensee by the chief executive under section 70(1).

(2) A person who commits an offence under 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.

Compare: 1996 No 27 s 200(1)(a), (2)

72 Storage charges

Regulations may prescribe any of the following:

(a) circumstances in which the licensee of a Customs-controlled area must not make charges for the reception or storage of imported goods in that area:

(b) periods in respect of which the licensee of a Customs-controlled area must not make charges for the reception or storage of imported goods in that area.

Compare: 1996 No 27 s 19

73 Liabilities not affected by ceasing to act as licensee

The obligations and liabilities under this Act for anything done or omitted to be done by the licensee of a Customs-controlled area while licensed are not affected by the fact—

(a) that the licensee ceases to act as a licensee; or

(b) that the licence is revoked, suspended, or surrendered.

Compare: 1996 No 27 s 17

Subpart 3—Entry and accounting for goods

Imported goods

74 Goods specified in inward report to be treated as imported

The following goods are treated as having been imported unless the contrary is proved:

(a) all goods specified in the inward report for any craft under section 24(1)(a):

(b) all goods that are not required to be specified in the inward report for any craft under section 24(1)(a) because of section 24(3).

Compare: 1996 No 27 s 86(8)

75 Entry of imported goods

(1) Goods that are imported, or are to be imported, must be entered by the importer—

(a) in the way prescribed by the chief executive's rules; and

(b) within the prescribed time or any additional time that the chief executive allows.

(2) Without limiting subsection (1)(a), an entry that relates to goods that are dutiable due to the volume of alcohol present in the goods must specify, in the way prescribed by the chief executive's rules, the volume of alcohol present in the goods.

(3) If an entry relates to a craft that is imported under its own power, the craft must, for the purposes of the entry, be treated as having been imported as cargo and unloaded on its arrival.

(4) A Customs officer may ask a person entering goods under this section any question about the goods, and the person must answer the question.

(5) A person entering goods under this section must, on the request of a Customs officer,—

(a) present the goods to the officer:

(b) remove any covering from the goods:

(c) unload or open any thing on, or in which, the goods are transported:

(d) open and unpack any package that the officer wishes to examine.

(6) A person entering goods under this section may, while the goods are subject to the control of Customs and subject to any conditions that a Customs officer considers appropriate,—

(a) inspect the goods; or

(b) draw samples from the goods.

(7) If imported goods are not entered in accordance with this section, or claimed within the prescribed period,—

(a) duty becomes due and payable on the goods; and

(b) the goods may be sold or otherwise disposed of by the chief executive.

Compare: 1996 No 27 ss 39, 44

76 Entry of imported goods in multiple or split shipments

(1) An importer may apply to the chief executive to allow goods to be—

(a) imported in multiple or split shipments; and

(b) entered by the importer under the same Tariff classification that they would have been entered under if they had been imported in 1 shipment.

(2) The chief executive may allow the goods to be dealt with as referred to in subsection (1)(a) and (b) if, after considering any prescribed criteria, he or she considers that the goods could not reasonably be imported in 1 shipment.

(3) A decision under subsection (2) may be subject to any conditions that the chief executive considers reasonably necessary.

Compare: 1996 No 27 s 39A

77 Imported goods to be dealt with according to entry

Imported goods, in respect of which entry has been made and passed, must be immediately dealt with in accordance with—

(a) the entry; and

(b) the provisions of this Act in respect of the goods so entered.

Compare: 1996 No 27 s 41

78 Unloading goods

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

(a) in accordance with a permit or other authorisation granted by the chief executive (which may be subject to any conditions that the chief executive considers appropriate); or

(b) where the safety of the craft, or the goods or persons on the craft, is threatened by—

(i) collision, fire, the stress of weather, or similar circumstances; or

(ii) any other prescribed circumstances.

Compare: 1996 No 27 s 43

79 Offence in relation to unloading goods

(1) A person commits an offence if the person, without reasonable excuse, fails to comply with section 78.

(2) A person who commits an offence under this section is liable on conviction to a fine not exceeding $5,000.

Compare: 1996 No 27 s 199

80 Samples or illustrations

(1) The importer of goods must provide (free of charge) any samples, illustrations, drawings, documents, or plans relating to the goods that may be required by a Customs officer for the purposes of this Act.

(2) A Customs officer must not require more than the smallest sample possible for the required purpose.

Compare: 1996 No 27 s 45

Part A goods

81 Entry of Part A goods

(1) Part A goods that are manufactured in a manufacturing area must be entered on the goods being removed for home consumption.

(2) The entry must be made—

(a) in the way prescribed by the chief executive's rules; and

(b) within the prescribed time.

(3) If excise duty is levied in respect of the goods by reference to the volume of alcohol present in the goods, without limiting subsection (2)(a), the entry must specify the volume of alcohol in the way prescribed by the chief executive's rules.

(4) The goods must be entered—

(a) by the licensee of the Customs-controlled area from which the goods are removed; or

(b) in the prescribed circumstances, by the owner of the goods.

(5) In subsection (4)(a), the reference to the Customs-controlled area from which the goods are removed is, in relation to goods that are removed for home consumption under clause 3(3) or (4) of Schedule 3, a reference to the Customs-controlled area in which the goods are, as the case requires,—

(a) treated as being manufactured; or

(b) used or destroyed, lost, or otherwise physically disposed of.

(6) Part A goods, in respect of which entry has been made and passed, must be immediately dealt with in accordance with—

(a) the entry; and

(b) the provisions of this Act in respect of the goods so entered.

Compare: 1996 No 27 s 70

82 Nil returns

(1) This section applies only in prescribed circumstances.

(2) The licensee of a Customs-controlled area must make a return to Customs in respect of any prescribed period if,—

(a) during the prescribed period, specified goods are held in the Customs-controlled area; and

(b) none of those goods are removed from the Customs-controlled area during the prescribed period or, if any are removed, their removal does not constitute being removed for home consumption.

(3) The return must be made—

(a) in the way prescribed by the chief executive's rules; and

(b) within the prescribed time.

(4) In this section, **specified goods** means Part A goods that—

(a) are manufactured in a manufacturing area; and

(b) have not been removed for home consumption.

Transportation within New Zealand

83 Transportation of imported goods

Except as otherwise allowed by the chief executive, no person may place any imported goods that are subject to the control of Customs in any craft, vehicle, or other conveyance for transportation within New Zealand until entry has been made in respect of the goods in accordance with section 75(1).

Compare: 1996 No 27 s 46

84 Offences in relation to transportation of imported goods

(1) A person commits an offence if the person, without reasonable excuse, fails to comply with section 83.

(2) A person who commits an offence under this section, other than an offence involving goods that are tobacco (whether manufactured or not), 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) A person who commits an offence under this section involving goods that are tobacco (whether manufactured or not) is liable on conviction,—

(a) in the case of an individual, to—

(i) imprisonment for a term not exceeding 6 months; or

(ii) a fine not exceeding $20,000; or

(iii) both:

(b) in the case of a body corporate, to a fine not exceeding $100,000.

Compare: 1996 No 27 s 200(1)(b), (2), (2A)

85 Removal of goods from Customs-controlled areas

(1) Goods that are subject to the control of Customs must not be delivered or removed from a Customs-controlled area except—

(a) with the permission of Customs after entry has been made in accordance with section 75 or 89 and passed; or

(b) under a permit or other authorisation granted by the chief executive in respect of those goods, which may be subject to any conditions that the chief executive considers appropriate; or

(c) by a Customs officer in the carrying out of his or her functions under this Act; or

(d) as otherwise provided by subsection (2) or any other provision of this Act.

(2) Part A goods that are manufactured in a manufacturing area may be removed from a Customs-controlled area if—

(a) their removal constitutes being removed for home consumption; or

(b) they are removed for export or to an export warehouse.

(3) The chief executive may, while goods remain subject to the control of Customs, revoke any permission given in respect of the goods under subsection (1)(a).

(4) The chief executive may, by notice in writing, vary or revoke the conditions to which a permit or other authorisation granted under subsection (1)(b) is subject.

(5) A person who is dissatisfied with a decision of the chief executive under subsection (1)(b) or (4) 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: 1996 No 27 s 47

86 Offences in relation to removal of goods from Customs-controlled areas

(1) A person commits an offence if the person, without reasonable excuse, delivers or removes goods that are subject to the control of Customs from a Customs-controlled area in contravention of—

(a) section 85; or

(b) any condition of a permit or other authorisation granted under section 85(1)(b).

(2) A person who commits an offence under this section, other than an offence involving goods that are tobacco (whether manufactured or not), 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) A person who commits an offence under this section involving goods that are tobacco (whether manufactured or not) is liable on conviction,—

(a) in the case of an individual, to—

(i) imprisonment for a term not exceeding 6 months; or

(ii) a fine not exceeding $20,000; or

(iii) both:

(b) in the case of a body corporate, to a fine not exceeding $100,000.

Compare: 1996 No 27 s 200(1)(c), (2), (2A)

Transhipments: international and domestic

87 Transhipment requests

(1) This section applies to cargo that—

(a) is imported on a craft; and

(b) has not been entered for home consumption; and

(c) has been, at all times since it was imported, subject to the control of Customs.

(2) Any person may make a transhipment request to the chief executive to allow the cargo to be—

(a) transhipped domestically to a place within New Zealand at which it is intended that the cargo will be entered for home consumption; or

(b) transhipped internationally to a place outside New Zealand while remaining subject to the control of Customs at all times before the cargo's departure from New Zealand.

(3) A transhipment request must—

(a) be made within the prescribed time; and

(b) be made in the way prescribed by the chief executive's rules; and

(c) be accompanied by any supporting documents that the chief executive considers appropriate.

(4) The chief executive must, as soon as is reasonably practicable after a transhipment request is made, grant or decline the transhipment request.

(5) A transhipment request granted by the chief executive authorises the removal of the cargo from a Customs-controlled area for the transhipment purposes, and

on the conditions (if any), specified by the chief executive when granting the request.

(6) A transhipment request granted by the chief executive does not affect the application of any other enactment to the cargo (for example, the Biosecurity Act 1993).

(7) A person who is dissatisfied with a decision of the chief executive under subsection (4) 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: 1996 No 27 s 48A

88 Offences in relation to transhipment requests

(1) A person who makes, or purports to make, a transhipment request under section 87 commits an offence if—

(a) the person fails to make the request to the chief executive within the time prescribed for the purposes of section 87(3)(a); or

(b) the request does not contain all the information relating to the cargo that is required to be contained in it by rules made for the purposes of section 87(3)(b); or

(c) any information that is included in the request is erroneous in a material particular, misleading, or not genuine; or

(d) any supporting document that accompanies the request under section 87(3)(c) is erroneous, misleading, or not genuine.

(2) Section 54 (defences for offences) applies to an offence under this section as if this section were in subpart 1 of this Part.

(3) A person who commits an offence under this section is liable on conviction,—

(a) in the case of an individual, to a fine not exceeding $20,000:

(b) in the case of a body corporate, to a fine not exceeding $100,000.

Compare: 1996 No 27 ss 194C, 195

Exportation of goods

89 Entry of goods for export

(1) Goods that are exported, or are to be exported, must be entered by the exporter—

(a) in the way prescribed by the chief executive's rules; and

(b) within the prescribed time or any additional time that the chief executive allows.

(2) If an entry relates to a craft that is exported under its own power, the craft is treated as exported when it departs from New Zealand.

(3) A Customs officer may ask a person entering goods under this section any question about the goods, and the person must answer the question.

(4) A person entering goods under this section must, on the request of a Customs officer,—

(a) present the goods to the officer:

(b) remove any covering from the goods:

(c) unload or open any thing on, or in which, the goods are transported:

(d) open and unpack any package that the officer wishes to examine.

(5) Except as otherwise allowed by the chief executive, goods must not be loaded for export until entry has been made in accordance with subsection (1) and passed.

(6) The chief executive may revoke permission to export the goods in respect of which an entry has been passed if the chief executive has reasonable cause to suspect that the goods endanger, or threaten to endanger,—

(a) border security; or

(b) New Zealand's trade interests or international obligations; or

(c) the life, health, or safety of a person or group of persons; or

(d) the safety of the craft that will transport the goods, or of other goods to be transported on that craft.

Compare: 1996 No 27 s 49(1), (2), (5), (6)

90 Goods entered for export to be exported immediately, etc

(1) Goods that have been entered for export must be exported immediately—

(a) by the person making the entry or the owner of the goods; and

(b) in accordance with—

(i) the entry; and

(ii) 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 Customs notice of the failure (including the reasons for it).

(3) If notice has been given in accordance with subsection (2), the chief executive—

(a) must cancel or amend the entry; and

(b) may, where applicable, allow the goods to cease to be subject to the control of Customs.

Compare: 1996 No 27 s 51(1), (2)

91 Goods sold in duty-free store

Despite section 90(1), an export entry may be made in respect of goods that are stored in a duty-free store when they are sold to a person who has arrived in New Zealand, but only if the terms or conditions to which the licence for the duty-free store is subject allow the entry to be made at that time.

Compare: 1996 No 27 s 51(3)

92 Goods for export not to be landed

(1) Goods loaded for export may be landed only at a place outside New Zealand.

(2) Despite subsection (1), a Customs officer may allow the unloading and reloading of goods for export.

Compare: 1996 No 27 s 52

93 Time of exportation

(1) For the purposes of this Act, the time at which goods are treated as exported is the time when the exporting craft departs from the last Customs place at which the craft calls before proceeding to a point outside New Zealand.

(2) Subsection (1) is subject to sections 89(2) and 176(2).

Compare: 1996 No 27 ss 53, 225(2)

94 Customs-approved export seal may not be interfered with

No person may interfere with a Customs-approved export seal that has been applied to a package of goods, except as provided in section 282(3)(c).

Compare: 1996 No 27 s 53A(4)

Subpart 4—Prohibited imports and prohibited exports

95 Prohibition on importation and exportation of objectionable publications, other indecent or obscene articles, and goods for dishonest purpose

(1) The importation of the following is prohibited:

(a) objectionable publications:

(b) all other indecent or obscene articles:

(c) goods that are for a dishonest purpose.

(2) The exportation of the following is prohibited:

(a) objectionable publications:

(b) goods that are for a dishonest purpose.

(3) Subsection (4) applies to an objectionable publication if, apart from that subsection, the objectionable publication would not be goods.

(4) The objectionable publication—

(a) is goods for the purposes of this Act; but

(b) is not goods for the purposes of section 12 of the Goods and Services Tax Act 1985.

(5) Subsection (6) applies to any article referred to in subsection (1)(b) if, apart from subsection (6), the article would not be goods.

(6) The article—

(a) is goods for the purposes of this Act as it applies in relation to imported goods or the importation of goods (including (without limitation) for the purposes of the definition of prohibited imports in section 5(1)); but

(b) is not goods for the purposes of section 12 of the Goods and Services Tax Act 1985.

Compare: 1996 No 27 ss 54(1)(aa)–(ac), (1A), 56(1)(a)–(ac), (1A)

95A Prohibition on importation of tobacco and certain tobacco products

(1) The importation of the following goods is prohibited:

(a) tobacco leaf:

(b) manufactured tobacco, excluding the goods specified in subsection (2):

(c) tobacco refuse.

(2) The prohibition in subsection (1) does not apply to the following goods:

(a) cigars:

(b) cigarillos:

(c) *[Repealed]*

(d) chewing tobacco:

(e) snuff:

(f) snus.

(3) The prohibition in subsection (1) does not apply if—

(a) the person importing the goods—

(i) has a permit granted by the chief executive under Schedule 3A, allowing the goods to be imported; and

(ii) complies with any conditions of the permit; or

(b) the goods are in the possession or under the control of a person specified in section 30(1)(a); or

(c) the goods—

(i) are not unloaded in New Zealand and are destined for a point outside New Zealand; or

(ii) are to be, or are being, transhipped internationally, and are covered by a transhipment request made under section 87(2) and granted by the chief executive.

Section 95A: inserted, on 1 July 2020, by section 6 of the Customs and Excise (Tobacco) Amendment Act 2020 (2020 No 16).

Section 95A(2)(c): repealed, on 25 May 2022, by section 4 of the Customs and Excise (Tobacco Products) Amendment Act 2022 (2022 No 28).

96 Prohibition on other imports or exports by Order in Council

(1) The Governor-General may, by Order in Council, on the recommendation of the Minister, prohibit the importation or exportation of—

(a) any specified goods; or

(b) any specified class of goods.

(2) A prohibition under this section may—

(a) be general or be limited to—

(i) the importation of goods—

(A) from a specified place:

(B) by or from a specified person or class of persons:

(ii) the exportation of goods—

(A) to a specified place:

(B) by or to a specified person or class of persons:

(b) be subject to conditions.

(3) A conditional prohibition may allow the importation or exportation of goods under the terms of a licence, permit, or consent granted by—

(a) the chief executive; or

(b) any other person named in the order.

(4) A licence, permit, or consent under subsection (3) may be granted before or after the importation or exportation of the goods.

(5) The Minister must not make a recommendation for the purposes of subsection (1) unless he or she considers that the proposed prohibition is necessary in the public interest.

(6) The Secretary must maintain an up-to-date list of all goods and classes of goods whose exportation is prohibited under this section because they have or may have a strategic use.

(7) The Secretary must make the list maintained under subsection (6) available by—

(a) notifying the chief executive of it; and

(b) publishing it on an Internet site maintained by, or on behalf of, the Secretary.

(8) To avoid doubt, any failure to publish a list under subsection (7) does not invalidate the prohibition of the exportation of any goods or classes of goods mentioned in the list.

(9) An Order in Council that prohibits the exportation of goods extends and applies to the shipment of the goods for use as stores by a craft, except as otherwise specified in the order.

(10) An order under this section—

(a) is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements); and

(b) must be confirmed by an Act (*see* subpart 3 of Part 5 of the Legislation Act 2019).

(11) In this section,—

goods includes documents that are not otherwise goods

Secretary means the Secretary of Foreign Affairs and Trade

strategic use, in relation to goods, means use for 1 or more of the purposes listed in section 97(2)(a) to (f).

(12) Documents that are not otherwise goods and whose importation or exportation is prohibited under this section—

(a) are goods for the purposes of the rest of this Act (apart from section 97) as it applies in relation to, as the case may be,—

(i) imported goods or the importation of goods (including (without limitation) for the purposes of the definition of prohibited imports in section 5(1)); or

(ii) exported goods or the exportation of goods (including (without limitation) for the purposes of the definition of prohibited exports in section 5(1)); but

(b) are not goods for the purposes of section 12 of the Goods and Services Tax Act 1985.

Compare: 1996 No 27 ss 54(2)–(4), 54A, 56(2)(a), (b), (2A), (2G)–(4), (8), 56A

Legislation Act 2019 requirements for secondary legislation made under this section		
Publication	PCO must publish it on the legislation website and notify it in the *Gazette*	LA19 s 69(1)(c)
Presentation	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 96(10): replaced, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

97 Prohibition on exports by notice: nuclear, biological, and chemical weapons, etc

(1) The Secretary may, by notice after consultation with the Minister, prohibit the exportation of goods described by any use to which they may be put, if the Secretary considers that the prohibition is necessary in the public interest.

(2) A notice under subsection (1) must describe goods by reference only to uses that relate (directly or indirectly) to 1 or more of the following purposes:

(a) the development, production, or deployment of nuclear explosive devices and their means of delivery:

(b) the development, production, or deployment of biological weapons and their means of delivery:

(c) the development, production, or deployment of chemical weapons and their means of delivery:

(d) military use or applications:

(e) 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:

(f) terrorist acts.

(3) A prohibition in a notice under subsection (1) may—

(a) be general or be limited to the exportation of goods—

(i) to a specified place:

(ii) by or to a specified person or class of persons:

(b) be subject to conditions.

(4) A conditional prohibition may allow the exportation of goods under the terms of a licence, permit, or consent granted by—

(a) the chief executive; or

(b) any other person named in the notice.

(5) A licence, permit, or consent under subsection (4) may be granted before or after the exportation of the goods.

(6) A prohibition in a notice under subsection (1) applies to any goods only if the Secretary has determined that the goods are covered by the prohibition.

(7) If the Secretary makes a determination under subsection (6) in respect of any goods, the Secretary must notify the chief executive and each relevant exporter as soon as practicable.

(8) If a person (the **exporter**) is aware, or should reasonably be aware, that any goods that the exporter wishes to export are intended for, or may be put to, any of the uses set out in a notice under subsection (1),—

(a) the exporter must inform the Secretary; and

(b) the Secretary must, as soon as practicable,—

(i) decide whether to make a determination under subsection (6) in respect of the goods; and

(ii) either—

(A) make a determination and notify the chief executive and the exporter in accordance with subsection (7); or

(B) notify the exporter that the Secretary is not going to make a determination; and

(c) the exportation of the goods is prohibited until the exporter receives the Secretary's notification under paragraph (b)(ii).

(9) A notice under subsection (1) is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

(10) In this section,—

biological weapon has the meaning given to that term in section 2 of the New Zealand Nuclear Free Zone, Disarmament, and Arms Control Act 1987

chemical weapons has the meaning given to that term in Article II of the Schedule of the Chemical Weapons (Prohibition) Act 1996

goods includes documents that are not otherwise goods

military includes any armed force, paramilitary force, Police force, or militia

nuclear explosive device has the meaning given to that term in section 2 of the New Zealand Nuclear Free Zone, Disarmament, and Arms Control Act 1987

Secretary means the Secretary of Foreign Affairs and Trade

terrorist act has the meaning given to that term in section 5 of the Terrorism Suppression Act 2002.

(11) Documents that are not otherwise goods and whose exportation is prohibited under this section—

(a) are goods for the purposes of the rest of this Act as it applies in relation to exported goods or the exportation of goods (including (without limitation) for the purposes of the definition of prohibited exports in section 5(1)); but

(b) are not goods for the purposes of section 12 of the Goods and Services Tax Act 1985.

Compare: 1996 No 27 s 56(1)(c), (2)(c), (2A)–(2F), (3), (4)

Legislation Act 2019 requirements for secondary legislation made under this section		
Publication	The maker must publish it in the *Gazette*	LA19 ss 73, 74(1)(a), Sch 1 cl 14
Presentation	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 97 heading: amended, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Section 97(1): amended, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Section 97(9): replaced, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

98 Production of licence, permit, or consent for goods

(1) This section applies to—

(a) prohibited goods that may be imported or exported under a licence, permit, or consent; and

(b) goods whose importation or exportation is prohibited under any other enactment, except under a licence, permit, or consent.

(2) The chief executive may do any of the following until satisfied that the importation or exportation of the goods is permitted under a licence, permit, or consent:

(a) refuse to pass an entry for the goods:

(b) not allow the goods to be exported:

(c) not allow the goods to be removed from a Customs-controlled area.

Compare: 1996 No 27 s 58

99 Duty applies even if importation prohibited

Goods are not exempt from duty just because their importation is prohibited under an enactment.

Compare: 1996 No 27 s 54(7)

Subpart 5—Import duties

Debt owed to the Crown

100 Duty on imported goods is debt owed to the Crown

(1) The duty on all imported goods is a debt—

(a) due to the Crown immediately on importation of the goods; and

(b) owed by the importer or importers of the goods; and

(c) recoverable by the chief executive (on behalf of the Crown) in any court of competent jurisdiction.

(2) To avoid doubt, 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 Customs; or

(b) a bond or any other security has been given for the payment of duty; or

(c) no proper assessment of duty has been made under this Act; or

(d) a deficient assessment of duty has been made under this Act; or

(e) a provisional Customs value has been included in the entry for the goods under section 102.

(3) If there is more than 1 importer, the debt is owed by all of them jointly and severally.

Compare: 1996 No 27 s 86(1), (2), (4), (5)

Valuation of goods

101 Importer must specify Customs value on entry

(1) Every entry for imported goods must include the Customs value of the goods determined in accordance with Schedule 4.

(2) Subsection (1) is subject to section 102.

Compare: 1996 No 27 s 60(1)

102 Provisional Customs value

(1) An importer may include a provisional Customs value in an entry for imported goods—

(a) if—

(i) the importer is a party to a transfer pricing arrangement that involves the supply and acquisition of the imported goods; and

(ii) a binding ruling applies to the importer in relation to the transfer pricing arrangement; and

(iii) because of the transfer pricing arrangement, it is not reasonably practicable to finalise the Customs value of the imported goods at the time the entry is being made; or

(b) if the Customs value of the imported goods would be determined under Part 1 of Schedule 4 (transaction value method) except that, at the time the entry is being made, any adjustments that are required to be made under clause 7(b)(iv) or (v) of Schedule 4 cannot be made because of a lack of sufficient information (as that term is defined in clause 2(1) of Schedule 4); or

(c) under an approval given by the chief executive under subsection (4).

(2) A provisional Customs value must be a reasonable estimate of the Customs value of the goods based on the information that is available to the importer at the time the entry is being made.

(3) Until the final Customs value is provided (*see* sections 112 and 117(4)), the provisional Customs value must be treated as the Customs value for the purposes of this Act.

(4) The chief executive may, for the purposes of subsection (1)(c), give approvals for the inclusion of provisional Customs values in entries.

(5) An approval may be given—

(a) to a particular importer in relation to particular goods or a class of goods; or

(b) so as to apply generally to a class of importer or a class of goods (or both).

(6) An approval may be given subject to any terms, conditions, and restrictions that the chief executive considers appropriate.

(7) The chief executive may—

(a) vary any terms, conditions, or restrictions that an approval is subject to; or

(b) withdraw an approval.

(8) Before giving an approval of the type referred to in subsection (5)(a) that relates wholly or partly to the application of a transfer pricing arrangement, the chief executive must consult the Commissioner of Inland Revenue in relation to the appropriateness of the transfer pricing arrangement.

(9) An approval of the type referred to in subsection (5)(b) must be published on an Internet site that—

(a) is maintained by, or on behalf of, the chief executive; and

(b) is publicly available free of charge.

(10) Subsection (11) applies if the chief executive has reasonable grounds to believe that a person has failed to comply with subsection (2) or section 112 in relation to a provisional Customs value that the person included in an entry.

(11) The chief executive may, by notice to the person, suspend the person's right to include provisional Customs values in entries.

(12) The suspension may be for—

(a) a definite period; or

(b) an indefinite period, which may be brought to an end by the chief executive on an application by the person.

(13) A person who is dissatisfied with any of the following decisions 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:

(a) a refusal to give an approval of a type referred to in subsection (5)(a):

(b) a decision under subsection (6) or (7) in relation to an approval of a type referred to in subsection (5)(a):

(c) a decision under subsections (10) to (12).

(14) In this section,—

binding ruling—

(a) has the meaning given to that term in section 3(1) of the Tax Administration Act 1994; and

(b) includes a mutual agreement procedure under a double tax agreement that is in force under section BH 1 of the Income Tax Act 2007

transfer pricing arrangement has the meaning given to that term in section GC 6(2) of the Income Tax Act 2007.

103 Chief executive may revise Customs value

(1) If the chief executive is satisfied that the Customs value of imported goods in an entry is incorrect,—

(a) the chief executive may revise the Customs value; and

(b) the revised value must be treated as the Customs value for the purposes of this Act; and

(c) Customs must notify the importer of the revised value and the basis for the calculation (including, if applicable, the relevant provisions of Schedule 4).

(2) Subsection (1) applies regardless of whether—

(a) goods are still subject to the control of Customs; and

(b) any duty has been paid.

(3) An importer who is dissatisfied with a decision of the chief executive under subsection (1)(a) may, within 20 working days after the date on which notice is given under subsection (1)(c), appeal to a Customs Appeal Authority against that decision.

(4) Without limiting section 102(3), the chief executive's power under subsection (1) may be exercised in relation to a provisional Customs value if the chief executive is satisfied that the provisional Customs value does not comply with section 102(2).

Compare: 1996 No 27 s 61

104 Crown's right of compulsory acquisition

(1) For the purpose of protecting the public revenue against undervaluation of goods subject to *ad valorem* duty, goods for which entry is made may be acquired by the Crown at any time while they remain subject to the control of Customs.

(2) The right under subsection (1) may be exercised by the chief executive.

(3) The goods are acquired when the chief executive signs a warrant for their acquisition in the prescribed form.

(4) The goods become the property of the Crown immediately the warrant is signed.

(5) Customs must notify the importer in writing, as soon as is reasonably practicable, if the chief executive has signed a warrant under this section.

(6) If goods are acquired by the Crown under this section and no appeal is made under subsection (10),—

(a) the chief executive must sell the goods; and

(b) the proceeds of sale must be accounted for as Customs revenue.

(7) Customs must pay the importer of the goods for the goods within 10 working days of their acquisition.

(8) The price payable by the Crown for the goods is the sum of the following:

(a) the Customs value of the goods included in the entry for the goods:

(b) any charges for freight, insurance, and other matters incidental to the importation of the goods that the chief executive considers reasonable:

(c) any duties already paid on the goods.

(9) Nothing in this section affects—

(a) any other powers of Customs in respect of the goods; or

(b) any liability of the importer or any other person in respect of an offence committed in respect of the goods.

(10) 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: 1996 No 27 s 63

Origin and preferential Tariff provisions

105 Entry of goods at preferential rates of duty

(1) This section applies if a person claims, under this Act or any other enactment or authority, a rate of duty for goods that is lower than the rate set out in the Normal Tariff in respect of those goods.

(2) The chief executive may require the claim to be verified—

(a) at the time of entry of the goods; or

(b) at any subsequent time (including any time after the goods have ceased to be subject to the control of Customs).

(3) If the chief executive requires a claim to be verified at the time of entry of the goods and the claim is not verified to the chief executive's satisfaction, the goods may not be entered at the lower rate of duty.

Compare: 1996 No 27 s 66

106 Unsubstantiated preference claims

(1) If the chief executive is satisfied that the country of production or manufacture of goods cannot be properly ascertained, the goods are treated (for the purposes of this Act or any other enactment or authority) as the produce or manufacture of a country that is subject to the rates of duty set out in the Normal Tariff.

(2) Customs must advise an importer by notice in writing of any 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 are subject to the control of Customs.

Compare: 1996 No 27 s 67

Subpart 6—Excise duty and excise-equivalent duty credits

107 Duty credits in respect of used goods

(1) This section applies if—

(a) goods (the **used goods**) are used in a manufacturing area in the manufacture, by the licensee of the area, of any Part A goods (the **manufactured goods**); and

(b) the manufactured goods are removed for home consumption; and

(c) the licensee is liable to pay excise duty levied in respect of the manufactured goods.

(2) The licensee may claim a credit when entering the manufactured goods under section 81(1).

(3) The credit that may be claimed is any excise duty or excise-equivalent duty that has been paid in respect of the used goods.

(4) If the credit exceeds the excise duty referred to in subsection (1)(c), the excess may, at the discretion of the chief executive, be—

(a) applied against any other excise duty that the licensee is liable to pay; or

(b) paid to the licensee.

Compare: 1996 No 27 s 85(1), (3)(a), (4)

108 Duty credits in respect of repurchased goods

(1) This section applies if—

(a) Part A goods that are manufactured in a manufacturing area (the **manufactured goods**) are sold by the licensee of that area; and

(b) the licensee repurchases the manufactured goods at the same price at which they were sold.

(2) In the prescribed circumstances, the licensee may claim a credit when making an entry under section 81(1).

(3) The credit that may be claimed is any excise duty levied in respect of the manufactured goods that has been paid by the licensee.

(4) If the credit exceeds the excise duty that the licensee is liable to pay under the entry, the excess may, at the discretion of the chief executive, be—

(a) applied against any other excise duty that the licensee is liable to pay; or

(b) paid to the licensee.

Compare: 1996 No 27 s 85(2), (3)(b), (4)

Subpart 7—Assessment, payment, and recovery of duty

General responsibilities of chief executive, etc

109 Responsibility to protect integrity of system for assessing and collecting duty

(1) The chief executive, Customs, and every Customs officer must, in carrying out their functions under this Act or any other enactment, at all times use their best endeavours to protect the integrity of the system for assessing and collecting duty.

(2) Without limiting its meaning, the **integrity of the system for assessing and collecting duty** includes—

(a) duty payers' perceptions of that integrity; and

(b) duty payers' rights to have their liabilities for duty determined fairly, impartially, and according to law; and

(c) duty payers' rights to have their individual affairs kept confidential and treated with no greater or lesser favour than the affairs of other duty payers; and

(d) duty payers' responsibilities to comply with the law; and

(e) the responsibilities of those administering the law to maintain the confidentiality of the affairs of duty payers; and

(f) the responsibilities of those administering the law to do so fairly, impartially, and according to law.

110 Chief executive's general obligation in relation to collection of duty

(1) The chief executive must secure the collection, over time, of the highest net revenue from duty that is practicable within the law, having regard to—

(a) the resources available to the chief executive; and

(b) the importance of promoting compliance, especially voluntary compliance, by all duty payers with this Act and any other enactment relating to any duty; and

(c) the compliance costs incurred by duty payers; and

(d) the objectives of imposing any duty; and

(e) Customs' other responsibilities and the resources needed to fulfil those other responsibilities.

(2) Subsection (1) applies despite any other provision of this Act or any other enactment.

Assessment of duty by importer or licensee or owner

111 Entry is assessment of duty by importer or licensee or owner

An entry for goods made under this Act is an assessment by the importer or licensee or owner (as the case may be) of the duty payable in respect of those goods.

Compare: 1996 No 27 s 88(1)

112 Importer to amend assessment that includes provisional Customs value

(1) This section applies if an importer includes a provisional Customs value in an entry for imported goods under section 102(1).

(2) The importer must amend the assessment for the goods to include the final Customs value—

(a) within the prescribed time; and

(b) in the way prescribed by the chief executive's rules.

Assessment of duty by chief executive

113 Chief executive may assess duty where no entry made

(1) If the chief executive has reasonable cause to suspect that duty is owed on goods by a person who has not made an entry for the goods, the chief executive may assess the duty at the amount he or she considers appropriate.

(2) Customs must, by notice in writing, advise the person of the assessment.

(3) If the person is dissatisfied with a decision of the chief executive under this section, the person may, within 20 working days after the date on which notice of the decision is given, do 1 (but not both) of the following:

(a) apply for an administrative review of the decision:

(b) appeal to a Customs Appeal Authority against the decision.

(4) For the purposes of subsection (1), it does not matter if—

(a) the person was not required to make an entry for the goods; or

(b) no entry was required to be made for the goods by any person.

Compare: 1996 No 27 s 88(2)–(4)

114 Assessment of excise duty and excise-equivalent duty where approval not complied with

(1) This section applies if the chief executive—

(a) has, in respect of any goods, granted an approval under—

(i) item 99.35.10L, 99.35.30E, 99.44.10K, 99.44.30D, or 99.55.00D in Part A of the Excise and Excise-equivalent Duties Table; or

(ii) item 22.07 or 22.08 in Part B of the Excise and Excise-equivalent Duties Table; and

(b) has reasonable cause to suspect that—

(i) any conditions of the approval have not been complied with; and

(ii) the non-compliance was intentional or negligent.

(2) The chief executive may make an assessment of excise duty or excise-equivalent duty (as the case may be) in respect of the goods.

(3) If an assessment is made, the rate of duty to be applied is the rate that would be applicable if the chief executive had not granted the approval.

(4) The duty is payable by the person to whom the approval was granted.

(5) Customs must, by notice in writing, advise that person of the assessment.

(6) If that person is dissatisfied with a 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, do 1 (but not both) of the following:

(a) apply for an administrative review of the decision:

(b) appeal to a Customs Appeal Authority against the decision.

Compare: 1996 No 27 s 83(1)–(4), (6), (7)

115 Assessment of excise duty on beer or wine 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 clause 6 of Schedule 3 has later been dealt with otherwise than in accordance with clause 6(1)(a) or (2)(a) of that schedule, the chief executive may make an assessment of excise duty.

(2) The duty is payable by the following persons:

(a) the licensee of the manufacturing area in which the beer or wine was manufactured:

(b) the individual who manufactured the beer or wine.

(3) The liability of those persons is joint and several.

(4) Customs must, by notice in writing, advise those persons of the assessment.

(5) If any of those persons is dissatisfied with a decision of the chief executive under this section, the person may, within 20 working days after the date on which notice of the decision is given, do 1 (but not both) of the following:

(a) apply for an administrative review of the decision:

(b) appeal to a Customs Appeal Authority against the decision.

Compare: 1996 No 27 s 84(1)–(3)

116 Assessment of excise-equivalent duty on goods imported for further manufacture

(1) This section applies if—

(a) excise-equivalent duty is not levied on any imported goods on the basis that the goods are imported for further manufacture; and

(b) the chief executive has reasonable cause to suspect that the goods have been dealt with otherwise than on that basis.

(2) The chief executive may make an assessment of excise-equivalent duty on the goods as if they had been imported otherwise than on that basis.

(3) The duty is payable by the importer.

(4) If there is more than 1 importer, their liability is joint and several.

(5) Customs must, by notice in writing, advise the importer of the assessment.

(6) If the importer is dissatisfied with a decision of the chief executive under this section, the importer may, within 20 working days after the date on which notice of the decision is given, do 1 (but not both) of the following:

(a) apply for an administrative review of the decision:

(b) appeal to a Customs Appeal Authority against the decision.

117 Amendment of assessments

(1) Subject to section 118, the chief executive may amend (or further amend) an assessment of duty even if—

(a) the goods to which the duty relates are no longer subject to the control of Customs; or

(b) the duty originally assessed has been paid.

(2) Customs must, by notice in writing, advise the person who is liable for the duty if the amendment has the effect of—

(a) imposing a fresh liability; or

(b) altering an existing liability.

(3) If that person is dissatisfied with a 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, do 1 (but not both) of the following:

(a) apply for an administrative review of the decision:

(b) appeal to a Customs Appeal Authority against the decision.

(4) Without limiting subsection (1), the chief executive's power under that subsection may be exercised—

(a) to amend a provisional Customs value included in an assessment that does not comply with section 102(2):

(b) to include the final Customs value in an assessment if the importer fails to do so within the time prescribed for the purposes of section 112(2)(a):

(c) to amend the final Customs value included in an assessment by an importer under section 112.

Compare: 1996 No 27 s 89

118 Limitation of time for amendment of assessments

(1) If an assessment of duty has been made under this Act, the chief executive may not amend the assessment so as to increase the amount of the assessment any later than 4 years after the date on which the original assessment was made.

(2) Despite subsection (1), in a case where, in the opinion of the chief executive, an entry for 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.

(3) In subsection (2), **entry** has the meaning given to that term in section 284.

Compare: 1996 No 27 s 94

119 Assessment to be taken to be correct

(1) Every assessment made by the chief executive under this Act, including an assessment made by way of amendment, must be taken to be correct.

(2) Duty is payable on the goods accordingly unless, on an administrative review or an appeal,—

(a) a different amount is determined to be the duty payable on the goods; or

(b) it is determined that no duty is payable.

Compare: 1996 No 27 s 91(1)

Particular rules relating to assessment of duty

120 Duty to be proportionate

When duties are imposed according to a specified quantity, weight, size, or value, the duties must be charged proportionately on a greater or smaller quantity, weight, size, or value.

Compare: 1996 No 27 s 107(1)

121 Duty on alcoholic beverages

(1) The chief executive's rules must prescribe, for the purposes of this Act, the means of ascertaining the volume of alcohol present in an alcoholic beverage.

(2) If duty is to be calculated relative to the alcohol content of a beverage and the volume of alcohol increases or diminishes by a natural process while the beverage is subject to the control of Customs, duty is payable in accordance with the volume of alcohol as so increased or diminished.

Compare: 1996 No 27 s 107(2)

Times for payment of duty

122 Time for payment of duty on imported goods: general rule

Except as otherwise provided in this Act, the duty on imported goods must be paid to Customs when—

(a) the goods have been entered in accordance with section 75 and the entry has been passed for home consumption; or

(b) the goods have been entered in accordance with section 75 for removal to a manufacturing area; or

(c) the goods have been wrongfully landed, or otherwise wrongfully dealt with, without having been entered in accordance with section 75; or

(d) an offence under this Act has been committed in respect of the goods.

Compare: 1996 No 27 ss 75(3), 86(3)

123 Persons may be authorised to defer payment of duty on imported goods

(1) The chief executive may,—

(a) subject to any terms and conditions that he or she considers appropriate, authorise a person or a class of persons to defer the payment of duty on imported goods to a time after the time given by section 122; and

(b) for that purpose, determine a duty accounting period.

(2) The chief executive may—

(a) suspend or withdraw an authorisation given under subsection (1)(a); or

(b) vary any term or condition under which the authorisation is given; or

(c) vary any duty accounting period determined under subsection (1)(b).

(3) The chief executive must, by notice in writing, advise the persons affected of a decision of the chief executive under this section.

(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: 1996 No 27 s 86(6), (7), (9)

124 Other times for payment of duty

(1) *See* clause 5 of Schedule 3 in relation to the payment of excise duty.

(2) Duty that results from an amendment of an assessment under section 112 must be paid to Customs within 20 working days after the date on which the assessment is amended.

(3) Duty that results from an assessment under section 113 must be paid to Customs within 20 working days after the date on which written notice of the assessment is given by Customs.

(4) Excise duty or excise-equivalent duty that is assessed under any of sections 114 to 116 must be paid to Customs within 20 working days after the date on which written notice of the assessment is given by Customs.

(5) Duty that results from an amendment of an assessment under section 117 must be paid to Customs within 20 working days after the date on which written notice of the amendment is given by Customs.

(6) Duty that is demanded under section 138(3) or 139(4) must be paid to Customs within 20 working days after the date on which the demand is given.

(7) If the chief executive has reasonable cause to believe that a person will be unable to pay any duty within the time given by subsection (2), (3), (5), or (6),—

(a) the chief executive may, by notice in writing, require the person to pay the duty within an earlier time specified in the notice; and

(b) the person must pay the duty within that earlier time.

(8) If a person who is liable for duty is dissatisfied with a decision of the chief executive under subsection (7), the 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.

Compare: 1996 No 27 ss 83(5), 84(4), 90(1)–(1C)

125 Importer, etc, leaving New Zealand

(1) If the chief executive has reasonable cause to believe that a person is about to leave New Zealand before the time by which duty owing by the person must be paid under this Act,—

(a) the chief executive may, by notice in writing, require the person to pay the duty within an earlier time specified in the notice; and

(b) the person must pay the duty within that earlier time.

(2) If the person is dissatisfied with a decision of the chief executive under this section, the 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.

(3) Section 210 of the District Court Act 2016 or section 40 of the Senior Courts Act 2016 (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: 1996 No 27 s 110

Appeals, etc

126 Chief executive may allow release of goods where appeal, etc, lodged

Despite anything to the contrary in this Act, if an appeal or an administrative review has been lodged under this subpart, subpart 5 of this Part, or subpart 3 of Part 5, the chief executive may, subject to receiving any security that he or she considers sufficient to cover the full amount of duty, release the goods so that they cease to be subject to the control of Customs.

Compare: 1996 No 27 s 91(2)

127 Obligation to pay duty not suspended by appeal, etc

(1) The obligation to pay duty under this Act is not suspended by any appeal, administrative review, or legal proceedings.

(2) The right to recover and receive duty under this Act is not suspended by any appeal, administrative review, or legal proceedings.

(3) If an appellant or any other person is successful in any appeal, administrative review, or legal proceedings,—

(a) the amount (if any) of the duty, or any security, received by the chief executive in excess of the amount that was properly payable must immediately be refunded to the appellant or other person by the chief executive; or

(b) as the case may be, the appellant or other person must be released from the conditions of the security imposed under section 240.

(4) The chief executive's obligation under subsection (3) is suspended pending the outcome of any appeal lodged by the chief executive under this Act or any other enactment against a decision requiring the duty to be refunded.

Compare: 1996 No 27 s 92

128 Chief executive to pay interest on duty refunded on appeal, etc

(1) If duty is required to be refunded in accordance with section 127(3), the chief executive must pay interest on the duty for the period (the **interest period**) that—

(a) begins with the day on which the duty was paid; and

(b) ends with the day on which the duty is refunded.

(2) The amount of interest payable is calculated for each day of the interest period in accordance with the following formula:

$$d \times r \div 365$$

where—

d is the duty to be refunded

r is the prescribed rate of interest applying on that day.

(3) The total amount of interest payable is the sum of the amounts calculated under subsection (2) for each day in the interest period.

(4) If the chief executive is satisfied that a person has been paid more interest than was payable, the chief executive may recover the amount of the excess in accordance with section 150 as if that amount were an amount refunded by Customs in error.

(5) The chief executive's obligation under subsection (1) is suspended pending the outcome of any appeal lodged by the chief executive under this Act or any other enactment against a decision requiring the duty to be refunded.

Compare: 1996 No 27 s 93

Charges on goods

129 Duty is charge on goods

(1) The duty on any goods is a charge on those goods until the duty is fully paid.

(2) If duty charged on any goods is not paid at, or within, the time for payment given under this Act, the chief executive may (whether or not the property in the goods has passed to a third party)—

(a) take possession of the goods; and

(b) sell them or any part of them in satisfaction or part satisfaction of the charge.

(3) Subsection (2) does not apply as against a purchaser of the goods for valuable consideration and without knowledge that the duty was owing and unpaid.

(4) In this section and section 130, **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.

Compare: 1996 No 27 s 97(1)–(4)

130 Possession of goods if person claims to be purchaser for value without knowledge

(1) This section applies if—

(a) a person notifies the chief executive that the person is a purchaser to whom section 129(3) applies in respect of any goods; but

(b) there is a dispute between that person and the chief executive as to whether section 129(3) applies.

(2) If the chief executive has taken possession of the goods under section 129(2)(a) but the goods have not been sold, the chief executive must retain possession of the goods pending the resolution of the dispute.

(3) If the chief executive has not yet taken possession of the goods under section 129(2)(a), the chief executive may,—

(a) if the goods are in the possession, or under the control, of the importer, take possession of the goods and retain possession of them pending the resolution of the dispute:

(b) if the goods are in the possession, or under the control, of the purchaser, direct the purchaser, by notice in writing, to retain the possession or control of the goods pending the resolution of the dispute.

(4) The chief executive or the purchaser 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.

(5) In any proceeding under subsection (4), if the purchaser and a person liable to pay the duty are related (*see* section 131), the onus of proving that the goods were acquired for valuable consideration and without knowledge that the duty was owing and unpaid is on the purchaser.

(6) If any goods that the chief executive has taken possession of, or has directed the purchaser to retain possession or control of under this section, consist wholly or partly of a living creature or any thing that, in the opinion of the chief executive, is perishable or that may otherwise lose its value if it is not sold as soon as possible,—

(a) the chief executive, or the purchaser with the prior consent of the chief executive, may sell the goods; and

(b) the net proceeds of the sale are substituted for the thing sold.

Compare: 1996 No 27 s 97(5)–(9)

131 Related persons for purposes of section 130(5)

(1) For the purposes of section 130(5), 2 persons are **related** if—

(a) they are connected in accordance with subsection (2); or

(b) one is a trustee for the other; or

(c) one is a company and the other—

(i) is a director or an officer of the company; or

(ii) is connected to a director or an officer of the company in accordance with subsection (2); or

(iii) is directly or indirectly able to exercise control over the affairs of the company; or

(d) they are both companies and—

(i) one is a holding company or a subsidiary of the other within the meaning of section 5 of the Companies Act 1993; or

(ii) one owns or controls shares that in aggregate carry the right to exercise, or control the exercise of, 20% or more of the voting power at meetings of the other; or

(iii) they have the same holding company within the meaning of 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% or more of the voting power at meetings of each of them.

(2) For the purposes of subsection (1)(a) and (c)(ii), 2 persons are **connected** if—

(a) they are connected by blood relationship within the fourth degree of relationship (through a common ancestor); or

(b) one is married to, or in a civil union or a de facto relationship with,—

(i) the other; or

(ii) a person who is connected by blood relationship within the fourth degree of relationship (through a common ancestor) with the other; or

(c) one has been adopted as the child of—

(i) the other; or

(ii) a person who is connected by blood relationship within the fourth degree of relationship (through a common ancestor) with the other.

Compare: 1996 No 27 s 96

132 Offence in relation to direction of chief executive under section 130(3)(b)

(1) A person to whom a direction is given under section 130(3)(b) commits an offence if the person, without the consent of the chief executive or reasonable excuse, fails to comply with the direction.

(2) A 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:

(b) in the case of a body corporate, to a fine not exceeding $25,000.

(3) A person to whom a direction is given under section 130(3)(b) commits an offence if the person, knowingly and without the consent of the chief executive, fails to comply with the direction.

(4) A person who commits an offence under subsection (3) is liable on conviction,—

(a) in the case of an individual, to a fine not exceeding the greater of the following:

(i) $15,000:

(ii) an amount equal to 3 times the value of the goods to which the offence relates:

(b) in the case of a body corporate, to a fine not exceeding the greater of the following:

(i) $75,000:

(ii) an amount equal to 3 times the value of the goods to which the offence relates.

Compare: 1996 No 27 s 202

Recovery of duty in cases of bankruptcy, liquidation, or receivership

133 Rights and duties of chief executive in relation to unpaid duty

(1) This section applies to the recovery of unpaid duty—

(a) that is due in relation to goods from—

(i) an individual who is bankrupt; or

(ii) a company that is in liquidation; or

(iii) a company if a receiver has been appointed in respect of the company's property in circumstances to which section 30 of the Receiverships Act 1993 applies; or

(iv) an unincorporated body of persons (including a partnership, a joint venture, or the trustees of a trust) that is put into liquidation; or

(v) an unincorporated body of persons (including a partnership, a joint venture, or the trustees of a trust) if a receiver has been appointed by the High Court in respect of the body's property; and

(b) that is a charge on the goods in accordance with section 129.

(2) The chief executive must notify the Official Assignee, liquidator, or receiver (as the case may be) that the unpaid duty is a charge on the goods in accordance with section 129.

(3) A notice under subsection (2) must 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 the appointment of a receiver; or

(c) in the case of an unincorporated body (including a partnership, a joint venture, or the trustees of a trust), the date of the notice in the *Gazette* of the commencement of the liquidation or the appointment of a receiver.

(4) If there is a dispute as to whether section 129(3) applies, a notice under subsection (2) may, despite subsection (3), be given within 30 days after the date on which the dispute is resolved.

(5) 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 in accordance with section 134, 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 in accordance with section 134, for any balance of the unpaid duty, after deducting the amount realised; or

(d) surrender the charge to the Official Assignee, liquidator, or receiver for the general benefit of creditors and claim, in the bankruptcy, liquidation, or receivership in accordance with section 134, for the whole debt.

(6) If the chief executive realises the property subject to the charge, any regulations made for the purposes of section 410 apply.

(7) 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 (5)(b), the valuation and claim must—

(a) contain full particulars of the valuation, the claim, and the charge; and

(b) identify any documents that substantiate the claim and the charge.

(8) The Official Assignee, liquidator, or receiver may require production of any document referred to in subsection (7).

(9) If a claim is made by the chief executive under subsection (7), the Official Assignee, liquidator, or receiver must—

(a) accept the valuation and claim; or

(b) subject to subsections (10) and (11), reject the valuation and claim in whole or in part.

(10) If the Official Assignee, liquidator, or receiver rejects a valuation and claim under subsection (9)(b), the chief executive may make a revised valuation and claim within 20 days of receiving notice of the rejection.

(11) The Official Assignee, liquidator, or receiver may revoke or amend a decision under subsection (9)(b) to reject a valuation and claim if he or she subsequently considers that a valuation and claim were wrongly rejected.

(12) The Official Assignee, liquidator, or receiver may, at any time, unless the chief executive has realised the property, redeem the charge on payment of the assessed value where the Official Assignee, liquidator, or receiver—

(a) has accepted a valuation and claim under subsection (9)(a); or

(b) has accepted a revised valuation and claim; or

(c) has accepted a valuation and claim on revoking or amending a decision to reject a claim under subsection (11).

(13) The Official Assignee, liquidator, or receiver may at any time, by notice in writing, require the chief executive, within 30 days after receipt of the notice,—

(a) to elect which of the powers referred to in subsection (5) the chief executive wishes to exercise; and

(b) if the chief executive elects to exercise the power referred to in subsection (5)(b), (c), or (d), to exercise the power within that period.

(14) The chief executive—

(a) is treated as having surrendered the charge to the Official Assignee, liquidator, or receiver for the general benefit of creditors if—

(i) the chief executive fails to give notice to the Official Assignee, liquidator, or receiver in accordance with subsection (2) within the time specified in subsection (3) or (4); or

(ii) having been required to make an election in accordance with subsection (13), the chief executive fails to do so within the time specified in that subsection; but

(b) may claim in the bankruptcy, liquidation, or receivership in accordance with section 134.

(15) If the chief executive has surrendered the charge under subsection (5)(d) or is treated as having surrendered the charge under subsection (14), he or she may, with the leave of the court or the Official Assignee, liquidator, or receiver, at any time before the Official Assignee, liquidator, or receiver has realised the property charged,—

(a) withdraw the surrender and rely on the charge; or

(b) submit a new claim under this section.

(16) Leave under subsection (15) may be subject to any terms and conditions that the court or the Official Assignee, liquidator, or receiver considers appropriate.

(17) In any case to which this section applies, the provisions of section 305 of the Companies Act 1993 and sections 243, 244, and 246 to 250 of the Insolvency Act 2006 do not apply.

Compare: 1996 No 27 ss 98, 99

134 Ranking of duty

(1) This section applies to—

(a) the recovery of unpaid duty that does not constitute a charge on goods, if it is owed by—

(i) an individual who is bankrupt; or

(ii) a company that is in liquidation; or

(iii) a company if a receiver has been appointed in respect of the company's property in circumstances to which section 30 of the Receiverships Act 1993 applies; or

(iv) an unincorporated body of persons (including a partnership, a joint venture, or the trustees of a trust) that is put into liquidation; or

(v) an unincorporated body of persons (including a partnership, a joint venture, or the trustees of a trust) if a receiver has been appointed by the High Court in respect of the body's property; and

(b) the recovery of unpaid duty that the chief executive may claim in accordance with this section under section 133(5)(b) to (d) or (14)(b).

(2) In the case of an individual who is bankrupt, the unpaid duty must 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 unpaid duty must be paid in accordance with the requirements of section 312 of the Companies Act 1993.

(4) In the case of a company where a receiver has been appointed in respect of the company's property in circumstances to which section 30 of the Receiverships Act 1993 applies, the unpaid duty must be paid in accordance with the requirements of section 30(2) of the Receiverships Act 1993.

(5) In the case of an unincorporated body (including a partnership, a joint venture, or the trustees of a trust) that is put into liquidation, the unpaid duty must be paid in accordance with the requirements of section 312 of the Companies Act 1993 (as applied by section 240B of that Act).

(6) In the case of an unincorporated body (including a partnership, a joint venture, or the trustees of a trust) where a receiver has been appointed by the High Court in respect of the body's property, the unpaid duty must be paid in accordance with the directions of the court.

(7) This section applies despite anything to the contrary in any other Act.

Compare: 1996 No 27 ss 100, 101(1)–(7)

Release of goods subject to duty

135 Release of goods subject to duty

(1) Except as otherwise provided in this Act, a person may not obtain the release of goods so that they are no longer subject to the control of Customs until the sum payable by way of duty on the goods is paid in full.

(2) No action or other proceeding may be brought against the Crown, the chief executive, or any Customs officer in respect of the detention of any goods for which the full duty has not been paid.

(3) The chief executive may, subject to any conditions (including conditions as to security) that he or she considers appropriate,—

(a) allow the release of goods so that they are no longer subject to the control of Customs in circumstances approved by the chief executive:

(b) allow the release of goods so that they are no longer subject to the control of Customs and accept payment of duty by instalment over a specified period if he or she considers that undue hardship would result from the payment of duty as required by this section.

(4) Subsection (3)(b) does not apply to duties imposed under the Trade (Anti-dumping and Countervailing Duties) Act 1988 or under the Trade (Safeguard Measures) Act 2014.

(5) Nothing in section 129, 130, 133, or 134 affects this section.

Compare: 1996 No 27 ss 101(8), 102

136 Goods temporarily imported

(1) The chief executive may, if he or she is satisfied that goods have been temporarily imported, allow goods to be released, so that they are no longer subject to the control of Customs, without payment of duty and on receipt of security that is equal to the amount of the duty payable on the goods.

(2) Subject to any prescribed conditions, the person who gave the security must be released from the conditions of the security, and any deposit of money must be returned, if, within 12 months from the date of importation of the goods or any longer period that the chief executive allows, 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 any manner that the chief executive may allow.

(3) Duty is payable in respect of the goods if—

(a) the goods are used for industrial or commercial purposes or any other purpose the chief executive considers applicable; and

(b) their value for duty, as determined by the chief executive at the time that he or she is satisfied in accordance with subsection (2) that the goods have been dealt with in any of the ways described in subsection (2)(a) to (e), is less than their value for duty, as ascertained in accordance with this Act, at the time of their importation.

(4) The duty is payable on the difference between the 2 values referred to in subsection (3)(b).

(5) For the purposes of subsection (3)(b), the chief executive must determine the value for duty of goods that have been dealt with by using—

(a) the straight-line method of calculating an amount of depreciation loss described in section EE 12(2)(b) of the Income Tax Act 2007; and

(b) the depreciation rate for that method determined by the Commissioner of Inland Revenue under section 91AAF or 91AAG of the Tax Administration Act 1994 or the rate specified in the table appended to the *General depreciation rates* published by the Commissioner of Inland Revenue; and

(c) for duty calculation purposes, the depreciation rate applicable on the date the goods are imported.

(6) Any amount of duty that is payable under this section may be deducted from any deposit of money given as security under subsection (1).

(7) If, at the expiry of the period referred to in subsection (2), the goods have not been dealt with in any of the ways described in subsection (2)(a) to (e),—

(a) any sum secured by way of deposit of money must be retained by the Crown; or

(b) any sum secured must be paid to the Crown by the importer within 10 working days (or any longer period that the chief executive may allow) after the expiry of the period.

(8) Subject to any conditions that the chief executive imposes, duty is not payable on goods temporarily imported in accordance with any treaty, agreement, or arrangement concluded by the Government of New Zealand.

(9) This section does not apply to duties imposed under the Trade (Anti-dumping and Countervailing Duties) Act 1988 or under the Trade (Safeguard Measures) Act 2014 except to the extent allowed by the chief executive of the department of State that, with the authority of the Prime Minister, is responsible for the administration of the Act in question.

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

Compare: 1996 No 27 s 116

137 Goods temporarily imported for manufacturing, etc

(1) The cases in which the chief executive may allow goods to be released under section 136(1) include (without limitation) cases where the chief executive is satisfied that the goods—

(a) have been temporarily imported for manufacturing, processing, or repair; and

(b) will remain identifiable when they are exported.

(2) Section 136(2)(e) and (3) to (6) does not apply in relation to goods that are released in a case referred to in subsection (1).

Liability for duty in certain cases

138 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, or are missing, from that Customs-controlled area as if the goods had been, as the case may be,—

(a) imported by the licensee and entered under section 75:

(b) manufactured by the licensee and entered under section 81.

(2) Duty becomes due and payable on dutiable goods as if the goods were removed for home consumption, or entry has been made and passed for home consumption, if the goods—

(a) are removed from a Customs-controlled area without the authority of Customs (if that authority was required for the removal); or

(b) are not produced to Customs by the licensee and not accounted for as having been lawfully delivered from the Customs-controlled area.

(3) The chief executive may, by notice in writing, demand payment, of any sum that the chief executive reasonably suspects is owing under this section, from—

(a) the owner or importer of the goods; or

(b) the licensee of a Customs-controlled area.

(4) Duty payable under this section constitutes a debt due to the Crown by—

(a) the licensee of a Customs-controlled area:

(b) the importer of the goods:

(c) the owner of the goods.

(5) The liability under subsection (4) is joint and several.

(6) A person who is liable for the payment of the duty and 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, do 1 (but not both) of the following:

(a) apply for an administrative review of the decision:

(b) appeal to a Customs Appeal Authority against the decision.

Compare: 1996 No 27 s 103

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

(1) This section applies if cargo, stores, or other goods are unlawfully landed in New Zealand in or from a craft that is within New Zealand.

(2) The owner and the person in charge of the craft are jointly and severally liable for the payment of the duty on the cargo, stores, or other goods as if—

(a) the cargo, stores, or other goods had been imported by them; and

(b) the cargo, stores, or other goods had been entered in accordance with section 75 and the entry had been passed for home consumption.

(3) Liability under subsection (2) does not affect the liability of any other person.

(4) 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 reasonably suspects is owing under this section.

(5) In any proceedings for the recovery of duty, or for a refund of duty paid, under this section, the sum demanded by the chief executive under subsection (4) is presumed to be payable unless the contrary is proved.

(6) A person who is liable for the payment of the duty and 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, do 1 (but not both) of the following:

(a) apply for an administrative review of the decision:

(b) appeal to a Customs Appeal Authority against the decision.

Compare: 1996 No 27 s 104

Joint liability for duty

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

The liability of a person under 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, unless that duty is subsequently refunded or remitted.

Compare: 1996 No 27 s 105

Liability for duty or rate of duty altered

141 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, the liability or rate must, except where otherwise expressly provided, be determined,—

(a) in the case of Part A goods that are manufactured in a manufacturing area, by the law in force at the time the goods are removed for home consumption:

(b) in the case of imported goods that are held in an export warehouse or a duty-free store, by the law in force at the time the goods are removed from the export warehouse or duty-free store:

(c) in the case of imported goods that are not covered by paragraph (b), by the law in force at the time the goods are imported.

(2) In this section, **alteration** includes a variation that takes place at any time or takes place periodically.

Compare: 1996 No 27 s 106

Refunds, remissions, and drawbacks of duty

142 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 must, unless there is good reason not to, refund the duty—

(a) at any time within 4 years after the duty has been paid; or

(b) at any later time if an application is made within 4 years after the duty has been paid.

(2) To avoid doubt, an obvious error in the legal instrument that establishes a duty payable could constitute good reason under subsection (1) for the chief executive not to refund the duty.

(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: 1996 No 27 s 111

143 Refunds of duty related to provisional Customs value

(1) This section applies if—

(a) an importer includes a provisional Customs value in an entry for imported goods under section 102(1); and

(b) the importer pays duty on the goods based on the provisional Customs value; and

(c) the importer subsequently amends the assessment for the goods to include the final Customs value under section 112; and

(d) the final Customs value results in a lower amount of duty being payable than the importer has already paid.

(2) The chief executive must refund the difference between the duty payable on the final Customs value and the duty paid.

(3) This section does not affect the chief executive's powers under section 117 in relation to the final Customs value.

144 Refunds of duty on goods under Part 2 of Tariff

(1) If duty has been paid on imported goods and a lower rate of duty, or an exemption in respect of the goods, is subsequently approved under section 8 of the Tariff Act 1988, the chief executive must refund the whole or part of any 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: 1996 No 27 s 112

145 Other refunds and remissions of duty

(1) The chief executive may refund or remit any duty if the chief executive is satisfied that imported goods, or goods manufactured in New Zealand,—

(a) have been damaged, destroyed, pillaged, or lost, or have diminished in value or deteriorated in condition, prior to their ceasing to be subject to the control of Customs; or

(b) are of faulty manufacture; or

(c) have been abandoned to the Crown for destruction or any other form of disposal prior to their ceasing to be subject to the control of Customs.

(2) Regulations may prescribe any of the following:

(a) exceptions, restrictions, or conditions on the chief executive's power to refund or remit duty under subsection (1):

(b) the nature and value of sample goods that may be delivered free of duty:

(c) the conditions under which sample goods may be delivered free of duty.

(3) The chief executive may refund or remit any excise-equivalent duty levied—

(a) on goods of a class or kind that have been exempted from duty 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, and 2207.20.49)—

(i) for use in the manufacture of any products that the chief executive approves by the persons or in the places that the chief executive approves; and

(ii) in the quantities that the chief executive approves; and

(iii) subject to any conditions that the chief executive considers appropriate.

(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) This section does not apply to duties imposed under the Trade (Anti-dumping and Countervailing Duties) Act 1988 or the Trade (Safeguard Measures) Act 2014 except to the extent allowed by the chief executive of the department of State that, with the authority of the Prime Minister, is responsible for the administration of the Act in question.

Compare: 1996 No 27 s 113

146 Power to apply refunds towards payment of other duties

If any duty is or becomes refundable under this Act to any person, the chief executive may, at his or her discretion,—

(a) apply the whole or any part of the sum refundable towards the payment of any other duty that is payable by that person; or

(b) pay the whole sum to that person.

Compare: 1996 No 27 s 114

147 Drawbacks of duty on certain goods

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

(a) imported goods that are later exported:

(b) Part A goods that are manufactured in a manufacturing area and then exported:

(c) imported parts and materials used in, worked into, or attached to goods that are manufactured in New Zealand and then exported:

(d) imported materials, except fuel or plant equipment, used in the manufacture of goods that are manufactured in New Zealand and then exported.

(2) A claim for drawback may be made with the entry of the goods under section 89 or at any other prescribed time.

(3) The chief executive may, at his or her discretion, for the purposes of this section, treat goods as having been exported if—

(a) he or she is satisfied that the goods have been shipped for export; or

(b) the 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) the goods have been entered into an export warehouse and the chief executive is satisfied that they will be exported.

(4) If drawback is allowed to any person under this section, the chief executive may, at his or her discretion, apply the whole or any part of the sum allowed towards the payment of any other duty that is payable by that person.

(5) This section does not apply to duties imposed under the Trade (Anti-dumping and Countervailing Duties) Act 1988 or the Trade (Safeguard Measures) Act 2014 except to the extent allowed by the chief executive of the department of State that, with the authority of the Prime Minister, is responsible for the administration of the Act in question.

(6) This section does not apply to goods declared by regulations made under the Tariff Act 1988 to be goods to which this section does not apply.

Compare: 1996 No 27 ss 49(3), 117(1), (2), (7)–(9)

148 Where drawback has been allowed

(1) This section applies if drawback has been allowed under section 147 on—

(a) goods that are treated as exported under section 147(3); or

(b) goods used, as referred to in section 147(1)(c) or (d), in the manufacture of goods that are treated as exported under section 147(3).

(2) The goods that are treated as exported must not be unshipped, relanded, or unpacked before export without the permission of the chief executive.

(3) If the goods are unshipped, relanded, or unpacked before export,—

(a) any drawback paid or applied under section 147(4) constitutes a debt due to the Crown immediately on the unshipment, relanding, or unpacking; and

(b) the debt—

(i) must be paid by the owner of the goods immediately on the unshipment, relanding, or unpacking; and

(ii) is recoverable by the chief executive (on behalf of the Crown) in any court of competent jurisdiction.

(4) 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 any other security was given in respect of the unshipment, relanding, or unpacking of the goods before export.

Compare: 1996 No 27 s 117(3)–(6)

149 Minimum amounts of refunds and drawback

Regulations may prescribe any of the following:

(a) the minimum amount of duty refundable on goods, and the circumstances in which duty below the prescribed amount is not to be refunded:

(b) the minimum amount of drawback of duty allowable on goods, and the circumstances in which drawback below the prescribed amount is not allowed.

Compare: 1996 No 27 s 118(1)(b), (c)

150 Recovery of refunds, etc made in error

(1) This section applies to the following:

(a) any duty, interest, penalty, or other amount refunded by Customs in error of fact or law:

(b) any drawback allowed under section 147 in error of fact or law.

(2) The chief executive (on behalf of the Crown) may recover the refund or drawback in any court of competent jurisdiction by commencing proceedings—

(a) at any time, if the refund or drawback was obtained by fraud; or

(b) in any other case, within 4 years after the date on which the refund or drawback was—

(i) paid; or

(ii) applied towards the payment of any duty or other amount under section 146(a), 147(4), or 172.

Compare: 1996 No 27 s 115

Exceptions

151 Reimportation of goods exported

(1) This section applies to goods if the goods—

(a) have been exported; and

(b) will be, or are, reimported; and

(c) when reimported, will be, or are, in substantially the same condition as they were when exported.

(2) The goods may, subject to any conditions that the chief executive considers appropriate, be readmitted—

(a) free of duty; or

(b) at a rate or an amount of duty that the chief executive determines and that does not exceed the greater of the following:

(i) the rate or amount of duty that would be payable on the goods if imported for the first time:

(ii) the rate or amount of drawback of duty allowed under section 147 when the goods were (last) exported.

Compare: 1996 No 27 s 109

152 Outward processing

(1) This section applies to goods if the goods—

(a) have been exported for the purposes of repair or refurbishment; and

(b) will be, or are, reimported; and

(c) when reimported, will be, or are, in substantially the same condition, except for the repair or refurbishment, as they were when exported.

(2) The goods may, subject to any conditions that the chief executive considers appropriate, be readmitted at the rate or amount of duty the chief executive determines would be payable on the goods if the goods—

(a) were imported for the first time; and

(b) had a Customs value equal to the cost of the repair or refurbishment.

(3) In this section, **cost of the repair or refurbishment** means—

(a) the value of any materials, component parts, and other goods incorporated in the reimported goods for the purposes of their repair or refurbishment; and

(b) the price paid for the service of the repair or refurbishment; and

(c) the packing costs and charges incurred in respect of the goods for their shipment back to New Zealand, including the cost of cartons, cases, and other containers and coverings that are treated for customs purposes as being part of the goods when they are reimported; and

(d) all expenses of packing incidental to placing the goods in the condition in which they are shipped back to New Zealand; and

(e) the costs of the following until the goods have left the country of export:

(i) transportation and insurance of the goods:

(ii) the loading, unloading, and handling charges associated with the transportation of the goods:

(iii) any other charges and expenses associated with the transportation of the goods.

153 Goods from Cook Islands and Niue

(1) Goods imported 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) Subsection (1) does not apply 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) has been 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: 1996 No 27 s 108

Subpart 8—Interest and penalties for late or incorrect payments of duty, incorrect refunds of duty, and drawback incorrectly allowed

Interest: late or incorrect payments of duty

154 Interest payable for late or incorrect payments of duty in certain cases

(1) Interest is payable in respect of any duty if—

(a) any of sections 155 to 158 provides for this section to apply to the duty; and

(b) the duty is not fully paid to Customs before the close of the payment date (*see* subsection (5)).

(2) The interest is payable for the period (the **interest period**) that—

(a) begins with the day after the payment date; and

(b) ends with the day on which the duty is fully paid.

(3) The amount of interest payable is calculated for each day of the interest period in accordance with the following formula:

$$d \times r \div 365$$

where—

d is the amount of the duty still to be paid to Customs as at the start of the day

r is the prescribed rate of interest applying on that day.

(4) The total amount of interest payable is the sum of the amounts calculated under subsection (3) for each day of the interest period.

(5) In this section, **payment date** has the meaning given to that term in section 155(2) or (4), 156(2), (4), or (6), 157(2), (4), or (6), or 158(2) (as applicable).

(6) The power to prescribe a rate of interest for the purposes of item r in subsection (3) may be exercised for the following purposes:

(a) to compensate the Crown for the loss of use of money:

(b) to encourage duty payers to pay to Customs the correct amount of duty on time.

(7) *See* sections 165 to 173 for remissions and refunds of interest payable under this section.

155 Cases involving late payment of duty

Excise duty

(1) Section 154 applies to any excise duty if clause 5(a) of Schedule 3 applies to the payment of the excise duty.

(2) For the purpose of applying section 154 to the excise duty, **payment date** means the date on which the time prescribed for the purposes of clause 5(a) of Schedule 3 expires.

Duty in respect of imported goods

(3) Section 154 applies to any duty in respect of imported goods if section 123(1) applies to the payment of the duty.

(4) For the purpose of applying section 154 to the duty, **payment date** means the date on which the deferred time for payment of the duty under section 123(1) expires.

156 Cases involving correction of self-assessed duty

Excise duty

(1) Section 154 applies to any excise duty if—

(a) the excise duty results from an amendment of an assessment under section 117; and

(b) the amendment is correcting an assessment by a licensee or an owner under section 111.

(2) For the purpose of applying section 154 to the excise duty, **payment date** means, despite section 124, the date on which the time prescribed for the purposes of clause 5(a) of Schedule 3 expires in relation to the Part A goods in respect of which the excise duty is levied.

Duty in respect of imported goods

(3) Section 154 applies to any duty in respect of imported goods if—

(a) the duty results from an amendment of an assessment under section 117; and

(b) the amendment is correcting an assessment by an importer under section 111.

(4) For the purpose of applying section 154 to the duty, **payment date** means, despite section 124,—

(a) the date given by section 122 that is applicable to the imported goods; or

(b) if section 123(1) would have applied to the payment of the duty had it been covered by the importer's assessment, the date on which the deferred time for payment of the duty under section 123(1) would have expired.

(5) Section 154 applies to any duty in respect of imported goods if—

(a) the duty results from an amendment of an assessment under section 117; and

(b) the amendment is correcting an importer's amendment of an assessment under section 112.

(6) For the purpose of applying section 154 to the duty, **payment date** means, despite section 124, the 20th working day after the date on which the importer made the amendment under section 112.

157 Cases where no entry or amendment under section 112 made

Excise duty

(1) Section 154 applies to any excise duty if the excise duty results from an assessment under section 113 or from an amendment of such an assessment under section 117.

(2) For the purpose of applying section 154 to the excise duty, **payment date** means, despite section 124,—

(a) if the excise duty is levied under clause 1(1) of Schedule 3, the date on which the time prescribed for the purposes of clause 5(a) of that schedule expires in relation to the Part A goods in respect of which the excise duty is levied; or

(b) if the excise duty is levied under clause 1(3) of Schedule 3, the date on which the Part A goods in respect of which the excise duty is levied were manufactured.

Duty in respect of imported goods

(3) Section 154 applies to any duty in respect of imported goods if the duty results from an assessment under section 113 or from an amendment of such an assessment under section 117.

(4) For the purpose of applying section 154 to the duty, **payment date** means, despite section 124, the date given by section 122 that is applicable to the imported goods.

(5) Section 154 applies to any duty in respect of imported goods if—

(a) the duty results from an amendment of an assessment under section 117; and

(b) the amendment is an amendment of the kind referred to in section 117(4)(b).

(6) For the purpose of applying section 154 to the duty, **payment date** means, despite section 124, the 20th working day after the expiry of the time prescribed for the purposes of section 112(2)(a).

158 Other cases involving assessments or demands by chief executive

(1) Section 154 applies to any duty if—

(a) the duty is required to be paid to Customs within a period given by section 124(2) to (7); and

(b) none of sections 155 to 157 provides for section 154 to apply to the duty.

(2) For the purpose of applying section 154 to the duty, **payment date** means the date on which the relevant period given by section 124(2) to (7) expires.

Penalties: late payments of duty

159 Penalties payable for late payments of duty in certain cases

(1) A penalty is payable in respect of any duty if—

(a) section 160 provides for this section to apply to the duty; and

(b) the duty is not fully paid to Customs before the close of the payment date (*see* subsection (5)).

(2) The penalty is equal to 1% of the amount of the duty still to be paid to Customs as at the close of the payment date.

(3) A further penalty is payable in respect of the duty if the duty is not fully paid to Customs before the close of the seventh day after the payment date.

(4) The further penalty is equal to 4% of the amount of the duty still to be paid to Customs as at the close of that seventh day.

(5) In this section, **payment date** has the meaning given to that term in section 160(2), (4), or (6) (as applicable).

(6) *See* sections 165 to 173 for remissions and refunds of penalties payable under this section.

160 Cases in which penalties may be payable

Excise duty: clause 5(a) of Schedule 3 applies

(1) Section 159 applies to any excise duty if clause 5(a) of Schedule 3 applies to the payment of the excise duty.

(2) For the purpose of applying section 159 to the excise duty, **payment date** means the date on which the time prescribed for the purposes of clause 5(a) of Schedule 3 expires.

Duty in respect of imported goods: section 123(1) applies

(3) Section 159 applies to any duty in respect of imported goods if section 123(1) applies to the payment of the duty.

(4) For the purpose of applying section 159 to the duty, **payment date** means the date on which the deferred time for payment of the duty under section 123(1) expires.

Any duty: section 124(2) to (7) applies

(5) Section 159 applies to any duty if the duty is required to be paid within a period given by section 124(2) to (7).

(6) For the purpose of applying section 159 to the duty, **payment date** means the date on which the relevant period given by section 124(2) to (7) expires.

Interest: incorrect refunds of duty or drawback incorrectly allowed

161 Interest payable for incorrect refunds of duty or drawback incorrectly allowed in certain cases

(1) Interest is payable in respect of any refund or drawback of duty if section 162 or 163 provides for this section to apply to the refund or drawback.

(2) The interest is payable for the period (the **interest period**) that—

(a) begins with the day after the payment date (*see* subsection (5)); and

(b) ends with the repayment date (*see* subsection (5)).

(3) The amount of interest payable is calculated for each day of the interest period in accordance with the following formula:

$$a \times r \div 365$$

where—

a is the amount of the refund or drawback to the extent that it has not been repaid to Customs as at the start of the day

r is the prescribed rate of interest applying on that day.

(4) The total amount of interest payable is the sum of the amounts calculated under subsection (3) for each day of the interest period.

(5) In this section, **payment date** and **repayment date** have the meanings given to those terms in section 162(2) or 163(2) or (4) (as applicable).

(6) The power to prescribe a rate of interest for the purposes of item r in subsection (3) may be exercised for the following purposes:

(a) to compensate the Crown for the loss of use of money:

(b) to encourage the repayment to Customs of refunds and drawback in the relevant circumstances.

(7) *See* sections 165 to 173 for remissions and refunds of interest payable under this section.

162 Refunds of duty made because of error attributable to recipient, etc

(1) Section 161 applies to any refund of duty if the refund is made by Customs—

(a) in error of fact or law; and

(b) on the basis of incorrect information provided to Customs by—

(i) the recipient of the refund; or

(ii) any other person by whom the duty was payable.

(2) For the purpose of applying section 161 to the refund,—

payment date means the date on which the refund was—

(a) paid; or

(b) applied towards the payment of any other duty under section 146(a)

repayment date means the date on which the refund is fully repaid to Customs.

163 Drawback allowed because of error attributable to recipient, etc

(1) Section 161 applies to any drawback of duty allowed under section 147—

(a) in error of fact or law; and

(b) on the basis of incorrect information provided to Customs by the recipient of the drawback.

(2) For the purpose of applying section 161 to the drawback,—

payment date means the date on which the drawback was—

(a) paid; or

(b) applied towards the payment of any other duty under section 147(4)

repayment date means the date on which the drawback is fully repaid to Customs.

(3) Section 161 applies to any drawback of duty allowed under section 147 if the drawback becomes a debt due to the Crown under section 148(3).

(4) For the purpose of applying section 161 to the drawback,—

payment date means the date on which the drawback becomes a debt due to the Crown under section 148(3)

repayment date means the date on which the drawback is fully repaid to Customs.

Statements of liability

164 Statements of liability for interest and penalties

(1) This section applies if the chief executive is satisfied that interest or penalties are payable by a person (the **duty payer**) under this subpart in respect of any duty or refund or drawback of duty (the **unpaid duty**).

(2) The chief executive may by notice issue a statement to the duty payer setting out—

(a) the chief executive's calculation of the interest or penalties payable by the duty payer in respect of the unpaid duty as at the date of the statement:

(b) if applicable, the method for calculating the interest or penalties that will become payable by the duty payer in respect of the unpaid duty so long as the unpaid duty remains to be fully paid or repaid after the date of the statement.

(3) The chief executive may by notice issue updated or amended statements to the duty payer.

(4) A statement issued by the chief executive is treated as a correct statement of the interest or penalties that are payable, or prospectively payable, by the duty payer in respect of the unpaid duty,—

(a) unless and until it is superseded by an updated or amended statement (in which event the updated or amended statement is treated as correct); and

(b) subject to subsection (5).

(5) If the duty payer is dissatisfied with a decision of the chief executive under this section, the duty payer may, within 20 working days after the date on which the duty payer receives the statement concerned, do 1 (but not both) of the following:

(a) apply for an administrative review of the decision:

(b) appeal to a Customs Appeal Authority against the decision.

(6) In relation to an updated or amended statement, subsection (5) applies only to matters that relate to the update or amendment.

Remissions and refunds of interest and penalties

165 Interest: remissions and refunds for emergency events

(1) Subsections (2) and (3) apply if—

(a) an emergency event (*see* subsection (4)(a)) physically prevents a person (the **duty payer**) from fully paying any duty to Customs before the close of the payment date (*see* subsection (6)); and

(b) as a result, interest is payable in respect of that duty under section 154 in a case covered by section 155 or 158; and

(c) the duty payer falls within the class, or any of the classes, of persons prescribed by the relevant regulations for the purposes of subsection (4)(b), if those regulations prescribe a class or classes of persons for those purposes.

(2) The duty payer may apply to the chief executive to remit or refund the interest.

(3) The chief executive may remit or refund the interest if the chief executive is satisfied that—

(a) it is equitable that the interest be remitted or refunded; and

(b) the duty payer applied for the remission or refund as soon as practicable; and

(c) the duty payer fully paid the duty to Customs as soon as practicable.

(4) Regulations—

(a) may declare an event that meets the requirements of paragraphs (a) and (b) of the definition of emergency in section 4 of the Civil Defence Emergency Management Act 2002 to be an emergency event for the purposes of this section:

(b) may, but need not, prescribe a class or classes of persons who may apply for the remission or refunding of interest under this section in relation to the emergency event.

(5) Regulations made for the purposes of subsection (4)—

(a) may relate to an event that occurs before the regulations come into force; and

(b) are revoked at the close of the 6-month period that starts with the date on which the regulations come into force (unless the regulations are revoked earlier); but

(c) may be replaced by further regulations that are made for the purposes of subsection (4) before or after the time at which the regulations are revoked.

(6) In this section, **payment date** has the meaning given to that term in section 155(2) or (4) or 158(2) (as applicable).

Compare: 1994 No 166 s 183ABA

166 Interest: remissions and refunds where inadvertent error by duty payer

(1) Regulations may, for cases covered by section 156, require the chief executive to remit or refund in part any interest payable under section 154 if the chief executive is satisfied that—

(a) the licensee's or owner's or importer's assessment under section 111, or the importer's amendment of an assessment under section 112, was incorrect because of an inadvertent error; and

(b) the prescribed conditions (if any) are met.

(2) The amount to be remitted or refunded must be calculated in the prescribed way.

167 Penalties: remissions and refunds where reasonable excuse for late payment of duty

(1) The chief executive may remit or refund a penalty payable under section 159 in respect of any duty payable by a person (the **duty payer**) if satisfied that,—

(a) as a result of a relevant event, the duty payer has a reasonable excuse for not fully paying the duty to Customs before the close of, as the case may be,—

(i) the payment date; or

(ii) the seventh day after the payment date; and

(b) the duty payer fully paid the duty to Customs as soon as practicable.

(2) In this section,—

payment date has the meaning given to that term in section 160(2), (4), or (6) (as applicable)

relevant event—

(a) means an event or circumstances that—

(i) are or were beyond the control of the duty payer; and

(ii) could not reasonably have been anticipated or avoided by the duty payer; but

(b) does not include the duty payer's financial position.

(3) Without limiting paragraph (a) of its definition in subsection (2), a **relevant event** could be—

(a) an accident or a natural disaster; or

(b) illness or emotional or mental distress.

Compare: 1994 No 166 s 183A

168 Penalties: remissions and refunds for good payment record

(1) The chief executive must remit or refund a penalty payable under section 159 in respect of any duty (the **late duty**) if—

(a) the late duty has been fully paid to Customs; and

(b) every amount of relevant duty that was payable by the duty payer in the previous 2-year period (if any) was paid on time.

(2) For the purposes of subsection (1)(b), an amount of relevant duty—

(a) was payable in the previous 2-year period if the payment date of the relevant duty fell within the 2-year period that ended with the day before the payment date of the late duty; and

(b) was paid on time if the relevant duty was fully paid to Customs before the close of the payment date of the relevant duty.

(3) In this section,—

duty payer means the person, or any of the persons, by whom the late duty was payable

payment date has the meaning given to that term in section 160(2), (4), or (6) (as applicable)

relevant duty means any duty covered by section 160(1), (3), or (5).

169 Interest and penalties: remissions and refunds if duty determined not to be payable, etc

(1) This section applies if any interest or penalty is payable under section 154 or 159 in respect of any duty (the **relevant duty**) and—

(a) it is determined in any administrative review, appeal, or legal proceedings that the relevant duty is not payable in whole or in part; or

(b) the relevant duty is otherwise remitted or refunded in whole or in part.

(2) This section also applies if—

(a) any interest is payable under section 161 in respect of any refund or drawback; and

(b) it is determined in any administrative review, appeal, or legal proceedings that the refund or drawback was correctly made or allowed in whole or in part.

(3) The chief executive must remit or refund, as the case requires,—

(a) the whole of the interest or penalty; or

(b) a proportion of the interest or penalty that the chief executive determines to be appropriate in the circumstances.

(4) The chief executive's obligation under subsection (3) is suspended pending the outcome of any relevant appeal lodged by the chief executive under this Act or any other enactment.

170 Interest and penalties: remissions and refunds if consistent with collection of highest net revenue over time

(1) The chief executive may remit or refund any interest or penalty payable under this subpart if the chief executive is satisfied that the remission or refund is consistent with the chief executive's obligation under section 110 to secure the collection, over time, of the highest net revenue from duty that is practicable within the law.

(2) In deciding whether to remit or refund any interest or penalty under this section, the chief executive—

(a) must have regard to the importance of this subpart in promoting compliance, especially voluntary compliance, by all duty payers with this Act and any other enactment relating to any duty:

(b) must not have regard to the financial position of the person by whom the interest or penalty is payable.

Compare: 1994 No 166 s 183D

171 Interest and penalties: remissions and refunds in prescribed circumstances

(1) Regulations, made on the recommendation of the Minister, may prescribe circumstances in which the chief executive must remit or refund 1 or both of the following:

(a) any interest payable under this subpart:

(b) any penalty payable under this subpart.

(2) The Minister may make a recommendation for the purposes of subsection (1) only if the Minister is satisfied that the proposed regulations will not undermine this subpart in promoting compliance, especially voluntary compliance, by all duty payers with this Act and any other enactment relating to any duty.

172 Power to apply refunds towards payment of other amounts payable

If any interest or penalty is refundable to any person under any of sections 165 to 171, the chief executive may, at his or her discretion, apply the whole or any part of the refund towards the payment of—

(a) any duty payable by that person; or

(b) any other amount payable by that person under this Act.

173 Administrative reviews and appeals in respect of decisions not to remit or refund

A person who is dissatisfied with a decision of the chief executive not to remit or refund the whole or any part of any interest or penalty under any of sections 165 to 171 may, within 20 working days after the date on which notice of the decision is given, do 1 (but not both) of the following:

(a) apply for an administrative review of the decision:

(b) appeal to a Customs Appeal Authority against the decision.

Final provisions

174 Interest and penalties are debt due to Crown, etc

(1) Any interest or penalty payable under this subpart is a debt that is—

(a) due to the Crown; and

(b) owed by the person or persons referred to in subsection (2) and, if owed by more than 1 person, jointly and severally; and

(c) payable immediately; and

(d) recoverable by the chief executive (on behalf of the Crown) in any court of competent jurisdiction.

(2) Any interest or penalty payable under this subpart is owed by the following persons:

(a) in the case of any interest or penalty payable under section 154 or 159 in respect of any duty, the person or persons by whom the duty is payable:

(b) in the case of any interest payable under section 161 in respect of any refund of duty,—

(i) the recipient of the refund; and

(ii) any other person or persons by whom the duty was payable:

(c) in the case of any interest payable under section 161 in respect of any drawback of duty,—

(i) the recipient of the drawback in a case covered by section 163(1):

(ii) the owner of the goods in a case covered by section 163(3).

(3) The recovery by the chief executive of any interest payable under section 161 in respect of any refund or drawback recoverable by the chief executive under section 150 is subject to section 150(2)(a) and (b) as well.

(4) Any payment to Customs by a person who owes any amount under this subpart may be applied by the chief executive towards the payment of that amount before it is applied towards the payment of—

(a) any duty payable by that person; or

(b) any other amount payable by that person under this Act apart from this subpart.

(5) A person's obligation to pay any interest or penalty under this subpart is not suspended by any administrative review, appeal, or legal proceedings.

(6) Regulations may do any of the following:

(a) prescribe an amount of interest or penalty below which interest or penalties under this subpart need not be collected:

(b) prescribe an amount of duty, refund, or drawback and provide that interest or penalties under this subpart need not be collected in respect of any duty, refund, or drawback that is below the prescribed amount:

(c) provide that any provision made for the purposes of paragraph (a) or (b)—

(i) applies only in prescribed circumstances:

(ii) does not apply in prescribed circumstances.

(7) To avoid doubt, sections 154 and 159 apply to any duty even if the duty results from an assessment, or an amendment of an assessment, that is made after the payment date (as that term is defined in section 154(5) or 159(5)).

(8) This subpart applies to levies imposed by section 24 of the Energy (Fuels, Levies, and References) Act 1989 as it applies to excise duty levied under clause 1(1) or (3) of Schedule 3 (as the case requires) to the extent that those levies apply to goods manufactured in New Zealand.

(9) This subpart does not apply to levies imposed by section 213(2)(c) of the Accident Compensation Act 2001 (*see* section 250 of that Act instead).

Subpart 9—Forfeiture, seizure, and condemnation

175 Application of subpart

This subpart applies to all forfeitures that arise under this Act.

Compare: 1996 No 27 s 224

176 Goods forfeited

(1) The following goods are forfeited to the Crown:

(a) all goods that are unlawfully imported:

(b) all goods that are unlawfully exported:

(c) all goods that any person or persons have attempted unlawfully to export:

(d) goods in respect of which an offence has been committed under—

(i) sections 363 and 364 (which relate to entries and related returns):

(ii) sections 366 to 368 (which relate to declarations and documents):

(iii) section 371 (which relates to defrauding the Customs revenue):

(iv) section 372 (which relates to possession or custody of uncustomed goods or prohibited imports):

(v) section 373 (which relates to purchase, sale, exchange, etc, of uncustomed goods or prohibited imports):

(vi) section 374 (which relates to possession or control of concealed goods):

(vii) section 381 (which relates to counterfeit seals, stamps, markings, substances, or devices):

(viii) section 386 (which relates to possession of incomplete documents):

(ix) sections 388 to 391 (which relate to importation or exportation of prohibited goods):

(x) section 393 (which relates to exportation of goods):

(e) goods dealt with in contravention of section 77, 78, 83, or 85:

(f) dutiable or prohibited goods that are found in the possession of any person who, when questioned under section 205 or 229, denied or failed to disclose possession of those goods:

(g) dutiable or prohibited goods that are—

(i) found in the course of a search under section 231; or

(ii) seized under section 214(1)(b) to (d):

(h) dangerous items seized under section 214(1)(a):

(i) electronic devices treated as forfeited under section 228(10):

(j) goods treated as forfeited in accordance with section 243(2)(c):

(k) 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:

(l) dutiable or prohibited goods that are found on or in any craft or cargo device that is unlawfully in any place:

(m) dutiable or prohibited goods that are found on or in any craft or cargo device after arrival in any Customs place from a point outside New Zealand other than—

(i) goods that are specified in the inward report under section 24(1)(a); or

(ii) goods that are not required to be specified in the inward report under section 24(1)(a) because of section 24(3); or

(iii) baggage belonging to the crew or passengers; or

(iv) goods otherwise accounted for to the satisfaction of a Customs officer:

(n) dutiable or prohibited goods that are found concealed in or on—

(i) any craft, vehicle, or cargo device; or

(ii) any other thing:

(o) goods in any package if those goods are not fully accounted for in the entry or declaration relating to that package:

(p) dutiable or prohibited goods that are packed so as to be likely to deceive Customs officers:

(q) uncustomed goods that are found in any place:

(r) imported goods that have been acquired (whether by the importer or some other person)—

(i) in a country outside New Zealand; and

(ii) by an act that, if done in New Zealand, would have amounted to a crime involving dishonesty:

(s) goods exported, or in respect of which an attempt to export has been made, that have been acquired (whether by the exporter or some other person)—

(i) in New Zealand; and

(ii) by an act that amounts to a crime involving dishonesty:

(t) any goods, equipment, or apparatus used, or intended for use, in the manufacture of Part A goods in contravention of section 56(1)(a):

(u) any goods manufactured wholly or partly using any goods, equipment, or apparatus referred to in paragraph (t).

(v) *[Repealed]*

(2) For the purposes of subsection (1)(b) and (c), prohibited goods are treated as exported when they are placed in or on any craft for exportation.

(3) If goods are forfeited, the following are also forfeited:

(a) any case, covering, or other enclosure in or on which the goods are contained at the time of seizure, importation, or exportation (other than a cargo device):

(b) any cargo device in or on which the goods are contained at the time of seizure, importation, or exportation if the cargo device has been adapted for the purpose of concealing goods:

(c) any animal, craft, vehicle, or other thing (including any machinery or equipment on or in the craft, vehicle, or thing) that is used for the transportation, handling, deposit, or concealment of the goods (whether at the time, or after the time, of any alleged offence in relation to those goods).

(4) A craft is forfeited to the Crown if—

(a) the craft is one in respect of which an offence under section 13 or 18(1) is committed; and

(b) that offence was committed to facilitate non-compliance with any requirement in sections 28 to 30 by a person or persons who arrived in New Zealand (in that craft or in any other craft).

Compare: 1996 No 27 s 225

Section 176(1)(v): repealed, on 21 May 2022, by section 51 of the Maritime Powers Act 2022 (2022 No 23).

177 Forfeiture to relate back

Goods are forfeited immediately at the time the act or event that gives rise to the forfeiture takes place.

Compare: 1996 No 27 s 228

Seizure

178 Seizure of forfeited goods or goods suspected to be forfeited goods

(1) A Customs officer or constable may seize—

(a) any forfeited goods; or

(b) any goods that he or she has reasonable cause to suspect are forfeited.

(2) Forfeited goods (other than goods forfeited because they are prohibited goods) may be seized at any time within 2 years after their forfeiture.

(3) Goods that are forfeited because they are prohibited goods may be seized at any time after their forfeiture.

(4) A Customs officer or constable may use all reasonable force to effect the seizure of goods under subsection (1).

(5) This section applies in the contiguous zone as it applies in New Zealand.

(6) The power under this section may be exercised in the contiguous zone only in accordance with article 33 of the United Nations Convention on the Law of the Sea.

Compare: 1996 No 27 s 226(1)–(5)

179 Securing seized goods

(1) All goods seized under section 178 must be taken to a place of security and detained.

(2) Despite subsection (1), a Customs officer may leave goods that have been seized under section 178 in the custody of—

(a) the person from whom the goods have been seized; or

(b) any other person who—

(i) is authorised by the Customs officer; and

(ii) consents to having custody of the goods.

(3) A person who has custody of goods under subsection (2) must—

(a) hold them for safe keeping—

(i) until a final decision is made as to whether they are to remain forfeit; and

(ii) without charge to the Crown; and

(iii) in accordance with any reasonable conditions imposed by Customs; and

(b) make the goods available to any Customs officer on demand; and

(c) not alter, dispose of, or remove the goods from New Zealand unless the person is authorised to do so by a Customs officer; and

(d) return the goods on demand to the custody of Customs.

Compare: 1996 No 27 s 226(6)–(8)

180 Offence in relation to securing seized goods

(1) A person who has custody of goods under section 179(2) commits an offence if the person, without reasonable excuse, fails to comply with section 179(3).

(2) A person who commits an offence under this section is liable on conviction to a fine not exceeding $5,000.

Compare: 1996 No 27 s 215(1), (2)

181 Notice of seizure

(1) If goods have been seized under section 178, Customs must, as soon as is reasonably practicable, notify—

(a) any person who is known or believed to have an interest in the goods; or

(b) if any such person is overseas, his or her agent in New Zealand.

(1A) Subsection (1) does not apply in respect of seized goods that are tobacco or tobacco products prohibited from import under section 95A.

(2) The notice referred to in subsection (1) must—

(a) be in writing and in the prescribed form; and

(b) contain the reasons for the seizure.

(3) A seizure is not invalidated or illegal by reason of a failure to provide a notice under this section if reasonable steps were taken to give the notice.

Compare: 1996 No 27 s 227

Section 181(1A): inserted, on 1 July 2020, by section 7 of the Customs and Excise (Tobacco) Amendment Act 2020 (2020 No 16).

182 Delivery of goods seized on deposit of value

(1) This section applies to goods that—

(a) have been seized under section 178; and

(b) have not yet been condemned.

(2) The chief executive may deliver the goods to the owner (or any other person from whom they were seized) on the deposit with Customs of a cash sum equal to—

(a) the value of the goods, being—

(i) the Customs value of the goods, if the goods are imported goods; or

(ii) the excise value of the goods, if the goods are Part A goods that were manufactured in a manufacturing area; and

(b) any duty that the chief executive determines is payable on the goods.

(3) The money deposited is treated as substituted for the goods seized, and this subpart applies to the money accordingly.

(4) For the purposes of subsection (2)(a)(ii), the excise value of goods must be determined in accordance with subpart 2 of Part 1 of Schedule 3.

Compare: 1996 No 27 s 229

183 Sale of certain seized goods

(1) This section applies to goods that—

(a) have been seized under section 178; and

(b) have not yet been condemned.

(2) The chief executive may sell—

(a) a living creature; or

(b) any thing that, in the opinion of the chief executive,—

(i) is of a perishable nature; or

(ii) is likely to deteriorate or diminish in value by keeping; or

(iii) it is desirable to sell.

(3) The net proceeds of sale are substituted for the goods sold, and this subpart applies to the proceeds accordingly.

Compare: 1996 No 27 s 230

Review of seizure

184 Application for review of seizure

(1) Any person who has an interest in goods that have been seized under section 178 may apply to the chief executive in accordance with clause 1 of Schedule 5 for a review of the seizure.

(2) Schedule 5 applies to reviews of seizures of goods.

(3) This section does not apply in respect of seized goods that are tobacco or tobacco products prohibited from import under section 95A.

Compare: 1996 No 27 s 231(1)

Section 184(3): inserted, on 1 July 2020, by section 8 of the Customs and Excise (Tobacco) Amendment Act 2020 (2020 No 16).

Condemnation

185 Condemnation of seized goods

(1) This section applies to goods that have been seized under section 178, other than goods that are tobacco or tobacco products prohibited from import under section 95A.

(2) If no application is made for a review of the seizure of the goods within the time given by clause 1(2)(b) of Schedule 5, the goods are condemned to the Crown.

(3) If an application for a review is made within that time, the goods are condemned to the Crown—

(a) if and when the application is discontinued:

(b) if the application is dismissed by the chief executive, at the close of the period of 20 working days after notice of the decision is given under clause 8 of Schedule 5 unless an appeal against the decision is lodged within that period under clause 9 of that schedule.

Compare: 1996 No 27 s 235A

Section 185(1): amended, on 1 July 2020, by section 9 of the Customs and Excise (Tobacco) Amendment Act 2020 (2020 No 16).

185A Condemnation of seized goods that are tobacco or tobacco products

(1) This section applies to goods that—

(a) are tobacco or tobacco products prohibited from import under section 95A; and

(b) have been seized under section 178.

(2) The goods are condemned to the Crown when they are seized.

Section 185A: inserted, on 1 July 2020, by section 10 of the Customs and Excise (Tobacco) Amendment Act 2020 (2020 No 16).

185B Notice of seizure and condemnation of goods that are tobacco or tobacco products

(1) If goods have been seized and condemned to the Crown under section 185A, Customs must, as soon as is reasonably practicable, notify—

(a) any person who Customs knows or believes has an interest in the goods; or

(b) if any such person is overseas, his or her agent in New Zealand.

(2) The notice must be in writing and contain the reasons for the seizure and condemnation.

(3) A seizure and condemnation is not invalid or illegal by reason of a failure to provide a notice under this section if reasonable steps were taken to give the notice.

Section 185B: inserted, on 1 July 2020, by section 10 of the Customs and Excise (Tobacco) Amendment Act 2020 (2020 No 16).

186 Condemnation of goods that are subject of appeal

Goods that are the subject of an appeal under clause 9 of Schedule 5 are condemned to the Crown if—

(a) the appeal is against the dismissal of an application for a review and the appeal is discontinued; or

(b) the decision of the Customs Appeal Authority on the appeal neither—

(i) disallows the seizure of the goods under clause 4(2)(a) of Schedule 5 (as applied by clause 13 of Schedule 8); nor

(ii) grants relief under clause 4(2)(b) of Schedule 5 (as applied by clause 13 of Schedule 8).

Compare: 1996 No 27 s 235C

187 Condemnation of goods where relief granted but condition of relief not met within time limit

(1) This section applies to goods that have been seized under section 178 if—

(a) relief is granted under clause 4(2)(b) of Schedule 5 by—

(i) the chief executive; or

(ii) a Customs Appeal Authority applying clause 4(2)(b) under clause 13 of Schedule 8; and

(b) the relief is subject to a condition for which a time limit is set under clause 6(5) of Schedule 5; and

(c) the condition is not met within that time limit.

(2) The goods are condemned to the Crown when the time limit expires.

(3) In relation to a time limit set by the chief executive, subsection (2) applies subject to any appeal in respect of the chief executive's decision to grant relief (whether or not the time limit expires before the appeal is lodged) if the appeal—

(a) is lodged under clause 9 of Schedule 5 within the period of 20 working days after notice of the decision is given under clause 8 of that schedule; and

(b) is not discontinued.

188 Goods forfeit on commission of offence

(1) This section applies if—

(a) goods are forfeit on the commission of any offence, being—

(i) goods in respect of which the offence was committed; or

(ii) goods that are forfeited under section 176(3) or (4); and

(b) the goods have not been—

(i) restored to the person from whom they were seized; or

(ii) sold or otherwise disposed of by the chief executive under this Act.

(2) If any person is convicted of the offence, the court may on sentencing, if it thinks fit (and subject to any conditions it thinks fit), order the forfeited goods be restored to the person from whom the goods were seized.

(3) If the court does not make an order under subsection (2), the goods are condemned to the Crown on the conviction of the person for the offence.

Compare: 1996 No 27 s 236

189 Disposal of forfeited and condemned goods

(1) To avoid doubt, the Crown has the property in—

(a) any forfeited goods:

(b) any deposit made under section 182:

(c) any proceeds of sale under section 183.

(2) Condemned goods may be sold, used, destroyed, or otherwise disposed of in any manner that the chief executive considers appropriate.

Compare: 1996 No 27 s 237

Compensation for incorrect disposal of certain goods

Heading: inserted, on 1 July 2020, by section 11 of the Customs and Excise (Tobacco) Amendment Act 2020 (2020 No 16).

189A Application for compensation for incorrect disposal of tobacco and certain tobacco products

(1) This section applies to any person who has imported goods into New Zealand that—

(a) are of a kind described in section 95A(1)(a) to (c); and

(b) have been seized under section 178 and condemned under section 185A, on the grounds that the goods are prohibited from import under section 95A.

(2) The person may apply to the chief executive for compensation, on the basis that the importation was not in breach of section 95A.

(3) The application must be made in accordance with Schedule 3B.

Section 189A: inserted, on 1 July 2020, by section 11 of the Customs and Excise (Tobacco) Amendment Act 2020 (2020 No 16).

Part 4
Customs powers

190 Exercise of powers in contiguous zone

(1) In the following provisions, **New Zealand** includes the contiguous zone:

- (a) section 191:
- (b) section 194:
- (c) section 195:
- (d) section 196:
- (e) section 199 (except subsection (1)(c)(ii)):
- (f) section 205:
- (g) section 210.

(2) The following provisions also apply in the contiguous zone as they apply in New Zealand:

- (a) section 192:
- (b) section 206:
- (c) section 214:
- (d) section 226:
- (e) section 227:
- (f) section 228:
- (g) section 242:
- (h) section 244:
- (i) section 257:
- (j) section 258:
- (k) section 259:
- (l) section 263.

(3) A power under this Act that may be exercised in the contiguous zone as a result of subsection (1) or (2) may be exercised in the contiguous zone only in accordance with article 33 of the United Nations Convention on the Law of the Sea.

Powers in relation to craft

191 Boarding and searching craft

(1) This section applies to the following craft:

(a) a craft that has arrived in New Zealand:

(b) a craft that is departing from New Zealand:

(c) a craft in New Zealand that is en route to a point outside New Zealand:

(d) a craft to which section 35(2) applies that is en route to a point within New Zealand:

(e) any other craft in New Zealand that is transporting any domestic cargo or international cargo:

(f) a craft that is in New Zealand and that a Customs officer has reasonable cause to suspect—

(i) is transporting any dutiable, uncustomed, prohibited, or forfeited goods; or

(ii) has been, is, or is about to be involved in the commission of an offence under this Act.

(2) A Customs officer may board the craft.

(3) A Customs officer may search the craft for the purpose of carrying out any function under this Act.

(4) Part 4 of the Search and Surveillance Act 2012, except subpart 3, applies in respect of a power under this section where it is being exercised solely in reliance on subsection (1)(f).

(5) Despite subsection (4), sections 125(4), 131(5)(f), and 133, and subparts 6 and 8 of Part 4, of the Search and Surveillance Act 2012 do not apply to forfeited goods.

(6) In exercising the power to search under this section, a Customs officer may—

(a) use reasonable force to—

(i) enter any part of a craft; or

(ii) open any package, locker, or other place:

(b) examine all goods found on a craft.

Compare: 1996 No 27 ss 139(1), (5), (6), 140

192 Facilitation of boarding

(1) A Customs officer may direct the person in charge of a ship to which section 191 applies—

(a) to stop the ship and bring it to for boarding; and

(b) to ensure that the ship remains stopped until a Customs officer directs that the ship may proceed.

(2) A Customs officer may direct the person in charge of a craft to which section 191 applies to facilitate the boarding of the craft by all reasonable means.

Compare: 1996 No 27 ss 23(1), (3), 35

193 Offences in relation to facilitation of boarding

(1) The person in charge of a ship commits an offence if the person fails to comply with any direction of a Customs officer under section 192(1).

(2) The person in charge of a craft commits an offence if the person fails to comply with any direction of a Customs officer under section 192(2).

(3) Section 54 (defences for offences) applies to an offence under this section as if this section were in subpart 1 of Part 3.

(4) A person who commits an offence under this section is liable on conviction to—

(a) imprisonment for a term not exceeding 12 months; or

(b) a fine not exceeding $15,000.

Compare: 1996 No 27 ss 191(1)(c), (2), 193(1)(c), (2), 195

194 Stationing Customs officers on board craft

(1) The chief executive may, for the purpose of enabling any Customs officer to carry out a function under this Act, station the officer on board a craft that has arrived in New Zealand.

(2) The person in charge of the craft must ensure that the Customs officer is provided,—

(a) free of charge, with—

(i) carriage; and

(ii) suitable accommodation and board in accordance with the officer's reasonable requirements; and

(b) with safe access to any part of the craft; and

(c) with safe means of leaving the craft.

Compare: 1996 No 27 s 139(2)–(4)

195 Securing goods on craft

A Customs officer boarding or searching any craft in New Zealand under section 191 may, for the purpose of carrying out a function under this Act,—

(a) secure goods on board that craft by appropriate means; or

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

Compare: 1996 No 27 s 141

196 Firing on ship

(1) The person in charge of any craft in the service of the Crown—

(a) must, at the request of the chief executive, give chase to any ship in New Zealand if—

(i) the ship does not immediately bring to when signalled or required to bring to; or

(ii) the person in charge of the ship refuses to permit the ship to be boarded; and

(b) may, as a last resort (after having fired a warning shot), fire at or onto the ship to compel it to bring to.

(2) In the case of a ship in the service of the Crown, the person in charge of the ship must ensure that the proper ensign of the ship or the Customs flag is hoisted or prominently displayed on the ship at all times when acting under this section.

Compare: 1996 No 27 s 142

197 Power to order ship to leave New Zealand

(1) This section applies to a ship that has arrived in, or is departing from, New Zealand.

(2) A Customs officer may, with the approval of the chief executive, order the person in charge of the ship to cause the ship to leave New Zealand.

(3) If a Customs officer does so, the person in charge of the ship must cause the ship to leave New Zealand immediately.

(4) The chief executive may approve the giving of an order under subsection (2) only if the chief executive is satisfied that it is in the public interest for the order to be given.

Compare: 1996 No 27 s 23(4), (5)

198 Offence in relation to power to order ship to leave New Zealand

(1) The person in charge of a ship commits an offence if the person fails to comply with section 197(3).

(2) Section 54 (defences for offences) applies to an offence under this section as if this section were in subpart 1 of Part 3.

(3) A person who commits an offence under this section is liable on conviction to—

(a) imprisonment for a term not exceeding 12 months; or

(b) a fine not exceeding $15,000.

Compare: 1996 No 27 ss 191(1)(c), (2), 195

199 Detention of craft suspected to be involved in offences or smuggling migrants

(1) This section applies if a Customs officer has reasonable cause to believe—

(a) that an offence under this Act has been committed on, or in respect of, a craft that is in New Zealand; or

(b) that an offence under this Act is being, or is about to be, committed on, or in respect of, a craft that is in New Zealand; or

(c) that—

(i) there is a person on a craft in New Zealand; and

(ii) the craft has transported that person into New Zealand; and

(iii) that transportation constituted an offence under section 98C(1) of the Crimes Act 1961.

(2) A Customs officer—

(a) may detain the craft at the place where it is:

(b) may also direct—

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

(ii) that the craft's detention continue during the craft's journey to that place, and at that place once the craft arrives there.

(2A) A power in subsection (2) is exercisable only if, and for so long as, a Customs officer is satisfied that the exercise of the power is reasonably necessary to carry out an investigation into the commission of the offence concerned.

(2B) If a direction is given under subsection (2)(b), a Customs officer may, for the purpose of implementing the direction, do any of the following:

(a) direct any person on the craft to take any specified action:

(b) take charge of the craft:

(c) arrange for the craft to be towed by another craft.

(3) Subsection (4) applies if the person in charge of the craft attempts, or threatens, to cause the craft to depart, without a certificate of clearance, from a place where it is detained under subsection (2).

(4) A Customs officer may detain the craft until a certificate of clearance is issued.

Compare: 1996 No 27 s 143

Section 199(2): replaced, on 1 October 2018, by section 11 of the Maritime Powers Extension Act 2018 (2018 No 38).

Section 199(2A): inserted, on 1 October 2018, by section 11 of the Maritime Powers Extension Act 2018 (2018 No 38).

Section 199(2B): inserted, on 1 October 2018, by section 11 of the Maritime Powers Extension Act 2018 (2018 No 38).

Section 199(3): replaced, on 1 October 2018, by section 11 of the Maritime Powers Extension Act 2018 (2018 No 38).

200 Offences in relation to detained craft

(1) A person commits an offence if the person, without the permission of the chief executive, takes, carries away, or otherwise converts to the person's own use a craft detained under section 199(4).

(2) A person who commits an offence under this section is liable on conviction,—

(a) in the case of an individual, to—

(i) imprisonment for a term not exceeding 12 months; or

(ii) a fine not exceeding an amount equal to 3 times the value of the craft to which the offence relates:

(b) in the case of a body corporate, to a fine not exceeding an amount equal to 3 times the value of the craft to which the offence relates.

Compare: 1996 No 27 ss 143(2), 215(3), (4)

Powers in relation to persons

201 Evidence of identity, entitlement to travel, etc

(1) This section applies to the following persons:

(a) an internationally ticketed passenger using air or sea travel for a domestic sector:

(b) a domestic passenger using air or sea travel for a domestic sector:

(c) a person in a designated place who—

(i) has arrived in New Zealand; or

(ii) is departing from New Zealand:

(d) any other person who is within a Customs-controlled area that is licensed to be used for the disembarkation, embarkation, or processing of persons arriving in, or departing from, New Zealand.

(2) The person must, on demand by a Customs officer,—

(a) state the person's—

(i) full name; and

(ii) residential address; and

(iii) date of birth; and

(b) produce any prescribed document for inspection or, if the person is unable to produce the prescribed document, complete a declaration in the prescribed form.

(3) A Customs officer may make a demand under subsection (2)(b) only for the purpose of establishing 1 or more of the following:

(a) the person's identity:

(b) the person's travel movements:

(c) the person's entitlement to air or sea travel for a domestic sector.

(4) A Customs officer must immediately inspect and return a document produced by a person under subsection (2)(b).

(5) Despite subsection (4), a Customs officer may retain a document produced under subsection (2)(b) for as long as is necessary to determine whether the chief executive wishes to exercise his or her power to retain the document under section 256.

(6) If a document referred to in subsection (4) or (5) is produced in electronic form on a device,—

(a) before the device can be retained under subsection (5) or a power under section 228 can be exercised in relation to the device, the relevant threshold in section 228 must be met; and

(b) a Customs officer must immediately return the device under subsection (4) if paragraph (a) does not apply.

(7) This section is subject to section 259 (which relates to unlawful travel documents).

Compare: 1996 No 27 s 147

202 Offence in relation to failure to produce evidence of identity, entitlement to travel, etc

(1) A person commits an offence if the person, without reasonable excuse, fails to comply with a demand made under section 201(2).

(2) A person who commits an offence under this section is liable on conviction to a fine not exceeding $5,000.

Compare: 1996 No 27 s 186

203 Verification of identity using biometric information

(1) This section applies to a person in a designated place who—

(a) has arrived in New Zealand; or

(b) is departing from New Zealand.

(2) A Customs officer may, during the processing of a person's arrival in, or departure from, New Zealand, request the person to provide biometric information for the purpose of verifying the person's identity using biometric matching.

(3) A Customs officer may direct a person who fails to comply with a request under subsection (2) to remain in the designated place for any of the following purposes:

(a) to enable a Customs officer to make any inquiries necessary to establish the identity of the person:

(b) to enable a Customs officer to obtain the attendance of, or make inquiries of, a constable, a bailiff, or an employee or agent of a department of State who is authorised, in respect of a matter specified in section 208(1)(b), to do any of the following:

(i) question the person:

(ii) ascertain or determine the status of the person:

(iii) detain the person:

(iv) arrest the person.

(4) A person must comply with a direction given under subsection (3).

(5) A direction under subsection (3) ceases to have effect 4 hours after it is given.

204 Detention of persons failing to comply with direction under section 203(3)

(1) A Customs officer may detain a person who fails to comply with a direction given under section 203(3) for any of the purposes referred to in that subsection.

(2) The person may be detained for a reasonable period not exceeding 4 hours.

(3) A Customs officer may use reasonable force, if necessary, when exercising the power of detention under this section.

(4) To avoid doubt, this section does not prevent a person—

(a) being detained or further detained under any other provision of this Act or under any other enactment (if there are lawful grounds for that detention); or

(b) being arrested under section 263.

(5) In this section, **detain** includes deliver a person to a Police station or into the custody of a constable.

205 Questioning persons about goods and debt

(1) This section applies to the following persons who are in New Zealand:

(a) any person who has arrived in New Zealand within the preceding 72 hours:

(b) any other person who is on board, or is in the process of disembarking from, a craft that has arrived in New Zealand:

(c) any person who is departing from New Zealand:

(d) any other person who is on board, or is in the process of embarking onto, a craft that is to depart from New Zealand:

(e) any other person who is within a Customs-controlled area that is licensed for any of the purposes referred to in section 56(1)(c) to (f):

(f) any other person who is within a duty-free store.

(2) A Customs officer may question the person as to any of the following:

(a) whether the person has or has had in his or her possession any dutiable, prohibited, uncustomed, or forfeited goods:

(b) the nature, origin, value, ownership, or intended destination of any dutiable, prohibited, uncustomed, or forfeited goods:

(c) whether any debt—

(i) is due to the Crown under this Act; and

(ii) is payable by the person or a company, trust, partnership, or other enterprise of which the person is or was a director, manager, trustee, secretary, officer, or agent:

(d) the nature and extent of the debt (if any).

Compare: 1996 No 27 s 145

206 Detention of persons questioned about goods or debt and suspected to be involved in offences

(1) A Customs officer may detain a person if—

(a) a Customs officer—

(i) is not satisfied that an answer to a question put to the person under section 205(2) is correct; or

(ii) has not been given an answer to a question put to the person under section 205(2); or

(iii) is not satisfied as to a reason or explanation given by the person in response to a question put to the person under section 205(2) about 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

(b) a Customs officer has reasonable cause to suspect that an offence under this Act has been, is being, or is about to be committed by the person or any other person associated with that person.

(2) The power of detention under this section may be used only for 1 or both of the following purposes:

(a) to enable the Customs officer to make any inquiries necessary to establish whether an answer to a question or a reason or an explanation given is correct:

(b) to obtain the attendance, or make inquiries, of another Customs officer or any other person who is entitled to exercise any power to question, detain, or arrest a person under this Act.

(3) A person may be detained under this section for a reasonable period not exceeding 4 hours.

(4) To avoid doubt, this section does not prevent a person—

(a) being detained or further detained under any other provision of this Act or under any other enactment (if there are lawful grounds for that detention); or

(b) being arrested under section 263.

Compare: 1996 No 27 s 148

207 Completion of processing under Immigration Act 2009 and Biosecurity Act 1993

(1) This section applies to a person in a designated place who—

(a) has arrived in New Zealand; or

(b) is departing from New Zealand.

(2) The person must remain in the designated place until processing is completed in respect of the person's arrival in, or departure from, New Zealand under—

(a) the Immigration Act 2009; and

(b) if applicable, the Biosecurity Act 1993.

(3) A Customs officer may direct the person to comply with the person's obligations under subsection (2).

(4) The processing referred to in subsection (2) 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—

(i) the Immigration Act 2009; and

(ii) if applicable, the Biosecurity Act 1993; and

(b) the functions that are required to be carried out under those Acts in relation to the person in the designated place have been, so far as practicable, carried out in that place.

(5) In this section, **processing** includes consideration by an officer authorised under the Biosecurity Act 1993 or the Immigration Act 2009 of—

(a) the applicability of the Biosecurity Act 1993 or the Immigration Act 2009 to a person; or

(b) whether to carry out any function under the Biosecurity Act 1993 or the Immigration Act 2009 in relation to a person.

Compare: 1996 No 27 s 32B

208 Cases requiring investigation for public health or law enforcement purposes

(1) This section applies to a person in a designated place if—

(a) the person—

(i) has arrived in New Zealand; or

(ii) is departing from New Zealand; and

(b) a Customs officer has reasonable cause to suspect that the person—

(i) is liable to be detained under any enactment because of an infectious disease; or

(ii) is liable to arrest under warrant; or

(iii) is, in attempting to depart from New Zealand or in attempting to remove any other person from New Zealand, contravening, or about to contravene, any enactment or an order of a court; or

(iv) is liable to be prosecuted for an offence punishable by imprisonment; or

(v) has contravened any of the following enactments:

(A) the Biosecurity Act 1993:

(B) the Human Assisted Reproductive Technology Act 2004:

(C) the Misuse of Drugs Act 1975:

(D) the Passports Act 1992:

(E) the Terrorism Suppression Act 2002:

(F) the Trade in Endangered Species Act 1989:

(G) regulations under the United Nations Act 1946; or

(vi) 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 purpose of obtaining the attendance of, or making inquiries of, a constable, a bailiff, or an employee or agent of a department of State who is authorised, in respect of a matter specified in subsection (1)(b), to do any 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) A person to whom this section applies must comply with a direction of a Customs officer given under this section.

(4) A direction under this section ceases to have effect 4 hours after it is given.

Compare: 1996 No 27 s 32C

209 Offence in relation to requirements imposed under section 207 or 208

(1) A person commits an offence if the person wilfully fails to comply with any requirement imposed on that person by or under section 207 or 208.

(2) A person who commits an offence under this section is liable on conviction to a fine not exceeding $5,000.

Compare: 1996 No 27 s 180

210 Search of persons

(1) This section applies to the following persons who are in New Zealand:

(a) any person who is on board, or is in the process of disembarking from, a craft that has arrived in New Zealand:

(b) any person in a designated place—

(i) who has arrived in New Zealand; or

(ii) who is departing from New Zealand:

(c) any person who is on board, or is in the process of embarking onto, a craft that is departing from New Zealand.

(2) A Customs officer or constable may—

(a) conduct a preliminary search of the person; and

(b) for the purpose of conducting the preliminary search, detain the person for a reasonable period.

(3) A Customs officer or constable may search the person (whether or not a preliminary search of the person has been conducted) if a Customs officer or constable has reasonable cause to suspect—

(a) that the person has hidden on or about his or her person—

(i) any dutiable, uncustomed, prohibited, or forfeited goods; or

(ii) evidence relating to any such goods; or

(iii) any thing that is, or might be, evidence of a contravention of this Act; or

(b) that—

(i) the person has a dangerous item on or about his or her person; and

(ii) the item poses a threat to the safety of the officer or constable, or any other person; and

(iii) there is a need to act immediately in order to address that threat; and

(iv) a preliminary search would expose the Customs officer or constable, or any other person, to greater risk from the threat.

(4) Part 4 of the Search and Surveillance Act 2012, except subpart 3, applies in respect of the powers under subsection (3).

(5) Despite subsection (4), sections 125(4), 131(5)(f), and 133, and subparts 6 and 8 of Part 4, of the Search and Surveillance Act 2012 do not apply to forfeited goods.

(6) In this section, **preliminary search** means 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—

(i) by using an aid or aids such as a Customs dog, a chemical substance, or imaging equipment, or some other mechanical, electrical, or electronic device, or other similar aid; but

(ii) not by any more invasive means.

Compare: 1996 No 27 ss 149, 149A, 149B(1), (7)–(9), 149BA

211 Search of persons suspected of having goods hidden on or about their person

(1) This section applies to—

(a) any person who has arrived in New Zealand at a place other than a Customs place within the preceding 24 hours; or

(b) any person who is about to depart from New Zealand from any place other than a Customs place; or

(c) any person who is in a Customs place.

(2) A Customs officer or constable may search the person if a Customs officer or constable has reasonable cause to believe 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 a contravention of this Act.

(3) Part 4 of the Search and Surveillance Act 2012, except subpart 3, applies in respect of the powers under this section.

(4) Despite subsection (3), sections 125(4), 131(5)(f), and 133, and subparts 6 and 8 of Part 4, of the Search and Surveillance Act 2012 do not apply to forfeited goods.

Compare: 1996 No 27 s 149B(2), (3), (7)–(9)

212 Detention of persons committing or about to commit certain offences

(1) A Customs officer may detain a person who the Customs officer on reasonable grounds believes is committing, or is about to commit, an offence under section 20, 34, or 209 by—

(a) leaving or boarding a craft in contravention of section 19; or

(b) not complying with a Customs direction, in contravention of section 29(2); or

(c) not proceeding to a Customs-controlled area, in contravention of section 29(3)(a); or

(d) not remaining in a Customs-controlled area, in contravention of section 29(3)(b); or

(e) failing to comply with a direction given to the person under section 207(3).

(2) A Customs officer—

(a) may detain a person under this section only for the purpose of—

(i) ensuring the person's compliance with 1 or more of the provisions referred to in subsection (1)(a) to (e); or

(ii) delivering the person to a Police station or to the custody of a constable; and

(b) may detain a person under this section only for a reasonable period; and

(c) must release a person detained under this section immediately after the person has complied with the requirements of—

(i) the provision in relation to which he or she was detained; and

(ii) any other applicable provision referred to in subsection (1)(a) to (e).

(3) A Customs officer may use reasonable force, if necessary, to detain a person under this section.

(4) A Customs officer must not detain a person under this section if the officer believes that the person has already committed an offence to which subsection (1) relates.

(5) To avoid doubt, this section does not prevent a person—

(a) being detained or further detained under any other provision of this Act or under any other enactment (if there are lawful grounds for that detention); or

(b) being arrested under section 263.

Compare: 1996 No 27 s 148B(1)(a), (d)–(f), (2), (4)–(8)

213 Detention of persons who do not report to or remain at certain places

(1) A Customs officer or constable may detain a person who the Customs officer or constable has reasonable grounds to believe is committing, or is about to commit, an offence under section 34 by—

(a) not reporting immediately to a Customs officer or a Police station on arrival in New Zealand in contravention of section 28(a); or

(b) not remaining at the place where he or she reported to a Customs officer, or at the Police station, in contravention of section 28(b).

(2) A Customs officer or constable—

(a) may detain a person under this section only for the purpose of—

(i) ensuring that the person complies with section 28; or

(ii) removing or delivering the person to a Police station; or

(iii) in the case of a Customs officer, delivering the person into the custody of a constable; and

(b) may detain a person under this section only for a reasonable period; and

(c) must release a person detained under this section immediately after the person has complied with section 28(a) or (b) (as the case may be).

(3) A Customs officer or constable may use reasonable force, if necessary, to detain a person under this section.

(4) A Customs officer or constable must not detain a person under this section if the officer believes that the person has already committed an offence to which subsection (1) relates.

(5) To avoid doubt, this section does not prevent a person—

(a) being detained or further detained under any other provision of this Act or under any other enactment (if there are lawful grounds for that detention); or

(b) being arrested under section 263.

Compare: 1996 No 27 s 148B(1)(b), (c), (2), (4)–(8)

214 Seizure of items found

(1) A Customs officer or constable may seize any thing found on or about a person when carrying out a search under section 210 or 211 that the Customs officer or constable has reasonable cause to suspect is—

(a) a dangerous item; or

(b) dutiable, uncustomed, prohibited, or forfeited goods; or

(c) evidence relating to goods referred to in paragraph (b); or

(d) a thing that is, or might be, evidence of a contravention of this Act.

(2) The provisions of subparts 1, 5, 6, 7, 9, and 10 of Part 4 of the Search and Surveillance Act 2012 apply in respect of the powers under this section.

(3) Despite subsection (2), sections 125(4), 131(5)(f), and 133, and subpart 6 of Part 4, of the Search and Surveillance Act 2012 do not apply to forfeited goods.

Compare: 1996 No 27 s 149C

215 Powers in relation to unauthorised persons remaining in certain Customs-controlled areas

(1) This section applies to a person who is in a Customs-controlled area that is licensed for any of the purposes described in section 56(1)(c) to (f).

(2) A Customs officer may—

(a) question a person to whom this section applies about any of the following matters:

(i) the person's identity:

(ii) the person's residential address:

(iii) the person's reason or purpose for entering or remaining in the Customs-controlled area; and

(b) detain a person to whom this section applies for a reasonable period for the purpose of questioning the person under paragraph (a).

(3) A Customs officer may—

(a) direct a person to whom this section applies to leave the Customs-controlled area; and

(b) remove the person from the Customs-controlled area if the person does not leave immediately.

(4) A Customs officer may use reasonable force, if necessary, when exercising a power under subsection (2)(b) or (3)(b).

(5) This section does not limit section 201.

Compare: 1996 No 27 s 149AA

216 Use of electronic communication devices prohibited in certain places

(1) This section applies to—

(a) any Customs-controlled area or Customs place that is used by persons arriving in, or departing from, New Zealand; and

(b) any other place that is being used by persons arriving in, or departing from, New Zealand.

(2) A Customs officer may erect a sign in the area or place prohibiting the use of any electronic communication device indicated on the sign.

(3) If a sign has been erected in accordance with subsection (2), a Customs officer may direct any person in the area or place not to use, or to stop using, any electronic communication device identified on the sign.

(4) In this section, **electronic communication device** means any of the following:

(a) a telephone or computer:

(b) any other electronic device (except a disability device) that is capable of—

(i) transmitting sound; or

(ii) computing information; or

(iii) communicating in any other way using any technology (including telecommunication, radiocommunication, and broadcasting technology).

Compare: 1996 No 27 s 32A

217 Offence in relation to use of electronic communication device

(1) A person commits an offence if the person fails to comply with a direction given under section 216(3).

(2) Section 54 (defences for offences) applies to an offence under this section as if this section were in subpart 1 of Part 3.

(3) A person who commits an offence under this section is liable on conviction to a fine not exceeding $1,000.

Compare: 1996 No 27 ss 194A, 195

218 Questioning specified persons about arrival or departure

(1) This section applies if a Customs officer has reasonable cause to suspect that—

(a) a person has disembarked from a craft that has arrived in New Zealand and, without being otherwise authorised, has not reported to a Customs officer or a Police station on his or her arrival (in contravention of section 28); or

(b) a person is attempting to depart from New Zealand from a place other than a Customs place without an exemption or without being authorised by a Customs officer (in contravention of section 31).

(2) A Customs officer may question the person about any of the following matters:

(a) the person's identity:

(b) the person's residential address:

(c) the person's date of birth:

(d) the person's travel movements:

(e) the person's entitlement to travel:

(f) any of the matters referred to in section 205(2)(a) to (d):

(g) if subsection (1)(a) applies (arrival in New Zealand),—

(i) the craft from which the person disembarked or is suspected of disembarking:

(ii) any other person who is, or was, involved in the person's arrival or suspected arrival:

(iii) whether the other person was on the craft:

(h) if subsection (1)(b) applies (attempted departure from New Zealand),—

(i) the craft on which the person attempted to depart, or is suspected of attempting to depart, from New Zealand:

(ii) any other person who is, or was, involved in the person's departure, attempted departure, or suspected departure:

(iii) whether the other person was on the craft.

(3) A Customs officer may also demand that the person produce documents that—

(a) are in the person's possession or under the person's control; and

(b) relate to the matters the person has been questioned about under subsection (2).

(4) A Customs officer may do any of the following things with a document produced under subsection (3):

(a) inspect the document and immediately 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 220:

(c) inspect the document and retain it for as long as is necessary to ascertain whether the chief executive wishes to exercise his or her power under section 256 to retain the document:

(d) inspect the document and remove it for the purpose of making a copy under section 257:

(e) inspect the document and retain it under section 258.

(5) Subsections (3) and (4) are subject to section 259.

(6) Section 383(3) (failure to answer questions on ground of self-incrimination) does not apply in respect of a question asked under this section.

Compare: 1996 No 27 ss 145A, 147A

219 Offence in relation to failure to produce evidence of identity, entitlement to travel, or other matters

(1) A person commits an offence if the person, without reasonable excuse, fails to comply with a demand made under section 218(3).

(2) A person who commits an offence under this section is liable on conviction to a fine not exceeding $5,000.

Compare: 1996 No 27 s 186

220 Detention of person to whom section 218 relates

(1) A Customs officer may detain a person to whom section 218 relates for any of the following purposes:

(a) to question him or her under section 218(2):

(b) to enable the officer to make the inquiries that are necessary to establish whether an answer to a question put to the person under section 218(2) is correct:

(c) to obtain the attendance, or make inquiries, of another Customs officer or person entitled to exercise a power to question, detain, or arrest a person under this Act or the Crimes Act 1961:

(d) to deliver the person to a Customs place or Police station where the person may be, or may continue to be, questioned.

(2) The person may be detained—

(a) for a reasonable period not exceeding 12 hours:

(b) for a further reasonable period if accident, stress of weather, or some other difficulty of transport or special circumstance makes it impossible for a Customs officer to do any of the things specified in subsection (1)(a) to (d).

(3) The person must be questioned under section 218(2) as soon as practicable after the person is detained under this section.

(4) A Customs officer must release the person immediately after the person answers the questions put to the person under section 218(2) 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 has—

(i) committed an offence under section 34 by not complying with section 28 or 31; or

(ii) committed an offence under section 98C(1) of the Crimes Act 1961.

(5) A Customs officer may continue to detain a person after the person is questioned under section 218(2) if the officer—

(a) is not satisfied that the person has correctly answered a question put to the person; or

(b) is not satisfied that the person has given an answer to a question put to the person; or

(c) has reasonable cause to suspect that the person has—

(i) committed an offence under section 34 by not complying with section 28 or 31; or

(ii) committed an offence under section 98C(1) of the Crimes Act 1961.

(6) A Customs officer may use reasonable force, if necessary, to detain a person under this section.

(7) To avoid doubt, this section does not prevent a person—

(a) being detained or further detained under any other provision of this Act or under any other enactment (if there are lawful grounds for that detention); or

(b) being arrested under section 263.

Compare: 1996 No 27 s 148A

221 Detention for public health or law enforcement purposes

(1) A Customs officer may detain under this section a person—

(a) who is being detained under section 206, 212, or 220 if the Customs officer has reasonable cause to suspect that 1 or more of the provisions of section 208(1)(b) apply to that person; or

(b) who is required to comply with a direction given under section 208 but fails to comply.

(2) A Customs officer may detain a person under this section to obtain the attendance of, or make inquiries of, a specified official who is authorised to do any 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.

(3) A person may be detained under this section for a reasonable period not exceeding the shorter of the following periods:

(a) 4 hours:

(b) if the person's detention commenced under section 206 or 220, the maximum period for which the person could, at the time of his or her detention under this section, have been detained under section 206 or 220 (as the case may be).

(4) A Customs officer may use reasonable force, if necessary, to detain a person under this section.

(5) To avoid doubt, this section does not prevent 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 263.

(6) In this section,—

detain includes deliver a person to a Police station or into the custody of a constable

specified official means a constable, a bailiff, or an employee or agent of a department of State who is authorised in respect of a matter specified in section 208(1)(b).

Compare: 1996 No 27 s 148C

Powers of entry, search warrants, use of aids, etc

222 Entry to Customs-controlled areas and CASEs

A Customs officer may enter any of the following:

(a) any Customs-controlled area:

(b) any Customs-approved area for storing exports (**CASE**):

(c) any other place that it is necessary to pass through to enter a Customs-controlled area or CASE.

Compare: 1996 No 27 ss 19E, 150

223 Entry to examine goods subject to control of Customs

(1) A Customs officer may enter any place for the purpose of exercising any power under section 227 or 228 in respect of goods that are, or that the officer suspects are,—

(a) subject to the control of Customs; and

(b) in a sealed Customs package.

(2) However, a Customs officer must not enter a private dwelling or marae except—

(a) with the consent of an occupier or owner of that dwelling or marae; or

(b) under a warrant.

Compare: 1996 No 27 s 151(7), (8)

224 Patrols, etc to detect offences

A Customs officer may, at any time and in any manner the officer considers appropriate, do any of the following for the purpose of detecting offences under this Act:

(a) patrol on or over any Customs place or Customs-controlled area:

(b) patrol on or over any part of the foreshore or the shore of any lake or lagoon or the banks of any river (including any structure extending from that land) or any part of the adjacent land:

(c) enter and inspect any landing strip, or any building on an aircraft landing strip:

(d) remain in an area referred to in paragraphs (a) to (c) for the purpose of carrying out investigations or surveillance.

Compare: 1996 No 27 s 137

225 Issue of search warrant

(1) An issuing officer, on an application, may issue a search warrant if he or she is satisfied 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 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 under this Act; or

(ii) unlawfully exporting or importing goods; or

(c) any thing that is liable to seizure under this Act.

(2) Part 4 of the Search and Surveillance Act 2012 applies.

(3) However, sections 125(4), 131(5)(f), and 133, and subparts 6 and 8 of Part 4, of the Search and Surveillance Act 2012 do not apply to forfeited goods.

(4) In this section,—

application means an application made by a Customs officer in accordance with subpart 3 of Part 4 of the Search and Surveillance Act 2012

issuing officer has the meaning given to that term in section 3(1) of the Search and Surveillance Act 2012.

Compare: 1996 No 27 s 167

226 Use of dogs and other aids

(1) A Customs officer or any other person who is exercising any power of boarding, entry, or search under this Act may have with him or her, and use for the purpose of searching, any of the following:

(a) a Customs dog:

(b) any chemical substance:

(c) X-ray or imaging equipment or any other mechanical, electrical, or electronic device.

(2) However, neither a Customs officer nor any other person may use a dog or aid of the kind referred in subsection (1) in a private dwelling or marae except—

(a) with the consent of an occupier or owner of that dwelling or marae; or

(b) under a warrant.

Compare: 1996 No 27 s 172

Powers in relation to goods

227 Examination of goods subject to control of Customs

(1) A Customs officer may examine any goods—

(a) that are subject to the control of Customs; or

(b) that a Customs officer has reasonable cause to suspect are subject to the control of Customs.

(2) The power in this section authorises a person exercising it to do any of the following:

(a) examine, weigh, analyse, or test the goods, or cause the goods to be examined, weighed, analysed, or tested:

(b) open, or cause to be opened, any packages in which the goods are contained or suspected to be contained:

(c) examine, weigh, analyse, or test a suitcase, cargo device, or other package:

(d) conduct an examination that includes the physical or chemical testing of, or the drilling into, or the dismantling of, the goods:

(e) conduct an examination facilitated by any other means whatever:

(f) take and use samples of the goods, although the samples must be as small as possible for the purpose for which they are taken:

(g) dispose of those samples.

(3) Regulations may prescribe the way in which samples must be taken, used, or disposed of under subsection (2)(f) or (g).

(4) All reasonable expenses incurred by Customs under this section are a debt due to the Crown by the importer, exporter, or owner of the goods, as the case may be, and are recoverable in the same manner as duty under this Act.

(5) In relation to an electronic device, the power in this section does not authorise a person to access data in the device (*see* section 228) or to access data that is not in the device (*see* section 225, which relates to search warrants).

Compare: 1996 No 27 ss 151(1)–(6), 286(1)(v)

228 Data in electronic devices that are subject to control of Customs

(1) This section applies to any electronic device—

(a) that is subject to the control of Customs; or

(b) that a Customs officer has reasonable cause to suspect is subject to the control of Customs.

(2) Data in the device may be searched in accordance with the following powers:

Powers if threshold met

(a) the power to make an initial search if a Customs officer has reasonable cause to suspect that—

(i) a person in possession of the device has been, is, or is about to be involved in the commission of relevant offending:

(ii) an importer or exporter of a device (other than a person to whom subparagraph (i) applies) has been, is, or is about to be involved in the commission of relevant offending:

(iii) an unaccompanied device has been, is, or is about to be used in the commission of relevant offending and the importer or exporter cannot be reasonably identified or located:

(b) the power to make a full search if a Customs officer has reasonable cause to believe that evidential material relating to relevant offending is in the device:

(c) the power to require a user of the device to provide access information and other information or assistance that is reasonable and necessary to allow a person exercising a power under paragraph (a) or (b) to access the device:

Powers with no threshold

(d) the power to make a full search of a stored value instrument (including power to require a user of the instrument to provide access information and other information or assistance that is reasonable and necessary to allow a person to access the instrument):

(e) the power to make a full search of unaccompanied electronic storage media that is an optical disc imported other than for personal use for the purpose of determining whether it contains any pirated copy within the meaning of Part 7 of the Copyright Act 1994.

(3) However, there is no power under subsection (2) to search material (of any kind) that is accessible from the device but is not stored in the device (*see* section 225, which relates to search warrants).

(4) The powers in subsection (2)(a) and (b) may be used for the purpose of determining whether evidential material relating to relevant offending is in the device.

(5) In this section and section 227,—

access information includes codes, passwords, and encryption keys, and any related information that enables access to an electronic device

data means information in digital format and other intangible material in an electronic device

electronic device or **device** means anything that contains data (including an electronic communication device or any other data storage device)

full search means that—

(a) the device may be accessed and searched using any technology aids; and

(b) the device or data may be copied, reviewed, or evaluated (including by means of previewing, cloning, or other forensic methods); and

(c) the device may be removed or detained for the time reasonably necessary to conduct the search; and

(d) the search must not damage the device or damage or interfere with the operation of the device; and

(e) any transmitting functions on the device must be disabled, wherever possible, before the search of data in the device; and

(f) the device must be returned to the person entitled to its possession at the conclusion of the search (unless evidence of relevant offending is found)

initial search means that—

(a) the device may be accessed, searched, reviewed, or evaluated either manually or by using a technology aid that has completed a privacy impact assessment in consultation with the Privacy Commissioner; and

(b) any temporary files created by a technology aid must be immediately deleted when the search is complete (unless the device is detained for a full search); and

(c) the search must not damage the device or damage or interfere with the operation of the device; and

(d) any transmitting functions on the device must be disabled, wherever possible, before the search of data in the device; and

(e) if the person in possession of the device is in a Customs-controlled area (or an unaccompanied device is in a Customs-controlled area), the device must not be removed from that area; and

(f) the search must take no longer than reasonably necessary; and

(g) the device must be returned to the person entitled to its possession at the conclusion of the search (unless the device is detained for a full search)

relevant offending means—

(a) the importation or exportation of any prohibited goods; or

(b) an offence under this Act; or

(c) the unlawful importation or exportation of any goods

stored value instrument—

(a) means a portable device (for example, a debit card) that contains monetary value that is not physical currency but that can be reloaded or redeemed for cash; and

(b) includes an instrument that is prescribed as a bearer-negotiable instrument under section 153(b) of the Anti-Money Laundering and Countering Financing of Terrorism Act 2009

user means a person who owns, leases, possesses, or controls a device (or an employee of such a person) and who has relevant knowledge of the device.

Duty to assist access to device

(6) Section 130(2) and (3) of the Search and Surveillance Act 2012 (which relates to incrimination) applies, with any necessary modifications, to a requirement of a Customs officer under subsection (2)(c) or (d) (except that section 130(2) and (3) is subject to subpart 5 of Part 4 of that Act if that subpart applies under subsection (14)).

(7) Subsections (8) to (11) apply if a person fails to comply with a requirement of a Customs officer under subsection (2)(c) or (d).

(8) If the person has no reasonable excuse for failing to comply with the requirement, the person commits an offence and is liable on conviction to a fine not exceeding $5,000.

(9) A Customs officer may retain the device for the purpose of arranging access to, and searching, the device.

(10) After the prescribed period, a Customs officer who retains a device may treat it as forfeited, in which case subpart 9 of Part 3 applies.

(11) If a person is convicted of an offence under subsection (8), a court may order the device to be condemned to the Crown, destroyed, or returned subject to any conditions that the court thinks fit.

Procedures applying to seized or produced material

(12) Subpart 6 of Part 4 of the Search and Surveillance Act 2012 applies in respect of devices detained for a full search under this section.

Privilege and confidentiality

(13) If any information or document on a device that is subject to an initial search under subsection (2)(a) is privileged from disclosure within the meaning of section 254, that section applies to the information or document but otherwise the search of the device may continue.

(14) Subpart 5 of Part 4 of the Search and Surveillance Act 2012 (which relates to privilege and confidentiality) applies, with any necessary modifications, in respect of a power to make a full search under subsection (2)(b).

Other powers, protections, and safeguards apply

(15) To avoid doubt, this section does not limit—

(a) the provisions of subpart 4 of Part 4 of the Search and Surveillance Act 2012 that are otherwise applied by this Act:

(b) the powers in section 201 if evidence of identity and entitlement to travel is on a device:

(c) sections 257 and 258 (copying and retention of documents and goods), which apply, with any necessary modifications, to material and information under this section.

Compare: 2012 No 24 s 130

229 Questioning employees of airlines and shipping companies about international cargo or domestic cargo

(1) A Customs officer may question any of the following persons about any international or domestic cargo:

(a) a person who, as an employee of an airline or a shipping company, manages or carries out the receipt, handling, custody, or dispatch of international or domestic cargo by that airline or shipping company:

(b) a person employed by the licensee of a Customs-controlled area that is licensed for any of the purposes described in section 56(1)(c), (e), or (f):

(c) any other person who is in a Customs-controlled area that is licensed for any of the purposes described in section 56(1)(c), (e), or (f).

(2) Section 383(3) (failure to answer questions on ground of self-incrimination) does not apply in respect of a question asked under this section.

Compare: 1996 No 27 s 146(1), (5)

230 Questioning certain persons about cargo to be exported

(1) A Customs officer may question any of the following persons about any cargo to be exported:

(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 that are—

(i) subject to the control of Customs; and

(ii) in a sealed Customs package:

(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 that are—

(i) subject to the control of Customs; and

(ii) in a sealed Customs package:

(c) a person employed by a person described in paragraph (a) or (b).

(2) Section 383(3) (failure to answer questions on ground of self-incrimination) does not apply in respect of a question asked under this section.

Compare: 1996 No 27 s 146(2)–(5)

231 Powers if vehicles suspected to be transporting certain goods involved in offences, etc

(1) This section applies to the following vehicles:

(a) any vehicle that is in a Customs place if a Customs officer has reasonable cause to suspect that—

(i) any dutiable, uncustomed, prohibited, or forfeited goods are in or on the vehicle; or

(ii) there is evidence in or on the vehicle relating to any dutiable, uncustomed, prohibited, or forfeited goods; or

(iii) there is evidence in or on the vehicle relating to any offence under this Act:

(b) any vehicle if a Customs officer has reasonable grounds to believe that—

(i) there are goods in or on the vehicle that have been unlawfully imported or are in the process of being unlawfully exported; or

(ii) there is evidence in or on the vehicle relating to—

(A) the unlawful importation of any goods; or

(B) the unlawful exportation of any goods or an attempt to export any goods unlawfully:

(c) any vehicle if a Customs officer has reasonable cause to suspect that there are in or on the vehicle goods that are subject to the control of Customs and that have been removed from a CASE:

(d) any vehicle if a Customs officer has reasonable cause to suspect that there are goods in or on the vehicle that are—

(i) subject to the control of Customs; and

(ii) in a sealed Customs package.

(2) A Customs officer may—

(a) stop and search the vehicle; and

(b) detain the vehicle for as long as is reasonably necessary for the purposes of the search.

(3) Part 4 of the Search and Surveillance Act 2012, except subparts 2 and 3, applies in respect of the powers under this section.

(4) Despite subsection (3), sections 125(4), 131(5)(f), and 133, and subparts 6 and 8 of Part 4, of the Search and Surveillance Act 2012 do not apply to forfeited goods.

Compare: 1996 No 27 s 144

232 Accounting for goods

The chief executive may, by notice in writing, require the licensee of a Customs-controlled area to immediately—

(a) account 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.

Compare: 1996 No 27 s 153

233 Production of goods

A Customs officer may require the licensee of a Customs-controlled area to produce goods that are shown in any record as being in that area.

Compare: 1996 No 27 s 154

234 Failure to produce or account for goods

(1) A person commits an offence if the person fails to comply with a requirement imposed on the person under—

(a) section 232; or

(b) section 233; or

(c) section 237(2).

(2) It is a defence to a prosecution for an offence under this section if the defendant proves that he or she—

(a) did not have possession or control of the goods; or

(b) was otherwise, for good reason, unable to comply with the requirement.

(3) A person who commits an offence under 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.

Compare: 1996 No 27 s 187

235 Temporary removal of goods from Customs-controlled area

(1) The chief executive may permit goods to be temporarily removed from a Customs-controlled area without payment of duty for any time, and in any quantities, that he or she considers appropriate.

(2) Goods removed under subsection (1)—

(a) remain subject to the control of Customs; and

(b) are treated as being within the Customs-controlled area from which they were removed.

(3) This Act continues to apply to those goods as if they had not been removed.

(4) This section is subject to section 240 (security for payment of duty) and to any other applicable provisions of this Act.

Compare: 1996 No 27 s 48

236 Offences in relation to temporary removal of goods from Customs-controlled area

(1) A person commits an offence if the person, without reasonable excuse, does any act in relation to goods removed from a Customs-controlled area under section 235 that is a contravention of the permission granted by the chief executive under that section.

(2) A person who commits an offence under this section, other than an offence relating to goods that are tobacco (whether manufactured or not), 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) A person who commits an offence under this section involving goods that are tobacco (whether manufactured or not) is liable on conviction,—

(a) in the case of an individual, to—

(i) imprisonment for a term not exceeding 6 months; or

(ii) a fine not exceeding $20,000; or

(iii) both:

(b) in the case of a body corporate, to a fine not exceeding $100,000.

Compare: 1996 No 27 s 200(1)(d), (2), (2A)

237 Powers if goods no longer under control of Customs suspected to be involved in offences or to be forfeited goods

(1) This section applies to goods—

(a) that have ceased to be subject to the control of Customs; but

(b) that the chief executive has reasonable grounds to suspect are—

(i) goods in respect of which an offence under this Act has been committed; or

(ii) forfeited goods.

(2) The chief executive may require a person 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 inspect the goods and do any of the things listed in section 227(2) in relation to them.

(4) If goods referred to in subsection (1)(b)(i) are an electronic device, a Customs officer may do any of the things listed in section 228(2) only if the relevant threshold (if any) is met.

(5) Part 4 of the Search and Surveillance Act 2012, except subpart 3, applies in respect of the powers under this section.

(6) Despite subsection (5), sections 125(4), 131(5)(f), and 133, and subparts 6 and 8 of Part 4, of the Search and Surveillance Act 2012 do not apply to forfeited goods.

Compare: 1996 No 27 s 152

238 Verification of entries

(1) The chief executive may—

(a) require a person entering goods to provide proof (by declaration or the production of documents) of the correctness of the entry; and

(b) refuse to deliver the goods, or to pass the entry, before that proof is provided.

(2) The proof required under subsection (1) may be in addition to any declaration or documents otherwise required by this Act, regulations, or the chief executive's rules.

(3) If 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 (as the case may be) of those goods, he or she may detain the goods for a period that is reasonably necessary to enable—

(a) the goods to be examined; and

(b) any necessary investigation to be made, whether in New Zealand or elsewhere, into the importation or exportation of those goods.

Compare: 1996 No 27 s 155

239 Cancellation and amendment of entries

(1) The chief executive may cancel or amend any entry that is required to be made under this Act for the purpose of—

(a) preventing duplicate entries; or

(b) correcting any entry or any part of an entry.

(2) A cancellation or an amendment does not affect any penalty, liability to seizure, or criminal liability that has already accrued or been incurred in respect of the entry.

(3) The chief executive may, subject to section 142, refund duty in accordance with the cancellation or amendment of the 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.

Compare: 1996 No 27 s 155A

240 Security for payment of duty

(1) The chief executive may require and take security for payment of any duty.

(2) The chief executive may require security—

(a) of a prescribed type:

(b) in relation to a particular transaction, transactions generally, or a class of transactions:

(c) for any period and amount:

(d) on any conditions as to penalty or otherwise that the chief executive considers appropriate.

(3) The security must be given in the form that the chief executive approves.

(4) 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 security is required until the security is given.

(5) The chief executive must release the person who gave the security from the conditions of the security as soon as possible after the chief executive is satisfied that the obligations for which the security was given have been fulfilled.

(6) Subsection (5) is subject to sections 127(3)(b) and 136(2) (which provide for a person to be released from the conditions of security in certain circumstances).

(7) 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: 1996 No 27 s 156

241 New security may be required

(1) If the chief executive is dissatisfied with the sufficiency of any security, he or she may require new security in place of or in addition to the existing security.

(2) Until the new security is 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: 1996 No 27 s 157

242 Power to seize and detain risk goods or goods involved in certain offences, etc

(1) A Customs officer may seize and detain any 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 or documents—

(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 an offence under any 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 342(1)(c) or 345(1) of the Immigration Act 2009:

(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 or documents under this section must, as soon as practicable, deliver those goods or documents into the custody of the appropriate person specified in subsection (4).

(3) Once goods or documents have been delivered to the appropriate person, responsibility for those goods or documents passes to that person.

(4) The appropriate person referred to in subsections (2) and (3) is,—

(a) if the Customs officer suspects that subsection (1)(b)(ii), (iv), or (vi) applies to the goods or documents, a constable; and

(b) if the Customs officer suspects that another provision of subsection (1) applies to the goods or documents, an appropriately authorised officer who—

(i) holds office under the Act specified in that provision; or

(ii) is employed by the department of State that, with the authority of the Prime Minister, is responsible for the administration of that Act.

(5) Part 4 of the Search and Surveillance Act 2012, except subparts 2 and 3, applies with any necessary modifications.

Compare: 1996 No 27 s 175C

243 Power to seize, copy, and detain certain drugs and objectionable publications

(1) A Customs officer may seize and detain any 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 are evidence of the commission of an offence under any of the following enactments:

(a) section 6, 7, 12A, 13, or 22 of the Misuse of Drugs Act 1975:

(b) section 123, 124, 131, or 131A of the Films, Videos, and Publications Classification Act 1993.

(2) A Customs officer who detains goods under this section may, if the appropriate person specified in subsection (4) agrees, do any of the following:

(a) deliver the goods into the custody of the appropriate person:

(b) retain the goods pending further investigation:

(c) treat the goods as forfeited.

(3) Once goods have been delivered to the appropriate person, responsibility for those goods passes to that person.

(4) The appropriate person referred to in subsections (2) and (3) is,—

(a) in relation to an enactment referred to in subsection (1)(a), a constable:

(b) in relation to an enactment referred to in subsection (1)(b), an Inspector of Publications within the meaning of the Films, Videos, and Publications Classification Act 1993.

(5) In this section, **goods** includes documents that would not otherwise be goods, except that subsection (2)(c) does not apply to such documents.

(6) A Customs officer may copy any document that is detained under this section and subsections (2) and (3) apply to any copy as they apply to the original document.

(7) Subparts 1, 5, 6, 7, 9, and 10 of Part 4 of the Search and Surveillance Act 2012 apply in respect of the powers under this section.

(8) Despite subsection (7), sections 125(4), 131(5)(f), and 133, and subpart 6 of Part 4, of the Search and Surveillance Act 2012 do not apply to forfeited goods.

Compare: 1996 No 27 s 175D

244 Detention of goods suspected to be instrument of crime or tainted property

(1) A Customs officer may seize and detain goods if—

(a) the officer is satisfied that the goods are being, have been, or are intended to be exported or imported; and

(b) the goods came to the officer's attention, or into his or her possession, during a search, inspection, audit, or examination under—

(i) this Act; or

(ii) subpart 6 of Part 2, or sections 114 and 115, of the Anti-Money Laundering and Countering Financing of Terrorism Act 2009; and

(c) the officer has good cause to suspect that the goods are an instrument of crime or are tainted property (as those terms are defined in section 5(1) of the Criminal Proceeds (Recovery) Act 2009).

(2) A Customs officer may use reasonable force, if necessary, to seize or detain goods under subsection (1).

(3) If the person from whom goods have been seized and detained under subsection (1) is known, but is not present when the seizure and detention occurs, Customs must, as soon as practicable, make all reasonable efforts to notify that person of the detention and seizure.

(4) A Customs officer may direct that goods seized under subsection (1) be taken to any place of security and detained.

Compare: 1996 No 27 ss 166A, 166C

245 Custody of certain goods detained under section 244

(1) If a craft, vehicle, or animal is detained under section 244, a Customs officer may leave those goods in the custody of—

(a) the person from whom the goods have been seized; or

(b) any other person authorised by the Customs officer who agrees to having custody.

(2) A person who has the custody of goods under subsection (1) must—

(a) hold them in safe keeping—

(i) until a final decision is made under section 247; and

(ii) without charge to the Crown; and

(iii) in accordance with any reasonable conditions that are imposed by Customs; and

(b) on request, make the goods available to a Customs officer; and

(c) not alter or dispose of the goods or remove the goods from New Zealand, unless authorised to do so by a Customs officer; and

(d) on demand, return the goods to the custody of Customs.

Compare: 1996 No 27 s 166F

246 Offences in relation to custody of detained goods

(1) A person who has custody of goods under section 245(1) commits an offence if the person, without reasonable excuse, fails to comply with section 245(2).

(2) A person who commits an offence under subsection (1) is liable on conviction to a fine not exceeding $5,000.

(3) A person commits an offence if the person, without the permission of the chief executive, takes, carries away, or otherwise converts to the person's own use goods to which section 245(2) applies.

(4) A person who commits an offence under subsection (3) is liable on conviction,—

(a) in the case of an individual, to—

(i) imprisonment for a term not exceeding 12 months; or

(ii) a fine not exceeding an amount equal to 3 times the value of the goods to which the offence relates:

(b) in the case of a body corporate, to a fine not exceeding an amount equal to 3 times the value of the goods to which the offence relates.

Compare: 1996 No 27 s 215A

247 Return of goods detained under section 244

(1) Goods seized and detained under section 244 must be returned to the person from whom they were seized as soon as practicable after the first of the following to occur:

(a) the completion of all relevant investigations if the investigations determine that the goods are not an instrument of crime or are not tainted property (as those terms are defined in section 5(1) of the Criminal Proceeds (Recovery) Act 2009):

(b) the expiry of the investigation period.

(2) Despite subsection (1), Customs may continue to detain goods until the relevant proceedings are completed, or the relevant request is determined, if, on or before the expiry of the investigation period,—

(a) a charging document is filed in respect of the relevant qualifying instrument forfeiture offence (as that term is defined in section 5(1) of the Criminal Proceeds (Recovery) Act 2009); or

(b) a foreign country makes a request to the Attorney-General under section 54 or 60 of the Mutual Assistance in Criminal Matters Act 1992 (relating to foreign restraining orders).

(3) In this section and sections 248 and 249, **investigation period**, in relation to goods seized and detained under section 244, means—

(a) the period of 7 days after the date on which the goods were seized and detained; plus

(b) any further period that the court allows under section 248.

Compare: 1996 No 27 s 166D

248 Extension of investigation period

(1) The High Court may once only, by order, extend the 7-day period referred to in section 247(3)(a) for a reasonable period not exceeding 14 days if—

(a) an application for an extension is made within the 7-day period; and

(b) the court is satisfied that—

(i) there is good cause to suspect that the detained goods are an instrument of crime or are tainted property (as those terms are defined in section 5(1) of the Criminal Proceeds (Recovery) Act 2009); and

(ii) the extension is necessary to enable investigations (in or outside New Zealand) in relation to the goods to be completed.

(2) An application must—

(a) be made in writing; and

(b) be served on the person from whom the goods were seized (if that person can be identified and located); and

(c) include the following particulars:

(i) a description of the goods detained:

(ii) the date on which the detention commenced:

(iii) a statement of the facts supporting the good cause to suspect required by section 244(1)(c):

(iv) 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) Customs must make all reasonable efforts to notify the person from whom the goods were seized of the time and place of the hearing of the application at least 24 hours before the hearing.

(4) The person from whom the goods were seized is entitled to appear and be heard on the application.

Compare: 1996 No 27 s 166E

249 Return of cash necessary to satisfy basic needs

(1) The power to detain goods under section 244 does not extend to cash that is seized under that section if Customs is satisfied that the cash is necessary to satisfy basic needs (as defined in section 4(1) of the Terrorism Suppression Act 2002)—

(a) of an individual from whom the cash was seized, or his or her dependants; and

(b) that arise during the investigation period.

(2) Customs must, if practicable, immediately return any cash in relation to which it is satisfied as referred to in subsection (1).

Compare: 1996 No 27 s 166B

Section 249 heading: amended, on 5 October 2021, by section 57 of the Counter-Terrorism Legislation Act 2021 (2021 No 37).

Section 249(1): amended, on 5 October 2021, by section 57 of the Counter-Terrorism Legislation Act 2021 (2021 No 37).

250 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 transported on an aircraft; and

(b) are proposed to be transported on an aircraft.

(2) If a Customs officer detains goods under this section, he or she must, as soon as practicable, deliver those goods into the custody of—

(a) the Aviation Security Service to be dealt with under section 149 of the Civil Aviation Act 2023 as if the goods are suspected by an aviation security officer under that section of being a relevant item or substance; or

(b) the operator.

(3) Once goods have been delivered under subsection (2), responsibility for them passes from Customs to the Aviation Security Service or the operator (as the case may be).

(4) In this section,—

Aviation Security Service has the meaning given to that term in section 5 of the Civil Aviation Act 2023

dangerous civil aviation goods has the meaning given to dangerous goods in section 5 of the Civil Aviation Act 2023

operator has the meaning given to that term in section 5 of the Civil Aviation Act 2023.

relevant item or substance has the meaning given to that term in section 5 of the Civil Aviation Act 2023.

Compare: 1996 No 27 s 175A

Section 250(2)(a): amended, on 5 April 2025, by section 486 of the Civil Aviation Act 2023 (2023 No 10).

Section 250(4) **Aviation Security Service**: amended, on 5 April 2025, by section 486 of the Civil Aviation Act 2023 (2023 No 10).

Section 250(4) **dangerous civil aviation goods**: amended, on 5 April 2025, by section 486 of the Civil Aviation Act 2023 (2023 No 10).

Section 250(4) **operator**: amended, on 5 April 2025, by section 486 of the Civil Aviation Act 2023 (2023 No 10).

Section 250(4) **relevant item or substance**: inserted, on 5 April 2025, by section 486 of the Civil Aviation Act 2023 (2023 No 10).

Powers in relation to documents

251 Requirement to produce documents

(1) This section applies—

(a) if a Customs officer has reasonable cause to suspect—

(i) that goods have been dealt with unlawfully; or

(ii) that a person intends to deal unlawfully with any goods; or

(b) if goods have been seized under this Act.

(2) The chief executive may, by notice in writing, require a person who the chief executive suspects is or was the owner, importer, exporter, or manufacturer of the goods (or the agent of that person) to do any of the following:

(a) produce specified records and documents for inspection by Customs:

(b) allow Customs to make copies of, or take extracts from, specified records and documents:

(c) answer any question about specified records and documents.

(3) In this section, **specified records and documents** means any invoices, accounting records, or other documents that relate to, evidence, or refer to the purchase, importation, exportation, manufacture, cost, or value of or payment for—

(a) the goods; or

(b) any other goods dealt with unlawfully within a period of 7 years preceding the date of the notice under subsection (2).

(4) For the purposes of this section, goods are dealt with **unlawfully** if, in contravention of this Act, they are unlawfully imported, exported, manufactured, undervalued, entered, removed, or otherwise dealt with.

Compare: 1996 No 27 s 160

252 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, to do any of the following:

(a) to produce for inspection by Customs any records or other documents 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 specified Customs officers to take extracts from, or make copies of, records or other documents of the kind referred to in paragraph (a):

(c) to appear before specified Customs officers 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) records or other documents of the kind referred to in paragraph (a).

(2) In this section, despite section 75 of the Evidence Act 2006, **person** includes an employee or officer of a bank.

Compare: 1996 No 27 s 161

253 Offence in relation to failure to comply with requirement under section 251 or 252

(1) A person commits an offence if the person fails to comply with a requirement of the chief executive under—

(a) section 251 (requirement to produce documents); or

(b) section 252 (further powers in relation to documents).

(2) It is a defence to a prosecution for an offence under this section if the defendant proves that he or she—

(a) did not have possession or control of any relevant records or other documents; or

(b) did not have knowledge of any relevant records or other documents.

(3) A person who commits an offence under 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.

Compare: 1996 No 27 s 188

254 Legally privileged communications

(1) Any information or document is, for the purposes of sections 251 and 252, privileged from disclosure if—

(a) it is a confidential communication to which legal professional privilege attaches; and

(b) it is not made or brought into existence for the purpose of committing or furthering the commission of an illegal or wrongful act.

(2) However, any information or document that consists wholly of payments, income, expenditure, or financial transactions of a person (whether a lawyer,

his or her client, or any other person) is not 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 lawyer in connection with a trust account.

(3) If a person refuses to disclose any information or document on the ground that it is subject to legal professional privilege, a Customs officer or that person may apply to a District Court Judge for an order determining whether the claim of privilege is valid.

(4) For the purpose of determining an application under subsection (3), a District Court Judge may demand that the information or document be produced to him or her.

(5) In this section,—

lawyer—

(a) means a barrister or solicitor of the High Court; and

(b) includes a firm (including an incorporated law firm) in which that lawyer is, or is held out to be, a partner, director, or shareholder

trust account has the meaning given to that term in section 6 of the Lawyers and Conveyancers Act 2006.

Compare: 1996 No 27 s 162

255 Audit or examination of records

(1) A Customs officer may at all reasonable times—

(a) enter any place where records are kept under section 354; and

(b) audit or examine those records.

(2) For the purposes of this section, a Customs officer is entitled to full and free access to all places, 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—

(i) collecting any duty under this Act; or

(ii) carrying out any other function of the officer; or

(b) likely to provide any information otherwise required for the purposes of this Act.

(3) However, a Customs officer must not enter a private dwelling or marae except—

(a) with the consent of an occupier or owner of the dwelling or marae; or

(b) under a warrant.

(4) The occupier or owner of the place where records are kept must allow a Customs officer to make copies of, or take extracts from, any of the books, records, or documents referred to in this section.

Compare: 1996 No 27 s 159

256 Chief executive may take possession of and retain records and other documents

(1) The chief executive may take possession of, and retain, any record or other document that is—

(a) presented in connection with any entry; or

(b) required to be produced under this Act.

(2) If the chief executive exercises the power in subsection (1), he or she must, at the request of the person otherwise entitled to the record or other document, provide that person with a certified copy of the record or other document.

(3) Every certified copy of a record or other document retained under this section is admissible in evidence in any court as if it were the original.

Compare: 1996 No 27 s 164

257 Copying of documents obtained during inspection

(1) This section applies if—

(a) a Customs officer carries out an inspection, audit, or examination under this Act; and

(b) a document comes into the possession of the Customs officer during the inspection, audit, or examination; and

(c) the Customs officer has reasonable cause to believe that the document is evidence of the commission of an offence under this Act.

(2) The Customs officer may remove the document for the purpose of making a copy.

(3) Subject to section 258, the document must be returned to the person otherwise entitled to it as soon as practicable after a copy of the document has been made.

(4) Every certified copy of a document copied under this section is admissible in evidence in any court as if it were the original.

Compare: 1996 No 27 s 165

258 Retention of documents and goods obtained during inspection

(1) A Customs officer may seize and retain any documents or goods that come into the officer's possession during an inspection, audit, or examination carried out under this Act if the officer has reasonable cause to believe that the documents or goods are—

(a) evidence of the commission of an offence under this Act; or

(b) intended to be used for the purpose of committing any offence under this Act.

(2) A Customs officer who seizes a document under this section must, at the request of the person otherwise entitled to the document, provide that person with a certified copy of the document.

(3) Every certified copy of a document seized under subsection (1) is admissible in evidence in any court as if it were the original.

(4) If a Customs officer takes possession of and retains documents or goods under this section, the following provisions apply:

(a) in any proceedings for an offence relating to the documents or goods, the court may order that the documents or goods be—

(i) delivered to the person appearing to the court to be entitled to them; or

(ii) otherwise disposed of in any manner and under any conditions that the court thinks fit:

(b) a Customs officer may at any time, unless an order has been made under paragraph (a),—

(i) return the documents or goods to the person from whom they were taken; or

(ii) apply to a District Court Judge for an order as to their disposal:

(c) a District Court Judge may on an application under paragraph (b)(ii) make any order that a court may make under paragraph (a):

(d) if proceedings for an offence relating to the documents or goods are not brought within a period of 3 months after the date on which possession of the documents or goods was taken,—

(i) any person who claims to be entitled to the documents or goods may, after the expiration of that period, apply to a District Court Judge for an order that they be delivered to that person; and

(ii) the District Court Judge may—

(A) adjourn the application, on such terms as he or she thinks fit, to allow proceedings to be brought; or

(B) make any order that a court may make under paragraph (a).

(5) If 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 subsection (4), the operation of the order must be suspended,—

(a) in any case, until the expiry of the period prescribed by Part 6 of the Criminal Procedure Act 2011 for the filing of a notice of appeal or of an application for leave to appeal; and

(b) if a notice of appeal is filed within that prescribed time, until the determination of the appeal; and

(c) if an application for leave to appeal is filed within that prescribed time, until the application is determined; and

(d) if leave to appeal is granted, until the determination of the appeal.

(6) If the operation of an order is suspended until the determination of the appeal, the court determining the appeal may, by order, annul or vary the order made under subsection (4).

Compare: 1996 No 27 s 166

259 Unlawful travel documents

(1) 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.

(2) 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.

(3) An unlawful travel document is prohibited goods for the purposes of sections 26, 191, 205, 206, 210, 211, and 231.

(4) Any documents or goods seized or retained under this section must be dealt with in accordance with section 242.

(5) Section 242(2) to (5) applies with all necessary modifications to any documents or goods retained or seized under this section.

(6) In this section,—

false, in relation to a travel document, means containing information that—

(a) purports to relate to the person to whom it was issued; and

(b) is false or relates in fact to some other person

forged, in relation to a travel document, means—

(a) not issued by the Government by which it purports to have been issued; or

(b) altered without authority

misused, in relation to a travel document, means 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 (as that term is defined in section 2 of the Passports Act 1992); or

(b) a passport (as that term is defined in section 2 of the Passports Act 1992) that has been issued by the Government of a country other than New Zealand; or

(c) a certificate of identity (as that term is defined in section 2 of the Passports Act 1992) 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—

(a) means a travel document that is false, forged, or misused; and

(b) includes any item involved—

(i) in the production of a travel document that is false, forged, or misused; or

(ii) in the unauthorised alteration of a travel document.

Compare: 1996 No 27 s 175B

260 Documents in foreign language

If a document in a foreign language is presented to a Customs officer under or for the purposes of this Act, the officer may require the person who presents the document to supply to the officer (at that person's expense) an English translation of the document prepared by a translator approved by a Customs officer.

Compare: 1996 No 27 s 163

General powers

261 Landing or mooring of Customs craft

(1) A Customs officer, or any other person in charge of a Customs craft, may—

(a) anchor, moor, berth, or land the craft at any place within New Zealand; or

(b) haul the craft ashore at any place within New Zealand.

(2) No person may levy Customs any charge for any craft anchored, moored, berthed, or landed or hauled ashore under subsection (1).

Compare: 1996 No 27 s 138

262 Written authority of agents

(1) This section applies if a person is acting or holding himself or herself out as the agent of another person in relation to any matter for the purposes of this Act.

(2) A Customs officer may require the person to produce written authority from the principal.

(3) The Customs officer may refuse to recognise the agency if that authority is not produced.

Compare: 1996 No 27 s 158

263 Arrest of suspected offenders

(1) A Customs officer may arrest without warrant any person who the officer has reasonable cause to suspect—

(a) has committed, is committing, or is attempting to commit, or is otherwise concerned in the commission of, an offence under section 371 (defrauding the Customs revenue), 376 (threatening or resisting a Customs officer), or 388 (importation or exportation of prohibited goods):

(b) has committed, is committing, or is attempting to commit, or is otherwise concerned in the commission of, an offence under this Act punishable by imprisonment:

(c) has committed an offence under section 98C(1) of the Crimes Act 1961 (which relates to smuggling unauthorised migrants) by transporting any other person into New Zealand on a craft.

(2) If a Customs officer arrests a person under this section, the officer must, as soon as practicable (unless the person is sooner released), deliver the arrested person into the custody of a constable.

(3) If a person who is delivered into custody under subsection (2) is issued with a summons in accordance with sections 28 and 30 of the Criminal Procedure Act 2011, the duties under section 31 of that Act (relating to the filing of a charging document) are the duties of a Customs officer.

Compare: 1996 No 27 s 174

264 Protection of persons acting under authority of Act

Neither the Crown nor any of the following persons are liable for any loss of or damage to any document, goods, vehicle, or craft if that loss or damage is caused by anything done or omitted to be done, or purported to have been done, in good faith and with reasonable care in the carrying out of any function under this Act:

(a) the chief executive:

(b) a Customs officer:

(c) a constable:

(d) a member of the Armed Forces:

(e) a person lawfully assisting any of the persons referred to in paragraphs (a) to (d).

Compare: 1996 No 27 s 175

Controlled delivery

265 Definition for sections 266 and 267

In sections 266 and 267, **controlled item** means—

(a) an objectionable publication; or

(b) any goods that have been designed, manufactured, or adapted to facilitate the commission of a crime involving dishonesty; or

(c) any tobacco.

266 Controlled delivery

Controlled delivery

(1) This section applies if a Customs officer believes on reasonable grounds—

(a) that there is a controlled item in or on any craft, package, mail, vehicle, or goods; and

(b) that the controlled item has,—

(i) been imported in contravention of section 95 or 95A; or

(ii) in the case of a controlled item referred to in section 265(c), been imported and an offence has been committed under any of sections 363, 364, 366 to 368, and 371 in respect of the item.

(2) A Customs officer may, for the purpose of investigating the matter,—

(a) leave the controlled item, or substitute an item in the place of the controlled item, in or on the craft, package, mail, vehicle, or goods; and

(b) do any of the following:

(i) allow the craft or vehicle to leave:

(ii) deliver the package, goods, or mail:

(iii) allow the package, goods, or mail to be collected by, or delivered to, the consignee or a person acting on behalf of the consignee:

(iv) allow the package, goods, or mail to be delivered by a person who has agreed to co-operate with Customs:

(v) return the package, goods, or mail to the appropriate carrier for delivery to the addressee.

Liability

(3) A Customs officer is not under any criminal or civil liability for anything done or omitted to be done, or purported to have been done, in good faith and with reasonable care in the exercise of any power under this section.

(4) An officer or employee of a carrier referred to in subsection (2)(b)(v) is not under any criminal or civil liability for anything done in the course of his or her duties in respect of any package, goods, or mail returned to the carrier under subsection (2)(b)(v).

Section 266(1)(b)(i): replaced, on 1 July 2020, by section 12 of the Customs and Excise (Tobacco) Amendment Act 2020 (2020 No 16).

267 International controlled delivery

(1) The following persons are not subject to any criminal or civil liability as a result of anything done or omitted to be done, or purported to have been done, in good faith and with reasonable care in relation to taking part in an international controlled delivery:

(a) a constable:

(b) a Customs officer:

(c) an officer of a relevant law enforcement agency with which there is an agreement under subsection (2)(a).

(2) In this section, **international controlled delivery** means allowing a controlled item (or an item substituted in the place of a controlled item) to pass through or into the territory of 1 or more countries—

(a) with the agreement of the relevant law enforcement agencies of the countries that it is to pass through or into; and

(b) with a view to identifying persons involved in—

(i) the commission of an offence under section 371, 388, 389, 390, or 391 in respect of the controlled item; or

(ii) conduct that would, if done in New Zealand, be an offence under section 371, 388, 389, 390, or 391 in respect of the controlled item; or

(iii) the design, manufacture, or adaption of goods to facilitate the commission of a crime involving dishonesty.

Drugs smuggling outside New Zealand, etc

Heading: inserted, on 1 October 2018, by section 4 of the Maritime Powers Extension Act 2018 (2018 No 38).

267A Powers for dealing with drugs smuggling outside New Zealand, etc

[Repealed]

Section 267A: repealed, on 21 May 2022, by section 52(1) of the Maritime Powers Act 2022 (2022 No 23).

Part 5
Administrative provisions

Subpart 1—Organisation of Customs

268 New Zealand Customs Service

The department of State called the New Zealand Customs Service continues.

Compare: 1996 No 27 s 5(1)

269 Comptroller of Customs

The chief executive of the New Zealand Customs Service continues to be known as the Comptroller of Customs.

Compare: 1996 No 27 s 5(2)

270 Customs officers

The chief executive may appoint suitably qualified and trained persons to be Customs officers.

Compare: 1996 No 27 s 2(1)

271 Authorised persons: individual authorisations

(1) The chief executive may authorise a suitably qualified and trained person who is not a Customs officer to carry out any functions of a Customs officer under this Act.

(2) An authorisation under subsection (1) must—

- (a) be in writing; and
- (b) specify—
  - (i) the authorised person; and
  - (ii) the functions that may be carried out by the authorised person; and
  - (iii) the term of the authorisation, which must not be for more than 3 years.

(3) The chief executive may renew any authorisation given under subsection (1) for a period of not more than 3 years.

(4) A person who is authorised under this section must, for the purposes of this Act, be treated as a Customs officer in relation to the carrying out by that person of any functions in accordance with that person's authorisation.

(5) The chief executive may revoke an authorisation given under this section—

- (a) for incapacity, neglect of duty, or misconduct; or
- (b) on the written request of the authorised person; or

(c) if the chief executive considers that the authorisation is no longer necessary.

(6) If a person ceases to be an authorised person under this section, he or she must surrender to the chief executive all articles and documents received by him or her in relation to the authorisation.

Compare: 1996 No 27 s 6

272 Authorised persons: class authorisations

(1) This section applies if the chief executive—

(a) is aware of a particular incident or other circumstances; and

(b) is satisfied on reasonable grounds—

(i) that the incident or other circumstances require, or will require within the next 30 days, action by Customs; and

(ii) that, for purposes connected with that action (the **relevant purposes**), it is reasonably necessary to authorise a particular class of persons to carry out any functions of a Customs officer under this Act; and

(iii) that the number of persons within the class is not more than is reasonably necessary for the relevant purposes; and

(iv) that every person within the class is suitably qualified and trained.

(2) The chief executive may, for the relevant purposes only, authorise the class of persons to carry out the functions.

(3) The authorisation must—

(a) be in writing; and

(b) specify—

(i) the class of persons; and

(ii) the incident or other circumstances; and

(iii) the action that Customs is, or will be, required to take; and

(iv) the relevant purposes; and

(v) the functions covered by the authorisation; and

(vi) the term of the authorisation, which must not be for more than 30 days.

(4) Subsection (3)(b)(vi) does not prevent a new authorisation being given from the end of the term (if the requirements of subsection (1)(a) and (b) are met).

(5) A person who is within a class of persons authorised under this section—

(a) may carry out, for the relevant purposes only, any of the functions specified in the authorisation; and

(b) must, for the purposes of this Act, be treated as a Customs officer in relation to the carrying out of those functions by the person.

(6) The person must, at the end of the term of the authorisation, surrender to the chief executive all articles or documents received by him or her in relation to the authorisation (unless a new authorisation begins immediately).

(7) The chief executive may revoke an authorisation given under this section.

(8) The chief executive may not delegate any of his or her powers under this section to another person.

273 Identity cards

(1) The chief executive must give an identity card (or another means of identification) to—

(a) every Customs officer; and

(b) every authorised person who is neither—

(i) a Police employee (as that term is defined in section 4 of the Policing Act 2008); nor

(ii) a member of the Armed Forces.

(2) A Customs officer or an authorised person carrying out any function under this Act must, on request, produce his or her identity card (or other means of identification) for inspection.

(3) A person who ceases to be a Customs officer or an authorised person must, as soon as is reasonably practicable, surrender his or her identity card (or other means of identification) to the chief executive.

Compare: 1996 No 27 s 7

274 Customs flag

The Customs flag consists of the New Zealand Ensign with the addition, in the fly, of the words “NZ Customs Service” in bold letters.

Compare: 1996 No 27 s 8

275 Power of chief executive to determine seals, etc

The chief executive may determine the form of any seal, stamp, mark, or marking for the use of Customs.

Compare: 1996 No 27 s 278

Subpart 2—Exports

Customs-approved areas for storing exports (CASEs)

276 Areas that may be licensed as CASEs

(1) An area may be licensed by the chief executive as a CASE if the area is used for the purpose of storing goods for export until they are—

(a) transported (either directly or via another area or areas) to the place of shipment:

(b) shipped.

(2) To avoid doubt, an area may be licensed as a CASE even if it is used for some other purpose (including consolidating, packing, repacking, treating, or otherwise handling the stored goods).

Compare: 1996 No 27 s 19B

277 Application for CASE licence

(1) An eligible person may apply for an area to be licensed as a CASE.

(2) Sections 57 to 61 (except sections 59(1)(c) and 61(a)(iii)) apply to an application under this section as if the application were an application for the area concerned to be licensed as a Customs-controlled area.

Compare: 1996 No 27 s 19C

278 CASE licence

(1) Sections 63 to 65 apply to a licence for a CASE granted under section 59 (as applied by section 277(2)) as if it were a licence for a Customs-controlled area granted under section 59.

(2) However, for the purposes of subsection (1), section 64(1)(c) must be read as if the reference to the purpose or purposes for which the area is licensed were a reference to the purpose in section 276(1).

Compare: 1996 No 27 s 19D

279 Customs facilities in CASEs, etc

(1) The chief executive may, by notice in writing, require the licensee of a CASE to do any of the following:

(a) provide and maintain any operating areas, accommodation, facilities, buildings, equipment, or storage that the chief executive considers reasonably necessary and suitable for Customs to carry out any of its functions under this Act:

(b) store goods subject to the control of Customs in any manner and location that the chief executive considers appropriate.

(2) A licensee who is dissatisfied with a requirement imposed by the chief executive under subsection (1) may, within 20 working days after the date on which notice of the requirement is given, appeal to a Customs Appeal Authority against the requirement.

(3) The licensee of a CASE may levy Customs a reasonable charge for any operating areas, accommodation, facilities, buildings, equipment, or storage provided in accordance with subsection (1)(a).

Compare: 1996 No 27 s 19H

280 Offence in relation to Customs facilities in CASEs, etc

(1) The licensee of a CASE commits an offence if the licensee, without reasonable excuse, fails to comply with a requirement imposed on the licensee by the chief executive under section 279(1).

(2) A person who commits an offence under 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.

Compare: 1996 No 27 s 200(1)(ab), (2)

Customs-approved secure exports schemes and seals

281 Customs-approved secure exports schemes

(1) The chief executive may approve a scheme for the packaging and shipping of goods for export as a Customs-approved secure exports scheme.

(2) The purposes of a Customs-approved secure exports scheme are to—

(a) ensure that goods are packaged in Customs-approved secure packages—

(i) by approved persons; and

(ii) in the approved manner; and

(iii) subject to approved conditions; and

(b) provide for the transportation of Customs-approved secure packages by approved persons, in an approved manner, to the place of shipment; and

(c) ensure that goods packaged in Customs-approved secure packages are subject to the control of Customs until the goods depart from New Zealand.

(3) Any person involved in the handling, transportation, or exportation of goods for export may apply to the chief executive for a scheme to be approved as a Customs-approved secure exports scheme.

(4) Schedule 6 applies to Customs-approved secure exports schemes and applications for Customs-approved secure exports schemes.

Compare: 1996 No 27 ss 2(1), 53C(1), 53D

282 Customs-approved export seals

(1) The chief executive may, by notice in writing, appoint a Customs officer or any other person (an **appointee**) to use Customs-approved export seals in relation to packages of goods to be exported.

(2) A **Customs-approved export seal** is a seal, marking, substance, or device approved by the chief executive for the purposes of this section—

(a) to show—

(i) that a package of goods to be exported was secured in an approved way; and

(ii) that, when secured, the package contained only the goods indicated; and

(b) to help identify interference or tampering with the package after it is secured.

(3) A notice under subsection (1) must specify—

(a) the date from which the appointment takes effect; and

(b) the circumstances in which the appointee may use a Customs-approved export seal in relation to a package of goods; and

(c) the circumstances in which the appointee may alter, remove, damage, dispose of, or otherwise interfere with a Customs-approved export seal that has been used in relation to a package of goods.

(4) An appointee may use a Customs-approved export seal in relation to a package of goods that has not had a Customs-approved export seal used in relation to it only if—

(a) the exporter concerned (or his or her agent or employee) consents to the seal being used; or

(b) the goods have been examined or searched under this Act and the seal is applied immediately after the examination or search.

(5) In the case of a package of goods that are not goods to be exported under a Customs-approved secure exports scheme, an appointee who uses a Customs-approved export seal in relation to the package must also attach a warning notice that explains in terms approved by the chief executive—

(a) that the goods in the package are subject to the control of Customs from the time when a Customs-approved export seal is first used in relation to the package until the goods have departed from New Zealand:

(b) that the powers of detention and search in section 231 are available in respect of a vehicle in New Zealand if it is suspected that there are in or on the vehicle any goods that are—

(i) subject to the control of Customs; and

(ii) in a package in relation to which a Customs-approved export seal has been used:

(c) that a Customs officer may, under section 230, question any of the following persons about any cargo that is to be exported:

(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 that are—

(A) subject to the control of Customs; and

(B) in a package in relation to which a Customs-approved export seal has been used:

(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 that are—

(A) subject to the control of Customs; and

(B) in a package in relation to which a Customs-approved export seal has been used:

(iii) a person employed by a person described in subparagraph (i) or (ii):

(d) that the powers in sections 223, 227, and 228 (which include powers of examination) are available in respect of goods that are (or are suspected to be)—

(i) subject to the control of Customs; and

(ii) in a package in relation to which a Customs-approved export seal has been used.

Compare: 1996 No 27 ss 2(1), 53A(1)–(4), 53B

283 Amendment or revocation of notice of appointment under section 282

(1) A notice of appointment under section 282 may be amended or revoked by the chief executive by a notice in writing given to the appointee concerned.

(2) A notice under subsection (1) must specify the date from which the amendment or revocation takes effect.

Compare: 1996 No 27 s 53A(5)

Subpart 3—Administrative penalties

284 Definitions for subpart

In this subpart,—

entry—

(a) means an entry under section 75, 81, or 89, including—

(i) every amendment of the entry; and

(ii) every amendment of an assessment under section 112 that relates to the entry; and

(iii) every declaration, invoice, certificate, written statement, or other document that is required or authorised to be made or produced by the person making the entry or an amendment referred to in subparagraph (i) or (ii); and

(b) includes, in the case of goods that are treated by regulations made for the purposes of section 405(c) as having been entered under section 75 or 89, any document that is required to be lodged with Customs before the goods will be treated as having been entered

materially incorrect, in relation to an entry, means,—

(a) in the case of an entry under section 75, containing an error or omission in relation to any of the following matters:

(i) the overseas supplier's identity:

(ii) the importer's identity:

(iii) the identity of the person making the entry:

(iv) the identification of the importing craft or its voyage number:

(v) the bill of lading, air waybill, or container identification details:

(vi) the supplier's invoice number:

(vii) any permit number or code:

(viii) the Tariff item in which the goods are classified under the Tariff Act 1988:

(ix) the statistical quantity of the goods:

(x) the currency code for the currency in which the goods are traded:

(xi) the value for duty expressed in the currency in which the goods are traded:

(xii) the value for duty expressed in New Zealand currency:

(xiii) the country of origin of the goods:

(xiv) the country from which the goods have been exported:

(xv) 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 the country of exportation:

(xvi) the insurance costs associated with transporting the goods to New Zealand, inclusive of any insurance costs in the country of exportation:

(b) in the case of an entry under section 81, containing an error or omission in relation to any of the following matters:

(i) the licensee of the Customs-controlled area from which the goods are removed:

(ii) the owner of the goods:

(iii) the Customs-controlled area from which the goods are removed:

(iv) the identity of the person making the entry:

(v) the period in respect of which the entry is being made:

(vi) the item number in Part A of the Excise and Excise-equivalent Duties Table (consisting of 6 digits and 1 alphabetical check letter) for the goods:

(vii) the statistical quantity of the goods:

(viii) the supplementary quantity of the goods:

(c) in the case of an entry under section 89, containing an error or omission in relation to any of the following matters:

(i) the exporter's identity:

(ii) the identity of the person making the entry:

(iii) the identification of the exporting craft or its voyage number:

(iv) the bill of lading, air waybill, booking reference, or container identification details:

(v) the process indicator:

(vi) any permit number or code:

(vii) the Tariff item in which the goods are classified under the Tariff Act 1988:

(viii) the statistical quantity of the goods:

(ix) the final country of destination to which the goods are being exported:

(x) the date of export:

(xi) the currency code for the currency in which the goods are traded:

(xii) the value of the goods expressed in New Zealand currency:

(xiii) the value of the goods expressed in the currency in which they are traded:

(xiv) the amount of any drawback claimed, if the entry includes a claim for drawback:

(d) in the case of a document covered by paragraph (b) of the definition of entry in this section, containing a material error or omission in relation to a matter that the document is required to address.

Compare: 1996 No 27 s 128

285 Imposition of penalty

(1) The chief executive may issue a penalty notice to a person if the chief executive is satisfied that—

(a) an entry made by that person contains an error or omission; and

(b) either of the following applies:

(i) as a result of the error or omission, an amount of duty payable—

(A) has not been paid or declared for payment; or

(B) would not have been paid or declared for payment:

(ii) the entry is otherwise materially incorrect.

(2) A penalty notice may require the person to pay to the chief executive, by way of penalty, an amount calculated in accordance with section 287(1) in addition to any duty payable.

Compare: 1996 No 27 s 128A(1), (2)

286 When penalty must be paid

The person to whom a penalty notice is issued under section 285(1) must pay the penalty to Customs within 20 working days after the date on which the notice is issued.

Compare: 1996 No 27 s 128A(3)(a)

287 Calculation of amount of penalty

(1) The amount of the penalty imposed under section 285 is as follows (subject to subsection (2)):

(a) if the error or omission has resulted in duty payable not being paid or declared for payment and—

(i) the chief executive is satisfied that the error or omission was made knowingly, 100% of the duty unpaid or undeclared, up to a maximum $50,000:

(ii) the chief executive is satisfied that the error or omission occurred because the person was grossly careless, 40% of the duty unpaid or undeclared, up to a maximum $35,000:

(iii) if the chief executive is satisfied that the error or omission occurred because the person did not take reasonable care (but was not grossly careless), 20% of the duty unpaid or undeclared, up to a maximum $20,000:

(iv) none of subparagraphs (i) to (iii) applies, $200:

(b) if the error or omission has resulted in excess drawback being paid or claimed and—

(i) the chief executive is satisfied that the error or omission was made knowingly, 100% of the excess drawback paid or claimed, up to a maximum $50,000:

(ii) the chief executive is satisfied that the error or omission occurred because the person was grossly careless, 40% of the excess drawback paid or claimed, up to a maximum $35,000:

(iii) the chief executive is satisfied that the error or omission occurred because the person did not take reasonable care (but was not grossly careless), 20% of the excess drawback paid or claimed, up to a maximum $20,000:

(iv) none of subparagraphs (i) to (iii) applies, $200:

(c) if the error or omission has resulted in the entry being otherwise materially incorrect, $200.

(2) If the amount given by subsection (1)(a)(i), (ii), or (iii) or (b)(i), (ii), or (iii) is less than $200, the amount of the penalty is $200 instead of the amount given.

(3) If an error or omission in an entry under section 75 resulted in an amount of duty payable not being paid or declared for payment but subsequently the goods become free of duty or subject to a lower rate of duty under Part 1 or 2 of the Tariff, the amount of the penalty under subsection (1) must be calculated as if the liability for duty had not changed.

Compare: 1996 No 27 s 128B

288 No penalty in certain cases

A person is not liable for a penalty under section 285 if—

(a) the person voluntarily discloses the relevant error or omission to Customs, except where the disclosure is made after Customs has notified the person of any of the following:

(i) that the goods to which the entry relates have been selected for examination by Customs:

(ii) that documentation is required to be presented to Customs in relation to the entry:

(iii) that Customs intends to conduct an audit or investigation in relation to—

(A) a selection of entries that includes the entry; or

(B) entries made over a period of time that includes the time when the entry was made; or

(b) the person satisfies the chief executive that the person formed a view as to the relevant facts pertaining to the entry that, while incorrect, was reasonable having regard to the information available to the person when the entry was prepared; or

(c) the person satisfies the chief executive that—

(i) the person acted in good faith on information provided by the importer, exporter, or supplier of the goods (as the case may be) to which the entry relates; and

(ii) reliance on the accuracy or completeness of that information was reasonable in the circumstances; or

(d) a charging document for an offence under this Act is filed in relation to the error or omission; or

(e) the date on which the error or omission was first identified is more than 4 years after the date of lodgement of the entry; or

(f) section 345 (no liability where Customs ruling relied on) applies.

Compare: 1996 No 27 s 130

289 Late payment of penalty: further penalties payable

(1) This section applies in respect of a penalty imposed under section 285 (the **original penalty**) if the original penalty is not fully paid to Customs within the period given by section 286 (the **payment period**).

(2) There is payable a further penalty equal to 1% of the amount of the original penalty still to be paid to Customs as at the expiry of the payment period.

(3) An additional further penalty is payable if the original penalty is not fully paid to Customs before the close of the seventh day after the expiry of the payment period.

(4) The additional further penalty is equal to 4% of the amount of the original penalty still to be paid to Customs as at the close of that seventh day.

(5) A further penalty payable under this section is payable by the person to whom the penalty notice was issued under section 285(1).

290 Further penalty may be remitted or refunded

The chief executive may remit or refund the whole or any part of any further penalty payable under section 289.

Compare: 1996 No 27 s 128C(3)

291 Administrative review of, or appeal against, decision to issue penalty notice

(1) This section applies if a person to whom a penalty notice has been issued under section 285(1) is dissatisfied with any of the following decisions:

(a) the decision to issue the penalty notice:

(b) the decision as to the amount of the penalty.

(2) The person may, within 20 working days after the date on which the penalty notice is issued, do 1 (but not both) of the following:

(a) apply for an administrative review of the decision:

(b) appeal to a Customs Appeal Authority against the decision.

Compare: 1996 No 27 ss 128A(3)(b), 128D

292 Administrative review of, or appeal against, decision to refuse to remit or refund further penalty

(1) This section applies if a person by whom any further penalty is payable under section 289 is dissatisfied with a decision to refuse to remit or refund the whole or any part of the further penalty under section 290.

(2) The person may, within 20 working days after the date on which notice of the decision is given, do 1 (but not both) of the following:

(a) apply for an administrative review of the decision:

(b) appeal to a Customs Appeal Authority against the decision.

Compare: 1996 No 27 s 128D

293 General rules about penalties

(1) The amount of any penalty imposed under section 285 constitutes a debt due to the Crown that is recoverable by the chief executive in any court of competent jurisdiction.

(2) If the amount of the penalty is paid by or on behalf of the person from whom it is due,—

(a) that person is not liable to prosecution for an offence in relation to the error or omission; and

(b) the goods in relation to which the error or omission occurred are not liable to seizure.

(3) Subsection (2) does not apply in relation to goods that have been forfeited because the importation or exportation of the goods is prohibited (or otherwise unlawful).

(4) The amount of any further penalty payable under section 289 constitutes a debt due to the Crown that is recoverable by the chief executive in any court of competent jurisdiction.

Compare: 1996 No 27 s 128A(5)–(7)

294 Obligation to pay penalty not suspended by review or appeal

(1) The obligation to pay, and the right to receive and recover, any penalty or further penalty imposed or payable under section 285 or 289 is not suspended by—

(a) an application for an administrative review under section 291 or 292; or

(b) any appeal or legal proceedings.

(2) If the administrative review or appeal is successful, the penalty or further penalty must immediately be refunded by the chief executive in whole or in part (as the case requires) to the person by or on whose behalf it was paid.

(3) Sections 127(4) (obligation to refund duty suspended) and 128 (chief executive to pay interest on duty refunded on appeal, etc) apply, with any necessary modifications, to any penalty imposed under section 285 that is required to be refunded under this section as if that penalty were duty.

Compare: 1996 No 27 s 129

Subpart 4—Automated electronic systems

295 Definitions for subpart

In this subpart,—

specified person means the chief executive, Customs, or a Customs officer (as the case may be) carrying out a function under a specified provision

specified provision means—

(a) any provision in—

(i) subpart 1 of Part 3 (arrival and departure of goods, persons, and craft):

(ii) subpart 3 of Part 3 (entry and accounting for goods):

(iii) subpart 9 of Part 3 (forfeiture, seizure, and condemnation):

(iv) Part 4 (Customs powers):

(v) Part 6 (final and miscellaneous provisions):

(b) any other provision of this Act that is declared by regulations to be a specified provision.

Compare: 1996 No 27 s 274A(1), (7)

296 Use of automated electronic systems by Customs to make decisions, exercise powers, comply with obligations, and take related actions

(1) The chief executive may approve the use of automated electronic systems by a specified person to make any decision, exercise any power, comply with any obligation, or carry out any other related action under any specified provision.

(2) The chief executive may approve the use of an automated electronic system only if—

(a) the system is under the chief executive's control; and

(b) the chief executive is satisfied that the system has the capacity to make the decision, exercise the power, comply with the obligation, or take the related action with reasonable reliability; and

(c) 1 or more persons are always available, as an alternative, to make the decision, exercise the power, comply with the obligation, or take the related action.

(3) An automated electronic system approved under subsection (1)—

(a) may include components that are outside New Zealand; and

(b) may also be used for making decisions, exercising powers, complying with obligations, or taking related actions under other enactments.

(4) The chief executive must consult the Privacy Commissioner on the terms and the privacy implications of any arrangements to use an automated electronic system under subsection (1) before—

(a) finalising the arrangements; or

(b) making any significant variation to the arrangements.

(5) A decision that is made, a power that is exercised, an obligation that is complied with, or a related action that is taken using an automated electronic

system under this section must be treated for all purposes as if it were made, exercised, complied with, or taken (as the case may be) by a specified person authorised by the specified provision to make the decision, exercise the power, comply with the obligation, or take the related action.

Compare: 1996 No 27 s 274A(1)–(6)

297 Publication of details of arrangements for use of automated electronic systems

(1) The chief executive must ensure that details of any arrangements to use an automated electronic system, and any variation or revocation of the arrangements, are published as soon as practicable—

(a) in the *Gazette*; and

(b) on an Internet site that—

(i) is maintained by, or on behalf of, the chief executive; and

(ii) is publicly available free of charge.

(2) Those details must identify—

(a) the relevant decision, power, obligation, or related action to be made, exercised, complied with, or taken under the specified provision; and

(b) the automated electronic system that is to make, exercise, comply with, or take that decision, power, obligation, or related action.

(3) The use of an automated electronic system is not made invalid by reason only of a failure to publish details of it or any variation to it as soon as practicable in accordance with subsection (1).

Compare: 1996 No 27 s 274B

298 Variation and substitution of decisions made by automated electronic systems

(1) This section applies to a decision made by an automated electronic system (the **relevant decision**).

(2) A specified person may—

(a) vary, or add to, the terms or conditions of the relevant decision; or

(b) substitute a decision for the relevant decision if the specified person is satisfied that the new decision—

(i) could have been made under the same specified provision as the relevant decision; and

(ii) is more favourable to the affected person.

(3) To avoid doubt, a specified person is not obliged to exercise any power in subsection (2) in respect of the relevant decision.

Compare: 1996 No 27 s 274C

299 Appeals and reviews unaffected

To avoid doubt, a person has the same rights of appeal or right to apply for administrative or judicial review (if any) in relation to a decision made, power exercised, obligation complied with, or other action taken by an automated electronic system as the person would have had if the decision, power, obligation, or other action had been made, exercised, complied with, or taken by a specified person.

Compare: 1996 No 27 s 274D

Subpart 5—General provisions about information (including joint border management)

300 Definitions for subpart

In this subpart,—

border information has the meaning given to that term in section 302(4)

Customs includes the chief executive and any Customs officer

JBMS has the meaning given to that term in section 302(4)

use, in relation to information, includes record, hold, store, access, search, inspect, copy, process, analyse, or manipulate the information.

Compare: 1996 No 27 s 282D

301 Customs' general powers for using information

(1) This section applies to—

(a) any information that is—

(i) provided to, or obtained or generated by, Customs under this Act or any other enactment; or

(ii) otherwise provided to, or obtained or generated by, Customs for a lawful purpose related to, or connected with, any function of Customs under this Act or any other enactment; and

(b) without limiting paragraph (a), any border information that is stored in a JBMS under—

(i) section 302; or

(ii) section 41G of the Biosecurity Act 1993.

(2) Customs may use the information for any of the following purposes:

(a) the purpose for which the information was, or was required or permitted to be, provided, obtained, or generated:

(b) any lawful purpose relating to, or connected with, the carrying out of any function of Customs under this Act or any other enactment.

(3) If the information is provided to, or obtained or generated by, Customs under section 48 or 49 or 357, Customs may also use the information for any of the other purposes referred to in section 47 or 357(5).

(4) Customs must take all reasonable steps to protect the information from being unlawfully—

(a) used; or

(b) disclosed outside of Customs.

(5) Despite subsection (2), Customs may not hold or store personal information for the purpose only of carrying out any function under subpart 6 of this Part.

(6) Nothing in this section limits, or prevents, the use of information that is authorised or required under any other provision of this Act.

Compare: 1996 No 27 ss 279, 282A(1), (2), 282L

302 Joint border management

(1) Customs may—

(a) collect any border information; and

(b) store any border information in a Joint Border Management System.

(2) Information privacy principles 2 and 3 in section 22 of the Privacy Act 2020 do not restrict the collection or storage of personal information under subsection (1).

(3) A person who is required to provide any border information to Customs may comply with that requirement by providing the border information to the Ministry, or an agency other than Customs, acting under section 41G of the Biosecurity Act 1993.

(4) In this section,—

border information—

(a) means information—

(i) that is required to be provided to Customs or the Ministry under this Act or Part 3 of the Biosecurity Act 1993 for a border protection purpose; or

(ii) that is otherwise lawfully provided or collected for a border protection purpose; and

(b) includes (without limitation) information about any of the following:

(i) goods, persons, or craft:

(ii) import or export transactions:

(iii) importers or exporters; and

(c) also includes information that is derived from, or related to, any information referred to in paragraphs (a) and (b) or any analysis of information referred to in paragraphs (a) and (b)

border protection purpose means any lawful purpose relating to, or connected with, the carrying out of any of the following:

(a) a function of Customs under this Act:

(b) a Ministry-related border management function

Joint Border Management System or **JBMS** means any system operated for the collection, storage, and use of border information by Customs and the Ministry

Ministry—

(a) means the Ministry as that term is defined in section 2(1) of the Biosecurity Act 1993; and

(b) includes—

(i) the Director-General of Biosecurity; and

(ii) an inspector appointed under section 103 of the Biosecurity Act 1993

Ministry-related border management function means any of the following:

(a) any function of the Ministry under Part 3 of the Biosecurity Act 1993:

(b) any other function of the Ministry under the Biosecurity Act 1993 that is necessary—

(i) to achieve the purpose of Part 3 of that Act; or

(ii) for the administration of Part 3 of that Act:

(c) any function of the Ministry under any of the following Acts in relation to the effective management of risks associated with the movement of goods, persons, or craft into or out of New Zealand:

(i) the Food Act 2014:

(ii) the Hazardous Substances and New Organisms Act 1996:

(iii) the Agricultural Compounds and Veterinary Medicines Act 1997:

(iv) the Animal Products Act 1999:

(v) the Wine Act 2003:

(vi) any other Act specified by Order in Council made under section 165A of the Biosecurity Act 1993.

Compare: 1996 No 27 ss 131A, 282D, 282J, 282K

Section 302(2): amended, on 1 December 2020, by section 217 of the Privacy Act 2020 (2020 No 31).

303 Relationship between this Act and other law relating to information use and disclosure

(1) Nothing in this Act limits, or prevents, the use or disclosure of information that—

(a) is authorised or required under any other enactment; or

(b) is permitted under any other enactment.

(2) Nothing in the information privacy principles in section 22 of the Privacy Act 2020 limits the use or disclosure of personal information by Customs in the carrying out of its functions under this Act.

Section 303(2): amended, on 1 December 2020, by section 217 of the Privacy Act 2020 (2020 No 31).

Subpart 6—Disclosure of information

304 Definitions for subpart

In this subpart, unless the context otherwise requires,—

access a database includes to access a database remotely

arrival and departure information, in relation to any person, means—

(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 has arrived or, as the case may be, departed by aircraft, the flight number of the aircraft:

(g) if the person has arrived or, as the case may be, departed by ship, the name of the ship:

(h) the date and time that the person arrived in or, as the case may be, departed from New Zealand

Category 1 information means any information held by Customs,—

(a) including information relating to—

(i) persons:

(ii) goods:

(iii) craft; but

(b) excluding Category 2 information

Category 2 information means—

(a) the following information in relation to any person:

(i) arrival and departure information:

(ii) biometric information:

(iii) passenger name record information; and

(b) intelligence assessments and reports generated by Customs

chief executive of a government agency includes the Commissioner of Police

Commissioner means the Commissioner of Inland Revenue (as that term is defined in section 3(1) of the Tax Administration Act 1994)

database means any information recording system or facility used by Customs to store information

government agency means—

(a) a public service agency (as defined in section 5 of the Public Service Act 2020), other than—

(i) the New Zealand Customs Service; and

(ii) the Government Communications Security Bureau; and

(iii) the New Zealand Security Intelligence Service; and

(iv) Statistics New Zealand:

(b) a Crown agent named in Part 1 of Schedule 1 of the Crown Entities Act 2004:

(c) an independent Crown entity named in Part 3 of Schedule 1 of the Crown Entities Act 2004:

(d) the New Zealand Police:

(e) the New Zealand Defence Force

identifying information means information that identifies a person, but does not include biometric information

organisation means a body of persons, whether corporate or unincorporate, in New Zealand

private sector organisation means an organisation in the private sector

terrorist act has the meaning given to that term in section 5(1) of the Terrorism Suppression Act 2002.

Section 304 **government agency** paragraph (a): replaced, on 7 August 2020, by section 135 of the Public Service Act 2020 (2020 No 40).

305 Relationship between subpart and other provisions of Act

Nothing in this subpart limits, or prevents, the disclosure of information that is authorised or required under any other provision of this Act.

Disclosure to government agencies

306 Information matching for purposes of Student Loan Scheme Act 2011

(1) The purpose of this section is to facilitate the exchange of information between Customs and the Inland Revenue Department for the purposes of assisting the Commissioner to—

(a) verify whether borrowers are New Zealand-based or overseas-based for the purposes of the Student Loan Scheme Act 2011:

(b) verify whether borrowers are New Zealand residents for the purposes of that Act:

(c) locate, when they enter or leave New Zealand, borrowers who are in serious default in relation to a student loan.

(2) For the purpose of this section, the Commissioner may supply to the chief executive of Customs any identifying information about a borrower.

(3) If, in relation to any borrower, identifying information is supplied in accordance with subsection (2), the chief executive of Customs may compare that information with any arrival and departure information held by Customs that relates to that borrower.

(4) If Customs has information relating to a borrower, the chief executive of Customs may, for the purpose of this section, supply to the Commissioner any of the following information held by Customs:

(a) the borrower's arrival and departure information:

(b) the borrower's tax file number:

(c) information provided by the borrower when arriving in or, as the case may be, departing from New Zealand.

(5) The chief executive of Customs 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.

(5A) On or after 1 December 2020, no information may be supplied under this section except under—

(a) an information matching agreement entered into under Part 10 of the Privacy Act 1993 and continued by clause 11 of Schedule 1 of the Privacy Act 2020; or

(b) an approved information sharing agreement entered into under subpart 1 of Part 7 of the Privacy Act 2020.

(6) In this section,—

borrower has the meaning given to that term in section 4(1) of the Student Loan Scheme Act 2011

identifying information means the information set out in section 208(2) of the Student Loan Scheme Act 2011 that identifies a borrower

serious default means the state of having an unpaid amount due and owing under the Student Loan Scheme Act 2011 and satisfying criteria that are established in a manner to be determined by the Commissioner

unpaid amount has the meaning given to that term in section 5 of the Student Loan Scheme Act 2011.

Compare: 1996 No 27 ss 280G, 280H; 2011 No 62 s 208

Section 306(5A): inserted, on 1 December 2020, by section 190 of the Privacy Act 2020 (2020 No 31).

307 Information matching for purposes of Child Support Act 1991

(1) The purpose of this section is to facilitate the exchange of information between Customs and the Inland Revenue 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 to the chief executive of 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 Customs may compare that information with any arrival and departure information held by Customs that relates to that person.

(4) If Customs has information relating to a person who is in serious default, the chief executive of Customs may, for the purpose of this section, supply to the Commissioner any of the following information held by Customs:

(a) the person's arrival and departure information:

(b) the person's tax file number:

(c) information provided by the person when arriving in New Zealand or, as the case may be, departing from New Zealand.

(5) The chief executive of Customs 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.

(5A) On or after 1 December 2020, no information may be supplied under this section except under—

(a) an information matching agreement entered into under Part 10 of the Privacy Act 1993 and continued by clause 11 of Schedule 1 of the Privacy Act 2020; or

(b) an approved information sharing agreement entered into under subpart 1 of Part 7 of the Privacy Act 2020.

(6) In this section,—

financial support debt means an amount, owing to the Commissioner, of—

(a) financial support (as that term is defined in section 2(1) of the Child Support Act 1991):

(b) a penalty or interest under the Child Support Act 1991

serious default means the state of having an amount of financial support debt due and owing to the Commissioner and satisfying criteria agreed by the Commissioner and the Privacy Commissioner in consultation with the chief executive.

Compare: 1996 No 27 ss 280J, 280K

Section 307(5A): inserted, on 1 December 2020, by section 190 of the Privacy Act 2020 (2020 No 31).

308 Information matching for purposes of benefit and benefit debt recovery

(1) The purpose of this section is to facilitate the exchange of information between Customs and the department for the purposes of assisting the chief executive of the department to—

(a) verify the entitlement or eligibility of any specified person to or for any benefit:

(b) verify the amount of any benefit to which a specified person is or was entitled or for which a specified person is or was eligible:

(c) enable the recovery of any debt due to the Crown by a specified person in respect of any benefit.

(2) For the purpose of this section, the chief executive of the department may supply to the chief executive of Customs any identifying information about a specified person.

(3) If, in relation to any specified person, identifying information is supplied in accordance with subsection (2), the chief executive of Customs may compare that information with any arrival and departure information held by Customs that relates to that specified person.

(4) If Customs has information relating to a specified person, the chief executive of Customs may, for the purpose of this section, supply to the chief executive of the department any of the specified person's arrival and departure information.

(5) The chief executive of Customs and the chief executive of the department may, for the purposes 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.

(5A) On or after 1 December 2020, no information may be supplied under this section except under—

(a) an information matching agreement entered into under Part 10 of the Privacy Act 1993 and continued by clause 11 of Schedule 1 of the Privacy Act 2020; or

(b) an approved information sharing agreement entered into under subpart 1 of Part 7 of the Privacy Act 2020.

(6) In this section,—

benefit means any of the following:

(a) a benefit as defined in Schedule 2 of the Social Security Act 2018:

(b) a funeral grant lump sum payable under section 90 of that Act:

(c) any special assistance payable under a programme approved under section 100 or 101 of that Act:

(d) an allowance established by regulations made under section 645 of the Education and Training Act 2020

department means the department for the time being responsible for the administration of the Social Security Act 2018

specified person—

(a) means a person—

(i) who has applied for a benefit:

(ii) in respect of whom an application for a benefit has been made:

(iii) who has been granted a benefit:

(iv) in respect of whom a benefit, or part of a benefit, has been granted; but

(b) does not include a person who is exempted by regulations or a special direction made under the Immigration Act 2009 from the requirement to—

(i) apply for a visa or entry permission in the prescribed manner under section 103(1)(b), (c), and (d) of that Act; or

(ii) complete documentation on departure from New Zealand under section 119(1)(c) of that Act.

Compare: 1996 No 27 s 280

Section 308(5A): inserted, on 1 December 2020, by section 190 of the Privacy Act 2020 (2020 No 31).

Section 308(6) **benefit**: replaced, on 26 November 2018, by section 459 of the Social Security Act 2018 (2018 No 32).

Section 308(6) **benefit** paragraph (d): amended, on 1 August 2020, by section 668 of the Education and Training Act 2020 (2020 No 38).

Section 308(6) **department**: replaced, on 26 November 2018, by section 459 of the Social Security Act 2018 (2018 No 32).

309 Information matching 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 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 under the Social Security Act 2018 for the Governments of New Zealand and the other country to supply each other with information for social security purposes, 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 Customs may compare that information with any arrival and departure information held by Customs that relates to that person.

(4) If Customs has information relating to the person, the chief executive of Customs may, for the purpose of this section, supply to the chief executive of the department any arrival and departure information relating to that person that is held by Customs if that information is of a type specified in an agreement made under regulations made under section 450 of the Social Security Act 2018.

(5) If the chief executive of Customs has supplied information under subsection (4), 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 Customs under subsection (2), the 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.

(6A) On or after 1 December 2020, no information may be supplied under this section except under—

(a) an information matching agreement entered into under Part 10 of the Privacy Act 1993 and continued by clause 11 of Schedule 1 of the Privacy Act 2020; or

(b) an approved information sharing agreement entered into under subpart 1 of Part 7 of the Privacy Act 2020.

(7) In this section,—

department means the department for the time being responsible for the administration of the Social Security Act 2018

social security agreement means an agreement (for example, a Convention), or an alteration to an agreement, in respect of which an Order in Council has been made under section 380 (orders adopting reciprocity agreements) of the Social Security Act 2018.

Compare: 1996 No 27 ss 280A, 280B

Section 309(1): amended, on 26 November 2018, by section 459 of the Social Security Act 2018 (2018 No 32).

Section 309(4): amended, on 26 November 2018, by section 459 of the Social Security Act 2018 (2018 No 32).

Section 309(6A): inserted, on 1 December 2020, by section 190 of the Privacy Act 2020 (2020 No 31).

Section 309(7) **department**: amended, on 26 November 2018, by section 459 of the Social Security Act 2018 (2018 No 32).

Section 309(7) **social security agreement**: amended, on 26 November 2018, by section 459 of the Social Security Act 2018 (2018 No 32).

310 Information matching for purpose of fines enforcement

(1) The purpose of this section is to facilitate the exchange of information between Customs and the department for the purpose of assisting the chief executive of the department to—

(a) locate any person who is in serious default in the payment of any fine; and

(b) take appropriate fines enforcement action against that person.

(2) For the purpose of this section, an authorised officer may supply to the chief executive of 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 Customs may compare that information with any information held by Customs that relates to that person.

(4) If Customs has information relating to a person who is in serious default, the chief executive of Customs may, for the purpose of this section, supply to an authorised officer any arrival and departure information relating to that person that is held by Customs.

(5) The chief executive of 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.

(5A) On or after 1 December 2020, no information may be supplied under this section except under—

(a) an information matching agreement entered into under Part 10 of the Privacy Act 1993 and continued by clause 11 of Schedule 1 of the Privacy Act 2020; or

(b) an approved information sharing agreement entered into under subpart 1 of Part 7 of the Privacy Act 2020.

(6) In this section,—

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 Customs under this section; and

(b) includes a constable

department means the Ministry of Justice or any 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 (as that term is defined in section 79(1) of the Summary Proceedings Act 1957):

(b) a fine to which section 19 of the Crimes Act 1961 applies:

(c) a fine to which section 43 or 45 of the Misuse of Drugs Amendment Act 1978 applies:

(d) any amount payable under section 138A(1) of the Sentencing Act 2002

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

serious default, in relation to a person, means that—

(a) the person owes—

(i) an amount of $1,000 (or any other amount not exceeding $5,000 that may be fixed by the Governor-General by Order in Council (*see* subsection (7))) 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.

(7) An order under paragraph (a)(i) of the definition of serious default in subsection (6) is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Compare: 1996 No 27 ss 280C, 280D

Legislation Act 2019 requirements for secondary legislation made under this section		
Publication	PCO must publish it on the legislation website and notify it in the *Gazette*	LA19 s 69(1)(c)
Presentation	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 310(5A): inserted, on 1 December 2020, by section 190 of the Privacy Act 2020 (2020 No 31).

Section 310(6) **serious default** paragraph (a)(i): amended, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Section 310(7): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

311 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.

Compare: 1996 No 27 s 280E

312 Direct access to information for purposes of Student Loan Scheme Act 2011

(1) The purpose of this section is to facilitate access by the Inland Revenue Department to information stored in a database for the purpose of assisting the Commissioner to—

(a) verify whether borrowers are New Zealand-based or overseas-based for the purposes of the Student Loan Scheme Act 2011:

(b) verify whether borrowers are New Zealand residents for the purposes of that Act:

(c) verify whether borrowers are in New Zealand for the purposes of that Act:

(d) locate, when they enter or leave New Zealand, borrowers who are in serious default in relation to a student loan.

(2) The chief executive of Customs 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 may search only for arrival and departure information relating to preselected borrowers who are of interest to the Commissioner.

(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,—

borrower has the meaning given to it by section 4(1) of the Student Loan Scheme Act 2011

serious default means the state of having an unpaid amount due and owing under the Student Loan Scheme Act 2011 and satisfying criteria that are established in a manner to be determined by the Commissioner

unpaid amount has the meaning given to that term in section 5 of the Student Loan Scheme Act 2011.

Compare: 1996 No 27 ss 280G, 280I; 2011 No 62 s 209

313 Direct access to information for purposes of Child Support Act 1991

(1) The purpose of this section is to facilitate access by the Inland Revenue Department 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 of Customs 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 may search only for arrival and departure information relating to preselected persons who are of interest to the Commissioner.

(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,—

financial support debt means an amount, owing to the Commissioner, of—

(a) financial support (as that term is defined in section 2(1) of the Child Support Act 1991):

(b) a penalty or interest under the Child Support Act 1991

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.

Compare: 1996 No 27 ss 280J, 280L

314 Direct access to information for purposes of benefit and benefit debt recovery

(1) The purpose of this section is to facilitate direct access by the department to information stored in a database for the purpose of assisting the chief executive of the department to—

(a) verify the entitlement or eligibility of any specified person to or for any benefit:

(b) verify the amount of any benefit to which a specified person is or was entitled or for which a specified person is or was eligible:

(c) enable the recovery of any debt due to the Crown by a specified person in respect of any benefit.

(2) The chief executive of Customs may, for the purpose of this section, allow the chief executive of the department to access a database in accordance with a written agreement entered into by the chief executive of Customs and the chief executive of the department.

(3) In accessing a database for the purpose of this section, the chief executive of the department may search only for arrival and departure information relating to preselected specified persons who are of interest to the chief executive of the department.

(4) The chief executive of the department must take all reasonable steps to ensure that—

(a) only persons with appropriate powers delegated to them by the chief executive of the department—

(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 that the database is accessed; and

(iii) the identity of each 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,—

benefit means any of the following:

(a) a benefit as defined in Schedule 2 of the Social Security Act 2018:

(b) a funeral grant lump sum payable under section 90 of that Act:

(c) any special assistance payable under a programme approved under section 100 or 101 of that Act:

(d) an allowance established by regulations made under section 645 of the Education and Training Act 2020

department means the department for the time being responsible for the administration of the Social Security Act 2018

specified person—

(a) means a person—

(i) who has applied for a benefit:

(ii) in respect of whom an application for a benefit has been made:

(iii) who has been granted a benefit:

(iv) in respect of whom a benefit, or part of a benefit, has been granted; but

(b) does not include a person who is exempted by regulations or a special direction made under the Immigration Act 2009 from the requirement to—

(i) apply for a visa or entry permission in the prescribed manner under section 103(1)(b), (c), and (d) of that Act; or

(ii) complete documentation on departure from New Zealand under section 119(1)(c) of that Act.

Compare: 1996 No 27 s 280

Section 314(5) **benefit**: replaced, on 26 November 2018, by section 459 of the Social Security Act 2018 (2018 No 32).

Section 314(5) **benefit** paragraph (d): amended, on 1 August 2020, by section 668 of the Education and Training Act 2020 (2020 No 38).

Section 314(5) **department**: replaced, on 26 November 2018, by section 459 of the Social Security Act 2018 (2018 No 32).

315 Direct access to information for other purposes

(1) The purpose of this section is to facilitate a government agency's access to information stored in a database for the purpose of assisting the agency to carry out its functions related to, or involving, any of the following:

(a) the prevention, detection, investigation, prosecution, or punishment of offences:

(b) the prevention, detection, or investigation of any potential, suspected, or actual—

(i) terrorist act; or

(ii) facilitation of a terrorist act:

(c) the protection of national security:

(d) the processing of international passengers:

(e) the protection of border security:

(f) the protection of public revenue:

(g) the protection of public health and safety.

(2) The chief executive of Customs may, for the purpose of this section, allow the chief executive of a government agency (an **accessing agency**) to access 1 or more databases in accordance with a written agreement entered into by—

(a) the Minister of Customs; and

(b) the Minister responsible for the accessing agency.

(3) Before entering into a written agreement under this section, or varying any such agreement, the Ministers must—

(a) be satisfied that—

(i) direct access to the information is reasonable and practical having regard to the amount of information to be accessed; and

(ii) there are adequate safeguards to protect the privacy of individuals, including that the proposed compliance and audit requirements for the direct access to and use, disclosure, and retention of the information are sufficient; and

(iii) the agreement will include appropriate procedures for direct access to and use, disclosure, and retention of the information; and

(b) consult the Privacy Commissioner and have regard to any comments received from the Privacy Commissioner on the proposed agreement.

(4) A written agreement must specify—

(a) the database or databases that may be accessed; and

(b) the particular type or class of information that may be accessed; and

(c) the particular purpose or purposes for which the information is accessed; and

(d) the particular function being, or to be, carried out by the government agency for which the information is required; and

(e) the mechanism by which the information is to be accessed; and

(f) how the information accessed is to be used by the government agency to achieve the particular purpose or purposes; and

(g) the positions or designations of the persons in the government agency who may access the database or databases; and

(h) the records to be kept in relation to each occasion a database is accessed; and

(i) the safeguards that are to be applied for protecting personal information, or commercially sensitive information, that is disclosed; and

(j) the requirements relating to storage and disposal of information obtained by the agency from the database or databases; and

(k) the circumstances (if any) in which the information may be disclosed by the government agency to another agency, and how that disclosure may be made; and

(l) the requirements for reviewing the agreement.

Compare: 1996 No 27 s 280M

316 Disclosure of information other than under information matching agreement or direct access agreement

(1) The purpose of this section is to facilitate the disclosure of information by the chief executive of Customs to the chief executive of a government agency where that disclosure—

(a) is to be on a regular basis; and

(b) is not facilitated by—

(i) an information matching agreement under sections 306 to 310; or

(ii) a direct access agreement under sections 312 to 315.

(2) The chief executive of Customs may, for the purpose of this section, disclose to the chief executive of a government agency either or both of the following categories of information:

(a) Category 1 information for the purpose of assisting the government agency to carry out its functions:

(b) Category 2 information for the purpose of assisting the government agency to carry out its functions related to, or involving, any of the following:

(i) the prevention, detection, investigation, prosecution, or punishment of offences:

(ii) the prevention, detection, or investigation of any potential, suspected, or actual—

(A) terrorist act; or

(B) facilitation of a terrorist act:

(iii) the protection of national security:

(iv) the processing of international passengers:

(v) the protection of border security:

(vi) the protection of public revenue:

(vii) the protection of public health and safety.

(3) However, that disclosure to a government agency (an **accessing agency**) must be in accordance with a written agreement entered into by—

(a) the Minister of Customs; and

(b) the Minister responsible for the accessing agency.

(4) Before entering a written agreement under this section, or varying any such agreement, the Ministers must—

(a) be satisfied that—

(i) disclosure of the information is reasonable and practical; and

(ii) there are adequate safeguards to protect the privacy of individuals, including that the proposed compliance and audit requirements for the use, disclosure, and retention of the information are sufficient; and

(iii) the agreement will include appropriate procedures for the disclosure and retention of the information; and

(b) consult the Privacy Commissioner and have regard to any comments received from the Privacy Commissioner on the proposed agreement.

(5) A written agreement must specify—

(a) the particular type or class of information to be disclosed; and

(b) the particular purpose or purposes for which the information is accessed; and

(c) the particular function being, or to be, carried out by the government agency for which the information is required; and

(d) how the information is to be used by the government agency to assist with the carrying out of those functions; and

(e) the form in which the information is to be disclosed; and

(f) the positions or designations of the persons in the government agency to whom the information may be disclosed; and

(g) the safeguards that are to be applied for protecting personal information, or commercially sensitive information, that is disclosed; and

(h) the requirements relating to storage and disposal of the disclosed information; and

(i) the circumstances (if any) in which the information may be disclosed by the agency to another agency, and how that disclosure may be made; and

(j) the requirements for reviewing the agreement.

Disclosure to private sector organisations

317 Disclosure of information to private sector organisations

(1) The purpose of this section is to facilitate the disclosure of information by the chief executive of Customs to a private sector organisation where the information—

(a) is to be disclosed on a regular basis; and

(b) would be required to be made available under the Official Information Act 1982 upon request.

(2) The chief executive of Customs may, for the purpose of this section, enter into a written agreement with a private sector organisation for the regular disclosure, without request, of information held by Customs that the chief executive would be required to disclose to the organisation upon request under the Official Information Act 1982.

(3) Before entering into an agreement under this section, or varying any such agreement, the chief executive of Customs—

(a) must consult the Privacy Commissioner; and

(b) may consult—

(i) the Chief Ombudsman; and

(ii) any person that the chief executive considers is representative of interests likely to be substantially affected by the proposed agreement; and

(c) must have regard to any comments received from the persons consulted under paragraphs (a) and (b).

(4) The written agreement must specify—

(a) the particular type or class of information to be disclosed; and

(b) how the information is to be used by the private sector organisation; and

(c) the form in which the information is to be disclosed; and

(d) the positions or designations of the persons in the private sector organisation to whom the information may be disclosed; and

(e) the safeguards that are to be applied for protecting personal information, or commercially sensitive information, that is disclosed; and

(f) the requirements relating to storage and disposal of the disclosed information; and

(g) the circumstances (if any) in which the information may be disclosed by the private sector organisation to another specified private sector organisation, and how that disclosure may be made; and

(h) the requirements for reviewing the agreement.

Disclosure to overseas authority

318 Disclosure of information to overseas authority

(1) The purpose of this section is to facilitate the disclosure of information by the chief executive of Customs to an overseas authority for the purpose of assisting the authority to carry out its functions related to, or involving, any of the following:

(a) the prevention, detection, investigation, prosecution, or punishment of offences; or

(b) the processing of international passengers at the border; or

(c) the protection of border security; or

(d) the enforcement of a law imposing a pecuniary penalty; or

(e) the protection of public health and safety; or

(f) the protection of public revenue.

(2) The chief executive of Customs may, for the purpose of this section, disclose any information held by Customs to an overseas authority—

(a) in accordance with a written agreement entered into between the chief executive of Customs and the overseas authority that complies with subsection (5); or

(b) in accordance with subsection (6).

(3) Despite subsection (2), the chief executive of Customs may not disclose biometric information relating to any person to an overseas authority for the purposes of assisting the overseas authority to perform the function specified in subsection (1)(d).

(4) Before entering into a written agreement under this section, or varying any such agreement, the chief executive of Customs must consult the Privacy Commissioner.

(5) For the purposes of subsection (2)(a), a written agreement must specify—

(a) the particular type or class of information to be disclosed; and

(b) the functions of the overseas authority in respect of which the disclosure of the information is required; and

(c) how the information is to be used by the overseas authority to assist with the carrying out of those functions; and

(d) the form in which the information is to be disclosed; and

(e) the safeguards that are to be applied for protecting personal information, or commercially sensitive information, that is disclosed; and

(f) the requirements relating to storage and disposal of the information; and

(g) the circumstances (if any) in which the information may be disclosed by the agency to another specified agency, and how that disclosure may be made.

(6) The chief executive of Customs may disclose information to an overseas authority without a written agreement if—

(a) the functions of the overseas authority include the prevention, detection, investigation, prosecution, or punishment of offences that are, or if committed in New Zealand would be,—

(i) customs offences of any kind; or

(ii) other offences punishable by imprisonment; and

(b) the information is disclosed subject to conditions stating—

(i) the use that the overseas authority may make of the information; and

(ii) either—

(A) that the overseas authority must not disclose the information to any other agency, body, or person; or

(B) that the overseas authority may disclose the information, or part of it, to a specified agency, body, or person subject to certain conditions; and

(c) the chief executive of Customs makes and keeps a record of—

(i) the information that was disclosed; and

(ii) the overseas authority or authorities to which it was disclosed; and

(iii) the conditions subject to which it was disclosed.

(7) The Privacy Commissioner may, at intervals of not less than 12 months, require the chief executive of Customs to undertake a review of—

(a) an agreement entered into under this section; and

(b) the arrangements for disclosure under the agreement.

(8) The chief executive must undertake a review required by the Privacy Commissioner under subsection (7) and, as soon as practicable after concluding that review, report the findings of the review to the Privacy Commissioner.

(9) This section does not limit the general powers of the chief executive of Customs to enter into agreements not related to the disclosure of information with any overseas authority.

(10) In this section,—

information means either or both of the following:

(a) Category 1 information:

(b) Category 2 information

overseas authority means an overseas agency, body, or person.

Compare: 1996 No 27 s 281

319 Chief executive of Customs may issue directions for disclosure of information under section 318(6)

(1) The chief executive of Customs may issue written directions relating to the disclosure of information under section 318(6).

(2) The directions must identify the employees of Customs authorised to make such disclosures under delegated authority.

(3) The directions need not identify particular employees, but may instead identify the positions that the employees hold or the groups to which they belong.

(4) Without limiting the generality of subsection (1), the directions may do either or both of the following:

(a) describe the circumstances in which disclosure may be made without a request from the overseas authority:

(b) set out any criteria, in addition to the criteria in section 318(6), for disclosing information.

Compare: 2008 No 72 s 95C

320 Relationship between section 318 and treaties, etc

(1) Nothing in section 318 limits, or prevents, the disclosure of information that is authorised or required under any treaty, agreement, or arrangement concluded by the Government of New Zealand.

(2) *See also* sections 303 and 305.

Compare: 1996 No 27 s 282(2)

Publication of agreements

321 Publication of agreements entered into under section 315, 316, 317, or 318

(1) This section applies to an agreement entered into under one of the following sections:

(a) section 315; or

(b) section 316; or

(c) section 317; or

(d) section 318.

(2) The agreement, and all variations of the agreement, must be published on an Internet site maintained by or on behalf of Customs.

(3) However, subsection (2) does not apply to—

(a) an agreement or a variation of an agreement that may be withheld on a request under the Official Information Act 1982:

(b) a provision of an agreement or a variation of an agreement that may be withheld on a request under the Official Information Act 1982.

(4) If, in reliance on subsection (3)(a), the agreement or a variation of the agreement is not published, a summary of the agreement or variation of the agreement must be published on an Internet site maintained by or on behalf of Customs.

Subpart 7—Registered user systems

322 Registered user systems for electronic provision of documents

(1) This subpart applies to—

(a) any system that is established by Customs to enable any of the following:

(i) persons outside Customs who are registered to use the system to provide documents electronically to Customs:

(ii) Customs to provide documents electronically to persons outside Customs who are registered to use the system; and

(b) without limiting paragraph (a), a JBMS that has any of the capabilities referred to in that paragraph.

(2) In this subpart, **JBMS** has the meaning given to that term in section 302(4).

(3) In this Act,—

registered user, in relation to a registered user system, means a person who is registered to use the system

registered user system means a system to which this subpart applies.

Compare: 1996 No 27 s 131A

323 Registration of users of registered user systems

(1) The chief executive may register persons to use a registered user system.

(2) Regulations may do any of the following:

(a) prescribe requirements for the registration of users of registered user systems (including requirements for qualifications and training):

(b) allow the chief executive (subject to any restrictions or other requirements provided for in the regulations)—

(i) to register persons subject to conditions determined by the chief executive:

(ii) to vary or revoke a condition:

(iii) after a person is registered, to impose new conditions determined by the chief executive:

(iv) to revoke or suspend registrations:

(c) provide for the cancellation or expiry of registrations:

(d) provide for registered users to nominate representatives for the purposes of this subpart and prescribe requirements in respect of nominated representatives.

(3) Regulations may—

(a) provide for applications for registration; and

(b) without limiting paragraph (a), require applications for registration to be made in the way prescribed by the chief executive's rules.

(4) A person who is dissatisfied with any of the following decisions of the chief executive 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:

(a) a refusal to register a person:

(b) a decision made under regulations made for the purposes of subsection (2)(b).

Compare: 1996 No 27 ss 132, 132A, 134A, 135

324 Access generally restricted to registered users

A person must not access a registered user system, or transmit documents to, or receive documents from, a registered user system, unless that person is—

(a) a registered user; or

(b) otherwise authorised by the chief executive.

Compare: 1996 No 27 s 131

325 Documents provided using registered user system must be provided in prescribed way

(1) Any person who uses a registered user system to provide a document to Customs must do so in the way prescribed by the chief executive's rules (subject to subsection (2)).

(2) If the registered user system is a JBMS,—

(a) documents provided for the purpose of complying with a requirement under a Ministry Act to supply any border information to Customs or the Ministry must be provided in the form and manner for the time being generally approved in writing under that Act; and

(b) rules made for the purposes of subsection (1) may set out that form and manner for the information of registered users.

(3) In this section,—

border information has the meaning given to that term in section 302(4)

Ministry has the meaning given to that term in section 302(4)

Ministry Act means—

(a) the Biosecurity Act 1993; or

(b) any Act falling within paragraph (c)(i) to (vi) of the definition of Ministry-related border management function in section 302(4).

Compare: 1996 No 27 ss 134B, 288(1)(j), (1A)

326 Assignment, use, and security of unique user identifier

(1) The chief executive may, for the purposes of a registered user system, assign to any registered user a unique user identifier—

(a) for use by that user, or that user's nominated representative; and

(b) in any form, or of a nature, that the chief executive considers appropriate.

(2) A unique user identifier assigned under subsection (1) may be used only—

(a) by or on behalf of the registered user; and

(b) for the purpose of accessing, transmitting documents to, or receiving documents from the registered user system.

(3) The chief executive may, by notice in writing, impose conditions on the use and security of all or any unique user identifier.

(4) The Director-General of Biosecurity may, for the purposes of any enactment, assign the same unique identifier to a person that has been assigned to that person by the chief executive under this section.

(5) Information privacy principle 13(2) in section 22 of the Privacy Act 2020 does not restrict the power of the Director-General of Biosecurity under subsection (4).

Compare: 1996 No 27 s 133

Section 326(5): amended, on 1 December 2020, by section 217 of the Privacy Act 2020 (2020 No 31).

327 Use of unique user identifier presumed secure

(1) Any document that is transmitted to a registered user system using a unique user identifier is, in the absence of proof to the contrary, sufficient evidence that the document was transmitted by—

(a) the registered user to whom the unique user identifier was issued; or

(b) the nominated representative of that registered user.

(2) Subsection (1) does not apply if the registered user, or the user's nominated representative, notified Customs that the unique user identifier was no longer secure before the unauthorised use of the identifier by another person.

Compare: 1996 No 27 s 134

328 Regulations in relation to access

Regulations may make provision regulating access to registered user systems.

329 Offences in relation to unauthorised access to or improper use of registered user system

(1) A person commits an offence if the person—

(a) knowingly, and without lawful authority, by any means gains access to, or attempts to gain access to, a registered user system; or

(b) having gained lawful access to a registered user system, knowingly uses or discloses information obtained from the registered user system for an unauthorised purpose; or

(c) knowing that he or she is not authorised to do so,—

(i) receives information obtained from a registered user system; and

(ii) uses, discloses, publishes, or otherwise disseminates that information.

(2) A person who commits an offence under this section is liable on conviction,—

(a) in the case of an individual, to—

(i) imprisonment for a term not exceeding 2 years; or

(ii) a fine not exceeding $15,000:

(b) in the case of a body corporate, to a fine not exceeding $75,000.

Compare: 1996 No 27 s 182

330 Offence in relation to interference with registered user system

(1) A person commits an offence if the person—

(a) knowingly falsifies any record or information stored in a registered user system; or

(b) knowingly damages or impairs a registered user system; or

(c) without the permission of the chief executive, knowingly damages or impairs any computer system on which any information obtained from a registered user system is held or stored.

(2) A person who commits an offence under this section is liable on conviction to—

(a) imprisonment for a term not exceeding 3 years; or

(b) a fine not exceeding $25,000.

Compare: 1996 No 27 s 183

331 Offences in relation to security of, or unauthorised use of, unique user identifiers

(1) A registered user commits an offence if the user, without reasonable excuse, fails to comply with, or ensure compliance with, any condition imposed by the chief executive relating to the security of that registered user's unique user identifier.

(2) A person who is not a registered user, or the nominated representative of a registered user, of a registered user system commits an offence if the person, without reasonable excuse, uses any unique user identifier to authenticate a transmission of a document to the registered user system.

(3) A person who is a registered user, or the nominated representative of a registered user, of a registered user system commits an offence if the person,

without reasonable excuse, uses a unique user identifier that is not assigned to that user to authenticate a transmission of a document to the registered user system.

(4) A person who commits an offence under this section is liable on conviction to a fine not exceeding $5,000.

Compare: 1996 No 27 s 184

332 Customs must keep records of transmissions to or from registered user systems

(1) Customs must keep a record of every transmission—

(a) sent to a registered user using a registered user system; or

(b) received from a registered user using a registered user system.

(2) The record described in subsection (1) must be kept for—

(a) a minimum of 7 years (beginning on the day after the date on which the transmission was sent or received, as the case may be); or

(b) any other prescribed period.

Compare: 1996 No 27 s 136

Subpart 8—Customs rulings

333 Application for Customs ruling

(1) A person may apply to the chief executive for a Customs ruling, in relation to particular goods that are specified in the application, on any of the following matters:

(a) the Tariff classification of those goods under Part 1 of the Tariff:

(b) the excise classification of those goods under the Excise and Excise-equivalent Duties Table:

(c) whether those goods are (for the purposes of the Tariff and in accordance with any applicable regulations made for the purposes of section 407) the produce or manufacture of a particular country or group of countries referred to in the application:

(d) whether those goods are subject to a specified duty concession, under Part 2 of the Tariff, referred to in the application.

(2) A person may also apply to the chief executive for a Customs ruling as to—

(a) the application, in respect of a particular matter, of any regulations made for the purposes of section 407 (regulations for determining country of produce or manufacture):

(b) the application, in respect of a particular set of facts or circumstances, of any provision of Schedule 4 (which concerns the valuation of goods for the purposes of the Tariff).

Compare: 1996 No 27 s 119(1), (3)

334 Time when application may be made

An application under section 333 may be made,—

(a) in respect of imported goods,—

(i) at any time before the date of importation of the goods; or

(ii) at any later time that the chief executive in his or her discretion allows; 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 that the chief executive in his or her discretion allows.

Compare: 1996 No 27 s 119(2)

335 Making application

(1) An application under section 333 must—

(a) be made in the way prescribed by the chief executive's rules; and

(b) state the name and address of the applicant; and

(c) if applicable, specify the particular goods that are the subject of the application; and

(d) specify the matter or matters on which the applicant requests a Customs ruling; and

(e) state the applicant's opinion as to what the Customs ruling should be; and

(f) in the case of an application under section 333(1) and unless the chief executive agrees otherwise, be accompanied by a sample of the goods; and

(g) include all information that is relevant to a proper consideration of the application; and

(h) be accompanied by the prescribed fee (if any).

(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.

Compare: 1996 No 27 s 119(4), (5)

336 Making of Customs ruling

(1) The chief executive must,—

(a) in the case of an application made under section 333(1), make a Customs ruling—

(i) in respect of the particular goods; and

(ii) in respect of the matter or matters on which the ruling is sought:

(b) in the case of an application made under section 333(2)(a), make a Customs ruling as to the application, in respect of the particular matter, of the regulations in question:

(c) in the case of an application made under section 333(2)(b), make a Customs ruling as to the application, in respect of the particular set of facts or circumstances, of the provision of Schedule 4 in question.

(2) The chief executive must make a Customs ruling under this section within the prescribed time after he or she has received,—

(a) in the case of an application under section 333(1), a sample of the particular goods, unless the chief executive has agreed not to require a sample of the particular goods; and

(b) all information that the chief executive considers relevant to a proper consideration of the application; and

(c) any further information requested under section 335(2); and

(d) the payment of the fee prescribed for the purposes of section 335(1)(h) (if any).

(3) The time prescribed for the purposes of subsection (2) must not exceed 150 days.

(4) A Customs ruling may be made subject to any conditions that the chief executive considers appropriate.

Compare: 1996 No 27 ss 120(1)–(3), 286(1)(u)

337 When chief executive may decline to make ruling

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: 1996 No 27 s 120(4)

338 Notice of Customs ruling

The chief executive must, as soon as is reasonably practicable, give notice in writing to the applicant of—

(a) a Customs ruling, together with—

(i) the reasons for the ruling; and

(ii) any conditions to which it is subject; or

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

Compare: 1996 No 27 s 121

339 Effect of Customs ruling

(1) A Customs ruling under section 336(1)(a) 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 the Tariff; or

(b) have a particular excise classification under the Excise and Excise-equivalent Duties Table; or

(c) in accordance with any applicable regulations made for the purposes of section 407 are, or are not, for the purposes of the Tariff Act 1988, the produce or manufacture of a particular country or group of countries; or

(d) are or are not subject to a specified duty concession under Part 2 of the Tariff.

(2) A Customs ruling under section 336(1)(b) as to the application, in respect of a particular matter, of any regulations made for the purposes of section 407 is conclusive evidence for the purposes of this Act and, where applicable, the Tariff Act 1988 of the application of those regulations in respect of that matter.

(3) A Customs ruling under section 336(1)(c) as to the application, in respect of a particular set of facts or circumstances, of a provision of Schedule 4 is conclusive evidence for the purposes of this Act and, where applicable, the Tariff Act 1988 of the application of that provision in respect of that set of facts or circumstances.

(4) This section is subject to sections 341 and 343.

Compare: 1996 No 27 s 122

340 Confirmation of basis of Customs ruling

(1) 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 any manner that 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 to which the Customs ruling was subject have been complied with.

(2) An applicant must satisfy the chief executive of a matter referred to in subsection (1) within—

(a) 20 working days; or

(b) any longer period that the chief executive considers appropriate.

Compare: 1996 No 27 s 123

341 Amendment of Customs ruling

(1) The chief executive may at any time amend a Customs ruling to correct any error contained in the ruling.

(2) The chief executive must, as soon as is reasonably practicable after making the amendment, give notice in writing to the applicant of the amended Customs ruling.

(3) The amended ruling applies to the applicant on and from the date on which the notice of the amendment is given under subsection (2).

Compare: 1996 No 27 s 124(1), (2)

342 Effect of amendment to Customs ruling

(1) Despite section 341, if the amendment of a Customs ruling has the effect of increasing any liability for duty in respect of any goods, the ruling given before the amendment applies to those goods,—

(a) if the goods are imported—

(i) within 3 months after the date on which the notice of the amendment is given; and

(ii) under a binding contract entered into before that date; or

(b) if the goods have left the place of manufacture or the warehouse in the country from which they are being exported for direct shipment to New Zealand on or before the date on which the notice of the amendment is given; or

(c) if the goods are imported on or before the date on which the notice of the amendment is given but have not been entered for home consumption.

(2) Despite section 341, if the amendment decreases any liability for duty in respect of any goods, section 142 applies as if the higher duty had been paid in error.

Compare: 1996 No 27 s 124(3), (4)

343 Cessation of Customs ruling, etc

(1) A Customs ruling ceases to have effect on the earliest of the following:

(a) the date on which any information on which the Customs ruling was made ceases to be correct in all material respects:

(b) the date on which any of the information or facts on which the Customs ruling was made materially changes:

(c) the date of a material change to the Tariff Act 1988, the Excise and Excise-equivalent Duties Table, or any applicable regulations made under this Act or the Tariff Act 1988, if that date occurs before the importation or manufacture of the relevant goods (as the case may be):

(d) the date on which any of the conditions to which the Customs ruling was subject ceases to be met or complied with:

(e) the date of a failure to satisfy the requirements of the chief executive under section 340:

(f) 3 years after the date on which notice of the Customs ruling, or any amendment to that Customs ruling, is given to the applicant.

(2) A Customs ruling does 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: 1996 No 27 s 125

344 Appeal from decisions of chief executive

(1) This section applies if an applicant is dissatisfied with—

(a) a Customs ruling given under this subpart; or

(b) a decision under this subpart to—

(i) decline to make a Customs ruling; or

(ii) amend a Customs ruling.

(2) The applicant 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: 1996 No 27 s 126

345 No liability where Customs ruling relied on

(1) This section applies—

(a) in relation to a matter on which a Customs ruling was given; and

(b) if the Customs ruling has not ceased to have effect under section 343; and

(c) subject to any amendment to the Customs ruling of which the applicant has received notice under section 341.

(2) If an applicant has relied on a Customs ruling in relation to specific goods or a specific matter and, as a result, the applicant has not paid the amount of duty that would, but for this section, be payable on the goods, the amount of the duty that would otherwise be payable is not recoverable as a debt due to the Crown.

(3) If an applicant has relied on a Customs ruling in relation to specific goods or a specific matter and, as a result, the applicant would, but for this section, be liable to the imposition of a penalty under section 285, no penalty may be imposed under that section.

(4) If an applicant has relied on a Customs ruling in relation to specific goods or a specific matter and, as a result, the goods would, but for this section, be liable to seizure under this Act, the goods may not be seized.

Compare: 1996 No 27 s 127

346 Publication of Customs rulings

(1) The chief executive may publish a Customs ruling on an Internet site maintained by or on behalf of Customs if the chief executive considers that publication of the ruling is in the public interest.

(2) The chief executive may publish the whole or any part of a Customs ruling under subsection (1) only—

(a) with the consent of the person who applied for the ruling; or

(b) to the extent that the information disclosed is already in the public domain; or

(c) in a form that prevents any of the information disclosed being identified (by any person) as relating to any particular person.

(3) The chief executive must publish a Customs ruling on an Internet site maintained by or on behalf of Customs if the chief executive considers that publication of the ruling is necessary for complying with an international agreement to which New Zealand is a party.

Subpart 9—Administrative reviews

347 Process for administrative reviews

Schedule 7 applies to applications for administrative reviews under this Act.

Subpart 10—Customs Appeal Authorities

348 Establishment of Customs Appeal Authorities

(1) The Governor-General may, on the joint recommendation of the Ministers of Customs and Justice, establish 1 or more Customs Appeal Authorities.

(2) If there is more than 1 Customs Appeal Authority, each authority may be given a distinctive designation determined by the Governor-General.

Compare: 1996 No 27 s 244(1), (2), (4)

349 Function of Customs Appeal Authority

The function of a Customs Appeal Authority is to sit as a judicial authority for hearing and deciding appeals that are authorised by this Act or any other Act against assessments, decisions, rulings, determinations, and directions of the chief executive.

Compare: 1996 No 27 s 253

350 Customs Appeal Authorities generally

(1) A Customs Appeal Authority consists of 1 person, being a District Court Judge or a lawyer of not less than 7 years' practice.

(2) A person is not to be treated as employed by the Crown for the purposes of the Public Service Act 2020 or the Government Superannuation Fund Act 1956 by reason only of that person being a Customs Appeal Authority.

(3) Customs Appeal Authorities are administered by the Ministry of Justice.

(4) Schedule 8 applies to Customs Appeal Authorities and appeals from their decisions.

Compare: 1996 No 27 s 244(3), (5), (6)

Section 350(2): amended, on 7 August 2020, by section 135 of the Public Service Act 2020 (2020 No 40).

351 Offence in relation to false or misleading statement intending to deceive

(1) A person commits an offence if the person, 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) A person who commits an offence under this section is liable on conviction,—

(a) in the case of an individual, to a fine not exceeding $20,000:

(b) in the case of a body corporate, to a fine not exceeding $100,000.

Compare: 1996 No 27 s 216(1), (2)

352 Offence in relation to failure to attend, give evidence, supply certain things, etc

(1) A person commits an offence if the person, after being summoned to attend to give evidence before a Customs Appeal Authority or to produce to it any papers, documents, records, or things,—

(a) without reasonable excuse, fails to attend in accordance with the summons; or

(b) without reasonable excuse,—

(i) refuses to be sworn or to give evidence; or

(ii) having been sworn, refuses to answer any question that the person is lawfully required by the Customs Appeal Authority to answer concerning the subject of the proceedings; or

(c) without reasonable excuse, fails to produce any paper, document, record, or thing.

(2) No person summoned to attend proceedings before a Customs Appeal Authority can be convicted of an offence under this section unless a payment or tender of the amount fixed under clause 29(2) of Schedule 8 was made to that person—

(a) at the time of the service of the summons; or

(b) at some other reasonable time before the date on which that person was required to attend.

(3) A person who commits an offence under this section is liable on conviction to a fine not exceeding $5,000.

Compare: 1996 No 27 s 216(3), (4), (6)

353 Other offences in relation to Customs Appeal Authorities

(1) A person commits an offence if the person—

(a) wilfully obstructs or hinders a Customs Appeal Authority or any person authorised by a Customs Appeal Authority in any inspection or examination of papers, documents, records, or things under clauses 21 and 22 of Schedule 8; or

(b) without reasonable excuse, fails to comply with any requirement of a Customs Appeal Authority or any person authorised by a Customs Appeal Authority made under clauses 21 and 22 of Schedule 8; or

(c) without reasonable excuse, fails to comply with any order made by a Customs Appeal Authority under clauses 21 and 22 of Schedule 8 or any term or condition of the order.

(2) A person who commits an offence under this section is liable on conviction to a fine not exceeding $5,000.

Compare: 1996 No 27 s 216(5), (6)

Part 6
Final and miscellaneous provisions

Subpart 1—Records

354 Keeping of records

(1) Every specified person must—

(a) keep at a specified place, or cause to be kept at a specified place, any prescribed records for the prescribed period; and

(b) as and when directed by a Customs officer, do the following:

(i) make the records available to Customs:

(ii) provide copies of the records:

(iii) answer any questions in respect of the records.

(2) The period prescribed for the purposes of subsection (1)(a) must not exceed 7 years.

(3) A direction under subsection (1)(b) may (without limitation) require the specified person, for the purpose of making the records available, to operate, or cause to be operated, any device—

(a) on which the records are stored; or

(b) from which the records can be accessed.

(4) In this section,—

specified person means—

(a) every licensee of a Customs-controlled area:

(b) any importer:

(c) any exporter:

(d) any agent of a person referred to in paragraphs (a) to (c):

(e) any authorised certification body

specified place means—

(a) a place in New Zealand; or

(b) a place outside New Zealand if,—

(i) after making an application under section 355(1), the specified person is authorised to keep the prescribed records, or to cause the prescribed records to be kept, at that place; or

(ii) after making an application under section 355(2), another person is authorised to keep the prescribed records for the specified person at that place.

Compare: 1996 No 27 ss 95, 286(1)(p)

355 Application to keep records outside New Zealand

(1) A specified person may apply to the chief executive for authorisation to keep any records, or to cause any records to be kept, at a place outside New Zealand.

(2) A person may apply to the chief executive for authorisation to keep records for specified persons at a place outside New Zealand.

(3) The chief executive must, after considering an application,—

(a) give authorisation; or

(b) decline authorisation.

(4) The chief executive may give authorisation subject to any terms, conditions, or restrictions that the chief executive considers appropriate.

(5) The chief executive may, by written notice,—

(a) vary any terms, conditions, or restrictions that an authorisation is subject to; or

(b) withdraw an authorisation.

(6) In this section, **specified person** has the meaning given to that term in section 354.

356 Offences in relation to records

(1) A person commits an offence if the person, without reasonable excuse, fails to comply with section 354(1)(a).

(2) A person who commits an offence under subsection (1) is liable on conviction,—

(a) in the case of an individual,—

(i) for a first conviction, to a fine not exceeding $2,000:

(ii) for a second conviction, to a fine not exceeding $4,000:

(iii) for any subsequent conviction, to a fine not exceeding $6,000:

(b) in the case of a body corporate,—

(i) for a first conviction, to a fine not exceeding $10,000:

(ii) for a second conviction, to a fine not exceeding $20,000:

(iii) for any subsequent conviction, to a fine not exceeding $30,000.

(3) A person commits an offence if the person, without reasonable excuse, fails to comply with a direction under section 354(1)(b).

(4) A person who commits an offence under subsection (3) is liable on conviction,—

(a) in the case of an individual,—

(i) for a first conviction, to a fine not exceeding $2,000:

(ii) for a second conviction, to a fine not exceeding $4,000:

(iii) for any subsequent conviction, to a fine not exceeding $6,000:

(b) in the case of a body corporate,—

(i) for a first conviction, to a fine not exceeding $10,000:

(ii) for a second conviction, to a fine not exceeding $20,000:

(iii) for any subsequent conviction, to a fine not exceeding $30,000.

Compare: 1996 No 27 s 205(1)–(4)

357 Giving Customs access to records

(1) This section applies to any person who—

(a) is a specified person (as that term is defined in section 354); or

(b) is otherwise involved in the handling or transportation of goods that are being imported to, or exported from, New Zealand.

(2) The chief executive may, by notice in writing, require a person to whom this section applies to give Customs access to—

(a) the records that the person is required to keep under section 354, if the person is a specified person:

(b) any records of a kind required to be kept under section 354 that the person currently keeps, in any other case.

(3) The person must give Customs access to the records—

(a) at all reasonable times on and from a date specified in the notice:

(b) in the prescribed form and manner.

(4) Customs may collect any information to which it is given access under this section.

(5) The powers of the chief executive and Customs under this section may be exercised for any of the following purposes:

(a) the carrying out of any function of the chief executive, Customs, or a Customs officer under this Act (other than subpart 6 of Part 5):

(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.

(6) Information privacy principles 2 and 3 in section 22 of the Privacy Act 2020 do not restrict the powers of the chief executive and Customs under this section in relation to personal information.

(7) This section does not limit section 354(1)(b).

Compare: 1996 No 27 ss 95A, 282A(1), (2)

Section 357(6): amended, on 1 December 2020, by section 217 of the Privacy Act 2020 (2020 No 31).

358 Offences in relation to failure to give Customs access to records

(1) A person commits an offence if the person, without reasonable excuse, fails to give Customs access to records under section 357.

(2) A person who commits an offence under subsection (1) is liable on conviction,—

(a) in the case of an individual, to a fine not exceeding $20,000:

(b) in the case of a body corporate, to a fine not exceeding $100,000.

(3) A person commits an offence if the person, without reasonable excuse, fails to give Customs access to records under section 357 in the form and manner prescribed for the purposes of section 357(3)(b).

(4) A 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:

(b) in the case of a body corporate, to a fine not exceeding $25,000.

Compare: 1996 No 27 s 205A

Subpart 2—Offences

Interference with goods or cargo

359 Interference with goods

(1) A person commits an offence if the person, without the permission of a Customs officer or reasonable excuse,—

(a) alters any goods (including the condition of any goods) that are subject to the control of Customs; or

(b) interferes with any goods that are subject to the control of Customs; or

(c) unpacks or repacks any goods that are subject to the control of Customs; or

(d) removes any goods that are subject to the control of Customs from any place in which a Customs officer has directed that the goods be stored.

(2) A person who commits an offence under 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.

Compare: 1996 No 27 s 201

360 Interference with cargo

(1) This section applies to any goods that are on a craft that arrives in New Zealand—

(a) from the time when the craft arrives in New Zealand:

(b) until an inward report is made in accordance with section 24.

(2) A person commits an offence if the person does any of the following:

(a) interferes with the goods:

(b) alters the manner in which the goods are stored to facilitate unloading of the goods before the inward report has been made:

(c) staves, removes, or destroys the goods:

(d) throws the goods overboard:

(e) opens any package in which the goods are contained.

(3) However, subsection (2) does not apply if the relevant 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) is otherwise done with a reasonable excuse.

(4) If a person commits an offence under subsection (2), the person in charge of the craft also commits an offence.

(5) A person who commits an offence under this section is liable on conviction to a fine not exceeding $15,000.

Compare: 1996 No 27 s 198

361 Interference with seals, etc

(1) No person may, except with the permission or at the direction of a Customs officer, open, alter, break, or erase any fastening, lock, mark, seal, marking, substance, or device that has been used by a Customs officer—

(a) in relation to any goods in or on a craft in New Zealand; or

(b) on any hatchway, opening, or other place or device on a craft in New Zealand.

(2) A person commits an offence if, without reasonable excuse, the person contravenes subsection (1).

(3) The person in charge of a craft must ensure compliance with subsection (1).

(4) The person in charge of a craft commits an offence if the person fails to ensure compliance with subsection (1).

(5) A person who commits an offence under 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.

Compare: 1996 No 27 s 197

362 Unauthorised use of seals, interference with sealed Customs packages, etc

(1) A person commits an offence if the person, without lawful authority or reasonable excuse,—

(a) uses a Customs-approved export seal in relation to a package of goods; or

(b) alters, removes, damages, disposes of, or otherwise interferes with a Customs-approved export seal used in relation to a package of goods; or

(c) uses an approved seal, marking, substance, or device of a kind referred to in clause 2(a)(ii) of Schedule 6 in relation to a Customs-approved secure package otherwise than in accordance with the relevant Customs-approved secure exports scheme; or

(d) tampers or interferes with a sealed Customs package by adding other goods to the goods that were in the package when the package was secured.

(2) A person who commits an offence under 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.

Compare: 1996 No 27 s 210A

Offences in relation to entries and related returns

363 Offences for failure to make entry, etc

(1) A person commits an offence if the person—

(a) fails to make an entry that is required to be made under this Act; or

(b) fails to comply with section 82 or 112.

(2) A person who commits an offence under 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.

(3) It is a defence to a prosecution for an offence under this section if the defendant proves that the defendant took all reasonable steps, as the case may be,—

(a) to ensure that the entry was made; or

(b) to comply with section 82 or 112.

Compare: 1996 No 27 s 203(1)(a), (2)(a), (3)

364 Offences in relation to erroneous or defective entries, etc

(1) A person commits an offence if the person—

(a) makes an entry under this Act that is erroneous or defective in a material particular; or

(b) makes a return under section 82 that is erroneous or defective in a material particular; or

(c) makes an amendment of an assessment under section 112 that is erroneous or defective in a material particular.

(2) A person who commits an offence under subsection (1) 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.

(3) It is a defence to a prosecution for an offence under subsection (1) if the defendant proves that the defendant took all reasonable steps to ensure that the entry, return, or amendment (as the case may be) was not erroneous or defective.

(4) A person commits an offence if the person—

(a) is concerned in the making of an entry under this Act knowing that the entry is erroneous or defective in a material particular; or

(b) is concerned in the making of a return under section 82 knowing that the return is erroneous or defective in a material particular; or

(c) is concerned in the making of an amendment of an assessment under section 112 knowing that the amendment is erroneous or defective in a material particular.

(5) A person who commits an offence under subsection (4) is liable on conviction,—

(a) in the case of an individual, to—

(i) imprisonment for a term not exceeding 6 months; or

(ii) a fine not exceeding the greater of the following:

(A) $10,000:

(B) an amount equal to 3 times the value of the goods to which the offence relates:

(b) in the case of a body corporate, to a fine not exceeding the greater of the following:

(i) $50,000:

(ii) an amount equal to 3 times the value of the goods to which the offence relates.

Compare: 1996 No 27 s 203(1)(b), (2)(b), (3), (4), (5)

365 Provisions relating to offences in relation to entries

(1) For the purposes of this Act,—

(a) every declaration, invoice, certificate, written statement, or other document required or authorised to be made or produced under this Act by a person making an entry is treated as forming part of that entry; and

(b) every amendment of an entry is treated as forming part of that entry.

(2) Despite subsection (1)(b), an amendment of an entry does not relieve a person—

(a) from liability to a penalty or seizure of goods; or

(b) from criminal liability incurred in respect of the entry before its amendment.

Compare: 1996 No 27 s 208

Offences in relation to information

366 Offences in relation to declarations and documents that are erroneous

(1) A person commits an offence if the person—

(a) makes a declaration or a written statement under this Act that is erroneous in a material particular; or

(b) produces or delivers to a Customs officer any document that is erroneous in a material particular.

(2) A person who commits an offence under 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.

(3) It is a defence to a prosecution for an offence under this section if the defendant proves that the defendant took all reasonable steps to ensure that the declaration, statement, or document (as the case may be) was not erroneous.

Compare: 1996 No 27 s 204(1)(a), (c), (2)(a), (3)

367 Offence in relation to documents that are not genuine

(1) A person commits an offence if the person produces or delivers any document to a Customs officer that is not genuine.

(2) A person who commits an offence under 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.

(3) It is a defence to a prosecution for an offence under this section if the defendant proves that the defendant took all reasonable steps to ensure that the document was genuine.

Compare: 1996 No 27 s 204(1)(b), (2)(b), (3)

368 Offences in relation to declarations and documents that are known to be faulty

(1) A person commits an offence if the person—

(a) makes a declaration under this Act, knowing the declaration is 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.

(2) A person who commits an offence under this section is liable on conviction,—

(a) in the case of an individual,—

(i) to imprisonment for a term not exceeding 6 months; or

(ii) to a fine not exceeding the greater of the following:

(A) $10,000:

(B) an amount equal to 3 times the value of the goods to which the offence relates:

(b) in the case of a body corporate, to a fine not exceeding the greater of the following:

(i) $50,000:

(ii) an amount equal to 3 times the value of the goods to which the offence relates.

Compare: 1996 No 27 s 204(4), (5)

369 Offences in relation to failure to update information supplied in advance

(1) This section applies if—

(a) a person supplies any information to the chief executive, Customs, or a Customs officer for the purposes of this Act within the time for doing so prescribed by this Act, regulations, or the chief executive's rules (as the case may be); and

(b) the information becomes erroneous or misleading in a material particular—

(i) after it is supplied; but

(ii) before the prescribed time expires and before the person is notified of any decision made in response to the information.

(2) The person commits an offence—

(a) if the person—

(i) knows that the information has become erroneous or misleading in a material particular; and

(ii) fails, as soon as is reasonably practicable, to take all reasonable steps to supply the chief executive, Customs, or a Customs officer with replacement information that is not erroneous or misleading in a material particular; or

(b) if the person—

(i) ought reasonably to know that the information has become erroneous or misleading in a material particular; and

(ii) fails, as soon as is reasonably practicable, to take all reasonable steps to supply the chief executive, Customs, or a Customs officer with replacement information that is not erroneous or misleading in a material particular.

(3) A person who commits an offence under subsection (2)(a) is liable on conviction,—

(a) in the case of an individual, to—

(i) imprisonment for a term not exceeding 6 months; or

(ii) a fine not exceeding $10,000:

(b) in the case of a body corporate, to a fine not exceeding $50,000.

(4) A person who commits an offence under subsection (2)(b) 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: 1996 No 27 s 204A

370 Further offences in relation to records and information

(1) A person commits an offence if the person, with intent to defeat the purposes of this Act,—

(a) destroys, alters, or conceals any book, document, or record that is required to be kept under this Act; or

(b) sends or attempts to send out of New Zealand any book, document, or record that is required to be kept under this Act.

(2) A person who commits an offence under this section is liable on conviction to—

(a) imprisonment for a term not exceeding 2 years; or

(b) a fine not exceeding $50,000.

(3) If, in any prosecution for an offence under this section, it is proved that the person charged with the offence destroyed, altered, or concealed, or sent or attempted to send out of New Zealand, any book, document, or record of the kind referred to in subsection (1), it must be presumed, in the absence of evidence to the contrary, that the person did so with intent to defeat the purposes of this Act.

Compare: 1996 No 27 s 205(5)–(7)

Defrauding of revenue

371 Defrauding Customs revenue

(1) A person commits an offence if the person knowingly does any act, or omits to do any act, intending to—

(a) evade the payment of any duty on goods:

(b) enable any other person to evade the payment of any duty on goods:

(c) obtain money by way of drawback or a refund of duty on goods to which that person is not entitled under this Act:

(d) enable any other person to obtain money by way of drawback or a refund of duty on goods to which that other person is not entitled under this Act:

(e) defraud the Customs revenue in any other manner in relation to goods.

(2) A person commits an offence if the person conspires with any other person (whether that other person is in New Zealand or not) to do any act, or omit to do any act, with the intention of defrauding the Customs revenue in relation to goods.

(3) A person who commits an offence under this section, other than an offence involving goods that are tobacco (whether manufactured or not), is liable on conviction,—

(a) in the case of an individual, to—

(i) imprisonment for a term not exceeding 5 years; or

(ii) a fine not exceeding the greater of the following:

(A) $10,000:

(B) an amount equal to 3 times the value of the goods to which the offence relates:

(b) in the case of a body corporate, to a fine not exceeding the greater of the following:

(i) $50,000:

(ii) an amount equal to 3 times the value of the goods to which the offence relates.

(4) A person who commits an offence under this section involving goods that are tobacco (whether manufactured or not) is liable on conviction,—

(a) in the case of an individual, to—

(i) imprisonment for a term not exceeding 5 years; or

(ii) a fine not exceeding $20,000; or

(iii) both:

(b) in the case of a body corporate, to a fine not exceeding $100,000.

Compare: 1996 No 27 s 211

372 Possession or custody of uncustomed goods or prohibited imports

(1) A person commits an offence if the person, knowingly and without lawful justification, has in the person's possession or custody goods that the person knows are uncustomed goods or prohibited imports.

(2) A person who commits an offence under this section, other than an offence involving goods that are tobacco (whether manufactured or not), is liable on conviction,—

(a) in the case of an individual, to a fine not exceeding the greater of the following:

(i) $10,000:

(ii) an amount equal to 3 times the value of the goods to which the offence relates:

(b) in the case of a body corporate, to a fine not exceeding the greater of the following:

(i) $50,000:

(ii) an amount equal to 3 times the value of the goods to which the offence relates.

(3) A person who commits an offence under this section involving goods that are tobacco (whether manufactured or not) is liable on conviction,—

(a) in the case of an individual, to—

(i) imprisonment for a term not exceeding 6 months; or

(ii) a fine not exceeding $20,000; or

(iii) both:

(b) in the case of a body corporate, to a fine not exceeding $100,000.

Compare: 1996 No 27 ss 211(4), 212

373 Purchase, sale, exchange, etc, of uncustomed goods or prohibited imports

(1) A person commits an offence if the person, 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) A person who commits an offence under this section, other than an offence involving goods that are tobacco (whether manufactured or not), is liable on conviction,—

(a) in the case of an individual, to a fine not exceeding the greater of the following:

(i) $10,000:

(ii) an amount equal to 3 times the value of the goods to which the offence relates:

(b) in the case of a body corporate, to a fine not exceeding the greater of the following:

(i) $50,000:

(ii) an amount equal to 3 times the value of the goods to which the offence relates.

(3) A person who commits an offence under this section involving goods that are tobacco (whether manufactured or not) is liable on conviction,—

(a) in the case of an individual, to—

(i) imprisonment for a term not exceeding 6 months; or

(ii) a fine not exceeding $20,000; or

(iii) both:

(b) in the case of a body corporate, to a fine not exceeding $100,000.

Compare: 1996 No 27 ss 211(4), 213

374 Possession or control of concealed goods

(1) A person commits an offence if the person knowingly conceals any goods that the person knows are dutiable or prohibited goods.

(2) A person who commits an offence under this section is liable on conviction,—

(a) in the case of an individual, to a fine not exceeding the greater of the following:

(i) $10,000:

(ii) an amount equal to 3 times the value of the goods to which the offence relates:

(b) in the case of a body corporate, to a fine not exceeding the greater of the following:

(i) $50,000:

(ii) an amount equal to 3 times the value of the goods to which the offence relates.

Compare: 1996 No 27 s 214

375 Offence in relation to seized goods

(1) A person commits an offence if the person, without the permission of the chief executive, takes, carries away, or otherwise converts to his or her own use any goods that have been seized under section 178.

(2) A person who commits an offence under this section is liable on conviction,—

(a) in the case of an individual, to—

(i) imprisonment for a term not exceeding 12 months; or

(ii) a fine not exceeding an amount equal to 3 times the value of the goods to which the offence relates:

(b) in the case of a body corporate, to a fine not exceeding an amount equal to 3 times the value of the goods to which the offence relates.

Compare: 1996 No 27 s 215(3), (4)

Offences in relation to Customs

376 Threatening or resisting Customs officer

(1) A person commits an offence if the person threatens or assaults—

(a) any Customs officer acting in the execution of his or her duties; or

(b) any person acting in the officer's aid.

(2) A person commits an offence if the person, by force, resists, intentionally obstructs, or intimidates—

(a) any Customs officer acting in the execution of his or her duties; or

(b) any person acting in the officer's aid.

(3) A person who commits an offence under this section is liable on conviction to—

(a) imprisonment for a term not exceeding 12 months; or

(b) a fine not exceeding $15,000.

Compare: 1996 No 27 s 176

377 Obstructing Customs officer or interfering with Customs property

(1) A person commits an offence if the person—

(a) otherwise than by force, intentionally obstructs any Customs officer acting in the execution of his or her duties; or

(b) intentionally interferes with a Customs dog, or any equipment, vehicle, craft, communications system, or other aid used, or intended for use, by Customs; or

(c) does any act with the intention of impairing the effectiveness of—

(i) a Customs dog; or

(ii) any equipment, vehicle, craft, communications system, or other aid used, or intended for use, by Customs.

(2) A person who commits an offence under this section is liable on conviction to—

(a) imprisonment for a term not exceeding 3 months; or

(b) a fine not exceeding $5,000.

Compare: 1996 No 27 s 177

378 False allegation or report to Customs officer with intention of diverting deployment of Customs personnel, etc

(1) A person commits an offence if the person, with the intention of diverting deployment or causing wasteful deployment of Customs personnel or resources, or being reckless as to that result,—

(a) makes a false statement to any person that gives rise to serious apprehension for that person's own safety or the safety of any other person or property, knowing that the statement is false; or

(b) behaves in a manner that is likely to give rise to serious apprehension for the safety of any person or property, knowing that the apprehension would be groundless.

(2) A person who commits an offence under this section is liable on conviction to—

(a) imprisonment for a term not exceeding 3 months; or

(b) a fine not exceeding $5,000.

Compare: 1996 No 27 s 177A(1)(b), (2)

379 Killing or injuring Customs dog

(1) A person commits an offence if the person, without lawful authority or reasonable excuse, intentionally kills, maims, wounds, or otherwise injures a Customs dog.

(2) A person who commits an offence under this section is liable on conviction to—

(a) imprisonment for a term not exceeding 24 months; or

(b) a fine not exceeding $15,000; or

(c) both.

Compare: 1996 No 27 s 177AA

380 Personation of Customs officer

(1) A person commits an offence if, without reasonable excuse, the person by words, conduct, or demeanour pretends to be a Customs officer.

(2) A person commits an offence if the person—

(a) is not a Customs officer (or an authorised officer); but

(b) without reasonable excuse, wears or uses the uniform, name, designation, or description of a Customs officer.

(3) A person commits an offence if the person, without lawful authority, represents any craft, vehicle, or other conveyance as being in the service of Customs.

(4) A person who commits an offence under this section is liable on conviction to—

(a) imprisonment for a term not exceeding 12 months; or

(b) a fine not exceeding $15,000.

Compare: 1996 No 27 s 178

381 Counterfeit seals, stamps, markings, substances, or devices

(1) A person commits an offence if the person, without lawful authority or reasonable excuse, makes, uses, or has in the person's possession any counterfeit seal, stamp, marking, substance, or device that imitates or closely resembles any seal, stamp, marking, substance, or device used by Customs for the purposes of this Act.

(2) A person who commits an offence under 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.

Compare: 1996 No 27 s 179

382 Unauthorised presence in certain Customs-controlled areas

(1) In this section, **specified Customs-controlled area** means a Customs-controlled area that is licensed to be used for—

(a) the temporary holding of imported goods for the purpose of examining those goods under section 227; 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

(d) the loading or unloading of goods onto or from craft arriving in, or departing from, New Zealand.

(2) A person commits an offence if the person, without the permission of a Customs officer or a reasonable excuse, enters into a specified Customs-controlled area that is being, or is about to be, used for any of the purposes for which it is licensed as a Customs-controlled area.

(3) A person commits an offence if the person—

(a) is directed by a Customs officer to leave a specified Customs-controlled area that is being, or is about to be, used for any of the purposes for which the area is licensed as a Customs-controlled area; and

(b) without reasonable excuse, fails to comply with the direction.

(4) A person who commits an offence under this section is liable on conviction to a fine not exceeding $1,000.

Compare: 1996 No 27 s 181

383 Failure to answer questions

(1) A person who is required to answer a question under this Act commits an offence if, when the question is put, the person—

(a) fails or refuses, without reasonable excuse, to answer the question; or

(b) gives an incorrect answer to the question.

(2) It is a defence to a prosecution for an offence under this section if the defendant proves that, when required to answer the question, the defendant—

(a) did not have, in the defendant's knowledge, possession, or control, the information required to answer the question; or

(b) honestly and reasonably believed that the answer the defendant gave was, in all the circumstances, correct at that time.

(3) It is not a reasonable excuse for the purposes of subsection (1)(a) for a person to fail or refuse to answer a question on the ground that to answer would or might incriminate or tend to incriminate that person.

(4) A person who commits an offence under 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.

Compare: 1996 No 27 s 185

384 False allegation or report to Customs officer alleging that offence committed

(1) A person commits an offence if the person makes a false statement, or causes a false statement to be made, to a Customs officer alleging that an offence has been committed without a belief in the truthfulness of the statement.

(2) A person who commits an offence under this section is liable on conviction to—

(a) imprisonment for a term not exceeding 3 months; or

(b) a fine not exceeding $5,000.

(3) To avoid doubt, subsection (1) applies to written or oral statements.

Compare: 1996 No 27 s 177A(1)(a), (2)

Other offences

385 Adapting craft for smuggling

(1) The person in charge of a craft and the owner of the craft each commit an offence if—

(a) the craft enters or is found within New Zealand; and

(b) any of the following is adapted for the purpose of concealing goods or persons:

(i) any part of the craft:

(ii) any place in the craft:

(iii) any hole, pipe, or device in or on the craft.

(2) A person who commits an offence under this section is liable on conviction,—

(a) in the case of an individual, to a fine not exceeding $20,000:

(b) in the case of a body corporate, to a fine not exceeding $100,000.

(3) Section 54 (defences for offences) applies to an offence under this section as if this section were in subpart 1 of Part 3.

Compare: 1996 No 27 s 196

386 Possession of incomplete documents

(1) A person commits an offence if the person, without lawful authority or reasonable excuse, has in his or her possession or brings into New Zealand any document or form that—

(a) is capable of being used for any purpose under this Act; and

(b) is signed, or certified, or bears any mark or inscription to indicate that it is correct or authentic; but

(c) is incomplete.

(2) A person who commits an offence under this section is liable on conviction to a fine not exceeding $5,000.

Compare: 1996 No 27 s 206

387 Offences in relation to use of goods

(1) This section applies if—

(a) this Act, the Excise and Excise-equivalent Duties Table, or the Tariff Act 1988 provides that goods are exempt from duty, or liable to a lower rate of duty, if they are entered—

(i) for a particular purpose; or

(ii) subject to any condition imposed by the responsible Minister or the chief executive; and

(b) the goods are so entered.

(2) A person commits an offence if the person knowingly—

(a) uses or deals with those goods for a purpose other than that for which they are entered; or

(b) fails to comply with a condition imposed by the responsible Minister or the chief executive in respect of the goods so entered.

(3) A person who commits an offence under this section is liable on conviction to a fine not exceeding the greater of the following:

(a) 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:

(b) $5,000.

(4) For the purposes of this section, beer that is entered as exempt from excise duty under clause 6(1) of Schedule 3, or wine that is entered as exempt from excise duty under clause 6(2) of that schedule, is 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.

(5) In this section, **responsible Minister** means, as the case requires,—

(a) the Minister; or

(b) the Minister who, with the authority of the Prime Minister, is responsible for the administration of the Tariff Act 1988.

Compare: 1996 No 27 s 207

388 Offences in relation to importation or exportation of prohibited goods

(1) A person commits an offence if the person, without lawful authority or reasonable excuse,—

(a) imports into New Zealand, or unships or lands in New Zealand, any prohibited imports; or

(b) exports, or transports with intent to export, from New Zealand any prohibited exports; or

(c) fails to comply with section 97(8)(a); or

(d) removes from any Customs-controlled area any prohibited imports; or

(e) fails to comply with a term or condition of a licence, permit, or consent to import or export goods whose importation or exportation is otherwise prohibited under section 95A, 96, or 97.

(2) A person who commits an offence under 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.

Compare: 1996 No 27 s 209(1)(a), (b), (ca), (d), (f), (3)

Section 388(1)(e): amended, on 1 July 2020, by section 13 of the Customs and Excise (Tobacco) Amendment Act 2020 (2020 No 16).

389 Offences in relation to knowingly importing or exporting prohibited goods

(1) A person commits an offence if the person—

(a) is knowingly concerned in any importation, transportation, shipment, unshipment, or landing of prohibited imports; or

(b) is knowingly concerned in any exportation, transportation, or shipment of prohibited exports; or

(c) is knowingly concerned, or conspires, in the removal from a Customs-controlled area of any prohibited imports; or

(d) is knowingly concerned in a failure to comply with a term or condition of a licence, permit, or consent to import or export goods whose importation or exportation is otherwise prohibited under section 95A, 96, or 97.

(2) A person who commits an offence under this section is liable on conviction,—

(a) in the case of an individual, to—

(i) imprisonment for a term not exceeding 6 months; or

(ii) a fine not exceeding the greater of the following:

(A) $20,000:

(B) an amount equal to 3 times the value of the goods to which the offence relates:

(b) in the case of a body corporate, to a fine not exceeding the greater of the following:

(i) $100,000:

(ii) an amount equal to 3 times the value of the goods to which the offence relates.

(3) If any conduct that constitutes an offence under this section also constitutes an offence under section 390 or 391, the matter is to be dealt with under section 390 or 391 and not under this section.

Compare: 1996 No 27 s 209(1)(c), (e), (g), (2)

Section 389(1)(d): amended, on 1 July 2020, by section 14 of the Customs and Excise (Tobacco) Amendment Act 2020 (2020 No 16).

390 Offences in relation to knowingly importing or exporting objectionable publications

(1) A person commits an offence if the person—

(a) is knowingly concerned in any importation, exportation, transportation, shipment, unshipment, or landing of any objectionable publication; or

(b) is knowingly concerned, or conspires, in the removal from a Customs-controlled area of an objectionable publication.

(2) A person who commits an offence under this section is liable on conviction,—

(a) in the case of an individual, to imprisonment for a term not exceeding 10 years:

(b) in the case of a body corporate, to a fine not exceeding $100,000.

(3) In the sentencing for an offence under this section, sections 132A and 132B of the Films, Videos, and Publications Classification Act 1993 (which relate to aggravating factors and repeat offenders) apply.

(4) An offence under this section is a relevant offence for the purposes of section 145A(1) of that Act (which relates to extraterritorial jurisdiction).

Compare: 1996 No 27 s 209(1A), (1B), (5), (6)

391 Offence in relation to knowingly importing or exporting goods for dishonest purpose

(1) A person commits an offence if the person is knowingly concerned in any importation or exportation of goods that are for a dishonest purpose.

(2) A person who commits an offence under this section is liable on conviction to imprisonment for a term not exceeding 3 years.

Compare: 1996 No 27 s 209(1)(cab), (2A), (7)

392 Publications imported or exported in course of official duties

(1) It is not an offence for the purposes of sections 388 to 390 for a New Zealand publications official to do the following for the purpose of, and in connection with, his or her official duties:

(a) import a publication (whether with the involvement of an overseas publications official or not):

(b) export a publication to an overseas official.

(2) In this section,—

New Zealand publications official means a person referred to in section 131(4)(a) to (l) of the Films, Videos, and Publications Classification Act 1993

overseas publications official means a person in a country other than New Zealand who—

(a) holds an office in that country that corresponds to an office referred to in section 131(4)(a) to (1) of the Films, Videos, and Publications Classification Act 1993; and

(b) is carrying out the functions of that office

publication has the meaning given to that term in section 2 of the Films, Videos, and Publications Classification Act 1993.

Compare: 1996 No 27 s 209A

393 Offences in relation to exportation of goods

(1) A person commits an offence if the person, without reasonable excuse, fails to comply with—

(a) section 89(1) or (5), 90, or 92; or

(b) a request made under section 89(4).

(2) A person commits an offence if the person is knowingly concerned with a failure to comply with—

(a) section 90; or

(b) section 148(2).

(3) A person who commits an offence under subsection (1) or (2)(a) is liable on conviction to a fine not exceeding $5,000.

(4) A person who commits an offence under subsection (2)(b) is liable on conviction,—

(a) in the case of an individual, to—

(i) imprisonment for a term not exceeding 6 months; or

(ii) a fine not exceeding the greater of the following:

(A) $20,000:

(B) an amount equal to 3 times the value of the goods to which the offence relates:

(b) in the case of a body corporate, to a fine not exceeding the greater of the following:

(i) $100,000:

(ii) an amount equal to 3 times the value of the goods to which the offence relates.

Compare: 1996 No 27 s 210

Miscellaneous provisions relating to offences

394 Corporate liability

(1) In this section, **enterprise** means any body corporate, partnership, trust, or other business.

(2) If an enterprise commits an offence under this Act, the following persons also commit the offence:

(a) every director, manager, secretary, officer, or agent of the enterprise who participated in, directed, authorised, acquiesced in, or assented to the act or omission:

(b) every person who—

(i) purports to act in the capacity of director, manager, secretary, officer, or agent of the enterprise; and

(ii) participated in, directed, authorised, acquiesced in, or assented to the act or omission.

(3) An individual who commits an offence as provided for in this section is liable on conviction—

(a) to the penalty prescribed for an individual by the section or regulation creating the offence; or

(b) if there is no penalty so prescribed for an individual, to the penalty so prescribed for the offence.

(4) To avoid doubt, a person may be convicted of an offence as provided for in this section, even if the enterprise has not itself been charged with, or convicted of, the offence.

Compare: 1996 No 27 s 217

395 Liability of principal and agent

(1) Every declaration made, or other act done, by an agent in the course of his or her agency (whether or not that agent is in New Zealand) in relation to any matter under this Act is treated as also having been made or done by the agent's principal, and the principal is liable accordingly to the penalties imposed under this Act.

(2) For the purposes of this section,—

(a) the knowledge or intent of the agent is imputed to the principal in addition to the principal's own knowledge or intent:

(b) the following are treated as also being the agent of the principal:

(i) an employee of the agent:

(ii) a person carrying out any function of or for the agent:

(iii) a person acting under the instruction of the agent.

(3) If any person (**A**) acts or purports to act as the agent of any other person in relation to any matter under this Act, A is liable to the same penalties as if A were the principal for whom A acts or purports to act.

Compare: 1996 No 27 s 218

396 Attempts

An attempt to commit an offence under this Act gives rise to the same cause for seizure as if the offence attempted had been committed.

Compare: 1996 No 27 s 219

397 Court may order payment of money in respect of duty

(1) This section applies if a person is convicted of an offence under section 234, 253, 376, or 377.

(2) If the court is of the opinion that the offence was 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 a further sum in respect of the claim for duty as the court thinks fit.

(3) An order under subsection (2) may be enforced in the same manner as a fine.

(4) The recovery of any amount under this section—

(a) does not extinguish the claim for duty; but

(b) must 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: 1996 No 27 s 222

398 Filing of charging document

(1) Proceedings for any offence under this Act, other than an offence referred to in subsection (3), may be commenced by—

(a) the chief executive; or

(b) a Customs officer or an agent or any other employee of Customs nominated by the chief executive.

(2) A person who purports to act in accordance with a nomination under subsection (1)(b) is, in the absence of proof to the contrary, presumed to have been nominated under that paragraph.

(3) Proceedings for an offence under any of sections 351 to 353 (offences in relation to Customs Appeal Authorities) must be commenced by the Registrar of a Customs Appeal Authority.

(4) Section 25 of the Criminal Procedure Act 2011 applies to—

(a) any offence under section 18(3), 20, 25(1) or (2), 27, 40, 79, 132(1), 180, 202, 209, 217, 219, 253, 352, 353, 358(3), 371, 377, 378, 383, 386, or 390 of this Act; and

(b) any offence created by regulations under section 403(5) of this Act.

(5) Subsection (6) applies to any other offence under this Act instead of section 25 of the Criminal Procedure Act 2011.

(6) A charging document in respect of the offence must be filed within 4 years after the date on which the offence was committed.

Compare: 1996 No 27 s 221

Infringement offences

399 Infringement offences and fees

(1) Regulations may do any of the following:

(a) prescribe offences under this Act that are infringement offences:

(b) prescribe, in relation to an infringement offence, the infringement fee that is payable for the infringement offence.

(2) An infringement fee may not exceed $1,000.

(3) A person who is alleged to have committed an infringement offence may either—

(a) be proceeded against by the filing of a charging document under section 14 of the Criminal Procedure Act 2011; or

(b) be served with an infringement notice (*see* sections 400 and 401).

(4) Proceedings commenced in the way described in subsection (3)(a) do not require the leave of a District Court Judge or Registrar under section 21(1)(a) of the Summary Proceedings Act 1957.

400 Infringement notices

(1) A Customs officer may issue an infringement notice to a person if the officer has reasonable grounds to believe that the person is committing, or has committed, an infringement offence.

(2) An infringement notice may be revoked—

(a) by serving written notice on the person to whom the infringement notice was issued; and

(b) at any time before—

(i) the infringement fee is paid; or

(ii) an order for payment of a fine is made or treated as having been made by a court under section 21 of the Summary Proceedings Act 1957.

401 Procedural requirements for infringement notices, etc

(1) The following provisions only of sections 423 to 426 apply in relation to the service of an infringement notice or a notice under section 400(2)(a):

(a) sections 423(1)(a) to (c), (2)(a) to (d), and (3), 424(1)(a) to (c), and 425(1)(a) and (b):

(b) section 426(2)(a) as it applies to notices given by post.

(2) An infringement notice or a notice under section 400(2)(a) that is posted in accordance with section 423(1)(a) or (2)(d), 424(1)(c), or 425(1)(b) must be treated as having been served on the date on which it was posted.

(3) An infringement notice must—

(a) be in the prescribed form; and

(b) contain—

(i) details of the alleged infringement offence that are sufficient fairly to inform a person of the time, place, and nature of the alleged offence; and

(ii) the amount of the infringement fee; and

(iii) the address or addresses at which the infringement fee may be paid; and

(iv) the time within which the infringement fee must be paid; and

(v) a summary of the provisions of section 21(10) of the Summary Proceedings Act 1957; and

(vi) a statement that the person served with the notice has a right to request a hearing; and

(vii) a statement of what will happen if the person served with the notice does not pay the fee and does not request a hearing; and

(viii) any other prescribed matters.

(4) If an infringement notice is issued, the procedure under section 21 of the Summary Proceedings Act 1957 may be used in respect of the infringement offence to which the notice relates and, in that case, that section applies with all necessary modifications.

(5) Regulations may prescribe, for the purposes of section 21 of the Summary Proceedings Act 1957, the form and content of reminder notices for infringement offences, which must, at a minimum, contain the information set out in subsection (3)(b).

402 Infringement fees to be paid into Crown Bank Account

The chief executive must pay all infringement fees that are received into a Crown Bank Account.

Subpart 3—Regulations, orders, rules, etc

Regulations

403 Regulations generally

(1) The Governor-General may, by Order in Council, make regulations for any of the following purposes:

(a) prescribing any matter that this Act provides is to be prescribed by regulations:

(b) providing for any other matters contemplated by this Act, necessary for its administration, or necessary for giving it full effect.

(2) Regulations may prescribe exemptions from any regulation.

(3) The power under subsection (2), and any other power to prescribe exemptions, includes the power to prescribe exemptions with conditions.

(4) Regulations (including regulations prescribing fees or charges) may make different provision for different cases on any differential basis.

(5) Regulations may—

(a) create offences for contraventions of regulations (and, accordingly, references in this Act to offences under this Act include offences created by regulations); and

(b) prescribe for those offences fines not exceeding $1,000.

(6) A power to prescribe fees or charges includes the power to prescribe any of the following:

(a) the method by which the fees or charges are to be assessed:

(b) the persons liable to pay the fees or charges:

(c) when the fees or charges must be paid:

(d) circumstances in which the fees or charges may be refunded, remitted, or waived (wholly or partly).

(7) Fees and charges are a debt due to the Crown and may be recovered by the chief executive (on behalf of the Crown) in any court of competent jurisdiction.

(8) A power to prescribe a rate of interest includes the power to prescribe the way in which the rate is to be determined.

(9) This Act does not authorise the making of regulations prescribing fees and charges to recover the costs of processing travellers to which the Airports (Cost Recovery for Processing of International Travellers) Act 2014 applies.

(10) Regulations under this section are secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Compare: 1996 No 27 ss 286, 287(1)(a), (2)–(5)

Legislation Act 2019 requirements for secondary legislation made under this section		
Publication	PCO must publish it on the legislation website and notify it in the *Gazette*	LA19 s 69(1)(c)
Presentation	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 403(10): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

404 Regulations in relation to stores

Regulations may be made prescribing any of the following:

(a) the classes of goods that are, or are not, to be treated as being stores for the use of passengers and crew or the service of craft about to depart from any Customs place:

(b) the conditions under which those stores may be shipped free of duty or under drawback of duty:

(c) the conditions under which those stores are subject to duty:

(d) the way in which those stores must be entered.

Compare: 1996 No 27 s 38

405 Regulations in relation to entries

Regulations may do any of the following:

(a) prescribe when an entry under section 75, 81, or 89 is treated as having been made for the purposes of this Act:

(b) prescribe the conditions under which an entry under section 75, 81, or 89 is treated as having been passed for the purposes of this Act:

(c) prescribe, with or without conditions, goods or classes of goods that are treated for the purposes of this Act as having been entered under section 75, 81, or 89:

(d) prescribe exemptions from section 75(1), 81(1), or 89(1):

(e) without limiting paragraphs (a) to (d), provide for the chief executive's rules to prescribe any of the following matters for the purposes of any regulations made for the purposes of any of paragraphs (a) to (d):

(i) any form that must be used by any person:

(ii) any information that must be provided by any person:

(iii) any declaration that must be provided by any person.

Compare: 1996 No 27 ss 40(a) to (d), 50, 71(a), (b), (c), 288(1)(i)

406 Regulations in relation to collection of duty

(1) Regulations may be made, on the recommendation of the Minister, prescribing any of the following:

(a) an amount of duty below which that duty need not be collected, and the circumstances in which that duty need not be collected:

(b) the value of goods below which duty need not be collected, how that value is to be determined, and the circumstances in which that duty need not be collected.

(2) Before making a recommendation for the purposes of subsection (1), the Minister must consult the persons, representative groups, government departments, and Crown agencies that he or she considers reasonable and appropriate to consult in the circumstances.

Compare: 1996 No 27 s 118(1)(a), (ab), (2), (3)

407 Regulations for determining country of produce or manufacture

(1) Regulations may do any of the following:

(a) prescribe the goods or any type or class of goods that are treated as being the produce or manufacture of any country or group of countries for the purposes of this Act:

(b) prescribe, on the recommendation of the Minister after consultation with the responsible Minister, the goods or any type or class of goods that are

treated as being the produce or manufacture of any country or group of countries for the purposes of the Tariff Act 1988:

(c) prescribe the conditions to be fulfilled before goods referred to in paragraph (a) or (b) are treated as being the produce or manufacture of any country or group of countries:

(d) authorise 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 that was used in the goods' production was 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.

(2) In subsection (1)(b), **responsible Minister** means the Minister who, with the authority of the Prime Minister, is responsible for the administration of the Tariff Act 1988.

Compare: 1996 No 27 s 65

408 Regulations for recovering costs for attendance of Customs officers, etc

(1) Regulations may do any of the following:

(a) impose charges for any of the following:

(i) the attendance of Customs officers for the purposes of this Act:

(ii) the making of Customs rulings under section 336(1)(c):

(b) prescribe the amounts of the charges or the way in which they are to be calculated:

(c) authorise the chief executive to determine the persons who must pay the charges (so far as those persons are not prescribed under section 403(6)(b)).

(2) Charges may be any of the following:

(a) fixed charges:

(b) charges based on a scale or an hourly or other unit basis:

(c) charges based on actual and reasonable costs.

Compare: 1996 No 27 s 287(1)(b)–(d)

409 Regulations for recovering costs of granting certificates of clearance, etc

(1) Regulations may be made, on the recommendation of the Minister, prescribing any of the following:

(a) fees or charges that are payable to Customs to meet, or to assist in meeting, the costs and expenses incurred by Customs in granting a certificate of clearance under this Act other than costs and expenses related to clearance of passengers:

(b) fees or charges that are payable to Customs to meet, or to assist in meeting, the costs and expenses incurred by Customs in carrying out its functions under this Act that relate to the importation or exportation of goods.

(2) Subpart 7 of Part 3 (which relates to the assessment, payment, and recovery of duty) applies to any fees and charges prescribed for the purposes of this section as if those fees and charges were a duty.

(3) Before making a recommendation for the purposes of subsection (1), the Minister must consult the persons, representative groups, government departments, and Crown agencies that he or she considers reasonable and appropriate to consult in the circumstances.

Compare: 1996 No 27 ss 34A, 40A, 50A

410 Regulations in relation to sale of goods by chief executive

Regulations may prescribe the way in which the chief executive may sell goods under this Act and the proceeds of sale may be dispersed.

Compare: 1996 No 27 s 286(1)(dd)

411 Regulations in relation to activities of Customs officers outside New Zealand

(1) Regulations may prescribe circumstances in which any of the following is to be treated for the purposes of this Act as having been made or carried out in New Zealand:

(a) a decision of a prescribed class made by a Customs officer while outside New Zealand:

(b) other activities of a prescribed class carried out by a Customs officer outside New Zealand.

(2) Nothing in regulations made for the purposes of subsection (1)—

(a) requires a person who is not a Customs officer—

(i) to do, or not to do, anything outside New Zealand; or

(ii) to cause anything to be done, or not to be done, outside New Zealand; or

(b) can be relied on to impose criminal or other liability on a person, other than a Customs officer, in relation to any act or omission occurring outside New Zealand.

412 Incorporation of provisions of international agreements by reference in regulations

(1) Regulations may incorporate by reference any provisions set out in—

(a) an international trade agreement to which New Zealand is a party; or

(b) another document that is made to give effect to such an agreement.

(2) The provisions may be incorporated in the regulations—

(a) in whole or in part; and

(b) with modifications, additions, or variations specified in the regulations.

(3) Section 64(3) and Schedule 2 of the Legislation Act 2019 apply in relation to the incorporation in regulations of provisions under this section.

Compare: 1996 No 27 ss 287A–287E

Section 412(3): amended, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Border processing levy orders

413 Levies for recovering border processing costs

(1) In this section, **traveller** means any person who arrives in New Zealand from, or departs from New Zealand for, any place outside New Zealand.

(2) Every traveller who arrives in, or departs from, New Zealand is liable, while there is a levy order in force under subsection (3), to pay a levy to the chief executive in relation to the costs incurred by Customs—

(a) in, or for the purpose of, carrying out its functions under this Act or any other enactment; and

(b) in relation to travellers and their accompanying baggage (or other goods in their possession or under their control).

(3) The Governor-General may, by Order in Council, on the recommendation of the Minister, make a levy order prescribing—

(a) the rate of levy or the basis on which the rate is to be calculated or ascertained; and

(b) insofar as the order does not set an actual rate, how the actual rate of the levy is to be set; and

(c) when and how the levy is to be paid; and

(d) how the rate of the levy, and any variation of the rate, is to be notified.

(4) The Minister must, before recommending that a levy order be made under this section, consult the persons, representative groups, government departments, and Crown agencies that he or she considers reasonable and appropriate to consult in the circumstances.

(5) A levy order must not be made in respect of the costs that are otherwise recovered, or otherwise to be recovered, under this Act or the Airports (Cost Recovery for Processing of International Travellers) Act 2014.

(6) A levy order under this section is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Compare: 1993 No 95 s 140AA; 1996 No 27 s 288B

Legislation Act 2019 requirements for secondary legislation made under this section		
Publication	PCO must publish it on the legislation website and notify it in the *Gazette*	LA19 s 69(1)(c)
Presentation	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 413(6): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

414 Contents of border processing levy order

(1) A levy order under section 413 may—

(a) prescribe different rates of levy, on any differential basis, for different persons or different classes of persons:

(b) prescribe a maximum rate or maximum rates of levy:

(c) prescribe persons responsible for collecting the levy from those primarily responsible for paying it:

(d) exempt certain persons or classes of persons from the requirement to pay the levy:

(e) allow persons collecting the levy to recover the costs of collecting the levy and, if so, prescribe the basis on which those costs are to be calculated or ascertained:

(f) require that returns be made to the chief executive or some other person or body to enable the amounts of levy payable to be calculated, determined, or verified:

(g) provide, subject to any conditions that may be prescribed, for extensions of time for the payment of the levy:

(h) provide for the payment of additional or increased levy in the event of late payment or non-payment:

(i) provide for circumstances in which levy paid may be refunded:

(j) require that levy funds payable be held on trust in separate accounts.

(2) Every order must,—

(a) for the purpose of determining whether the order is being complied with, require any of the following persons to keep statements, accounts, or records of specified classes or descriptions:

(i) the chief executive:

(ii) persons responsible for paying the levy:

(iii) persons responsible for collecting the levy; and

(b) provide for those statements, accounts, or records to be retained for a specified period; and

(c) provide for the remuneration of auditors under section 418(2).

Compare: 1993 No 95 ss 140, 140AB, 141A; 1996 No 27 s 288C

415 Trust accounts for levy money payable to chief executive

(1) If a levy order provides that the levy funds payable are to be held on trust in separate accounts, each person responsible for collecting the levy must—

(a) keep a bank account at a registered bank; and

(b) ensure that the account is so named as to identify that it is a trust account kept by the person responsible for collecting the levy for the purposes of the order; and

(c) take all practicable steps to ensure that—

(i) the account is used only for holding amounts required to be deposited under this section; and

(ii) the balance in the account on any day is not less than the amount outstanding on that day to the chief executive.

(2) A person responsible for collecting a levy must deposit in a trust account an amount equal to the levy calculated in accordance with the levy order on the day or days specified in, or calculated in accordance with, that order.

(3) If the amount held in the trust account—

(a) is more than the amount of levy money that is outstanding to the chief executive, the amount outstanding is treated as being held on trust for the chief executive:

(b) is the same as or less than the amount that is outstanding, all the money in the account is treated as being held on trust for the chief executive.

(4) Money treated by subsection (3) as being held on trust is not available for the payment of, and is not liable to be attached or taken in execution at the instance of, any creditor of the person responsible for collecting the levy (other than the chief executive).

(5) A person who ceases to be a person responsible for collecting a levy must continue to maintain the trust account until all the levy money payable to the chief executive, in respect of the period during which that person was responsible for collecting the levy, has been paid.

(6) Nothing in subsection (5) limits or affects any obligation or liability under this Act of any person who has become responsible for collecting the levy.

(7) In this section,—

levy order means an order under section 413

registered bank has the meaning given to that term in section 2(1) of the Banking (Prudential Supervision) Act 1989

trust account means the account referred to in subsection (1).

Compare: 1993 No 95 s 140A; 1996 No 27 s 288D

Section 415(7) **registered bank**: amended, on 1 July 2022, by section 300(1) of the Reserve Bank of New Zealand Act 2021 (2021 No 31).

416 Effect of levy order

If an order is made under section 413,—

(a) every person responsible for paying or collecting the levy must do so; and

(b) the chief executive may recover the levy in any court of competent jurisdiction as a debt due from any person responsible for paying or collecting it.

Compare: 1993 No 95 s 141; 1996 No 27 s 288E

417 Compliance audits

(1) While an order under section 413 is in force, the Minister may, at the request of the chief executive, appoint 1 or more auditors to conduct an audit of the affairs of any person responsible for collecting the levy.

(2) The purpose of an audit under this section is to ascertain—

(a) the extent to which persons responsible for paying or collecting the levy concerned are doing or have done so:

(b) the extent to which appropriate amounts of the levy concerned are being or have been paid over to the chief executive:

(c) the extent to which statements, accounts, and records are being or have been kept or properly kept.

Compare: 1993 No 95 ss 141B(1), 141C(1); 1996 No 27 s 288F

418 Auditors

(1) A person is not qualified to be an auditor for the purposes of section 417 if—

(a) the person is not a qualified auditor within the meaning of section 35 of the Financial Reporting Act 2013:

(b) the person is an officer or employee of—

(i) the chief executive:

(ii) any person responsible for collecting the levy concerned:

(iii) any person responsible for paying the levy concerned.

(2) Every person appointed as an auditor is entitled to remuneration paid by the chief executive as provided for in the relevant levy order.

(3) For the purposes of conducting an audit, an auditor may—

(a) require any specified person to produce, and the person must produce, for inspection within a reasonable period specified by the auditor any statements, accounts, or records—

(i) that are required to be kept under section 414(2); and

(ii) that are in that person's possession or under that person's control:

(b) take copies of, or extracts from, those statements, accounts, or records.

(4) The persons referred to in subsection (3)(a) are—

(a) the chief executive:

(b) any person responsible for collecting the levy:

(c) any employee or officer of a person in paragraph (a) or (b).

(5) Every requirement under subsection (3) must contain—

(a) a reference to this section; and

(b) the full name of the auditor; and

(c) a statement of the powers conferred on the auditor by that subsection.

(6) An auditor must not disclose to any person other than the Minister (or a person authorised in that behalf by the Minister) any information obtained by the auditor under subsection (3), except in respect of—

(a) a prosecution under this Act:

(b) an action for the recovery of any amount due under this Act.

(7) To avoid doubt, the Official Information Act 1982 applies in respect of any information held by a Minister that was obtained under subsection (6).

Compare: 1993 No 95 ss 141B(3)–(5), 141D; 1996 No 27 s 288G

419 Offences in relation to levy orders

(1) A person commits an offence if the person fails to keep or maintain statements, accounts, or records that are required by an order made under section 413 to be kept or maintained.

(2) A person commits an offence if the person fails to make a return that the person is required to make by an order made under section 413.

(3) A person commits an offence if the person makes a return that the person is required to make by an order made under section 413 knowing that the return is false or misleading in a material particular.

(4) A person commits an offence if the person fails to comply with a requirement imposed under section 418(3)(a).

(5) A 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:

(b) in the case of a body corporate, to a fine not exceeding $25,000.

(6) A person who commits an offence under subsection (2) or (4) 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.

(7) A person who commits an offence under subsection (3) is liable on conviction,—

(a) in the case of an individual, to a fine not exceeding $10,000:

(b) in the case of a body corporate, to a fine not exceeding $50,000.

Compare: 1993 No 95 ss 154N(15), (16), 154O(7); 1996 No 27 s 288H

420 Defences for offences in relation to levy orders

(1) This section applies to the offences in section 419(1), (2), and (4).

(2) It is a defence to a prosecution for an offence if the defendant proves that—

(a) the action or event to which the prosecution relates was due to—

(i) the act or omission of another person; or

(ii) an accident; or

(iii) some other cause or circumstance outside the defendant's control; and

(b) the defendant took all reasonable precautions, and exercised due diligence, to avoid the commission of the offence.

(3) The defence in subsection (2) is available only if the defendant gives a written notice to the prosecutor at least 15 working days before the hearing date, or within such other time as the court allows, that—

(a) states the defendant's intention to rely on the defence; and

(b) includes facts that support the defence.

Compare: 1993 No 95 s 154N(1)–(3), (5); 1996 No 27 s 288I

Chief executive's rules, etc

421 Chief executive's rules

(1) The chief executive may make rules prescribing any matter that this Act (including regulations made for the purposes of section 323(3)(b), 405(e), or 435(5)(b)) provides is to be prescribed by the chief executive's rules.

(2) A power to prescribe the way in which anything is to be done includes (without limitation) the power to prescribe any of the following:

(a) any form that must be used:

(b) any information that must be provided:

(c) any declaration that must be provided.

(3) Rules made under subsection (1) may make different provision for different cases on any differential basis.

(4) Rules under this section—

(a) are secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements); and

(b) come into force on a date specified in them, being not less than 28 days after the rules are published under that Act.

(5) *[Repealed]*

(6) *[Repealed]*

(7) The chief executive's power to make rules under subsection (1) cannot be delegated to another person.

Compare: 1996 No 27 s 288

Legislation Act 2019 requirements for secondary legislation made under this section

Publication	The maker must: • notify it in the *Gazette* with a statement of where it is available for inspection and purchase • make it available for inspection free of charge • make it available for sale at a reasonable price	LA19 ss 73, 74(1)(a), Sch 1 cl 14
	The Ministry of Foreign Affairs and Trade considers that the secondary legislation may have international transparency obligations under the CPTPP. As a result the maker may also have to comply with s 75 of the Legislation Act 2019	LA19 ss 74(2), 75
Presentation	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 421(4): replaced, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Section 421(5): repealed, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Section 421(6): repealed, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

422 Interaction with subpart 1 of Part 3 of Legislation Act 2012

[Repealed]

Section 422: repealed, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Subpart 4—Miscellaneous provisions

Giving of notices

423 Giving notice to companies

(1) The chief executive, or a Customs officer, may give notice to a company under this Act by—

(a) posting it to, or leaving it at, the company's registered office; or

(b) delivering it to a person named on the New Zealand register as a director of the company; or

(c) delivering it to an employee of the company at the company's head office or principal place of business; or

(d) delivering it to a box at a document exchange that the company is using at the time; or

(e) sending it by fax machine to the company's registered office, head office, or principal place of business; or

(f) sending it by electronic means to the company's contact electronic address; or

(g) if the company, or a director, employee, or agent of the company, is a registered user, sending it by electronic means to the registered user using the registered user system.

(2) The chief executive, or a Customs officer, may give notice to an overseas company under this Act by—

(a) delivering it to a person who is—

(i) named in the overseas register as a director of the overseas company; and

(ii) resident in New Zealand; or

(b) delivering it 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) delivering it to an employee of the overseas company at the overseas company's principal place of business in New Zealand; or

(d) posting it to the overseas company's principal place of business in New Zealand; or

(e) delivering it to a box at a document exchange in New Zealand that the overseas company is using at the time; or

(f) sending it by fax machine to the overseas company's principal place of business in New Zealand; or

(g) sending it by electronic means to the overseas company's contact electronic address; or

(h) if the overseas company, or a director, employee, or agent of the overseas company, is a registered user, sending it by electronic means to the registered user using the registered user system.

(3) In this section and section 424, **company**, **New Zealand register**, **overseas company**, and **overseas register** have the meanings given to those terms in section 2(1) of the Companies Act 1993.

(4) For the purposes of this section, a company's or an overseas company's **contact electronic address** is any of the following:

(a) an email or other electronic address of the company or overseas company provided to Customs by a person acting for or on behalf of the company or overseas company in relation to the relevant matter:

(b) the last known email or other electronic address of a person acting for or on behalf of the company or overseas company in relation to the relevant matter:

(c) an email or other electronic address of the company or overseas company that is otherwise available, if there are reasonable grounds to suppose that a person acting for or on behalf of the company or overseas company in relation to the relevant matter will receive the communication.

Compare: 1996 No 27 s 284(1), (2)

424 Giving notice to bodies corporate other than companies

(1) The chief executive, or a Customs officer, may give notice under this Act to a body corporate other than a company or an overseas company by—

(a) delivering it to a person who is a principal officer of the body corporate; or

(b) delivering it to an employee of the body corporate at the principal office or principal place of business of the body corporate; or

(c) posting it to the principal office of the body corporate; or

(d) delivering it to a box at a document exchange that the body corporate is using at the time; or

(e) sending it by fax machine to the principal office or principal place of business of the body corporate; or

(f) sending it by electronic means to the body corporate's contact electronic address; or

(g) if the body corporate, or an employee or an agent of the body corporate, is a registered user, sending it by electronic means to the registered user using the registered user system.

(2) For the purposes of this section, a body corporate's **contact electronic address** is any of the following:

(a) an email or other electronic address of the body corporate provided to Customs by a person acting for or on behalf of the body corporate in relation to the relevant matter:

(b) the last known email or other electronic address of a person acting for or on behalf of the body corporate in relation to the relevant matter:

(c) an email or other electronic address of the body corporate that is otherwise available, if there are reasonable grounds to suppose that a person acting for or on behalf of the body corporate in relation to the relevant matter will receive the communication.

Compare: 1996 No 27 s 284(3)

425 Giving notice to individuals

(1) The chief executive, or a Customs officer, may give notice under this Act to an individual by—

(a) delivering it to that individual; or

(b) posting it to that individual's address; or

(c) delivering it to a box at a document exchange that the individual is using at the time; or

(d) sending it to a fax machine used by that individual; or

(e) sending it by electronic means to the individual's contact electronic address; or

(f) if the individual is a registered user, sending it by electronic means to the individual using the registered user system.

(2) For the purposes of this section, an individual's **contact electronic address** is any of the following:

(a) an email or other electronic address that the individual has provided to Customs:

(b) the individual's last known email or other electronic address:

(c) an email or other electronic address of the individual that is otherwise available, if there are reasonable grounds to suppose that the individual will receive the communication.

Compare: 1996 No 27 s 284(4)

426 Receipt of notices

(1) For the purposes of this Act, a notice is treated as having been given—

(a) if it is posted, 5 working days after it is posted:

(b) if it is delivered to a document exchange, 5 working days after it is delivered:

(c) if it is sent to a fax machine, on the first working day following the day on which it was sent:

(d) if it is sent by electronic means, on the first working day following the day on which it was sent.

(2) In proving the giving of notice—

(a) 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:

(b) by fax machine, it is sufficient to prove that the document was properly transmitted by fax machine to the person concerned:

(c) by electronic means under section 423(1)(f) or (2)(g), 424(1)(f), or 425(1)(e), it is sufficient to prove that the notice was properly transmitted to the contact electronic address in question:

(d) by electronic means under section 423(1)(g) or (2)(h), 424(1)(g), or 425(1)(f), it is sufficient to prove that the notice was properly transmitted by electronic means in accordance with the normal operating procedure of the registered user system.

(3) A notice is not to be treated as having been given to a person if that person proves that, through no fault on their part, the notice was not received within the time specified or at all.

Compare: 1996 No 27 s 285

427 Chief executive to give written reasons for decisions open to appeal to Customs Appeal Authority

(1) This section applies to any decisions of the chief executive that can be appealed to a Customs Appeal Authority.

(2) The chief executive's notice of the decision must—

(a) be given without undue delay; and

(b) include or be accompanied by a written statement of the reasons for that decision.

Compare: 1996 No 27 s 283

Declarations

428 Declarations under Act

(1) Every declaration that is required to be made, or is authorised, under this Act must be made as follows:

(a) in the form specified by the chief executive's notice under section 48(1) or 49(1), if the declaration is required to be made, or is authorised, under that notice (*see* section 50(1)(b)):

(b) in the form prescribed by the chief executive's rules, if the declaration is required to be made, or is authorised, under those rules:

(c) in the form prescribed by regulations in any other case.

(2) If a form referred to in subsection (1)(a) to (c) requires the declaration to be made before any person, the declaration may be made before—

(a) a Customs officer; or

(b) a person authorised under the Oaths and Declarations Act 1957 to take declarations; or

(c) any other person specified in the notice or prescribed by the chief executive's rules or by regulations (as the case may be).

Compare: 1996 No 27 s 277

Evidence

429 Burden of proof

(1) This section applies to—

(a) any proceedings under this Act instituted by or against the Crown other than a prosecution for an offence under section 329, 330, 370, or 390:

(b) any proceedings in which the existence of an intent to defraud the Customs revenue is in issue.

(2) Every allegation made by or on behalf of the Crown in any statement of claim, statement of defence, plea, or charge in relation to any of the following matters is presumed to be true unless the contrary is proved:

(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.

(3) The presumption in subsection (2) is not excluded by the fact that evidence is produced on behalf of the Crown in support of the allegation.

(4) Despite subsections (1) to (3), in any proceedings for an offence under 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: 1996 No 27 s 239

430 Documents made overseas

In any proceeding under this Act, other than a prosecution for an offence under section 329, 330, 370, or 390, the court may admit in evidence, as proof of any

fact in issue, a document made in a country other than New Zealand, whether the document is legally admissible as evidence in other proceedings or not.

Compare: 1996 No 27 s 240

431 Proof of rules made by chief executive

[Repealed]

Section 431: repealed, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Limitation

432 No limitation on claims by Crown to recover duties or in forfeiture proceedings

A claim by the Crown under this Act to recover any tax, duty, or interest on any tax or duty, or in respect of any forfeiture proceedings, is not barred or otherwise affected by—

(a) the Limitation Act 2010:

(b) any other enactment that prescribes a limitation period or other limitation defence.

Compare: 1996 No 27 s 274E

Payments by chief executive out of public funds

433 Payments by chief executive out of public money

Subject to any limitation imposed by regulations, the chief executive may, without further appropriation than this section, incur expenses to pay—

(a) all lawful refunds or credits of duty:

(b) all lawful drawbacks of duty:

(c) all lawful payments of interest under section 128(1):

(d) all lawful refunds of interest and penalties under sections 165 to 171:

(e) all lawful refunds of penalties or further penalties under section 294(2).

Compare: 1996 No 27 s 275

Amounts in foreign currencies

434 Foreign currency

(1) If an amount is required to be taken into account for the purposes of this Act and that amount is not in New Zealand currency, the amount must be converted into New Zealand currency at a fair rate of exchange approved by the chief executive.

(2) The applicable rate of exchange for the purposes of subsection (1) is,—

(a) in the case of goods in respect of which an entry has been made, the rate applying on the date of the making of the first entry (that is not an entry for removal) for those goods:

(b) in the case of any other goods, the rate applying on the date of the first assessment of Customs duty on those goods.

(3) The chief executive must publish any approved rate of exchange on an Internet site operated by or on behalf of Customs.

Compare: 1996 No 27 s 62

Origin

435 Certificates of origin

(1) A **New Zealand certificate of origin** is a document issued by an authorised certification body that—

(a) identifies the goods to which it relates; and

(b) certifies that those goods originate in New Zealand.

(2) An authorised certification body may issue a New Zealand certificate of origin in respect of goods for export—

(a) to a party to a free trade agreement in respect of which the body is authorised; but

(b) only if the authorised certification body is satisfied that the goods meet the requirements of the rules of origin prescribed for that agreement.

(3) The chief executive may designate a body as an authorised certification body for the purpose of certifying that goods for export originate in New Zealand if the chief executive is satisfied that the body—

(a) is suitably qualified; and

(b) meets any prescribed criteria for designation.

(4) A designation under subsection (3)—

(a) must specify the free trade agreements and parties to free trade agreements in respect of which the body is authorised; and

(b) may be subject to—

(i) prescribed terms and conditions; and

(ii) any additional terms and conditions the chief executive considers appropriate.

(5) Regulations may—

(a) make provision, and prescribe fees, for applications for designation as an authorised certification body; and

(b) without limiting paragraph (a), require applications for designation to be made in the way prescribed by the chief executive's rules.

(6) In this section, **free trade agreement** means—

(a) 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 (the **China FTA**); or

(b) the Agreement Establishing the ASEAN–Australia–New Zealand Free Trade Area done at Cha-am, Phetchaburi, Thailand on 27 February 2009 (**AANZFTA**); or

(c) the Regional Comprehensive Economic Partnership done at Hanoi, Vietnam, on 15 November 2020 (the **RCEP**); or

(d) the New Zealand–United Arab Emirates Comprehensive Economic Partnership Agreement done at Abu Dhabi on 14 January 2025 (the **UAE CEPA**).

(7) In this section, **party to a free trade agreement** means—

(a) in relation to the China FTA, the People's Republic of China:

(b) in relation to AANZFTA, a specified AANZFTA party (*see* subsection (8)):

(c) in relation to the RCEP, a specified RCEP party (*see* subsection (8)):

(d) in relation to the UAE CEPA, the United Arab Emirates.

(8) For the purposes of this section, the Governor-General may, by Order in Council, declare—

(a) a country that is a party to AANZFTA to be a specified AANZFTA party:

(b) a country that is a party to the RCEP to be a specified RCEP party.

(9) An order under this section is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Compare: 1996 No 27 ss 64A, 64B, 64C

Legislation Act 2019 requirements for secondary legislation made under this section		
Publication	PCO must publish it on the legislation website and notify it in the *Gazette*	LA19 s 69(1)(c)
Presentation	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 435(6)(c): inserted, on 1 January 2022, by section 4(1) of the Regional Comprehensive Economic Partnership (RCEP) Legislation Act 2021 (2021 No 40).

Section 435(6)(d): inserted, on 28 August 2025, by section 14(1) of the United Arab Emirates Comprehensive Economic Partnership Agreement Legislation Amendment Act 2025 (2025 No 37).

Section 435(7)(c): inserted, on 1 January 2022, by section 4(2) of the Regional Comprehensive Economic Partnership (RCEP) Legislation Act 2021 (2021 No 40).

Section 435(7)(d): inserted, on 28 August 2025, by section 14(2) of the United Arab Emirates Comprehensive Economic Partnership Agreement Legislation Amendment Act 2025 (2025 No 37).

Section 435(8): replaced, on 1 January 2022, by section 4(3) of the Regional Comprehensive Economic Partnership (RCEP) Legislation Act 2021 (2021 No 40).

Section 435(9): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

436 Fish, etc

(1) This section applies for the purposes of this Act and the Tariff Act 1988.

(2) Subsection (3) applies to anything done at sea in respect of any fish if the thing is done by, or on board, a ship belonging to a country other than New Zealand.

(3) The thing done is treated as having been done in the country to which the ship belongs.

(4) Subsection (5) applies if,—

(a) as a result of subsection (3), any fish is treated as having been produced or manufactured in a country; and

(b) the fish is brought direct to New Zealand.

(5) The fish is treated as having been imported from the country referred to in subsection (4)(a).

(6) Subsection (7) applies to anything done at sea in respect of any fish if—

(a) the thing is done by, or on board, a ship belonging to New Zealand; and

(b) the fish is brought direct to New Zealand.

(7) For the purpose of determining the duty (if any) payable on the fish when it is imported, the thing done is treated as having been done in New Zealand.

(8) If, for the purposes of this section, any question arises as to which country any ship belongs, the question must be determined by the chief executive.

(9) Any person who is dissatisfied with a decision of the chief executive under subsection (8) 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.

(10) In this section, **fish** includes—

(a) seafood and other produce of the sea; and

(b) other goods produced or manufactured from fish.

Compare: 1996 No 27 s 64

Use of reasonable force

437 Use of force must be reported

Any Customs officer who uses force under this Act must, within 5 working days, give the chief executive a written report on—

(a) the use of the force; and

(b) the circumstances in which it was used.

Compare: 1996 No 27 s 288A

Reporting of searches of electronic devices

438 Annual report must state total of electronic devices searched

The annual report of Customs must state, by category, the total number of electronic devices searched in the year under section 228(2)(a) and (b).

Reducing compliance costs

439 Annual report must report on initiatives to reduce compliance costs for businesses with strong record of compliance

The annual report of Customs must include a report on any initiatives or other steps taken by Customs during the year to reduce the costs of complying with this Act for businesses that have a strong record of compliance with this Act.

Working hours

440 Working hours of Customs

(1) The chief executive—

(a) must determine the working hours of Customs; and

(b) may determine particular working hours in respect of particular places.

(2) The chief executive must—

(a) notify any working hours in the *Gazette*; and

(b) publish them on an Internet site operated by or on behalf of Customs.

Compare: 1996 No 27 s 286(1)(ee)

Human remains

441 Entry required for human remains

(1) This section applies to human remains—

(a) that are being brought into, or taken out of, New Zealand; and

(b) that are not goods.

(2) The human remains must be entered as if they were goods being imported or exported (as the case may be).

(3) The following provisions apply with any necessary modifications:

(a) section 75(1), (4), and (5):

(b) section 78:

(c) section 89(1) and (3) to (6):

(d) section 92:

(e) sections 363 to 365 and any other offences relating to a provision referred to in paragraphs (a) to (d):

(f) section 405.

Subpart 5—Repeals, revocations, and amendments of Acts and instruments

442 Repeal of Customs and Excise Act 1996

The Customs and Excise Act 1996 (1996 No 27) is repealed.

443 Other consequential repeals, revocations, and amendments

(1) The Act specified in Part 1 of Schedule 9 is repealed.

(2) The instruments specified in Part 2 of Schedule 9 are revoked.

(3) The Acts specified in Part 3 of Schedule 9 are amended in the way provided in that Part.

(4) The instruments specified in Part 4 of Schedule 9 are amended in the way provided in that Part.

Schedule 1
Transitional, savings, and related provisions

s 9

Part 1
Provisions relating to Act as enacted

1 Definitions for Part, etc

(1) In this Part,—

1996 Act means the Customs and Excise Act 1996

specified date has the meaning given to that term in section 2(5) of this Act.

(2) In this Part, references to the 1996 Act, or to a provision of the 1996 Act, include that Act or provision as applied (with or without modification) before the specified date by any other enactment.

(3) Where this Part provides for the 1996 Act, or a provision of the 1996 Act, to continue to apply, that Act or provision continues to apply as if this Act had not been enacted.

(4) Where this Part provides for a provision of the 1996 Act to continue to apply, the reference to that provision includes the following:

(a) any relevant enactment or other instrument made under the 1996 Act:

(b) any other relevant provision of the 1996 Act (for example, a relevant power under Part 12, a relevant offence under Part 13, or a relevant power to make an enactment or other instrument).

(5) Except as provided in this Part (including any Order in Council made under clause 37), this Part does not limit the application of the Interpretation Act 1999 in relation to the repeal of any enactment by this Act.

(6) A provision of this Part that provides for the 1996 Act, or a provision of the 1996 Act, to continue to apply does not limit any other provision of this Part that provides for the 1996 Act, or a provision of the 1996 Act, to continue to apply.

(7) In clauses 9, 13(2), and 26(2), **duty** includes the following:

(a) anything that is duty as that term is defined in section 2(1) of the 1996 Act:

(b) research levies imposed on imported goods under the Heavy Engineering Research Levy Act 1978:

(c) levies imposed under Schedule 6 of the Pae Ora (Healthy Futures) Act 2022:

(d) levies imposed on imported goods under section 227 of the Climate Change Response Act 2002.

(8) In this Part, references to goods are to be read in accordance with section 54(1A) or 56(1A) of the 1996 Act where necessary or appropriate for giving effect to this Part.

(9) Sections 109 and 110 of this Act apply in relation to the continuing functions under the 1996 Act that the chief executive, Customs, or any Customs officer has as a result of this Part or otherwise, and references to duty in those sections are to be read accordingly.

Schedule 1 clause 1(7)(c): amended, on 1 July 2022, by section 104 of the Pae Ora (Healthy Futures) Act 2022 (2022 No 30).

2 Goods subject to the control of Customs

(1) Subclause (2) applies to goods that are subject to the control of the Customs under a paragraph of section 20(1) of the 1996 Act immediately before the specified date.

(2) The goods—

(a) are, at the start of the specified date, subject to the control of Customs under the corresponding paragraph of section 6 of this Act; and

(b) continue to be subject to the control of Customs in accordance with that paragraph.

(3) For the purposes of sections 83 and 85(1)(a) of this Act, an entry made in accordance with section 39 of the 1996 Act is treated as an entry made in accordance with section 75 of this Act.

3 Arrival and departure of craft

Advance notice of arrival

(1) The person in charge of a craft that is en route to New Zealand at the start of the specified date is treated as having complied with the person's obligations under section 12(1) and (2) of this Act if, before the specified date,—

(a) the person complied with the person's obligations under section 21(1)(a) and (2) of the 1996 Act; or

(b) the chief executive gave an approval under section 21(1) of the 1996 Act exempting the person from those obligations.

(2) If subclause (1)(a) applies to the person in charge of a craft, sections 12(3) and 17(1) and (3) of this Act apply as if references in those provisions to the advance notice of arrival were to the advance notice given under section 21(1)(a) and (2) of the 1996 Act.

(3) Section 21(1)(b) of the 1996 Act continues to apply to a craft that arrives in New Zealand before the specified date and section 17(1) and (3) of this Act applies to the craft with all necessary modifications.

Inward cargo report

(4) Section 14 of this Act applies to a craft that is en route to New Zealand at the start of the specified date in accordance with subclause (5).

(5) A person who is required under section 14(2) of this Act to provide an inward cargo report in respect of any cargo on the craft is treated as having complied with that requirement, and the requirements of section 14(5) of this Act, if, before the specified date,—

(a) the person complied with the person's obligations under section 21A of the 1996 Act in respect of the cargo; or

(b) the person was exempted from those obligations under section 21A(2) of the 1996 Act.

Inward report

(6) Section 24 of this Act does not apply to a craft that arrives at a Customs place before the specified date.

(7) Section 26 of the 1996 Act continues to apply to a craft that arrives at a Customs place before the specified date.

(8) References in sections 19(b), 74(a), 176(1)(m)(i), and 360(1)(b) and (2)(b) of this Act to an inward report under section 24(1)(a) of this Act include references to an inward report under section 26 of the 1996 Act.

Advance notice of departure

(9) The person in charge of a craft is treated as having complied with the person's obligations under section 37(2)(a) and (7) of this Act if, before the specified date,—

(a) the person complied with the person's obligations under section 34(a) of the 1996 Act; or

(b) the chief executive gave an approval under section 34 of the 1996 Act exempting the person from those obligations.

Certificate of clearance

(10) Subclause (11) applies if,—

(a) before the specified date, a certificate of clearance is granted to the person in charge of a craft under section 33 of the 1996 Act; but

(b) the craft does not depart from New Zealand before the specified date.

(11) This Act applies as if the certificate of clearance were granted under section 37 of this Act.

Outward cargo report

(12) Section 45 of this Act does not apply to cargo on a craft that departs from New Zealand before the specified date.

(13) Section 37A of the 1996 Act continues to apply to cargo on a craft that departs from New Zealand before the specified date.

(14) A person who is required under section 45(2) of this Act to provide an outward cargo report in respect of any cargo on a craft is treated as having complied with that requirement, and the requirements of section 45(5) of this Act, if, before the specified date,—

(a) the person complied with the person's obligations under section 37A of the 1996 Act in respect of the cargo; or

(b) the person was exempted from those obligations under section 37A(2) of the 1996 Act.

Updating of information supplied in advance

(15) If subclause (1)(a), (5)(a), (9)(a), or (14)(a) applies to a person, section 204A of the 1996 Act continues to apply to any information provided under the relevant provision of the 1996 Act.

4 Customs places

A notice issued under section 9 of the 1996 Act that is in force immediately before the specified date continues in force as if it had been issued under section 55 of this Act (and may be amended or revoked accordingly).

5 Licensing of Customs-controlled areas and CASEs

(1) This clause applies to the following:

(a) a licence that is granted under section 12(1) of the 1996 Act, or a direction that is given under section 12(4) of the 1996 Act, and that is in force immediately before the specified date:

(b) any other thing that is done under any provision of sections 11 to 15 or section 19C(1) of the 1996 Act and that is in force or otherwise effective immediately before the specified date.

(2) The licence granted, the direction given, or the other thing done continues in force or to be otherwise effective as if it had been granted, given, or done under the corresponding provision of subpart 2 of Part 3 of this Act or under section 277(1) of this Act.

(3) Without limiting subclause (2), a licence that continues in force in accordance with that subclause may be revoked or suspended under section 64(1)(a) or (b) of this Act for a failure before the specified date—

(a) to pay on time an annual licence fee prescribed for the purposes of section 12(2)(b) of the 1996 Act; or

(b) to comply with a term, condition, or restriction of the licence.

(4) In subclause (2), the reference to subpart 2 of Part 3 of this Act includes that subpart as applied by sections 277(2) and 278 of this Act.

(5) A requirement imposed on a licensee under section 18(1) or (4) or 19H(1) or (3) of the 1996 Act that is in force immediately before the specified date

continues in force as if it had been imposed under section 70(1)(a) or (b) or 279(1)(a) or (b) of this Act.

6 Annual limit on manufacture of tobacco for personal use

(1) In respect of the period that begins with the specified date and ends with the following 30 June (the **transitional period**), subclause (2) of this clause applies instead of section 67(5) of this Act.

(2) The maximum amount of tobacco that an individual may manufacture under section 67(4)(a) of this Act in the transitional period is—

(a) 15 kilograms; less

(b) the amount of tobacco manufactured by the individual under section 68A of the 1996 Act in the period that—

(i) begins with the most recent 1 July preceding the specified date; and

(ii) ends with the day before the specified date.

7 Prohibition orders

(1) Any Order in Council that is in force immediately before the specified date under section 54 or 56 of the 1996 Act continues in force as if it had been made under section 96 of this Act (and may be amended or revoked accordingly).

(1A) Unless revoked earlier, the following orders continue in force until the close of 30 September 2021, at which time they are revoked:

(a) Customs Import Prohibition Order 2017:

(b) Customs Export Prohibition Order 2017.

(2) Any other order to which subclause (1) applies is revoked at the time at which, apart from this Act, it would have expired under section 55 or 57 of the 1996 Act (unless the order is revoked earlier).

Schedule 1 clause 7(1A): inserted, on 16 May 2020, by section 3 of the COVID-19 Response (Further Management Measures) Legislation Act 2020 (2020 No 13).

Schedule 1 clause 7(2): amended, on 16 May 2020, by section 3 of the COVID-19 Response (Further Management Measures) Legislation Act 2020 (2020 No 13).

8 Prohibited imports: goods prohibited under Schedule 1 of 1996 Act

[Repealed]

Schedule 1 clause 8: repealed, on 1 October 2019, by Schedule 1 clause 8(3).

9 Duty in respect of goods imported or manufactured in New Zealand before specified date

Imported goods

(1) Subclause (2) applies to any goods that are imported before the specified date if—

(a) the goods are—

(i) entered under section 39(1) of the 1996 Act before the specified date; or

(ii) deemed by regulations made under section 40(d) of the 1996 Act to have been entered under section 39(1) of that Act before the specified date; or

(b) the goods are not required to be entered under section 39(1) of the 1996 Act before the specified date because they are exempted by regulations made under section 40(c) of that Act; or

(c) before the specified date, duty is—

(i) assessed in respect of the goods under section 88(2) of the 1996 Act; or

(ii) demanded in respect of the goods under section 103(4) or 104(2) of the 1996 Act; or

(d) before the specified date, duty becomes due and payable in respect of the goods under section 16, 39(4), 86(3)(c) or (d), or 110(2) of the 1996 Act.

(2) The 1996 Act continues to apply in relation to—

(a) the entry of the goods; and

(b) the assessment, payment, collection, and recovery of duty in respect of the goods; and

(c) any other matter relating to duty in respect of the goods.

(3) Subclause (4) applies to any goods that are imported before the specified date if subclause (2) does not apply to them.

(4) This Act applies in relation to—

(a) the entry of the goods; and

(b) the assessment, payment, collection, and recovery of duty in respect of the goods; and

(c) any other matter relating to duty in respect of the goods.

Goods manufactured in New Zealand

(5) Subclause (6) applies to any goods that are manufactured, or are treated under the 1996 Act as having been manufactured, in New Zealand before the specified date if—

(a) the goods are entered under section 70 of the 1996 Act before the specified date; or

(b) before the specified date, duty is—

(i) assessed in respect of the goods under section 88(2) of the 1996 Act; or

(ii) demanded in respect of the goods under section 103(4) or 104(2) of the 1996 Act; or

(c) before the specified date, duty becomes due and payable in respect of the goods under section 16 or 110(2) of the 1996 Act; or

(d) before the specified date, duty becomes a debt due to the Crown in respect of the goods under section 76(1)(b) of the 1996 Act; or

(e) before the specified date,—

(i) the goods are used, or are destroyed, lost, or otherwise physically disposed of, without having been removed for home consumption under section 72 of the 1996 Act; or

(ii) an event referred to in section 113(1)(a) or (c) of the 1996 Act occurs in relation to the goods; or

(f) the goods are of faulty manufacture.

(6) The 1996 Act continues to apply in relation to—

(a) the entry of the goods; and

(b) the assessment, payment, collection, and recovery of duty in respect of the goods; and

(c) any other matter relating to duty in respect of the goods.

(7) Subclause (8) applies to any goods that are manufactured, or are treated under the 1996 Act as having been manufactured, in New Zealand before the specified date if subclause (6) does not apply to them.

(8) This Act applies in relation to—

(a) the entry of the goods; and

(b) the assessment, payment, collection, and recovery of duty in respect of the goods; and

(c) any other matter relating to duty in respect of the goods.

Supplementary provision

(9) For the purpose of giving effect to subclauses (4) and (8), where necessary or appropriate,—

(a) excise duty levied in respect of any goods under section 73(1) of the 1996 Act is treated as if it were excise duty levied in respect of the goods under clause 1(1) of Schedule 3 of this Act:

(b) excise-equivalent duty levied in respect of any goods under section 75(1) of the 1996 Act is treated as if it were excise-equivalent duty levied in respect of the goods under clause 14 of Schedule 3 of this Act:

(c) any other duty imposed in respect of any goods under a provision of the 1996 Act is treated as if it were duty imposed in respect of the goods under the corresponding provision of this Act:

(d) anything done under a provision of the 1996 Act before the specified date that is relevant to any matter covered by subclause (4) or (8) is treated as having been done under the corresponding provision of this Act:

(e) without limiting paragraph (d),—

(i) goods manufactured, or treated as manufactured, in a manufacturing area under the 1996 Act before the specified date are treated as if they were manufactured in a manufacturing area under this Act:

(ii) goods removed for home consumption under section 72 of the 1996 Act before the specified date are treated as if they were removed for home consumption under clause 3 of Schedule 3 of this Act.

10 Entries made before specified date for goods imported on or after specified date

(1) This clause applies if goods imported on or after the specified date are entered under section 39(1) of the 1996 Act before the specified date.

(2) The entry continues to be effective as if it had been made under section 75 of this Act (and is an assessment under section 111 accordingly).

11 Deferred period for payment of duty in respect of imported goods

Any decision of the chief executive that is made under section 86(6) of the 1996 Act and that is in force immediately before the specified date continues in force as if it had been made under section 123 of this Act.

12 Exports

Goods for export

(1) The 1996 Act continues to apply in relation to any goods for export that depart from New Zealand before the specified date.

(2) This Act applies in relation to any goods for export that do not depart from New Zealand before the specified date.

(3) Anything done under a provision of the 1996 Act before the specified date that is relevant to any matter covered by subclause (2) is, so far as is necessary or appropriate for giving effect to subclause (2), treated as having been done under the corresponding provision of this Act.

(4) Without limiting subclause (3), the reference to anything done under a provision of the 1996 Act includes the following:

(a) the entering of any goods under section 49 of the 1996 Act:

(b) the securing of any goods in a Customs-approved secure package (as that term is defined in section 2(1) of the 1996 Act):

(c) the applying of a Customs seal (as that term is defined in section 2(1) of the 1996 Act) to a package.

Customs-approved secure export schemes

(5) Subclause (6) applies to the following:

(a) an approval that is given under section 53C of the 1996 Act and that is in force immediately before the specified date:

(b) any other thing that is done under section 53C of the 1996 Act and that is in force or otherwise effective immediately before the specified date.

(6) The approval given or the other thing done continues in force or to be otherwise effective as if it had been given or done under the corresponding provision of section 281 and Schedule 6 of this Act.

Appointments authorising use of Customs seals

(7) A notice of appointment that is in effect under section 53A of the 1996 Act immediately before the specified date continues in effect as if it had been made under section 282 of this Act.

13 Refunds and remissions of interest and penalties

(1) Regulations made for the purposes of section 165(4)(a) of this Act may relate to an event that occurs before the specified date.

(2) For the purposes of section 168 of this Act,—

(a) **relevant duty** includes any duty covered by section 76(4), 86(6), or 90 of the 1996 Act (including as applied by clause 9 of this schedule); and

(b) **payment date**, in relation to any duty covered by the 1996 Act as referred to in paragraph (a), means the due date for payment of the duty under the 1996 Act.

14 Forfeiture, seizure, and condemnation

(1) Part 14 of the 1996 Act continues to apply to any goods seized under that Part before the specified date.

(2) The following goods, other than goods covered by subclause (1), are forfeited goods for the purposes of this Act and this Act applies accordingly:

(a) goods forfeited to the Crown before the specified date under the 1996 Act:

(b) goods forfeited to the Crown on or after the specified date under the 1996 Act as that Act continues to apply under this Part or otherwise.

(3) For the purpose of applying section 178(2) and (3) of this Act in accordance with subclause (2), goods that are forfeited under the 1996 Act because they are prohibited goods under that Act are treated as if they are forfeited under this Act because they are prohibited goods under this Act.

(4) For the purpose of applying section 188(1)(a)(ii) of this Act in accordance with subclause (2), the reference to goods that are forfeited under section 176(3) or (4) of this Act includes goods that are forfeited under section 225(3), (4), or (5) of the 1996 Act.

15 Customs powers

(1) Subclause (2) applies to the exercise of a power under Part 12 of the 1996 Act before the specified date (whether or not the exercise of the power is completed before that date).

(2) Part 12 of the 1996 Act continues to apply in relation to the exercise of the power.

(3) The powers under Part 12 of the 1996 Act continue to be exercisable in relation to matters arising before the specified date.

(4) A power under Part 4 of this Act (the **new power**) that corresponds to a power under Part 12 of the 1996 Act (the **old power**) includes the power to do anything that may be done under the old power to the extent that the old power continues to be exercisable under subclause (2) or (3), any other provision of this Part, or otherwise.

(5) Anything done under the new power, as authorised by subclause (4), is treated as having been done under the old power for the purposes of the 1996 Act as that Act continues to apply under this Part or otherwise.

(6) In this clause, references to Part 12 of the 1996 Act include sections 23, 32A to 32C, 32E, and 32F of that Act.

16 Customs officers and authorised persons

(1) Subclause (2) applies to a person who is a Customs officer under the 1996 Act immediately before the specified date.

(2) The person's appointment or declaration as a Customs officer continues in force as if the appointment or declaration were an appointment that had been made under section 270 of this Act.

(3) Subclause (4) applies to a person who is, immediately before the specified date, an authorised person under the 1996 Act in relation to any function under that Act (the **1996 Act function**).

(4) The person's authorisation continues in force as if the authorisation were an authorisation that had been made under section 271 of this Act in relation to any function under this Act that corresponds to the 1996 Act function.

(5) An identity card or other means of identification given to a person to whom subclause (2) or (4) applies under section 7 of the 1996 Act that is valid immediately before the specified date continues to be valid as if it had been given to the person under section 273 of this Act.

(6) A person who is a Customs officer under section 270 of this Act at any time is, for the purposes of the 1996 Act as that Act continues to apply under this Part or otherwise, also a Customs officer under that Act at that time.

(7) A person who is an authorised person under section 271 of this Act in relation to any function under this Act (the **new function**) at any time is, for the purposes of the 1996 Act as that Act continues to apply under this Part or otherwise, also an authorised person under that Act at that time in relation to any function under that Act that corresponds to the new function.

17 Administrative penalties

(1) Part 10 of the 1996 Act continues to apply in relation to the following:

(a) entries made before the specified date under the 1996 Act:

(b) entries made on or after the specified date under the 1996 Act as that Act continues to apply under this Part or otherwise.

(2) In subclause (1), **entries** is to be read in accordance with section 128 of the 1996 Act.

18 Automated electronic systems

(1) An arrangement that is made under section 274A of the 1996 Act in relation to any matter under that Act and that is in force immediately before the specified date continues in force in relation to any corresponding matter under this Act as if the arrangement were the subject of an approval under section 296 of this Act.

(2) Any consultation that is carried out (wholly or partly) under section 274A(4) of the 1996 Act before the specified date may be treated as having been carried out under section 296(4) of this Act.

(3) Sections 274C and 274D of the 1996 Act continue to apply in relation to any decision made, or other relevant matter arising, before the specified date.

19 Customs' general powers for using information, etc

(1) Section 301 of this Act applies to information whether provided to, or obtained or generated by, Customs before, on, or after the specified date.

(2) In section 301(3) of this Act—

(a) the references to sections 48 and 49 of this Act include Part 3A of the 1996 Act; and

(b) the reference to section 357 of this Act includes section 95A of the 1996 Act.

(3) In sections 47(a) and 357(5)(a) of this Act, references to this Act include the 1996 Act as that Act continues to apply under this Part or otherwise.

(4) The definition of border information in section 302(4) of this Act includes anything that was border information before the specified date under the definition of that term in section 282D of the 1996 Act.

(5) The definition of border information in section 41A(1) of the Biosecurity Act 1993 includes anything that was border information under that definition before its amendment on the specified date by this Act (*see* Part 3 of Schedule 9).

(6) In the following definitions, references to this Act include the 1996 Act as that Act continues to apply under this Part or otherwise:

(a) the definitions of border information and border protection purpose in section 302(4) of this Act:

(b) the definitions of border information and customs-related border management function in section 41A(1) of the Biosecurity Act 1993.

Compare: 1996 No 27 s 282L(3)

20 Disclosure of information

(1) Any arrangement or agreement under section 280(3) or (7) of the 1996 Act that is in force immediately before the specified date continues in force as if it had been made under section 308(5) of this Act.

(2) Any agreement under section 280D(5) of the 1996 Act that is in force immediately before the specified date continues in force as if it had been made under section 310(5) of this Act.

(3) Any agreement under section 280H(5) of the 1996 Act that is in force immediately before the specified date continues in force as if it had been made under section 306(5) of this Act.

(4) Any agreement under section 280I(2) of the 1996 Act that is in force immediately before the specified date continues in force as if it had been made under section 312(2) of this Act.

(5) Any agreement under section 280K(5) of the 1996 Act that is in force immediately before the specified date continues in force as if it had been made under section 307(5) of this Act.

(6) Any agreement under section 280L(2) of the 1996 Act that is in force immediately before the specified date continues in force as if it had been made under section 313(2) of this Act.

(7) Any agreement under section 281(2) of the 1996 Act that is in force immediately before the specified date (including an agreement to which section 281(9) applies) continues in force as if it had been made under section 318(2) of this Act.

(8) Subpart 6 of Part 5 of this Act applies to information whether provided to, or obtained or generated by, Customs before, on, or after the specified date.

21 Registered user systems

(1) A system (the **existing JBMS**) that is a Joint Border Management System under section 131A of the 1996 Act immediately before the specified date is—

(a) a Joint Border Management System or JBMS within the meaning of section 302(4) of this Act; and

(b) a registered user system.

(2) Subclauses (3) and (4) apply to a person who is a registered user of the existing JBMS under the 1996 Act immediately before the specified date.

(3) The person's registration as a user of the existing JBMS (including any conditions to which the registration is subject) as in force immediately before the specified date continues in force as if it had been granted under section 323 of this Act.

(4) Any unique user identifier assigned to the person under section 133 of the 1996 Act (including any conditions imposed under section 133(4)) that is valid immediately before the specified date continues to be valid as if it had been assigned to the person under section 326 of this Act.

(5) Regulations made for the purposes of section 323(3) of this Act may (without limitation) make provision for applications under section 132 of the 1996 Act that are made, but not determined, before the specified date to be treated as applications under those regulations.

(6) Records that, immediately before the specified date, Customs is required to keep under section 136 of the 1996 Act must be kept under section 332 of this Act for the remainder of the period given by section 332(2)(a) or (b).

(7) Records that Customs becomes required to keep on or after the specified date under section 136 of the 1996 Act, as that section continues to apply under this Part or otherwise, must be kept under section 332 of this Act (instead of section 136 of the 1996 Act) for the period given by section 332(2)(a) or (b).

22 Customs rulings

(1) This clause applies to the following:

(a) a Customs ruling that is made under Part 9 of the 1996 Act and that is in force immediately before the specified date:

(b) any other thing that is done under any provision of Part 9 of the 1996 Act and that is in force or otherwise effective immediately before the specified date.

(2) The Customs ruling made or the other thing done continues in force or to be otherwise effective as if it had been made or done under the corresponding provision of subpart 8 of Part 5 of this Act.

(3) Without limiting subclause (2), in section 343(1)(f) of this Act, if relevant,—

(a) the reference to the date on which notice of the Customs ruling is given is to the date on which it is given under Part 9 of the 1996 Act:

(b) the reference to the date on which notice of any amendment of that Customs ruling is given is to the date on which it is given under Part 9 of the 1996 Act.

23 Customs Appeal Authorities

Appointments

(1) Subclause (2) applies to a person who is a Customs Appeal Authority under the 1996 Act immediately before the specified date.

(2) The person's appointment continues as if the appointment were an appointment that had been made under subpart 10 of Part 5 of this Act.

(3) Subclause (4) applies to a person who is a Registrar of a Customs Appeal Authority under the 1996 Act immediately before the specified date.

(4) The person's appointment continues as if the appointment were an appointment that had been made in accordance with clause 8 of Schedule 8 of this Act.

Continuation of Part 16 of 1996 Act

(5) Part 16 of the 1996 Act continues to apply for the following purposes:

(a) any appeal made to a Customs Appeal Authority before the specified date:

(b) any right of appeal to a Customs Appeal Authority that arises before the specified date if the appeal is not made before that date.

(6) Subclauses (7) and (8) apply to an appeal under Part 16 of the 1996 Act as that Part continues to apply under subclause (5), any other provision of this Part, or otherwise.

(7) If an outcome of the appeal is the making of a decision under a provision of the 1996 Act that, had it been originally made by the chief executive, would, under this Part or otherwise, have continued in force or to be otherwise effective as if it had been made under the corresponding provision of this Act, the decision must be implemented under this Act accordingly.

(8) If an outcome of the appeal is the overturning of a decision under a provision of the 1996 Act that, under this Part or otherwise, has continued in force or to be otherwise effective as if it had been made under the corresponding provision of this Act, the overturning of the decision must be implemented under this Act accordingly.

(9) In subclauses (7) and (8), **decision** includes an assessment, a ruling, a determination, and a direction.

(10) A person who is a Customs Appeal Authority under subpart 10 of Part 5 of this Act at any time is, for the purposes of Part 16 of the 1996 Act as that Part continues to apply under subclause (5), any other provision of this Part, or

otherwise, also a Customs Appeal Authority under Part 16 of the 1996 Act at that time, and the appointment of the Authority's Registrar applies accordingly.

24 Keeping of records

(1) Subclause (2) applies to the following:

(a) records that a person is required to keep immediately before the specified date under section 95 of the 1996 Act:

(b) records that a person becomes required to keep on or after the specified date under section 95 of the 1996 Act as that section continues to apply under this Part or otherwise.

(2) The records must be kept under section 354(1)(a) of this Act (instead of section 95 of the 1996 Act)—

(a) as if—

(i) the person were a specified person under section 354(4); and

(ii) the records were prescribed for the purposes of section 354(1)(a); and

(b) for, as the case may be,—

(i) the remainder of the period prescribed for the purposes of section 354(1)(a); or

(ii) the period prescribed for the purposes of section 354(1)(a).

(3) The other provisions of subpart 1 of Part 6 of this Act apply in relation to the person and the records accordingly.

(4) Without limiting section 354(1)(b) of this Act, a direction may be given under that section for the purposes of the 1996 Act as that Act continues to apply under this Part or otherwise.

(5) Section 95 of the 1996 Act continues to apply to a requirement imposed under section 95(2) before the specified date.

(6) In relation to the giving of access to records on and after the specified date, a notice given under section 95A(1)(b) of the 1996 Act before the specified date is treated as having been given under section 357(2) of this Act.

25 Filing of charging document

(1) A nomination that is in force under section 221(1)(b) or (c) of the 1996 Act immediately before the specified date continues in force as if it had been made under section 398(1)(b) of this Act.

(2) A Customs officer, an agent, or other employee who is a nominated person under section 398(1)(b) of this Act at any time is, for the purposes of the 1996 Act as that Act continues to apply under this Part or otherwise, also a nominated person under section 221(1)(b) or (c) (as the case requires) of that Act at that time.

26 Other liabilities under 1996 Act

(1) The 1996 Act continues to apply in relation to—

(a) the payment, collection, and recovery of any levy, fee, charge, or other amount for which a person becomes liable under the 1996 Act before the specified date (whether or not the time for payment of the levy, fee, charge, or other amount expires before the specified date); and

(b) any other matter relating to the levy, fee, charge, or other amount.

(2) Subclause (1) does not apply to duty or to a levy under section 288B of the 1996 Act.

27 Customs and Excise Regulations 1996

The Customs and Excise Regulations 1996, as in force immediately before the specified date, continue in force as if they had been made under section 403(1) of this Act (and may be amended or revoked accordingly).

28 Border processing levy

(1) Sections 288B to 288I of the 1996 Act continue to apply in relation to—

(a) the payment, collection, and recovery of levies under section 288B of the 1996 Act in respect of travellers who arrive in, or depart from, New Zealand before the specified date; and

(b) any other matter relating to levies under section 288B of the 1996 Act in respect of those travellers.

(2) For levies in respect of travellers who arrive in, or depart from, New Zealand on or after the specified date, the Customs and Excise (Border Processing Levy) Order 2015, as in force immediately before the specified date, continues in force as if it had been made under section 413 of this Act (and may be amended or revoked accordingly).

29 Chief executive's rules

The following rules, as in force immediately before the specified date, continue in force as if they had been made by the chief executive under section 421(1) of this Act (and may be amended or revoked accordingly):

(a) the Customs (Inward Cargo Report) Rules 2014 and the Customs (Trade Single Window Inward Cargo Report) Rules 2017, for the purposes of section 14(5)(a) of this Act:

(b) the Customs (Inward Report) Rules 2004, for the purposes of section 24(2)(a) of this Act:

(c) the Customs (Certificates of Clearance) Rules 2004, for the purposes of section 37(6) of this Act:

(d) the Customs (Advance Notice of Departure) Rules 2014, for the purposes of section 37(7)(a) of this Act:

(e) the Customs (Outward Cargo Report) Rules 2014, for the purposes of section 45(5)(a) of this Act:

(f) the Customs (Applications for Customs controlled area Licences) Rules 2014, for the purposes of section 57(2) of this Act:

(g) the Customs (Application for CASE Licences) Rules 2014, for the purposes of section 57(2) as applied by section 277(2) of this Act:

(h) the Customs (Import Entry) Rules 1997, for the purposes of section 75(1)(a) of this Act:

(i) the Customs (Import Entry WCO Message) Rules 2013, for the purposes of section 75(1)(a) of this Act:

(j) the Customs (Volume of Alcohol) Rules 2013, for the purposes of section 121(1) of this Act:

(k) the Customs (Excisable Goods Entry) Rules 1997, for the purposes of section 81(2)(a) of this Act:

(l) the Customs (Export Entry) Rules 1997, for the purposes of section 89(1)(a) of this Act:

(m) the Customs (Export Entry WCO Message) Rules 2013, for the purposes of section 89(1)(a) of this Act:

(n) the Customs (Applications for Customs Rulings) Rules 1997, for the purposes of section 335(1)(a) of this Act.

30 Certificates of origin

(1) A designation that is made under section 64B of the 1996 Act and that is in force immediately before the specified date continues in force as if it had been made under section 435(3) of this Act.

(2) The Customs and Excise (Specified AANZFTA Parties Order) 2009, as in force immediately before the specified date, continues in force as if it had been made under section 435(8) of this Act (and may be amended or revoked accordingly).

31 Excise and excise-equivalent duty: provisions relating to refunds, etc, to cover duty levied under 1996 Act

(1) In section 107(3) of this Act, the references to excise duty and excise-equivalent duty include excise duty and excise-equivalent duty levied under the 1996 Act (but not any additional duty imposed under section 87 of that Act).

(2) In section 107(4)(a) of this Act, the reference to excise duty includes excise duty levied under the 1996 Act.

(3) In section 108(1)(a) of this Act, the reference to Part A goods that are manufactured in a manufacturing area includes goods specified in Part A of the Excise and Excise-equivalent Duties Table under the 1996 Act that are manufactured in a manufacturing area under that Act before the specified date.

(4) In section 108(3) of this Act, the reference to excise duty includes excise duty levied under the 1996 Act (but not any additional duty imposed under section 87 of that Act).

(5) In section 108(4)(a) of this Act, the reference to excise duty includes excise duty levied under the 1996 Act.

(6) In sections 146(a), 147(4), and 172(a) of this Act, references to duty include excise duty and excise-equivalent duty levied under the 1996 Act.

(7) Drawback may be allowed under section 147 of this Act in respect of excise duty or excise-equivalent duty levied under the 1996 Act, and references in this Act to duty include those duties where relevant.

32 Excise and excise-equivalent duty: suspension and modification of rates of duty

The Excise and Excise-Equivalent Duties (Flavour Bases) Modification Order 2000, as in force immediately before the specified date, continues in force as if it had been made under clause 20 of Schedule 3 of this Act (and may be amended or revoked accordingly).

33 Excise and excise-equivalent duty: repeal of clauses 21(5) and 22 of Schedule 3

(1) Clause 21(5) of Schedule 3 is repealed on 1 January 2020 (but without affecting any new rates imposed before or on that date by any Orders in Council to which it applies).

(2) Clause 22 of Schedule 3 is repealed on 1 January 2020 (but without affecting any amendments it makes on or before that date).

Compare: 2016 No 25 ss 4(2), 5(2)

34 Excise and excise-equivalent duty: international organisations

(1) The Excise and Excise-Equivalent Duties Exemption (Inter-Governmental Agreements) Order 1996, as in force immediately before the specified date, continues in force as if it had been made under clause 27(1) of Schedule 3 of this Act (and may be amended or revoked accordingly).

(2) An approval given by the chief executive under section 81(1)(a) of the 1996 Act that is in force immediately before the specified date continues in force as if it had been given by the chief executive under clause 27(1)(a) of Schedule 3 of this Act (and may be amended or revoked accordingly).

(3) In subclause (2), the reference to an approval given by the chief executive under section 81(1)(a) of the 1996 Act includes an approval treated as given by the chief executive by section 81(3) of that Act.

Compare: 1996 No 27 s 81(3)

35 Excise and excise-equivalent duty: application of Part 5 of Schedule 3

The Excise and Excise-equivalent Duties Table applies to goods that are manufactured or imported (as the case may be) before the specified date as if the amendments in Part 5 of Schedule 3 of this Act had not been made.

36 Part 4 of Schedule 9 not to limit powers to amend or revoke

If an instrument specified in Part 4 of Schedule 9 is amended or revoked on or before the specified date under the enactment under which it was made, the amendment or revocation overrides that Part to the extent of any conflict.

37 Power to make transitional and savings provisions

(1) The Governor-General may, by Order in Council on the recommendation of the Minister, make transitional or savings provisions for the purpose of facilitating or ensuring the orderliness of the transition to this Act from the 1996 Act.

(2) The Minister must not recommend the making of an order under this clause unless the Minister is satisfied that the order—

- (a) is reasonably necessary for the purpose referred to in subclause (1); and
- (b) is consistent with the purposes of this Act.

(3) The provisions that may be made by an order under this clause—

- (a) include provisions in addition to, or instead of, other provisions in this schedule (except clause 33); and
- (b) may do any of the following:
  - (i) provide that, for a transitional period, in any circumstances, or subject to any conditions, specified in the order, 1 or more provisions of this Act do not apply, or apply with modifications or additions:
  - (ii) provide that, for a transitional period, in any circumstances, or subject to any conditions, specified in the order, 1 or more provisions of an enactment or instrument repealed, amended, or revoked by this Act are to continue to apply, or apply with modifications or additions, as if they had not been repealed, amended, or revoked:
  - (iii) provide for any other matter that is reasonably necessary for the purpose referred to in subclause (1).

(4) An order cannot be made under this clause after the expiry of the 36-month period that starts with the specified date.

(5) An order made under this clause is revoked at the close of that 36-month period.

(6) An order under this clause is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Legislation Act 2019 requirements for secondary legislation made under this clause		
Publication	PCO must publish it on the legislation website and notify it in the *Gazette*	LA19 s 69(1)(c)
Presentation	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Schedule 1 clause 37(6): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Part 2
Provisions relating to Tribunals Powers and Procedures Legislation Act 2018

Schedule 1 Part 2: inserted, on 14 November 2018, by section 23 of the Tribunals Powers and Procedures Legislation Act 2018 (2018 No 51).

38 Authorities appointed for more than 5 years continue in office

(1) A person who holds the position of Customs Appeal Authority immediately before the commencement date and has been appointed for a term of more than 5 years continues in office for the balance of his or her term despite section 24(1) of the Tribunals Powers and Procedures Legislation Act 2018 and may be reappointed, if he or she qualifies for reappointment under the principal Act.

(2) In this clause, **commencement date** means the date on which section 24(1) of the Tribunals Powers and Procedures Legislation Act 2018 comes into force.

Schedule 1 clause 38: inserted, on 14 November 2018, by section 23 of the Tribunals Powers and Procedures Legislation Act 2018 (2018 No 51).

Part 3
Provisions relating to Customs and Excise (Tobacco) Amendment Act 2020

Schedule 1 Part 3: inserted, on 1 July 2020, by section 15 of the Customs and Excise (Tobacco) Amendment Act 2020 (2020 No 16).

39 Interpretation

In this Part,—

amendment Act means the Customs and Excise (Tobacco) Amendment Act 2020

commencement date means the date on which the amendment Act comes into force.

Schedule 1 clause 39: inserted, on 1 July 2020, by section 15 of the Customs and Excise (Tobacco) Amendment Act 2020 (2020 No 16).

40 Tobacco or tobacco products imported as at commencement date

(1) This section applies to goods that are tobacco or tobacco products prohibited from import by section 95A that, as at the commencement date, have been imported into New Zealand.

(2) This Act applies to the goods as if the amendment Act had not come into force.

Schedule 1 clause 40: inserted, on 1 July 2020, by section 15 of the Customs and Excise (Tobacco) Amendment Act 2020 (2020 No 16).

Part 4
Provisions relating to Customs and Excise (Tobacco Products) Amendment Act 2022

Schedule 1 Part 4: inserted, on 25 May 2022, by section 5(a) of the Customs and Excise (Tobacco Products) Amendment Act 2022 (2022 No 28).

41 Interpretation

In this Part,—

amendment Act means the Customs and Excise (Tobacco Products) Amendment Act 2022

commencement means the start of the day on which the amendment Act comes into force.

Schedule 1 clause 41: inserted, on 25 May 2022, by section 5(a) of the Customs and Excise (Tobacco Products) Amendment Act 2022 (2022 No 28).

42 Water-pipe tobacco imported as at commencement

(1) This clause applies to water-pipe tobacco that is prohibited from import by section 95A and that, as at commencement, has been imported into New Zealand.

(2) This Act applies to the water-pipe tobacco as if the amendment Act had not come into force.

Schedule 1 clause 42: inserted, on 25 May 2022, by section 5(a) of the Customs and Excise (Tobacco Products) Amendment Act 2022 (2022 No 28).

43 Water-pipe tobacco en route to New Zealand as at commencement

(1) This clause applies to water-pipe tobacco that, as at commencement, is en route to New Zealand.

(2) This Act applies to the water-pipe tobacco as if the amendment Act had not come into force.

(3) The excise-equivalent duty levied in respect of the water-pipe tobacco is at the rate and unit of measurement that applied immediately before commencement.

(4) Subclause (3) applies despite—

(a) section 141; and

(b) the amendments made to the Excise and Excise-equivalent Duties Table by the amendment Act.

Schedule 1 clause 43: inserted, on 25 May 2022, by section 5(a) of the Customs and Excise (Tobacco Products) Amendment Act 2022 (2022 No 28).

Part 5
Provisions relating to 2019 and 2020 increases in rates of excise duty for Excise item 99.44

Schedule 1 Part 5: inserted, on 30 November 2022, by section 30(a) of the Statutes Amendment Act 2022 (2022 No 75).

44 Adjustment of rates of excise duty for Excise item 99.44

(1) The Governor-General may, by Order in Council, amend the Excise and Excise-equivalent Duties Table to change the rates of duty that apply to Excise item 99.44.

(2) The new rates must not exceed what the rates would have been on the date on which the order is made had the rates that applied on 30 June 2019 been increased by the maximum amount permitted under clause 21 of Schedule 3 on 1 July 2019 and each subsequent 1 July until the order under this clause is made.

(3) Only 1 order may be made under this clause, and it cannot be made more than 12 months after this clause comes into force.

(4) An order made under this clause is taken to be an order made under clause 21 of Schedule 3, and this Act (other than clause 21(4) of Schedule 3) applies accordingly.

Schedule 1 clause 44: inserted, on 30 November 2022, by section 30(a) of the Statutes Amendment Act 2022 (2022 No 75).

Part 6
Provisions relating to Customs and Excise (Arrival Information) Amendment Act 2023

Schedule 1 Part 6: inserted, on 21 June 2023, by section 7 of the Customs and Excise (Arrival Information) Amendment Act 2023 (2023 No 21).

45 Application of section 28A to arrivals on Defence Force ships and cruise ships

Section 28A applies to a person arriving in New Zealand on one of the following kinds of ship only on or after 31 October 2023:

(a) a ship under the control of the Defence Force:

(b) a ship operated as part of an international cruise business.

Schedule 1 clause 45: inserted, on 21 June 2023, by section 7 of the Customs and Excise (Arrival Information) Amendment Act 2023 (2023 No 21).

Schedule 2
Application of Act to Defence Force

s 10

1 Requirements relating to arrival and departure of craft and persons

(1) Subpart 1 of Part 3 does not apply to any member of the Armed Forces, or any craft under the control of the Defence Force, during any period when that member or craft is involved in dealing with an emergency.

(2) Subclause (3) applies if a craft under the control of the Defence Force arrives in, or departs from, New Zealand while involved in dealing with an emergency.

(3) The Chief of Defence Force must, within 48 hours of the craft's arrival or departure or any longer period that the chief executive allows,—

(a) notify Customs of the craft's arrival or departure; and

(b) provide Customs with any details relating to goods or persons on the craft that are required by the chief executive.

(4) In this clause, **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) any other circumstances agreed between the chief executive and the Chief of Defence Force.

Compare: 1996 No 27 s 4(3)–(7)

2 Customs powers

The powers in Part 4 may be exercised in relation to the following only in prescribed circumstances:

(a) a member of the Armed Forces:

(b) access to a defence area:

(c) a craft under the control of the Defence Force.

Compare: 1996 No 27 s 4(1), (2)

Schedule 3
Excise duty and excise-equivalent duty

s 11

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Part 1
Excise duty

Subpart 1—Excise duty levied

Excise duty levied in respect of Part A goods

1 Excise duty levied in respect of Part A goods manufactured in New Zealand

(1) Excise duty is levied in respect of any Part A goods that are manufactured in a manufacturing area.

(2) Subclause (1) is subject to clause 6.

(3) Excise duty is levied in respect of any Part A goods that are manufactured at a place that is not a manufacturing area in contravention of section 56(1)(a).

Compare: 1996 No 27 ss 73(1), 74

2 Excise duty is debt owed to the Crown

(1) Excise duty levied in respect of any Part A goods is a debt—

(a) due to the Crown immediately when—

(i) the goods are removed for home consumption, if the excise duty is levied under clause 1(1); or

(ii) the goods are manufactured, if the excise duty is levied under clause 1(3); and

(b) owed by the persons referred to in subclause (2); and

(c) recoverable by the chief executive (on behalf of the Crown) in any court of competent jurisdiction.

(2) The following persons owe the excise duty levied in respect of any Part A goods:

(a) the occupier of the place where the goods are manufactured:

(b) every person who is the owner of the goods when they are manufactured:

(c) every person who becomes the owner of the goods after they are manufactured but before the excise duty is fully paid.

(3) To avoid doubt, the right to recover excise duty as a debt due to the Crown is not affected by the fact that—

(a) the Part A goods have ceased to be subject to the control of Customs; or

(b) a bond or any other security has been given for the payment of duty; or

(c) no proper assessment of duty has been made under this Act; or

(d) a deficient assessment of duty has been made under this Act.

(4) If excise duty is owed by more than 1 person, the debt is owed by all of them jointly and severally.

Compare: 1996 No 27 ss 76(1)–(3), 86(3)

3 Removal for home consumption

(1) This clause applies, for the purposes of this Act, to Part A goods that are manufactured in a manufacturing area (subject to subclause (6)).

General rule

(2) Part A goods are **removed for home consumption** if the goods are physically removed from a Customs-controlled area, except where—

(a) the goods are moved to another Customs-controlled area under a permit or other authorisation granted by the chief executive under section 85(1)(b); or

(b) the goods are temporarily removed under section 235(1); or

(c) the goods are removed—

(i) for export; or

(ii) to an export warehouse.

Special rules

(3) Part A goods that are treated as being manufactured in a manufacturing area by clause 8(2) or 9(2) are **removed for home consumption** when they are manufactured.

(4) Part A goods that are used, or that are destroyed, lost, or otherwise physically disposed of, without having been removed for home consumption under subclause (2) or (3) are **removed for home consumption** when they are used or are destroyed, lost, or otherwise physically disposed of.

(5) If Part A goods are used, without having been removed for home consumption under subclause (2) or (3), in a manufacturing area in the manufacture of other Part A goods,—

(a) subclause (4) does not apply to the goods that are used; and

(b) the excise duty levied under clause 1(1) in respect of those goods does not become a debt due to the Crown.

(6) If Part A goods are exported and depart from New Zealand without having been removed for home consumption,—

(a) this clause does not apply to the goods in respect of any time after they have departed from New Zealand; and

(b) the excise duty levied under clause 1(1) in respect of the goods does not become a debt due to the Crown; but

(c) Part 2 of this schedule (excise-equivalent duty) may apply to the goods if they are imported back.

Compare: 1996 No 27 ss 69(1)(a), (3), 72, 82(1), (2)

4 Rate of excise duty

(1) Excise duty levied in respect of any goods is levied at the applicable rate of duty specified in Part A of the Excise and Excise-equivalent Duties Table.

(2) If the rate is, or includes, an *ad valorem* rate, the value of the goods must be determined in accordance with subpart 2 of this Part for the purpose of applying the *ad valorem* rate.

Compare: 1996 No 27 s 73(1), (3), (4)

5 Time for payment of excise duty

Except as otherwise provided in this Act,—

(a) excise duty levied under clause 1(1) must be paid to Customs within the prescribed time:

(b) excise duty levied under clause 1(3) must be paid to Customs when the Part A goods are manufactured.

Compare: 1996 No 27 ss 74(1), 76(4), 286(1)(m)

Special rules: alcohol

6 Excise duty not levied on alcohol manufactured in manufacturing area for personal use

(1) Clause 1(1) does not apply to beer manufactured in a manufacturing area in quantities of not more than 100 litres per month by an individual who is not the licensee of the manufacturing area if—

(a) the beer is manufactured exclusively for the individual's personal use and not for sale or other disposition to any other person; and

(b) the licensee does not participate in any aspect or part of the brewing or bottling operation and provides no equipment, ingredients, or service other than the following:

(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.

(2) Clause 1(1) does not apply to wine manufactured in a manufacturing area in quantities of not more than 45 litres per month by an individual who is not the licensee of the manufacturing area if—

(a) the wine is manufactured exclusively for the individual's personal use and not for sale or other disposition to any other person; and

(b) the licensee does not participate in any aspect or part of the wine making or bottling operation and provides no equipment, ingredients, or service other than the following:

(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 the manufacture of the wine.

(3) In subclause (2), **wine** means any goods specified in any of items 99.20.20L, 99.25.20B, 99.30.21D, 99.30.26E, 99.30.32K, and 99.30.47H in Part A of the Excise and Excise-equivalent Duties Table.

Compare: 1996 No 27 s 73(2), (2A), (5)

7 Rectification or compounding of spirits

(1) This clause applies if—

(a) a quantity of spirits is supplied to a place to be rectified or compounded; and

(b) after making an allowance of not more than 2% on that quantity, the volume of alcohol rectified or compounded at that place is less than the volume supplied.

(2) The excise duty levied in respect of the spirits as rectified or compounded includes excise duty on the deficiency referred to in subclause (1)(b).

(3) For the purposes of this clause,—

compounding means the manufacture of spirits (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

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

Compare: 1996 No 27 s 82(3)

Special rules: fuel

8 Compression of natural gas in compressed natural gas fuelling facility

(1) This clause applies if the licensee of a manufacturing area supplies natural gas to a compressed natural gas fuelling facility that is not a manufacturing area.

(2) For the purposes of this Act,—

(a) any compression of the natural gas for use as a motor vehicle fuel that is done in the facility is treated as being done by the licensee in the licensee's manufacturing area; and

(b) any resulting compressed natural gas is treated as being manufactured by the licensee in that manufacturing area accordingly.

Compare: 1996 No 27 s 69(1)(a)

9 Blending of biofuel in biofuel fuelling facility

(1) This clause applies if the licensee of a manufacturing area supplies biofuel to a biofuel fuelling facility.

(2) For the purposes of this Act,—

(a) any blending of the biofuel that is done in the facility is treated as being done by the licensee in the licensee's manufacturing area; and

(b) any resulting biofuel blend is treated as being manufactured by the licensee in that manufacturing area accordingly.

(3) Subclause (2) does not apply to any blending of biofuel that is done under section 67(4)(c).

(4) In this clause, **biofuel fuelling facility**—

(a) means any installation, facility, or other place that—

(i) is used for fuelling any craft, vehicle, or other conveyance; and

(ii) is not a Customs-controlled area or a place that is exempted under section 62; and

(b) includes any vehicle designed for the storage and transport of fuel in which a process of blending occurs.

Compare: 1996 No 27 s 69(1)(c), (4)

10 Other special rules relating to removal of motor spirits from Customs-controlled areas and blending

(1) Regulations may provide that the chief executive must not exercise the chief executive's power under section 85(1)(b) or 235(1) in respect of dutiable motor spirits.

(2) Regulations made for the purposes of subclause (1) may—

(a) relate to a specified Customs-controlled area or a specified class of Customs-controlled areas:

(b) apply in all circumstances or in prescribed circumstances only.

(3) Subclauses (4) and (5) apply if—

(a) dutiable motor spirits (the **new dutiable motor spirits**) are manufactured in a manufacturing area by the blending of—

(i) dutiable motor spirits, other than waste motor spirits; with

(ii) a minor and incidental quantity of other substances, which may include waste motor spirits; and

(b) before the manufacture of the new dutiable motor spirits began, the dutiable motor spirits covered by paragraph (a)(i) (the **original dutiable motor spirits**) were—

(i) removed for home consumption; or

(ii) entered in accordance with section 75 and the entry passed for home consumption; and

(c) the prescribed conditions (if any) are met.

(4) The excise duty levied under clause 1(1) in respect of the new dutiable motor spirits is levied only in respect of the volume of the new dutiable motor spirits that is attributable to the substances covered by subclause (3)(a)(ii) (the **other substances**).

(5) Credit may be claimed under section 107 for any excise duty or excise-equivalent duty levied in respect of the original dutiable motor spirits only if, and to the extent, permitted by regulations.

(6) Regulations may, for the purposes of subclause (4), prescribe how the volume of the new dutiable motor spirits that is attributable to the other substances is to be determined.

(7) Regulations may, in consequence of regulations made for the purposes of subclause (4) in accordance with subclause (6), provide that credit—

(a) may not be claimed under section 107 for excise duty or excise-equivalent duty levied in respect of any of the other substances; or

(b) may be so claimed only to the extent permitted by the regulations.

(8) In subclause (4), the reference to the excise duty levied under clause 1(1) includes, if relevant, the following:

(a) any levy imposed by section 213(2)(c) of the Accident Compensation Act 2001:

(b) any levy imposed by section 24 of the Energy (Fuels, Levies, and References) Act 1989.

(9) In this clause,—

dutiable motor spirits means motor spirits—

(a) that are Part A goods and that are manufactured in a manufacturing area; or

(b) that are goods specified in Part B of the Excise and Excise-equivalent Duties Table and that are imported

motor spirits means any fuels that are—

(a) motor spirit, or fuels that contain motor spirit; or

(b) specified in any of the following items:

(i) items 99.75.05F, 99.75.13G, 99.75.23D, 99.75.29C, 99.75.33A, 99.75.37D, 99.75.51K, 99.75.59E, 99.75.73L, 99.75.81A, and 99.75.93E in Part A of the Excise and Excise-equivalent Duties Table:

(ii) items 2207.20.23, 2207.20.35, 2710.12.15, 2710.12.17, 2710.12.19, 2710.12.23, 2710.12.25, 2710.12.29, 2710.19.34, 2710.19.42, 2710.20.21, 2710.20.25, 3824.99.31, 3824.99.35, and 3826.00.20 in Part B of that table.

Subpart 2—Valuation of goods

11 Value of goods for excise duty if goods sold by licensee

(1) The value of any goods that are sold by the licensee of the manufacturing area in which they are manufactured is the price at which the goods are sold exclusive of excise duty and goods and services tax if—

(a) the sale is a sale in the open market as defined in clause 13(1)(c); and

(b) the sale is made on or before the date on which the goods are removed from the manufacturing area.

(2) This clause does not apply to goods that a contractor is treated as having manufactured under section 5(3).

Compare: 1996 No 27 Schedule 4 cls 1, 2

12 Default rule if value of goods cannot be determined under clause 11

If the value of any goods cannot be determined under clause 11, the value of the goods is their fair market value, as determined under clause 13, at the date on which the event referred to in clause 2(1)(a)(i) or (ii) (as the case requires) occurs.

Compare: 1996 No 27 Schedule 4 cl 3

13 Fair market value

(1) For the purposes of this clause,—

(a) **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) **similar goods** means goods that closely resemble the goods being valued in respect of component materials and parts and characteristics and that 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) 2 persons are treated as being 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 clause, the chief executive must—

(i) use only those prices that 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) The fair market value of any goods must be determined by applying sequentially subclauses (3) to (8) to the first subclause under which fair market value can be determined.

(3) The fair market value of any goods on the date given by clause 12 is 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 a licensee of a manufacturing area, other than a contractor.

(4) If, in the chief executive's opinion, the fair market value cannot be determined under subclause (3), it is 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 a licensee of a manufacturing area, other than a contractor.

(5) If, in the chief executive's opinion, the fair market value cannot be determined under subclause (4), it is 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 a licensee of a manufacturing area, other than a contractor.

(6) If, in the chief executive's opinion, the fair market value cannot be determined under subclause (5), it is 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 a licensee of a manufacturing area, other than a contractor.

(7) If, in the chief executive's opinion, the fair market value cannot be determined under subclause (6), the chief executive must determine the price that the goods would generally fetch at the retail level and deduct from that price an amount that reasonably represents the profit margin and other costs beyond the manufacturing level on those goods.

(8) If, in the chief executive's opinion, the fair market value cannot be determined under subclause (7), the chief executive must determine the value of the goods by taking the costs of the production of the goods and adding an amount that reasonably represents the profit margin and other costs to the manufacturing level of those goods.

Compare: 1996 No 27 Schedule 4 cl 4

Part 2
Excise-equivalent duty

14 Excise-equivalent duty levied in respect of imported goods specified in Part B of Excise and Excise-equivalent Duties Table

Excise-equivalent duty is levied in respect of any goods specified in Part B of the Excise and Excise-equivalent Duties Table that are imported.

Compare: 1996 No 27 s 75(1)

15 Rate of excise-equivalent duty

(1) Excise-equivalent duty levied in respect of any goods is levied at the applicable rate of duty specified in Part B of the Excise and Excise-equivalent Duties Table.

(2) If the rate is, or includes, an *ad valorem* rate, the value of the goods must be determined in accordance with Schedule 4 for the purpose of applying the *ad valorem* rate.

Compare: 1996 No 27 s 75(1), (4)

Part 3
Excise and Excise-equivalent Duties Table

Setting out, and access to, Table

16 Order in Council to set out Excise and Excise-equivalent Duties Table

(1) The Minister must recommend to the Governor-General that the Governor-General make an Order in Council, to come into force on the specified date, that sets out the Excise and Excise-equivalent Duties Table, and the Governor-General may make the order.

(2) The Excise and Excise-equivalent Duties Table set out in the order under subclause (1) must be the same as the Excise and Excise-equivalent Duties

Table under the Customs and Excise Act 1996 as that table will be in force immediately before the specified date but with the amendments set out in Part 5 of this schedule.

(3) The rates of duty set out in the amendments in Part 5 of this schedule are the same as certain rates of duty set out in the Excise and Excise-equivalent Duties Table under the Customs and Excise Act 1996 as at 1 July 2017.

(4) Subclause (5) applies if any of those rates of duty set out in the Excise and Excise-equivalent Duties Table under the Customs and Excise Act 1996 as at 1 July 2017 is changed on 1 or more occasions before the specified date by an Order in Council made under Part 7 of that Act.

(5) The amendments in Part 5 of this schedule must be incorporated into the Excise and Excise-equivalent Duties Table set out in the order under subclause (1) with the rates of duty changed as appropriate to reflect the changes to any rates of duty as referred to in subclause (4).

(6) In this clause, **specified date** has the meaning given to that term in section 2(5).

(7) In this Act,—

Excise and Excise-equivalent Duties Order means the order made under subclause (1)

Excise and Excise-equivalent Duties Table means the Excise and Excise-equivalent Duties Table set out in the order made under subclause (1).

17 Access to Excise and Excise-equivalent Duties Table

(1) The chief executive must—

(a) *[Repealed]*

(b) ensure that copies of the documents referred to in subclause (2) are available for purchase at a reasonable price at the places specified in a notice given under subsection (5).

(2) The documents are as follows:

(a) the Excise and Excise-equivalent Duties Order as originally made:

(b) an order under clause 20, 21, 23, or 25(1):

(ba) a notice under clause 25(2):

(c) the Excise and Excise-equivalent Duties Table as in force from time to time.

(3) Every version of the Excise and Excise-equivalent Duties Table that is published or made available under subclause (1) in accordance with subclause (2)(c) must—

(a) indicate that it is that table as in force at the beginning of a stated date; and

(b) list all the enactments that are made before the stated date and that amend, modify, or revoke and replace that table.

(4) Nothing in this clause prevents the chief executive from ensuring that other information is published or made available with the Excise and Excise-equivalent Duties Table, so long as in doing so the chief executive ensures that it is indicated clearly that the other information does not form part of, or have legal effect as part of, that table.

(5) The chief executive must give notice in the *Gazette* specifying where copies of the documents referred to in subclause (2) can be purchased.

Compare: 1996 No 27 s 76C

Schedule 3 clause 17(1)(a): repealed, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Schedule 3 clause 17(1)(b): amended, on 29 October 2019, by section 4 of the Legislation (Repeals and Amendments) Act 2019 (2019 No 59).

Schedule 3 clause 17(2)(b): replaced, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Schedule 3 clause 17(2)(ba): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Schedule 3 clause 17(5): inserted, on 29 October 2019, by section 4 of the Legislation (Repeals and Amendments) Act 2019 (2019 No 59).

18 Evidence of documents published or made available under clause 17

Every copy of the documents referred to in clause 17(2) purporting to be published or made available under the authority of the chief executive is, unless the contrary is shown, treated—

(a) as being a correct copy of the document; and

(b) as having been so published or made available.

Compare: 1996 No 27 s 76F

Interpretation of Table

19 Interpretation of certain terms used in Excise and Excise-equivalent Duties Table

The following provisions apply for the purposes of the Excise and Excise-equivalent Duties Table:

(a) **alcoholic strength** means alcoholic strength by volume at a temperature of 20ºC:

(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 20ºC to the total volume of the mixture at the same temperature:

(c) the terms **percent volume** and **% vol** are used to express alcoholic strength in parts of alcohol per 100 parts of the mixture:

(d) **per litre**, for all items under the heading "**Fuels**" in Part A or B of the Excise and Excise-equivalent Duties Table, means the quantity of product expressed in litres at a temperature of 15°C.

Compare: 1996 No 27 s 2(2)

Powers to modify or amend Table

20 Power to suspend and modify rates of duty

(1) The Governor-General—

(a) may, by Order in Council, suspend the rates of duty specified in the Excise and Excise-equivalent Duties Table in whole or in part; and

(b) may, by the same or a subsequent Order in Council, provide for a rate of duty that is lower than a suspended rate of duty to apply instead of the suspended rate until the suspension ends.

(2) An order under this clause must be confirmed by an Act (*see* subpart 3 of Part 5 of the Legislation Act 2019).

Compare: 1996 No 27 s 77

Schedule 3 clause 20(2): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

21 Power to change rates of duty on alcoholic products and tobacco products

(1) The Governor-General may, by Order in Council, amend the Excise and Excise-equivalent Duties Table so as to change a rate of duty that applies to an alcoholic product or a tobacco product.

(2) A change in a rate of duty that applies to an alcoholic product may come into force only on 1 July in any calendar year.

(3) A change in a rate of duty that applies to a tobacco product may come into force only on 1 January in any calendar year.

(4) A new rate of duty that results from a change made by an order under this clause must not exceed the rate given by the following formula:

$$a \div b \times c$$

where—

a is the index number of the Consumers Price Index (less credit services subgroup) for—

(a) the quarter ending on 31 March in the calendar year in which the new rate is to come into force, if the rate applies to an alcoholic product; or

(b) the quarter ending on 30 September immediately before the calendar year in which the new rate is to come into force, if the rate applies to a tobacco product

b is the index number of the Consumers Price Index (less credit services subgroup) 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

c is the current rate.

(5) *[Repealed]*

(5A) An order under this clause must be confirmed by an Act (*see* subpart 3 of Part 5 of the Legislation Act 2019).

(6) In this clause,—

alcoholic product means any goods specified in—

(a) any of items 99.05 to 99.50 in Part A of the Excise and Excise-equivalent Duties Table; or

(b) any of items 21.05 to 22.08 and 33.02 in Part B of that table

Consumers Price Index (less credit services subgroup) means the Consumers Price Index (less credit services subgroup) published by Statistics New Zealand or, if that index ceases to be published, any measure certified by the Government Statistician as being equivalent to that index

tobacco product means any goods specified in—

(a) item 99.60, 99.65, or 99.67 in Part A of the Excise and Excise-equivalent Duties Table; or

(b) item 24.02, 24.03, or 24.04 in Part B of that table.

Compare: 1996 No 27 s 79

Schedule 3 clause 21(4) formula item a: amended, on 1 September 2022, by section 107(1) of the Data and Statistics Act 2022 (2022 No 39).

Schedule 3 clause 21(4) formula item b: amended, on 1 September 2022, by section 107(1) of the Data and Statistics Act 2022 (2022 No 39).

Schedule 3 clause 21(5): repealed, on 1 January 2020 (but without affecting any new rates imposed before or on that date by any Orders in Council to which it applies), by Schedule 1 clause 33(1).

Schedule 3 clause 21(5A): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Schedule 3 clause 21(6) **tobacco product** paragraph (a): amended, on 25 May 2022, by section 6(1) of the Customs and Excise (Tobacco Products) Amendment Act 2022 (2022 No 28).

Schedule 3 clause 21(6) **Consumers Price Index (less credit services subgroup)**: inserted, on 1 September 2022, by section 107(1) of the Data and Statistics Act 2022 (2022 No 39).

Schedule 3 clause 21(6) **tobacco product** paragraph (b): amended, on 25 May 2022, by section 6(2) of the Customs and Excise (Tobacco Products) Amendment Act 2022 (2022 No 28).

22 Rates of duties for tobacco products increased by 10% if not indexed on 1 January in 2018 to 2020

[Repealed]

Schedule 3 clause 22: repealed, on 1 January 2020 (but without affecting any amendments it makes on or before that date), by Schedule 1 clause 33(2).

23 Power to change rates of duty on motor spirits

(1) The Governor-General may, by Order in Council, amend the Excise and Excise-equivalent Duties Table so as to change a rate of duty that applies to a motor spirit.

(2) A change in a rate of duty that applies to a motor spirit may come into force only in the second or third financial year that follows the financial year in which the current rate came into force.

(2A) An order under this clause that increases a rate of duty must be confirmed by an Act (*see* subpart 3 of Part 5 of the Legislation Act 2019).

(2B) A determination under the definition of financial year in subclause (3) is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

(3) In this clause,—

financial year means a period of 12 months ending with 30 June or any other date determined for the purposes of this clause by the Minister of Finance

motor spirits means any fuels that are—

(a) motor spirit, or fuels that contain motor spirit; or

(b) specified in any of the following items:

(i) items 99.75.05F, 99.75.13G, 99.75.23D, 99.75.29C, 99.75.33A, 99.75.37D, 99.75.51K, 99.75.59E, 99.75.73L, 99.75.81A, and 99.75.93E in Part A of the Excise and Excise-equivalent Duties Table:

(ii) items 2207.20.23, 2207.20.35, 2710.12.15, 2710.12.17, 2710.12.19, 2710.12.23, 2710.12.25, 2710.12.29, 2710.19.34, 2710.19.42, 2710.20.21, 2710.20.25, 3824.99.31, 3824.99.35, and 3826.00.20 in Part B of that table.

Compare: 1996 No 27 s 79A

Legislation Act 2019 requirements for secondary legislation made under this clause		
Publication	The maker must notify it in the *Gazette*	LA19 ss 73, 74(1)(a), Sch 1 cl 14
Presentation	It is not required to be presented to the House of Representative because a transitional exemption applies under Schedule 1 of the Legislation Act 2019	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Schedule 3 clause 23(2A): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Schedule 3 clause 23(2B): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Schedule 3 clause 23(3) **financial year**: amended, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

24 Effect of disallowance or resolution to amend or replace Order in Council under clause 20, 21, or 23

(1) This clause applies if—

(a) an Order in Council is made under clause 20 or 21, or is made under clause 23 and increases a rate of duty; and

(b) the House of Representatives resolves to—

(i) disallow the order under section 116 of the Legislation Act 2019; or

(ii) amend or replace the order under section 119 of that Act.

(2) Any duty collected under the order in excess of the duty otherwise payable must, so far as that resolution provides, be refunded.

Compare: 1996 No 27 s 80A

Schedule 3 clause 24: replaced, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

25 Powers to amend Excise and Excise-equivalent Duties Table for other limited purposes

(1) The Governor-General may, by Order in Council, amend the Excise and Excise-equivalent Duties Table by—

(a) 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 the Excise and Excise-equivalent Duties Table in any manner necessary to ensure that that table conforms to the Tariff; or

(b) revoking, suspending, or amending a provision of the notes forming part of the Excise and Excise-equivalent Duties Table, or by inserting a new provision in the notes, for the purpose of ensuring the proper operation of the Excise and Excise-equivalent Duties Table; or

(c) revoking, suspending, inserting, or amending a statistical unit in the Excise and Excise-equivalent Duties Table.

(2) The chief executive may also, by notice, revoke, suspend, insert, or amend a statistical unit in the Excise and Excise-equivalent Duties Table.

(3) No amendment made under this clause may alter the duties or exemptions from duty under this Act applicable to goods classified under an item or heading so amended.

Compare: 1996 No 27 s 78

Schedule 3 clause 25(2): amended, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Legislation Act 2019

Heading: replaced, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

26 Application of Legislation Act 2019 to Excise and Excise-equivalent Duties Order and related instruments

(1) The following are secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements):

(a) the Excise and Excise-equivalent Duties Order:

(b) an order under clause 20, 21, 23, or 25(1):

(c) a notice under clause 25(2).

(2) However, in relation to that legislation,—

(a) section 67(d)(i) of the Legislation Act 2019 does not apply; and

(b) section 26 of that Act is subject to clauses 21(2) and (3) and 23(2).

Legislation Act 2019 requirements for secondary legislation referred to in subclause (1)(a) or (b)		
Publication	The maker must: • publish it on a website that is, so far as practicable, publicly available free of charge • comply with clause 17(1)(b) and (5)	LA19 ss 73, 74(1)(a), Sch 1 cl 14
Presentation	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Legislation Act 2019 requirements for secondary legislation referred to in subclause (1)(c)		
Publication	The maker must publish it in the *Gazette*	LA19 ss 73, 74(1)(a), Sch 1 cl 14
Presentation	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Schedule 3 clause 26: replaced, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Part 4
International organisations based in New Zealand, etc

27 Power to suspend, remit, refund, or create exemptions from duties for cases involving international organisations based in New Zealand, etc

(1) The Governor-General may, by Order in Council, suspend, order the remission or refund of, or create exemptions from excise duty and excise-equivalent duty in respect of goods or classes of goods that are manufactured in New Zealand or imported and that—

(a) are supplied solely for the use of organisations, expeditions, or other bodies that—

(i) are approved by the chief executive; and

(ii) are 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) are supplied solely for the use of persons temporarily resident in New Zealand for the purpose of serving as a member of an organisation, expedition, or other body to which paragraph (a) applies.

(2) The chief executive may impose conditions in respect of goods or a class of goods to which an order made under this clause relates.

(3) An order under subclause (1) is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Compare: 1996 No 27 s 81(1), (2)

Legislation Act 2019 requirements for secondary legislation made under this clause		
Publication	PCO must publish it on the legislation website and notify it in the *Gazette*	LA19 s 69(1)(c)
Presentation	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Schedule 3 clause 27(3): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Part 5
Amendments to be made to Excise and Excise-equivalent Duties Table as in force under Customs and Excise Act 1996

28 Introduction

This Part sets out the amendments that must be made for the purposes of clause 16(2) to the Excise and Excise-equivalent Duties Table under the Customs and Excise Act 1996 as that table will be in force immediately before the specified date (as that term is defined in section 2(5)).

29 Amendments to notes

(1) In note 4, replace "imposed pursuant to section 73 of the Customs and Excise Act 1996" with "levied under clause 1 of Schedule 3 of the Customs and Excise Act 2018".

(2) In note 5, replace "imposed pursuant to section 75 of the Customs and Excise Act 1996" with "levied under clause 14 of Schedule 3 of the Customs and Excise Act 2018".

30 Amendments to Part A

(1) *[Repealed]*

(2) Replace items 99.30.21D to 99.30.62A with:

	– Fruit and vegetable wine:		
99.30.01K	– – Containing not more than 14% vol.	per l	$2.9054
99.30.02H	– – Containing more than 14% vol., but not more than 23% vol.	per l al	$52.916
99.30.03F	– – Other	per l al	$52.916
	– Other:		
99.30.21D	– – Containing more than 1.15% vol., but not more than 2.5% vol.	per l	43.573¢
99.30.26E	– – Containing more than 2.5% vol., but not more than 6% vol.	per l al	$29.054
99.30.32K	– – Containing more than 6% vol., but not more than 9% vol.	per l	$2.3243
99.30.47H	– – Containing more than 9% vol., but not more than 14% vol.	per l	$2.9054
99.30.59A	– – Containing more than 14% vol., but not more than 23% vol.	per 1 al	$52.916
99.30.62A	– – Containing more than 23% vol.	per 1 al	$52.916

(3) After item 99.43.09K, insert:

99.44	– Undenatured ethyl alcohol of an alcoholic strength by volume of less than 80% vol., which, if imported, would be classified within Tariff item 2208.90.62, 2208.90.68, 2208.90.72, 2208.90.78, 2208.90.85, or 2208.90.97:		
	– – Rectified spirits of wine:		
99.44.10K	– – – As may be approved by the Chief Executive for fortifying New Zealand wines and under such conditions as the Chief Executive may approve		Free
	– – – Other:		
99.44.22C	– – – – Containing more than 1.15% vol., but not more than 2.5% vol.	per l	43.573¢
99.44.23A	– – – – Containing more than 2.5% vol., but not more than 6% vol.	per l al	$29.054
99.44.24K	– – – – Containing more than 6% vol., but not more than 9% vol.	per l	$2.3243
99.44.25H	– – – – Containing more than 9% vol., but not more than 14% vol.	per l	$2.9054
99.44.26F	– – – – Containing more than 14% vol., but not more than 23% vol.	per l al	$52.916
99.44.27D	– – – – Containing more than 23% vol.	per l al	$52.916
	– – Other kinds:		
99.44.30D	– – –In the quantities, and for the purposes, and subject to any conditions that the		Free

	Chief Executive thinks fit and approves in writing,— (a) for use in museums, universities, hospitals, and other institutions approved by the Chief Executive; or (b) for scientific, educational, or other commercial or industrial application, except the manufacture of potable beverages		
	– – – Other:		
99.44.42H	– – – – Containing more than 1.15% vol., but not more than 2.5% vol.	per l	43.573¢
99.44.43F	– – – – Containing more than 2.5% vol., but not more than 6% vol.	per l al	$29.054
99.44.44D	– – – – Containing more than 6% vol., but not more than 9% vol.	per l	$2.3243
99.44.45B	– – – – Containing more than 9% vol., but not more than 14% vol.	per l	$2.9054
99.44.46L	– – – – Containing more than 14% vol., but not more than 23% vol.	per l al	$52.916
99.44.47J	– – – – Containing more than 23% vol.	per 1 al	$52.916

(4) After item **99.55**, insert:

99.59	**Tobacco, cured, not ready for smoking which, if imported, would be classified in Tariff heading 24.01**		
99.59.10G	Cured leaf	per kg	Free

(5) In item **99.75**, heading that begins with "– Motor spirit with a Research Octane No. (RON) less than 95", replace "or 2710.12.29" with "2710.12.29, 2710.20.21, or 2710.20.25".

(6) After item 99.75.05F, insert:

99.75.13G	– – Blended with biodiesel	per 1 ms	59.524¢ *plus* 8¢ per g of Pb

(7) In item **99.75**, heading that begins with "– Motor Spirit with a Research Octane No. (RON) 95 or greater", replace "or 2710.12.29" with "2710.12.29, 2710.20.21, or 2710.20.25".

(8) After item 99.75.29C, insert:

99.75.33A	– – Blended with biodiesel	per 1 ms	59.524¢ *plus* 8¢ per g of Pb

(9) In the heading after item 99.75.47A, replace "or 2710.19.36" with "2710.19.36, or 2710.20.49".

(10) In the heading after item 99.75.57J, replace "or 2710.19.44" with "2710.19.44, or 2710.20.51".

Schedule 3 clause 30(1): repealed, on 8 September 2018, by section 42 of the Statutes Amendment Act 2018 (2018 No 27).

31 Amendments to Part B

(1) *[Repealed]*

(2) Replace item 2207.20.32 and the heading above it with:

2207.20.32	– – – Other	per 1	30.2¢

(3) In item **22.08**, before the heading that begins with "– Spirits", insert:

	– Undenatured ethyl alcohol of an alcoholic strength by volume of less than 80% vol., which, if manufactured in New Zealand, would be classified within Excise item number 99.44.10K, 99.44.22C, 99.44.23A, 99.44.24K, 99.44.25H, 99.44.26F, 99.44.27D, 99.44.30D, 99.44.42H, 99.44.43F, 99.44.44D, 99.44.45B, 99.44.46L, or 99.44.47J:		
	– – Rectified spirits of wine:		
	– – – As may be approved by the Chief Executive for fortifying New Zealand wines and under such conditions as the Chief Executive may approve		Free
	– – – Other:		
2208.90.62	– – – – Containing more than 1.15% vol., but not more than 2.5% vol.	per 1	43.573¢
2208.90.68	– – – – Containing more than 2.5% vol., but not more than 6% vol.	per 1 al	$29.054
2208.90.72	– – – – Containing more than 6% vol., but not more than 9% vol.	per 1	$2.3243
2208.90.78	– – – – Containing more than 9% vol., but not more than 14% vol.	per 1	$2.9054
2208.90.85	– – – – Containing more than 14% vol., but not more than 23% vol.	per 1 al	$52.916
2208.90.97	– – – – Containing more than 23% vol.	per 1 al	$52.916
	– – Other kinds:		
	– – – In the quantities, and for the purposes, and subject to any conditions that the Chief Executive thinks fit and approves in writing,— (a) for use in museums, universities, hospitals, and other institutions approved by the Chief Executive; or (b) for scientific, educational, or other commercial or industrial application, except the manufacture of potable beverages		Free
	– – – Other:		
2208.90.62	– – – – Containing more than 1.15% vol., but not more than 2.5% vol.	per 1	43.573¢
2208.90.68	– – – – Containing more than 2.5% vol., but not more than 6% vol.	per 1 al	$29.054
2208.90.72	– – – – Containing more than 6% vol., but not more than 9% vol.	per 1	$2.3243

2208.90.78	– – – – Containing more than 9% vol., but not more than 14% vol.	per 1	$2.9054
2208.90.85	– – – – Containing more than 14% vol., but not more than 23% vol.	per 1 al	$52.916
2208.90.97	– – – – Containing more than 23% vol.	per 1 al	$52.916

(4) In item **22.08**, replace the heading that begins with "**– Liqueurs**" with:

	– Liqueurs, cordials, and bitters which, if manufactured in New Zealand, would be classified within Excise item number 99.50.10K, 99.50.14B, 99.50.35E, 99.50.40A, 99.50.50J, 99.50.60F, 99.50.65G, 99.50.76B, or 99.50.85A:		

(5) In the heading under "**Fuels**" that begins with "– Motor spirit with a Research Octane No. (RON) less than 95", after "99.75.05F,", insert "99.75.13G,".

(6) After item 2710.12.15 or 2710.12.23, insert:

2710.20.21 or 2710.20.25	– – Blended with biodiesel	per 1 ms	59.524¢ *plus* 8¢ per g of Pb

(7) In the heading under "**Fuels**" that begins with "– Motor spirit with a Research Octane No. (RON) 95 or greater", after "99.75.29C,", insert "99.75.33A,".

(8) After item 2710.12.17 or 2710.12.25, insert:

2710.20.21 or 2710.20.25	– – Blended with biodiesel	per 1 ms	59.524¢ *plus* 8¢ per g of Pb

(9) After item 2710.19.34, insert:

2710.20.49	– – Automotive diesel blended with biodiesel	per 1	Free
2710.19.36	– – Automotive diesel blended with ethyl alcohol	per 1	Free

(10) After item 2710.19.42, insert:

2710.20.51	– – Marine diesel blended with biodiesel	per 1	Free
2710.19.44	– – Marine diesel blended with ethyl alcohol	per 1	Free

Schedule 3 clause 31(1): repealed, on 8 September 2018, by section 42 of the Statutes Amendment Act 2018 (2018 No 27).

Schedule 3A
Permit to import tobacco and tobacco products

s 95A(3)(a)

Schedule 3A: inserted, on 1 July 2020, by section 16 of the Customs and Excise (Tobacco) Amendment Act 2020 (2020 No 16).

1 Application for permit to import tobacco and certain tobacco products

(1) A person may apply to the chief executive for a permit to import goods otherwise prohibited from import under section 95A.

(2) The application must—

(a) be in writing; and

(b) include the applicant's address for correspondence; and

(c) include any supporting documents that the chief executive considers appropriate.

Schedule 3A clause 1: inserted, on 1 July 2020, by section 16 of the Customs and Excise (Tobacco) Amendment Act 2020 (2020 No 16).

2 Chief executive may request further information

The chief executive may, at any time, require an applicant to provide any further information the chief executive considers relevant for the purposes of the application.

Schedule 3A clause 2: inserted, on 1 July 2020, by section 16 of the Customs and Excise (Tobacco) Amendment Act 2020 (2020 No 16).

3 Chief executive must determine application

(1) The chief executive must determine an application by—

(a) granting a permit to import the goods; or

(b) refusing the application.

(2) The chief executive must not grant a permit to import the goods unless the chief executive is satisfied that the applicant—

(a) holds a current licence to use an area as a Customs-controlled area for one of the purposes specified in subclause (3); or

(b) intends to use the goods for a legitimate purpose unrelated to the manufacture of tobacco for smoking; or

(c) intends to import manufactured tobacco only, either for commercial resale or personal use.

(3) The purposes referred to in subclause (2)(a) are as follows:

(a) the manufacture of Part A goods:

(b) the deposit, keeping, or securing of imported goods, or of Part A goods, without payment of duty, pending their export:

(c) the storing of dutiable goods on which the duty has not been paid, pending their sale to persons arriving in, or departing from, New Zealand.

(4) Subclause (2) does not limit the chief executive's discretion to decide on other grounds not to grant a permit.

(5) The chief executive must notify an applicant in writing of any decision made under this clause.

(6) An applicant who is dissatisfied with a decision of the chief executive under this clause may, within 20 working days after the date on which the notice of the decision is given, appeal to a Customs Appeal Authority against that decision.

Schedule 3A clause 3: inserted, on 1 July 2020, by section 16 of the Customs and Excise (Tobacco) Amendment Act 2020 (2020 No 16).

4 Grant of permit

(1) A permit to import the goods must—

(a) specify the applicant as the permit holder; and

(b) include a condition that the permit holder must not import the goods using any method that requires the goods to be received by or transmitted through a registered postal operator.

(2) A permit may include conditions that enable the chief executive to monitor compliance with the other conditions of the permit.

(3) The chief executive may include in a permit any other terms, conditions, or restrictions that the chief executive considers appropriate.

Schedule 3A clause 4: inserted, on 1 July 2020, by section 16 of the Customs and Excise (Tobacco) Amendment Act 2020 (2020 No 16).

5 Variation of terms, conditions, or restrictions

(1) The chief executive may, by notice in writing to the permit holder,—

(a) vary or revoke a term, condition, or restriction imposed under clause 4; or

(b) impose a new term, condition, or restriction under clause 4.

(2) A permit holder who is dissatisfied with a decision of the chief executive under this clause may, within 20 working days after the date on which the notice of the decision is given, appeal to a Customs Appeal Authority against that decision.

Schedule 3A clause 5: inserted, on 1 July 2020, by section 16 of the Customs and Excise (Tobacco) Amendment Act 2020 (2020 No 16).

6 Revocation or suspension of permit

(1) The chief executive may revoke or suspend a permit if—

(a) the permit holder no longer holds a current licence to use an area as a Customs-controlled area for one of the purposes specified in clause 3(3); or

(b) the permit holder has failed to comply with a term, condition, or restriction imposed under clause 4.

(2) The chief executive must notify the permit holder in writing if the chief executive intends to revoke or suspend a permit under subclause (1)(b).

(3) Subclause (2) does not apply if the chief executive considers that there is good reason not to give notice of the revocation or suspension.

(4) If the chief executive revokes or suspends a licence, the chief executive must notify the permit holder in writing of the revocation or suspension.

(5) A permit holder who is dissatisfied with a decision of the chief executive under this clause may, within 20 working days after the date on which the notice of the decision is given, appeal to a Customs Appeal Authority against that decision.

Schedule 3A clause 6: inserted, on 1 July 2020, by section 16 of the Customs and Excise (Tobacco) Amendment Act 2020 (2020 No 16).

Schedule 3B
Application for compensation for incorrect disposal of tobacco and certain tobacco products

s 189A

Schedule 3B: inserted, on 1 July 2020, by section 16 of the Customs and Excise (Tobacco) Amendment Act 2020 (2020 No 16).

1 Application for compensation for incorrect disposal of tobacco and certain tobacco products

An application for compensation under section 189A(2) must—

(a) be in writing; and

(b) include the applicant's address for correspondence; and

(c) be made no later than 20 working days after the date on which the notice under section 185B was given or, if the applicant did not receive the notice, any time that the chief executive allows; and

(d) specify the basis on which the applicant considers that the importation of the goods that are the subject of the application was not in breach of section 95A; and

(e) include any documentation that may support the applicant's application.

Schedule 3B clause 1: inserted, on 1 July 2020, by section 16 of the Customs and Excise (Tobacco) Amendment Act 2020 (2020 No 16).

2 Chief executive may request further information

The chief executive may require an applicant to provide any further information that the chief executive considers reasonably necessary to enable him or her to make a decision.

Schedule 3B clause 2: inserted, on 1 July 2020, by section 16 of the Customs and Excise (Tobacco) Amendment Act 2020 (2020 No 16).

3 Conduct of review

(1) The chief executive must determine an application for compensation on the papers, unless he or she considers it is not appropriate to do so.

(2) The chief executive must consider—

(a) the application; and

(b) any further information supplied in accordance with clause 2 and any other statement, document, information, or matter that the chief executive considers will assist him or her to deal effectively with the subject of the review (whether or not that statement, document, information, or matter would be admissible in a court of law).

Schedule 3B clause 3: inserted, on 1 July 2020, by section 16 of the Customs and Excise (Tobacco) Amendment Act 2020 (2020 No 16).

4 Decision on application

(1) The chief executive must determine an application for compensation no later than 20 working days after the date on which the application is received.

(2) The chief executive must determine an application for compensation by—

(a) granting the application and allowing compensation to be paid in accordance with clause 5; or

(b) dismissing the application.

(3) The chief executive may make different determinations under subclause (2) in respect of different parts of the goods.

(4) The chief executive may extend the period specified in subclause (1) for determining an application as much as is reasonably necessary if, in the chief executive's opinion, the circumstances of the case do not allow a decision to be made within the specified time.

Schedule 3B clause 4: inserted, on 1 July 2020, by section 16 of the Customs and Excise (Tobacco) Amendment Act 2020 (2020 No 16).

5 Grant of application

(1) The chief executive may, if he or she is satisfied that the importation of the goods (or any part of the goods) was not in breach of section 95A, grant the application and direct that compensation be paid to the applicant.

(2) Any compensation paid under this section must not exceed the Customs value of the goods in respect of which compensation is to be paid.

Schedule 3B clause 5: inserted, on 1 July 2020, by section 16 of the Customs and Excise (Tobacco) Amendment Act 2020 (2020 No 16).

6 Dismissing application

The chief executive must dismiss the application if the chief executive is satisfied that all of the goods that are the subject of the application were imported in breach of section 95A.

Schedule 3B clause 6: inserted, on 1 July 2020, by section 16 of the Customs and Excise (Tobacco) Amendment Act 2020 (2020 No 16).

7 Notifying applicant of decision

(1) As soon as practicable after making a decision on an application for compensation, the chief executive must give written notice of the decision to—

(a) the applicant; and

(b) any other person to whom the notice of seizure and condemnation was given under section 185B.

(2) The notice must state the reasons for the decision.

(3) An applicant who is dissatisfied with a decision of the chief executive under clause 4 may, within 20 working days after the date on which the notice of the decision is given, appeal to a Customs Appeal Authority against that decision.

Schedule 3B clause 7: inserted, on 1 July 2020, by section 16 of the Customs and Excise (Tobacco) Amendment Act 2020 (2020 No 16).

Schedule 4
Valuation of goods for purposes of Tariff

s 101

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Preliminary provisions

1 International agreement

This schedule gives effect to Articles 1 to 8 of the Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade 1994.

2 Definitions for schedule

(1) In this schedule,—

carrier media does not include integrated circuits, semi-conductors, and similar devices, or articles incorporating such circuits or devices

country of export means—

(a) the country from which the goods are shipped directly to New Zealand; or

(b) the country from which the goods are treated as being shipped under this Act

data or instructions does not include sound, cinematic, or video recordings

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) Part 4 of this schedule, were exported from any country; and

(ii) Part 5 of this schedule, were produced in and exported from the country in and from which the goods being valued were produced and exported

identical goods—

(a) means imported goods that—

(i) are the same in all respects as the goods being valued, including in respect of physical characteristics, quality, and reputation, except

for minor differences in appearance that do not affect the value of the goods; and

(ii) were produced in the same country as the goods being valued; and

(iii) were produced by or on behalf of the person who produced the goods being valued; but

(b) does not include goods in relation to which engineering, development work, artwork, design work, plans, or sketches were undertaken in New Zealand and supplied (directly or indirectly) by the buyer of the goods free of charge, or at a reduced cost, for use in connection with the production and sale for export of those 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

produce includes to grow, manufacture, or mine

similar goods—

(a) means imported goods that—

(i) 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

(ii) were produced in the same country as the goods being valued; and

(iii) were produced by or on behalf of the person who produced the goods being valued; but

(b) does not include goods in relation to which engineering, development work, artwork, design work, plans, or sketches were undertaken in New Zealand and supplied (directly or indirectly) by the buyer of the goods free of charge, or at a reduced cost, for use in connection with the production and sale for export of those goods

sold for export to New Zealand means the last sale of the goods occurring prior to the importation of the goods into New Zealand

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.

(2) For the purposes of this schedule,—

(a) persons are **related** if—

(i) they are officers or directors of one another's business; or

(ii) they are legally recognised partners in business; or

(iii) they are employer and employee; or

(iv) any person directly or indirectly owns, controls, or holds 5% or more of the outstanding voting stock or shares of both of them; or

(v) one of them directly or indirectly controls the other; or

(vi) both of them are directly or indirectly controlled by a third person; or

(vii) together they directly or indirectly control a third person; or

(viii) they are members of the same family; and

(b) persons are **members of the same family** if—

(i) they are connected by a blood relationship within the fourth degree of relationship; or

(ii) they are married to, or in a civil union or a de facto relationship with, one another; or

(iii) one of them 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

(iv) one has been adopted as the child of—

(A) the other; or

(B) a person who is within the third degree of relationship to the other.

(3) 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 are treated as identical goods or similar goods, as the case may be.

Compare: 1996 No 27 Schedule 2 cls 1(1)–(4), 3(3)

3 When interest not to be regarded as part of Customs value

For the purposes of this schedule, interest charged under a financing arrangement entered into by the buyer and relating to the purchase of imported goods is not to be regarded as part of the Customs value if—

(a) the charges are distinguished from the price actually paid or payable for the goods; and

(b) the 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; and

(ii) the claimed interest rate does not exceed the prevailing level for similar transactions in the country where, and at the time when, the finance was provided.

Compare: 1996 No 27 Schedule 2 cl 1(5)

Part 1
Method 1: transaction value

Use of transaction value

4 Basis for determining Customs value

(1) The primary basis for determining the Customs value of imported goods is the transaction value of the goods.

(2) Subclause (3) applies if—

(a) the chief executive is of the opinion that the transaction value cannot be used to determine the Customs value of the goods because the requirements of clause 5 are not met; or

(b) the chief executive is of the opinion that an adjustment that is required to be made under clause 7(b), (c), or (d) cannot be made because of a lack of sufficient information; or

(c) the chief executive has reason to doubt the truth or accuracy of the Customs value of the goods as included in their entry.

(3) The chief executive may determine the Customs value of the goods by proceeding sequentially through methods 2 to 6 to the first method under which the Customs value can, in the opinion of the chief executive, be determined.

(4) The chief executive may proceed under subclause (3) in reliance on subclause (2)(c) only if the chief executive has first sought further explanation or other evidence that the Customs value included in the entry represents the total amount actually paid or payable for the imported goods.

(5) If the chief executive proceeds under subclause (3), the chief executive must reverse the order of consideration of methods 4 and 5 if requested by the importer.

Compare: 1996 No 27 Schedule 2 cls 2(5), (6), 3(4)

5 When transaction value of goods can be used

The transaction value can be used to determine the Customs value of imported goods only 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; and

(b) neither the sale of the goods nor the price paid or payable for the goods is subject to some condition or consideration in respect of which a value cannot be determined; and

(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 7; and

(d) the buyer and seller are not related at the time the goods are sold for export to New Zealand or, if they are related at that time, the importer complies with clause 6 if required by the chief executive to do so.

Compare: 1996 No 27 Schedule 2 cl 2(1)

6 Sales between related persons

(1) This clause applies to an importer if the chief executive requires the importer to comply with this clause under clause 5(d).

(2) The importer must produce to the chief executive either the evidence referred to in subclause (3) or the evidence referred to in subclause (4).

(3) The evidence to be produced under this subclause is evidence that demonstrates that the relationship between the buyer and the seller did not influence the price paid or payable for the goods, including (without limitation) evidence of—

(a) how the buyer and seller organise their commercial relations; and

(b) how the price paid or payable for the goods was determined.

(4) The evidence to be produced under this subclause is evidence that demonstrates that the transaction value of the goods being valued, taking into consideration any relevant factors and differences (including any prescribed factors and differences), closely approximates the Customs value of other goods exported at the same time, or at substantially the same time, as the goods being valued, being—

(a) the transaction value of identical goods or similar goods that are sold for export to New Zealand where the seller and buyer are not related at the time the goods are sold; or

(b) the deductive value of identical goods or similar goods determined in accordance with Part 4 of this schedule; or

(c) the computed value of identical goods or similar goods determined in accordance with Part 5 of this schedule.

(5) The evidence referred to in subclause (4) may include (without limitation) the following information as relevant:

(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 of the sales:

(g) any of the amounts referred to in clause 7 or 8:

(h) the costs, charges, or expenses that—

(i) are incurred by a seller when the seller sells to a buyer to whom the seller is not related; but

(ii) are not incurred when the seller sells to a buyer to whom the seller is related.

(6) Subclause (7) applies if the chief executive is of the opinion that any evidence produced by the importer under subclause (3) or (4) does not demonstrate the matter that it is required to demonstrate under that subclause.

(7) The chief executive must—

(a) inform the importer, in writing if so requested, of the grounds on which the chief executive formed the opinion; and

(b) give the importer a reasonable opportunity to satisfy the chief executive that the evidence does demonstrate the matter in question.

Compare: 1996 No 27 Schedule 2 cl 2(1)(d), (2)–(4)

Calculation

7 Calculation of transaction value

The transaction value of imported goods is to be calculated by—

(a) taking the price paid or payable for the goods when sold for export to New Zealand; and

(b) on the basis of sufficient information, adding amounts (to the extent that each amount is not included in the price paid or payable for the goods when sold for export to New Zealand) equal to the following:

(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:

(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:

(iii) the value of the following goods and services, determined in accordance with clause 8, where they have been 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:

(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, design work, plans, and sketches undertaken elsewhere than in New Zealand and necessary for the production of the imported goods:

(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:

(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:

(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:

(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 those 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; and

(c) on the basis of sufficient information, deducting amounts (to the extent that each amount is included in the price paid or payable for the goods when sold for export to New Zealand) equal to the following:

(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):

(ii) any of the following costs, charges, or expenses if the cost, charge, or expense is identified separately from the balance of the price paid or payable for the goods when sold for export to New Zealand:

(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 or in association with the transportation or insurance of the goods within New Zealand:

(C) any Customs duties or other taxes payable in New Zealand in relation to the importation or sale of the goods; and

(d) in respect of carrier media bearing data or instructions, deducting the value of the data or instructions 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.

Compare: 1996 No 27 Schedule 2 cl 3(1)

8 Calculation of transaction value: value of goods and services supplied by buyer

(1) The value of the goods and services described in clause 7(b)(iii) must be—

(a) determined in accordance with this clause; and

(b) apportioned to the imported goods—

(i) in a reasonable manner; and

(ii) in accordance with generally accepted accounting principles.

(2) The value of materials, component parts, and other goods incorporated in the goods being valued or any materials consumed in the production of the goods being valued must be determined by adding—

(a) their cost of acquisition or production, being—

(i) 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

(ii) their cost of acquisition incurred by the person related to the buyer, where they 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

(iii) 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

(b) the cost of their transportation to the place of production of the goods being valued; and

(c) the value added to them by any repairs or modifications made to them after they were so acquired or produced.

(3) The value of tools, dies, moulds, and other goods utilised in the production of the goods being valued must be determined—

(a) by adding—

(i) their cost of acquisition or production, being—

(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 who was 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) the cost of their transportation to the place of production of the goods being valued; and

(iii) the value added to them by any repairs or modifications made to them after they were so acquired or produced; and

(b) by deducting an amount to account for any previous use of the goods made after the goods were so acquired or produced.

(4) The value of engineering, development work, artwork, design work, plans, and sketches, which were undertaken elsewhere than in New Zealand and were necessary for the production of the goods being valued, must be determined by ascertaining—

(a) the cost of acquiring or leasing those goods and services, where they—

(i) were acquired or leased by the buyer from a person who was not related at the time to the buyer; and

(ii) are not generally available to the public; or

(b) the cost of acquiring or leasing those goods and services by the person related to the buyer, where they—

(i) were acquired or leased by the buyer from a person who was related at the time to the buyer, but who did not produce them; and

(ii) are not generally available to the public; or

(c) the cost to the public of obtaining those goods and services where they are available generally to the public; or

(d) where those goods and services were produced by the buyer or a person related to the buyer at the time of their production, the cost of production.

Compare: 1996 No 27 Schedule 2 cl 3(1)(a)(iii), (2)

Part 2
Method 2: transaction value of identical goods

9 Transaction value of identical goods

(1) If, in the opinion of the chief executive, the Customs value of the goods being valued cannot be determined under Part 1 of this schedule, the Customs value may be determined by—

(a) taking the transaction value of identical goods that were—

(i) exported at the same, or substantially the same, time as the goods being valued; and

(ii) sold for export to New Zealand—

(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; and

(b) on the basis of sufficient information, adding or deducting amounts to account for commercially significant differences between the following that are attributable to differences in distances and modes of transport:

(i) the costs, charges, and expenses referred to in clause 7(b)(vii) in respect of the identical goods; and

(ii) those costs, charges, and expenses in respect of the goods being valued.

(2) If there are 2 or more transaction values of identical goods that meet all the requirements set out in subclause (1)(a), the Customs value of the goods being valued must be determined on the basis of the lowest such transaction value (determined after the transaction values have been adjusted under subclause (1)(b)).

Compare: 1996 No 27 Schedule 2 cl 4(1), (3)(a), (4)

10 Transaction value of identical goods not sold at same trade level or quantity

(1) If the Customs value of the goods being valued cannot be determined under clause 9 because identical goods were not sold under the conditions described in clause 9(1)(a)(ii), the Customs value may be determined by—

(a) taking the transaction value of identical goods that were—

(i) exported at the same, or substantially the same, time as the goods being valued; and

(ii) sold for export to New Zealand—

(A) to a buyer at the same, or substantially the same, trade level as the buyer of the goods being valued but in quantities 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; and

(b) on the basis of sufficient information, adding or deducting amounts to account for commercially significant differences between the following that are attributable to differences in distances and modes of transport:

(i) the costs, charges, and expenses referred to in clause 7(b)(vii) in respect of the identical goods; and

(ii) those costs, charges, and expenses in respect of the goods being valued; and

(c) on the basis of sufficient information, adding or deducting amounts to account for commercially significant differences—

(i) in the trade levels of the buyers of the identical goods and the goods being valued; and

(ii) in the quantities in which the identical goods and the goods being valued were sold.

(2) If there are 2 or more transaction values of identical goods that meet all the requirements set out in subclause (1)(a), the Customs value of the goods being valued must be determined on the basis of the lowest such transaction value (determined after the transaction values have been adjusted under subclause (1)(b) and (c)).

Compare: 1996 No 27 Schedule 2 cl 4(2)–(4)

Part 3
Method 3: transaction value of similar goods

11 Transaction value of similar goods

(1) If, in the opinion of the chief executive, the Customs value of the goods being valued cannot be determined under Parts 1 and 2 of this schedule, the Customs value may be determined by—

(a) taking the transaction value of similar goods that were—

(i) exported at the same, or substantially the same, time as the goods being valued; and

(ii) sold for export to New Zealand—

(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; and

(b) on the basis of sufficient information, adding or deducting amounts to account for commercially significant differences between the following that are attributable to differences in distances and modes of transport:

(i) the costs, charges, and expenses referred to in clause 7(b)(vii) in respect of the similar goods; and

(ii) those costs, charges, and expenses in respect of the goods being valued.

(2) If there are 2 or more transaction values of similar goods that meet all the requirements set out in subclause (1)(a), the Customs value of the goods being valued must be determined on the basis of the lowest such transaction value (determined after the transaction values have been adjusted under subclause (1)(b)).

Compare: 1996 No 27 Schedule 2 cl 5(1)

12 Transaction value of similar goods not sold at same trade level or quantity

(1) If the Customs value of the goods being valued cannot be determined under clause 11 because similar goods were not sold under the conditions described in clause 11(1)(a)(ii), the Customs value may be determined by—

(a) taking the transaction value of similar goods that were—

(i) exported at the same, or substantially the same, time as the goods being valued; and

(ii) sold for export to New Zealand—

(A) to a buyer at the same, or substantially the same, trade level as the buyer of the goods being valued but in quantities

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; and

(b) on the basis of sufficient information, adding or deducting amounts to account for commercially significant differences between the following that are attributable to differences in distances and modes of transport:

(i) the costs, charges, and expenses referred to in clause 7(b)(vii) in respect of the similar goods; and

(ii) those costs, charges, and expenses in respect of the goods being valued; and

(c) on the basis of sufficient information, adding or deducting amounts to account for commercially significant differences—

(i) in the trade levels of the buyers of the similar goods and the goods being valued; and

(ii) in the quantities in which the similar goods and the goods being valued were sold.

(2) If there are 2 or more transaction values of similar goods that meet all the requirements set out in subclause (1)(a), the Customs value of the goods being valued must be determined on the basis of the lowest such transaction value (determined after the transaction values have been adjusted under subclause (1)(b) and (c)).

Compare: 1996 No 27 Schedule 2 cl 5(2)

Part 4
Method 4: deductive value

13 Definitions for Part

In this Part,—

comparable goods means the goods being valued, identical goods, or similar goods

greatest number of units means the greatest number of units of the goods where, in the opinion of the chief executive, a sufficient number of sales have been made to allow the price per unit of the goods sold to be determined.

Compare: 1996 No 27 Schedule 2 cl 6(2)–(5)

14 Deductive value as Customs value

(1) If, in the opinion of the chief executive, the Customs value of the goods being valued cannot be determined under Parts 1 to 3 of this schedule, the Customs value is to be the deductive value of the goods.

(2) The deductive value of the goods being valued is the price per unit determined in accordance with clause 15, 16, or 17 and adjusted in accordance with clause 18.

Compare: 1996 No 27 Schedule 2 cl 6(1)

15 Price per unit: comparable goods sold in imported condition at time of importation of goods being valued

(1) This clause applies if comparable goods are sold in New Zealand—

(a) in the condition in which they were imported; and

(b) at the same, or substantially the same, time as the time of importation of the goods being valued.

(2) The price per unit is the unit price—

(a) in respect of sales of comparable goods sold as referred to in subclause (1) at the first trade level after their importation to persons who—

(i) are not related to the persons from whom they buy the goods at the time the goods are sold to them; and

(ii) 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 7(b)(iii); and

(b) at which the greatest number of units of comparable goods are so sold.

Compare: 1996 No 27 Schedule 2 cl 6(2), (5)

16 Price per unit: comparable goods sold in imported condition within 90 days after importation of goods being valued

(1) This clause applies if—

(a) clause 15 does not apply; and

(b) comparable goods are sold in New Zealand—

(i) in the condition in which they were imported; and

(ii) within 90 days after the importation of the goods being valued.

(2) The price per unit is the unit price—

(a) in respect of sales of comparable goods sold as referred to in subclause (1)(b) at the first trade level after their importation to persons who—

(i) are not related to the persons from whom they buy the goods at the time the goods are sold to them; and

(ii) 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 7(b)(iii); and

(b) at which the greatest number of units of comparable goods are so sold at the earliest date after the importation of the goods being valued.

Compare: 1996 No 27 Schedule 2 cl 6(3), (5)

17 Price per unit: comparable goods sold in altered condition within 90 days after importation of goods being valued

(1) This clause applies if—

(a) neither clause 15 nor clause 16 applies; but

(b) comparable goods are sold in New Zealand within 90 days after the importation of the goods being valued after being assembled, packaged, or further processed in New Zealand; and

(c) the importer requests that the goods being valued be valued in accordance with this clause.

(2) The price per unit is the unit price—

(a) in respect of sales of comparable goods sold as referred to in subclause (1)(b) at the first trade level after their importation to persons who—

(i) are not related to the persons from whom they buy the goods at the time the goods are sold to them; and

(ii) 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 7(b)(iii); and

(b) at which the greatest number of units of comparable goods are so sold at the earliest date after the importation of the goods being valued.

Compare: 1996 No 27 Schedule 2 cl 6(4), (5)

18 Adjustments

(1) The price per unit determined in accordance with clause 15, 16, or 17 must be adjusted by deducting, on the basis of sufficient information, an amount equal to the sum of—

(a) either—

(i) the amount of commission generally earned on a unit basis in connection with sales in New Zealand of goods of the same class or kind as the comparable goods; 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 the comparable goods; and

(b) the following amounts, to the extent that they are not reflected in the general expenses provided for in paragraph (a)(ii):

(i) reasonable transport, insurance, and associated costs, charges, and expenses that are incurred in respect of the comparable goods while they are in New Zealand:

(ii) the costs, charges, and expenses referred to in clause 7(c)(i) incurred in respect of the comparable goods:

(iii) any Customs duties or other taxes payable in New Zealand as a result of the importation or sale of the comparable goods; and

(c) if clause 17 applies, the value added to the comparable goods that is attributable to the assembly, packaging, or further processing in New Zealand.

(2) The amount considered to be equal to the amount of commission or the amount for profit and general expenses referred to in subclause (1)(a) must be—

(a) calculated on a percentage basis; and

(b) determined on the basis of information that is prepared in a manner consistent with generally accepted accounting principles and—

(i) that is supplied by or on behalf of the importer; or

(ii) if the information supplied by or on behalf of the importer is not sufficient information, that is obtained from 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.

Compare: 1996 No 27 Schedule 2 cl 6(6)–(8)

Part 5
Method 5: computed value

19 Computed value as Customs value

If, in the opinion of the chief executive, the Customs value of the goods being valued cannot be determined under Parts 1 to 4 of this schedule, the Customs value is to be the computed value of the goods.

Compare: 1996 No 27 Schedule 2 cl 7(1)

20 Computed value

(1) The computed value of the goods being valued is the aggregate of—

(a) amounts—

(i) equal to the costs, charges, and expenses incurred in respect of, or the value of, the production or other processing of, and the materials employed in producing, the goods; and

(ii) determined on the basis of the commercial accounts of the producer of the goods, or other sufficient information, that are supplied by or on behalf of the producer and prepared in a manner consistent with the generally accepted accounting principles of the country of production of the goods; and

(b) the amount, determined in accordance with subclause (3), of 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.

(2) The costs, charges, and expenses referred to in subclause (1)(a) include (without limitation) the following:

(a) the costs, charges, and expenses referred to in clause 7(b)(ii):

(b) the value of any of the goods and services referred to in clause 7(b)(iii) and (vi), determined and apportioned to the goods being valued as referred to in clause 8 as relevant, whether or not such goods and services have been supplied free of charge or at a reduced cost:

(c) the costs, charges, and expenses incurred by the producer in respect of engineering, development work, artwork, design work, 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 8.

(3) The amount of profit and general expenses referred to in subclause (1)(b) must be calculated on a percentage basis and determined on the basis of information—

(a) prepared in a manner consistent with generally accepted accounting principles of the country of production of the goods being valued; and

(b) supplied—

(i) by or on behalf of the producer of the goods being valued; or

(ii) 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.

(4) In this clause, **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 (1)(a).

Compare: 1996 No 27 Schedule 2 cl 7(2)–(4)

Part 6
Method 6: residual basis of valuation

21 Residual basis of valuation

(1) If the Customs value of the goods being valued cannot, in the opinion of the chief executive, be determined under Parts 1 to 5 of this schedule, it is to be determined, using information available in New Zealand, on the basis of a value derived from the methods of valuation set out in Parts 1 to 5 interpreted in a flexible manner and reasonably adjusted to the extent necessary to arrive at a Customs value of the goods.

(2) However, the Customs value of the goods may 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 20; 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) to avoid doubt, arbitrary or fictitious values.

Compare: 1996 No 27 Schedule 2 cl 8

Schedule 5
Review of seizure of goods

s 184

1 Application for review of seizure

(1) Any person who has an interest in seized goods may apply for a review of the seizure of the goods.

(2) The application must—

(a) be in writing; and

(b) be made within—

(i) 20 working days after the date on which the notice of seizure was given to the applicant or such further period that the chief executive considers necessary in the interests of justice:

(ii) if the applicant did not receive the notice of seizure, any time that the chief executive allows; and

(c) state the grounds on which it is made; and

(d) include the applicant's address for correspondence.

(3) The application may be made on either or both of the following grounds:

(a) that there was no legal basis for the seizure of the goods:

(b) that the applicant should, in all the circumstances, be granted relief.

Compare: 1996 No 27 s 231

2 Chief executive may request further information

The chief executive may require an applicant to provide any further information that the chief executive considers reasonably necessary to enable him or her to make a decision.

Compare: 1996 No 27 s 232(3)

3 Conduct of review

(1) The chief executive must determine an application for a review on the papers, unless he or she considers it is not appropriate to do so.

(2) The chief executive must consider—

(a) the application; and

(b) any written submissions made by the applicant; and

(c) any further information supplied in accordance with clause 2 and any other statement, document, information, or matter that the chief executive considers will assist him or her to deal effectively with the subject of the review (whether or not that statement, document, information, or matter would be admissible in a court of law).

Compare: 1996 No 27 s 232(1), (2)

4 Decision on review

(1) The chief executive must determine an application for a review within 20 working days after the day on which the application is received.

(2) The chief executive must determine an application for a review by—

(a) disallowing the seizure in accordance with clause 5; or

(b) granting relief in accordance with clause 6; or

(c) dismissing the application.

(3) The chief executive may make different determinations as referred to in subclause (2) in respect of different parts of the goods and, if the chief executive does so, this Act applies in relation to each different part of the goods as if it had been seized separately.

(4) The chief executive may extend the period specified in subclause (1) for determining an application for as much as is reasonably necessary if, in the chief executive's opinion, the circumstances of the case do not allow a decision to be made within the specified time.

Compare: 1996 No 27 s 233(1)–(3)

5 Disallowance

(1) The chief executive must disallow the seizure of goods if he or she is satisfied that there was no legal basis for seizing the goods.

(2) If the chief executive disallows the seizure of goods, he or she must direct that the goods be given to—

(a) the person from whom the goods were seized; or

(b) if the goods were not seized from a particular person, the person who, in the opinion of the chief executive, is entitled to possess the goods.

Compare: 1996 No 27 s 233(1)(b)

6 Relief

(1) The chief executive may, if he or she is satisfied that it is equitable to do so having regard to the matters specified in subclause (2), grant relief in respect of the seizure of goods by making any of the following determinations:

(a) that the goods be given to the applicant:

(b) that the goods be given to another person who, but for the seizure, would be entitled to possession of the goods:

(c) that the goods be sold and the whole or any part of the proceeds be paid to any of the following persons:

(i) the applicant:

(ii) any other person who has an interest in the goods:

(iii) the Crown.

(2) In deciding whether to grant relief, the chief executive may take into account—

(a) the seriousness and nature of any act or omission giving rise to the seizure:

(b) whether the person who is alleged to have done, or omitted to do, any act that gave rise to the seizure has previously engaged in any similar conduct:

(c) whether the seizure arose from, or is related to, a deliberate breach of the law:

(d) the nature, quality, quantity, and estimated value of the seized goods:

(e) the nature and extent of any loss or damage suffered by any person as a consequence of the seizure:

(f) whether granting relief would undermine the purpose or objective of any import or export restriction or prohibition imposed under this Act:

(g) the effect of any other action that has been taken or is proposed to be taken in respect of any offending related to the seizure:

(h) any other matter that the chief executive considers appropriate.

(3) A determination to grant relief may be subject to any conditions that the chief executive considers appropriate.

(4) The chief executive may, for example, impose any of the following conditions:

(a) that in respect of the seized goods, the following be paid:

(i) costs or expenses incurred by Customs in transporting, storing, or disposing of the goods (including the costs or expenses of returning or giving the goods to any person):

(ii) any incidental costs or expenses relating to their detention:

(iii) any duty not already paid:

(iv) any duty already refunded:

(v) the value of the goods, as determined by the chief executive:

(b) that the seized goods be modified, in a manner directed by the chief executive, to render them inoperable for unlawful purposes:

(c) that Customs be paid the costs or expenses incurred by it in modifying the seized goods to render them inoperable for unlawful purposes.

(5) In relation to a condition that requires something to be done by the applicant or any other person who has an interest in the seized goods, the chief executive may set a time limit for the meeting of the condition for the purposes of section 187.

(6) The chief executive must not make a determination under this clause if he or she believes that all or any of the goods may need to be produced as evidence in any criminal proceedings.

Compare: 1996 No 27 ss 233(1)(c), 234, 235

7 Dismissing application

The chief executive must dismiss an application for a review if the applicant does not establish, on the balance of probabilities, that—

(a) he or she has an interest in the seized goods; and

(b) that interest was acquired in good faith.

Compare: 1996 No 27 s 232(4)

8 Notifying applicant of decision

(1) As soon as practicable after making a decision on an application for a review, the chief executive must give written notice of the decision to—

(a) the applicant; and

(b) any other person to whom the notice of seizure was given under section 181; and

(c) any other person who has claimed an interest in the goods.

(2) The notice must state—

(a) the reasons for the decision; and

(b) that a person who is dissatisfied with the decision may appeal to a Customs Appeal Authority.

Compare: 1996 No 27 s 233(4)–(6)

Appeal from review

9 Right of appeal to Customs Appeal Authority from decision on review

A person who is dissatisfied with a decision of the chief executive on an application for a review may, within 20 working days after notice of the decision is given under clause 8, appeal to a Customs Appeal Authority against the decision (or any part of the decision).

Compare: 1996 No 27 s 235B

Schedule 5A
Powers for dealing with drugs smuggling outside New Zealand, etc

[Repealed]

s 267A

Schedule 5A: repealed, on 21 May 2022, by section 52(2) of the Maritime Powers Act 2022 (2022 No 23).

Preliminary provisions

[Repealed]

Heading: repealed, on 21 May 2022, by section 52(2) of the Maritime Powers Act 2022 (2022 No 23).

1 Definitions for schedule

[Repealed]

Schedule 5A clause 1: repealed, on 21 May 2022, by section 52(2) of the Maritime Powers Act 2022 (2022 No 23).

2 Ships to which schedule applies

[Repealed]

Schedule 5A clause 2: repealed, on 21 May 2022, by section 52(2) of the Maritime Powers Act 2022 (2022 No 23).

3 Application of schedule to foreign ships

[Repealed]

Schedule 5A clause 3: repealed, on 21 May 2022, by section 52(2) of the Maritime Powers Act 2022 (2022 No 23).

4 Schedule does not affect other powers

[Repealed]

Schedule 5A clause 4: repealed, on 21 May 2022, by section 52(2) of the Maritime Powers Act 2022 (2022 No 23).

Powers

[Repealed]

Heading: repealed, on 21 May 2022, by section 52(2) of the Maritime Powers Act 2022 (2022 No 23).

5 Investigatory powers

[Repealed]

Schedule 5A clause 5: repealed, on 21 May 2022, by section 52(2) of the Maritime Powers Act 2022 (2022 No 23).

6 Power of arrest

[Repealed]

Schedule 5A clause 6: repealed, on 21 May 2022, by section 52(2) of the Maritime Powers Act 2022 (2022 No 23).

7 Detention of ship

[Repealed]

Schedule 5A clause 7: repealed, on 21 May 2022, by section 52(2) of the Maritime Powers Act 2022 (2022 No 23).

8 Forfeiture

[Repealed]

Schedule 5A clause 8: repealed, on 21 May 2022, by section 52(2) of the Maritime Powers Act 2022 (2022 No 23).

9 Supplementary provisions

[Repealed]

Schedule 5A clause 9: repealed, on 21 May 2022, by section 52(2) of the Maritime Powers Act 2022 (2022 No 23).

Schedule 6
Customs-approved secure exports schemes

s 281

Applications for approval

1 Application for scheme to be Customs-approved secure exports scheme

An application for a scheme to be approved as a Customs-approved secure exports scheme must—

(a) be made in the way prescribed by the chief executive's rules; and

(b) include the matters required to be specified in the scheme under clause 2; and

(c) include any additional information that the chief executive considers necessary.

Compare: 1996 No 27 s 53C(1)

2 Details to be included in scheme

The scheme must specify the following:

(a) how the goods to be exported under the scheme are to be packed, including—

(i) the secure package to be used; and

(ii) the seal, marking, substance, or device to be used in relation to the package, as soon as it is secured,—

(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 tampering or interference with the package after it is secured:

(b) any conditions required by the chief executive as to—

(i) the persons who are to pack the goods, and the security checks to be applied to those persons; or

(ii) 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 and from that area or those areas); or

(iii) any other requirements relating to how the goods are to be packed:

(c) how, on the completion of the packing of the goods, the goods are to be transported to the place of shipment and shipped, including any conditions required by the chief executive as to—

(i) the persons who are to transport the goods, and the security checks to be applied to those persons; or

(ii) the manner in which the goods are to be transported; or

(iii) 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 transported to the place of shipment and shipped.

Compare: 1996 No 27 s 53E

3 Matters to be acknowledged in scheme

The scheme must include the following express acknowledgements:

(a) that the goods to be exported under the scheme are subject to the control of Customs from the time when they are first secured in a Customs-approved secure package until they depart from New Zealand:

(b) that the powers of detention and search under section 231(1)(d) are available in respect of a vehicle in New Zealand if a Customs officer has reasonable cause to suspect that there are in or on the vehicle goods that are—

(i) subject to the control of Customs; and

(ii) in a Customs-approved secure package:

(c) that a Customs officer may, under section 230, question any of the following about any cargo to be exported:

(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 that are—

(A) subject to the control of Customs; and

(B) 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 that are—

(A) subject to the control of Customs; and

(B) in a Customs-approved secure package:

(iii) a person employed by a person described in subparagraph (i) or (ii):

(d) that the powers under sections 223, 227, and 228 are available in respect of goods that are, or are suspected to be,—

(i) subject to the control of Customs; and

(ii) in a Customs-approved secure package.

Compare: 1996 No 27 s 53F

4 Chief executive must notify applicant of decision whether to approve scheme

The chief executive must, as soon as practicable after a decision is made, notify the applicant of whether the scheme has been approved.

Compare: 1996 No 27 s 53C(2)

5 Approval of scheme

If the chief executive approves the scheme, the approval—

(a) must be in writing; and

(b) may be given subject to any conditions the chief executive specifies in the approval; and

(c) takes effect either on the day after the date on which it is given or on any later date specified in the approval.

Compare: 1996 No 27 s 53C(3)

Amendments to scheme

6 Application to amend Customs-approved secure exports scheme

(1) The operator of a Customs-approved secure exports scheme may apply to the chief executive to amend the scheme.

(2) The application must—

(a) be made in the way prescribed by the chief executive's rules; and

(b) specify the proposed amendments to the scheme; and

(c) contain any additional information that the chief executive considers necessary.

(3) The scheme, as amended, must still comply with clauses 2 and 3.

Compare: 1996 No 27 s 53C(5)

7 Chief executive must notify applicant of decision whether to approve amendment

The chief executive must, as soon as practicable after a decision is made, notify an applicant of whether the amendment has been approved.

Compare: 1996 No 27 s 53C(5)

8 Approval of amendment

If the chief executive approves the amendment, the approval—

(a) must be in writing; and

(b) may be given subject to any conditions the chief executive specifies in the approval; and

(c) takes effect either on the day after the date on which it is given or on any later date specified in the approval.

Compare: 1996 No 27 s 53C(5)

Review of schemes

9 Review of Customs-approved secure exports scheme

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

Compare: 1996 No 27 s 53J

Revocation of approval

10 Revocation of scheme's approval

(1) The chief executive may, by notice in writing to the operator of a Customs-approved secure exports scheme, revoke the approval of the scheme as a Customs-approved secure exports scheme.

(2) The chief executive must revoke the approval of a scheme under subclause (1) if the operator of the scheme applies to the chief executive for its revocation.

(3) The notice under subclause (1) must specify—

(a) that the revocation is 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 under the scheme in a Customs-approved secure package but not yet exported; and

(b) any other conditions to which the chief executive makes the revocation subject; and

(c) the date on or after which the revocation takes effect.

Compare: 1996 No 27 s 53C(4), (6)

Appeals

11 Applicant or operator may appeal

An applicant, or an operator of a scheme, who is dissatisfied with a decision of the chief executive under this schedule 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: 1996 No 27 s 53C(7)

Goods subject to scheme

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

Goods to be exported under a Customs-approved secure exports scheme may be exported under drawback if the conditions prescribed for the purposes of section 147(1) (if any) are satisfied, even though satisfying those conditions may involve transporting or handling or storing the goods in a way not specified in the scheme.

Compare: 1996 No 27 s 53G

13 Use of Customs-approved export seals in relation to goods to be exported under Customs-approved secure exports schemes

(1) A Customs-approved export seal may be used in relation to a Customs-approved secure package after an approved seal, marking, substance, or device of the kind referred to in clause 2(a)(ii) has been used in relation to the package.

(2) Goods are not be regarded as no longer to be exported under a Customs-approved secure exports scheme just because 1 or more Customs-approved export seals have been used in relation to a Customs-approved secure package.

Compare: 1996 No 27 s 53H

Schedule 7
Administrative reviews

s 347

1 Application for administrative review

(1) An application for an administrative review of a decision must be made to the chief executive in the way prescribed by the chief executive's rules.

(2) The chief executive may require an applicant to provide any further information that the chief executive considers reasonably necessary.

2 Chief executive may extend time for application

(1) This clause applies where this Act provides that a person may apply for an administrative review within a specified time.

(2) The chief executive may, on an application made within the specified time, extend the time to make the application for the administrative review.

3 Conduct of administrative review

(1) The chief executive must review the legal basis of, and any calculations or other matters relevant to, the decision under review.

(2) The chief executive must determine the review on the papers, unless he or she considers it is not appropriate to do so.

(3) The chief executive must consider—

(a) the application; and

(b) any written submissions made by the applicant; and

(c) any further information provided by the applicant under clause 1(2); and

(d) any other information that the chief executive considers relevant.

4 Determination of application

(1) The chief executive must determine an application within 20 working days after the day on which the application is received.

(2) The chief executive must determine an application by—

(a) confirming the decision under review; or

(b) withdrawing the decision under review and, if appropriate, substituting a new decision in its place.

(3) The chief executive may extend the period specified in subclause (1) for determining an application for as much as is reasonably necessary if, in the chief executive's opinion, the circumstances of the case do not allow a determination to be made within the specified period.

5 Advising applicant of determination

(1) The chief executive must, as soon as practicable after determining an application, give written notice of the determination to the applicant.

(2) The notice must state—

(a) the reasons for the determination; and

(b) that a person who is dissatisfied with the determination may appeal to a Customs Appeal Authority.

6 Right of appeal to Customs Appeal Authority against determination of application

A person who is dissatisfied with a determination of an application by the chief executive may, within 20 working days after the date on which notice of the determination is given, appeal to a Customs Appeal Authority against the determination.

Schedule 8
Customs Appeal Authorities

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Part 1
Appointments and administrative matters

1 Term of office of Authority

(1) Every person appointed as a Customs Appeal Authority (an **Authority**) must be appointed for a term of up to 5 years that the Governor-General thinks fit, and may be reappointed.

(2) A person appointed as an Authority may at any time resign his or her office by writing addressed to the Minister of Customs and the Minister of Justice.

(3) An Authority continues in office despite the expiry of his or her term of office until—

(a) the Authority is reappointed; or

(b) the Authority's successor is appointed; or

(c) the Authority is notified that a replacement Authority will not be appointed; or

(d) the Authority vacates or is suspended or removed from office.

(4) An Authority who continues in office for any period under subclause (3), unless he or she was suspended or removed from office, may act as an Authority during that period for the purpose of—

(a) completing any appeal partly or wholly heard by the Authority before the expiry of his or her term of office:

(b) hearing any other appeal.

(5) An Authority who has resigned, or whose successor is appointed or who will not be replaced (unless he or she was suspended or removed from office), may continue in office for the purpose of completing any appeal that is partly or wholly heard.

Compare: 1996 No 27 s 245(1), (2), (4)

Schedule 8 clause 1(1): amended, on 14 November 2018, by section 24(1) of the Tribunals Powers and Procedures Legislation Act 2018 (2018 No 51).

Schedule 8 clause 1(3): replaced, on 14 November 2018, by section 24(2) of the Tribunals Powers and Procedures Legislation Act 2018 (2018 No 51).

Schedule 8 clause 1(4): inserted, on 14 November 2018, by section 24(2) of the Tribunals Powers and Procedures Legislation Act 2018 (2018 No 51).

Schedule 8 clause 1(5): inserted, on 14 November 2018, by section 24(2) of the Tribunals Powers and Procedures Legislation Act 2018 (2018 No 51).

2 Suspension or removal

(1) The Governor-General may suspend or remove from office a person appointed as an Authority for any of the following reasons:

(a) engaging in any occupation for reward outside the duties of his or her office:

(b) inability to carry out the functions of the office:

(c) bankruptcy:

(d) neglect of duty:

(e) misconduct proved to the satisfaction of the Governor-General.

(2) 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 subclause (1)(a) because of his or her engaging in any occupation for reward permitted by the terms of his or her appointment.

Compare: 1996 No 27 s 245(2), (3)

3 Oath to be taken by Authority

Before entering upon the performance of the duties of his or her office, every person appointed as an Authority must 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.

Compare: 1996 No 27 s 246

4 Remuneration and travelling expenses

There must 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 apply

accordingly as if that person were a statutory Board within the meaning of that Act.

Compare: 1996 No 27 s 247

5 Appointment of temporary acting Authority

(1) If an Authority becomes incapable of acting by reason of illness, absence, or other sufficient cause, or if an Authority considers it is not proper or not desirable that he or she should adjudicate on a specified matter, the Governor-General, on the joint recommendation of the Minister and the Minister of Justice, may appoint a suitable person as an acting Authority for the period or purpose stated in the appointment.

(2) No person may be appointed as an acting Authority unless he or she is eligible for appointment as an Authority.

(3) An acting Authority is, while acting in the position, to be treated as an Authority.

(4) No appointment of an acting Authority and no act done by an acting Authority may be questioned in any proceedings on the ground that the occasion for the appointment had not arisen or had ceased.

Schedule 8 clause 5: replaced, on 14 November 2018, by section 24(3) of the Tribunals Powers and Procedures Legislation Act 2018 (2018 No 51).

6 Validity of appointment not to be questioned in proceedings

[Repealed]

Schedule 8 clause 6: repealed, on 14 November 2018, by section 24(4) of the Tribunals Powers and Procedures Legislation Act 2018 (2018 No 51).

7 Authority not personally liable

No person appointed as an Authority and no person appointed under clause 5(1) 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.

Compare: 1996 No 27 s 250

8 Registrars of Authorities

(1) Any Registrars of the Authorities that are required must be appointed under the Public Service Act 2020 and 1 person may be appointed Registrar of 2 or more Authorities.

(2) To avoid doubt, a Registrar is not precluded from holding any other office in the public service.

Compare: 1996 No 27 s 251

Schedule 8 clause 8(1): amended, on 7 August 2020, by section 135 of the Public Service Act 2020 (2020 No 40).

Schedule 8 clause 8(2): amended, on 7 August 2020, by section 135 of the Public Service Act 2020 (2020 No 40).

9 Seal

Every Authority must have a seal that must be judicially noted in all courts.

Compare: 1996 No 27 s 252

9A Orderly and efficient operation

(1) An Authority is responsible for making any arrangements that are practicable to ensure that he or she performs his or her functions—

(a) in an orderly and efficient manner; and

(b) in a way that achieves the purposes of this Act.

(2) The Ministry of Justice must provide the resources and administrative support necessary to enable each Authority to perform its functions.

Schedule 8 clause 9A: inserted, on 14 November 2018, by section 24(5) of the Tribunals Powers and Procedures Legislation Act 2018 (2018 No 51).

Part 2
Appeals and cases stated

Appeals to Authority

10 Procedure

(1) An Authority may regulate his or her procedures as he or she sees fit, subject to—

(a) this Act and any regulations; and

(b) any practice notes issued under clause 30A.

(2) Regulations may prescribe any procedure to be followed by an Authority.

Schedule 8 clause 10: replaced, on 14 November 2018, by section 24(6) of the Tribunals Powers and Procedures Legislation Act 2018 (2018 No 51).

11 Commencement of proceedings

Proceedings before an Authority must be commenced by the lodging of an application in a form approved by the chief executive of the Ministry of Justice after consulting all the Authorities, together with the prescribed fee (if any), with the Authority.

Compare: 1996 No 27 ss 254(2), 286(1)(bb)

Schedule 8 clause 11: amended, on 29 October 2019, by section 24(7) of the Tribunals Powers and Procedures Legislation Act 2018 (2018 No 51).

12 Sittings of Authority

(1) Sittings of an Authority must be held at the times and places that the Authority 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.

Compare: 1996 No 27 s 268

13 Nature of appeals

(1) Appeals to an Authority must be by way of a hearing *de novo*.

(2) For the purpose of hearing and deciding any appeal, an Authority has all the functions (including discretions) of the chief executive in making the assessment, decision, ruling, determination, or direction appealed from.

Compare: 1996 No 27 s 255

14 Grounds of appeal and burden of proof

(1) 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) Despite subclause (1), the Authority may, either on the application of the appellant or of its own motion, amend the grounds stated in the notice of appeal.

Compare: 1996 No 27 s 267

15 Authority may extend time for appeal

(1) This clause applies where this Act provides that a person may appeal to an Authority within a specified time.

(2) An Authority may, on an application made within the specified time, extend the time to bring an appeal.

Compare: 1996 No 27 s 256

16 Allocation and notification of hearing

(1) As soon as an Authority considers that an appeal is ready to be heard, the Authority must—

(a) fix a date, time, and place for the hearing of the appeal; and

(b) notify the appellant and the chief executive of the date, time, and place fixed.

(2) A notice to the appellant under subclause (1)—

(a) must, in addition to the matters referred to in subclause (1), inform the appellant of the provisions of clause 18(3) and (4); and

(b) must be served on the appellant—

(i) by giving it to that person (that is, by personal service); or

(ii) by posting it to that person's address; or

(iii) by delivering it to a box at a document exchange that that person is using at the time.

Compare: 1996 No 27 s 257(1), (2)

17 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 providing a written statement and, if the Authority thinks fit, verifying it by oath.

Compare: 1996 No 27 s 260

18 Procedure at hearing of appeal

(1) At the hearing of an appeal before an Authority, the appellant and the chief executive—

(a) may call evidence; and

(b) must 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, for that purpose whether or not that person is a lawyer.

(1A) The hearing of an appeal or any part of it may be conducted by telephone, audiovisual link, or other remote access facility if an Authority considers it appropriate and the necessary facilities are available.

(2) *[Repealed]*

(3) The hearing of an appeal before an Authority must be in public.

(4) Despite subclause (3), if the Authority considers 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.

(5) 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 any conditions that the Authority thinks fit.

(6) A person who breaches an order made under clause 18(5) is liable on conviction to a fine not exceeding $3,000.

Compare: 1996 No 27 s 257(3)–(7)

Schedule 8 clause 18(1A): inserted, on 14 November 2018, by section 24(8) of the Tribunals Powers and Procedures Legislation Act 2018 (2018 No 51).

Schedule 8 clause 18(2): repealed, on 14 November 2018, by section 24(9) of the Tribunals Powers and Procedures Legislation Act 2018 (2018 No 51).

Schedule 8 clause 18(6): inserted, on 14 November 2018, by section 24(10) of the Tribunals Powers and Procedures Legislation Act 2018 (2018 No 51).

19 Authority may decide appeal without oral hearing if both parties consent

(1) Despite clauses 16 and 18, an Authority may, if the Authority 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 subclause (1) considers that an oral hearing should be held, the Authority must fix a date, time, and place for the hearing of the appeal in accordance with clause 16.

Compare: 1996 No 27 s 258

20 Authority may exercise certain District Court powers

For the purpose of dealing with the matters before it, an Authority has the powers of the 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.

Compare: 1996 No 27 s 259

21 Powers of investigation

(1) For the purpose 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 provide, 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 the Authority thinks fit, require that any written information or particulars or any copies or extracts provided under this clause must be verified by statutory declaration or in any other way required by the Authority.

Compare: 1996 No 27 s 261(1), (2)

22 Production of documents

For the purpose of dealing with the matters before it, an Authority may on the Authority's own motion, or on application,—

(a) order that any information or particulars, or a copy of the whole or any part of any paper, document, or record, given or produced to it be supplied to any person appearing before the Authority; and

(b) in the order, impose any terms and conditions that it thinks fit in respect of the supply, and the use that is to be made, of the information, particulars, or copy.

Compare: 1996 No 27 s 261(3)

23 Power to summon witnesses

(1) For the purpose of dealing with the matters before it, an Authority may on its own motion, or on application, issue in writing a summons requiring any person—

(a) to attend at the time and place specified in the summons and to give evidence; and

(b) 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.

(2) The power to issue a witness summons may be exercised by an Authority or any officer of an Authority purporting to act by the direction or with the authority of that Authority.

(3) A witness summons must be in a form approved by the chief executive of the Ministry of Justice after consulting all the Authorities.

Compare: 1996 No 27 s 262

Schedule 8 clause 23(2): inserted, on 14 November 2018, by section 24(11) of the Tribunals Powers and Procedures Legislation Act 2018 (2018 No 51).

Schedule 8 clause 23(3): inserted, on 29 October 2019, by section 24(12) of the Tribunals Powers and Procedures Legislation Act 2018 (2018 No 51).

24 Service of summons

(1) A witness summons may be served by—

(a) delivering the summons personally to the witness or, if he or she refuses to accept it, bringing it to his or her attention; or

(b) delivering the summons to the witness at his or her usual place of residence or business by any form of prepaid delivery service that requires an acknowledgement of receipt of delivery from the witness.

(2) The summons must,—

(a) if it is served under subclause (1)(a), be served at least 24 hours before the attendance of the witness is required:

(b) if it is served under subclause (1)(b), 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 letter, it is treated for the purposes of subclause (2)(b) as having been served on the fourth working day after the date of posting.

Compare: 1996 No 27 s 263

Schedule 8 clause 24(1): replaced, on 14 November 2018, by section 24(13) of the Tribunals Powers and Procedures Legislation Act 2018 (2018 No 51).

Schedule 8 clause 24(3): amended, on 14 November 2018, by section 24(14) of the Tribunals Powers and Procedures Legislation Act 2018 (2018 No 51).

25 Protection of persons appearing

(1) Every person has the same privileges in relation to the giving of information to an Authority, the answering of questions put by an Authority, and the production of papers, documents, records, and things to an Authority as witnesses have in courts of law.

(2) Every witness giving evidence, and every counsel or agent or other person appearing before the Authority, has the same privileges and immunities as witnesses and counsel in courts of law.

Compare: 1996 No 27 ss 261(4), 264

26 Decision of Authority

(1) Every decision of an Authority must be given in writing, with a statement of the Authority's reasons for the decision.

(2) A copy of the decision must be given to the appellant and to the chief executive and must be accompanied by a written statement of the provisions of clause 31(1).

(3) Regulations may make provision for the publication of decisions.

Compare: 1996 No 27 ss 270, 286(1)(cc)

27 Power to award costs

(1) An Authority may in any proceedings—

(a) order a party to pay to the other party any costs and expenses (including witnesses' expenses) that the Authority considers reasonable; and

(b) apportion those costs and expenses between the parties or any of them in any manner the Authority thinks fit.

(2) If, 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 any sum for costs that it considers reasonable.

(3) If costs are awarded to a party or the Crown but have not been paid in full, the party or the Crown may file a copy of the order in the District Court, where it may be enforced for the amount that is still owing as if it were a judgment of the District Court.

Compare: 1996 No 27 s 271

Schedule 8 clause 27(3): inserted, on 14 November 2018, by section 24(15) of the Tribunals Powers and Procedures Legislation Act 2018 (2018 No 51).

28 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.

Compare: 1996 No 27 s 269

28A Authority may strike out, determine, or adjourn proceeding

(1) An Authority may strike out, in whole or in part, a proceeding if satisfied that it—

(a) discloses no reasonable cause of action; or

(b) is likely to cause prejudice or delay; or

(c) is frivolous or vexatious; or

(d) is otherwise an abuse of process.

(2) If a party is neither present nor represented at the hearing of a proceeding, an Authority may—

(a) if the party is required to be present, strike out the proceeding; or

(b) determine the proceeding in the absence of the party; or

(c) adjourn the hearing.

Schedule 8 clause 28A: inserted, on 14 November 2018, by section 24(16) of the Tribunals Powers and Procedures Legislation Act 2018 (2018 No 51).

29 Witnesses' allowances

(1) Every witness attending a hearing to give evidence as a consequence of a summons is entitled to be paid witnesses' fees, allowances, and travelling expenses according to the scales for the time being prescribed by regulations made under the Criminal Procedure Act 2011, and those regulations apply accordingly.

(2) On each occasion on which the Authority issues a summons under clause 23, the Authority must fix an amount that, on the service of the summons, or at some other reasonable time before the date on which the witness is required to attend, must be paid or tendered to the witness.

(3) The amount fixed under subclause (2) is 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 subclause (2) may, with the consent of the witness, be paid or tendered in the form of vouchers or tickets.

Compare: 1996 No 27 s 265

30 Payment of witnesses' allowances

(1) If a party to proceedings has requested the issue of a witness summons, that party—

(a) is liable for payment of the witness's fees, allowances, and travelling expenses; and

(b) must, on applying for the issue of a witness summons, deposit with the Authority any amount that the Authority thinks sufficient.

(2) The amounts of a witness's fees, allowances, and travelling expenses must be paid out of the sum deposited under subclause (1)(b).

(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 be paid by the Crown.

Compare: 1996 No 27 s 266

30A Practice notes

(1) All the Authorities acting together may issue practice notes, to apply to all of them, as they think fit.

(2) The practice notes must not be inconsistent with this Act or any regulations made under it, and are for the guidance of each Authority, officers of an Authority, and parties before an Authority.

Schedule 8 clause 30A: inserted, on 14 November 2018, by section 24(17) of the Tribunals Powers and Procedures Legislation Act 2018 (2018 No 51).

30B Online publication of information about procedures, time frames, and progress of decisions

The following information must be published on an Internet site maintained by or on behalf of the chief executive of the Ministry of Justice:

(a) information about the purpose of the Authorities and how to commence an appeal:

(b) any requirements that must be met for an appeal:

(c) guidelines on how and when parties may obtain information on the progress of their case and when a decision may be expected.

Schedule 8 clause 30B: inserted, on 29 October 2019, by section 24(18) of the Tribunals Powers and Procedures Legislation Act 2018 (2018 No 51).

Appeals to High Court

31 Rights of appeal to High Court

(1) Any party who is dissatisfied with a decision of an Authority as being erroneous in point of law or fact may appeal to the High Court.

(2) Every appeal under subclause (1) must 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 any further time that the High Court allows.

Compare: 1996 No 27 s 272(1), (2)

32 Notice to Authority

(1) If a notice of appeal is filed with the High Court in accordance with clause 31(2), the appellant must, within 20 working days after the date of the decision, file with the Authority a copy of the notice of appeal specifying the registry of the High Court in which the case is to be filed.

(2) An appellant (other than the chief executive) must give security for the costs of the appeal in the amount and in a form fixed by the Authority.

Compare: 1996 No 27 s 272(3)

33 Appellant's case must be submitted to Authority

(1) The appellant must—

(a) prepare a case setting out the facts and the questions of law or fact arising for the determination of the High Court; and

(b) within 2 months after the date of the Authority's decision, submit the case to the Authority.

(2) An Authority may return to an appellant a case that has been submitted for amendment.

(3) If the Authority returns a case to the appellant, the appellant must further submit the case to the Authority within the time allowed by the Authority.

(4) If an Authority accepts a case that has been submitted under subclause (1), the Authority must—

(a) sign the case; and

(b) deliver the case to the appellant.

(5) The appellant must, within 14 days after the date of receipt of the case delivered by the Authority under subclause (4), transmit the case to the Registrar of the High Court in which the case is to be filed.

(6) The Registrar of the High Court must enter the appeal for hearing at the first practicable sitting of the court.

Compare: 1996 No 27 s 272(3)–(7)

34 High Court may return case stated for amendment

(1) On hearing an appeal, the High Court may, if it thinks fit, require the case stated to be referred to the Authority for amendment.

(2) Clause 33(2) to (6) applies, with any necessary modifications, to a case that is referred back to the Authority for amendment as if the case had been submitted to the Authority under clause 33(1).

Compare: 1996 No 27 s 272(8)

Appeals to Court of Appeal

35 Rights of appeal to Court of Appeal

Any party who is dissatisfied with a decision of the High Court on any case on appeal under clause 31 as being erroneous in point of law may appeal to the Court of Appeal.

Compare: 1996 No 27 s 273

Cases stated to High Court

36 Authority may state 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 must give notice to the chief executive and the appellant of the Authority's intention to state a case under this clause specifying the registry of the High Court in which the case is to be filed.

(3) Clauses 33 and 34 apply to a case stated under this clause as if the case were an appeal to the High Court on a question of law in which—

(a) the party, on whose application the Authority intends to state the case, is the appellant; or

(b) where the Authority intends to state the case of its own motion, the chief executive is the appellant.

(4) However, the time for submitting a case to the Authority is within 20 working days after the date on which the Authority gives notice under subclause (2), or any further time that the Authority allows.

Compare: 1996 No 27 s 274

Schedule 9
Consequential repeal, revocations, and amendments

s 443

Part 1
Consequential repeal of Act

Mercantile Law Act 1908 (1908 No 117)

Part 2
Consequential revocations of instruments

Commonwealth Preference Countries Tariff Order 1974 (SR 1974/96)

Customs Preferential Tariff (Republic of Nauru) Order 1982 (SR 1982/209)

Customs Preferential Tariff (Republic of Vanuatu) Order 1981 (SR 1981/355)

Part 3
Consequential amendments to Acts

Accident Compensation Act 2001 (2001 No 49)

In section 213(3)(a), replace "section 76A of the Customs and Excise Act 1996" with "section 5(1) of the Customs and Excise Act 2018".

In section 213(3)(b), replace "Customs and Excise Act 1996" with "Customs and Excise Act 2018".

In section 214(4)(b), replace "Customs and Excise Act 1996" with "Customs and Excise Act 2018".

Agricultural Compounds and Veterinary Medicines Act 1997 (1997 No 87)

In section 4B(2), replace "uses the JBMS" with "uses a JBMS".

Replace section 4B(3)(b) with:

(b) may be set out in rules under section 325 of the Customs and Excise Act 2018.

In section 4C(2)(a), replace "the JBMS" with "a JBMS".

Airports (Cost Recovery for Processing of International Travellers) Act 2014 (2014 No 3)

In section 4, definition of **agency**, paragraph (b), replace "Customs and Excise Act 1996" with "Customs and Excise Act 2018".

Airports (Cost Recovery for Processing of International Travellers) Act 2014 (2014 No 3)—*continued*

In section 4, definition of **Customs**, replace "means the New Zealand Customs Service specified in section 5 of the Customs and Excise Act 1996" with "has the meaning given to it in section 5(1) of the Customs and Excise Act 2018".

In section 4, definition of **processing**, paragraph (c), replace "Customs and Excise Act 1996" with "Customs and Excise Act 2018".

Animal Products Act 1999 (1999 No 93)

In section 6A(2), replace "uses the JBMS" with "uses a JBMS".

Replace section 6A(3)(b) with:

(b) may be set out in rules under section 325 of the Customs and Excise Act 2018.

In section 6B(2)(a), replace "the JBMS" with "a JBMS".

Replace section 161(5)(a)(x) with:

(x) the Customs and Excise Act 2018:

Anti-Money Laundering and Countering Financing of Terrorism Act 2009 (2009 No 35)

In section 5, definition of **Customs officer**, replace "section 2(1) of the Customs and Excise Act 1996" with "section 5(1) of the Customs and Excise Act 2018".

In the cross-heading above section 114, replace "*Customs and Excise Act 1996*" with "*Customs and Excise Act 2018*".

In the heading to section 114, replace "**Customs and Excise Act 1996**" with "**Customs and Excise Act 2018**".

In section 114(1), replace "Customs and Excise Act 1996" with "Customs and Excise Act 2018".

In section 114(2), replace "Customs and Excise Act 1996" with "Customs and Excise Act 2018".

Replace section 114(4) with:

(4) For the purpose of carrying out the duty in subsection (3), a Customs officer may exercise his or her powers under the following sections of the Customs and Excise Act 2018 in relation to uncustomed or prohibited goods:

(a) section 205 (questioning persons about goods and debt):

(b) section 206 (detention of persons questioned about goods or debt and suspected to be involved in offences):

(c) sections 210, 211, and 214 (which relate to search and seizure):

(d) sections 225 and 226 (which relate to search warrants and use of aids by Customs officers):

Anti-Money Laundering and Countering Financing of Terrorism Act 2009 (2009 No 35)—*continued*

(e) sections 227 and 237 (which relate to examination of goods):

(f) section 228 (which relates to search of data in electronic devices):

(g) section 252 (further powers in relation to documents):

(h) section 257 (copying of documents obtained during inspection):

(i) section 258 (retention of documents and goods obtained during inspection):

(j) sections 244 to 249 (which relate to seizure and detention of goods suspected to be tainted property).

Replace section 115 and the cross-heading above section 115 with:

Stored value instrument searches by Customs officer

115 Duty to assist Customs officer to access stored value instruments

(1) A Customs officer exercising a search power or an examination power under section 114(4) may require a specified person to provide access information and other information or assistance that is reasonable and necessary to allow the Customs officer to access data held in a stored value instrument.

(2) In this case, section 130 of the Search and Surveillance Act 2012 (which requires persons with knowledge of a computer system or other data storage devices or an Internet site to assist access) applies in respect of the stored value instrument with necessary modifications.

(3) In this section, **stored value instrument**—

(a) means a portable device (for example, a debit card) that contains monetary value that is not physical currency but that can be reloaded or redeemed for cash; and

(b) includes an instrument that is prescribed as a bearer-negotiable instrument under section 153(b).

Replace section 140(2)(c) with:

(c) the Customs and Excise Act 2018:

Anti-Personnel Mines Prohibition Act 1998 (1998 No 111)

Replace section 10 with:

10 Application of Customs and Excise Act 2018

All the provisions of the Customs and Excise Act 2018 that apply to prohibited imports and prohibited exports (except the penalty for an offence against section 388(1)(a) or (b) of that Act) apply to anti-personnel mines whose importation and exportation is prohibited by section 7(1)(d) of this Act as if the

Anti-Personnel Mines Prohibition Act 1998 (1998 No 111)—*continued*

importation and exportation of the mines were prohibited under subpart 4 of Part 3 of the Customs and Excise Act 2018.

Arms Act 1983 (1983 No 44)

After section 3(2)(a), insert:

(ab) by a member of the New Zealand Defence Force or a member of the Police in the course of exercising any power or performing any function under the Customs and Excise Act 2018:

Biosecurity Act 1993 (1993 No 95)

In section 7(3), replace "Customs and Excise Act 1996" with "Customs and Excise Act 2018" in each place.

In section 7E(2), replace "uses the JBMS" with "uses a JBMS".

In section 7E(2), replace "section 131A of the Customs and Excise Act 1996" with "section 302(4) of the Customs and Excise Act 2018".

Replace section 7E(3)(b) with:

(b) may be set out in rules under section 325 of the Customs and Excise Act 2018.

In section 7F(2)(a), replace "the JBMS" with "a JBMS".

In section 7F(2)(a), replace "section 131A of the Customs and Excise Act 1996" with "section 302(4) of the Customs and Excise Act 2018".

In section 17A(1)(a), replace "section 2(1) of the Customs and Excise Act 1996" with "section 5(1) of the Customs and Excise Act 2018".

In section 17A(1)(b), replace "control of the Customs" with "control of Customs".

In section 17A(1)(b), replace "section 20 of the Customs and Excise Act 1996" with "section 6 of the Customs and Excise Act 2018".

In section 17A(1)(b), replace "section 2(1) of the Customs and Excise Act 1996" with "section 5(1) of the Customs and Excise Act 2018".

In section 35A(4), replace "Customs and Excise Act 1996" with "Customs and Excise Act 2018".

In section 40(3B)(b), replace "Customs and Excise Act 1996" with "Customs and Excise Act 2018".

In section 41A(1), definition of **border information**, paragraph (a)(i), replace "Customs and Excise Act 1996" with "Customs and Excise Act 2018".

In section 41A(1), repeal the definition of **computer system**.

In section 41A(1), replace the definitions of **customs-related border management function** and **Joint Border Management System** or **JBMS** with:

Biosecurity Act 1993 (1993 No 95)—*continued*

customs-related border management function means any function, duty, or power imposed or conferred on Customs by or under the Customs and Excise Act 2018

Joint Border Management System or **JBMS** has the meaning given in section 302(4) of the Customs and Excise Act 2018

Repeal section 41A(2).

In section 41G(1)(b), replace "the JBMS" with "a JBMS".

In section 41H(1)(a) and (b), replace "section 282J(1) of the Customs and Excise Act 1996" with "section 302(1) of the Customs and Excise Act 2018".

In section 41I(1) and (3), replace "the JBMS" with "a JBMS".

In section 107B(1)(b)(v), replace "Customs and Excise Act 1996" with "Customs and Excise Act 2018".

In section 117A(2)(d), replace "Customs and Excise Act 1996" with "Customs and Excise Act 2018".

Chemical Weapons (Prohibition) Act 1996 (1996 No 37)

Replace section 11 with:

11 Application of Customs and Excise Act 2018

All the provisions of the Customs and Excise Act 2018 that apply to prohibited imports and prohibited exports (except the penalty for an offence against section 388(1)(a) or (b) of that Act) apply to chemicals and precursors whose importation and exportation is prohibited by section 10 of this Act as if the importation or exportation of the goods were prohibited under subpart 4 of Part 3 of the Customs and Excise Act 2018.

Civil Aviation Act 1990 (1990 No 98)

In section 96(2), replace "Customs and Excise Act 1996" with "Customs and Excise Act 2018".

Climate Change Response Act 2002 (2002 No 40)

In section 4(1), definition of **export**, replace "section 2(1) of the Customs and Excise Act 1996" with "section 5(1) of the Customs and Excise Act 2018".

In section 4(1), definition of **import**, replace "section 2(1) of the Customs and Excise Act 1996" with "section 5(1) of the Customs and Excise Act 2018".

In section 4(1), definition of **importer**, replace "section 2(1) of the Customs and Excise Act 1996" with "section 5(1) of the Customs and Excise Act 2018".

In section 4(1), repeal the definition of **New Zealand Customs Service** and **the Customs**.

In section 4(1), insert in its appropriate alphabetical order:

Climate Change Response Act 2002 (2002 No 40)—*continued*

the Customs has the same meaning as Customs in section 5(1) of the Customs and Excise Act 2018

In section 203(1), replace "Customs and Excise Act 1996" with "Customs and Excise Act 2018".

In section 203(2), replace "Customs and Excise Act 1996" with "Customs and Excise Act 2018".

In the heading to section 226, replace "**Customs and Excise Act 1996**" with "**Customs and Excise Act 2018**".

In section 226(1), replace "Customs and Excise Act 1996" with "Customs and Excise Act 2018".

In section 226(3), replace "Customs and Excise Act 1996" with "Customs and Excise Act 2018".

In section 230(3)(a), replace "Customs and Excise Act 1996" with "Customs and Excise Act 2018".

Repeal section 231.

In the heading to section 232, replace "**Customs and Excise Act 1996**" with "**Customs and Excise Act 2018**".

Replace section 232(1) with:

(1) The provisions of the Customs and Excise Act 2018 that apply to the collection of duties (including, without limitation, subpart 8 of Part 3 of that Act) apply, with all necessary modifications, to the collection of the goods levy under this Act as if the levy were a duty to which that Act applies.

In section 232(2)(a), replace "section 103(3)" with "section 138(2)".

In section 232(2)(b), replace "section 103(4) and (5)" with "section 138(3) and (4)".

Replace section 232(3) with:

(3) Despite subsection (1), the following provisions of the Customs and Excise Act 2018 do not apply to the collection of the levy:

(a) section 139:

(b) section 144:

(c) section 146:

(d) section 147:

(e) section 153.

In section 261(1)(e)(ii), replace "Customs and Excise Act 1996" with "Customs and Excise Act 2018".

In section 263(1)(b)(ii), replace "Customs and Excise Act 1996" with "Customs and Excise Act 2018".

Climate Change Response Act 2002 (2002 No 40)—*continued*

In Schedule 3, Part 2, paragraph (a)(i), replace "Customs and Excise Act 1996" with "Customs and Excise Act 2018".

Cluster Munitions Prohibition Act 2009 (2009 No 68)

In section 5(1), definition of **Customs officer**, replace "section 2(1) of the Customs and Excise Act 1996" with "section 5(1) of the Customs and Excise Act 2018".

Replace section 14 with:

14 Application of Customs and Excise Act 2018 to import and export of cluster munitions

The provisions of the Customs and Excise Act 2018 that apply to prohibited imports and prohibited exports (except the penalty for an offence against section 388(1)(a) or (b) of that Act) apply to cluster munitions whose importation into and exportation from New Zealand is an offence against section 10(1) of this Act as if that importation and exportation were prohibited under subpart 4 of Part 3 of the Customs and Excise Act 2018.

Companies Act 1993 (1993 No 105)

In Schedule 7, clause 1(5), replace "Collector of Customs" with "Comptroller of Customs".

In Schedule 7, clause 1(5)(e), replace "section 2(1) of the Customs and Excise Act 1996" with "section 5(1) of the Customs and Excise Act 2018".

Copyright Act 1994 (1994 No 143)

In section 135, definition of **chief executive**, replace "section 2(1) of the Customs and Excise Act 1996" with "section 5(1) of the Customs and Excise Act 2018".

In section 135, definition of **control of the Customs**, replace "has the meaning given to it by section 20 of the Customs and Excise Act 1996" with "is to be read in accordance with the definition of subject to the control of Customs in section 6 of the Customs and Excise Act 2018".

In section 135, definition of **Customs officer**, replace "section 2(1) of the Customs and Excise Act 1996" with "section 5(1) of the Customs and Excise Act 2018".

Replace section 144A(2)(d)(iv) with:

(iv) if the person is a registered user of a registered user system (within the meaning of section 322 of the Customs and Excise Act 2018), transmitting it by electronic means to the person in accordance with the normal procedure of operation of the registered user system in relation to that person.

Replace section 144B(2)(d)(iv) with:

(iv) if the person is a registered user of a registered user system (within the meaning of section 322 of the Customs and Excise Act

Copyright Act 1994 (1994 No 143)—*continued*

2018), transmitting it by electronic means to the person in accordance with the normal procedure of operation of the registered user system in relation to that person.

Cultural Property (Protection in Armed Conflict) Act 2012 (2012 No 118)

Replace section 20 with:

20 Application of Customs and Excise Act 2018

(1) The provisions of the Customs and Excise Act 2018 apply to smuggled property, or property suspected of being smuggled property, as they apply to goods forfeited, or goods suspected of being forfeited, under that Act.

(2) However, the following provisions of that Act do not apply to such property:

- (a) section 182 (which relates to delivery of goods seized on deposit of value):
- (b) section 186(b)(ii) and clauses 1(3)(b), 4(2)(b), and 6 of Schedule 5 (which relate to the grant of relief):
- (c) section 189 (which relates to the disposal of forfeited goods).

(3) Subsection (2) has effect whether or not the property is unlawfully imported, or unlawfully exported, within the meaning of the Customs and Excise Act 2018.

(4) The provisions applied by subsection (1) have effect subject to the following modifications:

- (a) section 178 has effect as if—
  - (i) section 178(2) read "Property liable to seizure by virtue of Part 3 of the Cultural Property (Protection in Armed Conflict) Act 2012 may be seized at any time after it becomes so liable."; and
  - (ii) section 178(3) were omitted:
- (b) section 181(2)(a) has effect as if the reference to the prescribed form were a reference to the form prescribed by regulations made under the Cultural Property (Protection in Armed Conflict) Act 2012:
- (c) subsection (5) of this section applies instead of section 188.

(5) On conviction of a person for an offence against section 17 of this Act, any of the following things that has been seized under the Customs and Excise Act 2018 is condemned to the Crown:

- (a) the smuggled property in respect of which the offence was committed:
- (b) any goods forfeited under section 176(3) or (4) of the Customs and Excise Act 2018.

(6) The provisions of the Customs and Excise Act 2018 relating to the issue and execution of warrants apply to property that is liable to seizure by virtue of subsection (1) as they apply to things that are liable to seizure under that Act.

Cultural Property (Protection in Armed Conflict) Act 2012 (2012 No 118)—*continued*

Replace section 29 with:

29 Seizure to be treated as seizure under Customs and Excise Act 2018

(1) Any item seized in the execution of a search warrant is to be treated for the purposes of subpart 9 of Part 3 of the Customs and Excise Act 2018 as having been seized under section 178 of that Act (as applied by this Act).

(2) A notice provided under section 27 is to be treated for those purposes as having been given under section 181 of that Act.

In section 32(2)(a), replace "section 227 of the Customs and Excise Act 1996" with "section 181 of the Customs and Excise Act 2018".

Dairy Industry Restructuring Act 2001 (2001 No 51)

In section 28(2), replace "Customs and Excise Act 1996" with "Customs and Excise Act 2018".

Replace section 30 with:

30 Customs and Excise Act 2018 to apply to prohibited exports

(1) All the provisions of the Customs and Excise Act 2018, and any regulations made under that Act, that apply to prohibited exports apply to the export of any dairy products in contravention of this Act as if the export of the dairy products were prohibited under subpart 4 of Part 3 of the Customs and Excise Act 2018.

(2) The penalty for an offence against section 388(1)(b) of the Customs and Excise Act 2018 is a fine not exceeding $200,000 if the offence is in respect of the export of any dairy products in contravention of this Act.

In section 32(2), replace "section 239(4) of the Customs and Excise Act 1996" with "section 429(4) of the Customs and Excise Act 2018".

In section 42(1), replace "Customs and Excise Act 1996" with "Customs and Excise Act 2018".

Electronic Transactions Act 2002 (2002 No 35)

In the Schedule, Part 4, paragraph (9), replace "Customs and Excise Act 1996" with "Customs and Excise Act 2018".

Energy (Fuels, Levies, and References) Act 1989 (1989 No 140)

In section 1B, definition of **engine fuel**, replace "section 76A of the Customs and Excise Act 1996" with "section 5(1) of the Customs and Excise Act 2018".

In section 24(2)(a), replace "Customs and Excise Act 1996" with "Customs and Excise Act 2018".

Fair Trading Act 1986 (1986 No 121)

In section 26(2), replace "section 54 of the Customs and Excise Act 1996" with "section 96 of the Customs and Excise Act 2018".

In section 33, replace "section 54 of the Customs and Excise Act 1996" with "section 96 of the Customs and Excise Act 2018".

Films, Videos, and Publications Classification Act 1993 (1993 No 94)

Replace section 118A with:

118A Application of Customs and Excise Act 2018

(1) Sections 191, 199, 206, 210, 211, 224, 225, 231, 237, 244, 245, 247, 248, 249, 257, and 258 of the Customs and Excise Act 2018 apply to offences against this Act concerning the importation or exportation of objectionable publications to the same extent as those sections apply to offences against section 390 of the Customs and Excise Act 2018 concerning the importation or exportation of objectionable publications.

(2) Section 252 of the Customs and Excise Act 2018 applies to an investigation of an offence against this Act concerning the importation or exportation of objectionable publications to the same extent as that section applies to an investigation of an offence against that Act; and section 254 of that Act applies accordingly.

(3) A Customs officer may arrest a person without warrant in accordance with section 263(1) of the Customs and Excise Act 2018, as if the person were suspected of an offence against section 390 of that Act, if the Customs officer has reasonable cause to suspect that the person has committed an offence against section 124(1) involving—

(a) the importation into New Zealand of an objectionable publication for the purposes of supply or distribution; or

(b) the supply or distribution, by way of exportation from New Zealand, of an objectionable publication.

(4) Section 263(2) and (3) of the Customs and Excise Act 2018 applies to an arrest by a Customs officer under subsection (3).

(5) Nothing in this section limits the application of any provisions of the Customs and Excise Act 2018 that confer powers (for example, powers relating to prohibited goods).

Replace section 132A(1)(e) with:

(e) section 390 of the Customs and Excise Act 2018.

In section 145A(1), definition of **relevant offence**, replace paragraph (e) with:

(e) section 390 of the Customs and Excise Act 2018.

Financial Transactions Reporting Act 1996 (1996 No 9)

In section 2(1), repeal the definition of **control of the Customs**.

Flags, Emblems, and Names Protection Act 1981 (1981 No 47)

In section 7, replace "section 8 of the Customs and Excise Act 1996" with "section 274 of the Customs and Excise Act 2018".

Food Act 2014 (2014 No 32)

In section 8(1), definition of **authorised place**, paragraph (b)(ii), replace "Customs and Excise Act 1996" with "Customs and Excise Act 2018".

In section 8(1), definition of **Customs**, replace "the Customs by section 2(1) of the Customs and Excise Act 1996" with "Customs by section 5(1) of the Customs and Excise Act 2018".

In section 132(2), replace "uses the JBMS" with "uses a JBMS".

Replace section 132(3)(b) with:

> (b) may be set out in rules under section 325 of the Customs and Excise Act 2018.

In section 133(2)(a), replace "the JBMS" with "a JBMS".

In section 261(1), replace "Customs and Excise Act 1996" with "Customs and Excise Act 2018".

In section 368(3)(l), replace "Customs and Excise Act 1996" with "Customs and Excise Act 2018".

Game Animal Council Act 2013 (2013 No 98)

In section 4(1), definition of **Customs**, replace "means the New Zealand Customs Service referred to in section 5 of the Customs and Excise Act 1996" with "has the meaning given to it in section 5(1) of the Customs and Excise Act 2018".

In section 4(1), definition of **Customs officer**, replace "Customs and Excise Act 1996" with "Customs and Excise Act 2018".

In section 24(3), replace "Part 14 of the Customs and Excise Act 1996" with "subpart 9 of Part 3 of the Customs and Excise Act 2018".

In section 24(6), replace "Section 237(2) of the Customs and Excise Act 1996" with "Section 189(2) of the Customs and Excise Act 2018".

Goods and Services Tax Act 1985 (1985 No 141)

In section 1(3), replace "Customs and Excise Act 1996" with "Customs and Excise Act 2018".

In section 3A(1)(b), replace "Customs and Excise Act 1996" with "Customs and Excise Act 2018".

In section 3A(2)(b)(i), replace "Customs and Excise Act 1996" with "Customs and Excise Act 2018".

Goods and Services Tax Act 1985 (1985 No 141)—*continued*

In section 11(1)(a), replace "Customs and Excise Act 1996" with "Customs and Excise Act 2018".

In section 11(1)(b), replace "Customs and Excise Act 1996" with "Customs and Excise Act 2018".

In section 11(1)(d), replace "Customs and Excise Act 1996" with "Customs and Excise Act 2018".

In section 11(1)(e), replace "Customs and Excise Act 1996" with "Customs and Excise Act 2018".

In section 11(1)(eb)(ii), replace "Customs and Excise Act 1996" with "Customs and Excise Act 2018".

In section 11(1)(g), replace "section 12 of the Customs and Excise Act 1996" with "section 59 of the Customs and Excise Act 2018".

In section 11(1)(g)(iii), replace "Customs and Excise Act 1996" with "Customs and Excise Act 2018".

In section 11(1)(h)(i), replace "section 12 of the Customs and Excise Act 1996" with "section 59 of the Customs and Excise Act 2018".

In section 11(1)(h)(ii), replace "section 12 of the Customs and Excise Act 1996" with "section 59 of the Customs and Excise Act 2018".

In section 11(1)(ka), replace "section 116 of the Customs and Excise Act 1996" with "section 136 of the Customs and Excise Act 2018".

In section 11(1)(l)(iv), replace "section 116 of the Customs and Excise Act 1996" with "section 136 of the Customs and Excise Act 2018".

After section 11(1)(o), insert:

> (oa) the goods are goods referred to in section 137 of the Customs and Excise Act 2018; or

In section 11A(1)(cb)(ii), replace "Customs and Excise Act 1996" with "Customs and Excise Act 2018".

In section 11A(1)(i), replace "section 116 of the Customs and Excise Act 1996" with "section 136 of the Customs and Excise Act 2018 (including goods referred to in section 137 of that Act)".

In section 12(1)(a), replace "Customs and Excise Act 1996" with "Customs and Excise Act 2018".

In section 12(1)(b), replace "section 12 of the Customs and Excise Act 1996" with "section 59 of the Customs and Excise Act 2018".

In section 12(1)(c), replace "section 12 of the Customs and Excise Act 1996, dealt with in breach of any provision of the Customs and Excise Act 1996" with "section 59 of the Customs and Excise Act 2018, dealt with in breach of any provision of the Customs and Excise Act 2018".

Goods and Services Tax Act 1985 (1985 No 141)—*continued*

In section 12(1A), replace "Customs and Excise Act 1996" with "Customs and Excise Act 2018".

In section 12(2)(a), replace "Schedule 2 of the Customs and Excise Act 1996" with "Schedule 4 of the Customs and Excise Act 2018".

In section 12(2)(b), replace "Customs and Excise Act 1996" with "Customs and Excise Act 2018".

In section 12(3), replace "Customs and Excise Act 1996" with "Customs and Excise Act 2018".

Replace section 12(4)(a) with:

> (a) the Customs and Excise Act 2018, except—
>
> (i) the provisions referred to in paragraphs (b) to (d) of this subsection; and
>
> (ii) sections 146, 153, and 404; and

In section 12(4)(b), replace "section 109 of the Customs and Excise Act 1996" with "sections 151 and 152 of the Customs and Excise Act 2018".

In section 12(4)(c), replace "sections 111, 112, 113, 115, and 118 of the Customs and Excise Act 1996" with "sections 142 to 145, 149, 150, and 406 of the Customs and Excise Act 2018".

In section 12(4)(d), replace "section 117 of the Customs and Excise Act 1996" with "section 147 of the Customs and Excise Act 2018".

In section 12(5), replace "Customs and Excise Act 1996" with "Customs and Excise Act 2018".

In section 21B(1)(a)(ii), replace "Customs and Excise Act 1996" with "Customs and Excise Act 2018".

Government Roading Powers Act 1989 (1989 No 75)

In section 2(1), definition of **excise duty**, replace "Customs and Excise Act 1996" with "Customs and Excise Act 2018".

Hazardous Substances and New Organisms Act 1996 (1996 No 30)

In section 2(1), definition of **Customs officer**, replace "Customs and Excise Act 1996" with "Customs and Excise Act 2018".

In section 2(1), definition of **exportation**, replace "section 2(1) of the Customs and Excise Act 1996" with "section 5(1) of the Customs and Excise Act 2018".

In section 2(1), definition of **importation**, replace "section 2(1) of the Customs and Excise Act 1996" with "section 5(1) of the Customs and Excise Act 2018".

In section 2(1), repeal the definition of **port of entry**.

In section 2(1), insert in its appropriate alphabetical order:

Hazardous Substances and New Organisms Act 1996 (1996 No 30)—*continued*

> **Customs place** has the same meaning as in section 5(1) of the Customs and Excise Act 2018

In section 97AA(2), replace "uses the JBMS" with "uses a JBMS".

Replace section 97AA(3)(b) with:

> (b) may be set out in rules under section 325 of the Customs and Excise Act 2018.

In section 97AB(2)(a), replace "the JBMS" with "a JBMS".

Replace section 121 with:

> **121 Application of Customs and Excise Act 2018 to hazardous substance imported in breach of this Act**
>
> A hazardous substance that is being, or has been, imported in breach of this Act is a prohibited import under section 96 of the Customs and Excise Act 2018, and the provisions of that Act (including, for the avoidance of doubt, sections 388 and 389) apply accordingly.

In section 122(2), replace "the Customs in accordance with section 20 of the Customs and Excise Act 1996" with "Customs in accordance with section 6 of the Customs and Excise Act 2018".

In section 122(3), definition of **importer**, replace "section 2(1) of the Customs and Excise Act 1996" with "section 5(1) of the Customs and Excise Act 2018".

In section 124(1)(b), replace "port of entry or Customs airport" with "Customs place".

Health and Safety at Work Act 2015 (2015 No 70)

In section 16, definition of **importation**, replace "section 2(1) of the Customs and Excise Act 1996" with "section 5(1) of the Customs and Excise Act 2018".

Heavy Engineering Research Levy Act 1978 (1978 No 81)

In section 2, definition of **Customs** or **the Customs**, replace "has the meaning given to it by section 2(1) of the Customs and Excise Act 1996" with "has the meaning given to Customs by section 5(1) of the Customs and Excise Act 2018".

In section 2, definition of **importer**, replace "section 2 of the Customs and Excise Act 1996" with "section 5(1) of the Customs and Excise Act 2018".

In section 6(3), replace "Customs and Excise Act 1996" with "Customs and Excise Act 2018".

In section 7(3)(b), replace "Customs and Excise Act 1996" with "Customs and Excise Act 2018".

In section 8(1), replace "Customs and Excise Act 1996" with "Customs and Excise Act 2018".

Heavy Engineering Research Levy Act 1978 (1978 No 81)—*continued*

In section 8(2), replace "sections 86 and 96 to 101 of the Customs and Excise Act 1996" with "sections 74, 100, 122, 123, 129 to 131, 133, and 134 of the Customs and Excise Act 2018".

Human Assisted Reproductive Technology Act 2004 (2004 No 92)

In section 5, definition of **Customs officer**, replace "section 2(1) of the Customs and Excise Act 1996" with "section 5(1) of the Customs and Excise Act 2018".

In section 73(1), replace "Customs and Excise Act 1996" with "Customs and Excise Act 2018".

In section 73(4), replace "Customs and Excise Act 1996" with "Customs and Excise Act 2018".

In section 73(4)(a), replace "section 145" with "section 205".

In section 73(4)(b), replace "section 147" with "section 201".

In section 73(4)(c), replace "section 148" with "section 206".

In section 73(4)(d), replace "section 160" with "section 251".

In section 73(4)(e), replace "section 161" with "section 252".

In section 74, replace "Customs and Excise Act 1996" with "Customs and Excise Act 2018".

Human Tissue Act 2008 (2008 No 28)

In section 6, definition of **exportation**, replace "section 2(1) of the Customs and Excise Act 1996" with "section 5(1) of the Customs and Excise Act 2018".

In section 6, definition of **importation**, replace "section 2(1) of the Customs and Excise Act 1996" with "section 5(1) of the Customs and Excise Act 2018".

Immigration Act 2009 (2009 No 51)

In section 4, definition of **arrival hall**, replace "section 12 of the Customs and Excise Act 1996" with "section 59 of the Customs and Excise Act 2018".

In section 4, definition of **customs officer**, replace "section 2(1) of the Customs and Excise Act 1996" with "section 5(1) of the Customs and Excise Act 2018".

In section 4, definition of **departure hall**, replace "section 12 of the Customs and Excise Act 1996" with "section 59 of the Customs and Excise Act 2018".

In section 101(1)(c), replace "section 25 of the Customs and Excise Act 1996" with "sections 17(3) and 22 of the Customs and Excise Act 2018".

In section 105(4), definition of **customs airport**, replace "section 9 of the Customs and Excise Act 1996" with "section 55 of the Customs and Excise Act 2018".

Repeal section 297.

In section 302(8), definition of **specified agency**, paragraph (e), replace "Customs and Excise Act 1996" with "Customs and Excise Act 2018".

Immigration Act 2009 (2009 No 51)—*continued*

In section 303(8), definition of **specified agency**, paragraph (e), replace "Customs and Excise Act 1996" with "Customs and Excise Act 2018".

In section 465(2), replace "section 7 of the Customs and Excise Act 1996" with "section 273 of the Customs and Excise Act 2018".

Imports and Exports (Restrictions) Act 1988 (1988 No 157)

In section 2(2), replace "section 2(1) of the Customs and Excise Act 1996" with "section 5(1) of the Customs and Excise Act 2018".

Replace section 2(3) with:

(3) The Customs and Excise Act 2018 (except sections 374 and 388 to 391) applies to any goods the importation or exportation of which is prohibited under this Act as if the importation or exportation of the goods were prohibited, or were an offence, under the Customs and Excise Act 2018.

Income Tax Act 2007 (2007 No 97)

In section CW 21(1)(b), replace "section 116 of the Customs and Excise Act 1996" with "section 136 of the Customs and Excise Act 2018".

In section YA 1, definition of **input tax**, paragraph (b), replace "Customs and Excise Act 1996" with "Customs and Excise Act 2018".

Insolvency Act 2006 (2006 No 55)

In section 274(5), replace "Collector of Customs" with "Comptroller of Customs".

In section 274(5)(e), replace "section 2(1) of the Customs and Excise Act 1996" with "section 5(1) of the Customs and Excise Act 2018".

Land Transport Management Act 2003 (2003 No 118)

In section 5(1), definition of **excise duty**, replace "Customs and Excise Act 1996" with "Customs and Excise Act 2018".

In section 5(1), definition of **excise-equivalent duty**, replace "Customs and Excise Act 1996" with "Customs and Excise Act 2018".

In section 5(1), definition of **motor spirits**, replace "section 76A of the Customs and Excise Act 1996" with "section 5(1) of the Customs and Excise Act 2018".

In section 6(b), replace "Customs and Excise Act 1996" with "Customs and Excise Act 2018".

Legislation Act 2012 (2012 No 119)

In Schedule 2, replace the items relating to the Customs and Excise Act 1996 with:

Customs and Excise Act 2018	96(1)
Customs and Excise Act 2018	Clause 20 of Schedule 3
Customs and Excise Act 2018	Clause 21(1) of Schedule 3

Legislation Act 2012 (2012 No 119)—*continued*

Customs and Excise Act 2018	Clause 23(1) of Schedule 3—restriction: only if the order increases a rate of duty

Local Government Act 1974 (1974 No 66)

In section 181(1), definition of **specified engine fuel**, paragraph (a)(i), replace "section 76A of the Customs and Excise Act 1996" with "section 5(1) of the Customs and Excise Act 2018".

In section 199A(1)(a), replace "section 76A of the Customs and Excise Act 1996" with "section 5(1) of the Customs and Excise Act 2018".

Marine Mammals Protection Act 1978 (1978 No 80)

In section 4(3), replace "section 54 or section 56 of the Customs and Excise Act 1996" with "section 96 of the Customs and Excise Act 2018".

Maritime Security Act 2004 (2004 No 16)

In section 5, definition of **Customs officer**, replace "section 2(1) of the Customs and Excise Act 1996" with "section 5(1) of the Customs and Excise Act 2018".

Maritime Transport Act 1994 (1994 No 104)

In section 21(2), replace "Customs and Excise Act 1996" with "Customs and Excise Act 2018".

In section 338(2), replace "section 34 of the Customs and Excise Act 1996" with "section 37 of the Customs and Excise Act 2018".

Meat Board Act 2004 (2004 No 58)

In section 65(5), replace "section 5 of the Customs and Excise Act 1996" with "section 268 of the Customs and Excise Act 2018".

In the heading to section 70, replace "**Customs and Excise Act 1996**" with "**Customs and Excise Act 2018**".

Replace section 70(1) with:

(1) All the provisions of the Customs and Excise Act 2018, and any regulations made under that Act, that apply to prohibited exports apply to the export of any meat products in contravention of this Act as if the export of the meat products were prohibited under subpart 4 of Part 3 of the Customs and Excise Act 2018.

In section 70(2), replace "section 209(1)(b) of the Customs and Excise Act 1996" with "section 388(1)(b) of the Customs and Excise Act 2018".

In section 71(2), replace "section 239(4) of the Customs and Excise Act 1996" with "section 429(4) of the Customs and Excise Act 2018".

In section 78(1), replace "Customs and Excise Act 1996" with "Customs and Excise Act 2018".

Medicines Act 1981 (1981 No 118)

In section 2(1), definition of **Customs** or **the Customs**, replace "has the meaning given to it by section 2(1) of the Customs and Excise Act 1996" with "has the meaning given to Customs in section 5(1) of the Customs and Excise Act 2018".

In section 2(1), definition of **importer**, replace "the Customs in accordance with the Customs and Excise Act 1996" with "Customs in accordance with the Customs and Excise Act 2018".

In section 65(10), replace "Customs and Excise Act 1996" with "Customs and Excise Act 2018".

In section 72(1)(g), replace "Customs and Excise Act 1996" with "Customs and Excise Act 2018".

In section 72(4), replace "Customs and Excise Act 1996" with "Customs and Excise Act 2018".

Ministries of Agriculture and Forestry (Restructuring) Act 1997 (1997 No 100)

In section 11, replace "section 48 of the Customs Act 1966 or section 54 of the Customs and Excise Act 1996" with "section 96 of the Customs and Excise Act 2018".

Misuse of Drugs Act 1975 (1975 No 116)

Replace section 36 with:

36 Application of Customs and Excise Act 2018

(1) Sections 176, 178, 191, 199, 205, 206, 210, 211, 212, 213, 214, 215, 220, 221, 224, 225, 227, 231, 237, 244, 245, 247, 248, 249, and 252 of the Customs and Excise Act 2018 apply in relation to the controlled drugs and precursor substances referred to in subsection (2) as if they were prohibited imports or exports under that Act.

(2) The controlled drugs and precursor substances are—

(a) any controlled drug, other than a controlled drug specified or described in Part 6 of Schedule 3; and

(b) any precursor substance specified or described in Schedule 4.

Misuse of Drugs Amendment Act 1978 (1978 No 65)

In section 10(3), replace "section 2(1) of the Customs and Excise Act 1996" with "section 5(1) of the Customs and Excise Act 2018".

In section 11, replace "Customs and Excise Act 1996" with "Customs and Excise Act 2018".

Motor Vehicle Sales Act 2003 (2003 No 12)

In section 6(1), definition of **specified offence**, paragraph (a)(iii), replace "Customs and Excise Act 1996" with "Customs and Excise Act 2018".

New Zealand Public Health and Disability Act 2000 (2000 No 91)

In section 92(6)(a), replace "section 76A of the Customs and Excise Act 1996" with "section 5(1) of the Customs and Excise Act 2018".

In Schedule 4A, clause 5(1)(a), replace "Customs and Excise Act 1996" with "Customs and Excise Act 2018".

In Schedule 4A, clause 5(2), replace "Customs and Excise Act 1996" with "Customs and Excise Act 2018".

In Schedule 4A, clause 5(3), replace "Customs and Excise Act 1996" with "Customs and Excise Act 2018".

In Schedule 4A, clause 5(4), replace "section 2(1) of the Customs and Excise Act 1996" with "section 5(1) of the Customs and Excise Act 2018".

In Schedule 4A, clause 6(1), replace "Customs and Excise Act 1996" with "Customs and Excise Act 2018".

In Schedule 4A, clause 6(2), replace "Customs and Excise Act 1996" with "Customs and Excise Act 2018".

In Schedule 4A, clause 7, replace "Customs and Excise Act 1996" with "Customs and Excise Act 2018".

New Zealand Railways Corporation Act 1981 (1981 No 119)

In section 22(1), replace "established by the Customs and Excise Act 1996" with "continued by the Customs and Excise Act 2018".

Ozone Layer Protection Act 1996 (1996 No 40)

Replace section 7 with:

7 Customs and Excise Act 2018 to apply to prohibited exports

All the provisions of the Customs and Excise Act 2018 that apply to prohibited exports (except the penalty for an offence against section 388(1)(b) of that Act) apply to the export of any substances and goods in contravention of this Act as if the export of the substances and goods were prohibited under subpart 4 of Part 3 of the Customs and Excise Act 2018.

In section 24, replace "Customs and Excise Act 1996" with "Customs and Excise Act 2018".

Policing Act 2008 (2008 No 72)

In Schedule 1, Part 4, replace clause 8(f) with:

(f) the powers of a constable under sections 178, 210(2), 210(3), 211(2), 213, 214, 267(1), and 310 of the Customs and Excise Act 2018:

Pork Industry Board Act 1997 (1997 No 106)

In section 48(5), replace "section 5 of the Customs and Excise Act 1996" with "section 268 of the Customs and Excise Act 2018".

Postal Services Act 1998 (1998 No 2)

Replace section 5(1)(b)(v) with:

(v) the Customs and Excise Act 2018,—

In section 10(2)(e), replace "Customs and Excise Act 1996" with "Customs and Excise Act 2018".

Privacy Act 1993 (1993 No 28)

In section 103(1A), replace "section 280 of the Customs and Excise Act 1996" with "section 308 of the Customs and Excise Act 2018".

In section 103(1C)(a), replace "section 280H of the Customs and Excise Act 1996" with "section 306 of the Customs and Excise Act 2018".

In section 103(1C)(b), replace "section 280K or 280L of the Customs and Excise Act 1996" with "section 307 or 313 of the Customs and Excise Act 2018".

In section 103(2A), replace "section 280D of the Customs and Excise Act 1996" with "section 310 of the Customs and Excise Act 2018".

In Schedule 3, replace the item relating to the Customs and Excise Act 1996 with:

Customs and Excise Act 2018	Sections 306 to 310

Protected Objects Act 1975 (1975 No 41)

In section 2(1), definition of **craft**, replace "section 2(1) of the Customs and Excise Act 1996" with "section 5(1) of the Customs and Excise Act 2018".

Replace section 10 with:

10 Application of Customs and Excise Act 2018

(1) Subject to the provisions of this Act, any protected New Zealand object exported or attempted to be exported in breach of this Act is forfeited to the Crown and the provisions of the Customs Act (except for the excepted provisions) relating to forfeited goods apply to the object in the same manner as they apply to goods forfeited under the Customs Act.

(2) The powers conferred on Customs officers under the Customs Act (except for the excepted provisions) apply in relation to the export of a protected New Zealand object.

(3) The forfeiture of an object under subsection (1) is not dependent on the seizure of that object.

(4) Where any protected New Zealand object is seized as forfeited to the Crown pursuant to this section, it must be delivered to the chief executive and retained in safe custody in accordance with the chief executive's directions.

(5) Despite subsection (4), the chief executive may, at his or her discretion, direct that the protected New Zealand object be returned to the person who was the owner of the protected New Zealand object immediately before forfeiture subject to any conditions that the chief executive may think fit to impose.

Protected Objects Act 1975 (1975 No 41)—*continued*

(6) Subject to the provisions of this Act,—

(a) the provisions of the Customs Act relating to unlawful imports (except the excepted provisions) apply to an unlawfully exported protected foreign object; and

(b) that object is to be treated as a prohibited import under section 96 of that Act.

(7) If the New Zealand Customs Service seizes an unlawfully exported protected foreign object or a stolen protected foreign object, that object must be—

(a) transferred to the Ministry; and

(b) held by the Ministry, in accordance with the directions of the chief executive (if any), until any proceedings related to that object under this Act or the Customs Act are completed.

(8) Despite anything in the Customs Act or any other enactment,—

(a) a prosecution for an offence under this Act or the Customs Act with respect to a protected New Zealand object—

(i) may be commenced at any time within 5 years from the date on which the offence was committed; but

(ii) may not be commenced after the expiration of 5 years from the date on which the offence was committed; and

(b) no Customs duties or taxes are payable in respect of a protected foreign object whose return is ordered by a court under section 10B or 10E.

(9) In this section,—

Customs Act means the Customs and Excise Act 2018

excepted provisions means sections 182, 186(b)(ii), 188(2), and 189 and clauses 1(3)(b), 4(2)(b), and 6 of Schedule 5 of the Customs Act.

Replace section 10D(2)(a)(i) with:

(i) seize that object pursuant to its powers under the Customs and Excise Act 2018 (except sections 182, 188(2), and 189 and clause 6 of Schedule 5 of that Act); and

Psychoactive Substances Act 2013 (2013 No 53)

In section 8, definition of **Customs officer**, replace "section 2(1) of the Customs and Excise Act 1996" with "section 5(1) of the Customs and Excise Act 2018".

In section 8, definition of **importation** and **importer**, replace "section 2(1) of the Customs and Excise Act 1996" with "section 5(1) of the Customs and Excise Act 2018".

In the heading to section 105, replace "**Customs and Excise Act 1996**" with "**Customs and Excise Act 2018**".

Psychoactive Substances Act 2013 (2013 No 53)—*continued*

In section 105, replace "Customs and Excise Act 1996, except section 209 of that Act" with "Customs and Excise Act 2018, except sections 388 and 389 of that Act".

Returning Offenders (Management and Information) Act 2015 (2015 No 112)

In section 4(1), definition of **Customs place**, replace "section 9(1) of the Customs and Excise Act 1996" with "section 5(1) of the Customs and Excise Act 2018".

Road User Charges Act 2012 (2012 No 1)

In section 5(1), definition of **motor spirits**, replace "section 79A of the Customs and Excise Act 1996" with "clause 23(3) of Schedule 3 of the Customs and Excise Act 2018".

In section 5(1), definition of **petrol**, paragraph (a), replace "Customs and Excise Act 1996" with "Customs and Excise Act 2018".

Search and Surveillance Act 2012 (2012 No 24)

In section 3(1), definition of **Customs officer**, replace "section 2(1) of the Customs and Excise Act 1996" with "section 5(1) of the Customs and Excise Act 2018".

In section 80, replace "section 2(1) of the Customs and Excise Act 1996" with "section 5(1) of the Customs and Excise Act 2018".

In the Schedule, replace the item relating to the Customs and Excise Act 1996 with:

Customs and Excise Act 2018	191(1)(f)	Customs officer may board and search craft if officer has reasonable cause to suspect craft is involved in offence against Customs and Excise Act 2018 or is transporting dutiable, uncustomed, prohibited, or forfeited goods	Subparts 1, 2, and 4 to 10 (except that sections 125(4), 131(5)(f), and 133 and subparts 6 and 8 do not apply to forfeited goods)
	210(3)(a)	Customs officer or constable may search person if officer or constable has reasonable cause to suspect that certain items are hidden on or about that person	Subparts 1, 2, and 4 to 10 (except that sections 125(4), 131(5)(f), and 133 and subparts 6 and 8 do not apply to forfeited goods)
	210(3)(b)	Customs officer or constable may search person if officer or constable has reasonable cause to suspect that dangerous items posing threat to safety are on or about that person	Subparts 1, 2, and 4 to 10 (except that sections 125(4), 131(5)(f), and 133 and subparts 6 and 8 do not apply to forfeited goods)
	211	Customs officer or constable may search person if officer or constable has reasonable cause to believe that certain items are hidden on or about that person	Subparts 1, 2, and 4 to 10 (except that sections 125(4), 131(5)(f), and 133 and subparts 6 and 8 do

Search and Surveillance Act 2012 (2012 No 24)—*continued*

		not apply to forfeited goods)
214	Customs officer or constable may seize certain things found during search under section 210 or 211 of Customs and Excise Act 2018	Subparts 1, 5, 6, 7, 9, and 10 (except that sections 125(4), 131(5)(f), and 133 and subpart 6 do not apply to forfeited goods)
225	Customs officer may obtain and execute search warrant to enter any place or thing to search for evidence of commission of offence against Customs and Excise Act 2018 or of the unlawful exportation or importation of goods, etc	All (except that sections 125(4), 131(5)(f), and 133 and subparts 6 and 8 do not apply to forfeited goods)
228(2)(b), (d), and (e)	Customs officer may make a full search of data in an electronic device if officer has reasonable cause to believe that evidential material relating to relevant offending is in the device, etc	Subpart 5 (in the case of a section 228(2)(b) search) and subpart 6
228(2)(c) and (d)	Customs officer may require a user of an electronic device or a stored value instrument to provide access information and other information or assistance that is reasonable and necessary to allow access to the device or instrument	Section 130(2) and (3)
231	Customs officer may stop and detain vehicle to search it for various kinds of goods, etc	Subparts 1 and 4 to 10 (except that sections 125(4), 131(5)(f), and 133 and subparts 6 and 8 do not apply to forfeited goods)
237	Customs officer may inspect goods no longer subject to the control of Customs if chief executive has reasonable grounds to suspect that the goods are goods in respect of which an offence has been committed, or that are forfeited goods, under Customs and Excise Act 2018	Subparts 1, 2, and 4 to 10 (except that sections 125(4), 131(5)(f), and 133 and subparts 6 and 8 do not apply to forfeited goods)
242	Customs officer may seize and detain goods or documents that he or she has cause to suspect on reasonable grounds are certain risk goods or evidence of commission of certain offences, if those goods or documents are	All (except subparts 2 and 3)

Search and Surveillance Act 2012 (2012 No 24)—*continued*

	presented or located in the course of exercising powers of inspection, search, or examination under Customs and Excise Act 2018	
243	Customs officer may seize and detain goods or documents that he or she has cause to suspect on reasonable grounds are evidence of certain offences under Misuse of Drugs Act 1975 or Films, Videos, and Publications Classification Act 1993, if those goods or documents are presented or located in the course of exercising powers of inspection, search, or examination under Customs and Excise Act 2018	Subparts 1, 5, 6, 7, 9, and 10 (except that sections 125(4), 131(5)(f), and 133 and subpart 6 do not apply to forfeited goods)

Sentencing Act 2002 (2002 No 9)

In section 72(2D), replace "sections 280C to 280F of the Customs and Excise Act 1996 and sections 295 to 297 of the Immigration Act 2009" with "section 310 of the Customs and Excise Act 2018 and section 295 of the Immigration Act 2009".

Ship Registration Act 1992 (1992 No 89)

In section 2(1), definition of **certificate of clearance**, replace "Customs and Excise Act 1996" with "Customs and Excise Act 2018".

In section 2(1), definition of **Customs officer**, replace "section 2(1) of the Customs and Excise Act 1996" with "section 5(1) of the Customs and Excise Act 2018".

Shop Trading Hours Act 1990 (1990 No 57)

In section 4(1)(b)(ii), replace "an export warehouse (within the meaning of section 2(1) of the Customs and Excise Act 1996)" with "an export warehouse or a duty-free store (as those terms are defined in section 5(1) of the Customs and Excise Act 2018)".

Statistics Act 1975 (1975 No 1)

In section 37(6), replace "Customs and Excise Act 1996" with "Customs and Excise Act 2018".

Student Loan Scheme Act 2011 (2011 No 62)

In section 208(1)(c), replace "section 280G of the Customs and Excise Act 1996" with "section 306 of the Customs and Excise Act 2018".

In section 209, replace "section 280I of the Customs and Excise Act 1996" with "section 312 of the Customs and Excise Act 2018".

Summary Proceedings Act 1957 (1957 No 87)

In section 2(1), definition of **infringement notice**, after paragraph (ha), insert:

(hb) section 400 of the Customs and Excise Act 2018; or

Tariff Act 1988 (1988 No 155)

In section 2(1), definition of **Customs** or **the Customs**, replace "it by section 2(1) of the Customs and Excise Act 1996" with "Customs by section 5(1) of the Customs and Excise Act 2018".

In section 2(1), definition of **Customs value** or **value**, replace ", in relation to any goods, means the Customs value of those goods, determined in accordance with the provisions set out in Schedule 2 of the Customs and Excise Act 1996" with "has the meaning given to Customs value by section 5(1) of the Customs and Excise Act 2018".

In section 2(1), definition of **imported**, replace "section 2(1) of the Customs and Excise Act 1996" with "section 5(1) of the Customs and Excise Act 2018".

In section 2(1), definition of **manufacturing area**, replace "section 2(1) of the Customs and Excise Act 1996" with "section 5(1) of the Customs and Excise Act 2018".

Repeal section 4(2).

In section 9B(4), the example, replace "Customs and Excise Act 1996" with "Customs and Excise Act 2018".

In section 16B(a), replace "section 116 of the Customs and Excise Act 1996" with "section 136 of the Customs and Excise Act 2018".

In section 16B(b), replace "section 117 of the Customs and Excise Act 1996" with "section 147 of the Customs and Excise Act 2018".

Tax Administration Act 1994 (1994 No 166)

In section 81(4)(fc)(iii), replace "sections 280K and 280L of the Customs and Excise Act 1996" with "sections 307 and 313 of the Customs and Excise Act 2018".

Te Urewera Act 2014 (2014 No 51)

In Schedule 4, Part 2, clause 17(1)(d), replace "section 2(1) of the Customs and Excise Act 1996" with "section 5(1) of the Customs and Excise Act 2018".

Terrorism Suppression Act 2002 (2002 No 34)

In section 47A(1)(a)(i), replace "Customs and Excise Act 1996" with "Customs and Excise Act 2018".

In section 47A(2), replace ", **the Customs**," with ", **Customs**,".

In section 47A(2), delete "or **officer**".

In section 47A(2), replace "section 2(1) of the Customs and Excise Act 1996" with "section 5(1) of the Customs and Excise Act 2018".

Terrorism Suppression Act 2002 (2002 No 34)—*continued*

In section 47C(4), replace "Section 175 of the Customs and Excise Act 1996" with "Section 264 of the Customs and Excise Act 2018".

Replace section 47C(5)(a) with:

(a) Customs and Excise Act 2018:

Trade (Anti-dumping and Countervailing Duties) Act 1988 (1988 No 158)

In section 3(1), definition of **Customs** or **the Customs**, replace "it by section 2(1) of the Customs and Excise Act 1996" with "Customs by section 5(1) of the Customs and Excise Act 2018".

In section 3(1), definition of **exporter**, replace "section 2(1) of the Customs and Excise Act 1996" with "section 5(1) of the Customs and Excise Act 2018".

In section 3(1), definition of **importer**, replace "section 2(1) of the Customs and Excise Act 1996" with "section 5(1) of the Customs and Excise Act 2018".

Repeal section 3D(2).

In section 16(1), replace "sections 156 and 157 of the Customs and Excise Act 1996" with "sections 240 and 241 of the Customs and Excise Act 2018".

In section 16(2), replace "sections 156 and 157 of the Customs and Excise Act 1996" with "sections 240 and 241 of the Customs and Excise Act 2018".

Trade in Endangered Species Act 1989 (1989 No 18)

In section 36(3)(c), replace "Customs and Excise Act 1996" with "Customs and Excise Act 2018".

Replace section 38A with:

38A Application of Customs and Excise Act 2018

Sections 210, 211, 214, 251, and 252 of the Customs and Excise Act 2018 apply in relation to the importation or exportation of any endangered, threatened, or exploited species as if the endangered, threatened, or exploited species were a prohibited import or prohibited export within the meaning of that Act.

In section 39(6), definition of **Customs controlled area**, replace "section 2(1) of the Customs and Excise Act 1996" with "section 5(1) of the Customs and Excise Act 2018".

Trade Marks Act 2002 (2002 No 49)

In section 135, definition of **chief executive**, replace "section 2(1) of the Customs and Excise Act 1996" with "section 5(1) of the Customs and Excise Act 2018".

In section 135, definition of **control of the Customs**, replace "has the same meaning as in section 20 of the Customs and Excise Act 1996" with "is to be read in accordance with the definition of subject to the control of Customs in section 6 of the Customs and Excise Act 2018".

Trade Marks Act 2002 (2002 No 49)—*continued*

In section 135, definition of **Customs officer**, replace "section 2(1) of the Customs and Excise Act 1996" with "section 5(1) of the Customs and Excise Act 2018".

Replace section 155B(2)(d)(iv) with:

> (iv) if the person is a registered user of a registered user system (within the meaning of section 322 of the Customs and Excise Act 2018), transmitting it by electronic means to the person in accordance with the normal procedure of operation of the registered user system in relation to that person.

Replace section 155C(2)(d)(iv) with:

> (iv) if the person is a registered user of a registered user system (within the meaning of section 322 of the Customs and Excise Act 2018), transmitting it by electronic means to the person in accordance with the normal procedure of operation of the registered user system in relation to that person.

Trade (Safeguard Measures) Act 2014 (2014 No 66)

In section 5, definition of **import**, replace "section 2(1) of the Customs and Excise Act 1996" with "section 5(1) of the Customs and Excise Act 2018".

In section 18(c), replace "Customs and Excise Act 1996" with "Customs and Excise Act 2018".

Trans-Tasman Mutual Recognition Act 1997 (1997 No 60)

In Schedule 1, Category 1, replace the item relating to the Customs and Excise Act 1996 with:

Customs and Excise Act 2018	
	—section 95
	—any Order in Council, so far as relating to imports, made or deemed to have been made under section 96 and in force

Vulnerable Children Act 2014 (2014 No 40)

In Schedule 2, clause 6, replace "section 209(1A) of the Customs and Excise Act 1996" with "section 390 of the Customs and Excise Act 2018".

Wheat Industry Research Levies Act 1989 (1989 No 64)

In section 2, definition of **importer**, replace "section 2(1) of the Customs and Excise Act 1996" with "section 5(1) of the Customs and Excise Act 2018".

Wildlife Act 1953 (1953 No 31)

Replace section 56A with:

Wildlife Act 1953 (1953 No 31)—*continued*

56A Application of Customs and Excise Act 2018

Sections 210, 211, 214, 251, and 252 of the Customs and Excise Act 2018 apply in relation to the exportation of any absolutely protected or partially protected wildlife or any item of absolutely protected or partially protected wildlife as if that wildlife or item of wildlife were a prohibited export within the meaning of that Act.

Wine Act 2003 (2003 No 114)

In section 113A(2), replace "uses the JBMS" with "uses a JBMS".

Replace section 113A(3)(b) with:

(b) may be set out in rules under section 325 of the Customs and Excise Act 2018.

In section 113B(2)(a), replace "the JBMS" with "a JBMS".

Part 4
Consequential amendments to instruments

Accident Compensation (Motor Vehicle Account Levies) Regulations 2017 (LI 2017/71)

In regulation 3, definition of **motor spirits**, replace "section 79A(2) of the Customs and Excise Act 1996" with "clause 23(3) of Schedule 3 of the Customs and Excise Act 2018".

Biosecurity (Border Processing Levy) Order 2015 (LI 2015/259)

In clause 10(4)(a), replace "section 21(2)(a)(ii) of the Customs and Excise Act 1996, provides to the Customs any advance notice required under section 21(1)(a) of that Act" with "section 12(4)(b) of the Customs and Excise Act 2018, provides to Customs any advance notice required under section 12(1) of that Act".

Biosecurity (System Entry Levy) Order 2010 (SR 2010/137)

In clause 3(1), definition of **importation**, replace "section 2(1) of the Customs and Excise Act 1996" with "section 5(1) of the Customs and Excise Act 2018".

In clause 3(1), definition of **importer**, replace "section 2(1) of the Customs and Excise Act 1996" with "section 5(1) of the Customs and Excise Act 2018".

In clause 3(1), definition of **Joint Border Management System**, replace "section 131A of the Customs and Excise Act 1996" with "section 302(4) of the Customs and Excise Act 2018".

In clause 4(1), replace "the Joint" with "a Joint".

In clause 7(1)(b)(i), replace "section 39 of the Customs and Excise Act 1996" with "section 75 of the Customs and Excise Act 2018".

Climate Change (Agriculture Sector) Regulations 2010 (SR 2010/335)

In regulation 3, definition of **customs point**, replace "import under section 39 or export under section 49 of the Customs and Excise Act 1996" with "import under section 75 or export under section 89 of the Customs and Excise Act 2018".

Climate Change (Liquid Fossil Fuels) Regulations 2008 (SR 2008/356)

In regulation 3(1), definition of **Excise and Excise-equivalent Duties Table**, replace "section 76A of the Customs and Excise Act 1996" with "section 5(1) of the Customs and Excise Act 2018".

In regulation 3(1), definition of **removed for home consumption**, replace "section 72 of the Customs and Excise Act 1996" with "clause 3 of Schedule 3 of the Customs and Excise Act 2018".

In regulation 5(1), replace "Customs and Excise Act 1996" with "Customs and Excise Act 2018".

Climate Change (Other Removal Activities) Regulations 2009 (SR 2009/284)

In regulation 3(1), definition of **customs point**, replace "section 49 of the Customs and Excise Act 1996" with "section 89 of the Customs and Excise Act 2018".

Climate Change (Stationary Energy and Industrial Processes) Regulations 2009 (SR 2009/285)

In regulation 3(1), definition of **customs point**, replace "section 39" with "section 75".

In regulation 3(1), definition of **customs point**, replace "section 49 of the Customs and Excise Act 1996" with "section 89 of the Customs and Excise Act 2018".

Climate Change (Synthetic Greenhouse Gas Levies) Regulations 2013 (SR 2013/46)

In regulation 13(a)(i), replace "Customs and Excise Act 1996" with "Customs and Excise Act 2018".

Cultural Property (Protection in Armed Conflict) (Forms) Regulations 2013 (SR 2013/194)

In the Schedule, form 1, replace "*Section 227, Customs and Excise Act 1996,*" with "*Section 181, Customs and Excise Act 2018*,".

In the Schedule, form 1, paragraph 1, replace "section 226 of the Customs and Excise Act 1996" with "section 178 of the Customs and Excise Act 2018".

In the Schedule, form 1, paragraph 4, replace "section 231 of the Customs and Excise Act 1996" with "section 184 of the Customs and Excise Act 2018".

In the Schedule, form 3, paragraph 5, replace "section 231 of the Customs and Excise Act 1996" with "section 184 of the Customs and Excise Act 2018".

Customs and Excise (Border Processing Levy) Order 2015 (LI 2015/262)

In clause 3, definition of **Act**, replace "Customs and Excise Act 1996" with "Customs and Excise Act 2018".

In clause 3, definition of **traveller**, replace "section 288B(1)" with "section 413(1)".

In clause 6(4), replace "exercising its powers or performing" with "carrying out".

In clause 6(4), replace "other Act" with "other enactment".

In clause 6(4), replace "section 288B(5)" with "section 413(5)".

In clause 7(4), replace "exercising its powers or performing" with "carrying out".

In clause 7(4), replace "other Act" with "other enactment".

In clause 7(4), replace "section 288B(5)" with "section 413(5)".

In clause 8(4), replace "exercising its powers or performing" with "carrying out".

In clause 8(4), replace "other Act" with "other enactment".

In clause 8(4), replace "section 288B(5)" with "section 413(5)".

In clause 9(4), replace "exercising its powers or performing" with "carrying out".

In clause 9(4), replace "other Act" with "other enactment".

In clause 9(4), replace "section 288B(5)" with "section 413(5)".

In clause 11(2), insert in their appropriate alphabetical order:

> **arrival hall** means an area licensed under section 59 of the Act for the processing of persons arriving in New Zealand
>
> **departure hall** means an area licensed under section 59 of the Act for the processing of persons departing from New Zealand

In clause 12(4)(a), replace "section 21(2)(a)(ii)" with "section 12(4)(b)".

In clause 12(4)(a), replace "section 21(1)(a)" with "section 12(1)".

In clause 12(6)(a), replace "section 34AA(b)" with "section 37(8)(b)".

In clause 12(6)(a), replace "section 34(a)" with "section 37(2)(a)".

In clause 21, replace "section 288F" with "section 417".

Customs and Excise Regulations 1996 (SR 1996/232)

In regulation 2(1), definition of **Act**, replace "Customs and Excise Act 1996" with "Customs and Excise Act 2018".

In regulation 6, replace "section 10(f)" with "section 56(1)(g)".

Revoke regulations 12 to 12D.

In regulation 13, replace "section 21(1)(a)" with "section 12(1)".

In regulation 13AA, replace "section 21A" with "section 14".

In regulation 13A(1)(a), replace "section 21A" with "section 14".

In regulation 14, replace "section 26(2)(a)" with "section 24(1)(a)".

Customs and Excise Regulations 1996 (SR 1996/232)—*continued*

In regulation 15, replace "subsections (1) and (3) of section 28 of the Act, and section 29(1) of the Act" with "sections 29(2) and (3) and 30(2) of the Act".

In regulation 16, replace "sections 33(2) and 37(1)" with "sections 35(2) and 41(1) and (2)".

In regulation 17, replace "sections 30 and 32(1)" with "sections 31(1) and 33(2)".

In regulation 17A, replace "section 34(a)" with "section 37(2)(a)".

In regulation 17B, replace "section 37A" with "section 45".

Revoke regulation 20A.

In regulation 20B, replace "section 95A" with "section 357".

In regulation 20B, replace "section 95" with "section 354".

In regulation 21, replace "section 39(1)" with "section 75(1)".

In regulation 21(d), replace "executive in rules made under section 288(1)(d)" with "executive's rules made for the purposes of section 75(1)(a)".

In regulation 22, replace "section 39(4)(b)" with "section 75(7)".

In regulation 23, replace "section 39(1)" with "section 75(1)".

In regulation 23(a), after "JBMS", insert "(as defined in section 302(4) of the Act)".

In regulation 24, replace "section 39(1)" with "section 75(1)".

In regulation 24(a), after "JBMS", insert "(as defined in section 302(4) of the Act)".

In regulation 24A(1)(a), replace "section 39(1)" with "section 75(1)".

In regulation 24A(1)(d), replace "section 116(1)" with "section 136(1)".

In regulation 24A(5)(a), replace "section 155A" with "section 239".

In regulation 25, replace "section 39(1)" with "section 75(1)".

In regulation 25(h)(iii), replace "section 47(1)(c)" with "section 85(1)(b)".

In regulation 25(ha), replace "section 48A(2)" with "section 87(2) of the Act".

In regulation 26(1), replace "section 39(1)" with "section 75(1)".

Revoke regulation 27.

In regulation 27A, replace "section 48A(2)" with "section 87(2)".

In regulation 28, replace "to which section 49(1)" with "to which section 89(1)".

In regulation 28, replace "section 49(1)(b)" with "section 89(1)(b)".

In regulation 28A(1), replace "section 49(1)" with "section 89(1)".

In regulation 28A(4), replace "section 42" with "section 239".

In regulation 28B, replace "section 49(1)" with "section 89(1)".

In regulation 29(1), replace "section 49(1)" with "section 89(1)".

In regulation 29(1)(c)(i), replace "section 10(b)" with "section 56(1)(b)".

Customs and Excise Regulations 1996 (SR 1996/232)—*continued*

In regulation 29(1)(g)(i)(A), replace "section 116" with "section 136".

In regulation 29(1)(ga), replace "section 48A(2)" with "section 87(2)".

In regulation 29(1)(j)(i), replace "section 10(b)" with "section 56(1)(b)".

In regulation 29A(2)(a), replace "section 37A" with "section 45".

Revoke regulation 30.

In regulation 31, replace "section 63(2)" with "section 104(3)".

In regulation 32, definition of **adjusted value**, replace "Schedule 2" with "Schedule 4".

In regulation 32, definition of **Annex G**, replace "the Act" with "the Customs and Excise Act 1996".

In regulation 41(1)(b), replace "the Act" with "the Customs and Excise Act 1996".

In regulation 50(1)(a), replace "clause 3(1)(a)(iii) of Schedule 2" with "clause 7(b)(iii) of Schedule 4".

In regulation 51E(1)(a)(i), replace "clause 3(1)(a)(iii) of Schedule 2" with "clause 7(b)(iii) of Schedule 4".

In regulation 51F, definition of **CIF**, replace "Schedule 2" with "Schedule 4".

In regulation 51F, definition of **FOB**, replace "Schedule 2" with "Schedule 4".

In regulation 51G(1)(b)(i), replace "the Act" with "the Customs and Excise Act 1996".

In regulation 51L(2), replace "clause 2 of Schedule 2" with "Part 1 of Schedule 4".

In regulation 51N, definition of **CIF**, replace "Schedule 2" with "Schedule 4".

In regulation 51N, definition of **FOB**, replace "Schedule 2" with "Schedule 4".

In regulation 51N, definition of **transaction value**, replace "clauses 2 and 3 of Schedule 2" with "Part 1 of Schedule 4".

In regulation 51N, definition of **value**, replace "Schedule 2" with "Schedule 4".

In regulation 51O(1)(c)(i), replace "the Act" with "the Customs and Excise Act 1996".

In regulation 51P(2), replace "clause 2 or clause 3 of Schedule 2" with "Part 1 of Schedule 4".

In regulation 51P(2), replace "clauses 3 to 8" with "Parts 2 to 6".

In regulation 51Z, definition of **CIF**, replace "Schedule 2" with "Schedule 4".

In regulation 51Z, definition of **FOB**, replace "Schedule 2" with "Schedule 4".

In regulation 51ZA(a)(iii)(D), replace "the Act" with "the Customs and Excise Act 1996".

In regulation 51ZM, definition of **AANZFTA**, replace "has the meaning given in section 64A(4) of the Act" with "means the Agreement Establishing the ASEAN–

Customs and Excise Regulations 1996 (SR 1996/232)—*continued*

Australia–New Zealand Free Trade Area done at Cha-am, Phetchaburi, Thailand on 27 February 2009".

In regulation 51ZM, definition of **CIF** or **CIF value**, replace "Schedule 2" with "Schedule 4".

In regulation 51ZM, definition of **FOB** or **FOB value**, replace "Schedule 2" with "Schedule 4".

In regulation 51ZM, definition of **product specific rule**, replace "the Act" with "the Customs and Excise Act 1996".

In regulation 51ZZ(1)(b), replace "the Act" with "the Customs and Excise Act 1996".

In regulation 51ZZB(b), replace "the Act" with "the Customs and Excise Act 1996".

In regulation 51ZZD(b), replace "the Act" with "the Customs and Excise Act 1996".

In regulation 52(1), replace "section 70" with "section 81".

In regulation 52(1), replace "section 70(1A)(a) or (b)" with "section 81(4)(a) or (b)".

Replace regulation 52A(1)(c) with:

> (c) the specified alcoholic products were taken into that Customs controlled area in the circumstances referred to in clause 3(2)(a) of Schedule 3 of the Act; and

In regulation 52A(1)(d), replace "section 10(a)" with "section 56(1)(a)".

Revoke regulation 53.

In regulation 54, replace "of excisable goods" with "under section 81 of the Act".

In regulation 54(a), after "JBMS", insert "(as defined in section 302(4) of the Act)".

In regulation 55, replace "of excisable goods" with "under section 81 of the Act".

In regulation 55(a), after "JBMS", insert "(as defined in section 302(4) of the Act)".

Revoke regulation 56.

In regulation 57(1), replace "section 76(4)" with "clause 5(a) of Schedule 3".

In regulation 58, replace "section 70" with "section 81".

In regulation 58, replace "section 85(2)" with "section 108(2)".

In regulation 59(1), replace "section 95" with "section 354".

In regulation 59(3), replace "either or both of the purposes described in section 10(c) and 10(e)" with "1 or more of the purposes described in section 56(1)(c), (e), and (f)".

In regulation 59(6), replace "section 95" with "section 354".

In regulation 60(1), replace "section 113(1)(a)" with "section 145(1)(a)".

In regulation 61, replace "section 113(1)(a)" with "section 145(1)(a)".

In regulation 62, replace "section 113(1)(a)" with "section 145(1)(a)".

In regulation 62(a), replace "section 10(b)" with "section 56(1)(b)".

Customs and Excise Regulations 1996 (SR 1996/232)—*continued*

In regulation 62(b), replace "section 60" with "section 101".

In regulation 63(1), replace "section 113(1)(b)" with "section 145(1)(b)".

In regulation 64, replace "section 113(1)(c)" with "section 145(1)(c)".

In regulation 64A(1), replace "section 113(1)" with "section 145(1)".

In regulation 64A(1), replace "section 117" with "section 147".

In regulation 66, replace "section 116(2)" with "section 136(2)".

In regulation 67, replace "section 117(1)(c)" with "section 147(1)(c)".

In regulation 68(1)(b), replace "excisable" with "Part A".

In regulation 73, replace "section 120(2)" with "section 336(2)".

In regulation 73(a), replace "section 119(1)(c)" with "section 333(1)(c)".

In regulation 75(1), replace "section 147(2)" with "section 201(2)".

In regulation 75(2), replace "section 147(2)(c)" with "section 201(2)(b)".

In regulation 76(1), replace "section 151" with "section 227".

In regulation 76(3), replace "Parts 12 and 14" with "subpart 9 of Part 3 and Part 4".

In regulation 77, replace "section 156" with "section 240".

Revoke regulation 78A.

In regulation 80, replace "section 227(1)" with "section 181(1)".

In regulation 81A(1), replace "section 251" with "clause 8 of Schedule 8".

Replace regulation 84 with:

84 Form of declaration

For the purposes of section 428(1)(c) of the Act, a declaration must be in form 15 unless otherwise prescribed by these regulations.

In regulation 87(2), replace "Schedule 2" with "Schedule 4".

In regulation 88(1), replace "Part 12" with "Part 4".

In regulation 88(2), replace "section 145, 151, 155 to 159, or 163" with "section 205, 227, 228, 238 to 241, 255, 260, or 262".

In regulation 88(3), replace "Part 12" with "Part 4".

In Schedule 1, replace "section 10(c)" with "section 56(1)(c)".

In Schedule 1, replace "section 10(b)" with "section 56(1)(b)" in each place.

In Schedule 2, form 2, replace "*Section 12, Customs and Excise Act 1996*" with "*Section 59, Customs and Excise Act 2018*".

In Schedule 2, form 2, replace "section 12 of the Customs and Excise Act 1996" with "section 59 of the Customs and Excise Act 2018".

Customs and Excise Regulations 1996 (SR 1996/232)—*continued*

In Schedule 2, form 2, replace "*section 10 of the Customs and Excise Act 1996*" with "*section 56 of the Customs and Excise Act 2018*".

In Schedule 2, form 2, note, replace "Section 13 of the Customs and Excise Act 1996" with "Section 63 of the Customs and Excise Act 2018".

In Schedule 2, form 2B, replace "*Sections 12 and 19C, Customs and Excise Act 1996*" with "*Sections 59 and 277, Customs and Excise Act 2018*".

In Schedule 2, form 2B, replace "section 12 and section 19C of the Customs and Excise Act 1996" with "sections 59 and 277 of the Customs and Excise Act 2018".

In Schedule 2, form 2B, note, replace "Section 13 of the Customs and Excise Act 1996" with "Section 63 of the Customs and Excise Act 2018".

In Schedule 2, form 2B, note, replace "section 19D(1)" with "section 278(1)".

In Schedule 2, form 3A, item relating to privacy information, replace "Customs and Excise Act 1996" with "Customs and Excise Act 2018".

In Schedule 2, form 4A, item relating to privacy information, replace "Customs and Excise Act 1996" with "Customs and Excise Act 2018".

In Schedule 2, form 5A, item relating to privacy information, replace "Customs and Excise Act 1996" with "Customs and Excise Act 2018".

In Schedule 2, form 8, replace "*Section 63, Customs and Excise Act 1996*" with "*Section 104, Customs and Excise Act 2018*".

In Schedule 2, form 8, replace "section 63(1) of the Customs and Excise Act 1996" with "section 104(1) of the Customs and Excise Act 2018".

In Schedule 2, form 10, replace "*Section 147, Customs and Excise Act 1996*" with "*Section 201, Customs and Excise Act 2018*".

In Schedule 2, form 10, under the heading "***Privacy Act 1993***", replace "Customs and Excise Act 1996" with "Customs and Excise Act 2018".

In Schedule 2, revoke form 11A.

In Schedule 2, form 13 heading, replace "Customs and Excise Act 1996" with "Customs and Excise Act 2018".

In Schedule 2, form 13, replace "*Section 227, Customs and Excise Act 1996*" with "*Section 181, Customs and Excise Act 2018*".

In Schedule 2, form 13, replace "section 225" with "section 176".

In Schedule 2, form 14, replace "*Section 254, Customs and Excise Act 1996*" with "*Clause 11 of Schedule 8, Customs and Excise Act 2018*".

In Schedule 2, form 15 heading, replace "Customs and Excise Act 1996" with "Customs and Excise Act 2018".

Customs and Excise (Specified AANZFTA Parties) Order 2009 (SR 2009/352)

In clause 3, replace "the Customs and Excise Act 1996" with "section 435 of the Customs and Excise Act 2018".

Diplomatic Privileges (International Criminal Court) Order 2004 (SR 2004/79)

In clause 3, definition of **duty**, replace "section 2(1) of the Customs and Excise Act 1996" with "section 5(1) of the Customs and Excise Act 2018".

In clause 13(2), replace "Customs and Excise Act 1996" with "Customs and Excise Act 2018".

Excise and Excise-Equivalent Duties Exemption (Inter-Governmental Agreements) Order 1996 (SR 1996/234)

In clause 2, replace "Part 7 of the Customs and Excise Act 1996" with "Part 2 of the Customs and Excise Act 2018".

In the Schedule, replace "section 76A of the Customs and Excise Act 1996" with "section 5(1) of the Customs and Excise Act 2018".

In the Schedule, replace "section 2(1) of the Customs and Excise Act 1996" with "section 5(1) of the Customs and Excise Act 2018".

Excise and Excise-Equivalent Duties (Flavour Bases) Modification Order 2000 (SR 2000/198)

After clause 2, insert:

2A Interpretation

In this order, **Excise and Excise-equivalent Duties Table** has the meaning given to it in section 5(1) of the Customs and Excise Act 2018.

In clause 3(1), replace "Schedule 3 of the Customs and Excise Act 1996" with "the Excise and Excise-equivalent Duties Table".

In clause 3(2), replace "Schedule 3 of the Customs and Excise Act 1996" with "the Excise and Excise-equivalent Duties Table".

In clause 4(1), replace "Schedule 3 of the Customs and Excise Act 1996" with "the Excise and Excise-equivalent Duties Table".

In clause 4(2), replace "Schedule 3 of the Customs and Excise Act 1996" with "the Excise and Excise-equivalent Duties Table".

Fisheries (Recordkeeping) Regulations 1990 (SR 1990/219)

In regulation 18, replace "Customs Act 1966" with "Customs and Excise Act 2018".

Food Regulations 2015 (LI 2015/310)

In regulation 127(1)(a), replace "the Joint" with "a Joint".

Health (Quarantine) Regulations 1983 (SR 1983/52)

In regulation 2, definition of **port**, replace paragraph (a) with:

(a) a port designated as a Customs port under section 55 of the Customs and Excise Act 2018; and

Imports and Exports (Living Modified Organisms) Prohibition Order 2005 (SR 2005/12)

In clause 3, definition of **craft**, replace "section 2(1) of the Customs and Excise Act 1996" with "section 5(1) of the Customs and Excise Act 2018".

In clause 3, definition of **shipment**, replace "section 2(1) of the Customs and Excise Act 1996" with "section 5(1) of the Customs and Excise Act 2018".

Land Transport (Road User) Rule 2004 (SR 2004/427)

In clause 8.5(1)(ab)(i), replace "section 2(1) of the Customs and Excise Act 1996" with "section 5(1) of the Customs and Excise Act 2018".

In clause 8.5(1)(ab)(i), replace "section 144" with "section 231".

Maritime Levies Regulations 2016 (LI 2016/106)

In regulation 3, definition of **New Zealand port**, paragraph (a), replace "section 9 of the Customs and Excise Act 1996" with "section 55 of the Customs and Excise Act 2018".

New Zealand Customs Service Medal Regulations 2008 (SR 2008/76)

In regulation 3, replace "Customs and Excise Act 1996" with "Customs and Excise Act 2018".

Ozone Layer Protection Regulations 1996 (SR 1996/222)

In regulation 2, definition of **exportation**, replace "section 2 of the Customs and Excise Act 1996" with "section 5(1) of the Customs and Excise Act 2018".

In regulation 2, definition of **importation**, replace "section 2 of the Customs and Excise Act 1996" with "section 5(1) of the Customs and Excise Act 2018".

Product Safety Standards (Cigarette Lighters) Regulations 1998 (SR 1998/451)

In regulation 2(1), definition of **customs value**, replace "Schedule 2 of the Customs and Excise Act 1996" with "Schedule 4 of the Customs and Excise Act 2018".

United Nations (Iran—Joint Comprehensive Plan of Action) Regulations 2016 (LI 2016/9)

In regulation 4(1), definition of **certificate of clearance**, replace "Customs and Excise Act 1996" with "Customs and Excise Act 2018".

In regulation 4(1), definition of **craft**, replace "Customs and Excise Act 1996" with "Customs and Excise Act 2018".

United Nations (Iran—Joint Comprehensive Plan of Action) Regulations 2016 (LI 2016/9)—*continued*

In regulation 4(1), replace the definition of **Customs and Excise Act 1996** with:

> **Customs and Excise Act 2018** includes any regulations made under that Act in relation to prohibited imports or exports

In regulation 4(1), definition of **Customs officer**, replace "section 2(1) of the Customs and Excise Act 1996" with "section 5(1) of the Customs and Excise Act 2018".

In regulation 4(1), definition of **the Customs**, replace "has the same meaning as in section 2(1) of the Customs and Excise Act 1996" with "has the same meaning as Customs in section 5(1) of the Customs and Excise Act 2018".

Replace regulation 8 with:

8 Application of Customs and Excise Act 2018

(1) The provisions of the Customs and Excise Act 2018 (except sections 182, 183, 186(b)(ii), 188(1)(b), 188(2), 189(2), 388, and 389 and clauses 1(3)(b) and 4(2)(b) of Schedule 5) apply in relation to nuclear-related material, equipment, or technology that is to be exported to Iran in restricted circumstances, as if it were goods the exportation of which is prohibited under section 96 of that Act.

(2) The Comptroller of Customs must give any nuclear-related material, equipment, or technology to which the Crown has title as forfeited goods to a person authorised in writing by the Secretary of Foreign Affairs and Trade to receive the goods (instead of disposing of the goods under section 189(2) of the Customs and Excise Act 2018).

Replace regulation 17 with:

17 Application of Customs and Excise Act 2018

(1) The provisions of the Customs and Excise Act 2018 (except sections 182, 183, 186(b)(ii), 188(1)(b), 188(2), 189(2), 388, and 389 and clauses 1(3)(b) and 4(2)(b) of Schedule 5) apply in relation to ballistic missile-related technology that is—

(a) to be exported to Iran in restricted circumstances, as if the technology were goods the exportation of which is prohibited under section 96 of that Act:

(b) imported to New Zealand from Iran without the importation having been approved in advance by the Security Council, as if the technology were goods the importation of which is prohibited under section 96 of that Act.

(2) The Comptroller of Customs must give any ballistic missile-related technology to which the Crown has title as forfeited goods to a person authorised in writing by the Secretary of Foreign Affairs and Trade to receive the goods (instead of disposing of the goods under section 189(2) of the Customs and Excise Act 2018).

United Nations (Iran—Joint Comprehensive Plan of Action) Regulations 2016 (LI 2016/9)—*continued*

Replace regulation 25 with:

25 Application of Customs and Excise Act 2018

(1) The provisions of the Customs and Excise Act 2018 (except sections 182, 183, 186(b)(ii), 188(1)(b), 188(2), 189(2), 388, and 389 and clauses 1(3)(b) and 4(2)(b) of Schedule 5) apply in relation to—

(a) specified military equipment that is to be exported to Iran, or for use in or for the benefit of Iran, without the exportation having been approved in advance by the Security Council, as if the equipment were goods the exportation of which is prohibited under section 96 of that Act; and

(b) arms imported from Iran without the importation having been approved in advance by the Security Council, as if the arms were goods the importation of which is prohibited under section 96 of that Act.

(2) The Comptroller of Customs must give any arms to which the Crown has title as forfeited goods to a person authorised in writing by the Secretary of Foreign Affairs and Trade to receive the arms (instead of disposing of the arms under section 189(2) of the Customs and Excise Act 2018).

United Nations (Iraq) Reconstruction Regulations 2003 (SR 2003/217)

In the cross-heading above regulation 11, replace "*Customs and Excise Act 1996*" with "*Customs and Excise Act 2018*".

Replace regulation 12 with:

12 Application of Customs and Excise Act 2018 to items of cultural property

(1) All the provisions of the Customs and Excise Act 2018 (except sections 186(b)(ii), 188(1)(b), 188(2), 189(2), 388, and 389 and clauses 1(3)(b), 4(2)(b), and 6 of Schedule 5) apply to goods whose importation is prohibited by regulation 11(1) as if the importation of the goods were prohibited under section 96 of that Act.

(2) All the provisions of the Customs and Excise Act 2018 (except sections 186(b)(ii), 188(1)(b), 188(2), 189(2), 388, and 389 and clauses 1(3)(b), 4(2)(b), and 6 of Schedule 5) apply to goods whose exportation is prohibited by regulation 11(2) as if the exportation of the goods were prohibited under section 96 of that Act.

(3) Despite subclauses (1) and (2), if any item of cultural property to which regulation 4(a) or (b) applies is property in which the Crown has title as forfeited goods, the item must—

(a) not be disposed of under section 189(2) of the Customs and Excise Act 2018; but

United Nations (Iraq) Reconstruction Regulations 2003 (SR 2003/217)—*continued*

(b) instead be given by the chief executive of Customs to a person authorised in writing to receive it by the Secretary of Foreign Affairs and Trade.

United Nations Sanctions (Al-Qaida and Taliban) Regulations 2007 (SR 2007/356)

In regulation 3(1), revoke the definitions of **Customs** or **the Customs** and **Customs officer**.

In regulation 3(1), insert in their appropriate alphabetical order:

Customs or **the Customs** has the same meaning as Customs in section 5(1) of the Customs and Excise Act 2018

Customs officer has the same meaning as in section 5(1) of the Customs and Excise Act 2018

Replace regulation 5 with:

5 Customs and Excise Act 2018 to apply to prohibited exports

All provisions of the Customs and Excise Act 2018 with respect to prohibited exports (except sections 388 and 389) apply to goods whose exportation is prohibited by regulation 4 as if the exportation of the goods were prohibited under section 96 of that Act.

Replace regulation 16 with:

16 Customs and Excise Act 2018 not affected

These regulations do not affect the operation of the Customs and Excise Act 2018.

United Nations Sanctions (Central African Republic) Regulations 2014 (LI 2014/147)

In regulation 3(1), revoke the definitions of **Customs officer** and **the Customs**.

In regulation 3(1), insert in their appropriate alphabetical order:

Customs officer has the same meaning as in section 5(1) of the Customs and Excise Act 2018

the Customs has the same meaning as Customs in section 5(1) of the Customs and Excise Act 2018

Replace regulation 5 with:

5 Customs and Excise Act 2018 to apply to prohibited exports

All provisions of the Customs and Excise Act 2018 and of any regulations made under that Act with respect to prohibited exports (except sections 388

United Nations Sanctions (Central African Republic) Regulations 2014 (LI 2014/147)—*continued*

and 389) apply to goods whose exportation is prohibited by regulation 4 as if the exportation of the goods were prohibited under section 96 of that Act.

Replace regulation 20 with:

20 Customs and Excise Act 2018 not affected

These regulations do not affect the operation of the Customs and Excise Act 2018.

United Nations Sanctions (Côte d'Ivoire) Regulations 2005 (SR 2005/339)

In regulation 3(1), revoke the definitions of **Customs** or **the Customs** and **Customs officer**.

In regulation 3(1), insert in their appropriate alphabetical order:

Customs or **the Customs** has the same meaning as Customs in section 5(1) of the Customs and Excise Act 2018

Customs officer has the same meaning as in section 5(1) of the Customs and Excise Act 2018

Replace regulation 5 with:

5 Customs and Excise Act 2018 to apply to prohibited exports

All provisions of the Customs and Excise Act 2018 with respect to prohibited exports (except sections 388 and 389) apply to goods whose exportation is prohibited by regulation 4 as if the exportation of the goods were prohibited under section 96 of that Act.

Replace regulation 12B with:

12B Application of Customs and Excise Act 2018 to prohibited imports

The provisions of the Customs and Excise Act 2018 with respect to prohibited imports (except sections 388 and 389) apply to diamonds whose importation is prohibited by regulation 12A as if the importation of the diamonds were prohibited by section 96 of the Customs and Excise Act 2018.

In regulation 12C(5), replace "section 229 of the Customs and Excise Act 1996" with "section 182 of the Customs and Excise Act 2018".

Replace regulation 18 with:

18 Customs and Excise Act 2018 not affected

These regulations do not affect the operation of the Customs and Excise Act 2018.

United Nations Sanctions (Democratic People's Republic of Korea) Regulations 2017 (LI 2017/74)

In regulation 3(1), definition of **craft**, replace "section 2(1) of the Customs and Excise Act 1996" with "section 5(1) of the Customs and Excise Act 2018".

Replace regulation 8 with:

8 Arms: application of Customs and Excise Act 2018

The provisions of the Customs and Excise Act 2018 (except sections 388 and 389) apply in relation to arms that are—

(a) imported to New Zealand from DPRK as if the arms were goods the importation of which is prohibited under section 96 of that Act:

(b) intended to be exported to DPRK, or are intended for use in, or for the benefit of, DPRK, as if the arms were goods the exportation of which is prohibited under section 96 of that Act.

Replace regulation 15 with:

15 Luxury goods: application of Customs and Excise Act 2018

The provisions of the Customs and Excise Act 2018 (except sections 388 and 389) apply in relation to luxury goods that are intended to be exported to DPRK, or are intended for use in, or for the benefit of, DPRK, as if the goods were goods the exportation of which is prohibited under section 96 of that Act.

Replace regulation 21 with:

21 Restricted item: application of Customs and Excise Act 2018

The provisions of the Customs and Excise Act 2018 (except sections 388 and 389) apply in relation to a restricted item as if the restricted item were goods the importation of which is prohibited under section 96 of that Act.

Replace regulation 34A with:

34A Specified petroleum product: application of Customs and Excise Act 2018

The provisions of the Customs and Excise Act 2018 (except sections 388 and 389) apply in relation to a specified petroleum product as if the specified petroleum product were goods the exportation of which is prohibited under section 96 of that Act if the specified petroleum product is intended—

(a) to be exported to DPRK; or

(b) for use in DPRK; or

(c) for the benefit of DPRK.

United Nations Sanctions (Democratic Republic of the Congo) Regulations 2004 (SR 2004/465)

In regulation 3, revoke the definitions of **Customs** or **the Customs** and **Customs officer**.

United Nations Sanctions (Democratic Republic of the Congo) Regulations 2004 (SR 2004/465)—*continued*

In regulation 3, insert in their appropriate alphabetical order:

> **Customs** or **the Customs** has the same meaning as Customs in section 5(1) of the Customs and Excise Act 2018
>
> **Customs officer** has the same meaning as in section 5(1) of the Customs and Excise Act 2018

Replace regulation 5 with:

> **5 Customs and Excise Act 2018 to apply to prohibited exports**
>
> All provisions of the Customs and Excise Act 2018 with respect to prohibited exports (except sections 388 and 389) apply to goods whose exportation is prohibited by regulation 4 as if the exportation of the goods were prohibited under section 96 of that Act.

Replace regulation 16 with:

> **16 Customs and Excise Act 2018 not affected**
>
> These regulations do not affect the operation of the Customs and Excise Act 2018.

United Nations Sanctions (Eritrea) Regulations 2010 (SR 2010/96)

In regulation 3(1), revoke the definitions of **Customs** or **the Customs** and **Customs officer**.

In regulation 3(1), insert in their appropriate alphabetical order:

> **Customs** or **the Customs** has the same meaning as Customs in section 5(1) of the Customs and Excise Act 2018
>
> **Customs officer** has the same meaning as in section 5(1) of the Customs and Excise Act 2018

Replace regulation 5 with:

> **5 Customs and Excise Act 2018 to apply to prohibited exports**
>
> All provisions of the Customs and Excise Act 2018 with respect to prohibited exports (except sections 388 and 389) apply to arms whose exportation is prohibited by regulation 4 as if the exportation of the arms were prohibited under section 96 of that Act.

Replace regulation 19 with:

> **19 Customs and Excise Act 2018 not affected**
>
> These regulations do not affect the operation of the Customs and Excise Act 2018.

United Nations Sanctions (Iraq) Regulations 1991 (SR 1991/92)

In regulation 2(1), revoke the definitions of **Customs** or **the Customs**, **Customs officer**, and **chief executive**.

In regulation 2(1), insert in their appropriate alphabetical order:

> **chief executive** has the same meaning as in section 5(1) of the Customs and Excise Act 2018
>
> **Customs** or **the Customs** has the same meaning as Customs in section 5(1) of the Customs and Excise Act 2018
>
> **Customs officer** has the same meaning as in section 5(1) of the Customs and Excise Act 2018

In regulation 2(1), definition of **importer**, replace "Customs and Excise Act 1996" with "Customs and Excise Act 2018".

Replace regulation 7 with:

> **7 Application of Customs and Excise Act 2018 to prohibited exports**
>
> All the provisions of the Customs and Excise Act 2018 with respect to prohibited exports (except sections 388 and 389) apply to specified goods whose exportation is prohibited by regulation 6 as if the exportation of the specified goods were prohibited under section 96 of the Customs and Excise Act 2018.

Replace regulation 25 with:

> **25 Customs and Excise Act 2018 not affected**
>
> These regulations do not limit or affect the operation of the Customs and Excise Act 2018.

United Nations Sanctions (Kimberley Process) Regulations 2004 (SR 2004/463)

In regulation 3, revoke the definitions of **Customs** or **the Customs** and **Customs officer**.

In regulation 3, insert in their appropriate alphabetical order:

> **Customs** or **the Customs** has the same meaning as Customs in section 5(1) of the Customs and Excise Act 2018
>
> **Customs officer** has the same meaning as in section 5(1) of the Customs and Excise Act 2018

Replace regulation 7 with:

> **7 Application of Customs and Excise Act 2018 to prohibited imports and prohibited exports**
>
> (1) The provisions of the Customs and Excise Act 2018 with respect to prohibited imports (except sections 388 and 389) apply to diamonds whose importation is prohibited by regulation 4 as if the importation of the diamonds were prohibited under section 96 of the Customs and Excise Act 2018.

United Nations Sanctions (Kimberley Process) Regulations 2004 (SR 2004/463)—*continued*

(2) The provisions of the Customs and Excise Act 2018 with respect to prohibited exports (except sections 388 and 389) apply to diamonds whose exportation is prohibited by regulation 5 as if the exportation of the diamonds were prohibited under section 96 of the Customs and Excise Act 2018.

United Nations Sanctions (Lebanon) Regulations 2008 (SR 2008/262)

In regulation 3(1), revoke the definitions of **the Customs** and **Customs officer**.

In regulation 3(1), insert in their appropriate alphabetical order:

Customs officer has the same meaning as in section 5(1) of the Customs and Excise Act 2018

the Customs has the same meaning as Customs in section 5(1) of the Customs and Excise Act 2018

Replace regulation 5 with:

5 Customs and Excise Act 2018 to apply to prohibited exports

All provisions of the Customs and Excise Act 2018 with respect to prohibited exports (except sections 388 and 389) apply to goods whose exportation is prohibited by regulation 4 as if the exportation of the goods were prohibited under section 96 of that Act.

Replace regulation 20 with:

20 Customs and Excise Act 2018 not affected

These regulations do not affect the operation of the Customs and Excise Act 2018.

United Nations Sanctions (Liberia) Regulations 2001 (SR 2001/134)

In regulation 3(1), revoke the definitions of **Customs** or **the Customs** and **Customs officer**.

In regulation 3(1), insert in their appropriate alphabetical order:

Customs or **the Customs** has the same meaning as Customs in section 5(1) of the Customs and Excise Act 2018

Customs officer has the same meaning as in section 5(1) of the Customs and Excise Act 2018

Replace regulation 5 with:

5 Customs and Excise Act 2018 to apply to prohibited exports

All provisions of the Customs and Excise Act 2018 with respect to prohibited exports (except sections 388 and 389) apply to arms whose exportation is prohibited by regulation 4 as if the exportation of the arms were prohibited under section 96 of that Act.

United Nations Sanctions (Liberia) Regulations 2001 (SR 2001/134)—*continued*

Replace regulation 19 with:

19 Customs and Excise Act 2018 not affected

These regulations do not affect the Customs and Excise Act 2018.

United Nations Sanctions (Libya) Regulations 2011 (SR 2011/77)

In regulation 3, revoke the definitions of **Customs** or **the Customs** and **Customs officer**.

In regulation 3, insert in their appropriate alphabetical order:

Customs or **the Customs** has the same meaning as Customs in section 5(1) of the Customs and Excise Act 2018

Customs officer has the same meaning as in section 5(1) of the Customs and Excise Act 2018

Replace regulation 6 with:

6 Customs and Excise Act 2018 to apply to prohibited exports and imports

(1) All provisions of the Customs and Excise Act 2018 and of any regulations made under that Act with respect to prohibited exports (except sections 388 and 389) apply to goods whose exportation is prohibited by regulation 4 as if the exportation of the goods were prohibited under section 96 of that Act.

(2) All provisions of the Customs and Excise Act 2018 and of any regulations made under that Act with respect to prohibited imports (except sections 388 and 389) apply to goods whose importation is prohibited by regulation 5 as if the importation of the goods were prohibited under section 96 of that Act.

Replace regulation 23 with:

23 Customs and Excise Act 2018 not affected

These regulations do not affect the operation of the Customs and Excise Act 2018.

United Nations Sanctions (Somalia) Regulations 1992 (SR 1992/42)

In regulation 2(1), revoke the definitions of **Customs** or **the Customs**, and **Customs officer**.

In regulation 2(1), insert in their appropriate alphabetical order:

Customs or **the Customs** has the same meaning as Customs in section 5(1) of the Customs and Excise Act 2018

Customs officer has the same meaning as in section 5(1) of the Customs and Excise Act 2018

Replace regulation 4 with:

United Nations Sanctions (Somalia) Regulations 1992 (SR 1992/42)—*continued*

4 Application of Customs and Excise Act 2018 to prohibited exports

All the provisions of the Customs and Excise Act 2018 with respect to prohibited exports (except sections 388 and 389) apply to goods whose exportation is prohibited by regulation 3 as if the exportation of the goods were prohibited under section 96 of the Customs and Excise Act 2018.

Replace regulation 13 with:

13 Customs and Excise Act 2018 not affected

These regulations do not limit or affect the operation of the Customs and Excise Act 2018.

United Nations (Syrian Cultural Property) Regulations 2015 (LI 2015/171)

In regulation 3, replace the definition of **Customs and Excise Act 1996** with:

Customs and Excise Act 2018 includes any regulations made under that Act with respect to prohibited imports or exports

Replace regulation 7 with:

7 Application of Customs and Excise Act 2018

(1) The provisions of the Customs and Excise Act 2018 (except sections 182, 186(b)(ii), 188(1)(b), 188(2), 189(2), 388, and 389, and clauses 1(3)(b), 4(2)(b), and 6 of Schedule 5) apply in relation to specified cultural property as if the property were goods—

(a) the importation of which is prohibited under section 96 of that Act; and

(b) the exportation of which is prohibited under section 96 of that Act.

(2) The Comptroller of Customs must give any specified cultural property to which the Crown has title as forfeited goods to a person authorised in writing by the Secretary of Foreign Affairs and Trade to receive the property (instead of disposing of the property under section 189(2) of the Customs and Excise Act 2018).

United Nations Sanctions (Sudan) Regulations 2004 (SR 2004/466)

In regulation 3, revoke the definitions of **Customs** or **the Customs** and **Customs officer**.

In regulation 3, insert in their appropriate alphabetical order:

Customs or **the Customs** has the same meaning as Customs in section 5(1) of the Customs and Excise Act 2018

Customs officer has the same meaning as in section 5(1) of the Customs and Excise Act 2018

Replace regulation 5 with:

United Nations Sanctions (Sudan) Regulations 2004 (SR 2004/466)—*continued*

5 Customs and Excise Act 2018 to apply to prohibited exports

All provisions of the Customs and Excise Act 2018 with respect to prohibited exports (except sections 388 and 389) apply to goods whose exportation is prohibited by regulation 4 as if the exportation of the goods were prohibited under section 96 of that Act.

Replace regulation 16 with:

16 Customs and Excise Act 2018 not affected

These regulations do not affect the operation of the Customs and Excise Act 2018.

United Nations Sanctions (Yemen) Regulations 2014 (LI 2014/148)

In regulation 3(1), definition of **certificate of clearance**, replace "Customs and Excise Act 1996" with "Customs and Excise Act 2018".

In regulation 3(1), definition of **craft**, replace "section 2(1) of the Customs and Excise Act 1996" with "section 5(1) of the Customs and Excise Act 2018".

In regulation 3(1), replace the definition of **Customs and Excise Act 1996** with:

Customs and Excise Act 2018 includes any regulations made under that Act with respect to prohibited exports

In regulation 3(1), definition of **Customs officer**, replace "section 2(1) of the Customs and Excise Act 1996" with "section 5(1) of the Customs and Excise Act 2018".

In regulation 3(1), definition of **the Customs**, replace "has the meaning given to it by section 2(1) of the Customs and Excise Act 1996" with "has the same meaning as Customs in section 5(1) of the Customs and Excise Act 2018".

Replace regulation 3D with:

3D Application of Customs and Excise Act 2018

(1) The provisions of the Customs and Excise Act 2018 (except sections 186(b)(ii), 188(1)(b), 188(2), 189(2), 388, and 389, and clauses 1(3)(b), 4(2)(b), and 6 of Schedule 5) apply to arms whose exportation is prohibited by regulation 3A as if they were goods the exportation of which is prohibited under section 96 of that Act.

(2) The Comptroller of Customs must give any of those arms to which the Crown has title as forfeited goods to a person authorised in writing by the Secretary of Foreign Affairs to receive the arms (instead of disposing of the arms under section 189(2) of the Customs and Excise Act 2018).

Notes

1 General

This is a consolidation of the Customs and Excise Act 2018 that incorporates the amendments made to the legislation so that it shows the law as at its stated date.

2 Legal status

A consolidation is taken to correctly state, as at its stated date, the law enacted or made by the legislation consolidated and by the amendments. This presumption applies unless the contrary is shown.

Section 78 of the Legislation Act 2019 provides that this consolidation, published as an electronic version, is an official version. A printed version of legislation that is produced directly from this official electronic version is also an official version.

3 Editorial and format changes

The Parliamentary Counsel Office makes editorial and format changes to consolidations using the powers under subpart 2 of Part 3 of the Legislation Act 2019. See also PCO editorial conventions for consolidations.

4 Amendments incorporated in this consolidation

United Arab Emirates Comprehensive Economic Partnership Agreement Legislation Amendment Act 2025 (2025 No 37): Part 2 subpart 1

Customs and Excise (Arrival Information) Amendment Act 2023 (2023 No 21)

Civil Aviation Act 2023 (2023 No 10): section 486

Statutes Amendment Act 2022 (2022 No 75): Part 12

Data and Statistics Act 2022 (2022 No 39): section 107(1)

Pae Ora (Healthy Futures) Act 2022 (2022 No 30): section 104

Customs and Excise (Tobacco Products) Amendment Act 2022 (2022 No 28): Part 1

Maritime Powers Act 2022 (2022 No 23): sections 50–52

Regional Comprehensive Economic Partnership (RCEP) Legislation Act 2021 (2021 No 40): Part 1

Counter-Terrorism Legislation Act 2021 (2021 No 37): section 57

Reserve Bank of New Zealand Act 2021 (2021 No 31): section 300(1)

Secondary Legislation Act 2021 (2021 No 7): section 3

Public Service Act 2020 (2020 No 40): section 135

Education and Training Act 2020 (2020 No 38): section 668

Privacy Act 2020 (2020 No 31): sections 190, 217

Customs and Excise (Tobacco) Amendment Act 2020 (2020 No 16): Part 1

COVID-19 Response (Further Management Measures) Legislation Act 2020 (2020 No 13): section 3

Legislation (Repeals and Amendments) Act 2019 (2019 No 59): section 4

Tribunals Powers and Procedures Legislation Act 2018 (2018 No 51): Part 1 subpart 3

Maritime Powers Extension Act 2018 (2018 No 38): Part 1 subpart 1; Part 2 subpart 1

Social Security Act 2018 (2018 No 32): section 459

Statutes Amendment Act 2018 (2018 No 27): section 42

Customs and Excise Act 2018 Commencement Order 2018 (LI 2018/148)

Customs and Excise Act 2018 (2018 No 4): Schedule 1 clauses 8(3), 33

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