

CUSTOMS AND EXCISE ACTS 1996/2018 COMPARISON GUIDE



NEW ZEALAND
CUSTOMS SERVICE
TE MANA ĀRAI O AOTEAROA

Protecting
New Zealand's
Border

PURPOSE

This guide quickly and simply shows the comparisons between the Customs and Excise Act 1996 and the Customs and Excise Act 2018. It is a reference document and it does not provide substantial comments on the changes made, rather just general comments on the more significant changes to the legislation.

The guide should be read together with the legislation – Customs and Excise Act 2018.

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INTRODUCTION

In 2013, the Government began a review to address concerns about the Customs and Excise Act 1996. The Act was too prescriptive, difficult to understand and apply, and created unnecessary compliance costs. It had also been extensively amended since 1996 with over 20 Customs and Excise Amendment Acts.

The objectives behind reviewing Customs legislation included:

- balancing the protection of the nation with individuals' rights
- providing transparent and easy-to-use legislation
- enabling businesses and Customs to quickly adopt future changes in technology and business practice
- improving assurance over the collection of revenue
- supporting economic growth by making it easier for traders to do business
- facilitating greater information-sharing between Customs and other agencies.

Most of the provisions in the new Act have been carried over from the 1996 Act, but the content and structure have been modernised. The Customs and Excise Act 1996 was divided into 18 parts with 11 schedules appended to it. The new Act has only six parts but some of those are further divided into a total of 23 subparts, and includes nine schedules (which also contain parts).

The table on the right shows how the new legislation is structured, compared to the 1996 Act.

You can read the Customs and Excise Act 2018 on the New Zealand legislation website.

Click here to read this.

CUSTOMS AND EXCISE ACT 1996

Part 1	Administration
Part 2	Customs places, Customs controlled areas, and Customs-approved areas for storing exports
Part 3	Arrival and departure of goods, persons, and craft
Part 3A	Customs access to and use of information about border-crossing goods, persons, and craft
Part 4	Entry and accounting for goods
Part 5	Prohibited imports and prohibited exports
Part 6	Duties
Part 7	Excise and excise-equivalent duties
Part 8	Assessment and recovery of duty
Part 9	Customs rulings
Part 10	Administrative penalties
Part 11	Joint Border Management System (JBMS)
Part 12	Powers of Customs officers
Part 13	Offences and penalties
Part 14	Forfeiture and seizure
Part 15	Evidence
Part 16	Customs Appeal Authorities
Part 17	Miscellaneous provisions
Schedule 1AA	Transitional and savings provisions relating to amendments to this Act
Schedule 1	Prohibited imports
Schedule 2	Valuation of goods for the purposes of the Tariff
Schedule 3	Excise and excise-equivalent duties [Repealed]
Schedule 4	Valuation of goods for the purposes of excise
Schedule 5	Acts amended
Schedule 6	Regulations amended
Schedule 7	Enactments repealed
Schedule 8	Regulations, orders, and notices revoked

CUSTOMS AND EXCISE ACT 2018

Part 1	Preliminary provisions
Part 2	Excise duty and excise-equivalent duty
Part 3	Entry and exit of goods, persons, and craft
<i>Subpart 1</i>	<i>Arrival and departure of goods, persons, and craft</i>
<i>Subpart 2</i>	<i>Customs places and Customs-controlled areas</i>
<i>Subpart 3</i>	<i>Entry and accounting for goods</i>
<i>Subpart 4</i>	<i>Prohibited imports and prohibited exports</i>
<i>Subpart 5</i>	<i>Import duties</i>
<i>Subpart 6</i>	<i>Excise duty and excise-equivalent duty credits</i>
<i>Subpart 7</i>	<i>Assessment, payment, and recovery of duty</i>
<i>Subpart 8</i>	<i>Interest and penalties for late or incorrect payments of duty, incorrect refunds of duty, and drawback incorrectly allowed</i>
<i>Subpart 8</i>	<i>Forfeiture, seizure and condemnation</i>
Part 4	Customs powers
Part 5	Administrative provisions
<i>Subpart 1</i>	<i>Organisation of Customs</i>
<i>Subpart 2</i>	<i>Exports</i>
<i>Subpart 3</i>	<i>Administrative penalties</i>
<i>Subpart 4</i>	<i>Automated electronic systems</i>
<i>Subpart 5</i>	<i>General provisions about information (including joint border management)</i>
<i>Subpart 6</i>	<i>Disclosure of information</i>
<i>Subpart 7</i>	<i>Registered user systems</i>
<i>Subpart 8</i>	<i>Customs rulings</i>
<i>Subpart 9</i>	<i>Administrative reviews</i>
<i>Subpart 10</i>	<i>Customs Appeal Authorities</i>
Part 6	Final and miscellaneous provisions
<i>Subpart 1</i>	<i>Records</i>
<i>Subpart 2</i>	<i>Offences</i>

CUSTOMS AND EXCISE ACT 1996

Schedule 9	Tariff items removed from Tariff [Repealed]
Schedule 10	Substituted Tariff items [Repealed]

CUSTOMS AND EXCISE ACT 2018

<i>Subpart 3</i>	<i>Regulations, orders, rules, etc.</i>
<i>Subpart 4</i>	<i>Miscellaneous provisions</i>
Schedule 1	Transitional, savings, and related provisions
<i>Part 1</i>	<i>Provisions relating to Act as enacted</i>
Schedule 2	Application of Act to Defence Force
Schedule 3	Excise duty and excise-equivalent duty
<i>Part 1</i>	<i>Excise Duty</i>
<i>Part 2</i>	<i>Excise-equivalent duty</i>
<i>Part 3</i>	<i>Excise duty and Excise-equivalent Duties Table</i>
<i>Part 4</i>	<i>International organisations based in New Zealand, etc.</i>
<i>Part 5</i>	<i>Amendments to be made to Excise and Excise-equivalent Duties Table as in force under Customs and Excise Act 1996</i>
Schedule 4	Valuation of goods for purposes of Tariff
<i>Part 1</i>	<i>Method 1: transaction value</i>
<i>Part 2</i>	<i>Method 2: transaction value of identical goods</i>
<i>Part 3</i>	<i>Method 3: transaction value of similar goods</i>
<i>Part 4</i>	<i>Method 4: deductive value</i>
<i>Part 5</i>	<i>Method 5: computed value</i>
<i>Part 6</i>	<i>Method 6: residual basis of valuation</i>
Schedule 5	Review of seizure of goods
Schedule 6	Customs-approved secure exports schemes
Schedule 7	Administrative reviews
Schedule 8	Customs Appeal Authorities
<i>Part 1</i>	<i>Appointments and administrative matters</i>
<i>Part 2</i>	<i>Appeals and cases stated</i>
Schedule 9	Consequential repeal, revocations, and amendments
<i>Part 1</i>	<i>Consequential appeal of Act</i>
<i>Part 2</i>	<i>Consequential revocations of instruments</i>
<i>Part 3</i>	<i>Consequential amendments to Acts</i>
<i>Part 4</i>	<i>Consequential amendments to instruments</i>

HOW TO USE THIS GUIDE

This guide uses the Customs and Excise Act 1996 as the primary reference point. The left column lists each section and schedule sequentially as they appear in the 1996 Act.

It makes reference to the comparable and relevant sections of the 2018 Act in the right column and provides some general comment about any significant changes. These are not sequential, but some new sections have been included as they appear in the order of the new Act eg. section 3: Purposes of Act and section 4: Overview of Act.

Where there are no comments, there have been no significant changes apart from some modernisation of the language, or a change to the structure of the section. In these cases, the intent and effect of the legislation have stayed the same.

This guide does not go into detail such as sub-section references. As a result, some sections have multiple references where the section in the 1996 Act has been split into two or more sections in the 2018 Act. Some of these extra references might be as simple as a new definition in section 5 (Definitions for Act) of the 2018 Act.

There are a number of sections in the 1996 Act that are no longer relevant purely because they relate to the administrative and transitional arrangements that were provided to implement the 1996 Act.

NOTE: This guide has used the Customs and Excise Act 1996 as at 1 September 2017. This includes the latest amendments made by the Enhancing Identity Verification and Border Processes Legislation Act 2017.

This guide will be updated as further amendments to the Act are made.

▶ COMPARISON GUIDE

CUSTOMS AND EXCISE ACT 1996

SECTION	HEADING
1	Short Title and commencement
2	Interpretation
3	Act to bind the Crown
3A	Transitional and savings provisions relating to amendments to this Act

CUSTOMS AND EXCISE ACT 2018

SECTION	HEADING
1	Title
2	Commencement
3	Purposes of Act
4	Overview of Act
5	Definitions for Act
10	Act binds the Crown
9	Transitional, savings, and related provisions;
Sch 1	Transitional, savings, and related provisions
Sch 1 cl 1	Definitions for Part, etc
Sch 1 cl 2	Goods subject to the control of Customs
Sch 1 cl 3	Arrival and departure of craft
Sch 1 cl 4	Customs places
Sch 1 cl 5	Licensing of Customs-controlled areas and CASEs
Sch 1 cl 6	Annual limit on manufacture of tobacco for personal use
Sch 1 cl 7	Prohibition orders
Sch 1 cl 8	Prohibited imports: goods prohibited under Schedule 1 of 1996 Act
Sch 1 cl 9	Duty in respect of goods imported or manufactured before specified date
Sch 1 cl 10	Entries made before specified date for goods imported on or after specified date

COMMENTS ON ANY SIGNIFICANT CHANGE

Sections are separated to conform to the current style of legislation.

A new section which explains the intent of the new legislation and the purpose of repealing the 1996 Act.

This substantial section provides a guide to the six Parts of the Act.

Covers the definitions from the previous Act as well as the many consequential amendments containing definitions, and includes, among others, the definitions of “biometric information” and “removed for home consumption”.

There are also over 90 separate sections and clauses throughout the 2018 Act that contain definitions, meanings and interpretation.

Section 9 introduces Schedule 1, which contains Transitional, savings, and related provisions. Clause 37 of Schedule 1 confers a time-limited power on the Governor-General to make further transitional and savings provisions by Order in Council.

New Schedule 1 relating to transitional and savings provisions for enactment.

Customs-approved areas for storing exports (CASEs)

CUSTOMS AND EXCISE ACT 1996

SECTION HEADING

CUSTOMS AND EXCISE ACT 2018

SECTION HEADING

COMMENTS ON ANY SIGNIFICANT CHANGE

Sch 1 cl 11 Deferred period for payment for imported goods

Sch 1 cl 12 Exports

Sch 1 cl 13 Refunds and remissions of interest and penalties

Sch 1 cl 14 Forfeiture, seizure, and condemnation

Sch 1 cl 15 Customs powers

Sch 1 cl 16 Customs officers and authorised persons

Sch 1 cl 17 Administrative penalties

Sch 1 cl 18 Automated electronic systems

Sch 1 cl 19 Customs' general powers for using information, etc

Sch 1 cl 20 Disclosure of information

Sch 1 cl 21 Registered user systems

Sch 1 cl 22 Customs rulings

Sch 1 cl 23 Customs Appeal Authorities

Sch 1 cl 24 Keeping of records

Sch 1 cl 25 Filing of charging document

Sch 1 cl 26 Other liabilities under 1996 Act

Sch 1 cl 27 Customs and Excise Regulations 1996

Sch 1 cl 28 Border processing levy

Sch 1 cl 29 Chief executive's rules

Sch 1 cl 30 Certificates of origin

Sch 1 cl 31 Excise and excise-equivalent duty: provisions relating to refunds, etc, to cover duty levied under 1996 Act

CUSTOMS AND EXCISE ACT 1996

SECTION HEADING

CUSTOMS AND EXCISE ACT 2018

SECTION HEADING

COMMENTS ON ANY SIGNIFICANT CHANGE

SECTION	HEADING	SECTION	HEADING	COMMENTS ON ANY SIGNIFICANT CHANGE
		Sch 1 cl 32	Excise and excise-equivalent duty: suspension and modification of rates of duty	
		Sch 1 cl 33	Excise and excise-equivalent duty: repeal of clauses 21(5) and 22 of Schedule 3	
		Sch 1 cl 34	Excise and excise-equivalent duty: international organisations	
		Sch 1 cl 35	Excise and excise-equivalent duty: application of Part 5 of Schedule 3	
		Sch 1 cl 36	Part 4 of Schedule 9 not to limit powers to amend or revoke	
		Sch 1 cl 37	Power to make transitional and savings provisions	
4	Application of Act in certain cases	8	Application of Act to foreign Government ships;	
		Sch 2 cl 1	Requirements relating to arrival and departure of craft and persons;	
		Sch 2 cl 2	Customs powers;	
		Sch 1 cl 33	Excise and excise-equivalent duty: repeal of clauses 21(5) and 22 of Schedule 3	
5	New Zealand Customs Service	268	New Zealand Customs Service;	
		269	Comptroller of Customs;	
		Sch 1 cl 33	Excise and excise-equivalent duty: repeal of clauses 21(5) and 22 of Schedule 3	
6	Authorised persons	271	Authorised persons: individual authorisations	No specific change but includes an amendment to the Arms Act 1983 to allow members of the New Zealand Defence Force or the Police to be armed when exercising any power or performing any function under the new Act. Includes groups of persons (Defence Force or Police) who have been authorised as below.
		272	Authorised persons: class authorisations	New provision that will enable a group of persons to exercise the powers of a Customs officer eg. crew of a Royal New Zealand Navy vessel. An authorisation under this section does not need to identify the individuals who are covered by the authorisation.
7	Identity cards	273	Identity cards	
8	Customs flag	274	Customs flag	
9	Customs places	55	Designation of Customs places	

CUSTOMS AND EXCISE ACT 1996

SECTION	HEADING
10	Customs controlled areas
11	Application for licence
12	Grant or refusal of licence
13	Variation or revocation of conditions
14	Revocation or suspension of licence
15	Surrender of licence
16	Closing of Customs controlled area
17	Liabilities not affected by ceasing to act as licensee
18	Customs facilities in Customs controlled areas
19	Storage charges
19A	Purpose of sections 19B to 19H
19B	Areas that may be licensed as CASEs
19C	Application for area to be licensed as CASE
19D	Licences for CASEs
19E	Access of Customs officers to CASEs
19F	Examination of goods to be exported and that have been brought to CASE
19G	Detaining and searching vehicles for goods to be exported and that have been brought to CASE

CUSTOMS AND EXCISE ACT 2018

SECTION	HEADING
56	Areas required to be licensed as Customs-controlled areas;
67	Exemptions in relation to Customs-controlled areas
57	Application for licence;
58	Chief executive may request further information
59	Chief executive must determine application;
61	Grant of licence;
62	Exemption from requirement to be licensed directed by chief executive
60	Fit and proper person test
63	Variation of terms, conditions, or restrictions
64	Revocation or suspension of licence
65	Surrender of licence
66	Closing of Customs-controlled area
73	Liabilities not affected by ceasing to act as licensee
70	Customs facilities in Customs-controlled areas, etc
72	Storage charges
276	Areas that may be licensed as CASEs
277	Application for CASE licence
278	CASE licence
222	Entry to Customs-controlled areas and CASEs

COMMENTS ON ANY SIGNIFICANT CHANGE

New section that requires the chief executive to be satisfied that the applicant is a fit and proper person before the licence is granted.

Lists a number of matters for the chief executive to consider when determining whether an applicant is a fit and proper person including any matters prescribed in regulation.

Now redundant.

Now redundant as goods in a CASE are subject to the control of Customs therefore able to be examined. Originally included to avoid doubt.

Slight variation of this provision now contained in s231 (which replaces s144 of the 1996 Act).

CUSTOMS AND EXCISE ACT 1996

SECTION	HEADING
19H	Customs facilities in CASEs
20	Goods subject to control of Customs
21	Advice of arrival, etc
21A	Inward cargo report
22	Requirement to answer questions
23	Bringing-to of ship
24	Craft to arrive at nominated Customs place only
25	Craft arriving at place other than nominated Customs place
26	Inward report
27	Persons arriving in New Zealand to report to Customs officer or Police station
28	Disembarkation

CUSTOMS AND EXCISE ACT 2018

SECTION	HEADING
279	Customs facilities in CASEs, etc
6	Definition: subject to the control of Customs
12	Advance notice of arrival, etc;
17	Craft must arrive at Customs place
14	Inward cargo report
26	Requirement to answer questions and produce documents
192	Facilitation of boarding;
197	Power to order ship to leave New Zealand.
16	Application of sections 17 to 25 (Arrival of craft in New Zealand);
17	Craft must arrive at Customs place;
19	Persons leaving or boarding arriving craft before inward report made
17	Craft must arrive at Customs place;
21	Authorisation for craft to arrive at place other than Customs place;
22	Craft that have arrived at place other than Customs place;
43	Authorisation for craft to depart from place other than Customs place;
44	Craft departing from place other than Customs place
24	Inward report, etc
28	Persons arriving in New Zealand to report to Customs officer or Police station
5	Definitions for Act;
29	Disembarkation

COMMENTS ON ANY SIGNIFICANT CHANGE

Provision now excludes Section 20(2) from the 1996 Act “... goods that are removed from a Customs controlled area to another Customs controlled area are not removed for home consumption”. This prevents goods that have been duty paid to still be subject to the control of Customs in specific circumstances.

Now includes departing ships. If a craft is ordered to leave New Zealand the approval of the Chief Executive is required after being satisfied that the order is in the public interest.

CUSTOMS AND EXCISE ACT 1996

SECTION	HEADING
29	Baggage to be presented
30	Persons departing from New Zealand to depart from Customs place
31	Embarkation
32	Outgoing baggage to be presented
32A	Use of electronic communication devices prohibited in certain places
32B	Completion of processing under Immigration Act 2009 and Biosecurity Act 1993
32C	Cases requiring investigation for public health or law enforcement purposes
32D	Arrival and departure information
32E	Verification of identity using biometric information
32F	Detention of persons failing to comply with a direction under section 32E
33	Clearance of craft
34	Certificate of clearance
34AA	Advance notice of departure may be provided by, or by agent of, owner or operator of craft

CUSTOMS AND EXCISE ACT 2018

SECTION	HEADING
30	Baggage to be presented on disembarkation, etc
31	Persons departing from New Zealand to depart from Customs place
32	Embarkation
33	Outgoing baggage to be presented, etc
216	Use of electronic communication devices prohibited in certain places
5	Definitions for Act;
207	Completion of processing under Immigration Act 2009 and Biosecurity Act 1993
208	Cases requiring investigation for public health or law enforcement purposes
53	Other provision about arrival and departure information;
301	Customs' general powers for using information
203	Verification of identity using biometric information
204	Detention of persons failing to comply with direction under section 203(3)
35	Craft may not depart without certificate of clearance, etc;
37	Certificates of clearance
37	Certificates of clearance
37	Certificates of clearance

COMMENTS ON ANY SIGNIFICANT CHANGE

Extended to cover any other goods in the possession or under the control of the passenger eg. wallets, items in pockets. The provision also clarifies that where an international journey has a domestic leg (cabotage) only those passengers completing the domestic sector as part of an international journey are required to present their baggage for examination.

Extended to cover any other goods in the possession or under the control of the passenger eg. wallets, items in pockets.

Extends this power to cover places being used by persons arriving in, or departing from New Zealand that are not Customs-controlled areas or Customs places.

New provision enacted by the Enhancing Identity Verification and Border Processes Legislation Act 2017 and repeals S279 of the 1996 Act. Includes a reference to biometric information under the definition for personal information.

New provision enacted by the Enhancing Identity Verification and Border Processes Legislation Act 2017. Enables a Customs officer to request a person arriving or departing New Zealand to undertake a biometric identity check to confirm their identity.

The above new provision enacted by the Enhancing Identity Verification and Border Processes Legislation Act 2017 also includes a four-hour detention period for persons who do not comply with the request and allows for Customs to seek assistance from other specified agencies.

CUSTOMS AND EXCISE ACT 1996

SECTION	HEADING
34A	Fees and charges relating to granting certificate of clearance
35	Boarding of outward craft
36	Production of certificate of clearance
37	Departure to be from Customs place only
37A	Outward cargo report
38	Regulations relating to stores for craft
38A	Interpretation
38B	Purpose of this Part
38C	Persons to whom section 38D or section 38E applies
38D	Information about border-crossing craft
38E	Information about border-crossing persons
38F	Further provisions about giving Customs access to information under section 38D or section 38E
38G	Controls on use by Customs of information

CUSTOMS AND EXCISE ACT 2018

SECTION	HEADING
409	Regulations for recovering costs of granting certificates of clearance, etc
192	Facilitation of boarding
39	Production of certificate of clearance, etc
41	Departure only from Customs place;
43	Authorisation for craft to depart from place other than Customs place;
44	Craft departing from place other than Customs place
45	Outward cargo report
404	Regulations in relation to stores
5	Definitions for Act
47	Purposes for which powers under sections 48 and 49 may be exercised
5	Definitions for Act
48	Chief executive may require commercial transportation operator to provide craft information
49	Chief executive may require commercial transportation operator to provide PNR information
48	Chief executive may require commercial transportation operator to provide craft information;
49	Chief executive may require commercial transportation operator to provide PNR information;
50	Supplementary provision relating to requirement to provide craft or PNR information

COMMENTS ON ANY SIGNIFICANT CHANGE

Amended to make it clear that the obligation applies to both arriving and departing (section 191) marine craft.

Part 3A (Customs access to and use of information about border-crossing goods, persons, and craft) of the 1996 Act has been significantly reworked into ss 47-53 of the new Act.

Changes “person concerned in the movement of goods, persons, or craft” to “commercial transportation operator”.

Passenger name record (PNR)

The window of time in which this power can be exercised has been reduced and the chief executive must have regard to the recommended practices of the International Civil Aviation Organization (ICAO)

No longer necessary as the search and viewing warrant provisions have been removed.

CUSTOMS AND EXCISE ACT 1996

SECTION	HEADING
38H	Information about travel within 28-day period
38I	Information about other travel may be searched for information relating to travellers within 28-day period
38J	Search and viewing warrants
38K	Search and viewing without warrant in emergencies
38L	Procedure if viewing of information not authorised
38M	Security of applications for warrants
38N	Information and disclosure in section 38M(7)
38O	Disposal of information collected by Customs
38P	Protection of persons acting under authority of Part
38Q	Part does not limit other access to or use of information
39	Entry of imported goods
39A	Entry of imported goods in multiple or split shipments
40	Regulations relating to entry of imported goods
40A	Fees and charges relating to importation of goods
41	Imported goods to be dealt with according to entry
42	Cancellation and amendments of entries [Repealed]
43	Unloading goods
44	Craft imported otherwise than as cargo

CUSTOMS AND EXCISE ACT 2018

SECTION	HEADING
51	Disposal of craft or PNR information
264	Protection of persons acting under authority of Act
75	Entry of imported goods
76	Entry of imported goods in multiple or split shipments
405	Regulations in relation to entries
409	Regulations for recovering costs of granting certificates of clearance, etc
77	Imported goods to be dealt with according to entry
78	Unloading goods
75	Entry of imported goods

COMMENTS ON ANY SIGNIFICANT CHANGE

No longer necessary as the search and viewing warrant provisions have been removed.
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Except in limited circumstances the information can only be kept for 3 years.
This is now a general protection provision combining section 175 of the 1996 Act as well.
This section was for “avoidance of doubt” and doesn’t need to be replicated given the new information sharing provisions.

CUSTOMS AND EXCISE ACT 1996

SECTION HEADING

53C Chief executive may approve secure exports scheme

53D Purpose of secure exports scheme

53E Matters to be specified in secure exports scheme

53F Matters to be acknowledged in secure exports scheme

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

53H Use of Customs seals in relation to goods to be exported under Customs-approved secure exports schemes

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

53J Review of Customs-approved secure exports scheme

CUSTOMS AND EXCISE ACT 2018

SECTION HEADING

281 Customs-approved secure exports schemes;

Sch 6 cl 1 Application for scheme to be Customs-approved secure exports scheme;

Sch 6 cl 4 Chief executive must notify applicant of decision whether to approve scheme;

Sch 6 cl 5 Approval of scheme;

Sch 6 cl 6 Application to amend Customs-approved secure exports scheme;

Sch 6 cl 7 Chief executive must notify applicant of decision whether to approve amendment;

Sch 6 cl 8 Approval of amendment;

Sch 6 cl 10 Revocation of scheme's approval;

Sch 6 cl 11 Applicant or operator may appeal

281 Customs-approved secure exports schemes

Sch 6 cl 2 Details to be included in scheme

Sch 6 cl 3 Matters to be acknowledged in scheme

Sch 6 cl 12 Goods to be exported under Customs-approved secure exports scheme may be exported under drawback

Sch 6 cl 13 Use of Customs-approved export seals in relation to goods to be exported under Customs-approved secure export schemes

Sch 6 cl 9 Review of Customs-approved secure exports scheme

COMMENTS ON ANY SIGNIFICANT CHANGE

Section 281 introduces Schedule 6 which specifically deals with Customs approved secure export schemes.

This was an "avoidance of doubt" provision and is not necessary in the new Act.

CUSTOMS AND EXCISE ACT 1996

SECTION HEADING

54 Prohibited imports

54A Orders are confirmable instruments

55 Duration of Orders in Council prohibiting imports

56 Prohibited exports

56A Orders are confirmable instruments

57 Duration of Orders in Council prohibiting exports

58 Production of licence or permit for goods

59 Certain terms defined in Tariff Act 1988

60 Importer to specify Customs value on entry

61 Amendment of valuation assessment

CUSTOMS AND EXCISE ACT 2018

SECTION HEADING

5 Definitions for Act;

95 Prohibition on importation and exportation of objectionable publications, other indecent or obscene articles, and goods for dishonest purpose;

96 Prohibition on other imports or exports by Order in Council;

99 Duty applies even if importation prohibited

96 Prohibition on other imports or exports by Order in Council

96 Prohibition on other imports or exports by Order in Council

5 Definitions for Act;

95 Prohibition on importation and exportation of objectionable publications, other indecent or obscene articles, and goods for dishonest purpose;

96 Prohibition on other imports or exports by Order in Council;

97 Prohibition on exports by Gazette notice: nuclear, biological, and chemical weapons, etc

96 Prohibition on other imports or exports by Order in Council

96 Prohibition on other imports or exports by Order in Council

98 Production of licence, permit, or consent for goods

5 Definitions for Act

101 Importer must specify Customs value on entry

Sch 4 Valuation of goods for purposes of Tariff

102 Provisional Customs value

103 Chief Executive may revise Customs value

COMMENTS ON ANY SIGNIFICANT CHANGE

Now enables regulation of the import and export of harmful digital goods and extends the definitions of importation and exportation. It also establishes a new common process for establishing prohibitions by Order in Council. The prohibition must be considered necessary (by the Minister) in the public interest. Prohibitions may also be conditional and allowed under the terms of a licence, permit or consent.

Now redundant given section 96. New Orders will not have a limitation period. Schedule 1 clause 7(1) provides for the transition of existing Orders.

Now enables regulation of the import and export of harmful digital goods and extends the definitions of importation and exportation. It also establishes a new common process for establishing prohibitions by Order in Council. The prohibition must be considered necessary (by the Minister) in the public interest. Prohibitions may also be conditional and allowed under the terms of a licence, permit or consent. The process for prohibiting the export of strategic goods is changed to allow the Secretary of Foreign Affairs and Trade to partially exercise this power by Gazette notice. Schedule 1 prohibitions under the 1996 Act will need to be captured by Order in Council.

Section 96(10) confirms that an Order in Council made under this section is a confirmable instrument.

Now redundant given section 96. New Orders won't have a limitation period. Schedule 1 clause 7(1) provides for the transition of existing Orders.

A new provision that allows entries for imported goods to include a provisional Customs value in certain circumstances. The final Customs value must be provided within a time prescribed by regulations. Duty can be refunded where the final Customs value is lower than the provisional value. Includes a definition for a "binding ruling".

CUSTOMS AND EXCISE ACT 1996

SECTION	HEADING
62	Foreign currency
63	Crown's right of compulsory acquisition
64	Origin of fish or other produce of the sea
64A	New Zealand certificates of origin for goods for export to party to free trade agreement
64B	Bodies authorised to issue New Zealand certificates of origin
64C	Regulations relating to New Zealand certificates of origin and certification bodies
65	Regulations for determining country of produce or manufacture
66	Conditions precedent to entry of goods at preferential rates of duty
67	Unsubstantiated preference claims
68	Manufacture of excisable goods
68A	Exemption for tobacco manufactured for personal use
68B	Exemption for alcohol manufactured for personal use
68C	Exemption for biofuel and biofuel blends manufactured for personal use

CUSTOMS AND EXCISE ACT 2018

SECTION	HEADING
434	Foreign currency
104	Crown's right of compulsory acquisition
5	Definitions for Act;
436	Fish, etc.
435	Certificates of origin
435	Certificates of origin
435	Certificates of origin
407	Regulations for determining country of produce or manufacture
105	Entry of goods at preferential rates of duty
106	Unsubstantiated preference claims
56	Areas required to be licensed as Customs-controlled areas;
67	Exemptions in relation to Customs-controlled areas
67	Exemptions in relation to Customs-controlled areas
67	Exemptions in relation to Customs-controlled areas
67	Exemptions in relation to Customs-controlled areas

COMMENTS ON ANY SIGNIFICANT CHANGE

Amended to require Customs to publish exchange rates on its website (which is currently done by Regulation).

Amended to include fish and seafood caught or processed by a New Zealand ship and brought directly to New Zealand is treated as if it were caught and processed in New Zealand for duty purposes. Fish and seafood caught and processed by ships belonging to other countries is treated as if it were caught and processed in the country the ship belongs to. Decisions of the chief executive can be appealed to a Customs Appeal Authority within 20 working days.

New single section incorporating previous amendments to 1996 Act.

As above

As above

Section 67(5) sets an annual limit of 5 kilograms of tobacco (previously 15 kilograms).

CUSTOMS AND EXCISE ACT 1996

SECTION HEADING

69 Goods deemed to have been manufactured

70 Entry of excisable goods

71 Regulations relating to entry of excisable goods

72 Removal for home consumption

73 Excise duty on goods manufactured in manufacturing areas

74 Excise duty on goods manufactured outside manufacturing area

75 Excise-equivalent duty on imported goods

75A Accident compensation levies are additional to excise duty on motor spirits **[Repealed]**

CUSTOMS AND EXCISE ACT 2018

SECTION HEADING

5 Definitions for Act;

Sch 3 cl 3 Removal for home consumption;

Sch 3 cl 8 Compression of natural gas in compressed natural gas fuelling facility;

Sch 3 cl 9 Blending of biofuel in biofuel fuelling facility

Sch 3 cl 10 Other special rules relating to removal of motor spirits from Customs controlled areas and blending

81 Entry of Part A goods (goods specified in Part A of the Excise and Excise-equivalent Duties Table)

82 Nil returns

405 Regulations in relation to entries

Sch 3 cl 3 Removal for home consumption

Sch 3 cl 1 Excise duty levied in respect of Part A goods manufactured in New Zealand;

Sch 3 cl 4 Rate of excise duty;

Sch 3 cl 6 Excise duty not levied on alcohol manufactured in manufacturing areas for personal use

Sch 3 cl 1 Excise duty levied in respect of Part A goods manufactured in New Zealand;

Sch 3 cl 5 Time for payment of excise duty

122 Time for payment of duty on imported goods: general rule;

Sch 3 cl 14 Excise-equivalent duty levied in respect of imported goods specified in Part B of Excise and Excise-equivalent Duties Table;

Sch 3 cl 15 Rate of excise-equivalent duty

COMMENTS ON ANY SIGNIFICANT CHANGE

Adds “curing” to definition of manufacture of tobacco.

New provision for calculating duty owing on fuel as a result of blending of leftover fuels and additives at tank farms.

This is a new provision which requires licensees of Customs-controlled areas to provide a nil return in prescribed circumstances if no excisable goods have been removed for home consumption during a prescribed period.

Includes an amendment to prevent clients from seeking a refund or remission on goods that have already been released or removed from customs-control.

CUSTOMS AND EXCISE ACT 1996

SECTION HEADING

76 Excise duty a Crown debt

76A Interpretation

76B Certification of 2010 Excise and Excise-equivalent Duties Document

76C Access to Excise and Excise-equivalent Duties Table

76D Application of Legislation Act 2012

76E Judicial notice of Table

76F Evidence of Table

76G Table may be amended, and must be interpreted, as if it were an enactment

76H References to Schedule 3

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

78 Power to amend Excise and Excise-equivalent Duties Table for certain purposes

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

CUSTOMS AND EXCISE ACT 2018

SECTION HEADING

Sch 3 cl 16 Order in Council to set out Excise and Excise-equivalent Duties Tables

Sch 3 cl 28 Introduction

Sch 3 cl 29 Amendments to notes

Sch 3 cl 30 Amendments to Part A

Sch 3 cl 31 Amendments to Part B

Sch 3 cl 2 Excise duty is debt owed to the Crown;

Sch 3 cl 5 Time for payment of excise duty

Sch 3 cl 16 Order in Council to set out Excise and Excise-equivalent Duties Tables

Sch 3 cl 17 Access to Excise and Excise-equivalent Duties Table

Sch 3 cl 26 Application of Legislation Act 2012, etc

Sch 3 cl 26 Application of Legislation Act 2012, etc

Sch 3 cl 18 Evidence of documents published or made available under clause 17

Sch 3 cl 16 Order in Council to set out Excise and Excise-equivalent Duties Tables

Sch 3 cl 17 Access to Excise and Excise-equivalent Duties Table

Sch 3 cl 20 Power to suspend and modify rates of duty

Sch 3 cl 25 Powers to amend Excise and Excise-equivalent Duties Table for other limited purposes

Sch 3 cl 21 Power to change rates of duty on alcoholic products and tobacco products

COMMENTS ON ANY SIGNIFICANT CHANGE

Transitional provision to ensure that the Excise and Excise-equivalent Duties Table is the same as the one in force under the 1996 Act when the new Act commences. Includes new and revised excise items as per clauses 30 and 31 of Schedule 3.

Part 5 of Schedule 3 (Clauses 28-31) cover the transitional process that needs to be done to update the Excise and Excise-equivalent Duties Table.

Updates the Excise and Excise-equivalent Duties Table to refer to the new legislation.

The actual technical corrections to the Excise and Excise-equivalent Duties Table.

The actual technical corrections to the Excise and Excise-equivalent Duties Table.

Includes the definitions from s76A of the 1996 Act apart from “working excise and excise-equivalent duties document” which has been removed.

Now redundant

Now redundant

CUSTOMS AND EXCISE ACT 1996

SECTION HEADING

85 Duty credits

86 Duty on imported goods a Crown debt

87 Additional duty imposed

CUSTOMS AND EXCISE ACT 2018

SECTION HEADING

116 Assessment of excise-equivalent duty on goods imported for further manufacture

107 Duty credits in respect of used goods;

108 Duty credits in respect of repurchased goods

74 Goods specified in inward report to be treated as imported;

100 Duty on imported goods is debt owed to the Crown;

122 Time for payment of duty on imported goods: general rule;

123 Persons may be authorised to defer payment of duty on imported goods;

Sch 3 cl 2 Excise duty is debt owed to the Crown

109 Responsibility to protect integrity of system for assessing and collecting duty

110 Chief executive's general obligation in relation to collection of duty

154 – 174 Subpart 8 (of Part 3) Interest and penalties for late or incorrect payments of duty, incorrect refunds of duty, and drawback incorrectly allowed.

154 Interest payable for late or incorrect payments of duty in certain cases

155 Cases involving late payment of duty

156 Cases involving correction of self-assessed duty

157 Cases where no entry or amendment under section 112 made

COMMENTS ON ANY SIGNIFICANT CHANGE

This is a new section. It clarifies the means by which the chief executive may make an assessment of excise-equivalent duty payable by an importer where duty was not levied on importation on the basis the goods were imported for further manufacture, but it is suspected the goods have not been used in the manufacture of Part A goods. The decision of the chief executive in this matter may be subject to an application for an administrative review or an appeal to the Customs Appeal Authority.

This is a new section providing guidance on, but making explicit, Customs' responsibility to protect the integrity of its system for assessing and collecting revenue.

This is a new provision which creates a binding, explicit discretion in making and correcting assessments and collecting duty. The discretion is created through the qualifications on the obligation: to maximise net revenue, over time, to the extent practicable and having regard to other specified constraints.

Additional duties provision now changed to the new compensatory interest and late payment penalty system.

New provision and establishes the new compensatory interest and late payment penalty regime.

If the amount of duty assessed as payable is not paid by the due date, interest will be charged.

If duty is unpaid due to an error in the duty payer's self-assessment of duty liability when the goods are entered, interest will be charged.

If duty is unpaid due to the goods not having been entered, interest will be charged.

CUSTOMS AND EXCISE ACT 1996

SECTION HEADING

CUSTOMS AND EXCISE ACT 2018

SECTION HEADING

COMMENTS ON ANY SIGNIFICANT CHANGE

	158	Other cases involving assessments or demands by chief executive	Any other duty not covered by late payment, correction of self-assessed duty or no entry made, which was not paid in full within the required timeframe, will attract interest.
	159	Penalties payable for late payments of duty in certain cases	If the amount of duty assessed as payable is not paid by the due date, a penalty of 1% of the outstanding duty will be charged on the first day after the due date. A further penalty of 4% of any duty still outstanding will be charged on the seventh day after the due date.
	160	Cases in which penalties may be payable	Outlines the cases in which a late payment penalty can be imposed on unpaid duty: excise duty payable in the time prescribed by regulations, duty on imported goods payable on Customs' deferred payment scheme, and duty payable within a specified time.
	161	Interest payable for incorrect refunds of duty or drawback incorrectly allowed in certain cases	If a refund of duty or a drawback is paid incorrectly, the recipient will be charged daily interest from the time the refund or drawback was originally paid until it is repaid to Customs.
	162	Refunds of duty made because of error attributable to recipient, etc	If duty is incorrectly refunded because the duty payer provided incorrect information to Customs, interest will be charged.
	163	Drawback allowed because of error attributable to recipient, etc	If a drawback of duty is incorrectly allowed because the recipient provided incorrect information to Customs, interest will be charged.
	164	Statements of liability for interest and penalties	If a person owes interest or late payment penalties, the chief executive may issue them with a statement of what is owed, and how the debt will continue to accrue if the duty remains unpaid. The decision is subject to the right of appeal.
	165	Interest: remissions and refunds for emergency events	Where a specific emergency event, prescribed by regulation, prevents a person from paying their duty by the due date, they may apply to have any interest remitted or refunded. For the application to be approved, the person must have applied and paid the duty as soon as practicable, and the remission or refund must be equitable.
	166	Interest: remissions and refunds where inadvertent error by duty payer	Regulations may require that a portion of any interest charged be remitted or refunded if a self-assessment of duty was incorrect because of an inadvertent error.
	167	Penalties: remissions and refunds where reasonable excuse for late payment of duty	A late payment penalty may be remitted or refunded if an event beyond the duty payer's control, such as an accident, natural disaster or illness, prevented them from paying their duty by the duty date. To receive the remissions or refund, the duty payer must pay the duty as soon as practicable.
	168	Penalties: remissions and refunds for good payment record	A late payment penalty must be remitted if the late duty has been fully paid and the duty payer has not made any other late payments in the previous 2 years.

CUSTOMS AND EXCISE ACT 1996

SECTION HEADING

88 Assessment of duty

CUSTOMS AND EXCISE ACT 2018

SECTION HEADING

169 Interest and penalties: remissions and refunds if
duty determined not to be payable, etc

170 Interest and penalties: remissions and refunds
if consistent with collection of highest net
revenue over time

171 Interest and penalties: remissions and refunds
in prescribed circumstances

172 Power to apply refunds towards payment
of other amounts payable

173 Administrative reviews and appeals in respect
of decisions not to remit or refund

174 Interest and penalties are debt due
to Crown, etc

111 Entry is assessment of duty by importer
or licensee;

113 Chief executive may assess duty where
no entry made

112 Importer to amend assessment that includes
provisional Customs value

COMMENTS ON ANY SIGNIFICANT CHANGE

If an administrative review, appeal or other legal proceedings determine that duty should not have been charged, any interest or late payment penalty charged on that duty must be refunded or remitted.

Likewise, if an administrative review, appeal or other legal proceedings determine that a duty refund or drawback, treated as incorrect, was in fact made correctly, any interest charged on the refund or drawback must be refunded or remitted.

Interest and late payment penalties may be remitted or refunded if it is consistent with the chief executive's obligation to secure the collection of the highest net revenue over time. The duty payer's financial position must not be taken into account, and any remission or refund must take into account the importance of promoting compliance.

Regulations may be made to prescribe further circumstances where interest and/or late payment penalties must be remitted or refunded. The Minister must be satisfied the regulations would not undermine the promotion of compliance.

If interest or a late payment penalty are to be refunded, the chief executive has the discretion to apply the refund to any other amount that the person is required to pay to Customs.

If a duty payer is dissatisfied with a decision not to remit or refund interest and/or a late payment penalty, they can either apply for an administrative review or appeal to the Customs Appeal Authority.

Provides that: interest and late payment penalties are a debt due to the Crown and recoverable through the courts; interest and late payment penalties are owed by the persons who owe the core duty or the recipient of the refund or drawback; payment may be applied towards interest and late payment penalties before the core debt; obligation to pay interest and late payment penalties is not suspended by appeal; and regulations may prescribe an amount below which interest and penalties need not be collected.

Decision of the chief executive in this matter may be subject to an application for an administrative review or an appeal to the Customs Appeal Authority.

This is a new section and requires importers who are using the new provisional valuation process to provide a final value for their goods within the prescribed timeframe.

CUSTOMS AND EXCISE ACT 1996

SECTION	HEADING
89	Amendment of assessment
90	Due date for payment of duty
91	Assessment presumed to be correct
92	Obligation to pay duty not suspended by appeal
93	Chief executive to pay interest on duty refunded on appeal
94	Limitation of time for amendment of assessments
95	Keeping of business records
95A	Giving Customs access to business records
96	Meaning of related
97	Duty a charge on goods
98	Application of section 99
99	Rights and duties of chief executive in recovery of duty
100	Application of section 101
101	Ranking of duty
102	Release of goods subject to duty
103	Liability for duty on goods wrongfully removed or missing

CUSTOMS AND EXCISE ACT 2018

SECTION	HEADING
117	Amendment of assessments
124	Other times for payment of duty
119	Assessment to be taken to be correct;
126	Chief executive may allow release of goods where appeal, etc, lodged
127	Obligation to pay duty not suspended by appeal, etc
128	Chief executive to pay interest on duty refunded on appeal, etc
118	Limitation of time for amendment of assessments
354	Keeping of records
355	Application to keep records outside New Zealand
357	Giving Customs access to records
131	Related persons for purposes of section 130(5)
129	Duty is charge on goods;
130	Possession of goods if person claims to be purchaser for value without knowledge
133	Rights and duties of chief executive in relation to unpaid duty
133	Rights and duties of chief executive in relation to unpaid duty
134	Ranking of duty
134	Ranking of duty;
135	Release of goods subject to duty
138	Liability for duty on goods wrongfully removed or missing

COMMENTS ON ANY SIGNIFICANT CHANGE

Decision of the chief executive in this matter may be subject to an application for an administrative review or an appeal to the Customs Appeal Authority.

Includes a provision to enable authorised people to store records outside New Zealand, including in the cloud.

New section. As above, a person may apply to the chief executive to store records at a place outside New Zealand. The chief executive may authorise such an application subject to any terms, conditions or restrictions.

Decision of the chief executive in this matter may be subject to an application for an administrative review or an appeal to the Customs Appeal Authority.

CUSTOMS AND EXCISE ACT 1996

SECTION	HEADING
104	Liability of owners of craft for duty on goods unlawfully landed
105	Effect of payment of duty by one person on liability of other persons
106	Incidence of altered duties
107	Assessment of duty in particular cases
108	Goods from the Cook Islands and Niue
109	Reimportation of goods exported
110	Importer, etc, leaving New Zealand
111	Chief executive may refund duty paid in error
112	Refunds of duty on goods under Part 2 of Tariff
113	Other refunds and remissions of duty
114	Power to apply refunds towards payment of other duties
115	Recovery of duty refunded in error
116	Goods temporarily imported
117	Drawbacks of duty on certain goods
118	Regulations may prescribe minimum duty collectable, value of goods below which duty need not be collected, minimum duty refundable, and minimum drawback allowable

CUSTOMS AND EXCISE ACT 2018

SECTION	HEADING
139	Liability of owners of craft for duty on goods unlawfully landed
140	Effect of payment of duty by one person on liability of other persons
141	Incidence of altered duties
120	Duty to be proportionate;
121	Duty on alcoholic beverages
153	Goods from Cook Islands and Niue
151	Reimportation of goods exported
125	Importer, etc, leaving New Zealand
142	Chief executive may refund duty paid in error
143	Refunds of duty related to provisional Customs value
144	Refunds of duty on goods under Part 2 of Tariff
145	Other refunds and remissions of duty
146	Power to apply refunds towards payment of other duties
150	Recovery of refunds, etc made in error
136	Goods temporarily imported
137	Goods temporarily imported for manufacturing, etc
147	Drawbacks of duty on certain goods;
148	Where drawback has been allowed
149	Minimum amounts of refunds and drawback;
406	Regulations in relation to collection of duty

COMMENTS ON ANY SIGNIFICANT CHANGE

Decision of the chief executive in this matter may be subject to an application for an administrative review or an appeal to the Customs Appeal Authority.

This is a new section that applies when importers use the new provisional valuation process. If the final value of the goods is less than the provisional value, Customs must refund the difference in duty payable.

This new provision makes it explicit that goods can be temporarily imported and conditionally relieved of duty, for manufacture processing or repair, and subsequently exported in an altered state.

CUSTOMS AND EXCISE ACT 1996

SECTION HEADING

119 Application for Customs ruling

120 Making of Customs ruling

121 Notice of Customs ruling

122 Effect of Customs ruling

123 Confirmation of basis of Customs ruling

124 Amendment of Customs ruling

125 Cessation of Customs ruling

126 Appeal from decisions of chief executive

127 No liability where Customs ruling relied on

128 Definitions for Part

128A Imposition of penalty

128B Calculation of amount of penalty

CUSTOMS AND EXCISE ACT 2018

SECTION HEADING

152 Outward processing

333 Application for Customs ruling;

334 Time when application may be made;

335 Making application

336 Making of Customs ruling;

337 When chief executive may decline to make ruling

338 Notice of Customs ruling

339 Effect of Customs ruling

340 Confirmation of basis of Customs ruling

341 Amendment of Customs ruling;

342 Effect of amendment to Customs ruling

343 Cessation of Customs ruling, etc

344 Appeal from decisions of chief executive

345 No liability where Customs ruling relied on

346 Publication of Customs rulings

284 Definitions for subpart (administrative penalties)

285 Imposition of penalty;

286 When penalty must be paid;

291 Administrative review of, or appeal against, decision to issue penalty notice;

293 General rules about penalties

287 Calculation of amount of penalty

COMMENTS ON ANY SIGNIFICANT CHANGE

This is a new provision. It makes explicit that goods that have been exported for repair or refurbishment and then reimported in substantially the same condition (except for the repair or refurbishment), may be readmitted at the amount of duty payable on the costs of the repair or refurbishment.

New provision enabling Customs to publish a ruling if the chief executive considers it is in the public interest. Also includes that Customs must publish a ruling if required under an international agreement to which New Zealand is a party.

Extends administrative penalties to include exports. Also includes a definition of a “materially incorrect” error or omission for an excise entry and an export entry.

Significant rewrite of Administrative penalties contained in Part 5, Subpart 3 of the new Act (sections 284 – 294)

Reduces administrative penalties for lower level offending.

CUSTOMS AND EXCISE ACT 1996

SECTION	HEADING
128C	Additional penalty may be imposed
128D	Right of appeal to Customs Appeal Authority
129	Obligation to pay penalty not suspended by review or appeal
130	No penalty in certain cases
131	Access generally restricted to registered users
131A	Joint Border Management System (JBMS) defined
132	Application to be registered JBMS user
132A	Chief executive must determine application
132B	Border-related offence, dishonesty offence, and drugs offence defined
133	Assignment, use, and security of unique user identifier
134	Use of unique user identifier presumed secure
134A	Conditions on registration of registered users
134B	Border information supplied using JBMS must be supplied in approved form and manner
134C	Duty to use JBMS to supply border information to Customs

CUSTOMS AND EXCISE ACT 2018

SECTION	HEADING
289	Late payment of penalty: further penalties payable
290	Further penalty may be remitted or refunded
291	Administrative review of, or appeal against, decision to issue penalty notice;
292	Administrative review of, or appeal against, decision to refuse to remit or refund further penalty
294	Obligation to pay penalty not suspended by review or appeal
288	No penalty in certain cases
324	Access generally restricted to registered users
302	Joint border management;
322	Registered user systems for electronic provision of documents
323	Registration of users of registered user systems
323	Registration of users of registered user systems
326	Assignment, use, and security of unique user identifier
327	Use of unique user identifier presumed secure
328	Regulations in relation to access
323	Registration of users of registered user systems
325	Documents provided using registered user system must be provided in prescribed way
325	Documents provided using registered user system must be provided in prescribed way

COMMENTS ON ANY SIGNIFICANT CHANGE

This has been significantly amended to align any further penalties that may be payable to the new and comprehensive compensatory interest and late payment penalty system.

Provides for a review of the decision or appeal to the Customs Appeal Authority.

Enables suspension or cancellation of access in exceptional circumstances and allows for regulations to prescribe conditions that may be imposed.

This is being migrated to regulations as part of a move to put more of the 1996 Act's Part 11 into regulations.

New section which introduces that regulations may be made to regulate access to Customs' registered user systems.

CUSTOMS AND EXCISE ACT 1996

SECTION	HEADING
135	Cancellation or suspension of registration
136	Customs must keep records of transmissions
137	Patrols and surveillance
138	Landing or mooring of Customs craft
139	Boarding craft
140	Searching of craft
141	Securing goods on craft
142	Firing on ship
143	Detention of craft
144	Searching vehicles
145	Questioning persons about goods and debt
145A	Questioning persons about identity, address, travel movements and entitlement, and other matters
146	Questioning employees of airlines, shipping companies, owners or operators of certain vehicles, etc
147	Evidence of identity and entitlement to travel
147A	Evidence of answers to questions under section 145A

CUSTOMS AND EXCISE ACT 2018

SECTION	HEADING
323	Registration of users of registered user systems
332	Customs must keep records of transmissions to or from registered user systems
224	Patrols, etc to detect offences
190	Exercise of powers in contiguous zone
5	Definitions for Act;
261	Landing or mooring of Customs craft
191	Boarding and searching craft;
194	Stationing Customs officers on board craft
191	Boarding and searching craft
195	Securing goods on craft
196	Firing on ship
199	Detention of craft suspected to be involved in offences or smuggling migrants;
200	Offences in relation to detained craft
231	Powers if vehicles suspected to be transporting certain goods involved in offences, etc
205	Questioning persons about goods and debt
218	Questioning specified persons about arrival or departure
229	Questioning employees of airlines and shipping companies about international cargo or domestic cargo;
230	Questioning certain persons about cargo to be exported
201	Evidence of identity, entitlement to travel, etc
218	Questioning specified persons about arrival or departure

COMMENTS ON ANY SIGNIFICANT CHANGE

A new provision which allows a Customs officer to exercise specified powers under the Act in the contiguous zone but only in accordance with article 33 of the United Nations Convention on the Law of the Sea.

This power has been extended to include a person to state their date of birth. It also makes explicit provision on how evidence may be presented if on an electronic device.

CUSTOMS AND EXCISE ACT 1996

SECTION	HEADING
152	Examination of goods no longer subject to control of Customs
153	Accounting for goods
154	Production of goods
155	Verification of entries
155A	Cancellation and amendment of entries
156	Securities for payment of duty
157	New securities may be required
158	Written authority of agents
159	Audit or examination of records
160	Requisition to produce documents
161	Further powers in relation to documents
162	Privilege in respect of confidential communications between legal practitioners and between legal practitioners and their clients
163	Documents in foreign language
164	Chief executive may take possession of and retain documents and records
165	Copying of documents obtained during inspection
166	Retention of documents and goods obtained during inspection
166A	Detention of goods suspected to be instrument of crime or tainted property
166B	Return of cash necessary to satisfy essential human needs
166C	Further provisions about detention under section 166A

CUSTOMS AND EXCISE ACT 2018

SECTION	HEADING
237	Powers if goods no longer under control of Customs suspected to be involved in offences or to be forfeited goods
232	Accounting for goods
233	Production of goods
238	Verification of entries
239	Cancellation and amendment of entries
240	Security for payment of duty
241	New security may be required
262	Written authority of agents
255	Audit or examination of records
251	Requirement to produce documents
252	Further powers in relation to documents
254	Legally privileged communications
260	Documents in foreign language – allows for translator to be approved by a Customs officer
256	Chief executive may take possession of and retain records and other documents
257	Copying of documents obtained during inspection
258	Retention of documents and goods obtained during inspection
244	Detention of goods suspected to be instrument of crime or tainted property
249	Return of cash necessary to satisfy essential human needs
244	Detention of goods suspected to be instrument of crime or tainted property

COMMENTS ON ANY SIGNIFICANT CHANGE

CUSTOMS AND EXCISE ACT 1996

SECTION	HEADING
166D	Return of goods detained under section 166A
166E	Extension of 7-day period in section 166D(1) (a)
166F	Custody of certain goods detained under section 166A
167	Search warrants
168	Entry and search under warrant [Repealed]
168A	Searching of persons for dangerous items when executing search warrant [Repealed]
168B	Detention of dangerous items [Repealed]
169	Search warrant to be produced [Repealed]
170	Duty to inform owner where thing seized [Repealed]
171	Emergency warrants [Repealed]
172	Use of aids by Customs officer
173	Conditions applying to entry of buildings [Repealed]
174	Arrest of suspected offenders
175	Protection of persons acting under authority of Act
175A	Seizure and detention of dangerous civil aviation goods

CUSTOMS AND EXCISE ACT 2018

SECTION	HEADING
247	Return of goods detained under section 244
248	Extension of investigation period
245	Custody of certain goods detained under section 244
225	Issue of search warrant
226	Use of dogs and other aids
263	Arrest of suspected offenders
264	Protection of persons acting under authority of Act
265	Definitions for sections 266 and 267
266	Controlled delivery
267	International controlled delivery
250	Seizure and detention of dangerous civil aviation goods

COMMENTS ON ANY SIGNIFICANT CHANGE

This amendment removes the 7 day period after an offence being committed in which to arrest a suspected offender.

New provision to cover a controlled delivery of goods other than drugs and provides definitions of “controlled items”.

New provision to cover the controlled delivery of goods as specified eg. objectionable publications, goods that facilitate the commission of a crime involving dishonesty, and tobacco.

Provides for the controlled items to be delivered internationally subject to the agreement of relevant law enforcement agencies and includes an indemnity for relevant officers taking part in the controlled delivery.

CUSTOMS AND EXCISE ACT 1996

SECTION	HEADING
175B	Unlawful travel document
175C	Seizure and detention of goods or documents suspected to be certain risk goods or evidence of commission of certain offences
175D	Seizure and detention of certain drugs and objectionable publications
176	Threatening or resisting Customs officer
177	Obstructing Customs officer or interfering with Customs property
177AA	Killing or injuring Customs dog
177A	False allegation or report to Customs officer
178	Personation of Customs officer
179	Counterfeit seals, stamps, markings, substances, or devices
180	Obligations of persons arriving in or departing from New Zealand
181	Unauthorised presence in certain Customs controlled areas
182	Unauthorised access to or improper use of JBMS
183	Interference with JBMS
184	Offences in relation to security of, or unauthorised use of, unique user identifiers
185	Failure to answer questions

CUSTOMS AND EXCISE ACT 2018

SECTION	HEADING
259	Unlawful travel documents
242	Power to seize and detain risk goods or goods involved in certain offences, etc
243	Power to seize, copy, and detain certain drugs and objectionable publications
376	Threatening or resisting Customs officer
377	Obstructing Customs officer or interfering with Customs property
379	Killing or injuring Customs dog
378	False allegation or report to Customs officer with intention of diverting deployment of Customs personnel, etc;
384	False allegation or report to Customs officer alleging that offence committed
380	Personation of Customs officer
381	Counterfeit seals, stamps, markings, substances, or devices
34	Offence in relation to wilful failure to comply with requirements when arriving in, or departing from, New Zealand;
209	Offence in relation to requirements imposed under section 207 or 208
382	Unauthorised presence in certain Customs-controlled areas
329	Offences in relation to unauthorised access to or improper use of registered user system
330	Offence in relation to interference with registered user system
331	Offences in relation to security of, or unauthorised use of, unique user identifiers
383	Failure to answer questions

COMMENTS ON ANY SIGNIFICANT CHANGE

Provides for evidential material under the Misuse of Drugs Act 1975 and the Films, Videos and Publications Classification Act 1993 to be copied as an alternative to seizure or detention.

Maximum fine increased to \$5,000 for an individual, \$25,000 for a body corporate.

Maximum fine increased to \$75,000 for a body corporate.

Maximum fines increased to \$5,000 for an individual, \$25,000 for a body corporate.

CUSTOMS AND EXCISE ACT 1996

SECTION	HEADING
186	Failure to produce evidence of identity, entitlement to travel, or other matters
187	Failure to produce or account for goods
188	Failure to comply with requisition
188A	Failure or refusal to remain at place
189	Use of area without licence
190	Failure to comply with conditions of licence
191	Offences in relation to arrival of craft
192	Offences in relation to inward report
192A	Offences in relation to inward cargo report

CUSTOMS AND EXCISE ACT 2018

SECTION	HEADING
202	Offence in relation to failure to produce evidence of identity, entitlement to travel, etc;
219	Offence in relation to failure to produce evidence of identity, entitlement to travel, or other matters
234	Failure to produce or account for goods
253	Offence in relation to failure to comply with requirement under section 251 or 252
68	Offences in relation to Customs-controlled areas
69	Offence in relation to failure to comply with term, condition, or restriction of licence
13	Offences in relation to advance notice of arrival, etc;
18	Offences in relation to craft that arrive at place other than Customs place, etc;
20	Offence in relation to leaving or boarding arriving craft before inward report made;
23	Offences in relation to craft that have arrived at place other than Customs place;
25	Offences in relation to inward report, etc;
27	Offences in relation to failure to answer questions or produce documents;
193	Offences in relation to facilitation of boarding;
198	Offence in relation to power to order ship to leave New Zealand
25	Offences in relation to inward report, etc
15	Offences in relation to inward cargo report

COMMENTS ON ANY SIGNIFICANT CHANGE

Maximum fine introduced to \$25,000 for a body corporate.
Maximum fines increased to \$5,000 for an individual, \$25,000 for a body corporate.
The relevant offence is now in s176 of the Search and Surveillance Act 2012.
Reinforces that no refund or remission is available on goods that have already been released or removed from a Customs-controlled area. Also increased maximum fine for a body corporate to \$25,000.
Maximum fines increased to \$5,000 for an individual, \$25,000 for a body corporate.
Increases maximum fine for a body corporate to \$25,000.
Maximum fines increased to \$20,000 for an individual, \$100,000 for a body corporate.
Maximum fines increased to \$20,000 for an individual, \$100,000 for a body corporate.

CUSTOMS AND EXCISE ACT 1996

SECTION	HEADING
193	Offences in relation to departure of craft
194	Offences in relation to advance notice of departure
194A	Failure to comply with requirement to cease using electronic communication device
194B	Offences in relation to outward cargo report
194C	Offences in relation to transshipment requests
195	Defences
196	Adapting craft for smuggling
197	Interference with seals, etc
198	Interference with cargo
199	Unloading goods without authorisation

CUSTOMS AND EXCISE ACT 2018

SECTION	HEADING
36	Offence in relation to craft departing without certificate of clearance, etc;
38	Offences in relation to granting of certificate of clearance;
40	Offences in relation to production of certificate of clearance, etc;
42	Offences in relation to departure only from Customs place;
193	Offences in relation to facilitation of boarding
38	Offences in relation to granting of certificate of clearance
217	Offence in relation to use of electronic communication device
46	Offences in relation to outward cargo report
88	Offences in relation to transshipment requests
54	Defences for offences under subpart;
88	Offences in relation to transshipment requests;
193	Offences in relation to facilitation of boarding;
198	Offence in relation to power to order ship to leave New Zealand;
217	Offence in relation to use of electronic communication device
385	Adapting craft for smuggling
361	Interference with seals, etc
360	Interference with cargo
79	Offence in relation to unloading goods

COMMENTS ON ANY SIGNIFICANT CHANGE

Maximum fines increased to \$20,000 for an individual, \$100,000 for a body corporate.

Maximum fines increased to \$20,000 for an individual, \$100,000 for a body corporate.

Maximum fines increased to \$20,000 for an individual, \$100,000 for a body corporate.

Maximum fine increased to \$20,000 for an individual, and introduce maximum fine of \$100,000 for a body corporate.

Introduce a maximum fine of \$25,000 for a body corporate.

CUSTOMS AND EXCISE ACT 1996

SECTION	HEADING
200	Offences in relation to manufacture, movement, and storage of goods
201	Interference with goods
202	Contravention of direction of chief executive under section 97
203	Offences in relation to entries
204	Offences in relation to declarations and documents
204A	Offence relating to failure to update information supplied in advance
205	Offences in relation to records
205A	Offences relating to failure to give Customs access to information

CUSTOMS AND EXCISE ACT 2018

SECTION	HEADING
68	Offences in relation to Customs-controlled areas;
71	Offence in relation to Customs facilities in Customs-controlled areas, etc;
84	Offences in relation to transportation of imported goods;
86	Offences in relation to removal of goods from Customs-controlled areas;
236	Offences in relation to temporary removal of goods from Customs-controlled area;
280	Offence in relation to Customs facilities in CASEs, etc
359	Interference with goods
132	Offence in relation to direction of chief executive under section 130(3)(b)
363	Offences for failure to make entry, etc;
364	Offences in relation to erroneous or defective entries, etc
366	Offences in relation to declarations and documents that are erroneous;
367	Offence in relation to documents that are not genuine;
368	Offences in relation to declarations and documents that are known to be faulty
369	Offences in relation to failure to update information supplied in advance
356	Offences in relation to records
370	Further offences in relation to records and information
52	Offence in relation to failure to provide Customs with PNR information;
358	Offences in relation to failure to give Customs access to records

COMMENTS ON ANY SIGNIFICANT CHANGE

For non-mens rea offences, maximum fine increased for body corporate to \$25,000.
For mens rea offences, maximum fine increased for body corporate to \$75,000.

For body corporate, introduce maximum fines to: \$10,000 for first offence, \$20,000 for second offence, \$30,000 for third offence.

Maximum fines increased to \$20,000 for an individual, \$100,000 for a body corporate.

CUSTOMS AND EXCISE ACT 1996

SECTION	HEADING
205B	Offence relating to disclosing whether required to give Customs access to information
206	Possession of incomplete documents
207	Offences in relation to use of goods
208	Provisions relating to offences against sections 203 to 207
209	Offences in relation to importation or exportation of prohibited goods
209A	Publications imported or exported in course of official duties
210	Offences in relation to exportation of goods
210A	Offences in relation to Customs seals and Customs-approved secure exports schemes
211	Defrauding the revenue of Customs
212	Possession or custody of uncustomed goods or prohibited imports
213	Purchase, sale, exchange, etc, of uncustomed goods or prohibited imports
214	Possession or control of concealed goods

CUSTOMS AND EXCISE ACT 2018

SECTION	HEADING
386	Possession of incomplete documents
387	Offences in relation to use of goods
365	Provisions relating to offences in relation to entries
5	Definitions for Act;
388	Offences in relation to importation or exportation of prohibited goods;
389	Offences in relation to knowingly importing or exporting prohibited goods;
390	Offence in relation to knowingly importing or exporting objectionable publications;
391	Offence in relation to knowingly importing or exporting goods for dishonest purpose
392	Publications imported or exported in course of official duties
393	Offences in relation to exportation of goods
362	Unauthorised use of seals, interference with sealed Customs packages, etc
371	Defrauding Customs revenue;
372	Possession or custody of uncustomed goods or prohibited imports;
373	Purchase, sale, exchange, etc, of uncustomed goods or prohibited imports
372	Possession or custody of uncustomed goods or prohibited imports
373	Purchase, sale, exchange, etc, of uncustomed goods or prohibited imports
374	Possession or control of concealed goods

COMMENTS ON ANY SIGNIFICANT CHANGE

Policy decision taken not to pursue this as a provision in the Bill.

Maximum fine increased for offences not requiring knowledge for a body corporate to \$25,000.

Maximum fines increased for offences requiring knowledge: individual \$20,000 and body corporate to \$100,000.

Maximum fines increased for mens rea offences for an individual to \$20,000 and for a body corporate to \$100,000.

CUSTOMS AND EXCISE ACT 1996

SECTION	HEADING
215	Offences in relation to seized goods
215A	Offences in relation to certain detained goods
216	Offences in relation to Customs Appeal Authorities
217	Liability of officers of corporations
218	Liability of principal and agent
219	Attempts
220	Offences punishable on summary conviction [Repealed]
221	Filing of charging document
222	Court may order payment of money in respect of duty
223	Power of chief executive to deal with petty offences
224	Application of this Part

CUSTOMS AND EXCISE ACT 2018

SECTION	HEADING
180	Offence in relation to securing seized goods;
200	Offences in relation to detained craft;
375	Offence in relation to seized goods
246	Offences in relation to custody of detained goods
351	Offence in relation to false or misleading statement intending to deceive
352	Offence in relation to failure to attend, give evidence, supply certain things, etc
353	Other offences in relation to Customs Appeal Authorities
394	Corporate liability
395	Liability of principal and agent
396	Attempts
398	Filing of charging document
397	Court may order payment of money in respect of duty
399	Infringement offences and fees
400	Infringement notices
401	Procedural requirements for infringement notices, etc
402	Infringement fees to be paid into Crown Bank Account
175	Application of subpart

COMMENTS ON ANY SIGNIFICANT CHANGE

Increased maximum fine to \$20,000 for an individual and to \$100,000 for a body corporate.

Increased maximum fine to \$5,000.

Sections 399 to 402 contain new provisions that allow regulations to establish a regime for infringement offences and fees. Regulations may prescribe offences under the new Act that are infringement offences and infringement fees not exceeding \$1,000. The regime will be administered through the issue of infringement notices under sections 400 and 401. Section 21 of the Summary Proceedings Act 1957 (Procedure for infringement offences) will apply to the regime.

New section to support above.

New section to support above.

New section to support above.

Application of subpart 9 – Forfeiture, seizure and condemnation.

CUSTOMS AND EXCISE ACT 1996

SECTION	HEADING
248	Sickness or incapacity
249	Validity of appointment not to be questioned in proceedings
250	Authority not personally liable
251	Registrars of Authorities
252	Seal
253	Functions of Authority
254	Procedure
255	Nature of appeal
256	Authority may extend time for appeal
257	Hearing
258	Authority may decide appeal without oral hearing if both parties consent
259	Authority's powers
260	Evidence
261	Powers of investigation
262	Power to summon witnesses
263	Service of summons
264	Protection of persons appearing
265	Witnesses' allowances
266	Payment of witnesses' allowances
267	Grounds of appeal and burden of proof
268	Sittings of Authority

CUSTOMS AND EXCISE ACT 2018

SECTION	HEADING
Sch 8 cl 5	Sickness or incapacity
Sch 8 cl 6	Validity of appointment not to be questioned in proceedings
Sch 8 cl 7	Authority not personally liable
Sch 8 cl 8	Registrars of Authorities
Sch 8 cl 9	Seal
349	Function of Customs Appeal Authority
Sch 8 cl 10	Procedure;
Sch 8 cl 11	Commencement of proceedings
Sch 8 cl 13	Nature of appeals
Sch 8 cl 15	Authority may extend time for appeal
Sch 8 cl 16	Allocation and notification of hearing;
Sch 8 cl 18	Procedure at hearing of appeal
Sch 8 cl 19	Authority may decide appeal without oral hearing if both parties consent
Sch 8 cl 20	Authority may exercise certain District Court powers
Sch 8 cl 17	Evidence
Sch 8 cl 21	Powers of investigation;
Sch 8 cl 22	Production of documents;
Sch 8 cl 25	Protection of persons appearing
Sch 8 cl 23	Power to summon witnesses
Sch 8 cl 24	Service of summons
Sch 8 cl 25	Protection of persons appearing
Sch 8 cl 29	Witnesses' allowances
Sch 8 cl 30	Payment of witnesses' allowances
Sch 8 cl 14	Grounds of appeal and burden of proof
Sch 8 cl 12	Sittings of authority

COMMENTS ON ANY SIGNIFICANT CHANGE

CUSTOMS AND EXCISE ACT 1996

SECTION	HEADING
269	Authority may dismiss frivolous or vexatious appeal
270	Decision of Authority
271	Power to award costs
272	Appeals to High Court
273	Appeal to Court of Appeal
274	Stating case for High Court
274A	Use of automated electronic systems by Customs to make decisions, exercise powers, comply with obligations, and take related actions
274B	Publication of details of arrangements for use of automated electronic systems
274C	Variation and substitution of decisions made by automated electronic systems
274D	Appeals and reviews unaffected
274E	No limitation of claims by Crown to recover duties or interest on duties, or on forfeiture proceedings, under this Act
275	Payments by chief executive out of public money
276	Application of Act to postal articles
277	Declarations under this Act
278	Power of chief executive to determine seals, etc

CUSTOMS AND EXCISE ACT 2018

SECTION	HEADING
Sch 8 cl 28	Authority may dismiss frivolous or vexatious appeal
Sch 8 cl 26	Decision of authority
Sch 8 cl 27	Power to award costs
Sch 8 cl 31	Rights of appeal to High Court;
Sch 8 cl 32	Notice to Authority;
Sch 8 cl 33	Appellant's case must be submitted to Authority;
Sch 8 cl 34	High Court may return case stated for amendment
Sch 8 cl 35	Rights of appeal to Court of Appeal
Sch 8 cl 36	Authority may state case for High Court
295	Definitions for subpart (automated electronic systems);
296	Use of automated electronic systems by Customs to make decisions, exercise powers, comply with obligations, and take related actions
297	Publication of details of arrangements for use of automated electronic systems
298	Variation and substitution of decisions made by automated electronic systems
299	Appeals and reviews unaffected
432	No limitation on claims by Crown to recover duties or in forfeiture proceedings
433	Payments by chief executive out of public money
5	Definitions for Act;
7	Application of Act to postal articles
428	Declarations under Act
275	Power of chief executive to determine seals, etc

COMMENTS ON ANY SIGNIFICANT CHANGE

CUSTOMS AND EXCISE ACT 1996

SECTION	HEADING
279	Arrival and departure information [Repealed]
280	Supply of arrival and departure information for benefit and benefit debt recovery purposes
280A	Interpretation
280B	Disclosure of arrival and departure information for purposes of mutual assistance provision contained in social security agreement
280C	Interpretation
280D	Disclosure of arrival and departure information for fines enforcement purposes
280E	No Crown liability to third parties for fines enforcement action
280F	Customs may supply information concerning specified fines defaulters to chief executive of Department of Labour
280G	Defined terms for sections 280H and 280I
280H	Disclosure of arrival and departure information for purposes of Student Loan Scheme Act 2011
280I	Direct access to arrival and departure information for purposes of Student Loan Scheme Act 2011
280J	Defined terms for sections 280K and 280L

CUSTOMS AND EXCISE ACT 2018

SECTION	HEADING
53	Other provision about arrival and departure information
308	Information matching for purposes of benefit and benefit debt recovery
314	Direct access to information for purposes of benefit and benefit debt recovery
309	Information matching for purposes of mutual assistance provision contained in social security agreement
309	Information matching for purposes of mutual assistance provision contained in social security agreement
310	Information matching for purpose of fines enforcement
310	Information matching for purpose of fines enforcement
311	No Crown liability to third parties for fines enforcement action
310	Information matching for purpose of fines enforcement
306	Information matching for purposes of Student Loan Scheme Act 2011;
312	Direct access to information for purposes of Student Loan Scheme Act 2011
306	Information matching for purposes of Student Loan Scheme Act 2011
312	Direct access to information for purposes of Student Loan Scheme Act 2011
307	Information matching for purposes of Child Support Act 1991
313	Direct access to information for purposes of Child Support Act 1991

COMMENTS ON ANY SIGNIFICANT CHANGE

Repealed by section 23 of the Enhancing Identity Verification and Border Processes Legislation Act 2017

Explicitly recognises the Ministry of Social Development's direct access to information subject to the terms of a written agreement.

CUSTOMS AND EXCISE ACT 1996

SECTION	HEADING
280K	Disclosure of arrival and departure information for purposes of Child Support Act 1991
280L	Direct access to arrival and departure information for purposes of Child Support Act 1991
280M	Direct access to database information for purposes of counter-terrorism and national security
281	Disclosure of information overseas
282	Information that may be disclosed
282A	Customs may for certain purposes collect, use, or disclose certain information
282B	Access by accessing agency to border information

CUSTOMS AND EXCISE ACT 2018

SECTION	HEADING
307	Information matching for purposes of Child Support Act 1991
313	Direct access to information for purposes of Child Support Act 1991
315	Direct access to information for other purposes
316	Disclosure of information other than under information matching agreement or direct access agreement
317	Disclosure of information to private sector organisations
318	Disclosure of information to overseas authority
319	Chief executive of Customs may issue directions for disclosure of information under section 318(6)
320	Relationship between section 318 and other law, etc
303	Relationship between this Act and other law relating to information use and disclosure
321	Publication of agreements entered into under section 315, 316, 317, or 318
47	Purposes for which powers under sections 48 and 49 may be exercised;
301	Customs' general powers for using information;
357	Giving Customs access to records
315	Direct access to information for other purposes

COMMENTS ON ANY SIGNIFICANT CHANGE

Provides a new process and constraints on disclosing information to other government agencies by direct access. Agreements are entered into by the Minister of Customs and the Minister responsible for the agency accessing the information following consultation with the Privacy Commissioner.
Similar to the above but covers the regular, on-going disclosure of information other than by direct access or information matching. Agreement must be made at Minister level and the Privacy Commissioner consulted.
New process for regular, on-going disclosure of information to the private sector. Requires a written agreement and the Privacy Commissioner must be consulted. The Ombudsman and other groups who have an interest in the information may also be consulted.
Amended to allow the Privacy Commissioner to require the chief executive to periodically review an international disclosure agreement. Also limits the purposes for which biometric information can be disclosed overseas. Retains the provision to disclose information overseas without an agreement under certain circumstances.
Clarifies what situations specified Customs employees can disclose information overseas.
Reinforces that the disclosure of information overseas can be continued when authorised by another Act, or by treaty or arrangement.
Supports move towards transparency of information disclosure but includes normal withholding provisions of the Official Information Act 1982.
New provision for generic direct access (as above).

CUSTOMS AND EXCISE ACT 1996

SECTION HEADING

282C	Chief executive must review operation of section 282B
282D	Definitions
282E	Purpose of sections 282F to 282H
282F	Interim collection of border information
282G	Requirement by or under this Act to supply border information is complied with if information is supplied to Ministry or other agency
282H	Interim access to border information
282I	Expiry of sections 282E to 282H and agreements made under section 282H
282JAA	Application of sections 282J to 282L
282J	Collection of border information
282K	Requirement by or under this Act to supply border information is complied with if information is supplied to Ministry or other agency
282L	Customs may access border information

CUSTOMS AND EXCISE ACT 2018

SECTION HEADING

300	Definitions for subpart (joint border management information);
302	Joint border management
302	Joint border management;
325	Documents provided using registered user system must be provided in prescribed way
302	Joint border management
302	Joint border management
301	Customs' general powers for using information;
Sch 1 cl 19	Customs' general powers for using information, etc
303	Relationship between this Act and other law relating to information use and disclosure
304	Definitions for subpart (disclosure of information)

COMMENTS ON ANY SIGNIFICANT CHANGE

Now redundant.
Now redundant
Joint border management means the computer system operated by Customs and the Ministry for Primary Industries (MPI) for the collection, storage and use of border information. Customs may collect and store border information (including on behalf of MPI).
New section which clarifies that information provided to, obtained by, or generated by Customs may be used for the purposes for which it was obtained and any other lawful purpose. Also ensures that Customs can't hold information just for the purpose of disclosure.
Reinforces that the use or disclosure of information that is authorised or required by another law is not limited by this Act. Also provides that the information privacy principles of the Privacy Act 1993 do not limit the use and disclosure of information under this Act.
Includes definitions of "arrival and departure information"; "identifying information"; "category 1 information" and "category 2 information"; "government agency"; "private sector agency".

CUSTOMS AND EXCISE ACT 1996

SECTION HEADING

283 Chief executive to give written reasons for decisions open to appeal to Customs Appeal Authority

284 Giving of notice

285 Additional provision relating to notices under this Act

286 Regulations

286A Regulations relating to information sharing

286B Regulations are confirmable instruments

287 Regulations for fees, charges, and expenses

CUSTOMS AND EXCISE ACT 2018

SECTION HEADING

305 Relationship between subpart and other provisions of Act

427 Chief executive to give written reasons for decisions open to appeal to Customs Appeal Authority

423 Giving notice to companies

424 Giving notice to bodies corporate other than companies

425 Giving notice to individuals

426 Receipt of notices

67 Exemptions in relation to Customs-controlled areas;

227 Examination of goods subject to control of Customs;

336 Making of Customs ruling;

354 Keeping of records;

403 Regulations generally;

410 Regulations in relation to sale of goods by chief executive;

440 Working hours of Customs;

Sch 3 cl 5 Time for payment of excise duty;

Sch 8 cl 10 Procedure;

Sch 8 cl 11 Commencement of proceedings;

Sch 8 cl 26 Decision of Authority

411 Regulations in relation to activities of Customs officers outside New Zealand

403 Regulations generally;

408 Regulations for recovering costs for attendance of Customs officers, etc

COMMENTS ON ANY SIGNIFICANT CHANGE

Reinforces above.

Now covers the giving of notices electronically

Includes a provision to enable authorised people to store records outside New Zealand, including in the cloud.

New provision and allows Customs to prescribe circumstances in which activities of a Customs officer carried out outside New Zealand, can be treated as if they were carried out in New Zealand eg. pre-clearance of cruise ships.

No longer necessary.

Now redundant because 286A was not carried over.

CUSTOMS AND EXCISE ACT 1996

SECTION HEADING

287A	Incorporation of provisions by reference in regulations
287B	Effect of amendments to, or replacement of, provisions incorporated by reference
287C	Proof of provisions incorporated by reference
287D	Access to provisions incorporated by reference
287E	Application of Legislation Act 2012 to provisions incorporated by reference
287F	Application of Regulations (Disallowance) Act 1989 to provisions incorporated by reference [Repealed]
288	Chief executive may make rules for certain purposes
288A	Use of reasonable force must be reported

CUSTOMS AND EXCISE ACT 2018

SECTION HEADING

412	Incorporation of provisions of international agreements by reference in regulations
412	Incorporation of provisions of international agreements by reference in regulations
412	Incorporation of provisions of international agreements by reference in regulations
412	Incorporation of provisions of international agreements by reference in regulations
412	Incorporation of provisions of international agreements by reference in regulations
325	Documents provided using registered user system must be provided in prescribed way;
405	Regulations in relation to entries;
421	Chief executive's rules
422	Interaction with subpart 1 of Part 3 of Legislation Act 2012
437	Use of force must be reported
438	Annual report must state total of electronic devices searched
439	Annual report must report on initiatives to reduce compliance costs for businesses with strong record of compliance
441	Entry required for human remains
442	Repeal of Customs and Excise Act 1996
443	Other consequential repeals, revocations, and amendments

COMMENTS ON ANY SIGNIFICANT CHANGE

Regulations may incorporate by reference, provisions in international trade agreements. This removes the need to explicitly prescribe large volumes of technical data that are often a feature of these agreements.
As above
As above
As above
As above
Sets out the general scope of the power of the chief executive to make rules under the Act. Generally, the chief executive's rules are to be used to prescribe the way in which notices, applications, and other documents are to be provided to Customs. This includes forms that are to be used, and information and declarations that are to be provided. Rules may be made on a differential basis to apply to different cases or classes.
Unless otherwise provided, instruments under this Act are not disallowable instruments. This is intended to ensure that basic administrative notices, directions or determinations do not need to be presented to the House.
New provision as a consequence of section 228 – Data in electronic devices that are subject to control of Customs.
New provision.
New section which will clarify the process of bringing human remains (that are not goods) into and out of New Zealand. An exemption from duty will be contained in regulations.
This section repeals the 1996 Act. Certain provisions of that Act will continue to have effect transitionally in accordance with Schedule 1.
This section gives effect to Schedule 9 of the Act, which contains extensive, consequential amendments and repeals in relation to other statutes and legislative instruments.

CUSTOMS AND EXCISE ACT 1996

SECTION HEADING

288B	Levies for recovering border processing costs
288C	Contents of border processing levy order
288D	Trust accounts for levy money payable to chief executive
288E	Effect of levy order
288F	Compliance audits
288G	Auditors
288H	Offences in relation to levy orders
288I	Section 288H strict liability offences
289	Acts and regulations amended
290	Repeals and revocations
291	Validation of acts done pursuant to Customs Duties Suspension (Inter-Governmental Agreements) Order 1963
292	Savings for proceedings and other matters
293	Savings provision in relation to Customs officers
293A	Saving of agreements made under section 280M before commencement of section 257 of Intelligence and Security Act 2017
294	Transitional provision relating to terminology

CUSTOMS AND EXCISE ACT 2018

SECTION HEADING

Sch 9	Consequential repeal, revocations, and amendments
413	Levies for recovering border processing costs
414	Contents of border processing levy order
415	Trust accounts for levy money payable to chief executive
416	Effect of levy order
417	Compliance audits
418	Auditors
419	Offences in relation to levy orders
420	Defences for offences in relation to levy orders

COMMENTS ON ANY SIGNIFICANT CHANGE

This schedule contains all the consequential amendments required in other legislation to enable the provisions of the Customs and Excise Act 2018. Includes amending the Arms Act 1983 to allow members of the New Zealand Defence Force or the Police to be armed when exercising any power or performing any function under the new Act.

Maximum fines for body corporates increased as follows:

Failure to keep or maintain statements, accounts, or records as required: \$25,000

Failure to make a return or failure to comply with a requirement: \$5,000

Making of a return that the person knows is false or misleading in a material particular: \$50,000.

Now redundant as related to consequential, validation and savings provisions specific to the 1996 Act.

Now redundant as related to consequential, validation and savings provisions specific to the 1996 Act.

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Now redundant as related to consequential, validation and savings provisions specific to the 1996 Act.

Now redundant as related to transitional provisions specific to the 1996 Act.

CUSTOMS AND EXCISE ACT 1996

SECTION	HEADING
295	Transitional provision concerning assessment and payment of duty
296	Examination station deemed to be Customs controlled area
297	Examining place, Customs container base, sufferance wharf, and wharf deemed to be Customs controlled area
298	Staff accommodation, facilities, and transit buildings deemed to be Customs controlled area
299	Export warehouse deemed to be Customs controlled area
300	Manufacturing area deemed to be Customs controlled area
301	Transitional provision relating to conditions of appointment or licence
302	Application for licence as Customs controlled area to be made within 40 working days
303	Transitional status to continue until application made and disposed of
304	Transitional provision relating to persons approved to defer payment of duty
305	Transitional provision relating to businesses not required to be licensed
305A	Transitional provisions relating to investigations of offences under Customs Act 1966
306	Power to amend Schedule 3 before this Act comes into force [Repealed]
306A	Transitional and savings provisions relating to amendments to this Act
307	Zero-rating-duty-free goods
308	Tariff items substituted [Repealed]
309	New concession reference inserted [Repealed]

CUSTOMS AND EXCISE ACT 2018

SECTION	HEADING
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COMMENTS ON ANY SIGNIFICANT CHANGE

Now redundant as related to transitional provisions specific to the 1996 Act.

Now redundant as related to transitional provisions specific to the 1996 Act.

Now redundant as related to transitional provisions specific to the 1996 Act.

Now redundant as related to transitional provisions specific to the 1996 Act.

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Now redundant as related to transitional provisions specific to the 1996 Act.

CUSTOMS AND EXCISE ACT 1996

SECTION HEADING

Sch 1AA Transitional and savings provisions relating to amendments to this Act

Sch 1 Prohibited imports

Sch 2 Valuation of goods for the purposes of the Tariff

cl 1 Interpretation

cl 2 Transaction value as primary basis of valuation

cl 3 Adjustment of price paid or payable

cl 4 Transaction value of identical goods as Customs value

cl 5 Transaction value of similar goods as Customs value

CUSTOMS AND EXCISE ACT 2018

SECTION HEADING

96 Prohibition on other imports or exports by Order in Council

Sch 4 Valuation of goods for purposes of Tariff

Sch 4 cl 1 International agreement

Sch 4 cl 2 Definitions for schedule;

Sch 4 cl 3 When interest not to be regarded as part of Customs value

Sch 4 cl 4 Basis for determining Customs value;

Sch 4 cl 5 When transaction value of goods can be used;

Sch 4 cl 6 Sales between related persons

Sch 4 cl 2 Definitions for schedule;

Sch 4 cl 4 Basis for determining Customs value;

Sch 4 cl 7 Calculation of transaction value;

Sch 4 cl 8 Calculation of transaction value: value of goods and services supplied by buyer

Sch 4 cl 9 Transaction value of identical goods;

Sch 4 cl 10 Transaction value of identical goods not sold at same trade level or quantity

Sch 4 cl 11 Transaction value of similar goods;

Sch 4 cl 12 Transaction value of similar goods not sold at same trade level or quantity

COMMENTS ON ANY SIGNIFICANT CHANGE

Now redundant as related to transitional provisions specific to the 1996 Act.

Now enables regulation of the import and export of harmful digital goods and extends the definitions of importation and exportation. It also establishes a new common process for establishing prohibitions by Order in Council. The prohibition must be considered necessary (by the Minister) in the public interest. Prohibitions may also be conditional and allowed under the terms of a licence, permit or consent. Schedule 1 import prohibitions under the 1996 Act will be captured by Order in Council.

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. It prescribes the methods of valuing goods imported into New Zealand, which follow rules set by the World Trade Organization.

Now includes a definition of “sold for export to New Zealand” and clarifies that when there are multiple sales in a supply chain, the sale that determines the value of goods is the sale prior to the importation of goods into New Zealand.

CUSTOMS AND EXCISE ACT 1996

SECTION HEADING

cl 6 Deductive value as Customs value

cl 7 Computed value as Customs value

cl 8 Residual basis of valuation

Sch 3 Excise and excise equivalent duties [Repealed]

Sch 4 Valuation of goods for the purposes of excise

cl 1 Value of goods for excise duty

cl 2 Value of goods manufactured by contractor

cl 3 Value of goods not sold in open market

cl 4 Fair market value

Sch 5 Acts amended

Sch 6 Regulations amended

Sch 7 Enactments repealed

Sch 8 Regulations, orders, and notices revoked

Sch 9 Tariff items removed from Tariff [Repealed]

Sch 10 Substituted Tariff items [Repealed]

CUSTOMS AND EXCISE ACT 2018

SECTION HEADING

Sch 4 cl 13 Definitions for Part;

Sch 4 cl 14 Deductive value as Customs value;

Sch 4 cl 15 Price per unit: comparable goods sold in imported condition at time of importation of goods being valued;

Sch 4 cl 16 Price per unit: comparable goods sold in imported condition within 90 days after importation of goods being valued;

Sch 4 cl 17 Price per unit: comparable goods sold in altered condition within 90 days after importation of goods being valued;

Sch 4 cl 18 Adjustments

Sch 4 cl 19 Computed value as Customs value;

Sch 4 cl 20 Computed value

Sch 4 cl 21 Residual basis of valuation

Sch 3 Excise duty and excise-equivalent duty

Subpart 2 Valuation of goods

Sch 3 cl 11 Value of goods for excise duty if goods sold by licensee

Sch 3 cl 11 Value of goods for excise duty if goods sold by licensee

Sch 3 cl 12 Default rule if value of goods cannot be determined under clause 11

Sch 3 cl 13 Fair market value

COMMENTS ON ANY SIGNIFICANT CHANGE

Now redundant as related to transitional provisions specific to the 1996 Act.

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TE MANA ĀRAI O AOTEAROA

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