

WHY WE ARE REVIEWING THE ACT

In this section we summarise Customs' current role and why we believe new legislation is needed to enable us to respond and adapt effectively to new technologies, business practices and security risks.

Introduction

This year the New Zealand Customs Service is marking 175 years of serving New Zealand and protecting our borders.

Managing New Zealand's borders has changed a lot over the last 175 years. Our functions are now much broader than when the first Customs post was set up at Kororāreka (Russell) in 1840 to collect import duties on goods from arriving ships.



The Old Custom House in Russell was used from 1870 to the 1890s.

Today, our role covers protecting the community, facilitating trade and travel into and out of the country, and collecting revenue. Our work covers the length of New Zealand, from the Bay of Islands to Bluff.

“ We are not proposing to change Customs' functions”

The nature of the border is also changing. Today we continue to look at how we can better identify and assess threats, and facilitate legitimate trade and travel, **before** people, goods and air or marine craft reach our shores.

Protecting and maintaining New Zealand's borders, while at the same time facilitating trade and travel, has become more important than ever. Globalisation, the pace of trade, emerging technologies and new security concerns are just some of the current and future challenges for border management. However, while these factors make our job more challenging, our job remains fundamentally the same. We are not proposing to change Customs' functions.

The Act needs to support future developments and opportunities

The current Customs and Excise Act came into force in 1996. It was based largely on the 1966 Act, which in turn was based on legislation from 1913. The current Act is highly prescriptive and much of this detail could be better placed in supporting legislation such as Regulations or Rules.

Since 1996 the Act has been amended a number of times to deal with the considerable growth in trade and travel and with developments in security and new technologies. While many of these amendments have made particular provisions clearer, they have also made the Act more complex. As a result, the Act is now hard to read and understand, difficult to apply, and even more difficult to amend when Customs has to deal with changes in technology and business practices.

Example: Duty credits under section 85 of the Act

The section of the Act dealing with when a manufacturer can claim an excise or excise-equivalent duty credit does not reflect modern business practice and is too inflexible.

This credits provision assumes that manufacturing will happen on only one licensed site and will involve only one owner. However, with modern manufacturing or supply chain practices there may be several different owners and manufacturing sites involved. The legislation needs to give Customs the flexibility to deal with these changing business practices by giving us discretion to grant the credit to the appropriate party.

The Government also expects Customs to deliver more efficient, customer-focussed services that are integrated with other government services and that can be accessed electronically. All this requires effective and flexible legislation that can respond to and support future developments and opportunities.

What might new technologies look like?

Import data on a consignment might include data captured by a GPS-enabled chip on the status and integrity of the consignment since it was packed at the original exporter's premises.

As the power and availability of computer processing increases, and as electronic devices get cheaper, Customs expects to have new opportunities to interact electronically with traders and travellers, including through social media, and in ways that we may not even be able to imagine at present.

Customs' current role

Working alongside other agencies to manage the border

Our legislation has to allow us to work effectively and efficiently alongside other government agencies that operate at the border or that have border-related interests (such as the New Zealand Police), so that we can protect our citizens and maintain New Zealand's international reputation as a great place to visit and do business with.

Customs is one of five main government agencies working at the border. The others are the Ministry for Primary Industries, Immigration New Zealand (part of the Ministry of Business, Innovation and Employment), the Aviation Security Service (part of the Civil Aviation Authority), and Maritime New Zealand.

The table below shows the different functions these agencies perform at the border, and also offshore and onshore.

	New Zealand Customs Service	Immigration New Zealand	Transport Sector: Ministry of Transport, Civil Aviation Authority, Maritime New Zealand	Ministry for Primary Industries
Offshore (pre-border)	Surveillance and intelligence gathering relating to goods and craft.	Issue visas and other approvals for people to enter New Zealand. Screen and assess for immigration risks offshore.	Negotiate air services agreements and license foreign airlines. Participate in international transport forums.	Set international food and biosecurity standards. Negotiate market access.
At the border	Screen and assess risk of people, goods and craft, revenue collection. Primary processing on behalf of Immigration NZ.	Physically profile, assess risk and make entry decisions (incl on referral by Customs).	Ensure air and sea movements are clean, safe and secure.	Inspect inbound people, goods, and craft for biosecurity risks.
Onshore (post-border)	Customs-related investigations and prosecutions.	Settlement of migrants and compliance monitoring. Investigation and deportation of people unlawfully in New Zealand.	Promote an efficient, safe, responsible and resilient transport sector.	Respond to detected harmful pests and diseases. Investigate and prosecute breaches of biosecurity standards. Export market assurance.

Customs also works closely with a range of other government agencies that have interests at the border – for example the New Zealand Police. We are also authorised under other legislation to perform some functions on behalf of other government agencies, as the border is a point where government can intervene efficiently with businesses and individuals to achieve a wide range of its priorities.

Example: Work on behalf of Immigration New Zealand

Customs officers are designated as “Immigration officers” under the Immigration Act 2009 so that they can verify the identity of foreign nationals and grant them entry permission (based on immigration pre-directives) as they come into the country.

Another example of Customs working on another agency’s behalf is where we stop people leaving the country because the Police have alerted us to an outstanding arrest warrant.

Customs also works alongside government agencies to implement new developments, particularly those that may improve our interactions with businesses. The review of the legislation provides an opportunity to ensure the legislation supports these developments. An example is the implementation of the New Zealand Business Number,¹ which will not require changes to the Customs and Excise Act, but is likely to require changes to the Rules.

¹ The New Zealand Business Number is a single identifying number for all businesses, government agencies and commercial entities in New Zealand.

Protecting New Zealand while supporting our sovereignty, reputation and the economy

Effective border management is directly connected to New Zealand's sovereignty, reputation and standing in the international community and to economic growth. It facilitates trade in goods and services while managing risks of smuggled goods (both exports and imports), people and craft, and revenue fraud.

Customs is the first point of contact for people arriving in our country. We provide a "welcome here, welcome home" to those arriving. We are responsible for protecting New Zealand from threats to our community, environment and economy, including threats from illegal drugs, imported firearms and money laundering.

Our wide range of functions reflects expectations that Customs will manage increasing volumes of trade and travel, the increasing complexity of international travel routes and goods supply chains, and the fast flow of travellers and goods that will give New Zealand a competitive advantage in the global economy.

The following boxes show some of the work we did in the year 2013/2014.

Travel

- Risk assessed and processed 11.2 million arriving and departing travellers by air or sea, including crew
- 96.3 percent of arriving air passengers processed through Customs within 45 minutes
- 0.8 percent of air passengers and crew selected for secondary assessments at airports
- 3.3 million SmartGate passengers processed.

Trade

- Risk-assessed and processed 7.8 million import transactions and 2.5 million export transactions (excludes transshipment)
- 99.7 percent of compliant trade transactions processed within 30 minutes
- 48.25 million mail items screened
- 405,598 import sea containers and 540,312 export sea containers crossed the border.

Revenue

- Collected \$11.8 billion in Crown revenue, consisting of:
 - \$7.8 billion GST
 - \$1.8 billion excise duty
 - \$2.2 billion customs duty
- Collected \$38.57 million additional revenue through the Customs Trade Assurance (audit) function.

Protection

- 705 kilos of ephedrine and pseudoephedrine seized
- 1.6 million cigarettes and 2.1 tonnes of loose tobacco seized
- 243 interceptions of goods suspected of intellectual property infringements
- 1,042 interceptions of weapons.

Customs' responsibilities range from checking if goods coming into the country meet standards for hazardous waste, to seizing arriving shipments of controlled goods such as high-powered laser pointers, to stopping and searching passengers suspected of importing illegal drugs.

Our functions are also heavily influenced by international obligations – in particular, free trade agreements and the International Convention on the Simplification and Harmonization of Customs Procedures (the Revised Kyoto Convention), to which New Zealand is a signatory.

Customs operates not just at the physical border

The Customs and Excise Act sets out the obligations of travellers and traders crossing our border, and Customs' responsibilities in managing the border. A national border is commonly understood as a point of entry or exit from one sovereign state to either international territory or another state; in New Zealand's case, entry or exit is from New Zealand's sovereign territory into or over international waters.

The reality is our role requires us to carry out activities not just at the physical border – that is, at airports and seaports – but also before and after people and goods come into the country.

We need to know in advance who or what is coming into or leaving the country so that we can quickly identify and deal with threats, collect revenue efficiently, and ensure that legitimate travellers and goods are not unduly held up at the border. Our work to achieve this includes some pre-screening of passengers before they leave the departing country, and export assurance programmes.

The previous table on page 12 in this chapter set out some of the functions performed by government agencies before, at, and after the border. The picture below provides some further examples of the different functions Customs has before, at, and after the border.

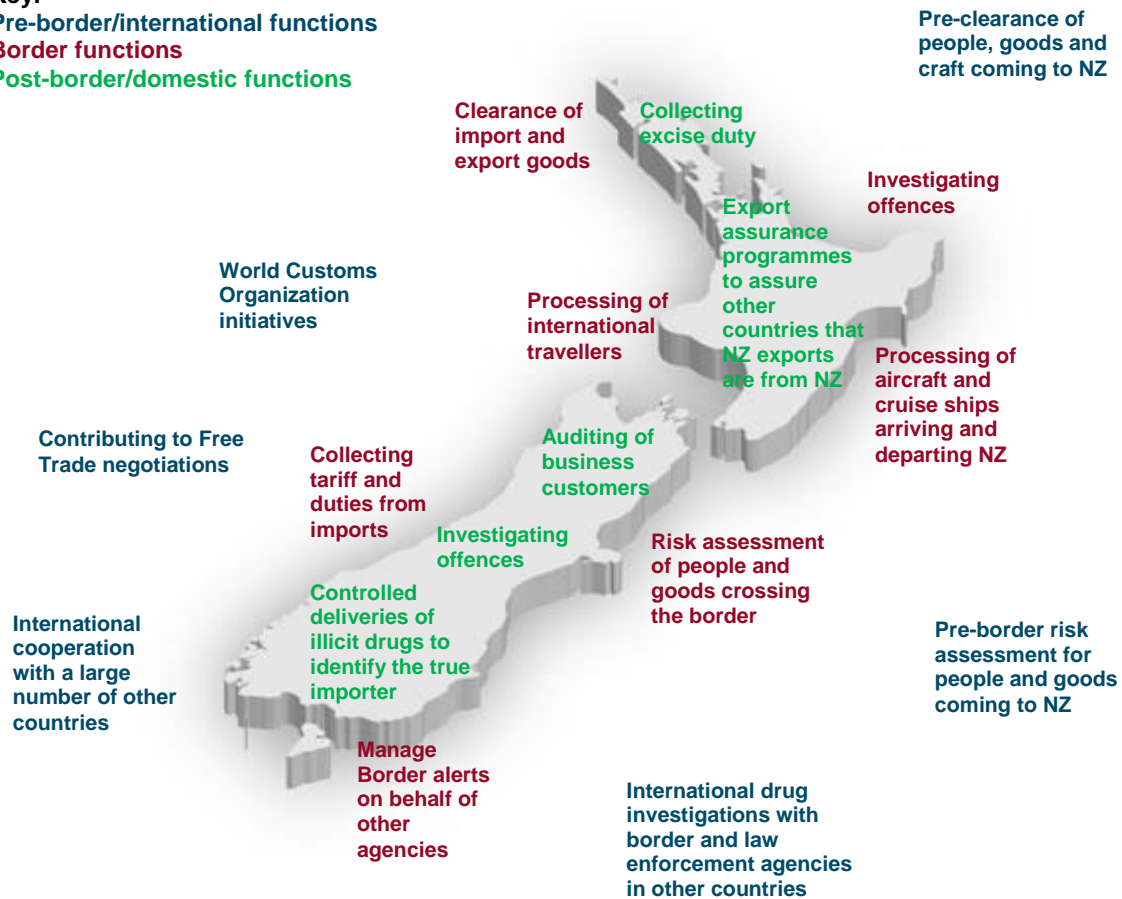
Examples of Customs' Functions

Key:

Pre-border/international functions

Border functions

Post-border/domestic functions



The border is a unique place

New Zealand has the right to refuse entry to people or goods if they bring threats to the country. The border provides a critical, and one of the earliest, opportunities to identify a threat and act decisively to prevent it from harming New Zealand and New Zealanders.

Customs has a range of powers under the Customs and Excise Act that we can exercise to protect New Zealand's borders, facilitate legitimate trade and travel, and collect revenue.

Powers include substantial and, in some cases, special powers to intercept, examine and search goods. These powers allow Customs to undertake the functions the public, our international



Over 50 New Zealand Acts of Parliament impact on Customs' role"

partners and the Government expect of Customs. They enable us to act quickly so that we don't hold up legitimate trade and travellers.

How we manage the border

Customs' operating model is built around collecting and analysing information to assess the risks presented by people, goods and craft moving in and out of New Zealand. Having information that is timely, accurate and relevant is crucial for us to make effective decisions about risk and about how to intervene.

Our approach to risk-assessment and compliance (see the diagram below) assumes that most traders and travellers want to comply with border controls, and we have little if any interaction with those traders and travellers who do comply. We have some interaction with those who are accidentally non-compliant, and here we aim either to educate them or to change our processes to make compliance easier. This approach allows us to free up the resources needed to work with other agencies to focus on those who are deliberately non-compliant. This approach enables us to protect the border without unduly intervening in legitimate trade and travel.



The Customs and Excise Act supports Customs in managing the border by:

- creating obligations and incentives for travellers and traders to provide us with good quality information
- setting powers for Customs to obtain, use, store and share that information
- enabling flexibility for Customs to take a range of actions to support or enforce compliance, based on the information we receive.

Why we need new legislation

New legislation would enable improved border management

Customs wants to develop new legislation that allows us to improve border management and therefore give greater protection for New Zealand from risks and threats, while also giving greater assurance over trade and travel flows and revenue collection. We want to be able to take advantage of new systems and technologies that will allow us to better identify and target offending and that will better facilitate the flow of travellers, trade and craft across the border.

Effective and flexible legislation will also allow us to create and make use of opportunities to collaborate and share information with other agencies, both in New Zealand and internationally, and to support the law enforcement functions of the New Zealand Police and other government agencies.

As people and businesses take advantage of new technologies and developments, such as electronically transmittable goods, legislation should be able to be adapted.

Our goal and outcomes for a new Act

Our goal is an Act that enables effective and responsive border and excise systems that protect and support citizens and businesses.

A significant driver for this review has been Customs' increasing use of intelligence and technology. In particular, recognising our role in supporting wider law enforcement priorities as well as our traditional responsibilities of protecting the border and facilitating border movements.

Outdated provisions in the Customs and Excise Act do not allow for technological developments, and they would prevent us from effectively using future technologies to better assess risks and facilitate trade and travel flows.

We are seeking a new Act that would support Customs in achieving the following outcomes.

- **Making compliance easy to do and hard to avoid** – Most travellers and traders want to comply with border controls, and Customs will help them achieve this. We will focus our operational activity on the small minority who deliberately refuse to comply.
- **Providing high assurance, light touch** – Customs collects and analyses information to enable us to facilitate the flow of compliant people and goods at the border and to focus on the areas of non-compliance. This provides a high level of assurance that we are identifying risks accurately and a light touch for those who pose no risk.
- **Providing effective and efficient facilitation and protection** – Customs supports New Zealand's economic growth and protects New Zealand's border through our management of trade and border controls, our use of information and technology, and our international relationships.
- **Supporting New Zealand's international competitiveness** – How well Customs carries out its functions matters for New Zealand's export competitiveness, which

depends on efficient trade supply chains and on New Zealand being seen as an attractive place to do business and travel to.

We are not proposing to change what we do at the border

This review is about ensuring that New Zealand's customs legislation is, and will continue to be, fit-for-purpose. There are aspects of the current Act that we think need to change to deal with challenges and opportunities we currently face and to meet future changes, but we are not adding new roles or functions for the New Zealand Customs Service.