

A new era for NZ Customs Service with introduction of Bill

– what will this mean
for your business?

December 2016



A new Bill to replace the current Customs and Excise Act 1996 passed its first reading in Parliament in December 2016

The current legislation is 20 years old, and was drafted when the total population of the country was just 3.7 million, online retailers were virtually non-existent, and only 8% of the population had internet access.

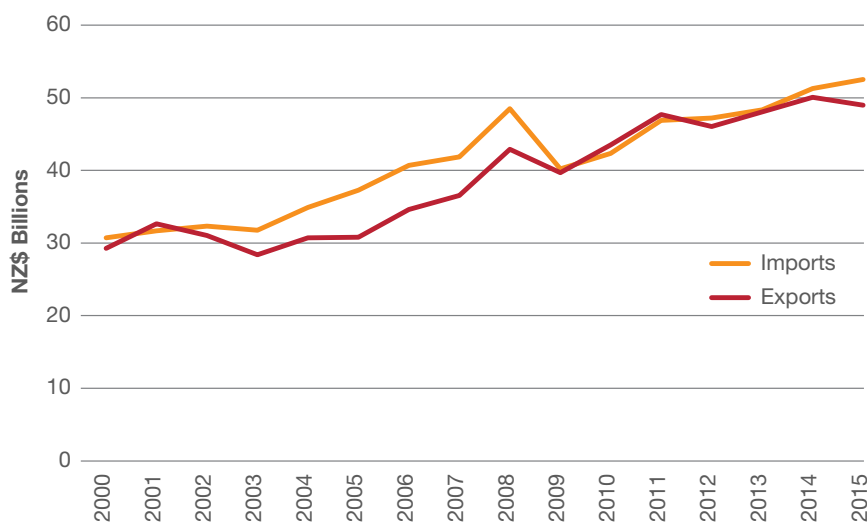
While the world has changed, many parts of the Customs legislation haven't.

The introduction of the Customs and Excise Bill 2016 marks a huge step forward in creating a principles-based and streamlined trade and border framework, under which the NZ Customs Service will be able to be more responsive to the evolving business environments and commercial practices.

Minister of Customs, Hon. Nicky Wagner, has stated that the Bill is designed to “make businesses’ obligations clearer and provides more flexibility in meeting them”. We endorse these comments and we note that many of the draft changes have been well received by industry.

The NZ Customs Service are responsible for managing New Zealand’s borders, which includes managing the movement of all goods, people and craft in and out of New Zealand – a responsibility which has been growing with an increasingly globalised world. Just in the last year, New Zealand exports were valued at over \$70 billion, while the total value of our imports were \$67 billion.

Total value of NZ Merchandise Trade for 2000-2015



As well as changes to the overall structure of the current Act, the draft Bill also includes a number of substantive changes which were introduced as part of the broader package of NZ Customs reforms.



PwC comments

This is an important milestone. NZ Customs have undertaken the ambitious task of rewriting the Customs and Excise Act 1996, which included public consultations and a comprehensive overhaul of the wider structure of the current Act over a period of 3 years.

The Bill is a positive step towards a Customs framework that can support our ever growing import/export industry, as well as our manufacturers. The Bill allows for more flexibility for NZ Customs while the more principles-based rules should be easier to work with for businesses. This will go a long way to meeting NZ Customs goal of reducing costs and increasing certainty.

Key objectives for the re-write

- Modernise the Customs framework
- Easier to understand rules through a restructuring of the Act and simplification of language
- Support meeting the Government's agenda to increase exports to 40% of GDP by 2025
- Protecting New Zealand's borders whilst facilitating trade and travel
- Staying in tune with globalisation, emerging technologies and the pace of trade
- To be better integrated with other Government services through use and management of information.

What's next?

A staggered implementation will take place, with a large part of the Bill coming into force on 1 April 2018. Provisions undergoing more substantive changes will come into effect at a later date.

We set out some of the key proposed changes contained in the Bill, and how this may affect your business. Submissions are due by 10 February 2017.

For more information or to discuss these changes please contact our GST & Customs team.



Five key changes for manufacturers, importers and exporters

1

Provisional value for imports

Current rule

The current Customs framework does not allow provisional values to be entered for imports, even if the Customs value cannot be determined at the time of import. Practically, importers have had to write to Customs to retrospectively adjust the value of the importations.

Proposed rule

For importers with transfer pricing arrangements in place or a pending binding valuation ruling, a provisional Customs value can be declared. Once the final value can be determined, this is to be provided to Customs, who finalise the amount of taxes and duties payable with respect to the import.

Our comments

This should make the process of adjusting Customs values easier for importers. In conjunction with the proposed change we expect to see a more streamlined process for declaring the final values where a provisional value has been entered.

Customs should consider making the option to enter provisional values available to other importers where they have other valid commercial reasons for doing so.

2

Binding valuation rulings

Current rule

Currently, Customs can only issue binding rulings on the origin of a good, the tariff/excise classification, and whether a good is subject to a duty concession. While Customs have on occasion given informal advice on the appropriate method for determining value, this has been limited to the method rather than giving an indication as to the actual Customs value.

Proposed rule

The proposed Bill would allow Customs to give binding rulings in relation to the value of goods to be imported into New Zealand.

Our comments

This amendment would give importers greater confidence in meeting valuation requirements and duty liabilities, as well as supporting voluntary compliance.

Customs should consider making valuation rulings available in a wider range of scenarios e.g. even where goods have already been imported or manufactured.

3

Sale for value of imports is the last sale

Current rule

For most imports into NZ, the sale for export price is used as the basis to determine the Customs value under the Transaction Value method. Where the goods are purchased in a series of successive sales, the importer can use any of these prices as a basis to determine the Customs value.

This gives importers the flexibility to use any of the sales prices to determine the Customs value.

Proposed rule

In the new Bill, sale for export to New Zealand has been specifically defined as the last sale of goods occurring prior to the importation of the goods into New Zealand.

Therefore, only the most recent (final) invoice may be used in order to determine the Customs value under the Transaction Value method.

Our comments

This provides clarity and certainty for importers, however depending on the sale prices this may result in a higher Customs value for some importers.

For imports involving successive sales, importers should review which sale prices are being used to determine the Customs value of their imports, and ensure they adopt the last sale in time for the rule change.



NZ Customs will work with Inland Revenue to streamline GST at the border for business importers.

4

Alcohol producers storing product offsite

Current rule

Excise is payable by alcohol manufacturers at the point the finished goods are removed from a Licensed Manufacturing Area (LMA).

Currently, only wine manufacturers are allowed to transfer finished goods to an off-site storage area without triggering the excise tax.

Proposed rule

These rules will be extended to other alcohol manufacturers, who will be able to apply for an off-site storage license.

Our comments

There was no strong rationale for the off-site storage requirements to differ across the alcohol manufacturing sector.

We commend NZ Customs for expanding the availability of off-site storage areas to other alcohol manufacturers. This is a positive development for alcohol manufacturers.

5

Storing business records in the cloud/offshore

Current rule

Currently, businesses are required to store business records physically in New Zealand.

Proposed rule

The new Bill will allow authorised businesses to store business records offshore and/or in the cloud.

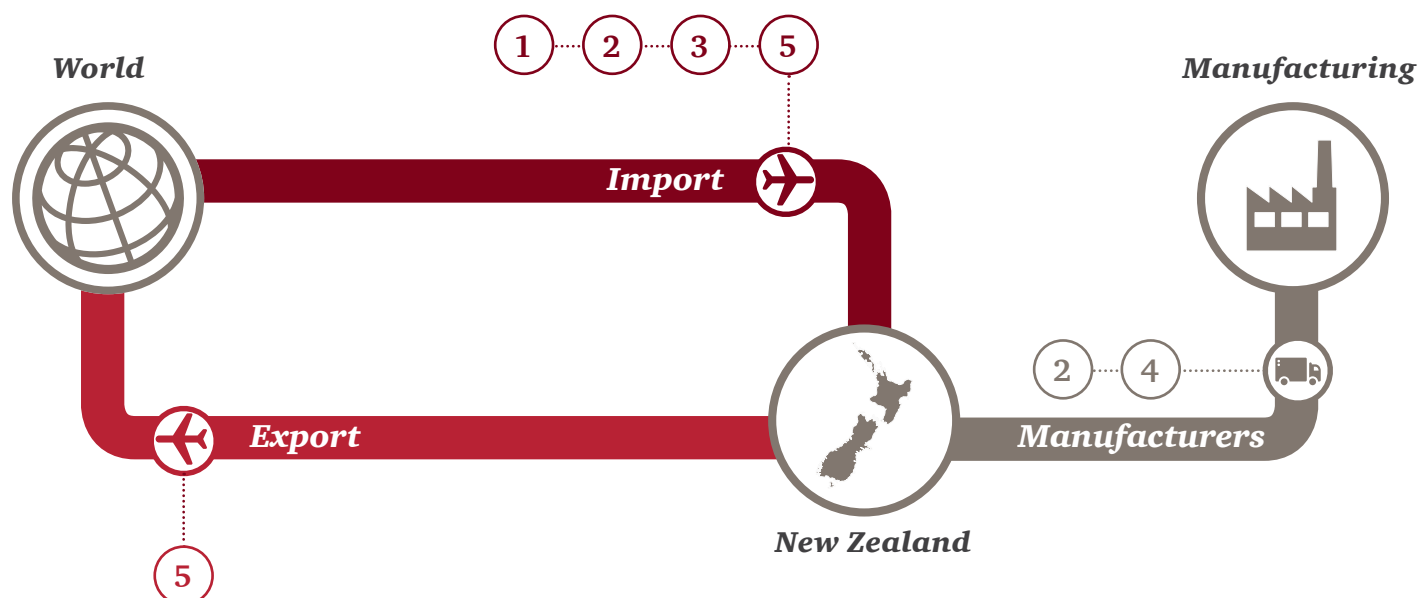
Our comments

This amendment enables businesses to take advantage of modern recordkeeping practices and technologies.

Businesses should keep in mind they need to apply for authorisation before being able to store the records outside of New Zealand, and they will need to ensure that the records are easily accessible by NZ Customs.

Other items of interest in the Bill

- A more flexible disputes system – currently disputes and reassessments proceed directly to court.
- NZ Customs will work with Inland Revenue to streamline GST at the border for business importers.
- Administrative penalties have been extended so they can be applied to all export entries.



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