

Version  
as at 1 January 2022



## Tariff Act 1988

Public Act 1988 No 155  
Date of assent 29 November 1988  
Commencement see section 1(2)

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#### Note

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

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

**This Act is administered by the Ministry of Business, Innovation, and Employment.**

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## **An Act to consolidate and amend the law relating to the imposition of tariff duty**

### **1 Short Title and commencement**

- (1) This Act may be cited as the Tariff Act 1988.
- (2) This Act shall come into force on 1 December 1988.

### **2 Interpretation**

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

**2010 Tariff Document** means the document certified under section 9A(1)

**AANZFTA** means the Agreement Establishing the ASEAN–Australia–New Zealand Free Trade Area done at Cha-am, Phetchaburi, Thailand on 27 February 2009

**ASEAN** means the Association of South East Asian Nations

**chief executive**, in any provision, means the chief executive of the department responsible for the administration of that provision

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

**CPTPP** means the Comprehensive and Progressive Agreement for Trans-Pacific Partnership, done at Santiago, Chile, on 8 March 2018

**Customs** or **the Customs** has the meaning given to Customs by section 5(1) of the Customs and Excise Act 2018

**Customs value** or **value** has the meaning given to Customs value by section 5(1) of the Customs and Excise Act 2018

**duty** means any duty imposed on goods under any of the provisions of this Act

**goods** means all kinds of movable personal property, including animals

**imported** has the meaning given to it by section 5(1) of the Customs and Excise Act 2018

**importer** means any person by or for whom any goods are imported; and includes the consignee of any goods and any person who is or becomes the owner of or entitled to the possession of or beneficially interested in any goods

on or at any time after their importation and before they have ceased to be subject to the control of the Customs

**least developed country** means any country for the time being declared by Order in Council, under section 7A(1)(c), to be a least developed country for the purposes of this Act

**less developed country** means any country for the time being declared by an Order in Council, under section 7A(1)(d), to be a less developed country for the purposes of this Act

**manufacturing area** has the meaning given to it by section 5(1) of the Customs and Excise Act 2018

**Minister**, in any provision, means the Minister of the Crown who, under the authority of any warrant or with the authority of the Prime Minister, is for the time being responsible for the administration of that provision

**Normal Tariff** means the rates of duty and the exemptions from duty specified in the column headed Normal Tariff in the Tariff; and includes any modification or amendment thereof that may hereafter be made

**PACER Plus** means the Pacific Agreement on Closer Economic Relations Plus done at Nuku'alofa, Tonga, on 14 June 2017

**preferential abbreviation** has the meaning given to it by section 7(3)

**preferential country** has the meaning given to it by section 7(3)

**Preferential Tariff** means the rates of duty and the exemptions from duty specified in the column headed Preferential Tariff in the Tariff; and includes any modification or amendment thereof that may hereafter be made

**prescribed** in relation to forms includes prescribed by the chief executive

**rate of duty** includes the term Free

**RCEP** means the Regional Comprehensive Economic Partnership done at Hanoi, Vietnam, on 15 November 2020

**ship** means any kind of vessel used in navigation, not propelled by oars only

**shipment** includes loading into an aircraft; and **to ship** and cognate expressions have corresponding meanings

**South Pacific Regional Trade and Economic Co-operation Agreement** means the agreement of that name done at Tarawa on 14 July 1980; and includes any modification or amendment of it made after that day

**specified AANZFTA party** means a country that is for the time being declared by Order in Council under section 7A(1)(a) to be a specified AANZFTA party for the purposes of this Act

**specified CPTPP party** means a country that is for the time being declared by Order in Council under section 7A(1)(baa) to be a specified CPTPP party for the purposes of this Act

**specified PACER Plus party** means a country that is for the time being declared by Order in Council under section 7A(1)(bb) to be a specified PACER Plus party for the purposes of this Act

**specified RCEP party** means a country that is for the time being declared by Order in Council under section 7A(1)(bc) to be a specified RCEP party for the purposes of this Act

**specified TPA party** means a country that is for the time being declared by Order in Council under section 7A(1)(b) to be a specified TPA party for the purposes of this Act

**specified TPP party** means a country that is for the time being declared by Order in Council under section 7A(1)(ba) to be a specified TPP party for the purposes of this Act

**Standard Tariff** means Standard Tariff comprised in Part 1 of the Tariff; and includes any modification or amendment thereof that may hereafter be made

**statistical key** means the code number and unit identified by 2 numeric and 1 alphabetical digits shown under the heading Statistical Key in the Standard Tariff and includes all the descriptions shown beside such numbers preceded by dots

**Tariff**—

- (a) means the Tariff of New Zealand as set out in the 2010 Tariff Document; but
- (b) if, and in so far as, the Tariff referred to in paragraph (a) is on or after 1 January 2010 from time to time amended, modified, or revoked and replaced, then despite paragraph (a) means that Tariff as from time to time amended, modified, or revoked and replaced

**Tariff heading** or **heading**, means a heading of the Standard Tariff (printed in bold type), being a heading of the Harmonised System established by the International Convention on the Harmonised Commodity Description and Coding System signed in Brussels on 14 June 1983 and identified by 4 digits; and includes any modification or amendment thereof that may hereafter be made

**Tariff item** means a Tariff item of the Standard Tariff identified by 8 digits; and includes a heading thereto so identified

**Tariff subheading**, or **subheading**, means a subheading appearing in the Standard Tariff and identified by 6 digits or not identified by any number

**TPA** means the Trans-Pacific Strategic Economic Partnership Agreement that was opened for signature by Brunei Darussalam, Chile, New Zealand, and Singapore on 15 June 2005

**TPP** means the Trans-Pacific Partnership Agreement done at Auckland on 4 February 2016

**Working Tariff Document** means the document maintained under that name by the person holding office under the Public Service Act 2020 as the Chief Executive of the New Zealand Customs Service.

(2) *[Repealed]*

Section 2(1) **2010 Tariff Document**: inserted, on 8 December 2009, by section 6(2) of the Tariff Amendment Act 2009 (2009 No 62).

Section 2(1) **AANZFTA**: inserted, on 1 January 2010, by section 5(4) of the Tariff (AANZFTA) Amendment Act 2009 (2009 No 20).

Section 2(1) **ASEAN**: inserted, on 1 January 2010, by section 5(4) of the Tariff (AANZFTA) Amendment Act 2009 (2009 No 20).

Section 2(1) **chief executive**: replaced, on 26 March 2015, by section 4(1) of the Tariff Amendment Act 2015 (2015 No 36).

Section 2(1) **Collector**: repealed, on 1 October 1996, by section 289(1) of the Customs and Excise Act 1996 (1996 No 27).

Section 2(1) **Comptroller**: repealed, on 1 October 1996, by section 289(1) of the Customs and Excise Act 1996 (1996 No 27).

Section 2(1) **country**: inserted, on 13 December 2020, by section 4 of the Tariff (PACER Plus) Amendment Act 2018 (2018 No 29).

Section 2(1) **CPTPP**: inserted, on 30 December 2018, by section 79 of the Comprehensive and Progressive Agreement for Trans-Pacific Partnership Amendment Act 2018 (2016 No 90).

Section 2(1) **Customs or the Customs**: substituted, on 1 October 1996, by section 289(1) of the Customs and Excise Act 1996 (1996 No 27).

Section 2(1) **Customs or the Customs**: amended, on 1 October 2018, by section 443(3) of the Customs and Excise Act 2018 (2018 No 4).

Section 2(1) **Customs value or value**: amended, on 1 October 2018, by section 443(3) of the Customs and Excise Act 2018 (2018 No 4).

Section 2(1) **imported**: inserted, on 1 October 1996, by section 289(1) of the Customs and Excise Act 1996 (1996 No 27).

Section 2(1) **imported**: amended, on 1 October 2018, by section 443(3) of the Customs and Excise Act 2018 (2018 No 4).

Section 2(1) **least developed country**: amended, on 1 January 2010, by section 5(1) of the Tariff (AANZFTA) Amendment Act 2009 (2009 No 20).

Section 2(1) **less developed country**: amended, on 1 January 2010, by section 5(2) of the Tariff (AANZFTA) Amendment Act 2009 (2009 No 20).

Section 2(1) **manufacturing area**: substituted, on 1 October 1996, by section 289(1) of the Customs and Excise Act 1996 (1996 No 27).

Section 2(1) **manufacturing area**: amended, on 1 October 2018, by section 443(3) of the Customs and Excise Act 2018 (2018 No 4).

Section 2(1) **Minister**: replaced, on 26 March 2015, by section 4(2) of the Tariff Amendment Act 2015 (2015 No 36).

Section 2(1) **Normal Tariff**: amended, on 1 June 2000, by section 3(2)(a) of the Tariff (Zero Duty Removal) Amendment Act 2000 (2000 No 15).

Section 2(1) **PACER Plus**: inserted, on 13 December 2020, by section 4 of the Tariff (PACER Plus) Amendment Act 2018 (2018 No 29).

Section 2(1) **preferential abbreviation**: inserted, on 1 January 2010, by section 5(4) of the Tariff (AANZFTA) Amendment Act 2009 (2009 No 20).

Section 2(1) **preferential country**: inserted, on 1 January 2010, by section 5(4) of the Tariff (AANZFTA) Amendment Act 2009 (2009 No 20).

Section 2(1) **Preferential Tariff**: amended, on 1 June 2000, by section 3(2)(a) of the Tariff (Zero Duty Removal) Amendment Act 2000 (2000 No 15).

Section 2(1) **prescribed**: amended, on 7 September 2000, by section 8(1) of the Ministry of Economic Development Act 2000 (2000 No 28).

Section 2(1) **RCEP**: inserted, on 1 January 2022, by section 6 of the Regional Comprehensive Economic Partnership (RCEP) Legislation Act 2021 (2021 No 40).

Section 2(1) **Secretary**: repealed, on 7 September 2000, by section 8(1) of the Ministry of Economic Development Act 2000 (2000 No 28).

Section 2(1) **South Pacific Regional Trade and Economic Co-operation Agreement**: inserted, on 23 February 1995, by section 2 of the Tariff Amendment Act 1994 (1994 No 163).

Section 2(1) **specified AANZFTA party**: inserted, on 1 January 2010, by section 5(4) of the Tariff (AANZFTA) Amendment Act 2009 (2009 No 20).

Section 2(1) **specified CPTPP party**: inserted, on 30 December 2018, by section 79 of the Comprehensive and Progressive Agreement for Trans-Pacific Partnership Amendment Act 2018 (2016 No 90).

Section 2(1) **specified PACER Plus party**: inserted, on 13 December 2020, by section 4 of the Tariff (PACER Plus) Amendment Act 2018 (2018 No 29).

Section 2(1) **specified RCEP party**: inserted, on 1 January 2022, by section 6 of the Regional Comprehensive Economic Partnership (RCEP) Legislation Act 2021 (2021 No 40).

Section 2(1) **specified TPA party**: inserted, on 1 May 2006, by section 5 of the Tariff (Trans-Pacific Strategic Economic Partnership) Amendment Act 2006 (2006 No 4).

Section 2(1) **specified TPA party**: amended, on 1 January 2010, by section 5(3) of the Tariff (AANZFTA) Amendment Act 2009 (2009 No 20).

Section 2(1) **specified TPP party**: inserted, on 30 December 2018, by section 79 of the Comprehensive and Progressive Agreement for Trans-Pacific Partnership Amendment Act 2018 (2016 No 90).

Section 2(1) **Standard Tariff**: amended, on 1 June 2000, by section 3(2)(a) of the Tariff (Zero Duty Removal) Amendment Act 2000 (2000 No 15).

Section 2(1) **Tariff**: substituted, on 1 January 2010, by section 6(1) of the Tariff Amendment Act 2009 (2009 No 62).

Section 2(1) **TPA**: added, on 1 May 2006, by section 5 of the Tariff (Trans-Pacific Strategic Economic Partnership) Amendment Act 2006 (2006 No 4).

Section 2(1) **TPP**: inserted, on 30 December 2018, by section 79 of the Comprehensive and Progressive Agreement for Trans-Pacific Partnership Amendment Act 2018 (2016 No 90).

Section 2(1) **Working Tariff Document**: added, on 8 December 2009, by section 6(2) of the Tariff Amendment Act 2009 (2009 No 62).

Section 2(1) **Working Tariff Document**: amended, on 7 August 2020, by section 135 of the Public Service Act 2020 (2020 No 40).

Section 2(2): repealed, on 1 October 1996, by section 289(1) of the Customs and Excise Act 1996 (1996 No 27).

## 2A Act to bind the Crown

This Act binds the Crown.

Section 2A: inserted, on 1 October 1996, by section 289(1) of the Customs and Excise Act 1996 (1996 No 27).

### 3 The Tariff

- (1) Duties must be levied, collected, and paid in accordance with the Tariff, or with a transitional safeguard measure, an emergency action measure, or a provisional transitional safeguard measure, as the case may require, on goods to which this subsection applies.
- (2) Subsection (1) applies to goods that, after the commencement on 1 December 1988 of this Act, are—
  - (a) imported into New Zealand; or
  - (b) entered therein for home consumption; or
  - (c) entered therein for delivery to a manufacturing area.
- (3) Subsection (1) is subject to the provisions of this Act.
- (4) In this section, **transitional safeguard measure**, **emergency action measure**, and **provisional transitional safeguard measure** have the same meanings as in section 15A.

Section 3: substituted, on 1 January 2010, by section 9(2) of the Tariff Amendment Act 2009 (2009 No 62).

Section 3(1): amended, on 30 December 2018, by section 80(1) of the Comprehensive and Progressive Agreement for Trans-Pacific Partnership Amendment Act 2018 (2016 No 90).

Section 3(4): inserted, on 30 December 2018, by section 80(2) of the Comprehensive and Progressive Agreement for Trans-Pacific Partnership Amendment Act 2018 (2016 No 90).

#### 3A Removal of all tariff duties by no later than 1 July 2006

*[Repealed]*

Section 3A: repealed, on 1 June 2000, by section 3(1) of the Tariff (Zero Duty Removal) Amendment Act 2000 (2000 No 15).

#### 3B Limits on rates of duty for certain goods pending removal of duty

*[Repealed]*

Section 3B: repealed, on 1 June 2000, by section 3(1) of the Tariff (Zero Duty Removal) Amendment Act 2000 (2000 No 15).

### 4 Enforcement of Tariff

- (1) The enforcement and collection of duties payable under this Act shall be a function of Customs.
- (2) *[Repealed]*

Section 4(2): repealed, on 1 October 2018, by section 443(3) of the Customs and Excise Act 2018 (2018 No 4).

### 5 Value of goods for the purpose of applying Tariff

Except as otherwise expressly provided in this Act, the value of any imported goods for the purposes of applying the Tariff shall be the Customs value of the goods.

Compare: 1966 No 19 s 136



## 6 Duty payable under Normal Tariff

Subject to this Act, the duty (if any) payable under the Normal Tariff shall be paid on all goods imported into New Zealand or entered therein for home consumption or entered therein for delivery to a manufacturing area.

Compare: 1966 No 19 s 150(1)

## 7 Application of Tariff

- (1) The Tariff applies to goods in a Tariff item that are the produce or manufacture of a preferential country at the rate—
  - (a) specified after the preferential abbreviation (if any) in the column of the Tariff headed Preferential Tariff; or
  - (b) specified in some other way (for example, in a footnote or other indicator) in the Tariff by reference to the preferential country or the preferential abbreviation; or
  - (c) specified in an agreement or document incorporated into an Order in Council in reliance on section 7C by reference to the preferential abbreviation or to the preferential country.

- (2) The liability to duty of any goods that are the produce or manufacture of a country must, for the purposes of this section, be determined according to the status of that country at the time when the goods are imported into New Zealand.

- (3) In this section, unless the context otherwise requires,—

**preferential abbreviation**, in relation to a preferential country listed or described in the first column of note 3 of the Tariff, means the abbreviation specified opposite that country in the second column of that note

**preferential country** means a country listed or described in the first column of note 3 of the Tariff.

Section 7: substituted, on 1 January 2010, by section 6 of the Tariff (AANZFTA) Amendment Act 2009 (2009 No 20).

Section 7(1)(c): added, on 1 January 2010 (immediately after the commencement of the Tariff (AANZFTA) Amendment Act 2009), by section 5 of the Tariff Amendment Act 2009 (2009 No 62).

Section 7(3) **preferential abbreviation**: amended, on 1 January 2010 (immediately after the commencement of the Tariff (AANZFTA) Amendment Act 2009), by section 9(4) of the Tariff Amendment Act 2009 (2009 No 62).

Section 7(3) **preferential country**: amended, on 1 January 2010 (immediately after the commencement of the Tariff (AANZFTA) Amendment Act 2009), by section 9(4) of the Tariff Amendment Act 2009 (2009 No 62).

## 7A Orders in Council about preferential countries

- (1) The Governor-General may, by Order in Council, do all or any of the following:
  - (a) declare a country that is a party to the AANZFTA to be a specified AANZFTA party for the purposes of this Act:

- (b) declare a country to be a specified TPA party for the purposes of this Act if the country—
    - (i) is a party to the TPA; or
    - (ii) is provisionally applying the terms of the TPA:
  - (baa) declare a country that is a party to the CPTPP to be a specified CPTPP party for the purposes of this Act:
  - (ba) declare a country that is a party to the TPP to be a specified TPP party for the purposes of this Act:
  - (bb) declare a country that is a party to the PACER Plus to be a specified PACER Plus party for the purposes of this Act:
  - (bc) declare a country that is a party to the RCEP to be a specified RCEP party for the purposes of this Act:
  - (c) declare a country to be, or not to be, a least developed country for the purposes of this Act:
  - (d) declare a country to be, or not to be, a less developed country for the purposes of this Act.
- (2) The Governor-General may, by an Order in Council making a declaration under subsection (1) about a country or any other Order in Council relating to that country,—
- (a) declare that, in relation to any specified Tariff items, any rate of duty or exemption from duty otherwise applicable to that country is not to apply to that country:
  - (b) modify, in whole or in part, the Tariff rates of duty applicable to goods from that country.
- (3) No modification under subsection (2)(b) relating to a specified TPA party, a specified RCEP party, a specified CPTPP party, a specified TPP party, a specified PACER Plus party, or a specified AANZFTA party may have the effect of imposing on any goods a higher duty than that set out in respect of those goods in the Normal Tariff, unless the Governor-General is satisfied that the modification is—
- (a) necessary or advisable in the public interest; and
  - (b) consistent with New Zealand’s international obligations.
- (4) No modification under subsection (2)(b) relating to a less developed country or a least developed country may have the effect of imposing on any goods a higher duty than that set out in respect of those goods in the Normal Tariff.
- (5) An order under this section is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

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**Legislation Act 2019 requirements for secondary legislation made under this section**

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

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

*This note is not part of the Act.*

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Section 7A: substituted, on 1 January 2010, by section 6 of the Tariff (AANZFTA) Amendment Act 2009 (2009 No 20).

Section 7A(1)(baa): inserted, on 30 December 2018, by section 81(1) of the Comprehensive and Progressive Agreement for Trans-Pacific Partnership Amendment Act 2018 (2016 No 90).

Section 7A(1)(ba): inserted, on 30 December 2018, by section 81(1) of the Comprehensive and Progressive Agreement for Trans-Pacific Partnership Amendment Act 2018 (2016 No 90).

Section 7A(1)(bb): inserted, on 13 December 2020, by section 5(1) of the Tariff (PACER Plus) Amendment Act 2018 (2018 No 29).

Section 7A(1)(bc): inserted, on 1 January 2022, by section 7(1) of the Regional Comprehensive Economic Partnership (RCEP) Legislation Act 2021 (2021 No 40).

Section 7A(3): amended, on 1 January 2022, by section 7(2) of the Regional Comprehensive Economic Partnership (RCEP) Legislation Act 2021 (2021 No 40).

Section 7A(3): amended, on 13 December 2020, by section 5(2) of the Tariff (PACER Plus) Amendment Act 2018 (2018 No 29).

Section 7A(3): amended, on 30 December 2018, by section 81(2) of the Comprehensive and Progressive Agreement for Trans-Pacific Partnership Amendment Act 2018 (2016 No 90).

Section 7A(5): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

## **7B Evidence of whether South Pacific Regional Trade and Economic Co-operation Agreement is in force in relation to country**

- (1) A certificate given by the Secretary of Foreign Affairs and Trade to the effect that any country is or is not one in relation to which, at the time of the importation or entry of the goods into New Zealand, the South Pacific Regional Trade and Economic Co-operation Agreement was in force for the purposes of this Act is conclusive evidence of that fact.

- (2) Any court or any person acting judicially to which or to whom, in any proceeding, any certificate under subsection (1) is produced must take judicial notice of the signature on it of the Secretary of Foreign Affairs and Trade.

- (3) For the purposes of this section,—

**court** includes the Supreme Court, the Court of Appeal, the High Court, and the District Court

**District Court** includes—

- (a) the Family Court; and
- (b) the Youth Court

**person acting judicially** means any person having in New Zealand by law authority to hear, receive, and examine evidence

**proceeding** means—

- (a) a proceeding conducted by a court; and

- (b) any interlocutory or other application to a court connected with a proceeding.

Section 7B: inserted, on 1 January 2010, by section 6 of the Tariff (AANZFTA) Amendment Act 2009 (2009 No 20).

Section 7B(3) **court**: amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Section 7B(3) **District Court**: replaced, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

### **7C Incorporation of provisions by reference in Orders in Council**

- (1) An Order in Council made under section 9 or 10 may incorporate by reference any provisions set out in—
- (a) an international trade agreement to which New Zealand is a party (for example, a free trade agreement); or
- (b) another document made to give effect to such an agreement.
- (2) The provisions may be incorporated in the Order in Council—
- (a) in whole or in part; and
- (b) with modifications, additions, or variations specified in the Order in Council.
- (3) The incorporated provisions—
- (a) are the provisions as they exist at the time that the Order in Council is made; and
- (b) form part of the Order in Council for all purposes and have legal effect accordingly.
- (4) *See* section 9C(3) in relation to the application of the Legislation Act 2019 to incorporated provisions.

Section 7C: inserted, on 1 January 2010 (immediately after the commencement of the Tariff (AANZFTA) Amendment Act 2009), by section 4 of the Tariff Amendment Act 2009 (2009 No 62).

Section 7C heading: amended, on 29 October 2019, by section 4 of the Legislation (Repeals and Amendments) Act 2019 (2019 No 59).

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

Section 7C(4): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

### **7D Effect of amendments to, or replacement of, provisions incorporated by reference**

An amendment to, or replacement of, provisions incorporated under section 7C has legal effect as part of the Order in Council only if an Order in Council is made that states that the particular amendment or replacement has that effect.

Section 7D: inserted, on 1 January 2010 (immediately after the commencement of the Tariff (AANZFTA) Amendment Act 2009), by section 4 of the Tariff Amendment Act 2009 (2009 No 62).

**7E Proof of provisions incorporated by reference**

- (1) A copy of the provisions incorporated under section 7C, including any amendment to, or replacement of, the provisions, must be—
  - (a) certified as a correct copy of the provisions by the chief executive; and
  - (b) retained by the chief executive.
- (2) The production in proceedings of a certified copy of the provisions is, in the absence of proof to the contrary, sufficient evidence of the incorporation in the Order in Council of the provisions.

Section 7E: inserted, on 1 January 2010 (immediately after the commencement of the Tariff (AANZFTA) Amendment Act 2009), by section 4 of the Tariff Amendment Act 2009 (2009 No 62).

**7F Access to provisions incorporated by reference**

- (1) The chief executive must—
  - (a) ensure that copies of any provisions incorporated under section 7C are available for inspection during working hours, free of charge, at places specified in a notice given under paragraph (d); and
  - (b) ensure that copies of the provisions are published on an Internet site that is, so far as practicable, publicly available free of charge; and
  - (c) ensure that copies of the provisions are available for purchase at a reasonable price at places specified in a notice given under paragraph (d); and
  - (d) give notice in the *Gazette* stating that—
    - (i) the provisions are incorporated in a particular Order in Council and the date on which the Order in Council was made; and
    - (ii) copies of the provisions are available (at all reasonable times) for inspection during working hours, free of charge, at specified places; and
    - (iii) copies of the provisions are available on a specified Internet site; and
    - (iv) copies of the provisions can be purchased at specified places.
- (2) A failure to comply with this section does not invalidate an Order in Council that incorporates provisions under section 7C.

Section 7F: inserted, on 1 January 2010 (immediately after the commencement of the Tariff (AANZFTA) Amendment Act 2009), by section 4 of the Tariff Amendment Act 2009 (2009 No 62).

**7G Application of Legislation Act 2012 to provisions incorporated by reference: publication and disallowance**

*[Repealed]*

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

## **7H Application of Regulations (Disallowance) Act 1989 to provisions incorporated by reference**

*[Repealed]*

Section 7H: repealed, on 5 August 2013, by section 77(3) of the Legislation Act 2012 (2012 No 119).

## **8 Concessions**

- (1) The Minister may from time to time, in the Minister's discretion and in accordance with Part 2 of the Tariff, approve in respect of the entry of goods—
  - (a) of any of the classes specified in Part 2; or
  - (b) in any of the circumstances specified in Part 2,—the appropriate rate of duty or exemption specified in Part 2.
- (2) The Minister may from time to time, by notice in the *Gazette*, withdraw or modify any approval granted under subsection (1).

Compare: 1966 No 19 s 120(5)

## **9 Alterations and modifications of Tariff**

- (1) Subject to subsection (2), the Governor-General may, by Order in Council, alter the existing Tariff in whole or in part and may impose on any goods such duties, or create such exemptions from duties, as the Governor-General thinks fit.
- (2) The Governor-General shall not make an Order in Council under this section which has the effect of imposing on any goods a higher duty than specified in respect of those goods in the Normal Tariff, unless the Governor-General is satisfied that such an order is necessary or advisable in the public interest and is in conformity with New Zealand's international obligations.
- (3) Any Order in Council under this section may relate generally to all goods or to goods of any specified class or classes or to goods imported from any specified country or from any specified person.
- (4) Section 9C applies to an order under this section.

Compare: 1966 No 19 ss 124, 125, 127, 128

Section 9(4): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

## **9A Certification of 2010 Tariff Document**

- (1) The chief executive must, by the close of 31 December 2009,—
  - (a) certify a copy of the Working Tariff Document; and
  - (b) retain that copy.
- (2) Before certifying a copy of the Working Tariff Document under subsection (1), the chief executive must be satisfied that the copy is or includes a full and accurate copy of the contents of Schedule 1—
  - (a) as in force at the close of 31 December 2009; but

- (b) as amended by any order made under section 9 and that comes into force on 1 January 2010, and also as amended by section 10 of the Tariff (AANZFTA) Amendment Act 2009 (which also comes into force on 1 January 2010).
- (3) The chief executive must ensure that—
  - (a) references in the certified copy to Schedule 3 of the Customs and Excise Act 1996 are replaced with references to the Excise and Excise-equivalent Duties Table; and
  - (b) the certified copy indicates clearly that any information in it that is not the contents of Schedule 1 as described in paragraphs (a) and (b) of subsection (2) does not form part of, or have legal effect as part of, the Tariff (as defined after 31 December 2009).

Section 9A: substituted, on 8 December 2009, by section 7 of the Tariff Amendment Act 2009 (2009 No 62).

## **9B Access to Tariff**

- (1) The chief executive must—
  - (a) ensure that copies of the documents referred to in subsection (2) are published on an Internet site that is, so far as practicable, publicly available free of charge; and
  - (b) ensure that copies of the documents referred to in subsection (2) are available for purchase at a reasonable price at the places specified in a notice given under subsection (5).
- (2) The documents are—
  - (a) the Tariff as from time to time amended, modified, or revoked and replaced on or after 1 January 2010; and
  - (b) the 2010 Tariff Document; and
  - (c) Orders in Council amending or modifying the Tariff and made under section 9 or 10 on or after 1 January 2010.
- (3) Every version of the Tariff referred to in subsection (2)(a) and published or made available under subsection (1) must—
  - (a) indicate that it is the Tariff as in force at the beginning of a stated date; and
  - (b) list all Acts and Orders in Council that are enacted on or after 1 January 2010 and before the stated date and that amend, modify, revoke, or revoke and replace some or all of the Tariff.
- (4) Nothing in section 9A or this section prevents the chief executive from ensuring that other information is published or made available with the Tariff, so long as in doing so the chief executive ensures that it is indicated clearly that

the other information does not form part of, or have legal effect as part of, the Tariff.

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### Example

Examples of other information are—

- the Excise and Excise-equivalent Duties Table (as that term is defined in the Customs and Excise Act 2018):
- details of prohibited imports:
- tables explaining the correlation between former and current Tariff items.

- (5) The chief executive must give notice in the *Gazette* stating that copies of the documents referred to in subsection (2) can (in accordance with subsection (1)(b)) be purchased at specified places.

Section 9B: inserted, on 1 January 2010, by section 8 of the Tariff Amendment Act 2009 (2009 No 62).

Section 9B(1)(b): amended, on 29 October 2019, by section 4 of the Legislation (Repeals and Amendments) Act 2019 (2019 No 59).

Section 9B(4) example: amended, on 1 October 2018, by section 443(3) of the Customs and Excise Act 2018 (2018 No 4).

Section 9B(5): inserted, on 29 October 2019, by section 4 of the Legislation (Repeals and Amendments) Act 2019 (2019 No 59).

### 9C Application of Legislation Act 2019 to Orders in Council and notices

- (1) The following are secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements):
- (a) an order under section 9 or 10(1):
  - (b) a notice under section 10(2).
- (2) Section 67(d)(i) of that Act does not apply to an order or notice referred to in subsection (1).
- (3) Subpart 1 of Part 3 and section 114 of the Legislation Act 2019 do not apply to provisions that are incorporated by reference under section 7C merely because they are incorporated.
- (4) An order under section 9 must be confirmed by an Act (*see* subpart 3 of Part 5 of the Legislation Act 2019).

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#### Legislation Act 2019 requirements for secondary legislation referred to in subsection (1)(a)

<b>Publication</b>	The maker must ensure that section 9B is complied with	LA19 ss 73, 74(1)(a), Sch 1 cl 14
<b>Presentation</b>	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
<b>Disallowance</b>	It may be disallowed by the House of Representatives	LA19 ss 115, 116

*This note is not part of the Act.*

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**Legislation Act 2019 requirements for secondary legislation referred to in subsection (1)(b)**

<b>Publication</b>	The maker must publish it in the <i>Gazette</i>	LA19 ss 73, 74(1)(a), Sch 1 cl 14
<b>Presentation</b>	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
<b>Disallowance</b>	It may be disallowed by the House of Representatives	LA19 ss 115, 116

*This note is not part of the Act.*

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Section 9C: replaced, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

**9D Judicial notice of Tariff**

Judicial notice must be taken by all courts and persons acting judicially of the Tariff.

Compare: 1989 No 142 ss 16A, 16B(1)

Section 9D: inserted, on 1 January 2010, by section 8 of the Tariff Amendment Act 2009 (2009 No 62).

**9E Evidence of Tariff**

Every copy of the documents referred to in section 9B(2) purporting to be published or made available under the authority of the chief executive is, unless the contrary is shown, deemed—

- (a) to be a correct copy of the document; and
- (b) to have been so published or made available.

Compare: 1989 No 142 s 16C

Section 9E: inserted, on 1 January 2010, by section 8 of the Tariff Amendment Act 2009 (2009 No 62).

**9F Tariff may be amended, and must be interpreted, as if it were an enactment**

- (1) The Tariff may be amended, revoked, or revoked and replaced by an Act of Parliament as if it were an Act of Parliament.
- (2) The Tariff may be altered or amended by an Order in Council made under section 9 or 10 as if it were secondary legislation.
- (3) Part 2 of the Legislation Act 2019 applies to the Tariff as if it were legislation.
- (4) Nothing in this Act limits or affects the application of—
  - (a) Part 2 of the Legislation Act 2019 to an Act amending, revoking, or revoking and replacing the Tariff, this Act (either alone or with other enactments), or both; or
  - (b) Part 2 of the Legislation Act 2019 to an Order in Council made under section 9 or 10.

Section 9F: inserted, on 1 January 2010, by section 8 of the Tariff Amendment Act 2009 (2009 No 62).

Section 9F(2): amended, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Section 9F(3): replaced, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Section 9F(4)(a): amended, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Section 9F(4)(b): amended, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

## **9G References to Schedule 1**

Every reference in the following to the Tariff or to Schedule 1 of the Tariff Act 1988 must be read as if it were a reference to the Tariff (as defined by section 2 of the Tariff Act 1988 as amended by section 6(1) of the Tariff Amendment Act 2009):

- (a) an enactment not added, amended, inserted, or substituted by the Tariff Amendment Act 2009 and in force at the commencement of this section:
- (b) a document in operation at that commencement.

Section 9G: inserted, on 1 January 2010, by section 8 of the Tariff Amendment Act 2009 (2009 No 62).

## **10 Alterations to nomenclature**

- (1) The Governor-General may, from time to time, by Order in Council amend the Tariff—
  - (a) by revoking, or amending any heading, heading number, subheading, item, or item number, or the title of any Part, section, chapter, or subchapter of the Tariff, or by inserting any new heading, heading number, subheading, item, or item number, or title, in such manner as is necessary for the purpose of ensuring that the Tariff conforms to any international nomenclature; or
  - (b) by revoking, suspending, or amending any provision of the notes forming part of the Tariff, or by inserting any new provision in the notes, for the purpose of ensuring the proper operation of the Tariff; or
  - (c) by revoking, suspending, or amending any statistical requirements of the Tariff.
- (2) Notwithstanding anything in subsection (1)(c), the Minister may, by notice, revoke, suspend, or amend any statistical requirement of the Tariff.
- (3) The statistical requirements of the Tariff shall be those set out in the columns headed Statistical Key in the Tariff, including any amendment thereof that may hereafter be made.

- (4) No amendment made pursuant to this section shall alter the duties or exemptions from duty applicable to goods classified under any item or heading so amended.
- (5) Section 9C applies to an order under subsection (1) and a notice under subsection (2).

Compare: 1966 No 19 s 123

Section 10(2): amended, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Section 10(5): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

## **11 Orders in Council relating to Tariff are confirmable instruments**

*[Repealed]*

Section 11: repealed, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

## **11A Effect of disallowance or resolution to amend or replace Order in Council by House of Representatives**

- (1) This section applies if—
  - (a) an Order in Council is made under this Act (other than under section 9); and
  - (b) the House of Representatives resolves to—
    - (i) disallow the order under section 116 of the Legislation Act 2019; or
    - (ii) amend or replace the order under section 119 of that Act.
- (2) Any duty collected under the order in excess of the duty otherwise payable must, so far as that resolution provides, be refunded.

Section 11A: replaced, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

## **12 Actions pending alteration of Tariff**

- (1) When any resolution in favour of an alteration of the Tariff has in any session of Parliament been passed by the House of Representatives or any committee thereof, that resolution shall be deemed to have the force of law until such time as it is validated by an Act of Parliament or, where no such Act is enacted, the last day of that session and no action shall lie against the Crown, any Minister, or any person to whom the powers under this Act have been delegated, or constable, by reason only that they had acted in accordance with any such resolution as if it had the force of law according to its tenor.
- (2) For the purpose of any limitation period or other limitation defence prescribed by an enactment, any claim that is subject to subsection (1) must be deemed to have first arisen on the day on which the Act of Parliament validating the reso-

lution comes into force or, where no such Act is enacted, on the last day of the said session.

- (3) For the purpose of determining whether any act done by the Minister, or constable or any person to whom the powers under this Act have been delegated, was done in the execution of their duty under this Act, that duty shall be deemed to include the duty of acting at all times in accordance with any such resolution as if it had the force of law according to its tenor.
- (4) A resolution under subsection (1)—
  - (a) is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements); and
  - (b) may, if the terms of the resolution so provide, commence even if it is not yet published.
- (5) The Clerk of the House of Representatives must lodge a copy of the resolution with the Parliamentary Counsel Office for the purpose of publication under the Legislation Act 2019.

Compare: 1966 No 19 s 133

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**Legislation Act 2019 requirements for secondary legislation made under this section**

<b>Publication</b>	It is not required to be published	LA19 s 73(2)
<b>Presentation</b>	It is not required to be presented to the House of Representatives because a transitional exemption applies under Schedule 1 of the Legislation Act 2019	LA19 s 114, Sch 1 cl 32(1)(a)
<b>Disallowance</b>	It is not disallowable	LA19 ss 115, 116

*This note is not part of the Act.*

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Section 12(1): amended, on 1 October 2008, pursuant to section 116(a)(ii) of the Policing Act 2008 (2008 No 72).

Section 12(2): amended, on 1 January 2011, by section 58 of the Limitation Act 2010 (2010 No 110).

Section 12(3): amended, on 1 October 2008, pursuant to section 116(a)(ii) of the Policing Act 2008 (2008 No 72).

Section 12(4): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Section 12(5): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

### **13 Certain Orders in Council relating to duties may be retrospective**

- (1) Any Order in Council made under this Act may be retrospective so far as it has the effect of exempting any goods from duty, or of reducing the rate or amount of duty payable in respect of any goods.
- (2) In any such case, refunds of duty may be made in respect of such goods accordingly, but no such refunds shall be made except in respect of goods entered for home consumption within the period of 6 months immediately preceding the date of the Order in Council.

Compare: 1966 No 19 s 132

#### **14 Determinations relating to unassembled goods for use in manufacture or assembly of motor vehicles**

- (1) In respect of any subheading or item of the Tariff, where provision has been made for a determination relating to goods imported unassembled for the use in the assembly, completion, or manufacture of motor vehicles (being vehicles falling within Tariff headings 87.01, 87.03, 87.04, and 87.06 of the Tariff) the Minister may, from time to time by notice in the *Gazette*, determine the goods that shall be entered under that subheading or item, and shall in like manner determine the conditions under which such goods may be imported into and used in New Zealand, and the purposes for which the goods so imported shall be used.
- (2) Any notice under this section may from time to time in like manner be varied or revoked.
- (3) Goods entered for the purpose of parts and accessories in relation to vehicles falling within Tariff headings 87.01, 87.03, 87.04, and 87.06 of the Tariff shall be entered with their appropriate item in Part 1 of the Tariff and shall be subject to the duties specified in those items.

Compare: 1966 No 19 s 121

#### **15 Power of chief executive to prescribe forms**

For the purposes of this Act—

- (a) the chief executive may from time to time prescribe any forms the chief executive deems necessary:
- (b) the production of any document under the hand of the chief executive purporting to be a prescribed form or an extract from a prescribed form or a copy of any such form or extract shall in all courts and in all proceedings be sufficient evidence of the fact that the form was prescribed; and all courts shall in all proceedings take judicial notice of the signature of the chief executive either to the prescribed form or to any such extract or copy.

Section 15 heading: amended, on 7 September 2000, by section 8(1) of the Ministry of Economic Development Act 2000 (2000 No 28).

Section 15(a): amended, on 7 September 2000, by section 8(1) of the Ministry of Economic Development Act 2000 (2000 No 28).

Section 15(b): amended, on 7 September 2000, by section 8(1) of the Ministry of Economic Development Act 2000 (2000 No 28).

#### **15A Interpretation**

In this section and sections 15B to 15H, unless the context otherwise requires,—

**China FTA** means the Free Trade Agreement between the Government of New Zealand and the Government of the People's Republic of China done at Beijing on 7 April 2008

**directly competitive goods**, in relation to any goods, means goods that, as a matter of fact and commercial common sense, are substitutable for imported goods

**emergency action investigation** means an emergency action investigation started under section 15B(1A)

**emergency action measure** means an emergency action measure applied under section 15F

**free trade agreement** means—

- (a) the Thai FTA; or
- (b) the China FTA; or
- (c) the AANZFTA and AANZFTA side instruments that relate to safeguards; or
- (d) the Malaysia FTA; or
- (e) the Republic of Korea FTA; or
- (f) the CPTPP; or
- (g) the TPP; or
- (h) the RCEP

**industry**, in relation to any goods, means—

- (a) the New Zealand producers, as a whole, of like or directly competitive goods; or
- (b) the New Zealand producers of like or directly competitive goods whose collective output constitutes a major proportion of the total production of those goods

**like goods**, in relation to any goods, means—

- (a) other goods that are like those goods in all respects; or
- (b) in the absence of goods referred to in paragraph (a), goods that have characteristics closely resembling those goods

**Malaysia FTA** means the Malaysia–New Zealand Free Trade Agreement done at Kuala Lumpur on 26 October 2009

**provisional transitional safeguard measure** means a provisional transitional safeguard measure applied under section 15H

**Republic of Korea FTA** means the Free Trade Agreement between New Zealand and the Republic of Korea done at Seoul on 23 March 2015

**serious injury** means a significant overall impairment in the position of a domestic industry

**Thai FTA** means the New Zealand–Thailand Closer Economic Partnership Agreement done at Bangkok on 19 April 2005

**transitional safeguard investigation** means a transitional safeguard investigation started under section 15B(1)

**transitional safeguard measure** means a transitional safeguard measure applied under section 15F.

Section 15A: inserted, on 1 July 2005, by section 7 of the Tariff (New Zealand–Thailand Closer Economic Partnership) Act 2005 (2005 No 78).

Section 15A **China FTA**: inserted, on 1 October 2008, by section 7(2) of the Tariff Amendment Act 2008 (2008 No 49).

Section 15A **emergency action investigation**: inserted, on 30 December 2018, by section 82(2) of the Comprehensive and Progressive Agreement for Trans-Pacific Partnership Amendment Act 2018 (2016 No 90).

Section 15A **emergency action measure**: inserted, on 30 December 2018, by section 82(2) of the Comprehensive and Progressive Agreement for Trans-Pacific Partnership Amendment Act 2018 (2016 No 90).

Section 15A **free trade agreement**: substituted, on 1 October 2008, by section 7(1) of the Tariff Amendment Act 2008 (2008 No 49).

Section 15A **free trade agreement** paragraph (b): amended, on 1 January 2010, by section 8 of the Tariff (AANZFTA) Amendment Act 2009 (2009 No 20).

Section 15A **free trade agreement** paragraph (c): added, on 1 January 2010, by section 8 of the Tariff (AANZFTA) Amendment Act 2009 (2009 No 20).

Section 15A **free trade agreement** paragraph (c): amended, on 1 August 2010, by section 4(1) of the Tariff (Malaysia Free Trade Agreement) Amendment Act 2010 (2010 No 45).

Section 15A **free trade agreement** paragraph (d): replaced, on 20 December 2015, by section 4(1) of the Tariff (Free Trade Agreement between New Zealand and the Republic of Korea) Amendment Act 2015 (2015 No 88).

Section 15A **free trade agreement** paragraph (e): replaced, on 30 December 2018, by section 82(1) of the Comprehensive and Progressive Agreement for Trans-Pacific Partnership Amendment Act 2018 (2016 No 90).

Section 15A **free trade agreement** paragraph (f): inserted, on 30 December 2018, by section 82(1) of the Comprehensive and Progressive Agreement for Trans-Pacific Partnership Amendment Act 2018 (2016 No 90).

Section 15A **free trade agreement** paragraph (g): inserted, on 30 December 2018, by section 82(1) of the Comprehensive and Progressive Agreement for Trans-Pacific Partnership Amendment Act 2018 (2016 No 90).

Section 15A **free trade agreement** paragraph (h): inserted, on 1 January 2022, by section 8 of the Regional Comprehensive Economic Partnership (RCEP) Legislation Act 2021 (2021 No 40).

Section 15A **Malaysia FTA**: inserted, on 1 August 2010, by section 4(2) of the Tariff (Malaysia Free Trade Agreement) Amendment Act 2010 (2010 No 45).

Section 15A **Republic of Korea FTA**: inserted, on 20 December 2015, by section 4(2) of the Tariff (Free Trade Agreement between New Zealand and the Republic of Korea) Amendment Act 2015 (2015 No 88).

Section 15A **Thai FTA**: inserted, on 1 October 2008, by section 7(2) of the Tariff Amendment Act 2008 (2008 No 49).

Section 15A **transitional safeguard investigation**: inserted, on 30 December 2018, by section 82(2) of the Comprehensive and Progressive Agreement for Trans-Pacific Partnership Amendment Act 2018 (2016 No 90).

**15B Chief executive may undertake transitional safeguard or emergency action investigation**

- (1) The chief executive may undertake a transitional safeguard investigation to ascertain whether goods that have been subject to tariff reduction or removal after the entry into force of a free trade agreement—
  - (a) are being imported in increased quantities (in absolute terms or relative to domestic production); and
  - (b) are causing, or threatening to cause, serious injury to an industry producing a like or directly competitive good.
- (1A) The chief executive may undertake an emergency action investigation to ascertain whether textile or apparel goods that have been subject to tariff reduction or removal after the entry into force of the CPTPP or the TPP—
  - (a) are being imported in increased quantities (in absolute terms or relative to the domestic market); and
  - (b) are causing, or threatening to cause, serious damage to an industry producing a like or directly competitive good.
- (2) The chief executive may undertake a transitional safeguard investigation or an emergency action investigation—
  - (a) either—
    - (i) after receiving a written request by or on behalf of an industry concerned, if the chief executive is satisfied that the request contains evidence to justify the investigation; or
    - (ii) on his or her own initiative; and
  - (b) only if the relevant free trade agreement provides for the application of a transitional safeguard measure or an emergency action measure.

Section 15B: inserted, on 1 July 2005, by section 7 of the Tariff (New Zealand–Thailand Closer Economic Partnership) Act 2005 (2005 No 78).

Section 15B heading: amended, on 30 December 2018, by section 83(1) of the Comprehensive and Progressive Agreement for Trans-Pacific Partnership Amendment Act 2018 (2016 No 90).

Section 15B(1): amended, on 1 October 2008, by section 8(1) of the Tariff Amendment Act 2008 (2008 No 49).

Section 15B(1A): inserted, on 30 December 2018, by section 83(2) of the Comprehensive and Progressive Agreement for Trans-Pacific Partnership Amendment Act 2018 (2016 No 90).

Section 15B(2): amended, on 30 December 2018, by section 83(3)(a) of the Comprehensive and Progressive Agreement for Trans-Pacific Partnership Amendment Act 2018 (2016 No 90).

Section 15B(2)(b): amended, on 30 December 2018, by section 83(3)(b) of the Comprehensive and Progressive Agreement for Trans-Pacific Partnership Amendment Act 2018 (2016 No 90).

Section 15B(2)(b): amended, on 1 October 2008, by section 8(2) of the Tariff Amendment Act 2008 (2008 No 49).



### 15C Investigative procedures

- (1) Before any transitional safeguard investigation or emergency action investigation, the chief executive must specify administrative procedures for the conduct of the investigation that—
  - (a) are consistent with New Zealand’s international obligations; and
  - (b) include the following matters:
    - (i) the provision of public notice of the investigation, which must, in the case of an emergency action investigation, include the criteria for a finding of serious damage or a threat of serious damage; and
    - (ii) an opportunity for interested parties to respond to submissions of other parties; and
    - (iii) the treatment of confidential material provided by interested parties.
- (2) The chief executive may amend the procedures specified under subsection (1).
- (3) An amendment to the procedures does not apply to an investigation being undertaken when the amendment comes into force, unless the amendment specifies otherwise.
- (4) The chief executive must publish the procedures, and any amendments to the procedures, in the *Gazette*.

Section 15C: inserted, on 1 July 2005, by section 7 of the Tariff (New Zealand–Thailand Closer Economic Partnership) Act 2005 (2005 No 78).

Section 15C(1): amended, on 30 December 2018, by section 84(1)(a) of the Comprehensive and Progressive Agreement for Trans-Pacific Partnership Amendment Act 2018 (2016 No 90).

Section 15C(1): amended, on 30 December 2018, by section 84(1)(b) of the Comprehensive and Progressive Agreement for Trans-Pacific Partnership Amendment Act 2018 (2016 No 90).

Section 15C(1)(b)(i): amended, on 30 December 2018, by section 84(2) of the Comprehensive and Progressive Agreement for Trans-Pacific Partnership Amendment Act 2018 (2016 No 90).

### 15D Matters to be taken into account by chief executive

- (1) When the chief executive is investigating, for the purposes of section 15B(1), whether the importation of goods subject to tariff reduction or removal is causing or threatens to cause serious injury to an industry, he or she must evaluate the following matters:
  - (a) the rate and amount of the increase in the volume of imports of the goods, in absolute terms and relative to domestic production; and
  - (b) the economic impact of the increased importation of the goods on the industry, including actual decline in output, sales, market share, profits, productivity, employment, and utilisation of production capacity; and
  - (c) factors other than the imports that have injured, or are injuring, the industry; and

- (d) any other factors considered relevant to New Zealand's international obligations.
- (2) When the chief executive is investigating, for the purposes of section 15B(1A), whether the importation of textile or apparel goods subject to tariff reduction or removal is causing or threatens to cause serious damage to an industry, he or she—
- (a) must evaluate the following matters:
    - (i) the rate and amount of the increase in the volume of imports of the goods, in absolute terms or relative to the domestic market; and
    - (ii) the economic impact of the increased importation of the goods on the industry, including changes in output, market share, profits, productivity, employment, utilisation of capacity, inventories, exports, wages, domestic prices, and investment; and
    - (iii) factors other than the imports that have damaged, or are damaging, the industry; and
    - (iv) any other factors considered relevant to New Zealand's international obligations; but
  - (b) must not consider changes in technology or consumer preference in New Zealand as factors supporting a determination that importation of textile or apparel goods subject to tariff reduction or removal is causing or threatens to cause serious damage to an industry.

Section 15D: inserted, on 1 July 2005, by section 7 of the Tariff (New Zealand–Thailand Closer Economic Partnership) Act 2005 (2005 No 78).

Section 15D(1): amended, on 30 December 2018, by section 85(1) of the Comprehensive and Progressive Agreement for Trans-Pacific Partnership Amendment Act 2018 (2016 No 90).

Section 15D(2): inserted, on 30 December 2018, by section 85(2) of the Comprehensive and Progressive Agreement for Trans-Pacific Partnership Amendment Act 2018 (2016 No 90).

### **15E Publication of investigation results**

- (1) As soon as practicable after completing an investigation under section 15B, the chief executive must publish, in accordance with subsection (2), a report setting out the findings and conclusions of the investigation.
- (2) The chief executive must—
  - (a) make copies of the report available, free of charge, on the Internet; and
  - (b) give notice in the *Gazette* stating that the report is available on the Internet, free of charge, and the website address.

Section 15E: inserted, on 1 July 2005, by section 7 of the Tariff (New Zealand–Thailand Closer Economic Partnership) Act 2005 (2005 No 78).

**15F Application of transitional safeguard or emergency action measure**

- (1) The Minister may decide to apply a transitional safeguard measure if he or she makes a determination, as a result of the investigation by the chief executive under section 15B, that goods—
  - (a) are being imported in increased quantities (in absolute terms or relative to domestic production); and
  - (b) are causing, or threatening to cause, serious injury to an industry producing a like or directly competitive good.
- (1A) The Minister may decide to apply an emergency action measure if he or she makes a determination, as a result of the investigation by the chief executive under section 15B, that textile or apparel goods—
  - (a) are being imported in increased quantities (in absolute terms or relative to the domestic market); and
  - (b) are causing, or threatening to cause, serious damage to an industry producing a like or directly competitive good.
- (2) A transitional safeguard or emergency action measure applies on and from—
  - (a) the date specified in the measure (which may be a date before, on, or after the date on which the determination is made); or
  - (b) if no date is specified in the measure, the date on which the determination is made under subsection (1) or (1A).
- (3) A transitional safeguard or emergency action measure expires—
  - (a) on the date specified in the measure; or
  - (b) at an earlier date (if any) specified by the Minister by notice in the *Gazette*.
- (4) The Minister must ensure that—
  - (a) any transitional safeguard measure is applied only to the extent necessary to prevent or remedy serious injury and facilitate adjustment; and
  - (aa) any emergency action measure is applied only to the extent necessary to prevent or remedy serious damage and facilitate adjustment; and
  - (b) the nature, rate, extent, and duration of the transitional safeguard or emergency action measure is consistent with New Zealand's international obligations as a party to the relevant free trade agreement; and
  - (c) any transitional safeguard or emergency action measure is consistent with the provisions of the relevant free trade agreement; and
  - (d) any transitional safeguard or emergency action measure is not inconsistent with New Zealand's other international obligations.
- (5) The Minister's decision to apply a transitional safeguard or emergency action measure must be published as soon as practicable in the *Gazette*.

- (6) A transitional safeguard or emergency action measure, in the form of a duty, applied under subsection (5) is due and payable on the demand of the Customs on and from the date on which the measure applies under subsection (2).
- (7) If the Minister applies an emergency action measure under this section, the chief executive must, in respect of each year or part of a year that the measure remains in force, provide a report to the affected CPTPP or TPP party, as the case may be, on the action.

Section 15F: inserted, on 1 July 2005, by section 7 of the Tariff (New Zealand–Thailand Closer Economic Partnership) Act 2005 (2005 No 78).

Section 15F heading: amended, on 30 December 2018, by section 86(1) of the Comprehensive and Progressive Agreement for Trans-Pacific Partnership Amendment Act 2018 (2016 No 90).

Section 15F(1A): inserted, on 30 December 2018, by section 86(2) of the Comprehensive and Progressive Agreement for Trans-Pacific Partnership Amendment Act 2018 (2016 No 90).

Section 15F(2): amended, on 30 December 2018, by section 86(3) of the Comprehensive and Progressive Agreement for Trans-Pacific Partnership Amendment Act 2018 (2016 No 90).

Section 15F(2)(b): amended, on 30 December 2018, by section 86(4) of the Comprehensive and Progressive Agreement for Trans-Pacific Partnership Amendment Act 2018 (2016 No 90).

Section 15F(3): amended, on 30 December 2018, by section 86(5) of the Comprehensive and Progressive Agreement for Trans-Pacific Partnership Amendment Act 2018 (2016 No 90).

Section 15F(4)(aa): inserted, on 30 December 2018, by section 86(6) of the Comprehensive and Progressive Agreement for Trans-Pacific Partnership Amendment Act 2018 (2016 No 90).

Section 15F(4)(b): amended, on 30 December 2018, by section 86(7) of the Comprehensive and Progressive Agreement for Trans-Pacific Partnership Amendment Act 2018 (2016 No 90).

Section 15F(4)(b): amended, on 1 October 2008, by section 9(1) of the Tariff Amendment Act 2008 (2008 No 49).

Section 15F(4)(c): amended, on 30 December 2018, by section 86(7) of the Comprehensive and Progressive Agreement for Trans-Pacific Partnership Amendment Act 2018 (2016 No 90).

Section 15F(4)(c): amended, on 1 October 2008, by section 9(2) of the Tariff Amendment Act 2008 (2008 No 49).

Section 15F(4)(d): amended, on 30 December 2018, by section 86(7) of the Comprehensive and Progressive Agreement for Trans-Pacific Partnership Amendment Act 2018 (2016 No 90).

Section 15F(5): amended, on 30 December 2018, by section 86(7) of the Comprehensive and Progressive Agreement for Trans-Pacific Partnership Amendment Act 2018 (2016 No 90).

Section 15F(6): amended, on 30 December 2018, by section 86(7) of the Comprehensive and Progressive Agreement for Trans-Pacific Partnership Amendment Act 2018 (2016 No 90).

Section 15F(7): inserted, on 30 December 2018, by section 86(8) of the Comprehensive and Progressive Agreement for Trans-Pacific Partnership Amendment Act 2018 (2016 No 90).

### **15G Extension of transitional safeguard or emergency action measure**

The Minister may extend a transitional safeguard or emergency action measure applied under section 15F if the extension is—

- (a) consistent with the provisions of the relevant free trade agreement; and
- (b) not inconsistent with New Zealand's other international obligations.

Section 15G: substituted, on 1 October 2008, by section 10 of the Tariff Amendment Act 2008 (2008 No 49).

Section 15G heading: amended, on 30 December 2018, by section 87(1) of the Comprehensive and Progressive Agreement for Trans-Pacific Partnership Amendment Act 2018 (2016 No 90).

Section 15G: amended, on 30 December 2018, by section 87(2) of the Comprehensive and Progressive Agreement for Trans-Pacific Partnership Amendment Act 2018 (2016 No 90).

### **15H Provisional transitional safeguard measure**

- (1) Following the initiation of an investigation under section 15B, the Minister may make a determination that there are grounds for applying a provisional transitional safeguard measure if he or she is satisfied that—
  - (a) goods that have been subject to tariff reduction or removal after the entry into force of the relevant free trade agreement—
    - (i) are being imported in increased quantities (in absolute terms or relative to domestic production); and
    - (ii) are causing, or threatening to cause, serious injury to an industry producing a like or directly competitive good; and
  - (b) there exist,—
    - (i) in relation to a provisional transitional safeguard measure to be applied under the Thai FTA, highly unusual and critical circumstances; or
    - (ii) in relation to a provisional transitional safeguard measure to be applied under the China FTA, the AANZFTA, the Malaysia FTA, the Republic of Korea FTA, or the RCEP, critical circumstances; and
  - (c) the delay in applying a transitional safeguard measure under section 15F would cause serious injury to the industry which would be difficult to repair.
- (2) A provisional transitional safeguard measure applies on and from—
  - (a) the date specified in the measure (which may be a date before, on, or after the date on which the determination is made); or
  - (b) if no date is specified in the measure, the date on which the determination is made under subsection (1).
- (3) After making a determination under subsection (1), the Minister may apply a provisional transitional safeguard measure.
- (4) The Minister must ensure that—
  - (a) any provisional transitional safeguard measure is applied only to the extent necessary to prevent or remedy serious injury and facilitate adjustment; and

- (b) the nature, rate, extent, and duration of the provisional transitional safeguard measure is consistent with New Zealand's international obligations as a party to the relevant free trade agreement; and
  - (c) any provisional transitional safeguard measure is consistent with the provisions of the relevant free trade agreement; and
  - (d) any provisional transitional safeguard measure is not inconsistent with New Zealand's other international obligations.
- (5) The Minister's decision to apply a provisional transitional safeguard measure must be published as soon as practicable in the *Gazette*.
- (6) A provisional transitional safeguard measure, in the form of a duty, applied under subsection (3)—
- (a) is due and payable on the demand of the Customs on and from the date on which the measure applies under subsection (2):
  - (b) must be refunded by the Customs in the circumstances specified in subsection (7).
- (7) The circumstances referred to in subsection (6)(b) are—
- (a) if an investigation under section 15B concludes that no serious injury has been caused to an industry; or
  - (b) in any other case, to the extent (if any) that the Minister requires the duty to be refunded.
- (8) No provisional transitional safeguard measure may be applied under the CPTPP or the TPP.

Section 15H: inserted, on 1 July 2005, by section 7 of the Tariff (New Zealand–Thailand Closer Economic Partnership) Act 2005 (2005 No 78).

Section 15H(1)(a): amended, on 1 October 2008, by section 11(1) of the Tariff Amendment Act 2008 (2008 No 49).

Section 15H(1)(b): substituted, on 1 October 2008, by section 11(2) of the Tariff Amendment Act 2008 (2008 No 49).

Section 15H(1)(b)(ii): amended, on 1 January 2022, by section 9 of the Regional Comprehensive Economic Partnership (RCEP) Legislation Act 2021 (2021 No 40).

Section 15H(1)(b)(ii): amended, on 20 December 2015, by section 5 of the Tariff (Free Trade Agreement between New Zealand and the Republic of Korea) Amendment Act 2015 (2015 No 88).

Section 15H(1)(b)(ii): amended, on 1 August 2010, by section 5 of the Tariff (Malaysia Free Trade Agreement) Amendment Act 2010 (2010 No 45).

Section 15H(4)(b): amended, on 1 October 2008, by section 11(3) of the Tariff Amendment Act 2008 (2008 No 49).

Section 15H(4)(c): amended, on 1 October 2008, by section 11(4) of the Tariff Amendment Act 2008 (2008 No 49).

Section 15H(8): inserted, on 30 December 2018, by section 88 of the Comprehensive and Progressive Agreement for Trans-Pacific Partnership Amendment Act 2018 (2016 No 90).

## 16 General provisions as to Orders in Council

No Order in Council under this Act is invalid because it leaves any matter to the discretion of the Minister or any other person, or because it authorises the Minister or any other person to give a consent or approval on or subject to conditions to be imposed or approved by the Minister.

Section 16: amended, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

### 16A Fees

- (1) The Governor-General may from time to time, by Order in Council, make regulations prescribing the fees to be paid in respect of—
  - (a) applications for any approval under section 8(1) in respect of the entry of goods—
    - (i) of any of the classes specified in Part 2 of the Tariff; or
    - (ii) in any of the circumstances specified in Part 2 of the Tariff:
  - (b) applications for any withdrawal or modification, under section 8(2), of any approval granted under section 8(1).
- (2) Regulations under this section are secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

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#### Legislation Act 2019 requirements for secondary legislation made under this section

<b>Publication</b>	PCO must publish it on the legislation website and notify it in the <i>Gazette</i>	LA19 s 69(1)(c)
<b>Presentation</b>	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
<b>Disallowance</b>	It may be disallowed by the House of Representatives	LA19 ss 115, 116

*This note is not part of the Act.*

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Section 16A: inserted, on 8 August 1990, by section 2 of the Tariff Amendment Act 1990 (1990 No 88).

Section 16A(2): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

### 16B Regulations relating to goods temporarily imported and drawbacks of duty

- (1) The Governor-General may from time to time, by Order in Council, make regulations—
  - (a) declaring specified goods or classes of goods subject to duty under this Act to be goods in respect of which the provisions of section 136 of the Customs and Excise Act 2018 shall not be applied:
  - (b) declaring specified goods or classes of goods subject to duty under this Act to be goods in respect of which the provisions of section 147 of the Customs and Excise Act 2018 shall not be applied.

- (2) Regulations under this section are secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

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**Legislation Act 2019 requirements for secondary legislation made under this section**

<b>Publication</b>	PCO must publish it on the legislation website and notify it in the <i>Gazette</i>	LA19 s 69(1)(c)
<b>Presentation</b>	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
<b>Disallowance</b>	It may be disallowed by the House of Representatives	LA19 ss 115, 116

*This note is not part of the Act.*

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Section 16B: inserted, on 1 October 1996, by section 289(1) of the Customs and Excise Act 1996 (1996 No 27).

Section 16B(1)(a): amended, on 1 October 2018, by section 443(3) of the Customs and Excise Act 2018 (2018 No 4).

Section 16B(1)(b): amended, on 1 October 2018, by section 443(3) of the Customs and Excise Act 2018 (2018 No 4).

Section 16B(2): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

## 17 Transitional provisions

- (1) At any time after the date on which this Act receives the Governor-General's assent, the Governor-General may, by Order in Council, exercise in respect of the Tariff, with effect from the commencement of this Act, any of the powers to alter or modify the Tariff, and create exemptions in respect of any goods, conferred on the Governor-General by any provision of this Act for the purpose of giving effect to that provision, and for the purpose of bringing the Tariff into effective operation at the commencement of this Act.
- (2) Any Order in Council made under section 120 of the Customs Act 1966 and in force immediately before the commencement of this Act, shall continue and have effect, and may be revoked, as if it had been made under this Act.
- (3) Every reference in any enactment (including any Order in Council), in force at the commencement of this Act to the Customs Tariff shall be read as if it were a reference to the Tariff.

## 18 Consequential amendments

- (1) The enactments specified in Schedule 2 are hereby amended in the manner indicated in that schedule.
- (2) The enactments specified in Schedule 3 are hereby repealed.
- (3) *[Repealed]*
- (4) *[Repealed]*
- (5) *Amendment(s) incorporated in the regulations.*

Section 18(3): repealed, on 1 January 1995, by section 2(2) of the General Agreement on Tariffs and Trade Act Repeal Act 1994 (1994 No 132).

Section 18(4): repealed, on 1 January 1995, by section 2(2) of the General Agreement on Tariffs and Trade Act Repeal Act 1994 (1994 No 132).



**Schedule 1**  
**The Tariff**

*[Repealed]*

s 3

Schedule 1: repealed, on 1 January 2010, by section 9(1) of the Tariff Amendment Act 2009 (2009 No 62).

**Schedule 2**  
**Enactments amended**

s 18(1)

**Customs Act 1966 (1966 No 19) (RS Vol 2, p 57)**

*Amendment(s) incorporated in the Act(s).*

**Temporary Safeguard Authorities Act 1987 (1987 No 88)**

*Amendment(s) incorporated in the Act(s).*

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### Schedule 3

## Enactments repealed

s 18(2)

**Constitution Act 1986 (1986 No 114)***Amendment(s) incorporated in the Act(s).***Customs Acts Amendment Act (No 2) 1982 (1982 No 112)***Amendment(s) incorporated in the Act(s).***Customs Acts Amendment Act (No 2) 1983 (1983 No 41)***Amendment(s) incorporated in the Act(s).***Customs Acts Amendment Act 1985 (1985 No 145)***Amendment(s) incorporated in the Act(s).***Customs Acts Amendment Act 1987 (1987 No 63)***Amendment(s) incorporated in the Act(s).***Customs Amendment Act 1979 (1979 No 7)****Customs Amendment Act 1981 (1981 No 20)***Amendment(s) incorporated in the Act(s).***Customs Amendment Act (No 4) 1987 (1987 No 128)***Amendment(s) incorporated in the Act(s).*

## Notes

### **1** *General*

This is a consolidation of the Tariff Act 1988 that incorporates the amendments made to the legislation so that it shows the law as at its stated date.

### **2** *Legal status*

A consolidation is taken to correctly state, as at its stated date, the law enacted or made by the legislation consolidated and by the amendments. This presumption applies unless the contrary is shown.

Section 78 of the Legislation Act 2019 provides that this consolidation, published as an electronic version, is an official version. A printed version of legislation that is produced directly from this official electronic version is also an official version.

### **3** *Editorial and format changes*

The Parliamentary Counsel Office makes editorial and format changes to consolidations using the powers under subpart 2 of Part 3 of the Legislation Act 2019. See also PCO editorial conventions for consolidations.

### **4** *Amendments incorporated in this consolidation*

Regional Comprehensive Economic Partnership (RCEP) Legislation Act 2021 (2021 No 40): Part 2

Secondary Legislation Act 2021 (2021 No 7): section 3

Public Service Act 2020 (2020 No 40): section 135

Legislation (Repeals and Amendments) Act 2019 (2019 No 59): section 4

Tariff (PACER Plus) Amendment Act 2018 (2018 No 29): Part 1

Customs and Excise Act 2018 (2018 No 4): section 443(3)

Comprehensive and Progressive Agreement for Trans-Pacific Partnership Amendment Act 2018 (2016 No 90): Part 8 (as amended by Trans-Pacific Partnership Agreement (CPTPP) Amendment Act 2018 (2018 No 41))

District Court Act 2016 (2016 No 49): section 261

Tariff (Free Trade Agreement between New Zealand and the Republic of Korea) Amendment Act 2015 (2015 No 88)

Tariff Amendment Act 2015 (2015 No 36)

Legislation Act 2012 (2012 No 119): section 77(3)

Limitation Act 2010 (2010 No 110): section 58

Tariff (Malaysia Free Trade Agreement) Amendment Act 2010 (2010 No 45)

Tariff Amendment Act 2009 (2009 No 62)

Tariff (AANZFTA) Amendment Act 2009 (2009 No 20)

Policing Act 2008 (2008 No 72): section 116(a)(ii)

Tariff Amendment Act 2008 (2008 No 49)

Tariff (Trans-Pacific Strategic Economic Partnership) Amendment Act 2006 (2006 No 4)

Tariff (New Zealand–Thailand Closer Economic Partnership) Act 2005 (2005 No 78)

Ministry of Economic Development Act 2000 (2000 No 28): section 8(1)

Tariff (Zero Duty Removal) Amendment Act 2000 (2000 No 15)

Customs and Excise Act 1996 (1996 No 27): section 289(1)

Tariff Amendment Act 1994 (1994 No 163)

General Agreement on Tariffs and Trade Act Repeal Act 1994 (1994 No 132): section 2(2)

Tariff Amendment Act 1990 (1990 No 88)