

# **Imports and Exports (Restrictions) Amendment Act 2003**

Public Act 2003 No 36  
Date of assent 7 July 2003

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**The Parliament of New Zealand enacts as follows:**

**1 Title**

- (1) This Act is the Imports and Exports (Restrictions) Amendment Act 2003.
- (2) In this Act, the Act that was previously called the Import Control Act 1988 is called “the principal Act”.

**Part 1**

**Preliminary provisions**

**2 Commencement**

This Act comes into force on the day after the date on which it receives the Royal assent.

**3 Purpose**

The purpose of this Act is to enable New Zealand to give better effect to its international obligations to restrict the exportation of certain goods.

**Part 2**

**Amendments to Acts**

**4 Title repealed**

The Long Title of the principal Act is repealed.

**5 Name of principal Act changed**

- (1) After the commencement of this section, the principal Act is called the Imports and Exports (Restrictions) Act 1988.
- (2) Section 1(1) of the principal Act is consequentially amended by omitting the words “Import Control”, and substituting the words “Imports and Exports (Restrictions)”.

## 6 Interpretation

(1) Section 2(1) of the principal Act is amended by inserting, in their appropriate alphabetical order, the following definitions:

“**international obligation** means—

“(a) the Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade, done at Rotterdam on 10 September 1998; and includes the Annexes to the Convention, and any amendments to, or substitutions of, those documents that are or will become binding on New Zealand:

“(b) the Convention on Persistent Organic Pollutants, done at Stockholm on 23 May 2001; and includes the Annexes to the Convention, and any amendments to, or substitutions of, those documents that are or will become binding on New Zealand:

“(c) the Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal, done at Basel on 22 March 1989; and includes the Annexes to the Convention, and any amendments to, or substitutions of, those documents that are or will become binding on New Zealand:

“(d) the Convention to Ban the Importation into Forum Island Countries of Hazardous and Radioactive Wastes and to Control the Transboundary Movement and Management of Hazardous Wastes within the South Pacific Region, done at Waigani on 16 September 1995; and includes the Annexes to the Convention, and any amendments to, or substitutions of, those documents that are or will become binding on New Zealand:

“(e) any other international obligation that is or becomes binding on New Zealand and that provides for the restriction on, or the prohibition of, the exportation of certain chemicals, products, organisms, wastes, or other substances that pose a risk to human health or to the environment

“**Ministry** means the ministry or department for the time being responsible for the administration of this Act.”

(2) Section 2(1) of the principal Act is amended by repealing the definitions of the terms **Minister** and **prescribed**, and substituting, in their appropriate alphabetical order, the following definitions:

“**Minister** 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 this Act

“**prescribed** means prescribed by an Order in Council for the time being in force under section 3 or section 3A; and, in relation to forms, includes prescribed by the chief executive of the Ministry.”

(3) Section 2(2) of the principal Act is amended by inserting, after the words “Customs place,” the word “exportation,”.

(4) The principal Act is amended by repealing section 2(3), and substituting the following subsection:

“(3) Sections 1 to 4, and Parts 1, 2, 3, 4, 10, 12(except section 142), 13 (except sections 209 and 214), 14, 15, and 17 of the Customs and Excise Act 1996 apply to any goods, the importation or exportation of which is prohibited under this Act, in all respects as if the importation or exportation of the goods were prohibited, or were an offence, under the Customs and Excise Act 1996.”

#### **7 New section 2A inserted**

The principal Act is amended by inserting, after section 2, the following section:

##### **“2A Act binds the Crown**

This Act binds the Crown.”

#### **8 Control of imports**

(1) Section 3 of the principal Act is amended by omitting the heading, and substituting the heading “Prohibition of imports”.

(2) Section 3 of the principal Act is amended by repealing subsections (4) and (5).

#### **9 New sections 3A to 3E inserted**

The principal Act is amended by inserting, after section 3, the following sections:

##### **“3A Prohibition of exports**

“(1) The Governor-General, if satisfied that it is necessary to give effect to an international obligation, may, by Order in Council, prohibit the exportation from New Zealand of—

“(a) specified goods:

- “(b) goods of a specified class or classes.
- “(2) A prohibition may be—
  - “(a) general:
  - “(b) limited to the exportation of goods to a specified place or class of places:
  - “(c) limited to the exportation of goods to a specified person or class of persons:
  - “(d) limited to the exportation of goods by a specified person or class of persons:
  - “(e) absolute:
  - “(f) conditional.

**“3B Conditional prohibition of exportation**

- “(1) A conditional prohibition allows the exportation of goods subject to—
  - “(a) the grant of a licence or permit by the Minister or a prescribed person; or
  - “(b) prescribed conditions.
- “(2) The terms and conditions of a licence or permit must be consistent with the prohibition.
- “(3) A conditional prohibition may require payment of consideration to the Crown in respect of the application for, or the granting of, a licence or permit.

**“3C Forms**

- “(1) For the purposes of this Act, the chief executive of the Ministry may prescribe forms that he or she considers necessary.
- “(2) In all proceedings, a document is sufficient evidence that a form was prescribed if it—
  - “(a) is signed by the chief executive of the Ministry; and
  - “(b) purports to be a prescribed form, an extract from a prescribed form, a copy of the form, or a copy of the extract.
- “(3) A Court must take judicial notice of the signature of the chief executive of the Ministry to a prescribed form or to an extract or copy of a prescribed form.

**“3D Order in Council not invalid**

An Order in Council is not invalid because—

- “(a) it leaves a matter to the discretion of the Minister or another person:
- “(b) it authorises the Minister or another person to issue a licence or permit subject to conditions imposed or approved by the Minister.

**“3E Other Acts not affected**

The provisions of this Act are in addition to, and not in substitution for, the provisions of any other enactment relating to the importation or exportation of any substances or goods, and nothing in this Act limits or otherwise affects any provisions.”

**10 Offences**

- (1) Section 4(1) of the principal Act is amended by inserting, after paragraph (a), the following paragraph:
  - “(ab) exports, or transports with intent to export, goods from New Zealand in breach of an Order in Council made under section 3A; or.”
- (2) Section 4(1) of the principal Act is amended by repealing paragraph (b), and substituting the following paragraph:
  - “(b) commits any breach of, or fails in any respect to comply with, any term or condition on, or subject to, which there has been granted, under any Order in Council made under section 3 or section 3A, any licence or permit under the authority of which any goods are imported into, or exported from, New Zealand.”
- (3) Section 4(2)(a) of the principal Act is amended by inserting, after the word “importation,”, the words “exportation, transportation, shipment,”.
- (4) Section 4 of the principal Act is amended by repealing subsection (3), and substituting the following subsections:
  - “(3) Subsection (3A) applies where goods are imported into, or are exported from, New Zealand under the authority of a licence or permit granted under an Order in Council made under section 3 or section 3A.
  - “(3A) A person commits an offence who—

- “(a) knowingly makes a false declaration or statement for the purpose of obtaining the licence or permit:
- “(b) knowingly makes a false declaration or statement as to compliance with a condition on, or subject to, which the licence or permit was granted:
- “(c) otherwise knowingly makes a false declaration or statement in relation to the importation or exportation of the goods.”
- (5) Section 4 of the principal Act is amended by inserting in subsections (6) to (9), in each case after the words “section 3”, the words “or section 3A”.

#### **11 Consequential amendment to Temporary Safeguard Authorities Act 1987**

Section 7(3)(b) of the Temporary Safeguard Authorities Act 1987 (1987 No 88) is amended by omitting the expression “Import Control Act 1988”, and substituting the expression “Imports and Exports (Restrictions) Act 1988”.

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#### **Legislative history**

21 May 2002	Introduction (Bill 217-1)
20 February 2003	First reading and referral to Foreign Affairs, Defence and Trade Committee
11 April 2003	Reported from Foreign Affairs, Defence and Trade Committee
1 July 2003	Second reading, committee of the whole House, third reading

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