



Trans-Pacific Partnership Agreement (CPTPP) Amendment Act 2018

Public Act 2018 No 41
Date of assent 25 October 2018
Commencement see section 2

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The Parliament of New Zealand enacts as follows:

1 Title

This Act is the Trans-Pacific Partnership Agreement (CPTPP) Amendment Act 2018.

2 Commencement

This Act comes into force on the day after the date of Royal assent.

3 Principal Act

This Act amends the Trans-Pacific Partnership Agreement Amendment Act 2016 (the **principal Act**).

Part 1

Amendments to Title and commencement of principal Act

4 Principal Act renamed

In section 1, replace “Trans-Pacific Partnership Agreement Amendment Act 2016” with “Comprehensive and Progressive Agreement for Trans-Pacific Partnership Amendment Act 2018”.

5 Section 1 amended (Title)

In section 1, insert as subsection (2):

- (2) Every reference in any enactment and in any document to the Trans-Pacific Partnership Agreement Amendment Act 2016 must, unless the context otherwise requires, be read as a reference to the Comprehensive and Progressive Agreement for Trans-Pacific Partnership Amendment Act 2018.

6 Section 2 replaced (Commencement)

Replace section 2 with:

2 Commencement

- (1) This Act comes into force on a date appointed by the Governor-General by Order in Council on the recommendation of the Minister for Trade and Export Growth.

- (2) One or more orders may be made bringing different provisions into force on different dates and appointing different dates for different purposes.
- (3) However, the date appointed for the following provisions to come into force must not be earlier than the date on which the Trans-Pacific Partnership Agreement, done at Auckland on 4 February 2016, enters into force for New Zealand:
 - (a) sections 4 to 8, 28, 38, 39, 40(3) and (4), and 41 to 43 (which amend the Copyright Act 1994):
 - (b) sections 73 to 76 (which amend the Patents Act 2013).

Part 2

Amendments to other provisions of principal Act

Copyright Act 1994

7 Section 9 amended (Section 135 amended (Definitions))

- (1) In section 9, new definition of **exporter** in section 135, replace “section 2(1) of the Customs and Excise Act 1996” with “section 5(1) of the Customs and Excise Act 2018”.
- (2) In section 9, new definition of **importer** in section 135, replace “section 2(1) of the Customs and Excise Act 1996” with “section 5(1) of the Customs and Excise Act 2018”.

8 New sections 37A to 37G inserted

After section 37, insert:

37A Section 226 amended (Definitions of TPM terms)

- (1) Replace the heading to section 226 with “**Interpretation for sections 226A to 226E**”.
- (2) In section 226, insert in their appropriate alphabetical order:

issuer of the TPM work or **issuer of a TPM work** means—

 - (a) a copyright owner of a TPM work that—
 - (i) issued a copy of the TPM work to the public; or
 - (ii) communicated the TPM work to the public; or
 - (b) a person that, under licence from the copyright owner,—
 - (i) issued a copy of the TPM work to the public; or
 - (ii) communicated the TPM work to the public

permitted act means an act that—

 - (a) is permitted under Part 3 or otherwise does not infringe copyright in the TPM work; and

(b) does not infringe any specified performers' rights in the TPM work
specified performers' rights means the rights conferred by section 172, or subpart 4 of Part 9, in respect of a recording that is a sound recording and a TPM work

37B Section 226D amended (When rights of issuer of TPM work do not apply)

In section 226D(2)(a), replace “a permitted act under Part 3” with “a permitted act”.

37C Section 226E amended (User's options if prevented from exercising permitted act by TPM)

- (1) In section 226E(1), replace “a permitted act under Part 3” with “a permitted act”.
- (2) In section 226E(2), replace “a permitted act under Part 3” with “a permitted act”.
- (3) In section 226E(2), replace “copyright owner or the exclusive licensee” with “issuer of the TPM work” in each place.
- (4) In section 226E(3), replace “if that person” with “if that research is a permitted act and if that person”.
- (5) In section 226E(3)(b)(i), replace “copyright owner or exclusive licensee of the copyright to the use of” with “issuer of the TPM work to use”.

37D Section 226F replaced (Meaning of copyright management information)

Replace section 226F with:

226F Meaning of copyright management information

In sections 226G, 226H, and 226J, **CMI** or **copyright management information** means information attached to, or appearing in connection with communicating or making available, a copy of a copyright work that—

- (a) identifies 1 or more of the following:
 - (i) the work;
 - (ii) the author of the work;
 - (iii) the copyright owner;
 - (iv) a performer;
 - (v) in the case of a film, the director of the film; or
- (b) identifies or indicates some or all of the terms and conditions for using the work, or indicates that the use of the work is subject to terms and conditions; or
- (c) is a number or code that represents any of the information referred to in paragraph (a) or (b).

37E Section 226G amended (Interference with CMI prohibited)

In section 226G(1), replace “, or embodied in,” with “, or appearing in connection with communicating or making available,”.

37F Section 226H amended (Commercial dealing in work subject to CMI interference)

In section 226H(1) and (2)(c), replace “, or embodied in,” with “, or appearing in connection with communicating or making available,”.

37G Section 226I amended (Contravention of section 226G or 226H)

In section 226I, insert as subsections (2) and (3):

- (2) If the copyright management information is or includes information that identifies an author, a director, or a performer (or is a number or code that represents information that identifies that person), the author, director, or performer (or a person entitled to exercise that person’s rights under Part 4 or 9) has the same rights and remedies in relation to a contravention of either of sections 226G and 226H as an author, a director, or a performer has in respect of an infringement of the rights conferred by Part 4 or 9.
- (3) Subsection (2) does not limit subsection (1).

9 Section 44 amended (Schedule 1 amended)

- (1) In section 44(9), new Part 2 of Schedule 1, replace the Part 2 heading with:

Part 2
**Provisions relating to Comprehensive and Progressive Agreement
for Trans-Pacific Partnership Amendment Act 2018**

- (2) In section 44(9), new Part 2 of Schedule 1, clause 44, definition of **TPP copyright duration provisions**, replace “Trans-Pacific Partnership Agreement Amendment Act 2016” with “Comprehensive and Progressive Agreement for Trans-Pacific Partnership Amendment Act 2018”.
- (3) In section 44(9), new Part 2 of Schedule 1, clause 47, definition of **commencement**, replace “TPP performers’ rights provisions” with “WIPO performers’ rights provisions”.
- (4) In section 44(9), new Part 2 of Schedule 1, clause 47, replace the definition of **TPP performers’ rights provisions** with:
WIPO performers’ rights provisions means the provisions of Part 1 of the Comprehensive and Progressive Agreement for Trans-Pacific Partnership Amendment Act 2018.
- (5) In section 44(9), new Part 2 of Schedule 1, clause 48(1), replace “TPP performers’ rights provisions” with “WIPO performers’ rights provisions”.

- (6) In section 44(9), new Part 2 of Schedule 1, clause 49(1), replace “TPP performers’ rights provisions” with “WIPO performers’ rights provisions”.
- (7) In section 44(9), new Part 2 of Schedule 1, clause 49(2), replace “TPP performers’ rights provisions” with “WIPO performers’ rights provisions”.
- (8) In section 44(9), new Part 2 of Schedule 1, clause 49(3), replace “TPP performers’ rights provisions” with “WIPO performers’ rights provisions”.
- (9) In section 44(9), new Part 2 of Schedule 1, clause 49(4)(b), replace “TPP performers’ rights provisions” with “WIPO performers’ rights provisions”.
- (10) In section 44(9), new Part 2 of Schedule 1, clause 50(2), replace “TPP performers’ rights provisions” with “WIPO performers’ rights provisions”.

Customs and Excise Act 1996

10 Part 2 repealed

Repeal Part 2.

Hazardous Substances and New Organisms Act 1996

11 Section 58 amended (Section 59 amended (Time limits and waivers))

- (1) In section 58, new section 59(6), replace “relevant TPP provision” with “relevant CPTPP or TPP provision”.
- (2) In section 58, replace new section 59(8) with:
- (8) In subsection (6), **relevant CPTPP or TPP provision** means—
 - (a) Article 8.7.14 of the Trans-Pacific Partnership Agreement (done at Auckland on 4 February 2016) (technical barriers to trade: transparency: periods to comment on proposals):
 - (b) that provision as incorporated into the Comprehensive and Progressive Agreement for Trans-Pacific Partnership, done at Santiago, Chile, on 8 March 2018, by Article 1.1 of that agreement.

Legislation Act 2012

12 Section 63 amended (New Part 2A inserted)

- (1) In section 63, new section 36B(2)(a), replace “administrator’s website” with “maker’s website”.
- (2) In section 63, new section 36B(2)(c), replace “legislation website” with “central website”.
- (3) In section 63, new section 36C(2), repeal the definitions of **administrator**, **administrator’s website**, **legislation website**, and **links**.
- (4) In section 63, new section 36C(2), insert in their appropriate alphabetical order:

central website means an Internet site maintained by or on behalf of the New Zealand Government

links, in relation to an instrument at any time, means all information necessary or desirable to enable a user at that time to access, using the central website, the instrument as published and made available on the maker's website

maker, in relation to an instrument, means the person empowered to make the instrument

maker's website, in relation to an instrument, means an Internet site (other than the central website) maintained by or on behalf of the maker

- (5) In section 63, new section 36C(2), replace the definition of **international transparency obligations** with:

international transparency obligations means obligations—

- (a) under paragraph 5 of Article 26.2 (publication) of Chapter 26 (transparency and anti-corruption) of the Trans-Pacific Partnership Agreement done at Auckland on 4 February 2016; or
- (b) under that provision as incorporated into the Comprehensive and Progressive Agreement for Trans-Pacific Partnership, done at Santiago, Chile, on 8 March 2018, by Article 1.1 of that agreement

- (6) In section 63, cross-heading above new section 36D, replace “*administrator's website*” with “*maker's website*”.
- (7) In section 63, heading to new section 36D, replace “**Administrator**” with “**Maker**”.
- (8) In section 63, new section 36D(1)(a), replace “Trans-Pacific Partnership Agreement Amendment Act 2016” with “Comprehensive and Progressive Agreement for Trans-Pacific Partnership Amendment Act 2018”.
- (9) In section 63, new section 36D(1)(b) and (2), replace “administrator's website” with “maker's website”.
- (10) In section 63, new section 36D(2), replace “administrator” with “maker”.
- (11) In section 63, cross-heading above new section 36E, replace “*administrator's website*” with “*maker's website*”.
- (12) In section 63, heading to new section 36E, replace “**Administrator**” with “**Maker**”.
- (13) In section 63, new section 36E(1)(a), replace “Trans-Pacific Partnership Agreement Amendment Act 2016” with “Comprehensive and Progressive Agreement for Trans-Pacific Partnership Amendment Act 2018”.
- (14) In section 63, new section 36E(1)(b), (2), (3), and (6), replace “administrator's website” with “maker's website” in each place.
- (15) In section 63, new section 36E(2) and (6), replace “administrator” with “maker”.
- (16) In section 63, new section 36E(4), replace “administrators” with “makers”.

- (17) In section 63, new section 36E(5)(a), replace “an Internet site maintained by or on behalf of the New Zealand Government” with “the central website”.
- (18) In section 63, cross-heading above *new section 36F*, replace “*legislation website*” with “*central website*”.
- (19) In section 63, new section 36F(1)(a), replace “Trans-Pacific Partnership Agreement Amendment Act 2016” with “Comprehensive and Progressive Agreement for Trans-Pacific Partnership Amendment Act 2018”.
- (20) In section 63, new section 36F(1)(b), replace “administrator’s website” with “maker’s website”.
- (21) In section 63, new section 36F(2), replace “administrator” with “maker”.
- (22) In section 63, new section 36F(3), replace “administrators” with “makers”.
- (23) In section 63, new section 36F(4)(a), replace “an Internet site maintained by or on behalf of the New Zealand Government” with “the central website”.
- (24) In section 63, replace new section 36G with:

36G Links forwarded and other instruments must be published and made available

The Chief Parliamentary Counsel must ensure that the following are as soon as practicable published and made available on the central website:

- (a) links forwarded under section 36F:
- (b) legislative instruments published under section 6 (including instruments published under section 14).

Overseas Investment Act 2005

13 New section 68A inserted (Section 61 amended (Regulations))

After section 68, insert:

68A Section 61 amended (Regulations)

In section 61(1)(i) (as replaced by section 46(4) of the Overseas Investment Amendment Act 2018), replace “either or both of overseas investments in sensitive land and overseas investments in significant business assets” with “overseas investments in sensitive land”.

14 Section 69 amended (New section 61A inserted (Regulations regarding alternative monetary thresholds for overseas investments in significant business assets))

- (1) In section 69, before new section 61A(1)(a), insert:
 - (aaa) the Comprehensive and Progressive Agreement for Trans-Pacific Partnership, done at Santiago, Chile, on 8 March 2018:
- (2) In section 69, after new section 61A(1)(f), insert:

- (g) the Trans-Pacific Strategic Economic Partnership Agreement, done at Wellington on 18 July 2005.
- (3) In section 69, after new section 61A(4), insert:
- (5) Regulations made under subsection (1) may be made only to implement obligations in an international agreement that has entered into force for New Zealand.

Patents Act 2013

15 Section 77 amended (Schedule 1AA amended)

- (1) In section 77, new Part 2 of Schedule 1AA, replace the Part 2 heading with:

Part 2
Transitional and savings provisions arising from Comprehensive and Progressive Agreement for Trans-Pacific Partnership Amendment Act 2018

- (2) In section 77, new Part 2 of Schedule 1AA, clause 4, replace “Trans-Pacific Partnership Agreement Amendment Act 2016” with “Comprehensive and Progressive Agreement for Trans-Pacific Partnership Amendment Act 2018”.
- (3) In section 77, new Part 2 of Schedule 1AA, clause 5, replace “Trans-Pacific Partnership Agreement Amendment Act 2016” with “Comprehensive and Progressive Agreement for Trans-Pacific Partnership Amendment Act 2018”.
- (4) In section 77, new Part 2 of Schedule 1AA, clause 6, replace “Trans-Pacific Partnership Agreement Amendment Act 2016” with “Comprehensive and Progressive Agreement for Trans-Pacific Partnership Amendment Act 2018”.

Tariff Act 1988

16 Section 79 amended (Section 2 amended (Interpretation))

In section 79, before the new definition of **specified TPP party** in section 2(1), insert:

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

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

17 Section 81 amended (Section 7A amended (Orders in Council about preferential countries))

- (1) In section 81(1), before new section 7A(1)(ba), insert:
- (baa) declare a country that is a party to the CPTPP to be a specified CPTPP party for the purposes of this Act:

- (2) Replace section 81(2) with:
- (2) In section 7A(3), after “specified TPA party”, insert “, a specified CPTPP party, a specified TPP party,”.

18 Section 82 amended (Section 15A amended (Interpretation))

In section 82(1), definition of **free trade agreement** in section 15A, replace new paragraph (f) with:

- (f) the CPTPP; or
- (g) the TPP

19 Section 83 amended (Section 15B amended (Chief executive may undertake transitional safeguard investigation))

In section 83(2), new section 15B(1A), replace “the TPP” with “the CPTPP or the TPP”.

20 Section 86 amended (Section 15F amended (Application of transitional safeguard measure))

In section 86(8), new section 15F(7), replace “the affected TPP party” with “the affected CPTPP or TPP party, as the case may be,”.

21 Section 88 amended (Section 15H amended (Provisional transitional safeguard measure))

In section 88, new section 15H(8), replace “the TPP” with “the CPTPP or the TPP”.

Tariff

22 Section 90 amended (Tariff, note 2 amended)

In section 90, insert as subsection (2):

- (2) In the notes to the Tariff, note 2, penultimate paragraph, after “CN”, insert “, CPT”.

23 Section 91 amended (Tariff, note 3 amended)

In section 91, insert as subsection (2):

- (2) In the notes to the Tariff, note 3, after the item relating to China, insert:
- | | |
|---|-----|
| Country that is a specified CPTPP party | CPT |
|---|-----|

Wine Regulations 2006

24 Section 106 replaced (New regulation 8A inserted (Labelling of grape ice wine for export following entry into force of Trans-Pacific Partnership Agreement))

Replace section 106 with:

106 New regulation 8A inserted (Labelling of grape ice wine for export)

After regulation 8, insert:

8A Labelling of grape ice wine for export

- (1) After the expiry of the transitional period, no person may export grape wine that is labelled as Icewine, ice wine, ice-wine, or a similar variation of those terms unless the grape wine is made exclusively from grapes naturally frozen on the vine.
- (2) In subclause (1), **transitional period** means the period of 3 years beginning with the date on which section 106 of the Comprehensive and Progressive Agreement for Trans-Pacific Partnership Amendment Act 2018 (which inserts this regulation) comes into force.

*Schedules***25 Schedule 2 amended**

In Schedule 2, new Schedule 1, replace the Part 1 heading with:

Part 1
**Provisions relating to Comprehensive and Progressive Agreement
for Trans-Pacific Partnership Amendment Act 2018**

26 Schedule 3 amended

- (1) In Schedule 3, new Schedule 1AA, replace the Part 2 heading with:

Part 2
**Provisions relating to Comprehensive and Progressive Agreement
for Trans-Pacific Partnership Amendment Act 2018**

- (2) In Schedule 3, new Schedule 1AA, clause 11, replace “Trans-Pacific Partnership Agreement Amendment Act 2016” with “Comprehensive and Progressive Agreement for Trans-Pacific Partnership Amendment Act 2018” in each place.
- (3) In Schedule 3, new Schedule 1AA, clause 13, replace “Trans-Pacific Partnership Agreement Amendment Act 2016” with “Comprehensive and Progressive Agreement for Trans-Pacific Partnership Amendment Act 2018”.

Legislative history

25 June 2018	Introduction (Bill 70–1)
28 June 2018	First reading and referral to Foreign Affairs, Defence and Trade Committee
3 October 2018	Reported from Foreign Affairs, Defence and Trade Committee (Bill 70–2)
18 October 2018	Second reading
23 October 2018	Committee of the whole House
24 October 2018	Third reading
25 October 2018	Royal assent

This Act is administered by the Ministry of Foreign Affairs and Trade.