



## **Epidemic Preparedness (Customs and Excise Act 2018— Appeals) Immediate Modification Order 2020**

Patsy Reddy, Governor-General

### **Order in Council**

At Wellington this 4th day of May 2020

Present:

The Right Hon Jacinda Ardern presiding in Council

This order is made under section 15 of the Epidemic Preparedness Act 2006—

- (a) on the advice and with the consent of the Executive Council; and
- (b) on the recommendation of the Minister of Customs made after being satisfied of the matters required by section 15(2)(b) of that Act and after receiving from the chief executive of the New Zealand Customs Service a written recommendation stating the matters required by section 15(2)(a) of that Act.

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## Order

### 1 Title

This order is the Epidemic Preparedness (Customs and Excise Act 2018—Appeals) Immediate Modification Order 2020.

### 2 Commencement

This order comes into force on 5 May 2020.

### 3 Enactment to which modification made

This order modifies restrictions imposed by the Customs and Excise Act 2018 (the Act).

### 4 Restriction on ability of Customs Appeal Authority to extend time to bring appeal is modified

- (1) Clause 15(2) of Schedule 8 of the Act has effect as if an application to which this clause applies is made within the specified time.
- (2) This clause applies to an application if—
  - (a) the application is made no later than 20 working days after the Epidemic Preparedness (COVID-19) Notice 2020 expires or is revoked; and
  - (b) a Customs Appeal Authority is satisfied that, because of the effects of COVID-19, the application was unable to be made within the specified time.
- (3) In this clause, **specified time** means the time specified in a provision of the Act that provides that a person may appeal to a Customs Appeal Authority within a specified time.

Michael Webster,  
Clerk of the Executive Council.

## Explanatory note

*This note is not part of the order, but is intended to indicate its general effect.*

This order is made under the Epidemic Preparedness Act 2006 and its effect is temporary. It comes into force on 5 May 2020. It modifies restrictions imposed by the Customs and Excise Act 2018 (the Act) that may be impossible or impracticable to comply with during an epidemic.

*Clause 1* states the Title of the order.

*Clause 2* states that the order comes into force on 5 May 2020.

*Clause 3* states that the order modifies restrictions imposed by the Act.

*Clause 4* modifies a restriction on the ability of a Customs Appeal Authority (an **Authority**) to accept an application for an extension of time to bring an appeal. Clause 15(2) of Schedule 8 of the Act provides that an Authority may only accept such an application if it is made within the time specified in the section of the Act under which the appeal is to be made.

*Clause 4* modifies clause 15(2) of Schedule 8 so that an Authority may accept an application for an extension of time if it is made no later than 20 working days after the Epidemic Preparedness (COVID-19) Notice 2020 (the **Epidemic Notice**) expires or is revoked. The modification will only apply if the relevant Customs Appeal Authority is satisfied that the effects of COVID-19 have meant that the applicant was unable to make the application within the specified time in the Act.

### **Statement of reasons**

The Minister of Customs is satisfied of the matters required by section 15(2)(b) of the Epidemic Preparedness Act 2006 for the reasons that follow.

*Effects are, or are likely to be, such that the requirement is impossible or impracticable to comply (or comply fully) with*

It is important that persons affected by a decision of the chief executive of the New Zealand Customs Service have the right to appeal against a decision or to request an extension of time to appeal.

Due to the effects of COVID-19, some individuals or companies who wish to contest a decision of the chief executive may be unable to do so. In addition, while the Epidemic Notice is in force, the Customs Appeal Authority is not operating and is unable to process applications.

*Modification goes no further than reasonably necessary*

The modification—

- is limited to modifying the requirements of clause 15(2) of Schedule 8 of the Customs and Excise Act 2018, for seeking an extension of time to bring an appeal; and
- will only apply if the Customs Appeal Authority is satisfied that the applicant was unable to make the application within the specified time, due to the effects of COVID-19; and
- is temporary (the ability to accept applications made outside the specified time will cease 20 working days after the Epidemic Notice expires or is revoked).

Issued under the authority of the Legislation Act 2012.

Date of notification in *Gazette*: 4 May 2020.

This order is administered by the New Zealand Customs Service.