Customs and Excise (Refunds and Remissions) Amendment Regulations 2022

Cindy Kiro, Governor-General

Order in Council

At Wellington this 9th day of May 2022

Present:
The Right Hon Jacinda Ardern presiding in Council

These regulations are made under section 403 of the Customs and Excise Act 2018—

(a) on the advice and with the consent of the Executive Council; and

(b) on the recommendation of the Minister of Customs made in accordance with section 171 of that Act.

Contents

			Page
1	Title		2
2	Commencement		2
3	Principal regulations		2
4	New regulations 71E and 71F inserted		2
	71E	Refunds and remissions of interest and penalty due to COVID-19	2
	71F	Refunds and remissions of interest and penalty due to March 2022 reduction in fuel excise duty	3

Regulations

1 Title

These regulations are the Customs and Excise (Refunds and Remissions) Amendment Regulations 2022.

2 Commencement

These regulations come into force on 11 May 2022.

3 Principal regulations

These regulations amend the Customs and Excise Regulations 1996.

4 New regulations 71E and 71F inserted

After regulation 71D, insert:

71E Refunds and remissions of interest and penalty due to COVID-19

(1) For the purposes of section 171 of the Act, this regulation prescribes certain circumstances in which the chief executive must remit or refund any interest or penalty that is payable by a duty payer under subpart 8 of Part 3 of the Act.

(2) The chief executive must remit or refund the interest or penalty if—

- (a) the payment date for the duty in respect of which the interest or penalty is (or was) payable is on or after 25 March 2022; and
- (b) in the case of interest, the interest accrued on or after 25 March 2022; and
- (c) the duty payer's ability to pay the duty before the close of the payment date is (or was) significantly adversely affected by the effects of COVID-19; and
- (d) the duty payer notifies Customs, before, on, or as soon as is reasonably practicable after the payment date, that they are or were unable to pay the duty before the close of the payment date for the reason specified in paragraph (c); and
- (e) the chief executive is satisfied with the duty payer's explanation; and
- (f) either—
  - (i) the duty payer paid the duty (after the payment date); or
  - (ii) the chief executive is satisfied that the duty will be paid as soon as practicable.

(3) In this regulation, **payment date** has the meaning given in section 160(2), (4), or (6) of the Act (as applicable).

(4) This regulation is revoked on 25 March 2024.

71F Refunds and remissions of interest and penalty due to March 2022 reduction in fuel excise duty

(1) For the purposes of section 171 of the Act, this regulation prescribes certain circumstances in which the chief executive must remit or refund any interest or penalty that is payable by a duty payer under subpart 8 of Part 3 of the Act.

(2) The chief executive must remit or refund the interest or penalty if—

(a) the payment date for the duty in respect of which the interest or penalty is (or was) payable relates to fuel stocks of the duty payer held in New Zealand immediately before the close of 14 March 2022; and

(b) in the case of interest, the interest accrued on or after 15 March 2022; and

(c) the duty payer's ability to pay the duty before the close of the payment date is (or was) affected by the effects of the FED reduction on their cashflow; and

(d) the duty payer notifies Customs, before, on, or as soon as is reasonably practicable after the payment date, that they are or were not reasonably able to pay the duty before the close of the payment date for the reason specified in paragraph (c); and

(e) the chief executive is satisfied with the duty payer's explanation; and

(f) the duty payer provides evidence satisfactory to the chief executive that they have reduced the amount that any person must pay them in relation to the fuel stocks by the same or a substantially similar amount as the FED reduction; and

(g) either—

(i) the duty payer paid the duty (after the payment date); or

(ii) the chief executive is satisfied that the duty will be paid as soon as practicable.

(3) In this regulation,—

FED reduction means the reduction in the excise duty or excise-equivalent duty rates relating to fuel (**(FED)** that came into effect on 15 March 2022

fuel means a motor spirit as defined in clause 23(3) of Schedule 3 of the Act

payment date has the meaning given in section 160(2), (4), or (6) of the Act (as applicable).

(4) This regulation is revoked on 25 March 2023.

Michael Webster,
Clerk of the Executive Council.

Explanatory note

This note is not part of the regulations, but is intended to indicate their general effect.

These regulations amend the Customs and Excise Regulations 1996 (the **principal regulations**) and come into force on 11 May 2022.

The regulations insert *new regulations 71E and 71F* into the principal regulations.

New regulation 71E prescribes circumstances in which the New Zealand Customs Service (**Customs**) must refund or remit any interest or penalty payable in respect of certain duty that is not fully paid on or before the relevant payment date. Customs must refund or remit the interest or penalty if the duty payer's ability to pay on time is (or was) significantly adversely affected by the effects of COVID-19, the duty payer notifies Customs of that fact, and the duty has subsequently been paid (or the chief executive is satisfied that the duty will be paid). The regulation provides for its own revocation on 25 March 2024.

New regulation 71F prescribes circumstances in which Customs must refund or remit any interest or penalty payable in respect of duty relating to fuel that is not fully paid on or before the relevant payment date. Customs must refund or remit the interest or penalty if the duty payer's ability to pay on time is (or was) affected by the effects of the reduction in fuel duty rates that came into effect on 15 March 2022, the duty payer notifies Customs of that fact (and provides certain evidence), and the duty has subsequently been paid (or the chief executive is satisfied that the duty will be paid). The regulation provides for its own revocation on 25 March 2023.

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These regulations are administered by the New Zealand Customs Service.

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