

**Council for Trade-Related Aspects
of Intellectual Property Rights**

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**MAIN DEDICATED INTELLECTUAL PROPERTY LAWS AND REGULATIONS
NOTIFIED UNDER ARTICLE 63.2 OF THE AGREEMENT**

NEW ZEALAND

The present document reproduces the text¹ of the Copyright (Removal of Prohibition on Parallel Importing) Amendment Act 1998, as notified by New Zealand under Article 63.2 of the Agreement (see document IP/N/1/NZL/3).

**Conseil des aspects des droits de propriété
intellectuelle qui touchent au commerce**

**PRINCIPALES LOIS ET RÉGLEMENTATIONS CONSACRÉES À
LA PROPRIÉTÉ INTELLECTUELLE NOTIFIÉES AU TITRE
DE L'ARTICLE 63:2 DE L'ACCORD**

NOUVELLE-ZÉLANDE

Le présent document contient le texte¹ de la Loi de 1998 portant modification de la Loi sur le droit d'auteur (levée de l'interdiction des importations parallèles), notifiée par la Nouvelle-Zélande au titre de l'article 63:2 de l'Accord (voir le document IP/N/1/NZL/3).

**Consejo de los Aspectos de los Derechos de Propiedad
Intellectual relacionados con el Comercio**

**PRINCIPALES LEYES Y REGLAMENTOS DEDICADOS A LA
PROPIEDAD INTELECTUAL NOTIFICADOS EN VIRTUD
DEL PÁRRAFO 2 DEL ARTÍCULO 63 DEL ACUERDO**

NUEVA ZELANDIA

En el presente documento se reproduce el texto¹ de la Ley de Modificación de los Derechos de Autor (Supresión de la Prohibición de Efectuar Importaciones Paralelas), de 1998, notificada por Nueva Zelandia en virtud de lo dispuesto en el párrafo 2 del artículo 63 del Acuerdo (véase el documento IP/N/1/NZL/3).

¹ In English only/En anglais seulement/En inglés solamente.

1998

*Copyright (Removal of Prohibition on
Parallel Importing) Amendment*

No. 20



ANALYSIS

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1998, No. 20

An Act to amend the Copyright Act 1994 and the Medicines Act 1981 to—

- (a) Remove the prohibition on parallel importing from the Copyright Act 1994; and
- (b) Increase the penalties for importation of pirated copyright works and for breaching certain requirements of the Medicines Act 1981 in relation to the sale and distribution of medicines

[19 May 1998]

BE IT ENACTED by the Parliament of New Zealand as follows:

1. Short Title and commencement—(1) This Act may be cited as the Copyright (Removal of Prohibition on Parallel Importing) Amendment Act 1998.

(2) This Act comes into force on the day on which it receives the Royal assent.

PART 1

AMENDMENTS TO COPYRIGHT ACT 1994

2. Part to be part of Copyright Act 1994—This Part is part of the Copyright Act 1994 (in this Part referred to as the principal Act).

3. Interpretation—Section 2 (1) of the principal Act is amended by inserting, after the definition of “graphic work”, the following definition:

“ ‘Infringing copy’ has the meaning given by section 12:”.

4. Meaning of “issue to the public”—Section 9 (1) of the principal Act is amended by adding the expression “; or” to paragraph (c), and adding the following paragraph:

“(d) Distribution of imported copies that are not infringing copies within the meaning of section 12 subsequent to their importation into New Zealand.”

5. Meaning of “infringing copy”—(1) Section 12 of the principal Act is amended by repealing subsection (3), and substituting the following subsection:

“(3) An object that a person imports, or proposes to import, into New Zealand is an infringing copy if—

“(a) The making of the object constituted an infringement of the copyright in the work in question in the country in which the object was made; or

“(b) The importer would have infringed the copyright in the work in question in New Zealand had the importer made the object in New Zealand, unless the object is one to which subsection (5A) or subsection (6) applies.”

(2) Section 12 of the principal Act is amended by inserting, after subsection (5), the following subsection:

“(5A) An object that a person imports or proposes to import into New Zealand is not an infringing copy under subsection (3) (b) if—

“(a) It was made by or with the consent of the owner of the copyright, or other equivalent intellectual property right, in the work in question in the country in which the object was made; or

“(b) Where no person owned the copyright, or other equivalent intellectual property right, in the work in question in the country in which the object was made, any of the following applies:

“(i) The copyright protection (or other equivalent intellectual property right protection) formerly afforded to the work in question in that country has expired:

“(ii) The person otherwise entitled to be the owner of the copyright (or other equivalent intellectual property right) in the work in question in that country has failed to take some step legally available to them to secure the copyright (or other equivalent intellectual property right) in the work in that country:

“(iii) The object is a copy in 3 dimensions of an artistic work that has been industrially applied in that country in the manner specified in section 75 (4):

“(iv) The object was made in that country by or with the consent of the owner of the copyright in the work in New Zealand.”

6. Criminal liability for making or dealing with infringing objects—(1) Section 131 of the principal Act is amended by repealing subsection (5), and substituting the following subsection:

“(5) Every person who commits an offence against this section is liable on summary conviction—

“(a) In the case of an offence against subsection (1), to a fine not exceeding \$10,000 for every infringing copy to which the offence relates, but not exceeding \$150,000 in respect of the same transaction, or to imprisonment for a term not exceeding 3 months:

“(b) In the case of an offence against subsection (2) or subsection (3), to a fine not exceeding \$150,000 or to imprisonment for a term not exceeding 3 months.”

(2) Section 131 of the principal Act is amended by repealing subsection (8).

7. Definitions—border protection measures—Section 135 of the principal Act is amended by inserting, after

subparagraph (i) of paragraph (c) of the definition of “pirated copy”, the following subparagraph:

“(ia) Any other work that is not an infringing copy within the meaning of section 12; or”.

8. Notices to Chief Executive concerning importations of parallel imports—(1) The principal Act is amended by repealing section 144.

(2) Any notices given under section 144 cease to have effect on the commencement of this Act.

9. No compensation for diminution in rights attaching to copyright—No person is entitled to compensation from the Crown in respect of any diminution in the rights attaching to copyright that may arise by virtue of the enactment of this Part of this Act.

PART 2

AMENDMENTS TO MEDICINES ACT 1981

10. Part to be part of Medicines Act 1981—This Part is part of the Medicines Act 1981 (in this Part referred to as the principal Act).

11. Restrictions on sale or supply of new medicines—Section 20 of the principal Act is amended by repealing subsection (4), and substituting the following subsection:

“(4) A person who contravenes subsection (2) commits an offence, and is liable on conviction—

“(a) In the case of an individual, to imprisonment for a term not exceeding 6 months or a fine not exceeding \$20,000:

“(b) In the case of a body corporate, to a fine not exceeding \$100,000.”

12. Distribution of changed medicines restricted—Section 24 of the principal Act is amended by adding the following subsection:

“(7) A person who commits an offence under subsection (6) is liable on conviction—

“(a) In the case of an individual, to imprisonment for a term not exceeding 3 months or a fine not exceeding \$20,000:

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“(b) In the case of a body corporate, to a fine not exceeding \$100,000.”

13. Duty of importer and manufacturer to have and produce specifications of medicines—Section 42 of the principal Act is amended by repealing subsection (3), and substituting the following subsection:

“(3) A person who contravenes this section commits an offence, and is liable on conviction—

“(a) In the case of an individual, to imprisonment for a term not exceeding 3 months or a fine not exceeding \$10,000:

“(b) In the case of a body corporate, to a fine not exceeding \$100,000.”

This Act is administered in the Ministry of Commerce.