

CUSTOMS AND EXCISE ACT 91 OF 1964

[ASSENTED TO 27 JULY 1964]

[DATE OF COMMENCEMENT: 1 JANUARY 1965]

(English text signed by the State President)

as amended by

Customs and Excise Amendment Act 95 of 1965
Customs and Excise Amendment Act 57 of 1966
Customs and Excise Amendment Act 96 of 1967
Customs and Excise Amendment Act 85 of 1968
South-West Africa Affairs Act 25 of 1969
Customs and Excise Amendment Act 105 of 1969
Customs and Excise Amendment Act 98 of 1970
Customs and Excise Amendment Act 89 of 1971
Customs and Excise Amendment Act 103 of 1972
Customs and Excise Amendment Act 68 of 1973
Customs and Excise Amendment Act 7 of 1974
Parliamentary Service Act 33 of 1974
Publications Act 42 of 1974
Second Customs and Excise Act 64 of 1974
Customs and Excise Amendment Act 71 of 1975
Customs and Excise Amendment Act 105 of 1976
Customs and Excise Amendment Act 12 of 1977
Second Customs and Excise Amendment Act 112 of 1977
Customs and Excise Amendment Act 93 of 1978
Customs and Excise Amendment Act 110 of 1979
Customs and Excise Amendment Act 98 of 1980
Customs and Excise Amendment Act 86 of 1982
Customs and Excise Amendment Act 89 of 1983
Customs and Excise Amendment Act 89 of 1984
Customs and Excise Amendment Act 101 of 1985
Customs and Excise Amendment Act 52 of 1986
Transfer of Powers and Duties of the State President Act 97 of 1986
Customs and Excise Amendment Act 84 of 1987
Customs and Excise Amendment Act 69 of 1988
Liquor Products Act 60 of 1989
Customs and Excise Amendment Act 68 of 1989
Customs and Excise Amendment Act 59 of 1990
Customs and Excise Amendment Act 111 of 1991
Customs and Excise Amendment Act 61 of 1992
Customs and Excise Second Amendment Act 105 of 1992
Customs and Excise Amendment Act 98 of 1993
Customs and Excise Amendment Act 19 of 1994

Customs and Excise Amendment Act 45 of 1995
 Customs and Excise Amendment Act 44 of 1996
 Board on Tariffs and Trade Amendment Act 16 of 1997
 Taxation Laws Amendment Act 27 of 1997
 South African Revenue Service Act 34 of 1997
 Taxation Laws Amendment Act 30 of 1998
 Taxation Laws Amendment Act 32 of 1999

NOTE: (1) Users are advised to consult the Amendment Acts with regard to the commencement dates of the various provisions.

(2) Schedules 1 to 6 inclusive and Schedule 8 are not reproduced, but are available from the Office of the Commissioner of Customs and Excise. Schedule 7 was deleted by s. 47 of Act 59 of 1990.

ACT

To provide for the levying of customs and excise duties and a surcharge; for a fuel levy, the prohibition and control of the importation, export or manufacture of certain goods; and for matters incidental thereto.

[Long title substituted by s. 40 of Act 112 of 1977, by s. 41 of Act 84 of 1987 and by s. 42 of Act 59 of 1990.]

ARRANGEMENT OF CHAPTERS AND SCHEDULES

Chapter or Schedule	Subject	Sections
1	CHAPTER I. Definitions	
1A-5	CHAPTER II. Administration, general duties and powers of Commissioner and officers, and application of Act	
6-18A	CHAPTER III. Importation, exportation and transit and coastwise carriage of goods	
19-37	CHAPTER IV. Customs and excise warehouses; storage and manufacture of goods in customs and excise warehouses	
38-54	CHAPTER V. Clearance and origin of goods; liability for and payment of duties	
55-57A	CHAPTER VI. Anti-dumping, countervailing and safeguard duties	
58-59	CHAPTER VII. Amendment of duties	
60-64C	CHAPTER VIII. Licensing	
65-74A	CHAPTER IX. Value	
75-77	CHAPTER X. Rebates, refunds and drawbacks of duty	
78-96	CHAPTER XI. Penal provisions	
96A-122	CHAPTER XII. General	
	[Schedules 1 to 6 inclusive and 8 are not included in this work. Schedule 7 was deleted by s. 47 of Act 59 of 1990.]	
Schedule 9.	Laws repealed.	

CHAPTER I DEFINITIONS (s 1)

1 Definitions

(1) In this Act, unless the context otherwise indicates, any reference to customs and excise or matters relating thereto shall be deemed to include a reference to surcharge and fuel levy or matters relating thereto, and-

'agricultural distiller' means any owner or occupier of a farm in the Republic who-

- (a) is licensed to keep a still on such farm; and
- (b) is licensed to distill spirits exclusively from prescribed fresh fruit grown by him on such farm; or

[Definition of 'agricultural distiller' substituted by s. 1 (b) of Act 59 of 1990, by s. 1 of Act 19 of 1994 and by s. 57 of Act 30 of 1998.]

'Collector'

[Definition of 'Collector' deleted by s. 1 (1) (a) of Act 57 of 1966.]

'Commissioner' means the Commissioner for the South African Revenue Service;

[Definition of 'Commissioner' inserted by s. 1 (1) (a) of Act 98 of 1980 and substituted by s. 34 (1) of Act 34 of 1997.]

'common customs area' means the combined area of the Republic and territories with the governments of which customs union agreements have been concluded under section 51;

[Definition of 'common customs area' inserted by s. 1 (1) (b) of Act 84 of 1987.]

'container depot' means any container depot contemplated in section 6 (1) (hB);

[Definition of 'container depot' inserted by s. 1 (a) of Act 71 of 1975.]

'container operator' means any person providing international transportation of containerized goods, and approved by the Commissioner, under section 96A, for operating containers in the Republic;

[Definition of 'container operator' inserted by s. 1 (a) of Act 71 of 1975 and substituted by s. 1 of Act 89 of 1984.]

'container terminal' means any container terminal contemplated in section 6 (1) (hA);

[Definition of 'container terminal' inserted by s. 1 (a) of Act 71 of 1975.]

'Controller', in relation to any area or any matter, means the officer designated by the Commissioner to be the Controller of Customs and Excise in respect of that area or matter and includes an officer acting under the control or direction of any officer so designated by the Commissioner;

[Definition of 'Controller' inserted by s. 1 (1) (b) of Act 57 of 1966.]

'crew' includes every person (except the master or pilot) employed in any capacity on board any ship or aircraft;

'customs duty' means, subject to the provisions of subsection (3), any duty leviable under Schedule 1 (except Parts 4 and 5 thereof) or 2 on goods imported into the Republic;

[Definition of 'customs duty' substituted by s. 1 (b) of Act 105 of 1969, by s. 1 (b) of Act 112 of 1977, by s. 1 (1) (c) of Act 84 of 1987 and by s. 1 (c) of Act 59 of 1990.]

'customs tariff'

[Definition of 'customs tariff' substituted by s. 1 (c) of Act 105 of 1969 and deleted by s. 1 (d) of Act 59 of 1990.]

'department'

[Definition of 'department' deleted by s. 1 (1) (b) of Act 98 of 1980.]

'depot operator' means the person having charge of any container depot;

[Definition of 'depot operator' inserted by s. 1 (b) of Act 71 of 1975.]

'duty' means any duty leviable under this Act;

'entry for home consumption' includes entry under any item in Schedule 3, 4 or 6;

[Definition of 'entry for home consumption' substituted by s. 1 (d) of Act 105 of

1969 and by s. 1 (e) of Act 59 of 1990.]

'excisable goods' means any goods specified in Part 2 of Schedule 1 which have been manufactured in the Republic;

'excise duty' means, subject to the provisions of subsection (3), any duty leviable under Part 2 of Schedule 1 on any goods manufactured in the Republic;

[Definition of 'excise duty' substituted by s. 1 (1) (d) of Act 84 of 1987.]

'excise value' means value as defined in section *sixty-nine*;

'exporter' includes any person who, at the time of exportation-

- (a) owns any goods exported;
- (b) carries the risk of any goods exported;
- (c) represents that or acts as if he is the exporter or owner of any goods exported;
- (d) actually takes or attempts to take any goods from the Republic;
- (e) is beneficially interested in any way whatever in any goods exported;
- (f) acts on behalf of any person referred to in paragraph (a), (b), (c), (d) or (e), and, in relation to imported goods, includes the manufacturer, supplier or shipper of such goods or any person inside or outside the Republic representing or acting on behalf of such manufacturer, supplier or shipper;

[Definition of 'exporter' substituted by s. 1 (c) of Act 112 of 1977.]

'fuel levy' means any duty leviable under Part 5 of Schedule 1 on any goods which have been manufactured in or imported into the Republic;

[Definition of 'fuel levy' inserted by s. 1 (1) (e) of Act 84 of 1987.]

'fuel levy goods' means any goods specified in Part 5 of Schedule 1 which have been manufactured in or imported into the Republic;

[Definition of 'fuel levy goods' inserted by s. 1 (1) (e) of Act 84 of 1987.]

'goods' includes all wares, articles, merchandise, animals, currency, matter or things;

[Definition of 'goods' substituted by s. 1 (a) of Act 98 of 1970.]

'Government Brandy Board'

[Definition of 'Government Brandy Board' substituted by s. 1 (b) of Act 98 of 1970 and deleted by s. 32 of Act 60 of 1989.]

'home consumption' means consumption or use in the Republic;

'illicit goods', in relation to imported or excisable goods, surcharge goods or fuel levy goods, means any such goods in respect of which any contravention under this Act has been committed, and includes any preparation or other product made wholly or in part from spirits or other materials which were illicit goods;

[Definition of 'illicit goods' substituted by s. 1 (e) of Act 105 of 1969, by s. 1 (d) of Act 112 of 1977, by s. 1 (1) (f) of Act 84 of 1987 and by s. 1 (f) of Act 59 of 1990.]

'importer' includes any person who, at the time of importation-

- (a) owns any goods imported;
- (b) carries the risk of any goods imported;
- (c) represents that or acts as if he is the importer or owner of any goods imported;
- (d) actually brings any goods into the Republic;
- (e) is beneficially interested in any way whatever in any goods imported;
- (f) acts on behalf of any person referred to in paragraph (a), (b), (c), (d) or (e);

'land' includes off-loading from any vehicle;

'L.C.L. container' means any container containing goods consigned from one or more exporters to more than one importer;

[Definition of 'L.C.L. container' inserted by s. 1 (c) of Act 71 of 1975.]

'manufacture', when used as a noun, includes, in the discretion of the Commissioner, any process-

- (a) in the manufacture or assembly of any excisable goods or fuel levy goods;
- (b) in the conversion of any goods into excisable goods or fuel levy goods;
- (c) whereby the dutiable quantity or value of any imported goods specified in Section B of Part 2 of Schedule 1, excisable goods or fuel levy goods is increased in any manner;
- (d) in the recovery of excisable goods or fuel levy goods from excisable goods or any other goods; or
- (e) in the packing or measuring off of any imported goods specified in Section B of Part 2 of Schedule 1, excisable goods or fuel levy goods, and, when used as a verb, has a corresponding meaning;

and **'manufacturer'** has a corresponding meaning;

[Definition of 'manufacture' substituted by s. 1 (f) of Act 105 of 1969, by s. 1 of Act 110 of 1979, by s. 1 (1) (g) of Act 84 of 1987 and by s. 1 (g) of Act 59 of 1990.]

'master', in relation to any ship, means any person (other than a pilot) having charge of such ship;

'Minister' means the Minister of Finance;

'Office' means the Office of the Commissioner for Customs and Excise mentioned in section 1A;

[Definition of 'Office' inserted by s. 1 (1) (c) of Act 98 of 1980.]

'officer' means a person employed on any duty relating to customs and excise by order or with the concurrence of the Commissioner, whether such order has been given or such concurrence has been expressed before or after the performance of the said duty;

[Definition of 'officer' substituted by s. 1 (g) of Act 105 of 1969, by s. 1 (e) of Act 112 of 1977, by s. 1 (1) (h) of Act 84 of 1987 and by s. 1 (h) of Act 59 of 1990.]

'ordinary duty'

[Definition of 'ordinary duty' deleted by s. 1 (i) of Act 59 of 1990.]

'owner' includes any person lawfully acting on behalf of the owner;

'package' means any container, wrapping or outer cover and its contents, or any bundle or single piece in the case of unpacked goods;

'pilot', in relation to any aircraft, means any person having charge of such aircraft;

'plant' includes vessels, utensils, appliances and fittings;

'prescribed' means prescribed by this Act;

'regulation' means a regulation made by the Minister under this Act;

'rule' means a rule made by the Commissioner under this Act;

'sales duty'

[Definition of 'sales duty' inserted by s. 1 (*h*) of Act 105 of 1969 and deleted by s. 1 (*j*) of Act 59 of 1990.]

'sales duty goods'

[Definition of 'sales duty goods' inserted by s. 1 (*h*) of Act 105 of 1969 and deleted by s. 1 (*j*) of Act 59 of 1990.]

'Secretary'.....

[Definition of 'Secretary' deleted by s. 1 (1) (*d*) of Act 98 of 1980.]

'ship' means any ship, vessel or boat (including a flying boat) of any kind whatsoever;

'South African Revenue Service' means the South African Revenue Service established by section 2 of the South African Revenue Service Act, 1997;

[Definition of 'South African Revenue Service' inserted by s. 34 (1) of Act 34 of 1997.]

'State warehouse' means any premises provided by the State for the deposit of goods for the security thereof and of the duties due thereon, or pending compliance with the provisions of any law in respect of such goods;

'still' means any apparatus for, or capable of, distilling spirits and includes any part thereof;

'still maker' means a person who manufactures or imports stills for sale and includes a person who repairs stills for reward;

'surcharge' means any duty leviable under Part 4 of Schedule 1 on any goods which have been imported into the Republic;

[Definition of 'surcharge' inserted by s. 1 (f) of Act 112 of 1977.]

'surcharge goods' means any goods specified in Part 4 of Schedule 1 which have been imported into the Republic;

[Definition of 'surcharge goods' inserted by s. 1 (f) of Act 112 of 1977.]

'this Act' includes any proclamation, government notice, regulation or rule issued or made or agreement concluded or deemed to have been concluded thereunder or any taxation proposal contemplated in section 58 which is tabled in the House of Assembly;

[Definition of 'this Act' substituted by s. 1 (1) (c) of Act 57 of 1966.]

'vehicle' means any aircraft, train, motor car, van, truck, cart, barrow or other conveyance of any kind whatsoever, and includes the fittings, furnishings and equipment thereof, and also pack animals and their harness and tackle;

'Wine and Spirit Board' means the board referred to in section 2 of the Liquor Products Act, 1989;

[Definition of 'Wine and Spirit Board' inserted by s. 32 of Act 60 of 1989.]

'wine grower' means a farmer who cultivates vines on land in his own occupation and who produces on such land wine from grapes grown on such vines or delivers grapes grown on such vines to a wine-growers' co-operative agricultural society for the manufacture of wine;

[Definition of 'wine-grower' substituted by s. 1 (b) of Act 95 of 1965.]

'worts' means any liquid substance containing saccharine matter before fermentation has commenced.

[Sub-s. (1) amended by s. 1 (a) of Act 112 of 1977, by s. 1 (1) (a) of Act 84 of 1987 and by s. 1 (a) of Act 59 of 1990.]

(2) In this section, except in the definition of 'package', and in sections 6, 7, 18, 38 and 64A, 'container' means transport equipment-

- (a) having an internal volume of not less than one cubic metre; and
- (b) designed for the transport of goods by any means of carriage, without intermediate reloading,

and in this Act 'containerized' has a corresponding meaning.

[Sub-s. (2) added by s. 1 (d) of Act 71 of 1975.]

(3) For the purposes of any customs union agreements concluded under section 51-

- (a) 'customs duty' includes any duty leviable under Part 4 of Schedule 1 on goods imported into the Republic and, except for the purposes of articles 13 and 14 of the said agreement, any duty leviable under Part 5 or 8 of Schedule 1 on goods imported;

[Para. (a) substituted by s. 1 of Act 68 of 1989.]

- (b) 'excise duty' includes, except for the purposes of articles 13 and 14 of the said agreement, any duty leviable under Part 5 or 8 of Schedule 1 on goods manufactured in the common customs area.

[Para. (b) substituted by s. 1 of Act 68 of 1989.]

[Sub-s. (3) added by s. 1 (g) of Act 112 of 1977, substituted by s. 1 (1) (i) of Act 84 of 1987 and amended by s. 1 (k) of Act 59 of 1990.]

[S. 1 amended by s. 1 (a) of Act 105 of 1969.]

CHAPTER II ADMINISTRATION, GENERAL DUTIES AND POWERS OF COMMISSIONER AND OFFICERS, AND APPLICATION OF ACT (ss 1A-5)

1A

[S. 1A inserted by s. 2 (1) of Act 98 of 1980 and repealed by s. 34 (1) of Act 34 of 1997.]

1B

[S. 1B inserted by s. 2 (1) of Act 98 of 1980, substituted by s. 2 of Act 59 of 1990 and repealed by s. 34 (1) of Act 34 of 1997.]

2 Commissioner to administer Act

(1) The Commissioner shall, subject to the control of the Minister, be charged with the administration of this Act, including the interpretation of the Schedules thereto.

(1A) The Commissioner may, for the purposes of the administration of this Act, make such arrangements or enter into such agreements with any railway, port, airline or postal authority, depot operator or container operator or any other person or authority as he may deem necessary.

[Sub-s. (1A) inserted by s. 1 of Act 45 of 1995.]

(2) The Controller shall perform his duties and exercise his powers under this Act with due regard to any instructions issued by the Commissioner.

3 Delegation of duties and powers of Commissioners

(1) Any duty imposed or power conferred on the Commissioner may be performed or exercised by the Commissioner personally or by an officer under a delegation from or under the control or direction of the Commissioner.

(2) Any decision made and any notice or communication signed or issued by any such officer may be withdrawn or amended by the Commissioner or by the officer concerned (with effect from the date of making such decision or signing or issuing such notice or communication or the date of withdrawal or amendment thereof) and shall, until it has been so withdrawn, be deemed, except for the purposes of this subsection, to have been made, signed or issued by the Commissioner.

3A Duties and powers of Director-General: Trade and Industry

(1) Any duty imposed or power conferred by this Act on the Director-General: Trade and Industry may be performed or exercised by him personally or by an officer under a delegation from or under the control or direction of the said Director-General.

(2) Any decision made under subsection (1) by any such officer may be withdrawn or amended by the said Director-General or by the officer (with effect from the date of making such decision or the date of withdrawal or amendment thereof) and shall, until it has been so withdrawn, be deemed, except for the purposes of this subsection, to have been made by that Director-General.

[S. 3A inserted by s. 3 (1) of Act 59 of 1990.]

4 General duties and powers of officers

(1) Officers shall act under the control and direction of the Commissioner.

[Sub-s. (1) substituted by s. 34 (1) of Act 34 of 1997.]

(2) No officer shall be directly financially interested in the manufacture or sale or importation of or trade in imported or excisable goods or fuel levy goods.

[Sub-s. (2) substituted by s. 2 of Act 105 of 1969 and by s. 4 (a) of Act 59 of 1990.]

(3) No officer shall disclose any information relating to any person, firm or business acquired in the performance of his duties, except-

- (a) for the purposes of this Act; or
- (b) when required to do so as a witness in a court of law; or
- (c) such information in relation to any person as may be required by the Chief of the Central Statistical Services in connection with the collection of statistics in complying with the provisions of the Statistics Act, 1976 (Act 66 of 1976), or any regulation thereunder.

[Para. (c) substituted by s. 3 (1) of Act 98 of 1980, by s. 2 (a) of Act 84 of 1987, by s. 34 (1) of Act 34 of 1997 and by s. 58 (a) of Act 30 of 1998.]

[Sub-s. (3) substituted by s. 2 of Act 110 of 1979.]

(3A) The Chief of the Central Statistical Services or any person acting under the direction and control of such Chief, shall not disclose any information supplied under subsection (3) (c) to any person or permit any person to have access thereto, except in the exercise of that Chief's powers or the carrying out of that person's duties under the direction and control of such Chief, to collect statistics or to publish statistics in any anonymous form.

[Sub-s. (3A) inserted by s. 1 of Act 105 of 1992 and substituted by s. 58 (b) of Act 30 of 1998.]

(3B) The provisions of subsection (3) shall not be construed as preventing an officer from using any information obtained by him in the exercise of his powers or the performance of his duties under this Act for the purposes of any other law administered by him.

[Sub-s. (3B) inserted by s. 1 of Act 98 of 1993, deleted by s. 2 of Act 45 of 1995 and inserted by s. 34 (1) of Act 34 of 1997.]

- (4) (a) An officer may, for the purposes of this Act-
 - (i) without previous notice, at any time enter any premises whatsoever

and make such examination and enquiry as he deems necessary;

- (ii) while he is on the premises or at any other time require from any person the production then and there, or at a time and place fixed by the officer, of any book, document or thing which by this Act is required to be kept or exhibited or which relates to or which he has reasonable cause to suspect of relating to matters dealt with in this Act and which is or has been on the premises or in the possession or custody or under the control of any such person or his employee;
- (iii) at any time and at any place require from any person who has or is believed to have the possession or custody or control of any book, document or thing relating to any matter dealt with in this Act, the production thereof then and there, or at a time and place fixed by the officer; and
- (iv) examine and make extracts from and copies of any such book or document and may require from any person an explanation of any entry therein and may attach any such book, document or thing as in his opinion may afford evidence of any matter dealt with in this Act.

[Sub-para. (iv) substituted by s. 2 (b) of Act 84 of 1987.]

(b) An officer may take with him on to any premises an assistant or a member of the police force.

(5) Any person in connection with whose business any premises are occupied or used, and any person employed by him shall at any time furnish such facilities as may be required by the officer for entering the premises and for the exercise of his powers under this section.

(6) (a) If an officer, after having declared his official capacity and his purpose and having demanded admission into any premises, is not immediately admitted, he and any person assisting him may at any time, but at night only in the presence of a member of the police force, break open any door or window or break through any wall on the premises for the purpose of entry and search.

(b) An officer or any person assisting him may at any time break up any ground or flooring on any premises for the purpose of search and if any room, place, safe, chest, box or package is locked and the keys thereof are not produced on demand, may open such room, place, safe, chest, box or package in any manner.

(7) An officer may require any person to appear before him at any time and place fixed by the officer and may then and there question that person, either

alone or in the presence of any other person, as he thinks fit, with respect to any matter dealt with in this Act.

(8) An officer may question, either alone or in the presence of any other person, as he thinks fit, with respect to any matter dealt with in this Act, any person whom he finds on any premises entered in terms of this section or whom he has reasonable grounds for believing to be or to have been employed on any premises in respect of which any provision of this Act is applicable, or whom he has reasonable grounds for believing to be or to have been in possession, custody or control of anything, in respect of which any such provision is applicable.

(9) (a) An officer may board any ship within the territorial waters or fishing zone of the Republic or may stop and board any vehicle in the Republic and may search any such ship or vehicle or any person found therein or thereon for goods upon which duty has not been paid, or in respect of which he has reasonable cause to believe that there has been a contravention of any provision of this Act, and may freely remain on such ship or vehicle in pursuance of his duties.

(b) If any vehicle, room, cabin, place, safe, chest, box, package or container as defined in section 1 (2), is locked and the keys thereof are not produced on demand, the officer may open such vehicle, room, cabin, place, safe, chest, box, package or container in any manner.

(c) An officer shall have free access to and the right to rummage every part of any such ship or vehicle and to examine all goods on board, with power to fasten down hatchways and to mark any goods before landing and to lock up, seal, mark or otherwise secure any goods on board that ship or vehicle, including any apparatus thereof, and he may also demand from the master of such ship or the pilot of any aircraft concerned or the person in charge of any other vehicle the production of any document to which any provision of this Act relates.

(d) If any lock, seal or mark placed upon any goods on board a ship or vehicle by an officer in terms of the provisions of this section is wilfully opened, broken, obliterated or altered or if any goods which have been locked, sealed, marked or otherwise secured in terms of this section are removed or if the hatchways of any such ship are, after having been fastened down by an officer, opened without his consent, the master of any such ship, the pilot of any aircraft concerned or the person in charge of any other such vehicle, as the case may be, shall be guilty of an offence unless he proves that it was not possible for him to have prevented the act in question.

[Sub-s. (9) substituted by s. 4 (b) of Act 59 of 1990.]

(10) (a) An officer may stop any person whom he has reason to suspect of having dutiable goods or goods in respect of which a contravention under this Act

has been committed, secreted about him or in his possession and he may search such person.

(b) If such person fails to stop, the officer may take such action, including the use of force, as he may deem necessary to stop such person.

[Para. (b) added by s. 4 (c) of Act 59 of 1990.]

(11) (a) Any person may, before being searched in terms of this section, require the officer concerned to take him before the Controller, who may in his discretion discharge such person or direct that he be searched: Provided that the provisions of this paragraph shall apply only if such person is stopped within a harbour or airport control area and during the prescribed working hours of the Controller.

(b) A female shall only be searched by a female.

(12) An officer may lock up, seal, mark, fasten or otherwise secure any warehouse, store, room, cabin, place, vessel, appliance, utensil, fitting, vehicle or goods if he has reason to believe that any contravention under this Act has been or is likely to be committed in respect thereof or in connection therewith.

(13) No person shall be entitled to any compensation for any loss or damage arising out of any *bona fide* action of an officer under this section.

[Sub-s. (13) added by s. 4 (d) of Act 59 of 1990.]

5 Application of Act

Notwithstanding anything to the contrary in any other law contained, for the purposes of this Act-

(a)

[Para. (a) deleted by s. 5 of Act 59 of 1990.]

(b) the continental shelf as referred to in section 8 of the Maritime Zones Act, 1994 (Act 15 of 1994),

[Para. (b) substituted by s. 1 of Act 44 of 1996.]

(c) Any installation or device of any kind whatever, including any floating or submersible drilling or production platform, constructed or operating upon, beneath or above the said continental shelf for the purpose of exploring it or exploiting its natural resources shall be deemed to be constructed or operating within the Republic.

- (d) Any goods mined or produced in the operation of such installation or device and conveyed therefrom to the shore whether by pipeline or otherwise and any person or other goods conveyed by any means to and from such installation or device shall be deemed to be so conveyed within the Republic.

[S. 5 substituted by s. 2 (1) of Act 68 of 1989.]

CHAPTER III
IMPORTATION, EXPORTATION AND TRANSIT AND COASTWISE
CARRIAGE OF GOODS (ss 6-18A)

6 Appointment of places of entry, authorized roads and routes, etc

(1) The Commissioner may, subject to such conditions as he may specify, by rule appoint or prescribe-

- (a) places to be places of entry for the Republic, through which goods may be imported or exported or where goods may be landed for transit or coastwise carriage, where foreign-going ships may call, where persons entering or leaving the Republic may disembark or embark or where goods may be entered for customs and excise purposes;
- (b) the roads or routes (including railways) over which persons may enter or leave the Republic or imported goods or goods intended for export or transit carriage may enter or leave the Republic or may be carried from any one point to any other point or the means of carriage of such goods;
- (c) places as warehousing places where customs and excise warehouses may be established;
- (d) places for such particular and limited purposes and for such periods as may be specified;
- (e) places to be customs and excise airports at which aircraft entering the Republic shall first land, from which aircraft leaving the Republic shall finally depart, through which goods may be imported or exported or where goods may be landed for transit or coastwise carriage or where persons entering or leaving the Republic may disembark or embark;
- (f) places at appointed places of entry or at customs and excise airports for the landing or embarkation of persons and the landing,

loading or examination of goods (including baggage);

- (g) sheds as transit sheds into which goods, before due entry thereof, may be removed from a ship, aircraft or vehicle;
- (h) entrances and exits, general or special, to or from any dock or wharf area or customs and excise airport;
- (hA) container terminals where containers may be landed for transit, coastwise carriage, delivery to a container depot or, after their contents have been duly entered, delivery to importers, or where containers may be shipped for export;

[Para. (hA) inserted by s. 2 (a) of Act 71 of 1975.]

- (hB) places where container depots may be established for the storage, detention, unpacking or examination of containers or the contents of containers, for the delivery to importers of the contents of containers after such contents have been duly entered or for the packing of containers for export;

[Para. (hB) inserted by s. 2 (a) of Act 71 of 1975.]

- (i) the hours during which any place, road, route, shed, entrance or exit appointed or prescribed under any paragraph of this subsection may be used for the purposes specified in such paragraph.

(1A) Any place outside the Republic may be deemed by the Commissioner to be a place of entry for the Republic through which goods may be imported or exported, where goods may be landed for transit or coastwise carriage or where goods may be entered for customs and excise purposes.

[Sub-s. (1A) inserted by s. 1 of Act 52 of 1986.]

(2) If any places, roads, routes, means of carriage, sheds, entrances, exits or container terminals, as the case may be, have been appointed or prescribed by the Commissioner under any paragraph of subsection (1), only such places, roads, routes, means of carriage, sheds, entrances, exits or container terminals so appointed or prescribed may, subject to the provisions of subsection (3), be used or employed for the purposes for which they have been so appointed or prescribed under such paragraph, and if any hours have been prescribed under paragraph (i) of subsection (1) during which any place, road, route, shed, entrance or exit referred to in the said paragraph (i) may be used, such place, road, route, shed, entrance or exit shall be used only during such hours.

[Sub-s. (2) substituted by s. 2 (b) of Act 71 of 1975.]

(3) and (4)

[Sub-ss. (3) and (4) deleted by s. 6 of Act 59 of 1990.]

(5) The owner or occupier of a transit shed appointed in terms of this section shall, if required by the Commissioner, provide accommodation for any officer whom the Commissioner considers it necessary to station at such shed.

[Sub-s. (5) substituted by s. 3 of Act 45 of 1995.]

7 Report of arrival or departure of ships or aircraft

(1) The master of any ship arriving at any place of entry appointed in terms of section 6, whether laden or in ballast, shall within 24 hours after the ship's arrival, unless the Controller has given permission to the contrary, and the pilot of any aircraft arriving in the Republic, whether with or without goods or passengers, shall within three hours after landing at any place appointed as a customs and excise airport in terms of the said section 6 or within such further time as the Controller may allow-

- (a) make due report in writing as may be prescribed by rule of the arrival, with as many duplicates or extracts as the Controller may require;

[Para. (a) substituted by s. 4 (a) of Act 45 of 1995.]

- (b) make and subscribe to a declaration as to the truth of the report before the Controller and answer all such questions concerning the ship or aircraft, the cargo and stores, and the crew, passengers and voyage or flight as may be put to him by the Controller; and
- (c) produce, if required, the official log books for the voyage or flight, the stowage plans and any other documents in his possession relating to the cargo, stores, crew, passengers and voyage or flight.

[Sub-s. (1) amended by s. 4 of Act 98 of 1980.]

(1A) (a) The master of a foreign-going ship shall not call at any place in the Republic other than a place of entry appointed in terms of section 6 and the pilot of an aircraft arriving in the Republic shall, unless the Commissioner has granted him special permission to land elsewhere, make his first landing at a place appointed as a customs and excise airport in terms of section 6: Provided that the provisions of this subsection shall not apply if the master or pilot, as the case may be, is forced by circumstances beyond his control to call or land at a place not so appointed and he reports to the Controller nearest to the place

where he was so forced to call or land or to the Controller at the first place of entry or customs and excise airport appointed in terms of section 6 at which he next arrives.

(b) Such master or pilot who is forced by circumstances beyond his control to call or land at a place in the Republic not appointed as a place of entry in terms of section 6 shall take all precautions necessary to prevent any contravention of this Act in respect of any goods on or in such ship or aircraft.

[Sub-s. (1A) inserted by s. 7 of Act 59 of 1990.]

(2)

[Sub-s. (2) amended by s. 3 of Act 71 of 1975 and by s. 1 of Act 101 of 1985 and deleted by s. 4 (b) of Act 45 of 1995.]

(2A) Subject to the provisions of section 9, any goods which have not been recorded in any manifest or list of containers as may be prescribed by rule shall be declared to the Controller and delivered to him.

[Sub-s. (2A) inserted by s. 3 (a) of Act 105 of 1969 and substituted by s. 4 (c) of Act 45 of 1995.]

(3) The master of any ship and the pilot of any aircraft bound from any place within to any place outside the Republic shall appear before the Controller and deliver to him a report outwards as may be prescribed by rule together with a full account of the cargo laden on board that ship or aircraft and shall make and subscribe to a declaration as to the truth of such report and account and answer all such questions as may be put to him by the Controller.

[Sub-s. (3) substituted by s. 3 (b) of Act 105 of 1969, by s. 1 (a) of Act 105 of 1976 and by s. 4 (c) of Act 45 of 1995.]

(4)

[Sub-s. (4) deleted by s. 1 (b) of Act 105 of 1976.]

(5) The provisions which shall apply in connection with the departure of any ship or foreign-going aircraft from any place within to any other place within the Republic shall be as prescribed by rule.

[Sub-s. (5) substituted by s. 4 (d) of Act 45 of 1995.]

(6) (a) The master of a ship or the pilot of a foreign-going aircraft shall not cause or permit the ship or aircraft to depart from any appointed place of entry or any place appointed as a customs and excise airport without first obtaining a

certificate of clearance as may be prescribed by rule or transire for the intended voyage or flight from the Controller, and the master or pilot, as the case may be, shall not after departure call or land at any place in the Republic other than an appointed place of entry or a place appointed as a customs and excise airport, unless forced to do so by stress of weather, accident or other circumstances beyond his control.

(b) The provisions which shall apply where such master or pilot has been so forced to call or land at a place other than an appointed place of entry or a place appointed as a customs and excise airport shall be as prescribed by rule.

[Sub-s. (6) substituted by s. 4 (d) of Act 45 of 1995.]

(7) If a ship or aircraft in respect of which a clearance has been issued at any place in terms of this section does not depart from that place within thirty-six hours of the time when the clearance was issued, or within such further time as the Controller may allow, such clearance shall lapse and the master or pilot shall obtain fresh clearance before causing or permitting the ship or aircraft to depart.

(8)

[Sub-s. (8) deleted by s. 4 (e) of Act 45 of 1995.]

(9) The master of a ship or the pilot of an aircraft may, with the permission of the Controller and subject to such conditions as he may impose, retain on board goods consigned to any port or airport for landing at any other port or airport or land at any port or airport goods not consigned thereto.

[Sub-s. (9) substituted by s. 4 (f) of Act 45 of 1995.]

(10) (a) The Controller may grant transires, on such conditions as he may impose, in respect of any ship exclusively engaged in activities as may be prescribed by rule.

(b) The Controller may by notice to the master or owner of the ship or any member of the crew on board such ship revoke any such transire.

[Sub-s. (10) substituted by s. 4 (f) of Act 45 of 1995.]

(11) The Commissioner may exempt by rule any ship or aircraft or any class or kind of ship or aircraft from all or any of the provisions of this section.

[Sub-s. (11) substituted by s. 4 (f) of Act 45 of 1995.]

[S. 8 repealed by s. 8 of Act 59 of 1990.]

9 Sealing of goods on board ships or aircraft

(1) On arrival of any ship at any place in the Republic-

- (a) the master thereof shall declare as prescribed by rule all sealable goods on board the ship which are unconsumed stores of such ship; and
- (b) the master and every member of the crew thereof shall declare as prescribed by rule all sealable goods which are his personal property or in his possession,

and the Controller may seal up all such sealable goods.

[Sub-s. (1) substituted by s. 2 of Act 101 of 1985 and by s. 5 (a) of Act 45 of 1995.]

(2) The Controller may permit surplus stores to be entered for home consumption or for warehousing.

(3) For the purposes of this section 'sealable goods' means any goods which are prescribed by rule to be sealable goods.

[Sub-s. (3) amended by s. 4 of Act 105 of 1969, by s. 3 of Act 84 of 1987 and by s. 9 of Act 59 of 1990 and substituted by s. 5 (b) of Act 45 of 1995.]

(4) The Controller may, by direction of the Commissioner, in addition to sealable goods, seal up any goods which are unconsumed stores of any ship or aircraft or which are in the possession of the master or pilot of such ship or aircraft or of any member of the crew thereof or of any passenger on board thereof.

(5) While the ship or aircraft in question remains at any place in the Republic, no person shall, except in accordance with the rules break or disturb any seal placed by the Controller on any goods in terms of this section.

(6) Except as provided in subsection (2), no stores of any nature may be landed without the permission of the Controller and all goods acquired on a ship or aircraft shall, if landed, be declared to the Controller for purposes of payment of any duty due thereon.

(7) The Commissioner may exempt any ship or aircraft or exempt by rule any class or kind of ship or aircraft from all or any of the provisions of this section.

[Sub-s. (7) added by s. 5 (c) of Act 45 of 1995.]

10 When goods deemed to be imported

(1) For the purposes of this Act all goods consigned to or brought into the Republic shall be deemed to have been imported into the Republic-

- (a) in the case of goods consigned to a place in the Republic in a ship or aircraft, at the time when such ship or aircraft on the voyage or flight in question, first came within the control area of the port or airport authority at that place, or at the time of the landing of such goods at the place of actual discharge thereof in the Republic if such ship or aircraft did not on that voyage or flight call at the place to which the goods were consigned or if such goods were discharged before arrival of such ship or aircraft at the place to which such goods were consigned;
- (b) in the case of goods not consigned to a place in the Republic but brought thereto by and landed therein from a ship or aircraft, at the time when such goods were so landed;
- (c) subject to the provisions of subsection (2), in the case of goods brought to the Republic overland, at the time when such goods entered the Republic;
- (d) in the case of goods brought to the Republic by post, at the time of importation in terms of paragraph (a), (b) or (c) according to the means of carriage of such goods; and
- (e) in the case of goods brought to the Republic in any manner not specified in this section, at the time specified in the General Notes to Schedule 1 or, if no such time is specified in the said General Notes in respect of the goods in question, at the time such goods are considered by the Commissioner to have entered the Republic.

[Para. (e) added by s. 2 (c) of Act 57 of 1966.]

(2) For the purposes of subsection (1), a place outside the Republic deemed by the Commissioner under section 6 (1A) to be a place of entry for goods consigned to the Republic, shall be deemed to be a place in the Republic in respect of goods consigned to such place for removal to the Republic overland.

[Sub-s. (2) substituted by s. 2 of Act 52 of 1986.]

11 Landing of unentered goods

(1) All goods imported into the Republic by ship or aircraft shall, if landed before due entry thereof, be placed in a transit shed, container terminal, container depot or State warehouse, or removed to any other place approved by the Controller.

(2) All goods landed from a ship or aircraft before due entry of such goods and placed in a transit shed or other approved place in accordance with the provisions of subsection (1) shall be deemed to be still in the ship or aircraft, and as long as such goods remain in such shed or place, the master or pilot, as the case may be, shall remain responsible therefor in all respects and liable for the duty thereon as if the goods had not been removed from such ship or aircraft.

[S. 11 amended by s. 2 of Act 105 of 1976 and substituted by s. 6 of Act 45 of 1995.]

12 Goods imported or exported overland

(1) (a) Where any goods are imported by train the railway authority concerned shall furnish the Controller with such documents as may be prescribed by rule relating to such goods.

(b) The station master or other person in control of railway premises shall not permit any such goods to be removed from such premises before due entry thereof unless the Controller allows such goods to be so removed, subject to such conditions as he may in each case impose, before such entry.

[Sub-s. (1) amended by s. 10 of Act 59 of 1990 and substituted by s. 7 (a) of Act 45 of 1995.]

(2) The conductor, guard or other person in charge of a train shall on demand by any officer furnish him with all information at his disposal in respect of any goods on such train.

(3) (a) The person in charge of any vehicle (other than an aircraft or a railway train) whether or not conveying any goods, which arrives by land at any place in the Republic shall come to the office of the Controller nearest to the point at which he crossed the border or the office of the Controller which is most conveniently situated in relation to that point before unloading any goods or in any manner disposing of such vehicle or goods, and make a full written report to such Controller concerning the vehicle or goods, the journey and the destination of the goods, and shall make and subscribe to a declaration as to the truth of the report.

(b) Such person shall fully and truthfully answer all questions put to him

and produce any way-bills or other documents demanded of him by such Controller.

(4) No person shall remove a vehicle referred to in subsection (3) from the office referred to in that subsection until due entry has been made of such vehicle and the goods carried thereon or until permission for removal has been granted by the Controller.

(5) (a) Every person arriving in the Republic overland, on foot or otherwise shall, whether or not he has any goods in his possession, come to the office of the Controller nearest to the point at which he crossed the border or the office of the Controller which is most conveniently situated in relation to that point, and there report to the Controller the circumstances in which he entered the Republic.

(b) If he has any goods in his possession, he shall furnish the said Controller with full particulars thereof, and shall fully and truthfully answer all questions put to him by such Controller.

(c) Such person shall not in any manner dispose of any goods in his possession until they have been released by the Controller.

(6) The provisions of subsection (5) shall not apply to persons arriving in the Republic by train or by air who pass through or disembark at a place where a Controller is stationed.

(7) No person in charge of any vehicle (other than an aircraft or a train), whether or not conveying any goods for exportation overland shall remove any such vehicle or goods beyond the borders of the Republic unless due entry has been made of such vehicle and the goods carried thereon or permission for removal has been granted by the Controller.

[Sub-s. (7) substituted by s. 7 (b) of Act 45 of 1995.]

(8) The Controller may grant a general permission to any person referred to in subsections (4) and (7) in respect of such vehicles.

[Sub-s. (8) added by s. 7 (c) of Act 45 of 1995.]

13 Goods imported or exported by post

(1) For the purposes of entry and collection of duty on goods imported into the Republic by post, any form or label completed by the sender in respect of the postal item in question and on which the particulars necessary for the assessment of duty are set forth, shall be deemed to be an entry made under the provisions of this Act, and the particulars on any such form or label shall, for the purposes of this Act, be taken as the declaration to be made by the importer

under section 38: Provided that the Commissioner may by rule exclude from the provisions of this subsection any goods of a class or kind specified in such rule or any such goods imported in circumstances so specified.

[Sub-s. (1) substituted by s. 3 (a) of Act 101 of 1985 and amended by s. 8 (a) of Act 45 of 1995.]

(2)

[Sub-s. (2) substituted by s. 2 of Act 112 of 1977 and deleted by s. 3 (b) of Act 101 of 1985.]

(3) (a) Notwithstanding anything contained in subsection (1), any goods imported by post which the addressee desires to enter for warehousing, or for removal or export in bond, or under any heading or item of Schedule 1 which requires that a certificate be given or a condition be complied with, or under any item of Schedule 3, or under any item of Schedule 2 or 4 unless exempted by the Commissioner by rule, shall be so entered at a customs and excise office before a Controller.

(b) Notwithstanding anything contained in subsection (1), any goods imported by post by such class of addressee, or any goods imported by post and of such class or kind, as may be prescribed by the Commissioner by rule, shall be entered at a customs and excise office before a Controller.

[Sub-s. (3) amended by s. 3 of Act 57 of 1966, by s. 5 of Act 105 of 1969 and by s. 3 (c) of Act 101 of 1985, by s. 3 of Act 52 of 1986 and by s. 11 of Act 59 of 1990 and substituted by s. 8 (b) of Act 45 of 1995.]

(4) In the case of goods exported by post, any form or label affixed to or completed in respect of a postal item and on which a description of the contents and their value are set forth, shall be deemed to be a bill of entry for export as required by this Act.

(b) Notwithstanding the provisions of paragraph (a), the Commissioner may prescribe by rule goods which shall be entered for export at a customs and excise office before a Controller.

[Sub-s. (4) substituted by s. 3 (d) of Act 101 of 1985 and by s. 8 (b) of Act 45 of 1995.]

(5) Notwithstanding anything contained in subsection (1) or in any other law but subject to the provisions of subsection (3), any person importing goods by post shall submit the invoice in respect of such goods to the postmaster concerned, and no person shall receive, remove, take, deliver or in any manner deal with or in such goods unless the correct duty has been paid to that

postmaster.

[Sub-s. (5) added by s. 3 (b) of Act 52 of 1986.]

(6) Any postmaster may at any time detain any imported postal item under his control and cause such postal item to be removed to the Controller, who may examine such postal item, and if the goods therein are found not to agree in all respects with the particulars relating to the value, description or quantity appearing on the form or label referred to in subsection (1) or the invoice concerned, such goods shall notwithstanding anything to the contrary in any other law contained be liable to forfeiture.

[Sub-s. (6) added by s. 3 (b) of Act 52 of 1986 and substituted by s. 8 (c) of Act 45 of 1995.]

14 Coastwise traffic and coasting ships

(1) The conveyance of goods by ship between the coastal ports of the Republic shall be deemed to be coastwise traffic and all ships employed in such traffic shall be deemed to be coasting ships: Provided that no ship arriving from a place outside the Republic, although bound for more than one coastal port in the Republic and no ship clearing from any coastal port in the Republic for a port outside the Republic, although bound for one or more intermediate coastal ports in the Republic, shall be deemed a coasting ship nor shall its voyage between ports in the Republic be deemed a coastwise voyage.

(2) A foreign-going ship may also carry coastwise goods while on a voyage between ports in the Republic subject to the rules relating to such goods.

[Sub-s. (2) substituted by s. 9 (a) of Act 45 of 1995.]

(3)

[Sub-s. (3) deleted by s. 9 (b) of Act 45 of 1995.]

(4) Any dutiable goods which have not been entered for home consumption shall-

- (a) not be loaded on board any ship for carriage coastwise unless they have been entered for removal or deemed to have been so entered in terms of this Act; and
- (b) be reported by the master to the Controller at the port of discharge in the Republic as prescribed by rule.

[Sub-s. (4) added by s. 9 (c) of Act 45 of 1995.]

15 Persons entering or leaving the Republic and smugglers

(1) Any person entering or leaving the Republic shall, in such a manner as the Commissioner may determine, unreservedly declare-

- (a) at the time of such entering, all goods (including goods of another person) upon his person or in his possession which he brought with him into the Republic which-
 - (i) were purchased or otherwise acquired abroad or on any ship, vehicle or in any shop selling goods on which duty has not been paid;
 - (ii) were remodelled, processed or repaired abroad; or
 - (iii) are prohibited, restricted or controlled under any law;
- (b) before leaving, all goods which he proposes taking with him beyond the borders of the Republic,

and shall furnish an officer with full particulars thereof, answer fully and truthfully all questions put to him by such officer and, if required by such officer to do so, produce and open such goods for inspection by the said officer, and shall pay the duty assessed by such officer, if any, to the Controller.

[Sub-s. (1) substituted by s. 2 of Act 98 of 1970, by s. 2 of Act 89 of 1984, by s. 4 (a) of Act 101 of 1985 and by s. 12 of Act 59 of 1990.]

(1A) Any declaration made in terms of subsection (1) shall, for the purposes of this Act, be deemed to be an entry for home consumption or export, as the case may be.

[Sub-s. (1A) inserted by s. 4 (b) of Act 101 of 1985.]

(2) The Controller shall have the power, in all cases where a person is detected or is concerned in or is suspected by the Controller of an attempt to import, export, land, ship or remove goods illegally or to evade the payment of duties on any goods, forthwith to take the person concerned before a magistrate's court to be summarily or otherwise dealt with, or to secure such person in a police station or other suitable place, until he can be taken before such court.

16 Opening of packages in absence of importer or exporter

The Controller may in the absence of the importer or exporter of any

package imported into or landed in or exported from or suspected by the Controller to have been imported into or landed in or exported from the Republic, open and examine such package at the importer's or exporter's risk and expense: Provided that wherever possible the Controller shall first make all reasonable efforts to ascertain the whereabouts of such importer or exporter and afford the said importer or exporter the opportunity of himself appearing before the Controller and opening the package in question.

[S. 16 substituted by s. 3 of Act 68 of 1989.]

17 State warehouse

(1) Whenever any goods are taken to and secured in any State warehouse, the Commissioner may require rent to be paid for such period as the goods remain therein, at the rates fixed by rule.

(2) Any officer who has the custody of any goods in any State warehouse may refuse delivery thereof from such warehouse until he has been furnished with proof that-

- (a) the person claiming the goods is lawfully entitled to such goods;
- (b) all relevant provisions of this Act or any law relating to the importation or exportation or transit or coastwise carriage of goods have been complied with;
- (c) freight and other charges (including landing and wharfage charges) and rent due in respect of the goods have been paid.

[Sub-s. (2) amended by s. 10 (a) of Act 45 of 1995.]

(3) The State or any officer shall in no case be liable in respect of any loss or diminution of or damage to any goods in a State warehouse or in respect of any loss or damage sustained by reason of wrong delivery of such goods.

[Sub-s. (3) substituted by s. 3 of Act 110 of 1979.]

(4) If a warrant or permission for the removal of any goods from a State warehouse has been granted by the Controller, and the person to whom such warrant or permission has been granted does not immediately remove the said goods from the warehouse, they may, notwithstanding any other provisions of this Act, be dealt with as if they were goods in respect of which entry has not been made under the provisions of this Act.

[Sub-s. (4) substituted by s. 10 (b) of Act 45 of 1995.]

18 Removal of goods in bond

(1) Notwithstanding anything to the contrary in this Act contained-

(a) the importer or owner of any imported goods landed in the Republic or the manufacturer, owner, seller or purchaser of any excisable goods or fuel levy goods manufactured in a customs and excise warehouse or the licensee of a customs and excise warehouse in which dutiable goods are manufactured or stored may remove such goods in bond to any place in the Republic appointed as a place of entry or warehousing place under this Act or to any place outside the Republic: Provided that such goods manufactured or stored in a customs and excise warehouse may only be so removed to any such warehousing place in the Republic or any place in a territory in the common customs area approved by the government of that territory for rewarehousing at that place in another customs and excise warehouse;

[Para. (a) substituted by s. 6 of Act 105 of 1969 and by s. 4 (1) (a) of Act 84 of 1987 and amended by s. 13 of Act 59 of 1990.]

(b) the master of a ship, pilot of an aircraft or person in charge of any vehicle from which any goods were landed at a place in the Republic to which such goods were not consigned may remove such goods in bond to the place to which they were consigned provided evidence is produced to the Controller before entry for removal of the identity of such goods and that the goods in question were consigned to the place to which they are proposed to be removed;

(c) the owner of or any person beneficially interested in any goods which are in transit through the Republic from any other territory in Africa to any place outside the Republic may remove such goods in bond from the place where they entered the Republic to the place where they are destined to leave the Republic;

(d) a container operator may remove any container in bond to the container depot or container terminal to which it was consigned, without furnishing the security provided for in subsection (6) of this section, and the manifest of the goods packed in such container shall be deemed to be due entry for removal in bond of that container;

[Para. (d) added by s. 4 of Act 71 of 1975 and substituted by s. 3 of Act 112 of 1977 and by s. 11 (a) of Act 45 of 1995.]

- (e) the pilot of any aircraft may remove in bond any goods landed from any aircraft at a place in the Republic and for which an air cargo transfer manifest has been completed, to their place of entry for the Republic, without furnishing the security provided for in subsection (6), and such air cargo transfer manifest shall be deemed to be due entry for removal in bond of such goods.

[Para. (e) added by s. 4 of Act 71 of 1975 and substituted by s. 11 (a) of Act 45 of 1995.]

(2) In addition to any liability for duty incurred by any person under any other provision of this Act, the person who removes any goods in bond in terms of subsection (1) shall, subject to the provisions of subsection (3), be liable for the duty on all goods which he so removes.

(3) Subject to the provisions of subsection (4), any liability for duty in terms of subsection (2) shall cease when it is proved by the person concerned-

- (a) in the case of goods removed to a place in the common customs area, that such goods have been duly entered at that place; or

[Para. (a) substituted by s. 4 (1) (b) of Act 84 of 1987.]

- (b) in the case of goods which were destined for a place beyond the borders of the common customs area, that such goods have been duly taken out of that area.

[Para. (b) substituted by s. 4 (1) (b) of Act 84 of 1987.]

[Sub-s. (3) amended by s. 11 (b) of Act 45 of 1995.]

(4) If the person concerned fails to submit any such proof as is referred to in subsection (3) within a period as may be prescribed by rule, he shall upon demand by the Controller forthwith pay the duty due on such goods.

[Sub-s. (4) substituted by s. 3 of Act 105 of 1976 and by s. 11 (c) of Act 45 of 1995.]

(5) No goods shall be removed in bond in terms of this section from the place where they were landed in the Republic or where they entered the Republic until they have been entered for removal in bond and such entry shall be deemed to be due entry in respect of such goods at that place for the purposes of this Act.

(6) No entry for removal in bond shall be tendered by or may be accepted from a person who has not furnished such security as the Commissioner may

require and the Commissioner may at any time require that the form, nature or amount of such security shall be altered in such manner as he may determine.

(7) The removal in bond of goods shall be subject to the rules and such conditions as the Commissioner may impose in respect of such goods or any class or kind of such goods or goods removed in circumstances specified by him and the Controller may refuse to accept entry for the removal in bond of goods from a remover who has failed to comply with such rules or conditions or who has committed an offence referred to in section 80.

[Sub-s. (7) substituted by s. 11 (d) of Act 45 of 1995.]

(8) Goods removed in bond shall not be delivered or removed from the control of the department at the place of destination in the Republic except upon due entry according to the first account taken of such goods on landing or on entry for removal in bond thereof or according to the contents of the packages containing such goods as reflected on the invoice issued by the supplier in respect of such goods, and payment of any duty due, including, subject to the provisions of subsection (18) of section *seventy-five*, any duty due on any deficiency.

[Sub-s. (8) substituted by s. 2 of Act 95 of 1965.]

(9)

[Sub-s. (9) deleted by s. 11 (e) of Act 45 of 1995.]

(10) The State or any officer shall in no case be liable for any loss of or damage of whatever nature to any goods removed in bond or for any loss or damage sustained by reason of wrong removal or delivery.

(11) Notwithstanding the provisions of this section, the Commissioner may, subject to such conditions as he may impose, in respect of goods in transit through the Republic from any other territory in Africa to any destination outside the Republic, or any class or kind of such goods or any such goods removed in bond in circumstances specified by him, allow such goods to be entered for removal in bond at a place other than the place where the goods entered the Republic.

(12) The Commissioner may determine the roads and routes and the means of carriage of any goods removed in bond or any class or kind of such goods or any such goods carried in circumstances specified by him.

(13) (a) No person shall, without the permission of the Commissioner, divert any goods removed in bond to a destination other than the destination declared on entry for removal in bond or deliver such goods or cause such goods

to be delivered in the Republic except into the control of the department at the place of destination.

(b) (i) Notwithstanding the provisions of paragraph (a), the Commissioner may, in such circumstances and subject to such conditions as he may prescribe by rule, permit goods in transit through the Republic or any class or kind of such goods to be delivered to any place approved by him for the purposes of sorting or repacking.

(ii) The goods shall not be removed from such place to the place where they are destined to leave the Republic unless the duty on any deficiency has been paid to the Controller.

[Para. (b) added by s. 11 (f) of Act 45 of 1995.]

(14) The Commissioner may specify the particulars to be reflected on the entry for removal in bond and the documents to be produced by the remover upon entry for removal in bond in respect of any goods removed in bond, or any class or kind of such goods or any such goods removed in circumstances or to a destination specified by him.

18A Exportation of goods from customs and excise warehouse

(1) Notwithstanding any liability for duty incurred thereby by any person in terms of any other provision of this Act, any person who exports any goods from a customs and excise warehouse to any place outside the common customs area shall, subject to the provisions of subsection (2), be liable for the duty on all goods which he so exports.

(2) Subject to the provisions of subsection (3), any liability for duty in terms of subsection (1) shall cease when it is proved by the exporter that the said goods have been duly taken out of the common customs area.

[Sub-s. (2) substituted by s. 12 (a) of Act 45 of 1995.]

(3) If the exporter fails to submit any such proof as is referred to in subsection (2) within a period as may be prescribed by rule he shall upon demand by the Controller forthwith pay the duty due on those goods.

[Sub-s. (3) substituted by s. 12 (a) of Act 45 of 1995.]

(4) No goods shall be exported in terms of this section until they have been entered for export.

(5) No such entry for export shall be tendered by or may be accepted from a person who has not furnished such security as the Commissioner may require,

and the Commissioner may at any time require that the form, nature or amount of that security be altered in such manner as he may determine.

(6) The said exportation of the goods shall be subject to the rules and such conditions and the Commissioner may impose in respect of the goods concerned or any class or kind of those goods or those goods exported in circumstances specified by him, and the Controller may refuse to accept bills of entry for the said exportation of goods from an exporter who has failed to comply with the said rules or conditions or who has committed an offence referred to in section 80.

[Sub-s. (6) substituted by s. 12 (b) of Act 45 of 1995.]

(7)

[Sub-s. (7) deleted by s. 12 (c) of Act 45 of 1995.]

(8) The Commissioner may determine the roads and routes and the means of carriage of any goods so exported or any class or kind of those goods or any such goods carried in circumstances specified by him.

(9) No person shall, without the permission of the Commissioner, divert any goods so exported to a destination other than the destination declared on entry for exportation.

(10) The Commissioner may specify the documents to be produced by the exporter upon entry for exportation in respect of any goods so exported or any class or kind of those goods or any such goods exported in circumstances or to a destination specified by him.

[S. 18A inserted by s. 5 of Act 84 of 1987.]

CHAPTER IV

CUSTOMS AND EXCISE WAREHOUSES; STORAGE AND MANUFACTURE OF GOODS IN CUSTOMS AND EXCISE WAREHOUSES (ss 19-37)

19 Customs and excise warehouses

(1) The Commissioner may license at any place appointed for that purpose under the provisions of this Act, warehouses (to be known as customs and excise warehouses) approved by him for the storage of such dutiable imported or such dutiable locally-produced goods or for the manufacture of such dutiable goods from such imported or such locally-produced materials or such imported and such locally-produced materials as he may approve in respect of each such warehouse.

[Sub-s. (1) substituted by s. 7 of Act 105 of 1969.]

(2) Such warehouses may be licensed either for the storage of dutiable goods (to be known as customs and excise storage warehouses) or for the manufacture of dutiable goods (to be known as customs and excise manufacturing warehouses), but the Commissioner may license a storage and a manufacturing warehouse on the same premises provided they are separated in a manner approved by him.

(3) The Controller may, in addition to any lock used by the licensee, cause any customs and excise warehouse to be locked with a State lock for such period as he deems fit, and no person shall remove or break such lock or enter such warehouse or remove any goods therefrom without the permission of the Controller while it is so locked.

(4) (a) The Controller may at any time take stock of the goods in any customs and excise warehouse and duty shall, subject to the provisions of subsection (5) of section *twenty*, forthwith be paid upon any deficiency.

(b) If the stock is found to be greater than the quantity which should be in such warehouse, the excess shall, subject to the provisions of subsection (18) of section *seventy-five*, be debited to stock and the duty thereon paid on entry for home consumption.

[Para. (b) substituted by s. 3 of Act 95 of 1965.]

(5) The State or any officer shall in no case be liable for any loss of or damage of whatever nature to any goods in a customs and excise warehouse or for any loss or damage sustained by reason of wrong delivery of such goods.

(6) In addition to any liability for duty incurred by any person under any other provision of this Act, the licensee of a customs and excise warehouse shall, subject to the provisions of subsection (7), be liable for the duty on all goods stored or manufactured in such warehouse from the time of receipt into such warehouse of such goods or the time of manufacture in such warehouse of such goods, as the case may be.

(7) Subject to the provisions of subsection (8), any liability for duty in terms of subsection (6) shall cease when it is proved by the licensee concerned that the goods in question have been duly entered in terms of section 20 (4) and have been delivered or exported in terms of such entry.

[Sub-s. (7) substituted by s. 13 (a) of Act 45 of 1995.]

(8) If the licensee concerned fails to submit any such proof as is referred to in subsection (7) within the period for which goods of that class or kind may be

stored or kept in a customs and excise warehouse or if the licensee commits an offence under this Act in respect of any goods stored or kept in such warehouse he shall upon demand by the Controller forthwith pay the duty due on such goods.

[Sub-s. (8) substituted by s. 13 (a) of Act 45 of 1995.]

(9) Except with the permission of the Commissioner, which shall only be granted in circumstances which he considers to be exceptional and subject to such conditions as he may impose in each case, no imported goods entered for storage or excisable or fuel levy goods manufactured in a customs and excise warehouse, excluding spirits or wine in the process of maturation or maceration, shall be retained in any customs and excise warehouse for a period of more than five years from the time the imported goods were first entered for storage or from the time the excisable or fuel levy goods were deemed to have been manufactured in terms of section 44 (2).

[Sub-s. (9) added by s. 13 (b) of Act 45 of 1995.]

20 Goods in customs and excise warehouses

(1) (a) Any dutiable imported or dutiable locally-produced goods and any beverages produced from excisable spirits in pursuance of any permission granted under the provisions of section 31 (2), being goods or beverages of a class or kind approved by the Commissioner in respect of each warehouse, may be entered for storage in a customs and excise warehouse with deferment of payment of duty and no such goods or beverages shall be removed to or placed in a customs and excise warehouse until they have been so entered.

[Para. (a) substituted by s. 4 (a) of Act 95 of 1965 and by s. 8 (a) of Act 105 of 1969.]

(b) Such entry shall be deemed to be due entry in respect of such goods at the place of importation or manufacture for the purposes of this Act.

(2) (a) (i) Upon the entry and landing of imported goods for storage in or the transfer of dutiable locally-produced goods to a customs and excise warehouse or the transfer of dutiable manufactured goods from a customs and excise manufacturing warehouse to a customs and excise storage warehouse, the licensee of any such warehouse in which such goods are stored or to which such goods are so transferred shall take and record an accurate account of such goods, which shall include, subject to any deduction that may be allowed under section 75 (18), the debiting to stock of any excess found on receipt of such goods at such warehouse.

(ii) The said licensee shall immediately upon the receipt of such goods

report to the Controller any such excess so found.

[Para. (a) substituted by s. 8 (b) of Act 105 of 1969 and by s. 1 (a) of Act 86 of 1982.]

(b) Subject to the provisions of subsection (18) of section *seventy-five* and of subsection (5), no allowance for loss or diminution of any nature which occurs while such goods are being transported to or kept in any such warehouse or transported from one warehouse to another or removed in bond shall be allowed.

[Para. (b) substituted by s. 4 (b) of Act 95 of 1965.]

(3) Goods on which no duty is payable and of a class or kind approved by the Commissioner in respect of each warehouse, may, subject to such conditions and to the keeping of such records as the Commissioner may in each case determine, without entry, be taken into a customs and excise warehouse for the purpose of being used in the manufacture of or in conjunction with dutiable goods.

[Sub-s. (3) substituted by s. 4 (c) of Act 95 of 1965.]

(4) No goods which have been stored or manufactured in a customs and excise warehouse shall be taken or delivered from such warehouse except in accordance with the rules and upon due entry for one or other of the following purposes-

- (a) home consumption and payment of any duty due thereon;
- (b) rewarehousing in another customs and excise warehouse or removal in bond as provided in section 18;

[Para. (b) substituted by s. 6 (a) of Act 84 of 1987.]

- (c)

[Para. (c) deleted by s. 6 (b) of Act 84 of 1987.]

- (d) export from customs and excise warehouse (including supply as stores for foreign-going ships or aircraft.)

[Sub-s. (4) amended by s. 14 (a) of Act 45 of 1995.]

(4)*bis* No person shall, without the written permission of the Controller, divert any goods entered for removal from or delivery to a customs and excise warehouse, except goods entered for payment of the duty due thereon, to a destination other than the destination declared on entry of such goods or deliver

or cause such goods to be delivered in the Republic except in accordance with the provisions of this Act.

[Sub-s. (4)*bis* inserted by s. 4 (d) of Act 95 of 1965 and substituted by s. 14 (b) of Act 45 of 1995.]

(5) The duty on any deficiency in a customs and excise warehouse shall be paid forthwith on demand after detection of such deficiency: Provided that in the case of goods manufactured in any customs and excise manufacturing warehouse or in the case of goods in the process of manufacture and removal from one customs and excise manufacturing warehouse to another such warehouse, the Commissioner may allow working, pumping, handling, processing and similar losses and losses due to natural causes, between the time when liability for duty first arises and the time of removal of such goods from the warehouse in which the goods are so manufactured or in which such process of manufacture is completed, to the extent specified in Schedule 4 or 6, if no part of such loss was wilfully or negligently caused.

[Sub-s. (5) substituted by s. 4 (e) of Act 95 of 1965 and by s. 8 (c) of Act 105 of 1969 and amended by s. 14 of Act 59 of 1990, by s. 14 (c) of Act 45 of 1995 and by s. 59 of Act 30 of 1998.]

(6) Goods packed for retail sale shall not be entered for storage in a storage warehouse unless they are packed in outer containers normally used in the wholesale trade in respect of such goods.

(7)

[Sub-s. (7) deleted by s. 1 (b) of Act 86 of 1982.]

21 Special customs and excise warehouses

(1) The Commissioner may, subject to such conditions as he may in each case impose, license at any place in the Republic special customs and excise warehouses for such special purposes and for such period as he may specify, provided such security as he may require, is furnished.

(2) Unless the Commissioner otherwise indicates when licensing a special customs and excise warehouse for the storage or manufacture of goods, the provisions of this Act in respect of customs and excise storage or manufacturing warehouses or the storage or manufacture of goods in such warehouses, shall apply to such special warehouse and to the storage or manufacture of goods therein, as the case may be.

[Sub-s. (2) added by s. 9 of Act 105 of 1969.]

22 Samples of goods in a customs and excise warehouse

The Controller may, in accordance with the rules, permit samples of goods in a customs and excise warehouse to be taken by the owner of such goods and may permit payment of duty thereon to be deferred until the goods from which such samples have been taken are entered for delivery from that warehouse for any purpose.

23 Storage or manufacture of prohibited goods

The Commissioner may allow the storage or manufacture in a customs and excise warehouse of goods the importation, manufacture or disposal of which is prohibited or restricted under any law, provided such goods are stored or manufactured in such warehouse for export or supply as stores for foreign-going ships or aircraft only.

24 Ships' or aircraft stores consumed in the Republic

If any goods shipped as stores for any foreign-going ship or aircraft from a customs and excise warehouse under the provisions of section 20 (4) or any goods shipped as stores for such ship or aircraft outside the Republic (except any such goods which are used for the operation of such ship and are, save as provided in the rules, not for consumption by or for sale or disposal to the master or members of the crew or passengers of or visitors to such ship) are consumed, sold or disposed of on such ship in any port in the Republic or on such aircraft at any place in the Republic when the aircraft is not airborne or on such aircraft on a flight between any places in the Republic, the master of such ship or the pilot of such aircraft, as the case may be, shall be liable for the duty on such goods so consumed, sold or disposed of and shall, upon demand by the Controller forthwith pay the duty due on such goods: Provided that the Commissioner may by rule exempt any class or kind of stores or ship or aircraft or any store or ship or aircraft to which circumstances specified in such rule apply from any provision of this section.

[S. 24 substituted by s. 5 of Act 95 of 1965 and amended by s. 15 of Act 45 of 1995.]

25 Sorting, packing, etc, in customs and excise storage warehouses

Subject to the provisions of this Act, the Controller may permit the licensee of a customs and excise storage warehouse or the owner of any goods in such warehouse to sort, separate, pack or repack any goods in such warehouse and to make such alterations therein or such arrangements as may be necessary for the preservation of those goods or for the sale, exportation or other lawful disposal thereof.

[S. 25 substituted by s. 6 of Act 95 of 1965 and by s. 16 of Act 45 of 1995.]

26 Transfer of ownership or pledging or hypothecation of warehoused goods

(1) Except with the prior permission of the Commissioner and subject to such conditions as may be prescribed by rule-

- (a) the owner of any dutiable goods in a customs and excise warehouse may not enter into any agreement whereby-
 - (i) his ownership of such goods is transferred to any other person;
 - (ii) such goods are pledged or otherwise hypothecated in favour of any other person;
- (b) any person in whose favour such goods have been pledged or hypothecated may not enter into any agreement whereby any rights obtained by him by virtue of such pledging or hypothecation are ceded to any other person.

[Sub-s. (1) amended by s. 17 of Act 45 of 1995.]

(2) Any agreement entered into contrary to the provisions of subsection (1) shall for the purposes of this Act be deemed to be null and void.

[S. 26 substituted by s. 1 of Act 89 of 1983.]

27 Special provisions in respect of customs and excise manufacturing warehouses

(1) Subject to the provisions of this Act, goods liable to excise duty or fuel levy may not be manufactured except in terms of this section and except in a customs and excise manufacturing warehouse licensed under this Act: Provided that spirits distilled by agricultural distillers shall be excluded from the requirement of manufacture in a customs and excise manufacturing warehouse and that excisable goods may with the permission of the Commissioner be manufactured in a special customs and excise warehouse licensed under this Act.

[Sub-s. (1) substituted by s. 10 (a) of Act 105 of 1969, amended by s. 7 (a) of Act 84 of 1987 and substituted by s. 15 (a) of Act 59 of 1990.]

(2) Subject to the provisions of this Act, the Commissioner may, on such conditions as he may impose, permit the manufacture under the provisions of this

Chapter of any goods in any customs and excise manufacturing warehouse if any of the goods used in such manufacture are liable to duty or if the goods so manufactured are dutiable.

(3) Any dutiable goods brought into and intended for use in a customs and excise manufacturing warehouse in the manufacture of goods liable to excise duty or fuel levy shall be entered for home consumption and any duty due thereon shall be paid prior to such use.

[Sub-s. (3) substituted by s. 10 (b) of Act 105 of 1969, by s. 7 (b) of Act 84 of 1987 and by s. 15 (b) of Act 59 of 1990.]

(4) No manufacturing of goods shall take place in a customs and excise manufacturing warehouse until all premises and plant intended for use in connection with such manufacturing and the purpose for which they are to be used have been approved by and registered with the Commissioner.

(5)

[Sub-s. (5) deleted by s. 18 (a) of Act 45 of 1995.]

(6) All operations in customs and excise manufacturing warehouses are subject to the right of supervision by officers.

(7) (a) Every licensee of a customs and excise manufacturing warehouse shall, if required by the Commissioner, provide suitable office accommodation and board and lodging for any officer stationed at or visiting such warehouse for the purposes of this Act.

[Para. (a) substituted by s. 18 (b) of Act 45 of 1995.]

(b) A person so providing board and lodging for an officer shall be entitled to fair remuneration therefor.

(8)

[Sub-s. (8) deleted by s. 18 (c) of Act 45 of 1995.]

(9) No licensee shall, without the written permission of the Controller in a customs and excise manufacturing warehouse, carry on any business except that for which the warehouse is licensed and the premises and plant are registered.

[Sub-s. (9) substituted by s. 18 (d) of Act 45 of 1995.]

(10) No person shall, except with the written permission of the Controller-

- (a) use any premises or plant required to be registered in terms of the provisions of this Chapter for any purpose other than that detailed in such registration;
- (b) effect any alteration to any structure on such premises or to any such plant;
- (c) bring into or have in such premises, any plant other than that detailed in such registration or remove any plant from such premises;
- (d) place below the surface of the ground any pipe or tube for conveying any material or product in a warehouse unless such pipe or tube is enclosed in casing capable of being easily opened so that the pipe or tube is exposed to view.

[Sub-s. (10) amended by s. 18 (e) of Act 45 of 1995.]

(11) The Commissioner may by rule prescribe the days on which and the hours during which all or any of the operations in a customs and excise manufacturing warehouse (including the removal of goods) shall be carried out.

(12) No distilling operation shall be commenced until the whole or any part of the distilling system or plant, as the Commissioner may require, has been provided, at the expense of the licensee, with fittings and requirements to permit of the insertion or affixing of customs and excise meters, gauges, rods, locks and seals according to the rules for the purpose of securing such system or plant, and until such system or plant has been duly secured by the Controller.

[Sub-s. (12) substituted by s. 18 (f) of Act 45 of 1995.]

(13) If any meter, rod, lock or fitting is tampered with or damaged, or if any pipe, cock, fastening or fitting connected with a still or vessel is pierced or damaged, the licensee shall forthwith repair or renew the article in question or an officer may effect the repair or renewal at the expense of the licensee.

[Sub-s. (13) substituted by s. 18 (f) of Act 45 of 1995.]

(14) If any such tampering, damage or piercing has been directly or indirectly caused by the wilful act, or by the neglect or with the connivance of the licensee or his employee, such licensee, in addition to liability for the cost of the repair or renewal, shall be guilty of an offence.

(15) The burden of showing that any such tampering, damage or piercing was not caused as aforesaid shall rest upon the licensee.

(16) The Commissioner may, subject to such conditions as he may impose, exempt the manufacture of any class or kind of goods from any provision of this section.

[Sub-s. (16) added by s. 10 (c) of Act 105 of 1969.]

28 Ascertaining quantity of spirits by measuring the mass or volume

(1) The quantity of spirits in any container may be calculated by measuring the mass or volume.

(2) In ascertaining the quantity of spirits by measuring the mass, the tables prescribed by rule shall be used, and the quantity ascertained in accordance with the said tables shall be deemed to be the true quantity of such spirits for the purposes of this Act.

[Sub-s. (2) substituted by s. 19 of Act 45 of 1995.]

[S. 28 substituted by s. 1 of Act 103 of 1972.]

29 Classification of spirits

No spirits distilled in the Republic shall, for the purposes of this Act, be classed as being spirits of the product of the vine until such spirits have been so certified by the Controller, and any spirits not so certified shall be deemed to be spirits other than of the product of the vine.

30 Control of the use of spirits for certain purposes

(1) No person shall use spirits, distilled from the product of the vine, in the manufacture of alcoholic beverages unless such spirits have been certified by the Wine and Spirit Board to be suitable for use as aforesaid: Provided that if the Board declined to certify any spirits as suitable for such use as aforesaid, the manufacturer may redistill such spirits or treat the same by any method approved by the Board, and thereafter the Board may certify the spirits as suitable for use in the manufacture of alcoholic beverages.

[Sub-s. (1) amended by s. 32 of Act 60 of 1989 and by s. 20 of Act 45 of 1995.]

(2) The blending of brandy in terms of section 9 (1) (b) of the Wine and Spirits Control Act, 1970 (Act 47 of 1970), and the production from spirits of any other beverage or any other non-excisable goods shall be subject to such supervision by an officer as the Commissioner may in each case consider necessary.

[Sub-s. (2) substituted by s. 2 of Act 86 of 1982.]

(3) The provisions of subsection (1) shall not apply to an agricultural distiller or a wine-grower who manufactures alcoholic beverages under the provisions of this Act for his private use.

31 Entry of spirits for use in manufacture

(1) Spirits which have not been entered for home consumption shall not be used in the production of beverages or other non-excisable goods.

(2) The Commissioner may, on such conditions as he may in each case impose, permit the use of spirits which have been entered for home consumption in the production of beverages on premises which have been licensed as a customs and excise storage warehouse and may, without prejudice to the provisions of section 105, permit payment of the duty on any such spirits used in the production of beverages on any such premises to be deferred until such beverages are delivered from any such warehouse.

[Sub-s. (2) substituted by s. 7 of Act 95 of 1965 and by s. 4 of Act 57 of 1966.]

(3) (a) No person shall, without the permission of the Commissioner, redistil spirits which have been entered for home consumption.

(b) Any such permission may be granted subject to such conditions as the Commissioner may in each case impose.

(4) Beverages or other non-excisable goods produced in contravention of the provisions of subsection (1) and any spirits redistilled in contravention of subsection (3), shall be liable to forfeiture.

32 Ascertaining the strength of spirits for duty purposes

The strength of any spirits or spirituous preparations shall, for duty purposes, be ascertained in the manner prescribed by the Commissioner.

[S. 32 amended by s. 2 of Act 103 of 1972 and substituted by s. 1 of Act 7 of 1974 and by s. 5 of Act 98 of 1980.]

33 Requirements in respect of stills

Subject to the provisions of section 63, no person shall distil spirits in a still which does not comply with the requirements prescribed by rule as to use, capacity or construction: Provided that the Commissioner may by rule exempt any person or still from all or any of the provisions of this section.

[S. 33 substituted by s. 21 of Act 45 of 1995.]

34 Special provisions regarding spirits manufactured by agricultural distillers

(1) The manufacture of spirits by an agricultural distiller shall be subject to such supervision by an officer as the Controller may in each case consider necessary.

[Sub-s. (1) substituted by s. 22 of Act 45 of 1995.]

(2) An allowance may be made by the Controller for natural waste and evaporation on all spirits of his own distillation stored by an agricultural distiller on his farm, to the extent specified in Schedule 6, if no part of such loss was wilfully or negligently caused.

[Sub-s. (2) substituted by s. 22 of Act 45 of 1995.]

(3) No agricultural distiller shall use his still for distilling spirits from any material other than produce grown on the farm of which he is the owner or occupier and which is of a kind prescribed by rule in respect of the class of agricultural distiller to which he belongs.

[Sub-s. (3) substituted by s. 22 of Act 45 of 1995.]

(4) Subject to the provisions of this Act and the Liquor Act, 1989 (Act 27 of 1989), the provisions of section 20 (4) of this Act shall *mutatis mutandis* apply in respect of spirits manufactured from grapes by any class of agricultural distiller specified by the Commissioner by rule, and for the purpose of such application any reference in the said subsection to a customs and excise warehouse shall be deemed to be a reference to the farm on which such spirits are manufactured.

[Sub-s. (4) substituted by s. 3 of Act 86 of 1982 and by s. 22 of Act 45 of 1995.]

(5) Spirits manufactured by an agricultural distiller in the Republic from any prescribed fruit shall be solely for his private use on the farm where such fruit was produced and such spirits were manufactured.

[Sub-s. (5) substituted by s. 2 of Act 19 of 1994 and by s. 60 of Act 30 of 1998.]

(6) Notwithstanding the provisions of subsection (5), the Commissioner may allow spirits so manufactured to be used or disposed of in such circumstances and at such places as he may deem fit and subject to such conditions as he may impose in each case.

[Sub-s. (6) added by s. 1 of Act 69 of 1988.]

35 Special provisions regarding wine

(1) (a) The Commissioner may, subject to such conditions as he may impose in each case, license the premises of a wine-grower, wine-growers' co-operative agricultural society, the Deciduous Fruit Board or a person who holds a licence under any law to deal in wine in wholesale quantities, as a special customs and excise warehouse for the purpose of manufacturing wine.

(b) Special warehouses licensed under this subsection shall, for the purposes of this Chapter be deemed to be customs and excise manufacturing warehouses.

(2)

[Sub-s. (2) substituted by s. 3 of Act 103 of 1972 and deleted by s. 23 of Act 45 of 1995.]

35A Special provisions regarding cigarettes and cigarette tobacco

(1) The Commissioner may by rule prescribe the sizes and types of containers which may be used by a manufacturer for the packing of cigarettes and cigarette tobacco.

[Sub-s. (1) substituted by s. 24 of Act 45 of 1995.]

(2) No manufacturer may remove any cigarettes or allow any cigarettes to be removed from the customs and excise manufacturing warehouse in question unless they have been packed in the prescribed manner and a stamp impression determined by the Commissioner has been made on their containers: Provided that the Commissioner may allow cigarettes so packed to be removed from such warehouse, in such circumstances as he may deem fit, without such stamp impression having been made on such containers.

(3) No cigarettes or cigarette tobacco shall be sold or disposed of or removed from the customs and excise manufacturing warehouse in question in partly or completely manufactured condition except in accordance with the provisions of this Act.

(4) No person shall-

(a) counterfeit or make any facsimile of any die or impression stamp determined under subsection (2);

(b) be in possession of, use or offer for sale or for use-

- (i) any die or impression stamp counterfeited in contravention of paragraph (a); or
- (ii) any facsimile of any die or impression stamp made in contravention of that paragraph.

[S. 35A inserted by s. 5 of Act 112 of 1977.]

36 Specific provisions regarding beer

(1) The alcoholic strength by volume of beer made from malt shall, for duty purposes, be ascertained in the manner prescribed by the Commissioner by rule.

(2) Every manufacturer shall, in respect of such beer manufactured by the manufacturer in the Republic, register with the Commissioner the names whereunder such beer will be sold or disposed of for home consumption, together with the alcoholic strength by volume of, and the tariff item of Part 2 of Schedule 1 which will apply in respect of, the beer so sold or disposed of under any such name, and no beer shall be so sold or disposed of unless so registered.

[Sub-s. (2) substituted by s. 2 (a) of Act 44 of 1996.]

(3) No such beer shall be sold or disposed of by any manufacturer for home consumption except in a container which indicates the name and the alcoholic strength by volume of such beer, and any invoice or other document relating to such sale or disposal of such beer shall indicate the registered name thereof.

(4) Any description on any container of beer bearing an indication of a name and alcoholic strength by volume registered with the Commissioner shall be deemed to be a declaration for the purpose of assessment of duty.

(5) The Commissioner may exempt beer of any class or kind from any or all of the provisions of subsections (2) and (3).

(6) (a) If the alcoholic strength by volume of any beer in any container bearing an indication of a name and alcoholic strength by volume registered with the Commissioner under this section is ascertained to be higher than the alcoholic strength by volume specified in the tariff item registered in relation to beer of such name the manufacturer shall be liable for the duty on the full quantity of the brew or blend of brews of beer from which such container was filled at the rate of duty applicable to beer of the strength as ascertained in respect of the contents of such container.

[Para. (a) substituted by s. 2 (b) of Act 44 of 1996.]

(b) If the Commissioner is unable to establish such full quantity from the records of the manufacturer, he may determine a quantity which shall be deemed to be such full quantity.

(c) Any beer of any brew or blend of brews of beer referred to in paragraph (a) and not delivered from the stocks of such manufacturer shall be liable to forfeiture.

[S. 36 amended by s. 4 (a) of Act 103 of 1972, by s. 6 of Act 98 of 1980 and substituted by s. 25 of Act 45 of 1995.]

36A Special provisions in respect of manufacture of goods specified in Section B of Part 2 of Schedule 1 and collection of excise duty specified in Section B of Part 2 of Schedule 1

(1) Every manufacturer of excisable goods specified in Section B of Part 2 of Schedule 1, and every owner of excisable goods specified in Section B of Part 2 of Schedule 1 manufactured for him partly or wholly from materials owned by such owner, shall license his premises as a special customs and excise warehouse for purposes of excise duty specified in Section B of Part 2 of Schedule 1 in terms of the provisions of this Act, and no such manufacturer or owner shall manufacture or deal in or with excisable goods specified in Section B of Part 2 of Schedule 1 unless he has so licensed his premises.

[Sub-s. (1) substituted by s. 2 of Act 98 of 1993 and amended by s. 26 (a) of Act 45 of 1995.]

(2) Notwithstanding anything to the contrary in this Act contained-

- (a) where the value added by any process in the manufacture of excisable goods specified in Section B of Part 2 of Schedule 1 is, in the opinion of the Commissioner, low in relation to the manufacturer's selling price of such goods, or where any process in the manufacture of excisable goods specified in Section B of Part 2 of Schedule 1 presents in his opinion exceptional difficulties in the collection of excise duty specified in Section B of Part 2 of Schedule 1 in respect of such goods, the provisions of subsection (1) shall apply, and due entry of such goods shall be effected, at such stage in the manufacture of the said goods as he may determine, and the processes which shall be deemed to be included for the purposes of calculating the value for purposes of excise duty specified in Section B of Part 2 of Schedule 1 of such goods shall be as determined by him;

[Para. (a) substituted by s. 26 (b) of Act 45 of 1995.]

- (b) the Commissioner may, subject to such conditions as he may impose in each case-
- (i) where the production and disposal of any excisable goods specified in Section B of Part 2 of Schedule 1 are performed by different persons, or under other circumstances rendering it expedient in his opinion to do so, issue one licence under the provisions of this Act in respect of the premises of two or more persons concerned, and thereupon each such person shall be jointly and severally liable for the excise duty specified in Section B of Part 2 of Schedule 1 on all the excisable goods specified in Section B of Part 2 of Schedule 1 concerned, any one paying, the other or others to be absolved *pro tanto*;
 - (ii) include in a special customs and excise warehouse licence issued under this Act in respect of the premises of any manufacturer of excisable goods specified in Section B of Part 2 of Schedule 1, any warehouse, depot, agency, branch or other storage place approved by the Commissioner and in which any such goods owned by such manufacturer are stored, and thereupon such goods so stored shall, for the purposes of this Act, be deemed to be in the licensed special customs and excise warehouse of such manufacturer, and the licensee concerned shall be liable as such in all respects for compliance with the requirements of this Act and for the excise duty specified in Section B of Part 2 of Schedule 1 on such goods so stored;
 - (iii) in such circumstances as he may deem expedient, license the premises of any dealer in excisable goods specified in Section B of Part 2 of Schedule 1 as a special customs and excise warehouse under the provisions of this Act, and thereupon such dealer shall comply with the requirements of this Act relating to the collection of excise duty specified in Section B of Part 2 of Schedule 1 on such excisable goods specified in Section B of Part 2 of Schedule 1 as the Commissioner may determine, and be liable for the excise duty specified in Section B of Part 2 of Schedule 1 on such goods;
 - (iv) make such temporary or permanent adjustment to the excise duty value of excisable goods specified in Section B of Part 2 of Schedule 1 as he may deem reasonable in circumstances which are in his opinion exceptional.

(3) Excisable goods specified in Section B of Part 2 of Schedule 1 manufactured in the Republic by any person for his own use and not for sale or

disposal and in circumstances which in the opinion of the Commissioner do not constitute a business venture, may, subject to such conditions as he may impose in each case, be exempted by the Commissioner from the payment of excise duty specified in Section B of Part 2 of Schedule 1 thereon.

[Sub-s. (3) substituted by s. 26 (c) of Act 45 of 1995.]

(4) Excisable goods specified in Section B of Part 2 of Schedule 1 manufactured in the Republic by any person for sale or disposal and in circumstances which in the opinion of the Commissioner constitute a business venture, or any class or kind of such goods, may subject to such conditions as he may impose by rule, be exempted by the Commissioner from the payment of excise duty specified in Section B of Part 2 of Schedule 1 thereon if-

- (a) the average value for purposes of excise duty specified in Section B of Part 2 of Schedule 1 of such goods or such class or kind of such goods has during such period or periods as the Commissioner may prescribe by rule, not exceeded such amount as he may so prescribe; or
- (b) the value for purposes of excise duty specified in Section B of Part 2 of Schedule 1 of such goods or such class or kind of such goods is in the opinion of the Commissioner not likely to exceed the amount referred to in paragraph (a) during one calendar year; or
- (c) such circumstances as may be prescribed by rule apply.

[Sub-s. (4) substituted by s. 26 (c) of Act 45 of 1995.]

[S. 36A inserted by s. 11 of Act 105 of 1969, substituted by s. 4 of Act 52 of 1986, amended by s. 2 (1) of Act 69 of 1988 and substituted by s. 16 of Act 59 of 1990.]

37 Duties applicable to goods manufactured in a customs and excise warehouse

(1) In respect of any goods manufactured in a customs and excise warehouse there shall be paid, subject to the provisions of section *seventy-five*, on entry for home consumption thereof, duty at the undermentioned rates, namely-

- (a) if such manufactured goods are not liable to excise duty, the customs rate of duty applicable in terms of Schedules 1 and 2 on any imported goods used in the manufacture of such manufactured goods and the excise rate of duty applicable in terms of Schedule 1 on any excisable goods used in the manufacture of such

manufactured goods; and

- (b) if such manufactured goods are liable to excise duty, the excise rate of duty applicable in terms of Schedule 1 on such manufactured goods.

(2) Notwithstanding the provisions of subsection (1), but subject to the provisions of subsection (4), the Commissioner may, on such conditions as he may in each case impose, for the purpose of preserving any goods in a customs and excise storage warehouse or of reconditioning such goods which, as a result of contamination or deterioration or for any other reason, have become unsaleable or not readily saleable or for the purpose of fulfilling special orders, permit such goods, excluding any marked goods referred to in section 37A, to be reconditioned or to be mixed or blended in such warehouse with other goods, and in that event duty shall be paid, in lieu of the duties prescribed in subsection (1), according to the first account taken of any such goods or the total quantity of such reconditioned, mixed or blended goods, whichever quantity is the greater, as follows, namely-

- (a) if such reconditioned, mixed or blended goods are not liable to excise duty, at the customs rate of duty applicable in terms of Schedules Nos. 1 and 2, on any imported goods contained in such reconditioned, mixed or blended goods, and at the excise rate of duty applicable in terms of Schedule 1, on any excisable goods contained in such reconditioned, mixed or blended goods; and
- (b) if such reconditioned, mixed or blended goods are liable to excise duty, at the customs rate of duty applicable in terms of Schedule 1, on the total quantity of such reconditioned, mixed or blended goods, and, in addition thereto, duty in an amount equal to the amount by which the customs duty at the rate applicable in terms of Schedules 1 and 2, on any imported goods contained in such reconditioned, mixed or blended goods, exceeds the excise duty at the rate applicable in terms of this paragraph on such proportion of such reconditioned, mixed or blended goods as is represented by such imported goods contained therein:

Provided that such reconditioned, mixed or blended goods shall, in either case, qualify for any rebate of duty specified in respect of such goods in any applicable item of Schedule 3, 4 or 6.

[Sub-s. (2) amended by s. 8 (1) (a) of Act 84 of 1987 and by s. 61 (a) of Act 30 of 1998.]

(3) Where the Commissioner has permitted any goods to be reconditioned or to be mixed or blended in a customs and excise storage warehouse with other

goods, such warehouse shall, without being licensed as a customs and excise manufacturing warehouse and without approval of the premises or plant thereon, be regarded for the purposes of this Act as a licensed customs and excise manufacturing warehouse: Provided that no rebate for any loss or deficiency in respect of petrol and any distillate fuel so reconditioned, mixed or blended exceeding the rebate specified in section 75 (18) (d) and (f), respectively, shall be allowed on such goods.

[Sub-s. (3) amended by s. 8 (1) (b) of Act 84 of 1987.]

(4) (a) Notwithstanding anything to the contrary in this Chapter contained, the Commissioner may, on such conditions as he may in each case impose, permit the mixing or blending in such circumstances and at such place as he may specify of any mineral oil products, including fuel levy goods, but excluding any marked goods referred to in section 37A, with one another or with other goods whether or not such products or goods are in a customs and excise storage warehouse or have been entered for home consumption and have passed out of customs and excise control for any purpose, including that of rendering such goods saleable or more readily saleable or of fulfilling special orders.

[Para. (a) substituted by s. 8 (1) (c) of Act 84 of 1987 and by s. 61 (b) of Act 30 of 1998.]

(b) The provisions of subsection (2) in so far as they relate to the duty payable and the rebate of duty shall *mutatis mutandis* apply in respect of mineral oil products mixed or blended under this subsection.

(c) Any duty paid in respect of any goods so used for mixing or blending shall be deemed to have been paid in respect of any duty payable in accordance with the provisions of paragraph (b) in respect of the mineral oil products obtained by such mixing or blending.

(d) Nothing in this section contained shall be construed as authorizing a refund of any amount by which any duty already paid or assessed in respect of any goods so used for mixing or blending exceeds the duty payable under this subsection.

(e) Any such mineral oil product used in such mixing or blending shall be deemed to consist entirely of imported goods unless it is proved that it consists entirely of excisable goods or it is proved that it contains such a small proportion of imported goods that the Commissioner considers it negligible, in which event such mineral oil product shall be deemed to consist entirely of excisable goods.

[Para. (e) substituted by s. 27 (a) of Act 45 of 1995.]

(5)

[Sub-s. (5) deleted by s. 8 (1) (d) of Act 84 of 1987.]

(6) If any goods to which this Act relates have become mixed by an act or omission which by the exercise of reasonable care could not have been avoided, the Commissioner may apply the provisions of subsection (2), in so far as that subsection relates to the duty payable and any rebate of duty, as if such goods were mixed in a customs and excise storage warehouse with his permission.

[Sub-s. (6) substituted by s. 7 of Act 98 of 1980 and by s. 27 (b) of Act 45 of 1995.]

(7) Notwithstanding anything to the contrary in this Act contained, the Commissioner may, subject to such conditions as he may in each case impose, regard the mixing of mineral oil products of different classes or kinds as a result of transport by pipeline (except a pipeline used in connection with the loading or discharge of ships or vehicles) or the mixing of imported and locally manufactured mineral oil products of the same class or kind in the ordinary course of transport or storage or distribution in the Republic as not constituting manufacture of a new product, provided the quantities of the constituent products entered before they became so mixed are separately accounted for.

[Sub-s. (7) added by s. 8 of Act 95 of 1965 and substituted by s. 27 (b) of Act 45 of 1995.]

(8) There shall be paid on entry for home consumption, in addition to any duty payable in terms of this section and subject to the provisions of sections 27 (3) and 75, surcharge or fuel levy at the rate applicable in terms of Schedule 1 on any surcharge goods or fuel levy goods used or incorporated in the manufacture, reconditioning, mixing or blending of any goods to which this section relates and on any such manufactured, reconditioned, mixed or blended goods which are liable to surcharge or fuel levy in terms of the said Schedule.

[Sub-s. (8) added by s. 12 of Act 105 of 1969 and substituted by s. 8 (1) (e) of Act 84 of 1987 and by s. 17 of Act 59 of 1990.]

(9) No person shall recondition, mix or blend any fuel levy goods otherwise than in terms of the provisions of this section.

[Sub-s. (9) added by s. 8 (1) (f) of Act 84 of 1987.]

[NB: A s. 37A has been inserted by s. 62 (1) of the Taxation Laws Amendment Act 30 of 1998, a provision which will be put into operation by proclamation. See PENDLEX.]

CHAPTER V

CLEARANCE AND ORIGIN OF GOODS; LIABILITY FOR AND PAYMENT OF DUTIES (ss 38-54)

38 Entry of goods and time of entry

(1) (a) Every importer of goods shall within seven days of the date on which such goods are, in terms of section *ten*, deemed to have been imported or within such further time as the Commissioner may allow, make due entry of those goods, in the form prescribed, and declare to the truth of such entry: Provided that, subject to the permission of the Controller-

- (i) containers temporarily imported;
- (ii) human remains;
- (iii) goods which in the opinion of the Commissioner are of no commercial value;
- (iv) goods imported under an international carnet; and
- (v) goods of a value for duty purposes not exceeding R500, and on which no duty is payable in terms of Schedule 1,

[Para. (v) added by s. 4 (c) of Act 105 of 1976, amended by s. 9 (a) of Act 84 of 1987 and substituted by s. 3 of Act 44 of 1996.]

need not be so entered.

[Para. (a) amended by s. 5 of Act 71 of 1975.]

(b) (i) Any importer may, at any place appointed under the provisions of this Act for the entry of goods, make such entry of goods which have been loaded on a ship or delivered to the carrier which conveys the goods by vehicle to the Republic for discharge at that place, notwithstanding the fact that such ship or vehicle has not yet arrived at that place.

(ii) If any goods referred to in subparagraph (i) have not been so loaded at the time of entry as provided in section 45 (2), the importer shall be guilty of an offence and those goods shall be deemed not to have been entered.

[Para. (b) substituted by s. 18 (a) of Act 59 of 1990.]

(2) Every importer shall within seven days of the granting of a release order by the Controller in respect of any goods entered in terms of subsection (1) or, where the goods in question arrive after the granting of the order, within seven days of the arrival of such goods, present such release order to the

authority in possession of such goods for delivery thereof.

[Sub-s. (2) substituted by s. 18 (b) of Act 59 of 1990.]

(3) (a) Every exporter of any goods shall, before such goods are exported from the Republic, deliver, during the hours of any day prescribed by rule, to the Controller a bill of entry in the prescribed form, but the Commissioner may-

- (i) if no export duty is payable on and no obligation or condition is to be fulfilled or complied with under any law in respect of such goods; or
- (ii) in the case of goods to be exported overland by way of a vehicle (excluding an aircraft and a train) which are loaded for export at a place other than a place appointed under section 6 where goods may be entered for customs and excise purposes,

allow such a bill of entry to be delivered at such time as he deems reasonable.

[Para. (a) amended by s. 18 (c) of Act 59 of 1990 and by s. 28 (a) of Act 45 of 1995.]

(b) For the purposes of paragraph (a), in relation to the delivery of a bill of entry, the goods referred to therein shall be deemed to have been exported from the Republic-

- (i) in the case of goods to be exported in a ship, at the time when such goods are delivered to the port authority, a depot operator, the master of the ship concerned or a container operator, as the case may be;

[Sub-para. (i) substituted by s. 28 (b) of Act 45 of 1995.]

- (ii) in the case of goods to be exported in an aircraft, at the time when such goods are delivered to the pilot of the aircraft concerned or are brought within the control area of the airport authority concerned, as the case may be;
- (iii) in the case of goods to be exported in a train, at the time when such goods are delivered to the railway authority;

[Sub-para. (iii) substituted by s. 28 (c) of Act 45 of 1995.]

- (iv) in the case of goods to be exported overland in a vehicle (excluding an aircraft and a train), subject to the provisions of paragraph (a), at the time when such goods are loaded on the vehicle concerned.

[Sub-s. (3) substituted by s. 2 of Act 89 of 1983.]

[NB: In terms of s. 36 (1) of the Legal Succession to the South African Transport Services Act 9 of 1989, the references to 'the South African Transport Services' in para. (b) above shall be construed as references to the Company (Transnet Limited) and the Corporation (the South African Rail Commuter Corporation Limited).]

(4) (a) The Commissioner may by rule permit any excisable goods or fuel levy goods and any class or kind of imported goods, which he may specify by rule, to be removed from a customs and excise warehouse on the issuing by the owner of such goods of a prescribed certificate or an invoice or other document prescribed or approved by the Commissioner, and the payment of duty on such goods at a time and in a manner specified by rule, and such certificate, invoice or other document, shall for the purposes of section 20 (4), and subject to the provisions of section 39 (2A), be deemed to be a due entry from the time of removal of those goods from the customs and excise warehouse.

[Para. (a) substituted by s. 9 (b) of Act 84 of 1987, by s. 18 (d) of Act 59 of 1990 and by s. 28 (d) of Act 45 of 1995.]

(b) No such goods may be removed from a customs and excise warehouse or appropriated for use by the owner prior to or without the issuing of such certificate, invoice or other document.

[Sub-s. (4) substituted by s. 13 of Act 105 of 1969.]

39 Importer and exporter to produce documents and pay duties

(1) (a) The person entering any imported goods for any purpose in terms of the provisions of this Act shall deliver, during the hours of any day prescribed by rule, to the Controller a bill of entry in the prescribed form, setting forth the full particulars as indicated on the form and as required by the Controller, and according to the purpose (to be specified on such bill of entry) for which the goods are being entered, and shall make and subscribe to a declaration in the prescribed form, as to the correctness of the particulars and purpose shown on such bill of entry.

[Para. (a) substituted by s. 4 (a) of Act 110 of 1979, by s. 19 of Act 59 of 1990 and by s. 29 (a) of Act 45 of 1995.]

(b) At the same time the said person shall deliver such duplicates of the bill of entry as may be prescribed or as may be required by the Controller and shall pay all duties due on the goods: Provided that the Commissioner may, on such conditions, including conditions relating to security, as may be determined

by him, allow the deferment of payment of duties due in respect of such relevant bills of entry and for such periods as he may specify.

[Para. (b) amended by s. 10 (1) of Act 84 of 1987.]

(c) The said person shall further produce the transport document or such other document in lieu thereof as may be approved by the Commissioner, invoices as prescribed, shipper's statement of expenses incurred by him, copy of the confirmation of sale or other contract of purchase and sale, importer's written clearing instructions, unless exempted by rule, and such other documents relating to such goods as the Controller may require in each case and answer all such questions relating to such goods as may be put to him by the Controller, and furnish in such manner as the Commissioner may determine such information regarding the tariff classification of such goods as the Commissioner may require.

[Para. (c) substituted by s. 1 (a) of Act 85 of 1968, by s. 1 of Act 93 of 1978, by s. 4 (b) of Act 110 of 1979 and by s. 29 (b) of Act 45 of 1995.]

(cA) The Commissioner may, subject to such conditions as he may determine, allow the said person to produce in lieu of any document required to be produced in terms of paragraph (c), a document purporting to be a copy of any such document and obtained by means of microfilming or any other process, and which shall, subject to compliance with such conditions, for all purposes have all the effects of the original document concerned.

[Para. (cA) inserted by s. 8 of Act 98 of 1980.]

(d) The said person shall also, in respect of any such class of kind of goods as may be specified by the Commissioner by rule or any goods to which circumstances so specified apply, produce to the Controller for retention by him, such a sample as may be so specified and a true copy of any invoice or other document relating to such goods or of any blueprint, illustration, drawing, plan or illustrated and descriptive literature so specified in respect of such goods and relating to such goods.

[Para. (d) substituted by s. 1 (a) of Act 85 of 1968.]

(2) (a) If any goods intended for export are liable to any export duty under this Act, the amount thereof shall be stated in the bill of entry relating to such goods and shall be payable upon presentation of such entry to the Controller.

(b) No such bill of entry shall be valid, nor shall any person export such goods, until the duty has been paid to the Controller.

(2A) (a) Any person who removes goods from a customs and excise

warehouse by means of the issuing of a certificate, invoice or other document referred to in section 38 (4) shall present to the Controller a validating bill of entry in the prescribed form at the time and in the manner specified by rule in respect of any such certificate, invoice or other document, and shall pay at the prescribed time to the Controller the duty due on the goods to which such certificate, invoice or other document relates.

[Para. (a) substituted by s. 29 (c) of Act 45 of 1995.]

(b) The said person shall present to the Controller such validating bill of entry setting forth the full particulars indicated thereon, and the declaration shall be duly signed by the prescribed person and there shall be as many duplicates and such supporting documents as may be prescribed or as may be required by the Controller.

[Sub-s. (2A) inserted by s. 14 of Act 105 of 1969.]

(2B) The Commissioner may specify the documents to be produced by the exporter upon entry for exportation in respect of any goods exported or any class or kind of goods exported in circumstances or to a destination specified by him.

[Sub-s. (2B) inserted by s. 3 of Act 69 of 1988.]

(3) The Commissioner may by rule specify the manner in which bills of entry for goods of any such class or kind as may be specified in such rule, or goods imported or exported in such manner or such circumstances as may be so specified, shall be delivered.

[Sub-s. (3) substituted by s. 1 (b) of Act 85 of 1968.]

39A Sale in transit

Notwithstanding anything to the contrary in this Act contained, the importer of any goods purchased from any South African consignee after shipment of those goods but before the date of entry thereof, shall produce to the Controller the invoice relating to such purchase, and the price actually paid or payable for those goods by virtue of such purchase shall, for the purposes of section 65 (1), be the transaction value of those goods.

[S. 39A inserted by s. 5 of Act 101 of 1985.]

40 Validity of entries

(1) No entry shall be valid unless-

(a) in the case of imported or exported goods, the description and

particulars of the goods and the marks and particulars of the packages declared in that entry correspond with the description and particulars of the goods and the marks and particulars of the packages as reported in terms of section *seven* or *twelve* or in any certificate, permit or other document, by which the importation or exportation of those goods is authorized;

- (b) the goods have been properly described in the entry by the denomination and with the characters, tariff heading and item numbers and circumstances according to which they are charged with duty or are admitted under any provision of this Act or are permitted to be imported or exported;
- (c) the true value of the goods on which duty is leviable or which is required to be declared under the provisions of this Act and the true territory of origin, territory of export and means of carriage have been declared;
- (d) in the case of goods purchased by or sold, consigned or disposed of to any person in the Republic, a correct and sufficient invoice thereof, as prescribed, has been produced to the Controller;

[Para. (d) substituted by s. 2 of Act 93 of 1978.]

- (e) the correct duty due has been paid: Provided that no bill of entry shall be invalid by reason of any deferment referred to in the proviso to section 39 (1) (b).

[Para. (e) amended by s. 11 (a) of Act 84 of 1987.]

(2) Goods taken or delivered or removed by virtue of an entry which is not valid out of any ship, aircraft, vehicle, transit shed, container terminal, container depot, customs and excise warehouse or other place where they have been deposited with the sanction of the Controller, shall be deemed to be goods landed or taken without due entry thereof: Provided that if such goods are included in any entry embracing more than one package, and it is shown that the invalidity arose without wilful default or negligence of anyone connected with the goods, and that such invalidity does not exist as to all the packages in that entry then only the packages not validly entered shall be deemed to have been landed or taken without due entry.

[Sub-s. (2) amended by s. 6 of Act 71 of 1975.]

(3) (a) Subject to the provisions of sections 76 and 77 and on such conditions as the Commissioner may impose and on payment of such fees as he may prescribe by rule-

- (i) an importer or exporter or manufacturer of goods shall on discovering that a bill of entry presented by him does not in every respect comply with section 39, or is invalid in terms of subsection (1) of this section, forthwith adjust that bill of entry by means of a voucher of correction or in such other manner as the Commissioner may prescribe; or
- (ii) if a bill of entry has been passed in error by reason of duty having been paid on goods intended for storage or manufacture in a customs and excise warehouse under section 20 or for purposes or use under rebate of duty under section 75, the Commissioner may allow the importer, exporter or manufacturer concerned to adjust that bill of entry by substitution of a fresh bill of entry and cancellation of the original bill of entry, provided such goods, where a rebate of duty is being claimed, qualified at the time the duty was paid in all respects for that rebate:

[Sub-para. (ii) substituted by s. 3 (a) of Act 89 of 1983.]

Provided that acceptance of such voucher or fresh bill of entry shall not indemnify such importer or exporter or manufacturer against any fine or penalty provided for in this Act.

[Para. (a) substituted by s. 4 of Act 86 of 1982 and amended by s. 30 of Act 45 of 1995.]

(aA) The provisions of paragraph (a) (ii) shall apply *mutatis mutandis* in respect of a bill of entry in which goods have according to the tariff heading, tariff subheading, item or circumstances according to which such goods are charged with duty, been described in error as goods other than goods intended for-

- (i) storage or manufacture in a customs and excise warehouse under section 20; or
- (ii) purposes or use under rebate of duty under section 75,

in consequence of the fact that-

- (aa) a determination of any such tariff heading, tariff subheading or item is, under section 47 (9) (d), amended with retrospective effect as from a date before or on the date on which the goods described in such bill of entry have been entered for home consumption;
- (bb) any such determination is, under the said section 47 (9) (d), withdrawn with such retrospective effect, and a new determination

is thereunder made with effect from such withdrawal; or

(cc) any Schedule is amended with such retrospective effect,

and in which such goods, if such amendment or new determination had been in operation on the date on which such goods were so entered, would have been described as goods intended for the said storage or manufacture or the said purposes or use.

[Para. (aA) inserted by s. 3 (b) of Act 89 of 1983.]

(b) No application for such substitution as is referred to in paragraph (a) (ii) or in that paragraph as read with paragraph (aA) shall be considered by the Commissioner unless it is received by the Controller, supported by the necessary documents and other evidence to prove that such substitution is justified, within a period of six months-

(i) from the date of entry for home consumption as provided in section 45 (2), of the goods to which the application relates; or

[Sub-para. (i) substituted by s. 4 of Act 68 of 1989.]

(ii) in the case of any amendment of a determination referred to in subparagraph (aa) of paragraph (aA) or of a new determination referred to in subparagraph (bb) of the said paragraph (aA), from the date on which such amendment is effected or such new determination is made or, if such amendment or new determination is published by notice in the *Gazette*, the date on which such amendment or new determination is so published; or

(iii) in the case of an amendment referred to in subparagraph (cc) of the said paragraph (aA), from the date on which such amendment is published by notice in the *Gazette*.

[Para. (b) added by s. 5 of Act 105 of 1976, substituted by s. 3 (c) of Act 89 of 1983 and amended by s. 11 (b) of Act 84 of 1987.]

[Sub-s. (3) amended by s. 9 of Act 95 of 1965.]

41 Particulars on invoices

(1) The exporter of any goods imported into or exported from the Republic or the owner of any excisable goods or fuel levy goods manufactured in any customs and excise warehouse shall render a true, correct and sufficient invoice, certificate of value and certificate of origin of such goods in such form and declaring such particulars of such goods as may be prescribed in the rules and

as may be necessary to make a valid entry of such goods and shall furnish such additional information in connection with such invoice, certificate, particulars or goods as the Commissioner may, for the purpose of this Act, require at any time: Provided that different requirements may be prescribed in the rules in respect of invoices and certificates relating to goods of different classes or kinds or goods to which different circumstances specified in the rules apply.

[Sub-s. (1) substituted by s. 15 of Act 105 of 1969, amended by s. 12 of Act 84 of 1987 and substituted by s. 20 of Act 59 of 1990 and by s. 31 (a) of Act 45 of 1995.]

(2) Every exporter or manufacturer shall allocate to any goods of a class or kind specified in the rules for the purposes of this subsection and exported to or from or manufactured in the Republic a distinctive and permanent identification number, code, description, character or other mark in such manner and in accordance with such method as may be prescribed in the rules and such number, code, description, character or other mark shall be quoted or reproduced in all prescribed invoices relating to such goods and in all such other documents relating to such goods as may be specified in the rules.

[Sub-s. (2) substituted by s. 31 (a) of Act 45 of 1995.]

(3) All particulars in any prescribed invoice and certificate in respect of imported goods shall relate to the goods in the condition in which they are imported into the Republic and for the purposes of section 107 (2) no change in such condition shall be deemed to have taken place between the time of importation and the time of any examination or analysis decided upon by the Controller or the Commissioner unless the importer is able to satisfy the Commissioner of any such change and the extent thereof: Provided that the Commissioner may refuse to act upon the result of any such examination or analysis if the particulars in such invoice are thereby proved to be incorrect.

[Sub-s. (3) amended by s. 31 (b) of Act 45 of 1995.]

(4) (a) All particulars necessary to make a valid entry and all particulars in respect of the transaction value or of any commission, discount, cost, charge, expense, royalty, freight, duty, tax, drawback, refund, rebate, remission or other information whatever which relates to and has a bearing on such value shall be declared by the exporter in any prescribed invoice in respect of any imported goods and such particulars shall, except where the Commissioner otherwise determines, relate to the final amount of such transaction value or commission, discount, cost, charge, expense, royalty, freight, duty, tax, drawback, refund, rebate or remission and to the final particulars or information regarding such goods.

[Para. (a) substituted by s. 6 (a) of Act 112 of 1977, by s. 3 of Act 93 of 1978 and

by s. 5 (1) (a) of Act 86 of 1982.]

(b) Any particulars referred to in paragraph (a) and declared in any prescribed invoice or certificate in respect of any imported goods shall be subject to any credit or debit note passed by the exporter or to any refund made or becoming due by the exporter or any amount paid or becoming due to the exporter (directly or indirectly, in money or in kind or in any other manner) or to any change of any nature whatever in such particulars in respect of such goods after the date of issue of such invoice or certificate and the exporter shall whenever any such note is passed, or refund is made or becomes due or amount is paid or becomes due or change takes place forthwith issue an amended invoice or certificate to the importer who shall produce such amended invoice or certificate to the Controller within one month of receipt thereof and report the circumstances to him.

(c) If any particulars referred to in paragraph (a) of any imported goods are not declared in the prescribed invoice or certificate in respect thereof or if any change in the particulars declared in any prescribed invoice or certificate relating to any imported goods which occurs after the date of issue of any such invoice or certificate is not forthwith reported to the Controller by the importer of such goods or if the Commissioner has reason to believe that an offence referred to in section 86 (f) or (g) has been committed in respect of any imported goods the Commissioner may determine a transaction value, origin, date of purchase, quantity, description or the characteristics of such goods according to the best information available to him, which shall, subject to a right of appeal to the Minister, be deemed to be the transaction value, origin, date of purchase, quantity, description or the characteristics of such goods.

[Para. (c) substituted by s. 6 (b) of Act 112 of 1977 and by s. 5 (1) (b) of Act 86 of 1982.]

(d) The right of appeal referred to in paragraph (c) shall be exercised within a period of three months from the date of the determination concerned.

[Para. (d) added by s. 6 (c) of Act 112 of 1977.]

[S. 41 substituted by s. 2 of Act 85 of 1968.]

42 Entry by bill of sight

(1) If any importer makes and subscribes to a declaration that he cannot for want of full information make due entry of any goods, the Controller may accept an entry by bill of sight for those goods by the best description which can be given, and may grant a warrant in respect thereof so that the same may be landed and brought to a place indicated by the Controller at the risk and expense of the importer for the purpose of being seen and examined by him there in the

presence of the Controller.

(2) (a) The importer shall make due entry of those goods within three days of the date on which they were brought to the place of examination which shall be regarded as a special State Warehouse for the purpose of securing the duties thereon until the goods are duly entered and removed or delivered in accordance with this Act.

(b) In default of due entry such goods may after three months of the date of receipt thereof into the said place of examination be disposed of in the manner described in section *forty-three*.

(3) No goods entered by bill of sight in terms of this section shall be removed without due entry after sight, and the penalties prescribed in this Act in respect of the incorrect or false entry of goods are also applicable in respect of the said due entry after sight.

43 Disposal of goods on failure to make due entry

(1) If entry of any imported goods has not been made under the provisions of section 38, on expiry of the period prescribed in subsection (1) of the said section, the master or other person who has physical control of such goods shall remove them to the State warehouse or other place indicated by the Controller or the Controller may himself so remove them.

[Sub-s. (1) substituted by s. 32 (a) of Act 45 of 1995.]

(2) (a) The Controller may at any time after the expiry of such prescribed period call upon the importer to make due entry of the goods within a time specified and if such importer fails to do so the goods shall be liable to forfeiture.

[Para. (a) substituted by s. 32 (b) of Act 45 of 1995.]

(b) If such goods are seized under section 88 (1) and sold in terms of section 90 the proceeds thereof shall be disposed of as provided in subsection (3) of this section.

[Sub-s. (2) substituted by s. 6 of Act 86 of 1982.]

(3) If after the expiration of three months from the date of removal to the State warehouse or other place indicated by the Controller or, where no such removal has taken place, from the date of expiry of the period prescribed in section 38 (1), any goods remain unentered, the Controller may cause them to be sold, and if so sold the proceeds thereof shall be applied in discharge of any duty, expenses incurred by the Commissioner, charges due to the Commissioner, a port or railway authority, the Department of Transport, a

container operator or a depot operator, and freight, and the overplus, if any, shall, unless such goods were imported in contravention of any law, upon application be paid to the owner of the said goods:

Provided that-

- (a) if the goods cannot be sold for a sum sufficient to cover the duty, expenses, charges and freight aforesaid the Commissioner may accept the sum offered and apply it in discharge of the said debits in the order mentioned or direct that the goods in question be destroyed or appropriated to the State; or
- (b) if the goods cannot be sold at a price regarded by the Commissioner as reasonable, they may be appropriated by him to the State;

[Para. (b) substituted by s. 32 (d) of Act 45 of 1995.]

- (c) no payment of overplus in respect of goods sold shall be made to the owner of the goods, unless the application for such payment is supported by proof of ownership of the goods and is received by the Commissioner within two years from the date of sale of the goods.

[Sub-s. (3) amended by s. 6 of Act 105 of 1976, by s. 7 of Act 112 of 1977, by s. 32 (c) of Act 45 of 1995 and by s. 34 (1) of Act 34 of 1997.]

[NB: In terms of s. 36 (1) of the Legal Succession to the South African Transport Services Act 9 of 1989, the reference to 'the Railway Administration' shall be construed as a reference to the Company (Transnet Limited) and the Corporation (the South African Rail Commuter Corporation Limited)]

(4) Notwithstanding anything to the contrary in this Act contained-

- (a) if any goods referred to in subsection (3) are of a perishable or dangerous nature, or if the Commissioner considers that, unless the goods are sold at once, the proceeds would not be sufficient to cover the duties and charges due or charges which may become due in respect of those goods, he may forthwith direct the sale thereof and apply the proceeds as provided in subsection (3);
- (b) if any goods are sold in terms of this section subject to compliance by the purchaser with any condition, and the purchaser fails to comply with such condition within a period of three months from the date of sale of such goods, such sale shall be null and void and the net proceeds of sale may be refunded to the purchaser and the Commissioner may direct that the goods in question be destroyed

or appropriated to the State or be dealt with in such manner as he may deem fit.

44 Liability for duty

(1) Liability for duty on any goods to which section 10 relates shall commence from the time when such goods are in terms of that section deemed to have been imported into the Republic: Provided that, subject to the provisions of subsection (7), any such liability shall cease if it is proved that such goods (excluding, save in so far as the rules otherwise provide, goods which are missing from any individual package and in respect of which any customs duty, surcharge or fuel levy, each taken separately, does not exceed twenty-five rand) were not landed at any place in the Republic.

[Sub-s. (1) substituted by s. 5 (a) of Act 57 of 1966 and by s. 16 (a) of Act 105 of 1969, amended by s. 8 (a) of Act 112 of 1977, substituted by s. 13 (a) of Act 84 of 1987 and amended by s. 21 (1) (a) of Act 59 of 1990 and by s. 33 (a) of Act 45 of 1995.]

(2) Any excisable goods or fuel levy goods shall, for the purposes of this Act, be deemed to have been manufactured at that stage in the manufacturing process when the said goods have acquired the essential characteristics of and are in the opinion of the Commissioner capable of use as such excisable goods or fuel levy goods, and liability for duty shall commence at the said stage.

[Sub-s. (2) substituted by s. 16 (a) of Act 105 of 1969, by s. 13 (b) of Act 84 of 1987 and by s. 21 (1) (b) of Act 59 of 1990.]

(3) The master of a ship or pilot of an aircraft or carrier of goods by means of any other vehicle shall be liable for the duty on all goods which are removed from that ship, aircraft or vehicle at a place in the Republic to which they are not consigned, and such liability shall continue until the goods have been duly entered or otherwise accounted for.

[Sub-s. (3) substituted by s. 33 (b) of Act 45 of 1995.]

(4) The master, pilot or carrier concerned shall be liable for the duty on all goods deemed in terms of section 10 to have been imported, except goods in respect of which a bill of lading, air consignment note or other document was issued on loading of such goods onto the ship, aircraft or vehicle by means of which they were imported stating that the said goods were accepted for conveyance at the risk of the owner thereof in all respects and not only as regards risk in respect of damage to such goods, provided such goods have not been landed and placed in a transit shed appointed or prescribed under section 6 (1).

[Sub-s. (4) substituted by s. 5 (a) of Act 110 of 1979.]

(5) The liability of the master or pilot or other carrier for duty in terms of subsection (4) shall cease-

- (a) upon lawful delivery of the goods, after due entry thereof has been made, to the importer or his agent; or
- (b) if due entry of the goods has not been made, upon delivery thereof to the State warehouse or other place indicated for the purposes of this section by the Controller; or
- (c) upon delivery of the goods, if containerized, to a container operator; or

[Para. (c) added by s. 7 (b) of Act 71 of 1975 and substituted by s. 8 (b) of Act 112 of 1977.]

- (d) in respect of such goods for which an air cargo transfer manifest has been completed, upon delivery thereof to the South African Airways.

[Para. (d) added by s. 7 (b) of Act 71 of 1975.]

(5A) The liability of a container operator for duty in terms of subsection (6) (a) shall cease-

- (a) in respect of goods which are containerized, upon lawful delivery thereof, after due entry thereof has been made, to the importer or his agent; or
- (b) in respect of goods containerized in-
 - (i) L.C.L. containers; and
 - (ii) other containers delivered to a container operator as contemplated in subsection (5) (c) and specified in a list to be compiled by the container operator concerned,upon delivery thereof to a depot operator; or

[Para. (b) substituted by s. 3 (a) of Act 89 of 1984.]

- (c) in respect of any of such goods of which due entry has not been made, upon delivery thereof to the State warehouse or other place indicated for the purposes of this section by the Controller.

[Sub-s. (5A) inserted by s. 7 (c) of Act 71 of 1975.]

(5B) The liability of a depot operator for duty in terms of subsection (6) (b) shall cease-

- (a) in respect of goods containerized in L.C.L. containers and the other containers referred to in subsection (5A) (b) (ii), upon lawful delivery thereof, after due entry thereof has been made, to the importer or his agent; or

[Para. (a) substituted by s. 3 (b) of Act 89 of 1984.]

- (b) in respect of any of such goods of which due entry has not been made, upon delivery thereof to the State warehouse or other place indicated for the purposes of this section by the Controller.

[Sub-s. (5B) inserted by s. 7 (c) of Act 71 of 1975.]

(6) In all cases where the master, pilot or other carrier is not liable for the duty on any imported goods or where the liability of the said master, pilot or other carrier has ceased in respect of such goods in terms of this section, liability for duty thereon shall, subject to the provisions of Chapter VII, rest-

- (a) in the case contemplated in subsection (5) (c), on the container operator concerned;
- (b) in the case contemplated in subsection (5A) (b), on the depot operator concerned; and
- (c) in any other case, on the importer or the owner of such goods or any person who assumes such liability for any purpose under the provisions of this Act, subject to the approval of the Commissioner and such conditions as he may determine.

[Para. (c) substituted by s. 21 (1) (c) of Act 59 of 1990.]

[Sub-s. (6) substituted by s. 10 (a) of Act 95 of 1965 and by s. 7 (d) of Act 71 of 1975.]

(7) Notwithstanding anything to the contrary in this section contained, no importer shall be granted a refund of customs duty, surcharge or fuel levy paid in respect of any goods missing from any individual imported package, if such customs duty, surcharge or fuel levy, each taken separately, does not exceed twenty-five rand.

[Sub-s. (7) substituted by s. 5 (b) of Act 57 of 1966, by s. 16 (b) of Act 105 of 1969, by s. 8 (c) of Act 112 of 1977, by s. 13 (c) of Act 84 of 1987 and by s. 21 (1) (d) of Act 59 of 1990.]

(8) The manufacturer, owner, seller or purchaser of any excisable goods or fuel levy goods shall, subject to the provisions of Chapter VII, be liable for the duty on such goods, and his liability shall continue until such goods have been duly entered and the duty due thereon paid.

[Sub-s. (8) substituted by s. 10 (b) of Act 95 of 1965, by s. 16 (b) of Act 105 of 1969, by s. 5 (b) of Act 110 of 1979, by s. 5 (a) of Act 52 of 1986, by s. 13 (d) of Act 84 of 1987 and by s. 21 (1) (e) of Act 59 of 1990.]

(8A) Notwithstanding anything to the contrary in this Act contained, any person who owns, purchases, removes, receives, takes, delivers or deals with or in any imported goods or excisable goods or fuel levy goods which should have been duly entered, in terms of any agreement, in any territory with the government of which such an agreement has been concluded under section 51, shall be liable for the duty on such goods brought into the Republic from such territory, and if the question arises whether such goods have been duly entered, it shall be presumed, unless the contrary is proved, that such goods have not been so entered, and such goods shall be subject to the provisions of this Act as if they were goods which have, contrary to the provisions of subsection 47A (1), not been duly entered in the Republic.

[Sub-s. (8A) inserted by s. 5 (b) of Act 52 of 1986 and substituted by s. 13 (e) of Act 84 of 1987 and by s. 3 of Act 98 of 1993.]

(9) For the purposes of subsection (5) an entry by bill of sight shall be deemed to be due entry.

(10) Any duty for which any person is liable in terms of this section shall be payable upon demand by the Commissioner.

44A Joint and several liability for duty or certain amounts

Subject to the provisions of sections 36A (2) (b) (i) and 99 (2) (b), whenever in terms of this Act liability for duty or any amount demanded under section 88 (2) (a) devolves on two or more persons, each such person shall, unless he proves that his relevant liability has ceased in terms of this Act, be jointly and severally liable for such duty or amount, any one paying, the other or others to be absolved *pro tanto*.

[S. 44A inserted by s. 14 of Act 84 of 1987 and substituted by s. 34 of Act 45 of 1995.]

45 Determination of duty applicable

(1) (a) Notwithstanding anything to the contrary in this Act contained, all goods consigned to or imported into the Republic or stored or manufactured in a customs and excise warehouse or removed in bond shall upon being entered for home consumption be liable to such duties (including anti-dumping duties, countervailing duties and safeguard duties specified in Schedule 2 and new or increased duties referred to in section 58 (1) and duties imposed under the provisions of section 53) as may at the time of such entry be leviable upon such goods.

[Para. (a) substituted by s. 1 of Act 61 of 1992.]

(b) Notwithstanding the provisions of paragraph (a) but subject to the provisions of section 40, any dutiable goods imported into or manufactured in the Republic and which were removed, taken or delivered without due entry for home consumption having been made in respect of such goods, shall be liable to such duties as may be leviable upon such goods at the time of such removal, taking or delivery or at the time of assessment by an officer, whichever yields the greater amount of duty.

[Sub-s. (1) substituted by s. 9 of Act 112 of 1977 and by s. 6 of Act 101 of 1985.]

(2) For the purposes of this section, the time of entry for home consumption of-

- (a) goods imported by post (and not entered at a customs and excise office before a Controller) shall be deemed to be the time when such goods are assessed for duty; and
- (b) goods imported otherwise shall be deemed to be the time when the bill of entry concerned is delivered to the Controller in terms of section 39 (1) (a) and at a place indicated by the Controller, irrespective of whether that bill of entry is returned by the Controller in order to be adjusted as required by the Controller, provided it is redelivered, so adjusted, to the Controller within five days calculated as prescribed by rule, after the day on which it was so returned by the Controller.

[Para. (b) substituted by s. 35 of Act 45 of 1995.]

[Sub-s. (2) substituted by s. 7 of Act 86 of 1982.]

46 Origin of goods

(1) For the purposes of this Act goods shall not be regarded as having

been produced or manufactured in any particular territory unless-

- (a) at least twenty-five per cent (or such other percentage as may be determined under subsection (2), (3) or (4)), of the production cost of those goods, determined in accordance with the rules, is represented by materials produced and labour performed in that territory;
- (b) the last process in the production or manufacture of those goods has taken place in that territory; and
- (c) such other processes as the Commissioner may, at the request of the Board on Tariffs and Trade by rule prescribe in respect of any class or kind of goods, have taken place in the production or manufacture of goods of such class or kind in that territory.

[Sub-s. (1) amended by s. 2 of Act 61 of 1992 and substituted by s. 36 (a) of Act 45 of 1995.]

(2) The Commissioner may from time to time, at the request of the Board on Tariffs and Trade, by rule increase the percentage prescribed in subsection (1), in regard to any class or kind of imported goods, or in regard to any class or kind of such goods from a particular territory, to which that subsection applies.

[Sub-s. (2) substituted by s. 5 (1) of Act 68 of 1989, by s. 2 (b) of Act 61 of 1992 and by s. 36 (a) of Act 45 of 1995.]

(3) The State President may, by agreement with the government of any territory, increase or reduce for the purposes of section *fifty-one* the percentage prescribed in subsection (1) of this section in so far as that territory is concerned, in regard to any class or kind of goods to which that subsection applies.

(4) The Commissioner may-

- (a) in respect of any excisable or other goods produced or manufactured in the Republic or any class or kind of such goods or any such goods in respect of which circumstances specified by rule apply, increase or reduce by rule the percentage prescribed in subsection (1);
- (b) exclude by rule any goods or class or kind of goods referred to in paragraph (a) from the provisions of subsection (1);
- (c) prescribe by rule that any goods or class or kind of goods referred to in paragraph (a) shall not be regarded as having been produced or manufactured in the Republic unless such processes in

connection with the production or manufacture as may be specified in such rule have taken place in the Republic.

(5)

[Sub-s. (5) deleted by s. 36 (b) of Act 45 of 1995.]

47 Payment of duty and rate of duty applicable

(1) Subject to the provisions of this Act, duty shall be paid for the benefit of the National Revenue Fund on all imported goods, all excisable goods, all surcharge goods and all fuel levy goods in accordance with the provisions of Schedule 1 at the time of entry for home consumption of such goods: Provided that the Commissioner may condone any underpayment of such duty where the amount of such underpayment in the case of-

- (a) goods imported by post is less than fifty cents;
- (b) goods imported in any other manner is less than five rand; or
- (c) excisable goods is less than two rand.

[Sub-s. (1) substituted by s. 17 (a) of Act 105 of 1969 and by s. 10 (a) of Act 112 of 1977 and amended by s. 9 (a) of Act 98 of 1980, by s. 15 (1) (a) of Act 84 of 1987, by s. 22 (a) of Act 59 of 1990, by s. 37 of Act 45 of 1995 and by s. 63 (a) of Act 30 of 1998.]

(2)

[Sub-s. (2) deleted by s. 9 (b) of Act 98 of 1980.]

(3) The most-favoured-nation-rate of duty specified in any tariff heading or subheading in Part 1 of Schedule 1 shall apply to any goods to which such heading or subheading relates if such goods were produced or manufactured in any territory-

- (a) with the government of which an agreement has been concluded under section 49 and the agreement makes provision for the application of the most favoured nation rate of duty in respect of the importation of the goods in question from the territory in question; or
- (b) the government of which has acceded to the agreement approved by section 2 of the Geneva General Agreement on Tariffs and Trade Act, 1948 (Act 29 of 1948), if in respect of that territory the lastmentioned agreement applies as between the government

concerned and the Government of the Republic.

[Sub-s. (3) substituted by s. 2 of Act 7 of 1974 and amended by s. 9 (c) of Act 98 of 1980 and by s. 4 (1) (a) of Act 69 of 1988.]

(4)

[Sub-s. (4) substituted by s. 9 (d) of Act 98 of 1980 and deleted by s. 4 (1) (b) of Act 69 of 1988.]

(5) Any export duty which may become payable in terms of section 48 (4) shall be paid for the benefit of the National Revenue Fund, at the time of entry for export, on such goods as may be specified in Part 6 of Schedule 1 in terms of the provisions of the said section.

[Sub-s. (5) substituted by s. 17 (b) of Act 105 of 1969, by s. 10 (b) of Act 112 of 1977, by s. 15 (1) (b) of Act 84 of 1987 and by s. 63 (b) of Act 30 of 1998.]

(6) Any duty payable in terms of section 53, any anti-dumping duty payable in terms of section 56, any countervailing duty payable in terms of section 56A and any safeguard duty payable in terms of section 57 shall be paid for the benefit of the National Revenue Fund in accordance with the provisions of the said sections.

[Sub-s. (6) substituted by s. 8 of Act 86 of 1982, by s. 3 of Act 61 of 1992 and by s. 63 (b) of Act 30 of 1998.]

(7) Wherever the tariff heading or subheading under which any goods are classified in Part 1 of Schedule 1 is expressly quoted in any tariff item, surcharge item or fuel levy item or item of Part 2, 4, 5 or 6 of the said Schedule or in any item in Schedule 2 in which such goods are specified, the goods so specified in the said tariff item, surcharge item, fuel levy item or item of the said Part 2, 4, 5 or 6 or in the said item of Schedule 2 shall be deemed not to include goods which are not classified under the said tariff heading or subheading.

[Sub-s. (7) substituted by s. 17 (c) of Act 105 of 1969, by s. 10 (c) of Act 112 of 1977, by s. 15 (1) (c) of Act 84 of 1987 and by s. 22 (b) of Act 59 of 1990.]

(8) (a) The interpretation of Part 1 of Schedule 1 shall be subject to the Explanatory Notes to the Harmonized System and to the Customs Co-operation Council Nomenclature issued by the Customs Co-operation Council, Brussels, from time to time: Provided that where the application of any part of such Notes or any addendum thereto or explanation thereof is optional, the application of such part, addendum or explanation shall be in the discretion of the Commissioner.

[Para. (a) substituted by s. 11 of Act 95 of 1965 and amended by s. 7 of Act 105 of 1976 and by s. 15 (1) (d) of Act 84 of 1987.]

(b) The Commissioner shall obtain and keep in his office two copies of such Explanatory Notes and shall effect thereto any amendment of which he is notified by the said Council from time to time and shall record the date of effecting each such amendment and any such amendment shall, for the purposes of this Act, be effective from the date so recorded.

(c) Whenever in any legal proceedings any question arises as to the contents of such Explanatory Notes or as to the date upon which any amendment thereto was effected, a copy of such Explanatory Notes as amended in terms of this subsection shall be accepted as sufficient evidence of the contents thereof and of the effective date of any amendment thereto.

(9) (a) (i) The Commissioner may in writing determine the tariff headings, tariff subheadings or items of any Schedule under which any imported goods or goods manufactured in the Republic shall be classified.

[Sub-para. (i) substituted by s. 6 of Act 68 of 1989.]

(ii) The acceptance by any officer of a bill of entry or the release of any goods as entered shall be deemed not to be any such determination.

(b) Any determination so made shall, subject to appeal to the court, be deemed to be correct for the purposes of this Act, and any amount due in terms of any such determination shall remain payable as long as such determination remains in force.

(c) The Commissioner may publish any such determination by notice in the *Gazette*.

[Para. (c) substituted by s. 63 (c) of Act 30 of 1998.]

(d) The Commissioner may whenever he deems it expedient amend any such determination or withdraw it and make a new determination with effect from-

- (i) the date of first entry of the goods in question;
- (ii) the date of the notice referred to in paragraph (c);
- (iii) the date of the determination made under paragraph (a);
- (iv) the date of such new determination; or
- (v) the date of such amendment.

(e) An appeal against any such determination shall lie to the division of the Supreme Court of South Africa having jurisdiction to hear appeals in the area wherein the determination was made, or the goods in question were entered for home consumption.

(f) Such appeal shall, subject to section 96 (1), be prosecuted within a period of one year from the date of the determination.

[Para. (f) substituted by s. 4 of Act 44 of 1996.]

[Sub-s. (9) added by s. 6 (1) of Act 110 of 1979.]

(10) Save where-

(a) a determination has been made under subsection (9) (a) or (d); or

(b) any false declaration is made for the purposes of subsection (9),

there shall be no liability for any underpayment in duty on any goods, where such underpayment is due to the acceptance of a bill of entry bearing an incorrect tariff heading, tariff subheading or item of any Schedule, after a period of two years from the date of entry of such goods.

[Sub-s. (10) added by s. 6 (1) of Act 110 of 1979.]

(11) Notwithstanding the provisions of subsection (10), any determination made under subsection (9) (a) following upon an inspection of the books or documents of any importer or manufacturer, shall be deemed to have come into operation, in respect of the goods in question entered for customs and excise purposes, two years prior to the date on which the inspection commenced.

[Sub-s. (11) added by s. 6 of Act 52 of 1986.]

47A Prohibition of certain acts in respect of certain goods not duly entered

(1) Subject to the provisions of this Act, no person shall remove, receive, take, deliver or deal with or in any imported or excisable goods or fuel levy goods unless such goods have been duly entered.

(2)

[Sub-s. (2) deleted by s. 38 of Act 45 of 1995.]

[S. 47A inserted by s. 7 of Act 101 of 1985, amended by s. 16 of Act 84 of 1987 and substituted by s. 4 of Act 98 of 1993.]

47B

[S. 47B inserted by s. 17 of Act 84 of 1987, substituted by s. 5 (1) of Act 98 of 1993 and repealed by s. 11 (1) of Act 27 of 1997.]

48 Amendment of Schedule 1

(1) The Minister may from time to time by notice in the *Gazette* amend the General Notes to Schedule 1 and Part 1 of the said Schedule and Part 2 of the said Schedule in so far as it relates to imported goods-

- (a) in order to give effect to any agreement amending any agreement approved by section 2 of the Geneva General Agreement on Tariffs and Trade Act, 1948 (Act 29 of 1948), or to any agreement concluded under section 49;

[Para. (a) amended by s. 11 (1) (a) of Act 112 of 1977 and substituted by s. 10 of Act 98 of 1980.]

- (b) in order to give effect to any request by the Minister of Trade and Industry and for Economic Co-ordination;

[Para. (b) substituted by s. 4 (a) of Act 61 of 1992.]

- (c) in order to give effect to any amendment to the Explanatory Notes to the Harmonized System and to the Customs Co-operation Council Nomenclature referred to in section 47 (8) or to the Nomenclature set out in the annex to the Convention on Nomenclature for the Classification of Goods in Customs Tariffs signed in Brussels in 1950;

[Para. (c) substituted by s. 1 (a) of Act 68 of 1973, by s. 8 (a) of Act 105 of 1976 and by s. 7 (1) (a) of Act 68 of 1989.]

- (d) by deleting any reference therein to any territory the government of which has cancelled without the consent of the Government of the Republic any preferential customs tariff rate applicable at the commencement of this Act to any goods produced or manufactured in the Republic, on their importation into such territory;

- (e) whenever he deems it expedient in the public interest otherwise to do so.

[Para. (e) added by s. 11 (1) (b) of Act 112 of 1977.]

[Sub-s. (1) amended by s. 6 (a) of Act 57 of 1966.]

(2) The Minister may from time to time by like notice amend or withdraw or, if so withdrawn, insert Part 2, Part 4 or Part 5 of Schedule 1, whenever he deems it expedient in the public interest to do so: Provided that the Minister may, whenever he deems it expedient in the public interest to do so, reduce any duty specified in the said Parts with retrospective effect from such date and to such extent as may be determined by him in such notice.

[Sub-s. (2) substituted by s. 1 (b) of Act 68 of 1973 and by s. 8 (b) of Act 105 of 1976 and amended by s. 11 (1) (c) of Act 112 of 1977, by s. 9 (a) of Act 86 of 1982, by s. 18 (a) of Act 84 of 1987 and by s. 23 (a) of Act 59 of 1990.]

(2A) (a) (i) The Minister may from time to time by like notice, whenever he deems it expedient in the public interest to do so, authorize the Director-General: Trade and Industry or the Commissioner to withdraw, with or without retrospective effect, and subject to such conditions as the said Director-General or Commissioner may determine, any duty specified in Part 2 or Part 4 of Schedule 1.

[Sub-para. (i) substituted by s. 23 (b) of Act 59 of 1990.]

(ii) The Director-General: Trade and Industry or the Commissioner may at any time cancel, amend or suspend any withdrawal referred to in subparagraph (i).

[Sub-para. (ii) added by s. 7 (1) (b) of Act 68 of 1989 and substituted by s. 39 (a) of Act 45 of 1995.]

(b) Any application for such withdrawal, with retrospective effect, shall be submitted to the said Director-General or Commissioner, as the case may be, not later than six months from the date of entry for home consumption as provided in section 45 (2).

[Para. (b) substituted by s. 7 (1) (c) of Act 68 of 1989.]

[Sub-s. (2A) inserted by s. 18 (b) of Act 84 of 1987.]

(3)

[Sub-s. (3) deleted by s. 8 (c) of Act 105 of 1976.]

(3A)

[Sub-s. (3A) inserted by s. 18 (a) of Act 105 of 1969, amended by s. 1 (c) of Act 68 of 1973 and deleted by s. 8 (c) of Act 105 of 1976.]

(4) The Minister may, whenever he deems it expedient in the public

interest to do so, by notice in the *Gazette* impose an export duty, on such basis as he may determine, in respect of any goods intended for export or any class or kind of such goods or any goods intended for export in circumstances specified in such notice and any export duty so imposed shall be set out in the form of a schedule which shall be deemed to be incorporated in Schedule 1 as Part 6 thereof and to constitute an amendment of Schedule 1.

[Sub-s. (4) substituted by s. 18 (b) of Act 105 of 1969, by s. 11 (1) (d) of Act 112 of 1977 and by s. 18 (c) of Act 84 of 1987.]

(4A) (a) Notwithstanding anything to the contrary in this Act contained, the Minister may, whenever he deems it expedient in the public interest to do so, by notice in the *Gazette*, insert Part 8 of Schedule 1, and if so inserted withdraw or amend that Part for the purpose of specifying that any duty leviable under any heading or item of Part 1, 2 or 4 of Schedule 1 shall not be leviable under that Part, but shall be leviable under the said Part 8 at the time of entry for home consumption for use by any person, government, department, administration or body as may be specified by him in such notice.

(b) For the purposes of this subsection, any amount leviable under any item of the said Part 8, shall be called an ordinary levy.

(c) Any such ordinary levy shall be paid for the benefit of the National Revenue Fund as specified in section 47 (1) and shall, for the purposes of that section, be deemed to be a duty paid in accordance with the provisions of Schedule 1.

[Para. (c) substituted by s. 64 of Act 30 of 1998.]

(d) Notwithstanding the provisions of section 47(1), any ordinary levy paid in respect of any goods intended for consumption in any territory, other than the Republic, which forms part of the common customs area shall be paid by the Commissioner to the government of such territory at such times as he may determine.

(e) The provisions of subsection (6) shall *mutatis mutandis* apply to any notice published under this subsection.

[Para. (e) substituted by s. 3 (a) of Act 19 of 1994.]

[Sub-s. (4A) inserted by s. 7 (1) (d) of Act 68 of 1989.]

(5) (a) Whenever any amendment made under this section has an effect which was not foreseen or intended, the Minister may, whether or not such amendment has ceased to have effect as such or has lapsed under subsection (6), after consultation with the Minister of Trade and Industry by further notice in

the *Gazette*, adjust such amendment, to the extent he deems fit, with effect from the date of such amendment or any later date, and any adjustment effected under this subsection shall be deemed to be an amendment under this section.

[Para. (a) substituted by s. 4 (b) of Act 61 of 1992 and by s. 39 (b) of Act 45 of 1995.]

(b) The provisions of paragraph (a) shall, in so far as they can be applied, apply *mutatis mutandis* in respect of any amendment made by Parliament, which corresponds to an amendment made under this section, before the lapsing in terms of subsection (6) of such lastmentioned amendment.

[Sub-s. (5) substituted by s. 6 (b) of Act 57 of 1966.]

(6) Any amendment, withdrawal or insertion made under this section in any calendar year shall, unless Parliament otherwise provides, lapse on the last day of the next calendar year, but without detracting from the validity of such amendment, withdrawal or insertion before it has so lapsed.

[Sub-s. (6) substituted by s. 18 (c) of Act 105 of 1969, by s. 9 (b) of Act 86 of 1982 and by s. 3 (b) of Act 19 of 1994.]

(7)

[Sub-s. (7) substituted by s. 3 of Act 98 of 1970 and deleted by s. 3 (c) of Act 19 of 1994.]

48A

[S. 48A inserted by s. 19 of Act 84 of 1987, amended by s. 8 of Act 68 of 1989, by s. 5 of Act 61 of 1992 and by s. 4 of Act 19 of 1994 and repealed by s. 40 of Act 45 of 1995.]

49 Agreements in respect of rates of duty lower than the general rates of duty

(1) Notwithstanding anything to the contrary in this Act contained, the National Executive may conclude agreements with the government of any country-

- (a) whereby goods produced or manufactured in or imported into the Republic are admitted into that country free of duty or at special rates of duty and goods produced or manufactured in or imported into that country are admitted into the Republic free of duty or at special rates of duty; or

- (b) for the exchange of information and the rendering of mutual and technical assistance in respect of customs co-operation between the Republic and such other country.

(2) Notwithstanding anything to the contrary in this Act contained, the Commissioner may by rule prescribe such conditions as may be required to comply with and give effect to the specific provisions of the agreements contemplated in subsection (1) (a).

[S. 49 substituted by s. 3 of Act 7 of 1974, by s. 12 of Act 27 of 1997 and by s. 65 of Act 30 of 1998.]

50 Disclosure of information and rendering of mutual assistance in terms of convention or agreement

Notwithstanding the provisions of section 4 (3), the Commissioner may in accordance with any convention or agreement in respect of customs co-operation to which the Republic is a party-

- (a) disclose or authorize any officer to disclose any information relating to any person, firm or business acquired by that officer in the carrying out of his duties;
- (b) render mutual and technical assistance in accordance with such convention or agreement; and
- (c) authorize any officer to exercise any powers under this Act which may be considered necessary for the purposes of rendering such assistance.

[S. 50 repealed by s. 4 of Act 7 of 1974 and inserted by s. 66 of Act 30 of 1998.]

51 Agreements with African territories

(1) The National Executive may conclude an agreement with the government of any territory in Africa in which it is provided that, notwithstanding anything to the contrary in this Act contained-

- (a) goods produced or manufactured in or imported into the Republic shall be admitted into that territory free of duty or at special rates of duty and goods produced or manufactured in or imported into that territory shall be admitted into the Republic free of duty or at special rates of duty;
- (b) such arrangements (including arrangements providing for the prohibition or quantitative or other limitation or restriction of the

importation of any goods) as may be agreed upon between the parties to the agreement shall apply in respect of the admission of any goods into the territory of one of the parties from the territory of the other party and in respect of the entry of and the collection of duty on goods on importation into the territory of any party from a territory other than the territory of the other party;

[Para. (b) substituted by s. 7 (a) of Act 57 of 1966.]

- (c) each party to the agreement shall be compensated in respect of duty on such goods to the extent and in the manner agreed upon between the parties to the agreement.

[Sub-s. (1) amended by s. 13 (a) of Act 27 of 1997.]

(2) Payments made by the government of any territory to the Government of the Republic in terms of any agreement concluded under the provisions of subsection (1) shall accrue to the National Revenue Fund and payments by the Government of the Republic to the government of any territory in terms of any such agreement shall be made as a drawback of revenue as a charge to the National Revenue Fund.

[Sub-s. (2) substituted by s. 1 of Act 12 of 1977 and by s. 13 (b) of Act 27 of 1997.]

(3) For the purposes of this Act, any agreement which purports to have been concluded in terms of any law relating to customs and which was being observed by the Republic immediately prior to the coming into operation of this Act as being in force between the Republic and any territory in Africa, shall be deemed to have been concluded in terms of and to be and at all relevant times to have been within the powers conferred by this section.

[Sub-s. (3) substituted by s. 7 (b) of Act 57 of 1966 and by s. 5 of Act 103 of 1972.]

(4) Notwithstanding the provisions of any agreement concluded with Southern Rhodesia under subsection (1)-

- (a) goods produced or manufactured in or imported into that territory shall not, by virtue of any such agreement, be exempt on importation into the Republic from any increased rate of customs duty payable after the commencement of this subsection, and such goods shall be liable to the full difference between such duty calculated at such increased rate and the most favoured nation rate applicable on the date immediately prior to the date on which this subsection comes into operation; and

- (b) the Minister may vary the quantitative or other limitation or restriction of the importation of any goods agreed upon under paragraph (b) of the said subsection (1).

[Sub-s. (4) added by s. 1 of Act 89 of 1974.]

52 Imposition of a fuel levy by any party to a customs union agreement

(a) Notwithstanding anything to the contrary in this Act contained, any fuel levy goods which are removed to the territory of a party to any customs union agreement concluded in terms of section 51 or brought into the Republic from any such territory, shall, if a fuel levy has not been imposed by such party, be deemed to be goods exported from and goods imported into the Republic, respectively, and the provisions of this Act relating to the exportation from and importation of goods into the Republic shall, subject to such arrangements as the Commissioner may determine, apply to those goods until such time as such fuel levy is imposed by that party as provided in this Act.

[Para. (a) substituted by s. 41 of Act 45 of 1995.]

(b) If any such party to such customs union agreement imposes such fuel levy as provided in this Act, the Commissioner may, notwithstanding the provisions of section 47 (1), in respect of any fuel levy paid in the Republic on any petrol or distillate fuel entered or removed for consumption in the territory of any such party pay such fuel levy for any period it remains so imposed, if the Minister approves, to such party.

(c) For the purposes of paragraph (b), the Commissioner may pay the fuel levy concerned on the basis of any documents, relating to the movement of such petrol or distillate fuel, in possession of any person as may be determined by him.

[S. 52 repealed by s. 4 of Act 7 of 1974 and inserted by s. 24 (1) of Act 59 of 1990.]

53 Discrimination by other countries

(1) If the government of any territory has-

- (a) imposed directly or indirectly on any goods wholly or partly produced or manufactured in the Republic any duty, charge or restriction which is not imposed upon like goods produced or manufactured in any third territory; or

[Para. (a) substituted by s. 42 of Act 45 of 1995.]

- (b) discriminated against the commerce of the Republic in such a manner as to place it at a disadvantage in comparison with the commerce of any third territory,

[Para. (b) substituted by s. 42 of Act 45 of 1995.]

the Minister may in order to give effect to any recommendation of the Minister of Trade and Industry or whenever he deems it fit in the public interest, by notice in the *Gazette* impose-

- (i) on all goods or any class or kind of goods imported from the territory whose government has so acted; and
- (ii) on all goods or any class or kind of goods whencesoever imported, wholly or partly produced or manufactured in such territory,

additional duties not exceeding the value for duty purposes of such goods, and from a date to be specified in the notice there shall be paid on such goods, upon entry for home consumption thereof, the additional duties at the rates imposed in the notice, in addition to any other duties payable on such goods under the provisions of this Act.

[Sub-s. (1) substituted by s. 37 of Act 97 of 1986 and amended by s. 6 of Act 61 of 1992 and by s. 42 of Act 45 of 1995.]

(2) Any additional duty imposed in terms of subsection (1) shall be set out in the form of a schedule which shall be deemed to be incorporated in Schedule 1 as Part 7 thereof and to constitute an amendment of Schedule 1.

[Sub-s. (2) substituted by s. 19 of Act 105 of 1969, by s. 12 of Act 112 of 1977 and by s. 20 of Act 84 of 1987.]

(3) The provisions of section 48 (6) shall *mutatis mutandis* apply in respect of any amendment made under the provisions of this section.

[Sub-s. (3) substituted by s. 5 of Act 19 of 1994.]

54 Special provisions regarding the importation of cigarettes

(1) The Commissioner may by rule prescribe the sizes and types of containers in which cigarettes may be imported into the Republic.

[Sub-s. (1) substituted by s. 43 of Act 45 of 1995.]

(2) No person shall import any cigarettes unless they have been packed in

the prescribed manner and a stamp impression determined by the Commissioner has been made on their containers: Provided that the Commissioner may allow cigarettes so packed to be imported, in such quantities and in such circumstances as he may deem fit, without such stamp impression having been made on such containers.

(3) No imported cigarettes shall be sold or disposed of or removed from the customs and excise warehouse concerned except in accordance with the provisions of this Act.

[S. 54 amended by s. 3 of Act 85 of 1968 and substituted by s. 13 of Act 112 of 1977.]

CHAPTER VI
ANTI-DUMPING, COUNTERVAILING AND SAFEGUARD DUTIES
(ss 55-57A)

[Heading substituted by s. 14 of Act 112 of 1977 and by s. 7 of Act 61 of 1992.]

55 General provisions regarding anti-dumping, countervailing and safeguard duties

(1) The goods specified in Schedule 2 shall, upon entry for home consumption, be liable, in addition to any other duty payable in terms of the provisions of this Act, to the appropriate anti-dumping, countervailing or safeguard duties provided for in respect of such goods in that Schedule at the time of such entry, if they are imported from a supplier, or originate in a territory, specified in that Schedule in respect of those goods.

(2) (a) The imposition of any anti-dumping duty in the case of dumping as defined in the Board on Tariffs and Trade Act, 1986 (Act 107 of 1986), a countervailing duty in the case of subsidized export as so defined or a safeguard duty in the case of disruptive competition as so defined and the rate at which or the circumstances in which such duty is imposed in respect of any imported goods shall be in accordance with any request by the Minister of Trade and Industry and for Economic Co-ordination under the provisions of the Board on Tariffs and Trade Act, 1986.

(b) Any such anti-dumping, countervailing or safeguard duty may be imposed in respect of the goods concerned in accordance with such request with effect from the date on which any provisional payment in relation to anti-dumping, countervailing or safeguard duty is imposed in respect of those goods under section 57A.

[Para. (b) substituted by s. 3 of Act 16 of 1997.]

(3) (a) Whenever any anti-dumping, countervailing or safeguard duty is imposed on any goods under the provisions of this Chapter, the owner of any such goods stored in a customs and excise warehouse shall produce the invoice and other documents relating to such goods to the Controller not later than the time of entry of all or any part of such goods for removal from such warehouse.

(b) The provisions of paragraph (a) shall not apply in the case of such goods entered for export from a customs and excise warehouse.

(4) An anti-dumping, countervailing or safeguard duty imposed under the provisions of this Chapter shall not apply to any goods entered under the provisions of any item specified in Schedule 3 or 4 unless such item is specified in Schedule 2 in respect of such goods.

(5) Notwithstanding the provisions of section 56, 56A or 57, the Commissioner may, subject to such conditions as he may impose in each case, exempt from payment of any anti-dumping, countervailing or safeguard duty, any goods which are imported in such circumstances or in such quantities that the importation of such goods does not, in his opinion, constitute regular importation of such goods for trade purposes.

[S. 55 amended by s. 12 of Act 95 of 1965 and by s. 6 of Act 103 of 1972 and substituted by s. 15 of Act 112 of 1977 and by s. 8 of Act 61 of 1992.]

56 Imposition of anti-dumping duties

(1) The Minister may from time to time by notice in the *Gazette* amend Schedule 2 to impose an anti-dumping duty in accordance with the provisions of section 55 (2).

(2) The Minister may, in accordance with any request by the Minister of Trade and Industry and for Economic Co-ordination, from time to time by notice in the *Gazette* withdraw or reduce, with or without retrospective effect and to such extent as may be specified in the notice, any anti-dumping duty imposed under subsection (1).

(3) The provisions of section 48 (6) shall *mutatis mutandis* apply in respect of any amendment, withdrawal or reduction made under the provisions of subsection (1) or (2) of this section.

[Sub-s. (3) substituted by s. 6 of Act 19 of 1994.]

[S. 56 substituted by s. 16 of Act 112 of 1977, amended by s. 4 of Act 93 of 1978, by s. 4 of Act 89 of 1984 and by s. 7 of Act 52 of 1986 and substituted by s. 9 of Act 61 of 1992.]

56A Imposition of countervailing duties

(1) The Minister may from time to time by notice in the *Gazette* amend Schedule 2 to impose a countervailing duty in accordance with the provisions of section 55 (2).

(2) The Minister may, in accordance with any request by the Minister of Trade and Industry and for Economic Co-ordination, from time to time by notice in the *Gazette* withdraw or reduce, with or without retrospective effect and to such extent as may be specified in the notice, any countervailing duty imposed under subsection (1).

(3) The provisions of section 48 (6) shall *mutatis mutandis* apply in respect of any amendment, withdrawal or reduction made under the provisions of subsection (1) or (2) of this section.

[Sub-s. (3) substituted by s. 7 of Act 19 of 1994.]

[S. 56A inserted by s. 10 of Act 61 of 1992.]

57 Imposition of safeguard duties

(1) The Minister may from time to time by notice in the *Gazette* amend Schedule 2 to impose a safeguard duty in accordance with the provisions of section 55 (2).

(2) The Minister may, in accordance with any request by the Minister of Trade and Industry and for Economic Co-ordination, from time to time by notice in the *Gazette* withdraw or reduce, with or without retrospective effect and to such extent as may be specified in the notice, any safeguard duty imposed under subsection (1).

(3) The provisions of section 48 (6) shall *mutatis mutandis* apply in respect of any amendment, withdrawal or reduction made under the provisions of subsection (1) or (2) of this section.

[Sub-s. (3) substituted by s. 8 of Act 19 of 1994.]

[S. 57 substituted by s. 17 of Act 112 of 1977 and by s. 11 of Act 61 of 1992.]

57A Imposition of provisional payment

(1) Whenever the Board on Tariffs and Trade publishes a notice in the *Gazette* to the effect that it is investigating the imposition of an anti-dumping, countervailing or safeguard duty on goods imported from a supplier or originating

in a territory specified in that notice, the Commissioner shall, in accordance with any request by the said Board, by notice in the *Gazette* impose a provisional payment in respect of those goods for such period and for such amount as the Board may specify in such request.

[Sub-s. (1) substituted by s. 3 of Act 16 of 1997.]

(2) The Commissioner shall, in accordance with any request by the said Board, by further notice in the *Gazette* extend the period for which the provisional payment mentioned in subsection (1) is imposed or withdraw or reduce it with or without retrospective effect and to such extent as may be specified in the request.

(3) Such provisional payment shall be paid on goods subject thereto, at the time of entry for home consumption thereof, as security for any anti-dumping, countervailing or safeguard duty which may be retrospectively imposed on such goods under section 56, 56A or 57 and may be set off against the amount of the retrospective anti-dumping, countervailing or safeguard duty payable.

[Sub-s. (3) substituted by s. 3 of Act 16 of 1997.]

(4) If no anti-dumping, countervailing or safeguard duty is imposed before expiry of the period for which a provisional payment in relation to the goods concerned has been imposed, the amount of such payment shall be refunded.

[Sub-s. (4) substituted by s. 3 of Act 16 of 1997.]

(5) If the amount of any such provisional payment on the said goods-

- (a) exceeds the amount of any anti-dumping, countervailing or safeguard duty retrospectively imposed on such goods under section 56, 56A or 57, the amount of the difference shall be refunded; or
- (b) is less than the amount of the anti-dumping, countervailing or safeguard duty so imposed, the amount of the difference shall not be collected.

[Sub-s. (5) substituted by s. 3 of Act 16 of 1997.]

[S. 57A inserted by s. 18 of Act 112 of 1977, amended by s. 4 of Act 89 of 1983 and substituted by s. 12 of Act 61 of 1992.]

CHAPTER VII

AMENDMENT OF DUTIES (ss 58-59)

58 Time when new or increased duties become payable

(1) The Minister may table at any time in the National Assembly a taxation proposal imposing a new duty or increasing the rate of duty already payable upon any goods specified in the said proposal, and such new duty or increased rate of duty shall, subject to the provisions of subsection (2), from the time when the proposal was tabled be payable on all such goods as have not at the said time been entered for home consumption.

[Sub-s. (1) substituted by s. 10 of Act 86 of 1982 and amended by s. 21 of Act 84 of 1987, by s. 2 (a) of Act 105 of 1992 and by s. 14 of Act 27 of 1997.]

(2) Whenever the Minister tables, under the provision of subsection (1), a taxation proposal relating to imported and excisable goods of the same class or kind, any such goods which the Minister may in the said proposal specify for the purposes of this subsection, shall, though entered for home consumption prior to the time of such proposal and notwithstanding that they have passed out of customs and excise control, become liable to the new duty or the difference between the rate of duty at the time of such proposal and the increased rate provided for in the said proposal, if they have at the time of such proposal not been delivered from the stocks of an importer, manufacturer or such class of dealer as the Minister may in the said proposal specify.

(3) For the purposes of this section any goods which are specified by the Minister in any taxation proposal for the purposes of subsection (2) and which, at the time of the said proposal are in transit to an importer, manufacturer or a class of dealer so specified by the Minister, shall be deemed to form part of the stocks of such importer, manufacturer or dealer, as the case may be, notwithstanding any terms to the contrary of any contract relating to the sale or delivery of such goods.

(4) Whenever the Minister has specified any goods in any taxation proposal for the purposes of subsection (2), every importer or manufacturer or dealer specified in the said proposal shall, in respect of any goods so specified-

- (a) forthwith take stock of all such goods which have not been delivered from his stocks at the time when the proposal was tabled, and make a clear and accurate record of such imported and excisable goods separately;
- (b) within seven days of the date on which the proposal was tabled, deliver to the Controller a sworn statement giving separately the description and quantities of the said imported and excisable goods, which were in his stocks at the said time, and any other

information which the Commissioner may require of him; and

- (c) upon or before the last working day of the month following the month in which the proposal was tabled, pay to the Controller the amount of duty payable by him under subsection (2) in respect of the goods in question.

(5) If the Minister specifies in any taxation proposal for the purposes of subsection (2) that any goods so specified shall be liable to the duties so specified if they have not been delivered from the stocks of a wholesale dealer at the time of the said proposal, the provisions of subsection (4) shall apply to the stocks of such wholesale dealer and of any retail dealer conducting his business on the same premises: Provided that the Commissioner may, upon production by such wholesale dealer of such evidence as he may require, exclude from the stocks or the liability for duty of that wholesale dealer for the purposes of subsection (2)-

- (a) stocks of a class or kind which are sold by such retail dealer only; and
- (b) such proportion of the total duty payable by such wholesale dealer as is represented by the proportion of retail sales to total sales of the goods concerned during the period of three months immediately preceding the date of such proposal, such proportion to be calculated on the basis of quantities of each commodity concerned.

(6) For the purposes of this section-

- (a) 'dealer' means any person who deals in any goods to which this Act relates and includes a club, co-operative society of any nature or any statutory body;
- (b) 'retail dealer' means, subject to the provisions of paragraph (c), any dealer who deals in or holds a licence under any law to deal in retail quantities;
- (c) 'wholesale dealer' means any dealer who deals in or holds a licence under any law to deal in wholesale quantities and the business and stocks of a wholesale dealer shall be deemed to include the business and stocks of any retail dealer who conducts business on the same premises on which the wholesale dealer conducts his business as such; and
- (d) 'deliver' includes any form of delivery except *traditio brevi manu* and *constitutum possessorium*.

(7) Whenever in any legal proceedings any question arises as to whether the Minister has in fact tabled a taxation proposal as described in this section, or as to the time when such proposal was tabled or the particulars contained in such proposal, a copy of such proposal, certified by the Secretary to Parliament to be a true copy, shall be accepted as sufficient evidence that such proposal was tabled and of the time when it was tabled and of the particulars contained therein.

[Sub-s. (7) amended by s. 19 of Act 33 of 1974 and substituted by s. 1 of Act 64 of 1974 and by s. 2 (b) of Act 105 of 1992.]

59 Contract prices may be varied to extent of alteration in duty

(1) Whenever any duty is imposed or increased, directly or indirectly, by amendment in any manner of any Schedule to this Act, on any goods and such goods, in pursuance of a contract made before such duty or increased duty became payable, are thereafter delivered to and accepted by the purchaser, the seller of the goods may, in the absence of agreement to the contrary, recover as an addition to the contract price a sum equal to any amount paid by him by reason of the said duty or increase.

(2) Whenever any duty is withdrawn or decreased, directly or indirectly, by amendment in any manner of any Schedule to this Act, on any goods, and such goods in pursuance of a contract made before the withdrawal or decrease became effective are thereafter delivered to the purchaser, the purchaser of the goods may, in the absence of agreement to the contrary, if the seller has in respect of those goods had the benefit of the withdrawal or decrease, deduct from the contract price a sum equal to the said duty or decrease.

(3) The provisions of this section shall also apply to a contract for the hiring of any goods or the use of any goods in rendering a service at a contract price, and the expressions 'seller' and 'purchaser' shall correspondingly be construed as including the person by whom and the person to whom the goods are hired or the service rendered.

CHAPTER VIII LICENSING (ss 60-64C)

60 Licence fees according to Schedule 8

(1) No person shall perform any act or be in possession of or use anything in respect of which a licence is required under this Act unless he has obtained the appropriate licence prescribed in Schedule 8 which shall not be issued unless the prescribed licence fee has been paid.

(2) The Commissioner may, subject to an appeal to the Minister, refuse

any application for a new licence or refuse any application for a renewal of any licence or cancel or suspend for a specified period any licence if the applicant or the holder of such licence, as the case may be-

- (a) has contravened or failed to comply with the provisions of this Act;
or
- (b) has been convicted of an offence under this Act; or
- (c) has been convicted of an offence involving dishonesty.

[Sub-s. (2) substituted by s. 11 of Act 86 of 1982 and by s. 44 of Act 45 of 1995.]

(3) The Minister may, whenever he deems it expedient in the public interest to do so, amend Schedule 8 by notice in the *Gazette*.

[Sub-s. (3) added by s. 25 of Act 59 of 1990.]

(4) The provisions of section 48 (6) shall *mutatis mutandis* apply in respect of any amendment made under the provisions of subsection (3) of this section.

[Sub-s. (4) added by s. 25 of Act 59 of 1990 and substituted by s. 9 of Act 19 of 1994.]

[S. 60 amended by s. 4 of Act 85 of 1968 and substituted by s. 20 of Act 105 of 1969.]

61 Customs and excise warehouse licences

(1) Before a customs and excise warehouse is licensed the person applying for such licence shall furnish such security as the Commissioner may require.

(2) The Commissioner may at any time require that the form, nature or amount of such security shall be altered or renewed in such manner as he may determine.

(3) The Commissioner may by endorsement permit a licence to be transferred from one customs and excise warehouse to another customs and excise warehouse in the area controlled by the same Controller and in the possession of the person to whom the licence has been issued, but no customs and excise warehouse licence shall be transferable from one person to another.

(4) (a) Not more than one licence shall be issued in respect of any customs and excise warehouse: Provided that the Commissioner may, on such conditions as he may in each case impose, issue a licence to the owner of any

customs and excise storage warehouse in which fuel levy goods are stored and to each person who obtains for distribution for his own account those goods from that warehouse.

(b) The owner of such warehouse who is so licensed shall be liable for the fulfilment of all obligations under this Act in respect of such goods in such warehouse: Provided that each person to whom a licence is so issued shall be liable for any liability incurred under this Act in respect of goods taken by him from such warehouse.

[Sub-s. (4) substituted by s. 22 of Act 84 of 1987.]

62 Agricultural distillers

(1)

[Sub-s. (1) substituted by s. 8 (a) of Act 57 of 1966 and by s. 7 of Act 103 of 1972 and deleted by s. 12 (1) (a) of Act 86 of 1982.]

(2) After the commencement of this Act a licence under this Act as an agricultural distiller shall not be granted to any person-

- (a) who had not at any time before such commencement been licensed under any law relating to excise as an agricultural distiller; or
- (b) who, after such commencement, has for any continuous period of more than twelve months not been the holder of a licence as an agricultural distiller issued under this Act.

(3) No licence issued under this Act to any person as an agricultural distiller may be transferred to any other person or from one farm to another, except in circumstances which the Commissioner may deem exceptional or, in the event of the death of the licensee or the expropriation in terms of the Expropriation Act, 1975 (Act 63 of 1975), of a farm in respect of which the licence was issued, with the written permission of the Commissioner and subject to such conditions as he may determine.

[Sub-s. (3) substituted by s. 12 (1) (b) of Act 86 of 1982.]

(4) (a) Any licence issued under this Act to any person as an agricultural distiller shall, subject to the provisions of subsection (3), lapse upon the death of the licensee or upon conviction of the licensee of any offence under this Act or any law relating to the illicit manufacture, conveyance, supply or possession of intoxicating liquor.

[Para. (a) substituted by s. 12 (1) (c) of Act 86 of 1982.]

(b) For the purposes of this subsection the imposition of a penalty by the Commissioner under the provisions of section *ninety-one* shall be deemed to be a conviction under this Act.

(5) The provisions of subsections (2) and (4) of section 63 (3) shall not apply in the case of an agricultural distiller who produces annually a quantity of spirits which exceeds a quantity determined by the Commissioner and who produces such spirits for a purpose approved by the Commissioner.

[Sub-s. (5) substituted by s. 8 (b) of Act 57 of 1966.]

63 Stills to be licensed

(1) No person shall own or have in his possession or under his control any still except under a licence prescribed in Schedule 8 and subject to the rules: Provided that the Commissioner may by rule exempt from all or any of the provisions of this subsection-

- (a) any licensed still maker in so far as any still manufactured or imported by him for sale and in his possession is concerned; or
- (b) any person in so far as any still is concerned which he has proved to the Commissioner is in his possession solely as a curiosity or ornament or is used solely for any such purpose as the Commissioner may specify by rule.

[Sub-s. (1) amended by s. 9 of Act 57 of 1966 and by s. 4 of Act 98 of 1970 and substituted by s. 45 of Act 45 of 1995.]

(2) The provisions of subsections (3) and (4) of section *sixty-two* shall *mutatis mutandis* apply in respect of any licence issued in respect of a still under this Act to any person to whom a licence under this Act has been or had at any time been issued as an agricultural distiller: Provided that the provisions of this subsection shall not apply in respect of any such licence in respect of a still which is held by any such agricultural distiller as is referred to in subsection (5) of section *sixty-two*.

(3) (a) If any agricultural distiller to whom a licence in respect of a still has been issued under this Act voluntarily abandons such still to the department, the Commissioner may, out of moneys appropriated by Parliament for the purpose, pay to him, as compensation, such an amount as the Commissioner considers to be the current market value of such still.

(b) Where any person has so abandoned any still no licence to own a still to be used by him in the capacity of an agricultural distiller shall thereafter be

granted to him unless a new licence as an agricultural distiller has, after such abandonment, been issued to him under this Act.

(c) Any still abandoned under this subsection shall be destroyed by the Commissioner.

64 Special warehouses for the manufacture of wine

Unless the permission of the Commissioner has been obtained to manufacture wine in a customs and excise manufacturing warehouse, no person shall manufacture wine except in a special customs and excise warehouse licensed under this Act.

64A Container depot licenses

(1) No person shall store or unpack, or pack for export, such containers as the Commissioner may specify, except at a container depot licensed in terms of subsection (2).

(2) The Commissioner may, subject to such conditions as he may in each case impose, license, for such period as he may in each case determine, at any place appointed for that purpose under the provisions of this Act, container depots approved by him for the storing, unpacking or packing of containers contemplated in subsection (1), provided such security as he may require is furnished.

(3) The Commissioner may at any time require that the form, nature or amount of such security shall be altered or renewed in such manner as he may determine.

(4) The Controller may require any container contemplated in subsection (1) to be detained in any container depot licensed in terms of subsection (2), for its examination or that of its contents.

[S. 64A inserted by s. 8 of Act 71 of 1975.]

64B Clearing agent licences

(1) No person shall, for the purposes of section 38, for reward make entry of or deliver a bill of entry relating to, any goods on behalf of any importer or exporter of goods, as the case may be, unless licensed as a clearing agent in terms of subsection (2).

(2) The Commissioner may, subject to such conditions as he may prescribe by rule, license any person applying therefor and approved by him, as a clearing agent for making entry of or delivering a bill of entry relating to, goods

on behalf of an importer or exporter of goods, as the case may be.

[Sub-s. (2) substituted by s. 46 of Act 45 of 1995.]

(3) Before any such person is so licensed as a clearing agent, he shall furnish such security as the Commissioner may require.

(4) The Commissioner may at any time require that the form, nature or amount of such security shall be altered or renewed in such manner as he may determine.

[S. 64B inserted by s. 19 of Act 112 of 1977.]

64C Licence to search wreck or to search for wreck

(1) No person shall search any wreck or search for any wreck unless he is licensed with the Commissioner to do so and has furnished such security as the Commissioner may require.

(2) The Commissioner may by rule prescribe the circumstances under which and the conditions on which a licence may be issued to any person entitling him to search or to search for any wreck, but no such licence shall give the holder thereof the exclusive right to search or to search for any particular wreck.

[S. 64C inserted by s. 47 of Act 45 of 1995.]

CHAPTER IX VALUE (ss 65-74A)

65 Value for customs duty purposes

(1) Subject to the provisions of this Act, the value for customs duty purposes of any imported goods shall, at the time of entry for home consumption, be the transaction value thereof, within the meaning of section 66.

(2) If such value of any imported goods of a single denomination is-

(a) in excess of one rand, such value shall for the purpose of assessing the amount of duty payable, be calculated to the nearest rand, an amount of 50 cents being regarded as less than one half of one rand;

(b) less than one rand, such value shall be calculated as one rand.

(3) Unless the context otherwise indicates, any reference in this Act to

customs value or to value for duty purposes, in relation to imported goods, shall be deemed to be a reference to value for customs duty purposes.

(4) (a) If the transaction value of any imported goods cannot be ascertained in terms of section 66 or has been incorrectly ascertained by the importer, the Commissioner may determine a value, which shall, subject to a right of appeal to the court, be deemed to be the value for customs duty purposes of the goods.

[Para. (a) substituted by s. 48 of Act 45 of 1995.]

(b) The acceptance by any officer of a bill of entry or the release of any goods as entered shall not be deemed to be any such determination.

(c) Any determination so made shall be deemed to be correct for the purposes of this Act, and any amount due in terms of any such determination shall remain payable as long as such determination remains in force.

(5) The Commissioner may whenever he deems it expedient amend or withdraw any such determination and make a new determination with effect from-

- (a) the date of first entry of the goods in question;
- (b) the date of the determination made under subsection (4);
- (c) the date of such new determination; or
- (d) the date of such amendment.

(6) (a) An appeal against any such determination shall lie to the division of the Supreme Court of South Africa having jurisdiction to hear appeals in the area wherein the determination was made, or the goods in question were entered for home consumption.

(b) Such appeal shall, subject to section 96 (1), be prosecuted within a period of one year from the date of the determination.

[Para. (b) substituted by s. 5 of Act 44 of 1996.]

(7) Save where-

- (a) a determination has been made under subsection (4) (a) or (5); or
- (b) any false declaration is made for the purposes of subsection (4) or (5),

there shall be no liability for any underpayment of customs duty on any goods, where such underpayment is due to the acceptance of a bill of entry bearing an incorrect customs value, after a period of two years from the date of entry of such goods.

(7A) Notwithstanding the provisions of subsection (7), any determination made under subsection (4) (a) following upon an inspection of the books or documents of any importer shall be deemed to have come into operation in respect of the goods in question entered for customs purposes, two years prior to the date on which the inspection commenced.

[Sub-s. (7A) inserted by s. 8 (a) of Act 52 of 1986.]

(8) (a) Notwithstanding the provisions of subsections (1) and (4), the value for the purposes of the duty specified in Section B of Part 2 of Schedule 1 shall, in respect of imported goods (other than goods entered in terms of item 412.18 of Schedule 4), be the transaction value thereof plus 15 per cent of such value, plus any non-rebated customs duty payable in terms of Part 1 and Section A of Part 2 of Schedule 1 on such goods, but excluding the duty specified in the said Section B of Part 2 of Schedule 1 on such goods.

[Para. (a) substituted by s. 8 (b) of Act 52 of 1986.]

(b) The provisions of subsection (1) (a) and (b) or (3) of section 69 shall *mutatis mutandis* apply to the ascertainment or determination of the value for the purposes of the duty specified in Section B of Part 2 of Schedule 1 in respect of any imported goods entered in terms of item 412.18 of Schedule 4.

[Para. (b) substituted by s. 9 of Act 68 of 1989.]

[Sub-s. (8) substituted by s. 8 of Act 101 of 1985.]

(9) For the purposes of sections 66 and 67, unless the context otherwise indicates-

'buying commission', in relation to imported goods, means any fee paid by an importer to his agent for representing him abroad in the purchase of and the payment for the goods;

'goods of the same class or kind', in relation to imported goods, means goods produced by a particular industry or industry sector in the country from which the imported goods were exported, and falling within the same group or range of goods as the imported goods;

'identical goods', in relation to imported goods, means goods produced in the same country and by the same or a different producer as the imported goods

and which are the same in all respects, including physical characteristics, quality and reputation but excluding minor differences in appearance, as the imported goods, but does not include goods incorporating or reflecting engineering, development work, art work, design work, plans or sketches undertaken in the Republic;

'price actually paid or payable', in relation to imported goods, means the total payment made or to be made, either directly or indirectly, by the buyer to or for the benefit of the seller for the goods, but does not include dividends or other payments passing from the buyer to the seller which do not directly relate to the goods;

'similar goods', in relation to imported goods, means goods produced in the same country and by the same or a different producer as the imported goods and which although not alike in all respects to the imported goods have, with due regard to their quality and reputation and the existence of a trade mark, like characteristics and like component materials which enable them to be employed for the same purposes and to be commercially interchangeable, but does not include goods incorporating or reflecting engineering, development work, art work, design work, plans or sketches undertaken in the Republic.

[S. 65 amended by s. 5 of Act 85 of 1968, by s. 21 of Act 105 of 1969, by s. 20 of Act 112 of 1977, by s. 5 of Act 93 of 1978 and by s. 7 of Act 110 of 1979 and substituted by s. 13 (1) of Act 86 of 1982.]

66 Transaction value

(1) Subject to the provisions of this Act, the transaction value of any imported goods shall be the price actually paid or payable for the goods when sold for export to the Republic, adjusted in terms of section 67, provided-

- (a) there are no restrictions as to the disposal or use of the goods by the buyer other than restrictions which-
 - (i) are imposed or required by law;
 - (ii) limit the geographical area in which the goods may be resold;
or
 - (iii) do not substantially affect the value of the goods;
- (b) the sale or such price of the goods is not subject to any term or condition for which a value cannot be determined;
- (c) no part of the proceeds of any disposal, use or subsequent resale of the goods by the buyer will accrue directly or indirectly to the

seller, unless an appropriate adjustment can be made in terms of section 67;

- (d) subject to subsection (3), the seller and the buyer are not related within the meaning of subsection (2) (a).

(2) (a) For the purposes of subsection (1) (d), two persons shall be deemed to be related only if-

- (i) they are officers or directors of one another's businesses;
- (ii) they are legally recognized partners in business;
- (iii) the one is employed by the other;
- (iv) any person directly or indirectly owns, controls or holds five per cent or more of the equity share capital of both of them;
- (v) one of them directly or indirectly controls the other;
- (vi) both of them are directly or indirectly controlled by a third person;
- (vii) together they directly or indirectly control a third person; or
- (viii) they are members of the same family.

(b) Persons who are associated in business with one another in that the one is the sole agent, sole distributor or sole concessionary, however described, of the other shall be deemed to be related only if they are so deemed in terms of paragraph (a).

(c) Every importer of goods which are not exempted by rule shall, when making entry of the goods, declare, in the manner prescribed by rule, whether or not he is related to the supplier of the goods within the meaning of this section.

[Para. (c) substituted by s. 49 (a) of Act 45 of 1995.]

(3) Notwithstanding the provisions of subsection (1) (d), the fact that a buyer and a seller are related within the meaning of subsection (2) (a) shall not in itself be a ground for not accepting the transaction value, where-

- (a) such relationship did not influence the price paid or payable; or

[Para. (a) substituted by s. 49 (b) of Act 45 of 1995.]

- (b) the importer proves that the transaction value closely approximates

to one of the following values, namely-

- (i) the transaction value of identical or similar goods sold at comparable trade and quantity levels to unrelated buyers in the Republic at or about the same time as the goods to be valued;
- (ii) the value, ascertained in terms of subsection (7), of identical or similar goods imported into the Republic at or about the same time as the goods to be valued;
- (iii) the value, ascertained in terms of subsection (8), of identical or similar goods imported into the Republic at or about the same time as the goods to be valued.

[Para. (b) amended by s. 49 (c) of Act 45 of 1995.]

(4) (a) If the transaction value of any imported goods cannot be ascertained in terms of subsection (1), it shall be the price actually paid or payable for identical goods in a sale for export to the Republic at the same commercial level and in substantially the same quantity and exported at or about the same time as the goods to be valued, adjusted, with reference to differences in any costs and charges referred to in section 67, on account of differences in distances and modes of transport to the port or place of export.

(b) Where no such sale is found, a sale of identical imported goods at either a different commercial or quantity level, or at a different commercial level and quantity level, adjusted to compensate for such differences, shall be used to ascertain the transaction value.

(c) If in the application of this subsection more than one transaction value is ascertained, the lowest such value shall be the transaction value of the goods to be valued.

(5) (a) If the transaction value of any imported goods cannot be ascertained in terms of subsection (4), it shall be the price actually paid or payable for similar goods in a sale for export to the Republic at the same commercial level and in substantially the same quantity and exported at or about the same time as the goods to be valued, adjusted, with reference to differences in any costs and charges referred to in section 67, on account of differences in distances and modes of transport to the port or place of export.

(b) Where no such sale is found, the provisions of paragraphs (b) and (c) of subsection (4) shall *mutatis mutandis* apply.

(6) If the transaction value of any imported goods cannot be ascertained in

terms of subsection (5), it shall be ascertained in terms of subsection (7) or, when it cannot be ascertained in terms of subsection (7), it shall be ascertained in terms of subsection (8): Provided that at the request, in writing, of the importer concerned the order of application of subsections (7) and (8) shall be reversed.

(7) (a) If the imported goods or identical or similar imported goods are sold in the Republic in the same condition as that in which they were when imported, the transaction value of the imported goods in terms of this subsection shall be based on the unit price at which the imported goods or identical or similar imported goods are sold in the Republic in the greatest aggregate quantity, at or about the time of importation of the goods to be valued, by the importers thereof to persons not related to them, subject to deductions for-

- (i) commissions usually paid or agreed to be paid or additions usually made for profit and general expenses, including the direct and indirect costs of marketing the goods relative to sales in the Republic of imported goods of the same kind or class as the goods to be valued, irrespective of the country of exportation;
- (ii) the cost of transportation and the cost of loading, unloading, handling, insurance and associated costs incidental to the transportation of the goods from the port or place of export in the country of exportation to the importer's premises in the Republic; and
- (iii) any duties or taxes paid or payable in the Republic by reason of the importation of the goods or sale of the goods within the Republic.

(b) If neither the imported goods nor identical nor similar imported goods are sold at or about the time of importation of the goods to be valued, the transaction value of the imported goods in terms of this subsection shall, subject to the provisions of paragraph (a), be based on the unit price at which the imported goods or identical goods or similar imported goods are sold in the Republic in the same condition as that in which they were when imported, at the earliest date after the importation of the goods to be valued, but not later than 90 days after such importation.

(c) If neither the imported goods nor identical nor similar imported goods are sold in the Republic in the same condition as that in which they were imported, then, if the importer so requests in writing, the transaction value of the imported goods in terms of this subsection shall be based on the unit price at which the imported goods, after further processing, are sold in the greatest aggregate quantity to persons in the Republic not related to the sellers of such goods, due allowance being made for the value added by such processing and the deductions referred to in paragraph (a).

(8) The transaction value of any imported goods in terms of this subsection shall be based on a computed value, computed by means of information supplied by the producer and consisting of the sum of-

- (a) the cost or value of materials and manufacture or other processing in producing the goods;
- (b) the cost of-
 - (i) packing, including that of the labour or materials concerned; and
 - (ii) containers which are dealt with as being for customs purposes one with the goods in question;
- (c) the value, apportioned to the imported goods as deemed appropriate by the Commissioner, with due regard to any relevant request by the importer, of any of the following goods and services if supplied directly or indirectly by the importer free of charge or at reduced cost, for use in connection with the production and sale for export of the imported goods, in so far as such value has not been included in the price actually paid or payable, namely-
 - (i) materials, components, parts and similar articles forming part of the imported goods;
 - (ii) tools, dies, moulds and similar articles used in the production of the imported goods;
 - (iii) materials consumed in the production of the imported goods;
 - (iv) engineering, development work, art work, design work, plans and sketches undertaken elsewhere than in the Republic and necessary for the production of the imported goods;
- (d) the cost of transportation, loading, unloading, handling and insurance and associated costs incidental to delivery of the imported goods at the port or place of export in the country of exportation and placing those goods on board ship or on any vehicle, or in a container as defined in section 1 (2), at that port or place;

[Para. (d) substituted by s. 5 of Act 69 of 1988, by s. 10 (a) of Act 68 of 1989 and by s. 26 (1) (a) of Act 59 of 1990.]

- (e) an amount for profit and general expenses equal to that generally

applicable in sales of goods of the same class or kind as the imported goods, which are made by producers in the country of exportation.

(9) Where the transaction value of any imported goods cannot be ascertained in terms of the provisions of subsection (8), the Commissioner may determine such value on the basis of a previous determination or, where there is no previous determination, by such application as he may deem reasonable of any manner of ascertaining the transaction value in terms of subsection (1), (4), (5), (7) or (8), but no such determination shall be based on-

- (a) the selling price in the Republic of goods produced in the Republic;
- (b) a system which provides for the acceptance for customs purposes of the higher of two alternative values;
- (c) the selling price of goods on the domestic market of the country of origin or of exportation of the imported goods;
- (d) the cost of production, other than computed values which have been determined for identical or similar goods in accordance with subsection (8);
- (e) the price of the goods for export to a country other than the Republic;
- (f) a system of minimum customs values; or
- (g) arbitrary or fictitious values.

(10) For the purposes of subsection (7) (a) (ii) or (8) (d), goods which are exported to the Republic from any country but pass in transit through another country shall, subject to any conditions which may be prescribed by rule, be deemed to have been exported direct from the first-mentioned country.

[Sub-s. (10) substituted by s. 49 (d) of Act 45 of 1995.]

(11) For the purposes of subsection (7) (a) (ii) or (8) (d), the port or place of export referred to therein shall be the place in the country of exportation where the goods in question-

- (a) are packed in a container as defined in section 1 (2) or, if not so packed in a container, placed on board ship or on any vehicle which conveys them from or across the border of that country; or
- (b) if they are ships or vehicles moving under their own power, finally

leave that country for the Republic.

[Sub-s. (11) amended by s. 10 (b) of Act 68 of 1989 and substituted by s. 26 (1) (b) of Act 59 of 1990.]

[S. 66 substituted by s. 21 of Act 112 of 1977, amended by s. 8 of Act 110 of 1979 and substituted by s. 14 (1) of Act 86 of 1982.]

67 Adjustments to price actually paid or payable

(1) In ascertaining the transaction value of any imported goods in terms of section 66 (1), there shall be added to the price actually paid or payable for the goods-

- (a) to the extent that they are incurred by the buyer but are not included in the price actually paid or payable-
 - (i) any commission other than a buying commission;
 - (ii) brokerage;
 - (iii) the cost of packing, including that of the labour and materials concerned;
 - (iv) the cost of containers which are dealt with as being for customs purposes one with the goods;
- (b) the value, apportioned to the imported goods as deemed appropriate by the Commissioner, of any of the following goods and services if supplied directly or indirectly by the importer free of charge or at reduced cost, for use in connection with the production and sale for export of the imported goods, to the extent that such value has not been included in the price actually paid or payable, namely-
 - (i) materials, components, parts and similar articles forming part of the goods;
 - (ii) tools, dies, moulds and similar articles used in the production of the goods;
 - (iii) materials consumed in the production of the goods;
 - (iv) engineering, development work, art work, design work, plans and sketches undertaken elsewhere than in the Republic and necessary for the production of the goods;

- (c) royalties and licence fees in respect of the imported goods, including payments for patents, trade marks and copyright and for the right to distribute or resell the goods, due by the buyer, directly or indirectly, as a condition of sale of the goods for export to the Republic, to the extent that such royalties and fees are not included in the price actually paid or payable, but excluding charges for the right to reproduce the imported goods in the Republic;
- (d) the value of any part of the proceeds of any subsequent resale, disposal or use of the imported goods that accrues directly or indirectly to the seller; and
- (e) to the extent that they are not included in the price actually paid or payable for the goods, the cost of transportation, loading, unloading, handling and insurance and associated costs incidental to delivery of the goods at the port or place of export in the country of exportation and placing those goods on board ship or on any vehicle, or in a container as defined in section 1 (2), at that port or place.

[Para. (e) substituted by s. 6 of Act 69 of 1988, by s. 11 (a) of Act 68 of 1989 and by s. 27 (1) (a) of Act 59 of 1990.]

(2) In ascertaining the transaction value of any imported goods in terms of section 66 (1), there shall be deducted from the price actually paid or payable for the goods, to the extent that they are included therein, amounts equal to-

- (a) the cost of transportation and the cost of loading, unloading, handling, insurance and associated costs incidental to the transportation of the goods from the port or place of export in the country of exportation to the port or place of importation in the Republic;
- (b) any of the following costs, charges or expenses if identified separately from the balance of the price actually paid or payable for the goods, namely-
 - (i) any expenditure incurred for the construction, erection, assembly or maintenance of, or technical assistance provided in respect of, the goods after they are imported;
 - (ii) the cost of transport and insurance of the goods within the Republic;
 - (iii) any duties or taxes paid or payable by reason of the

- importation of the goods or sale of the goods in the Republic;
- (iv) any duty or tax applicable in the country of exportation from which the goods have been or will be relieved by way of refund, drawback, rebate or remission;
 - (v) buying commission;
 - (vi) interest charged in respect of the price payable for the goods;
 - (vii) any charge for the right to reproduce the imported goods in the Republic.

(3) For the purposes of subsection (1) (e) or (2) (a), goods which are exported to the Republic from any country but pass in transit through another country shall, subject to such conditions as may be prescribed by rule, be deemed to have been exported direct from the first-mentioned country.

[Sub-s. (3) substituted by s. 50 of Act 45 of 1995.]

(4) For the purposes of subsection (1) (e) or (2) (a), the port or place of export referred to therein shall be the place in the country of exportation where the goods in question-

- (a) are packed in a container as defined in section 1 (2) or, if not so packed in a container, placed on board ship or on any vehicle which conveys them from or across the border of that country; or
- (b) if they are ships or vehicles moving under their own power, finally leave that country for the Republic.

[Sub-s. (4) amended by s. 11 (b) of Act 68 of 1989 and substituted by s. 27 (1) (b) of Act 59 of 1990.]

[S. 67 substituted by s. 6 of Act 85 of 1968, repealed by s. 22 of Act 112 of 1977 and inserted by s. 15 (1) of Act 86 of 1982.]

68

[S. 68 repealed by s. 22 of Act 112 of 1977.]

69 Value for excise duty purposes

(1) (a) For the purpose of assessing the excise duty on any goods manufactured in the Republic and specified in Section B of Part 2 of Schedule 1, the value thereof shall, subject to the provisions of this section, be taken to be

the full and final market price (before deduction of any discounts other than cash discounts) at which, at the time of sale, such or similar goods are freely offered for sale, for consumption in the Republic, for purposes of trade in the principal markets of the Republic in the ordinary course of trade, in the usual wholesale quantities and in the condition and the usual packing ready for sale in the retail trade, to any merchant wholesaler in the Republic not deemed to be related as specified in section 66 (2) (a) under fully competitive conditions, plus the cost of packing and packages and all other expenses incidental to placing the goods on any vehicle for delivery to the purchaser, plus any non-rebated excise duty payable in terms of Section A of Part 2 of Schedule 1 on such goods, but excluding the non-rebated excise duty payable in terms of Section B of Part 2 of Schedule 1 or any value-added tax payable on such goods: Provided that the Commissioner may, where such goods are not sold to such merchant wholesalers in the Republic or are so sold in quantities which he considers to be insignificant in relation to the total quantities of such goods sold in the Republic, regard any other class of purchaser of such goods as such a merchant wholesaler and may make such adjustment to the price charged by the manufacturer to such class of purchaser as he considers reasonable, having regard to the wholesale functions taken over by such manufacturer and such class of purchaser and to such other factors relating to such price as he may deem relevant.

[Para. (a) amended by s. 3 (a) of Act 105 of 1992 and by s. 6 (a) of Act 98 of 1993.]

(b)

[Para. (b) deleted by s. 3 (b) of Act 105 of 1992.]

(c) For the purposes of this subsection the Commissioner may specify-

- (i) the quantity which shall be deemed to be the usual wholesale quantity;
- (ii) the packing which shall be deemed to be the usual packing ready for sale in the retail trade;
- (iii) the cost of packing or packages or any other expenses incidental to placing the goods on any vehicle.

[Sub-para. (iii) substituted by s. 6 (b) of Act 98 of 1993.]

(2) (a) (i) For the purpose of assessing the excise duty on any goods specified in Section A of Part 2 of Schedule 1 (other than goods specified in items 117.01.10 and 117.05 to 117.30), the value thereof shall be the price paid or payable for such goods when sold for home consumption in the ordinary

course of trade, in the usual trade packing, where applicable, to any buyers not deemed to be related as specified in section 66 (2) (a), plus any non-rebated excise duty payable in terms of Section B of Part 2 of Schedule 1, but excluding the non-rebated excise duty payable in terms of Section A of Part 2 of Schedule 1, fuel levy or any value-added tax payable on such goods.

(ii) For the purpose of assessing the excise duty on any goods specified in items 117.01.10 and 117.05 to 117.30 of Section A of Part 2 of Schedule 1, the value thereof shall be the price paid or payable for such goods when sold for home consumption in the ordinary course of trade to any buyers not deemed to be related as specified in section 66 (2) (a), plus any non-rebated excise duty payable in terms of Section B of Part 2 of Schedule 1, but excluding any value-added tax payable on such goods.

[Para. (a) substituted by s. 1 (1) of Act 111 of 1991 and by s. 3 (c) of Act 105 of 1992.]

(b) For the purpose of paragraph (a) 'price paid or payable', means the total payment made or to be made, either directly or indirectly, by the buyer to or for the benefit of the seller for the goods, but does not include dividends or other payments passing from the buyer to the seller which do not directly relate to the goods.

(3) If in the opinion of the Commissioner goods are sold or otherwise disposed of under such conditions that the value thereof cannot be ascertained in terms of subsection (1) (a) or (2), as the case may be, the Commissioner may determine a value, which shall, subject to the right of appeal to the court, be deemed to be correct for the purposes of this Act, and any amount due in terms of any such determination shall remain payable as long as such determination remains in force.

[Sub-s. (3) substituted by s. 6 (c) of Act 98 of 1993.]

(4) The Commissioner may whenever he deems it expedient amend or withdraw any such determination and make a new determination with effect from-

- (a) the date of first entry of the goods in question;
- (b) the date of the determination made under subsection (3);
- (c) the date of such new determination; or
- (d) the date of such amendment.

(5) (a) An appeal against any such determination shall lie to the division of the Supreme Court of South Africa having jurisdiction to hear appeals in the area

in which the determination was made, or the goods in question were entered for home consumption.

(b) Such appeal shall, subject to section 96 (1), be prosecuted within a period of one year from the date of the determination.

[Para. (b) substituted by s. 6 of Act 44 of 1996.]

[S. 69 amended by s. 22 of Act 105 of 1969, by s. 6 of Act 93 of 1978, by s. 9 of Act 101 of 1985 and by s. 7 (1) of Act 69 of 1988 and substituted by s. 12 (1) of Act 68 of 1989.]

70

[S. 70 repealed by s. 7 of Act 85 of 1968, inserted by s. 23 of Act 105 of 1969, amended by s. 9 (1) of Act 105 of 1976, by s. 23 (1) of Act 112 of 1977, by s. 7 (1) of Act 93 of 1978 and by s. 16 (1) of Act 86 of 1982 and repealed by s. 28 of Act 59 of 1990.]

71 Value of certain specified goods

(1) The value for duty purposes of any goods imported into the Republic ex customs warehouses or ex bonded warehouses within the district of Maputo shall be calculated or determined in accordance with this Chapter as if such goods were imported directly into the Republic from the territory whence they were exported to Maputo.

[Sub-s. (1) substituted by s. 10 of Act 105 of 1976.]

(2) Where any motor vehicle is imported by a natural person for his own use and not for sale, the Commissioner may, notwithstanding the provisions of section 65 (1) and (4) but with due regard to the provisions of section 66, determine a value which shall, subject to a right of appeal to the court, *mutatis mutandis* in accordance with the provisions of section 65 (6), be deemed to be the value for duty purposes of such vehicle: Provided that where any natural person who was the owner of and has used such motor vehicle in any territory outside the Republic, imports such vehicle into the Republic, from a territory other than the territory in which it was produced or manufactured, for his own use, and not for sale, the Commissioner may determine the value for duty purposes of such vehicle as if it were imported into the Republic from the territory in which it was produced or manufactured.

[Sub-s. (2) amended by s. 5 of Act 89 of 1984 and by s. 4 of Act 105 of 1992.]

72 Value of goods exported

(a) For the purposes of this Act, the value of any goods exported from the Republic shall be the price of those goods free on board at the place of despatch from the Republic, which value shall be declared on the bill of entry export.

(b) If there is no such free on board price, the value determined by the Commissioner shall be regarded as the value for the said purposes.

(c) If the value of any exported goods of a single denomination is, according to the provisions of this section-

- (i) in excess of one rand and includes a fraction of a rand, such value shall be calculated to the nearest rand, an amount in excess of fifty cents being regarded as one rand;
- (ii) less than one rand, such value shall be calculated as one rand.

[Para. (c) added by s. 11 of Act 105 of 1976 and substituted by s. 11 of Act 98 of 1980.]

73 Currency conversion

(1) When the value of or the price paid or payable for any imported goods is expressed in a foreign currency, it shall, for the purpose of calculating the customs value thereof, be converted into the currency of the Republic at the selling rate at the date of shipment of the goods as determined by the Commissioner, in consultation with the South African Reserve Bank, or if no such rate is determined for such date, the latest rate determined before that date shall be used.

(2) For the purposes of subsection (1) the date of shipment of-

- (a) non-containerized goods shall be the date of the bill of lading, air waybill, consignment note or such other document as the Commissioner may require;
- (b) containerized goods shall be the date on which the container is taken on board ship as endorsed on the bill of lading or arrival notification or, if imported otherwise than by sea, the date of the airway bill, consignment note or such other document as the Commissioner may require.

[S. 73 substituted by s. 24 of Act 112 of 1977, by s. 9 of Act 110 of 1979 and by s. 51 of Act 45 of 1995.]

74 Value of goods not liable to ad valorem duty

(1) Subject to the provisions of subsection (2), the customs value of any imported goods shall be declared by the importer on entry of such goods.

[Sub-s. (1) substituted by s. 25 of Act 112 of 1977 and by s. 17 (1) of Act 86 of 1982.]

(2) The Commissioner may by rule exempt, to the extent specified in the rules, any class or kind of such goods or any such goods to which circumstances so specified apply, from the provisions of subsection (1).

[Sub-s. (2) substituted by s. 52 of Act 45 of 1995.]

74A Interpretation of sections 65, 66 and 67

(1) The interpretation of sections 65, 66, and 67 shall be subject to the agreement concluded at Geneva on 12 April 1979 and known as the Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade, the Interpretative Notes thereto, the Advisory Opinions, Commentaries and Explanatory Notes, Case Studies and Studies issued under the said Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade.

[Sub-s. (1) substituted by s. 10 (a) of Act 101 of 1985.]

(2) (a) The Commissioner shall obtain and keep in his office two copies of such Agreement, Interpretative Notes, Advisory Opinions, Commentaries and Explanatory Notes, Case Studies and Studies and shall effect thereto any amendment thereof of which he is notified by the Secretariat of the Customs Co-operation Council, Brussels.

(b) Whenever in any legal proceedings any question arises as to the contents of the said Agreement, or any such Interpretative Note, Advisory Opinion, Commentary, Explanatory Note, Case Study or Study (hereinafter in this paragraph referred to as the relevant document), or as to the date upon which any amendment thereof was effected thereto in terms of paragraph (a), a copy of the relevant document, or if amended as contemplated in paragraph (a), a copy of the relevant document as so amended, shall, unless the contrary is proved, be accepted as sufficient evidence of the contents thereof or of the effective date of any amendment thereof, as the case may be.

[Sub-s. (2) substituted by s. 10 (b) of Act 101 of 1985.]

(3) The provisions of subsection (1) shall not derogate from the interpretation which would but for that subsection be given to section 65, 66 or 67.

[S. 74A inserted by s. 26 of Act 112 of 1977 and substituted by s. 18 (1) of Act 86

of 1982.]

CHAPTER X
REBATES, REFUNDS AND DRAWBACKS OF DUTY (ss 75-77)

75 Specific rebates, drawbacks and refunds of duty

(1) Subject to the provisions of this Act and to any conditions which the Commissioner may impose-

- (a) any imported goods described in Schedule 3 shall be admitted under rebate of any customs duties applicable in respect of such goods at the time of entry for home consumption thereof, to the extent and for the purpose or use stated in the item of Schedule 3 in which they are specified;
- (b) any imported goods described in Schedule 4 shall be admitted under rebate of any customs duties applicable in respect of such goods at the time of entry for home consumption thereof, to the extent stated in, and subject to compliance with the provisions of, the item of Schedule 4 in which such goods are specified;

[Para. (b) substituted by s. 13 (1) (a) of Act 68 of 1989.]

- (c) a drawback or a refund of the ordinary customs duty, anti-dumping duty, countervailing duty, safeguard duty, surcharge and fuel levy actually paid on entry for home consumption on any imported goods described in Schedule 5 shall, subject to the provisions of paragraph (f) (i), be paid to the person who paid such duties or any person indicated in the notes to the said Schedule, subject to compliance with the provisions of the item of the said Schedule in which those goods are specified;

[Para. (c) substituted by s. 27 (a) of Act 112 of 1977, by s. 23 (a) of Act 84 of 1987 and by s. 13 (a) of Act 61 of 1992.]

- (d) in respect of any excisable goods or fuel levy goods described in Schedule 6, a rebate of the excise duty specified in Part 2 of Schedule 1 or of the fuel levy specified in Part 5 of Schedule 1 in respect of such goods at the time of entry for home consumption thereof or a refund of the excise duty or fuel levy actually paid at the time of entry for home consumption shall, subject to the provisions of paragraph (f) (i), be granted to the extent and in the circumstances stated in the item of Schedule 6 in which such goods are specified, subject to compliance with the provisions of the said item and any refund under this paragraph may be paid to the

person who paid the duty or any person indicated in the notes to the said Schedule 6;

[Para. (d) substituted by s. 23 (b) of Act 84 of 1987.]

(e)

[Para. (e) added by s. 24 (a) of Act 105 of 1969 and deleted by s. 29 (1) (a) of Act 59 of 1990.]

(f) (i) a refund of the ordinary customs duty, anti-dumping duty, countervailing duty, safeguard duty, surcharge or fuel levy leviable on any distillate fuel shall be granted to the extent stated in item 533.01 or 540.02 of Schedule 5 in which such fuel is specified, subject to compliance with the provisions of the said item, or a refund of the excise duty or fuel levy leviable on such fuel shall be granted to the extent stated in item 609.05.10 or 640.03 of Schedule 6 in which such fuel is specified, subject to compliance with the provisions of the said item, and any refund under this paragraph may be paid to any user who has purchased and used such distillate fuel in accordance with the provisions of the said items of Schedule 5 or 6 or to any person indicated in the notes to the said Schedule 5 or 6: Provided that no such refund shall be paid to the State or any government, department, administration or any body, institution or authority mentioned in the notes to the said Schedule 5 or 6;

[Sub-para. (i) amended by s. 29 (1) (b) of Act 59 of 1990 and by s. 13 (b) of Act 61 of 1992.]

(ii) notwithstanding the provisions of subparagraph (i), the Commissioner may investigate any such purchase or use to establish whether such fuel has been duly entered or is deemed to have been duly entered in terms of this Act or has been so used and may refuse to allow or pay any such refund if he is not satisfied that such fuel has been so entered or used;

Sub-para. (ii) substituted by s. 53 (a) of Act 45 of 1995.]

(iii) any such distillate fuel purchased shall be deemed to have been used in the order of the dates of such purchases;

(iv) the extent of the refund referred to in subparagraph (i) shall be the rate of such refund specified in such item of Schedule 5 or

6 in operation on the date of issue of the invoice concerned, referred to in subsection (4A)(b)(ii);

[Sub-para. (iv) substituted by s. 8 (1) (a) of Act 69 of 1988.]

- (v) if the extent of such refund is amended and for any reason any liability to repay any refund of duty or fuel levy in respect of any quantity of fuel which the user may incur cannot be assessed or the amount of duty or fuel levy refundable to such user in terms of any item of Schedule 5 or 6 cannot be calculated on any quantity of such fuel purchased by such user before such amendment, the quantity of such fuel in respect of any refund which the user is liable to repay, or the quantity used in accordance with any such item for the calculation of the amount refundable to such user, shall be determined by the Commissioner according to the information at his disposal;

[Sub-para. (v) added by s. 8 (1) (b) of Act 69 of 1988.]

[Para. (f) added by s. 23 (c) of Act 84 of 1987.]

(g)

[Para. (g) added by s. 23 (c) of Act 84 of 1987, amended by s. 8 of Act 69 of 1988 and deleted by s. 53 (b) of Act 45 of 1995.]

(1A) (a) Notwithstanding anything to the contrary in this Act contained, the Commissioner may, subject to such conditions, including conditions as to the registration of the person concerned, as he may in each case impose, allow in respect of any refund referred to in subsection (1) (f) (i) any person to grant a provisional refund of duty and fuel levy to any registered user of distillate fuel who purchases such fuel from that person.

[Para. (a) substituted by s. 53 (c) of Act 45 of 1995.]

(b) Any such provisional refund shall be granted in accordance with an estimate of intended use furnished by such user to the person concerned.

(c) The Commissioner may pay to such person or allow him to set off in terms of section 77 against duty or fuel levy for which he is liable, any amount which he granted to such registered user at such times and on furnishing of such particulars as the Commissioner may specify.

(d) Any amount paid in error by the Commissioner to such person shall be recoverable from such person as provided in section 76A.

(e) The Commissioner may cancel the said registration of such person if such person claims or receives any amount or payment to which he is not entitled.

(f) Any provisional refund granted by such person to such user shall, subject to the provisions of paragraphs (g), (h) and (i), be deemed to be a refund paid by the Commissioner in terms of subsection (1) (f) (i).

(g) (i) Any user who has been granted such a provisional refund shall, in relation to the actual use by him of the fuel concerned, furnish the Commissioner at such times as may be prescribed in the notes to item 609.00, with a declaration in such form and supported by such documents as may be prescribed in such notes.

[Sub-para. (i) substituted by s. 53 (d) of Act 45 of 1995.]

(ii) Such declaration shall be deemed to be an application for a refund referred to in subsection (4A) (b) (i).

(h) (i) If the provisional refund granted to the user concerned either exceeds or falls short of any amount refundable in terms of item 533.01 or 540.02 of Schedule 5 or item 609.05.10 or 640.03 of Schedule 6, such excess shall be paid by that user upon demand by the Commissioner and any shortfall shall be refunded by the Commissioner to him.

[Sub-para. (i) has been substituted by s. 53 (e) of Act 45 of 1995.]

(ii) If that user fails to pay the amount demanded in terms of subparagraph (i), such amount shall be recoverable in terms of section 76A.

(i) Any user of fuel who has been granted a provisional refund and who fails to comply with the provisions of paragraph (g) shall be deemed to have used such fuel for a purpose or use other than the purpose or use stated in the items of Schedule 5 or 6 referred to in paragraph (h), and the amount of such refund shall be deemed to be a refund not duly payable to such user and shall be recoverable in terms of section 76A.

[Sub-s. (1A) inserted by s. 8 (1) (d) of Act 69 of 1988.]

(2) A rebate of duty in respect of any goods described in Schedule 3 shall be allowed-

- (a) only in respect of goods entered for use in the production or manufacture of goods in the industry and for the purpose specified in the item of the said Schedule in which those goods are specified;

(b) only in respect of goods entered for use-

(i) in a factory which is registered under the Machinery and Occupational Safety Act, 1983 (Act 6 of 1983);

[Sub-para. (i) substituted by s. 29 (1) (c) of Act 59 of 1990.]

(ii) in a mine or works as defined in section 1 of the Mines and Works Act, 1956 (Act 27 of 1956); or

(iii) elsewhere in any other activity which the Commissioner may approve for the purposes of this subparagraph;

[Sub-para. (iii) substituted by s. 53 (f) of Act 45 of 1995.]

[Para. (b) substituted by s. 19 (a) of Act 86 of 1982 and by s. 9 (1) (a) of Act 52 of 1986.]

(c) only in respect of goods entered for use in such industry in a factory, mine, works or activity which complies with such requirements in respect of quantity of material used or quantity of goods produced or manufactured as the Commissioner may impose in consultation with the Board of Trade and Industries.

[Para. (c) substituted by s. 19 (b) of Act 86 of 1982 and by s. 9 (1) (b) of Act 52 of 1986.]

(3)

[Sub-s. (3) deleted by s. 19 (c) of Act 86 of 1982.]

(4) Notwithstanding the provisions of section 56, 56A or 57, a rebate of any anti-dumping duty, countervailing duty or safeguard duty specified in Schedule 2 in respect of any goods entered under the provisions of any item specified in Schedule 3 or 4 may be granted if it is expressly stated in such item of Schedule 3 or 4 that the extent of the rebate includes such anti-dumping duty, countervailing duty or safeguard duty.

[Sub-s. (4) substituted by s. 27 (b) of Act 112 of 1977 and by s. 13 (c) of Act 61 of 1992.]

(4A) (a) No person shall be entitled to a refund of customs or excise duty or fuel levy on any distillate fuel in terms of the provisions of item 533.01 or 540.02 of Schedule 5 or item 609.05.10 or 640.03 of Schedule 6 unless he is registered as a user of such fuel with the Commissioner.

(b) (i) Any application for refund of such duty or levy shall be in such form and shall declare such particulars and be supported by such documents and shall be for such quantities and for such periods as may be prescribed in the notes to item 609.00.

(ii) Any seller of such fuel shall furnish any such user with an invoice reflecting the particulars, and shall keep a copy of such invoice for such time, as may be prescribed in the notes to item 609.00.

[Para. (b) substituted by s. 53 (g) of Act 45 of 1995.]

(c) Any registered user shall complete and keep such books, accounts and documents and furnish at such times such particulars of the ship, vehicle, machinery or other equipment in which such fuel is used or any other particulars as may be prescribed in the notes to item 609.00.

[Para. (c) substituted by s. 53 (g) of Act 45 of 1995.]

(d) Notwithstanding anything to the contrary in this Act contained, any user of such fuel who has been granted such refund and who fails to forthwith furnish an officer at his request with the books, accounts and documents required in the notes to item 609.00 to be completed and kept in respect of the use of any distillate fuel purchased by him shall be deemed to have used such distillate fuel for a purpose or use other than a purpose or use stated in the items of Schedule 5 or 6 referred to in paragraph (a) and the use declared in the relevant application for refund and shall pay on demand to the Commissioner the full amount of any refund granted to him in respect of such fuel or such portion thereof as the Commissioner may determine, during a period of two years prior to the date of such request by such officer, failing which such amount or such portion shall be recoverable in terms of this Act as if it were the duty or levy concerned.

[Para. (d) substituted by s. 53 (g) of Act 45 of 1995.]

(e) The Commissioner may refuse to register, as provided in paragraph (a), any person mentioned in that paragraph, or cancel such registration, if such person fails to complete, keep or furnish such accounts, books or documents as may be prescribed in the notes to item 609.00, or claims or receives any refund or payment to which he is not entitled in terms of the said items of Schedule 5 or 6.

[Para. (e) substituted by s. 53 (g) of Act 45 of 1995.]

[Sub-s. (4A) inserted by s. 10 (a) of Act 110 of 1979, substituted by s. 6 (a) of Act 89 of 1984, amended by s. 11 (1) (a) of Act 101 of 1985 and substituted by s. 23

(d) of Act 84 of 1987.]

(5) (a) (i) In addition to any liability for duty incurred by any person under any other provision of this Act, the person who enters any goods for use by him under rebate of duty or any person on whose behalf any goods are so entered, shall, subject to the provisions of subsections (6) and (18) of this section and section *forty-five*, be liable for the duty on all goods so entered which have not been used or which have been disposed of otherwise than in accordance with the provisions of this section and of the item under which they were so entered, as if such rebate of duty did not apply to such goods and such person shall pay such duty on demand by the Commissioner: Provided that the Commissioner may, if such goods were used in accordance with any other item relating to rebate of duty, accept duty on such goods as if they were entered under such other item: Provided further that the Commissioner may permit any duty paid on entry of such goods under rebate to be deducted from any duty for which any person becomes liable in terms of this paragraph.

[Sub-para. (i) amended by s. 53 (h) of Act 45 of 1995.]

(ii) The Controller may at any time take stock of goods entered for home consumption and stored on any premises registered by virtue of subsection (10), and duty shall, subject to the provisions of subparagraph (i), be paid forthwith on demand upon any deficiency detected.

[Sub-para. (ii) added by s. 10 (b) of Act 110 of 1979.]

(iii) If the stock is found to be greater than the quantity which should be on such premises, the excess shall be debited to stock.

[Sub-para. (iii) added by s. 10 (b) of Act 110 of 1979.]

[Para. (a) substituted by s. 13 (a) of Act 95 of 1965 and amended by s. 9 (a) of Act 71 of 1975.]

(b) Any person to whom any distillate fuel or residual fuel oil has been supplied from stocks which have been entered under rebate of duty for a purpose stated in the item under which such distillate fuel or residual fuel oil was so entered, and who applies such distillate fuel or residual fuel oil or any portion thereof for any other purpose, shall be guilty of an offence and shall, notwithstanding the provisions of paragraph (a), be liable for the duty to the extent of the rebate allowed on entry for home consumption of such distillate fuel or residual fuel oil on the full quantity of the distillate fuel or residual fuel oil so supplied to him or on such portion thereof as the Commissioner may determine: Provided that if the duty in question has after such entry under rebate been increased, the extent of such rebate shall be deemed to be-

- (a) the difference between the duty actually paid on entry for home consumption and such increased duty; or
- (b) such increased duty if no duty was paid on entry for home consumption.

[Para. (b) amended by s. 27 (c) of Act 112 of 1977, by s. 6 (b) of Act 89 of 1984, by s. 9 (1) (c) of Act 52 of 1986 and by s. 53 (i) of Act 45 of 1995.]

[Para. (b) amended by s. 27 (c) of Act 112 of 1977 and by s. 6 (b) of Act 89 of 1984, by s. 9 (1) (c) of Act 52 of 1986.]

(6) (a) The Commissioner may, on such conditions as he may impose, permit any person who has entered any goods under rebate of duty under this section to use or dispose of any such goods otherwise than in accordance with the provisions of this section and of the item under which such goods were so entered, or to use or dispose of any such goods in accordance with the provisions of any other item to which this section relates, and such person shall thereupon be liable for duty on such goods as if such rebate of duty did not apply or as if they were entered under such other item to which this section relates, as the case may be, and such person shall pay such duty on demand by the Commissioner: Provided that, in respect of any such goods which are specified in any item of Schedule 3, 4 or 6 the Commissioner may, subject to the provisions of or the notes applicable to the item in which such goods are specified and to any conditions which he may impose in each case, exempt any such goods from the whole or any portion of the duty payable thereon under this subsection on the ground of the period or the extent of use in accordance with the provisions of the item under which such goods were entered, or on any other ground which he considers reasonable.

[Para. (a) substituted by s. 24 (b) of Act 105 of 1969 and amended by s. 29 (1) (d) of Act 59 of 1990.]

(b) Any duty paid on any such goods on first entry thereof under rebate of duty shall be deemed to have been paid in respect of any duty payable in accordance with the provisions of paragraph (a) in respect of such goods.

(7) No drawback or refund shall be paid in respect of any goods specified in any item of Schedule 5 or 6 if such goods have been used or disposed of otherwise than in accordance with the provisions of this section and the item in question or if such provisions have not been complied with in respect of such goods: Provided that the Commissioner may, in respect of any class or kind of goods specified in any item of Part 1 of Schedule 5 and used in the manufacture of any goods marketed in the Republic, pay any drawback to the extent stated in such item, where goods of comparable class, kind, quality and quantity and manufactured or produced in the Republic have been used in the manufacture of

any goods exported.

[Sub-s. (7) substituted by s. 24 (c) of Act 105 of 1969 and amended by s. 8 (a) of Act 93 of 1978 and by s. 29 (1) (e) of Act 59 of 1990.]

(7A) Any person to whom a refund of customs or excise duty or fuel levy has been granted on any distillate fuel in terms of the provisions of item 533.01 or 540.02 of Schedule 5 or item 609.05.10 or 640.03 of Schedule 6, as the case may be, and who has disposed of such fuel or has applied such fuel or any portion thereof for any purpose or use otherwise than in accordance with the provisions of such items and the use declared in the relevant application for refund, shall pay on demand to the Commissioner the full amount of any refund granted to him in respect of such fuel or such portion thereof, failing which such amount or such portion shall be recoverable in terms of this Act as if it were the duty or levy concerned.

[Sub-s. (7A) inserted by s. 23 (e) of Act 84 of 1987 and substituted by s. 7 of Act 98 of 1993.]

(8) Wherever the tariff heading or subheading or the tariff item or subitem under which any goods are classified in Schedule 1 is expressly quoted in any item of Schedule 3, 4, 5 or 6 in which such goods are specified, the goods so specified in the said item of Schedule 3, 4, 5 or 6 shall be deemed not to include goods which are not classified under the said tariff heading or subheading or tariff item or subitem.

[Sub-s. (8) substituted by s. 24 (d) of Act 105 of 1969 and by s. 29 (1) (f) of Act 59 of 1990.]

(9) Any goods entered for use under rebate of duty under this section shall, for the purposes of this Act, be deemed to be entered for home consumption, but no entry in respect of any such goods described in Schedule 3 or 4 shall be valid unless the number of the tariff heading and subheading under which such goods are classified in Schedule 1 and the number of the item of Schedule 3 or 4 in which the said goods are specified are both declared on such entry and the industry in which and the purpose for which such goods are to be used, as specified in the said item, are declared on such entry: Provided that the Commissioner may exempt entries in respect of any class or kind of goods from any or all of the requirements of this subsection.

[Sub-s. (9) substituted by s. 13 (b) of Act 95 of 1965 and by s. 24 (e) of Act 105 of 1969 and amended by s. 29 (1) (g) of Act 59 of 1990.]

(10) (a) No goods may be entered or acquired under rebate of duty until the person so entering or acquiring them has furnished such security as the Commissioner may require and has complied with such other conditions

(including registration with the Commissioner of his premises and plant) as may be prescribed by rule or in the notes to Schedule 3, 4 or 6 in respect of any goods specified in any item of such Schedule: Provided that the Commissioner may, subject to such conditions as he may in each case impose, exempt with or without retrospective effect, any such person from the provisions of this subsection.

[Para. (a) amended by s. 53 (j) of Act 45 of 1995.]

(b) Application for such exemption for the purpose of applying for a refund of duty shall be made to the Commissioner within six months from any date specified in section 40 (3) (b) (i), (ii) or (iii), as the circumstances may require.

[Para. (b) added by s. 23 (g) of Act 84 of 1987.]

(c) For the purposes of the application of section 40 (3) to any such exemption-

- (i) any bill of entry passed in relation to goods in respect of which exemption is granted under paragraph (a) of this subsection, shall be deemed to have been passed in error by reason of duty having been paid on goods intended for purposes or use under rebate of duty under section 75;
- (ii) the goods concerned shall be deemed to have qualified at the time duty was paid on such goods in all respects for rebate; and
- (iii) the duty paid on the goods concerned, shall be deemed to have been paid on the date on which the exemption referred to in subparagraph (i) was granted.

[Para. (c) added by s. 23 (g) of Act 84 of 1987.]

[Sub-s. (10) substituted by s. 13 (c) of Act 95 of 1965 and by s. 24 (f) of Act 105 of 1969 and amended by s. 23 (f) of Act 84 of 1987 and by s. 29 (1) (h) of Act 59 of 1990.]

(11) Notwithstanding anything to the contrary in this Act contained, the Commissioner may, in respect of Schedule 5 or 6 for the purpose of calculating the amount of duty refundable on any imported or excisable goods or fuel levy goods used in the manufacture, reconditioning, mixing or blending of any goods exported or marketed in the Republic, determine the quantity of such exported goods or such goods marketed in the Republic which shall be deemed to have been produced, reconditioned, mixed or blended from a given quantity of such imported or excisable goods or fuel levy goods or the quantity of such imported or excisable goods or fuel levy goods which shall be deemed to have been used

in the production, reconditioning, mixing or blending of a given quantity of such exported goods or such goods marketed in the Republic.

[Sub-s. (11) substituted by s. 13 (d) of Act 95 of 1965, by s. 24 (g) of Act 105 of 1969, by s. 23 (h) of Act 84 of 1987 and by s. 29 (1) (i) of Act 59 of 1990.]

(12) No goods manufactured from excisable goods under rebate of duty specified in any item of Schedule 6 shall be used in the place of such excisable goods in the manufacture of any other goods if a rebate of duty to a lesser extent has been specified in any item of the said Schedule in respect of such excisable goods when used in the manufacture of such other goods.

(13) If any goods, not being a spirituous beverage, manufactured from spirits under rebate of excise duty in terms of any formula approved by the Commissioner under any item of Schedule 6, are used as a beverage, he may forthwith revoke his approval of such formula.

[Sub-s. (13) substituted by s. 53 (k) of Act 45 of 1995.]

(14) No refund or drawback of duty shall be paid by the Commissioner under the provisions of this section unless an application therefor, duly completed and supported by the necessary documents and other evidence to prove that such refund or drawback is due under this section is received by the department-

(a) in the case of goods exported-

- (i) where the goods were exported by post, within a period of six months from the date on which such goods were posted; or
- (ii) where the goods were exported in any other manner, within a period of six months from the date of entry of such goods for export; and

[Para. (a) substituted by s. 10 (a) of Act 57 of 1966.]

- (b) (i) in respect of any refund referred to in subsection (1) (f), within a period of six months from the last date of any period of use of any distillate fuel to which the application for such refund relates: Provided that no refund shall be paid if the quantity of distillate fuel to which the application for such refund relates is less than such quantity as may be prescribed in the notes to item 609.00; and

[Sub-para. (i) amended by s. 53 (l) of Act 45 of 1995.]

- (ii) in all other cases, within a period of six months from the date on which such refund first becomes due.

[Para. (b) substituted by s. 19 (d) of Act 86 of 1982 and by s. 23 (i) of Act 84 of 1987.]

Provided that the Commissioner may, in such circumstances as he may consider exceptional, pay a refund or drawback after expiration of the relevant period.

(14A)

[Sub-s. (14A) inserted by s. 6 (c) of Act 89 of 1984, substituted by s. 23 (j) of Act 84 of 1987, amended by s. 13 of Act 61 of 1992 and deleted by s. 53 (m) of Act 45 of 1995.]

(14B) (a) Any Minister, other than the Minister of Finance, any Director-General mentioned in the second column of Schedule 1 to the Public Service Act, 1994 (Proclamation 103 of 1994), and designated by such Minister, or any official of any institution involved, or the Commissioner, may, in respect of goods which may, in terms of any item of Schedule 3, 4, 5 or 6, be entered under rebate of duty or be subject to a drawback or a refund of duty, issue, subject to such conditions as such Minister, Director-General or official or the Commissioner may specify, with or without retrospective effect, a permit or certificate authorizing entry of those goods under rebate of duty, or authorizing a drawback or a refund of duty in accordance with the provisions of the item concerned, provided where the permit or certificate concerned is issued with retrospective effect, the provisions of such item and such conditions have been complied with.

[Para. (a) substituted by s. 53 (n) of Act 45 of 1995.]

(b) For the purposes of section 40 (3)-

- (i) any bill of entry passed in relation to goods in respect of which a permit or certificate is issued under paragraph (a), shall be deemed to have been passed in error by reason of duty having been paid on goods intended for purposes or use under rebate of duty under this section;
- (ii) the goods in respect of which such a permit or certificate is issued, shall be deemed to have qualified at the time duty was paid on such goods, in all respects for rebate; and
- (iii) the duty paid on the goods concerned, shall be deemed to have been paid on the date on which the permit or certificate referred to in paragraph (a) was issued.

[Para. (b) substituted by s. 53 (n) of Act 45 of 1995.]

(c) Application for such permit or certificate shall be made to the Minister, Director-General or official of the institution referred to in paragraph (a) of this subsection or the Commissioner within six months from any date specified in section 40 (3) (b) (i), (ii) or (iii), as the circumstances may require.

[Sub-s. (14B) inserted by s. 23 (k) of Act 84 of 1987.]

(15) (a) The Minister may from time to time by notice in the *Gazette* amend Schedule 3, 4, 5 or 6 in order to give effect to any request by the Minister of Trade and Industry and for Economic Co-ordination or whenever he deems it expedient in the public interest to do so.

[Para. (a) substituted by s. 24 (h) of Act 105 of 1969, by s. 29 (1) (j) of Act 59 of 1990 and by s. 13 (e) of Act 61 of 1992.]

(aA) The Minister may, whenever he deems it expedient in the public interest to do so-

- (i) by like notice amend any such Schedule with retrospective effect from such date as he may specify in that notice; or
- (ii) by like notice declare any amendment made under paragraph (a) to apply with retrospective effect from such date as he may specify in that notice.

[Para. (aA) inserted by s. 10 (c) of Act 110 of 1979 and substituted by s. 23 (l) of Act 84 of 1987.]

(b) An amendment made under paragraph (a) which repeals any existing provision in Schedule 5 or which excludes any goods from any existing provision of that Schedule, shall not apply in respect of goods, excluding distillate fuels referred to in item 533.01 or 540.00 of Schedule 5, which were imported prior to the date of the relevant notice in the *Gazette*, and an amendment made under the said paragraph which embodies any additional provision in that Schedule or applies any existing provision of that Schedule in respect of additional goods, shall not, except in so far as the Commissioner so directs and subject to such conditions as he may determine, apply in respect of goods which were imported prior to the date of the relevant notice in the *Gazette*.

[Para. (b) added by s. 10 (b) of Act 57 of 1966 and substituted by s. 23 (m) of Act 84 of 1987.]

(16) The provisions of section 48 (6) shall *mutatis mutandis* apply in respect of any amendment made under the provisions of subsection (15).

[Sub-s. (16) substituted by s. 23 (n) of Act 84 of 1987 and by s. 10 of Act 19 of 1994.]

(17) The Commissioner may refuse to accept an entry under rebate or an application for drawback or refund under any item of Schedule 3, 4, 5 or 6 from any person who has persistently contravened or failed to comply with the provisions of this Act or who has committed an offence referred to in section 80, 83, 84, 85 or 86 and he may cancel any registration under the provisions of this Act of such person or suspend any such registration for such period as he may deem fit.

[Sub-s. (17) substituted by s. 8 (a) of Act 85 of 1968, by s. 24 (i) of Act 105 of 1969 and by s. 29 (1) (k) of Act 59 of 1990.]

(18) Subject to the provisions of the proviso to section 20 (5) and items 412.07, 412.08, 412.09, 531.00, 532.00, 608.01, 608.02, 608.03, 608.04, 615.01, 615.02 and 615.03 of Schedules 4, 5 and 6 no rebate or refund of duty in respect of any loss or deficiency of any nature of any goods shall be allowed, but the Commissioner may allow the deduction from the dutiable quantity of the undermentioned goods of a quantity equal to the percentage stated below in each case, namely-

- (a) in the case of wine spirits (ethyl alcohol) manufactured in the Republic and entered for storage in a customs and excise storage warehouse, excluding spirits specified in paragraph (bA), 1,5 per cent of the quantity so entered;

[Para. (a) substituted by s. 11 (1) (b) of Act 101 of 1985.]

- (b) in the case of spirits (ethyl alcohol), other than wine spirits, manufactured in the Republic, 1,5 per cent, of the quantity so manufactured and entered for use in making spirituous beverages;

- (bA) in the case of unpacked excisable spirits intended for export and which are removed in bond from a customs and excise manufacturing warehouse for temporary storage in a customs and excise warehouse approved for that purpose, such percentage, but not exceeding 1,25 per cent, of the quantity so removed as may represent a loss incurred while the spirits in question are so removed and stored for such period as the Commissioner may determine;

[Para. (bA) inserted by s. 11 (1) (c) of Act 101 of 1985 and substituted by s. 53 (o) of Act 45 of 1995.]

(c) in the case of wine manufactured in the Republic, 0,5 per cent, of the quantity so manufactured on which duty is paid;

(cA) in the case of any fermented apple, pear or orange beverage manufactured in the Republic, 0,5 per cent of the quantity so manufactured on which duty is paid;

[Para. (cA) inserted by s. 8 (b) of Act 93 of 1978.]

(d) in the case of imported crude petroleum naphtha for use in the refining of petroleum products, or imported or excisable petrol, a percentage equal to the full net loss incurred but not exceeding 0,25 of any quantity entered for storage and stored in a customs and excise storage warehouse during such period as the Commissioner may determine: Provided that only the owner of a warehouse referred to in section 61 (4) shall be entitled to such deduction;

[Para. (d) substituted by s. 8 of Act 103 of 1972, by s. 11 (1) (d) of Act 101 of 1985 and by s. 23 (o) of Act 84 of 1987.]

(dA) in the case of imported petroleum naphtha entered for use as fuel in the manufacture of ammonia, such percentage, but not exceeding 0,25, of any quantity so entered as may represent a loss by evaporation;

[Para. (dA) inserted by s. 9 (b) of Act 71 of 1975 and substituted by s. 53 (p) of Act 45 of 1995.]

(e) in the case of imported or excisable petrol, distillate fuels or residual fuel oils, such percentage of any quantity removed in bond unpacked by ship from one place in the Republic to another place in the Republic, as the Commissioner may determine, or, where no such percentage has been so determined, a percentage equal to the full net loss incurred while the goods in question are so removed;

[Para. (e) substituted by s. 11 (1) (e) of Act 101 of 1985 and by s. 53 (p) of Act 45 of 1995.]

(f) in the case of distillate fuels entered for storage and stored in a customs and excise storage warehouse, a percentage equal to the full net loss incurred but not exceeding 0,15 of any quantity so entered and stored in such warehouse during such period as the Commissioner may determine: Provided that only the owner of a warehouse referred to in section 61 (4) shall be entitled to such

deduction.

[Para. (f) added by s. 23 (p) of Act 84 of 1987.]

[Sub-s. (18) substituted by s. 13 (e) of Act 95 of 1965 and amended by s. 24 (j) of Act 105 of 1969, by s. 2 of Act 68 of 1973, by s. 13 (1) (b) of Act 68 of 1989 and by s. 29 (1) (l) of Act 59 of 1990.]

(19) No person shall, without the permission of the Commissioner, divert any goods entered under rebate of duty under any item of Schedule 3, 4 or 6 for export for the purpose of claiming a drawback or refund of duty under any item in Schedule 5 or 6 to a destination other than the destination declared on such entry or deliver such goods or cause such goods to be delivered in the Republic otherwise than in accordance with the provisions of this Act and, in the case of goods entered under rebate of duty, otherwise than to the person who entered the goods or on whose behalf the goods were entered.

[Sub-s. (19) added by s. 13 (f) of Act 95 of 1965 and substituted by s. 24 (k) of Act 105 of 1969 and by s. 29 (1) (m) of Act 59 of 1990.]

(20) If any goods to which this section relates are used or disposed of, or dealt with or in, contrary to the provisions of this Act, the whole consignment entered or transferred for use in terms of the provisions of this section, of which such goods form part or formed part, or any goods manufactured therefrom, shall be liable to forfeiture.

[Sub-s. (20) added by s. 8 (b) of Act 85 of 1968.]

(21) Except with the permission of the Commissioner, which shall only be granted in circumstances which he considers to be exceptional and subject to such conditions as he may impose in each case, any goods entered under any item of Schedule 3, 4 or 6 for manufacturing purposes or such other purpose as may be specified in the notes to such item shall be used for the purpose specified in such item at the time of such entry, or such other purpose, within five years from the date of such entry.

[Sub-s. (21) added by s. 8 (b) of Act 85 of 1968 and substituted by s. 24 (l) of Act 105 of 1969, by 29 (1) (n) of Act 59 of 1990 and by s. 53 (q) of Act 45 of 1995.]

76 General refunds in respect of imported goods or excisable goods

(1) No refund of any duty or other charge in respect of imported goods, excisable goods, surcharge goods or fuel levy goods, other than a refund provided for under section 75 or 77, shall be paid or granted except in accordance with the provisions of this section.

[Sub-s. (1) substituted by s. 54 (a) of Act 45 of 1995.]

(2) The Commissioner shall, subject to the provisions of subsection (4), consider any application for a refund or payment from any applicant who contends that he has paid any duty or other charge for which he was not liable or that he is entitled to any payment under this Act by reason of-

- (a) an error in determining an assessment or calculating the amount thereof;
- (b) the duty having been assessed on a value higher than the value for duty purposes;
- (c) a determination under section 47 (9) or incorrect tariff classification;
- (d) the goods concerned having been damaged, destroyed or irrecoverably lost by circumstances beyond his control prior to the release thereof for home consumption;
- (e) all or part of such goods having been shortlanded, shortshipped or shortpacked;
- (f) the substitution of any bill of entry in terms of section 40 (3); or
- (g) the duty having been reduced or withdrawn as provided for in section 48 (2) or (2A), 56 (2), 56A (2) or 57 (2).

[Para. (g) substituted by s. 5 of Act 105 of 1992.]

(3) Except with the permission of the Commissioner, any application for a refund under this section shall not relate to more than one bill of entry or other document in respect of which the alleged overpayment was made.

(4) No application for a refund or payment in terms of this section shall be considered by the Commissioner unless it is received by the Controller, duly completed and in the form as may be prescribed by rule and supported by the necessary documents and other evidence to prove that such refund or payment is due under this section, within a period of two years-

- (a) from the date of entry for home consumption as provided in section 45 (2), of the goods to which the application relates; or
- (aA) from the date on which the charge to which the application relates was paid; or
- (b) in the case where a determination of a tariff heading, tariff

subheading or item referred to in paragraph (a) of section 47 (9) or of a value referred to in paragraph (a) of subsection (4) of section 65 is, under paragraph (d) of the said section 47 (9) or subsection (5) of the said section 65, as the case may be, amended with retrospective effect from a date before or on the date on which the duty to which the application relates was paid, or any such determination is, under the said paragraph (d) or subsection (5), as the case may be, withdrawn with such retrospective effect, and a new determination is thereunder made with effect from such withdrawal, from the date on which such amendment is effected or such new determination is made or, if such amendment or new determination is published by notice in the *Gazette*, the date on which such amendment or new determination is so published; or

- (c) in the case where any Schedule is amended with such retrospective effect, from the date on which such amendment is published by notice in the *Gazette*:

Provided that the Commissioner may, in such circumstances as he may consider exceptional, consider any such application after expiration of such period.

[Sub-s. (4) amended by s. 54 (b) of Act 45 of 1995.]

(5) If, after considering any application for a refund or payment in terms of this section, the Commissioner is satisfied that the applicant is entitled to any such refund or payment, the Commissioner may pay to the applicant the amount due to him: Provided that no refund shall be made under this section if, in the case of goods imported by post, the amount thereof is less than fifty cents or, in the case of goods imported in any other manner, less than five rand or, in the case of excisable goods manufactured in the Republic, less than two rand, unless the Commissioner is satisfied that exceptional circumstances exist which warrant such refund.

[S. 76 amended by s. 9 of Act 85 of 1968, substituted by s. 5 of Act 98 of 1970, amended by s. 10 of Act 71 of 1975, by s. 11 of Act 110 of 1979, by s. 15 of Act 98 of 1980, by s. 20 of Act 86 of 1982, by s. 5 of Act 89 of 1983, by s. 24 (1) of Act 84 of 1987 and by s. 14 of Act 68 of 1989 and substituted by s. 30 of Act 59 of 1990.]

76A Recovery of certain amounts not duly payable

(1) If the Commissioner, purporting to act under the provisions of section 75 or 76, pays to any person by way of a refund or drawback any amount which was not duly payable to that person under those provisions or which was in excess of the amount due to that person by way of a refund or drawback under those provisions, that amount or the excess, as the case may be, shall be repaid

by the person concerned to the Commissioner upon demand, failing which it shall be recoverable in terms of this Act as if it were the duty or charge concerned or part of such duty or charge, as the case may be.

(2) The provisions of subsection (1) shall apply *mutatis mutandis* to any amount set off in terms of section 77 (1) (a).

[Sub-s. (2) added by s. 9 (1) of Act 69 of 1988.]

[S. 76A inserted by s. 25 of Act 84 of 1987.]

76B Limitation on refund claims

(1) Where any person became entitled to any refund of any duty arising from any determination, new determination or amendment of any such determination in terms of section 47 (9), 65 or 69, any such refund shall, notwithstanding the provisions of section 40, 47 (9), 65, 69, 75, 76 or 77 be limited to refunds in respect of goods entered for home consumption during a period of two years immediately preceding the date of such determination, new determination or any amendment of such determination, whichever date occurs last.

(2) Where a person has appealed against any determination, new determination or amendment the period referred to in subsection (1) shall, notwithstanding the fact that a court may amend any determination of the Commissioner, or the Commissioner, as a result of a finding of such court, amends such determination, be calculated from the last date contemplated in subsection (1).

[S. 76B inserted by s. 67 (1) of Act 30 of 1998.]

76C Set-off of refund against amounts owing

Where any refund of duty is in terms of this Act due to any person who has failed to pay any amount of tax, additional tax, duty, levy, charge, interest or penalty levied or imposed under any other law administered by the Commissioner within the period prescribed for payment of the amount, the Commissioner may set off against the amount which the person has failed to pay, any amount which has become refundable to the person in terms of this Act.

[S. 76C inserted by s. 67 (1) of Act 30 of 1998.]

77 Set-off of certain amounts

(a) A licensee of a customs and excise warehouse who, in terms of the

rules, is permitted to pay any duty monthly or quarterly, and who-

- (i) paid any duty for which he was not liable; or
- (ii) granted any provisional refund in terms of section 75 (1A); or
- (iii) becomes entitled to a refund in terms of item 534.00 of Schedule 5 or any item of Schedule 6,

may, subject to the approval of the Commissioner, at any time within a period of two years from the date on which that duty was paid, such provisional refund was granted or such licensee became entitled to such refund, set off such duty, provisional refund or amount refundable against that particular duty for which such licensee subsequently becomes liable, except that the duty refundable in terms of the said item 534.00 be set off against the excise duty specified in Section B of Part 2 of Schedule 1 for which such licensee subsequently becomes liable, provided the monthly or quarterly accounts or bills of entry submitted by such licensee in respect of the payment of any duty against which any duty, provisional refund or amount refundable has been set off are accompanied by a full statement by such licensee, supported by a certificate by an officer, giving full particulars and a full account of the circumstances in respect of such set-off and by such documentary evidence as the Commissioner may in each case require.

[Para. (a) amended by s. 55 of Act 45 of 1995.]

(b) If such set-off is not approved by the Commissioner in terms of paragraph (a), it shall be redebited to the account of such licensee.

[S. 77 substituted by s. 1 of Act 96 of 1967 and by s. 26 of Act 105 of 1969, amended by s. 3 of Act 68 of 1973, by s. 21 (1) of Act 86 of 1982, by s. 26 (1) of Act 84 of 1987 and by s. 10 (1) of Act 69 of 1988 and substituted by s. 31 of Act 59 of 1990.]

CHAPTER XI PENAL PROVISIONS (ss 78-96)

78 Offences not expressly mentioned

(1) Any person who contravenes any provision of this Act or who fails to comply with any such provision with which it is his duty to comply, shall, even where such contravention or failure is not elsewhere declared an offence, be guilty of an offence.

(2) Any person guilty of an offence under this Act shall, where no punishment is expressly provided for such offence, be liable on conviction to a fine not exceeding R8 000 or treble the value of the goods in respect of which

such offence was committed, whichever is the greater, or to imprisonment for a period not exceeding two years, or to both such fine and such imprisonment.

[Sub-s. (2) amended by s. 10 (a) of Act 52 of 1986 and by s. 6 (a) of Act 105 of 1992.]

(3) A person who is convicted of an offence referred to in subsection (2) within a period of three years after he was convicted of any offence referred to in that subsection shall be liable to a fine not exceeding R16 000 or treble the value of the goods in respect of which such offence was committed, whichever is the greater, or to imprisonment for a period not exceeding four years, or to both such fine and such imprisonment.

[Sub-s. (3) amended by s. 10 (b) of Act 52 of 1986 and by s. 6 (b) of Act 105 of 1992.]

79 Less serious offences and their punishment

(1) Any person who-

(a) supplies the means or materials for, or assists in establishing, repairing, maintaining or working any still being made or made, imported, used, set up or in the possession or custody of any person without lawful authority;

(b) is found without lawful excuse in any place where distillation is illegally carried on;

(c)

[Para. (c) deleted by s. 56 of Act 45 of 1995.]

(d)

[Para. (d) deleted by s. 2 of Act 64 of 1974.]

(e) falsely holds himself out to be an officer;

(f) resists or hinders an officer in the exercise of his powers or the performance of his functions under this Act; or

(g) rescues any persons apprehended for any offence under this Act, or prevents the apprehension of any person who has committed any such offence,

shall be guilty of an offence and liable on conviction to a fine not exceeding R8

000 or to imprisonment for a period not exceeding two years, or to both such fine and such imprisonment.

[Sub-s. (1) amended by s. 11 (a) of Act 52 of 1986 and by s. 7 (a) of Act 105 of 1992.]

(2) A person who is convicted of an offence referred to in subsection (1) within a period of three years after he was convicted of any offence referred to in that subsection shall be liable to a fine not exceeding R16 000 or to imprisonment for a period not exceeding four years, or to both such fine and such imprisonment.

[Sub-s. (2) amended by s. 11 (b) of Act 52 of 1986 and by s. 7 (b) of Act 105 of 1992.]

80 Serious offences and their punishment

(1) Any person who-

- (a) has upon his premises or in his custody or under his control, or purchases, sells or otherwise disposes of any illicit goods knowing the same to be illicit goods;
- (b) not being a licensed manufacturer or dealer, without lawful authority has in his possession or custody or under his control any partly manufactured excisable goods or fuel levy goods or excisable goods or fuel levy goods upon which duty has not been paid;

[Para. (b) substituted by s. 27 of Act 105 of 1969, by s. 27 (a) of Act 84 of 1987 and by s. 32 of Act 59 of 1990.]

- (c) removes or assists in or permits the removal of goods in contravention of any provision of this Act;
- (d) deodorizes, clarifies or, prior to sale, reduces the strength of methylated spirits to a strength below a strength of 91.4 per cent absolute alcohol by volume, or prepares or sells or offers for sale or consumption, as a beverage, any preparation containing methylated spirits or spirits recovered from methylated spirits;
- (e) removes or breaks or interferes with any lock, meter, gauge, rod, seal, mark or fastening placed on or fitted to any warehouse, vessel, package, container or other article, place or plant, by an officer under any provision of this Act;
- (f) damages, destroys or disposes of any goods to prevent the

securing or seizure thereof under the provisions of this Act by any officer or other person authorized to secure or seize the same, or takes back any goods which are being detained or have been seized;

(g)

[Para. (g) deleted by s. 28 (a) of Act 112 of 1977.]

(h) without lawful excuse (the proof of which shall lie upon him), brings into the Republic, produces or has in his possession any blank or incomplete invoice or any billhead or other similar document capable of being completed and used as an invoice for goods from outside the Republic;

[Para. (h) substituted by s. 12 (a) of Act 52 of 1986 and by s. 68 (a) of Act 30 of 1998.]

(i) makes improper use of a licence, permit or other document issued in respect of goods to which this Act relates;

(j) claims or receives any rebate, drawback, refund or payment or sets off any amount in terms of the provisions of section 77 (a) to which he knows he is not entitled under this Act;

[Para. (j) substituted by s. 22 of Act 86 of 1982 and by s. 8 (a) of Act 98 of 1993.]

(k) not being authorized to do so, gives or promises to give, directly or indirectly, any reward to an officer or any person employed by the Government, in respect of the performance or non-performance by any such officer or person of his duty or employment under this Act or agrees with or proposes to any such officer or person to do or permit anything in contravention or evasion of this Act;

(l) being an officer or a person employed by the Government, demands or receives, except from or through the Government, any reward in respect of the performance or non-performance of his duty or employment under this Act or by any wilful act, neglect or default does or permits or agrees to do or permit anything in contravention or evasion of this Act;

(m) attempts to commit or assists in committing any offence mentioned in this section;

(n) from any goods made from or containing excisable goods or fuel levy goods extracts or recovers such excisable goods or fuel levy

goods in contravention of the provisions of this Act;

[Para. (n) substituted by s. 27 (b) of Act 84 of 1987.]

- (o) contravenes the provisions of section 18 (13), 18A (9), 20 (4)*bis*, 35A (4), 37 (9), 37A (4) (a), 60 (1), 63 (1), 75 (7A), 75 (19), 88 (1) (bA), 113 (2), 113 (8) (c) or 114 (2A); or

[Para. (o) substituted by s. 10 of Act 85 of 1968, by s. 28 (b) of Act 112 of 1977, by s. 27 (c) of Act 84 of 1987, by s. 8 (b) of Act 98 of 1993 and by s. 68 (b) of Act 30 of 1998.]

- (p) fails to comply with any condition determined under section 107 (2) (a),

[Para. (p) added by s. 7 (b) of Act 89 of 1984.]

shall be guilty of an offence and liable on conviction to a fine not exceeding R20 000 or treble the value of the goods in respect of which such offence was committed, whichever is the greater, or to imprisonment for a period not exceeding five years, or to both such fine and such imprisonment.

[Sub-s. (1) amended by s. 12 (b) of Act 52 of 1986 and by s. 8 of Act 105 of 1992.]

(2) When any person is charged with a contravention of paragraph (a) of subsection (1) he shall, until the contrary is proved, be presumed to have known that the goods in question were illicit goods.

(3) When any person is charged with a contravention of paragraph (j) of subsection (1) he shall, until the contrary is proved, be presumed to have known that he was not entitled to the rebate, drawback, refund or payment concerned.

[Sub-s. (3) added by s. 27 (d) of Act 84 of 1987.]

81 Non-declaration in respect of certain goods

Any person who contravenes or fails to comply with the provisions of section 15, shall be guilty of an offence and liable on conviction to a fine not exceeding R8 000 or treble the value of the goods in question, whichever is the greater, or to imprisonment for a period not exceeding two years, or to both such fine and such imprisonment, and the goods in question and any other goods contained in the same package as well as the package itself shall be liable to forfeiture.

[S. 81 substituted by s. 9 of Act 93 of 1978, amended by s. 13 of Act 52 of 1986,

substituted by s. 33 of Act 59 of 1990 and amended by s. 9 of Act 105 of 1992.]

82 Prohibition with regard to stamps

(1) Any person who without lawful excuse (the onus of proof of which shall be upon him) uses, or has under his control or in his possession, any stamp or makes available to another person any stamp-

(a) which is used under the authority of the Commissioner;

[Para. (a) substituted by s. 34 (1) of Act 34 of 1997.]

(b) the imprint of which is identical to or resembles the imprint of a stamp referred to in paragraph (a) or of any stamp used by a governmental authority in a foreign country under any law of such country relating to customs or excise or to the import or export of goods,

shall be guilty of an offence and liable on conviction to a fine or to imprisonment for a period not exceeding five years or to both such fine and such imprisonment.

(2) Any person who without lawful excuse (the onus of proof of which shall be upon him) manufactures or has in his possession or under his control any stamp the imprint of which depicts the name of a company, firm or other business entity in a foreign country, or any signs or letters which could be reasonably understood to be a reference to such company, firm or business entity, shall be guilty of an offence and liable on conviction to a fine or imprisonment for a period not exceeding five years, or to both such fine and such imprisonment.

[S. 82 repealed by s. 8 of Act 89 of 1984 and inserted by s. 9 of Act 98 of 1993.]

83 Irregular dealing with or in goods

Any person who-

(a) deals or assists in dealing with any goods contrary to the provisions of this Act; or

(b) knowingly has in his possession any goods liable to forfeiture under this Act; or

(c) makes or attempts to make any arrangement with a supplier, manufacturer, exporter or seller of goods imported or to be imported into or manufactured or to be manufactured in the Republic or with any agent of any such supplier, manufacturer, exporter or seller, regarding any matter to which this Act relates,

with the object of defeating or evading the provisions of this Act, shall be guilty of an offence and liable on conviction to a fine not exceeding R20 000 or treble the value of the goods in respect of which such offence was committed, whichever is the greater, or to imprisonment for a period not exceeding five years, or to both such fine and such imprisonment, and the goods in respect of which such offence was committed shall be liable to forfeiture.

[S. 83 amended by s. 14 of Act 52 of 1986 and by s. 10 of Act 105 of 1992.]

84 False documents and declarations

(1) Any person who makes a false statement in connection with any matter dealt with in this Act, or who makes use for the purposes of this Act of a declaration or document containing any such statement shall, unless he proves that he was ignorant of the falsity of such statement and that such ignorance was not due to negligence on his part, be guilty of an offence and liable on conviction to a fine not exceeding R40 000 or treble the value of the goods to which such statement, declaration or document relates, whichever is the greater, or to imprisonment for a period not exceeding ten years, or to both such fine and such imprisonment, and the goods in respect of which such false statement was made or such false declaration or document was used shall be liable to forfeiture.

[Sub-s. (1) amended by s. 15 of Act 52 of 1986 and by s. 11 of Act 105 of 1992.]

(2) For the purposes of subsection (1), any invoice or other document relating to any denomination, description, class, grade or quantity of goods shall be deemed to contain a false statement if the price charged by the exporter or any value, price, commission, discount, cost, charge, expense, royalty, freight, duty, tax, drawback, refund, rebate, remission or other information whatever declared therein which has a bearing on value for the purposes of payment of any duty or on classification in terms of any Schedule to this Act or on anti-dumping duty, countervailing duty or safeguard duty or on extent of rebate, refund or drawback of duty -

- (a) is not, except in so far as may be otherwise specified, exclusively related to goods of the denomination, description, class, grade or quantity declared in such invoice or document;
- (b) is influenced, adjusted or amended as a result of any separate transaction, arrangement, agreement or other consideration of any nature whatever particulars of which are not specified in such invoice or document;
- (c) represents any average or adjustment or amendment, particulars of which are not disclosed in such invoice or document, of such

values, prices, commissions, discounts, costs, charges, expenses, royalties, freight, duties, taxes, drawbacks, refunds, rebates, remissions or other information in respect of goods of the same or of different denominations, descriptions, classes, grades or quantities supplied by the same supplier.

[Sub-s. (2) added by s. 11 of Act 57 of 1966 and amended by s. 28 of Act 105 of 1969, by s. 29 of Act 112 of 1977 and by s. 14 of Act 61 of 1992.]

85 Beer of higher alcoholic strength than registered

Any manufacturer of beer in whose customs and excise warehouse or on whose delivery vehicle beer packed for sale in the common customs area is found of an alcoholic strength by volume higher than such strength specified in the tariff item of Part 2 of Schedule 1 and registered in terms of section 36 (2) shall be guilty of an offence and liable on conviction to a fine not exceeding R8 000 or treble the value of the goods in respect of which such offence was committed, whichever is the greater, or to imprisonment for a period not exceeding two years, or to both such fine and such imprisonment, and the goods in respect of which such offence was committed shall be liable to forfeiture.

[S. 85 substituted by s. 4 of Act 68 of 1973, amended by s. 16 of Act 52 of 1986 and by s. 12 of Act 105 of 1992 and substituted by s. 57 of Act 45 of 1995 and by s. 7 of Act 44 of 1996.]

86 Certain specified offences

Any person who-

- (a) fails to advise the Controller of the receipt of any amended prescribed invoice or any credit note or debit note or of any change in the circumstances or particulars of whatever nature as declared in any prescribed invoice or in any other document or of any refund of money or deferred or secret discount, commission or other credit or debit which relates to any goods and which would increase the duty on such goods or exclude them from any rebate or refund or other privilege under this Act;
- (b) fails to declare in or omits from any prescribed invoice any particulars (including value and origin) in respect of the goods to which such invoice relates and which would increase the duty on such goods or exclude them from any rebate or refund or other privilege under this Act;
- (c) applies any money or credit received by or due to him as a commission in such a manner as to avoid or evade any duty or

obligation or to obtain any rebate or other privilege in respect of any goods under this Act;

- (d) issues two or more different prescribed invoices or certificates in respect of the same goods or fails to issue an amended prescribed invoice or certificate where any particulars declared in any prescribed invoice or certificate in respect of any goods have changed in any manner whatever;
- (e) makes or attempts to make or assists in making or attempting to make any arrangement of whatever nature with any person inside or outside the Republic in connection with any goods imported or to be imported into the Republic with the object of or having the effect of defeating or evading the provisions of any agreement entered into between the Republic and any exporting territory which provides for the restriction of or control over the exportation to the Republic of any goods in any manner or any restriction of or control over the exportation of any goods to the Republic imposed by any exporting territory in any manner by arrangement with or at the instance or suggestion of or with the approval of the Republic;
- (f) produces to the Controller, for the purposes of section 39 (1) (d), any sample which is not a sample of the goods of which it purports to be a sample or who so produces any copy of any invoice or other document or of any blue-print, illustration, drawing, plan or illustrated and descriptive literature which does not relate to the goods to which it purports to relate or which is incorrect or incomplete or misleading in any respect;
- (g) allocates the same identification number, code, description, character or other mark referred to in section 41 (2) to goods of different classes or kinds or allocates more than one such identification number, code, description, character or other mark to goods of the same class or kind or who quotes or reproduces any such identification number, code, description, character or other mark in any invoice or document relating to goods to which such number, code, description, character or other mark has not been allocated; or
- (h) contravenes or fails to comply with the provisions of section 101 or of any rule made in terms of section 73 or 101,

[Para. (h) substituted by s. 58 of Act 45 of 1995.]

shall be guilty of an offence and liable on conviction to a fine not exceeding R40

000 or treble the value of the goods in respect of which such offence was committed, whichever is the greater, or to imprisonment for a period not exceeding ten years, or to both such fine and such imprisonment, and the goods in respect of which such offence was committed shall be liable to forfeiture.

[S. 86 substituted by s. 11 of Act 85 of 1968 and amended by s. 17 of Act 52 of 1986 and by s. 13 of Act 105 of 1992.]

86A Publication of names of offenders

(1) The Commissioner may from time to time publish by notice in the *Gazette* a list of persons who have been convicted of any offence in terms of-

- (a) sections 78 to 86, inclusive, or the rules;
- (b) the common law, where the criminal conduct corresponds materially with an offence referred to in paragraph (a),

after any appeal or review proceedings in relation thereto have been completed or not been instituted within the period allowed therefor.

(2) Every such list may specify-

- (a) the name and address of the offender;
- (b) such particulars of the offence as the Commissioner may think fit;
- (c) the amount or estimated amount of duty involved;
- (d) the particulars of the fine or sentence imposed.

[S. 86A inserted by s. 69 (1) of Act 30 of 1998.]

87 Goods irregularly dealt with liable to forfeiture

(1) Any goods imported, exported, manufactured, warehoused, removed or otherwise dealt with contrary to the provisions of this Act or in respect of which any offence under this Act has been committed (including the containers of any such goods) or any plant used contrary to the provisions of this Act in the manufacture of any goods shall be liable to forfeiture wheresoever and in possession of whomsoever found: Provided that forfeiture shall not affect liability to any other penalty or punishment which has been incurred under this Act or any other law, or entitled any person to a refund of any duty or charge paid in respect of such goods.

(2) (a) Any ship or vehicle used in the removal or carriage of any goods

liable to forfeiture under this Act shall be likewise liable to forfeiture unless it is shown that such ship or vehicle was so used without the consent or knowledge of the owner of such ship or vehicle or other person lawfully in possession or charge thereof.

(b) Any ship or vehicle in which goods liable to forfeiture under this Act are used as fuel or in any other manner shall likewise be liable to forfeiture unless it is shown that such goods were so used without the consent or knowledge of the owner of such ship or vehicle or other person lawfully in possession or charge thereof.

88 Seizure

(1) (a) An officer, magistrate or member of the police force may detain any ship, vehicle, plant, material or goods at any place for the purpose of establishing whether that ship, vehicle, plant, material or goods are liable to forfeiture under this Act.

(b) Such ship, vehicle, plant, material or goods may be so detained where they are found or shall be removed to and stored at a place of security determined by such officer, magistrate or member of the police force, at the cost, risk and expense of the owner, importer, exporter, manufacturer or the person in whose possession or on whose premises they are found, as the case may be.

(bA) No person shall remove any ship, vehicle, plant, material or goods from any place where it was so detained or from a place of security determined by an officer, magistrate or member of the police force.

[Para. (bA) inserted by s. 10 of Act 98 of 1993.]

(c) If such ship, vehicle, plant, material or goods are liable to forfeiture under this Act the Commissioner may seize that ship, vehicle, plant, material or goods.

[Para. (c) substituted by s. 59 of Act 45 of 1995.]

(d) The Commissioner may seize any other ship, vehicle, plant, material or goods liable to forfeiture under this Act.

[Para. (d) substituted by s. 59 of Act 45 of 1995.]

[Sub-s. (1) substituted by s. 15 of Act 68 of 1989.]

(2) (a) (i) If any goods liable to forfeiture under this Act cannot readily be found, the Commissioner may, notwithstanding anything to the contrary in this Act contained, demand from any person who imported, exported, manufactured,

warehoused, removed or otherwise dealt with such goods contrary to the provisions of this Act or committed any offence under this Act rendering such goods liable to forfeiture, payment of an amount equal to the value for duty purposes or the export value of such goods plus any unpaid duty thereon, as the case may be.

(ii) For the purposes of subparagraph (i) the value for duty purposes shall be calculated in terms of the provisions of this Act relating to such value whether or not the goods in question are subject to *ad valorem* duty or to a duty calculated according to a unit of quantity, volume or other measurement, as the case may be.

[Para. (a) substituted by s. 30 of Act 112 of 1977 and by s. 28 of Act 84 of 1987.]

(b) If the amount demanded is not paid within a period of fourteen days after the demand for payment was made it may be recovered in terms of the provisions of this Act as if it were a forfeiture incurred under this Act.

(c) The provisions of this Act shall, in so far as they can be applied, apply *mutatis mutandis* in respect of any amount paid to the Commissioner or recovered in terms of this subsection, as if such amount were the goods in question and as if such amount had been seized under subsection (1).

[Sub-s. (2) added by s. 12 of Act 85 of 1968.]

89 Notice of claim by owner in respect of seized goods

(1) Any ship, vehicle, plant, material or goods which have been seized under this Act, shall be deemed to be condemned and forfeited and may be disposed of in terms of section 90 unless the person from whom such ship, vehicle, plant, material or goods have been seized or the owner thereof or his authorized agent gives notice in writing, within one month after the date of the seizure, to the person seizing or to the Commissioner or to the Controller in the area where the seizure was made, that he claims or intends to claim the said ship, vehicle, plant, material or goods under the provisions of this section.

[Sub-s. (1) substituted by s. 13 of Act 85 of 1968.]

(2) If no such notice is given, no legal proceedings whatever shall thereafter be instituted against the State, the Minister, the Commissioner or any officer, based merely upon the seizure of such ship, vehicle, plant, material or goods.

(3) When a notice in writing has been given in terms of subsection (1), the person giving such notice shall, within ninety days of the date of such notice, but, except with the consent of the Commissioner, not earlier than one month from

the date thereof, institute proceedings in a court of competent jurisdiction for release of the said ship, vehicle, plant, material or goods.

90 Disposal of seized goods

(a) Whatever is seized as being liable to forfeiture under this Act, shall forthwith be delivered to the Controller at the customs and excise office nearest to the place where it was seized or it may be secured by the Controller by sealing, marking, locking, fastening or otherwise securing or impounding it on the premises where it is found or by removing it to a place of security determined by the Controller.

(b) The Controller shall, after condemnation thereof, cause the thing in question to be sold by public auction or in any other manner which the Commissioner may deem suitable: Provided that the Commissioner may direct that, in lieu of being sold, any such thing shall be destroyed or shall be appropriated to the State: Provided further that if any such thing is of a perishable or dangerous nature the Commissioner may direct the sale or destruction thereof before condemnation.

91 Admission of guilt

(1) (a) If any person-

(i) has contravened any provision of this Act or failed to comply with any such provision with which it was his duty to comply; and

[Sub-para. (i) substituted by s. 12 (a) of Act 105 of 1976 and by s. 60 (a) of Act 45 of 1995.]

(ii) agrees to abide by the Commissioner's decision; and

(iii) deposits with the Commissioner such sum as the Commissioner may require of him but not exceeding the maximum fine which may be imposed upon a conviction for the contravention or failure in question or makes such arrangements or complies with such conditions with regard to securing the payment of such sum as the Commissioner may require,

the Commissioner may, after such enquiry as he deems necessary, determine the matter summarily and may, without legal proceedings, order forfeiture by way of penalty of the whole or any part of the amount so deposited or secured.

(b) Anything done for the purposes of paragraph (a) by an agent generally or specially authorized thereto by any person, shall be deemed to have been duly done by that person in terms of that paragraph.

[Sub-s. (1) substituted by s. 14 of Act 85 of 1968.]

(2) There shall be a right of appeal to the Minister from any determination or order of the Commissioner under subsection (1), whereby a penalty exceeding R1 000 is imposed, provided such right is exercised within a period of three months from the date of such determination or order.

[Sub-s. (2) substituted by s. 12 (b) of Act 105 of 1976, amended by s. 29 of Act 84 of 1987 and substituted by s. 60 (b) of Act 45 of 1995.]

(3) Subject to the provisions of subsection (4) of section *sixty-two*, the imposition of a penalty under subsection (1) shall not be regarded as a conviction in respect of a criminal offence, but no prosecution for the relevant offence shall thereafter be competent.

(4) Nothing in this section shall in any way affect liability to forfeiture of goods or payment of duty or other charges thereon.

92 Payment and disposal of fines and penalties

(1) Any fine or penalty recovered under this Act shall be paid to the Controller in the area where such fine or penalty is recovered, and shall be paid by him into the Consolidated Revenue Fund, and the proceeds of sale of anything forfeited or seized and condemned under this Act shall also be paid into the said fund: Provided that the Commissioner may withhold a sum not exceeding one-third of any such fine, penalty or proceeds which he may then award to any person (including any officer) by whose means or information the fine or penalty or forfeiture was imposed or the seizure made.

[Sub-s. (1) amended by s. 11 (a) of Act 98 of 1993 and by s. 61 (1) (a) of Act 45 of 1995.]

[NB: Sub-s. (1) has been substituted by s. 70 (1) of the Taxation Laws Amendment Act 30 of 1998, a provision which will be put into operation by proclamation. See PENDLEX.]

(2) and (3)

[Sub-ss. (2) and (3) added by s. 11 (b) of Act 98 of 1993 and deleted by s. 61 (1) (b) of Act 45 of 1995.]

93 Remission or mitigation of penalties and forfeiture

The Commissioner may direct that any ship, vehicle, plant, material or goods detained or seized or forfeited under this Act be delivered to the owner

thereof, subject to payment of any duty which may be payable in respect thereof and any charges which may have been incurred in connection with the detention or seizure or forfeiture, and to such conditions (including conditions providing for the payment of an amount equal to the value for duty purposes of such ship, vehicle, plant, material or goods plus any unpaid duty thereon) as he deems fit, or may mitigate or remit any penalty incurred under this Act, on such conditions as he deems fit: Provided that if the owner accepts such conditions, he shall not thereafter be entitled to institute or maintain any action for damages on account of the detention, seizure or forfeiture.

[S. 93 substituted by s. 14 of Act 95 of 1965 and by s. 15 of Act 85 of 1968 and amended by s. 31 of Act 112 of 1977.]

94 Recovery of penalties by process of law

(a) Without derogation from any powers conferred upon the Commissioner any penalty, fine or forfeiture incurred under this Act may be recovered either by civil action or upon criminal prosecution in any court of competent jurisdiction, and in the case of a criminal prosecution the court passing sentence may also make an order regarding any unpaid duty or charge and impose civil penalties or enforce forfeiture.

(b) Any civil proceedings under this section may be instituted in the name of the Commissioner.

95 Jurisdiction of courts

(1) A court shall have jurisdiction to try any person for an offence under this Act whenever the thing in respect of which such offence was committed was found within or was conveyed from, to or through the area of jurisdiction of that court.

(1A) Any person who at any place deemed under section 6 (1A) to be a place of entry for the Republic or in any territory with the government of which an agreement has been concluded under section 51, performs any act which constitutes an offence under this Act, shall be guilty of such offence, which shall, for purposes in relation to jurisdiction of a court to try the offence, be deemed to have been committed at any place where the accused happens to be.

[Sub-s. (1A) inserted by s. 18 (a) of Act 52 of 1986.]

(2) (a) Notwithstanding anything to the contrary in any other law contained, a magistrate's court shall have jurisdiction to impose any punishment prescribed by or make any order of court provided for in this Act.

(b)

[Para. (b) deleted by s. 18 (b) of Act 52 of 1986.]

[Sub-s. (2) added by s. 16 of Act 85 of 1968.]

(3) Notwithstanding anything to the contrary in any other law contained, a magistrate's court shall have jurisdiction to give judgment for any amount claimed under this Act, together with the costs of obtaining such judgment.

[Sub-s. (3) added by s. 10 of Act 93 of 1978.]

96 Notice of action and period for bringing action

(1) No legal proceedings shall be instituted against the State, the Minister, the Commissioner or an officer for anything done in pursuance of this Act until one month after delivery of a notice in writing setting forth clearly and explicitly the cause of action, the name and place of abode of the person who is to institute proceedings and the name and address of his attorney or agent, if any.

(2) Subject to the provisions of section *eighty-nine*, the period of extinctive prescription in respect of legal proceedings against the State, the Minister, the Commissioner or an officer on a cause of action arising out of the provisions of this Act shall be one year and shall begin to run on the date when the right of action first arose.

CHAPTER XII GENERAL (ss 96A-122)

96A Approval of container operators

The Commissioner may, with the concurrence of the Director-General: Transport, subject to such conditions as the Commissioner may generally or in respect of a particular case determine, approve, for operating containers in the Republic, any person providing international transportation of containerized goods.

[S. 96A inserted by s. 6 of Act 98 of 1970, substituted by s. 9 of Act 103 of 1972, repealed by s. 23 of Act 86 of 1982 and inserted by s. 9 of Act 89 of 1984.]

97 Master, container operator or pilot may appoint agent

Notwithstanding anything to the contrary in this Act contained, the master of a ship, a container operator or the pilot of an aircraft, instead of himself performing any act, including the answering of questions required by or under any provision of this Act to be performed by him, may at his own risk, appoint an agent to perform any such act, and any such act performed by such agent shall

in all respects and for all purposes be deemed to be the act of the master, container operator or pilot, as the case may be: Provided that the personal attendance of the master or pilot may be demanded by the Controller.

[S. 97 substituted by s. 32 of Act 112 of 1977.]

98 Liability of principal for acts of agent

Every importer, exporter, master, container operator, pilot, manufacturer, licensee, remover of goods in bond or other principal shall, for the purposes of this Act, be responsible for any act done by an agent acting on his behalf, whether within or outside the Republic.

[S. 98 substituted by s. 33 of Act 112 of 1977.]

99 Liability of agent for obligations imposed on principal

(1) An agent appointed by any master, container operator or pilot, and any person who represents himself to any officer as the agent of any master, container operator or pilot, and is accepted as such by that officer, shall be liable for the fulfillment, in respect of the matter in question, of all obligations, including the payment of duty and charges, imposed on such master, container operator or pilot by this Act and to any penalties or amounts demanded under section 88 (2) (a) which may be incurred in respect of that matter.

[Sub-s. (1) substituted by s. 34 (a) of Act 112 of 1977 and by s. 71 (a) of Act 30 of 1998.]

(2) (a) An agent appointed by any importer, exporter, manufacturer, licensee, remover of goods in bond or other principal and any person who represents himself to any officer as the agent of any importer, exporter, manufacturer, licensee, remover of goods in bond or other principal, and is accepted as such by that officer, shall be liable for the fulfilment, in respect of the matter in question, of all obligations, including the payment of duty and charges, imposed on such importer, exporter, manufacturer, licensee, remover of goods in bond or other principal by this Act and to any penalties or amounts demanded under section 88 (2) (a) which may be incurred in respect of that matter: Provided that such agent or person shall cease to be so liable if he proves that-

- (i) he was not a party to the non-fulfilment by any such importer, exporter, manufacturer, licensee, remover of goods in bond or other principal, of any such obligation;
- (ii) when he became aware of such non-fulfilment, he notified the Controller thereof as soon as practicable; and

- (iii) all reasonable steps were taken by him to prevent such non-fulfilment.

[Para. (a) amended by s. 24 of Act 86 of 1982, by s. 62 (a) of Act 45 of 1995 and by s. 71 (b) of Act 30 of 1998.]

(b) No importer, exporter, manufacturer, licensee, remover of goods in bond or other principal shall by virtue of the provisions of paragraph (a) be relieved from liability for the fulfilment of any obligation imposed on him by this Act and to any penalty or amounts demanded under section 88 (2) (a) which may be incurred in respect thereof.

[Para. (b) substituted by s. 71 (c) of Act 30 of 1998.]

[Sub-s. (2) substituted by s. 12 (a) of Act 110 of 1979.]

(3) Every shipping and forwarding agent and every agent acting for the master of a ship or the pilot of an aircraft and any other class of agent which the Commissioner may by rule specify shall, before transacting any business with the department, and any class of carrier of goods to which this Act relates which the Commissioner may by rule specify shall, before conveying any such goods, give such security as the Commissioner may from time to time require for the due observance of the provisions of this Act: Provided that the Commissioner may call for special or additional security in respect of any particular transaction or conveyance of goods from any agent or carrier.

[Sub-s. (3) substituted by s. 15 of Act 95 of 1965 and amended by s. 34 (b) of Act 112 of 1977 and by s. 62 (b) of Act 45 of 1995.]

(4) (a) An agent (including a representative or associate of the principal) representing or acting for or on behalf of any exporter, manufacturer, supplier, shipper or other principal outside the Republic who exports goods to the Republic, shall be liable, in respect of any goods ordered through him or obtained by an importer by means of his services, for the fulfilment of all obligations imposed upon such exporter, manufacturer, supplier, shipper or other principal by this Act, and to any penalties or amounts demanded under section 88 (2) (a) which may be incurred by such exporter, manufacturer, supplier, shipper or other principal under this Act: Provided that any such agent shall cease to be so liable if he proves that-

- (i) he was not a party to the non-fulfilment, by any such exporter, manufacturer, supplier, shipper or other principal, of any such obligation; and
- (ii) when he became aware of such non-fulfilment, he forthwith notified the Controller thereof; and

- (iii) all reasonable steps were taken by him to prevent such non-fulfilment.

[Para. (a) amended by s. 7 of Act 98 of 1970, by s. 62 (c) of Act 45 of 1995 and by s. 71 (d) of Act 30 of 1998.]

(b) Every agent of a class referred to in paragraph (a) and specified in the rules for the purposes of this paragraph shall register himself with the Commissioner and furnish such security as the Commissioner may from time to time require for the due observance of the provisions of this Act: Provided that the Commissioner may accept such security from any association of such agents approved by him which undertakes to give security on behalf of its members.

[Para. (b) amended by s. 62 (d) of Act 45 of 1995.]

(c) No agent referred to in paragraph (b) shall transact any business on behalf of any such exporter, manufacturer, supplier, shipper or other principal after a date specified by the Minister by notice in the *Gazette* unless he has complied with the provisions of paragraph (b).

(d) The registration and operations of any agent referred to in paragraph (b) shall be subject to such conditions as the Commissioner may impose by rule and the Commissioner may cancel the registration of any agent who has persistently contravened or failed to comply with the provisions of this Act or who has committed an offence referred to in section 80, 83, 84, 85 or 86.

[Sub-s. (4) added by s. 17 of Act 85 of 1968.]

(5) Any liability in terms of subsection (1), (2) or (4) (a) shall cease after the expiration of a period of two years from the date on which it was incurred in terms of any such subsection.

[Sub-s. (5) added by s. 12 (b) of Act 110 of 1979.]

100 Agent may be called upon to produce written authority

If any person makes an application to an officer to transact any business on behalf of another person or if any person represents himself to an officer as the agent of another person, such officer may require the person so applying or representing himself to produce a written authority in the form approved by the Commissioner, from the person on whose behalf such application is made or on whose behalf the person so representing himself is alleged to be acting, and in default of the production of such authority, the officer may refuse to transact such business.

101 Business accounts, documents, etc, to be available for inspection

(1) (a) Any person carrying on any business in the Republic shall keep within the Republic in one of the official languages such books, accounts and documents relating to his transactions as may be prescribed by rule and such books, accounts and documents shall be kept in such form and manner and shall be retained for such period as may be so prescribed.

[Para. (a) substituted by s. 63 (a) of Act 45 of 1995.]

(b) Different provisions may be so prescribed in respect of different classes or kinds of books, accounts and documents and different classes of persons.

(1A) The Commissioner may, subject to such conditions as he may determine, allow any person referred to in subsection (1) to retain in lieu of any book, account or document required to be retained in terms of that subsection, a reproduction of any such book, account or document obtained by means of microfilming or any other process.

[Sub-s. (1A) inserted by s. 12 (a) of Act 98 of 1980.]

(2) Any person referred to in subsection (1) shall upon demand by the Controller or the Commissioner produce to him such books, accounts or documents referred to in subsection (1) as he may require and such person shall render such returns or submit such particulars in connection with his transactions to the Commissioner as he may from time to time require.

(2A) The Commissioner may, subject to such conditions as he may determine, allow any such person to produce in lieu of any such book, account or document required to be produced in terms of subsection (2), a copy thereof obtained by means of a reproduction referred to in subsection (1A), and such copy shall, subject to compliance with such conditions, for all purposes have all the effects of the original book, account or document concerned.

[Sub-s. (2A) inserted by s. 12 (b) of Act 98 of 1980.]

(3) The Commissioner may by rule prescribe-

- (a) the books, accounts, documents, transactions or operations in respect of which a chartered accountant's certificate shall be produced to the Controller by such class of persons referred to in subsection (1) as he may so prescribe; and
- (b) the nature and form of such certificate and the intervals at which such a certificate shall be produced.

[Sub-s. (3) amended by s. 63 (b) of Act 45 of 1995.]

[S. 101 substituted by s. 18 of Act 85 of 1968.]

102 Sellers of goods to produce proof of payment of duty

(1) Any person selling, offering for sale or dealing in imported or excisable goods or fuel levy goods or any person removing the same, or any person having such goods entered in his books or mentioned in any documents referred to in section 75 (4A) or 101, shall, when requested by an officer, produce proof as to the person from whom the goods were obtained and, if he is the importer or manufacturer or owner, as to the place where the duty due thereon was paid, the date of payment, the particulars of the entry for home consumption and the marks and numbers of the cases, packages, bales and other articles concerned, which marks and numbers shall correspond to the documents produced in proof of the payment of the duty.

[Sub-s. (1) substituted by s. 29 of Act 105 of 1969, by s. 30 (a) of Act 84 of 1987 and by s. 34 of Act 59 of 1990.]

(2) In any prosecution or proceedings under this Act, any statement in any record, letter or any other document kept, retained, received or dispatched by or on behalf of any person to the effect that any goods of a particular price, value (including any commission, discount, cost, charge, expense, royalty, freight, tax, drawback, refund, rebate, remission or other information which relates to such goods and has a bearing on such price or value) or quantity, quality, nature, strength or other characteristic have been manufactured, imported, ordered, supplied, purchased, sold, dealt with or in or held in stock by him at any time, shall be admissible in evidence against him as an admission that he has at that time manufactured, imported, ordered, supplied, purchased, sold, dealt with or in or held in stock goods of that price, value, quantity, quality, nature, strength or other characteristic.

[Sub-s. (2) substituted by s. 19 of Act 85 of 1968, by s. 29 of Act 105 of 1969 and by s. 35 of Act 112 of 1977.]

(3) If in any such prosecution or proceedings the question arises whether any goods have been sold or used or disposed of or are or were in the possession of any person in such a manner as not to render them subject to duty, it shall be presumed that such goods have not been so sold or used or disposed of or are not or were not in the possession of such person in the said manner unless the contrary is proved.

[Sub-s. (3) substituted by s. 12 of Act 57 of 1966.]

(4) If in any prosecution under this Act or in any dispute in which the State,

the Minister or the Commissioner or any officer is a party, the question arises whether the proper duty has been paid or whether any goods or plant have been lawfully used, imported, exported, manufactured, removed or otherwise dealt with or in, or whether any books, accounts, documents, forms or invoices required by rule to be completed and kept, exist or have been duly completed and kept or have been furnished to any officer, it shall be presumed that such duty has not been paid or that such goods or plant have not been lawfully used, imported, exported, manufactured, removed or otherwise dealt with or in, or that such books, accounts, documents, forms or invoices do not exist or have not been duly completed and kept or have not been so furnished, as the case may be, unless the contrary is proved.

[Sub-s. (4) substituted by s. 16 of Act 95 of 1965, by s. 12 of Act 57 of 1966, by s. 12 of Act 101 of 1985, by s. 30 (b) of Act 84 of 1987 and by s. 64 of Act 45 of 1995.]

(5) If in any prosecution under this Act or in any dispute in which the State, the Minister or the Commissioner or any officer is a party, it is alleged by or on behalf of the State or the Minister or the Commissioner or such officer that any goods or plant have been or have not been imported, exported, manufactured in the Republic, removed or otherwise dealt with or in, it shall be presumed that such goods or plant have been or (as the case may be) have not been imported, exported, manufactured in the Republic, removed or otherwise dealt with or in, unless the contrary is proved.

[Sub-s. (5) added by s. 12 of Act 57 of 1966.]

103 Liability of company, partnership, etc

For the purposes of this Act any reference to a person shall be deemed to include a reference to a company, close corporation, co-operative society, firm, partnership, statutory body or club and in the event of a contravention of or non-compliance with this Act or the incurring of any liability under this Act by any company, close corporation, co-operative society, firm, partnership, statutory body or club any person having the management of any premises or business in or in connection with which the contravention or non-compliance took place, or the liability was incurred may be charged with the relevant offence and shall be liable to any penalties provided therefor and shall be liable in respect of any liability so incurred.

[S. 103 substituted by s. 16 of Act 68 of 1989.]

104

[S. 104 repealed by s. 6 of Act 25 of 1969.]

105 Interest on outstanding amounts

Notwithstanding anything to the contrary in any law contained-

- (a) interest shall be payable from such date and for such period as the Commissioner may determine on any outstanding amount payable in terms of this Act, other than the outstanding amount of any penalty or forfeiture payable in terms of this Act;
- (b) the interest so payable shall be paid at the rate of 16 per cent^{1*} per annum, or such other rate which the Minister of Finance may from time to time fix by notice in the *Gazette*;

[Para. (b) substituted by s. 6 (1) of Act 32 of 1999.]

- (c) the Commissioner may on such conditions as he may consider necessary-
 - (i) remit any interest for which any person is liable by virtue of this section;
 - (ii) permit payment of any amount referred to in paragraph (a) by instalments of such amounts and at such times as he may determine;

[Para. (c) amended by s. 65 of Act 45 of 1995.]

- (d) any such instalment paid shall be utilized by the Commissioner to discharge any penalty, forfeiture, interest and duty and other amounts due, in that order;
- (e) any such interest shall be calculated monthly and a portion of a month shall be regarded as a full month; and
- (f) any such interest recovered shall be paid into the National Revenue Fund.

[Para. (f) substituted by s. 72 of Act 30 of 1998.]

[S. 105 substituted by s. 2 of Act 111 of 1991.]

106 Samples

(1) An officer may on entry of any imported goods or during the manufacture of any excisable goods, or at any time after such entry or manufacture, take, without payment, from any person in possession of such imported goods or of any manufactured or partly manufactured excisable goods

samples of such imported, manufactured or partly manufactured goods or of materials intended for the manufacture of excisable goods or of goods used under the provisions of Chapter X, for examination or for ascertaining the duties payable thereon or for such other purpose as the Commissioner may prescribe by rule, and those samples shall be dealt with and accounted for in such manner as the Commissioner may direct.

[Sub-s. (1) substituted by s. 30 of Act 105 of 1969, by s. 35 of Act 59 of 1990 and by s. 66 of Act 45 of 1995.]

(2) For the purpose of determining the duty leviable in respect of any goods comprising a single consignment, or in any vessel, tank or other container of goods, the nature or characteristics of all the goods in that consignment, vessel, tank or other container shall be deemed to correspond to the nature or characteristics of any sample taken by the officer from such consignment, vessel, tank or other container.

107 Expenses of landing, examination, weighing, analysis, etc

(1) (a) All handling of and dealing with goods for the purposes of this Act shall be performed by or at the expense and risk of the importer, exporter, manufacturer or owner of the goods, whoever has control of such goods, except in the case of goods examined at a customs and excise warehouse, where such handling of and dealing with goods shall be performed at the expense and risk of the owner thereof.

(b) Any goods remaining in the custody or under the control of the department after expiry of a period of 28 days from the date of due entry thereof, may be removed by the Controller to the State warehouse or other place indicated by the Controller, and may thereupon be disposed of in terms of section 43 (3).

[Para. (b) added by s. 11 of Act 93 of 1978.]

(2) (a) Subject to the provisions of this Act, the Commissioner shall not, except on such conditions, including conditions relating to security, as may be determined by him, allow goods to pass from his control until the provisions of this Act or any law relating to the importation or exportation or transit carriage through the Republic of goods, have been complied with in respect of such goods, and the State or the Commissioner or any officer shall in no case be liable in respect of any claim arising out of the detention of goods pending the decision of the Commissioner or for the costs of such detention.

[Para. (a) substituted by s. 6 of Act 89 of 1983 and by s. 67 of Act 45 of 1995.]

(b) Whenever the Commissioner considers it necessary for the purposes

of paragraph (a) of this subsection or section 106 (1) that any goods should be analysed he may direct that such goods be analysed by a person designated by him and that the analysis be done in accordance with a method determined by him.

[Para. (b) added by s. 20 (a) of Act 85 of 1968 and substituted by s. 31 of Act 105 of 1969.]

(3) The cost of analysis of any goods for the purposes of subsection (2) (a) shall be borne by the importer, exporter, manufacturer or owner of such goods except where the Commissioner considers the analysis necessary for the purposes of subsection (2) (a) and the result of the analysis confirms the correctness of the declaration or bill of entry made or presented by such importer, exporter, manufacturer or owner in respect of such goods: Provided that the cost of analysis shall in no case be borne by the State where it is carried out in connection with any application for refund of duty or substitution of any entry or where the result of analysis shows that the goods in question were incorrectly or insufficiently described on the relative prescribed invoice.

[Sub-s. (3) substituted by s. 20 (b) of Act 85 of 1968.]

107A Control in respect of manufacturers of certain goods or materials and persons who carry out processes in connection with such goods or materials

(1) The manufacturer of any goods or materials used or capable of being used in the manufacture of any goods to which this Act applies and any person who carries out any preliminary, intermediate or supplementary process in connection with such goods or materials or any goods to which this Act applies, shall, in accordance with the directions of the Commissioner-

- (a) register with the Commissioner any such formula, factory, machinery, instrument, appliance or apparatus used in connection with the manufacture of such goods or materials or the carrying out of any such process as the Commissioner may require;
- (b) comply with such conditions relating to such manufacture or the carrying out of any such process as the Commissioner may impose in each case;
- (c) keep such records as the Commissioner may require as to-
 - (i) the nature, characteristics, source, origin and quantities of the ingredients of such goods or materials and of such other particulars of the ingredients of such goods or materials as the Commissioner may specify;

- (ii) the processes carried out in respect of such goods or materials;
 - (iii) the persons on whose behalf such processes were carried out; and
 - (iv) the purchasers of such goods or materials;
- (d) render such returns or furnish such certificates in respect of such goods or materials, as the Commissioner may require; and
- (e) produce such documents in support of any records kept in terms of paragraph (c) or returns or certificates rendered or furnished in terms of paragraph (d), as the Commissioner may require.

(2) For the purposes of subsection (1) any preliminary, intermediate or supplementary process in connection with any goods or materials in that subsection mentioned, shall include any such process relating to the ordering, purchasing, selling or disposal of, and the entering into any contract for the manufacture of, any such goods or materials.

[Sub-s. (2) added by s. 32 of Act 105 of 1969.]

[S. 107A inserted by s. 13 of Act 57 of 1966.]

108

[S. 108 repealed by s. 36 of Act 59 of 1990.]

109 Destruction of goods and detention of ships or vehicles

(1) If it is necessary for the safeguarding of public health or for the safety of the public or the State, the Commissioner may at any time, and at the expense and risk of the importer, exporter, owner, master or pilot concerned, according as the Commissioner may determine-

- (a) cause any goods under customs and excise control forthwith to be destroyed or otherwise disposed of; or
- (b) delay the departure of any ship or vehicle from any place in the Republic for a period not exceeding forty-eight hours.

[Sub-s. (1) amended by s. 12 of Act 93 of 1978 and by s. 68 of Act 45 of 1995.]

(2) No person shall be entitled to any compensation for loss arising out of

any *bona fide* action of the Commissioner under subsection (1).

110 Instruments and tables

(1) Except as elsewhere provided in this Act, the Commissioner may by rule prescribe the instruments, meters, gauges, and other appliances and the tables, formulae and other methods of calculation to be used in ascertaining the mass, quantity, strength, relative density, temperature, pressure or any other characteristics of any goods for the purposes of this Act.

(2) For calculating the full quantity of any goods which have been manufactured or used under the provisions of this Act, the Commissioner may by rule prescribe tables indicating the quantity of goods which shall be deemed to have been manufactured from any given quantity of any goods or the quantity of goods which shall be deemed to have been used in the manufacture of any given quantity of any goods manufactured therefrom.

[S. 110 amended by s. 10 of Act 103 of 1995 and substituted by s. 69 of Act 45 of 1995.]

111 Production of certificate of officer on registration of certain motor vehicles

(1) Any motor vehicle registering authority in the Republic shall not register any imported motor vehicle unless a certificate issued by an officer is produced stating that the requirements of this Act in respect of such vehicle have been complied with.

(2) For the purposes of subsection (1) the expression 'imported motor vehicle' does not include any motor vehicle manufactured in the Republic which enters the Republic from any territory with the government of which an agreement has been concluded under section 51.

[S. 111 substituted by s. 11 of Act 71 of 1975 and by s. 19 of Act 52 of 1986.]

112 Wreck

(1) For the purposes of this section 'wreck' includes-

- (a) flotsam, jetsam and lagan;
- (b) any portion of a ship lost, abandoned or stranded or of the cargo, stores or equipment thereof or any other article thereon; and
- (c) any portion of an aircraft which has been wrecked or abandoned or of the cargo, stores or equipment thereof or any other article

thereon.

(2) Any person who has in his possession any wreck, shall without delay give notice thereof to the nearest Controller and shall (unless he is the owner of such wreck or the duly authorized agent of the owner) if required, forthwith deliver that wreck or permit it to be delivered to the said Controller, and unless it is necessary for the preservation or safe-keeping thereof, no person shall without the permission of the said Controller remove or alter in quantity or quality any such wreck.

(3) Wreck found in or brought into the Republic may, at any time after it has come under the control of the Controller, be disposed of by him in the manner set forth in section 43, but shall otherwise be subject to the provisions of this Act.

[Sub-s. (3) substituted by s. 21 of Act 85 of 1968 and by s. 70 (a) of Act 45 of 1995.]

(4)

[Sub-s. (4) deleted by s. 70 (b) of Act 45 of 1995.]

113 Prohibitions and restrictions

(1) The importation of the following goods is hereby prohibited, namely-

(a)

[Para. (a) substituted by s. 11 (a) of Act 103 of 1972 and deleted by s. 25 of Act 86 of 1982.]

(b) cigarettes with a mass of more than 2 kilograms per 1 000 cigarettes;

[Para. (b) substituted by s. 11 (a) of Act 103 of 1972.]

(c)

[Para. (c) deleted by s. 25 of Act 86 of 1982.]

(d)

[Para. (d) amended by s. 17 of Act 95 of 1965, by s. 11 (b) of Act 103 of 1972 and by s. 5 of Act 68 of 1973 and deleted by s. 25 of Act 86 of 1982.]

(e)

[Para. (e) deleted by s. 17 (a) of Act 68 of 1989.]

(f)

[Para. (f) substituted by s. 49 (a) of Act 42 of 1974 and deleted by s. 14 (a) of Act 105 of 1992.]

(g)

[Para. (g) deleted by s. 73 (a) of Act 30 of 1998.]

(h) prison-made and penitentiary-made goods;

(i) and (j)

[Paras. (i) and (j) deleted by s. 25 of Act 86 of 1982.]

(k)

[Para. (k) inserted by s. 14 (a) of Act 57 of 1966 and deleted by s. 12 (a) of Act 98 of 1993.]

unless imported under permit issued by the Board of Trade and Industries.

[Sub-s. (1) amended by s. 14 (b) of Act 57 of 1966.]

(2) Goods which purport to have been imported under a permit, certificate or other authority in terms of any provision of this Act or any other law shall be deemed to have been imported in contravention of such provision unless the permit, certificate or other authority in question is produced to the Controller.

[Sub-s. (2) substituted by s. 14 (c) of Act 57 of 1966 and by s. 73 (b) of Act 30 of 1998.]

(3)

[Sub-s. (3) substituted by s. 49 (b) of Act 42 of 1974 and deleted by s. 14 (b) of Act 105 of 1992.]

(4) The Minister may by notice in the *Gazette* suspend the operation of any provision of subsection (1), whenever such suspension would be in the public interest.

[Sub-s. (4) substituted by s. 71 (a) of Act 45 of 1995.]

(5) and (6)

[Sub-ss. (5) and (6) deleted by s. 7 of Act 89 of 1983.]

(7) The Commissioner may by rule prohibit or restrict the coastwise carriage or the transit carriage through the Republic of any goods referred to in subsection (1) or of any other goods in respect of which he considers any such prohibition or restriction necessary in the public interest.

[Sub-s. (7) substituted by s. 71 (b) of Act 45 of 1995.]

(8) (a) An officer may, for the purposes of any law other than this Act or at the request of a member of the police force or the authority administering such law, detain any goods while such goods are under customs control.

(b) Such goods may be so detained where they are found or shall be removed to and stored at a place of security determined by such officer.

(c) No person shall remove any goods from any place where they were so detained or from a place of security determined by an officer.

(d) Any goods so detained may be released by the Commissioner to the South African Police Service, the authority administering such law, the importer or the exporter.

[Para. (d) substituted by s. 71 (c) of Act 45 of 1995.]

[Sub-s. (8) amended by s. 31 of Act 84 of 1987 and by s. 17 (b) of Act 68 of 1989 and substituted by s. 12 (b) of Act 98 of 1993.]

(9) No person shall manufacture cigarettes the mass of the tobacco of which exceeds 2 kilograms per 1 000 cigarettes.

[Sub-s. (9) substituted by s. 11 (d) of Act 103 of 1972.]

(10)

[Sub-s. (10) added by s. 14 (d) of Act 57 of 1966 and deleted by s. 12 (c) of Act 98 of 1993.]

114 Duty constitutes a debt to the State

(1) (a) (i) The correct amount of duty for which any person is liable in respect of any goods imported into or exported from the Republic or any goods manufactured in the Republic shall from the date on which liability for such duty commences; and

(ii) any interest payable under this Act and any fine, penalty or forfeiture incurred under this Act shall, from the time when it should have been paid,

constitute a debt to the State by the person concerned, and any goods in a customs and excise warehouse or in the custody of the Commissioner (including goods in a rebate store-room) and belonging to that person, and any goods afterwards imported or exported by the person by whom the debt is due, and any imported goods in the possession or under the control of such person or on any premises in the possession or under the control of such person, and any goods in respect of which an excise duty or fuel levy is prescribed (whether or not such duty or levy has been paid) and any materials for the manufacture of such goods in the possession or under the control of such person or on any premises in the possession or under the control of such person and any vehicles, machinery, plant or equipment in the possession or under the control of such person in which fuel in respect of which any duty or levy is prescribed (whether or not such duty or levy has been paid), is used, transported or stored, may be detained in accordance with the provisions of subsection (2) and shall be subject to a lien until such debt is paid.

[Para. (a) substituted by s. 33 (a) of Act 105 of 1969, by s. 12 (a) of Act 71 of 1975, by s. 13 of Act 101 of 1985, by s. 32 (1) of Act 84 of 1987 and by s. 37 (1) (a) of Act 59 of 1990.]

(aA) Any plant and stills for the manufacture of any goods in respect of which an excise duty or fuel levy is prescribed which are in the possession or under the control of such person or on any premises in the possession or under the control of such person shall be subject to a lien from the time when the liability for the duty or levy payable as contemplated in paragraph (a) in respect of any goods so manufactured commences until the debt in question is paid, as if such plant and stills are detained in accordance with the provisions of subsection (2): Provided that the Commissioner may allow any such plant or still to be used under such conditions as he may impose in each case.

[Para. (aA) inserted by s. 12 (b) of Act 71 of 1975, substituted by s. 32 (1) of Act 84 of 1987 and amended by s. 37 (1) (b) of Act 59 of 1990.]

(aB) Any capital goods in respect of which any surcharge has been withdrawn in terms of any permit issued by the Director-General: Trade and Industry shall be subject to a lien as security for the surcharge so withdrawn until the conditions specified in such permit have been complied with to the satisfaction of the said Director-General, as if such goods are detained in accordance with the provisions of subsection (2) unless other security is furnished to the satisfaction of the Commissioner.

[Para. (aB) inserted by s. 37 (1) (c) of Act 59 of 1990.]

(b) The claims of the State shall have priority over the claims of all persons upon anything subject to a lien contemplated in paragraph (a) or (aA) and may be enforced by sale or other proceedings if the debt is not paid within three months after the date on which it became due.

[Para. (b) substituted by s. 12 (c) of Act 71 of 1975.]

(c) Any refund of duty or a deposit or any other amount due to such person in respect of any matter whatsoever, may be set off against such debt.

[Sub-s. (1) amended by s. 34 (1) of Act 34 of 1997.]

(2) The Commissioner or an officer may detain anything referred to in subsection (1) (a) by sealing, marking, locking, fastening or otherwise securing or impounding it on the premises where it is found or by removing it to a place of security determined by the Commissioner: Provided that the Commissioner may allow any such thing to be used under such conditions as he may impose in each case.

[Sub-s. (2) substituted by s. 33 (b) of Act 105 of 1969 and by s. 12 (d) of Act 71 of 1975.]

(2A) No person shall remove-

- (a) any plant or stills, subject to a lien in terms of subsection (1) (aA), from the place indicated by an officer;
- (b) anything detained under subsection (2) from the premises referred to in that subsection or from the place of security to which it may have been removed under that subsection.

[Sub-s. (2A) inserted by s. 36 of Act 112 of 1977.]

(3) Any reference to goods in this section shall be deemed to include a reference to the containers of such goods.

115 Entries, oaths, etc, made outside the Republic of full force and effect

Any entry, writing, oath or declaration required to be made under this Act shall, if made outside the Republic to or before an officer of the Republic, be binding and of full force and effect in the Republic.

116 Manufacture of excisable goods solely for use by the manufacturer thereof

(1) Notwithstanding anything to the contrary in this Act contained, the Commissioner may, in respect of any excisable goods (except ethyl alcohol) manufactured by natural persons (except under item 604.00 of Schedule 6) for their own use and not for sale or disposal in any manner-

- (a) if he considers that such manufacturing results or is likely to result in loss of revenue or is likely to be detrimental to any industry in the Republic to such extent as to warrant any action described in this paragraph-
 - (i) by rule prohibit the sale to any such person of any plant, apparatus, appliance, instrument or material used or capable of use in or designed for the manufacture of such excisable goods or impose such conditions in respect of the advertising or sale of such plant, apparatus, appliance, instrument or material as he deems fit;
 - (ii) for the purpose of calculating the duty payable on such excisable goods manufactured by any such person, estimate the quantity thereof so manufactured or the strength or other characteristic of any such quantity in any manner he may deem fit; or
 - (iii) in respect of any quantity of such excisable goods in respect of which duty will become payable, accept duty (or any portion thereof), calculated according to any basis which he deems reasonable, from any person who sells or disposes of any material for use in the manufacture of such excisable goods to the manufacturer thereof;

[Sub-para. (iii) substituted by s. 72 (a) of Act 45 of 1995.]

- (b) (i) if he considers that such manufacturing does not result or is not likely to result in loss of revenue or is not or is not likely to be detrimental to any industry in the Republic to the extent stated in paragraph (a); or
- (ii) if in the manufacture of such excisable goods used parts or material on which any duty had been paid previously was used to such extent as he deems reasonable,

exempt such excisable goods from the whole or any portion of the duty thereon, subject to such conditions as he may in each case impose.

(2)

[Sub-s. (2) deleted by s. 72 (b) of Act 45 of 1995.]

(3) The manufacturer of any goods exempted from the whole or any portion of the duty in terms of this section, shall be liable for payment of the whole or such portion of the duty as the Commissioner may determine if they are sold or disposed of by such manufacturer.

(4) The Commissioner may, subject to such conditions as he may in each case impose, exempt any goods to which this section relates from any provision of Chapter IV, V or VIII of this Act.

[S. 116 substituted by s. 18 of Act 95 of 1965.]

116A.....

[S. 116A inserted by s. 34 of Act 105 of 1969 and repealed by s. 33 of Act 84 of 1987.]

117 Statistics

(1) Such statistics of the import and export trade of the Republic and of excisable goods manufactured in the Republic and of fuel levy goods manufactured in and imported into the Republic as the Minister may determine, shall be compiled and tabulated by the Commissioner and published at such times and in such manner as the Minister may direct.

[Sub-s. (1) substituted by s. 34 (a) of Act 84 of 1987 and by s. 38 of Act 59 of 1990.]

(2) For the purposes of subsection (1) any person-

- (a) entering any goods for import or export shall furnish, in addition to any particulars necessary for making due entry of such goods, such particulars of such goods as the Commissioner may from time to time require for the compilation of import and export statistics; or
- (b) manufacturing any excisable goods or fuel levy goods shall furnish in such manner and at such times as the Commissioner may require the value for excise duty purposes in terms of section 69 or for fuel levy purposes of all excisable goods or fuel levy goods manufactured by him, whether or not such goods are subject to *ad valorem* duty or to a duty calculated according to a unit of quantity, volume or other measurement, as the case may be.

[Para. (b) substituted by s. 34 (b) of Act 84 of 1987.]

[Sub-s. (2) added by s. 20 of Act 52 of 1986.]

(3) For the purposes of paragraph (b) of subsection (2) the value for fuel levy purposes shall be deemed to be the value for excise duty purposes in terms of section 69 in respect of such goods manufactured in the Republic.

[Sub-s. (3) added by s. 34 (c) of Act 84 of 1987.]

[S. 117 substituted by s. 35 of Act 105 of 1969.]

118 Delegation of powers

The Minister may, subject to such conditions as he may impose and for such period as he may specify in each case, delegate any of his powers under this Act (except any power relating to the amendment of any Schedule or the making of any regulation) to the Commissioner.

119 Substitution of Schedules

Whenever any Schedule to this Act or any part or item thereof, is substituted and the new Schedule or part or item provides that the Minister or the Commissioner may impose or prescribe any condition or approve of any matter or thing in relation to any class of goods, any condition imposed or prescribed or approval given by the Minister or the Commissioner under the Schedule or part or item in relation to such class of goods before substitution shall be deemed to have been imposed, prescribed or given under the new Schedule or part or item.

120 Regulations and rules

(1) The Commissioner may make rules-

- (a) prescribing the powers, duties and hours of attendance of officers;
- (b) determining services for which charges shall be payable, the rate and method of payment of such charges and the conditions attaching to such services;

[Para. (b) substituted by s. 39 (a) of Act 59 of 1990.]

- (c) as to the reporting inwards and outwards of ships and aircraft (including such reporting of ships or aircraft calling or landing at places not appointed as places of entry or customs and excise airports under this Act), the entry or departure of vehicles overland, the landing, loading, removal, detention, release, examination, conveyance and handling of cargo (including transit and coastwise cargo), the control of persons (including their baggage and goods)

entering or leaving the Republic, the placing into or removal from any State warehouse of goods and the removal in bond of goods;

- (d) as to the control of the storage or manufacture of goods in customs and excise warehouses (including the suitability of any buildings, plant and method of manufacture for the purposes of this Act, the hours of conducting any or all operations in any such warehouse, the supervision by officers of any such operations, the securing or marking of such plant, the inspection of such warehouses and the removal of goods from such warehouses), the testing of the output of stills, the conditions on which stills may be made, possessed, imported, disposed of or used and the fresh fruit which may be used by an agricultural distiller in the Republic for the distillation of spirits;

[Para. (d) substituted by s. 11 of Act 19 of 1994 and by s. 74 of Act 30 of 1998.]

- (e) as to the importation, exportation, transit or coastwise carriage of goods, the entry of goods, the payment of duties and other charges and fees, the costs which shall, for the purposes of section *forty-six* be included in or excluded from the production cost of goods in general or of goods of any class or kind, and the movement of goods to and from any territory with the government of which an agreement has been concluded under section *fifty-one*;
- (f) prescribing the form of and the particulars to be inserted on invoices or certificates in respect of any goods to which this Act applies and which are imported into or manufactured in the Republic;

[Para. (f) substituted by s. 36 (a) of Act 105 of 1969.]

- (g) as to the collection of duty by means of stamps, the method of applying stamps or stamp impressions to containers, the cancellation of stamps, the use of franking or counting machines, inks, dies and other appliances and materials, the accounting for stamp labels and stamp duties and the disposal of stamp labels;
- (h) as to the collection of excise duties and fuel levy, the time, manner and terms of payment and the calculation thereof;

[Para. (h) substituted by s. 36 (b) of Act 105 of 1969, by s. 35 of Act 84 of 1987 and by s. 39 (b) of Act 59 of 1990.]

- (i) as to the collection of duties which become payable under subsection (2) of section *fifty-eight*;

- (j) as to the circumstances under which licences may be granted and the manner of issuing and renewing licences;
- (k) governing the entry of goods under any item of Schedule 3, 4, 5 or 6 and prescribing the conditions on which such goods may be so entered or such goods may be transferred from one manufacturer or owner to another or such goods may be used, and as to the registration of manufacturers or owners so entering goods (including requirements as to the suitability of buildings, premises, storerooms and methods of manufacture for the purposes of this Act to be complied with by such manufacturers or owners), the records to be kept by such manufacturers or owners and the form of the application for registration and the particulars to be furnished by such manufacturers or owners;

[Para. (k) substituted by s. 36 (c) of Act 105 of 1969 and by s. 39 (c) of Act 59 of 1990.]

- (l) prescribing the returns and price lists to be rendered by importers or manufacturers or owners of any class or kind of goods;

[Para. (l) substituted by s. 36 (c) of Act 105 of 1969.]

- (m) prescribing the form of any licence, bill of entry, certificate and any other document, register, stockbook or return which he considers necessary for the effective administration of this Act;

(mA) as to matters relating to security;

[Para. (mA) inserted by s. 73 (b) of Act 45 of 1995.]

- (n) as to all matters which by this Act are required or permitted to be prescribed by rule;

Para. (n) substituted by s. 73 (c) of Act 45 of 1995.]

- (o) as to such other matters as are necessary or useful to be prescribed for the purposes of this Act.

[Sub-s. (1) amended by s. 73 (a) of Act 45 of 1995.]

(2)

[Sub-s. (2) deleted by s. 73 (d) of Act 45 of 1995.]

(3) The rules made under this section may provide penalties for any contravention thereof or failure to comply therewith not exceeding the penalties mentioned in subsection (2) of section 78.

[Sub-s. (3) substituted by s. 73 (e) of Act 45 of 1995.]

121 Repeal of laws

(1) Subject to the provisions of subsection (2), the laws specified in Schedule 9 are hereby repealed to the extent set out in the third column of that Schedule.

[Sub-s. (1) amended by s. 8 of Act 98 of 1970.]

(2) Anything done in terms of any provision of any law repealed by subsection (1) shall be deemed to have been done under the corresponding provision of this Act.

122 Short title and commencement

This Act shall be called the Customs and Excise Act, 1964, and shall come into operation on a date to be fixed by the State President by proclamation in the *Gazette*.

Schedules 1-8

NOTE: Schedules 1 to 6 inclusive and Schedule 8 to this Act are not included in this database, but are obtainable from the Office of the Commissioner for Customs and Excise. Schedule 7 was deleted by s. 47 of Act 59 of 1990.

Schedule 9 LAWS REPEALED

[Schedule 9, formerly Schedule 8, renumbered by s. 37 (9) of Act 105 of 1969 and amended by s. 9 (14) of Act 98 of 1970.]

NO. AND YEAR	SHORT TITLE	EXTENT OF REPEAL
Act 55 of 1955	Customs Act, 1955	The whole
Act 53 of 1956	Customs Amendment Act, 1956	The whole
Act 62 of 1956	Excise Act, 1956	The whole
Act 65 of 1957	Customs Amendment Act, 1957	The whole
Act 67 of 1957	Excise Amendment Act, 1957	The whole
Act 34 of 1958	Customs Further Amendment Act, 1958	The whole
Act 35 of 1958	Excise Amendment Act, 1958	The whole
Act 63 of 1959	Customs Amendment Act, 1959	The whole
Act 65 of 1959	Customs Further Amendment Act, 1959	The whole
Act 66 of 1959	Excise Amendment Act, 1959	The whole
Act 55 of 1960	Excise Amendment Act, 1960	The whole
Act 57 of 1960	Customs Amendment Act, 1960	The whole

Act 50 of 1961	Excise Amendment Act, 1961	The whole
Act 51 of 1961	Customs Amendment Act, 1961	The whole
Act 84 of 1962	Excise Amendment Act, 1962	The whole
Act 85 of 1962	Customs Amendment Act, 1962	The whole
Act 84 of 1963	Customs and Excise Amendment Act, 1963	The whole
Act 55 of 1964	Customs and Excise Amendment Act, 1964	The whole

PENDLEX: Customs and Excise Act 91 of 1964 after amendment by the Taxation Laws Amendment Act 30 of 1998

Section 37A Special provisions in respect of marked goods and certain goods that are free of duty

(1) (a) Notwithstanding anything to the contrary in this Act contained, any goods classified under any heading or subheading of Chapter 27 of Part 1 of Schedule 1 which are also classified under any item of Part 2 and Part 5 of Schedule 1 where such goods are specified and such heading or subheading is expressly quoted for which a free rate of duty is prescribed, in respect of each such heading or subheading and item, shall on importation into or manufacture in the Republic be entered for storage and be stored in a customs and excise warehouse.

(b) For the purposes of this section the Commissioner may regard any licensed customs and excise manufacturing warehouse as a licensed customs and excise storage warehouse.

(2) (a) If any goods are described in any such heading or subheading or item as marked, the goods concerned shall be marked by the licensee in a customs and excise warehouse before removal therefrom by the addition of a marker in such proportion, and in accordance with such procedure, as may be prescribed by rule.

(b) Any goods so marked and any other goods to which the provisions of subsection (1) apply shall, as may be prescribed by rule, be stored separately from any other goods and shall be subject to the provisions of this Act relating to dutiable goods stored in and removed from a customs and excise warehouse.

(c) Notwithstanding anything to the contrary in this Act contained-

- (i) any reference to 'marked goods' or 'marker' in this or any other section or in any heading or subheading of Chapter 27 of Part 1 or in any item of Part 2 or 5 of Schedule or in any note to such Chapter or Part or in any rule shall be regarded as a reference to goods marked as contemplated in paragraph (a);
- (ii) any reference to 'unmarked goods' in this or any other section or in any heading or subheading of Chapter 27 of Part 1 or in any item of Part 2 or 5 of Schedule 1 or in any note to such Chapter or Part or

in any rule shall be regarded as a reference to goods which, except for the reference to marked, are of the same description as marked goods and are specified as unmarked goods of such description in any such heading, subheading or item;

- (iii) whenever it is necessary for the purposes of this section to establish the presence of marked goods in any goods, any such goods shall be regarded as containing marked goods when such goods contain a proportion of the marker exceeding that as may be prescribed by rule.

(d) The addition of such marker shall not constitute mixing or blending for the purposes of section 37, except as provided in this section for the purposes of classification of any goods under any heading, subheading or item of any Schedule.

(e) The application of the free rate of duty specified in any heading or subheading of Chapter 27 of Part 1 or in any item of Part 2 and Part 5 of Schedule 1 in respect of any goods described as marked goods shall be subject to the provisions of this section.

(3) (a) Any person who sells or disposes of in any manner, whether or not for any consideration, any marked goods at any one time in excess of the quantity prescribed by rule, shall issue to the purchaser, or to any other person to whom the goods are so disposed of, an invoice containing such statement and such other particulars as may be prescribed by rule.

(b) Any person who so sells or disposes of marked goods shall keep a copy of such invoice and any person to whom such invoice is issued shall keep such invoice for such period as may be prescribed by rule.

(c) Any person who, at any time, so sells or disposes of or is at any time in possession of or has under his control any marked goods in excess of the quantity prescribed by rule shall complete and keep such books, accounts and other documents in such form and reflecting such particulars and for such period as may be prescribed by rule.

(4) (a) No person shall-

- (i) mix any marked goods in any proportion with distillate fuel, petrol or any lubricity agent;
- (ii) use any marked goods, whether or not mixed with any other goods in any proportion, as fuel in any engine;
- (iii) sell or dispose of in any manner whether or not for any

consideration or acquire any marked goods for use as fuel in any engine;

- (iv) be in possession of any marked goods mixed in any proportion with distillate fuel, petrol or any lubricity agent;
- (v) be in possession of any marked goods as fuel in any engine; or
- (vi) remove or neutralise or attempt to remove or neutralise any marker in any marked goods.

(b) Any person who so mixes or uses or sells or disposes or acquires or possesses any marked goods or so removes or neutralises or attempts to remove or to neutralise any marker, shall, in addition to any other liability incurred in terms of this Act, be liable for the payment of an amount equal to treble the sum of such duties as may be leviable on any distillate fuel, petrol, lubricity agent or unmarked goods in accordance with the provisions of Schedule 1, whichever yields the greater amount of duty, in respect of all marked goods which-

- (i) are in the possession or under the control of such person or on any premises in the possession or under the control of such person; and
- (ii) if the Commissioner so determines, were previously sold or disposed of or purchased or were in the possession or under the control of such person or on any premises in the possession or under the control of such person at any time, unless it is proved within 30 days from the date of any demand for payment of duty in terms of this section that the goods concerned have not been dealt with contrary to the provisions of paragraph (a).

(c) (i) If different rates of duty on such distillate fuel, petrol, lubricity agents or unmarked goods were in force during any period in respect of which the duties are calculated for the purposes of the payment referred to in paragraph (b), the highest rate in force at the relevant time shall be applied for the purposes of calculating the duty payable as provided in paragraph (b).

(ii) If any tank, including the fuel tank of any engine, or other container is found to contain any marked goods mixed with distillate fuel, petrol or any lubricity agent, duty shall be payable on the total quantity of such mixed goods as calculated in accordance with paragraph (b).

(d) Notwithstanding anything to the contrary in this Act contained, any person who, contrary to subsection (3) and the rules, fails to-

- (i) issue any invoice;

- (ii) keep any invoice issued or copy thereof;
- (iii) complete and keep the books, accounts and documents; or
- (iv) forthwith furnish any officer at such officer's request with such invoice or copy thereof and with the books, accounts and documents, required to be completed and kept,

shall, in addition to any other liability incurred in terms of this Act, be liable in respect of the goods to which such invoice, books, accounts or documents relate for the payment of an amount equal to treble the sum of such duties as may be leviable on any distillate fuel, petrol, lubricity agents or unmarked goods in accordance with the provisions of Schedule 1, whichever yields the greater amount of duty, unless it is proved within 30 days of the date of any demand for payment of duty in terms of the section that the goods concerned have not been dealt with contrary to the provisions of this section.

(e) Any amount for which any person is liable in terms of this subsection shall be payable upon demand by the Commissioner.

(f) Payment of any amount in respect of the goods referred to in subparagraph (b) (i) shall not absolve the person concerned from compliance with the provisions of paragraph (a).

(5) (a) For the purposes of this section an officer may-

- (i) take samples of any goods in any tank or other container or in any fuel tank of any engine;
- (ii) analyse or send any such samples to any designated institution for analysis;
- (iii) stop any vehicle or mobile apparatus with or without the assistance of any traffic officer or member of the South African Police Service or the South African National Defence Force.

(b) The provisions of section 106 (2) shall *mutatis mutandis* apply to any sample taken under this subsection.

(c) The Commissioner may by rule-

- (i) prescribe the method to be used for the taking and analysing of samples by an officer;
- (ii) prescribe the form of recording any results of such analyses;

- (iii) designate any institution to analyse such samples;
- (iv) prescribe the method to be used for such analysis and the form of report of such analysis;
- (v) prescribe the method of sealing any tank or container.

(6) (a) If any report by any institution designated by rule reveals facts that indicate that the goods concerned have been dealt with contrary to the provisions of this section-

- (i) such goods and any container thereof;
- (ii) any vehicle used in the removal or carriage of such goods or in which such goods are used as fuel, subject to the provisions of section 87 (2);
- (iii) any engine, or any apparatus operated by such engine, in which such goods are used as fuel,

shall be liable to forfeiture.

(b) For the purposes of this section, any such report shall be regarded as a correct analysis of the composition of such goods unless the contrary is proved.

(7) No person shall be entitled to any compensation for any loss or damage arising out of any *bona fide* action of an officer or any person who assists him under the provisions of this section.

(8) For the purposes of this section-

'engine' referred to in subsection (4) (a) and (c) (ii) and subsection (5) (a) (i) includes any engine of any machine, machinery, plant, equipment, apparatus or vehicle, classified under any heading or subheading of Chapters 84 to 87 of Schedule 1;

'vehicle' includes any vehicle as classified under any heading or subheading of Chapters 86 and 87 of Schedule 1.

Section 92 (1)

Any fine or penalty recovered under this Act shall be paid to the Controller in the area where such fine or penalty is recovered, and shall be paid by him into the National Revenue Fund, and the proceeds of sale of anything forfeited, or

seized and condemned under this Act shall also be paid into the said fund: Provided that the Commissioner may withhold a sum not exceeding one-third of any such fine, penalty or proceeds which he may then award to any person, excluding any officer or person employed by the South African Revenue Service, by whose means or information the fine or penalty or forfeiture was imposed or the seizure made.

CUSTOMS AND EXCISE AMENDMENT ACT 95 OF 1965

[ASSENTED TO 18 JUNE 1965]

[DATE OF COMMENCEMENT: 7 JULY 1965]
(Unless otherwise indicated)

(Afrikaans text signed by the State President)

ACT

To amend sections 1, 18 19, 20, 31, 37, 40, 44, 47, 55, 75, 99, 102 and 113 of the Customs and Excise Act, 1964, to substitute sections 24, 25, 93 and 116 of the said Act, to amend Schedules 1 to 7 inclusive to the said Act, and to provide for other incidental matters.

1 Amends section 1 of the Customs and Excise Act 91 of 1964.

[Date of commencement of s. 1: 1 January 1965.]

2 Amends section 18 of the Customs and Excise Act 91 of 1964.

3 Amends section 19 of the Customs and Excise Act 91 of 1964.

[Date of commencement of s. 3: 1 January 1965.]

4 Amends section 20 of the Customs and Excise Act 91 of 1964, as follows: paragraph (a) substitutes subsection (1) (a) (date of commencement: 1 January 1965); paragraphs (b) and (c) substitute respectively subsections (2) (b) and (3); paragraph (d) inserts subsection (4)*bis*; and paragraph (e) substitutes subsection (5) (date of commencement: 1 January 1965).

5 and 6 Substitute respectively sections 24 and 25 of the Customs and Excise Act 91 of 1964.

[Date of commencement of ss. 5 and 6: 1 January 1965.]

7 to 9 inclusive Amend respectively the following sections of the Customs and Excise Act 91 of 1964: 31, 37, 40.

[Date of commencement of ss. 7 to 9: 1 January 1965.]

10 Amends section 44 of the Customs and Excise Act 91 of 1964.

11 and 12 Amend respectively sections 47 and 55 of the Customs and Excise Act 91 of 1964.

[Date of commencement of ss. 11 and 12: 1 January 1965.]

13 Amends section 75 of the Customs and Excise Act 91 of 1964, as follows: paragraphs (a), (b), (c) and (d) substitute respectively, subsections (5) (a), (9), (10) and (11); paragraph (e) substitutes subsection (18) (date of commencement: 1 January 1965 in so far as it relates to paragraphs (b) and (c) of that subsection); and paragraph (f) adds subsection (19).

14 Substitutes section 93 of the Customs and Excise Act 91 of 1964.

15 and 16 Amend respectively sections 99 and 102 of the Customs and Excise Act 91 of 1964.

17 Amends section 113 of the Customs and Excise Act 91 of 1964.

[Date of commencement of s. 17: 1 January 1965.]

18 Substitutes section 116 of the Customs and Excise Act 91 of 1964.

19 Amendment of Schedules 1 to 6 of Act 91 of 1964

(1) Every notice issued under the provisions of subsection (1), (2) or (3) of section *forty-eight*, subsection (2) or (3) of section *fifty-five*, subsection (15) of section *seventy-five* or subsection (1) of section *one hundred and sixteen* of the principal Act prior to the twenty-fourth day of March 1965, is hereby repealed and Schedules 1, 2, 3, 4, 5 and 6 to that Act shall be construed as if the amendments made by any such notice had not been effected.

(2) Amends Schedules 1, 2, 3, 4, 5 and 6 of the Customs and Excise Act 91 of 1964.

(3) Any amendment to Schedule 1, 2, 3, 4, 5 or 6 to the principal Act, made under the provisions of section *forty-eight*, *fifty-five* or *seventy-five* of that Act after the twenty-third day of March 1965, shall be construed *mutatis mutandis* as if it were an amendment of the Schedule concerned, as amended by this section.

(4) This section, except in so far as subsection (2) relates to the amendments referred to in subsections (5), (6) and (7) and to tariff heading 90.24 referred to in Schedule 1 to this Act, tariff heading 58.10 in item 311.22 and tariff heading 85.01 in item 316.01 referred to in Schedule 3 to this Act, items 405.01

and 412.09 referred to in Schedule 4 to this Act and paragraph (2) of item 607.04.15 and items 608.02 and 608.04 referred to in Schedule 6 as substituted by Schedule 6 to this Act, shall be deemed to have come into operation on the twenty-fourth day of March 1965.

(5) (a) Subject to the provisions of subsection (1) of section *fifty-eight* of the principal Act, including the said provisions as they apply by virtue of paragraph (b) in relation to any decrease in any rate of duty provided for in the amendments referred to in this paragraph, this section, in so far as subsection (2) relates to tariff heading 24.02 and tariff items 104.30.40 and 104.30.45 referred to in Schedule 1 to this Act, shall be deemed to have come into operation on the seventeenth day of May 1965.

(b) For the purposes of paragraph (a), the provisions of subsection (1) of section *fifty-eight* of the principal Act shall *mutatis mutandis* apply in relation to any decrease in any rate of duty referred to in the said paragraph as they apply in relation to any increase in any such rate of duty.

(6) This section, in so far as subsection (2) relates to Note 13 to Section XI referred to in Schedule 1 to this Act, shall be deemed to have come into operation on the second day of February 1965.

(7) This section, in so far as subsection (2) relates to General Note VII, Notes 5 (b) and 6 to Chapter 27, tariff headings 28.31.10, 29.02, 37.01, 55.09.50, 56.07.50, 73.14.20, 76.16.50, 84.61.83, 85.04, 85.19.15, 87.12, 90.08, 90.16, 90.27, 92.11, 93.06, 95.08, 97.01, the Notes to tariff items 104.20 and 105.00 and tariff items 107.05 and 118.05 referred to in Schedule 1 to this Act, tariff heading 27.10 in item 305.02, tariff headings 27.07, 27.10, 29.01, 29.14 and 29.24 in item 306.04, tariff heading 38.19 in item 306.10, tariff heading 27.15 in item 307.08, tariff headings 48.01 and 48.05 in item 310.02, tariff headings 48.01, 48.07 and 51 04 in item 310.07, tariff heading 38.11 in item 311.01, tariff headings 51 04, 51 04.80, 51 04.90, 55.09, 56.07 and 56.07.80 in item 311.19, tariff headings 50.09.20, 50.09.30, 50.09.40, 51 04.80, 51 04.90 and 58.10 in item 311.20, tariff headings 55.07 and 58.10 in item 311.21, tariff heading 55.08 in item 311.22, tariff headings 51 04 and 60.01 in item 311.25, tariff headings 40.08 and 58.04 in item 312.01, tariff heading 59.03 in item 312.02, tariff heading 73.18 in item 316.01, item 316.13, paragraphs I, II, III and IV in item 317.03, tariff heading 84.59 in item 317.04, item 317.09, tariff heading 39.07 in item 320.01, item 320.03 and tariff heading 28.00 in item 321.01 referred to in Schedule 3 to this Act, items 407.01, 407.02 and 460.01 referred to in Schedule 4 to this Act, item 532 referred to in Schedule 5 to this Act and items 606.05, 608.01 and 609.00 referred to in Schedule 6 as substituted by Schedule 6 to this Act, shall be deemed to have come into operation on the first day of January 1965.

20 Amends Schedule 7 to the Customs and Excise Act 91 of 1964.

[Date of commencement of s. 20: 1 January 1965.]

21 Short title and commencement of certain sections

(1) This Act shall be called the Customs and Excise Amendment Act, 1965.

(2) Sections *one* and *three*, paragraphs *(a)* and *(e)* of section *four*, sections *five* to *nine* inclusive, sections *eleven* and *twelve*, paragraph *(e)* of section *thirteen*, in so far as that paragraph relates to paragraphs *(b)* and *(c)* of subsection (18) of section *seventy-five* of the principal Act, and sections *seventeen* and *twenty* shall be deemed to have come into operation on the first day of January 1965.

CUSTOMS AND EXCISE AMENDMENT ACT 57 OF 1966

[ASSENTED TO 24 OCTOBER 1966]

[DATE OF COMMENCEMENT: 3 NOVEMBER 1966]
(Unless otherwise indicated)

(English text signed by the State President)

as amended by

General Law Amendment Act 49 of 1996

ACT

To amend sections 1, 10, 13, 31, 44, 48, 51, 62, 63, 75, 84, 102 and 113 of the Customs and Excise Act, 1964; to insert a new section 107A in the said Act; to amend Schedules 1 to 7, inclusive, to the said Act; and to provide for other incidental matters.

1 (1) Amends section 1 of the Customs and Excise Act 91 of 1964.

(2) Any reference in any other law to Collector of Customs and Excise shall be construed as a reference to Controller of Customs and Excise.

(3) Anything done by or on behalf of the Collector of Customs and Excise designated by the Secretary in respect of any area or matter before the commencement of this subsection in the administration of any law, shall be deemed to have been done by or on behalf of the Controller of Customs and Excise designated by the Secretary in respect of that area or matter.

(4) This section, except subsection (1) *(c)*, shall come into operation on the first day of January 1967.

(5)

[Sub-s. (5) deleted by s. 1 of Act 49 of 1996.]

2 to 12 inclusive Amend respectively the following sections of the Customs and Excise Act 91 of 1964: 10, 13, 31, 44, 48, 51, 62, 63, 75, 84, 102.

13 Inserts section 107A in the Customs and Excise Act 91 of 1964.

14 Amends section 113 of the Customs and Excise Act 91 of 1964.

15 Amendment of Schedules 1 to 6 inclusive of Act 91 of 1964, as amended by section 19 of Act 95 of 1965

(1) Every notice issued under the provisions of section 48 (1), (2) or (3), section 55 (2) or (3) or section 75 (15) of the principal Act prior to the seventeenth day of August 1966, is hereby repealed and Schedules 1, 2, 3, 4, 5 and 6 to that Act shall be construed as if the amendments made by any such notice had not been effected.

(2) The said Schedules as so construed are hereby amended to the extent set out in Schedules 1, 2, 3, 4, 5 and 6 to this Act.

(3) Any amendment to Schedules 1, 2, 3, 4, 5 or 6 to the principal Act, made under the provisions of section 48, 55 or 75 of that Act after the sixteenth day of August 1966, shall be construed *mutatis mutandis* as if it were an amendment of the Schedule concerned, as amended by this section.

(4) This section, except in so far as subsection (2) relates to the amendments referred to in subsections (5), (6), (7) (8) and (9) and to item 207.01 referred to in Schedule 2 to this Act, items 302.02 and 303.01, tariff heading 20.02 in item 304.01, item 304.02, tariff heading 20.02 in item 304.07, item 304.08, tariff heading 28.56 in item 307.01 and item 307.03 referred to in Schedule 3 to this Act, items 406.00, 407.03, 409.02, 490.16 and 490.17 referred to in Schedule 4 to this Act and items 522.03 and 522.04 referred to in Schedule 5 to this Act, shall be deemed to have come into operation on the seventeenth day of August 1966.

(5) Subject to the provisions of section 58 (1) of the principal Act, this section, in so far as subsection (2) relates to tariff headings 03.01, 03.02, 08.01, 21.03, 21.04, 21.06, 24.02, 27.07, 27.10, 29.01, 34.01, 34.02, 48.11, 58.01, 58.02, 66.01, 71.13, 83.06, 84.11, 84.15, 84.18.25, 84.40, 85.03, 85.06, 85.10, 85.12, 85.20, 87.02.10.90, 87.13, 97.02, 97.03 (except 97.03.98), 97.04, 97.05, 97.06 and 98.15 and tariff items 102.50, 104.05, 104.10, 104.20, 104.30, 105.05, 105.10 and 117.05 referred to in Schedule 1 to this Act, shall be deemed to have come into operation on the seventeenth day of August 1966.

(6) This section, in so far as subsection (2) relates to tariff headings 68.09, 68.13, 73.13 and 73.15 referred to in Schedule 1 to this Act, Note 4 to Schedule 3 to the principal Act, tariff headings 71.16, 97.02 and 97.03 in item 304.03, tariff heading 29.04 in item 305.01, item 306.05, tariff heading 27.07 in item 307.01, item 313.06, tariff heading 26.01 in item 315.01 and items 316.10, 316.13 and 320.02 referred to in Schedule 3 to this Act, item 460.05 referred to in Schedule 4 to this Act, tariff heading 85.00 in item 516.03 referred to in Schedule 5 to this Act and item 606.22.10 referred to in Schedule 6 to this Act, shall be deemed to have come into operation on the first day of January 1965.

(7) This section, in so far as subsection (2) relates to tariff heading 85.08 in item 216.02 and to item 217.02 referred to in Schedule 2 to this Act, shall be deemed to have come into operation on the fourteenth day of June 1966.

(8) This section, in so far as subsection (2) relates to Note 02.07 to item 317.03 and to items 317.03 (III) (b) (1) (ii) (A) and (2) (i) (A) referred to in Schedule 3 to this Act, shall be deemed to have come into operation on the first day of September 1966.

(9) This section, in so far as subsection (2) relates to tariff heading 73.23 in items 504.02 and 506.07 referred to in Schedule 5 to this Act, shall not apply in respect of the goods in question which were imported prior to the eighteenth day of March 1966, and the amendment effected by Government Notice R406 of the eighteenth day of March 1966, providing for the deletion of tariff heading 73.23 in item 504.01 as amended by Government Notice R1529 of the eighth day of October 1965, shall not apply in respect of the goods in question which were imported prior to the eighteenth day of March 1966.

(10) Tariff heading 51 04.80.40 of Schedule 1 to the principal Act shall be construed as if during the period from the first day of January 1965, up to and including the fifteenth day of November 1965, there had been included therein a provision providing for clearance free of duty of woven fabrics, commonly known as belting duck or belting canvas, of man-made synthetic continuous fibre, of a weight per square yard exceeding 10 ounces and of a value for duty purposes exceeding 130 cents per square yard.

16 Amends Schedule 7 to the Customs and Excise Act 91 of 1964.

17 Short title

This Act shall be called the Customs and Excise Amendment Act, 1966.

CUSTOMS AND EXCISE AMENDMENT ACT 96 OF 1967

[ASSENTED TO 19 JUNE 1967]

[DATE OF COMMENCEMENT: 30 JUNE 1967]
(Unless otherwise indicated)

(Afrikaans text signed by the Acting State President)

as amended by

General Law Amendment Act 49 of 1996

ACT

To amend section 77 of and Schedules 1 to 6, inclusive, to the Customs and Excise Act, 1964; and to provide for incidental matters.

- 1 Substitutes section 77 of the Customs and Excise Act 91 of 1964.
- 2 **Amendment of Schedules 1 to 6, inclusive, to Act 91 of 1964, as amended by section 19 of Act 95 of 1965 and section 15 of Act 57 of 1966**

(1) Every notice issued under the provisions of section 48 (1), (2) or (3), section 55 (2) or (3) or section 75 (15) of the principal Act prior to the twenty-fourth day of March 1967, is hereby repealed and Schedules 1, 2, 3, 4, 5 and 6 to that Act shall be construed as if the amendments made by any such notice had not been effected.

(2) The said Schedules as so construed are hereby amended to the extent set out in Schedules 1, 2, 3, 4, 5 and 6 to this Act.

(3) Any amendment to Schedule 1, 2, 3, 4, 5 or 6 to the principal Act, made under the provisions of section 48, 55 or 75 of that Act after the twenty-third day of March 1967, shall be construed *mutatis mutandis* as if it were an amendment of the Schedule concerned, as amended by this section.

(4) This section, except in so far as subsection (2) relates to the amendments referred to in subsections (5), (6), (7), (8), (9) and (10) and to the title of Chapter 34, Note 3 (a) (ii) to Chapter 59, Note 6 to Section XV, and tariff heading 73.03 referred to in Schedule 1 to this Act, tariff heading 57.09 in item 312.01 referred to in Schedule 3 to this Act, tariff heading 70.13 in item 513.01 referred to in Schedule 5 to this Act and items 602.00, 602.01, 604.02.01, 604.03.10, 605.04.05, 606.05.20 and 608.01 referred to in Schedule 6 to this Act, shall be deemed to have come into operation on the twenty-fourth day of March 1967.

(5) Subject to the provisions of section 58 (1) of the principal Act, this section, in so far as subsection (2) relates to tariff heading 87.02.10.90 and tariff item 117.05 referred to in Schedule 1 to this Act and paragraphs (b) to (s), inclusive, of item 609.17.20 referred to in Schedule 6 to this Act, shall be deemed to have come into operation on the twenty-second day of March 1967.

(6) This section, in so far as subsection (2) relates to items 603.01.03 and 607.02 referred to in Schedule 6 to this Act, shall be deemed to have come into operation on the twenty-third day of March 1967.

(7) This section, in so far as subsection (2) relates to tariff headings 43.03 and 90.07 referred to in Schedule 1 to this Act, tariff heading 04.02 in item 304.07, tariff heading 27.07 in item 307.07 and tariff headings 51.04 and 60.01 in item 311.25 referred to in Schedule 3 to this Act, shall be deemed to have come into operation on the first day of January 1965.

(8) This section, in so far as subsection (2) relates to item 460.06 referred to in Schedule 4 to this Act, shall be deemed to have come into operation on the first day of May 1966.

(9) Tariff heading 87.06.55 of Schedule 1 to the principal Act shall be construed as if during the period from the first day of January 1965, up to and including the tenth day of February 1966, there had been included therein a provision providing for clearance at a rate of duty of 10% *ad valorem* of brake drums of unmachined cast metal, whether or not attached to wheel hubs.

(10) Tariff heading 84.06 in item 316.01 of Schedule 3 to the principal Act shall be construed as if during the period from the first day of January 1965, up to and including the seventh day of October 1965, there had been included therein a provision providing for a rebate of the full duty on internal combustion piston engines for the manufacture of road graders.

3 Refund of excise duties on certain kaffircorn malt

(1) If a manufacturer of sorghum beer proves to the satisfaction of the Secretary, as defined in section 1 of the principal Act, that the full excise duty has been paid on any kaffircorn malt delivered prior to the twenty-third day of March 1967, from any customs and excise warehouse and used in the manufacture of sorghum beer in respect of which a rebate of the full excise duty was not applicable during any period after the said date, and on which the non-rebated portion of the excise duty has been paid, the Secretary may refund to the manufacturer of such beer the excise duty paid on any such malt which has been so used.

(2) For the purposes of subsection (1)-

- (a) kaffircorn malt used in the manufacture of sorghum beer shall be deemed to include kaffircorn malt used in the manufacture of sorghum beer powder or mash subsequently used in the manufacture of sorghum beer; and

- (b) the Secretary may in his discretion accept proof of payment in respect of kaffircorn malt or sorghum beer powder or mash by a manufacturer of sorghum beer of a price which in the opinion of the Secretary included any excise duty on kaffircorn malt as proof that the excise duty on such kaffircorn malt has been paid.

(3) No refund of duty shall be paid by virtue of the provisions of this section unless the application for refund is received by the Controller, as defined in section 1 of the principal Act, within six months after the date of commencement of this section and any such application and any refund in pursuance of such application shall otherwise be subject to the provisions of sections 76 and 77 of the principal Act.

(4)

[Sub-s. (4) deleted by s. 1 of Act 49 of 1996.]

4 Short title

This Act shall be called the Customs and Excise Amendment Act, 1967.

CUSTOMS AND EXCISE AMENDMENT ACT 85 OF 1968

[ASSENTED TO 20 JUNE 1968]

[DATE OF COMMENCEMENT: 10 JULY 1968]
(Unless otherwise indicated)

(Afrikaans text signed by the State President)

ACT

To amend sections 39, 54, 60, 65, 75, 76, 80, 88, 89, 91, 95, 99, 102, 107 and 112 of the Customs and Excise Act, 1964; to substitute sections 41, 67, 86, 93 and 101 of the said Act; to repeal section 70 of the said Act; to amend Schedules 1 to 6, inclusive, to the said Act; and to provide for incidental matters.

1 Amends section 39 of the Customs and Excise Act 91 of 1964, as follows: paragraph (a) substitutes subsection (1) (c) and (d); and paragraph (b) substitutes subsection (3).

2 Substitutes section 41 of the Customs and Excise Act 91 of 1964.

3 Amends section 54 of the Customs and Excise Act 91 of 1964 by substituting subsection (3).

4 Amends section 60 (2) of the Customs and Excise Act 91 of 1964 by substituting paragraph (b).

- 5** Amends section 65 of the Customs and Excise Act 91 of 1964 by substituting subsection (1).
- 6** Substitutes section 67 of the Customs and Excise Act 91 of 1964.
- 7** Repeals section 70 of the Customs and Excise Act 91 of 1964.
- 8** Amends section 75 of the Customs and Excise Act 91 of 1964, as follows: paragraph (a) substitutes subsection (17); and paragraph (b) adds subsections (20) and (21).
- 9** Amends section 76 of the Customs and Excise Act 91 of 1964 by substituting subsection (6).
- 10** Amends section 80 (1) of the Customs and Excise Act 91 of 1964 by substituting paragraph (o).
- 11** Substitutes section 86 of the Customs and Excise Act 91 of 1964.
- 12** Amends section 88 of the Customs and Excise Act 91 of 1964 by adding subsection (2), the existing section becoming subsection (1).
- 13** Amends section 89 of the Customs and Excise Act 91 of 1964 by substituting subsection (1).
- 14** Amends section 91 of the Customs and Excise Act 91 of 1964 by substituting subsection (1).
- 15** Substitutes section 93 of the Customs and Excise Act 91 of 1964.
- 16** Amends section 95 of the Customs and Excise Act 91 of 1964 by adding subsection (2), the existing section becoming subsection (1).
- 17** Amends section 99 of the Customs and Excise Act 91 of 1964 by adding subsection (4).
- 18** Substitutes section 101 of the Customs and Excise Act 91 of 1964.
- 19** Amends section 102 of the Customs and Excise Act 91 of 1964 by substituting subsection (2).
- 20** Amends section 107 of the Customs and Excise Act 91 of 1964, as follows: paragraph (a) adds subsection (2) (b), the existing subsection becoming paragraph (a); and paragraph (b) substitutes subsection (3).

21 Amends section 112 of the Customs and Excise Act 91 of 1964 by substituting subsection (3).

22 Amendment of Schedules 1 to 6, inclusive, to Act 91 of 1964, as amended by section 19 of Act 95 of 1965, section 15 of Act 57 of 1966 and section 2 of Act 96 of 1967

(1) Every notice issued under the provisions of section 48 (1), (2) or (3), section 55 (2) or (3) or section 75 (15) of the principal Act prior to the twenty-seventh day of March 1968, is hereby repealed and Schedules 1, 2, 3, 4, 5 and 6 to that Act shall be construed as if the amendments made by any such notice had not been effected.

(2) The said Schedules as so construed are hereby amended to the extent set out in Schedules 1, 2, 3, 4, 5 and 6 to this Act.

(3) Any amendment of Schedule 1, 2, 3, 4, 5 or 6 to the principal Act, made under the provisions of section 48, 55 or 75 of that Act after the twenty-sixth day of March 1968, shall be construed *mutatis mutandis* as if it were an amendment of the Schedule concerned, as amended by this section.

(4) This section, except in so far as subsection (2) relates to the amendments referred to in subsections (5), (6), (7), (8) and (9) and to the heading of tariff heading 32.10, heading of tariff heading 39.02, tariff heading 39.03 and tariff item 104.20 referred to in Schedule 1 to this Act, tariff heading 15.04 in item 303.01, items 304.01, 304.02, 304.07 and 305.01, tariff heading 39.03 in item 306.04, item 306.10, tariff headings 28.56 and 39.03 in items 307.01, tariff heading 38.19 in item 307.08, item 307.09 and item 317.09 referred to in Schedule 3 to this Act, items 406.02, 406.05, 460.02, 460.03, 460.04, 460.05 and 460.06 referred to in Schedule 4 to this Act and item 521.00 referred to in Schedule 5 to this Act, shall be deemed to have come into operation on the twenty-seventh day of March 1968.

(5) Subject to the provisions of section 58 (1) of the principal Act, this section, in so far as subsection (2) relates to tariff heading 27.10 and tariff item 105.10 referred to in Schedule 1 to this Act, shall be deemed to have come into operation on the twenty-seventh day of March 1968.

(6) This section, in so far as subsection (2) relates to tariff heading 87.09 referred to in Schedule 1 to this Act, item 304.03 and tariff heading 25.26 in item 316.04 referred to in Schedule 3 to this Act, item 411.00 referred to in Schedule 4 to this Act and paragraph (2) of tariff item 104.20 in item 607.04.10 referred to in Schedule 6 to this Act, shall be deemed to have come into operation on the first day of January 1965.

(7) This section, in so far as subsection (2) relates to tariff heading

39.02.40.23 referred to in Schedule 1 to this Act, shall be deemed to have come into operation on the nineteenth day of March 1965.

(8) This section, in so far as subsection (2) relates to Note 04.00 to item 317.03 referred to in Schedule 3 to this Act, shall be deemed to have come into operation on the fourteenth day of June 1966.

(9) This section, in so far as subsection (2) relates to tariff headings 04.04, 16.02, 16.04, 26.01, 32.04, 37.01, 37.02, 37.04, 37.08, 73.02, 84.53 and 84.55 referred to in Schedule 1 to this Act, shall be deemed to have come into operation on the first day of January 1968.

(10) Paragraph (2) of tariff heading 87.07 in item 317.10 of Schedule 3 to the principal Act, as inserted by this Act, shall be construed as if during and in respect of the period from the first day of January 1965, up to and including the ninth day of March 1967, it had provided for a rebate of the full duty less 7% *ad valorem* on crane trucks for the manufacture of mobile cranes.

(11) Paragraph (3) of tariff heading 30.04 in item 206.03 of Schedule 2 to the principal Act shall be construed as if during the period from the first day of January 1965, up to and including the sixth day of October 1966, there had been included therein a provision providing for the exclusion of adhesive corn plasters from the description 'adhesive plasters'.

23 Short title

This Act shall be called the Customs and Excise Amendment Act, 1968.

CUSTOMS AND EXCISE AMENDMENT ACT 105 OF 1969

[ASSENTED TO 23 JUNE 1969]

[DATE OF COMMENCEMENT: 26 MARCH 1969]
(Unless otherwise indicated)

(English text signed by the State President)

as amended by

General Law Amendment Act 49 of 1996

ACT

To amend sections 1, 4, 7, 9, 13, 18 19, 20, 21, 27, 37, 38, 39, 41, 44, 47, 48, 53, 65, 69, 75, 76, 80, 84, 102, 106, 107, 107A, 114 and 120 of the Customs and Excise Act, 1964; to substitute sections 60, 77, and 117 of the said Act; to insert sections 36A, 70 and 116A in the said Act; to amend Schedules 1 to 6, inclusive, to substitute Schedule 7 and to insert Schedule 8, to the said Act; to provide that certain contract prices may be varied to the extent

of the amount of sales duty; to empower the Minister of Finance to amend with retrospective effect certain Schedules to the said Act; and to provide for incidental matters.

1 Amends section 1 of the Customs and Excise Act 91 of 1964, as follows: paragraph (a) substitutes all the words preceding 'agricultural distiller'; paragraph (b) substitutes the definition of 'customs duty'; paragraph (c) substitutes the definition of 'customs tariff'; paragraph (d) substitutes the definition of 'entry for home consumption'; paragraph (e) substitutes the definition of 'illicit goods'; paragraph (f) substitutes the definition of 'manufacture'; paragraph (g) substitutes the definition of 'officer'; and paragraph (h) inserts the definitions of 'sales duty' and 'sales duty goods'.

2 Amends section 4 of the Customs and Excise Act 91 of 1964 by substituting subsection (2).

3 Amends section 7 of the Customs and Excise Act 91 of 1964, as follows: paragraph (a) inserts subsection (2A); and paragraph (b) substitutes subsection (3).

4 Amends section 9 (3) of the Customs and Excise Act 91 of 1964 by substituting paragraph (g).

5 Amends section 13 of the Customs and Excise Act 91 of 1964 by substituting subsection (3).

6 Amends section 18 (1) of the Customs and Excise Act 91 of 1964 by substituting paragraph (a).

7 Amends section 19 of the Customs and Excise Act 91 of 1964 by substituting subsection (1).

8 Amends section 20 of the Customs and Excise Act 91 of 1964, as follows: paragraph (a) substitutes subsection (1) (a); paragraph (b) substitutes subsection (2) (a); and paragraph (c) substitutes subsection (5).

9 Amends section 21 of the Customs and Excise Act 91 of 1964 by adding subsection (2), the existing section becoming subsection (1).

10 Amends section 27 of the Customs and Excise Act 91 of 1964, as follows: paragraph (a) substitutes subsection (1); paragraph (b) substitutes subsection (3); and paragraph (c) adds subsection (16).

11 Inserts section 36A in the Customs and Excise Act 91 of 1964.

12 Amends section 37 of the Customs and Excise Act 91 of 1964 by adding

subsection (8).

13 Amends section 38 of the Customs and Excise Act 91 of 1964 by substituting subsection (4).

14 Amends section 39 of the Customs and Excise Act 91 of 1964 by inserting subsection (2A).

15 Amends section 41 of the Customs and Excise Act 91 of 1964 by substituting subsection (1).

16 Amends section 44 of the Customs and Excise Act 91 of 1964, as follows: paragraph (a) substitutes subsections (1) and (2); and paragraph (b) substitutes subsections (7) and (8).

17 Amends section 47 of the Customs and Excise Act 91 of 1964, as follows: paragraph (a) substitutes subsection (1); paragraph (b) substitutes subsection (5); and paragraph (c) substitutes subsection (7).

18 Amends section 48 of the Customs and Excise Act 91 of 1964, as follows: paragraph (a) inserts subsection (3A); paragraph (b) substitutes subsection (4); and paragraph (c) substitutes subsection (6).

19 Amends section 53 of the Customs and Excise Act 91 of 1964 by substituting subsection (2).

20 Substitutes section 60 of the Customs and Excise Act 91 of 1964.

21 Amends section 65 of the Customs and Excise Act 91 of 1964, as follows: paragraph (a) substitutes subsections (1) and (2); and paragraph (b) adds subsection (5).

22 Amends section 69 of the Customs and Excise Act 91 of 1964 by substituting subsection (1).

23 Inserts section 70 in the Customs and Excise Act 91 of 1964.

24 Amends section 75 of the Customs and Excise Act 91 of 1964, as follows: paragraph (a) adds subsection (1) (e); paragraph (b) substitutes subsection (6) (a); paragraph (c) substitutes subsection (7); paragraph (d) substitutes subsection (8); paragraph (e) substitutes subsection (9); paragraph (f) substitutes subsection (10); paragraph (g) substitutes subsection (11); paragraph (h) substitutes subsection (15) (a); paragraph (i) substitutes subsection (17); paragraph (j) substitutes in subsection (18) all the words preceding paragraph (a); paragraph (k) substitutes subsection (19); and paragraph (l) substitutes subsection (21).

- 25** Amends section 76 of the Customs and Excise Act 91 of 1964 by substituting subsection (1).
- 26** Substitutes section 77 of the Customs and Excise Act 91 of 1964.
- 27** Amends section 80 (1) of the Customs and Excise Act 91 of 1964 by substituting paragraph (b).
- 28** Amends section 84 (2) of the Customs and Excise Act 91 of 1964 by substituting all the words preceding paragraph (a).
- 29** Amends section 102 of the Customs and Excise Act 91 of 1964 by substituting subsections (1) and (2).
- 30** Amends section 106 of the Customs and Excise Act 91 of 1964 by substituting subsection (1).
- 31** Amends section 107 (2) of the Customs and Excise Act 91 of 1964 by substituting paragraph (b).
- 32** Amends section 107A of the Customs and Excise Act 91 of 1964 by adding subsection (2), the existing section becoming subsection (1).
- 33** Amends section 114 of the Customs and Excise Act 91 of 1964, as follows: paragraph (a) substitutes subsection (1) (a); and paragraph (b) substitutes subsection (2).
- 34** Inserts section 116A in the Customs and Excise Act 91 of 1964.
- 35** Substitutes section 117 of the Customs and Excise Act 91 of 1964.
- 36** Amends section 120 (1) of the Customs and Excise Act 91 of 1964, as follows: paragraph (a) substitutes paragraph (f); paragraph (b) substitutes paragraph (h); and paragraph (c) substitutes paragraphs (k) and (l).
- 37** **Amendment of Schedules 1 to 6, inclusive, and substitution of Schedules 7 and 8, to Act 91 of 1964, as amended by section 19 of Act 95 of 1965, section 15 of Act 57 of 1966, section 2 of Act 96 of 1967 and section 22 of Act 85 of 1968**

(1) Every notice issued under the provisions of section 48 (1), (2) or (3), section 55 (2) or (3) or section 75 (15) of the principal Act prior to the thirty-first day of January 1969, is hereby repealed and Schedules 1, 2, 3, 4, 5 and 6 to that Act shall be construed as if the amendments made by any such notice had not been effected.

(2) The said Schedules as so construed are hereby amended to the extent set out in Schedules 1, 2, 3, 4, 5 and 6 to this Act.

(3) Any amendment of Schedule 1, 2, 3, 4, 5 or 6 to the principal Act, made under the provisions of sections 48, 55 or 75 of that Act after the thirtieth day of January 1969, shall be construed *mutatis mutandis* as if it were an amendment of the Schedule concerned, as amended by this section.

(4) This section, except in so far as subsection (2) relates to the amendments referred to in subsections (5), (6) and (7) and to tariff headings 27.10, 27.15, 28.04, 35.01 and 35.02, Note 15 to Section XI, tariff headings 51 04.85.20 and 63.01, Note 2 to Chapter 70, headings of tariff headings 70.06 and 70.07 and tariff headings 85.01, 85.19 and 85.19.80 referred to in Schedule 1 to this Act, tariff heading 85.01 in item 216.02 referred to in Schedule 2 to this Act and tariff headings 85.18 and 85.21 in item 316.04 referred to in Schedule 3 to this Act, shall be deemed to have come into operation on the thirty-first day of January 1969.

(5) (a) Subject to the provisions of section 58 (1) of the principal Act and paragraphs (b) and (c) of this subsection, this section, in so far as subsection (2) relates to Part 3 of Schedule 1 to that Act, as inserted by Schedule 1 to this Act, shall be deemed to have come into operation on the twenty-sixth day of March 1969.

(b) Subject to the provisions of section 58 (1) of the principal Act, tariff heading 39.00 in sales duty item 137.00 and tariff heading 48.15 in sales duty item 140.00 shall be deemed to have come into operation on the thirtieth day of May 1969: Provided that the said tariff heading 48.15 in sales duty item 140.00 shall be construed as if during and in respect of the period from the twenty-sixth day of March 1969, up to and including the thirtieth day of May 1969, it had provided for a rate of sales duty of 10% in Column III of the said Part 3 of Schedule 1.

(c) Subject to the provisions of section 58 (1) of the principal Act, including the said provisions as they apply by virtue of paragraph (d) of this subsection in relation to any decrease in any rate of duty provided for in the amendments referred to in this paragraph, this section, in so far as subsection (2) relates to tariff heading 36.06 of Part 1, Note 2A to Part 2, tariff items 104.10.10, 104.10.20, 104.10.30, 106.00, 106.05, 107.00, 107.05, 118.00 and 118.05 of Part 2 and tariff heading 43.03 (in so far as it relates to exclusion of furskin parts of paint rollers) in sales duty item 138.00 referred to in Schedule 1 to this Act, shall be deemed to have come into operation on the twenty-sixth day of March 1969: Provided that for the purposes of the said tariff item 104.10.20 and Note 2A to Part 2 of Schedule 1 to this Act the period from the twenty-sixth day of March 1969, up to and including the thirty-first day of March 1969, shall be

deemed to fall within the financial year which commenced on the first day of April 1969.

(d) For the purposes of paragraph (c), the provisions of section 58 (1) of the principal Act shall *mutatis mutandis* apply in relation to any decrease in any rate of duty referred to in the said paragraph as they apply in relation to any increase in any such rate of duty.

(6) This section, in so far as subsection (2) relates to tariff heading 22.03 in item 410.03 referred to in Schedule 4 to this Act and items 602.01.40, 602.01.45, 602.01.55, 603.01.40, 603.01.45, 603.01.55, 605.07, 605.07.10, 606.22.10, 608.01, 608.02, 609.18 and 609.18.10 referred to in Schedule 6 to this Act, shall be deemed to have come into operation on the twenty-seventh day of March 1969: Provided that items 602.01.45, 603.01.45, 605.07, 605.07.10, 606.22.10, 608.01 and 608.02 referred to in Schedule 6 to this Act, in so far as they apply to a refund of excise duty which was paid or assessed before the twenty-seventh day of March 1969, shall be construed as if no deletion or substitution of them had been effected by subsection (2).

(7) This section, in so far as subsection (2) relates to tariff heading 39.03.40 and Note 13 to Section XI referred to in Schedule 1 to this Act, and tariff heading 39.01 in item 307.01 referred to in Schedule 3 to this Act, shall be deemed to have come into operation on the first day of January 1965.

(8) Schedule 7 to this Act is hereby substituted for Schedule 7 to the principal Act with effect from the twenty-sixth day of March 1969: Provided that item 709.01 shall be deemed to have come into operation on the twenty-fifth day of April 1969.

(9) Schedule 8 to this Act is hereby inserted in the principal Act as Schedule 8 after Schedule 7 to that Act, with effect from the twenty-sixth day of March 1969, the existing Schedule 8 to the principal Act becoming Schedule 9 to that Act with effect from that date.

38 Substitutes the long title of the Customs and Excise Act 91 of 1964.

39 Certain contract prices may be varied to extent of amount of sales duty

(1) Whenever any sales duty goods, as defined in the principal Act, are in pursuance of a contract of sale made before the twenty-sixth day of March 1969, tendered to the purchaser, including the State-

- (a) such purchaser shall not be entitled to refuse to accept such goods on the ground only of the imposition of sales duty, as defined in the principal Act, on that date; and

(b) the seller of such goods may, in the absence of express agreement to the contrary relating to such sales duty or any duty or tax substantially similar to such sales duty, recover from the purchaser, as an addition to the contract price, a sum equal to any amount paid by such seller by reason of the said sales duty.

(2) The provisions of subsection (1) shall also apply, *mutatis mutandis*, to any contract, or to the use of any goods, referred to in section 59 (3) of the principal Act.

40 Minister may amend Schedules with retrospective effect in certain circumstances

The Minister may, at any time before the date on which he introduces the Appropriation Bill in Parliament in respect of the financial year 1970-'71, apply the provisions of section 48 (3A) or 75 (15) (a) of the principal Act, in so far as they relate to sales duty as defined in that Act, with retrospective effect to a date which he considers reasonable but not earlier than the twenty-sixth day of March 1969, if he considers such action is warranted or in order to avoid serious detriment to any manufacturer, owner, importer or other person affected to an unforeseen extent by sales duty.

41

[S. 41 repealed by s. 1 of Act 49 of 1996.]

42 Short title and commencement

This Act shall be called the Customs and Excise Amendment Act, 1969, and shall, subject to the provisions of section 37, be deemed to have come into operation on the twenty-sixth day of March 1969.

CUSTOMS AND EXCISE AMENDMENT ACT 98 OF 1970

[ASSENTED TO 6 OCTOBER 1970]

[DATE OF COMMENCEMENT: 14 OCTOBER 1970]
(Unless otherwise indicated)

(Afrikaans text signed by the State President)

as amended by

General Law Amendment Act 49 of 1996

ACT

To amend sections 1, 15, 48, 63, 99 and 121 of the Customs and Excise Act,

1964; to substitute section 76 of the said Act; to insert a new section 96A in the said Act; to amend Schedules 1 to 7, inclusive, and 9 to the said Act; to empower the Minister of Finance to amend certain Schedules to the said Act with retrospective effect; and to provide for incidental matters.

1 Amends section 1 of the Customs and Excise Act 91 of 1964, as follows: paragraph (a) substitutes the definition of 'goods'; and paragraph (b) substitutes the definition of 'Government Brandy Board'.

2 Amends section 15 of the Customs and Excise Act 91 of 1964 by substituting subsection (1).

3 Amends section 48 of the Customs and Excise Act 91 of 1964 by substituting subsection (7).

4 Amends section 63 (1) of the Customs and Excise Act 91 of 1964 by substituting the expression 'Schedule 8' for the expression 'Schedule 7'.

[Date of commencement of s. 4: 26 March 1969.]

5 Substitutes section 76 of the Customs and Excise Act 91 of 1964.

[Date of commencement of s. 5: 26 March 1969.]

6 Inserts section 96A in Chapter XII of the Customs and Excise Act 91 of 1964.

7 Amends section 99 (4) of the Customs and Excise Act 91 of 1964 by adding a proviso to paragraph (a).

8 Amends section 121 (1) of the Customs and Excise Act 91 of 1964 by substituting the expression 'Schedule 9' for the expression 'Schedule 8'.

[Date of commencement of s. 8: 26 March 1969.]

9 Amendment of Schedules 1 to 7, inclusive, and 9 to Act 91 of 1964, as amended by section 19 of Act 95 of 1965, section 15 of Act 57 of 1966, section 2 of Act 96 of 1967, section 22 of Act 85 of 1968 and section 37 of Act 105 of 1969

(1) Every notice issued under the provisions of section 48 (1), (2), (3) or (3A), section 55 (2) or (3) or section 75 (15) of the principal Act prior to the seventeenth day of July 1970, except Government Notice R3985 of the twenty-fourth day of December 1969, in so far as it relates to tariff heading 85.13 in sales duty item 146.00 of Schedule 1 to the principal Act, and Government Notice R172 of the second day of February 1970, in so far as it relates to tariff

heading 19.08 in sales duty item 134.00, tariff headings 39.07 and 40.11 in sales duty item 137.00, tariff heading 84.58 in sales duty item 146.00 and tariff heading 92.11 in sales duty item 148.00 of Schedule 1 to the principal Act, is hereby repealed and Schedules 1, 2, 3, 4, 5, 6 and 7 to that Act shall be construed as if the amendments made by any such notice had not been effected.

(2) Tariff heading 40.11 in sales duty item 137.00 of Schedule 1 to the principal Act, as amended by Government Notice R172 of the second day of February, 1970, shall be construed as if during and in respect of the period from the twenty-sixth day of March, 1969, up to and including the eleventh day of August, 1970, there had been included therein a provision providing for the exclusion, from the description thereof, also of tubes of a kind specially manufactured for heavy earthmoving machinery and graders and the like and commonly known as off-the-road type tubes.

(3) Government Notice R3985 of the twenty-fourth day of December 1969, in so far as it relates to tariff heading 85.13 in sales duty item 146.00 of Schedule 1 to the principal Act, and Government Notice R172 of the second day of February, 1970, in so far as it relates to tariff heading 19.08 in sales duty item 134.00, tariff headings 39.07 and 40.11 in sales duty item 137.00, tariff heading 84.58 in sales duty item 146.00 and tariff heading 92.11 in sales duty item 148.00 of Schedule 1 of the principal Act, are hereby repealed with effect from the twelfth day of August, 1970, and Schedule 1 to the principal Act shall be construed as if the amendments made by the said notices had not been effected.

(4) The said Schedules as so construed are hereby amended to the extent set out in Schedules 1, 2, 3, 4, 5, 6 and 7 to this Act.

(5) Any amendment of Schedule 1, 2, 3, 4, 5, 6 or 7 to the principal Act, made under the provisions of section 48, 55 or 75 of that Act after the sixteenth day of July 1970, shall be construed *mutatis mutandis* as if it were an amendment of the Schedule concerned, as amended by this section.

(6) This section, except in so far as subsection (4) relates to the amendments referred to in subsections (2), (3), (7), (8), (9), (10), (11), (12) and (13) and to Note 5 to Chapter 22, heading of tariff heading 28.17, tariff heading 29.14.40, heading of tariff heading 39.02 and tariff heading 85.22.50 referred to in Schedule 1 to this Act and item 412.05 referred to in Schedule 4 to this Act, shall be deemed to have come into operation on the seventeenth day of July, 1970.

(7) (a) Subject to the provisions of section 58 (1) of the principal Act and paragraphs (b) and (c) of this subsection, this section, in so far as subsection (4) relates to tariff headings 90.07, 90.08, 90.09 and 90.10 in sales duty item 148.00 and paragraph (l) of sales duty item 152.00 referred to in Schedule 1 to this Act, shall be deemed to have come into operation on the ninth day of September,

1970: Provided that the said tariff headings 90.07, 90.08, 90.09 and 90.10 in sales duty item 148.00 and paragraph (l) of sales duty item 152.00 shall be construed as if during and in respect of the period from the twelfth day of August, 1970, up to and including the eighth day of September, 1970, they had provided for the descriptions and rates of sales duty as shown in the Minutes and Proceedings of the House of Assembly of the twelfth day of August, 1970: Provided further that the said paragraph (l) of sales duty item 152.00 shall be construed as if during and in respect of the period from the twelfth day of August, 1970, up to and including the eighth day of September, 1970-

- (i) manifolds (inlet or exhaust), cylinder heads and camshafts; and
- (ii) carburettors, oil coolers and wheels identifiable for use principally with motor vehicles other than motor cars, including racing cars, and station wagons and similar dual purpose motor vehicles and motor cycles, auto-cycles and cycles fitted with auxiliary motors,

had not been included therein.

(b) Subject to the provisions of section 58 (1) of the principal Act, including the said provisions as they apply by virtue of paragraph (c) of this subsection in relation to any decrease in any rate of duty provided for in the amendments referred to in this paragraph, this section, in so far as subsection (4) relates to tariff headings 27.10.20 and 27.10.30, tariff items 105.10.10 and 105.10.20, tariff headings 19.07 and 19.08 in sales duty item 134.00, tariff headings 33.05, 33.06, 35.06, 36.05, 36.06, 38.14 and 38.19 in sales duty item 136.00, tariff headings 39.07, 40.11 and 40.13 in sales duty item 137.00, tariff headings 43.03 and 43.04 in sales duty item 138.00, tariff headings 60.02 and 61.10 in sales duty item 141.00, tariff heading 67.04 in sales duty item 142.00, tariff heading 70.19 in sales duty item 143.00, tariff headings 71.01, 71.02, 71.12, 71.13, 71.14, 71.15 and 71.16 in sales duty item 144.00, tariff headings 73.38, 73.40, 74.18, 74.19, 75.06, 76.15, 76.16 and 80.06 in sales duty item 145.00, tariff headings 84.06, 84.08, 84.35, 84.52, 84.53, 84.54, 84.58, 85.04, 85.13, 85.14 and 85.15 in sales duty item 146.00, tariff headings 87.02, 87.09, 87.14 and 89.01 in sales duty item 147.00, tariff headings 90.05, 91.01, 91.02, 91.04, 92.01 to 92.09, 92.11 and 92.12 in sales duty item 148.00, tariff headings 93.02, 93.04 and 93.05 in sales duty item 149.00 and tariff headings 97.00 and 98.10 in sales duty item 150.00 referred to in Schedule 1 to this Act, item 410.04 (in so far as it relates to the exclusion of aviation kerosene in paragraph (4) of tariff heading 27.10) referred to in Schedule 4 to this Act and item 609.05.20 (in so far as it relates to the exclusion of aviation kerosene in paragraph (4) of tariff items 105.05 and 105.10) referred to in Schedule 6 to this Act, shall be deemed to have come into operation on the twelfth day of August, 1970.

(c) For the purposes of paragraph (b) of this subsection, the provisions of section 58 (1) of the principal Act shall *mutatis mutandis* apply in relation to any

decrease in any rate of duty referred to in the said paragraph as they apply in relation to any increase in any such rate of duty.

(8) This section, in so far as subsection (4) relates to Note 5 to Part 2 and tariff item 117.05 referred to in Schedule 1 to this Act, shall come into operation on the first day of January, 1971.

(9) This section, in so far as subsection (4) relates to the deletion of tariff heading 73.13.70 referred to in Schedule 1 to this Act and item 311.28 referred to in Schedule 3 to this Act, shall be deemed to have come into operation on the first day of January, 1965.

(10) This section, in so far as subsection (4) relates to tariff heading 60.03.10 referred to in Schedule 1 to this Act, shall be deemed to have come into operation on the first day of October, 1968.

(11) This section, in so far as subsection (4) relates to the omission of tariff heading 88.02 in sales duty item 147.00 referred to in Schedule 1 to this Act, shall be deemed to have come into operation on the twenty-sixth day of March, 1969.

(12) This section, in so far as subsection (4) relates to paragraph (1) of item 411.00 referred to in Schedule 4 to this Act, shall be deemed to have come into operation on the first day of September, 1969.

(13) This section, in so far as subsection (4) relates to Note 08.00 to item 317.03 referred to in Schedule 3 to this Act, shall be deemed to have come into operation on the twelfth day of September, 1969.

(14) Schedule 9 to the principal Act is hereby amended by the substitution in the third column thereof for the words 'The whole, except the definition of 'Government Brandy Board' in section 1, and section 68.' of the words 'The whole.'.

10 Minister may amend certain Schedules with retrospective effect in certain circumstances

(1) The Minister may, at any time before the date on which he introduces the Appropriation Bill in Parliament in respect of the financial year 1971-'72, apply the provisions of section 48 (3A) or 75 (15) (a) of the principal Act, in so far as they relate to sales duty as defined in that Act, with retrospective effect to a date which he considers reasonable but not earlier than the twenty-sixth day of March, 1969, if he considers such action is warranted or in order to avoid serious detriment to any manufacturer, owner, importer or other person affected to an unforeseen extent by the said sales duty.

(2)

[Sub-s. (2) deleted by s. 1 of Act 49 of 1996.]

11 Short title

This Act shall be called the Customs and Excise Amendment Act, 1970.

CUSTOMS AND EXCISE AMENDMENT ACT 89 OF 1971

[ASSENTED TO 18 JUNE 1971]

[DATE OF COMMENCEMENT: 16 JULY 1971]
(Unless otherwise indicated)

(English text signed by the State President)

as amended by

General Law Amendment Act 49 of 1996

ACT

To amend section 51 of, and Schedules 1 to 7, inclusive, to the Customs and Excise Act, 1964; to empower the Minister of Finance to amend certain Schedules to the said Act with retrospective effect; and to provide for incidental matters.

1 Amends section 51 of the Customs and Excise Act 91 of 1964 by adding subsection (4).

2 **Amendment of Schedules 1 to 7, inclusive, to Act 91 of 1964, as amended by section 19 of Act 95 of 1965, section 15 of Act 57 of 1966, section 2 of Act 96 of 1967, section 22 of Act 85 of 1968, section 37 of Act 105 of 1969 and section 9 of Act 98 of 1970**

(1) Every notice issued under the provisions of section 48 (1), (2), (3) or (3A), section 55 (2) or (3) or section 75 (15) of the principal Act prior to or on the twenty-ninth day of January, 1971, except Government Notice R1732 of the ninth day of October, 1970, in so far as it relates to tariff heading 39.07 in sales duty item 137.00, tariff heading 71.13 in sales duty item 144.00 and tariff headings 73.38, 73.40, 74.18, 74.19, 75.06, 76.15, 76.16 and 80.06 in sales duty item 145.00 of Schedule 1 to the principal Act, Government Notice R1741 of the sixteenth day of October, 1970, in so far as it relates to tariff heading 91.01 in sales duty item 148.00 of Schedule 1 to the principal Act, Government Notice R99 of the twenty-ninth day of January, 1971, in so far as it relates to tariff item 104.20.20 of Schedule 1 to the principal Act and Government Notice R100 of the twenty-ninth day of January, 1971, in so far as it relates to item 609.04.40 of Schedule 6 to the principal Act, is hereby repealed and Schedules 1, 2, 3, 4, 5, 6

and 7 to that Act shall be construed as if the amendments made by any such notice had not been effected.

(2) Government Notice R1732 of the ninth day of October, 1970, in so far as it relates to tariff heading 39.07 in sales duty item 137.00, tariff heading 71.13 in sales duty item 144.00 and tariff headings 73.38, 73.40, 74.18, 74.19, 75.06, 76.15, 76.16 and 80.06 in sales duty item 145.00 of Schedule 1 to the principal Act, and Government Notice R1741 of the sixteenth day of October, 1970, in so far as it relates to tariff heading 91.01 in sales duty item 148.00 of Schedule 1 to the principal Act, are hereby repealed with effect from the tenth day of February, 1971, and Schedule 1 to the principal Act shall be construed as if the amendments made by the said notices had not been effected.

(3) Government Notice R99 of the twenty-ninth day of January, 1971, in so far as it relates to tariff item 104.20.20 of Schedule 1 to the principal Act, and Government Notice R100 of the twenty-ninth day of January, 1971, in so far as it relates to item 609.04.40 of Schedule 6 to the principal Act, are hereby repealed with effect from the thirty-first day of March, 1971, and Schedules 1 and 6 to the principal Act shall be construed as if the amendments made by the said notices had not been effected.

(4) The said Schedules 1, 2, 3, 4, 5, 6 and 7, as so construed, are hereby amended to the extent set out in Schedules 1, 2, 3, 4, 5, 6 and 7, respectively to this Act.

(5) Any amendment of Schedule 1, 2, 3, 4, 5, 6 or 7 to the principal Act, made under the provisions of section 48, 55 or 75 of that Act after the twenty-ninth day of January, 1971, shall be construed *mutatis mutandis* as if it were an amendment of the Schedule concerned as amended by this section.

(6) This section, except in so far as subsection (4) relates to the amendments referred to in subsections (2), (3), (7) and (8), shall be deemed to have come into operation on the twenty-ninth day of January, 1971.

(7) (a) Subject to the provisions of section 58 (1) of the principal Act, including the said provisions as they apply by virtue of paragraph (c) of this subsection in relation to any decrease in any rate of duty provided for in the amendments referred to in this paragraph, and paragraph (b) of this subsection, this section, in so far as subsection (4) relates to tariff headings 27.07 and 27.10 in sales duty item 135.00, tariff headings 32.09, 33.04, 33.05, 33.06, 34.03, 34.06, 35.06, 36.05, 38.14 and 38.19 in sales duty item 136.00, paragraphs (2) and (4) of tariff heading 39.00, paragraphs (1) and (3) of tariff heading 39.07 and tariff headings 40.13, 40.14 and 40.16 in sales duty item 137.00, tariff headings 42.02, 42.05, 43.03 and 43.04 in sales duty item 138.00, tariff headings 44.24 and 44.27 in sales duty item 139.00, tariff heading 48.11 in sales duty item 140.00, tariff headings 58.01, 58.02, 59.02 and 62.04 in sales duty item 141.00,

tariff headings 64.06, 66.01, 66.02, 67.02, 67.04 and 67.05 in sales duty item 142.00, tariff headings 69.11, 69.12, 69.13, 70.09, 70.13 and 70.19 in sales duty item 143.00, tariff headings 71.01, 71.02, 71.12, 71.13, 71.14, 71.15 and 71.16 in sales duty item 144.00, tariff headings 73.34, 73.36, 73.38, 73.40, 74.17, 74.18, 74.19, 75.06, 76.15, 76.16, 80.06, 82.04, 82.08, 82.09, 82.11, 82.12, 82.13, 82.14, 83.03, 83.04, 83.05, 83.06, 83.10 and 83.14 in sales duty item 145.00, tariff headings 84.06, 84.08, 84.10, 84.11, 84.12, 84.15, 84.17, 84.18, 84.19, 84.24, 84.25, 84.35, 84.37, 84.40, 84.41, 84.51, 84.52, 84.53, 84.54, 84.58, 84.59, 85.03, 85.04, 85.06, 85.07, 85.12, 85.14, 85.15 and 85.20 in sales duty item 146.00, tariff headings 87.02, 87.05, 87.09, 87.14 and 89.01 in sales duty item 147.00, tariff headings 90.04, 90.05, paragraph (1) of tariff heading 90.07, paragraph (2) of tariff heading 90.10, and tariff headings 91.01, 91.02, 91.04, 92.01 to 92.09, inclusive, 92.11 and 92.12 in sales duty item 148.00, tariff headings 93.02, 93.04 and 93.05 in sales duty item 149.00, tariff headings 94.00, 95.01, 95.02, 95.03, 95.04, 95.05, 95.06, 95.07, 95.08, 96.05, 97.00, 98.03, 98.07, 98.08, 98.10, 98.11, 98.12, 98.14, 98.15 and 98.16 in sales duty item 150.00 and sales duty item 152.00 of Schedule 1 to this Act, shall be deemed to have come into operation on the tenth day of February, 1971: Provided that the exclusion of aluminium paste not packed for retail sale, referred to in the said tariff heading 32.09 in sales duty item 136.00, and that the exclusion of solid tyres for wheels of all kinds, referred to in the said paragraph (3) of tariff heading 39.07 in sales duty item 137.00, shall be deemed to have come into operation on the thirty-first day of March, 1971.

(b) Subject to the provisions of section 58 (1) of the principal Act, including the said provisions as they apply by virtue of paragraph (c) of this subsection in relation to any decrease in any rate of duty provided for in the amendments referred to in this paragraph, this section, in so far as subsection (4) relates to tariff headings 22.05.10.10, 22.05.10.20, 22.05.10.30, 22.05.50.10, 22.07.90, 24.02.70, 24.02.80, 27.07.90, 27.10.90 and 29.01.60, tariff items 104.10.10, 104.10.20, 104.10.30, 104.15.40, 104.15.70, 104.20.10, 104.20.20, 104.20.30, 104.20.40, 104.30.10, 104.30.20, 104.30.30, 104.30.40, 105.05.10, 105.05.20, 105.05.30, 105.05.40, 105.10.10, 105.10.20, 105.10.30 and 105.10.40, tariff headings 37.01, 37.02 and 37.03 in sales duty item 136.00, paragraph (2) of tariff heading 39.07 in sales duty item 137.00, tariff heading 90.02, paragraph (2) of tariff heading 90.07, tariff headings 90.08 and 90.09 and paragraph (1) of tariff heading 90.10 in sales duty item 148.00 of Schedule 1 to this Act and item 609.04.40 of Schedule 6 to this Act, shall be deemed to have come into operation on the thirty-first day of March, 1971: Provided that the said paragraph (2) of tariff heading 39.07 in sales duty item 137.00 shall be construed as if during and in respect of the period from the tenth day of February, 1971, up to and including the thirtieth day of March, 1971, it had provided for a rate of sales duty of 15%.

(c) For the purposes of paragraphs (a) and (b) of this subsection, the provisions of section 58 (1) of the principal Act shall *mutatis mutandis* apply in

relation to any decrease in any rate of duty referred to in the said paragraphs as they apply in relation to any increase in any such rate of duty.

(8) This section, in so far as subsection (4) relates to paragraph (5) of tariff heading 84.06 in item 316.01, paragraph (2) of tariff heading 84.06 in paragraph (1) of item 317.03 and paragraph (3) of tariff heading 84.06 in item 317.10 of Schedule 3 to this Act and item 460.15 of Schedule 4 to this Act, shall be deemed to have come into operation on the second day of May, 1969.

3 Minister may amend certain Schedules with retrospective effect in certain circumstances

(1) The Minister may, at any time before the date on which he introduces the Appropriation Bill in Parliament in respect of the financial year 1972-'73, apply the provisions of section 48 (3A) or 75 (15) (a) of the principal Act, in so far as they relate to sales duty as defined in that Act, with retrospective effect to a date which he considers reasonable but not earlier than the twenty-sixth day of March, 1969, if he considers such action is warranted or in order to avoid serious detriment to any manufacturer, owner, importer or other person affected to an unforeseen extent by the said sales duty.

(2)

[Sub-s. (2) deleted by s. 1 of Act 49 of 1996.]

4 Short title

This Act shall be called the Customs and Excise Amendment Act, 1971.

CUSTOMS AND EXCISE AMENDMENT ACT 103 OF 1972

[ASSENTED TO 16 JUNE 1972]

[DATE OF COMMENCEMENT: 1 SEPTEMBER 1972]
(Unless otherwise indicated)

(English text signed by the State President)

ACT

To amend the provisions of the Customs and Excise Act, 1964, so as to substitute metric measures for certain other measures for the purposes of that Act; to delete the reference in section 51 of that Act to a certain agreement which has lapsed; to empower the Secretary for Customs and Excise to allow certain deductions in respect of certain crude petroleum naphtha; to empower the Minister of Finance to amend any Schedule to that Act in certain circumstances; to amend Schedules 1 to 7, inclusive, to that Act; and to provide for incidental matters.

- 1 Substitutes section 28 of the Customs and Excise Act 91 of 1964.
- 2 Amends section 32 of the Customs and Excise Act 91 of 1964, as follows: paragraph (a) substitutes subsection (1) (a); paragraph (b) substitutes subsection (2); and paragraph (c) substitutes subsection (3).
- 3 Amends section 35 of the Customs and Excise Act 91 of 1964 by substituting subsection (2).
- 4 Amends section 36 of the Customs and Excise Act 91 of 1964, as follows: paragraph (a) substitutes subsections (1), (2) and (3); and paragraph (b) substitutes subsection (8) (a).
- 5 Amends section 51 of the Customs and Excise Act 91 of 1964 by substituting subsection (3).
- 6 Amends section 55 of the Customs and Excise Act 91 of 1964 by substituting subsection (2).
- 7 Amends section 62 of the Customs and Excise Act 91 of 1964 by substituting subsection (1).
- 8 Amends section 75 (18) of the Customs and Excise Act 91 of 1964 by substituting paragraph (d).
- 9 Substitutes section 96A of the Customs and Excise Act 91 of 1964.
- 10 Amends section 110 of the Customs and Excise Act 91 of 1964 by substituting subsection (1).
- 11 Amends section 113 of the Customs and Excise Act 91 of 1964, as follows: paragraph (a) substitutes subsection (1) (a) and (b); paragraph (b) substitutes subsection (1) (d) (i); paragraph (c) substitutes subsection (1) (d) (iii) of the Afrikaans text; and paragraph (d) substitutes subsection (9).
- 12 **Amendment of Schedules 1 to 7, inclusive, to Act 91 of 1964, as amended by section 19 of Act 95 of 1965, section 15 of Act 57 of 1966, section 2 of Act 96 of 1967, section 22 of Act 85 of 1968, section 37 of Act 105 of 1969, section 9 of Act 98 of 1970 and section 2 of Act 89 of 1971**

(1) As from the first day of September, 1972, Schedules 1, 2, 3, 4, 5, 6 and 7 to the principal Act shall be construed as if any amendment thereof effected by any notice issued under the provisions of section 48 (1), (2), (3) or (3A), section 55 (2) or (3) or section 75 (15) of that Act, prior to the twenty-eighth

day of January, 1972, had not been effected.

(2) The said Schedules 1, 2, 3, 4, 5, 6 and 7, as so construed, are hereby amended as follows:-

- (a) the General Notes and Part 1 and Part 2 of Schedule 1 to this Act are substituted for the General Notes and Part 1 and Part 2, respectively, of Schedule 1 to the principal Act;
- (b) Part 3 of Schedule 1 and Schedule 2 to the principal Act are amended to the extent set out in Part 3 of Schedule 1 and Schedule 2, respectively, to this Act;
- (c) Schedule 3 to this Act is substituted for Schedule 3 to the principal Act; and
- (d) Schedules 4, 5, 6 and 7 to the principal Act are amended to the extent set out in Schedules 4, 5, 6 and 7, respectively, to this Act.

(3) Any amendment of Schedule 1, 2, 3, 4, 5, 6 or 7 to the principal Act, made under the provisions of section 48, 55 or 75 of that Act after the twenty-eighth day of January, 1972, shall be construed *mutatis mutandis* as if it were an amendment of the Schedule concerned as amended by this section.

(4) Tariff heading 28.13 of Schedule 1 to the principal Act shall be construed as if during the period from the nineteenth day of March, 1971, up to and including the twenty-fifth day of March, 1971, a subheading 28.13.75 had been included therein providing for the clearance at a rate free of duty of hydrogen fluoride.

13 Short title and commencement

(1) This Act shall be called the Customs and Excise Amendment Act, 1972, and shall, subject to the provisions of subsection (2), come into operation on the first day of September, 1972.

(2) The provisions of section 12 (2) in so far as such provisions relate to item 702.02 of Schedule 7 to this Act shall be deemed to have come into operation on the twenty-sixth day of March, 1969.

CUSTOMS AND EXCISE AMENDMENT ACT 68 OF 1973

[ASSENTED TO 19 JUNE 1973]

[DATE OF COMMENCEMENT: 29 JUNE 1973]
(Unless otherwise indicated)

(English text signed by the State President)

ACT

To amend the Customs and Excise Act, 1964, so as to empower the Minister of Finance to amend with retrospective effect Schedule 1 to the said Act; to amend the provisions of the said Act relating to the granting of rebates or refunds of duty in respect of certain losses or deficiencies; to amend the said provisions relating to overpayments in respect of excisable goods and sales duty goods; to amend section 85 of the said Act so as to substitute a reference to relative density for a reference to specific gravity; to amend the provisions of the said Act relating to the prohibition of the importation of certain goods; to amend Schedules 1 to 7, inclusive, of the said Act; and to provide for incidental matters.

1 Amends section 48 of the Customs and Excise Act 91 of 1964, as follows: paragraph (a) substitutes subsection (1) (c); paragraph (b) substitutes subsection (2); and paragraph (c) substitutes subsection (3A) (a).

2 Amends section 75 (18) of the Customs and Excise Act 91 of 1964 by substituting all the words preceding paragraph (a).

3 Amends section 77 (1) of the Customs and Excise Act 91 of 1964 by substituting paragraph (a).

4 Substitutes section 85 of the Customs and Excise Act 91 of 1964.

5 Amends section 113 (1) (d) of the Customs and Excise Act 91 of 1964 by substituting subparagraph (i).

6 **Amendment of Schedules 1 to 7, inclusive, to Act 91 of 1964, as amended by section 19 of Act 95 of 1965, section 15 of Act 57 of 1966, section 2 of Act 96 of 1967, section 22 of Act 85 of 1968, section 37 of Act 105 of 1969, section 9 of Act 98 of 1970, section 2 of Act 89 of 1971 and section 12 of Act 103 of 1972**

(1) Every notice issued under the provisions of section 48 (1), (2), (3) or (3A), section 55 (2) or (3), section 75 (15) or section 96A (1) of the principal Act prior to 2 February 1973, is hereby repealed and Schedules 1, 2, 3, 4, 5, 6 and 7 to that Act shall be construed as if the amendment made by any such notice had not been effected.

(2) The said Schedules 1, 2, 3, 4, 5, 6 and 7 as so construed are hereby amended to the extent set out in Schedules 1, 2, 3, 4, 5, 6 and 7, respectively, to this Act.

(3) Any amendment of Schedule 1, 2, 3, 4, 5, 6 or 7 to the principal Act, made under the provisions of section 48, 55 or 75 of that Act after 2 February

1973, shall be construed *mutatis mutandis* as if it were an amendment of the Schedule concerned as amended by this section.

(4) This section, except in so far as subsection (2) relates to the amendments referred to in subsections (5), (6), (7) and (8) and to paragraph 2 (a) of General Note IX, Note 4 to Chapter 59 and Note 1 (b) to Chapter 90, tariff headings 27.07 and 27.10 in sales duty item 135.00 and tariff heading 34.03 in sales duty item 136.00 of Schedule 1 to this Act, shall be deemed to have come into operation on 2 February 1973.

(5) Subject to the provisions of section 58 (1) of the principal Act, this section, in so far as subsection (2) relates to tariff items 104.30.20 and 104.30.30 of Schedule 1 to this Act, shall be deemed to have come into operation on 28 March 1973.

(6) This section, in so far as subsection (2) relates to Note 2 to Part 2, the heading of tariff item 104.10.20 of Part 2 of Schedule 1 to this Act and paragraph (2) of tariff heading 87.02 in item 407.04 of Schedule 4 to this Act, shall be deemed to have come into operation on 1 April 1972.

(7) This section, in so far as subsection (2) relates to tariff heading 76.15.90 of Schedule 1 to this Act and tariff items 105.05 and 105.10 in item 609.05.05 of Schedule 6 to this Act, shall be deemed to have come into operation on 1 September 1972.

(8) This section, in so far as subsection (2) relates to paragraphs (1) and (2) of tariff heading 87.02 in sales duty item 147.00 of Schedule 1 to this Act, shall be deemed to have come into operation on 1 October 1972: Provided that the said paragraphs (1) and (2) of tariff heading 87.02 in sales duty item 147.00 shall be construed as if during and in respect of the period from 1 October 1972 up to and including 5 October 1972, they had provided for a value for sales duty purposes of not exceeding R2 150 and exceeding R2 150, respectively: Provided further that the Minister may, if he considers it warranted, deem motor cars which were cleared from a customs and excise warehouse before 1 October 1972, but which were not delivered before the said date from the stocks of any class of dealer determined by the Minister, to be motor cars which, for the purposes of sales duty, were cleared from a customs and excise warehouse on or after 1 October 1972.

7 Short title

This Act shall be called the Customs and Excise Amendment Act, 1973.

CUSTOMS AND EXCISE AMENDMENT ACT 7 OF 1974

[ASSENTED TO 26 FEBRUARY 1974]

[DATE OF COMMENCEMENT: 6 MARCH 1974]

(English text signed by the State President)

ACT

To amend the provisions of the Customs and Excise Act, 1964, concerning the manner in which the strength of spirits and spirituous preparations shall be ascertained for purposes of duty, the circumstances in which the most favoured nation rate of duty shall apply in respect of certain goods, and the concluding by the State President of certain agreements with certain governments in respect of rates of duty lower than the general rates of duty; to repeal sections 50 and 52 of the said Act; and to provide for incidental matters.

- 1 Substitutes section 32 of the Customs and Excise Act 91 of 1964.
- 2 Amends section 47 of the Customs and Excise Act 91 of 1964 by substituting subsection (3).
- 3 Substitutes section 49 of the Customs and Excise Act 91 of 1964.
- 4 Repeals sections 50 and 52 of the Customs and Excise Act 91 of 1964.
- 5 **Short title**

This Act shall be called the Customs and Excise Amendment Act, 1974.

SECOND CUSTOMS AND EXCISE AMENDMENT ACT 64 OF 1974

[ASSENTED TO 23 OCTOBER 1974]

[DATE OF COMMENCEMENT: 30 OCTOBER 1974]
(Unless otherwise indicated)

(Afrikaans text signed by the State President)

ACT

To amend the Customs and Excise Act, 1964, so as to further regulate the acceptable sufficient evidence of the tabling in the House of Assembly by the Minister of Finance of taxation proposals; and to exclude certain publications from the penal provisions of the said Act; to amend Schedules 1 to 7 to the said Act; and to provide for incidental matters.

- 1 Amends section 58 of the Customs and Excise Act 91 of 1964 by substituting subsection (7).
- 2 Amends section 79 (1) of the Customs and Excise Act 91 of 1964 by deleting paragraph (d).

3 Amendment of Schedules 1 to 7 to Act 91 of 1964, as amended by section 19 of Act 95 of 1965, section 15 of Act 57 of 1966, section 2 of Act 96 of 1967, section 22 of Act 85 of 1968, section 37 of Act 105 of 1969, section 9 of Act 98 of 1970, section 2 of Act 89 of 1971, section 12 of Act 103 of 1972 and section 6 of Act 68 of 1973

(1) Every notice issued under the provisions of section 48 (1), (2), (3) or (3A), section 55 (2) or (3) or section 75 (15) of the principal Act prior to 2 August 1974, excluding Government Notice R195 of 16 February 1973, in so far as it relates to tariff heading 62.02.65 of Schedule 1 to the principal Act, is hereby repealed and Schedules 1, 2, 3, 4, 5, 6 and 7 to that Act shall be construed as if the amendments made by any such notice had not been effected.

(2) Government Notice R195 of 16 February 1973, in so far as it relates to tariff heading 62.02.65 of Schedule 1 to the principal Act, is hereby repealed with effect from 21 September 1974 and Schedule 1 to the principal Act shall be construed as if the amendment made by the said notice had not been effected.

(3) The said Schedules 1, 2, 3, 4, 5, 6 and 7 as so construed are hereby amended to the extent set out in Schedules 1, 2, 3, 4, 5, 6 and 7, respectively, to this Act.

(4) Any amendment of Schedule 1, 2, 3, 4, 5, 6 or 7 to the principal Act, made under the provisions of section 48, 55 or 75 of that Act after 2 August 1974, excluding Government Notice R1519 of 30 August 1974, in so far as it relates to tariff headings 51 04.50.15, 51 04.55.15, 51 04.60.05, 51 04.60.15, 51 04.75.05, 51 04.75.15, 51 04.80.05, 51 04.80.15, 51 04.90.15, 56.07.37.05, 56.07.37.15, 56.07.50.15, 56.07.55.15, 56.07.60.05, 56.07.60.15, 56.07.75.05, 56.07.75.15 and 56.07.90.15 of Schedule 1 to the principal Act, shall be construed *mutatis mutandis* as if it were an amendment of the Schedule concerned as amended by this section.

(5) Government Notice R1519 of 30 August 1974, in so far as it relates to tariff headings 51 04.50.15, 51 04.55.15, 51 04.60.05, 51 04.60.15, 51 04.75.05, 51 04.75.15, 51 04.80.05, 51 04.80.15, 51 04.90.15, 56.07.37.05, 56.07.37.15, 56.07.50.15, 56.07.55.15, 56.07.60.05, 56.07.60.15, 56.07.75.05, 56.07.75.15 and 56.07.90.15 of Schedule 1 to the principal Act, is hereby repealed with effect from 21 September 1974 and Schedule 1 to the principal Act shall be construed as if the amendments made by the said notice had not been effected.

(6) This section, except in so far as subsection (3) relates to the amendments referred to in subsections (2), (5), (7), (8), (9), (10) and (11), shall be deemed to have come into operation on 2 August 1974.

(7) This section, in so far as subsection (3) relates to tariff heading 44.27 in sales duty item 139.00 of Schedule 1 to this Act, shall be deemed to have

come into operation on 18 February 1974.

(8) This section, in so far as subsection (3) relates to tariff heading 87.02 in item 408.02 of Schedule 4 and tariff item 117.05 in item 609.22.20 of Schedule 6 to this Act, shall be deemed to have come into operation on 17 December 1971.

(9) This section, in so far as subsection (3) relates to tariff heading 51 04 in item 410.02 of Schedule 4 to this Act, shall be deemed to have come into operation on 1 April 1970.

(10) This section, in so far as subsection (3) relates to paragraph (III) of item 410.03 of Schedule 4 to this Act, shall be deemed to have come into operation on 1 April 1972.

(11) (a) Subject to the provisions of section 58 (1) of the principal Act, including the said provisions as they apply by virtue of paragraph (b) of this subsection in relation to any decrease in any rate of duty provided for in the amendments referred to in this paragraph, this section, in so far as subsection (3) relates to tariff headings 51 04.50, 51 04.55, 51 04.60, 51 04.75, 51 04.80, 51 04.90, 53.11.10.20, 53.11.10.90, 55.09.50, 55.09.55, 55.09.90, 56.07.36.30, 56.07.37, 56.07.50, 56.07.55, 56.07.60, 56.07.75, 56.07.90, 62.02.43 and 62.02.65 of Schedule 1 to this Act, shall be deemed to have come into operation on 20 September 1974.

(b) For the purposes of paragraph (a) of this subsection, the provisions of section 58 (1) of the principal Act shall *mutatis mutandis* apply in relation to any decrease in any rate of duty referred to in the said paragraph as they apply in relation to any increase in any such rate of duty.

4 Short title

This Act shall be called the Second Customs and Excise Amendment Act, 1974.

CUSTOMS AND EXCISE AMENDMENT ACT 71 OF 1975

[ASSENTED TO 30 JUNE 1975]

[DATE OF COMMENCEMENT: 16 JULY 1975]
(Unless otherwise indicated)

(Afrikaans text signed by the State President)

ACT

To amend the Customs and Excise Act, 1964, so as to make special provision in regard to containerized cargoes; to further regulate the removal of air cargoes in bond; to dispense with the entry of certain

imported goods in certain circumstances; to further regulate the liability for duty on imported goods; to empower the Secretary for Customs and Excise to allow certain deductions from the dutiable quantity of certain imported petroleum naphtha; to further regulate the granting of refunds of duty or other charges in respect of dutiable goods; to make other provision regarding the registration of certain motor vehicles; to make further provision for the recovery of duty payable; and to amend Schedules 1 to 8 to the said Act; and to provide for matters connected therewith.

1 Amends section 1 of the Customs and Excise Act 91 of 1964, as follows: paragraph (a) inserts the definitions of 'container depot', 'container operator' and 'container terminal'; paragraph (b) inserts the definition of 'depot operator'; paragraph (c) inserts the definition of 'L.C.L. container'; and paragraph (d) adds subsection (2), the existing section becoming subsection (1).

2 Amends section 6 of the Customs and Excise Act 91 of 1964, as follows: paragraph (a) inserts subsection (1) (hA) and (hB); and paragraph (b) substitutes subsection (2).

3 Amends section 7 (2) of the Customs and Excise Act 91 of 1964, as follows: paragraph (a) inserts paragraph (aA); and paragraph (b) substitutes paragraph (b).

4 Amends section 18 (1) of the Customs and Excise Act 91 of 1964 by adding paragraphs (d) and (e).

5 Amends section 38 (1) (a) of the Customs and Excise Act 91 of 1964 by adding the proviso.

6 Amends section 40 (2) of the Customs and Excise Act 91 of 1964 by substituting the words preceding the proviso.

7 Amends section 44 of the Customs and Excise Act 91 of 1964, as follows: paragraph (a) adds the word 'or' at the end of subsection (5) (b); paragraph (b) adds subsection (5) (c) and (d); paragraph (c) inserts subsections (5A) and (5B); and paragraph (d) substitutes subsection (6).

8 Inserts section 64A in the Customs and Excise Act 91 of 1964.

9 Amends section 75 of the Customs and Excise Act 91 of 1964, as follows: paragraph (a) substitutes in subsection (5) (a) the expression 'subsections (6) and (18) of this section' for the expression 'subsection (6)'; and paragraph (b) inserts subsection (18) (dA).

10 Amends section 76 of the Customs and Excise Act 91 of 1964 by substituting subsection (2).

11 Substitutes section 111 of the Customs and Excise Act 91 of 1964.

12 Amends section 114 of the Customs and Excise Act 91 of 1964, as follows: paragraph (a) substitutes subsection (1) (a); paragraph (b) inserts subsection (1) (aA); paragraph (c) substitutes subsection (1) (b); and paragraph (d) substitutes subsection (2).

13 **Amendment of Schedules 1 to 7 to Act 91 of 1964, as amended by section 19 of Act 95 of 1965, section 15 of Act 57 of 1966, section 2 of Act 96 of 1967, section 22 of Act 85 of 1968, section 37 of Act 105 of 1969, section 9 of Act 98 of 1970, section 2 of Act 89 of 1971, section 12 of Act 103 of 1972, section 6 of Act 68 of 1973 and section 3 of Act 64 of 1974**

(1) Every notice issued under the provisions of section 48 (1), (2), (3) or (3A), section 55 (2) or (3) or section 75 (15) of the principal Act prior to 31 January 1975, is hereby repealed and Schedules 1, 2, 3, 4, 5, 6 and 7 to that Act shall be construed as if the amendments made by any such notice had not been effected.

(2) The said Schedules 1, 2, 3, 4, 5, 6 and 7 as so construed are hereby amended to the extent set out in Schedules 1, 2, 3, 4, 5, 6 and 7, respectively, to this Act.

(3) Any amendment of Schedule 1, 2, 3, 4, 5, 6 or 7 to the principal Act, made under the provisions of section 48, 55 or 75 of that Act after 31 January 1975, shall be construed *mutatis mutandis* as if it were an amendment of the Schedule concerned as amended by this section.

(4) This section, except in so far as subsection (2) relates to the amendments referred to in subsections (5), (6), (7) and (8) and to paragraph (2) of the General Note III, tariff heading 39.02.80.30 and the heading of tariff heading 82.05 of Schedule 1 to this Act, shall be deemed to have come into operation on 31 January 1975.

(5) Subject to the provisions of section 58 (1) of the principal Act, this section, in so far as subsection (2) relates to tariff headings 22.05.50.10, 22.07.90, 27.07.90, 27.10.90 and 29.01.60 and tariff items 104.10.10, 104.10.20, 104.10.30, 104.15.40, 104.15.70, 104.20.10, 104.20.20, 104.20.30, 105.05.10, 105.05.20, 105.05.30, 105.05.40, 105.10.10, 105.10.20, 105.10.30, 105.10.40 and 105.15.10 of Schedule 1 and to tariff item 105.15 in items 601.01.47 and 603.01.40 of Schedule 6 to this Act, shall be deemed to have come into operation on 26 March 1975.

(6) This section, in so far as subsection (2) relates to tariff headings

69.07.10, 69.07.20, 69.07.40, 69.08.10, 69.08.20 and 69.08.40 of Schedule 1 to this Act, shall be deemed to have come into operation on 3 May 1974.

(7) This section, in so far as subsection (2) relates to item 460.24 of Schedule 4 to this Act, shall be deemed to have come into operation on 20 September 1974.

(8) This section, in so far as subsection (2) relates to tariff heading 85.21 in item 460.16 of Schedule 4 to this Act, shall be deemed to have come into operation on 23 September 1974.

14 Amends Schedule 8 to the Customs and Excise Act 91 of 1964.

15 Short title

This Act shall be called the Customs and Excise Amendment Act, 1975.

CUSTOMS AND EXCISE AMENDMENT ACT 105 OF 1976

[ASSENTED TO 24 JUNE 1976]

[DATE OF COMMENCEMENT: 9 JULY 1976]
(Unless otherwise indicated)

(English text signed by the State President)

ACT

To amend the Customs and Excise Act, 1964, so as to further regulate the documents required in respect of ships and aircraft departing from the Republic; to make new provision for the landing in the Republic of goods intended for transit carriage; to further regulate the liability for duty on goods removed in bond; to extend the classes of imported goods exempt from entry in certain circumstances; to further regulate the adjustment of bills of entry which are invalid or incorrect or have been passed in error; to further regulate the disposal of imported goods on failure to make due entry; to extend the power of the Minister of Finance to amend Parts 2 and 3 of Schedule 1 to the said Act; to make other provision regarding the determination of value for sales duty purposes of certain imported goods; to effect certain textual changes; to further provide for the calculation of the value of certain exported goods; to make new provision with reference to the powers of the Secretary for Customs and Excise regarding offences under the said Act; and to amend Schedules 1 to 7 to the said Act; and to provide for matters connected therewith.

1 Amends section 7 of the Customs and Excise Act 91 of 1964, as follows: paragraph (a) substitutes subsection (3); and paragraph (b) deletes subsection (4).

- 2** Amends section 11 (1) of the Customs and Excise Act 91 of 1964 by adding a proviso.
- 3** Amends section 18 of the Customs and Excise Act 91 of 1964 by substituting subsection (4).
- 4** Amends section 38 (1) (a) of the Customs and Excise Act 91 of 1964, as follows: paragraph (a) deletes the word 'and' at the end of paragraph (iii) of the proviso; paragraph (b) adds the word 'and' at the end of paragraph (iv) of the proviso; and paragraph (c) adds paragraph (v) to the proviso.
- 5** Amends section 40 (3) of the Customs and Excise Act 91 of 1964 by adding paragraph (b), the existing subsection becoming paragraph (a).
- 6** Amends section 43 (3) of the Customs and Excise Act 91 of 1964 by substituting the words preceding the proviso.
- 7** Amends section 47 (8) (a) of the Customs and Excise Act 91 of 1964 by substituting the words preceding the proviso.
- 8** Amends section 48 of the Customs and Excise Act 91 of 1964, as follows: paragraph (a) substitutes subsection (1) (c); paragraph (b) substitutes subsection (2); and paragraph (c) deletes subsections (3) and (3A).
- 9** (1) Amends section 70 of the Customs and Excise Act 91 of 1964, as follows: paragraph (a) substitutes in subsection (1) (a) the words preceding the proviso; and paragraph (b) substitutes subsection (2).
- (2) Subsections (1) and (2) shall be deemed to have come into operation on 25 April, 1969.
- 10** Amends section 71 of the Customs and Excise Act 91 of 1964 by substituting subsection (1).
- 11** Amends section 72 of the Customs and Excise Act 91 of 1964 by adding paragraph (c).
- 12** Amends section 91 of the Customs and Excise Act 91 of 1964, as follows: paragraph (a) substitutes subsection (1) (a) (i); and paragraph (b) substitutes subsection (2).
- 13** **Amendment of Schedules 1 to 7 to Act 91 of 1964, as amended by section 19 of Act 95 of 1965, section 15 of Act 57 of 1966, section 2 of Act 96 of 1967, section 22 of Act 85 of 1968, section 37 of Act 105 of 1969, section 9 of Act 98 of 1970, section 2 of Act 89 of 1971, section 12 of Act 103 of 1972, section 6 of Act 68 of 1973, section 3 of Act 64**

of 1974 and section 13 of Act 71 of 1975

(1) Every notice issued under the provisions of section 48 (1), (2), (3) or (3A), section 55 (2) or (3) or section 75 (15) of the principal Act prior to 23 January 1976, except Government Notice R915 of 9 May 1975, in so far as it relates to tariff heading 92.12 in sales duty item 148.00 of Schedule 1 to the principal Act, Government Notice R1643 of 29 August, 1975, in so far as it relates to tariff item 104.20.20 of Schedule 1 to the principal Act, Government Notice R2032 of 24 October 1975, in so far as it relates to tariff heading 87.02 (1) and (2) in sales duty item 147.00 of Schedule 1 to the principal Act and Government Notice R2333 of 12 December 1975, in so far as it relates to tariff heading 32.09 (1) in sales duty item 136.00 and tariff heading 94.00 (1) in sales duty item 150.00 of Schedule 1 to the principal Act, is hereby repealed and Schedules 1, 2, 3, 4, 5, 6 and 7 to that Act shall be construed as if the amendments made by any such notice had not been effected.

(2) Government Notice R915 of 9 May 1975, in so far as it relates to tariff heading 92.12 in sales duty item 148.00 of Schedule 1 to the principal Act, Government Notice R1643 of 29 August 1975, in so far as it relates to tariff item 104.20.20 of Schedule 1 to the principal Act, Government Notice R2032 of 24 October 1975, in so far as it relates to tariff heading 87.02 (1) and (2) in sales duty item 147.00 of Schedule 1 to the principal Act and Government Notice R2333 of 12 December 1975, in so far as it relates to tariff heading 32.09 (1) in sales duty item 136.00 and tariff heading 94.00 (1) in sales duty item 150.00 of Schedule 1 to the principal Act, are hereby repealed with effect from 31 March 1976 and Schedule 1 to the principal Act shall be construed as if the amendments made by the said notices had not been effected.

(3) The said Schedules 1, 2, 3, 4, 5, 6 and 7 as so construed are hereby amended to the extent set out in Schedules 1, 2, 3, 4, 5, 6 and 7, respectively, to this Act.

(4) Any amendment of Schedule 1, 2, 3, 4, 5, 6 or 7 to the principal Act, made under the provisions of section 48, 55 or 75 of that Act after 23 January 1976, shall be construed *mutatis mutandis* as if it were an amendment of the Schedule concerned as amended by this section.

(5) This section, except in so far as subsection (3) relates to the amendments referred to in subsections (2), (6), (7) and (8), shall be deemed to have come into operation on 23 January 1976.

(6) This section, in so far as subsection (3) relates to tariff item 105.10.50 of Schedule 1 to this Act, shall be deemed to have come into operation on 31 January 1975.

(7) This section, in so far as subsection (3) relates to tariff heading 22.09

in item 410.05 of Schedule 4 to this Act, shall be deemed to have come into operation on 12 September 1975.

(8) Subject to the provisions of section 58 (1) of the principal Act, this section, in so far as subsection (3) relates to tariff headings 22.05.50.10, 22.07.90, 27.07.90, 27.10.90 and 29.01.60, tariff items 104.05.10, 104.05.20, 104.05.30, 104.10.10, 104.10.20, 104.10.30, 104.15.40, 104.15.70, 104.20.10, 104.20.20, 104.20.30, 104.20.40, 104.30.10, 104.30.20, 104.30.30, 105.05.10, 105.05.20, 105.05.30, 105.05.40, 105.10.10, 105.10.20, 105.10.30 and 105.10.40 and sales duty items 135.00, 136.00, 137.00, 138.00, 139.00, 140.00, 141.00, 142.00, 143.00, 144.00, 145.00, 146.00, 147.00, 148.00, 149.00, 150.00 and 152.00 of Schedule 1 to this Act, shall be deemed to have come into operation on 31 March 1976.

14 Short title

This Act shall be called the Customs and Excise Amendment Act, 1976.

CUSTOMS AND EXCISE AMENDMENT ACT 12 OF 1977

[ASSENTED TO 8 MARCH 1977]

[DATE OF COMMENCEMENT: 16 MARCH 1977]

(English text signed by the State President)

ACT

To amend the Customs and Excise Act, 1964, so as to make new provision regarding payments by the Government of the Republic to the government of any territory in Africa in terms of any agreement concluded under section 51 (1) of the said Act.

1 Amends section 51 of the Customs and Excise Act 91 of 1964 by substituting subsection (2).

2 Short title

This Act shall be called the Customs and Excise Amendment Act, 1977.

SECOND CUSTOMS AND EXCISE AMENDMENT ACT 112 OF 1977

[ASSENTED TO 11 JULY 1977]

[DATE OF COMMENCEMENT: 20 JULY 1977]
(Unless otherwise indicated)

(English text signed by the State President)

ACT

To amend the Customs and Excise Act, 1964, so as to make other provision regarding goods imported by post and containerized cargoes; to make special provision regarding the manufacture and importation of cigarettes; to make new provision for determining the value for customs duty purposes of imported goods; to further regulate the disposal of goods on failure to make due entry; to provide for a surcharge on certain imported goods; to extend the power of the Minister of Finance to amend Schedule 1 to the said Act; to further regulate the imposition of anti-dumping duties, and to provide for the imposition of countervailing duties; to provide for clearing agent licences; to further regulate the value for sales duty purposes of certain goods; to provide further for liability for duty arising after entry of certain goods under rebate of duty; to empower the Secretary for Customs and Excise to demand the payment of certain amounts in respect of offences rendering manufactured goods liable to forfeiture; to further regulate the remission of forfeitures; to provide for the appointment of agents by container operators; to make further provision for the recovery of duty payable; and to amend Schedules 1 to 8 to the said Act; and to provide for matters connected therewith.

1 Amends section 1 of the Customs and Excise Act 91 of 1964, as follows: paragraph (a) substitutes the words preceding the definition of 'agricultural distiller' (date of commencement: 30 March 1977); paragraph (b) substitutes the definition of 'customs duty' (date of commencement: 30 March 1977); paragraph (c) substitutes the definition of 'exporter'; paragraph (d) substitutes the definition of 'illicit goods' (date of commencement: 30 March 1977); paragraph (f) inserts the definitions of 'surcharge' and 'surcharge goods' (date of commencement: 30 March 1977); and paragraph (g) adds subsection (3) (date of commencement: 30 March 1977).

2 Amends section 13 of the Customs and Excise Act 91 of 1964 by substituting subsection (2).

3 Amends section 18 (1) of the Customs and Excise Act 91 of 1964 by substituting paragraph (d).

4 Amends section 27 (13) of the Afrikaans text of the Customs and Excise Act 91 of 1964.

5 Inserts section 35A in the Customs and Excise Act 91 of 1964.

6 Amends section 41 (4) of the Customs and Excise Act 91 of 1964, as follows: paragraph (a) substitutes paragraph (a); paragraph (b) substitutes paragraph (c); and paragraph (c) adds paragraph (d).

[Date of commencement of s. 6: 1 January 1978.]

7 Amends section 43 (3) of the Customs and Excise Act 91 of 1964 by substituting the words preceding the proviso.

8 Amends section 44 of the Customs and Excise Act 91 of 1964, as follows: paragraph (a) substitutes the proviso to subsection (1); paragraph (b) substitutes subsection (5) (c); and paragraph (c) substitutes subsection (7).

[Date of commencement of s. 8: 30 March 1977.]

9 Amends section 45 of the Customs and Excise Act 91 of 1964 by substituting subsection (1).

[Date of commencement of s. 9: 1 January 1978.]

10 Amends section 47 of the Customs and Excise Act 91 of 1964, as follows: paragraph (a) substitutes subsection (1); paragraph (b) substitutes subsection (5); and paragraph (c) substitutes subsection (7).

[Date of commencement of s. 10: 30 March 1977.]

11 Amends section 48 of the Customs and Excise Act 91 of 1964, as follows: paragraph (a) deletes in subsection (1) (a) the words 'or fifty'; paragraph (b) adds subsection (1) (e) (date of commencement: 9 July 1976); paragraph (c) substitutes in subsection (2) the words preceding the proviso (date of commencement: 30 March 1977); and paragraph (d) substitutes subsection (4) (date of commencement: 30 March 1977).

12 Amends section 53 of the Customs and Excise Act 91 of 1964 by substituting subsection (2).

[Date of commencement of s. 12: 30 March 1977.]

13 Substitutes section 54 of the Customs and Excise Act 91 of 1964.

14 to 17 inclusive Substitute respectively the heading to Chapter VI, and sections 55, 56 and 57 of the Customs and Excise Act 91 of 1964.

[Date of commencement of ss. 14 to 17 inclusive: 1 January 1978.]

18 and 19 Insert respectively sections 57A and 64B in the Customs and Excise Act 91 of 1964.

[Date of commencement of ss. 18 and 19: 1 January 1978.]

20 Amends section 65 of the Customs and Excise Act 91 of 1964, as follows: paragraph (a) substitutes subsection (1); paragraph (b) substitutes subsection

(2); and paragraph (c) substitutes subsection (4).

[Date of commencement of s. 20: 1 January 1978.]

21 Substitutes section 66 of the Customs and Excise Act 91 of 1964.

[Date of commencement of s. 21: 1 January 1978.]

22 Repeals sections 67 and 68 of the Customs and Excise Act 91 of 1964.

[Date of commencement of s. 22: 1 January 1978.]

23 Amends section 70 of the Customs and Excise Act 91 of 1964, as follows: paragraph (a) substitutes subsection (1) (date of commencement: 1 January 1978); paragraph (b) substitutes subsection (2); paragraph (c) substitutes subsection (3) (date of commencement: 1 October 1977); and paragraph (d) adds subsection (4).

24 Substitutes section 73 of the Customs and Excise Act 91 of 1964.

[Date of commencement of s. 24: 1 January 1978.]

25 Amends section 74 of the Customs and Excise Act 91 of 1964 by substituting subsection (1).

[Date of commencement of s. 25: 1 January 1978.]

26 Inserts section 74A in the Customs and Excise Act 91 of 1964.

27 Amends section 75 of the Customs and Excise Act 91 of 1964, as follows: paragraph (a) substitutes subsection (1) (c); paragraph (b) substitutes subsection (4); and paragraph (c) adds the proviso to subsection (5) (b).

28 Amends section 80 (1) of the Customs and Excise Act 91 of 1964, as follows: paragraph (a) deletes paragraph (g); and paragraph (b) substitutes paragraph (o).

29 Amends section 84 (2) of the Customs and Excise Act 91 of 1964 by substituting the words preceding paragraph (a).

[Date of commencement of s. 29: 1 January 1978.]

30 Amends section 88 (2) of the Customs and Excise Act 91 of 1964 by substituting paragraph (a).

31 Amends section 93 of the Customs and Excise Act 91 of 1964 by

substituting the words preceding the proviso.

32 and 33 Substitute respectively sections 97 and 98 of the Customs and Excise Act 91 of 1964.

34 Amends section 99 of the Customs and Excise Act 91 of 1964, as follows: paragraph (a) substitutes subsection (1); and paragraph (b) substitutes in subsection (3) the words preceding the proviso.

35 Amends section 102 of the Customs and Excise Act 91 of 1964 by substituting subsection (2).

[Date of commencement of s. 35: 1 January 1978.]

36 Amends section 114 of the Customs and Excise Act 91 of 1964 by inserting subsection (2A).

37 Commencement of certain sections

(1) Sections 1 (a), (b), (d), (e), (f) and (g), 8 (a) and (c), 10, 11 (1) (c) and (d), 12 and 40 shall be deemed to have come into operation on 30 March 1977.

(2) Sections 6, 9, 14 to 22, 23 (1) (a), 24, 25, 29 and 35 shall come into operation on 1 January 1978.

38 Amendment of Schedules 1 to 7 to Act 91 of 1964, as amended by section 19 of Act 95 of 1965, section 15 of Act 57 of 1966, section 2 of Act 96 of 1967, section 22 of Act 85 of 1968, section 37 of Act 105 of 1969, section 9 of Act 98 of 1970, section 2 of Act 89 of 1971, section 12 of Act 103 of 1972, section 6 of Act 68 of 1973, section 3 of Act 64 of 1974, section 13 of Act 71 of 1975 and section 13 of Act 105 of 1976

(1) Every notice issued under the provisions of section 48 (1) or (2), section 55 (2) or (3) or section 75 (15) of the principal Act prior to 21 January 1977, except Government Notice R567 of 1 April 1976, in so far as it relates to tariff heading 22.09 in item 410.05 of Schedule 4 to the principal Act, Government Notice R568 of 1 April 1976, in so far as it relates to item 609.04.40 of Schedule 6 to the principal Act, Government Notice R727 of 30 April 1976, in so far as it relates to tariff heading 84.17 (1) in sales duty item 146.00 of Schedule 1 to the principal Act and Government Notice R2109 of 12 November 1976, in so far as it relates to tariff heading 87.02 (1) and (2) in sales duty item 147.00 of Schedule 1 to the principal Act, is hereby repealed and Schedules 1, 2, 3, 4, 5, 6 and 7 to that Act shall be construed as if the amendments made by any such notice had not been effected.

(2) Government Notice R567 of 1 April 1976, in so far as it relates to tariff

heading 22.09 in item 410.05 of Schedule 4 to the principal Act, Government Notice R568 of 1 April 1976, in so far as it relates to item 609.04.40 of Schedule 6 to the principal Act, Government Notice R727 of 30 April 1976, in so far as it relates to tariff heading 84.17 (1) in sales duty item 146.00 of Schedule 1 to the principal Act and Government Notice R2109 of 12 November 1976, in so far as it relates to tariff heading 87.02 (1) and (2) in sales duty item 147.00 of Schedule 1 to the principal Act, are hereby repealed with effect from 7 March 1977 and Schedules 1, 4 and 6 to the principal Act shall be construed as if the amendments made by the said notices had not been effected.

(3) The said Schedules 1, 2, 3, 4, 5, 6 and 7 as so construed are hereby amended to the extent set out in Schedules 1, 2, 3, 4, 5, 6 and 7, respectively, to this Act.

(4) Any amendment of Schedule 1, 2, 3, 4, 5, 6 or 7 to the principal Act, made under the provisions of section 48, 55 or 75 of that Act after 21 January 1977, excluding Government Notice R300 of 7 March 1977, in so far as it relates to tariff headings 22.05.50.10, 22.07.90 and 24.02.70 of Schedule 1 to the principal Act, Government Notice R301 of 7 March 1977, in so far as it relates to tariff items 104.10, 104.15, 104.20 and 104.30 of Schedule 1 to the principal Act, Government Notice R302 of 7 March 1977, in so far as it relates to sales duty items 135.00 to 152.00 of Schedule 1 to the principal Act, Government Notice R303 of 7 March 1977, in so far as it relates to tariff heading 22.09 in item 410.05 of Schedule 4 to the principal Act and Government Notice R304 of 7 March 1977, in so far as it relates to item 609.04.40 of Schedule 6 to the principal Act, shall be construed *mutatis mutandis* as if it were an amendment of the Schedule concerned as amended by this section.

(5) Government Notice R300 of 7 March 1977, in so far as it relates to tariff headings 22.05.50.10, 22.07.90 and 24.02.70 of Schedule 1 to the principal Act, Government Notice R301 of 7 March 1977, in so far as it relates to tariff items 104.10, 104.15, 104.20 and 104.30 of Schedule 1 to the principal Act, Government Notice R302 of 7 March 1977, in so far as it relates to sales duty items 135.00 to 152.00 of Schedule 1 to the principal Act, Government Notice R303 of 7 March 1977, in so far as it relates to tariff heading 22.09 in item 410.05 of Schedule 4 to the principal Act and Government Notice R304 of 7 March 1977, in so far as it relates to item 609.04.40 of Schedule 6 to the principal Act, are hereby repealed with effect from 7 March 1977 and Schedules 1, 4 and 6 to the principal Act shall be construed as if the amendments made by the said notices had not been effected.

(6) This section, except in so far as subsection (3) relates to the amendments referred to in subsections (2), (5), (7), (8), (9) and (10), shall be deemed to have come into operation on 21 January 1977.

(7) This section, in so far as subsection (3) relates to tariff headings

22.05.50.10, 22.07.90 and 24.02.70, tariff items 104.10, 104.15, 104.20 and 104.30 and sales duty items 135.00 to 152.00 of Schedule 1 to this Act, tariff heading 22.09 in item 410.05 of Schedule 4 to this Act and item 609.04.40 of Schedule 6 to this Act, shall be deemed to have come into operation on 7 March 1977.

(8) This section, in so far as subsection (3) relates to tariff heading 49.01.50 of Schedule 1 to this Act, shall be deemed to have come into operation on 30 March 1977.

(9) Subject to the provisions of section 58 (1) of the principal Act, this section, in so far as subsection (3) relates to Part 4 of Schedule 1 to that Act, as inserted by Schedule 1 to this Act, shall be deemed to have come into operation on 30 March 1977.

(10) This section, in so far as subsection (3) relates to Notes 8 and 9 and item 521.00 (II) of Schedule 5 to this Act, shall be deemed to have come into operation on 30 March 1977.

(11) Tariff heading 29.15 in item 306.01 of Schedule 3 to the principal Act shall be deemed to have come into operation on 13 July 1972.

(12) Item 460.15 of Schedule 4 to the principal Act shall be construed as if there were included therein a provision providing for a rebate of the full duty, during the period 24 January 1975 up to and including 5 August 1977, on coach screws (lag screws), ungalvanised, of iron or steel.

(13) Item 306.01 of Schedule 3 to the principal Act shall be construed as if there were included therein a provision providing for a rebate of the full duty, during the period 13 July 1972 up to and including 9 September 1976, on hydrogen peroxide, for the manufacture of tartaric acid, fumaric acid and malic acid.

39 Amendment of Schedule 8 to Act 91 of 1964, as inserted by section 37 of Act 105 of 1969 and amended by section 14 of Act 71 of 1975

Schedule 8 to the principal Act is hereby amended with effect from 1 January 1978 to the extent set out in Schedule 8 to this Act.

40 Substitutes the long title of the Customs and Excise Act 91 of 1964 (date of commencement 30 March 1977).

41 Short title

This Act shall be called the Second Customs and Excise Amendment Act, 1977.

CUSTOMS AND EXCISE AMENDMENT ACT 93 OF 1978

[ASSENTED TO 16 JUNE 1978]

[DATE OF COMMENCEMENT: 23 JUNE 1978]
(Unless otherwise indicated)

(English text signed by the State President)

ACT

To amend the Customs and Excise Act, 1964, so as to further regulate the production of documents relating to imported goods and entries; to provide for the amendment of Schedule 2 to the said Act with retrospective effect, for establishing the value for customs duty purposes of certain imported goods, for establishing the value for excise duty purposes of certain goods manufactured in the Republic and for establishing the value for sales duty purposes of certain goods manufactured in the Republic; to empower the Secretary for Customs and Excise to pay certain drawbacks of customs duty and to allow certain deductions from the dutiable quantity of certain fermented beverages manufactured in the Republic; to further regulate the non-declaration of certain goods; to increase the jurisdiction of magistrates' courts in respect of certain proceedings under the said Act; to regulate the disposal of certain unclaimed goods; to alter the circumstances in which certain goods may be destroyed and ships or vehicles may be detained; and to provide for the continuation of certain amendments of Schedules 1 to 7 to the said Act; and to provide for matters connected therewith.

- 1** Amends section 39 (1) of the Customs and Excise Act 91 of 1964 by substituting paragraph (c).
- 2** Amends section 40 (1) of the Customs and Excise Act 91 of 1964 by substituting paragraph (d).
- 3** Amends section 41 (4) of the Customs and Excise Act 91 of 1964 by substituting paragraph (a).
- 4** Amends section 56 of the Customs and Excise Act 91 of 1964 by inserting subsection (1A).
- 5** Amends section 65 of the Customs and Excise Act 91 of 1964 by adding subsection (6).
- 6** Amends section 69 of the Customs and Excise Act 91 of 1964 by adding subsection (4).
- 7** Amends section 70 of the Customs and Excise Act 91 of 1964, as follows:

paragraph (a) substitutes subsection (2); paragraph (b) substitutes in subsection (3) the words preceding paragraph (a); and paragraph (c) substitutes subsection (4) (a).

[Date of commencement of s. 7: 1 October 1977.]

8 Amends section 75 of the Customs and Excise Act 91 of 1964, as follows: paragraph (a) substitutes the proviso to subsection (7); and paragraph (b) inserts subsection (18) (cA).

9 Substitutes section 81 of the Customs and Excise Act 91 of 1964.

10 Amends section 95 of the Customs and Excise Act 91 of 1964 by adding subsection (3).

11 Amends section 107 (1) of the Customs and Excise Act 91 of 1964 by adding paragraph (b), the existing subsection becoming paragraph (a).

12 Amends section 109 (1) of the Customs and Excise Act 91 of 1964 by substituting the words preceding paragraph (a).

13 **Continuation of certain amendments of Schedules 1 to 7 to Act 91 of 1964, as amended by section 19 of Act 95 of 1965, section 15 of Act 57 of 1966, section 2 of Act 96 of 1967, section 22 of Act 85 of 1968, section 37 of Act 105 of 1969, section 9 of Act 98 of 1970, section 2 of Act 89 of 1971, section 12 of Act 103 of 1972, section 6 of Act 68 of 1973, section 3 of Act 64 of 1974, section 13 of Act 71 of 1975, section 13 of Act 105 of 1976 and section 38 of Act 112 of 1977**

(1) Every amendment of Schedules 1 to 7 to the principal Act made under section 48 (1) or (2), section 55 (2) or (3), section 56 (1) or section 75 (15) of the principal Act prior to 27 January 1978, shall not lapse by virtue of the provisions of section 48 (6), 56 (7) or 75 (16) of the principal Act.

(2) The amendments of Schedules 1 and 6 to the principal Act made under sections 48 (1) and (2) and 75 (15) of the principal Act by Government Notices R633 to R637 of 30 March 1978, shall not lapse by virtue of the provisions of section 48 (6) or 75 (16) of the principal Act.

(3) The amendments mentioned in subsection (2), in so far as they relate to tariff items 104.15.20, 104.15.60 and 104.15.80 of Part 2 of Schedule 1 to the principal Act, shall apply to the goods concerned which were in stock in licensed customs and excise warehouses on 30 March 1978 and which had not yet been removed from such warehouses on the said date.

(4) Government Notice R689 of 29 April 1977, in so far as it relates to tariff

heading 85.00 (1) in item 411.00 of Schedule 4 to the principal Act, shall be deemed to have come into operation on 7 March 1973.

14 Short title

This Act shall be called the Customs and Excise Amendment Act, 1978.

CUSTOMS AND EXCISE AMENDMENT ACT 110 OF 1979

[ASSENTED TO 2 JULY 1979]

[DATE OF COMMENCEMENT: 18 JULY 1979]
(Unless otherwise indicated)

(English text signed by the State President)

ACT

To amend the Customs and Excise Act, 1964, so as to further define 'manufacturer'; to further regulate the disclosure of certain information by officers; to exclude a certain liability by reason of wrong delivery of certain goods; to extend the information which an importer of goods has to furnish; to further regulate the liability for duty on imported goods; to provide for the determination by the Secretary for Customs and Excise of the classification of goods with reference to the duty payable thereon; to further regulate the calculation and determination of the value of imported goods for customs duty purposes; to determine any liability for duty which may arise after entry of certain goods under rebate of duty; to extend the power of the Minister of Finance to amend certain Schedules to the said Act; to further regulate the granting of refunds of duty or other charges in respect of dutiable goods; to extend the liability of agents for the fulfilment of the obligations imposed on their principals; and to provide for the continuation of certain amendments of Schedules 1, 3, 4, 5 and 6 to the said Act; and to provide for matters connected therewith.

- 1** Amends section 1 (1) of the Customs and Excise Act 91 of 1964 by substituting the definition of 'manufacture'.
- 2** Amends section 4 of the Customs and Excise Act 91 of 1964 by substituting subsection (3).
- 3** Amends section 17 of the Customs and Excise Act 91 of 1964 by substituting subsection (3).
- 4** Amends section 39 (1) of the Customs and Excise Act 91 of 1964, as follows: paragraph (a) substitutes paragraph (a); and paragraph (b) substitutes paragraph (c).
- 5** Amends section 44 of the Customs and Excise Act 91 of 1964, as follows:

paragraph (a) substitutes subsection (4); and paragraph (b) substitutes subsection (8).

6 Amends section 47 of the Customs and Excise Act 91 of 1964, by adding subsections (9) and (10) (date of commencement: 1 October 1979).

7 Amends section 65 of the Customs and Excise Act 91 of 1964 by substituting subsection (3).

8 Amends section 66 of the Customs and Excise Act 91 of 1964, as follows: paragraph (a) substitutes subsection (1) (e); and paragraph (b) deletes subsection (3) (c).

9 Substitutes section 73 of the Customs and Excise Act 91 of 1964.

10 Amends section 75 of the Customs and Excise Act 91 of 1964, as follows: paragraph (a) inserts subsection (4A); paragraph (b) adds subsection (5) (a) (ii) and (iii), the existing paragraph (a) becoming subparagraph (i); and paragraph (c) inserts subsection (15) (aA).

11 Amends section 76 (2) of the Customs and Excise Act 91 of 1964 by substituting paragraph (c).

12 Amends section 99 of the Customs and Excise Act 91 of 1964, as follows: paragraph (a) substitutes subsection (2); and paragraph (b) adds subsection (5).

13 **Continuation of certain amendments of Schedules 1, 3, 4, 5 and 6 to Act 91 of 1964, as amended by section 19 of Act 95 of 1965, section 15 of Act 57 of 1966, section 2 of Act 96 of 1967, section 22 of Act 85 of 1968, section 37 of Act 105 of 1969, section 9 of Act 98 of 1970, section 2 of Act 89 of 1971, section 12 of Act 103 of 1972, section 6 of Act 68 of 1973, section 3 of Act 64 of 1974, section 13 of Act 71 of 1975, section 13 of Act 105 of 1976 and section 38 of Act 112 of 1977**

(1) Every amendment of Schedules 1, 3, 4, 5 and 6 to the principal Act made under section 48 (1) or (2) or section 75 (15) of the principal Act prior to 2 February 1979, shall not lapse by virtue of the provisions of section 48 (6) or 75 (16) of the principal Act.

(2) The amendments of Schedules 1 and 6 to the principal Act made under sections 48 (1) and (2) and 75 (15) of the principal Act by Government Notices R641 to R645 of 29 March 1979, shall not lapse by virtue of the provisions of section 48 (6) or 75 (16) of the principal Act.

(3) Item 410.04 of Schedule 4 to the principal Act and item 609.06 of Schedule 6 to the principal Act, as published by Government Notices R783 and

R784, respectively, of 12 April 1979, shall, for the purposes of section 2 (1) (a) (iii) of the National Roads Act, 1971 (Act 54 of 1971), and section 1 (b) of the State Oil Fund Act, 1977 (Act 38 of 1977), be deemed not to constitute rebates.

(4) The Note to item 317.05 of Schedule 3 to the principal Act, published by Government Notice R66 of 6 January 1978, shall be deemed to have come into operation on 6 January 1978.

(5) Government Notice R583 of 23 March 1978, in so far as it relates to tariff heading 85.01.13 of Schedule 1 to the principal Act, shall be deemed to have come into operation on 21 May 1976.

(6) Government Notice R1223 of 16 June 1978, in so far as it relates to tariff heading 59.11 in item 312.01 of Schedule 3 to the principal Act, shall be deemed to have come into operation on 7 August 1975.

(7) Item 306.04 of Schedule 3 to the principal Act shall be construed as if there were included therein a provision providing for a rebate of the full duty, during the period 18 April 1975 to 18 January 1979, on hydroxypropyl methylcellulose for the manufacture of colour, paint, varnish and allied products.

(8) Government Notice R1 of 1 January 1978, in so far as it relates to tariff heading 90.07.60.50 of Schedule 1 to the principal Act, shall be deemed to have come into operation on 8 June 1973.

(9) Paragraph (3) of tariff heading 90.07 in sales duty item 148.00 of Schedule 1 to the principal Act shall be construed as if it provided for a rate of sales duty of 15% during the period 8 June 1973 to 23 August 1973, a rate of sales duty of 5% during the period 24 August 1973 to 30 March 1976, a rate of sales duty of 6,5% during the period 31 March 1976 to 6 March 1977 and a rate of sales duty of 8% during the period 7 March 1977 to 31 December 1977.

(10) Subsection (3) shall be deemed to have come into operation on 12 April 1979.

14 Short title

This Act shall be called the Customs and Excise Amendment Act, 1979.

CUSTOMS AND EXCISE AMENDMENT ACT 98 OF 1980

[ASSENTED TO 1 JULY 1980]

[DATE OF COMMENCEMENT: 11 JULY 1980]
(Unless otherwise indicated)

(English text signed by the State President)

ACT

To amend the Customs and Excise Act, 1964, so as to provide for an Office of the Commissioner for Customs and Excise and the establishment of the office of Commissioner for Customs and Excise; to further regulate the reporting of the arrival of ships and aircraft and the manner of ascertaining the strength of spirits for duty purposes; to apply the provisions of the said Act regarding the registration and indication of name in respect of beer, specifically to beer sold or disposed of for home consumption; to further define the circumstances in which certain goods, having become mixed, qualify for certain prescribed rates of duty and rebate of duty; to provide for the production of copies of documents relating to imported goods, and for the exclusion of a certain liability for duty; to abolish the preferential rate of duty; to alter the power of the Minister of Finance to amend Schedule 1 to the said Act; to further regulate the calculation of the value of certain exported goods; to provide for the retention of reproductions of certain books, accounts and documents, for the production of copies obtained by means of such reproductions, and for the continuation of certain amendments of Schedules 1 to 7 to the said Act; and to effect certain alterations to Schedule 8 to the said Act; and to provide for matters connected therewith.

1 Amends section 1 (1) of the Customs and Excise Act 91 of 1964, as follows: paragraph (a) inserts the definition of 'Commissioner'; paragraph (b) deletes the definition of 'department'; paragraph (c) inserts the definition of 'Office'; and paragraph (d) deletes the definition of 'Secretary'.

[Date of commencement of s. 1: 1 April 1980.]

2 Inserts sections 1A and 1B in the Customs and Excise Act 91 of 1964.

[Date of commencement of s. 2: 1 April 1980.]

3 Amends section 4 (3) of the Customs and Excise Act 91 of 1964 by substituting paragraph (c).

[Date of commencement of s. 3: 1 April 1980.]

4 Amends section 7 (1) of the Customs and Excise Act 91 of 1964 by substituting the words preceding paragraph (a).

5 Substitutes section 32 of the Customs and Excise Act 91 of 1964.

6 Amends section 36 of the Customs and Excise Act 91 of 1964, as follows: paragraph (a) substitutes subsection (4); and paragraph (b) substitutes subsection (5).

- 7** Amends section 37 of the Customs and Excise Act 91 of 1964 by substituting subsection (6).
- 8** Amends section 39 (1) of the Customs and Excise Act 91 of 1964 by inserting paragraph (cA).
- 9** Amends section 47 of the Customs and Excise Act 91 of 1964, as follows: paragraph (a) adds the proviso to subsection (1); paragraph (b) deletes subsection (2); paragraph (c) substitutes in subsection (3) the words preceding paragraph (a); and paragraph (d) substitutes subsection (4).
- 10** Amends section 48 (1) of the Customs and Excise Act 91 of 1964 by substituting paragraph (a).
- 11** Amends section 72 of the Customs and Excise Act 91 of 1964 by substituting paragraph (c).
- 12** Amends section 101 of the Customs and Excise Act 91 of 1964, as follows: paragraph (a) inserts subsection (1A); and paragraph (b) inserts subsection (2A).
- 13** **Continuation of certain amendments of Schedules 1 to 7 to Act 91 of 1964, as amended by section 19 of Act 95 of 1965, section 15 of Act 57 of 1966, section 2 of Act 96 of 1967, section 22 of Act 85 of 1968, section 37 of Act 105 of 1969, section 9 of Act 98 of 1970, section 2 of Act 89 of 1971, section 12 of Act 103 of 1972, section 6 of Act 68 of 1973, section 3 of Act 64 of 1974, section 13 of Act 71 of 1975, section 13 of Act 105 of 1976 and section 38 of Act 112 of 1977**
- (1) Every amendment of Schedules 1 to 7 to the principal Act made under section 48 (1) or (2), section 56 (1) or (1A) or section 75 (15) of the principal Act prior to 1 February 1980, shall not lapse by virtue of the provisions of section 48 (6), 56 (7) or 75 (16) of the principal Act.
- (2) The amendments of Schedules 1 and 5 to the principal Act made under sections 48 (2) and 75 (15) of the principal Act by Government Notices R562 and R563 of 27 March 1980, respectively, shall not lapse by virtue of the provisions of section 48 (6) or 75 (16) of the principal Act.
- (3) Tariff heading 65.00 in surcharge item 172.00 of Schedule 1 to the principal Act shall be construed as if goods of heading 65.02 and subheading 65.05.45 had during the period 30 March 1977 to 26 March 1980 also been excluded from the said tariff heading 65.00.
- 14** **Amendment of Schedule 8 to Act 91 of 1964, as inserted by section 37**

of Act 105 of 1969 and amended by section 14 of Act 71 of 1975 and section 39 of Act 112 of 1977

(1) Schedule 8 to the principal Act is hereby amended by the substitution in item 810.20.20 for the expression 'For sales duty purposes' of the expression 'For *ad valorem* excise duty purposes'.

(2) Subsection (1) shall be deemed to have come into operation on 3 July 1978.

(3) Any special customs and excise warehouse licensed prior to 3 July 1978 for sales duty purposes shall be deemed to be licensed as from that date for *ad valorem* excise duty purposes in respect of goods which were prior to that date subject to sales duty and became as from that date subject to *ad valorem* excise duty.

15 Substitution of 'department' and 'Secretary' in Act 91 of 1964

(1) The principal Act is hereby amended by the substitution for the words 'department' and 'Secretary', wherever they occur, of the words 'Office' and 'Commissioner' respectively.

(2) Subsection (1) shall be deemed to have come into operation on 1 April 1980.

16 Construction of certain references

(1) Any reference in any other law to the Secretary for Customs and Excise or the Department of Customs and Excise shall be construed as a reference to the Commissioner for Customs and Excise or the Office of the Commissioner for Customs and Excise, respectively.

(2) Anything done by or on behalf of the Secretary for Customs and Excise before the commencement of subsection (1) in the administration of any law, shall be deemed to have been done by or on behalf of the Commissioner for Customs and Excise.

(3) Subsections (1) and (2) shall be deemed to have come into operation on 1 April 1980.

17 Short title

This Act shall be called the Customs and Excise Amendment Act, 1980.

CUSTOMS AND EXCISE AMENDMENT ACT 114 OF 1981

[ASSENTED TO 16 OCTOBER 1981]

[DATE OF COMMENCEMENT: 6 NOVEMBER 1981]

(English text signed by the State President)

ACT

To provide for the continuation of certain amendments of Schedules 1 to 6 of the Customs and Excise Act, 1964, and for the commencement of certain Government Notices amending Schedules 1 and 3 to the said Act; and to effect certain amendments of Schedule 1 to the said Act; and to provide for matters connected therewith.

1 Continuation of certain amendments of Schedules 1 to 6 to Act 91 of 1964, as amended by section 19 of Act 95 of 1965, section 15 of Act 57 of 1966, section 2 of Act 96 of 1967, section 22 of Act 85 of 1968, section 37 of Act 105 of 1969, section 9 of Act 98 of 1970, section 2 of Act 89 of 1971, section 12 of Act 103 of 1972, section 6 of Act 68 of 1973, section 3 of Act 64 of 1974, section 13 of Act 71 of 1975, section 13 of Act 105 of 1976 and section 38 of Act 112 of 1977

(1) Every amendment of Schedules 1 to 6 to the Customs and Excise Act, 1964 (hereinafter referred to as the principal Act), made under section 48 (1) or (2), section 56 (1) or (1A) or section 75 (15) of the principal Act prior to 31 July 1981, shall not lapse by virtue of the provisions of section 48 (6), 56 (7) or 75 (16) of the principal Act.

(2) The amendments of Schedules 1, 4 and 6 to the principal Act made under sections 48 (2) and 75 (5) of the principal Act by Government Notices R1726, R1727 and R1728 of 12 August 1981, respectively, and the amendment of Schedule 1 to the principal Act made under section 48 (2) of the principal Act by Government Notice R1891 of 4 September 1981, shall not lapse by virtue of the provisions of section 48 (6) or 75 (16) of the principal Act.

2 Commencement of certain Government Notices

(1) Government Notice R2116 of 17 October 1980, in so far as it relates to tariff headings 84.47.15 and 84.47.35 of Schedule 1 to the principal Act, shall be deemed to have come into operation on 1 February 1980.

(2) Government Notice R1144 of 29 May 1981, in so far as it relates to tariff heading 87.02.23.10 of Schedule 1 to the principal Act, shall be deemed to have come into operation on 1 January 1980.

(3) Government Notice R1595 of 1 August 1980, in so far as it relates to tariff heading 40.08 in item 311.25 of Schedule 3 to the principal Act, shall be deemed to have come into operation on 1 September 1977.

3 Amendment of Schedule 1 to Act 91 of 1964, as amended by section 19 of Act 95 of 1965, section 15 of Act 57 of 1966, section 2 of Act 96 of 1967, section 22 of Act 85 of 1968, section 37 of Act 105 of 1969, section 9 of Act 98 of 1970, section 2 of Act 89 of 1971, section 12 of Act 103 of 1972, section 6 of Act 68 of 1973, section 3 of Act 64 of 1974, section 13 of Act 71 of 1975, section 13 of Act 105 of 1976 and section 38 of Act 112 of 1977

(1) Schedule 1 to the principal Act is hereby amended to the extend set out in the ^{2*}Schedule to this Act.

(2) Subject to the provisions of section 58 (1) of the principal Act, this section shall be deemed to have come into operation on 12 August 1981.

4 Short title

This Act shall be called the Customs and Excise Amendment Act, 1981.

CUSTOMS AND EXCISE AMENDMENT ACT 86 OF 1982

[ASSENTED TO 4 JUNE 1982]

[DATE OF COMMENCEMENT: 16 JUNE 1982]

(Unless otherwise indicated)

(Afrikaans text signed by the State President)

ACT

To amend the Customs and Excise Act, 1964, so as to further regulate the transfer of goods to certain warehouses, the adjustment of bills of entry which are incorrect or invalid or have been passed in error, and the disposal of goods on failure to make due entry; to provide for the determination of the time of entry for home consumption of certain imported goods; to define further the powers of the Minister of Finance to table in the House of Assembly taxation proposals and to amend Schedule 1 to the said Act; to determine in greater detail the powers of the Commissioner for Customs and Excise regarding licences required in terms of the said Act; to provide for the transfer in certain circumstances of licences issued under the said Act to persons as agricultural distillers; to make new provision for determining the value for customs duty purposes of imported goods; to effect certain textual alterations; to further regulate rebate of duty in respect of certain goods entered for use in factories, and refunds of duty or other charges in respect of dutiable goods; to extend the provisions of the said Act relating to the set off of certain overpayments in respect of excise duty against amounts due in respect of such duty; to extend the provisions regarding offences; to repeal section 96A of the said Act as to the power of the said Minister to amend any Schedule to the said Act in certain circumstances; to define further the liability of agents for the

fulfilment of the obligations imposed on their principals; and to delete certain provisions relating to the prohibition of the importation of certain goods; to provide for the continuation of certain amendments of Schedules 1, 3, 4, 5 and 6 to the said Act; to amend Schedule 1 to the said Act; and to provide for matters connected therewith.

1 Amends section 20 of the Customs and Excise Act 91 of 1964, as follows: paragraph (a) substitutes subsection (2) (a); and paragraph (b) deletes subsection (7).

2 Amends section 30 of the Customs and Excise Act 91 of 1964 by substituting subsection (2).

3 Amends section 34 of the Customs and Excise Act 91 of 1964 by substituting subsection (4).

4 Amends section 40 (3) of the Customs and Excise Act 91 of 1964 by substituting paragraph (a).

5 Amends section 41 (4) of the Customs and Excise Act 91 of 1964, as follows: paragraph (a) substitutes paragraph (a); and paragraph (b) substitutes paragraph (c).

[Date of commencement of s. 5: 1 July 1983.]

6 Amends section 43 of the Customs and Excise Act 91 of 1964 by substituting subsection (2).

7 Amends section 45 of the Customs and Excise Act 91 of 1964 by substituting subsection (2).

8 Amends section 47 of the Customs and Excise Act 91 of 1964 by substituting subsection (6).

9 Amends section 48 of the Customs and Excise Act 91 of 1964, as follows: paragraph (a) substitutes in subsection (2) the words preceding the proviso; and paragraph (b) substitutes subsection (6).

10 Amends section 58 of the Customs and Excise Act 91 of 1964 by substituting subsection (1).

11 Amends section 60 of the Customs and Excise Act 91 of 1964 by substituting subsection (2).

12 Amends section 62 of the Customs and Excise Act 91 of 1964, as follows: paragraph (a) deletes subsection (1); paragraph (b) substitutes subsection (3)

(date of commencement: 1 January 1979); and paragraph (c) substitutes subsection (4) (a) (date of commencement: 1 January 1979).

13 and 14 Substitute respectively sections 65 and 66 of the Customs and Excise Act 91 of 1964.

[Date of commencement of ss. 13 and 14: 1 July 1983.]

15 Inserts section 67 in the Customs and Excise Act 91 of 1964.

[Date of commencement of s. 15: 1 July 1983.]

16 Amends section 70 of the Customs and Excise Act 91 of 1964 by substituting subsection (1).

[Date of commencement of s. 16: 1 July 1983.]

17 Amends section 74 of the Customs and Excise Act 91 of 1964 by substituting subsection (1).

[Date of commencement of s. 17: 1 July 1983.]

18 Substitutes section 74A of the Customs and Excise Act 91 of 1964.

[Date of commencement of s. 18: 1 July 1983.]

19 Amends section 75 of the Customs and Excise Act 91 of 1964, as follows: paragraph (a) substitutes subsection (2) (b); paragraph (b) substitutes subsection (2) (c); paragraph (c) deletes subsection (3); and paragraph (d) substitutes subsection (14) (b).

20 Amends section 76 of the Customs and Excise Act 91 of 1964, as follows: paragraph (a) substitutes subsection (2) (d); paragraph (b) substitutes subsection (2) (f); and paragraph (c) deletes subsection (6).

21 Amends section 77 (1) of the Customs and Excise Act 91 of 1964 by substituting paragraph (a).

[Date of commencement of s. 21: 3 July 1978.]

22 Amends section 80 (1) of the Customs and Excise Act 91 of 1964 by substituting paragraph (j).

23 Repeals section 96A of the Customs and Excise Act 91 of 1964.

24 Amends section 99 (2) of the Customs and Excise Act 91 of 1964 by

adding the proviso to paragraph (a).

25 Amends section 113 (1) of the Customs and Excise Act 91 of 1964 by deleting paragraphs (a), (c), (d), (i) and (j).

26 Continuation of certain amendments of Schedules 1, 3, 4, 5 and 6 to Act 91 of 1964, as amended by section 19 of Act 95 of 1965, section 15 of Act 57 of 1966, section 2 of Act 96 of 1967, section 22 of Act 85 of 1968, section 37 of Act 105 of 1969, section 9 of Act 98 of 1970, section 2 of Act 89 of 1971, section 12 of Act 103 of 1972, section 6 of Act 68 of 1973, section 3 of Act 64 of 1974, section 13 of Act 71 of 1975, section 13 of Act 105 of 1976, section 38 of Act 112 of 1977 and section 3 of Act 114 of 1981

(1) Every amendment of Schedules 1, 3, 4, 5 and 6 to the principal Act made under section 48 (1) or (2) or section 75 (15) of the principal Act prior to 29 January 1982 shall not lapse by virtue of the provisions of section 48 (6) or 75 (16) of the principal Act.

(2) The amendment of Schedule 5 to the principal Act made under section 75 (15) of the principal Act by Government Notice R267 of 12 February 1982 and the amendments of Schedules 1 and 6 to the principal Act made under sections 48 (2) and 75 (15) of the principal Act by Government Notices R597 and R598 of 25 March 1982, respectively, shall not lapse by virtue of the provisions of section 48 (6) or 75 (16) of the principal Act.

27 Amendment of Schedule 1 to Act 91 of 1964, as amended by section 19 of Act 95 of 1965, section 15 of Act 57 of 1966, section 2 of Act 96 of 1967, section 22 of Act 85 of 1968, section 37 of Act 105 of 1969, section 9 of Act 98 of 1970, section 2 of Act 89 of 1971, section 12 of Act 103 of 1972, section 6 of Act 68 of 1973, section 3 of Act 64 of 1974, section 13 of Act 71 of 1975, section 13 of Act 105 of 1976, section 38 of Act 112 of 1977 and section 3 of Act 114 of 1981

(1) Schedule 1 to the principal Act is hereby amended to the extent set out in the ^{3*}Schedule to this Act.

(2) Notwithstanding the provisions of section 58 (1) of the principal Act, this section shall be deemed to have come into operation on 11 February 1982 at 15h00.

28 Short title

This Act shall be called the Customs and Excise Amendment Act, 1982.

CUSTOMS AND EXCISE AMENDMENT ACT 89 OF 1983

[ASSENTED TO 27 JULY 1983]

[DATE OF COMMENCEMENT: 6 JULY 1983]
(Unless otherwise indicated)

(Afrikaans text signed by the State President)

ACT

To amend the Customs and Excise Act, 1964, so as to regulate the pledging or hypothecation of warehoused goods; to provide for the determination of the time of exportation of certain goods; to further regulate the adjustment of bills of entry which have been passed in error; to make further provision for the imposition of anti-dumping duties, for refunds of duty in respect of dutiable goods and for the conditions on which certain goods may be allowed to pass from the control of the Commissioner for Customs and Excise; to delete a certain provision relating to the prohibition of the exportation or transit carriage through the Republic or coastwise carriage of certain goods; to effect certain textual changes; and to provide for the continuation of certain amendments of Schedules 1, 3, 4, 5 and 6 to the said Act, for the commencement of certain Government Notices amending Schedules 1 and 3 to the said Act and for the construction of tariff heading 56.05 in item 311.02 of Schedule 3 to the said Act; and to provide for matters connected therewith.

1 Substitutes section 26 of the Customs and Excise Act 91 of 1964.

[Date of commencement of s. 1: 5 August 1983.]

2 Amends section 38 of the Customs and Excise Act 91 of 1964 by substituting subsection (3).

[Date of commencement of s. 2: 5 August 1983.]

3 Amends section 40 (3) of the Customs and Excise Act 91 of 1964, as follows: paragraph (a) substitutes paragraph (a) (ii); paragraph (b) inserts paragraph (aA); and paragraph (c) substitutes paragraph (b).

4 Amends section 57A of the Customs and Excise Act 91 of 1964 by substituting subsection (1).

5 Amends section 76 (4) of the Customs and Excise Act 91 of 1964 by substituting the words preceding the proviso.

6 Amends section 107 (2) of the Customs and Excise Act 91 of 1964 by substituting paragraph (a).

7 Amends section 113 of the Customs and Excise Act 91 of 1964, by

deleting subsections (5) and (6).

8 Continuation of certain amendments of Schedules 1, 3, 4, 5 and 6 to Act 91 of 1964

(1) Every amendment of Schedules 1, 3, 4, 5 and 6 to the principal Act made under section 48 (1) and (2) or section 75 (15) of the principal Act prior to 28 January 1983 shall not lapse by virtue of the provisions of section 48 (6) or section 75 (16) of the principal Act.

(2) The amendment of Part 4 of Schedule 1 to the principal Act made under section 48 (2) of the principal Act by Government Notice R412 of 25 February 1983 shall not lapse by virtue of the provisions of section 48 (6) of the principal Act.

9 Commencement of certain Government Notices

(1) The substitution, by Government Notice R977 of 16 May 1980, of tariff headings 5101.53.20 and 5101.53.30 of Part 1 of Schedule 1 to the principal Act, shall be deemed to have come into operation on 12 July 1978.

(2) The substitution, by Government Notice R1754 of 20 August 1982, of tariff heading 87.09.30.30 of Part 1 of Schedule 1 to the principal Act, shall be deemed to have come into operation on 22 September 1981.

(3) The substitution, by Government Notice R1755 of 20 August 1982, of tariff item 126.35 of Part 2 of Schedule 1 to the principal Act, shall be deemed to have come into operation on 22 September 1981.

(4) The substitution, by Government Notice R2298 of 29 October 1982, of tariff heading 40.02.20 of Part 1 of Schedule 1 to the principal Act, shall be deemed to have come into operation on 13 July 1981.

(5) The substitution, by Government Notice R2695 of 17 December 1982, of rebate code 01.00.47 to tariff heading 76.03 in item 315.07 of Schedule 3 to the principal Act, shall be deemed to have come into operation on 14 July 1980.

10 Construction of tariff heading 56.05 in item 311.02 of Schedule 3 to Act 91 of 1964

Paragraph (2) of tariff heading 56.05 in item 311.02 of ^{4*}Schedule 3 to the principal Act shall be construed as if it provided for a rebate of the full duty on goods mentioned therein which have been entered for home consumption before 31 August 1981.

11 Short title and commencement

(1) This Act shall be called the Customs and Excise Amendment Act, 1983.

(2) Sections 1 and 2 shall come into operation 30 days after the date of promulgation of this Act.

CUSTOMS AND EXCISE AMENDMENT ACT 89 OF 1984

[ASSENTED TO 3 JULY 1984]

[DATE OF COMMENCEMENT: 25 JULY 1984]
(Unless otherwise indicated)

(English text signed by the State President)

ACT

To amend the Customs and Excise Act, 1964, so as to further determine the manner in which any person entering or leaving the Republic shall declare goods in his possession; to further regulate the liability of a container operator for duty and the calculation of the value of certain imported goods; to make provision for the lapse of amendments of Schedule 2 to the said Act made under section 56 (1A) thereof; to delete the provisions in relation to the entry of certain goods under rebate of duty in so far as they apply to kerosene; to empower the Minister of Industries, Commerce and Tourism to issue a permit authorizing entry of certain imported goods under rebate of duty; to extend the provisions relating to offences; to delete a certain provision relating to the prohibition of the exportation or transit carriage through the Republic or coastwise carriage of certain goods; to empower the Commissioner for Customs and Excise to approve certain persons as container operators; and to amend Schedule 1 to the said Act; to provide for the continuation of certain amendments of Schedules 1, 2, 3, 4, 5 and 6 to the said Act, for the commencement of certain Government Notices amending Schedules 1 and 3 to the said Act and for the application of section 40 of the said Act in relation to certain sunflower seed oils; and to provide for matters connected therewith.

1 Amends section 1 (1) of the Customs and Excise Act 91 of 1964 by substituting the definition of 'container operator'.

2 Amends section 15 of the Customs and Excise Act 91 of 1964 by substituting subsection (1).

3 Amends section 44 of the Customs and Excise Act 91 of 1964, as follows: paragraph (a) substitutes subsection (5A) (b); and paragraph (b) substitutes subsection (5B) (a).

4 Amends section 56 of the Customs and Excise Act 91 of 1964 by

substituting subsection (7).

5 Amends section 71 (2) of the Customs and Excise Act 91 of 1964 by substituting the words preceding the first proviso.

6 Amends section 75 of the Customs and Excise Act 91 of 1964, as follows: paragraph (a) substitutes subsection (4A); paragraph (b) substitutes in subsection (5) (b) the words preceding the proviso; and paragraph (c) inserts subsection (14A).

7 Amends section 80 (1) of the Customs and Excise Act 91 of 1964, as follows: paragraph (a) deletes the word 'or' at the end of paragraph (n); and paragraph (b) adds the word 'or' to paragraph (o) and adds paragraph (p).

8 Repeals section 82 of the Customs and Excise Act 91 of 1964.

9 Inserts section 96A in the Customs and Excise Act 91 of 1964.

10 **Amendment of Schedule 1 to Act 91 of 1964, as amended by section 19 of Act 95 of 1965, section 15 of Act 57 of 1966, section 2 of Act 96 of 1967, section 22 of Act 85 of 1968, section 37 of Act 105 of 1969, section 9 of Act 98 of 1970, section 2 of Act 89 of 1971, section 12 of Act 103 of 1972, section 6 of Act 68 of 1973, section 3 of Act 64 of 1974, section 13 of Act 71 of 1975, section 13 of Act 105 of 1976, section 38 of Act 112 of 1977, section 3 of Act 114 of 1981 and section 27 of Act 86 of 1982**

(1) Schedule 1 to the principal Act is hereby amended to the extent set out in the ^{5*}Schedule to this Act.

(2) Subject to the provisions of section 58 (1) of the principal Act, this section shall be deemed to have come into operation on 28 March 1984.

11 **Continuation of certain amendments of Schedules 1, 2, 3, 4, 5 and 6 to Act 91 of 1964**

Every amendment of Schedules 1, 2, 3, 4, 5 and 6 to the principal Act made under section 48 (1) and (2), section 56 (1) and (1A) or section 75 (15) of the principal Act prior to 27 January 1984 shall not lapse by virtue of the provisions of section 48 (6), 56 (7) or 75 (16) of the principal Act.

12 **Commencement of certain Government Notices**

(1) The substitution, by Government Notice R380 of 27 February 1981, of paragraph (1) of tariff heading 76.03 in item 315.07 of Schedule 3 to the principal Act, shall be deemed to have come into operation on 22 June 1976.

(2) The substitution, by Government Notice R2072 of 1 October 1982, of tariff headings 82.05.05.95 and 82.05.05.99 of Part 1 of Schedule 1 to the principal Act, shall be deemed to have come into operation on 26 September 1980.

(3) The substitution, by Government Notice R18 of 7 January 1983, of rebate code 12.00 to tariff heading 87.06 in item 317.06 of Schedule 3 to the principal Act, shall be deemed to have come into operation on 1 March 1981.

13 Application of section 40 of Act 91 of 1964 in relation to sunflower seed oil

For the purposes of section 40 (3) of the principal Act-

- (a) bills of entry passed on 30 March 1983 and 18 April 1983 in relation to sunflower seed oil shall, notwithstanding the provisions of item 460.03 (in relation to tariff heading 15.07) of Schedule 4, be deemed to have been passed in error by reason of duty having been paid on goods intended for purposes or use under rebate of duty under section 75;
- (b) such sunflower seed oil shall be deemed to have qualified at the time duty was paid thereon in all respects for rebate; and
- (c) the duty paid on the sunflower seed oil concerned shall be deemed to have been paid on the date of commencement of this Act.

14 Short title

This Act shall be called the Customs and Excise Amendment Act, 1984.

CUSTOMS AND EXCISE AMENDMENT ACT 101 OF 1985

[ASSENTED TO 10 JULY 1985]

[DATE OF COMMENCEMENT: 31 JULY 1985]
(Unless otherwise indicated)

(Afrikaans text signed by the State President)

ACT

To amend the Customs and Excise Act, 1964, so as to withdraw, in respect of aircraft, the requirement that a list of passengers be submitted on arrival of such aircraft in the Republic; to abolish, in respect of aircraft arriving in the Republic, the prescribed form relating to sealable goods; to make other provision regarding goods imported by post; to oblige persons entering or leaving the Republic to pay to the Controller such duties as may be

assessed by an officer in respect of goods declared by them; to provide for the determination of the transaction value, for customs duty purposes, of goods sold in transit and of the duty applicable in respect of goods imported into or manufactured in the Republic which are liable to duty and which were removed, taken or delivered without entry for home consumption having been made; to prohibit certain acts in respect of imported or excisable goods intended for home consumption which have not been duly entered for home consumption; to make new provision for the determination of the value, for the purposes of certain duties, of certain imported goods and certain goods manufactured in the Republic; to make further provision with regard to the interpretation of sections 65, 66 and 67 of the said Act; to further regulate the granting of rebates or refunds of duty in respect of losses or deficiencies of certain wine spirits and certain other spirits; to delete certain references to rebates or refunds of duty in respect of losses or deficiencies in so far as they apply to aviation spirit and kerosene; to create a certain legal fiction in connection with particular forms and invoices; to extend the lien in favour of the State for duties unpaid to certain additional goods and to certain machinery, plant and equipment; to amend Schedule 1 to the said Act; to provide for the continuation of certain amendments of Schedules 1, 2, 3, 4 and 6 to the said Act; to provide for the commencement of a certain amendment of Schedule 4 to the said Act; and to provide for the application of section 40 of the said Act in relation to certain panel vans; and to provide for matters connected therewith.

- 1** Amends section 7 (2) of the Customs and Excise Act 91 of 1964 by substituting paragraph (a).
- 2** Amends section 9 of the Customs and Excise Act 91 of 1964 by substituting subsection (1).
- 3** Amends section 13 of the Customs and Excise Act 91 of 1964, as follows: paragraph (a) substitutes subsection (1); paragraph (b) deletes subsection (2); paragraph (c) substitutes subsection (3); and paragraph (d) substitutes subsection (4).
- 4** Amends section 15 of the Customs and Excise Act 91 of 1964, as follows: paragraph (a) substitutes subsection (1); and paragraph (b) inserts subsection (1A).
- 5** Inserts section 39A in the Customs and Excise Act 91 of 1964.
- 6** Amends section 45 of the Customs and Excise Act 91 of 1964 by substituting subsection (1).
- 7** Inserts section 47A in the Customs and Excise Act 91 of 1964.

- 8** Amends section 65 of the Customs and Excise Act 91 of 1964 by substituting subsection (8).
- 9** Amends section 69 of the Customs and Excise Act 91 of 1964 by substituting subsection (4).
- 10** Amends section 74A of the Customs and Excise Act 91 of 1964, as follows: paragraph (a) substitutes subsection (1); and paragraph (b) substitutes subsection (2).
- 11** Amends section 75 of the Customs and Excise Act 91 of 1964, as follows: paragraph (a) inserts subsection (4A) (cA); paragraph (b) substitutes subsection 18 (a); paragraph (c) inserts subsection (18) (bA) (date of commencement 1 July 1983); paragraph (d) substitutes subsection 18 (d); and paragraph (e) substitutes subsection (18) (e).
- 12** Amends section 102 of the Customs and Excise Act 91 of 1964 by substituting subsection (4).
- 13** Amends section 114 (1) of the Customs and Excise Act 91 of 1964 by substituting paragraph (a).
- 14** **Amendment of Schedule 1 to Act 91 of 1964, as amended by section 19 of Act 95 of 1965, section 15 of Act 57 of 1966, section 2 of Act 96 of 1967, section 22 of Act 85 of 1968, section 37 of Act 105 of 1969, section 9 of Act 98 of 1970, section 2 of Act 89 of 1971, section 12 of Act 103 of 1972, section 6 of Act 68 of 1973, section 3 of Act 64 of 1974, section 13 of Act 71 of 1975, section 13 of Act 105 of 1976, section 38 of Act 112 of 1977, section 3 of Act 114 of 1981, section 27 of Act 86 of 1982 and section 10 of Act of 89 of 1984**

(1) Schedule 1 to the principal Act is hereby amended to the extent set out in the ^{6*}Schedule to this Act.

(2) Subject to the provisions of section 58 (1) of the principal Act, this section shall be deemed to have come into operation on 18 March 1985.

15 **Continuation of certain amendments of ^{7*}Schedules 1, 2, 3, 4 and 6 to Act 91 of 1964**

(1) Every amendment of Schedules 1, 2, 3, 4 and 6 to the principal Act made under section 48 (1) and (2), section 56 (1) and (1A) or section 75 (15) of the principal Act prior to 25 January 1985 shall not lapse by virtue of the provisions of section 48 (6), 56 (7) or 75 (16) of the principal Act.

(2) The amendment of Part 2 of Schedule 1 to the principal Act made under section 48 (2) of the principal Act by Government Notice R609 of 19 March 1985, shall not lapse by virtue of the provisions of section 48 (6) of the principal Act.

16 Commencement of certain amendment

The insertion, by Government Notice R325 of 15 February 1985, of item 409.07 in Schedule 4 to the principal Act, shall be deemed to have come into operation on 25 October 1983.

17 Application of section 40 of Act 91 of 1964 in relation to panel vans

For the purposes of section 40 (3) of the principal Act-

- (a) bills of entry passed during the period 12 June 1984 up to and including 2 August 1984 in relation to panel vans shall, notwithstanding the provisions of item 460.17 (in relation to tariff heading 87.02) of Schedule 4, be deemed to have been passed in error by reason of duty having been paid on goods intended for purposes or use under rebate of duty under section 75;
- (b) such panel vans shall be deemed to have qualified at the time duty was paid thereon in all respects for rebate; and
- (c) the duty paid on the panel vans concerned shall be deemed to have been paid on the date of commencement of this Act.

18 Short title

This Act shall be called the Customs and Excise Amendment Act, 1985.

CUSTOMS AND EXCISE AMENDMENT ACT 52 OF 1986

[ASSENTED TO 5 JUNE 1986]

[DATE OF COMMENCEMENT: 13 JUNE 1986]
(Unless otherwise indicated)

(English text signed by the State President)

as amended by

Customs and Excise Amendment Act 84 of 1987

ACT

To amend the Customs and Excise Act, 1964, so as to make special provision in regard to the appointment of places of entry for the Republic;

to make other provision regarding goods imported by post; to provide further for the manufacture of excisable goods and the collection of excise duty; to further regulate the liability for duty on excisable goods, sales duty goods and imported goods; to make further provision regarding the operation of the determination by the Commissioner for Customs and Excise of the classification of goods with reference to the duty payable thereon; to further regulate the imposition of anti-dumping duties; to make further provision regarding the operation of the determination by the Commissioner for Customs and Excise of the value of imported goods for customs duty purposes; to further regulate rebate of duty in respect of certain goods entered for use in certain activities; to provide further for liability for duty arising after entry of certain goods under rebate of duty; to increase certain penalties and create or amend certain offences; to make further provision regarding the registration of certain motor vehicles; and to provide for the furnishing of certain information regarding the compilation and tabulation of certain statistics; for the continuation of certain amendments of Schedules 1, 3, 4, 5 and 6 to the said Act; and for the extension and commencement of certain rebates; and to provide for matters connected therewith.

1 Amends section 6 of the Customs and Excise Act 91 of 1964 by inserting subsection (1A).

2 Amends section 10 of the Customs and Excise Act 91 of 1964 by substituting subsection (2).

3 Amends section 13 of the Customs and Excise Act 91 of 1964, as follows: paragraph (a) adds subsection (3) (b), the existing subsection becoming paragraph (a); and paragraph (b) adds subsections (5) and (6).

4 Substitutes section 36A of the Customs and Excise Act 91 of 1964.

5 Amends section 44 of the Customs and Excise Act 91 of 1964, as follows: paragraph (a) substitutes subsection (8); and paragraph (b) inserts subsection (8A).

6 Amends section 47 of the Customs and Excise Act 91 of 1964 by adding subsection (11).

[Date of commencement of s. 6: 18 July 1979.]

[Date of commencement amended by s. 44 of Act 84 of 1987.]

7 Amends section 56 of the Customs and Excise Act 91 of 1964, as follows: paragraph (a) substitutes subsection (1A); and paragraph (b) adds subsection (2) (b) (iii).

- 8** Amends section 65 of the Customs and Excise Act 91 of 1964, as follows: paragraph (a) inserts subsection (7A); and paragraph (b) substitutes subsection (8) (a).
- 9** Amends section 75 of the Customs and Excise Act 91 of 1964, as follows: paragraph (a) substitutes subsection (2) (b) (date of commencement: 5 October 1984); paragraph (b) substitutes subsection (2) (c); and paragraph (c) substitutes in subsection (5) (b) the words preceding the proviso.
- 10** Amends section 78 of the Customs and Excise Act 91 of 1964, as follows: paragraph (a) substitutes in subsection (2) the words 'one thousand' for the words 'four hundred'; and paragraph (b) substitutes in subsection (3) the words 'one thousand five hundred' for the words 'six hundred'.
- 11** Amends section 79 of the Customs and Excise Act 91 of 1964, as follows: paragraph (a) substitutes in subsection (1) the words 'one thousand' for the words 'four hundred'; and paragraph (b) substitutes in subsection (2) the words 'one thousand five hundred' for the words 'six hundred'.
- 12** Amends section 80 (1) of the Customs and Excise Act 91 of 1964, as follows: paragraph (a) substitutes paragraph (h); and paragraph (b) substitutes the words 'two thousand five hundred' for the words 'one thousand'.
- 13** Amends section 81 of the Customs and Excise Act 91 of 1964 by substituting the words 'five thousand' for the words 'two thousand'.
- 14** Amends section 83 of the Customs and Excise Act 91 of 1964 by substituting the words 'five thousand' for the words 'two thousand'.
- 15** Amends section 84 (1) of the Customs and Excise Act 91 of 1964 by substituting the words 'five thousand' for the words 'two thousand'.
- 16** Amends section 85 of the Customs and Excise Act 91 of 1964 by substituting the words 'five thousand' for the words 'two thousand'.
- 17** Amends section 86 of the Customs and Excise Act 91 of 1964 by substituting the words 'five thousand' for the words 'two thousand'.
- 18** Amends section 95 of the Customs and Excise Act 91 of 1964, as follows: paragraph (a) inserts subsection (1A); and paragraph (b) deletes subsection (2) (b).
- 19** Substitutes section 111 of the Customs and Excise Act 91 of 1964.
- 20** Amends section 117 of the Customs and Excise Act 91 of 1964 by adding

subsection (2), the existing section becoming subsection (1).

21 Continuation of certain amendments of Schedules 1, 3, 4, 5 and 6 to Act 91 of 1964

(1) Every amendment of ^{8*}Schedules 1, 3, 4, 5 and 6 to the principal Act made under section 48 (1) and (2) or section 75 (15) of the principal Act prior to 31 January 1986 shall not lapse by virtue of the provisions of section 48 (6) or 75 (16) of the principal Act.

(2) The amendments of Parts 1 and 4 of Schedule 1 to the principal Act made under section 48 (1) and (2) of the principal Act by Government Notices R480 and R481 of 18 March 1986 shall not lapse by virtue of the provisions of section 48 (6) of the principal Act.

22 Extension and commencement of certain rebates

(1) The extent of rebate in paragraph 01.03 of tariff item 117.15 in item 609.17 of Schedule 6 to the principal Act, as substituted by Government Notice R1421 of 11 July 1980, shall, for the period 1 January 1980 to 31 December 1980, be deemed also to have been applicable to the light goods vehicle models referred to in paragraph 01.04 of tariff item 117.15 in item 609.17 of Schedule 6 to the principal Act.

(2) The extent of rebate in paragraph 01.03 of tariff item 117.15 in item 609.17 of Schedule 6 to the principal Act, as substituted by Government Notice R2439 of 28 November 1980, shall, for the period 1 January 1981 to 31 December 1981, be deemed also to have been applicable to the light goods vehicle models referred to in paragraph 01.04 of tariff item 117.15 in item 609.17 of Schedule 6 to the principal Act.

(3) The insertion, by Government Notice R1067 of 17 May 1985, of rebate code 01.00 to tariff heading 39.02 in rebate item 306.10 of Schedule 3 to the principal Act, shall be deemed to have come into operation on 1 February 1984.

23 Short title

This Act shall be called the Customs and Excise Amendment Act, 1986.

CUSTOMS AND EXCISE AMENDMENT ACT 84 OF 1987

[ASSENTED TO 6 OCTOBER 1987]

[DATE OF COMMENCEMENT: 14 OCTOBER 1987]
(Unless otherwise indicated)

(Afrikaans text signed by the State President)

ACT

To amend the Customs and Excise Act, 1964, so as to further define 'manufacture'; to further regulate the liability for duty on goods removed in bond and the removal of goods from customs and excise warehouses; to provide for the exportation of goods from customs and excise warehouses; to extend the classes of imported goods exempt from entry in certain circumstances; to provide for the deferment of payment of duties due on certain imported goods; to further regulate the adjustment of bills of entry which have been passed in error; to provide for joint and several liability for duty and the payment of certain amounts; to provide for a fuel levy; to empower the Minister of Finance to authorize the withdrawal of certain duties specified in Schedule 1 to the said Act; to enable the said Minister to amend any Schedule to the said Act under certain circumstances; to provide for exemption from the requirements for entering or acquiring any goods under rebate of duty; to extend the provisions of the said Act relating to the issue of a permit authorizing entry of certain goods under rebate of duty, to certain other goods; to empower the said Minister to apply any amendment of certain Schedules to the said Act with retrospective effect; to further regulate the granting of refunds of duty or other charges in respect of dutiable goods; to provide for the set-off of certain overpayments in respect of excise duty against amounts due in respect of that duty; to extend the provisions of the said Act regarding offences; to further regulate the compulsory payment of certain amounts in respect of certain goods liable to forfeiture; to make new provision with reference to the right of appeal to the said Minister from certain determinations or orders of the Commissioner for Customs and Excise; to provide for the disposal of certain goods imported or exported in contravention of any law other than the said Act and liable to forfeiture; to make further provision for the recovery of duty for which any person may be liable; to repeal section 116A of the said Act; and to provide for the continuation of certain amendments of Schedules 1, 2, 3, 4, 5 and 6 to the said Act, for the commencement of certain Government Notices amending Schedules 1 and 4 to the said Act and for the application of section 40 of the said Act in relation to certain goods; to provide for certain amendments to any Schedule to the said Act; to determine the commencement of section 6 of the Customs and Excise Amendment Act, 1986; and to provide for matters connected therewith.

1 (1) Amends section 1 of the Customs and Excise Act 91 of 1964, as follows: paragraph (a) substitutes in subsection (1) the words preceding the definition of 'agricultural distiller' (date of commencement: 1 July 1987); paragraph (b) inserts the definition of 'common customs area' (date of commencement: 1 July 1987); paragraph (c) substitutes the definition of 'customs duty' (date of commencement: 1 July 1987); paragraph (d) substitutes the definition of 'excise duty' (date of commencement: 1 July 1987); paragraph (e) inserts the definitions of 'fuel levy' and 'fuel levy goods' (date of commencement:

1 July 1987); paragraph (f) substitutes the definition of 'illicit goods' (date of commencement: 1 July 1987); paragraph (g) substitutes the definition of 'manufacture'; paragraph (h) substitutes the definition of 'officer' (date of commencement: 1 July 1987); and paragraph (i) substitutes subsection (3) (date of commencement: 1 July 1987).

(2) Paragraph (g) of subsection (1) shall be deemed to have come into operation-

- (a) in respect of the insertion of the words 'imported goods specified in Section B of Part 2 of Schedule 1' in paragraphs (c) and (e) of the definition of 'manufacture', on 3 July 1978; and
- (b) in respect of the addition or insertion of the words 'or fuel levy goods' in paragraphs (a) to (e) of the definition of 'manufacture', on 1 July 1987.

2 Amends section 4 of the Customs and Excise Act 91 of 1964, as follows: paragraph (a) substitutes subsection (3) (c); and paragraph (b) substitutes subsection (4) (a) (iv).

3 Amends section 9 (3) of the Customs and Excise Act 91 of 1964 by substituting paragraph (g) (date of commencement 1 July 1987).

4 (1) Amends section 18 of the Customs and Excise Act 91 of 1964, as follows: paragraph (a) substitutes subsection (1) (a); and paragraph (b) substitutes subsection (3) (a) and (b).

(2) Paragraph (a) of subsection (1) of this section shall be deemed to have come into operation in respect of the insertion of the words 'or fuel levy goods' in paragraph (a) of subsection (1) of section 18 of the principal Act, on 1 July 1987.

5 Inserts section 18A in Chapter III of the Customs and Excise Act 91 of 1964.

6 Amends section 20 (4) of the Customs and Excise Act 91 of 1964, as follows: paragraph (a) substitutes paragraph (b); and paragraph (b) deletes paragraph (c).

7 Amends section 27 of the Customs and Excise Act 91 of 1964, as follows: paragraph (a) substitutes in subsection (1) the words preceding the proviso (date of commencement: 1 July 1987); and paragraph (b) substitutes subsection (3) (date of commencement: 1 July 1987).

8 (1) Amends section 37 of the Customs and Excise Act 91 of 1964, as follows: paragraph (a) substitutes in subsection (2) the words preceding

paragraph (a) (date of commencement: 1 July 1987); paragraph (b) adds the proviso to subsection (3) (date of commencement: 1 July 1987); paragraph (c) substitutes subsection (4) (a) (date of commencement: 1 July 1987); paragraph (d) deletes subsection (5) (date of commencement: 1 July 1987); paragraph (e) substitutes subsection (8); and paragraph (f) adds subsection (9) (date of commencement: 1 July 1987).

(2) Subsection (1) (e) of this section shall be deemed to have come into operation, in respect of the insertion of the words 'surcharge' and 'surcharge goods' in subsection (8) of section 37 of the principal Act, on 30 March 1977, and in respect of the insertion of the words 'or fuel levy' and 'or fuel levy goods' in the said subsection (8), on 1 July 1987.

9 Amends section 38 of the Customs and Excise Act 91 of 1964, as follows: paragraph (a) substitutes in subsection (1) (a) (v) the expression 'R200' for the words 'one hundred rand'; and paragraph (b) substitutes subsection (4) (a) (date of commencement: 1 July 1987).

10 Amends section 39 (1) (b) of the Customs and Excise Act 91 of 1964 by adding the proviso.

[Date of commencement of s. 10: 1 January 1987.]

11 Amends section 40 of the Customs and Excise Act 91 of 1964, as follows: paragraph (a) adds the proviso to subsection (1) (e); and paragraph (b) substitutes in subsection (3) (b) the word 'six' for the word 'three'.

12 Amends section 41 (1) of the Customs and Excise Act 91 of 1964 by substituting the words preceding the proviso.

[Date of commencement of s. 12: 1 July 1987.]

13 Amends section 44 of the Customs and Excise Act 91 of 1964, as follows: paragraph (a) substitutes subsection (1); paragraph (b) substitutes subsection (2); paragraph (c) substitutes subsection (7)); paragraph (d) substitutes subsection (8); and paragraph (e) substitutes subsection (8A).

[Date of commencement of s. 13: 1 July 1987.]

14 Inserts section 44A in the Customs and Excise Act 91 of 1964.

15 Amends section 47 of the Customs and Excise Act 91 of 1964, as follows: paragraph (a) substitutes in subsection (1) the words preceding the proviso (date of commencement: 1 July 1987); paragraph (b) substitutes subsection (5) (date of commencement: 1 July 1987); paragraph (c) substitutes subsection (7) (date of commencement: 1 July 1987); and paragraph (d) substitutes in subsection (8)

(a) the words preceding the proviso (date of commencement: 1 January 1988).

16 Amends section 47A of the Customs and Excise Act 91 of 1964, as follows: paragraph (a) substitutes subsection (1); and paragraph (b) substitutes subsection (2).

[Date of commencement of s. 16: 1 July 1987.]

17 Inserts section 47B in the Customs and Excise Act 91 of 1964.

[Date of commencement of s. 17: 1 July 1987.]

18 Amends section 48 of the Customs and Excise Act 91 of 1964, as follows: paragraph (a) substitutes in subsection (2) the words preceding the proviso (date of commencement: 1 July 1987); paragraph (b) inserts subsection (2A); and paragraph (c) substitutes subsection (4) (date of commencement: 1 July 1987).

19 Inserts section 48A in the Customs and Excise Act 91 of 1964.

20 Amends section 53 of the Customs and Excise Act 91 of 1964 by substituting subsection (2).

21 Amends section 58 (1) of the Customs and Excise Act 91 of 1964 by adding the proviso.

22 Amends section 61 of the Customs and Excise Act 91 of 1964 by substituting subsection (4).

[Date of commencement of s. 22: 1 July 1987.]

23 Amends section 75 of the Customs and Excise Act 91 of 1964, as follows: paragraph (a) substitutes subsection (1) (c) (date of commencement: 1 July 1987); paragraph (b) substitutes subsection (1) (d) (date of commencement: 1 July 1987); paragraph (c) adds subsection (1) (f) and (g) (date of commencement: 1 July 1987); paragraph (d) substitutes subsection (4A) (date of commencement: 1 July 1987); paragraph (e) inserts subsection (7A) (date of commencement: 1 July 1987); paragraph (f) adds the proviso to subsection (10); paragraph (g) adds subsection (10) (b) and (c), the existing subsection becoming paragraph (a); paragraph (h) substitutes subsection (11) (date of commencement: 1 July 1987); paragraph (i) substitutes subsection (14) (b) (date of commencement: 1 July 1987); paragraph (j) substitutes subsection (14A); paragraph (k) inserts subsection (14B); paragraph (l) substitutes subsection (15) (aA); paragraph (m) substitutes subsection (15) (b) (date of commencement: 1 July 1987); paragraph (n) substitutes subsection (16); paragraph (o) substitutes subsection (18) (d) (date of commencement: 1 July 1987); and paragraph (p) adds subsection (18) (f) (date of commencement: 1 July 1987).

24 (1) Amends section 76 of the Customs and Excise Act 91 of 1964, as follows: paragraph (a) substitutes subsection (1); paragraph (b) deletes the word 'or' at the end of subsection (2) (e); and paragraph (c) adds the word 'or' to subsection (2) (f), and adds subsection (2) (g).

(2) Paragraph (a) of subsection (1) of this section shall be deemed to have come into operation-

- (a) in respect of the insertion of the words 'surcharge goods' in subsection (1) of section 76 of the principal Act, on 30 March 1977; and
- (b) in respect of the insertion of the words 'or fuel levy goods' in that subsection, on 1 July 1987.

25 Inserts section 76A in the Customs and Excise Act 91 of 1964.

26 Amends section 77 of the Customs and Excise Act 91 of 1964, as follows: paragraph (a) substitutes subsection (1) (a) (date of commencement: 1 July 1987); and paragraph (b) substitutes subsection (2) (date of commencement: 3 July 1978).

27 Amends section 80 of the Customs and Excise Act 91 of 1964, as follows: paragraph (a) substitutes subsection (1) (b); paragraph (b) substitutes subsection (1) (n); paragraph (c) substitutes subsection (1) (o); and paragraph (d) adds subsection (3).

28 Amends section 88 (2) of the Customs and Excise Act 91 of 1964 by substituting paragraph (a).

29 Amends section 91 (2) of the Customs and Excise Act 91 of 1964 by substituting the expression 'R1 000' for the words 'five hundred rand'.

30 Amends section 102 of the Customs and Excise Act 91 of 1964, as follows: paragraph (a) substitutes subsection (1); and paragraph (b) substitutes subsection (4).

[Date of commencement of s. 30: 1 July 1987.]

31 Amends section 113 (8) of the Customs and Excise Act 91 of 1964 by adding paragraphs (b) and (c), the existing subsection becoming paragraph (a).

32 (1) Amends section 114 (1) of the Customs and Excise Act 91 of 1964 by substituting paragraphs (a) and (aA).

(2) Subsection (1) of this section shall be deemed to have come into operation-

(a) in respect of the insertion, in paragraph (a) of subsection (1) of section 114 of the principal Act, of the words 'for which any person is liable' and 'shall from the date on which liability for such duty commences' and 'in respect of which any duty is prescribed, (whether or not such duty has been paid)', on 31 July 1985; and

(b) in respect of the insertion, in paragraphs (a) and (aA) of subsection (1) of section 114 of the principal Act, of the words 'or fuel levy', on 1 July 1987.

33 Repeals section 116A of the Customs and Excise Act 91 of 1964.

34 Amends section 117 of the Customs and Excise Act 91 of 1964, as follows: paragraph (a) substitutes subsection (1) (date of commencement: 1 July 1987); paragraph (b) substitutes subsection (2) (b) (date of commencement: 1 July 1987); and paragraph (c) adds subsection (3) (date of commencement: 1 July 1987).

35 Amends section 120 (1) of the Customs and Excise Act 91 of 1964 by substituting paragraph (h) (date of commencement: 1 July 1987).

36 Commencement of certain sections

Sections 1 (1) (a), (b), (c), (d), (e), (f), (h) and (i), 3, 7, 8 (1) (a), (b), (c), (d) and (f), 9 (b), 12, 13, 15 (1) (a), (b) and (c), 16, 17, 18 (a) and (c), 22, 23 (a), (b), (c), (d), (e), (h), (i), (m), (o) and (p), 30, 34 and 35 shall be deemed to have come into operation on 1 July 1987.

37 Commencement of certain Government Notices

(1) Government Notice R2606 of 22 November 1985 shall be deemed to have come into operation on 1 April 1985.

(2) Government Notice R1385 of 4 July 1986 shall be deemed to have come into operation on 13 July 1984.

(3) The insertion, by Government Notice R2209 of 24 October 1986, of item 460.07/39.01 (1) in Note 7 (a) to Part 4 of Schedule 1 to the principal Act, shall be deemed to have come into operation on 27 June 1986.

(4) Government Notice R2210 of 24 October 1986, in so far as it relates to tariff heading 39.01 (2) in item 460.07 of Schedule 4 to the principal Act, shall be deemed to have come into operation on 27 June 1986.

38 Application of section 40 of Act 91 of 1964 in relation to certain goods

For the purposes of section 40 (3) of the principal Act-

- (a) (i) bills of entry passed on 13 June 1985 and 21 June 1985 in relation to unassembled tractors shall, notwithstanding the provisions of item 460.17 (in relation to tariff heading 87.01) of Schedule 4 to the principal Act, be deemed to have been passed in error by reason of duty having been paid on goods intended for purposes or use under rebate of duty under section 75;
- (ii) those tractors shall be deemed to have qualified at the time duty was paid thereon in all respects for rebate; and
- (iii) the duty paid on the tractors concerned shall be deemed to have been paid on the date of commencement of this Act;
- (b) (i) bills of entry passed during the period 27 June 1986 to 23 October 1986 in relation to pressure-sensitive plates, sheets, film, foil and strip of polyethylene terephthalates, with disposable backing, in respect of which any permit is issued in terms of the provisions of item 460.07 (in relation to tariff heading 39.01) of Schedule 4 to the principal Act, with retrospective effect, shall be deemed to have been passed in error by reason of duty having been paid on goods intended for purposes or use under rebate of duty under section 75;
- (ii) those plates, sheets, film, foil and strip shall be deemed to have qualified at the time duty was paid thereon in all respects for rebate; and
- (iii) the duty paid on the plates, sheets, film, foil and strip concerned shall be deemed to have been paid on the date of commencement of this Act; and
- (c) (i) bills of entry passed during the period 18 October 1985 to 31 December 1986 in relation to monitors in respect of which a permit has been issued in terms of the provisions of item 460.16 (in relation to tariff heading 85.15) of Schedule 4 to the principal Act, shall be deemed to have been passed in error by reason of duty having been paid on goods intended for purposes or use under rebate of duty under section 75;
- (ii) those monitors shall be deemed to have qualified at the time

duty was paid thereon in all respects for rebate; and

- (iii) the duty paid on the monitors concerned shall be deemed to have been paid on the date of commencement of this Act.

39 Continuation of certain amendments of ^{9*}Schedules 1, 2, 3, 4, 5 and 6 to Act 91 of 1964

Every amendment of Schedules 1, 2, 3, 4, 5 and 6 to the principal Act made under section 48 (1) and (2), section 56 (1) and (1A) or section 75 (15) of the principal Act prior to 15 May 1987 shall not lapse by virtue of the provisions of section 48 (6), 56 (7) or 75 (16) of the principal Act.

40 Amendment of ^{10*}Schedules 1, 5 and 6 to Act 91 of 1964

(1) Government Notices R1443 and R1444 of 1 July 1987 and Government Notices R1807, R1808 and R1809 of 21 August 1987 are hereby withdrawn and Schedules 5 and 6 to the principal Act shall be construed as if the amendments made by the said notices had not been effected.

(2) Schedule 1, and Schedules 5 and 6 as so construed, are hereby amended to the extent set out in Schedules 1, 2 and 3 to this Act, respectively.

(3) Subsection (2), in so far as it relates to Part 2 and Part 5 of Schedule 1 to the principal Act, as inserted by Schedule 1 to this Act, shall be deemed to have come into operation with effect from 1 July 1987.

(4) Subsection (2), in so far as it relates to Schedules 5 and 6 to the principal Act, as inserted by Schedules 2 and 3 to this Act, respectively, shall be deemed to have come into operation with effect from 1 July 1987.

41 Substitutes the long title of the Customs and Excise Act 91 of 1964.

42

[S. 42 repealed by s. 46 of Act 59 of 1990.]

43 Substitution or amendment of Schedules to provide for application of International Convention on the Harmonized Commodity Description and Coding System

Notwithstanding anything to the contrary in the principal Act contained, but subject to the provisions of section 48A of the principal Act, as inserted by section 19 of this Act, the Minister may at any time by notice in the *Gazette* substitute or amend any Schedule to the principal Act, including the Notes thereto, in order to provide for the application in the Republic of the International

Convention on the Harmonized Commodity Description and Coding System signed at Brussels on 10 June 1985.

44 Commencement of section 6 of Act 52 of 1986

Section 6 of the Customs and Excise Amendment Act, 1986 (Act 52 of 1986), shall be deemed to have come into operation on 18 July 1979.

45 Short title

This Act shall be called the Customs and Excise Amendment Act, 1987.

CUSTOMS AND EXCISE AMENDMENT ACT 69 OF 1988

[ASSENTED TO 17 JUNE 1988]

[DATE OF COMMENCEMENT: 29 JUNE 1988]
(Unless otherwise indicated)

(Afrikaans text signed by the State President)

ACT

To amend the Customs and Excise Act, 1964, so as to empower the Commissioner for Customs and Excise to allow certain spirits to be used or disposed of; to provide further for the manufacture of excisable goods and the collection of excise duty, and for the circumstances in which the most-favoured-nation-rate of duty shall apply in respect of certain goods; to determine the documents to be produced on the exportation of goods; to further regulate the determination of the value for customs duty purposes of imported goods; to provide further for establishing the value for excise duty purposes of certain goods manufactured in the Republic; to further regulate the granting of refunds of duty and fuel levy in respect of distillate fuel; to provide for the recovery of certain amounts not duly capable of set-off; to provide for the set-off of certain provisional refunds of duty and fuel levy against amounts due in respect of that duty and levy; to amend Schedule 1 to the said Act; to provide for the continuation of certain amendments of Schedules 1, 2, 3, 4, 5, 6 and 7 to the said Act; to readjust the dates of clearing of certain motor vehicle models; and to authorize the Commissioner for Customs and Excise to refund to certain persons in any state which formerly formed part of the Republic, and to pay to any such state, part of any duty or fuel levy paid in the Republic on any petrol or distillate fuel entered or removed for consumption in that state; and to provide for matters connected therewith.

1 Amends section 34 of the Customs and Excise Act 91 of 1964 by adding subsection (6).

2 (1) Amends section 36A of the Customs and Excise Act 91 of 1964 by

substituting subsection (1).

(2) Subsection (1) of this section shall be deemed to have come into operation-

(a) in respect of the deletion of the words 'manufacturer of and', the insertion of the words 'of a class designated by the Commissioner' and the deletion of the words 'or dealer', on 9 July 1969; and

(b) in respect of the deletion of the word 'rolled' and the insertion of the words 'metals clad with', on 1 January 1988.

3 Amends section 39 of the Customs and Excise Act 91 of 1964 by inserting subsection (2B).

4 (1) Amends section 47 of the Customs and Excise Act 91 of 1964, as follows: paragraph (a) substitutes in subsection (3) the words preceding paragraph (a); and paragraph (b) deletes subsection (4).

(2) Subsection (1) of this section shall be deemed to have come into operation on 1 January 1988.

5 Amends section 66 (8) of the Customs and Excise Act 91 of 1964 by substituting paragraph (d).

6 Amends section 67 (1) of the Customs and Excise Act 91 of 1964 by substituting paragraph (e).

7 (1) Amends section 69 of the Customs and Excise Act 91 of 1964, as follows: paragraph (a) substitutes in subsection (1) the words preceding the proviso; and paragraph (b) substitutes subsection (4).

(2) Paragraph (b) of subsection (1) of this section shall be deemed to have come into operation on 31 July 1985.

8 (1) Amends section 75 of the Customs and Excise Act 91 of 1964, as follows: paragraph (a) substitutes subsection (1) (f) (iv); paragraph (b) adds subsection (1) (f) (v); paragraph (c) adds subsection (1) (g) (ii), while the existing paragraph becomes subparagraph (i); and paragraph (d) inserts subsection (1A).

(2) (a) Paragraph (c) of subsection (1) of this section shall be deemed to have come into operation on 1 July 1987.

(b) Paragraphs (a), (b), and (d) of subsection (1) of this section shall be deemed to have come into operation on 1 November 1987.

9 (1) Amends section 76A of the Customs and Excise Act 91 of 1964 by adding subsection (2), while the existing section becomes subsection (1).

(2) Section 1 of this section shall be deemed to have come into operation on 1 November 1987.

10 (1) Amends section 77 (4) of the Customs and Excise Act 91 of 1964 by substituting paragraph (a).

(2) Subsection (1) of this section shall be deemed to have come into operation on 1 November 1987.

11 Amendment of Schedule^{11*} 1 to the Customs and Excise Act 91 of 1964, as amended by section 19 of Act 95 of 1965, section 15 of Act 57 of 1966, section 2 of Act 96 of 1967, section 22 of Act 85 of 1968, section 37 of Act 105 of 1969, section 9 of Act 98 of 1970, section 2 of Act 89 of 1971, section 12 of Act 103 of 1972, section 6 of Act 68 of 1973, section 3 of Act 64 of 1974, section 13 of Act 71 of 1975, section 13 of Act 105 of 1976, section 38 of Act 112 of 1977, section 3 of Act 114 of 1981, section 27 of Act 86 of 1982, section 10 of Act 89 of 1984 and section 14 of Act 101 of 1985

(1) Schedule^{12*} 1 to the principal Act is hereby amended to the extent set out in the Schedule^{13*} to this Act.

(2) Subject to the provisions of section 58 (1) of the Customs and Excise Act 91 of 1964, this section shall be deemed to have come into operation on 16 March 1988.

12 Continuation of certain amendments of ^{14*}Schedules 1, 2, 3, 4, 5, 6 and 7 to Act 91 of 1964

(1) Every amendment of Schedules 1, 2, 3, 4, 5, 6 and 7 to the principal Act made under section 48 (1) and (2), section 56 (1) and (1A) or section 75 (15) of the principal Act prior to 5 February 1988 shall not lapse by virtue of the provisions of section 48 (6), 56 (7) or 75 (16) of the principal Act.

(2) The amendment of Schedule 6 to the principal Act made under section 75 (15) of the principal Act by Government Notice R481 of 16 March 1988, shall not lapse by virtue of the provisions of section 75 (16) of the principal Act.

13 Application of tariff item 117.05.15 of Section A of Part 2 of Schedule^{15*} 1 to Act 91 of 1964 in relation to motor vehicle models cleared during certain periods

Any motor vehicle models cleared during the periods 26 August 1987 to

31 August 1987 and 26 November 1987 to 30 November 1987 shall, at the request of any motor vehicle manufacturer to the Commissioner for Customs and Excise, for the purposes of tariff item 117.05.15 of Section A of Part 2 of Schedule 1 to the principal Act, be deemed to have been cleared during the periods 26 May 1987 to 25 August 1987 and 26 August 1987 to 25 November 1987, respectively.

14 Payments of duty and fuel levy to other states and users in such states

(1) Notwithstanding anything to the contrary in the principal Act contained, the Commissioner for Customs and Excise may, in respect of any duty or fuel levy paid in the Republic on any petrol or distillate fuel entered or removed for consumption in any state which formerly formed part of the Republic-

- (a) refund such duty or fuel levy in part to any user in such state who applies for such refund in terms of section 75 (1) (f) (i) of that Act; and
- (b) pay, after deducting any refund referred to in paragraph (a), any portion of the balance of such fuel levy as may be authorized by the Minister of Finance to the state concerned.

(2) (a) Any application to and payment made by the said Commissioner in terms of subsection (1) (a) shall be deemed to have been made to and paid by such state.

(b) For the purposes of subsection (1) (b), the said Commissioner may make such payments on the basis of any documents, relating to the movement of such petrol or distillate fuel, in possession of any person as may be determined by him.

(3) Subsection (1) and (2) of this section shall be deemed to have come into operation on 1 July 1987.

15 Short title

This Act shall be called the Customs and Excise Amendment Act, 1988.

CUSTOMS AND EXCISE AMENDMENT ACT 68 OF 1989

[ASSENTED TO 5 JUNE 1989]

[DATE OF COMMENCEMENT: 21 JUNE 1989]
(Unless otherwise indicated)

(Afrikaans text signed by the State President)

ACT

To amend the Customs and Excise Act, 1964, so as to extend the application of that Act; to further regulate the opening of packages imported into or exported from the Republic, and the substitution of bills of entry which have been passed in error; to provide further for the determination of the territory of origin of certain goods in regard to their production or manufacture; to extend the power of the Minister of Finance to amend Schedule 1 to the said Act; to authorize the cancellation, amendment or suspension of the withdrawal of certain duties specified in that Schedule; to make new provision for calculating the value for customs duty purposes of imported goods; to further regulate the value for excise duty purposes of certain goods manufactured in the Republic; to provide further for the rebate or refund of duty; to make fresh provision for the date of application for certain refunds of duty, and for the detention and seizure of goods liable to forfeiture; to apply the provisions of the said Act to close corporations; and to amend Schedule 1 to the said Act; to provide for the continuation of certain amendments of Schedules 1, 2, 3, 4, 5, 6 and 7 to the said Act; to provide for the application of section 40 of the said Act in relation to cotton yarn; and to provide for matters connected therewith.

1 Amends section 1 (3) of the Customs and Excise Act 91 of 1964 by substituting paragraphs (a) and (b).

2 (1) Substitutes section 5 of the Customs and Excise Act 91 of 1964.

(2) Paragraphs (b), (c) and (d) of section 5 of the principal Act, as inserted by subsection (1) of this section, shall be deemed to have come into operation on 23 March 1967.

3 Substitutes section 16 of the Customs and Excise Act 91 of 1964.

4 Amends section 40 (3) (b) of the Customs and Excise Act 91 of 1964 by substituting subparagraph (i).

5 (1) Amends section 46 of the Customs and Excise Act 91 of 1964 by substituting subsection (2).

(2) Subsection (1) of this section shall be deemed to have come into operation on 1 April 1989.

6 Amends section 47 (9) (a) of the Customs and Excise Act 91 of 1964 by substituting subparagraph (i).

7 (1) Amends section 48 of the Customs and Excise Act 91 of 1964, as follows: paragraph (a) substitutes subsection (1) (c); paragraph (b) adds subsection (2A) (a) (ii); paragraph (c) substitutes subsection (2A) (b); and

paragraph *(d)* inserts subsection (4A).

(2) Paragraph *(a)* of subsection (1) of this section shall be deemed to have come into operation of 1 January 1988.

8 Amends section 48A of the Customs and Excise Act 91 of 1964 by substituting subsection (1).

9 Amends section 65 (8) of the Customs and Excise Act 91 of 1964 by substituting paragraph *(b)*.

10 Amends section 66 of the Customs and Excise Act 91 of 1964, as follows: paragraph *(a)* substitutes subsection (8) *(d)*; and paragraph *(b)* substitutes subsection (11) *(a)*.

11 Amends section 67 of the Customs and Excise Act 91 of 1964 as follows: paragraph *(a)* substitutes subsection (1) *(e)*; and paragraph *(b)* substitutes subsection (4) *(a)*.

12 (1) Substitutes section 69 of the Customs and Excise Act 91 of 1964.

(2) Subsection (2) and (3) of section 69 of the principal Act, as substituted by subsection (1) of this section, shall be deemed to have come into operation on 1 June 1989.

13 (1) Amends section 75 of the Customs and Excise Act 91 of 1964, as follows: paragraph *(a)* substitutes subsection (1) *(b)*; and paragraph *(b)* substitutes in subsection (18) the words preceding paragraph *(a)*.

(2) Paragraph *(b)* of subsection (1) of this section shall be deemed to have come into operation on 3 July 1978.

14 Amends section 76 (4) of the Customs and Excise Act 91 of 1964, as follows: paragraph *(a)* substitutes paragraph *(a)*; and paragraph *(b)* inserts paragraph *(aA)*.

15 Amends section 88 of the Customs and Excise Act 91 of 1964 by substituting subsection (1).

16 Substitutes section 103 of the Customs and Excise Act 91 of 1964.

17 Amends section 113 of the Customs and Excise Act 91 of 1964, as follows: paragraph *(a)* deletes subsection (1) *(e)*; and paragraph *(b)* substitutes section 8 *(b)*.

18 **Application of section 40 of Act 91 of 1964 in relation to cotton yarn**

For the purposes of section 40 (3) of the principal Act-

- (a) bills of entry passed on 20 June 1986 in relation to cotton yarn in respect of which a permit has been issued in terms of the provisions of item 460.11 (in relation to tariff heading 55.09) of Schedule 4 to the principal Act, shall be deemed to have been passed in error by reason of duty having been paid on goods intended for purposes or use under rebate of duty under section 75;
- (b) that cotton yarn shall be deemed to have qualified at the time duty was paid thereon in all respects for rebate; and
- (c) the duty paid on the cotton yarn concerned shall be deemed to have been paid on the date of commencement of this Act.

19 Amendment of Schedule^{16*} 1 to the Customs and Excise Act 91 of 1964, as amended by section 19 of Act 95 of 1965, section 15 of Act 57 of 1966, section 2 of Act 96 of 1967, section 22 of Act 85 of 1968, section 37 of Act 105 of 1969, section 9 of Act 98 of 1970, section 2 of Act 89 of 1971, section 12 of Act 103 of 1972, section 6 of Act 68 of 1973, section 3 of Act 64 of 1974, section 13 of Act 71 of 1975, section 13 of Act 105 of 1976, section 38 of Act 112 of 1977, section 3 of Act 114 of 1981, section 27 of Act 86 of 1982, section 10 of Act 89 of 1984, section 14 of Act 101 of 1985 and section 11 of Act 69 of 1988

(1) Schedule 1 to the principal Act is hereby amended to the extent set out in the ^{17*}Schedule to this Act.

(2) Subject to the provisions of section 58 (1) of the principal Act, this section shall be deemed to have come into operation on 15 March 1989.

20 Continuation of certain amendments of Schedules^{18*} 1, 2, 3, 4, 5, 6 and 7 to Act 91 of 1964

(1) Every amendment of Schedules 1, 2, 3, 4, 5, 6 and 7 to the principal Act made under section 48 (1) and (2), section 48A (1), section 56 (1) and (1A) or section 75 (15) of the principal Act prior to 3 February 1989 shall not lapse by virtue of the provisions of section 48 (6), 48A (2), 56 (7) or 75 (16) of the principal Act.

(2) The amendment of Schedule 6 to the principal Act made under section 75(15) of the principal Act by Government Notice R459 of 15 March 1989, shall not lapse by virtue of the provisions of section 75 (16) of the principal Act.

(3) Notwithstanding the provisions of section 48 (6), every amendment of

Schedules 1, 2, 3, 4, 5, 6 and 7 to the principal Act made under section 48A (1) of the principal Act prior to 5 February 1988 shall be deemed not to have lapsed by virtue of the provisions of section 48A (2) of the principal Act.

21 Short title

This Act shall be called the Customs and Excise Amendment Act, 1989.

CUSTOMS AND EXCISE AMENDMENT ACT 59 OF 1990

[ASSENTED TO 14 JUNE 1990]

[DATE OF COMMENCEMENT: 20 JUNE 1990]
(Unless otherwise indicated)

(Afrikaans text signed by the State President)

as amended by

Taxation Laws Amendment Act 27 of 1997

ACT

To amend the Customs and Excise Act, 1964, so as to delete references to sales duty, sales duty goods and an embargo and the territory of South-West Africa; to extend certain definitions for the purposes of all customs union agreements concluded under the said Act; to regulate the performance or exercise of any duties imposed or powers conferred by the said Act on the Director-General: Trade and Industry; to provide further for the prevention of any goods entering the Republic in contravention of the provisions of the said Act; to further regulate the entry of goods and the liability for duty on imported goods; to provide for duty or levy payable on fuel levy goods removed to the territory of a party to any customs union agreement or brought into the Republic from any such territory; to empower the Minister of Finance to amend Schedule 8 to the said Act; to further regulate the calculation of the value for customs duty purposes of imported goods, and the granting of refunds of duty and fuel levy and rebates of duty; to provide for the set-off of certain overpayments in respect of duty, or certain provisional refunds or amounts refundable against duty subsequently payable; to amend Schedule 1 to the said Act; to provide for the continuation of certain amendments of Schedules 1, 3, 4, 5, 6 and 7 to the said Act; and to provide for the application of section 45 of the said Act in relation to a certain bill of entry, and for the removal of goods between the Republic of Namibia and the common customs area and the payment of fuel levy to the Government of the Republic of Namibia; to repeal section 42 of the Customs and Excise Amendment Act, 1987; and to delete Part 3 of Schedule 1 and Schedule 7 to the said Act; and to provide for matters connected therewith.

1 Amends section 1 of the Customs and Excise Act 91 of 1964, as follows: paragraph (a) substitutes in subsection (1) the words preceding the definition of 'agricultural distiller'; paragraphs (b) and (c) substitute respectively the definitions of 'agricultural distiller' and 'customs duty' in subsection (1); paragraph (d) deletes in subsection (1) the definition of 'customs tariff'; paragraphs (e), (f), (g) and (h) substitute respectively the definitions of 'entry for home consumption', 'illicit goods', 'manufacture' and 'officer' in subsection (1); paragraph (i) deletes in subsection (1) the definition of 'ordinary duty'; paragraph (j) deletes in subsection (1) the definitions of 'sales duty' and 'sales duty goods'; and paragraph (k) substitutes in subsection (3) the words preceding paragraph (a).

2 Substitutes section 1B of the Customs and Excise Act 91 of 1964.

3 (1) Inserts section 3A in the Customs and Excise Act 91 of 1964.

(2) Subsection (1) of this section shall be deemed to have come into operation on 14 October 1987.

4 Amends section 4 of the Customs and Excise Act 91 of 1964, as follows: paragraphs (a) and (b) substitute respectively subsections (2) and (9); paragraph (c) adds paragraph (b) to subsection (10), the existing subsection becoming paragraph (a) thereof; and paragraph (d) adds subsection (13).

5 Amends section 5 of the Customs and Excise Act 91 of 1964 by deleting paragraph (a).

6 Amends section 6 of the Customs and Excise Act 91 of 1964 by deleting subsections (3) and (4).

7 Amends section 7 of the Customs and Excise Act 91 of 1964 by inserting subsection (1A).

8 Repeals section 8 of the Customs and Excise Act 91 of 1964.

9 Amends section 9 (3) of the Customs and Excise Act 91 of 1964 by substituting paragraph (g).

10 Amends section 12 (1) of the Customs and Excise Act 91 of 1964 by substituting paragraph (b).

11 Amends section 13 (3) of the Customs and Excise Act 91 of 1964 by substituting paragraph (a).

12 Amends section 15 of the Customs and Excise Act 91 of 1964 by substituting subsection (1).

13 Amends section 18 (1) (a) of the Customs and Excise Act 91 of 1964 by substituting the words preceding the proviso.

14 Amends section 20 (5) of the Customs and Excise Act 91 of 1964 by substituting the proviso.

15 Amends section 27 of the Customs and Excise Act 91 of 1964, as follows: paragraphs (a) and (b) substitute respectively subsections (1) and (3).

16 Substitutes section 36A of the Customs and Excise Act 91 of 1964.

17 Amends section 37 of the Customs and Excise Act 91 of 1964 by substituting subsection (8).

18 Amends section 38 of the Customs and Excise Act 91 of 1964, as follows: paragraph (a) substitutes subsection (1) (b); paragraph (b) substitutes subsection (2); paragraph (c) substitutes in subsection (3) (a) the words preceding subparagraph (i); and paragraph (d) substitutes subsection (4) (a).

19 Amends section 39 (1) of the Customs and Excise Act 91 of 1964 by substituting paragraph (a).

20 Amends section 41 (1) of the Customs and Excise Act 91 of 1964 by substituting the words preceding the proviso.

21 (1) Amends section 44 of the Customs and Excise Act 91 of 1964, as follows: paragraph (a) substitutes the proviso to subsection (1); paragraph (b) substitutes subsection (2); paragraph (c) substitutes subsection (6) (c); and paragraphs (d) and (e) substitute respectively subsections (7) and (8).

(2) Paragraph (c) of subsection (1) of this section shall be deemed to have come into operation on 10 May 1989.

22 Amends section 47 of the Customs and Excise Act 91 of 1964, as follows: paragraph (a) substitutes in subsection (1) the words preceding the proviso; and paragraph (b) substitutes subsection (7).

23 Amends section 48 of the Customs and Excise Act 91 of 1964, as follows: paragraph (a) substitutes in subsection (2) the words preceding the proviso; and paragraph (b) substitutes subsection (2A) (a) (i).

24 (1) Inserts section 52 in the Customs and Excise Act 91 of 1964.

(2) Subsection (1) of this section shall be deemed to have come into operation on 1 July 1987.

25 Amends section 60 of the Customs and Excise Act 91 of 1964 by adding subsections (3) and (4).

26 (1) Amends section 66 of the Customs and Excise Act 91 of 1964, as follows: paragraph (a) substitutes subsection (8) (d); and paragraph (b) substitutes subsection (11).

(2) Subsection (1) of this section shall be deemed to have come into operation on 21 June 1989.

27 (1) Amends section 67 of the Customs and Excise Act 91 of 1964, as follows: paragraph (a) substitutes subsection (1) (e); and paragraph (b) substitutes subsection (4).

(2) Subsection (1) of this section shall be deemed to have come into operation on 21 June 1989.

28 Repeals section 70 of the Customs and Excise Act 91 of 1964.

29 (1) Amends section 75 of the Customs and Excise Act 91 of 1964, as follows: paragraph (a) deletes subsection (1) (e); paragraph (b) substitutes the proviso to subsection (1) (f) (i); paragraph (c) substitutes subsection (2) (b) (i); paragraph (d) substitutes the proviso to subsection (6) (a); paragraph (e) substitutes in subsection (7) the words preceding the proviso; paragraph (f) substitutes subsection (8); paragraph (g) substitutes in subsection (9) the words preceding the proviso; paragraph (h) substitutes in subsection (10) (a) the words preceding the proviso; paragraph (i) substitutes subsection (11); paragraph (j) substitutes subsection (15) (a); paragraph (k) substitutes subsection (17); paragraph (l) substitutes in subsection (18) the words preceding paragraph (a); and paragraphs (m) and (n) substitute respectively subsections (19) and (21).

(2) Paragraph (b) of subsection (1) of this section shall be deemed to have come into operation on 1 October 1989.

30 and 31 Substitute respectively sections 76 and 77 of the Customs and Excise Act 91 of 1964.

32 Amends section 80 (1) of the Customs and Excise Act 91 of 1964 by substituting paragraph (b).

33 Substitutes section 81 of the Customs and Excise Act 91 of 1964.

34 Amends section 102 of the Customs and Excise Act 91 of 1964 by substituting subsection (1).

35 Amends section 106 of the Customs and Excise Act 91 of 1964 by

substituting subsection (1).

36 Repeals section 108 of the Customs and Excise Act 91 of 1964.

37 (1) Amends section 114 (1) of the Customs and Excise Act 91 of 1964, as follows: paragraph (a) substitutes paragraph (a); paragraph (b) substitutes the words preceding the proviso to paragraph (aA); and paragraph (c) inserts paragraph (aB).

(2) Subsection (1) (c) of this section shall be deemed to have come into operation on 10 May 1989.

38 Amends section 117 of the Customs and Excise Act 91 of 1964 by substituting subsection (1).

39 Amends section 120 (1) of the Customs and Excise Act 91 of 1964, as follows: paragraphs (a), (b) and (c) substitute respectively paragraphs (b), (h) and (k).

40 **Amendment of Schedule^{19*} 1 to the Customs and Excise Act 91 of 1964, as amended by section 19 of Act 95 of 1965, section 15 of Act 57 of 1966, section 2 of Act 96 of 1967, section 22 of Act 85 of 1968, section 37 of Act 105 of 1969, section 9 of Act 98 of 1970, section 2 of Act 89 of 1971, section 12 of Act 103 of 1972, section 6 of Act 68 of 1973, section 3 of Act 64 of 1974, section 13 of Act 71 of 1975, section 13 of Act 105 of 1976, section 38 of Act 112 of 1977, section 3 of Act 114 of 1981, section 27 of Act 86 of 1982, section 10 of Act 89 of 1984, section 14 of Act 101 of 1985, section 11 of Act 69 of 1988 and section 19 of Act 68 of 1989**

(1) Schedule 1^{20*} to the principal Act is hereby amended to the extent set out in the Schedule^{21*} to this Act.

(2) Subject to the provisions of section 58 (1) of the principal Act, this section shall be deemed to have come into operation on 14 March 1990.

41 **Continuation of certain amendments of Schedules 1, 3, 4, 5, 6 and 7^{22*} to Act 91 of 1964**

(1) Every amendment of Schedules 1, 3, 4, 5, 6 and 7 to the principal Act made under section 48 (1) and (2), section 48A (1) or section 75 (15) of the principal Act prior to 2 February 1990 shall not lapse by virtue of the provisions of section 48 (6), 48A (2) or 75 (16) of the principal Act.

(2) The amendments of Parts 2 and 4 of Schedule 1 to the principal Act made under section 48 (1) and (2) of the principal Act by Government Notices

R574 and R575 of 15 March 1990, shall not lapse by virtue of the provisions of section 48 (6) of the principal Act.

(3) The amendments of Schedule 6 to the principal Act made under section 75 (15) of the principal Act by Government Notice R573 of 14 March 1990, shall not lapse by virtue of the provisions of section 75 (16) of the principal Act.

42 Substitutes the long title of the Customs and Excise Act 91 of 1964.

43 Application of section 45 of Act 91 of 1964 in relation to a bill of entry

For the purposes of section 45 (2) of the principal Act-

- (a) bill of entry 3, delivered at the D.F. Malan Airport on 28 February 1989, shall be deemed to have been so delivered on 10 August 1988; and
- (b) the duty paid on the goods entered on that bill of entry shall be deemed to have been paid on the date of commencement of this Act.

44

[S. 44 repealed by s. 22 (1) of Act 27 of 1997.]

45 Payment of fuel levy to the Government of the Republic of Namibia

(1) Notwithstanding anything to the contrary in the principal Act contained, the Commissioner may, if the Minister approves, pay any fuel levy collected in the Republic on any petrol or distillate fuel entered or removed for consumption in the Republic of Namibia from 21 March 1990 to the date the Republic of Namibia becomes a party to any customs union agreement concluded in terms of section 51 of the principal Act, to the Government of the Republic of Namibia.

(2) Subsection (1) of this section shall be deemed to have come into operation on 21 March 1990.

46 Repeals section 42 of the Customs and Excise Amendment Act 84 of 1987.

47 Deletes Part 3 of Schedule 1^{23*}, and Schedule 7^{24*}, to the Customs and Excise Act 91 of 1964.

48 Short title

This Act shall be called the Customs and Excise Amendment Act, 1990.

CUSTOMS AND EXCISE AMENDMENT ACT 111 OF 1991

[ASSENTED TO 27 JUNE 1991]

[DATE OF COMMENCEMENT: 5 JULY 1991]
(Unless otherwise indicated)

(English text signed by the State President)

ACT

To amend the Customs and Excise Act, 1964, so as to provide further for establishing the value for excise duty purposes of certain goods manufactured in the Republic; to provide for payment of interest on certain outstanding amounts; to amend Schedule 1 to the said Act; and to provide for the continuation of certain amendments of Schedules 1, 3, 4, 5 and 6 to the said Act; and to provide for matters connected therewith.

1 (1) Amends section 69 (2) of the Customs and Excise Act 91 of 1964 by substituting paragraph (a).

(2) Subsection (1) of this section shall be deemed to have come into operation on 1 June 1991.

2 Substitutes section 105 of the Customs and Excise Act 91 of 1964.

3 (1) Schedule^{25*} 1 to the principal Act is hereby amended to the extent set out in the Schedule to this Act.

(2) Subject to the provisions of section 58 (1) of the principal Act, this section shall be deemed to have come into operation on 20 March 1991.

4 Continuation of certain amendments of Schedules 1, 3, 4, 5 and 6 to Act 91 of 1964

(1) Every amendment of Schedules 1, 3, 4, 5 and 6 to the principal Act made under section 48 (1) and (2), section 48A (1) or section 75 (15) of the principal Act prior to 1 February 1991 shall not lapse by virtue of the provisions of section 48 (6), 48A (2) or 75 (16) of the principal Act.

(2) The amendment of Part 4 of Schedule 1 to the principal Act made under section 48 (1) and (2) of the principal Act by Government Notice R616 of 21 March 1991 and the amendment of Part 5 of Schedule 1 to the principal Act made under section 48 (1) and (2) of the principal Act by Government Notice R617 of 25 March 1991, shall not lapse by virtue of the provisions of section 48 (6) of the principal Act.

5 Short title

This Act shall be called the Customs and Excise Amendment Act, 1991.

CUSTOMS AND EXCISE AMENDMENT ACT 61 OF 1992

[ASSENTED TO 26 APRIL 1992]

[DATE OF COMMENCEMENT: 6 MAY 1992]

(Afrikaans text signed by the State President)

ACT

To amend the Customs and Excise Act, 1964, so as to provide for the imposition of a certain duty and provisional payment in respect of certain goods; and for renaming the Board of Trade and Industry; to adjust the designation of the Minister of Trade and Industry; to further regulate the power of the Minister of Finance to amend Schedule 1 to the said Act; to provide for consultation by the Minister of Finance with the Minister of Trade and Industry and for Economic Co-ordination in amending in certain circumstances any Schedule to the said Act; and to further regulate the imposition of anti-dumping and countervailing duties in respect of certain goods; and to provide for matters connected therewith.

1 Amends section 45 (1) of the Customs and Excise Act 91 of 1964 by substituting paragraph (a).

2 Amends section 46 of the Customs and Excise Act 91 of 1964, as follows: paragraph (a) substitutes subsection (1) (c); and paragraph (b) substitutes subsection (2).

3 Amends section 47 of the Customs and Excise Act 91 of 1964 by substituting subsection (6).

4 Amends section 48 of the Customs and Excise Act 91 of 1964, as follows: paragraph (a) substitutes subsection (1) (b); and paragraph (b) substitutes subsection (5) (a).

5 Amends section 48A of the Customs and Excise Act 91 of 1964 by substituting subsection (1).

6 Amends section 53 (1) of the Customs and Excise Act 91 of 1964 by substituting the words following upon paragraph (b) and preceding paragraph (i).

7 Substitutes the heading to Chapter VI of the Customs and Excise Act 91 of 1964.

8 and 9 Substitute respectively sections 55 and 56 of the Customs and

Excise Act 91 of 1964.

10 Inserts section 56A in the Customs and Excise Act 91 of 1964.

11 and 12 Substitute respectively sections 57 and 57A of the Customs and Excise Act 91 of 1964.

13 Amends section 75 of the Customs and Excise Act 91 of 1964, as follows: paragraph (a) substitutes subsection (1) (c); paragraph (b) substitutes in subsection (1) (f) (i) the words preceding the proviso; paragraph (c) substitutes subsection (4); paragraph (d) substitutes subsection (14A) (a); and paragraph (e) substitutes subsection (15) (a).

14 Amends section 84 (2) by substituting the words preceding paragraph (a).

15 Construction of references to Board of Trade and Industry

(1) Any reference in any Schedule to the principal Act to the Board of Trade and Industry shall be construed as a reference to the Board on Tariffs and Trade.

(2) Anything done by or on behalf of the Board of Trade and Industry before the commencement of subsection (1) in the application of any such Schedule, shall be deemed to have been done by or on behalf of the Board on Tariffs and Trade.

16 Short title

This Act shall be called the Customs and Excise Amendment Act, 1992.

CUSTOMS AND EXCISE SECOND AMENDMENT ACT 105 OF 1992

[ASSENTED TO 18 JUNE 1992]

[DATE OF COMMENCEMENT: 3 JULY 1992]

(Afrikaans text signed by the State President)

ACT

To amend the Customs and Excise Act, 1964, so as to further regulate the disclosure of certain information and the acceptable sufficient evidence of the tabling in the House of Assembly by the Minister of Finance of taxation proposals; to make other provision regarding the calculation of the value for excise duty purposes of certain goods manufactured in the Republic; to provide further for determining the value for duty purposes of motor vehicles, used outside the Republic, being imported into the Republic; to further regulate the refund of duty; to extend the penal provisions; to exclude the importation of certain publications or objects from the

provisions of the said Act; to amend Schedule 1 to the said Act; to provide for the continuation of certain amendments of Schedules 1 to 6 to the said Act; and to effect certain textual alterations; and to provide for matters connected therewith.

1 Amends section 4 of the Customs and Excise Act 91 of 1964 by inserting subsection (3A).

2 Amends section 58 of the Customs and Excise Act 91 of 1964, as follows: paragraph (a) deletes the proviso to subsection (1); and paragraph (b) substitutes subsection (7).

3 Amends section 69 of the Customs and Excise Act 91 of 1964, as follows: paragraph (a) substitutes the words preceding the proviso to subsection (1) (a); paragraph (b) deletes subsection (1) (b); and paragraph (c) substitutes subsection (2) (a).

4 Amends section 71 (2) of the Customs and Excise Act 91 of 1964 by deleting the second proviso.

5 Amends section 76 (2) of the Customs and Excise Act 91 of 1964 by substituting paragraph (g).

6 Amends section 78 of the Customs and Excise Act 91 of 1964, as follows: paragraph (a) substitutes in subsection (2) for the expressions 'one thousand rand' and 'six months' the expressions 'R8 000' and 'two years' respectively; and paragraph (b) substitutes in subsection (3) for the expressions 'one thousand five hundred rand' and 'nine months' the expressions 'R16 000' and 'four years' respectively.

7 Amends section 79 of the Customs and Excise Act 91 of 1964, as follows: paragraph (a) substitutes in subsection (1) for the expressions 'one thousand rand' and 'six months' the expressions 'R8 000' and 'two years' respectively; and paragraph (b) substitutes in subsection (2) for the expressions 'one thousand five hundred rand' and 'nine months' the expressions 'R16 000' and 'four years' respectively.

8 Amends section 80 (1) of the Customs and Excise Act 91 of 1964 by substituting for the expressions 'two thousand five hundred rand' and 'twelve months' the expressions 'R20 000' and 'five years' respectively.

9 Amends section 81 of the Customs and Excise Act 91 of 1964 by substituting for the expression 'R5 000' the expression 'R8 000'.

10 Amends section 83 of the Customs and Excise Act 91 of 1964 by substituting for the expressions 'five thousand rand' and 'two years' the

expressions 'R20 000' and 'five years' respectively.

11 Amends section 84 (1) of the Customs and Excise Act 91 of 1964 by substituting for the expressions 'five thousand rand' and 'two years' the expressions 'R40 000' and 'ten years' respectively.

12 Amends section 85 of the Customs and Excise Act 91 of 1964 by substituting for the expression 'five thousand rand' the expression 'R8 000'.

13 Amends section 86 of the Customs and Excise Act 91 of 1964 by substituting for the expressions 'five thousand rand' and 'two years' the expressions 'R40 000' and 'ten years' respectively.

14 Amends section 113 of the Customs and Excise Act 91 of 1964, as follows: paragraph (a) deletes subsection (1) (f); and paragraph (b) deletes subsection (3).

15 Amendment of Schedule^{26*} 1 to Act 91 of 1964, as amended by section 19 of Act 95 of 1965, section 15 of Act 57 of 1966, section 2 of Act 96 of 1967, section 22 of Act 85 of 1968, section 37 of Act 105 of 1969, section 9 of Act 98 of 1970, section 2 of Act 89 of 1971, section 12 of Act 103 of 1972, section 6 of Act 68 of 1973, section 3 of Act 64 of 1974, section 13 of Act 71 of 1975, section 13 of Act 105 of 1976, section 38 of Act 112 of 1977, section 3 of Act 114 of 1981, section 27 of Act 86 of 1982, section 10 of Act 89 of 1984, section 14 of Act 101 of 1985, section 11 of Act 69 of 1988, section 19 of Act 68 of 1989, section 40 of Act 59 of 1990 and section 3 of Act 111 of 1991

(1) Schedule^{27*} 1 to the principal Act is hereby amended to the extent set out in the Schedule^{28*} to this Act.

(2) Subject to the provisions of section 58 (1) of the principal Act, this section shall be deemed to have come into operation on 18 March 1992.

16 Continuation of certain amendments of Schedules 1 to 6 to Act 91 of 1964

(1) Every amendment of Schedules 1 to 6 to the principal Act made under section 48 (1) and (2), section 48A (1), section 56 (1) and (1A) or section 75 (15) of the principal Act prior to 24 January 1992 shall not lapse by virtue of the provisions of section 48 (6), 48A (2), 56 (7) or 75 (16) of the principal Act.

(2) The amendment of Part 5 of Schedule 1 to the principal Act made under section 48 (1) and (2) of the principal Act by Government Notice R919 of 20 March 1992, shall not lapse by virtue of the provisions of section 48 (6) of the principal Act.

(3) The amendments of Part 4 of Schedule 5 and Schedule 6 to the principal Act made under section 75 (15) of the principal Act by Government Notices R920 and R921, respectively, of 20 March 1992, shall not lapse by virtue of the provisions of section 75 (16) of the principal Act.

17 Short title

This Act shall be called the Customs and Excise Second Amendment Act, 1992.

CUSTOMS AND EXCISE AMENDMENT ACT 98 OF 1993

[ASSENTED TO 28 JUNE 1993]

[DATE OF COMMENCEMENT: 9 JULY 1993]
(Unless otherwise indicated)

(Afrikaans text signed by the Acting State President)

ACT

To amend the Customs and Excise Act, 1964, so as to further regulate the disclosure of information; to exclude certain dealers in excisable goods from licensing; to further regulate liability for duties and the entry of goods; to further regulate disposal of fuel levy; to further regulate the calculation of the value for excise duty purposes and the refunds of duties on distillate fuel; to extend and amend the provisions regarding offences; to prohibit the removal of detained goods; to further regulate the detention of goods for the purpose of other laws; to amend Schedule 1 to the said Act; to provide for the continuation of certain amendments of Schedules 1 to 6 to the said Act; and to effect certain textual alterations; and to provide for matters connected therewith.

1 Amends section 4 of the Customs and Excise Act 91 of 1964 by inserting subsection (3B).

2 Amends section 36A of the Customs and Excise Act 91 of 1964 by substituting subsection (1).

3 Amends section 44 of the Customs and Excise Act 91 of 1964 by substituting subsection (8A).

4 Substitutes section 47A of the Customs and Excise Act 91 of 1964.

5 (1) Substitutes section 47B of the Customs and Excise Act 91 of 1964.

(2) Subsection (1) shall come into operation on 1 July 1993.

6 Amends section 69 of the Customs and Excise Act 91 of 1964, as follows: paragraph (a) substitutes in subsection (1) the words preceding the proviso; paragraph (b) substitutes in subsection (1) paragraph (c) (iii); and paragraph (c) substitutes subsection (3).

7 Amends section 75 of the Customs and Excise Act 91 of 1964 by substituting subsection (7A).

8 Amends section 80 (1) of the Customs and Excise Act 91 of 1964, as follows: paragraph (a) substitutes paragraph (j); and paragraph (b) substitutes paragraph (o).

9 Inserts section 82 in the Customs and Excise Act 91 of 1964.

10 Amends section 88 (1) of the Customs and Excise Act 91 of 1964 by inserting paragraph (bA).

11 Amends section 92 of the Customs and Excise Act 91 of 1964, as follows: paragraph (a) substitutes the proviso; and paragraph (b) adds subsections (2) and (3), the existing section becoming subsection (1).

12 Amends section 113 of the Customs and Excise Act 91 of 1964, as follows: paragraph (a) deletes subsection (1) (k); paragraph (b) substitutes subsection (8); and paragraph (c) deletes subsection (10).

13 (1) Schedule 1^{29*} to the principal Act is hereby amended to the extent set out in the Schedule to this Act.

(2) Subject to the provisions of section 58 (1) of the principal Act, this section shall be deemed to have come into operation on 17 March 1993.

14 Continuation of certain amendments of Schedules 1 to 6 to Act 91 of 1964

(1) Every amendment of Schedules 1 to 6 to the principal Act made under section 48 (1) and (2), section 48A (1), section 56 (1) or section 75 (15) of the principal Act prior to 29 January 1993 shall not lapse by virtue of the provisions of section 48 (6), 48A (2), 56 (3) or 75 (16) of the principal Act.

(2) The amendment of Part 5 of Schedule 1 to the principal Act made under section 48 (1) and (2) of the principal Act by Government Notice R506 of 26 March 1993, shall not lapse by virtue of the provisions of section 48 (6) of the principal Act.

15 Short title

This Act shall be called the Customs and Excise Amendment Act, 1993.

CUSTOMS AND EXCISE AMENDMENT ACT 19 OF 1994

[ASSENTED TO 16 NOVEMBER 1994]

[DATE OF COMMENCEMENT: 25 NOVEMBER 1994]
(Unless otherwise indicated)

(English text signed by the President)

ACT

To amend the Customs and Excise Act, 1964, so as to substitute a certain definition; to effect certain amendments arising from the Constitution; to further regulate the lapsing of amendments, withdrawals, insertions and reductions made under certain provisions of the said Act; to amend Schedule 1 to the said Act; to provide for the continuation of certain amendments of Schedules 1 to 6 to the said Act; to provide that the said Act shall also apply in the territories of the former Republics of Transkei, Bophuthatswana, Venda and Ciskei; and to repeal certain laws; and to provide for matters connected therewith.

- 1** Amends section 1 (1) of the Customs and Excise Act 91 of 1964 by substituting the definition of 'agricultural distiller'.
- 2** Amends section 34 of the Customs and Excise Act 91 of 1964 by substituting subsection (5).
- 3** Amends section 48 of the Customs and Excise Act 91 of 1964, as follows: paragraph (a) substitutes subsection (4A) (e); paragraph (b) substitutes subsection (6); and paragraph (c) deletes subsection (7).
- 4** Amends section 48A of the Customs and Excise Act 91 of 1964 by substituting subsection (2).
- 5** Amends section 53 of the Customs and Excise Act 91 of 1964 by substituting subsection (3).
- 6** Amends section 56 of the Customs and Excise Act 91 of 1964 by substituting subsection (3).
- 7** Amends section 56A of the Customs and Excise Act 91 of 1964 by substituting subsection (3).
- 8** Amends section 57 of the Customs and Excise Act 91 of 1964 by substituting subsection (3).
- 9** Amends section 60 of the Customs and Excise Act 91 of 1964 by

substituting subsection (4).

10 Amends section 75 of the Customs and Excise Act 91 of 1964 by substituting subsection (16).

11 Amends section 120 (1) of the Customs and Excise Act 91 of 1964 by substituting paragraph (d).

12 Amendment of Schedule^{30*} 1 to Act 91 of 1964, as amended by section 19 of Act 95 of 1965, section 15 of Act 57 of 1966, section 2 of Act 96 of 1967, section 22 of Act 85 of 1968, section 37 of Act 105 of 1969, section 9 of Act 98 of 1970, section 2 of Act 89 of 1971, section 12 of Act 103 of 1972, section 6 of Act 68 of 1973, section 3 of Act 64 of 1974, section 13 of Act 71 of 1975, section 13 of Act 105 of 1976, section 38 of Act 112 of 1977, section 3 of Act 114 of 1981, section 27 of Act 86 of 1982, section 10 of Act 89 of 1984, section 14 of Act 101 of 1985, section 11 of Act 69 of 1988, section 19 of Act 68 of 1989, section 40 of Act 59 of 1990, section 3 of Act 111 of 1991, section 15 of Act 105 of 1992 and section 13 of Act 98 of 1993

(1) Schedule^{31*} 1 to the principal Act is hereby amended to the extent set out in Schedule^{32*} 1 to this Act.

(2) Subject to the provisions of section 58 (1) of the principal Act, this section shall be deemed to have come into operation on 22 June 1994.

13 Continuation of certain amendments of Schedules^{33*} 1 to 6 to Act 91 of 1964

(1) Every amendment of Schedules^{34*} 1 to 6 to the principal Act made under section 48, section 48A, section 56 or section 75 (15) of the principal Act prior to 20 May 1994 shall not lapse by virtue of the provisions of section 48 (6), 48A (2), 56 (3) or 75 (16) of the principal Act.

(2) The amendment of Part 4 of Schedule^{35*} 1 to the principal Act made under section 48 of the principal Act by Government Notice R1130 of 23 June 1994, shall not lapse by virtue of the provisions of section 48 (6) of the principal Act.

14 Application of Act 91 of 1964

The principal Act shall, from the date of commencement of the Customs and Excise Amendment Act, 1994, also apply in the territories of the former Republics of Transkei, Bophuthatswana, Venda and Ciskei.

15 Repeal of laws, and savings

(c) Act 93 of 1978 Act 110 of 1979	Customs and Excise Amendment Act, 1978 Customs and Excise Amendment Act, 1979	The whole The whole	The territories of the former Republics of Venda and Ciskei
(d) Act 98 of 1980 Act 114 of 1981	Customs and Excise Amendment Act, 1980 Customs and Excise Amendment Act, 1981	The whole The whole	The territory of the former Republic of Ciskei
(e) Act 6 of 1982 (Bophuthatswana)	Customs and Excise Amendment Act, 1982 (Bophuthatswana)	The whole	The territory of the former Republic of Bophuthatswana
(f) Act 9 of 1982 (Transkei)	Customs and Excise Act, 1982 (Transkei)	The whole	The territory of the former Republic of Transkei
Act 7 of 1983 (Transkei)	Customs and Excise Amendment Act, 1983 (Transkei)	The whole	
Act 9 of 1984 (Transkei)	Customs and Excise Amendment Act, 1984 (Transkei)	The whole	
Act 8 of 1985 (Transkei)	Customs and Excise Amendment Act, 1985 (Transkei)	The whole	
Act 18 of 1987 (Transkei)	Customs and Excise Amendment Act, 1987 (Transkei)	The whole	
(g) Act 9 of 1986 (Ciskei)	Customs and Excise Amendment Act, 1986 (Ciskei)	The whole	The territory of the former Republic of Ciskei
Act 14 of 1987 (Ciskei)	Customs and Excise Amendment Act, 1987 (Ciskei)	The whole	
Act 26 of 1988 (Ciskei)	Customs and Excise Amendment Act, 1988 (Ciskei)	The whole	

CUSTOMS AND EXCISE AMENDMENT ACT 45 OF 1995

[ASSENTED TO 21 SEPTEMBER 1995]

[DATE OF COMMENCEMENT: 22 SEPTEMBER 1995]
(Unless otherwise indicated)

(Afrikaans text signed by the President)

ACT

To amend the Customs and Excise Act, 1964, so as to provide that the Commissioner may conclude certain agreements; to delete the power to publish the names of certain offenders; to extend the powers of Controllers; to delete certain limitations of the jurisdiction of courts; to further regulate the report of arrival or departure of ships and aircraft; to further regulate sealing of goods on board ships or aircraft; to further regulate the landing of unentered goods; to delete references to permission to land or load goods; to further regulate the importation and exportation of goods overland; to extend the power of the Commissioner to make rules and to revoke certain powers of the Minister to make regulations; to further regulate the importation or exportation of goods by post; to provide for the loading and discharge of goods carried coastwise; to further regulate the removal of goods in bond, and to provide for sorting and repacking of goods in transit; to prescribe the periods which goods

may be retained in customs and excise warehouses; to provide for the collection of duties on certain beer on the alcoholic strength thereof; to further regulate the exemption of certain goods which are subject to excise duty; to further regulate particulars on invoices; to extend the applicability of the provisions regarding origin of goods; to delete the power to detain certain goods; to repeal the Minister's power to amend Schedules under certain circumstances; to further regulate licensing, and to provide for licensing regarding wrecks; to provide for the conversion of currency for purposes of calculation of prices paid or payable; to delete the power to refund fuel levy to certain users of distillate fuel and to administrations of other territories; to further regulate refunds of fuel levy; to delete the power of the Minister of Trade and Industry to issue permits with retrospective effect under certain circumstances; to further regulate an offence in respect of beer of higher alcoholic strength than indicated on container; to further regulate the release of goods detained for the purpose of other laws; to empower the Commissioner to make rules relating to security; to amend Schedule 1 to the said Act; to provide for the continuation of certain amendments of Schedules 1 to 6 to the said Act; and to effect certain textual alterations; and to provide for matters connected therewith.

1 Amends section 2 of the Customs and Excise Act 91 of 1964 by inserting subsection (1A).

[Date of commencement of s. 1: 1 January 1996.]

2 Amends section 4 of the Customs and Excise Act 91 of 1964 by deleting subsection (3B).

3 Amends section 6 of the Customs and Excise Act 91 of 1964 by substituting subsection (5).

4 Amends section 7 of the Customs and Excise Act 91 of 1964, as follows: paragraph (a) substitutes subsection (1) (a); paragraph (b) deletes subsection (2); paragraph (c) substitutes subsections (2A) and (3); paragraph (d) substitutes subsections (5) and (6); paragraph (e) deletes subsection (8); and paragraph (f) substitutes subsections (9), (10) and (11).

[Date of commencement of s. 4: 1 January 1996.]

5 Amends section 9 of the Customs and Excise Act 91 of 1964, as follows: paragraph (a) substitutes subsection (1); paragraph (b) substitutes subsection (3); and paragraph (c) adds subsection (7).

[Date of commencement of s. 5: 1 January 1996.]

6 Substitutes section 11 of the Customs and Excise Act 91 of 1964.

[Date of commencement of s. 6: 1 January 1996.]

7 Amends section 12 of the Customs and Excise Act 91 of 1964, as follows: paragraph (a) substitutes subsection (1); paragraph (b) substitutes subsection (7); and paragraph (c) adds subsection (8).

[Date of commencement of s. 7: 1 January 1996.]

8 Amends section 13 of the Customs and Excise Act 91 of 1964, as follows: paragraph (a) substitutes the proviso to subsection (1); paragraph (b) substitutes subsections (3) and (4); and paragraph (c) substitutes subsection (6).

[Date of commencement of s. 8: 1 January 1996.]

9 Amends section 14 of the Customs and Excise Act 91 of 1964, as follows: paragraph (a) substitutes subsection (2); paragraph (b) deletes subsection (3); and paragraph (c) adds subsection (4).

[Date of commencement of s. 9: 1 January 1996.]

10 Amends section 17 of the Customs and Excise Act 91 of 1964, as follows: paragraph (a) substitutes in subsection (2) the words preceding paragraph (a); and paragraph (b) substitutes subsection (4).

11 Amends section 18 of the Customs and Excise Act 91 of 1964, as follows: paragraph (a) substitutes subsection (1) (d) and (e); paragraph (b) substitutes in subsection (3) the words preceding paragraph (a); paragraph (c) substitutes subsection (4); paragraph (d) substitutes subsection (7); paragraph (e) deletes subsection (9); and paragraph (f) adds subsection (13) (b), the existing subsection becoming paragraph (a).

[Date of commencement of s. 11: 1 January 1996.]

12 Amends section 18A of the Customs and Excise Act 91 of 1964, as follows: paragraph (a) substitutes subsections (2) and (3); paragraph (b) substitutes subsection (6); and paragraph (c) deletes subsection (7).

[Date of commencement of s. 12: 1 January 1996.]

13 Amends section 19 of the Customs and Excise Act 91 of 1964, as follows: paragraph (a) substitutes subsections (7) and (8); and paragraph (b) adds subsection (9).

[Date of commencement of s. 13: 1 January 1996.]

14 Amends section 20 of the Customs and Excise Act 91 of 1964, as follows: paragraph (a) substitutes in subsection (4) the words preceding paragraph (a); paragraph (b) substitutes subsection (4)*bis*; and paragraph (c) substitutes the proviso to subsection (5).

[Date of commencement of s. 14: 1 January 1996.]

15 Amends section 24 of the Customs and Excise Act 91 of 1964 by substituting the words preceding the proviso.

[Date of commencement of s. 15: 1 January 1996.]

16 Substitutes section 25 of the Customs and Excise Act 91 of 1964.

[Date of commencement of s. 16: 1 January 1996.]

17 Amends section 26 (1) of the Customs and Excise Act 91 of 1964 by substituting the words preceding paragraph (a).

[Date of commencement of s. 17: 1 January 1996.]

18 Amends section 27 of the Customs and Excise Act 91 of 1964, as follows: paragraph (a) deletes subsection (5); paragraph (b) substitutes subsection (7) (a); paragraph (c) deletes subsection (8); paragraph (d) substitutes subsection (9); paragraph (e) substitutes in subsection (10) the words preceding paragraph (a); and paragraph (f) substitutes subsections (12) and (13).

[Date of commencement of s. 18: 1 January 1996.]

19 Amends section 28 of the Customs and Excise Act 91 of 1964 by substituting subsection (2).

[Date of commencement of s. 20: 1 January 1996.]

20 Amends section 30 (1) of the Customs and Excise Act 91 of 1964 by substituting the proviso.

21 Substitutes section 33 of the Customs and Excise Act 91 of 1964.

[Date of commencement of s. 21: 1 January 1996.]

22 Amends section 34 of the Customs and Excise Act 91 of 1964 by substituting subsections (1), (2), (3) and (4).

[Date of commencement of s. 22: 1 January 1996.]

23 Amends section 35 of the Customs and Excise Act 91 of 1964 by deleting subsection (2).

[Date of commencement of s. 23: 1 January 1996.]

24 Amends section 35A of the Customs and Excise Act 91 of 1964 by substituting subsection (1).

[Date of commencement of s. 24: 1 January 1996.]

25 Substitutes section 36 of the Customs and Excise Act 91 of 1964.

[Date of commencement of s. 25: 1 March 1996.]

26 Amends section 36A of the Customs and Excise Act 91 of 1964, as follows: paragraph (a) deletes the proviso to subsection (1); paragraph (b) substitutes subsection (2) (a); and paragraph (c) substitutes subsections (3) and (4).

[Date of commencement of s. 26: 1 January 1996.]

27 Amends section 37 of the Customs and Excise Act 91 of 1964, as follows: paragraph (a) substitutes subsection (4) (e); and paragraph (b) substitutes subsections (6) and (7).

28 Amends section 38 of the Customs and Excise Act 91 of 1964, as follows: paragraph (a) substitutes in subsection (3) (a) the words preceding subparagraph (i); paragraph (b) substitutes subsection (3) (b) (i); paragraph (c) substitutes subsection (3) (b) (iii); and paragraph (d) substitutes subsection (4) (a).

[Date of commencement of s. 28: 1 January 1996.]

29 Amends section 39 of the Customs and Excise Act 91 of 1964, as follows: paragraph (a) substitutes subsection (1) (a); paragraph (b) substitutes subsection (1) (c); and paragraph (c) substitutes subsection (2A) (a).

[Date of commencement of s. 29: 1 January 1996.]

30 Amends section 40 (3) (a) of the Customs and Excise Act 91 of 1964 by substituting the words preceding subparagraph (i).

[Date of commencement of s. 30: 1 January 1996.]

31 Amends section 41 of the Customs and Excise Act 91 of 1964, as follows: paragraph (a) substitutes subsections (1) and (2); and paragraph (b) substitutes the proviso to subsection (3).

[Date of commencement of s. 31: 1 January 1996.]

32 Amends section 43 of the Customs and Excise Act 91 of 1964, as follows: paragraph (a) substitutes subsection (1); paragraph (b) substitutes subsection (2) (a); paragraph (c) substitutes in subsection (3) the words preceding the proviso; and paragraph (d) substitutes subsection (3) (b).

[Date of commencement of s. 32: 1 January 1996.]

33 Amends section 44 of the Customs and Excise Act 91 of 1964, as follows: paragraph (a) substitutes the proviso to subsection (1); and paragraph (b) substitutes subsection (3).

[Date of commencement of s. 33: 1 January 1996.]

34 Substitutes section 44A of the Customs and Excise Act 91 of 1964.

35 Amends section 45 (2) of the Customs and Excise Act 91 of 1964 by substituting paragraph (b).

[Date of commencement of s. 35: 1 January 1996.]

36 Amends section 46 of the Customs and Excise Act 91 of 1964, as follows: paragraph (a) substitutes subsections (1) and (2); and paragraph (b) deletes subsection (5).

[Date of commencement of s. 36: 1 January 1996.]

37 Amends section 47 (1) of the Customs and Excise Act 91 of 1964 by substituting the words preceding paragraph (a).

38 Amends section 47A of the Customs and Excise Act 91 of 1964 by deleting subsection (2).

39 Amends section 48 of the Customs and Excise Act 91 of 1964, as follows: paragraph (a) substitutes subsection (2A) (a) (ii); and paragraph (b) substitutes subsection (5) (a).

40 Repeals section 48A of the Customs and Excise Act 91 of 1964.

41 Amends section 52 of the Customs and Excise Act 91 of 1964 by substituting paragraph (a).

42 Amends section 53 (1) of the Customs and Excise Act 91 of 1964 by substituting the words preceding paragraph (i).

43 Amends section 54 of the Customs and Excise Act 91 of 1964 by substituting subsection (1).

[Date of commencement of s. 43: 1 January 1996.]

44 Amends section 60 of the Customs and Excise Act 91 of 1964 by substituting subsection (2).

45 Amends section 63 of the Customs and Excise Act 91 of 1964 by substituting subsection (1).

[Date of commencement of s. 45: 1 January 1996.]

46 Amends section 64B of the Customs and Excise Act 91 of 1964 by substituting subsection (2).

[Date of commencement of s. 46: 1 January 1996.]

47 Inserts section 64C in the Customs and Excise Act 91 of 1964.

[Date of commencement of s. 47: 1 January 1996.]

48 Amends section 65 (4) of the Customs and Excise Act 91 of 1964 by substituting paragraph (a).

49 Amends section 66 of the Customs and Excise Act 91 of 1964, as follows: paragraph (a) substitutes subsection (2) (c); paragraph (b) substitutes subsection (3) (a); paragraph (c) substitutes in subsection (3) (b) the words preceding subparagraph (i); and paragraph (d) substitutes subsection (10).

[Date of commencement of s. 49: 1 January 1996.]

50 Amends section 67 of the Customs and Excise Act 91 of 1964 by substituting subsection (3).

[Date of commencement of s. 50: 1 January 1996.]

51 Substitutes section 73 of the Customs and Excise Act 91 of 1964.

[Date of commencement of s. 51: 1 January 1996.]

52 Amends section 74 of the Customs and Excise Act 91 of 1964 by substituting subsection (2).

[Date of commencement of s. 52: 1 January 1996.]

53 Amends section 75 of the Customs and Excise Act 91 of 1964, as follows: paragraph (a) substitutes subsection (1) (f) (ii); paragraph (b) deletes subsection (1) (g); paragraph (c) substitutes subsection (1A) (a); paragraph (d) substitutes subsection (1A) (g) (i); paragraph (e) substitutes subsection (1A) (h) (i); paragraph (f) substitutes subsection (2) (b) (iii); paragraph (g) substitutes subsection (4A) (b), (c), (d) and (e); paragraph (h) substitutes in subsection (5) (a) the second proviso to subparagraph (i); paragraph (i) substitutes in subsection (5) (b) the words preceding the proviso; paragraph (j) substitutes in subsection (10) (a) the words preceding the proviso; paragraph (k) substitutes subsection (13); paragraph (l) substitutes in subsection (14) (b) the proviso to subparagraph (i); paragraph (m) deletes subsection (14A); paragraph (n) substitutes subsection (14B) (a) and (b); paragraph (o) substitutes subsection (18) (bA); paragraph (p) substitutes subsection (18) (dA) and (e); and paragraph (q) substitutes subsection (21).

[Date of commencement of s. 53: 1 January 1996.]

54 Amends section 76 of the Customs and Excise Act 91 of 1964, as follows: paragraph (a) substitutes subsection (1); and paragraph (b) substitutes in subsection (4) the words preceding paragraph (a).

[Date of commencement of s. 54: 1 January 1996.]

55 Amends section 77 (a) of the Customs and Excise Act 91 of 1964 by substituting the words preceding subparagraph (i).

[Date of commencement of s. 55: 1 January 1996.]

56 Amends section 79 (1) of the Customs and Excise Act 91 of 1964 by deleting paragraph (c).

57 Substitutes section 85 of the Customs and Excise Act 91 of 1964.

[Date of commencement of s. 57: 1 March 1996.]

58 Amends section 86 of the Customs and Excise Act 91 of 1964 by substituting paragraph (h).

[Date of commencement of s. 58: 1 January 1996.]

59 Amends section 88 (1) of the Customs and Excise Act 91 of 1964 by substituting paragraphs (c) and (d).

60 Amends section 91 of the Customs and Excise Act 91 of 1964, as follows: paragraph (a) substitutes subsection (1) (a) (i); and paragraph (b) substitutes

subsection (2).

61 (1) Amends section 92 of the Customs and Excise Act 91 of 1964, as follows: paragraph (a) substitutes the proviso to subsection (1); and paragraph (b) deletes subsections (2) and (3).

(2) Subsection (1) shall be deemed to have come into operation on 9 July 1993.

62 Amends section 99 of the Customs and Excise Act 91 of 1964, as follows: paragraph (a) substitutes in subsection (2) (a) the words preceding paragraph (i); paragraph (b) substitutes in subsection (3) the words preceding the proviso; paragraph (c) substitutes in subsection (4) (b) the words preceding paragraph (i); and paragraph (d) substitutes in subsection (4) (b) the words preceding the proviso.

[Date of commencement of s. 62: 1 January 1996.]

63 Amends section 101 of the Customs and Excise Act 91 of 1964, as follows: paragraph (a) substitutes subsection (1) (a); and paragraph (b) substitutes in subsection (3) the words preceding paragraph (a).

[Date of commencement of s. 63: 1 January 1996.]

64 Amends section 102 of the Customs and Excise Act 91 of 1964 by substituting subsection (4).

[Date of commencement of s. 64: 1 January 1996.]

65 Amends section 105 (c) of the Customs and Excise Act 91 of 1964 by substituting the words preceding subparagraph (i).

66 Amends section 106 of the Customs and Excise Act 91 of 1964 by substituting subsection (1).

[Date of commencement of s. 66: 1 January 1996.]

67 Amends section 107 (2) of the Customs and Excise Act 91 of 1964 by substituting paragraph (a).

68 Amends section 109 (1) of the Customs and Excise Act 91 of 1964 by substituting the words preceding paragraph (a).

69 Substitutes section 110 of the Customs and Excise Act 91 of 1964.

[Date of commencement of s. 69: 1 January 1996.]

70 Amends section 112 of the Customs and Excise Act 91 of 1964, as follows: paragraph (a) substitutes subsection (3); and paragraph (b) deletes subsection (4).

[Date of commencement of s. 70: 1 January 1996.]

71 Amends section 113 of the Customs and Excise Act 91 of 1964, as follows: paragraph (a) substitutes subsection (4); paragraph (b) substitutes subsection (7); and paragraph (c) substitutes subsection (8) (d).

[Date of commencement of s. 71: 1 January 1996.]

72 Amends section 116 of the Customs and Excise Act 91 of 1964, as follows: paragraph (a) substitutes subsection (1) (a) (iii); and paragraph (b) deletes subsection (2).

73 Amends section 120 of the Customs and Excise Act 91 of 1964, as follows: paragraph (a) substitutes in subsection (1) the words preceding paragraph (a); paragraph (b) inserts subsection (1) (mA); paragraph (c) substitutes subsection (1) (n); paragraph (d) deletes subsection (2); and paragraph (e) substitutes subsection (3).

[Date of commencement of s. 73: 1 January 1996.]

74 **Amendment of Schedule^{36*} 1 to Act 91 of 1964, as amended by section 19 of Act 95 of 1965, section 15 of Act 57 of 1966, section 2 of Act 96 of 1967, section 22 of Act 85 of 1968, section 37 of Act 105 of 1969, section 9 of Act 98 of 1970, section 2 of Act 89 of 1971, section 12 of Act 103 of 1972, section 6 of Act 68 of 1973, section 3 of Act 64 of 1974, section 13 of Act 71 of 1975, section 13 of Act 105 of 1976, section 38 of Act 112 of 1977, section 3 of Act 114 of 1981, section 27 of Act 86 of 1982, section 10 of Act 89 of 1984, section 14 of Act 101 of 1985, section 11 of Act 69 of 1988, section 19 of Act 68 of 1989, section 40 of Act 59 of 1990, section 3 of Act 111 of 1991, section 15 of Act 105 of 1992, section 13 of Act 98 of 1993 and section 12 of Act 19 of 1994**

(1) Schedule^{37*} 1 to the principle Act is hereby amended to the extent set out in the Schedule^{38*} to this Act.

(2) Subject to the provisions of section 58 (1) of the principal Act, this section shall be deemed to have come into operation on 15 March 1995.

75 **Continuation of certain amendments of Schedules^{39*} 1 to 6 to Act 91 of 1964**

Every amendment of Schedules^{40*} 1 to 6 to the principal Act made under section 48, section 48A, section 56 or section 75 (15) of the principal Act prior to 31 December 1994 shall not lapse by virtue of the provisions of section 48 (6), 48A (2), 56 (3) or 75 (16) of the principal Act.

76 Short title and commencement

This Act shall be called the Customs and Excise Amendment Act, 1995, and sections 1, 4 to 9, 11 to 19, 21 to 26, 28 to 33, 35, 36, 43, 45 to 47, 49 to 55, 57, 58, 62 to 64, 66, 69 to 71 and 73 shall come into operation on a date fixed by the President by proclamation in the *Gazette*.

CUSTOMS AND EXCISE AMENDMENT ACT 44 OF 1996

[ASSENTED TO 27 SEPTEMBER 1996]

[DATE OF COMMENCEMENT: 2 OCTOBER 1996]
(Unless otherwise indicated)

(English text signed by the President)

ACT

To amend the Customs and Excise Act, 1964, so as to further regulate the collection of duty on beer; to extend the exemptions from entry of certain imported goods; to further regulate appeals regarding tariff and value determinations, and extending the time limits therefor; to further regulate an offence in respect of beer of higher alcoholic strength than registered; to amend Schedule 1 to the said Act; and to effect certain textual alterations; to provide for the continuation of certain amendments of Schedules 1 to 6 to the said Act; and to provide for matters connected therewith.

- 1** Amends section 5 of the Customs and Excise Act 91 of 1964 by substituting paragraph (b).
- 2** Amends section 36 of the Customs and Excise Act 91 of 1964, as follows: paragraph (a) substitutes subsection (2); and paragraph (b) substitutes subsection (6) (a).
- 3** Amends section 38 (1) of the Customs and Excise Act 91 of 1964 by substituting paragraph (a) (v).
- 4** Amends section 47 (9) of the Customs and Excise Act 91 of 1964 by substituting paragraph (f).
- 5** Amends section 65 (6) of the Customs and Excise Act 91 of 1964 by

substituting paragraph (b).

6 Amends section 69 (5) of the Customs and Excise Act 91 of 1964 by substituting paragraph (b).

7 Substitutes section 85 of the Customs and Excise Act 91 of 1964.

8 (1) Schedule^{41*} 1 to the principle Act is hereby amended to the extent set out in the Schedule^{42*} to this Act.

(2) Subject to the provisions of section 58 (1) of the principal Act, this section shall be deemed to have come into operation on 13 March 1996.

9 Continuation of certain amendments of Schedules 1 to 6^{43*} to Act 91 of 1964

(1) Every amendment of Schedules 1 to 6^{44*} to the principal Act made under section 48, section 48A, section 56 or section 75 (15) of the principal Act prior to 31 December 1995 shall not lapse by virtue of the provisions of section 48 (6), 48A (2), 56 (3) or 75 (16) of the principal Act.

(2) The amendments of Part 5 of Schedule 1 to the principal Act made under section 48 of the principal Act by Government Notice R534 of 29 March 1996 and R540 of 1 April 1996, shall not lapse by virtue of the provisions of section 48 (6) of the principal Act.

10 Short title

This Act shall be called the Customs and Excise Amendment Act, 1996.

¹GN 540 in GG 20008 of 22 April 1999

²Note: Schedules 1 to 8 inclusive to this Act have not been included in this database, but are available from the Office of the Commissioner of Customs and Excise.

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⁴Note: Schedules 1 to 8 inclusive to this Act have not been included in this database, but are available from the Office of the Commissioner of Customs and Excise.

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¹¹The Schedule to this Act as well as Schedules 1 to 8, inclusive, to the Customs and Excise Act 91 of 1964 have not been included in this database, but can be obtained from the Office of the Commissioner of Customs and Excise.

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¹⁹The Schedule to this Act as well as Schedules 1 to 6, inclusive, and Schedule 8 to the Customs and Excise Act 91 of 1964 have not been included in this database, but

can be obtained from the Office of the Commissioner of Customs and Excise. Schedule 7 is deleted by s. 47 of this Act.

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