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STAATSKOERANT

VAN DIE REPUBLIEK VAN SUID-AFRIKA

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GOVERNMENT GAZETTE

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KANTOOR VAN DIE STAATSPRESIDENT

STATE PRESIDENT'S OFFICE

No. 1163.

13 Junie 1986

No. 1163.

13 June 1986

Hierby word bekend gemaak dat die Staatspresident sy goedkeuring geheg het aan die onderstaande Wet wat hierby ter algemene inligting gepubliseer word:—

It is hereby notified that the State President has assented to the following Act which is hereby published for general information:—

— . 52 van 1986: Wysigingswet op Doeane en Aksyns, 1986.

No. 52 of 1986: Customs and Excise Amendment Act, 1986.

CUSTOMS AND EXCISE AMENDMENT ACT, 1986

Act No. 52, 1986

try 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.”.

3. Section 13 of the principal Act is hereby amended—

5 (a) by the addition to subsection (3) of the following paragraph, the existing subsection becoming paragraph (a) thereof:

“(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 specified by the Commissioner after consultation with the Postmaster-General, shall be entered at a customs and excise office before a Controller.”; and

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15 (b) by the addition of the following subsections:

“(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.

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(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 in his discretion 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.”.

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Amendment of section 13 of Act 91 of 1964, as amended by section 3 of Act 57 of 1966, section 5 of Act 105 of 1969, section 2 of Act 112 of 1977 and section 3 of Act 101 of 1985.

4. The following section is hereby substituted for section 36A of the principal Act:

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“Special provisions in respect of manufacture of sales duty goods or goods specified in Section B of Part 2 of Schedule No. 1 and collection of sales duty or excise duty specified in Section B of Part 2 of Schedule No. 1.

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36A. (1) Every manufacturer of sales duty goods or excisable goods specified in Section B of Part 2 of Schedule No. 1, every owner of sales duty goods or excisable goods specified in Section B of Part 2 of Schedule No. 1 manufactured for him partly or wholly from materials owned by such owner, and every manufacturer of and dealer in pearls, precious and semi-precious stones, precious metals, rolled precious metals or articles containing or manufactured of such pearls, precious and semi-precious stones, precious metals or rolled precious metals (excluding imitation jewellery), shall license his premises as a special customs and excise warehouse for sales duty purposes or for purposes of excise duty specified in Section B of Part 2 of Schedule No. 1 in terms of the provisions of this Act, and no such manufacturer, owner or dealer shall manufacture or deal in or with sales duty goods or excisable goods specified in Section B of Part 2 of Schedule No. 1 unless he has so licensed his premises: Provided that the Commissioner may in his discretion and to the extent he deems fit, exempt, on the conditions imposed by him in each case, any such manufacturer, owner or dealer from the requirements of this Act.

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Substitution of section 36A of Act 91 of 1964, as inserted by section 11 of Act 105 of 1969.

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

- 5 (a) where the value added by any process in the manufacture of sales duty goods or excisable goods specified in Section B of Part 2 of Schedule No. 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 sales duty goods or excisable goods specified in Section B of Part 2 of Schedule No. 1 presents in his opinion exceptional difficulties in the collection of sales duty or excise duty specified in Section B of Part 2 of Schedule No. 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 in his discretion determine, and the processes which shall be deemed to be included for the purposes of calculating the value for sales duty purposes or for purposes of excise duty specified in Section B of Part 2 of Schedule No. 1 of such goods shall be as determined by him;
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- 25 (b) the Commissioner may, subject to such conditions as he may impose in each case—
- (i) where the production and disposal of any sales duty goods or excisable goods specified in Section B of Part 2 of Schedule No. 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 sales duty or excise duty specified in Section B of Part 2 of Schedule No. 1 on all the sales duty goods or excisable goods specified in Section B of Part 2 of Schedule No. 1 concerned, any one paying, the other or others to be absolved *pro tanto*;
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- (ii) include in a special customs and excise warehouse licence issued under this Act in respect of the premises of any manufacturer of sales duty goods or excisable goods specified in Section B of Part 2 of Schedule No. 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 sales duty or excise duty specified in
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Section B of Part 2 of Schedule No. 1 on such goods so stored;

- 5 (iii) in such circumstances as he may deem expedient, license the premises of any dealer in sales duty goods or excisable goods specified in Section B of Part 2 of Schedule No. 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 sales duty or excise duty specified in Section B of Part 2 of Schedule No. 1 on such sales duty goods or excisable goods specified in Section B of Part 2 of Schedule No. 1 as the Commissioner may determine, and be liable for the sales duty or excise duty specified in Section B of Part 2 of Schedule No. 1 on such goods;
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- 20 (iv) make such temporary or permanent adjustment to the sales duty value of any sales duty goods or excise duty value of excisable goods specified in Section B of Part 2 of Schedule No. 1 as he may deem reasonable in circumstances which are in his opinion exceptional.
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(3) Sales duty goods or excisable goods specified in Section B of Part 2 of Schedule No. 1 manufactured in the Republic by any natural 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 sales duty or excise duty specified in Section B of Part 2 of Schedule No. 1 thereon.

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(4) Sales duty goods or excisable goods specified in Section B of Part 2 of Schedule No. 1 manufactured in the Republic by any other person, or any class or kind of such goods, may, subject to such conditions as the Minister may impose, be exempted by the Commissioner from the payment of sales duty or excise duty specified in Section B of Part 2 of Schedule No. 1 thereon if—

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- 45 (a) the average value for sales duty purposes or for purposes of excise duty specified in Section B of Part 2 of Schedule No. 1 of such goods or such class or kind of such goods has during such period or periods as the Minister may determine, not exceeded such amount as the Minister may determine; or
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- (b) the value for sales duty purposes or for purposes of excise duty specified in Section B of Part 2 of Schedule No. 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
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- (c) such circumstances as may be prescribed by regulation apply.”.

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5. Section 44 of the principal Act is hereby amended—

(a) by the substitution for subsection (8) of the following subsection:

5 “(8) The manufacturer, owner, seller or purchaser of any excisable goods or sales duty 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.”;

10 (b) by the insertion after subsection (8) of the following subsection:

15 “(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 or excisable goods which should have been duly entered, in terms of any agreement, for home consumption 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 for home consumption 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 for home consumption in the Republic.”.

Amendment of section 44 of Act 91 of 1964, as amended by section 10 of Act 95 of 1965, section 5 of Act 57 of 1966, section 16 of Act 105 of 1969, section 7 of Act 71 of 1975, section 8 of Act 112 of 1977, section 5 of Act 110 of 1979 and section 3 of Act 89 of 1984.

6. Section 47 of the principal Act is hereby amended by the addition of the following subsection:

30 “(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.”.

Amendment of section 47 of Act 91 of 1964, as amended by section 11 of Act 95 of 1965, section 17 of Act 105 of 1969, section 2 of Act 7 of 1974, section 7 of Act 105 of 1976, section 10 of Act 112 of 1977, section 6 of Act 110 of 1979, section 9 of Act 98 of 1980 and section 8 of Act 86 of 1982.

7. Section 56 of the principal Act is hereby amended—

40 (a) by the substitution for subsection (1A) of the following subsection:

 “(1A) The Minister may, in respect of any class or kind of imported goods on which a provisional charge has been imposed under section 57A, so amend Schedule No. 2—

45 (a) with effect from [a date not more than three months prior to the date with effect from which that provisional charge has been imposed] the date from which that provisional charge has been imposed; or

50 (b) with effect from a date not more than three months prior to the date with effect from which that provisional charge has been imposed if he is satisfied that—

55 (i) such goods have been dumped, as contemplated in subsection (2), repeatedly, and have caused material injury to an established industry in the Republic; or

60 (ii) the importer should have been aware that the exporter is so dumping and such dumping would cause such injury and the Minister is of

Amendment of section 56 of Act 91 of 1964, as substituted by section 16 of Act 112 of 1977 and amended by section 4 of Act 93 of 1978 and section 4 of Act 89 of 1984.

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- opinion that the dumping operates to such an extent in such quantities and for such short period that in order to prevent such dumping, he deems it necessary so to amend Schedule No. 2.”; and
- (b) by the addition to paragraph (b) of subsection (2) of the following subparagraph:
 “(iii) the highest comparable price for identical or comparable goods when exported from any other territory to the Republic in the ordinary course of trade; or”.
8. Section 65 of the principal Act is hereby amended—
- (a) by the insertion of the following subsection after subsection (7):
- “(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.”; and
- (b) by the substitution for paragraph (a) of subsection (8) of the following paragraph:
 “(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 No. 1 shall, in respect of imported goods (other than goods entered in terms of item 412.18 of Schedule No. 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 No. 1 on such goods, but excluding the duty specified in the said Section B of Part 2 of Schedule No. 1 on such goods.”.
9. (1) Section 75 of the principal Act is hereby amended—
- (a) by the substitution for paragraph (b) of subsection (2) of the following paragraph:
 “(b) only in respect of goods entered for use **[in]**—
- (i) in a factory which is registered under the [Factories, Machinery and Building Work Act, 1941 (Act No. 22 of 1941)] Machinery and Occupational Safety Act, 1983 (Act No. 6 of 1983), or any like law in force in the territory of South West Africa; [or]
- (ii) in a mine or works as defined in section 1 of the Mines and Works Act, 1956 (Act No. 27 of 1956); or
- (iii) elsewhere in any other activity which the Commissioner may in his discretion approve for the purposes of this subparagraph.”;
- (b) by the substitution for paragraph (c) of subsection (2) of the following paragraph:
 “(c) only in respect of goods entered for use in such industry in a factory, mine **[or]**, 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.”; and
- (c) by the substitution in paragraph (b) of subsection (5) for the words preceding the proviso of the following words:

Amendment of section 65 of Act 91 of 1964, as substituted by section 13 of Act 86 of 1982 and amended by section 8 of Act 101 of 1985.

Amendment of section 75 of Act 91 of 1964, as amended by section 13 of Act 95 of 1965, section 10 of Act 57 of 1966, section 8 of Act 85 of 1968, section 24 of Act 105 of 1969, section 8 of Act 103 of 1972, section 2 of Act 68 of 1973, section 9 of Act 71 of 1975, section 27 of Act 112 of 1977, section 8 of Act 93 of 1978, section 10 of Act 110 of 1979, section 19 of Act 86 of 1982, section 6 of Act 89 of 1984 and section 11 of Act 101 of 1985.

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5 “Any person to whom any distillate fuel or residual fuel oil has been supplied from stocks which have been entered under rebate of duty [at a price which has been reduced to the extent of such rebate] 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, 10 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 15 to him or on such portion thereof as the Commissioner may in his discretion determine.”

(2) Paragraph (a) of subsection (1) shall be deemed to have come into operation on 5 October 1984.

- 20 **10.** Section 78 of the principal Act is hereby amended—
 (a) by the substitution in subsection (2) for the words “four hundred” of the words “one thousand”; and
 (b) by the substitution in subsection (3) for the words “six hundred” of the words “one thousand five hundred”.
 Amendment of section 78 of Act 91 of 1964.
- 25 **11.** Section 79 of the principal Act is hereby amended—
 (a) by the substitution in subsection (1) for the words “four hundred” of the words “one thousand”; and
 (b) by the substitution in subsection (2) for the words “six hundred” of the words “one thousand five hundred”.
 Amendment of section 79 of Act 91 of 1964, as amended by section 2 of Act 64 of 1974.
- 30 **12.** Section 80 of the principal Act is hereby amended—
 (a) by the substitution for paragraph (h) of subsection (1) of the following paragraph:
 “(h) without lawful excuse (the proof of which shall lie upon him), brings into the Republic or has in his possession any [signed] blank or incomplete invoice or any billhead or other similar document capable of being filled up and used as an invoice for goods from outside the Republic;” and
 35 (b) by the substitution in subsection (1) for the words “one thousand” of the words “two thousand five hundred”.
 Amendment of section 80 of Act 91 of 1964, as amended by section 10 of Act 85 of 1968, section 27 of Act 105 of 1969, section 28 of Act 112 of 1977, section 22 of Act 86 of 1982 and section 7 of Act 89 of 1984.
- 40 **13.** Section 81 of the principal Act is hereby amended by the substitution for the words “two thousand” of the words “five thousand”.
 Amendment of section 81 of Act 91 of 1964, as substituted by section 9 of Act 93 of 1978.
- 14.** Section 83 of the principal Act is hereby amended by the substitution for the words “two thousand” of the words “five 45 thousand”.
 Amendment of section 83 of Act 91 of 1964.
- 15.** Section 84 of the principal Act is hereby amended by the substitution in subsection (1) for the words “two thousand” of the words “five thousand”.
 Amendment of section 84 of Act 91 of 1964, as amended by section 11 of Act 57 of 1966, section 28 of Act 105 of 1969 and section 29 of Act 112 of 1977.
- 50 **16.** Section 85 of the principal Act is hereby amended by the substitution for the words “two thousand” of the words “five thousand”.
 Amendment of section 85 of Act 91 of 1964, as substituted by section 4 of Act 68 of 1973.

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17. Section 86 of the principal Act is hereby amended by the substitution for the words "two thousand" of the words "five thousand".
- Amendment of section 86 of Act 91 of 1964, as substituted by section 11 of Act 85 of 1968.
18. Section 95 of the principal Act is hereby amended—
- 5 (a) by the insertion after subsection (1) of the following subsection:
- “(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.”; and
- 10 (b) by the deletion of paragraph (b) of subsection (2).
- Amendment of section 95 of Act 91 of 1964, as amended by section 16 of Act 85 of 1968 and section 10 of Act 93 of 1978.
19. The following section is hereby substituted for section 111 of the principal Act:
- Substitution of section 111 of Act 91 of 1964, as substituted by section 11 of Act 71 of 1975.
- 20 “Production of certificate of officer on registration of certain motor vehicles.
111. (1) Any motor vehicle registering authority in the Republic shall not register any imported motor vehicle [which has previously been registered in any territory outside the Republic] unless a certificate issued by an officer is produced stating that the requirements of this Act in respect of [the importation of] such vehicle have been complied with.
- 25 (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.”
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20. Section 117 of the principal Act is hereby amended by the addition of the following subsection, the existing section becoming subsection (1) thereof:
- Amendment of section 117 of Act 91 of 1964, as substituted by section 35 of Act 105 of 1969.
- 35 “(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
- 40 (b) manufacturing any excisable 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 of all excisable 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.”
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- 50 21. (1) Every amendment of Schedules Nos. 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.
- Continuation of certain amendments of Schedules Nos. 1, 3, 4, 5 and 6 to Act 91 of 1964.
- 55 (2) The amendments of Parts 1 and 4 of Schedule No. 1 to the principal Act made under section 48 (1) and (2) of the principal Act by Government Notices Nos. R.480 and R.481 of 18 March 1986 shall not lapse by virtue of the provisions of section 48 (6) of the principal Act.

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22. (1) The extent of rebate in paragraph 01.03 of tariff item 117.15 in item 609.17 of Schedule No. 6 to the principal Act, as substituted by Government Notice No. R.1421 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 No. 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 No. 6 to the principal Act, as substituted by Government Notice No. R.2439 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 No. 6 to the principal Act.
- (3) The insertion, by Government Notice No. R.1067 of 17 May 1985, of rebate code 01.00 to tariff heading No. 39.02 in rebate item 306.10 of Schedule No. 3 to the principal Act, shall be deemed to have come into operation on 1 February 1984.
23. This Act shall be called the Customs and Excise Amendment Act, 1986.

Extension and commencement of certain rebates.

Short title.