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GOVERNMENT GAZETTE

OF THE REPUBLIC OF SOUTH AFRICA

REPUBLIEK VAN SUID-AFRIKA

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No. 11962

KAAPSTAD, 21 JUNIE 1989

STATE PRESIDENT'S OFFICE

KANTOOR VAN DIE STAATSPRESIDENT

No. 1296.

21 June 1989

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

No. 68 of 1989: Customs and Excise Amendment Act, 1989.

No. 1296.

21 Junie 1989

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

No. 68 van 1989: Wysigingswet op Doeane en Aksyns, 1989.

Act No. 68, 1989

CUSTOMS AND EXCISE AMENDMENT ACT, 1989

GENERAL EXPLANATORY NOTE:

[] Words in bold type in square brackets indicate omissions from existing enactments.

_____ Words underlined with solid line indicate insertions in existing enactments.

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 No. 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 No. 1 to the said Act; to provide for the continuation of certain amendments of Schedules Nos. 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.

(Afrikaans text signed by the State President.)
(Assented to 5 June 1989.)

BE IT ENACTED by the State President and the Parliament of the Republic of South Africa, as follows:—

Amendment of section 1 of Act 91 of 1964, as amended by section 1 of Act 95 of 1965, section 1 of Act 57 of 1966, section 1 of Act 105 of 1969, section 1 of Act 98 of 1970, section 1 of Act 71 of 1975, section 1 of Act 112 of 1977, section 1 of Act 110 of 1979, sections 1 and 15 of Act 98 of 1980, section 1 of Act 89 of 1984 and section 1 of Act 84 of 1987

1. Section 1 of the Customs and Excise Act, 1964 (hereinafter referred to as the principal Act), is hereby amended by the substitution for paragraphs (a) and (b) of subsection (3) of the following paragraphs: 10

“(a) ‘customs duty’ includes any duty leviable under Part 4 of Schedule No. 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 No. 1 on goods imported;

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- (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 No. 1 on goods manufactured in the common customs area."

Substitution of section 5 of Act 91 of 1964

2. (1) The following section is hereby substituted for section 5 of the principal Act: 5

"Application of Act

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

(a) the territory of South West Africa (including the Eastern Caprivi Zipfel referred to in section 3 (3) of the South West Africa Affairs Amendment Act, 1951 (Act No. 55 of 1951)); and 10

(b) the continental shelf as referred to in section 7 of the Territorial Waters Act, 1963 (Act No. 87 of 1963),

shall be deemed to be a part of the Republic.

(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. 15

(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." 20

- (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 25 March 1967.

Substitution of section 16 of Act 91 of 1964

3. The following section is hereby substituted for section 16 of the principal Act:

"Opening of packages in absence of importer or exporter 30

16. The Controller may in the absence of the [owner] 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 [owner's] 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 [owner] importer or exporter and afford the said [owner] importer or exporter the opportunity of himself appearing before the Controller and opening the package in question." 35

Amendment of section 40 of Act 91 of 1964, as amended by section 9 of Act 95 of 1965, section 6 of Act 71 of 1975, section 5 of Act 105 of 1976, section 2 of Act 93 of 1978, section 15 of Act 98 of 1980, section 4 of Act 86 of 1982, section 3 of Act 89 of 1983 and section 11 of Act 84 of 1987 40

4. Section 40 of the principal Act is hereby amended by the substitution for subparagraph (i) of paragraph (b) of subsection (3) of the following subparagraph: 45

"(i) from the date [on which the duty] of entry for home consumption as provided in section 45 (2), of the goods to which the application relates [was paid]; or"

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Amendment of section 46 of Act 91 of 1964

5. (1) Section 46 of the principal Act is hereby amended by the substitution for subsection (2) of the following subsection:

“(2) The Minister may from time to time, on the recommendation of the Board of Trade and Industry, by regulation 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.”

(2) Subsection (1) of this section shall be deemed to have come into operation on 1 April 1989.

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, sections 9 and 15 of Act 98 of 1980, section 8 of Act 86 of 1982, section 6 of Act 52 of 1986, section 15 of Act 84 of 1987 and section 4 of Act 69 of 1988

6. Section 47 of the principal Act is hereby amended by the substitution for subparagraph (i) of paragraph (a) of subsection (9) of the following subparagraph:

“(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.”

Amendment of section 48 of Act 91 of 1964, as amended by section 6 of Act 57 of 1966, section 18 of Act 105 of 1969, section 3 of Act 98 of 1970, section 1 of Act 68 of 1973, section 8 of Act 105 of 1976, section 11 of Act 112 of 1977, section 10 of Act 98 of 1980, section 9 of Act 86 of 1982 and section 18 of Act 84 of 1987

7. (1) Section 48 of the principal Act is hereby amended—

(a) by the substitution for paragraph (c) of subsection (1) of the following paragraph:

“(c) in order to give effect to any amendment to the **[Explanatory Notes to the Nomenclature]** 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;”

(b) by the addition to paragraph (a) of subsection (2A) of the following subparagraph, the existing paragraph becoming subparagraph (i) thereof:

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

(c) by the substitution for paragraph (b) of subsection (2A) of the following paragraph:

“(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 **[after the duty concerned was paid]** from the date of entry for home consumption as provided in section 45 (2).”

(d) by the insertion after subsection (4) of the following subsection:

“(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 No. 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 No. 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.

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- (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 State 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 No. 1. 5
- (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. 10
- (e) The provisions of subsections (6) and (7) shall *mutatis mutandis* apply to any notice published under this subsection.”

(2) Paragraph (a) of subsection (1) of this section shall be deemed to have come into operation on 1 January 1988. 15

Amendment of section 48A of Act 91 of 1964, as inserted by section 19 of Act 84 of 1987

8. Section 48A of the principal Act is hereby amended by the substitution for subsection (1) of the following subsection:

“(1) Whenever the Minister is satisfied that any provision of any Schedule to this Act differs from any similar provision in force immediately prior to 1 January 1988 and that such difference is to the detriment of any importer or manufacturer and was not so intended, he may, after consultation with the Board of Trade and Industry, [at any time before the date which is referred to in section 48 (6) and which falls in the year 1989] by means of an amendment effected by notice in the *Gazette* adjust the provision concerned to the extent he deems fit, with effect from 1 January 1988.” 20 25

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 and section 8 of Act 52 of 1986

9. Section 65 of the principal Act is hereby amended by the substitution for paragraph (b) of subsection (8) of the following paragraph: 30

“(b) The provisions of subsection [(3) or (4) of section 70] (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 No. 1 in respect of any imported goods entered in terms of item 412.18 of Schedule No. 4.” 35

Amendment of section 66 of Act 91 of 1964, as substituted by section 14 of Act 86 of 1982 and amended by section 5 of Act 69 of 1988

10. Section 66 of the principal Act is hereby amended—

(a) by the substitution for paragraph (d) of subsection (8) of the following paragraph: 40

“(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, ready for export to the Republic;” 45

(b) by the substitution for paragraph (a) of subsection (11) of the following paragraph:

“(a) [packed in a container as defined in section 1 (2) in the country of export or, if not so packed in a container] placed on board ship or on any vehicle in the country of exportation, ready for export to the Republic; or” 50

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Amendment of section 67 of Act 91 of 1964, as inserted by section 15 of Act 86 of 1982 and amended by section 6 of Act 69 of 1988

11. Section 67 of the principal Act is hereby amended—

- (a) by the substitution for paragraph (e) of subsection (1) of the following paragraph: 5
 “(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, ready for export to the Republic.”; and 10
- (b) by the substitution for paragraph (a) of subsection (4) of the following paragraph: 15
 “(a) **[packed in a container as defined in section 1 (2) in the country of export or, if not so packed in a container]** placed on board ship or on any vehicle in the country of exportation, ready for export to the Republic; or”.

Substitution of section 69 of Act 91 of 1964, as amended by section 22 of Act 105 of 1969, section 6 of Act 93 of 1978, section 15 of Act 98 of 1980, section 9 of Act 101 of 1985 and section 7 of Act 69 of 1988 20

12. (1) The following section is hereby substituted for section 69 of the principal Act:

“Value for excise duty purposes

69. (1) (a) For the purpose of assessing the excise duty on any goods 25
 manufactured in the Republic and specified in Section B of Part 2 of Schedule No. 1 (other than goods specified in items 122.10 to 122.40), 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 30
 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 independent merchant 35
 wholesaler in the Republic under fully competitive conditions, plus the cost of packing and packages and all other expenses incidental to placing the goods on rail for delivery to the purchaser, plus any non-rebated excise duty payable in terms of Section A of Part 2 of Schedule No. 1 on such goods, but excluding the non-rebated excise 40
 duty payable in terms of Section B of Part 2 of Schedule No. 1 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 45
 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 50
 manufacturer and such class of purchaser and to such other factors relating to such price as he may deem relevant. 50
- (b) For the purpose of assessing the duty on any imported goods entered in terms of item 412.18 of Schedule No. 4 on removal from a customs and excise warehouse and any goods manufactured in the Republic and specified in items 122.10 to 122.40 of Section B of Part 2 of 55
 Schedule No. 1, the value thereof shall be—
- (i) in a sale between a manufacturer as seller and an independent wholesale dealer or an independent bulk buyer or a buyer

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- purchasing at a preferential price or other reseller as purchaser, the highest price (but excluding the excise duty payable in terms of Section B of Part 2 of Schedule No. 1) at which the manufacturer sells such goods at factory to an independent retail dealer, without any deduction except a cash discount not exceeding two and a half per cent, if any, plus the cost of packing and packages and all other expenses incidental to placing the goods on rail for delivery to the purchaser; 5
- (ii) in a sale between a manufacturer and end consumer or between a wholesale dealer or retail dealer or other reseller as seller and an independent retail dealer or end consumer as purchaser, the highest price (but excluding the excise duty payable in terms of Section B of Part 2 of Schedule No. 1) at which such goods are sold by any such seller to an end consumer without any deduction except thirty-three and a third per cent, plus the cost of packing and packages and all other expenses incidental to placing the goods on rail for delivery to the purchaser. 10
- (c) For the purposes of this subsection the Commissioner may specify— 15
- (i) the quantity which shall be deemed to be the usual wholesale quantity; 20
- (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 rail.
- (2) (a) For the purpose of assessing the excise duty on any goods specified in Section A of Part 2 of Schedule No. 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, 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 No. 1, but excluding the non-rebated excise duty payable in terms of Section A of Part 2 of Schedule No. 1 or fuel levy on such goods. 25
- (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. 30
- (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), (1) (b) 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. 35
- (4) The Commissioner may whenever he deems it expedient amend or withdraw any such determination and make a new determination with effect from— 40
- (a) the date of first entry of the goods in question;
- (b) the date of the determination made under subsection (3); 50
- (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. 55
- (b) Such appeal shall be prosecuted within a period of 90 days from the date of the determination."

(2) Subsections (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. 60

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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 15 of Act 98 of 1980, section 19 of Act 86 of 1982, section 6 of Act 89 of 1984, section 11 of Act 101 of 1985, section 9 of Act 52 of 1986, section 23 of Act 84 of 1987 and section 8 of Act 69 of 1988

13. (1) Section 75 of the principal Act is hereby amended—

(a) by the substitution for paragraph (b) of subsection (1) of the following paragraph:

“(b) any imported goods described in Schedule No. 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 **[for the purpose or use]** subject to compliance with the provisions [stated in] of, the item of Schedule No. 4 in which such goods are specified;” and

(b) by the substitution in subsection (18) for the words preceding paragraph (a) of the following words:

“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, 615.03, 707.01, 707.02 and 707.03 of Schedules Nos. 4, 5, 6 and 7, 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—”.

(2) Paragraph (b) of subsection (1) of this section shall be deemed to have come into operation on 3 July 1978.

Amendment of section 76 of Act 91 of 1964, as substituted by section 5 of Act 98 of 1970 and amended by section 10 of Act 71 of 1975, section 11 of Act 110 of 1979, section 15 of Act 98 of 1980, section 20 of Act 86 of 1982, section 5 of Act 89 of 1983 and section 24 of Act 84 of 1987

14. Section 76 of the principal Act is hereby amended—

(a) by the substitution for paragraph (a) of subsection (4) of the following paragraph:

“(a) from the date **[on which the duty or charge]** of entry for home consumption as provided in section 45 (2), of the goods to which the application relates [was paid]; or” and

(b) by the insertion after paragraph (a) of subsection (4) of the following paragraph:

“(aA) from the date on which the charge to which the application relates was paid; or”.

Amendment of section 88 of Act 91 of 1964, as amended by section 12 of Act 85 of 1968, section 30 of Act 112 of 1977, section 15 of Act 98 of 1980 and section 28 of Act 84 of 1987

15. Section 88 of the principal Act is hereby amended by the substitution for subsection (1) of the following subsection:

“(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

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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.

- (c) If such ship, vehicle, plant, material or goods are liable to forfeiture under this Act the Commissioner may in his discretion seize that ship, vehicle, plant, material or goods. 5
- (d) The Commissioner may in his discretion seize any other ship, vehicle, plant, material or goods liable to forfeiture under this Act.”.

Substitution of section 103 of Act 91 of 1964

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16. The following section is hereby substituted for section 103 of the principal Act:

“**Liability of company, partnership, etc.**

103. 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.”. 15 20

Amendment of section 113 of Act 91 of 1964, as amended by section 17 of Act 95 of 1965, section 14 of Act 57 of 1966, section 11 of Act 103 of 1972, section 5 of Act 68 of 1973, section 49 of Act 42 of 1974, section 25 of Act 86 of 1982, section 7 of Act 89 of 1983 and section 31 of Act 84 of 1987 25

17. Section 113 of the principal Act is hereby amended—

- (a) by the deletion of paragraph (e) of subsection (1); and
- (b) by the substitution for paragraph (b) of subsection (8) of the following paragraph: 30
- “(b) Any officer, magistrate or member of the police force may detain any goods for the purpose of establishing whether those goods are liable to forfeiture under paragraph (a).”.

Application of section 40 of Act 91 of 1964 in relation to cotton yarn

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18. 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 No. 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; 40
- (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. 45

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Amendment of Schedule No. 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 and section 11 of Act 69 of 1988 5

19. (1) Schedule No. 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 15 March 1989. 10

Continuation of certain amendments of Schedules Nos. 1, 2, 3, 4, 5, 6 and 7 to Act 91 of 1964

20. (1) Every amendment of Schedules Nos. 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. 15

(2) The amendment of Schedule No. 6 to the principal Act made under section 75 (15) of the principal Act by Government Notice No. R.459 of 15 March 1989, shall not lapse by virtue of the provisions of section 75 (16) of the principal Act. 20

(3) Notwithstanding the provisions of section 48 (6), every amendment of Schedules Nos. 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.

Short title

25

21. This Act shall be called the Customs and Excise Amendment Act, 1989.

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Schedule

AMENDMENTS TO SCHEDULE NO. 1 TO THE CUSTOMS AND EXCISE ACT, 1964

| Tariff Item | Tariff Heading | Description | Rate of Duty | |
|-------------------|----------------|---|------------------|------------------|
| | | | Excise | Customs |
| 104.05 and 104.10 | | By the substitution for tariff items 104.05 and 104.10 of the following: | | |
| 104.05 | 22.01 | WATERS, INCLUDING NATURAL OR ARTIFICIAL MINERAL WATERS AND AERATED WATERS, NOT CONTAINING ADDED SUGAR OR OTHER SWEETENING MATTER NOR FLAVOURED; ICE AND SNOW; | | |
| | 22.02 | WATERS, INCLUDING MINERAL WATERS AND AERATED WATERS, CONTAINING ADDED SUGAR OR OTHER SWEETENING MATTER OR FLAVOURED, AND OTHER NON-ALCOHOLIC BEVERAGES (EXCLUDING FRUIT OR VEGETABLE JUICES OF HEADING NO. 20.09): | | |
| .10 | | Mineral waters including spa waters and aerated waters, put up in closed bottles or other closed containers ready for drinking without dilution (excluding beverages packed in plastic tubes or similar containers and which are normally consumed in a frozen state) | 4,36c/ℓ | 5,42c/ℓ |
| .20 | | Lemonade and flavoured mineral waters, including flavoured spa and aerated waters, put up in closed bottles or other closed containers ready for drinking without dilution (excluding beverages packed in plastic tubes or similar containers and which are normally consumed in a frozen state) | 4,36c/ℓ | 5,42c/ℓ |
| .30 | | Non-alcoholic beverages not elsewhere specified or included in this tariff item, put up in closed bottles or other closed containers ready for drinking without dilution (excluding beverages packed in plastic tubes or similar containers and which are normally consumed in a frozen state) | 4,36c/ℓ | 5,42c/ℓ |
| 104.10 | 22.03 | BEER MADE FROM MALT: | | |
| .10 | | Of a relative density before fermentation not exceeding 1 040° (excluding sorghum beer as defined in the Sorghum Beer Act, 1962 (Act No. 63 of 1962)) Plus a suspended duty of: | 3 687c/ 100 ℓ | 3 686c/ 100 ℓ |
| | | (i) In operation | Nil | Nil |
| | | (ii) Maximum rate | 275c/ 100 ℓ | 275c/ 100 ℓ |
| .20 | | Of a relative density before fermentation exceeding 1 040° but not exceeding 1 050°, which is cleared ex any customs and excise manufacturing warehouse during any financial year, or which is imported into the Republic, or which is illicit beer (excluding sorghum beer as defined in the Sorghum Beer Act, 1962 (Act No. 63 of 1962)): | | |
| | | (1) On the first 4 500 000 ℓ or any quantity less than 4 500 000 ℓ so cleared during a financial year | 3 962c/ 100 ℓ | |
| | | (2) On the quantity so cleared during a financial year which is more than 4 500 000 ℓ but not exceeding 9 000 000 ℓ | 4 094c/ 100 ℓ | |
| | | (3) On the quantity so cleared during a financial year which is more than 9 000 000 ℓ but not exceeding 18 000 000 ℓ | 4 226c/ 100 ℓ | |
| | | (4) On the quantity so cleared during a financial year which is more than 18 000 000 ℓ but not exceeding 27 000 000 ℓ | 4 358c/ 100 ℓ | |
| | | (5) On the quantity so cleared during a financial year which is more than 27 000 000 ℓ but not exceeding 36 000 000 ℓ | 4 490c/ 100 ℓ | |
| | | (6) On the quantity so cleared during a financial year which is more than 36 000 000 ℓ | 4 622c/ 100 ℓ | |
| | | (7) If duty is paid on illicit beer | 4 622c/ 100 ℓ | |
| | | (8) If imported | | 3 940c/ 100 ℓ |

Act No. 68, 1989

CUSTOMS AND EXCISE AMENDMENT ACT, 1989

| Tariff Item | Tariff Heading | Description | Rate of Duty | |
|-------------------------|----------------|--|---|--|
| | | | Excise | Customs |
| 104.10 | .30 | Of a relative density before fermentation exceeding 1 050° (excluding sorghum beer as defined in the Sorghum Beer Act, 1962 (Act No. 63 of 1962)) Plus, for every degree of relative density before fermentation exceeding 1 080° | 4 721c/ 100 ℓ | 4 160c/ 100 ℓ |
| 104.20 and 104.30 | | By the substitution for tariff items 104.20 and 104.30 of the following: | | |
| "104.20 | 22.07 | UNDENATURED ETHYL ALCOHOL OF AN ALCOHOLIC STRENGTH BY VOLUME OF 80% VOL. OR HIGHER; ETHYL ALCOHOL AND OTHER SPIRITS, DENATURED, OF ANY STRENGTH; | 22c/ 100 ℓ | 22c/ 100 ℓ" |
| | 22.08 | UNDENATURED ETHYL ALCOHOL OF AN ALCOHOLIC STRENGTH BY VOLUME OF LESS THAN 80% VOL.; SPIRITS, LIQUEURS AND OTHER SPIRITUOUS BEVERAGES; COMPOUND ALCOHOLIC PREPARATIONS OF A KIND USED FOR THE MANUFACTURE OF BEVERAGES: | | |
| | .10 | Wine spirits, manufactured in the Republic by the distillation of wine | 109 212c/ 100 ℓ of absolute alcohol | |
| | .15 | Spirits, manufactured in the Republic by the distillation of any sugar cane product | 119 175c/ 100 ℓ of absolute alcohol | |
| | .25 | Spirits, manufactured in the Republic by the distillation of any grain product | 123 682c/ 100 ℓ of absolute alcohol | |
| | .29 | Other spirits, manufactured in the Republic | 113 649c/ 100 ℓ of absolute alcohol | |
| | .30 | Imported spirits of any nature, including spirits in imported spirituous beverages (excluding liqueurs, cordials and similar spirituous beverages containing added sugar) and in compound alcoholic preparations of an alcoholic strength exceeding 1,713 per cent alcohol by volume | | 99 599c/ 100 ℓ of absolute alcohol or 43 686c/ 100 ℓ |
| | .40 | Spirits of any nature in imported liqueurs, cordials and similar spirituous beverages containing added sugar, with or without flavouring substances | | 99 599c/ 100 ℓ of absolute alcohol |
| 104.30 | 24.02 | CIGARS, CHEROOTS, CIGARILLOS AND CIGARETTES, OF TOBACCO OR OF TOBACCO SUBSTITUTES; | | |
| | 24.03 | OTHER MANUFACTURED TOBACCO AND MANUFACTURED TOBACCO SUBSTITUTES, 'HOMOGENISED' OR 'RECONSTITUTED' TOBACCO EXTRACTS AND ESSENCES: | | |
| | .10 | Cigars | 160c/kg net | 182c/kg net |
| | .20 | Cigarettes | 15,5c/10 cigarettes plus 56c/kg tobacco content | 15,5c/10 cigarettes plus 56c/kg tobacco content |
| | | Plus in respect of cigarettes the mass of the tobacco of which exceeds 1,5 kg/1 000 cigarettes | 716c/kg tobacco content | 716c/kg tobacco content |
| | .30 | Cigarette tobacco | 15,5c/50 g or fraction thereof plus 213c/kg tobacco | 15,5c/50 g or fraction thereof plus 213c/kg tobacco |
| | | Plus a suspended duty of: | | |
| | | (i) In operation | Nil | Nil |
| | | (ii) Maximum rate | 73c/kg tobacco | 73c/kg tobacco |
| | .40 | Pipe tobacco in immediate packings of a content of less than 5 kg | 190c/kg net | 190c/kg net |

Act No. 68, 1989

CUSTOMS AND EXCISE AMENDMENT ACT, 1989

| Tariff Item | Tariff Heading | Description | Rate of Duty | |
|-------------|----------------|---|--------------|---------------|
| | | | Excise | Customs |
| .50 | | Pipe tobacco in immediate packings of a content of not less than 5 kg | 172c/kg net | 172c/kg net'' |