

Please note that most Acts are published in English and another South African official language. Currently we only have capacity to publish the English versions. This means that this document will only contain even numbered pages as the other language is printed on uneven numbered pages.



GOVERNMENT GAZETTE

OF THE REPUBLIC OF SOUTH AFRICA

REPUBLIEK VAN SUID-AFRIKA

STAATSKOERANT

Registered at the Post Office as a Newspaper

As 'n Nuusblad by die Poskantoor Geregistreer

Selling price • Verkoopprijs
(GST excluded/AVB uitgesluit)

Local **50c** Plaaslik
Other countries 70c Buitelands
Post free • Posvry

VOL. 268

CAPE TOWN, 14 OCTOBER 1987

No. 10976

KAAPSTAD, 14 OKTOBER 1987

STATE PRESIDENT'S OFFICE

KANTOOR VAN DIE STAATSPRESIDENT

No. 2297.

14 October 1987

No. 2297.

14 Oktober 1987

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

No. 84 of 1987: Customs and Excise Amendment Act,
1987.

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

No. 84 van 1987: Wysigingswet op Doeane en Aksyns,
1987.

Act No. 84, 1987

CUSTOMS AND EXCISE AMENDMENT ACT, 1987

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 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 No. 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 Nos. 1, 2, 3, 4, 5 and 6 to the said Act, for the commencement of certain Government Notices amending Schedules Nos. 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.

(Afrikaans text signed by the State President.)
(Assented to 6 October 1987.)

Act No. 84, 1987

CUSTOMS AND EXCISE AMENDMENT ACT, 1987

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 and section 1 of Act 89 of 1984.

1. (1) Section 1 of the Customs and Excise Act, 1964 (hereinafter referred to as the principal Act), is hereby amended—
- (a) by the substitution in subsection (1) for the words preceding the definition of “agricultural distiller” of the following words:
 “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 sales duty, **[and]** surcharge and fuel levy or matters relating thereto, and—”;
- (b) by the insertion in the said subsection (1) after the definition of “Commissioner” of the following definition:
 “‘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;”;
- (c) by the substitution in the said subsection (1) for the definition of “customs duty” of the following definition:
 “‘customs duty’ means, subject to the provisions of subsection (3), any duty leviable under Schedule No. 1 (except Parts 3, **[and]** 4 and 5 thereof) or No. 2 on goods imported into the Republic;”;
- (d) by the substitution in the said subsection (1) for the definition of “excise duty” of the following definition:
 “‘excise duty’ means, subject to the provisions of subsection (3), any duty leviable under Part 2 of Schedule No. 1 on any goods manufactured in the Republic;”;
- (e) by the insertion in the said subsection (1) after the definition of “exporter” of the following definitions:
 “‘fuel levy’ means any duty leviable under Part 5 of Schedule No. 1 on any goods which have been manufactured in or imported into the Republic;
 ‘fuel levy goods’ means any goods specified in Part 5 of Schedule No. 1 which have been manufactured in or imported into the Republic;”;
- (f) by the substitution in the said subsection (1) for the definition of “illicit goods” of the following definition:
 “‘illicit goods’, in relation to imported or excisable goods, sales duty goods, **[or]** 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;”;
- (g) by the substitution in the said subsection (1) for the definition of “manufacture” of the following definition:
 “‘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]** sales duty goods or fuel levy goods;
- (b) in the conversion of any goods into excisable goods, **[or]** sales duty 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 No. 1, excisable goods, [or] sales duty goods or fuel levy goods is increased in any manner;
- (d) in the recovery of excisable goods, **[or]** sales duty goods or fuel levy goods from excisable goods or any other goods; or

Act No. 84, 1987

CUSTOMS AND EXCISE AMENDMENT ACT, 1987

(e) in the packing or measuring off of any imported goods specified in Section B of Part 2 of Schedule No. 1, excisable goods, [or] sales duty goods or fuel levy goods, and, when used as a verb, has a corresponding meaning; and 'manufacturer' has a corresponding meaning;" 5

(h) by the substitution in the said subsection (1) for the definition of "officer" of the following definition: "officer" means a person employed on any duty relating to customs and excise and sales duty, [and] surcharge and fuel levy 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 15 duty;" and

(i) by the substitution for subsection (3) of the following subsection: "(3) For the purposes of the agreement concluded under section 51 with the governments of the Republic 20 of Botswana, the Kingdom of Lesotho and the Kingdom of Swaziland and published by Government Notice No. R. 3914 of 12 December 1969—

(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 of Schedule No. 1 on goods imported; 25

(b) 'excise duty' includes, except for the purposes of articles 13 and 14 of the said agreement, any duty leviable under Part 5 of Schedule No. 1 on goods manufactured in the common customs area." 30

(2) Paragraph (g) of subsection (1) shall be deemed to have come into operation— 35

(a) in respect of the insertion of the words "imported goods specified in Section B of Part 2 of Schedule No. 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. 40

Amendment of section 4 of Act 91 of 1964, as amended by section 2 of Act 105 of 1969, section 2 of Act 110 of 1979 and sections 3 and 15 of Act 98 of 1980.

2. Section 4 of the principal Act is hereby amended—

(a) by the substitution for paragraph (c) of subsection (3) of the following paragraph: 45

"(c) to the Commissioner for Inland Revenue or any officer in the Office of the Commissioner for Inland Revenue designated by that Commissioner, for the purposes of [the Sales Tax Act, 1978 (Act No. 103 of 1978)] any law with the administration 50 of which he is charged."; and

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

"(iv) examine and make extracts from and copies of any such book or document and may require from any 55 person an explanation of any entry therein and

Act No. 84, 1987

CUSTOMS AND EXCISE AMENDMENT ACT, 1987

may attach any such book, document or thing as in his opinion may afford evidence of **[an offence under]** any matter dealt with in this Act."

Amendment of section 9 of Act 91 of 1964, as amended by section 1 of Act 57 of 1966, section 4 of Act 105 of 1969, section 15 of Act 98 of 1980 and section 2 of Act 101 of 1985.

3. Section 9 of the principal Act is hereby amended by the substitution for paragraph (g) of subsection (3) of the following paragraph: 5

"(g) all non-duty-paid imported goods and all excisable goods, **[and]** sales duty goods and fuel levy goods shipped at a place in the Republic as ships' or aircraft stores; and" 10

Amendment of section 18 of Act 91 of 1964, as amended by section 2 of Act 95 of 1965, section 6 of Act 105 of 1969, section 4 of Act 71 of 1975, section 3 of Act 105 of 1976, section 3 of Act 112 of 1977 and section 15 of Act 98 of 1980.

4. (1) Section 18 of the principal Act is hereby amended—

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

"(a) the importer or owner of any imported goods landed in the Republic or the manufacturer, **[or]** 15 owner, seller or purchaser of any excisable goods, **[or]** sales duty 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 re- 20 move 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 **[sales duty]** such goods manufactured **[in the Republic]** or stored in a cus- 25 toms 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 30 and excise warehouse;"; and

(b) by the substitution for paragraphs (a) and (b) of subsection (3) of the following paragraphs, respectively:

"(a) in the case of goods removed to a place in the **[Republic]** common customs area, that such goods 35 have been duly entered at that place; or

(b) in the case of goods which were destined for a place beyond the borders of the **[Republic]** common customs area, that such goods have been duly taken out of **[the Republic]** that area." 40

(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.

Insertion of section 18A in Act 91 of 1964.

5. The following section is hereby inserted in the principal Act 45 after section 18 in Chapter III:

18A. (1) Notwithstanding any liability for duty in- 50
 "Exportation of goods from customs and excise warehouse. **currred** 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 55 when it is proved to the satisfaction of the Commis-

Act No. 84, 1987

CUSTOMS AND EXCISE AMENDMENT ACT, 1987

sioner by the exporter that the said goods have been duly taken out of the common customs area.

(3) If the exporter fails to submit any such proof as is referred to in subsection (2) within a period of 30 days from the date on which the goods concerned were entered for export, he shall upon demand by the Commissioner forthwith pay the duty due on those goods.

(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 goods shall be subject to the regulations and such conditions as 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 Commissioner may refuse to accept bills of entry for the said exportation of goods from an exporter who has persistently failed to comply with the said regulations or conditions or who has committed an offence referred to in section 80.

(7) The Commissioner may refuse the said exportation of goods in respect of which a provision of this Act has not been complied with or which are liable to forfeiture.

(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.”.

Amendment of section 20 of Act 91 of 1964, as amended by section 4 of Act 95 of 1965, section 8 of Act 105 of 1969, section 15 of Act 98 of 1980 and section 1 of Act 86 of 1982.

6. Section 20 of the principal Act is hereby amended—

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

“(b) warehousing in another customs and excise warehouse or removal in bond as provided in section 18;” and

(b) by the deletion of paragraph (c) of subsection (4).

Amendment of section 27 of Act 91 of 1964, as amended by section 1 of Act 57 of 1966, section 10 of Act 105 of 1969, section 4 of Act 112 of 1977 and section 15 of Act 98 of 1980.

7. Section 27 of the principal Act is hereby amended—

(a) by the substitution in subsection (1) for the words preceding the proviso of the following words:

“Subject to the provisions of this Act, goods liable to excise duty, [or] sales 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;” and

Act No. 84, 1987

CUSTOMS AND EXCISE AMENDMENT ACT, 1987

- (b) by the substitution for subsection (3) of the following subsection:

“(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] sales duty or fuel levy** shall be entered for home consumption and any duty due thereon shall be paid prior to such use.”

Amendment of section 37 of Act 91 of 1964, as amended by section 8 of Act 95 of 1965, section 12 of Act 105 of 1969 and sections 7 and 15 of Act 98 of 1980.

8. (1) Section 37 of the principal Act is hereby amended—

- (a) by the substitution in subsection (2) for the words preceding paragraph (a) of the following words:

“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 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—”;

- (b) by the addition to subsection (3) of the following proviso:

“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.”;

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

“(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, with one another or with other goods whether or not such products or goods are in a customs and excise storage warehouse or [which] have been entered for home consumption and have passed out of customs and excise control [but have not been delivered from the stocks of the importer or the manufacturer] for [the purposes of] any purpose, including that of rendering such goods saleable or more readily saleable or of fulfilling special orders.”;

- (d) by the deletion of subsection (5);

- (e) by the substitution for subsection (8) of the following subsection:

“(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, sales duty, surcharge or fuel levy at the rate applicable in terms of Schedule No. 1 on any sales duty goods, surcharge goods or fuel levy goods used or in-

Act No. 84, 1987

CUSTOMS AND EXCISE AMENDMENT ACT, 1987

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 sales duty, surcharge or fuel levy in terms of the aforementioned Schedule.”; and

(f) by the addition of the following subsection:

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

(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 15 the said subsection (8), on 1 July 1987.

Amendment of section 38 of Act 91 of 1964, as amended by section 1 of Act 57 of 1966, section 13 of Act 105 of 1969, section 5 of Act 71 of 1975, section 4 of Act 105 of 1976, section 15 of Act 98 of 1980 and section 2 of Act 89 of 1983.

9. Section 38 of the principal Act is hereby amended—

(a) by the substitution in subsection (1) (a) (v) for the words “one hundred rand” of the expression “R200”; and

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

“(a) The Minister may by regulation permit any excisable goods, sales duty goods or fuel levy goods and any class or kind of imported goods, which he may specify by regulation, 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 30 duty on such goods at a time and in a manner specified by regulation, 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 35 the time of removal of those goods from the customs and excise warehouse.”.

Amendment of section 39 of Act 91 of 1964, as amended by section 1 of Act 85 of 1968, section 14 of Act 105 of 1969, section 1 of Act 93 of 1978, section 4 of Act 110 of 1979 and sections 8 and 15 of Act 98 of 1980.

10. (1) Section 39 of the principal Act is hereby amended by the addition to paragraph (b) of subsection (1) of the following proviso: 40

“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.”;

(2) Subsection (1) shall be deemed to have come into operation on 1 January 1987.

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 and section 3 of Act 89 of 1983.

11. Section 40 of the principal Act is hereby amended—

(a) by the addition to paragraph (e) of subsection (1) of the following proviso: 50

“Provided that no bill of entry shall be invalid by reason of any deferment referred to in the proviso to section 39 (1) (b).”;

(b) by the substitution in paragraph (b) of subsection (3) for the word “three” of the word “six”. 55

Act No. 84, 1987

CUSTOMS AND EXCISE AMENDMENT ACT, 1987

Amendment of section 41 of Act 91 of 1964, as substituted by section 2 of Act 85 of 1968 and amended by section 15 of Act 105 of 1969, section 6 of Act 112 of 1977, section 3 of Act 93 of 1978, section 15 of Act 98 of 1980 and section 5 of Act 86 of 1982.

12. Section 41 of the principal Act is hereby amended by the substitution in subsection (1) for the words preceding the proviso of the following words:

“The exporter of any goods imported into or exported from the Republic or the owner of any excisable goods, **[or]** sales duty 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 regulations 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 purposes of this Act, require at any time:”.

Amendment of section 44 of Act 91 of 1964, as amended by section 10 of Act 95 of 1965, sections 1 and 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, section 15 of Act 98 of 1980, section 3 of Act 89 of 1984 and section 5 of Act 52 of 1986.

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

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

“(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 to the satisfaction of the Commissioner that such goods (excluding, save in so far as the regulations otherwise provide, goods which are missing from any individual package and in respect of which any customs duty, **[or]** sales duty, **[or]** surcharge or fuel levy, each taken separately, does not exceed twenty-five rand) were not landed at any place in the Republic.”;

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

“(2) Any excisable goods, **[or]** sales duty 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]** sales duty goods or fuel levy goods, and liability for duty shall commence at the said stage.”;

(c) by the substitution for subsection (7) of the following subsection:

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

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

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

(e) by the substitution for subsection (8A) of the following subsection:

“(8A) Notwithstanding anything to the contrary in this Act contained, any person who owns, purchases, removes, receives, takes, delivers or deals with or in

Act No. 84, 1987

CUSTOMS AND EXCISE AMENDMENT ACT, 1987

any imported goods or excisable goods or fuel levy 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.”

Insertion of section 44A in Act 91 of 1964.

14. The following section is hereby inserted in the principal Act after section 44:

“Joint and several liability for duty or certain amounts. 44A. 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 satisfies the Commissioner 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*.”

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 and section 6 of Act 52 of 1986.

15. (1) Section 47 of the principal Act is hereby amended—

(a) by the substitution in subsection (1) for the words preceding the proviso of the following words:

“Subject to the provisions of this Act, duty shall be paid for the benefit of the State Revenue Fund on all imported goods, all excisable goods, all sales duty goods, [and] all surcharge goods and all fuel levy goods in accordance with the provisions of Schedule No. 1 at the time of entry for home consumption of such goods;”

(b) by the substitution for subsection (5) of the following subsection:

“(5) Any export duty which may become payable in terms of section 48 (4) shall be paid for the benefit of the State Revenue Fund, at the time of entry for export, on such goods as may be specified in Part [5] 6 of Schedule No. 1 in terms of the provisions of the said section.”;

(c) by the substitution for subsection (7) of the following subsection:

“(7) Wherever the tariff heading or subheading under which any goods are classified in Part 1 of Schedule No. 1 is expressly quoted in any tariff item, [or] sales duty item, [or] surcharge item or fuel levy item or item of Part 2, 3, 4, 5 or 6 of the said Schedule or in any item in Schedule No. 2 in which such goods are specified, the goods so specified in the said tariff item, [or] sales duty item, [or] surcharge item, fuel levy item or item of the said Part 2, 3, 4, 5 or 6 or in the said item of Schedule No. 2 shall be deemed not to include goods which are not classified under the said tariff heading or subheading.”; and

(d) by the substitution in paragraph (a) of subsection (8) for the words preceding the proviso of the following words:

“The interpretation of Part 1 of Schedule No. 1

Act No. 84, 1987

CUSTOMS AND EXCISE AMENDMENT ACT, 1987

shall be subject to the **[Explanatory Notes to the Nomenclature]** 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.”. 5

(2) Paragraph (d) of subsection (1) shall come into operation on 1 January 1988.

Amendment of section 47A of Act 91 of 1964, as inserted by section 7 of Act 101 of 1985.

16. Section 47A of the principal Act is hereby amended—

(a) by the substitution for subsection (1) of the following subsection: 10

“(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 intended for home consumption unless such goods have been duly entered for home consumption.”; and 15

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

“(2) If an officer discovers any imported or excisable goods or fuel levy goods which are alleged to have been duly entered, in terms of any agreement, for home consumption in any territory with the government of which the Republic has concluded such an agreement in terms of section 51, and he has reasonable cause to believe that such goods have not been so entered, he may detain such goods, and such goods shall thereupon be presumed, unless the contrary is proved, not to have been so entered and shall be subject to the provisions of this Act as if they were goods which have, contrary to the provisions of subsection (1), not been duly entered for home consumption in the Republic.”. 30

Insertion of section 47B in Act 91 of 1964.

17. The following section is hereby inserted in the principal Act after section 47A:

“Disposal of amounts of fuel levies. 47B. The Commissioner shall, notwithstanding the provisions of section 47 (1), dispose of such part of the amount of any fuel levy paid in terms of that section as may be determined jointly by the Minister and any other Minister who may lay claim thereto by virtue of the provisions of any other law.”. 35

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 and section 9 of Act 86 of 1982.

18. Section 48 of the principal Act is hereby amended—

(a) by the substitution in subsection (2) for the words preceding the proviso of the following words: 40

“The Minister may from time to time by like notice amend or withdraw or, if so withdrawn, insert Part 2, Part 3, **[or]** Part 4 or Part 5 of Schedule No. 1, whenever he deems it expedient in the public interest to do so.”; 45

(b) by the insertion after subsection (2) of the following subsection:

“(2A) (a) 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, Part 3 or Part 4 of Schedule No. 1. 50

(b) Any application for such withdrawal, with retrospective effect, shall be submitted to the said Di- 55

Act No. 84, 1987

CUSTOMS AND EXCISE AMENDMENT ACT, 1987

rector-General or Commissioner, as the case may be, not later than six months after the duty concerned was paid.”; and

(c) by the substitution for subsection (4) of the following subsection: 5

“(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 No. 1 as Part [5] 6 thereof and to constitute an amendment of Schedule No. 1.”. 15

Insertion of section 48A in Act 91 of 1964.

19. The following section is hereby inserted in the principal Act after section 48:

“Minister may amend Schedules under certain circumstances.

48A. (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 Industries, 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

(2) The provisions of section 48 (6) and (7) shall *mutatis mutandis* apply in respect of any amendment made under the provisions of subsection (1) of this section.”. 30

Amendment of section 53 of Act 91 of 1964, as amended by section 19 of Act 105 of 1969, section 12 of Act 112 of 1979 and section 37 of Act 97 of 1986.

20. Section 53 of the principal Act is hereby amended by the substitution for subsection (2) of the following subsection: 35

“(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 No. 1 as Part [6] 7 thereof and to constitute an amendment of Schedule No. 1.”. 40

Amendment of section 58 of Act 91 of 1964, as amended by section 19 of Act 33 of 1974, section 1 of Act 64 of 1974 and section 10 of Act 86 of 1982.

21. Section 58 of the principal Act is hereby amended by the addition to subsection (1) of the following proviso:

“Provided that—

- (a) the duty imposed by the Taxation Proposals (P3—87) so tabled in Parliament on 22 June 1987, shall be deemed to be payable with effect from 1 July 1987; and 45
- (b) in the said Taxation Proposals any reference in paragraph (d) of item (1) under the heading “Rate of Fuel Levy” to “22,5c per litre”, wherever it occurs, and to “22,7c per litre”, shall be construed as a reference to “23,5c per litre” and “24,7c per litre”, respectively.”. 50

Amendment of section 61 of Act 91 of 1964, as amended by section 1 of Act 57 of 1966 and section 15 of Act 98 of 1980.

22. Section 61 of the principal Act is hereby amended by the substitution for subsection (4) of the following subsection:

“(4) (a) Not more than one licence shall be issued in respect of any customs and excise warehouse: Provided 55 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

Act No. 84, 1987

CUSTOMS AND EXCISE AMENDMENT ACT, 1987

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.”

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 and section 9 of Act 52 of 1986.

23. Section 75 of the principal Act is hereby amended—

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

“(c) a drawback or a refund of the ordinary customs duty, anti-dumping duty, countervailing duty, [and] surcharge and fuel levy actually paid on entry for home consumption on any imported goods described in Schedule No. 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;”

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

“(d) in respect of any excisable goods or fuel levy goods described in Schedule a rebate of the excise duty specified in Part 2 of Schedule No. 1 or of the fuel levy specified in Part 5 of Schedule No. 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 No. 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 No. 6;”

- (c) by the addition to subsection (1) of the following paragraphs:

“(f) (i) a refund of the ordinary customs duty, anti-dumping duty, countervailing 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 No. 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 No. 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 No. 5 or 6 or to any person indicated in the notes to the

Act No. 84, 1987

CUSTOMS AND EXCISE AMENDMENT ACT, 1987

- said Schedule No. 5 or 6: Provided that no such refund shall be paid to any government, department, administration or any body, institution or authority mentioned in item 401.00 of Schedule No. 4 and item 601.00 of Schedule No. 6, including any university, college, school or other educational institution or any regional or local authority, except as provided in the notes to the said Schedule No. 5 or 6; 5
- (ii) notwithstanding the provisions of subparagraph (i), the Commissioner may in his discretion 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; 10 15
- (iii) any such distillate fuel purchased shall be deemed to have been used in the order of the dates of such purchases; 20
- (iv) the extent of the refund referred to in subparagraph (i) shall be the rate of such refund of duty or fuel levy specified in such item of Schedule No. 5 or 6 at the last date of any period for which such refund in respect of such use is claimed; 25
- (g) any refund referred to in paragraph (f) (i) may be granted and paid to any person entitled to that refund in terms of this Act, by any official of any administration to which the moneys concerned have been rendered available by the Commissioner.; 30
- (d) by the substitution for subsection (4A) of the following subsection:
- “(4A) (a) No person shall be entitled to a refund of 35
 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 No. 5 or item 609.05.10 or 640.03 of Schedule No. 6 unless he is registered as a user of such fuel with the Commissioner. 40
- (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 by regulation. 45
- (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 by regulation. 50
- (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 by regulation. 55
- (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 by regulation to be 60

Act No. 84, 1987

CUSTOMS AND EXCISE AMENDMENT ACT, 1987

- 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 No. 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 in his discretion 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.
- (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 by regulation, or claims or receives any refund or payment to which he is not entitled in terms of the said items of Schedule No. 5 or 6.”;
- (e) by the insertion of the following subsection after subsection (7):
- “(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 No. 5 or item 609.05.10 or 640.03 of Schedule No. 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 as the Commissioner may in his discretion determine, during such period of two years as the Commissioner may determine, failing which such amount or such portion shall be recoverable in terms of this Act as if it were the duty or levy concerned.”;
- (f) by the addition to subsection (10) of the following proviso:
- “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.”;
- (g) by the addition to subsection (10) of the following paragraphs, the existing subsection becoming paragraph (a) thereof:
- “(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.
- (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 in-

Act No. 84, 1987

CUSTOMS AND EXCISE AMENDMENT ACT, 1987

- tended 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.”;
- (h) by the substitution for subsection (11) of the following subsection:
- “(11) Notwithstanding anything to the contrary in this Act contained, the Commissioner may, in respect of Schedule No. 5, 6 or 7, for the purpose of calculating the amount of duty refundable on any imported or excisable goods, [or] sales duty 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] sales duty goods or fuel levy goods or the quantity of such imported or excisable goods, [or] sales duty 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.”;
- (i) by the substitution for paragraph (b) of subsection (14) of the following paragraph:
- “(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 by regulation; and
- (ii) in all other cases, within a period of six months from the date on which such refund first becomes due.”;
- (j) by the substitution for subsection (14A) of the following subsection:
- “(14A) (a) The Minister of [Industries, Commerce and Tourism] Economic Affairs and Technology or any officer in his Department designated by him may at any time after a permit by virtue of which [imported] goods may, in terms of any item of Schedule No. 3, 4 or 6, be entered under rebate of duty has, on the recommendation of the Board of Trade and Industries, been refused by him or the Director-General: [Industries and Commerce] Trade and Industry but not later than two years after duty was paid on those goods, issue, on the recommendation of the Board of Trade and Industries and with the concurrence of the Minister, a permit authorizing entry of those goods under rebate of duty in accordance with the provisions of

Act No. 84, 1987

CUSTOMS AND EXCISE AMENDMENT ACT, 1987

the item concerned, if, with due regard to any facts which became known after such a permit has been refused, he is satisfied that he or the said Director-General would have issued such a permit if those facts were then known. 5

(b) For the purposes of section 40 (3)—

(i) any bill of entry passed in relation to **[imported]** goods in respect of which a permit is issued under paragraph (a), shall be deemed to have been passed in error by reason of duty 10 having been paid on goods intended for purposes or use under rebate of duty under this section [75];

(ii) the goods in respect of which such a permit is issued, shall be deemed to have qualified at 15 the time duty was paid on such goods, in all respects for rebate; and

(iii) the duty paid on the **[imported]** goods concerned, shall be deemed to have been paid on the date on which the permit referred to in 20 paragraph (a) was issued.”;

(k) by the insertion after subsection (14A) of the following subsection:

“(14B) (a) Subject to the provisions of subsection

(14A), any Minister, other than the Minister of Finance, any Director-General mentioned in the second column of Schedule 1 to the Public Service Act, 1984 (Act No. 111 of 1984), and designated by such Minister, or any official of any institution involved, or the Commissioner, may, in respect of 25 goods which may, in terms of any item of Schedule No. 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 30 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 the 35 Commissioner is satisfied in respect of the goods concerned, where the permit or certificate concerned is issued with retrospective effect, that the provisions of such item and such conditions have been complied with. 40 45

(b) The provisions of subsection (14A) (b) shall apply *mutatis mutandis* in respect of any permit or certificate referred to in paragraph (a) of this subsection.

(c) Application for such permit or certificate shall be 50 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 re- 55 quire.”;

(l) by the substitution for paragraph (aA) of subsection (15) of the following paragraph:

“(aA) The Minister may, whenever he deems it expedient in the public interest to do so— 60

(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 65 under paragraph (a) to apply with retrospec-

- ...
tive effect from such date as he may specify in that notice.”;
- (m) by the substitution for paragraph (b) of subsection (15) of the following paragraph:
- “(b) An amendment made under paragraph (a) which repeals any existing provision in Schedule No. 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 No. 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.”;
- (n) by the substitution for subsection (16) of the following subsection:
- “(16) The provisions of subsections ~~[(5)]~~ (6) and (7) of section 48 shall *mutatis mutandis* apply in respect of any amendment made under the provisions of subsection (15).”;
- (o) by the substitution for paragraph (d) of subsection (18) of the following paragraph:
- “(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 [per cent] of any quantity entered for storage and stored in [any] 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;”;
- (p) by the addition to subsection (18) of the following paragraph:
- “(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.”.

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 and section 5 of Act 89 of 1983.

24. (1) Section 76 of the principal Act is hereby amended— 50

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

“(1) No refund of any duty or other charge in respect of imported goods, ~~[or] excisable goods, [or] sales duty goods, surcharge goods or fuel levy goods~~, other than a 55 refund provided for under section 75 or 77, shall be paid or granted except in accordance with the provisions of this section and the regulations.”;

- (b) by the deletion of the word “or” at the end of paragraph (e) of subsection (2); and 60

Act No. 84, 1987

CUSTOMS AND EXCISE AMENDMENT ACT, 1987

(c) by the addition to paragraph (f) of the said subsection (2) of the word "or", and the addition to that subsection of the following paragraph:

"(g) the duty having been reduced or withdrawn as provided for in section 48 (2) or (2A)."

(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.

Insertion of section 76A in Act 91 of 1964.

25. The following section is hereby inserted in the principal Act after section 76:

76A. 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."

Amendment of section 77 of Act 91 of 1964, as substituted by section 26 of Act 105 of 1969 and amended by section 3 of Act 68 of 1973, section 15 of Act 98 of 1980 and section 21 of Act 86 of 1982.

26. (1) Section 77 of the principal Act is hereby amended—

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

"(a) Any amount due to a licensee of a customs and excise warehouse who, in terms of the regulations, is permitted to pay excise duty, [or] sales duty or fuel levy monthly or quarterly, in respect of such duty paid by him for which he was not liable or which is refundable to him in terms of item 534.00 of Schedule No. 5 or any item of Schedule No. 6 or 7 may, at any time within a period of two years from the date on which such amount first becomes due, be set off against any amount for which such licensee subsequently becomes liable in respect of excise duty, [or] sales duty or fuel levy, provided the accounts or bills of entry submitted by such licensee in respect of the payment of any amount against which any amount so due to him has been set off are accompanied by a full statement by such licensee, supported by a certificate by an officer, giving full particulars of the excise duty, [or] sales duty or fuel levy so paid and a full account of the circumstances under which the payment thereof took place and by such documentary evidence as the Commissioner may in each case require."

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

"(2) With the permission of the Commissioner and subject to such conditions as he may impose, any amount of sales duty or excise duty specified in Section B of Part 2 of Schedule No. 1 paid by the licensee of a special customs and excise warehouse licensed in terms

Act No. 84, 1987

CUSTOMS AND EXCISE AMENDMENT ACT, 1987

of this Act in respect of sales duty goods or excisable goods specified in Section B of Part 2 of Schedule No. 1 sold by him to any person whose premises are not so licensed and who has exported such goods or supplied them to any other person entitled to acquire such goods under rebate of sales duty or excise duty specified in Section B of Part 2 of Schedule No. 1, may be set off against any amount for which such licensee subsequently becomes liable in respect of sales duty or excise duty specified in Section B of Part 2 of Schedule No. 1, provided proof to the satisfaction of the Commissioner of such export or supply under rebate of duty and the identity of the sales duty goods or excisable goods specified in Section B of Part 2 of Schedule No. 1 so exported or supplied is submitted by such licensee, together with such documentary proof as the Commissioner may in each case require regarding the sale of such goods by such licensee.”

- (2) (a) Paragraph (a) of subsection (1) of this section shall be deemed to have come into operation on 1 July 1987. 20
 (b) Paragraph (b) of subsection (1) of this section shall be deemed to have come into operation on 3 July 1978.

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, section 7 of Act 89 of 1984 and section 12 of Act 52 of 1986.

27. Section 80 of the principal Act is hereby amended—

- (a) by the substitution for paragraph (b) of subsection (1) of the following paragraph: 25

“(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] sales duty goods or fuel levy goods or excisable goods, [or] sales duty goods or fuel levy goods upon which duty has not been paid;”;

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

“(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;”;

- (c) by the substitution for paragraph (o) of subsection (1) of the following paragraph: 40

“(o) contravenes the provisions of section 18 (13), 18A (9), 20 (4)bis, 35A (4), 37 (9), 60 (1), 63 (1), [or] 75 (7A), 75 (19) or 114 (2A); or”;

- (d) by the addition of the following subsection:

“(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.”. 45

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 and section 15 of Act 98 of 1980.

28. Section 88 of the principal Act is hereby amended by the substitution for paragraph (a) of subsection (2) of the following paragraph: 50

- “(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 55

Act No. 84, 1987

CUSTOMS AND EXCISE AMENDMENT ACT, 1987

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. 5

- (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.” 10

Amendment of section 91 of Act 91 of 1964, as amended by section 14 of Act 85 of 1968, section 12 of Act 105 of 1976 and section 15 of Act 98 of 1980.

29. Section 91 of the principal Act is hereby amended by the substitution in subsection (2) for the words “five hundred rand” 15 of the expression “R1 000”.

Amendment of section 102 of Act 91 of 1964, as amended by section 16 of Act 95 of 1965, section 12 of Act 57 of 1966, section 19 of Act 85 of 1968, section 29 of Act 105 of 1969, section 35 of Act 112 of 1977, section 15 of Act 98 of 1980 and section 12 of Act 101 of 1985.

30. Section 102 of the principal Act is hereby amended—

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

“(1) Any person selling, offering for sale or dealing 20 in imported or excisable goods, [or] sales duty 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 25 (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 30 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.”; and

- (b) by the substitution for subsection (4) of the following 35 subsection:

“(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 40 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 regulation to be completed and kept, exist or have been duly completed and 45 [signed] 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, 50 documents, forms or invoices do not exist or have not been duly completed and [signed] kept or have not been so furnished, as the case may be, unless the contrary is proved.”.

Act No. 84, 1987

CUSTOMS AND EXCISE AMENDMENT ACT, 1987

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 and section 7 of Act 89 of 1983.

31. Section 113 of the principal Act is hereby amended by the addition to subsection (8) of the following paragraphs, the existing subsection becoming paragraph (a) thereof:

- “(b) Any goods so liable to forfeiture or which he has reasonable cause to believe are so liable to forfeiture, may be detained by any officer, magistrate or member of the police force. 5
- (c) Any goods so detained may be released by the Commissioner to the department of State or person concerned.” 10

Amendment of section 114 of Act 91 of 1964, as amended by section 33 of Act 105 of 1969, section 12 of Act 71 of 1975, section 36 of Act 112 of 1977, section 15 of Act 98 of 1980 and section 13 of Act 101 of 1985.

32. (1) Section 114 of the principal Act is hereby amended by the substitution for paragraphs (a) and (aA) of subsection (1) of the following paragraphs, respectively:

- “(a) (i) The correct amount of duty [payable] 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; 15
- 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 Office (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 or sales 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 [dutiable] 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. 20 25 30 35 40

(aA) Any plant and stills for the manufacture of any goods in respect of which an excise or sales 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.” 45 50 55

(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

Act No. 84, 1987

CUSTOMS AND EXCISE AMENDMENT ACT, 1987

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.

Repeal of section 116A of Act 91 of 1964, as inserted by section 34 of Act 105 of 1969 and amended by section 15 of Act 98 of 1980.

33. Section 116A of the principal Act is hereby repealed.

Amendment of section 117 of Act 91 of 1964, as substituted by section 35 of Act 105 of 1969 and amended by section 15 of Act 98 of 1980 and section 20 of Act 52 of 1986.

34. Section 117 of the principal Act is hereby amended— 10

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

"(1) Such statistics of the import and export trade of the Republic and of excisable goods manufactured in the Republic and of sales duty goods and of fuel levy 15 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."

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

"(b) manufacturing any excisable goods or fuel levy 25 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 25 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."; 30 and

- (c) by the addition of the following subsection:

"(3) For the purposes of paragraph (b) of subsection 35 (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."

Amendment of section 120 of Act 91 of 1964, as amended by section 36 of Act 105 of 1969 and section 15 of Act 98 of 1980.

35. Section 120 of the principal Act is hereby amended by the substitution for paragraph (h) of subsection (1) of the following paragraph: 40

"(h) as to the collection of excise duties and sales duties and 40 fuel levy, the time, manner and terms of payment and the calculation thereof;"

Commencement of certain sections.

36. 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. 45

Commencement of certain Government Notices.

37. (1) Government Notice No. R. 2606 of 22 November 1985 shall be deemed to have come into operation on 1 April 1985. 50

(2) Government Notice No. R. 1385 of 4 July 1986 shall be deemed to have come into operation on 13 July 1984.

(3) The insertion, by Government Notice No. R. 2209 of 24 October 1986, of item 460.07/39.01 (1) in Note 7 (a) to Part 4 of

Act No. 84, 1987

CUSTOMS AND EXCISE AMENDMENT ACT, 1987

Schedule No. 1 to the principal Act, shall be deemed to have come into operation on 27 June 1986.

(4) Government Notice No. R. 2210 of 24 October 1986, in so far as it relates to tariff heading No. 39.01 (2) in item 460.07 of Schedule No. 4 to the principal Act, shall be deemed to have come into operation on 27 June 1986.

Application of section 40 of Act 91 of 1964 in relation to certain goods.

38. 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 No. 87.01) of Schedule No. 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; 15
- (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; 20
- (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 No. 39.01) of Schedule No. 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; 30
- (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 35
- (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 40 in respect of which a permit has been issued in terms of the provisions of item 460.16 (in relation to tariff heading No. 85.15) 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; 45
- (ii) those monitors shall be deemed to have qualified at the time duty was paid thereon in all respects for rebate; and 50
- (iii) the duty paid on the monitors concerned shall be deemed to have been paid on the date of commencement of this Act.

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

39. Every amendment of Schedules Nos. 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.

Amendment of Schedules Nos. 1, 5 and 6 to Act 91 of 1964.

40. (1) Government Notices Nos. R.1443 and R.1444 of 1 July 1987 and Government Notices Nos. R.1807, R.1808 and R.1809 of 21 August 1987 are hereby withdrawn and Schedules Nos. 5 and 6 to the principal Act shall be construed as if the amendments made by the said notices had not been effected.

Act No. 84, 1987

CUSTOMS AND EXCISE AMENDMENT ACT, 1987

(2) Schedule No. 1, and Schedules Nos. 5 and 6 as so construed, are hereby amended to the extent set out in Schedules Nos. 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 No. 1 to the principal Act, as inserted by Schedule No. 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 Nos. 5 and 6 to the principal Act, as inserted by Schedules Nos. 2 and 3 to this Act, respectively, shall be deemed to have come into operation with effect from 1 July 1987.

Substitution of long title of Act 91 of 1964, as substituted by section 40 of Act 112 of 1977.

41. The following long title is hereby substituted for the long title of the principal Act:

"ACT

To provide for the levying of customs, excise and sales 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."

Removal of fuel levy goods to and from the Republic.

42. (1) Notwithstanding anything to the contrary in the principal Act contained, any fuel levy goods, as defined in that Act, which are removed to the territory of a party to any customs union agreement concluded in terms of section 51 of the principal Act, or brought into the Republic from any such territory, shall, if a fuel levy as so defined 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 that Act relating to the exportation from and importation of goods into the Republic shall, subject to such arrangements as the Commissioner for Customs and Excise in his discretion may determine, apply to those goods until such time as that fuel levy is imposed and collected by that party as provided in this Act.

(2) Subsection (1) shall be deemed to have come into operation on 1 July 1987.

Substitution or amendment of Schedules to provide for application of International Convention on the Harmonized Commodity Description and Coding System.

43. 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.

Commencement of section 6 of Act 52 of 1986.

44. Section 6 of the Customs and Excise Amendment Act, 1986 (Act No. 52 of 1986), shall be deemed to have come into operation on 18 July 1979.

Short title.

45. This Act shall be called the Customs and Excise Amendment Act, 1987.

Act No. 84, 1987

CUSTOMS AND EXCISE AMENDMENT ACT, 1987

Schedule No. 1

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

By the deletion in Part 2 of subitem 104.20.27.
By the insertion after Part 4 of the following:

"PART 5
FUEL LEVY"

Notes:

1. Any rate of fuel levy specified in this Part in respect of any goods shall apply to any such goods which are manufactured in the Republic or imported into the Republic.
2. Any fuel levy payable in terms of this Part in respect of any goods specified therein shall be additional to any customs or excise duty payable in terms of Part 1 or 2 in respect of goods of the same class or kind.
3. Imported goods shall not be declared on separate bills of entry for the purpose of Parts 1, 2, 3, 4 and 5 of this Schedule.
4. Wherever the tariff heading or subheading under which any goods are classified in Part 1 of this Schedule is expressly quoted in any fuel levy item of this Part in which such goods are specified, the goods so specified in such fuel levy item shall be deemed not to include goods which are not classified under the said tariff heading or subheading.
5. Appropriation for own use for any purpose by the manufacturer or owner of any goods specified in this Part shall render such goods liable to entry for home consumption and payment of any fuel levy due.
6. Any rate of fuel levy specified in this Part in respect of any goods shall apply with effect from 1 July 1987 to any such goods which have not been delivered from the stocks of the suppliers mentioned in regulation 410.04.04 (1) (a).

I Fuel Levy Item	II Tariff Heading and Description	III Rate of Fuel Levy
195.00	MINERAL PRODUCTS	
195.10	27.10 <i>Petroleum oils and oils obtained from bituminous minerals:</i>	
.05	Petrol manufactured from coal	23,5c per litre
.10	Other petrol	23,5c per litre
.15	Distillate fuels (for example, gas oil and diesel oil)	24,7c per litre"

Schedule No. 2

AMENDMENTS TO SCHEDULE NO. 5 TO THE CUSTOMS AND EXCISE ACT, 1964

I Item	II Tariff Heading and Description	III Extent of Refund
Schedule No. 5	<p>By the substitution for the title of Schedule No. 5 of the following:</p> <p style="text-align: center;">"SPECIFIC DRAWBACKS AND REFUNDS OF CUSTOMS DUTIES AND FUEL LEVY"</p> <p>By the substitution for Note 6 of the following:</p> <p>"6. Whenever the tariff heading or subheading under which any goods are classified in Part 1 of Schedule No. 1 or the fuel levy item under which any goods are classified in Part 5 of Schedule No. 1 is quoted in any item in this Schedule in which such goods are specified, the goods so specified in such item in this Schedule shall be deemed not to include goods which are not classified under the said tariff heading or subheading or fuel levy item."</p> <p>By the insertion after Note 10 of the following:</p> <p>"11. A refund of fuel levy paid under Part 5 of Schedule No. 1 in respect of any goods specified in Column II of Part 4 of this Schedule shall, subject to the provisions of section 75 and the regulations, be allowed to the extent stated in Column III of that Part, in respect of such goods on compliance with the provisions of the item in this Part in which such goods are specified and of any notes applicable in respect of such item.</p>	

Act No. 84, 1987

CUSTOMS AND EXCISE AMENDMENT ACT, 1987

I Item	II Tariff Heading and Description	III Extent of Refund
	<p>12. Any particulars in Column III in Part 4 in respect of any goods relate to the fuel levy specified in Part 5 of Schedule No. 1.</p> <p>13. A refund of the customs duty specified in item 533.00 or the fuel levy specified in item 540.00 shall be paid only to the person who purchased and used the goods in question for the purpose specified in such item, unless the Commissioner authorizes payment of such refund to any other person on compliance with such conditions as he may impose in each case."</p> <p>533.00 By the substitution for item 533.00 of the following:</p> <p>"533.00 DISTILLATE FUELS USED FOR SPECIFIC PURPOSES:</p> <p><i>Notes:</i></p> <p>In this item—</p> <p>(a) "road" means any terrain over which a vehicle can be driven whether or not it is private property, and "road transport" has a corresponding meaning;</p> <p>(b) "agriculture" means the science, art and function of soil cultivation, including the reaping of harvests, the rearing of and caring for animals, fish and reptiles and the keeping of bees, for the production of agricultural products, the drilling for water and the building of dams and roads and hired services performing such functions at a place where agriculture is conducted;</p> <p>(c) "agricultural products" means animals, fish and reptiles and their products, plants and vegetable products in their natural state or the processed produce of agriculture, and includes eggs, milk, cream, meat, honey, grain, vegetables, fresh fruit, dried fruit, wine, flowers, nursery products, wool and hides, whether or not packed for marketing;</p> <p>(d) "agricultural requirements" means goods that are essential for agriculture and includes goods for the cultivation of the soil, growing of crops, reaping of harvests, rearing of and caring for animals, fish and reptiles and the building of dwellings and structures for agricultural purposes;</p> <p>(e) "transport in agriculture" means the transport of labour to and from the place where agriculture is conducted, agricultural products on and from such place to the premises of the buyer or other place from where the goods are marketed or where the goods will be processed by a person other than the person carrying on agriculture, whichever destination comes first, and the transport of agricultural requirements on such place and from the supplier's loading point to such place. For the purpose of this definition a vehicle shall be regarded as being used for transport in agriculture when either on the forward or return journey it conveys mainly agricultural products or requirements and includes hired services performed on behalf of the person carrying on agriculture;</p> <p>(f) "forestry" means the science, art and function of planting and the maintenance of plantations, including the growing of seed, seedlings and saplings, the cultivation of the soil, the protection of plantations against fire and the felling of trees by the person carrying on forestry and the building and maintenance of roads in the plantation;</p> <p>(g) "transport in forestry" means transport of primary forestry products, for example, seed, seedlings and saplings, bark and felled trees in the plantation, from the plantation to the saw-mill or to any other point of discharge; transport of forestry requirements, for example, sprays, implements, seed, seedlings and saplings, in the plantation and from the supplier's point of loading to the plantation and the transport of employees for activities in forestry. For the purpose of this definition a vehicle shall be regarded as being used for transport in forestry when either on the forward or return journey it conveys mainly forestry products or requirements and includes hired services performed on behalf of the person carrying on forestry.</p>	

Act No. 84, 1987

CUSTOMS AND EXCISE AMENDMENT ACT, 1987

I Item	II Tariff Heading and Description	III Extent of Refund
533.01	27.10 Distillate fuels: <ol style="list-style-type: none"> <li data-bbox="539 398 1126 472">(1) Used as engine fuel in ships and boats (excluding whalers, trawlers and other ocean-going fishing vessels, excursion boats and yachts and other vessels for pleasure or sports) <li data-bbox="539 488 1126 600">(2) Used as fuel for the production of agricultural products (excluding such fuel used for road transport in agriculture or in passenger vehicles such as motor cars, station wagons and minibuses) or as engine fuel in whalers, trawlers and other ocean-going fishing vessels <li data-bbox="539 616 1126 689">(3) Used as fuel for road transport in agriculture (excluding such fuel used in passenger vehicles such as motor cars, station wagons and minibuses) <li data-bbox="539 705 1126 779">(4) Used as fuel in forestry (excluding such fuel for use for road transport in forestry or in passenger vehicles such as motor cars, station wagons and minibuses) <li data-bbox="539 795 1126 869">(5) Used as fuel for road transport in forestry (excluding such fuel used in passenger vehicles such as motor cars, station wagons and minibuses) <li data-bbox="539 884 1126 958">(6) Used as fuel in heaters and heating apparatus, furnaces, ovens and boilers (ex Chapter 73, 74, 76 or 84) <li data-bbox="539 974 1126 1048">(7) Used as fuel in stationary turbines and stationary compression ignition engines (excluding those mounted on self-propelled vehicles) (ex tariff heading No. 84.06 or 84.08) <li data-bbox="539 1064 1126 1176">(8) Used as fuel in other compression ignition engines for the driving of or incorporated in machinery and implements of Chapters 84 and 85, for example, generators, compressors, loaders, pumps, machinery and mechanical appliances for public works, roadbuilding and earthmoving and self-propelled cranes <li data-bbox="539 1191 1126 1216">(9) Used as fuel in locomotives (tariff heading No. 86.03) <li data-bbox="539 1232 1126 1321">(10) Used as fuel in dumper vehicles of which, according to the manufacturer's specifications, each wheel massload is 4 500 kg or more or of which the total massload on each rear axle exceeds 20 000 kg (tariff heading No. 87.02) <li data-bbox="539 1337 1126 1426">(11) Used as fuel in vehicles for use in underground mines (tariff heading No. 87.02) or in mobile drilling derricks (tariff heading No. 87.03) <li data-bbox="539 1442 1126 1516">(12) Used as fuel in works trucks, for example, fork-lift trucks, crane trucks, platform trucks, straddle carriers and other elevating or stacking trucks (tariff heading No. 87.07) 	3,817c per litre 3,634c per litre 3,634c per litre 3,634c per litre 3,634c per litre 3,634c per litre 3,634c per litre 3,634c per litre 3,634c per litre 3,634c per litre 3,634c per litre 3,634c per litre

By the insertion after Part 3 of Schedule No. 5 of the following:

**"PART 4
REFUNDS OF FUEL LEVY**

I Item	II Fuel Levy Item and Description	III Extent of Refund
540.00	PETROL AND DISTILLATE FUELS USED FOR SPECIFIC PURPOSES: <i>Notes:</i> In this item "road", "agriculture", "agricultural products", "agricultural requirements", "transport in agriculture", "forestry" and "transport in forestry" shall have the meanings assigned thereto in the Notes to item 533.00.	
540.01	195.10.05 Petrol and distillate fuel used by the State President, diplomatic and other foreign representatives mentioned in item 195.10.10 195.10.15 406.01, 406.02, 406.03, 406.05 or 406.07 of Schedule No. 4, subject to the requirements of those items and of the notes (except Note 1) applicable thereto: (1) Petrol (2) Distillate fuels	8,9c per litre 9c per litre

Act No. 84, 1987

CUSTOMS AND EXCISE AMENDMENT ACT, 1987

I Item	II Fuel Levy Item and Description	III Extent of Refund
540.02	195.10.15 Distillate fuels: <ol style="list-style-type: none"> <li data-bbox="555 398 1129 472">(1) Used as engine fuel in ships and boats (excluding whalers, trawlers and other ocean-going fishing vessels, excursion boats and yachts and other vessels for pleasure or sports) <li data-bbox="555 488 1129 600">(2) Used as fuel for the production of agricultural products (excluding such fuel used for road transport in agriculture or in passenger vehicles such as motor cars, station wagons and minibuses) or as engine fuel in whalers, trawlers and other ocean-going fishing vessels <li data-bbox="555 616 1129 689">(3) Used as fuel for road transport in agriculture (excluding such fuel used in passenger vehicles such as motor cars, station wagons and minibuses) <li data-bbox="555 705 1129 779">(4) Used as fuel in forestry (excluding such fuel for use for road transport in forestry or in passenger vehicles such as motor cars, station wagons and minibuses) <li data-bbox="555 795 1129 869">(5) Used as fuel for road transport in forestry (excluding such fuel used in passenger vehicles such as motor cars, station wagons and minibuses) <li data-bbox="555 884 1129 958">(6) Used as fuel in heaters and heating apparatus, furnaces, ovens and boilers (ex Chapter 73, 74, 76 or 84) <li data-bbox="555 974 1129 1048">(7) Used as fuel in stationary turbines and stationary compression ignition engines (excluding those mounted on self-propelled vehicles) (ex tariff heading No. 84.06 or 84.08) <li data-bbox="555 1064 1129 1176">(8) Used as fuel in other compression ignition engines for the driving of or incorporated in machinery and implements of Chapters 84 and 85, for example, generators, compressors, loaders, pumps, machinery and mechanical appliances for public works, roadbuilding and earthmoving and self-propelled cranes <li data-bbox="555 1191 1129 1227">(9) Used as fuel in locomotives (tariff heading No. 86.03) <li data-bbox="555 1243 1129 1339">(10) Used as fuel in dumper vehicles of which, according to the manufacturer's specifications, each wheel massload is 4 500 kg or more or of which the total massload on each rear axle exceeds 20 000 kg (tariff heading No. 87.02) <li data-bbox="555 1355 1129 1429">(11) Used as fuel in vehicles for use in underground mines (tariff heading No. 87.02) or in mobile drilling derricks (tariff heading No. 87.03) <li data-bbox="555 1444 1129 1491">(12) Used as fuel in works trucks, for example, fork-lift trucks, crane trucks, platform trucks, straddle carriers and other elevating or stacking trucks (tariff heading No. 87.07) 	11,7c per litre 20,5c per litre 10,5c per litre 20,5c per litre 10,5c per litre 11,7c per litre 11,7c per litre 11,7c per litre 11,7c per litre 11,7c per litre 11,7c per litre 11,7c per litre 11,7c per litre

Schedule No. 3

AMENDMENTS TO SCHEDULE NO. 6 TO THE CUSTOMS AND EXCISE ACT, 1964

I Item	II Tariff Item and Description	III Extent of Rebate	IV Extent of Refund
Schedule No. 6	By the substitution for the title of Schedule No. 6 of the following: "REBATES AND REFUNDS OF SPECIFIC EXCISE DUTIES AND FUEL LEVY" By the substitution for the title of Part 1 of the following: "REBATES AND REFUNDS OF SPECIFIC EXCISE DUTIES AND FUEL LEVY"		

Act No. 84, 1987

CUSTOMS AND EXCISE AMENDMENT ACT, 1987

I Item	II Tariff Item and Description	III Extent of Rebate	IV Extent of Refund
	By the insertion after Note 7 to Part 1 of the following "8. A refund of the excise duty in terms of item 609.05.10 shall be paid only to the person who purchased and used the goods in question for the purpose specified in such item, unless the Commissioner authorizes payment of such refund to any other person on compliance with such conditions as he may impose in each case. 9. A rebate of fuel levy specified in Part 5 of Schedule No. 1 shall, subject to the provisions of section 75, and the regulations, be allowed to the extent stated in Column III of item 603.02, on compliance with the provisions of the item and any notes applicable thereto."		
601.01	By the deletion of items 601.01.10, 601.01.30 and 601.01.40		
601.02	By the deletion of items 601.02.10, 601.02.30 and 601.02.40		
603.02	By the insertion after item 603.01 of the following: "603.02 FUEL LEVY GOODS EXPORTED (INCLUDING SUPPLY AS STORES FOR FOREIGN-GOING SHIPS AND AIRCRAFT): .01 195.10.05 } Petrol 195.10.10 } and distillate 195.10.15 } fuels	Full fuel levy"	
606.04	By the substitution for item 606.04.20 of the following: "20. 104.20 Plain spirits entered for use for mixing with petrol in a warehouse approved for this purpose by the Commissioner	Full Duty"	
606.05	By the substitution for item 606.05.30 of the following: ".10 105.10 Petrol obtained from the mixing of spirits manufactured in the Republic by the distillation of coal and containing, by volume, 10 per cent or more of the alcohols specified in tariff heading No. 29.04, with petrol, in a warehouse approved for this purpose by the Commissioner. .20 105.10 Petrol obtained from the mixing of spirits manufactured in the Republic (excluding spirits manufactured in the Republic by the distillation of coal and containing, by volume, 10 per cent or more of the alcohols specified in tariff heading No. 29.04) with petrol, in a warehouse approved for this purpose by the Commissioner		1,209c per litre spirits in the mixture 1,409c per litre spirits in the mixture"
607.05	By the substitution for item 607.05.10 of the following: ".10 105.10 Distillate fuels used: (1) In the manufacture of lubricating grease (2) In the manufacture of disinfectants, insecticides, fungicides, weed-killers, anti-sprouting products, rat poisons and similar products (including fly papers) (3) As raw material (reactor and tangential oil) in the manufacture of oil-furnace carbon black (4) In the calcination of refractory clay		3,817c per litre 3,817c per litre 3,817c per litre 3,817c per litre

Act No. 84, 1987

CUSTOMS AND EXCISE AMENDMENT ACT, 1987

I Item	II Tariff Item and Description	III Extent of Rebate	IV Extent of Refund
	(5) In the manufacture of products not elsewhere specified in this item (excluding the manufacture of fuel)		3,817c per litre"
607.05.30	By the deletion of item 607.05.30.		
609.05	By the substitution for item 609.05.10 of the following: ".10 105.10 Distillate fuels:		
	(1) Used as engine fuel in ships and boats (excluding whalers, trawlers and other ocean-going fishing vessels, excursion boats and yachts and other vessels for pleasure or sports)		3,817c per litre
	(2) Used as fuel for the production of agricultural products (excluding such fuel used for road transport in agriculture or in passenger vehicles such as motor cars, station wagons and minibuses) or as engine fuel in whalers, trawlers and other ocean-going fishing vessels		3,634c per litre
	(3) Used as fuel for road transport in forestry (excluding such fuel used in passenger vehicles such as motor cars, station wagons and minibuses)		3,634c per litre.
	(4) Used as fuel in forestry (excluding such fuel for use for road transport in forestry or in passenger vehicles such as motor cars, station wagons and minibuses)		3,634c per litre.
	(5) Used as fuel for road transport in forestry (excluding such fuel used in passenger vehicles such as motor cars, station wagons and minibuses)		3,634c per litre
	(6) Used as fuel in heaters and heating apparatus, furnaces, ovens and boilers (ex Chapter 73, 74, 76 or 84)		3,634c per litre
	(7) Used as fuel in stationary turbines and stationary compression ignition engines (excluding those mounted on self-propelled vehicles) (ex tariff heading No. 84.06 or 84.08)		3,634c per litre
	(8) Used as fuel in other compression ignition engines for the driving of or incorporated in machinery and implements of Chapters 84 and 85, for example, generators, compressors, loaders, pumps, machinery and mechanical appliances for public works, roadbuilding and earth-moving and self-propelled cranes		3,634c per litre
	(9) Used as fuel in locomotives (tariff heading No. 86.03)		3,634c per litre
	(10) Used as fuel in dumper vehicles of which, according to the manufacturer's specifications, each wheel massload is 4 500 kg or more or of which the total massload on each rear axle exceeds 20 000 kg (tariff heading No. 87.02)		3,634c per litre
	(11) Used as fuel in vehicles for use in underground mines (tariff heading No. 87.02) or mobile drilling derricks (tariff heading No. 87.03)		3,634c per litre

Act No. 84, 1987

CUSTOMS AND EXCISE AMENDMENT ACT, 1987

I Item	II Tariff Item and Description	III Extent of Rebate	IV Extent of Refund
	(12) Used as fuel in works trucks, for example, fork-lift trucks, crane trucks, platform trucks, straddle carriers and other elevating or stacking trucks (tariff heading No. 87.07)		3,634c per litre"

By the insertion after Part 2 of Schedule No. 6 of the following:

"PART 3
REFUNDS OF FUEL LEVY

Notes:

1. A refund of fuel levy paid under Part 5 of Schedule No. 1 in respect of any goods specified in Column II of this Schedule shall, subject to the provisions of section 75 and the regulations, be allowed to the extent stated in Column III of this Part, in respect of such goods on compliance with the provisions of the item in this Part in which such goods are specified and of any notes applicable in respect of such item.
2. Unless the context otherwise indicates, Notes I, II, VI and IX of the General Notes to Schedule No. 1 shall *mutatis mutandis* apply to this Part.
3. Any particulars in Column III in this Part in respect of any goods relate to the fuel levy specified in Part 5 of Schedule No. 1.
4. Wherever the tariff heading or subheading under which any goods are classified in Part 1 of Schedule No. 1 or the fuel levy item under which any goods are classified in Part 5 of Schedule No. 1 is quoted in any item in this Schedule in which such goods are specified, the goods so specified in such item in this Schedule shall be deemed not to include goods which are not classified under the said tariff heading or subheading or fuel levy item.
5. A refund in terms of this Part shall be paid only to the person who purchased and used the goods concerned for the purpose specified in such item, unless the Commissioner authorizes payment of such refund to any other person on compliance with such conditions as he may impose in each case.
6. In terms of the provisions of section 75 (1) (f) the refund specified in Column III of paragraph (9) of item 640.03 is payable in respect of distillate fuels used in locomotives by the South African Transport Services referred to in the South African Transport Services Act, 1981 (Act No. 65 of 1981).

I Item	II Fuel Levy Item and Description	III Extent of Refund
640.00	PETROL AND DISTILLATE FUELS USED FOR SPECIFIC PURPOSES: <i>Notes:</i> In this item "road", "agriculture", "agricultural products", "agricultural requirements", "transport in agriculture", "forestry" and "transport in forestry" shall have the meaning assigned thereto in the Notes to item 609.05 of this Schedule.	
640.01	195.10.05 } Petrol and distillate fuels used by the State President, diplomatic and other foreign representatives mentioned in item 195.10.10 } 195.10.15 } 406.01, 406.02, 406.03, 406.05 or 406.07 of Schedule No. 4, subject to the requirements of those items and of the notes (except Note 1) applicable thereto: (1) Petrol (2) Distillate fuels	8,9c per litre 9c per litre
640.02	195.10.15 Distillate fuels used in the manufacture of the goods specified in item 607.05.10	20,5c per litre
640.03	195.10.15 Distillate fuels: (1) Used as engine fuel in ships and boats (excluding whalers, trawlers and other ocean-going fishing vessels, excursion boats and yachts and other vessels for pleasure or sports) (2) Used as fuel for the production of agricultural products (excluding such fuel for use for road transport in agriculture or in passenger vehicles such as motor cars, station wagons and minibuses) or as engine fuel in whalers, trawlers and other ocean-going fishing vessels	11,7c per litre 20,5c per litre

Act No. 84, 1987

CUSTOMS AND EXCISE AMENDMENT ACT, 1987

I Item	II Fuel Levy Item and Description	III Extent of Refund
	(3) Used as fuel for road transport in agriculture (excluding such fuel used in passenger vehicles such as motor cars, station wagons and minibuses)	10,5c per litre
	(4) Used as fuel in forestry (excluding such fuel for use for road transport in forestry or in passenger vehicles such as motor cars, station wagons and minibuses)	20,5c per litre
	(5) Used as fuel for road transport in forestry (excluding such fuel used in passenger vehicles such as motor cars, station wagons and minibuses)	10,5c per litre
	(6) Used as fuel in heaters and heating apparatus, furnaces, ovens and boilers (ex Chapter 73, 74, 76 or 84)	11,7c per litre
	(7) Used as fuel in stationary turbines and stationary compression ignition engines (excluding those mounted on self-propelled vehicles) (ex tariff heading No. 84.06 or 84.08)	11,7c per litre
	(8) Used as fuel in other compression ignition engines for the driving of or incorporated in machinery and implements of Chapters 84 and 85, for example, generators, compressors, loaders, pumps, machinery and mechanical appliances for public works, roadbuilding and earthmoving and self-propelled cranes	11,7c per litre
	(9) Used as fuel in locomotives (tariff heading No. 86.03)	11,7c per litre
	(10) Used as fuel in dumper vehicles of which, according to the manufacturer's specifications, each wheel massload is 4 500 kg or more or of which the total massload on each rear axle exceeds 20 000 kg (tariff heading No. 87.02)	11,7c per litre
	(11) Used as fuel in vehicles for use in underground mines (tariff heading No. 87.02) or in mobile drilling derricks (tariff heading No. 87.03)	11,7c per litre
	(12) Used as fuel in works trucks, for example, fork-lift trucks, crane trucks, platform trucks, straddle carriers and other elevating or stacking trucks (tariff heading No. 87.07)	11,7c per litre"