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KANTOOR VAN DIE EERSTE MINISTER

OFFICE OF THE PRIME MINISTER

No. 1444.

11 Julie 1980.

No. 1444.

11 July 1980.

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

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

No. 98 van 1980: Wysigingswet op Doeane en Aksyns, 1980.

No. 98 of 1980: Customs and Excise Amendment Act, 1980.

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 provide for an Office of the Commissioner for Customs and Excise and the establishment of the office of Commissioner for Customs and Excise; to further regulate the reporting of the arrival of ships and aircraft and the manner of ascertaining the strength of spirits for duty purposes; to apply the provisions of the said Act regarding the registration and indication of name in respect of beer, specifically to beer sold or disposed of for home consumption; to further define the circumstances in which certain goods, having become mixed, qualify for certain prescribed rates of duty and rebate of duty; to provide for the production of copies of documents relating to imported goods, and for the exclusion of a certain liability for duty; to abolish the preferential rate of duty; to alter the power of the Minister of Finance to amend Schedule No. 1 to the said Act; to further regulate the calculation of the value of certain exported goods; to provide for the retention of reproductions of certain books, accounts and documents, for the production of copies obtained by means of such reproductions, and for the continuation of certain amendments of Schedules Nos. 1 to 7 to the said Act; and to effect certain alterations to Schedule No. 8 to the said Act; and to provide for matters connected therewith.

(English text signed by the State President.)
(Assented to 1 July 1980.)

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

- | | | |
|----|--|------------------|
| 1 | (1) Section 1 of the Customs and Excise Act, 1964 | Amendment of |
| 5 | (hereinafter referred to as the principal Act), is hereby amended— | section 1 of |
| | (a) by the insertion in subsection (1) after the definition of | Act 91 of 1964, |
| | “agricultural distiller” of the following definition: | as amended by |
| | “‘Commissioner’ means the Commissioner for Customs | section 1 of |
| | <u>and Excise mentioned in section 1B;”;</u> | Act 95 of 1965, |
| 10 | (b) by the deletion in the said subsection (1) of the | section 1 of |
| | definition of “department”; | Act 57 of 1966, |
| | (c) by the insertion in the said subsection (1) after the | section 1 of |
| | definition of “Minister” of the following definition: | Act 105 of 1969, |
| | “‘Office’ means the Office of the Commissioner for | section 1 of |
| 15 | <u>Customs and Excise mentioned in section 1A;”;</u> | Act 98 of 1970, |
| | and | section 1 of |
| | (d) by the deletion in the said subsection (1) of the | Act 71 of 1975, |
| | definition of “Secretary”. | section 1 of |
| | | Act 112 of 1977 |
| | | and section 1 of |
| | | Act 110 of 1979. |

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(2) Subsection (1) shall be deemed to have come into operation on 1 April 1980.

2. (1) The following sections are hereby inserted in the principal Act in Chapter II after section 1:

Insertion of sections 1A and 1B in Act 91 of 1964.

5 "Office of the Commissioner for Customs and Excise. **1A. There is an office to be known as the Office of the Commissioner for Customs and Excise.**

Com-
missioner
for Customs
and Excise. **1B. At the head of the Office there is the Commissioner for Customs and Excise, who shall be a person appointed as such under the Public Service Act, 1957 (Act No. 54 of 1957)."**

10 (2) Subsection (1) shall be deemed to have come into operation on 1 April 1980.

3. (1) Section 4 of the principal Act is hereby amended by the substitution for paragraph (c) of subsection (3) of the following paragraph:

Amendment of section 4 of Act 91 of 1964, as amended by section 2 of Act 105 of 1969 and section 2 of Act 110 of 1979.

15 **"(c) to the [Secretary] Commissioner for Inland Revenue or any officer [of the Department of] in the Office of the Commissioner for Inland Revenue designated by that [Secretary] Commissioner, for the purposes of the Sales Tax Act, 1978 (Act No. 103 of 1978)."**

20 (2) Subsection (1) shall be deemed to have come into operation on 1 April 1980.

4. Section 7 of the principal Act is hereby amended by the substitution in subsection (1) for the words preceding paragraph 25 (a) of the following words:

Amendment of section 7 of Act 91 of 1964, as amended by section 3 of Act 105 of 1969, section 3 of Act 71 of 1975 and section 1 of Act 105 of 1976.

30 **"The master of any ship arriving at any place of entry appointed in terms of section 6, whether laden or in ballast, shall within 24 hours after the ship's arrival [and], unless the Controller has given permission to the contrary, [before the landing or embarkation of passengers or crew or the landing or loading of goods] and the pilot of any aircraft arriving in the Republic, whether with or without goods or passengers, shall within three hours after landing at any place appointed as a customs and excise airport in terms of the said section 6 or within such further time as the [Secretary] Controller may allow [but in any event before the landing or embarkation of passengers or crew or the landing or loading of goods]—"**

5. The following section is hereby substituted for section 32 of 40 the principal Act:

Substitution of section 32 of Act 91 of 1964, as substituted by section 1 of Act 7 of 1974.

"Ascertain-
ing the
strength
of spirits
for duty
purposes. **32. The strength of any spirits or spirituous preparations shall, for duty purposes, be ascertained in the manner prescribed by the [Minister] Commissioner."**

45 6. Section 36 of the principal Act is hereby amended—
(a) by the substitution for subsection (4) of the following subsection:

Amendment of section 36 of Act 91 of 1964, as amended by section 4 of Act 103 of 1972.

50 **"(4) Every manufacturer shall, in respect of beer manufactured by him in the Republic, register with the [Secretary] Commissioner the names whereunder such beer will be sold or disposed of for home consumption, together with the number of the subitem of tariff item 104.10 of Part 2 of Schedule No. 1 which will apply in respect of beer so sold or disposed of under every such name, and no beer shall be so sold or disposed of except under a name so registered.";** and

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- (b) by the substitution for subsection (5) of the following subsection:
 “(5) No beer shall be sold or disposed of by any manufacturer for home consumption except in a container which indicates the name of such beer, and any invoice or other document relating to **the** such sale or disposal of such beer shall indicate the name thereof.”
- 5
7. Section 37 of the principal Act is hereby amended by the substitution for subsection (6) of the following subsection:
 “(6) If the **Secretary** Commissioner is satisfied that any goods to which this Act relates have become mixed by **an accident** an act or omission which by the exercise of reasonable care could not have been avoided, he may apply the provisions of subsection (2), in so far as that subsection relates to the duty payable and any rebate of duty, as if such goods were mixed in a customs and excise storage warehouse with his permission.”
- 15
- Amendment of section 37 of Act 91 of 1964, as amended by section 8 of Act 95 of 1965 and section 12 of Act 105 of 1969.
8. Section 39 of the principal Act is hereby amended by the insertion after paragraph (c) of subsection (1) of the following paragraph:
 “(cA) The Commissioner may, subject to such conditions as he may determine, allow the said person to produce in lieu of any document required to be produced in terms of paragraph (c), a document purporting to be a copy of any such document and obtained by means of microfilming or any other process, and which shall, subject to compliance with such conditions, for all purposes have all the effects of the original document concerned.”
- 25
- 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 and section 4 of Act 110 of 1979.
9. Section 47 of the principal Act is hereby amended—
- 30
- (a) by the addition to subsection (1) of the following proviso:
 “Provided that the Commissioner may in his discretion condone any underpayment of such duty where the amount of such underpayment in the case of—
 (a) goods imported by post is less than fifty cents;
 (b) goods imported in any other manner is less than five rand; or
 (c) excisable goods is less than two rand.”;
- 35
- 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 and section 6 of Act 110 of 1979.
- 40
- (b) by the deletion of subsection (2);
 (c) by the substitution in subsection (3) for the words preceding paragraph (a) of the following words:
 “The most favoured nation rate of duty specified in Column IV in any tariff heading or subheading in Part 1 of Schedule No. 1 shall apply **subject to the provisions of subsection (2)** to any goods to which such heading or subheading relates if such goods were produced or manufactured in any territory—”; and
- 45
- 50
- (d) by the substitution for subsection (4) of the following subsection:
 “(4) The general rate of duty specified in Column III in any tariff heading or subheading in Part 1 of Schedule No. 1 shall apply to any goods to which such heading or subheading relates if **the preferential rate of duty or** the most favoured nation rate of duty does not apply to such goods in terms of the provisions of subsection **[(2) or]** (3) or if no **preferential rate of duty or** most favoured nation rate of duty is specified in respect of such goods in such heading or subheading.”
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10. Section 48 of the principal Act is hereby amended by the substitution for paragraph (a) of subsection (1) of the following paragraph:

5 “(a) in order to give effect to any agreement amending any agreement [ratified and confirmed by section one of the Ottawa Agreements Act, 1933 (Act No. 8 of 1933), or] approved by section 2 of the Geneva General Agreement on Tariffs and Trade Act, 1948 (Act No. 29 of 1948), or to any agreement concluded under section 49;”

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 and section 11 of Act 112 of 1977.

11. Section 72 of the principal Act is hereby amended by the substitution for paragraph (c) of the following paragraph:

15 “(c) If the value of any exported goods of a single denomination is, according to the provisions of this section—

(i) in excess of [twenty] one rand and includes a fraction of a rand, such value shall be calculated to the nearest rand, an amount in excess of fifty cents being regarded as one rand;

20 (ii) less than one rand, such value shall be calculated as one rand.”

Amendment of section 72 of Act 91 of 1964, as amended by section 11 of Act 105 of 1976.

12. Section 101 of the principal Act is hereby amended—

25 (a) by the insertion after subsection (1) of the following subsection:

“(1A) The Commissioner may, subject to such conditions as he may determine, allow any person referred to in subsection (1) to retain in lieu of any book, account or document required to be retained in terms of that subsection, a reproduction of any such book, account or document obtained by means of microfilming or any other process.”; and

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

35 “(2A) The Commissioner may, subject to such conditions as he may determine, allow any such person to produce in lieu of any such book, account or document required to be produced in terms of subsection (2), a copy thereof obtained by means of a reproduction referred to in subsection (1A), and such copy shall, subject to compliance with such conditions, for all purposes have all the effects of the original book, account or document concerned.”

Amendment of section 101 of Act 91 of 1964, as substituted by section 18 of Act 85 of 1968.

45 13. (1) Every amendment of Schedules Nos. 1 to 7 to the principal Act made under section 48 (1) or (2), section 56 (1) or section 75 (15) of the principal Act prior to 1 February 1980, shall not lapse by virtue of the provisions of section 48 (6), 56 (7) or 75 (16) of the principal Act.

50 (2) The amendments of Schedules Nos. 1 and 5 to the principal Act made under sections 48 (2) and 75 (15) of the principal Act by Government Notices Nos. R.562 and R.563 of 27 March 1980, respectively, shall not lapse by virtue of the provisions of section 48 (6) or 75 (16) of the principal Act.

55 (3) Tariff heading No. 65.00 in surcharge item 172.00 of Schedule No. 1 to the principal Act shall be construed as if goods of heading No. 65.02 and subheading No. 65.05.45 had during the period 30 March 1977 to 26 March 1980 also been excluded from the said tariff heading 65.00.

Continuation of certain amendments of Schedules Nos. 1 to 7 to Act 91 of 1964, as amended by section 19 of Act 95 of 1965, section 15 of Act 57 of 1966, section 2 of Act 96 of 1967, section 22 of Act 85 of 1968, section 37 of Act 105 of 1969, section 9 of Act 98 of 1970, section 2 of Act 89 of 1971, section 12 of Act 103 of 1972, section 6 of Act 68 of 1973, section 3 of Act 64 of 1974, section 13 of Act 71 of 1975, section 13 of Act 105 of 1976 and section 38 of Act 112 of 1977.

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14. (1) Schedule No. 8 to the principal Act is hereby amended by the substitution in item 810.20.20 for the expression "For sales duty purposes" of the expression "For *ad valorem* excise duty purposes".
- 5 (2) Subsection (1) shall be deemed to have come into operation on 3 July 1978.
- (3) Any special customs and excise warehouse licensed prior to 3 July 1978 for sales duty purposes shall be deemed to be licensed as from that date for *ad valorem* excise duty purposes in respect of
- 10 goods which were prior to that date subject to sales duty and became as from that date subject to *ad valorem* excise duty.
- 15 (1) The principal Act is hereby amended by the substitution for the words "department" and "Secretary", wherever they occur, of the words "Office" and "Commissioner" respectively.
- (2) Subsection (1) shall be deemed to have come into operation on 1 April 1980.
- 20 (1) Any reference in any other law to the Secretary for Customs and Excise or the Department of Customs and Excise shall be construed as a reference to the Commissioner for Customs and Excise or the Office of the Commissioner for Customs and Excise, respectively.
- (2) Anything done by or on behalf of the Secretary for Customs and Excise before the commencement of subsection (1) in the administration of any law, shall be deemed to have been done by
- 25 or on behalf of the Commissioner for Customs and Excise.
- (3) Subsections (1) and (2) shall be deemed to have come into operation on 1 April 1980.
17. This Act shall be called the Customs and Excise Amendment Act, 1980.

Amendment of Schedule No. 8 to Act 91 of 1964, as inserted by section 37 of Act 105 of 1969 and amended by section 14 of Act 71 of 1975 and section 39 of Act 112 of 1977.

Substitution of "department" and "Secretary" in Act 91 of 1964.

Construction of certain references.

Short title.