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# GOVERNMENT GAZETTE

OF THE REPUBLIC OF SOUTH AFRICA

REPUBLIEK VAN SUID-AFRIKA

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STATE PRESIDENT'S OFFICE

KANTOOR VAN DIE STAATSPRESIDENT

No. 1630.

31 July 1985

No. 1630.

31 Julie 1985

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

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

|| . 101 of 1985: Customs and Excise Amendment Act, 1985.

No. 101 van 1985: Wysigingswet op Doeane en Aksyns, 1985.

Act No. 101, 1985

CUSTOMS AND EXCISE AMENDMENT ACT, 1985

**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 withdraw, in respect of aircraft, the requirement that a list of passengers be submitted on arrival of such aircraft in the Republic; to abolish, in respect of aircraft arriving in the Republic, the prescribed form relating to sealable goods; to make other provision regarding goods imported by post; to oblige persons entering or leaving the Republic to pay to the Controller such duties as may be assessed by an officer in respect of goods declared by them; to provide for the determination of the transaction value, for customs duty purposes, of goods sold in transit and of the duty applicable in respect of goods imported into or manufactured in the Republic which are liable to duty and which were removed, taken or delivered without entry for home consumption having been made; to prohibit certain acts in respect of imported or excisable goods intended for home consumption which have not been duly entered for home consumption; to make new provision for the determination of the value, for the purposes of certain duties, of certain imported goods and certain goods manufactured in the Republic; to make further provision with regard to the interpretation of sections 65, 66 and 67 of the said Act; to further regulate the granting of rebates or refunds of duty in respect of losses or deficiencies of certain wine spirits and certain other spirits; to delete certain references to rebates or refunds of duty in respect of losses or deficiencies in so far as they apply to aviation spirit and kerosene; to create a certain legal fiction in connection with particular forms and invoices; to extend the lien in favour of the State for duties unpaid to certain additional goods and to certain machinery, plant and equipment; to amend Schedule No. 1 to the said Act; to provide for the continuation of certain amendments of Schedules Nos. 1, 2, 3, 4 and 6 to the said Act; to provide for the commencement of a certain amendment of Schedule No. 4 to the said Act; and to provide for the application of section 40 of the said Act in relation to certain panel vans; and to provide for matters connected therewith.

*(Afrikaans text signed by the State President.)*  
*(Assented to 10 July 1985.)*

## Act No. 101, 1985

## CUSTOMS AND EXCISE AMENDMENT ACT, 1985

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

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, section 1 of Act 105 of 1976 and section 4 of Act 98 of 1980.

1. Section 7 of the Customs and Excise Act, 1964 (hereinafter referred to as the principal Act), is hereby amended by the substitution for paragraph (a) of subsection (2) of the following paragraph:

“(a) in the case of such a ship, a list of the passengers; and”.

Amendment of section 9 of Act 91 of 1964, as amended by section 4 of Act 105 of 1969.

2. Section 9 of the principal Act is hereby amended by the substitution for subsection (1) of the following subsection:

“(1) On arrival of any ship [or aircraft] at any place in the Republic—

(a) the master [or pilot] thereof shall declare on the prescribed form all sealable goods on board the ship [or aircraft] which are unconsumed stores of such ship [or aircraft]; and

(b) the master [or pilot] and every member of the crew thereof shall declare on the prescribed form all sealable goods which are his personal property or in his possession,

and the Controller may seal up all such sealable goods.”.

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

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

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

“(1) For the purposes of entry and collection of duty on goods imported into the Republic by [parcel] post, any form or label completed by the sender in respect of the [parcel] postal item in question and on which the particulars necessary for the assessment of duty are set forth, shall be deemed to be an entry made under the provisions of this Act, and the particulars on any such form or label shall, for the purposes of this Act, be taken as the declaration to be made by the importer under section 38: Provided that the Minister may by regulation exclude from the provisions of this subsection any goods of a class or kind specified in such regulation or any such goods imported in circumstances so specified.”;

(b) by the deletion of subsection (2);

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

“(3) Notwithstanding anything contained in [subsections] subsection (1) [and (2)], any goods imported by post [, whether by parcel post or otherwise,] which the addressee desires to enter for warehousing, or for removal or export in bond, or under any heading or item of Schedule No. 1 which requires that a certificate be given or a condition be complied with, or under any item of Schedule No. 3, or under any item of Schedule No. 2, 4, 5 or 7 specified by the Commissioner after consultation with the Postmaster-General, shall be so entered at a customs and excise office before a Controller.”; and

(d) by the substitution for subsection (4) of the following subsection:

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

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## CUSTOMS AND EXCISE AMENDMENT ACT, 1985

Amendment of section 15 of Act 91 of 1964, as amended by section 2 of Act 98 of 1970 and section 2 of Act 89 of 1984.

## 4. Section 15 of the principal Act is hereby amended—

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

“(1) Any person entering or leaving the Republic shall, in such manner as the Commissioner may determine, unreservedly declare all goods in his possession which he brought with him into the Republic or proposes taking with him beyond the borders of the Republic, and shall furnish an officer with full particulars thereof, answer fully and truthfully all questions put to him by such officer and, if required by such officer to do so, produce and open such goods for inspection by the said officer, and shall pay the duty assessed by such officer to the Controller.”; and

(b) by the insertion after subsection (1) of the following subsection:

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

Insertion of section 39A in Act 91 of 1964.

## 5. The following section is hereby inserted in the principal Act after section 39:

“Sale in transit.

**39A.** Notwithstanding anything to the contrary in this Act contained, the importer of any goods purchased from any South African consignee after shipment of those goods but before the date of entry thereof, shall produce to the Controller the invoice relating to such purchase, and the price actually paid or payable for those goods by virtue of such purchase shall, for the purposes of section 65 (1), be the transaction value of those goods.”.

Amendment of section 45 of Act 91 of 1964, as amended by section 9 of Act 112 of 1977 and section 7 of Act 86 of 1982.

## 6. Section 45 of the principal Act is hereby amended by the substitution for subsection (1) of the following subsection:

“(1) (a) Notwithstanding anything to the contrary in this Act contained, all goods consigned to or imported into the Republic or stored or manufactured in a customs and excise warehouse or removed in bond shall upon being entered for home consumption [or upon payment of duty for any reason whatever,] be liable to such duties (including anti-dumping duties and countervailing duties specified in Schedule No. 2 and new or increased duties referred to in section 58 (1) and duties imposed under the provisions of section 53) as may at the time of such entry [or payment] be leviable upon such goods.

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

Insertion of section 47A in Act 91 of 1964.

## 7. The following section is hereby inserted in the principal Act after section 47:

“Prohibition of certain acts in re- **47A.** (1) Subject to the provisions of this Act, no person shall remove, receive, take, deliver or deal

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## CUSTOMS AND EXCISE AMENDMENT ACT, 1985

spect of  
goods not  
entered for  
home con-  
sumption.

with or in any imported or excisable goods intended for home consumption unless such goods have been duly entered for home consumption.

(2) If an officer discovers any imported or excisable 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.”

Amendment of  
section 65 of  
Act 91 of 1964,  
as substituted by  
section 13 of  
Act 86 of 1982.

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

“(8) (a) Notwithstanding the provisions of subsections (1) and (4), the value for **[customs duty purposes of any imported goods]** the purposes of the duty specified in Section B of Part 2 of Schedule No. 1 **[(other than pearls, precious and semi-precious stones, precious metals, rolled precious metals or articles containing or manufactured of such pearls, precious and semi-precious stones, precious metals or rolled precious metals entered under Schedule No. 4)]** shall, in respect of imported goods (other than goods entered in terms of item 412.18 of Schedule No. 4), be the transaction value thereof plus 15 per cent of such value, plus any non-rebated customs duty payable in terms of Part 1 of Schedule No. 1 on such goods, but excluding the **[customs] duty specified in the said Section B of Part 2 of Schedule No. 1 on such goods.**

(b) The provisions of subsection (3) or (4) of section 70 shall *mutatis mutandis* apply to the ascertainment or determination of the value for **[customs duty purposes of any such imported pearls, precious and semi-precious stones, precious metals, rolled precious metals or articles containing or manufactured of such pearls, precious and semi-precious stones, precious metals or rolled precious metals]** the purposes of the duty specified in Section B of Part 2 of Schedule No. 1 in respect of any imported goods entered in terms of item 412.18 of Schedule No. 4.”

Amendment of  
section 69 of  
Act 91 of 1964,  
as amended by  
section 22 of  
Act 105 of 1969  
and section 6 of  
Act 93 of 1978.

9. Section 69 of the principal Act is hereby amended by the substitution for subsection (4) of the following subsection:

“(4) (a) Notwithstanding the provisions of subsections (1) and (2), the value for excise duty purposes of any goods manufactured in the Republic and specified in Section B of Part 2 of Schedule No. 1 (other than **[pearls, precious and semi-precious stones, precious metals, rolled precious metals or articles containing or manufactured of such pearls, precious and semi-precious stones, precious metals or rolled precious metals]** goods entered in terms of item 617.01 of Schedule No. 6), shall be the value for excise duty purposes of such goods calculated or determined in terms of subsection (1) or (2), plus any non-rebated excise duty payable in terms of Section A of Part 2 of Schedule No. 1 on such goods.

(b) The provisions of subsection (3) or (4) of section 70 shall *mutatis mutandis* apply to the calculation or determination of the value for excise duty purposes of any **[such pearls, precious and semi-precious stones, precious metals, rolled precious metals or articles containing or manufactured of such pearls, precious and**

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**semi-precious stones, precious metals or rolled precious metals] goods specified in Section B of Part 2 of Schedule No. 1 and entered in terms of item 617.01 of Schedule No. 6.”**

Amendment of section 74A of Act 91 of 1964, as substituted by section 18 of Act 86 of 1982.

**10. Section 74A of the principal Act is hereby amended—** 5

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

“(1) The interpretation of sections 65, 66 and 67 shall be subject to the agreement concluded at Geneva on 12 April 1979 and known as the Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade, the Interpretative Notes thereto **[and]**, the Advisory Opinions, Commentaries and Explanatory Notes, Case Studies and Studies issued under the said Agreement on Implementation of Article 15 VII of the General Agreement on Tariffs and Trade.”; and

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

“(2) (a) The Commissioner shall obtain and keep in 20 his office two copies of such Agreement, Interpretative Notes, Advisory Opinions, Commentaries and Explanatory Notes, Case Studies and Studies and shall effect thereto any amendment thereof of which he is notified by the Secretariat of the **[General Agreement on Tariffs and Trade]** Customs Co- 25 operation Council, Brussels.

(b) Whenever in any legal proceedings any question arises as to the contents of the said Agreement, or any such Interpretative Note, Advisory Opinion, 30 Commentary, Explanatory Note, Case Study or Study (hereinafter in this paragraph referred to as the relevant document), or as to the date upon which any amendment thereof was effected thereto in terms of paragraph (a), a copy of the relevant 35 document, or if amended as contemplated in paragraph (a), a copy of the relevant document as so amended, shall, unless the contrary is proved, be accepted as sufficient evidence of the contents thereof or of the effective date of any amendment 40 thereof, as the case may be.”.

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

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

(a) by the insertion, in subsection (4A), of the following paragraph after paragraph (c):

“(cA) Notwithstanding anything to the contrary in this 45

Act contained, any supplier or reseller who has supplied to any reseller or user any distillate fuel or residual fuel oil entered as stated in paragraph (a) and who fails to forthwith furnish an officer at his request with the forms and invoices required by 50 regulation to be completed and kept in respect of the supply of any such distillate fuel or residual fuel oil so supplied, shall be deemed to have supplied such distillate fuel or residual fuel oil for a purpose or use other than a purpose or use stated 55 in any item of Schedule No. 4 or 6, and shall be liable for, and shall pay on demand by the Commissioner, the following duty:

- (i) In the case of such supplier, such duty as is contemplated in paragraph (d); 60
- (ii) in the case of such reseller, such duty as is contemplated in paragraph (e).”;

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

“(a) in the case of wine spirits (ethyl alcohol) manufactured in the Republic and entered for storage in a customs and excise storage warehouse, excluding spirits specified in paragraph (bA), 1,5 per cent of the quantity so **[manufactured]** entered;”;

(c) by the insertion after paragraph (b) of subsection (18) of the following paragraph:

“(bA) in the case of unpacked excisable spirits intended for export and which are removed in bond from a customs and excise manufacturing warehouse for temporary storage in a customs and excise warehouse approved for that purpose, such percentage, but not exceeding 1,25 per cent, of the quantity so removed as may in the opinion of the Commissioner represent a loss incurred while the spirits in question are so removed and stored for such period as the Commissioner may determine;”;

(d) 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 **[or aviation spirits]**, 0,25 per cent of any quantity entered for storage in any customs and excise storage warehouse; **[and]**”; and

(e) by the substitution for paragraph (e) of subsection (18) of the following paragraph:

“(e) in the case of imported or excisable petrol, **[aviation spirit, kerosene,]** distillate fuels or residual fuel oils, such percentage of any quantity removed in bond unpacked by ship from one place in the Republic to another place in the Republic, as the Minister may determine, or, where no such percentage has been so determined, a percentage equal to the full net loss incurred while the goods in question are so removed.”.

(2) Paragraph (c) of subsection (1) shall be deemed to have come into operation on 1 July 1983.

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 and section 35 of Act 112 of 1977.

12. Section 102 of the principal Act is hereby amended by the substitution for subsection (4) of the following 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 goods or plant have been lawfully imported, exported, manufactured, removed or otherwise dealt with or in, or whether any forms or invoices required by regulation to be completed and kept, exist or have been duly completed and signed 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 imported, exported, manufactured, removed or otherwise dealt with or in, or that such forms or invoices do not exist or have not been duly completed and signed or have not been so furnished, as the case may be, unless the contrary is proved.”.

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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 and section 36 of Act 112 of 1977.

13. Section 114 of the principal Act is hereby amended by the substitution for paragraph (a) of subsection (1) of the following paragraph:

“(a) The correct amount of duty payable in respect of any goods imported into or exported from the Republic or any goods manufactured in the Republic and 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 is prescribed (whether or not such duty 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 **[, being illicit goods, has been]** 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.”.

Amendment of Schedule No. 1 to Act 91 of 1964, as amended by section 19 of Act 95 of 1965, section 15 of Act 57 of 1966, section 2 of Act 96 of 1967, section 22 of Act 85 of 1968, section 37 of Act 105 of 1969, section 9 of Act 98 of 1970, section 2 of Act 89 of 1971, section 12 of Act 103 of 1972, section 6 of Act 68 of 1973, section 3 of Act 64 of 1974, section 13 of Act 71 of 1975, section 13 of Act 105 of 1976, section 38 of Act 112 of 1977, section 3 of Act 114 of 1981, section 27 of Act 86 of 1982 and section 10 of Act of 89 of 1984.

14. (1) Schedule No. 1 to the principal Act is hereby amended to the extent set out in the Schedule to this Act.

(2) Subject to the provisions of section 58 (1) of the principal Act, this section shall be deemed to have come into operation on 18 March 1985.

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

15. (1) Every amendment of Schedules Nos 1, 2, 3, 4 and 6 to the principal Act made under section 48 (1) and (2), section 56 (1) and (1A) or section 75 (15) of the principal Act prior to 25 January 1985 shall not lapse by virtue of the provisions of section 48 (6), 56 (7) or 75 (16) of the principal Act.



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(2) The amendment of Part 2 of Schedule No. 1 to the principal Act made under section 48 (2) of the principal Act by Government Notice No. R.609 of 19 March 1985, shall not lapse by virtue of the provisions of section 48 (6) of the principal Act.

Commencement of certain amendment.

16. The insertion, by Government Notice No. R.325 of 15 February 1985, of item 409.07 in Schedule No. 4 to the principal Act, shall be deemed to have come into operation on 25 October 1983.

Application of section 40 of Act 91 of 1964 in relation to panel vans.

17. For the purposes of section 40 (3) of the principal Act—
- (a) bills of entry passed during the period 12 June 1984 up to and including 2 August 1984 in relation to panel vans shall, notwithstanding the provisions of item 460.17 (in relation to tariff heading No. 87.02) of Schedule No. 4, be deemed to have been passed in error by reason of duty having been paid on goods intended for purposes or use under rebate of duty under section 75;
  - (b) such panel vans shall be deemed to have qualified at the time duty was paid thereon in all respects for rebate; and
  - (c) the duty paid on the panel vans concerned shall be deemed to have been paid on the date of commencement of this Act.

Short title.

18. This Act shall be called the Customs and Excise Amendment Act, 1985.

## Schedule

## AMENDMENT OF SCHEDULE NO. 1 TO THE CUSTOMS AND EXCISE ACT, 1964

I Tariff Heading	II Statistical Unit	III Rate of Duty		IV
		General	M.F.N.	
87.02	By the substitution for subheading No. 87.02.10.90 of the following: ".90 Other"	no.	125%	
92.11	By the substitution for subheading No. 92.11.80 of the following: ".92.11.80 Television image and sound recorders or reproducers: .10 Cassette type .20 Disc type .90 Other"	no. no. no.	15% 15% 15%	

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I Tariff Item	II Tariff Heading and Description	III IV Rate of Duty	
		Excise	Customs
105.10	By the substitution for tariff item 105.10.05 of the following: "05 Petrol manufactured from coal	10,25c per litre	10,25c per litre"
124.00	By the insertion before tariff item 124.10 of the following: "124.02 84.35 Office printing machines (excluding parts thereof) which operate by means of printing type or by the offset printing process, for use with paper not exceeding 36 cm in width (unfolded) 124.03 84.51 Word processors 124.04 84.52 Calculating machines; accounting machines, cash registers, postage-franking machines, ticket-issuing machines and similar machines incorporating a calculating device (excluding ticket-issuing and cancelling machines for use in omnibuses) 124.05 84.53 Automatic data processing machines (excluding industrial process control machines and telemetering systems) and units thereof; magnetic and optical readers, machines for transcribing data onto data media in coded form and machines for processing such data, not elsewhere specified or included 124.06 84.54 Other office machines (for example, hectograph or stencil duplicating machines, addressing machines, coin-sorting machines, coin-counting and wrapping machines, pencil-sharpening machines, perforating and stapling machines) (excluding ticket-issuing and cancelling machines for use in omnibuses) 124.08 84.58 Automatic vending machines (for example, stamp, cigarette, chocolate and food machines), not being games of skill or chance (excluding parts thereof)	10%  10% 10%  10%  10%  10%	10%  10% 10%  10%  10%  10%"
128.42	By the insertion after tariff item 128.40 of the following: "128.42 90.10 Photo-copying apparatus (whether incorporating an optical system or of the contact type), for use with paper not exceeding 36 cm in width (unfolded)	10%	10%"
131.00	By the insertion after tariff item 130.20 of the following: "131.00 Miscellaneous manufactured articles 131.10 97.04 Machines for games of skill or chance, including parts thereof, coin or counter operated	10%	10%"