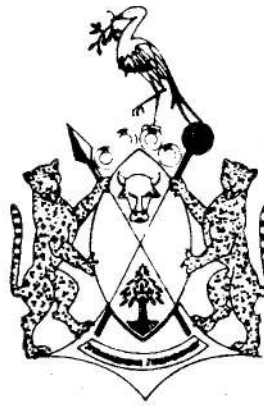


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**DEPARTMENT OF FINANCE AND ECONOMIC DEVELOPMENT**

**GOVERNMENT NOTICE No. 51**

**IT IS HEREBY NOTIFIED THAT THE PRESIDENT HAS  
ASSENTED TO THE FOLLOWING ACT WHICH IS HEREBY  
PUBLISHED FOR GENERAL INFORMATION:-**

**SECOND SALES TAX AMENDMENT ACT, 1984**

**ACT NO. 18 OF 1984**



## SECOND SALES TAX AMENDMENT ACT, 1984

### ACT

To amend the Sales Tax Act, 1978, so as to further define certain expressions; to increase the rate of Sales Tax; to provide for certain exemptions from Sales Tax; to extend the liability for Sales Tax; to further regulate the determination of the taxable value for the purposes of the said Act, and the recovery of Sales Tax in respect of goods imported into the Republic; to provide for the recovery of Sales Tax by the addition of the Tax to the price or amount charged by a seller to a purchaser; to restrict the allowance in respect of deposits on containers; to alter the basis for registration of vendors; to provide for objection and appeal against a refusal by the Commissioner for Inland Revenue to authorize a certain refund; to institute the issue of exemption certificates to diplomats; and to amend Schedules 1, 2, 4 and 5, and delete Schedule 6, to the said Act; and to provide for matters connected therewith.

(English text signed by the President. Assented to on 19 July 1984.)

BE IT ENACTED by the National Assembly of the Republic of Ciskei, as follows:—

*Amendment of section 1 of Act 103 of 1978, as amended by section 1 of Act 111 of 1979, section 1 of Act 105 of 1980, section 1 of Act 97 of 1981, section 1 of Act 90 of 1982, section 1 of Act 30 of 1983.*

1. (1) Section 1 of the Sales Tax Act, 1978 (hereinafter referred to as the principal Act), is hereby amended —
  - (a) by the substitution for the definition of "charitable institution" of the following definition:  
" 'charitable institution' means any institution or organization of a public character and of a permanent nature —
    - (a) which carries on charitable activities consisting of the provision of food, meals, board, lodging, clothing or other necessities, comforts or amenities to aged *or indigent* persons, children or physically or mentally handicapped persons; and
    - (b) which in terms of its constitution is required to utilize any property or income solely in the furtherance of its aims and objects and is prohibited from transferring any portion thereof directly or indirectly in any manner whatsoever so as to profit any person other than by way of the payment in good faith of reasonable remuneration to any officer or employee of the institution or organization for any services actually rendered to such institution or organization;";
  - (b) by the substitution for subparagraph (bb) of paragraph (c) of the definition of "sale" of the following subparagraph:  
"(bb) by any charitable institution to aged *or indigent* persons, children or physically or mentally handicapped persons; or"; and
  - (c) by the insertion after paragraph (vii) of the definition of "sale" of the following paragraph:  
"(viiA) any donation to any charitable institution or to any ecclesiastical or educational institution of a public character of goods which in the opinion of the Commissioner have no commercial value;";
- (2) Subsection (1) shall come into operation on 1 August 1984.

*Amendment of section 5 of Act 103 of 1978, as amended by section 3 of Act 111 of 1979, section 2 of Act 97 of 1981, section 1 of Act 6 of 1982, section 2 of Act 30 of 1983, and section 1 of Act 4 of 1984.*

2. (1) Section 5 of the principal Act is hereby amended —
  - (a) by the substitution in subsection (1) for the word "seven" of the word "ten"; and
  - (b) by the substitution in subparagraph (i) of paragraph (h) of subsection (1) for the words preceding item (aa) of the following words:  
"goods acquired under a sale or imported into the Republic or produced by any person in carrying on any enterprise or lease property held under a financial lease or goods let to any person under a rental agreement concluded in the course of any enterprise carried on by any person, but excluding —"; and
  - (c) by the addition to subparagraph (i) of paragraph (h) of subsection (1) of the following item:  
"(dd) goods let to such person under a rental agreement at a rental consideration equal to or greater than a qualifying rental consideration as defined in section 1 if tax is borne by him in respect of the taxable value of such rental consideration; or".
- (2) The amendment effected by paragraph (a) of subsection (1) shall, subject to the provisions of section 11 of the principal Act, apply for the purposes of determining the amounts of Sales Tax which in terms of section 8 of the principal Act are deemed to have become payable on any date falling on or after 1 August 1984.

*Amendment of section 6 of Act 103 of 1978, as amended by section 4 of Act 111 of 1979, section 2 of*

3. (1) Section 6 of the principal Act is hereby amended —
  - (a) by the substitution in paragraph (g) of subsection (1) for the words preceding subparagraph (i) of the following words:  
"the sale of trading stock or any taxable service rendered by any vendor (other than a registered vendor) in the ordinary course of carrying on any enterprise, if —";

SECOND SALES TAX AMENDMENT ACT, 1984

*Act 90 of 1982 and  
section 3 of Act 30  
of 1983.*

- (b) by the substitution in subparagraph (i) of paragraph (g) of subsection (1) for the expression "R5 000" of the expression "R10 000";
- (c) by the substitution for the proviso to paragraph (g) of subsection (1) of the following proviso:  
"Provided that where such gross receipts or accruals of the enterprise for such ensuing period have exceeded the said sum and the vendor has, within a period of thirty days thereafter or such further period as the Commissioner may regard as reasonable in the circumstances, notified the Commissioner of the change in his circumstances as required by section 12 (5), the exemption conferred by this paragraph in respect of sales or taxable services rendered by the vendor shall, subject to compliance with the provisions of section 11 (4), not be deemed to have ceased to apply by reason of the fact that such receipts or accruals have exceeded the said sum, but shall continue to apply in respect of sale of goods concluded or taxable services rendered by the vendor during the period ending on the date fixed by the Commissioner under section 11 (4).";
- (d) by the substitution for paragraph (n) of subsection (1) of the following paragraph:  
"(n) any rental consideration payable by any lessee to any lessor who is ordinarily resident in the Republic (or, being a company, is a domestic company for the purposes of the Income Tax Act), if the lessee and the lessor are connected persons in relation to each other and the goods in respect of which the rental consideration is payable were —
  - (i) before the commencement date acquired by the lessor under a sale concluded before that date or delivered to the lessor under a financial lease or imported by the lessor or erected, constructed, assembled or installed for the lessor or applied by the lessor in the circumstances contemplated in section 5 (1) (h) or
  - (ii) on or after the commencement date acquired by the lessor under a sale concluded on or after the said date or delivered to the lessor under a financial lease or imported by the lessor or erected, constructed, assembled or installed for the lessor or applied by the lessor as contemplated in section 5 (1) (h) or let to the lessor at a qualifying rental consideration as defined in section 1, if tax was or is borne by the lessor in respect of that sale, financial lease, importation, erection, construction, assembly or installation, application or rental consideration.";
- (e) by the substitution for paragraph (p) of subsection (1) of the following paragraph:  
"(p) (i) any rental consideration payable in respect of goods let under a rental agreement concluded outside the Republic if the goods are used exclusively outside the Republic;  
(ii) any rental consideration payable in respect of any ship (other than a foreign-going ship) let under a rental agreement concluded outside the Republic in so far as such rental consideration is to the satisfaction of the Commissioner payable for the use of that ship while outside the territorial waters of the Republic but within the territorial waters of any other country in which a Sales Tax or any substantially similar tax is leviable in respect of any rental consideration payable under the rental agreement in question.";
- (f) by the substitution for paragraph (wA) of subsection (1) of the following paragraph:  
"(wA) (i) the sale of any goods (excluding any vehicle other than any invalid carriage) designed, manufactured, adjusted or modified solely as aids or devices for the use of any physically handicapped person who is blind, deaf or crippled or is a chronic invalid where ownership in the goods is to vest in such handicapped person and such goods are required for his personal use in consequence of his physical handicap; or  
(ii) any repair or maintenance service rendered in respect of any goods referred to in subparagraph (i) and spare parts and materials required to effect such service; or  
(iii) any adjustment or modification service rendered in respect of any vehicle intended for the use of any physically handicapped person referred to in subparagraph (i) where such service is required solely to enable such person to operate such vehicle, and the sale of parts and materials required to effect such service,  
if the seller in relation to such goods or service issues an invoice or other document stating the name and address of the seller, the name and address of the purchaser and a full description of such goods or service, as the case may be.";
- (g) by the addition to subsection (1) of the following paragraphs:

SECOND SALES TAX AMENDMENT ACT, 1984

- "(z) subject to compliance with the provisions of section 14 as applied by section 38A —
- (i) the sale of goods to any person or representative registered under paragraph (a) or (b) of section 38A (1);
  - (ii) any leased property delivered to such person or representative as lessee;
  - (iii) any rental consideration payable by such person or representative in respect of goods; or
  - (iv) any taxable service rendered to such person or representative, if the goods sold under such sale or such leased property or the goods in respect of which such rental consideration is payable or such taxable service, as the case may be, are or is intended to be utilized by such person for his personal or domestic purposes of the diplomatic or consular mission in the Republic to which he is attached;
- (zA) the sale or application in terms of section 5 (1) (h) of any goods set forth in Schedule 7."

- (2) The amendment effected by —
- (a) paragraph (e) of subsection (1) shall be deemed to have come into operation on 1 March 1984; and
  - (b) paragraph (g) of subsection (1) shall come into operation, in so far as it relates to the addition of paragraph (z) to subsection (1) of the principal Act, on 1 October 1984 and, in so far as it relates to the addition of paragraph (zA) to the said subsection, on 1 August 1984.

*Amendment of section 7 of Act 103 of 1978, as amended by section 5 of Act 111 of 1979, section 3 of Act 105 of 1980, section 4 of Act 97 of 1981 and section 4 of Act 30 of 1983.*

4. Section 7 of the principal Act is hereby amended —
- (a) by the substitution for subparagraph (i) of paragraph (h) of subsection (1) of the following subparagraph:

"(i) the cost of such goods or the value of such property or asset to the person who has applied such goods, property or asset as contemplated in the said paragraph or where such goods have or such property or asset has been used prior to the application thereof as contemplated in the said paragraph, such cost or the market value of the goods, property or asset in question, whichever is the lesser; or";
  - (b) by the substitution in subsection (4) for the expression "subsection (3)" of the expression "subsection (3) (a)";
  - (c) by the substitution in subsection (5) in the words preceding paragraph (a) for the expression "(3)" of the expression "(3) (a)"; and
  - (d) by the addition to subsection (5) of the following paragraphs:

"(g) where the goods are or the property or asset is applied as contemplated in section 5 (1) (h) for a period shorter than the remaining useful life of such goods, property or asset, an amount calculated at the rate of 10 per cent per annum of the cost contemplated in paragraph (a), (b), (c), (d) or (e), as the case may be, for the period during which such goods, property or asset were or was so applied; or

(h) where the goods are held by him under a rental agreement, an amount equal to the rental consideration payable by him under such rental agreement or an amount equal to a qualifying rental consideration as defined in section 1, whichever is the greater."

*Amendment of section 9 of Act 103 of 1978, as amended by section 5 of Act 30 of 1983.*

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

"(d) in the case of goods imported into the Republic, by the importer or where such goods are not required to be cleared under the Customs and Excise Act, 1964 (Act No. 91 of 1964), and the tax has not been paid to the Commissioner in respect of such importation, by the purchaser in relation to any subsequent sale of such goods by the importer; or"

*Amendment of section 10 of Act 103 of 1978, as amended by section 6 of Act 111 of 1979.*

6. (1) Section 10 of the principal Act is hereby amended by the substitution for paragraph (b) of subsection (13) of the following paragraph:

"(2) The provisions of section 19 (5) and Part V shall *mutatis mutandis* apply in respect of such assessment."

*Amendment of section 11 of Act 103 of 1978, as amended by section 7 of Act*

7. Section 11 of the principal Act is hereby amended —
- (a) by the substitution for paragraph (ii) of subsection (2) of the following paragraph:

"(ii) where a deposit on any container has been included under paragraph (a) (whether in respect of the tax period or a previous tax period) in the taxable value of goods sold by the vendor



## SECOND SALES TAX AMENDMENT ACT, 1984

*111 of 1979, section 2 of Act 6 of 1982, section 6 of Act 30 of 1983 and section 1 of Act 4 of 1984.*

*Amendment of section 12 of Act 103 of 1978.*

*Amendment of section 13 of Act 103 of 1978, as amended by section 8 of Act 111 of 1979 and section 3 of Act 90 of 1982.*

*Amendment of section 20 of Act 103 of 1978.*

- to a purchaser in the course of the vendor's enterprise and the tax borne by the purchaser in respect of such deposit has been repaid or credited to the purchaser, so much of such deposit as the vendor has during the tax period repaid or credited to the purchaser;"; and
- (b) by the substitution in paragraph (a) of subsection (4) for the expression "R5 000" of the expression "R10 000".

8. Section 12 of the principal Act is hereby amended -
- (a) by the substitution for paragraph (a) of subsection (2) of the following paragraph:
- "(a) the gross annual receipts or accruals of any enterprise from the sale of goods and from the rendering of taxable services have exceeded R10 000 or the Commissioner is satisfied that such gross annual receipts or accruals will exceed R10 000; or"; and
- (b) by the substitution for paragraph (b) of subsection (2) of the following paragraph:
- "(b) the gross annual receipts or accruals of any enterprise has consisted of or included amounts derived under financial leases or by way of rental considerations or the Commissioner is satisfied that such gross annual receipts or accruals will consist of or include such amounts; or".
9. (1) Section 13 of the principal Act is hereby amended by the addition of the following subsection:
- "(8) Where the Commissioner has in terms of section 38A issued a diplomatic exemption certificate to any person or representative referred to in that section, the Director-General: Foreign Affairs shall make arrangements with the head of any foreign diplomatic or consular mission in the Republic for the return to him forthwith of any such certificate if -
- (a) such person or representative has died; or
- (b) the tour of duty in the Republic of such person or representative has terminated; or
- (c) the entitlement of such person or representative to make use of such certificate has for any other reason been withdrawn by the Commissioner in consultation with the said Director-General,
- and the said Director-General shall upon the return to him of such certificate forward it to the Commissioner for cancellation."
- (2) Subsection (1) shall come into operation on 1 October 1984.
10. (1) Section 20 of the principal Act is hereby amended -
- (a) by the addition at the end of paragraph (c) of subsection (1) of the word "or";
- (b) by the insertion after paragraph (c) of subsection (1) of the following paragraph:
- "(d) the Commissioner has in terms of the proviso to section 32 (1) notified any person of his refusal to authorize a refund;";
- (c) by the addition at the end of paragraph (iii) of subsection (1) of the word "or";
- (d) by the addition to subsection (1) of the following paragraph:
- "(iv) the refusal of such refund is or is not justified;";
- (e) by the substitution for subsection (2) of the following subsection:
- "(2) Every request for a matter to be referred to an advisory committee under the provisions of subsection (1) shall be in writing and shall be lodged with the Commissioner within 21 days after the date of the notification by the Commissioner given in terms of section 12 (3), 13 (4) or 19 (5) or the proviso to 32 (1), as the case may be;"; and
- (f) by the substitution for subsection (10) of the following subsection:
- "(10) Any opinion given by an advisory committee as the correctness or otherwise of any intended assessment as notified under the provisions of section 19 (5) or any refusal by the Commissioner to authorize a refund under the provisions of section 32 (1) shall not be binding upon the Commissioner or upon any court of law: Provided that where such opinion is given against the contentions of the Commissioner and the Commissioner is not in agreement with such opinion, the Commissioner shall give notice in writing to the other party concerned that he does not agree with the opinion and in the case of an opinion as to the correctness or otherwise of an intended assessment may thereafter proceed to make an assessment as contemplated in section 19 (3)."
- (2) Subsection (1) shall come into operation on 1 September 1984.

# SECOND SALES TAX AMENDMENT ACT, 1984

*Amendment of section 21 of Act 103 of 1978.*

11. (1) Section 21 of the principal Act is hereby amended –
  - (a) by the substitution for subsection (1) of the following subsection:

“(1) Any person who is dissatisfied with any assessment made upon him by the Commissioner under the provisions of section 10 (13) (a) or 19 or any non-acceptance by the Commissioner of the opinion of the the advisory committee as to the correctness or otherwise of the Commissioner’s refusal to authorize a refund under the provisions of section 32 (1) may lodge an objection with the Commissioner.”;
  - (b) by the substitution for subsection (3) of the following subsection:

“(3) No objection shall be considered by the Commissioner which is not delivered at his office or posted to him in sufficient time to reach him within twenty-one days after the date of the notice of the assessment or non-acceptance by the Commissioner of the opinion of the advisory committee as to the correctness or otherwise of the Commissioner’s refusal to authorize a refund under the provisions of section 32 (1) against which the objection is lodged, unless the Commissioner is satisfied that reasonable grounds exist for delay in lodging the objection.”;
  - (c) by the substitution for subsection (4) of the following subsection:

“(4) After having considered the objection, the Commissioner may –
    - (a) alter or reduce the assessment; or
    - (aA) authorize a refund of any tax, penalty or interest paid; or
    - (b) disallow the objection, and shall send the person who made the objection written notice of such alteration, reduction or disallowance, as the case may be.”; and
  - (d) by the substitution for subsection (5) of the following subsection:

“(5) Where no objection is made to any assessment or non-acceptance by the Commissioner of the opinion of the advisory committee as to the correctness or otherwise of the Commissioner’s refusal to authorize a refund under the provisions of section 32 (1) or where any objection has been disallowed or withdrawn or an assessment has been altered or reduced, such assessment or altered or reduced assessment, as the case may be, shall, subject to right of appeal hereinafter provided, be final and conclusive.”.
- (2) Subsection (1) shall come into operation on 1 September 1984.

*Amendment of section 22 of Act 103 of 1978, as amended by section 4 of Act 90 of 1982.*

12. (1) Section 22 of the principal Act is hereby amended by the substitution for paragraph (b) of subsection (3) of the following paragraph:

“(b) the special court shall inquire into and consider the matter and may direct the Commissioner to authorize a refund or order the assessment under appeal to be altered, reduced or confirmed, or if it thinks fit, in the case of an assessment, refer such assessment back to the Commissioner for further investigation and assessment.”.
- (2) Subsection (1) shall come into operation on 1 September 1984.

*Amendment of section 32 of Act 103 of 1978, as amended by section 13 of Act 111 of 1979 and section 7 of Act 30 of 1983.*

13. (1) Section 32 of the principal Act is hereby amended by the addition to subsection (1) of the following proviso:

“Provided that if the Commissioner refuses to authorize a refund under this subsection he shall give the person concerned written notice of such refusal.”.
- (2) Subsection (1) shall come into operation on 1 September 1984.

*Insertion of section 38A in Act 103 of 1978.*

14. (1) The following section is hereby inserted in the principal Act after section 38:

*“Issue of diplomatic exemption certificates to certain diplomats and representatives of diplomatic and consular missions.*

38A. (1) Notwithstanding the provisions of section 38, the Commissioner may, at the request of the Director-General: Foreign Affairs, register –
  - (a) any person who enjoys full or limited diplomatic immunity or privileges under any law or agreement in force in the Republic or under the recognized principles of international law or the wife of such person; or
  - (b) any specified representative of any diplomatic or consular mission established in the Republic,and issue to such person or his wife or such representative a diplomatic exemption certificate in such form and upon such conditions and subject to such restrictions as the Commissioner may prescribe,

# SECOND SALES TAX AMENDMENT ACT, 1984

provided relief similar or equivalent to the exemption referred to in section 6 (1) (z) is granted in the country by which such person or representative is employed to any employee or representative of the Government of the Republic stationed in such country who enjoys full or limited diplomatic immunity or privileges in that country.

(2) The provisions of section 14 shall, *mutatis mutandis* and subject to such restrictions or conditions as the Commissioner may determine, apply in relation to any person or his wife or any representative so registered and to any certificate so issued.

(3) A diplomatic exemption certificate shall not be so issued to any person who is a Ciskeian citizen or permanent resident of the Republic."

(2) Subsection (1) shall come into operation on 1 October 1984.

*Amendment of Schedule 1 to Act 103 of 1978, as amended by section 19 of Act 111 of 1979, section 7 of Act 105 of 1980, section 8 of Act 97 of 1981, section 8 of Act 90 of 1982 and section 8 of Act 30 of 1983.*

15. (1) Schedule 1 of the principal Act is hereby amended -

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

"(g) Any advertising or publicity service rendered by any person in the carrying on by him of any enterprise in the ordinary course of which such service is rendered to any person for reward.

*Definition:* For the purposes of this subparagraph 'advertising or publicity service' means any activity whereby any communication is directed or intended to be directed to the public or a section thereof through the medium of -

(i) any advertisement in any newspaper, periodical, journal, catalogue, directory, book, pamphlet, leaflet, programme, circular or hand-bill; or

(ii) any advertisement on any billboard, hoarding, poster, placard, vehicle, film, projector slide, sound recording or any other property, whether movable or immovable; or

(iii) any advertisement broadcast by radio or television, and includes the preparation, design or furnishing of any material to be used for the purposes of such advertisement, whether or not the advertisement is exposed: Provided that the provisions of this definition shall not be construed so as to apply in respect of -

(a) the preparation, design, printing, production or furnishing of any packaging or wrapping material (including labels) for use in the marketing of goods; or

(b) any merchandising or direct-selling activity or any fashion or modelling show; or

(c) the publication in the Gazette or any newspaper of any notice containing any information which is published by, under or for the purposes of any law."; and

(b) by the addition to paragraph 1 of the following subparagraph:

"(h) Any service other than a service referred to in subparagraph (g) which is connected with or necessary for the rendering by any vendor of any service so referred to and which is rendered by the vendor concerned or by a connected person in relation to such vendor."

(2) The amendment effected by subsection (1) (a) shall be deemed to have come into operation on 1 January 1984.

*Amendment of Schedule 2 to Act 103 of 1978, as amended by section 20 of Act 111 of 1979, section 8 of Act 105 of 1980, section 9 of Act 97 of 1981, section 9 of Act 90 of 1982 and section 9 of Act 30 of 1983.*

16. (1) Schedule 2 of the principal Act is hereby amended -

(a) by the substitution for Items Nos. (3) and (4) under the heading non-qualifying goods in Division I of the following items, respectively:

"(3) Tools, accessories or ancillary equipment attached to machinery or plant and which come into direct contact with the goods which are being processed and which by their specific function alter such goods or are used for the purposes of brushing, crushing, cutting, forming, honing, machining, mixing, moulding, painting, polishing or screening

(4) Tools, accessories or ancillary equipment attached to machinery or plant used for the purpose of handling goods which are being processed";

(b) by the substitution for the words under the heading *Commercial Enterprises* in Division IB of the following words:

"In the case of any enterprise in the ordinary course of which sales of goods are concluded: Any taxable service (excluding any advertising or publicity service) rendered in respect of goods intended for sale.";

(c) by the substitution for Item No. 400 of paragraph 1 of Division III under the heading *Repair*



## SECOND SALES TAX AMENDMENT ACT, 1984

and Maintenance of the following Item:

"400 Parts, and materials (including refrigerant gas) for incorporation in or attachment to any of the following for the purposes of the repair and maintenance thereof —

Crushers, mills, conveyors, elevators, pumps, skips and cages, fume and dust extraction plants, and ventilation systems including cooling and refrigeration plant);"; and

(d) by the substitution for paragraph 1 of Division IIIA of the following paragraph:

"1. As respects such rock-breaking, tunnelling or shaft-sinking services, the goods and services set forth in Division III under the headings 'Breaking Rock', Explosives and Explosives requisites', 'Other', 'Safety', 'Repair and Maintenance' and 'Miscellaneous', when acquired or utilized for the direct purpose of rendering such services."

(2) The amendment effected by —

(a) paragraph (a) of subsection (1) shall come into operation on 1 September 1984; and

(b) paragraph (b) of subsection (1) shall be deemed to have come into operation on 1 January 1984.

*Amendment of Schedule 4 to Act 103 of 1978, as amended by section 22 of Act 111 of 1979, section 9 of Act 105 of 1980, section 10 of Act 97 of 1981 and section 11 of Act 30 of 1983.*

17. (1) Schedule 4 to the principal Act is hereby amended —

(a) by the substitution for paragraph 3A of the following paragraph:

"3A. (1) Where any agreement which is a financial lease ceases to exist (whether on the expiration of the period for which the property was leased or otherwise and the person who was the lessee under such financial lease in this paragraph referred to as the former lessee) continues to use or enjoy the leased property or deal with it as he deems fit —

(a) without the payment of any rental or other consideration;

(b) in the case of a financial lease entered into on or after 1 September 1983, without the payment of any rental or other consideration or subject to the payment of any rental or other consideration which is less than an amount calculated at the rate of 10 per cent per annum of an amount equal to the consideration calculated as provided in section 7 (3) (b), and no legal proceedings in relation to the repossession of such leased property or to the fulfilment of any obligations as to the disposal thereof in terms of such financial lease have been instituted by the person who was the lessor under such financial lease (in this paragraph referred to as former lessor) —

(i) in the case of a financial lease which ceases to exist on or before 31 December 1983, on or before 31 March 1984; or

(ii) in the case of a financial lease which ceases to exist after 31 December 1983, on the expiration of a period of three months as from the date on which such financial lease ceased to exist,

in circumstances where he could have instituted any such legal proceedings, a sale shall, notwithstanding the provisions of paragraph 2A, but subject to the provisions of paragraph 3B, be deemed to have been concluded in respect of such leased property between the former lessee and the former lessor on 31 March 1984 or on the date of the expiration of such period of the three months, as the case may be, as if such leased property were goods notwithstanding the fact that such leased property may have become immovable property.

(2) When a former lessee —

(a) who continues to use or enjoy leased property referred to in subparagraph (1) or to deal with it as he deems fit subject to the payment of any rental or other consideration which is equal to or more than an amount calculated at the rate of 10 per cent per annum of an amount equal to the consideration calculated as provided in section 7 (3) (b); and

(b) who at any time after the financial lease in question ceased to exist, for any reason ceases —

(i) to pay any rental or other consideration; or

(ii) to pay a rental or other consideration which is equal to or more than an amount calculated at the said rate,

and no legal proceedings in relation to the repossession of such leased property or to the fulfilment of any obligations as to the disposal thereof were instituted by the former lessor on the expiration of a period of three months as from the



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date on which the former lessee ceased to pay such rental or consideration in circumstances where he could have instituted any such legal proceedings, a sale shall be deemed to have been concluded in respect of such leased property between the former lessee and the former lessor on the date of the expiration of such period of three months, as if such leased property were goods notwithstanding the fact that such leased property may have become immovable property."; and

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

"3B. Any agreement under which property which was leased under a financial lease which has ceased to exist (whether on expiration of the period for which such property was leased or otherwise) is let by the person who was the lessor under such financial lease to the person who was the lessee under such financial lease from the date on which such financial lease so ceases to exist upon substantially the same terms and conditions which applied in respect of such financial lease, at a rental or other consideration which is greater or smaller than any instalment by way of which the principal debt and finance charges were paid or were required to be paid, shall for the purpose of this Act be deemed to be part of such financial lease: Provided that the provisions of this paragraph shall not apply in relation to any financial lease entered into on or after 1 December 1983 if the amount owing in respect of the principal debt and finance charges in terms of such financial lease on the date on which such financial lease so ceases to exist is less than 10 per cent of the cash value of the property which was applicable in respect of such financial lease in terms of paragraph 2."

- (2) Subsection (1) shall be deemed to have come into operation on 1 December 1984.

*Amendment of Schedule 5 to Act 103 of 1978, as amended by section 23 of Act 111 of 1979, section 10 of Act 105 of 1980, section 11 of Act 97 of 1981 and section 12 of Act 30 of 1983.*

18. (1) Schedule 5 to the principal Act is hereby amended —
- (a) by the substitution in Item No. 412.10 of paragraph 1 of Part A for the expression "R20" of the expression "R40";
  - (b) by the insertion in paragraph 1 Part A after Item No. 460.23 of the following Items:  
"470.01 Goods temporarily admitted for processing, provided such goods do not become the property of the importer.  
470.02 Goods temporarily admitted for repair, cleaning reconditioning.";
  - (c) by the substitution for subparagraph (a) of paragraph 1 of Part B of the following subparagraph:  
"(a) Goods referred to in paragraph 1 of Part A of this Schedule under Item Nos. 406.00, 407.01, 407.02, 407.6, 412.02, 412.03, 412.04, 412.10, 412.11, 412.12, 470.01, 470.02, 480.00 and 490.00 to the extent indicated."; and
  - (d) by the addition to paragraph 1 of Part B of the following subparagraph:  
"(d) Goods set forth in Schedule 7."
- (2) The amendment effected by —
- (a) paragraph (a) of subsection (1) shall be deemed to have come into operation on 7 October 1983; and
  - (b) paragraph (d) of subsection (1) shall come into operation on 1 August 1984.

*Deletion of Schedule 6 to Act 103 of 1978.*

19. Schedule 6 to the principal Act is hereby deleted.

*Addition of Schedule 7 to Act 103 of 1978.*

20. (1) The following Schedule is hereby added to the principal Act.

### "Schedule 7

(Section 6 (1) (zA) of this Act)

**Exemption: Certain goods in the form of foodstuffs —**

The goods in respect of which the exemption under the provisions of section 6 (1) (zA) shall apply, shall be as hereinafter set forth, but shall not include any such goods as are supplied for reward in the course of carrying out any agreement —

- (a) for the furnishing or serving of any meal, refreshment, cooked or prepared food or any drink ready for immediate consumption; or

SECOND SALES TAX AMENDMENT ACT, 1984

- (b) for the supply of board and lodging at an inclusive charge.
- (1) *Bread*, being a baked product consisting of wheaten products and which is supplied as bread falling under the following classifications determined by the Minister of Agriculture under the Marketing Act, 1968, (Act No. 59 of 1968) or any regulation under that Act:
- White bread
  - Brown bread
  - Whole-wheat bread
  - Compound bread
- (2) *Butter*, being butter produced as a dairy product, including any substance in the form of butter and the consistency of which is substantially similar to that of butter and which has been manufactured mainly from butterfat.
- (3) *Eggs*, being raw eggs laid by hens of the species *Gallus domesticus*, whether supplied in their shells or in the form of egg pulp being the raw pulp consisting of the yolk and the white which is obtained from such eggs after the shells have been removed.
- (4) *Fish*, being raw finfish (including any raw finfish product consisting of at least 60 per cent raw finfish) which when sold is customarily required to be cooked before it is eaten and which is supplied for human consumption regardless of whether supplied as caught, chilled or frozen, cut in any form, minced or crumbed, packaged or unpackaged.
- (5) *Fruit*, being fruit (other than nuts) supplied for human consumption, not being cooked or treated in any manner except for the purpose of preserving such fruit in its natural, whole state, but excluding dehydrated, dried, canned or bottled fruit.
- (6) *Maize meal*, being maize meal graded as super maize meal, special maize meal, sifted maize meal, unsifted maize meal, samp or mealie rice supplied for human consumption.
- (7) *Margarine*, being any substance in imitation or form of butter, whether described as margarine or by any other name or designation, the consistency of which is substantially similar to that of butter and which has been manufactured mainly from any one or more vegetable or animal fats or oils, but excluding any single fat sold as such fat.
- (8) *Meat*, being any raw portions of slaughtered animals or poultry (other than game or game-birds) supplied for human consumption and when sold is customarily required to be cooked before being eaten regardless of whether supplied as fresh, chilled or frozen, cut in any form, minced or made into a sausage or cake consisting mainly of such meat, packaged or unpackaged.
- (9) (a) *Milk*, being the milk of cattle, sheep or goats that has not been concentrated, condensed, evaporated, sweetened, flavoured, cultured or subjected to any other process other than homogenisation or preservation by pasteurization, ultra-high temperature treatment, sterilization, chilling or freezing.
- (b) *Milk powder*, unflavoured, being the powder obtained by the removal of water from milk and which falls under the following classifications determined by the Minister of Agriculture under the Marketing Act, 1968 (Act No. 59 of 1968), or any regulation under that Act:
- Whole milk
  - Low fat milk powder
  - Skim(med) milk powder,
- provided the fat or protein content of such milk powder consists solely of milk fat or milk protein.
- (10) *Vegetables*, being vegetables (other than any grain products) supplied for human consumption which are not cooked or treated in any manner except for the purpose of preserving such vegetables in their natural state, but excluding dehydrated, dried, canned or bottled vegetables.
- (11) *Brown bread meal and whole-wheat meal*, being pure, sound wheaten meal."
- (2) Subsection (1) shall come into operation on 1 August 1984.

Short title.

21. This Act shall be called the Second Sales Tax Amendment Act, 1984.

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DEPARTMENT OF FINANCE AND ECONOMIC DEVELOPMENT

GOVERNMENT NOTICE No. 51

SECOND SALES TAX AMENDMENT ACT, 1984

(ACT NO. 18 OF 1984)