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STAATSKOERANT

GOVERNMENT GAZETTE

OF THE REPUBLIC OF SOUTH AFRICA

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KANTOOR VAN DIE STAATSPRESIDENT

STATE PRESIDENT'S OFFICE

No. 1366.

20 Junie 1990

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

No. 59 van 1990: Wysigingswet op Doeane en Aksyns, 1990.

No. 1366.

20 June 1990

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

No. 59 of 1990: Customs and Excise Amendment Act, 1990.

Wet No. 59, 1990

WYSIGINGSWET OP DOEANE EN AKSYNS, 1990

ALGEMENE VERDUIDELIKENDE NOTA:

[**]** Woorde in vet druk tussen vierkantige hake dui skappings uit bestaande verordenings aan.

_____ Woorde met 'n volstreep daaronder, dui invoegings in bestaande verordenings aan.

WET

Tot wysiging van die Doeane- en Aksynswet, 1964, ten einde verwysings na verkoopreg, verkoopreggoedere en 'n embargo en die gebied Suidwes-Afrika te skrap; sekere omskrywings vir die doeleindes van alle doeane-unie-ooreenkomste kragtens genoemde Wet aangegaan, uit te brei; die verrigting of uitoefening van enige pligte opgelê op of bevoegdhede verleen aan die Direkteur-generaal: Handel en Nywerheid deur genoemde Wet, te reël; die voorkoming van die binnekoms van enige goedere in die Republiek strydig met die bepalinge van genoemde Wet, verder te reël; die klaring van goedere en die aanspreeklikheid vir reg op ingevoerde goedere verder te reël; vir reg of heffing betaalbaar op brandstofheffinggoedere wat na die gebied van 'n party by enige doeane-unie-ooreenkoms verwyder word of in die Republiek vanaf sodanige gebied ingebring word, voorsiening te maak; die Minister van Finansies te magtig om Bylae No. 8 by genoemde Wet te wysig; die berekening van die waarde vir doeanebelastingdoeleindes van ingevoerde goedere, en die toestaan van terugbetalings van reg en brandstofheffing en kortings op reg, verder te reël; vir die verrekening van sekere oorbetalings ten opsigte van reg, of sekere voorlopige terugbetalings of bedrae terugbetaalbaar teen reg daarna betaalbaar, voorsiening te maak; Bylae No. 1 by genoemde Wet te wysig; voorsiening te maak vir die voortdurende van sekere wysigings van Bylaes Nos. 1, 3, 4, 5, 6 en 7 by genoemde Wet; en voorsiening te maak vir die toepassing van artikel 45 van genoemde Wet met betrekking tot 'n sekere klaringsbrief, en vir die verwydering van goedere tussen die Republiek van Namibië en die gemeenskaplike doeanegebied en die betaling van brandstofheffing aan die Regering van die Republiek van Namibië; om artikel 42 van die Wysigingswet op Doeane en Aksyns, 1987, te herroep; en om Deel 3 van Bylae No. 1 en Bylae No. 7 by genoemde Wet te skrap; en om voorsiening te maak vir aangeleenthede wat daarmee in verband staan.

*(Afrikaanse teks deur die Staatspresident geteken.)
(Goedgekeur op 14 Junie 1990.)*

DAAR WORD BEPAAL deur die Staatspresident en die Parlement van die Republiek van Suid-Afrika, soos volg:—

Wysiging van artikel 1 van Wet 91 van 1964, soos gewysig deur artikel 1 van Wet 95 van 1965, artikel 1 van Wet 57 van 1966, artikel 1 van Wet 105 van 1969, artikel 1 van Wet 98 van 1970, artikel 1 van Wet 71 van 1975, artikel 1 van Wet 112 van 1977, artikel 1 van Wet 110 van 1979, artikels 1 en 15 van Wet 98 van 1980, artikel 1 van Wet 89 van 1984, artikel 1 van Wet 84 van 1987 en artikel 1 van Wet 68 van 1989 5

1. Artikel 1 van die Doeane- en Aksynswet, 1964 (hieronder die Hoofwet genoem), word hierby gewysig—

(a) deur in subartikel (1) die woorde wat die omskrywing van “aksynsreg” 10 voorafgaan deur die volgende woorde te vervang:

“Tensy uit die samehang anders blyk, word 'n verwysing in hierdie

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 delete references to sales duty, sales duty goods and an embargo and the territory of South-West Africa; to extend certain definitions for the purposes of all customs union agreements concluded under the said Act; to regulate the performance or exercise of any duties imposed or powers conferred by the said Act on the Director-General: Trade and Industry; to provide further for the prevention of any goods entering the Republic in contravention of the provisions of the said Act; to further regulate the entry of goods and the liability for duty on imported goods; to provide for duty or levy payable on fuel levy goods removed to the territory of a party to any customs union agreement or brought into the Republic from any such territory; to empower the Minister of Finance to amend Schedule No. 8 to the said Act; to further regulate the calculation of the value for customs duty purposes of imported goods, and the granting of refunds of duty and fuel levy and rebates of duty; to provide for the set-off of certain overpayments in respect of duty, or certain provisional refunds or amounts refundable against duty subsequently payable; to amend Schedule No. 1 to the said Act; to provide for the continuation of certain amendments of Schedules Nos. 1, 3, 4, 5, 6 and 7 to the said Act; and to provide for the application of section 45 of the said Act in relation to a certain bill of entry, and for the removal of goods between the Republic of Namibia and the common customs area and the payment of fuel levy to the Government of the Republic of Namibia; to repeal section 42 of the Customs and Excise Amendment Act, 1987; and to delete Part 3 of Schedule No. 1 and Schedule No. 7 to the said Act; and to provide for matters connected therewith.

(Afrikaans text signed by the State President.)
(Assented to 14 June 1990.)

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, 5 section 1 of Act 71 of 1975, section 1 of Act 112 of 1977, section 1 of Act 110 of 1979, sections 1 and 15 of Act 98 of 1980, section 1 of Act 89 of 1984, section 1 of Act 84 of 1987 and section 1 of Act 68 of 1989

1. Section 1 of the Customs and Excise Act, 1964 (hereinafter referred to as the principal Act), is hereby amended—

10 (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

Wet na doeane en aksyns of aangeleenthede met betrekking daartoe geag 'n verwysing na **[verkoopreg]** bobelasting en brandstofheffing of aangeleenthede met betrekking daartoe in te sluit, en beteken in hierdie Wet —”;

- (b) deur in genoemde subartikel (1) die omskrywing van “beampte” deur die 5
volgende omskrywing te vervang:
“‘beampte’ iemand wat onder opdrag of met die instemming van die
Kommissaris enige plig in verband met doeane en aksyns **[verkoopreg,**
bobelasting en brandstofheffing] uitvoer, hetsy die opdrag gegee of
instemming betuig is voor of na die verrigting van bedoelde plig;”;
- (c) deur in genoemde subartikel (1) die omskrywing van “doeanereg” deur die 10
volgende omskrywing te vervang:
“‘doeanereg’, behoudens die bepalinge van subartikel (3), enige reg wat
ingevolge Bylae No. 1 (behalwe Dele **[3]** 4 en 5 daarvan) of No. 2 op
in die Republiek ingevoerde goedere hefbaar is;”;
- (d) deur in genoemde subartikel (1) die omskrywing van “doeanetarief” te 15
skrap;
- (e) deur in genoemde subartikel (1) die omskrywing van “gewone reg” te
skrap;
- (f) deur in genoemde subartikel (1) die omskrywing van “klaring vir binne- 20
landse verbruik” deur die volgende omskrywing te vervang:
“‘klaring vir binnelandse verbruik’ ook klaring ingevolge enige item in
Bylae No. 3, 4 of 6 **[of 7]**”;
- (g) deur in genoemde subartikel (1) die omskrywing van “landboudistil- 25
leerder” deur die volgende omskrywing te vervang:
“‘landboudistilleerder’ enige eienaar of okkupeerder van ’n plaas in die
Provinsie die Kaap die Goeie Hoop, Transvaal of Oranje-Vrystaat **[of**
in die gebied Suidwes-Afrika] wat—
(a) gelisensieer is om ’n distilleerketel op sodanige plaas aan te hou; en
(b) in die Provinsie die Kaap die Goeie Hoop **[of in die gebied]** 30
Suidwes-Afrika] gelisensieer is om spiritus te distilleer uitsluitlik van
druive wat deur hom op sodanige plaas verbou word; of
(c) in die Provinsie Transvaal of Oranje-Vrystaat gelisensieer is om
spiritus van druive of ander voorgeskrewe vars vrugte wat deur hom
op sodanige plaas verbou word op sodanige plaas te distilleer;”;
- (h) deur in genoemde subartikel (1) die omskrywing van “onwettige goedere” 35
deur die volgende omskrywing te vervang:
“‘onwettige goedere’, met betrekking tot ingevoerde of synsbare goedere,
[verkoopreggoedere] bobelastinggoedere of brandstofheffinggoedere,
enige sodanige goedere ten opsigte waarvan enige oortreding kragtens 40
hierdie Wet begaan is, en ook enige preparaat of ander produk wat
geheel en al of ten dele van spiritus of ander materiale wat onwettige
goedere was, gemaak is;”;
- (i) deur in genoemde subartikel (1) die omskrywings van “verkoopreg” en 45
“verkoopreggoedere” te skrap;
- (j) deur in genoemde subartikel (1) die omskrywing van “vervaardiging” deur
die volgende omskrywing te vervang:
“‘vervaardiging’ ook, na goëddunke van die Kommissaris, enige proses—
(a) in die vervaardiging of montering van enige synsbare goedere 50
[verkoopreggoedere] of brandstofheffinggoedere;
(b) in die omskepping van enige goedere in synsbare goedere **[verkoop-**
reggoedere] of brandstofheffinggoedere;
(c) waardeur die belasbare hoeveelheid of waarde van enige ingevoerde
goedere in Afdeling B van Deel 2 van Bylae No. 1 vermeld, synsbare
goedere **[verkoopreggoedere]** of brandstofheffinggoedere op enige 55
wyse vermeerder word;
(d) in die herwinning van synsbare goedere **[verkoopreggoedere]** of brand-
stofheffinggoedere van synsbare of enige ander goedere; of
(e) in die verpakking of afmeet van enige ingevoerde goedere in Afdeling 60
B van Deel 2 van Bylae No. 1 vermeld, synsbare goedere **[verkoop-**
reggoedere] of brandstofheffinggoedere, en het ‘vervaardig’ en ‘ver-
vaardiger’ ’n ooreenstemmende betekenis;”;

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customs and excise or matters relating thereto shall be deemed to include a reference to **[sales duty]** surcharge and fuel levy or matters relating thereto, and —”;

- 5 (b) by the substitution in the said subsection (1) for the definition of “agricultural distiller” of the following definition:
- “‘agricultural distiller’ means any owner or occupier of a farm in the Province of the Cape of Good Hope, the Transvaal or the Orange Free State **[or in the territory of South-West Africa]** who—
- 10 (a) is licensed to keep a still on such farm; and
- (b) in the Province of the Cape of Good Hope **[or in the territory of South-West Africa]** is licensed to distil spirits exclusively from grapes grown by him on such farm; or
- 15 (c) in the Province of the Transvaal or the Orange Free State is licensed to distil spirits on such farm from grapes or other prescribed fresh fruit grown by him on such farm;”;
- (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]** 4 and 5 thereof) or No. 2 on goods imported into the Republic;”;
- 20 (d) by the deletion in the said subsection (1) of the definition of “customs tariff”;
- (e) by the substitution in the said subsection (1) for the definition of “entry for home consumption” of the following definition:
- 25 “‘entry for home consumption’ includes entry under any item in Schedule No. 3, 4 or 6 **[or 7]**;”;
- (f) by the substitution in the said subsection (1) for the definition of “illicit goods” of the following definition:
- 30 “‘illicit goods’, in relation to imported or excisable goods, **[sales duty goods]** 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;”;
- 35 (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 **[sales duty goods]** or fuel levy goods;
- 40 (b) in the conversion of any goods into excisable goods **[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 **[sales duty goods]** or fuel levy goods is increased in any manner;
- 45 (d) in the recovery of excisable goods **[sales duty goods]** or fuel levy goods from excisable goods or any other goods; or
- (e) in the packing or measuring off of any imported goods specified in Section B of Part 2 of Schedule No. 1, excisable goods **[sales duty goods]** or fuel levy goods,
- 50 and, when used as a verb, has a corresponding meaning; and ‘manufacturer’ has a corresponding meaning;”;
- (h) by the substitution in the said subsection (1) for the definition of “officer” of the following definition:
- 55 “‘officer’ means a person employed on any duty relating to customs and excise **[and sales duty, 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 duty;”;
- (i) by the deletion in the said subsection (1) of the definition of “ordinary duty”;
- 60 (j) by the deletion in the said subsection (1) of the definitions of “sales duty” and “sales duty goods”; and

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- (k) deur in subartikel (3) die woorde wat paragraaf (a) voorafgaan deur die volgende woorde te vervang:

“Vir die doeleindes van **[die ooreenkoms]** enige doeane-unie-ooreenkomste kragtens artikel 51 aangegaan, **[met die regerings van die Republiek Botswana, die Koninkryk van Lesotho en die Koninkryk van Swaziland en gepubliseer by Goewermentskennisgewing No. R.3914 van 12 Desember 1969]** beteken—”.

Vervanging van artikel 1B van Wet 91 van 1964, soos ingevoeg deur artikel 2 van Wet 98 van 1980

2. Artikel 1B van die Hoofwet word hierby deur die volgende artikel vervang: 10

“Kommissaris van Doeane en Aksyns

1B. Aan die hoof van die Kantoor is daar die Kommissaris van Doeane en Aksyns, wat iemand is wat as sodanig kragtens die Staatsdienswet, **[1957 (Wet No. 54 van 1957)]** 1984 (Wet No. 111 van 1984), aangestel is.”.

Invoeging van artikel 3A in Wet 91 van 1964

3. (1) Die volgende artikel word hierby in die Hoofwet na artikel 3 ingevoeg:

“Pligte en bevoegdhede van Direkteur-generaal: Handel en Nywerheid

3A. (1) Enige plig die Direkteur-generaal: Handel en Nywerheid opgelê of enige bevoegdheid hom deur hierdie Wet verleen, kan deur hom self, of deur 'n beampte ingevolge magtiging of onder beheer of toesig van genoemde Direkteur-generaal, verrig of uitgeoefen word. 20

(2) Enige beslissing gegee kragtens subartikel (1) deur enige sodanige beampte, kan deur genoemde Direkteur-generaal of deur die beampte ingetrek of gewysig word (met ingang van die datum waarop sodanige beslissing gegee is, of van die datum van intrekking of wysiging daarvan), en word, totdat dit aldus ingetrek is, behalwe vir die doeleindes van hierdie subartikel, geag deur daardie Direkteur-generaal gegee te gewees het.”.

- (2) Subartikel (1) van hierdie artikel word geag op 14 Oktober 1987 in werking te getree het. 30

Wysiging van artikel 4 van Wet 91 van 1964, soos gewysig deur artikel 2 van Wet 105 van 1969, artikel 2 van Wet 110 van 1979, artikels 3 en 15 van Wet 98 van 1980 en artikel 2 van Wet 84 van 1987

4. Artikel 4 van die Hoofwet word hierby gewysig— 35

- (a) deur subartikel (2) deur die volgende subartikel te vervang:

“(2) Geen beampte mag regstreekse finansiële belang by die vervaardiging of verkoop of invoer van of handeldryf in ingevoerde of synsbare goedere of **[verkoopreggoedere]** brandstofheffinggoedere hê nie.”;

- (b) deur subartikel (9) deur die volgende subartikel te vervang: 40

“(9) (a) 'n Beampte kan op enige skip gaan wat binne die territoriale waters of visserysone van die Republiek is of enige voertuig in die Republiek voorkeer en daarop gaan en kan enige sodanige skip of voertuig of enige persoon wat daarin of daarop aangetref word, deursoek na goedere waarop regte nie betaal is nie, of ten opsigte waarvan volgens sy redelike vermoede 'n oortreding van enige bepaling van hierdie Wet begaan is, en kan by die verrigting van sy pligte ongehinderd op bedoelde skip of voertuig bly. 45

- (b) Indien enige voertuig, kamer, kajuit, plek, brandkas, kis, kas, **[of]** pak of houer soos omskryf in artikel 1 (2) gesluit is en die sleutels daarvan nie op versoek oorhandig word nie, kan die beampte sodanige voertuig, kamer, kajuit, plek, brandkas, kis, kas, **[of]** pak of houer op enige wyse oopmaak. 50

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- (k) by the substitution in subsection (3) for the words preceding paragraph (a) of the following words:

5 “For the purposes of **[the agreement]** any customs union agreements concluded under section 51 **[with the governments of the Republic of Botswana, the Kingdom of Lesotho and the Kingdom of Swaziland and published by Government Notice No. R.3914 of 12 December 1969]**—”.

Substitution of section 1B of Act 91 of 1964, as inserted by section 2 of Act 98 of 1980

2. The following section is hereby substituted for section 1B of the principal Act:

“Commissioner for Customs and Excise

10 **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)] 1984 (Act No. 111 of 1984)**.”.

Insertion of section 3A in Act 91 of 1964

3. (1) The following section is hereby inserted in the principal Act after section 3:

15 **“Duties and powers of Director-General: Trade and Industry**

3A. (1) Any duty imposed or power conferred by this Act on the Director-General: Trade and Industry may be performed or exercised by him personally or by an officer under a delegation from or under the control or direction of the said Director-General.

20 (2) Any decision made under subsection (1) by any such officer may be withdrawn or amended by the said Director-General or by the officer (with effect from the date of making such decision or the date of withdrawal or amendment thereof) and shall, until it has been so withdrawn, be deemed, except for the purposes of this subsection, to

25 have been made by that Director-General.”.

(2) Subsection (1) of this section shall be deemed to have come into operation on 14 October 1987.

30 **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, sections 3 and 15 of Act 98 of 1980 and section 2 of Act 84 of 1987**

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

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

35 “(2) No officer shall be directly financially interested in the manufacture or sale or importation of or trade in imported or excisable goods or **[sales duty goods]** fuel levy goods.”;

- (b) by the substitution for subsection (9) of the following subsection:

40 “(9) (a) An officer may board any ship within the territorial waters or fishing zone of the Republic or may stop and board any vehicle in the Republic and may search any such ship or vehicle or any person found therein or thereon for goods upon which duty has not been paid, or in respect of which he has reasonable cause to believe that there has been a contravention of any provision of this Act, and may freely remain on such ship or vehicle in pursuance of his duties.

45 (b) If any vehicle, room, cabin, place, safe, chest, box, **[or]** package or container as defined in section 1 (2), is locked and the keys thereof are not produced on demand, the officer may open such vehicle, room, cabin, place, safe, chest, box, **[or]** package or container in any manner.

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- (c) 'n Beampte het vrye toegang tot en die reg om elke deel van sodanige skip of voertuig te deursoek en om alle goedere aan boord te ondersoek, en die bevoegdheid om luikgate vas te maak en enige goedere te merk voordat dit geland word, en om enige goedere aan boord van daardie skip of voertuig, met inbegrip van enige apparaat daarvan, te sluit, te verseël, te merk of op enige ander wyse te beveilig, en hy kan ook van die gesagvoerder van sodanige skip of die loods van enige betrokke vliegtuig of die persoon in beheer van enige ander voertuig die oorlegging vereis van enige dokument waarop 'n bepaling van hierdie Wet betrekking het. 5
- (d) Indien 'n slot, seël of merk wat ingevolge die bepalings van hierdie artikel deur 'n beampte aan of op enige goedere aan boord van 'n skip of voertuig geplaas is, opsetlik oopgemaak, gebreek, uitgewis of verander word, of indien enige goedere wat ingevolge hierdie artikel gesluit, verseël, gemerk of op ander wyse beveilig is, verwyder word of indien die luikgate van 'n skip, nadat dit deur 'n beampte vasgemaak is, sonder sy toestemming oopgemaak word, is die gesagvoerder van enige sodanige skip, die loods van 'n betrokke vliegtuig of die persoon in beheer van enige ander sodanige voertuig, na gelang van die geval, aan 'n misdryf skuldig tensy hy bewys dat dit nie vir hom moontlik was om die betrokke handeling te voorkom nie." 10
- (c) deur die volgende paragraaf by subartikel (10) te voeg, terwyl die bestaande subartikel paragraaf (a) daarvan word: 15
- "(b) Indien sodanige persoon versuim om te stop, kan die beampte die stappe doen, met inbegrip van geweld, wat hy nodig ag om die persoon te stop."; en 20
- (d) deur die volgende subartikel by te voeg: 25
- "(13) Niemand is geregtig op enige vergoeding vir enige verlies of skade wat ontstaan as gevolg van enige *bona fide*-handeling van 'n beampte kragtens hierdie artikel nie." 30

Wysiging van artikel 5 van Wet 91 van 1964, soos vervang deur artikel 2 van Wet 68 van 1989

5. Artikel 5 van die Hoofwet word hierby gewysig deur paragraaf (a) te skrap.

Wysiging van artikel 6 van Wet 91 van 1964, soos gewysig deur artikel 2 van Wet 71 van 1975 en artikel 1 van Wet 52 van 1986

6. Artikel 6 van die Hoofwet word hierby gewysig deur subartikels (3) en (4) te skrap.

Wysiging van artikel 7 van Wet 91 van 1964, soos gewysig deur artikel 3 van Wet 105 van 1969, artikel 3 van Wet 71 van 1975, artikel 1 van Wet 105 van 1976, artikel 4 van Wet 98 van 1980 en artikel 1 van Wet 101 van 1985

7. Artikel 7 van die Hoofwet word hierby gewysig deur na subartikel (1) die volgende subartikel in te voeg:

- "(1A) (a) Die gesagvoerder van 'n skip op buitelandse vaart doen nie by 'n ander plek in die Republiek aan as 'n klaringsplek wat kragtens artikel 6 aangewys is nie, en die loods van 'n vliegtuig wat in die Republiek aankom, moet, tensy die Kommissaris hom spesiale toestemming verleen het om elders te land, sy eerste landing by 'n plek wat kragtens artikel 6 as 'n doeane- en aksynslughawe aangewys is, doen: Met dien verstande dat die bepalings van hierdie subartikel nie van toepassing is nie indien die gesagvoerder of loods, na gelang van die geval, deur omstandighede buite sy beheer gedwing word om by 'n plek aan te doen of te land wat nie aldus aangewys is nie en hy hom aanmeld by die Kontroleur naaste aan die plek waar hy gedwing is om aldus aan te doen of te land of by die Kontroleur by die eerste klaringsplek of doeane- en aksynslughawe wat kragtens artikel 6 aangewys is en waar hy daarna aankom. 45
- (b) Sodanige gesagvoerder of loods wat deur omstandighede buite sy beheer gedwing word om by 'n plek aan te doen of te land wat nie as 'n klaringsplek 50
- 55

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- (c) An officer shall have free access to and the right to rummage every part of any such ship or vehicle and to examine all goods on board, with power to fasten down hatchways and to mark any goods before landing and to lock up, seal, mark or otherwise secure any goods on board that ship or vehicle, including any apparatus thereof, and he may also demand from the master of such ship or the pilot of any aircraft concerned or the person in charge of any other vehicle the production of any document to which any provision of this Act relates.
- (d) If any lock, seal or mark placed upon any goods on board a ship or vehicle by an officer in terms of the provisions of this section is wilfully opened, broken, obliterated or altered or if any goods which have been locked, sealed, marked or otherwise secured in terms of this section are removed or if the hatchways of any such ship are, after having been fastened down by an officer, opened without his consent, the master of any such ship, the pilot of any aircraft concerned or the person in charge of any other such vehicle, as the case may be, shall be guilty of an offence unless he proves that it was not possible for him to have prevented the act in question.”;
- (c) by the addition to subsection (10) of the following paragraph, the existing subsection becoming paragraph (a) thereof:
- “(b) If such person fails to stop, the officer may take such action, including the use of force, as he may deem necessary to stop such person.”; and
- (d) by the addition of the following subsection:
- “(13) No person shall be entitled to any compensation for any loss or damage arising out of any *bona fide* action of an officer under this section.”.

Amendment of section 5 of Act 91 of 1964, as substituted by section 2 of Act 68 of 1989

5. Section 5 of the principal Act is hereby amended by the deletion of paragraph (a).

30 Amendment of section 6 of Act 91 of 1964, as amended by section 2 of Act 71 of 1975 and section 1 of Act 52 of 1986

6. Section 6 of the principal Act is hereby amended by the deletion of subsections (3) and (4).

35 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, section 4 of Act 98 of 1980 and section 1 of Act 101 of 1985

7. Section 7 of the principal Act is hereby amended by the insertion after subsection (1) of the following subsection:

- “(1A) (a) The master of a foreign-going ship shall not call at any place in the Republic other than a place of entry appointed in terms of section 6 and the pilot of an aircraft arriving in the Republic shall, unless the Commissioner has granted him special permission to land elsewhere, make his first landing at a place appointed as a customs and excise airport in terms of section 6: Provided that the provisions of this subsection shall not apply if the master or pilot, as the case may be, is forced by circumstances beyond his control to call or land at a place not so appointed and he reports to the Controller nearest to the place where he was so forced to call or land or to the Controller at the first place of entry or customs and excise airport appointed in terms of section 6 at which he next arrives.
- (b) Such master or pilot who is forced by circumstances beyond his control to call or land at a place in the Republic not appointed as a place of entry in

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kragtens artikel 6 aangewys is nie moet alle nodige voorsorgmaatreëls tref om enige oortreding van hierdie Wet met betrekking tot enige goedere op of in sodanige skip of vliegtuig te voorkom.”.

Herroeping van artikel 8 van Wet 91 van 1964

8. Artikel 8 van die Hoofwet word hierby herroep.

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Wysiging van artikel 9 van Wet 91 van 1964, soos gewysig deur artikel 4 van Wet 105 van 1969, artikel 15 van Wet 98 van 1980, artikel 2 van Wet 101 van 1985 en artikel 3 van Wet 84 van 1987

9. Artikel 9 van die Hoofwet word hierby gewysig deur in subartikel (3) paragraaf (g) deur die volgende paragraaf te vervang:

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“(g) alle ingevoerde goedere waarop regte nie betaal is nie en alle synsbare goedere **[verkoopreggoedere]** en brandstofheffinggoedere wat as skeeps- of vliegtuigvoorrade by ’n plek in die Republiek ingeskeep is; en”.

Wysiging van artikel 12 van Wet 91 van 1964

10. Artikel 12 van die Hoofwet word hierby gewysig deur in subartikel (1) paragraaf (b) deur die volgende paragraaf te vervang:

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“(b) Sodanige stasiemeester of ander persoon laat nie toe dat enige sodanige goedere **[sonder die skriftelike toestemming van die Kontroleur]** van die spoorwegterrein verwyder word **[nie]** voor behoorlike klaring daarvan nie tensy die Kontroleur toelaat dat sodanige goedere aldus verwyder word, onderworpe aan die voorwaardes wat hy in elke geval oplê, voor sodanige klaring.”.

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Wysiging van artikel 13 van Wet 91 van 1964, soos gewysig deur artikel 3 van Wet 57 van 1966, artikel 5 van Wet 105 van 1969, artikel 2 van Wet 112 van 1977, artikel 3 van Wet 101 van 1985 en artikel 3 van Wet 52 van 1986

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11. Artikel 13 van die Hoofwet word hierby gewysig deur in subartikel (3) paragraaf (a) deur die volgende paragraaf te vervang:

“(a) Ondanks die bepalings van subartikel (1), word enige per pos ingevoerde goedere wat die geadresseerde wil klaar vir opslag, of vir vervoer of uitvoer onder waarborg, of ingevolge enige pos of item van Bylae No. 1 wat die verstrekking van ’n sertifikaat of voldoening aan ’n voorwaarde vereis, of ingevolge enige item van Bylae No. 3, of ingevolge enige item van Bylae No. 2, 4 of 5 **[of 7]** wat deur die Kommissaris gespesifiseer word na oorlegpleging met die Posmeester-generaal, by ’n doeane- en aksynskantoor voor ’n Kontroleur aldus geklaar.”.

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Wysiging van artikel 15 van Wet 91 van 1964, soos gewysig deur artikel 2 van Wet 98 van 1970, artikel 2 van Wet 89 van 1984 en artikel 4 van Wet 101 van 1985

12. Artikel 15 van die Hoofwet word hierby gewysig deur subartikel (1) deur die volgende subartikel te vervang:

“(1) Iemand wat die Republiek binnekom of verlaat, moet op die wyse wat die Kommissaris bepaal—

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(a) ten tyde van sodanige binnekoms, alle goedere (met inbegrip van goedere van ’n ander persoon) aan sy persoon of in sy besit wat hy saam met hom in die Republiek ingebring het **[of wat hy voornemens is om saam met hom oor die grense van die Republiek te neem]** wat—

45

(i) in die buiteland aangekoop of andersins verkry is of op enige skip, voertuig of in enige winkel wat goedere verkoop waarop reg nie betaal is nie;

(ii) in die buiteland hermodelleer, verwerk of herstel is; of

(iii) kragtens enige wet verbied, beperk of beheer word;

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(b) voor vertrek, alle goedere wat hy voornemens is om saam met hom oor die grense van die Republiek te neem,

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terms of section 6 shall take all precautions necessary to prevent any contravention of this Act in respect of any goods on or in such ship or aircraft.”.

Repeal of section 8 of Act 91 of 1964

5 8. Section 8 of the principal Act is hereby repealed.

Amendment of section 9 of Act 91 of 1964, as amended by section 4 of Act 105 of 1969, section 15 of Act 98 of 1980, section 2 of Act 101 of 1985 and section 3 of Act 84 of 1987

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

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

Amendment of section 12 of Act 91 of 1964

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

- 20 “(b) Such station master or other person shall not permit any such goods to be removed from the railway premises **[without the written sanction of the Controller]** before due entry thereof unless the Controller allows such goods to be so removed, subject to such conditions as he may in each case impose, before such entry.”.

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, section 2 of Act 112 of 1977, section 3 of Act 101 of 1985 and section 3 of Act 52 of 1986

11. Section 13 of the principal Act is hereby amended by the substitution in subsection (3) for paragraph (a) of the following paragraph:

- 25 “(a) Notwithstanding anything contained in subsection (1), any goods imported by post 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, 30 4 or 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.”.

Amendment of section 15 of Act 91 of 1964, as amended by section 2 of Act 98 of 1970, section 2 of Act 89 of 1984 and section 4 of Act 101 of 1985

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

- 40 “(1) Any person entering or leaving the Republic shall, in such a manner as the Commissioner may determine, unreservedly declare—
 (a) at the time of such entering, all goods (including goods of another person) upon his person or in his possession which he brought with him into the Republic [or proposes taking with him beyond the borders of the Republic] which—
 45 (i) were purchased or otherwise acquired abroad or on any ship, vehicle or in any shop selling goods on which duty has not been paid;
 (ii) were remodelled, processed or repaired abroad; or
 (iii) are prohibited, restricted or controlled under any law;
 50 (b) before leaving, all goods which he proposes taking with him beyond the borders of the Republic,

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sonder voorbehoud verklaar, en moet volledige besonderhede daaromtrent aan 'n beampte verstrek, volledig en na waarheid antwoord op alle vrae deur die beampte aan hom gestel en, indien hy deur die beampte versoek word om dit te doen, sodanige goedere vir ondersoek deur bedoelde beampte voorlê en oopmaak, en moet die reg deur die beampte aangeslaan, as daar is, aan die Kontroleur betaal.”.

Wysiging van artikel 18 van Wet 91 van 1964, soos gewysig deur artikel 2 van Wet 95 van 1965, artikel 6 van Wet 105 van 1969, artikel 4 van Wet 71 van 1975, artikel 3 van Wet 105 van 1976, artikel 3 van Wet 112 van 1977, artikel 15 van Wet 98 van 1980 en artikel 4 van Wet 84 van 1987

13. Artikel 18 van die Hoofwet word hierby gewysig deur in paragraaf (a) van subartikel (1) die woorde wat die voorbehoudsbepaling voorafgaan deur die volgende woorde te vervang:

“die invoerder of eienaar van enige ingevoerde goedere wat in die Republiek geland is of die vervaardiger, eienaar, verkoper of koper van enige sinsbare goedere **[verkoopreggoedere]** of brandstofheffinggoedere wat in 'n doeane- en aksynspakhuis vervaardig is of die lisensiehouer van 'n doeane- en aksynspakhuis waarin belasbare goedere vervaardig of opgeslaan word, sodanige goedere na enige plek in die Republiek wat as 'n klaringsplek of pakhuisplek kragtens hierdie Wet aangewys is of na enige plek buite die Republiek, onder waarborg vervoer:”.

Wysiging van artikel 20 van Wet 91 van 1964, soos gewysig deur artikel 4 van Wet 95 van 1965, artikel 8 van Wet 105 van 1969, artikel 15 van Wet 98 van 1980, artikel 1 van Wet 86 van 1982 en artikel 6 van Wet 84 van 1987

14. Artikel 20 van die Hoofwet word hierby gewysig deur in subartikel (5) die voorbehoudsbepaling deur die volgende voorbehoudsbepaling te vervang:

“Met dien verstande dat in die geval van goedere wat in enige doeane- en aksynsvervaardigingspakhuis vervaardig word of in die geval van goedere wat in die proses van vervaardiging is en van een doeane- en aksynsvervaardigingspakhuis na 'n ander sodanige pakhuis vervoer word, die Kommissaris, behoudens die bepalings van artikel 35 (2), werks-, pomp-, hanterings-, proses- en soortgelyke verliese en verliese te wyte aan natuurlike oorsake tussen die tyd wanneer aanspreeklikheid vir belasting die eerste keer ontstaan en die tyd van verwydering van sodanige goedere uit die pakhuis waarin die goedere aldus vervaardig word of waarin sodanige proses van vervaardiging voltooi word, kan toelaat, in die mate in Bylae No. 4 of 6 **[of 7]** vermeld, mits hy oortuig is dat geen deel van sodanige verlies op moedswillige of nalatige wyse veroorsaak is nie.”.

Wysiging van artikel 27 van Wet 91 van 1964, soos gewysig deur artikel 1 van Wet 57 van 1966, artikel 10 van Wet 105 van 1969, artikel 4 van Wet 112 van 1977, artikel 15 van Wet 98 van 1980 en artikel 7 van Wet 84 van 1987

15. Artikel 27 van die Hoofwet word hierby gewysig—

(a) deur subartikel (1) deur die volgende subartikel te vervang:

“(1) Behoudens die bepalings van hierdie Wet, mag goedere wat onderhewig is aan aksynsreg **[verkoopreg]** of brandstofheffing nie vervaardig word behalwe ingevolge hierdie artikel en behalwe in 'n doeane- en aksynsvervaardigingspakhuis wat ingevolge hierdie Wet gelisensieer is nie: Met dien verstande dat spiritus wat deur landboudistilleerders gedistilleer word, uitgesluit is van die vereiste van vervaardiging in 'n doeane- en aksynsvervaardigingspakhuis en dat sinsbare goedere **[of verkoopreggoedere]** met die toestemming van die Kommissaris in 'n spesiale doeane- en aksynspakhuis wat ingevolge hierdie Wet gelisensieer is, vervaardig mag word.”; en

(b) deur subartikel (3) deur die volgende subartikel te vervang:

“(3) Enige belasbare goedere wat in 'n doeane- en aksynsvervaardigingspakhuis ingebring word en bestem is vir gebruik daarin by die vervaardiging van goedere wat aan aksynsreg **[verkoopreg]** of brandstofheffing

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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, if any, to the Controller.”.

- 5 **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, section 15 of Act 98 of 1980 and section 4 of Act 84 of 1987**

13. Section 18 of the principal Act is hereby amended by the substitution in paragraph (a) of subsection (1) for the words preceding the proviso of the following
10 words:

“the importer or owner of any imported goods landed in the Republic or the manufacturer, owner, seller or purchaser of any excisable goods **[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
15 manufactured or stored may remove 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.”.

- 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, section 1 of Act 86 of 1982
20 and section 6 of Act 84 of 1987**

14. Section 20 of the principal Act is hereby amended by the substitution in subsection (5) for the proviso of the following proviso:

“Provided that in the case of goods manufactured in any customs and excise manufacturing warehouse or in the case of goods in the process of manufacture and removal from one customs and excise manufacturing warehouse to another
25 such warehouse, the Commissioner may, subject to the provisions of section 35 (2), allow working, pumping, handling, processing and similar losses and losses due to natural causes, between the time when liability for duty first arises and the time of removal of such goods from the warehouse in which the goods are
30 so manufactured or in which such process of manufacture is completed, to the extent specified in Schedule No. 4 or 6 **[or 7]**, if he is satisfied that no part of such loss was wilfully or negligently caused.”.

- 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, section 15 of Act 98 of 1980
35 and section 7 of Act 84 of 1987**

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

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

“**(1)** Subject to the provisions of this Act, goods liable to excise duty **[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: Provided that spirits distilled by agricultural distillers shall be excluded from the requirement of manufacture in a customs and excise manufacturing warehouse and that excisable goods **[or sales duty goods]** may with the permission of the Commissioner be
40 manufactured in a special customs and excise warehouse licensed under this Act.”; and
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(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

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onderhewig is, moet vir binnelandse verbruik geklaar word en enige reg verskuldig daarop moet voor sodanige gebruik betaal word.”.

Vervanging van artikel 36A van Wet 91 van 1964, soos ingevoeg deur artikel 11 van Wet 105 van 1969, vervang deur artikel 4 van Wet 52 van 1986 en gewysig deur artikel 2 van Wet 69 van 1988

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16. Artikel 36A van die Hoofwet word hierby deur die volgende artikel vervang:

“**Spesiale bepalings ten opsigte van vervaardiging van goedere in Afdeling B van Deel 2 van Bylae No. 1 vermeld en invordering van aksynsreg in Afdeling B van Deel 2 van Bylae No. 1 vermeld**

36A. (1) Elke vervaardiger van **[verkoopreggoedere of]** synsbare goedere in Afdeling B van Deel 2 van Bylae No. 1 vermeld, elke eienaar van **[verkoopreggoedere of]** synsbare goedere in Afdeling B van Deel 2 van Bylae No. 1 vermeld wat vir hom ten dele of geheel en al van materiale wat aan sodanige eienaar behoort, vervaardig is en elke klas handelaar deur die Kommissaris aangewys, in pèrels, edelstene en halfedelstene, edelmetale, metale bedek met edelmetale of artikels bevattende of vervaardig van sodanige pèrels, edelstene en halfedelstene, edelmetale of metale bedek met edelmetale (uitgesonderd nage-
maakte juweliersware) moet sy perseel as 'n spesiale doeane- en aksynspakhuis **[vir doeleindes van verkoopreg of]** vir doeleindes van aksynsreg in Afdeling B van Deel 2 van Bylae No. 1 vermeld, ingevolge die bepalings van hierdie Wet lisensieer, en geen sodanige vervaardiger, eienaar of handelaar mag **[verkoopreggoedere of]** synsbare goedere in Afdeling B van Deel 2 van Bylae No. 1 vermeld, vervaardig of daarin handel dryf of daarmee handel nie tensy hy sy perseel aldus gelisensieer het: Met dien verstande dat die Kommissaris na goeddunke in die mate wat hy geskik ag en op die voorwaardes wat hy in elke geval oplê, enige sodanige vervaardiger of eienaar van die vereistes van hierdie Wet kan vrystel.

(2) Ondanks andersluidende bepalings van hierdie Wet—

- (a) waar die waarde bygevoeg deur enige proses in die vervaardiging van **[verkoopreggoedere of]** synsbare goedere in Afdeling B van Deel 2 van Bylae No. 1 vermeld volgens die oordeel van die Kommissaris laag is met betrekking tot die vervaardiger se verkoopprys van sodanige goedere of waar enige proses in die vervaardiging van **[verkoopreggoedere of]** synsbare goedere in Afdeling B van Deel 2 van Bylae No. 1 vermeld volgens sy oordeel buitengewone moeilikhede by die invordering van **[verkoopreg of]** aksynsreg in Afdeling B van Deel 2 van Bylae No. 1 vermeld ten opsigte van sodanige goedere bied, is die bepalings van subartikel (1) van toepassing, en geskied behoorlike klaring van sodanige goedere op sodanige stadium in die vervaardiging van gemelde goedere wat hy na goeddunke bepaal, en die prosesse wat geag word ingesluit te wees by die berekening van die waarde vir doeleindes van **[verkoopreg of vir doeleindes van]** aksynsreg in Afdeling B van Deel 2 van Bylae No. 1 vermeld van sodanige goedere, is soos deur hom bepaal;
- (b) kan die Kommissaris, onderworpe aan die voorwaardes wat hy in elke geval oplê—
 - (i) waar die produksie en vandiehandsitting van enige **[verkoopreggoedere of]** synsbare goedere in Afdeling B van Deel 2 van Bylae No. 1 vermeld, verrig word deur verskillende persone of in omstandighede wat dit volgens sy oordeel dienstig maak om dit te doen, een lisensie kragtens die bepalings van hierdie Wet ten opsigte van die perseel van twee of meer betrokke persone uitreik, en daarop is elke sodanige persoon gesamentlik en afsonderlik aanspreeklik vir die **[verkoopreg of]** aksynsreg in

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

Substitution of section 36A of Act 91 of 1964, as inserted by section 11 of Act 105 of 1969, substituted by section 4 of Act 52 of 1986 and amended by section 2 of Act 69 of 1988

16. The following section is hereby substituted for section 36A of the principal Act:

“Special provisions in respect of manufacture of goods specified in Section B of Part 2 of Schedule No. 1 and collection of excise duty specified in Section B of Part 2 of Schedule No. 1

36A. (1) Every manufacturer of **[sales duty goods or]** excisable goods specified in Section B of Part 2 of Schedule No. 1, every owner of **[sales duty goods or]** excisable goods specified in Section B of Part 2 of Schedule No. 1 manufactured for him partly or wholly from materials owned by such owner, and every dealer of a class designated by the Commissioner, in pearls, precious and semi-precious stones, precious metals, metals clad with precious metals or articles containing or manufactured of such pearls, precious and semi-precious stones, precious metals or metals clad with precious metals (excluding imitation jewellery), shall license his premises as a special customs and excise warehouse for **[sales duty purposes or for]** purposes of excise duty specified in Section B of Part 2 of Schedule No. 1 in terms of the provisions of this Act, and no such manufacturer, owner or dealer shall manufacture or deal in or with **[sales duty goods or]** excisable goods specified in Section B of Part 2 of Schedule No. 1 unless he has so licensed his premises: Provided that the Commissioner may in his discretion and to the extent he deems fit, exempt, on the conditions imposed by him in each case, any such manufacturer or owner from the requirements of this Act.

(2) Notwithstanding anything to the contrary in this Act contained—

(a) where the value added by any process in the manufacture of **[sales duty goods or]** excisable goods specified in Section B of Part 2 of Schedule No. 1 is, in the opinion of the Commissioner, low in relation to the manufacturer's selling price of such goods, or where any process in the manufacture of **[sales duty goods or]** excisable goods specified in Section B of Part 2 of Schedule No. 1 presents in his opinion exceptional difficulties in the collection of **[sales duty or]** excise duty specified in Section B of Part 2 of Schedule No. 1 in respect of such goods, the provisions of subsection (1) shall apply, and due entry of such goods shall be effected, at such stage in the manufacture of the said goods as he may in his discretion determine, and the processes which shall be deemed to be included for the purposes of calculating the value for **[sales duty purposes or for]** purposes of excise duty specified in Section B of Part 2 of Schedule No. 1 of such goods shall be as determined by him;

(b) the Commissioner may, subject to such conditions as he may impose in each case—

(i) where the production and disposal of any **[sales duty goods or]** excisable goods specified in Section B of Part 2 of Schedule No. 1 are performed by different persons, or under other circumstances rendering it expedient in his opinion to do so, issue one licence under the provisions of this Act in respect of the

- Afdeling B van Deel 2 van Bylae No. 1 vermeld op al die betrokke **[verkoopreggoedere of]** synsbare goedere in Afdeling B van Deel 2 van Bylae No. 1 vermeld, en indien een persoon betaal, word die ander persoon of persone *pro tanto* vrygestel;
- (ii) in 'n spesiale doeane- en aksynspakhuislisensie kragtens hierdie Wet uitgereik ten opsigte van die perseel van enige vervaardiger van **[verkoopreggoedere of]** synsbare goedere in Afdeling B van Deel 2 van Bylae No. 1 vermeld, enige pakhuis, depot, agentskap, tak of ander opslagplek deur die Kommissaris goedgekeur en waarin enige sodanige goedere behorende aan sodanige vervaardiger bewaar word, insluit, en daarop word sodanige goedere wat aldus bewaar word, by die toepassing van hierdie Wet geag in die gelisensieerde spesiale doeane- en aksynspakhuis van sodanige vervaardiger te wees en moet die betrokke lisensiehouer as sodanig voldoen aan die vereistes van hierdie Wet in alle opsigte en is hy as sodanig aanspreeklik vir die **[verkoopreg of]** aksynsreg in Afdeling B van Deel 2 van Bylae No. 1 vermeld op sodanige goedere wat aldus bewaar word;
- (iii) in die omstandighede wat hy dienstig ag, die perseel van enige handelaar in **[verkoopreggoedere of]** synsbare goedere in Afdeling B van Deel 2 van Bylae No. 1 vermeld as 'n spesiale doeane- en aksynspakhuis kragtens die bepalinge van hierdie Wet lisensieer, en daarop moet sodanige handelaar voldoen aan die vereistes van hierdie Wet met betrekking tot die invordering van **[verkoopreg of]** aksynsreg in Afdeling B van Deel 2 van Bylae No. 1 vermeld op die **[verkoopreggoedere of]** synsbare goedere in Afdeling B van Deel 2 van Bylae No. 1 vermeld wat die Kommissaris bepaal en is hy aanspreeklik vir die **[verkoopreg of]** aksynsreg in Afdeling B van Deel 2 van Bylae No. 1 vermeld op sodanige goedere;
- (iv) die tydelike of blywende aanpassing aanbring by die **[verkoopregwaarde van enige verkoopreggoedere of]** aksynsregwaarde van synsbare goedere in Afdeling B van Deel 2 van Bylae No. 1 vermeld wat hy in omstandighede wat volgens sy oordeel uitsonderlik is, redelik ag.
- (3) **[Verkoopreggoedere of synsbare]** Synsbare goedere in Afdeling B van Deel 2 van Bylae No. 1 vermeld wat in die Republiek deur 'n natuurlike persoon vir sy eie gebruik en nie vir verkoop of vandiehandsitting nie, en in omstandighede wat volgens die oordeel van die Kommissaris nie 'n besigheidsonderneming uitmaak nie, vervaardig is, kan, onderworpe aan die voorwaardes wat hy in elke geval oplê, deur die Kommissaris van die betaling van **[verkoopreg of]** aksynsreg in Afdeling B van Deel 2 van Bylae No. 1 vermeld daarop vrygestel word.
- (4) **[Verkoopreggoedere of synsbare]** Synsbare goedere in Afdeling B van Deel 2 van Bylae No. 1 vermeld wat in die Republiek deur enigiemand anders vervaardig is, of enige klas of soort sodanige goedere, kan, onderworpe aan die voorwaardes wat die Minister oplê, deur die Kommissaris vrygestel word van die betaling van **[verkoopreg of]** aksynsreg in Afdeling B van Deel 2 van Bylae No. 1 vermeld daarop indien—
- (a) die gemiddelde waarde vir doeleindes van **[verkoopreg of vir doeleindes van]** aksynsreg in Afdeling B van Deel 2 van Bylae No. 1 vermeld van sodanige goedere of sodanige klas of soort sodanige goedere gedurende die tydperk of tydperke wat die Minister bepaal nie die bedrag wat die Minister bepaal, oorskry het nie; of
- (b) die waarde vir doeleindes van **[verkoopreg of vir doeleindes van]** aksynsreg in Afdeling B van Deel 2 van Bylae No. 1 vermeld van sodanige goedere of sodanige klas of soort sodanige goedere volgens die oordeel van die Kommissaris waarskynlik nie die in paragraaf (a) bedoelde bedrag gedurende een kalenderjaar sal oorskry nie; of
- (c) die omstandighede wat by regulasie voorgeskryf word, geld.”

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premises of two or more persons concerned, and thereupon each such person shall be jointly and severally liable for the **[sales duty or]** excise duty specified in Section B of Part 2 of Schedule No. 1 on all the **[sales duty goods or]** excisable goods specified in Section B of Part 2 of Schedule No. 1 concerned, any one paying, the other or others to be absolved *pro tanto*;

(ii) include in a special customs and excise warehouse licence issued under this Act in respect of the premises of any manufacturer of **[sales duty goods or]** excisable goods specified in Section B of Part 2 of Schedule No. 1, any warehouse, depot, agency, branch or other storage place approved by the Commissioner and in which any such goods owned by such manufacturer are stored, and thereupon such goods so stored shall, for the purposes of this Act, be deemed to be in the licensed special customs and excise warehouse of such manufacturer, and the licensee concerned shall be liable as such in all respects for compliance with the requirements of this Act and for the **[sales duty or]** excise duty specified in Section B of Part 2 of Schedule No. 1 on such goods so stored;

(iii) in such circumstances as he may deem expedient, license the premises of any dealer in **[sales duty goods or]** excisable goods specified in Section B of Part 2 of Schedule No. 1 as a special customs and excise warehouse under the provisions of this Act, and thereupon such dealer shall comply with the requirements of this Act relating to the collection of **[sales duty or]** excise duty specified in Section B of Part 2 of Schedule No. 1 on such **[sales duty goods or]** excisable goods specified in Section B of Part 2 of Schedule No. 1 as the Commissioner may determine, and be liable for the **[sales duty or]** excise duty specified in Section B of Part 2 of Schedule No. 1 on such goods;

(iv) make such temporary or permanent adjustment to the **[sales duty value of any sales duty goods or]** excise duty value of excisable goods specified in Section B of Part 2 of Schedule No. 1 as he may deem reasonable in circumstances which are in his opinion exceptional.

(3) **[Sales duty goods or excisable]** Excisable goods specified in Section B of Part 2 of Schedule No. 1 manufactured in the Republic by any natural person for his own use and not for sale or disposal and in circumstances which in the opinion of the Commissioner do not constitute a business venture, may, subject to such conditions as he may impose in each case, be exempted by the Commissioner from the payment of **[sales duty or]** excise duty specified in Section B of Part 2 of Schedule No. 1 thereon.

(4) **[Sales duty goods or excisable]** Excisable goods specified in Section B of Part 2 of Schedule No. 1 manufactured in the Republic by any other person, or any class or kind of such goods, may, subject to such conditions as the Minister may impose, be exempted by the Commissioner from the payment of **[sales duty or]** excise duty specified in Section B of Part 2 of Schedule No. 1 thereon if—

(a) the average value for **[sales duty purposes or for]** purposes of excise duty specified in Section B of Part 2 of Schedule No. 1 of such goods or such class or kind of such goods has during such period or periods as the Minister may determine, not exceeded such amount as the Minister may determine; or

(b) the value for **[sales duty purposes or for]** purposes of excise duty specified in Section B of Part 2 of Schedule No. 1 of such goods or such class or kind of such goods is in the opinion of the Commissioner not likely to exceed the amount referred to in paragraph (a) during one calendar year; or

(c) such circumstances as may be prescribed by regulation apply.”

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Wysiging van artikel 37 van Wet 91 van 1964, soos gewysig deur artikel 8 van Wet 95 van 1965, artikel 12 van Wet 105 van 1969, artikels 7 en 15 van Wet 98 van 1980 en artikel 8 van Wet 84 van 1987

17. Artikel 37 van die Hoofwet word hierby gewysig deur subartikel (8) deur die volgende subartikel te vervang:

“(8) By klaring vir binnelandse verbruik word daar, bo en behalwe enige reg ingevolge hierdie artikel betaalbaar en behoudens die bepalings van artikels 27 (3) en 75, **[verkoopreg]** bobelasting of brandstofheffing teen die skaal ingevolge Bylae No. 1 van toepassing, betaal op enige **[verkoopreggoedere]** bobelasting-goedere of brandstofheffinggoedere gebruik of opgeneem in die vervaardiging, hernuwing, menging of vermenging van enige goedere waarop hierdie artikel betrekking het en op enige sodanige vervaardigde, hernude, gemengde of vermengde goedere wat ingevolge genoemde Bylae aan **[verkoopreg]** bobelasting of brandstofheffing onderhewig is.”

Wysiging van artikel 38 van Wet 91 van 1964, soos gewysig deur artikel 1 van Wet 57 van 1966, artikel 13 van Wet 105 van 1969, artikel 5 van Wet 71 van 1975, artikel 4 van Wet 105 van 1976, artikel 15 van Wet 98 van 1980, artikel 2 van Wet 89 van 1983 en artikel 9 van Wet 84 van 1987

18. Artikel 38 van die Hoofwet word hierby gewysig—

(a) deur in subartikel (1) paragraaf (b) deur die volgende paragraaf te vervang:

“(b) (i) **[Die Kontroleur]** Enige invoerder kan, by enige plek wat kragtens die bepalings van hierdie Wet vir die klaring van goedere aangewys is, **[moet klaringsbriewe aanneem vir]** sodanige klaring maak van goedere **[ten opsigte waarvan bewys tot bevrediging van die Kontroleur gelewer is dat sodanige goedere]** wat gelaai is op ’n skip of afgelewer is aan die karweier wat die goedere per voertuig na die Republiek vervoer om op daardie plek afgelaai te word, ondanks die feit dat sodanige skip of voertuig nog nie by daardie plek aangekom het nie.

(ii) Indien enige goedere in subparagraaf (i) bedoel nie ten tyde van klaring volgens voorskrif van artikel 45 (2), aldus gelaai was nie, is die invoerder aan ’n misdryf skuldig en word daardie goedere geag nie geklaar te wees nie.”;

(b) deur subartikel (2) deur die volgende subartikel te vervang:

“(2) Elke invoerder moet binne sewe dae vanaf die verlening deur die Kontroleur van ’n **[afleweringsbevel]** aflossingsbevel ten opsigte van enige goedere wat ingevolge subartikel (1) geklaar is, of waar die betrokke goedere na die verlening van die bevel aankom, binne sewe dae vanaf die aankoms van sodanige goedere, sodanige **[afleweringsbevel]** aflossingsbevel aan die outoriteit in besit van die goedere voorlê vir lewering daarvan.”;

(c) deur in subartikel (3) die woorde wat subparagraaf (i) van paragraaf (a) voorafgaan deur die volgende woorde te vervang:

“Elke uitvoerder van enige goedere moet, voordat sodanige goedere uit die Republiek uitgevoer word, gedurende die ure van enige dag soos by regulasie voorgeskryf, aan die Kontroleur ’n klaringsbrief in die voorgeskrewe vorm voorlê, maar die Kommissaris kan—”; en

(d) deur in subartikel (4) paragraaf (a) deur die volgende paragraaf te vervang:

“(a) Die Minister kan by regulasie toelaat dat enige sinsbare goedere **[verkoopreggoedere]** of brandstofheffinggoedere en enige klas of soort ingevoerde goedere wat hy by regulasie vermeld, van ’n doeane- en aksynspakhuis verwyder word wanneer die eienaar van daardie goedere ’n voorgeskrewe sertifikaat, of ’n faktuur of ander dokument deur die Kommissaris voorgeskryf of goedgekeur, uitreik en dat reg op sodanige goedere op ’n tydstop en op ’n wyse by regulasie vermeld, betaal word, en sodanige sertifikaat, faktuur of ander dokument word by die toepassing van artikel 20 (4), en behoudens die bepalings van artikel 39 (2A), geag ’n behoorlike klaring te wees vanaf die tydstop

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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, sections 7 and 15 of Act 98 of 1980 and section 8 of Act 84 of 1987

17. Section 37 of the principal Act is hereby amended 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 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]** said Schedule.”

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, section 2 of Act 89 of 1983 and section 9 of Act 84 of 1987

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

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

“(b) (i) **[The Controller]** Any importer may, at any place appointed under the provisions of this Act for the entry of goods, **[shall accept entries for]** make such entry of goods **[in respect of]** which **[it is proved to the satisfaction of the Controller that such goods]** have been loaded on a ship or delivered to the carrier which conveys the goods by vehicle to the Republic for discharge at that place, notwithstanding the fact that such ship or vehicle has not yet arrived at that place.

(ii) If any goods referred to in subparagraph (i) have not been so loaded at the time of entry as provided in section 45 (2), the importer shall be guilty of an offence and those goods shall be deemed not to have been entered.”;

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

“(2) Every importer shall within seven days of the granting of a **[delivery]** release order by the Controller in respect of any goods entered in terms of subsection (1) or, where the goods in question arrive after the granting of the order, within seven days of the arrival of such goods, present such **[delivery]** release order to the authority in possession of such goods for delivery thereof.”;

(c) by the substitution in subsection (3) for the words preceding subparagraph (i) of paragraph (a) of the following words:

“Every exporter of any goods shall, before such goods are exported from the Republic, deliver, during the hours of any day prescribed by regulation, to the Controller a bill of entry in the prescribed form, but the Commissioner may—”; and

(d) by the substitution in subsection (4) for paragraph (a) 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 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

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van verwydering van daardie goedere van die doeane- en aksynspakhuis.”.

Wysiging van artikel 39 van Wet 91 van 1964, soos gewysig deur artikel 1 van Wet 85 van 1968, artikel 14 van Wet 105 van 1969, artikel 1 van Wet 93 van 1978, artikel 4 van Wet 110 van 1979, artikels 8 en 15 van Wet 98 van 1980, artikel 10 van Wet 84 van 1987 en artikel 3 van Wet 69 van 1988 5

19. Artikel 39 van die Hoofwet word hierby gewysig deur in subartikel (1) paragraaf (a) deur die volgende paragraaf te vervang:

“(a) Die persoon wat enige ingevoerde goedere vir enige doel kragtens die bepalings van hierdie Wet klaar, moet, gedurende die ure van enige dag soos by regulasie voorgeskryf, aan die Kontroleur ’n klaringsbrief in die voorgeskrewe vorm voorlê waarin volledige besonderhede, soos op die vorm aangedui en soos deur die Kontroleur vereis, en ooreenkomstig die doel (wat op sodanige klaringsbrief vermeld moet word) waarvoor die goedere geklaar word, opgegee word, en moet in die voorgeskrewe vorm ’n verklaring aangaande die juistheid van die besonderhede en doel op bedoelde klaringsbrief weergegee, doen en onderteken.”. 10 15

Wysiging van artikel 41 van Wet 91 van 1964, soos vervang deur artikel 2 van Wet 85 van 1968 en gewysig deur artikel 15 van Wet 105 van 1969, artikel 6 van Wet 112 van 1977, artikel 3 van Wet 93 van 1978, artikel 15 van Wet 98 van 1980, artikel 5 van Wet 86 van 1982 en artikel 12 van Wet 84 van 1987 20

20. Artikel 41 van die Hoofwet word hierby gewysig deur in subartikel (1) die woorde wat die voorbehoudsbepaling voorafgaan deur die volgende woorde te vervang:

“Die uitvoerder van goedere ingevoer in of uitgevoer uit die Republiek of die eienaar van synsbare goedere [verkoopreggoedere] of brandstofheffinggoedere in ’n doeane- en aksynspakhuis vervaardig, moet ’n ware, juiste en voldoende faktuur, waardesertifikaat en herkomssertifikaat van sodanige goedere verskaf, in die vorm en met verklaring van die besonderhede van sodanige goedere soos in die regulasies voorgeskryf en soos nodig is om ’n geldige klaring van sodanige goedere te doen, en moet die verdere inligting in verband met sodanige faktuur, sertifikaat, besonderhede of goedere verstrek wat die Kommissaris te eniger tyd vir die doeleindes van hierdie Wet verlang.”. 25 30

Wysiging van artikel 44 van Wet 91 van 1964, soos gewysig deur artikel 10 van Wet 95 van 1965, artikels 1 en 5 van Wet 57 van 1966, artikel 16 van Wet 105 van 1969, artikel 7 van Wet 71 van 1975, artikel 8 van Wet 112 van 1977, artikel 5 van Wet 110 van 1979, artikel 15 van Wet 98 van 1980, artikel 3 van Wet 89 van 1984, artikel 5 van Wet 52 van 1986 en artikel 13 van Wet 84 van 1987 35

21. (1) Artikel 44 van die Hoofwet word hierby gewysig—

(a) deur die voorbehoudsbepaling by subartikel (1) deur die volgende voorbehoudsbepaling te vervang: 40

“Met dien verstande dat, behoudens die bepalings van subartikel (7), enige sodanige aanspreeklikheid verval indien daar tot bevrediging van die Kommissaris bewys word dat sodanige goedere (uitgesonderd, behalwe vir sover die regulasies anders bepaal, goedere wat van ’n afsonderlike pak vermis word en ten opsigte waarvan enige doeanereg, [verkoopreg] bobelasting of brandstofheffing afsonderlik beskou, hoogstens vyf-en-twintig rand bedra) nie by enige plek in die Republiek geland is nie.”; 45

(b) deur subartikel (2) deur die volgende subartikel te vervang: 50

“(2) Enige synsbare goedere [verkoopreggoedere] of brandstofheffinggoedere word by die toepassing van hierdie Wet geag vervaardig te wees op daardie stadium in die vervaardigingsproses waarop bedoelde goedere die wesenlike eienskappe verkry het van en na die oordeel van die Kommissaris geskik is vir gebruik as sodanige synsbare goedere [verkoopreggoedere] of brandstofheffinggoedere, en aanspreeklikheid vir reg begin op daardie stadium.”; 55

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be a due entry from 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, sections 8 and 15 of Act 98 of 1980, section 10 of Act 84 of 1987 and section 3 of Act 69 of 1988

19. Section 39 of the principal Act is hereby amended by the substitution in subsection (1) for paragraph (a) of the following paragraph:

- 10 “(a) The person entering any imported goods for any purpose in terms of the provisions of this Act shall deliver, during the hours of any day prescribed by regulation, to the Controller a bill of entry in the prescribed form, setting forth the full particulars as indicated on the form and as required by the Controller, and according to the purpose (to be specified on such bill of entry) for which the goods are being entered, and shall make and subscribe to a declaration in the prescribed form, as to the correctness of the particulars and purpose shown on such bill of entry.”.

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, section 5 of Act 86 of 1982 and section 12 of Act 84 of 1987

20. 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:

- 25 “The exporter of any goods imported into or exported from the Republic or the owner of any excisable goods [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, section 5 of Act 52 of 1986 and section 13 of Act 84 of 1987

21. (1) Section 44 of the principal Act is hereby amended—

- (a) by the substitution for the proviso to subsection (1) of the following proviso:
- 40 “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, [sales duty] surcharge or fuel levy, each taken separately, does not exceed twenty-five rand) were not landed at any place in the Republic.”;
- 45 (b) by the substitution for subsection (2) of the following subsection:
- 50 “(2) Any excisable goods [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 [sales duty goods] or fuel levy goods, and liability for duty shall commence at the said stage.”;

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- (c) deur in subartikel (6) paragraaf (c) deur die volgende paragraaf te vervang:
 “(c) in enige ander geval, by die invoerder of die eienaar van sodanige goedere of enige persoon wat sodanige aanspreeklikheid vir enige doel kragtens die bepalings van hierdie Wet aanvaar, onderworpe aan die goedkeuring van die Kommissaris en die voorwaardes wat hy bepaal.”; 5
- (d) deur subartikel (7) deur die volgende subartikel te vervang:
 “(7) Ondanks andersluidende bepalings van hierdie artikel, word daar aan ’n invoerder geen terugbetaling toegestaan nie van doeanereg, **[verkoopreg]** bobelasting of brandstofheffing betaal ten opsigte van goedere wat van ’n afsonderlike ingevoerde pak vermis word indien sodanige doeanereg, **[verkoopreg]** bobelasting of brandstofheffing, afsonderlik beskou, hoogstens vyf-en-twintig rand bedra.”; en 10
- (e) deur subartikel (8) deur die volgende subartikel te vervang:
 “(8) Die vervaardiger, eienaar, verkoper of koper van enige sinsbare goedere **[verkoopreggoedere]** of brandstofheffinggoedere is, behoudens die bepalings van Hoofstuk VII, aanspreeklik vir die reg op sodanige goedere en sy aanspreeklikheid duur voort totdat sodanige goedere behoorlik geklaar is en die reg daarop verskuldig, betaal is.”. 15
- (2) Paragraaf (c) van subartikel (1) van hierdie artikel word geag op 10 Mei 1989 in werking te getree het. 20

Wysiging van artikel 47 van Wet 91 van 1964, soos gewysig deur artikel 11 van Wet 95 van 1965, artikel 17 van Wet 105 van 1969, artikel 2 van Wet 7 van 1974, artikel 7 van Wet 105 van 1976, artikel 10 van Wet 112 van 1977, artikel 6 van Wet 110 van 1979, artikels 9 en 15 van Wet 98 van 1980, artikel 8 van Wet 86 van 1982, artikel 6 van Wet 52 van 1986, artikel 15 van Wet 84 van 1987, artikel 4 van Wet 69 van 1988 en artikel 6 van Wet 68 van 1989 25

22. Artikel 47 van die Hoofwet word hierby gewysig—

- (a) deur in subartikel (1) die woorde wat die voorbehoudsbepaling voorafgaan deur die volgende woorde te vervang:
 “Behoudens die bepalings van hierdie Wet, word reg ten bate van die Staatsinkomstefonds betaal op alle ingevoerde goedere, alle sinsbare goedere, **[alle verkoopreggoedere]** alle bobelastinggoedere en alle brandstofheffinggoedere ooreenkomstig die bepalings van Bylae No. 1 ten tyde van klaring van sodanige goedere vir binnelandse verbruik.”; 30
 en 35
- (b) deur subartikel (7) deur die volgende subartikel te vervang:
 “(7) Waar die tariefpos of subpos waaronder enige goedere in Deel 1 van Bylae No. 1 ingedeel word, uitdruklik aangehaal word in enige tariefitem, **[verkoopregitem]** bobelastingitem of brandstofheffingitem of item van Deel 2, **[3]** 4, 5 of 6 van genoemde Bylae of in enige item in Bylae No. 2 waarin sodanige goedere vermeld word, word die goedere wat aldus in genoemde tariefitem, **[verkoopregitem]** bobelastingitem of brandstofheffingitem of item van genoemde Deel 2, **[3]** 4, 5 of 6 of in genoemde item van Bylae No. 2 vermeld word, geag nie goedere in te sluit wat nie onder genoemde tariefpos of subpos ingedeel word nie.”. 40
 45

Wysiging van artikel 48 van Wet 91 van 1964, soos gewysig deur artikel 6 van Wet 57 van 1966, artikel 18 van Wet 105 van 1969, artikel 3 van Wet 98 van 1970, artikel 1 van Wet 68 van 1973, artikel 8 van Wet 105 van 1976, artikel 11 van Wet 112 van 1977, artikel 10 van Wet 98 van 1980, artikel 9 van Wet 86 van 1982, artikel 18 van Wet 84 van 1987 en artikel 7 van Wet 68 van 1989 50

23. Artikel 48 van die Hoofwet hierby gewysig—

- (a) deur in subartikel (2) die woorde wat die voorbehoudsbepaling voorafgaan deur die volgende woorde te vervang:
 “Die Minister kan van tyd tot tyd by dergelike kennisgewing, wanneer hy dit in die openbare belang dienstig ag om dit te doen, Deel 2, **[Deel 3]** Deel 4 of Deel 5 van Bylae No. 1 wysig of intrek of, indien aldus ingetrek, invoeg.”; en 55
- (b) deur in subartikel (2A) subparagraaf (i) van paragraaf (a) deur die volgende subparagraaf te vervang:

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- (c) by the substitution in subsection (6) for paragraph (c) of the following paragraph:
- “(c) in any other case, on the importer or the owner of such goods or any person who assumes such liability for any purpose under the provisions of this Act, subject to the approval of the Commissioner and such conditions as he may determine.”;
- (d) 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, **[sales duty]** surcharge or fuel levy paid in respect of any goods missing from any individual imported package, if such customs duty, **[sales duty]** surcharge or fuel levy, each taken separately, does not exceed twenty-five rand.”; and
- (e) by the substitution for subsection (8) of the following subsection:
- “(8) The manufacturer, owner, seller or purchaser of any excisable goods **[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.”.
- (2) Paragraph (c) of subsection (1) of this section shall be deemed to have come into operation on 10 May 1989.

Amendment of section 47 of Act 91 of 1964, as amended by section 11 of Act 95 of 1965, section 17 of Act 105 of 1969, section 2 of Act 7 of 1974, section 7 of Act 105 of 1976, section 10 of Act 112 of 1977, section 6 of Act 110 of 1979, sections 9 and 15 of Act 98 of 1980, section 8 of Act 86 of 1982, section 6 of Act 52 of 1986, section 15 of Act 84 of 1987, section 4 of Act 69 of 1988 and section 6 of Act 68 of 1989

22. 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]** 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.”; and
- (b) 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, **[sales duty item]** 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, **[sales duty item]** 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.”.

Amendment of section 48 of Act 91 of 1964, as amended by section 6 of Act 57 of 1966, section 18 of Act 105 of 1969, section 3 of Act 98 of 1970, section 1 of Act 68 of 1973, section 8 of Act 105 of 1976, section 11 of Act 112 of 1977, section 10 of Act 98 of 1980, section 9 of Act 86 of 1982, section 18 of Act 84 of 1987 and section 7 of Act 68 of 1989

23. 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:
- “The Minister may from time to time by like notice amend or withdraw or, if so withdrawn, insert Part 2, **[Part 3]** Part 4 or Part 5 of Schedule No. 1, whenever he deems it expedient in the public interest to do so.”; and
- (b) by the substitution in subsection (2A) for subparagraph (i) of paragraph (a) of the following subparagraph:

- “(i) Die Minister kan van tyd tot tyd by dergelike kennisgewing, wanneer hy dit in die openbare belang dienstig ag om dit te doen, die Direkteur-generaal: Handel en Nywerheid of die Kommissaris magtig om met of sonder terugwerkende krag en onderhewig aan die voorwaardes wat genoemde Direkteur-generaal of Kommissaris bepaal, enige reg vermeld in Deel 2 [Deel 3] of Deel 4 van Bylae No. 1 in te trek.” 5

Invoeging van artikel 52 in Wet 91 van 1964

24. (1) Die volgende artikel word in die Hoofwet na artikel 51 ingevoeg:

“Oplegging van ’n brandstofheffing deur enige party by ’n doeane-unie-ooreenkoms 10

52. (a) Ondanks andersluidende bepalings van hierdie Wet, word enige brandstofheffinggoedere wat na die gebied van ’n party by ’n doeane-unie-ooreenkoms ingevolge artikel 51 aangegaan, vervoer, of vanaf sodanige gebied die Republiek binnegebring word, indien ’n brandstofheffing nie deur sodanige party opgelê is nie, geag onderskeidelik goedere uit die Republiek uitgevoer en goedere in die Republiek ingevoer te wees, en die bepalings van hierdie Wet met betrekking tot die uitvoer van goedere uit die Republiek en die invoer van goedere in die Republiek is, behoudens die reëlings wat die Kommissaris na goeddunke bepaal, van toepassing op daardie goedere tot tyd en wyl sodanige brandstofheffing deur daardie party soos bepaal in hierdie Wet opgelê word. 15 20

(b) Indien enige sodanige party tot sodanige doeane-unie-ooreenkoms sodanige brandstofheffing soos bepaal in hierdie Wet oplê, kan die Kommissaris, ondanks die bepalings van artikel 47 (1), ten opsigte van enige brandstofheffing wat in die Republiek betaal is op enige petrol of distillaatbrandstof geklaar of verwyder vir gebruik in die gebied van sodanige party sodanige brandstofheffing vir enige tydperk wat dit aldus opgelê word, indien die Minister dit goedkeur, aan sodanige party betaal. 25 30

(c) By die toepassing van paragraaf (b) kan die Kommissaris die betrokke brandstofheffing betaal op die grondslag van enige dokumente, met betrekking tot die beweging van sodanige petrol of distillaatbrandstof, in besit van enige persoon soos hy bepaal.” 35

- (2) Subartikel 1 van hierdie artikel word geag op 1 Julie 1987 in werking te getree het.

Wysiging van artikel 60 van Wet 91 van 1964, soos gewysig deur artikel 4 van Wet 85 van 1968, artikel 20 van Wet 105 van 1969 en artikel 11 van Wet 86 van 1982

25. Artikel 60 van die Hoofwet word hierby gewysig deur die volgende subartikels by te voeg: 40

“(3) Die Minister kan, wanneer hy dit in die openbare belang dienstig ag om dit te doen, Bylae No. 8 by kennisgewing in die *Staatskoerant* wysig.

(4) Die bepalings van artikel 48 (6) en (7) is *mutatis mutandis* van toepassing ten opsigte van enige wysiging wat kragtens die bepalings van subartikel (3) van hierdie artikel aangebring is.” 45

Wysiging van artikel 66 van Wet 91 van 1964, soos vervang deur artikel 14 van Wet 86 van 1982 en gewysig deur artikel 5 van Wet 69 van 1988 en artikel 10 van Wet 68 van 1989

26. (1) Artikel 66 van die Hoofwet word hierby gewysig— 50

(a) deur in subartikel (8) paragraaf (d) deur die volgende paragraaf te vervang:

“(d) die koste van vervoer, laai, aflaai, hantering en versekering en verwante onkoste verbonde aan die lewering van die ingevoerde goedere by die hawe of plek van uitvoer in die land van uitvoer en plasing van daardie goedere aan boord van ’n skip of op ’n voertuig, of in ’n houer soos omskryf in artikel 1 (2), by daardie hawe of plek [gereed vir uitvoer na die Republiek];” en 55

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- 5 “(i) 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.”

Insertion of section 52 in Act 91 of 1964

24. (1) The following section is hereby inserted in the principal Act after section 51:

- 10 **“Imposition of a fuel levy by any party to a customs union agreement**
 15 **52. (a)** Notwithstanding anything to the contrary in this Act contained, any fuel levy goods which are removed to the territory of a party to any customs union agreement concluded in terms of section 51 or brought into the Republic from any such territory, shall, if a fuel
 20 levy 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 this Act relating to the exportation from and importation of goods into the Republic shall, subject to such arrangements as the Commissioner in his discretion may determine, apply to those goods until such time as such fuel levy is imposed by that party as provided in this Act.
 25 (b) If any such party to such customs union agreement imposes such fuel levy as provided in this Act, the Commissioner may, notwithstanding the provisions of section 47 (1), in respect of any fuel levy paid in the Republic on any petrol or distillate fuel entered or removed for consumption in the territory of any such party pay such fuel levy for any period it remains so imposed, if the Minister approves, to such party.
 30 (c) For the purposes of paragraph (b), the Commissioner may pay the fuel levy concerned on the basis of any documents, relating to the movement of such petrol or distillate fuel, in possession of any person as may be determined by him.”

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

35 **Amendment of section 60 of Act 91 of 1964, as amended by section 4 of Act 85 of 1968, section 20 of Act 105 of 1969 and section 11 of Act 86 of 1982**

25. Section 60 of the principal Act is hereby amended by the addition of the following subsections:

- 40 “(3) The Minister may, whenever he deems it expedient in the public interest to do so, amend Schedule No. 8 by notice in the *Gazette*.
 (4) The provisions of section 48 (6) and (7) shall *mutatis mutandis* apply in respect of any amendment made under the provisions of subsection (3) of this section.”

45 **Amendment of section 66 of Act 91 of 1964, as substituted by section 14 of Act 86 of 1982 and amended by section 5 of Act 69 of 1988 and section 10 of Act 68 of 1989**

26. (1) Section 66 of the principal Act is hereby amended—

- (a) by the substitution in subsection (8) for paragraph (d) of the following paragraph:
 50 “(d) the cost of transportation, loading, unloading, handling and insurance and associated costs incidental to delivery of the imported goods at the port or place of export in the country of exportation and placing those goods on board ship or on any vehicle, or in a container as defined in section 1 (2), at that port or place **[ready for export to the Republic];**”;
 and

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- (b) deur subartikel (11) deur die volgende subartikel te vervang:

“(11) By die toepassing van subartikel (7) (a) (ii) of (8) (d), is die hawe of plek van uitvoer daarin bedoel die plek in die land van uitvoer waar die betrokke goedere—

(a) in 'n houer soos omskryf in artikel 1 (2) verpak word of, indien nie aldus in 'n houer verpak nie, aan boord van 'n skip of op 'n voertuig wat sodanige goedere vervoer vanaf of oor die grens van [in die] daardie land [van uitvoer, gereed vir uitvoer na die Republiek] geplaas word; of 5

(b) [op die voertuig wat dit vervoer oor die grens van die land waarvandaan dit na die Republiek uitgevoer word, geplaas word.] indien dit skepe of voertuie is wat op eie krag beweeg, finaal daardie land vir die Republiek verlaat.” 10

(2) Subartikel (1) van hierdie artikel word geag op 21 Junie 1989 in werking te getree het. 15

Wysiging van artikel 67 van Wet 91 van 1964, soos ingevoeg deur artikel 15 van Wet 86 van 1982 en gewysig deur artikel 6 van Wet 69 van 1988 en artikel 11 van Wet 68 van 1989

27. (1) Artikel 67 van die Hoofwet word hierby gewysig—

(a) deur in subartikel (1) paragraaf (e) deur die volgende paragraaf te vervang: 20

“(e) vir sover dit nie in die prys werklik betaal of betaalbaar vir die goedere ingesluit is nie, die koste van vervoer, laai, aflaai, hantering en versekering en verwante koste verbonde aan die lewering van die goedere by die hawe of plek van uitvoer in die land van uitvoer en plasing van daardie goedere aan boord van 'n skip of op enige voertuig, of in 'n houer soos omskryf in artikel 1 (2), by daardie hawe of plek [gereed vir uitvoer na die Republiek].”; en 25

(b) deur subartikel (4) deur die volgende subartikel te vervang:

“(4) By die toepassing van subartikel (1) (e) of (2) (a) is die hawe of plek van uitvoer daarin bedoel die plek in die land van uitvoer waar die betrokke goedere— 30

(a) in 'n houer soos omskryf in artikel 1 (2) verpak word of, indien nie aldus in 'n houer verpak nie, aan boord van 'n skip of op 'n voertuig wat sodanige goedere vervoer vanaf of oor die grens van [in die] daardie land [van uitvoer, gereed vir uitvoer na die Republiek] geplaas word; of 35

(b) [op die voertuig wat dit vervoer oor die grens van die land waarvandaan dit na die Republiek uitgevoer word, geplaas word.] indien dit skepe of voertuie is wat op eie krag beweeg, finaal daardie land vir die Republiek verlaat.” 40

(2) Subartikel (1) van hierdie artikel word geag op 21 Junie 1989 in werking te getree het.

Herroeping van artikel 70 van Wet 91 van 1964, soos ingevoeg deur artikel 23 van Wet 105 van 1969 en gewysig deur artikel 9 van Wet 105 van 1976, artikel 23 van Wet 112 van 1977, artikel 7 van Wet 93 van 1978 en artikel 16 van Wet 86 van 1982 45

28. Artikel 70 van die Hoofwet word hierby herroep.

Wysiging van artikel 75 van Wet 91 van 1964, soos gewysig deur artikel 13 van Wet 95 van 1965, artikel 10 van Wet 57 van 1966, artikel 8 van Wet 85 van 1968, artikel 24 van Wet 105 van 1969, artikel 8 van Wet 103 van 1972, artikel 2 van Wet 68 van 1973, artikel 9 van Wet 71 van 1975, artikel 27 van Wet 112 van 1977, artikel 8 van Wet 93 van 1978, artikel 10 van Wet 110 van 1979, artikel 15 van Wet 98 van 1980, artikel 19 van Wet 86 van 1982, artikel 6 van Wet 89 van 1984, artikel 11 van Wet 101 van 1985, artikel 9 van Wet 52 van 1986, artikel 23 van Wet 84 van 1987, artikel 8 van Wet 69 van 1988 en artikel 13 van Wet 68 van 1989 50

29. (1) Artikel 75 van die Hoofwet word hierby gewysig—

(a) deur in subartikel (1) paragraaf (e) te skrap; 55

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

“(11) For the purposes of subsection (7) (a) (ii) or (8) (d), the port or place of export referred to therein shall be the place in the country of exportation where the goods in question [are]—

5 (a) are packed in a container as defined in section 1 (2) or, if not so packed in a container, placed on board ship or on any vehicle which conveys them from or across the border of [in the] that country [of exportation, ready for export to the Republic]; or

10 (b) [placed on the vehicle which conveys them across the border of the country from which they are exported to the Republic.] if they are ships or vehicles moving under their own power, finally leave that country for the Republic.”

(2) Subsection (1) of this section shall be deemed to have come into operation on 21 June 1989.

15 **Amendment of section 67 of Act 91 of 1964, as inserted by section 15 of Act 86 of 1982 and amended by section 6 of Act 69 of 1988 and section 11 of Act 68 of 1989**

27. (1) Section 67 of the principal Act is hereby amended—

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

20 “(e) to the extent that they are not included in the price actually paid or payable for the goods, the cost of transportation, loading, unloading, handling and insurance and associated costs incidental to delivery of the goods at the port or place of export in the country of exportation and placing those goods on board ship or on any vehicle, or in a

25 container as defined in section 1 (2), at that port or place [ready for export to the Republic].”; and

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

30 “(4) For the purposes of subsection (1) (e) or (2) (a), the port or place of export referred to therein shall be the place in the country of exportation where the goods in question [are]—

(a) are packed in a container as defined in section 1 (2) or, if not so packed in a container, placed on board ship or on any vehicle which conveys them from or across the border of [in the] that country [of exportation, ready for export to the Republic]; or

35 (b) [placed on the vehicle which conveys them across the border of the country from which they are exported to the Republic.] if they are ships or vehicles moving under their own power, finally leave that country for the Republic.”

40 (2) Subsection (1) of this section shall be deemed to have come into operation on 21 June 1989.

Repeal of section 70 of Act 91 of 1964, as inserted by section 23 of Act 105 of 1969 and amended by section 9 of Act 105 of 1976, section 23 of Act 112 of 1977, section 7 of Act 93 of 1978 and section 16 of Act 86 of 1982

28. Section 70 of the principal Act is hereby repealed.

45 **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**

50 **89 of 1984, section 11 of Act 101 of 1985, section 9 of Act 52 of 1986, section 23 of Act 84 of 1987, section 8 of Act 69 of 1988 and section 13 of Act 68 of 1989**

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

(a) by the deletion in subsection (1) of paragraph (e);

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- (b) deur in subartikel (1) die voorbehoudsbepaling by subparagraaf (i) van paragraaf (f) deur die volgende voorbehoudsbepaling te vervang:
- “Met dien verstande dat geen terugbetaling aan die Staat of enige regering, departement, administrasie of enige liggaam, instelling of owerheid genoem in [item 401.00 van Bylae No. 4 en item 601.00 van Bylae No. 6, met ingebrip van enige universiteit, kollege, skool of ander opvoedkundige instelling of enige streeks- of plaaslike owerheid, behalwe soos bepaal in] die opmerkings by genoemde Bylae No. 5 of 6, betaal word nie;”;
- (c) deur in subartikel (2) subparagraaf (i) van paragraaf (b) deur die volgende subparagraaf te vervang:
- “(i) in ’n fabriek wat ingevolge die Wet op Masjinerie en Beroepsveiligheid, 1983 (Wet No. 6 van 1983), [of enige dergelike wetsbepaling in die gebied Suidwes-Afrika van krag] geregistreer is;”;
- (d) deur in subartikel (6) die voorbehoudsbepaling by paragraaf (a) deur die volgende voorbehoudsbepaling te vervang:
- “Met dien verstande dat, ten opsigte van enige sodanige goedere wat in enige item van Bylae No. 3, 4 of 6 [of 7] vermeld word, die Kommissaris sodanige goedere, onderworpe aan die bepaling van of die opmerkings van toepassing op die item waarin sodanige goedere vermeld word en enige voorwaardes wat hy in elke geval voorskryf, van die hele of enige gedeelte van die reg wat daarop kragtens hierdie subartikel betaalbaar is, kan vrystel op grond van die tydperk of die mate van gebruik in ooreenstemming met die bepaling van die item ingevolge waarvan sodanige goedere geklaar is, of op enige ander grond wat hy redelik ag.”;
- (e) deur in subartikel (7) die woorde wat die voorbehoudsbepaling voorafgaan deur die volgende woorde te vervang:
- “Geen teruggawe of terugbetaling word ten opsigte van enige in ’n item van Bylae No. 5 of 6 [of 7] vermelde goedere betaal nie indien sodanige goedere andersins as in ooreenstemming met die bepaling van hierdie artikel en die betrokke item gebruik of oor beskik is of indien sodanige bepaling ten opsigte van sodanige goedere nie nagekom is nie;”;
- (f) deur subartikel (8) deur die volgende subartikel te vervang:
- “(8) Waar die tariefpos of -subpos of die tariefitem of -subitem [of die verkoopregitem of -subitem] waaronder enige goedere in Bylae No. 1 ingedeel word, uitdruklik aangehaal word in enige item van Bylae No. 3, 4, 5 of 6 [of 7] waarin sodanige goedere vermeld word, word die goedere aldus vermeld in bedoelde item van Bylae No. 3, 4, 5 of 6 [of 7] geag nie goedere in te sluit wat nie onder bedoelde tariefpos of -subpos of tariefitem of -subitem [of verkoopregitem of -subitem] ingedeel word nie.”;
- (g) deur in subartikel (9) die woorde wat die voorbehoudsbepaling voorafgaan deur die volgende woorde te vervang:
- “Enige goedere wat kragtens hierdie artikel vir gebruik met korting op reg geklaar word, word by die toepassing van hierdie Wet geag vir binnelandse verbruik geklaar te wees, maar geen klaring ten opsigte van enige sodanige goedere in Bylae No. 3 of 4 [of 7] vermeld, is geldig nie tensy die nommer van die tariefpos en -subpos [of verkoopregitem en -subitem] waaronder sodanige goedere in Bylae No. 1 ingedeel word en die nommer van die item van Bylae No. 3 of 4 [of 7] waarin bedoelde goedere vermeld word albei op sodanige klaring aangegee word en die nywerheid waarin en die doel waarvoor sodanige goedere gebruik staan te word, soos in die bedoelde item voorgeskryf, op sodanige klaring aangegee word.”;
- (h) deur in subartikel (10) die woorde wat die voorbehoudsbepaling by paragraaf (a) voorafgaan deur die volgende woorde te vervang:
- “Geen goedere kan met korting op reg kragtens hierdie artikel of die regulasies geklaar of verkry word alvorens die persoon wat dit aldus klaar of verkry die deur die Kommissaris vereiste sekerheid verskaf het en die ander voorwaardes (met inbegrip van registrasie by die Kommissaris van sy perseel en installasie) wat deur die Minister by

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- (b) by the substitution in subsection (1) for the proviso to subparagraph (i) of paragraph (f) of the following proviso:

“Provided that no such refund shall be paid to the State or 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;”;

- (c) by the substitution in subsection (2) for subparagraph (i) of paragraph (b) of the following subparagraph:

“(i) in a factory which is registered under the Machinery and Occupational Safety Act, 1983 (Act No. 6 of 1983) **[or any like law in force in the territory of South-West Africa]**;”;

- (d) by the substitution in subsection (6) for the proviso to paragraph (a) of the following proviso:

“Provided that, in respect of any such goods which are specified in any item of Schedule No. 3, 4 or 6 **[or 7]** the Commissioner may, subject to the provisions of or the notes applicable to the item in which such goods are specified and to any conditions which he may impose in each case, exempt any such goods from the whole or any portion of the duty payable thereon under this subsection on the ground of the period or the extent of use in accordance with the provisions of the item under which such goods were entered, or on any other ground which he considers reasonable.”;

- (e) by the substitution in subsection (7) for the words preceding the proviso of the following words:

“No drawback or refund shall be paid in respect of any goods specified in any item of Schedule No. 5 or 6 **[or 7]** if such goods have been used or disposed of otherwise than in accordance with the provisions of this section and the item in question or if such provisions have not been complied with in respect of such goods.”;

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

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

- (g) by the substitution in subsection (9) for the words preceding the proviso of the following words:

“Any goods entered for use under rebate of duty under this section shall, for the purposes of this Act, be deemed to be entered for home consumption, but no entry in respect of any such goods described in Schedule No. 3 or 4 **[or 7]** shall be valid unless the number of the tariff heading and subheading **[or sales duty item and subitem]** under which such goods are classified in Schedule No. 1 and the number of the item of Schedule No. 3 or 4 **[or 7]** in which the said goods are specified are both declared on such entry and the industry in which and the purpose for which such goods are to be used, as specified in the said item, are declared on such entry.”;

- (h) by the substitution in subsection (10) for the words preceding the proviso to paragraph (a) of the following words:

“No goods may be entered or acquired under rebate of duty under this section or the regulations until the person so entering or acquiring them has furnished such security as the Commissioner may require and has complied with such other conditions (including registration with the Commissioner of his premises and plant) as may be prescribed by

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regulasie voorgeskryf is ten opsigte van enige goedere in enige item van Bylae No. 3, 4 of 6 [of 7] vermeld, nagekom het nie.”;

- (i) deur subartikel (11) deur die volgende subartikel te vervang:

“(11) Ondanks andersluidende bepalings van hierdie Wet, kan die Kommissaris ten opsigte van Bylae No. 5 of 6 [of 7] vir die doeleindes van berekening van die bedrag aan reg terugbetaalbaar op enige ingevoerde of synsbare goedere **[verkoopreggoedere]** of brandstofheffinggoedere wat by die vervaardiging, hernuwing, menging of vermenging van enige uitgevoerde of in die Republiek bemarkte goedere gebruik is, die hoeveelheid van sodanige uitgevoerde of sodanige in die Republiek bemarkte goedere bepaal wat geag word van ’n gegewe hoeveelheid van sodanige ingevoerde of synsbare goedere **[verkoopreggoedere]** of brandstofheffinggoedere geproduseer, hernuwe, gemeng en vermeng te gewees het, of die hoeveelheid van sodanige ingevoerde of synsbare goedere **[verkoopreggoedere]** of brandstofheffinggoedere bepaal wat geag word gebruik te gewees het by die vervaardiging, hernuwing, menging of vermenging van ’n gegewe hoeveelheid van sodanige uitgevoerde goedere of sodanige in die Republiek bemarkte goedere.”;

- (j) deur in subartikel (15) paragraaf (a) deur die volgende paragraaf te vervang:

“(a) Die Minister kan van tyd tot tyd by kennisgewing in die *Staatskoerant* Bylae No. 3, 4, 5 of 6 [of 7] wysig ten einde gevolg te gee aan enige aanbeveling van die Raad van Handel en Nywerheid of wanneer hy dit in die openbare belang dienstig ag om dit te doen.”;

- (k) deur subartikel (17) deur die volgende subartikel te vervang:

“(17) Die Kommissaris kan weier om ’n klaring onder korting of ’n aansoek om teruggawe of terugbetaling kragtens enige item van Bylae No. 3, 4, 5 of 6 [of 7] te aanvaar van enigiemand wat voortdurend die bepalings van hierdie Wet oortree het of versuim het om daaraan te voldoen of wat ’n in artikel 80, 83, 84, 85 of 86 bedoelde misdryf gepleeg het, en hy kan enige registrasie kragtens die bepalings van hierdie Wet van so ’n persoon intrek of enige sodanige registrasie vir die tydperk wat hy goedvind, opskort.”;

- (l) deur in subartikel (18) die woorde wat paragraaf (a) voorafgaan deur die volgende woorde te vervang:

“Behoudens die bepalings van die voorbehoudsbepaling by artikel 20 (5) en items 412.07, 412.08, 412.09, 531.00, 532.00, 608.01, 608.02, 608.03, 608.04, 615.01, 615.02 en 615.03 **[707.01, 707.02 en 707.03]** van Bylaes Nos. 4, 5 en 6 **[en 7]** word geen korting op of terugbetaling van reg ten opsigte van enige verlies of tekort van enige aard van enige goedere toegestaan nie, maar die Kommissaris kan die aftrekking toelaat van die belasbare hoeveelheid van die hieronder genoemde goedere van ’n hoeveelheid gelyk aan die persentasie hieronder in elke geval vermeld, naamlik —”;

- (m) deur subartikel (19) deur die volgende subartikel te vervang:

“(19) Niemand mag sonder die toestemming van die Kommissaris enige goedere wat met korting op reg ingevolge enige item van Bylae No. 3, 4 of 6 [of 7] geklaar is of wat vir uitvoer geklaar is met die doel om ’n teruggawe of terugbetaling van reg kragtens enige item van Bylae No. 5 of 6 [of 7] te eis, na ’n ander bestemming as die bestemming wat op sodanige klaring verklaar is, afwend nie, of sodanige goedere in die Republiek andersins as in ooreenstemming met die bepalings van hierdie Wet aflewer of laat aflewer nie en, in die geval van goedere wat met korting op reg geklaar is, andersins as aan die persoon wat die goedere geklaar het of ten behoeve van wie die goedere geklaar is.”; en

- (n) deur subartikel (21) deur die volgende subartikel te vervang:

“(21) Behalwe met die toestemming van die Kommissaris, wat slegs onder omstandighede wat hy as uitsonderlik beskou, toegestaan kan word, en onderworpe aan die voorwaardes wat hy in elke geval opleë, moet goedere wat kragtens ’n item van Bylae No. 3, 4 of 6 [of 7] vir vervaardigingsdoeleindes of vir so ’n ander doel soos in die regulasies bepaal, geklaar is binne vyf jaar vanaf die datum van sodanige klaring vir die doel gebruik word wat in sodanige item ten tyde van sodanige klaring bepaal is of vir so ’n ander doel.”.

- (2) Paragraaf (b) van subartikel (1) van hierdie artikel word geag op 1 Oktober 1989 in werking te getree het.

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the Minister by regulation in respect of any goods specified in any item of Schedule No. 3, 4 or 6 **[or 7]**:";

- (i) by the substitution for subsection (11) of the following subsection:

5 “(11) Notwithstanding anything to the contrary in this Act contained, the Commissioner may, in respect of Schedule No. 5 or 6 **[or 7]** for the purpose of calculating the amount of duty refundable on any imported or excisable goods **[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
10 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 **[sales duty goods]** or fuel levy goods or the quantity of such imported or excisable goods **[sales duty goods]** or fuel levy goods which shall be deemed to have been used in the production,
15 reconditioning, mixing or blending of a given quantity of such exported goods or such goods marketed in the Republic.”;

- (j) by the substitution in subsection (15) for paragraph (a) of the following paragraph:

20 “(a) The Minister may from time to time by notice in the *Gazette* amend Schedule No. 3, 4, 5 or 6 **[or 7]** in order to give effect to any recommendation of the Board of Trade and Industries or whenever he deems it expedient in the public interest to do so.”;

- (k) by the substitution for subsection (17) of the following subsection:

25 “(17) The Commissioner may refuse to accept an entry under rebate or an application for drawback or refund under any item of Schedule No. 3, 4, 5 or 6 **[or 7]** from any person who has persistently contravened or failed to comply with the provisions of this Act or who has committed an offence referred to in section 80, 83, 84, 85 or 86 and he may cancel any registration under the provisions of this Act of such person or suspend any such
30 registration for such period as he may deem fit.”;

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

35 “Subject to the provisions of the proviso to section 20 (5) and items 412.07, 412.08, 412.09, 531.00, 532.00, 608.01, 608.02, 608.03, 608.04, 615.01, 615.02 and 615.03 **[707.01, 707.02 and 707.03]** of Schedules Nos. 4, 5 and 6 **[and 7]** no rebate or refund of duty in respect of any loss or deficiency of any nature of any goods shall be allowed, but the Commissioner may allow the deduction from the dutiable quantity of the undermentioned goods of a quantity equal to the percentage stated
40 below in each case, namely —”;

- (m) by the substitution for subsection (19) of the following subsection:

45 “(19) No person shall, without the permission of the Commissioner, divert any goods entered under rebate of duty under any item of Schedule No. 3, 4 or 6 **[or 7]** or for export for the purpose of claiming a drawback or refund of duty under any item in Schedule No. 5 or 6 **[or 7]** to a destination other than the destination declared on such entry or deliver such goods or cause such goods to be delivered in the Republic otherwise than in accordance with the provisions of this Act and, in the case of goods entered under rebate of duty, otherwise than to the person who entered the goods or on whose behalf the goods were entered.”; and

- 50 (n) by the substitution for subsection (21) of the following subsection:

55 “(21) Except with the permission of the Commissioner, which shall only be granted in circumstances which he considers to be exceptional and subject to such conditions as he may impose in each case, any goods entered under any item of Schedule No. 3, 4 or 6 **[or 7]** for manufacturing purposes or such other purpose as may be specified in the regulations shall be used for the purpose specified in such item at the time of such entry, or such other purpose, within five years from the date of such entry.”.

(2) Paragraph (b) of section (1) of this section shall be deemed to have come into
60 operation on 1 October 1989.

Vervanging van artikel 76 van Wet 91 van 1964, soos vervang deur artikel 5 van Wet 98 van 1970 en gewysig deur artikel 10 van Wet 71 van 1975, artikel 11 van Wet 110 van 1979, artikel 15 van Wet 98 van 1980, artikel 20 van Wet 86 van 1982, artikel 5 van Wet 89 van 1983, artikel 24 van Wet 84 van 1987 en artikel 14 van Wet 68 van 1989

30. Artikel 76 van die Hoofwet word hierby deur die volgende artikel vervang: 5

“Algemene terugbetalings ten opsigte van ingevoerde goedere of synsbare goedere

76. (1) Geen terugbetaling van 'n reg of ander vordering ten opsigte van ingevoerde goedere, synsbare goedere, **[verkoopreggoedere]** bo- 10
belastinggoedere of brandstofheffinggoedere, uitgesonderd 'n terugbe-
taling waarvoor kragtens artikel 75 of 77 voorsiening gemaak is, word
betaal of toegestaan nie behalwe ooreenkomstig die bepaling van
hierdie artikel en die regulasies.

(2) Behoudens die bepaling van subartikel (4), oorweeg die Kommissaris enige aansoek om 'n terugbetaling of betaling van enige applikant 15
wat aanvoer dat hy 'n reg of ander vordering waarvoor hy nie aanspreek-
lik was nie betaal het of dat hy op enige betaling ingevolge hierdie Wet
geregtig is omrede—

- (a) van 'n fout by die bepaling van 'n aanslag of berekening van die 20
bedrag daarvan;
- (b) dat die reg op 'n waarde hoër as die waarde vir belastingdoeleindes
aangeslaan is;
- (c) van 'n bepaling kragtens artikel 47 (9) of verkeerde tariefindeling;
- (d) dat die betrokke goedere voor hulle lossing vir binnelandse ver-
bruik, deur omstandighede buite sy beheer beskadig of vernietig is 25
of onherkrygbaar verlore gegaan het;
- (e) dat al of enige deel van sodanige goedere kortgeland, kortverskeep
of kortverpak is;
- (f) van die vervanging ingevolge artikel 40 (3) van enige klaringsbrief; of
- (g) dat die reg verminder of ingetrek is soos bepaal in artikel 48 (2) of 30
(2A).

(3) Behalwe met die toestemming van die Kommissaris, mag 'n 35
aansoek om 'n terugbetaling ingevolge hierdie artikel nie betrekking hê
op meer as een klaringsbrief of ander dokument ten opsigte waarvan die
beweerde oorbetalings geskied het nie.

(4) Geen aansoek om 'n terugbetaling of betaling kragtens hierdie artikel 35
word deur die Kommissaris oorweeg nie tensy dit deur die Kontroleur
ontvang word, behoorlik ingevul en gestaaf deur die nodige dokumente en
ander getuienis om te bewys dat sodanige terugbetaling of betaling in-
gevolge hierdie artikel verskuldig is, binne 'n tydperk van twee jaar— 40

- (a) vanaf die datum van klaring vir binnelandse verbruik volgens 40
voorskrif van artikel 45 (2), van die goedere waarop die aansoek
betrekking het; of
- (aA) vanaf die datum waarop die vordering waarop die aansoek betrek- 45
king het, betaal is; of
- (b) in die geval waar 'n bepaling van 'n tariefpos, tariefsubpos of item in
paragraaf (a) van artikel 47 (9) bedoel of van 'n waarde in paragraaf (a)
van subartikel (4) van artikel 65 bedoel kragtens paragraaf (d) van
genoemde artikel 47 (9) of subartikel (5) van genoemde artikel 65, na
gelang van die geval, met terugwerkende krag gewysig word vanaf 'n 50
datum voor of op die datum waarop die reg waarop die aansoek
betrekking het, betaal is, of so 'n bepaling kragtens genoemde para-
graaf (d) of subartikel (5), na gelang van die geval, met sodanige
terugwerkende krag ingetrek word, en 'n nuwe bepaling daarkragtens
met ingang van sodanige intrekking gemaak word, vanaf die datum 55
waarop sodanige wysiging aangebring word of sodanige nuwe bepaling
gemaak word of, indien sodanige wysiging of nuwe bepaling by
kennisgewing in die *Staatskoerant* gepubliseer word, die datum waarop
sodanige wysiging of nuwe bepaling aldus gepubliseer word; of
- (c) in die geval waar enige Bylae met sodanige terugwerkende krag 60
gewysig word, vanaf die datum waarop sodanige wysiging by ken-
nisgewing in die *Staatskoerant* gepubliseer word:

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Substitution of section 76 of Act 91 of 1964, as substituted by section 5 of Act 98 of 1970 and amended by section 10 of Act 71 of 1975, section 11 of Act 110 of 1979, section 15 of Act 98 of 1980, section 20 of Act 86 of 1982, section 5 of Act 89 of 1983, section 24 of Act 84 of 1987 and section 14 of Act 68 of 1989

- 5 30. The following section is hereby substituted for section 76 of the principal Act:

"General refunds in respect of imported goods or excisable goods

10 76. (1) No refund of any duty or other charge in respect of imported goods, excisable goods, [sales duty goods] surcharge goods or fuel levy goods, other than a 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.

15 (2) The Commissioner shall, subject to the provisions of subsection (4), consider any application for a refund or payment from any applicant who contends that he has paid any duty or other charge for which he was not liable or that he is entitled to any payment under this Act by reason of—

- 20 (a) an error in determining an assessment or calculating the amount thereof;
- 25 (b) the duty having been assessed on a value higher than the value for duty purposes;
- (c) a determination under section 47 (9) or incorrect tariff classification;
- (d) the goods concerned having been damaged, destroyed or irrecoverably lost by circumstances beyond his control prior to the release thereof for home consumption;
- (e) all or part of such goods having been shortlanded, shortshipped or shortpacked;
- (f) the substitution of any bill of entry in terms of section 40 (3); or
- 30 (g) the duty having been reduced or withdrawn as provided for in section 48 (2) or (2A).

35 (3) Except with the permission of the Commissioner, any application for a refund under this section shall not relate to more than one bill of entry or other document in respect of which the alleged overpayment was made.

40 (4) No application for a refund or payment in terms of this section shall be considered by the Commissioner unless it is received by the Controller, duly completed and supported by the necessary documents and other evidence to prove that such refund or payment is due under this section, within a period of two years—

- 45 (a) from the date of entry for home consumption as provided in section 45 (2), of the goods to which the application relates; or
- 50 (aA) from the date on which the charge to which the application relates was paid; or
- 55 (b) in the case where a determination of a tariff heading, tariff subheading or item referred to in paragraph (a) of section 47 (9) or of a value referred to in paragraph (a) of subsection (4) of section 65 is, under paragraph (d) of the said section 47 (9) or subsection (5) of the said section 65, as the case may be, amended with retrospective effect from a date before or on the date on which the duty to which the application relates was paid, or any such determination is, under the said paragraph (d) or subsection (5), as the case may be, withdrawn with such retrospective effect, and a new determination is thereunder made with effect from such withdrawal, from the date on which such amendment is effected or such new determination is made or, if such amendment or new determination is published by notice in the *Gazette*, the date on which such amendment or new determination is so published; or
- 60 (c) in the case where any Schedule is amended with such retrospective effect, from the date on which such amendment is published by notice in the *Gazette*;

Met dien verstande dat die Kommissaris in omstandighede wat hy buitengewoon ag, enige sodanige aansoek na die verstryking van sodanige tydperk kan oorweeg.

(5) Indien die Kommissaris, na oorweging van 'n aansoek om 'n terugbetaling of betaling ingevolge hierdie artikel, oortuig is dat die applikant op sodanige terugbetaling of betaling geregtig is, kan die Kommissaris aan die applikant die bedrag betaal wat aan hom verskuldig is: Met dien verstande dat geen terugbetaling kragtens hierdie artikel gedoen word nie indien, in die geval van goedere per pos ingevoer, die bedrag daarvan minder as vyftig sent is, of in die geval van goedere op enige ander manier ingevoer, minder as vyf rand is, of in die geval van synsbare goedere **[of verkoopreggoedere]** wat in die Republiek vervaardig is, minder as twee rand is, tensy die Kommissaris oortuig is dat daar buitengewone omstandighede aanwesig is wat sodanige terugbetaling regverdig.”.

Vervanging van artikel 77 van Wet 91 van 1964, soos vervang deur artikel 26 van Wet 105 van 1969 en gewysig deur artikel 3 van Wet 68 van 1973, artikel 15 van Wet 98 van 1980, artikel 21 van Wet 86 van 1982, artikel 26 van Wet 84 van 1987 en artikel 10 van Wet 69 van 1988

31. Artikel 77 van die Hoofwet word hierby deur die volgende artikel vervang:

“Verrekening van sekere bedrae

77. **[(1)] (a) [Enige bedrag wat aan] 'n [lisensiehouer] Lisensiehouer** van 'n doeane- en aksynspakhuis wat kragtens die regulasies toegelaat word om **[aksynsreg, verkoopreg of brandstofheffing] enige reg** maandeliks of kwartaalliks te betaal, **[verskuldig is]** en wat—

(i) **[ten opsigte van sodanige] enige reg [deur hom] betaal het** waarvoor hy nie aanspreeklik was nie; of

(ii) enige voorlopige terugbetaling **[deur hom toegestaan]** ingevolge artikel 75 (1A) toegestaan het; of

(iii) op 'n terugbetaling **[wat]** ingevolge item 534.00 van Bylae No. 5 of 'n item van Bylae No. 6 **[of 7 aan hom terugbetaalbaar is]** geregtig word,

kan, onderworpe aan die goedkeuring van die Kommissaris, te eniger tyd binne 'n tydperk van twee jaar vanaf die datum waarop daardie reg betaal is, sodanige voorlopige terugbetaling toegestaan is of sodanige lisensiehouer op sodanige terugbetaling geregtig geword het, sodanige reg, voorlopige terugbetaling of bedrag terugbetaalbaar **[sodanige bedrag vir die eerste keer verskuldig word]** verreken **[word]** teen daardie bepaalde reg **[enige bedrag]** waarvoor sodanige lisensiehouer daarna aanspreeklik word **[ten opsigte van aksynsreg, verkoopreg of brandstofheffing]**, behalwe dat die reg terugbetaalbaar ingevolge genoemde item 534.00 teen aksynsreg in Afdeling B van Deel 2 van Bylae No. 1 vermeld waarvoor sodanige lisensiehouer daarna aanspreeklik word, verreken word, mits die maandelikse of kwartaallikse rekeninge of klaringsbriewe wat deur sodanige lisensiehouer voorgelê word ten opsigte van die betaling van enige **[bedrag] reg** waarteen enige **[bedrag aldus aan hom verskuldig]** reg, voorlopige betaling of bedrag terugbetaalbaar verreken is, vergesel gaan van 'n volledige verklaring van sodanige lisensiehouer, gesteun deur 'n sertifikaat van 'n beamppte, wat volle besonderhede verstrek **[van die aksynsreg, verkoopreg of brandstofheffing aldus betaal]** en 'n volledige relaas gee van die omstandighede **[waarin betaling daarvan geskied het]** met betrekking tot sodanige verrekening en deur die dokumentêre getuienis wat die Kommissaris in elke geval verlang.

(b) Indien **[die]** sodanige verrekening **[van enige bedrag]** nie ingevolge paragraaf (a) deur die Kommissaris **[toegelaat]** goedgekeur word nie, word **[sodanige bedrag]** dit weer teen die rekening van sodanige lisensiehouer gedebiteer.

[(2) Met die toestemming van die Kommissaris en onderworpe aan die voorwaardes wat hy oplê, kan enige bedrag van verkoopreg of aksynsreg

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Provided that the Commissioner may, in such circumstances as he may consider exceptional, consider any such application after expiration of such period.

- (5) If, after considering any application for a refund or payment in terms of this section, the Commissioner is satisfied that the applicant is entitled to any such refund or payment, the Commissioner may pay to the applicant the amount due to him: Provided that no refund shall be made under this section if, in the case of goods imported by post, the amount thereof is less than fifty cents or, in the case of goods imported in any other manner, less than five rand or, in the case of excisable goods **[or sales duty goods]** manufactured in the Republic, less than two rand, unless the Commissioner is satisfied that exceptional circumstances exist which warrant such refund.”.

Substitution 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, section 21 of Act 86 of 1982, section 26 of Act 84 of 1987 and section 10 of Act 69 of 1988

31. The following section is hereby substituted for section 77 of the principal Act:

“Set-off of certain amounts

77. **[(1)]** (a) **[Any amount due to a]** A licensee of a customs and excise warehouse who, in terms of the regulations, is permitted to pay **[excise]** any duty **[sales duty or fuel levy]** monthly or quarterly, and who—
- (i) **[in respect of such]** paid any duty **[paid by him]** for which he was not liable; or
- (ii) granted any provisional refund **[granted by him]** in terms of section 75 (1A); or
- (iii) **[which is refundable to him]** becomes entitled to a refund in terms of item 534.00 of Schedule No. 5 or any item of Schedule No. 6 **[or 7]**,
- may, subject to the approval of the Commissioner, at any time within a period of two years from the date on which **[such amount first becomes due, be]** that duty was paid, such provisional refund was granted or such licensee became entitled to such refund, set off such duty, provisional refund or amount refundable against **[any amount]** that particular duty for which such licensee subsequently becomes liable **[in respect of excise duty, sales duty or fuel levy]**, except that the duty refundable in terms of the said item 534.00 be set off against the excise duty specified in Section B of Part 2 of Schedule No. 1 for which such licensee subsequently becomes liable, provided the monthly or quarterly accounts or bills of entry submitted by such licensee in respect of the payment of any **[amount]** duty against which any **[amount so due to him]** duty, provisional refund or amount refundable 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, sales duty or fuel levy so paid]** and a full account of the circumstances **[under which the payment thereof took place]** in respect of such set-off and by such documentary evidence as the Commissioner may in each case require.
- (b) If **[the]** such set-off **[of any amount]** is not **[allowed]** approved by the Commissioner in terms of paragraph (a) **[such amount]**, it shall be debited to the account of such licensee.
- [(2)]** With the permission of the Commissioner and subject to such conditions as he may impose, any amount of sales duty or excise duty

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WYSIGINGSWET OP DOEANE EN AKSYNS, 1990

in Afdeling B van Deel 2 van Bylae No. 1 vermeld deur die lisensiehouer van 'n ingevolge hierdie Wet gelisensieerde spesiale doeane- en aksynspakhuis betaal ten opsigte van verkoopreggoedere of synsbare goedere in Afdeling B van Deel 2 van Bylae No. 1 vermeld wat deur hom verkoop is aan iemand wie se perseel nie aldus gelisensieer is nie en wat sodanige goedere uitgevoer het of verskaf het aan iemand anders wat geregtig was om sodanige goedere met korting op verkoopreg of aksynsreg in Afdeling B van Deel 2 van Bylae No. 1 vermeld, te verkry, verreken word teen enige bedrag waarvoor sodanige lisensiehouer daarna aanspreeklik word ten opsigte van verkoopreg of aksynsreg in Afdeling B van Deel 2 van Bylae No. 1 vermeld, mits bewys tot bevrediging van die Kommissaris van sodanige uitvoer of verskaffing met korting van reg en die identiteit van die verkoopreggoedere of synsbare goedere in Afdeling B van Deel 2 van Bylae No. 1 vermeld aldus uitgevoer of verskaf deur sodanige lisensiehouer voorgelê word, tesame met die dokumentêre bewyse wat die Kommissaris in elke geval omtrent die verkoop van sodanige goedere deur sodanige lisensiehouer verlang.]”.

Wysiging van artikel 80 van Wet 91 van 1964, soos gewysig deur artikel 10 van Wet 85 van 1968, artikel 27 van Wet 105 van 1969, artikel 28 van Wet 112 van 1977, artikel 22 van Wet 86 van 1982, artikel 7 van Wet 89 van 1984, artikel 12 van Wet 52 van 1986 en artikel 27 van Wet 84 van 1987

32. Artikel 80 van die Hoofwet word hierby gewysig deur in subartikel (1) paragraaf (b) deur die volgende paragraaf te vervang:

“(b) nie 'n gelisensieerde vervaardiger of handelaar is nie en wat sonder wettige magtiging enige gedeeltelik vervaardigde synsbare goedere [verkoopreggoedere] of brandstofheffinggoedere of synsbare goedere [verkoopreggoedere] of brandstofheffinggoedere waarop reg nie betaal is nie in sy besit of bewaring of onder sy beheer het;”.

Wysiging van artikel 81 van Wet 91 van 1964, soos vervang deur artikel 9 van Wet 93 van 1978 en gewysig deur artikel 13 van Wet 52 van 1986

33. Artikel 81 van die Hoofwet word hierby deur die volgende artikel vervang:

“Nie-verklaring met betrekking tot sekere goedere

81. Iemand wat [versuim om] die bepalings van artikel 15 oortree of versuim om daaraan te voldoen, [enige belasbare goedere of goedere waarvan die invoer of uitvoer kragtens enige wet verbied of beperk word, en wat hy aan sy persoon of in sy besit het, aan te gee, of 'n verklaring vir doeane- of aksynsdoeleindes doen aangaande enige belasbare goedere of verbode of beperkte goedere aan sy persoon of in sy besit waaruit enige belasbare goedere of verbode of beperkte goedere weggelaat word] is [as ontdek word dat hy ten tyde van die versuim of van die verklaring enige sodanige goedere aan sy persoon of in sy besit het of gehad het] aan 'n misdryf skuldig en by skuldigbevinding strafbaar met 'n boete van hoogstens [vyfduisend rand] R5 000 of drie maal die waarde van die betrokke goedere, na gelang van watter die hoogste is, of met gevangenisstraf vir 'n tydperk van hoogstens twee jaar, of met sowel sodanige boete as sodanige gevangenisstraf, en die betrokke goedere en enige ander goedere in dieselfde pak asook die pak self, is aan verbeuring onderhewig.”.

Wysiging van artikel 102 van Wet 91 van 1964, soos gewysig deur artikel 16 van Wet 95 van 1965, artikel 12 van Wet 57 van 1966, artikel 19 van Wet 85 van 1968, artikel 29 van Wet 105 van 1969, artikel 35 van Wet 112 van 1977, artikel 15 van Wet 98 van 1980, artikel 12 van Wet 101 van 1985 en artikel 30 van Wet 84 van 1987

34. Artikel 102 van die Hoofwet word hierby gewysig deur subartikel (1) deur die volgende subartikel te vervang:

“(1) Enigiemand wat ingevoerde of synsbare goedere [verkoopreggoedere] of brandstofheffinggoedere verkoop of vir verkoop aanbied of daarin handel

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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 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.]”.

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, section 12 of Act 52 of 1986 and section 27 of Act 84 of 1987

32. Section 80 of the principal Act is hereby amended by the substitution in subsection (1) for paragraph (b) of the following paragraph:

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

Amendment of section 81 of Act 91 of 1964, as substituted by section 9 of Act 93 of 1978 and amended by section 13 of Act 52 of 1986

33. The following section is hereby substituted for section 81 of the principal Act:

“Non-declaration in respect of certain goods

81. Any person who contravenes or fails to comply with the provisions of section 15, [fails to declare any dutiable goods or goods the importation or exportation of which is prohibited or restricted under any law and which he has upon his person or in his possession, or makes any statement for customs or excise purposes as to any dutiable goods or prohibited or restricted goods upon his person or in his possession from which any dutiable goods or prohibited or restricted goods are omitted] shall [if any such goods are discovered to be or to have been upon his person or in his possession at the time of the failure, or of the statement] be guilty of an offence and liable on conviction to a fine not exceeding [five thousand rand] R5 000 or treble the value of the goods in question, whichever is the greater, or to imprisonment for a period not exceeding two years, or to both such fine and such imprisonment, and the goods in question and any other goods contained in the same package as well as the package itself shall be liable to forfeiture.”.

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, section 12 of Act 101 of 1985 and section 30 of Act 84 of 1987

34. Section 102 of the principal Act is hereby amended by the substitution for subsection (1) of the following subsection:

“(1) Any person selling, offering for sale or dealing in imported or excisable goods [sales duty goods] or fuel levy goods or any person removing the same, or

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drywe of sodanige goedere verwyder of dit in sy boeke ingeskryf het of dit in enige in artikel 75 (4A) of 101 vermelde dokument aangeteken het, moet op versoek van 'n beampte bewys lewer aangaande die persoon van wie die goedere verkry is, en indien hy die invoerder of vervaardiger of eienaar is, aangaande die plek waar die verskuldigde regte daarop betaal is, die datum van betaling, die besonderhede van die klaring vir binnelandse verbruik en die merke en nommers van die kaste, pakke, bale en ander betrokke artikels, watter merke en nommers met die dokumente wat as bewys van betaling van reg voorgelê word, moet ooreenstem.”

Wysiging van artikel 106 van Wet 91 van 1964, soos gewysig deur artikel 30 van Wet 105 van 1969

35. Artikel 106 van die Hoofwet word hierby gewysig deur subartikel (1) deur die volgende subartikel te vervang:

“(1) 'n Beampte kan by klaring van enige ingevoerde goedere of gedurende die vervaardiging van enige synsbare goedere, **[of verkoopreggoedere]** of te eniger tyd na sodanige klaring of vervaardiging, van enige persoon wat in besit is van sodanige ingevoerde goedere of van enige vervaardigde of gedeeltelik vervaardigde synsbare goedere, **[of verkoopreggoedere]** sonder betaling monst- 15 sters neem van sodanige ingevoerde, vervaardigde of gedeeltelik vervaardigde goedere of van stowwe bestem vir die vervaardiging van synsbare goedere **[of verkoopreggoedere]** of van goedere wat ingevolge die bepalings van Hoofstuk X gebruik is, om ondersoek te word of om die daarop betaalbare regte vas te stel of vir so 'n ander doel as wat die Kommissaris nodig ag, en met daardie monst- 20 ers word gehandel en daarvan word verantwoording gedoen op die wyse wat die Kommissaris gelas.”

Herroeping van artikel 108 van Wet 91 van 1964

36. Artikel 108 van die Hoofwet word hierby herroep.

Wysiging van artikel 114 van Wet 91 van 1964, soos gewysig deur artikel 33 van Wet 105 van 1969, artikel 12 van Wet 71 van 1975, artikel 36 van Wet 112 van 1977, artikel 15 van Wet 98 van 1980, artikel 13 van Wet 101 van 1985 en artikel 32 van Wet 84 van 1987

37. (1) Artikel 114 van die Hoofwet word hierby gewysig—

(a) deur in subartikel (1) paragraaf (a) deur die volgende paragraaf te vervang:

- “(a) (i) Die juiste bedrag aan reg waarvoor enige persoon aanspreeklik is ten opsigte van enige goedere in of uit die Republiek in- of 35 uitgevoer of enige goedere in die Republiek vervaardig, is vanaf die datum waarop aanspreeklikheid vir sodanige reg begin; en
- (ii) enige rente kragtens hierdie Wet betaalbaar en enige boete of verbeuring kragtens hierdie Wet opgeloopt, is vanaf die tydstip 40 waarop dit betaal moes geword het,
- 'n skuldverpligting van die betrokke persoon aan die Staat, en enige goedere in 'n doeane- en aksynspakhuis of in die bewaring van die Kantoor (met inbegrip van goedere in 'n kortingspakkamer) en behorende aan daardie persoon, en enige goedere wat daarna in- of 45 uitgevoer word deur die persoon op wie die skuldverpligting rus, en enige ingevoerde goedere in die besit of onder die beheer van sodanige persoon of op enige perseel in die besit of onder die beheer van sodanige persoon, en enige goedere ten opsigte waarvan 'n aksynsreg **[of verkoopreg]** of brandstofheffing voorgeskryf is (hetsy sodanige reg 50 of heffing betaal is al dan nie) en enige stowwe vir die vervaardiging van sodanige goedere in die besit of onder die beheer van sodanige persoon of op enige perseel in die besit of onder die beheer van sodanige persoon en voertuie, masjinerie, installasies of toerusting in die besit of onder die beheer van sodanige persoon waarin brandstof 55 ten opsigte waarvan enige reg of heffing voorgeskryf is (hetsy sodanige reg of heffing betaal is al dan nie), gebruik, vervoer of opgeslaan word,

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any person having such goods entered in his books or mentioned in any documents referred to in section 75 (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
5 duty due thereon was paid, the date of payment, the particulars of the entry for home consumption and the marks and numbers of 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."

10 **Amendment of section 106 of Act 91 of 1964, as amended by section 30 of Act 105 of 1969**

35. Section 106 of the principal Act is hereby amended by the substitution for subsection (1) of the following subsection:

15 "(1) An officer may on entry of any imported goods or during the manufacture of any excisable goods, **[or sales duty goods]** or at any time after such entry or manufacture, take, without payment, from any person in possession of such imported goods or of any manufactured or partly manufactured excisable goods
20 **[or sales duty goods]** samples of such imported, manufactured or partly manufactured goods or of materials intended for the manufacture of excisable goods **[or sales duty goods]** or of goods used under the provisions of Chapter X, for examination or for ascertaining the duties payable thereon or for such other purpose as the Commissioner deems necessary, and those samples shall be dealt with and accounted for in such manner as the Commissioner may direct."

Repeal of section 108 of Act 91 of 1964

36. Section 108 of the principal Act is hereby repealed.

25 **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, section 13 of Act 101 of 1985 and section 32 of Act 84 of 1987**

37. (1) Section 114 of the principal Act is hereby amended—

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

"(a) (i) The correct amount of duty 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; and

35 (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
40 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 fuel in respect of which any duty or
50 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

- kan ooreenkomstig die bepalings van subartikel (2) aangehou word en is onderworpe aan 'n retensiereg totdat sodanige skuld betaal word.”;
- (b) deur in genoemde subartikel (1) die woorde wat die voorbehoudsbepaling by paragraaf (aA) voorafgaan deur die volgende woorde te vervang:
- “Enige installasies en distilleerketels vir die vervaardiging van enige goedere ten opsigte waarvan 'n aksynsreg **[of verkoopreg]** of brandstofheffing voorgeskryf is wat in die besit of onder die beheer van sodanige persoon is of op enige perseel in die besit of onder die beheer van sodanige persoon is, is onderworpe aan 'n retensiereg vanaf die tydstip waarop die aanspreeklikheid vir die reg of heffing betaalbaar soos in paragraaf (a) beoog, ten opsigte van enige goedere aldus vervaardig, 'n aanvang neem totdat die betrokke skuld betaal word, asof sodanige installasies en distilleerketels ooreenkomstig die bepalings van subartikel (2) aangehou word.”; en
- (c) deur in genoemde subartikel (1) na paragraaf (aA) die volgende paragraaf in te voeg:
- “(aB) Enige kapitaalgoedere ten opsigte waarvan enige bobelasting ingevolge enige permit uitgereik deur die Direkteur-generaal: Handel en Nywerheid ingetrek is, is onderworpe aan 'n retensiereg as sekuriteit vir die bobelasting aldus ingetrek totdat daar aan die voorwaardes vermeld in sodanige permit ten genoë van genoemde Direkteur-generaal voldoen is, asof sodanige goedere ooreenkomstig die bepalings van subartikel (2) aangehou word tensy ander sekuriteit ten genoë van die Kommissaris aangebied word.”.

(2) Subartikel (1) (c) van hierdie artikel word geag op 10 Mei 1989 in werking te getree het.

Wysiging van artikel 117 van Wet 91 van 1964, soos vervang deur artikel 35 van Wet 105 van 1969 en gewysig deur artikel 15 van Wet 98 van 1980, artikel 20 van Wet 52 van 1986 en artikel 34 van Wet 84 van 1987

38. Artikel 117 van die Hoofwet word hierby gewysig deur subartikel (1) deur die volgende subartikel te vervang:

- “(1) Die statistiek van die in- en uitvoerhandel van die Republiek en van synsbare goedere in die Republiek vervaardig **[en van verkoopreggoedere of]** en van brandstofheffinggoedere in die Republiek vervaardig en ingevoer wat die Minister bepaal, word deur die Kommissaris saamgestel en getabelleer en op die tyte en die wyse gepubliseer wat die Minister bepaal.”.

Wysiging van artikel 120 van Wet 91 van 1964, soos gewysig deur artikel 36 van Wet 105 van 1969, artikel 15 van Wet 98 van 1980 en artikel 35 van Wet 84 van 1987

39. Artikel 120 van die Hoofwet word hierby gewysig—

- (a) deur in subartikel (1) paragraaf (b) deur die volgende paragraaf te vervang:
- “(b) wat **[die spesiale]** dienste waarvoor gelde betaal moet word **[weens die aanwesigheid of toesig van beamptes]**, die skaal en die metode van betaling van sodanige gelde en die voorwaardes verbonde aan sodanige **[spesiale]** dienste **[(met inbegrip van die betaling van vervoerkoste)]** bepaal;”;
- (b) deur in subartikel (1) paragraaf (h) deur die volgende paragraaf te vervang:
- “(h) aangaande die invordering van aksynsregte **[en verkoopregte]** en brandstofheffing, die tyd, wyse en voorwaardes van betaling en die berekening daarvan;”;
- (c) deur in subartikel (1) paragraaf (k) deur die volgende paragraaf te vervang:
- “(k) wat die klaring van goedere ingevolge enige item van Bylae No. 3, 4, 5 of 6 **[of 7]** reël en die voorwaardes voorskryf waarop sodanige goedere aldus geklaar mag word of sodanige goedere van een vervaardiger of eienaar na 'n ander oorgeplaas mag word of sodanige goedere gebruik mag word, en aangaande die registrasie van vervaardigers of eienaars wat goedere aldus klaar (met inbegrip van vereistes aangaande die geskiktheid van geboue, persele, pakkamers en vervaardigingsmetodes vir die doeleindes van hierdie Wet waaraan sodanige vervaardigers of eienaars moet voldoen), die aantekeninge wat deur

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provisions of subsection (2) and shall be subject to a lien until such debt is paid.”;

- (b) by the substitution in the said subsection (1) for the words preceding the proviso to paragraph (aA) of the following words:

5 “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):”;

- 15 (c) by the insertion in the said subsection (1) after paragraph (aA) of the following paragraph:

20 “(aB) Any capital goods in respect of which any surcharge has been withdrawn in terms of any permit issued by the Director-General: Trade and Industry shall be subject to a lien as security for the surcharge so withdrawn until the conditions specified in such permit have been complied with to the satisfaction of the said Director-General, as if such goods are detained in accordance with the provisions of subsection (2) unless other security is furnished to the satisfaction of the Commissioner.”.

25 (2) Subsection (1) (c) of this section shall be deemed to have come into operation on 10 May 1989.

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, section 20 of Act 52 of 1986 and section 34 of Act 84 of 1987

- 30 38. Section 117 of the principal Act is hereby amended by the substitution for subsection (1) of the following subsection:

35 “(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 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.”.

Amendment of section 120 of Act 91 of 1964, as amended by section 36 of Act 105 of 1969, section 15 of Act 98 of 1980 and section 35 of Act 84 of 1987

39. Section 120 of the principal Act is hereby amended—

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

45 “(b) determining **[the special]** services for which charges shall be payable **[on account of the attendance of or supervision by officers]**, the rate and the method of payment of such charges and the conditions attaching to such **[special]** services **[(including the payment of transport charges)]**;”;

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

50 “(h) as to the collection of excise duties **[and sales duties]** and fuel levy, the time, manner and terms of payment and the calculation thereof;”;

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

55 “(k) governing the entry of goods under any item of Schedule No. 3, 4, 5 or 6 **[or 7]** and prescribing the conditions on which such goods may be so entered or such goods may be transferred from one manufacturer or owner to another or such goods may be used, and as to the registration of manufacturers or owners so entering goods (including requirements as to the suitability of buildings, premises, storerooms and methods of manufacture for the purposes of this Act to be complied with by such

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sodanige vervaardigers of eienaars gehou moet word en die vorm van die aansoek om registrasie en die besonderhede wat deur sodanige vervaardigers of eienaars verstrek moet word;”.

Wysiging van Bylae No. 1 by Wet 91 van 1964, soos gewysig deur artikel 19 van Wet 95 van 1965, artikel 15 van Wet 57 van 1966, artikel 2 van Wet 96 van 1967, artikel 22 van Wet 85 van 1968, artikel 37 van Wet 105 van 1969, artikel 9 van Wet 98 van 1970, artikel 2 van Wet 89 van 1971, artikel 12 van Wet 103 van 1972, artikel 6 van Wet 68 van 1973, artikel 3 van Wet 64 van 1974, artikel 13 van Wet 71 van 1975, artikel 13 van Wet 105 van 1976, artikel 38 van Wet 112 van 1977, artikel 3 van Wet 114 van 1981, artikel 27 van Wet 86 van 1982, artikel 10 van Wet 89 van 1984, artikel 14 van Wet 101 van 1985, artikel 11 van Wet 69 van 1988 en artikel 19 van Wet 68 van 1989

40. (1) Bylae No. 1 by die Hoofwet word hierby gewysig in die mate in die Bylae by hierdie Wet uiteengesit.

(2) Behoudens die bepalings van artikel 58 (1) van die Hoofwet word hierdie artikel geag op 14 Maart 1989 in werking te getree het.

Voortdoring van sekere wysigings van Bylaes Nos. 1, 3, 4, 5, 6 en 7 by Wet 91 van 1964

41. (1) Elke wysiging van Bylaes Nos. 1, 3, 4, 5, 6 en 7 by die Hoofwet wat voor 2 Februarie 1990 kragtens artikel 48 (1) en (2), artikel 48A (1) of artikel 75 (15) van die Hoofwet aangebring is, verval nie uit hoofde van die bepalings van artikel 48 (6), 48A (2) of 75 (16) van die Hoofwet nie.

(2) Die wysigings van Dele 2 en 4 van Bylae No. 1 by die Hoofwet wat kragtens artikel 48 (1) en (2) van die Hoofwet by Goewermentskennisgewings Nos. R.574 en R.575 van 15 Maart 1990 aangebring is, verval nie uit hoofde van die bepalings van artikel 48 (6) van die Hoofwet nie.

(3) Die wysigings van Bylae No. 6 by die Hoofwet wat kragtens artikel 75 (15) van die Hoofwet by Goewermentskennisgewing No. R.573 van 14 Maart 1990 aangebring is, verval nie uit hoofde van die bepalings van artikel 75 (16) van die Hoofwet nie.

Vervanging van lang titel van Wet 91 van 1964, soos vervang deur artikel 41 van Wet 84 van 1987

42. Die lang titel van die Hoofwet word hierby deur die volgende lang titel vervang:

“WET

Om voorsiening te maak vir die heffing van doeane- [aksyns- en verkoopregte] en aksynsregte en 'n bobelasting; vir 'n brandstofheffing, die verbied van en beheer oor die invoer, uitvoer of vervaardiging van sekere goedere; en vir aangeleenthede wat daarmee in verband staan.”.

Toepassing van artikel 45 van Wet 91 van 1964 met betrekking tot 'n klaringsbrief

43. By die toepassing van artikel 45 (2) van die Hoofwet—

- (a) word klaringsbrief No. 3 wat op 28 Februarie 1989 by die D. F. Malanlughawe afgelewer is, geag op 10 Augustus 1988 aldus afgelewer te gewees het; en
- (b) word die reg wat betaal is op die goedere wat op daardie klaringsbrief geklaar is, geag op die datum van inwerkingtreding van hierdie Wet betaal te gewees het.

Verwydering van goedere tussen die Republiek van Namibië en die gemeenskaplike doeanegebied

44. (1) Ondanks andersluidende bepalings in hierdie Wet of enige ander wet, kan goedere in die gemeenskaplike doeanegebied en die Republiek van Namibië geproduseer of vervaardig en enige ingevoerde, synsbare of brandstofheffinggoedere wat in die gemeenskaplike doeanegebied of die Republiek van Namibië behoorlik geklaar is, tussen die Republiek van Namibië en die gemeenskaplike doeanegebied verwyder word sonder om klaring kragtens artikels 38 en 39 te maak.

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manufacturers or owners), the records to be kept by such manufacturers or owners and the form of the application for registration and the particulars to be furnished by such manufacturers or owners;”

Amendment of Schedule No. 1 to Act 91 of 1964, as amended by section 19 of Act 95 of 1965, section 15 of Act 57 of 1966, section 2 of Act 96 of 1967, section 22 of Act 85 of 1968, section 37 of Act 105 of 1969, section 9 of Act 98 of 1970, section 2 of Act 89 of 1971, section 12 of Act 103 of 1972, section 6 of Act 68 of 1973, section 3 of Act 64 of 1974, section 13 of Act 71 of 1975, section 13 of Act 105 of 1976, section 38 of Act 112 of 1977, section 3 of Act 114 of 1981, section 27 of Act 86 of 1982, section 10 of Act 89 of 1984, section 14 of Act 101 of 1985, section 11 of Act 69 of 1988 and section 19 of Act 68 of 1989

40. (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 14 March 1990.

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

41. (1) Every amendment of Schedules Nos. 1, 3, 4, 5, 6 and 7 to the principal Act made under section 48 (1) and (2), section 48A (1) or section 75 (15) of the principal Act prior to 2 February 1990 shall not lapse by virtue of the provisions of section 48 (6), 48A (2) or 75 (16) of the principal Act.

(2) The amendments of Parts 2 and 4 of Schedule No. 1 to the principal Act made under section 48 (1) and (2) of the principal Act by Government Notices Nos. R.574 and R.575 of 15 March 1990, shall not lapse by virtue of the provisions of section 48 (6) of the principal Act.

(3) The amendments of Schedule No. 6 to the principal Act made under section 75 (15) of the principal Act by Government Notice No. R.573 of 14 March 1990, shall not lapse by virtue of the provisions of section 75 (16) of the principal Act.

Substitution of long title of Act 91 of 1964, as substituted by section 41 of Act 84 of 1987

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

“ACT

To provide for the levying of customs and 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.”

Application of section 45 of Act 91 of 1964 in relation to a bill of entry

43. For the purposes of section 45 (2) of the principal Act—

- (a) bill of entry No. 3, delivered at the D. F. Malan Airport on 28 February 1989, shall be deemed to have been so delivered on 10 August 1988; and
- (b) the duty paid on the goods entered on that bill of entry shall be deemed to have been paid on the date of commencement of this Act.

Removal of goods between the Republic of Namibia and the common customs area

44. (1) Notwithstanding anything to the contrary in the principal Act or any other law contained, goods produced or manufactured in the common customs area and the Republic of Namibia and any imported, excisable or fuel levy goods which have been duly entered in the common customs area or the Republic of Namibia may be removed between the Republic of Namibia and the common customs area without making entry in terms of sections 38 and 39.

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(2) Subartikel (1) van hierdie artikel word geag op 21 Maart 1990 in werking te getree het.

Betaling van brandstofheffing aan die Regering van die Republiek van Namibië

45. (1) Ondanks andersluidende bepalings van die Hoofwet, kan die Kommissaris, indien die Minister dit goedkeur, enige brandstofheffing in die Republiek gevorder op enige petrol of distillaatbrandstof geklaar of verwyder vir gebruik in die Republiek van Namibië vanaf 21 Maart 1990 tot die datum waarop die Republiek van Namibië 'n party word by enige doeane-unie-ooreenkoms aangegaan ingevolge artikel 51 van die Hoofwet, aan die Regering van die Republiek van Namibië betaal. 5

(2) Subartikel (1) van hierdie artikel word geag op 21 Maart 1990 in werking te getree het. 10

Herroeping van artikel 42 van Wet 84 van 1987

46. Artikel 42 van die Wysigingswet op Doeane en Aksyns, 1987, word hierby herroep.

Skrapping van Deel 3 van Bylae No. 1, en Bylae No. 7

15

47. Deel 3 van Bylae No. 1 en Bylae No. 7 by die Hoofwet word hierby geskrap.

Kort titel

48. Hierdie Wet heet die Wysigingswet op Doeane en Aksyns, 1990.

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(2) Subsection (1) of this section shall be deemed to have come into operation on 21 March 1990.

Payment of fuel levy to the Government of the Republic of Namibia

45. (1) Notwithstanding anything to the contrary in the principal Act contained, 5 the Commissioner may, if the Minister approves, pay any fuel levy collected in the Republic on any petrol or distillate fuel entered or removed for consumption in the Republic of Namibia from 21 March 1990 to the date the Republic of Namibia becomes a party to any customs union agreement concluded in terms of section 51 of the principal Act, to the Government of the Republic of Namibia.

10 (2) Subsection (1) of this section shall be deemed to have come into operation on 21 March 1990.

Repeal of section 42 of Act 84 of 1987

46. Section 42 of the Customs and Excise Amendment Act, 1987, is hereby repealed.

15 Deletion of Part 3 of Schedule No. 1 and Schedule No. 7

47. Part 3 of Schedule No. 1, and Schedule No. 7, to the principal Act are hereby deleted.

Short title

48. This Act shall be called the Customs and Excise Amendment Act, 1990.

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Bylae

WYSIGINGS VAN BYLAE NO. 1 BY DIE DOEANE- EN AKSYNSWET, 1964

Tariefitem	Tariefpos	Beskrywing	Skaal van Reg	
			Aksyns	Doeane
104.10 104.15 104.20 en 104.30		Deur tariefitems 104.10, 104.15, 104.20 en 104.30 deur die volgende te vervang:		
"104.10	22.03	BIER VAN MOUT GEMAAK:		
.10		Met 'n relatiewe digtheid voor fermentasie van hoogstens 1 040° (uitgesonderd sorghumbier soos omskryf in die Wet op Sorghumbier, 1962 (Wet No. 63 van 1962))	3 927c/100ℓ	3 926c/100ℓ
		Plus 'n opgeskorte reg van:		
		(i) In werking	Nul	Nul
		(ii) Maksimum skaal	275c/100ℓ	275c/100ℓ
.20		Met 'n relatiewe digtheid voor fermentasie van meer as 1 040° maar hoogstens 1 050°, wat uit 'n doeane- en aksynsvervaardigingspakhuis gedurende 'n boekjaar geklaar word, of wat in die Republiek ingevoer word, of wat onwettige bier is (uitgesonderd sorghumbier soos omskryf in die Wet op Sorghumbier, 1962 (Wet No. 63 van 1962)):		
		(1) Op die eerste 4 500 000ℓ of enige hoeveelheid minder as 4 500 000ℓ aldus gedurende 'n boekjaar geklaar	4 202c/100ℓ	—
		(2) Op die hoeveelheid aldus gedurende 'n boekjaar geklaar wat meer as 4 500 000ℓ maar hoogstens 9 000 000ℓ is	4 334c/100ℓ	—
		(3) Op die hoeveelheid aldus gedurende 'n boekjaar geklaar wat meer as 9 000 000ℓ maar hoogstens 18 000 000ℓ is	4 466c/100ℓ	—
		(4) Op die hoeveelheid aldus gedurende 'n boekjaar geklaar wat meer as 18 000 000ℓ maar hoogstens 27 000 000ℓ is	4 598c/100ℓ	—
		(5) Op die hoeveelheid aldus gedurende 'n boekjaar geklaar wat meer as 27 000 000ℓ maar hoogstens 36 000 000ℓ is	4 730c/100ℓ	—
		(6) Op die hoeveelheid aldus gedurende 'n boekjaar geklaar wat meer as 36 000 000ℓ is	4 862c/100ℓ	—
		(7) Indien reg op onwettige bier betaal word	4 862c/100ℓ	—
		(8) Indien ingevoer		4 180c/100ℓ
.30		Met 'n relatiewe digtheid voor fermentasie van meer as 1 050° (uitgesonderd sorghumbier soos omskryf in die Wet op Sorghumbier, 1962 (Wet No. 63 van 1962))	4 961c/100ℓ	4 400c/100ℓ
		Plus, vir elke graad relatiewe digtheid voor fermentasie bo 1 080°	22c/100ℓ	22c/100ℓ
104.15	22.04	WYN VAN VARS DRUIWE, MET IN-BEGRIIP VAN GEFORTIFISEERDE WYN; DRUIWEMOS ANDER DAN DIÉ WAT IN POS NO. 20.09 VER-MELD WORD;		
	22.05	VERMOET EN ANDER WYN VAN VARS DRUIWE MET PLANTE OF AROMATIESE STOWWE GEGEUR;		

CUSTOMS AND EXCISE AMENDMENT ACT, 1990

Act No. 59, 1990

Schedule

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

Tariff Item	Tariff Heading	Description	Rate of Duty	
			Excise	Customs
104.10 104.15 104.20 and 104.30		By the substitution for tariff items 104.10, 104.15, 104.20 and 104.30 of the following:		
"104.10	22.03	BEER MADE FROM MALT:		
.10		Of a relative density before fermentation not exceeding 1 040° (excluding sorghum beer as defined in the Sorghum Beer Act, 1962 (Act No. 63 of 1962))	3 927c/100ℓ	3 926c/100ℓ
		Plus a suspended duty of:		
		(i) In operation	Nil	Nil
		(ii) Maximum rate	275c/100ℓ	275c/100ℓ
.20		Of a relative density before fermentation exceeding 1 040° but not exceeding 1 050°, which is cleared ex any customs and excise manufacturing warehouse during any financial year, or which is imported into the Republic, or which is illicit beer (excluding sorghum beer as defined in the Sorghum Beer Act, 1962 (Act No. 63 of 1962)):		
		(1) On the first 4 500 000ℓ or any quantity less than 4 500 000ℓ so cleared during a financial year	4 202c/100ℓ	—
		(2) On the quantity so cleared during a financial year which is more than 4 500 000ℓ but not exceeding 9 000 000ℓ	4 334c/100ℓ	—
		(3) On the quantity so cleared during a financial year which is more than 9 000 000ℓ but not exceeding 18 000 000ℓ	4 466c/100ℓ	—
		(4) On the quantity so cleared during a financial year which is more than 18 000 000ℓ but not exceeding 27 000 000ℓ	4 598c/100ℓ	—
		(5) On the quantity so cleared during a financial year which is more than 27 000 000ℓ but not exceeding 36 000 000ℓ	4 730c/100ℓ	—
		(6) On the quantity so cleared during a financial year which is more than 36 000 000ℓ	4 862c/100ℓ	—
		(7) If duty is paid on illicit beer	4 862c/100ℓ	—
		(8) If imported		4 180c/100ℓ
.30		Of a relative density before fermentation exceeding 1 050° (excluding sorghum beer as defined in the Sorghum Beer Act, 1962 (Act No. 63 of 1962))	4 961c/100ℓ	4 400c/100ℓ
		Plus, for every degree of relative density before fermentation exceeding 1 080°	22c/100ℓ	22c/100ℓ
104.15	22.04	WINE OF FRESH GRAPES, INCLUDING FORTIFIED WINES; GRAPE MUST OTHER THAN OF HEADING NO. 20.09;		
	22.05	VERMOUTH AND OTHER WINE OF FRESH GRAPES FLAVOURED WITH PLANTS OR AROMATIC SUBSTANCES;		

Wet No. 59, 1990

WYSIGINGSWET OP DOEANE EN AKSYNS, 1990

Tariefitem	Tariefpos	Beskrywing	Skaal van Reg	
			Aksyns	Doeane
	22.06	ROSYNTJIEWYN, INDUSTRIËLE DRUIWESTROOP EN INDUSTRIËLE MOSKONFYT, MET DIE FERMENTASIE GESTUIT DEUR DIE BYVOEGING VAN ALKOHOL; GEGISTE APPEL-, PEER- EN LEMOENDRANKE:		
	.40	Gefortifiseerde nie-skuimende wyn	2 318c/100ℓ	2 318c/100ℓ
	.60	Gefortifiseerde nie-skuimende gegiste appel-, peer- en lemoendranke	2 452c/100ℓ	2 452c/100ℓ
	.70	Skuimwyn (uitgesonderd sjampanje)	3 924c/100ℓ	3 924c/100ℓ
	.80	Skuimende gegiste appel-, peer- en lemoendranke	4 154c/100ℓ	4 154c/100ℓ
104.20	22.07	NIE-GEDENATUREERDE ETIEL-ALKOHOL MET 'N STERKTE VAN MINSTENS 80% ALKOHOL VOLGENS VOLUME; ETIELALKOHOL EN ANDER SPIRITUS, GEDENATUREER, VAN ENIGE STERKTE;		
	22.08	NIE-GEDENATUREERDE ETIEL-ALKOHOL MET 'N STERKTE VAN MINDER AS 80% ALKOHOL VOLGENS VOLUME; SPIRITUS, LIKEURE EN ANDER SPIRITUSDRANKE; SAAMGESTELDE ALKOHOLIESE PREPARATE VAN 'N SOORT WAT GEBRUIK WORD BY DIE VERVAARDIGING VAN DRANKE:		
	.10	Wynspiritus, in die Republiek vervaardig deur die distillering van wyn	117 026c/100ℓ absolute alkohol	—
	.15	Spiritus, in die Republiek vervaardig deur die distillering van enige suikerrietproduk	126 989c/100ℓ absolute alkohol	—
	.25	Spiritus, in die Republiek vervaardig deur die distillering van enige graanproduk	131 496c/100ℓ absolute alkohol	—
	.29	Ander spiritus, in die Republiek vervaardig	121 463c/100ℓ absolute alkohol	—
	.30	Ingevoerde spiritus van enige aard, met inbegrip van spiritus in ingevoerde spiritusdranke (uitgesonderd likeure, soetdranke en dergelike spiritusdranke wat by gevoegde suiker bevat) en in saamgestelde alkoholiese preparate met 'n alkoholsterkte van meer as 1,713 persent alkohol volgens volume		107 413c/100ℓ absolute alkohol of 47 046c/100ℓ
	.40	Spiritus van enige aard in ingevoerde likeure, soetdranke en dergelike spiritusdranke wat bygevoegde suiker bevat, met of sonder geurende bestanddele		107 413c/100ℓ absolute alkohol
104.30	24.02	SIGARE, SEROETE, SIGARILLOS EN SIGARETTE, VAN TABAK OF TABAKSURROGATE;		
	24.03	ANDER BEWERKTE TABAK EN BEWERKTE TABAKSURROGATE, "GEHOMOGENISEERDE" OF "HERSAAMGESTELDE" TABAKEK-STRAKTE EN ESSENS:		
	.10	Sigare	180c/kg netto	202c/kg netto
	.20	Sigarette	17,5c/10 sigarette plus 56c/kg tabakinhoud	17,5c/10 sigarette plus 56c/kg tabakinhoud
		Plus, ten opsigte van sigarette waarvan die massa van die tabak 1,5 kg/1 000 sigarette oorskry	804c/kg tabakinhoud	804c/kg tabakinhoud
	.30	Sigarettabak	17,5c/50g of gedeelte daarvan plus 213c/kg tabak	17,5c/50g of gedeelte daarvan plus 213c/kg tabak

CUSTOMS AND EXCISE AMENDMENT ACT, 1990

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Tariff Item	Tariff Heading	Description	Rate of Duty	
			Excise	Customs
	22.06	RAISIN WINE, INDUSTRIAL GRAPE SYRUP AND INDUSTRIAL "MOSKONFYT", WITH FERMENTATION ARRESTED BY THE ADDITION OF ALCOHOL; FERMENTED APPLE, PEAR AND ORANGE BEVERAGES:		
.40		Fortified still wine	2 318c/100ℓ	2 318c/100ℓ
.60		Fortified still fermented apple, pear and orange beverages	2 452c/100ℓ	2 452c/100ℓ
.70		Sparkling wine (excluding champagne)	3 924c/100ℓ	3 924c/100ℓ
.80		Sparkling fermented apple, pear and orange beverages	4 154c/100ℓ	4 154c/100ℓ
104.20	22.07	UNDENATURED ETHYL ALCOHOL OF AN ALCOHOLIC STRENGTH BY VOLUME OF 80% VOL. OR HIGHER; ETHYL ALCOHOL AND OTHER SPIRITS, DENATURED, OF ANY STRENGTH;		
	22.08	UNDENATURED ETHYL ALCOHOL OF AN ALCOHOLIC STRENGTH BY VOLUME OF LESS THAN 80% VOL.; SPIRITS, LIQUEURS AND OTHER SPIRITUOUS BEVERAGES; COMPOUND ALCOHOLIC PREPARATIONS OF A KIND USED FOR THE MANUFACTURE OF BEVERAGES:		
.10		Wine spirits, manufactured in the Republic by the distillation of wine	117 026c/100ℓ of absolute alcohol	—
.15		Spirits, manufactured in the Republic by the distillation of any sugar cane product	126 989c/100ℓ of absolute alcohol	—
.25		Spirits, manufactured in the Republic by the distillation of any grain product	131 496c/100ℓ of absolute alcohol	—
.29		Other spirits, manufactured in the Republic	121 463c/100ℓ of absolute alcohol	—
.30		Imported spirits of any nature, including spirits in imported spirituous beverages (excluding liqueurs, cordials and similar spirituous beverages containing added sugar) and in compound alcoholic preparations of an alcoholic strength exceeding 1,713 per cent alcohol by volume	—	107 413c/100ℓ of absolute alcohol or 47 046c/100ℓ
.40		Spirits of any nature in imported liqueurs, cordials and similar spirituous beverages containing added sugar, with or without flavouring substances	—	107 413c/100ℓ of absolute alcohol
104.30	24.02	CIGARS, CHEROOTS, CIGARILLOS AND CIGARETTES, OF TOBACCO OR OF TOBACCO SUBSTITUTES;		
	24.03	OTHER MANUFACTURED TOBACCO AND MANUFACTURED TOBACCO SUBSTITUTES, "HOMOGENISED" OR "RECONSTITUTED" TOBACCO EXTRACTS AND ESSENCES:		
.10		Cigars	180c/kg net	202c/kg net
.20		Cigarettes	17,5c/10 cigarettes plus 56c/kg tobacco content	17,5c/10 cigarettes plus 56c/kg tobacco content
		Plus in respect of cigarettes the mass of the tobacco of which exceeds 1,5 kg/1 000 cigarettes	804c/kg tobacco content	804c/kg tobacco content
.30		Cigarette tobacco	17,5c/50g or fraction thereof plus 213c/kg tobacco	17,5c/50g or fraction thereof plus 213c/kg tobacco

Wet No. 59, 1990

WYSIGINGSWET OP DOEANE EN AKSYNS, 1990

Tariefitem	Tariefpos	Beskrywing	Skaal van Reg	
			Aksyns	Docane
		Plus 'n opgeskorte reg van:		
		(i) In werking	Nul	Nul
		(ii) Maksimum skaal	73c/kg tabak	73c/kg tabak
.40		Pyptabak in onmiddellike verpakings met 'n inhoud van minder as 5 kg	210c/kg netto	210c/kg netto
.50		Pyptabak in onmiddellike verpakings met 'n inhoud van nie minder as 5 kg nie	192c/kg netto	192c/kg netto".

CUSTOMS AND EXCISE AMENDMENT ACT, 1990

Act No. 59, 1990

Tariff Item	Tariff Heading	Description	Rate of Duty	
			Excise	Customs
		Plus a suspended duty of:		
		(i) In operation	Nil	Nil
		(ii) Maximum rate	73c/kg tobacco	73c/kg tobacco
.40		Pipe tobacco in immediate packings of a content of less than 5 kg	210c/kg net	210c/kg net
.50		Pipe tobacco in immediate packings of a content of not less than 5 kg	192c/kg net	192c/kg net".

