

CUSTOMS AND EXCISE AMENDMENT ACT, 2013

GENERAL EXPLANATORY NOTE:

[] Words in bold type in square brackets indicate omissions from existing enactments.

_____ Words underlined with a solid line indicate insertions in existing enactments.

ACT

To amend the Customs and Excise Act, 1964, to delete all provisions superseded by general provisions of the Customs Control Act applicable to all tax levying Acts; to delete all provisions relating to the customs control of imported goods and goods to be exported; to delete all provisions relating to the imposition, collection and refunding of customs duties and other matters relating to customs duties; to limit the remaining provisions of the Act to excise duties, fuel levies, Road Accident Fund levies, environmental levies and matters relating to such duties and levies; and to change the name of the Act to the Excise Duty Act, 1964.

BE IT ENACTED by the Parliament of the Republic of South Africa, as follows:—

Amendment of section 1 of Act 91 of 1964, as amended by section 1 of Act 95 of 1965, section 1 of Act 57 of 1966, section 1 of Act 105 of 1969, section 1 of Act 98 of 1970, section 1 of Act 71 of 1975, section 1 of Act 112 of 1977, section 1 of Act 110 of 1979, section 1 of Act 98 of 1980, section 1 of Act 89 of 1984, section 1 of Act 84 of 1987, section 32 of Act 60 of 1989, section 51 of Act 68 of 1989, section 1 of Act 59 of 1990, section 1 of Act 19 of 1994, section 34 of Act 34 of 1997, section 57 of Act 30 of 1998, section 46 of Act 53 of 1999, section 58 of Act 30 of 2000, section 60 of Act 59 of 2000, section 113 of Act 60 of 2001, section 131 and 141 of Act 45 of 2003, section 66 of Act 32 of 2004, section 85 of Act 31 of 2005, section 7 of Act 21 of 2006, section 10 of Act 9 of 2007, section 4 of Act 36 of 2007 and section 22 of Act 61 of 2008

1. Section 1 of the Customs and Excise Act, 1964, (hereinafter referred to as the principal Act), is hereby amended by –
 - (a) the deletion in subsection (1) of the definitions of “bulk goods terminal”, “bulk goods terminal operator”, “combination terminal”, “combination terminal operator”, “container depot”, “container depot operator”, “container operator”, “container” and “container terminal operator”;
 - (b) the insertion in subsection (1) after the definition of “Controller” of the following definition:

- “customs controlled area” has the meaning assigned to it in the Customs Control Act.”;
- (c) the substitution in subsection (1) for the definition of “crew” of the following definition:
“crew” [includes every person (except the master or pilot) employed in any capacity on board any ship or aircraft] has the meaning assigned to it in the Customs Control Act.”;
- (d) the insertion in subsection (1) after the definition of “crew” of the following definition:
“Customs Control Act’ means the Customs Control Act, 2012.”;
- (e) the substitution in subsection (1) for the definition of “customs duty” of the following definition
“customs duty” means an import duty within the meaning of the Customs Duty Act.”;
- (f) the insertion in subsection (1) after the definition of “customs duty” of the following definition:
“Customs Duty Act’ means the Customs Duty Act, 2013.”;
- (g) the deletion in subsection (1) of the definitions of “degrouper depot”, “degrouper operator” and “depot operator”;
- (h) the substitution in subsection (1) for the definition of “duty” of the following definition:
“duty’ means any excise duty, fuel levy or Road Accident Fund levy, [leviable under this Act] and subject to—
(a) section 47B, any air passenger tax leviable under that section; and
(b) **[subject to]** Chapter VA, any environmental levy leviable under that Chapter,
but excludes a customs duty.”;
- (i) the insertion in subsection (1) after the definition “excise duty” of the following definitions:
“excise manufacturing warehouse’ means any premises licensed in terms of this Act as a warehouse for the manufacture of excisable goods, fuel levy goods, environmental levy goods or Road Accident Fund levy goods;
‘excise storage warehouse’ means any premises licensed in terms of this Act as a warehouse for the storage of excisable, fuel levy goods, environmental levy goods or Road Accident Fund levy goods;
‘Excise Tariff’ means the Excise Tariff referred to in section 43A.”;
- (j) the insertion in subsection (1) after the definition of “excise value” of the following definitions:
“excise warehouse’ means an excise manufacturing warehouse or excise storage warehouse.”; and
“excise warehouse transit procedure” has the meaning assigned to it in the Customs Control Act;
- (k) the substitution in subsection (1) for the definition of “exporter” of the following definition:

““exporter” [includes any person who, at the time of exportation—

- (a) owns any goods exported;
- (b) carries the risk of any goods exported;
- (c) represents that or acts as if he is the exporter or owner of any goods exported;
- (d) actually takes or attempts to take any goods from the Republic;
- (e) is beneficially interested in any way whatever in any goods exported;
- (f) acts on behalf of any person referred to in paragraph (a), (b), (c), (d) or (e),

and, in relation to imported goods, includes the manufacturer, supplier or shipper of such goods or any person inside or outside the Republic representing or acting on behalf of such manufacturer, supplier or shipper] has the meaning assigned to it in the Customs Control Act;” and”;

- (l) the substitution in subsection (1) for the definition of “home consumption” of the following definition:

“‘home consumption’, in relation to goods manufactured in an excise manufacturing warehouse, means **[consumption or use in the Republic]** that the goods may be consumed, utilised, processed or otherwise disposed of in the Republic as goods that are no longer subject to customs control;”;

- (m) the substitution in subsection (1) for the definition of “illicit goods” of the following definition:

“‘illicit goods’, in relation to **[imported or]** excisable goods, **[surcharge goods or]** fuel levy goods, environmental levy goods or Road Accident Fund 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;”;

- (n) the substitution in subsection (1) for the definition of “importer” of the following definition:

“‘importer’ [includes any person who, at the time of importation —

- (a) owns any goods imported;
- (b) carries the risk of any goods imported;
- (c) represents that or acts as if he is the importer or owner of any goods imported;
- (d) actually brings any goods into the Republic;
- (e) is beneficially interested in any way whatever in any goods imported;
- (f) acts on behalf of any person referred to in paragraph (a), (b), (c), (d) or (e)] has the meaning assigned to it in the Customs Control Act;”;

- (o) the deletion in subsection (1) of the definitions of “International Trade Administration Commission”, “L.C.L. container” and “master”;

- (p) the deletion in subsection (1) of the definition of “Office”;

- (q) the substitution in subsection (1) for the definition of “officer” of the following definition:
““officer” means a **[person employed on any duty relating to customs and excise 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]** customs officer within the meaning of the Customs Control Act, whether called a customs officer or excise officer.”;
- (r) the substitution in subsection (1) for the definition of “Road Accident Fund levy goods” of the following definition:
“Road Accident Fund levy goods’ means, subject to subsection (4), any goods specified in Part 5B of Schedule No. 1 which have been manufactured in or imported into the Republic;”;
- (s) the substitution in subsection (1) for the definition of “State warehouse” of the following definition:
“State warehouse’ **[means any premises provided by the State for the deposit of goods for the security thereof and of the duties due thereon, or pending compliance with the provisions of any law in respect of such goods;]** has the meaning assigned to it in the Customs Control Act.”;
- (t) the deletion in subsection (1) of the definitions of “surcharge” and “surcharge goods”;
- (u) the deletion in subsection (1) of the definitions of “transit shed” and “transit shed operator”;
- (v) the substitution for subsection (2) of the following subsection:
“(2) **[In this section, except in the definition of “package”, and in sections 4, 6, 7, 18, 38, 44, 64A and 87 (2) and 107, “container” means transport equipment of tariff heading 86.09—**
(a) having an internal volume of not less than one cubic metre; and
(b) designed for the transport of goods by any means of carriage, without intermediate reloading,
and in this Act “containerized” has a corresponding meaning.] In this Act “container”, when used as referring to reusable transport equipment within the meaning of the Customs Control Act, has the meaning assigned to it in that Act.”;
- (w) the substitution for the first subsection (3) and the second subsection (3) of the following subsections:
“(3) For the purposes of the SACU Agreement—
[(a) “customs duty” includes, except for the purposes of articles 32, 33 and 34 of the said agreement, any duty leviable under Part 3, 5 or 8 of Schedule No. 1 on goods imported;]
(b) “excise duty” includes, except for the purposes of articles 32, 33 and 34 of the said agreement, any duty leviable under Part 3, 5 or 8 of Schedule No. 1 on goods manufactured in the common customs area; and
and

[(3) For the purposes of the SACU Agreement,]

- (c) the movement between the Republic and a Member State of any goods on which a duty is leviable under Part 3, Part 5A or Part 5B of Schedule No. 1 shall, in addition to any provision of the Customs Control Act generally regulating the movement of goods between the Republic and a Member State, be subject to compliance with the procedures prescribed in any provision of this Act relating to the movement of such goods.”;
- (x) the substitution for subsection (5) of the following subsection:
- “(5) The expression “goods under customs control”, “goods subject to customs control” or “goods under control of the Commissioner” and any cognate expression **[shall, unless the context otherwise indicates, be deemed to include, but is not limited to—**
- (a) **any ship, vehicle or container contemplated in section 1 (2) that is entering or leaving the Republic;**
- (b) **any goods to which this Act relates that are—**
- (i) **on any ship or vehicle or in any container contemplated in section 1 (2) that is entering or leaving the Republic;**
- (ii) **in, on or at any premises licensed, registered or approved, or which should have been so licensed, registered or approved, for any purpose in terms of this Act;**
- (iii) **in, on or at any premises or at any place appointed, prescribed or designated in terms of section 6;**
- (iv) **in transit within or through the Republic or conveyed for transshipment to any place outside the Republic in such manner as may be specified by rule;**
- (v) **in, on or at a State warehouse or any place deemed in terms of section 43 (2) to be a State warehouse;**
- (vi) **in, on or at any place where goods are kept after having been detained or seized under the provisions of this Act; or**
- (vii) **deemed in terms of any provision of this Act to be under customs control,**
- whether or not declared in terms of any provision of this Act or, if so declared, whether or not release thereof has been granted.]**
must be read as referring to goods that are subject to customs control in terms of Part 1 of Chapter 2 of the Customs Control Act.”; and
- (y) the insertion after subsection (5) of the following subsections:
- “(6) As from the effective date as defined in section 926 of the Customs Control Act, and unless the context otherwise indicates, any reference in a provision of this Act to –**
- (a) a duty must be read as referring to a duty other than a customs duty;**
- (b) dutiable goods must be read as referring to goods dutiable other than for customs duty;**

- (c) imported goods or goods deemed to be imported into the Republic or goods deemed to be imported into the Republic in terms of section 10, must be read as referring to goods imported into the Republic within the meaning of “import” in the Customs Control Act;
- (d) entry of goods must be read as referring –
- (i) in the case of imported goods, to a clearance of goods in terms of the Customs Control Act for home use or a customs procedure;
 - (ii) in the case of goods manufactured in an excise warehouse –
 - (aa) to an entry in terms of this Act, if the goods are destined for home consumption or removal to another excise warehouse; or
 - (bb) to a clearance in terms of the Customs Control Act, if the goods are destined for another purpose or procedure which is a customs procedure in terms of that Act; or
 - (iii) in the case of goods manufactured subject to customs control otherwise than in an excise warehouse, to a clearance of goods in terms of the Customs Control Act for a customs procedure;
- (e) a bill of entry must be read as referring –
- (i) in the case of goods cleared or to be cleared as contemplated in paragraph (d)(i), (ii)(bb) or (iii), to a clearance declaration in terms of the Customs Control Act; or
 - (ii) in the case of goods entered or to be entered as contemplated in paragraph (d)(ii)(aa), to a bill of entry in terms of this Act;
- (f) entry or release of goods for home consumption must be read as referring –
- (i) in the case of imported goods, to clearance or release of goods for home use in terms of the Customs Control Act; or
 - (ii) in the case of goods manufactured in an excise manufacturing warehouse, to entry or release of goods for home consumption in terms of this Act;
- (g) entry or release of goods for export must be read as referring to clearance or release of goods for export in terms of the Customs Control Act;
- (h) entry or release of goods for removal in bond must be read as referring –
- (i) in the case of imported goods, to clearance or release of goods in terms of the Customs Control Act for –
 - (aa) the excise warehouse transit procedure, if the goods are to be removed to an excise warehouse; or
 - (bb) the transit procedure or another customs procedure that allows goods to be transported under that procedure, if the goods are to be removed to a place other than an excise warehouse;

- (ii) in the case of goods in or manufactured in an excise warehouse, to –

 - (aa) entry or release of goods for removal in bond in terms of this Act, if the goods are to be removed to another excise warehouse; or
 - (bb) clearance or release of goods in terms of the Customs Control Act under a customs procedure that allows goods to be transported under that procedure, if the goods are to be removed to a place other than an excise warehouse; or
- (iii) in the case of goods manufactured subject to customs control otherwise than in an excise warehouse, to clearance or release of goods in terms of the Customs Control Act under a customs procedure that allows goods to be transported under that procedure:

 - (i) removal of goods in bond must be read in a manner that corresponds with paragraph (h):
 - (i) a licenced remover of goods in bond must be read as referring to –

 - (i) a remover in bond licenced in terms of this Act, if the goods are or are to be removed between excise warehouses; or
 - (ii) a carrier licensed in terms of the Customs Control Act to transport goods not in free circulation, if the goods are or are to be removed from an excise warehouse to a place other than another excise warehouse;
 - (k) a customs and excise warehouse must be read as referring to an excise warehouse;
 - (l) a fine or penalty provided for in this Act must be read as including a reference to a fine or penalty provided for in the Customs Control Act or the Customs Duty Act; and
 - (m) the Controller must –

 - (i) be read as a reference to the Commissioner; or
 - (ii) if the provision in which the reference is contained assigns a power or duty to the Controller that has been delegated in terms of section 3, be read as a reference to an officer or person to whom that power or duty has been delegated in terms of section 3.
- (7) (a) If goods or any other things are to be seized or forfeited in terms of this Act, the seizure or forfeiture must be effected and the goods or thing be dealt with in accordance with Chapter 34 of the Customs Control Act.

 - (b) Any such seizure or forfeiture under this Act must for purposes of paragraph (a) be regarded to be a seizure or confiscation contemplated in that Chapter.

- (8) In the event of any inconsistency between a provision of this Act and a provision of the Customs Control Act or the Customs Duty Act, the provision of this Act prevails if the provision of this Act relates to –
- (a) an excise duty, fuel levy, Road Accident Fund levy, environmental levy or air passenger tax;
 - (b) an excise warehouse; or
 - (c) a matter, goods or a person in connection with any such duty, levy or tax or warehouse.”.

Amendment of section 2 of Act 91 of 1964, as amended by section 1 of Act 45 of 1995

2. Section 2 of the principal Act is hereby amended by the deletion of subsections (1A) and (2).

Amendment of section 3 of Act 91 of 1964, as amended by section 132 of Act 45 of 2003 and section 27 of Act No. 21 of 2012

2. Section 3 of the principal Act is hereby amended by –
- (a) the substitution for the section heading of the following section heading:
“ **Delegation of duties and powers of Commissioner[s]**”;
 - (b) the substitution for subsection (1) of the following subsection:
“(1) Any duty imposed or power conferred on the Commissioner in terms of this Act may be performed or exercised by –
 - (a) the Commissioner personally; or
 - (b) **[by]** an officer or any other person under –
 - (i) a delegation from the Commissioner in terms of section 19 of the Customs Control Act; or
 - (ii) **[under]** the control or direction of the Commissioner.”;
 - (c) the insertion of the following subsection after subsection (1):
“(1A) A reference to the Controller in a provision of this Act imposing a duty or conferring a power on the Controller must, for purposes of a delegation in terms of section 19 of the Customs Control Act, be read as a reference to the customs authority.”; and
 - (d) the deletion of subsection (2).

Repeal of section 3A of Act 91 of 1964, as inserted by section 3 of Act 59 of 1990 and substituted by section 23 of Act 61 of 2008

3. Section 3A of the principal Act is hereby repealed.

Repeal 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, section 3 of Act 98 of 1980, section 2 of Act 84 of 1987, section 47 of Act 53 of 1990, section 4 of Act 59 of 1990, section 51 of Act 105 of 1992, section 1 of Act 98 of 1993, section 2 of Act 45 of 1995, section 34 of Act 34 of 1997, section 58 of Act 30 of 1998, section 115 of Act 60 of 2001, section 43 of Act 30 of 2002, section 39 of Act 12 of 2003, section 133

of Act 45 of 2003, section 60 of Act 16 of 2004, section 10 of Act 10 of 2006, section 9 of Act 21 of 2006, section 5 of Act 36 of 2007, section 25 of Act 61 of 2008, section 24 of Act 8 of 2010 and section 3 of Act No. 25 of 2011

4. Section 4 of the principal Act is hereby repealed.

Repeal of section 4A of Act 91 of 1964, as inserted by section 26 of Act 61 of 2008

5. Section 4A of the principal Act is hereby repealed.

Repeal of section 4B of Act 91 of 1964, as inserted by section 26 of Act 61 of 2008

6. Section 4B of the principal Act is hereby repealed.

Repeal of section 4C of Act 91 of 1964, as inserted by section 26 of Act 61 of 2008

7. Section 4C of the principal Act is hereby repealed.

Repeal of section 6 of Act 91 of 1964, as amended by section 2 of Act 71 of 1975, section 1 of Act 52 of 1986, section 6 of Act 59 of 1990, section 3 of Act 45 of 1995, section 116 of Act 60 of 2001, section 134 of Act 45 of 2003 and section 10 of Act 21 of 2006

8. Section 6 of the principal Act is hereby repealed.

Repeal of section 6A of Act 91 of 1964, as inserted by section 11 of Act 21 of 2006

9. Section 6A of the principal Act is hereby repealed.

Repeal of section 7 of Act 91 of 1964, as substituted by section 4 of Act 45 of 1995 and as amended by section 12 of Act 21 of 2006

10. Section 7 of the principal Act is hereby repealed.

Repeal of section 7A of Act 91 of 1964, as inserted by section 27 of Act 61 of 2008

11. Section 7A of the principal Act is hereby repealed.

Repeal of section 8 of Act 91 of 1964, as substituted by section 11 of Act 9 of 2007 and as amended by section 13 of Act 21 of 2006

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

Repeal of section 9 of Act 91 of 1964, as amended by section 2 of Act 101 of 1985 and section 5 of Act 45 of 1995

13. Section 9 of the principal Act is hereby repealed.

Repeal of section 10 of Act 91 of 1964, as amended by section 2 of Act 57 of 1966, section 2 of Act 52 of 1986 and section 36 of 2007

14. Section 10 of the principal Act is hereby repealed.

Repeal of section 11 of Act 91 of 1964, as substituted by section 6 of Act 45 of 1995 and section 14 of Act 21 of 2006

15. Section 11 of the principal Act is hereby repealed.

Repeal of section 11A of Act 91 of 1964, as inserted by section 15 of Act 21 of 2006

16. Section 11A of the principal Act is hereby repealed.

Repeal of section 12 of Act 91 of 1964, as amended by section 10 of Act 59 of 1990 and section 7 of Act 45 of 1995

17. Section 12 of the principal Act is hereby repealed.

Repeal 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, section 3 of Act 52 of 1986, section 11 of Act 59 of 1990, section 8 of Act 45 of 1995 and section 28 of Act 61 of 2008

18. Section 13 of the principal Act is hereby repealed.

Repeal of section 14 of Act 91 of 1964, as amended by section 9 of Act 45 of 1995

19. Section 14 of the principal Act is hereby repealed.

Repeal 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, section 4 of Act 101 of 1985, section 12 of Act 59 of 1990, section 20 of Act 34 of 2004 and section 29 of Act 61 of 2008

20. Section 15 of the principal Act is hereby repealed.

Repeal of section 16 of Act 91 of 1964 as substituted by section 3 of Act 68 of 1989

21. Section 16 of the principal Act is hereby repealed.

Repeal of section 17 of Act 91 of 1964, as amended by section 3 of Act 110 of 1979, section 10 of Act 45 of 1995 and section 86 of Act 31 of 2005

22. Section 17 of the principal Act is hereby repealed.

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 4 of Act 84 of 1987, section 13 of Act 59 of 1990, section 11 of Act 45 of 1995, section 48 of Act 53 of 1999, section 37 of Act 19 of 2001, section 119 of Act 60 of 2001, section 102

of Act 74 of 2002, section 21 of Act 34 of 2004, section 26 of Act 18 of 2009 and section 16 of Act 21 of 2006

23. Section 18 of the principal Act is hereby amended by –

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

“(a) except as otherwise prescribed by rule—

[(i) the importer or owner of any imported goods landed in the Republic;]

(ii) the licensee of any **[customs and]** excise manufacturing warehouse in which excisable or fuel levy goods are manufactured;

(iii) the licensee of any excise storage warehouse in which excisable or fuel levy goods are stored;

(iv) the licensee **[or owner of any imported goods stored in a customs and]** of an excise **[storage]** warehouse to which imported goods were removed; or

(v) any clearing agent licensed in terms of section 64B appointed by such **[importer, owner or]** licensee,

may enter such goods for removal in bond to another excise warehouse or for another purpose as may be specified by rule; [and may remove such goods or cause such goods to be removed, —

(aa) in the case of goods contemplated in subparagraph (i), to any place in the Republic appointed as a place of entry or warehousing under this Act or to any place outside the Republic: Provided that any goods which are in transit through the Republic as contemplated in subsection (1A), may only be so entered and removed or caused to be so removed by such licensed clearing agent; or

(bb) in the case of goods contemplated in subparagraphs (ii), (iii) or (iv), to any warehousing place in the Republic or to any place in any other country in the common customs area appointed as a warehousing place for rewarehousing at that place in another such warehouse];

(b) the deletion of paragraphs (b), (c), (d) and (e) of subsection (1);

(c) the deletion of subsection (1A);

(d) the substitution for subsection (2) of the following subsection:

“(2) In addition to any liability for duty incurred by any person under any provision of this Act, but subject to the provisions of section 99 (2), the person who enters any goods for removal in bond or who may remove in bond any goods contemplated in subsection (1) and who removes or causes such goods to be so removed, shall **[subject to the provisions of subsection (3),]** be liable for the duty on all goods which are so entered and so removed in bond, whilst the goods are so removed.”;

- (e) the deletion of subsection (3);
- (f) the substitution for subsection (4) of the following subsection:
 - “(4) If—
 - (a) liability has not ceased as contemplated in subsection **[(3) (a)] (2)**; or
 - (b) the goods have been diverted or deemed to have been diverted as contemplated in subsection (13),

[such person shall ,except if payment has been made as contemplated in subsection (3) (b) (iv),] the person who is liable for duty as contemplated in subsection (2) shall upon demand pay—

 - (i) the duty and value-added tax due in terms of the Value-Added Tax Act, 1991 (Act No. 89 of 1991), as if the goods were entered for home consumption on the date of entry for removal in bond;
 - (ii) any amount that may be due in terms of section **[88(2)] 882 of the Customs Control Act**; and
 - (iii) any interest due in terms of section 105:

Provided that such payment shall not indemnify a person against any fine or penalty provided for in this Act, the Customs Control Act or other applicable Act.”;
- (g) the deletion of subsections (5), (8) and (11);
- (h) the substitution for subparagraph (i) of paragraph (a) of subsection (13) of the following subparagraph:
 - “(i) No person shall, without the permission of the Commissioner, divert any goods removed in bond to a destination other than the destination declared on the entry for removal in bond **[or deliver such goods or cause such goods to be delivered in the Republic except into the control of the Controller at the place of destination].**”;
- (i) the substitution for item (aa) of subparagraph (ii) of paragraph (a) of subsection (13) of the following item:
 - “(aa) no permission to divert such goods has been granted by the Commissioner as contemplated in subparagraph (i) and the person concerned fails to produce valid proof and other information and documents for inspection to an officer **[or to submit such proof, information and documents to the Commissioner as required in terms of subsection (3) (b) (ii) and (iii), respectively]** that the goods have been delivered to the place of destination declared on the entry for removal in bond;” and
- (j) the deletion of paragraph (b) of subsection (13).

Amendment of section 18A of Act 91 of 1964 as inserted by section 5 of Act 84 of 1987 and as amended by section 12 of 1995, section 38 of Act 19 of Act 2001, section 120 of Act 60 of 2001 and section 27 of Act 18 of 2009

- 24.** Section 18A of the principal Act is hereby amended by –
- (a) the substitution for the section heading of the following section heading:
 - “Exportation of goods from **[customs and]** excise warehouses”;

- (b) the substitution for subsection (1) of the following subsection:
“(1) Notwithstanding any liability for duty incurred thereby by any person in terms of any other provision of this Act, any person who exports any goods from **[a customs and]** an excise warehouse to any place outside the common customs area shall, despite such export but subject to the provisions of subsection (2), be liable for the duty on all goods which he or she so exports.”;
- (c) the substitution for subparagraph (ii) of paragraph (a) of subsection (1) of the following subparagraph:
“(ii) any amount that may be due in terms of section **[88 (2)] 882 of the Customs Control Act**; and;”
- (d) the substitution for subsection (4) of the following subsection:
“(4) No goods shall be exported in terms of this section unless —
(a) **[until they have been entered]** cleared and released in terms of the Customs Control Act for export or for another customs procedure that allows the export of the goods under that procedure; and
(b) **[unless, except as otherwise provided in the rules, they are]** removed under the export or such other customs procedure to a place of exit for export **[by a licensed remover in bond as contemplated in section 64D]** in accordance with the Customs Control Act.”;
- (e) the insertion of the following subsection after subsection (4):
“(4A) When goods are in terms of subsection (4) cleared for export or for another customs procedure that allows the export of the goods under that procedure, the goods become subject to the provisions of the Customs Control Act regulating the export or such other procedure.”;
- (f) the deletion of subsections (5), (6) and (8);
- (g) the substitution for paragraph (a) of subsection (9) of the following paragraph:
“(a) No person shall, without the permission of the Commissioner, divert any goods cleared for export to a destination other than the destination declared on **[entry for export]** the clearance declaration, or deliver such goods or cause such goods to be delivered in the Republic or any other country in the common customs area.”; and
- (h) the substitution for paragraph (c) of subsection (9) of the following paragraph:
“(c) Where any person fails to comply with or contravenes any provision of this subsection the goods shall be liable to forfeiture in accordance with this Act or the Customs Control Act.”; and
- (i) the deletion of subsection (10).

Amendment of Chapter IV of Act 91 of 1964

25. Chapter IV of the principal Act is hereby amended by the substitution for the chapter heading of the following chapter heading:

“CHAPTER IV

[CUSTOMS AND EXCISE WAREHOUSES; STORAGE] LICENCING OF, AND

MANUFACTURE AND STORAGE OF GOODS IN, **[CUSTOMS AND]** EXCISE
WAREHOUSES”.

Amendment of section 19 of Act 91 of 1964, as amended by section 3 of Act 95 of 1965, section 7 of Act 105 of 1969, section 13 of Act 45 of 1995, section 39 of Act 19 of 2001 and section 30 of Act 61 of 2008

26. Section 19 of the principal Act is hereby amended by –

(a) the substitution for the section heading of the following section heading:

“**[Customs and] Licencing of** excise warehouses”;

(b) the substitution for subsection (1) of the following subsection:

“(1) The Commissioner may license **[at]** any place appointed for that purpose under the provisions of this Act as [warehouses (to be known as customs and excise warehouses) approved by him for the storage of such dutiable imported or such dutiable locally-produced goods or for]

–
(a) an excise manufacturing warehouse for the manufacture of such dutiable goods from such imported or such locally-produced materials or from such imported and such locally-produced materials, as [he] the Commissioner may approve in respect of [each such] that warehouse;
or

(b) an excise storage warehouse for the storage of such dutiable locally-produced goods as the Commissioner may approve in respect of that warehouse.”;

(c) the substitution for subsection (2) of the following subsection –

“(2) **[Such warehouses may be licensed either for the storage of dutiable goods (to be known as customs and excise storage warehouses) or for the manufacture of dutiable goods (to be known as customs and excise manufacturing warehouses), but]** The Commissioner may license an excise storage warehouse and an excise manufacturing warehouse on the same premises provided that, if the Commissioner so requires, they are separated in a manner approved by [him] the Commissioner.”;

(d) the deletion in subsection (3) of the words “customs and”;

(e) the deletion in paragraph (a) of subsection (4) of the words “customs and”;

(f) the substitution in subsection (5) for the words “a customs and excise warehouse” of the words “an excise warehouse”;

(g) the substitution in subsection (6) for the words “a customs and excise warehouse” of the words “an excise warehouse”;

(h) the substitution in subsection (8) for the words “a customs and excise warehouse” of the words “an excise warehouse”; and

(i) the substitution for paragraph (a) of subsection (9) of the following paragraph:

“(a) Except with the permission of the Commissioner, which shall only be granted in circumstances which **[he]** on good cause shown **[considers to be]** are reasonable and subject to such conditions as **[he]** the Commissioner may

impose in each case, no imported goods **[entered for storage]** delivered to an excise warehouse under an excise warehouse transit in terms of the Customs Control Act [or] and no excisable or fuel levy goods manufactured in **[a customs and]** an excise warehouse, excluding spirits or wine in the process of maturation or maceration, shall be retained in any **[customs and]** excise warehouse for a period of more than two years **[from the time the imported goods were first entered for storage or]** from the time the excisable or fuel levy goods were deemed to have been manufactured in terms of section 44 (2).”.

Amendment of section 19A of Act 91 of 1964, as inserted by section 40 of Act 19 of 2001 and amended by section 64 of Act 30 of 2002

27. Section 19A of the principal Act is hereby amended by –
- (a) the deletion of the words “customs and” in the section heading;
 - (b) the deletion in paragraphs (a) and (b) of subsection (1) of the words “customs and”, wherever they occur;
 - (c) the substitution in paragraph (c) of subsection (1) for the words “a customs and excise manufacturing warehouse” of the words “an excise manufacturing warehouse”;
 - (d) the substitution for paragraph (a) of subsection (3) of the following paragraph:

“(a) **[When this section comes into operation]** The excisable or fuel levy goods concerned shall not be removed to any **[customs and excise]** warehouse unless such warehouse is another such excise manufacturing warehouse licensed for or an excise storage warehouse licensed for any special or limited purpose as contemplated in subsection (1).”;
 - (e) the deletion of paragraph (b) of subsection (3); and
 - (f) the substitution in paragraph (a) of subsection (4) for the words “ a customs and excise manufacturing warehouse” of the words “an excise manufacturing warehouse”.

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 1 of Act 86 of 1982, section 6 of Act 84 of 1987, section 14 of Act 59 of 1990, section 14 of Act 45 of 1995, section 59 of Act 30 of 1998, section 41 of Act 19 of 2001 and section 88 of Act 31 of 2005

28. Section 20 of the principal Act is hereby amended by –
- (a) the substitution for the section heading of the following section heading:

“Goods in **[customs and]** excise warehouses”;
 - (b) the substitution for subsection (1) of the following subsection:

“(1) (a) Imported goods may be removed to an excise warehouse only if the goods are –

 - (i) of a class or kind approved by the Commissioner for that warehouse;

and

(ii) cleared and released in terms of the Customs Control Act for excise warehouse transit to that warehouse.

(aA) Any **[dutiabie imported or]** dutiable locally-produced goods and any beverages produced from excisable spirits **[in pursuance of any permission granted under the provisions of section 31(2)]**, being goods or beverages of a class or kind approved by the Commissioner in respect of each warehouse, may be entered for storage in an **[customs and]** excise warehouse with deferment of payment of duty, and no such goods or beverages shall be removed to or placed in an **[customs and]** excise warehouse until they have been so entered.

(b) **[Such]** Any entry referred to in paragraph (aA) shall be deemed to be due entry in respect of such goods at the place of **[importation or]** manufacture for the purposes of this Act.”;

(c) the substitution for subparagraph (i) of paragraph (a) of subsection (2) of the following subparagraph:

“(i) Upon the **[entry and landing]** clearance of imported goods for **[storage in] excise warehouse transit to an excise warehouse** or the transfer of dutiable locally-produced goods to an **[customs and]** excise warehouse or the transfer of dutiable manufactured goods from an **[customs and]** excise manufacturing warehouse to an **[customs and]** excise storage warehouse, the licensee of any such warehouse **[in] to** which such goods are **[stored] removed** or **[to which such goods are]** so transferred shall take and record an accurate account of such goods, which shall include, subject to any deduction that may be allowed under section 75 (18), the debiting to stock of any excess found on receipt of such goods at such warehouse.”;

(d) the substitution in subsection (3) for the words “a customs and excise warehouse” of the words “an excise warehouse”;

(e) the substitution for subsection (4) of the following subsection:

“(4) Subject to section 19A, no goods **[which have been]** stored or manufactured in **[a customs and]** an excise warehouse shall be taken or delivered from such warehouse except in accordance with the rules and upon **[due entry for any of the following purposes]**—

(a) due entry for home consumption and payment of any duty due thereon;

(b) **[rewarehousing in another customs and excise warehouse or]** due entry for removal in bond **[as provided]** in terms of section 18(1)(a);

(d) **[for export from customs and excise warehouse (including supply as stores for foreign-going ships or aircraft)]** clearance and release of the goods in terms of the Customs Control Act for export or for another customs procedure that allows the export of goods under that procedure.”;

(f) the substitution for subsection (4)*bis* of the following subsection:

“(4)*bis* (a) No person shall, without the written permission of the Controller, divert any goods entered for removal from or delivery to an **[customs and]** excise warehouse, except goods entered for payment of the duty due thereon, to a destination other than the destination declared on entry of such goods or deliver or cause such goods to be delivered in the Republic except in accordance with the provisions of this Act.

(b) Paragraph (a) does not apply to imported goods cleared in terms of the Customs Control Act for excise warehouse transit to an excise warehouse or to goods manufactured in an excise warehouse and cleared in terms of that Act for export under the export procedure or for another customs procedure that allows the export of goods under that procedure, and dealt with in accordance with that Act.”;

- (g) the substitution in subsection (5) for the words “a customs and excise warehouse” of the words “an excise warehouse”; and
- (h) the substitution in subsection (6) for the words “a storage warehouse” of the words “an excise storage warehouse”.

Amendment of section 21 of Act 91 of 1964, as amended by section 9 of Act 105 of 1969, section 44 of Act 30 of 2002, section 22 of Act 34 of 2004, section 1 of Act 10 of 2005 and section 17 of Act 21 of 2006

29. Section 21 of the principal Act is hereby amended by –

- (a) the substitution for the section heading of the following section heading:
“Special **[customs and]** excise warehouses”;
- (b) the deletion in subsection (1) of the words “customs and”;
- (c) the substitution for subsection (2) of the following subsection:

“(2) Unless the Commissioner otherwise indicates when licensing a special **[customs and]** excise warehouse for the storage or manufacture of goods, the provisions of this Act in respect of **[customs and]** excise **[storage or manufacturing]** warehouses or the storage or manufacture of goods in such warehouses, shall apply to such special warehouse and to the storage or manufacture of goods therein, as the case may be.”;

- (d) the substitution for paragraph (a) of subsection (3) of the following paragraph:

“(a) Notwithstanding anything to the contrary contained in this Act, the Commissioner may, subject to such exception or adaptation prescribed in this subsection or as the Commissioner may prescribe by rule, licence a special **[customs and]** excise storage warehouse in terms of the provisions of this Act for the storage—

[(i) for export of any imported goods which are free of duty; or]

(ii) of any [other] goods for such purposes as may be prescribed by rule.”;

- (e) the deletion of paragraphs (b) and (c) of subsection (3);
- (f) the substitution for subparagraph (ii) of paragraph (d) of subsection (3) of the following subparagraph:

- “(ii) The Commissioner may, on application by the **[importer]** licensee of the warehouse before the period of 6 months expires, on good cause shown extend such period for not longer than 3 months.”;
- (g) the deletion of subparagraph (iii) of paragraph (d) of subsection (3); and
- (h) the substitution for subparagraph (ii) of paragraph (e) of subsection (3) of the following subparagraph:
- “(ii) the person**[, other than the importer of duty free goods,]** who may store the goods specified in these rules in such warehouse;”.

Repeal of section 21A of Act 91 of 1964, as inserted by section 121 of Act 60 of 2001 and amended by section 112 of Act 32 of 2004, section 2 of Act 10 of 2005, section 18 of Act 21 of 2006 and section 7 of Act 36 of 2007

30. Section 21A of the principal Act is hereby repealed.

Substitution of section 22 of Act 91 of 1964

31. The following section is hereby substituted for section 22 of the principal Act:

“Samples of goods in **[a customs and]** excise warehouses

22. The Controller may, in accordance with the rules, permit samples of goods in an **[customs and]** excise warehouse to be taken by the licensee or the owner of such goods and may permit payment of duty thereon to be deferred until the goods from which such samples have been taken are entered for delivery from that warehouse for any purpose.”.

Repeal of section 24 of Act 91 of 1964, as substituted by section 5 of Act 95 of 1965 and amended by section 15 of Act 45 of 1995

32. Section 24 of the principal Act is hereby repealed.

Amendment of section 25 of Act 91 of 1964, as substituted by section 16 of Act 45 of 1995

33. Section 25 of the principal Act is hereby amended by –

- (a) the deletion in the section heading of the words “customs and”; and
- (b) the substitution for the words “a customs and excise storage warehouse” of the words “an excise storage warehouse”.

Amendment of section 26 of Act 91 of 1964, as substituted by section 1 of Act 89 of 1983 and amended by section 17 of Act 45 of 1995

34. Section 26 of the principal Act is hereby amended by the substitution for the words “a customs and excise warehouse” in paragraph (a) of subsection (1) of the words “an excise warehouse”.

Amendment of section 27 of Act 91 of 1964, as amended by section 10 of Act 105 of 1969, section 7 of Act 84 of 1987, section 15 of Act 59 of 1990 and section 18 of Act 45 of 1995

35. Section 27 of the principal Act is hereby amended by –

- (a) the deletion of the words “customs and” from the section heading;
- (b) the substitution for subsection (1) of the following subsection:

“(1) Subject to the provisions of this Act, goods liable to excise duty or fuel levy may not be manufactured except in terms of this section and except in an **[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 an **[customs and]** excise manufacturing warehouse and that excisable goods may with the permission of the Commissioner be manufactured in a special **[customs and]** excise warehouse licensed under this Act.”;
- (c) the deletion in subsection (2) of the words “customs and”;
- (d) the substitution for subsection (3) of the following subsection:

“(3) Any dutiable goods brought into and intended for use in **[customs and]** an excise manufacturing warehouse in the manufacture of goods liable to excise duty or fuel levy shall be entered for home consumption and any duty due thereon shall be paid prior to such use. If such dutiable goods consists of imported goods removed to an excise warehouse under excise warehouse transit in terms of the Customs Control Act, any customs duty on the goods must be paid prior to such use.”;
- (e) the substitution for subsection (4) of the following subsection:

“(4) No manufacturing of goods shall take place in an **[customs and]** excise manufacturing warehouse until all premises and plant intended for use in connection with such manufacturing and the purpose for which they are to be used have been approved by and registered in terms of this Act with the Commissioner.”;
- (f) the deletion in subsection (6) of the words “customs and”;
- (g) the substitution in paragraph (a) of subsection (7) for the words “a customs and excise manufacturing warehouse” of the words “an excise manufacturing warehouse”;
- (h) the substitution in subsection (9) for the words “a customs and excise manufacturing warehouse” of the words “an excise manufacturing warehouse”; and
- (i) the substitution in subsection (11) for the words “a customs and excise manufacturing warehouse” of the words “an excise manufacturing warehouse”.

Amendment of section 35 of Act 91 of 1964, as amended by section 3 of Act 103 of 1972 and section 23 of Act 45 of 1995

36. Section 35 of the principal Act is hereby amended by the deletion of the words “customs and” wherever they occur.

Amendment of section 35A of Act 91 of 1964, as inserted by section 5 of Act 112 of 1977 and amended by section 24 of Act 45 of 1995 and section 135 of Act 45 of 2003

- 37.** Section 35A of the principal Act is hereby amended by –
- (a) the substitution for paragraph (b) of subsection (1) of the following paragraph:
“(b) distinguishing marks or numbers in addition to the stamp impression referred to in subsection (2) which must or must not appear on containers of cigarettes and cigarette tobacco removed from an **[customs and]** excise warehouse for home consumption or for export under the export procedure in terms of the Customs Control Act or any other customs procedure in terms of that Act that allows the export of goods under that procedure;”;
 - (b) the substitution in subsection (2), in the words preceding paragraph (a), for the words “a customs and excise warehouse” of the words “an excise warehouse”;
 - (c) the substitution for paragraph (b) of subsection (2) of the following paragraph:
“(b) if removed for export under the export procedure or any other customs procedure that allows the export of goods under that procedure, such stamp impression does not appear on the containers; and”;
 - (d) the deletion in subsection (3) of the words “customs and”.

Amendment of section 36 of Act 91 of 1964, as substituted by section 25 of Act 45 of 1995 and as amended by section 2 of Act 44 of 1996 and section 49 of Act 53 of 1999

- 38.** Section 36 of the principal Act is hereby amended by the substitution for paragraph (e) of subsection (2) of the following paragraph:

“(e) If beer in bulk is removed **[in bond]** from an **[customs and]** excise manufacturing warehouse otherwise than under an entry for home consumption, the alcoholic strength by volume shall be tested before removal from the warehouse and recorded on all documents of removal and reflected in the records required to be kept in terms of the rules.”.

Amendment of section 36A of Act 91 of 1964, as substituted by section 16 of Act 59 of 1990 and as amended by section 2 of Act 98 of 1993 and section 26 of Act 45 of 1995

- 39.** Section 36A of the principal Act is hereby amended by the deletion of the words “customs and” wherever they occur.

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, section 7 of Act 98 of 1980, section 8 of Act 84 of 1987, section 17 of Act 59 of 1990, section 27 of Act 45 of 1995 and section 61 of Act 30 of 1998

- 40.** Section 37 of the principal Act is hereby amended by the substitution for the words “a customs and excise warehouse”, wherever they occur, of the words “an excise warehouse”.

Amendment of section 37A of Act 91 of 1964, as substituted by section 50 of Act 53 of 1999 and as amended by section 122 of Act 60 of 2001

41. Section 37A of the principal Act is hereby amended by –
- (a) the deletion in paragraph (a) of subsection (1) of the words “customs and”;
 - (b) the substitution in paragraph (b) of subsection (2) for the words “a customs and excise warehouse” of the words “an excise warehouse”;
 - (c) the deletion in paragraph (d) of subsection (3) of the words “customs and”;
 - (d) the deletion in paragraph (a) of subsection (7) of the words “customs and”;
 - (e) the substitution in subparagraph (i) of paragraph (b) of subsection (7) for the words “a customs and excise warehouse” of the words “an excise warehouse”;
 - (f) the deletion in paragraph (d) of subsection (7) of the words “customs and”;
and
 - (g) the substitution in subparagraph (i) of paragraph (e) of subsection (9) for the words “a customs and excise warehouse” of the words “an excise warehouse”.

Amendment of section 38 of Act 91 of 1964, as amended by section 13 of Act 105 of 1969, section 5 of Act 71 of 1975, section 4 of Act 105 of 1976, section 2 of Act 89 of 1983, section 59 of Act 84 of 1987, section 18 of Act 59 of 1990, section 28 of Act 45 of 1995, section 3 of Act 44 of 1996, section 123 of Act 60 of 2001, section 91 of Act 60 of 2008 and section 32 of Act 61 of 2008

42. Section 38 of the principal Act is hereby amended by –
- (a) the deletion of subsections (1) and (3);
 - (b) the substitution for subsection (4) of the following subsection:
 - “(4) (a) The Commissioner may by rule permit any excisable goods or fuel levy goods **[, and any class or kind of imported goods,]** which he may specify by rule, to be removed from **[a customs and]** an 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 rule, and such certificate, invoice or other document, shall for the purposes of section 20(4), and subject to the provisions of section 39(2A), be deemed to be a due entry from the time of removal of those goods from the **[customs and]** excise warehouse.
 - (b) No such goods may be removed from **[a customs and]** an excise warehouse or appropriated for use by the owner prior to or without the issuing of such certificate, invoice or other document: Provided that goods destined for export must before removal from the warehouse be cleared in terms of the Customs Control Act for export or another customs procedure that allows the export of goods under that customs procedure.”; and
 - (d) the deletion of subsections (5) and (6).

Repeal of section 38A of Act 91 of 1964, as inserted by section 28 of Act 18 of 2009

43. Section 38A of the principal Act is hereby repealed.

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, section 8 of Act 98 of 1980, section 10 of Act 84 of 1987, section 3 of Act 69 of 1988, section 19 of Act 59 of 1990 and section 29 of Act 45 of 1995

44. Section 39 of the principal Act is hereby amended by –

- (a) the substitution for the section heading of the following section heading:
“**[Importer and exporter to produce documents and pay] Payment of duties**”;
- (b) the substitution for subsection (1) of the following subsection:
“(1) A duty on any excisable goods, fuel levy goods, Road Accident Fund levy goods or environmental levy goods imported into the Republic must be paid in accordance with the Customs Duty Act as applied in terms of section 43B.”;
- (c) the deletion of subsection (2);
- (d) the substitution in paragraph (a) of subsection (2A) for the words “a customs and excise warehouse” of the words “an excise warehouse”;
- (e) the deletion of subsection (2B); and
- (f) the substitution for subsection (3) of the following subsection:
“(3) The Commissioner may by rule specify the manner in which validating bills of entry referred to in subsection (2A) for goods of any such class or kind as may be specified in such rule[, **or goods imported or exported in such manner or such circumstances as may be so specified,**] shall be delivered.”.

Repeal of section 39A of Act 91 of 1964, as inserted by section 5 of Act 101 of 1985

45. Section 39A of the principal Act is hereby repealed.

Repeal of section 39B of Act 91 of 1964, as inserted by section 34 of Act 61 of 2008

46. Section 39B of the principal Act is hereby repealed.

Repeal of section 39C of Act 91 of 1964, as inserted by section 34 of Act 61 of 2008

47. Section 39C of the principal Act is hereby repealed.

Repeal of section 39D of Act 91 of 1964, as inserted by section 34 of Act 61 of 2008

48. Section 39D of the principal Act is hereby repealed.

Amendment of section 40 of Act 91 of 1964, as amended by section 9 of Act 95 of 1965, section 6 of Act 71 of 1975, section 5 of Act 105 of 1976, section 2 of Act 93 of 1978, section 4 of Act 86 of 1982, section 3 of Act 89 of 1983, section 11 of Act 84 of 1987, section 30 of Act 45 of 1995 and section 35 of Act 61 of 2008

49. Section 40 of the principal Act is hereby amended by –

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

“(1) No entry of goods in an excise warehouse for home consumption or for removal in bond in terms of section 18(1)(a) shall be valid unless—

[(a) in the case of imported or exported goods, the description and particulars of the goods and the marks and particulars of the packages declared in that entry correspond with the description and particulars of the goods and the marks and particulars of the packages as reported in terms of section seven or twelve or in any certificate, permit or other document, by which the importation or exportation of those goods is authorized;]

(b) the goods have been properly described in the entry by the denomination and with the characters, tariff heading and item numbers and circumstances according to which they are charged with duty or are admitted under any provision of this Act **[or are permitted to be imported or exported];**

(c) the true value of the goods on which duty is leviable or which is required to be declared under the provisions of this Act **[and the true territory of origin, territory of export and means of carriage]** have been declared;

(d) in the case of goods purchased by or sold, consigned or disposed of to any person in the Republic, a correct and sufficient invoice thereof, as prescribed, has been produced to the Controller;

(e) the correct duty due has been paid in the case of goods entered for home consumption **[: Provided that no bill of entry shall be invalid by reason of any deferment referred to in the proviso to section 39(1)(b)].**”;

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

“(2) Goods taken or delivered or removed by virtue of an entry which is not valid out of any **[ship, aircraft, vehicle, transit shed, container terminal, container depot, customs and]** excise warehouse or other place where they have been deposited with the sanction of the Controller, shall be deemed to be goods **[landed or]** taken without due entry thereof: Provided that if such goods are included in any entry embracing more than one package, and it is shown that the invalidity arose without wilful default or negligence of anyone connected with the goods, and that such invalidity does

not exist as to all the packages in that entry then only the packages not validly entered shall be deemed to have been **[landed or]** taken without due entry.”;

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

“(a) Subject to the provisions of sections 76 and 77 and on such conditions as the Commissioner may impose and on payment of such fees as he may prescribe by rule—

(i) **[an importer or exporter or]** a manufacturer of goods who enters goods in an excise warehouse for home consumption or removal in bond in terms of section 18(1)(a) shall on discovering that a bill of entry delivered by him or her—

(aa) does not in every respect comply with section 39; or

(bb) is invalid in terms of subsection (1) of this section,

adjust that bill of entry without delay by means of—

(A) a voucher of correction; or

(B) cancellation of such bill of entry and substitution of a fresh bill of entry; or

(C) in such other manner as the Commissioner may prescribe; or

(ii) if—

(aa) a bill of entry has been passed in error by reason of duty having been paid on goods intended for storage or manufacture in **[a customs and]** an excise warehouse under section 20 or for purposes of use under rebate of duty under section 75; or

(bb) **[an importer, exporter or]** manufacturer who entered the goods, on good cause shown, requests substitution thereof by another bill of entry in circumstances other than those contemplated in item (aa),

the Commissioner may allow the **[importer, exporter or]** manufacturer concerned to adjust that bill of entry by substitution of a fresh bill of entry and cancellation of the original bill of entry, provided such goods, where a rebate of duty is being claimed, qualified at the time the duty was paid in all respects for that rebate.

Provided that acceptance of such voucher or fresh bill of entry shall not indemnify such **[importer, exporter or]** manufacturer against any fine or penalty provided for in this Act.”; and

(d) the substitution in subparagraph (i) of paragraph (aA) of subsection (3) for the words “a customs and excise warehouse” of the words “an excise warehouse”.

Amendment of section 41 of Act 91 of 1964, as substituted by section 2 of Act 85 of 1986, and as amended by section 12 of Act 84 of 1987, section 20 of Act

59 of 1990, sections 31 and 41 of Act 45 of 1995, section 17 of Act 32 of 2005 and section 22 of Act 21 of 2006

50. Section 41 of the principal Act is hereby amended by –

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

“(1) **[The exporter of any goods imported into or exported from the Republic or]** The owner of any excisable goods or fuel levy goods manufactured in any **[customs and]** excise warehouse shall render a true, correct and sufficient invoice and 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 rules 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: Provided that different requirements may be prescribed in the rules in respect of invoices and certificates relating to goods of different classes or kinds or goods to which different circumstances specified in the rules apply.”;

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

“(2) Every **[exporter or]** manufacturer shall allocate to any goods of a class or kind specified in the rules for the purposes of this subsection and **[exported to or from or]** manufactured in the Republic a distinctive and permanent identification number, code, description, character or other mark in such manner and in accordance with such method as may be prescribed in the rules and such number, code, description, character or other mark shall be quoted or reproduced in all prescribed invoices relating to such goods and in all such other documents relating to such goods as may be specified in the rules.”; and

(c) the deletion of subsections (3) and (4).

Repeal of section 42 of Act 91 of 1964

51. Section 42 of the principal Act is hereby repealed.

Repeal of section 43 of Act 91 of 1964, as amended by section 6 of Act 105 of 1976, section 7 of Act 112 of 1977, section 6 of Act 86 of 1982, section 32 of Act 45 of 1995, section 34 of Act 34 of 1997, sections 92 and 124 of Act 60 of 2001, section 45 of Act 30 of 2002, section 23 of Act 34 of 2004, section 8 of Act 36 of 2007 and section 92 of Act 60 of 2008

52. Section 43 of the principal Act is hereby repealed.

Insertion of sections 43A and 43B in Act 91 of 1964

53. The following sections are hereby inserted in the principal Act before section 44:

“Excise Tariff

43A. There is an Excise Tariff as set out in Annexure 1 specifying—

(a) the duties on that are for purposes of this Act in force;

- (b) the classes and kinds of goods in respect of which those duties are in force; and
- (c) the rates of, the requirements, conditions and relief applicable to, and other matters relating to, those duties.

Application of provisions of Customs Duty Act for purposes of duties leviable on imported goods in terms of this Act

43B. (1) The provisions of the Customs Duty Act, excluding Chapter 2, 8 and 9, apply, with any necessary changes as the context may require, to any matter regulating or affecting dutiability of imported goods for purposes of this Act or duty on imported excisable goods, fuel levy goods, Road Accident Fund levy goods or environmental levy goods, as fully and effectually as if that matter were a matter regulating or affecting dutiability of, or an ordinary import duty on, imported goods in terms of that Act.

- (2) For purposes of such application –
- (a) any reference in the Customs Duty Act to –
- (i) an import duty or duty must be read as a reference to an excise duty, fuel levy, Road Accident Fund levy or environmental levy on imported goods, as may be applicable; or
- (ii) the Customs Tariff must be read as a reference to the Excise Tariff; and
- (b) the Commissioner may by rule make such technical modifications to a provision of the Customs Duty Act as may be necessary for the effective application of that provision as contemplated in subsection (1).
- (3) In the event of any inconsistency between a provision of this Act and a provision of the Customs Duty Act as applied in terms of subsection (1), the provision of this Act prevails.”.

Amendment of section 44 of Act 91 of 1964, as amended by section 10 of Act 95 of 1965, section 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 10 of 1979, section 3 of Act 89 of 1984, section 5 of Act 52 of 1986, section 13 of Act 84 of 1987, section 21 of Act 59 of 1990, section 3 of Act 98 of 1993, section 33 of Act 45 of 1995, section 51 of Act 53 of 1999, section 136 of Act 45 of 2003, section 67 of Act 32 of 2004, section 12 of Act 9 of 2005, section 91 of Act 35 of 2007, and section 93 of Act 60 of 2008

54. Section 44 of the principal Act is hereby amended by –

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

“(1) Liability for duty on any excisable goods, fuel levy goods, Road Accident Fund levy goods or environmental levy goods imported into the

Republic must, for the purposes of this Act, commence at the time applicable to the goods in accordance with the Customs Duty Act as applied in terms of section 43B.”;

- (b) the deletion of subsections (3), (4), (4A), (5), (5A), (5B), (5C), (5D), (6), (7) and (9);
- (c) the substitution in paragraph (a) of subsection (11) for the word “two”, wherever it occurs, of the word “three”; and
- (d) the deletion of subsection (12).

Amendment of section 45 of Act 91 of 1964, as amended by section 9 of Act 112 of 1977, section 7 of Act 86 of 1982, section 6 of Act 101 of 1985, section 1 of Act 61 of 1992, and section 35 of Act 45 of 1995

55. Section 45 of the principal Act is hereby amended by –

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

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

(i) in the case of imported goods, at the time applicable to the goods in accordance with the Customs Duty Act as applied in terms of section 43B; or

(ii) in the case of goods manufactured in an excise warehouse, at the time of entry of the goods for home consumption in terms of this Act.

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

- (b) the deletion of subsection (2).

Repeal of section 46 of Act 91 of 1964, as amended by section 5 of Act 68 of 1989, section 2 of Act 61 of 1992, section 36 of Act 45 of 1995, section 36 of Act 45 of 1995, section 52 of Act 53 of 1999, section 137 of Act 45 of 2003 and section 9 of Act 36 of 2007

56. Section 46 of the principal Act is hereby repealed.

Repeal of section 46A of Act 91 of 1964, as inserted by section 59 of 2000 and amended by section 18 of Act 32 of 2005 and section 10 of Act 36 of 2007

57. Section 46A of the principal Act is hereby repealed.

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, section 9 of Act 98 of 1980, section 8 of Act 86 of 1982, section 6 of Act 52 of 1988, section 6 of Act 68 of 1989, section 22 of Act 59 of 1990, section 3 of Act 61 of 1992, section 37 of Act 45 of 1995, section 4 of Act 44 of 1996, section 63 of Act 30 of 1998, section 53 of Act 53 of 1999, section 126 of Act 60 of 2001, section 104 of Act 74 of 2002, section 138 of Act 45 of 2003, section 68 of Act 32 of 2004, section 3 of Act 10 of 2005, section 90 of Act 31 of 2005, section 11 of Act 36 of 2007, section 94 of Act 60 of 2008

58. Section 47 of the principal Act is hereby amended by –

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

“(1) Subject to the provisions of this Act, duty shall be paid for the benefit of the National Revenue Fund on **[all imported goods,]** all excisable goods, **[all surcharge goods,]** all environmental levy goods, all fuel levy goods and all Road Accident Fund levy goods in accordance with the provisions of Schedule No. 1 –

(a) in the case of imported goods, at the time applicable to the goods in accordance with the Customs Duty Act as applied in terms of section 43B; or

(b) in the case of goods manufactured in an excise warehouse, at the time of entry for home consumption of such goods: Provided that the Commissioner may condone any underpayment of such duty where the amount of such underpayment **[in the case of –**

(a) goods imported by post is less than fifty cents;

(b) goods imported in any other manner is less than five rand; or

(c) excisable goods] is less than two rand.”;

(b) the deletion of subsections (3), (5) and (6);

(c) the substitution for item (aa) of subparagraph (i) of paragraph (a) of subsection (9) of the following item:

“(aa) the tariff headings, tariff sub-headings or tariff items or other items of any Schedule under which any **[imported goods,]** goods manufactured in the Republic **[or goods exported]** shall be classified for purposes of this Act; or”;

(d) the deletion of paragraph (f) of subsection (9); and

(e) the addition of the following subsection:

“(14) Subsections (8) to (13) do not apply to excisable goods, fuel levy goods, Road Accident Fund levy goods and environmental levy goods imported into the Republic, and the Customs Duty Act, as applied in

terms of section 43B, applies to such goods in relation to any matter dealt with in those subsections.”.

Substitution of section 47A of Act 91 of 1964, as inserted by section 7 of Act 101 of 1985, substituted by section 4 of Act 98 of 1993 and amended by section 38 of Act 45 of 1995

59. The following section is hereby substituted for 47A of the principal Act:

“Prohibition of certain acts in respect of goods not duly entered

47A. (1) Subject to the provisions of this Act, no person shall remove, receive, take, deliver or deal with or in any **[imported or]** excisable goods, environmental levy goods, [or] fuel levy goods or Road Accident Fund levy goods, unless such goods have been duly entered.”.

Substitution of section 48 of Act 91 of 1964, as amended by section 61 of Act 57 of 1966, section 61 of Act 57 of 1966, section 18 of Act 105 of 1969, section 3 of Act 98 of 1970, section 8 of Act 105 of 1976, section 11 of Act 112 of 1977, section 1 of Act 68 of 1973, section 10 of Act 98 of 1980, section 9 of Act 86 of 1982, section 18 of Act 84 of 1987, section 7 of Act 68 of 1989, section 23 of Act 59 of 1990, section 4 of Act 61 of 1992, section 3 of Act 19 of 1994, section 39 of Act 45 of 1995, section 64 of Act 30 of 1998, section 4 of Act 53 of 1999, section 140 of Act 2003 and section 91 of Act 31 of 2005

60. The following section is hereby substituted for section 48 of the principal Act:

“Amendments to Excise Tariff

48. The Minister, by notice in the Gazette –

(a) must amend the Excise Tariff if the amendment is necessary –

(i) for implementing any international obligations on tariffs and trade binding on the Republic;

(ii) for implementing an international agreement to which the Republic is a party, or any amendment to such agreement; or

(iii) to give effect to any amendments to, and to any changes in terminology used in, international tariffs and trade instruments binding on the Republic; and

(b) may amend the Excise Tariff where paragraph (a) does not apply and the amendment is necessary –

(i) for implementing national financial and fiscal policies; or

(ii) in the public interest.”.

Insertion of sections 48B, 48C, 48D, 48E, 48F and 48G in Act 91 of 1964

61. The following sections are hereby inserted in the principal Act before section 49:

“Amendments having unforeseen or unintended consequences

48B. (1) If an amendment made in terms of section 48 has a consequence which was not foreseen or intended when the amendment was made, the Minister may by notice in the Gazette adjust the amendment to

address that unforeseen or unintended consequence with effect from the date the amendment took effect or any later date specified in the notice.

- (2) An adjustment to an amendment as provided for in subsection (1) –
- (a) may be made whether or not the amendment has ceased to have effect or has lapsed in terms of section 84F(2); and
 - (b) must for all purposes be regarded to be part of the amendment.

Extent of Minister's power to amend Excise Tariff

48C. (1) The Excise Tariff may in terms of section 48 be amended –

- (a) to repeal or replace, or to make any change in, any schedule, chapter, part, heading, subheading, item, provision, note or other component of the Excise Tariff; or
- (b) to insert any new schedule, chapter, part, heading, subheading, item, provision, note and other component in the Excise Tariff.

(2) An amendment referred to in subsection (1) includes –

- (a) the imposition of a duty on any goods imported into the Republic or manufactured in an excise manufacturing warehouse, specifying –
 - (i) the class or kind of goods on which, and the circumstances in which, such duty is imposed;
 - (ii) the requirements and conditions applicable to, and other matters relating to, such duty; and
 - (iii) any relief, refund or drawback that may be claimed in respect of such duty, including –
 - (aa) the extent of any such relief, refund or drawback;
 - (bb) the circumstances in which, the customs procedures in respect of which and the conditions on which any such relief, refund or drawback is or may be granted; and
 - (cc) the requirements and conditions applicable to, and other matters relating to, any such relief, refund or drawback;
- (b) changing the rate of any existing duty, or changing, repealing or replacing any existing provision relating to such duty, or inserting any new provision in relation to such duty.

Commencement of amendments to Excise Tariff

48D. (1) An amendment to the Excise Tariff in terms of section 48 takes effect on a date specified in the notice effecting the amendment, or if no date is specified, on the date of publication of the notice, subject to section 48E.

(2) A date specified in a notice in terms of subsection (1) as the date on which an amendment takes effect, may be a date before, on or after the date of publication of the notice.

(3) Unless otherwise specified in a notice, an amendment commences at the beginning of the day on which the amendment takes effect in terms of subsection (1).

Commencement of amendments to Excise Tariff as part of budgetary tax proposals tabled in the National Assembly

48E. (1) If an amendment to the Excise Tariff forms part of any tax proposals contained in a national annual or adjustments budget tabled by the Minister in the National Assembly in terms of section 27(1) or 30(1) of the Public Finance Management Act, 1999 (Act No.1 of 1999), the amendment takes effect from the time the annual or adjustments budget is tabled in the Assembly whether the amending notice referred to in section 48 is published before or after such tabling.

(2) A certificate purporting to have been issued and signed by the Secretary to Parliament that the Minister has tabled a national annual or adjustments budget contemplated in subsection (1) in the National Assembly, that an amendment to the Excise Tariff attached to the certificate formed part of tax proposals contained in that budget, and that the budget was tabled on a date and at a time specified in the certificate, must on production by any person in a court or other judicial tribunal be accepted as evidence of the facts stated therein.

(3) Subsection (1) does not apply if the amending notice referred to in section 48 specifies another date and time for the commencement of the amendment.

(4) The Commissioner may for purposes of facilitating the collection and of preventing evasion of duties imposed on goods in accordance with subsection (1), by rule prescribe requirements to be complied with by persons in possession of, handling or dealing in such goods at the time the tax proposals are tabled.

Parliamentary ratification of amendments to Excise Tariff

48F. (1) An amendment made to the Excise Tariff in terms of section 48, read with section 48B, is valid up to the last day of the calendar year following the calendar year in which it was made, but must for its continued validity thereafter be ratified by an Act of Parliament.

(2) If an amendment to the Excise Tariff is not ratified by an Act of Parliament as contemplated in subsection (1), the amendment lapses with effect from the end of the day referred to in that subsection.

Excise duties on certain imported goods excluded from SACU Agreement

48G. (1) For purposes of articles 32, 33 and 34 of the SACU agreement, an excise duty does not include an excise duty on goods imported into the Republic for use in the Republic or another SACU member state by a government, department, administration or other organ of state, or a person or body, as specified in the Excise Tariff, and any excise duty on such goods must for purposes of those articles be regarded to be an ordinary levy on those goods.

(2) (a) The Commissioner must, within such timeframes as the Commissioner may determine, pay the amount of an excise duty collected on imported goods intended for use in another SACU member state and which is in terms of subsection (1) regarded to be an ordinary levy, to the government of that state.

(b) A payment in terms of paragraph (a) is a direct charge against the National Revenue Fund.”.

Repeal of section 49 of Act 91 of 1964, as substituted by section 55 of Act 53 of 1999 and amended by section 60 of Act 30 of 2000, section 127 of Act 60 of 2001, section 46 of Act 30 of 2002, section 24 of Act 34 of 2004 and section 12 of Act 36 of 2007

62. Section 49 of the principal Act is hereby repealed.

Repeal of section 50 of Act 91 of 1964, as substituted by section 105 of Act 74 of 2002

63. Section 50 of the principal Act is hereby repealed.

Repeal of section 50A of Act 91 of 1964, as inserted by section 106 of Act 74 of 2002

64. Section 50A of the principal Act is hereby repealed.

Repeal of section 51 as amended by section 7 of Act 57 of 1966, section 1 of Act 89 of 1971, section 5 of Act 103 1972, section 1 of Act 12 of 1977 and section 13 of Act 27 of 1997

65. Section 51 of the principal Act is hereby repealed.

Amendment of section 52 of Act 91 of 1964, as inserted by section 24 of Act 59 of 1990 and amended by section 41 of Act 45 of 1995 and section 13 of Act 36 of 2007

66. Section 52 of the principal Act is hereby amended by the substitution for paragraph (a) of the following paragraph:

“(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 49 or brought into the Republic from any such territory, shall, if a fuel levy has not been imposed by such party, be deemed for fuel levy purposes 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 may determine, apply to those goods]** otherwise than under that customs union agreement until such time as such fuel levy is imposed by that party as provided in this Act.”.

Repeal of section 53 of Act 91 of 1964, as amended by section 19 of Act 105 of 1969, section 12 of Act 112 of 1977, section 37 of Act 97 of 1986, section 20 of Act 84 of 1987, section 6 of Act 61 of 1992, section 5 of Act 19 of 1994, section 42 of Act 45 of 1995

67. Section 53 of the principal Act is hereby repealed.

Amendment of section 54 of Act 91 of 1964, as substituted by section 13 of Act 112 of 1977, and amended by section 43 of Act 45 of 1995, section 141 of Act 45 of 2003 and section 19 of Act 32 of 2005

68. Section 54 of the principal Act is hereby amended by –

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

“(2) **[No person may import any cigarettes unless]** Imported cigarettes —

(a) **[if entered for home consumption]** cleared for home use in terms of the Customs Control Act must have a stamp impression determined by the Commissioner **[has been made]** on their containers/packages; **[or]**

(b) **[if entered for storage in a customs and excise warehouse]** cleared in terms of the Customs Control Act for warehousing may not have such stamp impression **[does not appear]** on their containers/packages if warehoused for export; and

(c) **[the cigarettes]** referred to in paragraph (a) or (b) must otherwise comply with the requirements as may be prescribed by rule.”;

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

“(3) No imported cigarettes shall be sold or offered for sale, **[or]** disposed of, **[or removed from the customs and excise warehouse concerned]** or transported except in accordance with the provisions of this Act and the Customs Control Act.”;

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

“(4) (a) No cigarettes in containers bearing the stamp impression referred to in subsection (2)(a), may be **[entered for removal in bond as**

contemplated in section 18] cleared in terms of the Customs Control Act for international transit through the Republic.

(b) Any cigarettes in containers bearing such stamp impression so **[entered for removal in bond]** cleared for international transit shall be liable to forfeiture in accordance with the provisions of this Act or the Customs Control Act.”.

Amendment of section 54B of Act 91 of 1964, as inserted by section 139 of Act 45 of 2003 and amended by section 32 of Act 16 of 2004 and section 14 of Act 36 of 2007

69. Section 54B of the principal Act is hereby amended by the substitution for subsection (1) of the following subsection:

“(1) The environmental levy shall be levied at a rate as may be specified in any item of Part 3 of Schedule No. 1 and the environmental levy so specified in such item shall be payable in addition to any duty, including a customs duty, prescribed in respect of the goods concerned **[in any heading or subheading of Part 1 or Part 2 of Schedule No. 1].**”.

Substitution of section 54C of Act 91 of 1964, as inserted by section 139 of Act 45 of 2003

70. The following section is hereby substituted for section 54C of the principal Act:
“Application of other provisions of this Act

54C. [(1)] Subject to such exceptions and adaptations as may be prescribed in this Chapter, any Schedule or any rule, the provisions of this Act relating to—

- (a) (i) the importation of excisable goods and imported excisable goods; and
- (ii) the payment of duty on imported excisable goods; or
- (b) (i) the manufacture of excisable goods; and
- (ii) the entry for home consumption, removal from any **[customs and]** excise manufacturing warehouse and payment of duty contemplated in section 19A,

shall apply *mutatis mutandis* to environmental levy goods imported into or manufactured in the Republic.”.

Amendment of section 54E of Act 91 of 1964, as inserted by section 139 of Act 45 of 2003

71. Section 54E of the principal Act is hereby amended by the substitution for the words “a customs and excise manufacturing warehouse” of the words “an excise manufacturing warehouse”.

Repeal of Chapter VI of Act 91 of 1964, as amended by section 12 of Act 95 of 1965, section 6 of Act 103 of 1972, sections 14, 15, 16 and 17 of Act 112 of 1977, section 4 of Act 89 of 1984, section 7 of Act 52 of 1986, sections 7, 8, 9,

10 and 11 of Act 61 of 1992, sections 6, 7 and 8 of Act 19 of 1994, section 3 of Act 16 of 1997, section 142 of Act 45 of 2003, section 69 of Act 32 of 2004, sections 65, 66, 67, 68 and 69 of Act 20 of 2006

72. Chapter VI of the principal Act is hereby repealed.

Repeal of section 58 of Act 103 of 1964, as amended by section 19 of Act 33 of 1974, section 1 of Act 64 of 1974, section 10 of Act 86 of 1982, section 21 of Act 84 of 1987, section 2 of Act 105 of 1992 and section 14 of Act 27 of 1997

73. Section 58 of the principal Act is hereby repealed.

Repeal of section 59 of Act 91 of 1964

74. Section 59 of the principal Act is hereby repealed.

Insertion of chapter heading for Chapter VII and section 58A in Act 91 of 1964

75. The following chapter heading and section is hereby inserted in the principal Act before section 59A:

“CHAPTER VIII

REGISTRATION, LICENSING AND ACCREDITED CLIENTS

Application of this Act to registrations, licences and accredited clients regulated by Customs Control Act

58A. (1) As from the effective date as defined in section 926 of the Customs Control Act, this Act must be read as no longer applying, subject to Part 3 of the Customs Control Act, to –

- (a) the registration of persons for a purpose or activity referred to in sections 601 to 607 of that Act;
- (b) the licencing of persons, premises and facilities for a purpose or activity referred to in sections 630 to 634 of that Act; or
- (c) the granting of accredited status to persons who are licensees or registered persons in terms of that Act.

(2) Subsection (2) may not be read as preventing any existing registration, licence or accredited status issued in terms of this Act for a purpose or activity referred to in that subsection before the effective date, from continuing to be in force after that date to the extent as provided in Part 3 of Chapter 41 of that Act.”

Amendment of section 59A of Act 91 of 1964, as inserted by section 45 of Act 19 of 2001 and amended by section 188 of Act 60 of 2001 and section 47 of Act 30 of 2002

76. Section 59A of the principal Act is hereby amended by the addition in subsection (1) of the following paragraph:

“(c) When prescribing rules in terms of paragraph (b) the Commissioner may apply *mutatis mutandis* any of the provisions of Chapter

28 and other relevant provisions of the Customs Control Act to registrations in terms of this section.”

Repeal of words after section 59A in Act 91 of 1964, as inserted by section 44 of Act 19 of 2001

77. The following words after section 59A of the principal Act are hereby repealed:
“CHAPTER VIII REGISTRATION, LICENSING AND ACCREDITED CLIENTS”.

Amendment of section 60 of Act 91 of 1964, as substituted by section 20 of Act 105 of 1969, and as amended by section 11 of Act 86 of 1982, section 25 of Act 59 of 1990, section 9 of Act 19 of 1994, section 44 of Act 45 of 1999, section 46 of Act 19 of 2001 and section 48 of Act 30 of 2002

78. Section 60 of the principal Act is hereby amended by the addition to paragraph (b) of subsection (1) of the following proviso:

“Provided that the Minister, when prescribing notes in a Schedule, or the Commissioner, when prescribing rules, may apply *mutatis mutandis* any of the provisions of Chapter 29 of the Customs Control Act and other relevant provisions to licences and licencing in terms of this section.”

Amendment of section 61 of Act 91 of 1964, as amended by section 22 of Act 84 of 1987 and section 107 of Act 74 of 2002

79. Section 61 of the principal Act is hereby amended by –

- (a) the deletion of the words “customs and” in the section heading;
- (b) the substitution in subsection (1) for the words “a customs and excise warehouse” of the words “an excise warehouse”; and
- (c) the deletion of the words “customs and” wherever they occur in subsections (3) and (4).

Amendment of section 64 of Act 91 of 1964

80. Section 64 of the principal Act is hereby amended by –

- (a) the substitution for the words “a customs and excise manufacturing warehouse” of the words “an excise manufacturing warehouse”; and
- (b) the substitution for the words “special customs and excise warehouse” of the words “special excise warehouse”.

Repeal of section 64A of Act 91 of 1964, as inserted by section 8 of Act 71 of 1975

81. Section 64A of the principal Act is hereby repealed.

Amendment of section 64B of Act 91 of 1964, as inserted by section 19 of Act 112 of 1977, and as amended by section 46 of Act 45 of 1995, section 58 of Act 53 of 1999 and section 47 of Act 19 of 2001

82. Section 64B of the principal Act is hereby amended by the substitution for subsection (1) of the following subsection:

“(1) (a) No person shall, for **[the purposes of this Act, for reward, make entry or deliver a bill of entry relating to any goods on behalf of any principal contemplated in section 99 (2), unless]** reward, on behalf of any principal contemplated in section 99 (2) enter any goods in an excise warehouse for home consumption or for removal in bond in terms of section 18(1)(a), unless that person is licensed as a clearing agent in terms of subsection (2).

(b) A person licenced in terms of the Customs Control Act as a customs broker to clear goods on behalf of other persons, must for the purposes of this Act be regarded to have been licenced as a clearing agent in terms of subsection (2).”.

Repeal of section 64C of Act 91 of 1964, as inserted by section 47 of Act 45 of 1995

83. Section 64C of the principal Act is hereby repealed.

Amendment of section 64D of Act 91 of 1964, as inserted by section 48 of Act 19 of 2001, and as amended by section 49 of Act 30 of 2002

84. Section 64D of the principal Act is hereby amended by the substitution for subsection (1) of the following subsection:

“(1) (a) No person, except if exempted by rule, shall remove any goods in an excise warehouse in bond in terms of section 18 (1)(a) **[or for export in terms of section 18A, or any other goods that may be specified by rule]** unless licensed as a remover of goods in bond in terms of subsection (3).

(b) A person licenced in terms of the Customs Control Act as a carrier must for the purposes of this Act be regarded to have been licenced as a remover in bond in terms of subsection (3).”.

Amendment of section 64F of Act 91 of 1964, as inserted by section 108 of Act 74 of 2002

85. Section 64F of the principal Act is hereby amended by –

- (a) the deletion in the section heading of the words “a customs and”;
- (b) the substitution in paragraph (b) of the definition of “licensed distributor” in subsection (1) for the words “a customs and excise manufacturing warehouse” of the words “an excise manufacturing warehouse”; and
- (c) the substitution in paragraph (a) of subsection (2) for the words “a customs and excise warehouse” of the words “an excise warehouse.”.

Repeal of section 64G of Act 91 of 1964, as inserted by section 143 of Act 45 of 2003

86. Section 64G of the principal Act is hereby repealed.

Repeal of section 64H of Act 91 of 1964, as inserted by section 23 of Act 21 of 2006

87. Section 64H of the principal Act is hereby repealed.

Repeal of section 64I of Act 91 of 1964, as inserted by section 24 of Act 21 of 2006

88. Section 64I of the principal Act is hereby repealed.

Repeal of section 64J of Act 91 of 1964, as inserted by section 25 of Act 21 of 2006

89. Section 64J of the principal Act is hereby repealed.

Repeal of section 64K of Act 91 of 1964, as inserted by section 26 of Act 21 of 2006

90. Section 64K of the principal Act is hereby repealed.

Repeal of section 64L of Act 91 of 1964, as inserted by section 27 of Act 21 of 2006

91. Section 64L of the principal Act is hereby repealed.

Repeal of section 64M of Act 91 of 1964, as inserted by section 28 of Act 21 of 2006

92. Section 64M of the principal Act is hereby repealed.

Amendment of section 65 of Act 91 of 1964, as substituted by section 13 of Act 86 of 1982 and amended by section 8 of Act 101 of 1985, section 8 of Act 52 of 1986, section 9 of Act 68 of 1989, section 45 of Act 45 of 1995, section 5 of Act 44 of 1996, section 59 of Act 53 of 1999, section 128 of Act 60 of 2001, section 144 of Act 45 of 2003, section 70 of Act 32 of 2004, section 93 of Act 35 of 2007 and section 96 of Act 60 of 2008

93. Section 65 of the principal Act is hereby amended by –

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

“(1) **[Subject to the provisions of this Act, the value for customs duty purposes of any imported goods shall, at the time of entry for home consumption, be the transaction value thereof, within the meaning of section 66.]** For the purpose of assessing duty on goods imported into the Republic, section 43B applies and the value of those goods shall be taken to be the same as the value determined for those goods in terms of the Customs Duty Act.”;

(b) the deletion of subsections (2), (3), (4), (5), (6), (7) and (7A);

(c) the substitution for subsection (8) of the following subsection:

“(8) Notwithstanding the provisions of subsection[s] (1) **[and (4)]**, the value for the purposes of the duty specified in Section B of Part 2 of

Schedule No. 1 shall, in respect of imported goods be the **[transaction value thereof]** the value ascribed to the goods in terms of subsection (1) plus 15 per cent of such value plus any non-rebated customs duty payable in terms of Part 1 of Schedule No. 1 and any excise duty payable in terms of Section A of Part 2 of Schedule 1 on such goods, but excluding the duty specified in the said Section B of Part 2 of Schedule 1 on such goods.”; and

- (d) the deletion of subsection (9).

Repeal of section 66 of Act 91 of 1964, as substituted by section 14 of Act 59 of 1982 and amended by section 5 of Act 69 of 1988, section 10 of Act 68 of 1989, section 26 of Act 59 of 1990, section 49 of Act 45 of 1995, section 60 of Act 53 of 1999 and section 97 of Act 60 of 2008

94. Section 66 of the principal Act is hereby repealed.

Repeal 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, section 11 of Act 68 of 1989, section 27 of Act 59 of 1990, section 50 of Act 45 of 1995 and section 98 of Act 60 of 2008

95. Section 67 of the principal Act is hereby repealed.

Amendment of section 69 of Act 91 of 1964, as substituted by section 6 of Act 44 of 1996 and amended by section 61 of Act 53 of 1999, section 49 of Act 19 of 2001, section 129 of Act 60 of 2001, section 145 of Act 45 of 2003, section 71 of Act 32 of 2004 and section 94 of Act 35 of 2007

96. Section 69 of the principal Act is hereby amended by –

- (a) the substitution for the words “Chapter XA” wherever they occur of the words “Chapter 37 of the Customs Control Act”;
- (b) the substitution for the words “section 66(2)(a)” wherever they occur of the words “subsection (8)”;
- (c) the deletion of paragraph (b) of subsection (5);
- (d) the substitution for the words “this Act” wherever they occur in paragraph (b) of subsection (7) of the words “this Act or the Customs Control Act”; and
- (e) the addition of the following subsection:

“(8) For the purposes of this section, two persons shall be deemed to be related only if—

- (a) they are officers or directors of one another’s businesses;
- (b) they are legally recognized partners in business;
- (c) the one is employed by the other;
- (d) any person directly or indirectly owns, controls or holds five per cent or more of the equity share capital of both of them;
- (e) one of them directly or indirectly controls the other;
- (f) both of them are directly or indirectly controlled by a third person;
- (g) together they directly or indirectly control a third person; or
- (h) they are members of the same family.”.

Repeal of section 71 of Act 91 of 1964, as amended by section 10 of Act 105 of 1976, section 5 of Act 89 of 1984 and section 4 of Act 105 of 1992

97. Section 71 of the principal Act is hereby repealed.

Repeal of section 72 of Act 91 of 1964, as substituted by section 11 of Act 98 of 1980

98. Section 72 of the principal Act is hereby repealed.

Repeal of section 73 of Act 91 of 1964, as substituted by section 51 of Act 45 of 1995 and amended by section 62 of Act 53 of 1999

99. Section 73 of the principal Act is hereby repealed.

Repeal of section 74 of Act 91 of 1964, as amended by section 25 of Act 112 of 1977, section 17 of Act 86 of 1982 and section 52 of Act 45 of 1995

100. Section 74 of the principal Act is hereby repealed.

Repeal of section 74A of Act 91 of 1964, as substituted by section 18 of Act 86 of 1982 and amended by section 10 of Act 101 of 1985

101. Section 74A of the principal Act is hereby repealed.

Amendment of section 75 of Act 91 of 1964, as amended by section 3 of Act 45 of 1955, section 13 of Act 95 of 1965, section 10 of Act 57 of 1966, section 8 of Act 85 of 1968, section 24 of Act 105 of 1969, section 8 of Act 103 of 1972, section 2 of Act 68 of 1973, section 9 of Act 71 of 1975, section 27 of Act 112 of 1977, section 8 of Act 93 of 1978, section 10 of Act 110 of 1979, section 19 of Act 86 of 1982, section 6 of Act 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, section 13 of Act 68 of 1989, section 29 of Act 59 of 1990, section 13 of Act 61 of 1992, section 7 of Act 98 of 1993, section 10 of Act 19 of 1994, section 53 of Act 45 of 1995, section 61 of Act 30 of 2000, section 50 of Act 19 of 2001, section 130 of Act 60 of 2001, section 75 of Act 30 of 2002, section 109 of Act 74 of 2002, section 146 of Act 45 of 2003, section 27 of Act 34 of 2004, section 92 of Act 31 of 2005, section 70 of Act 20 of 2006, section 95 of Act 35 of 2007 and section 99 of Act 60 of 2008

102. Section 75 of the principal Act is hereby amended by –

- (a) the deletion of subsection (4);
- (b) the substitution in paragraph (f) of subsection (4A) for the words “this Act”, wherever they occur, of the words “this Act, the Customs Control Act, the Customs Duty Act”;
- (c) the substitution in subparagraph (i) of paragraph (h) of subsection (4A) for the words “this Act” of the words “this Act or the Customs Control Act”;
- (d) the substitution in subsection (17) for the words “this Act”, where they occur for the first time, of the words “this Act or the Customs Control Act”;

- (e) the substitution in subsection (20) for the words “this Act” of the words “this Act or the Customs Control Act”;
- (f) the substitution in subsection (21) for the words “two years” of the words “three years”;
- (g) the deletion of subsection (22); and
- (h) the addition of the following subsection:

“(23) As from the effective date as defined in section 926 of the Customs Control Act, this section and its rules must be read as no longer applying to customs duties and to rebates, drawbacks and refunds of customs duty, except to the extent as provided in Part 3 of Chapter 41 of the Customs Control Act.”

Repeal of section 75A of Act 91 of 1964, as inserted by section 29 of Act 18 of 2009

103. Section 75A of the principal Act is hereby repealed.

Amendment of section 76 of Act 91 of 1964, as amended by section 54 of Act 1995

104. Section 76 of the principal Act is hereby amended by –

- (a) the substitution for the section heading of the following section heading:

“General refunds **[in respect of imported goods, excisable goods]**”;
- (b) the substitution for subsection (1) of the following subsection:

“(1) No refund or drawback of any duty or other charge in respect of **[imported goods,]** excisable goods, **[surcharge goods or]** fuel levy goods, Road Accident Fund levy goods or environmental levy goods, other than a refund or drawback provided for under section 75 or 77, shall be paid or granted except in accordance with –

 - (a) the provisions of the Customs Duty Act as applied in terms of section 43B, if those goods are imported goods; or
 - (b) the other provisions of this section, if those goods are manufactured in the Republic.”;
- (c) the insertion after subsection (1) of the following subsection:

“(1A) If a person applies in terms of the Customs Duty Act for a refund or drawback of a duty or other charge referred to in subsection (1)(a) and for a refund or drawback of a customs duty or other charge to which that Act applies, the applications must be submitted as a combined application and procedurally dealt with as a single application.”;
- (d) the substitution for paragraph (f) of subsection (2) of the following paragraph:

“(f) the substitution of any bill of entry in terms of section 40 (3) or of a clearance declaration in terms of the Customs Control Act; or”;
- (e) the substitution for paragraph (g) of subsection (2) of the following paragraph:

“(g) the duty having been reduced or withdrawn **[as provided for in section 48 (2) or (2A), 56 (2), 56A (2) or 57 (2); or]**.”;
- (f) the deletion of paragraph (h) of subsection (2);

- (g) the substitution in paragraph (a) of subsection (4) for the words “two years” of the words “three years”; and
- (h) the substitution for subsection (5) of the following subsection:

“(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 manufactured in the Republic, is less than two rand, unless the Commissioner is satisfied that exceptional circumstances exist which warrant such refund.”.

Amendment of section 76B of Act 91 of 1964, as substituted by section 29 of Act 34 of 2004 and amended by section 20 of Act 32 of 2005 and section 100 of Act 60 of 2008

105. Section 76B of the principal Act is hereby amended by –

- (a) the substitution in paragraph (a) of subsection (1) for the words “two years” of the words “three years”, wherever they occur;
- (b) the substitution in paragraph (b) of subsection (1) for the words “two years” of the words “three years”;
- (c) the substitution in paragraph (d) of subsection (1) for the words “two years” of the words “three years”; and
- (d) the addition of the following subsection:

“(4) This section does not apply to refunds and drawbacks of duty on excisable goods, fuel levy goods, Road Accident Fund levy goods and environmental levy goods imported into the Republic, and the Customs Duty Act, as applied in terms of section 43B, applies in relation to any matter dealt with in this section with regard to refunds and drawbacks on such goods.”.

Amendment of section 77 of Act 91 of 1964, as substituted by section 31 of Act 59 of 1990 and amended by section 55 of Act 45 of 1995

106. Section 77 of the principal Act is hereby amended by –

- (a) the substitution in subsection (1) for the words “a customs and excise warehouse” of the words “an excise warehouse”; and
- (b) the substitution in subsection (1) for the words “two years” of the words “three years”.

Repeal of Chapter XA of Act 91 of 1964, as inserted by section 147 of Act 45 of 2003

107. Chapter XA of the principal Act is hereby repealed.

Repeal of Chapter XB of Act 91 of 1964, as inserted by section 17 of Act 36 of

2007

108. Chapter XB of the principal Act is hereby repealed.

Amendment of section 79 of Act 91 of 1964, as amended by section 2 of Act 64 of 1974, section 11 of Act 52 of 1986, section 7 of Act 105 of 1992 and section 56 of Act 45 of 1995

109. Section 79 of the principal Act is hereby amended by the deletion of paragraphs (e), (f) and (g) of subsection (1).

Repeal of section 81 of Act 91 of 1964, as substituted by section 33 of Act 59 of 1990 and amended by section 9 of Act 105 of 1992

110. Section 81 of the principal Act is hereby repealed.

Repeal of section 86A of Act 91 of 1964, as inserted by section 69 of Act 30 of 1998 and amended by section 65 of Act 53 of 1999

111. Section 86A of the principal Act is hereby repealed.

Repeal of section 87 of Act 91 of 1964, as amended by section 66 of Act 53 of 1999

112. Section 87 of the principal Act is hereby repealed.

Repeal of section 88 of Act 91 of 1964, as amended by section 12 of Act 85 of 1968, section 15 of Act 68 of 1989, section 59 of Act 45 of 1995, section 30 of Act 112 of 1977 and section 28 of Act 84 of 1987

113. Section 88 of the principal Act is hereby repealed.

Repeal of section 89 of Act 91 of 1964, as substituted by section 131 of Act 60 of 2001 and amended by section 131 of Act 60 of 2001

114. Section 89 of the principal Act is hereby repealed.

Repeal of section 90 of Act 91 of 1964, as amended by section 132 of Act 60 of 2001

115. Section 90 of the principal Act is hereby repealed.

Amendment of section 93 of Act 91 of 1964, as substituted by section 150 of Act 45 of 2003

116. Section 93 of the principal Act is hereby amended by the deletion of subsections (1) and (3).

Repeal of section 96 of Act 91 of 1964, as substituted by section 136 of Act 60 of 2001, and as amended by section 30 of Act 34 of 2004, section 26 of Act 32 of 2005 and section 30 of Act 21 of 2006

117. Section 96 of the principal Act is hereby repealed.

Repeal of section 96A of Act 91 of 1964, as inserted by section 9 of Act 89 of 1984

118. Section 96A of the principal Act is hereby repealed.

Repeal of section 97 of Act 91 of 1964, as substituted by section 32 of Act 112 of 1977 and section 32 of Act 21 of 2006

119. Section 97 of the principal Act is hereby repealed.

Substitution of section 98 of Act 91 of 1964, as substituted by section 33 of Act 112 of 1977

120. The following section is hereby substituted for section 98 of the principal Act:

“Liability of principal for acts of agent

98. Every [importer, exporter, master, container operator, pilot,] manufacturer of excisable goods, environmental levy goods, fuel levy goods or Road Accident Fund levy goods. licensee, remover of goods in bond or other principal shall, for the purposes of this Act, be responsible for any act done by an agent acting on his behalf, whether within or outside the Republic.”.

Amendment of section 99 of Act 91 of 1964, as amended by section 15 of 95 of 1965, section 17 of Act 85 of 1968, section 7 of Act 98 of 1970, section 34 of Act 112 of 1977, section 12 of Act 110 of 1979, section 24 of Act 86 of 1982, section 62 of Act 45 of 1995, section 71 of Act 30 of 1998, section 68 of Act 53 of 1999, section 138 of Act 60 of 2001 and section 31 of Act 34 of 2004

121. Section 99 of the principal Act is hereby amended by the addition of the following subsection:

“(6) As from the effective date as defined in section 926 of the Customs Control Act, this section and its rules must be read as no longer applying to persons to whom this Act from that date has ceased to apply, except to the extent as provided in Part 3 of Chapter 41 of the Customs Control Act.”.

Amendment of section 99A of Act 91 of 1964, as inserted by section 69 of Act 53 of 1999

122. Section 99A of the principal Act is hereby amended by the addition of the following subsection:

“(3) As from the effective date as defined in section 926 of the Customs Control Act, this section and its rules must be read as no longer applying to persons to whom this Act from that date has ceased to apply, except to the extent as provided in Part 3 of Chapter 41 of the Customs Control Act.”.

Repeal of section 101A of Act 91 of 1964, as inserted by section 51 of Act 19 of 2001

123. Section 101A of the principal Act is hereby repealed.

Repeal of section 101B of Act 91 of 1964, as inserted by section 38 of Act 61 of 2008

124. Section 101B of the principal Act is hereby repealed.

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 12 of Act 105 of 1985, section 30 of Act 84 of 1987, section 34 of Act 59 of 1990, and section 64 of Act 45 of 1995

125. Section 102 of the principal Act is hereby amended by –

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

“(1) Any person selling, offering for sale or dealing in **[imported or]** excisable goods, environmental levy goods, **[or]** fuel levy goods or Road Accident Fund levy goods or any person removing the same, or any person having such goods entered in his books or mentioned in any documents referred to in section 75(4A) or 101, shall, when requested by an officer, produce proof as to the person from whom the goods were obtained and, if he is the importer or manufacturer or owner, as to the place where the duty due thereon was paid, the date of payment, the particulars of the entry for home consumption or clearance for excise warehouse transit 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.”;

(b) the deletion in subsection (2) of the words “as an admission”; and

(c) the deletion of subsections (3), (4) and (5).

Amendment of section 105 of Act 91 of 1964, as substituted by section 72 of Act 30 of 1998 and amended by section 1 of Act 32 of 1999, section 63 of Act 30 of 2000, section 111 of Act 74 of 2002, section 35 of Act 16 of 2004, section 93 of Act 31 of 2005 and section 72 of Act 20 of 2006

126. Section 105 of the principal Act is hereby amended by the addition of the following subsection, the existing subsection becoming subsection (1):

“(2) As from the effective date as defined in section 926 of the Customs Control Act –

(a) subsection (1) must be read as no longer applying to interest on outstanding amounts payable in terms of this Act in respect of imported goods, except to the extent as provided in Part 3 of Chapter 41 of the Customs Control Act; and

(b) the Customs Duty Act, as applied in terms of section 43B, applies in relation to any matter dealt with in subsection (1) with regard to interest on outstanding amounts payable in terms of this Act in respect of imported goods.”.

Amendment of section 106 of Act 91 of 1964, as amended by section 30 of Act 105 of 1969, section 35 of Act 59 of 1990, section 66 of Act 45 of 1995 and section 39 of Act 61 of 2008

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

“(a) An officer may **[on entry of any imported goods or goods for export or]** during the manufacture of any excisable goods, environmental levy goods, fuel levy goods or Road Accident Fund levy goods, or at any time during or after such **[entry or]** manufacture, take, without payment, from any person in possession of such **[imported goods or goods for export or of any]** manufactured or partly manufactured **[excisable]** goods samples of such **[imported, manufactured or partly manufactured]** goods or of materials intended for the manufacture of **[excisable]** such 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 may prescribe by rule, and those samples shall be dealt with and accounted for in such manner as the Commissioner may direct.

(b) Paragraph (a) may not be read as affecting an officer’s powers relating to the taking of samples in terms of the Customs Control Act.”.

Amendment of section 107 of Act 91 of 1964, as amended by section 20 of Act 85 of 1968, section 31 of Act 105 of 1969, section 11 of Act 93 of 1978, section 6 of Act 89 of 1983, section 67 of Act 45 of 1995, section 33 of Act 34 of 2004, section 31 and section 34 of Act 21 of 2006

128. Section 107 of the principal Act is hereby amended by –

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

“(i) the **[importer, exporter,]** manufacturer, owner or other person, whoever is in control of the goods, except in the case of goods examined at **[a customs and]** an excise warehouse, where such handling of and dealing with goods shall be performed at the expense and risk of the owner thereof or the licensee of such warehouse;”;

(b) the deletion of subparagraphs (ii) and (iii) of paragraph (a) of subsection (1);

(c) the deletion of paragraph (b) of subsection (1);

(d) the substitution for subparagraph (i) of paragraph (a) of subsection (2) of the following subparagraph:

“(i) Subject to the provisions of this Act, the Commissioner shall not, except on such conditions, including conditions relating to security, as may be determined by him or her, allow goods to pass from his or her control until the provisions of this Act **[or any law relating to the importation, exportation, transshipment or transit carriage through the Republic of goods,]** and any applicable provisions of the Customs Control Act have been complied with in respect of such goods.”;

- (e) the deletion of subparagraph (iii) of paragraph (a) of subsection (2); and
- (f) the deletion in subsection (3) of the words “importer, exporter”, wherever they occur.

Repeal of section 109 of Act 91 of 1964, as amended by section 12 of Act 93 of 1978, section 68 of Act 45 of 1995 and section 139 of Act 60 of 2001

129. Section 109 of the principal Act is hereby repealed.

Repeal of section 111 of Act 91 of 1964, as substituted by section 11 of Act 71 of 1975, and amended by section 19 of Act 52 of 1986 and section 20 of Act 36 of 2007

130. Section 111 of the principal Act is hereby repealed.

Repeal of section 112 of Act 91 of 1964, as amended by section 21 of Act 85 of 1968, section 70 of Act 45 of 1995 and section 34 of Act 34 of 2004

131. Section 112 of the principal Act is hereby repealed.

Amendment of section 113 of Act 91 of 1964, as amended by section 14 of Act 57 of 1966, section 11 of Act 103 of 1972, section 5 of Act 68 of 1973, section 49 of Act 42 of 1974, section 25 of Act 86 of 1982, section 7 of Act 89 of 1983, section 31 of Act 84 of 1987, section 17 of Act 68 of 1989, section 14 of Act 105 of 1992, section 12 of Act 98 of 1993, section 71 of Act 45 of 1995 and section 73 of Act 30 of 1998

132. Section 113 of the principal Act is hereby amended by the deletion of subsection (2).

Repeal of section 113A of Act 91 of 1964, as inserted by section 52 of Act 30 of 2002

133. Section 113A of the principal Act is hereby repealed.

Amendment of section 117 of Act 91 of 1964, as substituted by section 35 of Act 105 of 1969, and as amended by section 20 of Act 52 of 1986, section 34 of Act 84 of 1987, and section 38 of Act 59 of 1990

134. Section 117 of the principal Act is hereby amended by –

- (a) the deletion in subsection (1) of the words “of the import and export trade of the Republic and”; and
- (b) the deletion of paragraph (a) of subsection (2).

Repeal of section 118 of Act 91 of 1964, as substituted by section 72 of Act 53 of 1999

135. Section 118 of the principal Act is hereby repealed.

Amendment of section 120 of Act 91 of 1964, as amended by section 36 of Act 105 of 1969, section 35 of Act 84 of 1987, section 39 of Act 59 of 1990, section

11 of Act 19 of 1994, section 73 of Act 45 of 1995, section 74 of Act 30 of 1998, and section 24 of Act 36 of 2007

136. Section 120 of the principal Act is hereby amended by –

- (a) the deletion of paragraph (c) of subsection (1);
- (b) the substitution in paragraph (d) of subsection (1) for the words “customs and excise warehouses” of the words “excise warehouses”;
- (c) the substitution for paragraph (e) of subsection (1) of the following paragraph:
“(e) as to **[the importation, exportation, transit or coastwise carriage of goods,]** the entry of goods for purposes of this Act, and the payment of duties and other charges and fees **[the costs which shall, for the purposes of section 46 be included in or excluded from the production cost of goods in general or of goods of any class or kind, and the movement of goods to and from any territory with the government of which an agreement has been concluded under section 49 or 51,]**”; and
- (d) the addition of the following subsection:
“(4) Where a matter is in terms of this Act to be prescribed by rule, the Commissioner must prescribe that matter by rule published in the Government Gazette unless the Commissioner by rule published in the Gazette indicates that that matter is to be prescribed by rule published on the SARS website.”.

Amendment of section 122 of Act 91 of 1964

137. Section 122 of the principal Act is hereby amended by the addition of the following subsection, the existing section becoming subsection (1):

“(2) As from the date the Customs and Excise Amendment Act, 2013, takes effect, this Act shall be renamed the Excise Duty Act, 1964.”.

Short title and commencement

138. This Act is called the Customs and Excise Amendment Act, 2013, and takes effect on the date on which the Customs Control Act takes effect in terms of section 945(1) of that Act.