

OFFICE OF THE PRESIDENT

No. 2008

25 November 1994

NO. 19 OF 1994: CUSTOMS AND EXCISE AMENDMENT ACT, 1994.

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

GENERAL EXPLANATORY NOTE:

** ** Words between asterisks indicate omissions from existing enactments.

<< >> Words between pointed brackets indicate insertions in existing enactments.

ACT

To amend the Customs and Excise Act, 1964, so as to substitute a certain definition; to effect certain amendments arising from the Constitution; to further regulate the lapsing of amendments, withdrawals, insertions and reductions made under certain provisions of the said Act; to amend Schedule No. 1 to the said Act; to provide for the continuation of certain amendments of Schedules No. 1 to 6 to the said Act; to provide that the said Act shall also apply in the territories of the former Republics of Transkei, Bophuthatswana, Venda and Ciskei; and to repeal certain laws; and to provide for matters connected therewith.

(English text signed by the President.)
(Assented to 16 November 1994.)

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, sections 1 and 15 of Act 98 of 1980, section I of Act 89 of 1984, section 1 of Act 84 of 1987, section 1 of Act 68 of 1989 and section 1 of Act 59 of 1990

1. Section 1 of the Customs and Excise Act, 1964 (hereinafter referred to as the principal Act), is hereby amended by the substitution in subsection (1) for the definition of "agricultural distiller" of the following definition:

" agricultural distiller' means any owner or occupier of a farm in the Province of **the Cape of Good Hope, the Transvaal** <<Northern Cape, Eastern Cape, the Western Cape, Pretoria-Witwatersrand-Vereeniging, Eastern Transvaal, Northern Transvaal, North-West>> or the Orange Free State who-

(a) is licensed to keep a still on such farm; and

(b) in the Province of **the Cape of Good Hope** << Northern Cape, Eastern Cape or the Western Cape>> is licensed to distil spirits exclusively from grapes grown by him on such farm; or

(c) in the Province of **the Transvaal** <<Pretoria-Witwatersrand-Vereeniging, Eastern Transvaal, Northern Transvaal, North-West>> or the Orange Free State is licensed to distil spirits on such farm from grapes or other prescribed fresh fruit grown

by him on such farm;".

Amendment of section 34 of Act 91 of 1964, as amended by section 3 of Act 86 of 1982 and section 1 of Act 69 of 1988

2. Section 34 of the principal Act is hereby amended by the substitution for subsection (5) of the following subsection:

"(5) Spirits manufactured by an agricultural distiller in the province of ~~the Transvaal~~ << Pretoria-Witwatersrand-Vereeniging, Eastern Transvaal, Northern Transvaal, North-West>> or the Orange Free State from any prescribed fruit other than grapes shall be solely for his private use on the farm where such fruit was produced and such spirits were manufactured.".

Amendment of section 48 of Act 91 of 1964, as amended by section 6 of Act 57 of 1966, section 18 of Act 105 of 1969, section 3 of Act 98 of 1970, section 1 of Act 68 of 1973, section 8 of Act 105 of 1976, section 11 of Act 112 of 1977, sections 10 and 15 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 and section 4 of Act 61 of 1992

3. Section 48 of the principal Act is hereby amended-

(a) by the substitution for paragraph (e) of subsection (4A) of the following paragraph:

" (e) The provisions of ~~subsections (6) and (7)~~ <<subsection (6)>> shall mutatis mutandis apply to any notice published under this subsection.
";

(b) by the substitution for subsection (6) of the following subsection:

"(6) Any amendment, withdrawal or insertion made under this section ~~before the date upon which Parliament meets for the first time for the dispatch of business~~ in any ~~session during which the Minister introduces the Appropriation Bill~~ calendar year shall, unless Parliament otherwise provides, lapse ~~sixty days after the end of the session of Parliament during which the Minister introduced such bill~~ << on the last day of the next calendar year,>> but without detracting from the validity of such amendment, withdrawal or insertion before it has so lapsed."; and

(c) by the deletion of subsection (7).

Amendment of section 48A of Act 91 of 1964, as inserted by section 19 of Act 84 of 1987 and amended by section 8 of Act 68 of 1989 and section 5 of Act 61 of 1992

4. Section 48A of the principal Act is hereby amended by the substitution for subsection (2) of the following subsection:

"(2) The provisions of section 48(6) ~~and (7)~~ shall mutatis mutandis apply in respect of any amendment made under the provisions of subsection (1) of this section. ".

Amendment 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 and section 6 of Act 61 of 1992

5. Section 53 of the principal Act is hereby amended by the substitution for subsection (3) of the following subsection:

"(3) The provisions of **sub-sections (6) and (7) of section forty-eight** <<section 48(6)>> shall mutatis mutandis apply in respect of any amendment made under the provisions of this section.".

Amendment of section 56 of Act 91 of 1964, as substituted by section 9 of Act 61 of 1992

6. Section 56 of the principal Act is hereby amended by the substitution for subsection (3) of the following subsection:

"(3) The provisions of section 48(6) **and (7)** shall mutatis mutandis apply in respect of any amendment, withdrawal or reduction made under the provisions of subsection (1) or (2) of this section.".

Amendment of section 56A of Act 91 of 1964, as inserted by section 10 of Act 61 of 1992

7. Section 56A of the principal Act is hereby amended by the substitution for subsection (3) of the following subsection:

"(3) The provisions of section 48(6) **and (7)** shall mutatis mutandis apply in respect of any amendment, withdrawal or reduction made under the provisions of subsection (1) or (2) of this section.".

Amendment of section 57 of Act 91 of 1964, as substituted by section 11 of Act 61 of 1992

8. Section 57 of the principal Act is hereby amended by the substitution for subsection (3) of the following subsection:

"(3) The provisions of section 48(6) **and (7)** shall mutatis mutandis apply in respect of any amendment, withdrawal or reduction made under the provisions of subsection (1) or (2) of this section.".

Amendment of section 60 of Act 91 of 1964, as substituted by section 20 of Act 105 of 1969 and amended by section 11 of Act 86 of 1982 and section 25 of Act 59 of 1990

9. Section 60 of the principal Act is hereby amended by the substitution for subsection (4) of the following subsection:

"(4) The provisions of section 48(6) **and (7)** shall mutatis mutandis apply in respect of any amendment made under the provisions of subsection (3) of this section.".

Amendment of section 75 of Act 91 of 1964, as amended by section 13 of Act 95 of 1965, section 10 of Act 57 of 1966, section 8 of Act 85 of 1968, section 24 of Act 105 of 1969, section 8 of Act 103 of 1972, section 2 of Act 68 of 1973, section 9 of Act 71 of 1975, section 27 of Act 112 of 1977, section 8 of Act 93 of 1978, section 10 of Act 110 of 1979, section 15 of Act 98 of 1980, section 19 of Act 86 of 1982, section 6 of Act 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 and section 7 of Act 98 of 1993

10. Section 75 of the principal Act is hereby amended by the substitution for subsection (16) of the following subsection:

"(16) The provisions of **subsections (6) and (7) of section 48** <<

section 48(6)>> shall mutatis mutandis apply in respect of any amendment made under the provisions of subsection (15).".

Amendment of section 120 of Act 91 of 1964, as amended by section 36 of Act 105 of 1969, section 15 of Act 98 of 1980, section 35 of Act 84 of 1987 and section 39 of Act 59 of 1990

11. Section 120 of the principal Act is hereby amended by the substitution for paragraph (d) of subsection (1) of the following paragraph:

- (d) as to the control of the storage or manufacture of goods in customs and excise warehouses (including the suitability of any buildings, plant and method of manufacture for the purposes of this Act, the hours of conducting any or all operations in any such warehouse, the supervision by officers of any such operations, the securing or marking of such plant, the inspection of such warehouses and the removal of goods from such warehouses), the testing of the output of stills, the conditions on which stills may be made, possessed, imported, disposed of or used and the fresh fruit which may be used by an agricultural distiller in the Province of ****the Transvaal**** <<Pretoria-Witwatersrand-Vereniging, Eastern Transvaal, Northern Transvaal, North-West>> or the Orange Free State for the distillation of spirits;".

Amendment of Schedule No. 1 to Act 91 of 1964, as amended by section 19 of Act 95 of 1965, section 15 of Act 57 of 1966, section 2 of Act 96 of 1967, section 22 of Act 85 of 1968, section 37 of Act 105 of 1969, section 9 of Act 98 of 1970, section 2 of Act 89 of 1971, section 12 of Act 103 of 1972, section 6 of Act 68 of 1973, section 3 of Act 64 of 1974, section 13 of Act 71 of 1975, section 13 of Act 105 of 1976, section 38 of Act 112 of 1977, section 3 of Act 114 of 1981, section 27 of Act 86 of 1982, section 10 of Act 89 of 1984, section 14 of Act 101 of 1985, section 11 of Act 69 of 1988, section 19 of Act 68 of 1989, section 40 of Act 59 of 1990, section 3 of Act 111 of 1991, section 15 of Act 105 of 1992 and section 13 of Act 98 of 1993

- 12. (1) Schedule No. I to the principal Act is hereby amended to the extent set out in Schedule 1 to this Act.
- (2) Subject to the provisions of section 58(1) of the principal Act, this section shall be deemed to have come into operation on 22 June 1994.

Continuation of certain amendments of Schedules Nos. 1 to 6 to Act 91 of 1964

- 13. (1) Every amendment of Schedules Nos. 1 to 6 to the principal Act made under section 48, section 48A, section 56 or section 75(15) of the principal Act prior to 20 May 1994 shall not lapse by virtue of the provisions of section 48(6), 48A(2), 56(3) or 75(16) of the principal Act.
- (2) The amendment of Part 4 of Schedule No. 1 to the principal Act made under section 48 of the principal Act by Government Notice No. R.1130 of 23 June 1994, shall not lapse by virtue of the provisions of section 48(6) of the principal Act.

Application of Act 91 of 1964

- 14. The principal Act shall, from the date of commencement of the Customs and Excise Amendment Act, 1994, also apply in the territories of the former Republics of Transkei, Bophuthatswana, Venda and Ciskei.

Repeal of laws, and savings

- 15. (1) Subject to the provisions of subsection (2), the laws mentioned in

the second column of Schedule 2 are hereby repealed in respect of the various areas of the national territory of the Republic as set out in the fourth column of Schedule 2 to the extent that such laws were in force in such areas.

- (2) Anything done under a provision repealed by subsection (1) and which is capable of being done in terms of a provision of the principal Act shall be deemed to have been done in terms of the latter provision.

Short title

16. This Act shall be called the Customs and Excise Amendment Act, 1994.

Schedule I

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

Tariff Item	Tariff Heading	Description	Rate of duty	
			Excise	Customs
104.00		By the substitution for tariff item 104.00 of the following:		
"104.00		PREPARED FOODSTUFFS; BEVERAGES, SPIRITS AND VINEGAR; TOBACCO		
104.01	19.01	MALT EXTRACT; FOOD PREPARATIONS OF FLOUR, MEAL, STARCH OR MALT EXTRACT, NOT CONTAINING COCOA POWDER OR CONTAINING COCOA POWDER IN A PROPORTION, BY MASS, OF LESS THAN 50 PER CENT, NOT ELSEWHERE SPECIFIED OR INCLUDED; FOOD PREPARATIONS OF GOODS OF HEADINGS NOS. 04.01 TO 04.04, NOT CONTAINING COCOA POWDER OR CONTAINING COCOA POWDER IN A PROPORTION, BY MASS, OF LESS THAN 10 PER CENT, NOT ELSEWHERE SPECIFIED OR INCLUDED:		
.10		Preparations based on sorghum flour, put up for making beverages	20c/kg	20c/kg
104.05	22.01	WATERS, INCLUDING NATURAL OR ARTIFICIAL MINERAL WATERS AND AERATED WATERS, NOT CONTAINING ADDED SUGAR OR OTHER SWEETENING MATTER NOR FLAVOURED; ICE AND SNOW;		
	22.02	WATERS, INCLUDING MINERAL WATERS AND AERATED WATERS, CONTAINING ADDED SUGAR OR OTHER SWEETENING MATTER OR FLAVOURED, AND OTHER NONALCOHOLIC BEVERAGES (EXCLUDING FRUIT OR VEGETABLE JUICES OF HEADING NO. 20.09):		
.10		Mineral waters, including spa waters and aerated waters, put up in closed bottles or other closed containers ready for drinking without dilution (excluding beverages packed in plastic tubes or similar containers and which are normally consumed in a frozen state)	13,60c/l	14.66c/l
.20		Lemonade and flavoured mineral waters, including flavoured spa and aerated waters, put up in closed bottles or other closed containers ready for drinking without dilution (excluding beverages packed in plastic tubes or similar containers and which are normally consumed in a frozen state)	13,60c/l	14.66c/l

.30		Non-alcoholic beverages not elsewhere speci- 13,60c/l 14,66c/l fied or included in this tariff item, put up in closed bottles or other closed containers ready for drinking without dilution (excluding beverages packed in plastic tubes or similar containers and which are normally consumed in a frozen state)		
104.10	22.03	BEER MADE FROM MALT:		
.10		Of a relative density before fermentation not exceeding 1 040 grades	6 849c/ 100 l	6 848c/ 100 l
loot				
		Plus a suspended duty of:		
		(i) In operation	Nil	Nil
		(ii) Maximum rate	275c/ 100 l	275c/ 100 l
.20		Of a relative density before fermentation exceeding 1 040 grades but not exceeding 1 050 grades, which is cleared ex any customs and excise manufacturing warehouse during any financial year, or which is imported into the Republic, or which is illicit beer:		
		(1) On the first 4 500 000 l or any quantity less than 4 500 000 l so cleared during a loot financial year	7 124c/ 100 l	-
		(2) On the quantity so cleared during a financial year which is more than 4 500 000 l but not exceeding 9 000 000 l	7 256c/ 100 l	-
		(3) On the quantity so cleared during a financial year which is more than 9 000 000 l loot but not exceeding 18 000 000 l	7 388c/ 100 l	-
		(4) On the quantity so cleared during a financial year which is more than loot 18 000 000 l but not exceeding 27 000 000 l	7 520c/ 100 l	-
		(5) On the quantity so cleared during a financial year which is more than 27 000 000 l but not exceeding 36 000 000 l	7 652c/ 100 l	-
		(6) On the quantity so cleared during a financial year which is more than 36 000 000 l	7 784c/ 100 l	-
		(7) If duty is paid on illicit beer	7 784c/	-
		(8) If imported	-	7 102c/ 100 l
.30		Of a relative density before fermentation exceeding 1 050 grades	7 883c/ 100 l	7 322c/ 100 l
		Plus, for every degree of relative density	22c/100 l	22c/100 l

		before fermentation exceeding 1 080'		
104.15	22.04	WINE OF FRESH GRAPES, INCLUDING FORTIFIED WINES; GRAPE MUST OTHER THAN THAT OF HEADING NO. 20.09;		
	22.05	VERMOUTHS AND OTHER WINE OF FRESH GRAPES FLAVOURED WITH PLANTS OR OTHER AROMATIC SUBSTANCES;		
	22.06	OTHER FERMENTED BEVERAGES (FOR EXAMPLE, CIDER, PERRY, MEAD):		
	.05	Sorghum beer (excluding beer made from preparations based on sorghum flour)	400c/ 100 l	400c/ 100 l
	.10	Unfortified still wine	2 900c/ 100 l	2 900c/ 100 l
	.40	Fortified still wine	6 785c/ 100 l	6 785c/ 100 l
	.50	Other still fermented beverages, unfortified	3 300c/ 100 l	3 300c/ 100 l
	.60	Other still fermented beverages, fortified	7 302c/ 100 l	7 302c/ 100 l
	.70	Sparkling wine	8 551c/ 100 l	8 551c/ 100 l
	.80	Other fermented beverages (excluding sorghum beer)	9 004c/ 100 l	9 004c/ 100 l
104.20	22.07	UNDENATURED ETHYL ALCOHOL OF AN ALCOHOLIC STRENGTH BY VOLUME OF 80 PER CENT VOLUME OR HIGHER; ETHYL ALCOHOL AND OTHER SPIRITS, DENATURED, OF ANY STRENGTH;		
	22.08	UNDENATURED ETHYL ALCOHOL OF AN ALCOHOLIC STRENGTH BY VOLUME OF LESS THAN 80 PER CENT VOLUME; SPIRITS, LIQUEURS AND OTHER SPIRITUOUS BEVERAGES; COMPOUND ALCOHOLIC PREPARATIONS OF A KIND USED FOR THE MANUFACTURE OF BEVERAGES:		
	.10	Wine spirits, manufactured in the Republic by the distillation of wine	180 238c/ 100 l of absolute alcohol	-
	.15	Spirits, manufactured in the Republic by the distillation of any sugar cane product	190 201c/ 100 l of absolute alcohol	-
	.25	Spirits, manufactured in the Republic by the distillation of any grain product	194 708c/ 100 l of absolute alcohol	-
	.29	Other spirits, manufactured in the Republic	184 675c/ 100 l of absolute alcohol	-

	.60	Imported spirits of any nature, including spirits in imported spirituous beverages (excluding liqueurs, cordials and similar spirituous beverages containing added sugar) and in compound alcoholic preparations of an alcoholic strength exceeding 1,713 per cent alcohol by volume	-	170 625c/ 100 l of absolute alcohol or 73 369c/ 100 l
	.70	Spirits of any nature in imported liqueurs, cordials and similar spirituous beverages containing added sugar, with or without flavouring substances	-	170 625c/ 100 l of absolute alcohol
104.30	24.02	CIGARS, CHEROOTS, CIGARILLOS AND CIGARETTES, OF TOBACCO OR OF TOBACCO SUBSTITUTES;		
	24.03	OTHER MANUFACTURED TOBACCO AND MANUFACTURED TOBACCO SUBSTITUTES, "HOMOGENISED" OR "RECONSTITUTED" TOBACCO EXTRACTS AND ESSENCES:		
	.10	Cigars	295c/kg net	317c/kg net
	.20	Cigarettes	35,56c/10 cigarettes	35,56c/10 cigarettes
		Plus, in respect of cigarettes the mass of the tobacco of which exceeds 1,5 kg/1 000 cigarettes	1 441,6c/ kg to- bacco content	1 441,6c/ kg to- bacco content
	.30	Cigarette tobacco	44,38c/ 50 g or fraction thereof plus 213c/kg tobacco	44,38c/ 50 g or fraction thereof plus 213c/kg tobacco
		Plus a suspended duty of:		
		(i) In operation	Nil	Nil
		(ii) Maximum rate	73c/kg	73c/kg
tobacco		tobacco		
	.40	Pipe tobacco in immediate packings of a content of less than 5kg	325c/kg net	325c/kg net
	.50	Pipe tobacco in immediate packings of a content of not less than 5kg	307c/kg net	307c/kg net"

Schedule 2

LAWS REPEALED BY SECTION 15(1)

Number and year of law	Short title	Extent of laws repealed	Area of national territory in respect of which law is repealed
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(a)

	Act No. 91 of 1964	Customs and Excise Act, 1964	The whole	The territories of the former Republics of Transkei,
	Act No. 95 of 1965	Customs and Excise Amendment Act, 1965	The whole	Bophuthatswana, Venda and Ciskei
	Act No. 57 of 1966	Customs and Excise Amendment Act, 1966	The whole	
	Act No. 96 of 1967	Customs and Excise Amendment Act, 1967	The whole	
	Act No. 85 of 1968	Customs and Excise Amendment Act, 1968	The whole	
	Act No. 25 of 1969	South-West Africa affairs Act, 1969	Section 6	
	Act No. 105 of 1969	Customs and Excise Amendment Act, 1969	The whole	
	Act No. 98 of 1970	Customs and Excise Amendment Act, 1970	The whole	
	Act No. 89 of 1971	Customs and Excise Amendment Act, 1971	The whole	
	Act No. 103 of 1972	Customs and Excise Amendment Act, 1972	The whole	
	Act No. 68 of 1973	Customs and Excise Amendment Act, 1973	The whole	
	Act No. 7 of 1974	Customs and Excise Amendment Act, 1974	The whole	
	Act No. 33 of 1974	Parliamentary Service Act, 1974	Section 19	
	Act No. 42 of 1974	Publications Act, 1974	Section 49	
	Act No. 64 of 1974	Second Customs and Excise Amendment Act, 1974	The whole	
	Act No. 71 of 1975	Customs and Excise Amendment Act, 1975	The whole	
	Act No. 105 of 1976	Customs and Excise Amendment Act, 1976	The whole	
(b)	Act No. 12 of 1977	Customs and Excise Amendment Act, 1977	The whole	The territories of the former Republics of Bophuthatswana, Venda and Ciskei
	Act No. 112 of 1977	Second Customs and Excise Amendment Act, 1977	The whole	
(c)	Act No. 93 of 1978	Customs and Excise Amendment Act, 1978	The whole	The territories of the former Republics of Venda and Ciskei
	Act No. 110 of 1979	Customs and Excise Amendment Act, 1979	The whole	
(d)	Act No. 98	Customs and Excise	The whole	The territory of the

	of 1980 Act No. 114 of 1981	Amendment Act, 1980 Customs and Excise Amendment Act, 1981	The whole	former Republic of Ciskei
(e)	Act No. 6 of 1982 (Bophut- hatswana)	Customs and Excise Amendment Act, 1982 (Bophuthatswana)	The whole	The territory of the former Republic of Bophuthatswana
	Act No. 9 of 1982 (Transkei)	Customs and Excise Amendment Act, 1982 (Transkei)	The whole	The territory of the former Republic of Transkei
	Act No. 7 of 1983 (Transkei)	Customs and Excise Amendment Act, 1983 (Transkei)	The whole	
	Act No. 9 of 1984 (Transkei)	Customs and Excise Amendment Act, 1984 (Transkei)	The whole	
	Act No. 8 of 1985 (Transkei)	Customs and Excise Amendment Act, 1985 (Transkei)	The whole	
	Act No. 18 of 1987 (Transkei)	Customs and Excise Amendment Act, 1987 (Transkei)	The whole	
(g)	Act No. 9 of 1986 (Ciskei)	Customs and Excise Amendment Act, 1986 (Ciskei)	The whole	The territory of the former Republic of Ciskei
	Act No. 14 of 1987 (Ciskei)	Customs and Excise Amendment Act, 1987 (Ciskei)	The whole	
	Act No. 26 of 1988 (Ciskei)	Customs and Excise Amendment Act, 1988 (Ciskei)	The whole	
