

NO. 44 OF 1996: CUSTOMS AND EXCISE AMENDMENT ACT, 1996

PRESIDENT'S OFFICE

No. 1596.  
2 October 1996

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

GENERAL EXPLANATORY NOTE:

Words in bold type indicate omissions from existing enactments.

Words in italics indicate insertions in existing enactments.

ACT

To amend the Customs and Excise Act, 1964, so as to further regulate the collection of duty on beer; to extend the exemptions from entry of certain imported goods; to further regulate appeals regarding tariff and value determinations, and extending the time limits therefor; to further regulate an offence in respect of beer of higher alcoholic strength than registered; to amend Schedule No. 1 to the said Act; and to effect certain textual alterations; to provide for the continuation of certain amendments of Schedules Nos. 1 to 6 to the said Act; and to provide for matters connected therewith. \$

(English text signed by the President.)

(Assented to 27 September 1996.)

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

Amendment of section 5 of Act 91 of 1964, as substituted by section 2 of Act 68 of 1989 and amended by section 5 of Act 59 of 1990

1. Section 5 of the Customs and Excise Act, 1964 (hereinafter referred to as the principal Act), is hereby amended by the substitution for paragraph (b) of the following paragraph:

"(b) the continental shelf as referred to in section 7 of the Territorial Waters Act, 1963 (Act No. 87 of 1963) 8 of the Maritime Zones Act, 1994 (Act No. 15 of 1994),".

Amendment of section 36 of Act 91 of 1964, as substituted by section 25 of Act 45 of 1995

2. Section 36 of the principal Act is hereby amended-

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

"(2) Every manufacturer shall, in respect of such beer manufactured by him the manufacturer in the Republic, register with the Commissioner the names whereunder such beer will be sold or disposed of for home consumption, together with the alcoholic strength by

volume

of, and the tariff item of Part 2 of Schedule No. 1 which will apply

in respect of, the beer so sold or disposed of under any such name, and no beer shall be so sold or disposed of except under a name and alcoholic strength by volume unless so registered."; and

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

"(a) If the alcoholic strength by volume of any beer in any container bearing an indication of a name and alcoholic strength by volume registered with the Commissioner under this section is ascertained to be more than 0,5 per cent higher than the alcoholic strength by volume so higher than the alcoholic strength by volume specified in the tariff item registered in relation to beer of such name the manufacturer shall be liable for the duty on the full quantity of the brew or blend of brews of beer from which such container was filled at the rate of duty applicable to beer of the strength as ascertained in respect of the contents of such container. "

Amendment of section 38 of Act 91 of 1964, as amended by section 1 of Act 57 of 1966, section 13 of Act 105 of 1969, section 5 of Act 71 of 1975, section 4 of Act 105 of 1976, section 15 of Act 98 of 1980, section 2 of Act 89 of 1983, section 9 of Act 84 of 1987, section 18 of Act 59 of 1990 and section 28 of Act 45 of 1995

3. Section 38 of the principal Act is hereby amended by the substitution in subsection (1) for subparagraph (v) of paragraph (a) of the following subparagraph:

"(v) goods of a value for duty purposes not exceeding R200 R500, and on which no duty is payable in terms of Schedule No. 1,".

Amendment of section 47 of Act 91 of 1964, as amended by section 11 of Act 95 of 1965, section 17 of Act 105 of 1969, section 2 of Act 7 of 1974, section 7 of Act 105 of 1976, section 10 of Act 112 of 1977, section 6 of Act 110 of 1979, sections 9 and 15 of Act 98 of 1980, section 8 of Act 86 of 1982, section 6 of Act 52 of 1986, section 15 of Act 84 of 1987, section 4 of Act 69 of 1988, section 6 of Act 68 of 1989, section 22 of Act 59 of 1990, section 3 of Act 61 of 1992 and section 37 of Act 45 of 1995

4. Section 47 of the principal Act is hereby amended by the substitution for paragraph (f) of subsection (9) of the following paragraph:

"(f) Such appeal shall, subject to section 96(1), be prosecuted within a period of 90 days one year from the date of the determination.".

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 and section 48 of Act 45 of 1995

5. Section 65 of the principal Act is hereby amended by the substitution for paragraph (b) for subsection (6) of the following paragraph:

"(b) Such appeal shall, subject to section 96(1), be prosecuted within a period of 90 days one year from the date of the determination.".

Amendment of section 69 of Act 91 of 1964, as substituted by section 12 of Act 68 of 1989 and amended by section I of Act 111 of 1991, section 3 of Act 105 of 1992 and section 6 of Act 98 of 1993

6. Section 69 of the principal Act is hereby amended by the substitution for paragraph (b) of subsection (5) of the following paragraph:

"(b) Such appeal shall, subject to section 96(1), be prosecuted within a period of 90 days one year from the date of the determination."

Substitution of section 85 of Act 91 of 1964, as substituted by section 57 of Act 45 of 1995

7. The following section is hereby substituted for section 85 of the principal Act:

"Beer of higher alcoholic strength than registered

85. Any manufacturer of beer in whose customs and excise warehouse or on whose delivery vehicle beer packed for sale in the common customs area is found of an alcoholic strength by volume of more than 0,5 per cent higher than such strength specified in the tariff item of Part 2 of Schedule No. 1 and registered and indicated on the container in terms of section 36(2) shall be guilty of an offence and liable on conviction to a fine not exceeding R8 000 or treble the value of the goods in respect of which such offence was committed, whichever is the greater, or to imprisonment for a period not exceeding two years, or to both such fine and such imprisonment, and the goods in respect of which such offence was committed shall be liable to forfeiture."

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, section 13 of Act 98 of 1993, section 12 of Act 19 of 1994 and section 74 of Act 45 of 1995

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

(2) Subject to the provisions of section 58(1) of the principal Act, this section shall be deemed to have come into operation on 13 March 1996.

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

9. (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 31 December 1995 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 amendments of Part 5 of Schedule No. 1 to the principal Act made under section 48 of the principal Act by Government Notice Nos. R.534 of 29 March 1996 and R.540 of 1 April 1996, shall not lapse by virtue of the provisions of section 48(6) of the principal Act.

Short title

10. This Act shall be called the Customs and Excise Amendment Act, 1996.

CUSTOMS AND EXCISE AMENDMENT ACT, 1996

Schedule

AMENDMENT OF 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	27,5c/kg	27,5c/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 NON-ALCOHOLIC 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	13,60c/l	14,66c/l

		frozen state)		
.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 plas- tic tubes or similar containers and which are normally consumed in a frozen state)	13,60c/1	14,66c/1
.30		Non-alcoholic beverages not else- where specified 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)	13,60c/1	14,66c/1
104.10	22.03	BEER MADE FROM MALT WITH AN ALCOHOL CONTENT BY VOLUME:		
.10		Exceeding 0,5% but not exceeding 1,5%	6 650c/100 1	6 650c/100 1
.20		Exceeding 1,5% but not exceeding 2,5%	7 250c/100 1	7 250c/100 1
.30		Exceeding 2,5% but not exceeding 3,5%	7 850c/100 1	7 850c/100 1
.40		Exceeding 3,5% but not exceeding 4,5%	8 450c/100 1	8 450c/100 1
.50		Exceeding 4,5% but not exceeding 5,5%	9 050c/100 1	9 050c/100 1
.60		Exceeding 5,5% but not exceeding 6,5%	9 650c/100 1	9 650c/100 1
.70		Exceeding 6,5% but not exceeding 7,5%	10 250c/100 1	10 250c/100
1				
.80		Exceeding 7,5%	10 850c/100 1	10 850c/100
1				
104.15	22.04	WINE OF FRESH GRAPES, IN- CLUDING 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 AROMATIC SUBSTANCES		
	22.06	OTHER FERMENTED BEVER- AGES (FOR EXAMPLE, CIDER, PERRY AND MEAD):		

		Sorghum beer (excluding beer made   from preparations based on sorghum   flour)	550c/100 1	550c/100 1
		Unfortified still wine	4 250c/100 1	4 250c/100 1
		Fortified still wine	9 200c/100 1	9 200c/100 1
		Other still fermented beverages, un-   fortified	4 900c/100 1	4 900c/100 1
		Other still fermented beverages,   fortified	8 902c/100 1	8 902c/100 1
1		Sparkling wine	11 800c/100 1	11 800c/100
1		Other fermented beverages (exclud-   ing sorghum beer)	10 604c/100 1	10 604c/100
104.20	22.07	UNDENATURED, ETHYL ALCO-   HOL 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 ALCO-   HOL OF AN ALCOHOLIC   STRENGTH BY VOLUME OF   LESS THAN 80 PER CENT VOL-   UME; SPIRITS, LIQUEURS AND   OTHER SPIRITUOUS BEVER-   AGES; COMPOUND ALCOHOLIC   PREPARATIONS OF A KIND   USED FOR THE MANUFACTURE   OF BEVERAGES:		
	.10	Wine spirits, manufactured in the   Republic by the distillation of wine	218 062c/100     1 of absolute	-
	.15	Spirits, manufactured in the Repub-   lic by the distillation of any sugar   cane product	229 021c/100     1 of absolute	-
	.25	Spirits, manufactured in the Repub-   lic by the distillation of any grain   product	233 979c/100     1 of absolute	-
	.29	Other spirits, manufactured in the   Republic	222 943c/100     1 of absolute	-
	.60	Imported spirits of any nature, in   cluding spirits in imported	-	207 488c/100
absolute		spirituous beverages (excluding   liqueurs, cordials and similar		alcohol or   89 220c/100
1		spirituous beverages containing		

		added sugar) and in compound		
		alcoholic preparations of an		
		alcoholic strength exceeding 1,713		
		per cent alcohol by volume		
	.70	Spirits of any nature in imported	-	207 488c/100
absolute		liqueurs, cordials and similar		1 of
		spirituous beverages containing		alcohol
		added sugar, with or without		
		flavouring substances		
104.30	24.02	CIGARS, CHEROOTS,		
		CIGARILLOS AND CIGARETTES,		
		OF TOBACCO OR OF TOBACCO		
		SUBSTITUTES		
	24.03	OTHER MANUFACTURED TO-		
		BACCO AND MANUFACTURED		
		TOBACCO SUBSTITUTES,		
		"HOMOGENISED" OR "RECON-		
		STITUTED" TOBACCO EX-		
		TRACTS AND ESSENCES:		
net	.10	Cigars	442,5c/kg net	464,5c/kg
	.20	Cigarettes	52c/10	52c/10
			cigarettes	cigarettes
		Plus, in respect of cigarettes the	1 937c/kg	1 937c/kg
		mass of the tobacco content of	tobacco	tobacco
		which exceeds 1,5kg/1 000 ciga-	content	content
		rettes		
	.30	Cigarette tobacco 65c/50g or frac-	65c/50g or	65c/50g or
			fraction	fraction
			thereof plus	thereof plus
			251c/kg	251 c/kg
			tobacco	tobacco
		Plus a suspended duty of:		
		(i) In operation	Nil	Nil
		(ii) Maximum rate	86c/kg	86c/kg
			tobacco	tobacco
	.40	Pipe tobacco in immediate packings	478c/kg net	478c/kg net
		of a content of less than 5 kg		
	.50	Pipe tobacco in immediate packings	460c/kg net	460c/kg net"
		of a content of not less than 5 kg		