

Please note that most Acts are published in English and another South African official language. Currently we only have capacity to publish the English versions. This means that this document will only contain even numbered pages as the other language is printed on uneven numbered pages.



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THE PRESIDENCY

No. 583

23 July 2014

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

Act No. 32 of 2014: Customs and Excise Amendment Act, 2014



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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.

(English text signed by the President)
(Assented to 21 July 2014)

ACT

To amend the Customs and Excise Act, 1964, so as to delete all provisions superseded by general provisions of the Customs Control Act applicable to all tax levying Acts; to delete all provisions relating to the customs control of imported goods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, air passenger taxes and matters relating to such duties, levies and taxes; and to change the name of the Act to the Excise Duty Act, 1964; and to provide for matters connected therewith.

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 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 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—
- (a) by the deletion in subsection (1) of the definitions of “break bulk goods”, “bulk goods”, “bulk goods terminal”, “bulk goods terminal operator”, “combination terminal”, “combination terminal operator”, “container depot”, “container depot operator”, “container operator” and “container terminal operator”;
 - (b) by 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) by 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) by the insertion in subsection (1) after the definition of “crew” of the following definition: 5
- “‘Customs Control Act’ means the Customs Control Act, 2014;”;
- (e) by the substitution in subsection (1) for the definition of “customs duty” of the following definition: 10
- “‘customs duty’ means [, subject to the provisions of subsection (3), any] an import duty [leviable under Part 1 of Schedule No. 1 (except Parts 3, 4 and 5 thereof) or No. 2 on goods imported into the Republic] within the meaning of the Customs Duty Act;”;
- (f) by the insertion in subsection (1) after the definition of “customs duty” of the following definition: 15
- “‘Customs Duty Act’ means the Customs Duty Act, 2014;”;
- (g) by the deletion in subsection (1) of the definitions of “degrouper depot”, “degrouper operator” and “depot operator”;
- (h) by the substitution in subsection (1) for the definition of “duty” of the following definition: 20
- “‘duty’ means any excise duty [leviable under this Act], fuel levy or Road Accident Fund levy, 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, 25
- but excludes a customs duty;”;
- (i) by the insertion in subsection (1) after the definition “excise duty” of the following definitions: 30
- “‘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 locally manufactured excisable goods, fuel levy goods, environmental levy goods or Road Accident Fund levy goods; 35
- ‘Excise Tariff’ means the Excise Tariff referred to in section 43A;”;
- (j) by the insertion in subsection (1) after the definition of “excise value” of the following definitions: 40
- “‘excise warehouse’ means an excise manufacturing warehouse or excise storage warehouse;
- ‘excise warehouse transit procedure’ has the meaning assigned to it in the Customs Control Act;”;
- (k) by the substitution in subsection (1) for the definition of “exporter” of the following definition: 45
- “‘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; 50
- (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”; 55
- (l) by the substitution in subsection (1) for the definition of “home consumption” of the following definition: 60
- “‘home consumption’ means [consumption or use] 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) by 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) by 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) by the deletion in subsection (1) of the definitions of “International Trade Administration Commission”, “L.C.L. container” and “master”;
- (p) by the deletion in subsection (1) of the definition of “Office”;
- (q) by 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) by 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) by the deletion in subsection (1) of the definitions of “road vehicle terminal” and “road vehicle terminal operator”;
- (t) by 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;”;
- (u) by the deletion in subsection (1) of the definitions of “surcharge” and “surcharge goods”;
- (v) by the deletion in subsection (1) of the definitions of “transit shed” and “transit shed operator”;
- (w) by 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 ‘containerised’ has a corresponding meaning] 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.”;

- (x) by the substitution for the first subsection (3) and the second subsection (3) of the following subsection:
- “(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
- [(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.”;
- (y) by 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
- (z) by the insertion after subsection (5) of the following subsections:
- “(6) As from the effective date as contemplated 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—