

South Africa

Customs and Excise Act, 1964

Act 91 of 1964

Legislation as at 31 July 1964

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South Africa

Customs and Excise Act, 1964

Act 91 of 1964

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[This is the version of this document as it was from 31 July 1964 to 31 December 1964.]

[Please note that the research on this work is ongoing. Amendment, commencement and repeal information may be missing.]

[Please note: Schedules 1-7 to this Act have not been included, they are available on the South African Revenue Service's website.]

(English text signed by the State President.)

ACT

To provide for the levying of customs and excise duties, the prohibition and control of the importation or manufacture of certain goods and for matters incidental thereto.

BE IT ENACTED by the State President, the Senate and the House of Assembly of the Republic of South Africa, as follows:—

Chapter I Definitions

1. Definitions

In this Act, unless the context otherwise indicates—

“**agricultural distiller**” means any owner or occupier of a farm in the Province of the Cape of Good Hope, the Transvaal or the Orange Free State or in the territory of South-West Africa who—

- (a) is licensed to keep a still on such farm; and
- (b) in the Province of the Cape of Good Hope or in the territory of South-West Africa is licensed to distil spirits exclusively from grapes grown by him on such farm; or
- (c) in the Province of the Transvaal or the Orange Free State is licensed to distil spirits on such farm from grapes or other prescribed fresh fruit grown by him on such farm;

“**Collector**”, in relation to any area or any matter means the officer designated by the Secretary to be the Collector of Customs and Excise in respect of that area or matter and includes an officer acting under the control or direction of any officer so designated by the Secretary;

“**crew**” includes every person (except the master or pilot) employed in any capacity on board any ship or aircraft;

“**customs duty**” means any duty leviable under Schedule No. 1 or 2 on goods imported into the Republic;

“**customs tariff**” means Schedule No. 1 in so far as it relates to imported goods;

“**department**” means the Department of Customs and Excise;

“duty” means any duty leviable under this Act;

“entry for home consumption” includes entry under any item in Schedule No. 3, 4 or 6;

“excisable goods” means any goods specified in Part 2 of Schedule No. 1 which have been manufactured in the Republic;

“excise duty” means any duty leviable under Part 2 of Schedule No. 1 on any goods manufactured in the Republic;

“excise value” means value as defined in section sixty-nine;

“exporter”, 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;

“goods” includes all wares, articles, merchandise, animals, currency, matters or things;

“Government Brandy Board” means the board or other body referred to in section sixty-eight of the Excise Act, 1956 ([Act No. 62 of 1956](#)), or any other body established under the name of Government Brandy Board in terms of any law passed after the commencement of this Act;

“home consumption” means consumption or use in the Republic;

“illicit goods”, in relation to imported or excisable goods, means any such goods in respect of which any contravention under this Act has been committed, and includes any preparation made wholly or in part from spirits which were illicit goods;

“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);

“land” includes off-loading from any vehicle;

“manufacture” includes any process—

- (a) in the manufacture of any excisable goods;
- (b) in the conversion of any goods into excisable goods;
- (c) whereby the dutiable quantity or value of any excisable goods is increased in any manner; or
- (d) in the recovery of excisable goods from excisable goods or any other goods;

“master”, in relation to any ship, means any person (other than a pilot) having charge of such ship;

“Minister” means the Minister of Finance;

“officer” means a person employed on any duty relating to customs and excise by order or with the concurrence of the Secretary, whether such order has been given or such concurrence has been expressed before or after the performance of the said duty;

“ordinary duty” means any duty specified in Part 1 or 2 of Schedule No. 1;

“owner” includes any person lawfully acting on behalf of the owner;

“**package**” means any container, wrapping or outer cover and its contents, or any bundle or single piece in the case of unpacked goods;

“**pilot**”, in relation to any aircraft, means any person having charge of such aircraft;

“**plant**” includes vessels, utensils, appliances and fittings;

“**prescribed**” means prescribed by this Act;

“**regulation**” means a regulation made by the Minister under this Act;

“**rule**” means a rule made by the Secretary under this Act;

“**Secretary**” means the Secretary for Customs and Excise or any officer lawfully acting in that capacity;

“**ship**” means any ship, vessel or boat (including a flying boat) of any kind whatsoever;

“**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;

“**still**” means any apparatus for, or capable of, distilling spirits and includes any part thereof;

“**still maker**” means a person who manufactures or imports stills for sale and includes a person who repairs stills for reward;

“**this Act**” includes any proclamation, government notice, regulation or rule issued or made thereunder;

“**vehicle**” means any aircraft, train, motor car, van, truck, cart, barrow or other conveyance of any kind whatsoever, and includes the fittings, furnishings and equipment thereof, and also pack animals and their harness and tackle;

“**wine-grower**” means a farmer who cultivates vines on land in his own occupation and who produces on such land wine from grapes grown on such vines;

“**words**” means any liquid substance containing saccharine matter before fermentation has commenced.

Chapter II

Administration, general duties and powers of Secretary and officers, and application of Act

2. Secretary to administer Act

- (1) The Secretary shall, subject to the control of the Minister, be charged with the administration of this Act, including the interpretation of the Schedules thereto.
- (2) The Collector shall perform his duties and exercise his powers under this Act with due regard to any instructions issued by the Secretary.

3. Delegation of duties and powers of Secretary

- (1) Any duty imposed or power conferred on the Secretary may be performed or exercised by the Secretary personally or by an officer under a delegation from or under the control or direction of the Secretary.
- (2) Any decision made and any notice or communication signed or issued by any such officer may be withdrawn or amended by the Secretary or by the officer concerned (with effect from the date of making such decision or signing or issuing such notice or communication or the date of withdrawal or amendment thereof) and shall, until it has been so withdrawn, be deemed, except for the purposes of this sub-section, to have been made, signed or issued by the Secretary.

4. General duties and powers of officers

- (1) Subject to the laws governing the public service, officers employed in the department shall act under the control and direction of the Secretary.
- (2) No officer shall be directly financially interested in the manufacture or sale or importation of or trade in imported or excisable goods.
- (3) No officer shall, except for the purposes of this Act or when required to do so as a witness in a court of law, disclose any information relating to any person, firm or business acquired in the performance of his duties.
- (4)
 - (a) An officer may, for the purposes of this Act—
 - (i) without previous notice, at any time enter any premises whatsoever and make such examination and enquiry as he deems necessary;
 - (ii) while he is on the premises or at any other time require from any person the production then and there, or at a time and place fixed by the officer, of any book, document or thing which by this Act is required to be kept or exhibited or which relates to or which he has reasonable cause to suspect of relating to matters dealt with in this Act and which is or has been on the premises or in the possession or custody or under the control of any such person or his employee;
 - (iii) at any time and at any place require from any person who has or is believed to have the possession or custody or control of any book, document or thing relating to any matter dealt with in this Act, the production thereof then and there, or at a time and place fixed by the officer; and
 - (iv) examine and make extracts from and copies of any such book or document and may require from any person an explanation of any entry therein and may attach any such book, document or thing as in his opinion may afford evidence of an offence under this Act.
 - (b) An officer may take with him on to any premises an assistant or a member of the police force.
- (5) Any person in connection with whose business any premises are occupied or used, and any person employed by him shall at any time furnish such facilities as may be required by the officer for entering the premises and for the exercise of his powers under this section.
- (6)
 - (a) If an officer, after having declared his official capacity and his purpose and having demanded admission into any premises, is not immediately admitted, he and any person assisting him may at any time, but at night only in the presence of a member of the police force, break open any door or window or break through any wall on the premises for the purpose of entry and search.
 - (b) An officer or any person assisting him may at any time break up any ground or flooring on any premises for the purpose of search and if any room, place, safe, chest, box or package is locked and the keys thereof are not produced on demand, may open such room, place, safe, chest, box or package in any manner.
- (7) An officer may require any person to appear before him at any time and place fixed by the officer and may then and there question that person, either alone or in the presence of any other person, as he thinks fit, with respect to any matter dealt with in this Act.
- (8) An officer may question, either alone or in the presence of any other person, as he thinks fit, with respect to any matter dealt with in this Act, any person whom he finds on any premises entered in terms of this section or whom he has reasonable grounds for believing to be or to have been employed on any premises in respect of which any provision of this Act is applicable, or whom he has reasonable grounds for believing to be or to have been in possession, custody or control of anything, in respect of which any such provision is applicable.

- (9) (a) An officer may board any ship or may stop and board any vehicle and may search any such ship or vehicle or any person found therein or thereon for goods upon which duty has not been paid, or in respect of which he has reasonable cause to believe that there has been a contravention of any provision of this Act, and may freely remain on such ship or vehicle in pursuance of his duties.
- (b) If any room, cabin, place, safe, chest, box or package is locked and the keys thereof are not produced on demand, the officer may open such room, cabin, place, safe, chest, box or package in any manner.
- (10) An officer may stop any person whom he has reason to suspect of having dutiable goods or goods in respect of which a contravention under this Act has been committed, secreted about him or in his possession and he may search such person.
- (11) (a) Any person may, before being searched in terms of this section, require the officer concerned to take him before the Collector, who may in his discretion discharge such person or direct that he be searched: Provided that the provisions of this paragraph shall apply only if such person is stopped within a harbour or airport control area and during the prescribed working hours of the Collector.
- (b) A female shall only be searched by a female.
- (12) An officer may lock up, seal, mark, fasten or otherwise secure any warehouse, store, room, cabin, place, vessel, appliance, utensil, fitting, vehicle or goods if he has reason to believe that any contravention under this Act has been or is likely to be committed in respect thereof or in connection therewith.

5. Application of Act

For the purposes of this Act, the territory of South-West Africa (including the Eastern Caprivi Zipfel referred to in sub-section (3) of section three of the South-West Africa Affairs Amendment Act, 1951 ([Act No. 55 of 1951](#)), shall be deemed to be a part of the Republic.

Chapter III

Importation, exportation and transit and coastwise carriage of goods

6. Appointment of places of entry, authorized roads and routes, etc.

- (1) The Secretary may, subject to such conditions as he may specify, by rule appoint or prescribe—
 - (a) places to be places of entry for the Republic, through which goods may be imported or exported or where goods may be landed for transit or coastwise carriage, where foreign-going ships may call, where persons entering or leaving the Republic may disembark or embark or where goods may be entered for customs and excise purposes;
 - (b) the roads or routes (including railways) over which persons may enter or leave the Republic or imported goods or goods intended for export or transit carriage may enter or leave the Republic or may be carried from any one point to any other point or the means of carriage of such goods;
 - (c) places as warehousing places where customs and excise warehouses may be established;
 - (d) places for such particular and limited purposes and for such periods as may be specified;
 - (e) places to be customs and excise airports at which aircraft entering the Republic shall first land, from which aircraft leaving the Republic shall finally depart, through which goods may be imported or exported or where goods may be landed for transit or coastwise carriage or where persons entering or leaving the Republic may disembark or embark;

- (f) places at appointed places of entry or at customs and excise airports for the landing or embarkation of persons and the landing, loading or examination of goods (including baggage);
 - (g) sheds as transit sheds into which goods, before due entry thereof, may be removed from a ship, aircraft or vehicle;
 - (h) entrances and exits, general or special, to or from any dock or wharf area or customs and excise airport;
 - (i) the hours during which any place, road, route, shed, entrance or exit appointed or prescribed under any paragraph of this sub-section may be used for the purposes specified in such paragraph.
- (2) If any places, roads, routes, means of carriage, sheds, entrances or exits, as the case may be, have been appointed or prescribed by the Secretary under any paragraph of sub-section (1), only such places, roads, routes, means of carriage, sheds, entrances or exits so appointed or prescribed may, subject to the provisions of sub-section (3), be used or employed for the purposes for which they have been so appointed or prescribed under such paragraph and if any hours have been prescribed under paragraph (i) of sub-section (1) during which any place, road, route, shed, entrance or exit referred to in the said paragraph (i) may be used such place, road, route, shed, entrance or exit shall be used only during such hours.
- (3) The master of a foreign-going ship or such other class of ship as the Secretary may specify by rule shall not call at any place in the Republic other than a place of entry appointed in terms of this section and the pilot of an aircraft arriving in the Republic shall, unless the Secretary has granted him special permission to land elsewhere, make his first landing at a place appointed as a customs and excise airport in terms of this section and shall forthwith take his aircraft to the examination station at that airport: Provided that the provisions of this sub-section shall not apply if the master or pilot, as the case may be, is forced by stress of weather, accident or other circumstances beyond his control to call or land at a place not so appointed and he reports to the Collector nearest to the place where he was so forced to call or land or to the Collector at the first place of entry or customs and excise airport appointed in terms of this section at which he next arrives and complies with the regulations.
- (4)
 - (a) Subject to the provisions of this Act, any person on foot or in charge of a vehicle entering or leaving any dock or wharf area or customs and excise airport or entering or leaving the Republic by road at a place where an officer is stationed, shall stop or bring such vehicle to a stop for the purpose of being searched or examined by such officer in his discretion and such person shall not proceed or cause such vehicle to proceed until permitted by such officer.
 - (b) If any such person fails to stop, or to bring such vehicle to a stop or proceeds or causes such vehicle to proceed without permission, the officer may take such action, including the use of force, as he may deem necessary to stop such person or vehicle and no person shall be entitled to any compensation for any loss or damage arising out of any *bona fide* action of an officer under this section.
- (5) The owner or occupier of a transit shed appointed in terms of this section shall, if required by the Secretary, provide accommodation to the satisfaction of the Secretary, for any officer whom the Secretary considers it necessary to station at such shed.

7. Report of arrival or departure of ships or aircraft

- (1) The master of any ship arriving at any place of entry appointed in terms of section six, whether laden or in ballast, shall within twenty-four hours after the ship's arrival and, unless the Collector has given permission to the contrary, before the landing or embarkation of passengers or crew or the landing or loading of goods, and the pilot of any aircraft arriving in the Republic, whether with or without goods or passengers, shall within three hours after landing at any place appointed as a customs and excise airport in terms of the said section six or within such further time as the

Secretary may allow, but in any event before the landing or embarkation of passengers or crew or the landing or loading of goods—

- (a) make due report in writing of the arrival, with as many duplicates or extracts as the Collector may require;
 - (b) make and subscribe to a declaration as to the truth of the report before the Collector and answer all such questions concerning the ship or aircraft, the cargo and stores, and the crew, passengers and voyage or flight as may be put to him by the Collector; and
 - (c) produce, if required, the official log books for the voyage or flight, the stowage plans and any other documents in his possession relating to the cargo, stores, crew, passengers and voyage or flight.
- (2) The report referred to in sub-section (1) shall contain such particulars as the Minister may prescribe by regulation and shall further include—
 - (a) a list of the passengers; and
 - (b) manifests of all goods on board or a manifest, in the prescribed form, of all goods consigned to such place, as the Secretary may require.
- (3) The master of any ship and the pilot of any aircraft bound from any place within to any place outside the Republic shall appear before the Collector and deliver to him a report outwards in the prescribed form together with a full account of the cargo laden and of all non-duty-paid imported goods and excisable goods shipped as stores on board that ship or aircraft and shall make and subscribe to a declaration as to the truth of such report and account and answer all such questions as may be put to him by the Collector.
- (4) No goods shall be laden on any ship or aircraft before delivery to the Collector of an entry outwards containing such particulars of the ship or aircraft and its destination as may be prescribed in the regulations.
- (5) The provisions which shall apply in connection with the departure of any ship or foreign-going aircraft from any place within to any other place within the Republic shall be as prescribed by regulation.
- (6)
 - (a) The master of a ship or the pilot of a foreign-going aircraft shall not cause or permit the ship or aircraft to depart from any appointed place of entry or any place appointed as a customs and excise airport without first obtaining a certificate of clearance or transire for the intended voyage or flight from the Collector, and the master or pilot, as the case may be, shall not after departure call or land at any place in the Republic other than an appointed place of entry or a place appointed as a customs and excise airport, unless forced to do so by stress of weather, accident or other circumstances beyond his control.
 - (b) The provisions which shall apply where such master or pilot has been so forced to call or land at a place other than an appointed place of entry or a place appointed as a customs and excise airport shall be as prescribed by regulation.
- (7) If a ship or aircraft in respect of which a clearance has been issued at any place in terms of this section does not depart from that place within thirty-six hours of the time when the clearance was issued, or within such further time as the Collector may allow, such clearance shall lapse and the master or pilot shall obtain fresh clearance before causing or permitting the ship or aircraft to depart.
- (8) If any report required in terms of this section is found to be in any way incomplete or incorrect, the Collector may, if he is satisfied that there was no fraudulent intention, permit the master or pilot to amend his report.
- (9) The master of a ship or the pilot of an aircraft may, with the permission of the Secretary and subject to such conditions as he may impose, retain on board goods consigned to any port or airport for landing at any other port or airport or land at any port or airport goods not consigned thereto.

- (10) (a) Subject to the regulations, the Secretary may grant general or special transires, on such conditions as he may impose, in respect of any coasting ship or ship exclusively engaged in fishing, sealing or whaling or collecting and transporting guano or such other activity as the Secretary may determine.
- (b) The Secretary may by notice to the master or owner of the ship or any member of the crew on board such ship revoke any such transire. The Secretary may, subject to such conditions as he may impose, exempt any ship or aircraft or any class or kind of ship or aircraft from all or any of the provisions of this section.

8. Boarding and searching of ships and aircraft

- (1) (a) The Collector may board any ship or aircraft arriving at any place or airport in the Republic or being within the territorial waters or fishing zone of the Republic and freely stay on board for so long as he deems necessary for the proper performance of his duties.
 - (b) The Collector shall have free access to and the right to rummage every part of such ship or aircraft and to examine all goods on board, with power to fasten down hatchways and to mark any goods before landing and to lock up, seal, mark or otherwise secure any goods on board that ship or aircraft, including the wireless apparatus thereof and he may also demand from the master of such ship or the pilot of such aircraft the production of any document to which any provision of this Act relates.
 - (c) The master of such ship or the pilot of such aircraft shall, according to his means, provide accommodation and board for the Collector to the satisfaction of the Secretary.
- (2) If any lock, seal or mark placed upon any goods on board any ship or aircraft by the Collector in terms of the provisions of this section is wilfully opened, broken, obliterated or altered or if any goods which have been locked, sealed, marked or otherwise secured in terms of this section are removed or if the hatchways of a ship are, after having been fastened down by the Collector, opened without his consent, the master of such ship or the pilot of such aircraft, as the case may be, shall be guilty of an offence unless he proves that it was not possible for him to have prevented the act in question.

9. Sealing of goods on board ships or aircraft

- (1) On arrival of any ship or aircraft at any place in the Republic—
 - (a) the master or pilot thereof shall declare on the prescribed form all sealable goods on board the ship or aircraft which are unconsumed stores of such ship or aircraft; and
 - (b) the master or pilot and, every member of the crew thereof shall declare on the prescribed form all sealable goods which are his personal property or in his possession,and the Collector may seal up all such sealable goods.
- (2) The Collector may permit surplus stores to be entered for home consumption or for warehousing.
- (3) For the purposes of this section “sealable goods” means—
 - (a) tobacco, cigars, cigarettes and any other preparations of tobacco or substitutes therefor;
 - (b) any spirits or alcoholic beverages;
 - (c) opium, preparations of opium in any form and opium outfits;
 - (d) cocaine, preparations of cocaine and other habit forming drugs;
 - (e) saccharin, sweetening substances containing saccharin, and substitutes for saccharin;
 - (f) articles brought or intended as gifts for or for sale to or exchange with any person;

- (g) all non-duty-paid imported goods and all excisable goods shipped at a place in the Republic as ships' or aircraft stores; and
 - (h) any other goods which may from time to time be declared by the Secretary by rule to be sealable goods.
- (4) The Collector may, by direction of the Secretary, in addition to sealable goods, seal up any goods which are unconsumed stores of any ship or aircraft or which are in the possession of the master or pilot of such ship or aircraft or of any member of the crew thereof or of any passenger on board thereof.
- (5) While the ship or aircraft in question remains at any place in the Republic, no person shall, except in accordance with the rules break or disturb any seal placed by the Collector on any goods in terms of this section.
- (6) Except as provided in sub-section (2), no stores of any nature may be landed without the permission of the Collector and all goods acquired on a ship or aircraft shall, if landed, be declared to the Collector for purposes of payment of any duty due thereon.

10. When goods deemed to be imported

- (1) For the purposes of this Act all goods consigned to or brought into the Republic shall be deemed to have been imported into the Republic—
- (a) in the case of goods consigned to a place in the Republic in a ship or aircraft, at the time when such ship or aircraft on the voyage or flight in question, first came within the control area of the port or airport authority at that place, or at the time of the landing of such goods at the place of actual discharge thereof in the Republic if such ship or aircraft did not on that voyage or flight call at the place to which the goods were consigned or if such goods were discharged before arrival of such ship or aircraft at the place to which such goods were consigned;
 - (b) in the case of goods not consigned to a place in the Republic but brought thereto by and landed therein from a ship or aircraft, at the time when such goods were so landed;
 - (c) subject to the provisions of sub-section (2), in the case of goods brought to the Republic overland, at the time when such goods entered the Republic; and
 - (d) in the case of goods brought to the Republic by post, at the time of importation in terms of paragraph (a), (b) or (c) according to the means of carriage of such goods.
- (2) For the purposes of sub-section (1), a place outside the Republic appointed in terms of this Act as a place of entry for goods consigned to the Republic, shall be deemed to be a place in the Republic in respect of goods consigned to such place for removal to the Republic overland.

11. No landing and shipping of goods without permission

- (1) Subject to the regulations, no goods imported into the Republic by ship or aircraft or carried coastwise from any place in the Republic shall without the permission of the Collector be landed, removed or otherwise dealt with, and any goods landed with such permission before due entry thereof, shall be placed in a transit shed or other place approved by the Collector.
- (2) All goods landed from a ship or aircraft before due entry of such goods and placed in a transit shed or other approved place in accordance with the provisions of sub-section (1) shall be deemed to be still in the ship or aircraft, and as long as such goods remain in such shed or place, the master or pilot, as the case may be, shall remain responsible therefor in all respects and liable for the duty thereon as if the goods had not been removed from such ship or aircraft.
- (3) Subject to the regulations, no goods shall, without the permission of the Collector, be loaded into a ship or aircraft for exportation from the Republic or for carriage coastwise.

- (4) No goods or ballast shall, without the permission of the Collector, be laden at any place in the Republic on a ship or aircraft before all inward cargo for that place has been discharged.
- (5) Subject to the provisions of sub-section (2) and the regulations and to any conditions which he may impose, the Collector may permit the landing at any place without due entry of goods not consigned to that place from a ship or aircraft which has sustained damage or is in distress.

12. Goods imported or exported overland

- (1)
 - (a) Upon or before arrival at a railway station of any train with any goods thereon from beyond the borders of the Republic, the station master or other person in control of the station or any other person designated by the railway authority concerned by arrangement with the Secretary, shall deliver to the Collector a copy of all advice and delivery notes received by him relating to the goods consigned to that station by that train.
 - (b) Such station master or other person shall not permit any such goods to be removed from the railway premises without the written sanction of the Collector.
- (2) The conductor, guard or other person in charge of a train shall on demand by any officer furnish him with all information at his disposal in respect of any goods on such train.
- (3)
 - (a) The person in charge of any vehicle (other than an aircraft or a railway train) whether or not conveying any goods, which arrives by land at any place in the Republic shall come to the office of the Collector nearest to the point at which he crossed the border or the office of the Collector which is most conveniently situated in relation to that point before unloading any goods or in any manner disposing of such vehicle or goods, and make a full written report to such Collector concerning the vehicle or goods, the journey and the destination of the goods, and shall make and subscribe to a declaration as to the truth of the report.
 - (b) Such person shall fully and truthfully answer all questions put to him and produce any way-bills or other documents demanded of him by such Collector.
- (4) No person shall remove a vehicle referred to in subsection (3) from the office referred to in that sub-section until due entry has been made of such vehicle and the goods carried thereon or until permission for removal has been granted by the Collector.
- (5)
 - (a) Every person arriving in the Republic overland, on foot or otherwise shall, whether or not he has any goods in his possession, come to the office of the Collector nearest to the point at which he crossed the border or the office of the Collector which is most conveniently situated in relation to that point, and there report to the Collector the circumstances in which he entered the Republic.
 - (b) If he has any goods in his possession, he shall furnish the said Collector with full particulars thereof, and shall fully and truthfully answer all questions put to him by such Collector.
 - (c) Such person shall not in any manner dispose of any goods in his possession until they have been released by the Collector.
- (6) The provisions of sub-section (5) shall not apply to persons arriving in the Republic by train or by air and who pass through or disembark at a place where a Collector is stationed.
- (7)
 - (a) No person in charge of any vehicle (other than an aircraft) used in the exportation of goods overland shall remove any such vehicle or goods beyond the borders of the Republic except with the permission of the Collector and subject to such conditions as the Secretary may specify.
 - (b) The Secretary may in his discretion grant a general permission to any such person.

13. Goods imported or exported by post

- (1) For the purposes of entry and collection of duty on goods imported into the Republic by parcel post, any form or label completed by the sender in respect of the parcel in question and on which the particulars necessary for the assessment of duty are set forth, shall be deemed to be an entry made under the provisions of this Act, and the particulars on any such form or label shall, for the purposes of this Act, be taken as the declaration to be made by the importer under section thirty-eight: Provided that the Minister may by regulation exclude from the provisions of this sub-section any goods of a class or kind specified in such regulation or any such goods imported in circumstances so specified.
- (2) All goods imported by post other than parcel post shall be entered and declared to by the addressee and in the case of such goods exceeding twenty rand in value, such entry and declaration shall be made at a customs and excise office before a Collector.
- (3) Notwithstanding anything contained in sub-sections (1) and (2), any goods imported by post, whether by parcel post or otherwise, which the addressee desires to enter for warehousing, or for removal or export in bond, or under any heading or item of Schedule No. 1 which requires that a certificate be given or a condition be complied with or under any item of any other Schedule relating to imported goods, shall be so entered at a customs and excise office before a Collector.
- (4) In the case of goods exported by post, any form or label affixed to or completed in respect of a parcel, on which a description of the contents and their value are set forth, shall be deemed to be a bill of entry export as required by this Act.

14. Coastwise traffic and coasting ships

- (1) The conveyance of goods by ship between the coastal ports of the Republic shall be deemed to be coastwise traffic and all ships employed in such traffic shall be deemed to be coasting ships: Provided that no ship arriving from a place outside the Republic, although bound for more than one coastal port in the Republic and no ship clearing from any coastal port in the Republic for a port outside the Republic, although bound for one or more intermediate coastal ports in the Republic, shall be deemed a coasting ship nor shall its voyage between ports in the Republic be deemed a coastwise voyage.
- (2) A foreign-going ship may also carry coastwise goods while on a voyage between ports in the Republic subject to the regulations and rules relating to such goods.
- (3) For the purposes of this Act, any goods landed from any ship at a place in the Republic or suspected by the Collector of having been so landed shall, until the contrary is proved to the satisfaction of the Collector and the provisions of the regulations and rules relating to goods carried coastwise are complied with, be deemed to be imported goods on which duty has not been paid.

15. Persons entering or leaving the Republic and smugglers

- (1) Any person entering or leaving the Republic shall unreservedly declare all goods in his possession which he brought with him into the Republic or proposes taking with him beyond the borders of the Republic and shall, if required by an officer to do so, produce and open such goods for inspection by the said officer.
- (2) The Collector shall have the power, in all cases where a person is detected or is concerned in or is suspected by the Collector of an attempt to import, export, land, ship or remove goods illegally or to evade the payment of duties on any goods, forthwith to take the person concerned before a magistrate's court to be summarily or otherwise dealt with, or to secure such person in a police station or other suitable place, until he can be taken before such court.

16. Opening of packages in absence of owner

The Collector may in the absence of the owner of any package imported into or landed in or suspected by the Collector to have been imported into or landed in the Republic, open and examine such package at the owner's risk and expense: Provided that wherever possible the Collector shall first make all reasonable efforts to ascertain the whereabouts of such owner and afford the said owner the opportunity of himself appearing before the Collector and opening the package in question.

17. State warehouse

- (1) Whenever any goods are taken to and secured in any State warehouse, the Secretary may require rent to be paid for such period as the goods remain therein, at the rates fixed by rule.
- (2) Any officer who has the custody of any goods in any State warehouse may refuse delivery thereof from such warehouse until he has been furnished with proof to his satisfaction that—
 - (a) the person claiming the goods is lawfully entitled to such goods;
 - (b) all relevant provisions of this Act or any law relating to the importation or exportation or transit or coastwise carriage of goods have been complied with;
 - (c) freight and other charges (including landing and wharfage charges) and rent due in respect of the goods have been paid.
- (3) The State or any officer shall in no case be liable in respect of any loss or diminution of or damage to any goods in a State warehouse.
- (4) If a warrant or permission for the removal of any goods from a State warehouse has been granted by the Collector, and the person to whom such warrant or permission has been granted does not immediately remove the said goods from the warehouse, they may, notwithstanding any other provisions of this Act, in the discretion of the Secretary, be dealt with as if they were goods in respect of which entry has not been made under the provisions of this Act.

18. Removal of goods in bond

- (1) Notwithstanding anything to the contrary in this Act contained—
 - (a) the importer or owner of any imported goods landed in the Republic or the manufacturer or owner or purchaser of any excisable goods manufactured in a customs and excise warehouse or the licensee of a customs and excise warehouse in which dutiable goods are manufactured or stored may remove such goods in bond to any place in the Republic appointed as a place of entry under this Act or to any place outside Republic;
 - (b) the master of a ship, pilot of an aircraft or person in charge of any vehicle from which any goods were landed at a place in the Republic to which such goods were not consigned may remove such goods in bond to the place to which they were consigned provided evidence is produced to the Collector before entry for removal of the identity of such goods and that the goods in question were consigned to the place to which they are proposed to be removed;
 - (c) the owner of or any person beneficially interested in any goods which are in transit through the Republic from any other territory in Africa to any place outside the Republic may remove such goods in bond from the place where they entered the Republic to the place where they are destined to leave the Republic.
- (2) In addition to any liability for duty incurred by any person under any other provision of this Act, the person who removes any goods in bond in terms of sub-section (1) shall, subject to the provisions of sub-section (3), be liable for the duty on all goods which he so removes.

- (3) Subject to the provisions of sub-section (4), any liability for duty in terms of sub-section (2) shall cease when it is proved to the satisfaction of the Secretary by the person concerned—
 - (a) in the case of goods removed to a place in the Republic, that such goods have been duly entered at that place; or
 - (b) in the case of goods which were destined for a place beyond the borders of the Republic, that such goods have been duly taken out of the Republic.
- (4) If the person concerned fails to submit any such proof as is referred to in sub-section (3) within a period of six months from the date on which the goods in question were entered for removal in bond, he shall upon demand by the Secretary forthwith pay the duty due on such goods.
- (5) No goods shall be removed in bond in terms of this section from the place where they were landed in the Republic or where they entered the Republic until they have been entered for removal in bond and such entry shall be deemed to be due entry in respect of such goods at that place for the purposes of this Act.
- (6) No entry for removal in bond shall be tendered by or may be accepted from a person who has not furnished such security as the Secretary may require and the Secretary may at any time require that the form, nature or amount of such security shall be altered in such manner as he may determine.
- (7) The removal in bond of goods shall be subject to the regulations and such conditions as the Secretary may impose in respect of such goods or any class or kind of such goods or goods removed in circumstances specified by him and the Secretary may refuse to accept bills of entry for the removal in bond of goods from a remover who has persistently failed to comply with such regulations or conditions or who has committed an offence referred to in section eighty.
- (8) Goods removed in bond shall not be delivered or removed from the control of the department at the place of destination in the Republic except upon due entry according to the first account taken of such goods on landing or on entry for removal in bond thereof or according to the contents of the packages containing such goods as reflected on the invoice issued by the supplier in respect of such goods, and payment of any duty due including any duty due on any deficiency: Provided that in the case of goods removed in bond by sea, liability for duty on any loss or deficiency shall not arise if evidence to the satisfaction of the Secretary is produced that such goods were not landed at the place of destination.
- (9) The Secretary may refuse the removal in bond of goods in respect of which a provision of this Act has not been complied with or which are liable to forfeiture.
- (10) The State or any officer shall in no case be liable for any loss of or damage of whatever nature to any goods removed in bond or for any loss or damage sustained by reason of wrong removal or delivery.
- (11) Notwithstanding the provisions of this section, the Secretary may, subject to such conditions as he may impose, in respect of goods in transit through the Republic from any other territory in Africa to any destination outside the Republic, or any class or kind of such goods or any such goods removed in bond in circumstances specified by him, allow such goods to be entered for removal in bond at a place other than the place where the goods entered the Republic.
- (12) The Secretary may determine the roads and routes and the means of carriage of any goods removed in bond or any class or kind of such goods or any such goods carried in circumstances specified by him.
- (13) No person shall, without the permission of the Secretary, divert any goods removed in bond to a destination other than the destination declared on 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 department at the place of destination.
- (14) The Secretary may specify the particulars to be reflected on the entry for removal in bond and the documents to be produced by the remover upon entry for removal in bond in respect of any goods

removed in bond, or any class or kind of such goods or any such goods removed in circumstances or to a destination specified by him.

Chapter IV

Customs and excise warehouses; storage and manufacture of goods in customs and excise warehouses

19. Customs and excise warehouses

- (1) The Secretary may license at any place appointed for that purpose under the provisions of this Act, warehouses (to be known as customs and excise warehouses) approved by him for the storage of such dutiable imported or excisable goods or for the manufacture of such dutiable goods from imported or locally-produced materials or imported and locally-produced materials as he may approve in respect of each such warehouse.
- (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 Secretary may license a storage and a manufacturing warehouse on the same premises provided they are separated in a manner approved by him.
- (3) The Collector may, in addition to any lock used by the licensee, cause any customs and excise warehouse to be locked with a State lock for such period as he deems fit, and no person shall remove or break such lock or enter such warehouse or remove any goods therefrom without the permission of the Collector while it is so locked.
- (4)
 - (a) The Collector may at any time take stock of the goods in any customs and excise warehouse and duty shall, subject to the provisions of sub-section (5) of section twenty, forthwith be paid upon any deficiency.
 - (b) If the stock is found to be greater than the quantity which should be in such warehouse, the excess shall be debited to stock and the duty thereon paid on entry for home consumption.
- (5) The State or any officer shall in no case be liable for any loss of or damage of whatever nature to any goods in a customs and excise warehouse or for any loss or damage sustained by reason of wrong delivery of such goods.
- (6) In addition to any liability for duty incurred by any person under any other provision of this Act, the licensee of a customs and excise warehouse shall, subject to the provisions of subsection (7), be liable for the duty on all goods stored or manufactured in such warehouse from the time of receipt into such warehouse of such goods or the time of manufacture in such warehouse of such goods, as the case may be.
- (7) Subject to the provisions of sub-section (8), any liability for duty in terms of sub-section (6) shall cease when it is proved to the satisfaction of the Secretary by the licensee concerned that the goods in question have been duly entered in terms of sub-section (4) of section twenty and have been delivered or exported in terms of such entry.
- (8) If the licensee concerned fails to submit any such proof as is referred to in sub-section (7) in respect of any goods in the warehouse in question within the period specified in the regulations for which goods of that class or kind may be stored or kept in a customs and excise warehouse or if the licensee commits an offence under this Act in respect of any goods stored or kept in such warehouse he shall upon demand by the Secretary forthwith pay the duty due on such goods.

20. Goods in customs and excise warehouses

- (1)
 - (a) Any dutiable imported or excisable goods (except goods entered under rebate of duty under section seventy-five) of a class or kind approved by the Secretary in respect of each warehouse may be entered for storage in a customs and excise warehouse with deferment of

payment of duty thereon and no goods shall be removed to or placed in a customs and excise warehouse until they have been so entered.

- (b) Such entry 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.
- (2) (a) Upon the entry and landing of imported goods for storage in or the transfer of dutiable excisable goods to a customs and excise warehouse or the transfer of dutiable manufactured goods from a customs and excise manufacturing warehouse to a customs and excise storage warehouse, the Collector shall take and record a particular account of such goods.
- (b) Subject to the provisions of section eighteen and of sub-section (5), no allowance for loss or diminution of any nature which occurs while such goods are being transported to or kept in any such warehouse or transported from one warehouse to another or removed in bond shall be allowed.
- (3) Goods on which no duty is payable and of a class or kind approved by the Secretary in respect of each warehouse may, subject to such conditions and to the keeping of such records as the Secretary may in each case determine, without entry, be taken into a customs and excise manufacturing warehouse for the purpose of being used in the manufacture of dutiable goods.
- (4) No goods which have been stored or manufactured in a customs and excise warehouse shall be taken or delivered from such warehouse except in accordance with the regulations and upon due entry for one or other of the following purposes—
 - (a) home consumption and payment of any duty due thereon;
 - (b) rewarehousing in another customs and excise warehouse;
 - (c) removal in bond (as provided in section eighteen) to any warehousing place appointed, under the provision of this Act, for rewarehousing in another custom and excise warehouse or entry for home consumption or entry for export from customs and excise warehouse;
 - (d) export from customs and excise warehouse (including supply as stores for foreign-going ships or aircraft).
- (5) The duty of any deficiency in a customs and excise warehouse shall be paid forthwith on demand after detection of such deficiency: Provided that in the case of goods manufactured in any customs and excise manufacturing warehouse the Secretary may, subject to the provisions of sub-section (2) of section thirty-five, allow working and processing losses and losses due to natural causes, between the time when liability for duty first arises and the time of removal from that warehouse of such goods, to the extent specified in Schedule No. 4 or if he is satisfied that no part of such loss was wilfully or negligently caused.
- (6) Goods packed for retail sale shall not be entered for storage in a storage warehouse unless they are packed in outer containers normally used in the wholesale trade in respect of such goods.
- (7) If the licensee of any customs and excise warehouse persistently fails to comply with the provisions of this Act or commits any offence referred to in section eighty, the Secretary may revoke the licence in respect of such warehouse or suspend it for such period as he may determine.

21. Special customs and excise warehouses

The Secretary may, subject to such conditions as he may in each case impose, license at any place in the Republic special customs and excise warehouses for such special purposes and for such period as he may specify, provided such security as he may require, is furnished.

22. Samples of goods in a customs and excise warehouse

The Collector may, in accordance with the rules, permit samples of goods in a customs and excise warehouse to be taken by 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.

23. Storage or manufacture of prohibited goods

The Secretary may allow the storage or manufacture in a customs and excise warehouse of goods the importation, manufacture or disposal of which is prohibited or restricted under any law, provided such goods are stored or manufactured in such warehouse for export or supply as stores for foreign-going ships or aircraft only.

24. Ships' or aircraft stores consumed in the Republic

If any goods shipped as stores for any ship or aircraft from a customs and excise warehouse under the provisions of sub-section (4) of section twenty (except any such goods which are used for the operation of such ship and are not for consumption by or for sale or disposal to the master or members of the crew or passengers of or visitors to such ship) are consumed, sold or disposed of on such ship in any port in the Republic or on such aircraft at any place in the Republic when the aircraft is not airborne or on such aircraft on a flight between any places in the Republic, the master of such ship or the pilot of such aircraft, as the case may be, shall be liable for the duty on such goods so consumed, sold or disposed of and shall, upon demand by the Secretary, forthwith pay the duty due on such goods: Provided that the Secretary may by rule exempt any class or kind of stores or ship or aircraft or any stores or ship or aircraft to which circumstances specified in such rule apply from any provision of this section.

25. Sorting and repacking in customs and excise storage warehouses

Subject to the provisions of this Act, the Secretary may permit the licensee of a customs and excise storage warehouse or the owner of any goods in such warehouse to sort, separate, pack or repack any goods in such warehouse and to make such alterations therein or such arrangements as may be necessary for the preservation of those goods or for the sale, exportation or other lawful disposal thereof, or may permit such processing of excisable goods in such warehouse as he may deem fit.

26. Transfer of ownership of warehoused goods

The owner of any dutiable goods in a customs and excise warehouse may transfer his ownership to any other person but the Secretary may refuse to recognize any such transfer of ownership unless the Collector is notified thereof in the manner prescribed by the Secretary by rule which may vary in respect of different classes or kinds of goods or goods in respect of which circumstances specified by him apply.

27. Special provisions in respect of customs and excise manufacturing warehouses

- (1) Subject to the provisions of this Act, goods liable to excise duty may not be manufactured except in terms of this section and except in a customs and excise manufacturing warehouse licensed under this Act: Provided that spirits distilled by agricultural distillers and wine shall be excluded from the requirement of manufacture in a customs and excise manufacturing warehouse.
- (2) Subject to the provisions of this Act, the Secretary may, on such conditions as he may impose, permit the manufacture under the provisions of this Chapter of any goods in any customs and excise manufacturing warehouse if any of the goods used in such manufacture are liable to duty or if the goods so manufactured are dutiable.
- (3) Any imported goods brought into and intended for use in a customs and excise manufacturing warehouse in the manufacture of goods liable to excise duty shall be entered for home consumption and any duty due thereon shall be paid prior to such use.
- (4) No manufacturing of goods shall take place in a 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 with the Secretary.

- (5) Plans of the premises and plant to be used in connection with such manufacturing and of the location of the plant on such premises and particulars of any identifying numbers or marks on any plant shall be submitted to the Collector before the commencement of manufacturing and no alteration to such premises or plant shall be made without the prior permission of the Secretary.
- (6) All operations in customs and excise manufacturing warehouses are subject to the right of supervision by officers.
- (7)
 - (a) Every licensee of a customs and excise manufacturing warehouse shall, if required by the Secretary, provide office accommodation and board and lodging, to the satisfaction of the Secretary, for any officer stationed at or visiting such warehouse for the purposes of this Act.
 - (b) A person so providing board and lodging for an officer shall be entitled to fair remuneration therefor.
- (8) The Collector may give instructions in writing to any licensee specifying in what part of the warehouse—
 - (a) any process in the manufacture is to be carried on; and
 - (b) any material for use in manufacture and manufactured goods, respectively, are to be kept.
- (9) No licensee shall, without the written permission of the Secretary in a customs and excise manufacturing warehouse, carry on any business except that for which the warehouse is licensed and the premises and plant are registered.
- (10) No person shall, except with the written permission of the Secretary—
 - (a) use any premises or plant required to be registered in terms of the provisions of this Chapter for any purpose other than that detailed in such registration;
 - (b) effect any alteration to any structure on such premises or to any such plant;
 - (c) bring into or have in such premises, any plant other than that detailed in such registration or remove any plant from such premises;
 - (d) place below the surface of the ground any pipe or tube for conveying any material or product in a warehouse unless such pipe or tube is enclosed in casing capable of being easily opened so that the pipe or tube is exposed to view.
- (11) The Secretary may by rule prescribe the days on which and the hours during which all or any of the operations in a customs and excise manufacturing warehouse (including the removal of goods) shall be carried out.
- (12) No distilling operation shall be commenced until the whole or any part of the distilling system or plant, as the Secretary may require, has, been provided, at the expense of the licensee, with fittings and requirements to permit of the insertion or affixing of customs and excise meters, gauges, rods, locks and seals according to the regulations and to the satisfaction of the Secretary, for the purpose of securing such system or plant, and until such system or plant has been duly secured by the Collector.
- (13) If any meter, rod, lock or fitting is tampered with or damaged, or if any pipe, cock, fastening or fitting connected with a still or vessel is pierced or damaged, the licensee shall forthwith repair or renew the article in question to the satisfaction of the Collector or an officer may effect the repair or renewal at the expense of the licensee.
- (14) If any such tampering, damage or piercing has been directly or indirectly caused by the wilful act, or by the neglect or with the connivance of the licensee or his employee, such licensee, in addition to liability for the cost of the repair or renewal, shall be guilty of an offence.
- (15) The burden of showing that any such tampering, damage or piercing was not caused as aforesaid shall rest upon the licensee.

28. Ascertaining quantity of spirits by weighing

- (1) The quantity of spirits in any container may be calculated by weighing or gauging.
- (2) In ascertaining the quantity of spirits by weighing, the tables prescribed in the regulations shall be used, and the quantity ascertained in accordance with the said tables shall be deemed to be the true quantity of such spirits for the purposes of this Act.

29. Classification of spirits

No spirits distilled in the Republic shall, for the purposes of this Act, be classed as being spirits of the product of the vine until such spirits have been so certified by the Collector, and any spirits not so certified shall be deemed to be spirits other than of the product of the vine.

30. Control of the use of spirits for certain purposes

- (1) No person shall use spirits, distilled from the product of the vine, in the manufacture of alcoholic beverages unless such spirits have been certified by the Government Brandy Board to be suitable for use as aforesaid. Provided that if the Board declines to certify any spirits as suitable for such use as aforesaid, the manufacturer may redistil such spirits or treat the same by any method approved by the Board, and thereafter in its discretion the Board may certify the spirits as suitable for use in the manufacture of alcoholic beverages.
- (2) The blending of brandy in terms of paragraph (b) of section eight of the Wine and Spirits Control Act, 1956 ([Act No. 38 of 1956](#)), and the production from spirits of any other beverage or any other non-excisable goods shall be subject to such supervision by an officer as the Secretary may in each case consider necessary.
- (3) The provisions of sub-section (1) shall not apply to an agricultural distiller or a wine-grower who manufactures alcoholic beverages under the provisions of this Act for his private use.

31. Entry of spirits for use in manufacture

- (1) Spirits which have not been entered for home consumption shall not be used in the production of beverages or other non-excisable goods.
- (2) The Secretary may, on such conditions as he may in each case impose, permit the use of spirits which have been entered for home consumption in the production of beverages or other non-excisable goods on premises which have been licensed as a customs and excise warehouse and may permit payment of the duty on any such spirits used in the production of beverages on any such premises to be deferred—
 - (a) in the case of spirits used in the production of any beverage under any item of Schedule No. 6, until such beverage is delivered from such premises; or
 - (b) in the case of spirits used in the production of any beverage otherwise than under any item of Schedule No. 6, until such beverage is packed in any container.
- (3)
 - (a) No person shall, without the permission of the Secretary, redistil spirits which have been entered for home consumption.
 - (b) Any such permission may be granted subject to such conditions as the Secretary may in each case impose.
- (4) Beverages or other non-excisable goods produced in contravention of the provisions of sub-section (1) and any spirits redistilled in contravention of sub-section (3), shall be liable to forfeiture.

32. Ascertaining strength of spirits

- (1)
 - (a) For the purposes of this Act, the strength of any spirits or spirituous preparation imported into the Republic shall be taken to be that shown on test by Gay Lussac's hydrometer at a temperature of 15° Centigrade and the strength of any spirits or spirituous preparation manufactured in the Republic shall be taken to be that shown on test by Sikes' hydrometer, in accordance with the tables used with such hydrometers.
 - (b) If in the opinion of an officer the strength of any spirits cannot immediately or accurately be ascertained by hydrometer, the strength may be ascertained in such manner as the Secretary may determine.
- (2) In any entry, certificate, return, invoice, declaration or other document rendered to the department in accordance with the provisions of this Act in respect of imported spirits or spirituous preparations, the strength of such spirits or spirituous preparations shall be declared in terms of the content of absolute alcohol by volume at 15° Centigrade and for this purpose every one per cent of absolute alcohol by volume shall be deemed to be and may be expressed as one degree of absolute alcohol by volume.
- (3) For the purposes of calculating the duty, one gallon of spirits at proof strength as determined by Sikes hydrometer shall be deemed to be equal to 0.571 gallons of absolute alcohol by volume.

33. Requirements in respect of stills

Subject to the provisions of section sixty-three, no person shall distil spirits in a still which does not comply with the requirements prescribed in the regulations as to capacity and construction: Provided that the Secretary may in his discretion exempt from all or any of the said requirements, for such period and on such conditions as he thinks fit, any still in use at the commencement of this Act or any still used for any purpose other than the manufacture of potable spirits.

34. Special provisions regarding spirits manufactured by agricultural distillers

- (1) The manufacture of spirits, by an agricultural distiller shall be subject to such supervision by an officer as the Secretary may in each case consider necessary.
- (2) An allowance may be made for natural waste and evaporation on all spirits of his own distillation stored by an agricultural distiller on his farm, to the extent specified in Schedule No. 6, if the Secretary is satisfied that no part of such loss was wilfully or negligently caused.
- (3) No agricultural distiller shall use his still for distilling spirits from any material other than produce grown on the farm of which he is the owner or occupier and which is of a kind prescribed by regulation in respect of the class of agricultural distiller to which he belongs.
- (4) Subject to the provisions of this Act and the Liquor Act, 1928 ([Act No. 30 of 1928](#)), the provisions of sub-section (4) of section twenty shall *mutatis mutandis* apply in respect of spirits manufactured from grapes by any class of agricultural distiller specified by the Minister by regulation, and for the purpose of such application any reference in the said sub-section to a customs and excise warehouse shall be deemed to be a reference to the farm on which such spirits are manufactured.
- (5) Spirits manufactured by an agricultural distiller in the province of the Transvaal 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.

35. Special provisions regarding wine

- (1)
 - (a) The Secretary may, subject to such conditions as he may impose in each case, license the premises of a wine-grower, wine-growers' co-operative agricultural society, the Deciduous Fruit Board or a person who holds a licence under any law to deal in wine in wholesale

quantities, as a special customs and excise warehouse for the purpose of manufacturing wine.

- (b) Special warehouses licensed under this sub-section shall, for the purposes of this Chapter be deemed to be customs and excise manufacturing warehouses.
- (2) Where less than fifty per cent by volume of the wine manufactured in any customs and excise warehouse is manufactured from wine or grapes originating in a district within two hundred and fifty miles of such warehouse, the Minister may by regulation prescribe a fixed allowance in respect of working and processing losses and losses due to natural causes which shall be granted in lieu of the allowance in respect of such losses provided for in sub-section (5) of section twenty.

36. Specific provisions regarding beer

- (1) If the specific gravity before fermentation of any worts to be used in the manufacture of beer in the Republic, in the collecting or fermenting vessels in a customs and excise manufacturing warehouse exceeds by more than two per cent the specific gravity which should, according to the manufacturing records of the manufacturer be the specific gravity of such worts, such manufacturer shall be guilty of an offence.
- (2) Bates' saccharometer and tables shall be used to ascertain the specific gravity of worts, and 1° of specific gravity shall be taken to be equal to one-thousandth part of the specific gravity of distilled water at 15-6° Centigrade.
- (3) When fermentation has commenced in any worts so that the original specific gravity cannot be ascertained by the prescribed saccharometer, such specific gravity shall be determined in accordance with the regulations.
- (4) Every manufacturer shall, in respect of beer manufactured by him in the Republic, register with the Secretary the names whereunder such beer will be sold or disposed of together with the number of the sub-item of tariff item 104.10 of Part 2 of Schedule No. 1 which will apply in respect of beer sold or disposed of under every such name and no beer shall be sold or disposed of except under a name so registered.
- (5) No beer shall be sold or disposed of by any manufacturer except in a container which indicates the name of such beer, and any invoice or other document relating to the sale or disposal of such beer shall indicate the name thereof.
- (6) Any description on any container of beer bearing an indication of a name registered with the Secretary shall be deemed to be a declaration for the purpose of assessment of duty.
- (7) The Secretary may exempt beer of any class or kind from any or all of the provisions of sub-sections (4) and (5).
- (8)
 - (a) If the specific gravity before fermentation of any beer in any container bearing an indication of a name registered with the Secretary under this section, is ascertained to be higher or lower than the specific gravity before fermentation specified in the sub-item of tariff item 104.10 so registered in relation to beer of such name, the manufacturer shall be liable for 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 same specific gravity before fermentation as that ascertained in respect of the contents of such container or to beer of the same specific gravity before fermentation as that registered in relation to the name on such container, whichever is the higher rate of duty.
 - (b) If the Secretary is unable to establish such full quantity from the records of the manufacturer, he may determine a quantity which shall be deemed to be such full quantity.
 - (c) Any beer of any brew or blend of brews of beer referred to in paragraph (a) and not delivered from the stocks of such manufacturer shall be liable to forfeiture.

37. Duties applicable to goods manufactured in a customs and excise warehouse

- (1) In respect of any goods manufactured in a customs and excise warehouse there shall be paid, subject to the provisions of section seventy-five, on entry for home consumption thereof, duty at the undermentioned rates, namely—
 - (a) if such manufactured goods are not liable to excise duty, the customs rate of duty applicable in terms of Schedules Nos. 1 and 2 on any imported goods used in the manufacture of such manufactured goods and the excise rate of duty applicable in terms of Schedule No. 1 on any excisable goods used in the manufacture of such manufactured goods; and
 - (b) if such manufactured goods are liable to excise duty, the excise rate of duty applicable in terms of Schedule No. 1 on such manufactured goods.
- (2) Notwithstanding the provisions of sub-section (1), the Secretary may, on such conditions as he may in each case impose, for the purpose of preserving any goods in a customs and excise storage warehouse or of reconditioning such goods which, as a result of contamination or deterioration or for any other reason, have become unsaleable or not readily saleable or for the purpose of fulfilling special orders, permit such goods to be reconditioned or to be mixed or blended in such warehouse with other goods, and in that event duty shall be paid, in lieu of the duties prescribed in sub-section (1), according to the first account taken of any such goods of the total quantity of such reconditioned, mixed or blended goods, whichever quantity is the greater, as follows, namely—
 - (a) if such reconditioned, mixed or blended goods are not liable to excise duty, at the customs rate of duty applicable in terms of Schedules Nos. 1 and 2, on any imported goods contained in such reconditioned, mixed or blended goods, and at the excise rate of duty applicable in terms of Schedule No. 1, on any excisable goods contained in such reconditioned, mixed or blended goods; and
 - (b) if such reconditioned, mixed or blended goods are liable to excise duty, at the excise rate of duty applicable in terms of Schedule No. 1, on the total quantity of such reconditioned, mixed or blended goods, and, in addition thereto, duty in an amount equal to the amount by which the customs duty at the rate applicable in terms of Schedules Nos. 1 and 2, on any imported goods contained in such reconditioned, mixed or blended goods, exceeds the excise duty at the rate applicable in terms of this paragraph on such proportion of such reconditioned, mixed or blended goods as is represented by such imported goods contained therein:

Provided that such reconditioned, mixed or blended goods shall, in either case, qualify for any rebate of duty specified in respect of such goods in any applicable item of Schedule No. 3, 4 or 6.

- (3) Where the Secretary has permitted any goods to be reconditioned or to be mixed or blended in a customs and excise storage warehouse with other goods, such warehouse shall, without being licensed as a customs and excise manufacturing warehouse and without approval of the premises or plant thereon, be regarded for the purposes of this Act as a licensed customs and excise manufacturing warehouse.
- (4)
 - (a) Notwithstanding anything to the contrary in this Chapter contained, the Secretary may, on such conditions as he may in each case impose, permit the mixing or blending of mineral oil products which have been entered for home consumption and have passed out of customs and excise control but have not been delivered from the stocks of the importer or the manufacturer, for the purposes of rendering such goods saleable or more readily saleable or of fulfilling special orders.
 - (b) The provisions of sub-section (2) in so far as they relate to the duty payable and the rebate of duty shall *mutatis mutandis* apply in respect of mineral oil products mixed or blended under this sub-section.

- (c) Any duty paid in respect of any goods so used for mixing or blending shall be deemed to have been paid in respect of any duty payable in accordance with the provisions of paragraph (b) in respect of the mineral oil products obtained by such mixing or blending.
 - (d) Nothing in this section contained shall be construed as authorizing a refund of any amount by which any duty already paid or assessed in respect of any goods so used for mixing or blending exceeds the duty payable under this sub-section.
 - (e) Any such mineral oil product used in such mixing or blending shall be deemed to consist entirely of imported goods unless it is proved to the satisfaction of the Secretary that it consists entirely of excisable goods or it is proved to his satisfaction that it contains such a small proportion of imported goods that he considers it negligible, in which event such mineral oil product shall be deemed to consist entirely excisable goods.
- (5) For the purposes of sub-section (4), “importer” or “manufacturer” includes any person who, by virtue of an agreement with a person who imports or manufactures mineral oil products, undertakes the distribution or sale in the Republic, in wholesale quantities, of mineral oil products imported or manufactured by the importer or manufacturer.
- (6) If the Secretary is satisfied that any goods to which this Act relates have become mixed by accident, he may apply the provisions of sub-section (2), in so far as that sub-section relates to the duty payable and any rebate of duty, as if such goods were mixed in a customs and excise storage warehouse with his permission.

Chapter V

Clearance and origin of goods; liability for and payment of duties

38. Entry of goods and time of entry

- (1) (a) Every importer of goods shall within seven days of the date on which such goods are, in terms of section ten, deemed to have been imported or within such further time as the Secretary may allow, make due entry of those goods, in the form prescribed, and declare to the truth of such entry.
- (b) The Collector at any place appointed under the provisions of this Act for the entry of goods shall accept entries for goods in respect of which it is proved to the satisfaction of the Collector that such goods have been loaded on a ship or vehicle for discharge at that place, notwithstanding the fact that such ship or vehicle has not yet arrived at that place.
- (2) Every importer shall within seven days of the granting of a delivery order by the Collector in respect of any goods entered in terms of sub-section (1) or, where the goods in question arrive after the granting of the order, within seven days of the arrival of such goods, present such delivery order to the authority in possession of such goods for delivery thereof.
- (3) Every exporter exporting any goods shall before such exportation takes place deliver to the Collector a bill of entry in the prescribed form, but the Secretary may, if no export duty is payable on and no obligation or condition is to be fulfilled or complied with under any law in respect of such goods, allow such a bill of entry to be delivered at such time as he deems reasonable.
- (4) Any certificate or prescribed invoice issued for the removal of excisable goods for any purpose specified in sub-section (4) of section twenty shall be deemed to be a due entry for the purposes of this Act as from the time of removal of such goods, and any goods in respect of which such certificate or invoice has been issued shall on such removal be deemed to have been duly entered, irrespective of the time of payment of any duty assessed in terms of such certificate or invoice.

39. Importer and exporter to produce documents and pay duties

- (1)
 - (a) The person entering any imported goods for any purpose in terms of the provisions of this Act shall deliver to the Collector a bill of entry in the prescribed form, setting forth the full particulars as indicated on the form and as required by the Collector and shall make and subscribe to a declaration in the prescribed form, as to the correctness of the particulars on such bill of entry.
 - (b) At the same time the said person shall deliver such duplicates of the bill of entry as may be prescribed or as may be required by the Collector and shall pay all duties due on the goods.
 - (c) The said person shall further produce the bill of lading or other documents of title, invoices in the prescribed form and other documents relating to such goods and answer all such questions relating to such goods as may be put to him by the Collector.
 - (d) The said person shall also, in respect of any such class or kind of goods as may be specified by the Secretary by rule or any goods to which circumstances so specified apply, produce to the Collector for retention by him a true copy of any invoice or other document relating to such goods or of any blueprint, illustration, drawing, plan or illustrated and descriptive literature so specified in respect of such goods and relating to such goods.
- (2)
 - (a) If any goods intended for export are liable to any export duty under this Act, the amount thereof shall be stated in the bill of entry relating to such goods and shall be payable upon presentation of such entry to the Collector.
 - (b) No such bill of entry shall be valid, nor shall any person export such goods, until the duty has been paid to the Collector.
- (3)
 - (a) A separate bill of entry shall be delivered, in respect of each importer or exporter and, in the case of goods imported or exported by sea or air, in respect of each ship or aircraft.
 - (b) Where goods are imported or exported otherwise than by sea or air, bills of entry shall be delivered in such manner as the Secretary may prescribe by rule.

40. Validity of entries

- (1) No entry 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, in the prescribed form, has been produced to the Collector;
 - (e) the correct duty due has been paid.
- (2) Goods taken or delivered or removed by virtue of an entry which is not valid out of any ship, aircraft, vehicle, transit shed, customs and excise warehouse or other place where they have been

deposited with the sanction of the Collector, 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.

- (3) The Secretary may, subject to the provisions of section seventy-six and sub-section (2) of section seventy-seven and on such conditions as he may impose and on payment of such fees as the Minister may prescribe by regulation, allow the importer or exporter or manufacturer to adjust any bill of entry which is invalid or incorrect or has been passed in error, by means of a voucher of correction or by substitution of a correct bill of entry and cancellation of the original bill of entry: Provided that acceptance of such voucher or correct bill of entry shall not indemnify such importer or exporter or manufacturer against any fine or penalty provided for in this Act.

41. Particulars on invoices

All invoices and certificates relating to goods imported or exported or to excisable goods manufactured in any customs and excise warehouse, shall be in such form and contain such particulars as may be prescribed by regulation: Provided that different requirements may be prescribed in the regulations in respect of invoices and certificates relating to goods of different classes or kinds of goods to which different circumstances specified in the regulations apply.

42. Entry by bill of sight

- (1) If any importer makes and subscribes to a declaration that he cannot for want of full information make due entry of any goods, the Collector may accept an entry by bill of sight for those goods by the best description which can be given, and may grant a warrant in respect thereof so that the same may be landed and brought to a place indicated by the Collector at the risk and expense of the importer for the purpose of being seen and examined by him there in the presence of the Collector.
- (2)
 - (a) The importer shall make due entry of those goods within three days of the date on which they were brought to the place of examination which shall be regarded as a special State warehouse for the purpose of securing the duties thereon until the goods are duly entered and removed or delivered in accordance with this Act.
 - (b) In default of due entry such goods may after three months of the date of receipt thereof into the said place of examination be disposed of in the manner described in section forty-three.
- (3) No goods entered by bill of sight in terms of this section shall be removed without due entry after sight, and the penalties prescribed in this Act in respect of the incorrect or false entry of goods are also applicable in respect of the said due entry after sight.

43. Disposal of goods on failure to make due entry

- (1) If entry of any imported goods has not been made under the provisions of section thirty-eight, the Collector may, on expiry of the period prescribed in sub-section (1) of the said section, require the master or other person who brought the goods into the Republic to remove them to the State warehouse or other place indicated by the Collector or may himself so remove them.
- (2) The Secretary may at any time after the expiry of such prescribed period call upon the importer to make due entry of the goods within a time specified and if such importer fails to do so the goods shall be liable to forfeiture.
- (3) If after the expiration of three months from the date of removal to the State warehouse or other place indicated by the Collector or, where no such removal has taken place, from the date of expiry of the period prescribed in sub-section (1) of section thirty-eight, any goods remain unentered, the Secretary may cause them to be sold, and if so sold the proceeds thereof shall be applied in discharge of any duty, expenses incurred by the department, charges due to the department,

charges due to the Railway Administration and freight, and the overplus, if any, shall, unless the Secretary is satisfied that such goods were imported in contravention of any law, upon application be paid to the owner of the said goods: Provided that—

- (a) if the goods cannot be sold for a sum sufficient to cover the duty, expenses, charges and freight aforesaid the Secretary may accept the sum offered and apply it in discharge of the said debits in the order mentioned or direct that the goods in question be destroyed or appropriated to the State; or
 - (b) if the goods cannot be sold at a price regarded by the Secretary as reasonable, they may in his discretion be appropriated to the State; and
 - (c) no payment of overplus in respect of goods sold shall be made to the owner of the goods, unless the application for such payment is supported by proof of ownership of the goods and is received by the Secretary within two years from the date of sale of the goods.
- (4) Notwithstanding anything to the contrary in this Act contained—
- (a) if any goods referred to in sub-section (3) are of a perishable or dangerous nature, or if the Secretary considers that, unless the goods are sold at once, the proceeds would not be sufficient to cover the duties and charges due or charges which may become due in respect of those goods, he may forthwith direct the sale thereof and apply the proceeds as provided in sub-section (3);
 - (b) if any goods are sold in terms of this section subject to compliance by the purchaser with any condition, and the purchaser fails to comply with such condition within a period of three months from the date of sale of such goods, such sale shall be null and void and the net proceeds of sale may be refunded to the purchaser and the Secretary may direct that the goods in question be destroyed or appropriated to the State or be dealt with in such manner as he may deem fit.

44. Liability for duty

- (1) Liability for duty on any goods to which section ten relates shall commence from the time when such goods are in terms of that section deemed to have been imported into the Republic: Provided that any such liability shall cease if it is proved to the satisfaction of the Secretary that such goods were not landed at any place in the Republic.
- (2) Any excisable goods shall, for the purposes of this Act, be deemed to have been manufactured at that stage in the manufacturing process when the said goods have acquired the essential characteristics of and are in the opinion of the Secretary capable of use as such excisable goods, and liability for duty shall commence at the said stage.
- (3) The master of a ship or pilot of an aircraft or carrier of goods by means of any other vehicle shall be liable for the duty on all goods which are removed from that ship, aircraft or vehicle at a place in the Republic to which they are not consigned, and such liability shall continue until the goods have been duly entered or otherwise accounted for to the satisfaction of the Secretary.
- (4) The master, pilot or carrier concerned shall be liable for the duty on all goods deemed in terms of section ten to have been imported, except goods in respect of which a bill of lading, air consignment note or other document was issued on loading of such goods onto the ship, aircraft or vehicle by means of which they were imported stating that the said goods were accepted for conveyance at the risk of the owner thereof in all respects and not only as regards risk in respect of damage to such goods.
- (5) The liability of the master or pilot or other carrier for duty in terms of sub-section (4) shall cease—
 - (a) upon lawful delivery of the goods, after due entry thereof has been made, to the importer or his agent; or
 - (b) if due entry of the goods has not been made, upon delivery thereof to the State warehouse or other place indicated for the purposes of this section by the Collector.

- (6) In all cases where the master, pilot or other carrier is not liable for the duty on any imported goods or where the liability of the said master, pilot or other carrier has ceased in respect of such goods in terms of this section, liability for duty thereon shall, subject to the provisions of Chapter VII, rest on the importer of such goods.
- (7) If any importer has paid any duty on any goods for which the master, pilot or other carrier is liable in terms of this section, the said master, pilot or other carrier shall reimburse such importer in respect of such duty.
- (8) The manufacturer of any excisable goods shall, subject to the provisions of Chapter VII, be liable for the duty on such goods and his liability shall continue until such goods have been duly entered and the duty due thereon paid.
- (9) For the purposes of sub-section (5) an entry by bill of sight shall be deemed to be due entry.
- (10) Any duty for which any person is liable in terms of this section shall be payable upon demand by the Secretary.

45. Determination of duty applicable

- (1) Notwithstanding anything to the contrary in this Act contained, all 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 or upon payment of duty for any reason whatever, be liable to such duties (including anti-dumping duties specified in Schedule No. 2 and new or increased duties referred to in sub-section (1) of section fifty-eight and duties imposed under the provisions of section fifty-three) as may at the time of such entry or payment be leviable upon such goods.
- (2) For the purposes of this section, the time of entry for home consumption of goods imported by post (and not entered at a customs and excise office before a Collector) shall be deemed to be the time when such goods are assessed for duty.

46. Origin of goods

- (1) For the purposes of this Act (excluding Chapters VI and IX), goods shall not be regarded as having been produced or manufactured in any particular territory unless—
 - (a) at least twenty-five per cent (or such other percentage as may be determined under sub-section (2), (3) or (4)) of the production cost of those goods, determined in accordance with the regulations, is represented by materials produced and labour performed in that territory;
 - (b) the last process in the production or manufacture of those goods has taken place in that territory; and
 - (c) such other processes as the Minister may, on the recommendation of the Board of Trade and Industries, by regulation prescribe in respect of any class or kind of goods, have taken place in the production or manufacture of goods of such class or kind in that territory.
- (2) The Minister may from time to time, on the recommendation of the Board of Trade and Industries, by regulation increase the percentage prescribed in sub-section (1), in regard to any class or kind of imported goods to which that sub-section applies.
- (3) The State President may, by agreement with the government of any territory, increase or reduce for the purposes of section fifty-one the percentage prescribed in sub-section (1) of this section in so far as that territory is concerned, in regard to any class or kind of goods to which that sub-section applies.

- (4) The Secretary may—
- (a) in respect of any excisable or other goods produced or manufactured in the Republic or any class or kind of such goods or any such goods in respect of which circumstances specified by rule apply, increase or reduce by rule the percentage prescribed in sub-section (1);
 - (b) exclude by rule any goods or class or kind of goods referred to in paragraph (a) from the provisions of sub-section (1);
 - (c) prescribe by rule that any goods or class or kind of goods referred to in paragraph (a) shall not be regarded as having been produced or manufactured in the Republic unless such processes in connection with the production or manufacture as may be specified in such rule have taken place in the Republic.
- (5) On any question arising whether goods shall be regarded as having been produced or manufactured in a particular territory, in terms of this section, the decision of the Minister shall be final.

47. Payment of duty and rate of duty applicable

- (1) Subject to the provisions of this Act, duty shall be paid for the benefit of the Consolidated Revenue Fund on all imported goods and all excisable goods in accordance with the provisions of Schedule No. 1 at the time of entry for home consumption of such goods.
- (2) The preferential rate of duty specified in Column V in any tariff heading or sub-heading in Part 1 of Schedule No. 1 shall apply to any goods to which such heading or sub-heading relates if such goods were produced or manufactured in any territory indicated in parenthesis in the said Column V after such preferential rate of duty in respect of such goods and if such goods are imported from such territory.
- (3) The most favoured nation rate of duty specified in Column IV in any tariff heading or sub-heading in Part 1 of Schedule No. 1 shall apply, subject to the provisions of subsection (2), to any goods to which such heading or sub-heading relates if such goods were produced or manufactured in any territory with the government of which an agreement has been concluded under section forty-nine or fifty or any territory the government of which has acceded to the agreement approved by section two of the Geneva General Agreement on Tariffs and Trade Act, 1948 ([Act No. 29 of 1948](#)), if in respect of that territory the lastmentioned agreement applies as between the government concerned and the Government of the Republic.
- (4) The general rate of duty specified in Column III in any tariff heading or sub-heading in Part 1 of Schedule No. 1 shall apply to any goods to which such heading or sub-heading relates if the preferential rate of duty or the most favoured nation rate of duty does not apply to such goods in terms of the provisions of sub-section (2) or (3) or if no preferential rate of duty or most favoured nation rate of duty is specified in respect of such goods in such heading or sub-heading.
- (5) Any export duty which may become payable in terms of sub-section (4) of section forty-eight shall be paid for the benefit of the Consolidated Revenue Fund, at the time of entry for export, on such goods as may be specified in Part 3 of Schedule No. 1 in terms of the provisions of the said section.
- (6) Any duty payable in terms of section fifty-three and any anti-dumping duty payable in terms of section fifty-five shall be paid for the benefit of the Consolidated Revenue Fund in accordance with the provisions of the said sections.
- (7) Wherever the tariff heading or sub-heading under which any goods are classified in Part 1 of Schedule No. 1 is expressly quoted in any tariff item of Part 2, 3 or 4 of the said Schedule or in any item in Schedule No. 2 in which such goods are specified, the goods so specified in the said tariff item of the said Part 2, 3 or 4 or in the said item of Schedule No. 2 shall be deemed not to include goods which are not classified under the said tariff heading or sub-heading.
- (8) (a) The interpretation of Part I of Schedule No. 1 shall be subject to the Explanatory Notes to the Brussels Nomenclature issued by the Customs Co-operation Council, Brussels, from time to time.

- (b) The Secretary shall obtain and keep in his office two copies of such Explanatory Notes and shall effect thereto any amendment of which he is notified by the said Council from time to time and shall record the date of effecting each such amendment and any such amendment shall, for the purposes of this Act, be effective from the date so recorded.
- (c) Whenever in any legal proceedings any question arises as to the contents of such Explanatory Notes or as to the date upon which any amendment thereto was effected, a copy of such Explanatory Notes as amended in terms of this sub-section shall be accepted as sufficient evidence of the contents thereof and of the effective date of any amendment thereto.

48. Amendment of Schedule No. 1

- (1) The Minister may from time to time by notice in the *Gazette* amend Part 1 of Schedule No. 1 and Part 2 of the said Schedule in so far as it relates to imported goods—
 - (a) in order to give effect to any agreement amending any agreement ratified and confirmed by section one of the Ottawa Agreements Act, 1933 ([Act No. 8 of 1933](#)), or approved by section two of the Geneva General Agreement on Tariffs and Trade Act, 1948 ([Act No. 29 of 1948](#)), or to any agreement concluded under section forty-nine or fifty;
 - (b) in order to give effect to any recommendation of the Board of Trade and Industries;
 - (c) in order to give effect to any amendment to the Nomenclature set out in the annex to the Convention on Nomenclature for the Classification of Goods in Customs Tariffs signed in Brussels in 1950;
 - (d) by deleting any reference therein to any territory the government of which has cancelled without the consent of the Government of the Republic any preferential customs tariff rate applicable at the commencement of this Act to any goods produced or manufactured in the Republic, on their importation into such territory.
- (2) The Minister may from time to time by like notice amend Schedule No. 1, on the recommendation of the Board of Trade and Industries or whenever he deems it expedient in the public interest to do so, by reducing any duty specified in the said Schedule, to the extent and for the period stated in the notice, or where no period is so stated until he by like notice otherwise directs.
- (3) The Minister may from time to time by like notice amend Part 2 of Schedule No. 1—
 - (a) in order to convert a duty other than a stamp duty on any goods specified in the said Part or any class or kind of such goods to a stamp duty or *vice versa*, provided the rate of duty on such goods is not increased by such conversion;
 - (b) in order to bring into operation the whole or any part of a suspended duty specified in any tariff item of the said Part in respect of any goods to which that tariff item relates or any class or kind of such goods;
 - (c) to the extent he deems expedient, in respect of any goods, when imported goods of the same class or kind specified in Part 1 or 2 of Schedule No. 1 are the subject of an amendment to the said Part 1 or 2 in terms of the provisions of sub-section ([1](#)).
- (4) The Minister may, whenever he deems it expedient in the public interest to do so, by notice in the *Gazette* impose an export duty, on such basis as he may determine, in respect of any goods intended for export or any class or kind of such goods or any goods intended for export in circumstances specified in such notice and any export duty so imposed shall be set out in the form of a schedule which shall be deemed to be incorporated in Schedule No. 1 as Part 3 thereof and to constitute an amendment of Schedule No. 1.
- (5) Whenever the Minister is satisfied that any amendment made under this section has an effect which was not foreseen or intended, he may, after consultation with the Board of Trade and Industries, by further notice in the *Gazette*, adjust such amendment, to the extent he deems fit, with effect from

the date of such amendment and any adjustment effected under this subsection shall be deemed to be an amendment under this section.

- (6) Any amendment made under this section before the date upon which the Minister moves that the House of Assembly go into Committee of Supply on the Estimates of Expenditure to be defrayed from the Consolidated Revenue Fund during a financial year and into Committee of Ways and Means on taxation proposals, shall, unless Parliament otherwise provides, lapse thirty days after the end of the session of Parliament during which the Minister so moved, but without detracting from the validity of such amendment before it has so lapsed.
- (7) Whenever in any legal proceedings any question arises as to whether the Minister in fact moved as described in subsection (6), or as to the date upon which he so moved, a copy of the minutes of proceedings of the House of Assembly, indicating that the Minister so moved and certified by the Secretary of the House to be a true copy, shall be accepted as sufficient evidence that he so moved and of the date upon which it took place.

49. Agreements in respect of rates of duty lower than the general rates of duty

The State President may conclude an agreement with the government of any territory whereby, in consideration of equivalent privileges in respect of the importation of goods produced or manufactured in the Republic, rates of duty lower than the general rates of duty specified in Part 1 of Schedule No. 1 are on importation into the Republic extended to specific goods produced or manufactured in that territory.

50. Agreements in respect of rates of duty lower than the most favoured nation rates of duty

The State President may conclude an agreement with the government of any Commonwealth country or of any territory which is under the protection of the Government of the United Kingdom of Great Britain and Northern Ireland or which is under the trusteeship of any Commonwealth country, whereby in consideration of equivalent privileges in respect of goods imported into that country or territory from the Republic, rates of duty lower than the most favoured nation rates of duty specified in Part 1 of Schedule No. 1 are extended to specific goods produced or manufactured in and imported from that country or territory.

51. Agreements with African Territories

- (1) The State President may conclude an agreement with the government of any territory in Africa in which it is provided that, notwithstanding anything to the contrary in this Act contained—
 - (a) goods produced or manufactured in or imported into the Republic shall be admitted into that territory free of duty or at special rates of duty and goods produced or manufactured in or imported into that territory shall be admitted into the Republic free of duty or at special rates of duty;
 - (b) such arrangements as may be agreed upon between the parties to the agreement shall apply in respect of the admission of any such goods into the territory of one of the parties from the territory of the other party and in respect of the entry of and the collection of duty on goods on importation into the territory of any party from a territory other than the territory of the other party;
 - (c) each party to the agreement shall be compensated in respect of duty on such goods to the extent and in the manner agreed upon between the parties to the agreement.
- (2) Payments made by the government of any territory to the Government of the Republic in terms of any agreement concluded under the provisions of sub-section (1) shall accrue to the Consolidated Revenue Fund and payments by the Government of the Republic to the government of any territory in terms of any such agreement shall be paid out of moneys appropriated by Parliament for the purposes.

- (3) For the purposes of this Act, the agreement concluded in the year 1910 between the Government of the Union of South Africa and the governments of Basutoland, Bechuanaland protectorate and Swaziland, shall be deemed to have been concluded in terms of and to be within the powers conferred by this section.

52. Agreements lapse if not approved by Parliament

The provisions of sub-sections (6) and (7) of section forty-eight shall *mutatis mutandis* apply in respect of any agreement concluded under the provisions of this Chapter, including any agreement amending any of the agreements mentioned in sub-section (1) of section one of the Ottawa Agreements Act, 1933 ([Act No. 8 of 1933](#)).

53. Discrimination by other countries

- (1) If the State President is satisfied that the government of any territory has—
- (a) imposed directly or indirectly on any goods wholly or partly produced or manufactured in the Republic any duty, charge or restriction which is not imposed upon like goods produced or manufactured in any third territory; or
 - (b) has discriminated against the commerce of the Republic in such a manner as to place it at a disadvantage in comparison with the commerce of any third territory,
- he may in his discretion, if he considers that the public interest will be served thereby, by proclamation in the *Gazette* impose—
- (i) on all goods or any class or kind of goods imported from the territory whose government has so acted; and
 - (ii) on all goods or any class or kind of goods whencesoever imported, wholly or partly produced or manufactured in such territory,
- additional duties not exceeding the value for duty purposes of such goods, and from a date to be specified in the proclamation there shall be paid on such goods, upon entry for home consumption thereof, the additional duties at the rates imposed in the proclamation, in addition to any other duties payable on such goods under the provisions of this Act.
- (2) Any additional duty imposed in terms of sub-section (1) shall be set out in the form of a schedule which shall be deemed to be incorporated in Schedule No. 1 as Part 4 thereof and to constitute an amendment of Schedule No. 1.
- (3) The provisions of sub-sections (6) and (7) of section forty-eight shall *mutatis mutandis* apply in respect of any amendment made under the provisions of this section.

54. Provisions with regard to stamp duties

- (1) Any duty in respect of which it is indicated in any tariff item in Part 2 of Schedule No. 1 that such duty is a stamp duty, shall be paid by means of stamp labels affixed to the containers of the goods to which such duty relates or be determined by means of stamp impressions made on the containers of such goods: Provided that the Secretary may, in such circumstances and for such period as he may determine, accept the duty due on such goods in cash.
- (2) The Minister may by regulation prescribe the sizes and types of containers which may be used by a manufacturer for the packing of goods liable to a stamp duty and the manner in which such stamp labels or impressions shall be affixed to or made on such containers and no such goods shall be sold or disposed of or removed from the customs and excise manufacturing warehouse in question in partly or completely manufactured condition except in accordance with the provisions of this Act.
- (3) A manufacturer may, subject to such conditions as the Secretary may impose, be allowed to exchange, for stamp labels of an equal value, stamp labels which have been unavoidably damaged

in his customs and excise warehouse or are lawfully in his possession but are no longer required by him or are faulty, or he may be granted a refund of the duty represented by any such stamp labels.

- (4) (a) Stamp labels may in the Republic be sold only to a manufacturer licensed under this Act to manufacture goods liable to a stamp duty or to any person authorized by the Secretary to purchase such stamp labels and such manufacturer or person shall not sell or dispose of such stamp labels to any other person except with the permission of the Secretary.
- (b) Stamp labels sold to a person outside the Republic shall not be imported into the Republic except for delivery to the Secretary.
- (5) (a) The Minister may, in respect of any goods liable to a stamp duty or any class or kind of such goods, make such regulations as he deems necessary in regard to the cancellation of stamp labels or impressions.
- (b) Any manufacturer, dealer or other person who fails to cancel any stamp label or impression which, in terms of any such regulation, it is his duty to cancel shall be guilty of an offence.
- (6) No person shall—
 - (a) counterfeit or make any facsimile of any stamp, label die or impression stamp prescribed under this Act;
 - (b) be in possession of, use or offer for sale or for use—
 - (i) any stamp label, die or impression stamp counterfeited in contravention of paragraph (a); or
 - (ii) any facsimile of any stamp label, die or impression stamp made in contravention of that paragraph;
 - (c) use or offer for sale or for use any used stamp label.
- (7) A manufacturer who is required under this Act to use any prescribed stamp label, die, impression stamp, ink or any other material, or any stamping, counting or franking machine for any specified purpose or in any specified manner, shall not use any stamp label, die, impression stamp, ink or other material, or any stamping, counting or franking machine not so prescribed for such purpose, or use any such prescribed goods in any manner other than the prescribed manner.
- (8) Subject to the proviso to sub-section (1), a manufacturer or importer shall not remove or permit to be removed from his premises any goods which are liable to a stamp duty unless the containers of such goods have been stamped in accordance with the regulations and no dealer or other person shall sell or expose for sale or have in his possession any such goods in respect of which the regulations relating to the stamping of the containers of such goods have not been complied with.

Chapter VI

Anti-dumping duties

55. Anti-dumping duties provided for in Schedule No. 2

- (1) Subject to the provisions of this section and of the regulations, the goods specified in Schedule No. 2 shall, upon entry for home consumption or, in the case of goods subject to sales anti-dumping duty, at such time as the Minister may prescribe by regulation, be liable, in addition to any other duty payable under the provisions of this Act, to the appropriate anti-dumping duties provided for in respect of such goods in that Schedule at the time of such entry or the time so prescribed, if they are imported from or originate in a territory specified in that Schedule in respect of those goods.
- (2) The Minister may from time to time by notice in the *Gazette*, on the recommendation of the Board of Trade and Industries, amend Schedule No. 2 whenever he is satisfied, in respect of goods which are of a class or kind produced or manufactured in the Republic, that circumstances as set forth in sub-section (5) exist, that detriment may from one or more of the said circumstances result to an

industry within the Republic and that it would be in the public interest to impose the appropriate anti-dumping duty specified in sub-section (5) in respect of such goods: Provided that the Minister may limit the amount of any anti-dumping duty mentioned in sub-section (5) to a percentage of the value for duty purposes of the goods, or alternatively to a specific rate per unit of quantity, volume or weight, which percentage or alternative specific rate shall be determined by him.

- (3) (a) Whenever the Minister is satisfied in terms of subsection (2) that it would be in the public interest to impose a freight anti-dumping duty on any goods, he may for that purpose determine the minimum rate of freight which shall be applicable to that class of kind of goods when conveyed from any particular territory or place to any place of discharge in the Republic or to any place in Africa at which goods are discharged for removal overland into the Republic: Provided that the minimum rate of freight so determined shall in no case exceed the normal rate of freight as certified in terms of paragraph (c) of sub-section (5).
- (b) The Minister shall notify such determination by amendment of Schedule No. 2 which shall be effected by notice in the *Gazette*.
- (4) The provisions of sub-sections (5), (6) and (7) of section forty-eight shall *mutatis mutandis* apply in respect of any amendment made under the provisions of sub-section (2), (3) or (5).
- (5) The anti-dumping duties which may be imposed and the circumstances in which such anti-dumping duties may be imposed in terms of sub-section (2) shall be the following, namely—
 - (a) “ordinary anti-dumping duty”, which may be imposed when goods have been or are being or are likely to be exported to the Republic at a free on board price (as defined in section sixty-seven) which is less than the domestic value (as defined in section sixty-six), thereof, and which shall be the amount by which the said domestic value exceeds the said free on board price;
 - (b) “bounty anti-dumping duty”, which may be imposed when goods have been or are being or are likely to be exported to the Republic and a bounty has been or will be granted in respect thereof in the territory in which they were produced or manufactured or from which they were exported, and which shall be the amount of such bounty, whether such bounty is by way of a bonus, rebate, subsidy or otherwise, and whether it is granted by a government or other authority or person;
 - (c) “freight anti-dumping duty”, which may be imposed when goods have been or are being or are likely to be conveyed to the Republic from a particular territory or place of despatch at a rate of freight less than the rate certified by the South African Shipping Board or other person designated by the Minister, as being the normal rate chargeable on that class or kind of goods from that territory or place and which shall be the amount by which the minimum rate of freight determined by the Minister in terms of sub-section (3) exceeds the rate of freight actually paid;
 - (d) “exchange anti-dumping duty”, which may be imposed when goods have been or are being or are likely to be imported into the Republic from a territory the currency of which is depreciated in relation to the currency of the Republic or when the currency of the territory of origin of such goods which have been or are being or are likely to be imported into the Republic is likewise depreciated, and which shall be the amount by which the free on board price (as defined in section sixty-seven) of the goods is less than such price expressed in the currency of the territory of origin or export of the goods and converted into the currency of the Republic at a rate which the Minister is hereby authorized to determine and to notify by means of an amendment of Schedule No. 2 which shall be effected by notice in the *Gazette*; or
 - (e) “sales anti-dumping duty”, which may be imposed when goods are being or are likely to be sold or offered for sale at a place in the Republic in the ordinary course of trade in wholesale quantities for an amount which is less than the domestic value (as defined in section sixty-six) thereof plus freight, insurance and all charges to that place, including landing, transportation and delivery charges and any duty (other than an anti-dumping duty imposed

under the provisions of this Chapter) payable under this Act, and which shall be the amount by which the said domestic value of the goods, plus the expenses and charges set forth in this paragraph, exceeds the wholesale selling price in the Republic.

- (6) The anti-dumping duties mentioned in paragraphs (a), (b), (c) and (d) of sub-section (5) shall be paid by the importer of the goods at the time of entry for home consumption of such goods and the anti-dumping duty mentioned in paragraph (e) of sub-section (5) shall be paid by the person in the Republic who sells the goods, in the manner and at the time prescribed in the regulations.
- (7) Whenever any anti-dumping duty is imposed on any goods under the provisions of this section, the owner of any such goods stored in a customs and excise warehouse shall produce the invoice and other documents relating to such goods to the Collector not later than the time of entry of all or any part of such goods for removal from such warehouse except in respect of such goods entered for export from a customs and excise warehouse.

56. Anti-dumping duties not normally applicable to goods entered under Schedule No. 3 or 4

An anti-dumping duty imposed under the provisions of section fifty-five shall not apply to any goods entered under the provisions of any item specified in Schedule No. 3 or 4 unless such item is specified in Schedule No. 2 in respect of such goods.

57. Exclusion of certain goods from payment of anti-dumping duty

Notwithstanding the provisions of section fifty-five, the Secretary may, subject to such conditions as he may impose in each case, exempt from payment of any anti-dumping duty, genuine trade samples, replacement parts proved to his satisfaction to have been imported in such circumstances that locally manufactured parts of the same class or kind cannot reasonably be used and that such imported parts are not intended for trade purposes, or any other goods which are imported in such circumstances or in such quantities that the importation of such goods does not, in his opinion, constitute regular importation of such goods for trade purposes.

Chapter VII Amendment of duties

58. Time when new or increased duties become payable

- (1) Whenever the Minister tables in the House of Assembly a taxation proposal imposing a new duty or increasing the rate of duty already payable, upon any goods specified in the said proposal, such new duty or increased rate of duty shall, subject to the provisions of sub-section (2), from the time when the proposal was tabled, be payable on all such goods as have not at the said time been entered for home consumption.
- (2) Whenever the Minister tables, under the provisions of sub-section (1), a taxation proposal relating to imported and excisable goods of the same class or kind, any such goods which the Minister may in the said proposal specify for the purposes of this sub-section, shall though entered for home consumptions prior to the time of such proposal and notwithstanding that they have passed out of customs and excise control, become liable to the new duty or the difference between the rate of duty at the time of such proposal and the increased rate provided for in the said proposal, if they have at the time of such proposal not been delivered from the stocks of an importer, manufacturer or such class of dealer as the Minister may in the said proposal specify.
- (3) For the purposes of this section any goods which are specified by the Minister in any taxation proposal for the purposes of sub-section (2) and which, at the time of the said proposal are in transit to an importer, manufacturer or a class of dealer so specified by the Minister, shall be deemed to form part of the stocks of such importer, manufacturer or dealer, as the case may be,

notwithstanding any terms to the contrary of any contract relating to the sale or delivery of such goods.

- (4) Whenever the Minister has specified any goods in any taxation proposal for the purposes of sub-section (2), every importer or manufacturer or dealer specified in the said proposal shall, in respect of any goods so specified—
- (a) forthwith take stock of all such goods which have not been delivered from his stocks at the time when the proposal was tabled, and make a clear and accurate record of such imported and excisable goods separately;
 - (b) within seven days of the date on which the proposal was tabled, deliver to the Collector a sworn statement giving separately the description and quantities of the said imported and excisable goods, which were in his stocks at the said time, and any other information which the Secretary may require of him; and
 - (c) upon or before the last working day of the month following the month in which the proposal was tabled, pay to the Collector the amount of duty payable by him under sub-section (2) in respect of the goods in question.
- (5) If the Minister specifies in any taxation proposal for the purposes of sub-section (2) that any goods so specified shall be liable to the duties so specified if they have not been delivered from the stocks of a wholesale dealer at the time of the said proposal, the provisions of sub-section (4) shall apply to the stocks of such wholesale dealer and of any retail dealer conducting his business on the same premises: Provided that the Secretary may, upon production by such wholesale dealer of such evidence as he may require, exclude from the stocks or the liability for duty of that wholesale dealer for the purposes of sub-section (2)—
- (a) stocks of a class or kind which are sold, by such retail dealer only; and
 - (b) such proportion of the total duty payable by such wholesale dealer as is represented by the proportion of retail sales to total sales of the goods concerned during the period of three months immediately preceding the date of such proposal, such proportion to be calculated on the basis of quantities of each commodity concerned.
- (6) For the purposes of this section—
- (a) “dealer” means any person who deals in any goods to which this Act relates and includes a club, co-operative society of any nature or any statutory body;
 - (b) “retail dealer” means, subject to the provisions of paragraph (c), any dealer who deals in or holds a licence under any law to deal in retail quantities;
 - (c) “wholesale dealer” means any dealer who deals in or holds a licence under any law to deal in wholesale quantities and the business and stocks of a wholesale dealer shall be deemed to include the business and stocks of any retail dealer who conducts business on the same premises on which the wholesale dealer conducts his business as such; and
 - (d) “deliver” includes any form of delivery except *traditio brevi manu* and *constitutum possessorium*.
- (7) Whenever in any legal proceedings any question arises as to whether the Minister has in fact tabled a taxation proposal as described in this section, or as to the time when such proposal was tabled or the particulars contained in such proposal, a copy of the minutes of proceedings of the House of Assembly, containing such proposal and certified by the Secretary of the House of Assembly to be a true copy, shall be accepted as sufficient evidence that such proposal was tabled and of the time when it was tabled and of the particulars contained therein.

59. Contract prices may be varied to extent of alteration in duty

- (1) Whenever any duty is imposed or increased, directly or indirectly, by amendment in any manner of any Schedule to this Act, on any goods and such goods, in pursuance of a contract made before such

duty or increased duty became payable, are thereafter delivered to and accepted by the purchaser, the seller of the goods may, in the absence of agreement to the contrary, recover as an addition to the contract price a sum equal to any amount paid by him by reason of the said duty or increase.

- (2) Whenever any duty is withdrawn or decreased, directly or indirectly, by amendment in any manner of any Schedule to this Act, on any goods, and such goods in pursuance of a contract made before the withdrawal or decrease became effective are thereafter delivered to the purchaser, the purchaser of the goods may, in the absence of agreement to the contrary, if the seller has in respect of those goods had the benefit of the withdrawal or decrease, deduct from the contract price a sum equal to the said duty or decrease.
- (3) The provisions of this section shall also apply to a contract for the hiring of any goods or the use of any goods in rendering a service at a contract price, and the expressions “seller” and “purchaser” shall correspondingly be construed as including the person by whom and the person to whom the goods are hired or the service rendered.

Chapter VIII

Licensing

60. Licence fees according to Schedule No. 7

- (1) No person shall perform any act or be in possession of or use anything in respect of which a licence is required under this Act unless he has obtained the appropriate licence prescribed in Schedule No. 7 which shall not be issued unless the prescribed licence fee, has been paid.
- (2) The Secretary may, subject to an appeal to the Minister, whose decision shall be final—
 - (a) refuse any application for a new licence or a renewal of any licence; or
 - (b) cancel any licence if the holder of such licence has persistently contravened or failed to comply with the provisions of this Act or has committed an offence referred to in section eighty.

61. Customs and excise warehouse licences

- (1) Before a customs and excise warehouse is licensed the person applying for such licence shall furnish such security as the Secretary may require.
- (2) The Secretary may at any time require that the form, nature or amount of such security shall be altered or renewed in such manner as he may determine.
- (3) The Secretary may by endorsement permit a licence to be transferred from one customs and excise warehouse to another customs and excise warehouse in the area controlled by the same Collector and in the possession of the person to whom the licence has been issued, but no customs and excise warehouse licence shall be transferable from one person to another.
- (4) Not more than one licence shall be issued in respect of any customs and excise warehouse.

62. Agricultural distillers

- (1) No person shall be granted a licence under this Act as an agricultural distiller in the Province of the Cape of Good Hope or the territory of South-West Africa if he has produced in the year for which the licence is required less than five leaguers of wine at a strength of 11.5 per cent absolute alcohol by volume.
- (2) After the commencement of this Act a licence under this Act as an agricultural distiller shall not be granted to any person—
 - (a) who had not at any time before such commencement been licensed under any law relating to excise as an agricultural distiller; or

- (b) who, after such commencement, has for any continuous period of more than twelve months not been the holder of a licence as an agricultural distiller issued under this Act.
- (3) No licence issued under this Act to any person as an agricultural distiller may be transferred to any other person or from one farm to another.
- (4)
 - (a) Any licence issued under this Act to any person as an agricultural distiller shall lapse upon the death of the licensee or upon conviction of the licensee of any offence under this Act or any law relating to the illicit manufacture, conveyance, supply or possession of intoxicating liquor.
 - (b) For the purposes of this sub-section the imposition of a penalty by the Secretary under the provisions of section ninety-one shall be deemed to be a conviction under this Act.
- (5) The provisions of sub-sections (2) and (4) and of sub-section (3) of section sixty-three shall not apply in the case of an agricultural distiller who produces annually a quantity of spirits at a strength of 11.5 per cent absolute alcohol by volume which exceeds a quantity determined by the Secretary and produces such spirits for a purpose approved by the Secretary.

63. Stills to be licensed

- (1) No person shall own or have in his possession or under his control any still except under a licence prescribed in Schedule No. 7 and subject to the regulations: Provided that the Secretary may, subject to such conditions as he may impose, exempt from all or any of the provisions of this sub-section—
 - (a) any licensed still maker in so far as any still manufactured or imported by him for sale and in his possession is concerned; or
 - (b) any person in so far as any still is concerned which he has proved to the satisfaction of the Secretary is in his possession solely as a curiosity or ornament.
- (2) The provisions of sub-sections (3) and (4) of section sixty-two shall *mutatis mutandis* apply in respect of any licence issued in respect of a still under this Act to any person to whom a licence under this Act has been or had at any time been issued as an agricultural distiller: Provided that the provisions of this sub-section shall not apply in respect of any such licence in respect of a still which is held by any such agricultural distiller as is referred to in sub-section (5) of section sixty-two.
- (3)
 - (a) If any agricultural distiller to whom a licence in respect of a still has been issued under this Act voluntarily abandons such still to the department, the Secretary may, out of moneys appropriated by Parliament for the purpose, pay to him, as compensation, such an amount as the Secretary considers to be the current market value of such still.
 - (b) Where any person has so abandoned any still no licence to own a still to be used by him in the capacity of an agricultural distiller shall thereafter be granted to him unless a new licence as an agricultural distiller has, after such abandonment, been issued to him under this Act.
 - (c) Any still abandoned under this sub-section shall be destroyed by the Secretary.

64. Special warehouses for the manufacture of wine

Unless the permission of the Secretary has been obtained to manufacture wine in a customs and excise manufacturing warehouse, no person shall manufacture wine except in a special customs and excise warehouse licensed under this Act.

Chapter IX

Value

65. Value for customs duty purposes

- (1) Subject to the provisions of this Act, the value for duty purposes of any imported goods shall be the domestic value or the free on board price thereof, whichever is the greater.
- (2) For the purposes of this section and of sub-sections (3) and (4) of section seventy, such abnormal costs in effecting shipment as are proved to the satisfaction of the Secretary to have been incurred as the result of a state of war, strikes, lock-outs, riots or civil commotions shall not be regarded as forming part of the domestic value or the free on board price of goods.
- (3) If the value of any imported goods of a single denomination according to the provisions of this section is in excess of twenty rand such value shall for the purpose of assessing the amount of duty payable, be calculated to the nearest rand, an amount of fifty cents being regarded as less than one half of one rand.
- (4) Whenever it is necessary for the Secretary to determine a value or price under the provisions of section sixty-six or sixty-seven in respect of any goods, he may, in such circumstances as he deems expedient, at the request of the importer, determine an estimated value or price in respect of such goods according to information available at the time of importation thereof and such estimated value or price shall, unless it is rejected by the importer, thereafter be regarded as the domestic value or free on board price, as the case may be, of those goods for the purposes of the relevant sections.

66. Definition of domestic value

- (1) Subject to the provisions of this Act, the domestic value of any goods imported into the Republic shall be the market price at which, at the time of purchase by the importer of such goods, such or similar goods are freely offered for sale, for consumption in the territory from which such exportation takes place, in the usual wholesale quantities in the ordinary course of trade to all, purchasers in the principal markets of that territory, including any royalty, and the cost of packages ordinarily used in those markets, plus the extra cost of packing and packages for export, carriage to the port of shipment or other place of final despatch in that territory, and all other expenses incidental to placing the goods on board ship or on any vehicle at that port or place, ready for export to the Republic but shall not include excise duties or sales taxes imposed or drawbacks, refunds, rebates or remissions of customs duty granted on export of such goods by the government of that territory: Provided that if any goods are exported to the Republic from a territory other than the territory in which such goods were produced or manufactured, the Secretary may, for the purpose of this section, regard the territory in which such goods were produced or manufactured as the territory from which such exportation to the Republic takes place.
- (2) When goods are sold in the territory from which they are exported to the Republic or from which they are, in terms of the proviso to sub-section (1) regarded as being so exported, under such conditions that no domestic value thereof can be calculated in terms of sub-section (1), or when goods exported to the Republic are not sold for consumption in the territory from which they are so exported or regarded as being exported or when the domestic value calculated in terms of sub-section (1) is below the ordinary market price at which such or similar goods have been sold in such territory during the six months preceding the date of exportation to the Republic, the Secretary may determine a value which shall, subject to the right of appeal to the Minister, be regarded as the domestic value of those goods.

67. Free on board price

Subject to the provisions of this Act, the free on board price of any imported goods shall be the price charged in respect of such goods by the exporter plus all the costs and charges incidental to the sale in question and to placing such goods on board ship or on any vehicle ready for exportation and any agent's commission (calculated on such price, costs and charges) in respect of such goods: Provided that if in the opinion of the Secretary the free on board price charged in respect of any goods is not the normal free on board price at which such or similar goods would be sold by the exporter to any importer in the Republic under fully competitive conditions at the time of purchase of such goods, or if no charge is made in respect of such goods, the Secretary may determine a price which shall, subject to the right of appeal of the Minister, be regarded as the free on board price of those goods.

68. Certificate of domestic value or charges

In the event of any question arising as to the correctness of any certificate of domestic value given or any statement of bounty, drawback, duty, royalty or any other charge or amount paid or to be paid, made by the manufacturer or supplier in the territory of export, or of any statement of freight charges paid or to be paid, made by the shipper or other consignor or his agent in the country of shipment, in respect of any goods imported into the Republic, a written certificate signed by a person in that territory specially designated by the Minister, certifying such value, bounty, drawback, duty, royalty, freight or other charge or amount may, for assessing the amount of duty or any other matters incidental thereto, be accepted by the Secretary as conclusive evidence of such value, bounty, drawback, duty, royalty, freight or other charge or amount, as the case may be, but subject to the right of appeal to the Minister whose decision shall be final.

69. Value for excise duty purposes

- (1) Whenever it is necessary, for the purpose of assessing the excise duty payable on any goods manufactured in the Republic, to determine the value of such goods, the value thereof shall, subject to the provisions of this section, be taken to be the market price (before deduction of any discounts) at which, at the time of sale, such or similar goods are freely offered for sale, for consumption in the Republic, for purposes of trade in the principal markets of the Republic in the ordinary course of trade, in the usual wholesale quantities and in the condition and the usual packing ready for sale in the retail trade, plus the cost of packing and packages and all other expenses incidental to placing the goods on rail for delivery to the purchaser, but excluding the excise duty on such goods.
- (2) Whenever any such goods are sold or otherwise disposed of in the Republic under such conditions that the value thereof, cannot be calculated in terms of sub-section (1), the Secretary may determine a value which shall, subject to the right of appeal to the Minister, be regarded as the value of such goods determined in terms of sub-section (1).
- (3) The Secretary may, in respect of any such goods or any class or kind of such goods—
 - (a) specify, for the purposes of sub-section (1), the quantity which shall be deemed to be the usual wholesale quantity;
 - (b) specify, for the purposes of sub-section (1), the packing which shall be deemed to be the usual packing ready for sale in the retail trade;
 - (c) determine, for the purposes of sub-section (1), the cost of packing or packages or any other expenses incidental to placing the goods on rail,

and his decision shall, subject to the right of appeal to the Minister, be final.

70. Secretary may require valuation

- (1) Notwithstanding anything to the contrary contained in this Chapter, the Secretary may, if he is not satisfied as to the correctness of the value for duty or tariff classification purposes of any imported

or excisable goods declared by the importer or the manufacturer, as the case may be, require such importer or manufacturer to declare before him on oath to the truth of such declaration, according to the best knowledge and belief of the said importer or manufacturer and to adduce any documentary evidence he may possess in support thereof, and the Collector is hereby authorized to administer such oath: Provided that if it appears to the Collector (whether or not such oath has been required) that the goods have been declared at a value below the correct value thereof for purpose of duty or tariff classification under the provisions of any Schedule to this Act, he may require the goods to be examined by two competent persons, one to be nominated by the Secretary and the other by the importer or manufacturer.

- (2) The two persons referred to in sub-section (1) shall, before entering upon any enquiry, appoint an umpire, and shall declare on oath before the Collector what is to the best of their knowledge and belief the correct value of the goods for duty or tariff classification purposes, and if those persons do not agree, the umpire shall declare on oath before the Collector what is to the best of his knowledge and belief the said value.
- (3) If the two persons nominated in terms of sub-section (1) declare the same value, that value, or otherwise the value declared by the umpire shall be the value of the goods for duty or tariff classification purposes, provided, in the case of imported goods, such value is not less than the actual free on board price of the said goods or, in the case of excisable goods, such value is not less than the actual free on rail price of the said goods charged by the manufacturer.
- (4) If an importer or manufacturer, after he has been required by the Collector to make an appointment in terms of sub-section (1), fails to do so within three days, or if no declaration is made by the person appointed by the importer or manufacturer within three days of his appointment, the value declared by the person appointed by the Secretary shall be the value of the goods for duty or tariff classification purposes, provided, in the case of imported goods, such value is not less than the actual free on board price of the said goods or, in the case of excisable goods, such value is not less than the actual free on rail price of the said goods charged by the manufacturer.

71. Value of certain specified goods

- (1) The value for duty purposes of any goods imported into the Republic ex customs warehouses or ex bonded warehouses within the district of Lourenco Marques shall be calculated or determined in accordance with this Chapter as if such goods were imported directly into the Republic from the territory whence they were exported to Lourenco Marques.
- (2) Where any used motor vehicle is imported or where any new motor vehicle is imported by a natural person for his own use and not for sale, the Secretary may determine the value for duty purposes of such vehicle and his determination shall be final: Provided that where any natural person who was the owner of and has used such motor vehicle in any territory outside the Republic, imports such vehicle into the Republic, from a territory other than the territory in which it was produced or manufactured, for his own use, and not for sale, the Secretary may determine the value for duty purposes of such vehicle as if it were imported into the Republic from the territory in which it was produced or manufactured: Provided further that no period of use of any such motor vehicle, outside the Republic, while in the possession of any person normally resident in the Republic, which is less than six months shall be taken into consideration in determining such value.

72. Value of goods exported

- (a) For the purposes of this Act, the value of any goods exported from the Republic shall be the price of those goods free on board at the place of despatch from the Republic, which value shall be declared on the bill of entry export.
- (b) If there is no such free on board price, the value determined by the Secretary shall be regarded as the value for the said purposes.

73. Rate of exchange for conversion of values

The Minister may by regulation determine the rate and time at which the domestic value and the free on board price of imported goods shall be converted into the currency of the Republic.

74. Value of goods not liable to *ad valorem* duty

- (1) Subject to the provisions of sub-section (2), the domestic value and the free on board price of any imported goods shall be declared by the importer on entry of such goods.
- (2) The Minister may by regulation exempt, to the extent specified in the regulations, any class or kind of such goods or any such goods to which circumstances so specified apply, from the provisions of sub-section (1).

Chapter X

Rebates, refunds and drawbacks of duty

75. Specific rebates, drawbacks and refunds of duty

- (1) Subject to the provisions of this Act and to any conditions which the Secretary may impose—
 - (a) any imported goods described in Schedule No. 3 shall be admitted under rebate of any customs duties applicable in respect of such goods at the time of entry for home consumption thereof, to the extent and for the purpose or use stated in the item of Schedule No. 3 in which they are specified;
 - (b) any imported goods described in Schedule No. 4 shall be admitted under rebate of any customs duties applicable in respect of such goods at the time of entry for home consumption thereof, to the extent and for the purpose or use stated in the item of Schedule No. 4 in which such goods are specified;
 - (c) a drawback or a refund of the ordinary customs duty and anti-dumping duty actually paid on entry for home consumption on any imported goods described in Schedule No. 5 shall be paid to the person who paid such duties or any person indicated in the notes to the said Schedule, subject to compliance with the provisions of the item of the said Schedule in which those goods are specified;
 - (d) in respect of any excisable goods described in Schedule No. 6, a rebate of the excise duty specified in Part 2 of Schedule No. 1 in respect of such goods at the time of entry for home consumption thereof or a refund of the excise duty actually paid at the time of entry for home consumption shall be granted to the extent and in the circumstances stated in the item of Schedule No. 6 in which such goods are specified, subject to compliance with the provisions of the said item and any refund under this paragraph may be paid to the person who paid the duty or any person indicated in the notes to the said Schedule No. 6.
- (2) A rebate of duty in respect of any goods described in Schedule No. 3 shall be allowed—
 - (a) only in respect of goods entered for use in the production or manufacture of goods in the industry and for the purpose specified in the item of the said Schedule in which those goods are specified;
 - (b) only in respect of goods entered for use in—
 - (i) a factory which is situated in an area approved by the Minister and is registered under the Factories, Machinery and Building Work Act, 1941 ([Act No. 22 of 1941](#)), or any like law in force in the territory of South-West Africa; or
 - (ii) a mine or works as defined in section one of the Mines and Works Act, 1956 ([Act No. 27 of 1956](#)), and which is situated in an area approved by the Minister;

- (c) only in respect of goods entered for use in such industry in a factory, mine or works which complies with such requirements in respect of number of operatives employed, number of machines in continuous use, quantity of material used or quantity of goods produced or manufactured as the Secretary may impose in consultation with the Board of Trade and Industries.
- (3) The Minister may exempt any goods described in Schedule No. 3 and entered for use in a particular industry, from the provisions of paragraph (b) of sub-section (2), and for the purposes of sub-paragraph (i) of the said paragraph, may limit the application of his approval of an area to the manufacture of one or more specified articles or substances.
- (4) Notwithstanding the provisions of section fifty-six a rebate of any anti-dumping duty specified in Schedule No. 2 in respect of any goods entered under the provisions of any item specified in Schedule No. 3 or 4 may be granted if it is expressly stated in such item of Schedule No. 3 or 4 that the extent of the rebate includes such anti-dumping duty.
- (5)
 - (a) Subject to the provisions of sub-section (6), no goods in any consignment which have been entered under rebate of duty under this section shall be used or disposed of otherwise than in accordance with the provisions of this section and of the item under which they were so entered and if any such goods are so used or disposed of the person who entered such goods under rebate of duty shall be liable for the duty on all the goods in that consignment or any such portion thereof as the Secretary may in his discretion determine, as if such rebate of duty did not apply to such goods, at the time when the duty for which he is liable is paid and such person shall pay such duty on demand by the Secretary: Provided that the Secretary may, if such goods were used in accordance with any other item relating to the rebate of duty, accept duty on such goods as if they were entered under such other item at the said time: Provided further that the Secretary may, in his discretion, permit any duty paid on entry of such goods under rebate to be deducted from any duty for which any person becomes liable in terms of this paragraph.
 - (b) Any person to whom any kerosene, distillate fuel or residual fuel oil has been supplied from stocks which have been entered under rebate of duty at a price which has been reduced to the extent of such rebate for a purpose stated in the item under which such kerosene, distillate fuel or residual fuel oil was so entered, and who applies such kerosene, distillate fuel or residual fuel oil or any portion thereof to any other purpose shall be guilty of an offence and shall, notwithstanding the provisions of paragraph (a), be liable for the duty to the extent of the rebate allowed on entry for home consumption of such kerosene, distillate fuel or residual fuel oil on the full quantity of the kerosene, distillate fuel or residual fuel oil so supplied to him or on such portion thereof as the Secretary may in his discretion determine.
- (6)
 - (a) The Secretary may, on such conditions as he may impose, permit any person who has entered any goods under rebate of duty under this section to use or dispose of any such goods otherwise than in accordance with the provisions of this section and of the item under which such goods were so entered or to use or dispose of any such goods in accordance with the provisions of any other item to which this section relates and such person shall thereupon be liable for duty on such goods as if such rebate of duty did not apply or as if they were entered under such other item to which this section relates, as the case may be, and such person shall pay such duty on demand by the Secretary: Provided that, in respect of any such goods which are specified in any item of Schedule No. 3, 4 or 6, the Secretary may, subject to the provisions of or the notes applicable to the item in which such goods are specified and to any conditions which he may impose in each case, exempt any such goods from the whole or any portion of the duty payable thereon under this sub-section on the ground of the period or the extent of use in accordance with the provisions of the item under which such goods were entered, or on any other ground which he considers reasonable.
 - (b) Any duty paid on any such goods on first entry thereof under rebate of duty shall be deemed to have been paid in respect of any duty payable in accordance with the provisions of paragraph (a) in respect of such goods.

- (7) No drawback or refund shall be paid in respect of any goods specified in any item of Schedule No. 5 or 6 if such goods have been used or disposed of otherwise than in accordance with the provisions of this section and the item in question or if such provisions have not been complied with in respect of such goods: Provided that the Secretary may, in respect of any class or kind of goods specified in any item of Part 1 of Schedule No. 5 or any such goods to which such circumstances apply as he may specify by rule, pay any drawback to the extent stated in such item notwithstanding that the goods exported cannot be identified with the goods in respect of which such drawback is claimed.
- (8) Wherever the tariff heading or sub-heading or the tariff item or sub-item under which any goods are classified in Schedule No. 1 is expressly quoted in any item of Schedule No. 3, 4, 5 or 6 in which such goods are specified, the goods so specified in the said item of Schedule No. 3, 4, 5 or 6 shall be deemed not to include goods which are not classified under the said tariff heading or sub-heading or tariff item or sub-item.
- (9) Any goods entered for use under rebate of duty under this section shall, for the purposes of this Act, be deemed to be entered for home consumption but no entry in respect of any such goods described in Schedule No. 3 or 4 shall be valid unless the number of the tariff heading and sub-heading under which such goods are classified in Part 1 or Part 2 of Schedule No. 1 and the number of the item of Schedule No. 3 or 4 in which the said goods are specified are both declared on such entry and the industry in which and the purpose for which such goods are to be used, as specified in the said item, are declared on such entry.
- (10) No goods may be admitted or entered under rebate of duty under this section until the person so entering them has furnished such security as the Secretary may require and has complied with such other conditions (including registration with the Secretary of his premises and plant) as may be prescribed by the Minister by regulation in respect of any goods specified in any item of Schedule No. 3, 4 or 6.
- (11) The Secretary may, in respect of Schedule No. 6, for the purposes of calculating the amount of duty refundable on any excisable goods used in the manufacture of any goods exported, determine the quantity of such exported goods which shall be deemed to have been produced from a given quantity of such excisable goods or the quantity of such excisable goods which shall be deemed to have been used in the production of a given quantity of such exported goods.
- (12) No goods manufactured from excisable goods under rebate of duty specified in any item of Schedule No. 6 shall be used in the place of such excisable goods in the manufacture of any other goods if a rebate of duty to a lesser extent has been specified in any item of the said Schedule in respect of such excisable goods when used in the manufacture of such other goods.
- (13) If the Secretary is of the opinion that any goods, not being a spirituous beverage, manufactured from spirits under rebate of excise duty in terms of any formula approved by him under any item of Schedule No. 6, are used as a beverage, he may forthwith revoke his approval of such formula.
- (14) No refund or drawback of duty shall be paid by the Secretary under the provisions of this section unless an application therefor, duly completed and supported by the necessary documents and other evidence to prove that such refund or drawback is due under this section is received by the department—
- (a) in the case of goods exported, within a period of six months from the date of removal for export; and
 - (b) in all other cases, within a period of one month from the date when such refund first becomes due:

Provided that the Secretary may, in such circumstances as he may consider exceptional, pay a refund or drawback after expiration of the relevant period.

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

- (16) The provisions of sub-section (5), (6) and (7) of section forty-eight shall *mutatis mutandis* apply in respect of any amendment made under the provisions of sub-section (15).
- (17) The Secretary may refuse to accept an entry under rebate or an application for drawback or refund under any item of Schedule No. 3, 4, 5 or 6 from any person who has persistently contravened or failed to comply with the provisions of this Act or who has committed an offence referred to in section eighty and he may cancel any registration of such person under the provisions of this Act or suspend any such registration for such period as he may deem fit.
- (18) Subject to the provisions of the proviso to sub-section (8) of section eighteen, the proviso to sub-section (5) of section twenty and items Nos. 407.03 (in so far as it relates to tariff heading 87.00), 412.07, 412.08, 522.01, 531, 532, 608.01, 608.02 and 608.03 of Schedules Nos. 4, 5 and 6, no rebate or refund of duty in respect of any loss or deficiency of any nature of any goods shall be allowed, but the Secretary may allow the deduction from the dutiable quantity of the undermentioned goods of a quantity equal to the percentages stated below, namely—
 - (a) in the case of imported or excisable petrol or aviation spirits, 0.25 per cent of any quantity placed in any customs and excise storage warehouse;
 - (b) in the case of spirits (ethyl alcohol) manufactured in the Republic, 1.5 per cent of the quantity so manufactured; and
 - (c) in the case of wine manufactured in the Republic, 0.5 per cent of the quantity so manufactured.

76. General refunds in respect of imported or excisable goods

- (1) No refund of duty or other charge in respect of imported or excisable goods, other than a refund provided for under section seventy-five, shall be paid or granted except in accordance with the provisions of this section and the regulations.
- (2) The Secretary shall, subject to the provisions of subsection (4), consider any application for a refund or payment from any applicant who contends that he has paid any duty or other charge for which he was not liable or that he is entitled to any payment under this Act.
- (3) Except with the permission of the Secretary, any application for a refund under this section shall not relate to more than one bill of entry or other document in respect of which the alleged overpayment was made.
- (4) No application for a refund or payment in terms of this section shall be considered by the Secretary unless it is received by the Collector, duly completed and supported by the necessary documents and other evidence to prove that such refund or payment is due under this section, within a period of two years from the date on which the duty or charge to which the application relates was paid: Provided that the Secretary may, in such circumstances as he may consider exceptional, consider any such application after expiration of such period.
- (5) If, after considering any application for a refund or payment in terms of this section, the Secretary is satisfied that the applicant is entitled to any such refund or payment that Secretary 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, less than two rand, unless the Secretary is satisfied that exceptional circumstances exist which warrant such refund.
- (6) Any duty refunded or rebated under the provisions of this Act shall forthwith be repaid to the Collector by the person to whom such refund has been paid or such rebate has been allowed if such person is compensated in respect of such duty by any other person.

77. Overpayments in respect of excisable goods

- (a) Any amount due to a manufacturer in respect of excise duty paid by him for which he was not liable may, at any time within a period of one year from the date on which such amount first becomes due, be set off against any amount for which such manufacturer subsequently becomes liable in respect of excise duty, provided the accounts submitted by the manufacturer in respect of the payment of any amount against which any amount so due to him has been set off are accompanied by a full statement by the manufacturer, supported by a certificate by an officer, giving full particulars of the excise duty so paid and a full account of the circumstances under which the payment thereof took place and by such documentary evidence as the Secretary may in each case require.
- (b) If the set off of any amount is not allowed by the Secretary in terms of paragraph (a) such amount shall be re-debited to the account of the manufacturer

Chapter XI

Penal provisions

78. Offences not expressly mentioned

- (1) Any person who contravenes any provision of this Act or who fails to comply with any such provision with which it is his duty to comply, shall, even where such contravention or failure is not elsewhere declared an offence, be guilty of an offence.
- (2) Any person guilty of an offence under this Act shall, where no punishment is expressly provided for such offence, be liable on conviction to a fine not exceeding four hundred rand 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 six months, or to both such fine and such imprisonment.
- (3) A person who is convicted of an offence referred to in sub-section (2) within a period of three years after he was convicted of any offence referred to in that sub-section shall be liable to a fine not exceeding six hundred rand 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 nine months, or to both such fine and such imprisonment.

79. Less serious offences and their punishment

- (1) Any person who—
 - (a) supplies the means or materials for, or assists in establishing, repairing, maintaining or working any still being made or made, imported, used, set up or in the possession or custody of any person without lawful authority;
 - (b) is found without lawful excuse in any place where distillation is illegally carried on;
 - (c) refuses or fails to comply with the lawful requirements of an officer or refuses or fails to answer to the best of his power any question which an officer in the exercise of his functions has put to him;
 - (d) sells, offers or keeps for sale or distributes or exhibits any issue of a publication which is in terms of paragraph (b) of sub-section (3) of section one hundred and thirteen deemed for the purposes of that section to be indecent, obscene or objectionable;
 - (e) falsely holds himself out to be an officer;
 - (f) resists or hinders an officer in the exercise of his powers or the performance of his functions under this Act; or

- (g) rescues any persons apprehended for any offence under this Act, or prevents the apprehension of any person who has committed any such offence,

shall be guilty of an offence and liable on conviction to a fine not exceeding four hundred rand or to imprisonment for a period not exceeding six months, or to both such fine and such imprisonment.

- (2) A person who is convicted of an offence referred to in sub-section (1) within a period of three years after he was convicted of any offence referred to in that sub-section shall be liable to a fine not exceeding six hundred rand or to imprisonment for a period not exceeding nine months, or to both such fine and such imprisonment.

80. Serious offences and their punishment

- (1) Any person who—

- (a) has upon his premises or in his custody or under his control, or purchases, sells or otherwise disposes of any illicit goods knowing the same to be illicit goods;
- (b) not being a licensed manufacturer, without lawful authority, has in his possession or custody or under his control any partly manufactured excisable goods or excisable goods upon which duty has not been paid;
- (c) removes or assists in or permits the removal of goods in contravention of any provision of this Act;
- (d) deodorises, clarifies or, prior to sale, reduces the strength of methylated spirits to a strength below a strength of 91.4 per cent absolute alcohol by volume, or prepares or sells or offers for sale or consumption, as a beverage, any preparation containing methylated spirits or spirits recovered from methylated spirits;
- (e) removes or breaks or interferes with any lock, meter, gauge, rod, seal, mark or fastening placed on or fitted to any warehouse, vessel, package, container or other article, place or plant, by an officer under any provision of this Act;
- (f) damages, destroys or disposes of any goods to prevent the securing or seizure thereof under the provisions of this Act by any officer or other person authorized to secure or seize the same, or takes back any goods which are being detained or have been seized;
- (g) contravenes the provisions of sub-section (6) of section fifty-four;
- (h) without lawful excuse (the proof of which shall lie upon him), brings into the Republic or has in his possession any signed blank or incomplete invoice or any billhead or other similar document capable of being filled up and used as an invoice for goods from outside the Republic;
- (i) makes improper use of a licence, permit or other document issued in respect of goods to which this Act relates;
- (j) claims any rebate, drawback, refund or payment to which he knows he is not entitled under this Act or fails forthwith to repay to the Collector any duty which has been refunded or rebated under the provisions of this Act and in respect of which he has been compensated by any other person;
- (k) not being authorized to do so, gives or promises to give, directly or indirectly, any reward to an officer or any person employed by the Government, in respect of the performance or non-performance by any such officer or person of his duty or employment under this Act or agrees with or proposes to any such officer or person to do or permit anything in contravention or evasion of this Act;
- (l) being an officer or a person employed by the Government, demands or receives, except from or through the Government, any reward in respect of the performance or non-performance of

his duty or employment under this Act or by any wilful act, neglect or default does or permits or agrees to do or permit anything in contravention or evasion of this Act;

- (m) attempts to commit or assists in committing any offence mentioned in this section;
- (n) from any goods made from or containing excisable goods extracts or recovers such excisable goods in contravention of the provisions of this Act; or
- (o) contravenes the provisions of sub-section (13) of section eighteen,

shall be guilty of an offence and liable on conviction to a fine not exceeding one thousand rand 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 twelve months, or to both such fine and such imprisonment.

- (2) When any person is charged with a contravention of paragraph (a) of sub-section (1) he shall, until the contrary is proved, be presumed to have known that the goods in question were illicit goods.

81. Non-declaration of goods

Any person who is asked by an officer whether he has any dutiable goods or goods the importation or exportation of which is prohibited or restricted under any law upon his person or in his possession, and denies it, or makes any statement for customs or excise purposes as to any dutiable goods or prohibited or restricted goods upon his person or in his possession from which any dutiable goods or prohibited or restricted goods are omitted, shall, if any such goods are discovered to be or to have been upon his person or in his possession at the time of the denial, or of the statement, be guilty of an offence and liable on conviction to a fine not exceeding two thousand rand or treble the value of the goods in question, whichever is the greater, or to imprisonment for a period not exceeding two years, or to both such fine and such imprisonment, and the goods in question and any other goods contained in the same package as well as the package itself shall be liable to forfeiture.

82. Irregular export or carriage of munitions

If any goods referred to in sub-section (5) of section one hundred and thirteen are, in contravention of any proclamation issued in terms thereof, exported from the Republic, or carried in transit through the Republic or carried coastwise to any place, the exporter, owner, consignor or shipper thereof shall be guilty of an offence and liable on conviction to a fine not exceeding two thousand rand or to imprisonment for a period not exceeding two years, or to both such fine and such imprisonment, and such goods shall be liable to forfeiture.

83. Irregular dealing with or in goods

Any person who—

- (a) deals or assists in dealing with any goods contrary to the provisions of this Act; or
- (b) knowingly has in his possession any goods liable to forfeiture under this Act; or
- (c) makes or attempts to make any arrangement with a supplier, manufacturer, exporter or seller of goods imported or to be imported into or manufactured or to be manufactured in the Republic or with any agent of any such supplier, manufacturer, exporter or seller, regarding any matter to which this Act relates, with the object of defeating or evading the provisions of this Act,

shall be guilty of an offence and liable on conviction to a fine not exceeding two thousand rand 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.

84. False documents and declarations

Any person who makes a false statement in connection with any matter dealt with in this Act, or who makes use for the purposes of this Act of a declaration or document containing any such statement shall, unless he proves that he was ignorant of the falsity of such statement and that such ignorance was not due to negligence on his part, be guilty of an offence and liable on conviction to a fine not exceeding two thousand rand or treble the value of the goods to which such statement, declaration or document relates, 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 false statement was made or such false declaration or document was used shall be liable to forfeiture.

85. Beer of higher or lower gravity than indicated by label on container

Any manufacturer of beer in whose customs and excise warehouse or on whose delivery vehicle beer packed for sale is found of a specific gravity before fermentation higher or lower than such gravity specified in the sub-item of tariff item 104.10 registered in terms of sub-section (4) of section thirty-six in relation to bear of the name indicated on the container of the beer so found shall be guilty of an offence and liable on conviction to a fine not exceeding two thousand rand 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.

86. Fines in respect of undervaluation

If the value for duty purposes of any goods as ascertained and declared under any provision of section seventy exceeds the value originally declared by the importer or the manufacturer, there shall be paid thereon, in addition to the duty payable and any penalty prescribed in respect of any contravention of any other provision of this Act, such penalty, not exceeding an amount equal to the value of such goods, as the Secretary may impose, and if the importer or manufacturer fails or refuses to pay such penalty the said goods shall be liable to forfeiture.

87. Goods irregularly dealt with liable to forfeiture

- (1) Any goods imported, exported, manufactured, warehoused, removed or otherwise dealt with contrary to the provisions of this Act or in respect of which any offence under this Act has been committed (including the containers of any such goods) or any plant used contrary to the provisions of this Act in the manufacture of any goods shall be liable to forfeiture wheresoever and in possession of whomsoever found: Provided that forfeiture shall not affect liability to any other penalty or punishment which has been incurred under this Act or any other law, or entitle any person to a refund of any duty or charge paid in respect of such goods.
- (2)
 - (a) Any ship or vehicle used in the removal or carriage of any goods liable to forfeiture under this Act shall be likewise liable to forfeiture unless it is shown that such ship or vehicle was so used without the consent or knowledge of the owner of such ship or vehicle or other person lawfully in possession or charge thereof.
 - (b) Any ship or vehicle in which goods liable to forfeiture under this Act are used as fuel or in any other manner shall likewise be liable to forfeiture unless it is shown that such goods were so used without the consent or knowledge of the owner of such ship or vehicle or other person lawfully in possession or charge thereof.

88. Seizure

Any ship, vehicle, plant, material or goods liable to forfeiture under this Act, or which he has reasonable cause to believe are liable to forfeiture under this Act, may be detained by any officer, magistrate or member of the police force and the Secretary may, in his discretion, seize such ship, vehicle, plant, material or goods.

89. Notice of claim by owner in respect of seized goods

- (1) Any ship, vehicle, plant, material or goods which have been seized under this Act, shall be deemed to be condemned and may be disposed of in terms of section ninety unless the person from whom the same have been seized or the owner or his authorized agent gives notice in writing, within one month after the date of the seizure, to the person seizing or to the Secretary or to the Collector in the area where the seizure was made, that he claims or intends to claim the said ship, vehicle, plant, material or goods.
- (2) If no such notice is given, no legal proceedings whatever shall thereafter be instituted against the State, the Minister, the Secretary or any officer, based merely upon the seizure of such ship, vehicle, plant, material or goods.
- (3) When a notice in writing has been given in terms of subsection (1), the person giving such notice shall, within ninety days of the date of such notice, but, except with the consent of the Secretary, not earlier than one month from the date thereof, institute proceedings in a court of competent jurisdiction for release of the said ship, vehicle, plant, material or goods.

90. Disposal of seized goods

- (a) Whatever is seized as being liable to forfeiture under this Act, shall forthwith be delivered to the Collector at the customs and excise office nearest to the place where it was seized or it may be secured by the Collector by sealing, marking, locking, fastening or otherwise securing or impounding it on the premises where it is found or by removing it to a place of security determined by the Collector.
- (b) The Collector shall, after condemnation thereof, cause the thing in question to be sold by public auction or in any other manner which the Secretary may deem suitable: Provided that the Secretary may direct that, in lieu of being sold, any such thing shall be destroyed or shall be appropriated to the State: Provided further that if any such thing is of a perishable or dangerous nature the Secretary may direct the sale or destruction thereof before condemnation.

91. Admission of guilt

- (1) If any person—
 - (a) admits to the Secretary that he has contravened any provision of this Act, or that he has failed to comply with any such provision with which it was his duty to comply; and
 - (b) agrees to abide by the Secretary's decision; and
 - (c) deposits with the Secretary such sum as the Secretary may require of him but not exceeding the maximum fine which may be imposed upon a conviction for the contravention or failure in question or makes such arrangements or complies with such conditions with regard to securing, the payment of such sum as the Secretary may require,the Secretary may, after such enquiry as he deems necessary, determine the matter summarily and may, without legal proceedings, order forfeiture by way of penalty of the whole or any part of the amount so deposited or secured.
- (2) There shall be a right of appeal to the Minister from any determination or order of the Secretary under sub-section (1), whereby a penalty exceeding two hundred rand is imposed, and the Minister's decision on any such appeal shall be final.
- (3) Subject to the provisions of sub-section (4) of section sixty-two, the imposition of a penalty under sub-section (1) shall not be regarded as a conviction in respect of a criminal offence, but no prosecution for the relevant offence shall thereafter be competent.
- (4) Nothing in this section shall in any way affect liability to forfeiture of goods or payment of duty or other charges thereon.

92. Payment and disposal of fines and penalties

Any fine or penalty recovered under this Act shall be paid to the Collector in the area where such fine or penalty is recovered, and shall be paid by him into the Consolidated Revenue Fund, and the proceeds of sale of anything forfeited or seized and condemned under this Act shall also be paid into the said fund: Provided that the Secretary may in his discretion withhold a sum not exceeding one-third of any such fine, penalty or proceeds which he may then award to any person (including any officer) by whose means or information the fine or penalty or forfeiture was imposed or the seizure made.

93. Remission or mitigation of penalties and forfeiture

The Secretary may direct that any ship, vehicle, plant, material or goods seized under this Act be delivered to the owner thereof, subject to payment of any duty which may be payable in respect thereof and any charges which may have been incurred in connection with the seizure, whether or not condemnation has taken place, and may, mitigate or remit any penalty or forfeiture incurred under this Act on such conditions as he deems fit: Provided that if the owner accepts such conditions, he shall not thereafter be entitled to institute or maintain any action for damages on account of the seizure or detention.

94. Recovery of penalties by process of law

- (a) Without derogation from any powers conferred upon the Secretary any penalty, fine or forfeiture incurred under this Act may be recovered either by civil action or upon criminal prosecution in any court of competent jurisdiction, and in the case of a criminal prosecution the court passing sentence may also make an order regarding any unpaid duty or charge and impose civil penalties or enforce forfeiture.
- (b) Any civil proceedings under this section may be instituted in the name of the Secretary.

95. Jurisdiction of courts

A court shall have jurisdiction to try any person for an offence under this Act whenever the thing in respect of which such offence was committed was found within or was conveyed from, to or through the area of jurisdiction of that court.

96. Notice of action and period for bringing action

- (1) No legal proceedings shall be instituted against the State, the Minister, the Secretary or an officer for anything done in pursuance of this Act until one month after delivery of a notice in writing setting forth clearly and explicitly the cause of action, the name and place of abode of the person who is to institute proceedings and the name and address of his attorney or agent, if any.
- (2) Subject to the provisions of section eighty-nine, the period of extinctive prescription in respect of legal proceedings against the State, the Minister, the Secretary or an officer on a cause of action arising out of the provisions of this Act shall be one year and shall begin to run on the date when the right of action first arose.

Chapter XII

General

97. Master or pilot may appoint agent

Notwithstanding anything to the contrary in this Act contained, the master of a ship or pilot of an aircraft, instead of himself performing, any act, including the answering of questions, required by or under any provision of this Act to be performed by him, may at his own risk, appoint an agent to perform any such act, and any such act performed by such agent shall in all respects and for all purposes be deemed to be

the act of the master or pilot, as the case may be: Provided that the personal attendance of the master or pilot may be demanded at any time by the Collector.

98. Liability of principal for acts of agent

Every importer, exporter, master, pilot, manufacturer, 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.

99. Liability of agent for obligations imposed on principal

- (1) An agent appointed by any master or pilot, and any person who represents himself to any officer as the agent of any master or pilot, and is accepted as such by that officer, shall be liable for the fulfilment, in respect of the matter in question, of all obligations, including the payment of duty and charges, imposed on such master or pilot by this Act and to any penalties or forfeitures which may be incurred in respect of that matter.
- (2) An agent appointed by any importer, exporter, manufacturer, licensee, remover of goods in bond or other principal and any person who represents himself to any officer as the agent of any importer, exporter, manufacturer, licensee, remover of goods in bond or other principal, and is accepted as such by that officer, shall be liable, in respect of the matter in question, to any penalties which may be incurred in respect of that matter.
- (3) Every clearing, shipping and forwarding agent and every agent acting for the master of a ship or the pilot of an aircraft and any other class of agent which the Minister may by regulation specify, shall, before transacting any business with the department, give such security as the Secretary may from time to time require for the due observance of the provisions of this Act: Provided that the Secretary may call for special or additional security in respect of any particular transaction from any agent.

100. Agent may be called upon to produce written authority

If any person makes an application to an officer to transact any business on behalf of another person or if any person represents himself to an officer as the agent of another person, such officer may require the person so applying or representing himself to produce a written authority in the form approved by the Secretary, from the person on whose behalf such application is made or on whose behalf the person so representing himself is alleged to be acting, and in default of the production of such authority, the officer may refuse to transact such business.

101. Business accounts, documents, etc. to be available for inspection

- (1)
 - (a) Any person carrying on any business in the Republic shall keep within the Republic in one of the official languages reasonable and proper books or accounts of his transactions.
 - (b) Any such person shall, if required at any time within a period of two years after the date of importation, exportation, manufacture or purchase of any goods, produce to any officer all documents relating to those goods which may have come into or may have been in his possession or custody at any time during the said period, and shall keep such books, accounts and documents open for inspection by an officer at all times within the said period: Provided that all ledgers shall be so kept for a period of five years and all invoices referred to in paragraph (c) of sub-section (1) of section thirty-nine in respect of imported goods placed in a customs and excise warehouse shall be so kept by the importer concerned for a period of five years.
- (2) The Minister may by regulation prescribe the method or form in which such documents as he may by regulation specify, shall be kept.

102. Sellers of goods to produce proof of payment of duty

- (1) Any person selling, offering for sale or dealing in imported or excisable goods or any person removing the same, or any person having such goods entered in his books or mentioned in any document referred to in section one hundred and one 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, as to the place where the duty due thereon was paid, the date of payment, the particulars of the entry for home consumption and the marks and numbers of the cases, packages, bales and other articles concerned, which marks and numbers shall correspond with the documents produced in proof of the payment of the duty.
- (2) In any prosecution of any person on account of the non-payment of duty on any goods, and in any proceedings against any person for the recovery of duty on any goods, any statement in any record kept by or on behalf of such person to the effect that such goods of a particular quantity or strength or other characteristic have been manufactured, imported or held in stock by him at any time, shall be admissible in evidence against him as an admission that he has at that time manufactured, imported or held in stock goods of that quantity, strength or other characteristic.
- (3) If in any such prosecution or proceedings any person claims that he has sold or used or disposed of or is in possession of any goods in such a manner as not to render them subject to duty the burden of proving that such goods have been sold, used or disposed of or are in his possession in such manner, shall be upon him.
- (4) In any prosecution under this Act and in any dispute in which the Minister or Secretary is a party, the onus of proving that the proper duty has been paid or that goods or plant have been lawfully imported, exported, manufactured, removed or otherwise dealt with or in shall be on the person who claims that the proper duty has been paid or that the goods or plant have been lawfully imported, exported, manufactured, removed or otherwise dealt with or in.

103. Liability of company, partnership, etc.

For the purposes of this Act any reference to a person shall be deemed to include a reference to a company, co-operative society, firm, partnership, statutory body or club and in the event of a contravention of or non-compliance with this Act or the incurring of any liability under this Act by any company, co-operative society, firm, partnership, statutory body or club any person having the management of any premises or business in or in connection with which the contravention or non-compliance took place, or the liability was incurred may be charged with the relevant offence and shall be liable to any penalties provided therefor and shall be liable in respect of any liability so incurred.

104. Payment to South-West Africa of duty on goods consumed in that Territory

- (1) All duties collected in the territory of South-West Africa and all duties on excisable goods removed from the Republic to the territory for consumption therein shall accrue to the Consolidated Revenue Fund, and the amount thereof shall be paid into the Territory Revenue Fund.
- (2) Payments made in terms of sub-section (1) shall be deemed to be refunds of duty and shall be paid as drawbacks out of revenue accruing to the Consolidated Revenue Fund.
- (3) There shall also be paid into the Territory Revenue Fund out of moneys appropriated by Parliament for the purpose, in respect of duties collected on goods imported into the Republic and removed to the territory for consumption therein, an amount equal to such percentage as may from time to time be determined by the Minister in consultation with the Administrator of the territory, of the gross duty collected on imported goods in the Republic and the territory combined less the amount of duty collected in the Republic on petrol imported.
- (4) (a) Notwithstanding anything to the contrary in this section contained, the Minister may, in consultation with the Administrator of the territory determine an amount which shall be calculated according to such formula as the Minister may specify and shall be paid into the

Territory Revenue Fund from time to time out of moneys appropriated by Parliament for that purpose, in respect of the duties on excisable goods and imported goods removed to the territory for consumption therein after payment of duty on such goods in the Republic less the duties on excisable goods and imported goods removed to the Republic for consumption therein after payment of duty on such goods in the territory.

- (b) The amount so determined by the Minister shall, from a date specified by him, be paid into the Territory Revenue Fund in lieu of any amount provided for in sub-sections (1) and (3) in respect of such goods.
- (5) All other moneys collected in the territory under the provisions of this Act, except charges in respect of special or extra attendance by officers, shall accrue to the Consolidated Revenue Fund and the amount thereof shall be paid as drawbacks out of revenue accruing to that fund into the Territory Revenue Fund.
- (6) For the purpose of this section the port and settlement of Walvis Bay shall be deemed to be a part of the territory of South-West Africa.

105. Deferment of payment of duty

The Secretary may in his discretion and subject to such conditions (including the payment of interest at reasonable rates on the amount due) as he may consider necessary, permit any duty payable under the provisions of this Act, or any penalty imposed by him, to be paid by instalments of such amounts and at such times as he may determine.

106. Samples

- (1) An officer may on entry of any imported goods or during the manufacture of any excisable goods, or at any time after such entry or manufacture, take, without payment, from any person in possession of such imported goods or of any manufactured or partly manufactured excisable goods samples of such imported, manufactured or partly manufactured goods or of materials intended for the manufacture of excisable 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 Secretary deems necessary, and those samples shall be dealt with and accounted for in such manner as the Secretary may direct.
- (2) For the purpose of determining the duty leviable in respect of any goods comprising a single consignment, or in any vessel, tank or other container of goods, the nature or characteristics of all the goods in that consignment, vessel, tank or other container shall be deemed to correspond to the nature or characteristics of any sample taken by the officer from such consignment, vessel, tank or other container.

107. Expenses of landing, examination, weighing, analysis, etc.

- (1) All handling of and dealing with goods for the purposes of this Act shall be performed by or at the expense and risk of the importer, exporter, manufacturer or owner of the goods, whoever has control of such goods, except in the case of goods examined at a customs and excise warehouse, where such handling of and dealing with goods shall be performed at the expense and risk of the owner thereof.
- (2) Subject to the provisions of this Act, the Secretary shall not, except on such conditions as may be determined by him, allow goods to pass from his control until he has satisfied himself that the provisions of this Act or any law relating to the importation or exportation or transit carriage through the Republic of goods, have been complied with in respect of such goods, and the State or the Secretary or any officer shall in no case be liable in respect of any claim arising out of the detention of goods pending the decision of the Secretary or for the costs of such detention.
- (3) The cost of analysis of any goods for the purposes of sub-section (2) shall be borne by the importer, exporter, manufacturer or owner of such goods except where the result of analysis confirms the

correctness of the declaration or bill of entry made or presented by such importer, exporter, owner or manufacturer in respect of such goods.

108. Embargo on goods

If at any time an officer has reason to believe that the correct duties have not been paid on any goods or that there has been or may be in respect of any goods, plant, vehicle or thing a contravention of any provision of this Act or of any law relating to the importation or exportation of goods, he may place an embargo on those goods, plant, vehicle or thing, wheresoever or in possession of whomsoever found, and no person shall remove such goods, plant, vehicle or thing from the place indicated by the officer, or in any way deal therewith, except with the permission of the officer, until the embargo has been withdrawn.

109. Destruction of goods and detention of ships or vehicles

- (1) If in the opinion of the Secretary it is necessary for the safeguarding of public health or for the safety of the public or the State, he may at any time—
 - (a) cause any goods under customs and excise control forthwith to be destroyed or otherwise disposed of; or
 - (b) delay the departure of any ship or vehicle from any place in the Republic for a period not exceeding forty-eight hours.
- (2) No person shall be entitled to any compensation for loss arising out of any *bona fide* action of the Secretary under sub-section 111.

110. Instruments and tables

- (1) Except as elsewhere provided in this Act, the Minister may by regulation prescribe the instruments, meters, gauges, and other appliances and the tables, formulae and other methods of calculation to be used in ascertaining the weight, quantity, strength, specific gravity, temperature, pressure or any other characteristic of any goods for the purposes of this Act.
- (2) For calculating the full quantity of any goods which have been manufactured or used under the provisions of this Act, the Minister may by regulation prescribe tables indicating the quantity of goods which shall be deemed to have been manufactured from any given quantity of any goods or the quantity of goods which shall be deemed to have been used in the manufacture of any given quantity of any goods manufactured therefrom.

111. Production of certificate of officer on registration of certain motor vehicles

Any motor vehicle registering authority in the Republic may refuse to register any motor vehicle which has previously been registered in any territory outside the Republic unless a certificate issued by an officer is produced stating that the requirements of this Act in respect of the importation of such vehicle have been complied with.

112. Wreck

- (1) For the purposes of this section “wreck” includes—
 - (a) flotsam, jetsam and lagan;
 - (b) any portion of a ship lost, abandoned or stranded or of the cargo, stores or equipment, thereof or any other article thereon; and
 - (c) any portion of an aircraft which has been wrecked or abandoned or of the cargo, stores or equipment thereof or any other article thereon.
- (2) Any person who has in his possession any wreck, shall without delay give notice thereof to the nearest Collector and shall (unless he is the owner of such wreck or the duly authorized agent of

the owner) if required, forthwith deliver that wreck or permit it to be delivered to the said Collector, and unless it is necessary for the preservation or safe-keeping thereof, no person shall without the permission of the said Collector remove or alter in quantity or quality any such wreck.

- (3) Wreck found in or brought into the Republic may, at any time after it has come under the control of the Secretary, be disposed of by him in the manner set forth in section forty-three, but shall otherwise be subject to the same duty and laws as imported goods of the like kind.
- (4) The Minister may by regulation prescribe the circumstances under which and the conditions subject to which a licence may be issued by the Secretary to any person entitling him to search or search for any wreck, but no such licence shall give, the holder thereof the exclusive right of searching for or salvaging any particular wreck.

113. Prohibitions and restrictions

- (1) The importation of the following goods is hereby prohibited, namely—
 - (a) carbide of calcium which, when treated with water yields less than two hundred and fifty litres of gas from one kilogramme, the gas being measured at 15 degrees Centigrade under a pressure of seven hundred and sixty millimetres of mercury;
 - (b) cigarettes weighing more than four and a half pounds per thousand cigarettes;
 - (c) coins which are base or counterfeit;
 - (d) dangerous weapons of the following kinds, namely—
 - (i) swords, cutlasses, bayonets, daggers and knives with cutting edges of four inches or more in length (excluding such knives ordinarily used for domestic purposes, in agriculture or in the meat trade);
 - (ii) spears and assegais;
 - (iii) loaded or spiked sticks and knuckle dusters; and
 - (iv) any other article which the Commissioner of the South African Police may by notice in the *Gazette* declare to be a dangerous weapon,unless imported under permit issued by the said Commissioner;
 - (e) goods to which a trade description or a trade mark is applied in contravention of any provision of the Merchandise Marks Act, 1941 ([Act No. 17 of 1941](#));
 - (f) goods which are indecent or obscene or on any ground whatsoever objectionable, unless imported under permit issued by the Publications Control Board referred to in section two of the Publications and Entertainments Act, 1963 ([Act No. 26 of 1963](#));
 - (g) unlawful reproductions of any works if such reproductions are prohibited from importation under any law relating to copyright;
 - (h) prison-made and penitentiary-made goods;
 - (i) second-hand or used articles of the following classes, namely—
 - (i) cloaks, jackets, jumpers, jerkins, waistcoats and trousers intended for sale in the Republic;
 - (ii) boots and shoes, intended for sale in the Republic; boots and shoes not intended for sale in the Republic, unless imported under permit issued by the Secretary in respect of such boots and shoes which are defective and are returned to the manufacturer in the Republic for inspection and destruction;
 - (j) (i) all kinds of army, navy and air force uniform clothing and appointments, as originally manufactured or as subsequently altered;

- (ii) boots of a type usually issued to army, navy and air force personnel;
- (iii) blankets and groundsheets of a type usually issued to army, navy and air force personnel as originally manufactured or as subsequently altered, and military and naval kit bags and haversacks of a type usually so issued;
- (iv) any other articles which the Minister may by regulation declare to be articles which fall within the category of war stores,

unless imported under permit issued by the Board of Trade and Industries.

Any goods imported in contravention of this sub-section shall be liable to forfeiture.

- (2) Goods which purport to have been imported under a permit referred to in sub-section (1) shall be deemed to have been imported in contravention of the provisions of that sub-section unless the permit in question is produced to the Collector at the time of entry of such goods.
- (3)
 - (a) In the event of any question arising as to whether any goods are indecent or obscene or objectionable, the decision of the Publications Control Board referred to in section two of the Publications and Entertainments Act, 1963, shall be final, but subject to a right of appeal as provided in section fourteen of that Act as if such decision were a decision referred to in that section.
 - (b) If any printed, engraved, lithographic or photographic matter is according to the decision of the said board indecent, obscene or objectionable, and is contained in any publication which in the opinion of that board is one of a series, the said board may publish the name of such publication by notice in two consecutive issues of the *Gazette*, and thereupon every issue of that publication shall, until such notice is withdrawn by the said board by notice in the *Gazette*, for the purpose of this section be deemed to be indecent, obscene or objectionable, as the case may be.
 - (c) For the purpose of any decision as to whether goods are indecent or obscene or objectionable within the meaning of this sub-section, the provisions of sub-section (2) of section five and section ten of the Publications and Entertainments Act, 1963, shall *mutatis mutandis* apply.
- (4) The Minister may by notice in the *Gazette* suspend the operation of any provision of sub-section (1), whenever he is satisfied that such suspension would be in the public interest.
- (5) The State President may, by proclamation in the *Gazette*, prohibit the exportation or the transit carriage through the Republic or coastwise carriage to any place of munitions or any other goods which he considers capable of being converted into or used in the manufacture of munitions.
- (6) For the purposes of sub-section (5), exportation or transit carriage or coastwise carriage to a place includes dispatch to either directly or indirectly and either permanently or for a temporary purpose, and any goods specified in a proclamation issued under sub-section (5) which are brought to a place so specified shall be deemed to have been exported or carried to that place in contravention of such, proclamation by the person who dispatched such goods, and the person who dispatched any such goods shall be presumed to have exported or carried those goods to such place unless he proves that he did not know and had no reason to believe that the said goods would be brought to that place, and that he could not have prevented it.
- (7) The Minister may by regulation prohibit or restrict the coastwise carriage or the transit carriage through the Republic of any goods referred to in sub-section (1) or of any other goods in respect of which he considers any such prohibition or restriction necessary in the public interest.
- (8) If any person imports or exports or attempts to import or export any goods in contravention of any law other than this Act, such goods, together with any other goods contained in the same package as well as the package itself shall, unless the law in question provides for their disposal, be liable to forfeiture wheresoever and in possession of whomsoever found.
- (9) No person shall manufacture any cigarettes the weight of the tobacco of which exceeds four and a half pounds per thousand cigarettes.

114. Duty constitutes a debt to the State

- (1) (a) The correct amount of duty payable in respect of any goods imported into or exported from the Republic or any goods manufactured in the Republic and any fine, penalty or forfeiture incurred under this Act shall, from the time when it should have been paid, constitute a debt due to the State by the person concerned, and any goods in a customs and excise warehouse or in the custody of the department and belonging to that person, and any goods afterwards imported or exported by the person by whom the debt is due, and any goods in respect of which an excise duty is prescribed (whether or not such duty has been paid) and any stills, vessels, appliances, utensils and materials for the manufacture of such goods in the possession or under the control of such person or on any premises in the possession or under the control of such person may be detained in accordance with the provisions of sub-section (2) and shall be subject to a lien until such debt is paid.
- (b) The claims of the State shall have priority over the claims of all persons upon anything subject to such lien and may be enforced by sale or other proceedings if the debt is not paid within three months after the date on which it became due.
- (c) Any refund of duty or a deposit or any other amount due to such person in respect of any matter whatsoever, may be set off against such debt.
- (2) The Secretary or an officer may detain anything referred to in sub-section (1) by sealing, marking, locking, fastening or otherwise securing or impounding it on the premises where it is found or by removing it to a place of security determined by the Secretary.
- (3) Any reference to goods in this section shall be deemed to include a reference to the containers of such goods.

115. Entries, oaths, etc., made outside Republic of full force and effect

Any entry, writing, oath or declaration required to be made under this Act shall, if made outside the Republic to or before an officer of the Republic, be binding and of full force and effect in the Republic.

116. Minister may amend Schedules under certain circumstances

- (1) Whenever the Minister is satisfied that any provision of any Schedule to this Act differs from any similar provision in force immediately prior to the date of commencement of this Act and that such difference acts to the detriment of any importer or manufacturer and was not so intended, he may, after consultation with the Board of Trade and Industries, at any time before the date which is referred to in sub-section (6) of section forty-eight and which falls in the year 1965, by means of an amendment effected by notice in the *Gazette*, adjust the provision in question to the extent he deems fit, with effect from the date of commencement of this Act.
- (2) The provisions of sub-sections (6) and (7) of the said section forty-eight shall *mutatis mutandis* apply in respect of any amendment made under the provisions of sub-section (1).

117. Statistics

Such statistics of the import and export trade of the Republic and of excisable goods manufactured in the Republic as the Minister may determine, shall be compiled and tabulated by the Secretary and published at such times and in such manner as the Minister may direct.

118. Delegation of powers

The Minister may, subject to such conditions as he may impose and for such period as he may specify in each case, delegate any of his powers under this Act (except any power relating to the amendment of any Schedule or the making of any regulation) to the Secretary.

119. Substitution of Schedules

Whenever any Schedule to this Act or any part or item thereof, is substituted and the new Schedule or part or item provides that the Minister or the Secretary may impose or prescribe any condition or approve of any matter or thing in relation to any class of goods, any condition imposed or prescribed or approval given by the Minister or the Secretary under the Schedule or part or item in relation to such class of goods before substitution shall be deemed to have been imposed, prescribed or given under the new Schedule or part or item.

120. Regulations and rules

(1) The Minister may make regulations—

- (a) prescribing the powers, duties and hours of attendance of officers;
- (b) determining the special services for which charges shall be payable on account of the attendance of or supervision by officers, the rate of such charges and the conditions attaching to such special services (including the payment of transport charges);
- (c) as to the reporting inwards and outwards of ships and aircraft (including such reporting of ships or aircraft calling or landing at places not appointed as places of entry or customs and excise airports under this Act), the entry or departure of vehicles overland, the landing, loading, removal, detention, release, examination, conveyance and handling of cargo (including transit and coastwise cargo), the control of persons (including their baggage and goods) entering or leaving the Republic, the placing into or removal from any State warehouse of goods and the removal in bond of goods;
- (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 or the Orange Free State for the distillation of spirits;
- (e) as to the importation, exportation, transit or coastwise carriage of goods, the entry of goods, the payment of duties and other charges and fees, the costs which shall, for the purposes of section forty-six 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 fifty-one;
- (f) prescribing the form of and the particulars to be inserted on invoices or certificates in respect of any goods imported into or excisable goods manufactured in the Republic;
- (g) as to the collection of duty by means of stamps, the method of applying stamps or stamp impressions to containers, the cancellation of stamps, the use of franking or counting machines, inks, dies and other appliances and materials, the accounting for stamp labels and stamp duties and the disposal of stamp labels;
- (h) as to the collection of excise duties, the time, manner and terms of payment and the calculation thereof;
- (i) as to the collection of duties which become payable under sub-section (2) of section fifty-eight;
- (j) as to the circumstances under which licences may be granted and the manner of issuing and renewing licences;

- (k) governing the entry of goods under any item of Schedule No. 3, 4, 5 or 6 and prescribing the conditions on which such goods may be so entered or such goods may be transferred from one manufacturer to another or such goods may be used, and as to the registration of manufacturers so entering goods (including requirements as to the suitability of buildings, premises, storerooms and methods of manufacture for the purposes of this Act to be complied with by such manufacturers), the records to be kept by such manufacturers and the form of the application for registration and the particulars to be furnished by such manufacturers;
 - (l) prescribing the returns to be rendered by importers or manufacturers of any class or kind of goods;
 - (m) prescribing the form of any licence, bill of entry, certificate and any other document, register, stockbook or return which he considers necessary for the effective administration of this Act;
 - (n) as to all matters which by this Act are required or permitted to be prescribed by regulation;
 - (o) as to such other matters as are necessary or useful to be prescribed for the purposes of this Act.
- (2) The Secretary may make rules in respect of any matter in connection with which it is expressly indicated that such matter is to be dealt with in accordance with rules made by him.
- (3) The regulations and rules made under this section may provide penalties for any contravention thereof or failure to comply therewith not exceeding the penalties mentioned in sub-section (2) of section seventy-eight.

121. Repeal of Laws

- (1) Subject to the provisions of sub-section (2), the laws specified in Schedule No. 8 are hereby repealed to the extent set out in the third column of that Schedule.
- (2) Anything done in terms of any provision of any law repealed by sub-section (1) shall be deemed to have been done under the corresponding provision of this Act.

122. Short title and commencement

This Act shall be called the Customs and Excise Act, 1964, and shall come into operation on a date to be fixed, by the State President by proclamation in the *Gazette*.

Schedule No. 1

Ordinary customs and excise duties

[Please note: Schedule No. 1 to this Act has not been included, it is available on the South African Revenue Service's website.]

Schedule No. 2

Anti-dumping duties on imported goods

[Please note: Schedule No. 2 to this Act has not been included, it is available on the South African Revenue Service's website.]

Schedule No. 3**Industrial rebates of customs duties**

[Please note: Schedule No. 3 to this Act has not been included, it is available on the South African Revenue Service's website.]

Schedule No. 4**General rebates of customs duties**

[Please note: Schedule No. 4 to this Act has not been included, it is available on the South African Revenue Service's website.]

Schedule No. 5**Specific drawbacks and refunds of customs duties**

[Please note: Schedule No. 5 to this Act has not been included, it is available on the South African Revenue Service's website.]

Schedule No. 6**Specific rebates and refunds of excise duties**

[Please note: Schedule No. 6 to this Act has not been included, it is available on the South African Revenue Service's website.]

Schedule No. 7**Licences**

[Please note: Schedule No. 7 to this Act has not been included, it is available on the South African Revenue Service's website.]

Schedule No. 8**Laws repealed**

No. and year	Short title	Extent of repeal
Act No. 55 of 1955	Customs Act, 1955	The whole.
Act No. 53 of 1956	Customs Amendment Act, 1956	The whole.
Act No. 62 of 1956	Excise Act, 1956	The whole, except the definition of "Government Brandy Board" in section one, and section sixty-eight.

No. and year	Short title	Extent of repeal
Act No. 65 of 1957	Customs Amendment Act, 1957	The whole.
Act No. 67 of 1957	Excise Amendment Act, 1957	The whole.
Act No. 34 of 1958	Customs Further Amendment Act, 1958	The whole.
Act No. 35 of 1958	Excise Amendment Act, 1958	The whole
Act No. 63 of 1959	Customs Amendment Act, 1959	The whole.
Act No. 65 of 1959	Customs Further Amendment Act, 1959	The whole.
Act No. 66 of 1959	Excise Amendment Act, 1959	The whole.
Act No. 55 of 1960	Excise Amendment Act, 1960	The whole.
Act No. 57 of 1960	Customs Amendment Act, 1960	The whole.
Act No. 50 of 1961	Excise Amendment Act, 1961	The whole.
Act No. 51 of 1961	Customs Amendment Act, 1961	The whole
Act No. 84 of 1962	Excise Amendment Act, 1962	The whole.
Act No. 85 of 1962	Customs Amendment Act, 1962	The whole.
Act No. 84 of 1963	Customs and Excise Amendment Act, 1963	The whole.
Act No. 55 of 1964	Customs and Excise Amendment Act, 1964	The whole.