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THE PRESIDENCY

No. 582 23 July 2014

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

Act No. 31 of 2014: Customs Control Act, 2014

DIE PRESIDENSIE

No. 582 23 Julie 2014

Hierby word bekend gemaak dat die President sy goedkeuring geheg het aan die onderstaande Wet wat hierby ter algemene inligting gepubliseer word:—

Wet No 31 van 2014: Wet op Doeanebeheer, 2014



AIDS HELPLINE: 0800-0123-22 Prevention is the cure

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

ACT

To provide for customs control of all vessels, aircraft, trains, vehicles, goods and persons entering or leaving the Republic; to facilitate the implementation of certain laws levying taxes on goods and of other legislation applicable to such goods and persons; and for matters incidental thereto.

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(Engelse teks deur die President geteken)
(Goedgekeur op 21 Julie 2014)

WET

Om voorsiening te maak vir doeanebeheer oor alle vaartuie, vliegtuie, treine, voertuie, goedere en persone wat die Republiek binnekom of verlaat; om die implementering van sekere wette wat belasting op goedere oplê, en van ander wetgewing wat op daardie goedere of persone van toepassing is, te fasiliteer; en vir aangeleenthede wat daarmee in verband staan.

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181. Afgee van vrygestelde goedere
182. Ontvangskennisgewings

183. Withdrawal, substitution or amendment of release notifications

Part 3

Other matters

184. Destruction, loss or theft of clearance and release documentation
185. Rules to facilitate implementation of this Chapter
186. Offences in terms of this Chapter

CHAPTER 8

HOME USE OF GOODS

187. Purpose and application of this Chapter
188. Clearance and release of goods for home use
189. Persons entitled to submit home use clearance declarations
190. Contents of home use clearance declarations
191. Clearance of goods imported through cross-border transmission lines, pipelines, cable-cars or conveyor belts
192. Rules to facilitate implementation of this Chapter

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NATIONAL AND INTERNATIONAL TRANSIT

Part 1

Introductory provisions

193. Purpose and application of this Chapter
194. National and international transit
195. Commencement and completion of national transit procedure
196. Commencement and completion of international transit procedure
197. Extent to which Chapters 4, 5 and 7 apply
198. Limiting customs seaports and airports for international transit purposes
199. Application of other legislation to goods under international transit

Part 2

Clearance and release of goods for national and international transit

200. Clearance of goods for transit
201. Persons entitled to submit transit clearance declarations
202. Contents of transit clearance declarations
203. Use of other documents as transit clearance declarations for postal articles

Part 3

National and international transit operations

204. General
205. Starting and delivery points of transit operations
206. Commencement and completion periods for transit operations
207. Limitations on route for transit
208. Redirection of goods from starting or to delivery points
209. Only carriers permitted to carry out transit operations
210. Technical requirements of vehicles or containers used in transit of goods
211. Transfer of goods in transit to other vehicle or container
212. Multi-modal transit of goods
213. Interruptions in transit operations
214. Transit goods transported by road carriers

183. Intrekking, vervanging of wysiging van vrystellingskennisgewings

Deel 3

Ander aangeleenthede

184. Vernietiging, verlies of diefstal van klarings- en vrystellingsdokumentasie
185. Reëls ter fasilitering van implementering van hierdie Hoofstuk
186. Misdrywe ingevolge hierdie Hoofstuk

HOOFSTUK 8

BINNELANDSE GEBRUIK VAN GOEDERE

187. Doel en toepassing van hierdie Hoofstuk
188. Klaring en vrystelling van goedere vir binnelandse gebruik
189. Persone wat klaringsbriewe vir binnelandse gebruik mag indien
190. Inhoud van klaringsbriewe vir binnelandse gebruik
191. Klaring van goedere deur oor-grens transmissielyste, pyplyne, kabelkarre of vervoerbande ingevoer
192. Reëls ter fasilitering van implementering van hierdie Hoofstuk

HOOFSTUK 9

NASIONALE EN INTERNASIONALE TRANSITO

Deel 1

Inleidende bepalings

193. Doel en toepassing van hierdie Hoofstuk
194. Nasionale en internasionale transito
195. Begin en afhandeling van prosedure vir nasionale transito
196. Begin en afhandeling van prosedure vir internasionale transito
197. Mate waarin Hoofstukke 4, 5 en 7 van toepassing is
198. Beperking van doeanehawens en -lughawens vir doeleindes van internasionale transito
199. Toepassing van ander wetgewing op goedere onder internasionale transito

Deel 2

Klaring en vrystelling van goedere vir nasionale en internasionale transito

200. Klaring van goedere vir transito
201. Persone wat transito klaringsbriewe mag indien
202. Inhoud van transito klaringsbriewe
203. Gebruik van ander dokumente as transito klaringsbriewe vir posstukke

Deel 3

Nasionale en internasionale transito-operasies

204. Algemeen
205. Begin- en afleweringspunte van transito-operasies
206. Begin- en voltooiingstydperke vir transito-operasies
207. Beperkings op transitoroete
208. Herdestinering van goedere vanaf begin- of na afleweringspunte
209. Slegs vervoerders gemagtig om transito-operasies te onderneem
210. Tegnieise vereistes vir voertuie of houers in transito van goedere gebruik
211. Oorpasing van goedere in transito na ander voertuig of houer
212. Multi-modale transito van goedere
213. Onderbrekings in transito-operasies
214. Transito-goedere deur padvervoerders vervoer

- 215. Completion of transit operations
- 216. Completion procedures

Part 4

Other matters

- 217. Responsibility for ensuring compliance with transit requirements
- 218. Rules to facilitate implementation of this Chapter
- 219. Offences in terms of this Chapter

CHAPTER 10

EXCISE WAREHOUSE TRANSIT PROCEDURE

Part 1

Introductory provisions

- 220. Purpose and application of this Chapter
- 221. Excise warehouse transit procedure
- 222. Commencement and completion of excise warehouse transit procedure
- 223. Extent to which Chapters 4, 5 and 7 apply

Part 2

Clearance and release of goods for excise warehouse transit

- 224. Clearance of goods for excise warehouse transit
- 225. Persons entitled to submit excise warehouse transit clearance declarations
- 226. Contents of excise warehouse transit clearance declarations

Part 3

Excise warehouse transit operations

- 227. General
- 228. Starting and delivery points of excise warehouse transit operations
- 229. Commencement and completion periods for excise warehouse transit operations
- 230. Redirection of goods from starting or to delivery points
- 231. Only carriers permitted to carry out excise warehouse transit operations
- 232. Technical requirements of vehicles or containers used in excise warehouse transit operations
- 233. Transfer of goods in excise warehouse transit to other vehicle or container
- 234. Multi-modal excise warehouse transit of goods
- 235. Excise warehouse transit operations carried out by road carriers
- 236. Completion of excise warehouse transit operations
- 237. Completion procedures

Part 4

Other matters

- 238. Responsibility for ensuring compliance with excise warehouse transit requirements
- 239. Rules to facilitate implementation of this Chapter
- 240. Offences in terms of this Chapter

- 215. Voltooing van transito-operasies
- 216. Voltooiingsprosedures

Deel 4

Ander aangeleenthede

- 217. Verantwoordelikheid om te verseker dat daar aan transitovereistes voldoen word
- 218. Reëls ter fasilitering van implementering van hierdie Hoofstuk
- 219. Misdrywe ingevolge hierdie Hoofstuk

HOOFSTUK 10

PROSEDURE VIR AKSYNSPAKHUISTRANSITO

Deel 1

Inleidende bepalings

- 220. Doel en toepassing van hierdie Hoofstuk
- 221. Prosedure vir aksynspakhuistransito
- 222. Begin en afhandeling van prosedure vir aksynspakhuistransito
- 223. Mate waarin Hoofstukke 4, 5 en 7 van toepassing is

Deel 2

Klaring en vrystelling van goedere vir aksynspakhuistransito

- 224. Klaring van goedere vir aksynspakhuistransito
- 225. Persone wat klaringsbriewe vir aksynspakhuistransito mag indien
- 226. Inhoud van klaringsbriewe vir aksynspakhuistransito

Deel 3

Aksynspakhuistransito-operasies

- 227. Algemeen
- 228. Begin- en afleweringpunte vir aksynspakhuistransito-operasies
- 229. Aanvangs- en voltooiingstydperke vir aksynspakhuistransito-operasies
- 230. Herdestinering van goedere vanaf begin- of na afleweringpunte
- 231. Slegs vervoerders gemagtig om aksynspakhuistransito-operasies te onderneem
- 232. Tegnieise vereistes van voertuie of houers gebruik in aksynspakhuistransito-operasies
- 233. Oorplasing van goedere in aksynspakhuistransito na ander voertuig of houer
- 234. Multi-modale aksynspakhuistransito van goedere
- 235. Aksynspakhuistransito-operasies deur padvervoerders onderneem
- 236. Voltooing van aksynspakhuistransito-operasies
- 237. Voltooiingsprosedures

Deel 4

Ander aangeleenthede

- 238. Verantwoordelikheid om te verseker dat daar aan vereistes vir aksynspakhuistransito voldoen word
- 239. Reëls ter fasilitering van implementering van hierdie Hoofstuk
- 240. Misdrywe ingevolge hierdie Hoofstuk

CHAPTER 11

TRANSHIPMENT PROCEDURE

Part 1

Introductory provisions

- 241. Purpose and application of this Chapter
- 242. Transshipment
- 243. Commencement and completion of transshipment procedure
- 244. Extent to which Chapters 4, 5 and 7 apply
- 245. Limitation of customs seaports and airports for transshipment purposes
- 246. Application of other legislation to goods under transshipment

Part 2

Clearance and release of goods for transshipment

- 247. Clearance of goods for transshipment
- 248. Persons entitled to submit transshipment clearance declarations
- 249. Contents of transshipment clearance declarations
- 250. Supporting documents
- 251. Use of other documents as transshipment clearance declarations

Part 3

Transshipment operations

- 252. Transshipment operation not to commence before release of goods
- 253. Commencement and completion of transshipment operations
- 254. Transshipment goods to be secured on licensed premises
- 255. Commencement and completion periods for transshipment operations and export of transshipment goods
- 256. Non-compliance with completion period
- 257. Delivery of transshipment goods for loading on board outgoing vessels or aircraft
- 258. Measures to ensure integrity of transshipment operations

Part 4

Other matters

- 259. Responsibilities for ensuring compliance with transshipment requirements
- 260. Rules to facilitate implementation of this Chapter
- 261. Offences in terms of this Chapter

CHAPTER 12

TEMPORARY ADMISSION PROCEDURE

Part 1

Introductory provisions

- 262. Purpose and application of this Chapter
- 263. Temporary admission
- 264. Commencement and completion of temporary admission procedure
- 265. Extent to which Chapters 4 and 7 apply

HOOFSTUK 11

TRANSVERSKEPINGSPROSEDURE

Deel 1

Inleidende bepalings

- 241. Doel en toepassing van hierdie Hoofstuk
- 242. Transverskeping
- 243. Begin en afhandeling van transverskepingsprosedure
- 244. Mate waarin Hoofstukke 4, 5 en 7 van toepassing is
- 245. Beperking van doeaneesehawens en -lughawens vir doeleindes van transverskeping
- 246. Toepassing van ander wetgewing op goedere onder transverskeping

Deel 2

Klaring en vrystelling van goedere vir transverskeping

- 247. Klaring van goedere vir transverskeping
- 248. Persone wat transverskepingsklaringsbriewe mag indien
- 249. Inhoud van transverskepingsklaringsbriewe
- 250. Ondersteunende dokumente
- 251. Gebruik van ander dokumente as transverskepingsklaringsbriewe

Deel 3

Transverskepingsoperasies

- 252. Transverskepingsoperasie nie te begin voor vrystelling van goedere
- 253. Begin en voltooiing van transverskepingsoperasies
- 254. Transverskepingsgoedere beveilig te word op gelisensieerde perseel
- 255. Begin- en voltooiingstydperke vir transverskepingsoperasies, en uitvoer van transverskepingsgoedere
- 256. Nie-voldoening aan voltooiingstydperk
- 257. Lewering van transverskepingsgoedere vir oplaai aan boord van uitgaande vaartuie of vliegtuie
- 258. Maatreëls om integriteit van transverskepingsoperasies te verseker

Deel 4

Ander aangeleenthede

- 259. Verantwoordelikhede om te verseker dat daar aan transverskepingsvereistes voldoen word
- 260. Reëls ter fasilitering van implementering van hierdie Hoofstuk
- 261. Misdrywe ingevolge hierdie Hoofstuk

HOOFSTUK 12

PROSEDURE VIR TYDELIKE TOELATING

Deel 1

Inleidende bepalings

- 262. Doel en toepassing van hierdie Hoofstuk
- 263. Tydelike toelating
- 264. Begin en afhandeling van prosedure vir tydelike toelating
- 265. Mate waarin Hoofstukke 4 en 7 van toepassing is

Part 2

Temporary admission of goods under regular clearance and release procedures

- 266. Application of this Part
- 267. Persons entitled to submit temporary admission clearance declarations
- 268. Contents of temporary admission clearance declarations
- 269. Release notifications to state period of temporary admission
- 270. Simplified clearance and release for commercial trucks entering Republic temporarily
- 271. Simplified clearance and release for buses and taxis entering Republic temporarily
- 272. Simplified clearance and release for private vehicles, small vessels and light aircraft entering Republic temporarily

Part 3

Re-export of goods under temporary admission in terms of Part 2

- 273. Goods under temporary admission in terms of Part 2 to be cleared for export and re-exported within applicable timeframes
- 274. Persons entitled to submit export clearance declarations for goods under temporary admission
- 275. Contents of export clearance declarations
- 276. Simplified export clearance and release for commercial trucks leaving Republic
- 277. Simplified export clearance and release for buses and taxis leaving Republic
- 278. Simplified export clearance and release for private vehicles, small vessels and light aircraft leaving Republic
- 279. Proof of re-export of goods under temporary admission in terms of Part 2

Part 4

Temporary admission of goods under international clearance arrangements

- 280. Application of this Part
- 281. Clearance and release of goods for temporary admission on authority of CPD or ATA carnets
- 282. Guaranteeing associations to be approved
- 283. Formats of CPD and ATA carnets
- 284. Validity period of CPD and ATA carnets
- 285. Amendment of CPD and ATA carnets
- 286. Replacement of CPD and ATA carnets
- 287. Re-export of goods under temporary admission in terms of this Part
- 288. Clearance for export of goods under temporary admission in terms of this Part

Part 5

Goods that automatically come under temporary admission procedure

- 289. Foreign-going vessels, aircraft, locomotives and railway carriages entering Republic
- 290. Reusable transport equipment entering Republic

Part 6

Provisions applicable to all goods under temporary admission

- 291. General provisions
- 292. Goods not re-exported within applicable period regarded for tax purposes to be cleared for home use

Deel 2

Tydlike toelating van goedere kragtens gewone klarings- en vrystellingsprosedures

- 266. Toepassing van hierdie Deel
- 267. Persone wat klaringsbriewe vir tydelike toelating mag indien
- 268. Inhoud van klaringsbriewe vir tydelike toelating
- 269. Vrystellingskennisgewings moet tydperk van tydelike toelating vermeld
- 270. Verkorte klaring en vrystelling vir kommersiële trokke wat Republiek tydelik binnekom
- 271. Verkorte klaring en vrystelling vir busse en taxi's wat Republiek tydelik binnekom
- 272. Verkorte klaring en vrystelling vir private voertuie, klein vaartuie en ligte vliegtuie wat Republiek tydelik binnekom

Deel 3

Heruitvoer van goedere onder tydelike toelating ingevolge Deel 2

- 273. Verpligting om goedere onder tydelike toelating ingevolge Deel 2 vir uitvoer te klaar en her uit te voer binne toepaslike tydsrame
- 274. Persone wat uitvoerklaringsbriewe vir goedere onder tydelike toelating mag indien
- 275. Inhoud van uitvoerklaringsbriewe
- 276. Verkorte uitvoerklaring en -vrystelling vir kommersiële trokke wat Republiek verlaat
- 277. Verkorte uitvoerklaring en -vrystelling vir busse en taxi's wat Republiek verlaat
- 278. Verkorte uitvoerklaring en -vrystelling vir private voertuie, klein vaartuie en ligte vliegtuie wat Republiek verlaat
- 279. Bewys van heruitvoer van goedere onder tydelike toelating ingevolge Deel 2

Deel 4

Tydlike toelating van goedere onder internasionale klaringsreëlings

- 280. Toepassing van hierdie Deel
- 281. Klaring en vrystelling van goedere vir tydelike toelating op gesag van CPD of ATA carnets
- 282. Vrywaringsverenigings onderhewig aan goedkeuring
- 283. Formate van CPD en ATA carnets
- 284. Geldigheids tydperk van CPD en ATA carnets
- 285. Wysiging van CPD en ATA carnets
- 286. Vervanging van CPD en ATA carnets
- 287. Heruitvoer van goedere onder tydelike toelating ingevolge hierdie Deel
- 288. Klaring vir uitvoer van goedere onder tydelike toelating ingevolge hierdie Deel

Deel 5

Goedere wat outomaties onder prosedure vir tydelike toelating kom

- 289. Land-uitgaande vaartuie of vliegtuie, lokomotiewe en spoorwegwaens wat Republiek binnekom
- 290. Herbruikbare-vervoertoerusting wat Republiek binnekom

Deel 6

Bepalings van toepassing op alle goedere onder tydelike toelating

- 291. Algemene bepalings
- 292. Goedere nie binne toepaslike tydperk heruitgevoer geag vir belastingdoeleindes geklaar te wees vir binnelandse gebruik

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Part 7

Other matters

- 293. Rules to facilitate implementation of this Chapter
- 294. Offences in terms of this Chapter

CHAPTER 13

WAREHOUSING PROCEDURE

Part 1

Introductory provisions

- 295. Purpose and application of this Chapter
- 296. Warehousing procedure
- 297. Commencement and completion of warehousing procedure
- 298. Extent to which Chapters 4, 5 and 7 apply

Part 2

Clearance and release of goods for warehousing

- 299. Warehousing of goods
- 300. Purposes for which goods may be cleared for warehousing in public storage warehouses
- 301. Purposes for which goods may be cleared for warehousing in private storage warehouses
- 302. Persons entitled to submit warehousing clearance declarations
- 303. Contents of warehousing clearance declarations
- 304. Redirection of goods

Part 3

Warehousing of goods in storage warehouses

- 305. Maximum warehousing period
- 306. Warehousing of dangerous or hazardous goods
- 307. Records to be kept of warehoused goods
- 308. Reports to be submitted in connection with warehoused goods
- 309. Sorting, packing, and other actions in relation to goods warehoused in storage warehouses
- 310. Removal of goods from storage warehouses
- 311. Removal of restricted goods stored in storage warehouses pending compliance with legislation restricting import or possession

Part 4

Other matters

- 312. Notification of closure of public storage warehouse
- 313. Rules to facilitate implementation of this Chapter
- 314. Offences in terms of this Chapter

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Deel 7

Ander aangeleentede

- 293. Reëls ter fasilitering van implementering van hierdie Hoofstuk
- 294. Misdrywe ingevolge hierdie Hoofstuk

HOOFSUK 13

PAKHUISBERGINGSPROSEDURE

Deel 1

Inleidende bepalings

- 295. Doel en toepassing van hierdie Hoofstuk
- 296. Pakhuisbergingsprosedure
- 297. Begin en afhandeling van pakhuisbergingsprosedure
- 298. Mate waarin Hoofstukke 4, 5 en 7 van toepassing is

Deel 2

Klaring en vrystelling van goedere vir pakhuisberging

- 299. Pakhuisberging van goedere
- 300. Doel waarvoor goedere vir pakhuisberging in publieke bergingspakhuis geklaar mag word
- 301. Doeleindes waarvoor goedere vir pakhuisberging in private bergingspakhuis geklaar mag word
- 302. Persone wat klaringsbriewe vir pakhuisberging mag indien
- 303. Inhoud van klaringsbriewe vir pakhuisberging
- 304. Herdestinering van goedere

Deel 3

Berging van goedere in bergingspakhuis

- 305. Maksimum tydperk van pakhuisberging
- 306. Pakhuisberging van gevaarlike of riskante goedere
- 307. Rekords wat van goedere in pakhuis gehou moet word
- 308. Verslae wat in verband met goedere in pakhuis geberg, verstrek moet word
- 309. Sortering, verpakking en ander handelinge met betrekking tot goedere in bergingspakhuis geberg
- 310. Verwydering van goedere uit bergingspakhuis
- 311. Verwydering van beperkte goedere in bergingspakhuis geberg hangende voldoening aan wetgewing wat invoer of besit beperk

Deel 4

Ander aangeleentede

- 312. Kennisgewing van sluiting van publieke bergingspakhuis
- 313. Reëls ter fasilitering van implementering van hierdie Hoofstuk
- 314. Misdrywe ingevolge hierdie Hoofstuk

CHAPTER 14

TAX FREE SHOP PROCEDURE

Part 1

Introductory provisions

- 315. Purpose and application of this Chapter
- 316. Tax free shop procedure
- 317. Commencement and completion of tax free shop procedure
- 318. Extent to which Chapters 4 and 7 apply

Part 2

Clearance and release of goods not in free circulation for supply to tax free shops

- 319. Clearance and release of goods for tax free shop procedure
- 320. Persons entitled to submit tax free shop clearance declarations
- 321. Contents of tax free shop clearance declarations
- 322. Redirection of goods

Part 3

Receipt, sale and removal of goods in tax free shops

- 323. Goods that may be sold in tax free shops
- 324. Persons to whom goods may be sold in tax free shops
- 325. Issuing of sale invoices
- 326. Off-site outlets
- 327. Maximum period for which goods may remain in tax free shops
- 328. Removal of goods from tax free shops
- 329. Manipulation, alteration or combination of goods in tax free shops

Part 4

Accountability for goods in tax free shops

- 330. Inventory control of goods in tax free shops
- 331. Regular reports

Part 5

Other matters

- 332. Rules to facilitate implementation of this Chapter
- 333. Offences in terms of this Chapter

CHAPTER 15

STORES PROCEDURE

Part 1

Introductory provisions

- 334. Purpose and application of this Chapter
- 335. Stores procedure
- 336. Commencement and completion of stores procedure
- 337. Extent to which Chapters 4, 5 and 7 apply

HOOFSTUK 14

PROSEDURE VIR BELASTINGVRY-WINKELS

Deel 1

Inleidende bepalings

- 315. Doel en toepassing van hierdie Hoofstuk
- 316. Prosedure vir belastingvry-winkels
- 317. Begin en afhandeling van prosedure vir belastingvry-winkels
- 318. Mate waarin Hoofstukke 4 en 7 van toepassing is

Deel 2

Klaring en vrystelling van goedere nie in vry sirkulasie nie vir verskaffing aan belastingvry-winkels

- 319. Klaring en vrystelling van goedere vir prosedure vir belastingvry-winkels
- 320. Persone wat klaringsbriewe vir prosedure vir belastingvry-winkels mag indien
- 321. Inhoud van klaringsbriewe vir belastingvry-winkels
- 322. Herdestinering van goedere

Deel 3

Ontvangs, verkoop en verwydering van goedere in belastingvry-winkels

- 323. Goedere wat in belastingvry-winkels verkoop mag word
- 324. Persone aan wie goedere in belastingvry-winkels verkoop mag word
- 325. Uitreik van verkoopsfakture
- 326. Afsetpunte weg van winkelperseel
- 327. Maksimum tydperk wat goedere in belastingvry-winkels mag bly
- 328. Verwydering van goedere uit belastingvry-winkels
- 329. Manipulasie, verandering of kombinerings van goedere in belastingvry-winkels

Deel 4

Rekenskap vir goedere in belastingvry-winkels

- 330. Voorradebeheer van goedere in belastingvry-winkels
- 331. Gereelde verslae

Deel 5

Ander aangeleenthede

- 332. Reëls ter fasilitering van implementering van hierdie Hoofstuk
- 333. Misdrywe ingevolge hierdie Hoofstuk

HOOFSTUK 15

VOORRADEPROSEDURE

Deel 1

Inleidende bepalings

- 334. Doel en toepassing van hierdie Hoofstuk
- 335. Voorradeprosedure
- 336. Begin en afhandeling van voorradeprosedure
- 337. Mate waarin Hoofstukke 4, 5 en 7 van toepassing is

Part 2

Clearance and release of stores taken on board in Republic

- 338. Application of this Part
- 339. Stores taken on board first to be cleared and released for stores procedure
- 340. Persons entitled to submit stores clearance declarations
- 341. Contents of stores clearance declarations
- 342. Release to be given only for quantities of stores actually needed for voyage
- 343. Acknowledgement of receipt of stores taken on board
- 344. Taking of prohibited, restricted and sectorally controlled goods on board vessels, aircraft or trains as stores

Part 3

Reporting and control of stores under stores procedure

- 345. Application of this Part
- 346. Stores arrival reports
- 347. Sealing or securing of stores
- 348. Issue of stores for use on vessels whilst in customs seaports
- 349. Tax free items for sale on board to travellers and crew
- 350. Removal of stores from vessels, aircraft or trains
- 351. Securing of stores by removal from vessels or aircraft
- 352. Replacement of stores on vessel or aircraft
- 353. Unused stores on board vessels or aircraft no longer bound for foreign destinations
- 354. Stores departure reports
- 355. Submission of stores reports in terms of this Chapter
- 356. Aborted voyages

Part 4

Other matters

- 357. Additional grounds for regarding stores under stores procedure to be cleared for home use
- 358. Additional grounds for regarding stores under stores procedure to have reverted to free circulation
- 359. Rules to facilitate implementation of this Chapter
- 360. Offences in terms of this Chapter

CHAPTER 16

EXPORT PROCEDURE

Part 1

Introductory provisions

- 361. Purpose and application of this Chapter
- 362. Export procedure
- 363. Commencement and completion of export procedure
- 364. Extent to which Chapters 4, 5 and 7 apply

Part 2

Clearance and release of goods for export from Republic

- 365. Clearance of goods for export
- 366. Persons entitled to submit export clearance declarations

Deel 2

Klaring en vrystelling van voorrade in Republiek aan boord geneem

- 338. Toepassing van hierdie Deel
- 339. Voorrade aan boord geneem eers geklaar en vrygestel te word vir voorradeprosedure
- 340. Persone wat voorradeklaringsbriewe mag indien
- 341. Inhoud van voorradeklaringsbriewe
- 342. Vrystelling verleen te word slegs vir hoeveelhede voorrade werklik vir vaart, vlug of tog benodig
- 343. Erkenning van ontvangs van voorrade aan boord geneem
- 344. Neem van verbode, beperkte en sektorbeheerde goedere aan boord van vaartuie, vliegtuie of treine as voorrade

Deel 3

Rapportering en beheer van voorrade onder voorradeprosedure

- 345. Toepassing van hierdie Deel
- 346. Voorrade-aankomsverslae
- 347. Seëling of beveiliging van voorrade
- 348. Uitreik van voorrade vir gebruik op vaartuie terwyl in doeaneesehawens
- 349. Belastingvry items vir verkoop aan boord aan reisigers en bemanning
- 350. Verwydering van voorrade van vaartuie of vliegtuie of treine
- 351. Beveiliging van voorrade deur verwydering daarvan van vaartuie
- 352. Vervanging van voorrade op vaartuie of vliegtuie
- 353. Ongebruikte voorrade aan boord van vaartuie of vliegtuie nie meer bestem vir buitelandse bestemming
- 354. Voorrade-vertreksverslae
- 355. Verstrekking van voorradeverslae ingevolge hierdie Hoofstuk
- 356. Geaborteerde vaart of vlug

Deel 4

Ander aangeleenthede

- 357. Bykomende gronde waarop voorrade onder voorradeprosedure geag moet word vir binnelandse gebruik geklaar te wees
- 358. Bykomende gronde waarop voorrade onder voorradeprosedure geag moet word tot vry sirkulasie terug te geval het
- 359. Reëls ter fasilitering van implementering van hierdie Hoofstuk
- 360. Misdrywe ingevolge hierdie Hoofstuk

HOOFSTUK 16

UITVOERPROSEDURE

Deel 1

Inleidende bepalings

- 361. Doel en toepassing van hierdie Hoofstuk
- 362. Uitvoerprosedure
- 363. Begin en afhandeling van uitvoerprosedure
- 364. Mate waarin Hoofstukke 4, 5 en 7 van toepassing is

Deel 2

Klaring en vrystelling van goedere vir uitvoer uit Republiek

- 365. Klaring van goedere vir uitvoer
- 366. Persone wat uitvoerklaringsbriewe mag indien

- 367. Contents of export clearance declarations
- 368. Timeous delivery of goods to depots and export terminals to allow for inspection
- 369. Time when goods may be released for export
- 370. Failure to export goods released for export
- 371. Clearance of goods exported through cross-border transmission lines, pipelines, cable-cars or conveyor belts

Part 3

Other matters

- 372. Rules to facilitate implementation of this Chapter
- 373. Offences in terms of this Chapter

CHAPTER 17

TEMPORARY EXPORT PROCEDURE

Part 1

Introductory provisions

- 374. Purpose and application of this Chapter
- 375. Temporary export procedure
- 376. Commencement and completion of temporary export procedure
- 377. Extent to which Chapters 4, 5 and 7 apply

Part 2

Temporary export of goods under regular clearance and release procedures

- 378. Application of this Part
- 379. Clearing of goods for temporary export
- 380. Release of goods for temporary export
- 381. Simplified clearance and release for commercial trucks temporarily leaving Republic
- 382. Simplified clearance and release for buses and taxis temporarily leaving Republic
- 383. Simplified clearance and release for private vehicles, small vessels and light aircraft temporarily leaving Republic

Part 3

Clearance and release of re-imported unaltered goods for home use

- 384. Application of this Part
- 385. Conditions for clearance of goods as re-imported unaltered goods for home use
- 386. Persons entitled to submit re-importation clearance declarations
- 387. Contents of re-importation clearance declarations
- 388. Repayment of export benefits
- 389. Simplified home use clearance and release for commercial trucks re-entering Republic
- 390. Simplified home use clearance and release for buses and taxis re-entering Republic
- 391. Simplified home use clearance and release for private vehicles, small vessels and light aircraft re-entering Republic
- 392. Refusal to release goods as re-imported unaltered goods for home use

- 367. Inhoud van uitvoerklaringsbriewe
- 368. Tydige aflewering van goedere by depots en uitvoerterminale om tyd vir inspeksie te maak
- 369. Tydstip waarop goedere vir uitvoer vrygestel mag word
- 370. Versuim om goedere vrygestel vir uitvoer uit te voer
- 371. Klaring van goedere uitgevoer deur oor-grens transmissielyne, pyplyne, kabelkarre of vervoerbande

Deel 3

Ander aangeleenthede

- 372. Reëls ter fasilitering van implementering van hierdie Hoofstuk
- 373. Misdrywe ingevolge hierdie Hoofstuk

HOOFSTUK 17

PROSEDURE VIR TYDELIKE UITVOER

Deel 1

Inleidende bepalings

- 374. Doel en toepassing van hierdie Hoofstuk
- 375. Prosedure vir tydelike uitvoer
- 376. Begin en afhandeling van prosedure vir tydelike uitvoer
- 377. Mate waarin Hoofstukke 4, 5 en 7 van toepassing is

Deel 2

Tydlike uitvoer van goedere onder gewone klarings- en vrystellingsprosedures

- 378. Toepassing van hierdie Deel
- 379. Klaring van goedere vir tydelike uitvoer
- 380. Vrystelling van goedere vir tydelike uitvoer
- 381. Verkorte klaring en vrystelling vir kommersiële trokke wat Republiek tydelik verlaat
- 382. Verkorte klaring en vrystelling vir busse en taxi's wat Republiek tydelik verlaat
- 383. Verkorte klaring en vrystelling vir private voertuie, klein vaartuie en ligte vliegtuie wat Republiek tydelik verlaat

Deel 3

Klaring en vrystelling van heringevoerde onveranderde goedere vir binnelandse gebruik

- 384. Toepassing van hierdie Deel
- 385. Voorwaardes vir klaring van goedere as heringevoerde onveranderde goedere vir binnelandse gebruik
- 386. Persone wat herinvoerklaringsbriewe mag indien
- 387. Inhoud van herinvoerklaringsbriewe
- 388. Terugbetaling van uitvoervoordele
- 389. Verkorte binnelandse gebruik klaring en vrystelling vir kommersiële trokke wat Republiek herbinnekom
- 390. Verkorte binnelandse gebruik klaring en vrystelling vir busse en taxi's wat Republiek herbinnekom
- 391. Verkorte binnelandse gebruik klaring en vrystelling vir private voertuie, klein vaartuie en ligte vliegtuie wat Republiek herbinnekom
- 392. Weiering om goedere as heringevoerde onveranderde goedere vir binnelandse gebruik vry te stel

Part 4

Temporary export of goods under international clearance arrangements

- 393. Application of this Part
- 394. Temporary export of goods from Republic on authority of CPD and ATA carnets
- 395. Issuing associations located in Republic to be approved
- 396. Guaranteeing associations to be approved
- 397. Formats of CPD and ATA carnets
- 398. Validity period of CDP and ATA carnets
- 399. Amendment of CDP and ATA carnets
- 400. Return of goods under temporary export procedure in terms of this Part
- 401. Clearance of goods when returned to Republic

Part 5

Goods which automatically come under temporary export procedure

- 402. Foreign-going vessels, aircraft, locomotives and railway carriages leaving Republic
- 403. Reusable transport equipment leaving Republic

Part 6

Other matters

- 404. When goods under temporary export procedure must be regarded to be cleared for outright export
- 405. Rules to facilitate implementation of this Chapter
- 406. Offences in terms of this Chapter

CHAPTER 18

INWARD PROCESSING PROCEDURE

Part 1

Introductory provisions

- 407. Purpose of this Chapter
- 408. Inward processing procedure
- 409. Commencement and completion of inward processing procedure
- 410. Extent to which Chapters 4, 5 and 7 apply

Part 2

Clearance and release of imported goods for inward processing

- 411. Clearance of imported goods for inward processing
- 412. Conditions for clearance of imported goods for inward processing
- 413. Persons entitled to submit inward processing clearance declarations
- 414. Contents of inward processing clearance declarations
- 415. Release of imported goods for inward processing

Part 3

Clearance and release of goods for export as inward processed compensating products

- 416. Clearance of goods for export under inward processing procedure
- 417. Conditions for clearance of goods for export as inward processed compensating products

Deel 4

Tydlike uitvoer van goedere onder internasionale klaringsreëlings

- 393. Toepassing van hierdie Deel
- 394. Tydelike uitvoer van goedere uit Republiek op gesag van CPD en ATA carnets
- 395. Uitreikingsverenigings in Republiek gesetel onderhewig aan goedkeuring
- 396. Vrywaringsverenigings onderhewig aan goedkeuring
- 397. Formaat van CPD en ATA carnets
- 398. Geldigheidstydperk van CDP en ATA carnets
- 399. Wysiging van CDP en ATA carnets
- 400. Terugbring van goedere onder prosedure vir tydelike uitvoer ingevolge hierdie Deel
- 401. Klaring van goedere wanneer na Republiek teruggebring

Deel 5

Goedere wat outomaties onder prosedure vir tydelike uitvoer kom

- 402. Land-uitgaande vaartuie of vliegtuie, lokomotiewe en spoorwegwaens wat Republiek verlaat
- 403. Herbruikbare-vervoertoerusting wat Republiek verlaat

Deel 6

Ander aangeleenthede

- 404. Wanneer goedere onder prosedure vir tydelike uitvoer geag moet word vir regstreekse uitvoer geklaar te wees
- 405. Reëls ter fasilitering van implementering van hierdie Hoofstuk
- 406. Misdrywe ingevolge hierdie Hoofstuk

HOOFSTUK 18

PROSEDURE VIR INWAARTSE PROSESSERING

Deel 1

Inleidende bepalings

- 407. Doel van hierdie Hoofstuk
- 408. Prosedure vir inwaartse prosessering
- 409. Begin en afhandeling van prosedure vir inwaartse prosessering
- 410. Mate waarin Hoofstukke 4, 5 en 7 van toepassing is

Deel 2

Klaring en vrystelling van ingevoerde goedere vir inwaartse prosessering

- 411. Klaring van ingevoerde goedere vir inwaartse prosessering
- 412. Voorwaardes vir klaring van ingevoerde goedere vir inwaartse prosessering
- 413. Persone wat klaringsbriewe vir inwaartse prosessering mag indien
- 414. Inhoud van klaringsbriewe vir inwaartse prosessering
- 415. Vrystelling van ingevoerde goedere vir inwaartse prosessering

Deel 3

Klaring en vrystelling van goedere vir uitvoer as inwaarts geprosesseerde kompenserende produkte

- 416. Klaring van goedere vir uitvoer onder prosedure vir inwaartse prosessering
- 417. Voorwaardes vir klaring van goedere vir uitvoer as inwaarts geprosesseerde kompenserende produkte

- 418. Time limits on clearance for export of inward processed compensating products
- 419. Export of inward processed compensating products
- 420. Persons entitled to submit export clearance declarations for inward processed compensating products
- 421. Contents of export clearance declarations for inward processed compensating products

Part 4

Provisions regulating goods under inward processing procedure

- 422. Imported goods under inward processing procedure to be used only for production of inward processed compensating products
- 423. Compulsory export of inward processed compensating products
- 424. By-products and commercially valuable waste
- 425. Conversion rates
- 426. Identification measures
- 427. Records and stocktaking
- 428. Subcontracting of inward processing operations
- 429. Use of equivalent goods

Part 5

Other matters

- 430. Additional grounds for regarding goods under inward processing procedure to be cleared for home use
- 431. Effect on compensating products when goods under inward processing procedure regarded to be cleared for home use
- 432. Rules to facilitate implementation of this Chapter
- 433. Offences in terms of this Chapter

CHAPTER 19

HOME USE PROCESSING PROCEDURE

Part 1

Introductory provisions

- 434. Purpose of this Chapter
- 435. Home use processing procedure
- 436. Commencement and completion of home use processing procedure
- 437. Extent to which Chapters 4, 5 and 7 apply

Part 2

Clearance and release of imported goods for home use processing

- 438. Clearance of imported goods for home use processing
- 439. Conditions for clearance of imported goods for home use processing
- 440. Persons entitled to submit home use processing clearance declarations
- 441. Contents of home use processing clearance declarations
- 442. Release of imported goods for home use processing

- 418. Tydsbeperkings op klaring vir uitvoer van inwaarts geprosesseerde kompenseerende produkte
- 419. Uitvoer van inwaarts geprosesseerde kompenseerende produkte
- 420. Persone wat uitvoerklaringsbriewe vir inwaarts geprosesseerde kompenseerende produkte mag indien
- 421. Inhoud van uitvoerklaringsbriewe vir inwaarts geprosesseerde kompenseerende produkte

Deel 4

Bepalings ter regulering van goedere onder prosedure vir inwaartse prosessering

- 422. Verpligte gebruik van ingevoerde goedere onder prosedure vir inwaartse prosessering slegs vir produksie van inwaarts geprosesseerde kompenseerende produkte
- 423. Verpligte uitvoer van inwaarts geprosesseerde kompenseerende produkte
- 424. Byprodukte en kommersieel waardevolle afval
- 425. Omrekeningskale
- 426. Identifiseringsmaatreëls
- 427. Rekords en voorraadopname
- 428. Subkontraktering van inwaartse prosesseringsoperasies
- 429. Gebruik van gelyksoortige goedere

Deel 5

Ander aangeleenthede

- 430. Bykomende gronde waarop goedere onder prosedure vir inwaartse prosessering geag moet word vir binnelandse gebruik geklaar te wees
- 431. Effek op kompenseerende produkte wanneer goedere onder prosedure vir inwaartse prosessering geag word vir binnelandse gebruik geklaar te wees
- 432. Reëls ter fasilitering van implementering van hierdie Hoofstuk
- 433. Misdrywe ingevolge hierdie Hoofstuk

HOOFSTUK 19

PROSEDURE VIR BINNELANDSE GEBRUIKPROSESSERING

Deel 1

Inleidende bepalings

- 434. Doel van hierdie Hoofstuk
- 435. Prosedure vir binnelandse gebruikprosessering
- 436. Begin en afhandeling van prosedure vir binnelandse gebruikprosessering
- 437. Mate waarin Hoofstukke 4, 5 en 7 van toepassing is

Deel 2

Klaring en vrystelling van ingevoerde goedere vir binnelandse gebruikprosessering

- 438. Klaring van ingevoerde goedere vir binnelandse gebruikprosessering
- 439. Voorwaardes vir klaring van ingevoerde goedere vir binnelandse gebruikprosessering
- 440. Persone wat klaringsbriewe vir binnelandse gebruikprosessering mag indien
- 441. Inhoud van klaringsbriewe vir binnelandse gebruikprosessering
- 442. Vrystelling van ingevoerde goedere vir binnelandse gebruikprosessering

Part 3

Provisions regulating home use processing procedure

- 443. Goods under home use processing procedure only to be used for production of home use compensating products
- 444. Time limits on completion of home use processing of goods
- 445. Home use compensating products to be dealt with as goods in free circulation
- 446. By-products and commercially valuable waste
- 447. Conversion rates
- 448. Records and stocktaking
- 449. Sub-contracting of home use processing operations

Part 4

Other matters

- 450. Additional grounds for regarding goods under home use processing procedure to be cleared for home use
- 451. Rules to facilitate implementation of this Chapter
- 452. Offences in terms of this Chapter

CHAPTER 20

OUTWARD PROCESSING PROCEDURE

Part 1

Introductory provisions

- 453. Purpose of this Chapter
- 454. Outward processing procedure
- 455. Commencement and completion of outward processing procedure
- 456. Extent to which Chapters 4, 5 and 7 apply

Part 2

Clearance and release of goods for export for outward processing

- 457. Clearance of goods for outward processing procedure
- 458. Conditions for clearance of goods for outward processing
- 459. Persons entitled to submit export clearance declarations for export of goods for outward processing
- 460. Contents of clearance declarations for export of goods for outward processing
- 461. Release not to be limited to owners of goods
- 462. Release of goods for export under outward processing procedure

Part 3

Clearance and release for home use of outward processed compensating products

- 463. Clearance of imported goods for home use as outward processed compensating products
- 464. Conditions for clearance for home use of outward processed compensating products
- 465. Time limits on clearance for home use of outward processed compensating products
- 466. Importation of outward processed compensating products

Deel 3

Bepalings ter regulering van prosedure vir binnelandse gebruikprosessering

- 443. Verpligte gebruik van goedere onder prosedure vir binnelandse gebruikprosessering slegs vir produksie van binnelandse gebruik kompenserende produkte
- 444. Tydsbeperkings op afhandeling van binnelandse gebruikprosessering van goedere
- 445. Binnelandse gebruik kompenserende produkte mee gehandel te word as goedere in vry sirkulasie
- 446. Byprodukte en kommersieel waardevolle afval
- 447. Omrekeningskale
- 448. Rekords en voorraadopname
- 449. Subkontraktering van binnelandse gebruikprosesseringsoperasies

Deel 4

Ander aangeleenthede

- 450. Bykomende gronde waarop goedere onder prosedure vir binnelandse gebruikprosessering geag moet word vir binnelandse gebruik geklaar te wees
- 451. Reëls ter fasilitering van implementering van hierdie Hoofstuk
- 452. Misdrywe ingevolge hierdie Hoofstuk

HOOFSTUK 20

PROSEDURE VIR UITWAARTSE PROSESSERING

Deel 1

Inleidende bepalings

- 453. Doel van hierdie Hoofstuk
- 454. Prosedure vir uitwaartse prosessering
- 455. Begin en afhandeling van prosedure vir uitwaartse prosessering
- 456. Mate waarin Hoofstukke 4, 5 en 7 van toepassing is

Deel 2

Klaring en vrystelling van goedere vir uitvoer vir uitwaartse prosessering

- 457. Klaring van goedere vir prosedure vir uitwaartse prosessering
- 458. Voorwaardes vir klaring van goedere vir uitwaartse prosessering
- 459. Persone wat klaringsbriewe vir uitvoer van goedere vir uitwaartse prosessering mag indien
- 460. Inhoud van klaringsbriewe vir uitvoer van goedere vir uitwaartse prosessering
- 461. Vrystelling nie beperk tot eienaars van goedere
- 462. Vrystelling van goedere vir uitvoer onder prosedure vir uitwaartse prosessering

Deel 3

Klaring en vrystelling vir binnelandse gebruik van uitwaarts geprosesseerde kompenserende produkte

- 463. Klaring van ingevoerde goedere vir binnelandse gebruik as uitwaarts geprosesseerde kompenserende produkte
- 464. Voorwaardes vir klaring vir binnelandse gebruik van uitwaarts geprosesseerde kompenserende produkte
- 465. Tydsbeperkings op klaring vir binnelandse gebruik van uitwaarts geprosesseerde kompenserende produkte
- 466. Invoer van uitwaarts geprosesseerde kompenserende produkte

- 467. Persons entitled to submit home use clearance declarations for outward processed compensating products
- 468. Contents of home use clearance declarations for outward processed compensating products

Part 4

Provisions regulating outward processing procedure

- 469. Conversion rates for goods to compensating products
- 470. Identification measures

Part 5

Other matters

- 471. Specific grounds for regarding goods exported under outward processing procedure to be cleared for outright export
- 472. Proportionate application of section 114(1) to goods exported under outward processing procedure
- 473. Effect on outward processed compensating products when goods exported for outward processing are regarded to be cleared for outright export
- 474. Rules to facilitate implementation of this Chapter
- 475. Offences in terms of this Chapter

CHAPTER 21

CUSTOMS PROCESSING OF PERSONS ENTERING OR LEAVING REPUBLIC

- 476. Definitions
- 477. Purpose and application of this Chapter

Part 1

Persons entering Republic

- 478. Incoming traveller and crew declarations
- 479. Accompanied and unaccompanied baggage items that must be declared
- 480. Clearance of accompanied and unaccompanied baggage items that must be declared
- 481. Import tax payable on accompanied and unaccompanied baggage items
- 482. Place where incoming traveller and crew declarations must be submitted

Part 2

Persons leaving Republic

- 483. Outgoing traveller and crew declarations
- 484. Accompanied and unaccompanied baggage items that must be declared
- 485. Clearance of accompanied and unaccompanied baggage items that must be declared
- 486. Export tax payable on accompanied and unaccompanied baggage
- 487. Place where outgoing traveller and crew declarations must be submitted

Part 3

Other matters

- 488. Channel or other system
- 489. Rules to facilitate implementation of this Chapter
- 490. Offences in terms of this Chapter

- 467. Persone wat binnelandse gebruik klaringsbriewe vir uitwaarts geprosesseerde kompenserende produkte mag indien
- 468. Inhoud van binnelandse gebruik klaringsbriewe vir uitwaarts geprosesseerde kompenserende produkte

Deel 4

Bepalings ter regulering van prosedure vir uitwaartse prosessering

- 469. Omrekeningskale vir goedere na kompenserende produkte
- 470. Identifiseringsmaatreëls

Deel 5

Ander aangeleenthede

- 471. Spesifieke gronde waarop goedere uitgevoer onder prosedure vir uitwaartse prosessering geag moet word vir regstreekse uitvoer geklaar te wees
- 472. Proporsionele toepassing van artikel 114(1) op goedere uitgevoer onder prosedure vir uitwaartse prosessering
- 473. Effek op uitwaarts geprosesseerde kompenserende produkte wanneer goedere uitgevoer vir uitwaartse prosessering geag word vir regstreekse uitvoer geklaar te wees
- 474. Reëls ter fasilitering van implementering van hierdie Hoofstuk
- 475. Misdrywe ingevolge hierdie Hoofstuk

HOOFSTUK 21

DOEANEPROSESSERING VAN PERSONE WAT REPUBLIEK BINNEKOM OF VERLAAT

- 476. Woordomskrywing
- 477. Doel en toepassing van hierdie Hoofstuk

Deel 1

Persone wat Republiek binnekom

- 478. Inkomende reisiger- en bemanningsdeklarasies
- 479. Vergeselde en onvergeselde bagasie-items wat verklaar moet word
- 480. Klaring van vergeselde en onvergeselde bagasie-items wat verklaar moet word
- 481. Invoerbelasting betaalbaar op vergeselde en onvergeselde bagasie-items
- 482. Plek waar inkomende reisiger- en bemanningsdeklarasies ingedien moet word

Deel 2

Persone wat Republiek verlaat

- 483. Uitgaande reisiger- en bemanningsdeklarasies
- 484. Vergeselde en onvergeselde bagasie-items wat verklaar moet word
- 485. Klaring van vergeselde en onvergeselde bagasie-items wat verklaar moet word
- 486. Uitvoerbelasting betaalbaar op vergeselde en onvergeselde bagasie
- 487. Plek waar uitgaande reisiger- en bemanningsdeklarasies ingedien moet word

Deel 3

Ander aangeleenthede

- 488. Kanaliserings- of ander stelsel
- 489. Reëls ter fasilitering van implementering van hierdie Hoofstuk
- 490. Misdrywe ingevolge hierdie Hoofstuk

CHAPTER 22

INTERNATIONAL POSTAL ARTICLES HANDLED BY SOUTH AFRICAN POST OFFICE

Part 1

Introductory provisions

- 491. Purpose and application of this Chapter
- 492. Prohibited, restricted or sectorally controlled goods

Part 2

Clearance and release of international postal articles

- 493. Clearance of imported international postal articles
- 494. Clearance of international postal articles destined for export

Part 3

Customs processing of international postal articles

- 495. Removal of international postal articles to international postal clearance depots
- 496. Presentation of international postal articles to customs authority
- 497. Postal declaration to accompany international postal articles presented to customs authority
- 498. Customs authority's functions in relation to international postal articles presented to it

Part 4

Payment of import or export tax on international postal articles

- 499. Release of international postal articles
- 500. Payment of tax on international postal articles
- 501. Time when tax becomes payable and rate of tax
- 502. Payment of tax to customs authority
- 503. Cancellation and repayment of tax
- 504. Condonation of underpayment

Part 5

Inspection of international postal articles

- 505. Enforcement to be consistent with this Part
- 506. Opening of international postal articles
- 507. Personal or private communications
- 508. Notification that international postal articles have been opened
- 509. Seizure and confiscation of international postal articles

Part 6

Other matters

- 510. Conclusion of agreements
- 511. Rules to facilitate implementation of this Chapter

HOOFSTUK 22

INTERNASIONALE POSSTUKKE DEUR SUID-AFRIKAANSE POSKANTOOR HANTEER

Deel 1

Inleidende bepalings

- 491. Doel en toepassing van hierdie Hoofstuk
- 492. Verbode, beperkte of sektorbeheerde goedere

Deel 2

Klaring en vrystelling van internasionale posstukke

- 493. Klaring van ingevoerde internasionale posstukke
- 494. Klaring van internasionale posstukke bestem vir uitvoer

Deel 3

Doeaneprosessering van internasionale posstukke

- 495. Neem van internasionale posstukke na internasionale posklaringsdepots
- 496. Stel van internasionale posstukke tot beskikking van doeanegesag
- 497. Posdeklarasie moet internasionale posstukke vergesel wat tot doeanegesag se beskikking gestel word
- 498. Doeanegesag se funksies met betrekking tot internasionale posstukke tot doeanegesag se beskikking gestel

Deel 4

Betaling van invoer- of uitvoerbelasting op internasionale posstukke

- 499. Vrystelling van internasionale posstukke
- 500. Betaling van belasting op internasionale posstukke
- 501. Tydstip waarop belasting betaalbaar word en skaal van belasting
- 502. Betaling van belasting aan doeanegesag
- 503. Kansellasië en terugbetaling van belasting
- 504. Kondonering van kort-betaling

Deel 5

Inspeksie van internasionale posstukke

- 505. Toepassing moet met hierdie Deel bestaanbaar wees
- 506. Oopmaak van internasionale posstukke
- 507. Persoonlike of private kommunikasies
- 508. Kennisgewing dat internasionale posstukke oopgemaak is
- 509. Beslaglegging op en konfiskering van internasionale posstukke

Deel 6

Ander aangeleenthede

- 510. Sluit van ooreenkomste
- 511. Reëls ter fasilitering van implementering van hierdie Hoofstuk

CHAPTER 23

ACCESS TO AND SAMPLING OF GOODS

- 512. Purpose of this Chapter
- 513. Right of access to and taking samples from goods
- 514. Samples of imported goods
- 515. Samples of goods in free circulation cleared for export under export procedure
- 516. Rules to facilitate implementation of this Chapter
- 517. Offences in terms of this Chapter

CHAPTER 24

EXPEDITED CLEARANCE AND RELEASE OF GOODS

- 518. Purpose of this Chapter
- 519. Other clearance and release provisions to apply except insofar as provided otherwise in this Chapter
- 520. Tax status of goods not affected when cleared in terms of this Chapter

Part 1

Clearance and release of goods on incomplete or provisional clearance information

- 521. Goods to which this Part may be applied
- 522. Application to clear and obtain release of goods on incomplete or provisional clearance information
- 523. Contents of incomplete clearance declarations
- 524. Contents of provisional clearance declarations
- 525. Release of goods cleared in terms of incomplete or provisional clearance declaration
- 526. Supplementary clearance declarations
- 527. Tax payable in respect of goods cleared in terms of this Part
- 528. Application of this Part to restricted and sectorally controlled goods

Part 2

Release of goods subject to subsequent compliance with clearance requirements

- 529. Goods to which this Part may be applied
- 530. Application for expedited release
- 531. Subsequent submission of clearance declarations
- 532. Tax payable in respect of goods released in terms of this Part

Part 3

Simplified clearance and release of goods

- 533. Goods to which this Part may be applied
- 534. Application for simplified clearance
- 535. Simplified clearance requirements
- 536. Tax payable in respect of goods cleared in terms of this Part
- 537. Application of this Part to restricted and sectorally controlled goods

Part 4

Other matters

- 538. Rules to facilitate implementation of this Chapter
- 539. Offences in terms of this Chapter

HOOFSTUK 23

TOEGANG TOT EN NEEM VAN MONSTERS VAN GOEDERE

- 512. Doel van hierdie Hoofstuk
- 513. Reg van toegang tot en neem van monsters van goedere
- 514. Monsters van ingevoerde goedere
- 515. Monsters van goedere in vry sirkulasie geklaar vir uitvoer onder uitvoerprosedure
- 516. Reëls ter fasilitering van implementering van hierdie Hoofstuk
- 517. Misdrywe ingevolge hierdie Hoofstuk

HOOFSTUK 24

VERSNELDE KLARING EN VRYSTELLING VAN GOEDERE

- 518. Doel van hierdie Hoofstuk
- 519. Ander klarings- en vrystellingsbepalings van toepassing behalwe in soverre anders in hierdie Hoofstuk bepaal
- 520. Belastingstatus van goedere nie geraak wanneer ingevolge hierdie Hoofstuk geklaar

Deel 1

Klaring en vrystelling van goedere op onvolledige of voorlopige klaringsinligting

- 521. Goedere waarop hierdie Deel toegepas kan word
- 522. Aansoek om goedere te klaar en vrystelling te bekom op onvolledige of voorlopige klaringsinligting
- 523. Inhoud van onvolledige klaringsbriewe
- 524. Inhoud van voorlopige klaringsbriewe
- 525. Vrystelling van goedere ingevolge onvolledige of voorlopige klaringsbriewe geklaar
- 526. Aanvullende klaringsbriewe
- 527. Belasting betaalbaar ten opsigte van goedere geklaar ingevolge hierdie Deel
- 528. Toepassing van hierdie Deel op beperkte en sektorbeheerde goedere

Deel 2

Vrystelling van goedere behoudens latere voldoening aan klaringsvereistes

- 529. Goedere waarop hierdie Deel toegepas mag word
- 530. Aansoek om versnelde vrystelling
- 531. Latere indiening van klaringsbriewe
- 532. Belasting betaalbaar ten opsigte van goedere vrygestel ingevolge hierdie Deel

Deel 3

Verkorte klaring en vrystelling van goedere

- 533. Goedere waarop hierdie Deel toegepas kan word
- 534. Aansoek om verkorte klaring
- 535. Verkorte klaringsvereistes
- 536. Belasting betaalbaar ten opsigte van goedere ingevolge hierdie Deel geklaar
- 537. Toepassing van hierdie Deel op beperkte en sektorbeheerde goedere

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Ander aangeleenthede

- 538. Reëls ter fasilitering van implementering van hierdie Hoofstuk
- 539. Misdrywe ingevolge hierdie Hoofstuk

CHAPTER 25

DAMAGED, DESTROYED, LOST OR UNACCOUNTED GOODS

540. Purpose and application of this Chapter

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- 541. Application of this Part
- 542. Notification of goods damaged, destroyed, lost or unaccounted for
- 543. Consequences of failure to notify
- 544. Damaged goods
- 545. Destroyed goods
- 546. Lost goods
- 547. Goods unaccounted for

Part 2

Compensating products

- 548. Application of this Part
- 549. Notification of compensating products damaged, destroyed, lost or unaccounted for
- 550. Consequences of failure to notify
- 551. Damaged compensating products
- 552. Destroyed compensating products
- 553. Lost compensating products
- 554. Compensating products unaccounted for

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- 555. Tax waivers and refunds for goods damaged, destroyed, lost or unaccounted for not applicable in certain circumstances
- 556. Seized, confiscated and abandoned goods damaged, destroyed, lost or unaccounted for
- 557. Wreck
- 558. Rules to facilitate implementation of this Chapter
- 559. Offences in terms of this Chapter

CHAPTER 26

ABANDONMENT OF GOODS TO COMMISSIONER AND DESTRUCTION OF GOODS UNDER CUSTOMS SUPERVISION

560. Purpose and application of this Chapter

Part 1

Abandonment of goods to Commissioner

- 561. Goods that may be abandoned to Commissioner
- 562. Application to abandon goods to Commissioner
- 563. Consideration of applications
- 564. Abandonment notices
- 565. Consequences of abandonment
- 566. Consequences of refusal for goods to be abandoned

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BESKADIGDE, VERNIETIGDE, VERLORE OF REKENSAPLOSE GOEDERE

540. Doel en toepassing van hierdie Hoofstuk

Deel 1

Goedere anders as kompenserende produkte

- 541. Toepassing van hierdie Deel
- 542. Kennisgewing van beskadigde, vernietigde, verlore of rekenskaplose goedere
- 543. Gevolge van versuim om kennis te gee
- 544. Beskadigde goedere
- 545. Vernietigde goedere
- 546. Verlore goedere
- 547. Rekenskaplose goedere

Deel 2

Kompenserende produkte

- 548. Toepassing van hierdie Deel
- 549. Kennisgewing van kompenserende produkte wat beskadig, vernietig, verlore of rekenskaploos raak
- 550. Gevolge van versuim om kennis te gee
- 551. Beskadigde kompenserende produkte
- 552. Vernietigde kompenserende produkte
- 553. Verlore kompenserende produkte
- 554. Rekenskaplose kompenserende produkte

Deel 3

Ander aangeleenthede

- 555. Belastingkwytskeldings en -terugbetalings vir beskadigde, vernietigde, verlore of rekenskaplose goedere nie van toepassing in sekere omstandighede
- 556. Goedere waarop beslag gelê, gekonfiskeer of oorgegee is wat beskadig, vernietig, verlore of rekenskaploos raak
- 557. Wrakgoed
- 558. Reëls ter fasilitering van implementering van hierdie Hoofstuk
- 559. Misdrywe ingevolge hierdie Hoofstuk

HOOFTUK 26

OORGEE VAN GOEDERE AAN KOMMISSARIS EN VERNIETIGING VAN GOEDERE ONDER DOEANETOESIG

560. Doel en toepassing van hierdie Hoofstuk

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- 561. Goedere wat aan Kommissaris oorgegee kan word
- 562. Aansoek om goedere aan Kommissaris oor te gee
- 563. Oorweging van aansoeke
- 564. Oorgawekennisgewings
- 565. Gevolge van oorgawe
- 566. Gevolge van weiering dat goedere oorgegee word

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567. Application to destroy goods

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568. Purpose and application of this Chapter
569. Designation and licensing of premises as state warehouses

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570. Removal of goods to state warehouses
571. Submission of removal notices
572. Failure to remove goods to state warehouses
573. Recovery of expenses for removal of goods to state warehouses
574. Redirection of goods
575. Charges for goods in state warehouses
576. Accounting
577. Reporting by licensees of state warehouses
578. Responsibilities of licensees of licensed state warehouses
579. Risks in connection with goods removed to or stored in state warehouses

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580. Direction or authorisation for goods to be retained at or removed to licensed premises other than state warehouses
581. Submission of removal notices
582. Failure to remove goods
583. Recovery of expenses for removal of goods
584. Redirection of goods
585. Charges for goods stored at premises specified in direction or authorisation
586. Responsibilities of licensee of premises where goods are kept
587. Risks in connection with goods

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588. Application of this Part
589. Publication of lists of goods to which this Part applies
590. Reclaiming of goods in or accounted for in state warehouses
591. Removal of reclaimed goods
592. Sale of goods
593. Urgent sales
594. Manner of sale
595. Application of proceeds of sales
596. Disposal of goods otherwise than by sales
597. Non-compliance with sales conditions
598. Removal of goods following sale of goods

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567. Aansoek om goedere te vernietig

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569. Aanwysing en lisensiëring van persele as staatspakhuisse

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570. Verwydering van goedere na staatspakhuisse
571. Stuur van verwyderingskennisgewings
572. Versuim om goedere na staatspakhuisse te verwyder
573. Verhaal van koste vir verwydering van goedere na staatspakhuisse
574. Herdestinering van goedere
575. Gelde vir goedere in staatspakhuisse
576. Rekeninghouding
577. Verslagdoening deur lisensiehouers van staatspakhuisse
578. Verantwoordelikhede van lisensiehouers van gelisensieerde staatspakhuisse
579. Risiko's in verband met goedere verwyder na of geberg in staatspakhuisse

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580. Lasgewing of magtiging om goedere te hou by of te verwyder na gelisensieerde persele anders as staatspakhuisse
581. Stuur van verwyderingskennisgewings
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583. Verhaal van koste vir verwydering van goedere
584. Herdestinering van goedere
585. Bergingsgelde vir goedere by perseel in lasgewing of magtiging vermeld
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588. Toepassing van hierdie Deel
589. Publikasie van lyste van goedere waarop hierdie Deel van toepassing is
590. Terugeis van goedere in of verreken in staatspakhuisse
591. Verwydering van teruggeëisde goedere
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593. Dringende verkope
594. Wyse van verkoop
595. Aanwending van opbrengs van verkope
596. Beskikking oor goedere andersins as deur verkope
597. Nie-voldoening aan verkoopsvoorwaardes
598. Verwydering van goedere na verkoop van goedere

599. Tax consequences of goods sold or otherwise disposed of in terms of this Part

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600. Rules to facilitate implementation of this Chapter
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602. Purpose of this Chapter
603. Registration of importers and exporters
604. Registration of persons acquiring ownership of goods whilst under customs procedure
605. Registration of agents for persons not located in Republic
606. Registration of electronic users
607. Registration of other categories of persons

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608. General requirements
609. Consideration and decision of applications
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611. Issuing of registration certificates
612. Contents of registration certificates
613. Registration conditions
614. Period of validity of registration certificates

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615. Application for renewal of registration certificates by inactive registered persons
616. Issuing of renewed registration certificates
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618. Grounds for suspension or withdrawal of registration
619. Process
620. Communication of decisions to suspend or withdraw registration

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621. Provision of security
622. Transfer of registration certificates
623. Change of circumstances on which application for registration was granted
624. Consequences of expiry, suspension or withdrawal of registration

599. Belastinggevolge van goedere verkoop of andersins oor beskik ingevolge hierdie Deel

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600. Reëls ter fasilitering van implementering van hierdie Hoofstuk
601. Misdrywe ingevolge hierdie Hoofstuk

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602. Doel van hierdie Hoofstuk
603. Registrasie van invoerders en uitvoerders
604. Registrasie van persone wat eiendomsreg oor goedere onder doeane-prosedure verkry
605. Registrasie van agente vir persone nie in Republiek gesetel
606. Registrasie van elektroniese gebruikers
607. Registrasie van ander kategorieë persone

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608. Algemene vereistes
609. Oorweging en beslissing van aansoeke
610. Gronde vir weiering van aansoeke
611. Uitreik van registrasiesertifikate
612. Inhoud van registrasiesertifikate
613. Registrasievoorwaardes
614. Tydperk van geldigheid van registrasiesertifikate

Deel 3

Hernuwing en wysiging van registrasiesertifikate

615. Aansoek om hernuwing van registrasiesertifikate
616. Uitreik van hernuwingsregistrasiesertifikate
617. Wysiging van registrasiesertifikate

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618. Gronde vir opskorting of intrekking van registrasie
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622. Oordra van registrasiesertifikate
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624. Gevolge van verval, opskorting of intrekking van registrasie

- 625. Customs authority's powers following expiry, suspension or withdrawal of registration
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- 628. Definitions
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- 630. Licensing of categories of premises
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- 637. General grounds for refusal of applications
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- 642. Licence conditions
- 643. Conditions in respect of licensed premises
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- 647. Period of validity of licences

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- 648. Application for renewal of licences
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- 650. Issuing of renewed licences

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- 655. Process

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- 626. Reëls ter fasilitering van implementering van hierdie Hoofstuk
- 627. Misdrywe ingevolge hierdie Hoofstuk

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- 639. Bykomende gronde vir weiering van aansoek om lisensie
- 640. Uitreik van lisensies
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- 642. Lisensievoorwaardes
- 643. Voorwaardes ten opsigte van gelisensieerde persele
- 644. Voorwaardes ten opsigte van gelisensieerde oor-grens transmissielyne, pyplyne, kabelkarre en vervoerbande
- 645. Voorwaardes ten opsigte van gelisensieerde vervoerders
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- 648. Aansoek om hernuwing van lisensies
- 649. Bykomende gronde vir weiering van aansoeke om hernuwing
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- 651. Algemeen
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- 654. Doeleindes waarvoor doeanegesag lisensies kan wysig
- 655. Proses

656. Communication of decisions to amend licences

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657. Grounds for suspension or withdrawal of licences
658. Process
659. Communication of decisions to suspend or withdraw licences

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660. Provision of security
661. Change of circumstances on which application for licence was granted
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663. Customs authority's powers following expiry, lapsing, suspension or withdrawal of licence
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665. Rules to facilitate implementation of this Chapter
666. Offences in terms of this Chapter

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667. Purpose of this Chapter
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670. Criteria for accredited client status
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675. Period of validity of accredited client status certificates
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677. Renewal of accredited client status certificates
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682. Benefits of accreditation
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685. Purpose of this Chapter
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657. Gronde vir opskorting of intrekking van lisensies
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662. Gevolge van verstryking, verval, opskorting of intrekking van lisensies
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666. Misdrywe ingevolge hierdie Hoofstuk

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670. Kriteria vir geakkrediteerde kliëntstatus
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672. Uitreik van sertifikate van geakkrediteerde kliëntstatus
673. Inhoud van sertifikate van geakkrediteerde kliëntstatus
674. Voorwaardes
675. Tydperk van geldigheid van sertifikate van geakkrediteerde kliëntstatus
676. Nie-voldoening aan kriteria vir geakkrediteerde kliëntstatus
677. Hernuwing van sertifikate van geakkrediteerde kliëntstatus
678. Wysiging van sertifikate van geakkrediteerde kliëntstatus
679. Opskorting of intrekking van sertifikate van geakkrediteerde kliëntstatus
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- 701. Interest on outstanding amounts
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- 704. Establishing of liens over goods to secure payment of debt
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- 703. Persone wat rekenings by Kommissaris het
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- 729. Ondersoekbevoegdhede
- 730. Versuim of weiering om goedere of dokumente te toon of vrae te beantwoord
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- 732. Doeanetoesig oor handeling met betrekking tot goedere verrig

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- 760. Period of detention
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- 758. Teenwoordigheid van persone wanneer detensiegoedere geïnspekteer word
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- 777. Sekere verbode goedere van detensie uitgesluit
- 778. Detensiekennisgewing
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- 780. Beëindiging van detensie
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- 808. Discovery of suspected counterfeit goods
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- 788. Plek waar detensiegoedere gehou kan word
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- 814. Onus op reghouers om self hul regte te beskerm
- 815. Verwydering van goedere onder detensie na nagemaakte goedere depots
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- 897. Beperking van tydperk vir instel van geregtelike verrigtinge teen Minister, Kommissaris, SAID, doeanegesag, doeanbeamptes, SAID beamptes of staat
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- 937. Continuation of security given before effective date in terms of 1964 Act
- 938. Administrative and judicial proceedings
- 939. Investigations
- 940. Continuation of certain international agreements
- 941. References in legislation to Customs and Excise Act, 1964
- 942. Rules to facilitate transition and to address unforeseen or unintended consequences, anomalies or incongruities
- 943. Commencement of Chapters 22 and 38
- 944. Short title and commencement

PREAMBLE

WHEREAS current customs legislation has not kept pace with technological advances and does not fully reflect the modern standards of the Revised Kyoto Convention and other related international instruments to which the Republic has assented;

AND WHEREAS the Revised Kyoto Convention and these other related international instruments serve as a model framework for modern, efficient and cost-effective customs control and simplified customs procedures and formalities;

AND WHEREAS there is a need for establishing a new legislative framework for the further development and reform of customs legislation in an open and democratic society;

AND WHEREAS the mere amendment of current legislation will not achieve the desired result of modernisation and transformation of customs legislation and the simplification of customs procedures and formalities;

AND WHEREAS customs administration plays a critical role within the context of international trade and tourism in ensuring effective controls that secure revenue recovery, facilitation of legitimate trade and protection of society at large;

AND WHEREAS customs procedures and formalities should be efficient, transparent and predictable for carriers, importers, exporters, traders, travellers and other persons involved in or affected by customs procedures and formalities and not impede legitimate international trade, economic competitiveness and the movement of people and goods across national boundaries;

AND WHEREAS a new legislative framework must achieve a balance between effective customs control, the secure movement of goods and people into and from the Republic and the facilitation of trade and tourism;

AND WHEREAS there is a need to establish legislation that can serve as a “platform” for the implementation of various other laws that impose taxes on goods, and laws that prohibit, restrict or control the import or export of certain goods,

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

- 937. Voortsetting van sekuriteit voor effektiewe datum ingevolge 1964 Wet gestel
- 938. Administratiewe en geregtelike verrigtinge
- 939. Ondersoeke
- 940. Voortsetting van sekere internasionale ooreenkomste
- 941. Verwysings in wetgewing na Doeane- en Aksynswet, 1964
- 942. Reëls ter fasilitering van oorgang en bereddering van onvoorsiene en onbedoelde gevolge, anomalieë en teenstrydighede
- 943. Inwerkingtreeding van Hoofstukke 22 en 38
- 944. Kort titel en inwerkingtreeding

AANHEF

NADEMAAL die bestaande doeanewetgewing nie met tegnologiese ontwikkelinge tred gehou het nie en nie die moderne standaard van die “Revised Kyoto Convention” en ander internasionale instrumente wat daarmee in verband staan en wat deur die Republiek bekragtig is, ten volle weergee nie;

EN NADEMAAL die “Revised Kyoto Convention” en die ander betrokke internasionale instrumente as ‘n model raamwerk dien vir moderne, doeltreffende en koste-effektiewe doeanebeheer en vereenvoudigde doeaneprosesse en formaliteite;

EN NADEMAAL daar ‘n behoefte is aan die daarstelling van ‘n nuwe wetgewende raamwerk vir die verdere ontwikkeling en hervorming van doeanewetgewing in ‘n oop en demokratiese gemeenskap;

EN NADEMAAL die blote wysiging van die bestaande wetgewing nie die verlangde resultaat van modernisering en hervorming van doeanewetgewing en die vereenvoudiging van doeaneprosedures en formaliteite sal verwesenlik nie;

EN NADEMAAL doeaneadministrasie ‘n kritieke rol in die konteks van die internasionale handel en toerisme vervul deur effektiewe beheer te verseker vir die invordering van inkomste, die bevordering van wettige handel en die beskerming van die wyer gemeenskap;

EN NADEMAAL doeaneprosedures en formaliteite doeltreffend, deursigtig en voorspelbaar moet wees vir vervoerders, invoerders, uitvoerders, handelaars, reisigers en ander persone betrokke in, of wat geraak word deur, doeaneprosedures en formaliteite, en nie ‘n hindernis vir wettige internasionale handel, ekonomiese mededingendheid en die beweging van mense en goedere oor nasionale grense behoort te wees nie;

EN NADEMAAL ‘n nuwe wetgewende raamwerk ‘n balans moet bewerkstellig tussen doeltreffende doeanebeheer en die veilige beweging van goedere en mense in en uit die Republiek en die fasilitering van handel en toerisme;

EN NADEMAAL daar ‘n behoefte is om wetgewing daar te stel wat kan dien as ‘n “platform” vir die implementering van verskillende ander wette wat belastings op goedere oplê en wette wat die invoer of uitvoer van sekere goedere verbied, beperk of beheer,

WORD DAAR DERHALWE DEUR die Parlement van die Republiek van Suid-Afrika soos volg bepaal:—

CHAPTER 1

INTERPRETATION, APPLICATION AND ADMINISTRATION OF THIS ACT

Part 1

Interpretation of this Act

Definitions 5

1. (1) In this Act, unless the context otherwise indicates—
- “**accompanied baggage**”, in relation to a person entering or leaving the Republic, means all goods which a person has on or physically with him or her when processed through customs at the place of entry or exit through which that person enters or will leave the Republic;¹ 10
- “**accredited**”, in relation to a person, indicates that that person is a registered person or licensee and that an accredited client status certificate has been issued in terms of Chapter 30 to that person;
- “**administrative penalty**” means a penalty of any of the types stated in section 874; 15
- “**agent**”, in relation to—
- (a) an importer, means a person located in the Republic² who represents in the Republic an importer not located in the Republic;
- (b) an exporter, means a person located in the Republic who represents in the Republic an exporter not located in the Republic; 20
- (c) a carrier, means a person located in the Republic who represents in the Republic a carrier not located in the Republic; or
- (d) an owner of goods, means a person located in the Republic who represents in the Republic an owner of goods not located in the Republic;
- but does not include a licensed customs broker providing a service as customs broker on behalf of an importer, exporter, carrier or owner; 25
- “**aircraft**” means a craft of any kind whatsoever which is capable of flying, whether self-propelled or not, and includes its fittings and furnishings and any apparatus or equipment fitted on or to it;
- “**air cargo depot**”³ means premises whether within a customs airport or elsewhere— 30
- (a) where air cargo is—
- (i) received, packed or unpacked, or consolidated for export, or deconsolidated for delivery; and
- (ii) temporarily stored; and 35
- (b) from where air cargo is—
- (i) released for home use or a customs procedure; or
- (ii) removed to an air cargo terminal;
- “**air cargo terminal**” means premises within a customs airport where air cargo is— 40
- (a) off-loaded from, or loaded on board, foreign-going aircraft; and
- (b) temporarily stored after being off-loaded or before being loaded;

1. This includes all items booked as a person’s baggage or excess baggage irrespective of whether that baggage accompanied, or is to accompany, that person on the same vessel, aircraft, train or vehicle in which that person entered or is to leave the Republic or whether that baggage arrived, or is to be sent, on a separate vessel, aircraft, train or vehicle. It also includes any goods bought or acquired by a person from a tax free shop at the place of entry after having entered the Republic. The only condition is that the traveller must have the goods on or physically with him or her when processed through Customs. Baggage which is not with the traveller when processed through Customs is “unaccompanied baggage” as defined.

2. See section 1(3)(a).

3. Previously referred to in the Customs and Excise Act, 1964, as a degrouping depot.

HOOFSTUK 1

UITLEG, TOEPASSING EN ADMINISTRASIE VAN HIERDIE WET

Deel 1

Uitleg van hierdie Wet

Woordoms krywing	5
1. (1) In hierdie Wet, tensy uit die samehang anders blyk, beteken—	
“aanboord operateur” —	
(a) met betrekking tot ’n vaartuig, vliegtuig of trein, ’n persoon aan boord van die vaartuig, vliegtuig of trein wat in aanboord beheer is ¹ van die vaartuig, vliegtuig of trein;	10
(b) met betrekking tot ’n spoorwegwa, ’n persoon aan boord van die trein waarvan daardie spoorwegwa deel vorm, of geskeduleer is om deel te vorm, en wat in aanboord beheer van die trein is; of	
(c) met betrekking tot ’n voertuig, die bestuurder van die voertuig of, indien die bestuurder die voertuig bestuur onder instruksies van ’n ander persoon in die voertuig, daardie ander persoon;	15
“aanslag” , met betrekking tot belasting, ’n bepaling deur die doeanegesag ingevolge ’n belastingheffings-Wet van die belasbaarheid van goedere, en indien belasbaar, van die bedrag aan belasting ingevolge daardie Wet op daardie goedere betaalbaar;	20
“aanvullende klaringsbrief” ’n klaringsbrief wat—	
(a) ’n voorlopige klaringsbrief aanvul deur die klaringsinligting wat voorlopig verskaf is, te bevestig of reg te stel; of	
(b) ’n onvolledige klaringsbrief aanvul deur alle ontbrekende klaringsinligting vir ’n gewone klaring te verskaf;	25
“administratiewe boete” ’n boete van enige soort in artikel 874 vermeld;	
“afwend vir binnelandse gebruik” , met betrekking tot enige van die volgende kategorieë van goedere, om die goedere aan te skaf, aan te koop, te hanteer, te vervoer, te berg, te hou, te verkoop, te verhandel, te gebruik, te verwerk, van die hand te sit of op enige ander wyse daarmee te handel asof die goedere in vry sirkulasie is:	30
(a) Goedere in die Republiek ingevoer—	
(i) wat geklaar moet word maar wat nie hetsy vir binnelandse gebruik of ’n doeaneprosedure geklaar is nie; of	
(ii) wat geklaar is vir binnelandse gebruik maar wat nie vir binnelandse gebruik vrygestel is nie; of	35
(b) goedere onder ’n doeaneprosedure, ² met inbegrip van kompenserende produkte onder—	
(i) die prosedure vir inwaartse of uitwaartse prosessering; of	
(ii) die prosedure vir binnelandse gebruikprosessering wat nie in vry sirkulasie is nie; ³	40
“agent” , met betrekking tot—	
(a) ’n invoerder, iemand in die Republiek ⁴ gesetel wat in die Republiek ’n invoerder verteenwoordig wat nie in die Republiek gesetel is nie;	
(b) ’n uitvoerder, iemand in die Republiek gesetel wat in die Republiek ’n uitvoerder verteenwoordig wat nie in die Republiek gesetel is nie;	45
(c) ’n vervoerder, iemand in die Republiek gesetel wat in die Republiek ’n vervoerder verteenwoordig wat nie in die Republiek gesetel is nie; of	

1. Hier word verwys na die stuurman of kaptein van ’n vaartuig of die loods of kaptein van ’n vliegtuig, ens, maar sluit nie in haweloodse wat vaartuie in ’n hawe stuur en treinloodse wat treine op ’n spoor stuur nie.

2. Goedere kom onder ’n doeaneprosedure wanneer dit vir daardie doeaneprosedure geklaar word. Kyk bepalinge oor wanneer doeaneprosedures begin in die Hoofstukke wat met elkeen van die doeaneprosedures handel.

3. Kyk artikel 445.

4. Kyk artikel 1(3)(a).

“air travellers terminal” means premises within a customs airport where travellers and crew—

- (a) board, or disembark from, foreign-going aircraft; and
- (b) are processed for purposes of passenger control before boarding, or after disembarking from, foreign-going aircraft, 5

and includes—

- (i) all transit areas through which travellers and crew must proceed to or from foreign-going aircraft; and
- (ii) all facilities used for or in connection with the operation of the terminal;

“air waybill” means a document issued by an air carrier or other person duly authorised by an air carrier to transport, or to arrange the transport, of cargo to a particular destination on board an aircraft, and which serves as proof that the carrier or other person— 10

- (a) has received the cargo; and
- (b) has undertaken to transport, or to arrange the transport of, the cargo on the terms and conditions stated or referred to in the document; 15

“assessment”, in relation to tax, means a determination by the customs authority in terms of a tax levying Act of the taxability of goods, and if taxable, of the amount of tax payable on those goods in terms of that Act;

“ATA carnet” means an internationally accepted customs clearance document which— 20

- (a) may in terms of an international clearance arrangement be used in the Republic as a clearance declaration for clearing goods, excluding means of transport, identified in the document for—
 - (i) the temporary admission procedure; or 25
 - (ii) the temporary export procedure; and
- (b) is covered by a guarantee for any tax that may be, or may become, payable on such goods;

“bill of lading” means a document issued by a sea carrier or other person duly authorised by a sea carrier to transport, or to arrange the transport of, cargo to a particular destination on board a vessel and which serves as proof that the carrier or other person— 30

- (a) has received the cargo; and
- (b) has undertaken to transport, or to arrange the transport of, the cargo on the terms and conditions stated or referred to in the document; 35

“breach”, in relation to this Act or a tax levying Act, means any of the following acts or omissions whether or not that act or omission is an offence in terms of this Act or a tax levying Act:

- (a) A contravention of or failure to comply with a provision of this Act or a tax levying Act; 40
- (b) a contravention of or failure to comply with a term or condition of any registration, licence, accreditation, release, authorisation, permission, approval, exemption, instruction, direction or recognition issued or given in terms of this Act or a tax levying Act;
- (c) a failure to comply with a direction or instruction of the Commissioner, the customs authority or a customs officer in terms of this Act or a tax levying Act; 45
or
- (d) an evasion of, or any act or omission aimed at evading, a provision of this Act or a tax levying Act or a term or condition of any registration, licence, accreditation, release, authorisation, permission, approval, exemption, instruction, direction or recognition issued or given in terms of this Act or a tax levying Act; 50

- (d) 'n eienaar van goedere, iemand in die Republiek gesetel wat in die Republiek 'n eienaar van goedere verteenwoordig wat nie in die Republiek gesetel is nie, maar sluit nie 'n gelisensieerde doeanemakelaar in wat 'n diens as 'n doeanemakelaar ten behoeve van 'n invoerder, uitvoerder, vervoerder of eienaar lewer nie; 5
- “aksynspakhuis”** dieselfde as die betekenis wat in die Wet op Aksynsreg daaraan geheg is;
- “aksynspakhuistransito”** of **“prosedure vir aksynspakhuistransito”** die doeaneprosedure in artikel 221 beskryf;
- “algemene vraag”** vraag van 'n diverse aard ongeag of dit in verpakkings of houers is; 10
- “algemene seevragterminaal”** 'n perseel wat binne 'n doeaneseehawe geleë is waar losmaatvrag—
- (a) afgelaai word, of aan boord gelaai word, van land-uitgaande vaartuie; en
- (b) tydelik geberg word nadat dit afgelaai is of voordat dit gelaai word, 15
- maar nie ook 'n spesiale seevragterminaal wat losmaatvrag van 'n spesifieke soort hanteer nie;
- “ATA carnet”** 'n internasionaal aanvaarde doeaneklaringsdokument wat—
- (a) ingevolge 'n internasionale klaringsreëling as 'n klaringsbrief in die Republiek gebruik kan word vir die klaring van goedere, uitgesonderd 20
- middele van vervoer, in die dokument vermeld vir—
- (i) die prosedure vir tydelike toelating; of
- (ii) die prosedure vir tydelike uitvoer; en
- (b) deur 'n waarborg gedek word vir enige belasting wat op sodanige goedere 25
- betalbaar is of mag word;
- “beampte”**, met betrekking tot SAID—
- (a) die Kommissaris;
- (b) enige ander werknemer van SAID;
- (c) 'n persoon in diens by 'n ander staatsorgaan, insluitende enige instelling wat nie 'n staatsorgaan is nie, en wat aan SAID gesekondeer is om as 'n 30
- personeellid te werk; of
- (d) 'n persoon wat deur SAID gekontrakteer is om as personeellid andersins as werknemer te werk;
- “belasbaar”**, met betrekking tot goedere, dat 'n invoer- of uitvoerbelasting op die goedere ingevolge 'n belastingheffings-Wet opgelê is; 35
- “belasting”**, met betrekking tot goedere, 'n invoerbelasting, uitvoerbelasting of plaaslike belasting op goedere;
- “belasting betaalbare status”** 'n belastingstatus in artikel 134(1) beskryf;
- “belasting terugbetaling status”** 'n belastingstatus in artikel 134(3) beskryf;
- “belastingheffings-Wet”** enige wetgewing, uitgesonderd hierdie Wet, wat 'n 40
- spesifieke belasting oplê, of oplê en die administrasie daarvan reguleer, en ook enige van die volgende Wette tesame met enige reëls, regulasies of ander ondergeskikte wetgewing ingevolge enige van daardie Wette uitgereik en enige internasionale ooreenkomste wat geag word deel van enige van daardie Wette te wees: 45
- (a) Die Wet op Doeanereg;
- (b) die Wet op Belasting op Toegevoegde Waarde;
- (c) die Wet op Aksynsreg;
- (d) die “Diamond Export Levy Act, 2007” (Wet No. 15 van 2007); en
- (e) die “Diamond Export Levy Administration Act, 2007” (Wet No. 14 van 50
- 2007);
- “belastingvry status”** 'n belastingstatus in artikel 134(2) beskryf;
- “belastingvry-winkel”** 'n perseel waaruit goedere verkoop word ooreenkomstig die prosedure vir belastingvry-winkels, en ook enige bergingsfasiliteit op die perseel;⁵ 55
- “bemanning”** of **“bemanningslid”**, met betrekking tot 'n vaartuig, vliegtuig, trein, spoorwegwa of voertuig—

5. Hierdie fasiliteite is nie 'n privaat doeanepakhuis nie, maar vorm deel van die belastingvry-winkel

- “**break bulk cargo**” means general cargo transported on board a vessel, railway carriage or vehicle in separate packages or as loose items that are not packed, but excludes cargo transported in containers;
- “**bulk cargo**” means a large quantity of unpacked dry or liquid homogeneous cargo transported loose in the hold or cargo space of a vessel, railway carriage or truck; 5
- “**bulk sea cargo terminal**” means premises within a customs seaport where bulk cargo is—
- (a) off-loaded from, or loaded on board, foreign-going vessels; and
 - (b) temporarily stored after being off-loaded or before being loaded, 10
- but excludes a special sea cargo terminal handling bulk cargo of a specific type;
- “**bus**” means a vehicle with a seating capacity to carry more than 15 passengers;
- “**calendar day**” means any one of the seven days of a week;
- “**calendar year**” means a year from the first day of January in a year to the last day of December in that year; 15
- “**cargo**”, in relation to a vessel, aircraft, railway carriage or vehicle, means any goods on board, or to be loaded on board, or off-loaded from, a vessel, aircraft, railway carriage or vehicle, but excludes—
- (a) stores; and
 - (b) the accompanied and unaccompanied baggage of travellers and crew 20 members;
- “**cargo reporter**”, in relation to cargo on board, or to be loaded on board, or off-loaded from, a vessel or aircraft, means a person who in terms of a contract of carriage concluded by that person with the consignor of the cargo or any other interested person is responsible for the delivery of the cargo, whether that person is 25 the carrier who actually transports the cargo or a customs broker⁴ who arranged the transport of the cargo;
- “**cargo status**”, in relation to cargo imported into or to be exported from the Republic by sea, means any of the following symbols used for indicating the form in which the cargo is imported or to be exported: 30
- (a) “FCL” for indicating that the cargo is contained in an FCL container or FCL (groupage) container;
 - (b) “LCL” for indicating that the cargo is contained in an LCL container;
 - (c) “Break Bulk” for indicating that the cargo is in break bulk; or
 - (d) “Bulk” for indicating that the cargo is bulk; 35
- “**carrier**” means—
- (a) a shipping line, airline or other person carrying on business by transporting goods or travellers by sea or air for reward;
 - (b) a person carrying on business by transporting goods or travellers by rail for reward; 40
 - (c) a person carrying on business by transporting goods by truck or travellers by bus for reward; or
 - (d) a person who—
 - (i) conducts a business involving the selling or leasing of goods or the dealing in goods in any other manner, or the packing, repairing, 45 reconditioning, processing or producing of goods; and
 - (ii) in the course of conducting that business transports those goods;
- “**clear**”—
- (a) means submitting to the customs authority in accordance with this Act a clearance declaration complying with this Act in order to obtain the release of 50 goods for home use or a customs procedure;⁵ and

4. See paragraph (b) of the definition of “customs broker”.

5. The reference here to customs procedure includes clearance for export as the export of goods from the Republic is a customs procedure. See definition of “customs procedure”.

- (a) die aanboord operateur van die vaartuig, vliegtuig, trein, spoorwegwa of voertuig; of
- (b) enige ander persoon wat reis aan boord van die vaartuig, vliegtuig, trein, spoorwegwa of voertuig vir doeleindes van die verrigting van werk aan boord van die vaartuig, vliegtuig, trein, spoorwegwa of voertuig in die loop van dié se reis, 5
- maar nie ook 'n persoon in paragraaf (a) of (b) bedoel aan boord van 'n klein vaartuig, ligte vliegtuig of voertuig wat gebruik word as 'n private middel van vervoer nie;⁶
- “beperkte goedere”** goedere in artikel 783 beskryf; 10
- “bergingspakhuis”** 'n publieke of private bergingspakhuis;
- “beslag lê”**, met betrekking tot goedere, om fisies beheer oor die goedere te neem sonder om iemand van eiendomsreg oor die goedere te ontnem;
- “beveiligingsmaatreël”** 'n beveiligingsmaatreël ooreenkomstig die bedoeling van die Wet op Internasionale Handelsadministrasie; 15
- “binnekom”**, met betrekking tot die Republiek—
- (a) in die geval van 'n vaartuig of goedere of persone aan boord van 'n vaartuig, wanneer die vaartuig die territoriale waters van die Republiek binnekom;
- (b) in die geval van 'n vliegtuig of goedere of persone aan boord van 'n vliegtuig, wanneer die vliegtuig die lugruimte bokant die Republiek binnekom; 20
- (c) in die geval van 'n oor-grens trein of goedere of persone aan boord van 'n oor-grens trein, wanneer die trein oor die grens in die Republiek inkom;
- (d) in die geval van 'n voertuig of goedere of persone aan boord van 'n voertuig, wanneer die voertuig oor die grens in die Republiek inkom;
- (e) in die geval van elektrisiteit, wanneer die elektrisiteit deur 'n transmissielyn in die Republiek ingebring word; 25
- (f) in die geval van goedere in 'n oor-grens pyplyn, wanneer die goedere oor die grens deur die pyplyn in die Republiek ingebring word;
- (g) in die geval van goedere op 'n oor-grens kabelkar of vervoerband, wanneer die goedere oor die grens op die kabelkar of vervoerband in die Republiek ingebring word; of 30
- (h) in die geval van 'n voetganger of goedere wat so 'n persoon by hom of haar het, wanneer daardie persoon oor die grens in die Republiek inkom, en sluit in wanneer treine, voertuie, goedere of persone ingevolge artikel 34(2)(c) geag word die Republiek binne te gekom het; 35
- “binnelandse gebruik”**, met betrekking tot ingevoerde goedere, dat die goedere verbruik, gebruik, geprosesseer of andersins mee gehandel mag word in die Republiek as goedere wat nie meer aan doeanebeheer onderworpe is nie;
- “binnelandse gebruik kompenserende produkte”** kompenserende produkte verkry uit ingevoerde goedere onder die prosedure vir binnelandse gebruikprosessering; 40
- “binnelandse gebruikprosessering”** of **“prosedure vir binnelandse gebruikprosessering”** die doeaneprosedure in artikel 435 beskryf;
- “binnelandse gebruikprosesseringsperseel”** 'n perseel in artikel 630(2)(b) bedoel, maar nie ook 'n aksynspakhuis nie; 45
- “boete ter vermyding van vervolging”** 'n administratiewe boete van 'n tipe in artikel 878 bedoel;
- “breuk”**, met betrekking tot hierdie Wet of 'n belastingheffings-Wet, enige van die volgende handeling of versuime, ongeag of daardie handeling of versuim 'n misdryf ingevolge hierdie Wet of 'n belastingheffings-Wet uitmaak, of nie: 50
- (a) 'n Oortreding van, of versuim om te voldoen aan, 'n bepaling van hierdie Wet of 'n belastingheffings-Wet;
- (b) 'n oortreding van, of versuim om te voldoen aan, 'n bepaling of voorwaarde van enige registrasie, lisensie, akkreditasie, vrystelling, magtiging, toestemming, goedkeuring, ontheffing, opdrag, lasgewing of erkenning uitgereik of verleen ingevolge hierdie Wet of 'n belastingheffings-Wet; 55
- (c) 'n versuim om te voldoen aan 'n lasgewing of opdrag van die Kommissaris, die doeanegesag of 'n doeanebeampte ingevolge hierdie Wet of 'n belastingheffings-Wet; of

6. Om te bepaal wanneer 'n vaartuig, vliegtuig of voertuig as 'n klein vaartuig, ligte vliegtuig of voertuig gebruik as 'n privaat middel van vervoer kwalifiseer, kyk artikel 903(1)(n).

(b) includes amending a submitted clearance declaration to the extent necessary to validate the declaration if the declaration does not fully comply with this Act;⁶

“clearance declaration” means any of the documents referred to in section 164 which may in terms of this Act be submitted to the customs authority for the purpose stated in section 163; 5

“coasting vessel” means a domestic vessel operated by a carrier and engaged in the transportation of cargo between seaports within the Republic, but excludes a foreign-going vessel which—

(a) whilst on a voyage to its end destination in the Republic engages in such transportation during that part of the voyage in the Republic; or 10

(b) whilst on a voyage to a destination outside the Republic engages in such transportation during that part of the voyage in the Republic;

“combination sea cargo terminal” means premises situated within a customs seaport where both break bulk cargo and cargo in containers are— 15

(a) off-loaded from, or loaded on board, foreign-going vessels; and

(b) temporarily stored after being off-loaded or before being loaded;

“Commissioner” means the Commissioner for the South African Revenue Service;

“compensating products” means products obtained from the processing⁷ of— 20

(a) goods exported from the Republic under the outward processing procedure;

(b) imported goods under the inward processing procedure; or

(c) imported goods under the home use processing procedure,

and includes products not solely obtained from such exported or imported goods, as may be determined in terms of a tax levying Act; 25

“confiscate”, in relation to goods, means to divest a person of ownership of goods and to vest ownership of the goods in the state;

“container” means a receptacle, holder, tank or similar movable article—

(a) specially designed and equipped for containing goods for transport by more than one mode of transport without intermediate unloading and reloading of the contents; 30

(b) of a durable nature intended for repeated use;

(c) capable of being sealed; and

(d) which has an internal volume of not less than one cubic metre;

and includes a demountable body; 35

“container depot” means premises, whether situated within a customs seaport or elsewhere—

(a) where containers are—

(i) received;

(ii) packed or unpacked; or 40

(iii) temporarily stored;

(b) from where containers or the unpacked contents are delivered—

(i) to consignees upon clearing and release of the contents for home use; or

(ii) for the carrying out of a customs procedure upon clearing and release of the contents for that customs procedure; and 45

(c) where goods are received for packing into containers;

“container terminal” means premises, whether situated within a customs seaport or elsewhere—

(a) where packed and empty containers are received;

6. See sections 171 and 172.

7. See definition of “processing”.

- (d) 'n ontduiking van, of enige handeling of versuim gemik op die ontduiking van, 'n bepaling van hierdie Wet of 'n belastingheffings-Wet of 'n bepaling of voorwaarde van enige registrasie, lisensie, akkreditasie, vrystelling, magtiging, toestemming, ontheffing, opdrag, lasgewing of erkenning uitgereik of verleen ingevolge hierdie Wet of 'n belastingheffings-Wet; 5
- “bus”** 'n voertuig met sitplek vir meer as 15 passasiers;
- “Convention on Temporary Admission”** die “Convention on Temporary Admission” (Istanbul, 26 Junie 1990);
- “CPD carnet”** 'n internasionaal aanvaarde doeaneklaringsdokument wat—
- (a) ingevolge 'n internasionale klaringsreëling as 'n klaringsbrief in die Republiek gebruik kan word vir die klaring van middele van vervoer in die dokument vermeld, vir doeleindes van—
- (i) die prosedure vir tydelike toelating; of
- (ii) die prosedure vir tydelike uitvoer; en
- (b) gedek word deur 'n waarborg vir enige belasting wat op sodanige middele van vervoer betaalbaar is of mag word; 15
- “delegering”**, met betrekking tot 'n plig wat verrig moet word, ook 'n opdrag of versoek om die plig te verrig of om met die verrigting daarvan behulpsaam te wees;
- “demonteerbare bak”** 'n laaikompartement wat nie aandrywingsvermoë het nie en wat ontwerp is om vervoer te word op, of as 'n afhaalbare deel van, 'n voertuig wat spesiaal daarvoor ontwerp is, en ook 'n omruilbare laaikompartement wat ontwerp is vir gekombineerde pad- en spoorvervoer; 20
- “depot”**—
- (a) 'n houerdepot;
- (b) 'n lugvragdepot; of 25
- (c) 'n internasionale posklaringsdepot;
- “detensie”**, met betrekking tot goedere, om die beweging of hantering van goedere te beperk hangende 'n besluit rakende die goedere ingevolge hierdie Wet, 'n belastingheffings-Wet of ander wetgewing wat op die goedere van toepassing is;
- “Doeane- en Aksynswet, 1964”** die Doeane- en Aksynswet, 1964 (Wet No. 91 van 1964); 30
- “doeanebeampte”** 'n persoon deur die Kommissaris ingevolge artikel 10(1) as 'n doeanebeampte aangewys;
- “doeanebeheer”** beheer ingevolge hierdie Wet;
- “doeanebeheergebied”**— 35
- (a) 'n gebied, perseel of fasiliteit in artikel 43(1) as 'n doeanebeheergebied gelys; of
- (b) 'n gebied ingevolge artikel 43(2) as 'n doeanebeheergebied aangewys;
- “doanegesag”**—
- (a) die Kommissaris; of 40
- (b) 'n doeanebeampte, maar slegs indien en in soverre 'n bevoegdheid of plig ingevolge hierdie Wet toegewys aan die doanegesag aan daardie beampte ingevolge artikel 19 gedelegeer is;
- “Doeanekantoor”** 'n kantoor daargestel of aangewys as 'n doeane-kantoor ingevolge artikel 14(1)(a); 45
- “doeanekode”** 'n identifiseringsimbool bestaande uit syfers, letters of ander tekens wat deur die doanegesag toegeken is—
- (a) ingevolge artikel 612(1)(c) aan 'n geregistreerde persoon;
- (b) ingevolge artikel 641(1)(d) aan— 50
- (i) 'n gelisensieerde perseel;
- (ii) 'n gelisensieerde oor-grens transmissielyn, pyplyn, kabelkar of vervoerband; of
- (iii) 'n gelisensieerde vervoerder of doeane-makelaar;
- (iv) enige ander perseel, fasiliteit of persoon wat vir 'n doel in artikel 634(1), (2) of (3) bedoel, gelisensieer is; of 55
- (c) aan enige ander persoon, aangeleentheid of ding vir doeleindes van hierdie Wet of 'n belastingheffings-Wet;
- “doanelughawe”** 'n lughawe aangewys as 'n plek van toegang of uitgang vir vliegtuie en vir persone en goedere aan boord van vliegtuie;
- “doeanemakelaar”** iemand wat besigheid in die Republiek doen deur— 60
- (a) ten behoeve van ander persone teen vergoeding klaringsbriewe in te dien om goedere vir binnelandse gebruik of 'n doeane-prosedure te klaar, maar nie ook nie—

- (b) from where packed containers are delivered—
- (i) to container depots;
 - (ii) directly to consignees upon clearing and release of the contents for home use; or
 - (iii) for a customs procedure upon clearing and release of the contents for that customs procedure; and 5
- (c) where packed and empty containers are temporarily stored after being received or before being delivered;
- “Convention on Temporary Admission”** means the Convention on Temporary Admission (Istanbul, 26 June 1990); 10
- “Counterfeit Goods Act”** means the Counterfeit Goods Act, 1997 (Act No. 37 of 1997);
- “court”** includes a tax court as defined in the Tax Administration Act in relation to a matter within the jurisdiction of that court;
- “CPD carnet”** means an internationally accepted customs clearance document 15 which—
- (a) may in terms of an international clearance arrangement be used in the Republic as a clearance declaration for clearing means of transport identified in the document for—
 - (i) the temporary admission procedure; or 20
 - (ii) the temporary export procedure; and
 - (b) is covered by a guarantee for any tax that may be, or may become, payable on such means of transport;
- “crew”** or **“crew member”**, in relation to a vessel, aircraft, train, railway carriage or vehicle, means— 25
- (a) the on-board operator of the vessel, aircraft, train, railway carriage or vehicle; or
 - (b) any other person travelling on board the vessel, aircraft, train, railway carriage or vehicle for the purpose of performing work on board the vessel, aircraft, train, railway carriage or vehicle in the course of its journey, 30
- but excludes a person referred to in paragraph (a) or (b) on board a small vessel, light aircraft or vehicle used as a private means of transport;⁸
- “cross-border cable car”** means a cable car by way of which goods are imported into or exported from the Republic;
- “cross-border conveyor belt”** means a conveyor belt by way of which goods are 35 imported into or exported from the Republic;
- “cross-border pipeline”** means a pipeline through which liquid or gas commodities are imported into or exported from the Republic;
- “cross-border railway carriage”** means a coach or wagon which—
- (a) forms part of a cross-border train that will transport goods or travellers out of 40 the Republic, and includes a coach or wagon scheduled to form part of a cross-border train that will transport goods or travellers out of the Republic; or
 - (b) forms part of a cross-border train that transported goods or travellers into the Republic, and includes a coach or wagon which formed part of a cross-border train that transported goods or travellers into the Republic and from which the 45 goods have not yet been unloaded or the travellers have not yet disembarked;
- “cross-border train”** means a train on, or scheduled for, a voyage—

8. For determining when a vessel, aircraft or vehicle qualifies as a small vessel, light aircraft or vehicle used as a private means of transport, see section 903(1)(n).

- (i) iemand wat as die geregistreerde agent in die Republiek van 'n invoerder, uitvoerder, eienaar of vervoerder van goedere wat nie in die Republiek gesetel is nie⁷ 'n klaringsbrief ten behoeve van daardie invoerder, uitvoerder, eienaar of vervoerder indien; of
 - (ii) 'n gelisensieerde vervoerder wat in die Republiek gesetel is wat 'n klaringsbrief indien ten behoeve van 'n persoon wie se goedere deur daardie vervoerder vervoer word; 5
 - (b) ten behoeve van ander persone die ontvangs, aflewering of vervoer van goedere wat ingevoer is in, of uitgevoer word uit, die Republiek, teen vergoeding te reël; 10
 - (c) ten behoeve van ander persone die konsolidering of dekonsolidering van goedere wat ingevoer is in, of uitgevoer word uit, die Republiek teen vergoeding te reël, of sodanige goedere ten behoeve van ander persone teen vergoeding te konsolideer of te dekonsolideer; of
 - (d) ten behoeve van ander persone die formaliteite betreffende die invoer in, of die uitvoer uit, die Republiek van goedere teen vergoeding te behartig; 15
- “doeaneprosedure”** enige handelinge hieronder vermeld betreffende goedere wat ingevoer is in, of uitgevoer word uit, die Republiek wat slegs volgens die voorskrifte van hierdie Wet mag begin en tot uitvoer gebring mag word: 20
- (a) Die prosedure vir nasionale transit; 20
 - (b) die prosedure vir internasionale transit; 20
 - (c) die prosedure vir aksynspakhuistransito; 20
 - (d) die transverskepingsprosedure; 20
 - (e) die prosedure vir tydelike toelating; 20
 - (f) die pakhuisbergingsprosedure; 25
 - (g) die prosedure vir belastingvry-winkels; 25
 - (h) die voorradeprosedure; 25
 - (i) die uitvoerprosedure; 25
 - (j) die prosedure vir tydelike uitvoer; 25
 - (k) die prosedure vir inwaartse prosessering; 30
 - (l) die prosedure vir binnelandse gebruikprosessering; of 30
 - (m) die prosedure vir uitwaartse prosessering; 30
- “doeaneseehawe”** 'n seehawe wat as 'n plek van toegang of uitgang vir vaartuie en vir persone en goedere aan boord van vaartuie aangewys is; 35
- “Doeanetarief”** die Doeanetarief bedoel in artikel 7 van die Wet op Doeanereg; 35
- “doanewaarde”**, met betrekking tot goedere, die waarde van goedere vir doeanedoeleindes soos volgens voorskrif van Hoofstuk 7 of die Wet op Doeanereg bereken; 35
- “dokument”** ook—
- (a) enige instrument, hetsy van papier of van enige ander materiaal, waarop of 40
waarin daar—
 - (i) skrif is; 40
 - (ii) voorstellings is; of 40
 - (iii) perforasies is wat betekenis dra; 40
 - (b) enige instrument waaruit skrif, klank of voorstellings gereproduseer of herwin 45
kan word met of sonder die gebruik van enige toestel; of 45
 - (c) enige rekenaar, rekenaar hardware of ander toestel wat inligting bevat wat 45
elektronies gestoor is of waaruit inligting wat elektronies gestoor is, herwin
kan word; 45
- “eienaar”**, met betrekking tot goedere, ook 'n persoon wat 'n aandeel in die 50
eiendomsreg van goedere hou; 50
- “eiendomsreg”**, met betrekking tot goedere, ook 'n aandeel in die eiendomsreg
van goedere; 50
- “erkende oorsaak”**, met betrekking tot—
- (a) goedere wat beskadig, vernietig, verlore of rekenskaploos is, 'n oorsaak in 55
artikel 544(1), 545(1), 546(1) of 547(1) vermeld; of 55
 - (b) kompenserende produkte wat beskadig, vernietig, verlore of rekenskaploos is, 55
'n oorsaak in artikel 551(1), 552(1), 553(1) of 554(1) vermeld; 55
- “FCL (groeperings)houer”** 'n houer wat goedere bevat wat versend word van 60
meer as een versender na meer as een geadresseerde; 60

7. Kyk artikel 1(3)(a).

- (a) from a place outside the Republic to a destination inside the Republic; or
(b) from a place inside the Republic to a destination outside the Republic;
- “cross-border transmission line”**, in relation to electricity, means a transmission line through which electricity is imported into or exported from the Republic;
- “customs airport”** means an airport designated as a place of entry or exit for aircraft and for persons and goods on board aircraft; 5
- “Customs and Excise Act, 1964”** means the Customs and Excise Act, 1964 (Act No. 91 of 1964);
- “customs authority”** means—
- (a) the Commissioner; or 10
(b) a customs officer, but only if and to the extent that a power or duty assigned to the customs authority in terms of this Act has been delegated to that officer in terms of section 19;
- “customs broker”** means a person carrying on business in the Republic by—
- (a) submitting on behalf of other persons clearance declarations for reward to clear goods for home use or a customs procedure, excluding— 15
(i) a person who as the registered agent in the Republic of an importer, exporter, owner or carrier of goods not located in the Republic⁹ submits a clearance declaration on behalf of that importer, exporter, owner or carrier; or 20
(ii) a licensed carrier located in the Republic who submits a clearance declaration on behalf of a person whose goods that carrier is transporting;
- (b) arranging on behalf of other persons for reward the receipt, delivery or transport of goods imported into or to be exported from the Republic;
- (c) arranging on behalf of other persons for reward the consolidation or deconsolidation of goods imported into or to be exported from the Republic or consolidating or deconsolidating such goods on behalf of other persons for reward; or 25
- (d) handling on behalf of other persons for reward the formalities relating to the import into or the export from the Republic of goods; 30
- “customs code”** means an identification symbol consisting of figures, letters or other characters allocated by the customs authority—
- (a) in terms of section 612(1)(c) to a registered person;
- (b) in terms of section 641(1)(d) to— 35
(i) any licensed premises; 35
(ii) a licensed cross-border transmission line, pipeline, cable-car or conveyor belt; or
(iii) a licensed carrier or customs broker;
- (iv) any other premises, facility or person licensed for a purpose referred to in section 634(1), (2) or (3); or 40
- (c) to any other person, matter or thing for purposes of this Act or a tax levying Act;
- “customs control”** means control in terms of this Act;
- “customs controlled area”** means—
- (a) an area, premises or facility listed in section 43(1) as a customs controlled area; or 45
(b) an area designated in terms of section 43(2) as a customs controlled area;
- “Customs Duty Act”** means the Customs Duty Act, 2014 (Act No. 30 of 2014);
- “Customs Office”** means an office established or designated as a customs office in terms of section 14(1)(a); 50

9. See section 1(3)(a).

- “**FCL houer**” ’n houer wat goedere bevat wat versend word van meer as een versender na een geadresseerde;
- “**finale beslissing**”—
- (a) ’n beslissing gegee of bevestig deur ’n hof van finale instansie; of
- (b) ’n beslissing deur ’n ander hof gegee indien die tyd vir aantekening van appèl teen die beslissing na ’n hoër hof verstryk het en geen appèl aangeteken is nie; 5
- “**geakkrediteer**”, met betrekking tot ’n persoon, ’n aanduiding dat daardie persoon ’n geregistreerde persoon of lisensiehouer is en dat ’n sertifikaat van geakkrediteerde kliëntstatus ingevolge Hoofstuk 30 aan daardie persoon uitgereik is; 10
- “**gelisensieer**” ingevolge Hoofstuk 29 gelisensieer, behoudens subartikel (4) van hierdie artikel;
- “**gepos**” gepos by ’n poskantoor wat deur die Suid-Afrikaanse Poskantoor bedryf word;
- “**geregistreer**” geregistreer ingevolge Hoofstuk 28, behoudens subartikel (4) van hierdie artikel; 15
- “**gewone klaringsbrief**” ’n klaringsbrief wat gebruik moet word vir die klaring van goedere vir binnelandse gebruik of ’n doeane-prosedure in omstandighede waar ’n klaringsbrief bedoel in artikel 164(1)(b), (c), (d), (e) of (f) nie toelaatbaar is nie;
- “**goedere**” enige ware, voorrade, handelsvoorraad, artikels, produkte, kommoditeite, stowwe, dokumente of enige ander goedere wat vervoer kan word, hetsy los, verpak, in ’n verpakking of houer, behouer of in massa, en ook— 20
- (a) enige diere, ongeag dood of lewend, of gedeeltes van diere;
- (b) enige plante, ongeag dood of lewend, of gedeeltes van plante;
- (c) enige posstuk; 25
- (d) enige bagasie van persone wat die Republiek binnekom of verlaat, hetsy vergesel of onvergesel;
- (e) enige vaartuie, vliegtuie, lokomotiewe, spoorwegwaens, voertuie of ander middele van vervoer, ongeag of dit vir die vervoer van goedere of reisigers gebruik word of nie; 30
- (f) enige vervoertoerusting ongeag of dit in die vervoer van goedere gebruik word of nie, met inbegrip van herbruikbare-vervoertoerusting;
- (g) valuta;
- (h) enige kommoditeit wat deur pyplyne gepomp of by wyse van ’n kabelkar of vervoerband vervoer kan word; en 35
- (i) elektrisiteit;
- “**hawegesag**” die gesag in beheer van ’n doanelughawe of doeane-seehawe;
- “**herbruikbare-vervoertoerusting**” houers, palette, verpakkingsmateriaal of ander vervoertoerusting wat ontwerp is vir voortdurende hergebruik in die vervoer van goedere in die gewone loop van handel; 40
- “**heringevoerde onveranderde goedere**” goedere in die Republiek ingevoer wat—
- (a) voorheen uit die Republiek uitgevoer is, hetsy tydelik of regstreeks; en
- (b) geen vervaardiging, prosessering of herstel ondergaan het nie terwyl dit in die buiteland was, maar nie ook onderhoud in verband met die gebruik daarvan in die buiteland nie; 45
- “**hierdie Wet**” ook—
- (a) die regulasies en die reëls;
- (b) enige algemeen-geldende kennisgewings deur die Minister ingevolge ’n bepaling van hierdie Wet in die *Staatskoerant* afgekondig; en 50
- (c) enige internasionale ooreenkoms wat—
- (i) as wet verorden is hetsy voordat of nadat hierdie Wet in werking getree het; en
- (ii) as sodanig bindend is vir doeleindes van ’n aangeleentheid wat deur hierdie Wet gedek word; 55
- “**hof**” ook ’n belastinghof soos in die Wet op Belastingadministrasie omskryf met betrekking tot ’n aangeleentheid binne die jurisdiksie van daardie hof;
- “**houer**” ’n behouersitem, bak, tenk of soortgelyke roerende artikel—
- (a) spesifiek ontwerp en toegerus om goedere te behouer vir die vervoer daarvan op meer as een wyse van vervoer, sonder intermediêre aflaai en herpak van die inhoud; 60
- (b) van ’n duursame aard wat bestem is vir herhaalde gebruik;
- (c) wat geseël kan word; en

- “**customs officer**” means a person designated by the Commissioner in terms of section 10(1) as a customs officer;
- “**customs procedure**” means any conduct listed below involving goods imported into or to be exported from the Republic which may commence and be carried out only in accordance with this Act: 5
- (a) The national transit procedure;
 - (b) the international transit procedure;
 - (c) the excise warehouse transit procedure;
 - (d) the transshipment procedure;
 - (e) the temporary admission procedure; 10
 - (f) the warehousing procedure;
 - (g) the tax free shop procedure;
 - (h) the stores procedure;
 - (i) the export procedure;
 - (j) the temporary export procedure; 15
 - (k) the inward processing procedure;
 - (l) the home use processing procedure; or
 - (m) the outward processing procedure;
- “**customs seaport**” means a seaport designated as a place of entry or exit for vessels and for persons and goods on board vessels; 20
- “**Customs Tariff**” means the Customs Tariff referred to in section 7 of the Customs Duty Act;
- “**customs value**”, in relation to goods, means the value of goods for customs purposes as calculated in accordance with Chapter 7 of the Customs Duty Act;
- “**damage**”¹⁰, in relation to goods, includes any deterioration or spoiling of goods due to any act or omission without rendering the goods commercially valueless, but excludes stealing of goods; 25
- “**declare**”¹¹, in relation to goods, means—
- (a) to disclose goods to the customs authority; and
 - (b) to provide the customs authority with all information relating to the goods required by the customs authority for purposes of this Act, including any information necessary to determine whether— 30
 - (i) the goods are taxable, and, if so, to assess any tax payable on the goods;
 - (ii) the goods are goods that must be cleared for home use or a customs procedure; 35
 - (iii) the goods are not prohibited, restricted, sectorally controlled or counterfeit goods; and
 - (iv) the goods may be released for home use or the customs procedure for which the goods were cleared;
- “**delegation**”, in relation to a duty that must be performed, includes an instruction or request to perform or to assist in performing the duty; 40
- “**demountable body**” means a load compartment which has no means of locomotion and which is designed to be transported on, or as a detachable part of, a specially adapted vehicle, and includes a swap-body which is a load compartment designed for combined road and rail transport; 45
- “**depot**” means—
- (a) a container depot;
 - (b) an air cargo depot; or
 - (c) an international postal clearance depot;

10. It is to be noted that “**damage**” retains its ordinary grammatical meaning and that the definition, by using the word “includes”, merely extends, and not replaces, the ordinary grammatical meaning.

11. The notion of “declaring” goods does not imply “clearing” the goods for home use or a customs procedure. The declaration or disclosure of goods to a customs officer may (but not necessarily) lead to the clearance of the goods depending on the value of the goods, the nature of the goods, etc.

- (d) met 'n inhoudsmaat van nie minder nie as een kubieke meter, en ook 'n demonteerbare bak;
“houerdepot” 'n perseel, hetsy binne 'n doeaneseehawe of elders geleë—
- (a) waar houers— 5
- (i) ontvang word;
 - (ii) verpak of uitgepak word; of
 - (iii) tydelik geberg word;
- (b) waarvandaan houers of die uitgepakte inhoud daarvan gelewer word— 10
- (i) aan geadresseerdes na klaring en vrystelling van die inhoud vir binnelandse gebruik; of
 - (ii) vir die uitvoering van 'n doeaneprosedure na klaring en vrystelling van die inhoud vir daardie doeaneprosedure; en
- (c) waar goedere vir verpakking in houers ontvang word;
- “houerterminaal”** 'n perseel, hetsy binne 'n doeaneseehawe of elders geleë— 15
- (a) waar gepakte en leë houers ontvang word;
- (b) waarvandaan gepakte houers gelewer word— 20
- (i) aan houerdepots;
 - (ii) direk aan geadresseerdes na klaring en vrystelling van die inhoud vir binnelandse gebruik; of
 - (iii) vir 'n doeaneprosedure na klaring en vrystelling van die inhoud vir daardie doeaneprosedure; en
- (c) waar gepakte en leë houers tydelik geberg word nadat dit ontvang is of voordat dit versend word;
- “inspekteer”**, as 'n handeling deur 'n doeanebeampte met betrekking tot goedere verrig, ook om enige van of al die handelinge bedoel in artikel 722(3) te verrig; 25
- “internasionale handelsooreenkoms”** 'n internasionale handelsooreenkoms soos in artikel 1 of die Wet op Doeanereg omskryf;
- “internasionale klaringsreëling”** 'n reëling vir die klaring van goedere ooreenkomstig—
- (a) die “Convention on Temporary Admission”; of 30
- (b) 'n ooreenkoms tussen die Republiek en 'n ander land om, anders as ooreenkomstig formele klaringsvereistes—
- (i) die tydelike toelating van goedere van daardie land in die Republiek te reguleer; en
 - (ii) die tydelike uitvoer van goedere uit die Republiek na daardie land te reguleer; 35
- “internasionale ooreenkoms”**—
- (a) 'n internasionale handelsooreenkoms; of
- (b) 'n konvensie, verdrag of ander internasionale ooreenkoms ongeag die benaming, met inbegrip van— 40
- (i) enige protokol tot so 'n ooreenkoms;
 - (ii) enige aanhangsel of bylae of ander byvoeging tot die ooreenkoms of so 'n protokol;
 - (iii) enige regulasie of ander maatreël uitgereik kragtens die ooreenkoms of so 'n protokol; 45
 - (iv) enige wysiging tot die ooreenkoms of so 'n protokol, tot so 'n aanhangsel, bylae of ander byvoeging, of tot so 'n regulasie of ander maatreël; en
 - (v) enige ander instrument wat deel vorm van die ooreenkoms of so 'n protokol; 50
- “internasionale posklaringsdepot”** 'n perseel deur die Suid-Afrikaanse Poskantoor gebruik vir die sortering en possering van internasionale posstukke vir—
- (a) aflewering binne die Republiek, in die geval van posstukke wat buite die Republiek vir aflewering in die Republiek geapos is; of 55
- (b) versending aan boord van land-uitgaande vaartuie of vliegtuie, oor-grens spoorwegwaens of voertuie wat vanaf die Republiek vertrek, in die geval van posstukke wat in die Republiek vir aflewering buite die Republiek geapos is;
- “internasionale posstuk”** 'n posstuk wat— 60
- (a) buite die Republiek geapos is vir—
- (i) aflewering binne die Republiek; of
 - (ii) transito deur die Republiek na 'n ander land; of
- (b) binne die Republiek geapos is vir aflewering buite die Republiek;

- “destroy”**, in relation to goods, includes an act or occurrence that renders goods commercially valueless;¹²
- “detain”**, in relation to goods, means restrict the movement or handling of goods pending a decision concerning the goods in terms of this Act, a tax levying Act or other legislation applicable to the goods; 5
- “divert for home use”**, in relation to any of the following categories of goods, means acquiring, purchasing, handling, transporting, storing, keeping, selling, trading in, utilising, processing, disposing of or in any other way dealing with the goods as if the goods are in free circulation:
- (a) Goods imported into the Republic— 10
 - (i) that are required to be cleared but that have not been cleared either for home use or a customs procedure; or
 - (ii) that have been cleared for home use but not released for home use; or
 - (b) goods under a customs procedure,¹³ including compensating products under— 15
 - (i) the inward or outward processing procedure; or
 - (ii) the home use processing procedure that are not in free circulation;¹⁴
- “document”** includes—
- (a) any instrument, whether paper-based or from any other material, on or in which there— 20
 - (i) is writing;
 - (ii) are images; or
 - (iii) are perforations which have meaning;
 - (b) any instrument from which writing, sounds or images can be reproduced or retrieved with or without the aid of any device; or 25
 - (c) any computer, computer hardware or other device containing electronically stored information or from which electronically stored information is retrievable;
- “domestic tax”**, in relation to goods, means—
- (a) value-added tax imposed in terms of the Value-added Tax Act, other than value-added tax falling within the definition of “import tax”; 30
 - (b) an excise duty, fuel levy, Road Accident Fund levy or environmental levy imposed in terms of the Excise Duty Act, other than an excise duty, fuel levy, Road Accident Fund levy or environmental levy falling within the definition of “import tax”; or 35
 - (c) any tax, levy or duty imposed on goods in terms of another tax levying Act, other than any tax, levy or duty falling within the definition of “import tax”;
- “domestic vessel”** means any vessel at a seaport, harbour or other place in the Republic or in the territorial waters of the Republic which is not a foreign-going vessel; 40
- “due date”** means, in relation to—
- (a) an administrative penalty, the date on or before which the penalty must be paid in terms of Chapter 39; or
 - (b) any other amount owed to the Commissioner in terms of this Act, the date specified for payment in a notice demanding payment of the amount; 45
- “enforcement function”**, in relation to the customs authority or a customs officer, means a power or duty assigned to the customs authority in terms of this Act or a tax levying Act or assigned or delegated to a customs officer in terms of this Act or a tax levying Act—
- (a) to implement and enforce this Act or a tax levying Act; or 50
 - (b) to assist in the implementation or enforcement of other legislation referred to in Chapter 35 or 36;

12. It is to be noted that **“destroy”** retains its ordinary grammatical meaning and that the definition, by using the word “includes”, merely extends, and not replaces, the ordinary grammatical meaning.

13. Goods come under a customs procedure when cleared for that customs procedure. See provisions on commencement of customs procedures in Chapters dealing with each customs procedure.

14. See section 445.

- “**internasionale transito**” of “**prosedure vir internasionale transito**” die doeaneprosedure in artikel 194(2) beskryf;
- “**invoer**”, met betrekking tot goedere, die vervoer, versending of inbring van goedere in die Republiek, behoudens artikels 2(a) en 30;
- “**invoerbelaasting**”— 5
- (a) ’n gewone invoerreg, anti-dumpingreg, kontrareg of beveiligingsreg ingevolge die Wet op Doeanereg opgelê op goedere in die Republiek ingevoer, en ook ’n voorlopige anti-dumpingreg, kontrareg of beveiligingsreg op sodanige goedere;
- (b) belasting op toegevoegde waarde ingevolge die Wet op Belasting op Toegevoegde Waarde opgelê op goedere in die Republiek ingevoer; 10
- (c) ’n aksynsreg, brandstofheffing, Padongelukfondsheffing of omgewingsheffing ingevolge die Wet op Aksynsreg opgelê op goedere in die Republiek ingevoer; of
- (d) enige ander belasting, heffing of reg op goedere in die Republiek ingevoer; 15
- “**invoerder**”, met betrekking tot goedere, ’n persoon wat goedere in die Republiek invoer, en ook ’n persoon wat—
- (a) op die tydstip van invoer—
- (i) die eienaar is van die goedere wat ingevoer word;
- (ii) die risiko dra ten opsigte van die goedere wat ingevoer word; of 20
- (iii) op watter wyse ook al ’n voordelige belang het in die goedere wat ingevoer word;
- (b) feitelik self die goedere in die Republiek in vervoer of poog om dit in die Republiek in te vervoer, behalwe waar daardie persoon—
- (i) ’n gelisensieerde vervoerder is; of 25
- (ii) ’n vervoerder is wat nie in die Republiek gesetel is nie en in die Republiek deur ’n geregistreerde agent verteenwoordig word; of
- (c) ’n persoon wat goedere in die Republiek invoer of in paragraaf (a) of (b) bedoel word, verteenwoordig, of voorgee om so ’n persoon te wees of te verteenwoordig, behalwe waar daardie persoon ’n gelisensieerde doeanemakelaar is wat as doeanemakelaar ’n persoon verteenwoordig wat— 30
- (i) goedere invoer; of
- (ii) in enige van daardie paragraawe bedoel word;
- “**inwaarts geprosesseerde kompenserende produkte**” kompenserende produkte wat— 35
- (a) verkry is uit die prosessering van ingevoerde goedere onder die prosedure vir inwaartse prosessering; en
- (b) bestem is vir uitvoer of uitgevoer word uit die Republiek;
- “**inwaartse prosessering**” of “**prosedure vir inwaartse prosessering**” die doeaneprosedure in artikel 408 beskryf; 40
- “**inwaartse prosesseringsperseel**” ’n perseel in artikel 630(2)(a) bedoel;
- “**kalenderdag**” enige van die sewe dae van ’n week;
- “**kalenderjaar**” ’n jaar vanaf die eerste dag van Januarie in ’n jaar tot en met die laaste dag van Desember van daardie jaar;
- “**klaar**”— 45
- (a) indiening by die doeanegesag volgens voorskrif van hierdie Wet van ’n klaringsbrief wat aan hierdie Wet voldoen ten einde die vrystelling van goedere vir binnelandse gebruik of ’n doeaneprosedure te bekom;⁸ en
- (b) ook wysiging van ’n klaringsbrief wat ingedien is, in soverre die wysiging nodig is om die klaringsbrief geldig te maak waar die klaringsbrief nie ten volle aan hierdie Wet voldoen nie;⁹ 50
- “**klaringsbrief**” enige van die dokumente bedoel in artikel 164 wat ingevolge hierdie Wet by die doeanegesag ingedien mag word vir die doel in artikel 163 vermeld;
- “**kombinasie seevragterminaal**” ’n perseel geleë binne ’n doeaneseehawe waar beide losmaatvrag en vrag in houers— 55
- (a) afgelaai word, of aan boord gelaai word, van land-uitgaande vaartuie; en
- (b) tydelik geberg word na die aflaai of voor die oplaai daarvan;
- “**Kommissaris**” die Kommissaris vir die Suid-Afrikaanse Inkomstediens;

8. Die verwysing hier na doeaneprosedure sluit klaring vir uitvoer in aangesien die uitvoer van goedere uit die Republiek ’n doeaneprosedure is. Kyk omskrywing van “doeaneprosedure”.

9. Kyk artikels 171 en 172.

- “enter”**, in relation to the Republic, means—
- (a) in the case of a vessel or goods or persons on board a vessel, when the vessel crosses into the territorial waters of the Republic;
 - (b) in the case of an aircraft or goods or persons on board an aircraft, when the aircraft crosses into the airspace above the Republic; 5
 - (c) in the case of a cross-border train or goods or persons on board a cross-border train, when the train crosses the border into the Republic;
 - (d) in the case of a vehicle or goods or persons on board a vehicle, when the vehicle crosses the border into the Republic;
 - (e) in the case of electricity, when the electricity is transmitted through a transmission line into the Republic; 10
 - (f) in the case of goods in a cross-border pipeline, when the goods cross the border through the pipeline into the Republic;
 - (g) in the case of goods on a cross-border cable car or conveyor belt, when the goods cross the border on the cable car or conveyor belt into the Republic; or 15
 - (h) in the case of a person on foot or goods that such a person has with him or her, when that person crosses the border into the Republic,
- and includes when trains, vehicles, goods or persons are regarded in terms of section 34(2)(c) to have entered the Republic;
- “Excise Duty Act”** means the Excise Duty Act, 1964 (Act No. 91 of 1964); 20
- “excise warehouse”** has the same meaning as assigned to it in the Excise Duty Act;
- “excise warehouse transit”** or **“excise warehouse transit procedure”** means the customs procedure described in section 221;
- “exporter”**¹⁵ means— 25
- (a) in relation to goods exported or to be exported from the Republic, the person who exported, is in the process of exporting or intends to export those goods from the Republic; or
 - (b) in relation to goods exported or to be exported to the Republic, the person who exported, is in the process of exporting or intends to export those goods to the Republic, 30
- and includes—
- (i) a person who at the time when the goods are exported or in the process of being exported from or to the Republic— 35
 - (aa) is the owner of the goods;
 - (bb) carries the risk in respect of the goods; or
 - (cc) is beneficially interested in the goods in any way whatsoever;
 - (ii) a person who actually transports or attempts to transport the goods out of or into the Republic, except when that person is— 40
 - (aa) a licensed carrier;
 - (bb) a carrier not located in the Republic and represented in the Republic by a registered agent; or
 - (iii) a person who represents, or pretends to be or to represent, a person referred to in paragraph (a) or (b) or paragraph (i) or (ii), except when that person is a licensed customs broker who as a customs broker represents a person referred to in any of those paragraphs; 45
- “export from the Republic”**, in relation to goods, means transporting, taking, sending or removing goods out of the Republic, subject to sections 2(a) and 30;
- “export procedure”** means the customs procedure described in section 362;
- “export tax”** means— 50
- (a) an export duty imposed in terms of the Customs Duty Act on goods exported from the Republic; or
 - (b) any other tax, levy or duty on goods exported from the Republic;¹⁶
- “export to the Republic”**, in relation to goods, means taking, sending or transporting goods from outside the Republic to a destination inside the Republic; 55

15. “Exporter” is used in two senses in the Act. Firstly, as a person who exports goods *from* the Republic to another country, and, secondly, as a person who exports goods *from* another country *to* the Republic. See definitions of “export from the Republic” and “export to the Republic”.

16. Such as the levy on diamonds exported from the Republic in terms of the Diamond Export Levy Act, 2007 (Act No. 15 of 2007). It is to be noted that no export duty has been imposed in terms of the Customs and Excise Act on goods exported from the Republic.

- “kompenserende produkte”** produkte verkry uit die prosessering¹⁰ van—
- (a) goedere uit die Republiek uitgevoer onder die prosedure vir uitwaartse prosessering;
 - (b) ingevoerde goedere onder die prosedure vir inwaartse prosessering; of
 - (c) ingevoerde goedere onder die prosedure vir binnelandse gebruikprosessering, en ook produkte wat nie uitsluitlik verkry is van sodanige uitgevoerde of ingevoerde goedere nie, soos ingevolge ’n belastingheffings-Wet bepaal mag word; **“konfiskeer”**, met betrekking tot goedere, om ’n persoon van eiendomsreg oor goedere te ontnem en eiendomsreg oor die goedere in die staat te vestig;
- “kusvaartuig”** ’n plaaslike vaartuig onder operasionele beheer van ’n vervoerder en wat gebruik word vir die vervoer van vrug tussen seehawens in die Republiek, maar nie ook ’n land-uitgaande vaartuig wat—
- (a) onderwyl op reis na sy eindbestemming in die Republiek, vir sodanige vervoer tydens daardie deel van die reis in die Republiek gebruik word nie; of
 - (b) onderwyl op reis na ’n bestemming buite die Republiek, vir sodanige vervoer tydens daardie deel van die reis in die Republiek gebruik word nie;
- “ladingsbrief”** ’n dokument uitgereik deur ’n seevervoerder of ander persoon behoorlik daartoe gemagtig deur ’n seevervoerder om vrug te vervoer of die vervoer daarvan te reël, na ’n spesifieke bestemming aan boord van ’n vaartuig, en wat as bewys dien dat die vervoerder of ander persoon—
- (a) die vrug ontvang het; en
 - (b) onderneem het om die vrug te vervoer, of die vervoer daarvan te reël, volgens die bepalinge en op die voorwaardes in die dokument vermeld of waarna in die dokument verwys word;
- “land-grenspos”**—
- (a) met betrekking tot voertuie, ’n padgrensoorgang ingevolge artikel 31(1)(d) aangewys as ’n plek van toegang of uitgang vir voertuie, en persone en goedere aan boord van voertuie; of
 - (b) met betrekking tot voetgangers, ’n pad- of ander grensoorgang ingevolge artikel 31(1)(e) aangewys as ’n plek van toegang of uitgang vir voetgangers, en goedere wat sodanige persone by hulle het;
- “land-uitgaande vaartuig”**—
- (a) ’n vaartuig by ’n seehawe, landingsplek of ander plek in die Republiek indien daardie vaartuig—
 - (i) by daardie seehawe, landingsplek of ander plek aangekom het in die loop van ’n vaart vanaf buite die Republiek na ’n bestemming of bestemmings binne die Republiek, ongeag of daardie seehawe, landingsplek of ander plek daardie bestemming of een van daardie bestemmings is en of dit ’n plek is waar dit onderweg na daardie of enige van daardie bestemmings aandoen; of
 - (ii) geskeduleer is om van daardie seehawe, landingsplek of ander plek te vertrek in die loop van ’n vaart na ’n bestemming buite die Republiek, ongeag of daardie seehawe, landingsplek of ander plek die vaartuig se plek van vertrek na daardie bestemming is, en of dit sy plek, of een van verskeie plekke, in die Republiek is waar dit aandoen of waarvandaan dit in die loop van daardie vaart vertrek;
 - (b) ’n vaartuig in die territoriale waters van die Republiek op ’n vaart in paragraaf (a)(i) of (ii) bedoel; of
 - (c) ’n vaartuig op vaart vanaf ’n plek buite die Republiek na ’n bestemming buite die Republiek wat—
 - (i) deur die territoriale waters van die Republiek vaar; of
 - (ii) by enige plek in die Republiek aandoen;
- “land-uitgaande vliegtuig”**—
- (a) ’n vliegtuig by ’n lughawe, landingstrook of ander plek in die Republiek indien daardie vliegtuig—
 - (i) aangekom het by daardie lughawe, landingstrook of ander plek in die loop van ’n vlug vanaf buite die Republiek na ’n bestemming of bestemmings binne die Republiek, ongeag of daardie lughawe, landingstrook of ander plek daardie bestemming of een van daardie

10. Kyk omskrywing van “prosessering”.

- “**FCL container**” means a container containing goods consigned from more than one consignor to a single consignee;
- “**FCL (groupage) container**” means a container containing goods consigned from more than one consignors to more than one consignees;
- “**final judgement**” means— 5
- (a) a judgement given or confirmed by a court of final instance; or
 - (b) a judgement given by another court if the time for noting an appeal against the judgement to a higher court has expired and no appeal has been lodged;
- “**fixed amount penalty**” means an administrative penalty of a type referred to in section 876; 10
- “**foreign-going aircraft**” means—
- (a) an aircraft at an airport, landing strip or other place in the Republic if that aircraft—
 - (i) has arrived at that airport, landing strip or other place in the course of a voyage from outside the Republic to a destination or destinations inside the Republic, whether that airport, landing strip or other place is that destination or one of those destinations or a stopover on its way to that or any of those destinations; or 15
 - (ii) is scheduled to depart from that airport, landing strip or other place in the course of a voyage to a destination outside the Republic, whether that airport, landing strip or other place is its place of departure to that destination or a stopover or one of several stopovers in the Republic from where it will depart in the course of that voyage; 20
 - (b) an aircraft in the airspace above the Republic on a voyage referred to in paragraph (a)(i) or (ii); or 25
 - (c) an aircraft on a voyage from a place outside the Republic to a destination outside the Republic—
 - (i) passing through the airspace above the Republic; or
 - (ii) making a stopover at any airport, landing strip or other place in the Republic; 30
- “**foreign-going vessel**” means—
- (a) a vessel at a seaport, harbour or other place in the Republic if that vessel—
 - (i) has arrived at that seaport, harbour or other place in the course of a voyage from outside the Republic to a destination or destinations inside the Republic, whether that seaport, harbour or other place is that destination or one of those destinations or a stopover on its way to that or any of those destinations; or 35
 - (ii) is scheduled to depart from that seaport, harbour or other place in the course of a voyage to a destination outside the Republic, whether that seaport, harbour or other place is its place of departure to that destination or a stopover or one of several stopovers in the Republic from where it departs in the course of that voyage; 40
 - (b) a vessel in the territorial waters of the Republic on a voyage referred to in paragraph (a)(i) or (ii); or
 - (c) a vessel on a voyage from a place outside the Republic to a destination outside the Republic— 45
 - (i) passing through the territorial waters of the Republic; or
 - (ii) making a stopover at any place in the Republic;
- “**free circulation**” means—
- (a) in relation to goods imported into the Republic, that the goods— 50
 - (i) have been released for home use and that the release for home use was unconditional or, if conditional, has due to compliance with the condition become unconditional; or
 - (ii) fall within a category of goods referred to in section 91(1)(e), (g), (h), (i) or (j) and are allowed into the Republic free from customs control subject only to customs verification that the goods fall within that category; 55
 - (b) in relation to products obtained from the processing of imported goods conditionally released for home use processing,¹⁷ that—
 - (i) the products have been produced in compliance with the conditions subject to which the imported goods were released for home use 60

17. See section 442.

- bestemmings is en of dit 'n plek is waar dit onderweg na daardie of enige van daardie bestemmings aandoen; of
- (ii) geskeduleer is om van daardie lughawe, landingstrook of ander plek te vertrek in die loop van 'n vlug na 'n bestemming buite die Republiek, ongeag of daardie lughawe, landingstrook of ander plek sy plek van vertrek na daardie bestemming is of 'n plek, of een of verskeie plekke, in die Republiek is waar dit aandoen of waarvandaan dit in die loop van daardie vlug vertrek; 5
- (b) 'n vliegtuig in die lugruimte bokant die Republiek op 'n vlug in paragraaf (a)(i) of (ii) bedoel; of 10
- (c) 'n vliegtuig op 'n vlug vanaf 'n plek buite die Republiek na 'n bestemming buite die Republiek wat—
- (i) deur die lugruimte bokant die Republiek verbyvlieg; of
- (ii) by enige lughawe, landingstrook of ander plek in die Republiek aandoen;
- “LCL houer”** 'n houer wat goedere bevat wat versend word van een of meer versenders na meer as een geadresseerde; 15
- “lisensie”** 'n lisensie deur die doeanegesag ingevolge Hoofstuk 29 uitgereik, behoudens subartikel (4) van hierdie artikel;
- “lisensiehouer”** die houer van 'n lisensie, behoudens subartikel (4) van hierdie artikel; 20
- “losmaatvrag”** algemene vrag wat aan boord van 'n vaartuig, spoorwegwa of voertuig in afsonderlike verpakings, of as los artikel wat nie verpak is nie, vervoer word, maar nie ook vrag wat in houters vervoer word nie;
- “lugreisigersterminaal”** 'n perseel geleë binne 'n doeanelughawe waar reisigers en bemanning— 25
- (a) opklim op, of afklim van, land-uitgaande vliegtuie; en
- (b) vir doeleindes van passassiersbeheer geprosesseer word voor opklim op, of na afklim van, land-uitgaande vliegtuie, met inbegrip van—
- (i) alle transito gebiede waardeur reisigers en bemanning onderweg na of vanaf land-uitgaande vliegtuie moet beweeg; en 30
- (ii) alle geriewe gebruik vir, of in verband met, die bedryf van die terminaal;
- “lugvragbrief”** 'n dokument uitgereik deur 'n lugvervoerder of ander persoon behoorlik daartoe gemagtig deur 'n lugvervoerder om vrag te vervoer, of die vervoer daarvan te reël, na 'n spesifieke bestemming aan boord van 'n vliegtuig, en wat as bewys dien dat die vervoerder of ander persoon— 35
- (a) die vrag ontvang het; en
- (b) onderneem het om die vrag te vervoer, of die vervoer daarvan te reël, volgens die bepalinge en op die voorwaardes in die dokument vermeld of waarna in die dokument verwys word;
- “lugvragdepot”**¹¹ 'n perseel, hetsy binne 'n doeanelughawe of elders geleë— 40
- (a) waar lugvrag—
- (i) ontvang, verpak of uitgepak, vir uitvoer gekonsolideer of vir aflewering gedekonsolideer word; en
- (ii) tydelik geberg word; en
- (b) waarvandaan lugvrag— 45
- (i) vir binnelandse gebruik of 'n doeane-prosedure vrygestel word; of
- (ii) verwyder word na 'n lugvragsterminaal;
- “lugvragsterminaal”** 'n perseel geleë binne 'n doeanelughawe waar lugvrag—
- (a) afgelaai word, of aan boord gelaai word, van land-uitgaande vliegtuie; en
- (b) tydelik geberg word nadat dit afgelaai is of voordat dit gelaai word; 50
- “manifes”** of **“vragmanifes”** 'n lys van vrag wat aan boord is of wat afgelaai gaan word van 'n vaartuig, vliegtuig, spoorwegwa of voertuig by 'n spesifieke plek soos aangetoon in die vervoerdokumente wat ten opsigte van daardie vrag uitgereik is;
- “massa seevragsterminaal”** 'n perseel binne 'n doeane-seehaweg geleë waar massavrag— 55
- (a) afgelaai word, of aan boord gelaai word, van land-uitgaande vaartuie; en
- (b) tydelik geberg word na die aflaai of voor die oplaai daarvan, maar nie ook 'n spesiale seevragsterminaal wat massavrag van 'n spesifieke soort hanteer nie;

11. Voorheen in die Doeane- en Aksynswet, 1964, na verwys as 'n ontgroeperingsdepot.

- processing and that the release of the imported goods for home use processing has due to such compliance become unconditional; and
- (ii) no tax levying Act prevents the products from being dealt with in accordance with section 445(1)(a) or (b);
 - (c) in relation to goods manufactured in an excise warehouse, that the goods have been entered for home consumption in accordance with the Excise Duty Act; or
 - (d) in relation to goods produced in the Republic otherwise than as contemplated in paragraph (b) or (c), that the goods have been produced in circumstances in which this Act and the Excise Duty Act do not apply:
- Provided that goods in free circulation by virtue of paragraph (a), (b), (c) or (d) lose their free circulation status if the goods are subsequently cleared for a customs procedure that allows goods in free circulation to be cleared for that procedure;¹⁸
- “general cargo”** means cargo of a diverse nature whether in packages or containers;
- “general sea cargo terminal”** means premises within a customs seaport where break bulk cargo is—
- (a) off-loaded from, or loaded on board, foreign-going vessels; and
 - (b) temporarily stored after being off-loaded or before being loaded;
- but excludes a special sea cargo terminal handling break bulk cargo of a specific type;
- “goods”** means any wares, supplies, merchandise, articles, products, commodities, substances, documents or any other things capable of being transported, whether loose, packed, in a package or holder, containerised or in bulk, and includes—
- (a) any animals, whether dead or alive, or parts of animals;
 - (b) any plants, whether dead or alive, or parts of plants;
 - (c) any postal items;
 - (d) any baggage of persons entering or leaving the Republic, whether accompanied or unaccompanied;
 - (e) any vessels, aircraft, locomotives, railway carriages, vehicles or other means of transport, whether or not used for the transport of goods or travellers;
 - (f) any transport equipment whether or not used in the transport of goods, including reusable transport equipment;
 - (g) currency;
 - (h) any commodity capable of being pumped through pipelines or conveyed by means of cable-car or conveyor belt; and
 - (i) electricity;
- “guaranteeing association”** means—
- (a) in relation to the temporary admission procedure, an association guaranteeing in accordance with the Convention on Temporary Admission or any international agreement referred to in section 280(1)(a)(ii) the payment of any import tax that may become payable on goods temporarily admitted into the Republic on authority of a CPD or ATA carnet; or
 - (b) in relation to the temporary export procedure, an association guaranteeing in accordance with the Convention on Temporary Admission or any international agreement referred to in section 393(1)(a)(ii) the payment of any export tax that may become payable on goods temporarily exported from the Republic on authority of a CPD or ATA carnet;
- “home use”**, in relation to imported goods, means that the goods may be consumed, utilised, processed or otherwise disposed of in the Republic as goods that are no longer subject to customs control;
- “home use compensating products”** means compensating products obtained from imported goods under the home use processing procedure;
- “home use processing”** or **“home use processing procedure”** means the customs procedure described in section 435;
- “home use processing premises”** means premises referred to in section 630(2)(b) but excludes an excise warehouse;
- “import”**, in relation to goods, means transporting, sending or bringing goods into the Republic, subject to sections 2(a) and 30;

18. Such as for outright export, temporary export or outward processing.

- “**massavrag**” ’n groot hoeveelheid onverpakte droë of vloeibare homogene vrag wat los in die ruim of vragspasie van ’n vaartuig, spoorwegwa of trok vervoer word;
- “**meerdoelige seevragterminaal**” enige perseel binne ’n doeaneseehawe geleë waar vrag van ’n kombinasie van die volgende hanteer word: 5
- (a) Algemene vrag;
 - (b) spesiale vrag;
 - (c) massavrag; en
 - (d) houers, met inbegrip van leë houers;
- “**middel van vervoer**” ’n vaartuig, vliegtuig, lokomotief, spoorwegwa of voertuig 10 wat aangewend word vir die vervoer van goedere of persone;
- “**Minister**” die Kabinetslid verantwoordelik vir finansies;
- “**multi-modale vervoer**” die vervoer van goedere van een punt na ’n ander deur in die loop van die reis van een wyse van vervoer na ’n ander oor te skakel;
- “**nasionale transito**” of “**prosedure vir nasionale transito**” die 15 doeaneprosedure in artikel 194(1) beskryf;
- “**nie-vervolgbare breuk**”, met betrekking tot hierdie Wet, ’n breuk van hierdie Wet wat nie ’n misdryf ingevolge hierdie Wet is nie;
- “**ondersteunende dokument**” ook ’n dokument in artikel 176 bedoel;
- “**onvergeselde bagasie**”, met betrekking tot ’n persoon wat die Republiek 20 binnekom of verlaat, enige artikels in die bagasie van ’n persoon wat die Republiek binnekom of verlaat wat, weens ’n vertraging in die reisproses, afsonderlike reisreëlings of enige ander rede, nie fisies by daardie persoon was of kon wees toe daardie persoon deur doeanes geprosesseer is by die plek van toegang waardeur 25 daardie persoon die Republiek binnekom of by die plek van uitgang waardeur daardie persoon die Republiek verlaat nie;
- “**onvolledige klaringsbrief**” ’n klaringsbrief wat gebruik kan word om goedere vir binnelandse gebruik of ’n doeaneprosedure in die omstandighede uiteengesit in Deel 1 van Hoofstuk 24 te klaar en wat nie al die inligting bevat wat in ’n gewone klaringsbrief ingesluit moet word nie weens die nie-beskikbaarheid van ’n gedeelte 30 van daardie inligting;
- “**oor-grens kabelkar**” ’n kabelkar deur middel waarvan goedere ingevoer word in, of uitgevoer word uit, die Republiek;
- “**oor-grens pyplyn**” ’n pyplyn waardeur vloeibare of gasprodukte ingevoer word in, of uitgevoer word uit, die Republiek; 35
- “**oor-grens spoorwegwa**” ’n passassiers- of goederewa wat—
- (a) deel vorm van ’n oor-grens trein wat goedere of reisigers uit die Republiek vervoer, en ook ’n passassiers- of goederewa geskeduleer om deel te vorm van ’n oor-grens trein wat goedere of reisigers uit die Republiek sal vervoer; of
 - (b) deel vorm van ’n oor-grens trein wat goedere of reisigers in die Republiek in vervoer het, en ook ’n passassiers- of goederewa wat deel gevorm het van ’n oor-grens trein wat goedere of reisigers in die Republiek in vervoer het en vanaf waarvan die goedere nog nie afgelaai is of die reisigers nog nie afgeklim het nie; 40
- “**oor-grens transmissielyn**”, met betrekking tot elektrisiteit, ’n transmissielyn 45 waardeur elektrisiteit ingevoer word in, of uitgevoer word uit, die Republiek;
- “**oor-grens trein**” ’n trein op, of geskeduleer vir, ’n tog—
- (a) vanaf ’n plek buite die Republiek na ’n bestemming in die Republiek; of
 - (b) vanaf ’n plek in die Republiek na ’n bestemming buite die Republiek;
- “**oor-grens vervoerband**” ’n vervoerband deur middel waarvan goedere ingevoer 50 word in, of uitgevoer word uit, die Republiek;
- “**oorsprong**”, met betrekking tot goedere, die land waarin die goedere geproduseer is, of geag word geproduseer te wees, volgens die reëls van oorsprong wat ingevolge Hoofstuk 8 van die Wet op Doeanereg op die goedere van toepassing is; 55
- “**opleweringsverslag**” ’n verslag wat inligting verskaf soos by reël voorgeskryf mag word aangaande—
- (a) goedere wat—
 - (i) vir vervoer in houers verpak of, hetsy op palette of op enige ander wyse, gekonsolideer word; 60
 - (ii) vir vervoer aan boord van ’n vaartuig, vliegtuig, spoorwegwa of voertuig gelaai word;
 - (iii) van ’n vaartuig, vliegtuig, spoorwegwa of voertuig afgelaai word; of

“importer”, in relation to goods, means a person who imports goods into the Republic, and includes a person who—

- (a) at the time of importation—
 - (i) is the owner of the goods that are imported;
 - (ii) carries the risk in respect of the goods that are imported; or 5
 - (iii) is beneficially interested in any way whatsoever in the goods that are imported;
- (b) actually transports or attempts to transport the goods into the Republic, except when that person is—
 - (i) a licensed carrier; or 10
 - (ii) a carrier not located in the Republic and represented in the Republic by a registered agent; or
- (c) represents, or pretends to be or to represent, a person importing goods or referred to in paragraph (a) or (b), except when that person is a licensed customs broker who as a customs broker represents a person— 15
 - (i) importing goods; or
 - (ii) referred to in any of those paragraphs;

“import tax” means—

- (a) an ordinary import duty, anti-dumping duty, countervailing duty or safeguard duty imposed in terms of the Customs Duty Act on goods imported into the Republic, and includes a provisional anti-dumping duty, countervailing duty and safeguard duty on such goods; 20
- (b) value-added tax imposed in terms of the Value-added Tax Act on goods imported into the Republic;
- (c) an excise duty, fuel levy, Road Accident Fund levy or environmental levy 25 imposed in terms of the Excise Duty Act on goods imported into the Republic; or
- (d) any other tax, levy or duty on goods imported into the Republic;

“incomplete clearance declaration” means a clearance declaration that may be used to clear goods for home use or a customs procedure in the circumstances set out in Part 1 of Chapter 24 and that does not contain all the information required to be included in a regular clearance declaration due to the unavailability of some of that information; 30

“inspect”, as an action performed by a customs officer in relation to goods, includes to perform any or all of the actions referred to in section 722(3); 35

“international agreement” means—

- (a) an international trade agreement; or
- (b) a convention, treaty or other international agreement irrespective of its designation, including—
 - (i) any protocol to such agreement; 40
 - (ii) any annex or appendix or other addition to the agreement or any such protocol;
 - (iii) any regulation or other measure issued under the agreement or any such protocol;
 - (iv) any amendment to the agreement or any such protocol, to any such annex, appendix or other addition, or to any such regulation or other measure; and 45
 - (v) any other instrument that forms part of the agreement or any such protocol;

“international clearance arrangement” means an arrangement for the clearance of goods in accordance with— 50

- (a) the Convention on Temporary Admission; or
- (b) an agreement between the Republic and another country to regulate, otherwise than in accordance with formal clearance requirements—
 - (i) the temporary admission of goods from that country into the Republic; 55 and
 - (ii) the temporary export of goods from the Republic to that country;

“international postal article” means a postal article—

- (a) posted outside the Republic for—
 - (i) delivery inside the Republic; or 60
 - (ii) transit through the Republic to another country; or
- (b) posted inside the Republic for delivery outside the Republic;

- (iv) uit houers uitgepak of uit gekonsolideerde verpakkings gedekonsolideer word; of
- (b) leë houers wat afgelaai word, of aan boord gelaai word, van vaartuie of spoorwegwaens;
- “padvragbrief”** ’n dokument deur ’n padvervoerder uitgereik om goedere te vervoer, of die vervoer daarvan te reël, na ’n spesifieke bestemming aan boord van ’n voertuig, en wat as bewys dien dat die vervoerder of daardie persoon— 5
- (a) die goedere ontvang het; en
- (b) onderneem het om die goedere te vervoer of vir die vervoer daarvan te reël ooreenkomstig die bepalings en voorwaardes in die dokument vermeld of waarna in die dokument verwys word; 10
- “pakhuisberging”** of **“pakhuisbergingsprosedure”** die doeaneprosedure in artikel 296 beskryf;
- “perseel”** enige terrein, eiendom, gebou, struktuur of enige deel van ’n terrein, eiendom, gebou of struktuur; 15
- “persoon”** ’n natuurlike persoon of ’n regsentiteit, en ook ’n staatsorgaan of ’n beampte van ’n staatsorgaan, en het **“iemand”** ’n ooreenstemmende betekenis;
- “plaaslike belasting”**, met betrekking tot goedere—
- (a) belasting op toegevoegde waarde ingevolge die Wet op Belasting op Toegevoegde Waarde opgelê, behalwe belasting op toegevoegde waarde wat binne die omskrywing van “invoerbelasting” val; 20
- (b) ’n aksynsreg, brandstofheffing, Padongelukfondsheffing of omgewingsheffing ingevolge die Wet op Aksynsreg gehef, behalwe ’n aksynsreg, brandstofheffing, Padongelukfondsheffing of omgewingsheffing wat binne die omskrywing van “invoerbelasting” val; of 25
- (c) enige belasting, heffing of reg op goedere ingevolge ’n ander belastingheffings-Wet opgelê, behalwe ’n belasting, heffing of reg wat binne die omskrywing van “invoerbelasting” val;
- “plaaslike vaartuig”** enige vaartuig by ’n seehawe, landingsplek of ander plek in die Republiek of in die territoriale waters van die Republiek wat nie ’n land-uitgaande vaartuig is nie; 30
- “plek van toegang”** ’n plek ingevolge artikel 31 of 34 aangewys as ’n plek van toegang vir die beheer van vaartuie, vliegtuie, treine, voertuie, goedere en persone wat die Republiek binnekom;
- “plek van uitgang”** ’n plek ingevolge artikel 31 of 34 aangewys as ’n plek van uitgang vir die beheer van vaartuie, vliegtuie, treine, voertuie, goedere en persone wat die Republiek verlaat; 35
- “polisiebeampte”** ’n lid van die Suid-Afrikaanse Polisie diens ingestel ingevolge die Wet op die Suid-Afrikaanse Polisie diens, 1995 (Wet No. 68 van 1995);
- “poskantoor”** ook enige huis, gebou, vertrek, voertuig, plek of struktuur waar die Suid-Afrikaanse Poskantoor— 40
- (a) posstukke ontvang, sorteer, aflewer, opmaak of versend; of
- (b) enige pos-, spaar-, geldoorplasing- of ander diens lewer, en ook enige briewe bus of ander houer deur of met die goedkeuring van die Suid-Afrikaanse Poskantoor vir die ontvangs van posstukke beskikbaar gestel; 45
- “posstuk”** ’n brief, poskaart, kaartbrief, koevert, boek, pakkie, patroon of monsterpakkie of enige pakket of ander artikel wanneer dit per pos versend word, en ook ’n telegram wanneer dit per pos versend word;
- “private bergingspakhuis”** ’n gelisensieerde perseel wat uitsluitlik deur die lisensiehouer van die perseel gebruik word vir die berging van goedere waarvan die lisensiehouer die eienaar is of waarin die lisensiehouer ’n wesenlike belang het, maar nie ook ’n aksynspakhuis nie; 50
- “produseer”**, met betrekking tot goedere, ook om goedere te plant, te groei, te oes, te vervaardig, te maak, aanmekaar te sit, te myn, te ontgin of te prosesseeer of op enige ander wyse goedere te skep of voort te bring; 55
- “produsent”**, met betrekking tot goedere, ’n persoon wat goedere produseer;
- “prosedure vir belastingvry-winkels”** die doeaneprosedure in artikel 316 beskryf;
- “prosedure vir tydelike uitvoer”** die doeaneprosedure in artikel 375 beskryf;
- “prosessering”**— 60
- (a) met betrekking tot goedere onder die prosedure vir inwaartse prosessering—
- (i) om ingevoerde goedere te herstel, skoon te maak, op te knap, te verander, aan te pas, te verpak of te herverpak;

“international postal clearance depot” means premises operated by the South African Post Office for the sorting and processing of international postal items for—

- (a) delivery inside the Republic, in the case of postal items posted outside the Republic for delivery in the Republic; or 5
- (b) despatch on board foreign-going vessels or aircraft, cross-border railway carriages or vehicles departing from the Republic, in the case of postal items posted inside the Republic for delivery outside the Republic;

“international trade agreement” means an international trade agreement as defined in section 1 of the Customs Duty Act; 10

“international transit” or **“international transit procedure”** means the customs procedure described in section 194(2);

“inward processed compensating products” means compensating products—

- (a) obtained from the processing of imported goods under the inward processing procedure; and 15
- (b) destined for export or exported from the Republic;

“inward processing” or **“inward processing procedure”** means the customs procedure described in section 408;

“inward processing premises” means premises referred to in section 630(2)(a);

“issuing association” means— 20

- (a) in relation to the temporary admission procedure, an association which in terms of the Convention on Temporary Admission or any international agreement referred to in section 280(1)(a)(ii) is authorised to issue CPD or ATA carnets for the temporary admission of goods into the Republic; or
- (b) in relation to the temporary export procedure, an association which in terms of the Convention on Temporary Admission or any international agreement referred to in section 393(1)(a)(ii) is authorised to issue CPD or ATA carnets for the temporary export of goods from the Republic for temporary admission into another country; 25

“juristic entity” includes— 30

- (a) a company, close corporation or co-operative incorporated or registered in terms of legislation whether in the Republic or elsewhere;
- (b) an association, partnership or club or other body of persons of whatever description, corporate or unincorporated;
- (c) a trust or trust fund; 35
- (d) any entity referred to in paragraph (a), (b) or (c) in liquidation or under judicial management; and
- (e) the estate of a deceased or insolvent person;

“land border-post” means—

- (a) in relation to vehicles, a road border crossing designated in terms of section 31(1)(d) as a place of entry or exit for vehicles, and persons and goods on board vehicles; or 40
- (b) in relation to persons on foot, a road or other border crossing designated in terms of section 31(1)(e) as a place of entry or exit for persons on foot, and goods that such persons have with them; 45

“LCL container” means a container containing goods consigned from one or more consignors to more than one consignees;

“leave”, in relation to the Republic, means—

- (a) in the case of a vessel or goods or persons on board a vessel, when the vessel moves out of the territorial waters of the Republic; 50
- (b) in the case of an aircraft or goods or persons on board an aircraft, when the aircraft moves out of the airspace above the Republic;
- (c) in the case of a cross-border train or goods or persons on board a cross-border train, when the train crosses the border out of the Republic;
- (d) in the case of a vehicle or goods or persons on board a vehicle, when the vehicle crosses the border out of the Republic; 55
- (e) in the case of electricity, when the electricity is transmitted through a transmission line out of the Republic;
- (f) in the case of goods in a cross-border pipeline, when the goods cross the border through the pipeline out of the Republic; 60
- (g) in the case of goods on a cross-border cable car or conveyor belt, when the goods cross the border by way of the cable car or conveyor belt out of the Republic; or

- (ii) om ingevoerde goedere aan 'n nywerheidsproses te onderwerp; of
 - (iii) om ingevoerde goedere in 'n vervaardigingsproses of vir die produksie van vervaardigde produkte te gebruik;
 - (b) met betrekking tot goedere onder die prosedure vir binnelandse gebruikprosessering— 5
 - (i) om ingevoerde goedere in kleinhandelmaat te herverpak;
 - (ii) om ingevoerde goedere te herstel, te verander, aan te pas of op te knap;
 - (iii) om ingevoerde goedere aan 'n nywerheidsproses te onderwerp; of
 - (iv) om ingevoerde goedere in 'n vervaardigingsproses of vir die produksie van vervaardigde produkte te gebruik; of 10
 - (c) met betrekking tot goedere onder die prosedure vir uitwaartse prosessering—
 - (i) om goedere uit die Republiek uitgevoer in die buiteland te herstel, te verander, aan te pas of op te knap;
 - (ii) om goedere uit die Republiek uitgevoer in die buiteland aan 'n nywerheidsproses te onderwerp; of 15
 - (iii) om goedere uit die Republiek uitgevoer in die buiteland in 'n vervaardigingsproses of vir die produksie van vervaardigde produkte te gebruik,
- in enige mate, of behoudens enige beperkings of kwalifikasies, soos ingevolge 'n belastingheffings-Wet bepaal mag word; 20
- “publieke bergingspakhuis”** 'n gelisensieerde perseel wat deur die lisensiehouer van die perseel algemeen beskikbaar gestel word aan kliënte vir die berging van hulle goedere wat nie in vry sirkulasie is nie, maar nie ook—
- (a) 'n terminaal of depot waar goedere tydelik geberg word nie;
 - (b) 'n staatspakhuis of perseel wat ingevolge artikel 580 met betrekking tot enige 25 bepaalde goedere geag word 'n staatspakhuis te wees nie; en
 - (c) 'n aksynspakhuis nie;
- “reël”** 'n reël ingevolge artikel 903 deur die Kommissaris uitgevaardig;
- “regsentiteit”** ook—
- (a) 'n maatskappy, beslote korporasie of koöperasie ingelyf of geregistreer 30 ingevolge wetgewing hetsy in die Republiek of elders;
 - (b) 'n vereniging, vennootskap of klub of ander liggaam van persone van watter beskrywing ook al, hetsy ingelyf of nie ingelyf nie;
 - (c) 'n trust of trustfonds;
 - (d) enige entiteit bedoel in paragraaf (a), (b) of (c) wat in likwidasie of onder 35 geregte like bestuur is; en
 - (e) die boedel van 'n afgestorwe of insolvente persoon;
- “regstreekse uitvoer”**, met betrekking tot goedere, die uitvoer van goedere uit die Republiek anders as onder—
- (a) enige van die volgende doeaneprosedures: 40
 - (i) Die prosedure vir internasionale transito;
 - (ii) die transverskepingsprosedure;
 - (iii) die prosedure vir tydelike toelating;
 - (iv) die prosedure vir tydelike uitvoer;
 - (v) die prosedure vir belastingvry-winkels; 45
 - (vi) die voorradeprosedure;
 - (vii) die prosedure vir inwaartse prosessering; of
 - (viii) die prosedure vir uitwaartse prosessering; of
 - (b) 'n ontheffing of uitsluiting van klaringsformaliteite vir uitvoer;
- “regulasie”** 'n regulasie ingevolge artikel 902 deur die Minister uitgevaardig; 50
- “reisiger”** 'n persoon wat aan boord van 'n vaartuig, vliegtuig, trein of voertuig of te voet reis, maar sluit nie 'n bemanningslid van die vaartuig, vliegtuig, trein of voertuig in nie;
- “rekenkaploos”**, met betrekking tot goedere, 'n tekort in goedere volgens enige dokumente of rekords betreffende die goedere, waar die rede vir die tekort nie 55 toegeskryf kan word aan die vernietiging, beskadiging of verlies van die goedere nie;
- “Republiek”** die territoriale gebied van die Republiek van Suid-Afrika, met inbegrip van die binnewaters en territoriale waters bedoel in artikels 3 en 4 van die Wet op Maritieme Sones, 1994 (Wet No. 15 van 1994), en die lugruimte bokant die 60 territoriale gebied en die binnewaters en territoriale waters;
- “SADU”** die Suider-Afrikaanse Doeane-Unie;
- “SADU Ooreenkoms”** die Suider-Afrikaanse Doeane-Unie Ooreenkoms;

- (h) in the case of a person on foot or goods that such a person has with him or her, when that person crosses the border out of the Republic;
- “**licence**” means a licence issued by the customs authority in terms of Chapter 29, subject to subsection (4) of this section;
- “**licensed**” means licensed in terms of Chapter 29, subject to subsection (4) of this section; 5
- “**licensee**” means the holder of a licence, subject to subsection (4) of this section;
- “**lost**” or “**loss**”, in relation to goods, means that goods have become lost due to—
- (a) theft or robbery;
 - (b) falling overboard; 10
 - (c) being left behind or forgotten somewhere;
 - (d) loading on board the wrong vessel, aircraft, railway carriage or vehicle;
 - (e) off-loading at the wrong place; or
 - (f) any other specific act or occurrence other than the destruction or damage of goods; 15
- “**manifest**” or “**cargo manifest**” means a summary of cargo on board or to be off-loaded from a vessel, aircraft, railway carriage or vehicle at a specific place as reflected in the transport documents issued in respect of that cargo;
- “**means of transport**” means a vessel, aircraft, locomotive, railway carriage or vehicle engaged in the transport of goods or persons; 20
- “**Minister**” means the Cabinet member responsible for finance;
- “**mode of transport**” means transport by sea, air, rail or road;
- “**multi-modal transport**” means the transport of goods from one point to another by switching in the course of the journey from one mode of transport to another;
- “**multi-purpose sea cargo terminal**” means any premises within a customs seaport handling any combination of— 25
- (a) general cargo;
 - (b) special cargo;
 - (c) bulk cargo; and
 - (d) containers, including empty containers; 30
- “**national transit**” or “**national transit procedure**” means the customs procedure described in section 194(1);
- “**non-prosecutable breach**”, in relation to this Act, means a breach of this Act which is not an offence in terms of this Act;
- “**official**”, in relation to SARS, means— 35
- (a) the Commissioner;
 - (b) any other employee of SARS;
 - (c) a person employed by another organ of state, including any institution which is not an organ of state, and seconded to SARS to work as a member of the staff; or 40
 - (d) a person contracted by SARS to work as a member of the staff otherwise than as an employee;
- “**on-board operator**” means—
- (a) in relation to a vessel, aircraft or train, a person on board the vessel, aircraft or train who is in on-board command¹⁹ of the vessel, aircraft or train; 45
 - (b) in relation to a railway carriage, a person on board the train of which that railway carriage forms part or is scheduled to form part and who is in on-board command of the train; or
 - (c) in relation to a vehicle, the driver of the vehicle or, if the driver drives the vehicle on the instructions of another person in the vehicle, that other person; 50
- “**origin**”, in relation to goods, means the country in which the goods were produced or regarded to have been produced according to the rules of origin applicable to the goods in terms of Chapter 8 of the Customs Duty Act;
- “**outright export**”, in relation to goods, means the export of goods from the Republic otherwise than under— 55
- (a) any of the following customs procedures:
 - (i) The international transit procedure;
 - (ii) the transshipment procedure;
 - (iii) the temporary admission procedure;
 - (iv) the temporary export procedure; 60

19. This refers to the master or captain of a vessel or the pilot or captain of an aircraft, etc., but excludes harbour pilots guiding vessels in a port and train pilots guiding trains on a track.

- “**SADU lidstaat**” ’n staat wat ’n lid van SADU is;
- “**SAID**” die Suid-Afrikaanse Inkomstediens ingestel deur artikel 2 van die Wet op die Suid-Afrikaanse Inkomstediens, 1997 (Wet No. 34 van 1997);
- “**SAOG**” die Suider-Afrikaanse Ontwikkelingsgemeenskap;
- “**seereisigersterminaal**” ’n perseel binne ’n doeaneseehawe geleë waar reisigers en bemanning— 5
- (a) aan boord gaan of afklim van land-uitgaande vaartuie; en
- (b) geprosesseer word voordat hulle aan boord gaan, of nadat hulle afgeklim het, van land-uitgaande vaartuie, 10
- en ook—
- (i) alle transitogebiede waardeur reisigers en bemanning moet beweeg onderweg na of vanaf land-uitgaande vaartuie; en
- (ii) alle geriewe gebruik vir of in verband met die bedryf van die terminaal;
- “**seevragsterminaal**”— 15
- (a) ’n algemene seevragsterminaal;
- (b) ’n spesiale seevragsterminaal;
- (c) ’n massa seevragsterminaal;
- (d) ’n housterminaal;
- (e) ’n kombinasie seevragsterminaal; of
- (f) ’n meerdoelige seevragsterminaal; 20
- “**sektorbeheerde goedere**” goedere in artikel 792 beskryf;
- “**sekuriteit**” sekuriteit ingevolge Hoofstuk 31 gestel;
- “**self-aanslag**”, met betrekking tot invoer- of uitvoerbelasting, ’n bepaling ingevolge ’n belastingheffings-Wet deur ’n persoon wat goedere klaar rakende die belasbaarheid van die goedere en, indien belasbaar, van die bedrag aan invoer- of uitvoerbelasting op die goedere betaalbaar ingevolge daardie Wet; 25
- “**SES onderneming**” ’n onderneming geleë binne ’n spesiale ekonomiese sone of deel van ’n spesiale ekonomiese sone wat ingevolge artikel 43(2)(c) as ’n doeanebeheergebied aangewys is;
- “**skade**”¹², met betrekking tot goedere, ook enige agteruitgaan of bederwing van goedere as gevolg van enige handeling of versuim maar wat nie die goedere kommersieel waardeloos laat nie, maar nie ook die diefstal van goedere nie; 30
- “**sperdatum vir betaling**”, met betrekking tot—
- (a) ’n administratiewe boete, die datum voor wanneer of waarop die boete ingevolge Hoofstuk 39 betaal moet word; of 35
- (b) enige ander bedrag aan die Kommissaris ingevolge hierdie Wet verskuldig, die datum vir betaling aangedui in ’n kennisgewing wat betaling van die bedrag vereis;
- “**spesiale ekonomiese sone**” ’n gebied ingevolge die “Special Economic Zones Act, 2014” (Wet No. 16 van 2014), as ’n spesiale ekonomiese sone aangewys; 40
- “**spesiale seevragsterminaal**” ’n perseel wat binne ’n doeaneseehawe geleë is waar vrag van ’n bepaalde soort, hetsy massa- of losmaatvrag, behalwe vrag in houers—
- (a) afgelaai word, of aan boord gelaai word, van land-uitgaande vaartuie; en
- (b) tydelik gestoor word nadat dit afgelaai is of voordat dit aan boord gelaai word; 45
- “**spoorreisigersterminaal**” ’n perseel wat op ’n spoorwegstasie geleë is waar reisigers—
- (a) opklim op, of afklim van, oor-grens spoorwegwaens; en
- (b) geprosesseer word voordat hulle opklim op, of nadat hulle afgeklim het van, oor-grens spoorwegwaens, 50
- en ook—
- (i) alle transito gebiede waardeur reisigers beweeg onderweg na of van oor-grens spoorwegwaens; en
- (ii) alle geriewe wat vir of in verband met die bedryf van die terminaal gebruik word; 55
- “**spoorvragbrief**” ’n dokument uitgereik deur ’n spoorvervoerder of ander persoon behoorlik deur ’n spoorvervoerder daartoe gemagtig om vrag te vervoer, of die vervoer daarvan te reël, na ’n spesifieke bestemming aan boord van ’n spoorwegwa, en wat dien as bewys dat die vervoerder of ander persoon—

12. Let wel dat “**skade**” sy gewone grammatikale betekenis behou en dat die omskrywing, deur gebruik te maak van die woord “ook”, bloot die gewone grammatikale betekenis uitbrei en dit nie vervang nie.

- (v) the tax free shop procedure;
- (vi) the stores procedure;
- (vii) the inward processing procedure; or
- (viii) the outward processing procedure; or
- (b) an exemption or exclusion from export clearance formalities; 5
- “outturn report”** means a report giving the information as may be prescribed by rule concerning—
- (a) goods—
- (i) packed into containers, or consolidated, whether on pallets or in another way, for transportation; 10
- (ii) loaded on board a vessel, aircraft, railway carriage or vehicle for transportation;
- (iii) unloaded from a vessel, aircraft, railway carriage or vehicle; or
- (iv) unpacked from containers or de-grouped from consolidated packages; or
- (b) empty containers unloaded from or loaded onto vessels or railway carriages; 15
- “outward processed compensating products”** means compensating products—
- (a) obtained from the processing of goods exported from the Republic under the outward processing procedure; and
- (b) imported under that procedure for home use;
- “outward processing”** or **“outward processing procedure”** means the customs 20 procedure described in section 454;
- “owner”**, in relation to goods, includes a person holding a share in the ownership of goods;
- “ownership”**, in relation to goods, includes a share in the ownership of goods;
- “package”** means— 25
- (a) any wrapping or outer cover and its contents;
- (b) any bundle tied together; or
- (c) any single piece in the case of unpacked goods;
- “permissible”**—
- (a) in relation to a clearance of goods for a customs procedure, means that 30 clearance of the goods for that customs procedure—
- (i) is not inconsistent with this Act or a tax levying Act; and
- (ii) would not in the ordinary course of applying this Act result in a refusal by the customs authority to release the goods for that customs procedure; or
- (b) in relation to a clearance of goods for home use, means that clearance of the 35 goods for home use—
- (i) is not inconsistent with this Act or a tax levying Act; and
- (ii) would not in the ordinary course of applying this Act result in a refusal by the customs authority to release the goods for home use;²⁰
- “person”** means a natural person or a juristic entity, and includes an organ of state 40 or an official of an organ of state;
- “place of entry”** means a place designated in terms of section 31 or 34 as a place of entry for the control of vessels, aircraft, trains, vehicles, goods and persons entering the Republic;
- “place of exit”** means a place designated in terms of section 31 or 34 as a place of 45 exit for the control of vessels, aircraft, trains, vehicles, goods and persons leaving the Republic;
- “police officer”** means a member of the South African Police Service established in terms of the South African Police Service Act, 1995 (Act No. 68 of 1995);
- “port authority”** means the authority in charge of a customs seaport or a customs 50 airport;
- “postal article”** means any letter, postcard, letter card, envelope, book, packet, pattern or sample packet or any parcel or other article when conveyed by post, and includes a telegram when conveyed by post;
- “posted”** means posted at a post office operated by the South African Post Office; 55
- “post office”** includes any house, building, room, vehicle, place or structure where the South African Post Office—
- (a) receives, sorts, delivers, make up or dispatch postal articles; or
- (b) renders any postal, savings, money transfer or other service,

20. See for instance sections 99 and 100 stating the circumstances in which the release of goods for home use or a customs procedure must or may be refused.

- (a) die vrag ontvang het; en
(b) onderneem het om die vrag te vervoer, of die vervoer daarvan te reël, onderhewig aan die bepalinge en voorwaardes in die dokument vermeld of waarna in die dokument verwys word;
- “spoorvragterminaal”** ’n perseel wat op ’n spoorwegstasie geleë is waar vrag— 5
(a) afgelaai word, of aan boord gelaai word, van oor-grens spoorwegwaens; en
(b) tydelik geberg word nadat dit afgelaai is of voordat dit gelaai word;
- “spoorwegstasie”** ook ’n spoorweghalte wat ’n bepaalde landboukundige, myn-, nywerheids- of kommersiële onderneming, kompleks of gebied bedien;
- “spoorwegterminaal”**— 10
(a) ’n spoorvragterminaal; of
(b) ’n spoorreisigersterminaal;
- “staatspakhuis”** ’n fasiliteit bedoel in artikel 569(a) of (b) waarheen goedere verwyder moet word wanneer dit ingevolge hierdie Wet, ’n belastingheffings-Wet of ander wetgewing vereis word; 15
- “Suid-Afrikaanse Poskantoor”** die Suid-Afrikaanse Poskantoor Beperk ingestel ingevolge artikel 3 van die Wet op Pos en Telekommunikasieverwante Aangeleenthede, 1958 (Wet No. 44 van 1958);
- “tariefindeling”**, met betrekking tot goedere wat geklaar word vir binnelandse gebruik of ’n doeaneprosedure, die indeling van die goedere onder ’n pos, subpos, 20
tariefitem of ander item soos in ’n belastingheffings-Wet bepaal mag word;
- “terminaal”**—
(a) ’n seevragterminaal;
(b) ’n lugvragterminaal;
(c) ’n seereisigersterminaal; 25
(d) ’n lugreisigersterminaal; of
(e) ’n spoorwegterminaal;
- “toelaatbaar”**—
(a) met betrekking tot ’n klaring van goedere vir ’n doeaneprosedure, dat klaring 30
van die goedere vir daardie doeaneprosedure—
(i) nie met hierdie Wet of ’n belastingheffings-Wet onbestaanbaar is nie; en
(ii) nie in die gewone loop van die implementering van hierdie Wet sou lei tot ’n weiering deur die doeanegesag om die goedere vir daardie doeaneprosedure vry te stel nie; of
(b) met betrekking tot ’n klaring van goedere vir binnelandse gebruik, dat klaring 35
van die goedere vir binnelandse gebruik—
(i) nie met hierdie Wet of ’n belastingheffings-Wet onbestaanbaar is nie; en
(ii) nie in die gewone loop van die implementering van hierdie Wet sou lei tot ’n weiering deur die doeanegesag om die goedere vir binnelandse gebruik vry te stel nie;¹³ 40
- “toepassingsfunksie”**, met betrekking tot die doeanegesag of ’n doeaneebeampte, ’n bevoegdheid of plig wat ingevolge hierdie Wet of ’n belastingheffings-Wet aan die doeanegesag opgedra is of aan ’n doeaneebeampte opgedra of gedelegeer is—
(a) om hierdie Wet of ’n belastingheffings-Wet te implementeer en toe te pas; of 45
(b) om hulp te verleen met die implementering of toepassing van ander wetgewing in Hoofstuk 35 of 36 bedoel;
- “transito”**, met betrekking tot goedere, nasionale transito, internasionale transito of aksynspakhuistransito van goedere, soos in die samehang toepaslik mag wees;
- “transito-operasie”**—
(a) met betrekking tot goedere onder die prosedure vir nasionale of internasionale 50
transito, ook—
(i) die ontvangs van goedere om daardie prosedure uit te voer;
(ii) die vervoer van daardie goedere onder daardie prosedure; en
(iii) die aflewering van daardie goedere onder daardie prosedure by die bestemde doeanebeheergebied; en 55
(b) met betrekking tot goedere onder die prosedure vir aksynspakhuistransito, ook—
(i) die ontvangs van goedere om daardie prosedure uit te voer;
(ii) die vervoer van daardie goedere onder daardie prosedure; en

13. Kyk byvoorbeeld artikels 99 en 100 wat die omstandighede vermeld waarin die vrystelling van goedere vir binnelandse gebruik of ’n doeaneprosedure geweier moet of kan word.

- and includes any pillar box or other receptacle provided by or with the approval of the South African Post Office for the reception of postal articles;
- “premises”** means any site, property, building, structure or any part of a site, property, building or structure;
- “private storage warehouse”** means licensed premises used exclusively by the licensee of the premises for the storage of goods owned by the licensee or in which the licensee has a material interest, but excludes an excise warehouse; 5
- “processing”** means—
- (a) in relation to goods under the inward processing procedure—
- (i) to repair, clean, recondition, alter, adapt, pack or re-pack imported goods; 10
- (ii) to subject imported goods to an industrial process; or
- (iii) to use imported goods in a manufacturing process or for the production of manufactured products;
- (b) in relation to goods under the home use processing procedure— 15
- (i) to repack imported goods in retail quantities;
- (ii) to repair, alter, adapt or recondition imported goods;
- (iii) to subject imported goods to an industrial process; or
- (iv) to use imported goods in a manufacturing process or for the production of manufactured products; or
- (c) in relation to goods under the outward processing procedure— 20
- (i) to repair, alter, adapt or recondition goods exported from the Republic abroad;
- (ii) to subject goods exported from the Republic to an industrial process abroad; or
- (iii) to use goods exported from the Republic in a manufacturing process or 25 for the production of manufactured products abroad,
- to any extent, or subject to any limitations or qualifications, as may be determined in terms of a tax levying Act;
- “produce”**, in relation to goods, includes plant, grow, harvest, manufacture, make, assemble, mine, extract or process goods or in any other way create or bring forth 30 goods;
- “producer”**, in relation to goods, means a person who produces goods;
- “prohibited goods”** means goods described in section 774;²¹
- “prosecutable breach”**, in relation to this Act, means a breach of this Act which is an offence in terms of this Act; 35
- “prosecution avoidance penalty”** means an administrative penalty of a type referred to in section 878;
- “provisional clearance declaration”** means a clearance declaration that may be used to clear goods for home use or a customs procedure in the circumstances set out in Part 1 of Chapter 24 and that contains information provisionally included in 40 the declaration pending subsequent confirmation or correction;
- “public storage warehouse”** means licensed premises made available by the licensee of the premises to clients generally for the storage of their goods that are not in free circulation, but excludes—
- (a) a terminal or depot where goods are temporarily stored; 45
- (b) a state warehouse or premises regarded in relation to any specific goods to be a state warehouse in terms of section 580; and
- (c) an excise warehouse;
- “rail cargo terminal”** means premises on a railway station where cargo is—
- (a) off-loaded from, or loaded on board, cross-border railway carriages; and 50
- (b) temporarily stored after being off-loaded or before being loaded;
- “rail consignment note”** means a document issued by a rail carrier or other person duly authorised by a rail carrier to transport, or to arrange the transport of, cargo to a specific destination on board a railway carriage, and which serves as proof that 55 the carrier or other person—
- (a) has received the cargo; and
- (b) has undertaken to transport, or to arrange the transport of, the cargo on the terms and conditions stated or referred to in the document;
- “rail travellers terminal”** means premises on a railway station where travellers—
- (a) board, or disembark from, cross-border railway carriages; and 60

21. “Prohibited goods” excludes counterfeit goods which are dealt with separately in Chapter 36.

- (iii) die aflewering van daardie goedere onder daardie prosedure by die bestemde aksynspakhuis;
“**transverskeping**” of “**transverskepingsprosedure**” die doeaneprocedure in artikel 242 beskryf;
- “**trein**” ’n lokomotief met of sonder enige passassiers-, goedere- of ander spoorwegwaens daarby aangeheg, met inbegrip van die toebehore en bykomstighede van sodanige lokomotief of spoorwegwa en enige apparaat of toerusting op of aan sodanige lokomotief of spoorwegwa gemonteer;
- “**trok**” ’n voertuig—
- (a) met ’n bruto voertuigmassa van meer as 3 500 kilogram;¹⁴ en 10
- (b) wat vir die vervoer van goedere ontwerp of aangepas is;
- “**tydelike berging**”, met betrekking tot goedere, die berging van goedere by—
- (a) ’n terminaal totdat die goedere—
- (i) aan boord van ’n vaartuig, vliegtuig, spoorwegwa of voertuig by die terminaal gelaai word; of 15
- (iii) van die terminaal verwyder word; of
- (b) ’n depot totdat die goedere van die depot verwyder word, maar nie ook die berging van goedere wanneer die goedere by die terminaal of depot kragtens ’n lasgewing ingevolge artikel 580(1) gehou word nie;
- “**tydelike toelating**” of “**prosedure vir tydelike toelating**” die doeaneprocedure 20 in artikel 263 beskryf;
- “**tydelike uitvoer**”, met betrekking tot goedere, die uitvoer van goedere onder die prosedure vir tydelike uitvoer;
- “**uitreikingsvereniging**”—
- (a) met betrekking tot die prosedure vir tydelike toelating, ’n vereniging wat 25 ingevolge die “Convention on Temporary Admission” of enige internasionale ooreenkoms bedoel in artikel 280(1)(a)(ii) gemagtig is om CPD of ATA carnets uit te reik vir die tydelike toelating van goedere in die Republiek; of
- (b) met betrekking tot die prosedure vir tydelike uitvoer, ’n vereniging wat 30 ingevolge die “Convention on Temporary Admission” of enige internasionale ooreenkoms bedoel in artikel 393(1)(a)(ii) gemagtig is om CPD of ATA carnets uit te reik vir die tydelike uitvoer van goedere uit die Republiek vir tydelike toelating in ’n ander land;
- “**uitvoer na die Republiek**”, met betrekking tot goedere, die neem, versending of vervoer van goedere van buite die Republiek na ’n bestemming in die Republiek; 35
- “**uitvoer uit die Republiek**”, met betrekking tot goedere, die vervoer, neem, versending of verwydering van goedere uit die Republiek, behoudens artikels 2(a) en 30;
- “**uitvoerbelasting**”—
- (a) ’n uitvoerbelasting ingevolge die Wet op Doeanereg gehef op goedere uit die 40 Republiek uitgevoer; of
- (b) enige ander belasting, heffing of reg op goedere wat uit die Republiek uitgevoer word;¹⁵
- “**uitvoerder**”¹⁶—
- (a) met betrekking tot goedere uitgevoer of bestem vir uitvoer uit die Republiek, 45 die persoon wat daardie goedere uitgevoer het, in die proses is om dit uit te voer of voornemens is om dit uit te voer, uit die Republiek; of
- (b) met betrekking tot goedere uitgevoer of bestem vir uitvoer na die Republiek, die persoon wat daardie goedere uitgevoer het, in die proses is om dit uit te voer of voornemens is om dit uit te voer, na die Republiek, 50
- en ook—
- (i) ’n persoon wat op die tydstip waarop die goedere uitgevoer word of in die proses is om uitgevoer te word uit of na die Republiek—
- (aa) die eienaar van die goedere is;

14. Kyk Nasionale Padverkeerswet, 1996 (Wet No. 93 van 1996).

15. Soos die heffing ingevolge die “Diamond Export Levy Act, 2007” (Wet No. 15 van 2007), op diamante uit die Republiek uitgevoer. Let wel dat geen uitvoerbelasting ingevolge die Doeanee- en Aksynswet opgelê is op goedere uit die Republiek uitgevoer nie.

16. “Uitvoerder” word op twee wyses in die Wet gebruik. Eerstens, as ’n persoon wat goedere *van* die Republiek uitvoer *na* ’n ander land, en, tweedens, as ’n persoon wat goedere uitvoer *uit* ’n ander land *na* die Republiek. Kyk omskrywings van “uitvoer uit die Republiek” en “uitvoer na die Republiek”.

- (b) are processed before boarding, or after disembarking from, cross-border railway carriages, and includes—
- (i) all transit areas through which travellers must proceed to or from cross-border railway carriages; and
 - (ii) all facilities used for or in connection with the operation of the terminal; 5
- “railway station”** includes a railway siding serving a specific agricultural, mining, industrial or commercial enterprise, complex or area;
- “railway terminal”** means—
- (a) a rail cargo terminal; or
 - (b) a rail travellers terminal; 10
- “recognised cause”**, in relation to—
- (a) goods that were damaged, destroyed, lost or unaccounted for, means a cause set out in section 544(1), 545(1), 546(1) or 547(1); or
 - (b) compensating products that were damaged, destroyed, lost or unaccounted for, means a cause set out in section 551(1), 552(1), 553(1) or 554(1); 15
- “registered”** means registered in terms of Chapter 28, subject to subsection (4) of this section;
- “regular clearance declaration”** means a clearance declaration that must be used for the clearance of goods for home use or a customs procedure in circumstances where a clearance declaration referred to in section 164(1)(b), (c), (d), (e) or (f) is not allowed; 20
- “regulation”** means a regulation made by the Minister in terms of section 902;
- “re-imported unaltered goods”** means goods imported into the Republic that—
- (a) were previously exported from the Republic, whether temporarily or outright; 25
 - and
 - (b) whilst abroad, have not undergone any manufacturing, processing or repairs except maintenance in connection with their use abroad;
- “release”**, in relation to goods, means a decision by the customs authority to allow the goods—
- (a) into free circulation, in the case of imported goods that are cleared for home use; or 30
 - (b) to be dealt with in accordance with a specific customs procedure, in the case of goods that are cleared for that customs procedure;
- “release agent”**, in relation to goods, means the licensee of the customs controlled area where the goods are located immediately before their release for home use or a customs procedure; 35
- “release notification”** means a notification in terms of section 180 stating that goods have been released for home use or a customs procedure;
- “Republic”** means the territory of the Republic of South Africa, including its internal and territorial waters referred to in sections 3 and 4 of the Maritime Zones Act, 1994 (Act No. 15 of 1994), and the airspace above its territory and internal and territorial waters; 40
- “restricted goods”** means goods described in section 783;
- “reusable transport equipment”** means containers, pallets, packing material or other transport equipment designed for continuous reuse in the transport of goods in the ordinary course of trade; 45
- “reward”**, in relation to the transport of goods or travellers, includes any form of consideration received or to be received wholly or partly in connection with the transport of the goods or travellers, irrespective of the person by whom or to whom the consideration has been or is to be paid or given; 50
- “road waybill”** means a document issued by a road carrier to transport, or to arrange the transport of, goods to a particular destination on board a vehicle, and which serves as proof that the carrier or that person—
- (a) has received the goods; and
 - (b) has undertaken to transport, or to arrange the transport of, the goods on the terms and conditions stated or referred to in the document; 55
- “rule”** means a rule made by the Commissioner in terms of section 903;
- “SACU”** means the Southern African Customs Union;
- “SACU Agreement”** means the Southern African Customs Union Agreement;
- “SACU member state”** means a state which is a member of SACU; 60
- “SADC”** means the Southern African Development Community;
- “safeguard measure”** means a safeguard measure within the meaning of the International Trade Administration Act;

- (bb) die risiko ten opsigte van die goedere dra; of
(cc) op watter wyse ook al 'n voordelige belang in die goedere het;
- (ii) 'n persoon wat die goedere feitelik self vervoer of poog om dit uit of na die Republiek te vervoer, behalwe waar daardie persoon—
- (aa) 'n gelisensieerde vervoerder is; of 5
(bb) 'n vervoerder is wat nie in die Republiek gesetel is nie en in die Republiek deur 'n geregistreerde agent verteenwoordig word; of
- (iii) 'n persoon wat 'n persoon bedoel in paragraaf (a) of (b) of paragraaf (i) of (ii) verteenwoordig of voorgee om so 'n persoon te wees of te verteenwoordig, behalwe waar daardie persoon 'n gelisensieerde doeanemakelaar is wat as doeanemakelaar 'n persoon in enige van daardie paragrawe bedoel, verteenwoordig; 10
- “uitvoerprosedure”** die doeaneprosedure in artikel 362 beskryf;
“uitwaarts geprosesseerde kompenserende produkte” kompenserende produkte— 15
- (a) wat verkry word uit die prosessering van goedere wat uit die Republiek onder die prosedure vir uitwaartse prosessering uitgevoer is; en
(b) onder daardie prosedure vir binnelandse gebruik ingevoer word;
- “uitwaartse prosessering”** of **“prosedure vir uitwaartse prosessering”** die doeaneprosedure in artikel 454 beskryf; 20
- “vaartuig”**—
- (a) 'n tuig van watter aard ook al wat die vermoë het om in, op of onder water te beweeg, hetsy self-aangedrewe, of nie;
(b) 'n skeertuig; of
(c) enige drywende struktuur, hetsy geanker, of nie, 25
en ook die toebehore en bykomstighede van so 'n tuig of drywende struktuur en enige apparaat of toerusting op of aan sodanige tuig of drywende struktuur gemonteer;
- “vastebedragboete”** 'n administratiewe boete van 'n tipe in artikel 876 bedoel;
“verbode goedere” goedere in artikel 774 beskryf;¹⁷ 30
“vergeselde bagasie”, met betrekking tot 'n persoon wat die Republiek binnekom of verlaat, alle goedere wat so 'n persoon aan, of fisies saam met, hom of haar het ten tye van doeaneprosessering by die plek van toegang of uitgang waardeur so iemand die Republiek binnekom of gaan verlaat;¹⁸
- “vergoeding”**, met betrekking tot die vervoer van goedere of reisigers, ook enige vorm van teenprestasie wat, ten volle of ten dele, ontvang is of sal word in verband met die vervoer van die goedere of reisigers, ongeag die persoon deur wie of aan wie die teenprestasie betaal of gegee is of sal word; 35
- “verklaar”**¹⁹, met betrekking tot goedere—
- (a) om goedere aan die doeanegesag te toon; en 40
(b) om aan die doeanegesag al die inligting in verband met die goedere te verstrek wat deur die doeanegesag vir die doeleindes van hierdie Wet benodig word, met inbegrip van enige inligting wat nodig is om te bepaal of—
- (i) die goedere belasbaar is, en, indien wel, om enige belasting op die goedere betaalbaar, te bereken; 45
(ii) die goedere goedere is wat geklaar moet word vir binnelandse gebruik of 'n doeaneprosedure;

17. “Verbode goedere” sluit uit nagemaakte goedere wat afsonderlik in Hoofstuk 36 behandel word.

18. Dit sluit in alle artikels wat as iemand se bagasie of oorgewigbagasie ingeboek is ongeag of daardie bagasie so iemand vergesel het, of gaan vergesel, op dieselfde vaartuig, vliegtuig, trein of voertuig waarin daardie persoon die Republiek binnegekome het of gaan verlaat, en of daardie bagasie aangekom het, of versend gaan word, aan boord van 'n ander vaartuig, vliegtuig, trein of voertuig. Dit sluit ook in enige goedere gekoop of verkry deur so iemand van 'n belastingvry-winkel by die plek van toegang nadat die persoon die Republiek binnegekome het. Die enigste voorwaarde is dat die reisiger die goedere aan of fisies saam met hom of haar moet hê ten tye van prosessering deur Doeane. Bagasie wat nie saam met die reisiger is ten tye van prosessering deur Doeane nie, is “onvergeselde bagasie” soos omskryf.

19. Die idee van “verklaring” van goedere dui nie daarop dat die goedere “geklaar word” vir binnelandse gebruik of 'n doeaneprosedure nie. Die verklaring of openbaarmaking van goedere aan 'n doeanbeampte kan lei (maar nie noodwendig nie) tot die klaring van die goedere afhange van die waarde van die goedere, die aard van die goedere, ens.

- “**SARS**” means the South African Revenue Service established by section 2 of the South African Revenue Service Act, 1997 (Act No. 34 of 1997);
- “**sea cargo terminal**” means—
- (a) a general sea cargo terminal;
 - (b) a special sea cargo terminal; 5
 - (c) a bulk sea cargo terminal;
 - (d) a container terminal;
 - (e) a combination sea cargo terminal; or
 - (f) a multi-purpose sea cargo terminal;
- “**sea travellers terminal**” means premises within a customs seaport where travellers and crew— 10
- (a) board, or disembark from, foreign-going vessels; and
 - (b) are processed before boarding, or after disembarking from, foreign-going vessels, and includes— 15
 - (i) all transit areas through which travellers and crew must proceed to or from foreign-going vessels; and
 - (ii) all facilities used for or in connection with the operation of the terminal;
- “**sectorally controlled goods**” means goods described in section 792;
- “**security**” means security provided in terms of Chapter 31;
- “**seize**”, in relation to goods, means to take physical possession of the goods without divesting a person of ownership of the goods; 20
- “**self-assessment**”, in relation to import or export tax, means a determination in terms of a tax levying Act by a person clearing goods concerning the taxability of the goods and, if taxable, of the amount of import or export tax payable on the goods in terms of that Act; 25
- “**SEZ enterprise**” means an enterprise within a special economic zone or part of a special economic zone designated in terms of section 43(2)(c) as a customs controlled area;
- “**simplified clearance declaration**” means a clearance declaration that may be used to clear goods for home use or a customs procedure in accordance with simplified clearance requirements— 30
- (a) referred to in Part 3 of Chapter 24; or
 - (b) that may be prescribed by rule for accredited persons in terms of Chapter 30;
- “**South African Post Office**” means the South African Post Office Limited established in terms of section 3 of the Post and Telecommunication-Related Matters Act, 1958 (Act No. 44 of 1958); 35
- “**special economic zone**” means an area designated as a special economic zone in terms of the Special Economic Zones Act, 2014 (Act No. 16 of 2014);
- “**special sea cargo terminal**” means premises within a customs seaport where cargo of a specific type, whether bulk or break bulk cargo, but other than cargo in containers is— 40
- (a) off-loaded from, or loaded on board, foreign-going vessels; and
 - (b) temporarily stored after being off-loaded or before being loaded;
- “**state warehouse**” means a facility referred to in section 569(a) or (b) to which goods must be removed when required in terms of this Act, a tax levying Act or other legislation; 45
- “**storage warehouse**” means a public or private storage warehouse;
- “**stores**” means goods taken on board a foreign-going vessel, foreign-going aircraft or cross-border train, whether in the Republic or elsewhere, exclusively for the purpose of meeting the reasonable needs of the next voyage of the vessel, aircraft or train, including stopovers, and includes goods intended to be used— 50
- (a) as provisions for travellers and crew on board the vessel, aircraft or train during that voyage;
 - (b) for the operation of the vessel, aircraft or train on that voyage;
 - (c) for the maintenance of the vessel, aircraft or train during that voyage; or 55
 - (d) as tax free items for sale on board the vessel, aircraft or train to travellers and crew, in the case of a vessel, aircraft or train entitled in terms of section 349 to sell tax free items to travellers and crew,
- but excludes any goods prescribed by rule;
- “**stores procedure**” means the customs procedure described in section 335; 60
- “**stores supplier**” means a person conducting business by supplying stores to foreign-going vessels, foreign-going aircraft or cross-border trains, whether those stores are goods in free circulation or goods not in free circulation;

- (iii) die goedere nie verbode, beperkte, sektorbeheerde of nagmaakte goedere is nie; en
- (iv) die goedere vrygestel mag word vir binnelandse gebruik of die doeaneprosedure waarvoor die goedere geklaar word;
- “verkorte klaringsbrief”** ’n klaringsbrief wat gebruik mag word om goedere vir binnelandse gebruik of ’n doeaneprosedure te klaar ooreenkomstig verkorte klaringsvereistes— 5
 - (a) in Deel 3 van Hoofstuk 24 bedoel; of
 - (b) wat ingevolge Hoofstuk 30 by reël voorgeskryf mag word vir geakkrediteerde persone; 10
- “verlaat”**, met betrekking tot die Republiek—
 - (a) in die geval van ’n vaartuig of goedere of persone aan boord van ’n vaartuig, wanneer die vaartuig uit die territoriale waters van die Republiek beweeg;
 - (b) in die geval van ’n vliegtuig of goedere of persone aan boord van ’n vliegtuig, wanneer die vliegtuig uit die lugruimte bokant die Republiek beweeg; 15
 - (c) in die geval van ’n oor-grens trein of goedere of persone aan boord van ’n oor-grens trein, wanneer die trein oor die grens uit die Republiek uitgaan;
 - (d) in die geval van ’n voertuig of goedere of persone aan boord van ’n voertuig, wanneer die voertuig oor die grens uit die Republiek uitgaan;
 - (e) in die geval van elektrisiteit, wanneer die elektrisiteit deur ’n transmissielyn uit die Republiek versend word; 20
 - (f) in die geval van goedere in ’n oor-grens pyplyn, wanneer die goedere deur die pyplyn oor die grens uit die Republiek uitgaan;
 - (g) in die geval van goedere op ’n oor-grens kabelkar of vervoerband, wanneer die goedere by wyse van die kabelkar of vervoerband oor die grens uit of die Republiek uitgaan; of 25
 - (h) in die geval van ’n voetganger of goedere wat so ’n persoon by hom of haar het, wanneer daardie persoon oor die grens uit die Republiek uitgaan;
- “verlore”** of **“verlies”**, met betrekking tot goedere, dat goedere verlore geraak het as gevolg daarvan dat dit— 30
 - (a) gesteel of geroof is;
 - (b) oorboord geval het;
 - (c) agtergelaat of iewers vergeet is;
 - (d) aan boord van ’n verkeerde vaartuig, vliegtuig, spoorwegwa of voertuig gelaai is; 35
 - (e) by ’n verkeerde plek afgelaai is; of
 - (f) verlore geraak het as gevolg van enige ander spesifieke handeling of gebeurtenis, anders as die vernietiging of beskadiging van die goedere;
- “vernietig”**, met betrekking tot goedere, ook enige handeling of gebeurtenis wat veroorsaak dat die goedere kommersieel waardeloos raak;²⁰ 40
- “verpakking”**—
 - (a) enige omhulsel of buitebedekking en die inhoud daarvan;
 - (b) enige bondel wat saamgebind is; of
 - (c) enige enkel stuk in die geval van onverpakte goedere; 45
- “vervoerder”**— 45
 - (a) ’n skeepvaart- of lugredery of ander persoon wat besigheid doen deur goedere of reisigers per see of lug teen vergoeding te vervoer;
 - (b) iemand wat besigheid doen deur goedere of reisigers per spoor teen vergoeding te vervoer;
 - (c) ’n persoon wat besigheid doen deur goedere per trok of reisigers per bus teen voergoeding te vervoer; of 50
 - (d) ’n persoon wat—
 - (i) ’n besigheid bedryf wat die verkoop of verhuur van goedere, of die handeldryf in goedere op enige ander wyse, of die verpakking, herstel, opknapping, prosessering of produksie van goedere behels; en 55
 - (ii) daardie goedere in die loop van die bedryf van daardie besigheid vervoer;
- “vervoerdokument”**, met betrekking tot vrag vervoer aan boord van—
 - (a) ’n vaartuig, ’n ladingsbrief of ander soortgelyke dokument ten opsigte van die vervoer van daardie vrag uitgereik;

20. Let wel dat **“vernietig”** sy gewone grammatikale betekenis behou en dat die omskrywing, deur gebruik te maak van die woord **“ook”**, bloot die gewone grammatikale betekenis uitbrei en dit nie vervang nie.

- “supplementary clearance declaration”** means a clearance declaration that supplements—
- (a) a provisional clearance declaration by confirming or correcting clearance information provided provisionally; or
 - (b) an incomplete clearance declaration by providing all outstanding clearance information required for a regular clearance; 5
- “supporting document”** includes a document referred to in section 176;
- “tariff classification”**, in relation to goods that are cleared for home use or a customs procedure, means the classification of the goods under a heading, subheading, tariff item or other item as may be specified in a tax levying Act; 10
- “tax”**, in relation to goods, means an import tax, export tax or domestic tax on goods;
- “taxable”**, in relation to goods, indicates that an import or export tax has been imposed on the goods in terms of a tax levying Act;
- “Tax Administration Act”** means the Tax Administration Act, 2011 (Act No. 28 of 2011); 15
- “tax due status”** means a tax status described in section 134(1);
- “tax free status”** means a tax status described in section 134(2);
- “tax free shop”** means premises from where goods are sold in accordance with the tax free shop procedure, and includes any storage facilities on the premises;²² 20
- “tax free shop procedure”** means the customs procedure described in section 316;
- “tax levying Act”** means any legislation, other than this Act, imposing or imposing and regulating the administration of a specific tax on goods, and includes any of the following Acts together with any rules, regulations or other subordinate legislation issued in terms of any of those Acts and any international agreements that are regarded to be part of any of those Acts: 25
- (a) The Customs Duty Act;
 - (b) the Value-added Tax Act;
 - (c) the Excise Duty Act; 30
 - (d) the Diamond Export Levy Act, 2007 (Act No. 15 of 2007); and
 - (e) the Diamond Export Levy Administration Act, 2007 (Act No. 14 of 2007);
- “tax refundable status”** means a tax status described in section 134(3);
- “temporary admission”** or **“temporary admission procedure”** means the customs procedure described in section 263; 35
- “temporary export”**, in relation to goods, means the export of goods under the temporary export procedure;
- “temporary export procedure”** means the customs procedure described in section 375;
- “temporary storage”**, in relation to goods, means the storage of goods at— 40
- (a) a terminal until the goods are—
 - (i) loaded on board a vessel, aircraft, railway carriage or vehicle at the terminal; or
 - (ii) removed from the terminal; or
 - (b) a depot until the goods are removed from the depot, 45
- but excludes the storage of goods when the goods are retained at the terminal or depot under a direction in terms of section 580(1);
- “terminal”** means—
- (a) a sea cargo terminal;
 - (b) an air cargo terminal; 50
 - (c) a sea travellers terminal;
 - (d) an air travellers terminal; or
 - (e) a railway terminal;
- “this Act”** includes—
- (a) the regulations and the rules; 55
 - (b) any notices of general application published by the Minister in terms of a provision of this Act in the *Gazette*; and
 - (c) any international agreement that—
 - (i) has been enacted into law whether before or after this Act took effect; and
 - (ii) is as such binding for the purposes of a matter dealt with in this Act; 60

22. These facilities are not a private customs warehouse, but part of the tax free shop.

- (b) 'n vliegtuig, 'n lugvragbrief of ander soortgelyke dokument ten opsigte van die vervoer van daardie vrag uitgereik;
- (c) 'n spoorwegwa, 'n spoorvragbrief of ander soortgelyke dokument ten opsigte van die vervoer van daardie vrag uitgereik; of
- (d) 'n voertuig, 'n padvragbrief, pad manifes of ander soortgelyke dokument ten opsigte van die vervoer van daardie vrag uitgereik; 5
- “vervolgbare breuk”**, met betrekking tot hierdie Wet, 'n breuk van hierdie Wet wat 'n misdryf ingevolge hierdie Wet is;
- “vliegtuig”** 'n tuig van watter aard ook al, wat die vermoë het om te vlieg, hetsy self-aangedrewe of nie, en ook daardie tuig se onderdele en bybehore asook enige toestel of toerusting wat daarop of daaraan gemonteer is; 10
- “voertuig”**—
- (a) 'n motorkar, bus, mini-bus, vervoerwa, trok, sleepwa, semi-sleepwa, motorfiets, wa, karretjie, fiets, kruise of ander karweimiddel van watter aard ook al, wat die vermoë het om op land te beweeg, hetsy self-aangedrewe of nie, en ook die toebehore en bykomstighede daartoe en enige apparaat of toerusting daarop of daaraan gemonteer; 15
- (b) enige kombinasie van gekoppelde voertuie in paragraaf (a) bedoel wat as 'n eenheid beweeg of kan beweeg; of
- (c) enige pakkier wanneer gebruik word as 'n karweimiddel, en ook dier se tuig en gerei en enige karretjie, apparaat of artikel deur die dier getrek, maar nie ook 'n vliegtuig, vaartuig, trein, lokomotief of spoorwegwa nie; 20
- “voorlopige klaringsbrief”** 'n klaringsbrief wat gebruik kan word om goedere vir binnelandse gebruik of 'n doeaneprosedure in die omstandighede vermeld in Deel 1 van Hoofstuk 24 te klaar en wat inligting bevat wat voorlopig in die klaringsbrief ingesluit word hangende daaropvolgende bevestiging of regstelling; 25
- “voorrade”** goedere wat aan boord van 'n land-uitgaande vaartuig, land-uitgaande vliegtuig of oor-grens trein, hetsy in die Republiek of elders, geneem is uitsluitlik vir die doel om aan die redelike behoeftes vir die volgende vaart, vlug of tog van die vaartuig, vliegtuig of trein, asook vir plekke waar daar aangedoen word, te voldoen, en sluit goedere in wat bestem is om gebruik te word— 30
- (a) vir die behoeftes van reisigers en bemanning aan boord van die vaartuig, vliegtuig of trein gedurende daardie vaart, vlug of tog;
- (b) vir die operatiewe behoeftes van die vaartuig, vliegtuig of trein op daardie vaart, vlug of tog; 35
- (c) vir die instandhouding van die vaartuig, vliegtuig of trein gedurende daardie vaart, vlug of tog; of
- (d) vir verkoop as belastingvry artikels aan reisigers en bemanning aan boord van die vaartuig, vliegtuig of trein, in die geval van 'n vaartuig, vliegtuig of trein wat ingevolge artikel 349 gemagtig is om belastingvry artikels aan reisigers en bemanning te verkoop, 40
- maar nie ook enige goedere wat by reël voorgeskryf word nie;
- “voorradeverskaffer”** 'n persoon wat besigheid doen deur voorrade aan land-uitgaande vaartuie, land-uitgaande vliegtuie of oor-grens treine te verskaf, ongeag of daardie voorrade goedere in vry sirkulasie is of goedere is wat nie in vry sirkulasie is nie; 45
- “voorradeprosedure”** die doeaneprosedure in artikel 335 beskryf;
- “vrag”**, met betrekking tot 'n vaartuig, vliegtuig, spoorwegwa of voertuig, enige goedere wat aan boord is, of aan boord gelaai gaan word, of afgelaai is, van 'n vaartuig, vliegtuig, spoorwegwa of voertuig, maar nie ook— 50
- (a) voorrade nie; en
- (b) die vergeselde en onvergeselde bagasie van reisigers en bemanningslede nie;
- “vragstatus”**, met betrekking tot vrag wat per see ingevoer is in, of uitgevoer gaan word uit, die Republiek, enige van die volgende simbole wat gebruik word om die vorm aan te dui waarin die vrag ingevoer is of uitgevoer gaan word: 55
- (a) “FCL” om aan te dui dat die vrag behouer is in 'n FCL houer of FCL (groeperings)houer;
- (b) “LCL” om aan te dui dat die vrag behouer is in 'n LCL houer;
- (c) “Losmaat” om aan te dui dat die vrag in los maat is; of
- (d) “Massa” om aan te dui dat die vrag in massa is; 60
- “vragverslagdoener”**, met betrekking tot vrag wat aan boord is, of aan boord gelaai gaan word, of afgelaai is, van 'n vaartuig of vliegtuig, iemand wat ingevolge 'n vervoerkontrak deur daardie persoon met die versender van die vrag of enige

- “train”** means a locomotive with or without any passenger, goods or other railway carriages attached to it, including the fittings and furnishings of such locomotive or railway carriage and any apparatus or equipment fitted on or to such locomotive or railway carriage;
- “transhipment”** or **“transhipment procedure”** means the customs procedure described in section 242; 5
- “transit”**, in relation to goods, means, as may be appropriate in the context, national transit, international transit or excise warehouse transit of goods;
- “transit operation”**—
- (a) in relation to goods under the national or international transit procedure, 10 includes—
- (i) the receipt of goods for carrying out that procedure;
 - (ii) the transport of those goods under that procedure; and
 - (iii) the delivery of those goods under that procedure at the destined customs controlled area; and 15
- (b) in relation to goods under the excise warehouse transit procedure, includes—
- (i) the receipt of goods for carrying out that procedure;
 - (ii) the transport of those goods under that procedure; and
 - (iii) the delivery of those goods under that procedure to the destined excise warehouse; 20
- “transport document”**, in relation to cargo transported on board—
- (a) a vessel, means a bill of lading or other similar document issued in respect of the transport of that cargo;
- (b) an aircraft, means an air waybill or other similar document issued in respect of the transport of that cargo; 25
- (c) a railway carriage, means a rail consignment note or other similar document issued in respect of the transport of that cargo; or
- (d) a vehicle, means a road waybill, road manifest or other similar document issued in respect of the transport of that cargo;
- “traveller”** means a person travelling on board a vessel, aircraft, train or vehicle 30 or on foot, but excludes a crew member of the vessel, aircraft, train or vehicle;
- “truck”** means a vehicle—
- (a) with a gross vehicle mass exceeding 3500 kilograms;²³ and
- (b) that is designed or adapted for the transport of goods;
- “unaccompanied baggage”**, in relation to a person entering or leaving the 35 Republic, means any items in the baggage of a person entering or leaving the Republic that, because of a delay in the travelling process, separate travelling arrangements or for any other reason, were not or could not physically be with that person when that person is processed through customs at the place of entry through which that person enters or at the place of exit through which that person leaves the 40 Republic;
- “unaccounted”**, in relation to goods, means a shortfall in goods according to any documents or records relating to the goods, where the reason for the shortfall cannot be ascribed to the destruction, damage or loss of the goods;
- “vehicle”** means— 45
- (a) a motor car, bus, mini-bus, van, truck, trailer, semi-trailer, motor cycle, wagon, cart, cycle, wheelbarrow or other means of conveyance of any kind whatsoever capable of moving on land, whether self-propelled or not, and including its fittings and furnishings and any apparatus or equipment fitted on or to it; 50
- (b) any combination of coupled vehicles referred to in paragraph (a) travelling or capable of travelling as a unit; or
- (c) any pack animal when used as a means of conveyance, including its harness and tackle and any cart, apparatus or article pulled by the animal, 55 but excludes an aircraft, vessel, train, locomotive or railway carriage;

23. See National Road Traffic Act, 1996 (Act No. 93 of 1996).

ander belanghebbende persoon aangegaan, verantwoordelik is vir die aflewering van die vraag, ongeag of daardie persoon die vervoerder is wat werklik die vraag vervoer of 'n doeanemakelaar²¹ is wat die vervoer van die vraag gereël het;

“vry sirkulasie”—

- (a) met betrekking tot goedere wat in die Republiek ingevoer is, dat die goedere— 5
- (i) vrygestel is vir binnelandse gebruik en dat die vrystelling vir binnelandse gebruik onvoorwaardelik was of, indien voorwaardelik, dat die vrystelling as gevolg van voldoening aan die voorwaarde onvoorwaardelik geword het; of 10
 - (ii) in 'n kategorie goedere bedoel in artikel 91(1)(e), (g), (h), (i) of (j) val en vry van doeanebeheer in die Republiek toegelaat is onderworpe slegs aan doeanebevestiging dat die goedere in daardie kategorie val;
- (b) met betrekking tot produkte verkry uit die prosessering van ingevoerde goedere wat voorwaardelik vir binnelandse gebruikprosessering²² vrygestel is, dat— 15
- (i) die produkte geproduseer is ooreenkomstig die voorwaardes waarop die ingevoerde goedere vir binnelandse gebruikprosessering vrygestel is en dat die vrystelling van die ingevoerde goedere vir binnelandse gebruikprosessering as gevolg van voldoening aan sodanige voorwaardes onvoorwaardelik geword het; en 20
 - (ii) geen belastingheffings-Wet dit belet dat daar met die produkte ooreenkomstig artikel 445(1)(a) of (b) gehandel word nie;
- (c) met betrekking tot goedere wat in 'n aksynspakhuis vervaardig is, dat die goedere vir binnelandse verbruik ooreenkomstig die Wet op Aksynsreg 25
- (d) met betrekking tot goedere wat in die Republiek geproduseer is anders as soos in paragraaf (b) of (c) beoog, dat die goedere geproduseer is in omstandighede waarin hierdie Wet en die Wet op Aksynsreg nie van toepassing is nie:

Met dien verstande dat goedere in vry sirkulasie uit hoofde van paragraaf (a), (b), (c) of (d) hul vry sirkulasie status verloor indien die goedere daarna geklaar word vir 'n doeaneprosedure wat die klaring van goedere in vry sirkulasie vir daardie prosedure veroorloof;²³

“vrystelling”, met betrekking tot goedere, 'n besluit deur die doeanegesag om toe te laat dat— 35

- (a) die goedere in vry sirkulasie gaan, in die geval van ingevoerde goedere wat vir binnelandse gebruik geklaar word; of
- (b) daar met die goedere ooreenkomstig 'n bepaalde doeaneprosedure gehandel word, in die geval van goedere wat vir daardie doeaneprosedure geklaar word;

“vrystellingsagent”, met betrekking tot goedere, die lisensiehouer van die doeanebeheergebied waar die goedere onmiddellik voor die vrystelling daarvan vir binnelandse gebruik of 'n doeaneprosedure is; 40

“vrystellingskennisgewing” 'n kennisgewing ingevolge artikel 180 wat aandui dat goedere vir binnelandse gebruik of 'n doeaneprosedure vrygestel is; 45

“vrywaringsvereniging”—

- (a) met betrekking tot die prosedure vir tydelike toelating, 'n vereniging wat ooreenkomstig die “Convention on Temporary Admission” of enige internasionale ooreenkoms in artikel 280(1)(a)(ii) bedoel, die betaling waarborg van enige invoerbelasting wat betaalbaar mag word op goedere wat op gesag van 'n CPD of ATA carnet tydelik in die Republiek toegelaat is; of 50
- (b) met betrekking tot die prosedure vir tydelike uitvoer, 'n vereniging wat ooreenkomstig die “Convention on Temporary Admission” of enige internasionale ooreenkoms in artikel 393(1)(a)(ii) bedoel, die betaling waarborg van enige uitvoerbelasting wat betaalbaar mag word op goedere wat op gesag van 'n CPD of ATA carnet tydelik uit die Republiek uitgevoer is; 55

“werksdag” enige dag behalwe 'n Saterdag, Sondag of openbare vakansiedag;

“Wet op Aksynsreg” die Wet op Aksynsreg, 1964 (Wet No. 91 van 1964);

“Wet op Belastingadministrasie” die Wet op Belastingadministrasie, 2011 (Wet No. 28 van 2011);

21. Kyk paragraaf (b) van die omskrywing van “doeanemakelaar”.

22. Kyk artikel 442.

23. Soos vir regstreekse uitvoer, tydelike uitvoer of uitwaartse prosessering.

“vessel” means—

- (a) a craft of any kind whatsoever capable of moving in, on or under water, whether self-propelled or not;
- (b) a hovercraft; or
- (c) any floating structure, whether moored or not, including the fittings and furnishings of such craft or floating structure and any apparatus or equipment fitted on or to such craft or floating structure;

“warehousing” or “warehousing procedure” means the customs procedure described in section 296;

“working day” means any day other than a Saturday, Sunday or public holiday;

“wreck” includes—

- (a) any flotsam, jetsam, lagan or derelict;
- (b) any portion of a vessel or aircraft that has been lost or abandoned or that has been stranded or crashed;
- (c) any of the cargo, stores, apparatus or equipment of any such vessel or aircraft; and
- (d) any personal property on board such vessel or aircraft when it was lost or abandoned or when it was stranded or crashed.

(2) In this Act, a word or expression which is a derivative or other grammatical form of a word or expression defined in subsection (1) or another provision of this Act, has a corresponding meaning unless the context indicates that another meaning is intended.

(3) Unless inconsistent with the context, any reference in this Act or a tax levying Act to—

- (a) a person located in the Republic must be read—
 - (i) in the case of a natural person, as a reference to a natural person ordinarily resident in the Republic at a fixed physical address in the Republic; or
 - (ii) in the case of a person which is a juristic entity, as a reference to a juristic entity—
 - (aa) which is incorporated, registered or recognised in terms of the laws of the Republic or of another country; and
 - (bb) which has a place of business at a specific physical address in the Republic;
- (b) a specific Chapter of this Act must be read as including any regulation or rule made for the purpose, or to facilitate the implementation, of that Chapter;
- (c) a specific Part of a Chapter of this Act must be read as including any regulation or rule made for the purpose, or to facilitate the implementation, of that Part; and
- (d) a specific section of this Act must be read as including any regulation or rule made for the purpose, or to facilitate the implementation, of that section.

(4) When applying a provision of this Act to goods to which the Excise Duty Act applies or for purposes of implementing or enforcing that Act, any reference in that provision to—

- (a) a registered person must be read as including a reference to a person registered or who is the holder of any registration in terms of that Act;
- (b) a licensee must be read as including a reference to a person licensed or who is the holder of any licence in terms of that Act; and
- (c) licensed premises or facilities must be read as including a reference to premises or facilities licensed in terms of that Act.

Time of importation or exportation and of arrival or departure 50

2. For the purposes of this Act and of a tax levying Act, except where inconsistent with the context—

- (a) goods must be regarded to be—
 - (i) imported into the Republic when the goods enter the Republic or are in terms of section 34(2)(c) regarded as having entered the Republic;²⁴ or
 - (ii) exported from the Republic when the goods leave the Republic;²⁵
- (b) a foreign-going vessel, or goods or persons on board a foreign-going vessel, must be regarded as—

24. See definition of “enter” in section 1.
25. See definition of “leave” in section 1.

“**Wet op Doeanereg**” die Wet op Doeanereg, 2014 (Wet No. 30 van 2014);
“**Wet op Nagemaakte Goedere**” die Wet op Nagemaakte Goedere, 1997 (Wet No. 37 van 1997);

“**wrakgoed**” ook—

- (a) enige dryfgoed, opdrifsels, redgoed of verlate goedere; 5
- (b) enige gedeelte van ’n vaartuig of vliegtuig wat vergaan het, verlaat is of wat gestrand of neergestort het;
- (c) enige van die vrag, voorrade, apparate of toerusting van enige sodanige vaartuig of vliegtuig; en
- (d) enige persoonlike eiendom aan boord van sodanige vaartuig of vliegtuig toe dit vergaan het of verlaat is of toe dit gestrand of neergestort het; 10

“**wyse van vervoer**” vervoer per see, lug, spoor of pad.

(2) In hierdie Wet, het ’n woord of uitdrukking wat ’n afleiding of ander grammatiese vorm is van ’n woord of uitdrukking in subartikel (1) of ’n ander bepaling van hierdie Wet omskryf, ’n ooreenstemmende betekenis, tensy dit uit die samehang blyk dat ’n ander betekenis beoog word. 15

(3) Tensy uit die samehang anders blyk, moet enige verwysing in hierdie Wet of ’n belastingheffings-Wet na—

- (a) ’n persoon in die Republiek gesetel, uitgelê word—
 - (i) in die geval van ’n natuurlike persoon, as ’n verwysing na ’n natuurlike persoon wat gewoonlik in die Republiek woonagtig is by ’n vaste fisiese adres in die Republiek; of 20
 - (ii) in die geval van ’n persoon wat ’n regsentiteit is, as ’n verwysing na ’n regsentiteit—
 - (aa) wat ingelyf, geregistreer of erken word ingevolge die wette van die Republiek of van ’n ander land; en 25
 - (bb) wat ’n plek van besigheid by ’n spesifieke fisiese adres in die Republiek het;
- (b) ’n bepaalde Hoofstuk van hierdie Wet, uitgelê word as insluitende enige regulasie of reël wat vir doeleindes van, of ter fasilitering van die implementering van, daardie Hoofstuk uitgevaardig is; 30
- (c) ’n bepaalde Deel van ’n Hoofstuk van hierdie Wet, uitgelê word as insluitende enige regulasie of reël wat vir doeleindes van, of ter fasilitering van die implementering van, daardie Deel uitgevaardig is; en
- (d) ’n bepaalde artikel van hierdie Wet, uitgelê word as insluitende enige regulasie of reël wat vir doeleindes van, of ter fasilitering van die implementering van, daardie artikel uitgevaardig is. 35

(4) By die toepassing van ’n bepaling van hierdie Wet op goedere waarop die Wet op Aksynsreg van toepassing is, of vir doeleindes van implementering of toepassing van daardie Wet, moet enige verwysing in daardie bepaling na— 40

- (a) ’n geregistreerde persoon uitgelê word as ’n verwysing ook na ’n persoon wat geregistreer of die houer van enige registrasie ingevolge daardie Wet is;
- (b) ’n lisensiehouer uitgelê word as ’n verwysing ook na ’n persoon wat gelisensieer of die houer van enige lisensie ingevolge daardie Wet is; en
- (c) gelisensieerde perseel of fasiliteit uitgelê word as ’n verwysing ook na ’n perseel of fasiliteit wat ingevolge daardie Wet gelisensieer is. 45

Tyd van invoer of uitvoer en van aankoms of vertrek

2. Vir doeleindes van hierdie Wet en van enige belastingheffings-Wet, behalwe waar dit met die samehang onbestaanbaar is—

- (a) word goedere geag— 50
 - (i) in die Republiek ingevoer te word wanneer die goedere die Republiek binnekom of ingevolge artikel 34(2)(c) geag word die Republiek binne te gekom het;²⁴ of
 - (ii) uit die Republiek uitgevoer te word wanneer die goedere die Republiek verlaat;²⁵ 55
- (b) word ’n land-uitgaande vaartuig, of goedere of persone aan boord van ’n land-uitgaande vaartuig, geag—

24. Kyk omskrywing van “binnekom” in artikel 1.

25. Kyk omskrywing van “verlaat” in artikel 1.

- (i) arriving in the Republic when the vessel docks at the first seaport, harbour or other place after it entered the territorial waters of the Republic;
- (ii) arriving at a customs seaport when the vessel upon reaching the seaport docks for the first time at that seaport, whether inside the seaport or at a docking facility outside the seaport; or 5
- (iii) departing from a customs seaport when the vessel undocks to move out of or away from the seaport;
- (c) a foreign-going aircraft, or goods or persons on board a foreign-going aircraft, must be regarded as— 10
 - (i) arriving in the Republic when the aircraft lands at the first airport, landing strip or other place after it entered the airspace of the Republic;
 - (ii) arriving at a customs airport when the aircraft lands at the airport; or
 - (iii) departing from a customs airport when the aircraft takes off from the airport; 15
- (d) a cross-border train or a railway carriage attached to a cross-border train, or goods or persons on board a cross-border train or such a railway carriage, must be regarded as—
 - (i) arriving in the Republic when the train crosses the border into the Republic; 20
 - (ii) arriving at a railway station when the train stops for the first time at a railway terminal at that railway station; or
 - (iii) departing from a railway station when the train starts to move out of the railway station;
- (e) a vehicle, or persons on board a vehicle, must be regarded as— 25
 - (i) arriving in the Republic when the vehicle crosses the border into the Republic; or
 - (ii) departing from the Republic when the vehicle crosses the border out of the Republic; or
- (f) a person on foot, must be regarded as— 30
 - (i) arriving in the Republic when the person crosses the border into the Republic; or
 - (ii) departing from the Republic when the person crosses the border out of the Republic.

Part 2 35

Purpose and application of this Act

Purpose of this Act

3. The purpose of this Act is—
- (a) to provide systems and procedures for customs control of all goods and persons entering or leaving the Republic; 40
 - (b) to enable the effective collection of import and export tax on such goods; and
 - (c) to facilitate the implementation of—
 - (i) the tax levying Acts; and
 - (ii) other legislation applicable to such goods or persons.

Goods and persons to which this Act applies 45

4. This Act applies to all goods and persons that are subject to customs control in terms of Chapter 2.

Territorial application of this Act

5. (1) This Act applies in the whole of the Republic.²⁶
(2) For the purpose of subsection (1)— 50

26. Although the Prince Edward Islands form part of the Republic, this Act does not apply to those islands. See the Prince Edward Islands Act, 1948 (Act No. 43 of 1948).

- (i) in die Republiek aan te kom wanneer die vaartuig, nadat dit die territoriale waters van die Republiek binnegekom het, by die eerste seehawe, landingsplek of ander plek vasmeer;
- (ii) by 'n doeaneseehawe aan te kom wanneer die vaartuig, nadat dit die seehawe bereik het, vir die eerste keer by daardie seehawe vasmeer, hetsy binne die seehawe of by 'n meerfasiliteit buite die seehawe; of
- (iii) vanuit 'n doeaneseehawe te vertrek wanneer die vaartuig losmeer om uit of vanaf die seehawe weg te beweeg;
- (c) word 'n land-uitgaande vliegtuig, of goedere of persone aan boord van 'n land-uitgaande vliegtuig, geag—
 - (i) in die Republiek aan te kom wanneer die vliegtuig by die eerste lughawe, landingsstrook of ander plek land nadat dit die lugruimte van die Republiek binnegekom het;
 - (ii) by 'n doeanelughawe aan te kom wanneer die vliegtuig by die lughawe land; of
 - (iii) van 'n doeanelughawe te vertrek wanneer die vliegtuig van die lughawe opstyg;
- (d) word 'n oor-grens trein of spoorwegwa gekoppel aan 'n oor-grens trein, of goedere of persone aan boord van 'n oor-grens trein of spoorwegwa, geag—
 - (i) in die Republiek aan te kom wanneer die trein die Republiek oor die grens binnekom;
 - (ii) by 'n treinstasie aan te kom wanneer die trein vir die eerste maal by 'n spoorwegterminaal by daardie treinstasie stop; of
 - (iii) van 'n treinstasie te vertrek wanneer die trein uit die treinstasie begin beweeg;
- (e) word 'n voertuig, of persone aan boord van 'n voertuig geag—
 - (i) in die Republiek aan te kom wanneer die voertuig die Republiek oor die grens binnekom; of
 - (ii) die Republiek te verlaat wanneer die voertuig die Republiek oor die grens verlaat; of
- (f) word 'n voetganger geag—
 - (i) in die Republiek aan te kom wanneer die voetganger die Republiek oor die grens binnekom; of
 - (ii) die Republiek te verlaat wanneer die voetganger die Republiek oor die grens verlaat.

Deel 2

Doel en toepassing van hierdie Wet

Doel van hierdie Wet

3. Die doel van hierdie Wet is—
- (a) om voorsiening te maak vir stelsels en prosedures vir doeanebeheer oor alle goedere en persone wat die Republiek binnekom of verlaat;
 - (b) om voorsiening te maak vir die doeltreffende invordering van invoer- en uitvoerbelasting op daardie goedere; en
 - (c) om die implementering te fasiliteer van—
 - (i) die belastingheffings-Wette; en
 - (ii) ander wetgewing wat op daardie goedere of persone van toepassing is.

Goedere en persone waarop hierdie Wet van toepassing is

4. Hierdie Wet is van toepassing op alle goedere en persone wat ingevolge Hoofstuk 2 aan doeanebeheer onderworpe is.

Territoriale toepassing van hierdie Wet

5. (1) Hierdie Wet is in die hele Republiek van toepassing.²⁶
(2) By die toepassing van subartikel (1)—

26. Alhoewel die Prins Edward Eilande deel van die Republiek vorm, is hierdie Wet nie op daardie eilande van toepassing nie. Kyk die Wet op Prince Edward Eilande, 1948 (Wet No. 43 van 1948).

- (a) the continental shelf referred to in section 8 of the Maritime Zones Act, 1994 (Act No.15 of 1994), must be regarded as being part of the Republic;
- (b) any installation or device of any kind whatsoever, including any floating or submersible drilling or production platform, constructed or being operated upon, beneath or above the continental shelf for the purpose of exploring it or exploiting its natural resources, must be regarded as having been constructed or as being operated within the Republic; and
- (c) any goods mined or produced in the operation of such installation or device and transported to the shore, whether by vessel, pipeline or otherwise, and any person or any other goods being transported by any means to and from such installation or device must be regarded as being transported within the Republic.

(3) Customs officers may perform their enforcement functions in terms of this Act in the contiguous and exclusive economic zones of the Republic referred to in sections 5 and 7 of the Maritime Zones Act, 1994 (Act No. 15 of 1994), to the extent necessary to enforce, or to prevent a breach of this Act, a tax levying Act or any legislation referred to in Chapter 35 or 36.

Application of this Act in relation to SACU member states

6. (1) This Act applies subject to any rules that may be prescribed in terms of subsection (2) to—

- (a) all goods imported into the Republic from a SACU member state; and
- (b) all goods in the process of being exported from the Republic to a SACU member state.

(2) The Commissioner may make rules as may be necessary for the effective implementation of the SACU Agreement in the Republic, including rules modifying, qualifying or deviating from provisions of this Act or a tax levying Act as may be necessary for such implementation.

Application of this Act in relation to SADC member states

7. (1) This Act applies subject to any rules as may be prescribed in terms of subsection (2) to—

- (a) all goods imported into the Republic from a SADC member state; and
- (b) all goods in the process of being exported from the Republic to a SADC member state.

(2) The Commissioner may make rules to facilitate the implementation of the SADC Agreement in the Republic.

Application of this Act in relation to tax levying Acts and legislation regulating goods and persons entering or leaving Republic

8. This Act must be interpreted and applied to facilitate the implementation of—

- (a) the tax levying Acts; and
- (b) other legislation²⁷ to the extent that such other legislation applies—
 - (i) to goods or persons entering or leaving the Republic or to any matter relating to such goods or persons; or
 - (ii) in any areas which are customs controlled areas in terms of this Act or to any matter relating to such areas.

27. The Customs Control Act provides a “platform” for the implementation of the tax levying Acts and other legislation applicable to goods and persons entering or leaving the Republic, especially legislation regulating the import or export of prohibited, restricted and sectorally controlled goods.

- (a) word die vastelandsplat bedoel in artikel 8 van die Wet op Maritieme Sones, 1994 (Wet No.15 van 1994), geag deel van die Republiek te wees;
- (b) word enige installasie of toestel van watter aard ook al, met inbegrip van enige drywende of dompelboor- of produksieplatform, wat opgerig is of in bedryf is op, onder of bokant die vastelandsplat vir doeleindes van eksplorasië daarvan of ontginning van die natuurlike hulpbronne daarvan, geag in die Republiek opgerig of in bedryf te wees; en 5
- (c) word enige goedere wat in die bedryf van so 'n installasie of toestel gemyn of geproduseer word en na die kuslyn vervoer word, hetsy by wyse van 'n vaartuig, pyplyn of andersins, en enige persoon of ander goedere wat op enige wyse na en vanaf daardie installasie of toestel vervoer word, geag binne die Republiek vervoer te word. 10

(3) Doeanebeamptes kan hulle toepassingsfunksies ingevolge hierdie Wet in die aangrensende en eksklusiewe ekonomiese sones van die Republiek bedoel in artikels 5 en 7 van die Wet op Maritieme Sones, 1994 (Wet No. 15 van 1994), uitvoer in soverre dit nodig is om hierdie Wet, 'n belastingheffings-Wet of enige wetgewing bedoel in Hoofstuk 35 of 36 toe te pas of 'n breuk daarvan te voorkom. 15

Toepassing van hierdie Wet met betrekking tot SADU lidstate

6. (1) Hierdie Wet is, behoudens enige reëls ingevolge subartikel (2) voorgeskryf, van toepassing op— 20
- (a) alle goedere wat na die Republiek uit 'n SADU lidstaat ingevoer word; en
 - (b) alle goedere wat bestem is om uit die Republiek na 'n SADU lidstaat uitgevoer te word.
- (2) Die Kommissaris kan reëls uitvaardig wat nodig mag wees vir die effektiewe implementering van die SADU Ooreenkoms in die Republiek, met inbegrip van reëls wat die bepalings van hierdie Wet of 'n belastingheffings-Wet aanpas, kwalifiseer of daarvan afwyk in soverre dit vir daardie implementering nodig mag wees. 25

Toepassing van hierdie Wet met betrekking tot SAOG lidstate

7. (1) Hierdie Wet is, behoudens enige reëls ingevolge subartikel (2) voorgeskryf, van toepassing op— 30
- (a) alle goedere wat na die Republiek uit 'n SAOG lidstaat ingevoer word; en
 - (b) alle goedere wat bestem is om uit die Republiek na 'n SAOG lidstaat uitgevoer te word.
- (2) Die Kommissaris kan reëls uitvaardig om die implementering van die SAOG Ooreenkoms in die Republiek te fasiliteer. 35

Toepassing van hierdie Wet met betrekking tot belastingheffings-Wette en wetgewing ter regulering van goedere en persone wat die Republiek binnekom en verlaat

8. Hierdie Wet moet uitgelê en toegepas word ten einde die implementering te fasiliteer van— 40
- (a) die belastingheffings-Wette; en
 - (b) ander wetgewing²⁷ in soverre daardie ander wetgewing van toepassing is—
 - (i) op goedere of persone wat die Republiek binnekom of verlaat, of op enige ander aangeleentheid betreffende daardie goedere of persone; of
 - (ii) in enige gebiede wat ingevolge hierdie Wet doeanebeheergebiede is of op enige ander aangeleentheid betreffende daardie gebiede. 45

27. Die Wet op Doeanebeheer stel 'n "platform" daar vir die implementering van die belastingheffings-Wette en ander wetgewing van toepassing op goedere en persone wat die Republiek binnekom of verlaat, veral wetgewing wat die invoer of uitvoer van verbode, beperkte of sektorbeheerde goedere reguleer.

Part 3

Administration of this Act

Commissioner to administer this Act

9. The Commissioner must—
- (a) administer this Act subject to the control and directions of the Minister; and 5
 - (b) establish and maintain administrative, financial, technological, electronic, communicative and other systems and procedures necessary for the implementation and enforcement of this Act.

Designation of customs officers

10. (1) The Commissioner— 10
- (a) must designate any number of SARS officials as customs officers necessary for the proper implementation and enforcement of—
 - (i) this Act;
 - (ii) the Customs Duty Act and the Excise Duty Act; and
 - (iii) the other tax levying Acts to the extent that those Acts apply to goods imported into, or exported from, the Republic; 15
 - (b) may with the concurrence of an organ of state or other institution with whom the Commissioner has concluded an agreement in terms of section 15 designate persons in the service of that organ of state or institution as customs officers; and 20
 - (c) may in a special case designate any competent person to act as a customs officer for a specific purpose during a specific period.
- (2) No person may be designated in terms of subsection (1) as a customs officer—
- (a) unless that person—
 - (i) has filed with the Commissioner a declaration of interest determined by the Commissioner; and 25
 - (ii) complies with other requirements as may be prescribed by rule; or
 - (b) if that person has a direct material financial interest in, or stands to benefit materially from, any business activity consisting of or relating to—
 - (i) the clearance of goods for home use or a customs procedure; 30
 - (ii) the import into or export from the Republic of goods; or
 - (iii) the production, processing, sale, handling or transport of, or the trade in, goods to which this Act or the Excise Duty Act applies.
- (3) A customs officer must inform the Commissioner immediately if that officer acquires any interest referred to in subsection (2)(b). 35
- (4) The Commissioner may at any time withdraw or suspend the designation of a person as a customs officer.
- (5) A person designated as a customs officer in terms of this section may, without detraction from that person's powers as a customs officer in terms of section 11, be called an excise officer if the work of the officer relates mainly to the implementation of the Excise Duty Act. 40

Powers and duties of customs officers

11. (1) A customs officer—
- (a) may exercise the powers and must perform the duties—
 - (i) assigned to customs officers generally by this Act²⁸ and the tax levying Acts, subject to subsections (2) and (3); or 45
 - (ii) delegated or sub-delegated in terms of section 19 to customs officers generally or to that customs officer specifically; and
 - (b) must assist the Commissioner, as the Commissioner may require, in the implementation and enforcement of—
 - (i) this Act; 50

28. These are powers and duties conferred on customs officers directly by the Act or the rules otherwise than through delegation by the Commissioner.

Deel 3

Administrasie van hierdie Wet

Kommissaris administreer hierdie Wet

9. Die Kommissaris moet—
- (a) hierdie Wet administreer onder die beheer en voorskrifte van die Minister; en 5
 - (b) administratiewe, finansiële, tegnologiese, elektroniese, kommunikatiewe en ander stelsels en prosedures daarstel en in stand hou wat nodig is vir die implementering en toepassing van hierdie Wet.

Aanwysing van doeanebeamptes

10. (1) Die Kommissaris— 10
- (a) moet soveel SAID beamptes as doeanebeamptes aanwys wat nodig is vir die behoorlike implementering en toepassing van—
 - (i) hierdie Wet;
 - (ii) die Wet op Doeanereg en die Wet op Aksynsreg; en
 - (iii) die ander belastingheffings-Wette in soverre daardie Wette van toepassing is op goedere ingevoer in, of uitgevoer uit, die Republiek; 15
 - (b) kan met die goedkeuring van 'n staatsorgaan of ander instelling waarmee die Kommissaris ingevolge artikel 15 'n ooreenkoms aangegaan het, persone in diens van daardie staatsorgaan of instelling as doeanebeamptes aanwys; en
 - (c) kan in 'n besondere geval enige bevoegde persoon aanwys om as 'n doeanebeampte op te tree vir 'n bepaalde doel gedurende 'n bepaalde tydperk.
- (2) 'n Persoon mag nie ingevolge subartikel (1) as 'n doeanebeampte aangewys word nie—
- (a) tensy daardie persoon—
 - (i) 'n verklaring van belang deur die Kommissaris bepaal aan die Kommissaris verstrekket; en 25
 - (ii) voldoen aan ander vereistes soos by reël voorgeskryf mag word; of
 - (b) indien daardie persoon 'n regstreekse materiële finansiële belang het in, of enige materiële voordeel staan te trek uit, enige besigheidsaktiwiteit wat bestaan uit of betrekking het op—
 - (i) die klaring van goedere vir binnelandse gebruik of 'n doeaneprosedure; 30
 - (ii) die invoer in, of uitvoer uit, die Republiek van goedere; of
 - (iii) die produksie, prosessering, verkoop, hantering of vervoer van, of verhandeling van, goedere waarop hierdie Wet of die Wet op Aksynsreg van toepassing is. 35
- (3) 'n Doeanebeampte moet die Kommissaris onverwyld inlig indien daardie beampte enige belang in subartikel (2)(b) bedoel, bekom.
- (4) Die Kommissaris kan te eniger tyd die aanwysing van 'n persoon as doeanebeampte intrek of opskort.
- (5) 'n Persoon ingevolge hierdie artikel as 'n doeanebeampte aangewys kan, sonder om afbreuk te doen aan daardie persoon se bevoegdhede as 'n doeanebeampte ingevolge artikel 11, 'n aksynsbeampte genoem word indien die werk van die beampte hoofsaaklik verband hou met die implementering van die Wet op Aksynsreg. 40

Bevoegdhede en pligte van doeanebeamptes

11. (1) 'n Doeanebeampte— 45
- (a) kan die bevoegdhede uitoefen en moet die pligte uitvoer wat—
 - (i) deur hierdie Wet²⁸ en die belastingheffings-Wette aan doeanebeamptes in die algemeen opgedra word, behoudens subartikels (2) en (3); of
 - (ii) ingevolge artikel 19 aan doeanebeamptes in die algemeen of spesifiek aan daardie doeanebeampte gedelegeer of gesubdelegeer is; en 50
 - (b) moet die Kommissaris bystaan, soos die Kommissaris dit mag vereis, met die implementering en toepassing van—
 - (i) hierdie Wet;

28. Hierdie is bevoegdhede en pligte wat aan doeanebeamptes regstreeks deur die Wet of die reëls opgedra word andersins as deur delegasie deur die Kommissaris.

- (ii) the Customs Duty Act and the Excise Duty Act; and
 - (iii) the other tax levying Acts to the extent that those Acts apply to goods imported into, or exported from, the Republic.
- (2) Customs officers must perform their functions in accordance with an appropriate hierarchical system of customs management as may be determined by the Commissioner and whereby customs officers— 5
- (a) are entrusted with managerial, supervisory, operational or other responsibilities according to rank or on any other selective basis; and
 - (b) perform those functions in a manner commensurate with their respective responsibilities. 10
- (3) The Commissioner may, for the purpose of subsection (2), determine that a power or duty assigned generally to customs officers as contemplated in subsection (1)(a), may be exercised only by customs officers—
- (a) of at least a specific rank; or
 - (b) selected in any other way. 15

General requirements for performing enforcement functions²⁹

- 12.** (1) Customs officers must perform their enforcement functions—
- (a) in accordance with any instructions issued by the Commissioner; and
 - (b) subject to any limitations and in accordance with any procedures as may be prescribed by rule or determined by the Commissioner. 20
- (2) A customs officer may, subject to subsection (1), perform an enforcement function at any time and place and, except where provided otherwise in this Act, without a warrant or previous notice.
- (3) When performing an enforcement function, a customs officer may—
- (a) be accompanied and assisted by any interpreters, technicians, workers, police officers or any other persons whose assistance may reasonably be required for the performance of that function; or 25
 - (b) use any aids such as a dog, or chemical substances, or imaging equipment, or any other mechanical, electrical or electronic devices, subject to compliance with any legislation applicable to the use of such aids. 30
- (4) A person assisting a customs officer in terms of subsection (3)(a) must, whilst and for the purpose of assisting, be regarded to be a customs officer under the supervision of the customs officer that person is assisting.

Identification of customs officers and equipment

- 13.** (1) The Commissioner must issue an identity card to each person designated as a customs officer. 35
- (2) When performing an enforcement function a customs officer must, on demand by a member of the public affected by the performance of the function, produce the identity card issued to that officer in terms of subsection (1).
- (3) The Commissioner must design a distinctive customs flag and ensign for display on customs vehicles, aircraft, boats and other equipment which require public identification. 40

Customs Offices

- 14.** (1) The Commissioner must—
- (a) establish in the Republic or, if necessary, outside the Republic, any number of SARS offices, or designate any existing SARS offices, as Customs Offices for purposes of— 45
 - (i) this Act;
 - (ii) the Customs Duty Act and the Excise Duty Act; and
 - (iii) the other tax levying Acts to the extent that those Acts apply to goods imported into, or exported from, the Republic; 50
 - (b) determine the purpose and functions of each Customs Office; and

²⁹. See definition of “enforcement function” in section 1.

- (ii) die Wet op Doeanereg en die Wet op Aksynsreg; en
 - (iii) die ander belastingheffings-Wette in soverre daardie Wette van toepassing is op goedere wat ingevoer is in, of uitgevoer word uit, die Republiek.
- (2) Doeanebeamptes moet hulle funksies verrig ooreenkomstig 'n gepaste hiërargiese stelsel van doeanebestuur soos die Kommissaris mag bepaal en ingevolge waarvan doeanebeamptes— 5
- (a) met bestuurs-, toesig-, operasionele of ander verantwoordelikhede ooreenkomstig rang of op 'n ander geselekteerde basis beklee word; en
 - (b) daardie funksies op 'n wyse in ooreenstemming met hul onderskeie verantwoordelikhede verrig. 10
- (3) Die Kommissaris kan, by die toepassing van subartikel (2), bepaal dat 'n bevoegdheid of plig wat in die algemeen aan doeanebeamptes opgedra word soos in subartikel (1)(a) beoog, slegs uitgeoefen mag word deur doeanebeamptes—
- (a) van minstens 'n bepaalde rang; of 15
 - (b) wat op 'n ander wyse aangedui word.

Algemene voorskrifte vir verrigting van toepassingsfunksies²⁹

12. (1) Doeanebeamptes moet hulle toepassingsfunksies verrig—
- (a) ooreenkomstig enige opdragte deur die Kommissaris uitgereik; en
 - (b) behoudens enige beperkings en ooreenkomstig enige prosedures by reël 20 voorgeskryf of deur die Kommissaris bepaal.
- (2) 'n Doeanebeampte kan, behoudens subartikel (1), 'n toepassingsfunksie te eniger tyd en op enige plek verrig en, behalwe waar anders in hierdie Wet bepaal, sonder 'n lasbrief of voorafgaande kennisgewing.
- (3) Wanneer 'n doeanebeampte 'n toepassingsfunksie verrig, kan die beampte— 25
- (a) vergesel en bygestaan word deur enige tolke, tegnisi, werkers, polisiebeamptes of enige ander persone wie se bystand redelikerwyse vereis mag word vir die verrigting van daardie funksie; of
 - (b) enige hulpmiddele gebruik, soos 'n hond, of chemiese middels of skanderingstoerusting, of enige ander meganiese, elektriese of elektroniese 30 apparaat, behoudens voldoening aan enige wetgewing wat op die gebruik van daardie hulpmiddele van toepassing is.
- (4) 'n Persoon wat 'n doeanebeampte ingevolge subartikel (3)(a) bystaan, word terwyl en vir die doel waarvoor die bystand verleen word, geag 'n doeanebeampte onder die toesig van die doeanebeampte aan wie bystand verleen word, te wees. 35

Identifisering van doeanebeamptes en toerusting

13. (1) Die Kommissaris moet 'n identiteitskaart uitreik aan elke persoon wat as doeanebeampte aangewys word.
- (2) Wanneer 'n doeanebeampte 'n toepassingsfunksie verrig, moet die beampte op versoek van 'n lid van die publiek wat deur die verrigting van die funksie geraak word, die identiteitskaart wat ingevolge subartikel (1) aan daardie beampte uitgereik is, toon. 40
- (3) Die Kommissaris moet 'n kenmerkende doeanevlag en -embleem ontwerp wat op doeanevoertuie, -vliegtuie, -bote en ander toerusting wat openbare identifisering vereis, vertoon moet word.

Doeanekantore 45

14. (1) Die Kommissaris moet—
- (a) in die Republiek of, indien nodig, buite die Republiek, soveel SAID kantore daarstel, of enige bestaande SAID kantore aanwys, as Doeanekantore vir doeleindes van— 50
 - (i) hierdie Wet;
 - (ii) die Wet op Doeanereg en die Wet op Aksynsreg; en
 - (iii) die ander belastingheffings-Wette in soverre daardie Wette op goedere ingevoer in, of uitgevoer uit, die Republiek van toepassing is;
 - (b) die doel en funksies van elke Doeanekantoor bepaal; en

29. Kyk omskrywing van "toepassingsfunksie" in artikel 1.

- (c) determine—
 - (i) the office hours of each Customs Office; and
 - (ii) the outside hours of attendance by customs officers.

(2) An Office referred to in subsection (1) may be called an Excise Office if the work of the Office relates solely to the implementation of the Excise Duty Act. 5

Agreements for assistance in administration of this Act and tax levying Acts

15. The Commissioner may by agreement with another organ of state or other institution inside or outside the Republic, including a railway, seaport, airport or postal authority, obtain the assistance of that organ of state or institution to perform such support services in the implementation or enforcement of this Act or any tax levying Act, as may be agreed between the Commissioner and that organ of state or institution.³⁰ 10

Customs co-operation with other countries

16. (1) The Commissioner may, if authorised by the national executive, enter into an agreement with the customs administration of another country—

- (a) to provide for customs co-operation, including the exchange of customs information between the Commissioner and that customs administration; 15
- (b) to facilitate the customs processing of goods—
 - (i) exported to the Republic from that country; and
 - (ii) exported from the Republic to that country; and
- (c) to allow— 20
 - (i) customs personnel of that customs administration to perform functions in the Republic necessary for the enforcement of the customs legislation of that country in respect of goods to be exported from the Republic to that country; and
 - (ii) customs officers of the Republic to perform functions in that country necessary for the enforcement of this Act, a tax levying Act or any legislation referred to in Chapters 35 and 36 in respect of goods to be exported to the Republic from that country. 25

(2) The Commissioner may make rules to give effect to any agreement in terms of subsection (1), including rules providing for customs officials of that country to perform the functions referred to in subsection (1)(c)(i) in the Republic. 30

Provision of special customs services

17. (1) The Commissioner may by rule—
- (a) provide for the provision of special services to persons to assist them in complying with— 35
 - (i) this Act;
 - (ii) the Customs Duty Act or the Excise Duty Act; or
 - (iii) any other tax levying Act to the extent that such tax levying Act applies to goods imported into or exported from the Republic; and
 - (b) determine the fees payable for such services. 40

(2) Section 12(3) and (4) applies when customs officers perform services referred to in subsection (1).

³⁰. See also section 35.

- (c) (i) die kantoorure van elke Doeanekantoor vasstel; en
- (ii) die na-ure diensure van doeanebeamptes vasstel.

(2) 'n Kantoor in subartikel (1) bedoel, kan as 'n Aksynskantoor bekend staan indien die werk van die Kantoor verband hou slegs met die implementering van die Wet op Aksynsreg.

5

Ooreenkomste vir bystand in administrasie van hierdie Wet en belastingheffings-Wette

15. Die Kommissaris kan, by ooreenkoms met 'n ander staatsorgaan of ander instelling binne of buite die Republiek, met inbegrip van 'n spoorweg-, seehawe-, lughawe- of posowerheid, die bystand van daardie staatsorgaan of instelling bekom ten einde dié bystandsdienste in die implementering of toepassing van hierdie Wet of enige belastingheffings-Wet te verrig waartoe tussen die Kommissaris en daardie staatsorgaan of instelling ooreengekom mag word.³⁰

Doeanesamewerking met ander lande

16. (1) Die Kommissaris kan, indien deur die nasionale uitvoerende gesag daartoe gemagtig, 'n ooreenkoms met die doeaneadministrasie van 'n ander land aangaan—

- (a) om voorsiening te maak vir doeanesamewerking, met inbegrip van die uitruil van doeane-inligting, tussen die Kommissaris en daardie doeaneadministrasie; 15
- (b) om die doeaneprosessering van goedere te fasiliteer wat— 20
 - (i) uit daardie land na die Republiek uitgevoer word; en
 - (ii) uit die Republiek na daardie land uitgevoer word; en
- (c) om—
 - (i) doeanepersoneel van daardie doeaneadministrasie toe te laat om die funksies wat nodig is vir die toepassing van die doeanewetgewing van daardie land, in die Republiek te verrig ten opsigte van goedere bestem vir uitvoer uit die Republiek na daardie land; en 25
 - (ii) doeanebeamptes van die Republiek toe te laat om funksies wat nodig is vir die toepassing van hierdie Wet, 'n belastingheffings-Wet of enige ander wetgewing in Hoofstukke 35 en 36 bedoel in daardie land te verrig ten opsigte van goedere bestem vir uitvoer uit daardie land na die Republiek. 30

(2) Die Kommissaris kan reëls uitvaardig om gevolg te gee aan enige ooreenkoms ingevolge subartikel (1) aangegaan, met inbegrip van reëls om daarvoor voorsiening te maak dat doeaneamptenare van daardie land die funksies in subartikel (1)(c)(i) bedoel in die Republiek kan verrig. 35

Verskaffing van spesiale doeanedienste

17. (1) Die Kommissaris kan by reël—

- (a) voorsiening maak vir die verskaffing van spesiale dienste aan persone ten einde hulle behulpsaam te wees met voldoening aan— 40
 - (i) hierdie Wet;
 - (ii) die Wet op Doeanereg of die Wet op Aksynsreg; of
 - (iii) enige ander belastingheffings-Wet in soverre daardie belastingheffings-Wet van toepassing is op goedere wat ingevoer is in of uitgevoer word uit die Republiek; en 45
- (b) die fooie betaalbaar vir daardie dienste bepaal.

(2) Artikel 12(3) en (4) is van toepassing wanneer doeanebeamptes dienste in subartikel (1) bedoel, verrig.

30. Kyk ook artikel 35.

Part 4

Delegations

Delegation by Minister

18. (1) The Minister may delegate to a Deputy Minister appointed to assist the Minister any of the powers or duties assigned to the Minister in terms of this Act or a tax levying Act. 5

(2) A delegation in terms of subsection (1)—

- (a) must be in writing;
- (b) is subject to such limitations and conditions as the Minister may determine;
- (c) does not divest the Minister of the responsibility concerning the exercise of the delegated power or the performance of the delegated duty; and 10
- (d) may at any time be amended or repealed by the Minister.

(3) The Minister may at any time confirm, alter or repeal any decision taken in consequence of a delegation in terms of this section, but no such alteration or repeal may detract from any rights that have accrued as a result of the decision. 15

Delegation by Commissioner

19. (1) The Commissioner—

- (a) must for the proper implementation of this Act and the tax levying Acts develop an appropriate system of delegation to maximise managerial, administrative and operational efficiency; and 20
- (b) may, in accordance with that system, delegate to a customs officer, including any SARS official who is not a customs officer—
 - (i) any power or duty assigned by this Act or a tax levying Act to the Commissioner or the customs authority, excluding the power to make or amend rules; or 25
 - (ii) any part or aspect of any such power or duty.

(2) A delegation in terms of subsection (1)—

- (a) must be in writing;
- (b) is subject to such limitations and conditions as the Commissioner may determine generally or in a specific case; 30
- (c) may either be to—
 - (i) a specific individual; or
 - (ii) the incumbent of a specific post;
- (d) may, in the case of a delegation to a supervising customs officer, authorise the officer to sub-delegate the delegated power or duty, or part or aspect of such power or duty, in writing to— 35
 - (i) a customs officer under that supervising customs officer's control; or
 - (ii) the incumbent of a specific post under that supervising customs officer's control;
- (e) does not divest the Commissioner of the responsibility concerning the exercise of the delegated power or the performance of the delegated duty; and 40
- (f) may at any time be amended or repealed by the Commissioner.³¹

(3) If a customs officer or SARS official takes a decision or any action that would have been valid had the power or duty authorising that decision or action been delegated to that person in terms of subsection (1)(b), that decision or action is valid despite the absence of such delegation if the decision or action— 45

- (a) was taken in the course of that person's ordinary duties;

31. See section 833 and other provisions of Chapter 37 for the reconsideration of decisions taken in terms of delegated powers.

Deel 4

Delegasies

Delegering deur Minister

18. (1) Die Minister kan enige van die bevoegdhede of pligte wat ingevolge hierdie Wet of 'n belastingheffings-Wet aan die Minister opgedra is, delegeer aan 'n Adjunk-Minister wat aangestel is om die Minister by te staan. 5

(2) 'n Delegering ingevolge subartikel (1)—

- (a) moet skriftelik wees;
- (b) is onderworpe aan die beperkings en voorwaardes wat die Minister mag bepaal; 10
- (c) onthef nie die Minister van die verantwoordelikheid wat betref die uitoefening van die gedelegeerde bevoegdheid of die uitvoering van die gedelegeerde plig nie; en
- (d) kan te eniger tyd deur die Minister gewysig of ingetrek word.

(3) Die Minister kan te eniger tyd 'n besluit wat uit hoofde van 'n delegering ingevolge hierdie artikel geneem is, bevestig, verander of intrek, maar geen so 'n wysiging of intrekking mag afbreuk doen aan enige van die regte wat weens daardie besluit tot stand gekom het nie. 15

Delegering deur Kommissaris

19. (1) Die Kommissaris— 20

- (a) moet vir doeleindes van die behoorlike implementering van hierdie Wet en die belastingheffings-Wette, 'n gepaste stelsel van delegering ontwikkel ten einde bestuurs-, administratiewe en operasionele doeltreffendheid te maksimaliseer; en
- (b) kan, ooreenkomstig daardie stelsel, aan enige doeanebeampte, met inbegrip van enige SAID beampte wat nie 'n doeanebeampte is nie— 25
 - (i) enige bevoegdheid of plig delegeer wat deur hierdie Wet of 'n belastingheffings-Wet aan die Kommissaris of die doeanebesag opgedra is, uitgesonderd die bevoegdheid om reëls uit te vaardig of te wysig; of
 - (ii) enige deel of aspek van enige so 'n bevoegdheid of plig delegeer. 30

(2) 'n Delegering ingevolge subartikel (1)—

- (a) moet skriftelik wees;
- (b) is onderworpe aan die beperkings en voorwaardes wat die Kommissaris in die algemeen of in 'n bepaalde geval mag bepaal; 35
- (c) kan gedoen word aan—
 - (i) óf 'n bepaalde individu;
 - (ii) óf die houer van 'n bepaalde pos;
- (d) kan, in die geval van 'n delegering aan 'n toesighoudende doeanebeampte, die beampte magtig om die gedelegeerde bevoegdheid of plig, of deel of 'n aspek van daardie bevoegdheid of plig, skriftelik te subdelegeer aan— 40
 - (i) 'n doeanebeampte onder die beheer van daardie toesighoudende doeanebeampte; of
 - (ii) die houer van 'n bepaalde pos onder die beheer van daardie toesighoudende doeanebeampte;
- (e) onthef nie die Kommissaris van die verantwoordelikheid wat betref die uitoefening van die gedelegeerde bevoegdheid of die uitvoering van die gedelegeerde plig nie; en 45
- (f) kan te eniger tyd deur die Kommissaris gewysig of ingetrek word.³¹

(3) Indien 'n doeanebeampte of SAID beampte 'n besluit neem of enige handeling verrig wat geldig sou wees indien die bevoegtheid of plig wat daardie besluit of handeling dek ingevolge subartikel (1)(b) aan daardie persoon gedelegeer was, is daardie besluit of handeling geldig ondanks die gebrek aan so 'n delegering, indien die besluit of handeling— 50

- (a) geneem of verrig is in die loop van daardie persoon se gewone pligte;

31. Kyk artikel 833 en ander bepalinge van Hoofstuk 37 vir die heroorweging van besluite ingevolge gedelegeerde bevoegdhede geneem.

- (b) was necessary for the enforcement of this Act or a tax levying Act; and
 - (c) is ratified by the Commissioner.
- (4) The Commissioner may authorise any SARS official who is not a customs officer to exercise a power assigned to a customs officer in terms of this Act or a tax levying Act.

Part 5

5

Confidentiality

Definition

20. In this Part—

“**authorised recipient**” means—

- (a) the Statistician-General contemplated in the Statistics Act, 1999 (Act No. 6 of 1999); 10
- (b) the Director-General of the National Treasury;
- (c) the South African Police Service referred to in section 6(1) of the South African Police Service Act, 1995 (Act No. 68 of 1995);
- (d) the National Director of Public Prosecutions referred to in section 5(2)(a) of the National Prosecuting Authority Act, 1998 (Act No. 32 of 1998); 15
- (e) the Governor of the South African Reserve Bank;
- (f) the Director of the Financial Intelligence Centre;
- (g) the Auditor-General;
- (h) the Director-General of the Department of Trade and Industry; 20
- (i) the Chief Commissioner of the International Trade Administration Commission; or
- (j) any organ of state administering legislation regulating the movement of goods or persons into or out of the Republic.

Confidentiality

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21. No SARS official, customs officer or person referred to in section 12(3)(a), and no person who was such an official, officer or person, may disclose any information acquired by him or her in the exercise of powers or duties in terms of this Act, the Customs Duty Act or the Excise Duty Act concerning the private or confidential matters of any person,³² except—

- (a) to the extent that such disclosure is necessary for, and made in, the exercise of those powers or duties, including for the purpose of any proceedings referred to in Chapter 37; 30
- (b) if that official, officer or person is—
 - (i) summoned to give evidence as a witness before a court or tribunal and the Commissioner has authorised that official, officer or person to disclose the information; or 35
 - (ii) required to do so by a court;
- (c) if the person that will be affected by the disclosure has consented to the disclosure; 40
- (d) if there is a serious and imminent risk to public health or safety or the environment and the public’s interest in the disclosure outweighs the official, officer or person’s duty of confidentiality;
- (e) to an authorised recipient, subject to section 22; or
- (f) in accordance with— 45
 - (i) an international agreement in respect of customs cooperation to which the Republic is a party, subject to section 23(1); or
 - (ii) any other international agreement to which the Republic is a party, subject to section 23(2).

32. Such official, customs officer or person may be obliged to disclose such information in terms of other legislation e.g. the Financial Intelligence Centre Act, 2001 (Act No. 38 of 2001).

- (b) nodig was vir die toepassing van hierdie Wet of 'n belastingheffings-Wet; en
 - (c) deur die Kommissaris geratifiseer word.
- (4) Die Kommissaris kan enige SAID beampte wat nie 'n doeanebeampte is nie magtig om 'n bevoegdheid wat ingevolge hierdie Wet of 'n belastingheffings-Wet aan 'n doeanebeampte opgedra is, uit te oefen. 5

Deel 5

Vertroulikheid

Woordomskrying

20. In hierdie Deel beteken—
- “**gemagtigde ontvanger**”— 10
- (a) die Statistikus-generaal bedoel in die Wet op Statistieke, 1999 (Wet No. 6 van 1999);
 - (b) die Direkteur-generaal van die Nasionale Tesourie;
 - (c) die Suid-Afrikaanse Polisie diens bedoel in artikel 6(1) van die Wet op die Suid-Afrikaanse Polisie diens, 1995 (Wet No. 68 van 1995); 15
 - (d) die Nasionale Direkteur van Openbare Vervolgings bedoel in artikel 5(2)(a) van die Wet op die Nasionale Vervolgingsgesag, 1998 (Wet No. 32 van 1998);
 - (e) die Goewerneur van die Suid-Afrikaanse Reserwebank;
 - (f) die Direkteur van die Finansiële Intelligensiesentrum;
 - (g) die Ouditeur-generaal; 20
 - (h) die Direkteur-generaal van die Departement van Handel en Nywerheid;
 - (i) die Hoofkommissaris van die Internasionale Handelsadministrasie-kommissie; of
 - (j) enige staatsorgaan wat wetgewing ter regulering van die beweging van goedere of persone in of uit die Republiek administreer. 25

Vertroulikheid

21. Geen SAID beampte, doeanebeampte of persoon in artikel 12(3)(a) bedoel, en niemand wat so 'n beampte of persoon was nie, mag enige inligting rakende die private of vertroulike sake van enige persoon deur hom of haar in die uitoefening van bevoegdhede of pligte ingevolge hierdie Wet, die Wet op Doeaneereg of die Wet op Aksynsreg bekom, aan iemand anders bekend maak nie,³² behalwe— 30
- (a) in soverre daardie bekendmaking nodig is vir, en gemaak word in, die uitoefening van daardie bevoegdhede of pligte, insluitende vir doeleindes van enige verrigtinge in Hoorstuk 37 bedoel;
 - (b) waar daardie beampte of persoon— 35
 - (i) gedagvaar is om getuie te lewer as 'n getuie voor 'n hof of tribunaal en die Kommissaris daardie beampte of persoon gemagtig het om die inligting bekend te maak; of
 - (ii) deur 'n hof daartoe gelas word om dit te doen;
 - (c) indien die persoon wat deur die bekendmaking geraak sal word tot die 40 bekendmaking toegestem het;
 - (d) indien daar 'n ernstige en dreigende risiko met betrekking tot die openbare gesondheid of veiligheid of die omgewing is en die publiek se belang in die bekendmaking swaarder weeg as die beampte of persoon se vertroulikheidsplig; 45
 - (e) aan 'n gemagtigde ontvanger, behoudens artikel 22; of
 - (f) ooreenkomstig—
 - (i) 'n internasionale ooreenkoms ten opsigte van doeanesamewerking waarby die Republiek 'n party is, behoudens artikel 23(1); of
 - (ii) enige ander internasionale ooreenkoms waarby die Republiek 'n party is, 50 behoudens artikel 23(2).

32. So 'n beampte, doeanebeampte of persoon mag verplig word om sulke inligting te openbaar ingevolge ander wetgewing bv. die Wet op die Finansiële Intelligensiesentrum, 2001 (Wet No. 38 van 2001).

Disclosures to authorised recipients

- 22.** (1) Any disclosure in terms of section 21(e) to—
- (a) the Statistician-General, must be confined to information necessary for statistical purposes;
 - (b) the Director-General of the National Treasury, must be confined to information— 5
 - (i) relating to foreign transactions under the Exchange Control Regulations; or
 - (ii) necessary for the development of tax policy or the estimation of revenue;
 - (c) the South African Police Service or the National Director of Public Prosecutions, must be confined to information relating to the alleged commission of offences; 10
 - (d) the Governor of the South African Reserve Bank, must be confined to information required for the performance of the Governor's functions in terms of the South African Reserve Bank Act, 1994 (Act No. 29 of 1994); 15
 - (e) the Director of the Financial Intelligence Centre, must be confined to information required for the performance of the Centre's functions in terms of the Financial Intelligence Centre Act, 2001 (Act No. 38 of 2001);
 - (f) the Auditor-General, must be confined to information required for the performance of the Auditor-General's functions in terms of section 4 of the Public Audit Act, 2004 (Act No. 25 of 2004); 20
 - (g) the Director-General of the Department of Trade and Industry, must be confined to information necessary for—
 - (i) enforcing the legislation administered by the Department of Trade and Industry regulating the movement of goods or persons into or out of the Republic; or 25
 - (ii) the development of industrial or trade policy;
 - (h) the Chief Commissioner of the International Trade Administration Commission, must be confined to information required for the performance of the Commission's functions in terms of the International Trade Administration Act, 2002 (Act No. 71 of 2002); or 30
 - (i) an organ of state referred to in section 20(j) must be confined to information necessary for enforcing the legislation administered by that organ of state regulating the movement of goods or persons into or out of the Republic. 35
- (2) An authorised recipient may use the information disclosed in terms of subsection (1) only for the purpose for which the information was disclosed.
- (3) Information disclosed in terms of subsection (1)(c) may be used only—
- (a) for the purpose of investigating the alleged commission of an offence; and
 - (b) as evidence in prosecuting a person for an offence.

Disclosures in terms of international agreements 40

- 23.** (1) A disclosure in terms of section 21(f)(i) may be made only—
- (a) if authorised by the Commissioner; and
 - (b) for a purpose and on conditions as may be specified by the Commissioner.
- (2) A disclosure in terms of section 21(f)(ii) may be made only— 45
- (a) in circumstances where the international, regional or national interest in disclosure outweighs any potential harm to the person affected by the disclosure; and
 - (b) for a purpose and on conditions as may be specified by the Commissioner.
- (3) A disclosure referred to in subsection (1) or (2) may be made only to a person authorised to act on behalf of— 50
- (a) a party to the relevant international agreement; or
 - (b) an international agency, institution or organisation established or recognised in terms of that agreement.

Bekendmaking aan gemagtigde ontvangers

22. (1) Enige bekendmaking ingevolge artikel 21(e) aan—
- (a) die Statistikus-generaal moet beperk word tot inligting wat vir statistieke doeleindes benodig word;
 - (b) die Direkteur van die Nasionale Tesourie, moet beperk word tot inligting— 5
 - (i) wat betrekking het op buitelandse transaksies kragtens die Deviesebeheerregulasies; of
 - (ii) wat nodig is vir die ontwikkeling van belastingbeleid of die raming van inkomste;
 - (c) die Suid-Afrikaanse Polisie of die Nasionale Direkteur van Openbare Vervolging, moet beperk word tot inligting wat betrekking het op die beweerde pleeg van misdrywe; 10
 - (d) die Goewerneur van die Suid-Afrikaanse Reserwebank, moet beperk word tot inligting wat nodig is vir die verrigting van die Goewerneur se funksies ingevolge die Wet op die Suid-Afrikaanse Reserwebank, 1994 (Wet No. 29 van 1994); 15
 - (e) die Direkteur van die Finansiële Intelligensiesentrum, moet beperk word tot inligting wat nodig is vir die verrigting van die Sentrum se funksies ingevolge die Wet op die Finansiële Intelligensiesentrum, 2001 (Wet No. 38 van 2001);
 - (f) die Ouditeur-generaal, moet beperk word tot inligting wat nodig is vir die verrigting van die Ouditeur-generaal se funksies ingevolge artikel 4 van die Wet op Openbare Oudit, 2004 (Wet No. 25 van 2004); 20
 - (g) die Direkteur-generaal van die Departement van Handel en Nywerheid, moet beperk word tot inligting wat nodig is vir—
 - (i) die toepassing van die wetgewing wat deur die Departement van Handel en Nywerheid ter regulering van die beweging van goedere of persone in of uit die Republiek geadminestreer word; of 25
 - (ii) die ontwikkeling van nywerheids- of handelsbeleid;
 - (h) die Hoofkommissaris van die Internasionale Handelsadministrasiekommissie, moet beperk word tot inligting wat nodig is vir die verrigting van die Kommissie se funksies ingevolge die Internasionale Handelsadministrasiewet, 2002 (Wet No. 71 van 2002); of 30
 - (i) 'n staatsorgaan in artikel 20(j) bedoel, moet beperk word tot inligting wat nodig is vir die toepassing van die wetgewing wat deur daardie staatsorgaan ter regulering van die beweging van goedere of persone in of uit die Republiek geadminestreer word. 35
- (2) 'n Gemagtigde ontvanger mag die inligting wat ingevolge subartikel (1) bekend gemaak is, gebruik slegs vir die doel waarvoor die inligting bekend gemaak is.
- (3) Inligting wat ingevolge subartikel (1)(c) bekend gemaak is, mag gebruik word slegs— 40
- (a) vir die doel om die beweerde pleeg van 'n misdryf te ondersoek; en
 - (b) as getuienis in die vervolging van 'n persoon vir 'n misdryf.

Bekendmaking ingevolge internasionale ooreenkomste

23. (1) Inligting mag ingevolge artikel 21(f)(i) bekend gemaak word slegs— 45
- (a) indien dit deur die Kommissaris gemagtig is; en
 - (b) vir 'n doel en op voorwaardes soos deur die Kommissaris gespesifiseer mag word.
- (2) Inligting mag ingevolge artikel 21(f)(ii) bekend gemaak word slegs—
- (a) in omstandighede waar die internasionale, streeks- of nasionale belang in die bekendmaking swaarder weeg as enige potensiële gevaar vir die persoon wat deur die bekendmaking geraak word; en 50
 - (b) vir 'n doel en op voorwaardes soos deur die Kommissaris gespesifiseer mag word.
- (3) 'n Bekendmaking bedoel in subartikel (1) of (2) mag gemaak word slegs aan 'n persoon daartoe gemagtig om op te tree ten behoeve van— 55
- (a) 'n party tot die betrokke internasionale ooreenkoms; of
 - (b) 'n internasionale agentskap, instelling of organisasie wat ingevolge daardie ooreenkoms daargestel of erken is.

Part 6

Other matters

Requests for information

24. (1) The customs authority may by written notice request a person in possession of information required for the administration of this Act or a tax levying Act, or any other legislation in the administration of which the Commissioner assists other organs of state, and which is sufficiently identified in the notice, to submit that information to the customs authority within a period specified in the notice. 5

(2) (a) The customs authority may upon written request by any person and payment of a fee as may be prescribed by rule, provide to that person any information acquired by the customs authority in the ordinary course of administering this Act or a tax levying Act. 10

(b) Information provided in terms of paragraph (a)—

- (i) may not specify the identity of the person to whom the information relates or any particulars from which the identity of such a person may be deduced; and 15
- (ii) must be in the public interest.

Rules to facilitate implementation of this Chapter

25. Rules made in terms of section 903 to facilitate the implementation of this Chapter may include rules prescribing—

- (a) matters relating to the manner, time and place of performing enforcement functions by customs officers; 20
- (b) limitations and conditions relating to the performance of enforcement functions by customs officers;
- (c) standards of conduct for customs officers when performing their enforcement functions; and 25
- (d) measures to prevent abuse of power by customs officers, including criminal sanctions.

Offences in terms of this Chapter

26. (1) A candidate customs officer is guilty of an offence if that person files in terms of section 10(2)(a) with the Commissioner a declaration of interest which contains false or misleading information or omits information with the intention to mislead. 30

(2) A customs officer is guilty of an offence if that officer—

- (a) fails to comply with section 10(3);
- (b) demands or receives, otherwise than from or through his or her employer, any reward for performing or not performing an enforcement function; or 35
- (c) wilfully does or permits or agrees to do or permit anything in breach of this Act or a tax levying Act.

(3) A SARS official, a customs officer who is not a SARS official or a person referred to in section 12(3) or a person who was such an official, officer or person is guilty of an offence if that official or person contravenes section 21. 40

(4) A person is guilty of an offence if that person fails to comply with a request issued in terms of section 24(1).

(5) An offence referred to in subsection (1) or (2) is a Category 1 offence.

CHAPTER 2

CUSTOMS CONTROL, PLACES OF ENTRY AND EXIT AND CUSTOMS CONTROLLED AREAS 45

Purpose of this Chapter

27. The purpose of this Chapter is—

- (a) to determine the goods and persons that are subject to customs control;

Deel 6

Ander aangeleenthede

Versoeke om inligting

24. (1) Die doeanegesag kan, by skriftelike kennisgewing, 'n persoon wat oor inligting beskik wat benodig word vir die administrasie van hierdie Wet of enige belastingheffings-Wet, of enige ander wetgewing in die administrasie waarvan die Kommissaris ander staatsorgane bystaan, en wat voldoende in daardie kennisgewing geïdentifiseer is, versoek om daardie inligting binne 'n tydperk in die kennisgewing bepaal aan die doeanegesag te verstrek. 5

(2) (a) Die doeanegesag kan op skriftelike versoek van enige persoon en teen betaling van 'n fooi soos by reël voorgeskryf mag word, aan daardie persoon enige inligting verstrek wat deur die doeanegesag in die gewone loop van die administrasie van hierdie Wet of 'n belastingheffings-Wet bekom is. 10

(b) Inligting ingevolge paragraaf (a) verstrek—

- (i) mag nie die identiteit van die persoon op wie die inligting betrekking het of enige besonderhede waaruit die identiteit van so 'n persoon afgelei kan word, vermeld nie; en 15
- (ii) moet in die openbare belang wees.

Reëls ter fasilitering van implementering van hierdie Hoofstuk

25. Reëls ingevolge artikel 903 uitgevaardig om die implementering van hierdie Hoofstuk te fasiliteer, kan reëls insluit wat voorskryf— 20

- (a) aangeleenthede betreffende die wyse, tyd en plek van verrigting van toepassingsfunksies deur doeanebeamptes;
- (b) beperkings en voorwaardes betreffende die verrigting van toepassingsfunksies deur doeanebeamptes; 25
- (c) standarde van optrede vir doeanebeamptes by die verrigting van hul toepassingsfunksies; en
- (d) maatreëls om misbruik van gesag deur doeanebeamptes te voorkom, met inbegrip van strafregtelike sanksies.

Misdrywe ingevolge hierdie Hoofstuk 30

26. (1) 'n Kandidaat-doeanebeampte is aan 'n misdryf skuldig indien daardie persoon 'n verklaring van belang ingevolge artikel 10(2)(a) aan die Kommissaris verstrek wat vals of misleidende inligting bevat of wat inligting verswyg met die opset om te mislei.

(2) 'n Doeanebeampte is aan 'n misdryf skuldig indien daardie beampte—

- (a) versuim om aan artikel 10(3) te voldoen; 35
- (b) enige vergoeding vereis of ontvang, anders as van, of deur, sy of haar werkgewer vir die verrigting of nie-verrigting van 'n toepassingsfunksie; of
- (c) opsetlik enigiets doen of toelaat, of ooreenkom om dit te doen of toe te laat, wat in stryd met hierdie Wet of 'n belastingheffings-Wet is.

(3) 'n SAID beampte, 'n doeanebeampte wat nie 'n SAID beampte is nie of 'n persoon in artikel 12(3) bedoel, of 'n persoon wat so 'n beampte of persoon was, is aan 'n misdryf skuldig indien daardie beampte of persoon artikel 21 oortree. 40

(4) 'n Persoon is aan 'n misdryf skuldig indien daardie persoon versuim om te voldoen aan 'n versoek ingevolge artikel 24(1) uitgereik.

(5) 'n Misdryf in subartikel (1) of (2) bedoel is 'n Kategorie 1 misdryf. 45

HOOFSTUK 2

DOEANEBEHEER, PLEKKE VAN TOEGANG EN UITGANG EN DOEANEBEHEERGEBIEDE

Doel van hierdie Hoofstuk

27. Die doel van hierdie Hoofstuk is— 50

- (a) om die goedere en persone te bepaal wat aan doeanebeheer onderworpe is;

- (b) to provide for the designation of places as places of entry and places of exit through which vessels, aircraft, trains, railway carriages, vehicles, goods and persons may enter or leave the Republic;
- (c) to regulate and enforce the entry into and the exit from the Republic of vessels, aircraft, trains, railway carriages, vehicles, goods and persons only through such places of entry or exit; and 5
- (d) to designate and to provide for the designation of places, areas, premises and facilities as customs controlled areas to ensure effective customs control of goods and persons referred to in paragraph (a).

Part 1 10

Customs control

Customs control of goods

28. (1) The following goods are for purposes of this Act and the tax levying Acts subject to customs control:

- (a) All goods imported, or suspected on reasonable grounds to have been imported, into the Republic; 15
- (b) all goods in the process of being exported or suspected on reasonable grounds to be in the process of being exported from the Republic;
- (c) all compensating products under a customs procedure or goods suspected on reasonable grounds to be compensating products under a customs procedure; 20
- (d) all goods manufactured, or on reasonable grounds suspected to have been manufactured, in an excise warehouse or in circumstances to which the Excise Duty Act applies;
- (e) all foreign-going vessels and aircraft, and all vessels or aircraft suspected on reasonable grounds to be foreign-going vessels or aircraft; 25
- (f) all domestic vessels;
- (g) all cross-border trains and railway carriages, and all trains or railway carriages suspected on reasonable grounds to be cross-border trains or railway carriages;
- (h) all vehicles entering or in the process of leaving the Republic, or suspected on reasonable grounds of having entered or being in the process of leaving the Republic; 30
- (i) all goods on board any vessel, aircraft, train, railway carriage or vehicle referred to in paragraph (e), (f), (g) or (h);
- (j) all vessels, aircraft, trains, railway carriages and vehicles transporting, or suspected on reasonable grounds to be transporting, goods referred to in paragraph (a), (b), (c) or (d); 35
- (k) all cross-border transmission lines, and electricity being transmitted through a cross-border transmission line;
- (l) all cross-border pipelines, cable-cars and conveyor belts, and all goods in the process of being conveyed by way of a cross-border pipeline, cable-car or conveyor belt; 40
- (m) all goods, including vessels, aircraft, trains, locomotives, railway carriages and vehicles within a customs controlled area;
- (n) all goods in the process of being conveyed by means of pipelines or conveyor belts used for loading goods onto or off from foreign-going vessels or aircraft or cross-border railway carriages; 45
- (o) all goods that persons that are subject to customs control in terms of section 29(1) have with them, including all accompanied and unaccompanied baggage of persons referred to in section 29(1)(a) or (b); and 50
- (p) any other goods not covered above but in relation to which—
 - (i) a tax imposed in terms of the Customs Duty Act or the Excise Duty Act is payable or on reasonable grounds suspected of being payable; or
 - (ii) the customs authority may exercise a power in terms of a provision of this Act, the Customs Duty Act or the Excise Duty Act. 55

- (b) om voorsiening te maak vir die aanwysing van plekke as plekke van toegang en plekke van uitgang waardeur vaartuie, vliegtuie, treine, spoorwegwaens, voertuie, goedere en persone die Republiek mag binnekom of verlaat;
- (c) om die toegang tot en uitgang uit die Republiek van vaartuie, vliegtuie, treine, spoorwegwaens, voertuie, goedere en persone slegs deur daardie plekke van toegang of uitgang, te reguleer en af te dwing; en 5
- (d) om plekke, gebiede, persele en fasiliteite as doeanebeheergebiede aan te wys en voorsiening te maak vir sulke aanwysings ten einde doeltreffende doeanebeheer oor goedere en persone in paragraaf (a) bedoel, te verseker.

Deel 1

10

Doeanebeheer

Doeanebeheer oor goedere

28. (1) Die volgende goedere is by die toepassing van hierdie Wet en die belastingheffings-Wette aan doeanebeheer onderworpe:

- (a) Alle goedere in die Republiek ingevoer of op redelike gronde vermoed word ingevoer te wees; 15
- (b) alle goedere in die proses om uit die Republiek uitgevoer te word of op redelike gronde vermoed word in die proses is om uitgevoer te word;
- (c) alle kompenserende produkte onder 'n doeane-prosedure of goedere wat op redelike gronde vermoed word kompenserende produkte onder 'n doeane-prosedure te wees; 20
- (d) alle goedere vervaardig, of op redelike gronde vermoed word vervaardig te wees, in 'n aksynspakhuis of onder omstandighede waarop die Wet op Aksynsreg van toepassing is;
- (e) alle land-uitgaande vaartuie of vliegtuie, en alle vaartuie of vliegtuie wat op redelike gronde vermoed word land-uitgaande vaartuie of vliegtuie te wees; 25
- (f) alle plaaslike vaartuie;
- (g) alle oor-grens treine en -spoorwegwaens, en alle treine of spoorwegwaens wat op redelike gronde vermoed word oor-grens treine of -spoorwegwaens te wees; 30
- (h) alle voertuie wat die Republiek binnekom of in die proses is om die Republiek te verlaat, of op redelike gronde vermoed word die Republiek binne te gekom het of in die proses is om die Republiek te verlaat;
- (i) alle goedere aan boord van enige vaartuig, vliegtuig, trein, spoorwegwa of voertuig in paragraaf (e), (f), (g) of (h) bedoel; 35
- (j) alle vaartuie, vliegtuie, treine, spoorwegwaens en voertuie wat goedere bedoel in paragraaf (a), (b), (c) of (d) vervoer, of op redelike gronde vermoed word te vervoer;
- (k) alle oor-grens transmissielyste, en elektrisiteit wat deur 'n oor-grens transmissielyste gelei word; 40
- (l) alle oor-grens pyplyne, kabelkarre en vervoerbande, en alle goedere in die proses om by wyse van 'n oor-grens pyplyn, kabelkar of vervoerband vervoer te word;
- (m) alle goedere, met inbegrip van vaartuie, vliegtuie, treine, lokomotiewe, spoorwegwaens en voertuie binne 'n doeanebeheergebied; 45
- (n) alle goedere in die proses om vervoer te word by wyse van pyplyne of vervoerbande wat gebruik word om goedere op land-uitgaande vaartuie of vliegtuie of oor-grens spoorwegwaens op te laai en daarvan af te laai;
- (o) alle goedere wat persone wat ingevolge artikel 29(1) aan doeanebeheer onderworpe is aan hulle het, met inbegrip van alle vergeselde en onvergeselde bagasie van persone in artikel 29(1)(a) of (b) bedoel; en 50
- (p) enige ander goedere nie hierbo gedek nie maar met betrekking waartoe—
 - (i) 'n belasting opgelê ingevolge die Wet op Doeanereg of die Wet op Aksynsreg betaalbaar is, of op redelike gronde vermoed word betaalbaar te wees; of 55
 - (ii) die doeanegesag 'n bevoegdheid ingevolge 'n bepaling van hierdie Wet, die Wet op Doeanereg of die Wet op Aksynsreg mag uitoefen.

(2) (a) Imported goods remain subject to customs control contemplated in subsection (1) until this Act, the Customs Duty Act and the Excise Duty Act cease to apply to the goods.

(b) The occurrences which cause this Act to cease to apply to imported goods include the following:

- (i) If goods cleared for home use are unconditionally released for home use or, in the case of a conditional release for home use, when the release becomes unconditional;
- (ii) if the goods are in terms of a provision of this Act allowed into free circulation otherwise than in terms of a clearance and release of the goods for home use;³³
- (iii) if the goods are permanently exported from the Republic;
- (iv) if the goods are destroyed;
- (v) if the goods are disposed of by the Commissioner in terms of this Act or by another organ of state in terms of other applicable legislation; and
- (vi) if compensating products obtained from the processing of goods under a customs procedure are allowed into free circulation or permanently exported under that procedure.³⁴

(3) (a) Goods destined for export or exported from the Republic (other than imported goods destined for export or exported from the Republic) remain subject to customs control contemplated in subsection (1) until this Act, the Customs Duty Act and the Excise Duty Act cease to apply to the goods.

(b) The occurrences which cause this Act to cease to apply to such goods include the following:

- (i) If the goods are cleared and released for outright export or another customs procedure that allows the permanent export of goods under that procedure³⁵ and permanently exported from the Republic;
- (ii) if the goods are exported under a customs procedure that contemplates the return of the goods or compensating products obtained from those goods and those goods or compensating products are re-imported into the Republic and cleared and released for home use under that procedure;³⁶
- (iii) if the goods are in terms of a provision of this Act allowed to be exported otherwise than in terms of a clearance and release of the goods for export;³⁷
- (iv) if the goods revert to free circulation in terms of a provision of this Act;
- (v) if the goods are destroyed; or
- (vi) if the goods are disposed of by the Commissioner in terms of this Act or by another organ of state in terms of other applicable legislation.

(4) Compensating products obtained from imported goods under a customs procedure remain subject to customs control contemplated in subsection (1) until the compensating products are allowed into free circulation or exported under that procedure.

(5) Goods manufactured in an excise warehouse remain subject to customs control contemplated in subsection (1) until those goods are allowed into free circulation or permanently exported under the export or another customs procedure.

(6) Subsections (2), (3), (4) and (5) do not affect the implementation of a provision of

33. For instance, certain categories of imported goods are exempted in terms of section 91 from clearance requirements. See also section 596(6).

34. Home use processing and inward processing procedures.

35. For instance, goods cleared and released for international transit, transshipment, stores, etc.

36. For instance, goods cleared and released for temporary export or outward processing.

37. For instance, certain categories of goods in free circulation destined for export are exempted in terms of section 95 from export clearance requirements.

- (2) (a) Ingevoerde goedere bly aan doeanebeheer in subartikel (1) beoog onderworpe totdat hierdie Wet, die Wet op Doeanereg en die Wet op Aksynsreg ophou om op daardie goedere van toepassing te wees.
- (b) Die gebeurlikhede wat daartoe lei dat hierdie Wet ophou om op ingevoerde goedere van toepassing te wees, sluit die volgende in: 5
- (i) Indien goedere geklaar vir binnelandse gebruik onvoorwaardelik vrygestel word vir binnelandse gebruik of, in die geval van 'n voorwaardelike vrystelling vir binnelandse gebruik, wanneer die vrystelling onvoorwaardelik word;
 - (ii) indien die goedere ingevolge 'n bepaling van hierdie Wet in vry sirkulasie toegelaat word anders as ingevolge 'n klaring en vrystelling van die goedere vir binnelandse gebruik;³³ 10
 - (iii) indien die goedere permanent uit die Republiek uitgevoer word;
 - (iv) indien die goedere vernietig word;
 - (v) indien daar oor die goedere deur die Kommissaris ingevolge hierdie Wet of deur 'n ander staatsorgaan ingevolge ander geldende wetgewing beskik word; en 15
 - (vi) indien kompenserende produkte wat verkry is deur die prosessering van goedere ingevolge 'n doeaneprosedure in vry sirkulasie toegelaat word of permanent ingevolge daardie prosedure uitgevoer word.³⁴ 20
- (3) (a) Goedere bestem vir uitvoer of uitgevoer uit die Republiek (behalwe ingevoerde goedere bestem vir uitvoer of uitgevoer uit die Republiek) bly aan doeanebeheer in subartikel (1) beoog onderworpe totdat hierdie Wet, die Wet op Doeanereg en die Wet op Aksynsreg ophou om op daardie goedere van toepassing te wees. 25
- (b) Die gebeurlikhede wat daartoe lei dat hierdie Wet ophou om op daardie goedere van toepassing te wees, sluit die volgende in:
- (i) Indien die goedere geklaar en vrygestel is vir regstreekse uitvoer of 'n ander doeaneprosedure wat permanente uitvoer van goedere ingevolge daardie prosedure toelaat,³⁵ en permanent uit die Republiek uitgevoer is; 30
 - (ii) indien die goedere uitgevoer word ingevolge 'n doeaneprosedure wat die terugkeer van die goedere of kompenserende produkte verkry uit daardie goedere veronderstel, en daardie goedere of kompenserende produkte in die Republiek heringevoer en geklaar en vrygestel word vir binnelandse gebruik ingevolge daardie prosedure;³⁶ 35
 - (iii) indien die goedere ingevolge 'n bepaling van hierdie Wet toegelaat word om uitgevoer te word anders as ingevolge 'n klaring en vrystelling van die goedere vir uitvoer;³⁷
 - (iv) indien die goedere terugkeer na vry sirkulasie ingevolge 'n bepaling van hierdie Wet; 40
 - (v) indien die goedere vernietig word; of
 - (vi) indien daar oor die goedere deur die Kommissaris ingevolge hierdie Wet of deur 'n ander staatsorgaan ingevolge ander geldende wetgewing beskik word.
- (4) Kompenserende produkte verkry van ingevoerde goedere onder 'n doeaneprosedure, bly aan doeanebeheer beoog in subartikel (1) onderworpe totdat die kompenserende produkte in vry sirkulasie toegelaat word of uitgevoer word onder daardie prosedure. 45
- (5) Goedere in 'n aksynspakhuis vervaardig, bly aan doeanebeheer beoog in subartikel (1) onderworpe totdat daardie goedere in vry sirkulasie toegelaat word of permanent uitgevoer word onder die uitvoer- of 'n ander doeaneprosedure. 50
- (6) Subartikels (2), (3), (4) en (5) raak nie die implementering van 'n bepaling van hierdie Wet of 'n belastingheffings-Wet ten opsigte van aangeleenthede betreffende

33. Byvoorbeeld, sekere kategorieë van ingevoerde goedere is ingevolge artikel 91 van klaringsvereistes onthef. Kyk ook artikel 596(6).

34. Prosedures vir binnelandse gebruiksprosessering en inwaartse prosessering.

35. Byvoorbeeld, goedere geklaar en vrygestel vir internasionale transito, transverskeping, voorrade, ens.

36. Byvoorbeeld, goedere geklaar en vrygestel vir tydelike uitvoer of uitwaartse prosessering.

37. Byvoorbeeld, sekere kategorieë van goedere in vry sirkulasie bestem vir uitvoer is onthef ingevolge artikel 95 van uitvoerklaringsvereistes.

this Act or a tax levying Act in respect of matters related to goods after those goods have ceased to be subject to customs control contemplated in subsection (1).³⁸

Customs control of persons

- 29.** (1) The following persons are for purposes of this Act subject to customs control:
- (a) All persons who have entered or are suspected on reasonable grounds of having entered the Republic, whether on board a vessel, aircraft, train or vehicle or on foot; 5
 - (b) all persons in the process of leaving or suspected on reasonable grounds to be in the process of leaving the Republic, whether on board a vessel, aircraft, train or vehicle or on foot; 10
 - (c) all persons on board any vessel, aircraft, train, railway carriage or vehicle referred to in section 28(1);
 - (d) all persons within a customs controlled area;
 - (e) all persons in any capacity connected with goods that are subject to customs control in terms of section 28(1); and 15
 - (f) any other persons not covered above but in relation to whom the customs authority may exercise a power in terms of a provision of this Act.

(2) Persons entering the Republic remain subject to customs control contemplated in subsection (1) until the person is customs processed at a place of entry and allowed to proceed into the Republic. 20

(3) Persons in the process of leaving the Republic remain subject to customs control contemplated in subsection (1) until the person leaves the Republic.

(4) Despite subsections (2) and (3) those subsections do not affect the implementation of a provision of this Act or a tax levying Act applicable to the relevant persons after they have ceased to be subject to customs control contemplated in subsection (1). 25

Foreign-going vessels and aircraft passing through Republic without calling or landing

30. (1) Foreign-going vessels or aircraft that enter and pass through the territorial water or airspace of the Republic without calling or landing at a place in the Republic, including any goods and persons on board such vessels or aircraft, are subject to customs control until they leave the territorial water or airspace of the Republic. 30

(2) When leaving the territorial water or airspace of the Republic—

- (a) vessels, aircraft and goods referred to in subsection (1) must for the purpose of this Act be regarded as not having been imported into or exported from the Republic; and 35
- (b) any persons on board those vessels and aircraft must for the purposes of this Act be regarded as not having entered or leaving the Republic.

(3) Subsection (2) does not apply to goods or persons that do not remain on board, or are taken on board, the vessel or aircraft during its voyage across the territorial water or airspace of the Republic. 40

Part 2

Places of entry and exit

Designation of places of entry and exit

31. (1) The Commissioner must for the proper exercise of customs control, and consistent with any applicable Acts of Parliament and decisions of the national executive, by rule designate any number of— 45

³⁸ Some provisions such as the assessment and collection of tax on goods may be implemented long after customs have relinquished their control of the goods.

goedere nadat daardie goedere opgehou het om aan doeanebeheer beoog in subartikel (1) onderworpe te wees nie.³⁸

Doeanebeheer oor persone

29. (1) Die volgende persone is by die toepassing van hierdie Wet aan doeanebeheer onderworpe: 5

- (a) Alle persone wat die Republiek binnegekome het, of op redelik gronde vermoed word binne te gekome het, hetsy aan boord van 'n vaartuig, vliegtuig, trein of voertuig of te voet;
- (b) alle persone in die proses om die Republiek te verlaat, of op redelike gronde vermoed word in die proses is om die Republiek te verlaat, hetsy aan boord van 'n vaartuig, vliegtuig, trein of voertuig of te voet; 10
- (c) alle persone aan boord van enige vaartuig, vliegtuig, trein, spoorwegwa of voertuig in artikel 28(1) bedoel;
- (d) alle persone binne 'n doeanebeheergebied;
- (e) alle persone wat in enige hoedanigheid met goedere verbind is wat ingevolge artikel 28(1) aan doeanebeheer onderworpe is; en 15
- (f) enige ander persoon nie hierbo gedek nie, maar met betrekking tot wie die doeanegesag 'n bevoegdheid ingevolge 'n bepaling van hierdie Wet mag uitoefen.

(2) Persone wat die Republiek binnekom, bly aan doeanebeheer beoog in subartikel (1) onderworpe totdat die persoon deur doeane geprosesseer is by 'n plek van toegang en deurgelaat word in die Republiek. 20

(3) Persone wat in die proses is om die Republiek te verlaat, bly aan doeanebeheer beoog in subartikel (1) onderworpe totdat die persoon die Republiek verlaat.

(4) Ondanks subartikels (2) en (3), raak daardie subartikels nie die implementering van 'n bepaling van hierdie Wet of 'n belastingheffings-Wet nie wat op die betrokke persone van toepassing bly nadat hulle opgehou het om aan doeanebeheer beoog in subartikel (1) onderworpe te wees. 25

Land-uitgaande vaartuie of -vliegtuie wat deur die Republiek gaan sonder om aan te doen of te land 30

30. (1) Land-uitgaande vaartuie of vliegtuie wat die territoriale water of lugruimte van die Republiek binnekom, of daardeur beweeg, sonder om by 'n plek in die Republiek aan te doen of te land, en enige goedere en persone aan boord van so 'n vaartuig of vliegtuig, is aan doeanebeheer onderworpe totdat hulle die territoriale water of lugruimte van die Republiek verlaat. 35

(2) Wanneer hulle die territoriale water of lugruimte van die Republiek verlaat—

- (a) word vaartuie, vliegtuie en goedere bedoel in subartikel (1) by die toepassing van die Wet geag nie ingevoer in, of uitgevoer uit, die Republiek te wees nie; en
- (b) word enige persone aan boord van daardie vaartuie en vliegtuie by die toepassing van hierdie Wet geag nie die Republiek binne te gekome of te verlaat het nie. 40

(3) Subartikel (2) is nie van toepassing nie op goedere of persone wat nie aan boord van die vaartuig of vliegtuig bly nie, of wat aan boord daarvan geneem word, gedurende die vaart oor die territoriale water of die vlug deur die lugruimte van die Republiek. 45

Deel 2

Plekke van toegang en uitgang

Aanwysing van plekke van toegang en uitgang

31. (1) Die Kommissaris moet vir die behoorlike toepassing van doeanebeheer, en in ooreenstemming met enige Wette van die Parlement en besluite van die nasionale uitvoerende gesag wat van toepassing mag wees, by reël 'n aantal— 50

³⁸ Sekere bepalings soos die aanslag en invordering van belasting op goedere mag geïmplementeer word lank nadat Doeane hul beheer oor die goedere prysgegee het.

- (a) seaports in the Republic as places where foreign-going vessels may call or from where such vessels may depart;
 - (b) airports in the Republic as places where foreign-going aircraft may land or from where such aircraft may depart;
 - (c) rail border crossings as places where cross-border trains may enter or leave the Republic; 5
 - (d) road border crossings as places where vehicles may enter or leave the Republic; and
 - (e) road or other border crossings as places where persons may enter or leave the Republic on foot. 10
- (2) Places designated in terms of subsection (1), read with section 34(1)(a) and (b), are places of entry or exit for the Republic.

Purposes for which places of entry or exit may be used

- 32.** (1) A seaport or airport designated as a place of entry or exit in terms of section 31(1)(a) or (b) may be used as a place where— 15
- (a) foreign-going vessels or foreign-going aircraft may respectively call or land;
 - (b) goods—
 - (i) imported into the Republic may be off-loaded from foreign-going vessels or aircraft; or
 - (ii) may be loaded on board foreign-going vessels or aircraft for export from the Republic; and 20
 - (c) persons—
 - (i) entering the Republic may disembark from foreign-going vessels or aircraft; or
 - (ii) leaving the Republic may board foreign-going vessels or aircraft. 25
- (2) A rail border crossing designated as a place of entry or exit in terms of section 31(1)(c) may be used as a place through which—
- (a) cross-border trains may enter or leave the Republic;
 - (b) goods may be imported into or exported from the Republic on board cross-border trains; and 30
 - (c) persons may enter or leave the Republic on board cross-border trains.
- (3) A road border crossing designated as a place of entry or exit in terms of section 31(1)(d) may be used as a place through which—
- (a) vehicles may enter or leave the Republic;
 - (b) goods may be imported into or exported from the Republic on board vehicles; 35
 - and
 - (c) persons may enter or leave the Republic on board vehicles.
- (4) A road or other border crossing designated as a place of entry or exit in terms of section 31(1)(e) may be used as a place where persons may enter or leave the Republic on foot together with any goods they may have with them. 40

Restrictions on use of places of entry or exit

- 33.** The Commissioner must, if required to do so in terms of an Act of Parliament or a decision of the national executive or, in the absence of any such Act or decision, after consultation with any relevant organs of state, may, by rule—
- (a) restrict the use of any specific place of entry or exit to a purpose determined by the Commissioner; 45
 - (b) restrict the use of any specific customs seaport or airport to—
 - (i) the off-loading of goods of a specific type or in a specific manner from vessels or aircraft in which the goods were imported into the Republic;
 - (ii) the loading of goods of a specific type or in a specific manner on board vessels or aircraft in which the goods are to be exported from the Republic; or 50
 - (iii) the taking in of fuel or other stores;
 - (c) determine that only a specific customs seaport or airport may be used as a place where— 55

- (a) seehawens in die Republiek aanwys as plekke waar land-uitgaande vaartuie mag aandoen of waarvandaan sulke vaartuie mag vertrek;
 - (b) lughawens in die Republiek aanwys as plekke waar land-uitgaande vliegtuie mag land of waarvandaan sulke vliegtuie mag vertrek;
 - (c) spoor-grensoorgange aanwys as plekke waar oor-grens treine die Republiek mag binnekom of verlaat; 5
 - (d) pad-grensoorgange aanwys as plekke waar voertuie die Republiek mag binnekom of verlaat; en
 - (e) pad- of ander grensoorgange aanwys as plekke waar persone die Republiek te voet mag binnekom of verlaat. 10
- (2) Plekke aangewys ingevolge subartikel (1), saamgelees met artikel 34(1)(a) en (b), is plekke van toegang of uitgang vir die Republiek.

Doeleindes waarvoor plekke van toegang of uitgang gebruik kan word

32. (1) 'n Seehawe of lughawe ingevolge artikel 31(1)(a) of (b) as 'n plek van toegang of uitgang aangewys, kan as 'n plek gebruik word waar— 15
- (a) land-uitgaande vaartuie of land-uitgaande vliegtuie, onderskeidelik, mag aandoen of land;
 - (b) goedere—
 - (i) in die Republiek ingevoer, van land-uitgaande vaartuie of -vliegtuie afgelaai mag word; of 20
 - (ii) aan boord van land-uitgaande vaartuie of -vliegtuie vir uitvoer uit die Republiek gelaai mag word; en
 - (c) persone—
 - (i) wat die Republiek binnekom, van land-uitgaande vaartuie of -vliegtuie mag afklim; of 25
 - (ii) wat die Republiek verlaat, aan boord van land-uitgaande vaartuie of -vliegtuie mag gaan.
- (2) 'n Spoor-grensoorgang wat ingevolge artikel 31(1)(c) as 'n plek van toegang of uitgang aangewys is, kan as 'n plek gebruik word waardeur— 30
- (a) oor-grens treine die Republiek mag binnekom of verlaat;
 - (b) goedere aan boord van oor-grens treine ingevoer word in, of uitgevoer word uit, die Republiek; en
 - (c) persone aan boord van oor-grens treine die Republiek mag binnekom of verlaat.
- (3) 'n Pad-grensoorgang ingevolge artikel 31(1)(d) as 'n plek van toegang of uitgang aangewys, kan as 'n plek gebruik word waardeur— 35
- (a) voertuie die Republiek mag binnekom of verlaat;
 - (b) goedere aan boord van voertuie ingevoer mag word in, of uitgevoer mag word uit, die Republiek; en
 - (c) persone aan boord van voertuie die Republiek mag binnekom of verlaat. 40
- (4) 'n Pad- of ander grensoorgang ingevolge artikel 31(1)(e) as 'n plek van toegang of uitgang aangewys, kan as 'n plek gebruik word waar persone te voet, saam met enige goedere wat hulle by hulle mag hê, die Republiek mag binnekom of verlaat.

Beperkings op gebruik van plekke van toegang of uitgang

33. Die Kommissaris moet, indien dit ingevolge 'n Wet van die Parlement of 'n besluit van die nasionale uitvoerende gesag vereis word, of by ontstentenis aan so 'n Wet of besluit, kan, na oorlegpleging met enige betrokke staatsorgane, by reël— 45
- (a) die gebruik van enige spesifieke plek van toegang of uitgang beperk tot 'n doel deur die Kommissaris bepaal;
 - (b) die gebruik van enige spesifieke doeaneseehawe of -lughawe beperk tot— 50
 - (i) die aflaai van goedere van 'n spesifieke tipe, of op 'n spesifieke wyse, vanaf vaartuie of vliegtuie waarin die goedere in die Republiek ingevoer is;
 - (ii) die laai van goedere van 'n spesifieke tipe, of op 'n spesifieke wyse, aan boord van vaartuie of vliegtuie waarin die goedere uit die Republiek uitgevoer gaan word; of 55
 - (iii) die inname van brandstof of ander voorrade;
 - (c) bepaal dat slegs 'n spesifieke doeaneseehawe of -lughawe gebruik mag word as 'n plek waar—

- (i) imported goods of a specific type may be off-loaded from foreign-going vessels or aircraft;
- (ii) goods of a specific type may be loaded on board foreign-going vessels in which the goods are to be exported from the Republic; or
- (iii) goods, or goods of a specific type, may be off-loaded, loaded or handled for international transit or transshipment; or
- (d) impose conditions as to the use of any specific place as a place of entry or exit including the days on which and the hours of the day during which it may be so used.

Places of entry or exit in terms of international agreements with adjoining countries

- 34.** (1) The national executive of the Republic may enter into an agreement with the government of a SACU member state or other adjoining country to provide for—
- (a) joint, one-stop or side by side places of entry or exit for the Republic and that adjoining country;
 - (b) a place of entry or exit for the Republic alone at a location in that country; or
 - (c) a place of entry or exit for that country alone at a location in the Republic.
- (2) The Commissioner must make rules to give effect to any agreement in terms of subsection (1)(a) or (b) where the agreed place of entry or exit is at a location in the other country, including rules—
- (a) designating that place as a place of entry or exit for the Republic in terms of section 31(1)(c), (d) or (e);
 - (b) determining—
 - (i) the purposes for which that place may be used as a place of entry or exit for the Republic; and
 - (ii) the days on which and the hours of the day during which it may be so used;
 - (c) determining the circumstances in and conditions on which, the location where and the time when—
 - (i) persons arriving at that place for the Republic must for purposes of this Act and a tax levying Act be regarded as having entered the Republic; and
 - (ii) goods arriving at that place for the Republic must for purposes of this Act and a tax levying Act be regarded as having entered, or been imported into, the Republic;
 - (d) prescribing procedures and conditions to be complied with, and the documents to be used, or any other matter necessary or useful, for—
 - (i) the implementation of the agreement; or
 - (ii) the use of that place as a place of entry or exit for the Republic.
- (3) The Commissioner must make rules to give effect to any agreement in terms of subsection (1)(a) or (c) where the agreed place of entry or exit is at a location in the Republic, including rules providing for—
- (a) that place to be used by the adjoining country as a place of entry or exit in accordance with the legislation of that country—
 - (i) through which trains or vehicles may pass from or to that country;
 - (ii) through which goods may pass from or to that country;
 - (iii) where goods may be declared and processed for that country's customs purposes; and
 - (iv) through which persons may pass from or to that country; and
 - (b) customs officials of that country at that place—
 - (i) to process for customs purposes goods and persons in accordance with the legislation of that country; and

- (i) ingevoerde goedere van 'n spesifieke tipe van land-uitgaande vaartuie of -vliegtuie afgelaai mag word;
- (ii) goedere van 'n spesifieke tipe aan boord van land-uitgaande vaartuie of -vliegtuie waarin die goedere uit die Republiek uitgevoer gaan word, gelaai mag word; of 5
- (iii) goedere, of goedere van 'n spesifieke tipe, afgelaai, opgelaai of hanteer mag word vir internasionale transito of transverskeping; of
- (d) voorwaardes oplê vir die gebruik van enige spesifieke plek as 'n plek van toegang of uitgang, met inbegrip van die dae waarop, en die ure van die dag waartydens, dit aldus gebruik mag word. 10

Plekke van toegang of uitgang ingevolge internasionale ooreenkomste met aangrensende lande

34. (1) Die nasionale uitvoerende gesag van die Republiek kan 'n ooreenkoms aangaan met die regering van 'n SADU lidstaat of ander aangrensende land om voorsiening te maak vir— 15

- (a) gesamentlike, eenstop of aanliggende plekke van toegang of uitgang vir die Republiek en daardie aangrensende land;
- (b) 'n plek van toegang of uitgang uitsluitlik vir die Republiek by 'n plek geleë in daardie land; of
- (c) 'n plek van toegang of uitgang uitsluitlik vir daardie land by 'n plek geleë in die Republiek. 20

(2) Die Kommissaris moet reëls uitvaardig om gevolg te gee aan enige ooreenkoms ingevolge subartikel (1)(a) of (b) waar die ooreengekome plek van toegang of uitgang by 'n plek geleë in die ander land is, met inbegrip van reëls—

- (a) wat daardie plek ingevolge artikel 31(1)(c), (d) of (e) as 'n plek van toegang of uitgang vir die Republiek aanwys; 25
- (b) ter bepaling van—
 - (i) die doel waarvoor daardie plek as 'n plek van toegang of uitgang vir die Republiek gebruik mag word; en
 - (ii) die dae waarop en die ure van die dag waartydens dit aldus gebruik mag word; 30
- (c) ter bepaling van die omstandighede waarin en die voorwaardes waarop, die plek waar en die tyd wanneer—
 - (i) persone wat by daardie plek vir die Republiek aankom, vir doeleindes van hierdie Wet en 'n belastingheffings-Wet, geag moet word die Republiek binne te gekom het; en 35
 - (ii) goedere wat by daardie plek vir die Republiek aankom, vir doeleindes van hierdie Wet en 'n belastingheffings-Wet, geag moet word die Republiek binne te gekom of daarin ingevoer te gewees het; en
- (d) wat die prosedures en voorwaardes voorskryf waaraan voldoen moet word, en die dokumente wat gebruik moet word, of enige ander aangeleenthede wat noodsaaklik of nuttig mag wees, vir—
 - (i) die implementering van die ooreenkoms; of
 - (ii) die gebruik van daardie plek as 'n plek van toegang of uitgang vir die Republiek. 45

(3) Die Kommissaris moet reëls uitvaardig om gevolg te gee aan enige ooreenkoms ingevolge subartikel (1)(a) of (c) waar die ooreengekome plek van toegang of uitgang by 'n plek geleë in die Republiek is, met inbegrip van reëls wat voorsiening maak—

- (a) dat daardie plek deur die aangrensende land ooreenkomstig die wetgewing van daardie land gebruik mag word as 'n plek van toegang of uitgang— 50
 - (i) waardeur treine of voertuie van of na daardie land mag beweeg;
 - (ii) waardeur goedere van of na daardie land mag beweeg;
 - (iii) waar goedere vir daardie land se doeanevereistes geklaar en geprosesseer mag word; en
 - (iv) waardeur persone van en na daardie land mag beweeg; en 55
- (b) vir doeanedoeleindes van daardie land om by daardie plek—
 - (i) vir doeanedoeleindes goedere en persone ooreenkomstig die wetgewing van daardie land te prosesseer; en

- (ii) to apply and enforce the legislation of that country.³⁹
- (4) To the extent that an agreed place of entry or exit referred to in subsection (1)(a) is at a location partially in the Republic and partially in the adjoining country, this section may not be read as affecting the application of this Act in or in relation to that part that falls in the Republic. 5

Information sharing agreements

- 35.** (1) The Commissioner and the port authority or other organ of state operating at a place of entry or exit may enter into an information sharing agreement for the proper and effective administration of that place as a place of entry or exit.⁴⁰
- (2) An information sharing agreement may provide for— 10
- (a) the sharing of non-confidential information between the parties relevant to the administration of that place of entry or exit;
 - (b) the specific information that must or may be shared between the parties;
 - (c) the manner in which and the time within which information must be passed to the other party; 15
 - (d) the combination of reports, notifications, declarations, statements, returns or other documents that must be submitted by third persons respectively to the customs authority in terms of this Act and to the other party in terms of the legislation administered by the other party;
 - (e) the exemption of third persons from the obligation to submit to each party 20 separate overlapping reports, notifications, declarations, statements, returns or other documents containing substantially the same information; and
 - (f) the submission by third persons of such reports, notifications, declarations, statements, returns or other documents to only one of the parties.
- (3) The Commissioner may by rule— 25
- (a) give effect to an information sharing agreement in terms of subsection (1); or
 - (b) exempt a person from a requirement in terms of this Act to submit a report, notification, declaration, statement, return or other document, provided that the exempted person submits substantially the same information that must be 30 contained in that report, notification, declaration, statement, return or other document to the other party.

Places of entry for foreign-going vessels and aircraft

- 36.** (1) No foreign-going vessel—
- (a) after entering the Republic may call at any port or place along the coastline of the Republic other than a customs seaport; and 35
 - (b) when leaving the Republic, may depart from a place other than a customs seaport.
- (2) After departing from a customs seaport—
- (a) to another place within the Republic, no foreign-going vessel may call at any port or place along the coastline of the Republic other than a customs seaport; 40 or
 - (b) to a destination outside the Republic, no foreign-going vessel may call at any port or place along the coastline of the Republic.
- (3) No foreign-going aircraft—
- (a) after entering the Republic, may land at any place other than a customs 45 airport; or
 - (b) when leaving the Republic, may depart from any place other than a customs airport.

39. In the case of section 34(1)(b) where the place of entry or exit for the Republic is at a location in that country, the adjoining country must have provisions similar to section 34(3) to allow SA Customs to operate in that country.

40. See also section 15.

- (ii) die wetgewing van daardie land toe te pas en af te dwing.³⁹
- (4) In soverre 'n ooreengekome plek van toegang of uitgang bedoel in subartikel (1)(a) by 'n plek geleë is wat gedeeltelik binne die Republiek en gedeeltelik in die aangrensende land val, mag hierdie artikel nie uitgelê word op 'n wyse wat afbreuk doen aan die toepassing van hierdie Wet in, of met betrekking tot, daardie deel wat in die Republiek val nie. 5

Ooreenkomste vir uitruil van inligting

35. (1) Die Kommissaris en die hawegesag of ander staatsorgaan wat funksies by 'n plek van toegang of uitgang verrig, kan 'n ooreenkoms vir die uitruil van inligting aangaan vir die behoorlike en doeltreffende administrasie van daardie plek as 'n plek van toegang of uitgang.⁴⁰ 10

- (2) 'n Ooreenkoms vir die uitruil van inligting kan voorsiening maak vir—
- (a) die uitruil van nie-vertroulike inligting tussen die partye wat vir die administrasie van daardie plek van toegang of uitgang ter sake is; 15
 - (b) spesifieke inligting wat tussen die partye uitgeruil moet of kan word; 15
 - (c) die wyse waarop, en die tyd waarbinne, die inligting aan die ander party oorgedra moet word;
 - (d) die kombinerings van verslae, kennisgewings, deklarasies, verklarings, opgawes of ander dokumente wat deur derde persone onderskeidelik aan die doeanegesag ingevolge hierdie Wet en aan die ander party ingevolge die wetgewing deur daardie ander party geadminestreer, verskaf moet word; 20
 - (e) die ontheffing van derde persone van die verpligting om aan elke party afsonderlike oorvleuelende verslae, kennisgewings, deklarasies, verklarings, opgawes of ander dokumente wat in wese dieselfde inligting bevat, te verskaf; en 25
 - (f) die verskaffing deur derde persone van daardie verslae, kennisgewings, deklarasies, verklarings, opgawes of ander dokumente aan slegs een van die partye. 10
- (3) Die Kommissaris kan by reël—
- (a) gevolg gee aan 'n ooreenkoms vir die uitruil van inligting ingevolge subartikel (1); of 30
 - (b) 'n persoon van 'n vereiste ingevolge hierdie Wet onthef om 'n verslag, kennisgewing, deklarasie, verklaring, opgawe of ander dokument te verskaf mits die vrygestelde persoon wesenlik dieselfde inligting wat in daardie verslag, kennisgewing, deklarasie, verklaring, opgawe of ander dokument vervat moet wees, aan die ander party moet verskaf. 35

Plekke van toegang vir land-uitgaande vaartuie of vliegtuie

- 36.** (1) Geen land-uitgaande vaartuig—
- (a) mag, nadat dit die Republiek binnegekom het, by enige hawe of plek langs die kuslyn van die Republiek anders as 'n doeaneseehawe aandoen nie; en 40
 - (b) mag, wanneer dit die Republiek verlaat, van 'n plek anders as 'n doeaneseehawe vertrek nie.
- (2) Na vertrek vanaf 'n doeaneseehawe—
- (a) na 'n ander plek in die Republiek, mag geen land-uitgaande vaartuig by enige hawe of plek langs die kuslyn van die Republiek anders as 'n doeaneseehawe aandoen nie; of 45
 - (b) na 'n bestemming buite die Republiek, mag geen land-uitgaande vaartuig by enige hawe of plek langs die kuslyn van die Republiek aandoen nie.
- (3) Geen land-uitgaande vliegtuig—
- (a) mag, nadat dit die Republiek binnegekom het, by enige plek anders as 'n doanelughawe land nie; of 50
 - (b) mag, wanneer dit die Republiek verlaat, vanaf enige plek anders as 'n doanelughawe vertrek nie.

39. In die geval van artikel 34(1)(b) waar die plek van toegang of uitgang vir die Republiek by 'n plek in daardie land geleë is, moet die aangrensende land bepalings soortgelyk aan artikel 34(3) hê om SA Doeane toe te laat om in daardie land te funksioneer.

40. Kyk ook artikel 15.

- (4) After departing from a customs airport—
- (a) to another place within the Republic, no foreign-going aircraft may land at any place in the Republic other than a customs airport; or
 - (b) to a destination outside the Republic, no foreign-going aircraft may land at any place in the Republic. 5
- (5) Subsections (1) to (4) do not apply to—⁴¹
- (a) naval ships and naval or military aircraft to the extent that they fall within the definition of “**foreign-going vessel**” or “**foreign-going aircraft**”; and
 - (b) foreign-going aircraft of an unconventional nature, such as helicopters, aircraft landing on water, gliders or balloons. 10
- (6) The Commissioner may, in accordance with any applicable Acts of Parliament and decisions of the national executive, by rule prescribe—
- (a) places at which or the conditions on which aircraft referred to in subsection (5)(b) may call or land in the Republic;
 - (b) places from where or the conditions on which such aircraft may depart from the Republic; 15
 - (c) reporting requirements for such aircraft; and
 - (d) the granting of exemptions from rules prescribed in terms of paragraph (a), (b) or (c).

Calls or landings resulting from forced circumstances⁴² 20

- 37.** (1) Section 36(1), (2), (3) or (4) does not apply if a foreign-going vessel or aircraft is forced by stress of weather, accident or other circumstances beyond the control of the on-board operator to call or land at a place which is not a customs seaport or airport.
- (2) If a foreign-going vessel or aircraft makes a forced call or landing, the incident, and the circumstances of the incident, must promptly be reported— 25
- (a) by the on-board operator to the Customs Office—
 - (i) nearest to the place where the vessel called or the aircraft landed; or
 - (ii) at the first customs seaport or airport at which the vessel or aircraft next arrives; or
 - (b) if the vessel or aircraft is operated by a carrier, by the carrier to the customs authority electronically in accordance with section 913. 30
- (3) The on-board operator of a foreign-going vessel or aircraft which makes a forced call or landing, and if the vessel or aircraft is operated by a carrier, also the carrier, must at the place where the vessel calls or the aircraft lands take all precautions reasonable in the circumstances to prevent a breach of this Act or a tax levying Act in respect of any goods or persons— 35
- (a) on board the vessel or aircraft;
 - (b) off-loaded or disembarking from the vessel or aircraft at that place; or
 - (c) loaded on board or boarding the vessel or aircraft at that place.
- (4) The Commissioner may prescribe by rule the procedures that must be complied with after a vessel or aircraft has made a forced call or landing. 40

Places of entry or exit for cross-border trains

- 38.** No cross-border train may enter or leave the Republic at a rail border crossing other than a rail border crossing designated in terms of section 31(1)(c) as a place of entry or exit. 45

41. Section 44 makes provision for additional exclusions and exemptions.
42. See section 557 for wreck.

- (4) Na vertrek vanaf 'n doeanelughawe—
- (a) na 'n ander plek in die Republiek, mag geen land-uitgaande vliegtuig by enige plek in die Republiek anders as 'n doeanelughawe land nie; of
 - (b) na 'n bestemming buite die Republiek, mag geen land-uitgaande vliegtuig by enige plek in die Republiek land nie. 5
- (5) Subartikels (1) tot (4) is nie van toepassing nie op—⁴¹
- (a) vlootskepe en vloot- of militêre vliegtuie in soverre hulle binne die omskrywing van “**land-uitgaande vaartuig**” of “**land-uitgaande vliegtuig**” val; en
 - (b) land-uitgaande vliegtuie van 'n ongewone aard, soos helikopters, lugvaartuie wat op water land, sweeftuie of lugballonne. 10
- (6) Die Kommissaris kan in ooreenstemming met enige Wette van die Parlement en besluite van die nasionale uitvoerende gesag wat van toepassing mag wees, by reël die volgende voorskryf:
- (a) Plekke waar, of die voorwaardes waarop, vliegtuie in subartikel (5)(b) bedoel, in die Republiek mag aandoen of land; 15
 - (b) plekke waarvandaan, of die voorwaardes waarop, daardie vliegtuie uit die Republiek mag vertrek;
 - (c) verslagdoeningsvereistes vir daardie vliegtuie; en
 - (d) die bestaan van ontheffings van reëls ingevolge paragraaf (a), (b) of (c) voorgeskryf. 20

Aandoen of landings by plek weens gedwonge omstandighede⁴²

37. (1) Artikel 36(1), (2), (3) of (4) is nie van toepassing nie indien 'n land-uitgaande vaartuig of vliegtuig weens ongunstige weer, ongeluk of ander omstandighede buite die beheer van die aanboord operateur gedwing word om aan te doen of te land by 'n plek wat nie 'n doeaneesehawe of -lughawe is nie. 25

(2) Indien 'n land-uitgaande vaartuig of vliegtuig weens gedwonge omstandighede by 'n plek aandoen of land, moet die voorval, en die omstandighede van die voorval, onverwyld—

- (a) deur die aanboord operateur by die Doeane kantoor aangemeld word— 30
 - (i) naaste aan die plek waar die vaartuig aangedoen of die vliegtuig geland het; of
 - (ii) by die eerste doeaneesehawe of -lughawe waar die vaartuig of vliegtuig daarna aankom; of
- (b) indien die vaartuig of vliegtuig onder die operasionele beheer van 'n vervoerder is, deur die vervoerder elektronies ooreenkomstig artikel 913 by die doeane gesag aangemeld word. 35

(3) Die aanboord operateur van 'n land-uitgaande vaartuig of vliegtuig wat weens gedwonge omstandighede by 'n plek aandoen of land, en indien die vaartuig of vliegtuig onder die operasionele beheer van 'n vervoerder is, ook die vervoerder, moet by die plek waar die vaartuig aandoen of die vliegtuig land, alle redelike voorsorgmaatreëls in die omstandighede tref om 'n breuk van hierdie Wet of 'n belastingheffings-Wet te voorkom ten opsigte van enige goedere of persone—

- (a) aan boord van die vaartuig of vliegtuig;
- (b) afgelaai, of wat afklim, van die vaartuig of vliegtuig by daardie plek; of 45
- (c) aan boord gelaai van, of wat opklim op, die vaartuig of vliegtuig by daardie plek.

(4) Die Kommissaris kan by reël die prosedures waaraan voldoen moet word nadat 'n vaartuig of vliegtuig in gedwonge omstandighede by 'n plek aangedoen of geland het, voorskryf. 50

Plekke van toegang of uitgang vir oor-grens treine

38. Geen oor-grens trein mag die Republiek binnekom of verlaat by 'n spoor-grensoorgang anders as 'n spoor-grensoorgang wat ingevolge artikel 31(1)(c) as 'n plek van toegang of uitgang aangewys is nie.

41. Artikel 44 maak voorsiening vir bykomende uitsluitings en ontheffings.

42. Kyk artikel 557 vir wrakgoed.

Places of entry or exit for vehicles

39. (1) No vehicle may enter⁴³ or leave⁴⁴ the Republic at a place other than a land border-post for vehicles.

(2) Subsection (1) does not apply to vehicles imported into or exported from the Republic on board foreign-going vessels or aircraft or cross-border trains.⁴⁵ 5

Places of entry or exit for persons

40.(1) A person entering or leaving the Republic on board—

- (a) a foreign-going vessel may not disembark from or board that vessel at any place other than at a customs seaport; or
- (b) a foreign-going aircraft may not disembark from or board that aircraft at any place other than at a customs airport. 10

(2) Subsection (1)(a) or (b) does not apply if a vessel or aircraft is forced by stress of weather, accident or other circumstances beyond the control of the on-board operator to call or land at a place which is not a customs seaport or a customs airport.

(3) No person may enter or leave the Republic— 15

- (a) on board a cross-border train otherwise than at a rail border crossing designated as a place of entry or exit in terms of section 31(1)(c);
- (b) on board a vehicle otherwise than at a land border-post for vehicles; or
- (c) on foot otherwise than at a land border-post for persons on foot.

Places of entry or exit for goods 20

41. (1) No goods imported into or destined for export from the Republic on board—

- (a) a foreign-going vessel may be off-loaded from or loaded on board the vessel other than at a customs seaport and, more specifically, at a place within the customs seaport licensed as a sea cargo terminal or sea travellers terminal;
- (b) a foreign-going aircraft may be off-loaded from or loaded on board the aircraft other than at a customs airport and, more specifically, at a place within a customs airport licensed as an air cargo terminal or air travellers terminal; 25
- (c) a cross-border railway carriage may be off-loaded from or loaded on board the railway carriage other than at a place within a railway station licensed as a rail terminal. 30

(2) Goods off-loaded at a sea or air travellers terminal must be moved to a sea or air cargo terminal except in circumstances prescribed by rule or where the customs authority determines otherwise in a specific case.

(3) No goods may be imported into or exported from the Republic—

- (a) on board a cross-border train otherwise than through a rail border crossing designated as a place of entry or exit in terms of section 31(1)(c); 35
- (b) on board a vehicle otherwise than through a land border-post for vehicles;
- (c) by persons on foot otherwise than through a land border-post for persons on foot;
- (d) through a pipeline other than a licensed cross-border pipeline; or 40

43. When an inbound vehicle arrives at a land border-post the requirements of this Act relating to the vehicle, and goods and persons on board the vehicle, must be complied with. These requirements include declaring goods that must be declared in terms of section 478, and clearing the vehicle and any goods on board the vehicle for home use or a customs procedure in terms of section 89 excluding goods exempted from clearance in terms of section 91.

44. When an outbound vehicle arrives at a land border-post the requirements of this Act relating to the vehicle and the goods and persons on board the vehicle must be complied with. These requirements include declaring goods that must be declared in terms of section 483 and clearing the vehicle and any goods on board the vehicle in terms of section 93 for export, excluding goods exempted from clearance in terms of section 95.

45. Section 44 makes provision for additional exclusions and exemptions.

Plekke van toegang of uitgang vir voertuie

39. (1) Geen voertuig mag die Republiek binnekam⁴³ of verlaat⁴⁴ by 'n plek anders as 'n land-grenspos vir voertuie nie.

(2) Subartikel (1) is nie van toepassing op voertuie ingevoer in of wat uitgevoer word uit die Republiek aan boord van land-uitgaande vaartuie of -vliegtuie of oor-grens treine nie.⁴⁵ 5

Plekke van toegang of uitgang vir persone

40. (1) Iemand wat die Republiek binnekam of verlaat aan boord van—

(a) 'n land-uitgaande vaartuig mag nie van daardie vaartuig afklim of daarop opklim by enige plek anders as 'n doeaneeshawe nie; of 10

(b) 'n land-uitgaande vliegtuig mag nie van daardie vliegtuig afklim of daarop opklim by enige plek anders as 'n doanelughawe nie.

(2) Subartikel (1)(a) of (b) is nie van toepassing nie indien 'n vaartuig of vliegtuig weens ongunstige weer, ongeluk of ander omstandighede buite die beheer van die aanboord operateur gedwing word om aan te doen of te land by 'n plek wat nie 'n doeaneeshawe of 'n doanelughawe is nie. 15

(3) Niemand mag die Republiek binnekam of verlaat—

(a) aan boord van 'n oor-grens trein anders as by 'n spoor-grensoorgang ingevolge artikel 31(1)(c) as 'n plek van toegang of uitgang aangewys nie;

(b) aan boord van 'n voertuig anders as by 'n land-grenspos vir voertuie nie; of 20

(c) te voet anders as by 'n land-grenspos vir voetgangers nie.

Plekke van toegang of uitgang vir goedere

41. (1) Geen goedere ingevoer in of bestem vir uitvoer uit die Republiek aan boord van—

(a) 'n land-uitgaande vaartuig, mag afgelaai of aan boord gelaai word van die vaartuig anders as by 'n doeaneeshawe en, meer spesifiek, by 'n plek binne die doeaneeshawe wat as 'n seevragterminaal of seereisigersterminaal gelisensieer is nie; 25

(b) 'n land-uitgaande vliegtuig, mag afgelaai of aan boord gelaai word van die vliegtuig anders as by 'n doanelughawe en, meer spesifiek, by 'n plek binne 'n doanelughawe wat as 'n lugvragterminaal of lugreisigersterminaal gelisensieer is nie; of 30

(c) 'n oor-grens spoorwegwa, mag afgelaai of aan boord gelaai word van die spoorwegwa anders as by 'n plek binne die spoorwegstasie wat as 'n spoorterminaal gelisensieer is nie. 35

(2) Goedere afgelaai by 'n see- of lugreisigersterminaal moet na 'n see- of lugvragterminaal verwyder word behalwe in omstandighede by reël voorgeskryf of waar die doeane gesag in 'n bepaalde geval anders bepaal.

(3) Geen goedere mag ingevoer word in, of uitgevoer word uit, die Republiek—

(a) aan boord van 'n oor-grens trein anders as deur 'n spoor-grensoorgang ingevolge artikel 31(1)(c) as 'n plek van toegang of uitgang aangewys nie; 40

(b) aan boord van 'n voertuig anders as deur 'n langsgrenspos vir voertuie nie;

(c) deur voetgangers anders as deur 'n land-grenspos vir voetgangers nie;

(d) deur 'n pyplyn anders as 'n gelisensieerde oor-grens pyplyn nie; of

43. Wanneer 'n inkomende voertuig by 'n land-grenspos aankom, moet daar aan die vereistes van hierdie Wet met betrekking tot die voertuig, en goedere en persone aan boord van voertuig, voldoen word. Hierdie vereistes sluit in die verklaring van goedere wat ingevolge artikel 478 verklaar moet word, en die klaring van die voertuig en enige goedere aan boord van die voertuig vir binnelandse gebruik of 'n doeane procedure ingevolge artikel 89, maar nie ook goedere wat ingevolge artikel 91 van klaring onthef is nie.

44. Wanneer 'n uitgaande voertuig by 'n land-grenspos aankom, moet daar aan die vereistes van hierdie Wet met betrekking tot die voertuig, en die goedere en persone aan boord van die voertuig, voldoen word. Hierdie vereistes sluit in die verklaring van goedere wat ingevolge artikel 483 verklaar moet word, en die klaring van die voertuig en enige goedere aan boord van die voertuig ingevolge artikel 93 vir uitvoer, maar nie ook goedere wat ingevolge artikel 95 van klaring onthef is nie.

45. Artikel 44 maak voorsiening vir bykomende uitsluitings en ontheffings.

- (e) by way of a cable-car or conveyor belt other than a licensed cross-border cable-car or conveyor belt.
- (4) No electricity may be imported into or exported from the Republic otherwise than through a licensed cross-border transmission line.
- (5) Subsection (2) does not apply to accompanied or unaccompanied baggage. 5

Consequences in event of contravention of entry or exit requirements

42. (1) If section 36 is contravened in relation to any foreign-going vessel or aircraft, or if section 38 is contravened in relation to any cross-border train, or if section 39 is contravened in relation to any vehicle, or if section 41 is contravened in relation to any goods, the customs authority may apply subsection (2) or (3), as may be appropriate, 10 with regard to—

- (a) the vessel or aircraft, or any goods on board the vessel or aircraft when the offence was committed, in the case of a section 36 contravention;
- (b) the train or any railway carriage that was attached to the train when the offence was committed, in the case of a section 38 contravention; 15
- (c) the vehicle, in the case of a section 39 contravention; or
- (d) the goods, in the case of a section 41 contravention.

(2) The customs authority may for import tax purposes regard—

- (a) a vessel or aircraft, or any goods referred to in subsection (1)(a), to be cleared for home use under Chapter 8⁴⁶ if the contravention was committed when the vessel or aircraft was on an inbound voyage; 20
- (b) a train, or any railway carriage referred to in subsection (1)(b), to be cleared for home use under Chapter 8 if the contravention was committed in relation to a train entering the Republic;
- (c) a vehicle to be cleared for home use under Chapter 8 if the contravention was committed in relation to a vehicle entering the Republic; or 25
- (d) goods imported into the Republic to be cleared for home use under Chapter 8 if the goods—
 - (i) in the case of goods referred to in section 41(1), were off-loaded from a vessel, aircraft or railway carriage in contravention of that section; or 30
 - (ii) in the case of goods referred to in section 41(3), were imported otherwise than through a place of entry in contravention of that section.

(3) The customs authority may for tax purposes regard—

- (a) a vessel or aircraft, or any goods referred to in subsection (1)(a), that have not been cleared for outright export, to be cleared for outright export⁴⁷ if the contravention was committed when the vessel or aircraft was on an outbound voyage; 35
- (b) a train, or any railway carriage referred to in subsection (1)(b), to be cleared for outright export if the contravention was committed in relation to a train leaving the Republic; 40
- (c) a vehicle to be cleared for outright export if the contravention was committed in relation to a vehicle leaving the Republic; or
- (d) goods that are in the process of being exported or that have been exported from the Republic to be cleared for outright export if the goods— 45
 - (i) in the case of goods referred to in section 41(1), were loaded on board a vessel, aircraft or railway carriage in contravention of that section; or
 - (ii) in the case of goods referred to in section 41(3), are being or were exported from the Republic in contravention of that section.

(4) Subsection (3) may not be read as affecting the application of section 112 or 113 in relation to goods that were at the time of the contravention under a customs 50 procedure.

46. For tax implications if goods are regarded to be cleared for home use, see section 152.

47. For tax implications if goods are regarded to be cleared for outright export under Chapter 8, see section 157.

- (e) by wyse van 'n kabelkar of vervoerband anders as 'n gelisenseerde oor-grens kabelkar of vervoerband nie.
- (4) Geen elektrisiteit mag ingevoer word in, of uitgevoer word uit, die Republiek anders as deur 'n gelisenseerde oor-grens transmissielyn nie.
- (5) Subartikel (2) is nie van toepassing op enige vergeselde of onvergeselde bagasie 5 nie.

Gevolge in geval van oortreding van toegangs- of uitgangsverreistes

- 42.** (1) Indien artikel 36 met betrekking tot enige land-uitgaande vaartuig of -vliegtuig oortree word, of indien artikel 38 met betrekking tot enige oor-grens trein oortree word, of indien artikel 39 met betrekking tot enige voertuig oortree word, of indien artikel 41 10 met betrekking tot enige goedere oortree word, kan die doeanegesag subartikel (2) of (3) toepas, soos ook al gepas mag wees, met betrekking tot—
- (a) die vaartuig of vliegtuig, of enige goedere aan boord van die vaartuig of vliegtuig toe die misdryf gepleeg is, in die geval van 'n artikel 36 oortreding;
 - (b) die trein of enige spoorwegwa wat aan die trein gekoppel was toe die misdryf 15 gepleeg is, in die geval van 'n artikel 38 oortreding;
 - (c) die voertuig, in die geval van 'n artikel 39 oortreding; of
 - (d) die goedere, in die geval van 'n artikel 41 oortreding.
- (2) Die doeanegesag kan vir doeleindes van invoerbelasting—
- (a) 'n vaartuig of vliegtuig, of enige goedere bedoel in subartikel (1)(a), ag vir 20 binnelandse gebruik kragtens Hoofstuk 8 geklaar te wees⁴⁶ indien die oortreding gepleeg is toe die vaartuig of vliegtuig op 'n inkomende vaart of vlug was;
 - (b) 'n trein, of enige spoorwegwa bedoel in subartikel (1)(b), ag vir binnelandse 25 gebruik kragtens Hoofstuk 8 geklaar te wees indien die oortreding gepleeg is met betrekking tot 'n trein wat die Republiek binnekom;
 - (c) 'n voertuig ag vir binnelandse gebruik kragtens Hoofstuk 8 geklaar te wees indien die oortreding gepleeg is met betrekking tot 'n voertuig wat die Republiek binnekom; of
 - (d) goedere in die Republiek ingevoer, ag vir binnelandse gebruik kragtens 30 Hoofstuk 8 geklaar te wees indien die goedere—
 - (i) in die geval van goedere bedoel in artikel 41(1), van 'n vaartuig, vliegtuig of spoorwegwa in stryd met daardie artikel afgelaai is; of
 - (ii) in die geval van goedere bedoel in artikel 41(3), anders as deur 'n plek van toegang in stryd met daardie artikel ingevoer is. 35
- (3) Die doeanegesag kan vir belastingdoeleindes—
- (a) 'n vaartuig of vliegtuig, of enige goedere bedoel in subartikel (1)(a) wat nie 40 vir regstreekse uitvoer geklaar is nie, ag vir regstreekse uitvoer geklaar te wees⁴⁷ indien die oortreding gepleeg is toe die vaartuig of vliegtuig op 'n uitwaartse reis was;
 - (b) 'n trein, of enige spoorwegwa bedoel in subartikel (1)(b), ag vir regstreekse 45 uitvoer indien die oortreding gepleeg is met betrekking tot 'n trein wat die Republiek verlaat;
 - (c) 'n voertuig ag vir regstreekse uitvoer geklaar te wees indien die oortreding gepleeg is met betrekking tot 'n voertuig wat die Republiek verlaat; of 45
 - (d) goedere wat in die proses van uitvoer of uitgevoer is uit die Republiek, ag vir regstreekse uitvoer geklaar te wees indien die goedere—
 - (i) in die geval van goedere bedoel in artikel 41(1), aan boord van 'n 50 vaartuig, vliegtuig of spoorwegwa in stryd met daardie artikel gelaai is; of
 - (ii) in die geval van goedere bedoel in artikel 41(3), in stryd met daardie artikel uit die Republiek uitgevoer word of is. 50
- (4) Subartikel (3) mag nie uitgelê word op 'n wyse wat afbreuk doen aan die toepassing van artikel 112 of 113 met betrekking tot goedere wat op die tydstep van die oortreding onder 'n doeaneprosedure was nie. 55

46. Vir belastinggevolge indien goedere geag word geklaar te wees vir binnelandse gebruik kragtens Hoofstuk 8, kyk artikel 152.

47. Vir belastinggevolge indien goedere geag word geklaar te wees vir regstreekse uitvoer, kyk artikel 157.

- (5) This section applies apart from any criminal proceedings that may be instituted, administrative penalty that may be imposed or any other step that may be taken by the customs authority in terms of this Act for a breach of an entry or exit requirement, which may include, where not inconsistent with this Act or other applicable legislation or otherwise inappropriate— 5
- (a) applying section 570(2), read with section 580, to—
 - (i) the vessel, aircraft or any goods referred to in subsection (1)(a);
 - (ii) the train or railway carriage referred to in subsection (1)(b);
 - (iii) the vehicle referred to in subsection (1)(c); or
 - (iv) any goods referred to in subsection (1)(d); 10
 - (b) seizing any such vessel, aircraft, train, railway carriage, vehicle or goods in terms of Chapter 34;
 - (c) allowing the carrier operating, or the owner or on-board operator of, such vessel, aircraft, train, railway carriage or vehicle, or the importer or exporter of any such goods, to abandon the vessel, aircraft, train, railway carriage, vehicle or goods to the Commissioner in accordance with Chapter 26; or 15
 - (d) allowing or directing the carrier operating, or the owner or on-board operator of, such vessel, aircraft, train, railway carriage or vehicle, or the importer or exporter of any such goods—
 - (i) to remove the vessel, aircraft, train, railway carriage or vehicle or goods from the Republic; or 20
 - (ii) to destroy the goods under supervision of the customs authority or an organ of state designated by the customs authority.

Part 3

Customs controlled areas 25

List of customs controlled areas

- 43.** (1) The following places, areas, premises or facilities are customs controlled areas for the purpose of this Act and the tax levying Acts:
- (a) All licensed—
 - (i) general sea cargo terminals; 30
 - (ii) special sea cargo terminals;
 - (iii) bulk sea cargo terminals;
 - (iv) container terminals;
 - (v) combination sea cargo terminals;
 - (vi) multi-purpose sea cargo terminals; 35
 - (vii) sea travellers terminals;
 - (viii) air cargo terminals;
 - (ix) air travellers terminals;
 - (x) air cargo depots;
 - (xi) rail cargo terminals; 40
 - (xii) rail travellers terminals;
 - (xiii) container depots;
 - (xiv) international postal clearance depots;
 - (xv) storage warehouses and excise warehouses;
 - (xvi) tax free shops; 45
 - (xvii) premises of SEZ enterprises;
 - (xviii) inward processing premises;
 - (xix) home use processing premises;
 - (xx) state warehouses contemplated in section 569(b);
 - (xxi) cross border pipelines; 50
 - (xxii) cross-border transmission lines;
 - (xxiii) cross border cable-cars; or
 - (xxiv) cross border conveyor belts;
 - (b) state warehouses contemplated in section 569(a); and
 - (c) any other premises referred to in section 629(g). 55
- (2) The Commissioner may by rule designate as a customs controlled area—
- (a) the whole area comprising a customs seaport or airport or other place of entry or exit;

- (5) Hierdie artikel kan toegepas word afgesien van enige strafregtelike verrigtinge wat ingestel mag word, administratiewe boete wat opgelê mag word of enige ander stap wat deur die doeanegesag ingevolge hierdie Wet gedoen mag word vir 'n breuk van 'n toegangs- of uitgangsvereiste, wat kan insluit, waar dit nie met hierdie Wet of ander geldende wetgewing onbestaanbaar of andersins onvanpas is nie— 5
- (a) om artikel 570(2), saamgelees met artikel 580, toe te pas op—
 - (i) die vaartuig, vliegtuig of enige goedere in subartikel (1)(a) bedoel;
 - (ii) die trein of spoorwegwa in subartikel (1)(b) bedoel;
 - (iii) die voertuig in subartikel (1)(c) bedoel; of
 - (iv) enige goedere in subartikel (1)(d) bedoel; 10
 - (b) om op so 'n vaartuig, vliegtuig, trein, spoorwegwa, voertuig of goedere ingevolge Hoofstuk 34 beslag te lê;
 - (c) om die vervoerder in operasionele beheer van daardie vaartuig, vliegtuig, trein, spoorwegwa of voertuig, of die eienaar of aanboord operateur daarvan, of die invoerder of uitvoerder van daardie goedere, toe te laat om die vaartuig, vliegtuig, trein, spoorwegwa, voertuig of goedere aan die Kommissaris ooreenkomstig Hoofstuk 26 oor te gee; of 15
 - (d) om die vervoerder in operasionele beheer van daardie vaartuig, vliegtuig, trein, spoorwegwa of voertuig, of die eienaar of aanboord operateur daarvan, of die invoerder of uitvoerder van daardie goedere, toe te laat of te gelas— 20
 - (i) om die vaartuig, vliegtuig, trein, spoorwegwa of voertuig of goedere uit die Republiek te verwyder; of
 - (ii) om die goedere onder toesig van die doeanegesag of 'n staatsorgaan aangewys deur die doeanegesag te vernietig.

Deel 3 25

Doeanebeheergebiede

Lys van doeanebeheergebiede

43. (1) Die volgende plekke, gebiede, persele of geriewe is doeanebeheergebiede vir die doeleindes van hierdie Wet en die belastingheffings-Wette: 30
- (a) Alle gelisensieerde—
 - (i) algemene seevragterminale;
 - (ii) spesiale seevragterminale;
 - (iii) massa seevragterminale;
 - (iv) houerterminale;
 - (v) kombinasie seevragterminale; 35
 - (vi) meerdoelige seevragterminale;
 - (vii) seereisigersterminale;
 - (viii) lugvragterminale;
 - (ix) lugreisigersterminale;
 - (x) lugvragdepots; 40
 - (xi) spoorvragterminale;
 - (xii) spoorreisigersterminale;
 - (xiii) houerdepots;
 - (xiv) internasionale posklaringsdepots;
 - (xv) bergingspakhuisse en aksynspakhuisse; 45
 - (xvi) belastingvry-winkels;
 - (xvii) persele van SES ondernemings;
 - (xviii) inwaartse prosesseringspersele;
 - (xix) binnelandse gebruikprosesseringspersele;
 - (xx) staatspakhuisse in artikel 569(b) beoog; 50
 - (xxi) oor-grens pyplyne;
 - (xxii) oor-grens transmissielyne;
 - (xxiii) oor-grens kabelkarre; of
 - (xxiv) oor-grens vervoerbande;
 - (b) staatspakhuisse in artikel 569(a) beoog; en 55
 - (c) enige ander perseel in artikel 629(g) bedoel.
- (2) Die Kommissaris kan by reël as 'n doeanebeheergebied aanwys—
- (a) die hele gebied wat 'n doeanesehaweweg of -lughaweweg of ander plek van toegang of uitgang omsluit;

- (b) any part of an area comprising a customs seaport or airport or other place of entry or exit;
 - (c) a special economic zone or any part of a special economic zone; or
 - (d) any general or special entrance to or exit from—
 - (i) a customs seaport or airport or other place of entry or exit; or 5
 - (ii) an area designated as a customs controlled area in terms of paragraph (b) or (c).
- (3) The customs authority may after consultation with any person or authority administering any activity in a customs controlled area, determine the manner in which the area— 10
- (a) must be secured; and
 - (b) must be signposted so as to give persons present in the area a clear indication that it is a customs controlled area.
- (4) The port authority of a customs sea- or airport and the licensee of a customs controlled area must free of charge provide space and facilities at the sea- or airport or customs controlled area, as may be determined by rule, for customs officers to exercise their enforcement functions in relation to goods and persons at or in that sea- or airport or customs controlled area. 15

Part 4

Other matters 20

Exclusions and exemptions

- 44.** (1) The Commissioner may in accordance with any applicable decisions of the national executive—
- (a) by rule exclude from the application of a provision of Part 2 of this Chapter—
 - (i) any category of vessels, aircraft, trains, railway carriages or vehicles; 25
 - (ii) any category of persons, travellers or crew; or
 - (iii) any category of goods;
 - (b) by rule prescribe the extent to which, the circumstances in which and the conditions on which any exclusion referred to in paragraph (a) applies; or
 - (c) in justifiable circumstances exempt⁴⁸— 30
 - (i) a specific vessel, aircraft, train, railway carriage; vehicle or goods from the application of a provision of Part 2 of this Chapter; or
 - (ii) a specific person from complying with a provision of Part 2 of this Chapter.
- (2) In order to give effect to the Special Economic Zones Act, 2014, the Commissioner may by rule limit or modify the customs control of goods, or any specific category of goods, to which that Act applies, and may for that purpose— 35
- (a) determine the extent to which, the circumstances in which and the conditions on which customs control of such goods is limited or modified;
 - (b) exempt such goods from specific requirements of this or a tax levying Act; 40
 - (c) provide for simplified and expedited processes for the clearance and release of such goods;
 - (d) provide for the submission and customs processing of documents in accordance with simplified and expedited processes;
 - (e) provide for simplified tax payment methods; 45
 - (f) provide for the deferment of tax on goods;
 - (g) align customs processes and requirements in terms of this Act with the concept of a single point of contact contemplated in that Act;
 - (h) prescribe measures to prevent—
 - (i) illegal diversions; and 50
 - (ii) undue risks to the payment or collection of tax should tax become payable on such goods;

48. See section 918 for conditional exemptions.

- (b) enige deel van 'n gebied wat 'n doeaneseehawe of -lughawe of ander plek van toegang of uitgang omsluit;
 - (c) 'n spesiale ekonomiese sone of enige deel van 'n spesiale ekonomiese sone; of
 - (d) enige algemene of spesiale ingang na of uitgang uit—
 - (i) 'n doeaneseehawe of -lughawe of ander plek van toegang of uitgang; of 5
 - (ii) 'n gebied ingevolge paragraaf (b) of (c) as 'n doeanebeheergebied aangewys.
- (3) Die doeanegesag kan, na oorlegpleging met enige persoon of gesag wat enige aktiwiteit in 'n doeanebeheergebied uitvoer, die wyse bepaal waarop die gebied—
 - (a) beveilig moet word; en 10
 - (b) met kennisgewingborde toegerus moet word ten einde persone teenwoordig in die gebied 'n duidelike aanduiding te gee dat dit 'n doeanebeheergebied is.
- (4) Die hawegesag van 'n doeaneseehawe of -lughawe en die lisensiehouer van 'n doeanebeheergebied moet kosteloos ruimte en geriewe by die see- of lughawe of doeanebeheergebied, soos by reël bepaal mag word, tot die beskikking van doeanebeamptes stel om hulle toepassingsfunksies met betrekking tot goedere en persone by of in daardie see- of lughawe of doeanebeheergebied te verrig. 15

Deel 4

Ander aangeleenthede

Uitsluitings en ontheffings 20

44. (1) Die Kommissaris kan in ooreenstemming met enige toepaslike besluite van die nasionale uitvoerende gesag—
 - (a) by reël van die toepassing van 'n bepaling van Deel 2 van hierdie Hoofstuk uitsluit—
 - (i) enige kategorie vaartuie, vliegtuie, treine, spoorwegwaens of voertuie; 25
 - (ii) enige kategorie persone, reisigers of bemanning; of
 - (iii) enige kategorie goedere;
 - (b) by reël die mate waarin, die omstandighede waarin en die voorwaardes waarop enige uitsluiting bedoel in paragraaf (a) geld, voorskryf; of
 - (c) in regverdigbare omstandighede—⁴⁸ 30
 - (i) 'n spesifieke vaartuig, vliegtuig, trein, spoorwegwa, voertuig of goedere van die toepassing van 'n bepaling van Deel 2 van hierdie Hoofstuk, onthef; of
 - (ii) 'n spesifieke persoon van voldoening aan 'n bepaling van Deel 2 van hierdie Hoofstuk onthef. 35
- (2) Ten einde gevolg te gee aan die “Special Economic Zones Act, 2014”, kan die Kommissaris by reël die doeanebeheer oor goedere, of enige spesifieke kategorie goedere, waarop daardie Wet van toepassing is, beperk of aanpas, en kan vir daardie doel—
 - (a) die mate waarin, die omstandighede waarin en die voorwaardes waarop doeanebeheer oor daardie goedere beperk of aangepas word, bepaal; 40
 - (b) daardie goedere van spesifieke voorskrifte van hierdie Wet of 'n belastingheffings-Wet onthef;
 - (c) voorsiening maak vir verkorte en versnelde prosesse vir die klaring en vrystelling van daardie goedere; 45
 - (d) voorsiening maak vir die indiening en doeaneprosessering van dokumente ooreenkomstig verkorte en versnelde prosesse;
 - (e) voorsiening maak vir vereenvoudigde wyses van betaling van belasting;
 - (f) voorsiening maak vir die uitstel van belasting op goedere;
 - (g) doeaneprosesse en vereistes ingevolge hierdie Wet, aanpas met die konsep 50 van 'n enkele punt van kontak in daardie Wet beoog;
 - (h) maatreëls voorskryf om—
 - (i) onwettige afwendings te voorkom; en
 - (ii) onnodige risiko's vir die betaling of invordering van belasting uit te skakel, sou belasting op daardie goedere betaalbaar word; 55

48. Kyk artikel 918 vir voorwaardelike ontheffings.

- (i) allocate liability for the payment of tax should tax become payable on such goods; and
- (j) prescribe any other matter necessary to facilitate the implementation of that Act.

Rules to facilitate implementation of this Chapter 5

45. Rules made in terms of section 903 to facilitate the implementation of this Chapter may include rules prescribing measures aimed at—

- (a) facilitating the use of areas, premises or facilities referred to in section 43 (1) or (2) as customs controlled areas;
- (b) regulating the entry or exit of goods and persons to or from a customs controlled area;
- (c) regulating the movement of goods within a customs controlled area; and
- (d) the identification of persons entering, present in or leaving a customs controlled area.

Offences in terms of this Chapter⁴⁹ 15

46. (1) The on-board operator of a foreign-going vessel, and if the vessel is operated by a carrier, also the carrier, is guilty of an offence if—

- (a) section 36(1) or (2) is contravened with regard to that vessel;
- (b) that on-board operator or carrier fails to comply with section 37(2) or (3); or
- (c) section 41(1)(a) is contravened with regard to goods off-loaded from or loaded on board that vessel.

(2) The on-board operator of a foreign-going aircraft, and if the aircraft is operated by a carrier, also the carrier, is guilty of an offence if—

- (a) section 36(3) or (4) is contravened with regard to that aircraft;
- (b) that on-board operator or carrier fails to comply with section 37(2) or (3); or
- (c) section 41(1)(b) is contravened with regard to goods off-loaded from or loaded on board that aircraft.

(3) The carrier operating a cross-border train or railway carriage is guilty of an offence if—

- (a) section 38 is contravened with regard to that train;
- (b) section 41(1)(c) is contravened with regard to goods off-loaded from or loaded on board that railway carriage; or
- (c) section 41(3)(a) is contravened with regard to goods on board that train.

(4) The on-board operator of a vehicle, and if the vehicle is operated by a carrier, also the carrier, is guilty of an offence if—

- (a) section 39(1) is contravened with regard to that vehicle; or
- (b) section 41(3)(b) is contravened with regard to goods on board that vehicle.

(5) A person entering or leaving the Republic is guilty of an offence if that person contravenes section 40(1) or (3) or 41(3)(c).

(6) A person operating a cross-border pipeline, cable-car, conveyor belt or transmission line is guilty of an offence if that person contravenes section 41(3)(d) or (e) or (4).

(7) The following offences are Category 1 offences:

- (a) The offences referred to in subsections (1)(c), (2)(c) and (3)(b); and
- (b) the offences referred to in subsection (4)(a) or (b) committed with regard to a vehicle, or goods on board a vehicle, operated by a carrier.

49. See section 893(1) for criminal liability of registered agents of carriers in the case of carriers not located in the Republic.

- (i) aanspreeklikheid vir die betaling van belasting toewys, sou belasting op daardie goedere betaalbaar word; en
- (j) enige ander aangeleentheid voorskryf wat nodig is om die implementering van daardie Wet te fasiliteer.

Reëls ter fasilitering van implementering van hierdie Hoofstuk 5

45. Reëls ingevolge artikel 903 uitgevaardig om die implementering van hierdie Hoofstuk te fasiliteer, kan reëls insluit wat maatreëls voorskryf wat gerig is op—

- (a) die fasilitering van die gebruik as doeanebeheergebiede van gebiede, persele of fasiliteite in artikel 43(1) of (2) bedoel;
- (b) die regulering van die toegang of uitgang van goedere en persone in en uit 'n doeanebeheergebied;
- (c) die regulering van die beweging van goedere binne 'n doeanebeheergebied; en
- (d) die identifisering van persone wat die doeanebeheergebied binnekom, daarin teenwoordig is of dit verlaat. 15

Misdrywe ingevolge hierdie Hoofstuk⁴⁹

46. (1) Die aanboord operateur van 'n land-uitgaande vaartuig, en indien die vaartuig onder die operasionele beheer van 'n vervoerder is, ook die vervoerder, is aan 'n misdryf skuldig indien—

- (a) artikel 36(1) of (2) met betrekking tot daardie vaartuig oortree word; 20
- (b) daardie aanboord operateur of vervoerder versuim om aan artikel 37(2) of (3) te voldoen; of
- (c) artikel 41(1)(a) oortree word met betrekking tot goedere wat afgelaai, of aan boord gelaai, word van daardie vaartuig.

(2) Die aanboord operateur van 'n land-uitgaande vliegtuig en, indien die vliegtuig onder die operasionele beheer van 'n vervoerder is, ook die vervoerder, is aan 'n misdryf skuldig indien—

- (a) artikel 36(3) of (4) met betrekking tot daardie vliegtuig oortree word;
- (b) daardie aanboord operateur of vervoerder versuim om aan artikel 37(2) of (3) te voldoen; of 30
- (c) artikel 41(1)(b) oortree word met betrekking tot goedere wat afgelaai, of aan boord gelaai, word van daardie vliegtuig.

(3) Die vervoerder wat in operasionele beheer van 'n oor-grens trein of -spoorwegwa is, is aan 'n misdryf skuldig indien—

- (a) artikel 38 oortree word met betrekking tot daardie trein; 35
- (b) artikel 41(1)(c) oortree word met betrekking tot goedere wat afgelaai, of aan boord gelaai, word van daardie spoorwegwa; of
- (c) artikel 41(3)(a) oortree word met betrekking tot die goedere aan boord van daardie trein.

(4) Die aanboord operateur van 'n voertuig en, indien die voertuig onder die operasionele beheer van 'n vervoerder is, ook die vervoerder, is aan 'n misdryf skuldig indien—

- (a) artikel 39(1) oortree word met betrekking tot daardie voertuig; of
- (b) artikel 41(3)(b) oortree word met betrekking tot goedere aan boord van daardie voertuig. 45

(5) 'n Persoon wat die Republiek binnekom of verlaat, is aan 'n misdryf skuldig indien daardie persoon artikel 40(1) of (3) of 41(3)(c) oortree.

(6) 'n Persoon wat in operasionele beheer van 'n oor-grens pyplyn, kabelkar, vervoerband of transmissielyn is, is aan 'n misdryf skuldig indien daardie persoon artikel 41(3)(d) of (e) of (4) oortree. 50

(7) Die volgende misdrywe is Kategorie 1 misdrywe:

- (a) Die misdrywe in subartikels (1)(c), (2)(c) en (3)(b) bedoel; en
- (b) die misdrywe in subartikel (4)(a) of (b) bedoel wat gepleeg is met betrekking tot 'n voertuig, of goedere aan boord van 'n voertuig, wat onder die operasionele beheer van 'n vervoerder is. 55

49. Kyk artikel 893(1) vir strafregtelike aanspreeklikheid van geregistreerde agente of vervoerders in die geval van vervoerders wat nie in die Republiek gesetel is nie.

CHAPTER 3

REPORTING REQUIREMENTS FOR INBOUND AND OUTBOUND VESSELS, AIRCRAFT, TRAINS, BUSES, TRUCKS, PERSONS AND CARGO⁵⁰

Purpose and application of this Chapter

47. (1) The purpose of this Chapter is to establish reporting requirements 5
concerning—
- (a) all vessels, aircraft, trains, buses and trucks arriving in or leaving the Republic;
 - (b) all persons and cargo on board vessels, aircraft, trains, buses and trucks arriving in the Republic, whether or not such persons disembark or such cargo is off-loaded in the Republic; 10
 - (c) all persons and cargo on board vessels, aircraft, trains, buses and trucks leaving the Republic; and
 - (d) all such cargo loaded, off-loaded, packed, unpacked, consolidated, de-grouped, received at or removed from terminals, depots and other prescribed places, including packed and empty containers. 15
- (2) This Chapter does not apply to—
- (a) vessels or aircraft which cross into the territorial waters or airspace of the Republic without calling or landing at a place in the Republic; and
 - (b) persons and cargo on board such vessels and aircraft. 20
- (3) A timeframe prescribed by rule in terms of this Chapter for the submission of a notice, report or other document is subject to any extension or shortening of that timeframe in terms of section 908 or 909.

Part 1

Reporting requirements for arriving and departing foreign-going vessels 25

Application of this Part

48. This Part—
- (a) applies, subject to section 86, to all foreign-going vessels to the extent indicated in the provisions of this Part; and
 - (b) does not apply to naval ships to the extent that they fall within the definition of “foreign-going vessel”. 30

Advance loading and arrival notices

49. (1) (a) The carrier operating a foreign-going vessel to the Republic must give advance notice to the customs authority—
- (i) of containerised cargo to be loaded on board the vessel at a foreign port that will be on board the vessel when the vessel enters the Republic; 35
 - (ii) of the scheduled arrival of the vessel and crew in the Republic; and
 - (iii) if the vessel is transporting travellers, of the scheduled arrival of those incoming travellers in the Republic.
- (b) An advance containerised cargo loading notice referred to in paragraph (a)(i) must be submitted before the containers are loaded, within a timeframe as may be prescribed by rule. 40
- (c) Advance arrival notices referred to in paragraph (a)(ii) and (iii) must be submitted—
- (i) within a timeframe as may be prescribed by rule; and 45
 - (ii) either separately, simultaneously or as a combined notice, as may be prescribed by rule.

50. Non-compliance with the reporting and other requirements of this Chapter is not a criminal offence but may as non-prosecutable breaches of this Act attract fixed amount penalties in terms of Chapter 39.

HOOFSTUK 3

VERSLAGDOENINGSVEREISTES VIR INKOMENDE EN UITGAANDE VAARTUIE, VliegTUIE, TREINE, BUSSE, TROKKE, PERSONE EN VRAG⁵⁰

Doel en toepassing van hierdie Hoofstuk

47. (1) Die doel van hierdie Hoofstuk is om verslagdoeningsvereistes daar te stel 5
aangaande—
- (a) alle vaartuie, vliegtuie, treine, busse en trokke wat in die Republiek aankom of 5
daaruit vertrek;
 - (b) alle persone en vrag aan boord van vaartuie, vliegtuie, treine, busse en trokke 10
wat in die Republiek aankom, ongeag of daardie persone afklim of daardie
vrag afgelaai word in die Republiek;
 - (c) alle persone en vrag aan boord van vaartuie, vliegtuie, treine, busse en trokke
wat die Republiek verlaat; en
 - (d) alle sodanige vrag opgelaai, afgelaai, verpak, uitgepak, gekonsolideer, 15
gedekonsolideer, ontvang by of verwyder uit terminale, depots en ander
voorgeskrewe plekke, met inbegrip van verpakte en leë houers.
- (2) Hierdie Hoofstuk is nie van toepassing nie op—
- (a) vaartuie of vliegtuie wat die territoriale water of lugruimte van die Republiek
betree sonder om by 'n plek in die Republiek aan te doen of te land; en
 - (b) persone en vrag aan boord van daardie vaartuie en vliegtuie. 20
- (3) 'n Tydsraam ingevolge hierdie Hoofstuk by reël voorgeskryf vir die verstrekking
van 'n kennisgewing, verslag of ander dokument is onderhewig aan enige verlenging of
verkorting van daardie tydsraam ingevolge artikel 908 of 909.

Deel 1

Verslagdoeningsvereistes vir land-uitgaande vaartuie wat aankom of vertrek 25

Toepassing van hierdie Deel

48. Hierdie Deel—
- (a) is, behoudens artikel 86, van toepassing op alle land-uitgaande vaartuie in
soverre aangedui in die bepalings van hierdie Deel; en
 - (b) is nie van toepassing nie op vlootskepe in soverre hulle binne die omskrywing 30
van “land-uitgaande vaartuig” val.

Vooruit-laa- en aankomskennisgewings

49. (1) (a) Die vervoerder in operasionele beheer van 'n land-uitgaande vaartuig na
die Republiek, moet vooruit kennis aan die doeanegesag gee—
- (i) van behouerde vrag wat by 'n buitelandse hawe aan boord van die vaartuig 35
gelaai gaan word en wat op die vaartuig sal wees wanneer die vaartuig die
Republiek binnekom;
 - (ii) van die geskeduleerde aankoms van die vaartuig en die bemanning in die
Republiek; en
 - (iii) indien die vaartuig reisigers vervoer, van die geskeduleerde aankoms van 40
daardie inkomende reisigers in die Republiek.
- (b) 'n Vooruit-laaikennisgewing van behouerde vrag bedoel in paragraaf (a)(i) moet
voor die laai van die houers verstrek word binne 'n tydsraam soos by reël voorgeskryf
mag word.
- (c) Vooruit-aankomskennisgewings bedoel in paragraaf (a)(ii) en (iii) moet verstrek 45
word—
- (i) binne 'n tydsraam soos by reël voorgeskryf mag word; en
 - (ii) òf afsonderlik, òf gesamentlik, òf as 'n gekombineerde kennisgewing, soos by
reël voorgeskryf mag word.

50. Nie-voldoening aan die verslagdoenings- en ander vereistes van hierdie Hoofstuk is nie 'n misdryf
nie, maar kan as 'n nie-vervolgbare breuk van hierdie Wet vastebedragboetes ingevolge Hoofstuk 39
tot gevolg hê.

- (2) (a) Each cargo reporter responsible for cargo on board a foreign-going vessel referred to in subsection (1) must give advance notice to the customs authority of the scheduled arrival of that incoming cargo in the Republic.
- (b) An advance cargo arrival notice referred to in paragraph (a) must be submitted within a timeframe as may be prescribed by rule. 5
- (3) (a) If on receipt of an advance cargo loading notice it appears that any of the cargo to which the notice relates are goods referred to in paragraph (b), the customs authority may, by notice to the reporting carrier or that carrier's registered agent in the Republic, warn the carrier—
- (i) not to load those goods on board the vessel or to transport the goods to the Republic; and 10
- (ii) that should the goods be loaded or transported, the goods on arrival in the Republic will be detained and dealt with in accordance with the applicable provisions of this Act, including Chapter 35.
- (b) Paragraph (a) may be applied to goods that on arrival in the Republic are likely to be— 15
- (i) prohibited goods;
- (ii) restricted goods in respect of which the legislation regulating the import of those goods has not been complied with; or
- (iii) goods of a class or kind or falling within any other category as may be prescribed by rule. 20
- (c) A carrier commits a Category 1 offence if goods in respect of which a warning has been issued in terms of paragraph (a)(i) is on board the vessel when it enters the Republic.
- (4) This section applies only to foreign-going vessels operated by carriers. 25

Arrival reports

- 50.** (1) The arrival of a foreign-going vessel at a customs seaport must be reported to the customs authority—
- (a) by the port authority managing that seaport; and
- (b) if the vessel— 30
- (i) is operated by a carrier, by the carrier unless the customs authority permits otherwise; or
- (ii) is not operated by a carrier, by the on-board operator of the vessel unless the customs authority permits otherwise.
- (2) A vessel arrival report referred to in subsection (1) must be submitted within a timeframe as may be prescribed by rule after the arrival of the vessel at the customs seaport. 35

Advance departure notices

- 51.** (1) (a) The carrier operating a foreign-going vessel must give advance notice to the customs authority— 40
- (i) of the scheduled departure of the vessel and crew from a customs seaport; and
- (ii) if the vessel is to transport travellers out of the Republic, of all those outgoing travellers who boarded or are scheduled to board the vessel at that seaport.
- (b) Advance departure notices referred to in paragraph (a)(i) and (ii) must be submitted— 45
- (i) within a timeframe as may be prescribed by rule before the scheduled departure of the vessel from that customs seaport, whether to another customs seaport or to a destination outside the Republic; and
- (ii) either separately, simultaneously or as a combined notice, as may be prescribed by rule. 50
- (2) (a) Each cargo reporter responsible for cargo loaded or to be loaded on board a foreign-going vessel at a customs seaport for export from the Republic must give advance notice to the customs authority of that outgoing cargo.

- (2) (a) Elke vragverslagdoener wat verantwoordelik is vir vrag aan boord van 'n land-uitgaande vaartuig bedoel in subartikel (1) moet vooruit kennis aan die doeanegesag gee van die geskeduleerde aankoms van daardie inkomende vrag in die Republiek.
- (b) 'n Vooruit-vragaankomskennisgewing bedoel in paragraaf (a) moet verstrek word binne 'n tydsraam soos by reël voorgeskryf mag word. 5
- (3) (a) Indien dit by ontvangs van 'n vooruit-laaikennisgewing van vrag blyk dat enige van die vrag waarop die kennisgewing betrekking het goedere bedoel in paragraaf (b) is, kan die doeanegesag, by kennisgewing aan die verslagdoenende vervoerder, of daardie vervoerder se geregistreerde agent in die Republiek, die vervoerder waarsku— 10
- (i) om nie daardie goedere aan boord van die vaartuig te laai of na die Republiek te vervoer nie; en
- (ii) dat indien die goedere gelaai of vervoer word, die goedere by aankoms in die Republiek onder detensie geplaas en ooreenkomstig die tersaaklike bepalings van hierdie Wet, met inbegrip van Hoofstuk 35, mee gehandel sal word. 15
- (b) Paragraaf (a) kan toegepas word op goedere wat by aankoms in die Republiek waarskynlik—
- (i) verbode goedere sal wees;
- (ii) beperkte goedere sal wees ten opsigte waarvan daar nie voldoen is aan die wetgewing wat die invoer van daardie goedere reguleer nie; of 20
- (iii) goedere sal wees van 'n klas of soort of wat binne enige ander kategorie val soos by reël voorgeskryf mag word.
- (c) 'n Vervoerder pleeg 'n Kategorie 1 misdryf indien die goedere ten opsigte waarvan 'n waarskuwing ingevolge paragraaf (a)(i) uitgereik is aan boord van die vaartuig is wanneer dit die Republiek binnekom. 25
- (4) Hierdie artikel is van toepassing slegs op land-uitgaande vaartuie wat onder die operasionele beheer van vervoerders is.

Aankomsverslae

50. (1) Die aankoms van 'n land-uitgaande vaartuig by 'n doeaneseehawe moet aan die doeanegesag gerapporteer word— 30
- (a) deur die hawegesag wat daardie seehawe bestuur; en
- (b) indien die vaartuig—
- (i) onder die operasionele beheer van 'n vervoerder is, deur die vervoerder tensy die doeanegesag anders goedkeur; of
- (ii) nie onder die operasionele beheer van 'n vervoerder is nie, deur die aanboord operateur van die vaartuig tensy die doeanegesag anders goedkeur. 35
- (2) 'n Vaartuigaankomsverslag bedoel in subartikel (1) moet verstrek word binne 'n tydsraam na die aankoms van die vaartuig by die doeaneseehawe soos by reël voorgeskryf mag word. 40

Vooruit-vertrekskennisgewings

51. (1) (a) Die vervoerder in operasionele beheer van 'n land-uitgaande vaartuig moet vooruit kennis aan die doeanegesag gee—
- (i) van die geskeduleerde vertrek van die vaartuig en bemanning vanaf 'n doeaneseehawe; en 45
- (ii) indien die vaartuig reisigers uit die Republiek gaan vervoer, van al daardie uitgaande reisigers wat by daardie seehawe aan boord van die vaartuig gegaan het of geskeduleer is om aan boord te gaan.
- (b) Vooruit-vertrekskennisgewings bedoel in paragraaf (a)(i) en (ii) moet verstrek word— 50
- (i) binne 'n tydsraam, soos by reël voorgeskryf mag word, voor die geskeduleerde vertrek van die vaartuig vanaf daardie doeaneseehawe, hetsy na 'n ander doeaneseehawe of na 'n bestemming buite die Republiek; en
- (ii) òf afsonderlik, òf gesamentlik, òf as 'n gekombineerde kennisgewing, soos by reël voorgeskryf mag word. 55
- (2) (a) Elke vragverslagdoener verantwoordelik vir vrag wat aan boord van 'n land-uitgaande vaartuig by 'n doeaneseehawe vir uitvoer uit die Republiek gelaai is of gaan word, moet vooruit kennis van daardie uitgaande vrag aan die doeanegesag gee.

(b) An advance cargo departure notice referred to in paragraph (a) must be submitted within a timeframe as may be prescribed by rule before the scheduled departure of that vessel from that customs seaport, whether to another customs seaport or to a destination outside the Republic.

(c) Paragraphs (a) and (b) do not apply in respect of goods to be transhipped in accordance with Chapter 11 onto the vessel at that seaport. In such a case the transshipment clearance declaration or document regarded to be a transshipment clearance declaration in terms of section 251 must for purposes of paragraphs (a) and (b) be regarded to be the advance cargo departure notice for those goods. 5

(3) This section applies only to foreign-going vessels operated by carriers. 10

Permission to depart

52. (1) No foreign-going vessel may depart from a customs seaport without a permission to depart issued by the customs authority.

(2) An application for a permission to depart must be—

(a) submitted to the customs authority in the manner as may be prescribed by rule; 15
and

(b) accompanied or supported by such documents as may be required by rule or in terms of a tax levying Act or other legislation applicable to the departure of vessels from a customs seaport.⁵¹

(3) No permission to depart may be issued— 20

(a) unless section 51 has been complied with, in the case of a vessel operated by a carrier; or

(b) if the vessel has been detained, seized or confiscated, or if the vessel has on board goods that have been detained, seized or confiscated, in terms of—

(i) this Act or a tax levying Act; or 25

(ii) other legislation or a court order and the customs authority has been informed of the detention, seizure or confiscation.

(4) If a vessel in respect of which a permission to depart has been issued in terms of subsection (1) does not depart within a timeframe as may be prescribed by rule after the permission was issued, the permission lapses and a new permission to depart must be obtained before the vessel may depart. 30

(5) This section applies to all foreign-going vessels.

Departure reports

53. (1) The departure of a foreign-going vessel from a customs seaport to another customs seaport or to a destination outside the Republic must be reported to the customs authority— 35

(a) by the port authority managing that seaport; and

(b) if the vessel—

(i) is operated by a carrier, by the carrier unless the customs authority permits otherwise; or 40

(ii) is not operated by a carrier, by the on-board operator of the vessel unless the customs authority permits otherwise.

(2) A vessel departure report referred to in subsection (1) must be submitted within a timeframe as may be prescribed by rule after the departure of the vessel from that seaport. 45

(3) This section applies to all foreign-going vessels.

51. These documents include safety certificates, departure clearances by the port authority, Home Affairs certificates, Post Office certificates, income tax forms, etc.

(b) 'n Vooruit-vragvertrekskennisgewing bedoel in paragraaf (a) moet verstrek word binne 'n tydperk, soos by reël voorgeskryf mag word, voor die geskeduleerde vertrek van daardie vaartuig vanaf daardie doeaneseehawe, hetsy na 'n ander doeaneseehawe of na 'n bestemming buite die Republiek.

(c) Paragrafe (a) en (b) is nie van toepassing ten opsigte van goedere wat ooreenkomstig Hoofstuk 11 by daardie seehawe na die vaartuig transverskeer gaan word nie. In so 'n geval moet die transverskepingklaringsbrief of dokument wat ingevolge artikel 251 geag word 'n transverskepingklaringsbrief te wees, vir doeleindes van paragrafe (a) en (b) geag word die vooruit-vragvertrekskennisgewing vir daardie goedere te wees. 5
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(3) Hierdie artikel is van toepassing slegs op land-uitgaande vaartuie wat onder die operasionele beheer van vervoerders is.

Toestemming om te vertrek

52. (1) Geen land-uitgaande vaartuig mag vanaf 'n doeaneseehawe vertrek sonder 'n toestemming om te vertrek wat deur die doeanegesag uitgereik is nie. 15

(2) 'n Aansoek om toestemming om te vertrek, moet—

(a) aan die doeanegesag voorgelê word op die wyse soos by reël voorgeskryf mag word; en

(b) vergesel wees of ondersteun word deur dié dokumente soos by reël of ingevolge 'n belastingheffings-Wet of enige ander wetgewing wat op die vertrek van vaartuie vanaf 'n doeaneseehawe van toepassing is, vereis mag word.⁵¹ 20

(3) Geen toestemming om te vertrek mag uitgereik word nie—

(a) tensy daar aan artikel 51 voldoen is, in die geval van 'n vaartuig wat onder die operasionele beheer van 'n vervoerder is; of 25

(b) indien die vaartuig onder detensie geplaas, op beslag gelê of gekonfiskeer is, of indien die vaartuig enige goedere aan boord het wat onder detensie geplaas, op beslag gelê of gekonfiskeer is, ingevolge—

(i) hierdie Wet of 'n belastingheffings-Wet; of

(ii) ander wetgewing of 'n hofbevel en die doeanegesag van die detensie, beslaglegging of konfiskering in kennis gestel is. 30

(4) Indien 'n vaartuig ten opsigte waarvan 'n toestemming om te vertrek ingevolge subartikel (1) uitgereik is, nie vertrek binne 'n tydsraam, soos by reël voorgeskryf mag word, nadat die toestemming uitgereik is nie, verval die toestemming en 'n nuwe toestemming om te vertrek moet bekom word alvorens die vaartuig mag vertrek. 35

(5) Hierdie artikel is van toepassing op alle land-uitgaande vaartuie.

Vertreksverslae

53. (1) Die vertrek van 'n land-uitgaande vaartuig vanaf 'n doeaneseehawe na 'n ander doeaneseehawe of na 'n bestemming buite die Republiek moet aan die doeanegesag gerapporteer word— 40

(a) deur die hawegesag wat daardie seehawe bestuur; en

(b) indien die vaartuig—

(i) onder die operasionele beheer van 'n vervoerder is, deur die vervoerder tensy die doeanegesag anders goedkeur; of

(ii) nie onder die operasionele beheer van 'n vervoerder is nie, deur die aanboord operateur van die vaartuig, tensy die doeanegesag anders goedkeur. 45

(2) 'n Vaartuigvertreksverslag bedoel in subartikel (1) moet verstrek word binne 'n tydsraam nadat die vaartuig vanaf daardie seehawe vertrek het, soos by reël voorgeskryf mag word. 50

(3) Hierdie artikel is van toepassing op alle land-uitgaande vaartuie.

51. Hierdie dokumente sluit in veiligheidssertifikate, vertrekkklarings deur die hawegesag, Binnelandse Sake sertifikate, Poskantoor sertifikate, inkomstebelastingvorms, ens.

Part 2

Reporting requirements for arriving and departing foreign-going aircraft

Application of this Part

54. This Part—

- (a) applies, subject to section 86, to all foreign-going aircraft to the extent indicated in the provisions of this Part; and 5
- (b) does not apply to naval or military aircraft to the extent that they fall within the definition of “foreign-going aircraft”. 5

Advance arrival notices

55. (1) (a) The carrier operating a foreign-going aircraft to the Republic must give advance notice to the customs authority— 10

- (i) of the scheduled arrival of the aircraft and crew in the Republic; and
- (ii) if the aircraft is transporting travellers, of the scheduled arrival of those incoming travellers in the Republic.

(b) Advance arrival notices referred to in paragraph (a)(i) and (ii) must be submitted— 15

- (i) within a timeframe as may be prescribed by rule; and
- (ii) either separately, simultaneously or as a combined notice, as may be prescribed by rule.

(2) (a) Each cargo reporter responsible for cargo on board a foreign-going aircraft referred to in subsection (1) must give advance notice to the customs authority of the scheduled arrival of that incoming cargo in the Republic. 20

(b) An advance cargo arrival notice referred to in paragraph (a) must be submitted within a timeframe as may be prescribed by rule.

(3) This section applies only to foreign-going aircraft operated by carriers. 25

Arrival reports

56. (1) The arrival of a foreign-going aircraft at a customs airport must be reported to the customs authority—

- (a) by the port authority managing that airport; and
- (b) if the aircraft— 30
 - (i) is operated by a carrier, by the carrier unless the customs authority permits otherwise; or
 - (ii) is not operated by a carrier, by the on-board operator of the aircraft unless the customs authority permits otherwise.

(2) An aircraft arrival report referred to in subsection (1) must be submitted within a timeframe as may be prescribed by rule after the arrival of the aircraft at a customs airport. 35

Advance departure notices

57. (1) (a) The carrier operating a foreign-going aircraft must give advance notice to the customs authority of— 40

- (i) the scheduled departure of the aircraft and crew from a customs airport; and
- (ii) if the aircraft is to transport travellers out of the Republic, of all those outgoing travellers who boarded or are scheduled to board the aircraft at that airport.

(b) Advance departure notices referred to in paragraph (a)(i) and (ii) must be submitted— 45

- (i) within a timeframe as may be prescribed by rule before the scheduled departure of the aircraft from a customs airport, whether to another customs airport or to a destination outside the Republic; and

Deel 2

Verslagdoeningsvereistes vir land-uitgaande vliegtuie wat aankom of vertrek

Toepassing van hierdie Deel

54. Hierdie Deel—

- (a) is, behoudens artikel 86, van toepassing op alle land-uitgaande vliegtuie in soverre aangedui in die bepalings van hierdie Deel; en 5
- (b) is nie van toepassing op vloot- of militêre vliegtuie nie in soverre hulle binne die omskrywing van “land-uitgaande vliegtuig” val.

Vooruit-aankomskennisgewings

55. (1) (a) Die vervoerder in operasionele beheer van ’n land-uitgaande vliegtuig na die Republiek, moet vooruit kennis aan die doeanegesag gee— 10

(i) van die geskeduleerde aankoms van die vliegtuig en bemanning in die Republiek; en

(ii) indien die vliegtuig reisigers vervoer, van die geskeduleerde aankoms van daardie inkomende reisigers in die Republiek. 15

(b) Vooruit aankomskennisgewings bedoel in paragraaf (a)(i) en (ii) moet verstrek word—

(i) binne ’n tydsraam soos by reël voorgeskryf mag word; en

(ii) of afsonderlik, of gesamentlik, of as ’n gekombineerde kennisgewing, soos by reël voorgeskryf mag word 20

(2) (a) Elke vragverslagdoener verantwoordelik vir vrag aan boord van ’n land-uitgaande vliegtuig bedoel in subartikel (1) moet vooruit kennis aan die doeanegesag gee van die geskeduleerde aankoms van daardie inkomende vrag in die Republiek.

(b) ’n Vooruit-vragaankomskennisgewing bedoel in paragraaf (a) moet verstrek word binne ’n tydsraam soos by reël voorgeskryf mag word. 25

(3) Hierdie artikel is van toepassing slegs op land-uitgaande vliegtuie onder die operasionele beheer van vervoerders.

Aankomsverslae

56.(1) Die aankoms van ’n land-uitgaande vliegtuig by ’n doanelughawe moet aan die doeanegesag gerapporteer word— 30

(a) deur die hawegesag wat daardie lughawe bestuur; en

(b) indien die vliegtuig—

(i) onder die operasionele beheer van ’n vervoerder is, deur die vervoerder, tensy die doeanegesag anders goedkeur; of 35

(ii) nie onder die operasionele beheer van ’n vervoerder is nie, deur die aanboord operateur van die vliegtuig, tensy die doeanegesag anders goedkeur.

(2) ’n Vliegtuigaankomsverslag bedoel in subartikel (1) moet verstrek word binne ’n tydsraam na die aankoms van die vliegtuig by ’n doanelughawe, soos by reël voorgeskryf mag word,. 40

Vooruit-vertrekskennisgewings

57. (1) (a) Die vervoerder in operasionele beheer van ’n land-uitgaande vliegtuig moet vooruit kennis aan die doeanegesag gee van—

(i) die geskeduleerde vertrek van die vliegtuig en die bemanning vanaf ’n doanelughawe; en 45

(ii) indien die vliegtuig reisigers uit die Republiek gaan vervoer, van al daardie uitgaande reisigers wat by daardie lughawe aan boord van die vliegtuig gegaan het of geskeduleer is om aan boord te gaan.

(b) Vooruit-vertrekskennisgewings bedoel in paragraaf (a)(i) en (ii) moet verstrek word— 50

(i) binne ’n tydsraam, soos by reël voorgeskryf mag word, voor die geskeduleerde vertrek van die vliegtuig vanaf ’n doanelughawe, hetsy na ’n ander doanelughawe of na ’n bestemming buite die Republiek; en

- (ii) either separately, simultaneously or as a combined notice, as may be prescribed by rule.
- (2) (a) Each cargo reporter responsible for cargo loaded or to be loaded on board a foreign-going aircraft at a customs airport for export from the Republic must give advance notice to the customs authority of that outgoing cargo. 5
- (b) An advance cargo departure notice referred to in paragraph (a) must be submitted within a timeframe as may be prescribed by rule before the scheduled departure of that aircraft from that customs airport, whether to another customs airport or to a destination outside the Republic.
- (c) Paragraphs (a) and (b) do not apply in respect of goods transhipped in accordance with Chapter 11 onto the aircraft at that airport. 10
- (d) In the case of goods referred to in paragraph (c) the transhipment clearance declaration or document regarded to be a transhipment clearance declaration in terms of section 251 must for purposes of paragraphs (a) and (b) be regarded to be the advance cargo departure notice for those goods. 15
- (3) This section applies only to foreign-going aircraft operated by carriers.

Permission to depart

- 58.** (1) No foreign-going aircraft may depart from a customs airport without a permission to depart issued by the customs authority.
- (2) An application for a permission to depart must be— 20
- (a) submitted to the customs authority in the manner as may be prescribed by rule; and
- (b) accompanied or supported by such documents as may be required by rule or in terms of a tax levying Act or other legislation applicable to the departure of aircraft from a customs airport.⁵² 25
- (3) No permission to depart may be issued—
- (a) unless section 57 has been complied with, in the case of an aircraft operated by a carrier; or
- (b) if the aircraft has been detained, seized or confiscated, or if the aircraft has on board goods that have been detained, seized or confiscated, in terms of— 30
- (i) this Act or a tax levying Act; or
- (ii) other legislation or a court order and the customs authority has been informed of the detention, seizure or confiscation.
- (4) If an aircraft in respect of which a permission to depart has been issued in terms of subsection (1) does not depart within a timeframe as may be prescribed by rule after the permission was issued, the permission lapses and a new permission to depart must be obtained before the aircraft may depart. 35
- (5) This section applies to all foreign-going aircraft.

Departure reports

- 59.** (1) The departure of a foreign-going aircraft from a customs airport to another customs airport or a destination outside the Republic must be reported to the customs authority— 40
- (a) by the port authority managing that airport; and
- (b) if the aircraft— 45
- (i) is operated by a carrier, by the carrier unless the customs authority permits otherwise; or
- (ii) is not operated by a carrier, by the on-board operator of the aircraft unless the customs authority permits otherwise.
- (2) An aircraft departure report referred to in subsection (1) must be submitted within a timeframe as may be prescribed by rule after the departure of the aircraft from that airport. 50
- (3) This section applies to all foreign-going aircraft.

⁵² These documents include safety certificates, departure clearances by the airport authority, Home Affairs certificates, Post Office certificates, income tax forms, etc.

- (ii) òf afsonderlik, òf gesamentlik, òf as 'n gekombineerde kennisgewing, soos by reël voorgeskryf mag word.
- (2) (a) Elke vragverslagdoener verantwoordelik vir vrag wat aan boord van 'n land-uitgaande vliegtuig by 'n doanelughawe vir uitvoer uit die Republiek gelaai is of gaan word, moet vooruit kennis aan die doeanegesag van daardie uitgaande vrag gee. 5
- (b) 'n Vooruit-vragvertrekskennisgewing bedoel in paragraaf (a) moet verstrek word binne 'n tydsraam, soos by reël voorgeskryf mag word, voor die geskeduleerde vertrek van daardie vliegtuig vanaf daardie doanelughawe, hetsy na 'n ander doanelughawe of na 'n bestemming buite die Republiek.
- (c) Paragrafe (a) en (b) is nie van toepassing ten opsigte van goedere wat ooreenkomstig Hoofstuk 11 na die vliegtuig by daardie lughawe transverskeer is nie. 10
- (d) In die geval van goedere bedoel in paragraaf (c) moet die transverskeppingsklaringsbrief, of dokument wat ingevolge artikel 251 geag word 'n transverskeppingsklaringsbrief te wees, vir doeleindes van paragrafe (a) en (b) geag die vooruit-vragvertrekskennisgewing vir daardie goedere te wees. 15
- (3) Hierdie artikel is van toepassing slegs op land-uitgaande vliegtuie wat onder die operasionele beheer van vervoerders is.

Toestemming om te vertrek

58. (1) Geen land-uitgaande vliegtuig mag vanaf 'n doanelughawe vertrek sonder 'n toestemming om te vertrek wat deur die doeanegesag uitgereik is nie. 20
- (2) 'n Aansoek om toestemming om te vertrek, moet—
- (a) aan die doeanegesag voorgelê word op die wyse soos by reël voorgeskryf mag word; en
- (b) vergesel wees of ondersteun word deur dié dokumente soos by reël of ingevolge 'n belastingheffings-Wet of ander wetgewing wat op die vertrek van vliegtuie vanaf 'n doanelughawe van toepassing is, vereis mag word.⁵² 25
- (3) Geen toestemming om te vertrek mag uitgereik word nie—
- (a) tensy daar aan artikel 57 voldoen word, in die geval van 'n vliegtuig wat onder die operasionele beheer van 'n vervoerder is; of
- (b) indien die vliegtuig onder detensie geplaas, op beslag gelê of gekonfiskeer is, of indien die vliegtuig goedere aan boord het wat onder detensie geplaas, op beslag gelê of gekonfiskeer is, ingevolge— 30
- (i) hierdie Wet of 'n belastingheffings-Wet; of
- (ii) ander wetgewing of 'n hofbevel en die doeanegesag van die detensie, beslaglegging of konfiskering in kennis gestel is. 35
- (4) Indien 'n vliegtuig ten opsigte waarvan 'n toestemming om te vertrek ingevolge subartikel (1) uitgereik is, nie vertrek binne die tydsraam, soos by reël voorgeskryf mag word, nadat die toestemming uitgereik is nie, verval die toestemming en 'n nuwe toestemming om te vertrek moet bekom word alvorens die vliegtuig mag vertrek.
- (5) Hierdie artikel is van toepassing op alle land-uitgaande vliegtuie. 40

Vertreksverslae

59. (1) Die vertrek van 'n land-uitgaande vliegtuig vanaf 'n doanelughawe na 'n ander doanelughawe of 'n bestemming buite die Republiek moet aan 'n doeanegesag gerapporteer word—
- (a) deur die hawegesag wat daardie lughawe bestuur; en 45
- (b) indien die vliegtuig—
- (i) onder die operasionele beheer van 'n vervoerder is, deur die vervoerder, tensy die doeanegesag anders goedkeur; of
- (ii) nie onder die operasionele beheer van 'n vervoerder is nie, deur die aanboord operateur van die vliegtuig, tensy die doeanegesag anders goedkeur. 50
- (2) 'n Vertreksverslag van 'n vliegtuig bedoel in subartikel (1) moet verstrek word binne 'n tydsraam, soos by reël voorgeskryf mag word, nadat die vliegtuig vanaf daardie lughawe vertrek het.
- (3) Hierdie artikel is van toepassing op alle land-uitgaande vliegtuie. 55

52. Hierdie dokumente sluit in veiligheidsertifikaat, vertrekkklarings deur die lughawe gesag, Buitelandse Sake sertifikaat, Poskantoor sertifikaat, inkomstebelastingvorms, ens.

Part 3

Reporting requirements for arriving and departing cross-border trains

Advance arrival notices

60. (1) The carrier of a cross-border train scheduled for the Republic who will be operating the train on the Republic's side of the border, must give advance notice to the customs authority— 5

- (a) of the scheduled arrival of the train and crew in the Republic;
- (b) if the train is transporting travellers, of the scheduled arrival of those incoming travellers in the Republic; and
- (c) if the train is transporting cargo, of the scheduled arrival of that incoming cargo in the Republic. 10

(2) Advance arrival notices referred to in subsection (1)(a), (b) and (c) must be submitted—

- (a) within a timeframe as may be prescribed by rule; and
- (b) either separately, simultaneously or as a combined notice, as may be prescribed by rule. 15

Arrival reports

61. (1) The carrier operating a cross-border train that has entered the Republic must report to the customs authority the arrival of the train at each railway station after it entered the Republic where— 20

- (a) travellers or crew will disembark;
- (b) cargo will be off-loaded; or
- (c) a railway carriage will be detached.

(2) A train arrival report referred to in subsection (1) must be submitted within a timeframe as may be prescribed by rule after the arrival of the train at a railway station referred to in that subsection. 25

Advance departure notices

62. (1) The carrier of a cross-border train scheduled for a destination outside the Republic who will be operating the train on the Republic's side of the border, must give— 30

- (a) advance notice to the customs authority—
 - (i) of the scheduled departure of the train and crew to a destination outside the Republic;
 - (ii) if the train is to transport travellers to a destination outside the Republic, of all travellers scheduled to be on board the train when the train crosses the border out of the Republic; and 35
 - (iii) if the train is to transport cargo to a destination outside the Republic, of all cargo scheduled to be on board the train when the train crosses the border out of the Republic; and
- (b) such updates as may be prescribed by rule of its advance traveller departure notice referred to in paragraph (a)(ii) and of its advance cargo departure notice referred to in paragraph (a)(iii) as the train progresses on its voyage to the border. 40

(2) Advance departure notices referred to in subsection (1)(a)(i), (ii) and (iii), and any updates of such notices referred to in subsection (1)(b), must be submitted— 45

- (a) at such times as may be prescribed by rule for such notices and updates; and
- (b) either separately, simultaneously or as a combined notice or update, as may be prescribed by rule.

Departure reports

63. (1) The carrier operating a cross-border train in the Republic to a destination outside the Republic must report to the customs authority the departure of the train from each railway station where— 50

Deel 3

Verslagdoeningsvereistes vir oor-grens treine wat aankom en vertrek

Vooruit-aankomskennisgewings

60. (1) Die vervoerder wat in operasionele beheer van 'n oor-grens trein geskeduleer vir die Republiek aan die Republiek se kant van die grens sal wees, moet vooruit kennis aan die doeane gesag gee— 5

- (a) van die geskeduleerde aankoms van die trein en bemanning in die Republiek;
- (b) indien die trein reisigers vervoer, van die geskeduleerde aankoms van daardie inkomende reisigers in die Republiek; en
- (c) indien die trein vrag vervoer, van die geskeduleerde aankoms van daardie inkomende vrag in die Republiek. 10

(2) Vooruit-aankomskennisgewings bedoel in subartikel (1)(a), (b) en (c) moet verstrek word—

- (a) binne 'n tydsraam soos by reël voorgeskryf mag word; en
- (b) òf afsonderlik, òf gesamentlik, òf as 'n gekombineerde kennisgewing, soos by reël voorgeskryf mag word. 15

Aankomsverslae

61. (1) Die vervoerder in operasionele beheer van 'n oor-grens trein wat die Republiek binnegekom het, moet aan die doeane gesag kennis gee van die aankoms van die trein by elke spoorwegstasie nadat dit die Republiek binnegekom het waar— 20

- (a) reisigers of bemanning afklim;
- (b) vrag afgelaai word; of
- (c) 'n spoorwegwa ontkoppel word.

(2) 'n Treinaankomsverslag bedoel in subartikel (1) moet verstrek word binne 'n tydsraam, soos by reël voorgeskryf mag word, nadat die trein by 'n spoorwegstasie bedoel in daardie subartikel aangekom het. 25

Vooruit-vertrekskennisgewings

62. (1) Die vervoerder wat in operasionele beheer van 'n oor-grens trein geskeduleer vir 'n bestemming buite die Republiek aan die Republiek se kant van die grens sal wees, moet— 30

- (a) vooruit kennis aan die doeane gesag gee—
 - (i) van die geskeduleerde vertrek van die trein en bemanning na 'n bestemming buite die Republiek;
 - (ii) indien die trein reisigers gaan vervoer na 'n bestemming buite die Republiek, van alle reisigers wat geskeduleer is om op die trein te wees wanneer die trein die Republiek by die grens verlaat; en 35
 - (iii) indien die trein vrag vervoer na 'n bestemming buite die Republiek, van alle vrag wat geskeduleer is om op die trein te wees wanneer die trein die Republiek by die grens verlaat; en
- (b) sodanige opdaterings verstrek, soos by reël voorgeskryf mag word, van die vooruit-reisigersvertrekskennisgewing in paragraaf (a)(ii) bedoel en van die vooruit-vragvertrekskennisgewing in paragraaf (a)(iii) bedoel, soos die trein op sy reis na die grens beweeg. 40

(2) Vooruit-vertrekskennisgewings bedoel in subartikel (1)(a)(i), (ii) en (iii), en enige opdaterings van daardie kennisgewings bedoel in subartikel (1)(b), moet verstrek word— 45

- (a) op die tye soos by reël vir daardie kennisgewings en opdaterings voorgeskryf mag word; en
- (b) òf afsonderlik, òf gesamentlik, òf as 'n gekombineerde kennisgewing of opdatering, soos wat by reël voorgeskryf mag word. 50

Vertreksverslae

63. (1) Die vervoerder in operasionele beheer van 'n oor-grens trein in die Republiek op pad na 'n bestemming buite die Republiek, moet aan die doeane gesag die vertrek van die trein vanaf elke spoorwegstasie rapporteer waar—

- (a) travellers or crew or cargo bound for a destination outside the Republic are taken on board that train; or
 - (b) a cross-border railway carriage transporting such travellers or crew or cargo is attached to that train.
- (2) A train departure report must be submitted within a timeframe as may be prescribed by rule after the departure of the train from a railway station referred to in subsection (1). 5

Part 4

Reporting requirements for arriving and departing buses⁵³

Advance arrival notices 10

- 64.** (1) The carrier operating a bus to the Republic must give advance notice to the customs authority of the scheduled arrival in the Republic of the bus and of all travellers and crew on board the bus.
- (2) An advance arrival notice referred to in subsection (1) must be submitted within a timeframe as may be prescribed by rule. 15
- (3) This section applies only to buses operated by carriers.

Arrival reports

- 65.** (1) The on-board operator of a bus entering the Republic must, upon arrival at the land border-post where the bus enters the Republic, submit to the customs authority at that border-post an arrival report in respect of the bus and of all travellers and crew on board the bus. 20
- (2) This section applies to all buses whether or not operated by carriers.

Advance departure notices

- 66.** (1) The carrier operating a bus to a destination outside the Republic, must give advance notice to the customs authority of the scheduled departure from the Republic of the bus and of all travellers and crew on board the bus. 25
- (2) An advance departure notice referred to in subsection (1) must be submitted within a timeframe as may be prescribed by rule before the bus reaches the land border-post where it will leave the Republic.
- (3) This section applies only to buses operated by carriers. 30

Departure reports

- 67.** (1) The on-board operator of a bus leaving the Republic must upon arrival at the land border-post where the bus will leave the Republic submit to the customs authority at that land border-post a departure report in respect of the bus and of all travellers and crew on board the bus. 35
- (2) This section applies to all buses whether or not operated by carriers.

Part 5

Reporting requirements for trucks entering or leaving Republic⁵⁴

Advance arrival notices

- 68.** (1) The carrier operating a truck to the Republic must give advance notice to the customs authority of the scheduled arrival in the Republic of the truck and of all cargo and crew on board the truck. 40

53. See section 86 for exclusions and exemptions from this Part.

54. See section 86 for exclusions and exemptions from this Part.

- (a) reisigers of bemanning of vrag bestem vir 'n bestemming buite die Republiek aan boord van daardie trein geneem is; of
- (b) 'n oor-grens spoorwegwa wat sodanige reisigers of bemanning of vrag vervoer aan daardie trein gekoppel is.
- (2) 'n Treinvertekingsverslag moet binne 'n tydsraam, soos by reël voorgeskryf mag word, nadat die trein vanaf 'n spoorwegstasie bedoel in subartikel (1) vertrek het, verstrek word. 5

Deel 4

*Verslagdoeningsvereistes vir busse wat aankom en vertrek*⁵³

Vooruit-aankomskennisgewings 10

64. (1) Die vervoerder wat in operasionele beheer van 'n bus na die Republiek is, moet vooruit kennis aan die doeanegeesag gee van die geskeduleerde aankoms in die Republiek van die bus en van alle reisigers en bemanning op die bus.
- (2) 'n Vooruit-aankomskennisgewing bedoel in subartikel (1) moet binne 'n tydperk by reël voorgeskryf, verstrek word. 15
- (3) Hierdie artikel is van toepassing slegs op busse wat onder die operasionele beheer van vervoerders is.

Aankomsverslae

65. (1) Die aanboord operateur van 'n bus wat die Republiek binnekom, moet by aankoms by die land-grenspos waar die bus die Republiek binnekom, 'n aankomsverslag aan die doeanegeesag by daardie land-grenspos verstrek ten opsigte van die bus en van alle reisigers en bemanning op die bus. 20
- (2) Hierdie artikel is van toepassing op alle busse ongeag of hulle onder die operasionele beheer van vervoerders is of nie.

Vooruit-vertrekskennisgewings 25

66. (1) Die vervoerder wat in operasionele beheer van 'n bus na 'n bestemming buite die Republiek is, moet vooruit kennis aan die doeanegeesag gee van die geskeduleerde vertrek uit die Republiek van die bus en van alle reisigers en bemanning op die bus.
- (2) 'n Vooruit-vertrekskennisgewing bedoel in subartikel (1) moet binne 'n tydsraam, soos by reël voorgeskryf mag word, verstrek word voordat die bus die land-grenspos bereik waar dit die Republiek gaan verlaat. 30
- (3) Hierdie artikel is van toepassing slegs op busse wat onder die operasionele beheer van vervoerders is.

Vertreksverslae

67. (1) Die aanboord operateur van 'n bus wat die Republiek verlaat, moet by aankoms by die land-grenspos waar die bus die Republiek gaan verlaat 'n vertreksverslag aan die doeanegeesag by daardie land-grenspos verstrek ten opsigte van die bus en van alle reisigers en bemanning op die bus. 35
- (2) Hierdie artikel is van toepassing op alle busse, ongeag of hulle onder die operasionele beheer van vervoerders is of nie. 40

Deel 5

*Verslagdoeningsvereistes vir trokke wat die Republiek binnekom of verlaat*⁵⁴

Vooruit-aankomskennisgewings

68. (1) Die vervoerder in operasionele beheer van 'n trok na die Republiek, moet vooruit kennis aan die doeanegeesag gee van die geskeduleerde aankoms in die Republiek van die trok en van alle vrag en bemanning op die trok. 45

53. Kyk artikel 86 vir uitsluitings en ontheffings van hierdie Deel.

54. Kyk artikel 86 vir uitsluitings en ontheffings van hierdie Deel.

(2) An advance arrival notice referred to in subsection (1) must be submitted within a timeframe as may be prescribed by rule.

(3) This section applies only to trucks operated by carriers.

Arrival reports and manifests of incoming cargo

69. (1) The on-board operator of a truck entering the Republic must upon arrival at the land border-post where the truck enters the Republic submit to the customs authority at that land border-post— 5

- (a) an arrival report in respect of the truck and crew; and
- (b) a manifest of all cargo on board the truck.

(2) This section applies to all trucks whether or not operated by carriers. 10

Advance departure notices

70. (1) The carrier operating a truck to a destination outside the Republic must give advance notice to the customs authority of the scheduled departure from the Republic of the truck and of all cargo and crew on board the truck within a timeframe as may be prescribed by rule before that truck reaches the land border-post where it will leave the Republic. 15

(2) This section applies only to trucks operated by carriers.

Departure reports and manifests of outgoing cargo

71. (1) The on-board operator of a truck due to leave the Republic with cargo on board must upon arrival at the land border-post where the truck will leave the Republic submit to the customs authority at that land border-post— 20

- (a) a departure report in respect of the truck and crew; and
- (b) a manifest of all cargo on board the truck.

(2) This section applies to all trucks whether or not operated by carriers.

Part 6 25

Cargo outturn reports by licensees

Definition

72. In this Part “vessel” means—

- (a) a foreign-going vessel; or
- (b) a coasting vessel transporting goods under a customs procedure. 30

Outturn reports of containers off-loaded from or loaded on board vessels at sea cargo terminals

73. (1) The licensee of a sea cargo terminal must submit to the customs authority outturn reports in respect of all containers, including empty containers, off-loaded from each vessel at that terminal. 35

(2) The licensee of a sea cargo terminal must submit to the customs authority outturn reports in respect of all containers, including empty containers, loaded on board each vessel at that terminal.

Outturn reports of break bulk cargo and bulk cargo off-loaded from or loaded on board vessels at sea cargo terminals 40

74. (1) The licensee of a sea cargo terminal must submit to the customs authority outturn reports in respect of all break bulk cargo and all bulk cargo off-loaded from each vessel at that terminal.

(2) 'n Vooruit-aankomskennisgewing bedoel in subartikel (1) moet verstrek word binne 'n tydsraam soos by reël voorgeskryf mag word.

(3) Hierdie artikel is van toepassing slegs op trokke wat onder die operasionele beheer van vervoerders is.

Aankomsverslae en manifeste van inkomende vrag 5

69. (1) Die aanboord operateur van 'n trok wat die Republiek binnekom, moet by aankoms by die land-grenspos waar die trok die Republiek binnekom aan die doeanegesag by daardie land-grenspos—

(a) 'n aankomsverslag verstrek ten opsigte van die trok en bemanning; en

(b) 'n manifeste verstrek van alle vrag op daardie trok. 10

(2) Hierdie artikel is van toepassing op alle trokke, ongeag of hulle onder die operasionele beheer van vervoerders is of nie.

Vooruit-vertrekskennisgewings

70. (1) Die vervoerder wat in operasionele beheer van 'n trok na 'n bestemming buite die Republiek is, moet vooruit kennis aan die doeanegesag gee van die geskeduleerde vertrek van die trok uit die Republiek en van alle vrag en bemanning op die trok binne 'n tydsraam, soos by reël voorgeskryf mag word, voordat daardie trok die land-grenspos bereik waar dit die Republiek gaan verlaat. 15

(2) Hierdie artikel is van toepassing slegs op trokke wat onder die operasionele beheer van vervoerders is. 20

Vertreksverslae en manifeste van uitgaande vrag

71. (1) Die aanboord operateur van 'n trok wat die Republiek met vrag aan boord verlaat, moet by aankoms by die land-grenspos waar die bus die Republiek gaan verlaat aan die doeanegesag by daardie land-grenspos—

(a) 'n vertreksverslag verstrek ten opsigte van die trok en bemanning; en 25

(b) 'n manifeste verstrek van alle vrag op die trok.

(2) Hierdie artikel is van toepassing op alle trokke ongeag of hulle onder die operasionele beheer van vervoerders is of nie.

Deel 6

Oplewingsverslae van vrag deur lisensiehouers 30

Woordoms krywing

72. In hierdie Deel beteken “vaartuig”—

(a) 'n land-uitgaande vaartuig; of

(b) 'n kusvaartuig wat goedere onder 'n doeaneprosedure vervoer.

Oplewingsverslae van houers afgelaai van, of opgelaai op, vaartuie by seevragterminale 35

73. (1) Die lisensiehouer van 'n seevragterminaal moet aan die doeanegesag oplewingsverslae verstrek ten opsigte van alle houers, met inbegrip van leë houers, afgelaai van elke vaartuig by daardie terminaal.

(2) Die lisensiehouer van 'n seevragterminaal moet aan die doeanegesag oplewingsverslae verstrek ten opsigte van alle houers, met inbegrip van leë houers, op elke vaartuig by daardie terminaal gelaai. 40

Oplewingsverslae van losmaatvrag en massavrag afgelaai van, of opgelaai op, vaartuie by seevragterminale

74. (1) Die lisensiehouer van 'n seevragterminaal moet aan die doeanegesag oplewingsverslae verstrek ten opsigte van alle losmaatvrag en alle massavrag afgelaai van elke vaartuig by daardie terminaal. 45

(2) The licensee of a sea cargo terminal must submit to the customs authority outturn reports in respect of all break bulk cargo and all bulk cargo loaded on board each vessel at that terminal.

Outturn reports of containers removed from or received at sea cargo terminals and container depots 5

75. (1) The licensee of a sea cargo terminal must submit to the customs authority outturn reports in respect of—

- (a) all containers containing imported goods removed from that terminal; and
- (b) all containers containing goods destined for export received at that terminal.

(2) The licensee of a container depot must submit to the customs authority outturn reports in respect of—

- (a) all containers containing imported goods received at that depot; and
- (b) all containers containing goods destined for export removed from that depot.

Outturn reports of cargo unpacked from or packed into containers at container depots 15

76. (1) The licensee of a container depot must submit to the customs authority outturn reports in respect of—

- (a) all imported cargo unpacked from a container at that depot; and
- (b) all cargo destined for export packed into a container at that depot.

(2) An outturn report referred to in subsection (1)(a) or (b) must include details of any discrepant packages found—

- (a) when unpacking the container; or
- (b) when packing the container.

(3) The licensee of a container depot must notify the customs authority of any cargo remaining at the depot for more than a prescribed period after its delivery to the depot for export. 25

Outturn reports of cargo unloaded from or loaded on board aircraft at air cargo terminals

77. The licensee of an air cargo terminal must submit to the customs authority outturn reports in respect of— 30

- (a) all cargo unloaded from each aircraft at that terminal; and
- (b) all cargo loaded on board each aircraft at that terminal.

Outturn reports of cargo unpacked or packed at air cargo depots

78. (1) The licensee of an air cargo depot must submit to the customs authority outturn reports in respect of— 35

- (a) all imported cargo received and deconsolidated or unpacked at that depot; and
- (b) all cargo destined for export packed or consolidated at that depot.

(2) An outturn report referred to in subsection (1)(a) or (b) must include details of any discrepant packages found.

(3) The licensee of an air cargo depot must notify the customs authority of any cargo remaining at the depot for more than a prescribed period after their delivery to the depot for export. 40

Outturn reports of cargo with no transport documents

79. The licensee of a sea cargo terminal, air cargo terminal, container depot or air cargo depot must submit to the customs authority separate outturn reports in respect of any cargo referred to in sections 74, 76, 77 or 78 for which that licensee has not received a transport document. 45

(2) Die lisensiehouer van 'n seevragterminaal moet aan die doeane gesag opleweringsverslae verstrek ten opsigte van alle losmaatvrag en alle massavrag op elke vaartuig by daardie terminaal gelaai.

Opleweringsverslae van houers verwyder van, of ontvang by, seevragterminale en houerdepots 5

75. (1) Die lisensiehouer van 'n seevragterminaal moet aan die doeane gesag opleweringsverslae verstrek ten opsigte van—

- (a) alle houers wat ingevoerde goedere bevat wat van daardie terminaal verwyder word; en
- (b) alle houers wat goedere bestem vir uitvoer bevat wat by daardie terminaal ontvang word. 10

(2) Die lisensiehouer van 'n houerdepot moet aan die doeane gesag opleweringsverslae verstrek ten opsigte van—

- (a) alle houers wat ingevoerde goedere bevat wat by daardie depot ontvang word; en 15
- (b) alle houers wat goedere bestem vir uitvoer bevat wat van daardie depot verwyder word.

Opleweringsverslae van vrag uitgepak uit, of verpak in, houers by houerdepots

76. (1) Die lisensiehouer van 'n houerdepot moet aan die doeane gesag opleweringsverslae verstrek ten opsigte van— 20

- (a) alle ingevoerde vrag wat by daardie depot uit 'n houer uitgepak word; en
- (b) alle vrag bestem vir uitvoer wat by daardie depot in 'n houer verpak word.

(2) 'n Opleweringsverslag bedoel in subartikel (1)(a) of (b) moet besonderhede insluit van enige teenstrydige verpakkings wat gevind is tydens—

- (a) die uitpak van die houer; of 25
- (b) die verpakking van die houer.

(3) Die lisensiehouer van 'n houerdepot moet die doeane gesag in kennis stel van enige vrag wat by die depot bly vir langer as 'n voorgeskrewe tydperk na die aflewering daarvan by die depot vir uitvoer.

Opleweringsverslae van vrag afgelaai van, of opgelaai op, vliegtuie by lugvragterminale 30

77. Die lisensiehouer van 'n lugvragterminaal moet aan die doeane gesag opleweringsverslae verstrek ten opsigte van—

- (a) alle vrag van elke vliegtuig by daardie terminaal afgelaai; en
- (b) alle vrag op elke vliegtuig by daardie terminaal gelaai. 35

Opleweringsverslae van vrag uitgepak of verpak by lugvragdepots

78. (1) Die lisensiehouer van 'n lugvragdepot moet aan die doeane gesag opleweringsverslae verstrek ten opsigte van—

- (a) alle ingevoerde vrag by daardie depot ontvang en gedekonsolideer of uitgepak; en 40
- (b) alle vrag bestem vir uitvoer by daardie depot verpak of gekonsolideer.

(2) 'n Opleweringsverslag bedoel in subartikel (1)(a) of (b) moet besonderhede insluit van enige teenstrydige verpakkings gevind.

(3) Die lisensiehouer van 'n lugvragdepot moet die doeane gesag in kennis stel van enige vrag wat by die depot bly vir langer as 'n voorgeskrewe tydperk na aflewering daarvan by die depot vir uitvoer. 45

Opleweringsverslae van vrag met geen vervoerdokumente

79. Die lisensiehouer van 'n seevragterminaal, lugvragterminaal, houerdepot of lugvragdepot moet afsonderlike opleweringsverslae aan die doeane gesag verstrek ten opsigte van enige vrag bedoel in artikels 74, 76, 77 of 78 waarvoor daardie lisensiehouer nie 'n vervoerdokument ontvang het nie. 50

Reporting of short or excess cargo

80. The licensee of a sea cargo terminal, container depot, air cargo terminal or air cargo depot that off-loads, unpacks or deconsolidates any imported goods as contemplated in sections 74, 75, 77 and 78 must submit to the customs authority outturn reports in respect of any goods found to be short or in excess of the quantities specified in the relevant transport document against which the goods were examined, unpacked or deconsolidated. 5

Reporting of cargo in other circumstances

81. The Commissioner may by rule prescribe any additional outturn reports as may be necessary for the effective customs control of cargo imported into or destined for export from the Republic, including outturn reports in respect of— 10

- (a) cargo imported or destined for export—
 - (i) on board cross-border railway carriages;
 - (ii) on board trucks; or
 - (iii) by means of cross-border pipelines, cable cars or conveyor belts; 15
- (b) electricity imported or exported through cross-border transmission lines; and
- (c) the packing, unpacking, consolidation or deconsolidation of goods in customs controlled areas as may be specified in the rules.

Disclosure of advance cargo arrival notice information to licensees of cargo terminals and depots 20

82. The customs authority may disclose to the licensee of a sea or air cargo terminal, container depot or air cargo depot the following information in an advance cargo arrival notice submitted to it in relation to any cargo, to enable that licensee to submit outturn reports contemplated in this Part in relation to that cargo:

- (a) The transport document number issued by the cargo reporter; 25
- (b) the transport document number issued by the cargo reporter with whom the cargo has been co-loaded;
- (c) a description of the cargo;
- (d) the marks and numbers of the cargo;
- (e) the total number of containers or packages; 30
- (f) the gross weight of the cargo; and
- (g) other information, including any manifest information, as may be prescribed by rule.

Unpacking of cargo

83. The licensee of an air cargo terminal, container depot or air cargo depot where cargo is deconsolidated and unpacked, must for purposes of effectively complying with this Part ensure that— 35

- (a) cargo is unpacked against—
 - (i) a transport document issued in respect of that cargo and provided to the licensee by the cargo reporter; or 40
 - (ii) the information in the advance cargo arrival notice relating to that cargo and provided to the licensee in terms of section 82;
- (b) consolidated cargo is unpacked to the lowest consignee level;
- (c) any outturn report submitted in respect of that cargo reflects all the cargo with reference to the transport document issued in respect of that cargo; and 45
- (d) the transport document number on the release notification received by the licensee in respect of that cargo—
 - (i) correlates with the number of the transport document against which the cargo was unpacked; and
 - (ii) is the same as the transport document number reflected on any outturn report submitted in respect of that cargo. 50

Rapportering van vragtekorte of -surpluse

80. Die lisensiehouer van 'n seevragterminaal, houerdepot, lugvragterminaal of lugvragdepot wat enige ingevoerde goedere aflaai, uitpak of dekonsolideer soos in artikels 74, 75, 77 en 78 beoog, moet oplewingsverslae aan die doeanebesag verstrek ten opsigte van enige tekorte of surpluse wat op goedere gevind word volgens die hoeveelheid gespesifiseer in die betrokke vervoerdokument waarteen die goedere gekontroleer, uitgepak of gedekonsolideer is. 5

Rapportering van vrag in ander omstandighede

81. Die Kommissaris kan enige bykomende oplewingsverslae by reël voorskryf soos wat nodig mag wees vir doeltreffende doeanebeheer oor vrag wat ingevoer word in, of bestem is vir uitvoer uit, die Republiek, met inbegrip van oplewingsverslae ten opsigte van—

- (a) vrag ingevoer of bestem vir uitvoer—
 - (i) aan boord van oor-grens spoorwegwaens;
 - (ii) aan boord van trokke; of 15
 - (iii) by wyse van oor-grens pyplyne, kabelkarre of vervoerbande;
- (b) elektrisiteit ingevoer of uitgevoer deur oor-grens transmissielyn; en
- (c) die verpakking, uitpakking, konsolidering of dekonsolidering van goedere in doeanebeheergebiede soos in die reëls voorgeskryf mag word.

Bekendmaking van inligting in vooruit-vragaankomskennisgewings aan lisensiehouers van vragterminale en -depots 20

82. Die doeanebesag kan aan die lisensiehouer van 'n see- of lugvragterminaal, houerdepot of lugvragdepot die volgende inligting vervat in 'n vooruit-vragaankomskennisgewing met betrekking tot enige vrag aan die doeanebesag verstrek, bekend maak ten einde daardie lisensiehouer in staat te stel om oplewingsverslae in hierdie Deel beoog met betrekking tot daardie vrag te verstrek: 25

- (a) Die vervoerdokumentnommer deur die vragverslagdoener uitgereik;
- (b) die nommer van die vervoerdokument uitgereik deur die vragverslagdoener met wie die vrag mede-gelaai is;
- (c) 'n beskrywing van die vrag; 30
- (d) die merke en nommers van die vrag;
- (e) die totale aantal houers of pakke;
- (f) die bruto gewig van die vrag; en
- (g) ander inligting, met inbegrip van enige manifestinligting, soos by reël voorgeskryf mag word. 35

Uitpak van vrag

83. Die lisensiehouer van 'n lugvragterminaal, houerdepot of lugvragdepot waar vrag gedekonsolideer en uitgepak word, moet ten einde effektiewelik aan hierdie Deel te voldoen, toesien dat—

- (a) vrag uitgepak word teen— 40
 - (i) 'n vervoerdokument uitgereik ten opsigte van daardie vrag en deur die vragverslagdoener aan die lisensiehouer verskaf; of
 - (ii) die inligting in die vooruit-vragaankomskennisgewing betreffende daardie vrag en wat ingevolge artikel 82 aan die lisensiehouer verstrek is;
- (b) gekonsolideerde vrag uitgepak word tot die laagste geadresseerde vlak; 45
- (c) enige oplewingsverslag wat ten opsigte van daardie vrag verstrek word, al die vrag dek met verwysing na die vervoerdokument wat ten opsigte van daardie vrag uitgereik is; en
- (d) die nommer van die vervoerdokument op die vrystellingskennisgewing wat deur die lisensiehouer ten opsigte van daardie vrag ontvang is— 50
 - (i) ooreenstem met die nommer van die vervoerdokument waarteen die vrag uitgepak is; en
 - (ii) dieselfde is as die nommer van die vervoerdokument aangedui op enige oplewingsverslag wat ten opsigte van daardie vrag verstrek is.

Part 7

Other matters

Submission of notices, reports and manifests in terms of this Chapter

- 84.** (1) An advance arrival or departure notice, an arrival or departure report or a manifest referred to in Parts 1 to 5, and any update of an advance notice, must— 5
- (a) be in the form and format as may be prescribed by rule and contain the information required on the prescribed form or otherwise prescribed by rule;
 - (b) be accompanied or supported by any documents as may be required in terms of this Act, a tax levying Act or other legislation, or as may be prescribed by rule; and 10
 - (c) be submitted electronically in accordance with section 913 unless the person required to submit the notice, report, manifest or update falls within a category of persons authorised by rule to submit documents manually in paper format to the Customs Office serving the relevant place of entry or exit.
- (2) An outturn report referred to in Part 6 must— 15
- (a) be in the form and format as may be prescribed by rule and contain the information required on the prescribed form or otherwise prescribed by rule; and
 - (b) be submitted electronically in accordance with section 913 within such timeframes as may be prescribed by rule. 20

Reporting obligations of carriers not located in Republic

85. An obligation placed in terms of this Chapter on a carrier to submit to the customs authority an advance loading, arrival or departure notice, arrival or departure report, manifest or update of an advance notice, or any other information, must, in the case of a carrier who is not located in the Republic,⁵⁵ be complied with either by the carrier or that carrier's registered agent in the Republic. 25

Exclusions and exemptions

- 86.** The Commissioner may—
- (a) by rule exclude from the application of any of or all the provisions of this Chapter— 30
 - (i) any category of vessels, aircraft, trains, railway carriages, buses or trucks;
 - (ii) any category of persons, travellers or crew; or
 - (iii) any category of goods or cargo; or
 - (b) on justifiable grounds exempt⁵⁶— 35
 - (i) a specific vessel, aircraft, train, railway carriage, bus or truck from the application of any of or all the provisions of this Chapter;
 - (ii) a specific person from complying with any of or all the provisions of this Chapter; or
 - (iii) the carrier operating a specific vessel, aircraft, train, railway carriage, bus or truck, or the on-board operator of a specific vessel, aircraft, bus or truck, from complying with any of or all the provisions of this Chapter. 40

Rules to facilitate implementation of this Chapter

87. Rules made in terms of section 903 to facilitate the implementation of this Chapter may include rules prescribing— 45

- (a) the form and format of—

55. See section 1(3)(a).

56. See section 918 for conditional exemptions.

Deel 7

Ander aangeleenthede

Verstreking van kennisgewings, verslae en manifeste ingevolge hierdie Hoofstuk

84. (1) 'n Vooruit-aankoms- of vertrekskennisgewing, 'n aankoms- of vertreksverslag, of 'n manifest in Dele 1 tot 5 bedoel, en enige opdatering van 'n vooruit-kennisgewing, moet— 5

- (a) in die vorm en formaat wees soos by reël voorgeskryf mag word en die inligting bevat wat op die voorgeskrewe vorm vereis of andersins by reël voorgeskryf word;
 - (b) vergesel wees, of ondersteun word, deur enige dokumente soos ingevolge hierdie Wet, 'n belastingheffings-Wet of ander wetgewing vereis of andersins by reël voorgeskryf mag word; en 10
 - (c) elektronies ooreenkomstig artikel 913 verstrekk word, tensy die persoon wat die kennisgewing, verslag, manifest of opdatering moet verstrekk binne 'n kategorie persone val wat by reël gemagtig is om dokumente in papiervorm aan die Doeanekantoor te verstrekk wat die betrokke plek van toegang of 15 uitgang bedien.
- (2) 'n Oplewingsverslag bedoel in hierdie Deel moet—
- (a) in die vorm en formaat wees soos by reël voorgeskryf mag word en die inligting bevat wat op die voorgeskrewe vorm vereis of andersins by reël 20 voorgeskryf mag word; en
 - (b) elektronies ooreenkomstig artikel 913 binne die tydsrame verstrekk word soos by reël voorgeskryf mag word.

Verslagdoeningspligte van vervoerders nie in Republiek gesetel

85. 'n Verpligting wat ingevolge hierdie Hoofstuk op 'n vervoerder geplaas word om 'n vooruit-laai-, aankoms- of vertrekskennisgewing, aankoms- of vertreksverslag, manifest of opdatering van 'n vooruit-kennisgewing, of enige ander inligting, aan die doanegesag te verstrekk, moet, in die geval van 'n vervoerder wat nie in die Republiek gesetel is nie,⁵⁵ nagekom word deur óf die vervoerder óf daardie vervoerder se geregistreerde agent in die Republiek. 30

Uitsluitings en ontheffings

- 86.** Die Kommissaris kan—
- (a) by reël van die toepassing van enige van of al die bepalings van hierdie Hoofstuk uitsluit—
 - (i) enige kategorie vaartuie, vliegtuie, treine, spoorwegwaens, busse of 35 trokke;
 - (ii) enige kategorie persone, reisigers of bemanning; of
 - (iii) enige kategorie goedere of vrag; of
 - (b) op regverdigbare gronde—⁵⁶
 - (i) 'n spesifieke vaartuig, vliegtuig, trein, spoorwegwa, bus of trok van die 40 toepassing van enige van of al die bepalings van hierdie Hoofstuk onthef;
 - (ii) 'n spesifieke persoon van voldoening aan enige van of al die bepalings van hierdie Hoofstuk onthef; of
 - (iii) die vervoerder in operasionele beheer van 'n spesifieke vaartuig, vliegtuig, trein, spoorwegwa, bus of trok, of die aanboord operateur van 45 'n spesifieke vaartuig, vliegtuig, bus of trok, van voldoening aan enige van of al die bepalings van hierdie Hoofstuk onthef.

Reëls ter fasilitering van implementering van hierdie Hoofstuk

87. Reëls ingevolge artikel 903 uitgevaardig om die implementering van hierdie Hoofstuk te fasiliteer, kan reëls insluit wat die volgende voorskryf: 50

- (a) Die vorm en formaat van—

55. Kyk artikel 1(3)(a).

56. Kyk artikel 918 vir voorwaardelike ontheffings.

- (i) advance loading, arrival and departure notices;
- (ii) arrival and departure reports;
- (iii) manifests of inbound and outbound cargo;
- (iv) updates of advance notices; and
- (v) outturn reports; 5
- (b) the information to be furnished on those forms, including—
 - (i) manifest information, in the case of advance cargo loading notices; and
 - (ii) manifest, traveller and crew information, in the case of advance arrival and departure notices;
- (c) the reporting periods for which outturn reports must be submitted; 10
- (d) procedures, time limits and conditions for the amendment or replacement of such advance notices, arrival and departure reports, manifests, updates and outturn reports;
- (e) an advance arrival and departure reporting system for foreign-going vessels or aircraft not operated by carriers; 15
- (f) a cargo reporting verification and acquittal system;
- (g) methods of determining quantities of cargo for reporting purposes;
- (h) any general conditions applicable to an exclusion or exemption referred to in section 86, the circumstances in which any such exclusion or exemption applicable to a specific vessel, aircraft, train, railway carriage, bus or truck may be withdrawn and procedures for the withdrawal of any such exclusion or exemption; and 20
- (i) reporting requirements for domestic vessels, or any category of domestic vessels, arriving at or departing from customs seaports.

CHAPTER 4 25

GENERAL PRINCIPLES GOVERNING CLEARANCE AND RELEASE OF GOODS AND CUSTOMS PROCEDURES

Purpose and application of this Chapter

- 88.** (1) The purpose of this Chapter is to determine general principles governing—
(a) the clearance and release of goods for home use or a customs procedure; and 30
(b) goods under a customs procedure.
- (2) This Chapter applies to—
(a) all goods imported into the Republic, irrespective of the purpose for which those goods were imported;
- (b) all goods destined for export from the Republic, irrespective of the purpose for which those goods are to be exported; and 35
- (c) all compensating products obtained from goods under a customs procedure.
- (3) This Chapter applies subject to any other provision of this Act applicable specifically to the clearance or release of goods for home use or a particular customs procedure, and in the event of any inconsistency between a provision of this Chapter and 40 such other provision of this Act that other provision prevails.

Part 1

General principles governing clearance of goods for home use or customs procedures

Clearance of imported goods

- 89.** (1) When goods are imported into the Republic the goods must, subject to sections 45 91, 775 and 784, be cleared for—
(a) home use in terms of Chapter 8;

- (i) vooruit-laai-, aankoms- en vertrekskennisgewings;
- (ii) aankoms- en vertreksverslae;
- (iii) manifeste van inwaartse en uitwaartse vrag;
- (iv) opdatering van vooruit-kennisgewings; en
- (v) oplewingsverslae; 5
- (b) die inligting wat op daardie vorms verskaf moet word, met inbegrip van—
 - (i) manifestinligting, in die geval van vooruit-laaikennisgewings; en
 - (ii) manifest-, reisigers- en bemanningsinligting, in die geval van vooruit-aankoms- en vertrekskennisgewings;
- (c) die verslagdoeningstydperke waarvoor oplewingsverslae verstrekkend moet word; 10
- (d) prosedures, tydsbeperkings en voorwaardes vir die wysiging of vervanging van sulke vooruit-kennisgewings, aankoms- en vertreksverslae, manifeste, opdaterings- en oplewingsverslae;
- (e) 'n vooruit-verslagdoeningstelsel vir die aankoms en vertrek van land-uitgaande vaartuie of vliegtuie wat nie onder die operasionele beheer van vervoerders is nie; 15
- (f) 'n verslagdoeningstelsel vir die verifiëring- en afgee van vrag;
- (g) metodes om hoeveelhede van vrag vir doeleindes van verslagdoening te bepaal; 20
- (h) enige algemene voorwaardes van toepassing op 'n uitsluiting of onthefing bedoel in artikel 86, die omstandighede waarin so 'n uitsluiting of onthefing wat vir 'n spesifieke vaartuig, vliegtuig, trein, spoorwegwa, bus of trok geld, ingetrek kan word, en prosedures vir die intrekking van so 'n uitsluiting of onthefing; en 25
- (i) verslagdoeningsvereistes vir plaaslike vaartuie, of enige kategorie plaaslike vaartuie, wat aankom by, of vertrek vanaf, doeanesehawens.

HOOFSTUK 4

ALGEMEEN-GELDENDE BEGINSELS VIR KLARING EN VRYSTELLING VAN GOEDERE EN VIR DOEANEPROSEDURES 30

Doel en toepassing van hierdie Hoofstuk

- 88.** (1) Die doel van hierdie Hoofstuk is om algemeen-geldende beginsels te bepaal vir—
- (a) die klaring en vrystelling van goedere vir binnelandse gebruik of 'n doeaneprosedure; en 35
 - (b) goedere onder 'n doeaneprosedure.
- (2) Hierdie Hoofstuk is van toepassing op—
- (a) alle goedere in die Republiek ingevoer, ongeag die doel waarvoor daardie goedere ingevoer is;
 - (b) alle goedere bestem vir uitvoer uit die Republiek, ongeag die doel waarvoor daardie goedere uitgevoer word; en 40
 - (c) alle kompenserende produkte verkry van goedere onder 'n doeaneprosedure.
- (3) Hierdie Hoofstuk is van toepassing behoudens enige ander bepaling van hierdie Wet wat spesifiek vir die klaring en vrystelling van goedere vir binnelandse gebruik of 'n bepaalde doeaneprosedure geld, en in die geval van enige teenstrydigheid tussen 'n 45 bepaling van hierdie Hoofstuk en so 'n ander bepaling van hierdie Wet, geniet daardie ander bepaling voorrang.

Deel 1

Algemeen-geldende beginsels vir klaring van goedere vir binnelandse gebruik of doeaneprosedures 50

Klaring van ingevoerde goedere

- 89.** (1) Wanneer goedere in die Republiek ingevoer word, moet die goedere, behoudens artikels 91, 775 en 784, geklaar word vir—
- (a) binnelandse gebruik ingevolge Hoofstuk 8;

- (b) home use under a customs procedure that provides for goods to be cleared for home use under that customs procedure;⁵⁷ or
 - (c) a permissible customs procedure.
- (2) Goods referred to in—
- (a) subsection (1)(a) must be cleared for home use in accordance with Chapter 8 and the other provisions of this Act applicable to the clearance of goods for home use in terms of that Chapter; 5
 - (b) subsection (1)(b) must be cleared for home use under the relevant customs procedure in accordance with the provisions of this Act applicable to the clearance of goods for home use under that procedure; or 10
 - (c) subsection (1)(c) must be cleared for the required customs procedure in accordance with the provisions of this Act applicable to the clearance of goods for that specific procedure.

When clearance declarations for goods imported through places of entry must be submitted⁵⁸ 15

- 90.** (1) For the purpose of clearing imported goods that are in terms of section 89 required to be cleared for home use or a customs procedure, a clearance declaration meeting the requirements of section 171(1)(a) to (d) must, subject to subsections (2) and (3) and section 908, be submitted to the customs authority—
- (a) if the goods were imported on board a foreign-going vessel, within three working days of arrival⁵⁹ of the goods at the customs seaport where the goods are to be off-loaded from the vessel; 20
 - (b) if the goods were imported on board a foreign-going aircraft, within three working days of arrival of the goods at the customs airport where the goods are to be off-loaded from the aircraft; 25
 - (c) if the goods were imported on board a cross-border railway carriage, within three working days of arrival of the goods at the licensed rail cargo terminal where the goods are to be off-loaded from the railway carriage;
 - (d) if the goods were imported on board a vehicle, when the vehicle arrives at the land border-post where the goods will enter the Republic on board the vehicle; 30
 - (e) if the goods were imported through a cross-border pipeline or by means of a cross-border cable car or conveyor belt, within such period as may be prescribed by rule;
 - (f) if the goods were electricity imported through a cross-border transmission line, within such period as may be prescribed by rule; or 35
 - (g) if the goods consist of—
 - (i) a vessel which entered the Republic under its own power, within three working days of arrival of the vessel at the first customs seaport where it called;
 - (ii) an aircraft which entered the Republic under its own power, within three working days of arrival of the aircraft at the first customs airport where it landed; 40
 - (iii) a locomotive or railway carriage which entered the Republic under its own power or on its own wheels, within three working days of arrival of the locomotive or railway carriage at the rail-border crossing where it entered the Republic; or 45

57. The following customs procedures provide for goods to be cleared for home use under that procedure:

- 1. The temporary export procedure which in Parts 3 and 4 of Chapter 17 provides for re-imported unaltered goods to be cleared for home use under that procedure; and
- 2. the outward processing procedure which in Chapter 20 provides for outward processed compensating products when imported to be cleared for home use under that procedure.

58. Note that the prescribed timeframes for submission of clearance declarations may on good grounds shown be extended in specific cases in terms of section 908.

59. Section 2 determines when goods “arrive”.

- (b) binnelandse gebruik onder 'n doeaneprosedure wat voorsiening maak vir die klaring van goedere vir binnelandse gebruik onder daardie doeaneprosedure;⁵⁷ of
 - (c) 'n toelaatbare doeaneprosedure.
- (2) Goedere bedoel in— 5
- (a) subartikel (1)(a) moet geklaar word vir binnelandse gebruik ooreenkomstig Hoofstuk 8 en die ander bepalings van hierdie Wet wat vir die klaring van goedere vir binnelandse gebruik ingevolge daardie Hoofstuk geld;
 - (b) subartikel (1)(b) moet geklaar word vir binnelandse gebruik onder die betrokke doeaneprosedure volgens voorskrif van die bepalings van hierdie Wet wat vir die klaring van goedere vir binnelandse gebruik onder daardie prosedure geld; of 10
 - (c) subartikel (1)(c) moet geklaar word vir die verlangde doeaneprosedure volgens voorskrif van die bepalings van hierdie Wet wat vir die klaring van goedere vir daardie bepaalde prosedure geld. 15

Wanneer klaringsbriewe vir goedere ingevoer deur plekke van toegang ingedien moet word⁵⁸

- 90.** (1) Ten einde ingevoerde goedere volgens voorskrif van artikel 89 vir binnelandse gebruik of 'n doeaneprosedure te klaar, moet 'n klaringsbrief wat aan die voorskrifte van artikel 171(1)(a) tot (d) voldoen, behoudens subartikels (2) en (3) en artikel 908, by die doeanegesag ingedien word— 20
- (a) indien die goedere ingevoer is aan boord van 'n land-uitgaande vaartuig, binne drie werksdae na aankoms⁵⁹ van die goedere by die doeaneseehawe waar die goedere van die vaartuig afgelaai gaan word;
 - (b) indien die goedere ingevoer is aan boord van 'n land-uitgaande vliegtuig, binne drie werksdae na aankoms van die goedere by die doanelughawe waar die goedere van die vliegtuig afgelaai gaan word; 25
 - (c) indien die goedere ingevoer is aan boord van 'n oor-grens spoorwegwa, binne drie werksdae na aankoms van die goedere by die gelisensieerde spoorvragterminaal waar die goedere van die spoorwegwa afgelaai gaan word; 30
 - (d) indien die goedere ingevoer is aan boord van 'n voertuig, wanneer die voertuig by die land-grenspas aankom waar die goedere die Republiek aan boord van die voertuig binnekom;
 - (e) indien die goedere ingevoer is deur 'n oor-grens pyplyn of by wyse van 'n oor-grens kabelkar of vervoerband, binne die tydperk soos by reël voorgeskryf mag word; 35
 - (f) indien die goedere elektrisiteit is wat ingevoer is deur 'n oor-grens transmissielyn, binne die tydperk soos by reël voorgeskryf mag word; of
 - (g) indien die goedere bestaan uit— 40
 - (i) 'n vaartuig wat die Republiek onder eie aandrywing binnegekom het, binne drie werksdae na aankoms van die vaartuig by die eerste doeaneseehawe waar dit aangedoen het;
 - (ii) 'n vliegtuig wat die Republiek onder eie aandrywing binnegekom het, binne drie werksdae na aankoms van die vliegtuig by die eerste doanelughawe waar dit geland het; 45
 - (iii) 'n lokomotief of spoorwegwa wat die Republiek onder eie aandrywing of op sy eie wiele binnegekom het, binne drie werksdae na aankoms van die

57. Die volgende doeaneprosedures maak voorsiening vir die klaring van goedere vir binnelandse gebruik onder daardie prosedure:

1. Die prosedure vir tydelike uitvoer wat in Dele 3 en 4 van Hoofstuk 17 die klaring van heringevoerde onveranderde goedere vir binnelandse gebruik onder daardie prosedure veroorloof; en
2. die prosedure vir uitwaartse prosessering wat in Hoofstuk 20 die klaring van uitwaarts geprosesseerde kompenserende produkte vir binnelandse gebruik onder daardie prosedure veroorloof wanneer daardie produkte ingevoer word.

58. Let wel dat die voorgeskrewe tydperke vir die indiening van klaringsbriewe in bepaalde gevalle ingevolge artikel 908 op goeie gronde verleng kan word.

59. Artikel 2 bepaal wanneer goedere "aankom".

(iv) a vehicle which entered the Republic under its own power or on its own wheels, when the vehicle arrives at the land border post where the vehicle enters the Republic.

(2) Subsection (1) may not be read as affecting the clearance of goods that must be cleared in advance in terms of subsection (4) or that may be cleared in advance in terms of section 170. 5

(3) Subsection (1) does not apply to items in a person's accompanied or unaccompanied baggage that are in terms of section 89 required to be cleared for home use or a customs procedure, and for clearing such items a clearance declaration meeting the requirements of section 171(1)(a) to (d) must be submitted to the customs authority in accordance with section 480. 10

(4) (a) Containerised goods consigned for delivery to a licensed container terminal or depot situated outside the area of jurisdiction of the Customs Office serving the customs seaport where the goods are to be off-loaded from the vessel transporting the goods to the Republic must, despite subsection (1)(a), in accordance with paragraph (b) be cleared in advance for home use or a permissible customs procedure before the arrival of the goods at that customs seaport. 15

(b) A clearance declaration meeting the requirements of section 171(1)(a) to (d) must, subject to section 909, be submitted to the customs authority at least three calendar days before the arrival of the goods at the customs seaport referred to in paragraph (a). 20

(c) The customs authority may proceed with processing and validating a clearance declaration submitted in accordance with this subsection despite the fact that the goods have not yet arrived at the relevant customs seaport.

(d) The goods may provisionally be released for home use or the required customs procedure before the arrival of the goods at the relevant customs seaport pending release of the goods upon arrival at that seaport, but such provisional release falls away if the goods are detained upon arrival. 25

(e) If the goods are detained upon arrival at the relevant customs seaport, the customs authority may, in a notice of detention referred to in section 757, determine that the goods must be removed to a licensed terminal or depot. 30

(f) If a clearance declaration referred to in paragraph (b) is not submitted to the customs authority within the timeframe applicable to the goods in terms of that paragraph—

- (i) the other provisions of this subsection cease to apply;
- (ii) subsection (2) with reference to subsection (4) ceases to apply to the goods; and 35
- (iii) subsection (1)(a) becomes applicable to the goods and a clearance declaration must be submitted in respect of the goods in accordance with the requirements of that subsection.

Certain categories of imported goods excluded from clearance requirements 40

91. (1) The following categories of imported goods are excluded from sections 89 and 90 and goods falling within those categories are not required to be cleared in accordance with those sections, subject to subsection (4):⁶⁰

- (a) Goods which were on board a foreign-going vessel or aircraft or a cross-border railway carriage when the vessel, aircraft or railway carriage entered the Republic and which— 45
 - (i) are not off-loaded or taken off the vessel, aircraft or railway carriage whilst the vessel, aircraft or railway carriage is in the Republic;
 - (ii) are not used on board the vessel, aircraft or railway carriage whilst the vessel, aircraft or railway carriage is in the Republic; and 50
 - (iii) remain on board the vessel, aircraft or railway carriage until the vessel, aircraft or railway carriage leaves the Republic;
- (b) vessels, aircraft, locomotives and railway carriages which—

⁶⁰ Exclusion of the goods listed in section 91 from clearance requirements does not have the effect of exempting the goods from customs control. The goods remain subject to customs control for as long as a condition stated in section 28 applies to the goods.

lokomotief of spoorwegwa by die spoor-grensoorgang waar dit die Republiek binnegekom het; of

- (iv) 'n voertuig wat die Republiek onder eie aandrywing of op sy eie wiele binnegekom het, wanneer die voertuig aankom by die land-grenspos waar die voertuig die Republiek binnekom. 5

(2) Subartikel (1) mag nie uitgelê word op 'n wyse as sou dit die klaring van goedere wat ingevolge subartikel (4) vooruit geklaar moet word of die klaring van goedere wat ingevolge artikel 170 vooruit geklaar mag word, raak nie.

(3) Subartikel (1) is nie van toepassing op items in 'n persoon se vergeselde of onvergeselde bagasie wat ingevolge artikel 89 vir binnelandse gebruik of 'n doeaneprosedure geklaar moet word nie, en vir die klaring van sulke items moet 'n klaringsbrief wat aan die voorskrifte van artikel 171(1)(a) tot (d) voldoen by die doeanegesag ooreenkomstig artikel 480 ingedien word. 10

(4) (a) Behouerde goedere wat versend word vir lewering aan 'n gelisensieerde housterminaal of houerdepot geleë buite die jurisdiksiegebied van die Doeanekantoor wat die doeaneseehawe bedien waar die goedere afgelaai sal word van die vaartuig wat die goedere na die Republiek vervoer, moet ondanks subartikel (1)(a) vooruit ooreenkomstig paragraaf (b) geklaar word vir binnelandse gebruik of 'n toelaatbare doeaneprosedure voor die aankoms van die goedere by daardie seehawe. 15

(b) 'n Klaringsbrief wat aan die voorskrifte van artikel 171(1)(a) tot (d) voldoen, moet, behoudens artikel 909, by die doeanegesag ingedien word minstens drie kalenderdae voor die aankoms van die goedere by die doeaneseehawe bedoel in paragraaf (a). 20

(c) Die doeanegesag kan met die prosessering en verifiëring van die klaringsbrief voortgaan wat ooreenkomstig hierdie subartikel ingedien is ondanks die feit dat die goedere nog nie by die betrokke doeaneseehawe aangekom het nie. 25

(d) Die goedere kan voorwaardelik vir binnelandse gebruik of die verlangde doeaneprosedure voor die aankoms van die goedere by die betrokke seehawe vrygestel word hangende vrystelling van die goedere by aankoms by daardie seehawe, maar sodanige voorwaardelike vrystelling verval indien die goedere by aankoms onder detensie geplaas word. 30

(e) Indien die goedere by aankoms by die betrokke seehawe onder detensie geplaas word, kan die doeanegesag in 'n detensiekennisgewing bedoel in artikel 757 bepaal dat die goedere na 'n gelisensieerde terminal of depot verwyder moet word.

(f) Indien 'n klaringsbrief bedoel in paragraaf (b) nie by die doeanegesag ingedien word binne die tydsraam wat vir die goedere ingevolge daardie paragraaf geld nie— 35

- (i) hou die ander bepalings van hierdie subartikel op om van toepassing te wees;
(ii) hou subartikel (2), vir sover daarin na subartikel (4) verwys word, op om vir die goedere te geld; en
(iii) word subartikel (1)(a) op die goedere van toepassing en moet 'n klaringsbrief volgens voorskrif van die vereistes van daardie subartikel ten opsigte van die goedere ingedien word. 40

Sekere kategorieë ingevoerde goedere van klaringsvereistes uitgesluit

91. (1) Die volgende kategorieë ingevoerde goedere is van artikels 89 en 90 uitgesluit, en goedere wat binne daardie kategorieë val, hoef nie volgens voorskrif van daardie artikels geklaar te word nie, behoudens subartikel (4):⁶⁰ 45

- (a) Goedere wat aan boord van 'n land-uitgaande vaartuig of vliegtuig of 'n oor-grens spoorwegwa was toe die vaartuig, vliegtuig of spoorwegwa die Republiek binnegekom het, en wat—
(i) nie van die vaartuig, vliegtuig of spoorwegwa afgelaai of afgeneem word terwyl die vaartuig, vliegtuig of spoorwegwa in die Republiek is nie;
(ii) nie aan boord van die vaartuig, vliegtuig of spoorwegwa gebruik word terwyl die vaartuig, vliegtuig of spoorwegwa in die Republiek is nie; en
(iii) aan boord van die vaartuig, vliegtuig of spoorwegwa bly totdat die vaartuig, vliegtuig of spoorwegwa die Republiek verlaat; 55
(b) vaartuie, vliegtuie, lokomotiewe en spoorwegwaens wat—

⁶⁰ Uitsluiting van die goedere in artikel 91 vermeld van klaringsvereistes het nie tot gevolg dat die goedere van doeanebeheer onthef word nie. Die goedere bly onderhewig aan doeanebeheer vir solank as wat 'n vereiste in artikel 28 vermeld op die goedere van toepassing is.

- (i) upon entering the Republic automatically come under the temporary admission procedure in terms of section 289;⁶¹ or
 - (ii) left the Republic under the temporary export procedure in terms of section 402 and re-enter the Republic on the inbound leg of the procedure;⁶² 5
 - (c) reusable transport equipment which—
 - (i) upon entering the Republic automatically come under the temporary admission procedure in terms of section 290; or
 - (ii) left the Republic under the temporary export procedure in terms of section 403 and re-enters the Republic on the inbound leg of that procedure; 10
 - (d) goods entering the Republic on board—
 - (i) foreign-going vessels or aircraft or cross border trains referred to in section 334(2) as stores reasonably needed for that vessel, aircraft or train on its current voyage; or 15
 - (ii) foreign-going naval vessels or foreign-going naval or military aircraft as stores reasonably needed for that vessel or aircraft on its current voyage;
 - (e) accompanied and unaccompanied baggage items of persons referred to in section 477(2)(a) entering the Republic, other than those items that must in terms of section 480(1) be cleared for home use or a customs procedure; 20
 - (f) accompanied and unaccompanied baggage of persons referred to in section 477(3)(a) entering the Republic, provided the baggage—
 - (i) remain on board the vessel or aircraft which brought it into the Republic until the vessel or aircraft leaves the Republic; or
 - (ii) are transferred under customs supervision to another foreign-going vessel or aircraft in which the baggage will leave the Republic; 25
 - (g) goods in a single consignment with a customs value not exceeding R500, subject to subsection (2);
 - (h) goods, including trade samples, which have no commercial value;
 - (i) international postal articles of the following kinds imported into the Republic for delivery in the Republic by the South African Post Office:⁶³ 30
 - (i) Letters, postcards, greeting cards, telegrams and other similar communications containing personal messages only;
 - (ii) printed papers not subject to any import taxes; and
 - (iii) literature for the blind; 35
 - (j) human remains; or
 - (k) any other category of goods as may be determined by rule.
- (2) (a) If goods are imported in more than one consignment for delivery to the same addressee in the same calendar year, the exemption contained in subsection (1)(g) applies only to the extent that the combined customs value of the goods contained in those consignments does not exceed R500. 40
- (b) The exemption contained in subsection (1)(g) does not apply to accompanied and unaccompanied baggage of persons entering the Republic.
- (3) The customs authority may—
- (a) inspect or detain goods claimed to fall within an excluded category listed in subsection (1);⁶⁴ and 45
 - (b) require proof that the goods do fall within such an excluded category.

61. Foreign trucks, buses and taxis entering the Republic are not excluded from clearance requirements, but may in terms of sections 270 and 271 be cleared for temporary admission in accordance with simplified clearance requirements.

62. South African trucks, buses and taxis re-entering the Republic on the return leg of the temporary export procedure are not excluded from clearance requirements, but may in terms of sections 389 and 390 be cleared in accordance with simplified clearance requirements.

63. International postal articles imported by private couriers must be dealt with as ordinary imported goods, but may be cleared in accordance with expedited clearance requirements in terms of Chapter 24.

64. See also section 754 for detention of such goods.

- (i) wanneer dit die Republiek binnekom, outomaties onder die prosedure vir tydelike toelating ingevolge artikel 289 kom;⁶¹ of
 - (ii) die Republiek onder die prosedure vir tydelike uitvoer ingevolge artikel 402 verlaat het en die Republiek herbinnekom op die inwaartse fase van die prosedure;⁶² 5
 - (c) herbruikbare vervoertoerusting wat—
 - (i) wanneer dit die Republiek binnekom, outomaties onder die prosedure vir tydelike toelating ingevolge artikel 290 kom; of
 - (ii) die Republiek onder die prosedure vir tydelike uitvoer ingevolge artikel 403 verlaat het en die Republiek herbinnekom op die inwaartse fase van daardie prosedure; 10
 - (d) goedere wat die Republiek binnekom aan boord van—
 - (i) land-uitgaande vaartuie of vliegtuie of oor-grens treine bedoel in artikel 334(2) as voorrade wat redelikerwyse nodig is vir daardie voertuig, vliegtuig of trein op sy huidige vaart, vlug of tog; of 15
 - (ii) land-uitgaande vlootvaartuie of -vliegtuie of land-uitgaande vloot- of militêre vaartuie as voorrade wat redelikerwyse nodig is vir daardie vaartuig of vliegtuig op sy huidige vaart of vlug;
 - (e) vergeselde of onvergeselde bagasie-items van persone bedoel in artikel 477(2)(a) wat die Republiek binnekom, behalwe daardie items wat ingevolge artikel 480(1) vir binnelandse gebruik of 'n doeaneprosedure geklaar moet word; 20
 - (f) vergeselde of onvergeselde bagasie van persone bedoel in artikel 477(3)(a) wat die Republiek binnekom, mits die bagasie—
 - (i) aan boord van die vaartuig of vliegtuig waarin dit in die Republiek ingebring is, bly totdat die vaartuig of vliegtuig die Republiek verlaat; of 25
 - (ii) onder doeanetoesig oorgeplaas word na 'n ander land-uitgaande vaartuig of vliegtuig waarin die bagasie die Republiek sal verlaat;
 - (g) goedere in 'n enkele besending met 'n doeanewaarde wat nie R500 oorskry nie, behoudens subartikel (2); 30
 - (h) goedere, met inbegrip van handelsmonsters, wat geen kommersiële waarde het nie;
 - (i) internasionale posstukke van die volgende soorte wat in die Republiek ingevoer is vir aflewering in die Republiek deur die Suid-Afrikaanse Poskantoor:⁶³ 35
 - (i) Briewe, poskaarte, groetekaartjies, telegramme en ander soortgelyke kommunikasies wat slegs persoonlike boodskappe bevat;
 - (ii) gedrukte dokumente wat nie aan enige invoerbelasting onderworpe is nie; en
 - (iii) literatuur vir blindes; 40
 - (j) menslike oorskot; of
 - (k) enige ander kategorie goedere soos by reël bepaal mag word.
- (2) (a) Indien goedere in meer as een besending vir aflewering aan dieselfde geadresseerde in dieselfde kalenderjaar ingevoer word, geld die ontheffing in subartikel (1)(g) slegs in soverre die gekombineerde doeanewaarde van die goedere in daardie besendings nie R500 oorskry nie. 45
- (b) Die ontheffing vervat in subartikel (1)(g) geld nie vir vergeselde en onvergeselde bagasie van persone wat die Republiek binnekom nie.
- (3) Die doeanegesag kan—
- (a) goedere wat na bewering in 'n uitgeslote kategorie vermeld in subartikel (1) val, inspekteer of onder detensie plaas;⁶⁴ en 50
 - (b) bewys vereis dat die goedere wel in daardie uitgeslote kategorie val.

61. Buitelandse trokke, busse en taxi's wat die Republiek binnekom, word nie van klaringsvereistes uitgesluit nie, maar kan ingevolge artikels 270 en 271 vir tydelike toelating ooreenkomstig verkorte klaringsvereistes geklaar word.

62. Suid-Afrikaanse trokke, busse en taxi's wat die Republiek herbinnekom op die inwaartse fase van die prosedure vir tydelike uitvoer word nie van klaringsvereistes uitgesluit nie, maar kan ingevolge artikels 389 en 390 ooreenkomstig verkorte klaringsvereistes geklaar word.

63. Internasionale posstukke ingevoer deur privaat koerierdienste moet behandel word as gewone ingevoerde goedere, maar mag ooreenkomstig verkorte klaringsvereistes ingevolge Hoofstuk 24 geklaar word.

64. Kyk ook artikel 754 vir die plasing van sodanige goedere onder detensie.

(4) This section does not apply to prohibited, restricted, sectorally controlled and counterfeit goods, and such goods must be dealt with in accordance with Chapters 35 and 36.

Consequences in event of failure to clear goods imported through places of entry⁶⁵

92. (1) If no clearance declaration is submitted in terms of section 90(1) or (3) in respect of imported goods to which section 89 applies within the period or at the time applicable to those goods, or if such goods were diverted for home use before the period for submitting the clearance declaration has elapsed, the goods must—

- (a) be dealt with in accordance with section 570(1)(a), read with section 580;⁶⁶ or
- (b) for tax purposes be regarded to be cleared for home use under Chapter 8⁶⁷ if the goods were—
 - (i) diverted for home use; or
 - (ii) damaged, destroyed, lost or unaccounted for and it is not proved in accordance with Chapter 25—
 - (aa) that the goods were damaged, destroyed, lost or unaccounted for due to a recognised cause;⁶⁸ and
 - (bb) in the case of goods lost due to a recognised cause, that the goods, after having been lost, have not gone into home use in any way.

(2) The burden to prove for purposes of this section that a clearance declaration to clear goods for home use or a customs procedure has been submitted to the customs authority within the period or at the time applicable to the goods, rests on the person who alleges this fact.

(3) Subsection (1) applies apart from any criminal proceedings that may be instituted, administrative penalty that may be imposed or other step that may be taken by the customs authority in terms of this Act for any breach of section 89 or 90(1) or (3), which may include, where not inconsistent with this Act or other applicable legislation or otherwise inappropriate—

- (a) seizing the goods in terms of Chapter 34;
- (b) allowing the importer of the goods to abandon the goods to the Commissioner in accordance with Chapter 26; and
- (c) allowing or directing the importer—
 - (i) to remove the goods from the Republic; or
 - (ii) to destroy the goods under supervision of the customs authority or an organ of state designated by the customs authority.

Clearance of goods destined for export

93. (1) All goods destined for export from the Republic must, subject to sections 95, 775 and 784, be cleared for export.

- (2) Goods may in terms of subsection (1) be cleared for—
 - (a) outright export in terms of the export procedure;⁶⁹
 - (b) export under a customs procedure that allows goods to be cleared for export under that procedure in terms of the export procedure;⁷⁰ or

65. For consequences when goods are imported otherwise than through places of entry, see section 42.

66. Removal of the goods to a state warehouse.

67. For tax implications if goods are regarded to be cleared for home use under Chapter 8, see section 153.

68. See definition of “recognised cause” in section 1.

69. Chapter 16 provides for the export of goods under the export procedure. The export procedure covers the export of goods for outright export and various other customs procedures. See section 361(2).

70. The following customs procedures provide for the export of goods under that procedure subject to clearance for export in terms of the export procedure:

- 1. The temporary admission procedure in terms of Chapter 12, in relation to goods cleared and released for that procedure in terms of Part 2 of that Chapter;

(4) Hierdie artikel is nie van toepassing op verbode, beperkte, sektorbeheerde of nagmaakte goedere nie, en met sodanige goedere moet daar volgens voorskrif van Hoofstukke 35 en 36 gehandel word.

Gevolge in geval van versuim om goedere te klaar wat deur plekke van toegang ingevoer word⁶⁵ 5

92. (1) Indien geen klaringsbrief ten opsigte van ingevoerde goedere waarop artikel 89 van toepassing is ingevolge artikel 90(1) of (3) ingedien word binne die tydperk of op die tydstip wat op daardie goedere van toepassing is nie, of indien sodanige goedere afgewend word vir binnelandse gebruik voordat die tydperk vir indiening van die klaringsbrief verval, moet— 10

- (a) daar met die goedere volgens voorskrif van artikel 570(1)(a), saamgelees met artikel 580, gehandel word;⁶⁶ of
- (b) die goedere vir belastingdoeleindes geag word vir binnelandse gebruik kragtens Hoofstuk 8 geklaar te wees⁶⁷ indien die goedere— 15
 - (i) vir binnelandse gebruik afgewend is; of
 - (ii) beskadig, vernietig, verlore of rekenskaploos is en daar nie volgens voorskrif van Hoofstuk 25 bewys word nie—
 - (aa) dat die goedere weens 'n erkende oorsaak⁶⁸ beskadig, vernietig, verlore of rekenskaploos geraak het; en
 - (bb) in die geval van goedere wat weens 'n erkende oorsaak verlore 20 geraak het, dat die goedere, nadat dit verloor is, nie op enige wyse in binnelandse gebruik gegaan het nie.

(2) Die onus om vir doeleindes van hierdie artikel te bewys dat 'n klaringsbrief ter klaring van goedere vir binnelandse gebruik of 'n doeaneprosedure by die doeanegesag ingedien is binne die tydperk, of op die tydstip, wat vir daardie goedere geld, rus op die persoon wat hierdie feit beweer. 25

(3) Subartikel (1) kan toegepas word afgesien van enige strafregtelike verrigtinge wat ingestel kan word, administratiewe boete wat opgelê kan word, of ander stap wat deur die doeanegesag ingevolge hierdie Wet gedoen kan word, vir enige breuk van artikel 89 of 90(1) of (3), wat kan insluit, waar dit nie met hierdie Wet of ander geldende wetgewing onbestaanbaar of andersins onvanpas is nie— 30

- (a) om op die goedere ingevolge Hoofstuk 34 beslag te lê;
- (b) om die invoerder van die goedere toe te laat om die goedere ooreenkomstig Hoofstuk 26 aan die Kommissaris oor te gee; en
- (c) om die invoerder toe te laat of te gelas om die goedere— 35
 - (i) uit die Republiek te verwyder; of
 - (ii) onder toesig van die doeanegesag of 'n staatsorgaan aangewys deur die doeanegesag te vernietig.

Klaring van goedere bestem vir uitvoer

93. (1) Alle goedere bestem vir uitvoer uit die Republiek moet, behoudens artikels 95, 40 775 en 784, vir uitvoer geklaar word.

- (2) Goedere kan ingevolge subartikel (1) geklaar word vir—
 - (a) regstreekse uitvoer ingevolge die uitvoerprosedure;⁶⁹
 - (b) uitvoer onder 'n doeaneprosedure wat die klaring van goedere vir uitvoer 45 onder daardie prosedure ingevolge die uitvoerprosedure magtig;⁷⁰ of

65. Vir gevolge wanneer goedere anders as deur plekke van toegang ingevoer word, kyk artikel 42.

66. Verwydering van die goedere na 'n staatspakhuis.

67. Vir belastinggevolge indien goedere geag word vir binnelandse gebruik kragtens Hoofstuk 8 geklaar te wees, kyk artikel 153.

68. Kyk omskrywing van "erkende oorsaak" in artikel 1.

69. Hoofstuk 16 maak voorsiening vir die uitvoer van goedere onder die uitvoerprosedure. Die uitvoerprosedure dek die uitvoer van goedere vir regstreekse uitvoer en onder verskeie ander doeaneprosedures. Kyk artikel 361(2).

70. Die volgende doeaneprosedures maak voorsiening vir die uitvoer van goedere onder daardie prosedure behoudens klaring vir uitvoer ingevolge die uitvoerprosedure:

1. Die prosedure vir tydelike toelating ingevolge Hoofstuk 12, met betrekking tot goedere geklaar en vrygestel vir daardie prosedure ingevolge Deel 2 van daardie Hoofstuk;

- (c) export under a customs procedure that allows goods to be cleared for export under that procedure in accordance with an international clearance arrangement.⁷¹
- (3) Goods referred to in—
 - (a) subsection (2)(a) must be cleared for outright export in accordance with the provisions of this Act applicable to the clearance of goods for outright export; 5
 - (b) subsection (2)(b) must be cleared for export in accordance with the provisions of this Act applicable to the clearance of goods for export under the relevant customs procedure; or
 - (c) subsection (2)(c) must be cleared for export in accordance with the provisions of this Act giving effect to the relevant international arrangement. 10

When export clearance declarations for goods exported through places of exit must be submitted⁷²

- 94.** (1) For the purpose of clearing goods that are in terms of section 93 required to be cleared for export, a clearance declaration meeting the requirements of section 171(1)(a) to (d) must, subject to subsections (2), (3) and (4) and section 909, be submitted to the customs authority— 15
- (a) if the goods are to be exported by sea, not later than two hours before the goods are delivered to—
 - (i) a container depot, in the case of goods to be containerised for export by sea at a container depot; or 20
 - (ii) the sea cargo terminal where the goods will be loaded on board the foreign-going vessel in which the goods are to be exported, in the case of all other goods, including goods containerised for export by sea otherwise than at a container depot; 25
 - (b) if the goods are to be exported by air, not later than one hour before the goods are delivered to—
 - (i) an air cargo depot, in the case of goods to be packed for export by air at an air cargo depot; or
 - (ii) the air cargo terminal where the goods will be loaded on board the foreign-going aircraft in which the goods are to be exported, in the case of all other goods, including goods packed for export by air otherwise than at an air cargo depot; 30
 - (c) if the goods are to be exported by rail, not later than one hour before the goods are delivered to the rail cargo terminal where the goods will be loaded on board a cross-border railway carriage in which the goods are to be exported; 35
 - (d) if the goods are to be exported by road on board a truck, at any time after the goods have been loaded on board the truck but not later than the time the truck reaches the land border-post where the goods will be exported;
 - (e) if the goods are to be exported through a cross-border pipeline or by means of a cross-border cable car or conveyor belt, within such period as may be prescribed by rule; 40
 - (f) if the goods are electricity to be exported through a cross-border transmission line, within such period as may be prescribed by rule; or

2. the temporary export procedure in terms of Chapter 17, in relation to goods cleared and released for that procedure in terms of Part 2 of that Chapter;
3. goods exported as compensating products under the inward processing procedure in terms of Chapter 18; and
4. goods exported under the outward processing procedure in terms of Chapter 20.

71. The temporary admission and temporary export procedures provide on the outbound leg of the procedure for the clearance of certain goods for export under a carnet issued in terms of an international customs arrangement.

72. Note that the prescribed minimum time periods for submission of export clearance declarations may on good grounds shown be shortened in specific cases in terms of section 909.

It should also be noted that while the submission of export declarations may meet the time frames stated above, it may be advisable to submit declarations earlier in order to ensure that a customs documentary inspection of the goods will not prevent the goods from being exported at the intended time.

- (c) uitvoer onder 'n doeaneprosedure wat die klaring van goedere vir uitvoer onder daardie prosedure ooreenkomstig 'n internasionale klaringsreëling magtig.⁷¹
- (3) Goedere bedoel in—
- (a) subartikel (2)(a) moet vir regstreekse uitvoer geklaar word volgens voorskrif van die bepalings van hierdie Wet wat vir die klaring van goedere vir regstreekse uitvoer geld; 5
- (b) subartikel (2)(b) moet vir uitvoer geklaar word volgens voorskrif van die bepalings van hierdie Wet wat vir die klaring van goedere vir uitvoer onder die tersaaklike doeaneprosedure geld; of 10
- (c) subartikel (2)(c) moet vir uitvoer geklaar word volgens voorskrif van die bepalings van hierdie Wet wat aan die betrokke internasionale reëling gevolg gee. 10

Wanneer uitvoerklaringsbriewe vir goedere uitgevoer deur plekke van uitgang ingedien moet word⁷² 15

94. (1) Ten einde goedere volgens voorskrif van artikel 93 vir uitvoer te klaar, moet 'n klaringsbrief wat aan die voorskrifte van artikel 171(1)(a) tot (d) voldoen, behoudens subartikels (2), (3) en (4) en artikel 909, by die doeanegesag ingedien word—
- (a) indien die goedere per see uitgevoer gaan word, nie later nie as twee ure voordat die goedere afgelewer word by— 20
- (i) 'n houerdepot, in die geval van goedere wat by 'n houerdepot vir uitvoer per see in houers verpak moet word; of
- (ii) die seevragterminaal waar die goedere aan boord gelaai sal word van die land-uitgaande vaartuig waarin die goedere uitgevoer gaan word, in die geval van alle ander goedere insluitende goedere wat vir uitvoer per see anders as by 'n houerdepot in houers verpak word; 25
- (b) indien die goedere per lug uitgevoer gaan word, nie later nie as een uur voordat die goedere afgelewer word by—
- (i) 'n lugvragdepot, in die geval van goedere wat vir uitvoer by 'n lugvragdepot verpak word; of 30
- (ii) die lugvragterminaal waar die goedere aan boord gelaai sal word van die land-uitgaande vliegtuig waarin die goedere uitgevoer gaan word, in die geval van alle ander goedere insluitende goedere wat vir uitvoer per lug anders as by 'n lugvragdepot verpak word;
- (c) indien die goedere per spoor uitgevoer gaan word, nie later nie as een uur voordat die goedere afgelewer word by die spoorvragterminaal waar die goedere aan boord gelaai sal word van 'n oor-grens spoorwegwa waarop daardie goedere uitgevoer gaan word; 35
- (d) indien die goedere per pad aan boord van 'n trok uitgevoer gaan word, te eniger tyd nadat die goedere aan boord van die trok gelaai is, maar nie later nie as die tydstop waarop die trok die land-grenspos bereik waar die goedere uitgevoer sal word; 40
- (e) indien die goedere deur 'n oor-grens pyplyn of by wyse van 'n oor-grens kabelkar of vervoerband uitgevoer gaan word, binne die tydperk soos by reël voorgeskryf mag word; 45
- (f) indien die goedere elektrisiteit is wat deur 'n oor-grens transmissielyn uitgevoer gaan word, binne die tydperk soos by reël voorgeskryf mag word; of

2. die prosedure vir tydelike uitvoer ingevolge Hoofstuk 17, met betrekking tot goedere geklaar en vrygestel vir daardie prosedure ingevolge Deel 2 van daardie Hoofstuk;
3. goedere uitgevoer as kompenserende produkte onder die prosedure vir inwaartse prosessering ingevolge Hoofstuk 18; en
4. goedere uitgevoer onder die prosedure vir uitwaartse prosessering ingevolge Hoofstuk 20.

71. Die prosedures vir tydelike toelating en vir tydelike uitvoer maak vir die uitwaartse fase van die prosedure voorsiening vir die klaring van sekere goedere vir uitvoer onder 'n carnet uitgereik ingevolge 'n internasionale doeanereëling.

72. Let wel dat die voorgeskrewe minimum tydperke vir indiening van uitvoerklaringsbriewe in bepaalde gevalle op goeie gronde ingevolge artikel 909 verkort kan word.

Daar dien ook op gelet te word dat selfs al voldoen die indiening van uitvoerklarings aan die tydsrame hierbo vermeld, dit altyd wenslik is om die klarings vroeër in te dien ten einde te verseker dat 'n doeane dokumentêre inspeksie van die goedere nie die uitvoer van die goedere op die bestemde tyd verhinder nie.

- (g) if the goods consist of—
 - (i) a vessel leaving the Republic under its own power, before the vessel departs from a customs seaport to its destination outside the Republic;
 - (ii) an aircraft leaving the Republic under its own power, before the aircraft departs from a customs airport to a destination outside the Republic; 5
 - (iii) a locomotive or railway carriage leaving the Republic under its own power or on its own wheels, before the locomotive or railway carriage reaches the rail border crossing where the locomotive or railway carriage will cross the border out of the Republic; or
 - (iv) a vehicle leaving the Republic under its own power or on its own wheels, before the vehicle leaves the land border post where the vehicle will cross the border out of the Republic. 10

(2) In the case of goods containerised—

- (a) at a container depot and to which subsection (1)(a)(i) applies, an incomplete clearance declaration meeting the requirements of section 171(1)(a) to (d), but without indicating the container number, may be submitted, provided that a supplementary declaration which includes the container number is submitted within a timeframe as may be prescribed by rule before the container reaches the sea cargo terminal where the goods will be loaded for export; or 15
- (b) other than at a container depot and to which subsection (1)(a)(ii) applies, a clearance declaration meeting the requirements of section 171(1)(a) to (d) may only be submitted after the container has been sealed. 20

(3) The timeframes in subsection (1)(a) to (d) do not apply to goods of a specific class or kind or falling within a specific category as may be determined by rule that are in terms of section 93 required to be cleared for export, and for clearing such goods a clearance declaration meeting the requirements of section 171(1)(a) to (d) must be submitted to the customs authority within such other timeframe as may be prescribed by rule read with sections 908 and 909. 25

(4) Subsection (1) does not apply to items in a person's accompanied or unaccompanied baggage that are in terms of section 93 required to be cleared for export, and for clearing such items a clearance declaration meeting the requirements of section 171(1)(a) to (d) must be submitted to the customs authority in accordance with section 485. 30

Certain categories of goods destined for export excluded from export clearance requirements 35

95. (1) The following categories of goods destined for export from the Republic are excluded from sections 93 and 94, and such goods may, subject to subsection (4), be exported without submission of an export clearance declaration:⁷³

- (a) Goods which were on board a foreign-going vessel or aircraft or a cross-border railway carriage when the vessel, aircraft or railway carriage entered the Republic and which—
 - (i) are not off-loaded or taken off the vessel, aircraft or railway carriage whilst the vessel, aircraft or railway carriage is in the Republic; and
 - (ii) remain on board the vessel, aircraft or railway carriage until the vessel, aircraft or railway carriage leaves the Republic; 45
- (b) vessels, aircraft, locomotives and railway carriages which—
 - (i) upon leaving the Republic automatically come under the temporary export procedure in terms of section 402;⁷⁴ or

73. Exclusion of the goods listed in section 95 from export clearance requirements does not have the effect of exempting the goods from customs control. The goods remain subject to customs control for as long as a condition stated in section 28 applies to the goods.

74. South African trucks, buses and taxis temporarily leaving the Republic are not excluded from export clearance requirements, but may in terms of sections 381 and 382 be cleared for temporary export in accordance with simplified clearance requirements.

- (g) indien die goedere bestaan uit—
- (i) 'n vaartuig wat die Republiek onder eie aandrywing verlaat, voordat die vaartuig vanaf 'n doeaneseehawe na sy bestemming buite die Republiek vertrek;
 - (ii) 'n vliegtuig wat die Republiek onder eie aandrywing verlaat, voordat die vliegtuig vanaf 'n doeanelughawe na sy bestemming buite die Republiek vertrek; 5
 - (iii) 'n lokomotief of spoorwegwa wat die Republiek onder eie aandrywing of op sy eie wiele verlaat, voordat die lokomotief of spoorwegwa die spoor-grensoorgang bereik waar die lokomotief of spoorwegwa die Republiek oor die grens sal verlaat; of 10
 - (iv) 'n voertuig wat die Republiek onder eie aandrywing of op sy eie wiele verlaat, voordat die voertuig die land-grenspos verlaat waar die voertuig die Republiek oor die grens sal verlaat. 15
- (2) In die geval van goedere wat in 'n houer verpak is—
- (a) by 'n houerdepot en waarop subartikel (1)(a)(i) van toepassing is, kan 'n onvolledige klaringsbrief wat aan die voorskrifte van artikel 171(1)(a) tot (d) voldoen, maar sonder dat dit die houernommer aandui, ingedien word, mits 'n aanvullende klaringsbrief wat die houernommer bevat ingedien word binne 'n tydsraam, soos by reël voorgeskryf mag word, voordat die houer die seevragterminaal bereik waar die goedere vir uitvoer gelaai sal word; of 20
 - (b) anders as by 'n houerdepot en waarop subartikel (1)(a)(ii) van toepassing is, kan 'n klaringsbrief wat aan die voorskrifte van artikel 171(1)(a) tot (d) voldoen, ingedien word slegs nadat die houer geseël is.
- (3) Die tydperke in subartikel (1)(a) tot (d) geld nie vir goedere van 'n spesifieke klas of soort of wat val binne 'n spesifieke kategorie, soos by reël bepaal mag word, wat volgens voorskrif van artikel 93 vir uitvoer geklaar moet word nie, en vir die klaring van sulke goedere moet 'n klaringsbrief wat aan die voorskrifte van artikel 171(1)(a) tot (d) voldoen by die doeanegesag ingedien word binne die ander tydperk soos by reël voorgeskryf mag word, saamgelees met artikels 908 en 909. 30
- (4) Subartikel (1) geld nie vir items in 'n persoon se vergeselde of onvergeselde bagasie wat volgens voorskrif van artikel 93 vir uitvoer geklaar moet word nie, en vir die klaring van sulke items moet 'n klaringsbrief wat aan die voorskrifte van artikel 171(1)(a) tot (d) voldoen by die doeanegesag ooreenkomstig artikel 485 ingedien word.

Sekere kategorieë goedere vir uitvoer bestem van uitvoerklaringsvereistes uitgesluit 35

95. (1) Die volgende kategorieë goedere bestem vir uitvoer uit die Republiek is van artikels 93 en 94 uitgesluit, en sulke goedere kan, behoudens subartikel (4), sonder indiening van 'n uitvoerklaringsbrief uitgevoer word:⁷³

- (a) Goedere wat aan boord van 'n land-uitgaande vaartuig of vliegtuig of 'n oor-grens spoorwegwa was toe die voertuig, vliegtuig of spoorwegwa die Republiek binnegekom het en wat—
 - (i) nie van die vaartuig, vliegtuig of spoorwegwa afgelaai of afgeneem word terwyl die vaartuig, vliegtuig of spoorwegwa in die Republiek is nie; en
 - (ii) aan boord van die vaartuig, vliegtuig of spoorwegwa bly totdat die vaartuig, vliegtuig of spoorwegwa die Republiek verlaat; 45
- (b) vaartuie, vliegtuie, lokomotiewe en spoorwegwaens wat—
 - (i) wanneer hulle die Republiek verlaat, outomaties onder die prosedure vir tydelike uitvoer ingevolge artikel 402 kom;⁷⁴ of

73. Die uitsluiting van die goedere in artikel 95 gelys van uitvoerklaringsvereistes het nie tot gevolg dat die goedere van doeanebeheer onthef word nie. Die goedere bly onderworpe aan doeanebeheer vir solank as wat 'n voorwaarde in artikel 28 vermeld op die goedere van toepassing is.

74. Suid-Afrikaanse trokke, busse en taxi's wat die Republiek tydelik verlaat is nie van uitvoerklaringsvereistes uitgesluit nie, maar kan ingevolge artikels 381 en 382 vir tydelike uitvoer ooreenkomstig verkorte klaringsvereistes geklaar word.

- (ii) entered the Republic under the temporary admission procedure in terms of section 289 and leave the Republic on the outbound leg of the procedure;⁷⁵
 - (c) reusable transport equipment which—
 - (i) upon leaving the Republic automatically come under the temporary export procedure in terms of section 403; or 5
 - (ii) entered the Republic under the temporary admission procedure in terms of section 290 and leaves the Republic on the outbound leg of the procedure;
 - (d) goods under any of the following customs procedures to be exported under such procedure: 10
 - (i) The international transit procedure in terms of Chapter 9;
 - (ii) the transshipment procedure in terms of Chapter 11;
 - (iii) the tax free shop procedure in terms of Chapter 14; or
 - (iv) the stores procedure in terms of Chapter 15; 15
 - (e) goods which a foreign-going naval vessel or foreign-going naval or military aircraft takes on board in the Republic as stores reasonably needed for that vessel or aircraft on a voyage to a destination outside the Republic;
 - (f) accompanied and unaccompanied baggage items of persons referred to in section 477(2)(a) leaving the Republic, other than those items that must in terms of section 485(1) be cleared for outright export or for export under a customs procedure applicable to the items; 20
 - (g) accompanied and unaccompanied baggage of persons referred to in section 477(3)(a) leaving the Republic, provided the baggage—
 - (i) is leaving the Republic on board the same vessel or aircraft which brought it into the Republic; or 25
 - (ii) was transferred under customs supervision from the vessel or aircraft in which the baggage entered the Republic to another foreign-going vessel or aircraft in which the baggage is to leave the Republic;
 - (h) goods in a single consignment of a customs value not exceeding R500, subject to subsection (2); 30
 - (i) goods, including trade samples, which have no commercial value;
 - (j) international postal articles of the following kinds posted in the Republic and exported from the Republic through the South African Post Office:
 - (i) Letters, postcards, greeting cards, telegrams and other similar communications containing personal messages only; 35
 - (ii) printed papers not subject to any import taxes; and
 - (iii) literature for the blind;⁷⁶
 - (k) human remains; or
 - (l) any other category of goods as may be determined by rule. 40
- (2) (a) If goods are destined for export in more than one consignment by the same exporter in the same calendar year, the exclusion contained in subsection (1)(h) applies only to the extent that the combined customs value of the goods contained in those consignments does not exceed R500.
- (b) The exemption contained in subsection (1)(h) does not apply to accompanied and unaccompanied baggage of persons leaving the Republic. 45
- (3) The customs authority may—
- (a) inspect or detain goods claimed to fall within an excluded category listed in subsection (1);⁷⁷ and
 - (b) require proof that the goods do fall within such an excluded category. 50
- (4) This section does not apply to prohibited, restricted, sectorally controlled and counterfeit goods and such goods must be dealt with in accordance with Chapters 35 and 36.

75. Foreign trucks, buses and taxis leaving the Republic on the outbound leg of the temporary admission procedure are not excluded from export clearance requirements, but may in terms of sections 276 and 277 be cleared in accordance with simplified clearance requirements.

76. International postal articles to be exported by private couriers must be dealt with as if ordinary exported goods. See Part 1 of Chapter 24 for clearance of express delivery goods.

77. See also section 754 for detention of such goods.

- (ii) die Republiek onder die prosedure vir tydelike toelating ingevolge artikel 289 binnegekome het en die Republiek op die uitwaartse fase van die prosedure verlaat;⁷⁵
 - (c) herbruikbare vervoertoerusting wat—
 - (i) wanneer dit die Republiek verlaat, outomaties onder die prosedure vir tydelike uitvoer ingevolge artikel 403 kom; of 5
 - (ii) die Republiek onder die prosedure vir tydelike toelating ingevolge artikel 290 binnegekome het en die Republiek op die uitwaartse fase van die prosedure verlaat;
 - (d) goedere wat onder enige van die volgende doeaneprosedures is en onder daardie prosedure uitgevoer gaan word: 10
 - (i) Die prosedure vir internasionale transito ingevolge Hoofstuk 9;
 - (ii) die transverskepingprosedure ingevolge Hoofstuk 11;
 - (iii) die prosedure vir belastingvry-winkels ingevolge Hoofstuk 14; of
 - (iv) die voorradeprosedure ingevolge Hoofstuk 15; 15
 - (e) goedere wat 'n land-uitgaande vlootvaartuig of land-uitgaande vloot- of militêre vliegtuig in die Republiek aan boord neem as voorrade wat redelikerwyse vir daardie vaartuig of vliegtuig op 'n vaart of vlug na 'n bestemming buite die Republiek nodig is;
 - (f) vergeselde en onvergeselde bagasie-items van persone bedoel in artikel 477(2)(a) wat die Republiek verlaat, behalwe daardie artikels wat ingevolge artikel 485(1) geklaar moet word vir regstreekse uitvoer of vir uitvoer onder 'n doeaneprosedure wat vir die artikels geld; 20
 - (g) vergeselde en onvergeselde bagasie van persone bedoel in artikel 477(3)(a) wat die Republiek verlaat, mits die bagasie— 25
 - (i) die Republiek verlaat aan boord van dieselfde vaartuig of vliegtuig waarop dit in die Republiek ingebring is; of
 - (ii) onder doeanetoesig vanaf die vaartuig of vliegtuig waarin die bagasie die Republiek binnegekome het, oorgeplaas word na 'n ander land-uitgaande vaartuig of vliegtuig waarin die bagasie die Republiek gaan verlaat; 30
 - (h) goedere in 'n enkele besending met 'n doeanewaarde wat nie R500 te oorskry nie, behoudens subartikel (2);
 - (i) goedere, met inbegrip van handelsmonsters, wat geen kommersiële waarde het nie;
 - (j) internasionale posstukke van die volgende soorte wat in die Republiek gepos is en deur die Suid-Afrikaanse Poskantoor uit die Republiek uitgevoer gaan word: 35
 - (i) Briewe, poskaarte, groetekaartjies, telegramme en ander soortgelyke kommunikasies wat slegs persoonlike boodskappe bevat;
 - (ii) gedrukte dokumente wat nie aan invoerbelasting onderworpe is nie; en 40
 - (iii) literatuur vir blindes;⁷⁶
 - (k) menslike oorskot; of
 - (l) enige ander kategorie goedere soos by reël bepaal mag word.
- (2) (a) Indien goedere bestem is vir uitvoer deur dieselfde uitvoerder in meer as een besending in dieselfde kalenderjaar, geld die uitsluiting in subartikel (1)(h) slegs in soverre die gekombineerde doeanewaarde van die goedere in daardie besendings nie R500 oorskry nie. 45
- (b) Die ontheffing vervat in subartikel (1)(h) geld nie vir vergeselde en onvergeselde bagasie van persone wat die Republiek verlaat nie.
- (3) Die doeanegesag kan— 50
- (a) goedere wat na bewering in 'n uitgeslote kategorie vermeld in subartikel (1) val, inspekteer of onder detensie plaas;⁷⁷ en
 - (b) bewys vereis dat die goedere wel in daardie uitgeslote kategorie val.
- (4) Hierdie artikel is nie van toepassing op verbode, beperkte, sektorbeheerde en nagmaakte goedere nie, en met sodanige goedere moet daar volgens voorskrif van Hoofstukke 35 en 36 gehandel word. 55

75. Buitelandse trokke, busse en taxi's wat die Republiek verlaat op die uitwaartse fase van die prosedure vir tydelike toelating is nie van uitvoerklaringsvereistes uitgesluit nie, maar kan ingevolge artikels 276 en 277 ooreenkomstig verkorte klaringsvereistes geklaar word.

76. Internasionale posstukke wat uitgevoer word deur privaat koeriers moet behandel word asof dit gewone uitvoer goedere is. Kyk Deel 1 van Hoofstuk 24 vir klaring van spoedleweringgoedere.

77. Kyk ook artikel 754 vir die plasing van sodanige goedere onder detensie.

**Consequences in event of failure to clear for export goods in free circulation⁷⁸
through places of exit⁷⁹**

- 96.** (1) If goods in free circulation to which section 93 applies are—
- (a) delivered to a cargo terminal referred to in section 94(1)(a), (b) or (c) without any clearance declaration having been submitted in terms of that section to clear the goods for export, the goods must be dealt with in accordance with section 570(1)(b), read with section 580;⁸⁰ or 5
 - (b) exported from the Republic without any clearance declaration having been submitted in terms of section 94 to clear the goods for export, the goods must for tax purposes be regarded to have been cleared for outright export.⁸¹ 10
- (2) The burden to prove for purposes of this section that a clearance declaration to clear goods for export has been submitted to the customs authority, rests on the person who alleges this fact.
- (3) Subsection (1)(b) may not be read as affecting the application of section 112 or 113 in relation to goods under a customs procedure referred to 93(2)(b) or (c) that were exported without an export clearance. 15
- (4) Subsection (1) applies apart from any criminal proceedings that may be instituted, administrative penalty that may be imposed or other step that may be taken by the customs authority in terms of this Act for any breach of section 93 or 94, which may include, where not inconsistent with this Act or other applicable legislation or otherwise inappropriate— 20
- (a) seizing the goods in terms of Chapter 34;
 - (b) allowing the exporter of the goods to abandon the goods to the Commissioner in accordance with Chapter 26; or
 - (c) allowing or directing the exporter to destroy the goods under supervision of the customs authority or an organ of state designated by the customs authority. 25

Clearance substitutions before release of goods⁸²

- 97.** (1) Goods that are cleared for home use may at any time before the release of the goods for home use be cleared for a permissible customs procedure.
- (2) Goods that are cleared for a customs procedure may at any time before the release of the goods for that customs procedure be cleared for any other customs procedure or for home use, as may be permissible⁸³ in the circumstances. 30
- (3) A clearance declaration to clear the goods for home use or a customs procedure in terms of subsection (1) or (2) submitted to and accepted by the customs authority in terms of section 171(1) replaces the previous clearance declaration with effect from the time the previous clearance declaration was originally accepted by the customs authority in terms of that section.⁸⁴ 35
- (4) If a clearance of goods for—
- (a) home use is replaced in terms of subsection (3), the person who paid any

78. This section is confined to goods in free circulation as the consequences for goods exported under a customs procedure otherwise than in accordance with that procedure, are dealt with in sections 114 and 115.

79. For consequences when goods are exported otherwise than through places of exit see section 42.

80. Removal of the goods to a state warehouse.

81. For tax implications if goods in free circulation are regarded to be cleared for outright export, see section 158.

82. This section applies only to clearance substitutions *before* release of the goods. For clearance substitutions of goods *already* released for home use, see section 107, and for clearance of goods under a customs procedure for another customs procedure, see section 110.

83. See definition of “permissible” in relation to a customs procedure and in relation to home use.

84. If the goods are only partially cleared for another customs procedure or for home use, the existing clearance declaration must be amended in terms of section 174(2) to apply to that part of the goods that remain cleared for the existing procedure or for home use.

Gevolge in geval van versuim om goedere in vry sirkulasie⁷⁸ vir uitvoer deur plekke van uitgang⁷⁹ te klaar

96. (1) Indien goedere in vry sirkulasie waarop artikel 93 van toepassing is—
- (a) aan 'n vragterminaal bedoel in artikel 94(1)(a), (b) of (c) gelewer word sonder dat enige klaringsbrief ingevolge daardie artikel ingedien word om die goedere vir uitvoer te klaar, moet daar met die goedere volgens voorskrif van artikel 570(1)(b), saamgelees met artikel 580, gehandel word;⁸⁰ of
 - (b) uit die Republiek uitgevoer word sonder dat enige klaringsbrief ingevolge artikel 94 ingedien is om die goedere vir uitvoer te klaar, moet die goedere vir belastingdoeleindes geag word vir regstreekse uitvoer geklaar te wees.⁸¹
- (2) Die onus om vir doeleindes van hierdie artikel te bewys dat 'n klaringsbrief ter klaring van die goedere by die doeanegesag ingedien is, rus op die persoon wat hierdie feit beweer.
- (3) Subartikel (1)(b) mag nie uitgelê word op 'n wyse wat afbreuk doen aan die toepassing van artikel 112 of 113 met betrekking tot goedere onder 'n doeaneprosedure bedoel in artikel 93(2)(b) of (c) wat sonder 'n uitvoerklaring uitgevoer is nie.
- (4) Subartikel (1) kan toegepas word afgesien van enige strafregtelike verrigtinge wat ingestel kan word, administratiewe boete wat opgelê kan word, of ander stap wat deur die doeanegesag ingevolge hierdie Wet gedoen kan word, vir enige breuk van artikel 93 of 94, wat kan insluit, waar dit nie met hierdie Wet of ander geldende wetgewing onbestaanbaar of andersins onvanpas is nie—
- (a) om op die goedere ingevolge Hoofstuk 34 beslag te lê;
 - (b) om die uitvoerder van die goedere toe te laat om die goedere aan die Kommissaris ooreenkomstig Hoofstuk 26 oor te gee; of
 - (c) om die uitvoerder toe te laat of te gelas om die goedere onder toesig van die doeanegesag of 'n staatsorgaan aangewys deur die doeanegesag te vernietig.

Klaringvervangings voor vrystelling van goedere⁸²

97. (1) Goedere wat vir binnelandse gebruik geklaar word, kan op enige tydstip voor die vrystelling van die goedere vir binnelandse gebruik, vir 'n toelaatbare doeaneprosedure geklaar word.
- (2) Goedere wat vir 'n doeaneprosedure geklaar word, kan op enige tydstip voor die vrystelling van die goedere vir daardie doeaneprosedure geklaar word vir enige ander doeaneprosedure of vir binnelandse gebruik, soos in die omstandighede toelaatbaar mag wees.⁸³
- (3) 'n Klaringsbrief om die goedere ingevolge subartikel (1) of (2) vir binnelandse gebruik of 'n doeaneprosedure te klaar wat ingevolge artikel 171(1) ingedien is by en aanvaar is deur die doeanegesag, vervang die vorige klaringsbrief vanaf die tydstip waarop die vorige klaringsbrief oorspronklik deur die doeanegesag ingevolge daardie artikel aanvaar is.⁸⁴
- (4) Indien 'n klaring van goedere vir—
- (a) binnelandse gebruik ingevolge subartikel (3) vervang word, is die persoon wat enige invoerbelasting op die goedere ten gevolge van daardie klaring vir

78. Hierdie artikel is beperk tot goedere in vry sirkulasie aangesien die gevolge vir goedere onder 'n doeaneprosedure wat anders as ooreenkomstig daardie prosedure uitgevoer word, in artikels 114 en 115 behandel word.

79. Vir gevolge wanneer goedere uitgevoer word anders as deur plekke van uitgang, kyk artikel 42.

80. Verwydering van die goedere na 'n staatspakhuis.

81. Vir belastinggevolge indien goedere in vry sirkulasie geag word geklaar te wees vir regstreekse uitvoer, kyk artikel 158.

82. Hierdie artikel is van toepassing slegs op die vervanging van 'n klaring voor vrystelling van die goedere. Vir die vervanging van 'n klaring van goedere wat *alreeds* vrystel is vir binnelandse gebruik, kyk artikel 107, en vir die klaring van goedere onder 'n doeaneprosedure vir 'n ander doeaneprosedure, kyk artikel 110.

83. Kyk omskrywing van “toelaatbaar” met betrekking tot 'n doeaneprosedure en met betrekking tot binnelandse gebruik.

84. Indien die goedere slegs gedeeltelik geklaar word vir 'n ander doeaneprosedure of vir binnelandse gebruik, moet die bestaande klaringsbrief ingevolge artikel 174(2) gewysig word om van toepassing te wees op daardie gedeelte van die goedere wat vir die bestaande prosedure of vir binnelandse gebruik geklaar is.

- import tax on the goods as a consequence of that clearance for home use is entitled to a refund of that tax subject to the applicable tax levying Act; or
- (b) outright export is replaced in terms of that subsection, the person who received any refund of domestic tax on the goods as a consequence of that clearance for outright export must repay that refund to the Commissioner subject to the applicable tax levying Act. 5

Part 2

General principles governing release of goods for home use or customs procedures

Clearance of goods precondition for release of goods

98. No goods may be released for home use or a customs procedure without the goods having been cleared for home use or that customs procedure, except where provided otherwise in this Act.⁸⁵ 10

When release of goods must be refused⁸⁶

99. (1) The customs authority must refuse the release of goods cleared for home use or a customs procedure— 15

- (a) if the clearance of the goods for home use or that customs procedure was not permissible in terms of this Act or a tax levying Act;
- (b) if the release of the goods for home use or that customs procedure—
- (i) is not permissible in terms of this Act or a tax levying Act;
 - (ii) would result in a breach of this Act or a tax levying Act; or 20
 - (iii) would defeat the objects of any other legislation applicable to the goods;
- (c) if the goods are in terms of section 570(1) or (2), read with section 580, to be removed to a state warehouse in order to be dealt with in accordance with Chapter 27; or
- (d) if the goods were seized or confiscated in terms of— 25
- (i) this Act⁸⁷ or a tax levying Act; or
 - (ii) any other legislation or an order of court and the customs authority has been informed of the seizure or confiscation.

(2) (a) The customs authority may, despite anything to the contrary in subsection (1) but subject to section 105, release goods on an assumption that facts and circumstances presented by the person clearing the goods are correct.⁸⁸ 30

(b) Goods may not be released in terms of paragraph (a) if the customs authority is aware of the fact that the presentation of facts and circumstances is incorrect.

(3) A refusal to release goods in terms of subsection (1)(a), (b) or (c) is a ground for the detention of the goods in terms of section 754 if the goods are not already detained on any other ground. 35

85. Exceptions to this principle contained in Chapter 24 which provides for expedited release of goods.

86. For consequences if release of goods is refused, see section 106.

87. See Chapters 34, 35 and 36 for the seizure and confiscation of goods in terms of this Act, including the conditions for terminating seizures and confiscations.

88. Release of goods on the assumption that the self-assessment of tax payable on goods is correct does not affect the customs authority's power to do an assessment after the release. See Chapter 5 of the Customs Duty Act.

- binnelandse gebruik betaal het, geregtig op 'n terugbetaling van daardie belasting behoudens die betrokke belastingheffings-Wet; of
- (b) regstreekse uitvoer ingevolge daardie subartikel vervang word, moet die persoon wat enige terugbetaling van plaaslike belasting op die goedere ten gevolge van daardie klaring vir regstreekse uitvoer ontvang het, daardie terugbetaling aan die Kommissaris terugbetaal behoudens die betrokke belastingheffings-Wet. 5

Deel 2

Algemeen-geldende beginsels vir vrystelling van goedere vir binnelandse gebruik of doeaneprosedures 10

Klaring van goedere voorvereiste vir vrystelling van goedere

98. Geen goedere mag vir binnelandse gebruik of 'n doeaneprosedure vrygestel word sonder dat die goedere vir binnelandse gebruik of daardie doeaneprosedure geklaar is nie behalwe waar daar anders in hierdie Wet bepaal word.⁸⁵

Wanneer vrystelling van goedere geweier moet word⁸⁶ 15

99. (1) Die doeanegesag moet die vrystelling van goedere geklaar vir binnelandse gebruik of 'n doeaneprosedure weier—
- (a) indien die klaring van die goedere vir binnelandse gebruik of daardie doeaneprosedure nie ingevolge hierdie Wet of 'n belastingheffings-Wet toelaatbaar was nie; 20
- (b) indien die vrystelling van die goedere vir binnelandse gebruik of daardie doeaneprosedure—
- (i) nie ingevolge hierdie Wet of 'n belastingheffings-Wet toelaatbaar is nie;
- (ii) 'n breuk van hierdie Wet of 'n belastingheffings-Wet tot gevolg sou hê; of
- (iii) die oogmerke van enige ander wetgewing wat op die goedere van toepassing is, sou verydel; 25
- (c) indien die goedere ingevolge artikel 570(1) of (2), saamgelees met artikel 580, na 'n staatspakhuis verwyder moet word om daarmee volgens voorskrif van Hoofstuk 27 te handel; of
- (d) indien daar op die goedere beslag gelê is of die goedere gekonfiskeer is ingevolge— 30
- (i) hierdie Wet⁸⁷ of 'n belastingheffings-Wet; of
- (ii) enige ander wetgewing of 'n hofbevel en die doeanegesag van die beslaglegging of konfiskering in kennis gestel is.
- (2) (a) Die doeanegesag kan, ondanks enigiets tot die teendeel in subartikel (1) vervat, 35 maar behoudens artikel 105, vrystelling van goedere verleen op 'n aanname dat feite en omstandighede soos voorgestel deur die persoon wat die goedere klaar, juis is.
- (b) Goedere mag nie ingevolge paragraaf (a) vrygestel word nie indien die doeanegesag daarvan bewus is dat die voorstelling van die feite en omstandighede onjuis is.⁸⁸ 40
- (3) 'n Weiering om goedere ingevolge subartikel (1)(a), (b) of (c) vry te stel, is 'n grond vir die plasing van die goedere onder detensie ingevolge artikel 754 indien die goedere nie alreeds om 'n ander rede onder detensie geplaas is nie.

85. Uitsonderings tot hierdie beginsel word vervat in Hoofstuk 24 wat voorsiening maak vir versnelde vrystelling van goedere.

86. Vir gevolge indien vrystelling van goedere geweier word, kyk artikel 106.

87. Kyk Hoofstukke 34, 35 en 36 vir die beslaglegging en konfiskering van goedere ingevolge hierdie Wet, met inbegrip van die voorwaardes vir beëindiging van beslaglegging en konfiskerings.

88. Vrystelling van goedere op die veronderstelling dat die self-aanslag van belasting betaalbaar op goedere korrek is, affekteer nie die doeanegesag se bevoegdheid om 'n aanslag na die vrystelling uit te reik nie. Kyk Hoofstuk 5 van die Wet op Doeanereg.

When release of goods may be refused⁸⁹

- 100.** (1) The customs authority may refuse the release of goods for home use or a customs procedure if such refusal is necessary for—
- (a) effectively implementing this Act or a tax levying Act; 5
 - (b) preventing abuse of any systems and procedures of this Act or a tax levying Act; or
 - (c) giving effect to national legislation or policy on—
 - (i) international trade;
 - (ii) the protection of public health;
 - (iii) the protection of the environment; or 10
 - (iv) public safety.
- (2) A refusal to release goods in terms of subsection (1) is a ground for the detention of the goods in terms of section 754 if the goods are not already detained on any other ground.

When release of goods may or must be withheld 15

- 101.** (1) The customs authority may withhold the release of goods for home use or a customs procedure until—
- (a) a requirement of this Act, a tax levying Act or any other legislation applicable to the goods or the clearance of the goods has been complied with;
 - (b) any pre-condition imposed in terms of section 103 for the release of the goods has been met; 20
 - (c) any tax or any other money payable to the Commissioner in respect of those goods has been paid to the Commissioner; or
 - (d) any security required for the payment of any such tax or other money in respect of the goods has been provided to the Commissioner. 25
- (2) The customs authority must withhold the release of goods for home use or a customs procedure whilst the goods are detained in terms of—
- (a) this Act⁹⁰ or a tax levying Act; or
 - (b) any other legislation or an order of court and the customs authority has been informed of the detention. 30
- (3) Withholding of the release of goods in terms of subsection (1) is a ground for the detention of the goods in terms of section 754 if the goods are not already detained on any other ground.

Release of goods pending technical analysis, expert advice or civil or criminal proceedings 35

- 102.** (1) The customs authority may not delay the release of goods cleared for home use or a customs procedure by reason only that—
- (a) an inspection of the goods require a technical analysis of, or expert advice on, the goods or any matter relating to the goods;
 - (b) civil proceedings relating to the goods between the Commissioner and any other person are pending; 40
 - (c) an offence involving those goods has allegedly been committed and criminal investigations or proceedings relating to those goods are pending; or
 - (d) the goods are the subject of proceedings in terms of Chapter 37.
- (2) Subsection (1) may not be read as affecting or preventing the implementation of section 99, 100 or 101. 45

89. For consequences of refusal to release goods, see section 106.

90. See Chapters 34, 35 and 36 for the detention of goods in terms of this Act, including the conditions for terminating seizures and confiscations.

Wanneer vrystelling van goedere geweier kan word⁸⁹

- 100.** (1) Die doeane gesag kan die vrystelling van goedere vir binnelandse gebruik of 'n doeane procedure weier indien die weiering nodig is om—
- (a) hierdie Wet of 'n belastingheffings-Wet effektief te implementeer;
 - (b) misbruik van enige stelsels en prosedures van hierdie Wet of 'n belastingheffings-Wet te voorkom; of 5
 - (c) gevolg te gee aan nasionale wetgewing of beleid oor—
 - (i) internasionale handel;
 - (ii) die beskerming van die openbare gesondheid;
 - (iii) die beskerming van die omgewing; of 10
 - (iv) openbare veiligheid.
- (2) 'n Weiering om goedere ingevolge subartikel (1) vry te stel, is 'n grond vir die plasing van die goedere onder detensie ingevolge artikel 754 indien die goedere nie alreeds om 'n ander rede onder detensie geplaas is nie.

Wanneer vrystelling van goedere teruggehou kan of moet word 15

- 101.** (1) Die doeane gesag kan die vrystelling van goedere vir binnelandse gebruik of 'n doeane procedure terughou totdat—
- (a) daar voldoen word aan enige voorskrif van hierdie Wet, 'n belastingheffings-Wet of enige ander wetgewing wat op die goedere of die klaring van goedere van toepassing is; 20
 - (b) daar voldoen word aan enige voorvereiste wat ingevolge artikel 103 vir die vrystelling van die goedere opgelê is;
 - (c) enige belasting of enige ander gelde wat aan die Kommissaris ten opsigte van daardie goedere betaalbaar is aan die Kommissaris betaal word; of
 - (d) enige sekuriteit wat vir die betaling van enige sodanige belasting of ander gelde ten opsigte van die goedere benodig word aan die Kommissaris verstrek is. 25
- (2) Die doeane gesag moet die vrystelling van goedere vir binnelandse gebruik of 'n doeane procedure terughou tydens enige detensie van die goedere ingevolge—
- (a) hierdie Wet⁹⁰ of 'n belastingheffings-Wet; of 30
 - (b) enige ander wetgewing of 'n hofbevel en die doeane gesag van die detensie in kennis gestel is.
- (3) Terughouding van die vrystelling van goedere ingevolge subartikel (1) is 'n grond vir die plasing van die goedere onder detensie ingevolge artikel 754 indien die goedere nie alreeds om 'n ander rede onder detensie geplaas is nie. 35

Vrystelling van goedere hangende tegniese ontleding, deskundige advies of siviele of strafregtelike verrigtinge

- 102.** (1) Die doeane gesag mag nie die vrystelling van goedere wat vir binnelandse gebruik of 'n doeane procedure geklaar is, vertraag nie slegs omdat—
- (a) 'n inspeksie van die goedere, 'n tegniese ontleding van, of deskundige advies oor, die goedere of enige aangeleentheid betreffende die goedere vereis word nie; 40
 - (b) siviele verrigtinge betreffende die goedere tussen die Kommissaris en enige ander persoon hangende is;
 - (c) 'n misdryf waarby daardie goedere betrokke is vermoedelik gepleeg is en strafregtelike ondersoeke of verrigtinge betreffende daardie goedere hangende is; of 45
 - (d) die goedere die onderwerp van verrigtinge ingevolge Hoofstuk 37 is.
- (2) Subartikel (1) mag nie uitgelê word op 'n wyse wat afbreuk doen aan die implementering van artikel 99, 100 of 101 of dit verhinder nie. 50

89. Vir gevolge van weiering om goedere vry te stel, kyk artikel 106.

90. Kyk Hoofstukke 34, 35 en 36 vir die plasing van goedere ingevolge hierdie Wet onder detensie, met inbegrip van die voorwaardes vir beëindiging van beslagleggings en konfiskerings.

Preconditions for release of goods

- 103.** The customs authority may impose such preconditions for the release of goods for home use or a customs procedure as may be necessary to ensure—
- (a) that a provision of this Act, a tax levying Act or any other applicable legislation is complied with; 5
 - (b) that any import or export tax payable or that may become payable on the goods is or will be paid; or
 - (c) the payment of any security that may be required.

Conditional release of goods

- 104.** The release of goods for home use or a customs procedure is subject to such conditions—
- (a) as the customs authority may in a specific case impose to ensure compliance with a provision of this Act, a tax levying Act or any other applicable legislation; or
 - (b) as may be prescribed by rule. 15

When release of goods must or may be withdrawn⁹¹

- 105.** (1) The customs authority must withdraw the release of goods for home use or a customs procedure—
- (a) if the release given was impermissible in terms of section 99;
 - (b) if, in the case of a release for a customs procedure, the goods are diverted for home use; 20
 - (c) if the goods are seized or confiscated in terms of—
 - (i) this Act or a tax levying Act; or
 - (ii) any other legislation or an order of court and the customs authority is informed of the seizure or confiscation; or 25
 - (d) in any other circumstances specifically provided for in this Act or a tax levying Act.
- (2) The customs authority may withdraw the release of goods for home use or a customs procedure—
- (a) if any condition subject to which the goods were released is breached; 30
 - (b) if, in the case of a release for a customs procedure, a provision of this Act or a tax levying Act applicable to that procedure is breached;
 - (c) if withdrawal of the release is necessary for—
 - (i) effectively implementing this Act or a tax levying Act in relation to those goods;⁹² 35
 - (ii) stopping in relation to those goods any abuse of a system or procedure of this Act or a tax levying Act; or
 - (iii) giving effect to national legislation or policy on—
 - (aa) international trade;
 - (bb) the protection of public health; 40
 - (cc) the protection of the environment; or
 - (dd) public safety;
 - (d) if the goods are detained in terms of this Act, a tax levying Act, any other legislation or an order of court; or
 - (e) in any other circumstances specifically provided for in this Act or a tax levying Act. 45
- (3) The release of goods may not be withdrawn in terms of subsection (2) on account of a clearance declaration that is invalid in terms of section 172 if the clearance declaration can be and is validated by an amendment in terms of section 174.

91. For consequences of withdrawal of a release, see section 106.

92. Included here are the conditions and requirements contained in the tax levying Acts subject to which goods may be cleared and released for specific customs procedures.

Voorvereistes vir vrystelling van goedere

- 103.** Die doeanegesag kan dié voorvereistes vir die vrystelling van goedere vir binnelandse gebruik of 'n doeaneprosedure oplê soos nodig mag wees om te verseker—
- (a) dat daar aan 'n bepaling van hierdie Wet, 'n belastingheffings-Wet of enige ander tersaaklike wetgewing voldoen word; 5
 - (b) dat enige invoer- of uitvoerbelasting wat op die goedere betaalbaar is of mag word, betaal word of sal word;
 - (c) dat enige sekuriteit wat benodig mag word, betaal word.

Voorwaardelike vrystelling

- 104.** Die vrystelling van goedere vir binnelandse gebruik of 'n doeaneprosedure is onderworpe aan dié voorwaardes—
- (a) soos die doeanegesag in 'n bepaalde geval mag oplê om te verseker dat daar aan 'n bepaling van hierdie Wet, 'n belastingheffings-Wet of enige ander tersaaklike wetgewing voldoen word; of
 - (b) soos by reël voorgeskryf mag word. 15

Wanneer vrystelling van goedere ingetrek kan of moet word⁹¹

- 105.** (1) Die doeanegesag moet die vrystelling van goedere vir binnelandse gebruik of 'n doeaneprosedure intrek—
- (a) indien die vrystelling wat verleen is ingevolge artikel 99 ontoelaatbaar was;
 - (b) indien, in die geval van 'n vrystelling vir 'n doeaneprosedure, die goedere afgewend is vir binnelandse gebruik; 20
 - (c) indien daar op die goedere beslag gelê is of die goedere gekonfiskeer is ingevolge—
 - (i) hierdie Wet of 'n belastingheffings-Wet; of
 - (ii) enige ander wetgewing of 'n hofbevel en die doeanegesag van die beslaglegging of konfiskering in kennis gestel is; of 25
 - (d) in enige ander omstandighede waarvoor daar spesifiek in hierdie Wet of 'n belastingheffings-Wet voorsiening gemaak word.
- (2) Die doeanegesag kan die vrystelling van goedere vir binnelandse gebruik of 'n doeaneprosedure intrek—
- (a) indien daar 'n breuk begaan word van enige voorwaarde onderworpe waaraan die goedere vrygestel is;
 - (b) indien, in die geval van 'n vrystelling vir 'n doeaneprosedure, 'n breuk van 'n bepaling van hierdie Wet of 'n belastingheffings-Wet wat vir daardie prosedure geld, begaan is; 35
 - (c) indien intrekking van die vrystelling nodig is—
 - (i) vir die effektiewe implementering van hierdie Wet of 'n belastingheffings-Wet met betrekking tot daardie goedere;⁹²
 - (ii) om enige misbruik van 'n stelsel of prosedure van hierdie Wet of 'n belastingheffings-Wet met betrekking tot daardie goedere te beëindig; of 40
 - (iii) om gevolg te gee aan nasionale wetgewing of beleid oor—
 - (aa) internasionale handel;
 - (bb) die beskerming van openbare gesondheid;
 - (cc) die beskerming van die omgewing; of
 - (dd) openbare veiligheid; 45
 - (d) indien die goedere ingevolge hierdie Wet, 'n belastingheffings-Wet, enige ander wetgewing of 'n hofbevel onder detensie geplaas word; of
 - (e) in enige ander omstandighede waarvoor daar spesifiek in hierdie Wet of 'n belastingheffings-Wet voorsiening gemaak word.
- (3) Die vrystelling van goedere mag nie ingevolge subartikel (2) ingetrek word op grond van 'n klaringsbrief wat ingevolge artikel 172 ongeldig is nie indien die klaringsbrief deur 'n wysiging ingevolge artikel 174 gevalideer kan word en is. 50

91. Vir gevolge van intrekking van 'n vrystelling, kyk artikel 106.

92. Ingeslote hier is die voorwaardes en vereistes in die belastingheffings-Wette vervat waaronder goedere vir bepaalde doeaneprosedures geklaar en vrygestel mag word.

(4) A withdrawal of a release of goods is a ground for the detention of the goods in terms of section 754 if the goods are not already detained on any other ground.

Consequences of refusal to release or withdrawal of release of goods

106. (1) If the customs authority refuses to release goods for home use or a customs procedure in terms of section 99 or 100 or withdraws the release of goods for home use or a customs procedure in terms of section 105, it may, depending on the circumstances, allow the person clearing the goods—⁹³ 5

- (a) to clear the goods in terms of section 97(1) or (2) for home use or a specific customs procedure that will not render release of the goods subject to a refusal; or 10
- (b) to amend the clearance declaration in terms of section 174 if release of the goods was refused or withdrawn because of a rectifiable error on the clearance declaration. 20

(2) When allowing a person to clear goods or to amend a clearance declaration in terms of subsection (1), the customs authority may require the goods to be cleared or a clearance declaration to be amended within a period determined by it. 15

(3) (a) Any import or export tax paid on the goods as a consequence of a clearance that is replaced in terms of subsection (1)(a) may in accordance with the tax levying Act regulating that tax be refunded to the person who paid that tax if the customs authority in terms of that subsection allows the goods to be cleared for a customs procedure that has a tax free status in relation to such import or export tax.⁹⁴ 20

(b) Paragraph (a) does not apply if the tax levying Act regulating the relevant tax provides otherwise.

(4) This section applies apart from any criminal proceedings that may be instituted, administrative penalty that may be imposed or other step that may be taken by the customs authority in terms of this Act or a tax levying Act if the release was refused or withdrawn because of a breach of this Act or a tax levying Act committed in connection with the goods, which step may include, where not inconsistent with this Act or other applicable legislation or otherwise inappropriate— 25

- (a) applying section 570(2), read with section 580, to the goods; 30
- (b) seizing the goods in terms of Chapter 34;
- (c) allowing the person who cleared the goods to abandon the goods to the Commissioner in accordance with Chapter 26;
- (d) allowing or directing the person who cleared the goods— 35
 - (i) to remove the goods from the Republic, in the case of imported goods; or
 - (ii) to destroy the goods under supervision of the customs authority or an organ of state designated by the customs authority.

Clearance and release substitutions for goods released for home use⁹⁵

107. (1) Goods that have been released for home use may, despite such release, be cleared and, subject to sections 99 and 100, released for a permissible customs procedure. 40

(2) Goods that have been released for home use may be cleared and released for a customs procedure in terms of subsection (1) only if the clearance declaration is submitted to and accepted by the customs authority in terms of section 171(1) within 90 calendar days from the date of release of the goods for home use. 45

93. For person clearing goods, see section 166.

94. For tax status of goods under the various customs procedures, see Chapter 6.

95. See section 97 for clearance substitutions of goods cleared for home use or a customs procedure before release of the goods, and section 174 for amendments to clearance declarations.

(4) 'n Intrekking van 'n vrystelling van goedere is 'n grond vir die plasing van die goedere onder detensie ingevolge artikel 754 indien die goedere nie alreeds om 'n ander rede onder detensie geplaas is nie.

Gevolge van weiering om goedere vry te stel of intrekking van vrystelling van goedere 5

106. (1) Indien die doeanegesag weier om goedere vir binnelandse gebruik of 'n doeaneprosedure ingevolge artikel 99 of 100 vry te stel of die vrystelling van goedere vir binnelandse gebruik of 'n doeaneprosedure ingevolge artikel 105 intrek, kan die doeanegesag, afhangende van die omstandighede, die persoon wat die goedere klaar, toelaat—⁹³ 10

- (a) om die goedere ingevolge artikel 97(1) of (2) vir binnelandse gebruik of 'n spesifieke doeaneprosedure te klaar wat nie die vrystelling van die goedere aan 'n weiering sal blootstel nie; of
- (b) om die klaringsbrief ingevolge artikel 174 te wysig indien die vrystelling van die goedere geweier of ingetrek is weens 'n regstelbare fout op die klaringsbrief. 15

(2) Wanneer 'n persoon ingevolge subartikel (1) toegelaat word om goedere te klaar of om 'n klaringsbrief te wysig, kan die doeanegesag vereis dat die goedere geklaar moet word of dat die klaringsbrief gewysig moet word binne 'n tydperk deur die doeanegesag bepaal. 20

(3) (a) Enige invoer- of uitvoerbelasting wat op die goedere betaal is ten gevolge van 'n klaring wat ingevolge subartikel (1)(a) vervang is, kan ooreenkomstig die belastingheffings-Wet wat daardie belasting reguleer, terugbetaal word aan die persoon wat die belasting betaal het, indien die doeanegesag ingevolge daardie subartikel toestemming verleen dat die goedere vir 'n doeaneprosedure geklaar word wat 'n belastingvry status met betrekking tot so 'n invoer- of uitvoerbelasting verleen.⁹⁴ 25

(b) Paragraaf (a) geld nie indien die belastingheffings-Wet wat die betrokke belasting reguleer anders bepaal nie.

(4) Hierdie artikel geld afgesien van enige strafregtelike verrigtinge wat ingestel kan word, administratiewe boete wat opgelê kan word of enige stap wat gedoen kan word deur die doeanegesag ingevolge hierdie Wet of 'n belastingheffings-Wet, indien die vrystelling geweier of ingetrek is weens 'n breuk van hierdie Wet of 'n belastingheffings-Wet wat in verband met die goedere begaan is, watter stappe kan insluit, waar dit nie met hierdie Wet of ander tersaaklike wetgewing onbestaanbaar of andersins onvanpas is nie— 35

- (a) om artikel 570(2), saamgelees met artikel 580, op die goedere toe te pas;
- (b) om op die goedere ingevolge Hoofstuk 34 beslag te lê;
- (c) om die persoon wat die goedere geklaar het, toe te laat om die goedere ooreenkomstig Hoofstuk 26 aan die Kommissaris oor te gee;
- (d) om die persoon wat die goedere geklaar het, toe te laat of te gelas— 40
 - (i) om die goedere uit die Republiek te verwyder, in die geval van ingevoerde goedere; of
 - (ii) om die goedere onder toesig van die doeanegesag of 'n staatsorgaan aangewys deur die doeanegesag te vernietig.

Klaring- en vrystellingsvervangings van goedere vrygestel vir binnelandse gebruik⁹⁵ 45

107. (1) Goedere wat vir binnelandse gebruik vrygestel is, kan, ondanks die vrystelling, geklaar en, behoudens artikels 99 en 100, vrygestel word vir 'n toelaatbare doeaneprosedure.

(2) Goedere wat vir binnelandse gebruik vrygestel is, kan ingevolge subartikel (1) vir 'n doeaneprosedure geklaar en vrygestel word slegs indien die klaringsbrief ingedien word by, en ingevolge artikel 171(1) aanvaar word deur, die doeanegesag binne 90 kalenderdae vanaf die datum van vrystelling van die goedere vir binnelandse gebruik. 50

93. Vir persoon wat goedere klaar, kyk artikel 166.

94. Vir belastingstatus van goedere onder die verskeie doeaneprosedures, sien Hoofstuk 6.

95. Kyk artikel 97 vir vervanging van klarings van goedere wat geklaar is vir binnelandse gebruik of 'n doeaneprosedure voor vrystelling van die goedere, en artikel 174 vir wysiging van klaringsbriewe.

(3) A clearance declaration to clear the goods for a customs procedure submitted to and accepted by the customs authority in terms of section 171(1) replaces the home use clearance declaration with effect from the time the home use clearance declaration was originally accepted by the customs authority in terms of that section.⁹⁶

(4) If the clearance and release of goods for home use is replaced in terms of subsection (1) the person who paid any import tax on the goods as a consequence of the previous clearance is entitled to a refund subject to the applicable tax levying Act. 5

Effect of release of goods for home use or customs procedures

108. (1) (a) Goods unconditionally released for home use become, upon their release, goods in free circulation. 10

(b) Goods conditionally released for home use become, upon compliance with the condition, goods in free circulation.

(2) Goods released for a customs procedure remain subject to this Act despite the release and may not be dealt with otherwise than in accordance with—

(a) the provisions of this Act or a tax levying Act⁹⁷ applicable to that customs procedure; and 15

(b) any conditions as may be applicable to the goods in terms of section 104.

Part 3

General principles governing goods under customs procedures

Commencement and ending of customs procedures 20

109. (1) A customs procedure in relation to goods—

(a) commences when the goods come under that customs procedure; and

(b) ends when that customs procedure is completed,⁹⁸ unless that procedure is interrupted by an occurrence referred to in subsection (2).

(2) A customs procedure in relation to goods ends before its completion if— 25

(a) the release of the goods for that customs procedure is refused or withdrawn;

(b) the goods are for tax purposes regarded to be cleared for home use in terms of Chapter 8 or for outright export;

(c) the goods revert or are for tax purposes regarded to have reverted to free circulation; 30

(d) the goods are—

(i) abandoned to the Commissioner;⁹⁹ or

(ii) to be destroyed under supervision of the customs authority or an organ of state designated by the customs authority;

(e) the goods are seized or confiscated in terms of this Act, a tax levying Act, any other legislation or an order of court; or 35

(f) the goods are damaged, destroyed, lost or unaccounted for and the clearance declaration for the goods is withdrawn in terms of Chapter 25.

96. If the goods are only partially cleared for a customs procedure, the existing clearance declaration must be amended in terms of section 174(2) to apply to that part of the goods that remain cleared for home use.

97. For instance, the Customs Tariff prescribes conditions and requirements for certain customs procedures.

98. The time when goods come under a customs procedure and when a customs procedure ends is stated in the Chapter dealing with the specific customs procedure.

99. See Chapter 26.

(3) 'n Klaringsbrief om die goedere vir 'n doeaneprosedure te klaar wat ingedien is by, en ingevolge artikel 171(1) aanvaar is deur, die doeanegesag, vervang die klaringsbrief vir binnelandse gebruik vanaf die tydstip waarop die klaringsbrief vir binnelandse gebruik oorspronklik deur die doeanegesag ingevolge daardie artikel aanvaar is.⁹⁶ 5

(4) Indien die klaring en vrystelling van goedere vir binnelandse gebruik ingevolge subartikel (1) vervang word, is die persoon wat ten gevolge van die vorige klaring enige invoerbelasting op die goedere betaal het, geregtig op 'n terugbetaling, behoudens die betrokke belastingheffings-Wet.

Effek van vrystelling van goedere vir binnelandse gebruik of doeaneprosedures 10

108. (1) (a) Goedere wat onvoorwaardelik vir binnelandse gebruik vrygestel is, word by die vrystelling daarvan goedere in vry sirkulasie.

(b) Goedere wat voorwaardelik vir binnelandse gebruik vrygestel is, word by voldoening aan die voorwaarde goedere in vry sirkulasie.

(2) Goedere vrygestel vir 'n doeaneprosedure bly ondanks die vrystelling aan hierdie Wet onderworpe, en daar mag nie met die goedere gehandel word anders as volgens voorskrif van— 15

(a) die bepalings van hierdie Wet of 'n belastingheffings-Wet⁹⁷ wat vir daardie doeaneprosedure geld nie; en

(b) enige voorwaardes wat ingevolge artikel 104 op die goedere van toepassing mag wees nie. 20

Deel 3

Algemeen-geldende beginsels vir goedere onder doeaneprosedures

Begin en einde van doeaneprosedures

109. (1) 'n Doeaneprosedure met betrekking tot goedere— 25

(a) begin wanneer die goedere onder daardie doeaneprosedure kom; en

(b) eindig wanneer daardie doeaneprosedure afgehandel is,⁹⁸ tensy daardie prosedure onderbreek word deur 'n gebeurtenis in subartikel (2) bedoel.

(2) 'n Doeaneprosedure met betrekking tot goedere eindig voor die afhandeling daarvan indien— 30

(a) die vrystelling van die goedere vir daardie doeaneprosedure geweier of ingetrek word;

(b) die goedere vir belastingdoeleindes geag word ingevolge Hoofstuk 8 vir binnelandse gebruik of vir regstreekse uitvoer geklaar te wees;

(c) die goedere tot vry sirkulasie terugval of vir belastingdoeleindes geag word terug te geval het; 35

(d) die goedere—

(i) aan die Kommissaris oorgegee word;⁹⁹ of

(ii) vernietig gaan word onder toesig van die doeanegesag of 'n staatsorgaan deur die doeanegesag aangewys; 40

(e) daar op die goedere beslag gelê is of die goedere gekonfiskeer is ingevolge hierdie Wet, 'n belastingheffings-Wet, enige ander wetgewing of 'n hofbevel; of

(f) die goedere beskadig, vernietig, verlore of rekenskaploos geraak het en die klaringsbrief vir die goedere ingevolge Hoofstuk 25 teruggetrek word. 45

96. Indien die goedere slegs gedeeltelik vir 'n doeaneprosedure geklaar word, moet die bestaande klaringsbrief ingevolge artikel 174(2) gewysig word om van toepassing te wees slegs op daardie gedeelte van die goedere wat vir binnelandse gebruik geklaar is.

97. Byvoorbeeld, die Doeanetarief skryf voorwaardes en vereistes vir bepaalde doeaneprosedures voor.

98. Die tydstip waarop goedere onder 'n doeaneprosedure kom en waarop 'n doeaneprosedure eindig, word aangedui in die Hoofstuk wat met die betrokke doeaneprosedure handel.

99. Kyk Hoofstuk 26.

Clearance and release of goods under customs procedures

110. (1) Goods under a customs procedure may at any time during, or at the completion of, the procedure be cleared for another customs procedure or for home use, as may be permissible in the circumstances.¹⁰⁰

(2) Goods that are cleared in terms of subsection (1) for another customs procedure or for home use acquire a tax status applicable to goods cleared for that customs procedure or for home use, as the case may be.¹⁰¹ 5

(3) Imported goods may not remain under consecutive customs procedures for longer than three years from the date of import or for longer than an extension of that period in terms of section 908.¹⁰² 10

Transfer of ownership of goods under customs procedures

111. (1) Ownership of goods under a customs procedure may not without the approval of the customs authority be transferred to another person whilst those goods are under that procedure.

(2) An agreement entered into in contravention of subsection (1) is null and void. 15

(3) Application for approval in terms of subsection (1) must be made to the customs authority—

(a) before the goods are transferred; and

(b) in the form and format as may be prescribed by rule containing the information required on the prescribed form or otherwise prescribed by rule. 20

(4) The customs authority may not without good reason withhold approval in terms of subsection (1).

(5) If ownership of goods under a customs procedure is transferred with the approval of the customs authority in accordance with subsection (1)—

(a) the transfer does not— 25

(i) interrupt the continuation of that procedure; or

(ii) affect the tax status conferred on the goods by virtue of that procedure; and

(b) the new owner of the goods or, if only a share in the ownership of the goods has been transferred, the person to whom that share has been transferred— 30

(i) must be regarded to have cleared the goods or that share for that procedure;

(ii) assumes the obligations of the previous owner or holder of that share;

(iii) must comply with any requirements and conditions applicable to the goods in terms of that procedure; and 35

(iv) must comply with any conditions imposed by the customs authority in respect of the transfer.

(6) Subsection (5) does not affect the liability of the previous owner or holder of the transferred share of the goods for any import or export tax, penalties or other money owed to the Commissioner on the goods up to the time of transfer of ownership or of the share in ownership. 40

100. If the goods are only partially cleared for another customs procedure or for home use, the existing clearance declaration must be amended in terms of section 174(2) to apply to that part of the goods that remain under the existing procedure.

101. For tax status of goods cleared for home use or a customs procedure, see Chapter 6.

102. The implication is that imported goods must ultimately be cleared for home use or otherwise dealt with within the three year period.

Klaring en vrystelling van goedere onder doeaneprosedures

110. (1) Goedere onder 'n doeaneprosedure kan op enige tydstip gedurende, of by afhandeling van, die prosedure geklaar word vir 'n ander doeaneprosedure of vir binnelandse gebruik, soos in die omstandighede toelaatbaar mag wees.¹⁰⁰
- (2) Goedere wat ingevolge subartikel (1) vir 'n ander doeaneprosedure of vir binnelandse gebruik geklaar word, verkry 'n belastingstatus wat geld vir goedere wat vir daardie doeaneprosedure of vir binnelandse gebruik, na gelang van die geval, geklaar word.¹⁰¹ 5
- (3) Ingevoerde goedere mag nie onder opeenvolgende doeaneprosedures bly vir langer as drie jaar vanaf die datum van invoer of vir langer as 'n verlenging van daardie tydperk ingevolge artikel 908 nie.¹⁰² 10

Oordrag van eiendomsreg op goedere onder doeaneprosedures

111. (1) Eiendomsreg op goedere onder 'n doeaneprosedure mag nie sonder die goedkeuring van die doeanegesag aan 'n ander persoon oorgedra word terwyl daardie goedere onder daardie prosedure is nie. 15
- (2) 'n Ooreenkoms aangegaan in stryd met subartikel (1) is nietig.
- (3) Aansoek om goedkeuring ingevolge subartikel (1) moet by die doeanegesag gedoen word—
- (a) voordat die goedere oorgedra word; en
 - (b) in 'n vorm en formaat soos by reël voorgeskryf mag word en die inligting bevat wat op die voorgeskrewe vorm vereis of andersins by reël voorgeskryf word. 20
- (4) Die doeanegesag mag nie sonder goeie rede goedkeuring ingevolge subartikel (1) weerhou nie.
- (5) Indien eiendomsreg op goedere onder 'n doeaneprosedure ooreenkomstig subartikel (1) met die goedkeuring van die doeanegesag oorgedra word— 25
- (a) word—
 - (i) die voortsetting van daardie prosedure nie deur die oordrag onderbreek nie; of
 - (ii) die belastingstatus aan die goedere uit hoofde van daardie prosedure verleen, nie deur die oordrag geraak nie; en 30
 - (b) moet die nuwe eienaar van die goedere of, indien slegs 'n aandeel in die eiendomsreg op die goedere oorgedra is, die persoon aan wie daardie aandeel oorgedra is—
 - (i) geag word om die goedere, of daardie aandeel, vir daardie prosedure te geklaar het; 35
 - (ii) die verpligtinge van die vorige eienaar of houer van daardie aandeel oorneem;
 - (iii) voldoen aan enige vereistes en voorwaardes wat op die goedere ingevolge daardie prosedure van toepassing is; en 40
 - (iv) voldoen aan enige voorwaardes wat deur die doeanegesag ten opsigte van die oordrag opgelê word.
- (6) Subartikel (5) raak nie die aanspreeklikheid van die vorige eienaar van, of houer van die aandeel wat oorgedra is in, die goedere vir enige invoer- of uitvoerbelasting, boetes of ander gelde aan die Kommissaris verskuldig op die goedere tot op die tydstip van oordrag van eiendomsreg of van die aandeel in eiendomsreg nie. 45

100. Indien die goedere slegs gedeeltelik vir 'n ander doeaneprosedure of vir binnelandse gebruik geklaar is, moet die bestaande klaringsbrief ingevolge artikel 174(2) gewysig word om van toepassing te wees op daardie gedeelte van die goedere wat onder die bestaande prosedure bly.

101. Vir belastingstatus van goedere wat vir binnelandse gebruik of 'n doeaneprosedure geklaar word, sien Hoofstuk 6.

102. Die gevolg is dat ingevoerde goedere uiteindelik vir binnelandse gebruik geklaar moet word of andersins mee gehandel moet word binne die driejaartydperk.

Tax consequences for imported goods under customs procedures in event of non-compliance

- 112.** (1) Imported goods under a customs procedure must for tax purposes be regarded to be cleared for home use under Chapter 8—¹⁰³
- (a) if the goods are diverted for home use; 5
 - (b) if the goods whilst under that procedure are damaged, destroyed, lost or unaccounted for and it is not proved in accordance with Chapter 25—
 - (i) that the goods were damaged, destroyed, lost or unaccounted for due to a recognised cause;¹⁰⁴ or
 - (ii) in the case of goods lost due to a recognised cause, that the goods, after having been lost, have not gone into home use in any way; or 10
 - (c) in any other circumstances specifically provided for in this Act or a tax levying Act.
- (2) The customs authority may direct that imported goods under a customs procedure must for tax purposes be regarded to be cleared for home use under Chapter 8— 15
- (a) if a provision of this Act or a tax levying Act applicable to customs procedures generally or to that specific customs procedure is breached in respect of those goods; or
 - (b) if a condition of the licence of any premises used for the purpose of carrying out that customs procedure is breached in respect of those goods. 20
- (3) When applying subsection (1) or (2) to imported goods under a customs procedure in circumstances where the ground for regarding the imported goods to be cleared for home use under Chapter 8 pertains only to a part of those imported goods, only that part of the imported goods must in terms of that subsection be regarded to be cleared for home use.¹⁰⁵ 25

Tax consequences for free circulation goods under customs procedures in event of non-compliance

- 113.** (1) Goods under a customs procedure that were in free circulation when the goods came under that procedure must for tax purposes be regarded to have reverted to free circulation—¹⁰⁶ 30
- (a) if the goods are diverted for home use;
 - (b) if the goods whilst under that procedure are damaged, destroyed, lost or unaccounted for and it is not proved in accordance with Chapter 25—
 - (i) that the goods were damaged, destroyed, lost or unaccounted for due to a recognised cause;¹⁰⁷ or 35
 - (ii) in the case of goods lost due to a recognised cause, that the goods, after having been lost, have not gone into home use in any way; or
 - (c) in any other circumstances specifically provided for in this Act or a tax levying Act.
- (2) The customs authority may direct that goods under a customs procedure that were in free circulation when the goods came under that procedure must for tax purposes be regarded to have reverted to free circulation—
- (a) if a provision of this Act or a tax levying Act applicable to customs procedures generally or to that specific customs procedure is breached in respect of those goods; or 45

103. For tax implications if goods under a customs procedure are regarded to be cleared for home use under Chapter 8, see section 154.

104. See definition of “recognised cause” in section 1.

105. For the equivalent provision in relation to compensating products obtained from imported goods under inward processing, see section 430(3).

106. For tax implications if goods are regarded as having reverted to free circulation, see section 161.

107. See definition of “recognised cause” in section 1.

Belastinggevolge vir ingevoerde goedere onder doeaneprosedures in geval van nie-voldoening

- 112.** (1) Ingevoerde goedere onder 'n doeaneprosedure moet vir belastingdoeleindes geag word vir binnelandse gebruik ingevolge Hoofstuk 8 geklaar te wees—¹⁰³
- (a) indien die goedere vir binnelandse gebruik afgewend is; 5
 - (b) indien die goedere, terwyl dit onder daardie prosedure was, beskadig, vernietig, verlore of rekenskaploos geraak het en daar nie volgens voorskrif van Hoofstuk 25 bewys word nie—
 - (i) dat die goedere weens 'n erkende oorsaak beskadig, vernietig, verlore of rekenskaploos geraak het;¹⁰⁴ of 10
 - (ii) in die geval van goedere wat weens 'n erkende oorsaak verlore geraak het, dat die goedere, nadat dit verlore geraak het, nie op enige wyse in binnelandse gebruik gegaan het nie; of
 - (c) in enige ander omstandighede waarvoor daar spesifiek in hierdie Wet of 'n belastingheffings-Wet voorsiening gemaak word. 15
- (2) Die doeanegesag kan gelas dat ingevoerde goedere onder 'n doeaneprosedure vir belastingdoeleindes geag moet word vir binnelandse gebruik kragtens Hoofstuk 8 geklaar te wees—
- (a) indien 'n breuk begaan word van 'n bepaling van hierdie Wet of 'n belastingheffings-Wet wat in die algemeen vir doeaneprosedures of vir daardie bepaalde doeaneprosedure ten opsigte van daardie goedere geld; of 20
 - (b) indien 'n breuk begaan word van 'n voorwaarde van die lisensie van enige perseel wat vir doeleindes van die uitvoering van daardie doeaneprosedure ten opsigte van daardie goedere gebruik word.
- (3) Wanneer subartikel (1) of (2) op ingevoerde goedere onder 'n doeaneprosedure toegepas word in omstandighede waar die rede waarom die ingevoerde goedere geag word vir binnelandse gebruik kragtens Hoofstuk 8 geklaar te wees, betrekking het slegs op 'n gedeelte van daardie ingevoerde goedere, moet slegs daardie gedeelte van die ingevoerde goedere ingevolge daardie subartikel geag word vir binnelandse gebruik geklaar te wees.¹⁰⁵ 25 30

Belastinggevolge vir vry-sirkulasie goedere onder doeaneprosedures in geval van nie-voldoening

- 113.** (1) Goedere onder 'n doeaneprosedure wat in vry sirkulasie was toe die goedere onder daardie prosedure gekom het, moet vir belastingdoeleindes geag word tot vry sirkulasie terug te geval het—¹⁰⁶ 35
- (a) indien die goedere vir binnelandse gebruik afgewend is;
 - (b) indien die goedere terwyl dit onder daardie prosedure was, beskadig, vernietig, verlore of rekenskaploos geraak het en daar nie volgens voorskrif van Hoofstuk 25 bewys word nie—
 - (i) dat die goedere weens 'n erkende oorsaak beskadig, vernietig, verlore of rekenskaploos geraak het;¹⁰⁷ of 40
 - (ii) in die geval van goedere wat weens 'n erkende oorsaak verlore geraak het, dat die goedere, nadat dit verlore geraak het, nie op enige wyse in binnelandse gebruik gegaan het nie; of
 - (c) in enige ander omstandighede waarvoor daar spesifiek in hierdie Wet of 'n belastingheffings-Wet voorsiening gemaak word. 45
- (2) Die doeanegesag kan gelas dat goedere onder 'n doeaneprosedure wat in vry sirkulasie was toe die goedere onder daardie prosedure gekom het vir belastingdoeleindes, geag moet word tot vry sirkulasie terug te geval het—
- (a) indien 'n breuk begaan word van 'n bepaling van hierdie Wet of 'n belastingheffings-Wet wat vir doeaneprosedures in die algemeen of vir daardie bepaalde doeaneprosedure ten opsigte van daardie goedere geld; of 50

103. Vir belastinggevolge indien goedere onder 'n doeaneprosedure geag word geklaar te wees vir binnelandse gebruik onder Hoofstuk 8, kyk artikel 154.

104. Kyk omskrywing van "erkende oorsaak" in artikel 1.

105. Vir die ooreenstemmende bepaling met betrekking tot kompenserende produkte verkry uit ingevoerde goedere onder inwaartse prosessering, kyk artikel 430(3).

106. Vir belastinggevolge indien goedere geag word na vry sirkulasie terug te gekeer het, kyk artikel 161.

107. Kyk omskrywing van "erkende oorsaak" in artikel 1.

(b) if a condition of the licence of any premises used for the purpose of carrying out that customs procedure is breached in respect of those goods.

(3) When applying subsection (1) or (2) to goods under a customs procedure in circumstances where the ground for regarding the goods to have reverted to free circulation pertains only to a part of those goods, only that part of the goods must in terms of that subsection be regarded to have reverted to free circulation. 5

Tax consequences for goods exported under customs procedures in event of non-compliance

114. (1) The customs authority may direct that goods exported under a customs procedure must for tax purposes be regarded to be cleared for outright export¹⁰⁸ if a provision of this Act or a tax levying Act applicable to customs procedures generally or to that specific customs procedure is breached in respect of those goods. 10

(2) When applying subsection (1) to goods exported under a customs procedure in circumstances where the ground for regarding the exported goods to be cleared for outright export pertains only to a part of those exported goods, only that part of the exported goods must in terms of that subsection be regarded to be cleared for outright export.¹⁰⁹ 15

(3) This section may not be read as affecting the application of section 112 or 113 in relation to goods under a customs procedure.

Other consequences of non-compliance with provisions applicable to customs procedures 20

115. Section 112, 113 or 114 applies apart from any criminal proceedings that may be instituted, administrative penalty that may be imposed or any other step that may be taken by the customs authority in terms of this Act for a breach of a provision applicable to customs procedures generally or to the relevant customs procedure, which may include, where not inconsistent with this Act or other applicable legislation or otherwise inappropriate— 25

- (a) withdrawing the release of the goods for the relevant customs procedure in terms of section 105;
- (b) demanding that the goods immediately be cleared for home use under Chapter 8, in the case of imported goods; 30
- (c) applying section 570(2), read with section 580, to the goods;
- (d) seizing the goods in terms of Chapter 35;
- (e) allowing the person who cleared the goods to abandon the goods to the Commissioner in accordance with Chapter 26; or 35
- (f) allowing or directing the person who cleared the goods to—
 - (i) continue applying the relevant customs procedure to the goods but subject to such conditions as the customs authority may determine;
 - (ii) remove the goods from the Republic, in the case of imported goods; or
 - (iii) destroy the goods under supervision of the customs authority or an organ 40 of state designated by the customs authority.

108. For tax implications if goods are regarded to be cleared for outright export, see section 159.

109. For the equivalent provision in relation to compensating products obtained from goods exported under outward processing procedure, see section 472.

(b) indien 'n breuk begaan word van 'n voorwaarde van die lisensie van enige perseel wat vir doeleindes van die uitvoering van daardie doeaneprosedure ten opsigte van daardie goedere gebruik word.

(3) Wanneer subartikel (1) of (2) op goedere onder 'n doeaneprosedure toegepas word in omstandighede waar die rede waarom die goedere geag word tot vry sirkulasie terug te geval het slegs op 'n gedeelte van daardie goedere betrekking het, moet slegs daardie gedeelte van die goedere ingevolge daardie subartikel geag word tot vry sirkulasie terug te geval het. 5

Belastinggevolge vir goedere uitgevoer onder doeaneprosedures in geval van nie-voldoening 10

114. (1) Die doeanegesag kan gelas dat goedere uitgevoer onder 'n doeaneprosedure vir belastingdoeleindes geag moet word vir regstreekse uitvoer geklaar te wees¹⁰⁸ indien 'n bepaling van hierdie Wet of 'n belastingheffings-Wet wat vir doeaneprosedures in die algemeen of vir daardie bepaalde doeaneprosedure geld, ten opsigte van daardie goedere verbreek is. 15

(2) Wanneer subartikel (1) op goedere uitgevoer onder 'n doeaneprosedure toegepas word in omstandighede waar die rede waarom die uitgevoerde goedere geag word vir regstreekse uitvoer geklaar te wees, betrekking het slegs op 'n gedeelte van daardie uitgevoerde goedere, moet slegs daardie gedeelte van die uitgevoerde goedere ingevolge daardie subartikel geag word vir regstreekse uitvoer geklaar te wees.¹⁰⁹ 20

(3) Hierdie artikel mag nie uitgelê word op 'n wyse wat afbreuk doen aan die toepassing van artikel 112 of 113 met betrekking tot goedere onder 'n doeaneprosedure nie.

Ander gevolge van nie-voldoening aan bepalings wat vir doeaneprosedures geld

115. Artikel 112, 113 of 114 kan toegepas word afgesien van enige strafregtelike verrigtinge wat ingestel kan word, administratiewe boete wat opgelê kan word of ander stap wat gedoen kan word deur die doeanegesag ingevolge hierdie Wet vir 'n breuk van 'n bepaling wat vir doeaneprosedures in die algemeen of vir die bepaalde doeaneprosedure geld, wat kan insluit, waar dit nie met hierdie Wet of ander geldende wetgewing onbestaanbaar is of andersins onvanpas is nie— 25 30

- (a) om die vrystelling van die goedere vir die bepaalde doeaneprosedure ingevolge artikel 105 in te trek;
- (b) om te gelas dat die die goedere onmiddellik vir binnelandse gebruik kragtens Hoofstuk 8 geklaar word, in die geval van ingevoerde goedere;
- (c) om artikel 570(2), saamgelees met artikel 580, op die goedere toe te pas; 35
- (d) om op die goedere ingevolge Hoofstuk 35 beslag te lê;
- (e) om die persoon wat die goedere geklaar het, toe te laat om die goedere ooreenkomstig Hoofstuk 26 aan die Kommissaris oor te gee; of
- (f) om die persoon wat die goedere geklaar het, toe te laat of te gelas om—
 - (i) voort te gaan om die betrokke doeaneprosedure op die goedere toe te pas, 40 maar behoudens die voorwaardes soos die doeanegesag mag bepaal;
 - (ii) die goedere uit die Republiek te verwyder, in die geval van ingevoerde goedere; of
 - (iii) die goedere onder toesig van die doeanegesag of 'n staatsorgaan aangewys deur die doeanegesag te vernietig. 45

108. Vir belastinggevolge indien goedere geag word geklaar te wees vir regstreekse uitvoer, kyk artikel 159.

109. Vir die ooreenstemmende bepaling met betrekking tot kompenserende produkte wat verkry is van goedere uitgevoer onder die prosedure vir uitwaartse prosessering, kyk artikel 472.

Part 4

Other matters

Keeping of records

116. (1) A person carrying on a business in the Republic as may be specified by rule must for purposes of this Act and any tax levying Act keep such records relating to that business and transactions and in such form, as may be prescribed by rule or as the customs authority may require in a specific case. 5

(2) A person referred to in subsection (1) must on request by a customs officer produce, in a manner and form as may be prescribed by rule, any records referred to in subsection (1), or any information contained in such records, which the customs officer may require for enforcing this Act or a tax levying Act. 10

Rules to facilitate implementation of this Chapter

117. Rules made in terms of section 903 to facilitate the implementation of this Chapter may include rules prescribing—

- (a) any general conditions applicable to an exclusion referred to in section 91 or 95, the circumstances in which the customs authority may withdraw any such exclusion in the case of specific goods or goods imported or to be exported by a specific person, and procedures for the withdrawal of any such exclusion; 15
- (b) the circumstances in and the conditions on which section 97, 107 or 110 may be applied; 20
- (c) measures aimed at ensuring the expeditious customs processing of clearance declarations;
- (d) notification procedures when the release of goods for home use or a customs procedure has been refused or withdrawn;
- (e) documents and other methods to prove that goods fall within an excluded category listed in section 91 or 95; and 25
- (f) documents on authority of which goods that fall within an excluded category listed in section 91 or 95 may be claimed and removed.

Offences in terms of this Chapter

118. (1) An importer of goods to which section 89 applies, or, if the importer is not located in the Republic, the importer's agent in the Republic, is guilty of an offence if— 30

- (a) no clearance declaration to clear the goods for home use or a customs procedure in compliance with that section is submitted to the customs authority; or
- (b) a clearance declaration is submitted but not within the timeframes or at the time required by section 90(1) or (3). 35

(2) An exporter of goods to which section 93 applies, or, if the exporter is not located in the Republic, the exporter's agent in the Republic, is guilty of an offence if—

- (a) no clearance declaration to clear the goods for export in compliance with that section is submitted to the customs authority; or 40
- (b) a clearance declaration is submitted but not within the timeframes or at the time required by section 94.

(3) A person is guilty of an offence if that person—

- (a) contravenes section 111(1) or fails to comply with section 116(1);
- (b) contravenes or fails to comply with a condition imposed in terms of section 104; or 45
- (c) fails to comply with a request issued in terms of section 116(2) or a direction issued in terms of section 115(f).

(4) The offences referred to in subsections (1)(a) and (2)(a) are Category 1 offences.

Deel 4

Ander aangeleenthede

Rekordhouding

116. (1) 'n Persoon wat 'n besigheid in die Republiek bedryf soos by reël gespesifiseer mag word, moet vir doeleindes van hierdie Wet en enige belastingheffings-Wet, dié rekords hou betreffende daardie besigheid en transaksies, en in dié vorm, soos by reël voorgeskryf of deur die doeanegesag in 'n bepaalde geval vereis mag word. 5

(2) 'n Persoon bedoel in subartikel (1) moet op versoek van 'n doeanbeampte, op 'n wyse en vorm soos by reël voorgeskryf mag word, enige rekords in subartikel (1) bedoel, of enige inligting vervat in daardie rekords, voorlê wat die doeanbeampte vir die toepassing van hierdie Wet of 'n belastingheffings-Wet mag benodig. 10

Reëls ter fasilitering van implementering van hierdie Hoofstuk

117. Reëls ingevolge artikel 903 uitgevaardig om die implementering van hierdie Hoofstuk te fasiliteer, kan reëls insluit wat die volgende voorskryf: 15

- (a) Enige algemene voorwaardes wat van toepassing is op 'n uitsluiting in artikel 91 of 95 bedoel, die omstandighede waarin die doeanegesag so 'n uitsluiting mag intrek in die geval van spesifieke goedere of goedere wat ingevoer is of uitgevoer word deur 'n spesifieke persoon, en prosedures vir die intrekking van so 'n uitsluiting; 15
- (b) die omstandighede waarin, en die voorwaardes waarop, artikel 97, 107 of 110 toegepas kan word; 20
- (c) maatreëls wat daarop gerig is om die versnelde doeaneprosessering van klaringsbriewe te verseker;
- (d) kennisgewingsprosedures wanneer die vrystelling van goedere vir binnelandse gebruik of 'n doeaneprosedure geweier of ingetrek word; 25
- (e) dokumente en ander metodes om te bewys dat goedere binne 'n uitgeslote kategorie vermeld in artikel 91 of 95 val; en
- (f) dokumente op gesag waarvan goedere wat binne 'n uitgeslote kategorie vermeld in artikel 91 of 95 val, opgeëis en verwyder kan word.

Misdrywe ingevolge hierdie Hoofstuk 30

118. (1) 'n Invoerder van goedere waarop artikel 89 van toepassing is, of, indien die invoerder nie in die Republiek gesetel is nie, die invoerder se agent in die Republiek, is aan 'n misdryf skuldig indien—

- (a) geen klaringsbrief om die goedere vir binnelandse gebruik of 'n doeaneprosedure ter voldoening aan daardie artikel te klaar by die doeanegesag ingedien word nie; of 35
- (b) 'n klaringsbrief ingedien word maar nie binne die tydsraam of op die tydstip deur artikel 90(1) of (3) vereis nie.

(2) 'n Uitvoerder van goedere waarop artikel 93 van toepassing is, of, indien die uitvoerder nie in die Republiek gesetel is nie, die uitvoerder se agent in die Republiek, is aan 'n misdryf skuldig indien— 40

- (a) geen klaringsbrief om die goedere vir uitvoer ter voldoening aan daardie artikel te klaar by die doeanegesag ingedien word nie; of
- (b) 'n klaringsbrief ingedien word maar nie binne die tydsraam of op die tydstip deur artikel 94 vereis nie. 45

(3) 'n Persoon is aan 'n misdryf skuldig indien daardie persoon—

- (a) artikel 111(1) oortree of versuim om aan artikel 116(1) te voldoen;
- (b) artikel 104 oortree of versuim om te voldoen aan 'n voorwaarde ingevolge daardie artikel opgelê; of
- (c) versuim om te voldoen aan 'n versoek ingevolge artikel 116(2) uitgereik of 'n lasgewing ingevolge artikel 115(f) uitgereik. 50

(4) Die misdrywe in subartikels (1)(a) en (2)(a) bedoel is Kategorie 1 misdrywe.

CHAPTER 5

GENERAL PRINCIPLES GOVERNING TRANSPORT, SEALING AND LOADING OF GOODS

Purpose and application of this Chapter

- 119.** (1) The purpose of this Chapter is to determine general principles governing— 5
- (a) the transport of goods not in free circulation;
 - (b) the sealing of containers, vehicles and packages;
 - (c) the loading and off-loading of goods destined for export; and
 - (d) the transfer of goods— 10
 - (i) between vessels;
 - (ii) between vehicles; and
 - (iii) between containers.
- (2) This Chapter applies subject to any other provision of this Act applicable specifically to the transport, sealing, loading, off-loading or transfer of goods under a particular customs procedure, and in the event of any inconsistency between a provision 15 of this Chapter and such other provision of this Act that other provision prevails.

Part 1

Transport of goods not in free circulation

Application of this Part

- 120.** (1) This Part applies to the transport of all goods not in free circulation except the 20 following categories of goods:
- (a) Goods transported on board a foreign-going vessel or aircraft from—
 - (i) the place where the vessel or aircraft entered the Republic to the customs seaport or airport where the goods are off-loaded;
 - (ii) the place where the vessel or aircraft entered the Republic to the place 25 where the vessel or aircraft leaves the Republic, if the goods are not off-loaded in the Republic; or
 - (iii) the customs seaport or airport where the goods were loaded on board the vessel or aircraft for export from the Republic to the place where the vessel or aircraft leaves the Republic; 30
 - (b) goods transported on board a cross-border railway carriage from—
 - (i) the place of entry where the railway carriage entered the Republic to the rail cargo terminal where the goods are off-loaded;
 - (ii) the rail cargo terminal where the goods were loaded on board the railway carriage for export from the Republic to the place of exit where the 35 railway carriage leaves the Republic; or
 - (iii) the place of entry where the railway carriage entered the Republic to the place of exit where the railway carriage leaves the Republic, if the goods were not off-loaded in the Republic;
 - (c) goods transported between terminals and depots served by the same Customs Office; 40
 - (d) goods transported in accordance with a direction issued or permission granted by the customs authority in terms of a provision of this Act or a tax levying Act and the goods are transported in accordance with the requirements and conditions of the direction or permission; or¹¹⁰ 45
 - (e) goods transported in accordance with an obligatory provision of this Act or a tax levying Act.¹¹¹
- (2) Subsection (1) may not be read as affecting the cargo reporting requirements contained in Chapter 3.

110. For issuing directions and permissions subject to conditions, see section 918.

111. See for instance section 570(1).

HOOFSTUK 5

ALGEMEEN-GELDENDE BEGINSELS VIR VERVOER, SEËL EN LAAI VAN GOEDERE

Doel en toepassing van hierdie Hoofstuk

119. (1) Die doel van hierdie Hoofstuk is om algemeen-geldende beginsels te bepaal 5
vir—

- (a) die vervoer van goedere wat nie in vry sirkulasie is nie;
- (b) die seël van houers, voertuie en verpakings;
- (c) die oplaai en aflaai van goedere bestem vir uitvoer; en
- (d) die oorplasing van goedere— 10
 - (i) tussen vaartuie;
 - (ii) tussen voertuie; en
 - (iii) tussen houers.

(2) Hierdie Hoofstuk is van toepassing behoudens enige ander bepaling van hierdie 15
Wet wat spesifiek vir die vervoer, seël, oplaai, aflaai of oorplasing van goedere onder 'n
bepaalde doeaneprosedure geld, en in die geval van enige teenstrydigheid tussen 'n
bepaling van hierdie Hoofstuk en so 'n ander bepaling van hierdie Wet, geniet daardie
ander bepaling voorrang.

Deel 1

Vervoer van goedere wat nie in vry sirkulasie is nie 20

Toepassing van hierdie Deel

120. (1) Hierdie Deel is van toepassing op die vervoer van alle goedere wat nie in vry
sirkulasie is nie uitgesonderd die volgende kategorieë goedere:

- (a) Goedere vervoer aan boord van 'n land-uitgaande vaartuig of vliegtuig 25
vanaf—
 - (i) die plek waar die vaartuig of vliegtuig die Republiek binnegekom het tot
die doeaneseehawe of -lughawe waar die goedere afgelaai word;
 - (ii) die plek waar die vaartuig of vliegtuig die Republiek binnegekom het tot
die plek waar die vaartuig of vliegtuig die Republiek verlaat, indien die
goedere nie in die Republiek afgelaai word nie; of 30
 - (iii) die doeaneseehawe of -lughawe waar die goedere aan boord van die
vaartuig of vliegtuig vir uitvoer uit die Republiek gelaai is tot die plek
waar die vaartuig of vliegtuig die Republiek verlaat;
- (b) goedere vervoer aan boord van 'n oor-grens spoorwegwa vanaf— 35
 - (i) die plek van toegang waar die spoorwegwa die Republiek binnegekom
het tot die spoorvragterminaal waar die goedere afgelaai word;
 - (ii) die spoorvragterminaal waar die goedere aan boord van die spoorwegwa
vir uitvoer uit die Republiek gelaai is tot die plek van uitgang waar die
spoorwegwa die Republiek verlaat; of
 - (iii) die plek van toegang waar die spoorwegwa die Republiek binnegekom 40
het tot die plek van uitgang waar die spoorwegwa die Republiek verlaat,
indien die goedere nie in die Republiek afgelaai is nie;
- (c) goedere vervoer tussen terminale en depots wat deur dieselfde Doeanekantoor
bedien word;
- (d) goedere vervoer op gesag van 'n lasgewing uitgereik of toestemming verleen 45
deur die doeanegesag ingevolge 'n bepaling van hierdie Wet of 'n
belastingheffings-Wet en die goedere vervoer word ooreenkomstig die
vereistes en voorwaardes van die lasgewing of toestemming; of¹¹⁰
- (e) goedere vervoer ooreenkomstig 'n dwingende bepaling van hierdie Wet of 'n 50
belastingheffings-Wet.¹¹¹

(2) Subartikel (1) mag nie uitgelê word op 'n wyse wat afbreuk doen aan die
vragverslagdoeningsvereistes in Hoofstuk 3 vervat nie.

110. Vir uitreik van lasgewings en toestemming behoudens voorwaardes, kyk artikel 918.

111. Kyk byvoorbeeld artikel 570(1).

Goods not in free circulation to be transported only under customs procedures

121. Goods not in free circulation may be transported in or through the Republic only—

- (a) under a customs procedure that provides for or allows the transport of goods under that procedure; and 5
- (b) in accordance with the provisions of this Act applicable to such transport.

Persons permitted to transport goods not in free circulation

122. Goods not in free circulation may be transported only by—

- (a) a licensed carrier;
- (b) a carrier represented in the Republic by a registered agent, if the carrier is not located in the Republic; or 10
- (c) any other person permitted in terms of the customs procedure under which the goods are transported, to transport goods under that procedure.

Measures to ensure integrity of transport of goods not in free circulation

123. (1) The customs authority may, in addition to its other enforcement functions,¹¹² 15 take any steps or issue any directions necessary to guard against any unauthorised interference when goods not in free circulation are transported, including by—

- (a) pre-approving the vehicle or container in which the goods are to be transported;
- (b) marking or sealing the holding compartment of the vehicle or the container; 20
- (c) stipulating the mode of transport;
- (d) stipulating the route to be followed;
- (e) stipulating the specific place to which the goods must be delivered;
- (f) requiring the provision of security in terms of Chapter 31 or any security additional to security already given in terms of that Chapter; 25
- (g) shortening any applicable time limits within which the transport of the goods must commence and be completed; or
- (h) requiring that the goods be transported under supervision of a customs escort.

(2) Any steps taken or directions issued by the customs authority in terms of subsection (1) are subject to such conditions or requirements as— 30

- (a) may be prescribed by rule; or
- (b) the customs authority may determine in a specific case.

Transport of goods not in free circulation with other goods in same vehicle

124. Goods not in free circulation may be transported on the same vehicle with goods in free circulation only in accordance with any requirements as may be prescribed by 35 rule or as the customs authority may permit in a specific case.

Accidents and other unforeseen events

125. (1) The carrier or other person transporting goods not in free circulation must promptly report to the customs authority electronically in accordance with section 913 40 any breakdown, accident or other unforeseen event occurring in the course of transporting the goods which compromises the integrity of the goods or the transport of the goods.

^{112.} See Chapter 33.

Vervoer van goedere nie in vry sirkulasie nie slegs onder doeaneprosedures

- 121.** Goedere wat nie in vry sirkulasie is nie mag in of deur die Republiek vervoer word slegs—
- (a) onder 'n doeaneprosedure wat vir die vervoer van goedere onder daardie prosedure voorsiening maak of dit toelaat; en 5
 - (b) ooreenkomstig die bepalings van hierdie Wet wat vir sodanige vervoer geld.

Persone gemagtig om goedere nie in vry sirkulasie nie te vervoer

- 122.** Goedere wat nie in vry sirkulasie is nie mag vervoer word slegs deur—
- (a) 'n gelisensieerde vervoerder;
 - (b) 'n vervoerder wat in die Republiek verteenwoordig word deur 'n 10
geregistreerde agent, indien die vervoerder nie in die Republiek gesetel is nie;
of
 - (c) enige ander persoon wat ingevolge die doeaneprosedure waaronder die
goedere vervoer word, toegelaat word om die goedere onder daardie
prosedure te vervoer. 15

Maatreëls om integriteit van vervoer van goedere nie in vry sirkulasie nie te verseker

- 123.** (1) Die doeanegesag kan, benewens sy ander toepassingsfunksies,¹¹² enige stappe doen of enige lasgewings uitreik wat nodig mag wees om enige ongemagtigde inmenging te voorkom wanneer goedere wat nie in vry sirkulasie is nie vervoer word, met inbegrip daarvan om—
- (a) die voertuig of houer waarin die goedere vervoer moet word vooraf goed te keur;
 - (b) die houerkompartement van die voertuig of die houer te merk of te seël;
 - (c) die wyse van vervoer te stipuleer; 25
 - (d) die roetes wat gevolg moet word, te stipuleer;
 - (e) die spesifieke plek waar die goedere gelewer moet word, te stipuleer;
 - (f) die stel van sekuriteit ingevolge Hoofstuk 31, of enige sekuriteit bo en behalwe enige sekuriteit alreeds ingevolge daardie Hoofstuk gestel, te vereis;
 - (g) enige tersaaklike tydsbepelings waarbinne die vervoer van die goedere moet begin en afgehandel moet wees, te verkort; of 30
 - (h) te vereis dat die goedere vervoer word onder toesig van doeanebegeleiding.
- (2) Enige stappe gedoen of lasgewings uitgereik deur die doeanegesag ingevolge subartikel (1) is onderworpe aan sodanige voorwaardes of vereistes soos—
- (a) by reël voorgeskryf mag word; of 35
 - (b) die doeanegesag in 'n bepaalde geval mag bepaal.

Vervoer van goedere nie in vry sirkulasie nie saam met ander goedere in dieselfde voertuig

- 124.** Goedere wat nie in vry sirkulasie is nie mag op dieselfde voertuig saam met goedere in vry sirkulasie vervoer word slegs ooreenkomstig enige vereistes soos by reël voorgeskryf of deur die doeanegesag in 'n bepaalde geval toegelaat mag word. 40

Ongelukke en ander onvoorsiene gebeurtenisse

- 125.** (1) Die vervoerder of ander persoon wat goedere wat nie in vry sirkulasie is nie vervoer, moet onverwyld enige onklaarraking van die middel van vervoer, ongeluk of ander onvoorsiene gebeurtenis wat in die loop van die vervoer van die goedere plaasvind wat die integriteit van die goedere, of die vervoer van die goedere, in gevaar stel, aan die doeanegesag elektronies ooreenkomstig artikel 913 rapporteer. 45

112. Kyk Hoofstuk 33.

(2) If the integrity of the goods or the transport of the goods is compromised by an event referred to in subsection (1), the carrier or other person transporting the goods must comply with any directions issued by the customs authority.¹¹³

Part 2

Sealing, loading, off-loading and transfer of goods

5

Seals and sealing of containers, vehicles and packages

126. (1) A container, the holding compartment of a vehicle capable of being closed, a road tanker and any package as may be specified by rule, which contains goods not in free circulation, must have such security seals affixed thereto or be otherwise secured by such fastenings and in such manner and in compliance with such standards or other specifications, as may be prescribed by rule. 10

(2) Such seals or fastenings must be supplied and affixed by and at the risk and expense of a person as may be prescribed by rule.

Loading of goods destined for export on foreign-going vessels and aircraft and cross-border railway carriages¹¹⁴

15

127. (1) No goods destined for export from the Republic may be loaded on board a foreign-going vessel, foreign-going aircraft or cross-border railway carriage in which the goods are to be exported unless the goods are—

- (a) cleared and released for export in terms of the export procedure; or
- (b) to be exported under a customs procedure that allows the export of goods under that procedure without any separate export clearance.¹¹⁵ 20

(2) Subsection (1) does not apply to goods falling within a category of goods excluded in terms of section 95 from export clearance requirements.

Off-loading of goods destined for export from foreign-going vessels and aircraft, cross-border railway carriages and trucks before export

25

128. (1) Goods cleared and released for export in terms of the export procedure or that are to be exported under a customs procedure that allows the export of goods under that procedure without any separate export clearance, may, once loaded on board a foreign-going vessel or aircraft, cross-border railway carriage or truck in which the goods are to be exported from the Republic, not be off-loaded or transferred to another mode of transport in the Republic except— 30

- (a) in accordance with the provisions regulating that customs procedure; or
- (b) with the permission of the customs authority.

(2) Subsection (1) does not apply to—

- (a) a class or kind or other category of goods as may be excluded by rule from subsection (1); or 35
- (b) goods as may be exempted by the customs authority from that subsection in a specific case.

113. If goods are damaged, destroyed or lost due to an accident or other occurrence, Chapter 25 becomes applicable.

114. Section 39 applies to vehicles and goods on board vehicles passing through land border-posts out of the Republic.

115. The following customs procedures allow the export of goods under that procedure without separate export clearance:

- (a) the international transit procedure in terms of Chapter 9;
- (b) the transshipment procedure in terms of Chapter 11;
- (c) the tax free shop procedure in terms of Chapter 14; and
- (d) the stores procedure in terms of Chapter 15.

(2) Indien die integriteit van die goedere of die vervoer van die goedere deur 'n gebeurtenis bedoel in subartikel (1) in gevaar gestel is, moet die vervoerder of ander persoon wat die goedere vervoer, voldoen aan enige lasgewings deur die doeanegesag uitgereik.¹¹³

Deel 2

5

Seël, oplaai, aflaai en oorplasing van goedere

Seëls en seëling van houers, voertuie en verpakkings

126. (1) 'n Houer, die houerkompartement van 'n voertuig wat toegemaak kan word, 'n padtenkwa en enige verpakkings soos by reël gespesifiseer mag word, wat goedere bevat wat nie in vry sirkulasie is nie, moet dié beveiligingseëls daarby aangeheg hê of andersins deur dié vasmaakmiddels en op dié wyse en in nakoming van dié standarde of ander spesifikasies beveilig wees, soos by reël voorgeskryf mag word. 10

(2) Sulke seëls of vasmaakmiddels moet verskaf en aangeheg word deur, en op risiko en koste van, 'n persoon soos by reël voorgeskryf mag word.

Oplaai van goedere bestem vir uitvoer op land-uitgaande vaartuie en vliegtuie en oor-grens spoorwegwaens¹¹⁴ 15

127. (1) Geen goedere bestem vir uitvoer uit die Republiek mag aan boord gelaai word van 'n land-uitgaande vaartuig, land-uitgaande vliegtuig of oor-grens spoorwegwa waarin die goedere uitgevoer gaan word nie, tensy die goedere—

- (a) geklaar en vrygestel is vir uitvoer ingevolge die uitvoerprosedure; of 20
- (b) bestem is vir uitvoer onder 'n doeaneprosedure wat die uitvoer van goedere onder daardie prosedure sonder 'n afsonderlike uitvoerklaring magtig.¹¹⁵

(2) Subartikel (1) geld nie vir goedere wat binne 'n kategorie goedere val wat ingevolge artikel 95 van uitvoerklaringsvereistes uitgesluit is nie.

Aflaai van goedere bestem vir uitvoer van land-uitgaande vaartuie en vliegtuie, oor-grens spoorwegwaens en trokke voor uitvoer 25

128. (1) Goedere geklaar en vrygestel vir uitvoer ingevolge die uitvoerprosedure, of wat uitgevoer word onder 'n doeaneprosedure wat die uitvoer van goedere onder daardie prosedure sonder 'n afsonderlike uitvoerklaring magtig, mag nie, nadat dit aan boord gelaai is van 'n land-uitgaande vaartuig of vliegtuig, oor-grens spoorwegwa of trok waarin die goedere uit die Republiek uitgevoer gaan word, daarvan afgelaai word of oorgeplaas word na 'n ander wyse van vervoer in die Republiek nie behalwe— 30

- (a) ooreenkomstig die bepalinge wat daardie doeaneprosedure reguleer; of
- (b) met die toestemming van die doeanegesag.

(2) Subartikel (1) is nie van toepassing op— 35

- (a) 'n klas of soort of ander kategorie goedere soos by reël van subartikel (1) uitgesluit mag word nie; of
- (b) goedere soos deur die doeanegesag in 'n spesifieke geval van daardie subartikel onthef mag word nie.

113. Indien goedere beskadig of vernietig word of verlore gaan weens 'n ongeluk of ander gebeurtenis, word Hoofstuk 25 van toepassing.

114. Artikel 39 geld voertuie en goedere aan boord van voertuie wat deur land-grensposte uit die Republiek beweeg.

115. Die volgende doeaneprosedures veroorloof die uitvoer van goedere onder daardie prosedure sonder afsonderlike uitvoerklaring:

- (a) Die prosedure vir internasionale transito ingevolge Hoofstuk 9;
- (b) die transverskepingsprosedure ingevolge Hoofstuk 11;
- (c) die prosedure vir belastingvry-winkels ingevolge Hoofstuk 14; en
- (d) die voorradeprosedure ingevolge Hoofstuk 15.

Transfer of goods between vessels

- 129.** (1) No goods may be transferred from a foreign-going vessel to another foreign-going vessel or to a domestic vessel except—
- (a) under a customs procedure that allows such transfer,¹¹⁶ if the goods are not in free circulation; or 5
 - (b) with the permission of the customs authority, if the goods are in free circulation.
- (2) No goods may be transferred from a domestic vessel to a foreign-going vessel except—
- (a) under a customs procedure that allows such transfer,¹¹⁷ if the goods are not in free circulation; or 10
 - (b) with the permission of the customs authority, if the goods are in free circulation.
- (3) Subsections (1) and (2) do not apply to—
- (a) any class or kind or other category of goods as may be excluded by rule from subsection (1) or (2); or 15
 - (b) any specific goods as may be exempted by the customs authority from subsection (1) or (2) in a specific case.

Transfer of goods between vehicles or containers

- 130.** (1) Once the transport of goods that are not in free circulation has commenced the goods may only with the permission of the customs authority and only in accordance with any requirements or conditions as may be prescribed by rule be transferred from the vehicle or container in which the goods are transported to another vehicle or container. 20
- (2) Permission in terms of subsection (1) may be given only in the case of a breakdown, accident or other circumstances as may be prescribed by rule. 25

Part 3

Other matters

Rules to facilitate implementation of this Chapter

- 131.** Rules made in terms of section 903 to facilitate the implementation of this Chapter may include rules— 30
- (a) regarding—
 - (i) the keeping and affixing of security seals to goods, containers, packages, vehicles or any part of a vehicle, or the securing of goods by other fastenings; and
 - (ii) the recording of seal numbers; and 35
 - (b) specifying records to be kept of the inspection of seals or fastenings, and the circumstances in which, and the requirements that must be met when seals or fastenings are replaced.

Offences in terms of this Chapter

- 132.** (1) A person is guilty of an offence— 40
- (a) if that person contravenes section 121, 122, 127(1), 128(1) or 129(1) or (2);
 - (b) if section 124 is contravened or not complied with in respect of the transport of goods not in free circulation; or
 - (c) if a direction issued or a condition imposed in terms of section 123(1) is contravened or not complied with in respect of the transport of goods not in free circulation. 45

¹¹⁶. Eg. Transshipment.

¹¹⁷. Eg. Coastwise carriage and delivery of goods under international transit.

Oorplasing van goedere tussen vaartuie

- 129.** (1) Geen goedere mag van 'n land-uitgaande vaartuig na 'n ander land-uitgaande vaartuig of na 'n plaaslike vaartuig oorgeplaas word nie behalwe—
- (a) onder 'n doeaneprosedure wat so 'n oorplasing magtig,¹¹⁶ indien die goedere nie in vry sirkulasie is nie; of 5
 - (b) met die toestemming van die doeanegesag, indien die goedere in vry sirkulasie is.
- (2) Geen goedere mag van 'n plaaslike vaartuig na 'n land-uitgaande vaartuig oorgeplaas word nie behalwe—
- (a) onder 'n doeaneprosedure wat so 'n oorplasing magtig,¹¹⁷ indien die goedere nie in vry sirkulasie is nie; of 10
 - (b) met die toestemming van die doeanegesag, indien die goedere in vry sirkulasie is.
- (3) Subartikels (1) en (2) is nie van toepassing op—
- (a) enige klas of soort of ander kategorie goedere soos by reël van subartikel (1) of (2) uitgesluit mag word nie; of 15
 - (b) enige spesifieke goedere soos deur die doeanegesag in 'n spesifieke geval van subartikel (1) of (2) onthef mag word nie.

Oorplasing van goedere tussen voertuie of houers

- 130.** (1) Sodra die vervoer van goedere wat nie in vry sirkulasie is nie begin, mag die goedere slegs met die toestemming van die doeanegesag en slegs ooreenkomstig enige vereistes of voorwaardes soos by reël voorgeskryf mag word, van 'n voertuig of houer waarin die goedere vervoer word na 'n ander voertuig of houer oorgeplaas word. 20
- (2) Toestemming ingevolge subartikel (1) kan verleen word slegs in die geval van die onklaarraking van die voertuig, 'n ongeluk of ander omstandighede soos by reël voorgeskryf mag word. 25

Deel 3

Ander aangeleenthede

Reëls ter fasilitering van implementering van hierdie Hoofstuk

- 131.** Reëls ingevolge artikel 903 uitgevaardig om die implementering van hierdie Hoofstuk te fasiliteer, kan reëls insluit— 30
- (a) aangaande—
 - (i) die hou en aanhegting van beveiligingseëls aan goedere, houers, verpakkings, voertuie of enige deel van 'n voertuig, of die beveiliging van goedere deur ander vasmaakmiddels; en 35
 - (ii) die aantekening van seëlnommers; en
 - (b) wat die rekords wat van die inspeksie van seëls of vasmaakmiddels gehou moet word, en wat die omstandighede waarin, en die vereistes waaraan voldoen moet word, wanneer seëls of vasmaakmiddels vervang word, spesifiseer. 40

Misdrywe ingevolge hierdie Hoofstuk

- 132.** (1) 'n Persoon is aan 'n misdryf skuldig—
- (a) indien daardie persoon artikel 121, 122, 127(1), 128(1) of 129(1) of (2) oortree;
 - (b) indien artikel 124 oortree word, of nie aan voldoen word nie, ten opsigte van die vervoer van goedere wat nie in vry sirkulasie is nie; of 45
 - (c) indien 'n lasgewing uitgereik of 'n voorwaarde opgelê ingevolge artikel 123(1) oortree word, of nie aan voldoen word nie, ten opsigte van die vervoer van goedere wat nie in vry sirkulasie is nie.

116. Bv. transverseskeping.

117. Bv. kusvervoer en aflewering van goedere onder internasionale transitio.

(2) A person transporting goods not in free circulation is guilty of an offence if the goods are not transported in accordance with any steps taken or directions issued by the customs authority in terms of section 123.

(3) A person referred to in section 126(2) is guilty of an offence if that person fails to comply with subsection (1) of that section. 5

(4) The offence referred to in subsection (1)(c) or (2) is a Category 1 offence.

CHAPTER 6

TAX STATUS OF GOODS

Purpose and application of this Chapter

133. (1) The purpose of this Chapter is to confer for purposes of any applicable tax levying Act a tax status on goods— 10

(a) when the goods—

(i) are cleared for home use; or

(ii) are cleared for a customs procedure or otherwise come under a customs procedure; 15

(b) whilst the goods are under a customs procedure; or

(c) if the goods are regarded to be cleared for home use or outright export.

(2) (a) A tax status conferred on goods in terms of this Chapter applies to the goods only if, or to the extent, not provided otherwise in a tax levying Act regulating any relevant tax on those goods. 20

(b) If a tax levying Act in relation to the tax regulated by that Act limits or qualifies the extent of the tax status conferred on goods in terms of this Chapter, the tax status conferred in this Chapter applies to the goods in relation to that tax only to the extent as so limited or qualified in that tax levying Act.

(c) In the event of any inconsistency between this Chapter and a provision of a tax levying Act, the provision of the tax levying Act prevails. 25

Legal effect of tax status

134. (1) A tax due status conferred in terms of this Chapter on goods in relation to import or export tax indicates that import or export tax—

(a) is payable on the goods if the goods are of a class or kind on which import or export tax has been imposed in terms of a tax levying Act; or 30

(b) will become payable on the goods if import or export tax is imposed in terms of a tax levying Act on goods of that class or kind.

(2) A tax free status conferred in terms of this Chapter on goods in relation to import tax, export tax or domestic tax indicates that whilst the goods have such a tax free status no import, export or domestic tax— 35

(a) that have been imposed in terms of a tax levying Act on goods of that type or kind is payable on the goods; or

(b) that may be imposed in terms of a tax levying Act on goods of that type or kind will be payable on the goods. 40

(3) A tax refundable status conferred in terms of this Chapter on goods in relation to domestic tax¹¹⁸ indicates that domestic tax paid on the goods may be refundable subject to and in accordance with the applicable tax levying Act.

118. For instance tax such as VAT and excise duty paid on goods whilst in free circulation.

(2) 'n Persoon wat goedere wat nie in vry sirkulasie is nie vervoer, is aan 'n misdryf skuldig indien die goedere nie vervoer word nie ooreenkomstig enige stappe gedoen of lasgewings uitgereik deur die doeanebesoeker ingevolge artikel 123.

(3) 'n Persoon in artikel 126(2) bedoel, is aan 'n misdryf skuldig indien daardie persoon versuim om aan subartikel (1) van daardie artikel te voldoen. 5

(4) Die misdryf in subartikel (1)(c) of (2) bedoel, is 'n Kategorie 1 misdryf.

HOOFSTUK 6

BELASTINGSTATUS VAN GOEDERE

Doel en toepassing van hierdie Hoofstuk

133. (1) Die doel van hierdie Hoofstuk is om vir doeleindes van enige belastingheffings-Wet wat van toepassing mag wees, 'n belastingstatus aan goedere te verleen— 10

(a) wanneer die goedere—

(i) vir binnelandse gebruik geklaar word; of

(ii) vir 'n doeane-prosedure geklaar word of andersins onder 'n doeane-prosedure kom; 15

(b) terwyl die goedere onder 'n doeane-prosedure is; of

(c) indien die goedere geag word vir binnelandse gebruik of regstreekse uitvoer geklaar te wees.

(2) (a) 'n Belastingstatus aan goedere ingevolge hierdie Hoofstuk verleen, geld vir die goedere slegs indien, en vir sover, daar nie anders in 'n belastingheffings-Wet wat enige tersaaklike belasting op daardie goedere reguleer, bepaal word nie. 20

(b) Indien 'n belastingheffings-Wet, met betrekking tot die belasting wat deur daardie Wet gereguleer word, enige beperking of kwalifikasie plaas op die omvang van die belastingstatus wat ingevolge hierdie Hoofstuk aan daardie goedere verleen word, geld die belastingstatus deur hierdie Hoofstuk verleen vir die goedere met betrekking tot daardie belasting slegs in die mate soos in daardie belastingheffings-Wet beperk of gekwalifiseer. 25

(c) In die geval van enige teenstrydigheid tussen hierdie Hoofstuk en 'n bepaling van 'n belastingheffings-Wet, geniet die bepaling van die belastingheffings-Wet voorrang. 30

Regsgevolg van belastingstatus

134. (1) 'n Belasting betaalbare status ingevolge hierdie Hoofstuk aan goedere met betrekking tot invoer- of uitvoerbelasting verleen, is aanduidend daarvan dat invoer- of uitvoerbelasting—

(a) op die goedere betaalbaar is indien die goedere van 'n klas of soort is waarop invoer- of uitvoerbelasting ingevolge 'n belastingheffings-Wet opgelê is; of 35

(b) op die goedere betaalbaar sal word indien invoer- of uitvoerbelasting ingevolge 'n belastingheffings-Wet op goedere van daardie klas of soort opgelê sou word.

(2) 'n Belastingvry status ingevolge hierdie Hoofstuk aan goedere met betrekking tot invoerbelasting, uitvoerbelasting of plaaslike belasting verleen, is aanduidend daarvan dat terwyl die goedere so 'n belastingvry status het geen invoer-, uitvoer- of plaaslike belasting— 40

(a) wat ingevolge 'n belastingheffings-Wet op goedere van daardie klas of soort opgelê is, op die goedere betaalbaar is nie; of 45

(b) wat ingevolge 'n belastingheffings-Wet op goedere van daardie klas of soort opgelê mag word, op die goedere betaalbaar sal wees nie.

(3) 'n Belasting terugbetaalbare status ingevolge hierdie Hoofstuk aan goedere met betrekking tot plaaslike belasting¹¹⁸ verleen, is aanduidend daarvan dat plaaslike belasting wat op die goedere betaal is, terugbetaalbaar mag wees behoudens en ooreenkomstig die tersaaklike belastingheffings-Wet. 50

¹¹⁸ Byvoorbeeld belasting soos BTW en aksynsreg betaal op goedere terwyl dit in vry sirkulasie is.

Part 1

Goods formally cleared

Tax status of goods cleared for home use under Chapter 8¹¹⁹

135. (1) Goods imported into the Republic acquire, subject to section 133(2), a tax due status in relation to import tax if, and from the time, the goods are cleared for home use under Chapter 8.¹²⁰ 5

(2) Any import tax on imported goods that acquire a tax due status in terms of subsection (1) becomes payable at such time and by such person or persons as determined in terms of the tax levying Act regulating the relevant import tax.

Tax status of goods in free circulation cleared for outright export 10

136. (1) Goods in free circulation destined for outright export acquire, subject to section 133(2), a tax due status in relation to export tax and a tax refundable status in relation to any domestic tax paid on the goods, as from the time the goods are cleared for outright export.¹²¹

(2) Any export tax on goods that acquire a tax due status in terms of subsection (1) becomes payable at such time and by such person or persons as determined in terms of the tax levying Act regulating the relevant export tax.

(3) Any domestic tax paid on goods before the goods acquired a tax refundable status in terms of subsection (1) may be recovered from the Commissioner subject to and in accordance with the tax levying Act regulating the relevant domestic tax. 20

Tax status of imported goods not in free circulation cleared for outright export

137. (1) Imported goods not in free circulation destined for outright export¹²² acquire, subject to section 133(2), as from the time the goods are cleared for outright export¹²³—

- (a) a tax due status in relation to export tax; and
- (b) a tax refundable status in relation to import tax. 25

(2) (a) Any export tax on goods that acquire a tax due status in terms of subsection (1)(a) becomes payable at such time and by such person or persons as determined in terms of the tax levying Act regulating the relevant export tax.

(b) Any import tax paid on the imported goods before the goods acquired a tax refundable status in terms of subsection (1)(b) may be recovered from the Commissioner subject to and in accordance with the tax levying Act regulating the relevant import tax. 30

119. This section only applies to goods cleared for home use under Chapter 8. Goods cleared for home use under a customs procedure, such as re-imported unaltered goods under the temporary export procedure, have a tax status applicable to the relevant customs procedure. See section 187(2).

120. See section 173 for time when goods are cleared.

121. See section 173 for time when goods are cleared.

122. Definition of “outright export” excludes goods exported under specific customs procedures such as temporary export, exports under the stores procedure, etc. This section will accordingly apply to goods such as warehoused goods that are outright exported, or where goods are exported on instruction of the customs authority, etc.

123. See section 173 for time when goods are cleared.

Deel 1

Goedere formeel geklaar

Belastingstatus van goedere vir binnelandse gebruik kragtens Hoofstuk 8 geklaar¹¹⁹

135. (1) Goedere wat in die Republiek ingevoer is, verkry, behoudens artikel 133(2), 'n belasting betaalbare status met betrekking tot invoerbelasting indien, en vanaf die tydstip waarop, die goedere vir binnelandse gebruik kragtens Hoofstuk 8 geklaar word.¹²⁰ 5

(2) Enige invoerbelasting op ingevoerde goedere wat 'n belasting betaalbare status ingevolge subartikel (1) verkry, word betaalbaar op die tydstip en deur die persoon of persone soos ingevolge die belastingheffings-Wet bepaal wat die betrokke invoerbelasting reguleer. 10

Belastingstatus van goedere in vry sirkulasie vir regstreekse uitvoer geklaar

136. (1) Goedere in vry sirkulasie wat bestem is vir regstreekse uitvoer verkry, behoudens artikel 133(2), 'n belasting betaalbare status met betrekking tot uitvoerbelasting en 'n belasting terugbetaalbare status met betrekking tot enige plaaslike belasting op die goedere betaal, vanaf die tydstip waarop die goedere vir regstreekse uitvoer geklaar word.¹²¹ 15

(2) Enige uitvoerbelasting op goedere wat 'n belasting betaalbare status ingevolge subartikel (1) verkry, word betaalbaar op die tydstip en deur die persoon of persone soos ingevolge die belastingheffings-Wet bepaal wat die betrokke uitvoerbelasting reguleer. 20

(3) Enige plaaslike belasting wat op goedere betaal is voordat die goedere 'n belasting terugbetaalbare status ingevolge subartikel (1) verkry het, kan behoudens en ooreenkomstig die belastingheffings-Wet wat die betrokke plaaslike belasting reguleer van die Kommissaris verhaal word. 25

Belastingstatus van ingevoerde goedere nie in vry sirkulasie nie vir regstreekse uitvoer geklaar

137. (1) Ingevoerde goedere nie in vry sirkulasie nie wat bestem is vir regstreekse uitvoer¹²² verkry, behoudens artikel 133(2), vanaf die tydstip waarop die goedere vir regstreekse uitvoer geklaar word—¹²³ 30

(a) 'n belasting betaalbare status met betrekking tot uitvoerbelasting; en

(b) 'n belasting terugbetaalbare status met betrekking tot invoerbelasting.

(2) (a) Enige uitvoerbelasting op goedere wat 'n belasting betaalbare status ingevolge subartikel (1)(a) verkry, word betaalbaar op die tydstip en deur die persoon of persone soos ingevolge die belastingheffings-Wet bepaal wat die betrokke uitvoerbelasting reguleer. 35

(b) Enige invoerbelasting wat op die ingevoerde goedere betaal is voordat die goedere 'n belasting terugbetaalbare status ingevolge subartikel (1)(b) verkry het, kan behoudens en ooreenkomstig die belastingheffings-Wet wat die betrokke invoerbelasting reguleer van die Kommissaris verhaal word. 40

119. Hierdie artikel geld slegs vir goedere wat vir binnelandse gebruik kragtens Hoofstuk 8 geklaar word. Goedere wat vir binnelandse gebruik geklaar word onder 'n doeaneprosedure, soos heringevoerde onveranderde goedere onder die prosedure vir tydelike uitvoer, het 'n belastingstatus wat vir die betrokke doeaneprosedure geld. Kyk artikel 187(2).

120. Kyk artikel 173 vir tydstip waarop goedere geklaar word.

121. Kyk artikel 173 vir tydstip waarop goedere geklaar word.

122. Omskrywing van "regstreekse uitvoer" sluit nie in goedere uitgevoer onder bepaalde doeaneprosedures soos tydelike uitvoer, uitvoer onder die voorradeprosedure, ens. nie. Hierdie artikel sal gevolglik van toepassing wees op goedere soos pakhuisgoedere wat regstreeks uitgevoer word, of waar goedere in opdrag van die doeanegesag uitgevoer word, ens.

123. Kyk artikel 173 vir tydstip waarop goedere geklaar word.

Tax status of goods manufactured in excise warehouses cleared for outright export

138. (1) Manufactured products destined for outright export which were obtained from manufacturing processes in excise warehouses in which imported goods were used or in which both such imported goods and goods that were in free circulation before they were delivered to the warehouse were used, acquire, subject to section 133(2), as from the time the goods are cleared for outright export¹²⁴— 5

- (a) a tax due status in relation to export tax;
- (b) a tax refundable status in relation to any import tax paid on those imported goods; and
- (c) if applicable, a tax refundable status in relation to any domestic tax paid on those other goods that were in free circulation before they were delivered to the warehouse. 10

(2) (a) Any export tax on manufactured products that acquire a tax due status in terms of subsection (1)(a) becomes payable at such time and by such person or persons as determined in terms of the tax levying Act regulating the relevant export tax. 15

(b) Any import tax paid on the imported goods referred to in subsection (1)(b) before the manufactured products acquired a tax refundable status in terms of that subsection in relation to import tax, may be recovered from the Commissioner subject to and in accordance with the tax levying Act regulating the relevant import tax.

(c) Any domestic tax paid on the goods referred to in subsection (1)(c) before the manufactured products acquired a tax refundable status in terms of that subsection in relation to domestic tax, may be recovered from the Commissioner subject to and in accordance with the tax levying Act regulating the relevant domestic tax. 20

(3) Manufactured products destined for outright export which were obtained from manufacturing processes in excise warehouses in which no imported goods were used, acquire, subject to section 133(2), as from the time the goods are cleared for outright export— 25

- (a) a tax due status in relation to export tax; and
- (b) a tax refundable status in relation to any domestic tax paid on the goods used in the manufacture of those products. 30

(4) (a) Any export tax on manufactured products that acquire a tax due status in terms of subsection (3)(a) becomes payable at such time and by such person or persons as determined in terms of the tax levying Act regulating the relevant export tax.

(b) Any domestic tax paid on goods used in the manufacture of the manufactured products before those products acquired a tax refundable status in terms of subsection (3)(b) may be recovered from the Commissioner subject to and in accordance with the tax levying Act regulating the relevant domestic tax. 35

Tax status of goods under national transit procedure

139. The national transit procedure confers, subject to section 133(2), a tax free status in relation to import tax on goods under that procedure and no import tax is payable on goods when cleared for¹²⁵ and whilst under that procedure. 40

Tax status of goods under international transit procedure

140. (1) The international transit procedure confers, subject to section 133(2), a tax free status in relation to import tax and export tax on goods under that procedure.

124. See section 173 for time when goods are cleared.
125. See section 173 for time when goods are cleared.

Belastingstatus van goedere in aksynspakhuisse vervaardig en vir regstreekse uitvoer geklaar

138. (1) Vervaardigde produkte bestem vir regstreekse uitvoer wat verkry is uit vervaardigingsprosesse in aksynspakhuisse waarin ingevoerde goedere gebruik is, of waarin beide sodanige ingevoerde goedere en goedere wat in vry sirkulasie was voor aflewering daarvan by die pakhuis, gebruik is, verkry, behoudens artikel 133(2), vanaf die tydstip waarop die goedere vir regstreekse uitvoer geklaar word—¹²⁴

- (a) 'n belasting betaalbare status met betrekking tot uitvoerbelasting;
- (b) 'n belasting terugbetaalbare status met betrekking tot enige invoerbelasting op daardie ingevoerde goedere betaal; en
- (c) indien van toepassing, 'n belasting terugbetaalbare status met betrekking tot enige plaaslike belasting wat betaal is op daardie ander goedere wat in vry sirkulasie was voor aflewering daarvan by die pakhuis.

(2) (a) Enige uitvoerbelasting op vervaardigde produkte wat 'n belasting betaalbare status ingevolge subartikel (1)(a) verkry, word betaalbaar op die tydstip en deur die persoon of persone soos ingevolge die belastingheffings-Wet bepaal wat die betrokke uitvoerbelasting reguleer.

(b) Enige invoerbelasting wat betaal is op die ingevoerde goedere bedoel in subartikel (1)(b) voordat die vervaardigde produkte 'n belasting terugbetaalbare status ingevolge daardie subartikel met betrekking tot invoerbelasting verkry het, kan behoudens en ooreenkomstig die belastingheffings-Wet wat die betrokke invoerbelasting reguleer van die Kommissaris verhaal word.

(c) Enige plaaslike belasting wat betaal is op die goedere bedoel in subartikel (1)(c) voordat die vervaardigde produkte 'n belasting terugbetaalbare status ingevolge daardie subartikel met betrekking tot plaaslike belasting verkry het, kan behoudens en ooreenkomstig die belastingheffings-Wet wat die betrokke plaaslike belasting reguleer van die Kommissaris verhaal word.

(3) Vervaardigde produkte bestem vir regstreekse uitvoer wat verkry is uit vervaardigingsprosesse in aksynspakhuisse waarin geen ingevoerde goedere gebruik is nie, verkry, behoudens artikel 133(2), vanaf die tydstip waarop die goedere vir regstreekse uitvoer geklaar word—

- (a) 'n belasting betaalbare status met betrekking tot uitvoerbelasting; en
- (b) 'n belasting terugbetaalbare status met betrekking tot enige plaaslike belasting wat betaal is op die goedere wat in die vervaardiging van daardie produkte gebruik is.

(4) (a) Enige uitvoerbelasting op vervaardigde produkte wat 'n belasting betaalbare status ingevolge subartikel (3)(a) verkry, word betaalbaar op die tydstip en deur die persoon of persone soos ingevolge die belastingheffings-Wet bepaal wat die betrokke uitvoerbelasting reguleer.

(b) Enige plaaslike belasting wat betaal is op goedere gebruik in die vervaardiging van die vervaardigde produkte voordat daardie produkte 'n belasting terugbetalingstatus ingevolge subartikel (3)(b) verkry het, kan behoudens en ooreenkomstig die belastingheffings-Wet wat die betrokke plaaslike belasting reguleer van die Kommissaris verhaal word.

Belastingstatus van goedere onder prosedure vir nasionale transito

139. Die prosedure vir nasionale transito verleen, behoudens artikel 133(2), 'n belastingvry status met betrekking tot invoerbelasting aan goedere onder daardie prosedure en geen invoerbelasting is op goedere betaalbaar wanneer dit vir daardie prosedure geklaar word¹²⁵ en terwyl dit onder daardie prosedure is nie.

Belastingstatus van goedere onder prosedure vir internasionale transito

140. (1) Die prosedure vir internasionale transito verleen, behoudens artikel 133(2), 'n belastingvry status met betrekking tot invoerbelasting en uitvoerbelasting aan goedere onder daardie prosedure.

124. Kyk artikel 173 vir tydstip waarop goedere geklaar word.

125. Kyk artikel 173 vir tydstip waarop goedere geklaar word.

- (2) In terms of such tax free status—
- (a) no import tax is payable on goods when cleared for¹²⁶ and whilst under the international transit procedure; and
 - (b) no export tax is payable on goods when exported under that procedure.

Tax status of goods under excise warehouse transit procedure 5

- 141.** (1) The excise warehouse transit procedure confers, subject to section 133(2)—
- (a) a tax free status in relation to a duty or levy in terms of the Excise Duty Act on goods under that procedure; and
 - (b) a tax due status in relation to any other import tax on goods under that procedure. 10
- (2) Any import tax on imported goods that acquire a tax due status in terms of subsection (1)(b) becomes payable at such time and by such person or persons as determined in terms of the tax levying Act regulating the relevant import tax.

Tax status of goods under transhipment procedure

- 142.** (1) The transhipment procedure confers, subject to section 133(2), a tax free status in relation to import tax and export tax on goods under that procedure. 15
- (2) In terms of such tax free status—
- (a) no import tax is payable on goods when cleared for¹²⁷ and whilst under the transhipment procedure; and
 - (b) no export tax is payable on goods when exported under that procedure. 20

Tax status of goods under temporary admission procedure

- 143.** (1) The temporary admission procedure confers, subject to section 133(2), a tax free status in relation to import tax and export tax on goods under that procedure.
- (2) In terms of the tax free status referred to in subsection (1)—
- (a) no import tax is payable on goods— 25
 - (i) when cleared for¹²⁸ the temporary admission procedure;
 - (ii) which automatically come under that procedure when entering the Republic; and
 - (iii) whilst the goods are under that procedure; and
 - (b) no export tax is payable on goods referred to in— 30
 - (i) paragraph (a)(i) when cleared for export under the outbound leg of that procedure; or
 - (ii) paragraph (a)(ii) when those goods leave the Republic under the outbound leg of that procedure.

Tax status of imported goods under warehousing procedure 35

144. The warehousing procedure confers, subject to section 133(2), a tax free status in relation to import tax on goods under that procedure, and no import tax is payable on goods when cleared for¹²⁹ and whilst under that procedure.

126. See section 173 for time when goods are cleared.
127. See section 173 for time when goods are cleared.
128. See section 173 for time when goods are cleared.
129. See section 173 for time when goods are cleared.

- (2) Ingevolge sodanige belastingvry status—
- (a) is geen invoerbelasting op goedere betaalbaar wanneer dit vir die prosedure vir internasionale transito geklaar word¹²⁶ en terwyl dit onder daardie prosedure is nie; en
 - (b) is geen uitvoerbelasting op goedere betaalbaar wanneer dit onder daardie prosedure uitgevoer word nie. 5

Belastingstatus van goedere onder prosedure vir aksynspakhuistransito

141. (1) Die prosedure vir aksynspakhuistransito verleen, behoudens artikel 133(2)—
- (a) 'n belastingvry status met betrekking tot 'n reg of heffing ingevolge die Wet op Aksynsreg aan goedere onder daardie prosedure; en 10
 - (b) 'n belasting betaalbare status met betrekking tot enige ander invoerbelasting aan goedere onder daardie prosedure.
- (2) Enige invoerbelasting op ingevoerde goedere wat 'n belasting betaalbare status ingevolge subartikel (1)(b) verkry, word betaalbaar op die tydstip en deur die persoon of persone soos ingevolge die belastingheffings-Wet bepaal wat die betrokke invoerbelasting reguleer. 15

Belastingstatus van goedere onder transverskepingsprosedure

142. (1) Die transverskepingsprosedure verleen, behoudens artikel 133(2), 'n belastingvry status met betrekking tot invoerbelasting en uitvoerbelasting aan goedere onder daardie prosedure. 20
- (2) Ingevolge sodanige belastingvry status—
- (a) is geen invoerbelasting op goedere betaalbaar wanneer dit vir die transverskepingsprosdure geklaar word¹²⁷ en terwyl dit onder daardie prosedure is nie; en
 - (b) is geen uitvoerbelasting op goedere betaalbaar wanneer dit onder daardie prosedure uitgevoer word nie. 25

Belastingstatus van goedere onder prosedure vir tydelike toelating

143. (1) Die prosedure vir tydelike toelating verleen, behoudens artikel 133(2), 'n belastingvry status met betrekking tot invoerbelasting en uitvoerbelasting aan goedere onder daardie prosedure. 30
- (2) Ingevolge die belastingvry status in subartikel (1) bedoel—
- (a) is geen invoerbelasting betaalbaar op goedere—
 - (i) wanneer dit vir die prosedure vir tydelike toelating geklaar word nie;¹²⁸
 - (ii) wat outomaties onder daardie prosedure kom wanneer dit die Republiek binnekom nie; en 35
 - (iii) terwyl die goedere onder daardie prosedure is nie; en
 - (b) is geen uitvoerbelasting betaalbaar op goedere bedoel in—
 - (i) paragraaf (a)(i) wanneer dit vir uitvoer onder die uitwaartse fase van daardie prosedure geklaar word nie; of
 - (ii) paragraaf (a)(ii) wanneer daardie goedere die Republiek onder die uitwaartse fase van daardie prosedure verlaat nie. 40

Belastingstatus van ingevoerde goedere onder pakhuisbergingsprosedure

144. Die pakhuisbergingsprosedure verleen, behoudens artikel 133(2), 'n belastingvry status met betrekking tot invoerbelasting aan goedere onder daardie prosedure, en geen invoerbelasting is op goedere betaalbaar wanneer dit vir daardie prosedure geklaar word¹²⁹ en terwyl dit onder daardie prosedure is nie. 45

126. Kyk artikel 173 vir tydstip waarop goedere geklaar word.
127. Kyk artikel 173 vir tydstip waarop goedere geklaar word.
128. Kyk artikel 173 vir tydstip waarop goedere geklaar word.
129. Kyk artikel 173 vir tydstip waarop goedere geklaar word.

Tax status of goods under tax free shop procedure

- 145.** (1) The tax free shop procedure confers, subject to section 133(2)—
- (a) a tax free status in relation to import tax, export tax and domestic tax; and
 - (b) a tax refundable status in relation to domestic tax paid on goods that were in free circulation before the goods came under that procedure. 5
- (2) In terms of the tax free status referred to in subsection (1)—
- (a) no import tax is payable on imported goods when cleared for¹³⁰ and whilst under the tax free shop procedure;
 - (b) no domestic tax is payable on goods referred to in paragraph (a) or that were in free circulation before they came under that procedure, when those goods are sold whilst under and in accordance with that procedure; and 10
 - (c) no export tax is payable on goods referred to in paragraph (b) when exported under that procedure.
- (3) In terms of the tax refundable status referred to in subsection (1) any domestic tax paid on goods that were in free circulation before they came under the tax free shop procedure may be recovered from the Commissioner subject to and in accordance with the tax levying Act regulating the relevant domestic tax.¹³¹ 15

Tax status of goods under stores procedure

- 146.** (1) The stores procedure confers, subject to section 133(2)—
- (a) a tax free status in relation to import tax, domestic tax and export tax; and 20
 - (b) a tax refundable status in relation to domestic tax paid on goods that were in free circulation before the goods came under that procedure.
- (2) In terms of the tax free status referred to in subsection (1), except where provided otherwise in this Act¹³²—
- (a) no import tax is payable on imported goods— 25
 - (i) when cleared for¹³³ the stores procedure;
 - (ii) which automatically come under that procedure when entering the Republic; and
 - (iii) whilst under that procedure; and
 - (b) no export tax is payable on goods exported under that procedure. 30
- (3) In terms of the tax refundable status referred to in subsection (1) any domestic tax paid on goods that were in free circulation before they came under the stores procedure may be recovered from the Commissioner subject to and in accordance with the tax levying Act regulating the relevant domestic tax.

Tax status of goods under temporary export procedure 35

- 147.** (1) Goods under the temporary export procedure acquire, subject to section 133(2), a tax free status in relation to export tax and import tax as from the time the goods are cleared for that procedure¹³⁴ or otherwise come under that procedure.

130. See section 173 for time when goods are cleared.

131. Goods in free circulation can be supplied to a tax free shop without any clearance and release requirements, but once supplied come under the tax free shop procedure and acquire a tax free status.

132. See for instance section 349.

133. See section 173 for time when goods are cleared.

134. See section 173 for time when goods are cleared.

Belastingstatus van goedere onder prosedure vir belastingvry-winkels

- 145.** (1) Die prosedure vir belastingvry-winkels verleen, behoudens artikel 133(2)—
- (a) 'n belastingvry status met betrekking tot invoerbelasting, uitvoerbelasting en plaaslike belasting; en
 - (b) 'n belasting terugbetaalbare status met betrekking tot plaaslike belasting wat betaal is op goedere wat in vry sirkulasie was voordat dit onder daardie prosedure gekom het. 5
- (2) Ingevolge die belastingvry status bedoel in subartikel (1)—
- (a) is geen invoerbelasting op ingevoerde goedere betaalbaar wanneer dit vir die prosedure vir belastingvry-winkels geklaar word¹³⁰ en terwyl dit onder daardie prosedure is nie; 10
 - (b) is geen plaaslike belasting betaalbaar op goedere in paragraaf (a) bedoel of wat in vry sirkulasie was voordat dit onder daardie prosedure gekom het nie, wanneer daardie goedere verkoop word terwyl onder en ooreenkomstig daardie prosedure; en 15
 - (c) is geen uitvoerbelasting betaalbaar op goedere bedoel in paragraaf (b) wanneer dit onder daardie prosedure uitgevoer word nie.
- (3) Ingevolge die belasting terugbetaalbare status bedoel in subartikel (1) kan enige plaaslike belasting wat op goedere betaal is wat in vry sirkulasie was voordat dit onder die prosedure vir belastingvry-winkels gekom het, van die Kommissaris verhaal word 20 behoudens en ooreenkomstig die belastingheffings-Wet wat die betrokke plaaslike belasting reguleer.¹³¹

Belastingstatus van goedere onder voorradeprosedure

- 146.** (1) Die voorradeprosedure verleen, behoudens artikel 133(2)—
- (a) 'n belastingvry status met betrekking tot invoerbelasting, plaaslike belasting en uitvoerbelasting; en 25
 - (b) 'n belasting terugbetaalbare status met betrekking tot plaaslike belasting wat betaal is op goedere wat in vry sirkulasie was voordat dit onder daardie prosedure gekom het.
- (2) Ingevolge die belastingvry status in subartikel (1) bedoel, behalwe waar anders in hierdie Wet¹³² bepaal— 30
- (a) is geen invoerbelasting op ingevoerde goedere betaalbaar—
 - (i) wanneer dit vir die voorradeprosedure geklaar word nie;¹³³
 - (ii) wat outomaties onder daardie prosedure kom wanneer dit die Republiek binnekom nie; en 35
 - (iii) terwyl dit onder daardie prosedure is nie; en
 - (b) is geen uitvoerbelasting betaalbaar op goedere wat onder daardie prosedure uitgevoer word nie.
- (3) Ingevolge die belasting terugbetaalbare status bedoel in subartikel (1) kan enige plaaslike belasting wat betaal is op goedere wat in vry sirkulasie was voordat dit onder die voorradeprosedure gekom het, van die Kommissaris verhaal word behoudens en ooreenkomstig die belastingheffings-Wet wat die betrokke plaaslike belasting reguleer. 40

Belastingstatus van goedere onder prosedure vir tydelike uitvoer

- 147.** (1) Goedere onder die prosedure vir tydelike uitvoer verkry, behoudens artikel 133(2), 'n belastingvry status met betrekking tot uitvoerbelasting en invoerbelasting 45 vanaf die tydstip waarop die goedere vir daardie prosedure geklaar word¹³⁴ of andersins onder daardie prosedure kom.

130. Kyk artikel 173 vir tydstip waarop goedere geklaar word.

131. Goedere in vry sirkulasie kan aan 'n belastingvry-winkel sonder enige klarings- en vrystellingsvereistes verskaf word, maar sodra dit verskaf is, kom dit onder die prosedure vir belastingvry-winkels en verkry dit 'n belastingvry status.

132. Kyk byvoorbeeld artikel 349.

133. Kyk artikel 173 vir tydstip waarop goedere geklaar word.

134. Kyk artikel 173 vir tydstip waarop goedere geklaar word.

- (2) In terms of the tax free status referred to in subsection (1)—
- (a) no export tax is payable on goods—
 - (i) when cleared for and whilst under the temporary export procedure; or
 - (ii) which automatically come under that procedure when the goods leave the Republic; 5
 - (b) no import tax is payable on goods referred to in—
 - (i) paragraph (a)(i) when those goods are cleared under the inbound leg of that procedure as re-imported unaltered goods for home use, subject to subsection (3); or
 - (ii) paragraph (a)(ii) when those goods return to the Republic under the inbound leg of that procedure;¹³⁵ and 10
 - (c) any export tax paid on exported goods cleared for outright export may be recovered from the Commissioner if those goods are returned to the Republic and cleared and released under the temporary export procedure as re-imported unaltered goods for home use. 15
- (3) Subsection (2)(b) does not affect liability for unpaid import tax on imported goods exported under the temporary export procedure or exported under the export procedure and subsequently cleared for temporary export. When such goods are returned to the Republic on the inbound leg of that procedure, any unpaid import tax on the initial import of the goods becomes payable when the goods are cleared as unaltered goods for home use. 20

Tax status of goods under inward processing procedure

- 148.** (1) (a) Imported goods destined for inward processing acquire, subject to section 133(2), a tax due status in relation to import tax as from the time the goods are cleared for the inward processing procedure.¹³⁶ 25
- (b) Any import tax on imported goods that acquire a tax due status in terms of paragraph (a) becomes payable at such time and by such person or persons as determined in terms of the tax levying Act regulating the relevant import tax.
- (2) Inward processed compensating products obtained from the processing of imported goods under the inward processing procedure have a tax free status in relation to export tax, and no export tax is payable on such products when cleared for export under the inward processing procedure as inward processed compensating products. 30

Tax status of goods under home use processing procedure

- 149.** (1) (a) Imported goods destined for home use processing acquire, subject to section 133(2), a tax due status in relation to import tax as from the time the goods are cleared for the home use processing procedure.¹³⁷ 35
- (b) Any import tax on imported goods that acquire a tax due status in terms of paragraph (a) becomes payable at such time and by such person or persons as determined in terms of the tax levying Act regulating the relevant import tax.
- (2) Home use compensating products obtained from the processing of imported goods under home use processing have a tax status applicable to goods in free circulation when becoming goods in free circulation in terms of section 445. 40

135. This applies to means of transport and reusable transport equipment in free circulation before leaving the Republic on the outbound leg of the procedure. See Part 5 of Chapter 17.

136. See section 173 for time when goods are cleared.

137. See section 173 for time when goods are cleared.

- (2) Ingevolge die belastingvry status bedoel in subartikel (1)—
- (a) is geen uitvoerbelasting betaalbaar op goedere—
 - (i) wanneer geklaar vir en terwyl onder die prosedure vir tydelike uitvoer nie; of
 - (ii) wat outomaties onder daardie prosedure kom wanneer die goedere die Republiek verlaat nie; 5
 - (b) is geen invoerbelasting betaalbaar op goedere bedoel in—
 - (i) paragraaf (a)(i) wanneer daardie goedere geklaar word onder die inwaartse fase van daardie prosedure as heringevoerde onveranderde goedere vir binnelandse gebruik nie, behoudens subartikel (3); of 10
 - (ii) paragraaf (a)(ii) wanneer daardie goedere na die Republiek onder die inwaartse fase van daardie prosedure teruggebring word nie;¹³⁵ en
 - (c) kan enige uitvoerbelasting betaal op uitgevoerde goedere geklaar vir regstreekse uitvoer van die Kommissaris verhaal word indien daardie goedere na die Republiek teruggebring en geklaar en vrygestel word onder die prosedure vir tydelike uitvoer as heringevoerde onveranderde goedere vir binnelandse gebruik. 15

(3) Subartikel (2)(b) raak nie aanspreeklikheid vir onbetaalde invoerbelasting op ingevoerde goedere wat onder die prosedure vir tydelike uitvoer uitgevoer is of wat onder die uitvoerprosedure uitgevoer is en daarna vir tydelike uitvoer geklaar word nie. 20
Wanneer sulke goedere onder die inwaartse fase van daardie prosedure na die Republiek teruggebring word, word enige onbetaalde invoerbelasting op die aanvanklike invoer van die goedere betaalbaar wanneer die goedere as onveranderde goedere vir binnelandse gebruik geklaar word.

Belastingstatus van goedere onder prosedure vir inwaartse prosessering 25

148. (1) (a) Ingevoerde goedere bestem vir inwaartse prosessering verkry, behoudens artikel 133(2), 'n belasting betaalbare status met betrekking tot invoerbelasting vanaf die tydstip waarop die goedere vir die prosedure vir inwaartse prosessering geklaar word.¹³⁶

(b) Enige invoerbelasting op ingevoerde goedere wat 'n belasting betaalbare status ingevolge paragraaf (a) verkry, word betaalbaar op die tydstip en deur die persoon of persone soos ingevolge die belastingheffings-Wet bepaal wat die betrokke invoerbelasting reguleer. 30

(2) Inwaarts geprosesseerde kompenserende produkte wat uit die prosessering van ingevoerde goedere onder die prosedure vir inwaartse prosessering verkry word, het 'n belastingvry status met betrekking tot uitvoerbelasting, en geen uitvoerbelasting is op sodanige produkte betaalbaar wanneer dit vir uitvoer onder die prosedure vir inwaartse prosessering as inwaarts geprosesseerde kompenserende produkte geklaar word nie. 35

Belastingstatus van goedere onder prosedure vir binnelandse gebruikprosessering

149. (1) (a) Ingevoerde goedere bestem vir binnelandse gebruikprosessering verkry, behoudens artikel 133(2), 'n belasting betaalbare status met betrekking tot invoerbelasting vanaf die tydstip waarop die goedere vir die prosedure vir binnelandse gebruikprosessering geklaar word.¹³⁷ 40

(b) Enige invoerbelasting op ingevoerde goedere wat 'n belasting betaalbare status ingevolge paragraaf (a) verkry, word betaalbaar op die tydstip en deur die persoon of persone soos ingevolge die belastingheffings-Wet bepaal wat die betrokke invoerbelasting reguleer. 45

(2) Binnelandse gebruik kompenserende produkte wat uit die prosessering van ingevoerde goedere onder binnelandse gebruikprosessering verkry word, het 'n belastingstatus van toepassing op goedere in vry sirkulasie wanneer dit ingevolge artikel 445 goedere in vry sirkulasie word. 50

135. Hierdie bepaling geld vir middels van vervoer en herbruikbare vervoertoerusting wat in vry sirkulasie was voordat dit die Republiek op die uitwaartse fase van die prosedure verlaat het. Kyk Deel 5 van Hoofstuk 17.

136. Kyk artikel 173 vir tydstip waarop goedere geklaar word.

137. Kyk artikel 173 vir tydstip waarop goedere geklaar word.

Tax status of goods under outward processing procedure

150. (1) (a) Goods in free circulation destined for export under the outward processing procedure acquire, subject to section 133(2), a tax due status in relation to export tax as from the time the goods are cleared for the outward processing procedure.¹³⁸ 5

(b) Any export tax on goods in free circulation that are cleared for outward processing becomes payable at such time and by such person or persons as determined in terms of the tax levying Act regulating the relevant export tax.

(2) (a) Outward processed compensating products obtained from the processing of goods under the outward processing procedure acquire, subject to section 133(2), a tax due status in relation to import tax as from the time the goods are cleared for home use under the outward processing procedure as outward processed compensating products.¹³⁹ 10

(b) Any import tax on imported goods that are cleared for home use under the outward processing procedure as outward processed compensating products becomes payable at such time and by such person or persons as determined in terms of the tax levying Act regulating the relevant import tax. 15

Duration of tax status conferred by customs procedures

151. (1) The tax status conferred on goods by a customs procedure applies for as long as the goods are under that customs procedure. 20

(2) When goods under a specific customs procedure are—

(a) cleared and released for another customs procedure, the goods acquire a tax status applicable to that other customs procedure as from the time the goods are cleared for that other procedure; or

(b) cleared for home use under Chapter 8, the goods acquire a tax status applicable to home use under that Chapter as from the time the goods are cleared for home use. 25

Part 2

Goods regarded to be cleared for home use

Tax status of goods imported or off-loaded otherwise than through or at places of entry 30

152. (1) If goods imported into the Republic, including any foreign-going vessel or aircraft, cross-border train or railway carriage or vehicle entering the Republic, are in terms of section 42 regarded for tax purposes to be cleared for home use under Chapter 8, those goods acquire a tax due status in relation to import tax as from— 35

(a) the date of import; or

(b) a date determined by the customs authority if the date of import for any reason cannot be determined.

(2) Any import tax¹⁴⁰ that would have been payable on the goods referred to in subsection (1) had the goods actually been cleared for home use under Chapter 8 on the date applied to the goods in terms of that subsection, becomes payable in respect of those goods at such rate,¹⁴¹ at such time and by such person or persons as may be determined in terms of the applicable tax levying Act.¹⁴² 40

138. See section 173 for time when goods are cleared.

139. See section 173 for time when goods are cleared.

140. See for instance section 84 of the Customs Duty Act for assessment of duties on goods regarded to be cleared for home use.

141. See for instance section 81(1)(b) of the Customs Duty Act.

142. See for instance section 28 of the Customs Duty Act for persons liable for duties on goods in these circumstances.

Belastingstatus van goedere onder prosedure vir uitwaartse prosessering

150. (1) (a) Goedere in vry sirkulasie bestem vir uitvoer onder die prosedure vir uitwaartse prosessering verkry, behoudens artikel 133(2), 'n belasting betaalbare status met betrekking tot uitvoerbelasting vanaf die tydstip waarop die goedere vir die prosedure vir uitwaartse prosessering geklaar word.¹³⁸ 5

(b) Enige uitvoerbelasting op goedere in vry sirkulasie wat vir uitwaartse prosessering geklaar word, word betaalbaar op die tydstip en deur die persoon of persone soos ingevolge die belastingheffings-Wet bepaal wat die betrokke uitvoerbelasting reguleer.

(2) (a) Uitwaarts geprosesseerde kompenseerende produkte wat uit die prosessering van goedere onder die prosedure vir uitwaartse prosessering verkry word, verkry, behoudens artikel 133(2), 'n belasting betaalbare status met betrekking tot invoerbelasting vanaf die tydstip waarop die goedere vir binnelandse gebruik onder die prosedure vir uitwaartse prosessering as uitwaartse geprosesseerde kompenseerende produkte geklaar word.¹³⁹ 10

(b) Enige invoerbelasting op ingevoerde goedere wat vir binnelandse gebruik onder die prosedure vir uitwaartse prosessering as uitwaartse geprosesseerde kompenseerende produkte geklaar word, word betaalbaar op die tydstip en deur die persoon of persone soos ingevolge die belastingheffings-Wet bepaal wat die betrokke invoerbelasting reguleer. 15

Duur van belastingstatus deur doeaneprosedures verleen 20

151. (1) Die belastingstatus op goedere deur 'n doeaneprosedure verleen, geld vir solank as wat die goedere onder daardie doeaneprosedure is.

(2) Wanneer goedere onder 'n spesifieke doeaneprosedure—

(a) vir 'n ander doeaneprosedure geklaar en vrygestel word, verkry die goedere 'n belastingstatus wat vir daardie ander doeaneprosedure geld, vanaf die tydstip waarop die goedere vir daardie ander prosedure geklaar word; of 25

(b) vir binnelandse gebruik kragtens Hoofstuk 8 geklaar word, verkry die goedere 'n belastingstatus wat vir binnelandse gebruik kragtens daardie Hoofstuk geld, vanaf die tydstip waarop die goedere vir binnelandse gebruik geklaar word. 30

Deel 2

Goedere geag vir binnelandse gebruik geklaar

Belastingstatus van goedere ingevoer of afgelaai anders as deur of by plekke van toegang

152. (1) Indien goedere wat in die Republiek ingevoer is, met inbegrip van enige land-uitgaande vaartuig of vliegtuig, oor-grens trein of spoorwegwa of voertuig wat die Republiek binnekom, ingevolge artikel 42 vir belastingdoeleindes geag word vir binnelandse gebruik kragtens Hoofstuk 8 geklaar te wees, verkry daardie goedere 'n belasting betaalbare status met betrekking tot invoerbelasting vanaf— 35

(a) die datum van invoer; of 40

(b) 'n datum deur die doeanegesag bepaal indien die datum van invoer om enige rede nie bepaal kan word nie.

(2) Enige invoerbelasting¹⁴⁰ wat op die goedere bedoel in subartikel (1) betaalbaar sou gewees het indien die goedere werklik vir binnelandse gebruik kragtens Hoofstuk 8 geklaar was op die datum wat vir die goedere ingevolge daardie subartikel geld, word betaalbaar ten opsigte van daardie goedere teen die skaal,¹⁴¹ op die tydstip en deur die persoon of persone soos ingevolge die betrokke belastingheffings-Wet bepaal.¹⁴² 45

138. Kyk artikel 173 vir tydstip waarop goedere geklaar word.

139. Kyk artikel 173 vir tydstip waarop goedere geklaar word.

140. Kyk byvoorbeeld artikel 84 van die Wet op Doeanereg vir die aanslag van reg op goedere wat geag vir binnelandse gebruik geklaar te wees.

141. Kyk byvoorbeeld artikel 81(1)(b) van die Wet op Doeanereg.

142. Kyk byvoorbeeld artikel 28 van die Wet op Doeanereg vir persone aanspreeklik vir reg op goedere in hierdie omstandighede.

Tax status of non-cleared imported goods

- 153.** (1) If goods imported into the Republic are in terms of section 92(1) regarded for tax purposes to be cleared for home use under Chapter 8, those goods acquire a tax due status in relation to import tax as from—
- (a) the date on which the applicable period for submission of a clearance declaration in respect of the goods expired in terms of section 90(1) or (3) or on which the clearance declaration had to be submitted in terms of that section; or 5
 - (b) a date determined by the customs authority if the date referred to in paragraph (a) for any reason cannot be determined. 10
- (2) Any import tax¹⁴³ that would have been payable on the goods referred to in subsection (1) had the goods actually been cleared for home use under Chapter 8 on the date applied to the goods in terms of that subsection, becomes payable in respect of those goods at such rate,¹⁴⁴ at such time and by such person or persons as may be determined in terms of the applicable tax levying Act.¹⁴⁵ 15

Tax status of goods under customs procedures regarded to be cleared for home use

- 154.** (1) If goods under a customs procedure are in terms of section 112 regarded for tax purposes to be cleared for home use under Chapter 8 those goods lose the tax status they had under that customs procedure and acquire a tax due status in relation to import tax as from the date on which those goods were cleared for, or otherwise came under, that customs procedure. 20
- (2) Any import tax¹⁴⁶ that would have been payable on the goods referred to in subsection (1) had the goods actually been cleared for home use under Chapter 8 on the date referred to in that subsection, becomes payable in respect of those goods at such rate,¹⁴⁷ at such time and by such person or persons as may be determined in terms of the applicable tax levying Act.¹⁴⁸ 25

Tax status of samples drawn from imported goods

- 155.** (1) Samples drawn from imported goods to which section 89 applies and which are in terms of section 514 regarded for tax purposes to be cleared for home use under Chapter 8, acquire a tax due status in relation to import tax as from the date when those samples are taken. 30
- (2) Any import tax that would have been payable on samples drawn from goods referred to in subsection (1) had the samples actually been cleared for home use under Chapter 8 on the date referred to in that subsection, must be paid— 35
- (a) on demand; and
 - (b) by the person who took the samples.

Goods regarded for tax purposes to be cleared for home use not to be treated as goods cleared for home use

- 156.** (1) If any goods are in terms of a provision of this Act regarded for tax purposes to be cleared for home use under Chapter 8, the goods may not be dealt with or released as if the goods were actually cleared for home use, but the customs authority may allow 40

143. See for instance section 84 of the Customs Duty Act for assessment of duties on goods regarded to be cleared for home use.

144. See for instance section 81(1)(b) of the Customs Duty Act.

145. See for instance section 31 of the Customs Duty Act for persons liable for duties on goods in these circumstances.

146. See for instance section 84 of the Customs Duty Act for assessment of duties on goods regarded to be cleared for home use.

147. See for instance section 81(1)(b) of the Customs Duty Act.

148. See for instance sections 30 and 31 of the Customs Duty Act for persons liable for duties on goods in these circumstances.

Belastingstatus van nie-geklaarde ingevoerde goedere

153. (1) Indien goedere wat in die Republiek ingevoer is ingevolge artikel 92(1) vir belastingdoeleindes geag word vir binnelandse gebruik kragtens Hoofstuk 8 geklaar te wees, verkry daardie goedere 'n belasting betaalbare status met betrekking tot invoerbelasting vanaf— 5

- (a) die datum waarop die tydperk wat vir die indiening van 'n klaringsbrief ten opsigte van die goedere geld ingevolge artikel 90(1) of (3) verval of waarop die klaringsbrief ingevolge daardie artikel ingedien moes gewees het; of
- (b) 'n datum deur die doeanegesag bepaal indien die datum in paragraaf (a) bedoel om enige rede nie bepaal kan word nie. 10

(2) Enige invoerbelasting¹⁴³ wat op die goedere bedoel in subartikel (1) betaalbaar sou gewees het indien die goedere werklik kragtens Hoofstuk 8 vir binnelandse gebruik geklaar was op die datum wat vir die goedere ingevolge daardie subartikel geld, word betaalbaar ten opsigte van daardie goedere teen die skaal,¹⁴⁴ op die tydstip en deur die persoon of persone soos ingevolge die betrokke belastingheffings-Wet bepaal.¹⁴⁵ 15

Belastingstatus van goedere onder doeaneprosedures geag vir binnelandse gebruik geklaar

154. (1) Indien goedere onder 'n doeaneprosedure ingevolge artikel 112 vir belastingdoeleindes geag word vir binnelandse gebruik kragtens Hoofstuk 8 geklaar te wees, verloor daardie goedere die belastingstatus wat dit onder daardie doeaneprosedure gehad het en verkry die goedere 'n belasting betaalbare status met betrekking tot invoerbelasting vanaf die datum waarop daardie goedere vir daardie doeaneprosedure geklaar is of andersins onder daardie doeaneprosedure gekom het. 20

(2) Enige invoerbelasting¹⁴⁶ wat op die goedere bedoel in subartikel (1) betaalbaar sou gewees het indien die goedere werklik vir binnelandse gebruik kragtens Hoofstuk 8 geklaar was op die datum bedoel in daardie subartikel, word betaalbaar ten opsigte van daardie goedere teen die skaal,¹⁴⁷ op die tydstip en deur die persoon of persone soos ingevolge die betrokke belastingheffings-Wet bepaal.¹⁴⁸ 25

Belastingstatus van monsters van ingevoerde goedere geneem

155. (1) Monsters geneem van ingevoerde goedere waarop artikel 89 van toepassing is en wat ingevolge artikel 514 geag word vir belastingdoeleindes vir binnelandse gebruik kragtens Hoofstuk 8 geklaar te wees, verkry 'n belasting betaalbare status met betrekking tot invoerbelasting vanaf die datum waarop daardie monsters geneem is. 30

(2) Enige invoerbelasting wat op monsters geneem van goedere bedoel in subartikel (1) betaalbaar sou gewees het indien die monsters werklik vir binnelandse gebruik kragtens Hoofstuk 8 geklaar was op die datum bedoel in daardie subartikel moet— 35

- (a) op aanvraag betaal word; en
- (b) betaal word deur die persoon wat die monsters geneem het.

Goedere vir belastingdoeleindes geag vir binnelandse gebruik geklaar te wees nie behandel te word as goedere vir binnelandse gebruik geklaar 40

156. (1) Indien enige goedere ingevolge 'n bepaling van hierdie Wet vir belastingdoeleindes geag word vir binnelandse gebruik kragtens Hoofstuk 8 geklaar te wees, mag die goedere nie behandel of vrygestel word asof die goedere werklik vir binnelandse gebruik geklaar was nie, maar die doeanegesag kan die invoerder van die

143. Kyk byvoorbeeld artikel 84 van die Wet op Doeanereg vir die aanslag van reg op goedere wat geag word vir binnelandse gebruik geklaar te wees.

144. Kyk byvoorbeeld artikel 81(1)(b) van die Wet op Doeanereg.

145. Kyk byvoorbeeld artikel 31 van die Wet op Doeanereg vir persone aanspreeklik vir reg op goedere in hierdie omstandighede.

146. Kyk byvoorbeeld artikel 84 van die Wet op Doeanereg vir aanslag van reg op goedere wat geag word vir binnelandse gebruik geklaar te wees.

147. Kyk byvoorbeeld artikel 81(1)(b) van die Wet op Doeanereg.

148. Kyk byvoorbeeld artikels 30 en 31 van die Wet op Doeanereg vir persone aanspreeklik vir reg op goedere in hierdie omstandighede.

or direct the importer of the goods to formally clear the goods for home use within a period determined by the customs authority.

(2) The customs authority may not in terms of subsection (1) allow or direct goods to be cleared for home use where such clearance will be inconsistent with this Act¹⁴⁹ or other applicable legislation.¹⁵⁰

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Part 3

Goods regarded to be cleared for outright export

Tax status of goods exported or loaded for export otherwise than through or at places of exit

157. (1) If goods in the process of being exported, or exported, from the Republic, including any foreign-going vessel or aircraft, cross-border train or railway carriage or vehicle leaving or which has left the Republic, are in terms of section 42 regarded for tax purposes to be cleared for outright export, those goods acquire a tax due status in relation to export tax as from—

- (a) a date five calendar days before the date of export of the goods, if the goods have been exported; or
- (b) a date determined by the customs authority—
 - (i) if the date referred to in paragraph (a) for any reason cannot be determined; or
 - (ii) if the goods are still in the process of being exported.

(2) Any export tax¹⁵¹ that would have been payable on the goods referred to in subsection (1) had the goods actually been cleared for outright export on the date applied to the goods in terms of that subsection, becomes payable in respect of those goods at such rate,¹⁵² at such time and by such person or persons as may be determined in terms of the applicable tax levying Act.¹⁵³

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Tax status of goods exported without clearance

158. (1) If goods exported, or in the process of being exported, from the Republic are in terms of section 96(1) regarded for tax purposes to be cleared for outright export, those goods acquire a tax due status in relation to export tax as from a date determined by the customs authority.

(2) Any export tax¹⁵⁴ that would have been payable on the goods referred to in subsection (1) had the goods actually been cleared for outright export on the date applied to the goods in terms of that subsection, becomes payable in respect of those goods at such rate,¹⁵⁵ at such time and by such person or persons as may be determined in terms of the applicable tax levying Act.¹⁵⁶

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Tax status of goods under customs procedures regarded to be cleared for outright export

159. (1) If goods were, or are being exported, from the Republic under a customs procedure other than outright export and those goods are in terms of section 114 regarded for tax purposes to be cleared for outright export, those goods lose the tax

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149. For instance where the goods have been seized or abandoned to the Commissioner or where section 570(1) or (2), read with section 580, is applied to the goods.

150. For instance legislation applicable to prohibited, restricted or sectorally controlled goods.

151. See for instance section 84 of the Customs Duty Act for assessment of duties on goods regarded to be cleared for outright export.

152. See for instance section 81(2)(b) of the Customs Duty Act.

153. See for instance section 33 of the Customs Duty Act for persons liable for duties on goods in these circumstances.

154. See for instance section 84 of the Customs Duty Act for assessment of duties on goods regarded to be cleared for outright export.

155. See for instance section 81(2)(b) of the Customs Duty Act.

156. See for instance section 34 of the Customs Duty Act for persons liable for duties on goods in these circumstances.

goedere toelaat of gelas om die goedere formeel vir binnelandse gebruik te klaar binne 'n tydperk deur die doeanegesag bepaal.

(2) Die doeanegesag mag nie ingevolge subartikel (1) toelaat of gelas dat goedere vir binnelandse gebruik geklaar word waar so 'n klaring met hierdie Wet¹⁴⁹ of ander tersaaklike wetgewing onbestaanbaar sal wees nie.¹⁵⁰

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Deel 3

Goedere geag vir regstreekse uitvoer geklaar

Belastingstatus van goedere uitgevoer of opgelaaï vir uitvoer anders as deur of by plekke van uitgang

157. (1) Indien goedere wat in die proses is om uitgevoer te word, of uitgevoer is, uit die Republiek, met inbegrip van enige land-uitgaande vaartuig of vliegtuig, oor-grens trein of spoorwegwa of voertuig wat die Republiek verlaat of verlaat het, ingevolge artikel 42 vir belastingdoeleindes geag word vir regstreekse uitvoer geklaar te wees, verkry daardie goedere 'n belasting betaalbare status met betrekking tot uitvoerbelasting vanaf—

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(a) 'n datum vyf kalenderdae voor die datum van uitvoer van die goedere, indien die goedere uitgevoer is; of

(b) 'n datum deur die doeanegesag bepaal—

(i) indien die datum bedoel in paragraaf (a) om enige rede nie bepaal kan word nie; of

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(ii) indien die goedere nog in die proses is om uitgevoer te word.

(2) Enige uitvoerbelasting¹⁵¹ wat op die goedere bedoel in subartikel (1) betaalbaar sou gewees het indien die goedere werklik vir regstreekse uitvoer geklaar was op die datum wat vir die goedere ingevolge daardie subartikel geld, word betaalbaar ten opsigte van daardie goedere teen die skaal,¹⁵² op die tydstip en deur die persoon of persone soos ingevolge die betrokke belastingheffings-Wet bepaal.¹⁵³

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Belastingstatus van goedere uitgevoer sonder klaring

158. (1) Indien goedere wat uitgevoer is, of in die proses is om uitgevoer te word, uit die Republiek, ingevolge artikel 96(1) vir belastingdoeleindes geag word vir regstreekse uitvoer geklaar te wees, verkry daardie goedere 'n belasting betaalbare status met betrekking tot uitvoerbelasting vanaf 'n datum deur die doeanegesag bepaal.

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(2) Enige uitvoerbelasting¹⁵⁴ wat op die goedere bedoel in subartikel (1) betaalbaar sou gewees het indien die goedere werklik vir regstreekse uitvoer geklaar was op die datum wat vir die goedere ingevolge daardie subartikel geld, word betaalbaar ten opsigte van daardie goedere teen die skaal,¹⁵⁵ op die tydstip en deur die persoon of persone soos ingevolge die betrokke belastingheffings-Wet bepaal.¹⁵⁶

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Belastingstatus van goedere onder doeaneprosedures geag vir regstreekse uitvoer geklaar

159. (1) Indien goedere uitgevoer is, of in die proses is om uitgevoer te word, uit die Republiek onder 'n doeaneprosedure anders as regstreekse uitvoer en daardie goedere ingevolge artikel 114 vir belastingdoeleindes geag word vir regstreekse uitvoer geklaar

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149. Byvoorbeeld waar daar op die goedere beslag gelê is of die goedere aan die Kommissaris oorgegee is of waar artikel 570(1) of (2), saamgelees met artikel 580, op die goedere toegepas word.

150. Byvoorbeeld wetgewing van toepassing op verbode, beperkte of sektorbeheerde goedere.

151. Kyk byvoorbeeld artikel 84 van die Wet op Doeanereg vir die aanslag van reg op goedere wat geag word vir regstreekse uitvoer geklaar te wees.

152. Kyk byvoorbeeld artikel 81(2)(b) van die Wet op Doeanereg.

153. Kyk byvoorbeeld artikel 33 van die Wet op Doeanereg vir persone aanspreeklike vir reg op goedere in hierdie omstandighede.

154. Kyk byvoorbeeld artikel 84 van die Wet op Doeanereg vir die aanslag van reg op goedere wat geag word vir regstreekse uitvoer geklaar te wees.

155. Kyk byvoorbeeld artikel 81(2)(b) van die Wet op Doeanereg.

156. Kyk byvoorbeeld artikel 34 van die Wet op Doeanereg vir persone aanspreeklik vir reg op goedere in hierdie omstandighede.

status they had under that customs procedure in relation to export tax and acquire a tax due status in relation to export tax as from the date on which those goods came under that customs procedure.¹⁵⁷

(2) Any export tax that would have been payable on the goods referred to in subsection (1) had the goods actually been cleared for outright export on the date referred to in that subsection, becomes payable in respect of those goods at such rate,¹⁵⁸ at such time and by such person or persons as may be determined in terms of the applicable tax levying Act.¹⁵⁹ 5

Goods regarded for tax purposes to be cleared for outright export not to be treated as goods cleared for outright export 10

160. (1) If any goods are in terms of a provision of this Act regarded for tax purposes to be cleared for outright export, the goods may not be dealt with or released as if the goods were actually cleared for outright export, but the customs authority may allow or direct the exporter of the goods to formally clear the goods for outright export within a period determined by the customs authority. 15

(2) The customs authority may not in terms of subsection (1) allow or direct goods to be cleared for outright export where such clearance will be inconsistent with this Act¹⁶⁰ or other applicable legislation.¹⁶¹

(3) If goods in free circulation are in terms of a provision of this Act regarded for tax purposes to be cleared for outright export, no domestic tax paid on such goods that would have been refundable in terms of a tax levying Act regulating that tax had the goods actually been cleared for outright export is recoverable from the Commissioner.¹⁶² 20

Tax status of goods under customs procedures that revert to free circulation

161. (1) If goods under a customs procedure revert in terms of section 353(b) or 515, or are in terms of section 113 regarded to have reverted, to free circulation— 25

- (a) those goods lose any tax refundable status in relation to domestic tax they had under that customs procedure as from the date on which those goods came under that customs procedure;
- (b) those goods no longer qualify for a refund of any domestic tax paid on the goods that arose from their tax refundable status; and 30
- (c) the person who received any refund in respect of the goods because of the tax refundable status of the goods must in accordance with any applicable tax levying Act—
 - (i) pay the refund back to the Commissioner; and 35
 - (ii) pay to the Commissioner any interest on the amount of that refund from the date on which the refund was paid to that person.

(2) Any recovery of a refund and of any interest on the amount of the refund in terms of subsection (1)(c) is payable on demand.

157. If goods exported under a customs procedure are regarded to be cleared for outright export, only export tax is affected and the goods retain their tax refundable status in relation to domestic tax paid on the goods. In other words, if VAT paid on the goods was refunded because of the export of the goods, the refund is not affected by the fact that the goods were regarded to be cleared for outright export.

158. See for instance section 81(2)(b) of the Customs Duty Act.

159. See for instance section 35 of the Customs Duty Act for persons liable for duties on goods in these circumstances.

160. For instance where the goods have been seized or abandoned to the Commissioner or where section 570(1) or (2), read with section 580, is applied to the goods.

161. For instance legislation applicable to prohibited, restricted or sectorally controlled goods.

162. This provision affects tax such as VAT and excise duty paid on goods in free circulation that would have been refundable upon actual clearance of the goods for outright export.

te wees, verloor daardie goedere die belastingstatus wat dit gehad het onder daardie doeaneprosedure met betrekking tot uitvoerbelasting en verkry dit 'n belasting betaalbare status met betrekking tot uitvoerbelasting vanaf die datum waarop daardie goedere onder daardie doeaneprosedure gekom het.¹⁵⁷

(2) Enige uitvoerbelasting wat op die goedere bedoel in subartikel (1) betaalbaar sou gewees het indien die goedere werklik vir regstreekse uitvoer geklaar was op die datum bedoel in daardie subartikel, word betaalbaar ten opsigte van daardie goedere teen die skaal,¹⁵⁸ op die tydstip en deur die persoon of persone soos ingevolge die betrokke belastingheffings-Wet bepaal.¹⁵⁹

Goedere vir belastingdoeleindes geag vir regstreekse uitvoer geklaar nie behandel te word as goedere vir regstreekse uitvoer geklaar

160. (1) Indien enige goedere ingevolge 'n bepaling van hierdie Wet vir belastingdoeleindes geag word vir regstreekse uitvoer geklaar te wees, mag die goedere nie behandel of vrygestel word asof die goedere werklik vir regstreekse uitvoer geklaar is nie, maar die doeanegesag kan die uitvoerder van die goedere toelaat of gelas om die goedere formeel vir regstreekse uitvoer te klaar binne 'n tydperk deur die doeanegesag bepaal.

(2) Die doeanegesag mag nie ingevolge subartikel (1) toelaat of gelas dat goedere vir regstreekse uitvoer geklaar word waar so 'n klaring met hierdie Wet¹⁶⁰ of ander tersaaklike wetgewing onbestaanbaar sal wees nie.¹⁶¹

(3) Indien goedere in vry sirkulasie ingevolge 'n bepaling van hierdie Wet vir belastingdoeleindes geag word vir regstreekse uitvoer geklaar te wees, is geen plaaslike belasting wat op daardie goedere betaal is wat terugbetaalbaar sou gewees het ingevolge 'n belastingheffings-Wet wat daardie belasting reguleer indien die goedere werklik vir regstreekse uitvoer geklaar was, van die Kommissaris verhaalbaar nie.¹⁶²

Belastingstatus van goedere onder doeaneprosedures wat tot vry sirkulasie terugval

161. (1) Indien goedere onder 'n doeaneprosedure ingevolge artikel 353(b) of 515 tot vry sirkulasie terugval of ingevolge artikel 113 geag word tot vry sirkulasie terug te geval het—

- (a) verloor daardie goedere enige belasting terugbetaalbare status met betrekking tot plaaslike belasting wat dit onder daardie doeaneprosedure gehad het, vanaf die datum waarop daardie goedere onder daardie doeaneprosedure gekom het;
- (b) kwalifiseer daardie goedere op grond van die belasting terugbetaalbare status van die goedere nie meer vir enige terugbetaling van enige plaaslike belasting wat op die goedere betaal is nie; en
- (c) moet die persoon wat enige terugbetaling ten opsigte van die goedere op grond van die belasting terugbetaalbare status van die goedere ontvang het, ooreenkomstig die betrokke belastingheffings-Wet—
 - (i) die terugbetaling aan die Kommissaris terugbetaal; en
 - (ii) aan die Kommissaris enige rente op die bedrag van daardie terugbetaling vanaf die datum waarop die terugbetaling aan daardie persoon betaal is, betaal.

(2) Enige verhaling van 'n terugbetaling en van enige rente op die bedrag van die terugbetaling ingevolge subartikel (1)(c) is op aanvraag betaalbaar.

157. Indien goedere uitgevoer onder 'n doeaneprosedure geag word vir regstreekse uitvoer geklaar te wees, word slegs uitvoerbelasting geraak en behou die goedere hulle belasting terugbetaalbare status met betrekking tot plaaslike belasting op die goedere betaal. Met ander woorde, indien BTW betaal op die goedere terugbetaal is weens die uitvoer van die goedere, word die terugbetaling nie geraak deur die feit dat die goedere geag word vir regstreekse uitvoer geklaar te wees nie.

158. Kyk byvoorbeeld artikel 81(2)(b) van die Wet op Doeanereg.

159. Kyk byvoorbeeld artikel 35 of die Wet op Doeanereg vir persone aanspreeklike vir reg op goedere in hierdie omstandighede.

160. Byvoorbeeld waar daar op die goedere beslag gelê is of die goedere aan die Kommissaris oorgegee is of waar artikel 570(1) of (2), saamgelees met artikel 580, op die goedere toegepas word.

161. Byvoorbeeld wetgewing van toepassing op verbode, beperkte of sektorbeheerde goedere.

162. Hierdie bepaling raak belasting soos BTW en aksynsreg betaal op goedere in vry sirkulasie wat terugbetaalbaar sou wees by werklike klaring van die goedere vir regstreekse uitvoer.

CHAPTER 7

STANDARD PROCESSES AND REQUIREMENTS FOR CLEARANCE AND RELEASE OF GOODS¹⁶³

Purpose and application of this Chapter

162. (1) The purpose of this Chapter is to determine standard processes and requirements applying generally to the clearance and release of goods for home use and the customs procedures. 5

(2) This Chapter applies to—

(a) all imported goods that must in terms of this Act be cleared for home use or a customs procedure; and 10

(b) all goods destined for export from the Republic that must in terms of this Act be cleared for export.

(3) This Chapter applies subject to any other provision of this Act applicable specifically to the clearance or release of goods for home use or a particular customs procedure, and in the event of any inconsistency between a provision of this Chapter and such other provision of this Act that other provision prevails. 15

Part 1

Standard clearance processes and requirements

Submission of clearance declarations

163. In order to clear goods for home use or a customs procedure, a clearance declaration in respect of those goods stating the purpose of the clearance and the other information required in connection with those goods in terms of this Act and any applicable tax levying Act must be submitted to the customs authority. 20

Types of clearance declarations

164. (1) A clearance declaration must either be— 25

(a) a regular clearance declaration;

(b) an incomplete clearance declaration;

(c) a provisional clearance declaration;

(d) a supplementary clearance declaration;

(e) a simplified clearance declaration; or 30

(f) another document that may in specific circumstances set out in this Act be used as a clearance declaration.

(2) A regular clearance declaration must be submitted except in circumstances where another type of clearance declaration is specifically allowed in terms of this Act.

(3) A document referred to in subsection (1)(f) must, as may be appropriate, for the purposes of this Act and a tax levying Act, be regarded to be a clearance declaration. 35

Persons entitled to submit clearance declarations

165. (1) A clearance declaration to clear goods for home use or a customs procedure may be submitted only by—

163. This Chapter sets standard processes and requirements applying generally to the clearance and release of all goods imported into or destined for export from the Republic, mainly to avoid repeating the same requirements for the different customs procedures in the Chapters dealing with the specific procedures. The standard procedures provide the default position and apply unless the Chapters dealing with the specific procedures provide otherwise.

HOOFSTUK 7

GESTANDAARDISEERDE PROSESSE EN VEREISTES VIR KLARING EN VRYSTELLING VAN GOEDERE¹⁶³

Doel en toepassing van hierdie Hoofstuk

162. (1) Die doel van hierdie Hoofstuk is om gestandaardiseerde prosesse en -vereistes te bepaal wat algemeen vir die klaring en vrystelling van goedere vir binnelandse gebruik en die doeaneprosedures geld. 5

(2) Hierdie Hoofstuk is van toepassing op—

(a) alle ingevoerde goedere wat ingevolge hierdie Wet vir binnelandse gebruik of 'n doeaneprosedure geklaar moet word; en 10

(b) alle goedere bestem vir uitvoer uit die Republiek wat ingevolge hierdie Wet vir uitvoer geklaar moet word.

(3) Hierdie Hoofstuk is van toepassing behoudens enige ander bepaling van hierdie Wet wat spesifiek vir die klaring of vrystelling van goedere vir binnelandse gebruik of 'n bepaalde doeaneprosedure geld, en in die geval van enige teenstrydigheid tussen 'n bepaling van hierdie Hoofstuk en so 'n ander bepaling van hierdie Wet, geniet daardie ander bepaling voorrang. 15

Deel 1

Standaardklaringsprosesse en -vereistes

Indiening van klaringsbriewe 20

163. Ten einde goedere vir binnelandse gebruik of 'n doeaneprosedure te klaar, moet 'n klaringsbrief ten opsigte van daardie goedere by die doeanegesag ingedien word, wat die doel van die klaring en die ander inligting in verband met daardie goedere moet vermeld wat ingevolge hierdie Wet en enige belastingheffings-Wet wat van toepassing mag wees, vereis word. 25

Tipes klaringsbriewe

164. (1) 'n Klaringsbrief moet een van die volgende wees:

- (a) 'n Gewone klaringsbrief;
- (b) 'n onvolledige klaringsbrief;
- (c) 'n voorlopige klaringsbrief; 30
- (d) 'n aanvullende klaringsbrief;
- (e) 'n verkorte klaringsbrief; of
- (f) 'n ander dokument wat in spesifieke omstandighede in hierdie Wet uiteengesit as 'n klaringsbrief gebruik mag word.

(2) 'n Gewone klaringsbrief moet ingedien word behalwe in omstandighede waar 'n ander tipe klaringsbrief spesifiek ingevolge hierdie Wet toelaatbaar is. 35

(3) 'n Dokument bedoel in subartikel (1)(f) moet, waar gepas, vir doeleindes van hierdie Wet en 'n belastingheffings-Wet geag word 'n klaringsbrief te wees.

Persone wat klaringsbriewe mag indien

165. (1) 'n Klaringsbrief om goedere vir binnelandse gebruik of 'n doeaneprosedure te klaar, kan ingedien word slegs deur— 40

¹⁶³ Hierdie Hoofstuk bepaal die standaardprosesse en -vereistes wat algemeen vir die klaring en vrystelling van alle goedere ingevoer in, of bestem vir uitvoer uit, die Republiek geld, hoofsaaklik om herhaling van dieselfde vereistes vir verskillende doeaneprosedures in die Hoofstukke wat met die verskillende prosedures handel, te voorkom. Die standaardprosedures bepaal die verstekposisie en is van toepassing tensy die Hoofstukke wat met die spesifieke prosedures handel anders bepaal.

- (a) a person who in terms of a provision of this Act is entitled to submit clearance declarations for home use or that customs procedure;¹⁶⁴ or
 - (b) a licensed customs broker duly authorised to submit a clearance declaration on behalf of a person referred to in paragraph (a).
- (2) A person referred to in subsection (1)(a) may submit a clearance declaration only if that person is a registered person or a licensee. 5
- (3) If a clearance declaration is submitted by a customs broker on behalf of a person referred to in subsection (1)(a) the customs broker must, on request by the customs authority, submit a certified copy of the authorisation in terms of which that customs broker submits the clearance declaration on behalf of that person. 10

Persons by whom goods are cleared

166. (1) A person who submits a clearance declaration in terms of section 165 to clear goods for home use or a customs procedure must for purposes of this Act and a tax levying Act be regarded to be the person clearing the goods, except where provided otherwise in this Act or a tax levying Act. 15

(2) If a clearance declaration is submitted by a customs broker on behalf of a person referred to in section 165(1)(a), that person and not the customs broker must for purposes of this Act and a tax levying Act be regarded to be the person clearing the goods.¹⁶⁵

Contents of clearance declarations 20

167. (1) A regular clearance declaration must state—

- (a) the nature and quantity of the goods, and, in the case of goods imported into or destined for export from the Republic by sea, the cargo status of the goods;
- (b) the number of the transport document issued in respect of the goods;
- (c) the container number, in the case of containerised goods; 25
- (d) the date and time of actual or expected arrival of the goods, as may be applicable, at a place referred to in—
 - (i) section 90, in the case of imported goods; or
 - (ii) section 94, in the case of goods to be exported from the Republic;
- (e) the tariff classification ascribed to the goods by the person clearing the goods in terms of a requirement of each applicable tax levying Act, and the reference number of—
 - (i) any tariff determination or re-determination that may be applicable to the goods in terms of each of those Acts; or
 - (ii) any advance tariff ruling that may be applicable to the goods in terms of each of those Acts; 35
- (f) the customs value ascribed to the goods in terms of section 116(1) of the Customs Duty Act,¹⁶⁶ and the reference number of—
 - (i) any customs ruling on a valuation criterion that may be applicable to the goods in terms of section 123(2) of that Act; or 40
 - (ii) any advance ruling on a valuation criterion that may be applicable to the goods in terms of section 190(1) of that Act;
- (g) the origin ascribed to the goods in terms of section 152(1) of the Customs Duty Act, and the reference number of—
 - (i) any origin determination or re-determination that may be applicable to the goods in terms of section 159(1)(b) of that Act; or 45
 - (ii) any advance origin ruling that may be applicable to the goods in terms of section 190(1) of that Act;

164. The registered persons and licensees entitled to submit clearance declarations for home use or a specific customs procedure are specified in the Chapter on home use or that specific customs procedure.

165. See also sections 201(2).

166. The customs value of imported goods determined for purposes of the Customs Duty Act must in terms of the Excise Duty Act and the VAT Act also be used as the value of the goods to determine the amount of excise duty and VAT payable on those goods.

- (a) 'n persoon wat ingevolge 'n bepaling van hierdie Wet die reg het om klaringsbriewe vir binnelandse gebruik of daardie doeaneprosedure in te dien;¹⁶⁴ of
- (b) 'n gelisensieerde doeanemakelaar behoorlik daartoe gemagtig om 'n klaringsbrief ten behoeve van 'n persoon bedoel in paragraaf (a) in te dien. 5
- (2) 'n Persoon bedoel in subartikel (1)(a) kan 'n klaringsbrief indien slegs indien daardie persoon 'n geregistreerde persoon of 'n lisensiehouer is.
- (3) Indien 'n klaringsbrief deur 'n doeanemakelaar ten behoeve van 'n persoon bedoel in subartikel (1)(a) ingedien word, moet die doeanemakelaar, op versoek van die doeanegesag, 'n gesertifiseerde afskrif van die magtiging voorlê ingevolge waarvan daardie doeanemakelaar die klaringsbrief ten behoeve van daardie persoon indien. 10

Persone deur wie goedere geklaar word

166. (1) 'n Persoon wat 'n klaringsbrief ingevolge artikel 165 indien om goedere vir binnelandse gebruik of 'n doeaneprosedure te klaar, word vir doeleindes van hierdie Wet en 'n belastingheffings-Wet geag die persoon te wees wat die goedere klaar, behalwe waar daar anders in hierdie Wet of 'n belastingheffings-Wet bepaal word. 15

(2) Indien 'n klaringsbrief deur 'n doeanemakelaar ten behoeve van 'n persoon bedoel in artikel 165(1)(a) ingedien word, moet daardie persoon, en nie die doeanemakelaar nie, vir doeleindes van hierdie Wet en 'n belastingheffings-Wet geag word die persoon te wees wat die goedere klaar.¹⁶⁵ 20

Inhoud van klaringsbriewe

167. (1) 'n Gewone klaringsbrief moet die volgende vermeld:

- (a) Die aard en hoeveelheid van die goedere, en, in die geval van goedere ingevoer in, of bestem vir uitvoer uit, die Republiek per see, die vragstatus van die goedere; 25
- (b) die nommer van die vervoerdokument ten opsigte van die goedere uitgereik;
- (c) die houernommer, in die geval van behouerde goedere;
- (d) die datum en tyd van werklike of verwagte aankoms van die goedere, soos ook al van toepassing mag wees, by 'n plek bedoel in— 30
- (i) artikel 90, in die geval van ingevoerde goedere; of
- (ii) artikel 94, in die geval van goedere wat uit die Republiek uitgevoer word;
- (e) die tariefindeling wat deur die persoon wat die goedere klaar aan die goedere toegewys is ingevolge 'n vereiste van elk van die belastingheffings-Wette wat van toepassing is, en die verwysingsnommer van— 35
- (i) enige tariefbepaling of -herbepaling wat vir die goedere ingevolge elk van daardie Wette mag geld; of
- (ii) enige vooruit-tariefbeslissing wat vir die goedere ingevolge elk van daardie Wette mag geld;
- (f) die doeanewaarde wat ingevolge artikel 116(1) van die Wet op Doeanereg¹⁶⁶ aan die goedere toegewys is, en die verwysingsnommer van— 40
- (i) enige doeanebeslissing oor 'n waardasiemaatstaf wat vir die goedere ingevolge artikel 123(2) van daardie Wet mag geld; of
- (ii) enige vooruit-beslissing oor 'n waardasiemaatstaf wat vir die goedere ingevolge artikel 190(1) van daardie Wet mag geld;
- (g) die oorsprong wat ingevolge artikel 152(1) van die Wet op Doeanereg aan die goedere toegeken is, en die verwysingsnommer van— 45
- (i) enige oorsprongbepaling of -herbepaling wat vir die goedere ingevolge artikel 159(1)(b) van daardie Wet mag geld; of
- (ii) enige vooruit-oorsprongbeslissing wat vir die goedere ingevolge artikel 190(1) van daardie Wet mag geld; 50

164. Die geregistreerde persone en lisensiehouers wat die reg het om klaringsbriewe vir binnelandse gebruik of 'n spesifieke doeaneprosedure in te dien, word gespesifiseer in die Hoofstuk oor binnelandse gebruik of daardie spesifieke doeaneprosedure.

165. Kyk ook artikel 201(2).

166. Die doeanewaarde van ingevoerde goedere wat vir doeleindes van die Wet op Doeanereg bepaal word, moet ingevolge die Wet op Aksynsreg en die BTW-Wet ook gebruik word as die waarde van die goedere om die bedrag van aksynsreg en BTW te bepaal wat op daardie goedere betaalbaar is.

- (h) whether any import or export tax is payable on the goods in terms of any tax levying Act, and if so—
 - (i) the kind of tax payable; and
 - (ii) the amount of the tax determined in accordance with a self-assessment in terms of the applicable tax levying Act; 5
 - (i) the customs code and name of the person submitting the declaration, and, if submitted by a customs broker, carrier or registered agent acting in accordance with this Act on behalf of another, also the customs code and name of the principal on whose behalf the declaration is submitted;
 - (j) in the case of goods under a customs procedure that are to be cleared for another customs procedure or for home use, the reference number of the clearance declaration submitted for clearing the goods for that customs procedure; and 10
 - (k) such additional information as may be required on the prescribed form or by this Act or a tax levying Act. 15
- (2) Any other type of clearance declaration must contain the information—
- (a) required for a regular clearance declaration in terms of subsection (1) except—
 - (i) as provided otherwise in this Act; or
 - (ii) to the extent exempted by rule; or 20
 - (b) required for that type of clearance declaration in terms of this Act or as may be prescribed by rule.
- (3) Clearance declarations of the different types must be in a form and format as may be prescribed by rule,¹⁶⁷ except where determined otherwise in terms of this Act for the specific type of clearance declaration. 25

How and where to submit clearance declarations

- 168.** (1) A clearance declaration must be submitted to the customs authority electronically in accordance with section 913 unless the person submitting the declaration is authorised in terms of that section, or falls within a category of persons authorised by rule, to submit a document manually in paper format. 30
- (2) A clearance declaration submitted in paper format must—
- (a) be completed, signed and certified by the person who submits the clearance declaration;
 - (b) consist of the signed original and a number of copies as may be prescribed by rule; and 35
 - (c) be submitted to the customs authority—
 - (i) at the Customs Office serving the customs controlled area where the goods are to be released for home use or a customs procedure; or
 - (ii) at any other Customs Office designated in terms of section 14 to receive clearance declarations. 40

Time of day when clearance declarations may be submitted

- 169.** A clearance declaration—
- (a) transmitted electronically in accordance with section 913, may be transmitted at any time; or
 - (b) submitted in paper format may be submitted to the customs authority at the Customs Office referred to in section 168(2)(c) only during that Office's hours of business. 45

Submission of clearance declarations before arrival of goods at place of entry

- 170.** (1) A clearance declaration in relation to goods imported or to be imported into the Republic may be submitted to the customs authority before the arrival of the goods at the place referred to in section 90, provided that the goods have already been loaded on board the vessel, aircraft, railway carriage or vehicle transporting those goods to the Republic. 50

¹⁶⁷. See section 906.

- (h) of enige invoer- of uitvoerbelasting op die goedere ingevolge enige belastingheffings-Wet betaalbaar is, en indien wel—
- (i) die soort belasting betaalbaar; en
 - (ii) die bedrag van die belasting ooreenkomstig 'n self-aanslag ingevolge die betrokke belastingheffings-Wet bepaal; 5
- (i) die doeanekode en naam van die persoon wat die klaringsbrief indien, en, indien dit ingedien word deur 'n doeanemakelaar, vervoerder of geregistreerde agent handelende ooreenkomstig hierdie Wet ten behoeve van 'n ander, ook die doeanekode en naam van die prinsipaal ten behoeve van wie die klaringsbrief ingedien word; 10
- (j) in die geval van goedere onder 'n doeaneprosedure wat vir 'n ander doeaneprosedure of vir binnelandse gebruik geklaar word, die verwysingsnommer van die klaringsbrief wat vir die klaring van die goedere vir daardie doeaneprosedure ingedien is; en
- (k) die bykomende inligting soos op die voorgeskrewe vorm of deur hierdie Wet of 'n belastingheffings-Wet vereis mag word. 15
- (2) 'n Klaringsbrief van enige ander tipe moet die inligting bevat—
- (a) wat vir 'n gewone klaringsbrief ingevolge subartikel (1) vereis word, behalwe—
 - (i) soos anders in hierdie Wet bepaal; of 20
 - (ii) in soverre by reël daarvan onthef; of
 - (b) wat vir daardie tipe klaringsbrief ingevolge hierdie Wet vereis word of by reël voorgeskryf mag word.
- (3) Klaringsbriewe van die verskillende tipes moet in 'n vorm en formaat wees soos by reël voorgeskryf mag word¹⁶⁷ behalwe waar daar anders ingevolge hierdie Wet vir die bepaalde tipe klaringsbrief bepaal word. 25

Hoe en waar om klaringsbriewe in te dien

168. (1) 'n Klaringsbrief moet elektronies ooreenkomstig artikel 913 by die doeanegesag ingedien word tensy die persoon wat die klaringsbrief indien ingevolge daardie artikel gemagtig is, of binne 'n kategorie persone val wat by reël gemagtig is, om 'n dokument per hand in papiervorm in te dien. 30
- (2) 'n Klaringsbrief in papiervorm ingedien, moet—
- (a) voltooi, geteken en gesertifiseer word deur die persoon wat die klaringsbrief indien;
 - (b) bestaan uit die getekende oorspronklike en 'n aantal afskrifte soos by reël voorgeskryf mag word; en 35
 - (c) ingedien word by die doeanegesag—
 - (i) by die Doeanekantoor wat die doeanebeheergebied bedien waar die goedere vir binnelandse gebruik of 'n doeaneprosedure vrygestel sal word; of 40
 - (ii) by enige ander Doeanekantoor ingevolge artikel 14 aangewys om klaringsbriewe te ontvang.

Tyd van dag wanneer klaringsbriewe ingedien mag word

169. 'n Klaringsbrief wat—
- (a) elektronies ooreenkomstig artikel 913 versend word, kan te eniger tyd versend word; of 45
 - (b) in papiervorm ingedien word, kan by die doeanegesag by die Doeanekantoor bedoel in artikel 168(2)(c) ingedien word slegs gedurende daardie Kantoor se besigheidsure.

Indiening van klaringsbriewe voor aankoms van goedere by plek van toegang 50

170. (1) 'n Klaringsbrief met betrekking tot goedere wat in die Republiek ingevoer is of word, kan by die doeanegesag ingedien word voor die aankoms van die goedere by die plek bedoel in artikel 90, mits die goedere reeds aan boord gelaai is van die vaartuig, vliegtuig, spoorwegwa of voertuig wat daardie goedere na die Republiek vervoer.

167. Kyk artikel 906.

(2) If a clearance declaration is received before the goods arrive at the place referred to in section 90, the customs authority may proceed with processing and validating the declaration despite the fact that the goods have not yet arrived at that place but may not release the goods before their arrival at that place.

Acceptance of clearance declarations by customs authority 5

171. (1) The customs authority must accept a clearance declaration submitted to it and issue a receipt to the person who submitted the declaration if—

- (a) the declaration is in the form and format prescribed for the specific type of clearance declaration;¹⁶⁸
- (b) all the information required on the form or otherwise prescribed for the specific type of clearance declaration is furnished;¹⁶⁹ 10
- (c) the declaration is signed by or on behalf of the person submitting the declaration, if required for the specific type of clearance declaration; and
- (d) the declaration is submitted by a person entitled to submit the declaration.¹⁷⁰ 15

(2) The customs authority must refuse acceptance of a clearance declaration if the declaration does not comply with subsection (1). 15

(3) Acceptance of a clearance declaration in terms of subsection (1) may not be regarded as release of the goods for home use or the required customs procedure.

Validity of clearance declarations

172. (1) A clearance declaration accepted in terms of section 171(1) is despite such acceptance invalid if any of the information required on the form or otherwise prescribed for the specific type of clearance declaration¹⁷¹ is incorrect but the declaration may be validated by an amendment in terms of section 174. 20

(2) An amendment of a clearance declaration validates the declaration from the date of submission of the original declaration, but such validation of the declaration does not affect any criminal proceedings that may be instituted, any administrative penalty that may be imposed or any other steps that may be taken as a result of the submission of an incorrect declaration. 25

Determination of time of clearance of goods

173. (1) For the purposes of this Act or a tax levying Act, the time of clearance of goods for home use or a customs procedure must be taken as the time when a clearance declaration in respect of the goods which complies with the requirements set out in section 171(1) is accepted by the customs authority in terms of that section.

(2) The time of clearance in terms of subsection (1) is not affected if the clearance declaration is amended in terms of section 174. 35

(3) If the clearance of goods is substituted in terms of section 97 or 107 the time of clearance of the goods must be taken as the time applicable to the goods in terms of section 97(3) or 107(3).

Amendment of clearance declarations

174. (1) (a) If a person clearing goods for home use or a customs procedure becomes aware, whether before or after the release of the goods, of any incorrect or incomplete information or other error on the declaration, that person must promptly submit to the 40

168. See section 913 for electronic submission of clearance declarations.

169. The official form should require at least all the information referred to in section 167.

170. See section 165 and other relevant sections specifying the persons who are entitled to submit clearance declarations.

171. For information required on the official form for clearance declarations, see section 167.

(2) Indien 'n klaringsbrief ontvang word voordat die goedere by die plek in artikel 90 bedoel aankom, kan die doeanebeslag voortgaan met die prosessering en validering van die klaringsbrief ondanks die feit dat die goedere nog nie by daardie plek aangekom het nie, maar mag nie die goedere vrystel voordat dit by daardie plek aangekom het nie.

Aanvaarding van klaringsbriewe deur doeanebeslag

5

171. (1) Die doeanebeslag moet 'n klaringsbrief wat by die doeanebeslag ingedien is, aanvaar en 'n ontvangsbewys daarvoor aan die persoon uitreik wat die klaringsbrief ingedien het indien—

- (a) die klaringsbrief in 'n vorm en formaat is wat vir die spesifieke tipe klaringsbrief voorgeskryf word;¹⁶⁸ 10
- (b) al die inligting verskaf word wat op die vorm vereis word of andersins vir die spesifieke tipe klaringsbrief voorgeskryf word;¹⁶⁹
- (c) die klaringsbrief deur of namens die persoon onderteken is wat die klaringsbrief indien, indien ondertekening 'n vereiste vir die spesifieke tipe klaringsbrief is; en 15
- (d) die klaringsbrief deur 'n persoon ingedien is wat die reg het om die klaringsbrief in te dien.¹⁷⁰

(2) Die doeanebeslag moet weier om 'n klaringsbrief te aanvaar indien die klaringsbrief nie aan subartikel (1) voldoen nie.

(3) Aanvaarding van 'n klaringsbrief ingevolge subartikel (1) word nie geag 20
vrystelling van die goedere vir binnelandse gebruik of die vereiste doeane-prosedure te wees nie.

Geldigheid van klaringsbriewe

172. (1) 'n Klaringsbrief wat ingevolge artikel 171(1) aanvaar is, is ondanks daardie aanvaarding ongeldig indien enige van die inligting wat op die vorm vereis word of vir daardie spesifieke tipe klaringsbrief¹⁷¹ voorgeskryf is, onjuis is, maar die klaringsbrief kan deur 'n wysiging ingevolge artikel 174 geldig gemaak word. 25

(2) 'n Wysiging van 'n klaringsbrief maak die klaringsbrief geldig vanaf die datum van indiening van die oorspronklike klaringsbrief, maar so 'n geldigmaking van die klaringsbrief raak nie enige strafregtelike verrigtinge wat ingestel, enige 30
administratiewe boete wat opgelê of ander stappe wat gedoen mag word as gevolg van die indiening van 'n foutiewe klaringsbrief nie.

Bepaling van tyd van klaring van goedere

173. (1) By die toepassing van hierdie Wet of 'n belastingheffings-Wet, moet die tydstip van klaring van goedere vir binnelandse gebruik of 'n doeane-prosedure geneem 35
word die tydstip te wees waarop 'n klaringsbrief ten opsigte van die goedere, wat aan die vereistes vermeld in artikel 171(1) voldoen, deur die doeanebeslag ingevolge daardie artikel aanvaar word.

(2) Die tydstip van klaring ingevolge subartikel (1) word nie geraak indien die klaringsbrief ingevolge artikel 174 gewysig word nie. 40

(3) Indien die klaring van goedere ingevolge artikel 97 of 107 vervang word, moet die tydstip van klaring van die goedere geneem word die tydstip te wees wat ingevolge artikel 97(3) of 107(3) vir die goedere geld.

Wysiging van klaringsbriewe

174. (1) (a) Indien 'n persoon wat goedere vir binnelandse gebruik of 'n 45
doeane-prosedure klaar, bewus word, hetsy voor of na die vrystelling van die goedere, van enige onjuiste of onvolledige inligting of ander fout op die klaringsbrief, moet daardie persoon onverwyld 'n gewysigde weergawe van die klaringsbrief by die

168. Kyk artikel 913 vir elektroniese indiening van klaringsbriewe.

169. Die amptelike vorm moet minstens al die inligting in artikel 167 bedoel, vereis.

170. Kyk artikel 165 en ander tersaaklike artikels wat die persone spesifiseer wat die reg het om klaringsbriewe in te dien.

171. Vir inligting vir klaringsbriewe op die amptelike vorm vereis, kyk artikel 167.

customs authority an amended version of the clearance declaration to replace the version of the declaration containing the error.¹⁷²

(b) The customs authority may accept or refuse to accept an amended clearance declaration submitted to it in terms of paragraph (a) but may not refuse such acceptance if it has not yet commenced with either the verification of the information on the clearance declaration that is to be amended or the inspection of the goods to which that clearance declaration relates. 5

(2) If any of the circumstances pertaining to goods cleared for home use or a customs procedure change, the person clearing the goods must update any information on the clearance declaration to reflect the changed circumstances by promptly submitting to the customs authority an amended version of the clearance declaration reflecting the change to replace the existing version of the declaration.¹⁷³ 10

(3) If the customs authority becomes aware, whether before or after the release of any goods, of any incorrect or incomplete information or other error, or any out-dated information, on the clearance declaration submitted in respect of the goods, it may direct the person clearing the goods to correct the error or to update the information by submitting to it, within a period specified in the direction, an amended version of the clearance declaration to replace the version of the declaration containing the error or the out-dated information. 15

(4) An amended version of a clearance declaration of goods that— 20

(a) have not yet been released replaces the existing version of the declaration when the customs authority releases the goods; or

(b) have already been released replaces the existing version of the declaration when the customs authority issues a new release notification replacing the previous release notification. 25

(5) This section—

(a) may be applied for amending—

(i) clearance declarations accepted by the customs authority in terms of section 171(1); or

(ii) amended clearance declarations submitted in terms of this section; and 30

(b) may not be applied for replacing—

(i) a clearance for home use with a clearance for a customs procedure; or

(ii) a clearance for a customs procedure with a clearance for another customs procedure or for home use.¹⁷⁴ 35

Withdrawal of clearance declarations

175. (1) A person clearing goods for home use or a customs procedure may withdraw a clearance declaration submitted in respect of the goods if—

(a) the goods are cleared in terms of section 90(4) or 170 and the goods do not arrive at the place of entry referred to in that section;

(b) that clearance declaration is a duplicate clearance declaration that was erroneously submitted in respect of the same goods; 40

(c) in the case of goods under a customs procedure, the goods are intended to remain under the customs procedure for which the goods are currently released;

(d) this Act provides for the withdrawal of a clearance declaration in any specific circumstances; or 45

(e) the customs authority on any other justifiable grounds gives permission to that person to withdraw the clearance declaration.

172. The submission of an amended declaration does not affect the time of clearance. See section 173(2).

173. For instance if part of the goods were destroyed or lost, or if part of the goods are cleared for another customs procedure or for home use, or if part of the goods are abandoned.

174. Clearance substitutions cannot be effected through mere amendment of the existing clearance declaration. In such cases the clearance declaration must be replaced by a new clearance declaration reflecting the new clearance. See section 97 for clearance substitutions of goods *before* release of the goods, section 107 for clearance substitutions of goods *after* release of the goods, and section 110 for clearance of goods under a customs procedure.

doanegesag indien ter vervanging van die weergawe van die klaringsbrief wat die fout bevat.¹⁷²

(b) Die doanegesag kan 'n gewysigde klaringsbrief wat ingevolge paragraaf (a) by die doanegesag ingedien is, aanvaar of weier om dit te aanvaar, maar mag nie aanvaarding daarvan weier nie indien die doanegesag nog nie met óf die validering van die inligting op die klaringsbrief wat gewysig word óf die inspeksie van die goedere waarop daardie klaringsbrief betrekking het, begin het nie. 5

(2) Indien enige van die omstandighede wat betrekking het op goedere wat geklaar is vir binnelandse gebruik of 'n doeaneprosedure verander, moet die persoon wat die goedere klaar enige inligting op die klaringsbrief opdateer om die veranderde omstandighede aan te toon deur onverwyld 'n gewysigde weergawe van die klaringsbrief wat die wysiging aantoon ter vervanging van die bestaande weergawe van die klaringsbrief by die doanegesag in te dien.¹⁷³ 10

(3) Indien die doanegesag bewus word, hetsy voor of na die vrystelling van enige goedere, van enige onjuiste of onvolledige inligting of ander fout, of enige verouderde inligting, op die klaringsbrief wat ten opsigte van die goedere ingedien is, kan die doanegesag die persoon wat die goedere klaar, gelas om die fout reg te stel of die inligting op te dateer deur, binne 'n tydperk in die lasgewing bepaal, 'n gewysigde weergawe van die klaringsbrief ter vervanging van die weergawe van die klaringsbrief wat die fout of verouderde inligting bevat, in te dien. 15 20

(4) 'n Gewysigde weergawe van 'n klaringsbrief van goedere wat—

- (a) nog nie vrygestel is nie, vervang die bestaande weergawe van die klaringsbrief wanneer die doanegesag die goedere vrystel; of
- (b) reeds vrygestel is, vervang die bestaande weergawe van die klaringsbrief wanneer die doanegesag 'n nuwe vrystellingskennisgewing ter vervanging van die vorige vrystellingskennisgewing uitreik. 25

(5) Hierdie artikel—

- (a) kan toegepas word om—
 - (i) klaringsbriewe deur die doanegesag ingevolge artikel 171(1) aanvaar, te wysig; of 30
 - (ii) gewysigde klaringsbriewe ingevolge hierdie artikel ingedien, te wysig; en
- (b) mag nie toegepas word om—
 - (i) 'n klaring vir binnelandse gebruik deur 'n klaring vir 'n doeaneprosedure te vervang nie; of 35
 - (ii) 'n klaring vir 'n doeaneprosedure deur 'n klaring vir 'n ander doeaneprosedure of vir binnelandse gebruik te vervang nie.¹⁷⁴

Terugtrekking van klaringsbriewe

175. (1) 'n Persoon wat goedere vir binnelandse gebruik of 'n doeaneprosedure klaar, kan 'n klaringsbrief wat ten opsigte van die goedere ingedien is, terugtrek indien— 40

- (a) die goedere ingevolge artikel 90(4) of 170 geklaar is en die goedere nie by die plek van aankoms bedoel in daardie artikel aankom nie;
- (b) daardie klaringsbrief 'n duplikaat klaringsbrief is wat foutiewelik ten opsigte van dieselfde goedere ingedien is;
- (c) in die geval van goedere onder 'n doeaneprosedure, die goedere bestem is om te bly onder die doeaneprosedure waarvoor die goedere huidiglik vrygestel is; 45
- (d) hierdie Wet voorsiening maak vir die terugtrekking van 'n klaringsbrief in enige spesifieke omstandighede; of
- (e) die doanegesag op enige ander regverdigbare gronde toestemming aan daardie persoon verleen om die klaringsbrief terug te trek. 50

172. Die indiening van 'n gewysigde klaringsbrief raak nie die tydstip van klaring nie. Kyk artikel 173(2).

173. Byvoorbeeld indien 'n gedeelte van die goedere vernietig is of verlore gegaan het, of indien 'n gedeelte van die goedere vir 'n ander doeaneprosedure of vir binnelandse gebruik geklaar word, of indien 'n gedeelte van die goedere aan die Kommissaris oorgegee word.

174. Klaringvervangings kan nie gedoen word deur blote wysiging van die bestaande klaringsbrief nie. In sulke gevalle moet die klaringsbrief vervang word deur 'n nuwe klaringsbrief wat die nuwe klaring weergee. Kyk artikel 97 vir klaringvervangings van goedere *voor* vrystelling van die goedere, artikel 107 vir klaringvervangings van goedere *na* vrystelling van die goedere, en artikel 110 vir klaring van goedere onder 'n doeaneprosedure.

(2) The customs authority may in any of the circumstances referred to in subsection (1)(a) to (d) direct the person clearing the goods to withdraw the clearance declaration.

Supporting documents

176. (1) No person may clear goods for home use or a customs procedure unless the clearance is supported by—¹⁷⁵ 5

- (a) an invoice issued in respect of the goods by the person who—
 - (i) exports the goods to or from the Republic; or
 - (ii) supplied the goods that are exported to or from the Republic;
- (b) a transport document that has been issued in respect of the goods;
- (c) in the case of a clearance through a customs broker, the clearance instruction 10 of the principal; and
- (d) any other documents as may be required in terms of another provision of this Act or the rules, a tax levying Act or other applicable legislation for the clearance of goods generally or for the specific purpose for which the goods 15 are cleared.

(2) No document referred to in subsection (1) may be used as a document to support the clearance of goods for home use or a customs procedure as required by that subsection unless it contains the information required by this Act or a tax levying Act or as may be prescribed by rule.

(3) Subsection (1) applies subject to any exemption applicable in terms of a provision 20 of this Act or granted by rule in respect of goods cleared for home use or a customs procedure in circumstances referred to in such provision or rule.

Invoices

177. (1) An invoice referred to in section 176(1)(a) must—

- (a) be a true reflection of the transaction which is the cause for the goods to be 25 exported to or from the Republic, as the case may be, including of—
 - (i) the nature of the transaction;
 - (ii) the goods to which the transaction relates; and
 - (iii) the amount paid or payable in terms of the transaction;
- (b) describe the goods to which it relates, which must include a distinctive and 30 permanent identification number, code, description, character or other mark allocated in respect of the goods by the person who issued the invoice;
- (c) be the last invoice issued in respect of those goods, if more than one invoice was issued in respect of those goods as at the time of clearance¹⁷⁶ or, in the 35 case of a clearance in terms of section 90(4) or 170, as at the time of arrival of the goods at the place of entry referred to in that section; and
- (d) show—
 - (i) the date of issue;
 - (ii) the name and physical address of the issuer;
 - (iii) the name of the person to whom the invoice is issued, and the name of the 40 consignee if the person to whom the invoice is issued is not the consignee;
 - (iv) the price paid or payable;
 - (v) any commission, discount, cost, charge, expense, royalty, freight, tax, drawback, refund, rebate, remission or other information whatsoever that 45 affects the price paid or payable; and
 - (vi) any other information as may be prescribed by rule.

(2) The particulars on an invoice must describe the goods as they are or will be at the time when imported into the Republic or exported from the Republic, as the case may 50 be.

¹⁷⁵. Supporting documents are not submitted to customs unless required in terms of section 179.
¹⁷⁶. For time of clearance, see section 173.

(2) Die doeanegesag kan in enige van die omstandighede bedoel in subartikel (1)(a) tot (d) gelas dat die persoon wat die goedere klaar die klaringsbrief moet terugtrek.

Ondersteunende dokumente

176. (1) Geen persoon mag goedere vir binnelandse gebruik of 'n doeaneprosedure klaar nie tensy die klaring gerugsteun word deur—¹⁷⁵ 5
- (a) 'n faktuur wat ten opsigte van die goedere uitgereik is deur die persoon wat—
 - (i) die goedere na of van die Republiek uitvoer; of
 - (ii) die goedere wat na of van die Republiek uitgevoer word, verskaf het;
 - (b) 'n vervoerdokument wat ten opsigte van die goedere uitgereik is;
 - (c) in die geval van 'n klaring deur 'n doeanemakelaar, die klaringsopdrag van die prinsipaal; en 10
 - (d) enige ander dokumente soos ingevolge 'n ander bepaling van hierdie Wet of die reëls, 'n belastingheffings-Wet of ander tersaaklike wetgewing vereis mag word vir die klaring van goedere in die algemeen of vir die spesifieke doel waarvoor die goedere geklaar word. 15
- (2) Geen dokument bedoel in subartikel (1) mag as 'n dokument gebruik word om die klaring van goedere vir binnelandse gebruik of 'n doeaneprosedure volgens voorskrif van daardie subartikel te rugsteun nie tensy dit die inligting bevat wat deur hierdie Wet of 'n belastingheffings-Wet vereis word of soos by reël voorgeskryf mag word.
- (3) Subartikel (1) moet toegepas word behoudens enige ontheffing wat volgens voorskrif van hierdie Wet geld of wat by reël toegestaan is ten opsigte van goedere vir binnelandse gebruik of 'n doeaneprosedure geklaar in omstandighede in so 'n voorskrif of reël vervat. 20

Fakture

177. (1) 'n Faktuur bedoel in artikel 176(1)(a) moet— 25
- (a) 'n juiste weergawe van die transaksie wees wat die uitvoer of invoer van die goedere na of van die Republiek, na gelang van die geval, ten grondslag lê, asook van—
 - (i) die aard van die transaksie;
 - (ii) die goedere waarop die transaksie betrekking het; en 30
 - (iii) die bedrag betaal of betaalbaar ingevolge die transaksie;
 - (b) die goedere beskryf waarop dit betrekking het, wat moet insluit 'n onderskeidende en permanente identifikasienommer, kode, beskrywing, letterteken of ander merk ten opsigte van die goedere toegeken deur die persoon wat die faktuur uitgereik het; 35
 - (c) die laaste faktuur wees wat ten opsigte van daardie goedere uitgereik is, indien meer as een faktuur ten opsigte van daardie goedere uitgereik is teen die tyd van klaring¹⁷⁶ of, in die geval van 'n klaring ingevolge artikel 90(4) of 170, teen die tyd van aankoms van die goedere by die plek van aankoms in daardie artikel bedoel; en 40
 - (d) aantoon—
 - (i) die datum van uitreiking;
 - (ii) die naam en fisiese adres van die uitreiker;
 - (iii) die naam van die persoon aan wie die faktuur uitgereik word, en die naam van die geadresseerde indien die persoon aan wie die faktuur uitgereik word nie die geadresseerde is nie; 45
 - (iv) die prys betaal of betaalbaar;
 - (v) enige kommissie, afslag, koste, heffing, onkoste, tantieme, vragkoste, belasting, teruggawe, terugbetaling, korting, kwytskelding of ander inligting van watter aard ook al wat die prys betaal of betaalbaar raak; en 50
 - (vi) enige ander inligting soos by reël voorgeskryf mag word.
- (2) Die besonderhede op 'n faktuur moet die goedere beskryf soos die goedere is of sal wees op die tydstip waarop dit in die Republiek ingevoer of uit die Republiek uitgevoer word, na gelang van die geval.

175. Ondersteunende dokumente word nie by Doeane ingedien nie tensy dit ingevolge artikel 179 vereis word.

176. Vir tyd van klaring, kyk artikel 173.

(3) For the purposes of this Act and a tax levying Act no change in the condition of the goods may be regarded as having occurred between the time when imported into the Republic and the time of any examination or analysis of the goods by the customs authority unless the person who submitted the clearance declaration provides proof of a change in the condition of the goods and the extent thereof. 5

(4) A person clearing goods must in a manner and within a timeframe as may be prescribed by rule notify the customs authority of—

- (a) any change in—
 - (i) the particulars reflected on an invoice; or
 - (ii) circumstances affecting any of the matters referred to in subsection (1); 10or
- (b) any refund or additional amount or any deferred or secret discount, commission or any other credit or debit of whatever nature paid or received in connection with the goods and which is not disclosed on the invoice, whether paid or received directly or indirectly, in money or in kind or in any other way. 15

Amendment of invoices

178. (1) An invoice supporting the clearance of goods for home use or a customs procedure must be amended—

- (a) if the amount paid or payable in terms of the transaction as reflected by the invoice is affected by any changed circumstance, including by— 20
 - (i) an amount credited or debited on the transaction by the issuer of the invoice;
 - (ii) a refund on the transaction made by or to or payable by or to the issuer of the invoice; and
 - (iii) a payment in money or in kind, other than the amount payable in terms 25 of the transaction, made by or to or payable by or to the issuer of the invoice, whether directly or indirectly;
- (b) if the amendment is necessary to correct any incorrect information on the invoice; or
- (c) if the customs authority requests that the invoice for purposes of compliance 30 with this Act or a tax levying Act be amended in a manner set out in the request.

(2) An invoice supporting the clearance of goods for home use or a customs procedure may be amended—

- (a) if the invoice needs to be split for any reason, including for purposes of 35 facilitating tax administration; or
- (b) in any other circumstances as may be prescribed by rule or as the customs authority may allow in a specific case.

(3) An invoice may be amended by the issuing of—

- (a) an amended invoice replacing the previous one; or 40
- (b) a debit or credit note, if an amount reflected on the invoice is amended.

(4) Any such amended invoice or debit or credit note must be supported by a statement setting out the reasons for the amendment and any documentary proof substantiating those reasons.

(5) A person clearing goods must in a manner and within a timeframe as may be 45 prescribed by rule—

- (a) notify the customs authority of—
 - (i) any amendment to an invoice; or
 - (ii) the receipt of an amended invoice or debit or credit note; and
- (b) submit any amended invoice or debit or credit note to the customs authority if 50 requested to do so.

(6) No amendment to an invoice is effective for the purposes of this Act or a tax levying Act—

- (a) unless subsection (5) has been complied with; or
- (b) if the customs authority refuses to accept the amendment. 55

(3) Vir die doeleindes van hierdie Wet en 'n belastingheffings-Wet mag geen verandering in die toestand van die goedere geag plaas te gevind het tussen die tyd waarop dit in die Republiek ingevoer is en die tyd van enige ondersoek of ontleding van die goedere deur die doeanegesag nie, tensy die persoon wat die klaringsbrief ingedien het, bewys lewer van 'n verandering in die toestand van die goedere en die omvang daarvan. 5

(4) 'n Persoon wat goedere klaar, moet op 'n wyse en binne 'n tydsraam soos by reël voorgeskryf mag word die doeanegesag in kennis stel van—

- (a) enige verandering in—
 - (i) die besonderhede wat op 'n faktuur aangetoon word; of 10
 - (ii) omstandighede wat enige van die aangeleenthede bedoel in subartikel (1) raak; of
- (b) enige terugbetaling of bykomende bedrag of enige uitgestelde of geheime afslag, kommissie of ander krediet of debiet van watter aard ook al wat in verband met die goedere betaal of ontvang is en wat nie in die faktuur 15 openbaar word nie, hetsy direk of indirek, in kontant of *in natura* of in enige ander vorm betaal of ontvang.

Wysiging van fakture

178. (1) 'n Faktuur wat 'n klaring van goedere vir binnelandse gebruik of 'n doeaneprosedure rugsteun, moet gewysig word— 20

- (a) indien die bedrag ingevolge die transaksie betaal of betaalbaar soos deur die faktuur aangetoon, geraak word deur enige veranderde omstandighede, asook deur—
 - (i) 'n bedrag gekrediteer of gedebiteer teen die transaksie deur die uitreiker van die faktuur; 25
 - (ii) 'n terugbetaling op die transaksie gemaak deur of aan of betaalbaar deur of aan die uitreiker van die faktuur; en
 - (iii) 'n betaling in kontant of *in natura*, anders as die bedrag betaalbaar ingevolge die transaksie, wat gemaak word deur of aan of betaalbaar deur of aan, die uitreiker van die faktuur, hetsy direk of indirek; 30
- (b) indien die wysiging nodig is om enige onjuiste inligting op die faktuur reg te stel; of
- (c) indien die doeanegesag versoek dat die faktuur vir doeleindes van voldoening aan hierdie Wet of 'n belastingheffings-Wet gewysig word op 'n wyse in die versoek uiteengesit. 35

(2) 'n Faktuur wat die klaring van goedere vir binnelandse gebruik of 'n doeaneprosedure rugsteun, kan gewysig word—

- (a) indien dit om enige rede nodig is om die faktuur op te split, insluitende vir doeleindes van fasilitering van belastingadministrasie; of
- (b) in enige ander omstandighede soos by reël voorgeskryf of deur die doeanegesag in 'n bepaalde geval toegelaat mag word. 40

(3) 'n Faktuur kan gewysig word deur die uitreiking van—

- (a) 'n gewysigde faktuur wat die vorige een vervang; of
- (b) 'n debiet- of kredietnota, indien die bedrag op die faktuur aangetoon, gewysig word. 45

(4) So 'n gewysigde faktuur of debiet- of kredietnota moet gerugsteun word deur 'n verklaring wat die redes vir die wysiging uiteensit en enige dokumentêre bewys wat daardie redes staaf.

(5) 'n Persoon wat goedere klaar, moet op 'n wyse en binne 'n tydsraam soos by reël voorgeskryf mag word— 50

- (a) die doeanegesag in kennis stel van—
 - (i) enige wysiging aan 'n faktuur; of
 - (ii) die ontvangs van 'n gewysigde faktuur of debiet- of kredietnota; en
- (b) enige gewysigde faktuur of debiet- of kredietnota aan die doeanegesag voorlê indien daartoe versoek. 55

(6) Geen wysiging van 'n faktuur is vir doeleindes van hierdie Wet of 'n belastingheffings-Wet van krag nie—

- (a) tensy daar aan subartikel (5) voldoen word; of
- (b) indien die doeanegesag weier om die wysiging te aanvaar.

Keeping of information in respect of clearance declarations

- 179.** A person clearing goods must—
- (a) keep, in a manner and for a period as may be prescribed by rule—
 - (i) the documents referred to in section 176 supporting the clearance of the goods, including any amended documents; and 5
 - (ii) any other documents and records relating to information given in respect of that clearance or on the clearance declaration; and
 - (b) produce or submit those documents or records to the customs authority when requested to do so.¹⁷⁷

Part 2 10

*Standard release processes and requirements*¹⁷⁸

Release notifications

- 180.** (1) Goods are released by the customs authority for home use or a customs procedure by transmitting electronically a message that the goods have been released to— 15
- (a) the person clearing the goods or who submitted the clearance declaration; and
 - (b) the release agent.
- (2) The customs authority may instead of electronically transmitting a release notification to a person referred to in subsection (1)(a), issue to that person a computer printout of the notification. 20
- (3) A release notification must indicate—
- (a) whether the goods have been released for home use or a customs procedure, and if for a customs procedure, which procedure; and
 - (b) whether the release is conditional, and if so the conditions.¹⁷⁹

Delivery of released goods 25

- 181.** (1) (a) A release agent may not deliver goods to any person—
- (i) unless the goods are under the physical control of the release agent; and
 - (ii) otherwise than on authority of a release notification.
- (b) No person may take delivery of any goods from a release agent otherwise than on authority of a release notification. 30
- (2) If a release agent delivers goods otherwise than on authority of a release notification—
- (a) the goods must, at the expense of the release agent, be returned to the release agent or be delivered to such other place as the customs authority may determine; and 35
 - (b) the customs authority may hold the release agent liable for any tax payable on those goods.
- (3) Goods released in terms of section 180 for a customs procedure must be removed from the place where the goods were released within the period applicable to the goods in terms of the provisions of this Act regulating that procedure. 40

Return messages

- 182.** The release agent in control of goods released in terms of section 180 must promptly notify the customs authority electronically in accordance with section 913 of—
- (a) receipt of the release notification in respect of the goods; 45
 - (b) delivery of the goods to the person entitled to collect or receive the goods and removal of the goods from the place where they were released; and

177. For methods of submission of documents to customs authority see section 912(2). For timeframe within which documents must be submitted, see section 911.
178. The provisions of this Part may be deviated from in terms of rules issued under section 538 if such deviation is necessary for expedited clearance and release of goods.
179. See section 104 for conditional release of goods.

Hou van inligting ten opsigte van klaringsbriewe

179. 'n Persoon wat goedere klaar, moet—

- (a) op 'n wyse en vir 'n tydperk soos by reël voorgeskryf mag word—
 - (i) die dokumente bedoel in artikel 176 wat die klaring van die goedere rugsteun, met inbegrip van enige gewysigde dokumente, bewaar; en 5
 - (ii) enige ander dokumente en rekords betreffende inligting wat ten opsigte van daardie klaring of op die klaringsbrief gegee is, bewaar; en
- (b) daardie dokumente of rekords aan die doeanegesag toon of voorlê wanneer daartoe versoek.¹⁷⁷

Deel 2 10

Standaardvrystellingsprosesse en -vereistes¹⁷⁸

Vrystellingskennisgewings

180. (1) Goedere word deur die doeanegesag vir binnelandse gebruik of 'n doeaneprosedure vrygestel deur die versending van 'n elektroniese boodskap dat die goedere vrygestel is aan— 15

- (a) die persoon wat die goedere klaar of die klaringsbrief ingedien het; en
- (b) die vrystellingsagent.

(2) Die doeanegesag kan, in stede van die elektroniese versending van 'n vrystellingskennisgewing aan 'n persoon in subartikel (1)(a) bedoel, aan daardie persoon 'n rekenaaruittrek van die kennisgewing uitreik. 20

(3) 'n Vrystellingskennisgewing moet aandui—

- (a) of die goedere vir binnelandse gebruik of 'n doeaneprosedure vrygestel is, en indien vir 'n doeaneprosedure, welke prosedure; en
- (b) of die vrystelling voorwaardelik is, en indien wel, die voorwaardes.¹⁷⁹

Afgee van vrygestelde goedere 25

181. (1) (a) 'n Vrystellingsagent mag nie goedere aan iemand afgee nie—

- (i) tensy die goedere onder die fisiese beheer van die vrystellingsagent is; en
- (ii) anders as op gesag van 'n vrystellingskennisgewing.

(b) Niemand mag ontvangs van enige goedere van 'n vrystellingsagent aanneem anders as op gesag van 'n vrystellingskennisgewing. 30

(2) Indien 'n vrystellingsagent goedere anders as op gesag van 'n vrystellingskennisgewing afgee—

- (a) moet die goedere, op koste van die vrystellingsagent, terugbesorg word aan die vrystellingsagent, of gelewer word by die ander plek wat die doeanegesag mag bepaal; en 35
- (b) kan die doeanegesag die vrystellingsagent aanspreeklik hou vir enige belasting wat op daardie goedere betaalbaar is.

(3) Goedere ingevolge artikel 180 vir 'n doeaneprosedure vrygestel, moet van die plek verwyder word waar die goedere vrygestel word binne die tydperk wat vir die goedere geld ingevolge die bepalinge van hierdie Wet wat daardie prosedure reguleer. 40

Ontvangskennisgewings

182. Die vrystellingsagent in beheer van goedere wat ingevolge artikel 180 vrygestel word, moet onverwyld die doeanegesag elektronies ooreenkomstig artikel 913 in kennis stel van—

- (a) ontvangs van die vrystellingskennisgewing ten opsigte van die goedere; 45
- (b) die afgee van die goedere aan die persoon wat die reg het om die goedere af te haal of te ontvang, en die verwydering van die goedere van die plek waar dit vrygestel is; en

177. Vir wyses van indiening van dokumente by die doeanegesag kyk artikel 912(2). Vir tydsraam waarbinne dokumente ingedien moet word, kyk artikel 911.

178. Daar kan ingevolge reëls kragtens artikel 538 uitgereik van die bepalinge van hierdie Deel afgewyk word indien sodanige afwyking nodig is vir versnelde klaring en vrystelling van goedere.

179. Kyk artikel 104 vir voorwaardelike vrystelling van goedere.

- (c) any failure by such person to take delivery of or to remove the goods within the period referred to in section 181(3), in the case of goods released for a customs procedure.

Withdrawal, substitution or amendment of release notifications

- 183.** (1) The customs authority— 5
- (a) must withdraw a release notification if—
 - (i) the release notification was issued erroneously; or
 - (ii) the release of the goods to which the notification relates has been withdrawn in terms of section 105;
 - (b) must replace a release notification releasing goods for home use if that release is in terms of section 107 replaced by a release for a customs procedure; and 10
 - (c) may amend a release notification to correct any error on the notification.
- (2) If the customs authority withdraws, replaces or amends a release notification in terms of subsection (1)(a), (b) or (c), as may be applicable, it must transmit electronically to the person clearing the goods or who submitted the clearance declaration and to the release agent— 15
- (a) a message stating that the release has been withdrawn;
 - (b) a new release notification stating that it replaces the previous release of the goods for home use with a release for a customs procedure; or
 - (c) an amended release notification containing the amended particulars. 20
- (3) When giving effect to subsection (2) the customs authority—
- (a) may, instead of electronically transmitting a withdrawal message or a new or amended release notification to the person clearing the goods or who submitted the clearance declaration, issue to that person a computer printout of the message or notification; or 25
 - (b) is, in the case of subsection (2)(b), not obliged to transmit a new release notification referred to in that subsection to a release agent who is not in physical possession of the goods to which the notification relates.

Part 3

Other matters 30

Destruction, loss or theft of clearance and release documentation

- 184.** The customs authority may, at the request of a person entitled to a document relating to the clearance or release of goods, issue to that person a certified copy of the document if—
- (a) the document is destroyed, lost or stolen; and 35
 - (b) a copy of the document is in the possession of the Commissioner.

Rules to facilitate implementation of this Chapter

- 185.** Rules made in terms of section 903 to facilitate the implementation of this Chapter may include rules as to—
- (a) the issuing, and use for clearance purposes, of invoices, transport documents and other supporting documents; 40
 - (b) the combating of tax evasion and other malpractices relating to the issue and use of invoices, transport documents and other supporting documents;
 - (c) the amendment and replacement of supporting documents;
 - (d) the allocation of distinctive and permanent identification numbers, codes, descriptions, characters or other marks in respect of goods, and the persons by whom and the circumstances in which such identification numbers, codes, descriptions, characters or other marks must be allocated; and 45

- (c) enige versuim deur so 'n persoon om die goedere in ontvangs te neem of binne die tydperk bedoel in artikel 181(3) te verwyder, in die geval van goedere vrygestel vir 'n doeaneprosedure.

Intrekking, vervanging of wysiging van vrystellingskennisgewings

- 183.** (1) Die doeanegesag— 5
- (a) moet 'n vrystellingskennisgewing intrek indien—
 - (i) die vrystellingskennisgewing foutiewelik uitgereik is; of
 - (ii) die vrystelling van die goedere waarop die kennisgewing betrekking het ingevolge artikel 105 ingetrek word;
 - (b) moet 'n vrystellingskennisgewing wat goedere vir binnelandse gebruik vrystel, vervang indien daardie vrystelling ingevolge artikel 107 deur 'n vrystelling vir 'n doeaneprosedure vervang word; en 10
 - (c) kan 'n vrystellingskennisgewing wysig om enige fout op die kennisgewing reg te stel.
- (2) Indien die doeanegesag 'n vrystellingskennisgewing intrek, vervang of wysig ingevolge subartikel (1)(a), (b) of (c), soos ook al van toepassing mag wees, moet die doeanegesag aan die persoon wat die goedere klaar of die klaringsbrief ingedien het en aan die vrystellingsagent die volgende elektronies versend:
- (a) 'n Boodskap wat vermeld dat die vrystelling ingetrek is;
 - (b) 'n nuwe vrystellingskennisgewing wat vermeld dat dit die vorige vrystelling van die goedere vir binnelandse gebruik vervang deur 'n vrystelling vir 'n doeaneprosedure; of 20
 - (c) 'n gewysigde vrystellingskennisgewing wat die gewysigde besonderhede bevat.
- (3) Wanneer die doeanegesag aan subartikel (2) uitvoering gee— 25
- (a) kan die doeanegesag, in stede daarvan om 'n intrektingsboodskap of nuwe of gewysigde vrystellingskennisgewing aan die persoon wat die goedere klaar of die klaringsbrief ingedien het elektronies te versend, aan daardie persoon 'n rekenaaruittrek van die boodskap of kennisgewing uitreik; of
 - (b) is die doeanegesag, in die geval van subartikel (2)(b), nie verplig om 'n nuwe vrystellingskennisgewing bedoel in daardie subartikel aan 'n vrystellingsagent wat nie in fisiese besit van die goedere is waarop die kennisgewing betrekking het, te versend nie. 30

Deel 3

Ander aangeleenthede 35

Vernietiging, verlies of diefstal van klarings- en vrystellingsdokumentasie

- 184.** Die doeanegesag kan, op versoek van 'n persoon wat op 'n dokument betreffende die klaring of vrystelling van goedere geregtig is, aan daardie persoon 'n gesertifiseerde afskrif van die dokument uitreik indien—
- (a) die dokument vernietig, verlore of gesteel is; en 40
 - (b) 'n afskrif van die dokument in die besit van die Kommissaris is.

Reëls ter fasilitering van implementering van hierdie Hoofstuk

- 185.** Reëls ingevolge artikel 903 uitgevaardig om die implementering van hierdie Hoofstuk te fasiliteer, kan reëls insluit betreffende—
- (a) die uitreiking, en gebruik vir klaringsdoeleindes, van fakture, vervoer-dokumente en ander ondersteunende dokumente; 45
 - (b) die bekamping van belastingontduiking en ander wanpraktyke betreffende die uitreik en gebruik van fakture, vervoerdokumente en ander ondersteunende dokumente;
 - (c) die wysiging en vervanging van ondersteunende dokumente; 50
 - (d) die toewysing van onderskeidende en permanente identifikasienommers, kodes, beskrywings, letters of ander merke ten opsigte van goedere, en die persone deur wie en die omstandighede waarin sodanige identifikasienommers, kodes, beskrywings, letters of ander merke toegewys moet word; en 55

- (e) the use of such identification numbers, codes, descriptions, characters or other marks allocated in respect of goods, in invoices, transport documents and other supporting documents relating to such goods.

Offences in terms of this Chapter

- 186.** (1) A person is guilty of an offence if that person— 5
- (a) contravenes section 165(1); or
 - (b) takes delivery of goods in contravention of section 181(1)(b).
- (2) A person clearing goods is guilty of an offence if that person—
- (a) submits a clearance declaration in accordance with section 170(1) before the goods have been loaded on board the vessel, aircraft, railway carriage or vehicle transporting those goods to the Republic; 10
 - (b) contravenes section 176(1) or (2);
 - (c) fails to comply with section 174(1)(a) or (2), 177(4)(a) or (b) or 178(5)(a) or 179(a); or
 - (d) fails to comply with— 15
 - (i) a direction issued to that person in terms of section 174(3) or 175(2); or
 - (ii) a request in terms of—
 - (aa) section 178(5)(b); or
 - (bb) section 179(b).
- (3) A customs broker is guilty of an offence if that person fails to comply with a request in terms of section 165(3). 20
- (4) A release agent is guilty of an offence if that person contravenes section 181(1)(a).
- (5) A person who issued an invoice, amended invoice, debit or credit note or other document which is used to support the clearance of goods is guilty of an offence if that document— 25
- (a) contains a false statement or incorrect information which that person knows is not true or could not reasonably have believed to be true;
 - (b) states, or omits to state, information which is stated or omitted with the intention to mislead;
 - (c) omits to state information or states incorrect information which that person knows or reasonably ought to have known would, if stated or stated correctly— 30
 - (i) have caused the goods to which the document relates to be subject to a tax or to a higher amount of tax; or
 - (ii) have disqualified the goods from a rebate, refund, drawback or other entitlement in terms of this Act or a tax levying Act; or 35
 - (d) was issued to conceal the true nature or particulars of the transaction between that person and the person to whom it was issued.
- (6) A person who submits to the customs authority a document in terms of this Act or who makes use of a document for purposes of this Act is guilty of an offence if that document— 40
- (a) omits to state information or states incorrect information which that person knows or reasonably ought to have known would, if stated or stated correctly—
 - (i) have caused the goods to which the document relates to be subject to a tax or to a higher amount of tax; or 45
 - (ii) have disqualified the goods from a refund, drawback or other entitlement in terms of this Act or a tax levying Act; or
 - (b) is not the authentic document issued for, or conceals the true nature or particulars of, a transaction between that person and the issuer of the document. 50
- (7) The offences referred to in subsection (1)(b), (2)(a) or (d)(ii)(bb), (5) or (6) are Category 1 offences.

- (e) die gebruik van sodanige identifikasienommers, kodes, beskrywings, letters of ander merke toegewys ten opsigte van goedere in fakture, vervoer-dokumente en ander ondersteunende dokumente betreffende sulke goedere.

Misdrywe ingevolge hierdie Hoofstuk

- 186.** (1) 'n Persoon is aan 'n misdryf skuldig indien daardie persoon— 5
- (a) artikel 165(1) oortree; of
 - (b) ontvangs neem van goedere in stryd met artikel 181(1)(b).
- (2) 'n Persoon wat goedere klaar is aan 'n misdryf skuldig indien daardie persoon—
- (a) 'n klaringsbrief ooreenkomstig artikel 170(1) indien voordat die goedere aan boord van die vaartuig, vliegtuig, spoorwegwa of voertuig gelaai is wat daardie goedere na die Republiek vervoer; 10
 - (b) artikel 176(1) of (2) oortree;
 - (c) versuim om te voldoen aan artikel 174(1)(a) of (2), 177(4)(a) of (b) of 178(5)(a) of 179(a); of
 - (d) versuim om te voldoen aan— 15
 - (i) 'n lasgewing ingevolge artikel 174(3) of 175(2) aan daardie persoon uitgereik; of
 - (ii) 'n versoek ingevolge—
 - (aa) artikel 178(5)(b); of
 - (bb) artikel 179(b). 20
- (3) 'n Doeanemakelaar is aan 'n misdryf skuldig indien daardie persoon versuim om aan 'n versoek ingevolge artikel 165(3) te voldoen.
- (4) 'n Vrstellingsagent is aan 'n misdryf skuldig indien daardie persoon artikel 181(1)(a) oortree.
- (5) 'n Persoon wat 'n faktuur, gewysigde faktuur, debiet- of kredietnota of ander dokument uitgereik het wat gebruik word om die klaring van goedere te rugsteun, is aan 'n misdryf skuldig indien daardie dokument— 25
- (a) 'n valse verklaring of onjuiste inligting bevat wat daardie persoon weet nie waar is nie of nie redelikerwyse sou kon glo waar te wees nie;
 - (b) inligting vermeld, of versuim om inligting te vermeld, wat vermeld of verswyg is met die bedoeling om te mislei; 30
 - (c) nalaat om inligting te vermeld, of onjuiste inligting vermeld, wat die persoon weet of redelikerwyse moes geweet het dat, indien dit vermeld of juis vermeld was, dit—
 - (i) daartoe sou gelei het dat die goedere waarop die dokument betrekking het onderworpe sou wees aan 'n belasting of 'n hoër bedrag van belasting; of 35
 - (ii) die goedere sou gediskwalifiseer het van 'n korting, terugbetaling, teruggawe of ander aanspraak ingevolge hierdie Wet of 'n belastingheffings-Wet; of 40
 - (d) uitgereik is om die ware aard of besonderhede van die transaksie tussen daardie persoon en die persoon aan wie dit uitgereik is, te verdoesel.
- (6) 'n Persoon wat 'n dokument ingevolge hierdie Wet by die doeanegesag indien of wat gebruik maak van 'n dokument vir doeleindes van hierdie Wet, is aan 'n misdryf skuldig indien daardie dokument— 45
- (a) nalaat om inligting te vermeld, of onjuiste inligting vermeld, wat daardie persoon weet of redelikerwyse moes geweet het dat, indien dit vermeld of juis vermeld was, dit—
 - (i) daartoe sou gelei het dat die goedere waarop die dokument betrekking het onderworpe sou wees aan belasting of 'n hoër bedrag van belasting; of 50
 - (ii) die goedere sou gediskwalifiseer het van 'n terugbetaling, teruggawe of ander aanspraak ingevolge hierdie Wet of 'n belastingheffings-Wet; of
 - (b) nie die ware dokument is nie wat uitgereik is vir, of 'n dokument is wat die ware aard of besonderhede verdoesel van, 'n transaksie tussen daardie persoon en die uitreiker van die dokument. 55
- (7) Die misdrywe bedoel in subartikel (1)(b), (2)(a) of (d)(ii)(bb), (5) of (6) is Kategorie 1 misdrywe.

CHAPTER 8

HOME USE OF GOODS

Purpose and application of this Chapter

187. (1) The purpose of this Chapter is to regulate the clearance and release of imported goods for home use.¹⁸⁰ 5

(2) This Chapter applies to imported goods intended for home use, excluding goods that are—

- (a) cleared for home use as—
 - (i) re-imported unaltered goods under the temporary export procedure in terms of Chapter 17; or 10
 - (ii) outward processed compensating products under the outward processing procedure in terms of Chapter 20; or
- (b) exempted in terms of section 91 from clearance requirements.

Clearance and release of goods for home use

188. (1) Chapters 4 and 7 apply to the clearance and release of goods for home use under this Chapter except insofar as a provision of Chapter 4 or 7 is modified, qualified or deviated from in this Chapter.¹⁸¹ 15

(2) Goods to be cleared for home use under this Chapter must be cleared in accordance with subsection (1).

Persons entitled to submit home use clearance declarations 20

189. Only the following persons may, subject to section 165(2), submit clearance declarations to clear imported goods under this Chapter for home use:¹⁸²

- (a) The importer of the goods, if the importer is located in the Republic;
- (b) the agent in the Republic of the importer, if the importer is not located in the Republic; 25
- (c) the owner of the goods, if ownership in the goods has been transferred after the goods have been imported and that owner is located in the Republic;¹⁸³
- (d) the agent in the Republic of the owner referred to in paragraph (c), if that owner is not located in the Republic; or
- (e) a customs broker referred to in section 165(1)(b). 30

Contents of home use clearance declarations

190. A home use clearance declaration must, in addition to the information required in terms of section 167, state that the goods are cleared for home use under this Chapter.

Clearance of goods imported through cross-border transmission lines, pipelines, cable-cars or conveyor belts 35

191. The Commissioner may by rule—

- (a) prescribe special processes and requirements for the clearance and release for home use under this Chapter of electricity imported through licensed cross-border transmission lines and other goods imported through licensed cross-border pipelines or by means of licensed cross-border cable cars or conveyor belts; and 40

180. For tax status of imported goods cleared for home use in terms of this Chapter, see section 135.

181. In the case of an inconsistency between a provision of this Chapter and a general provision contained in Chapter 4 or 7 the provision of this Chapter prevails. See sections 88(3) and 162(3).

182. See section 165(1)(a).

183. See section 124.

HOOFSTUK 8

BINNELANDSE GEBRUIK VAN GOEDERE

Doel en toepassing van hierdie Hoofstuk

187. (1) Die doel van hierdie Hoofstuk is om die klaring en vrystelling van ingevoerde goedere vir binnelandse gebruik te reguleer.¹⁸⁰ 5

(2) Hierdie Hoofstuk is van toepassing op ingevoerde goedere bestem vir binnelandse gebruik, uitgesonderd goedere wat—

- (a) geklaar word vir binnelandse gebruik as—
 - (i) heringevoerde onveranderde goedere onder die prosedure vir tydelike uitvoer ingevolge Hoofstuk 17; of 10
 - (ii) uitwaarts geprosesseerde kompenserende produkte onder die prosedure vir uitwaartse prosessering ingevolge Hoofstuk 20; of
- (b) van klaringsvereistes ingevolge artikel 91 uitgesluit is.

Klaring en vrystelling van goedere vir binnelandse gebruik

188. (1) Hoofstukke 4 en 7 is van toepassing op die klaring en vrystelling van goedere vir binnelandse gebruik kragtens hierdie Hoofstuk behalwe in soverre 'n bepaling van Hoofstuk 4 of 7 aangepas, gekwalifiseer of van afgewyk word in hierdie Hoofstuk.¹⁸¹ 15

(2) Goedere bestem vir klaring vir binnelandse gebruik kragtens hierdie Hoofstuk, moet volgens voorskrif van subartikel (1) geklaar word.

Persone wat klaringsbriewe vir binnelandse gebruik mag indien 20

189. Slegs die volgende persone mag, behoudens artikel 165(2), klaringsbriewe indien om ingevoerde goedere kragtens hierdie Hoofstuk vir binnelandse gebruik te klaar:¹⁸²

- (a) Die invoerder van die goedere, indien die invoerder in die Republiek gesetel is; 25
- (b) die agent in die Republiek van die invoerder, indien die invoerder nie in die Republiek gesetel is nie;
- (c) die eienaar van die goedere, indien eiendomsreg oor die goedere oorgedra is nadat die goedere ingevoer is en daardie eienaar in die Republiek gesetel is;¹⁸³
- (d) die agent in die Republiek van die eienaar in paragraaf (c) bedoel, indien daardie eienaar nie in die Republiek gesetel is nie; of 30
- (e) 'n doeanemakelaar in artikel 165(1)(b) bedoel.

Inhoud van klaringsbriewe vir binnelandse gebruik

190. 'n Klaringsbrief vir binnelandse gebruik moet, benewens die inligting wat ingevolge artikel 167 verstrekk moet word, meld dat die goedere vir binnelandse gebruik onder hierdie Hoofstuk geklaar word. 35

Klaring van goedere deur oor-grens transmissielyste, pyplyne, kabelkarre of vervoerbande ingevoer

191. Die Kommissaris kan by reël—

- (a) spesiale prosesse en vereistes voorskryf vir die klaring en vrystelling vir binnelandse gebruik kragtens hierdie Hoofstuk van elektrisiteit ingevoer deur middel van gelisensieerde oor-grens transmissielyste en ander goedere ingevoer deur gelisensieerde oor-grens pyplyne of by wyse van gelisensieerde oor-grens kabelkarre of vervoerbande; en 40

180. Vir belastingstatus van ingevoerde goedere wat vir binnelandse gebruik ingevolge hierdie Hoofstuk geklaar word, kyk artikel 135.

181. In die geval van 'n onbestaanbaarheid tussen 'n bepaling van hierdie Hoofstuk en 'n algemene bepaling in Hoofstuk 4 of 7 vervat, geniet die bepaling van hierdie Hoofstuk voorrang. Kyk artikels 88(3) en 162(3).

182. Kyk artikel 165(1)(a).

183. Kyk artikel 124.

- (b) exempt such electricity or other goods from any provision of this Act relating to the clearance or release of goods.

Rules to facilitate implementation of this Chapter

- 192.** Rules made in terms of section 903 to facilitate the implementation of this Chapter may include rules prescribing— 5
- (a) additional processes or requirements for or relating to the clearance or release of goods for home use under this Chapter; and
 - (b) special processes and requirements for the submission of clearance declarations if goods are in terms of this Act for tax purposes regarded to be cleared for home in terms of this Chapter. 10

CHAPTER 9

NATIONAL AND INTERNATIONAL TRANSIT

Part 1

Introductory provisions

Purpose and application of this Chapter 15

- 193.** (1) The purpose of this Chapter is to regulate the national and international transit procedures.
- (2) This Chapter applies to the transport of imported goods not in free circulation, excluding goods transported—
- (a) in any of the circumstances referred to in section 120(1); or 20
 - (b) under a customs procedure other than national or international transit that provides for the transport of goods under that procedure.¹⁸⁴

National and international transit¹⁸⁵

- 194.** (1) National transit is a customs procedure that allows goods to which this Chapter applies, to be transported in the Republic from one customs controlled area to another customs controlled area not served by the same Customs Office. 25
- (2) International transit is a customs procedure that allows goods to which this Chapter applies imported on board—
- (a) a foreign-going vessel or aircraft or a cross-border railway carriage—
 - (i) to be transported through the Republic from the place in the Republic where the goods were off-loaded from the vessel, aircraft or railway carriage to a place of exit from where the goods are to be exported from the Republic;¹⁸⁶ and 30
 - (ii) to be exported from the Republic without complying with any export clearing formalities;¹⁸⁷ or 35
 - (b) a vehicle—
 - (i) to be transported through the Republic from the land border-post where the vehicle entered the Republic to a place of exit from where the goods are to be exported from the Republic, irrespective of whether the

184. For instance the excise warehouse transit procedure, warehousing procedure, the inward processing procedure, etc.

185. For tax status of goods under the national or international transit procedure, see sections 139 and 140. For consequences of non-compliance with the transit procedures, see sections 112 and 115.

186. International transit does not include a situation where goods are not off-loaded from and remain on board a foreign-going vessel or aircraft or cross-border railway carriage until the vessel, aircraft or railway carriage again leaves the Republic. In such a case the goods are in terms of section 91 exempted from the obligation to be cleared.

187. Chapter 16 regulating the clearance of goods for export from the Republic does not apply to the export from the Republic of goods that are cleared and released for international transit. See section 361(3).

- (b) sodanige elektrisiteit of ander goedere van enige bepaling van hierdie Wet betreffende die klaring of vrystelling van goedere uitsluit.

Reëls ter fasilitering van implementering van hierdie Hoofstuk

192. Reëls ingevolge artikel 903 uitgevaardig om die implementering van hierdie Hoofstuk te fasiliteer, kan reëls insluit wat— 5
- (a) bykomende prosesse of vereistes voorskryf vir of betreffende die klaring of vrystelling van goedere vir binnelandse gebruik kragtens hierdie Hoofstuk; en
- (b) spesiale prosesse en vereistes voorskryf vir die indiening van klaringsbriewe indien goedere ingevolge hierdie Wet vir belastingdoeleindes geag word vir binnelandse gebruik kragtens hierdie Hoofstuk geklaar te wees. 10

HOOFSTUK 9

NASIONALE EN INTERNASIONALE TRANSITO

Deel 1

Inleidende bepalings

Doel en toepassing van hierdie Hoofstuk 15

193. (1) Die doel van hierdie Hoofstuk is om die prosedures vir nasionale en internasionale transito te reguleer.
- (2) Hierdie Hoofstuk is van toepassing op die vervoer van ingevoerde goedere wat nie in vry sirkulasie is nie, uitgesonderd goedere wat vervoer word—
- (a) in enige van die omstandighede in artikel 120(1) bedoel; of 20
- (b) onder 'n doeaneprosedure anders as nasionale of internasionale transito wat voorsiening maak vir die vervoer van goedere onder daardie prosedure.¹⁸⁴

Nasionale en internasionale transito¹⁸⁵

194. (1) Nasionale transito is 'n doeaneprosedure ingevolge waarvan goedere waarop hierdie Hoofstuk van toepassing is in die Republiek vervoer mag word van een 25 doeanebeheergebied na 'n ander doeanebeheergebied wat nie deur dieselfde Doeanekantoor bedien word nie.
- (2) Internasionale transito is 'n doeaneprosedure ingevolge waarvan goedere waarop hierdie Hoofstuk van toepassing is en wat ingevoer is aan boord van—
- (a) 'n land-uitgaande vaartuig of vliegtuig of 'n oor-grens spoorwegwa— 30
- (i) deur die Republiek vervoer mag word vanaf die plek in die Republiek waar die goedere van die vaartuig, vliegtuig of spoorwegwa afgelaai is na 'n plek van uitgang waarvandaan die goedere uit die Republiek uitgevoer sal word;¹⁸⁶ en
- (ii) uit die Republiek uitgevoer mag word sonder om aan enige 35 uitvoerklaringsformaliteite te voldoen;¹⁸⁷ of
- (b) 'n voertuig—
- (i) deur die Republiek vervoer mag word vanaf die land-grenspos waar die voertuig die Republiek binnegekom het na 'n plek van uitgang waarvandaan die goedere uit die Republiek uitgevoer sal word, ongeag 40

184. Byvoorbeeld die prosedure vir aksynspakhuistransito, die pakhuisbergingsprosedure, die prosedure vir inwaartse prosessering, ens.

185. Vir belastingstatus van goedere onder die prosedure vir nasionale of internasionale transito, kyk artikels 139 en 140. Vir gevolge van nie-voldoening aan die transitoprosedures, kyk artikels 112 en 115.

186. Internasionale transito sluit nie 'n geval in waar goedere nie afgelaai word nie en aan boord bly van 'n land-uitgaande vaartuig of vliegtuig of oor-grens spoorwegwa totdat die vaartuig, vliegtuig of spoorwegwa weer die Republiek verlaat. In so 'n geval word die goedere ingevolge artikel 91 onthef van die verpligting om geklaar te word.

187. Hoofstuk 16 wat die klaring van goedere vir uitvoer uit die Republiek reguleer, is nie van toepassing op die uitvoer uit die Republiek van goedere wat geklaar en vrygestel word vir internasionale transito nie. Kyk artikel 361(3).

- transport through the Republic takes place in the same or another vehicle or any other means of transport; and
- (ii) to be exported from the Republic without complying with any export clearing formalities.

(3) The international transit procedure is not available for imported goods of a class or kind or falling within a category as may be prescribed by rule. 5

Commencement and completion of national transit procedure

195. (1) (a) Goods come under the national transit procedure when the goods are cleared for national transit.

(b) The national transit procedure is, subject to subsection (2), completed when the goods are cleared and released for another permissible customs procedure or for home use. 10

(2) The national transit procedure, in relation to any goods, ends before its completion if completion of the procedure is interrupted by an occurrence referred to in section 109(2). 15

Commencement and completion of international transit procedure

196. (1) (a) Goods come under the international transit procedure when the goods are cleared for international transit.

(b) The international transit procedure is, subject to subsection (2), completed when the goods are exported from the Republic. 20

(2) The international transit procedure, in relation to any goods, ends before its completion if—

(a) the goods before completion of the procedure are cleared and released for another customs procedure or for home use, as may be permissible in the circumstances; or 25

(b) completion of the procedure is interrupted by an occurrence referred to in section 109(2).

Extent to which Chapters 4, 5 and 7 apply

197. Chapters 4, 5 and 7, except insofar as a provision of those Chapters is modified, qualified or deviated from in this Chapter,¹⁸⁸ apply to goods under the national or international transit procedure, including to the clearance and release of goods for national or international transit. 30

Limiting customs seaports and airports for international transit purposes

198. (1) The Commissioner may, subject to subsection (3), by rule limit the customs seaports and airports where goods may be— 35

(a) off-loaded from foreign-going vessels or aircraft for international transit; or

(b) loaded on board foreign-going vessels or aircraft for export from the Republic under the international transit procedure.

(2) If the customs seaports and airports for international transits have been limited in terms of subsection (1) no person may— 40

(a) off-load goods from foreign-going vessels or aircraft for international transit other than at a customs seaport or airport determined in terms of subsection (1)(a); or

(b) load goods on board foreign-going vessels or aircraft for export from the Republic under the international transit procedure other than at a customs seaport or airport determined in terms of subsection (1)(b). 45

(3) When limiting the customs seaports and airports in terms of subsection (1) for the international transit procedure, the Commissioner must act in accordance with the

¹⁸⁸ In the case of an inconsistency between a provision of this Chapter and a general provision contained in Chapter 4 or 7 the provision of this Chapter prevails. See sections 88(3) and 162(3).

- of die vervoer deur die Republiek plaasvind in dieselfde of 'n ander voertuig of enige ander middel van vervoer; en
- (ii) uit die Republiek uitgevoer mag word sonder om aan enige uitvoerklaringsformaliteite te voldoen.
- (3) Die prosedure vir internasionale transito is nie beskikbaar vir ingevoerde goedere van 'n klas of soort of wat val binne 'n kategorie soos by reël voorgeskryf mag word nie. 5

Begin en afhandeling van prosedure vir nasionale transito

- 195.** (1) (a) Goedere kom onder die prosedure vir nasionale transito wanneer die goedere vir nasionale transito geklaar word.
- (b) Die prosedure vir nasionale transito is, behoudens subartikel (2), afgehandel wanneer die goedere geklaar en vrygestel word vir 'n ander toelaatbare doeaneprosedure of vir binnelandse gebruik. 10
- (2) Die prosedure vir nasionale transito, met betrekking tot enige goedere, eindig voor die afhandeling daarvan indien afhandeling van die prosedure deur 'n gebeurtenis bedoel in artikel 109(2) onderbreek word. 15

Begin en afhandeling van prosedure vir internasionale transito

- 196.** (1) (a) Goedere kom onder die prosedure vir internasionale transito wanneer die goedere vir internasionale transito geklaar word.
- (b) Die prosedure vir internasionale transito is, behoudens subartikel (2), afgehandel wanneer die goedere uit die Republiek uitgevoer word. 20
- (2) Die prosedure vir internasionale transito, met betrekking tot enige goedere, eindig voor die afhandeling daarvan indien—
- (a) die goedere voor afhandeling van die prosedure geklaar en vrygestel word vir 'n ander doeaneprosedure of vir binnelandse gebruik, soos in die omstandighede toelaatbaar mag wees; of 25
- (b) afhandeling van die prosedure onderbreek word deur 'n gebeurtenis in artikel 109(2) bedoel.

Mate waarin Hoofstukke 4, 5 en 7 van toepassing is

- 197.** Hoofstukke 4, 5 en 7, behalwe in soverre 'n bepaling van daardie Hoofstukke aangepas, gekwalifiseer of van afgewyk word in hierdie Hoofstuk,¹⁸⁸ is van toepassing op goedere onder die prosedure vir nasionale of internasionale transito, asook op die klaring en vrystelling van goedere vir nasionale of internasionale transito. 30

Beperking van doeaneseehawens en -lughawens vir doeleindes van internasionale transito

- 198.** (1) Die Kommissaris kan, behoudens subartikel (3), by reël die doeaneseehawens en -lughawens beperk waar goedere— 35
- (a) van land-uitgaande vaartuie of vliegtuie vir internasionale transito afgelaai mag word; of
- (b) aan boord van land-uitgaande vaartuie of vliegtuie vir uitvoer uit die Republiek onder die prosedure vir internasionale transito gelaai mag word. 40
- (2) Indien die doeaneseehawens en -lughawens vir internasionale transito's ingevolge subartikel (1) beperk is, mag niemand—
- (a) goedere van land-uitgaande vaartuie of vliegtuie vir internasionale transito aflaai anders as by 'n doeaneseehawe of lughawe ingevolge subartikel (1)(a) bepaal nie; of 45
- (b) goedere aan boord van land-uitgaande vaartuie of vliegtuie vir uitvoer uit die Republiek onder die prosedure vir internasionale transito laai anders as by 'n doeaneseehawe of -lughawe ingevolge subartikel (1)(b) bepaal nie.
- (3) Wanneer die Kommissaris ingevolge subartikel (1) die doeaneseehawens en -lughawens vir die prosedure vir internasionale transito beperk, moet die Kommissaris handel ooreenkomstig die voorskrifte van die Minister handelende in oorleg met die 50

¹⁸⁸. In die geval van 'n teenstrydigheid tussen 'n bepaling van hierdie Hoofstuk en 'n algemene bepaling in Hoofstuk 4 of 7 vervat, geniet die bepaling van hierdie Hoofstuk voorrang. Kyk artikels 88(3) en 162(3).

directions of the Minister acting in consultation with the Cabinet members responsible for transport, trade and industry and home affairs.

Application of other legislation to goods under international transit

199. (1) Legislation, other than this Act or the Counterfeit Goods Act, regulating the import into, or the possession in, the Republic of goods for the purpose of protecting South African goods for economic reasons, does not apply to imported goods that are cleared and released for international transit. 5

(2) Subsection (1) ceases to apply if—

- (a) the release of the goods for international transit is withdrawn in terms of section 105;¹⁸⁹ or 10
- (b) the goods are cleared and released for another customs procedure or home use, as may be permissible in the circumstances.

Part 2

Clearance and release of goods for national or international transit

Clearance of goods for transit 15

200. Goods to be cleared for national or international transit must be cleared in accordance with section 197.

Persons entitled to submit transit clearance declarations

201. (1) Only the following persons may, subject to section 165(2), submit clearance declarations to clear goods for national or international transit:¹⁹⁰ 20

- (a) The importer of the goods, if the importer is located in the Republic;¹⁹¹ 20
- (b) the agent in the Republic of the importer, if the importer is not located in the Republic;
- (c) the owner of the goods, if ownership in the goods has been transferred after the goods have been imported and that owner is located in the Republic;¹⁹² 25
- (d) the agent in the Republic of the owner referred to in paragraph (c), if that owner is not located in the Republic;
- (e) the carrier who is to carry out the transit operation, if that carrier is located in the Republic;
- (f) the agent in the Republic of the carrier who is to carry out the transit operation, 30 if that carrier is not located in the Republic; or
- (g) a customs broker referred to in section 165(1)(b).

(2) If a clearance declaration is submitted by a carrier or a carrier's agent on behalf of a person referred to in subsection (1)(a), (b), (c) or (d) that person and not the carrier or a carrier's agent must for purposes of this Act and a tax levying Act be regarded to be the person clearing the goods.¹⁹³ 35

Contents of transit clearance declarations

202. A transit clearance declaration must, in addition to the information required in terms of section 167, state—

- (a) that the goods are cleared for national or international transit; 40
- (b) the starting point of the transit operation contemplated in section 205(1) and the delivery point of the transit operation contemplated in section 205(2) or (3);
- (c) the customs code of the carrier who will carry out the transit operation, if the transit operation is to be carried out by a licensed carrier; 45

189. For consequences when release of goods is withdrawn, see section 106.

190. See section 165(1)(a).

191. See section 1(3)(a).

192. See section 111.

193. See also section 166.

Kabinetslede wat vir vervoer, handel en nywerheid en binnelandse sake verantwoordelik is.

Toepassing van ander wetgewing op goedere onder internasionale transito

199. (1) Wetgewing, behalwe hierdie Wet of die Wet op Nagemaakte Goedere, wat die invoer of die besit in die Republiek van goedere reguleer met die doel om Suid-Afrikaanse goedere om ekonomiese redes te beskerm, is nie op ingevoerde goedere wat vir internasionale transito geklaar en vrygestel is, van toepassing nie. 5

(2) Subartikel (1) hou op om van toepassing te wees indien—

- (a) die vrystelling van die goedere vir internasionale transito ingevolge artikel 105 ingetrek word;¹⁸⁹ of 10
- (b) die goedere geklaar en vrygestel word vir 'n ander doeaneprosedure of vir binnelandse gebruik, soos in die omstandighede toelaatbaar mag wees.

Deel 2

Klaring en vrystelling van goedere vir nasionale of internasionale transito

Klaring van goedere vir transito 15

200. Goedere bestem vir klaring vir nasionale of internasionale transito moet volgens voorskrif van artikel 197 geklaar word.

Persone wat transitoklaringsbriewe mag indien

201. (1) Slegs die volgende persone mag, behoudens artikel 165(2), klaringsbriewe indien om goedere vir nasionale of internasionale transito te klaar:¹⁹⁰ 20

- (a) Die invoerder van die goedere, indien die invoerder in die Republiek gesetel is;¹⁹¹
- (b) die agent in die Republiek van die invoerder, indien die invoerder nie in die Republiek gesetel is nie;
- (c) die eienaar van die goedere, indien eiendomsreg oor die goedere oorgedra is nadat die goedere ingevoer is en daardie eienaar in die Republiek gesetel is;¹⁹² 25
- (d) die agent in die Republiek van die eienaar in paragraaf (c) bedoel, indien daardie eienaar nie in die Republiek gesetel is nie;
- (e) die vervoerder wat die transito-operasie sal onderneem, indien daardie vervoerder in die Republiek gesetel is; 30
- (f) die agent in die Republiek van die vervoerder wat die transito-operasie sal onderneem, indien daardie vervoerder nie in die Republiek gesetel is nie; of
- (g) 'n doeanemakelaar in artikel 165(1)(b) bedoel.

(2) Indien 'n klaringsbrief deur 'n vervoerder of 'n vervoerder se agent ten behoeve van 'n persoon bedoel in subartikel (1)(a), (b), (c) of (d) ingedien word, moet daardie persoon, en nie die vervoerder of 'n vervoerder se agent nie, vir doeleindes van hierdie Wet en 'n belastingheffings-Wet geag word die persoon te wees wat die goedere klaar.¹⁹³ 35

Inhoud van transitoklaringsbriewe

202. 'n Transitoklaringsbrief moet, benewens die inligting wat ingevolge artikel 167 verstrek moet word, meld— 40

- (a) dat die goedere vir nasionale of internasionale transito geklaar word;
- (b) die beginpunt van die transito-operasie in artikel 205(1) beoog en die afleweringpunt van die transito-operasie in artikel 205(2) of (3) beoog;
- (c) die doeanekode van die vervoerder wat die transito-operasie sal onderneem, indien die transito-operasie deur 'n gelisensieerde vervoerder onderneem sal word; 45

189. Vir gevolge wanneer vrystelling van goedere ingetrek word, kyk artikel 106.

190. Kyk artikel 165(1)(a).

191. Kyk artikel 1(3)(a).

192. Kyk artikel 111.

193. Kyk ook artikel 166.

- (d) the customs code of the agent of the carrier who is to carry out the transit operation, if the transit operation is to be carried out by a carrier not located in the Republic; and
- (e) the mode of transport, and if multi-modal transport, particulars of such transport. 5

Use of other documents as transit clearance declarations for postal articles

203. A South African Post Office transport document or another document issued in respect of postal articles handled by the South African Post Office as may be prescribed by rule, may serve or be submitted as a transit clearance declaration to clear postal articles for national or international transit by or on behalf of the South African Post Office, provided that such transport document or other document reflects the minimum information concerning those postal articles as may be prescribed by rule for purposes of this section. 10

Part 3

National or international transit operations 15

General

- 204.** (1) A national or international transit operation may not commence unless the goods are cleared and released for the transit procedure.¹⁹⁴
- (2) This Part and Chapter 5, except insofar as a provision of that Chapter is modified, qualified or deviated from in this Chapter,¹⁹⁵ apply to the transport of goods under the transit procedure. 20

Starting and delivery points of transit operations

- 205.** (1) The starting point of a transit operation must be, as may be appropriate—
- (a) the customs seaport or airport where the goods were off-loaded from the foreign-going vessel or aircraft on board of which the goods were imported into the Republic; 25
 - (b) the rail cargo terminal where the goods were off-loaded from the cross-border railway carriage in which the goods were imported into the Republic;
 - (c) the land border-post where the vehicle on board of which the goods were imported entered the Republic; or 30
 - (d) another customs controlled area where the goods are in temporary storage.
- (2) In the case of a national transit, the delivery point of a transit operation must be the licensed premises to which the goods are consigned or from where the goods are to be delivered.
- (3) In the case of an international transit, the delivery point of a transit operation, must be— 35
- (a) if the goods are to be exported by sea, any licensed premises at the customs seaport where the goods are to be loaded on board the foreign-going vessel in which the goods are to be exported;
 - (b) if the goods are to be exported by air, any licensed premises at the customs airport where the goods are to be loaded on board the foreign-going aircraft in which the goods are to be exported; 40
 - (c) if the goods are to be exported by rail, any licensed premises at the railway station where the goods are to be loaded on board the cross-border railway carriage in which the goods are to be exported; or 45
 - (d) if the goods are to be exported by road, the land border-post where the goods are to be exported.

194. Goods released by the customs authority for transit remain in terms of section 28 subject to customs control despite such release.

195. In the case of an inconsistency between a provision of this Chapter and a general provision contained in Chapter 5 the provision of this Chapter prevails. See section 119(2).

- (d) die doeanekode van die agent van die vervoerder wat die transito-operasie sal onderneem, indien die transito-operasie onderneem sal word deur 'n vervoerder wat nie in die Republiek gesetel is nie; en
- (e) die wyse van vervoer, en indien 'n multi-modale vervoer, besonderhede van sodanige vervoer. 5

Gebruik van ander dokumente as transitoklaringsbriewe vir posstukke

203. 'n Suid-Afrikaanse Poskantoor vervoerdokument of ander dokument uitgereik ten opsigte van posstukke wat deur die Suid-Afrikaanse Poskantoor hanteer word, soos by reël voorgeskryf mag word, kan gebruik of ingedien word as 'n transitoklaringsbrief om posstukke vir nasionale of internasionale transito deur of ten behoeve van die Suid-Afrikaanse Poskantoor te klaar, mits so 'n vervoerdokument of ander dokument die minimum inligting betreffende daardie posstukke toon soos by reël vir doeleindes van hierdie artikel voorgeskryf mag word. 10

Deel 3

Nasionale of internasionale transito-operasies 15

Algemeen

204. (1) 'n Nasionale of internasionale transito-operasie mag nie begin tensy die goedere vir die transitoprosedure geklaar en vrygestel is nie.¹⁹⁴
(2) Hierdie Deel en Hoofstuk 5, behalwe in soverre 'n bepaling van daardie Hoofstuk aangepas, gekwalifiseer of van afgewyk word in hierdie Hoofstuk,¹⁹⁵ is van toepassing op die vervoer van goedere onder die transitoprosedure. 20

Begin- en afleweringspunte van transito-operasies

205. (1) Die beginpunt van 'n transito-operasie moet, soos ook al gepas mag wees—
(a) die doeaneseehawe of -lughawe wees waar die goedere afgelaai is van die land-uitgaande vaartuig of vliegtuig aan boord waarvan die goedere in die Republiek ingevoer is; 25
(b) die spoorvragterminaal wees waar die goedere afgelaai is van die oor-grens spoorwegwa waarin die goedere in die Republiek ingevoer is;
(c) die land-grenspos wees waar die voertuig aan boord waarvan die goedere ingevoer is, die Republiek binnegekome het; of 30
(d) 'n ander doeanebeheergebied wees waar die goedere in tydelike berging is.
(2) In die geval van 'n nasionale transito, moet die afleweringspunt van 'n transito-operasie die gelisensieerde perseel wees waarheen die goedere geadresseer is of waarvandaan die goedere gelewer moet word.
(3) In die geval van 'n internasionale transito, moet die afleweringspunt van 'n transito-operasie— 35
(a) indien die goedere per see uitgevoer sal word, enige gelisensieerde perseel by die doeaneseehawe wees waar die goedere aan boord van die land-uitgaande vaartuig gelaai sal word waarin die goedere uitgevoer sal word;
(b) indien die goedere per lug uitgevoer sal word, enige gelisensieerde perseel by die doanelughawe wees waar die goedere aan boord van die land-uitgaande vliegtuig gelaai sal word waarin die goedere uitgevoer sal word; 40
(c) indien die goedere per spoor uitgevoer sal word, enige gelisensieerde perseel by die spoorwegstasie wees waar die goedere aan boord van die oor-grens spoorwegwa gelaai sal word waarin die goedere uitgevoer sal word; of 45
(d) indien die goedere per pad uitgevoer sal word, die land-grenspos wees waar die goedere uitgevoer sal word.

194. Goedere deur die doeanegesag vir transito vrygestel, bly ingevolge artikel 28 onderworpe aan doeanebeheer ongeag sodanige vrystelling.

195. In die geval van 'n teenstrydigheid tussen 'n bepaling van hierdie Hoofstuk en 'n algemene bepaling in Hoofstuk 5 vervat, geniet die bepaling van hierdie Hoofstuk voorrang. Kyk artikel 119(2).

(4) Despite subsection (1), (2) or (3), the customs authority may in a specific case allow or direct¹⁹⁶ that any other place must be the starting or delivery point of a transit operation.

Commencement and completion periods for transit operations¹⁹⁷

206. (1) A transit operation must, subject to section 123(1)(g), commence at the starting point of the operation indicated in the transit clearance declaration within such period from release of the goods for transit, as may be prescribed by rule read with sections 908 and 909. 5

(2) Goods under national transit must, subject to section 123(1)(g), reach the delivery point indicated in the transit clearance declaration within such period from commencement of the transit operation as may be prescribed by rule read with sections 908 and 909. 10

(3) Goods under international transit must, subject to section 123(1)(g), reach the delivery point indicated in the transit clearance declaration within a period from commencement of the transit operation as may be prescribed by rule read with sections 908 and 909. 15

(4) The licensee of a customs controlled area where a transit operation commences or ends, must immediately notify the customs authority of any failure in relation to the transit goods to comply with subsection (1), (2) or (3).

(5) If subsection (2) or (3) is not complied with in relation to the transit goods, the goods must in terms of section 112(1) for tax purposes be regarded to be cleared for home use under Chapter 8.¹⁹⁸ 20

Limitations on route for transit

207. (1) The routes over which goods may for transit operations be transported by road or railway line may be limited to routes as may be prescribed by rule or as the customs authority may determine in a specific case. 25

(2) If the route for a transit operation by road or railway line between any specific places has been limited in terms of subsection (1) no carrier may carry out a transit operation between those places over a road or railway route other than the route prescribed or determined in terms of that subsection. 30

Redirection of goods from starting or to delivery points

208. No person may redirect goods from the starting point or to the delivery point of a transit operation as indicated in the transit clearance declaration to another destination without the prior written permission of the customs authority.

Only carriers permitted to carry out transit operations 35

- 209.** (1) A transit operation may be carried out only by—
- (a) a licensed carrier; or
 - (b) a carrier represented in the Republic by a registered agent, if the carrier is not located in the Republic.
- (2) The carrier carrying out a transit operation must be— 40
- (a) the person mentioned in the transit clearance declaration as the carrier of the goods; or
 - (b) a carrier subcontracted by the carrier referred to in paragraph (a).
- (3) Goods in transit may be transported only in accordance with this Act, including— 45
- (a) any conditions subject to which the carrier was licensed;

196. Such permission or direction may be issued subject to conditions. See section 918.

197. Commencement and completion of a transit operation must be distinguished from the commencement and completion of the transit procedure in terms of sections 195 and 196.

198. For tax consequences if goods are regarded to be cleared for home use, see section 154.

(4) Ondanks subartikel (1), (2) of (3), kan die doeanegesag in 'n bepaalde geval toestemming verleen of gelas¹⁹⁶ dat enige ander plek die begin- of afleweringpunt van 'n transito-operasie moet wees.

Begin- en voltooiingstydperke vir transito-operasies¹⁹⁷

206. (1) 'n Transito-operasie moet, behoudens artikel 123(1)(g), begin by die beginpunt van die operasie in die transitoklaringsbrief aangedui, binne die tydperk vanaf 5
vrystelling van die goedere vir transito soos by reël, saamgelees met artikels 908 en 909, voorgeskryf mag word.

(2) Goedere onder nasionale transito moet, behoudens artikel 123(1)(g), die afleweringpunt in die transitoklaringsbrief aangedui, bereik binne die tydperk vanaf die 10
begin van die transito-operasie soos by reël, saamgelees met artikels 908 en 909, voorgeskryf mag word.

(3) Goedere onder internasionale transito moet, behoudens artikel 128(1)(g), die afleweringpunt in die transitoklaringsbrief aangedui, bereik binne 'n tydperk vanaf die 15
begin van die transito-operasie soos by reël, saamgelees met artikels 908 en 909, voorgeskryf mag word.

(4) Die lisenasihouër van 'n doeanebeheergebied waar 'n transito-operasie begin of eindig, moet onmiddellik die doeanegesag in kennis stel van enige versuim om aan subartikel (1), (2) of (3) met betrekking tot die transito-goedere te voldoen.

(5) Indien daar nie aan subartikel (2) of (3) met betrekking tot die transito-goedere 20
voldoen word nie moet die goedere ingevolge artikel 112(1) vir belastingdoeleindes geag word vir binnelandse gebruik kragtens Hoofstuk 8 geklaar te wees.¹⁹⁸

Beperkings op transito-roete

207. (1) Die roetes waarop goedere vir transito-operasies per pad of spoorweglyn vervoer mag word, kan beperk word tot roetes soos by reël voorgeskryf of deur die 25
doeanegesag in 'n bepaalde geval bepaal mag word.

(2) Indien die roete vir 'n transito-operasie per pad of spoorweglyn tussen enige spesifieke plekke ingevolge subartikel (1) beperk word, mag geen vervoerder 'n transito-operasie volgens 'n pad- of spoorwegroete tussen daardie plekke onderneem anders as volgens die roete ingevolge daardie subartikel voorgeskryf of bepaal nie. 30

Herdestinering van goedere vanaf begin- of na afleweringspunte

208. Geen persoon mag goedere vanaf die beginpunt of na die afleweringpunt van 'n transito-operasie, soos in die transitoklaringsbrief aangedui, sonder voorafgaande skriftelike toestemming van die doeanegesag na 'n ander bestemming herdestineer nie.

Slegs vervoerders gemagtig om transito-operasies te onderneem 35

209. (1) 'n Transito-operasie mag onderneem word slegs deur—

(a) 'n gelisensieerde vervoerder; of

(b) 'n vervoerder wat in die Republiek deur 'n geregistreerde agent verteenwoordig word, indien die vervoerder nie in die Republiek gesetel is nie.

(2) Die vervoerder wat 'n transito-operasie onderneem, moet— 40

(a) die persoon wees wat in die transitoklaringsbrief as die vervoerder van die goedere genoem word; of

(b) 'n vervoerder wees wat deur die vervoerder bedoel in paragraaf (a) gesubkontraakteer is.

(3) Goedere in transito mag vervoer word slegs volgens voorskrif van hierdie Wet, 45
met inbegrip van—

(a) enige voorwaardes waaronder die vervoerder gelisensieer is;

196. Sodanige toestemming of lasgewing kan onderworpe aan voorwaardes uitgereik word. Kyk artikel 918.

197. Begin en voltooiing van 'n transito-operasie moet onderskei word van die begin en afhandeling van die transitoprosedure ingevolge artikels 195 en 196.

198. Vir belastinggevolge indien goedere geag word vir binnelandse gebruik geklaar te wees, kyk artikel 154.

- (b) any directions issued by the customs authority in terms of section 123 or 213; and
- (c) any rules as may be prescribed.

Technical requirements of vehicles or containers used in transit of goods

210. (1) A vehicle or container used in the transit of goods must comply with such requirements as may be prescribed by rule to secure the goods during the transit operation. 5

(2) If a vehicle or container does not comply with the prescribed requirements, the customs authority may withhold release of the goods for transit in that vehicle or container. 10

Transfer of goods in transit to other vehicle or container

211. If goods in transit are transferred in terms of section 130 from the vehicle or container in which the goods are transported to another vehicle or container operated by another carrier, the new carrier must—

- (a) give notice to the customs authority that the goods were transferred to another vehicle or container; and 15
- (b) endorse that carrier's transport document or road manifest with—
 - (i) details of the previous vehicle or container in which the goods were transported, as may be prescribed by rule;
 - (ii) the container number, if applicable, in which the goods were transported; 20
 - (iii) the name of the previous carrier; and
 - (iv) the number of the previous carrier's transport document or road manifest, as may be applicable.

Multi-modal transit of goods

212. If a transit is carried out by means of multi-modal transport of the transit goods, the goods may be transferred from one means of transport to another only— 25

- (a) within a customs controlled area; and
- (b) in accordance with any other requirements as may be prescribed by rule.

Interruptions in transit operations

213. (1) The customs authority may permit or direct that a transit operation of goods be interrupted for a specific purpose, including for— 30

- (a) re-packing of the goods;
- (b) tallying the goods;
- (c) sorting the goods;
- (d) cleaning the goods; 35
- (e) carrying out activities aimed at preserving the condition of, or maintaining, the goods;
- (f) inspecting the goods; and
- (g) sealing the goods or the holding compartment of the vehicle or the container.

(2) The conditions subject to which a permission or direction referred to in subsection (1) may be issued in terms of section 918 may include conditions specifying— 40

- (a) the place where the activities referred to in subsection (1) must be carried out; and
- (b) the time when those activities must be carried out and within which those activities must be completed. 45

Transit goods transported by road carriers

214. (1) A road carrier transporting goods in transit must keep a road manifest of all the cargo transported on board the vehicle.

- (b) enige lasgewings deur die doeanebesag ingevolge artikel 123 of 213 uitgereik;
en
- (c) enige reëls soos voorgeskryf mag word.

Tegniese vereistes vir voertuie of houers in transito van goedere gebruik

210. (1) 'n Voertuig of houer wat in die transito van goedere gebruik word, moet 5
voldoen aan die vereistes soos by reël voorgeskryf mag word om die goedere tydens die
transito-operasie te beveilig.

(2) Indien 'n voertuig of houer nie aan die voorgeskrewe vereistes voldoen nie, kan 10
die doeanebesag vrystelling van die goedere vir transito in daardie voertuig of houer
terughou.

Oorplasing van goedere in transito na ander voertuig of houer

211. Indien goedere in transito ingevolge artikel 130 van die voertuig of houer waarin
die goedere vervoer word, oorgeplaas word na 'n ander voertuig of houer wat onder
operasionele beheer van 'n ander vervoerder is, moet die nuwe vervoerder—

- (a) aan die doeanebesag kennis gee dat die goedere oorgeplaas is na 'n ander 15
voertuig of houer; en
- (b) die vervoerdokument of pad manifes van daardie vervoerder endosseer met—
 - (i) besonderhede van die vorige voertuig of houer waarin die goedere
vervoer is, soos by reël voorgeskryf mag word;
 - (ii) die houernommer, indien van toepassing, waarin die goedere vervoer 20
was;
 - (iii) die naam van die vorige vervoerder; en
 - (iv) die nommer van die vorige vervoerder se vervoerdokument of pad
manifes, na gelang van die geval.

Multi-modale transito van goedere 25

212. Indien 'n transito uitgevoer word by wyse van multi-modale vervoer van die
transito-goedere, mag die goedere van een middel van vervoer na 'n ander oorgeplaas
word slegs—

- (a) binne 'n doeanebeheergebied; en
- (b) ooreenkomstig enige ander vereistes soos by reël voorgeskryf mag word. 30

Onderbrekings in transito-operasies

213. (1) Die doeanebesag kan toestemming verleen of gelas dat 'n transito-operasie
van goedere vir 'n spesifieke doel onderbreek word, insluitende vir—

- (a) herverpakking van die goedere;
- (b) kontrolering van die goedere; 35
- (c) sortering van die goedere;
- (d) skoonmaak van die goedere;
- (e) uitvoering van aktiwiteite ter bewaring van die toestand, of instandhouding,
van die goedere;
- (f) inspeksie van die goedere; en 40
- (g) seëling van die goedere of die houerkompartement van die voertuig of die
houer.

(2) Die voorwaardes waarop 'n toestemming of lasgewing bedoel in subartikel (1)
ingevolge artikel 918 uitgereik mag word, kan voorwaardes insluit wat—

- (a) die plek spesifiseer waar die aktiwiteite bedoel in subartikel (1) uitgevoer 45
moet word; en
- (b) die tyd spesifiseer waarop daardie aktiwiteite uitgevoer en waarbinne daardie
aktiwiteite afgehandel moet word.

Transito-goedere deur padvervoerders vervoer

214. (1) 'n Padvervoerder wat goedere in transito vervoer, moet 'n pad manifes hou 50
van al die vrag wat aan boord van die voertuig vervoer word.

- (2) A road manifest referred to in subsection (1) must—
- (a) be in the form and format and contain the information as may be prescribed by rule;
 - (b) identify the goods in transit; and
 - (c) distinguish the transit goods from any other goods on board the vehicle. 5
- (3) Until the transit of the goods is completed, the carrier transporting the goods must keep in the vehicle—
- (a) the road manifest; and
 - (b) a copy of the release notification issued in respect of the transit goods.

Completion of transit operations 10

215. A transit operation is completed when the transit goods are delivered at the delivery point indicated in the transit clearance declaration.¹⁹⁹

Completion procedures

- 216.** (1) Upon completion of a transit operation, the carrier who has carried out the transit operation or the person clearing the goods for transit must— 15
- (a) submit to the customs authority proof that the transit operation has been completed, if the customs authority requests such proof from the carrier or person clearing the goods; and
 - (b) comply with such other requirements as may be prescribed by rule for such carrier or person. 20
- (2) Proof requested in terms of subsection (1) must be—
- (a) in the form and format and contain the information as may be prescribed by rule;
 - (b) submitted within such period as may be prescribed by rule; and
 - (c) be submitted electronically in accordance with section 913, but may in the case of a person clearing the goods for transit be submitted in paper format. 25
- (3) A carrier is relieved of compliance with subsection (1) if the person clearing the goods for transit complies with that subsection.

Part 4

Other matters 30

Responsibility for ensuring compliance with transit requirements

- 217.** (1) (a) The responsibility for ensuring that a national or international transit operation is carried out and completed in accordance with this Act and any steps taken or directions issued by the customs authority in terms of section 123 rests with the carrier who carries out the transit operation. 35
- (b) If the carrier who carries out the transit operation is not the person who submitted the clearance declaration or has subcontracted the transport of the goods to another carrier, the responsibility referred to in paragraph (a) rests jointly and severally with the carrier and the person clearing the goods or that other carrier, as the case may be.
- (2) The responsibility for ensuring that goods under international transit are exported rests with the person clearing the goods for international transit. If the goods are not exported within a timeframe from commencement of the transit operation as may be prescribed by rule read with sections 908 and 909— 40
- (a) the person clearing the goods must immediately notify the customs authority of— 45

¹⁹⁹. Note the distinction between completion of an international transit operation which ends upon delivery of the goods at the delivery point and completion of the international transit procedure which ends upon export of the goods.

- (2) 'n Pad manifes bedoel in subartikel (1) moet—
- (a) in die vorm en formaat wees en die inligting bevat soos by reël voorgeskryf mag word;
 - (b) die goedere in transito identifiseer; en
 - (c) die transito-goedere onderskei van enige ander goedere aan boord van die voertuig. 5
- (3) Totdat die transito van die goedere voltooi is, moet die vervoerder wat die goedere vervoer die volgende in die voertuig hou:
- (a) Die pad manifes; en
 - (b) 'n afskrif van die vrystellingskennisgewing wat ten opsigte van die transito-goedere uitgereik is. 10

Voltooiing van transito-operasies

215. 'n Transito-operasie is voltooi wanneer die transito-goedere by die afleweringpunt in die transitoklaringsbrief aangedui, gelewer word.¹⁹⁹

Voltooiingsprosedures 15

- 216.** (1) By voltooiing van 'n transito-operasie moet die vervoerder wat die transito-operasie onderneem het of die persoon wat die goedere vir transito klaar—
- (a) aan die doeanegesag bewys verskaf dat die transito-operasie voltooi is, indien die vervoerder of die persoon wat die goedere klaar deur die doeanegesag versoek word om sodanige bewys te verskaf; en 20
 - (b) voldoen aan die ander vereistes soos wat by reël vir so 'n vervoerder of persoon voorgeskryf mag word.
- (2) Bewys wat ingevolge subartikel (1) versoek word, moet—
- (a) in die vorm en formaat wees en die inligting bevat soos by reël voorgeskryf mag word; 25
 - (b) verskaf word binne die tydperk soos by reël voorgeskryf mag word; en
 - (c) elektronies ooreenkomstig artikel 913 verskaf word, maar kan in die geval van 'n persoon wat die goedere vir transito klaar in papierformaat verskaf word.
- (3) 'n Vervoerder is van voldoening aan subartikel (1) onthef indien die persoon wat die goedere vir transito klaar aan daardie subartikel voldoen. 30

Deel 4

Ander aangeleenthede

Verantwoordelikheid om te verseker dat daar aan transitovereistes voldoen word

- 217.** (1) (a) Die verantwoordelik om te verseker dat 'n nasionale of internasionale transito-operasie onderneem en voltooi word volgens voorskrif van hierdie Wet en enige 35
stappe gedoen, of lasgewings uitgereik, deur die doeanegesag ingevolge artikel 123, rus op die vervoerder wat die transito-operasie onderneem.
- (b) Indien die vervoerder wat die transito-operasie onderneem nie die persoon is wat die klaringsbrief ingedien het nie, of die vervoer van die goedere aan 'n ander vervoerder gesubkontraakteer het, rus die verantwoordelik bedoel in paragraaf (a) 40
gesamentlik en afsonderlik op die vervoerder en die persoon wat die goedere klaar of daardie ander vervoerder, na gelang van die geval.
- (2) Die verantwoordelikheid om te verseker dat goedere onder internasionale transito uitgevoer word, rus op die persoon wat die goedere vir internasionale transito klaar. 45
Indien die goedere nie uitgevoer word binne 'n tydsraam vanaf die begin van die transito-operasie soos by reël, saamgelees met artikels 908 en 909, voorgeskryf mag word nie—
- (a) moet die persoon wat die goedere klaar die doeanegesag onmiddellik in kennis stel van—

199. Let op die onderskeid tussen voltooiing van 'n internasionale transito-operasie wat eindig by aflewering van die goedere by die afleweringpunt en afhandeling van die prosedure vir internasionale transito wat eindig by uitvoer van die goedere.

- (i) the failure to export the goods;²⁰⁰ and
- (ii) the reasons for the failure; and
- (b) the customs authority may, whether a notification in terms of paragraph (a) has been given or not—
 - (i) secure the goods or require the goods to be secured in such manner as the customs authority may determine pending the export of the goods in terms of the release; 5
 - (ii) withdraw in terms of section 105 the release given in respect of the goods;²⁰¹ or
 - (iii) issue a direction in terms of section 112(2) whether or not the release has been withdrawn. 10
- (3) (a) A person who cleared goods for international transit must on request by the customs authority provide proof to the customs authority that the goods were exported, as may be prescribed by rule.
- (b) The burden to prove that goods released for international transit have been exported rests on the person clearing the goods. 15
- (4) The responsibilities conferred in terms of subsections (1), (2) and (3) do not absolve any other person from complying with this Act or any steps or directions referred to in that subsection in connection with the transit of the goods.

Rules to facilitate implementation of this Chapter 20

218. Rules made in terms of section 903 to facilitate the implementation of this Chapter may include rules—

- (a) prescribing additional requirements—
 - (i) for the clearance or release of goods for national or international transit; or 25
 - (ii) relating to goods under the national or international transit procedure; and
- (b) regulating the application of this Chapter to the coastwise carriage of imported goods under national or international transit, including conditions that must be complied with if imported goods under transit are transported in coasting vessels also carrying goods in free circulation. 30

Offences in terms of this Chapter

- 219.** (1) A person is guilty of an offence if that person contravenes—
- (a) section 198(2)(a) or (b), or 209(1); or
 - (b) section 208. 35
- (2) A carrier carrying out a transit operation in respect of any goods is guilty of an offence—
- (a) if that carrier fails to comply with—
 - (i) section 214(1) or (3), or 216(1)(b);
 - (ii) a request issued in terms of section 216(1)(a); or 40
 - (iii) a direction issued in terms of section 213(1);
 - (b) if section 204, 206(1), (2) or (3)(a) or (b), 207(2), 209(2) or (3), 210(1), 211 or 212 is contravened or not complied with in respect of those goods; or
 - (c) if a direction issued or a condition imposed in terms of section 213 is contravened or not complied with in respect of those goods. 45
- (3) The carrier carrying out a transit operation or, if section 217(1)(b) applies, that carrier and any other person or other carrier referred to in that section, is guilty of an offence if the transit operation is not carried out and completed in accordance with this Act.
- (4) The licensee of a customs controlled area where a transit operation commences or ends, is guilty of an offence if that person fails to comply with section 206(4). 50

200. Failure to load goods for export will appear from outturn reports to be submitted by terminal operators.

201. For consequences of a withdrawal of a release, see section 106.

- (i) die versuim om die goedere uit te voer;²⁰⁰ en
- (ii) die redes vir die versuim; en
- (b) kan die doeanegesag, hetsy 'n kennisgewing ingevolge paragraaf (a) gegee is of nie—
 - (i) die goedere beveilig, of vereis dat die goedere beveilig word, op dié wyse soos die doeanegesag mag bepaal hangende die uitvoer van die goedere ingevolge die vrystelling; 5
 - (ii) die vrystelling wat ten opsigte van die goedere verleen is ingevolge artikel 105 intrek;²⁰¹ of
 - (iii) 'n lasgewing ingevolge artikel 112(2) uitreik ongeag of die vrystelling ingetrek is of nie. 10
- (3) (a) 'n Persoon wat goedere vir internasionale transito geklaar het, moet op versoek deur die doeanegesag bewys aan die doeanegesag verskaf dat die goedere uitgevoer is, soos by reël voorgeskryf mag word.
- (b) Die onus om te bewys dat goedere vrygestel vir internasionale transito uitgevoer is, rus op die persoon wat die goedere klaar. 15
- (4) Die verantwoordelikhede ingevolge subartikels (1), (2) en (3) opgedra, onthef nie enige ander persoon van voldoening aan hierdie Wet of enige stappe of lasgewings in daardie subartikel bedoel in verband met die transito van die goedere nie.

Reëls ter fasilitering van implementering van hierdie Hoofstuk 20

218. Reëls ingevolge artikel 903 uitgevaardig om die implementering van hierdie Hoofstuk te fasiliteer, kan reëls insluit—

- (a) wat bykomende vereistes voorskryf—
 - (i) vir die klaring of vrystelling van goedere vir nasionale of internasionale transito; of 25
 - (ii) betreffende goedere onder die prosedure vir nasionale of internasionale transito; en
- (b) wat die toepassing van hierdie Hoofstuk op die kusvervoer van ingevoerde goedere onder nasionale of internasionale transito reël, met inbegrip van voorwaardes waaraan voldoen moet word indien ingevoerde goedere onder transito vervoer word in kusvaartuie wat ook goedere in vry sirkulasie vervoer. 30

Misdrywe ingevolge hierdie Hoofstuk

- 219.** (1) 'n Persoon is aan 'n misdryf skuldig indien daardie persoon—
 - (a) artikel 198(2)(a) of (b) of 209(1) oortree; of 35
 - (b) artikel 208 oortree.
- (2) 'n Vervoerder wat 'n transito-operasie ten opsigte van enige goedere onderneem, is aan 'n misdryf skuldig—
 - (a) indien daardie vervoerder versuim om te voldoen aan—
 - (i) artikel 214(1) of (3) of 216(1)(b); 40
 - (ii) 'n versoek ingevolge artikel 216(1)(a) uitgereik; of
 - (iii) 'n lasgewing ingevolge artikel 213(1) uitgereik;
 - (b) indien artikel 204, 206(1), (2) of (3)(a) of (b), 207(2), 209(2) of (3), 210(1), 211 of 212 oortree word of nie aan voldoen word nie ten opsigte van daardie goedere; of 45
 - (c) indien 'n lasgewing uitgereik of 'n voorwaarde opgelê ingevolge artikel 213 oortree word of nie aan voldoen word nie ten opsigte van daardie goedere.
- (3) Die vervoerder wat 'n transito-operasie onderneem of, indien artikel 217(1)(b) van toepassing is, daardie vervoerder en enige ander persoon of ander vervoerder in daardie artikel bedoel, is aan 'n misdryf skuldig indien die transito-operasie nie onderneem en voltooi word volgens voorskrif van hierdie Wet nie. 50
- (4) Die lisensiehouer van 'n doeanebeheergebied waar 'n transito-operasie begin of eindig, is aan 'n misdryf skuldig indien daardie persoon versuim om aan artikel 206(4) te voldoen.

200. Versuim om goedere vir uitvoer te laai, sal blyk uit opleweringsverslae wat deur terminaaloperateurs ingedien word.

201. Vir gevolge van intrekking van 'n vrystelling, kyk artikel 106.

- (5) A person clearing goods for international transit is guilty of an offence if that person fails to comply with—
- (a) section 217(2)(a); or
 - (b) a request issued in terms of section 217(3)(a).
- (6) An offence referred to in subsection (1)(b) is a Category 1 offence. 5

CHAPTER 10

EXCISE WAREHOUSE TRANSIT PROCEDURE

Part 1

Introductory provisions

Purpose and application of this Chapter 10

220. (1) The purpose of this Chapter is to regulate the excise warehouse transit procedure.

(2) This Chapter applies to the transport to excise manufacturing warehouse of imported goods referred to in section 224(1) that are not in free circulation, excluding the transport of such goods between excise warehouses. 15

Excise warehouse transit procedure²⁰²

221. Excise warehouse transit is a customs procedure that allows goods to which this Chapter applies, to be transported, without first clearing the goods for home use under Chapter 8, from a place in the Republic²⁰³ to a licensed excise manufacturing warehouse for a purpose that will render the goods upon delivery to the excise warehouse subject to the Excise Duty Act. 20

Commencement and completion of excise warehouse transit procedure

222. (1) (a) Goods come under the excise warehouse transit procedure when the goods are cleared for transit to a licensed excise manufacturing warehouse.

(b) The procedure is, subject to subsection (2), completed when the goods are delivered to the licensed excise manufacturing warehouse. 25

(2) The excise warehouse transit procedure, in relation to any goods, ends before its completion if completion of the procedure is interrupted by an occurrence referred to in section 109(2).

(3) (a) Upon completion of the excise warehouse transit procedure as contemplated in subsection (1), the Excise Duty Act becomes applicable to the goods and that Act applies to any manufacturing and other processes in which the goods are used, including the storage, handling and transport of the goods and other actions taken in respect of the goods for purposes of those processes. 30

(b) If the excise warehouse transit procedure ends before its completion as contemplated in subsection (2), the goods must be dealt with in accordance with this Act. 35

Extent to which Chapters 4, 5 and 7 apply

223. Chapters 4, 5 and 7, except insofar as a provision of those Chapters is modified, qualified or deviated from in this Chapter,²⁰⁴ apply to goods under the excise warehouse transit procedure, including to the clearance and release of goods for the excise warehouse transit procedure. 40

202. For tax status of goods under the excise warehouse transit procedure, see section 141. For consequences of non-compliance with the excise warehouse transit procedure, see sections 112 and 115.

203. This includes transport of the goods from the place of entry or from a storage warehouse to the excise warehouse.

204. In the case of an inconsistency between a provision of this Chapter and a general provision contained in Chapter 4 or 7 the provision of this Chapter prevails. See sections 88(3) and 162(3).

(5) 'n Persoon wat goedere vir internasionale transito klaar, is aan 'n misdryf skuldig indien daardie persoon versuim om te voldoen aan—

(a) artikel 217(2)(a); of

(b) 'n versoek ingevolge artikel 217(3)(a) uitgereik.

(6) 'n Misdryf bedoel in subartikel (1)(b) is 'n Kategorie 1 misdryf.

5

HOOFSTUK 10

PROSEDURE VIR AKSYNSPAKHUISTRANSITO

Deel 1

Inleidende bepalings

Doel en toepassing van hierdie Hoofstuk

10

220. (1) Die doel van hierdie Hoofstuk is om die prosedure vir aksynspakhuistransito te reguleer.

(2) Hierdie Hoofstuk is van toepassing op die vervoer na aksynspakhuis van ingevoerde goedere bedoel in artikel 224(1) wat nie in vry sirkulasie is nie, uitgesonderd die vervoer van sulke goedere tussen aksynspakhuis.

15

Prosedure vir aksynspakhuistransito²⁰²

221. Aksynspakhuistransito is 'n doeaneprosedure ingevolge waarvan goedere waarop hierdie Hoofstuk van toepassing is, vervoer mag word sonder vooraf klaring van die goedere vir binnelandse gebruik kragtens Hoofstuk 8 vanaf 'n plek in die Republiek²⁰³ na 'n gelisensieerde aksynspakhuis vir 'n doel wat die goedere by lewering daarvan aan die aksynspakhuis aan die Wet op Aksynsreg onderworpe sal stel.

20

Begin en afhandeling van prosedure vir aksynspakhuistransito

222. (1) (a) Goedere kom onder die prosedure vir aksynspakhuistransito wanneer die goedere vir transito na 'n gelisensieerde aksynspakhuis geklaar word.

(b) Die prosedure is, behoudens subartikel (2), afgehandel wanneer die goedere by die gelisensieerde aksynspakhuis afgelewer word.

25

(2) Die prosedure vir aksynspakhuistransito, met betrekking tot enige goedere, eindig voor die afhandeling daarvan indien afhandeling van die prosedure deur 'n gebeurtenis bedoel in artikel 109(2) onderbreek word.

(3) (a) By afhandeling van die prosedure vir aksynspakhuistransito soos in subartikel (1) beoog, word die Wet op Aksynsreg op die goedere van toepassing en geld daardie Wet vir enige vervaardiging en ander prosesse waarin die goedere gebruik word, met inbegrip van die berging, hantering en vervoer van die goedere en ander stappe ten opsigte van die goedere vir doeleindes van daardie prosesse gedoen.

30

(b) Indien die prosedure vir aksynspakhuistransito eindig voor die afhandeling daarvan soos in subartikel (2) beoog, moet daar met die goedere volgens voorskrif van hierdie Wet gehandel word.

35

Mate waarin Hoofstukke 4, 5 en 7 van toepassing is

223. Hoofstukke 4, 5 en 7, behalwe in soverre 'n bepaling van daardie Hoofstukke aangepas, gekwalifiseer of van afgewyk word in hierdie Hoofstuk,²⁰⁴ is van toepassing op goedere onder die prosedure vir aksynspakhuistransito, asook op die klaring en vrystelling van goedere vir die prosedure vir aksynspakhuistransito.

40

202. Vir belastingstatus van goedere onder die prosedure vir aksynspakhuistransito, kyk artikel 141. Vir gevolge van nie-voldoening aan die prosedure vir aksynspakhuistransito, kyk artikels 112 en 115.

203. Dit sluit in vervoer van die goedere vanaf die plek van toegang of vanaf 'n bergingspakhuis na die aksynspakhuis.

204. In die geval van enige onbestaanbaarheid tussen 'n bepaling van hierdie Hoofstuk en 'n algemene bepaling in Hoofstuk 4 of 7 vervat, geniet die bepaling van hierdie Hoofstuk voorrang. Kyk artikels 88(3) en 162(3).

Part 2

Clearance and release of goods for excise warehouse transit

Clearance of goods for excise warehouse transit

224. (1) Imported goods may be cleared for the excise warehouse transit procedure only if those goods are of a class or kind authorised in the Excise Duty Act as goods that may be cleared for excise warehouse transit. 5

(2) Goods to be cleared for excise warehouse transit must be cleared in accordance with section 223.

Persons entitled to submit excise warehouse transit clearance declarations

225. Only the following persons may, subject to section 165(2), submit clearance declarations to clear goods for excise warehouse transit:²⁰⁵ 10

- (a) The licensee of the licensed excise manufacturing warehouse to which the goods are to be delivered; or
- (b) a customs broker referred to in section 165(1)(b).

Contents of excise warehouse transit clearance declarations 15

226. An excise warehouse transit clearance declaration must, in addition to the information required in terms of section 167, state—

- (a) that the goods are cleared for excise warehouse transit;
- (b) the starting point of the excise warehouse transit operation contemplated in section 228; 20
- (c) the customs code and address of the licensed excise manufacturing warehouse to which the goods are to be delivered;
- (d) the customs code of the carrier who will carry out the excise warehouse transit operation, if the transit operation is to be carried out by a carrier; and
- (e) the mode of transport, and if multi-modal transport, particulars of such transport. 25

Part 3

Excise warehouse transit operations

General

227. (1) An excise warehouse transit operation may not commence unless the goods are cleared and released for excise warehouse transit.²⁰⁶ 30

(2) (a) The provisions of this Part and of Chapter 5, except insofar as a provision of that Chapter is modified, qualified or deviated from in this Chapter,²⁰⁷ apply to the transport of goods under the excise warehouse transit procedure, subject to paragraph (b). 35

(b) Sections 231 to 235 do not apply to the transport under the excise warehouse transit procedure of liquid goods through a pipeline, and such a transit operation must be carried out in accordance with any requirements and conditions as may be prescribed by rule.

205. See section 165(1)(a).

206. Goods released by the customs authority for excise warehouse transit remain in terms of section 28 subject to customs control despite such release.

207. In the case of an inconsistency between a provision of this Chapter and a general provision contained in Chapter 5 the provision of this Chapter prevails. See section 119(2).

Deel 2

Klaring en vrystelling van goedere vir aksynspakhuistransito

Klaring van goedere vir aksynspakhuistransito

224. (1) Ingevoerde goedere mag vir die prosedure vir aksynspakhuistransito geklaar word slegs indien daardie goedere van 'n klas of soort is wat in die Wet op Aksynsreg goedgekeur is as goedere wat vir aksynspakhuistransito geklaar mag word. 5

(2) Goedere bestem vir klaring vir aksynspakhuistransito moet volgens voorskrif van artikel 223 geklaar word.

Persone wat klaringsbriewe vir aksynspakhuistransito mag indien

225. Slegs die volgende persone mag, behoudens artikel 165(2), klaringsbriewe indien om goedere vir aksynspakhuistransito te klaar:²⁰⁵ 10

- (a) Die lisensiehouer van die gelisensieerde aksynspakhuis waar die goedere afgelewer sal word; of
- (b) 'n doeanemakelaar in artikel 165(1)(b) bedoel.

Inhoud van klaringsbriewe vir aksynspakhuistransito 15

226. 'n Klaringsbrief vir aksynspakhuistransito moet, benewens die inligting wat ingevolge artikel 167 verstrek moet word, die volgende vermeld:

- (a) Dat die goedere vir aksynspakhuistransito geklaar word;
- (b) die beginpunt van die aksynspakhuistransito-operasie in artikel 228 beoog;
- (c) die doeanekode en adres van die gelisensieerde aksynspakhuis waar die goedere gelewer sal word; 20
- (d) die doeanekode van die vervoerder wat die aksynspakhuistransito-operasie sal onderneem, indien die transito-operasie deur 'n vervoerder onderneem sal word; en
- (e) die wyse van vervoer, en indien multi-modale vervoer, besonderhede van sodanige vervoer. 25

Deel 3

Aksynspakhuistransito-operasies

Algemeen

227. (1) 'n Aksynspakhuistransito-operasie mag nie begin tensy die goedere vir aksynspakhuistransito geklaar en vrygestel is nie.²⁰⁶ 30

(2) (a) Die bepalings van hierdie Deel en van Hoofstuk 5, behalwe in soverre 'n bepaling van daardie Hoofstuk aangepas, gekwalifiseer of van afgewyk word in hierdie Hoofstuk,²⁰⁷ is van toepassing op die vervoer van goedere onder die prosedure vir aksynspakhuistransito, behoudens paragraaf (b). 35

(b) Artikels 231 tot 235 is nie van toepassing op die vervoer onder die prosedure vir aksynspakhuistransito van vloeibare goedere deur 'n pyplyn nie, en so 'n transito-operasie moet uitgevoer word ooreenkomstig enige vereistes en voorwaardes soos by reël voorgeskryf mag word.

205. Kyk artikel 165(1)(a).

206. Goedere deur die doeanegesag vrygestel vir aksynspakhuistransito bly ingevolge artikel 28 aan doeanebeheer onderworpe ongeag sodanige vrystelling.

207. In die geval van enige teenstrydigheid tussen 'n bepaling van hierdie Hoofstuk en 'n algemene bepaling in Hoofstuk 5 vervat, geniet die bepaling van hierdie Hoofstuk voorrang. Kyk artikel 119(2).

Starting and delivery points of excise warehouse transit operations

- 228.** (1) The starting point of an excise warehouse transit operation must be, as may be appropriate—
- (a) the customs seaport or airport where the goods were off-loaded from the foreign-going vessel or aircraft on board of which the goods were imported into the Republic; 5
 - (b) the rail cargo terminal where the goods were off-loaded from the cross-border railway carriage in which the goods were imported into the Republic;
 - (c) the land border-post where the vehicle on board of which the goods were imported entered the Republic; or 10
 - (d) another customs controlled area where the goods are in storage, including temporary storage.
- (2) The delivery point of an excise warehouse transit operation must be the licensed excise warehouse to which the goods are to be delivered.
- (3) Despite subsection (1), the customs authority may in a specific case allow or direct²⁰⁸ that any other place must be the starting point of an excise warehouse transit operation. 15

Commencement and completion periods for excise warehouse transit operations²⁰⁹

- 229.** (1) An excise warehouse transit operation must, subject to section 123(1)(g), commence at the starting point of the operation indicated in the excise warehouse transit clearance declaration, within such period from release of the goods for transit as may be prescribed by rule read with sections 908 and 909. 20
- (2) Goods under excise warehouse transit must, subject to section 123(1)(g), reach the delivery point indicated in the excise warehouse transit clearance declaration within such period from commencement of the transit operation as may be prescribed by rule read with sections 908 and 909. 25
- (3) The licensee of a customs controlled area where a transit operation commences or of the excise warehouse where a transit operation ends, must immediately notify the customs authority of any failure in relation to the transit goods to comply with subsection (1) or (2) of this section. 30
- (4) If subsection (2) is not complied with in relation to the transit goods, the goods must in terms of section 112(1) for tax purposes be regarded to be cleared for home use under Chapter 8.²¹⁰

Redirection of goods from starting or to delivery points

- 230.** No person may redirect goods from the starting point or to the delivery point of an excise warehouse transit operation as indicated in the excise warehouse transit clearance declaration to another destination without the prior written permission of the customs authority. 35

Only carriers permitted to carry out excise warehouse transit operations

- 231.** (1) An excise warehouse transit operation may be carried out only by a licensed carrier. 40
- (2) The carrier carrying out an excise warehouse transit operation must be the person mentioned in the excise warehouse transit clearance declaration as the carrier of the goods.
- (3) Goods in transit to a licensed excise warehouse may be transported only in accordance with this Act, including— 45
- (a) any conditions subject to which the carrier was licensed;
 - (b) any directions issued by the customs authority in terms of section 123; and
 - (c) any rules as may be prescribed.

208. Such permission or direction may be issued subject to conditions. See section 918.

209. Commencement and completion of an excise warehouse transit operation must be distinguished from the commencement and completion of the excise warehouse transit procedure in terms of sections 195 and 196.

210. For tax consequences if goods are regarded to be cleared for home use, see section 154.

Begin- en afleweringpunte vir aksynspakhuistransito-operasies

- 228.** (1) Die beginpunt van 'n aksynspakhuistransito-operasie moet, soos ook al gepas mag wees—
- (a) die doeanesehawe of -lughawe wees waar die goedere afgelaai is van die land-uitgaande vaartuig of vliegtuig aan boord waarvan die goedere in die Republiek ingevoer is; 5
 - (b) die spoorvragterminaal wees waar die goedere afgelaai is van die oor-grens spoorwegwa waarin die goedere in die Republiek ingevoer is;
 - (c) die land-grenspas wees waar die voertuig aan boord waarvan die goedere ingevoer is, die Republiek binnegekom het; of 10
 - (d) 'n ander doeanebeheergebied wees waar die goedere geberg word, met inbegrip van tydelike berging.
- (2) Die afleweringpunt van 'n aksynspakhuistransito-operasie moet die gelisensieerde aksynspakhuis wees waar die goedere gelewer moet word.
- (3) Ondanks subartikel (1), kan die doeanebesag in 'n bepaalde geval toestemming verleen of gelas²⁰⁸ dat enige ander plek die beginpunt van 'n aksynspakhuistransito-operasie moet wees. 15

Aanvangs- en voltooiingstydperke vir aksynspakhuistransito-operasies²⁰⁹

- 229.** (1) 'n Aksynspakhuistransito-operasie moet, behoudens artikel 123(1)(g), begin by die beginpunt van die operasie in die klaringsbrief vir aksynspakhuistransito aangedui binne die tydperk vanaf vrystelling van die goedere vir transito soos by reël, saamgelees met artikels 908 en 909, voorgeskryf mag word. 20
- (2) Goedere onder aksynspakhuistransito moet, behoudens artikel 123(1)(g), die afleweringpunte in die klaringsbrief vir aksynspakhuistransito aangedui, bereik binne die tydperk vanaf aanvang van die transito-operasie soos by reël, saamgelees met artikel 908 en 909, voorgeskryf mag word. 25
- (3) Die lisensiehouer van 'n doeanebeheergebied waar 'n transito-operasie begin of van die aksynspakhuis waar 'n transito-operasie eindig, moet die doeanebesag onmiddellik in kennis stel van enige versuim met betrekking tot die transito-goedere om aan subartikel (1) of (2) van hierdie artikel te voldoen. 30
- (4) Indien daar nie aan subartikel (2) voldoen word met betrekking tot die transito-goedere nie, moet die goedere ingevolge artikel 112(1) vir belastingdoeleindes geag word vir binnelandse gebruik kragtens Hoofstuk 8 geklaar te wees.²¹⁰

Herdestinering van goedere vanaf begin- of na afleweringpunte

- 230.** Geen persoon mag goedere vanaf die beginpunt of na die afleweringpunte van 'n aksynspakhuistransito-operasie, soos in die klaringsbrief vir aksynspakhuistransito aangedui, sonder die voorafgaande skriftelike toestemming van die doeanebesag na 'n ander bestemming herdestineer nie. 35

Slegs vervoerders gemagtig om aksynspakhuistransito-operasies te onderneem

- 231.** (1) 'n Aksynspakhuistransito-operasie mag slegs deur 'n gelisensieerde vervoerder onderneem word. 40
- (2) Die vervoerder wat 'n aksynspakhuistransito-operasie onderneem, moet die persoon wees wat in die klaringsbrief vir aksynspakhuistransito as die vervoerder van die goedere genoem word.
- (3) Goedere in transito na 'n gelisensieerde aksynspakhuis mag vervoer word slegs volgens voorskrif van hierdie Wet, met inbegrip van— 45
- (a) enige voorwaardes waaronder die vervoerder gelisensieer is;
 - (b) enige lasgewings ingevolge artikel 123 deur die doeanebesag uitgereik; en
 - (c) enige reëls wat voorgeskryf mag word.

208. So 'n toestemming of lasgewing kan onderworpe aan voorwaardes uitgereik word. Kyk artikel 918.

209. Die begin en voltooiing van 'n aksynspakhuistransito-operasie moet onderskei word van die begin en afhandeling van die prosedure vir aksynspakhuistransito ingevolge artikels 195 en 196.

210. Vir belastinggevolge indien goedere geag word vir binnelandse gebruik geklaar te wees, kyk artikel 154.

Technical requirements of vehicles or containers used in excise warehouse transit operations

232. (1) A vehicle or container used in an excise warehouse transit operation must comply with such requirements as may be prescribed by rule to secure the goods during the operation. 5

(2) If a vehicle or container does not comply with the prescribed requirements, the customs authority may withhold release of the goods for excise warehouse transit in that vehicle or container.

Transfer of goods in excise warehouse transit to other vehicle or container

233. (1) If goods in an excise warehouse transit operation are transferred in terms of section 130 to another vehicle or container operated by another carrier the new carrier must— 10

- (a) give notice to the customs authority that the goods were transferred to another vehicle or container; and
- (b) endorse that carrier's transport document or road manifest with— 15
 - (i) details of the previous vehicle or container in which the goods were transported, as may be prescribed by rule;
 - (ii) the container number, if applicable, in which the goods were transported;
 - (iii) the name of the previous carrier; and
 - (iv) the number of the previous carrier's transport document or road manifest, 20 as may be applicable.

(2) This section does not apply to the multi-modal transport of goods in transit.

Multi-modal excise warehouse transit of goods

234. If an excise warehouse transit operation is carried out by means of multi-modal transport of the goods, the goods may be transferred from one means of transport to another only— 25

- (a) within a customs controlled area; and
- (b) in accordance with any other requirements as may be prescribed by rule.

Excise warehouse transit operations carried out by road carriers

235. (1) A road carrier carrying out an excise warehouse transit operation must keep a road manifest of all the cargo transported on board the vehicle. 30

(2) A road manifest referred to in subsection (1) must—

- (a) be in the form and format and contain the information as may be prescribed by rule;
- (b) identify the goods transported under the excise warehouse transit operation; 35 and
- (c) distinguish those goods from any other goods on board the vehicle.

(3) Until the excise warehouse transit operation is completed, the carrier transporting the goods must keep in the vehicle—

- (a) the road manifest; and 40
- (b) a copy of the release notification issued in respect of the excise warehouse transit goods.

Completion of excise warehouse transit operations

236. An excise warehouse transit operation is completed when the transit goods are delivered at the delivery point indicated in the excise warehouse transit clearance declaration. 45

Completion procedures

237. (1) Upon completion of an excise warehouse transit operation, the carrier who has carried out the excise warehouse transit operation or the person clearing the goods for transit must— 50

Tegniese vereistes van voertuie of houers gebruik in aksynspakhuistransito-operasies

- 232.** (1) 'n Voertuig of houer wat in 'n aksynspakhuistransito-operasie gebruik word, moet ter beveiliging van die goedere tydens die operasie voldoen aan die vereistes soos by reël voorgeskryf word. 5
- (2) Indien 'n voertuig of houer nie aan die voorgeskrewe vereistes voldoen nie, kan die doeanegesag vrystelling van die goedere vir aksynspakhuistransito in daardie voertuig of houer terughou.

Oorplasing van goedere in aksynspakhuistransito na ander voertuig of houer

- 233.** (1) Indien goedere in 'n aksynspakhuistransito-operasie ingevolge artikel 130 oorgeplaas word na 'n ander voertuig of houer wat onder die operasionele beheer van 'n ander vervoerder is, moet die nuwe vervoerder— 10
- (a) aan die doeanegesag kennis gee dat die goedere na 'n ander voertuig of houer oorgeplaas is; en
 - (b) die vervoerdokument of pad manifes van daardie vervoerder endosseer met— 15
 - (i) besonderhede van die vorige voertuig of houer waarin die goedere vervoer is, soos by reël voorgeskryf mag word;
 - (ii) die houernommer, indien van toepassing, waarin die goedere vervoer was;
 - (iii) die naam van die vorige vervoerder; en 20
 - (iv) die nommer van die vorige vervoerder se vervoerdokument of pad manifes, soos ook al gepas mag wees.
- (2) Hierdie artikel geld nie vir die multi-modale vervoer van goedere in transito nie.

Multi-modale aksynspakhuistransito van goedere

- 234.** Indien 'n aksynspakhuistransito-operasie deur middel van multi-modale vervoer van die goedere onderneem word, mag die goedere van een middel van vervoer na 'n ander oorgeplaas word slegs— 25
- (a) binne 'n doeanebeheergebied; en
 - (b) ooreenkomstig enige ander vereistes soos by reël voorgeskryf mag word.

Aksynspakhuistransito-operasies deur padvervoerders onderneem 30

- 235.** (1) 'n Padvervoerder wat 'n aksynspakhuistransito-operasie onderneem, moet 'n pad manifes hou van al die vrag wat aan boord van die voertuig vervoer word.
- (2) 'n Pad manifes bedoel in subartikel (1) moet—
- (a) in die vorm en formaat wees en die inligting bevat soos by reël voorgeskryf mag word; 35
 - (b) die goedere wat onder die aksynspakhuistransito-operasie vervoer word, identifiseer; en
 - (c) daardie goedere van enige ander goedere aan boord van die voertuig onderskei.
- (3) Totdat die aksynspakhuistransito-operasie voltooi word, moet die vervoerder wat die goedere vervoer die volgende in die voertuig hou: 40
- (a) die pad manifes; en
 - (b) 'n afskrif van die vrystellingskennisgewing wat ten opsigte van die goedere vir aksynspakhuistransito uitgereik is.

Voltooiing van aksynspakhuistransito-operasies 45

- 236.** 'n Aksynspakhuistransito-operasie is voltooi wanneer die transito-goedere by die afleweringpunt in die klaringsbrief vir aksynspakhuistransito aangedui, afgelewer word.

Voltooiingsprosedures

- 237.** (1) By voltooiing van 'n aksynspakhuistransito-operasie, moet die vervoerder wat die aksynspakhuistransito-operasie onderneem het of die persoon wat die goedere vir transito klaar— 50

- (a) submit to the customs authority proof that the excise warehouse transit operation has been completed, if the customs authority requests such proof from the carrier or person clearing the goods; and
 - (b) comply with such other requirements as may be prescribed by rule for such carrier or person. 5
- (2) Proof requested in terms of subsection (1) must be—
- (a) in the form and format and contain the information as may be prescribed by rule;
 - (b) submitted within such period as may be prescribed by rule; and
 - (c) be submitted electronically in accordance with section 913, but may in the case of a person clearing the goods for transit be submitted in paper format. 10
- (3) A carrier is relieved of compliance with subsection (1) if the person clearing the goods for excise warehouse transit complies with that subsection.

Part 4

Other matters

15

Responsibility for ensuring compliance with excise warehouse transit requirements

238. (1) The responsibility for ensuring that an excise warehouse transit operation is carried out and completed in accordance with this Act and any steps taken or directions issued by the customs authority in terms of section 123 rests jointly and severally with the carrier who carries out the excise warehouse transit operation and the licensee of the excise manufacturing warehouse where the goods are to be delivered. 20

(2) The responsibilities conferred in terms of subsection (1) do not absolve any other person from complying with this Act or any steps or directions referred to in that subsection in connection with the excise warehouse transit of the goods. 25

Rules to facilitate implementation of this Chapter

239. Rules made in terms of section 903 to facilitate the implementation of this Chapter may include rules—

- (a) prescribing additional requirements—
 - (i) for the clearance or release of goods for excise warehouse transit; or 30
 - (ii) relating to goods under the excise warehouse transit procedure; and
- (b) providing for persons other than carriers to carry out an excise warehouse transit operation, and for the circumstances in which and the requirements and conditions subject to and accordance with which such persons may carry out such transit operations. 35

Offences in terms of this Chapter

240. (1) A person is guilty of an offence if that person contravenes—

- (a) section 231(1); or
- (b) section 230.

(2) A carrier carrying out an excise warehouse transit operation in respect of any goods is guilty of an offence— 40

- (a) if that carrier fails to comply with—
 - (i) section 235(1) or (3), or 237(1)(b); or
 - (ii) a request issued in terms of section 237(1)(a); or
- (b) if section 227(1), 229(1) or (2), 231(2) or (3), 232(1), 233(1) or 235 is contravened or not complied with in respect of those goods. 45

(3) The carrier carrying out a transit operation is guilty of an offence if the transit operation is not carried out and completed in accordance with this Act.

(4) The licensee of the customs controlled area where a transit operation commences or of the excise warehouse where a transit operation ends, is guilty of an offence— 50

- (a) if that person fails to comply with section 229(3); or

- (a) bewys aan die doeanebesag verskaf dat die aksynspakhuistransito-operasie voltooi is, indien die vervoerder of persoon wat die goedere klaar deur die doeanebesag versoek word om sodanige bewys verskaf; en
- (b) aan sodanige ander vereistes voldoen soos by reël vir so 'n vervoerder of persoon voorgeskryf mag word. 5
- (2) Bewys wat ingevolge subartikel (1) versoek word, moet—
 - (a) in die vorm en formaat wees en die inligting bevat soos by reël voorgeskryf mag word;
 - (b) binne die tydperk verskaf word soos by reël voorgeskryf mag word; en
 - (c) elektronies ooreenkomstig artikel 913 verskaf word, maar kan, in die geval van 'n persoon wat die goedere vir transito klaar, in papierformaat verskaf word. 10
- (3) 'n Vervoerder is van voldoening aan subartikel (1) vrygestel indien die persoon wat die goedere vir aksynspakhuistransito klaar aan daardie subartikel voldoen.

Deel 4

15

Ander aangeleenthede

Verantwoordelikheid om te verseker dat daar aan vereistes vir aksynspakhuistransito voldoen word

238. (1) Die verantwoordelikheid om te verseker dat 'n aksynspakhuistransito-operasie onderneem en voltooi word ooreenkomstig hierdie Wet en enige stappe gedoen of lasgewings uitgereik deur die doeanebesag ingevolge artikel 123, rus gesamentlik en afsonderlik op die vervoerder wat die aksynspakhuistransito-operasie onderneem en die lisensiehouer van die aksynspakhuis waar die goedere gelewer moet word. 20

(2) Die verantwoordelikhede wat ingevolge subartikel (1) opgedra word, onthef nie enige ander persoon van voldoening aan hierdie Wet of enige stappe of lasgewings bedoel in daardie subartikel in verband met die aksynspakhuistransito of die goedere nie. 25

Reëls ter fasilitering van implementering van hierdie Hoofstuk

239. Reëls ingevolge artikel 903 uitgevaardig om die implementering van hierdie Hoofstuk te fasiliteer, kan reëls insluit— 30

- (a) wat bykomende vereistes voorskryf—
 - (i) vir die klaring of vrystelling van goedere vir aksynspakhuistransito; of
 - (ii) betreffende goedere onder die prosedure vir aksynspakhuistransito; en
- (b) wat voorsiening maak vir persone anders as vervoerders om 'n aksynspakhuistransito-operasie te onderneem, en vir die omstandighede waarin en die vereistes en voorwaardes onderworpe waaraan en waarvolgens daardie persone sodanige transito-operasies mag onderneem. 35

Misdrywe ingevolge hierdie Hoofstuk

240. (1) 'n Persoon is aan 'n misdryf skuldig indien daardie persoon—

- (a) artikel 231(1) oortree; of 40
- (b) artikel 230 oortree.

(2) 'n Vervoerder wat 'n aksynspakhuistransito-operasie ten opsigte van enige goedere onderneem, is aan 'n misdryf skuldig—

- (a) indien daardie vervoerder versuim om te voldoen aan—
 - (i) artikel 235(1) of (3), of 237(1)(b); of 45
 - (ii) 'n versoek ingevolge artikel 237(1)(a) uitgereik; of
- (b) indien artikel 227(1), 229(1) of (2), 231(2) of (3), 232(1), 233(1) of 235 ten opsigte van daardie goedere oortree word of nie aan voldoen word nie.

(3) Die vervoerder wat 'n transito-operasie onderneem, is aan 'n misdryf skuldig indien die transito-operasie nie volgens voorskrif van hierdie Wet uitgevoer en voltooi word nie. 50

(4) Die lisensiehouer van die doeanebeheergebied waar 'n transito-operasie begin, of van die aksynspakhuis waar 'n transito-operasie eindig, is aan 'n misdryf skuldig—

- (a) indien daardie persoon versuim om aan artikel 229(3) te voldoen; of

- (b) if the transit operation is not carried out and completed in accordance with this Act.
- (5) An offence referred to in subsection (1)(b) is a Category 1 offence.

CHAPTER 11

TRANSHIPMENT PROCEDURE

5

Part 1

Introductory provisions

Purpose and application of this Chapter

- 241. (1) The purpose of this Chapter is to regulate the transshipment procedure.
- (2) This Chapter applies to the transfer of imported goods at a customs seaport or airport from one foreign-going vessel or aircraft to another. 10

Transshipment²¹¹

- 242. (1) Transshipment is a customs procedure that allows imported goods—
 - (a) to be transferred at a customs seaport or airport from the foreign-going vessel or aircraft on which those goods were imported to another foreign-going vessel or aircraft at that seaport or airport on which those goods are to be exported from the Republic; and 15
 - (b) to be exported from the Republic without complying with any export clearing formalities.²¹²
- (2) The transshipment procedure is not available for goods of a class or kind or falling within a category as may be prescribed by rule. 20

Commencement and completion of transshipment procedure

- 243. (1) (a) Goods come under the transshipment procedure when the goods are cleared for transshipment.
- (b) The transshipment procedure is, subject to subsection (2), completed when the goods are exported from the Republic. 25
- (2) The transshipment procedure ends before its completion if—
 - (a) the goods before completion of the procedure are cleared and released for another customs procedure or for home use, as may be permissible in the circumstances; or 30
 - (b) completion of the procedure is interrupted by an occurrence referred to in section 109(2).

Extent to which Chapters 4, 5 and 7 apply

- 244. Chapters 4, 5 and 7, except insofar as a provision of those Chapters is modified, qualified or deviated from in this Chapter,²¹³ apply to goods under the transshipment procedure, including to the clearance and release of goods for transshipment. 35

211. For tax status of goods under the transshipment procedure, see section 142. For consequences of non-compliance with transshipment procedure, see sections 112 and 115.

212. Chapter 16 regulating the clearance of goods for export from the Republic does not apply to the export from the Republic of goods cleared and released for transshipment. See section 361(3).

213. In the case of an inconsistency between a provision of this Chapter and a general provision contained in Chapter 4 or 7 the provision of this Chapter prevails. See sections 88(3) and 162(3).

- (b) indien die transito-operasie nie ooreenkomstig hierdie Wet uitgevoer en voltooi word nie.
(5) 'n Misdryf bedoel in subartikel (1)(b) is 'n Kategorie 1 misdryf.

HOOFSTUK 11

TRANSVERSKEPINGSPROSEDURE

5

Deel 1

Inleidende bepalings

Doel en toepassing van hierdie Hoofstuk

- 241.** (1) Die doel van hierdie Hoofstuk is om die transverskepingsprosedure te reguleer. 10
(2) Hierdie Hoofstuk is van toepassing op die oorplasing van ingevoerde goedere by 'n doeaneseehawe of -lughawe van een land-uitgaande vaartuig of vliegtuig na 'n ander.

Transverskeping²¹¹

- 242.** (1) Transverskeping is 'n doeaneprosedure ingevolge waarvan ingevoerde goedere— 15
(a) by 'n doeaneseehawe of -lughawe oorgeplaas mag word van die land-uitgaande vaartuig of vliegtuig waarop daardie goedere ingevoer is na 'n ander land-uitgaande vaartuig of vliegtuig by daardie seehawe of lughawe waarop daardie goedere uit die Republiek uitgevoer sal word; en
(b) uit die Republiek uitgevoer mag word sonder om aan enige klaringsformaliteite vir uitvoer te voldoen.²¹² 20
(2) Die transverskepingsprosedure is nie beskikbaar vir goedere van 'n klas of soort of wat binne 'n kategorie val soos by reël voorgeskryf mag word nie.

Begin en afhandeling van transverskepingsprosedure

- 243.** (1) (a) Goedere kom onder die transverskepingsprosedure wanneer die goedere vir transverskeping geklaar word. 25
(b) Die transverskepingsprosedure is, behoudens subartikel (2), afgehandel wanneer die goedere uit die Republiek uitgevoer word.
(2) Die transverskepingsprosedure eindig voor die afhandeling daarvan indien—
(a) die goedere voor afhandeling van die prosedure vir 'n ander doeaneprosedure of vir binnelandse gebruik geklaar en vrygestel word, soos in die omstandighede toelaatbaar mag wees; of 30
(b) afhandeling van die prosedure deur 'n gebeurtenis bedoel in artikel 109(2) onderbreek word.

Mate waarin Hoofstukke 4, 5 en 7 van toepassing is

35

- 244.** Hoofstukke 4, 5 en 7, behalwe in soverre 'n bepaling van daardie Hoofstukke aangepas, gekwalifiseer of van afgewyk word in hierdie Hoofstuk,²¹³ is van toepassing op goedere onder die transverskepingsprosedure, asook op die klaring en vrystelling van goedere vir transverskeping.

211. Vir belastingstatus van goedere onder die transverskepingsprosedure, kyk artikel 142. Vir gevolge van nie-voldoening aan die transverskepingsprosedure, kyk artikels 112 en 115.

212. Hoofstuk 16 wat die klaring van goedere vir uitvoer uit die Republiek reguleer, geld nie vir die uitvoer uit die Republiek van goedere wat vir transverskeping geklaar en vrygestel is nie. Kyk artikel 361(3).

213. In die geval van enige teenstrydigheid tussen 'n bepaling van hierdie Hoofstuk en 'n algemene bepaling in Hoofstuk 4 of 7 vervat, geniet die bepaling van hierdie Hoofstuk voorrang. Kyk artikels 88(3) en 162(3).

Limitation of customs seaports and airports for transshipment purposes

245. (1) The Commissioner may by rule limit the customs seaports and airports where goods may be transhipped under the transshipment procedure.

(2) If the customs seaports or airports where goods may be transhipped have been limited in terms of subsection (1), no person may tranship goods under the transshipment procedure at a customs seaport or airport other than a seaport or airport determined in terms of that subsection. 5

(3) When limiting the customs seaports and airports in terms of subsection (1) for the transshipment procedure, the Commissioner must act in accordance with the directions of the Minister acting in consultation with the Cabinet members responsible for transport, trade and industry and home affairs. 10

Application of other legislation to goods under transshipment

246. (1) Legislation, other than this Act or the Counterfeit Goods Act, regulating the import into, or the possession in, the Republic of goods for the purpose of protecting South African goods for economic reasons, does not apply to imported goods that are cleared and released for transshipment. 15

(2) Subsection (1) ceases to apply if—

(a) the release of the goods for transshipment is withdrawn in terms of section 105;²¹⁴ or

(b) the goods are cleared and released for another customs procedure or home use, as may be permissible in the circumstances. 20

Part 2

Clearance and release of goods for transshipment

Clearance of goods for transshipment

247. (1) No goods may, subject to sections 91(1)(f) and 95(1)(g), be transferred at a customs seaport or airport from one foreign-going vessel or aircraft to another unless the goods are cleared and released for transshipment. 25

(2) Goods to be cleared for transshipment must be cleared in accordance with section 244.

Persons entitled to submit transshipment clearance declarations 30

248. (1) Only the following persons may, subject to section 165(2), submit a clearance declaration to clear goods for transshipment:²¹⁵

(a) The cargo reporter referred to in section 49(2) or 55(2) who is responsible for the transshipment goods, if that cargo reporter is located in the Republic;

(b) the registered agent in the Republic of that cargo reporter, if that cargo reporter is not located in the Republic; or 35

(c) a customs broker referred to in section 165(1)(b).

(2) A transshipment clearance declaration must be submitted—

(a) before the goods arrive in the Republic; and

(b) within a timeframe as may be prescribed by rule. 40

Contents of transshipment clearance declarations

249. (1) A transshipment clearance declaration must, in addition to the information required in terms of section 167, state—

(a) that the goods are cleared for transshipment;

(b) that the goods will be off-loaded in the Republic for purposes of transshipment; 45

214. For consequences when release of goods is withdrawn, see section 106.

215. See section 165(1)(a)

Beperking van doeaneseehawens en -lughawens vir doeleindes van trans- verskeping

245. (1) Die Kommissaris kan by reël die doeaneseehawens en -lughawens beperk waar goedere onder die transverskepingsprosedure transverskeep mag word.
- (2) Indien die doeaneseehawens of -lughawens waar goedere transverskeep mag word 5
ingevolge subartikel (1) beperk is, mag niemand goedere onder die transverskepings-
prosedure by 'n doeaneseehawe of -lughawe transverskeep anders as by 'n seehawe of
lughawe ingevolge daardie subartikel bepaal nie.
- (3) Wanneer die Kommissaris ingevolge subartikel (1) die doeaneseehawens en 10
-lughawens vir die transverskepingsprosedure beperk, moet die Kommissaris handel
ooreenkomstig die voorskrifte van die Minister handelende in oorleg met die
Kabinetselede wat vir vervoer, handel en nywerheid en binnelandse sake
verantwoordelik is.

Toepassing van ander wetgewing op goedere onder transverskeping

246. (1) Wetgewing, behalwe hierdie Wet of die Wet op Nagmaakte Goedere, wat die 15
invoer of die besit in die Republiek van goedere reguleer met die doel om
Suid-Afrikaanse goedere om ekonomiese redes te beskerm, is nie op ingevoerde
goedere wat vir transverskeping geklaar en vrygestel is, van toepassing nie.
- (2) Subartikel (1) hou op om van toepassing te wees indien—
- (a) die vrystelling van die goedere vir transverskeping ingevolge artikel 105 20
ingetrek word;²¹⁴ of
- (b) die goedere vir 'n ander doeaneprosedure of vir binnelandse gebruik geklaar
en vrygestel word, soos in die omstandighede toelaatbaar mag wees.

Deel 2

Klaring en vrystelling van goedere vir transverskeping 25

Klaring van goedere vir transverskeping

247. (1) Geen goedere mag, behoudens artikels 91(1)(f) en 95(1)(g), by 'n
doeaneseehawe of -lughawe van een land-uitgaande vaartuig of vliegtuig na 'n ander
oorgeplaas word tensy die goedere vir transverskeping geklaar en vrygestel is nie.
- (2) Goedere bestem vir klaring vir transverskeping, moet volgens voorskrif van 30
artikel 244 geklaar word.

Persone wat transverskepingsklaringsbriewe mag indien

248. (1) Slegs die volgende persone mag, behoudens artikel 165(2), 'n klaringsbrief
indien om goedere vir transverskeping te klaar:²¹⁵
- (a) Die vragverslagdoener bedoel in artikel 49(2) of 55(2) wat vir die 35
transverskepingsgoedere verantwoordelik is, indien daardie vragverslag-
doener in die Republiek gesetel is;
- (b) die geregistreerde agent in die Republiek van daardie vragverslagdoener,
indien daardie vragverslagdoener nie in die Republiek gesetel is nie; of
- (c) 'n doeanemakelaar in artikel 165(1)(b) bedoel. 40
- (2) 'n Transverskepingsklaringsbrief moet ingedien word—
- (a) voordat die goedere in die Republiek aankom; en
- (b) binne 'n tydsraam wat by reël voorgeskryf mag word.

Inhoud van transverskepingsklaringsbriewe

249. (1) 'n Transverskepingsklaringsbrief moet, benewens die inligting wat ingevolge 45
artikel 167 verstrekk moet word, die volgende vermeld:
- (a) Dat die goedere vir transverskeping geklaar word;
- (b) dat die goedere in die Republiek vir doeleindes van transverskeping afgelaai
sal word;

214. Vir gevolge wanneer vrystelling van goedere ingetrek word, kyk artikel 106.

215. Kyk artikel 165(1)(a).

- (c) the date and time when the goods are due to arrive in the Republic;
- (d) the customs seaport or airport where the transshipment operation will be carried out;
- (e) particulars of the vessel or aircraft on board of which the goods are to be transported out of the Republic; and 5
- (f) any other information as may be prescribed by rule.

(2) If the particulars referred to in subsection (1)(e) are not available to the person clearing the goods at the time when the transshipment clearance declaration is submitted, those particulars may be submitted separately at any later stage but before the goods are loaded on board the vessel or aircraft that will transport the goods out of the Republic. 10

Supporting documents

250. Section 176(1) does not apply in respect of the transshipment of goods.

Use of other documents as transshipment clearance declarations

251. A transport document or other document as may be prescribed by rule, issued or submitted in respect of the goods to be transhipped, may serve as a transshipment clearance declaration, provided that such transport document or other document reflects the minimum information concerning those goods as may be prescribed by rule for purposes of this section. 15

Part 3

Transshipment operations 20

Transshipment operation not to commence before release of goods

252. A transshipment operation may not commence before the goods are released for transshipment.²¹⁶

Commencement and completion of transshipment operations

253. A transshipment operation— 25
- (a) commences when the transshipment goods are off-loaded from the vessel or aircraft on board of which the goods were imported into the Republic; and
 - (b) is completed when the transshipment goods are loaded on board the vessel or aircraft that will transport the goods out of the Republic.

Transshipment goods to be secured on licensed premises 30

254. (1) Transshipment goods off-loaded from a vessel or aircraft referred to in section 253(a) at a customs seaport or airport where the transshipment operation is carried out must—

- (a) be secured at the terminal where the goods are off-loaded or on premises licensed for the receipt, storage and handling of transshipment goods; and 35
- (b) if secured on premises referred to in paragraph (a), be kept on those premises until the goods are moved to a terminal at that seaport or airport where the goods are to be loaded on board the vessel or aircraft referred to in section 253(b).

(2) No transshipment goods may be moved from one customs controlled area to another customs controlled area at the customs seaport or airport where the transshipment operation is carried out without giving notice to the customs authority as may be prescribed by rule. 40

(3) The licensee of premises where transshipment goods are secured in terms of subsection (1) must keep such records of the receipt, handling, storage and delivery of 45

²¹⁶. Goods released by the customs authority for transshipment remain in terms of section 28 subject to customs control despite such release.

- (c) die datum en tyd wanneer die goedere in die Republiek sal aankom;
- (d) die doeaneseehawe of -lughawe waar die transverskepingsoperasie uitgevoer sal word;
- (e) besonderhede van die vaartuig of vliegtuig aan boord waarvan die goedere uit die Republiek vervoer sal word; en 5
- (f) enige ander inligting soos by reël voorgeskryf mag word.

(2) Indien die besonderhede bedoel in subartikel (1)(e) nie op die tydstip waarop die transverskepingsklaringsbrief ingedien word tot beskikking is van die persoon wat die goedere klaar nie, kan daardie besonderhede afsonderlik op 'n later stadium ingedien word maar voordat die goedere aan boord gelaai word van die vaartuig of vliegtuig wat die goedere uit die Republiek sal vervoer. 10

Ondersteunende dokumente

250. Artikel 176(1) is nie van toepassing ten opsigte van die transverskeping van goedere nie.

Gebruik van ander dokumente as transverskepingsklaringsbriewe 15

251. 'n Vervoerdokument of ander dokument, soos by reël voorgeskryf mag word, wat uitgereik of ingedien is ten opsigte van die goedere wat transverskeep word, kan as 'n transverskepingsklaringsbrief dien, mits so 'n vervoerdokument of ander dokument die minimum inligting aangaande daardie goedere vermeld soos by reël vir doeleindes van hierdie artikel voorgeskryf mag word. 20

Deel 3

Transverskepingsoperasies

Transverskepingsoperasie nie te begin voor vrystelling van goedere

252. 'n Transverskepingsoperasie mag nie begin voordat die goedere vir transverskeping vrygestel is nie.²¹⁶ 25

Begin en voltooiing van transverskepingsoperasies

253. 'n Transverskepingsoperasie—
- (a) begin wanneer die transverskepingsgoedere afgelaai word van die vaartuig of vliegtuig aan boord waarvan die goedere in die Republiek ingevoer is; en
 - (b) is voltooi wanneer die transverskepingsgoedere aan boord gelaai is van die vaartuig of vliegtuig wat die goedere uit die Republiek sal vervoer. 30

Transverskepingsgoedere beveilig te word op gelisensieerde persele

254. (1) Transverskepingsgoedere wat van 'n vaartuig of vliegtuig bedoel in artikel 253(a) by 'n doeaneseehawe of -lughawe afgelaai is waar die transverskepingsoperasie uitgevoer word, moet— 35

- (a) beveilig word by die terminaal waar die goedere afgelaai word of op 'n perseel wat gelisensieer is vir die ontvangs, berging en hantering van transverskepingsgoedere; en
- (b) indien beveilig op 'n perseel bedoel in paragraaf (a), op daardie perseel gehou word totdat die goedere verskuif word na 'n terminaal by daardie seehawe of lughawe waar die goedere aan boord van die vaartuig of vliegtuig bedoel in artikel 253(b) gelaai sal word. 40

(2) Geen transverskepingsgoedere mag van een doeanebeheergebied na 'n ander doeanebeheergebied by die doeaneseehawe of -lughawe waar die transverskepingsoperasie uitgevoer word, verskuif word sonder dat kennis, soos by reël voorgeskryf mag word, aan die doeanegesag gegee is nie. 45

(3) Die lisensiehouer van 'n perseel waar transverskepingsgoedere ingevolge subartikel (1) beveilig word, moet dié rekords van die ontvangs, hantering, berging en

216. Goedere deur die doeanegesag vir transverskeping vrygestel, bly ingevolge artikel 28 aan doeanebeheer onderworpe ondanks sodanige vrystelling.

the goods as may be prescribed by rule or as the customs authority may require in a specific case.

Commencement and completion periods for transshipment operation²¹⁷ and export of transshipment goods

255. (1) A transshipment operation must, subject to section 258(1)(c), commence within such period from release of the goods for transshipment as may be prescribed by rule read with sections 908 and 909. 5

(2) A transshipment operation must, subject to section 258(1)(c), be completed within such period from commencement of the transshipment operation as may be prescribed by rule read with sections 908 and 909. 10

(3) If subsection (2) is not complied with in respect of transshipment goods, the goods must in terms of section 112(1) for tax purposes be regarded to be cleared for home use under Chapter 8.²¹⁸

Non-compliance with completion period

256. (1) If a transshipment operation is unlikely to commence within the period applicable to the goods in terms of section 255(1), the person clearing the goods for transshipment must— 15

- (a) immediately notify the customs authority of the delay, and the reasons for the delay; and
- (b) thereafter, if the period within which the transshipment operation must commence has been extended in terms of section 908, notify the customs authority regularly as may be prescribed by rule, of the situation with regard to the commencement of the transshipment operation. 20

(2) If a transshipment operation is not completed within the period applicable to the goods in terms of section 255(2), the licensee of the customs controlled area where the transshipment goods are temporarily stored or handled must immediately notify the customs authority of the delay, and the reasons for the delay. 25

Delivery of transshipment goods for loading on board outgoing vessels or aircraft

257. (1) The person clearing the transshipment goods must ensure that the goods are delivered to the terminal at the customs seaport or airport where the goods are to be loaded on board the vessel or aircraft that will transport the goods out of the Republic. 30

(2) If transshipment goods are to be transported by public road from the customs controlled area where the goods are secured in terms of section 254 to the terminal where the goods are to be loaded on board the vessel or aircraft that will transport the goods out of the Republic— 35

- (a) those goods may not be transported by a person other than a carrier licensed for that purpose;
- (b) the licensee of the premises where those goods are secured may not give delivery of the goods to anyone other than such a licensed carrier; and
- (c) the carrier transporting the goods may not give delivery of the goods to anyone other than the licensee of the terminal from where the goods are to be loaded on board the vessel or aircraft that will transport the goods out of the Republic. 40

217. Commencement and completion of transshipment operation must be distinguished from the commencement and completion of the transshipment procedure in terms of section 243.

218. For tax consequences if goods are regarded to be cleared for home use, see section 154.

aflowering van die goedere hou soos by reël voorgeskryf of deur die doeanebeslag in 'n bepaalde geval vereis mag word.

Begin- en voltooiingstydperke vir transverskepingsoperasies,²¹⁷ en uitvoer van transverskepingsoedere

255. (1) 'n Transverskepingsoperasie moet, behoudens artikel 258(1)(c), begin binne dié tydperk vanaf vrystelling van die goedere vir transverskeping soos by reël, saamgelees met artikels 908 en 909, voorgeskryf mag word. 5

(2) 'n Transverskepingsoperasie moet, behoudens artikel 258(1)(c), voltooi wees binne dié tydperk vanaf die begin van die transverskepingsoperasie soos by reël, saamgelees met artikels 908 en 909, voorgeskryf mag word. 10

(3) Indien daar nie ten opsigte van transverskepingsoedere aan subartikel (2) voldoen word nie, moet die goedere ingevolge artikel 112(1) vir belastingdoeleindes geag word vir binnelandse gebruik kragtens Hoofstuk 8 geklaar te wees.²¹⁸

Nie-voldoening aan voltooiingstydperk

256. (1) Indien dit onwaarskynlik is dat 'n transverskepingsoperasie binne die tydperk sal begin wat vir die goedere ingevolge artikel 255(1) geld, moet die persoon wat die goedere vir transverskeping klaar— 15

(a) die doeanebeslag onmiddellik van die vertraging en die rede vir die vertraging in kennis stel; en

(b) daarna, indien die tydperk waarbinne die transverskepingsoperasie moet begin ingevolge artikel 908 verleng is, die doeanebeslag gereeld, soos by reël voorgeskryf mag word, in kennis stel van die situasie met betrekking tot die begin van die transverskepingsoperasie. 20

(2) Indien 'n transverskepingsoperasie nie voltooi word binne die tydperk wat vir die goedere ingevolge artikel 255(2) geld nie, moet die lisensiehouer van die doeanebeheergebied waar die transverskepingsoedere tydelik geberg of hanteer word, die doeanebeslag onmiddellik van die vertraging en die redes vir die vertraging in kennis stel. 25

Lowering van transverskepingsoedere vir oplaai aan boord van uitgaande vaartuie of vliegtuie 30

257. (1) Die persoon wat die transverskepingsoedere klaar, moet toesien dat die goedere gelewer word by die terminaal by die doeanebeheergebied of -lughawe waar die goedere aan boord gelaai sal word van die vaartuig of vliegtuig wat die goedere uit die Republiek sal vervoer.

(2) Indien transverskepingsoedere per openbare pad vervoer word vanaf die doeanebeheergebied waar die goedere ingevolge artikel 254 beveilig is na die terminaal waar die goedere aan boord gelaai sal word van die vaartuig of vliegtuig wat die goedere uit die Republiek sal vervoer, mag— 35

(a) daardie goedere nie deur 'n persoon anders as 'n vervoerder wat vir daardie doel gelisensieer is, vervoer word nie; 40

(b) die lisensiehouer van die perseel waar daardie goedere beveilig word nie aflowering van die goedere aan enigiemand behalwe so 'n gelisensieerde vervoerder gee nie; en

(c) die vervoerder wat die goedere vervoer, nie aflowering van die goedere aan enigiemand gee behalwe die lisensiehouer van die terminaal waar die goedere aan boord gelaai sal word van die vaartuig of vliegtuig wat die goedere uit die Republiek sal vervoer nie. 45

217. Die begin en voltooiing van die transverskepingsoperasie moet onderskei word van die begin en afhandeling van die transverskepingsoeders ingevolge artikel 243.

218. Vir belastinggevolge indien goedere geag word geklaar te wees vir binnelandse gebruik, kyk artikel 154.

Measures to ensure integrity of transhipment operations

- 258.** (1) The customs authority may, in addition to its other enforcement functions,²¹⁹ take any steps or issue any directions necessary to identify transhipment goods and to guard against any unauthorised interference with the goods whilst in the Republic or during the transportation thereof out of the Republic, including by— 5
- (a) stipulating the specific customs controlled area to which the goods must be delivered;
 - (b) requiring security in terms of Chapter 31 or any security additional to security already given in terms of that Chapter;
 - (c) shortening the time limit within which the transhipment operation must in 10 terms of section 255(1) commence or in terms of section 255(2) be completed or the goods be exported from the Republic; and
 - (d) requiring that the goods be transhipped and exported from the Republic under customs escort.
- (2) Any steps taken or directions issued by the customs authority in terms of 15 subsection (1) are subject to such conditions or specifications as—
- (a) may be prescribed by rule; or
 - (b) the customs authority may determine in a specific case.

Part 4

Other matters 20

Responsibilities for ensuring compliance with transhipment requirements

- 259.** (1) The licensee of a terminal where transhipment goods are to be loaded on board a vessel or aircraft that will transport the goods out of the Republic must immediately notify the customs authority if the goods are removed from the terminal for a purpose other than the loading of the goods on board that vessel or aircraft. 25
- (2) An outturn report submitted in respect of transhipment goods by a licensee in terms of Part 6 of Chapter 3 must—
- (a) declare that the goods to which it relates are transhipment goods; and
 - (b) reflect all the information as may be prescribed by rule for such goods.
- (3) If transhipment goods loaded on board the vessel or aircraft that will transport the goods out of the Republic, are not exported from the Republic within a timeframe from commencement of the transhipment operation as may be prescribed by rule read with sections 908 and 909, the person clearing the goods for transhipment must— 30
- (a) immediately notify the customs authority of the delay, and the reasons for the delay; and 35
 - (b) thereafter notify the customs authority regularly as may be prescribed by rule, of the situation with regard to the export of the goods from the Republic.
- (4) (a) A person who cleared goods for transhipment must on request by the customs authority provide proof to the customs authority that the goods were exported, as may be prescribed by rule. 40
- (b) The burden to prove that goods released for transhipment have been exported rests on the person clearing the goods.

Rules to facilitate implementation of this Chapter

- 260.** Rules made in terms of section 903 to facilitate the implementation of this Chapter may include rules prescribing additional requirements for the clearance or 45 release of goods for transhipment or relating to goods under the transhipment procedure.

²¹⁹. See Chapter 33.

Maatreëls om integriteit van transverskepingsoperasies te verseker

- 258.** (1) Die doeanegesag kan, benewens sy ander toepassingsfunksies,²¹⁹ enige stappe doen of enige lasgewings uitreik wat nodig is om transverskepingsgoedere te identifiseer en om te waak teen enige ongemagtigde inmenging met die goedere terwyl dit in die Republiek is of gedurende die vervoer daarvan uit die Republiek, met inbegrip daarvan om— 5
- (a) die spesifieke doeanebeheergebied te stipuleer waar die goedere gelewer moet word;
 - (b) sekuriteit ingevolge Hoofstuk 31, of enige sekuriteit bo en behalwe sekuriteit reeds ingevolge daardie Hoofstuk gestel, te vereis; 10
 - (c) die tydsbepanking te verkort waarbinne die transverskepingsoperasie ingevolge artikel 255(1) moet begin of ingevolge artikel 255(2) voltooi moet wees of die goedere uit die Republiek uitgevoer moet wees; en
 - (d) te vereis dat die goedere transverseep en uit die Republiek uitgevoer word onder doeanebegeleiding. 15
- (2) Enige stappe gedoen of lasgewings uitgereik deur die doeanegesag ingevolge subartikel (1) is onderworpe aan die voorwaardes of spesifikasies soos—
- (a) by reël voorgeskryf mag word; of
 - (b) deur die doeanegesag in 'n bepaalde geval bepaal mag word.

Deel 4 20

Ander aangeleenthede

Verantwoordelikhede om te verseker dat daar aan transverskepingsvereistes voldoen word

- 259.** (1) Die lisensiehouer van 'n terminaal waar transverskepingsgoedere aan boord gelaai word van 'n vaartuig of vliegtuig wat die goedere uit die Republiek sal vervoer, moet die doeanegesag onmiddellik in kennis stel indien die goedere van die terminaal verwyder word vir 'n doel anders as die laai van die goedere aan boord van daardie vaartuig of vliegtuig. 25
- (2) 'n Oplewingsverslag ten opsigte van transverskepingsgoedere ingevolge Deel 6 van Hoofstuk 3 wat deur 'n lisensiehouer ingedien word, moet— 30
- (a) verklaar dat die goedere waarop dit betrekking het transverskepingsgoedere is; en
 - (b) al die inligting vermeld soos by reël vir sulke goedere voorgeskryf mag word.
- (3) Indien transverskepingsgoedere wat aan boord gelaai word van die vaartuig of vliegtuig wat die goedere uit die Republiek sal vervoer, nie uit die Republiek uitgevoer word binne 'n tydsraam vanaf die begin van die transverskepingsoperasie soos by reël, saamgelees met artikels 908 en 909, voorgeskryf mag word nie, moet die persoon wat die goedere vir transverseeping klaar— 35
- (a) die doeanegesag onmiddellik van die vertraging en die redes vir die vertraging in kennis stel; en 40
 - (b) daarna die doeanegesag gereeld, soos by reël voorgeskryf mag word, in kennis stel van die situasie met betrekking tot die uitvoer van die goedere uit die Republiek.
- (4) (a) 'n Persoon wat goedere vir transverseeping geklaar het, moet op versoek van die doeanegesag bewys dat die goedere uitgevoer is aan die doeanegesag verskaf, soos by reël voorgeskryf mag word. 45
- (b) Die onus om te bewys dat goedere wat vir transverseeping vrygestel is, uitgevoer is, rus op die persoon wat die goedere klaar.

Reëls ter fasilitering van implementering van hierdie Hoofstuk

- 260.** Reëls ingevolge artikel 903 uitgevaardig om die implementering van hierdie Hoofstuk te fasiliteer, kan reëls insluit wat bykomende vereistes voorskryf vir die klaring of vrystelling van goedere vir transverseeping of betreffende goedere onder die transverskepingsprosedure. 50

219. Kyk Hoofstuk 33.

Offences in terms of this Chapter

- 261.** (1) A person is guilty of an offence if that person—
- (a) contravenes section 245(2);
 - (b) contravenes—
 - (i) section 247(1) or 254(2); or
 - (ii) section 257(2)(a); or
 - (c) fails to comply with a direction issued in terms of section 258(1) applicable to that person.
- (2) A person clearing goods for transhipment is guilty of an offence—
- (a) if section 252 is contravened with regard to those goods; or
 - (b) if that person fails to comply with section 256(1), 257(1) or 259(3).
- (3) The licensee of a customs controlled area is guilty of an offence if that person contravenes or fails to comply with section 254(1) or (3), 256(2), 257(2)(b) or 259(1).
- (4) A carrier is guilty of an offence if that carrier contravenes section 257(2)(c).
- (5) The offences referred to in subsection (1)(a) and (b)(i) are Category 1 offences.

CHAPTER 12

TEMPORARY ADMISSION PROCEDURE

Part 1

Introductory provisions

Purpose and application of this Chapter 20

- 262.** (1) The purpose of this Chapter is to regulate the temporary admission procedure.
- (2) This Chapter applies to goods imported into the Republic temporarily.

Temporary admission²²⁰

- 263.** (1) Temporary admission is a customs procedure that allows imported goods not in free circulation—
- (a) to be used in the Republic temporarily for a specific purpose and for a specific period on condition that the goods are re-exported within that period without having undergone any change except for maintenance and normal wear and tear due to the use made of the goods whilst in the Republic;
 - (b) to be moved freely in the Republic under that procedure; and
 - (c) to be re-exported under that procedure in accordance with the export procedure.
- (2) The temporary admission procedure is available only for imported goods which—
- (a) fall within a category of goods to which Part 2, 4 or 5 applies; and
 - (b) are of a nature that will make them, when re-exported, likely to be identified as the same goods.

Commencement and completion of temporary admission procedure

- 264.** (1) Goods come under the temporary admission procedure—
- (a) when cleared for temporary admission in terms of Part 2;
 - (b) when cleared for temporary admission in terms of international clearance arrangements referred to in Part 4; or
 - (c) upon entering the Republic, in the case of goods that automatically come under the temporary admission procedure in terms of Part 5.

²²⁰ For tax status of goods under the temporary admission procedure, see section 143. For consequences of non-compliance with the temporary admission procedure, see sections 112 and 115.

Misdrywe ingevolge hierdie Hoofstuk

- 261.** (1) 'n Persoon is aan 'n misdryf skuldig indien daardie persoon—
- (a) artikel 245(2) oortree;
 - (b) (i) artikel 247(1) of 254(2) oortree; of
(ii) artikel 257(2)(a) oortree; of 5
 - (c) versuim om te voldoen aan 'n lasgewing ingevolge artikel 258(1) uitgereik wat op daardie persoon van toepassing is.
- (2) 'n Persoon wat goedere vir transverskeping klaar, is aan 'n misdryf skuldig—
- (a) indien artikel 252 met betrekking tot daardie goedere oortree word; of
 - (b) indien daardie persoon versuim om aan artikel 256(1), 257(1) of 259(3) te 10 voldoen.
- (3) Die lisensiehouer van 'n doeanebeheergebied is aan 'n misdryf skuldig indien daardie persoon artikel 254(1) of (3), 256(2), 257(2)(b) of 259(1) oortree of versuim om daaraan te voldoen.
- (4) 'n Vervoerder is aan 'n misdryf skuldig indien daardie vervoerder artikel 257(2)(c) 15 oortree.
- (5) Die misdrywe bedoel in subartikel (1)(a) en (b)(i) is Kategorie 1 misdrywe.

HOOFSTUK 12

PROSEDURE VIR TYDELIKE TOELATING

Deel 1 20

Inleidende bepalings

Doel en toepassing van hierdie Hoofstuk

- 262.** (1) Die doel van hierdie Hoofstuk is om die prosedure vir tydelike toelating te reguleer.
- (2) Hierdie Hoofstuk is van toepassing op goedere tydelik in die Republiek ingevoer. 25

Tydlike toelating²²⁰

- 263.** (1) Tydelike toelating is 'n doeaneprosedure ingevolge waarvan ingevoerde goedere wat nie in vry sirkulasie is nie—
- (a) tydelik in die Republiek gebruik mag word vir 'n spesifieke doel en vir 'n spesifieke tydperk op voorwaarde dat die goedere binne daardie tydperk 30 heruitgevoer word sonder dat dit enige verandering ondergaan het behalwe vir onderhoud en normale slytasie weens die gebruik van die goedere terwyl dit in die Republiek is;
 - (b) vryelik in die Republiek onder daardie prosedure rond verskuif mag word; en
 - (c) onder daardie prosedure heruitgevoer mag word ooreenkomstig die 35 uitvoerprosedure.
- (2) Die prosedure vir tydelike toelating is slegs vir ingevoerde goedere beskikbaar wat—
- (a) binne 'n kategorie goedere val waarop Deel 2, 4 of 5 van toepassing is; en
 - (b) van 'n aard is wat, wanneer die goedere heruitgevoer word, sal maak dat dit 40 waarskynlik as dieselfde goedere geïdentifiseer sal word.

Begin en afhandeling van prosedure vir tydelike toelating

- 264.** (1) Goedere kom onder die prosedure vir tydelike toelating—
- (a) wanneer dit ingevolge Deel 2 vir tydelike toelating geklaar word;
 - (b) wanneer dit ingevolge internasionale klaringsreëlings in Deel 4 bedoel vir 45 tydelike toelating geklaar word; of
 - (c) by binnekoms in die Republiek, in die geval van goedere wat ingevolge Deel 5 outomaties onder die prosedure vir tydelike toelating kom.

220. Vir belastingstatus van goedere onder die prosedure vir tydelike toelating, kyk artikel 143. Vir gevolge van nie-voldoening aan die prosedure vir tydelike toelating, kyk artikels 112 en 115.

(2) The temporary admission procedure is, subject to subsection (3), completed when the goods are re-exported from the Republic.

(3) The temporary admission procedure, in relation to any goods, ends before its completion—

- (a) if the goods before completion of the temporary admission procedure are cleared and released for another customs procedure or for home use, as may be permissible in the circumstances; or 5
- (b) if completion of the temporary admission procedure is interrupted by an occurrence referred to in section 109(2).

Extent to which Chapters 4 and 7 apply 10

265. Chapters 4 and 7, except insofar as a provision of those Chapters is modified, qualified or deviated from in this Chapter, apply to all goods under the temporary admission procedure,²²¹ including to the clearance and release of goods for—

- (a) temporary admission in terms of Part 2 or 4; and
- (b) export under the temporary admission procedure in terms of Part 3 or 4. 15

Part 2

Temporary admission of goods in terms of regular clearance and release procedures

Application of this Part

266. (1) This Part—

- (a) applies to goods of a class or kind that may in terms of any of the tax levying Acts be cleared for temporary admission under this Part; and 20
- (b) does not apply to goods—
 - (i) cleared in accordance with the international clearance arrangements referred to in Part 4; or
 - (ii) that automatically come under the temporary admission procedure in terms of Part 5. 25

(2) Goods to be cleared for temporary admission under this Part must be cleared in accordance with section 265(a).

Persons entitled to submit temporary admission clearance declarations

267. (1) Only the following persons may, subject to section 165(2), submit clearance declarations to clear goods for temporary admission:²²² 30

- (a) The importer of the goods, if the importer is located in the Republic;
- (b) the agent in the Republic of the importer, if the importer is not located in the Republic; or
- (c) a customs broker referred to in section 165(1)(b). 35

(2) The provisions of Chapter 7 relating to supporting documents apply to goods that are cleared for temporary admission only to the extent as may be prescribed by rule.

Contents of temporary admission clearance declarations

268. A temporary admission clearance declaration must, in addition to the information required in terms of section 167, state— 40

- (a) that the goods are cleared for temporary admission under this Part;
- (b) the purpose for which the goods are cleared for temporary admission; and
- (c) the period for which the goods are expected to remain in the Republic.

221. In the case of an inconsistency between a provision of this Chapter and a general provision contained in Chapter 4 or 7 the provision of this Chapter prevails. See sections 88(3) and 162(3).
222. See section 165(1)(a).

- (2) Die prosedure vir tydelike toelating is, behoudens subartikel (3), afgehandel wanneer die goedere uit die Republiek heruitgevoer word.
- (3) Die prosedure vir tydelike toelating, met betrekking tot enige goedere, eindig voor die afhandeling daarvan—
- (a) indien die goedere voor afhandeling van die prosedure vir tydelike toelating vir 'n ander doeaneprosedure of vir binnelandse gebruik geklaar en vrygestel word, soos in die omstandighede toelaatbaar mag wees; of 5
 - (b) indien afhandeling van die prosedure vir tydelike toelating deur 'n gebeurtenis bedoel in artikel 109(2) onderbreek word.

Mate waarin Hoofstukke 4 en 7 van toepassing is 10

- 265.** Hoofstukke 4 en 7, behalwe in soverre 'n bepaling van daardie Hoofstukke aangepas, gekwalifiseer of van afgewyk word in hierdie Hoofstuk, is van toepassing op alle goedere onder die prosedure vir tydelike toelating,²²¹ asook op die klaring en vrystelling van goedere vir—
- (a) tydelike toelating ingevolge Deel 2 of 4; en 15
 - (b) uitvoer onder die prosedure vir tydelike toelating ingevolge Deel 3 of 4.

Deel 2

Tydlike toelating van goedere kragtens gewone klarings- en vrystellingsprosedures

Toepassing van hierdie Deel

- 266.** (1) Hierdie Deel— 20
- (a) is van toepassing op goedere van 'n klas of soort wat ingevolge enige van die belastingheffings-Wette vir tydelike toelating kragtens hierdie Deel geklaar mag word; en
 - (b) is nie van toepassing op goedere— 25
 - (i) wat ooreenkomstig die internasionale klaringsreëlings bedoel in Deel 4 geklaar word nie; of
 - (ii) wat ingevolge Deel 5 outomaties onder die prosedure vir tydelike toelating kom nie.
- (2) Goedere bestem vir klaring vir tydelike toelating kragtens hierdie Deel moet volgens voorskrif van artikel 265(a) geklaar word. 30

Persone wat klaringsbriewe vir tydelike toelating mag indien

- 267.** (1) Slegs die volgende persone mag, behoudens artikel 165(2), klaringsbriewe indien om goedere vir tydelike toelating te klaar:²²²
- (a) Die invoerder van die goedere, indien die invoerder in die Republiek gesetel is; 35
 - (b) die agent in die Republiek van die invoerder, indien die invoerder nie in die Republiek gesetel is nie; of
 - (c) 'n doeanemakelaar in artikel 165(1)(b) bedoel.
- (2) Die bepalings van Hoofstuk 7 met betrekking tot ondersteunende dokumente, geld vir goedere wat vir tydelike toelating geklaar word slegs in soverre soos by reël voorgeskryf mag word. 40

Inhoud van klaringsbriewe vir tydelike toelating

- 268.** 'n Klaringsbrief vir tydelike toelating moet, benewens die inligting wat ingevolge artikel 167 verstrek moet word, die volgende vermeld:
- (a) Dat die goedere kragtens hierdie Deel vir tydelike toelating geklaar word; 45
 - (b) die doel waarvoor die goedere vir tydelike toelating geklaar word; en
 - (c) die tydperk waarvoor die goedere na verwagting in die Republiek sal bly.

221. In die geval van enige onbestaanbaarheid tussen 'n bepaling van hierdie Hoofstuk en 'n algemene bepaling in Hoofstuk 4 of 7 vervat, geniet die bepaling van hierdie Hoofstuk voorrang. Kyk artikels 88(3) en 162(3).

222. Kyk artikel 165(1)(a).

Release notifications to state period of temporary admission

- 269.** (1) If goods are released for temporary admission, the release notification must state the period for which the goods may remain in the Republic under temporary admission.
- (2) A period determined in terms of subsection (1) may not exceed— 5
- (a) a maximum period as may be prescribed for the relevant class or kind of goods—
 - (i) in a tax levying Act referred to in section 266(1)(a) or, if two or more tax levying Acts permit goods of the same class or kind to be cleared for temporary admission, a maximum period prescribed uniformly in those tax levying Acts for that class or kind of goods; or 10
 - (ii) by rule, if no period is in terms of subparagraph (i) prescribed for that class or kind of goods; or
 - (b) one year from the date of clearance of the goods, if no period is in terms of paragraph (a)(i) or (ii) prescribed for that class or kind of goods. 15
- (3) The period mentioned in a release notification may be extended in terms of section 908 only once except if good cause is shown for an additional extension.

Simplified clearance and release for commercial trucks entering Republic temporarily

- 270.** Trucks entering the Republic as a means of transport currently in use for the transport of goods in the ordinary course of international trade may, despite the other provisions of this Part, be cleared and released for temporary admission in accordance with simplified clearance and release processes and requirements provided for in Part 3 of Chapter 24 if the truck— 20
- (a) did not enter the Republic on the return leg of the temporary export procedure;²²³ and 25
 - (b) is destined to leave the Republic without any interruption in its current use as a means of transport for goods in the ordinary course of international trade.

Simplified clearance and release for buses and taxis entering Republic temporarily

- 271.** Buses or taxis entering the Republic as a means of transport currently in use for travellers visiting or returning to the Republic may, despite the other provisions of this Part, be cleared and released for temporary admission in accordance with simplified clearance and release processes and requirements provided for in Part 3 of Chapter 24 if— 30
- (a) the bus or taxi did not enter the Republic on the return leg of the temporary export procedure;²²⁴ 35
 - (b) no international clearance arrangements referred to in Part 4 are available for the entry of the bus or taxi into the Republic; and
 - (c) the bus or taxi is destined to leave the Republic without any interruption in its current use as a means of transport for such travellers. 40

Simplified clearance and release for private vehicles, small vessels and light aircraft entering Republic temporarily

- 272.** Vehicles, small vessels or light aircraft entering the Republic as a private means of transport for a traveller visiting the Republic²²⁵ may, despite the other provisions of

223. See section 389.

224. See section 390.

225. For determining when a vessel, aircraft or vehicle qualifies as a small vessel, light aircraft or vehicle used as a private means of transport, see section 903(1)(n).

Vrystellingskennisgewings moet tydperk van tydelike toelating vermeld

- 269.** (1) Indien goedere vir tydelike toelating vrygestel word, moet die vrystellingskennisgewing die tydperk vermeld wat die goedere in die Republiek onder tydelike toelating mag bly.
- (2) 'n Tydperk ingevolge subartikel (1) bepaal, mag nie langer wees nie as— 5
- (a) 'n maksimum tydperk soos vir die betrokke klas of soort goedere voorgeskryf mag wees—
- (i) in 'n belastingheffings-Wet in artikel 266(1)(a) bedoel of, indien twee of meer belastingheffings-Wette magtiging verleen dat goedere van dieselfde klas of soort vir tydelike toelating geklaar mag word, 'n maksimum tydperk wat eenvormig in daardie belastingheffings-Wette vir daardie klas of soort goedere voorgeskryf word; of 10
- (ii) by reël, indien geen tydperk ingevolge subparagraaf (i) vir daardie klas of soort goedere voorgeskryf is nie; of
- (b) een jaar vanaf die datum van klaring van die goedere, indien geen tydperk ingevolge paragraaf (a)(i) of (ii) vir daardie klas of soort goedere voorgeskryf is nie. 15
- (3) Die tydperk in 'n vrystellingskennisgewing genoem, kan slegs een keer ingevolge artikel 908 verleng word behalwe waar goeie gronde vir 'n bykomende verlenging aangevoer word. 20

Verkorte klaring en vrystelling vir kommersiële trokke wat Republiek tydelik binnekom

- 270.** Trokke wat die Republiek as 'n middel van vervoer binnekom wat in die gewone gang van internasionale handel in lopende gebruik vir die vervoer van goedere is, kan, ondanks die ander bepalings van hierdie Deel, vir tydelike toelating geklaar en vrygestel word ooreenkomstig verkorte klarings- en vrystellingsprosesse en -vereistes waarvoor in Deel 3 van Hoofstuk 24 voorsiening gemaak word, indien die trok— 25
- (a) nie die Republiek op die terugwaartse fase van die prosedure vir tydelike uitvoer binnegekom het nie;²²³ en
- (b) bestem is om die Republiek te verlaat sonder enige onderbreking in die lopende gebruik daarvan as 'n middel van vervoer vir goedere in die gewone loop van internasionale handel. 30

Verkorte klaring en vrystelling vir busse en taxi's wat Republiek tydelik binnekom

- 271.** Busse of taxi's wat die Republiek binnekom in lopende gebruik as 'n middel van vervoer vir reisigers wat die Republiek besoek of daarheen terugkeer, kan, ondanks die ander bepalings van hierdie Deel, vir tydelike toelating geklaar en vrygestel word ooreenkomstig verkorte klarings- en vrystellingsprosesse en -vereistes waarvoor in Deel 3 van Hoofstuk 24 voorsiening gemaak word, indien— 35
- (a) die bus of taxi nie die Republiek op die terugwaartse fase van die prosedure vir tydelike uitvoer binnegekom het nie;²²⁴ 40
- (b) geen internasionale klaringsreëlings in Deel 4 bedoel vir die binnekoms van die bus of taxi in die Republiek beskikbaar is nie; en
- (c) die bus of taxi bestem is om die Republiek te verlaat sonder enige onderbreking in die lopende gebruik daarvan as 'n middel van vervoer vir sulke reisigers. 45

Verkorte klaring en vrystelling vir private voertuie, klein vaartuie en ligte vliegtuie wat Republiek tydelik binnekom

- 272.** Voertuie, klein vaartuie of ligte vliegtuie wat die Republiek binnekom as 'n private middel van vervoer vir reisigers wat die Republiek besoek,²²⁵ kan, ondanks die ander bepalings van hierdie Deel, vir tydelike toelating geklaar en vrygestel word 50

223. Kyk artikel 389.

224. Kyk artikel 390.

225. Vir bepaling wanneer 'n vaartuig, vliegtuig of voertuig as 'n klein vaartuig, ligte vliegtuig of voertuig gebruik as 'n private middel van vervoer kwalifiseer, kyk artikel 903(1)(n).

this Part, be cleared and released for temporary admission in accordance with simplified clearance and release processes and requirements provided for in Part 3 of Chapter 24 if—

- (a) the vehicle, vessel or light aircraft did not enter the Republic on the return leg of the temporary export procedure;²²⁶ 5
- (b) no international clearance arrangements referred to in Part 4 are available for the vehicle, vessel or light aircraft; and
- (c) the vehicle, vessel or light aircraft is destined to leave the Republic without any interruption in its current use as a private means of transport for that traveller. 10

Part 3

Re-export of goods under temporary admission in terms of Part 2

Goods under temporary admission in terms of Part 2 to be cleared for export and re-exported within applicable timeframes

273. (1) Goods cleared and released for temporary admission in terms of Part 2 must before the expiry of the period applicable to the goods in terms of section 269— 15

- (a) be cleared for export in accordance with Chapter 16,²²⁷ read with section 265(b); and
- (b) upon release for export be re-exported from the Republic.

(2) Subsection (1) does not apply if the goods are cleared and released for another customs procedure or for home use, as may be permissible in the circumstances.²²⁸ 20

Persons entitled to submit export clearance declarations for goods under temporary admission

274. Only the following persons may, subject to section 165(2), submit clearance declarations to clear for export goods under temporary admission in terms of Part 2:²²⁹ 25

- (a) The person who originally cleared the goods in terms of Part 2 for temporary admission;²³⁰
- (b) the owner of the goods, if ownership in the goods has been transferred whilst under temporary admission and the new owner is located in the Republic;
- (c) the agent in the Republic of the owner referred to in paragraph (b), if that owner is not located in the Republic; or 30
- (d) a customs broker referred to in section 165(1)(b).

Contents of export clearance declarations

275. A clearance declaration submitted in terms of Part 2 of Chapter 16 for the export of goods cleared for temporary admission in terms of Part 2 must, in addition to the information required in terms of sections 167 and 367, state— 35

- (a) that the goods are cleared for export under the temporary admission procedure;
- (b) the number and date of the clearance declaration in terms of which the goods were cleared for temporary admission; and 40
- (c) the period for which the goods remained in the Republic.

Simplified export clearance and release for commercial trucks leaving Republic

276. Trucks cleared as a means of transport for temporary admission in terms of section 270 may, despite the other provisions of this Part, be cleared and released for

226. See section 391.

227. See also section 361(2)(b)(i) which states that Chapter 16 applies to goods destined for re-export under the temporary admission procedure.

228. See section 110.

229. See section 165(1)(a).

230. For person who cleared goods, see section 166.

ooreenkomstig verkorte klarings- en vrystellingsprosesse en -vereistes waarvoor in Deel 3 van Hoofstuk 24 voorsiening gemaak word, indien—

- (a) die voertuig, vaartuig of ligte vliegtuig nie die Republiek op die terugwaartse fase van die prosedure vir tydelike uitvoer binnegekome het nie;²²⁶
- (b) geen internasionale klaringsreëlings in Deel 4 bedoel vir die voertuig, vaartuig of ligte vliegtuig beskikbaar is nie; en
- (c) die voertuig, vaartuig of ligte vliegtuig bestem is om die Republiek te verlaat sonder enige onderbreking in die lopende gebruik daarvan as 'n private middel van vervoer vir daardie reisiger.

Deel 3 10

Heruitvoer van goedere onder tydelike toelating ingevolge Deel 2

Verpligting om goedere onder tydelike toelating ingevolge Deel 2 vir uitvoer te klaar en her uit te voer binne toepaslike tydsrame

273. (1) Goedere ingevolge Deel 2 vir tydelike toelating geklaar en vrygestel, moet voor verstryking van die tydperk wat ingevolge artikel 269 vir die goedere geld— 15

- (a) vir uitvoer ooreenkomstig Hoofstuk 16,²²⁷ saamgelees met artikel 265(b), geklaar word; en
- (b) by vrystelling vir uitvoer, uit die Republiek heruitgevoer word.

(2) Subartikel (1) is nie van toepassing nie indien die goedere vir 'n ander doeaneprosedure of vir binnelandse gebruik geklaar en vrygestel word, soos in die omstandighede toelaatbaar mag wees.²²⁸ 20

Persone wat uitvoerklaringsbriewe vir goedere onder tydelike toelating mag indien

274. Slegs die volgende persone mag, behoudens artikel 165(2), klaringsbriewe indien om goedere onder tydelike toelating ingevolge Deel 2, vir uitvoer te klaar:²²⁹

- (a) Die persoon wat oorspronklik die goedere ingevolge Deel 2 vir tydelike toelating geklaar het;²³⁰ 25
- (b) die eienaar van die goedere, indien eiendomsreg op die goedere oorgedra is terwyl dit onder tydelike toelating is en die nuwe eienaar in die Republiek gesetel is;
- (c) die agent in die Republiek van die eienaar bedoel in paragraaf (b), indien daardie eienaar nie in die Republiek gesetel is nie; of 30
- (d) 'n doeanemakelaar in artikel 165(1)(b) bedoel.

Inhoud van uitvoerklaringsbriewe

275. 'n Klaringsbrief ingevolge Deel 2 van Hoofstuk 16 ingedien vir die uitvoer van goedere wat ingevolge Deel 2 vir tydelike toelating geklaar is, moet benewens die inligting wat ingevolge artikels 167 en 367 vereis word, die volgende vermeld: 35

- (a) Dat die goedere vir uitvoer geklaar word onder die prosedure vir tydelike toelating;
- (b) die nommer en datum van die klaringsbrief ingevolge waarvan die goedere vir tydelike toelating geklaar is; en 40
- (c) die tydperk wat die goedere in die Republiek aanwesig is.

Verkorte uitvoerklaring en -vrystelling vir kommersiële trokke wat Republiek verlaat

276. Trokke wat as 'n middel van vervoer vir tydelike toelating ingevolge artikel 270 geklaar is, kan, ondanks die ander bepalings van hierdie Deel, vir uitvoer onder die prosedure vir tydelike toelating geklaar en vrygestel word ooreenkomstig verkorte 45

226. Kyk artikel 391.

227. Kyk ook artikel 361(2)(b)(i) wat bepaal dat Hoofstuk 16 van toepassing is op goedere bestem vir heruitvoer onder die prosedure vir tydelike toelating.

228. Kyk artikel 110.

229. Kyk artikel 165(1)(a).

230. Vir persoon wat goedere klaar, kyk artikel 166.

export under the temporary admission procedure in accordance with simplified clearance and release processes and requirements provided for in Part 3 of Chapter 24.

Simplified export clearance and release for buses and taxis leaving Republic

277. Buses or taxis cleared as a means of transport for temporary admission in terms of section 271 may, despite the other provisions of this Part, be cleared and released for export under the temporary admission procedure in accordance with simplified clearance and release processes and requirements provided for in Part 3 of Chapter 24. 5

Simplified export clearance and release for private vehicles, small vessels and light aircraft leaving Republic

278. Vehicles, vessels or light aircraft cleared for temporary admission in terms of section 272 as a private means of transport for a traveller visiting the Republic may, despite the other provisions of this Part, be cleared and released for export under the temporary admission procedure in accordance with simplified clearance and release processes and requirements provided for in Part 3 of Chapter 24. 10

Proof of re-export of goods under temporary admission in terms of Part 2 15

279. The burden to prove that goods cleared and released for temporary admission under Part 2 were loaded for re-export, or re-exported from the Republic, in accordance with the export procedure, or were re-exported from the Republic within the period applicable to the goods in terms of section 269, rests on the person who cleared the goods for temporary admission. 20

Part 4

Temporary admission of goods under international clearance arrangements

Application of this Part

280. (1) This Part—
- (a) gives effect to— 25
 - (i) the Convention on Temporary Admission; and
 - (ii) any agreement between the Republic and another country regulating the temporary admission of goods from that other country into the Republic in accordance with agreed customs arrangements; and
 - (b) applies to goods— 30
 - (i) described in the Convention or agreement and imported into the Republic; and
 - (ii) that may in terms of the Convention or agreement be cleared for temporary admission in the Republic on authority of CPD or ATA carnets which guarantee in accordance with the Convention or agreement the payment of any tax that may be or become payable on those goods. 35
- (2) Goods to be cleared for temporary admission under this Part must be cleared in accordance with section 265(a), read with section 281.

Clearance and release of goods for temporary admission on authority of CPD and ATA carnets 40

281. (1) Goods to which this Part applies may be cleared and released for temporary admission on authority of a CPD or ATA carnet.
- (2) Goods may be cleared for temporary admission on authority of a CPD or ATA carnet only if the CPD or ATA carnet—
- (a) was issued by an issuing association; 45
 - (b) is guaranteed by a guaranteeing association approved in terms of section 282; and
 - (c) has been accepted by the customs authority.

klarings- en vrystellingsprosesse en -vereistes waarvoor in Deel 3 van Hoofstuk 24 voorsiening gemaak word.

Verkorte uitvoerklaring en -vrystelling vir busse en taxi's wat Republiek verlaat

277. Busse of taxi's wat as 'n middel van vervoer vir tydelike toelating ingevolge artikel 271 geklaar is, kan, ondanks die ander bepalings van hierdie Deel, vir uitvoer onder die prosedure vir tydelike toelating geklaar en vrygestel word ooreenkomstig verkorte klarings- en vrystellingsprosesse en -vereiste waarvoor in Deel 3 van Hoofstuk 24 voorsiening gemaak word. 5

Verkorte uitvoerklaring en -vrystelling vir private motors, klein vaartuie en ligte vliegtuie wat Republiek verlaat 10

278. Voertuie, vaartuie of ligte vliegtuie wat vir tydelike toelating ingevolge artikel 272 geklaar is as 'n private middel van vervoer vir 'n reisiger wat die Republiek besoek, kan, ondanks die ander bepalings van hierdie Deel, vir uitvoer onder die prosedure vir tydelike toelating geklaar en vrygestel word ooreenkomstig verkorte klarings- en vrystellingsprosesse en -vereistes waarvoor in Deel 3 van Hoofstuk 24 voorsiening gemaak word. 15

Bewys van heruitvoer van goedere onder tydelike toelating ingevolge Deel 2

279. Die onus om te bewys dat goedere wat kragtens Deel 2 vir tydelike toelating geklaar en vrygestel is, volgens die voorskrifte van die uitvoerprosedure vir heruitvoer gelaai of uit die Republiek heruitgevoer is, of binne die tydperk wat ingevolge artikel 269 vir die goedere geld uit die Republiek heruitgevoer is, rus op die persoon wat die goedere vir tydelike toelating geklaar het. 20

Deel 4

Tydlike toelating van goedere onder internasionale klaringsreëlings

Toepassing van hierdie Deel 25

280. (1) Hierdie Deel—

- (a) gee uitvoering aan—
 - (i) die “Convention on Temporary Admission”; en
 - (ii) enige ooreenkoms tussen die Republiek en 'n ander land wat die tydelike toelating van goedere vanaf daardie ander land in die Republiek ooreenkomstig ooreengekome doeanereëlings reguleer; en 30
- (b) is van toepassing op goedere—
 - (i) in die Konvensie of ooreenkoms beskryf en in die Republiek ingevoer; en
 - (ii) wat ingevolge die Konvensie of ooreenkoms vir tydelike toelating in die Republiek geklaar mag word op gesag van CPD of ATA carnets wat ooreenkomstig die Konvensie of ooreenkoms die betaling van enige belasting wat op daardie goedere betaalbaar mag wees of word, waarborg. 35

(2) Goedere bestem vir klaring vir tydelike toelating kragtens hierdie Deel, moet volgens voorskrif van artikel 265(a), saamgelees met artikel 281, geklaar word. 40

Klaring en vrystelling van goedere vir tydelike toelating op gesag van CPD en ATA carnets

281. (1) Goedere waarop hierdie Deel van toepassing is, kan vir tydelike toelating op gesag van 'n CPD of ATA carnet geklaar en vrygestel word. 45

(2) Goedere kan vir tydelike toelating op gesag van 'n CPD of ATA carnet geklaar word slegs indien die CPD of ATA carnet—

- (a) deur 'n uitreikingsvereniging uitgereik is;
- (b) deur 'n vrywaringsvereniging wat ingevolge artikel 282 goedgekeur is, gewaarborg word; en 50
- (c) deur die doeanegesag aanvaar is.

(3) A CPD or ATA carnet must be produced to the customs authority at the Customs Office serving the customs controlled area where the goods are to be released for temporary admission.

Guaranteeing associations to be approved

282. (1) No CPD or ATA carnet may be accepted by the customs authority unless the guaranteeing association guaranteeing the carnet— 5

- (a) has submitted an application to the customs authority for its approval, in the form and format as may be prescribed by rule; and
- (b) has been approved by the customs authority for the purposes of this Part.

(2) No guaranteeing association may be approved unless the association— 10

- (a) is located in the Republic; and
- (b) has given security for the payment of any tax that may become payable on any goods imported into the Republic cleared for temporary admission on authority of a CPD or ATA carnet guaranteed by that guaranteeing association.

(3) The conditions subject to which an approval in terms of subsection (1) may be granted in terms of section 918 may include conditions requiring the association to assist the Commissioner in combating fraud and contravention or abuse of this Part. 15

Formats of CPD and ATA carnets

283. CPD or ATA carnets must conform to the models set out in the Convention on Temporary Admission or relevant international agreement referred to in section 280(1)(a)(ii). 20

Validity period of CPD and ATA carnets

284. (1) A CPD or ATA carnet remains valid for the period for which it was issued in terms of the Convention or agreement referred to in section 280(1)(a)(ii).

(2) The validity period of a CPD or ATA carnet may be extended only in accordance with rules as may be prescribed for the category in which the goods fall.²³¹ 25

Amendment of CPD and ATA carnets

285. (1) A CPD or ATA carnet may, subject to subsection (2), be amended only by or with the approval of the guaranteeing association which guaranteed the carnet.

(2) Once a CPD or ATA carnet has been accepted by the customs authority no amendment may be made to the carnet without the approval of the customs authority. 30

Replacement of CPD and ATA carnets

286. (1) If a CPD or ATA carnet has been destroyed, lost or stolen whilst the goods to which the carnet relates are still in the Republic, the issuing association which issued the carnet may, with the approval of the customs authority,²³² issue a replacement carnet. 35

(2) A replacement CPD or ATA carnet expires on the same date as the date on which the original CPD or ATA carnet would have expired.

²³¹. Section 908 does not apply to the extension of the validity periods of CPD or ATA carnets. See section 908(3).

²³². See section 918 for granting of approval subject to conditions.

(3) 'n CPD of ATA carnet moet aan die doeanegesag getoon word by die Doeanekantoor wat die doeanebeheergebied bedien waar die goedere vir tydelike toelating vrygestel sal word.

Vrywaringsverenigings onderhewig aan goedkeuring

- 282.** (1) Geen CPD of ATA carnet mag deur die doeanegesag aanvaar word nie tensy 5
die vrywaringsvereniging wat die carnet waarborg—
- (a) 'n aansoek om goedkeuring van die vereniging by die doeanegesag ingedien 5
het in die vorm en formaat soos by reël voorgeskryf mag word; en
 - (b) deur die doeanegesag vir doeleindes van hierdie Deel goedgekeur is.
- (2) Geen vrywaringsvereniging word goedgekeur nie tensy die vereniging— 10
- (a) in die Republiek gesetel is; en
 - (b) sekuriteit gestel het vir die betaling van enige belasting wat betaalbaar mag 15
word op enige goedere wat in die Republiek ingevoer is en vir tydelike
toelating op gesag van 'n CPD of ATA carnet deur daardie vrywarings-
vereniging gewaarborg, geklaar is.
- (3) Die voorwaardes waarop 'n goedkeuring ingevolge subartikel (1) ingevolge 15
artikel 918 verleen kan word, kan voorwaardes insluit wat die vereniging bind om die
Kommissaris met die bekamping van bedrog en oortreding of misbruik van hierdie Deel
by te staan.

Formaat van CPD en ATA carnets 20

283. CPD of ATA carnets moet in ooreenstemming wees met die voorbeelde wat in
die “Convention on Temporary Admission” of die betrokke internasionale ooreenkoms
bedoel in artikel 280(1)(a)(ii) aangetoon word.

Geldigheidstydperk van CPD en ATA carnets

- 284.** (1) 'n CPD of ATA carnet bly geldig vir die tydperk waarvoor dit ingevolge die 25
“Convention on Temporary Admission” of ooreenkoms bedoel in artikel 280(1)(a)(ii)
uitgereik is.
- (2) Die geldigheidstydperk van 'n CPD of ATA carnet kan verleng word slegs
ooreenkomstig reëls soos voorgeskryf mag word vir die kategorie waarin die goedere 30
val.²³¹

Wysiging van CPD en ATA carnets

- 285.** (1) 'n CPD of ATA carnet kan, behoudens subartikel (2), slegs deur of met die
goedkeuring van die vrywaringsvereniging wat die carnet gewaarborg het, gewysig
word.
- (2) Vanaf aanvaarding van 'n CPD of ATA carnet deur die doeanegesag mag geen 35
wysiging aan die carnet sonder die goedkeuring van die doeanegesag aangebring word
nie.

Vervanging van CPD en ATA carnets

- 286.** (1) Indien 'n CPD of ATA carnet vernietig, verloor of gesteel word terwyl die
goedere waarop die carnet betrekking het nog in die Republiek is, kan die 40
uitreikingsvereniging wat die carnet uitgereik het, met die goedkeuring van die
doeanegesag,²³² 'n vervangende carnet uitreik.
- (2) 'n Vervangende CPD of ATA carnet verval op dieselfde datum waarop die
oorspronklike CPD of ATA carnet sou verval het.

231. Artikel 908 is nie van toepassing op die verlenging van die geldigheidstydperke van CPD of ATA
carnets nie. Kyk artikel 908(3).

232. Kyk artikel 918 vir verlening van goedkeuring onderworpe aan voorwaardes.

Re-export of goods under temporary admission in terms of this Part

287. (1) The person to whom a CPD or ATA carnet was issued must ensure that the goods to which the carnet relates are re-exported from the Republic before the expiry of the validity period applicable to the carnet.

(2) If a replacement CPD or ATA carnet was issued in terms of section 286, the person to whom the new carnet was issued must ensure that the goods to which the new carnet relates are re-exported from the Republic before the expiry of the validity period applicable to that carnet. 5

Clearance for export of goods under temporary admission in terms of this Part

288. (1) Goods under the temporary admission procedure in terms of this Part must be cleared for export in accordance with section 265(b). 10

(2) Goods under the temporary admission procedure in terms of this Part may be cleared and released for export on authority of the CPD or ATA carnet issued in respect of the goods, provided the validity period applicable to the carnet has not expired.

(3) A CPD or ATA carnet must be produced to the customs authority at the Customs Office serving the place of exit where the goods are to be re-exported from the Republic. 15

(4) The burden to prove that goods under temporary admission in terms of this Part, were re-exported from the Republic, or were re-exported from the Republic within the validity period applicable to the relevant CPD or ATA carnet, rests on the person to whom the carnet on authority of which the goods were imported into Republic was issued. 20

Part 5

Goods that automatically come under temporary admission procedure

Foreign-going vessels, aircraft, locomotives and railway carriages entering Republic 25

289. (1) A vessel, aircraft, locomotive or railway carriage entering the Republic as a means of transport currently in use for the transport of goods in the ordinary course of international trade or for the transport of travellers for reward between countries, comes under the temporary admission procedure without any formal clearance or release for that procedure if the vessel, aircraft, locomotive or railway carriage— 30

(a) is not re-entering the Republic on the inbound leg of the temporary export procedure;²³³ and

(b) is destined to leave the Republic without any interruption in its current use as a means of transport for goods in the ordinary course of international trade or for the transport of travellers for reward between countries.²³⁴ 35

(2) If the current use of a vessel, aircraft, locomotive or railway carriage that automatically came under the temporary admission procedure in terms of subsection (1) as a means of transport for goods in the ordinary course of international trade or for the transport of travellers for reward between countries, is for any reason interrupted or discontinued whilst the vessel, aircraft, locomotive or railway carriage is under that procedure, the carrier operating that vessel, aircraft, locomotive or railway carriage or, if that carrier is not located in the Republic, that carrier's registered agent, must immediately report the interruption or discontinuation to the customs authority, as may be prescribed by rule. 40

233. See section 402.

234. The arrival and departure requirements set out in Chapter 3 are not affected by this provision and those requirements must be complied with when vessels, aircraft, locomotives or railway carriages that automatically come under the temporary admission procedure enter or leave the Republic.

Heruitvoer van goedere onder tydelike toelating ingevolge hierdie Deel

287. (1) Die persoon aan wie 'n CPD of ATA uitgereik is, moet toesien dat die goedere waarop die carnet betrekking het uit die Republiek heruitgevoer word voordat die geldigheidstydperk wat vir die carnet geld, verval.

(2) Indien 'n vervangende CPD of ATA carnet ingevolge artikel 286 uitgereik is, moet die persoon aan wie die nuwe carnet uitgereik is, toesien dat die goedere waarop die carnet betrekking het uit die Republiek heruitgevoer word voordat die geldigheidstydperk wat vir daardie carnet geld, verval. 5

Klaring vir uitvoer van goedere onder tydelike toelating ingevolge hierdie Deel

288. (1) Goedere wat onder die prosedure vir tydelike toelating ingevolge hierdie Deel is, moet volgens voorskrif van artikel 265(b) vir uitvoer geklaar word. 10

(2) Goedere wat onder die prosedure vir tydelike toelating ingevolge hierdie Deel is, kan op gesag van die CPD of ATA carnet wat ten opsigte van die goedere uitgereik is, vir uitvoer geklaar en vrygestel word mits die geldigheidstydperk wat vir die carnet geld nie verval het nie. 15

(3) 'n CPD of ATA carnet moet aan die doeanegesag by die Doeanekantoor wat die plek van uitgang bedien waar die goedere uit die Republiek heruitgevoer sal word, getoon word.

(4) Die onus om te bewys dat goedere onder tydelike toelating ingevolge hierdie Deel, uit die Republiek heruitgevoer is, of binne die geldigheidstydperk wat vir die betrokke CPD of ATA carnet geld, uit die Republiek heruitgevoer is, rus op die persoon aan wie die carnet uitgereik is op gesag waarvan die goedere in die Republiek ingevoer is. 20

Deel 5

Goedere wat outomaties onder prosedure vir tydelike toelating kom

Land-uitgaande vaartuie of vliegtuie, lokomotiewe en spoorwegwaens wat Republiek binnekom 25

289. (1) 'n Vaartuig, vliegtuig, lokomotief of spoorwegwa wat die Republiek binnekom as 'n middel van vervoer wat in lopende gebruik vir die vervoer van goedere in die gewone loop van internasionale handel of vir die vervoer van reisigers teen vergoeding tussen lande is, kom onder die prosedure vir tydelike toelating sonder enige formele klaring of vrystelling vir daardie prosedure indien die vaartuig, vliegtuig, lokomotief of spoorwegwa— 30

(a) nie die Republiek op die inwaartse fase van die prosedure vir tydelike uitvoer herbinnekom nie;²³³ en

(b) bestem is om die Republiek te verlaat sonder enige onderbreking in die lopende gebruik daarvan as 'n middel van vervoer vir goedere in die gewone loop van internasionale handel of vir die vervoer van reisigers teen vergoeding tussen lande.²³⁴ 35

(2) Indien die lopende gebruik van 'n vaartuig, vliegtuig, lokomotief of spoorwegwa wat ingevolge subartikel (1) outomaties onder die prosedure vir tydelike toelating kom as 'n middel van vervoer vir goedere in die gewone loop van internasionale handel of vir die vervoer van reisigers teen vergoeding tussen lande, om enige rede onderbreek of gestaak word terwyl die vaartuig, vliegtuig, lokomotief of spoorwegwa onder daardie prosedure is, moet die vervoerder in operasionele beheer van daardie vaartuig, vliegtuig, lokomotief of spoorwegwa of, indien daardie vervoerder nie in die Republiek gesetel is nie, daardie vervoerder se geregistreerde agent, onmiddellik die onderbreking of staking aan die doeanegesag rapporteer, soos by reël voorgeskryf mag word. 45

233. Kyk artikel 402.

234. Die aankoms- en vertrekvereistes in Hoofstuk 3 uiteengesit, word nie geraak deur hierdie bepaling nie en daar moet aan daardie vereistes voldoen word wanneer vaartuie, vliegtuie, lokomotiewe of spoorwegwaens wat outomaties onder die prosedure vir tydelike toelating kom, die Republiek binnekom of verlaat.

(3) Parts 2, 3 and 4 of this Chapter do not apply to vessels, aircraft, locomotives or railway carriages referred to in subsection (1).

Reusable transport equipment entering Republic

290. (1) Transport equipment entering the Republic as reusable transport equipment currently in use as transport equipment for goods in the ordinary course of international trade, comes under the temporary admission procedure without any formal clearance or release for that procedure if— 5

- (a) that transport equipment is not re-entering the Republic on the inbound leg of the temporary export procedure;²³⁵
- (b) that transport equipment is destined to leave the Republic without any interruption in its current use as reusable transport equipment for goods in the ordinary course of international trade; and 10
- (c) the carrier who brought the transport equipment into the Republic or, if that carrier is not located in the Republic, that carrier's registered agent, keeps record of that transport equipment, as may be prescribed by rule. 15

(2) If the current use of transport equipment that automatically came under the temporary admission procedure in terms of subsection (1) as reusable transport equipment currently in use as transport equipment for goods in the ordinary course of international trade, is for any reason interrupted or discontinued whilst the transport equipment is under that procedure, the carrier or, if that carrier is not located in the Republic, that carrier's registered agent, must immediately report the interruption or discontinuation to the customs authority, as may be prescribed by rule. 20

(3) Parts 2, 3 and 4 of this Chapter do not apply to reusable transport equipment referred to in subsection (1).

Part 6 25

Provisions applicable to all goods under temporary admission

General provisions

291. Goods under the temporary admission procedure—

- (a) may not be disposed of in the Republic—
 - (i) unless the goods are cleared and released for home use under Chapter 8; 30
 - or
 - (ii) otherwise than in accordance with section 544, in the case of damaged goods to which that section applies;
- (b) must be dealt with in accordance with this Act and any conditions that may be prescribed by rule; and 35
- (c) may, when re-exported in terms of the procedure, be exported—
 - (i) through a place of exit other than the place of entry through which the goods were imported into the Republic; and
 - (ii) in one or more consignments.

Goods not re-exported within applicable period regarded for tax purposes to be cleared for home use 40

292. Goods under the temporary admission procedure must in terms of section 112(1) for tax purposes be regarded to be cleared for home use under Chapter 8²³⁶ if the goods are not re-exported from the Republic within the period applicable to the goods.

235. See section 403.

236. For tax consequences if goods are regarded to be cleared for home use, see section 154; for other consequences of non-compliance with customs procedures, see section 115.

(3) Dele 2, 3 en 4 van hierdie Hoofstuk is nie op vaartuie, vliegtuie, lokomotiewe of spoorwegwaens bedoel in subartikel (1) van toepassing nie.

Herbruikbare-vervoertoerusting wat Republiek binnekom

290. (1) Vervoertoerusting wat die Republiek binnekom as herbruikbare-vervoertoerusting wat in lopende gebruik as vervoertoerusting vir goedere in die gewone loop van internasionale handel is, kom onder die prosedure vir tydelike toelating sonder enige formele klaring of vrystelling vir daardie prosedure indien— 5

- (a) daardie vervoertoerusting nie die Republiek op die inwaartse fase van die prosedure vir tydelike uitvoer herbinnekom nie;²³⁵
- (b) daardie vervoertoerusting bestem is om die Republiek te verlaat sonder enige onderbreking in die lopende gebruik daarvan as herbruikbare-vervoertoerusting vir goedere in die gewone loop van internasionale handel; en 10
- (c) die vervoerder wat die vervoertoerusting in die Republiek ingebring het of, indien daardie vervoerder nie in die Republiek gesetel is nie, daardie vervoerder se geregistreerde agent, rekord hou van daardie vervoertoerusting, soos by reël voorgeskryf mag word. 15

(2) Indien die lopende gebruik van vervoertoerusting wat ingevolge subartikel (1) outomaties onder die prosedure vir tydelike toelating kom as herbruikbare-vervoertoerusting in lopende gebruik as vervoertoerusting vir goedere in die gewone loop van internasionale handel, om enige rede onderbreek of gestaak word terwyl die vervoertoerusting onder daardie prosedure is, moet die vervoerder of, indien daardie vervoerder nie in die Republiek gesetel is nie, daardie vervoerder se geregistreerde agent, onmiddellik die onderbreking of staking aan die doeanegesag rapporteer, soos by reël voorgeskryf mag word. 20 25

(3) Dele 2, 3 en 4 van hierdie Hoofstuk is nie op herbruikbare-vervoertoerusting bedoel in subartikel (1) van toepassing nie.

Deel 6

Bepalings van toepassing op alle goedere onder tydelike toelating

Algemene bepalings 30

- 291.** Goedere onder die prosedure vir tydelike toelating—
- (a) mag nie in die Republiek oor beskik word nie—
 - (i) tensy die goedere kragtens Hoofstuk 8 vir binnelandse gebruik geklaar en vrygestel word; of
 - (ii) anders as ooreenkomstig artikel 544, in die geval van beskadigde goedere waarop daardie artikel van toepassing is; 35
 - (b) moet ooreenkomstig hierdie Wet en enige voorwaardes soos by reël voorgeskryf mag word, mee gehandel word; en
 - (c) kan, wanneer ingevolge die prosedure heruitgevoer, uitgevoer word—
 - (i) deur 'n plek van uitgang anders as die plek van toegang waardeur die goedere in die Republiek ingevoer is; en 40
 - (ii) in een of meer besendings.

Goedere nie binne toepaslike tydperk heruitgevoer geag vir belastingdoeleindes geklaar te wees vir binnelandse gebruik

292. Goedere onder die prosedure vir tydelike toelating moet ingevolge artikel 112(1) vir belastingdoeleindes geag word vir binnelandse gebruik kragtens Hoofstuk 8 geklaar te wees²³⁶ indien die goedere nie binne die tydperk wat vir die goedere geld uit die Republiek heruitgevoer word nie. 45

235. Kyk artikel 403.

236. Vir belastinggevolge indien goedere geag word vir binnelandse gebruik geklaar te wees, kyk artikel 154; vir ander gevolge van nie-voldoening aan doeaneprosedures, kyk artikel 115.

Part 7

Other matters

Rules to facilitate implementation of this Chapter

- 293.** Rules made in terms of section 903 to facilitate the implementation of this Chapter may include rules prescribing— 5
- (a) additional requirements for the clearance or release of goods for temporary admission; 10
 - (b) the tax and other consequences if means of transport referred to in section 289 or transport equipment referred to in section 290 does not leave the Republic within a period as may be prescribed by rule read with sections 908 and 909; 10
 - (c) the records that must be kept of reusable transport equipment referred to in section 290, including records of—
 - (i) the type of transport equipment and number of each type that entered or left the Republic; 15
 - (ii) the places of entry or exit through which, and the dates on which, such transport equipment entered or left the Republic; 15
 - (iii) the movement of such transport equipment in the Republic; and
 - (iv) the persons by whom, and the period for which, such records must be kept; 15
 - (d) the measures to be taken to ensure accurate identification of goods under temporary admission upon their re-exportation from the Republic; 20
 - (e) any additional requirements necessary to give effect to—
 - (i) the Convention on Temporary Admission; or
 - (ii) any agreement between the Republic and another country regulating the temporary admission of goods from that other country into the Republic; 25and
 - (f) any additional requirements relating to goods under the temporary admission procedure. 25

Offences in terms of this Chapter

- 294.** (1) A person is guilty of an offence if that person contravenes section 291(a) or (b). 30
- (2) A person clearing goods for temporary admission in terms of Part 2 is guilty of an offence if that person fails to comply with section 273(1).
- (3) A person to whom a CPD or ATA carnet was issued is guilty of an offence if that person fails to comply with section 287(1) or (2). 35
- (4) A carrier operating a vessel, aircraft, locomotive or railway carriage referred to in section 289(1) or who brought transport equipment referred to in section 290(1) into the Republic or, if that carrier is not located in the Republic, that carrier's registered agent, is guilty of an offence if that carrier or carrier's agent fails to comply with section 289(2) or 290(2). 40
- (5) The offences referred to in subsection (1), (2) and (3) are Category 1 offences.

CHAPTER 13

WAREHOUSING PROCEDURE

Part 1

Introductory provisions 45

Purpose and application of this Chapter

- 295.** (1) The purpose of this Chapter is to regulate the warehousing procedure.

Deel 7

Ander aangeleenthede

Reëls ter fasilitering van implementering van hierdie Hoofstuk

- 293.** Reëls ingevolge artikel 903 uitgevaardig om die implementering van hierdie Hoofstuk te fasiliteer, kan reëls insluit wat— 5
- (a) bykomende vereistes vir die klaring of vrystelling van goedere vir tydelike toelating voorskryf;
 - (b) die belasting- en ander gevolge voorskryf indien middels van vervoer in artikel 289 bedoel, of vervoertoerusting in artikel 290 bedoel, nie die Republiek verlaat nie binne 'n tydperk wat by reël, saamgelees met artikels 908 en 909, voorgeskryf mag word; 10
 - (c) die rekords voorskryf wat van herbruikbare-vervoertoerusting bedoel in artikel 290 gehou moet word, met inbegrip van rekords van—
 - (i) die tipe van vervoertoerusting en aantal van elke tipe wat die Republiek binnegekom of verlaat het; 15
 - (ii) die plekke van toegang of uitgang waardeur en die datums waarop sodanige vervoertoerusting die Republiek binnegekom of verlaat het;
 - (iii) die beweging van sodanige vervoertoerusting in die Republiek; en
 - (iv) die persone deur wie en die tydperk waarvoor sodanige rekords gehou moet word; 20
 - (d) die maatreëls wat ingestel moet word om akkurate identifisering van goedere onder tydelike toelating tydens heruitvoer van die goedere uit die Republiek, te verseker;
 - (e) enige bykomende vereistes wat nodig is om uitvoering te gee aan—
 - (i) die “Convention on Temporary Admission”; of 25
 - (ii) enige ooreenkoms tussen die Republiek en 'n ander land wat die tydelike toelating van goedere vanaf daardie ander land in die Republiek reguleer; en
 - (f) enige bykomende vereistes met betrekking tot goedere onder die prosedure vir tydelike toelating. 30

Misdrywe ingevolge hierdie Hoofstuk

- 294.** (1) 'n Persoon is aan 'n misdryf skuldig indien daardie persoon artikel 291(a) of (b) oortree.
- (2) 'n Persoon wat goedere ingevolge Deel 2 vir tydelike toelating klaar, is aan 'n misdryf skuldig indien daardie persoon versuim om aan artikel 273(1) te voldoen. 35
 - (3) 'n Persoon aan wie 'n CPD of ATA carnet uitgereik is, is aan 'n misdryf skuldig indien daardie persoon versuim om aan artikel 287(1) of (2) te voldoen.
 - (4) 'n Vervoerder wat in operasionele beheer van 'n vaartuig, vliegtuig, lokomotief of spoorwegwa bedoel in artikel 289(1) is, of wat vervoertoerusting in artikel 290(1) bedoel in die Republiek ingebring het, of indien daardie vervoerder nie in die Republiek gesetel is nie, daardie vervoerder se geregistreerde agent, is aan 'n misdryf skuldig indien daardie vervoerder of vervoerder se agent versuim om aan artikel 289(2) of 290(2) te voldoen. 40
 - (5) Die misdrywe bedoel in subartikel (1), (2) en (3) is Kategorie 1 misdrywe.

HOOFSTUK 13 45

PAKHUISBERGINGSPROSEDURE

Deel 1

Inleidende bepalings

Doel en toepassing van hierdie Hoofstuk

- 295.** (1) Die doel van hierdie Hoofstuk is om die pakhuisbergingsprosedure te 50 reguleer.

- (2) This Chapter applies to the storage of goods not in free circulation, excluding—
- (a) the temporary storage²³⁷ of goods;
 - (b) the storage of goods under a customs procedure that provides for the storage of goods under that procedure;²³⁸
 - (c) the storage of goods in state warehouses or premises regarded in terms of section 580 to be state warehouses; 5
 - (d) the storage of goods in a special economic zone or part of a special economic zone designated in terms of section 43(2)(c) as a customs controlled area except when the goods are stored in a storage warehouse within such a designated special economic zone or part of a special economic zone; and 10
 - (e) the storage of goods in excise warehouses.

Warehousing procedure²³⁹

296. The warehousing procedure is a customs procedure that allows goods to which this Chapter applies—

- (a) to be stored in a specific storage warehouse; and 15
- (b) for the purpose of such storage to be transported to that warehouse without clearing the goods for national transit.

Commencement and completion of warehousing procedure

297. (1) (a) Goods come under the warehousing procedure when the goods are cleared for warehousing. 20

(b) The warehousing procedure is, subject to subsection (2), completed when the goods are cleared and released for another customs procedure or for home use, as may be permissible in the circumstances.

(2) The warehousing procedure, in relation to any goods, ends before its completion if completion of the procedure is interrupted by an occurrence referred to in section 109(2). 25

Extent to which Chapters 4, 5 and 7 apply

298. Chapters 4, 5 and 7, except insofar as a provision of those Chapters is modified, qualified or deviated from in this Chapter,²⁴⁰ apply to goods under the warehousing procedure, including to the clearance and release of goods for warehousing. 30

Part 2

Clearance and release of goods for warehousing

Warehousing of goods

299. (1) Goods not in free circulation to which this Chapter applies may be stored in a storage warehouse only if the goods are cleared and released for warehousing in that specific warehouse.²⁴¹ 35

(2) Goods in free circulation may without clearance for warehousing be stored in a storage warehouse subject to any limitations and in accordance with any rules as may be prescribed for such goods.

237. See definition of “temporary storage” in section 1.

238. For instance the inward processing procedure (section 408) or the home use processing procedure (section 435).

239. For tax status of goods under the warehousing procedure, see section 144. For consequences of non-compliance with warehousing procedure, see sections 112 and 115.

240. In the case of an inconsistency between a provision of this Chapter and a general provision contained in Chapter 4 or 7 the provision of this Chapter prevails. See sections 88(3) and 162(3).

241. Goods released by the customs authority for warehousing remain in terms of section 28 subject to customs control despite such release.

- (2) Hierdie Hoofstuk is van toepassing op die berging van goedere wat nie in vry sirkulasie is nie, uitgesonderd—
- (a) die tydelike berging²³⁷ van goedere;
 - (b) die berging van goedere onder 'n doeaneprosedure wat vir die berging van goedere onder daardie prosedure voorsiening maak;²³⁸ 5
 - (c) die berging van goedere in staatspakhuse of persele wat ingevolge artikel 580 geag word staatspakhuse te wees;
 - (d) die berging van goedere in 'n spesiale ekonomiese sone of deel van 'n spesiale ekonomiese sone wat ingevolge artikel 43(2)(c) as 'n doeanebeheergebied aangewys is, behalwe wanneer die goedere in 'n bergingspakhuis binne so 'n 10 aangewese spesiale ekonomiese sone of deel van 'n spesiale ekonomiese sone geberg word; en
 - (e) die berging van goedere in aksynspakhuse.

Pakhuisbergingsprosedure²³⁹

296. Die pakhuisbergingsprosedure is 'n doeaneprosedure ingevolge waarvan 15 goedere waarop hierdie Hoofstuk van toepassing is—
- (a) in 'n bepaalde bergingspakhuis geberg mag word; en
 - (b) vir doeleindes van sodanige berging, vervoer mag word na daardie pakhuis sonder om die goedere vir nasionale transito te klaar.

Begin en afhandeling van pakhuisbergingsprosedure 20

297. (1) (a) Goedere kom onder die pakhuisbergingsprosedure wanneer die goedere vir pakhuisberging geklaar word.
- (b) Die pakhuisbergingsprosedure is, behoudens subartikel (2), afgehandel wanneer die goedere vir 'n ander doeaneprosedure of vir binnelandse gebruik geklaar en vrygestel word, soos in die omstandighede toelaatbaar mag wees. 25
- (2) Die pakhuisbergingsprosedure, met betrekking tot enige goedere, eindig voor die afhandeling daarvan indien afhandeling van die prosedure deur 'n gebeurtenis bedoel in artikel 109(2) onderbreek word.

Mate waarin Hoofstukke 4, 5 en 7 van toepassing is

298. Hoofstukke 4, 5 en 7, behalwe in soverre 'n bepaling van daardie Hoofstukke 30 aangepas, gekwalifiseer of van afgewyk word in hierdie Hoofstuk,²⁴⁰ is van toepassing op goedere onder die pakhuisbergingsprosedure, asook op die klaring en vrystelling van goedere vir pakhuisberging.

Deel 2

Klaring en vrystelling van goedere vir pakhuisberging 35

Pakhuisberging van goedere

299. (1) Goedere wat nie in vry sirkulasie is nie waarop hierdie Hoofstuk van toepassing is, kan in 'n bergingspakhuis geberg word slegs indien die goedere vir pakhuisberging in daardie spesifieke pakhuis geklaar en vrygestel is.²⁴¹
- (2) Goedere in vry sirkulasie kan sonder klaring vir pakhuisberging in 'n 40 bergingspakhuis geberg word behoudens enige beperkings en ooreenkomstig enige reëls soos vir sodanige goedere voorgeskryf mag word.

237. Kyk omskrywing van “tydelike berging” in artikel 1.

238. Byvoorbeeld die prosedure vir inwaartse prosessering (artikel 408) of die prosedure vir binnelandse gebruik prosessering (artikel 435).

239. Vir belastingstatus van goedere onder die pakhuisbergingsprosedure, kyk artikel 144. Vir gevolge van nie-voldoening aan die pakhuisbergingsprosedure, kyk artikels 112 en 115.

240. In die geval van enige teenstrydigheid tussen 'n bepaling van hierdie Hoofstuk en 'n algemene bepaling in Hoofstuk 4 of 7 vervat, geniet die bepaling van hierdie Hoofstuk voorrang. Kyk artikels 88(3) en 162(3).

241. Goedere deur die doeanegesag vir pakhuisberging vrygestel, bly ingevolge artikel 28 aan doeanebeheer onderworpe ongeag sodanige vrystelling.

- (3) No goods referred to in subsection (1) may be cleared or released for warehousing—
- (a) in a facility other than a storage warehouse;
 - (b) for a purpose other than a purpose referred to in section 300 or 301, as may be applicable; 5
 - (c) in a storage warehouse which is not licensed for the purpose for which the goods are to be warehoused; and
 - (d) unless the licensee of the storage warehouse, in the case of a public storage warehouse—
 - (i) has granted permission for the warehousing of the goods in that warehouse; and 10
 - (ii) has advised the customs authority electronically in accordance with section 913 of such permission.
- (4) Goods to be cleared for warehousing must be cleared in accordance with section 298. 15

Purposes for which goods may be cleared for warehousing in public storage warehouses

- 300.** (1) Goods may be cleared for warehousing in a public storage warehouse for the following purposes only:
- (a) To secure and store imported goods on behalf of clients pending clearance and release of the goods for— 20
 - (i) home use;
 - (ii) warehousing in another storage warehouse; or
 - (iii) another permissible customs procedure;²⁴²
 - (b) to store, consolidate and de-consolidate on behalf of clients goods destined for export from the Republic pending their clearance or release for export; 25
 - (c) to store goods for any reason on behalf of clients to ensure that the goods remain under customs control for a specific period; or
 - (d) in the case of restricted goods imported without prior compliance with legislation restricting the import or possession of the goods, to secure the goods on behalf of a client in terms of section 784(2)(a) pending— 30
 - (i) compliance by the client with such legislation; or
 - (ii) export of the goods, subject to the legislation restricting the import or possession of the goods.
- (2) Goods may be secured in terms of subsection (1)(a) in a public storage warehouse to delay the clearance and release of the goods as contemplated in that subsection— 35
- (a) in order to utilise the tax free status in relation to import tax conferred on warehoused goods in terms of section 144; or
 - (b) for any other purpose determined by the customs authority as consistent with the warehouse procedure. 40

Purposes for which goods may be cleared for warehousing in private storage warehouses

- 301.** (1) Goods may be cleared for warehousing in a private storage warehouse for the following purposes only:²⁴³
- (a) To secure imported goods owned by the licensee of the warehouse or in which the licensee has a material interest, pending clearance and release of the goods for— 45

242. For instance goods warehoused for later clearance as supplies to vessels and aircraft under the stores procedure, for removal to an excise warehouse under the excise warehouse transit procedure, etc.

243. It is to be noted that goods under a customs procedure that provides for the storage of goods, such as the inward processing procedure (section 408) or the home use processing procedure (section 435), need not be cleared for warehousing and may be stored in terms of that procedure in private storage facilities at the premises where the goods are processed.

- (3) Geen goedere bedoel in subartikel (1) mag vir pakhuisberging geklaar of vrygestel word—
- (a) in 'n fasiliteit anders as 'n bergingspakhuis nie;
 - (b) vir 'n doel anders as 'n doel beoog in artikel 300 of 301 soos ook al van toepassing mag wees nie; 5
 - (c) in 'n bergingspakhuis wat nie gelisensieer is vir die doel waarvoor die goedere geberg word nie; en
 - (d) tensy die lisensiehouer van die bergingspakhuis, in die geval van 'n publieke bergingspakhuis—
 - (i) toestemming vir die berging van die goedere in daardie pakhuis verleen het; en 10
 - (ii) die doeanegesag elektronies ooreenkomstig artikel 913 van sodanige toestemming in kennis gestel het.
- (4) Goedere bestem vir klaring vir pakhuisberging moet volgens voorskrif van artikel 298 geklaar word. 15

Doeleindes waarvoor goedere vir pakhuisberging in publieke bergingspakhuis geklaar mag word

- 300.** (1) Goedere mag vir pakhuisberging in 'n publieke bergingspakhuis geklaar word slegs vir die volgende doeleindes:
- (a) Om ingevoerde goedere ten behoeve van kliënte te beveilig en te berg hangende klaring en vrystelling van die goedere vir—
 - (i) binnelandse gebruik;
 - (ii) berging in 'n ander bergingspakhuis; of
 - (iii) 'n ander toelaatbare doeaneprosedure;²⁴² 20
 - (b) om goedere bestem vir uitvoer uit die Republiek ten behoeve van kliënte te berg, te konsolideer en te de-konsolideer hangende die klaring of vrystelling daarvan vir uitvoer; 25
 - (c) om goedere om enige rede ten behoeve van kliënte te berg om te verseker dat die goedere vir 'n spesifieke tydperk onder doeanebeheer bly; of
 - (d) in die geval van beperkte goedere ingevoer sonder vooraf voldoening aan wetgewing wat die invoer of besit van die goedere beperk, om die goedere ten behoeve van 'n kliënt ingevolge artikel 784(2)(a) te beveilig hangende—
 - (i) voldoening deur die kliënt aan sodanige wetgewing; of
 - (ii) uitvoer van die goedere, behoudens die wetgewing wat die invoer of besit van die goedere beperk. 30 35
- (2) Goedere kan ingevolge subartikel (1)(a) in 'n publieke bergingspakhuis beveilig word om die klaring en vrystelling van die goedere, soos in daardie subartikel beoog, uit te stel—
- (a) ten einde die belastingvry status te benut wat ingevolge artikel 144 met betrekking tot invoerbelasting aan goedere in 'n pakhuis geberg, verleen word; of 40
 - (b) vir enige ander doel wat deur die doeanegesag bepaal word as synde met die pakhuisprosedure bestaanbaar te wees.

Doeleindes waarvoor goedere vir pakhuisberging in private bergingspakhuis geklaar mag word 45

- 301.** (1) Goedere mag vir pakhuisberging in 'n private bergingspakhuis geklaar word slegs vir die volgende doeleindes:²⁴³
- (a) Om ingevoerde goedere wat deur die lisensiehouer van die pakhuis besit word, of waarin die lisensiehouer 'n wesenlike belang het, te beveilig hangende klaring en vrystelling van die goedere vir— 50

242. Byvoorbeeld goedere geberg vir latere klaring as voorrade vir vaartuie en vliegtuie onder die voorradeprosedure, vir vervoer na 'n aksynspakhuis onder die prosedure vir aksynspakhuistransito, ens.

243. Let wel dat goedere onder 'n doeaneprosedure wat voorsiening maak vir die berging van goedere, soos die prosedure vir inwaartse prosessering (artikel 408) of die prosedure vir binnelandse gebruik prosessering (artikel 435), nie geklaar hoef te word vir pakhuisberging nie en ingevolge daardie prosedure in privaat bergingsfasiliteite by die perseel waar die goedere geprosesseer word, geberg mag word.

- (i) home use;
- (ii) warehousing in another storage warehouse; or
- (iii) another permissible customs procedure;²⁴⁴ or
- (b) in the case of restricted goods imported by the licensee of a storage warehouse without prior compliance with legislation restricting the import or possession of such goods, to secure the goods in terms of section 784(2)(a) pending—
 - (i) compliance by the licensee with such legislation; or
 - (ii) export of the goods, subject to the legislation restricting the import or possession of the goods.
- (2) Goods may be secured in terms of subsection (1)(a) in a private storage warehouse to delay the clearance and release of the goods as contemplated in that subsection—
 - (a) in order to utilise the tax free status in relation to import tax conferred on warehoused goods in terms of section 144; or
 - (b) for any other purpose determined by the customs authority as consistent with the warehouse procedure.

Persons entitled to submit warehousing clearance declarations

- 302.** (1) Only the following persons may, subject to section 165(2), submit clearance declarations to clear goods for warehousing in a public storage warehouse:²⁴⁵
- (a) The importer or exporter of the goods, if that importer or exporter is located in the Republic;
 - (b) the registered agent in the Republic of the importer or exporter of the goods, if the importer or exporter is not located in the Republic;
 - (c) the owner of the goods, if ownership in the case of imported goods has been transferred after the goods were imported and that owner is located in the Republic;²⁴⁶
 - (d) the registered agent in the Republic of the owner referred to in paragraph (c), if that owner is not located in the Republic; or
 - (e) a customs broker referred to in section 165(1)(b).
- (2) Only the following persons may, subject to section 165(2), submit clearance declarations to clear goods for warehousing in a private storage warehouse:
- (a) The importer or exporter of the goods, provided that the importer or exporter is the licensee of the private storage warehouse;
 - (b) the owner of the goods, if ownership in the case of imported goods has been transferred after the goods were imported and that owner is the licensee of the private storage warehouse; or
 - (c) a customs broker referred to in section 165(1)(b).

Contents of warehousing clearance declarations

- 303.** A warehousing clearance declaration must, in addition to the information required in terms of section 167, state—
- (a) that the goods are cleared for warehousing;
 - (b) the purpose for which the goods will be warehoused, taking into account section 300 or 301;
 - (c) the customs code and address of the storage warehouse where the goods will be warehoused; and
 - (d) that the storage warehouse where the goods will be warehoused is licensed for the purpose for which the goods are to be warehoused.

Redirection of goods

304. (1) Goods that are cleared and released for warehousing must be delivered to the storage warehouse indicated in the clearance declaration, and no person may, without

244. For instance goods warehoused for later clearance as supplies to vessels and aircraft under the stores procedure.

245. See section 165(1)(a).

246. See section 111.

- (i) binnelandse gebruik;
- (ii) berging in 'n ander bergingspakhuis; of
- (iii) 'n ander toelaatbare doeaneprosedure;²⁴⁴ of
- (b) in die geval van beperkte goedere deur die lisensiehouer van 'n bergingspakhuis ingevoer sonder vooraf voldoening aan wetgewing wat die invoer of besit van sodanige goedere beperk, om die goedere ingevolge artikel 784(2)(a) te beveilig hangende—
 - (i) voldoening deur die lisensiehouer aan sodanige wetgewing; of
 - (ii) uitvoer van die goedere, behoudens die wetgewing wat die invoer of besit van die goedere beperk.
- (2) Goedere kan ingevolge subartikel (1)(a) in 'n private bergingspakhuis beveilig word om die klaring en vrystelling van die goedere, soos in daardie subartikel beoog, uit te stel—
 - (a) ten einde die belastingvry status te benut wat ingevolge artikel 144 met betrekking tot invoerbelasting aan goedere in 'n pakhuis geberg, verleen word; of
 - (b) vir enige ander doel wat deur die doeanegesag bepaal word as synde met die pakhuisprosedure bestaanbaar te wees.

Persone wat klaringsbriewe vir pakhuisberging mag indien

- 302.** (1) Slegs die volgende persone mag, behoudens artikel 165(2), klaringsbriewe indien om goedere vir berging in 'n publieke bergingspakhuis te klaar:²⁴⁵
- (a) Die invoerder of uitvoerder van die goedere, indien daardie invoerder of uitvoerder in die Republiek gesetel is;
 - (b) die geregistreerde agent van die invoerder of uitvoerder van die goedere, indien die invoerder of uitvoerder nie in die Republiek gesetel is nie;
 - (c) die eienaar van die goedere, indien eiendomsreg in die geval van ingevoerde goedere oorgedra is nadat die goedere ingevoer is en daardie eienaar in die Republiek gesetel is;²⁴⁶
 - (d) die geregistreerde agent in die Republiek van die eienaar bedoel in paragraaf (c), indien daardie eienaar nie in die Republiek gesetel is nie; of
 - (e) 'n doeanemakelaar in artikel 165(1)(b) bedoel.
- (2) Slegs die volgende persone mag, behoudens artikel 165(2), klaringsbriewe indien om goedere vir berging in 'n private bergingspakhuis te klaar:
- (a) Die invoerder of uitvoerder van die goedere, mits die invoerder of uitvoerder die lisensiehouer van die private bergingspakhuis is;
 - (b) die eienaar van die goedere, indien eiendomsreg in die geval van ingevoerde goedere oorgedra is nadat die goedere ingevoer is en daardie eienaar die lisensiehouer van die privaat bergingspakhuis is; of
 - (c) 'n doeanemakelaar in artikel 165(1)(b) bedoel.

Inhoud van klaringsbriewe vir pakhuisberging

- 303.** 'n Klaringsbrief vir pakhuisberging moet, benewens die inligting wat ingevolge artikel 167 verstrekk moet word, die volgende vermeld:
- (a) Dat die goedere vir pakhuisberging geklaar word;
 - (b) die doel waarvoor die goedere in 'n pakhuis geberg sal word, met inagneming van artikel 300 of 301;
 - (c) die doeanekode en adres van die bergingspakhuis waar die goedere geberg sal word; en
 - (d) dat die bergingspakhuis waar die goedere geberg sal word, gelisensieer is vir die doel waarvoor die goedere geberg sal word.

Herdestinering van goedere

- 304.** (1) Goedere wat vir pakhuisberging geklaar en vrygestel is, moet gelewer word aan die bergingspakhuis in die klaringsbrief aangedui, en geen persoon mag, sonder die

244. Byvoorbeeld goedere in 'n pakhuis geberg vir latere klaring as voorrade vir vaartuie en vliegtuie onder die voorradeprosedure.

245. Kyk artikel 165(1)(a).

246. Kyk artikel 111.

the permission of the customs authority, redirect goods that are cleared for warehousing to any place other than that warehouse.

(2) When goods cleared and released for warehousing are delivered to the storage warehouse indicated in the clearance declaration—

- (a) the carrier that transported the goods to that warehouse must notify the customs authority of the delivery; and 5
- (b) the licensee of that warehouse must notify the customs authority of the receipt of the goods.

Part 3

Warehousing of goods in storage warehouses 10

Maximum warehousing period

305. (1) Goods other than goods referred to in subsection (4) may not be warehoused in a storage warehouse for longer than two years from the date the goods are for the first time cleared for warehousing in any storage warehouse, whether public or private.

(2) The period referred to in subsection (1) may not be extended in terms of section 908 longer than— 15

- (a) 180 calendar days; or
- (b) in the case of a specific class or kind or other category of goods as may be prescribed by rule, 180 calendar days or such other period as may be prescribed by rule. 20

(3) If subsection (1) is contravened in respect of warehoused goods, the goods must in terms of section 112(1) for tax purposes be regarded to be cleared for home use under Chapter 8.²⁴⁷

(4) Restricted goods imported into the Republic and warehoused in a public or private storage warehouse in terms of section 784(2)(a) pending compliance with the legislation restricting the import or possession of such goods, may not be warehoused for longer than a period as may be prescribed by rule read with sections 908 and 909. 25

Warehousing of dangerous or hazardous goods

306. Dangerous or hazardous goods—

- (a) may be warehoused in a storage warehouse only in accordance with any applicable legislation and requirements; and 30
- (b) must immediately be removed from a warehouse to another place if the customs authority in the public interest so directs.

Records to be kept of warehoused goods

307. The licensee of a storage warehouse must keep record of all warehoused goods in a manner and format and containing the information as may be prescribed by rule or as the customs authority may require in a specific case,²⁴⁸ including information concerning— 35

- (a) all goods received in the warehouse, and the date of receipt;
- (b) the purpose for which, and, in the case of a public storage warehouse, the client on whose behalf, the goods are warehoused; 40
- (c) any warehoused goods that are damaged, destroyed, lost or unaccounted for;
- (d) all goods removed from the warehouse, and the date of removal;
- (e) the person by whom the goods were removed; and

247. For tax consequences if goods are regarded to be cleared for home use, see section 154.

248. See section 919 for computerised record keeping systems.

toestemming van die doeanegesag, goedere wat vir pakhuisberging geklaar is na enige plek anders as daardie pakhuis herdestineer nie.

(2) Wanneer goedere wat vir pakhuisberging geklaar en vrygestel is, gelewer word aan die bergingspakhuis in die klaringsbrief aangedui—

- (a) moet die vervoerder wat die goedere na daardie pakhuis vervoer het die doeanegesag van die lewering in kennis stel; en 5
- (b) moet die lisensiehouer van daardie pakhuis die doeanegesag van die ontvangs van die goedere in kennis stel.

Deel 3

Berging van goedere in bergingspakhuis 10

Maksimum tydperk van pakhuisberging

305. (1) Goedere anders as goedere bedoel in subartikel (4) mag nie in 'n bergingspakhuis geberg word vir langer as twee jaar vanaf die datum waarop die goedere vir die eerste keer vir berging in enige bergingspakhuis, hetsy publiek of privaat, geklaar is nie. 15

(2) Die tydperk bedoel in subartikel (1) mag nie ingevolge artikel 908 verleng word met langer as—

- (a) 180 kalenderdae nie; of
- (b) in die geval van 'n spesifieke klas of soort of ander kategorie goedere soos by reël voorgeskryf mag word, met 180 kalenderdae of so 'n ander tydperk soos by reël voorgeskryf mag word nie. 20

(3) Indien subartikel (1) oortree word ten opsigte van goedere in 'n pakhuis geberg, moet die goedere ingevolge artikel 112(1) vir belastingdoeleindes geag word vir binnelandse gebruik kragtens Hoofstuk 8 geklaar te wees.²⁴⁷

(4) Beperkte goedere in die Republiek ingevoer en in 'n publieke of private bergingspakhuis ingevolge artikel 784(2)(a) geberg hangende voldoening aan die wetgewing wat die invoer of besit van sodanige goedere beperk, mag nie in die pakhuis geberg word vir langer as 'n tydperk soos by reël, saamgelees met artikels 908 en 909, voorgeskryf mag word nie. 25

Pakhuisberging van gevaarlike of riskante goedere 30

306. Gevaarlike of riskante goedere—

- (a) mag in 'n bergingspakhuis geberg word slegs volgens die voorskrifte van enige wetgewing en vereistes wat van toepassing mag wees; en
- (b) moet onmiddellik uit 'n pakhuis na 'n ander plek verwyder word indien die doeanegesag in die openbare belang aldus gelas. 35

Rekords wat van goedere in pakhuis gehou moet word

307. Die lisensiehouer van 'n bergingspakhuis moet rekord van alle goedere in die pakhuis hou op 'n wyse en in 'n formaat en wat die inligting bevat soos by reël voorgeskryf of deur die doeanegesag in 'n bepaalde geval vereis mag word,²⁴⁸ met inbegrip van inligting aangaande— 40

- (a) alle goedere in die pakhuis ontvang, en die datum van ontvangs;
- (b) die doel waarvoor, en, in die geval van 'n publieke bergingspakhuis, die kliënt ten behoeve van wie, die goedere in die pakhuis geberg word;
- (c) enige goedere in die pakhuis geberg wat beskadig, vernietig, verlore of rekenskaploos raak; 45
- (d) alle goedere wat uit die pakhuis verwyder word, en die datum van verwydering;
- (e) die persoon deur wie die goedere verwyder is; en

247. Vir belastinggevolge indien goedere geag word vir binnelandse gebruik geklaar te wees, kyk artikel 154.

248. Kyk artikel 919 vir gerekenariseerde rekordhoudingstelsels.

- (f) whether the goods were removed—
 - (i) in terms of a clearance for home use or a customs procedure and, if for a customs procedure, the specific customs procedure under which the goods were removed; or
 - (ii) for any other purpose, taking into account section 310. 5

Reports to be submitted in connection with warehoused goods

308. (1) The licensee of a storage warehouse must submit to the customs authority regular reports for such periods as may be prescribed by rule or as the customs authority may require in a specific case.

(2) A report in terms of subsection (1) must contain such information as may be prescribed by rule or as the customs authority may require in a specific case, including information concerning—

- (a) all goods received in the warehouse during the reporting period;
- (b) all goods removed from the warehouse during the reporting period;
- (c) any surpluses or shortfalls on goods in the warehouse, as at the end of the reporting period; and 15
- (d) any goods in the warehouse damaged, destroyed, lost or unaccounted for during the reporting period.

Sorting, packing and other actions in relation to goods warehoused in storage warehouses 20

309. Goods warehoused in a storage warehouse may be sorted, separated, graded, packed, repacked, labelled or relabelled only with the permission of the customs authority or otherwise dealt with as may be prescribed by rule.

Removal of goods from storage warehouses

310. Warehoused goods may be removed from a storage warehouse in the following circumstances only: 25

- (a) When the goods are cleared and released for home use, warehousing in another storage warehouse or another customs procedure permissible in the circumstances;
- (b) for carrying out repair or preservation operations in connection with the goods as approved by the customs authority, provided that the goods are returned to the warehouse within a period as may be prescribed by rule or determined by the customs authority in a specific case; 30
- (c) for any other purpose as may be prescribed by rule or as the customs authority may approve in a specific case, provided that the goods are within a period as may be prescribed by rule or determined by the customs authority in a specific case— 35
 - (i) returned to the warehouse; or
 - (ii) cleared and released as contemplated in paragraph (a);
- (d) if any steps referred to in section 115 are taken in respect of the goods and such steps require removal of the goods from the warehouse; or 40
- (e) if the goods are detained, seized or confiscated and the customs authority directs in terms of Chapter 34, 35 or 36 that the goods be removed to another place.

Removal of restricted goods stored in storage warehouses pending compliance with legislation restricting import or possession 45

311. (1) Restricted goods imported into the Republic and warehoused in a storage warehouse in terms of section 784(2)(a) pending compliance with the legislation restricting the import or possession of such goods, may not be removed from the warehouse unless proof of compliance with that legislation is submitted to the customs authority. 50

(2) If such proof of compliance is not submitted to the customs authority within the period applicable to the goods in terms of section 305(4), section 785(1) and the other provisions of Chapter 35 become applicable.

- (f) of die goedere verwyder is—
- (i) ingevolge 'n klaring vir binnelandse gebruik of 'n doeaneprosedure en, indien vir 'n doeaneprosedure, die spesifieke doeaneprosedure waaronder die goedere verwyder is; of
 - (ii) vir enige ander doel, met inagneming van artikel 310. 5

Verslae wat in verband met goedere in pakhuis geberg, verstrekk moet word

308. (1) Die lisensiehouer van 'n bergingspakhuis moet gereelde verslae vir die tydperke soos by reël voorgeskryf of deur die doeanegesag in 'n spesifieke geval vereis mag word, aan die doeanegesag verstrekk.

(2) 'n Verslag ingevolge subartikel (1), moet die inligting bevat soos by reël 10 voorgeskryf of deur die doeanegesag in 'n spesifieke geval vereis mag word, insluitende inligting aangaande—

- (a) alle goedere gedurende die verslagtydperk in die pakhuis ontvang;
- (b) alle goedere gedurende die verslagtydperk uit die pakhuis verwyder;
- (c) enige surplusse of tekorte op goedere in die pakhuis, soos aan die einde van 15 die verslagtydperk; en
- (d) enige goedere in die pakhuis wat gedurende die verslagtydperk beskadig, vernietig, verlore of rekenskaploos geraak het.

Sortering, verpakking en ander handelinge met betrekking tot goedere in bergingspakhuis geberg 20

309. Goedere wat in 'n bergingspakhuis geberg word, kan gesorteer, geskei, gegradeer, verpak, herverpak, gemerk of hermerk word slegs met die toestemming van die doeanegesag of andersins mee gehandel word soos by reël voorgeskryf mag word.

Verwydering van goedere uit bergingspakhuis

310. Goedere in 'n bergingspakhuis mag slegs in die volgende omstandighede uit die 25 pakhuis verwyder word:

- (a) Wanneer die goedere geklaar en vrygestel word vir binnelandse gebruik, vir pakhuisberging in 'n ander bergingspakhuis of vir 'n ander doeaneprosedure wat in die omstandighede toelaatbaar is;
- (b) om herstel- of instandhoudingswerk soos deur die doeanegesag goedgekeur in 30 verband met die goedere te doen, mits die goedere na die pakhuis teruggebring word binne 'n tydperk soos by reël voorgeskryf of deur die doeanegesag in 'n spesifieke geval bepaal mag word;
- (c) vir enige ander doel soos by reël voorgeskryf of deur die doeanegesag in 'n 35 spesifieke geval goedgekeur mag word, mits die goedere binne 'n tydperk soos by reël voorgeskryf of deur die doeanegesag in 'n spesifieke geval bepaal mag word—
 - (i) na die pakhuis teruggebring word; of
 - (ii) geklaar en vrygestel word soos in paragraaf (a) beoog;
- (d) indien enige stappe bedoel in artikel 115 ten opsigte van die goedere gedoen 40 word en die stappe dit nodig maak dat die goedere uit die pakhuis verwyder moet word; of
- (e) indien die goedere onder detensie geplaas, op beslag gelê of gekonfiskeer word en die doeanegesag ingevolge Hoofstuk 34, 35 of 36 gelas dat die 45 goedere na 'n ander plek verwyder moet word.

Verwydering van beperkte goedere in bergingspakhuis geberg hangende voldoening aan wetgewing wat invoer of besit beperk

311. (1) Beperkte goedere in die Republiek ingevoer en ingevolge artikel 784(2)(a) in 'n bergingspakhuis geberg hangende voldoening aan die wetgewing wat die invoer of besit van sodanige goedere beperk, mag nie uit die pakhuis verwyder word tensy bewys 50 van voldoening aan daardie wetgewing aan die doeanegesag verskaf word nie.

(2) Indien sodanige bewys van voldoening nie binne die tydperk wat ingevolge artikel 305(4) vir die goedere geld aan die doeanegesag verskaf word nie, word artikel 785(1) en die ander bepalinge van Hoofstuk 35 van toepassing.

Part 4

Other matters

Notification of closure of public storage warehouse

312. When closing a public storage warehouse in terms of sections 662 and 663, the Commissioner must take all reasonable steps to ensure that written notice of the closure of the warehouse is given to every person who has cleared goods for warehousing in that warehouse. 5

Rules to facilitate implementation of this Chapter

313. Rules made in terms of section 903 to facilitate the implementation of this Chapter may include rules prescribing— 10

- (a) the form and format of record keeping, the manner in which records must be secured and the information of which record must be kept for purposes of this Chapter;
- (b) measures to distinguish warehoused goods from goods in free circulation in a warehouse and to guard against the diversion for home use of warehoused goods; 15
- (c) measures to ensure effective customs control—
 - (i) when goods are transported to a warehouse under the warehousing procedure; or
 - (ii) during the temporary removal of warehoused goods from a storage warehouse in terms of section 310; 20
- (e) the responsibilities of persons clearing goods²⁴⁹ for warehousing in a storage warehouse;
- (f) for purposes of section 122(c), any persons, other than carriers, permitted to transport goods to a warehouse under the warehousing procedure; and 25
- (g) the periods for and the timeframes within which reports must be submitted to the customs authority in terms of section 308.

Offences in terms of this Chapter

314. (1) A person is guilty of an offence if that person contravenes section 304(1), 310 or 311(1). 30

- (2) A person clearing goods for warehousing is guilty of an offence—
 - (a) if that person contravenes section 300(1) or 301(1);
 - (b) if that person fails to comply with a direction in terms of section 306(b); or
 - (c) if section 305(1) or (4) is contravened with respect to those goods.
- (3) The licensee of a storage warehouse is guilty of an offence— 35
 - (a) if that licensee fails to comply with section 302 or 308(1) or contravenes section 309; or
 - (b) if section 299(1) or (2) is contravened with respect to goods stored in that warehouse.
- (4) An offence referred to in subsection (1) is a Category 1 offence. 40

CHAPTER 14

TAX FREE SHOP PROCEDURE

Part 1

Introductory provisions

Purpose and application of this Chapter 45

315. (1) The purpose of this Chapter is to regulate the tax free shop procedure.

²⁴⁹ If ownership of goods under a customs procedure is transferred, the new owner is in terms of section 111(5)(b)(i) regarded to have cleared the goods and assumes the responsibilities of the previous owner.

Deel 4

Ander aangeleentede

Kennisgewing van sluiting van publieke bergingspakhuis

312. Wanneer die Kommissaris 'n publieke bergingspakhuis ingevolge artikels 662 en 663 sluit, moet die Kommissaris alle redelike stappe doen om te verseker dat skriftelike kennis van die sluiting van die pakhuis aan elke persoon gegee word wat goedere vir berging in daardie pakhuis geklaar het. 5

Reëls ter fasilitering van implementering van hierdie Hoofstuk

313. Reëls ingevolge artikel 903 uitgevaardig om die implementering van hierdie Hoofstuk te fasiliteer, kan reëls insluit wat die volgende voorskryf: 10

- (a) Die vorm en formaat van rekordhouding, die wyse waarop rekords beveilig moet word en die inligting waarvan rekord vir doeleindes van hierdie Hoofstuk gehou moet word;
- (b) maatreëls om goedere onder pakhuisberging van goedere in vry sirkulasie in 'n pakhuis te onderskei en om die afwending van goedere onder pakhuisberging vir binnelandse gebruik te voorkom;
- (c) maatreëls om doeltreffende doeanebeheer te verseker—
 - (i) wanneer goedere na 'n pakhuis onder die pakhuisbergingsprosedure vervoer word; of
 - (ii) gedurende die tydelike verwydering van goedere onder pakhuisberging van 'n bergingspakhuis ingevolge artikel 310;
- (e) die verantwoordelikhede van persone wat goedere²⁴⁹ vir berging in 'n bergingspakhuis klaar;
- (f) vir doeleindes van artikel 122(c), die persone anders as vervoerders wat gemagtig is om goedere na 'n pakhuis onder die pakhuisbergingsprosedure te vervoer; en
- (g) die tydperke waarvoor en die tydsrame waarbinne verslae aan die doeane-gesag ingevolge artikel 308 verstrek moet word. 25

Misdrywe ingevolge hierdie Hoofstuk

314. (1) 'n Persoon is aan 'n misdryf skuldig indien daardie persoon artikel 304(1), 30 310 of 311(1) oortree.

- (2) 'n Persoon wat goedere vir pakhuisberging klaar, is aan 'n misdryf skuldig—
 - (a) indien daardie persoon artikel 300(1) of 301(1) oortree;
 - (b) indien daardie persoon versuim om aan 'n lasgewing ingevolge artikel 306(b) te voldoen; of
 - (c) indien artikel 305(1) of (4) met betrekking tot daardie goedere oortree word.
- (3) Die lisensiehouer van 'n bergingspakhuis is aan 'n misdryf skuldig—
 - (a) indien daardie lisensiehouer versuim om aan artikel 302 of 308(1) te voldoen of artikel 309 oortree; of
 - (b) indien artikel 299(1) of (2) oortree word met betrekking tot goedere wat in daardie pakhuis geberg word. 40
- (4) 'n Misdryf bedoel in subartikel (1) is 'n Kategorie 1 misdryf.

HOOFSTUK 14

PROSEDURE VIR BELASTINGVRY-WINKELS

Deel 1

Inleidende bepalings

Doel en toepassing van hierdie Hoofstuk

315. (1) Die doel van hierdie Hoofstuk is om die prosedure vir belastingvry-winkels te reguleer.

²⁴⁹ Indien eiendomsreg op goedere onder 'n doeane-prosedure oorgedra word, word die nuwe eienaar ingevolge artikel 111(5)(b)(i) geag die goedere te geklaar het en neem die nuwe eienaar die verantwoordelikhede van die vorige eienaar oor.

(2) This Chapter applies to all goods supplied to or received in a tax free shop for sale in or from that shop.

Tax free shop procedure²⁵⁰

- 316.** The tax free shop procedure is a customs procedure that allows—
- (a) goods whether in free circulation or not in free circulation to be sold tax free in retail quantities on premises situated within a sea, air or rail travellers terminal or land border-post and licensed as a tax free shop to persons entering or leaving the Republic; 5
 - (b) goods not in free circulation supplied to a tax free shop for the purpose of such sale to be transported to the shop without clearing the goods for national transit; and 10
 - (c) the goods so sold to be treated as accompanied or unaccompanied baggage of such persons.

Commencement and completion of tax free shop procedure

- 317.** (1) (a) Goods not in free circulation come under the tax free shop procedure when the goods are cleared for supply to a tax free shop in accordance with Part 2, and goods in free circulation automatically come under the tax free shop procedure when the goods are received in a tax free shop in accordance with Part 3. 15
- (b) The tax free shop procedure is, subject to subsection (2), completed when the goods are sold from the shop and— 20
- (i) if sold to a person in the process of leaving the Republic, exported from the Republic; or
 - (ii) if sold to a person having entered the Republic, declared in terms of section 478(1)(b) to the customs authority.
- (2) The tax free shop procedure, in relation to any goods, ends before its completion if— 25
- (a) the goods before completion of the procedure are cleared and released for another customs procedure or for home use, as may be permissible in the circumstances; or
 - (b) completion of the procedure is interrupted by an occurrence referred to in section 109(2). 30

Extent to which Chapters 4 and 7 apply

318. Chapters 4 and 7, except insofar as a provision of those Chapters is modified, qualified or deviated from in this Chapter,²⁵¹ apply to goods under the tax free shop procedure, including to the clearance and release of goods for the tax free shop procedure. 35

Part 2

Clearance and release of goods not in free circulation for supply to tax free shops

Clearance and release of goods for tax free shop procedure

319. (1) Goods not in free circulation may not be received in a tax free shop unless 40

250. For tax status of goods under the tax free shop procedure, see section 145. For consequences of non-compliance with the tax free shop procedure, see sections 112, 113, 114 and 115.

251. In the case of an inconsistency between a provision of this Chapter and a general provision contained in Chapter 4 or 7 the provision of this Chapter prevails. See sections 88(3) and 162(3).

(2) Hierdie Hoofstuk is van toepassing op alle goedere wat verskaf word aan, of ontvang word in, 'n belastingvry-winkel vir verkoop in of vanaf daardie winkel.

Prosedure vir belastingvry-winkels²⁵⁰

316. Die prosedure vir belastingvry-winkels is 'n doeaneprosedure ingevolge waarvan— 5

- (a) goedere, hetsy in vry sirkulasie of nie in vry sirkulasie nie, belastingvry in kleinhandelmaat op 'n perseel wat binne 'n see-, lug- of spoorreisigers-terminaal of land-grenspos geleë en as 'n belastingvry-winkel gelisensieer is, verkoop mag word aan persone wat die Republiek binnekom of verlaat;
- (b) goedere wat nie in vry sirkulasie is nie wat aan 'n belastingvry-winkel vir doeleindes van sodanige verkoop verskaf word, na die winkel vervoer mag word sonder om die goedere vir nasionale transito te klaar; en
- (c) die goedere aldus verkoop, as vergeselde of onvergeselde bagasie van sodanige persone behandel mag word.

Begin en afhandeling van prosedure vir belastingvry-winkels 15

317. (1) (a) Goedere wat nie in vry sirkulasie is nie kom onder die prosedure vir belastingvry-winkels wanneer die goedere ooreenkomstig Deel 2 vir verskaffing aan 'n belastingvry-winkel geklaar word, en goedere in vry sirkulasie kom outomaties onder die prosedure vir belastingvry-winkels wanneer die goedere ooreenkomstig Deel 3 in 'n belastingvry-winkel ontvang word. 20

(b) Die prosedure vir belastingvry-winkels is, behoudens subartikel (2), afgehandel wanneer die goedere vanuit die winkel verkoop word en—

- (i) indien verkoop aan 'n persoon wat in die proses is om die Republiek te verlaat, uit die Republiek uitgevoer word; of
- (ii) indien verkoop aan 'n persoon wat die Republiek binnegekom het, ingevolge artikel 478(1)(b) aan die doeanegesag verklaar word. 25

(2) Die prosedure vir belastingvry-winkels, met betrekking tot enige goedere, eindig voor die afhandeling daarvan indien—

- (a) die goedere voor afhandeling van die prosedure vir 'n ander doeaneprosedure of vir binnelandse gebruik geklaar en vrygestel word, soos in die omstandighede toelaatbaar mag wees; of
- (b) afhandeling van die prosedure deur 'n gebeurtenis bedoel in artikel 109(2) onderbreek word. 30

Mate waarin Hoofstukke 4 en 7 van toepassing is

318. Hoofstukke 4 en 7, behalwe in soverre 'n bepaling van daardie Hoofstukke aangepas, gekwalifiseer of van afgewyk word in hierdie Hoofstuk,²⁵¹ is van toepassing op goedere onder die prosedure vir belastingvry-winkels, asook op die klaring en vrystelling van goedere vir die prosedure vir belastingvry-winkels. 35

Deel 2

Klaring en vrystelling van goedere nie in vry sirkulasie nie vir verskaffing aan belastingvry-winkels 40

Klaring en vrystelling van goedere vir prosedure vir belastingvry-winkels

319. (1) Goedere wat nie in vry sirkulasie is nie mag nie in 'n belastingvry-

250. Vir belastingstatus van goedere onder die prosedure vir belastingvry-winkels, kyk artikel 145. Vir belastinggevolge van nie-voldoening aan die prosedure vir belastingvry-winkels, kyk artikels 112, 113, 114 en 115.

251. In die geval van enige onbestaanbaarheid tussen 'n bepaling van hierdie Hoofstuk en 'n algemene bepaling in Hoofstuk 4 of 7 vervat, geniet die bepaling van hierdie Hoofstuk voorrang. Kyk artikels 88(3) en 162(3).

those goods are cleared and released under the tax free shop procedure for supply to that tax free shop.²⁵²

(2) Goods not in free circulation to be cleared for supply to a tax free shop must be cleared in accordance with section 318.

Persons entitled to submit tax free shop clearance declarations 5

320. Only the following persons may, subject to section 165(2), submit clearance declarations to clear goods for supply to a tax free shop:²⁵³

- (a) The licensee of the tax free shop; or
- (b) a customs broker referred to in section 165(1)(b).

Contents of tax free shop clearance declarations 10

321. A tax free shop clearance declaration must, in addition to the information required in terms of section 167, state—

- (a) that the goods are cleared under the tax free shop procedure for supply to a tax free shop;
- (b) the customs code of that tax free shop; and 15
- (c) the name of the licensee of the shop.

Redirection of goods

322. Goods that are cleared and released for supply to a tax free shop must be delivered to the tax free shop indicated in the clearance declaration, and no person may, without the permission of the customs authority, redirect goods that are cleared for supply to a tax free shop to any place other than that tax free shop. 20

Part 3

Receipt, sale and removal of goods in tax free shops

Goods that may be sold in tax free shops

323. (1) Any goods as may be prescribed by rule may be kept, displayed for sale or sold in a tax free shop, provided that Part 2 is complied with in relation to the supply of goods not in free circulation to a tax free shop. 25

(2) No restricted or sectorally controlled goods may be sold in a tax free shop except in accordance with the legislation regulating the import, possession or export of the goods. 30

Persons to whom goods may be sold in tax free shops²⁵⁴

324. Goods may be sold in a tax free shop only to—

- (a) travellers and crew—
 - (i) about to depart from the sea, air or rail travellers terminal or land border-post where the tax free shop is situated on board a foreign-going vessel or aircraft, cross-border railway carriage or vehicle to a destination outside the Republic; and 35
 - (ii) holding valid boarding passes or other documents indicating that they are about to undertake the voyage to such destination, as may be prescribed by rule;²⁵⁵ or 40

252. Goods not in free circulation which have been released by the customs authority for supply to a tax free shop remain in terms of section 28 subject to customs control despite such release.

253. See section 165(1)(a).

254. Rules under section 6 regulate the sale of goods to BLNS travellers.

255. Goods sold in a tax free shop to persons referred to in section 324 are accompanied or unaccompanied baggage to which Chapter 21 applies. Chapter 16 regulating the clearance of goods for export from the Republic does not apply to such baggage which persons have with them when leaving the Republic. See section 361(3).

winkel ontvang word nie tensy daardie goedere onder die prosedure vir belastingvry-winkels vir verskaffing aan daardie belastingvry-winkel geklaar en vrygestel is.²⁵²

(2) Goedere wat nie in vry sirkulasie is nie wat bestem is vir klaring vir verskaffing aan 'n belastingvry-winkel, moet volgens voorskrif van artikel 318 geklaar word.

Persone wat klaringsbriewe vir prosedure vir belastingvry-winkels mag indien 5

320. Slegs die volgende persone mag, behoudens artikel 165(2), klaringsbriewe indien om goedere vir verskaffing aan 'n belastingvry-winkel te klaar:²⁵³

- (a) Die lisensiehouer van die belastingvry-winkel; of
- (b) 'n doeanemakelaar in artikel 165(1)(b) bedoel.

Inhoud van klaringsbriewe vir belastingvry-winkels 10

321. 'n Klaringsbrief vir die prosedure vir belastingvry-winkels moet, benewens die inligting wat ingevolge artikel 167 verstrekk moet word, die volgende vermeld:

- (a) Dat die goedere onder die prosedure vir belastingvry-winkels vir verskaffing aan 'n belastingvry-winkel geklaar word;
- (b) die doeanekode van daardie belastingvry-winkel; en 15
- (c) die naam van die lisensiehouer van die winkel.

Herdestinering van goedere

322. Goedere wat vir verskaffing aan 'n belastingvry-winkel geklaar en vrygestel is, moet aan die belastingvry-winkel aangedui in die klaringsbrief gelewer word, en geen persoon mag, sonder die toestemming van die doeanegesag, goedere wat vir verskaffing aan 'n belastingvry-winkel geklaar is na enige plek anders as daardie belastingvry-winkel herdestineer nie. 20

Deel 3

Ontvangs, verkoop en verwydering van goedere in belastingvry-winkels

Goedere wat in belastingvry-winkels verkoop mag word 25

323. (1) Enige goedere soos by reël voorgeskryf mag word, kan in 'n belastingvry-winkel gehou, vir verkoop uitgestal of verkoop word, mits daar aan Deel 2 voldoen word met betrekking tot die verskaffing aan 'n belastingvry-winkel van goedere wat nie in vry sirkulasie is nie.

(2) Geen beperkte of sektorbeheerde goedere mag in 'n belastingvry-winkel verkoop word behalwe ooreenkomstig die wetgewing wat die invoer, besit of uitvoer van die goedere reguleer nie. 30

Persone aan wie goedere in belastingvry-winkels²⁵⁴ verkoop mag word

324. Goedere kan in 'n belastingvry-winkel verkoop word slegs aan—

- (a) reisigers en bemanning— 35
 - (i) wat in die proses is om van die see-, lug- of spoorreisigersterminaal of land-grenspas waar die belastingvry-winkel geleë is aan boord van 'n land-uitgaande vaartuig of vliegtuig, oor-grens spoorwegwa of voertuig na 'n bestemming buite die Republiek te vertrek; en
 - (ii) wat geldige instapkaarte of ander dokumente het wat aandui dat hulle in 40 die proses is om die reis na so 'n bestemming te onderneem, soos by reël voorgeskryf mag word;²⁵⁵ of

252. Goedere wat nie in vry sirkulasie is nie wat deur die doeanegesag vrygestel word vir verskaffing aan 'n belastingvry-winkel bly ingevolge artikel 28 aan doeanebeheer onderworpe ongeag sodanige vrystelling.

253. Kyk artikel 165(1)(a).

254. Reëls kragtens artikel 6 uitgevaardig, reguleer die verkoop van goedere aan BLNS reisigers.

255. Goedere vanuit 'n belastingvry-winkel verkoop aan persone bedoel in artikel 324 is vergeselde of onvergeselde bagasie waarop Hoofstuk 21 van toepassing is. Hoofstuk 16 wat die klaring van goedere vir uitvoer uit die Republiek reguleer, is nie van toepassing op die bagasie wat persone by hulle het wanneer hulle die Republiek verlaat nie. Kyk artikel 361(3).

- (b) travellers and crew—
 - (i) having arrived at the sea, air or rail travellers terminal or land border-post where the tax free shop is situated on board a foreign-going vessel or aircraft, cross-border train or vehicle from a place outside the Republic; and
 - (ii) holding valid boarding passes or other documents indicating that they arrived at that terminal or land border-post from a place outside the Republic, as may be prescribed by rule.

Issuing of sales invoices

325. No goods may be sold from a tax free shop unless a sales invoice containing such information as may be prescribed by rule has been issued to the purchaser in respect of the sale.

Off-site outlets

326. (1) The licensee of a tax free shop may, with the approval of the customs authority, for the purpose of promoting sales establish retail outlets for the tax free shop in other locations outside the sea, air or rail travellers terminal or land border-post in which the shop is situated and transfer goods in the shop to such outlets for display purposes: Provided that—

- (a) the customs authority may limit the number of off-site outlets that a tax free shop may establish;
- (b) the outlet is only used for the purpose of taking orders;
- (c) the delivery or pick-up of goods ordered from an off-site outlet may only take place at the tax free shop;
- (d) the outlet is located within the area served by the same Customs Office as the tax free shop;
- (e) the outlet is secure and meets the standards as may be prescribed by rule;
- (f) the transfer of goods for display purposes between the tax free shop and the outlet takes place in accordance with such processes and requirements as may be prescribed by rule; and
- (g) the liability for the payment of any tax on goods in the tax free shop and in the outlet remain with the licensee of the tax free shop.

(2) Goods transferred for display purposes in terms of subsection (1)(f) must be regarded as forming part of the goods in the tax free shop.

Maximum period for which goods may remain in tax free shops

327. No goods supplied to a tax free shop for sale in the shop may remain in the shop for longer than—

- (a) two years from the time of receipt of the goods in the shop, or in the case of goods cleared in terms of Part 2, from the time of clearance of the goods;²⁵⁶ or
- (b) any extension or shortening of that period in terms of section 908 or 909.

Removal of goods from tax free shops

328. (1) Goods may be removed from a tax free shop in the following circumstances only:

- (a) When the goods are sold to a traveller or crew member referred to in section 324;
- (b) if goods not sold as contemplated in paragraph (a) are cleared and released for another customs procedure or for home use, as may be permissible in the circumstances;

²⁵⁶. For time of clearance of goods, see section 173.

- (b) reisigers en bemanning—
- (i) nadat hulle by die see-, lug- of spoorreisigersterminaal of land-grenspos waar die belastingvry-winkel geleë is aan boord van 'n land-uitgaande vaartuig of vliegtuig, oor-grens trein of voertuig vanaf 'n plek buite die Republiek aangekom het; en 5
 - (ii) wat geldige instapkaarte of ander dokumente het wat aandui dat hulle by daardie terminaal of land-grenspos aangekom het vanaf 'n plek buite die Republiek, soos by reël voorgeskryf mag word.

Uitreik van verkoopsfakture

325. Geen goedere mag vanuit 'n belastingvry-winkel verkoop word tensy 'n verkoopsfaktuur wat die inligting bevat soos by reël voorgeskryf mag word aan die koper ten opsigte van die verkoop uitgereik word nie. 10

Afsetpunte weg van winkelperseel

326. (1) Die lisensiehouer van 'n belastingvry-winkel kan, met die goedkeuring van die doeanegesag, kleinhandel afsetpunte vir die belastingvry-winkel in ander plekke buite die see-, lug- of spoorreisigersterminaal of land-grenspos waarin die winkel geleë is, ter bevordering van verkope vestig en goedere in die winkel na sodanige afsetpunte vir vertoondoeleindes oorplaas: Met dien verstande dat— 15

- (a) die doeanegesag die aantal afsetpunte weg van die winkelperseel wat 'n belastingvry-winkel mag vestig, kan beperk; 20
- (b) die afsetpunt slegs gebruik kan word vir die doel om bestellings te neem;
- (c) die lewering of afhaal van goedere wat vanaf 'n afsetpunt weg van 'n winkelperseel bestel word, slegs by die belastingvry-winkel mag plaasvind;
- (d) die afsetpunt binne die gebied geleë is wat deur dieselfde Doeanekantoor as die belastingvry-winkel bedien word; 25
- (e) die afsetpunt beveilig is en aan die standaard soos by reël voorgeskryf mag word, voldoen;
- (f) die oorpasing van goedere vir vertoondoeleindes tussen die belastingvry-winkel en die afsetpunt uitgevoer word ooreenkomstig prosesse en voorskrifte soos by reël voorgeskryf mag word; en 30
- (g) die aanspreeklikheid vir die betaling van enige belasting op goedere in die belastingvry-winkel en in die afsetpunt by die lisensiehouer van die belastingvry-winkel bly.

(2) Goedere wat ingevolge subartikel (1)(f) vir vertoondoeleindes oorgeplaas word, moet geag word deel te vorm van die goedere in die belastingvry-winkel. 35

Maksimum tydperk wat goedere in belastingvry-winkels mag bly

327. Geen goedere wat aan 'n belastingvry-winkel vir verkoop in die winkel verskaf is, mag in die winkel bly vir langer as—

- (a) twee jaar vanaf die tydstip van ontvangs van die goedere in die winkel, of in die geval van goedere ingevolge Deel 2 geklaar, vanaf die tydstip van klaring van die goedere nie;²⁵⁶ of 40
- (b) enige verlenging of verkorting van daardie tydperk ingevolge artikel 908 of 909 nie.

Verwydering van goedere uit belastingvry-winkels

328. (1) Goedere kan uit 'n belastingvry-winkel verwyder word slegs in die volgende omstandighede: 45

- (a) Wanneer die goedere aan 'n reisiger of bemanningslid bedoel in artikel 324 verkoop word;
- (b) indien goedere wat nie verkoop is soos in paragraaf (a) beoog nie vir 'n ander doeaneprosedure of vir binnelandse gebruik, soos in die omstandighede toelaatbaar mag wees, geklaar en vrygestel word; 50

²⁵⁶. Vir tydstip van klaring van goedere, kyk artikel 173.

- (c) if the goods are to be transferred—
 - (i) to another tax free shop covered by the same tax free shop licence; or
 - (ii) to an off-site outlet established in terms of section 326 for that tax free shop;
 - (d) if any steps referred to in section 115 are taken in respect of the goods and such steps require removal of the goods from the tax free shop; 5
 - (e) if the goods are detained, seized or confiscated and the customs authority directs in terms of Chapter 34, 35 or 36 that the goods be removed to another place; or
 - (f) any other circumstance as may be prescribed by rule or approved by the customs authority in a specific case. 10
- (2) Goods removed from a tax free shop in contravention of subsection (1) or used or sold as samples, perfume testers or other items used for promoting sales in the shop must in terms of—
- (a) section 112(1) for tax purposes be regarded to be cleared for home use under Chapter 8,²⁵⁷ in the case of goods cleared for the tax free shop procedure in terms of Part 2; or 15
 - (b) section 113(1) for tax purposes be regarded to have reverted to free circulation,²⁵⁸ in the case of goods that were in free circulation when supplied to the shop. 20

Manipulation, alteration or combination of goods in tax free shops

329. No goods in a tax free shop may for the purpose of display or sale be manipulated, altered or combined with another article to form a new or different product except as provided by rule or as the customs authority may approve in a specific case.

Part 4 25

Accountability for goods in tax free shops

Inventory control of goods in tax free shops

- 330.** The licensee of a tax free shop must establish and maintain an inventory control system²⁵⁹ complying with any requirements as may be prescribed by rule or approved by the customs authority in a specific case to reflect— 30
- (a) the weekly, monthly and annual quantities of goods—
 - (i) received in the tax free shop, distinguishing between—
 - (aa) goods that are cleared and released for supply to the shop in terms of Part 2; and
 - (bb) goods that were in free circulation for which no clearance and release were necessary; 35
 - (ii) sold from the tax free shop; and
 - (iii) removed from the tax free shop for each of the purposes listed in section 328;
 - (b) the date of receipt of the goods in the tax free shop, the date of sale (if any) and the date of removal; 40
 - (c) monthly and year-end balances of all unsold goods in the tax free shop;
 - (d) any goods to which section 112 or 113 was applied; and
 - (e) any other matter as may be prescribed by rule.

257. For tax consequences if goods are regarded to be cleared for home use, see section 154; for other consequences of non-compliance with customs procedures, see sections 115.

258. For tax consequences if goods are regarded as having reverted to free circulation, see section 161; for other consequences of non-compliance with customs procedures, see sections 115.

259. See section 919 for computerised systems.

- (c) indien die goedere bestem is vir oorplasing na—
 - (i) 'n ander belastingvry-winkel wat deur dieselfde belastingvry-winkel lisensie gedek word; of
 - (ii) 'n afsetpunt weg van die winkelperseel wat ingevolge artikel 326 vir daardie belastingvry-winkel gevestig is; 5
 - (d) indien enige stappe in artikel 115 bedoel ten opsigte van die goedere gedoen word en die stappe die verwydering van die goedere uit die belastingvry-winkel nodig maak;
 - (e) indien die goedere onder detensie geplaas, op beslag gelê of gekonfiskeer word en die doeanegesag ingevolge Hoofstuk 34, 35 of 36 gelas dat die goedere na 'n ander plek verwyder moet word; of 10
 - (f) in enige ander omstandighede soos by reël voorgeskryf of deur die doeanegesag in 'n spesifieke geval goedgekeur mag word.
- (2) Goedere wat in stryd met subartikel (1) uit 'n belastingvry-winkel verwyder word, of gebruik of verkoop word as monsters, parfuum toetsmonsters of ander items aangewend om verkope in die winkel te bevorder, moet ingevolge— 15
- (a) artikel 112(1) vir belastingdoeleindes geag word vir binnelandse gebruik kragtens Hoofstuk 8 geklaar te wees,²⁵⁷ in die geval van goedere wat vir die prosedure vir belastingvry-winkels ingevolge Deel 2 geklaar is; of
 - (b) artikel 113(1) vir belastingdoeleindes geag word tot vry sirkulasie terug te geval het,²⁵⁸ in die geval van goedere wat in vry sirkulasie was toe dit aan die winkel verskaf is. 20

Manipulasie, verandering of kombinerings van goedere in belastingvry-winkels

329. Geen goedere in 'n belastingvry-winkel mag vir vertoon- of verkoopdoeleindes gemanipuleer word, verander word of met 'n ander artikel gekombineer word om 'n nuwe of ander produk te vorm nie, behalwe soos by reël bepaal of deur die doeanegesag in 'n spesifieke geval goedgekeur mag word. 25

Deel 4

Rekenskap vir goedere in belastingvry-winkels

Voorradebeheer van goedere in belastingvry-winkels 30

330. Die lisensiehouer van 'n belastingvry-winkel moet 'n voorradebeheerstelstel²⁵⁹ ontwikkel en in stand hou wat voldoen aan enige vereistes soos by reël voorgeskryf of deur die doeanegesag in 'n spesifieke geval goedgekeur mag word, wat die volgende aantoon:

- (a) Die weeklikse, maandelikse en jaarlikse hoeveelheid goedere— 35
 - (i) wat in die belastingvry-winkel ontvang is, wat onderskei tussen—
 - (aa) goedere wat ingevolge Deel 2 vir verskaffing aan die winkel geklaar en vrygestel is; en
 - (bb) goedere wat in vry sirkulasie was waarvoor geen klaring en vrystelling nodig was nie; 40
 - (ii) wat uit die belastingvry-winkel verkoop is; en
 - (iii) wat uit die belastingvry-winkel verwyder is vir elk van die doeleindes in artikel 328 vermeld;
- (b) die datum van ontvangs van die goedere in die belastingvry-winkel, die datum van verkoop (as daar is) en die datum van verwydering; 45
- (c) maandelikse en jaareinde balanse van alle onverkoopte goedere in die belastingvry-winkel;
- (d) enige goedere waarop artikel 112 of 113 toegepas is; en
- (e) enige ander aangeleenthede soos by reël voorgeskryf mag word.

257. Vir belastinggevolge indien goedere geag word vir binnelandse gebruik geklaar te wees, kyk artikel 154; vir ander gevolge van nie-voldoening aan doeaneprosedures, kyk artikel 115.

258. Vir belastinggevolge indien goedere geag word tot vry sirkulasie terug te geval het, kyk artikel 161; vir ander gevolge van nie-voldoening aan doeaneprosedures, kyk artikel 115.

259. Kyk artikel 919 vir gerekenariseerde stelsels.

Regular reports

331. (1) The licensee of a tax free shop must submit to the customs authority regular reports for such periods as may be prescribed by rule or as the customs authority may require in a specific case.

(2) A report in terms of subsection (1) must contain such information as may be prescribed by rule or as the customs authority may require in a specific case, including information concerning— 5

- (a) all goods received in the tax free shop during the reporting period, distinguishing between—
 - (i) goods that are cleared and released for supply to the shop in terms of Part 2; and 10
 - (ii) goods that were in free circulation for which no clearance and release were necessary;
- (b) any non-sellable goods received in or that have become non-sellable whilst in the tax free shop during the reporting period; 15
- (c) all goods sold from the tax free shop during the reporting period;
- (d) all goods removed from the tax free shop during the reporting period for each of the purposes listed in section 328;
- (e) any goods damaged, destroyed, lost or unaccounted for during the reporting period; and 20
- (f) any surpluses or shortfalls on goods in the tax free shop, as at the end of the reporting period.

Part 5

Other matters

Rules to facilitate implementation of this Chapter 25

332. Rules made in terms of section 903 to facilitate the implementation of this Chapter may include rules prescribing—

- (a) requirements for inbound and outbound tax free shops and combination inbound and outbound tax free shops;
- (b) for purposes of section 122(c), any persons, other than carriers, permitted to transport goods not in free circulation to a tax free shop under the tax free shop procedure; 30
- (c) measures to ensure effective customs control when goods not in free circulation are transported to a tax free shop under the tax free shop procedure;
- (d) conditions and procedures for the sale of goods tax free to diplomats representing other countries in the Republic in special shops for diplomats; 35
- (e) limits on the number of special shops for diplomats;
- (f) the application of provisions of this Chapter to special shops for diplomats; and
- (g) the places where special shops for diplomats may be established. 40

Offences in terms of this Chapter

333. (1) A person is guilty of an offence if that person contravenes section 322.

(2) The licensee of a tax free shop is guilty of an offence—

- (a) if that licensee fails to comply with section 330 or 331;
- (b) if goods not in free circulation are received in the shop in contravention of section 319(1); 45
- (c) if section 323(2), 324, 325, 327, 328(1) or 329 is contravened with respect to goods in the shop; or
- (d) if the licensee establishes or operates a retail outlet for the tax free shop otherwise than in accordance with section 326. 50

(3) The offences referred to in subsections (1) and (2)(b) are Category 1 offences.

Gereelde verslae

- 331.** (1) Die lisensiehouer van 'n belastingvry-winkel moet gereelde verslae aan die doeanebesag verstrek vir die tydperke soos by reël voorgeskryf of deur die doeanebesag in 'n spesifieke geval benodig mag word.
- (2) 'n Verslag ingevolge subartikel (1) moet die inligting bevat soos by reël 5 voorgeskryf of deur die doeanebesag in 'n spesifieke geval benodig mag word, met inbegrip van inligting aangaande—
- (a) alle goedere in die belastingvry-winkel gedurende die verslagdoenings-tydperk ontvang, wat onderskei tussen—
 - (i) goedere wat ingevolge Deel 2 vir verskaffing aan die winkel geklaar en 10 vrygestel is; en
 - (ii) goedere wat in vry sirkulasie was waarvoor geen klaring en vrystelling nodig was nie;
 - (b) enige onverkoopbare goedere wat ontvang is in die belastingvry-winkel of 15 wat onverkoopbaar geword het terwyl dit in die belastingvry-winkel was gedurende die verslagdoeningstydperk;
 - (c) alle goedere gedurende die verslagdoeningstydperk uit die belastingvry-winkel verkoop;
 - (d) alle goedere gedurende die verslagdoeningstydperk uit die belastingvry-winkel verwyder vir elk van die doeleindes in artikel 328 vermeld; 20
 - (e) enige goedere wat gedurende die verslagdoeningstydperk beskadig, vernietig, verlore of rekenskaploos geraak het; en
 - (f) enige surplusse of tekorte op goedere in die belastingvry-winkel, soos aan die einde van die verslagdoeningstydperk.

Deel 5 25

Ander aangeleenthede

Reëls ter fasilitering van implementering van hierdie Hoofstuk

- 332.** Reëls ingevolge artikel 903 uitgevaardig om die implementering van hierdie Hoofstuk te fasiliteer, kan reëls insluit wat die volgende voorskryf:
- (a) Vereistes vir inwaartse en uitwaartse belastingvry-winkels en kombinasie 30 inwaartse en uitwaartse belastingvry-winkels;
 - (b) by die toepassing van artikel 122(c), die persone anders as vervoerders wat gemagtig is om goedere wat nie in vry sirkulasie is nie onder die prosedure vir belastingvry-winkels na 'n belastingvry-winkel te vervoer;
 - (c) maatreëls om doeltreffende doeanebeheer te verseker wanneer goedere wat 35 nie in vry sirkulasie is nie onder die prosedure vir belastingvry-winkels na 'n belastingvry-winkel vervoer word;
 - (d) voorwaardes en prosedures vir die verkoop van goedere belastingvry aan diplomate wat ander lande in die Republiek verteenwoordig, in spesiale winkels vir diplomate; 40
 - (e) beperkings op die aantal spesiale winkels vir diplomate;
 - (f) die toepassing van bepalinge van hierdie Hoofstuk op spesiale winkels vir diplomate; en
 - (g) die plekke waar spesiale winkels vir diplomate gevestig mag word.

Misdrywe ingevolge hierdie Hoofstuk 45

- 333.** (1) 'n Persoon is aan 'n misdryf skuldig indien daardie persoon artikel 322 oortree.
- (2) Die lisensiehouer van 'n belastingvry-winkel is aan 'n misdryf skuldig—
- (a) indien daardie lisensiehouer versuim om aan artikel 330 of 331 te voldoen;
 - (b) indien goedere wat nie in vry sirkulasie is nie in die winkel in stryd met artikel 50 319(1) ontvang word;
 - (c) indien artikel 323(2), 324, 325, 327, 328(1) of 329 met betrekking tot goedere in die winkel oortree word; of
 - (d) indien die lisensiehouer 'n kleinhandel afsetpunt vir die belastingvry-winkel anders as ooreenkomstig artikel 326 vestig of bedryf. 55
- (3) Die misdrywe bedoel in subartikels (1) en (2)(b) is Kategorie 1 misdrywe.

CHAPTER 15
STORES PROCEDURE

Part 1

Introductory provisions

Purpose and application of this Chapter 5

334. (1) The purpose of this Chapter is to regulate the stores procedure.

(2) This Chapter applies to goods that are to be or are used as stores for foreign-going vessels, foreign-going aircraft or cross-border trains—

- (a) operated by a licensed carrier located in the Republic or, if not located in the Republic, represented in the Republic by a registered agent located in the Republic; and 10
- (b) engaged in the transport of goods or travellers—
 - (i) to the Republic from a place outside the Republic; or
 - (ii) from the Republic to a place outside the Republic.

(3) Goods that are to be or are used as stores for other foreign-going vessels, foreign-going aircraft or cross-border trains or for vehicles entering or leaving the Republic, must be treated as goods ordinarily imported into or to be exported from the Republic.²⁶⁰ 15

Stores procedure²⁶¹

335. The stores procedure is a customs procedure that allows stores for a foreign-going vessel, foreign-going aircraft or cross-border train referred to in section 334(2)— 20

- (a) in the case of stores on board the vessel, aircraft or train when it enters the Republic—
 - (i) to be used as stores for that vessel, aircraft or train in the Republic without clearing those stores for home use;²⁶² or 25
 - (ii) to be re-exported from the Republic on board that vessel, aircraft or train as stores for that vessel, aircraft or train without clearing those stores for export;²⁶³ or
- (b) in the case of stores taken on board the vessel, aircraft or train in the Republic— 30
 - (i) to be transported to that vessel, aircraft or train under this procedure without clearing those stores for transit, if those stores consist of goods not in free circulation;
 - (ii) to be used as stores for that vessel, aircraft or train in the Republic without clearing those stores for home use, if those stores consist of imported goods; or 35
 - (iii) to be exported from the Republic on board that vessel, aircraft or train as stores for that vessel, aircraft or train without clearing those stores for export.²⁶⁴ 40

Commencement and completion of stores procedure

336. (1) (a) Stores for a foreign-going vessel, foreign-going aircraft or cross-border train referred to in section 334(2) that are on board the vessel, aircraft or train when it

260. This means that sections 89 and 93 must be applied to these goods.

261. For tax status of goods under the stores procedure, see section 146.

262. Such goods are in terms of section 91 excluded from import clearance requirements.

263. Such goods are in terms of section 95 excluded from export clearance requirements.

264. Chapter 16 regulating the clearance of goods for export from the Republic does not apply to the export from the Republic of goods cleared and released for the stores procedure. See section 361(3).

HOOFTUK 15

VOORRADEPROSEDURE

Deel 1

Inleidende bepalings

Doel en toepassing van hierdie Hoofstuk 5

334. (1) Die doel van hierdie Hoofstuk is om die voorradeprosedure te reguleer.

(2) Hierdie Hoofstuk is van toepassing op goedere bestem vir gebruik, of wat gebruik word, as voorrade vir land-uitgaande vaartuie, land-uitgaande vliegtuie of oor-grens treine—

(a) wat onder operasionele beheer is van 'n gelisensieerde vervoerder wat in die Republiek gesetel is of, indien nie in die Republiek gesetel nie, in die Republiek deur 'n geregistreerde agent wat in die Republiek gesetel is, verteenwoordig word; en

(b) gebruik word vir die vervoer van goedere of reisigers—
(i) na die Republiek vanaf 'n plek buite die Republiek; of 15
(ii) vanaf die Republiek na 'n plek buite die Republiek.

(3) Goedere bestem vir gebruik, of wat gebruik word, as voorrade vir ander land-uitgaande vaartuie, land-uitgaande vliegtuie of oor-grens treine of vir voertuie wat die Republiek binnekom of verlaat, moet behandel word as goedere wat in die gewone loop ingevoer word in, of uitgevoer word uit, die Republiek.²⁶⁰ 20

Voorradeprosedure²⁶¹

335. Die voorradeprosedure is 'n doeaneprocedure ingevolge waarvan voorrade vir 'n land-uitgaande vaartuig, land-uitgaande vliegtuig of oor-grens trein bedoel in artikel 334(2)—

(a) in die geval van voorrade wat aan boord van die vaartuig, vliegtuig of trein was toe dit die Republiek binnegekom het— 25

(i) as voorrade vir daardie vaartuig, vliegtuig of trein in die Republiek gebruik mag word sonder om daardie voorrade vir binnelandse gebruik te klaar;²⁶² of

(ii) aan boord van daardie vaartuig, vliegtuig of trein uit die Republiek heruitgevoer mag word as voorrade vir daardie vaartuig, vliegtuig of trein sonder om daardie voorrade vir uitvoer te klaar;²⁶³ 30

(b) in die geval van voorrade wat in die Republiek aan boord van die vaartuig, vliegtuig of trein geneem word—

(i) na daardie vaartuig, vliegtuig of trein onder hierdie prosedure vervoer mag word sonder om daardie voorrade vir transito te klaar, indien daardie voorrade goedere is wat nie in vry sirkulasie is nie; 35

(ii) as voorrade vir daardie vaartuig, vliegtuig of trein in die Republiek gebruik mag word sonder om daardie voorrade vir binnelandse gebruik te klaar, indien daardie voorrade uit ingevoerde goedere bestaan; of 40

(iii) aan boord van daardie vaartuig, vliegtuig of trein uit die Republiek uitgevoer mag word as voorrade vir daardie vaartuig, vliegtuig of trein sonder om daardie voorrade vir uitvoer te klaar.²⁶⁴

Begin en afhandeling van voorradeprosedure

336. (1) (a) Voorrade vir 'n land-uitgaande vaartuig, land-uitgaande vliegtuig of oor-grens trein bedoel in artikel 334(2) wat aan boord van die vaartuig, vliegtuig of trein

260. Dit beteken dat artikels 89 en 93 op hierdie goedere toegepas moet word.

261. Vir belastingstatus van goedere onder die voorradeprosedure, kyk artikel 146.

262. Sulke goedere word ingevolge artikel 91 uitgesluit van invoer klaringsvereistes.

263. Sulke goedere word ingevolge artikel 95 uitgesluit van uitvoer klaringsvereistes.

264. Hoofstuk 16 wat die klaring van goedere vir uitvoer uit die Republiek reguleer, is nie op die uitvoer uit die Republiek van goedere geklaar en vrygestel vir die voorradeprosedure van toepassing nie. Kyk artikel 361(3).

enters the Republic, come under the stores procedure automatically and without any formal clearance for the stores procedure when the vessel, aircraft or train enters the Republic.

(b) Stores taken on board such a vessel, aircraft or train in the Republic, come under the stores procedure when the stores are cleared in terms of Part 2 as stores for that vessel, aircraft or train. 5

(c) The stores procedure in relation to any goods is, subject to subsection (2), completed when the goods leave the Republic on board that vessel, aircraft or train as stores for the vessel, aircraft or train.

(2) The stores procedure, in relation to any goods, ends before its completion if— 10

(a) the goods are used in accordance with this Chapter as stores on that vessel, aircraft or train whilst in the Republic;

(b) the goods before completion of the procedure are cleared and released for another customs procedure or for home use, as may be permissible in the circumstances; or 15

(c) completion of the procedure is interrupted by an occurrence referred to in section 109(2).

Extent to which Chapters 4, 5 and 7 apply

337. Chapters 4, 5 and 7, except insofar as a provision of those Chapters is modified, qualified or deviated from in this Chapter,²⁶⁵ apply to goods under the stores procedure, including to the clearance and release of goods for the stores procedure. 20

Part 2

Clearance and release of stores taken on board in Republic

Application of this Part

338. This Part applies to stores for a foreign-going vessel, foreign-going aircraft or cross-border train referred to in section 334(2) taken on board the vessel, aircraft or train in the Republic, excluding stores for such a vessel, aircraft or train taken on board the vessel, aircraft or train in the Republic in terms of a clearance and release for outright export. 25

Stores taken on board first to be cleared and released for stores procedure 30

339. (1) No goods may be taken on board a foreign-going vessel or aircraft or cross-border train as stores for that vessel, aircraft or train unless those goods are cleared and released under the stores procedure as stores for that vessel, aircraft or train.

(2) Goods to be cleared under the stores procedure as stores for a foreign-going vessel or aircraft or a cross-border train must be cleared in accordance with section 337. 35

Persons entitled to submit stores clearance declarations

340. Only the following persons²⁶⁶ may, subject to section 165(2), submit clearance declarations to clear goods under the stores procedure as stores for foreign-going vessels or aircraft or cross-border trains:

(a) The carrier operating the vessel, aircraft or train, if the carrier is located in the Republic; 40

(b) the registered agent in the Republic of the carrier, if the carrier is not located in the Republic;

265. In the case of an inconsistency between a provision of this Chapter and a general provision contained in Chapter 4 or 7, the provision of this Chapter prevails. See sections 88(3) and 162(3).

266. See section 165(1)(a).

was toe dit die Republiek binnekom het, kom outomaties onder die voorrade-prosedure en sonder enige formele klaring vir die voorradeprosedure wanneer die vaartuig, vliegtuig of trein die Republiek binnekom.

(b) Voorrade wat in die Republiek aan boord van so 'n vaartuig, vliegtuig of trein geneem word, kom onder die voorradeprosedure wanneer die voorrade ingevolge Deel 2 as voorrade vir daardie vaartuig, vliegtuig of trein geklaar word. 5

(c) Die voorradeprosedure met betrekking tot enige goedere is, behoudens subartikel (2), afgehandel wanneer die goedere die Republiek aan boord van daardie vaartuig, vliegtuig of trein as voorrade vir die vaartuig, vliegtuig of trein verlaat.

(2) Die voorradeprosedure, met betrekking tot enige goedere, eindig voor die afhandeling daarvan indien— 10

(a) die goedere ooreenkomstig hierdie Hoofstuk as voorrade op daardie vaartuig, vliegtuig of trein gebruik word terwyl dit in die Republiek is;

(b) die goedere voor afhandeling van die prosedure vir 'n ander doeaneprosedure of vir binnelandse gebruik geklaar en vrygestel word, soos in die omstandighede toelaatbaar mag wees; of 15

(c) afhandeling van die prosedure deur 'n gebeurtenis bedoel in artikel 109(2) onderbreek word.

Mate waarin Hoofstukke 4, 5 en 7 van toepassing is

337. Hoofstukke 4, 5 en 7, behalwe in soverre 'n bepaling van daardie Hoofstukke aangepas, gekwalifiseer of van afgewyk word in hierdie Hoofstuk,²⁶⁵ is van toepassing op goedere onder die voorradeprosedure, asook op die klaring en vrystelling van goedere vir die voorradeprosedure. 20

Deel 2

Klaring en vrystelling van voorrade in Republiek aan boord geneem 25

Toepassing van hierdie Deel

338. Hierdie Deel is van toepassing op voorrade vir 'n land-uitgaande vaartuig, land-uitgaande vliegtuig of oor-grens trein bedoel in artikel 334(2) wat in die Republiek aan boord van die vaartuig, vliegtuig of trein geneem word, uitgesonderd voorrade vir so 'n vaartuig, vliegtuig of trein wat in die Republiek aan boord van die vaartuig, vliegtuig of trein geneem word ingevolge 'n klaring en vrystelling vir regstreekse uitvoer. 30

Voorrade aan boord geneem eers geklaar en vrygestel te word vir voorrade-prosedure

339. (1) Geen goedere mag aan boord van 'n land-uitgaande vaartuig of vliegtuig of oor-grens trein as voorrade vir daardie vaartuig, vliegtuig of trein geneem word tensy daardie goedere onder die voorradeprosedure as voorrade vir daardie vaartuig, vliegtuig of trein geklaar en vrygestel is nie. 35

(2) Goedere bestem vir klaring onder die voorradeprosedure as voorrade vir 'n land-uitgaande vaartuig of vliegtuig of 'n oor-grens trein moet volgens voorskrif van artikel 337 geklaar word. 40

Persone wat voorradeklaringsbriewe mag indien

340. Slegs die volgende persone²⁶⁶ mag, behoudens artikel 165(2), klaringsbriewe indien om goedere onder die voorradeprosedure te klaar as voorrade vir land-uitgaande vaartuie of vliegtuie of oor-grens treine:

(a) Die vervoerder in operasionele beheer van die vaartuig, vliegtuig of trein, indien die vervoerder in die Republiek gesetel is; 45

(b) die geregistreerde agent in die Republiek van die vervoerder, indien die vervoerder nie in die Republiek gesetel is nie;

265. In die geval van enige onbestaanbaarheid tussen 'n bepaling van hierdie Hoofstuk en 'n algemene bepaling in Hoofstuk 4 of 7 vervat, geniet die bepaling van hierdie Hoofstuk voorrang. Kyk artikels 88(3) en 162(3).

266. Kyk artikel 165(1)(a).

- (c) a stores supplier; or
- (d) a customs broker referred to in section 165(1)(b).

Contents of stores clearance declarations

- 341.** A stores clearance declaration must, in addition to the information required in terms of section 167, state— 5
- (a) that the goods are stores cleared for the stores procedure; and
 - (b) particulars of—
 - (i) the vessel, aircraft or train for which the stores are needed;
 - (ii) the voyage schedule of the vessel, aircraft or train and expected duration of the voyage, if this information has not already been submitted to the 10 customs authority; and
 - (iii) the quantity of unused stores of the class or kind in question on board the vessel, aircraft or train at the time of submission of the stores clearance declaration, if this information has not already been submitted to 15 customs authority.

Release to be given only for quantities of stores actually needed for voyage

- 342.** (1) The customs authority may, after consulting the carrier operating a foreign-going vessel or aircraft or cross-border train or the on-board operator of the vessel, aircraft or train, determine the quantity of goods reasonably needed to be taken on board the vessel, aircraft or train as stores for any intended voyage, taking into account all relevant factors including— 20
- (a) the quantities needed for the provision of on board services;
 - (b) the functional needs of the vessel, aircraft or train;
 - (c) the operational needs of the vessel, aircraft or train;
 - (d) the length and duration of the voyage; 25
 - (e) the number of travellers and crew on board;
 - (f) the needs of travellers and crew; and
 - (g) the amount of unused stores on board the vessel, aircraft or train at the time of submission of the stores clearance declaration.
- (2) Release may be given in terms of section 339 only for quantities as determined by 30 the customs authority in terms of subsection (1).

Acknowledgement of receipt of stores taken on board

343. The on-board operator of a foreign-going vessel or aircraft or a cross-border train must acknowledge receipt of all stores taken on board the vessel, aircraft or train in the Republic in a manner as may be prescribed by rule or as the customs authority may 35 require in a specific case.

Taking of prohibited, restricted and sectorally controlled goods on board vessels, aircraft or trains as stores

- 344.** (1) No prohibited goods may be taken on board a foreign-going vessel or aircraft or a cross-border train as stores for that vessel, aircraft or train. 40
- (2) (a) Restricted goods may be taken on board a foreign-going vessel or aircraft or a cross-border train as stores for that vessel, aircraft or train only in accordance with Chapter 35 and the legislation referred to in section 783 restricting the possession or export of those goods.
- (b) Sectorally controlled goods may be taken on board a foreign-going vessel or 45 aircraft or a cross-border train as stores for that vessel, aircraft or train only in accordance with Chapter 35 and the legislation referred to in section 792 applicable to the goods.

- (c) 'n voorradeverskaffer; of
- (d) 'n doeanemakelaar in artikel 165(1)(b) bedoel.

Inhoud van voorradeklaringsbriewe

341. 'n Voorradeklaringsbrief moet, benewens die inligting wat ingevolge artikel 167 verstrekk moet word, die volgende besonderhede vermeld: 5

- (a) dat die goedere voorrade is wat vir die voorradeprosedure geklaar word; en
- (b) besonderhede van—
 - (i) die vaartuig, vliegtuig of trein waarvoor die voorrade benodig word;
 - (ii) die reisskedule vir die vaart, vlug of tog van die vaartuig, vliegtuig of trein en verwagte duur van die vaart, vlug of tog, indien hierdie inligting nie alreeds aan die doeanegesag verskaf is nie; en
 - (iii) die hoeveelheid ongebruikte voorrade van die betrokke klas of soort aan boord van die vaartuig, vliegtuig of trein op die tydstip waarop die voorradeklaringsbrief ingedien word, indien hierdie inligting nie reeds aan die doeanegesag verstrekk is nie. 15

Vrystelling verleen te word slegs vir hoeveelhede voorrade werklik vir vaart, vlug of tog benodig

342. (1) Die doeanegesag kan, na oorlegpleging met die vervoerder in operasionele beheer van 'n land-uitgaande vaartuig of vliegtuig of oor-grens trein of die aanboord operateur van die vaartuig, vliegtuig of trein, die hoeveelheid goedere bepaal wat redelikerwyse nodig is om aan boord van die vaartuig, vliegtuig of trein as voorrade vir enige beoogde vaart, vlug of tog geneem te word, met inagneming van alle tersaaklike faktore, met inbegrip van— 20

- (a) die hoeveelhede benodig vir die lewering van aan-boord dienste;
- (b) die funksionele behoeftes van die vaartuig, vliegtuig of trein; 25
- (c) die operasionele behoeftes van die vaartuig, vliegtuig of trein;
- (d) die lengte en tydsduur van die vaart, vlug of tog;
- (e) die aantal reisigers en bemanning aan boord;
- (f) die behoeftes van reisigers en bemanning; en
- (g) die hoeveelheid ongebruikte voorrade aan boord van die vaartuig, vliegtuig of 30
trein op die tydstip van indiening van die voorradeklaringsbrief.

(2) Vrystelling mag ingevolge artikel 339 verleen word slegs vir hoeveelhede soos deur die doeanegesag ingevolge subartikel (1) bepaal.

Erkenning van ontvangs van voorrade aan boord geneem

343. Die aanboord operateur van 'n land-uitgaande vaartuig of vliegtuig of 'n 35
oor-grens trein moet ontvangs erken van alle voorrade wat in die Republiek aan boord van die vaartuig, vliegtuig of trein geneem word, op 'n wyse soos by reël voorgeskryf of deur die doeanegesag in 'n bepaalde geval vereis mag word.

Neem van verbode, beperkte en sektorbeheerde goedere aan boord van vaartuie, vliegtuie of treine as voorrade 40

344. (1) Geen verbode goedere mag aan boord van 'n land-uitgaande vaartuig of vliegtuig of 'n oor-grens trein as voorrade vir daardie vaartuig, vliegtuig of trein geneem word nie.

(2) (a) Beperkte goedere mag aan boord van 'n land-uitgaande vaartuig of vliegtuig of 'n oor-grens trein as voorrade vir daardie vaartuig, vliegtuig of trein geneem word slegs ooreenkomstig Hoofstuk 35 en die wetgewing in artikel 783 bedoel wat die besit of uitvoer van daardie goedere beperk. 45

(b) Sektorbeheerde goedere mag aan boord van 'n land-uitgaande vaartuig of vliegtuig of 'n oor-grens trein as voorrade vir daardie vaartuig, vliegtuig of trein geneem word slegs ooreenkomstig Hoofstuk 35 en die wetgewing in artikel 792 bedoel wat op die goedere van toepassing is. 50

Part 3

Reporting and control of stores under stores procedure

Application of this Part

345. This Part applies to all stores under the stores procedure, whether the stores came under the stores procedure in terms of section 336(1)(a) or in terms of a clearance for the stores procedure under Part 2. 5

Stores arrival reports

346. (1) All stores that are under the stores procedure on board—

- (a) a foreign-going vessel or aircraft when the vessel or aircraft arrives at a customs seaport or airport, including stores in the personal possession of a crew member, must be reported to the customs authority; or 10
- (b) a cross-border train when the train arrives at a railway station as may be prescribed by rule, including stores in the personal possession of a crew member, must be reported to the customs authority.²⁶⁷

(2) A stores arrival report referred to in subsection (1) must be submitted to the customs authority together with or as part of the arrival report that must be submitted in respect of— 15

- (a) the vessel in terms of section 50 when the vessel arrives at a customs seaport;
- (b) the aircraft in terms of section 56 when the aircraft arrives at a customs airport; or 20
- (c) the train in terms of section 61 when the train after entering the Republic arrives at a railway station as may be prescribed by rule.

Sealing or securing of stores

347. (1) When a foreign-going vessel or aircraft or a cross-border train arrives at a seaport, airport or railway station when a stores arrival report must be submitted in terms of section 346, a customs officer may seal or otherwise secure on board the vessel, aircraft or train any stores that are under the stores procedure, including any stores in the personal possession of a crew member on board the vessel, aircraft or train. 25

(2) Subsection (1) does not apply to stores in the personal possession of a crew member on board a vessel, insofar as the quantity of those stores does not exceed a quantity as may be prescribed by rule for the personal use of crew members on board vessels whilst in the Republic. 30

(3) No person may, without the permission of the customs authority, break any seal placed in terms of subsection (1) on stores or interfere with stores otherwise secured in terms of that subsection before the vessel, aircraft or train has departed from the seaport, airport or railway station where the goods were sealed or secured and all physical contact with that seaport, airport or railway station has ceased. 35

(4) The on-board operator of a vessel, aircraft or train is responsible for ensuring that—

- (a) no seal is broken or any stores otherwise secured are interfered with in contravention of subsection (3); or 40
- (b) stores sealed or otherwise secured are not used or dealt with in any unauthorised way.

Issue of stores for use on vessels whilst in customs seaports

348. (1) The customs authority may give permission to the on-board operator of a foreign-going vessel to issue stores that are under the stores procedure, for use by 45

267. All stores on board foreign-going vessels, foreign-going aircraft or cross-border trains are in terms of section 28 subject to customs control whilst that vessel, aircraft or train is in the Republic. Unreported stores are subject to seizure in terms of section 762.

Deel 3

Rapportering en beheer van voorrade onder voorradeprosedure

Toepassing van hierdie Deel

345. Hierdie Deel is van toepassing op alle voorrade onder die voorradeprosedure, hetsy die voorrade onder die voorradeprosedure ingevolge artikel 336(1)(a) of ingevolge 'n klaring vir die voorradeprosedure kragtens Deel 2 gekom het. 5

Voorrade-aankomsverslae

- 346.** (1) Alle voorrade wat onder die voorradeprosedure is aan boord van—
- (a) 'n land-uitgaande vaartuig of vliegtuig wanneer die vaartuig of vliegtuig by 'n doeaneseehawe of -lughawe aankom, met inbegrip van voorrade in die persoonlike besit van 'n bemanningslid, moet aan die doeanegesag gerapporteer word; of 10
 - (b) 'n oor-grens trein wanneer die trein by 'n spoorwegstasie aankom soos by reël voorgeskryf mag word, met inbegrip van voorrade in die persoonlike besit van 'n bemanningslid, moet aan die doeanegesag gerapporteer word.²⁶⁷ 15
- (2) 'n Voorrade aankomsverslag bedoel in subartikel (1) moet aan die doeanegesag verstrek word tesame met, of as deel van, die aankomsverslag wat ten opsigte van—
- (a) die vaartuig ingevolge artikel 50 verstrek moet word wanneer die vaartuig by 'n doeaneseehawe aankom;
 - (b) die vliegtuig ingevolge artikel 56 verstrek moet word wanneer die vliegtuig by 'n doanelughawe aankom; of 20
 - (c) die trein ingevolge artikel 61 verstrek moet word wanneer die trein, nadat dit die Republiek binnegekome het, by 'n spoorwegstasie aankom soos by reël voorgeskryf mag word. 25

Seëling of beveiliging van voorrade

- 347.** (1) Wanneer 'n land-uitgaande vaartuig of vliegtuig of 'n oor-grens trein by 'n seehawe, lughawe of spoorwegstasie aankom wanneer 'n voorrade aankomsrapport ingevolge artikel 346 verstrek moet word, kan 'n doeaneebeampte enige voorrade wat onder die voorradeprosedure is, met inbegrip van enige voorrade wat in die persoonlike besit van 'n bemanningslid aan boord van die vaartuig, vliegtuig of trein is, aan boord van die vaartuig, vliegtuig of trein seël of andersins beveilig. 30
- (2) Subartikel (1) geld nie vir voorrade in die persoonlike besit van 'n bemanningslid aan boord van 'n vaartuig nie, in soverre die hoeveelheid van daardie voorrade nie 'n hoeveelheid oorskry soos by reël vir die persoonlike gebruik van bemanningslede aan boord van vaartuie terwyl dit in die Republiek is, voorgeskryf mag word nie. 35
- (3) Geen persoon mag, sonder die toestemming van die doeanegesag, enige seël wat ingevolge subartikel (1) op voorrade geplaas is, breek of met voorrade inmeng wat andersins ingevolge daardie subartikel beveilig is voordat die vaartuig, vliegtuig of trein vanaf die seehawe, lughawe of spoorwegstasie waar die goedere geseël of beveilig is, vertrek het en alle fisiese kontak met daardie seehawe, lughawe of spoorwegstasie beëindig het nie. 40
- (4) Die aanboord operateur van 'n vaartuig, vliegtuig of trein is verantwoordelik daarvoor om te verseker dat—
- (a) geen seël gebreek word nie of daar nie met enige voorrade andersins beveilig, ingemeng word nie in stryd met subartikel (3); of 45
 - (b) voorrade wat geseël of andersins beveilig is, nie gebruik of op enige ongemagtigde wyse mee gehandel word nie.

Uitreik van voorrade vir gebruik op vaartuie terwyl in doeaneseehawens

348. (1) Die doeanegesag kan aan die aanboord operateur van 'n land-uitgaande vaartuig toestemming verleen om voorrade wat onder die voorradeprosedure is, uit te 50

267. Alle voorrade aan boord van land-uitgaande vaartuie, land-uitgaande vliegtuie of oor-grens treine is ingevolge artikel 28 aan doeaneebeheer onderworpe terwyl daardie vaartuig, vliegtuig of trein in die Republiek is. Ongerapporteerde voorrade is onderhewig aan beslaglegging ingevolge artikel 762.

travellers and crew on the vessel during its stay at a customs seaport, in such quantities as are reasonably required taking into account all relevant factors, including—

- (a) the number of travellers and crew on board; and
- (b) the length of time the vessel will stay in that seaport.

(2) The customs authority may give permission to the on-board operator of a foreign-going vessel to issue additional quantities of stores— 5

- (a) for use on the vessel during its stay at a customs seaport—
 - (i) if departure of the vessel is delayed; or
 - (ii) if the vessel is to remain in the customs seaport for longer than a period as may be prescribed by rule read with section 908; or 10
- (b) for the purpose of a function on the vessel during its stay at that seaport. 10

(3) Alcohol and tobacco products issued from the vessel's stores in terms of subsection (1) or (2) for use on the vessel by travellers and crew may not exceed the standard quantities prescribed by rule.

(4) The on-board operator of a foreign-going vessel must keep record of all stores issued in terms of this section for use on the vessel at a customs seaport, in a manner as may be prescribed by rule. 15

Tax free items for sale on board to travellers and crew

349. Stores under the stores procedure on board a foreign-going vessel or aircraft or a cross-border train as items for sale on the vessel, aircraft or train to travellers and crew, have a tax free status in relation to import tax, domestic tax and export tax when sold to travellers and crew, but only if the vessel, aircraft or train falls within a category of vessels, aircraft or trains permitted by rule to carry tax-free items for sale to travellers and crew.²⁶⁸ 20

Removal of stores from vessels, aircraft or trains 25

350. (1) Stores under the stores procedure may not be removed from a foreign-going vessel or aircraft or a cross-border train—

- (a) unless the goods—
 - (i) are cleared and released for another permissible customs procedure or, subject to subsection (2), for supply as stores to another foreign-going vessel or aircraft or a cross-border train; 30
 - (ii) are cleared and released for home use, in the case of goods that were on board the vessel, aircraft or train when the vessel, aircraft or train entered the Republic or that were not in free circulation when cleared in terms of Part 2 as stores for the vessel, aircraft or train; or 35
 - (iii) revert to free circulation in terms of section 353(b), in the case of goods that were in free circulation when cleared in terms of Part 2 as stores for the vessel, aircraft or train; or
- (b) except for—
 - (i) securing the goods in accordance with section 351; 40
 - (ii) reconditioning the goods or repairing any damaged goods;
 - (iii) disposal as waste under supervision of the customs authority; or
 - (iv) another purpose approved by the customs authority.

(2) Stores under the stores procedure on board a foreign-going vessel or aircraft may be cleared for transshipment or international transit in terms of subsection (1)(a)(i) only— 45

- (a) to a foreign-going vessel or aircraft operated by a carrier and engaged in the transport of goods or travellers to the Republic from a place outside the Republic or from the Republic to a place outside the Republic, as stores for that vessel or aircraft; and 50

²⁶⁸. See section 146 for tax status of goods under the stores procedure.

- reik vir gebruik deur reisigers en bemanning op die vaartuig gedurende die aanwesigheid daarvan by 'n doeaneseehawe, in die hoeveelhede soos redelikerwyse benodig mag word met in agneming van alle tersaaklike faktore, met inbegrip van—
- (a) die aantal reisigers en bemanning aan boord; en
 - (b) die tydsduur wat die vaartuig in daardie seehawe sal vertoef. 5
- (2) Die doeanegesag kan aan die aanboord operateur van 'n land-uitgaande vaartuig toestemming verleen om bykomende hoeveelhede voorrade uit te reik—
- (a) vir gebruik op die vaartuig gedurende die aanwesigheid daarvan by 'n doeaneseehawe—
 - (i) indien die vertrek van die vaartuig vertraag word; of 10
 - (ii) indien die vaartuig by die doeaneseehawe sal vertoef vir 'n langer tydperk soos by reël, saamgelees met artikel 908, voorgeskryf mag word; of
 - (b) vir doeleindes van 'n funksie op die vaartuig gedurende die aanwesigheid daarvan by daardie seehawe. 15
- (3) Alkohol en tabakprodukte wat uit die vaartuig se voorrade ingevolge subartikel (1) of (2) vir gebruik op die vaartuig deur reisigers en bemanning uitgereik word, mag nie die standaard-hoeveelhede soos by reël voorgeskryf, oorskry nie.
- (4) Die aanboord operateur van 'n land-uitgaande vaartuig moet rekord hou van alle voorrade wat ingevolge hierdie artikel vir gebruik op die vaartuig by 'n doeaneseehawe uitgereik word, op 'n wyse soos by reël voorgeskryf mag word. 20

Belastingvry items vir verkoop aan boord aan reisigers en bemanning

349. Voorrade onder die voorradeprosedure aan boord van 'n land-uitgaande vaartuig of vliegtuig of 'n oor-grens trein as items vir verkoop op die vaartuig, vliegtuig of trein aan reisigers en bemanning, het 'n belastingvry status met betrekking tot invoerbelasting, plaaslike belasting en uitvoerbelasting wanneer dit aan reisigers en bemanning verkoop word, maar slegs indien die vaartuig, vliegtuig of trein binne 'n kategorie vaartuie, vliegtuie of treine val wat by reël toegelaat word om belastingvry items vir verkoop aan reisigers en bemanning aan boord te hê.²⁶⁸ 25

Verwydering van voorrade van vaartuie, vliegtuie of treine 30

- 350.** (1) Voorrade onder die voorradeprosedure mag nie van 'n land-uitgaande vaartuig of vliegtuig of 'n oor-grens trein verwyder word nie—
- (a) tensy die goedere—
 - (i) vir 'n ander toelaatbare doeaneprosedure of, behoudens subartikel (2), vir verskaffing as voorrade aan 'n ander land-uitgaande vaartuig of vliegtuig of 'n oor-grens trein geklaar en vrygestel word; 35
 - (ii) vir binnelandse gebruik geklaar en vrygestel word, in die geval van goedere wat aan boord van die vaartuig, vliegtuig of trein was toe die vaartuig, vliegtuig of trein die Republiek binnegekome het of wat nie in vry sirkulasie was toe dit ingevolge Deel 2 as voorrade vir die vaartuig, vliegtuig of trein geklaar is nie; of 40
 - (iii) tot vry sirkulasie ingevolge artikel 353(b) terugval, in die geval van goedere wat in vry sirkulasie was toe dit ingevolge Deel 2 as voorrade vir die vaartuig, vliegtuig of trein geklaar is; of
 - (b) behalwe vir— 45
 - (i) beveiliging van die goedere volgens voorskrif van artikel 351;
 - (ii) hernuwing van die goedere of herstel van enige beskadigde goedere;
 - (iii) beskikking daarvoor as afval onder toesig van die doeanegesag; of
 - (iv) 'n ander doel deur die doeanegesag goedgekeur.
- (2) Voorrade onder die voorradeprosedure aan boord van 'n land-uitgaande vaartuig of vliegtuig kan ingevolge subartikel (1)(a)(i) vir transverseskeping of internasionale transito geklaar word slegs—
- (a) na 'n land-uitgaande vaartuig of vliegtuig wat onder die operasionele beheer van 'n vervoerder is en gebruik word vir die vervoer van goedere of reisigers na die Republiek vanaf 'n plek buite die Republiek of vanaf die Republiek na 'n plek buite die Republiek, as voorrade vir daardie vaartuig of vliegtuig; en 50
- 55

²⁶⁸. Kyk artikel 146 vir belastingstatus van goedere onder die voorradeprosedure.

(b) in quantities determined by the customs authority in accordance with section 342.

(3) No clearance or release in terms of Part 2 is needed when stores are returned to the vessel, aircraft or train from which those goods were removed in terms of subsection (1)(b)(i), (ii) or (iv). 5

(4) Stores removed as contemplated in subsection (1)(b)(i), (ii) or (iv) must be returned to the vessel, aircraft or train within a timeframe as may be prescribed by rule read with sections 908 and 909.

Securing of stores by removal from vessels or aircraft

351. The customs authority may direct or allow that any stores under the stores procedure on board a foreign-going vessel or aircraft be removed from the vessel or aircraft for storage elsewhere until the vessel or aircraft is ready to depart, if— 10

(a) the vessel or aircraft for any reason is to remain at a specific location for a period longer than scheduled; and

(b) such storage is necessary to ensure that those stores are not dealt with in any unauthorised way. 15

Replacement of stores on vessels or aircraft

352. (1) The customs authority may direct or allow that stores under the stores procedure on board a foreign-going vessel or aircraft be removed from the vessel or aircraft and replaced by equivalent goods in free circulation, as may be prescribed by rule. 20

(2) If any stores under the stores procedure on board a foreign-going vessel or aircraft are replaced by equivalent goods in terms of subsection (1), those equivalent goods must for all purposes be regarded to be the replaced stores.

Unused stores on board vessel or aircraft no longer bound for foreign destinations 25

353. If the schedule for a foreign-going vessel or aircraft or a cross-border train is for any reason changed and the vessel, aircraft or train is no longer bound for a destination outside the Republic, any unused stores on board the vessel, aircraft or train under the stores procedure must—

(a) be cleared as stores for another vessel, aircraft or train or for another customs procedure or for home use if permissible in the circumstances, in the case of stores— 30

(i) that were on board the vessel, aircraft or train when the vessel, aircraft or train entered the Republic; or

(ii) that were not in free circulation when initially cleared in terms of Part 2 as stores for the vessel, aircraft or train; or 35

(b) be cleared as stores for another vessel, aircraft or train or revert to free circulation, in the case of stores that were in free circulation when initially cleared in terms of Part 2 as stores for the vessel, aircraft or train.²⁶⁹

Stores departure reports 40

354. (1) All stores that are under the stores procedure on board—

(a) a foreign-going vessel or aircraft when the vessel or aircraft departs from a customs seaport or airport, including stores in the personal possession of a crew member, must be reported to the customs authority; or

(b) a cross-border train when the train departs from a railway station referred to in section 346(1)(b), including stores in the personal possession of a crew member, must be reported to the customs authority. 45

²⁶⁹ If these goods revert to free circulation the clearance for the stores procedure must be withdrawn and section 161 becomes applicable to the goods.

(b) in hoeveelhede deur die doeanegesag ooreenkomstig artikel 342 bepaal.

(3) Geen klaring of vrystelling ingevolge Deel 2 is nodig wanneer voorrade teruggeneem word na die vaartuig, vliegtuig of trein waarvandaan daardie goedere ingevolge subartikel (1)(b)(i), (ii) of (iv) verwyder is nie.

(4) Voorrade verwyder soos beoog in subartikel (1)(b)(i), (ii) of (iv) moet 5 teruggeneem word na die vaartuig, vliegtuig of trein binne 'n tydperk soos by reël, saamgelees met artikels 908 en 909, voorgeskryf mag word.

Beveiliging van voorrade deur verwydering daarvan van vaartuie

351. Die doeanegesag kan gelas of toestemming verleen dat enige voorrade wat onder die voorradeprosedure aan boord van 'n land-uitgaande vaartuig of vliegtuig is, van die vaartuig of vliegtuig verwyder word vir berging elders totdat die vaartuig of vliegtuig gereed is om te vertrek, indien— 10

(a) die vaartuig of vliegtuig om enige rede by 'n spesifieke plek vir 'n langer tydperk as geskeduleer, moet oorstaan; en

(b) sodanige berging nodig is om te verseker dat daar nie met daardie voorrade op 'n ongemagtigde wyse gehandel word nie. 15

Vervanging van voorrade op vaartuie of vliegtuie

352. (1) Die doeanegesag kan gelas of toestemming verleen dat voorrade wat onder die voorradeprosedure aan boord van 'n land-uitgaande vaartuig of vliegtuig is van die vaartuig of vliegtuig verwyder word en deur gelyksoortige goedere in vry sirkulasie 20 vervang word, soos by reël voorgeskryf mag word.

(2) Indien enige voorrade wat onder die voorradeprosedure aan boord van 'n land-uitgaande vaartuig of vliegtuig is, ingevolge subartikel (1) deur gelyksoortige goedere vervang word, moet daardie gelyksoortige goedere vir alle doeleindes geag word die voorrade te wees wat vervang is. 25

Ongebruikte voorrade aan boord van vaartuie of vliegtuie nie meer bestem vir buitelandse bestemmings

353. Indien die skedule van 'n land-uitgaande vaartuig of vliegtuig of 'n oor-grens trein om enige rede verander word en die vaartuig, vliegtuig of trein nie meer bestem is vir 'n bestemming buite die Republiek nie, moet enige ongebruikte voorrade wat onder die voorradeprosedure aan boord van die vaartuig, vliegtuig of trein is— 30

(a) as voorrade vir 'n ander vaartuig, vliegtuig of trein of vir 'n ander doeaneprocedure of vir binnelandse gebruik geklaar word indien in die omstandighede toelaatbaar, in die geval van voorrade—

(i) wat aan boord van die vaartuig, vliegtuig of trein was toe die vaartuig, vliegtuig of trein die Republiek binnegekom het; of 35

(ii) wat nie in vry sirkulasie was toe dit aanvanklik ingevolge Deel 2 as voorrade vir die vaartuig, vliegtuig of trein geklaar is nie; of

(b) as voorrade vir 'n ander vaartuig, vliegtuig of trein geklaar word of tot vry sirkulasie terugval, in die geval van voorrade wat in vry sirkulasie was toe dit aanvanklik ingevolge Deel 2 as voorrade vir die vaartuig, vliegtuig of trein geklaar is.²⁶⁹ 40

Voorrade-vertreksverslae

354. (1) Alle voorrade wat onder die voorradeprosedure aan boord van—

(a) 'n land-uitgaande vaartuig of vliegtuig is wanneer die vaartuig of vliegtuig vanaf 'n doeaneseehawe of -lughawe vertrek, met inbegrip van voorrade in die persoonlike besit van 'n bemanningslid, moet aan die doeanegesag gerapporteer word; of 45

(b) 'n oor-grens trein is wanneer die trein vanaf 'n spoorwegstasie bedoel in artikel 346(1)(b) vertrek, met inbegrip van voorrade in die persoonlike besit van 'n bemanningslid, moet aan die doeanegesag gerapporteer word. 50

269. Indien hierdie goedere tot vry sirkulasie terugval, moet die klaring vir die voorradeprosedure ingetrek word en word artikel 161 van toepassing op die goedere.

(2) A stores departure report referred to in subsection (1) must be submitted to the customs authority together with or as part of the departure report that must be submitted in respect of—

- (a) the vessel in terms of section 53 when the vessel departs from a customs seaport; 5
- (b) the aircraft in terms of section 59 when the aircraft departs from a customs airport; or
- (c) the train in terms of section 63 when the train departs from a railway station as may be prescribed by rule.

Submission of stores reports in terms of this Chapter 10

355. (1) A stores arrival or departure report must—

- (a) be in the form and format as may be prescribed by rule and contain the information required on the prescribed form or otherwise prescribed by rule;
- (b) be accompanied or supported by any documents as may be prescribed by rule; and 15
- (c) be submitted electronically in accordance with section 913 by the carrier operating the vessel, aircraft or train.

(2) Subsection (1) must, in the case of a carrier who is not located in the Republic,²⁷⁰ be complied with either by the carrier or that carrier's registered agent in the Republic.

Aborted voyages²⁷¹ 20

356. (1) If after having left the Republic for a destination outside the Republic, a foreign-going vessel or aircraft referred to in section 334(2) returns to the Republic, stores that were on board the vessel or aircraft under the stores procedure must be dealt with as follows:

- (a) Stores that were on board the vessel or aircraft when the vessel or aircraft entered the Republic or that were not in free circulation when cleared in terms of Part 2 as stores for that vessel or aircraft, must for tax purposes be regarded to be cleared for home use under Chapter 8²⁷² to the extent that those stores—
 - (i) if the vessel or aircraft returned to the Republic due to unavoidable circumstances—
 - (aa) were used or purportedly used during the aborted voyage in excess of a quantity which could reasonably have been used on the vessel or aircraft taking into account the duration and circumstances of the aborted voyage; or
 - (bb) are lost or unaccounted for; or 35
 - (ii) if the vessel or aircraft returned to the Republic due to avoidable circumstances—
 - (aa) were used or purportedly used during the aborted voyage; or
 - (bb) are lost or unaccounted for.
- (b) Stores that were in free circulation when cleared in terms of Part 3 as stores for that vessel or aircraft, must for tax purposes be regarded as having reverted to free circulation²⁷³ to the extent that those stores—
 - (i) if the vessel or aircraft returned to the Republic due to unavoidable circumstances—
 - (aa) were used or purportedly used during the aborted voyage in excess of a quantity which could reasonably have been used on the vessel or aircraft taking into account the duration and circumstances of the aborted voyage; or 45

270. See section 1(3)(a).

271. Section 353 applies if a vessel is no longer bound for a destination outside the Republic.

272. For tax consequences if goods are regarded to be cleared for home use, see section 154.

273. For tax consequences if goods are regarded as having reverted to free circulation, see section 161.

- (2) 'n Voorrade-vertrekverslag bedoel in subartikel (1) moet aan die doeanegesag verstrek word tesame met, of as deel van, die vertrekverslag wat ten opsigte van—
- (a) die vaartuig ingevolge artikel 53 verstrek moet word wanneer die vaartuig vanaf 'n doeaneseehawe vertrek;
 - (b) die vliegtuig ingevolge artikel 59 verstrek moet word wanneer die vliegtuig vanaf 'n doanelughawe vertrek; of
 - (c) die trein ingevolge artikel 63 verstrek moet word wanneer die trein vanaf 'n spoorwegstasie soos by reël voorgeskryf mag word, vertrek.

Verstrekking van voorradeverslae ingevolge hierdie Hoofstuk

- 355.** (1) 'n Voorrade aankoms- of vertrekverslag moet—
- (a) in die vorm en formaat wees soos by reël voorgeskryf mag word en die inligting bevat wat op die voorgeskrewe vorm vereis of andersins by reël voorgeskryf word;
 - (b) vergesel wees, of gerugsteun word, deur enige dokumente soos by reël voorgeskryf mag word; en
 - (c) elektronies ooreenkomstig artikel 913 verstrek word deur die vervoerder wat in operasionele beheer van die vaartuig, vliegtuig of trein is.
- (2) Subartikel (1) moet, in die geval van 'n vervoerder wat nie in die Republiek gesetel is nie,²⁷⁰ aan voldoen word deur óf die vervoerder óf daardie vervoerder se geregistreerde agent in die Republiek.

Geaborteerde vaart of vlug²⁷¹

- 356.** (1) Indien 'n land-uitgaande vaartuig of vliegtuig bedoel in artikel 334(2), nadat dit die Republiek vir 'n bestemming buite die Republiek verlaat het, na die Republiek terugkeer, moet daar met voorrade wat onder die voorradeprosedure aan boord van die vaartuig of vliegtuig was soos volg gehandel word:
- (a) Voorrade wat aan boord van die vaartuig of vliegtuig was toe die vaartuig of vliegtuig die Republiek binnegekom het of wat nie in vry sirkulasie was toe dit ingevolge Deel 2 as voorrade vir daardie vaartuig of vliegtuig geklaar is nie, moet vir belastingdoeleindes geag word vir binnelandse gebruik kragtens Hoofstuk 8 geklaar te wees²⁷² in die mate wat daardie voorrade—
 - (i) indien die vaartuig of vliegtuig weens onvermydelike omstandighede na die Republiek teruggekeer het—
 - (aa) wat gedurende die geaborteerde vaart of vlug gebruik is, of na bewering gebruik is, die hoeveelheid oorskry wat redelikerwyse op die vaartuig of vliegtuig gebruik kon gewees het inaggenome die tydsduur en omstandighede van die geaborteerde vaart of vlug; of
 - (bb) verlore of rekenskaploos geraak het; of
 - (ii) indien die vaartuig of vliegtuig weens vermybare omstandighede na die Republiek teruggekeer het—
 - (aa) gebruik is, of na bewering gebruik is, gedurende die geaborteerde vaart of vlug; of
 - (bb) verlore of rekenskaploos geraak het.
 - (b) Voorrade wat in vry sirkulasie was toe dit ingevolge Deel 3 as voorrade vir daardie vaartuig of vliegtuig geklaar is, moet vir belastingdoeleindes geag word tot vry sirkulasie²⁷³ terug te geval het in die mate wat daardie voorrade—
 - (i) indien die vaartuig of vliegtuig weens onvermydelike omstandighede na die Republiek teruggekeer het—
 - (aa) wat gedurende die geaborteerde vaart of vlug gebruik is, of na bewering gebruik is, die hoeveelheid oorskry wat redelikerwyse op die vaartuig of vliegtuig gebruik kon gewees het inaggenome die tydsduur en omstandighede van die geaborteerde vaart of vlug; of

270. Kyk artikel 1(3)(a).

271. Artikel 353 is van toepassing indien 'n vaartuig nie meer bestem is vir 'n bestemming buite die Republiek nie.

272. Vir belastinggevolge indien goedere geag word geklaar te wees vir binnelandse gebruik, kyk artikel 154.

273. Vir belastinggevolge indien goedere geag word tot vry sirkulasie terug te geval het, kyk artikel 161.

- (bb) are lost or unaccounted for; or
- (ii) if the vessel or aircraft returned to the Republic due to avoidable circumstances—
- (aa) were used or purportedly used during the aborted voyage; or
- (bb) are lost or unaccounted for. 5
- (2) The carrier operating a foreign-going vessel or aircraft referred to in section 334(2) must notify the customs authority of any aborted voyage referred to in subsection (1).

Part 4

Other matters 10

Additional grounds for regarding stores under stores procedure to be cleared for home use²⁷⁴

357. Goods that came under the stores procedure when a foreign-going vessel or aircraft or a cross-border train referred to in section 334(2) entered the Republic and goods that were not in free circulation when cleared in terms of Part 2 for supply as stores to such a vessel, aircraft or train, must in terms of section 112 for tax purposes be regarded to be cleared for home use under Chapter 8²⁷⁵— 15

- (a) insofar as those goods are used by—
- (i) travellers and crew members travelling on board such a vessel, aircraft or train only between places within the Republic; 20
- (ii) persons performing duties on board such a vessel, aircraft or train only whilst the vessel, aircraft or train is in a customs seaport or airport or a railway terminal; or
- (iii) guests on board such a vessel whilst in a customs seaport;
- (b) insofar as those goods are not used as stores for the vessel, aircraft or train; or 25
- (c) if a seal placed on the goods in terms of section 347 is broken or if the goods otherwise secured in terms of that section are interfered with in any unauthorised way.

Additional grounds for regarding stores under stores procedure to have reverted to free circulation²⁷⁶ 30

358. Goods that were in free circulation when cleared in terms of Part 2 for supply as stores to a foreign-going vessel or aircraft or cross-border train referred to in section 334(2), must in terms of section 113 for tax purposes be regarded to have reverted to free circulation²⁷⁷ insofar as the goods are used by—

- (a) travellers and crew members travelling on board such a vessel, aircraft or train 35
only between places within the Republic;
- (b) persons performing duties on board such a vessel, aircraft or train only whilst the vessel, aircraft or train is in a customs seaport or airport or a railway terminal; or
- (c) guests on board such a vessel whilst in a customs seaport. 40

Rules to facilitate implementation of this Chapter

359. Rules made in terms of section 903 to facilitate the implementation of this Chapter may include rules—

²⁷⁴. See section 112 for general grounds on which goods under a customs procedure must or may be regarded to be cleared for home use.

²⁷⁵. For tax consequences if goods are regarded to be cleared for home use, see section 154; for other consequences of non-compliance with customs procedures, see section 115.

²⁷⁶. See section 113 for general grounds on which goods under a customs procedure must or may be regarded to have reverted to free circulation.

²⁷⁷. For tax consequences if goods are regarded as having reverted to free circulation, see section 161; for other consequences of non-compliance with customs procedures, see section 115.

- (bb) verlore of rekenskaploos geraak het; of
- (ii) indien die vaartuig of vliegtuig weens vermybare omstandighede na die Republiek teruggekeer het—
 - (aa) gebruik is, of na bewering gebruik is, gedurende die geaborteerde vaart of vlug; of 5
 - (bb) verlore of rekenskaploos geraak het.

(2) Die vervoerder in operasionele beheer van 'n land-uitgaande vaartuig of vliegtuig bedoel in artikel 334(2) moet die doeanegesag van enige geaborteerde vaart of vlug bedoel in subartikel (1) in kennis stel.

Deel 4 10

Ander aangeleenthede

Bykomende gronde waarop voorrade onder voorradeprosedure geag moet word vir binnelandse gebruik geklaar te wees²⁷⁴

357. Goedere wat onder die voorradeprosedure gekom het toe 'n land-uitgaande vaartuig of vliegtuig of 'n oor-grens trein bedoel in artikel 334(2) die Republiek binnegekom het en goedere wat nie in vry sirkulasie was nie toe dit ingevolge Deel 2 vir verskaffing as voorrade aan sodanige vaartuig, vliegtuig of trein geklaar is, moet ingevolge artikel 112 vir belastingdoeleindes geag word vir binnelandse gebruik kragtens Hoofstuk 8 geklaar te wees—²⁷⁵ 15

- (a) in soverre daardie goedere gebruik is deur— 20
 - (i) reisigers en bemanningslede wat aan boord van so 'n vaartuig, vliegtuig of trein slegs tussen plekke binne die Republiek reis;
 - (ii) persone wat pligte aan boord van so 'n vaartuig, vliegtuig of trein verrig slegs terwyl die vaartuig, vliegtuig of trein in 'n doeaneseehawe of -lughawe of 'n spoorwegterminaal is; of 25
 - (iii) gaste aan boord van so 'n vaartuig terwyl dit in 'n doeaneseehawe is;
- (b) in soverre daardie goedere nie as voorrade vir die vaartuig, vliegtuig of trein gebruik word nie; of
- (c) indien 'n seël ingevolge artikel 347 op die goedere geplaas, gebreek word of indien daar op 'n ongemagtigde wyse met die goedere andersins ingevolge daardie artikel beveilig, ingemeng word. 30

Bykomende gronde waarop voorrade onder voorradeprosedure geag moet word tot vry sirkulasie terug te geval het²⁷⁶

358. Goedere wat in vry sirkulasie was toe dit ingevolge Deel 2 vir verskaffing as voorrade aan 'n land-uitgaande vaartuig of vliegtuig of oor-grens trein bedoel in artikel 334(2) geklaar is, moet ingevolge artikel 113 vir belastingdoeleindes geag word tot vry sirkulasie terug te geval het²⁷⁷ in soverre die goedere gebruik is deur— 35

- (a) reisigers en bemanningslede wat aan boord van so 'n vaartuig, vliegtuig of trein slegs tussen plekke binne die Republiek reis;
- (b) persone wat pligte aan boord van so 'n vaartuig, vliegtuig of trein verrig slegs terwyl die vaartuig, vliegtuig of trein in 'n doeaneseehawe of -lughawe of 'n spoorwegterminaal is; of 40
- (c) gaste aan boord van so 'n vaartuig terwyl dit in 'n doeaneseehawe is.

Reëls ter fasilitering van implementering van hierdie Hoofstuk

359. Reëls ingevolge artikel 903 uitgevaardig om die implementering van hierdie Hoofstuk te fasiliteer, kan reëls insluit— 45

274. Kyk artikel 112 vir algemene gronde waarop goedere onder 'n doeaneprosedure geag moet of mag word vir binnelandse gebruik geklaar te wees.

275. Vir belastinggevolge indien goedere geag word vir binnelandse gebruik geklaar te wees, kyk artikel 154; vir ander gevolge van nie-voldoening aan doeaneprosedures, kyk artikel 115.

276. Kyk artikel 113 vir algemene gronde waarop goedere onder 'n doeaneprosedure geag moet of mag word tot vry sirkulasie terug te geval het.

277. Vir belastinggevolge indien goedere geag word tot vry sirkulasie terug te geval het, kyk artikel 161; vir ander gevolge van nie-voldoening aan doeaneprosedures, kyk artikel 115.

- (a) regulating the issue in terms of section 348 of stores on board foreign-going vessels whilst in customs seaports to travellers and crew on board the vessel;
- (b) regulating the sale in terms of section 349 of stores on board foreign-going vessels or aircraft or cross-border trains to travellers and crew on board a vessel, aircraft or train free from import tax, domestic tax and export tax; 5
- (c) listing the classes and kinds of goods to which this Chapter applies;
- (d) listing kinds of stores that may be replaced by equivalent goods in terms of section 352; and
- (e) prescribing—
 - (i) for purposes of section 122(c), any persons, other than carriers, permitted to transport goods not in free circulation to a vessel, aircraft or train under the stores procedure; and 10
 - (ii) measures to ensure effective customs control when goods not in free circulation are transported to a vessel, aircraft or train under the stores procedure. 15

Offences in terms of this Chapter

- 360.** (1) A person is guilty of an offence if that person contravenes section 347(3) or 350(1).²⁷⁸
- (2) The carrier operating a foreign-going vessel or aircraft or cross-border train referred to in section 334(2) is guilty of an offence— 20
- (a) if section 339(1) or 344(1) or (2)(a) or (b) is contravened with respect to that vessel, aircraft or train;
 - (b) if section 350(1) or 353(a) is contravened with respect to stores on board that vessel, aircraft or train; or
 - (c) if a direction in terms of section 351 is not complied with; or 25
 - (d) if that carrier fails to comply with section 356(2).
- (3) The on-board operator of a foreign-going vessel or aircraft or cross-border train referred to in section 334(2) is guilty of an offence—
- (a) if that person fails to comply with section 343 or 347(4);
 - (b) if section 339(1) or 344(1) or (2)(a) or (b) is contravened with respect to that vessel, aircraft or train; 30
 - (c) if section 350(1) is contravened with respect to stores on board that vessel, aircraft or train; or
 - (d) if a direction in terms of section 351 is not complied with.
- (4) The on-board operator of a foreign-going vessel referred to in section 334(2) is guilty of an offence— 35
- (a) if stores on board the vessel are issued or used otherwise than in accordance with section 348(1) or (2); or
 - (b) if that person fails to comply with section 348(4).
- (5) An offence referred to in subsection (1) is a Category 1 offence. 40

CHAPTER 16

EXPORT PROCEDURE

Part 1

Introductory provisions

Purpose and application of this Chapter 45

- 361.** (1) The purpose of this Chapter is to regulate the export procedure.

²⁷⁸ Section 360(1) is a Category 1 offence which applies to all persons illegally removing stores from a vessel, aircraft or train, and covers also the carrier or on-board operator if the carrier or on-board operator is the actual perpetrator. The offence in terms of this section must be distinguished from section 360(2) and (3) which creates Category (2) offences for carriers and on-board operators in circumstances where the carrier or on-board operator is not the actual perpetrator but fails to exercise proper control to prevent stores from being illegally removed.

- (a) ter regulering van die uitreik ingevolge artikel 348 van voorrade aan boord van land-uitgaande vaartuie terwyl dit in doeanesehawens is aan reisigers en bemanning aan boord van die vaartuig;
- (b) ter regulering van die verkoop ingevolge artikel 349 van voorrade aan boord van land-uitgaande vaartuie of vliegtuie of oor-grens treine aan reisigers en bemanning aan boord van 'n vaartuig, vliegtuig of trein vry van invoerbelasting, plaaslike belasting en uitvoerbelasting; 5
- (c) wat die klasse en soorte goedere spesifiseer waarop hierdie Hoofstuk van toepassing is;
- (d) wat die soorte voorrade spesifiseer wat ingevolge artikel 352 deur gelyksoortige goedere vervang kan word; en 10
- (e) wat—
 - (i) vir doeleindes van artikel 122(c), voorskryf watter persone, anders as vervoerders, gemagtig is om goedere wat nie in vry sirkulasie is nie na 'n vaartuig, vliegtuig of trein onder die voorradeprosedure te vervoer; en 15
 - (ii) maatreëls voorskryf om doeltreffende doeanebeheer te verseker wanneer goedere wat nie in vry sirkulasie is nie na 'n vaartuig, vliegtuig of trein onder die voorradeprosedure vervoer word.

Misdrywe ingevolge hierdie Hoofstuk

- 360.** (1) 'n Persoon is aan 'n misdryf skuldig indien daardie persoon artikel 347(3) of 350(1) oortree.²⁷⁸ 20
- (2) Die vervoerder wat in operasionele beheer van 'n land-uitgaande vaartuig of vliegtuig of oor-grens trein bedoel in artikel 334(2) is, is aan 'n misdryf skuldig—
- (a) indien artikel 339(1) of 344(1) of (2)(a) of (b) met betrekking tot daardie vaartuig, vliegtuig of trein oortree word; 25
 - (b) indien artikel 350(1) of 353(a) met betrekking tot voorrade aan boord van daardie vaartuig, vliegtuig of trein oortree word; of
 - (c) indien daar nie aan 'n lasgewing ingevolge artikel 351 voldoen word nie; of
 - (d) indien daardie vervoerder versuim om aan artikel 356(2) te voldoen.
- (3) Die aanboord operateur van 'n land-uitgaande vaartuig of vliegtuig of oor-grens 30
trein in artikel 334(2) bedoel, is aan 'n misdryf skuldig—
- (a) indien daardie persoon versuim om aan artikel 343 of 347(4) te voldoen;
 - (b) indien artikel 339(1) of 344(1) of (2)(a) of (b) met betrekking tot daardie vaartuig, vliegtuig of trein oortree word;
 - (c) indien artikel 350(1) met betrekking tot voorrade aan boord van daardie 35
vaartuig, vliegtuig of trein oortree word; of
 - (d) indien daar nie aan 'n lasgewing ingevolge artikel 351 voldoen word nie.
- (4) Die aanboord operateur van 'n land-uitgaande vaartuig bedoel in artikel 334(2) is aan 'n misdryf skuldig indien—
- (a) voorrade aan boord van die vaartuig uitgereik of gebruik word andersins as 40
ooreenkomstig artikel 348(1) of (2); of
 - (b) daardie persoon versuim om aan artikel 348(4) te voldoen.
- (5) 'n Misdryf bedoel in subartikel (1) is 'n Kategorie 1 misdryf.

HOOFSTUK 16

UITVOERPROSEDURE

45

Deel 1

Inleidende bepalings

Doel en toepassing van hierdie Hoofstuk

- 361.** (1) Die doel van hierdie Hoofstuk is om die uitvoerprosedure te reguleer.

278. Artikel 360(1) is 'n Kategorie 1 misdryf wat van toepassing is op alle persone wat voorrade onregmatiglik van 'n vaartuig, vliegtuig of trein verwyder, en tref ook die vervoerder of aanboord operateur indien die vervoerder of aanboord operateur die werklike oortreder is. Die misdryf ingevolge hierdie artikel moet onderskei word van artikel 360(2) en (3) wat Kategorie 2 misdrywe daarstel vir vervoerders en aanboord operateurs in omstandighede waar die vervoerder of aanboord operateur nie die werklike oortreder is nie maar versuim om behoorlike beheer uit te oefen om te verhoed dat voorrade onregmatiglik verwyder word.

- (2) This Chapter applies to goods destined for—
- (a) outright export;
 - (b) export under—
 - (i) the outbound leg of the temporary admission procedure for goods cleared and released for that procedure in terms of Part 2 of Chapter 12; 5
 - (ii) outbound leg of the temporary export procedure for goods cleared and released for that procedure in terms of Part 2 of Chapter 17; or
 - (iii) the outward processing procedure in terms of Chapter 20; or
 - (c) export as inward processed compensating products under the inward processing procedure in terms of Part 3 of Chapter 18. 10
- (3) This Chapter does not apply to goods exported under—
- (a) the international transit procedure in terms of Chapter 9;
 - (b) the transshipment procedure in terms of Chapter 11;
 - (c) outbound leg of the temporary admission procedure in terms of Chapter 12, if the goods came under that procedure— 15
 - (i) in terms of international clearance arrangements referred to in Part 4 of that Chapter; or
 - (ii) automatically in terms of Part 5 of that Chapter;
 - (d) outbound leg of the temporary export procedure in terms of Chapter 17, if the goods come under that procedure— 20
 - (i) in terms of international clearance arrangements referred to in Part 4 of that Chapter; or
 - (ii) automatically in terms of Part 5 of that Chapter;
 - (e) the tax free shop procedure in terms of Chapter 14;
 - (f) the stores procedure in terms of Chapter 15; or 25
 - (g) any other exclusion in terms of section 95 from export clearance requirements.

Export procedure

- 362.** The export procedure is a customs procedure that allows—
- (a) the export of goods from the Republic; and 30
 - (b) the transport of goods under the export procedure to the place of exit where the goods are to be exported without clearing the goods for transit.²⁷⁹

Commencement and completion of export procedure

- 363.** (1) (a) Goods come under the export procedure when the goods are in terms of this Chapter cleared for export. 35
- (b) The export procedure is, subject to subsection (2), completed when the goods are exported from the Republic.
- (2) The export procedure ends before its completion if—
- (a) the goods before completion of the procedure are cleared and released for another customs procedure or for home use, as may be permissible in the circumstances; or 40
 - (b) completion of the procedure is interrupted by an occurrence referred to in section 109(2).

Extent to which Chapters 4, 5 and 7 apply

- 364.** Chapters 4, 5 and 7, except insofar as a provision of those Chapters is modified, 45

²⁷⁹ This applies to all goods cleared for export, including locally manufactured excisable goods, fuel levy goods etc., transported from excise warehouses.

- (2) Hierdie Hoofstuk is van toepassing op goedere bestem vir—
- (a) regstreekse uitvoer;
 - (b) uitvoer onder—
 - (i) die uitwaartse fase van die prosedure vir tydelike toelating vir goedere wat vir daardie prosedure ingevolge Deel 2 van Hoofstuk 12 geklaar en vrygestel is; 5
 - (ii) die uitwaartse fase van die prosedure vir tydelike uitvoer vir goedere wat vir daardie prosedure ingevolge Deel 2 van Hoofstuk 17 geklaar en vrygestel is; of
 - (iii) die prosedure vir uitwaartse prosessering ingevolge Hoofstuk 20; of 10
 - (c) uitvoer as inwaarts geprosesseerde kompenserende produkte onder die prosedure vir inwaartse prosessering ingevolge Deel 3 van Hoofstuk 18.
- (3) Hierdie Hoofstuk is nie van toepassing nie op goedere wat uitgevoer word onder—
- (a) die prosedure vir internasionale transito ingevolge Hoofstuk 9; 15
 - (b) die transverskepingsprosedure ingevolge Hoofstuk 11;
 - (c) die uitwaartse fase van die prosedure vir tydelike toelating ingevolge Hoofstuk 12, indien die goedere—
 - (i) onder daardie prosedure ingevolge internasionale klaringsreëlings bedoel in Deel 4 van daardie Hoofstuk gekom het; of 20
 - (ii) outomaties onder daardie prosedure ingevolge Deel 5 van daardie Hoofstuk gekom het;
 - (d) die uitwaartse fase van die prosedure vir tydelike uitvoer ingevolge Hoofstuk 17, indien die goedere—
 - (i) onder daardie prosedure ingevolge internasionale klaringsreëlings bedoel in Deel 4 van daardie Hoofstuk gekom het; of 25
 - (ii) outomaties onder daardie prosedure ingevolge Deel 5 van daardie Hoofstuk gekom het;
 - (e) die prosedure vir belastingvry-winkels ingevolge Hoofstuk 14;
 - (f) die voorradeprosedure ingevolge Hoofstuk 15; of 30
 - (g) enige ander uitsluiting ingevolge artikel 95 van uitvoerklaringsvereistes.

Uitvoerprosedure

- 362.** Die uitvoerprosedure is 'n doeane-prosedure ingevolge waarvan—
- (a) goedere uit die Republiek uitgevoer mag word; en
 - (b) goedere onder die uitvoerprosedure vervoer mag word na die plek van uitgang waar die goedere uitgevoer word sonder om die goedere vir transito te klaar.²⁷⁹ 35

Begin en afhandeling van uitvoerprosedure

- 363.** (1) (a) Goedere kom onder die uitvoerprosedure wanneer die goedere ingevolge hierdie Hoofstuk vir uitvoer geklaar word. 40
- (b) Die uitvoerprosedure is, behoudens subartikel (2), afgehandel wanneer die goedere uit die Republiek uitgevoer is.
- (2) Die uitvoerprosedure eindig voor die afhandeling daarvan indien—
- (a) die goedere voor afhandeling van die prosedure vir 'n ander doeane-prosedure of vir binnelandse gebruik geklaar en vrygestel word, soos in die omstandighede toelaatbaar mag wees; of 45
 - (b) afhandeling van die prosedure deur 'n gebeurtenis bedoel in artikel 109(2) onderbreek word.

Mate waarin Hoofstukke 4, 5 en 7 van toepassing is

- 364.** Hoofstukke 4, 5 en 7, behalwe in soverre 'n bepaling van daardie Hoofstukke aangepas, gekwalifiseer of van afgewyk word in hierdie Hoofstuk, is van toepassing op 50

²⁷⁹ Hierdie bepaling geld vir alle goedere vir uitvoer geklaar, met inbegrip van plaaslik vervaardigde aksynsbare goedere, brandstofheffinggoedere, ens., wat vanaf aksynspakhuisse vervoer word.

qualified or deviated from in this Chapter, apply to goods under the export procedure,²⁸⁰ including to the clearance and release of goods for the export procedure.

Part 2

*Clearance and release of goods for export from Republic*²⁸¹

Clearance of goods for export 5

365. Goods to be cleared for export from the Republic must be cleared in accordance with section 364.

Persons entitled to submit export clearance declarations

366. Only the following persons may, subject to section 165(2), submit clearance declarations to clear goods for the export procedure:²⁸² 10

- (a) The exporter of the goods, if that exporter is located in the Republic;
- (b) the registered agent in the Republic of the exporter, if the exporter is not located in the Republic; or
- (c) a customs broker referred to in section 165(1)(b).

Contents of export clearance declarations 15

367. (1) An export clearance declaration must, in addition to the information required in terms of section 167, state the following:

- (a) The amount of any tax and the kind of tax paid on the goods, if reclaimable on the export of the goods;
- (b) the amount of any export tax payable on the goods, and the kind of export tax; 20
- (c) in the case of goods to be exported from the Republic—
 - (i) by sea, air or rail, the customs code of the licensed terminal where the goods will be loaded on board the foreign-going vessel, foreign-going aircraft or cross-border railway carriage in which the goods are to be exported from the Republic; or 25
 - (ii) by road, the customs code of the land border-post through which the goods will be exported from the Republic;
- (d) in the case of goods that will be transported by road from a licensed terminal or depot to a land border-post through which the goods will be exported from the Republic, the customs code of— 30
 - (i) that terminal or depot; and
 - (ii) the licensed carrier that will transport the goods by road from that terminal or depot to that land border-post; and
- (e) whether any exchange control measures are applicable to the export of the relevant goods. 35

Timeous delivery of goods to depots and export terminals to allow for inspection²⁸³

368. (1) To enable the customs authority to carry out any necessary inspections of goods cleared for export in terms of the export procedure,²⁸⁴ the goods must, within such timeframes as may be prescribed by rule, be delivered to—

280. In the case of an inconsistency between a provision of this Chapter and a general provision contained in Chapter 4 or 7, the provision of this Chapter prevails. See sections 88(3) and 162(3).

281. For tax status of goods cleared for outright export, see section 136.

282. See section 165(1)(a).

283. Goods should timeously be delivered to depots and export terminals to allow for inspections as Customs will not be liable for expenses caused by delays in the export of goods. See section 923.

284. See section 94 for timeframes applicable to the clearance of goods under the export procedure.

goedere onder die uitvoerprosedure,²⁸⁰ asook op die klaring en vrystelling van goedere vir die uitvoerprosedure.

Deel 2

*Klaring en vrystelling van goedere vir uitvoer uit Republiek*²⁸¹

Klaring van goedere vir uitvoer 5

365. Goedere bestem vir klaring vir uitvoer uit die Republiek moet volgens voorskrif van artikel 364 geklaar word.

Persone wat uitvoerklaringsbriewe mag indien

366. Slegs die volgende persone mag, behoudens artikel 165(2), klaringsbriewe indien om goedere vir die uitvoerprosedure te klaar:²⁸² 10

- (a) Die uitvoerder van die goedere, indien daardie uitvoerder in die Republiek gesetel is;
- (b) die geregistreerde agent in die Republiek van die uitvoerder, indien die uitvoerder nie in die Republiek gesetel is nie; of
- (c) 'n doeanemakelaar in artikel 165(1)(b) bedoel. 15

Inhoud van uitvoerklaringsbriewe

367. (1) 'n Uitvoerklaringsbrief moet, benewens die inligting wat ingevolge artikel 167 verstrek moet word, die volgende vermeld:

- (a) Die bedrag van enige belasting en die soort belasting betaal op die goedere, indien terugisbaar op die uitvoer van die goedere; 20
- (b) die bedrag van enige uitvoerbelasting op die goedere betaalbaar, en die soort uitvoerbelasting;
- (c) in die geval van goedere wat vir uitvoer uit die Republiek—
 - (i) per see, lug of spoor bestem is, die doeanekode van die gelisensieerde terminaal waar die goedere aan boord gelaai sal word van die land-uitgaande vaartuig, land-uitgaande vliegtuig of oor-grens spoorwegwa waarin die goedere uit die Republiek uitgevoer sal word; of 25
 - (ii) per pad bestem is, die doeanekode van die land-grenspos waardeur die goedere uit die Republiek uitgevoer sal word;
- (d) in die geval van goedere wat bestem is om per pad vervoer te word vanaf 'n gelisensieerde terminaal of depot na 'n land-grenspos waardeur die goedere uit die Republiek uitgevoer sal word, die doeanekode van—
 - (i) daardie terminaal of depot; en
 - (ii) die gelisensieerde vervoerder wat die goedere per pad vanaf daardie terminaal of depot na daardie land-grenspos sal vervoer; en 30
- (e) of enige deviesebeheermaatreëls wat op die uitvoer van die betrokke goedere van toepassing is. 35

Tydige aflewering van goedere by depots en uitvoerterminale om tyd vir inspeksie te maak²⁸³

368. (1) Ten einde die doeanegesag in staat te stel om enige nodige inspeksies van goedere te doen wat vir uitvoer ingevolge die uitvoerprosedure geklaar is,²⁸⁴ moet die goedere, binne die tydsrame soos by reël voorgeskryf mag word, gelewer word aan—

280. In die geval van enige onbestaanbaarheid tussen 'n bepaling van hierdie Hoofstuk en 'n algemene bepaling in Hoofstuk 4 of 7, geniet die bepaling van hierdie Hoofstuk voorrang. Kyk artikels 88(3) en 162(3).

281. Vir belastingstatus van goedere vir regstreekse uitvoer geklaar, kyk artikel 136.

282. Kyk artikel 165(1)(a).

283. Goedere behoort betyds aan depots en uitvoerterminale gelewer te word om tyd vir inspeksies te maak aangesien Doeane nie aanspreeklik is vir koste wat deur vertragings in die uitvoer van goedere veroorsaak word nie. Kyk artikel 923.

284. Kyk artikel 94 vir tydsrame van toepassing op die klaring van goedere onder die uitvoerprosedure.

- (a) a container depot, in the case of goods to be containerised for export by sea at a container depot;
 - (b) an air cargo depot, in the case of goods to be packed for export by air at an air cargo depot; or
 - (c) the terminal where the goods will be loaded on board a foreign-going vessel, foreign-going aircraft or cross-border railway carriage in which the goods are to be exported, in the case of those and all other goods, including goods—
 - (i) containerised for export by sea elsewhere than at a container depot; or
 - (ii) packed for export by air elsewhere than at an air cargo depot.
- (2) Subsection (1) does not apply to—
- (a) accompanied or unaccompanied baggage of persons leaving the Republic;
 - (b) postal articles handled by the South African Post Office; or
 - (c) any other category of goods as may be determined by rule.

Time when goods may be released for export

- 369.** (1) The customs authority may not release under the export procedure goods for export—
- (a) by sea before the goods are delivered to—
 - (i) a container depot, in the case of goods to be containerised for export at that container depot; or
 - (ii) the sea cargo terminal where the goods are to be loaded on board a foreign-going vessel in which the goods are to be exported, in the case of all other goods including goods containerised for export by sea elsewhere than at a container depot;
 - (b) by air before the goods are delivered to—
 - (i) an air cargo depot, in the case of goods to be packed for export at that air cargo depot; or
 - (ii) the air cargo terminal where the goods are to be loaded on board a foreign-going aircraft in which the goods are to be exported, in the case of all other goods including goods packed for export by air elsewhere than at an air cargo depot;
 - (c) by rail before the goods are delivered to the rail cargo terminal where the goods are to be loaded on board a cross-border railway carriage in which the goods are to be exported; or
 - (d) by road before the vehicle that will transport the goods out of the Republic has reached the land border-post where the goods are to be exported.
- (2) Subsection (1) does not apply to—
- (a) goods under the warehousing procedure;²⁸⁵ or
 - (b) any category of goods as may be prescribed by rule.
- (3) Goods referred to in subsection (2) may be released for export in terms of the export procedure otherwise than as provided in subsection (1), provided section 108 and any requirements and conditions as may be prescribed by rule are complied with.

Failure to export goods released for export

- 370.** (1) If goods that are cleared and released for export under the export procedure, are not exported within a timeframe from release of the goods for export as may be prescribed by rule read with sections 908 and 909—
- (a) the person clearing the goods for export must immediately notify the customs authority of—
 - (i) the failure to export the goods²⁸⁶; and
 - (ii) the reasons for the failure; and
 - (b) the customs authority may, whether a notification in terms of paragraph (a) has been given or not—
 - (i) secure the goods or require the goods to be secured in such manner as the customs authority may determine pending the export of the goods in terms of the release;

²⁸⁵. See section 310(a).

²⁸⁶. Failure to load goods for export will appear from outturn reports to be submitted by terminal operators.

- (a) 'n houerdepot, in die geval van goedere wat by 'n houerdepot vir uitvoer per see in houers verpak sal word;
 - (b) 'n lugvragdepot, in die geval van goedere wat by 'n lugvragdepot vir uitvoer per lug verpak sal word; of
 - (c) die terminaal waar die goedere aan boord van 'n land-uitgaande vaartuig, land-uitgaande vliegtuig of oor-grens spoorwegwa gelaai sal word waarin die goedere uitgevoer sal word, in die geval van daardie en alle ander goedere, met inbegrip van goedere wat—
 - (i) vir uitvoer per see anders as by 'n houerdepot in houers verpak is; of
 - (ii) vir uitvoer per lug anders as by 'n lugvragdepot verpak is.
- (2) Subartikel (1) geld nie vir—
- (a) vergeselde of onvergeselde bagasie van persone wat die Republiek verlaat nie;
 - (b) posstukke wat deur die Suid-Afrikaanse Poskantoor hanteer word nie; of
 - (c) enige ander kategorie goedere soos by reël bepaal mag word nie.

Tydstip waarop goedere vir uitvoer vrygestel mag word 15

- 369.** (1) Die doeane gesag mag nie onder die uitvoerprosedure goedere vir uitvoer—
- (a) per see vrystel voordat die goedere aan—
 - (i) 'n houerdepot gelewer is nie, in die geval van goedere wat vir uitvoer by daardie depot in houers verpak sal word; of
 - (ii) die seevragterminaal gelewer is nie waar die goedere aan boord van 'n land-uitgaande vaartuig gelaai sal word waarin die goedere uitgevoer sal word, in die geval van alle ander goedere, met inbegrip van goedere wat vir uitvoer per see anders as by 'n houerdepot in houers verpak is;
 - (b) per lug vrystel voordat die goedere aan—
 - (i) 'n lugvragdepot gelewer is nie, in die geval van goedere wat vir uitvoer by daardie lugvragdepot verpak sal word; of
 - (ii) die lugvragterminaal gelewer is nie waar die goedere aan boord van 'n land-uitgaande vliegtuig gelaai sal word waarin die goedere uitgevoer sal word, in die geval van alle ander goedere, met inbegrip van goedere wat vir uitvoer per lug anders as by 'n lugvragdepot verpak is;
 - (c) per spoor vrystel voordat die goedere aan die spoorvragterminaal gelewer is nie waar die goedere aan boord van 'n oor-grens spoorwegwa gelaai sal word waarin die goedere uitgevoer sal word; of
 - (d) per pad vrystel voordat die voertuig wat die goedere uit die Republiek sal vervoer die land-grenspos waar die goedere uitgevoer sal word, bereik het nie.
- (2) Subartikel (1) geld nie vir—
- (a) goedere onder die pakhuisbergingsprosedure nie;²⁸⁵ of
 - (b) enige kategorie goedere soos by reël voorgeskryf mag word nie.
- (3) Goedere bedoel in subartikel (2) kan anders as ooreenkomstig subartikel (1) vir uitvoer ingevolge die uitvoerprosedure vrygestel word, mits daar voldoen word aan artikel 108 en enige voorskrifte en voorwaardes soos by reël voorgeskryf mag word.

Versuim om goedere vrygestel vir uitvoer uit te voer

- 370.** (1) Indien goedere wat vir uitvoer onder die uitvoerprosedure geklaar en vrygestel is, nie uitgevoer word binne 'n tydsraam vanaf vrystelling van die goedere vir uitvoer soos by reël, saamgelees met artikels 908 en 909, voorgeskryf mag word nie—
- (a) moet die persoon wat die goedere vir uitvoer klaar die doeane gesag onmiddellik in kennis stel van—
 - (i) die versuim om die goedere uit te voer;²⁸⁶; en
 - (ii) die redes vir die versuim; en
 - (b) kan die doeane gesag, ongeag of kennis ingevolge paragraaf (a) gegee is of nie—
 - (i) die goedere beveilig of gelas dat die goedere beveilig word op die wyse soos die doeane gesag mag bepaal hangende die uitvoer van die goedere ingevolge die vrystelling;

285. Kyk artikel 310(a).

286. Versuim om goedere vir uitvoer te laai, sal blyk uit oplewingsverslae wat deur terminaaloperateurs verstrek moet word.

- (ii) withdraw in terms of section 105 the release given in respect of the goods;²⁸⁷ or
 - (iii) issue a direction in terms of section 112(2) or 113(2), as may be appropriate, whether or not the release has been withdrawn.
- (2) A person who cleared goods for export under the export procedure must on request by the customs authority provide proof to the customs authority, as may be prescribed by rule, that the goods were exported. 5
- (3) The burden to prove that goods released for export under the export procedure have been exported rests on the person clearing the goods.

Clearance of goods exported through cross-border transmission lines, pipelines, cable-cars or conveyor belts 10

- 371.** The Commissioner may by rule—
- (a) prescribe special processes and requirements for the clearance and release for outright export of—
 - (i) electricity to be exported through licensed cross-border transmission lines; and 15
 - (ii) other goods to be exported through licensed cross-border pipelines or by means of licensed cross-border cable cars or conveyor belts; and
 - (b) exempt such electricity or other goods from a provision of this Act that is not consistent with such special processes and requirements, including any provision relating to the clearance or release of goods. 20

Part 3

Other matters

Rules to facilitate implementation of this Chapter

- 372.** Rules made in terms of section 903 to facilitate the implementation of this Chapter may include rules prescribing— 25
- (a) measures to ensure effective customs control when goods not in free circulation are transported under the export procedure to a place of exit from where the goods will be exported;
 - (b) for purposes of section 122(c), any persons, other than carriers, permitted to transport goods not in free circulation to a place of exit under the export procedure; 30
 - (c) documents that may be used to prove that goods were—
 - (i) loaded for export; and
 - (ii) exported from the Republic; 35
 - (d) notices that must be submitted to the customs authority and other persons by licensees of container depots, sea cargo terminals, air cargo depots, air cargo terminals and rail cargo terminals; and
 - (e) regulatory requirements and conditions for licensees to carry out activities in connection with export goods. 40

Offences in terms of this Chapter

- 373.** (1) A person clearing goods for export is guilty of an offence if that person fails to comply with—
- (a) section 368(1); or
 - (b) section 370(1)(a). 45
- (2) An offence referred to in subsection (1)(b) is a Category 1 offence.

²⁸⁷. For consequences of a withdrawal of a release, see section 106.

- (ii) die vrystelling intrek wat ingevolge artikel 105 ten opsigte van die goedere verleen is;²⁸⁷ of
 - (iii) 'n lasgewing ingevolge artikel 112(2) of 113(2), soos van toepassing mag wees, uitreik ongeag of die vrystelling ingetrek is of nie.
- (2) 'n Persoon wat goedere vir uitvoer onder die uitvoerprosedure geklaar het, moet op versoek van die doeanegesag bewys dat die goedere uitgevoer is aan die doeanegesag verskaf, soos by reël voorgeskryf mag word. 5
- (3) Die onus om te bewys dat goedere wat vir uitvoer onder die uitvoerprosedure vrygestel is, wel uitgevoer is, rus op die persoon wat die goedere klaar.

Klaring van goedere uitgevoer deur oor-grens transmissielyne, pyplyne, kabelkarre of vervoerbande 10

371. Die Kommissaris kan by reël—

- (a) spesiale prosesse en vereistes voorskryf vir die klaring en vrystelling vir regstreekse uitvoer van—
 - (i) elektrisiteit wat deur gelisensieerde oor-grens transmissielyne uitgevoer word; en 15
 - (ii) ander goedere wat deur gelisensieerde oor-grens pyplyne of by wyse van gelisensieerde oor-grens kabelkarre of vervoerbande uitgevoer word; en
- (b) sulke elektrisiteit of ander goedere onthef van 'n bepaling van hierdie Wet wat nie bestaanbaar met sodanige spesiale prosesse en vereistes is nie, met inbegrip van enige bepaling betreffende die klaring of vrystelling van goedere. 20

Deel 3

Ander aangeleenthede

Reëls ter fasilitering van implementering van hierdie Hoofstuk

- 372.** Reëls ingevolge artikel 903 uitgevaardig om die implementering van hierdie Hoofstuk te fasiliteer, kan reëls insluit wat die volgende voorskryf: 25
- (a) Maatreëls om doeltreffende doeanebeheer te verseker wanneer goedere wat nie in vry sirkulasie is nie onder die uitvoerprosedure na 'n plek van uitgang waarvandaan die goedere uitgevoer sal word, vervoer word;
 - (b) vir doeleindes van artikel 122(c), watter persone, anders as vervoerders, gemagtig is om goedere wat nie in vry sirkulasie is nie na 'n plek van uitgang onder die uitvoerprosedure te vervoer; 30
 - (c) dokumente wat as bewys gebruik kan word dat goedere—
 - (i) vir uitvoer gelaai is; en
 - (ii) uit die Republiek uitgevoer is; 35
 - (d) kennisgewings wat aan die doeanegesag en ander persone deur lisensiehouers van houerdepots, seevragterminale, lugvragdepots, lugvragterminale en spoorvragterminale verstrekk moet word; en
 - (e) regulatoriese voorskrifte en voorwaardes vir lisensiehouers om aktiwiteite in verband met uitvoer goedere te verrig. 40

Misdrywe ingevolge hierdie Hoofstuk

- 373.** (1) 'n Persoon wat goedere vir uitvoer klaar, is aan 'n misdryf skuldig indien daardie persoon versuim om te voldoen aan—
- (a) artikel 368(1); of
 - (b) artikel 370(1)(a). 45
- (2) 'n Misdryf bedoel in subartikel (1)(b) is 'n Kategorie 1 misdryf.

²⁸⁷. Vir gevolge van intrekking van 'n vrystelling, kyk artikel 106.

CHAPTER 17

TEMPORARY EXPORT PROCEDURE

Part 1

Introductory provisions

Purpose and application of this Chapter 5

- 374.** (1) The purpose of this Chapter is to regulate the temporary export procedure.
(2) This Chapter applies to goods temporarily exported from the Republic.

Temporary export procedure²⁸⁸

- 375.** (1) The temporary export procedure is a customs procedure that allows— 10

- (a) goods—
(i) to be temporarily exported from the Republic with the intention to return the goods to the Republic; and
(ii) to be returned to the Republic as re-imported unaltered goods; or
(b) goods exported outright from the Republic to be returned to the Republic as re-imported unaltered goods. 15

- (2) The temporary export procedure is available only for goods which—

- (a) fall within a category of goods to which Part 2, 4 or 5 applies; and
(b) are of a nature that will make them, when eventually re-imported, likely to be identified as the same goods.

Commencement and completion of temporary export procedure 20

- 376.** (1) Goods come under—

- (a) the temporary export procedure contemplated in section 375(1)(a)—
(i) when cleared for temporary export in terms of Part 2, in the case of goods to which that Part applies;
(ii) when cleared for temporary export in terms of international clearance arrangements referred to in Part 4, in the case of goods to which that Part applies; or
(iii) upon leaving the Republic, in the case of goods that automatically come under the temporary export procedure in terms of Part 5; or
(b) the temporary export procedure contemplated in section 375(1)(b), retrospectively as from the time the goods are cleared and released in terms of Chapter 16 for outright export from the Republic. 25

- (2) The temporary export procedure is, subject to subsection (3), completed—

- (a) in the case of goods referred to in subsection (1)(a)(i) or (b), when the goods are returned to the Republic and cleared and released as re-imported unaltered goods for home use in terms of Part 3; 35
(b) in the case of goods referred to in subsection (1)(a)(ii), when the goods are returned to the Republic in accordance with the international clearance arrangements referred to in Part 4; or
(c) in the case of goods referred to in subsection (1)(a)(iii), when the goods re-enter the Republic. 40

- (3) The temporary export procedure ends before its completion if completion of the procedure is interrupted by an occurrence referred to in section 109(2).

²⁸⁸. For tax status of goods under the temporary export procedure, see section 147.

HOOFTUK 17

PROSEDURE VIR TYDELIKE UITVOER

Deel 1

Inleidende bepalings

Doel en toepassing van hierdie Hoofstuk 5

374. (1) Die doel van hierdie Hoofstuk is om die prosedure vir tydelike uitvoer te reguleer.

(2) Hierdie Hoofstuk is van toepassing op goedere wat tydelik uit die Republiek uitgevoer word.

Prosedure vir tydelike uitvoer²⁸⁸ 10

375. (1) Die prosedure vir tydelike uitvoer is 'n doeaneprosedure ingevolge waarvan—

- (a) goedere—
 - (i) tydelik uit die Republiek uitgevoer mag word met die voorneme om die goedere na die Republiek terug te bring; en 15
 - (ii) na die Republiek as heringevoerde onveranderde goedere teruggebring mag word; of
- (b) goedere wat regstreeks uit die Republiek uitgevoer is, na die Republiek as heringevoerde onveranderde goedere teruggebring mag word.

(2) Die prosedure vir tydelike uitvoer is beskikbaar slegs vir goedere wat— 20

- (a) binne 'n kategorie goedere val waarop Deel 2, 4 of 5 van toepassing is; en
- (b) van 'n aard is wat, wanneer die goedere mettertyd heringevoer word, sal maak dat dit waarskynlik as dieselfde goedere geïdentifiseer sal word.

Begin en afhandeling van prosedure vir tydelike uitvoer

376. (1) Goedere kom onder— 25

- (a) die prosedure vir tydelike uitvoer beoog in artikel 375(1)(a)—
 - (i) wanneer dit ingevolge Deel 2 vir tydelike uitvoer geklaar word, in die geval van goedere waarop daardie Deel van toepassing is;
 - (ii) wanneer dit ingevolge internasionale klaringsreëlings bedoel in Deel 4 vir tydelike uitvoer geklaar word, in die geval van goedere waarop daardie Deel van toepassing is; of 30
 - (iii) wanneer dit die Republiek verlaat, in die geval van goedere wat ingevolge Deel 5 outomaties onder die prosedure vir tydelike uitvoer kom; of
- (b) die prosedure vir tydelike uitvoer beoog in artikel 375(1)(b), terugwerkend vanaf die tydstip waarop die goedere ingevolge Hoofstuk 16 vir regstreekse uitvoer uit die Republiek geklaar en vrygestel was. 35

(2) Die prosedure vir tydelike uitvoer is, behoudens subartikel (3), afgehandel—

- (a) in die geval van goedere bedoel in subartikel (1)(a)(i) of (b), wanneer die goedere na die Republiek teruggebring en ingevolge Deel 3 as heringevoerde onveranderde goedere vir binnelandse gebruik geklaar en vrygestel word; 40
- (b) in die geval van goedere bedoel in subartikel (1)(a)(ii), wanneer die goedere na die Republiek teruggebring word ooreenkomstig die internasionale klaringsreëlings in Deel 4 bedoel; of
- (c) in die geval van goedere bedoel in subartikel (1)(a)(iii), wanneer die goedere die Republiek herbinnekom. 45

(3) Die prosedure vir tydelike uitvoer eindig voor die afhandeling daarvan indien afhandeling van die prosedure deur 'n gebeurtenis bedoel in artikel 109(2) onderbreek word.

²⁸⁸. Vir belastingstatus van goedere onder die prosedure vir tydelike uitvoer, kyk artikel 147.

Extent to which Chapters 4, 5 and 7 apply

377. Chapters 4, 5 and 7, except insofar as a provision of those Chapters is modified, qualified or deviated from in this Chapter, apply to all goods under the temporary export procedure,²⁸⁹ including to the clearance and release of goods—

- (a) for temporary export in terms of Part 2 or 4; and 5
- (b) as re-imported unaltered goods for home use in terms of Part 3 or 4.

Part 2

Temporary export of goods under regular clearance and release procedures

Application of this Part

378. (1) This Part— 10

- (a) applies to goods of a class or kind that may in terms of any of the tax levying Acts be cleared for temporary export under this Part; and
- (b) does not apply to goods—
 - (i) cleared in accordance with the international clearance arrangements referred to in Part 4; or 15
 - (ii) that automatically come under the temporary export procedure in terms of Part 5.

(2) Goods to be cleared for temporary export under this Part must be cleared for export in accordance with Chapter 16,²⁹⁰ read with section 377(a).

Clearing of goods for temporary export 20

379. (1) If a person clears goods for temporary export in terms of Chapter 16—

- (a) the export clearance declaration referred to in section 367 must state—
 - (i) the intention to return the goods to the Republic as re-imported unaltered goods; and
 - (ii) the date before which the goods will be returned to the Republic; and 25
- (b) that person must—
 - (i) either provide security for the payment of any export tax or pay the amount of any export tax that may become payable on the goods should the goods lose their tax free status in relation to export tax; and
 - (ii) comply with such further requirements as may be prescribed by rule or as 30 the customs authority may determine in a specific case.

(2) The customs authority may exempt a person from compliance with subsection (1)(b)(i).

(3) Goods are cleared in terms of subsection (1) for temporary export on condition that the goods must be returned to the Republic in the same state they were when 35 exported.

Release of goods for temporary export

380. (1) If goods are released for temporary export, the release notification must state the period within which the goods must be returned to the Republic.

(2) A period determined in terms of subsection (1) may not exceed— 40

- (a) a maximum period as may be prescribed for the relevant class or kind of goods—

289. In the case of an inconsistency between a provision of this Chapter and a general provision contained in Chapter 4 or 7 the provision of this Chapter prevails. See sections 88(3) and 162(3).

290. See also section 361(2)(b)(ii) which states that Chapter 16 applies to goods destined for temporary export.

Mate waarin Hoofstukke 4, 5 en 7 van toepassing is

377. Hoofstukke 4, 5 en 7, behalwe in soverre 'n bepaling van daardie Hoofstukke aangepas, gekwalifiseer of van afgewyk word in hierdie Hoofstuk, is van toepassing op alle goedere onder die prosedure vir tydelike uitvoer,²⁸⁹ asook op die klaring en vrystelling van goedere— 5
- (a) vir tydelike uitvoer ingevolge Deel 2 of 4; en
 - (b) as heringevoerde onveranderde goedere vir binnelandse gebruik ingevolge Deel 3 of 4.

Deel 2

Tydlike uitvoer van goedere onder gewone klarings- en vrystellingsprosedures 10

Toepassing van hierdie Deel

378. (1) Hierdie Deel—
- (a) is van toepassing op goedere van 'n klas of soort wat ingevolge enige van die belastingheffings-Wette vir tydelike uitvoer kragtens hierdie Deel geklaar mag word; en 15
 - (b) is nie van toepassing nie op goedere wat—
 - (i) ooreenkomstig die internasionale klaringsreëlings bedoel in Deel 4 geklaar word; of
 - (ii) ingevolge Deel 5 outomaties onder die prosedure vir tydelike uitvoer kom. 20
- (2) Goedere bestem vir klaring vir tydelike uitvoer kragtens hierdie Deel, moet vir uitvoer volgens voorskrif van Hoofstuk 16,²⁹⁰ saamgelees met artikel 377(a), geklaar word.

Klaring van goedere vir tydelike uitvoer

379. (1) Indien 'n persoon goedere ingevolge Hoofstuk 16 vir tydelike uitvoer klaar— 25
- (a) moet die uitvoerklaringsbrief in artikel 367 bedoel—
 - (i) die voorneme vermeld om die goedere na die Republiek as heringevoerde onveranderde goedere terug te bring; en
 - (ii) die datum vermeld voor wanneer die goedere na die Republiek teruggebring sal word; en 30
 - (b) moet daardie persoon—
 - (i) óf sekuriteit stel vir die betaling van enige uitvoerbelasting óf die bedrag van enige uitvoerbelasting betaal wat op die goedere betaalbaar mag word sou die goedere hul belastingvry status met betrekking tot uitvoerbelasting verloor; en 35
 - (ii) aan sodanige verdere vereistes voldoen soos by reël voorgeskryf of deur die doeanegesag in 'n spesifieke geval bepaal mag word.
- (2) Die doeanegesag kan 'n persoon van voldoening aan subartikel (1)(b)(i) onthef.
- (3) Goedere word ingevolge subartikel (1) vir tydelike uitvoer geklaar op voorwaarde dat die goedere na die Republiek teruggebring moet word in dieselfde toestand as wat dit was toe dit uitgevoer is. 40

Vrystelling van goedere vir tydelike uitvoer

380. (1) Indien goedere vir tydelike uitvoer vrygestel word, moet die vrystellingskennisgewing die tydperk vermeld waarbinne die goedere na die Republiek teruggebring moet word. 45
- (2) 'n Tydperk ingevolge subartikel (1) bepaal, mag nie langer wees nie as—
- (a) 'n maksimum tydperk wat vir die betrokke klas of soort goedere—

289. In die geval van enige onbestaanbaarheid tussen 'n bepaling van hierdie Hoofstuk en 'n algemene bepaling in Hoofstuk 4 of 7 vervat, geniet die bepaling van hierdie Hoofstuk voorrang. Kyk artikels 88(3) en 162(3).

290. Kyk ook artikel 361(2)(b)(ii) wat bepaal dat Hoofstuk 16 op goedere bestem vir tydelike uitvoer van toepassing is.

- (i) in a tax levying Act referred to in section 378(1)(a) or, if two or more tax levying Acts permit goods of the same class or kind to be cleared for temporary export, a maximum period prescribed uniformly in those tax levying Acts for that class or kind of goods; or
 - (ii) by rule, if no period is in terms of subparagraph (i) prescribed for that class or kind of goods; or
 - (b) one year from the date of clearance of the goods, if no period is in terms of paragraph (a)(i) or (ii) prescribed for that class or kind of goods.
- (3) The period mentioned in a release notification may be extended in terms of section 908 only once except if good cause is shown for an additional extension.

Simplified clearance and release for commercial trucks temporarily leaving Republic

381. Trucks leaving the Republic as a means of transport currently in use for the transport of goods in the ordinary course of international trade may, despite the other provisions of this Part, be cleared and released for the temporary export procedure in accordance with simplified clearance and release processes and requirements referred to in Part 3 of Chapter 24 if the truck—

- (a) is not leaving the Republic on the return leg of the temporary admission procedure;²⁹¹ and
- (b) is destined to return to the Republic without any interruption in its current use as a means of transport for goods in the ordinary course of international trade.

Simplified clearance and release for buses and taxis temporarily leaving Republic

382. Buses or taxis leaving the Republic as a means of transport for travellers visiting abroad or returning home may, despite the other provisions of this Part, be cleared and released for the temporary export procedure in accordance with simplified clearance and release processes and requirements referred to in Part 3 of Chapter 24 if—

- (a) the bus or taxi is not leaving the Republic on the return leg of the temporary admission procedure;²⁹²
- (b) no international clearance arrangements referred to in Part 4 are available for the departure of the bus or taxi from the Republic; and
- (c) the bus or taxi is destined to return to the Republic without any interruption in its current use as a means of transport for travellers.

Simplified clearance and release for private vehicles, small vessels and light aircraft temporarily leaving Republic

383. Vehicles, small vessels or light aircraft leaving the Republic as a private means of transport for a traveller visiting abroad²⁹³ may, despite the other provisions of this Part, be cleared and released for the temporary export procedure in accordance with simplified clearance and release processes and requirements referred to in Part 3 of Chapter 24 if—

- (a) the vehicle, vessel or light aircraft is not leaving the Republic on the return leg of the temporary admission procedure;²⁹⁴
- (b) no international clearance arrangements referred to in Part 4 are available for the vehicle, vessel or light aircraft; and

291. See section 276.

292. See section 277.

293. For determining when a vessel, aircraft or vehicle qualifies as a small vessel, light aircraft or vehicle used as a private means of transport, see section 903(1)(n).

294. See section 278.

- (i) in 'n belastingheffings-Wet bedoel in artikel 378(1)(a) voorgeskryf mag word of, indien twee of meer belastingheffings-Wette die klaring van goedere van dieselfde klas of soort vir tydelike uitvoer magtig, 'n maksimum tydperk wat eenvormig in daardie belastingheffings-Wette vir daardie klas of soort goedere voorgeskryf word; of 5
- (ii) by reël voorgeskryf mag word, indien geen tydperk ingevolge subparagraaf (i) vir daardie klas of soort goedere voorgeskryf is nie; of
- (b) een jaar vanaf die datum van klaring van die goedere, indien geen tydperk ingevolge paragraaf (a)(i) of (ii) vir daardie klas of soort goedere voorgeskryf is nie. 10
- (3) Die tydperk in 'n vrystellingskennisgewing genoem, kan ingevolge artikel 908 slegs vir een keer verleng word behalwe waar goeie gronde vir 'n bykomende verlenging aangevoer word.

Verkorte klaring en vrystelling vir kommersiële trokke wat Republiek tydelik verlaat 15

- 381.** Trokke wat die Republiek verlaat as 'n middel van vervoer wat in lopende gebruik is vir die vervoer van goedere in die gewone gang van internasionale handel, kan, ondanks die ander bepalings van hierdie Deel, vir die prosedure vir tydelike uitvoer geklaar en vrygestel word ooreenkomstig verkorte klarings- en vrystellingsprosesse en vereistes in Deel 3 van Hoofstuk 24 bedoel indien die trok— 20
- (a) nie die Republiek op die terugwaartse fase van die prosedure vir tydelike toelating verlaat nie;²⁹¹ en
- (b) bestem is om na die Republiek terug te keer sonder enige onderbreking in die lopende gebruik daarvan as 'n middel van vervoer vir goedere in die gewone loop van internasionale handel. 25

Verkorte klaring en vrystelling vir busse en taxi's wat Republiek tydelik verlaat

- 382.** Busse of taxi's wat die Republiek verlaat as 'n middel van vervoer vir reisigers wat die buiteland besoek of terugkeer huistoe, kan, ondanks die ander bepalings van hierdie Deel, vir die prosedure vir tydelike uitvoer geklaar en vrygestel word ooreenkomstig verkorte klarings- en vrystellingsprosesse en vereistes in Deel 3 van Hoofstuk 24 bedoel indien— 30
- (a) die bus of taxi nie die Republiek op die terugwaartse fase van die prosedure vir tydelike toelating verlaat nie;²⁹²
- (b) geen internasionale klaringsreëlings bedoel in Deel 4 vir die vertrek van die bus of taxi vanaf die Republiek beskikbaar is nie; en 35
- (c) die bus of taxi bestem is om na die Republiek terug te keer sonder enige onderbreking in die lopende gebruik daarvan as 'n middel van vervoer vir reisigers.

Verkorte klaring en vrystelling vir private voertuie, klein vaartuie en ligte vliegtuie wat Republiek tydelik verlaat 40

- 383.** Voertuie, klein vaartuie of ligte vliegtuie wat die Republiek verlaat as 'n private middel van vervoer vir 'n reisiger wat die buiteland besoek,²⁹³ kan, ondanks die ander bepalings van hierdie Deel, vir die prosedure vir tydelike uitvoer geklaar en vrygestel word ooreenkomstig verkorte klarings- en vrystellingsprosesse en vereistes in Deel 3 van Hoofstuk 24 bedoel indien— 45
- (a) die voertuig, vaartuig of ligte vliegtuig nie die Republiek op die terugwaartse fase van die prosedure vir tydelike toelating verlaat nie;²⁹⁴
- (b) geen internasionale klaringsreëlings bedoel in Deel 4 vir die voertuig, vaartuig of ligte vliegtuig beskikbaar is nie; en

291. Kyk artikel 276.

292. Kyk artikel 277.

293. Om te bepaal wanneer 'n vaartuig, vliegtuig of voertuig as 'n klein vaartuig, ligte vliegtuig of voertuig gebruik as 'n private middel van vervoer kwalifiseer, kyk artikel 903(1)(n).

294. Kyk artikel 278.

- (c) the vehicle, vessel or light aircraft is destined to return to the Republic without any interruption in its current use as a private means of transport for that traveller.

Part 3

Clearance and release of re-imported unaltered goods for home use 5

Application of this Part

384. (1) This Part applies to the clearance and release of goods for home use as re-imported unaltered goods that were exported from the Republic in terms of a clearance and release for—

- (a) temporary export in terms of Part 2; or 10
- (b) outright export in terms of Chapter 16.

(2) This Part does not apply to goods returned to the Republic under the temporary export procedure—

- (a) in accordance with the international clearance arrangements referred to in Part 4; or 15
- (b) in terms of Part 5.

(3) Goods to which this Part applies must be cleared as re-imported unaltered goods for home use in accordance with section 377(b).

Conditions for clearance of goods as re-imported unaltered goods for home use

385. (1) Goods may be cleared in terms of this Part as re-imported unaltered goods for home use only if— 20

- (a) the goods were previously exported from the Republic under the temporary export procedure or for outright export;
- (b) the goods can be identified as the same goods originally exported from the Republic or the importer furnishes proof that the goods are the same goods originally exported; 25
- (c) the importer provides sufficient information to the customs authority concerning—
 - (i) any export tax paid on the goods when exported from the Republic;
 - (ii) any benefit given in terms of an export incentive scheme to any person on the export of the goods, whether in the form of a tax reduction or relief, an export or other subsidy, a rebate or reward or other benefit;²⁹⁵ 30
 - (iii) any import or other tax paid, or rebate or remission granted, on the goods before clearance of the goods for temporary export or outright export or, if no tax was paid, the tax status of the goods immediately before clearance of the goods for temporary export or outright export; and 35
 - (iv) any refund or drawback of import or other tax reclaimed on the export of the goods;
- (d) the goods are returned to the Republic—
 - (i) in the case of temporarily exported goods referred to in section 375(1)(a), within the period stated in the release notification referred to in section 380(1) or as extended in accordance with section 380(3); or 40
 - (ii) in the case of outright exported goods referred to in section 375(1)(b), within a period of 90 calendar days of the date of export or as extended in accordance with subsection (3); 45
- (e) the goods, whilst abroad, have not undergone any manufacturing, processing or repairs other than maintenance in connection with their use abroad; and
- (f) any conditions subject to which the goods were released for export in terms of section 104 have been complied with.

²⁹⁵ For instance where goods were outright exported and then returned under the temporary export procedure.

- (c) die voertuig, vaartuig of ligte vliegtuig bestem is om na die Republiek terug te keer sonder enige onderbreking in die lopende gebruik daarvan as 'n private middel van vervoer vir daardie reisiger.

Deel 3

Klaring en vrystelling van heringevoerde onveranderde goedere vir binnelandse gebruik 5

Toepassing van hierdie Deel

- 384.** (1) Hierdie Deel is van toepassing op die klaring en vrystelling van goedere vir binnelandse gebruik as heringevoerde onveranderde goedere wat uit die Republiek uitgevoer is ingevolge 'n klaring en vrystelling vir— 10
- (a) tydelike uitvoer ingevolge Deel 2; of
 - (b) regstreekse uitvoer ingevolge Hoofstuk 16.
- (2) Hierdie Deel is nie van toepassing op goedere wat na die Republiek onder die prosedure vir tydelike uitvoer teruggebring word—
- (a) ooreenkomstig die internasionale klaringsreëlings bedoel in Deel 4 nie; of 15
 - (b) ingevolge Deel 5 nie.
- (3) Goedere waarop hierdie Deel van toepassing is, moet as heringevoerde onveranderde goedere vir binnelandse gebruik ooreenkomstig artikel 377(b) geklaar word.

Voorwaardes vir klaring van goedere as heringevoerde onveranderde goedere vir binnelandse gebruik 20

- 385.** (1) Goedere kan ingevolge hierdie Deel as heringevoerde onveranderde goedere vir binnelandse gebruik geklaar word slegs indien—
- (a) die goedere voorheen uit die Republiek onder die prosedure vir tydelike uitvoer of vir regstreekse uitvoer uitgevoer is; 25
 - (b) die goedere geïdentifiseer kan word as dieselfde goedere wat oorspronklik uit die Republiek uitgevoer is of die invoerder bewys verskaf dat die goedere dieselfde goedere is wat oorspronklik uitgevoer is;
 - (c) die invoerder voldoende inligting aan die doeane gesag verskaf aangaande— 30
 - (i) enige uitvoerbelasting wat op die goedere betaal is toe dit uit die Republiek uitgevoer is;
 - (ii) enige voordeel wat ingevolge 'n uitvoer-aansporingskema aan enige persoon vir die uitvoer van die goedere verleen is, hetsy in die vorm van 'n belastingvermindering of -verligting, 'n uitvoer- of ander subsidie, 'n korting of vergoeding of ander voordeel;²⁹⁵ 35
 - (iii) enige invoer- of ander belasting betaal, of korting of kwytstelling toegestaan, op die goedere voor klaring van die goedere vir tydelike uitvoer of regstreekse uitvoer of, indien geen belasting betaal was nie, die belastingstatus van die goedere onmiddellik voor klaring van die goedere vir tydelike uitvoer of regstreekse uitvoer; en 40
 - (iv) enige terugbetaling of teruggawe gedoen ten opsigte van invoer- of ander belasting wat tydens die uitvoer van die goedere teruggeëis is;
 - (d) die goedere na die Republiek teruggebring word—
 - (i) in die geval van tydelik uitgevoerde goedere bedoel in artikel 375(1)(a), binne die tydperk wat in die vrystellingskennisgewing bedoel in artikel 380(1) vermeld word of ooreenkomstig artikel 380(3) verleng is; of 45
 - (ii) in die geval van regstreekse uitgevoerde goedere bedoel in artikel 375(1)(b), binne 'n tydperk van 90 kalenderdae vanaf die datum van uitvoer of soos ooreenkomstig subartikel (3) verleng;
 - (e) die goedere, terwyl dit in die buiteland was, nie enige vervaardiging, 50 prosessering of herstelwerk ondergaan het anders as instandhouding in verband met die gebruik daarvan in die buiteland nie; en
 - (f) daar aan enige voorwaardes waarop die goedere ingevolge artikel 104 vir uitvoer vrygestel is, voldoen is.

295. Byvoorbeeld waar goedere regstreeks uitgevoer is en daarna onder die prosedure vir tydelike uitvoer teruggebring word.

- (2) Goods may in terms of subsection (1) be cleared as re-imported unaltered goods for home use despite the fact that—
- (a) only a part of the originally exported goods is re-imported;
 - (b) the goods are re-imported in separate consignments;
 - (c) the goods are re-imported by a person other than the person who exported the goods, provided that that other person—
 - (i) is authorised by the original exporter to re-import the goods; and
 - (ii) is able to provide the information required in terms of subsection (1); or
 - (d) the goods, whilst abroad—
 - (i) have been used whether or not to their full capacity;
 - (ii) have been damaged; or
 - (iii) have deteriorated.
- (3) The period mentioned in subsection (1)(d)(ii) may be extended in terms of section 908 only once except if good cause is shown for an additional extension.

Persons entitled to submit re-importation clearance declarations 15

386. Only the following persons may, subject to section 165(2), submit clearance declarations to clear goods in terms of this Part as re-imported unaltered goods for home use:²⁹⁶

- (a) The importer of the goods, if that importer is located in the Republic;
- (b) the registered agent in the Republic of the importer, if that importer is not located in the Republic; or
- (c) a customs broker referred to in section 165(1)(b).

Contents of re-importation clearance declarations

387. (1) A clearance declaration submitted to clear goods in terms of this Part as re-imported unaltered goods for home use must, in addition to the matters required in terms of section 167, state—

- (a) that the goods were previously exported from the Republic;
- (b) the date on which the goods were exported; and
- (c) the amount of any export tax paid on those goods when the goods were exported, the kind of export tax paid and whether the tax is to be reclaimed.

(2) A re-importation clearance declaration must be accompanied by a statement stating—

- (a) whether the goods, whilst abroad, have undergone—
 - (i) any manufacturing, processing or repairs other than maintenance in connection with their use abroad; or
 - (ii) any change of ownership;
- (b) the information required in terms of section 385(1)(c);
- (c) the number and date of the export clearance declaration submitted in respect of the goods at the time of export of the goods and, if those goods at the time of export were imported goods or goods produced from imported goods, also the number and date of the clearance declaration submitted to clear the imported goods for home use or a customs procedure; and
- (d) in the case of outright exported goods referred to in section 375(1)(b)—
 - (i) the reason why the goods are returned to the Republic; and
 - (ii) whether the exporter or any other person were granted any benefit by any organ of state in respect of the export of the goods.

²⁹⁶. See section 165(1)(a).

- (2) Goedere kan ingevolge subartikel (1) as heringevoerde onveranderde goedere vir binnelandse gebruik geklaar word ondanks die feit dat—
- (a) slegs 'n gedeelte deel van die oorspronklik uitgevoerde goedere heringevoer word;
 - (b) die goedere in afsonderlike besendings heringevoer word; 5
 - (c) die goedere heringevoer word deur 'n persoon anders as die persoon wat die goedere uitgevoer het, mits daardie ander persoon—
 - (i) deur die oorspronklike uitvoerder gemagtig is om die goedere her in te voer; en
 - (ii) in staat is om die inligting vereis ingevolge subartikel (1) te verskaf; of 10
 - (d) die goedere, terwyl dit in die buiteland was—
 - (i) gebruik was hetsy tot die goedere se volle kapasiteit of nie;
 - (ii) beskadig is; of
 - (iii) agteruitgegaan het.
- (3) Die tydperk vermeld in subartikel (1)(d)(ii) kan slegs een keer ingevolge artikel 908 verleng word behalwe waar goeie gronde vir 'n bykomende verlenging aangevoer word. 15

Persone wat herinvoerklaringsbriewe mag indien

- 386.** Slegs die volgende persone mag, behoudens artikel 165(2), klaringsbriewe indien om goedere ingevolge hierdie Deel as heringevoerde onveranderde goedere vir binnelandse gebruik te klaar:²⁹⁶ 20
- (a) Die invoerder van die goedere, indien daardie invoerder in die Republiek gesetel is;
 - (b) die geregistreerde agent in die Republiek van die invoerder, indien daardie invoerder nie in die Republiek gesetel is nie; of 25
 - (c) 'n doeanemakelaar in artikel 165(1)(b) bedoel.

Inhoud van herinvoerklaringsbriewe

- 387.** (1) 'n Klaringsbrief wat ingedien word om goedere ingevolge hierdie Deel as heringevoerde onveranderde goedere vir binnelandse gebruik te klaar, moet benewens die aangeleenthede wat ingevolge artikel 167 verstrek moet word die volgende vermeld: 30
- (a) dat die goedere voorheen uit die Republiek uitgevoer is;
 - (b) die datum waarop die goedere uitgevoer is; en
 - (c) die bedrag van enige uitvoerbelasting op daardie goedere betaal toe die goedere uitgevoer is, die soort uitvoerbelasting betaal en of die belasting teruggeëis sal word. 35
- (2) 'n Herinvoerklaringsbrief moet vergesel gaan van 'n verklaring wat die volgende vermeld:
- (a) Of die goedere, terwyl dit in die buiteland was—
 - (i) enige vervaardiging, prosessering of herstel ondergaan het anders as instandhouding in verband met die gebruik daarvan in die buiteland; of 40
 - (ii) enige verandering wat betref eiendomsreg ondergaan het;
 - (b) die inligting ingevolge artikel 385(1)(c) vereis;
 - (c) die nommer en datum van die uitvoerklaringsbrief wat ten opsigte van die goedere op die tydstip van uitvoer van die goedere ingedien is en, indien daardie goedere op die tydstip van uitvoer ingevoerde goedere of goedere 45 geproduseer uit ingevoerde goedere was, ook die nommer en datum van die klaringsbrief wat ingedien is om die ingevoerde goedere vir binnelandse gebruik of 'n doeaneprosedure te klaar; en
 - (d) in die geval van regstreekse uitgevoerde goedere bedoel in artikel 375(1)(b)—
 - (i) die rede waarom die goedere na die Republiek teruggebring word; en 50
 - (ii) of enige voordeel deur enige staatsorgaan aan die uitvoerder of enige ander persoon ten opsigte van die uitvoer van die goedere toegestaan is.

296. Kyk artikel 165(1)(a).

Repayment of export benefits

388. The person clearing outright exported goods referred to in section 375(1)(b) as re-imported unaltered goods for home use in terms of this Part forfeits any benefit referred to in section 387(2)(d)(ii) and must repay any benefit granted in respect of the export of the goods. 5

Simplified home use clearance and release for commercial trucks re-entering Republic

389. Trucks which left the Republic as a means of transport under a clearance and release for temporary export in terms of section 381 may on their return to the Republic, despite the other provisions of this Part, be cleared and released for home use as re-imported unaltered goods in accordance with simplified clearance and release processes and requirements referred to in Part 3 of Chapter 24. 10

Simplified home use clearance and release for buses and taxis re-entering Republic

390. Buses or taxis which left the Republic as a means of transport under a clearance and release for temporary export in terms of section 382 may on their return to the Republic, despite the other provisions of this Part, be cleared and released for home use as re-imported unaltered goods in accordance with simplified clearance and release processes and requirements referred to in Part 3 of Chapter 24. 15

Simplified home use clearance and release for private vehicles, small vessels and light aircraft re-entering Republic 20

391. Vehicles, small vessels or light aircraft which left the Republic as a private means of transport for a traveller under a clearance and release for temporary export in terms of section 383 may on their return to the Republic, despite the other provisions of this Part, be cleared and released for home use as re-imported unaltered goods in accordance with simplified clearance and release processes and requirements referred to in Part 3 of Chapter 24. 25

Refusal to release goods as re-imported unaltered goods for home use

392. If the customs authority refuses to release goods as re-imported unaltered goods for home use which are cleared in terms of this Part, whether on the ground that a condition referred to in section 385(1) was not met or on any other ground,²⁹⁷ the clearance in terms of this Part lapses and those goods must within three working days of the date of refusal be cleared for— 30

- (a) home use in terms of Chapter 8; or
- (b) a permissible customs procedure.

Part 4 35

Temporary export of goods under international clearance arrangements

Application of this Part

393. (1) This Part—
(a) gives effect to—
(i) the Convention on Temporary Admission; and 40
(ii) any agreement between the Republic and another country regulating the temporary export of goods from the Republic for temporary admission into that other country in accordance with agreed customs arrangements; and

²⁹⁷. See sections 99 and 100.

Terugbetaling van uitvoervoordele

388. Die persoon wat regstreekse uitgevoerde goedere in artikel 375(1)(b) bedoel, ingevolge hierdie Deel as heringevoerde onveranderde goedere vir binnelandse gebruik klaar, verbeur enige voordeel in artikel 387(2)(d)(ii) bedoel en moet enige voordeel terugbetaal wat ten opsigte van die uitvoer van die goedere toegestaan is. 5

Verkorte binnelandse gebruik klaring en vrystelling vir kommersiële trokke wat Republiek herbinnekom

389. Trokke wat die Republiek verlaat het as 'n middel van vervoer onder 'n klaring en vrystelling vir tydelike uitvoer ingevolge artikel 381, kan by hul terugkeer na die Republiek, ondanks die ander bepalings van hierdie Deel, geklaar en vrygestel word vir binnelandse gebruik as heringevoerde onveranderde goedere ooreenkomstig verkorte klarings- en vrystellingsprosesse en -vereistes in Deel 3 van Hoofstuk 24 bedoel. 10

Verkorte binnelandse gebruik klaring en vrystelling vir busse en taxi's wat Republiek herbinnekom

390. Busse of taxi's wat die Republiek verlaat het as 'n middel van vervoer onder 'n klaring en vrystelling vir tydelike uitvoer ingevolge artikel 382, kan by hul terugkeer na die Republiek, ondanks die ander bepalings van hierdie Deel, geklaar en vrygestel word vir binnelandse gebruik as heringevoerde onveranderde goedere ooreenkomstig verkorte klarings- en vrystellingsprosesse en -vereistes in Deel 3 van Hoofstuk 24 bedoel. 15
20

Verkorte binnelandse gebruik klaring en vrystelling vir private voertuie, klein vaartuie en ligte vliegtuie wat Republiek herbinnekom

391. Voertuie, klein vaartuie of ligte vliegtuie wat die Republiek verlaat het as 'n private middel van vervoer vir 'n reisiger onder 'n klaring en vrystelling vir tydelike uitvoer ingevolge artikel 383, kan by hul terugkeer na die Republiek, ondanks die ander bepalings van hierdie Deel, geklaar en vrygestel word vir binnelandse gebruik as heringevoerde onveranderde goedere ooreenkomstig verkorte klarings- en vrystellingsprosesse en -vereistes in Deel 3 van Hoofstuk 24 bedoel. 25

Weiering om goedere as heringevoerde onveranderde goedere vir binnelandse gebruik vry te stel 30

392. Indien die doeanegesag weier om goedere wat ingevolge hierdie Deel as heringevoerde onveranderde goedere vir binnelandse gebruik geklaar is, vry te stel, hetsy op die grond daarvan dat daar nie aan 'n voorwaarde bedoel in artikel 385(1) voldoen is nie of op enige ander grond,²⁹⁷ verval die klaring ingevolge hierdie Deel en moet daardie goedere binne drie werksdae vanaf die datum van weiering geklaar word vir— 35

- (a) binnelandse gebruik ingevolge Hoofstuk 8; of
- (b) 'n toelaatbare doeaneprosedure.

Deel 4

Tydlike uitvoer van goedere onder internasionale klaringsreëlings 40

Toepassing van hierdie Deel

- 393.** (1) Hierdie Deel—
- (a) gee uitvoering aan—
 - (i) die “Convention on Temporary Admission”; en
 - (ii) enige ooreenkoms tussen die Republiek en 'n ander land wat die tydelike uitvoer van goedere uit die Republiek vir tydelike toelating na daardie ander land ooreenkomstig ooreengekome doeanereëlings reguleer; en 45

²⁹⁷. Kyk artikels 99 en 100.

- (b) applies to goods described in the Convention or agreement and temporarily exported from the Republic to another country that may in terms of the Convention or agreement be placed under temporary admission in that country on authority of CPD or ATA carnets.
- (2) Goods to be cleared for temporary export under this Part must be cleared in accordance with section 377(a) read with section 394. 5

Temporary export of goods from Republic on authority of CPD and ATA carnets

- 394.** (1) Goods referred to in section 393 may be cleared and released for temporary export to a country referred to in that section on authority of a CPD or ATA carnet— 10
- (a) issued by an issuing association;
 - (b) guaranteed by a guaranteeing association approved in terms of section 396; and
 - (c) accepted by the customs authority.
- (2) A CPD or ATA carnet must be produced to the customs authority at the Customs Office serving the place of exit where the goods are to be temporarily exported. 15

Issuing associations located in Republic to be approved

395. No CPD or ATA carnet issued by an issuing association located in the Republic may be accepted by the customs authority unless the issuing association has been approved by the customs authority for the purposes of this Part.

Guaranteeing associations to be approved 20

- 396.** (1) No CPD or ATA carnet issued by an issuing association may be accepted by the customs authority unless the guaranteeing association guaranteeing the carnet has been approved by the customs authority for the purposes of this Part.
- (2) No guaranteeing association may be approved unless the association— 25
- (a) is located in the Republic; and
 - (b) has given security for the payment of any money that may become payable to the Commissioner on any goods that are cleared for temporary export on authority of a CPD or ATA carnet guaranteed by that guaranteeing association.
- (3) The conditions subject to which an approval in terms of subsection (1) may be granted in terms of section 918 may include conditions requiring the association to assist the Commissioner in combating fraud and contravention or abuse of this Part. 30

Format of CPD and ATA carnets

397. CPD and ATA carnets must conform to the models set out in the Convention on Temporary Admission or relevant international agreement referred to in section 393(1)(a). 35

Validity period of CPD and ATA carnets

- 398.** (1) A CPD or ATA carnet remains valid for the period for which it was issued in terms of the Convention or agreement referred to in section 393(1)(a).
- (2) The validity period of a CPD or ATA carnet may be extended only in accordance with rules as may be prescribed for the category in which the goods fall.²⁹⁸ 40

²⁹⁸ Section 908 does not apply to the extension of the validity periods of CPD or ATA carnets. See section 908(3).

- (b) is van toepassing op goedere in die Konvensie of ooreenkoms beskryf en wat tydelik uit die Republiek uitgevoer word na 'n ander land wat ingevolge die Konvensie of ooreenkoms onder tydelike toelating in daardie ander land op gesag van CPD of ATA carnets geplaas kan word.
- (2) Goedere bestem vir klaring vir tydelike uitvoer onder hierdie Deel, moet volgens voorskrif van artikel 377(a), saamgelees met artikel 394, geklaar word. 5

Tydlike uitvoer van goedere uit Republiek op gesag van CPD en ATA carnets

- 394.** (1) Goedere bedoel in artikel 393 kan vir tydelike uitvoer na 'n land in daardie artikel bedoel op gesag van 'n CPD of ATA carnet geklaar en vrygestel word wat— 10
- (a) deur 'n uitreikingsvereniging uitgereik is;
- (b) gewaarborg word deur 'n vrywaringsvereniging wat ingevolge artikel 396 goedgekeur is; en
- (c) deur die doeanegesag aanvaar is.
- (2) 'n CPD of ATA carnet moet aan die doeanegesag getoon word by die Doeanekantoor wat die plek van uitgang bedien waardeur die goedere tydelik uitgevoer word. 15

Uitreikingsverenigings in Republiek gesetel onderhewig aan goedkeuring

- 395.** Geen CPD of ATA carnet uitgereik deur 'n uitreikingsvereniging wat in die Republiek gesetel is, mag deur die doeanegesag aanvaar word tensy die uitreikingsvereniging deur die doeanegesag vir doeleindes van hierdie Deel goedgekeur is nie. 20

Vrywaringsverenigings onderhewig aan goedkeuring

- 396.** (1) Geen CPD of ATA carnet deur 'n uitreikingsvereniging uitgereik, mag deur die doeanegesag aanvaar word tensy die vrywaringsvereniging wat die carnet waarborg deur die doeanegesag vir doeleindes van hierdie Deel goedgekeur is nie. 25
- (2) Geen vrywaringsvereniging word goedgekeur nie tensy die vereniging—
- (a) in die Republiek gesetel is; en
- (b) voldoende sekuriteit gestel het vir die betaling van enige gelde wat aan die Kommissaris betaalbaar mag word op enige goedere wat vir tydelike uitvoer geklaar word op gesag van 'n CPD of ATA carnet wat deur daardie vrywaringsvereniging gewaarborg word. 30
- (3) Die voorwaardes waarop 'n goedkeuring ingevolge subartikel (1) ingevolge artikel 918 verleen mag word, kan voorwaardes insluit wat van die vereniging vereis om die Kommissaris met die bekamping van bedrog en oortreding of misbruik van hierdie Deel by te staan. 35

Formaat van CPD en ATA carnets

- 397.** CPD en ATA carnets moet in ooreenstemming wees met die voorbeelde wat in die "Convention on Temporary Admission" of die betrokke internasionale ooreenkoms bedoel in artikel 393(1)(a) aangetoon word.

Geldigheidstydperk van CPD en ATA carnets 40

- 398.** (1) 'n CPD of ATA carnet bly geldig vir die tydperk waarvoor dit ingevolge die "Convention on Temporary Admission" of ooreenkoms bedoel in artikel 393(1)(a) uitgereik is.
- (2) Die geldigheidstydperk van 'n CPD of ATA carnet kan verleng word slegs ooreenkomstig reëls soos vir die kategorie waarin die goedere val, voorgeskryf mag word.²⁹⁸ 45

²⁹⁸ Artikel 908 is nie van toepassing op die verlenging van die geldigheidstydperke van CPD of ATA carnets nie. Kyk artikel 908(3).

Amendment of CPD and ATA carnets

399. Once a CPD or ATA carnet has been accepted by the customs authority no amendment may be made to the carnet except with the approval of the customs authority.

Return of goods under temporary export procedure in terms of this Part 5

400. The person to whom a CPD or ATA carnet was issued must ensure that the goods to which the carnet relates are returned to the Republic before the expiry of the validity period applicable to the carnet.

Clearance of goods when returned to Republic

401. (1) Goods under the temporary export procedure in terms of this Part must be cleared as re-imported unaltered goods for home use in accordance with section 377(b) subject to subsection (2). 10

(2) Goods under the temporary export procedure in terms of this Part may when returned to the Republic be cleared and released for home use as re-imported unaltered goods on authority of a CPD or ATA carnet— 15

- (a) issued by an issuing association;
- (b) guaranteed by a guaranteeing association approved in terms of section 396; and
- (c) accepted by the customs authority.

(3) A CPD or ATA carnet must be produced to the customs authority at the Customs Office serving the place of entry where the goods are re-imported into the Republic. 20

(4) The burden to prove that goods under the temporary export procedure in terms of this Part, were returned to the Republic, or were returned to the Republic within the required period, rests on the person to whom the CPD or ATA carnet on authority of which the goods were exported from the Republic was issued. 25

Part 5

Goods which automatically come under temporary export procedure

Foreign-going vessels, aircraft, locomotives and railway carriages leaving Republic

402. (1) A vessel, aircraft, locomotive or railway carriage leaving the Republic as a means of transport currently in use for the transport of goods in the ordinary course of international trade or for the transport of travellers for reward between countries, comes under the temporary export procedure without any formal clearance or release for that procedure if the vessel, aircraft, locomotive or railway carriage— 30

- (a) is not leaving the Republic on the outbound leg of the temporary admission procedure;²⁹⁹ and 35
- (b) is destined to return to the Republic without any interruption in its current use as a means of transport for goods in the ordinary course of international trade or for the transport of travellers for reward between countries.³⁰⁰

(2) If the current use of a vessel, aircraft, locomotive or railway carriage that automatically came under the temporary export procedure in terms of subsection (1) as a means of transport for goods in the ordinary course of international trade or for the transport of travellers for reward between countries, is for any reason interrupted or 40

299. See section 289.

300. The arrival and departure requirements set out in Chapter 3 are not affected by this provision and those requirements must be complied with when vessels, aircraft, locomotives or railway carriages that automatically come under the temporary export procedure leave or return to the Republic.

Wysiging van CPD en ATA carnets

399. Vanaf aanvaarding van 'n CPD of ATA carnet deur die doeanegesag, mag geen wysiging aan die carnet behalwe met die goedkeuring van die doeanegesag aangebring word nie.

Terugbring van goedere onder prosedure vir tydelike uitvoer ingevolge hierdie Deel 5

400. Die persoon aan wie 'n CPD of ATA carnet uitgereik is, moet verseker dat die goedere waarop die carnet betrekking het na die Republiek teruggebring word voor die verstryking van die geldigheidstydperk van die carnet.

Klaring van goedere wanneer na Republiek teruggebring 10

401. (1) Goedere onder die prosedure vir tydelike uitvoer ingevolge hierdie Deel, moet as heringevoerde onveranderde goedere vir binnelandse gebruik ooreenkomstig artikel 377(b), behoudens subartikel (2), geklaar word.

(2) Goedere onder die prosedure vir tydelike uitvoer ingevolge hierdie Deel kan, wanneer dit na die Republiek teruggebring word, vir binnelandse gebruik as heringevoerde onveranderde goedere geklaar en vrygestel word op gesag van 'n CPD of ATA carnet wat—

- (a) deur 'n uitreikingsvereniging uitgereik is;
- (b) gewaarborg word deur 'n vrywaringsvereniging wat ingevolge artikel 396 goedgekeur is; en
- (c) deur die doeanegesag aanvaar is.

(3) 'n CPD of ATA carnet moet aan die doeanegesag getoon word by die Doanekantoor wat die plek van toegang bedien waar die goedere in die Republiek heringevoer word.

(4) Die onus om te bewys dat goedere onder die prosedure vir tydelike uitvoer ingevolge hierdie Deel na die Republiek teruggebring is, of binne die vereiste tydperk na die Republiek teruggebring is, rus op die persoon aan wie die CPD of ATA carnet uitgereik is op gesag waarvan die goedere uit die Republiek uitgevoer is.

Deel 5

Goedere wat outomaties onder prosedure vir tydelike uitvoer kom 30

Land-uitgaande vaartuie of vliegtuie, lokomotiewe en spoorwegwaens wat Republiek verlaat

402. (1) 'n Vaartuig, vliegtuig, lokomotief of spoorwegwa wat die Republiek verlaat as 'n middel van vervoer wat in lopende gebruik is vir die vervoer van goedere in die gewone loop van internasionale handel, of vir die vervoer van reisigers teen vergoeding tussen lande, kom onder die prosedure vir tydelike uitvoer sonder enige formele klaring en vrystelling vir daardie prosedure indien die vaartuig, vliegtuig, lokomotief of spoorwegwa—

- (a) nie die Republiek op die uitwaartse fase van die prosedure vir tydelike toelating verlaat nie;²⁹⁹ en
- (b) bestem is om na die Republiek terug te keer sonder enige onderbreking in die lopende gebruik daarvan as 'n middel van vervoer vir goedere in die gewone loop van internasionale handel of vir die vervoer van reisigers teen vergoeding tussen lande.³⁰⁰

(2) Indien die lopende gebruik van 'n vaartuig, vliegtuig, lokomotief of spoorwegwa wat outomaties onder die prosedure vir tydelike uitvoer ingevolge subartikel (1) kom as 'n middel van vervoer vir goedere in die gewone loop van internasionale handel of vir die vervoer van reisigers teen vergoeding tussen lande, om enige rede onderbreek of

299. Kyk artikel 289.

300. Die aankoms- en vertrekvereistes in Hoofstuk 3 uiteengesit, word nie deur hierdie bepaling geraak nie en daar moet aan daardie vereistes voldoen word wanneer vaartuie, vliegtuie, lokomotiewe of spoorwegwaens wat outomaties onder die prosedure vir tydelike uitvoer kom, die Republiek verlaat of daarheen terugkeer.

discontinued whilst the vessel, aircraft, locomotive or railway carriage is under that procedure, the carrier operating that vessel, aircraft, locomotive or railway carriage or, if that carrier is not located in the Republic, that carrier's registered agent, must immediately report the interruption or discontinuation to the customs authority, as may be prescribed by rule. 5

(3) Parts 2, 3 and 4 of this Chapter do not apply to vessels, aircraft, locomotives or railway carriages referred to in subsection (1).

Reusable transport equipment leaving Republic

403. (1) Transport equipment leaving the Republic as reusable transport equipment currently in use as transport equipment for goods in the ordinary course of international trade, comes under the temporary export procedure without any formal clearance or release for that procedure if— 10

- (a) that transport equipment is not leaving the Republic on the outbound leg of the temporary admission procedure;³⁰¹
- (b) that transport equipment is destined to be returned to the Republic without any interruption in its current use as reusable transport equipment for goods in the ordinary course of international trade; and 15
- (c) the carrier who takes the transport equipment out of the Republic or, if that carrier is not located in the Republic, that carrier's registered agent, keeps record of that transport equipment, as may be prescribed by rule. 20

(2) If the current use of transport equipment that automatically came under the temporary export procedure in terms of subsection (1) as reusable transport equipment currently in use as transport equipment for goods in the ordinary course of international trade, is for any reason interrupted or discontinued whilst the transport equipment is under that procedure, the carrier or, if that carrier is not located in the Republic, that carrier's registered agent, must immediately report the interruption or discontinuation to the customs authority, as may be prescribed by rule. 25

(3) Parts 2, 3 and 4 of this Chapter do not apply to reusable transport equipment referred to in subsection (1).

Part 6 30

Other matters

When goods under temporary export procedure must be regarded to be cleared for outright export

404. Goods exported under the temporary export procedure must in terms of section 114 for tax purposes be regarded to be cleared for outright export³⁰² if— 35

- (a) the goods are not returned to the Republic within the period applicable to the goods;
- (b) the exporter notifies the customs authority that the goods will not be returned to the Republic; or
- (c) in the case of goods that are cleared for temporary export in terms of Part 2— 40
 - (i) the goods upon their return to the Republic are not cleared in terms of Part 3 as re-imported unaltered goods for home use; or
 - (ii) the customs authority refuses to release the goods in terms of section 392 as re-imported unaltered goods for home use.

301. See section 290.

302. For tax implications if goods are regarded to be cleared for outright export, see section 159.

gestaak word terwyl die vaartuig, vliegtuig, lokomotief of spoorwegwa onder daardie prosedure is, moet die vervoerder in operasionele beheer van daardie vaartuig, vliegtuig, lokomotief of spoorwegwa of, indien daardie vervoerder nie in die Republiek gesetel is nie, daardie vervoerder se geregistreerde agent, onmiddellik die onderbreking of staking aan die doeanebesoeker rapporteer, soos by reël voorgeskryf mag word. 5

(3) Dele 2, 3 en 4 van hierdie Hoofstuk is nie van toepassing op vaartuie, vliegtuie, lokomotiewe of spoorwegwaens in subartikel (1) bedoel nie.

Herbruikbare-vervoertoerusting wat Republiek verlaat

403. (1) Vervoertoerusting wat die Republiek verlaat as herbruikbare-vervoertoerusting wat in lopende gebruik is as vervoertoerusting vir goedere in die gewone loop van internasionale handel, kom onder die prosedure vir tydelike uitvoer sonder enige formele klaring of vrystelling vir daardie prosedure indien— 10

- (a) daardie vervoertoerusting nie die Republiek verlaat op die uitwaartse fase van die prosedure vir tydelike toelating nie;³⁰¹
- (b) daardie vervoertoerusting bestem is om na die Republiek teruggebring te word sonder enige onderbreking in die lopende gebruik daarvan as herbruikbare-vervoertoerusting vir goedere in die gewone loop van internasionale handel; en 15
- (c) die vervoerder wat die vervoertoerusting uit die Republiek neem of, indien daardie vervoerder nie in die Republiek gesetel is nie, daardie vervoerder se geregistreerde agent, rekord hou van daardie vervoertoerusting, soos by reël voorgeskryf mag word. 20

(2) Indien die lopende gebruik van vervoertoerusting wat outomaties onder die prosedure vir tydelike uitvoer ingevolge subartikel (1) kom as herbruikbare-vervoertoerusting in lopende gebruik vir goedere in die gewone loop van internasionale handel, om enige rede onderbreek of gestaak word terwyl die vervoertoerusting onder daardie prosedure is, moet die vervoerder of, indien daardie vervoerder nie in die Republiek gesetel is nie, daardie vervoerder se geregistreerde agent, onmiddellik die onderbreking of staking by die doeanebesoeker rapporteer, soos by reël voorgeskryf mag word. 25

(3) Dele 2, 3 en 4 van hierdie Hoofstuk is nie van toepassing op herbruikbare-vervoertoerusting in subartikel (1) bedoel nie. 30

Deel 6

Ander aangeleenthede

Wanneer goedere onder prosedure vir tydelike uitvoer geag moet word vir regstreekse uitvoer geklaar te wees 35

404. Goedere uitgevoer onder die prosedure vir tydelike uitvoer moet ingevolge artikel 114 vir belastingdoeleindes geag word vir regstreekse uitvoer³⁰² geklaar te wees indien—

- (a) die goedere nie binne die tydperk wat op die goedere van toepassing is na die Republiek teruggebring word nie; 40
- (b) die uitvoerder die doeanebesoeker in kennis stel dat die goedere nie na die Republiek teruggebring sal word nie; of
- (c) in die geval van goedere ingevolge Deel 2 vir tydelike uitvoer geklaar— 45
 - (i) die goedere by die terugkeer daarvan na die Republiek nie ingevolge Deel 3 as heringevoerde onveranderde goedere vir binnelandse gebruik geklaar word nie; of
 - (ii) die doeanebesoeker weier om die goedere ingevolge artikel 392 as heringevoerde onveranderde goedere vir binnelandse gebruik vry te stel.

301. Kyk artikel 290.

302. Vir belastinggevolge indien goedere geag word vir regstreekse uitvoer geklaar te wees, kyk artikel 159.

Rules to facilitate implementation of this Chapter

- 405.** Rules made in terms of section 903 to facilitate the implementation of this Chapter may include rules prescribing—
- (a) a maximum period within which goods cleared and released for temporary export in terms of Part 2 must be returned to the Republic; 5
 - (b) the consequences if goods referred to in paragraph (a) are not returned or if means of transport referred to in section 402 or transport equipment referred to in section 403 does not return to the Republic within a period as may be prescribed by rule;
 - (c) the records that must be kept of reusable transport equipment referred to in section 403, including records of— 10
 - (i) the type of transport equipment and number of each type that leaves or is returned to the Republic;
 - (ii) the places of entry or exit through which, and the dates on which, such transport equipment left or was returned to the Republic; and 15
 - (iii) the movement of such transport equipment in the Republic;
 - (d) the persons by whom, and the periods for which, those records must be kept;
 - (e) the measures to be taken to ensure accurate identification of goods under temporary export upon their return to the Republic;
 - (f) the form and format, and manner and time in which issuing associations located in the Republic and guaranteeing associations must apply for approval for purposes of Part 4, and the information to be furnished for purposes of such applications; and 20
 - (g) any further requirements necessary to give effect to— 25
 - (i) the Convention on Temporary Admission; or
 - (ii) any agreement between the Republic and another country regulating the temporary export of goods from the Republic for temporary admission into that other country.

Offences in terms of this Chapter

- 406.** (1) A person is guilty of an offence if that person— 30
- (a) contravenes section 388; or
 - (b) clears goods as re-imported unaltered goods for home use in contravention of section 385(1)(a).
- (2) A person clearing goods as re-imported unaltered goods for home use is guilty of an offence if release of the goods as re-imported unaltered goods for home use is refused and section 392 is not complied with. 35
- (3) A person exporting goods under a CPD or ATA carnet is guilty of an offence if that person fails to comply with section 400.
- (4) A carrier operating a vessel, aircraft, locomotive or railway carriage referred to in section 402(1) or that carrier's registered agent is guilty of an offence if that carrier or carrier's agent fails to comply with section 402(2). 40
- (5) A carrier or a carrier's registered agent keeping record of transport equipment in terms of section 403(1)(c) is guilty of an offence if that carrier or carrier's agent fails to comply with section 403(2).
- (6) An offence referred to in subsection (1)(b) is a Category 1 offence. 45

CHAPTER 18

INWARD PROCESSING PROCEDURE

Part 1

Introductory provisions

Purpose of this Chapter 50

- 407.** The purpose of this Chapter is to regulate the inward processing procedure.

Reëls ter fasilitering van implementering van hierdie Hoofstuk

- 405.** Reëls ingevolge artikel 903 uitgevaardig om die implementering van hierdie Hoofstuk te fasiliteer, kan reëls insluit wat die volgende voorskryf:
- (a) 'n Maksimum tydperk waarbinne goedere wat ingevolge Deel 2 vir tydelike uitvoer geklaar en vrygestel is na die Republiek teruggebring moet word; 5
 - (b) die gevolge indien goedere bedoel in paragraaf (a) nie teruggebring word, of indien die middel van vervoer bedoel in artikel 402 of vervoertoerusting bedoel in artikel 403 nie terugkeer, na die Republiek binne 'n tydperk soos by reël voorgeskryf mag word nie;
 - (c) die rekords wat van herbruikbare-vervoertoerusting bedoel in artikel 403 10 gehou moet word, met inbegrip van rekords van—
 - (i) die tipe vervoertoerusting en aantal van elke tipe wat die Republiek verlaat of daarna terugkeer;
 - (ii) die plekke van toegang of uitgang waardeur, en die datums waarop, sodanige vervoertoerusting die Republiek verlaat of daarna teruggekeer 15 het; en
 - (iii) die beweging van sodanige vervoertoerusting in die Republiek;
 - (d) die persone deur wie, en die tydperke waarbinne, daardie rekords gehou moet word;
 - (e) die maatreëls wat getref moet word om akkurate identifisering van goedere 20 onder tydelike uitvoer tydens die terugkeer daarvan na die Republiek te verseker;
 - (f) die vorm en formaat waarin, en wyse waarop en tydperk waarbinne, uitreikingsverenigings in die Republiek gesetel en vrywaringsverenigings aansoek moet doen vir goedkeuring vir doeleindes van Deel 4, en die inligting 25 wat vir doeleindes van sodanige aansoeke verstrek moet word; en
 - (g) enige verdere vereistes wat nodig is om uitvoering te gee aan—
 - (i) die “Convention on Temporary Admission”; of
 - (ii) enige ooreenkoms tussen die Republiek en 'n ander land wat die tydelike uitvoer van goedere uit die Republiek vir tydelike toelating na daardie 30 ander land reguleer.

Misdrywe ingevolge hierdie Hoofstuk

- 406.** (1) 'n Persoon is aan 'n misdryf skuldig indien daardie persoon—
- (a) artikel 388 oortree; of
 - (b) goedere as heringevoerde onveranderde goedere vir binnelandse gebruik in 35 stryd met artikel 385(1)(a) klaar.
- (2) 'n Persoon wat goedere as heringevoerde onveranderde goedere vir binnelandse gebruik klaar, is aan 'n misdryf skuldig indien vrystelling van die goedere as heringevoerde onveranderde goedere vir binnelandse gebruik geweier word en daar nie 40 aan artikel 392 voldoen word nie.
- (3) 'n Persoon wat goedere onder 'n CPD of ATA carnet uitvoer, is aan 'n misdryf skuldig indien daardie persoon versuim om aan artikel 400 te voldoen.
- (4) 'n Vervoerder in operasionele beheer van 'n vaartuig, vliegtuig, lokomotief of spoorwegwa bedoel in artikel 402(1), of daardie vervoerder se geregistreerde agent, is 45 aan 'n misdryf skuldig indien daardie vervoerder of vervoerder se agent versuim om aan artikel 402(2) te voldoen.
- (5) 'n Vervoerder of 'n vervoerder se geregistreerde agent wat ingevolge artikel 403(1)(c) rekord hou van vervoertoerusting is aan 'n misdryf skuldig indien daardie vervoerder of vervoerder se agent versuim om aan artikel 403(2) te voldoen.
- (6) 'n Misdryf in subartikel (1)(b) bedoel is 'n Kategorie 1 misdryf. 50

HOOFSTUK 18

PROSEDURE VIR INWAARTSE PROSESSERING

Deel 1

Inleidende bepalings

Doel van hierdie Hoofstuk 55

407. Die doel van hierdie Hoofstuk is om die prosedure vir inwaartse prosessering te reguleer.

Inward processing procedure³⁰³

- 408.** (1) Inward processing is a customs procedure that allows—
- (a) imported goods—
 - (i) to be processed in the Republic without clearing the goods for home use under Chapter 8; and 5
 - (ii) for purposes of such processing to be—
 - (aa) transported without clearing the goods for national transit; and
 - (bb) stored without clearing the goods for warehousing; and
 - (b) products obtained from the processing of those goods—
 - (i) to be exported under this procedure as inward processed compensating products; and 10
 - (ii) for purposes of such export to be—
 - (aa) stored without clearing the products for warehousing; and
 - (bb) transported without clearing the products for national transit.
- (2) The inward processing procedure is available only for imported goods referred to in section 412(a). 15

Commencement and completion of inward processing procedure

- 409.** (1) (a) Imported goods come under the inward processing procedure when the goods are cleared for inward processing.
- (b) The inward processing procedure is, subject to subsection (2), completed when the products obtained from the processing of those goods are cleared and released for export as inward processed compensating products and exported from the Republic. 20
- (2) The inward processing procedure ends before its completion if—
- (a) the imported goods before completion of the procedure are cleared and released for another customs procedure or for home use, as may be permissible in the circumstances; or 25
 - (b) completion of the procedure is interrupted by an occurrence referred to in section 109(2).

Extent to which Chapters 4, 5 and 7 apply

- 410.** Chapters 4, 5 and 7, except insofar as a provision of those Chapters is modified, qualified or deviated from in this Chapter, apply to all goods under the inward processing procedure,³⁰⁴ including to the clearance and release of— 30
- (a) imported goods for inward processing; and
 - (b) goods to be exported as inward processed compensating products.

Part 2

35

Clearance and release of imported goods for inward processing

Clearance of imported goods for inward processing

- 411.** Imported goods to be cleared for inward processing must be cleared in accordance with section 410(a).

303. For tax status of goods under the inward processing procedure, see section 148.

304. In the case of an inconsistency between a provision of this Chapter and a general provision contained in Chapter 4 or 7 the provision of this Chapter prevails. See sections 88(3) and 162(3).

Prosedure vir inwaartse prosessering³⁰³

- 408.** (1) Inwaartse prosessering is 'n doeaneprosedure ingevolge waarvan—
- (a) ingevoerde goedere—
 - (i) in die Republiek geprosesseer mag word sonder om die goedere kragtens Hoofstuk 8 vir binnelandse gebruik te klaar; en 5
 - (ii) vir doeleindes van sodanige prosessering—
 - (aa) vervoer mag word sonder om die goedere vir nasionale transito te klaar; en
 - (bb) geberg mag word sonder om die goedere vir pakhuisberging te klaar; en 10
 - (b) produkte verkry uit die prosessering van daardie goedere—
 - (i) uitgevoer mag word onder hierdie prosedure as inwaarts geprosesseerde kompenserende produkte; en
 - (ii) vir doeleindes van sodanige uitvoer—
 - (aa) geberg mag word sonder om die produkte vir pakhuisberging te klaar; en 15
 - (bb) vervoer mag word sonder om die produkte vir nasionale transito te klaar.
- (2) Die prosedure vir inwaartse prosessering is beskikbaar slegs vir ingevoerde goedere in artikel 412(a) bedoel. 20

Begin en afhandeling van prosedure vir inwaartse prosessering

- 409.** (1) (a) Ingevoerde goedere kom onder die prosedure vir inwaartse prosessering wanneer die goedere vir inwaartse prosessering geklaar word.
- (b) Die prosedure vir inwaartse prosessering is, behoudens subartikel (2), afgehandel wanneer die produkte verkry uit die prosessering van daardie goedere geklaar en 25
vrygestel word vir uitvoer as inwaarts geprosesseerde kompenserende produkte en uit die Republiek uitgevoer word.
- (2) Die prosedure vir inwaartse prosessering eindig voor die afhandeling daarvan indien—
- (a) die ingevoerde goedere voor afhandeling van die prosedure vir 'n ander 30
doeaneprosedure of vir binnelandse gebruik, soos in die omstandighede toelaatbaar mag wees, geklaar en vrygestel word; of
 - (b) afhandeling van die prosedure deur 'n gebeurtenis bedoel in artikel 109(2) onderbreek word.

Mate waarin Hoofstukke 4, 5 en 7 van toepassing is 35

- 410.** Hoofstukke 4, 5 en 7, behalwe in soverre 'n bepaling van daardie Hoofstukke aangepas, gekwalifiseer of van afgewyk word in hierdie Hoofstuk, is van toepassing op alle goedere onder die prosedure vir inwaartse prosessering,³⁰⁴ asook op die klaring en vrystelling van—
- (a) ingevoerde goedere vir inwaartse prosessering; en 40
 - (b) goedere wat as inwaarts geprosesseerde kompenserende produkte uitgevoer word.

Deel 2

Klaring en vrystelling van ingevoerde goedere vir inwaartse prosessering

Klaring van ingevoerde goedere vir inwaartse prosessering 45

- 411.** Ingevoerde goedere bestem vir klaring vir inwaartse prosessering moet volgens voorskrif van artikel 410(a) geklaar word.

303. Vir belastingstatus van goedere onder die prosedure vir inwaartse prosessering, kyk artikel 148.

304. In die geval van enige onbestaanbaarheid tussen 'n bepaling van hierdie Hoofstuk en 'n algemene bepaling in Hoofstuk 4 of 7 geniet die bepaling van hierdie Hoofstuk voorrang. Kyk artikels 88(3) en 162(3).

Conditions for clearance of imported goods for inward processing

- 412.** Imported goods may be cleared for the inward processing procedure only if—
- (a) those goods are of a class or kind authorised in any of the tax levying Acts as goods that may be cleared for inward processing; 5
 - (b) the requirements applicable to the clearance for inward processing of goods of that class or kind have been complied with, including any requirements and conditions as may be—
 - (i) prescribed by rule;
 - (ii) specified in a tax levying Act referred to in paragraph (a); or
 - (iii) determined in terms of any other applicable legislation; 10
 - (c) the premises where the inward processing of the goods is to be carried out are licensed as premises for inward processing;
 - (d) the licensee of those premises who is to carry out the inward processing of the goods—
 - (i) undertakes to comply with the requirements applicable to the inward processing of such goods, including any requirements and conditions as may be—
 - (aa) prescribed by rule;
 - (bb) specified in a tax levying Act referred to in paragraph (a); or
 - (cc) determined in terms of any other applicable legislation; and 20
 - (ii) has granted permission for the inward processing of the goods on those premises and has advised the customs authority electronically in accordance with section 913 of such permission, if that licensee is not the person who cleared the goods for inward processing;
 - (e) any import tax that may become payable on the goods is covered by security; 25
and
 - (f) measures have been taken to ensure that when goods are cleared for export from the Republic in terms of Part 3 as inward processed compensating products obtained from the imported goods, those goods could be verified as compensating products obtained from those imported goods. 30

Persons entitled to submit inward processing clearance declarations

413. Only the following persons may, subject to section 165(2), submit clearance declarations to clear imported goods for inward processing:³⁰⁵

- (a) The importer of the goods, provided that the importer is licensed in terms of Chapter 29 to import goods for inward processing; 35
- (b) the licensee of the inward processing premises where the processing of the goods is to be carried out; or
- (c) a customs broker referred to in section 165(1)(b).

Contents of inward processing clearance declarations

414. A clearance declaration for inward processing of imported goods must, in addition to the information required in terms of section 167, state—

- (a) that the goods are cleared for the inward processing procedure;
- (b) the item number in a tax levying Act referred to in section 412(a) authorising the clearance of goods of the relevant class or kind for inward processing;
- (c) details of any permit, permission or authorisation granted in respect of the goods in terms of any condition—
 - (i) as may be prescribed by rule; 45

³⁰⁵. See section 165(1)(a).

Voorwaardes vir klaring van ingevoerde goedere vir inwaartse prosessering

412. Ingevoerde goedere kan vir die prosedure vir inwaartse prosessering geklaar word slegs indien—
- (a) daardie goedere van 'n klas of soort is wat in enige van die belastingheffings-Wette gemagtig word as goedere wat vir inwaartse prosessering geklaar kan word; 5
 - (b) daar aan die vereistes van toepassing op die klaring vir inwaartse prosessering van goedere van daardie klas of soort voldoen is, met inbegrip van enige vereistes en voorwaardes wat—
 - (i) by reël voorgeskryf mag word; 10
 - (ii) in 'n belastingheffings-Wet bedoel in paragraaf (a) gespesifiseer mag word; of
 - (iii) ingevolge enige ander toepaslike wetgewing bepaal mag word;
 - (c) die perseel waar die inwaartse prosessering van die goedere onderneem sal word as 'n perseel vir inwaartse prosessering gelisensieer is; 15
 - (d) die lisensiehouer van daardie perseel wat die inwaartse prosessering van die goedere sal onderneem—
 - (i) onderneem het om aan die vereistes van toepassing op die inwaartse prosessering van die goedere te voldoen, met inbegrip van enige vereistes en voorwaardes wat—
 - (aa) by reël voorgeskryf mag word; 20
 - (bb) in 'n belastingheffings-Wet bedoel in paragraaf (a) gespesifiseer mag word; of
 - (cc) ingevolge enige ander toepaslike wetgewing bepaal mag word; en
 - (ii) toestemming vir die inwaartse prosessering van die goedere op daardie perseel verleen het en die doeanegesag elektronies ooreenkomstig artikel 913 van sodanige toestemming in kennis gestel het, indien daardie lisensiehouer nie die persoon is wat die goedere vir inwaartse prosessering geklaar het nie; 25
 - (e) enige invoerbelasting wat op die goedere betaalbaar mag word deur sekuriteit gedek word; en 30
 - (f) maatreëls getref is om te verseker dat wanneer goedere ingevolge Deel 3 vir uitvoer uit die Republiek as inwaarts geprosesseerde kompenserende produkte verkry van die ingevoerde goedere geklaar word, daardie goedere geverifieer kan word as kompenserende produkte wat van daardie ingevoerde goedere verkry is. 35

Persone wat klaringsbriewe vir inwaartse prosessering mag indien

413. Slegs die volgende persone mag, behoudens artikel 165(2), klaringsbriewe indien om ingevoerde goedere vir inwaartse prosessering te klaar:³⁰⁵
- (a) Die invoerder van die goedere, mits die invoerder ingevolge Hoofstuk 29 gelisensieer is om goedere vir inwaartse prosessering in te voer; 40
 - (b) die lisensiehouer van die inwaartse prosesseringperseel waar die prosessering van die goedere onderneem sal word; of
 - (c) 'n doeanemakelaar in artikel 165(1)(b) bedoel.

Inhoud van klaringsbriewe vir inwaartse prosessering 45

414. 'n Klaringsbrief vir inwaartse prosessering van ingevoerde goedere moet, benewens die inligting wat ingevolge artikel 167 vereis word, die volgende vermeld:
- (a) Dat die goedere vir die prosedure vir inwaartse prosessering geklaar word;
 - (b) die itemnommer in 'n belastingheffings-Wet bedoel in artikel 412(a) wat die klaring van goedere van die betrokke klas of soort vir inwaartse prosessering magtig; 50
 - (c) besonderhede van enige permit, toestemming of magtiging ten opsigte van die goedere ingevolge enige voorwaarde verleen wat—
 - (i) by reël voorgeskryf mag word;

305. Kyk artikel 165(1)(a).

- (ii) specified in a tax levying Act referred to in section 412(a); or
- (iii) determined in terms of any other applicable legislation; and
- (d) the customs code of the licensed inward processing premises where the goods will be processed under that procedure.

Release of imported goods for inward processing³⁰⁶ 5

415. (1) (a) When goods are released for the inward processing procedure, the goods must be delivered to the licensed inward processing premises where the goods will be processed under that procedure unless the customs authority authorises³⁰⁷ the goods to be taken to another location.

(b) When goods released for inward processing are delivered to the licensed premises where the goods will be processed or to that other location—

- (i) the carrier that transported the goods must notify the customs authority of the delivery; and
- (ii) the licensee must notify the customs authority of the receipt of the goods, if the goods were delivered to those licensed premises. 15

(c) No person may redirect goods that are cleared for inward processing to a place other than the licensed premises or that other location.

(2) The release of goods for the inward processing procedure is subject to compliance with any conditions or requirements—

- (a) referred to in section 412(d); 20
- (b) as may be prescribed by rule; and
- (c) as may be determined by the customs authority in terms of section 104 in a specific case.

Part 3

***Clearance and release of goods for export as inward processed compensating products* 25**

Clearance of goods for export under inward processing procedure

416. Goods to be cleared for export as inward processed compensating products must be cleared for export in accordance with Chapter 16³⁰⁸ read with section 410(b).

Conditions for clearance of goods for export as inward processed compensating products 30

417. Goods may be cleared for export as inward processed compensating products only if—

- (a) this Act have been complied with in respect of the inward processing of the imported goods from which those compensating products were obtained; and 35
- (b) any conditions subject to which those imported goods were released for inward processing in terms of section 415 have been complied with.

Time limits on clearance for export of inward processed compensating products

418. (1) Goods to be cleared for export as inward processed compensating products must be cleared— 40

- (a) within a timeframe as may be determined in a tax levying Act referred to in section 412(a) for the class or kind of imported goods from which those

306. If the release of goods for inward processing is refused, section 106 applies.

307. See section 918 for authorisations granted on conditions.

308. See also section 361(2)(c) which states that Chapter 16 applies to goods destined for export as inward processed compensating products.

- (ii) in 'n belastingheffings-Wet bedoel in artikel 412(a) gespesifiseer word;
of
- (iii) ingevolge enige ander toepaslike wetgewing bepaal word; en
- (d) die doeanekode van die gelisensieerde inwaartse prosesseringsperseel waar die goedere onder daardie prosedure geprosesseer sal word. 5

Vrystelling van ingevoerde goedere vir inwaartse prosessering³⁰⁶

415. (1) (a) Wanneer goedere vir die prosedure vir inwaartse prosessering vrygestel word, moet die goedere by die gelisensieerde inwaartse prosesseringsperseel gelewer word waar die goedere onder daardie prosedure geprosesseer sal word tensy die doeanegesag magtiging verleen³⁰⁷ dat die goedere na 'n ander plek geneem word. 10

(b) Wanneer goedere wat vir inwaartse prosessering vrygestel is, by die gelisensieerde perseel gelewer word waar die goedere geprosesseer sal word, of by daardie ander plek—

- (i) moet die vervoerder wat die goedere vervoer het die doeanegesag van die aflewering in kennis stel; en 15
- (ii) moet die lisensiehouer die doeanegesag van die ontvangs van die goedere in kennis stel, indien die goedere by daardie gelisensieerde perseel gelewer is.

(c) Geen persoon mag goedere wat vir inwaartse prosessering geklaar is na 'n plek anders as die gelisensieerde perseel of daardie ander plek herdestineer nie.

(2) Die vrystelling van goedere vir die prosedure vir inwaartse prosessering is onderworpe aan voldoening aan enige voorwaardes of vereistes— 20

- (a) in artikel 412(d) bedoel;
- (b) soos by reël voorgeskryf mag word; en
- (c) soos ingevolge artikel 104 deur die doeanegesag in 'n bepaalde geval bepaal mag word. 25

Deel 3

Klaring en vrystelling van goedere vir uitvoer as inwaarts geprosesseerde kompenserende produkte

Klaring van goedere vir uitvoer onder prosedure vir inwaartse prosessering

416. Goedere bestem vir klaring vir uitvoer as inwaarts geprosesseerde kompenserende produkte moet volgens voorskrif van Hoofstuk 16,³⁰⁸ saamgelees met artikel 410(b), vir uitvoer geklaar word. 30

Voorwaardes vir klaring van goedere vir uitvoer as inwaarts geprosesseerde kompenserende produkte

417. Goedere kan vir uitvoer as inwaarts geprosesseerde kompenserende produkte geklaar word slegs indien— 35

- (a) daar aan hierdie Wet voldoen word ten opsigte van die inwaartse prosessering van die ingevoerde goedere waarvan daardie kompenserende produkte verkry is; en
- (b) daar aan enige voorwaardes onderworpe waaraan daardie ingevoerde goedere ingevolge artikel 415 vir inwaartse prosessering vrygestel is, voldoen word. 40

Tydsbeperkings op klaring vir uitvoer van inwaarts geprosesseerde kompenserende produkte

418. (1) Goedere bestem vir klaring vir uitvoer as inwaarts geprosesseerde kompenserende produkte moet geklaar word— 45

- (a) binne 'n tydsraam soos in 'n belastingheffings-Wet bedoel in artikel 412(a) bepaal mag word vir die klas of soort ingevoerde goedere waarvan daardie

306. Indien die vrystelling van goedere vir inwaartse prosessering geweier word, word artikel 106 van toepassing.

307. Kyk artikel 918 vir magtigings wat op voorwaardes verleen word.

308. Kyk ook artikel 361(2)(c) wat bepaal dat Hoofstuk 16 van toepassing is op goedere bestem vir uitvoer as inwaarts geprosesseerde kompenserende produkte.

products were obtained or, if two or more tax levying Acts authorise the same class or kind of imported goods to be cleared for inward processing, within a period determined uniformly in those tax levying Acts for that class or kind of goods; or

- (b) if no period is in terms of paragraph (a) determined for the relevant class or kind of imported goods, within two years from the date of import of the first constituent goods from which the compensating products were obtained. 5

(2) A person who cleared goods for inward processing must immediately notify the customs authority of any failure to comply with subsection (1).

(3) A timeframe referred to in subsection (1)(a) or (b) is subject to extension or shortening in terms of section 908 or 909. 10

Export of inward processed compensating products

419. Goods may be cleared and released for export as inward processed compensating products despite the fact that—

- (a) not all the compensating products obtained from the imported goods that are cleared and released for inward processing are to be exported, subject to section 423; 15
- (b) the compensating products are exported in separate consignments, provided that a separate export clearance declaration is submitted in respect of each consignment; or 20
- (c) the compensating products are exported at a place of exit other than the place of entry through which the goods from which the products were obtained were originally imported. 25

Persons entitled to submit export clearance declarations for inward processed compensating products 25

420. Only the following persons may, subject to section 165(2), submit clearance declarations to clear goods for export as inward processed compensating products:³⁰⁹

- (a) The person who originally cleared for inward processing the imported goods from which those products were obtained; 30
- (b) the licensee of the inward processing premises where the processing of the goods had been carried out; 35
- (c) the exporter of the inward processed compensating products, provided that the exporter is licensed in terms of Chapter 29 to export inward processed compensating products; and
- (d) a customs broker referred to in section 165(1)(b). 35

Contents of export clearance declarations for inward processed compensating products

421. A clearance declaration submitted in terms of Part 2 of Chapter 16 for the export of goods as inward processed compensating products must, in addition to the information required in terms of sections 167 and 367, state— 40

- (a) that the goods are exported as inward processed compensating products; and
- (b) the reference number and date of the inward processing clearance declaration submitted in respect of the imported goods from which those compensating products were obtained.

³⁰⁹. See section 165(1)(a).

- produkte verkry is of, indien twee of meer belastingheffings-Wette magtiging verleen vir die klaring vir inwaartse prosessering van dieselfde klas of soort ingevoerde goedere, binne 'n tydperk wat eenvormig in daardie belastingheffings-Wette vir daardie klas of soort goedere bepaal word; of
- (b) indien geen tydperk ingevolge paragraaf (a) vir die betrokke klas of soort ingevoerde goedere bepaal word nie, binne twee jaar vanaf die datum van invoer van die eerste samestellende goedere waarvan die kompenserende produkte verkry word. 5
- (2) 'n Persoon wat goedere vir inwaartse prosessering geklaar het, moet die doeanegesag onmiddellik in kennis stel van enige versuim om aan subartikel (1) te voldoen. 10
- (3) 'n Tydperk bedoel in subartikel (1)(a) of (b) is aan verlenging of verkorting ingevolge artikel 908 of 909 onderhewig.

Uitvoer van inwaarts geprosesseerde kompenserende produkte

419. Goedere kan vir uitvoer as inwaarts geprosesseerde kompenserende produkte geklaar en vrygestel word ondanks die feit dat— 15
- (a) nie al die kompenserende produkte verkry van die ingevoerde goedere wat vir inwaartse prosessering geklaar en vrygestel word, uitgevoer sal word nie, behoudens artikel 423;
- (b) die kompenserende produkte uitgevoer word in afsonderlike besendings, mits 'n afsonderlike uitvoerklaringsbrief ten opsigte van elke besending ingedien word; of 20
- (c) die kompenserende produkte by 'n plek van uitgang uitgevoer word anders as die plek van toegang waardeur die goedere waarvan die produkte verkry is oorspronklik ingevoer is. 25

Persone wat uitvoerklaringsbriewe vir inwaarts geprosesseerde kompenserende produkte mag indien

420. Slegs die volgende persone mag, behoudens artikel 165(2), klaringsbriewe indien om goedere vir uitvoer as inwaarts geprosesseerde kompenserende produkte te klaar:³⁰⁹ 30
- (a) Die persoon wat oorspronklik die ingevoerde goedere waarvan daardie produkte verkry is vir inwaartse prosessering geklaar het;
- (b) die lisensiehouer van die inwaartse prosesseringperseel waar die prosessering van die goedere onderneem is;
- (c) die uitvoerder van die inwaarts geprosesseerde kompenserende produkte, mits die uitvoerder ingevolge Hoofstuk 29 gelisensieer is om inwaarts geprosesseerde kompenserende produkte uit te voer; en 35
- (d) 'n doeanemakelaar in artikel 165(1)(b) bedoel.

Inhoud van uitvoerklaringsbriewe vir inwaarts geprosesseerde kompenserende produkte 40

421. 'n Klaringsbrief wat ingevolge Deel 2 van Hoofstuk 16 ingedien word vir die uitvoer van goedere as inwaarts geprosesseerde kompenserende produkte moet, benewens die inligting wat ingevolge artikels 167 en 367 vereis word, die volgende vermeld:
- (a) Dat die goedere as inwaarts geprosesseerde kompenserende produkte uitgevoer word; en 45
- (b) die verwysingsnommer en datum van die klaringsbrief vir inwaartse prosessering wat ten opsigte van die ingevoerde goedere ingedien is waarvan daardie kompenserende produkte verkry is.

309. Kyk artikel 165(1)(a).

Part 4

Provisions regulating goods under inward processing procedure

Imported goods under inward processing procedure to be used only for production of inward processed compensating products

422. (1) Imported goods cleared and released for inward processing may be used only for the production of goods for export as inward processed compensating products, subject to subsection (2) and section 424. 5

(2) If goods under the inward processing procedure are for any reason no longer intended to be used, or are not used, for the purpose referred to subsection (1), the person clearing the goods must promptly clear those goods in terms of section 110 for another customs procedure or for home use, if permissible in the circumstances. 10

(3) Section 106 applies if goods are cleared in terms of subsection (2) for another customs procedure or for home use and the release of the goods for that customs procedure or for home use is refused.³¹⁰

Compulsory export of inward processed compensating products 15

423. (1) Inward processed compensating products must be exported from the Republic unless the imported goods from which those compensating products were obtained are in terms of section 110, read with subsection (2), cleared and released for home use before the expiry of the timeframe applicable to those compensating products in terms of section 418. 20

(2) A clearance declaration to clear imported goods for home use as contemplated in subsection (1) may be submitted to the customs authority only if—

- (a) the person who cleared those imported goods for inward processing has submitted to the customs authority a motivated application for permission to clear the goods for home use; and 25
- (b) the customs authority has granted permission to that person to clear the goods for home use.

(3) If an application submitted to the customs authority in terms of subsection (2) is refused, the inward processed compensating products obtained from those imported goods must— 30

- (a) before the expiry of the timeframe applicable to those products in terms of section 418 be cleared for export; and
- (b) be exported from the Republic.

By-products and commercially valuable waste

424. (1) If by-products or commercially valuable waste is, in addition to compensating products, obtained from the processing of imported goods under the inward processing procedure, the by-products or waste must within the timeframe referred to in section 418 be cleared for export in terms of Part 3 as if the by-products or waste were inward processed compensating products.³¹¹ 35

(2) By-products or commercially valuable waste may, despite subsection (1), be allowed into free circulation provided— 40

- (a) the clearance declaration submitted to clear the imported goods for inward processing is amended to exclude from that declaration a quantity of the imported goods which in accordance with a conversion rate determined in terms of section 425 equals the quantity of such by-products or waste; and 45
- (b) the quantity of imported goods excluded from that clearance declaration in

310. See sections 99 and 100.

311. The effect of this provision is that by-products and waste must be cleared for export in accordance with the provisions applicable to the clearance of inward processed compensating products.

Deel 4

Bepalings ter regulering van goedere onder prosedure vir inwaartse prosessering

Verpligte gebruik van ingevoerde goedere onder prosedure vir inwaartse prosessering slegs vir produksie van inwaarts geprosesseerde kompenserende produkte

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422. (1) Ingevoerde goedere wat vir inwaartse prosessering geklaar en vrygestel is, mag slegs vir die produksie van goedere vir uitvoer as inwaarts geprosesseerde kompenserende produkte, behoudens subartikel (2) en artikel 424, gebruik word.

(2) Indien goedere onder die prosedure vir inwaartse prosessering om enige rede nie meer bestem is om gebruik te word, of nie gebruik word, vir die doel in subartikel (1) vermeld nie, moet die persoon wat die goedere klaar daardie goedere onverwyld ingevolge artikel 110 vir 'n ander doeaneprosedure of vir binnelandse gebruik klaar, indien sodanige klaring in die omstandighede toelaatbaar is.

(3) Artikel 106 is van toepassing indien goedere ingevolge subartikel (2) vir 'n ander doeaneprosedure of vir binnelandse gebruik geklaar word en die vrystelling van die goedere vir daardie doeaneprosedure of vir binnelandse gebruik geweier word.³¹⁰

Verpligte uitvoer van inwaarts geprosesseerde kompenserende produkte

423. (1) Inwaarts geprosesseerde kompenserende produkte moet uit die Republiek uitgevoer word tensy die ingevoerde goedere waarvan daardie kompenserende produkte verkry is ingevolge artikel 110, saamgelees met subartikel (2), vir binnelandse gebruik geklaar en vrygestel word voor die verstryking van die tydsraam wat ingevolge artikel 418 vir daardie kompenserende produkte geld.

(2) 'n Klaringsbrief om ingevoerde goedere vir binnelandse gebruik te klaar soos in subartikel (1) beoog, mag by die doeanegesag ingedien word slegs indien—

- (a) die persoon wat daardie ingevoerde goedere vir inwaartse prosessering geklaar het 'n gemotiveerde aansoek om toestemming vir die klaring van die goedere vir binnelandse gebruik by die doeanegesag ingedien het; en
- (b) die doeanegesag toestemming aan daardie persoon verleen het om die goedere vir binnelandse gebruik te klaar.

(3) Indien 'n aansoek wat by die doeanegesag ingevolge subartikel (2) ingedien is, geweier word, moet die inwaarts geprosesseerde kompenserende produkte wat van daardie ingevoerde goedere verkry is—

- (a) voor die verstryking van die tydsraam wat ingevolge artikel 418 op daardie produkte geld, vir uitvoer geklaar word; en
- (b) uit die Republiek uitgevoer word.

Byprodukte en kommersieel waardevolle afval

424. (1) Indien byprodukte of kommersieel waardevolle afval, benewens kompenserende produkte, uit die prosessering van ingevoerde goedere onder die prosedure vir inwaartse prosessering verkry is, moet die byprodukte of afval binne die tydsraam in artikel 418 bedoel, ingevolge Deel 3 vir uitvoer geklaar word asof die byprodukte of afval inwaarts geprosesseerde kompenserende produkte was.³¹¹

(2) Byprodukte of kommersieel waardevolle afval kan, ondanks subartikel (1), in vry sirkulasie toegelaat word mits—

- (a) die klaringsbrief wat ingedien is om die ingevoerde goedere vir inwaartse prosessering te klaar, gewysig word om van daardie klaring 'n hoeveelheid van die ingevoerde goedere uit te sluit wat, volgens 'n omrekeningskaal ingevolge artikel 425 bepaal, gelyk is aan die hoeveelheid van sodanige byprodukte of afval; en
- (b) die hoeveelheid ingevoerde goedere wat ingevolge paragraaf (a) uit daardie klaringsbrief uitgesluit word, kragtens Hoofstuk 8 vir binnelandse gebruik

310. Kyk artikels 99 en 100.

311. Die uitwerking van hierdie bepaling is dat byprodukte en afval geklaar moet word vir uitvoer ooreenkomstig die bepalings wat op die klaring van inwaarts geprosesseerde kompenserende produkte van toepassing is.

terms of paragraph (a) is cleared for home use under Chapter 8 within the timeframe applicable to the goods in terms of section 418.

(3) A clearance in terms of subsection (2)(b) takes effect from the time the goods were cleared for inward processing.³¹²

Conversion rates

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425. (1) The licensee of the inward processing premises where imported goods are processed under the inward processing procedure must determine a conversion rate, approved by the customs authority, that must for purposes of this Chapter be used for determining—

- (a) the quantity of compensating products, and of by-products or waste, that should in the ordinary course of processing the imported goods for the relevant purpose be obtained from a specific quantity of those goods; or
- (b) the quantity of those imported goods that, in the ordinary course of processing the goods for the relevant purpose, would have been used in order to obtain a specific quantity of compensating products, by-products or waste.

(2) Quantities may for purposes of subsection (1) be determined by number, weight, volume or any other measuring unit, as may be appropriate.

(3) In determining a conversion rate, account must be taken of any—

- (a) evaporation;
- (b) drying-out;
- (c) any other losses that may result from the nature of the goods used; and
- (d) any other relevant factors.

Identification measures

426. The customs authority may take such steps as are necessary for the identification of goods to be exported as inward processed compensating products, including by—

- (a) recording any specific marks or numbers on the imported goods that are cleared for inward processing;
- (b) affixing any seals, stamps or individual marks to such goods;
- (c) taking any samples or making use of any illustrations or technical descriptions of such goods; and
- (d) requesting any documentary evidence concerning the processing of the goods.

Records and stocktaking

427. (1) The licensee of inward processing premises where imported goods are processed under the inward processing procedure must keep such records and submit such reports to the customs authority in respect of the imported goods and the compensating products, by-products and commercially valuable waste obtained from the imported goods, as may be prescribed by rule or as the customs authority may require in a specific case.

(2) A customs officer may at any time during an inspection in terms of Chapter 33—

- (a) examine records kept in terms of subsection (1); and
- (b) take stock of—
 - (i) imported goods cleared and released for inward processing;
 - (ii) any compensating products, by-products and waste obtained from those goods; and
 - (iii) any other goods present on the licensed inward processing premises where the imported goods are processed.

³¹². For time of clearance of goods, see section 173.

geklaar word binne die tydsraam wat ingevolge artikel 418 vir die goedere geld.

(3) 'n Klaring ingevolge subartikel (2)(b), word van krag vanaf die tydstip waarop die goedere vir inwaartse prosessering geklaar is.³¹²

Omrekeningskale

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425. (1) Die lisensiehouer van die inwaartse prosesseringperseel waar ingevoerde goedere onder die prosedure vir inwaartse prosessering geprosesseer word, moet 'n omrekeningskaal, deur die doeanegesag goedgekeur, bepaal wat vir doeleindes van hierdie Hoofstuk gebruik moet word vir die bepaling van—

- (a) die hoeveelheid van kompenserende produkte, en van byprodukte of afval, wat in die gewone loop van prosessering van die ingevoerde goedere vir die betrokke doel van 'n spesifieke hoeveelheid van daardie goedere verkry behoort te word; of 10
- (b) die hoeveelheid van daardie ingevoerde goedere wat in die gewone loop van prosessering van die goedere vir die betrokke doel gebruik sou moes word ten einde 'n spesifieke hoeveelheid kompenserende produkte, byprodukte of afval te verkry. 15

(2) Hoeveelhede kan by die toepassing van subartikel (1) bepaal word per aantal, gewig, volume of enige ander maateenheid, soos ook al gepas mag wees.

(3) By die bepaling van 'n omrekeningskaal, moet daar rekening gehou word met enige— 20

- (a) verdamping;
- (b) uitdroging;
- (c) enige ander verliese as gevolg van die aard van die goedere wat gebruik word; en 25
- (d) enige ander tersaaklike faktore.

Identifiseringsmaatreëls

426. Die doeanegesag kan die stappe doen soos wat nodig is vir die identifisering van goedere wat as inwaarts geprosesseerde kompenserende produkte uitgevoer word, met inbegrip daarvan om— 30

- (a) aantekening te hou van enige spesifieke merke of nommers op die ingevoerde goedere wat vir inwaartse prosessering geklaar word;
- (b) enige seëls, stempels of individuele merke op sodanige goedere aan te bring;
- (c) enige monsters te neem of gebruik te maak van enige illustrasies of tegniese beskrywings van sodanige goedere; en 35
- (d) enige dokumentêre bewys betreffende die prosessering van die goedere te versoek.

Rekords en voorraadopname

427. (1) Die lisensiehouer van 'n inwaartse prosesseringperseel waar ingevoerde goedere onder die prosedure vir inwaartse prosessering geprosesseer word, moet die rekords hou en die verslae aan die doeanegesag verstrek ten opsigte van die ingevoerde goedere en die kompenserende produkte, byprodukte en kommersieel waardevolle afval wat van die ingevoerde goedere verkry word, soos by reël voorgeskryf of deur die doeanegesag in 'n spesifieke geval benodig mag word. 40

(2) 'n Doeanebeampte kan te eniger tyd gedurende 'n inspeksie ingevolge Hoofstuk 33— 45

- (a) rekords ingevolge subartikel (1) gehou, ondersoek; en
- (b) 'n voorraadopname doen van— 50
 - (i) ingevoerde goedere wat vir inwaartse prosessering geklaar en vrygestel is;
 - (ii) enige kompenserende produkte, byprodukte en afval wat van daardie goedere verkry is; en
 - (iii) enige ander goedere wat op die gelisensieerde inwaartse prosesseringperseel waar die ingevoerde goedere geprosesseer word, teenwoordig is.

³¹². Vir tydstip van klaring van goedere, kyk artikel 173.

(3) If during any stocktaking imported goods under the inward processing procedure are found to be—

- (a) greater than the quantity, weight or volume that should be on hand on the inward processing premises where the goods are processed, the excess must be taken as stock on hand; or
- (b) less than the quantity, weight or volume that should be on hand on the premises, the shortfall must be dealt with in terms of Chapter 25 as goods unaccounted for.

5

Subcontracting of inward processing operations

428. (1) (a) The licensee of inward processing premises where imported goods are processed under the inward processing procedure may only with the approval of the customs authority³¹³ appoint a person as a subcontractor to undertake any aspect of such processing.³¹⁴

(b) Paragraph (a) does not apply if the premises where the subcontracted processing is to be carried out are licensed inward processing premises and the subcontractor is the licensee of those premises.

(2) The premises on which the subcontracted processing is to be carried out must be licensed inward processing premises if the annual business turnover on those premises exceeds an amount as may be prescribed by rule.

(3) Application for an approval in terms of subsection (1)(a) must be made—

- (a) to the customs authority before the goods are delivered to the subcontractor; and
- (b) in the form and format, and in accordance with such requirements, as may be prescribed by rule.

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Use of equivalent goods

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429. (1) The customs authority may grant permission³¹⁵ to the licensee of the inward processing premises where goods are processed under the inward processing procedure to replace imported goods that are cleared and released for inward processing with goods in free circulation identical in description, quality, technical characteristics and quantity for use in the production of inward processed compensating products.

(2) If the customs authority has granted permission in terms of subsection (1) for equivalent goods to be used, those equivalent goods must for all purposes be regarded to be the imported goods cleared and released for inward processing.

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Part 5

Other matters

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Additional grounds for regarding goods under inward processing procedure to be cleared for home use³¹⁶

430. (1) Imported goods under the inward processing procedure must in terms of section 125(1) for tax purposes be regarded to be cleared for home use under Chapter 8—³¹⁷

- (a) if the goods are in breach of section 422 used for a purpose other than the

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313. See section 918 for granting of approvals on conditions.

314. Where a subcontractor undertakes any aspect of the inward processing of goods, the licensee appointing the subcontractor remains liable for the completion of the inward processing procedure.

315. See section 918 for granting of permissions on conditions.

316. See section 112 for general grounds on which goods under a customs procedure must or may be regarded to be cleared for home use.

317. For tax consequences if goods are regarded to be cleared for home use, see section 154; for other consequences of non-compliance with customs procedures, see section 115.

(3) Indien daar gedurende enige voorraadopname ingevoerde goedere onder die prosedure vir inwaartse prosessering gevind word—

- (a) wat meer is as die hoeveelheid, gewig of volume wat op die inwaartse prosesseringsperseel waar die goedere geprosesseer word op hande behoort te wees, moet die surplus as voorraad op hande geneem word; of 5
- (b) wat minder is as die hoeveelheid, gewig of volume wat op die perseel op hande behoort te wees, moet daar met die tekort ingevolge Hoofstuk 25 as rekenskaplose goedere gehandel word.

Subkontraktering van inwaartse prosesseringsoperasies

428. (1) (a) Die lisensiehouer van 'n inwaartse prosesseringsperseel waar ingevoerde goedere onder die prosedure vir inwaartse prosessering geprosesseer word, kan slegs met die goedkeuring van die doeanegesag³¹³ 'n persoon as 'n subkontraakteur aanstel om enige aspek van sodanige prosessering te onderneem.³¹⁴ 10

(b) Paragraaf (a) geld nie indien die perseel waar die gesubkontraakteerde prosessering onderneem sal word 'n gelisensieerde inwaartse prosesseringsperseel is en die subkontraakteur die lisensiehouer van daardie perseel is nie. 15

(2) Die perseel waarop die gesubkontraakteerde prosessering onderneem sal word, moet 'n gelisensieerde inwaartse prosesseringsperseel wees indien die jaarlikse besigheidsomset van daardie perseel 'n bedrag, soos by reël voorgeskryf mag word, oorskry. 20

(3) Aansoek om goedkeuring ingevolge subartikel (1)(a) moet gedoen word—

- (a) by die doeanegesag voordat die goedere aan die subkontraakteur gelewer word; en
- (b) in die vorm en formaat, en ooreenkomstig die vereistes, soos by reël voorgeskryf mag word. 25

Gebruik van gelyksoortige goedere

429. (1) Die doeanegesag kan aan die lisensiehouer van die inwaartse prosesseringsperseel waar goedere onder die prosedure vir inwaartse prosessering geprosesseer word, toestemming verleen³¹⁵ om ingevoerde goedere wat vir inwaartse prosessering geklaar en vrygestel is, te vervang met goedere in vry sirkulasie wat identies is in beskrywing, kwaliteit, tegniese eienskappe en hoeveelheid vir gebruik in die produksie van inwaarts geprosesseerde kompenserende produkte. 30

(2) Indien die doeanegesag ingevolge subartikel (1) toestemming verleen het dat gelyksoortige goedere gebruik mag word, moet daardie gelyksoortige goedere vir alle doeleindes geag word die ingevoerde goedere te wees wat vir inwaartse prosessering geklaar en vrygestel is. 35

Deel 5

Ander aangeleenthede

Bykomende gronde waarop goedere onder prosedure vir inwaartse prosessering geag moet word vir binnelandse gebruik geklaar te wees³¹⁶ 40

430. (1) Ingevoerde goedere onder die prosedure vir inwaartse prosessering moet ingevolge artikel 125(1) vir belastingdoeleindes geag word vir binnelandse gebruik kragtens Hoofstuk 8 geklaar te wees—³¹⁷

- (a) indien die goedere in stryd met artikel 422 gebruik word vir 'n doel anders as die produksie van inwaarts geprosesseerde kompenserende produkte van die 45

313. Kyk artikel 918 vir die verlening van goedkeurings onderworpe aan voorwaardes.

314. Waar 'n subkontraakteur enige aspek van die inwaartse prosessering van goedere onderneem, bly die lisensiehouer wat die subkontraakteur aanstel aanspreeklik vir die afhandeling van die prosedure vir inwaartse prosessering.

315. Kyk artikel 918 vir die verlening van toestemming onderworpe aan voorwaardes.

316. Kyk artikel 112 vir algemene gronde waarop goedere onder 'n doeaneprosedure geag moet of mag word vir binnelandse gebruik geklaar te wees.

317. Vir belastinggevolge indien goedere geag word vir binnelandse gebruik geklaar te wees, kyk artikel 154; vir ander gevolge van nie-voldoening aan doeaneprosedures, kyk artikel 115.

- production of inward processed compensating products of the class or kind stated in the inward processing clearance declaration of the goods; or
- (b) if compensating products obtained from the processing of those goods—
- (i) are for any reason not cleared for export as inward processed compensating products within the timeframe applicable to those compensating products in terms of section 418, subject to section 423(1); 5
 - (ii) are diverted for home use;
 - (iii) are cleared and released for export as inward processed compensating products but not exported from the Republic within a timeframe prescribed by rule; or 10
 - (iv) are damaged, destroyed, lost or unaccounted for and it is not proved in accordance with Part 2 of Chapter 25—
 - (aa) that the compensating products were damaged, destroyed, lost or unaccounted for due to a recognised cause³¹⁸; or
 - (bb) in the case of compensating products lost due to a recognised cause, that the products, after having been lost, have not gone into home use in any way. 15

(2) Subsection (1)(b) applies to by-products and commercially valuable waste derived from the processing of imported goods under the inward processing procedure as if such by-products or waste were inward processed compensating products, except when such by-products or waste are dealt with in terms of section 424(2). 20

(3) (a) When applying section 112(1) to any imported goods under the inward processing procedure in circumstances where the ground for regarding the imported goods to be cleared for home use pertains only to a part of the compensating products obtained from the imported goods, only a proportionate part of the imported goods must in terms of that section be regarded to be cleared for home use. 25

(b) In determining the proportionate part of the imported goods that must be regarded to be cleared for home use in terms of paragraph (a), a conversion rate determined in terms of section 425 must be used.

Effect on compensating products when goods under inward processing procedure regarded to be cleared for home use 30

431. (1) Compensating products obtained from imported goods under the inward processing procedure lose their tax free status³¹⁹ as inward processed compensating products if, and to the extent that, the imported goods are in terms of section 112 regarded to be cleared for home use. 35

(2) In applying subsection (1) a conversion rate determined in terms of section 425 must be used.

Rules to facilitate implementation of this Chapter

432. Rules made in terms of section 903 to facilitate the implementation of this Chapter may include rules— 40

- (a) regulating—
- (i) the processing of goods under the inward processing procedure to prevent diversion of goods for home use or tax evasion;
 - (ii) the appointment of persons as subcontractors to undertake any aspect of the processing of goods on behalf of a person carrying out the processing of those goods under the inward processing procedure; and 45
 - (iii) the movement of the goods, and of inward processed compensating products, by-products and waste obtained from those goods, between different locations;

318. See definition of “recognised cause” in section 1.

319. In relation to export tax, see section 148(2).

- klas of soort in die inwaartse prosessering klaringsbrief van die goedere vermeld; of
- (b) indien kompenserende produkte uit die prosessering van daardie goedere verkry—
- (i) om enige rede nie vir uitvoer as inwaarts geprosesseerde kompenserende produkte geklaar word binne die tydsraam wat ingevolge artikel 418 vir daardie kompenserende produkte geld nie, behoudens artikel 423(1); 5
 - (ii) afgewend word vir binnelandse gebruik;
 - (iii) vir uitvoer as inwaarts geprosesseerde kompenserende produkte geklaar en vrygestel word maar nie binne 'n tydsraam by reël voorgeskryf uit die Republiek uitvoer word nie; of 10
 - (iv) beskadig, vernietig, verlore of rekenskaploos raak en daar nie ooreenkomstig Deel 2 van Hoofstuk 25 bewys word—
 - (aa) dat die kompenserende produkte beskadig, vernietig, verlore of rekenskaploos geraak het weens 'n erkende oorsaak nie³¹⁸; of 15
 - (bb) in die geval van kompenserende produkte wat weens 'n erkende oorsaak verlore geraak het, dat die produkte, nadat dit verlore geraak het, nie op enige wyse in binnelandse gebruik gegaan het nie.
- (2) Subartikel (1)(b) geld vir byprodukte en kommersieel waardevolle afval uit die prosessering van ingevoerde goedere onder die prosedure vir inwaartse prosessering verkry asof die byprodukte of afval inwaarts geprosesseerde kompenserende produkte was, behalwe waar daar met die byprodukte of afval ingevolge artikel 424(2) gehandel word. 20
- (3) (a) By die toepassing van artikel 112(1) op enige ingevoerde goedere onder die prosedure vir inwaartse prosessering in omstandighede waar die grond waarop die ingevoerde goedere geag word vir binnelandse gebruik geklaar te wees, betrekking het slegs op 'n gedeelte van die kompenserende produkte wat van die ingevoerde goedere verkry is, moet slegs 'n proporsionele gedeelte van die ingevoerde goedere ingevolge daardie artikel geag word vir binnelandse gebruik geklaar te wees. 25
- (b) By die bepaling van die proporsionele gedeelte van die ingevoerde goedere wat ingevolge paragraaf (a) geag moet word vir binnelandse gebruik geklaar te wees, moet 'n omrekeningskaal bepaal ingevolge artikel 425 gebruik word. 30

Effek op kompenserende produkte wanneer goedere onder prosedure vir inwaartse prosessering geag word vir binnelandse gebruik geklaar te wees

- 431.** (1) Kompenserende produkte wat van ingevoerde goedere onder die prosedure vir inwaartse prosessering verkry word, verloor hul belastingvry status³¹⁹ as inwaarts geprosesseerde kompenserende produkte indien, en in soverre, die ingevoerde goedere ingevolge artikel 112 geag word vir binnelandse gebruik geklaar te wees. 35
- (2) By die toepassing van subartikel (1) moet 'n omrekeningskaal bepaal ingevolge artikel 425 gebruik word. 40

Reëls ter fasilitering van implementering van hierdie Hoofstuk

- 432.** Reëls ingevolge artikel 903 uitgevaardig om die implementering van hierdie Hoofstuk te fasiliteer, kan reëls insluit—
- (a) ter regulering van—
- (i) die prosessering van goedere onder die prosedure vir inwaartse prosessering ten einde afwending van goedere vir binnelandse gebruik of belastingontduiking te voorkom; 45
 - (ii) die aanstelling van persone as subkontraakteurs om enige aspek van die prosessering van goedere ten behoeve van 'n persoon te onderneem wat die prosessering van daardie goedere onder die prosedure vir inwaartse prosessering uitvoer; en 50
 - (iii) die beweging tussen verskillende plekke van die goedere en van inwaarts geprosesseerde kompenserende produkte, byprodukte en afval van daardie goedere verkry;

318. Kyk omskrywing van “erkende oorsaak” in artikel 1.

319. Met betrekking tot uitvoerbelasting, kyk artikel 148(2).

- (b) prescribing the circumstances in which and the conditions on which—
 - (i) equivalent goods may be used in the production of inward processed compensating products; or
 - (ii) by-products or commercially valuable waste obtained from the processing of goods under the inward processing procedure may be allowed into free circulation; 5
- (c) ensuring that inward processed compensating products obtained from the processing of goods under the inward processing procedure are exported within the applicable timeframes;
- (d) prescribing reports to be submitted to the customs authority by licensees of inward processing premises concerning— 10
 - (i) all goods received, stored or processed for inward processing at or removed from those premises during a reporting period;
 - (ii) all inward processed compensating products, by-products or waste obtained from those goods or removed from those premises during a reporting period; 15
 - (iii) any surpluses or shortfalls on goods received for inward processing or on inward processed compensating products, by-products or waste obtained from those goods, as at the end of a reporting period; and
 - (iv) any goods or inward processed compensating products, by-products or waste damaged, destroyed, lost or unaccounted for during a reporting period; 20
- (e) prescribing the periods for and the timeframes within which such reports must be submitted to the customs authority;
- (f) prescribing for purposes of section 122(c), any persons, other than carriers, permitted to transport under the inward processing procedure imported goods or compensating products, by-products or waste obtained from the imported goods; and 25
- (g) to ensure effective customs control when imported goods or compensating products, by-products or waste obtained from the imported goods are stored or transported under the inward processing procedure. 30

Offences in terms of this Chapter

- 433.** (1) A person is guilty of an offence if that person contravenes section 415(1)(c).
- (2) A person clearing goods for inward processing is guilty of an offence— 35
- (a) if section 418(2), 422(1), 423(1) or (3) or 424(1) is contravened or not complied with; or
 - (b) if that person contravenes or fails to comply with—
 - (i) a condition or requirement referred to in section 415(2) applicable to that person; or
 - (ii) section 422(2). 40
- (3) A licensee of inward processing premises is guilty of an offence if that person contravenes or fails to comply with—
- (a) a condition or requirement referred to in section 415(2) applicable to that licensee; or
 - (b) section 415(1)(b)(ii), 425(1) or 427(1). 45
- (4) A carrier transporting goods under the inward processing procedure is guilty of an offence if that carrier fails to comply with section 415(1)(b)(i).
- (5) A contravention of or failure to comply with section 415(1)(c) or 422(1) or (2) is a Category 1 offence.

- (b) wat voorskryf die omstandighede waarin en die voorwaardes waarop—
 - (i) gelyksoortige goedere in die produksie van inwaarts geprosesseerde kompenserende produkte gebruik mag word; of
 - (ii) byprodukte of kommersieel waardevolle afval verkry uit die prosessering van goedere onder die prosedure vir inwaartse prosessering in vry sirkulasie toegelaat mag word; 5
- (c) wat verseker dat inwaarts geprosesseerde kompenserende produkte verkry uit die prosessering van goedere onder die prosedure vir inwaartse prosessering, binne die toepaslike tydsrame uitgevoer word;
- (d) wat die verslae voorskryf wat deur lisensiehouers van inwaartse prosesseringpersele aan die doeane gesag verstrek moet word betreffende—
 - (i) alle goedere vir inwaartse prosessering ontvang, geberg of geprosesseer by of verwyder van daardie persele gedurende 'n verslagtydperk; 10
 - (ii) alle inwaarts geprosesseerde kompenserende produkte, byprodukte of afval verkry van daardie goedere of verwyder vanaf daardie persele gedurende 'n verslagtydperk; 15
 - (iii) enige surplusse of tekorte op goedere ontvang vir inwaartse prosessering of op inwaarts geprosesseerde kompenserende produkte, byprodukte of afval verkry van daardie goedere, soos aan die einde van 'n verslagtydperk; en 20
 - (iv) enige goedere of inwaarts geprosesseerde kompenserende produkte, byprodukte of afval wat gedurende die verslagtydperk beskadig, vernietig, verlore of rekenskaploos geraak het;
- (e) wat die tydperke waarvoor en die tydsrame waarbinne sodanige verslae aan die doeane gesag verstrek moet word, voorskryf; 25
- (f) wat vir doeleindes van artikel 122(c) voorskryf watter persone, anders as vervoerders, gemagtig is om ingevoerde goedere of kompenserende produkte, byprodukte of afval verkry van die ingevoerde goedere, onder die prosedure vir inwaartse prosessering te vervoer; en
- (g) om doeltreffende doeanebeheer te verseker wanneer ingevoerde goedere of kompenserende produkte, byprodukte of afval van die ingevoerde goedere verkry, onder die prosedure vir inwaartse prosessering geberg of vervoer word. 30

Misdrywe ingevolge hierdie Hoofstuk

433. (1) 'n Persoon is aan 'n misdryf skuldig indien daardie persoon artikel 415(1)(c) oortree. 35
- (2) 'n Persoon wat goedere vir inwaartse prosessering klaar, is aan 'n misdryf skuldig—
- (a) indien artikel 418(2), 422(1), 423(1) of (3) of 424(1) oortree word of nie aan voldoen word nie; of 40
 - (b) indien daardie persoon—
 - (i) 'n voorwaarde of vereiste in artikel 415(2) bedoel wat op daardie persoon van toepassing is, oortree of versuim om daaraan te voldoen; of
 - (ii) artikel 422(2) oortree of versuim om daaraan te voldoen.
- (3) 'n Lisensiehouer van 'n inwaartse prosesseringperseel is aan 'n misdryf skuldig indien daardie persoon— 45
- (a) 'n voorwaarde of vereiste in artikel 415(2) bedoel wat op daardie lisensiehouer van toepassing is, oortree of versuim om daaraan te voldoen; of
 - (b) artikel 415(1)(b)(ii), 425(1) of 427(1) oortree of versuim om daaraan te voldoen. 50
- (4) 'n Vervoerder wat goedere onder die prosedure vir inwaartse prosessering vervoer, is aan 'n misdryf skuldig indien daardie vervoerder versuim om aan artikel 415(1)(b)(i) te voldoen.
- (5) 'n Oortreding van, of versuim om te voldoen aan, artikel 415(1)(c) of 422(1) of (2) is 'n Kategorie 1 misdryf. 55

CHAPTER 19

HOME USE PROCESSING PROCEDURE

Part 1

Introductory provisions

Purpose of this Chapter 5

434. The purpose of this Chapter is to regulate the home use processing procedure.

Home use processing procedure³²⁰

435. (1) Home use processing is a customs procedure that allows—

- (a) imported goods—
 - (i) to be processed on home use processing premises³²¹ without clearing the goods for home use in terms of Chapter 8; and 10
 - (ii) for purposes of such processing—
 - (aa) to be transported without clearing the goods for national transit; or
 - (bb) to be stored without clearing the goods for warehousing; and
- (b) products obtained from the processing of those imported goods— 15
 - (i) upon fulfilment of the conditions subject to which the imported goods were released for that procedure, to become goods in free circulation without clearing those products for home use; or
 - (ii) before those products become goods in free circulation, to be stored without clearing the products for warehousing or to be transported 20 without clearing the products for national transit.

(2) The home use processing procedure is available only for imported goods referred to in section 439(a).

Commencement and completion of home use processing procedure

436. (1) (a) Imported goods come under the home use processing procedure when the goods are cleared for home use processing. 25

(b) The home use processing procedure is, subject to subsection (2), completed upon fulfilment of the conditions subject to which those goods were released for that procedure.

(2) The home use processing procedure ends before its completion if— 30

- (a) the imported goods before completion of the procedure are cleared and released for another customs procedure or for home use, as may be permissible in the circumstances; or
- (b) completion of the procedure is interrupted by an occurrence referred to in section 109(2). 35

Extent to which Chapters 4, 5 and 7 apply

437. Chapters 4, 5 and 7, except insofar as a provision of those Chapters is modified, qualified or deviated from in this Chapter, apply to all goods under the home use processing procedure, including to the clearance and release of imported goods for home use processing. 40

³²⁰ For tax status of goods under the home use processing procedure, see section 149.

³²¹ It is to be noted that the definition of “home use processing premises” excludes excise warehouses.

HOOFTUK 19

PROSEDURE VIR BINNELANDSE GEBRUIKPROSESSERING

Deel 1

Inleidende bepalings

Doel van hierdie Hoofstuk 5

434. Die doel van hierdie Hoofstuk is om die prosedure vir binnelandse gebruikprosessering te reguleer.

Prosedure vir binnelandse gebruikprosessering³²⁰

435. (1) Binnelandse gebruikprosessering is 'n doeaneprosedure ingevolge waarvan— 10

- (a) ingevoerde goedere—
 - (i) geprosesseer mag word op 'n binnelandse gebruikprosesseringsperseel³²¹ sonder om die goedere ingevolge Hoofstuk 8 vir binnelandse gebruik te klaar; en
 - (ii) vir doeleindes van sodanige prosessering— 15
 - (aa) vervoer mag word sonder om die goedere vir nasionale transito te klaar; of
 - (bb) geberg mag word sonder om die goedere vir pakhuisberging te klaar; en
- (b) produkte verkry uit die prosessering van daardie ingevoerde goedere— 20
 - (i) by vervulling van die voorwaardes waarop die ingevoerde goedere vir daardie prosedure vrygestel is, goedere in vry sirkulasie word sonder om daardie produkte vir binnelandse gebruik te klaar; of
 - (ii) voordat daardie produkte goedere in vry sirkulasie word, geberg mag word sonder om die produkte vir pakhuisberging te klaar of vervoer mag word sonder om die produkte vir nasionale transito te klaar. 25

(2) Die prosedure vir binnelandse gebruikprosessering is slegs vir ingevoerde goedere bedoel in artikel 439(a) beskikbaar.

Begin en afhandeling van prosedure vir binnelandse gebruikprosessering

436. (1) (a) Ingevoerde goedere kom onder die prosedure vir binnelandse gebruikprosessering wanneer die goedere vir binnelandse gebruikprosessering geklaar word. 30

(b) Die prosedure vir binnelandse gebruikprosessering is, behoudens subartikel (2), afgehandel by vervulling van die voorwaardes waarop daardie goedere vir daardie prosedure vrygestel is. 35

(2) Die prosedure vir binnelandse gebruikprosessering eindig voor die afhandeling daarvan indien—

- (a) die ingevoerde goedere voor afhandeling van die prosedure vir 'n ander doeaneprosedure of vir binnelandse gebruik, soos in die omstandighede toelaatbaar mag wees, geklaar en vrygestel word; of 40
- (b) afhandeling van die prosedure deur 'n gebeurtenis bedoel in artikel 109(2) onderbreek word.

Mate waarin Hoofstukke 4, 5 en 7 van toepassing is

437. Hoofstukke 4, 5 en 7, behalwe in soverre 'n bepaling van daardie Hoofstukke aangepas, gekwalifiseer of van afgewyk word in hierdie Hoofstuk, is van toepassing op alle goedere onder die prosedure vir binnelandse gebruikprosessering, asook op die klaring en vrystelling van ingevoerde goedere vir binnelandse gebruikprosessering. 45

320. Vir belastingstatus van goedere onder die prosedure vir binnelandse gebruik prosessering, kyk artikel 149.

321. Let wel dat die omskrywing van “binnelandse gebruikprosesseringsperseel” aksynspakhuise uitsluit.

Part 2

Clearance and release of imported goods for home use processing

Clearance of imported goods for home use processing

438. Imported goods to be cleared for home use processing must be cleared in accordance with section 437. 5

Conditions for clearance of imported goods for home use processing

- 439.** Imported goods may be cleared for home use processing only if—
- (a) those goods are of a class or kind authorised in the Customs Tariff as goods that may be cleared for home use processing;
 - (b) the requirements applicable to the clearance for that procedure of goods of that class or kind have been complied with, including any requirements and conditions as may be—
 - (i) prescribed by rule;
 - (ii) specified in the Customs Tariff; or
 - (iii) determined in terms of any relevant tax levying Act or other applicable legislation; 15
 - (c) the premises where the home use processing of the goods is to be carried out are licensed as premises for home use processing;
 - (d) the licensee of those premises who is to carry out the home use processing of the goods—
 - (i) undertakes to comply with the requirements applicable to the home use processing of such goods, including—
 - (aa) any conditions subject to which the goods may be released for that procedure in terms of section 442; and
 - (bb) any requirements and conditions as may be prescribed by rule, specified in the Customs Tariff or determined in terms of the Customs Duty Act or other applicable legislation; and 25
 - (ii) has granted permission for the home use processing of the goods on those premises and has advised the customs authority electronically in accordance with section 913 of such permission, if that licensee is not the person who cleared the goods for home use processing; and 30
 - (e) any import tax that may become payable on the goods is covered by security.

Persons entitled to submit home use processing clearance declarations

- 440.** Only the following persons may, subject to section 165(2), submit clearance declarations to clear imported goods for home use processing:³²² 35
- (a) The importer of the goods, provided that the importer is licensed in terms of Chapter 29 to import goods for home use processing;
 - (b) the licensee of the home use processing premises where the home use processing of the goods is to be carried out; and
 - (c) a customs broker referred to in section 165(1)(b). 40

Contents of home use processing clearance declarations

441. A clearance declaration for home use processing of imported goods must, in addition to the information required in terms of section 167, state—

³²². See section 165(1)(a).

Deel 2

Klaring en vrystelling van ingevoerde goedere vir binnelandse gebruikprosessering

Klaring van ingevoerde goedere vir binnelandse gebruikprosessering

438. Ingevoerde goedere bestem vir klaring vir binnelandse gebruikprosessering moet volgens voorskrif van artikel 437 geklaar word. 5

Voorwaardes vir klaring van ingevoerde goedere vir binnelandse gebruikprosessering

439. Ingevoerde goedere mag vir binnelandse gebruikprosessering geklaar word slegs indien—

- (a) daardie goedere van 'n klas of soort is wat in die Doeanetarief as goedere gemagtig word wat vir binnelandse gebruikprosessering geklaar mag word; 10
- (b) daar aan die vereistes van toepassing op die klaring vir daardie prosedure van goedere van daardie klas of soort voldoen is, met inbegrip van enige vereistes en voorwaardes wat—
 - (i) by reël voorgeskryf mag word; 15
 - (ii) in die Doeanetarief gespesifiseer mag word; of
 - (iii) ingevolge enige betrokke belastingheffings-Wet of ander toepaslike wetgewing bepaal mag word;
- (c) die perseel waar die binnelandse gebruikprosessering van die goedere onderneem sal word as 'n perseel vir binnelandse gebruikprosessering gelisensieer is; 20
- (d) die lisensiehouer van daardie perseel wat die binnelandse gebruikprosessering van die goedere sal onderneem—
 - (i) onderneem het om aan die vereistes van toepassing op die binnelandse gebruikprosessering van sodanige goedere te voldoen, met inbegrip van—
 - (aa) enige voorwaardes onderworpe waaraan die goedere ingevolge artikel 442 vir daardie prosedure vrygestel mag word; en
 - (bb) enige vereistes en voorwaardes soos by reël voorgeskryf, in die Doeanetarief gespesifiseer of ingevolge die Wet op Doeanereg of ander toepaslike wetgewing bepaal mag word; en 30
 - (ii) toestemming verleen het vir die binnelandse gebruikprosessering van die goedere op daardie perseel en die doeanegesag elektronies ooreenkomstig artikel 913 van sodanige toestemming in kennis gestel het, indien daardie lisensiehouer nie die persoon is wat die goedere vir binnelandse gebruikprosessering geklaar het nie; en 35
- (e) enige invoerbelasting wat op die goedere betaalbaar mag word deur sekuriteit gedek word.

Persone wat klaringsbriewe vir binnelandse gebruikprosessering mag indien

440. Slegs die volgende persone mag, behoudens artikel 165(2), klaringsbriewe indien om ingevoerde goedere vir binnelandse gebruikprosessering te klaar.³²² 40

- (a) Die invoerder van die goedere, mits die invoerder ingevolge Hoofstuk 29 gelisensieer is om goedere vir binnelandse gebruikprosessering in te voer;
- (b) die lisensiehouer van die binnelandse gebruikprosesseringsperseel waar die binnelandse gebruikprosessering van die goedere onderneem sal word; en 45
- (c) 'n doeanemakelaar in artikel 165(1)(b) bedoel.

Inhoud van klaringsbriewe vir binnelandse gebruikprosessering

441. 'n Klaringsbrief vir binnelandse gebruikprosessering van ingevoerde goedere moet, benewens die inligting wat ingevolge artikel 167 vereis word, die volgende vermeld: 50

³²². Kyk artikel 165(1)(a).

- (a) that the goods are cleared for the home use processing procedure;
- (b) the customs code of the licensed home use processing premises where the home use processing of the goods is to be carried out;
- (c) the item number in the Customs Tariff authorising the clearance of goods of the relevant class or kind for home use processing; and 5
- (d) details of any permit, permission or authorisation granted in respect of the goods in terms of any condition prescribed by rule, specified in the Customs Tariff or determined in terms of any other applicable legislation.

Release of imported goods for home use processing

442. (1) Imported goods cleared for home use processing may only be released for that procedure on condition— 10

- (a) that the requirements relating to home use processing are complied with, including any requirements and conditions as may be—
 - (i) prescribed by rule;
 - (ii) specified in the Customs Tariff or determined in terms of any other applicable legislation; or 15
 - (iii) determined by the customs authority in terms of section 104 in a specific case; and
- (b) that compensating products obtained from those imported goods are dealt with in accordance with those requirements and conditions. 20

(2) (a) When goods are released for the home use processing procedure the goods must be delivered to the licensed home use processing premises where the home use processing of the goods is to be carried out unless the customs authority authorises³²³ the goods to be taken to another location.

(b) When goods released for home use processing are delivered to the licensed premises where the home use processing of the goods is to be carried out or to that other location— 25

- (i) the carrier that transported the goods must notify the customs authority of the delivery; and
- (ii) the licensee must notify the customs authority of the receipt of the goods, if the goods were delivered to those licensed premises. 30

(c) No person may redirect goods that are cleared for home use processing to a place other than the licensed premises or that other location.

Part 3

Provisions regulating home use processing procedure 35

Goods under home use processing procedure only to be used for production of home use compensating products

443. (1) Imported goods cleared and released for home use processing may be used only for the production of home use compensating products of the class or kind stated in the clearance declaration of the goods, subject to section 446. 40

(2) If imported goods under the home use processing procedure are for any reason no longer intended to be used for the purpose referred to subsection (1), the person clearing the goods must promptly clear those goods in terms of section 110 for another customs procedure or for home use, as may be permissible in the circumstances.³²⁴

323. See section 918 for authorisations granted on conditions.

324. Failure to comply with this subsection may result in steps under section 115 or 92 which may include seizure of the goods.

- (a) Dat die goedere vir die prosedure vir binnelandse gebruikprosessering geklaar word;
- (b) die doeanekode van die gelisensieerde binnelandse gebruikprosesseringsperseel waar die binnelandse gebruikprosessering van die goedere onderneem sal word; 5
- (c) die itemnommer in die Doeanetarief wat die klaring van goedere van die betrokke klas of soort vir binnelandse gebruikprosessering magtig; en
- (d) besonderhede van enige permit, toestemming of magtiging wat ten opsigte van die goedere verleen is ingevolge enige voorwaarde by reël voorgeskryf, in die Doeanetarief gespesifiseer of ingevolge ander toepaslike wetgewing bepaal. 10

Verstelling van ingevoerde goedere vir binnelandse gebruikprosessering

- 442.** (1) Ingevoerde goedere wat vir binnelandse gebruikprosessering geklaar is, mag vir daardie prosedure vrygestel word slegs op voorwaarde—
- (a) dat daar aan die vereistes met betrekking tot binnelandse gebruikprosessering voldoen word, met inbegrip van enige vereistes en voorwaardes wat—
 - (i) by reël voorgeskryf mag word;
 - (ii) in die Doeanetarief gespesifiseer mag word of ingevolge enige ander toepaslike wetgewing bepaal mag word; of
 - (iii) in 'n spesifieke geval deur die doeanegesag ingevolge artikel 104 bepaal mag word; en 20
 - (b) dat daar met kompenserende produkte wat van daardie ingevoerde goedere verkry word volgens voorskrif van daardie vereistes en voorwaardes gehandel word.
- (2) (a) Wanneer goedere vir die prosedure vir binnelandse gebruikprosessering vrygestel word, moet die goedere gelewer word by die gelisensieerde binnelandse gebruikprosesseringsperseel waar die binnelandse gebruikprosessering van die goedere onderneem sal word, tensy die doeanegesag magtiging verleen³²³ dat die goedere na 'n ander plek geneem mag word. 25
- (b) Wanneer goedere wat vir binnelandse gebruikprosessering vrygestel is by die gelisensieerde perseel waar die binnelandse gebruikprosessering van die goedere onderneem sal word, of by sodanige ander plek, gelewer word— 30
- (i) moet die vervoerder wat die goedere vervoer het die doeanegesag van die lewering in kennis stel; en
 - (ii) moet die lisensiehouer die doeanegesag van die ontvangs van die goedere in kennis stel, indien die goedere by daardie gelisensieerde perseel gelewer is. 35
- (c) Geen persoon mag goedere wat vir binnelandse gebruikprosessering geklaar is na 'n plek anders as die gelisensieerde perseel of so 'n ander plek herdestineer nie.

Deel 3

Bepalings ter regulering van prosedure vir binnelandse gebruikprosessering 40

Verpligte gebruik van goedere onder prosedure vir binnelandse gebruikprosessering slegs vir produksie van binnelandse gebruik kompenserende produkte

- 443.** (1) Ingevoerde goedere wat vir binnelandse gebruikprosessering geklaar en vrygestel is, mag slegs vir die produksie van binnelandse gebruik kompenserende produkte van die klas of soort in die klaringsbrief van die goedere vermeld, behoudens artikel 446, gebruik word. 45
- (2) Indien ingevoerde goedere onder die prosedure vir binnelandse gebruikprosessering om enige rede nie meer bestem is om vir die doel vermeld in subartikel (1) gebruik te word nie, moet die persoon wat die goedere klaar daardie goedere onverwyld ingevolge artikel 110 vir 'n ander doeaneprosedure of vir binnelandse gebruik, soos in die omstandighede toelaatbaar mag wees, klaar.³²⁴ 50

323. Kyk artikel 918 vir magtigings wat onderworpe aan voorwaardes verleen word.

324. Versuim om aan hierdie subartikel te voldoen, kan stappe kragtens artikel 115 of 92 tot gevolg hê, insluitende beslaglegging op die goedere.

(3) Section 106 applies if goods are cleared in terms of subsection (2) for another customs procedure or for home use and the release of the goods for that customs procedure or for home use is refused.³²⁵

Time limits on completion of home use processing of goods

444. (1) The processing of imported goods under the home use processing procedure into home use compensating products must be completed— 5

- (a) within a timeframe as may be determined in the Customs Tariff for the specific class or kind of goods; or
- (b) if not determined in the Customs Tariff, within two years from the date of import of the first constituent goods from which the compensating products were obtained. 10

(2) A person who cleared goods for home use processing must immediately notify the customs authority of any failure to comply with subsection (1).

(3) A timeframe referred to in subsection (1)(a) or (b) is subject to extension or shortening in terms of section 908 or 909. 15

Home use compensating products to be dealt with as goods in free circulation

445. (1) Unless otherwise specified in terms of a tax levying Act, compensating products obtained from the processing of imported goods under the home use processing procedure may, subject to subsection (2), be—

- (a) dealt with as goods in free circulation without any clearance and release of the goods for home use; or 20
- (b) be cleared and released for export as goods in free circulation, and exported from the Republic, in accordance with the export procedure.

(2) Subsection (1) applies to compensating products obtained from the processing of imported goods under the home use processing procedure only if the products were obtained in accordance with— 25

- (a) the provisions of this Act relating to home use processing; and
- (b) the conditions applicable to the goods in terms of section 442.

(3) This section may not be read as affecting any provisions of a tax levying Act providing for the imposition and collection of taxes on such imported goods or compensating products. 30

By-products and commercially valuable waste

446. (1) If by-products or commercially valuable waste is, in addition to compensating products, obtained from the processing of imported goods under the home use processing procedure, the by-products or waste may be allowed into free circulation, provided— 35

- (a) the clearance declaration in terms of which the imported goods are cleared for home use processing is amended to exclude from that declaration a quantity of the imported goods which in accordance with a conversion rate determined in terms of section 447 equals the quantity of such by-products or waste; and 40
- (b) the quantity of imported goods excluded from the original clearance in terms of paragraph (a) is cleared for home use in terms of Chapter 8 within the period applicable to the goods in terms of section 444.

(2) A clearance in terms of subsection (1)(b) takes effect from the time of original clearance of the goods for home use processing. 45

³²⁵. See sections 99 and 100.

(3) Artikel 106 is van toepassing indien goedere ingevolge subartikel (2) vir 'n ander doeaneprosedure of vir binnelandse gebruik geklaar word en die vrystelling van die goedere vir daardie doeaneprosedure of vir binnelandse gebruik geweier word.³²⁵

Tydsbeperkings op afhandeling van binnelandse gebruikprosessering van goedere

444. (1) Die prosessering van ingevoerde goedere onder die prosedure vir binnelandse gebruikprosessering tot binnelandse gebruik kompenserende produkte moet afgehandel wees—

- (a) binne 'n tydsraam soos in die Doeanetarief vir die spesifieke klas of soort goedere bepaal mag word; of
- (b) indien nie in die Doeanetarief bepaal nie, binne twee jaar vanaf die datum van invoer van die eerste samestellende goedere waarvan die kompenserende produkte verkry is.

(2) 'n Persoon wat goedere vir binnelandse gebruikprosessering geklaar het, moet die doeanegesag onmiddellik in kennis stel van enige versuim om aan subartikel (1) te voldoen.

(3) 'n Tydperk bedoel in subartikel (1)(a) of (b) is aan verlenging of verkorting ingevolge artikel 908 of 909 onderhewig.

Binnelandse gebruik kompenserende produkte mee gehandel te word as goedere in vry sirkulasie

445. (1) Tensy daar ingevolge 'n belastingheffings-Wet anders bepaal word, kan kompenserende produkte wat uit die prosessering van ingevoerde goedere onder die prosedure vir binnelandse gebruikprosessering verkry is, behoudens subartikel (2)—

- (a) mee gehandel word as goedere in vry sirkulasie sonder enige klaring en vrystelling van die goedere vir binnelandse gebruik; of
- (b) geklaar en vrygestel word vir uitvoer as goedere in vry sirkulasie, en uit die Republiek uitgevoer word, ooreenkomstig die uitvoerprosedure.

(2) Subartikel (1) geld vir kompenserende produkte uit die prosessering van ingevoerde goedere onder die prosedure vir binnelandse gebruikprosessering verkry slegs indien die produkte verkry is ooreenkomstig—

- (a) die bepalings van hierdie Wet met betrekking tot binnelandse gebruikprosessering; en
- (b) die voorwaardes wat ingevolge artikel 442 op die goedere van toepassing is.

(3) Hierdie artikel mag nie uitgelê word op 'n wyse wat afbreuk doen aan enige bepalings van 'n belastingheffings-Wet wat voorsiening maak vir die oplê en invordering van belasting op sodanige ingevoerde goedere of kompenserende produkte nie.

Byprodukte en kommersieel waardevolle afval

446. (1) Indien byprodukte of kommersieel waardevolle afval, benewens kompenserende produkte, uit die prosessering van ingevoerde goedere onder die prosedure vir binnelandse gebruikprosessering verkry word, kan die byprodukte of afval in vry sirkulasie toegelaat word mits—

- (a) die klaringsbrief ingevolge waarvan die ingevoerde goedere vir binnelandse gebruikprosessering geklaar is, gewysig word om daarvan uit te sluit 'n hoeveelheid van die ingevoerde goedere wat, volgens 'n omrekeningskaal ingevolge artikel 447 bepaal, gelyk is aan die hoeveelheid van sodanige byprodukte of afval; en
- (b) die hoeveelheid ingevoerde goedere ingevolge paragraaf (a) uit die oorspronklike klaring uitgesluit, ingevolge Hoofstuk 8 vir binnelandse gebruik geklaar word binne die tydperk wat ingevolge artikel 444 vir die goedere geld.

(2) 'n Klaring ingevolge subartikel (1)(b) word van krag vanaf die tydstip van oorspronklike klaring van die goedere vir binnelandse gebruikprosessering.

³²⁵. Kyk artikels 99 en 100.

Conversion rates

- 447.** (1) The licensee of the home use processing premises where imported goods are processed under the home use processing procedure must determine a conversion rate, approved by the customs authority, that must for purposes of this Chapter be used for determining— 5
- (a) the quantity of compensating products, and of by-products or waste, that should in the ordinary course of processing the imported goods for the relevant purpose be obtained from a specific quantity of those goods; or
 - (b) the quantity of those imported goods that, in the ordinary course of processing the goods for the relevant purpose, would have been used in order to obtain a specific quantity of compensating products, by-products or waste. 10
- (2) Quantities may for purposes of subsection (1) be determined by number, weight, volume or any other measuring unit, as may be appropriate.
- (3) In determining a conversion rate, account must be taken of any— 15
- (a) evaporation;
 - (b) drying-out;
 - (c) any other losses that may result from the nature of the goods used; and
 - (d) any other relevant factors.

Records and stocktaking

- 448.** (1) The licensee of the home use processing premises where imported goods are processed under the home use processing procedure must keep such records and submit such regular reports to the customs authority in respect of the goods and the compensating products, by-products and commercially valuable waste obtained from the goods, as may be prescribed by rule or as the customs authority may require in a specific case. 20
- (2) A customs officer may at any time during an inspection in terms of Chapter 33— 25
- (a) examine the records kept in terms of subsection (1); and
 - (b) take stock of —
 - (i) imported goods cleared and released for the home use processing procedure; 30
 - (ii) any compensating products, by-products and waste obtained from those goods; and
 - (iii) any other goods present on the licensed home use processing premises where the imported goods are processed.
- (3) If during any stocktaking imported goods under the home use processing procedure are found to be— 35
- (a) greater than the quantity, weight or volume that should be on hand on the home use processing premises where the goods are processed, the excess must be taken as stock on hand; or
 - (b) less than the quantity, weight or volume that should be on hand on the premises, the shortfall must be dealt with in terms of Chapter 25 as goods unaccounted for. 40

Sub-contracting of home use processing operations

- 449.** (1) (a) The licensee of home use processing premises where imported goods are processed under the home use processing procedure may only with the approval of the customs authority³²⁶ appoint a person as a subcontractor to undertake any aspect of such processing.³²⁷ 45

326. See section 918 for granting of approvals on conditions.

327. Where a subcontractor undertakes any aspect of the home use processing of goods, the licensee appointing the subcontractor remains liable for the completion of the home use processing procedure.

Omrekeningskale

447. (1) Die lisensiehouer van die binnelandse gebruikprosesseringperseel waar ingevoerde goedere onder die prosedure vir binnelandse gebruikprosessering geprosesseer word, moet 'n omrekeningskaal, goedgekeur deur die doeanegesag, bepaal wat vir doeleindes van hierdie Hoofstuk gebruik moet word vir die bepaling van— 5
- (a) die hoeveelheid van kompenserende produkte, en van byprodukte of afval, wat in die gewone loop van prosessering van die ingevoerde goedere vir die betrokke doel uit 'n spesifieke hoeveelheid van daardie goedere verkry behoort te word; of
 - (b) die hoeveelheid van daardie ingevoerde goedere wat in die gewone loop van prosessering van die goedere vir die betrokke doel gebruik sou moes word ten einde 'n spesifieke hoeveelheid kompenserende produkte, byprodukte of afval te verkry. 10
- (2) Hoeveelhede kan vir doeleindes van subartikel (1) bepaal word per aantal, gewig, volume of enige ander maateenheid, soos ook al gepas mag wees. 15
- (3) By die bepaling van 'n omrekeningskaal, moet daar rekening gehou word met enige—
- (a) verdamping;
 - (b) uitdroging;
 - (c) enige ander verliese as gevolg van die aard van die goedere wat gebruik word; 20
 - (d) enige ander tersaaklike faktore.

Rekords en voorraadopname

448. (1) Die lisensiehouer van die binnelandse gebruikprosesseringperseel waar ingevoerde goedere onder die prosedure vir binnelandse gebruikprosessering geprosesseer word, moet die rekords hou en die gereelde verslae aan die doeanegesag verstrek ten opsigte van die goedere en die kompenserende produkte, byprodukte en kommersieel waardevolle afval uit die goedere verkry, soos by reël voorgeskryf of deur die doeanegesag in 'n spesifieke geval benodig mag word. 25
- (2) 'n Doeanebeampte kan te eniger tyd gedurende 'n inspeksie ingevolge Hoofstuk 33— 30
- (a) die rekords ingevolge subartikel (1) gehou, ondersoek; en
 - (b) 'n voorraadopname doen van— 35
 - (i) ingevoerde goedere wat vir die prosedure vir binnelandse gebruikprosessering geklaar en vrygestel is;
 - (ii) enige kompenserende produkte, byprodukte en afval wat van daardie goedere verkry is; en
 - (iii) enige ander goedere wat op die gelisensieerde binnelandse gebruikprosesseringperseel waar die ingevoerde goedere geprosesseer word, teenwoordig is. 40
- (3) Indien daar gedurende enige voorraadopname, ingevoerde goedere onder die prosedure vir binnelandse gebruikprosessering gevind word—
- (a) wat meer is as die hoeveelheid, gewig of volume wat op die binnelandse gebruikprosesseringperseel waar die goedere geprosesseer word op hande behoort te wees, moet die surplus as voorraad op hande geneem word; of 45
 - (b) wat minder is as die hoeveelheid, gewig of volume wat op die perseel op hande behoort te wees, moet daar met die tekort ingevolge Hoofstuk 25 as rekenskaplose goedere gehandel word.

Subkontraktering van binnelandse gebruikprosesseringoperasies

449. (1) (a) Die lisensiehouer van 'n binnelandse gebruikprosesseringperseel waar ingevoerde goedere onder die prosedure vir binnelandse gebruikprosessering geprosesseer word, kan slegs met die goedkeuring van die doeanegesag³²⁶ 'n persoon as 'n subkontraakteur aanstel om enige aspek van sodanige prosessering³²⁷ te onderneem. 50

326. Kyk artikel 918 vir die verlening van goedkeurings onderworpe aan voorwaardes.

327. Waar 'n subkontraakteur enige aspek van die binnelandse gebruikprosessering van goedere onderneem, bly die lisensiehouer wat die subkontraakteur aanstel aanspreeklik vir die afhandeling van die prosedure vir binnelandse gebruikprosessering.

(b) Paragraph (a) does not apply if the premises where the subcontracted processing is to be carried out are licensed home use processing premises and the subcontractor is the licensee of those premises.

(2) The premises where the subcontracted processing is to be carried out must be licensed home use processing premises if the annual business turnover on those premises exceeds an amount as may be prescribed by rule. 5

(3) Application for an approval in terms of subsection (1)(a) must be made—

- (a) to the customs authority before the goods are delivered to the subcontractor; and
- (b) in the form and format, and in accordance with such requirements, as may be prescribed by rule. 10

Part 4

Other matters

Additional grounds for regarding goods under home use processing procedure to be cleared for home use³²⁸ 15

450. Imported goods that are cleared and released for home use processing must in terms of section 112(1) for tax purposes be regarded to be cleared for home use under Chapter 8—³²⁹

- (a) if the goods are in breach of section 443 used for a purpose other than the production of home use compensating products of the class or kind stated in the home use processing clearance declaration of those goods; or 20
- (b) if the processing of the imported goods into home use compensating products is not completed within the timeframe applicable to the goods in terms of section 444.

Rules to facilitate implementation of this Chapter 25

451. Rules made in terms of section 903 to facilitate the implementation of this Chapter may include rules—

- (a) regulating—
 - (i) the processing of goods under the home use processing procedure to prevent diversion of goods for home use or tax evasion; 30
 - (ii) the appointment of persons as subcontractors to undertake any aspect of the processing of goods on behalf of a person carrying out the processing of those goods under the home use processing procedure, and the obligations of such subcontractors; and
 - (iii) the movement of the goods, and of home use compensating products, by-products and waste obtained from those goods, between different locations; 35
- (b) prescribing reports to be submitted to the customs authority by licensees of home use processing premises concerning—
 - (i) all goods received, stored or processed for home use processing at or removed from those premises during a reporting period; 40
 - (ii) all home use compensating products, by-products or waste obtained from those goods or removed from those premises during a reporting period;
 - (iii) any surpluses or shortfalls on goods received for home use processing or

328. See section 112 for general grounds on which goods under a customs procedure must or may be regarded to be cleared for home use.

329. For tax consequences if goods are regarded to be cleared for home use, see section 154; for other consequences of non-compliance with customs procedures, see section 115.

(b) Paragraaf (a) geld nie indien die perseel waar die gesubkontraakteerde prosessering onderneem sal word 'n gelisensieerde binnelandse gebruikprosesseringsperseel is en die subkontraakteur die lisensiehouer van daardie perseel is nie.

(2) Die perseel waar die gesubkontraakteerde prosessering onderneem sal word, moet 'n gelisensieerde binnelandse gebruikprosesseringsperseel wees indien die jaarlikse besigheidsomset van daardie perseel 'n bedrag soos by reël voorgeskryf mag word, oorskry. 5

(3) Aansoek om goedkeuring ingevolge subartikel (1)(a) moet gedoen word—

(a) by die doeanegesag voordat die goedere aan die subkontraakteur gelewer word; en 10

(b) in die vorm en formaat, en ooreenkomstig die vereistes, soos by reël voorgeskryf mag word.

Deel 4

Ander aangeleenthede

Bykomende gronde waarop goedere onder prosedure vir binnelandse gebruikprosessering geag moet word vir binnelandse gebruik geklaar te wees³²⁸ 15

450. Ingevoerde goedere wat vir binnelandse gebruikprosessering geklaar en vrygestel is, moet ingevolge artikel 112(1) vir belastingdoeleindes geag word vir binnelandse gebruik kragtens Hoofstuk 8 geklaar te wees—³²⁹

(a) indien die goedere in stryd met artikel 443 gebruik word vir 'n doel anders as die produksie van binnelandse gebruik kompenserende produkte van die klas of soort in die binnelandse gebruikprosessering klaringsbrief van daardie goedere vermeld; of 20

(b) indien die prosessering van die ingevoerde goedere tot binnelandse gebruik kompenserende produkte nie afgehandel word binne die tydperk wat ingevolge artikel 444 vir daardie goedere geld nie. 25

Reëls ter fasilitering van implementering van hierdie Hoofstuk

451. Reëls ingevolge artikel 903 uitgevaardig om die implementering van hierdie Hoofstuk te fasiliteer, kan reëls insluit—

(a) ter regulering van— 30

(i) die prosessering van goedere onder die prosedure vir binnelandse gebruikprosessering ten einde afwending van goedere vir binnelandse gebruik of belastingontduiking te voorkom;

(ii) die aanstelling van persone as subkontraakteurs om enige aspek van die prosessering van goedere te onderneem ten behoeve van 'n persoon wat die prosessering van daardie goedere onder die prosedure vir binnelandse gebruikprosessering uitvoer, en die verpligtinge van sulke subkontraakteurs; en 35

(iii) die beweging tussen verskillende plekke van die goedere en van binnelandse gebruik kompenserende produkte, byprodukte en afval wat van daardie goedere verkry word; 40

(b) wat verslae voorskryf wat deur lisensiehouers van binnelandse gebruikprosesseringspersele aan die doeanegesag verstrekk moet word betreffende—

(i) alle goedere vir binnelandse gebruikprosessering ontvang, geberg of geprosesseer by, of verwyder van, daardie perseel gedurende 'n verslagtydperk; 45

(ii) alle binnelandse gebruik geprosesseerde kompenserende produkte, byprodukte of afval verkry van daardie goedere, of verwyder van daardie perseel, gedurende 'n verslagtydperk;

(iii) enige surplusse of tekorte op goedere vir binnelandse gebruikprosessering ontvang of op binnelandse gebruik geprosesseerde kompense- 50

328. Kyk artikel 112 vir algemene gronde waarop goedere onder 'n doeaneprosedure geag moet of mag word vir binnelandse gebruik geklaar te wees.

329. Vir belastinggevolge indien goedere geag word vir binnelandse gebruik geklaar te wees, kyk artikel 154; vir ander gevolge van nie-voldoening aan doeaneprosedures, kyk artikel 115.

- on home use compensating products, by-products or waste obtained from those goods, as at the end of a reporting period; and
- (iv) any goods or home use compensating products, by-products or waste damaged, destroyed, lost or unaccounted for during a reporting period;
- (c) prescribing the periods for and the timeframes within which such reports must be submitted to the customs authority; 5
- (d) prescribing for purposes of section 122(c), any persons, other than carriers, permitted to transport under the home use processing procedure imported goods or products obtained from the imported goods before those products become goods in free circulation; and 10
- (e) to ensure effective customs control when imported goods, or products obtained from the imported goods before those products become goods in free circulation, are stored or transported under the home use processing procedure.

Offences in terms of this Chapter 15

- 452.** (1) A person is guilty of an offence if that person contravenes section 442(2)(c).
(2) A person clearing goods for home use processing is guilty of an offence if that person contravenes or fails to comply with—
- (a) a condition or requirement referred to in section 442(1)(a) or (b) applicable to that person; or 20
 - (b) section 443(1) or (2), 444(2), 446(1) or 447(1).
- (3) A licensee of any home use processing premises is guilty of an offence if that person contravenes or fails to comply with—
- (a) a condition or requirement referred to in section 442(1)(a) or (b) applicable to that licensee; or 25
 - (b) section 442(2)(b)(ii), 447(1) or 448(1).
- (4) A carrier transporting goods under the home use processing procedure is guilty of an offence if that carrier fails to comply with section 442(2)(b)(i).
(5) A contravention or failure to comply with section 442(2)(c) or 443(2) is a Category 1 offence. 30

CHAPTER 20

OUTWARD PROCESSING PROCEDURE

Part 1

Introductory provisions

Purpose of this Chapter 35

453. The purpose of this Chapter is to regulate the outward processing procedure.

Outward processing procedure³³⁰

- 454.** (1) Outward processing is a customs procedure that allows—
- (a) goods to be exported from the Republic under this procedure for processing abroad; and 40
 - (b) products obtained from the processing of those goods to be imported into the

³³⁰. For tax status of goods under the outward processing procedure, see section 150.

- rende produkte, byprodukte of afval uit daardie goedere verkry, soos aan die einde van 'n verslagtydperk; en
- (iv) enige goedere of binnelandse gebruik geprosesseerde kompenserende produkte, byprodukte of afval wat gedurende 'n verslagtydperk beskadig, vernietig, verlore of rekenskaploos geraak het; 5
- (c) wat die tydperke waarvoor en die tydsrame waarbinne sodanige verslae aan die doeanegesag verstrek moet word, voorskryf;
- (d) wat vir doeleindes van artikel 122(c), voorskryf watter persone, anders as vervoerders, gemagtig is om ingevoerde goedere of produkte wat van die ingevoerde goedere onder die prosedure vir binnelandse gebruikprosessering verkry is voordat daardie produkte goedere in vry sirkulasie word, te vervoer; en 10
- (e) om doeltreffende doeanebeheer te verseker wanneer ingevoerde goedere, of produkte van die ingevoerde goedere verkry, onder die prosedure vir binnelandse gebruikprosessering geberg of vervoer word voordat daardie produkte goedere in vry sirkulasie word. 15

Misdrywe ingevolge hierdie Hoofstuk

452. (1) 'n Persoon is aan 'n misdryf skuldig indien daardie persoon artikel 442(2)(c) oortree. 20
- (2) 'n Persoon wat goedere vir binnelandse gebruikprosessering klaar, is aan 'n misdryf skuldig indien daardie persoon—
- (a) 'n voorwaarde of vereiste bedoel in artikel 442(1)(a) of (b) wat op daardie persoon van toepassing is, oortree of versuim om daaraan te voldoen; of
- (b) artikel 443(1) of (2), 444(2), 446(1) of 447(1) oortree of versuim om daaraan te voldoen. 25
- (3) 'n Lisensiehouer van enige binnelandse gebruikprosesseringsperseel is aan 'n misdryf skuldig indien daardie persoon—
- (a) 'n voorwaarde of vereiste bedoel in artikel 442(1)(a) of (b) wat op daardie lisensiehouer van toepassing is, oortree of versuim om daaraan te voldoen; of 30
- (b) artikel 442(2)(b)(ii), 447(1) of 448(1) oortree of versuim om daaraan te voldoen.
- (4) 'n Vervoerder wat goedere onder die prosedure vir binnelandse gebruikprosessering vervoer, is aan 'n misdryf skuldig indien daardie vervoerder versuim om aan artikel 442(2)(b)(i) te voldoen. 35
- (5) 'n Oortreding of versuim om te voldoen aan artikel 442(2)(c) of 443(2) is 'n Kategorie 1 misdryf.

HOOFSTUK 20

PROSEDURE VIR UITWAARTSE PROSESSERING

Deel 1 40

Inleidende bepalings

Doel van hierdie Hoofstuk

453. Die doel van hierdie Hoofstuk is om die prosedure vir uitwaartse prosessering te reguleer.

Prosedure vir uitwaartse prosessering³³⁰ 45

454. (1) Uitwaartse prosessering is 'n doeaneprosedure ingevolge waarvan—
- (a) goedere uit die Republiek onder hierdie prosedure uitgevoer mag word vir prosessering in die buiteland; en
- (b) produkte verkry uit die prosessering van daardie goedere, onder hierdie prosedure in die Republiek ingevoer mag word en vir binnelandse gebruik as 50

330. Vir belastingstatus van goedere onder die prosedure vir uitwaartse prosessering, kyk artikel 150.

Republic and cleared and released for home use under this procedure as outward processed compensating products.

(2) The outward processing procedure is available only for goods referred to in section 458(a).

Commencement and completion of outward processing procedure 5

455. (1) (a) Goods come under the outward processing procedure when the goods are cleared for export under the outward processing procedure.

(b) The outward processing procedure is, subject to subsection (2), completed when products obtained from those goods are imported into the Republic and cleared and released for home use as outward processed compensating products. 10

(2) The outward processing procedure ends before its completion if completion of the procedure is interrupted by an occurrence referred to in section 109(2).

Extent to which Chapters 4, 5 and 7 apply

456. Chapters 4, 5 and 7, except insofar as a provision of those Chapters is modified, qualified or deviated from in this Chapter, apply to all goods under the outward processing procedure,³³¹ including to the clearance and release of— 15

- (a) goods for export for outward processing; and
- (b) imported goods for home use as outward processed compensating products.

Part 2

Clearance and release of goods for outward processing 20

Clearance of goods for outward processing procedure

457. Goods to be cleared for outward processing must be cleared for export for outward processing in accordance with Chapter 16³³² read with section 456(a).

Conditions for clearance of goods for outward processing

458. Goods may be cleared for outward processing only if— 25

- (a) those goods are of a class or kind authorised in any of the tax levying Acts as goods that may be cleared for outward processing;
- (b) the requirements applicable to the clearance for outward processing of goods of that class or kind have been complied with, including requirements and conditions as may be— 30
 - (i) prescribed by rule;
 - (ii) specified in a tax levying Act referred to in paragraph (a); or
 - (iii) determined in terms of any other applicable legislation;
- (c) the person who clears the goods for outward processing— 35
 - (i) undertakes to comply with the requirements applicable to the outward processing of goods and the importation of outward processed compensating products obtained from those goods, including requirements and conditions as may be prescribed by rule, specified in a tax levying Act referred to in paragraph (a) or determined in terms of any other applicable legislation; and 40

331. In the case of an inconsistency between a provision of this Chapter and a general provision contained in Chapter 4 or 7 the provision of this Chapter prevails. See sections 88(3) and 162(3).

332. See also section 361(2)(b)(iii) which states that Chapter 16 applies to goods destined for export under the outward processing procedure.

uitwaarts geprosesseerde kompenserende produkte geklaar en vrygestel mag word.

(2) Die prosedure vir uitwaartse prosessering is beskikbaar slegs vir goedere in artikel 458(a) bedoel.

Begin en afhandeling van prosedure vir uitwaartse prosessering 5

455. (1) (a) Goedere kom onder die prosedure vir uitwaartse prosessering wanneer die goedere vir uitvoer onder die prosedure vir uitwaartse prosessering geklaar word.

(b) Die prosedure vir uitwaartse prosessering is, behoudens subartikel (2), afgehandel wanneer die produkte van daardie goedere verkry in die Republiek ingevoer word en vir binnelandse gebruik as uitwaarts geprosesseerde kompenserende produkte geklaar en vrygestel word. 10

(2) Die prosedure vir uitwaartse prosessering eindig voor die afhandeling daarvan indien afhandeling van die prosedure deur 'n gebeurtenis bedoel in artikel 109(2) onderbreek word.

Mate waarin Hoofstukke 4, 5 en 7 van toepassing is 15

456. Hoofstukke 4, 5 en 7, behalwe in soverre 'n bepaling van daardie Hoofstukke aangepas, gekwalifiseer of van afgewyk word in hierdie Hoofstuk, is van toepassing op alle goedere onder die prosedure vir uitwaartse prosessering,³³¹ asook op die klaring en vrystelling van—

- (a) goedere vir uitvoer vir uitwaartse prosessering; en 20
- (b) ingevoerde goedere vir binnelandse gebruik as uitwaarts geprosesseerde kompenserende produkte.

Deel 2

Klaring en vrystelling van goedere vir uitwaartse prosessering

Klaring van goedere vir prosedure vir uitwaartse prosessering 25

457. Goedere bestem vir klaring vir uitwaartse prosessering moet vir uitvoer vir uitwaartse prosessering geklaar word volgens voorskrif van Hoofstuk 16³³² saamgelees met artikel 456(a).

Voorwaardes vir klaring van goedere vir uitwaartse prosessering

458. Goedere mag vir uitwaartse prosessering geklaar word slegs indien— 30

- (a) daardie goedere van 'n klas of soort is wat in enige van die belastingheffings-Wette gemagtig word as goedere wat vir uitwaartse prosessering geklaar mag word; 30
- (b) daar aan die vereistes van toepassing op die klaring vir uitwaartse prosessering van goedere van daardie klas of soort voldoen word, met inbegrip van vereistes en voorwaardes wat— 35
 - (i) by reël voorgeskryf mag word;
 - (ii) in 'n belastingheffings-Wet bedoel in paragraaf (a) gespesifiseer mag word; of
 - (iii) ingevolge enige ander toepaslike wetgewing bepaal mag word; 40
- (c) die persoon wat die goedere vir uitwaartse prosessering klaar— 45
 - (i) onderneem het om aan die vereistes van toepassing op die uitwaartse prosessering van goedere en die invoer van uitwaarts geprosesseerde kompenserende produkte verkry van daardie goedere te voldoen, met inbegrip van vereistes en voorwaardes soos by reël voorgeskryf, in 'n belastingheffings-Wet bedoel in paragraaf (a) gespesifiseer of ingevolge enige ander toepaslike wetgewing bepaal mag word; en

331. In die geval van enige onbestaanbaarheid tussen 'n bepaling van hierdie Hoofstuk en 'n algemene bepaling in Hoofstuk 4 of 7 vervat, geniet die bepaling van hierdie Hoofstuk voorrang. Kyk artikels 88(3) en 162(3).

332. Kyk ook artikel 361(2)(b)(iii) wat bepaal dat Hoofstuk 16 van toepassing is op goedere bestem vir uitvoer onder die prosedure vir uitwaartse prosessering.

- (ii) gives security for the payment of any export tax that may become payable on the goods; and
- (d) measures have been taken to ensure that when goods are cleared for home use as outward processed compensating products obtained from the exported goods, those goods could be verified as compensating products obtained from those goods. 5

Persons entitled to submit clearance declarations for export of goods for outward processing

459. Only the following persons may, subject to section 165(2), submit clearance declarations to clear goods for export under the outward processing procedure:³³³ 10

- (a) The exporter of the goods, if that exporter is located in the Republic;
- (b) the registered agent in the Republic of the exporter, if that exporter is not located in the Republic; or
- (c) a customs broker referred to in section 165(1)(b).

Contents of clearance declarations for export of goods for outward processing 15

460. An export clearance declaration submitted in terms of Part 2 of Chapter 16 for the export of goods for outward processing must, in addition to the information required in terms of section 167, state—

- (a) that the goods are cleared for export for outward processing;
- (b) the item number in a tax levying Act referred to in section 458(a) authorising the clearance of goods of the relevant class or kind for outward processing; 20
- (c) details of any permit, permission or authorisation granted in respect of the goods in terms of any condition prescribed by rule or specified in a tax levying Act referred to in section 458(a) or determined in terms of any other applicable legislation; 25
- (d) the name and street address of the person to whom any such permit, permission or authorisation was granted; and
- (e) the kind of compensating products that will be obtained from the outward processing of those goods.

Release not to be limited to owners of goods 30

461. The customs authority may not limit the release of goods for export for outward processing to the owner of the goods, but may grant such release to any person complying with the requirements applicable to the outward processing of goods of that class or kind, including any requirements and conditions as may be prescribed by rule, specified in a tax levying Act referred to in section 458(a) or determined in terms of any other applicable legislation. 35

Release of goods for export under outward processing procedure

462. The release of the goods for export under the outward processing procedure is subject to compliance with any conditions or requirements—

- (a) referred to in section 458(c); 40
- (b) as may be prescribed by rule; or
- (c) as may be determined by the customs authority in terms of section 104 in a specific case.

³³³. See section 165(1)(a).

- (ii) sekuriteit stel vir die betaling van enige uitvoerbelasting wat op die goedere betaalbaar mag word; en
- (d) stappe gedoen is om te verseker dat wanneer goedere vir binnelandse gebruik as uitwaarts geprosesseerde kompenserende produkte uit die uitgevoerde goedere verkry, geklaar word daardie goedere geverifieer kan word as kompenserende produkte van daardie goedere verkry. 5

Persone wat klaringsbriewe vir uitvoer van goedere vir uitwaartse prosessering mag indien

459. Slegs die volgende persone mag, behoudens artikel 165(2), klaringsbriewe indien om goedere vir uitvoer onder die prosedure vir uitwaartse prosessering te klaar:³³³ 10

- (a) Die uitvoerder van die goedere, indien daardie uitvoerder in die Republiek gesetel is;
- (b) die geregistreerde agent in die Republiek van die uitvoerder, indien daardie uitvoerder nie in die Republiek gesetel is nie; of 15
- (c) 'n doeanemakelaar in artikel 165(1)(b) bedoel.

Inhoud van klaringsbriewe vir uitvoer van goedere vir uitwaartse prosessering

460. 'n Uitvoerklaringsbrief ingevolge Deel 2 van Hoofstuk 16 ingedien vir die uitvoer van goedere vir uitwaartse prosessering moet, benewens die inligting wat ingevolge artikel 167 vereis word, die volgende vermeld: 20

- (a) Dat die goedere vir uitvoer vir uitwaartse prosessering geklaar word;
- (b) die itemnommer in 'n belastingheffings-Wet bedoel in artikel 458(a) wat die klaring van goedere van die betrokke klas of soort vir uitwaartse prosessering magtig;
- (c) besonderhede van enige permit, toestemming of magtiging wat ten opsigte van die goedere verleen is ingevolge enige voorwaarde by reël voorgeskryf of in 'n belastingheffings-Wet bedoel in artikel 458(a) gespesifiseer of ingevolge enige ander toepaslike wetgewing bepaal; 25
- (d) die naam en straatadres van die persoon aan wie so 'n permit, toestemming of magtiging verleen is; en 30
- (e) die soort van kompenserende produkte wat uit die uitwaartse prosessering van daardie goedere verkry sal word.

Vrystelling nie beperk tot eienaars van goedere

461. Die doeanegesag mag nie die vrystelling van goedere vir uitvoer vir uitwaartse prosessering tot die eenaar van die goedere beperk nie, maar kan so 'n vrystelling verleen aan enige persoon wat aan die vereistes voldoen wat op die uitwaartse prosessering van goedere van daardie klas of soort van toepassing is, met inbegrip van enige vereistes en voorwaardes soos by reël voorgeskryf, in 'n belastingheffings-Wet bedoel in artikel 458(a) gespesifiseer of ingevolge enige ander toepaslike wetgewing bepaal mag word. 40

Vrystelling van goedere vir uitvoer onder prosedure vir uitwaartse prosessering

462. Die vrystelling van die goedere vir uitvoer onder die prosedure vir uitwaartse prosessering is onderworpe aan voldoening aan enige voorwaardes of vereistes—

- (a) in artikel 458(c) bedoel;
- (b) soos by reël voorgeskryf mag word; of 45
- (c) soos in 'n spesifieke geval deur die doeanegesag ingevolge artikel 104 bepaal mag word.

³³³. Kyk artikel 165(1)(a).

Part 3

Clearance and release for home use of outward processed compensating products

Clearance of imported goods for home use as outward processed compensating products

463. Imported goods to be cleared for home use as outward processed compensating products must be cleared in accordance with section 456(b). 5

Conditions for clearance for home use of outward processed compensating products

464. Goods may be cleared for home use as outward processed compensating products only if— 10

- (a) those goods were obtained from goods exported from the Republic under the outward processing procedure;
- (b) the requirements applicable to the outward processing of the goods from which the compensating products were obtained have been complied with; and 15
- (c) any conditions subject to which those goods were released for export under the outward processing procedure in terms of section 462 have been complied with.

Time limits on clearance for home use of outward processed compensating products 20

465. (1) Compensating products obtained from goods exported from the Republic under the outward processing procedure may be cleared for home use as outward processed compensating products only if those compensating products were imported into the Republic —

- (a) within a timeframe as may be determined in a tax levying Act referred to in section 458(a) for the class or kind of goods from which those products were obtained or, if two or more tax levying Acts authorise the same class or kind of goods to be cleared for outward processing, within a period determined uniformly in those tax levying Acts for that class or kind of goods; or 25
- (b) if no period is in terms of paragraph (a) determined for the relevant class or kind of goods, within two years from the time of clearance³³⁴ for outward processing of the goods from which those compensating products were obtained. 30

(2) A timeframe referred to in subsection (1)(a) or (b) is subject to extension or shortening in terms of section 908 or 909. 35

Importation of outward processed compensating products

466. Goods may be cleared and released for home use as outward processed compensating products despite the fact that—

- (a) only a part of the compensating products obtained from the goods exported for outward processing are imported; 40
- (b) the compensating products are imported in separate consignments, provided that a separate clearance declaration must be submitted in respect of each consignment; or
- (c) the compensating products are imported at a place of entry other than the place of exit from where the goods from which the products were obtained were originally exported. 45

³³⁴. See section 173 for time of clearance.

Deel 3

Klaring en vrystelling vir binnelandse gebruik van uitwaarts geprosesseerde kompenserende produkte

Klaring van ingevoerde goedere vir binnelandse gebruik as uitwaarts geprosesseerde kompenserende produkte 5

463. Ingevoerde goedere wat bestem is vir klaring vir binnelandse gebruik as uitwaarts geprosesseerde kompenserende produkte moet volgens voorskrif van artikel 456(b) geklaar word.

Voorwaardes vir klaring vir binnelandse gebruik van uitwaarts geprosesseerde kompenserende produkte 10

464. Goedere mag vir binnelandse gebruik as uitwaarts geprosesseerde kompenserende produkte geklaar word slegs indien—

- (a) daardie goedere verkry is van goedere wat uit die Republiek onder die prosedure vir uitwaartse prosessering uitgevoer is;
- (b) daar aan die vereistes voldoen is wat van toepassing is op die uitwaartse prosessering van die goedere waarvan die kompenserende produkte verkry is; en
- (c) daar aan enige voorwaardes voldoen is onderworpe waaraan daardie goedere vir uitvoer onder die prosedure vir uitwaartse prosessering ingevolge artikel 462 vrygestel is. 15 20

Tydsbeperkings op klaring vir binnelandse gebruik van uitwaarts geprosesseerde kompenserende produkte

465. (1) Kompenserende produkte verkry van goedere wat uit die Republiek onder die prosedure vir uitwaartse prosessering uitgevoer is, mag vir binnelandse gebruik as uitwaarts geprosesseerde kompenserende produkte geklaar word slegs indien daardie kompenserende produkte in die Republiek ingevoer word— 25

- (a) binne 'n tydsraam soos in 'n belastingheffings-Wet bedoel in artikel 458(a) bepaal mag word vir die klas of soort goedere waarvan daardie produkte verkry is of, indien twee of meer belastingheffings-Wette magtiging verleen vir die klaring vir uitwaartse prosessering van dieselfde klas of soort goedere, binne 'n tydperk wat eenvormig in daardie belastingheffings-Wette vir daardie klas of soort goedere bepaal word; of 30
- (b) indien geen tydperk ingevolge paragraaf (a) vir die betrokke klas of soort goedere bepaal word nie, binne twee jaar vanaf die tydstip van klaring³³⁴ vir uitwaartse prosessering van die goedere waarvan daardie kompenserende produkte verkry is, of die korter tydperk soos by reël voorgeskryf mag word. 35

(2) 'n Tydperk bedoel in subartikel (1)(a) of (b) is aan verlenging of verkorting ingevolge artikel 908 of 909 onderhewig.

Invoer van uitwaarts geprosesseerde kompenserende produkte

466. Goedere kan vir binnelandse gebruik as uitwaarts geprosesseerde kompenserende produkte geklaar en vrygestel word ondanks die feit dat— 40

- (a) slegs 'n gedeelte van die kompenserende produkte verkry van die goedere wat vir uitwaartse prosessering uitgevoer is, ingevoer word;
- (b) die kompenserende produkte in afsonderlike besendings ingevoer word, mits 'n afsonderlike klaringsbrief ten opsigte van elke besending ingedien word; of
- (c) die kompenserende produkte ingevoer word by 'n plek van toegang anders as die plek van uitgang waar die goedere waarvan die produkte verkry is oorspronklik uitgevoer is. 45

334. Kyk artikel 173 vir tydstip van klaring.

Persons entitled to submit home use clearance declarations for outward processed compensating products

467. Only the following persons may, subject to section 165(2), submit clearance declarations to clear goods for home use as outward processed compensating products:³³⁵ 5

- (a) The person who originally cleared the goods from which the compensating products were obtained for outward processing; or
- (b) a customs broker referred to in section 165(1)(b).

Contents of home use clearance declarations for outward processed compensating products 10

468. (1) A clearance declaration to clear goods for home use as outward processed compensating products must, in addition to the matters required in terms of section 167, state—

- (a) that the goods are cleared for home use as outward processed compensating products; 15
- (b) the reference number and date of the clearance declaration submitted in respect of the export for outward processing of the goods from which those compensating products were obtained;
- (c) the street address of the person to whom the compensating products are consigned; and 20
- (d) the date, number and particulars of any permit or other authorisation issued in terms of any legislation in respect of the import of the compensating products, if such a permit or authorisation is a requirement for the import of the products.

(2) The person clearing goods for home use as outward processed compensating products must on request by the customs authority submit a statement stating in relation to the exported goods from which those compensating products were obtained—

- (a) whether the exporter or any other person reclaimed any import or domestic tax paid on the goods when exported, and if so— 30
 - (i) the kind of tax; and
 - (ii) the amount of tax reclaimed; and
- (b) whether any benefit was paid to the exporter or other person under any export incentive scheme applicable to the goods, whether in the form of a tax reduction or relief, an export or other subsidy, a rebate or reward or other benefit. 35

Part 4

Provisions regulating outward processing procedure

Conversion rates for goods to compensating products

469. (1) The customs authority may in respect of any goods exported under the outward processing procedure approve a conversion rate that must for purposes of this Chapter be used for determining— 40

- (a) the quantity of compensating products that should in the ordinary course of processing the exported goods for the relevant purpose be obtained from those goods; or
- (b) the quantity of those exported goods that, in the ordinary course of processing the goods for the relevant purpose, would have been used in order to obtain a specific quantity of compensating products. 45

(2) Quantities may for purposes of subsection (1) be determined by number, weight, volume or any other measuring unit, as may be appropriate.

- (3) In determining a conversion rate, account must be taken of any— 50
 - (a) evaporation;

335. See section 165(1)(a).

Persone wat binnelandse gebruik klaringsbriewe vir uitwaarts geprosesseerde kompenserende produkte mag indien

467. Slegs die volgende persone mag, behoudens artikel 165(2), klaringsbriewe indien om goedere vir binnelandse gebruik as uitwaarts geprosesseerde kompenserende produkte te klaar:³³⁵ 5

- (a) Die persoon wat oorspronklik die goedere waarvan die kompenserende produkte verkry is vir uitwaartse prosessering geklaar het; of
- (b) 'n doeanemakelaar in artikel 165(1)(b) bedoel.

Inhoud van binnelandse gebruik klaringsbriewe vir uitwaarts geprosesseerde kompenserende produkte 10

468. (1) 'n Klaringsbrief om goedere vir binnelandse gebruik as uitwaarts geprosesseerde kompenserende produkte te klaar, moet, benewens die aangeleentheid wat ingevolge artikel 167 vereis word, die volgende vermeld:

- (a) Dat die goedere vir binnelandse gebruik as uitwaarts geprosesseerde kompenserende produkte geklaar word; 15
- (b) die verwysingsnommer en datum van die klaringsbrief wat ingedien is ten opsigte van die uitvoer vir uitwaartse prosessering van die goedere waarvan daardie kompenserende produkte verkry is;
- (c) die straatadres van die persoon aan wie die kompenserende produkte versend word; en 20
- (d) die datum, nommer en besonderhede van enige permit of ander magtiging wat ingevolge enige wetgewing ten opsigte van die invoer van die kompenserende produkte uitgereik is, indien sodanige permit of magtiging 'n vereiste vir die invoer van die produkte is.

(2) Die persoon wat goedere vir binnelandse gebruik as uitwaarts geprosesseerde kompenserende produkte klaar, moet op versoek van die doeanegesag 'n verklaring indien wat met betrekking tot die uitgevoerde goedere waarvan daardie kompenserende produkte verkry is die volgende vermeld: 25

- (a) Of die uitvoerder of enige ander persoon enige invoer- of plaaslike belasting wat op die goedere betaal is, by uitvoer teruggeëis het, en indien wel— 30
 - (i) die soort belasting; en
 - (ii) die bedrag van belasting teruggeëis; en
- (b) of enige voordeel aan die uitvoerder of enige ander persoon onder enige uitvoer-aansporingskema van toepassing op die goedere betaal is, hetsy in die vorm van 'n belastingvermindering of -verligting, 'n uitvoer- of ander 35 subsidie, 'n korting of vergoeding of ander voordeel.

Deel 4

Bepalings ter regulering van prosedure vir uitwaartse prosessering

Omrekeningskale vir goedere na kompenserende produkte

469. (1) Die doeanegesag kan ten opsigte van enige goedere wat onder die prosedure vir uitwaartse prosessering uitgevoer is, 'n omrekeningskaal goedkeur wat vir die doeleindes van hierdie Hoofstuk gebruik moet word om— 40

- (a) die hoeveelheid kompenserende produkte te bepaal wat in die gewone loop van prosessering van die uitgevoerde goedere vir die betrokke doel, uit daardie goedere verkry behoort te word; of 45
- (b) die hoeveelheid van daardie uitgevoerde goedere bepaal wat in die gewone loop van prosessering van die goedere vir die betrokke doel, gebruik sou moes word ten einde 'n spesifieke hoeveelheid kompenserende produkte te verkry.

(2) Hoeveelhede kan vir doeleindes van subartikel (1) bepaal word per aantal, gewig, volume of enige ander maateenheid soos ook al gepas mag wees. 50

(3) By die bepaling van 'n omrekeningskaal moet daar rekening gehou word met enige—

- (a) verdamping;

335. Kyk artikel 165(1)(a).

- (b) drying-out;
- (c) any other losses that may result from the nature of the goods used; or
- (d) any other relevant factors.

Identification measures

470. The customs authority may take such steps as are necessary for the accurate identification of compensating products obtained from goods exported under the outward processing procedure when those products are cleared for home use as outward processed compensating products, including by— 5

- (a) recording any specific marks or numbers on goods exported under the outward processing procedure before their export; 10
- (b) taking any samples or making use of any illustrations or technical descriptions; and
- (c) requesting any documentary evidence concerning the processing abroad of the exported goods.

Part 5 15

Other matters

Specific grounds for regarding goods exported under outward processing procedure to be cleared for outright export³³⁶

471. Goods exported under the outward processing procedure must in terms of section 114(1) for tax purposes be regarded to be cleared for outright export³³⁷ if— 20

- (a) the exported goods are not used for outward processing;
- (b) ownership of—
 - (i) the exported goods is transferred after the goods have been exported from the Republic; or
 - (ii) compensating products obtained from the processing of those exported goods is transferred before import of the products into the Republic; 25
- (c) compensating products obtained from the processing of those exported goods—
 - (i) are not cleared for home use as outward processed compensating products within the timeframe applicable to the goods in terms of section 465; or 30
 - (ii) are cleared but after clearance are damaged, destroyed, lost or unaccounted for and it is not proved in accordance with Part 2 of Chapter 25—
 - (aa) that the compensating products were damaged, destroyed, lost or unaccounted for due to a recognised cause³³⁸; or 35
 - (bb) in the case of compensating products lost due to a recognised cause, that the products, after having been lost, have not gone into home use in any way;
- (d) imported goods are cleared for home use as outward processed compensating products obtained from those exported goods and the customs authority refuses³³⁹ to release those imported goods for home use as outward processed compensating products; 40
- (e) imported goods are cleared and released for home use as outward processed compensating products obtained from those exported goods and the customs 45

336. See section 114 for general grounds on which goods must or may be regarded to be cleared for outright export.

337. For tax implications if goods are regarded to be cleared for outright export, see section 159.

338. See definition of “recognised cause” in section 1.

339. See sections 99 and 100.

- (b) uitdroging;
- (c) enige ander verliese as gevolg van die aard van die goedere wat gebruik word;
of
- (d) enige ander tersaaklike faktore.

Identifiseringsmaatreëls 5

470. Die doeanegesag kan die stappe doen wat nodig is vir die akkurate identifisering van kompenserende produkte verkry van goedere wat onder die prosedure vir uitwaartse prosessering uitgevoer is wanneer daardie produkte vir binnelandse gebruik as uitwaarts geprosesseerde kompenserende produkte geklaar word, met inbegrip daarvan om—

- (a) enige spesifieke merke of nommers op goedere wat onder die prosedure vir uitwaartse prosessering uitgevoer word, voor die uitvoer daarvan aan te teken; 10
- (b) monsters te neem of gebruik te maak van enige illustrasies of tegniese beskrywings; en
- (c) dokumentêre bewys te vereis aangaande die prosessering van die uitgevoerde goedere in die buiteland. 15

Deel 5

Ander aangeleenthede

Spesifieke gronde waarop goedere uitgevoer onder prosedure vir uitwaartse prosessering geag moet word vir regstreekse uitvoer geklaar te wees³³⁶

471. Goedere wat onder die prosedure vir uitwaartse prosessering uitgevoer is, moet ingevolge artikel 114(1) vir belastingdoeleindes geag word vir regstreekse uitvoer geklaar te wees³³⁷ indien—

- (a) die uitgevoerde goedere nie vir uitwaartse prosessering gebruik word nie;
- (b) eiendomsreg oor—
 - (i) die uitgevoerde goedere oorgedra word nadat die goedere uit die Republiek uitgevoer is; of 25
 - (ii) kompenserende produkte uit die prosessering van daardie uitgevoerde goedere verkry, oorgedra word voor invoer van die produkte in die Republiek;
- (c) kompenserende produkte uit die prosessering van daardie uitgevoerde goedere verkry—
 - (i) nie vir binnelandse gebruik as uitwaarts geprosesseerde kompenserende produkte geklaar word binne die tydsraam wat ingevolge artikel 465 vir die goedere geld nie; of
 - (ii) geklaar word maar na klaring beskadig, vernietig, verlore of rekenskaploos raak en daar nie ooreenkomstig Deel 2 van Hoofstuk 25 bewys word—
 - (aa) dat die kompenserende produkte beskadig, vernietig, verlore of rekenskaploos geraak het weens 'n erkende oorsaak nie;³³⁸ of
 - (bb) in die geval van kompenserende produkte wat weens 'n erkende oorsaak verlore geraak het, dat die produkte, nadat hulle verlore geraak het, nie op enige wyse in binnelandse gebruik gegaan het nie; 40
- (d) ingevoerde goedere vir binnelandse gebruik as uitwaarts geprosesseerde kompenserende produkte verkry van daardie uitgevoerde goedere geklaar word en die doeanegesag weier³³⁹ om daardie ingevoerde goedere vir binnelandse gebruik as uitwaarts geprosesseerde kompenserende produkte vry te stel; 45
- (e) ingevoerde goedere vir binnelandse gebruik as uitwaarts geprosesseerde kompenserende produkte verkry van daardie uitgevoerde goedere geklaar en 50

336. Kyk artikel 114 vir algemene gronde waarop goedere geag moet of mag word vir regstreekse uitvoer geklaar te wees.

337. Vir belastinggevolg indien goedere geag word vir regstreekse uitvoer geklaar te wees, kyk artikel 159.

338. Kyk omskrywing van “erkende oorsaak” in artikel 1.

339. Kyk artikels 99 en 100.

- authority withdraws³⁴⁰ the release of those imported goods for home use as outward processed compensating products; or
- (f) the customs authority is notified that compensating products obtained from those exported goods will not be cleared for home use as outward processed compensating products. 5

Proportionate application of section 114(1) to goods exported under outward processing procedure

472. (a) When section 114(1) is in terms of section 471 applied to any goods exported under the outward processing procedure in circumstances where the ground for regarding the exported goods to be cleared for outright export pertains only to a part of the compensating products obtained from the exported goods, only a proportionate part of the exported goods must in terms of that section be regarded to be cleared for outright export. 10

(b) In determining the proportionate part of the exported goods that must be regarded to be cleared for outright export in terms of paragraph (a), a conversion rate determined in terms of section 469 must be used. 15

Effect on outward processed compensating products when goods exported for outward processing are regarded to be cleared for outright export

473. Compensating products obtained from goods exported under the outward processing procedure lose their tax free status as outward processed compensating products if those exported goods are in terms of section 114(1) regarded to be cleared for outright export. 20

Rules to facilitate implementation of this Chapter

474. Rules made in terms of section 903 to facilitate the implementation of this Chapter may include rules prescribing the form and format of a statement referred to in section 468(2). 25

Offences in terms of this Chapter

475. (1) A person clearing goods for outward processing is guilty of an offence if that person contravenes or fails to comply with a condition or requirement referred to in section 462 applicable to that person. 30

(2) An importer of goods is guilty of an offence if that person clears goods for home use as outward processed compensating products in contravention of section 464.

CHAPTER 21

CUSTOMS PROCESSING OF PERSONS ENTERING OR LEAVING REPUBLIC 35

Definitions

476. In this Chapter—
- “**commercial goods**” means items in the accompanied or unaccompanied baggage of a person entering or leaving the Republic that are imported into or exported from the Republic for commercial or other business purposes, and includes— 40
- (a) items intended—
- (i) to be sold, leased or otherwise commercially transacted; or
 - (ii) for use in a business or profession; and
- (b) items which by reason of their nature, quantity, volume or other attribute can reasonably be classified as goods intended for commercial or other business purposes; 45

³⁴⁰. A release may be withdrawn in terms of section 105.

vrygestel word en die doeanegesag die vrystelling van daardie ingevoerde goedere vir binnelandse gebruik as uitwaarts geprosesseerde kompenserende produkte intrek³⁴⁰; of

- (f) die doeanegesag in kennis gestel word dat kompenserende produkte verkry van daardie uitgevoerde goedere nie vir binnelandse gebruik as uitwaarts geprosesseerde kompenserende produkte geklaar sal word nie. 5

Proporsionele toepassing van artikel 114(1) op goedere uitgevoer onder prosedure vir uitwaartse prosessering

472. (a) Wanneer artikel 114(1) ingevolge artikel 471 toegepas word op enige goedere wat onder die prosedure vir uitwaartse prosessering uitgevoer is in omstandighede waar die grond waarop die uitgevoerde goedere geag word vir regstreekse uitvoer geklaar te wees, betrekking het slegs op 'n gedeelte van die kompenserende produkte van die uitgevoerde goedere verkry, moet slegs 'n proporsionele gedeelte van die uitgevoerde goedere ingevolge daardie artikel geag word vir regstreekse uitvoer geklaar te wees. 10

(b) By die bepaling van die proporsionele gedeelte van die uitgevoerde goedere wat ingevolge paragraaf (a) geag moet word vir regstreekse uitvoer geklaar te wees, moet 'n omrekeningskaal ingevolge artikel 469 bepaal, gebruik word. 15

Effek op uitwaarts geprosesseerde kompenserende produkte wanneer goedere uitgevoer vir uitwaartse prosessering geag word vir regstreekse uitvoer geklaar te wees 20

473. Kompenserende produkte wat verkry word van goedere onder die prosedure vir uitwaartse prosessering uitgevoer, verloor hul belastingvry status as uitwaarts geprosesseerde kompenserende produkte indien daardie uitgevoerde goedere ingevolge artikel 114(1) geag word vir regstreekse uitvoer geklaar te wees.

Reëls ter fasilitering van implementering van hierdie Hoofstuk 25

474. Reëls ingevolge artikel 903 uitgevaardig om die implementering van hierdie Hoofstuk te fasiliteer, kan reëls insluit wat die vorm en formaat van 'n verklaring bedoel in artikel 468(2) voorskryf.

Misdrywe ingevolge hierdie Hoofstuk

475. (1) 'n Persoon wat goedere vir uitwaartse prosessering klaar, is aan 'n misdryf skuldig indien daardie persoon 'n voorwaarde of vereiste bedoel in artikel 462 wat op daardie persoon van toepassing is, oortree of versuim om daaraan te voldoen. 30

(2) 'n Invoerder van goedere is aan 'n misdryf skuldig indien daardie persoon goedere vir binnelandse gebruik as uitwaarts geprosesseerde kompenserende produkte in stryd met artikel 464 klaar. 35

HOOFSTUK 21

DOEANEPROSESSERING VAN PERSONE WAT REPUBLIEK BINNEKOM OF VERLAAT

Woordoms krywing

476. In hierdie Hoofstuk beteken— 40
“belastingvrylimiet” die maksimum hoeveelheid van 'n spesifieke klas of soort verbruikbare goedere wat eenvormig in die Wet op Doeanereg, die Wet op Aksynsreg en die Wet op Belasting op Toegevoegde Waarde vasgestel is wat ingevolge daardie Wette vry van enige reg, heffing of belasting deur daardie Wette opgelê, ingevoer mag word as deel van die vergeselde of onvergeselde bagasie van 'n persoon wat die Republiek binnekom; 45
“belastingvrytoelae”³⁴¹—

340. 'n Vrystelling mag ingevolge artikel 105 ingetrek word.

341. Reëls kragtens artikel 6 reguleer die belastingvrytoelae van BLNS lande.

“personal effects” means items (new or used) in the accompanied or unaccompanied baggage of a person entering or leaving the Republic which that person has on or with him or her or takes along for, and reasonably required for, personal or own use, such as any wearing apparel, toilet articles, medicine, personal jewellery, watch, cellular phone, food and drinks and other items evidently on or with that person for personal or own use, but excludes— 5

- (a) in relation to a person entering the Republic, any of the above items to the extent that they fall within any of the categories of items that must be declared in terms of section 479(1); or
- (b) in relation to a person leaving the Republic, any of the above items to the extent that they fall within any of the categories of items that must be declared in terms of section 484(1); 10

“tax free allowance”—³⁴¹

- (a) in relation to a person entering the Republic, an amount uniformly fixed in the Customs Duty Act, the Excise Duty Act and the Value-Added Tax Act indicating the combined customs value of items in the accompanied and unaccompanied baggage of a person entering the Republic which such a person may import into the Republic free from any duty, levy or tax imposed by those Acts; or 15
- (b) in relation to a person leaving the Republic, an amount fixed in the Customs Duty Act indicating the combined customs value of items in the accompanied and unaccompanied baggage of a person leaving the Republic which such a person may export from the Republic free from export duty imposed by that Act;³⁴² 20

“tax free limit” means the maximum quantity of a specific class or kind of consumable goods uniformly fixed in the Customs Duty Act, the Excise Duty Act and the Value-added Tax Act that may in terms of those Acts be imported, as part of the accompanied or unaccompanied baggage of a person entering the Republic, free from any duty, levy or tax imposed by those Acts. 25

Purpose and application of this Chapter 30

- 477.** (1) The purpose of this Chapter is to provide for—
- (a) the processing for customs purposes of persons entering or leaving the Republic; and
 - (b) such persons to declare their accompanied and unaccompanied baggage. 35
- (2) This Chapter applies, subject to subsection (3), to—
- (a) all persons entering or leaving the Republic, including crew members of a vessel, aircraft, train or vehicle; and
 - (b) the accompanied and unaccompanied baggage of such persons.
- (3) This Chapter does not apply³⁴³ to—
- (a) persons who entered the Republic on board a foreign-going vessel or aircraft on their way to a destination outside the Republic and who— 40
 - (i) remain on board the vessel or aircraft on which they entered the Republic until the vessel or aircraft leaves the Republic;
 - (ii) disembark under customs supervision for transfer to another foreign-going vessel or aircraft on which they will leave the Republic; or 45
 - (iii) disembark for another reason but without leaving the transit area at a place of entry; and
 - (b) the accompanied and unaccompanied baggage of such persons that—

341. Rules under section 6 regulate the tax free allowance of BLNS countries.

342. This paragraph obviously only applies if a duty on the export of goods has been imposed in terms of the Customs Duty Act.

343. Note that this subsection does not prevent Customs from intervening in terms of Chapter 33 if a person referred to in this subsection is suspected of having prohibited goods in his or her possession or in his or her baggage.

- (a) met betrekking tot 'n persoon wat die Republiek binnekom, 'n bedrag wat eenvormig in die Wet op Doeanereg, die Wet op Aksynsreg en die Wet op Belasting op Toegevoegde Waarde vasgestel is wat die gekombineerde doeanewaarde aandui van items in die vergeselde en onvergeselde bagasie van 'n persoon wat die Republiek binnekom wat so 'n persoon vry van enige reg, heffing of belasting deur daardie Wette opgelê in die Republiek mag invoer; of
- (b) met betrekking tot 'n persoon wat die Republiek verlaat, 'n bedrag wat in die Wet op Doeanereg vasgestel is wat die gekombineerde doeanewaarde aandui van items in die vergeselde en onvergeselde bagasie van 'n persoon wat die Republiek verlaat wat sodanige persoon vry van uitvoerbelasting deur daardie Wet opgelê uit die Republiek mag uitvoer;³⁴²
- “kommersiële goedere”** items in die vergeselde of onvergeselde bagasie van 'n persoon wat die Republiek binnekom of verlaat wat ingevoer word in, of uitgevoer word uit, die Republiek vir kommersiële of ander besigheidsdoeleindes, met inbegrip van—
- (a) items bedoel—
- (i) om verkoop, verhuur of andersins kommersieel mee gehandel te word; of
- (ii) vir gebruik in 'n besigheid of beroep; en
- (b) items wat weens hulle aard, hoeveelheid, volume of ander eienskap redelikerwyse geklassifiseer kan word as goedere wat vir kommersiële of ander besigheidsdoeleindes bedoel is;
- “persoonlike besittings”** items (nuut of gebruik) in die vergeselde of onvergeselde bagasie van 'n persoon wat die Republiek binnekom of verlaat wat daardie persoon aan of saam met hom of haar het of saamneem vir, en redelikerwyse benodig word vir, persoonlike of eie gebruik, soos enige klerasie, toiletware, medisyne, persoonlike juweliersware, horlosie, sellulêre foon, kos en drank en ander items aan of by daardie persoon ooglopend vir persoonlike of eie gebruik, maar uitgesonderd—
- (a) met betrekking tot 'n persoon wat die Republiek binnekom, enige van die bogemelde items in soverre hulle binne enige van die kategorieë items val wat ingevolge artikel 479(1) verklaar moet word; of
- (b) met betrekking tot 'n persoon wat die Republiek verlaat, enige van die bogemelde items in soverre hulle binne enige van die kategorieë items val wat ingevolge artikel 484(1) verklaar moet word.

Doel en toepassing van hierdie Hoofstuk 35

477. (1) Die doel van hierdie Hoofstuk is om voorsiening te maak vir—
- (a) die prosessering vir doeanedoeleindes van persone wat die Republiek binnekom of verlaat; en
- (b) sulke persone om hulle vergeselde en onvergeselde bagasie te verklaar.
- (2) Hierdie Hoofstuk is, behoudens subartikel (3), van toepassing op—
- (a) alle persone wat die Republiek binnekom of verlaat, met inbegrip van bemanningslede van 'n vaartuig, vliegtuig, trein of voertuig; en
- (b) die vergeselde en onvergeselde bagasie van sodanige persone.
- (3) Hierdie Hoofstuk is nie van toepassing nie³⁴³ op—
- (a) persone wat die Republiek binnekom aan boord van 'n land-uitgaande vaartuig of vliegtuig onderweg na 'n bestemming buite die Republiek en wat—
- (i) aan boord van die vaartuig of vliegtuig waarop hulle die Republiek binnegekom het, bly totdat die vaartuig of vliegtuig die Republiek verlaat;
- (ii) onder doeanetoesig afklim vir oorplasing na 'n ander land-uitgaande vaartuig of vliegtuig waarop hulle die Republiek sal verlaat; of
- (iii) vir 'n ander rede afklim maar sonder om die transito-area by 'n plek van toegang te verlaat; en
- (b) die vergeselde en onvergeselde bagasie van sulke persone wat—

342. Hierdie paragraaf geld uiteraard slegs indien 'n reg op die uitvoer van goedere ingevolge die Wet op Doeanereg opgelê is.

343. Let wel dat hierdie subartikel nie Doeanes verhoed om ingevolge Hoofstuk 33 in te tree indien daar vermoed word dat 'n persoon in hierdie subartikel bedoel verbode goedere in sy of haar bagasie het nie.

- (i) remain on board the vessel or aircraft on which the baggage entered the Republic until the vessel or aircraft leaves the Republic; or
- (ii) are transferred under customs supervision to another foreign-going vessel or aircraft on which the baggage will leave the Republic.

Part 1

5

Persons entering Republic

Incoming traveller and crew declarations

478. (1) A person entering the Republic must—

- (a) subject to section 488, complete, and submit to the customs authority, a declaration containing such personal and travel information, including information concerning that person's accompanied and unaccompanied baggage, as may be prescribed by rule; and 10
- (b) declare all items in that person's accompanied or unaccompanied baggage that must be declared in terms of section 479. 15

(2) When declaring accompanied or unaccompanied baggage items in terms of subsection (1), a person must furnish the customs authority, when requested to do so, with full particulars concerning those items, including any available invoices and other commercial documents relating to those items.

Accompanied and unaccompanied baggage items that must be declared

479. (1) The following items in a person's accompanied or unaccompanied baggage must be declared: 20

- (a) Any items that are commercial goods;
- (b) any items that that person brings into the Republic temporarily for later re-exportation from the Republic, distinguishing between—
 - (i) items to be re-exported in an unaltered state; and 25
 - (ii) items to be re-exported after being remodelled, processed, repaired or altered in the Republic;
- (c) any items previously taken out of the Republic that that person returns to the Republic, distinguishing between—
 - (i) items returned in an unaltered state; and 30
 - (ii) items that have undergone remodelling, processing, repair or alteration abroad;
- (d) any items that are prohibited, restricted or sectorally controlled goods; and
- (e) all other items in a person's accompanied or unaccompanied baggage excluding— 35
 - (i) any items that are personal effects;
 - (ii) any items of a class or kind for which a tax free limit has been fixed and of which the quantity does not exceed that limit, subject to subsection (2)(a); and
 - (iii) any items of a class or kind to which the tax free allowance is to be 40 applied and of which the combined customs value does not exceed that allowance, subject to subsection (2)(b).

(2) (a) If the total quantity of items of a specific class or kind referred to in subsection (1)(e)(ii) in a person's accompanied or unaccompanied baggage exceeds the tax free limit fixed for that class or kind, the whole quantity of those items in that person's accompanied or unaccompanied baggage must be declared in terms of subsection (1)(e). 45

(b) If the combined customs value of the items referred to in subsection (1)(e)(iii) in a person's accompanied or unaccompanied baggage exceeds the tax free allowance, all those items in that person's accompanied or unaccompanied baggage must be declared in terms of subsection (1)(e). 50

(3) Items in a person's accompanied or unaccompanied baggage that must be declared in terms of subsection (1), must be declared whether or not the person entering the Republic is the owner of those items.

- (i) aan boord van die vaartuig of vliegtuig waarop die bagasie die Republiek binnegekom het, bly totdat die vaartuig of vliegtuig die Republiek verlaat; of
- (ii) onder doeanetoesig oorgeplaas word na 'n ander land-uitgaande vaartuig of vliegtuig waarop die bagasie die Republiek sal verlaat. 5

Deel 1

Persone wat Republiek binnekom

Inkomende reisiger- en bemanningsdeklarasies

- 478.** (1) 'n Persoon wat die Republiek binnekom, moet—
- (a) behoudens artikel 488, 'n deklarasie voltooi, en by die doeanegesag indien, wat dié persoonlike en reisinligting bevat, met inbegrip van inligting aangaande daardie persoon se vergeselde en onvergeselde bagasie, soos by reël voorgeskryf mag word; en
 - (b) alle items in daardie persoon se vergeselde of onvergeselde bagasie verklaar wat ingevolge artikel 479 verklaar moet word. 15
- (2) Wanneer vergeselde of onvergeselde bagasie-items ingevolge subartikel (1) verklaar word, moet 'n persoon aan die doeanegesag, wanneer daartoe versoek, volle besonderhede aangaande daardie items verskaf, met inbegrip van enige beskikbare fakture en ander kommersiële dokumente wat op daardie items betrekking het.

Vergeselde en onvergeselde bagasie-items wat verklaar moet word 20

- 479.** (1) Die volgende items in 'n persoon se vergeselde of onvergeselde bagasie moet verklaar word:
- (a) Enige items wat kommersiële goedere is;
 - (b) enige items wat daardie persoon tydelik in die Republiek inbring vir latere heruitvoer uit die Republiek, wat moet onderskei tussen— 25
 - (i) items bestem vir heruitvoer in 'n onveranderde toestand; en
 - (ii) items bestem vir heruitvoer nadat dit in die Republiek hermodelleer, geprosesseer, herstel of verander is;
 - (c) enige items voorheen uit die Republiek geneem wat daardie persoon na die Republiek terugbring, wat moet onderskei tussen— 30
 - (i) items wat in 'n onveranderde toestand teruggebring word; en
 - (ii) items wat hermodellering, prosessering, herstel of verandering in die buiteland ondergaan het;
 - (d) enige items wat verbode, beperkte of sektorbeheerde goedere is; en
 - (e) alle ander items in 'n persoon se vergeselde of onvergeselde bagasie, 35 uitgesonderd—
 - (i) enige items wat persoonlike besittings is;
 - (ii) enige items van 'n klas of soort waarvoor 'n belastingvrylimiet vasgestel is en waarvan die hoeveelheid nie daardie limiet oorskry nie, behoudens subartikel (2)(a); en 40
 - (iii) enige items van 'n klas of soort waarop die belastingvrytoelae toegepas sal word en waarvan die gekombineerde doeanewaarde nie daardie toelae oorskry nie, behoudens subartikel (2)(b).
- (2) (a) Indien die totale hoeveelheid items van 'n bepaalde klas of soort bedoel in subartikel (1)(e)(ii) in 'n persoon se vergeselde of onvergeselde bagasie die 45 belastingvrylimiet oorskry wat vir daardie klas of soort vasgestel is, moet die totale hoeveelheid van daardie items in daardie persoon se vergeselde of onvergeselde bagasie ingevolge subartikel (1)(e) verklaar word.
- (b) Indien die gekombineerde doeanewaarde van die items in subartikel (1)(e)(iii) bedoel in 'n persoon se vergeselde of onvergeselde bagasie die belastingvrytoelae 50 oorskry, moet al daardie items in daardie persoon se vergeselde of onvergeselde bagasie ingevolge subartikel (1)(e) verklaar word.
- (3) Items in 'n persoon se vergeselde of onvergeselde bagasie wat ingevolge subartikel (1) verklaar moet word, moet verklaar word ongeag of die persoon wat die Republiek binnekom die eienaar van daardie items is of nie. 55

Clearance of accompanied and unaccompanied baggage items that must be declared³⁴⁴

480. (1) Section 89 applies to accompanied and unaccompanied baggage items that must be declared in terms of section 479(1), and such items must, subject to subsection (4), be cleared for home use³⁴⁵ or a customs procedure,³⁴⁶ as may be permissible in the circumstances. 5

(2) (a) Items in the accompanied or unaccompanied baggage of a person that must in terms of subsection (1) be cleared, may be cleared in accordance with simplified clearance requirements referred to in Part 3 of Chapter 24.

(b) Unless the customs authority determines otherwise in a specific case, paragraph (a) does not apply to commercial goods and such goods must be cleared in accordance with regular clearance requirements. 10

(3) A person may clear items in that person's accompanied or unaccompanied baggage referred to in section 479(1)(b)(ii) for inward processing despite the fact that that person is not licensed as an importer of goods for inward processing.³⁴⁷ 15

(4) Chapter 35 applies to items referred to in section 479(1)(d) and those items must be dealt with in accordance with that Chapter.

(5) Items in a person's accompanied or unaccompanied baggage that are in terms of section 479(1)(e)(i), (ii) or (iii) excluded from the requirement to be declared may be imported without any clearance formalities.³⁴⁸ 20

Import tax payable on accompanied and unaccompanied baggage items

481. (1) If any items in the accompanied or unaccompanied baggage of a person cleared in terms of section 480 attract import tax in terms of a tax levying Act on account of that clearance—

(a) the rate at which those items attract import tax must be determined and the tax must be assessed in accordance with that tax levying Act, subject to subsection (2);³⁴⁹ and 25

(b) any such import tax must be paid on demand unless the tax levying Act regulating that tax specifically provides otherwise for taxable accompanied or unaccompanied baggage items. 30

(2) A person may instead of paying an amount of import tax determined in accordance with subsection (1)(a) on any items in his or her accompanied or unaccompanied baggage declared in terms of section 479(1)(e) and which consist of goods specified in a tax levying Act as goods to which the tax free allowance may be applied, elect to have import tax on those items assessed as follows:³⁵⁰ 35

344. In this Act a distinction is drawn between declaring goods and clearing goods. To "declare" goods means to disclose the goods and provide any required information concerning the goods to a customs officer. To "clear" goods means to formally enter the goods for home use or a customs procedure. See definitions in section 1.

345. This could be a clearance for home use under Chapter 8 or, in the case of section 479(1)(c)(i), a clearance for home use under the inbound leg of the temporary export procedure or in the case of section 479(1)(c)(ii), a clearance for home use under the inbound leg of the outward processing procedure.

346. The inbound leg of the temporary admission procedure would be permissible in the case of section 479(1)(b)(i), and the inbound leg of the inward processing procedure would be permissible in the case of section 479(1)(b)(ii).

347. See licensing requirement in section 634(2)(a).

348. See section 91(1)(e). It also follows that no import tax is payable on these baggage items as no tax is payable on imported goods exempted from clearance formalities. All taxes on imported goods are in terms of the applicable tax levying Acts based on clearance for home use.

349. This provision generally applies to all accompanied and unaccompanied baggage items cleared in terms of section 480 for home use.

350. It is to be noted that this subsection is limited to items declared in terms of section 479(1)(e)(iii) and cannot therefore be applied to commercial goods that must be declared in terms of section 479(1)(a).

Klaring van vergeselde en onvergeselde bagasie-items wat geklaar moet word³⁴⁴

480. (1) Artikel 89 is van toepassing op vergeselde en onvergeselde bagasie-items wat ingevolge artikel 479(1) verklaar moet word, en sodanige items moet, behoudens subartikel (4), vir binnelandse gebruik³⁴⁵ of 'n doeaneprosedure,³⁴⁶ soos in die omstandighede toelaatbaar mag wees, geklaar word. 5

(2) (a) Items in die vergeselde of onvergeselde bagasie van 'n persoon wat ingevolge subartikel (1) geklaar moet word, kan ooreenkomstig verkorte klaringsvereistes bedoel in Deel 3 van Hoofstuk 24 geklaar word.

(b) Tensy die doeanegesag in 'n bepaalde geval anders bepaal, is paragraaf (a) nie van toepassing op kommersiële goedere nie en moet sodanige goedere ooreenkomstig die gewone klaringsvereistes geklaar word. 10

(3) 'n Persoon kan items in daardie persoon se vergeselde of onvergeselde bagasie in artikel 479(1)(b)(ii) bedoel vir inwaartse prosessering klaar ondanks die feit dat daardie persoon nie as 'n invoerder van goedere vir inwaartse prosessering gelisensieer is nie.³⁴⁷

(4) Hoofstuk 35 is van toepassing op items in artikel 479(1)(d) bedoel en daar moet met daardie items volgens voorskrif van daardie Hoofstuk gehandel word. 15

(5) Items in 'n persoon se vergeselde of onvergeselde bagasie wat ingevolge artikel 479(1)(e)(i), (ii) of (iii) uitgesluit word van die vereiste om geklaar te word, kan sonder enige klaringsformaliteite ingevoer word.³⁴⁸

Invoerbelasting betaalbaar op vergeselde en onvergeselde bagasie-items 20

481. (1) Indien enige items in die vergeselde of onvergeselde bagasie van 'n persoon wat ingevolge artikel 480 geklaar word, weens daardie klaring aan 'n aanslag vir invoerbelasting ingevolge 'n belastingheffings-Wet blootgestel word—

(a) moet die skaal waarteen daardie items aan invoerbelasting onderworpe is, bepaal word en moet die belasting aangeslaan word volgens die voorskrifte van daardie belastingheffings-Wet, behoudens subartikel (2);³⁴⁹ en 25

(b) moet so 'n invoerbelasting op aanvraag betaal word tensy die belastingheffings-Wet wat daardie belasting reguleer spesifiek anders vir belasbare vergeselde of onvergeselde bagasie-items bepaal.

(2) 'n Persoon kan in stede daarvan om 'n bedrag aan invoerbelasting bepaal ooreenkomstig subartikel (1)(a) te betaal op enige items in sy of haar vergeselde of onvergeselde bagasie wat ingevolge artikel 479(1)(e) verklaar is en wat bestaan uit goedere wat in 'n belastingheffings-Wet gespesifiseer word as goedere waarop die belastingvrytoelae toegepas mag word, verkies dat invoerbelasting op daardie items soos volg aangeslaan word:³⁵⁰ 30 35

344. In hierdie Wet word daar tussen die verklaar en klaring van goedere onderskei. Om goedere te "verklaar" beteken om die goedere aan 'n doeanbeampte te toon en enige inligting aangaande die goedere wat benodig mag word aan 'n doeanbeampte te verskaf. Om goedere te "klaar" beteken om die goedere formeel vir binnelandse gebruik of 'n doeaneprosedure te klaar. Kyk omskrywings in artikel 1.

345. Hierdie kan 'n klaring vir binnelandse gebruik kragtens Hoofstuk 8 wees of, in die geval van artikel 479(1)(c)(i), 'n klaring vir binnelandse gebruik onder die inwaartse fase van die prosedure vir tydelike uitvoer of, in die geval van artikel 479(1)(c)(ii), 'n klaring vir binnelandse gebruik onder die inwaartse fase van die prosedure vir uitwaartse prosessering wees.

346. Die inwaartse fase van die prosedure vir tydelike toelating sou toelaatbaar wees in die geval van artikel 479(1)(b)(i), en die inwaartse fase van die prosedure vir inwaartse prosessering sou toelaatbaar wees in die geval van artikel 479(1)(b)(ii).

347. Kyk vereiste vir lisensiering in artikel 634(2)(a).

348. Kyk artikel 91(1)(e). Dit volg ook dat geen invoerbelasting op hierdie bagasie-items betaalbaar is nie aangesien geen belasting betaalbaar is op ingevoerde goedere wat van klaringsformaliteite onthef is nie. Alle belastings op ingevoerde goedere word ingevolge die betrokke belastingheffings-Wette gebaseer op klaring vir binnelandse gebruik.

349. Hierdie bepaling is algemeen van toepassing op alle vergeselde en onvergeselde bagasie-items wat ingevolge artikel 480 vir binnelandse gebruik geklaar word.

350. Let wel dat hierdie subartikel beperk is tot items wat ingevolge artikel 479(1)(e)(iii) verklaar word en derhalwe nie toegepas kan word op kommersiële goedere wat ingevolge artikel 479(1)(a) verklaar moet word nie.

- (a) Items selected by that person of which the combined customs value is within the tax free allowance: no import tax payable on those items;
- (b) items selected by that person from items not already selected in terms of paragraph (a), of which the combined customs value does not exceed an upper limit uniformly fixed in the Customs Duty Act, the Excise Duty Act and the Value-added Tax Act: import tax payable on those items at a flat rate of import tax uniformly fixed in the Customs Duty Act, the Excise Duty Act and the Value-added Tax Act; and 5
- (c) any remaining items not already selected in terms of paragraph (a) or (b): import tax payable on those items at the rates payable in terms of the applicable tax levying Acts. 10

Place where incoming traveller and crew declarations must be submitted

482. Section 478(1) and (2) must be complied with—

- (a) in the case of a person who entered the Republic on a foreign-going vessel, at the customs seaport where that person disembarks from the vessel; 15
- (b) in the case of a person who entered the Republic on a foreign-going aircraft, at the customs airport where that person disembarks from the aircraft;
- (c) in the case of a person who entered the Republic on a cross-border railway carriage, at the rail traveller terminal where that person disembarks from the railway carriage; or 20
- (d) in the case of a person who entered the Republic in a vehicle or on foot, at the land border-post where the person entered the Republic.

Part 2

Persons leaving Republic

Outgoing traveller and crew declarations 25

483. (1) A person in the process of leaving the Republic must—

- (a) subject to section 488, complete and submit to the customs authority a declaration containing such personal and travel information, including information concerning that person's accompanied or unaccompanied baggage, as may be prescribed by rule; and 30
- (b) declare all items in that person's accompanied or unaccompanied baggage that must be declared in terms of section 484.

(2) When declaring accompanied or unaccompanied baggage items in terms of subsection (1), a person must furnish the customs authority, when requested to do so, with full particulars concerning those items, including any available invoices and other commercial documents relating to those items. 35

Accompanied and unaccompanied baggage items that must be declared

484. (1) The following items in a person's accompanied or unaccompanied baggage must be declared:

- (a) Any items that are commercial goods; 40
- (b) any items that that person takes out of the Republic temporarily for later re-importation into the Republic, distinguishing between—
 - (i) items to be re-imported in an unaltered state; and
 - (ii) items to be remodelled, processed, repaired or altered abroad;
- (c) any items previously brought into the Republic that that person takes out of the Republic, distinguishing between— 45
 - (i) items that are in an unaltered state; and
 - (ii) items that have undergone remodelling, processing, repair or alteration in the Republic;

- (a) Items deur daardie persoon geselekteer waarvan die gekombineerde doeanewaarde binne die belastingvrytoelae is: geen invoerbelasting betaalbaar op daardie items nie;
- (b) items deur daardie persoon geselekteer uit items wat nie reeds ingevolge paragraaf (a) geselekteer is nie, waarvan die gekombineerde doeanewaarde nie 'n boonste limiet wat eenvormig in die Wet op Doeanereg, die Wet op Aksynsreg en die Wet op Belasting op Toegevoegde Waarde vasgestel is, oorskry nie: invoerbelasting betaalbaar op daardie items teen 'n vaste skaal van invoerbelasting eenvormig in die Wet op Doeanereg, die Wet op Aksynsreg en die Wet op Belasting op Toegevoegde Waarde vasgestel; en
- (c) enige oorblywende items nie reeds ingevolge paragraaf (a) of (b) geselekteer nie: invoerbelasting betaalbaar op daardie items teen die skale wat ingevolge die betrokke belastingheffings-Wette betaalbaar is.

Plek waar inkomende reisiger- en bemanningsdeklarasies ingedien moet word

- 482.** Daar moet aan artikel 478(1) en (2) voldoen word—
- (a) in die geval van 'n persoon wat die Republiek binnegekom het op 'n land-uitgaande vaartuig, by die doeaneseehawe waar daardie persoon van die vaartuig afklim;
 - (b) in die geval van 'n persoon wat die Republiek binnegekom het op 'n land-uitgaande vliegtuig, by die doanelughawe waar daardie persoon van die vliegtuig afklim;
 - (c) in die geval van 'n persoon wat die Republiek binnegekom het op 'n oor-grens spoorwegwa, by die spoorreisigerterminaal waar daardie persoon van die spoorwegwa afklim; of
 - (d) in die geval van 'n persoon wat die Republiek binnegekom het in 'n voertuig of te voet, by die land-grenspos waar die persoon die Republiek binnegekom het.

Deel 2

Persone wat Republiek verlaat

Uitgaande reisiger- en bemanningsdeklarasies

- 483.** (1) 'n Persoon wat in die proses is om die Republiek te verlaat, moet—
- (a) behoudens artikel 488, 'n deklarasie voltooi, en by die doeanegesag indien, wat dié persoonlike en reisinligting bevat, met inbegrip van inligting aangaande daardie persoon se vergeselde of onvergeselde bagasie, soos by reël voorgeskryf mag word; en
 - (b) alle items in daardie persoon se vergeselde of onvergeselde bagasie verklaar wat ingevolge artikel 484 verklaar moet word.
- (2) Wanneer vergeselde of onvergeselde bagasie-items ingevolge subartikel (1) verklaar word, moet 'n persoon aan die doeanegesag, wanneer daartoe versoek, volle besonderhede aangaande daardie items verskaf, met inbegrip van enige beskikbare fakture of ander kommersiële dokumente wat op daardie items betrekking het.

Vergeselde en onvergeselde bagasie-items wat verklaar moet word

- 484.** (1) Die volgende items in 'n persoon se vergeselde of onvergeselde bagasie moet verklaar word:
- (a) Enige items wat kommersiële goedere is;
 - (b) enige items wat daardie persoon tydelik uit die Republiek neem vir latere herinvoer in die Republiek, wat moet onderskei tussen—
 - (i) items bestem vir herinvoer in 'n onveranderde toestand; en
 - (ii) items bestem vir hermodellering, prosessering, herstel of verandering in die buiteland;
 - (c) enige items voorheen in die Republiek ingebring wat daardie persoon uit die Republiek neem, wat moet onderskei tussen—
 - (i) items wat in 'n onveranderde toestand is; en
 - (ii) items wat hermodellering, prosessering, herstel of verandering in die Republiek ondergaan het;

- (d) any items that are prohibited, restricted or sectorally controlled goods; and
- (e) all other items in a person's accompanied or unaccompanied baggage excluding—
 - (i) any items that are personal effects; and
 - (ii) any items of a class or kind to which the tax free allowance is to be applied and of which the combined customs value does not exceed that allowance, subject to subsection (2). 5

(2) If the combined customs value of the items referred to in subsection (1)(e)(ii) in a person's accompanied or unaccompanied baggage exceeds the tax free allowance, all those items in that person's accompanied or unaccompanied baggage must be declared in terms of subsection (1)(e). 10

(3) Items in a person's accompanied or unaccompanied baggage that must be declared in terms of subsection (1) must be declared whether or not the person leaving the Republic is the owner of those items.

Clearance of accompanied and unaccompanied baggage items that must be declared³⁵¹ 15

485. (1) Section 93 applies to accompanied and unaccompanied baggage items that must be declared in terms of section 484(1), and such items must, subject to subsection (4), be cleared for export.³⁵²

(2) (a) Items in the accompanied or unaccompanied baggage of a person that must in terms of subsection (1) be cleared, may be cleared in accordance with simplified clearance requirements referred to in Part 3 of Chapter 24. 20

(b) Unless the customs authority determines otherwise in a specific case, paragraph (a) does not apply to commercial goods and such goods must be cleared in accordance with regular clearance requirements. 25

(3) A person may clear items in that person's accompanied or unaccompanied baggage referred to in section 484(1)(c)(ii) for export as inward processed compensating products despite the fact that that person is not licensed as an exporter of inward processed compensating products.³⁵³

(4) Chapter 35 applies to items referred to in section 484(1)(d) and those items must be dealt with in accordance with that Chapter. 30

(5) Items in a person's accompanied or unaccompanied baggage that are in terms of section 484(1)(e)(i) or (ii) excluded from the requirement to be declared may be exported without any clearance formalities.³⁵⁴

Export tax payable on accompanied and unaccompanied baggage 35

486. (1) If any items in the accompanied or unaccompanied baggage of a person cleared in terms of section 485 attract export tax in terms of a tax levying Act on account of that clearance—

- (a) the rate at which those items attract export tax must be determined and the tax must be assessed in accordance with that tax levying Act, subject to subsection (2);³⁵⁵ and 40

351. In this Act a distinction is drawn between declaring goods and clearing goods. To "declare" goods means to disclose the goods and provide any required information concerning the goods to a customs officer. To "clear" goods means to formally enter the goods for home use or a customs procedure. See definitions in section 1.

352. This could be clearance for outright export or, in the case of section 484(1)(b)(i), clearance for export under the outbound leg of the temporary export procedure, in the case of section 484(1)(b)(ii), clearance for the outbound leg of the outward processing procedure, in the case of section 484(1)(c)(i), the outbound leg of the temporary admission procedure or, in the case of section 484(1)(c)(ii), the outbound leg of the inward processing procedure.

353. See licensing requirement in section 634(2)(c).

354. See section 95(1)(f). It also follows that no export tax is payable on these baggage items as no tax is payable on goods destined for export that are exempted from clearance formalities.

355. This provision generally applies to all accompanied and unaccompanied baggage items cleared in terms of section 485 for outright export.

- (d) enige items wat verbode, beperkte of sektorbeheerde goedere is; en
 - (e) alle ander items in 'n persoon se vergeselde of onvergeselde bagasie, uitgesonderd—
 - (i) enige items wat persoonlike besittings is; en
 - (ii) enige items van 'n klas of soort waarop die belastingvrytoelae toegepas sal word en waarvan die gekombineerde doeanewaarde nie daardie toelae oorskry nie, behoudens subartikel (2).
- (2) Indien die gekombineerde doeanewaarde van die items in subartikel (1)(e)(ii) bedoel in 'n persoon se vergeselde of onvergeselde bagasie die belastingvrytoelae oorskry, moet al daardie items in daardie persoon se vergeselde of onvergeselde bagasie ingevolge subartikel (1)(e) verklaar word.
- (3) Items in 'n persoon se vergeselde of onvergeselde bagasie wat ingevolge subartikel (1) verklaar moet word, moet verklaar word ongeag of die persoon wat die Republiek verlaat die eienaar van daardie items is of nie.

Klaring van vergeselde en onvergeselde bagasie-items wat verklaar moet word³⁵¹

- 485.** (1) Artikel 93 is van toepassing op vergeselde en onvergeselde bagasie-items wat ingevolge artikel 484(1) verklaar moet word, en sodanige items moet, behoudens subartikel (4), vir uitvoer geklaar word.³⁵²
- (2) (a) Items in die vergeselde of onvergeselde bagasie van 'n persoon wat ingevolge subartikel (1) geklaar moet word, kan ooreenkomstig verkorte klaringsvereistes bedoel in Deel 3 van Hoofstuk 24 geklaar word.
- (b) Tensy die doeanegesag in 'n bepaalde geval anders bepaal, is paragraaf (a) nie van toepassing op kommersiële goedere nie en moet sodanige goedere ooreenkomstig gewone klaringsvereistes geklaar word.
- (3) 'n Persoon kan items in daardie persoon se vergeselde of onvergeselde bagasie bedoel in artikel 484(1)(c)(ii) vir uitvoer as inwaarts geprosesseerde kompenserende produkte klaar ondanks die feit dat daardie persoon nie as 'n uitvoerder van inwaarts geprosesseerde kompenserende produkte gelisensieer is nie.³⁵³
- (4) Hoofstuk 35 is van toepassing op items in artikel 484(1)(d) bedoel en daar moet met daardie items volgens voorskrif van daardie Hoofstuk gehandel word.
- (5) Items in 'n persoon se vergeselde of onvergeselde bagasie wat ingevolge artikel 484(1)(e)(i) of (ii) uitgesluit is van die vereiste om geklaar te word, kan sonder enige klaringsformaliteite uitgevoer word.³⁵⁴

Uitvoerbelasting betaalbaar op vergeselde en onvergeselde bagasie

- 486.** (1) Indien enige items in die vergeselde of onvergeselde bagasie van 'n persoon ingevolge artikel 485 geklaar, weens daardie klaring aan 'n aanslag vir uitvoerbelasting ingevolge 'n belastingheffings-Wet blootgestel word—
- (a) moet die skaal waarteen daardie items aan uitvoerbelasting onderworpe is, bepaal word en moet die belasting aangeslaan word volgens voorskrif van daardie belastingheffings-Wet, behoudens subartikel (2);³⁵⁵ en

351. In hierdie Wet word daar tussen die verklaar en die klaring van goedere onderskei. Om goedere te "verklaar" beteken om die goedere aan 'n doeanbeampte te toon en enige inligting aangaande die goedere wat nodig mag word aan 'n doeanbeampte te verskaf. Om goedere te "klaar" beteken om die goedere formeel vir binnelandse gebruik of 'n doeaneprosedure te klaar. Kyk omskrywings in artikel 1.

352. Hierdie kan klaring vir regstreekse uitvoer wees of, in die geval van artikel 484(1)(b)(i), klaring vir uitvoer onder die uitwaartse fase van die prosedure vir tydelike uitvoer, in die geval van artikel 484(1)(b)(ii), klaring vir die uitwaartse fase van die prosedure vir uitwaartse prosessering, in die geval van artikel 484(1)(c)(i), die uitwaartse fase van die prosedure vir tydelike toelating of, in die geval van artikel 484(1)(c)(ii), die uitwaartse fase van die prosedure vir inwaartse prosessering, wees.

353. Kyk vereiste vir lisensiering in artikel 634(2)(c).

354. Kyk artikel 95(1)(f). Dit volg ook dat geen uitvoerbelasting op hierdie bagasie-items betaalbaar is nie aangesien geen belasting betaalbaar is op goedere bestem vir uitvoer wat van klaringsformaliteite uitgesluit is nie.

355. Hierdie bepaling is algemeen van toepassing op alle vergeselde en onvergeselde bagasie-items wat ingevolge artikel 485 vir regstreekse uitvoer geklaar word.

- (b) any such export tax must be paid upon demand unless the tax levying Act regulating that tax specifically provides otherwise for taxable accompanied or unaccompanied baggage items.
- (2) A person may instead of paying an amount of export duty determined in accordance with subsection (1)(a) on any items in his or her accompanied or unaccompanied baggage declared in terms of section 484(1)(e) and which consist of goods of the classes or kinds to which the tax free allowance may be applied, elect to pay export duty on those items as follows:³⁵⁶
 - (a) Items selected by that person of which the combined customs value is within the tax free allowance for export baggage items: no export duty payable on those items;
 - (b) items selected by that person from items not already selected in terms of paragraph (a), of which the combined customs value does not exceed an upper limit fixed in the Customs Duty Act: export duty payable on those items at a flat rate of duty fixed in the Customs Duty Act; and
 - (c) any remaining items not already selected in terms of paragraph (a) or (b): export duty payable on those items at the rates payable in terms of the Customs Duty Act.

Place where outgoing traveller and crew declarations must be submitted

- 487.** Section 483(1) and (2) must be complied with—
- (a) in the case of a person who will leave the Republic in a foreign-going vessel, at the customs seaport where that person boards the vessel;
 - (b) in the case of a person who will leave the Republic in a foreign-going aircraft, at the customs airport where that person boards the aircraft;
 - (c) in the case of a person who will leave the Republic in a cross-border railway carriage, at the rail traveller terminal where that person boards the railway carriage; or
 - (d) in the case of a person who will leave the Republic in a vehicle or on foot, at the land border-post where the person will leave the Republic.

Part 3

Other matters

Channel or other system

- 488.** (1) The Commissioner may by rule prescribe a channel or other customs processing system to facilitate the processing at places of entry or exit of persons entering or leaving the Republic.
- (2) In terms of such a system—
- (a) persons who have items in their accompanied baggage that must be declared in terms of section 479 or 484, must be processed separately from persons who do not have any items in their accompanied baggage that must be declared; and
 - (b) persons who do not have any items in their accompanied baggage that must be declared in terms of section 479 or 484, must be allowed to proceed without customs formalities unless a customs officer intervenes in terms of this Act.
- (3) Unless the customs authority demands otherwise in relation to a specific person—
- (a) section 478(1)(a) need not be complied with at a place of entry where a channel system is in force; and
 - (b) section 483(1)(a) need not be complied with at a place of exit where a channel system is in force.

³⁵⁶. It is to be noted that this subsection only applies to items declared in terms of section 484(1)(e)(ii).

- (b) moet so 'n uitvoerbelasting op aanvraag betaal word tensy die belastingheffings-Wet wat daardie belasting reguleer spesifiek anders vir belasbare vergeselde of onvergeselde bagasie-items bepaal.
- (2) 'n Persoon kan in stede daarvan om 'n bedrag aan uitvoerbelasting bepaal ooreenkomstig subartikel (1)(a) te betaal op enige items in sy of haar vergeselde of onvergeselde bagasie wat ingevolge artikel 484(1)(e) verklaar is en wat bestaan uit goedere van die klasse of soorte waarop die belastingvrytoelae toegepas mag word, verkies om uitvoerbelasting op daardie items soos volg te betaal:³⁵⁶
- (a) Items deur daardie persoon geselekteer waarvan die gekombineerde doanewaarde binne die belastingvrytoelae vir uitvoer bagasie-items is: geen uitvoerbelasting op daardie items betaalbaar nie;
- (b) items deur daardie persoon geselekteer uit items wat nie reeds ingevolge paragraaf (a) geselekteer is nie, waarvan die gekombineerde doanewaarde nie 'n boonste limiet in die Wet op Doanereg vasgestel, oorskry nie: uitvoerbelasting op daardie items betaalbaar teen 'n vaste skaal van belasting in die Wet op Doanereg vasgestel; en
- (c) enige oorblywende items nie reeds ingevolge paragraaf (a) of (b) geselekteer nie: uitvoerbelasting op daardie items betaalbaar teen die skale wat ingevolge die Wet op Doanereg betaalbaar is.

Plek waar uitgaande reisiger- en bemanningsdeklarاسies ingedien moet word 20

487. Daar moet aan artikel 483(1) en (2) voldoen word—

- (a) in die geval van 'n persoon wat die Republiek in 'n land-uitgaande vaartuig gaan verlaat, by die doeaneseehawe waar daardie persoon aan boord van die vaartuig gaan;
- (b) in die geval van 'n persoon wat die Republiek in 'n land-uitgaande vliegtuig gaan verlaat, by die doanelughawe waar daardie persoon aan boord van die vliegtuig gaan;
- (c) in die geval van 'n persoon wat die Republiek in 'n oor-grens spoorwegwa gaan verlaat, by die spoorreisigersterminaal waar daardie persoon aan boord van die spoorwegwa gaan; of
- (d) in die geval van 'n persoon wat die Republiek in 'n voertuig of te voet gaan verlaat, by die land-grenspos waar die persoon die Republiek gaan verlaat.

Deel 3

Ander aangeleenthede

Kanaliserings- of ander stelsel 35

488. (1) Die Kommissaris kan by reël 'n kanalisering- of ander doeaneproseseringstelsel voorskryf om die prosessering by plekke van toegang en uitgang van persone wat die Republiek binnekom of verlaat, te fasiliteer.

(2) Ingevolge so 'n stelsel—

- (a) moet persone wat items in hulle vergeselde bagasie het wat ingevolge artikel 479 of 484 verklaar moet word, afsonderlik geprosesseer word van persone wat nie enige items in hulle vergeselde bagasie het wat verklaar moet word nie; en
- (b) moet persone wat nie enige items in hulle vergeselde bagasie het wat ingevolge artikel 479 of 484 verklaar moet word nie, toegelaat word om sonder doeaneformaliteite deur te gaan tensy 'n doeaneebeampte ingevolge hierdie Wet intree.

(3) Tensy die doeanegesag met betrekking tot 'n bepaalde persoon anders gelas, hoef daar nie—

- (a) aan artikel 478(1)(a) voldoen te word by 'n plek van toegang waar 'n kanaliseringstelsel in werking is nie; en
- (b) aan artikel 483(1)(a) voldoen te word by 'n plek van uitgang waar 'n kanaliseringstelsel in werking is nie.

356. Daar dien op gelet te word dat hierdie subartikel slegs van toepassing is op items wat ingevolge artikel 484(1)(e)(ii) verklaar is.

Rules to facilitate implementation of this Chapter

- 489.** Rules made in terms of section 903 to facilitate the implementation of this Chapter may include rules prescribing—
- (a) processes and timeframes for declaring items in the unaccompanied baggage of a person entering or leaving the Republic, and the handling and storage of such items; 5
 - (b) the goods or persons, or categories of goods or persons, that are excluded from this Chapter or any provision of this Chapter; and
 - (c) expedited procedures for the processing of pre-approved trusted or frequent travellers. 10

Offences in terms of this Chapter

- 490.** (1) A person entering the Republic is guilty of an offence if that person contravenes or fails to comply with section 478(1) or (2).
- (2) A person in the process of leaving the Republic is guilty of an offence if that person contravenes or fails to comply with section 483(1) or (2). 15

CHAPTER 22

INTERNATIONAL POSTAL ARTICLES HANDLED BY SOUTH AFRICAN POST OFFICE

Part 1

Introductory provisions 20

Purpose and application of this Chapter

- 491.** (1) The purpose of this Chapter is to regulate—
- (a) the clearance and release of international postal articles handled by the South African Post Office;
 - (b) the handling and inspection of such international postal articles for customs purposes; and 25
 - (c) the assessment of tax on such international postal articles.
- (2) This Chapter applies only to international postal articles—
- (a) imported into the Republic for— 30
 - (i) delivery in the Republic by the South African Post Office; or
 - (ii) transit to another country through the South African Post Office; or
 - (b) posted in the Republic for export from the Republic through the South African Post Office.³⁵⁷

Prohibited, restricted or sectorally controlled goods

- 492.** Chapter 35 applies if an international postal article consists of or contains prohibited, restricted or sectorally controlled goods. 35

Part 2

Clearance and release of international postal articles

Clearance of imported international postal articles

- 493.** (1) (a) Imported international postal articles that are not in terms of section 91 exempted from clearance requirements for imported goods, must be cleared for home use or a permissible customs procedure as required by section 89. 40

357. As this Chapter applies only to international postal articles handled by the South African Post Office, international postal articles imported or exported through private couriers must be treated as ordinary imported or exported goods.

Reëls ter fasilitering van implementering van hierdie Hoofstuk

489. Reëls ingevolge artikel 903 uitgevaardig om die implementering van hierdie Hoofstuk te fasiliteer, kan reëls insluit wat die volgende voorskryf:

- (a) Prosesse en tydsrame vir die verklaring van items in die onvergeselde bagasie van 'n persoon wat die Republiek binnekom of verlaat, en die hantering en berging van sodanige items; 5
- (b) die goedere of persone, of kategorieë goedere of persone, wat van hierdie Hoofstuk of enige bepaling van hierdie Hoofstuk uitgesluit word; en
- (c) versnelde prosedures vir die prosessering van vooraf-goedgekeurde betroubare of gereelde reisigers. 10

Misdrywe ingevolge hierdie Hoofstuk

490. (1) 'n Persoon wat die Republiek binnekom, is aan 'n misdryf skuldig indien daardie persoon artikel 478(1) of (2) oortree of versuim om daaraan te voldoen.

(2) 'n Persoon wat in die proses is om die Republiek te verlaat, is aan 'n misdryf skuldig indien daardie persoon artikel 483(1) of (2) oortree of versuim om daaraan te voldoen. 15

HOOFSTUK 22

INTERNASIONALE POSSTUKKE DEUR SUID-AFRIKAANSE POSKANTOOR HANTEER

Deel 1 20

Inleidende bepalings

Doel en toepassing van hierdie Hoofstuk

491. (1) Die doel van hierdie Hoofstuk is om—

- (a) die klaring en vrystelling van internasionale posstukke te reguleer wat deur die Suid-Afrikaanse Poskantoor hanteer word; 25
 - (b) die hantering en inspeksie van sodanige internasionale posstukke vir doeanedoeleindes te reguleer; en
 - (c) die aanslaan van belasting op sodanige internasionale posstukke te reguleer.
- (2) Hierdie Hoofstuk is van toepassing slegs op internasionale posstukke wat—
- (a) in die Republiek ingevoer word vir— 30
 - (i) aflewering in die Republiek deur die Suid-Afrikaanse Poskantoor; of
 - (ii) transito na 'n ander land deur die Suid-Afrikaanse Poskantoor; of
 - (b) in die Republiek gepos word vir uitvoer uit die Republiek deur die Suid-Afrikaanse Poskantoor.³⁵⁷

Verbode, beperkte of sektorbeheerde goedere 35

492. Hoofstuk 35 is van toepassing indien 'n internasionale posstuk verbode, beperkte of sektorbeheerde goedere is of bevat.

Deel 2

Klaring en vrystelling van internasionale posstukke

Klaring van ingevoerde internasionale posstukke 40

493. (1) (a) Ingevoerde internasionale posstukke wat nie ingevolge artikel 91 van klaringsvereistes vir ingevoerde goedere uitgesluit is nie, moet soos deur artikel 89 vereis vir binnelandse gebruik of 'n toelaatbare doeaneprosedure geklaar word.

357. Aangesien hierdie Hoofstuk slegs van toepassing is op internasionale posstukke wat deur die Suid-Afrikaanse Poskantoor hanteer word, moet internasionale posstukke ingevoer of uitgevoer deur private koerierdienste behandel word as gewone ingevoerde of uitgevoerde goedere.

(b) The provisions of this Act regulating the regular clearance and release of imported goods apply, subject to subsection (2) and the other provisions of this Chapter, to the clearance and release of imported international postal articles referred to in paragraph (a).

(2) (a) If an international postal article with a customs value not exceeding an upper limit prescribed by the Minister by notice in the *Gazette* is to be cleared for home use under Chapter 8, the postal declaration accompanying that postal article in terms of section 497 must for purposes of the clearance be regarded to be a clearance declaration for home use under Chapter 8. 5

(b) International postal articles cleared for home use in accordance with the simplified clearance process provided for in paragraph (a) may be exempted by rule from any provision of this Act applicable to the regular clearance or release of goods for home use. 10

Clearance of international postal articles destined for export

494. (1) (a) International postal articles destined for export from the Republic that are not in terms of section 95 exempted from clearance requirements for goods destined for export, must be cleared for export as required by section 93. 15

(b) The provisions of this Act regulating the regular clearance and release of goods destined for export apply, subject to subsection (2) and the other provisions of this Chapter, to the clearance and release of international postal articles referred to in paragraph (a) destined for export. 20

(2) (a) If an international postal article with a customs value not exceeding an upper limit prescribed by the Minister by notice in the *Gazette* is to be cleared for outright export, the postal declaration accompanying that postal article in terms of section 497 must for purposes of the clearance be regarded to be a clearance declaration for outright export under the export procedure.³⁵⁸ 25

(b) The simplified clearance process provided for in paragraph (a) does not apply if the exporter of a postal article intends to apply in terms of Chapter 4 of the Customs Duty Act for a drawback of duty exceeding R100.

(c) International postal articles cleared for outright export in accordance with the simplified clearance process provided for in paragraph (a) may be exempted by rule from any provision of this Act applicable to the regular clearance or release of goods for outright export. 30

Part 3

Customs processing of international postal articles 35

Removal of international postal articles to international postal clearance depots

495. All international postal articles received by the South African Post Office must be removed to a licensed international postal clearance depot before—

- (a) delivered in the Republic, in the case of international postal articles imported for delivery in the Republic; or 40
- (b) exported from the Republic, in the case of international postal articles posted in the Republic for delivery outside the Republic.

Presentation of international postal articles to customs authority

496. The South African Post Office must present all international postal articles handled by it at a licensed international postal clearance depot to the customs authority at that depot, except postal articles excluded from clearance requirements in terms of section 91(1)(i) or 95(1)(j). 45

³⁵⁸. This simplified clearance process would not apply if the postal article is to be exported in terms of a customs procedure other than outright export, such as temporary export.

(b) Die bepalings van hierdie Wet wat die gewone klaring en vrystelling van ingevoerde goedere reguleer, is, behoudens subartikel (2) en die ander bepalings van hierdie Hoofstuk, van toepassing op die klaring en vrystelling van ingevoerde internasionale posstukke in paragraaf (a) bedoel.

(2) (a) Indien 'n internasionale posstuk met 'n doeanewaarde wat nie 'n boonste limiet deur die Minister by kennisgewing in die *Staatskoerant* voorgeskryf, oorskry nie kragtens Hoofstuk 8 vir binnelandse gebruik geklaar word, moet die posdeklarasië wat daardie posstuk ingevolge artikel 497 vergesel vir doeleindes van die klaring geag word 'n klaringsbrief vir binnelandse gebruik kragtens Hoofstuk 8 te wees.

(b) Internasionale posstukke wat vir binnelandse gebruik geklaar word ooreenkomstig die verkorte klaringsproses soos in paragraaf (a) voorgeskryf, kan by reël onthef word van enige bepaling van hierdie Wet wat vir die gewone klaring of vrystelling van goedere vir binnelandse gebruik geld.

Klaring van internasionale posstukke bestem vir uitvoer

494. (1) (a) Internasionale posstukke bestem vir uitvoer uit die Republiek wat nie ingevolge artikel 95 van klaringsvereistes vir goedere bestem vir uitvoer uitgesluit is nie, moet soos deur artikel 93 vereis vir uitvoer geklaar word.

(b) Die bepalings van hierdie Wet wat die gewone klaring en vrystelling van goedere bestem vir uitvoer reguleer, is, behoudens subartikel (2) en die ander bepalings van hierdie Hoofstuk, van toepassing op die klaring en vrystelling van internasionale posstukke in paragraaf (a) bedoel wat vir uitvoer bestem is.

(2) (a) Indien 'n internasionale posstuk met 'n doeanewaarde wat nie 'n boonste limiet deur die Minister by kennisgewing in die *Staatskoerant* voorgeskryf, oorskry nie vir regstreekse uitvoer geklaar word, moet die posdeklarasië wat daardie posstuk ingevolge artikel 497 vergesel vir doeleindes van die klaring geag word 'n klaringsbrief vir regstreekse uitvoer onder die uitvoerprosedure te wees.³⁵⁸

(b) Die verkorte klaringsproses soos in paragraaf (a) voorgeskryf, is nie van toepassing nie indien die uitvoerder van 'n posstuk beoog om ingevolge Hoofstuk 4 van die Wet op Doeanereg aansoek te doen om 'n teruggawe van reg wat R100 oorskry.

(c) Internasionale posstukke wat vir regstreekse uitvoer geklaar word ooreenkomstig die verkorte klaringsproses soos in paragraaf (a) voorgeskryf, kan by reël onthef word van enige bepaling van hierdie Wet wat vir die gewone klaring en vrystelling van goedere vir regstreekse uitvoer geld.

Deel 3

Doeaneprosessering van internasionale posstukke 35

Neem van internasionale posstukke na internasionale posklaringsdepots

495. Alle internasionale posstukke wat deur die Suid-Afrikaanse Poskantoor ontvang word, moet na 'n gelisensieerde internasionale posklaringsdepot geneem word voor—

(a) die aflewering daarvan in die Republiek, in die geval van internasionale posstukke wat vir aflewering in die Republiek ingevoer word; of

(b) die uitvoer daarvan uit die Republiek, in die geval van internasionale posstukke wat in die Republiek vir aflewering buite die Republiek gepos word.

Stel van internasionale posstukke tot beskikking van doeanegesag

496. Die Suid-Afrikaanse Poskantoor moet alle internasionale posstukke wat deur die Poskantoor by 'n gelisensieerde internasionale posklaringsdepot hanteer word, uitgesonderd posstukke wat ingevolge artikel 91(1)(i) of 95(1)(j) van klaringsvereistes onthef is, tot beskikking van die doeanegesag by daardie depot stel.

358. Hierdie verkorte klaringsproses geld nie waar die posstuk uitgevoer word ingevolge 'n doeaneprosedure anders as regstreekse uitvoer nie, soos tydelike uitvoer.

Postal declaration to accompany international postal articles presented to customs authority

- 497.** (1) When an international postal article referred to in section 496 is presented to the customs authority, the article must be accompanied by a postal declaration completed by or on behalf of the consignor of the postal article. 5
- (2) A postal declaration in terms of subsection (1) must—
- (a) be on a form as may be prescribed by rule and contain the information required on the form;
 - (b) signed and dated by the declarant; and
 - (c) be supported by such supporting documents as may be prescribed by rule. 10

Customs authority's functions in relation to international postal articles presented to it

- 498.** (1) When international postal articles referred to in section 496 are presented to the customs authority at a licensed international postal clearance depot, a customs officer must promptly— 15
- (a) distinguish between—
 - (i) postal articles that must be cleared in terms of regular clearance requirements referred to in section 493(1) or 494(1) and those that must be cleared in terms of the simplified clearance process referred to in section 493(2) or 494(2); 20
 - (ii) postal articles that are taxable³⁵⁹ and those that are not; and
 - (iii) postal articles that are or contain prohibited, restricted or sectorally controlled goods and other postal articles;
 - (b) notify importers or exporters of postal articles that must be cleared in terms of regular clearance requirements referred to in section 493(1) or 494(1), if not already cleared in terms of those requirements; 25
 - (c) release cleared non-taxable postal articles which are not or do not contain prohibited, restricted or sectorally controlled goods, to the South African Post Office for delivery in the Republic or for export from the Republic, as the case may be; 30
 - (d) deal with prohibited, restricted or sectorally controlled goods in accordance with Chapter 35;
 - (e) assess any import or export tax payable on cleared taxable postal articles in accordance with any applicable tax levying Act;
 - (f) release any cleared tax assessed postal articles to the South African Post Office for— 35
 - (i) collection on behalf of the Commissioner of any assessed import or export tax payable on the articles; and
 - (ii) delivery in the Republic or export from the Republic, as the case may be; 40
 - (g) perform any other tasks as may be prescribed by rule.
- (2) The South African Post Office is in respect of each international postal article that it presents to the customs authority in terms of this section entitled to recover from the addressee or consignor a customs presentation fee prescribed by rule in order to offset the costs incurred by it in performing the service on behalf of the addressee or consignor. 45

Part 4

Payment of import or export tax on international postal articles

Release of international postal articles

- 499.** No international postal article assessed by the customs authority and on which

³⁵⁹. See definition of "taxable" in section 1.

Posdeklarasië moet internasionale posstukke vergesel wat tot doeanegesag se beskikking gestel word

497. (1) Wanneer 'n internasionale posstuk in artikel 496 bedoel tot die doeanegesag se beskikking gestel word, moet die posstuk vergesel wees deur 'n posdeklarasië wat deur of ten behoeve van die versender van die posstuk voltooi is. 5
- (2) 'n Posdeklarasië ingevolge subartikel (1) moet—
- (a) op 'n vorm wees soos by reël voorgeskryf mag word en die inligting bevat wat op die vorm vereis word;
 - (b) deur die verklaarder onderteken en gedateer wees; en
 - (c) gerugsteun word deur die ondersteunende dokumente soos by reël 10 voorgeskryf mag word.

Doeanegesag se funksies met betrekking tot internasionale posstukke tot doeanegesag se beskikking gestel

498. (1) Wanneer internasionale posstukke in artikel 496 bedoel by 'n gelisensieerde internasionale posklaringsdepot tot die doeanegesag se beskikking gestel word, moet 'n doeanebeampte onverwyld— 15
- (a) onderskei tussen—
 - (i) posstukke wat ingevolge gewone klaringsvereistes bedoel in artikel 493(1) of 494(1) geklaar moet word en dié wat ingevolge die verkorte klaringsproses bedoel in artikel 493(2) of 494(2) geklaar moet word; 20
 - (ii) posstukke wat belasbaar is³⁵⁹ en dié wat nie belasbaar is nie; en
 - (ii) posstukke wat verbode, beperkte of sektorbeheerde goedere is of bevat en ander posstukke;
 - (b) invoerders of uitvoerders in kennis stel van posstukke wat ingevolge gewone klaringsvereistes bedoel in artikel 493(1) of 494(1) geklaar moet word, indien hulle nie reeds ingevolge daardie vereistes geklaar is nie; 25
 - (c) geklaarde nie-belasbare posstukke wat nie verbode, beperkte of sektorbeheerde goedere is of bevat nie, aan die Suid-Afrikaanse Poskantoor vrystel vir aflewering in die Republiek of vir uitvoer uit die Republiek, na gelang van die geval; 30
 - (d) met verbode, beperkte of sektorbeheerde goedere volgens voorskrif van Hoofstuk 35 handel;
 - (e) enige invoer- of uitvoerbelasting wat op geklaarde belasbare posstukke betaalbaar is, volgens voorskrif van enige betrokke belastingheffings-Wet bepaal; 35
 - (f) enige geklaarde posstukke waarop belasting bepaal is aan die Suid-Afrikaanse Poskantoor vrystel vir—
 - (i) invordering ten behoeve van die Kommissaris van enige aangeslane invoer- of uitvoerbelasting wat op die posstukke betaalbaar is; en
 - (ii) aflewering in die Republiek of uitvoer uit die Republiek, na gelang van die geval; en 40
 - (g) enige ander take uitvoer soos by reël voorgeskryf mag word.
- (2) Die Suid-Afrikaanse Poskantoor kan ten opsigte van elke internasionale posstuk wat hy ingevolge hierdie artikel tot die doeanegesag se beskikking stel, 'n doeanehanteringsfooi, wat by reël voorgeskryf word, van die geadresseerde of versender verhaal ten einde die koste te dek wat hy in die verrigting van die diens ten behoeve van die geadresseerde of versender aangaan. 45

Deel 4

Betaling van invoer- of uitvoerbelasting op internasionale posstukke

Vrystelling van internasionale posstukke 50

499. Geen internasionale posstuk deur die doeanegesag aangeslaan en waarop enige invoer- of uitvoerbelasting betaalbaar is, mag deur die Suid-Afrikaanse Poskantoor aan

³⁵⁹. Kyk omskrywing van "belasbaar" in artikel 1.

any import or export tax is payable may be delivered to the addressee or exported by the South African Post Office before the tax payable on the postal article has been paid.

Payment of tax on international postal articles

500. (1) Any import tax payable on an international postal article cleared for home use in terms of Chapter 8 or for a customs procedure that renders the goods subject to the payment of import tax in accordance with— 5

- (a) regular clearance requirements referred to in section 493(1), must be paid to the Commissioner by the person responsible in terms of the applicable tax levying Act for payment of the tax; or
- (b) the simplified clearance process provided for in section 493(2), must be paid to the South African Post Office as collecting agent of the Commissioner by the person in the Republic to whom the postal article is addressed. 10

(2) Any export tax payable on an international postal article cleared for a customs procedure that renders the goods subject to the payment of export tax in accordance with— 15

- (a) regular clearance requirements referred to in section 494(1), must be paid to the Commissioner by the person responsible in terms of the applicable tax levying Act for payment of the tax; or
- (b) the simplified clearance process provided for in section 494(2), must be paid to the South African Post Office as collecting agent of the Commissioner by the person in the Republic who consigns the postal article for export through the South African Post Office. 20

(3) The South African Post Office is for purposes of this Act the collecting agent of the Commissioner for import and export tax referred to in subsection (1)(b) and (2)(b).

Time when tax becomes payable and rate of tax 25

501. (1) Import or export tax on an international postal article cleared in accordance with—

- (a) regular clearance requirements referred to in section 493(1) or 494(1), becomes payable and must be paid in accordance with the tax levying Act regulating that tax; or 30
- (b) the simplified clearance process provided for in section 493(2) or 494(2)—
 - (i) becomes payable when the customs authority has assessed the tax on the postal article in terms of section 498; and
 - (ii) must be paid before the postal article is delivered to the consignee or exported, as the case may be, unless provided otherwise in the tax levying Act regulating that tax. 35

(2) The rate at which import or export tax is payable on an international postal article cleared in accordance with—

- (a) regular clearance requirements referred to in section 493(1) or 494(1), is the rate applicable at the time of clearance of the postal article, unless provided otherwise in the tax levying Act regulating that tax; or 40
- (b) the simplified clearance process provided for in section 493(2) or 494(2), is the rate applicable at the time of the assessment, unless provided otherwise in the tax levying Act regulating that tax.³⁶⁰

Payment of tax to customs authority 45

502. (1) The South African Post Office must—

- (a) on a daily basis pay over to the Commissioner the import or export tax that it collected the previous day; or
- (b) if an agreement referred to in subsection (2) has been entered into between the Commissioner and the South African Post Office, pay over to the Commissioner the tax that it collected at regular intervals as agreed. 50

³⁶⁰. See for instance section 81 of the Customs Duty Act.

die geadresseerde afgelewer word of uitgevoer word alvorens die belasting betaalbaar op die posstuk betaal is nie.

Betaling van belasting op internasionale posstukke

500. (1) Enige invoerbelasting wat op 'n internasionale posstuk betaalbaar is wat hetsy vir binnelandse gebruik ingevolge Hoofstuk 8 of vir 'n doeaneprosedure wat die goedere aan die betaling van invoerbelasting onderworpe stel, geklaar word ooreenkomstig— 5

(a) gewone klaringsvereistes bedoel in artikel 493(1), moet aan die Kommissaris betaal word deur die persoon wat ingevolge die betrokke belastingheffings-Wet vir die betaling van die belasting verantwoordelik is; of 10

(b) die verkorte klaringsproses in artikel 493(2) voorgeskryf, moet aan die Suid-Afrikaanse Poskantoor as invorderingsagent van die Kommissaris betaal word deur die persoon in die Republiek aan wie die posstuk geadresseer is.

(2) Enige uitvoerbelasting wat op 'n internasionale posstuk betaalbaar is wat vir 'n doeaneprosedure wat die goedere aan die betaling van uitvoerbelasting onderworpe stel, geklaar word ooreenkomstig— 15

(a) gewone klaringsvereistes in artikel 494(1) bedoel, moet aan die Kommissaris betaal word deur die persoon wat ingevolge die betrokke belastingheffings-Wet vir die betaling van die belasting verantwoordelik is; of

(b) die verkorte klaringsproses in artikel 494(2) voorgeskryf, moet aan die Suid-Afrikaanse Poskantoor as invorderingsagent van die Kommissaris betaal word deur die persoon in die Republiek wat die posstuk vir uitvoer deur die Suid-Afrikaanse Poskantoor versend. 20

(3) Die Suid-Afrikaanse Poskantoor is vir doeleindes van hierdie Wet die invorderingsagent van die Kommissaris vir invoer- en uitvoerbelasting in subartikel (1)(b) en (2)(b) bedoel. 25

Tydstip waarop belasting betaalbaar word en skaal van belasting

501. (1) Invoer- of uitvoerbelasting op 'n internasionale posstuk wat geklaar word ooreenkomstig—

(a) gewone klaringsvereistes bedoel in artikel 493(1) of 494(1), word betaalbaar en moet betaal word ooreenkomstig die belastingheffings-Wet wat daardie belasting reguleer; of 30

(b) die verkorte klaringsproses in artikel 493(2) of 494(2) voorgeskryf—

(i) word betaalbaar wanneer die doeanegesag die belasting op die posstuk ingevolge artikel 498 bepaal; en 35

(ii) moet betaal word voordat die posstuk aan die geadresseerde afgelewer word of uitgevoer word, na gelang van die geval, tensy daar anders in die belastingheffings-Wet bepaal word wat daardie belasting reguleer.

(2) Die skaal waarteen invoer- of uitvoerbelasting op 'n internasionale posstuk betaalbaar is wat geklaar word ooreenkomstig— 40

(a) gewone klaringsvereistes in artikel 493(1) of 494(1) bedoel, is die skaal wat op die tydstip van klaring van die posstuk van toepassing is, tensy daar anders in die belastingheffings-Wet bepaal word wat daardie belasting reguleer; of

(b) die verkorte klaringsproses in artikel 493(2) of 494(2) voorgeskryf, is die skaal wat op die tydstip van die aanslag van toepassing is, tensy daar anders in die belastingheffings-Wet bepaal word wat daardie belasting reguleer.³⁶⁰ 45

Betaling van belasting aan doeanegesag

502. (1) Die Suid-Afrikaanse Poskantoor moet—

(a) op 'n daaglikse basis die invoer- of uitvoerbelasting wat hy die vorige dag ingevorder het aan die Kommissaris oorbetal; of 50

(b) indien 'n ooreenkoms bedoel in subartikel (2) tussen die Kommissaris en die Suid-Afrikaanse Poskantoor aangegaan is, die belasting wat hy ingevorder het aan die Kommissaris in gereelde tussenposes soos ooreengekom, oorbetal.

³⁶⁰ Kyk byvoorbeeld artikel 81 van die Wet op Doeanereg.

(2) The Commissioner may enter into a written agreement with the South African Post Office on—

- (a) the collection by the South African Post Office of tax payable on international postal articles;
- (b) the payment of the tax that it collected to the Commissioner at such regular intervals as may be agreed; and 5
- (c) the manner in, and the intervals at, which the South African Post Office must report to the Commissioner on tax collected by it on international postal articles.

Cancellation and repayment of tax 10

503. (1) The Commissioner may, at the request of the South African Post Office and subject to such conditions as the Commissioner may determine, cancel any import or export tax payable on an international postal article, or repay to the South African Post Office any import or export tax already paid by it to the Commissioner on an international postal article, if the postal article, whilst under the control of the South African Post Office, was— 15

- (a) destroyed;
- (b) abandoned;
- (c) not collected;
- (d) refused by the addressee; 20
- (e) not delivered to the addressee;
- (f) returned to the sender;
- (g) re-directed to a third country; or
- (h) not exported from the Republic.

(2) Postal articles referred to in subsection (1)(b), (c) or (d) must be dealt with in accordance with the Postal Services Act, 1998 (Act No. 124 of 1998). 25

(3) Chapter 4 of the Customs Duty Act does not apply to the repayment of duty to the South African Post Office in terms of subsection (1).

Condonation of underpayment

504. The Commissioner may condone any underpayment of import or export tax on an international postal article if the amount of the underpayment is less than R50. 30

Part 5

Inspection of international postal articles

Enforcement to be consistent with this Part

505. When performing an enforcement function in relation to international postal articles a customs officer must perform that function in a manner consistent with this Part. 35

Opening of international postal articles

506. A customs officer may open an international postal article only if necessary— 40

- (a) to retrieve any invoice or consignment-related information contained inside the postal article;
- (b) to compare the contents of the postal article with the description, quantity, tariff heading, value, origin and any other information reflected on the postal declaration made in respect of the postal article in terms of section 497;
- (c) to assess— 45
 - (i) whether the postal article is subject to the payment of any import or export tax; or
 - (ii) the amount of any tax payable on the postal article;
- (d) to determine whether the postal article is or contains prohibited, restricted or sectorally controlled goods; or 50

- (2) Die Kommissaris kan 'n skriftelike ooreenkoms met die Suid-Afrikaanse Poskantoor aangaan betreffende—
- (a) die invordering deur die Suid-Afrikaanse Poskantoor van belasting wat op internasionale posstukke betaalbaar is;
 - (b) die betaling aan die Kommissaris van die belasting deur hom ingevorder in gereelde tussenposes soos ooreengekom mag word; en 5
 - (c) die wyse en die tussenposes waarop die Suid-Afrikaanse Poskantoor aan die Kommissaris verslag moet doen oor die belasting wat deur hom op internasionale posstukke ingevorder is.

Kansellasië en terugbetaling van belasting 10

503. (1) Die Kommissaris kan, op versoek van die Suid-Afrikaanse Poskantoor en onderworpe aan die voorwaardes soos die Kommissaris mag bepaal, enige invoer- of uitvoerbelasting kanselleer wat op 'n internasionale posstuk betaalbaar is, of aan die Suid-Afrikaanse Poskantoor enige invoer- of uitvoerbelasting op 'n internasionale posstuk terugbetaal wat reeds deur die Poskantoor aan die Kommissaris betaal is, indien die posstuk, terwyl dit onder die beheer van die Suid-Afrikaanse Poskantoor was—

- (a) vernietig geraak het;
- (b) geabandonneer is;
- (c) nie afgehaal is nie;
- (d) deur die geadresseerde geweier is; 20
- (e) nie aan die geadresseerde afgelewer is nie;
- (f) na die versender teruggestuur is;
- (g) na 'n derde land herdestineer is; of
- (h) nie uit die Republiek uitgevoer is nie.

(2) Met posstukke bedoel in subartikel (1)(b), (c) of (d) moet daar ooreenkomstig die Posdienswet, 1998 (Wet No. 124 van 1998), gehandel word. 25

(3) Hoofstuk 4 van die Wet op Doeanereg is nie op die terugbetaling van reg aan die Suid-Afrikaanse Poskantoor ingevolge subartikel (1) van toepassing nie.

Kondonering van kort-betaling

504. Die Kommissaris kan enige kort-betaling van invoer- of uitvoerbelasting op 'n internasionale posstuk kondoneer indien die bedrag van die kort-betaling minder as R50 is. 30

Deel 5

Inspeksie van internasionale posstukke

Toepassing moet met hierdie Deel bestaanbaar wees 35

505. Wanneer 'n doeanebeampte 'n toepassingsfunksie met betrekking tot internasionale posstukke verrig, moet die beampte daardie funksie verrig op 'n wyse wat met hierdie Deel bestaanbaar is.

Oopmaak van internasionale posstukke

506. 'n Doeaneebeampte mag 'n internasionale posstuk oopmaak slegs indien dit nodig is— 40

- (a) om enige faktuur of versendingsverwante inligting in die posstuk te bekom;
- (b) om die inhoud van die posstuk te vergelyk met die beskrywing, hoeveelheid, tariefhoof, waarde, oorsprong en enige ander inligting wat op die posdeklarasië aangetoon word wat ingevolge artikel 497 ten opsigte van die posstuk gemaak is; 45
- (c) ten einde—
 - (i) te bepaal of die posstuk aan die betaling van enige invoer- of uitvoerbelasting onderworpe is; of
 - (ii) die bedrag van enige belasting te bepaal wat op die posstuk betaalbaar is; 50
- (d) om te bepaal of die posstuk verbode, beperkte of sektorbeheerde goedere is of bevat; of

- (e) to carry out any other enforcement function provided for in this Act.

Personal or private communications

507. (1) No customs officer may—

- (a) open any international postal article that weighs 30 grams or less, unless the customs officer on reasonable grounds suspects that the postal article contains prohibited, restricted or sectorally controlled goods; 5
- (b) read, copy or make an extract from any personal or private communication found in any international postal article opened in terms of section 506 if reading, copying or making an extract from that communication is not necessary for the enforcement of this Act or a tax levying Act; or 10
- (c) disclose any personal or private communication found in any international postal article opened in terms of section 506 otherwise than for a purpose permitted in terms of Part 5 of Chapter 1.

(2) For the purpose of this section a personal or private communication does not include— 15

- (a) an invoice;
- (b) an order form;
- (c) a cheque;
- (d) a newspaper, magazine, book, catalogue or similar printed matter;
- (e) a blank form; or 20
- (f) any other communication as may be prescribed by rule.

Notification that international postal articles have been opened

508. (1) When opening an international postal article a customs officer must affix a notification to the postal article informing the addressee that the postal article has been opened and inspected by a customs officer. 25

(2) An opening notification must contain the information and be affixed in a manner as may be prescribed by rule.

(3) The customs authority may dispense with subsection (1) if disclosure of the fact that an international postal article has been opened may obstruct the investigation of serious crime. 30

Seizure and confiscation of international postal articles

509. (1) An international postal article is subject to seizure and confiscation by the customs authority in terms of Chapter 34 if that postal article or its contents is found to be not in accordance with—

- (a) the clearance declaration submitted in respect of that postal article; or 35
- (b) the postal declaration accompanying that postal article in terms of section 497.

(2) Subsection (1) does not apply to closed international postal articles conveyed by or for the South African Post Office under an international consignment document for purposes of international transit.³⁶¹

Part 6 40

Other matters

Conclusion of agreements

510. The Commissioner may conclude any agreement with the South African Post Office in order to—

- (a) improve the ability of each party to fully execute their respective functions; 45
- (b) enhance the level of co-operation between the parties;

³⁶¹. See section 203.

- (e) om enige ander toepassingsfunksie te verrig waarvoor daar in hierdie Wet voorsiening gemaak word.

Persoonlike of private kommunikasies

507. (1) Geen doeanebeampte mag—

- (a) enige internasionale posstuk wat 30 gram of minder weeg, oopmaak nie, tensy die doeanebeampte op redelike gronde vermoed dat die posstuk verbode, beperkte of sektorbeheerde goedere bevat; 5
- (b) enige persoonlike of private kommunikasie wat gevind word in enige internasionale posstuk wat ingevolge artikel 506 oopgemaak word, lees, kopiëer of enige uittreksel daaruit maak nie indien die lees, kopiëring of maak van 'n uittreksel daarvan nie vir die toepassing van hierdie Wet of 'n belastingheffings-Wet nodig is nie; of 10
- (c) enige persoonlike of private kommunikasie in enige internasionale posstuk gevind wat ingevolge artikel 506 oopgemaak is aan iemand anders bekend maak anders as vir 'n doel wat ingevolge Deel 5 van Hoofstuk 1 veroorloof word nie. 15

(2) Vir doeleindes van hierdie artikel sluit 'n persoonlike of private kommunikasie nie die volgende in nie:

- (a) 'n Faktuur; 20
- (b) 'n bestelvorm; 20
- (c) 'n tjek;
- (d) 'n koerant, tydskrif, boek, katalogus of derglike gedrukte materiaal;
- (e) 'n blanko vorm; of
- (f) enige ander kommunikasie soos by reël voorgeskryf mag word.

Kennisgewing dat internasionale posstukke oopgemaak is 25

508. (1) Wanneer 'n doeanebeampte 'n internasionale posstuk oopmaak, moet die beampte 'n kennisgewing aan die posstuk heg om die geadresseerde in te lig dat die posstuk deur 'n doeanebeampte oopgemaak en geïnspekteer is.

(2) 'n Kennisgewing dat 'n posstuk oopgemaak is, moet die inligting bevat en op 'n wyse aangeheg word soos by reël voorgeskryf mag word. 30

(3) Die doeanebesag is nie aan subartikel (1) gebonde nie indien bekendmaking van die feit dat 'n internasionale posstuk oopgemaak is die ondersoek van 'n ernstige misdryf mag belemmer.

Beslaglegging op en konfiskering van internasionale posstukke

509. (1) 'n Internasionale posstuk is onderhewig aan beslaglegging en konfiskering deur die doeanebesag ingevolge Hoofstuk 34 indien daar gevind word dat daardie posstuk of die inhoud daarvan nie ooreenkom met— 35

- (a) die klaringsbrief wat ten opsigte van daardie posstuk ingedien is nie; of
- (b) die posdeklarasie wat daardie posstuk ingevolge artikel 497 vergesel nie.

(2) Subartikel (1) geld nie vir geseëde internasionale posstukke wat deur of vir die Suid-Afrikaanse Poskantoor vervoer word onder 'n internasionale versendingsdokument vir doeleindes van internasionale transito nie.³⁶¹ 40

Deel 6

Ander aangeleenthede

Sluit van ooreenkomste 45

510. Die Kommissaris kan enige ooreenkoms met die Suid-Afrikaanse Poskantoor aangaan ten einde—

- (a) die kapasiteit van elke party te verbeter om hulle onderskeie funksies ten volle te verrig;
- (b) die vlak van samewerking tussen die partye te verstewig; 50

³⁶¹. Kyk artikel 203.

- (c) secure and expedite the clearance and release of international postal articles;
- (d) enhance security relating to international postal articles and the detection of prohibited, restricted and sectorally controlled goods;
- (e) facilitate the exchange of information between the SARS and the South African Post Office and the use of information technology with regard to the clearance and release of international postal articles; and 5
- (f) provide for any other matters that may be required in order to control the movement of goods by international post.

Rules to facilitate implementation of this Chapter

- 511.** Rules made in terms of section 903 to facilitate the implementation of this Chapter may include rules prescribing— 10
- (a) procedures for customs processing of international postal articles at licensed international postal clearance depots;
 - (b) measures for— 15
 - (i) combating tax evasion in relation to goods sent by post;
 - (ii) the detection of prohibited, restricted and sectorally controlled goods sent by post; and
 - (c) matters relating to the removal of international postal articles to a state warehouse or other premises referred to in section 580(1) or the retention of such postal articles at such premises. 20

CHAPTER 23

ACCESS TO AND SAMPLING OF GOODS³⁶²

Purpose of this Chapter

- 512.** (1) The purpose of this Chapter is to provide for persons having an interest in goods that are subject to customs control to access and to take samples of and perform other actions in relation to the goods. 25
- (2) This Chapter may not be read as affecting—
- (a) the enforcement functions of customs officers in terms of this Act;
 - (b) the powers of any law enforcement agency or other persons accessing or taking samples of or performing other actions in relation to goods in terms of any legislation for the purpose of enforcing that legislation; or 30
 - (c) a provision of a tax levying Act providing for the accessing of goods or the taking of samples of goods by persons having an interest in the goods.

Right of access to and taking samples from goods

- 513.** (1) Whilst goods are subject to customs control, a person who clears or who is entitled to clear the goods, or a person who acts on behalf of such a person, may with the approval of the customs authority access the goods and— 35
- (a) take samples of the goods; or
 - (b) perform any other action in relation to the goods as may be permitted by rule.
- (2) Samples may in terms of subsection (1) be taken— 40
- (a) for establishing or verifying—
 - (i) the nature or characteristics of the goods;
 - (ii) the quality or content of the goods;
 - (iii) the tariff classification, customs value or origin of the goods; or
 - (iv) any other fact in relation to the goods as may be prescribed by rule; 45

³⁶². See section 724 for sampling of goods by Customs, whether or not as part of an inspection.

- (c) die klaring en vrystelling van internasionale posstukke te beveilig en te versnel;
- (d) sekuriteit met betrekking tot internasionale posstukke en die opsporing van verbode, beperkte en sektorbeheerde goedere te verstewig;
- (e) die uitruil van inligting tussen SAID en die Suid-Afrikaanse Poskantoor en die gebruik van inligtingstegnologie met betrekking tot die klaring en vrystelling van internasionale posstukke te fasiliteer; en 5
- (f) voorsiening te maak vir enige ander aangeleenthede wat nodig mag wees ten einde die beweging van goedere deur middel van internasionale pos te beheer.

Reëls ter fasilitering van implementering van hierdie Hoofstuk 10

511. Reëls ingevolge artikel 903 uitgevaardig om die implementering van hierdie Hoofstuk te fasiliteer, kan reëls insluit wat die volgende voorskryf:

- (a) Prosedures vir die doeaneprosessering van internasionale posstukke by gelisensieerde internasionale posklaringsdepots;
- (b) maatreëls— 15
 - (i) ter bekamping van belastingontduiking met betrekking tot goedere wat per pos versend word;
 - (ii) vir die opsporing van verbode, beperkte en sektorbeheerde goedere wat per pos versend word; en
- (c) aangeleenthede voorskryf betreffende die verwydering van internasionale posstukke na 'n staatspakhuis of ander persele in artikel 580(1) bedoel of die hou van sulke posstukke by sodanige persele. 20

HOOFSTUK 23

TOEGANG TOT EN NEEM VAN MONSTERS VAN GOEDERE³⁶²

Doel van hierdie Hoofstuk 25

512. (1) Die doel van hierdie Hoofstuk is om voorsiening te maak vir persone met 'n belang in goedere wat aan doeanebeheer onderworpe is, om toegang te verkry tot en monsters te neem van en ander handeling te verrig met betrekking tot die goedere.

- (2) Hierdie Hoofstuk mag nie uitgelê word op 'n wyse wat afbreuk doen aan—
 - (a) die toepassingsfunksies van doeanebeamptes ingevolge hierdie Wet nie; 30
 - (b) die bevoegdhede van enige wetstoepassingsinstelling of ander persone wat ingevolge enige wetgewing vir doeleindes van die toepassing van daardie wetgewing toegang verkry tot of monsters neem van of ander handeling verrig met betrekking tot goedere nie; of
 - (c) 'n bepaling van 'n belastingheffings-Wet wat voorsiening maak vir die toegang tot goedere of die neem van monsters van goedere deur persone wat 'n belang in die goedere het nie. 35

Reg van toegang tot en neem van monsters van goedere

513. (1) Terwyl goedere aan doeanebeheer onderworpe is, kan 'n persoon wat die goedere klaar of geregtig is om die goedere te klaar, of 'n persoon wat ten behoeve van so 'n persoon handel, met die goedkeuring van die doeanegesag toegang tot goedere verkry en— 40

- (a) monsters van die goedere neem; of
 - (b) enige ander handeling met betrekking tot die goedere verrig soos by reël veroorloof mag word. 45
- (2) Monsters kan ingevolge subartikel (1) geneem word—
- (a) om die volgende te bepaal of te verifieer:
 - (i) Die aard of eienskappe van die goedere;
 - (ii) die kwaliteit of inhoud van die goedere;
 - (iii) die tariefindeling, doeanewaarde of oorsprong van die goedere; of 50
 - (iv) enige ander feit met betrekking tot die goedere soos by reël voorgeskryf mag word;

³⁶². Kyk artikel 724 vir die neem van monsters van goedere deur Doeane, hetsy as deel van 'n inspeksie of nie.

- (b) for use as—
 - (i) evidence in a court or other proceedings referred to in Chapter 37; or
 - (ii) trade samples; or
- (c) for any other purpose as may be—
 - (i) prescribed by rule; or 5
 - (ii) approved by the customs authority in a specific case.
- (3) Samples taken in terms of subsection (1) may be—
 - (a) examined, analysed or tested in any way;
 - (b) subjected to a chemical, mechanical or technological process;
 - (c) used for obtaining advice, including expert or technical advice, on the goods 10 as reflected by the samples or a matter relating to the goods; or
 - (d) utilised in any other way necessary for achieving any of the purposes of subsection (2).
- (4) Samples may be taken from goods in terms of subsection (1) without formally clearing the samples for home use or a customs procedure, subject to section 514 or 515. 15
- (5) Access to, sampling of or other action in relation to goods in terms of subsection (1) must take place under supervision of a customs officer, if the customs authority so requires.³⁶³

Samples of imported goods

- 514.** (1) Samples taken in terms of section 513 of imported goods before the goods are cleared for home use or a customs procedure in terms of section 89 must, if the goods are subsequently cleared for—
- (a) home use under Chapter 8, be included in the quantity cleared for home use; or
 - (b) a customs procedure, for tax and all other purposes be regarded to be cleared 25 for home use under Chapter 8.³⁶⁴
- (2) (a) Samples taken in terms of section 513 of imported goods—
 - (i) already cleared for home use, do not affect the amount of any tax paid or payable on the goods; or
 - (ii) already under a customs procedure, must for tax and all other purposes be 30 regarded to be cleared for home use under Chapter 8.
- (b) The person who cleared the goods for a customs procedure referred to in paragraph (a)(ii) must in terms of section 174 amend the clearance declaration to exclude the samples from the declaration.
- (3) Subsections (1) and (2) do not apply to samples temporarily removed and such samples must for all purposes be regarded to remain part of the goods from which they were taken. 35

Samples of goods in free circulation cleared for export under export procedure

- 515.** (1) Samples taken in terms of section 513 of goods that are cleared for export under the export procedure must for tax purposes and all other purposes be regarded to have reverted to free circulation³⁶⁵ if—
- (a) those goods were in free circulation before being cleared for export; and
 - (b) those samples are taken of the goods before being exported from the Republic.
- (2) The person who cleared the goods for export must in terms of section 174 amend the clearance declaration to exclude the samples from the declaration. 45
- (3) Subsection (1) do not apply to samples temporarily removed and such samples must for all purposes be regarded to remain part of the goods from which they were taken.

363. For access to goods by interested persons during customs inspection, see section 758.

364. For tax status of samples taken from imported goods, see section 155.

365. If samples are in terms of section 515(1) regarded as having reverted to free circulation section 161 becomes applicable to those samples.

- (b) vir gebruik as—
 - (i) getuienis in 'n hof of ander verrigtinge in Hoofstuk 37 bedoel; of
 - (ii) handelsmonsters; of
- (c) vir enige ander doel soos—
 - (i) by reël voorgeskryf mag word; of 5
 - (ii) deur die doeanebeslag in 'n bepaalde geval goedgekeur mag word.
- (3) Monsters ingevolge subartikel (1) geneem, kan—
 - (a) op enige wyse ondersoek, geanaliseer of getoets word;
 - (b) aan 'n chemiese, meganiese of tegnologiese proses onderwerp word;
 - (c) gebruik word om advies te bekom, met inbegrip van deskundige of tegniese 10
advies, oor die goedere soos deur die monsters aangetoon of 'n aangeleentheid
betreffende die goedere; of
 - (d) op enige ander wyse gebruik word wat nodig is om enige van die doeleindes
in subartikel (2) te verwesenlik.
- (4) Monsters kan ingevolge subartikel (1) van goedere geneem word sonder om die 15
monsters formeel vir binnelandse gebruik of 'n doeane-prosedure te klaar, behoudens
artikel 514 of 515.
- (5) Toegang tot, die neem van monsters van, of ander handeling met betrekking tot
goedere ingevolge subartikel (1), moet onder toesig van 'n doeanebeampte plaasvind,
indien die doeanebeslag dit vereis.³⁶³ 20

Monsters van ingevoerde goedere

- 514.** (1) Monsters wat ingevolge artikel 513 van ingevoerde goedere geneem word
voordat die goedere ingevolge artikel 89 vir binnelandse gebruik of 'n doeane-prosedure
geklaar word, moet, indien die goedere daarna—
- (a) kragtens Hoofstuk 8 vir binnelandse gebruik geklaar word, ingesluit word by 25
die hoeveelheid wat vir binnelandse gebruik geklaar word; of
 - (b) vir 'n doeane-prosedure geklaar word, vir belasting- en alle ander doeleindes
geag word vir binnelandse gebruik kragtens Hoofstuk 8 geklaar te wees.³⁶⁴
- (2) (a) Monsters ingevolge artikel 513 van ingevoerde goedere geneem—
- (i) wat reeds vir binnelandse gebruik geklaar is, raak nie die bedrag van 30
enige belasting wat op die goedere betaal of betaalbaar is nie; of
 - (ii) wat reeds onder 'n doeane-prosedure is, moet vir belasting- en alle ander
doeleindes geag word vir binnelandse gebruik kragtens Hoofstuk 8
geklaar te wees.
- (b) Die persoon wat die goedere vir 'n doeane-prosedure bedoel in paragraaf (a)(ii) 35
geklaar het, moet die klaringsbrief ingevolge artikel 174 wysig om die monsters van die
klaringsbrief uit te sluit.
- (3) Subartikels (1) en (2) geld nie vir monsters tydelik verwyder nie en sodanige
monsters moet vir alle doeleindes geag word deel te bly van die goedere waarvan dit
geneem is. 40

Monsters van goedere in vry sirkulasie geklaar vir uitvoer onder uitvoer-prosedure

- 515.** (1) Monsters ingevolge artikel 513 geneem van goedere wat vir uitvoer onder die
uitvoer-prosedure geklaar is, moet vir belastingdoeleindes en alle ander doeleindes geag
word tot vry sirkulasie³⁶⁵ terug te geval het indien—
- (a) daardie goedere in vry sirkulasie was voordat dit vir uitvoer geklaar is; en 45
 - (b) daardie monsters van die goedere geneem word voordat dit uit die Republiek
uitgevoer word.
- (2) Die persoon wat die goedere vir uitvoer geklaar het, moet die klaringsbrief
ingevolge artikel 174 wysig om die monsters van die klaringsbrief te uit te sluit.
- (3) Subartikel (1) geld nie vir monsters wat tydelik verwyder word nie en sodanige 50
monsters moet vir alle doeleindes geag word deel te bly van die goedere waarvan dit
geneem is.

363. Vir toegang tot goedere deur belanghebbende persone gedurende doeane-inspeksie, kyk artikel 758.

364. Vir belastingstatus van monsters van ingevoerde goedere geneem, kyk artikel 155.

365. Indien monsters ingevolge artikel 515(1) geag word tot vry sirkulasie terug te geval het, word artikel
161 op daardie monsters van toepassing.

Rules to facilitate implementation of this Chapter

516. Rules made in terms of section 903 to facilitate the implementation of this Chapter may include rules prescribing—

- (a) processes and requirements for gaining access to and taking samples from goods; and
- (b) customs supervision over persons when accessing and taking samples from goods.

5

Offences in terms of this Chapter

517. (1) A person referred to in section 513(1) is guilty of an offence if that person takes samples of any goods otherwise than in accordance with this Chapter.

10

(2) A person, other than a person entitled in terms of section 513(1) to take samples of goods, is guilty of an offence if that person takes samples of any goods to which this Chapter applies.

CHAPTER 24

EXPEDITED CLEARANCE AND RELEASE OF GOODS³⁶⁶

15

Purpose of this Chapter

518. The purpose of this Chapter is to provide for—

- (a) the clearance and release of goods for home use or a permissible customs procedure on submission of incomplete or provisional clearance information;
- (b) the release of goods for home use or a permissible customs procedure subject to subsequent clearance; and
- (c) the clearance and release of goods for home use or a permissible customs procedure in accordance with simplified clearance requirements.

20

Other clearance and release provisions to apply except insofar as provided otherwise in this Chapter

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519. (1) The other provisions of this Act applicable to the clearance and release of goods for home use or a customs procedure apply to the clearance and release of goods for home use or such customs procedure in terms of this Chapter except to the extent that those other provisions are modified, qualified or deviated from in this Chapter.

(2) In the event of any inconsistency between a provision of this Chapter and another provision of this Act, the provision of this Chapter prevails.

30

Tax status of goods not affected when cleared in terms of this Chapter

520. The clearance of goods in terms of this Chapter for home use or a customs procedure does not affect the tax status of the goods had the goods been cleared for home use or that customs procedure in terms of regular clearance requirements.

35

Part 1

Clearance and release of goods on incomplete or provisional clearance information

Goods to which this Part may be applied

521. Any goods may, subject section 538(a), be cleared and released for home use or a customs procedure in terms of this Part.

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³⁶⁶ Expedited procedures for accredited persons dealt with in rules under Chapter 30. The use of specific commercial documents and carnets as clearance declarations covered in Chapters on customs procedures where they are permissible.

Reëls ter fasilitering van implementering van hierdie Hoofstuk

516. Reëls ingevolge artikel 903 uitgevaardig om die implementering van hierdie Hoofstuk te fasiliteer, kan reëls insluit wat—

- (a) prosesse en vereistes voorskryf om toegang te verkry tot en monsters te neem van goedere; en 5
- (b) doeanetoesig voorskryf oor persone wat toegang verkry tot en monsters neem van goedere.

Misdrywe ingevolge hierdie Hoofstuk

517. (1) 'n Persoon bedoel in artikel 513(1) is aan 'n misdryf skuldig indien daardie persoon monsters van enige goedere anders as volgens voorskrif van hierdie Hoofstuk neem. 10

(2) 'n Persoon, anders as 'n persoon wat ingevolge artikel 513(1) geregtig is om monsters van goedere te neem, is aan 'n misdryf skuldig indien daardie persoon monsters neem van enige goedere waarop hierdie Hoofstuk van toepassing is.

HOOFSTUK 24 15

VERSNELDE KLARING EN VRYSTELLING VAN GOEDERE³⁶⁶

Doel van hierdie Hoofstuk

518. Die doel van hierdie Hoofstuk is om voorsiening te maak vir—

- (a) die klaring en vrystelling van goedere vir binnelandse gebruik of 'n toelaatbare doeaneprosedure deur die indiening van onvolledige of voorlopige klaringsinligting; 20
- (b) die vrystelling van goedere vir binnelandse gebruik of 'n toelaatbare doeaneprosedure behoudens latere klaring; en
- (c) die klaring en vrystelling van goedere vir binnelandse gebruik of 'n toelaatbare doeaneprosedure ooreenkomstig verkorte klaringsvereistes. 25

Ander klarings- en vrystellingsbepalings van toepassing behalwe in soverre anders in hierdie Hoofstuk bepaal

519. (1) Die ander bepalings van hierdie Wet wat van toepassing is op die klaring en vrystelling van goedere vir binnelandse gebruik of 'n doeaneprosedure is van toepassing op die klaring en vrystelling van goedere vir binnelandse gebruik of so 'n doeaneprosedure ingevolge hierdie Hoofstuk, behalwe in soverre daardie ander bepalings in hierdie Hoofstuk aangepas, gekwalifiseer of van afgewyk word. 30

(2) In die geval van enige teenstrydigheid tussen 'n bepaling van hierdie Hoofstuk en 'n ander bepaling van hierdie Wet, geniet die bepaling van hierdie Hoofstuk voorrang.

Belastingstatus van goedere nie geraak wanneer ingevolge hierdie Hoofstuk geklaar 35

520. Die klaring van goedere vir binnelandse gebruik of 'n doeaneprosedure ingevolge hierdie Hoofstuk raak nie die belastingstatus van die goedere sou die goedere vir binnelandse gebruik of daardie doeaneprosedure ingevolge gewone klaringsvereistes geklaar gewees het nie. 40

Deel 1

Klaring en vrystelling van goedere op onvolledige of voorlopige klaringsinligting

Goedere waarop hierdie Deel toegepas kan word

521. Enige goedere kan, behoudens artikel 538(a), ingevolge hierdie Deel vir binnelandse gebruik of 'n doeaneprosedure geklaar en vrygestel word. 45

³⁶⁶ Versnelde prosedures vir geakkrediteerde persone word in reëls kragtens Hoofstuk 30 behandel. Die gebruik van spesifieke handelsdokumente en carnets as klaringsbriewe word gedek in die Hoofstukke oor doeaneprosedures waar hulle toelaatbaar is.

Application to clear and obtain release of goods on incomplete or provisional clearance information

- 522.** (1) The customs authority may, on application by a person entitled to submit a clearance declaration to clear goods for home use or a specific customs procedure³⁶⁷ and who does not have all the information or documents at hand to submit a regular clearance declaration for the clearance of the goods, allow that person— 5
- (a) to clear the goods for home use or that customs procedure in terms of an incomplete or provisional clearance declaration; and
 - (b) to obtain release of the goods on acceptance by the customs authority of the incomplete or provisional clearance declaration. 10
- (2) An application in terms of subsection (1)—
- (a) may be in respect of—
 - (i) a specific parcel, container or consignment of goods; or
 - (ii) a specific class or kind or other category of goods to be cleared by the relevant person during a specific period;³⁶⁸ and 15
 - (b) must be submitted to the customs authority in accordance with requirements and within a timeframe as may be prescribed by rule read with sections 908 and 909: Provided that —
 - (i) submission of an incomplete or provisional clearance declaration within the timeframe applicable to that declaration³⁶⁹ covering a specific parcel, container or consignment of goods without first obtaining the customs authority's permission in terms of subsection (1) to clear the goods in terms of an incomplete or provisional clearance declaration, may be regarded to be an application referred to in that subsection; and 20
 - (ii) release by the customs authority of such specific parcel, container or consignment of goods on authority of the incomplete or provisional declaration may be regarded to be an approval of the application. 25
- (3) Approval of an application in terms of subsection (1) is subject to such conditions as may be prescribed by rule or as the customs authority may determine in a specific case, which may include conditions— 30
- (a) requiring security to cover any risks in relation to tax payable or that may become payable on the goods; and
 - (b) determining special requirements for securing the handling, movement, storage or use of the goods until full and final clearance of the goods in terms of section 526. 35
- (4) The customs authority may refuse an application in terms of subsection (1)—
- (a) if approving the application may put the payment or collection of tax or compliance with an applicable provision of this Act or a tax levying Act at risk; or
 - (b) on any other good ground. 40

Contents of incomplete clearance declarations

- 523.** (1) Except when the customs authority determines otherwise, an incomplete clearance declaration must at least state—
- (a) whether the goods are cleared for home use or a customs procedure, and if for a customs procedure, the desired customs procedure; 45
 - (b) in the case of goods already under a customs procedure,³⁷⁰ the reference number of the clearance declaration for that customs procedure;
 - (c) in the case of imported goods (other than goods imported under a customs procedure), the date of actual or expected arrival of the goods, as may be applicable, at a place referred to in section 90; 50
 - (d) the tariff classification of the goods;

367. See section 165.

368. For instance goods containerised at a container depot or bulk goods in consecutive consignments.

369. The applicable timeframe is the period as stated in section 90 or 94, or as extended or shortened in terms of section 908 or 909.

370. See section 110.

Aansoek om goedere te klaar en vrystelling te bekom op onvolledige of voorlopige klaringsinligting

- 522.** (1) Die doeanegesag kan, op aansoek deur 'n persoon wat geregtig is om 'n klaringsbrief vir die klaring van goedere vir binnelandse gebruik of 'n spesifieke doeaneprosedure in te dien³⁶⁷ en wat nie al die inligting of dokumente ter hand het om 'n gewone klaringsbrief vir die klaring van die goedere in te dien nie, daardie persoon toelaat—
- (a) om die goedere vir binnelandse gebruik of daardie doeaneprosedure ingevolge 'n onvolledige of voorlopige klaringsbrief te klaar; en
 - (b) om by aanvaarding deur die doeanegesag van die onvolledige of voorlopige klaringsbrief vrystelling van die goedere te bekom.
- (2) 'n Aansoek ingevolge subartikel (1)—
- (a) kan gedoen word ten opsigte van—
 - (i) 'n spesifieke pakket, houër of besending goedere; of
 - (ii) 'n spesifieke klas of soort of ander kategorie goedere wat deur die betrokke persoon gedurende 'n spesifieke tydperk geklaar sal word;³⁶⁸ en
 - (b) moet by die doeanegesag ingedien word ooreenkomstig vereistes en binne a tydperk soos by reël, saamgelees met artikels 908 en 909, voorgeskryf mag word: Met dien verstande dat—
 - (i) die indiening van 'n onvolledige of voorlopige klaringsbrief binne die tydsraam wat vir daardie klaringsbrief geld³⁶⁹ wat 'n spesifieke pakket, houër of besending goedere dek sonder om vooraf ingevolge subartikel (1) die doeanegesag se toestemming vir die klaring van die goedere ingevolge 'n onvolledige of voorlopige klaringsbrief te verkry, geag mag word 'n aansoek bedoel in daardie subartikel te wees; en
 - (ii) die vrystelling deur die doeanegesag van so 'n spesifieke pakket, houër of besending goedere op gesag van die onvolledige of voorlopige klaringsbrief, geag mag word 'n goedkeuring van die aansoek te wees.
- (3) Goedkeuring van 'n aansoek ingevolge subartikel (1) is onderworpe aan die voorwaardes soos by reël voorgeskryf of deur die doeanegesag in 'n spesifieke geval bepaal mag word, wat voorwaardes kan insluit—
- (a) wat sekuriteit vereis ter dekking van enige risiko's met betrekking tot belasting wat op die goedere betaalbaar is of betaalbaar mag word; en
 - (b) wat spesiale vereistes bepaal ter beveiliging van die hantering, beweging, berging of gebruik van die goedere totdat die goedere ingevolge artikel 526 ten volle en finaal geklaar word.
- (4) Die doeanegesag kan 'n aansoek ingevolge subartikel (1), weier—
- (a) indien goedkeuring van die aansoek die betaling of invordering van belasting of voldoening aan 'n bepaling van hierdie Wet of 'n belastingheffings-Wet wat van toepassing is, sal kompromitteer; of
 - (b) op enige ander goeie grond.

Inhoud van onvolledige klaringsbriewe

- 523.** (1) Behalwe waar die doeanegesag anders bepaal, moet 'n onvolledige klaringsbrief ten minste die volgende vermeld:
- (a) Of die goedere geklaar word vir binnelandse gebruik of 'n doeaneprosedure, en indien vir 'n doeaneprosedure, die verlangde doeaneprosedure;
 - (b) in die geval van goedere wat reeds onder 'n doeaneprosedure is,³⁷⁰ die verwysingsnommer van die klaringsbrief vir daardie doeaneprosedure;
 - (c) in die geval van ingevoerde goedere (behalwe goedere wat onder 'n doeaneprosedure ingevoer is), die datum van werklike of verwagte aankoms van die goedere, soos ook al van toepassing mag wees, by 'n plek in artikel 90 bedoel;
 - (d) die tariefindeling van die goedere;

367. Kyk artikel 165.

368. Byvoorbeeld goedere wat by 'n houërdepot behouër word of massagoedere in opeenvolgende besendings.

369. Die tydsraam wat sal geld, is die tydperk soos in artikel 90 of 94 vermeld, of indien ingevolge artikel 908 verleng, so 'n verlengte tydperk.

370. Kyk artikel 110.

- (e) the quantity of the goods;
 - (f) the value of the goods;
 - (g) the origin of the goods;
 - (h) the customs code and name of the person submitting the declaration, or, if submitted by a customs broker acting in terms of section 165(1)(b)— 5
 - (i) the customs code of the customs broker; and
 - (ii) the customs code and name of the principal on whose behalf the declaration is submitted;
 - (i) the number and date of the transport document issued in respect of the goods; and 10
 - (j) such additional information as may be prescribed by rule or as the customs authority may determine in a specific case, including information that may be needed to—
 - (i) calculate the amount of security that may be required in respect of the goods; 15
 - (ii) identify the goods and achieve effective customs control over the goods; and
 - (iii) release the goods.
- (2) An incomplete clearance declaration must be supported by at least the supporting documents as may be prescribed by rule or as the customs authority may determine in a specific case. 20

Contents of provisional clearance declarations

- 524.** (1) A provisional clearance declaration for home use or a customs procedure must—
- (a) contain all the information required to be included in a regular clearance declaration for home use or that customs procedure, as the case may be; and 25
 - (b) indicate which of the information is included provisionally pending subsequent confirmation or correction.
- (2) A provisional clearance declaration must in respect of information not included provisionally, be supported by supporting documents required in terms of this Act. 30

Release of goods cleared in terms of incomplete or provisional clearance declarations

- 525.** (1) Goods that are cleared in terms of an incomplete or provisional clearance declaration must, subject to the provisions of this Act regulating the release of goods, be released as if the goods were cleared in terms of a regular clearance declaration. 35
- (2) The customs authority may, in addition to any other grounds on which the release of goods may or must be refused, refuse to release the goods if a condition referred to in section 522(3) applicable to the goods is not met.

Supplementary clearance declarations

- 526.** (1) A person clearing goods in terms of an incomplete or provisional clearance declaration is not absolved from full and final clearance of the goods and must within a timeframe as may be prescribed by rule from the date of acceptance³⁷¹ by the customs authority of the incomplete or provisional clearance declaration, submit to the customs authority a supplementary clearance declaration in relation to those goods. 40
- (2) A supplementary clearance declaration must— 45
- (a) supplement—
 - (i) the incomplete clearance declaration to which it relates by providing all the information required for a regular clearance that was not included in the incomplete clearance declaration; or
 - (ii) the provisional clearance declaration to which it relates by confirming or correcting all the information in the provisional clearance declaration that was included provisionally; 50

³⁷¹. See section 171.

- (e) die hoeveelheid van die goedere;
 - (f) die waarde van die goedere;
 - (g) die oorsprong van die goedere;
 - (h) die doeanekode en naam van die persoon wat die klaringsbrief indien, of, indien dit deur 'n doeanemakelaar handelende ingevolge artikel 165(1)(b) ingedien word—
 - (i) die doeanekode van die doeanemakelaar; en
 - (ii) die doeanekode en naam van die prinsipaal ten behoeve van wie die klaringsbrief ingedien word;
 - (i) die nommer en datum van die vervoerdokument wat ten opsigte van die goedere uitgereik is; en
 - (j) die bykomende inligting soos by reël voorgeskryf of deur die doeanegesag in 'n spesifieke geval bepaal mag word, met inbegrip van inligting wat nodig mag wees om—
 - (i) die bedrag van sekuriteit te bereken wat ten opsigte van die goedere benodig mag word;
 - (ii) die goedere te identifiseer en doeltreffende doeanebeheer oor die goedere daar te stel; en
 - (iii) die goedere vry te stel.
- (2) 'n Onvolledige klaringsbrief moet gerugsteun word deur ten minste die ondersteunende dokumente soos by reël voorgeskryf of deur die doeanegesag in 'n spesifieke geval bepaal mag word.

Inhoud van voorlopige klaringsbriewe

- 524.** (1) 'n Voorlopige klaringsbrief vir binnelandse gebruik of 'n doeaneprosedure moet—
 - (a) al die inligting bevat wat in 'n gewone klaringsbrief vir binnelandse gebruik of daardie doeaneprosedure, na gelang van die geval, ingesluit moet word; en
 - (b) aandui watter inligting voorlopig ingesluit word hangende latere bevestiging of regstelling.
- (2) 'n Voorlopige klaringsbrief moet ten opsigte van inligting wat nie voorlopig ingesluit word nie, gerugsteun word deur ondersteunende dokumente wat ingevolge hierdie Wet vereis word.

Vrystelling van goedere ingevolge onvolledige of voorlopige klaringsbriewe geklaar

- 525.** (1) Goedere wat ingevolge 'n onvolledige of voorlopige klaringsbrief geklaar word, moet, behoudens die bepalinge van hierdie Wet wat die vrystelling van goedere reguleer, vrystel word asof die goedere ingevolge 'n gewone klaringsbrief geklaar is.
- (2) Die doeanegesag kan, benewens enige ander gronde waarop die vrystelling van goedere geweier kan of moet word, weier om die goedere vry te stel indien 'n voorwaarde in artikel 522(3) bedoel wat op die goedere van toepassing is, nie aan voldoen word nie.

Aanvullende klaringsbriewe

- 526.** (1) 'n Persoon wat goedere ingevolge 'n onvolledige of voorlopige klaringsbrief klaar, is nie daarvan onthef om die goedere volledig en finaal te klaar nie, en moet binne 'n tydsraam soos by reël voorgeskryf mag word vanaf die datum van aanvaarding³⁷¹ deur die doeanegesag van die onvolledige of voorlopige klaringsbrief, 'n aanvullende klaringsbrief met betrekking tot daardie goedere by die doeanegesag indien.
- (2) 'n Aanvullende klaringsbrief moet—
 - (a) (i) die onvolledige klaringsbrief waarop dit betrekking het, aanvul deur al die inligting wat vir 'n gewone klaring vereis word wat nie in die onvolledige klaringsbrief ingesluit was nie, te verstrek; of
 - (ii) die voorlopige klaringsbrief waarop dit betrekking het, aanvul deur al die inligting in die voorlopige klaringsbrief wat voorlopig ingesluit was, te bevestig of reg te stel;

³⁷¹. Kyk artikel 171.

- (b) be supported by all outstanding supporting documents;
- (c) state the reference number of the incomplete or provisional clearance declaration to which it relates; and
- (d) if the incomplete or provisional clearance declaration to which it relates was submitted manually, be submitted to the same Customs Office where the incomplete or provisional clearance declaration was submitted. 5

(3) A timeframe prescribed by rule in terms of subsection (1) may in terms of section 908 or 909 be extended or shortened, but if extended it may not be extended by more than seven calendar days.

(4) A supplementary clearance declaration and the incomplete or provisional clearance declaration to which it relates must for the purposes of this Act and any applicable tax levying Act be regarded to constitute a single indivisible clearance declaration taking effect on the date when the incomplete or provisional clearance declaration is submitted to the customs authority. 10

Tax payable in respect of goods cleared in terms of this Part 15

527. (1) Any import or export tax payable on goods that are cleared in terms of this Part for home use under Chapter 8 or for a customs procedure that renders the goods subject to the payment of import or export tax must be—

- (a) assessed when the supplementary clearance declaration submitted in terms of section 526(1) in respect of the goods is accepted by the customs authority in terms of section 171; and 20
- (b) paid on demand following such assessment, unless provided otherwise in the applicable tax levying Act or payment of the tax is deferred in terms of the applicable tax levying Act.

(2) Unless the applicable tax levying Act determines otherwise, the rate of tax applicable to the goods is the rate applicable as at date of acceptance by the customs authority of the incomplete or provisional clearance declaration. 25

Application of this Part to restricted and sectorally controlled goods

528. When applying this Part to—

- (a) restricted goods, section 784 must be complied with when the incomplete or provisional clearance declaration is submitted to the customs authority; or 30
- (b) sectorally controlled goods, the application of this Part does not affect compliance with section 794.

Part 2

Release of goods subject to subsequent compliance with clearance requirements 35

Goods to which this Part may be applied

529. Any goods may, subject to section 538(a), be released and subsequently cleared in terms of this Part, excluding restricted and sectorally controlled goods.

Application for expedited release

530. (1) The customs authority may, on application by a person entitled to submit a clearance declaration to clear goods for home use or a specific customs procedure and who desires expedited release of the goods but cannot immediately comply with the clearance requirements, release the goods for home use or that customs procedure on condition that a regular clearance declaration be submitted to the customs authority after the release of the goods. 40 45

(2) An application in terms of subsection (1) must be submitted to the customs authority in accordance with requirements and within a timeframe as may be prescribed by rule read with sections 908 and 909.

(3) An application referred to in subsection (1) may only be granted—

- (a) if the person requiring release of the goods— 50
 - (i) provides sufficient reasons why—
 - (aa) expedited release of the goods is required; and

- (b) gerugsteun word deur alle uitstaande ondersteunende dokumente;
 - (c) die verwysingsnommer vermeld van die onvolledige of voorlopige klaringsbrief waarop dit betrekking het; en
 - (d) indien die onvolledige of voorlopige klaringsbrief waarop dit betrekking het per hand ingedien is, ingedien word by dieselfde Doeanekantoor waar die onvolledige of voorlopige klaringsbrief ingedien was. 5
- (3) 'n Tydsraam by reël ingevolge subartikel (1) voorgeskryf, kan ingevolge artikel 908 of 909 verleng of verkort word, maar indien dit verleng word, kan dit nie met meer as sewe kalenderdae verleng word nie.
- (4) 'n Aanvullende klaringsbrief en die onvolledige of voorlopige klaringsbrief waarop dit betrekking het, moet vir doeleindes van hierdie Wet en enige belastingheffings-Wet wat van toepassing is, geag word 'n enkel onverdeelbare klaringsbrief te wees wat van krag word op die datum waarop die onvolledige of voorlopige klaringsbrief by die doeanegesag ingedien is. 10

Belasting betaalbaar ten opsigte van goedere ingevolge hierdie Deel geklaar 15

- 527.** (1) Enige invoer- of uitvoerbelasting wat betaalbaar is op goedere wat ingevolge hierdie Deel geklaar word vir binnelandse gebruik kragtens Hoofstuk 8 of vir 'n doeaneprosedure wat die goedere onderworpe aan die betaling van invoer- of uitvoerbelasting stel, moet—
- (a) bepaal word wanneer die aanvullende klaringsbrief wat ingevolge artikel 526(1) ten opsigte van die goedere ingedien is deur die doeanegesag ingevolge artikel 171 aanvaar word; en 20
 - (b) op aanvraag betaal word nadat sodanige belasting bepaal is, tensy daar anders in die betrokke belastingheffings-Wet bepaal word of betaling van die belasting ingevolge die betrokke belastingheffings-Wet uitgestel word. 25
- (2) Tensy die betrokke belastingheffings-Wet anders bepaal, is die skaal van belasting wat vir die goedere geld die skaal wat geld soos op datum van aanvaarding van die onvolledige of voorlopige klaringsbrief deur die doeanegesag.

Toepassing van hierdie Deel op beperkte en sektorbeheerde goedere

- 528.** By die toepassing van hierdie Deel op— 30
- (a) beperkte goedere, moet daar aan artikel 784 voldoen word wanneer die onvolledige of voorlopige klaringsbrief by die doeanegesag ingedien word; of
 - (b) sektorbeheerde goedere, raak die toepassing van hierdie Deel nie voldoening aan artikel 794 nie.

Deel 2 35

Vrystelling van goedere behoudens latere voldoening aan klaringsvereistes

Goedere waarop hierdie Deel toegepas kan word

529. Enige goedere kan, behoudens artikel 538(a), ingevolge hierdie Deel vrygestel en daarna geklaar word, uitgesonderd beperkte en sektorbeheerde goedere.

Aansoek om versnelde vrystelling 40

- 530.** (1) Die doeanegesag kan, op aansoek deur 'n persoon wat geregtig is om 'n klaringsbrief vir die klaring van goedere vir binnelandse gebruik of 'n spesifieke doeaneprosedure in te dien en wat versnelde vrystelling van die goedere verlang maar nie onmiddellik aan die klaringsvereistes kan voldoen nie, die goedere vir binnelandse gebruik of daardie doeaneprosedure vrystel op voorwaarde dat 'n gewone klaringsbrief na vrystelling van die goedere by die doeanegesag ingedien word. 45
- (2) 'n Aansoek ingevolge subartikel (1), moet by die doeanegesag ingedien word volgens voorskrif van vereistes en binne 'n tydsraam soos by reël, saamgelees met artikel 908 en 909, voorgeskryf mag word.
- (3) 'n Aansoek bedoel in subartikel (1) kan toegestaan word slegs— 50
- (a) indien die persoon wat vrystelling van die goedere verlang—
 - (i) voldoende redes verskaf waarom—
 - (aa) versnelde vrystelling van die goedere verlang word; en

- (bb) the clearance requirements cannot be complied with immediately;
 - (ii) submits minimum information on the goods concerned, as may be prescribed by rule or as the customs authority may determine in a specific case;
 - (iii) undertakes to submit a regular clearance declaration within a period referred to in section 531 after the release of the goods; and 5
 - (iv) complies with any other requirements as may be prescribed by rule or determined by the customs authority in a specific case; and
 - (b) if approval of the application will not put the payment or collection of tax or compliance with an applicable provision of this Act or a tax levying Act at risk. 10
- (4) Approval of an application referred to in subsection (1) is subject to such conditions as may be prescribed by rule or as the customs authority may determine in a specific case, which may include conditions—
- (a) requiring security to cover any risks in relation to tax payable or that may become payable on the goods; and 15
 - (b) determining special requirements for securing the handling, movement, storage or use of the goods until the goods are cleared in terms of section 531.

Subsequent submission of clearance declarations

531. The person who obtained release of goods in terms of section 530 for home use or a customs procedure must submit to the customs authority a regular clearance declaration to clear the goods for home use or that customs procedure within a timeframe after the release of the goods as may be prescribed by rule read with sections 908 and 909. 20

Tax payable in respect of goods released in terms of this Part 25

- 532.** (1) Any import or export tax payable on goods that are released in terms of this Part for home use under Chapter 8 or for a customs procedure that renders the goods subject to the payment of import or export tax must be—
- (a) assessed when the regular clearance declaration submitted in terms of section 531 in respect of those goods is accepted by the customs authority in terms of section 171; and 30
 - (b) paid on demand following such assessment, unless provided otherwise in the applicable tax levying Act or payment of the tax is deferred in terms of the applicable tax levying Act.
- (2) Unless the applicable tax levying Act determines otherwise, the rate of tax applicable to the goods is the rate applicable as at date of acceptance by the customs authority of the regular clearance declaration. 35

Part 3

Simplified clearance and release of goods

Goods to which this Part may be applied 40

- 533.** (1) Any goods falling within any of the following categories may be cleared and released for home use or a customs procedure in accordance with this Part:
- (a) Accompanied or unaccompanied baggage items that may in terms of section 480(2) or 485(2) be cleared for home use or a customs procedure in accordance with this Part; 45
 - (b) means of transport that may in terms of—
 - (i) section 270, 271 or 272 be cleared and released in accordance with this Part for the temporary admission procedure or in terms of section 276, 277 or 278 for export under that procedure; or

- (bb) daar nie onmiddellik aan die klaringsvereistes voldoen kan word nie;
- (ii) minimum inligting oor die betrokke goedere indien, soos by reël voorgeskryf of deur die doeanegesag in 'n bepaalde geval bepaal mag word; 5
- (iii) onderneem om 'n gewone klaringsbrief binne 'n tydperk in artikel 531 bedoel na die vrystelling van goedere in te dien; en
- (iv) voldoen aan enige ander vereistes soos by reël voorgeskryf of deur die doeanegesag in 'n spesifieke geval bepaal mag word; en
- (b) indien goedkeuring van die aansoek nie die betaling of invordering van belasting of voldoening aan 'n bepaling van hierdie Wet of 'n belastingheffings-Wet wat van toepassing is, sal kompromitteer nie. 10
- (4) Goedkeuring van 'n aansoek bedoel in subartikel (1) is onderworpe aan die voorwaardes soos by reël voorgeskryf of deur die doeanegesag in 'n spesifieke geval bepaal mag word, wat voorwaardes kan insluit— 15
- (a) wat sekuriteit vereis ter dekking van enige risiko's met betrekking tot belasting wat op die goedere betaalbaar is of betaalbaar mag word; en
- (b) wat spesiale vereistes bepaal ter beveiliging van die hantering, beweging, berging of gebruik van die goedere totdat die goedere ingevolge artikel 531 geklaar word. 20

Latere indiening van klaringsbriewe

531. Die persoon wat ingevolge artikel 530 vrystelling van goedere vir binnelandse gebruik of 'n doeaneprosedure bekom het, moet 'n gewone klaringsbrief by die doeanegesag indien om die goedere vir binnelandse gebruik of daardie doeaneprosedure te klaar, binne 'n tydsraam na die vrystelling van die goedere soos by reël, saamgelees met artikels 908 en 909, voorgeskryf mag word. 25

Belasting betaalbaar ten opsigte van goedere vrygestel ingevolge hierdie Deel

- 532.** (1) Enige invoer- of uitvoerbelasting op goedere betaalbaar wat ingevolge hierdie Deel vrygestel is vir binnelandse gebruik kragtens Hoofstuk 8 of vir 'n doeaneprosedure wat die goedere aan die betaling van invoer- of uitvoerbelasting onderworpe stel, moet— 30
- (a) bepaal word wanneer die gewone klaringsbrief ingevolge artikel 531 ten opsigte van daardie goedere ingedien deur die doeanegesag ingevolge artikel 171 aanvaar word; en
- (b) op aanvraag betaal word nadat sodanige belasting bepaal is, tensy daar anders in die betrokke belastingheffings-Wet bepaal word of betaling van die belasting ingevolge die betrokke belastingheffings-Wet uitgestel word. 35
- (2) Tensy die betrokke belastingheffings-Wet anders bepaal, is die skaal van belasting wat vir die goedere geld, die skaal wat geld op die datum van aanvaarding van die gewone klaringsbrief deur die doeanegesag. 40

Deel 3

Verkorte klaring en vrystelling van goedere

Goedere waarop hierdie Deel toegepas kan word

- 533.** (1) Enige goedere wat binne enige van die volgende kategorieë val, kan vir binnelandse gebruik of 'n doeaneprosedure ooreenkomstig hierdie Deel geklaar en vrygestel word: 45
- (a) Vergeselde of onvergeselde bagasie-items wat ingevolge artikel 480(2) of 485(2) vir binnelandse gebruik of 'n doeaneprosedure ooreenkomstig hierdie Deel geklaar kan word;
- (b) middels van vervoer wat ingevolge— 50
- (i) artikel 270, 271 of 272 ooreenkomstig hierdie Deel vir die prosedure vir tydelike toelating of ingevolge artikel 276, 277 of 278 vir uitvoer onder daardie prosedure geklaar en vrygestel kan word; of

- (ii) section 381, 382 or 383 be cleared and released in accordance with this Part for the temporary export procedure or in terms of section 389, 390 or 391 for home use under that procedure; or
 - (c) any other category of goods as may be prescribed by rule, subject to subsection (2). 5
- (2) Goods falling within a category of goods prescribed by rule in terms of subsection (1)(c) may not be cleared and released in terms of this Part if—
- (a) the customs value of the goods exceeds an amount determined by the Minister by notice in the *Gazette*;
 - (b) the goods are liable in terms of a tax levying Act to tax exceeding an amount determined by the Minister by notice in the *Gazette*; 10
 - (c) the goods consist of international postal articles imported or exported through the South African Post Office Limited;³⁷² or
 - (d) excluded from this Part in terms of section 538(a).
- (3) The customs authority may despite subsections (1) and (2) on good cause shown allow any specific consignment of goods which does not fall within a category referred to in subsection (1) or which is excluded in terms of subsection (2), to be cleared and released in terms of this Part. 15

Application for simplified clearance

- 534.** (1) The customs authority may, on application by a person entitled to submit a clearance declaration to clear goods for home use or a specific customs procedure,³⁷³ allow that person— 20
- (a) to clear the goods for home use or that customs procedure in accordance with simplified clearance procedures as may be prescribed by rule; and
 - (b) to obtain release of the goods on acceptance by the customs authority of a simplified clearance declaration or another document that may be used as a clearance declaration in terms of such simplified clearance requirements. 25
- (2) An application in terms of subsection (1)—
- (a) may be in respect of—
 - (i) a specific parcel, container or consignment of goods; or 30
 - (ii) a specific class or kind or other category of goods to be cleared by the relevant person during a specific period; and
 - (b) must be submitted to the customs authority in accordance with requirements and within a timeframe as may be prescribed by rule read with sections 908 and 909: Provided that— 35
 - (i) submission within the applicable timeframe of a simplified clearance declaration or another document referred to in subsection (1)(b) covering a specific parcel, container or consignment of goods without first obtaining the customs authority's permission in terms of subsection (1), may be regarded to be an application referred to in that subsection; and 40
 - (ii) acceptance by the customs authority of the simplified clearance declaration or other document may be regarded to be an approval of the application.
- (3) The customs authority may refuse an application in terms of subsection (1)—
- (a) if approving the application may put the payment or collection of tax or compliance with an applicable provision of this Act or a tax levying Act at risk; or 45
 - (b) on any other good ground.
- (4) The requirement of prior application does not apply to a person clearing goods referred to in section 533(1)(a) or (b), and such a person may— 50
- (a) summarily clear the goods for home use or the relevant customs procedure in accordance with the simplified clearance requirements referred to in subsection (1); and

372. Non-commercial international postal articles imported or exported through the South African Post Office Limited are in terms of sections 91(1)(i) and 95(1)(j) excluded from clearance requirements. Other international postal articles imported or exported through the South African Post Office Limited must be cleared in terms of Chapter 22.

373. See section 165.

- (ii) artikel 381, 382 of 383 ooreenkomstig hierdie Deel vir die prosedure vir tydelike uitvoer of ingevolge artikel 389, 390 of 391 vir binnelandse gebruik onder daardie prosedure geklaar en vrygestel kan word; of
- (c) enige ander kategorie goedere soos by reël, behoudens subartikel (2), voorgeskryf mag word. 5
- (2) Goedere wat binne 'n kategorie goedere val wat ingevolge subartikel (1)(c) by reël voorgeskryf is, mag nie ingevolge hierdie Deel geklaar en vrygestel word nie indien—
- (a) die doeanewaarde van die goedere 'n bedrag oorskry wat deur die Minister by kennisgewing in dit *Staatskoerant* bepaal word;
- (b) die goedere ingevolge 'n belastingheffings-Wet aan belasting onderworpe is wat 'n bedrag oorskry wat deur die Minister by kennisgewing in die *Staatskoerant* bepaal word; 10
- (c) die goedere bestaan uit internasionale posstukke wat deur die Suid-Afrikaanse Poskantoor Beperk ingevoer of uitgevoer word;³⁷² of
- (d) ingevolge artikel 538(a) van hierdie Deel uitgesluit. 15
- (3) Die doeanegesag kan, ondanks subartikels (1) en (2), by die aanvoer van goeie gronde toestemming verleen dat enige spesifieke besending goedere wat nie binne 'n kategorie bedoel in subartikel (1) val nie of wat ingevolge subartikel (2) uitgesluit is, ingevolge hierdie Deel geklaar en vrygestel mag word.
- Aansoek om verkorte klaring** 20
- 534.** (1) Die doeanegesag kan, op aansoek deur 'n persoon wat geregtig is om 'n klaringsbrief vir die klaring van goedere vir binnelandse gebruik of 'n bepaalde doeaneprosedure in te dien,³⁷³ daardie persoon toelaat—
- (a) om die goedere vir binnelandse gebruik of daardie doeaneprosedure ooreenkomstig verkorte klaringsprosedures soos by reël voorgeskryf mag word, te klaar; en 25
- (b) om by aanvaarding deur die doeanegesag van 'n verkorte klaringsbrief of 'n ander dokument wat ingevolge sodanige verkorte klaringsvereistes as 'n klaringsbrief gebruik mag word, vrystelling van die goedere te bekom.
- (2) 'n Aansoek ingevolge subartikel (1)— 30
- (a) kan gedoen word ten opsigte van—
- (i) 'n spesifieke pakket, houër of besending van goedere; of
- (ii) 'n spesifieke klas of soort of ander kategorie goedere wat deur die betrokke persoon gedurende 'n spesifieke tydperk geklaar sal word; en
- (b) moet by die doeanegesag ingedien word ooreenkomstig vereistes en binne 'n tydsraam soos by reël, saamgelees met artikels 908 en 909, voorgeskryf mag word: Met dien verstande dat— 35
- (i) die indiening binne die toepaslike tydsraam van 'n verkorte klaringsbrief of ander dokument bedoel in subartikel (1)(b) wat 'n spesifieke pakket, houër of besending goedere dek sonder om vooraf die doeanegesag se toestemming ingevolge subartikel (1) te verkry, geag mag word 'n aansoek bedoel in daardie subartikel te wees; en 40
- (ii) die aanvaarding deur die doeanegesag van die verkorte klaringsbrief of ander dokument geag mag word 'n goedkeuring van die aansoek te wees.
- (3) Die doeanegesag kan 'n aansoek ingevolge subartikel (1), weier— 45
- (a) indien goedkeuring van die aansoek die betaling of invordering van belasting of voldoening aan 'n bepaling van hierdie Wet of 'n belastingheffings-Wet wat van toepassing is, sal kompromitteer; of
- (b) op enige ander goeie grond.
- (4) Die vereiste van voorafgaande aansoek geld nie vir 'n persoon wat goedere bedoel in artikel 533(1)(a) of (b) klaar nie, en so 'n persoon kan— 50
- (a) summier die goedere vir binnelandse gebruik of die betrokke doeaneprosedure ooreenkomstig die verkorte klaringsvereistes bedoel in subartikel (1) klaar; en

372. Nie-kommersiële internasionale posstukke deur die Suid-Afrikaanse Poskantoor Beperk ingevoer of uitgevoer, is ingevolge artikels 91(1)(i) en 95(1)(j) van klaringsvereistes uitgesluit. Ander internasionale posstukke deur die Suid-Afrikaanse Poskantoor Beperk ingevoer of uitgevoer, moet ingevolge Hoofstuk 22 geklaar word.

373. Kyk artikel 165.

- (b) obtain release of the goods on acceptance by the customs authority of a simplified clearance declaration or another document that may be used as a clearance declaration in terms of such simplified clearance requirements.

Simplified clearance requirements

- 535.** (1) Simplified clearance requirements that may be prescribed in terms of section 534(1) may—
- (a) provide for the submission of simplified clearance declarations to clear goods in terms of this Part;
 - (b) allow other documents to be submitted in *lieu* of clearance declarations to clear goods in terms of this Part, including—
 - (i) any transport documents issued in respect of the goods;
 - (ii) any supporting documents issued in respect of the goods; and
 - (iii) any other documents required to be submitted in respect of the goods to the customs authority in terms of this Act;
 - (c) prescribe the minimum information such simplified clearance declarations or other documents must contain;
 - (d) prescribe timeframes for the submission of such simplified clearance declarations or other documents;
 - (e) prescribe the manner of submission of such simplified clearance declarations or other documents;
 - (f) exempt persons clearing or goods cleared in terms of this Part from any specific provisions of this Act applicable to the clearance and release of goods; and
 - (g) prescribe any other relevant matters.
- (2) Different simplified clearance requirements may be prescribed in terms of subsection (1) for different categories of persons or goods.

Tax payable in respect of goods cleared in terms of this Part

- 536.** (1) Any import or export tax payable on goods that are cleared in terms of this Part for home use under Chapter 8 or for a customs procedure that renders the goods subject to the payment of import or export tax must be—
- (a) assessed when the simplified clearance declaration or other document that may be used as a clearance declaration in respect of those goods is accepted by the customs authority in terms of section 171; and
 - (b) paid on demand following such assessment, unless provided otherwise in the applicable tax levying Act or payment of the tax is deferred in terms of the applicable tax levying Act.
- (2) Unless the applicable tax levying Act determines otherwise, the rate of tax applicable to the goods is the rate applicable as at the date of acceptance by the customs authority of the simplified clearance declaration or other document.

Application of this Part to restricted and sectorally controlled goods

- 537.** When applying this Part to—
- (a) restricted goods, section 784 must be complied with when the simplified clearance declaration or other document that may be used as a clearance declaration is submitted to the customs authority; or
 - (b) sectorally controlled goods, the application of this Part does not affect compliance with section 794.

Part 4

Other matters

Rules to facilitate implementation of this Chapter

- 538.** Rules made in terms of section 903 to facilitate the implementation of this Chapter may include rules—

- (b) by aanvaarding deur die doeanegesag van 'n verkorte klaringsbrief of ander dokument wat ingevolge sodanige verkorte klaringsvereistes as 'n klaringsbrief gebruik mag word, vrystelling van die goedere bekom.

Verkorte klaringsvereistes

- 535.** (1) Verkorte klaringsvereistes wat ingevolge artikel 534(1) voorgeskryf mag word, kan— 5
- (a) voorsiening maak vir die indiening van verkorte klaringsbriewe om goedere ingevolge hierdie Deel te klaar;
 - (b) toelaat dat ander dokumente in die plek van klaringsbriewe ingedien word om goedere ingevolge hierdie Deel te klaar, met inbegrip van— 10
 - (i) enige vervoerdokumente wat ten opsigte van die goedere uitgereik is;
 - (ii) enige ondersteunende dokumente wat ten opsigte van die goedere uitgereik is; en
 - (iii) enige ander dokumente wat ingevolge hierdie Wet aan die doeanegesag ten opsigte van die goedere verstrek moet word; 15
 - (c) die minimum inligting voorskryf wat sodanige verkorte klaringsbriewe of ander dokumente moet bevat;
 - (d) tydsrame vir die indiening van sodanige verkorte klaringsbriewe of ander dokumente voorskryf;
 - (e) die wyse voorskryf waarop sodanige verkorte klaringsbriewe of ander dokumente ingedien moet word; 20
 - (f) persone wat goedere klaar of goedere wat ingevolge hierdie Deel geklaar word, onthef van enige spesifieke bepaling van hierdie Wet wat vir die klaring en vrystelling van goedere geld; en
 - (g) enige ander tersaaklike aangeleenthede voorskryf. 25
- (2) Verskillende verkorte klaringsvereistes kan ingevolge subartikel (1) vir verskillende kategorieë persone of goedere voorgeskryf word.

Belasting betaalbaar ten opsigte van goedere ingevolge hierdie Deel geklaar

- 536.** (1) Enige invoer- of uitvoerbelasting op goedere betaalbaar wat ingevolge hierdie Deel geklaar word vir binnelandse gebruik kragtens Hoofstuk 8 of vir 'n doeaneprosedure wat die goedere aan die betaling van invoer- of uitvoerbelasting onderworpe stel, moet— 30
- (a) bepaal word wanneer die verkorte klaringsbrief of ander dokument wat as 'n klaringsbrief ten opsigte van daardie goedere gebruik mag word, deur die doeanegesag ingevolge artikel 171 aanvaar word; en 35
 - (b) op aanvraag betaal word nadat sodanige belasting bepaal is, tensy daar anders in die betrokke belastingheffings-Wet bepaal word of betaling van die belasting ingevolge die betrokke belastingheffings-Wet uitgestel word.
- (2) Tensy die betrokke belastingheffings-Wet anders bepaal, is die skaal van belasting wat vir die goedere geld die skaal wat geld op die datum van aanvaarding van die verkorte klaringsbrief of ander dokument deur die doeanegesag. 40

Toepassing van hierdie Deel op beperkte en sektorbeheerde goedere

- 537.** By die toepassing van hierdie Deel op—
- (a) beperkte goedere, moet daar aan artikel 784 voldoen word wanneer die verkorte klaringsbrief of ander dokument wat as 'n klaringsbrief gebruik mag word by die doeanegesag ingedien word; of 45
 - (b) sektorbeheerde goedere, raak die toepassing van hierdie Deel nie voldoening aan artikel 794 nie.

Deel 4

Ander aangeleenthede 50

Reëls ter fasilitering van implementering van hierdie Hoofstuk te

- 538.** Reëls ingevolge artikel 903 uitgevaardig om die implementering van hierdie Hoofstuk te fasiliteer, kan reëls insluit—

- (a) that exclude any class or kind or other category of goods from the application of any Part of this Chapter—
 - (i) if the application of that Part to such goods present undue risk to the payment or collection of tax; or
 - (ii) if such goods are not suitable for clearance and release in accordance with that Part; 5
- (b) prescribing forms, processes, requirements and timeframes for the submission to the customs authority of applications in terms of this Chapter;
- (c) designating the Customs Offices to which applications in terms of this Chapter may be submitted in paper format; and 10
- (d) prescribing for goods cleared in terms of this Chapter distinctive release procedures and requirements that may modify, qualify or deviate from the standard release procedures and requirements set out in Part 2 of Chapter 7.

Offences in terms of this Chapter

- 539.** (1) A person clearing goods in terms of an incomplete clearance declaration or a provisional clearance declaration is guilty of an offence if that person contravenes or fails to comply with section 526(1) or (2). 15
- (2) A person who obtained release of goods in terms of section 530 is guilty of an offence if that person—
- (a) contravenes or fails to comply with a condition imposed in terms of section 530(4); or 20
 - (b) fails to comply with section 531.

CHAPTER 25

DAMAGED, DESTROYED, LOST OR UNACCOUNTED GOODS

Purpose and application of this Chapter 25

- 540.** (1) The purpose of this Chapter is to determine—
- (a) the procedures to be followed when goods not in free circulation are damaged, destroyed, lost or unaccounted for; and
 - (b) the tax and other consequences when such goods are damaged, destroyed, lost or unaccounted for. 30
- (2) This Chapter does not apply to goods that have become damaged, destroyed or lost or are unaccounted for—
- (a) in a state warehouse operated by the Commissioner;
 - (b) in an excise warehouse;³⁷⁴ or
 - (c) whilst or after being imported or before or whilst being exported in 35
contravention of entry or exit requirements as set out in Part 2 of Chapter 2.³⁷⁵

Part 1

Goods other than compensating products

Application of this Part

- 541.** (1) This Part applies to all goods not in free circulation that have become 40
damaged, destroyed or lost or are unaccounted for, including—
- (a) imported goods to which section 89 applies that were damaged, destroyed or lost or became unaccounted for before the goods—
 - (i) are cleared as required by that section for home use or a customs 45
procedure; or

374. The Excise Duty Act applies to goods damaged, destroyed, lost or unaccounted for in an excise warehouse.

375. Section 42 applies to such goods whether or not damaged, destroyed, lost or unaccounted for in the process.

- (a) wat enige klas of soort of ander kategorie goedere van die toepassing van enige Deel van hierdie Hoofstuk uitsluit—
 - (i) indien die toepassing van daardie Deel op sodanige goedere 'n onredelike risiko vir die betaling of invordering van belasting inhou; of
 - (ii) indien sodanige goedere nie vir klaring en vrystelling ooreenkomstig daardie Deel gepas is nie;
- (b) wat vorms, prosesse, vereistes en tydsrame vir die indiening van aansoeke by die doeanegesag ingevolge hierdie Hoofstuk voorskryf;
- (c) die doeanekantore aanwys waar aansoeke ingevolge hierdie Hoofstuk in papierformaat ingedien mag word; en
- (d) wat eiessoortige vrystellingsprosedures en -vereistes vir goedere wat ingevolge hierdie Hoofstuk geklaar word, voorskryf wat die standaard vrystellingsprosedures en vereistes in Deel 2 van Hoofstuk 7 uiteengesit, mag aanpas of kwalifiseer of daarvan mag afwyk.

Misdrywe ingevolge hierdie Hoofstuk 15

- 539.** (1) 'n Persoon wat goedere ingevolge 'n onvolledige klaringsbrief of 'n voorlopige klaringsbrief klaar, is aan 'n misdryf skuldig indien daardie persoon artikel 526(1) of (2) oortree of versuim om daaraan te voldoen.
- (2) 'n Persoon wat vrystelling van goedere ingevolge artikel 530 bekom, is aan 'n misdryf skuldig indien daardie persoon—
- (a) 'n voorwaarde wat ingevolge artikel 530(4) opgelê is, oortree of versuim om daaraan te voldoen; of
 - (b) versuim om aan artikel 531 te voldoen.

HOOFSTUK 25

BESKADIGDE, VERNIETIGDE, VERLORE OF REKENSAPLOSE GOEDERE 25

Doel en toepassing van hierdie Hoofstuk

- 540.** (1) Die doel van hierdie Hoofstuk is om—
- (a) die prosedures te bepaal wat gevolg moet word wanneer goedere wat nie in vry sirkulasie is nie beskadig, vernietig, verlore of rekenskaploos raak; en
 - (b) die belasting en ander gevolge te bepaal wanneer sulke goedere beskadig, vernietig, verlore of rekenskaploos raak.
- (2) Hierdie Hoofstuk is nie van toepassing nie op goedere wat beskadig, vernietig, verlore of rekenskaploos geraak het—
- (a) in 'n staatspakhuis wat deur die Kommissaris bestuur word;
 - (b) in 'n aksynspakhuis;³⁷⁴ of
 - (c) terwyl of nadat dit ingevoer word of is, of voordat of terwyl dit uitgevoer word, in stryd met toegangs- of uitgangvereistes soos in Deel 2 van Hoofstuk 2 uiteengesit.³⁷⁵

Deel 1 40

Goedere anders as kompenserende produkte

Toepassing van hierdie Deel

- 541.** (1) Hierdie Deel is van toepassing op alle goedere wat nie in vry sirkulasie is nie wat beskadig, vernietig, verlore of rekenskaploos geraak het, met inbegrip van—
- (a) ingevoerde goedere waarop artikel 89 van toepassing is wat beskadig, vernietig, verlore of rekenskaploos geraak het voordat die goedere—
 - (i) vir binnelandse gebruik of 'n doeaneprosedure geklaar is soos deur daardie artikel vereis; of

374. Die Wet op Aksynsreg geld vir goedere wat in 'n aksynspakhuis beskadig, vernietig, verlore of rekenskaploos raak.

375. Artikel 42 is van toepassing op sodanige goedere ongeag of dit in die proses beskadig, vernietig, verlore of rekenskaploos raak.

- (ii) were released for home use or a customs procedure;
 - (b) imported goods cleared for home use or a customs procedure in terms of section 170 that were damaged, destroyed or lost or became unaccounted for before the goods were released for home use or that customs procedure; and
 - (c) goods under a customs procedure that were damaged, destroyed or lost or became unaccounted for before the completion of the procedure.³⁷⁶ 5
- (2) This Part does not apply to—
- (a) compensating products;³⁷⁷ or
 - (b) goods that were seized or confiscated or that were abandoned to the Commissioner.³⁷⁸ 10

Notification of goods damaged, destroyed, lost or unaccounted for

542. (1) The customs authority must within a period and in a manner as may be prescribed by rule read with section 908, be notified if goods to which this Part applies are damaged, destroyed, lost or unaccounted for.

- (2) A notification referred to in subsection (1) must be submitted by the person— 15
- (a) who was in physical control of the goods when the goods were damaged, destroyed or lost, in the case of damaged, destroyed or lost goods; or
 - (b) who is responsible for the goods and discovered or was informed that the goods are unaccounted for, in the case of goods unaccounted for.
- (3) Subsection (2) does not prevent any of the following persons from submitting the notification referred to in subsection (1): 20
- (a) The person clearing the goods;³⁷⁹
 - (b) the customs broker or other person who submitted the clearance declaration in respect of the goods;
 - (c) the owner of the goods; or 25
 - (d) any other person who has a material interest in the goods.
- (4) A notification referred to in subsection (1) must—
- (a) identify the goods damaged, destroyed or lost or unaccounted for, in a manner and by way of documents as may be prescribed by rule;
 - (b) indicate whether the goods have been cleared, and if so— 30
 - (i) whether for home use or a customs procedure; and
 - (ii) the number and date of the clearance declaration;
 - (c) give a detailed account of how, when and where the goods became damaged, destroyed, lost or unaccounted for;
 - (d) contain any other particulars as may be prescribed by rule; and 35
 - (e) be accompanied by documentary proof referred to in section 544, 545, 546 or 547, as may be applicable.

Consequences of failure to notify

543. If the customs authority is not notified in accordance with section 542 of goods to which this Part applies that were damaged, destroyed, lost or unaccounted for— 40

- (a) any tax that was payable on the goods before they were damaged, destroyed, lost or unaccounted for remains payable as if the goods were not damaged, destroyed, lost or unaccounted for;

376. As a customs procedure commences when goods are cleared for the procedure, this paragraph covers all goods cleared for a customs procedure, including goods in free circulation cleared under the export procedure for export. Apart from goods cleared for a customs procedure, goods that automatically come under a customs procedure are also included here, such as means of transport used in international trade and reusable transport equipment. See for instance sections 289 and 290.

377. See Part 2 of this Chapter for compensating products that become damaged, destroyed, lost or unaccounted for.

378. See section 556 for seized, confiscated or abandoned goods that are damaged, destroyed or lost or unaccounted for.

379. See section 166.

- (ii) vir binnelandse gebruik of 'n doeaneprosedure vrygestel is;
- (b) ingevoerde goedere wat vir binnelandse gebruik of 'n doeaneprosedure ingevolge artikel 170 geklaar is wat beskadig, vernietig, verlore of reken- skaploos geraak het voordat die goedere vir binnelandse gebruik of daardie doeaneprosedure vrygestel is; en 5
- (c) goedere onder 'n doeaneprosedure wat beskadig, vernietig, verlore of reken- skaploos geraak het voordat die prosedure afgehandel is.³⁷⁶
- (2) Hierdie Deel is nie van toepassing op—
 - (a) kompenserende produkte nie;³⁷⁷ of
 - (b) goedere waarop beslag gelê is of wat gekonfiskeer is of wat aan die 10 Kommissaris oorgegee is nie.³⁷⁸

Kennisgewing van beskadigde, vernietigde, verlore of reken- skaplose goedere

- 542.** (1) Die doeanegesag moet binne 'n tydperk en op 'n wyse soos by reël, saamgelees met artikels 908 en 909, voorgeskryf mag word in kennis gestel word indien goedere waarop hierdie Deel van toepassing is, beskadig, vernietig, verlore of 15 reken- skaploos raak.
- (2) 'n Kennisgewing bedoel in subartikel (1) moet ingedien word deur die persoon—
 - (a) wat in fisiese beheer van die goedere was toe die goedere beskadig, vernietig, of verlore geraak het, in die geval van beskadigde, vernietigde of verlore goedere; of 20
 - (b) wat vir die goedere verantwoordelik is en wat ontdek het of ingelig is dat die goedere reken- skaploos is, in die geval van reken- skaplose goedere.
 - (3) Subartikel (2) verhinder nie enige van die volgende persone om die kennisgewing bedoel in subartikel (1) in te dien nie:
 - (a) Die persoon wat die goedere klaar;³⁷⁹ 25
 - (b) die doeanemakelaar of ander persoon wat die klaringsbrief ten opsigte van die goedere ingedien het;
 - (c) die eienaar van die goedere; of
 - (d) enige ander persoon wat 'n wesenlike belang in die goedere het.
 - (4) 'n Kennisgewing bedoel in subartikel (1) moet— 30
 - (a) die goedere wat beskadig, vernietig, verlore of reken- skaploos is op 'n wyse en deur middel van dokumente identifiseer soos by reël voorgeskryf mag word;
 - (b) aandui of die goedere geklaar is, en indien wel—
 - (i) of dit vir binnelandse gebruik of 'n doeaneprosedure geklaar is; en
 - (ii) die nommer en datum van die klaringsbrief; 35
 - (c) 'n volledige uiteensetting gee van hoe, wanneer en waar die goedere beskadig, vernietig, verlore of reken- skaploos geraak het;
 - (d) enige ander besonderhede bevat soos by reël voorgeskryf mag word; en
 - (e) vergesel gaan van dokumentêre bewys bedoel in artikel 544, 545, 546 of 547, soos van toepassing mag wees. 40

Gevolge van versuim om kennis te gee

- 543.** Indien die doeanegesag nie volgens voorskrif van artikel 542 in kennis gestel word van goedere waarop hierdie Deel van toepassing is wat beskadig, vernietig, verlore of reken- skaploos geraak het nie—
 - (a) bly enige belasting wat op die goedere betaalbaar was voordat hulle beskadig, 45 vernietig, verlore of reken- skaploos geraak het, betaalbaar asof die goedere nie beskadig, vernietig, verlore of reken- skaploos is nie;

376. Aangesien 'n doeaneprosedure 'n aanvang neem wanneer goedere vir die prosedure geklaar word, dek hierdie paragraaf alle goedere wat vir 'n doeaneprosedure geklaar is, met inbegrip van goedere in vry sirkulasie wat onder die uitvoerprosedure vir uitvoer geklaar is. Afgesien van goedere vir 'n doeaneprosedure geklaar, is goedere wat outomaties onder 'n doeaneprosedure kom ook hier ingesluit, soos middels van vervoer gebruik in internasionale handel en herbruikbare vervoertoerusting. Kyk byvoorbeeld artikels 289 en 290.

377. Kyk Deel 2 van hierdie Hoofstuk vir kompenserende produkte wat beskadig, vernietig, verlore of reken- skaploos raak.

378. Kyk artikel 556 vir beslaggelegde, gekonfiskeerde of oorgegewe goedere wat beskadig, vernietig, verlore of reken- skaploos raak.

379. Kyk artikel 166.

- (b) no tax already paid on the goods is refundable;
- (c) section 92(1) must be applied to the goods, in the case of imported goods damaged, destroyed, lost or unaccounted for before the goods were cleared in accordance with sections 89 and 90 for home use or a customs procedure;
- (d) section 112(1) must be applied to the goods, in the case of imported goods damaged, destroyed, lost or unaccounted for whilst under a customs procedure; and 5
- (e) section 113(1) must be applied to the goods, in the case of goods damaged, destroyed, lost or unaccounted for whilst under a customs procedure if the goods were in free circulation when the goods came under that procedure. 10

Damaged goods

544. (1) A notification in terms of section 542 in relation to damaged goods must be accompanied by documentary proof if the goods were damaged due to—

- (a) a natural occurrence;
- (b) an accident; 15
- (c) a hostile act by a third party; or
- (d) the inherent characteristics of the goods.

(2) If the customs authority accepts documentary proof submitted to it in terms of subsection (1) that the goods were damaged due to a cause referred to in that subsection— 20

- (a) any existing clearance declaration submitted in respect of the goods must be—
 - (i) withdrawn, if all the goods covered by the declaration were damaged; or
 - (ii) amended to exclude the damaged goods, if only part of the goods covered by the declaration was damaged;
- (b) any import or export tax payable but not yet paid on the goods by virtue of that clearance falls away in respect of the damaged goods, unless provided otherwise in the tax levying Act regulating that tax; 25
- (c) any import or export tax already paid on the damaged goods by virtue of that clearance may in accordance with the tax levying Act regulating that tax be refunded to the person who paid the tax, unless provided otherwise in that Act;³⁸⁰ and 30
- (d) the damaged goods must, in the case of imported goods, within a timeframe as may be prescribed by rule read with sections 908 and 909—
 - (i) be cleared for home use or a customs procedure as may be permissible in the circumstances; 35
 - (ii) be abandoned to the Commissioner in accordance with Chapter 26; or
 - (iii) at the expense of a person referred to in section 542(2) or (3) and under customs supervision be exported from the Republic or destroyed.

(3) If damaged imported goods are cleared for home use or a customs procedure in terms of subsection (2)(d)(i), any tax payable by a person on the damaged goods by virtue of that clearance may be set off against any tax referred to in subsection (2)(c) that is refundable to that person in terms of a tax levying Act. 40

(4) The consequences set out in section 543 apply if—

- (a) the customs authority refuses to accept documentary proof submitted to it in terms of subsection (1) that the goods were damaged due to a cause referred to in that subsection; or 45
- (b) no such documentary proof is submitted to the customs authority.

³⁸⁰. But see section 555.

- (b) is geen belasting wat reeds op die goedere betaal is, terugbetaalbaar nie;
- (c) moet artikel 92(1) op die goedere toegepas word, in die geval van ingevoerde goedere wat beskadig, vernietig, verlore of rekenskaploos geraak het voordat die goedere ooreenkomstig artikels 89 en 90 vir binnelandse gebruik of 'n doeaneprosedure geklaar is; 5
- (d) moet artikel 112(1) op die goedere toegepas word, in die geval van ingevoerde goedere wat beskadig, vernietig, verlore of rekenskaploos geraak het terwyl dit onder 'n doeaneprosedure was; en
- (e) moet artikel 113(1) op die goedere toegepas word, in die geval van goedere wat beskadig, vernietig, verlore of rekenskaploos geraak het terwyl dit onder 'n doeaneprosedure was indien die goedere in vry sirkulasie was toe die goedere onder daardie prosedure gekom het. 10

Beskadigde goedere

544. (1) 'n Kennisgewing ingevolge artikel 542 met betrekking tot beskadigde goedere, moet vergesel gaan van dokumentêre bewys indien die goedere beskadig is as gevolg van— 15

- (a) 'n natuurlike gebeurtenis;
- (b) 'n ongeluk;
- (c) 'n vyandige handeling deur 'n derde party; of
- (d) die inherente eienskappe van die goedere. 20

(2) Indien die doeanegesag die dokumentêre bewys wat ingevolge subartikel (1) ingedien is dat die goedere beskadig is weens 'n oorsaak bedoel in daardie subartikel aanvaar—

- (a) moet enige bestaande klaringsbrief wat ten opsigte van die goedere ingedien is— 25
 - (i) teruggetrek word, indien al die goedere wat deur die klaringsbrief gedek word, beskadig is; of
 - (ii) gewysig word om die beskadigde goedere daarvan uit te sluit, indien slegs 'n gedeelte van die goedere wat deur die klaringsbrief gedek word, beskadig is; 30

(b) val enige invoer- of uitvoerbelasting wat uit hoofde van daardie klaring op die goedere betaalbaar is, maar wat nog nie betaal is nie, weg ten opsigte van die beskadigde goedere, tensy daar anders bepaal word in die belastingheffings-Wet wat daardie belasting reguleer;

(c) kan enige invoer- of uitvoerbelasting wat reeds op die beskadigde goedere uit hoofde van daardie klaring betaal is, ooreenkomstig die belastingheffings-Wet wat daardie belasting reguleer, terug betaal word aan die persoon wat die belasting betaal het, tensy daar anders in daardie Wet bepaal word;³⁸⁰ en 35

(d) moet die beskadigde goedere, in die geval van ingevoerde goedere, binne 'n tydsvaam soos by reël, saamgelees met artikels 908 en 909, voorgeskryf mag word— 40

- (i) vir binnelandse gebruik of 'n doeaneprosedure, soos in die omstandighede toelaatbaar mag wees, geklaar word;
- (ii) aan die Kommissaris ooreenkomstig Hoofstuk 26 oorgegee word; of
- (iii) op koste van 'n persoon in artikel 542(2) of (3) bedoel en onder doeanetoesig uit die Republiek uitgevoer of vernietig word. 45

(3) Indien beskadigde ingevoerde goedere ingevolge subartikel (2)(d)(i) vir binnelandse gebruik of 'n doeaneprosedure geklaar word, kan enige belasting wat deur 'n persoon op die beskadigde goedere uit hoofde van daardie klaring betaalbaar is, verreken word teen enige belasting bedoel in subartikel (2)(c) wat ingevolge 'n belastingheffings-Wet aan daardie persoon terugbetaalbaar is. 50

(4) Die gevolg in artikel 543 uiteengesit, geld indien—

- (a) die doeanegesag weier om dokumentêre bewys wat ingevolge subartikel (1) ingedien is dat die goedere as gevolg van 'n oorsaak bedoel in daardie subartikel beskadig is, te aanvaar; of 55
- (b) geen sodanige dokumentêre bewys by die doeanegesag ingedien word nie.

³⁸⁰. Maar kyk artikel 555.

Destroyed goods

- 545.** (1) A notification in terms of section 542 in relation to destroyed goods must be accompanied by documentary proof if the goods were destroyed due to—
- (a) a natural occurrence;
 - (b) an accident; 5
 - (c) a hostile act by a third party; or
 - (d) the inherent characteristics of the goods.
- (2) If the customs authority accepts documentary proof submitted to it in terms of subsection (1) that the goods were destroyed due to a cause referred to in that subsection any— 10
- (a) existing clearance declaration submitted in respect of the goods must be—
 - (i) withdrawn, if all the goods covered by the declaration were destroyed; or
 - (ii) amended to exclude the destroyed goods, if only part of the goods covered by the declaration was destroyed;
 - (b) import or export tax payable but not yet paid on the goods by virtue of that clearance falls away in respect of the destroyed goods, unless provided otherwise in the tax levying Act regulating that tax; 15
 - (c) import or export tax already paid on the destroyed goods by virtue of that clearance may in accordance with the tax levying Act regulating that tax be refunded to the person who paid the tax, unless provided otherwise in that Act;³⁸¹ and 20
 - (d) parts or materials that have been salvaged from the destroyed goods or that are salvageable, must, in the case of imported goods, within a period prescribed by rule read with sections 908 and 909—
 - (i) be cleared for home use or a customs procedure permissible in the circumstances; 25
 - (ii) be abandoned to the Commissioner in accordance with Chapter 26; or
 - (iii) at the expense of a person referred to in section 542(2) or (3), and under customs supervision, be exported from the Republic or destroyed.
- (3) If any parts or materials that have been salvaged from the destroyed goods or that are salvageable are cleared for home use or a customs procedure in terms of subsection (2)(d)(i), any tax payable on the parts or materials by virtue of that clearance may be set off against any tax referred to in subsection (2)(c) which is refundable in terms of the applicable tax levying Act. 30
- (4) The consequences set out in section 543 apply if— 35
- (a) the customs authority refuses to accept documentary proof submitted to it in terms of subsection (1) that the goods were destroyed due to a cause referred to in that subsection; or
 - (b) no such documentary proof is submitted to the customs authority.

Lost goods

- 546.** (1) A notification in terms of section 542 in relation to lost goods must be accompanied by documentary proof— 40
- (a) if the goods were lost due to—
 - (i) a natural occurrence;
 - (ii) an accident; 45
 - (iii) a hostile act by a third party; or
 - (iv) the inherent characteristics of the goods; and
 - (b) that the goods after having been lost due to an occurrence referred to in paragraph (a) have not gone into home use.
- (2) If the customs authority accepts documentary proof submitted to it in terms of subsection (1) that the goods were lost due to a cause referred to in that subsection and that the goods have not gone into home use— 50

³⁸¹. But see section 555.

Vernietigde goedere

- 545.** (1) 'n Kennisgewing ingevolge artikel 542 met betrekking tot vernietigde goedere, moet vergesel gaan van dokumentêre bewys indien die goedere vernietig is as gevolg van—
- (a) 'n natuurlike gebeurtenis; 5
 - (b) 'n ongeluk;
 - (c) 'n vyandige handeling deur 'n derde party; of
 - (d) die inherente eienskappe van die goedere.
- (2) Indien die doeanegesag dokumentêre bewys wat ingevolge subartikel (1) ingedien is dat die goedere weens 'n oorsaak bedoel in daardie subartikel vernietig is, aanvaar— 10
- (a) moet enige bestaande klaringsbrief wat ten opsigte van die goedere ingedien is—
 - (i) teruggetrek word, indien al die goedere wat deur die klaringsbrief gedek word, vernietig is; of
 - (ii) gewysig word om die vernietigde goedere daarvan uit te sluit, indien slegs 'n gedeelte van die goedere wat deur die klaringsbrief gedek word, vernietig is; 15
 - (b) val invoer- of uitvoerbelasting wat uit hoofde van daardie klaring op die goedere betaalbaar is, maar wat nog nie betaal is nie, weg ten opsigte van die vernietigde goedere, tensy daar anders bepaal word in die belastingheffings- 20
Wet wat daardie belasting reguleer;
 - (c) kan invoer- of uitvoerbelasting wat reeds op die vernietigde goedere uit hoofde van daardie klaring betaal is, ooreenkomstig die belastingheffings-Wet wat daardie belasting reguleer, terugbetaal word aan die persoon wat die belasting betaal het, tensy daar anders in daardie Wet bepaal word;³⁸¹ en 25
 - (d) moet gedeeltes of materiaal wat van die vernietigde goedere herwin is of wat herwinbaar is, in die geval van ingevoerde goedere, binne 'n tydperk by reël, saamgelees met artikel 908 en 909, voorgeskryf —
 - (i) vir binnelandse gebruik of 'n doeaneprosedure wat in die omstandighede toelaatbaar is, geklaar word; 30
 - (ii) aan die Kommissaris ooreenkomstig Hoofstuk 26 oorgegee word; of
 - (iii) op koste van 'n persoon in artikel 542(2) of (3) bedoel, en onder doeanetoesig, uit die Republiek uitgevoer of vernietig word.
- (3) Indien enige gedeeltes of materiaal wat van die vernietigde goedere herwin is of herwinbaar is ingevolge subartikel (2)(d)(i) vir binnelandse gebruik of 'n 35
doeaneprosedure geklaar word, kan enige belasting wat op die gedeeltes of materiaal uit hoofde van daardie klaring betaalbaar is, verreken word teen enige belasting bedoel in subartikel (2)(c) wat ingevolge die betrokke belastingheffings-Wet terugbetaalbaar is.
- (4) Die gevolge in artikel 543 uiteengesit, geld indien—
- (a) die doeanegesag weier om dokumentêre bewys wat ingevolge subartikel (1) 40
ingedien is dat die goedere weens 'n oorsaak bedoel in daardie subartikel vernietig is, te aanvaar; of
 - (b) geen sodanige dokumentêre bewys by die doeanegesag ingedien word nie.

Verlore goedere

- 546.** (1) 'n Kennisgewing ingevolge artikel 542 met betrekking tot verlore goedere, 45
moet vergesel gaan van dokumentêre bewys—
- (a) indien die goedere verlore is as gevolg van—
 - (i) 'n natuurlike gebeurtenis;
 - (ii) 'n ongeluk;
 - (iii) 'n vyandige handeling deur 'n derde party; of 50
 - (iv) die inherente eienskappe van die goedere; en
 - (b) dat daardie die goedere nadat dit weens 'n gebeurtenis bedoel in paragraaf (a)
verlore geraak het, nie in binnelandse gebruik gegaan het nie.
- (2) Indien die doeanegesag dokumentêre bewys wat ingevolge subartikel (1) ingedien is dat die goedere verlore geraak het weens 'n oorsaak in daardie subartikel bedoel en dat die goedere nie in binnelandse gebruik gegaan het nie, aanvaar— 55

381. Maar kyk artikel 555.

- (a) any existing clearance declaration submitted in respect of the goods must be—
 - (i) withdrawn, if all the goods covered by the declaration were lost; or
 - (ii) amended to exclude the lost goods, if only part of the goods covered by the declaration was lost;
 - (b) any import or export tax payable but not yet paid on the goods by virtue of that clearance falls away in respect of the lost goods, unless provided otherwise in the tax levying Act regulating that tax; and 5
 - (c) any import or export tax already paid on the lost goods by virtue of that clearance may in accordance with the tax levying Act regulating that tax be refunded to the person who paid the tax, unless provided otherwise in that Act.³⁸² 10
- (3) The consequences set out in section 543 apply if—
- (a) the customs authority refuses to accept documentary proof submitted to it in terms of subsection (1)—
 - (i) that the goods were lost due to a cause referred to in that subsection; or 15
 - (ii) that the lost goods have not gone into home use; or
 - (b) no such documentary proof is submitted to the customs authority.

Goods unaccounted for

- 547.** (1) A notification in terms of section 542 in relation to goods that are unaccounted for must be accompanied by documentary proof if the shortfall in the goods is due to— 20
- (a) a short shipment of the goods;
 - (b) an administrative error in any documents or records relating to the goods; or
 - (c) another justifiable cause as may be recognised by rule.
- (2) If the customs authority accepts documentary proof submitted to it in terms of subsection (1) that the goods are unaccounted for due to a cause referred to in that subsection any— 25
- (a) existing clearance declaration submitted in respect of the goods must be—
 - (i) withdrawn, if all the goods covered by the declaration are unaccounted for; or 30
 - (ii) amended to exclude the goods unaccounted for, if only part of the goods covered by the declaration is unaccounted for;
 - (b) import or export tax payable but not yet paid on the goods by virtue of that clearance falls away in respect of the goods unaccounted for, unless provided otherwise in the tax levying Act regulating that tax; and 35
 - (c) import or export tax already paid on the goods unaccounted for by virtue of that clearance may in accordance with the tax levying Act regulating that tax be refunded to the person who paid the tax, unless provided otherwise in that Act.³⁸³
- (3) The consequences set out in section 543 apply if— 40
- (a) the customs authority refuses to accept documentary proof submitted to it in terms of subsection (1) that the goods are unaccounted for due to a cause referred to in that subsection; or
 - (b) no such documentary proof is submitted to the customs authority.

382. But see section 555.

383. But see section 555.

- (a) moet enige bestaande klaringsbrief wat ten opsigte van die goedere ingedien is—
 - (i) teruggetrek word, indien al die goedere gedek deur die klaringsbrief verlore is; of
 - (ii) gewysig word om die verlore goedere daarvan uit te sluit, indien slegs 'n gedeelte van die goedere gedek deur die klaringsbrief verlore is; 5
- (b) val enige invoer- of uitvoerbelasting wat uit hoofde van daardie klaring op die goedere betaalbaar is, maar wat nog nie betaal is nie, weg ten opsigte van die verlore goedere, tensy daar anders bepaal word in die belastingheffings-Wet wat daardie belasting reguleer; en 10
- (c) kan enige invoer- of uitvoerbelasting wat reeds op die verlore goedere uit hoofde van daardie klaring betaal is, ooreenkomstig die belastingheffings-Wet wat daardie belasting reguleer, terugbetaal word aan die persoon wat die belasting betaal het, tensy daar anders in daardie Wet bepaal word.³⁸² 15
- (3) Die gevolge in artikel 543 uiteengesit, geld indien— 15
 - (a) die doeanegesag weier om dokumentêre bewys wat ingevolge subartikel (1) ingedien is, te aanvaar—
 - (i) dat die goedere weens 'n oorsaak bedoel in daardie subartikel verlore geraak het; of
 - (ii) dat die verlore goedere nie in binnelandse gebruik gegaan het nie; of 20
 - (b) geen sodanige dokumentêre bewys by die doeanegesag ingedien word nie.

Rekenskaplose goedere

- 547.** (1) 'n Kennisgewing ingevolge artikel 542 met betrekking tot rekenskaplose goedere, moet vergesel gaan van dokumentêre bewys indien die tekort in die goedere veroorsaak is deur— 25
- (a) 'n kortverskeping van die goedere;
 - (b) 'n administratiewe fout in enige dokumente of rekords betreffende die goedere; of
 - (c) 'n ander regverdigbare oorsaak soos by reël erken mag word.
- (2) Indien die doeanegesag dokumentêre bewys wat ingevolge subartikel (1) ingedien is dat die goedere rekenskaploos geraak het weens 'n oorsaak bedoel in daardie subartikel aanvaar— 30
- (a) moet enige bestaande klaringsbrief ten opsigte van die goedere ingedien—
 - (i) teruggetrek word, indien al die goedere wat deur die klaringsbrief gedek word, rekenskaploos is; of 35
 - (ii) gewysig word om die rekenskaplose goedere daarvan uit te sluit, indien slegs 'n gedeelte van die goedere wat deur die klaringsbrief gedek word, rekenskaploos is;
 - (b) val invoer- of uitvoerbelasting op die goedere wat uit hoofde van daardie klaring betaalbaar is, maar wat nog nie betaal is nie, weg ten opsigte van die rekenskaplose goedere, tensy daar anders bepaal word in die belastingheffings-Wet wat daardie belasting reguleer; en 40
 - (c) kan invoer- of uitvoerbelasting wat reeds op die rekenskaplose goedere uit hoofde van daardie klaring betaal is, ooreenkomstig die belastingheffings-Wet wat daardie belasting reguleer, terugbetaal word aan die persoon wat die belasting betaal het, tensy daar anders in daardie Wet bepaal word.³⁸³ 45
- (3) Die gevolge in artikel 543 uiteengesit, geld indien—
- (a) die doeanegesag weier om dokumentêre bewys wat ingevolge subartikel (1) ingedien is dat die goedere rekenskaploos geraak het weens 'n oorsaak bedoel in daardie subartikel te aanvaar; of 50
 - (b) geen sodanige dokumentêre bewys by die doeanegesag ingedien word nie.

382. Maar kyk artikel 555.

383. Maar kyk artikel 555.

Part 2

*Compensating products*³⁸⁴

Application of this Part

548. (1) This Part applies to—

- (a) compensating products obtained from the processing of goods under the inward processing procedure³⁸⁵ that were damaged, destroyed or lost or became unaccounted for before being exported from the Republic as inward processed compensating products; and 5
- (b) compensating products imported into the Republic under the outward processing procedure³⁸⁶ that were damaged, destroyed or lost or became unaccounted for before being released for home use as outward processed compensating products. 10

(2) This Part does not apply to compensating products referred to in subsection (1) that were seized or confiscated or were abandoned to the Commissioner.³⁸⁷

Notification of compensating products damaged, destroyed, lost or unaccounted for 15

549. (1) The customs authority must within a period and in a manner as may be prescribed by rule read with section 908, be notified if compensating products to which this Part applies are damaged, destroyed, lost or unaccounted for.

(2) A notification referred to in subsection (1) must be submitted— 20

- (a) in the case of damaged, destroyed or lost compensating products, by the person who was in physical control of the compensating products when they were damaged, destroyed or lost; or
- (b) in the case of compensating products unaccounted for, by—
 - (i) the licensee of the premises where the goods from which the compensating products are obtained were processed; or 25
 - (ii) the person who is responsible for the compensating products and who discovered or was notified that the compensating products are unaccounted for.

(3) Subsection (2) does not prevent any of the following persons to submit the notification referred to in subsection (1): 30

- (a) The person who initially cleared the goods from which the compensating products were obtained for inward or outward processing;
- (b) the customs broker who submitted the clearance declaration in respect of those goods; 35
- (c) the owner of the compensating products; or
- (d) any other person who has a material interest in the compensating products.

(4) A notification referred to in subsection (1) must—

- (a) identify the compensating products damaged, destroyed or lost or unaccounted for, in a manner and by way of documents as may be prescribed by rule; 40
- (b) indicate whether the compensating products were under the inward or outward processing procedure;
- (c) state the number and date of the clearance declaration of the goods from which the compensating products were obtained; 45

384. Home use compensating products are excluded from this Part as such products once manufactured are allowed into free circulation without formalities. Accordingly, damage to, destruction or loss of such compensating products as goods in free circulation has no tax implications.

385. See Chapter 18.

386. See Chapter 20.

387. See section 556 for seized, confiscated or abandoned goods that are damaged, destroyed or lost or unaccounted for.

Deel 2

*Kompenserende produkte*³⁸⁴

Toepassing van hierdie Deel

- 548.** (1) Hierdie Deel is van toepassing op—
- (a) kompenserende produkte verkry uit die prosessering van goedere onder die prosedure vir inwaartse prosessering³⁸⁵ wat beskadig, vernietig, verlore of rekenskaploos geraak het voordat dit as inwaarts geprosesseerde kompenserende produkte uit die Republiek uitgevoer is; en 5
 - (b) kompenserende produkte in die Republiek ingevoer onder die prosedure vir uitwaartse prosessering³⁸⁶ wat beskadig, vernietig, verlore of rekenskaploos geraak het voordat dit vir binnelandse gebruik as uitwaartse geprosesseerde kompenserende produkte vrygestel is. 10
- (2) Hierdie Deel is nie van toepassing op kompenserende produkte in subartikel (1) bedoel waarop daar beslag gelê of wat gekonfiskeer of aan die Kommissaris oorgegee is nie.³⁸⁷ 15

Kennisgewing van kompenserende produkte wat beskadig, vernietig, verlore of rekenskaploos raak

- 549.** (1) Die doeanegesag moet binne 'n tydperk en op 'n wyse soos by reël, saamgelees met artikels 908 en 909, voorgeskryf mag word in kennis gestel word indien kompenserende produkte waarop hierdie Deel van toepassing is, beskadig, vernietig, verlore of rekenskaploos raak. 20
- (2) 'n Kennisgewing bedoel in subartikel (1) moet ingedien word—
- (a) in die geval van beskadigde, vernietigde of verlore kompenserende produkte, deur die persoon wat fisies in beheer van die kompenserende produkte was toe dit beskadig, vernietig of verlore geraak het; of 25
 - (b) in die geval van rekenskaplose kompenserende produkte, deur—
 - (i) die lisensiehouer van die perseel waar die goedere waaruit die kompenserende produkte verkry is, geprosesseer is; of
 - (ii) die persoon wat vir die kompenserende produkte verantwoordelik is en wat ontdek het of ingelig is dat die kompenserende produkte rekenskaploos is. 30
- (3) Subartikel (2) verhinder nie enige van die volgende persone om die kennisgewing bedoel in subartikel (1) in te dien nie:
- (a) Die persoon wat aanvanklik die goedere waaruit die kompenserende produkte verkry is vir inwaartse of uitwaartse prosessering geklaar het; 35
 - (b) die doeanemakelaar wat die klaringsbrief ten opsigte van daardie goedere ingedien het;
 - (c) die eienaar van die kompenserende produkte; of
 - (d) enige ander persoon wat 'n wesenlike belang in die kompenserende produkte het. 40
- (4) 'n Kennisgewing bedoel in subartikel (1) moet—
- (a) die kompenserende produkte wat beskadig, vernietig, verlore of rekenskaploos is op 'n wyse en by wyse van dokumente identifiseer, soos by reël voorgeskryf mag word;
 - (b) aandui of die kompenserende produkte onder die prosedure vir inwaartse of uitwaartse prosessering was; 45
 - (c) die nommer en datum vermeld van die klaringsbrief van die goedere waaruit die kompenserende produkte verkry is;

384. Binnelandse gebruik kompenserende produkte word van hierdie Deel uitgesluit aangesien sodanige produkte sodra dit vervaardig is sonder formaliteite in vry sirkulasie toegelaat word. Dit volg dat beskadiging aan, of vernietiging of verlies van, sulke kompenserende produkte as goedere in vry sirkulasie geen belastinggevolge het nie.

385. Kyk Hoofstuk 18.

386. Kyk Hoofstuk 20.

387. Kyk artikel 556 vir beslaggelede, gekonfiskeerde or oorgegewe goedere wat beskadig, vernietig, verlore of rekenskaploos raak.

- (d) give a detailed account of how, when and where the compensating products became damaged, destroyed, lost or unaccounted for;
- (e) contain any other particulars as may be prescribed by rule; and
- (f) be accompanied by documentary proof referred to in section 551, 552, 553 or 554, as may be applicable. 5

Consequences of failure to notify

550. If the customs authority is not notified in accordance with section 549 of compensating products to which this Part applies that were damaged, destroyed or lost or became unaccounted for—

- (a) section 430(1)³⁸⁸ or 472,³⁸⁹ as may be appropriate, must be applied to the goods from which the compensating products were obtained; and 10
- (b) the compensating products must, in the case of compensating products under the outward processing procedure, for tax purposes be regarded to be cleared for home use under Chapter 8.³⁹⁰

Damaged compensating products 15

551. (1) A notification in terms of section 549 in relation to damaged compensating products must be accompanied by documentary proof if the compensating products were damaged due to—

- (a) a natural occurrence;
- (b) an accident; 20
- (c) a hostile act by a third party; or
- (d) the inherent characteristics of the compensating products.

(2) If the customs authority accepts documentary proof submitted to it in terms of subsection (1) that the compensating products were damaged due to a cause referred to in that subsection, the damaged compensating products— 25

- (a) in the case of compensating products under the inward processing procedure, must—
 - (i) continue to be dealt with as inward processed compensating products in accordance with the inward processing procedure or be dealt with in terms of section 424 as by-products or commercially valuable waste obtained from the processing of goods under that procedure; 30
 - (ii) be abandoned to the Commissioner in accordance with Chapter 26; or
 - (iii) at the expense of a person referred to in section 549(2) or (3) be destroyed under customs supervision; or
- (b) in the case of compensating products under the outward processing procedure, must— 35
 - (i) continue to be dealt with as outward processed compensating products obtained from the processing of goods under the outward processing procedure;
 - (ii) be abandoned to the Commissioner in accordance with Chapter 26; or 40
 - (iii) at the expense of a person referred to in section 549(2) or (3) be destroyed under customs supervision.

(3) The consequences set out in section 550 apply if—

- (a) the customs authority refuses to accept documentary proof submitted to it in terms of subsection (1) that the compensating products were damaged due to a cause referred to in that subsection; or 45
- (b) no such documentary proof is submitted to the customs authority.

Destroyed compensating products

552. (1) A notification in terms of section 549 in relation to destroyed compensating products must be accompanied by documentary proof if the compensating products were destroyed due to— 50

- (a) a natural occurrence;

388. For compensating products under the inward processing procedure.

389. For compensating products under the outward processing procedure.

390. Section 154 applies if goods are regarded to be cleared for home use.

- (d) 'n volledige uiteensetting gee van hoe, wanneer en waar die kompenserende produkte beskadig, vernietig, verlore of rekenskaploos geraak het;
- (e) enige ander besonderhede bevat soos by reël voorgeskryf mag word; en
- (f) vergesel gaan van dokumentêre bewys bedoel in artikel 551, 552, 553 of 554, soos van toepassing mag wees. 5

Gevolge van versuim om kennis te gee

550. Indien die doeanegesag nie volgens voorskrif van artikel 549 in kennis gestel word van kompenserende produkte waarop hierdie Deel van toepassing is wat beskadig, vernietig, verlore of rekenskaploos geraak het nie—

- (a) moet artikel 430(1)³⁸⁸ of 472,³⁸⁹ soos ook al gepas mag wees, toegepas word op die goedere waarvan die kompenserende produkte verkry is; en 10
- (b) moet die kompenserende produkte, in die geval van kompenserende produkte onder die prosedure vir uitwaartse prosessering, vir belastingdoeleindes geag word vir binnelandse gebruik kragtens Hoofstuk 8 geklaar te wees.³⁹⁰

Beskadigde kompenserende produkte 15

551. (1) 'n Kennisgewing ingevolge artikel 549 met betrekking tot beskadigde kompenserende produkte, moet vergesel gaan van dokumentêre bewys indien die kompenserende produkte beskadig is as gevolg van—

- (a) 'n natuurlike gebeurtenis;
- (b) 'n ongeluk; 20
- (c) 'n vyandige handeling deur 'n derde party; of
- (d) die inherente eienskappe van die kompenserende produkte.

(2) Indien die doeanegesag dokumentêre bewys wat ingevolge subartikel (1) ingedien is dat die kompenserende produkte beskadig is weens 'n oorsaak bedoel in daardie subartikel aanvaar, moet die beskadigde kompenserende produkte— 25

- (a) in die geval van kompenserende produkte onder die prosedure vir inwaartse prosessering—
 - (i) voortgaan om as inwaarts geprosesseerde kompenserende produkte hanteer te word ooreenkomstig die prosedure vir inwaartse prosessering of ingevolge artikel 424 mee gehandel word as byprodukte of kommersieel waardevolle afval verkry uit die prosessering van goedere onder daardie prosedure; 30
 - (ii) aan die Kommissaris ooreenkomstig Hoofstuk 26 oorgegee word; of
 - (iii) op koste van 'n persoon bedoel in artikel 549(2) of (3) onder doeanetoesig vernietig word; of 35
- (b) in die geval van kompenserende produkte onder die prosedure vir uitwaartse prosessering—
 - (i) voortgaan om as uitwaarts geprosesseerde kompenserende produkte verkry uit die prosessering van goedere onder die prosedure vir uitwaartse prosessering hanteer te word; 40
 - (ii) aan die Kommissaris ooreenkomstig Hoofstuk 26 oorgegee word; of
 - (iii) op koste van 'n persoon bedoel in artikel 549(2) of (3) onder doeanetoesig vernietig word.

(3) Die gevolge in artikel 550 uiteengesit, geld indien—

- (a) die doeanegesag weier om dokumentêre bewys ingevolge subartikel (1) ingedien dat die kompenserende produkte weens 'n oorsaak bedoel in daardie subartikel beskadig is, te aanvaar; of 45
- (b) geen sodanige dokumentêre bewys by die doeanegesag ingedien word nie.

Vernietigde kompenserende produkte

552. (1) 'n Kennisgewing ingevolge artikel 549 met betrekking tot vernietigde kompenserende produkte, moet vergesel gaan van dokumentêre bewys indien die kompenserende produkte vernietig is as gevolg van— 50

- (a) 'n natuurlike gebeurtenis;

388. Vir kompenserende produkte onder die prosedure vir inwaartse prosessering.

389. Vir kompenserende produkte onder die prosedure vir uitwaartse prosessering.

390. Artikel 154 is van toepassing indien goedere geag word vir binnelandse gebruik geklaar te wees.

- (b) an accident;
 - (c) a hostile act by a third party; or
 - (d) the inherent characteristics of the compensating products.
- (2) If the customs authority accepts documentary proof submitted to it in terms of subsection (1) that the compensating products were destroyed due to a cause referred to in that subsection whilst under— 5
- (a) the inward processing procedure, any parts or materials that may have been salvaged or are salvageable from the destroyed compensating products must—
 - (i) be dealt with in terms of section 424 as by-products or commercially valuable waste obtained from the processing of goods under the inward processing procedure;³⁹¹ 10
 - (ii) be abandoned to the Commissioner in accordance with Chapter 26; or
 - (iii) at the expense of a person referred to in section 549(2) or (3) be destroyed under customs supervision; or 15
 - (b) the outward processing procedure, any parts or materials that may have been salvaged or are salvageable from the destroyed compensating products, may—
 - (i) be cleared under the outward processing procedure for home use as outward processed compensating products; 20
 - (ii) be abandoned to the Commissioner in accordance with Chapter 26; or
 - (iii) at the expense of a person referred to in section 549(2) or (3) be destroyed under customs supervision.
- (3) The consequences set out in section 550 apply if—
- (a) the customs authority refuses to accept documentary proof submitted to it in terms of subsection (1) that the compensating products were destroyed due to a cause referred to in that subsection; or 25
 - (b) no such documentary proof is submitted to the customs authority.

Lost compensating products

- 553.** (1) A notification in terms of section 549 in relation to lost compensating products must be accompanied by documentary proof— 30
- (a) if the compensating products were lost due to—
 - (i) a natural occurrence;
 - (ii) an accident;
 - (iii) a hostile act by a third party; or 35
 - (iv) the inherent characteristics of the compensating products; and
 - (b) that the compensating products after having been lost due to an occurrence referred to in paragraph (a) have not gone into home use.
- (2) The consequences set out in section 550 apply if—
- (a) the customs authority refuses to accept documentary proof submitted to it in terms of subsection (1)— 40
 - (i) that the compensating products were lost due to a cause referred to in that subsection; or
 - (ii) that the lost compensating products have not gone into home use; or
 - (b) no such documentary proof is submitted to the customs authority. 45

Compensating products unaccounted for

- 554.** (1) A notification in terms of section 549 in relation to compensating products that are unaccounted for must be accompanied by documentary proof if the shortfall in the compensating products was due to—
- (a) a short shipment of the compensating products; 50
 - (b) an administrative error in any documents or records relating to the compensating products;
 - (c) an erroneous calculation in the conversion of goods to compensating products; or

³⁹¹ Section 424(1) provides for by-products or commercially valuable waste to be cleared and released for export under the inward processing procedure as if the by-products or waste were inward processed compensating products. Alternatively it could be allowed into free circulation in accordance with section 424(2).

- (b) 'n ongeluk;
 - (c) 'n vyandige handeling deur 'n derde party; of
 - (d) die inherente eienskappe van die kompenserende produkte.
- (2) Indien die doeanegesag dokumentêre bewys wat ingevolge subartikel (1) ingedien is, aanvaar dat die kompenserende produkte vernietig is weens 'n oorsaak bedoel in daardie subartikel terwyl dit onder— 5
- (a) die prosedure vir inwaartse prosessering was, moet enige gedeeltes of materiaal wat herwin of herwinbaar is uit die vernietigde kompenserende produkte—
 - (i) ingevolge artikel 424 behandel word as byprodukte of kommersieel waardevolle afval wat uit die prosessering van goedere onder die prosedure vir inwaartse prosessering verkry is;³⁹¹ 10
 - (ii) aan die Kommissaris ooreenkomstig Hoofstuk 26 oorgegee word; of
 - (iii) op koste van 'n persoon bedoel in artikel 549(2) of (3) onder doeanetoetsig vernietig word; of 15
 - (b) die prosedure vir uitwaartse prosessering was, kan enige gedeelte of materiaal wat herwin of herwinbaar is uit die vernietigde kompenserende produkte—
 - (i) onder die prosedure vir uitwaartse prosessering vir binnelandse gebruik as uitwaarts geprosesseerde kompenserende produkte geklaar word;
 - (ii) aan die Kommissaris ooreenkomstig Hoofstuk 26 oorgegee word; of 20
 - (iii) op koste van 'n persoon bedoel in artikel 549(2) of (3) onder doeanetoetsig vernietig word.
- (3) Die gevolge in artikel 550 uiteengesit, geld indien—
- (a) die doeanegesag weier om dokumentêre bewys wat ingevolge subartikel (1) ingedien is dat die kompenserende produkte weens 'n oorsaak bedoel in daardie subartikel vernietig is, te aanvaar; of 25
 - (b) geen sodanige dokumentêre bewys by die doeanegesag ingedien word nie.

Verlore kompenserende produkte

- 553.** (1) 'n Kennisgewing ingevolge artikel 549 met betrekking tot verlore kompenserende produkte, moet vergesel gaan van dokumentêre bewys— 30
- (a) indien die kompenserende produkte verlore is as gevolg van—
 - (i) 'n natuurlike gebeurtenis;
 - (ii) 'n ongeluk;
 - (iii) 'n vyandige handeling deur 'n derde party; of
 - (iv) die inherente eienskappe van die kompenserende produkte; en 35
 - (b) dat die kompenserende produkte nadat dit verlore gegaan het weens 'n gebeurtenis bedoel in paragraaf (a) nie in binnelandse gebruik gegaan het nie.
- (2) Die gevolge in artikel 550 uiteengesit, geld indien—
- (a) die doeanegesag weier om dokumentêre bewys wat ingevolge subartikel (1) ingedien is, te aanvaar— 40
 - (i) dat die kompenserende produkte verlore gegaan het weens 'n oorsaak in daardie subartikel bedoel; of
 - (ii) dat die verlore kompenserende produkte nie in binnelandse gebruik gegaan het nie; of
 - (b) geen sodanige dokumentêre bewys by die doeanegesag ingedien word nie. 45

Rekenskaplose kompenserende produkte

- 554.** (1) 'n Kennisgewing ingevolge artikel 549 met betrekking tot kompenserende produkte wat rekenskaploos raak, moet vergesel gaan van dokumentêre bewys indien die tekort in die kompenserende produkte veroorsaak is deur— 50
- (a) 'n kortverskeping van die kompenserende produkte;
 - (b) 'n administratiewe fout in enige dokumente of rekords betreffende die kompenserende produkte;
 - (c) 'n foutiewe berekening in die omskakeling van goedere na kompenserende produkte; of

391. Artikel 424(1) maak voorsiening vir byprodukte of kommersieel waardevolle afval om geklaar en vrygestel te word vir uitvoer onder die prosedure vir inwaartse prosessering asof die byprodukte of afval inwaarts geprosesseerde kompenserende produkte was. Alternatiewelik, kan dit in vry sirkulasie toegelaat word ooreenkomstig artikel 424(2).

- (d) another justifiable cause as may be recognised by rule.
- (2) The consequences set out in section 550 apply if—
 - (a) the customs authority refuses to accept documentary proof submitted to it in terms of subsection (1) that the goods are unaccounted for due to a cause referred to in that subsection; or 5
 - (b) no such documentary proof is submitted to the customs authority.

Part 3

Other matters

Tax waivers and refunds for goods damaged, destroyed, lost or unaccounted for not applicable in certain circumstances 10

555. A provision of this Chapter which provides for tax on goods to fall away or to be refunded when goods are damaged, destroyed, lost or unaccounted for, does not apply if in any specific case the beneficiary of such tax waiver or refund has received or is entitled to receive insurance or other compensation in respect of such tax that has become payable to the beneficiary as a result of the fact that the goods were damaged, destroyed, lost or unaccounted for. 15

Seized, confiscated and abandoned goods damaged, destroyed, lost or unaccounted for

556. (1) The customs authority must within a period and in a manner as may be prescribed by rule be notified if goods that were seized or confiscated or goods that were abandoned to the Commissioner are damaged, destroyed, lost or unaccounted for. 20

- (2) A notification referred to in subsection (1) must be submitted—
 - (a) in the case of damaged, destroyed or lost goods, by the licensee who was in physical control of the goods when the goods were damaged, destroyed or lost; or 25
 - (b) in the case of goods unaccounted for, by the licensee responsible for the goods.

(3) If goods that were seized, confiscated or abandoned are damaged, destroyed, lost or unaccounted for—

- (a) any tax that was outstanding on the goods before they were damaged, destroyed, lost or unaccounted for remains payable as if the goods were not damaged, destroyed, lost or unaccounted for; and 30
- (b) no tax already paid on the goods is refundable.

(4) The licensee referred to in subsection (2) is liable for the payment of any outstanding import or export tax payable on seized, confiscated or abandoned goods— 35

- (a) damaged, destroyed or lost whilst under that person's physical control, unless it is proved that the goods were damaged, destroyed or lost due to—
 - (i) a natural occurrence;
 - (ii) an accident;
 - (iii) a hostile act by a third party; or 40
 - (iv) the inherent characteristics of the goods; or
- (b) unaccounted for, unless it is proved that the goods are unaccounted for due to—

- (i) a short shipment of the goods;
- (ii) an administrative error in any documents or records relating to the goods; 45
- or
- (iii) another justifiable cause as may be recognised by rule.

(5) Subsection (4) does not affect the Commissioner's right to recover any import or export tax payable on seized, confiscated or abandoned goods that were damaged or destroyed, from the proceeds of the sale of the damaged goods or any parts or materials that may have been salvaged from the destroyed goods. 50

- (d) 'n ander regverdigbare oorsaak soos by reël erken mag word.
- (2) Die gevolge in artikel 550 uiteengesit, geld indien—
 - (a) die doeanegesag weier om dokumentêre bewys wat ingevolge subartikel (1) ingedien is dat die goedere weens 'n oorsaak bedoel in daardie subartikel rekenskaploos is, te aanvaar; of 5
 - (b) geen sodanige dokumentêre bewys by die doeanegesag ingedien word nie.

Deel 3

Ander aangeleenthede

Belastingkwytskeldings en terugbetalings vir beskadigde, vernietigde, verlore of rekenskaplose goedere nie van toepassing in sekere omstandighede 10

555. 'n Bepaling van hierdie Hoofstuk wat voorsiening maak dat belasting op goedere moet wegval of terugbetaal moet word wanneer goedere beskadig, vernietig, verlore of rekenskaploos raak, is nie van toepassing nie indien in 'n spesifieke geval die begunstigde van so 'n belastingkwytskelding of -terugbetaling versekering of ander vergoeding ontvang het, of geregtig is om dit te ontvang, ten opsigte van sodanige belasting wat aan die begunstigde betaalbaar geword het weens die feit dat die goedere beskadig, vernietig, verlore of rekenskaploos geraak het. 15

Goedere waarop beslag gelê, gekonfiskeer of oorgegee is wat beskadig, vernietig, verlore of rekenskaploos raak

556. (1) Die doeanegesag moet binne 'n tydperk en op 'n wyse soos by reël voorgeskryf mag word in kennis gestel word indien goedere waarop daar beslag gelê is of wat gekonfiskeer of aan die Kommissaris oorgegee is, beskadig, vernietig, verlore of rekenskaploos raak. 20
- (2) 'n Kennisgewing bedoel in subartikel (1) moet ingedien word—
 - (a) in die geval van beskadigde, vernietigde of verlore goedere, deur die lisensiehouer wat in fisiese beheer van die goedere was toe die goedere beskadig, vernietig of verlore geraak het; of 25
 - (b) in die geval van rekenskaplose goedere, deur die lisensiehouer wat vir die goedere verantwoordelik was.
 - (3) Indien goedere waarop daar beslag gelê is of wat gekonfiskeer of oorgegee is, beskadig, vernietig, verlore of rekenskaploos raak—
 - (a) bly enige belasting wat op die goedere uitstaande was voordat dit beskadig, vernietig, verlore of rekenskaploos geraak het, betaalbaar asof die goedere nie beskadig, vernietig, verlore of rekenskaploos is nie; en 30
 - (b) is geen belasting wat alreeds op die goedere betaal is terugbetaalbaar nie. 35
 - (4) Die lisensiehouer bedoel in subartikel (2) is aanspreeklik vir die betaling van enige uitstaande invoer- of uitvoerbelasting wat op beslaggelegde, gekonfiskeerde of oorgegewe goedere betaalbaar is—
 - (a) wat beskadig, vernietig of verlore geraak het terwyl dit onder daardie persoon se fisiese beheer was, tensy daar bewys word dat die goedere beskadig, vernietig of verlore geraak het weens—
 - (i) 'n natuurlike gebeurtenis;
 - (ii) 'n ongeluk;
 - (iii) 'n vyandige handeling deur 'n derde party; of 45
 - (iv) die inherente eienskappe van die goedere; of 45
 - (b) wat rekenskaploos geraak het, tensy daar bewys word dat die goedere rekenskaploos geraak het weens—
 - (i) 'n kortverskeping van die goedere;
 - (ii) 'n administratiewe fout in enige dokumente of rekords betreffende die goedere; of 50
 - (iii) 'n ander regverdigbare oorsaak soos by reël erken mag word.
 - (5) Subartikel (4) raak nie die Kommissaris se reg om enige invoer- of uitvoerbelasting wat betaalbaar is op die beslaggelegde, gekonfiskeerde of oorgegewe goedere wat beskadig of vernietig is, uit die opbrengs van die verkoop van die beskadigde goedere of enige gedeelte of materiaal wat uit die vernietigde goedere herwin mag word, te verhaal nie. 55

Wreck

- 557.** (1) No person may without the permission of the customs authority remove any wreck from where it is found or alter in quantity or quality such wreck unless necessary for its preservation or safe-keeping.
- (2) Any person in possession of any wreck must without delay— 5
- (a) give notice thereof to the nearest Customs Office; and
- (b) if required to do so, deliver the wreck to the Commissioner.
- (3) Subsection (2)(b) does not apply to the owner of the wreck or the duly authorised agent of the owner.
- (4) (a) Wreck consisting of goods that are not in free circulation must be dealt with in accordance with this Chapter to the extent as may be prescribed by rule. 10
- (b) Wreck consisting of salvageable damaged or undamaged goods not in free circulation must be dealt with in accordance with the provisions of this Act applicable to such goods.

Rules to facilitate implementation of this Chapter 15

- 558.** Rules made in terms of section 903 to facilitate the implementation of this Chapter may include rules—
- (a) prescribing documents that may be submitted to the customs authority to prove the cause why goods were damaged, destroyed, lost or unaccounted for;
- (b) prescribing any additional particulars a notification referred to in section 542 or 549 must contain; 20
- (c) prescribing procedures how wreck must be dealt with for purposes of this Act and a tax levying Act, whether the wreck consists of goods that are in free circulation or not; and
- (d) regulating the application of this Chapter to wreck consisting of goods that are not in free circulation. 25

Offences in terms of this Chapter

- 559.** (1) A person referred to in—
- (a) section 542(2) is guilty of an offence if that person fails to comply with section 542(1) or (4); 30
- (b) section 549(2) is guilty of an offence if that person fails to comply with section 549(1) or (4); or
- (c) section 556(2) is guilty of an offence if that person fails to comply with section 556(1).
- (2) A person is guilty of an offence if that person contravenes section 557(1) or fails to comply with section 557(2). 35

CHAPTER 26

ABANDONMENT OF GOODS TO COMMISSIONER AND DESTRUCTION OF GOODS UNDER CUSTOMS SUPERVISION

Purpose and application of this Chapter 40

- 560.** (1) The purpose of this Chapter is to provide for—
- (a) the voluntary abandonment of goods that are not in free circulation to the Commissioner; and
- (b) the destruction of goods under customs supervision.
- (2) This Chapter does not apply to prohibited, restricted, sectorally controlled and counterfeit goods, and such goods must be dealt with in accordance with Chapters 35 and 36, as may be appropriate. 45

Wrakgoed

- 557.** (1) Geen persoon mag sonder die toestemming van die doeanegesag enige wrakgoed verwyder van waar dit gevind word nie of sodanige wrakgoed wat betref hoeveelheid of kwaliteit verander nie tensy dit vir die bewaring of beveiliging daarvan nodig is. 5
- (2) Enige persoon in besit van 'n wrakgoed moet sonder versuim—
- (a) kennis daarvan by die naaste Doeanekantoor gee; en
 - (b) indien aangesê word om dit te doen, die wrakgoed aan die Kommissaris oorhandig.
- (3) Subartikel (2)(b) geld nie vir die eienaar van die wrakgoed of die behoorlike 10 gemagtigde agent van die eienaar nie.
- (4) (a) Met wrakgoed wat bestaan uit goedere wat nie in vry sirkulasie is nie moet daar ooreenkomstig hierdie Hoofstuk gehandel word in die mate soos by reël voorgeskryf mag word.
- (b) Met wrakgoed wat bestaan uit herwinbare beskadigde of onbeskadigde goedere 15 wat nie in vry sirkulasie is nie moet daar gehandel word ooreenkomstig die bepalings van hierdie Wet wat vir sodanige goedere geld.

Reëls ter fasilitering van implementering van hierdie Hoofstuk

- 558.** Reëls ingevolge artikel 903 uitgevaardig om die implementering van hierdie Hoofstuk te fasiliteer, kan insluit reëls wat— 20
- (a) dokumente voorskryf wat by die doeanegesag ingedien kan word om die oorsaak waarom goedere beskadig, vernietig, verlore of rekenskaploos is, te bewys;
 - (b) enige bykomende besonderhede voorskryf wat 'n kennisgewing bedoel in artikel 542 of 549 moet bevat; 25
 - (c) prosedures voorskryf hoe wrakgoed by die toepassing van hierdie Wet en 'n belastingheffings-Wet hanteer moet word, hetsy die wrakgoed uit goedere in vry sirkulasie bestaan of nie; en
 - (d) die toepassing van hierdie Hoofstuk op wrakgoed bestaande uit goedere wat nie in vry sirkulasie is nie reguleer. 30

Misdrywe ingevolge hierdie Hoofstuk

- 559.** (1) 'n Persoon bedoel in—
- (a) artikel 542(2) is aan 'n misdryf skuldig indien daardie persoon versuim om aan artikel 542(1) of (4) te voldoen;
 - (b) artikel 549(2) is aan 'n misdryf skuldig indien daardie persoon versuim om 35 aan artikel 549(1) of (4) te voldoen; of
 - (c) artikel 556(2) is aan 'n misdryf skuldig indien daardie persoon versuim om aan artikel 556(1) te voldoen.
- (2) 'n Persoon is aan 'n misdryf skuldig indien daardie persoon artikel 557(1) oortree of versuim om aan artikel 557(2) te voldoen. 40

HOOFSTUK 26

OORGEE VAN GOEDERE AAN KOMMISSARIS EN Vernietiging van GOEDERE ONDER DOEANETOESIG

Doel en toepassing van hierdie Hoofstuk

- 560.** (1) Die doel van hierdie Hoofstuk is om voorsiening te maak vir— 45
- (a) die vrywillige oorgee aan die Kommissaris van goedere wat nie in vry sirkulasie is nie; en
 - (b) die vernietiging van goedere onder doeanetoesig.
- (2) Hierdie Hoofstuk is nie van toepassing op verbode, beperkte, sektorbeheerde en nagmaakte goedere nie, en met sodanige goedere moet daar volgens voorskrif van 50 Hoofstukke 35 en 36, soos ook al gepas mag wees, gehandel word.

Part 1

Abandonment of goods to Commissioner

Goods that may be abandoned to Commissioner

561. The owner of goods that are not in free circulation, or another person authorised to act on behalf of the owner, may by agreement with the Commissioner abandon the goods to the Commissioner— 5

- (a) if the goods were damaged and the owner elects not to obtain release of the damaged goods for home use or a customs procedure;
- (b) if the goods consist of parts or materials salvaged from goods that were destroyed and the owner elects not to obtain release of the parts or materials for home use or a customs procedure; 10
- (c) if the value of the goods to the owner does not justify the cost of obtaining release of the goods for home use or a customs procedure; or
- (d) where a provision of this Act or a tax levying Act provides for the abandonment of the goods to the Commissioner. 15

Application to abandon goods to Commissioner

562. (1) The owner of goods that are not in free circulation or another person authorised to act on behalf of the owner may apply to the customs authority to abandon the goods to the Commissioner.

(2) An application to abandon goods to the Commissioner must— 20

- (a) identify the goods in sufficient detail;
- (b) state the reason for the abandonment;
- (c) indemnify the Commissioner against any claim in respect of the abandoned goods by another person;
- (d) contain an undertaking to pay any cost relating to— 25
 - (i) the removal of the goods to a state warehouse or other place of security; and
 - (ii) the storage of the goods; and
- (e) reflect any other information as may be prescribed by rule.

(3) Application in terms of this section may be made, as may be appropriate, at any time before the goods are— 30

- (a) released for home use;
- (b) processed; or
- (c) exported from the Republic.

Consideration of applications 35

563. The customs authority must consider an application to abandon goods to the Commissioner, and may—

- (a) approve the application if abandonment is in the best interest of the state; or
- (b) refuse the application.

Abandonment notices 40

564. (1) If an application to abandon goods to the Commissioner is approved, the customs authority must issue a notice of abandonment to—

- (a) the person who lodged the application; and
 - (b) the person who is in physical control of the goods.
- (2) A notice of abandonment must— 45
- (a) identify the abandoned goods in sufficient detail;
 - (b) state the date on which the goods were abandoned to the Commissioner; and
 - (c) contain any other particulars as may be prescribed by rule.

Consequences of abandonment

565. Upon issuing a notice of abandonment referred to in section 564— 50

Deel 1

Oorgee van goedere aan Kommissaris

Goedere wat aan Kommissaris oorgegee kan word

561. Die eienaar van goedere nie in vry sirkulasie nie, of 'n ander persoon wat gemagtig is om ten behoeve van die eienaar te handel, kan by ooreenkoms met die Kommissaris die goedere aan die Kommissaris oorgee— 5

- (a) indien die goedere beskadig is en die eienaar verkies om nie vrystelling van die beskadigde goedere vir binnelandse gebruik of 'n doeaneprosedure te bekom nie;
- (b) indien die goedere bestaan uit gedeeltes of materiaal wat herwin is uit goedere wat vernietig is en die eienaar verkies om nie vrystelling van die gedeeltes of materiaal vir binnelandse gebruik of 'n doeaneprosedure te bekom nie; 10
- (c) indien die waarde van die goedere vir die eienaar nie die koste regverdig om vrystelling van die goedere vir binnelandse gebruik of 'n doeaneprosedure te bekom nie; of 15
- (d) waar 'n bepaling van hierdie Wet of 'n belastingheffings-Wet voorsiening maak vir die oorgee van die goedere aan die Kommissaris.

Aansoek om goedere aan Kommissaris te oor te gee

562. (1) Die eienaar van goedere nie in vry sirkulasie nie, of 'n ander persoon wat gemagtig is om ten behoeve van die eienaar te handel, kan by die doeanegesag aansoek doen om die goedere aan die Kommissaris oor te gee. 20

(2) 'n Aansoek om goedere aan die Kommissaris oor te gee moet—

- (a) die goedere in voldoende besonderhede identifiseer;
- (b) die rede vir die oorgawe vermeld;
- (c) die Kommissaris kwytsekeld teen enige eis deur 'n ander persoon ten opsigte van die oorgegewe goedere; 25
- (d) 'n onderneming bevat om enige koste te betaal betreffende—
 - (i) die verwydering van die goedere na 'n staatspakhuis of ander plek van beveiliging; en
 - (ii) die berging van die goedere; en 30
- (e) enige ander inligting vermeld soos by reël voorgeskryf mag word.

(3) 'n Aansoek ingevolge hierdie artikel kan te eniger tyd gedoen word voordat die goedere, soos ook al gepas mag wees—

- (a) vir binnelandse gebruik vrygestel word;
- (b) geprosesseer word; of 35
- (c) uit die Republiek uitgevoer word.

Oorweging van aansoeke

563. Die doeanegesag moet 'n aansoek om goedere aan die Kommissaris oor te gee, oorweeg, en kan—

- (a) die aansoek goedkeur indien oorgawe in die beste belang van die staat is; of 40
- (b) die aansoek weier.

Oorgawekennisgewings

564. (1) Indien 'n aansoek om goedere aan die Kommissaris oor te gee, goedgekeur word, moet die doeanegesag 'n oorgawekennisgewing uitreik aan—

- (a) die persoon wat die aansoek voorgelê het; en 45
- (b) die persoon wat fisies in beheer van die goedere is.

(2) 'n Oorgawekennisgewing moet—

- (a) die oorgegewe goedere in voldoende besonderhede identifiseer;
- (b) die datum vermeld waarop die goedere aan die Kommissaris oorgegee is; en
- (c) enige ander besonderhede bevat soos by reël voorgeskryf mag word. 50

Gevolge van oorgawe

565. Wanneer 'n oorgawekennisgewing bedoel in artikel 564 uitgereik word—

- (a) any clearance declaration submitted in respect of the goods must be —
 - (i) withdrawn, if all the goods covered by the declaration are abandoned; or
 - (ii) amended to exclude the abandoned goods, if only part of the goods covered by the declaration is abandoned;
- (b) any import or export tax payable but not yet paid on the goods by virtue of that clearance falls away unless provided otherwise in the tax levying Act regulating that tax; and 5
- (c) the goods must—
 - (i) be removed to a state warehouse or other place of security determined by the customs authority; and 10
 - (ii) be dealt with in terms of Chapter 27.

Consequences of refusal for goods to be abandoned

566. If an application to abandon goods to the Commissioner is refused, and the goods are not cleared and released for home use or a customs procedure in accordance with the requirements regulating the clearance and release of goods for home use or a customs procedure, the goods must at the cost of the owner or importer of the goods and under supervision of the customs authority be destroyed or exported from the Republic. 15

Part 2

Destruction of goods under customs supervision

Application to destroy goods 20

567. (1) The owner of goods that are not in free circulation or another person authorised to act on behalf of the owner may, instead of abandoning the goods to the Commissioner, apply to the customs authority to destroy the goods under customs supervision. 25

(2) Section 562(2) and 563 apply with any necessary changes as the context may require in respect of an application referred to in subsection (1).

(3) If an application referred to in subsection (1) is granted, the goods must be destroyed under customs supervision in accordance with requirements as may be prescribed by rule or as the customs authority may determine in any specific case.

(4) (a) If the owner of goods destroyed in terms of this section intends to utilise any waste or scrap remaining after the destruction of the goods, such waste or scrap must, if derived from imported goods, be cleared for home use under Chapter 8 or a permissible customs procedure, within a timeframe as may be prescribed by rule read with sections 908 or 909. 30

(b) Such waste or scrap must for purposes of this Act and payment of any import tax be regarded to have been imported at the time it is cleared for home use or a customs procedure. 35

CHAPTER 27

STATE WAREHOUSES

Part 1 40

Introductory provisions

Purpose and application of this Chapter

568. (1) The purpose of this Chapter is to provide for—

- (a) goods to be secured in state warehouses or other places—
 - (i) if those goods are dealt with in breach of this Act, a tax levying Act or any other applicable legislation; or 45

- (a) moet enige klaringsbrief wat ten opsigte van die goedere ingedien is—
 - (i) teruggetrek word, indien al die goedere deur die klaringsbrief gedek, oorgegee word; of
 - (ii) gewysig word om die oorgegewe goedere daarvan uit te sluit, indien slegs 'n gedeelte van die goedere wat deur die klaringsbrief gedek word, oorgegee word; en 5
- (b) val enige invoer- of uitvoerbelasting wat uit hoofde van daardie klaring op die goedere betaalbaar is, maar wat nog nie betaal is nie, weg, tensy daar anders bepaal word in die belastingheffings-Wet wat daardie belasting reguleer; en
- (c) moet die goedere— 10
 - (i) verwyder word na 'n staatspakhuis of ander plek van beveiliging deur die doeanegesag bepaal; en
 - (ii) mee gehandel word ingevolge Hoofstuk 27.

Gevolge van weiering dat goedere oorgegee word

566. Indien 'n aansoek om goedere aan die Kommissaris oor te gee, geweier word, en die goedere nie vir binnelandse gebruik of 'n doeaneprosedure geklaar en vrygestel word ooreenkomstig die vereistes wat die klaring en vrystelling van goedere vir binnelandse gebruik of 'n doeaneprosedure reguleer nie, moet die goedere op koste van die eienaar of invoerder van die goedere en onder toesig van die doeanegesag vernietig word of uit die Republiek uitgevoer word. 20

Deel 2

Vernietiging van goedere onder doeanetoesig

Aansoek om goedere te vernietig

567. (1) Die eienaar van goedere nie in vry sirkulasie nie, of 'n ander persoon wat gemagtig is om ten behoeve van die eienaar te handel, kan, in stede daarvan om die goedere aan die Kommissaris oor te gee, by die doeanegesag aansoek doen om die goedere onder doeanetoesig te vernietig. 25

(2) Artikels 562(2) en 563, met enige nodige aanpassings wat die samehang mag vereis, is ten opsigte van 'n aansoek bedoel in subartikel (1) van toepassing.

(3) Indien 'n aansoek bedoel in subartikel (1) toegestaan word, moet die goedere onder doeanetoesig vernietig word ooreenkomstig vereistes soos by reël voorgeskryf of deur die doeanegesag in 'n spesifieke geval bepaal mag word. 30

(4) (a) Indien die eienaar van goedere wat ingevolge hierdie artikel vernietig is, voornemens is om enige afval of skroot wat oorbly na vernietiging van die goedere te gebruik, moet sodanige afval of skroot, indien dit van ingevoerde goedere verkry is, geklaar word vir binnelandse gebruik kragtens Hoofstuk 8 of 'n toelaatbare doeaneprosedure binne 'n tydsraam soos by reël, saamgelees met artikels 908 en 909, voorgeskryf mag word. 35

(b) Sodanige afval of skroot moet vir doeleindes van hierdie Wet en die betaling van invoerbelasting geag word ingevoer te wees op die tydstop waarop dit vir binnelandse gebruik of 'n doeaneprosedure geklaar word. 40

HOOFSTUK 27

STAATSPAKHUISE

Deel 1

Inleidende bepalinge 45

Doel en toepassing van hierdie Hoofstuk

- 568.** (1) Die doel van hierdie Hoofstuk is om voorsiening te maak vir—
- (a) die beveiliging van goedere in staatspakhuisse of ander plekke—
 - (i) indien daar met daardie goedere gehandel word in stryd met hierdie Wet, 'n belastingheffings-Wet of enige ander geldende wetgewing; of 50

- (ii) if this is necessary for the enforcement of this Act, a tax levying Act or any other applicable legislation; and
 - (b) the handling, storage and disposal of goods so secured.
- (2) This Chapter applies to any goods that are subject to customs control.

Designation and licensing of premises as state warehouses 5

- 569.** The Commissioner may—
- (a) designate a facility as a state warehouse to be operated by the Commissioner in accordance with this Act; or
 - (b) licence any premises in terms of Chapter 29 as a state warehouse to be operated by the licensee in accordance with this Act and any conditions subject to which the premises were licensed. 10

Part 2

Removal of goods to and securing goods in state warehouses

Removal of goods to state warehouses

- 570.** (1) A licensee who is in physical control of goods— 15
- (a) imported into the Republic must remove the goods to a state warehouse determined in terms of subsection (3)—
 - (i) if section 89 applies to those goods and section 90(1) or (3) has not been complied with in respect of those goods; or
 - (ii) if those goods fall within a category of goods referred to in section 91(1)(e), (g) or (h) and the goods are not claimed within a timeframe as may be prescribed by rule after the goods have been off-loaded; or
 - (b) to be exported from the Republic must remove those goods to a state warehouse determined in terms of subsection (3) if section 94(1)(a), (b) or (c) applies to those goods and the goods are delivered to a cargo terminal without any clearance declaration having been submitted to clear the goods for export.³⁹² 20
- (2) The customs authority may at any time direct a licensee or any other person in physical control of goods to remove those goods to a state warehouse determined in terms of subsection (3) if those goods— 30
- (a) were dealt with in breach of this Act or a tax levying Act;
 - (b) are subject to a lien in terms of—
 - (i) section 704 of this Act; or
 - (ii) a tax levying Act;³⁹³
 - (c) are detained, seized or confiscated in terms of Chapter 34 or 35;³⁹⁴ 35
 - (d) were abandoned to the Commissioner; or
 - (e) for any other reason are required to be secured to ensure compliance with this Act or a tax levying Act or any other legislation applicable to the goods.
- (3) The customs authority may for the purpose of subsection (1) or (2) determine the state warehouse to which goods must be removed in terms of that subsection. 40
- (4) The customs authority must submit a copy of any direction issued in terms of subsection (2) to the customs officer or licensee in charge of the state warehouse to which the goods are to be removed.
- (5) When goods are delivered to a licensed state warehouse in compliance with subsection (1) or a direction issued in terms of subsection (2)— 45

392. Other goods to which section 93 applies and which were not cleared in accordance with section 94 may be removed to a state warehouse if customs so direct in terms of section 570(2).

393. See Part 4 of Chapter 3 of the Customs Duty Act.

394. Counterfeit goods detained in terms of Chapter 36 must in terms of section 814(3)(a) be removed to a counterfeit depot in terms of the Counterfeit Goods Act. However, section 570(2)(c) above will apply if the counterfeit goods were detained in terms of section 756.

- (ii) indien dit nodig is vir die toepassing van hierdie Wet, 'n belastingheffings-Wet of enige ander geldende wetgewing; en
 - (b) die hantering en berging van, en beskikking oor, goedere aldus beveilig.
- (2) Hierdie Hoofstuk is van toepassing op enige goedere wat aan doeanebeheer onderworpe is. 5

Aanwysing en lisensiering van persele as staatspakhuis

569. Die Kommissaris kan—

- (a) 'n fasiliteit aanwys om as 'n staatspakhuis deur die Kommissaris ooreenkomstig hierdie Wet bestuur te word; of
- (b) enige perseel ingevolge Hoofstuk 29 lisensieer om as 'n staatspakhuis deur die lisensiehouer ooreenkomstig hierdie Wet en enige voorwaardes waarop die perseel gelisensieer is, bestuur te word. 10

Deel 2

Verwydering van goedere na en beveiliging van goedere in staatspakhuis

Verwydering van goedere na staatspakhuis 15

570. (1) 'n Lisensiehouer in fisiese beheer van goedere—

- (a) wat in die Republiek ingevoer is, moet die goedere na 'n staatspakhuis bepaal ingevolge subartikel (3) verwyder—
 - (i) indien artikel 89 op daardie goedere van toepassing is en daar nie aan artikel 90(1) of (3) ten opsigte van daardie goedere voldoen word nie; of 20
 - (ii) indien daardie goedere binne 'n kategorie goedere bedoel in artikel 91(1)(e), (g) of (h) val en die goedere nie binne 'n tydperk soos by reël voorgeskryf mag word, opgeëis word nadat die goedere afgelaai is nie; of
 - (b) wat vir uitvoer uit die Republiek bestem is, moet daardie goedere na 'n staatspakhuis bepaal ingevolge subartikel (3) verwyder indien artikel 25 94(1)(a), (b) of (c) op daardie goedere van toepassing is en die goedere aan 'n vragterminaal gelewer word sonder dat enige klaringsbrief ingedien is om die goedere vir uitvoer te klaar.³⁹²
- (2) Die doeanebesag kan te eniger tyd 'n lisensiehouer of ander persoon wat in fisiese beheer van goedere is, gelas om daardie goedere na 'n staatspakhuis bepaal ingevolge subartikel (3) te verwyder indien— 30
- (a) daar met daardie goedere in stryd met hierdie Wet of 'n belastingheffings-Wet gehandel is;
 - (b) daardie goedere aan 'n retensiereg onderhewig is ingevolge—
 - (i) artikel 704 van hierdie Wet; of 35
 - (ii) 'n belastingheffings-Wet;³⁹³
 - (c) daardie goedere ingevolge Hoofstuk 34 of 35 onder detensie geplaas, op beslag gelê of gekonfiskeer is;³⁹⁴
 - (d) daardie goedere aan die Kommissaris oorgegee is; of
 - (e) dit om enige ander rede nodig is dat daardie goedere beveilig moet word ten 40 einde nakoming van hierdie Wet of 'n belastingheffings-Wet of enige ander wetgewing wat op die goedere van toepassing, te verseker.
- (3) Die doeanebesag kan vir doeleindes van subartikel (1) of (2) die staatspakhuis bepaal waarheen goedere ingevolge daardie subartikel verwyder moet word.
- (4) Die doeanebesag moet 'n afskrif van enige lasgewing ingevolge subartikel (2) 45 uitgereik, stuur aan die doeanebeampte of lisensiehouer wat in beheer van die staatspakhuis is waarheen die goedere verwyder moet word.
- (5) Wanneer goedere ooreenkomstig subartikel (1) of 'n lasgewing uitgereik ingevolge subartikel (2) aan 'n gelisensieerde staatspakhuis gelewer word—

392. Ander goedere waarop artikel 93 van toepassing is en wat nie ooreenkomstig artikel 94 geklaar is nie kan na 'n staatspakhuis verwyder word indien doeane ingevolge artikel 570(2) aldus gelas.

393. Kyk Deel 4 van Hoofstuk 3 van die Wet op Doeaneereg.

394. Nagemaakte goedere wat ingevolge Hoofstuk 36 onder detensie geplaas word, moet ingevolge artikel 814(3)(a) na 'n nagemaakte goedere depot ingevolge die Wet op Nagemaakte Goedere verwyder word. Artikel 570(2)(c) hierbo sal egter van toepassing wees indien die nagemaakte goedere ingevolge artikel 756 onder detensie geplaas word.

- (a) the carrier that transported the goods to that state warehouse must notify the customs authority of the delivery; and
 - (b) the licensee of that warehouse must notify the customs authority of the receipt of the goods.
- (6) This section must be read subject to section 580. 5

Submission of removal notices

571. (1) Before removing goods to a state warehouse in compliance with section 570(1) or in compliance with a direction issued in terms of section 570(2), the person who must remove the goods must submit a notice of removal of the goods containing such information as may be prescribed by rule, to— 10

- (a) the customs officer in charge of the state warehouse, if that warehouse is operated by the Commissioner; or
- (b) the licensee of the state warehouse, if that warehouse is a licensed state warehouse.

(2) A notice referred to in subsection (1) must be accompanied by all supporting documents concerning those goods which are in the possession of the person who must remove the goods. 15

Failure to remove goods to state warehouses

572. If a person fails to comply with section 570(1) or a direction issued in terms of section 570(2) to remove goods to a state warehouse, the customs authority may remove the goods at the risk and expense of that person to a state warehouse. 20

Recovery of expenses for removal of goods to state warehouses

573. A person referred to in section 570(1) or (2) may recover any expenses incurred in removing goods to a state warehouse in terms of that section or to compensate the Commissioner in terms of section 572, from— 25

- (a) the importer or exporter, or the owner, of the goods;
- (b) the registered agent in the Republic of the importer, exporter or owner, if the importer, exporter or owner is not located in the Republic; or
- (c) the proceeds of the sale of the goods in accordance with section 595.

Redirection of goods 30

574. No person may, without the permission of the customs authority, redirect goods to which section 570(1) or a direction issued in terms of section 570(2) applies to a place other than a state warehouse determined in terms of section 570(3).

Charges for goods in state warehouses

575. (1) The Commissioner may by rule determine for goods stored in a state warehouse— 35

- (a) state warehouse rent at a rate fixed by the Commissioner; and
- (b) additional charges for goods which require special care or treatment.

(2) State warehouse rent and additional charges determined in terms of subsection (1) are— 40

- (a) payable by persons prescribed by rule; and
- (b) payable to—
 - (i) the Commissioner, in the case of a state warehouse operated by the Commissioner; or
 - (ii) the licensee of the state warehouse, in the case of a licensed state warehouse. 45

(3) If the goods are sold in terms of section 592 or 593 any amount outstanding at the date of sale may be recovered from the proceeds of the sale in accordance with section 595.

- (a) moet die vervoerder wat die goedere na daardie staatspakhuis vervoer die doeanebesag van die lewering in kennis stel; en
 - (b) moet die lisensiehouer van daardie pakhuis die doeanebesag van die ontvangs van die goedere in kennis stel.
- (6) Hierdie artikel moet behoudens artikel 580 uitgelê word. 5

Stuur van verwyderingskennisgewings

- 571.** (1) Alvorens goedere ooreenkomstig artikel 570(1) of 'n lasgewing uitgereik ingevolge artikel 570(2) na 'n staatspakhuis verwyder word, moet die persoon wat die goedere verwyder 'n kennisgewing van verwydering van die goedere, wat die inligting bevat soos by reël voorgeskryf mag word, stuur aan— 10
- (a) die doeanebeampte in beheer van die staatspakhuis, indien daardie pakhuis deur die Kommissaris bestuur word; of
 - (b) die lisensiehouer van die staatspakhuis, indien daardie pakhuis 'n gelisensieerde staatspakhuis is.
- (2) 'n Kennisgewing bedoel in subartikel (1) moet vergesel gaan van alle 15
ondersteunende dokumente betreffende daardie goedere wat in die besit is van die persoon wat die goedere moet verwyder.

Versuim om goedere na staatspakhuis te verwyder

- 572.** Indien 'n persoon versuim om aan artikel 570(1) of 'n lasgewing uitgereik ingevolge artikel 570(2) te voldoen om goedere na 'n staatspakhuis te verwyder, kan die doeanebesag die goedere na 'n staatspakhuis op risiko en koste van daardie persoon verwyder. 20

Verhaling van koste vir verwydering van goedere na staatspakhuis

- 573.** 'n Persoon bedoel in artikel 570(1) of (2) kan enige koste wat aangegaan word om goedere na 'n staatspakhuis ingevolge daardie artikel te verwyder of om die 25
Kommissaris ingevolge artikel 572 te vergoed, verhaal—
- (a) van die invoerder of uitvoerder, of die eienaar, van die goedere;
 - (b) van die geregistreeerde agent in die Republiek van die invoerder, uitvoerder of eienaar, indien die invoerder, uitvoerder of eienaar nie in die Republiek gesetel is nie; of 30
 - (c) uit die opbrengs van die verkoop van die goedere ooreenkomstig artikel 595.

Herdestinering van goedere

- 574.** Geen persoon mag, sonder die toestemming van die doeanebesag, goedere waarop artikel 570(1) of 'n lasgewing uitgereik ingevolge artikel 570(2) van toepassing is, na 'n plek anders as 'n staatspakhuis ingevolge artikel 570(3) bepaal, herdestineer 35
nie.

Gelde vir goedere in staatspakhuis

- 575.** (1) Die Kommissaris kan, by reël, vir goedere wat in 'n staatspakhuis geberg word—
- (a) staatspakhuisuur bepaal teen 'n skaal deur die Kommissaris vasgestel; en 40
 - (b) bykomende gelde bepaal vir goedere wat spesiale sorg of behandeling vereis.
- (2) Staatspakhuisuur en bykomende gelde ingevolge subartikel (1) bepaal, is—
- (a) betaalbaar deur persone wat by reël voorgeskryf word; en
 - (b) betaalbaar aan— 45
 - (i) die Kommissaris, in die geval van 'n staatspakhuis deur die Kommissaris bestuur; of
 - (ii) die lisensiehouer van die staatspakhuis, in die geval van 'n gelisensieerde staatspakhuis.
- (3) Indien die goedere ingevolge artikel 592 of 593 verkoop word, kan enige bedrag wat op die datum van verkoop uitstaande is, ooreenkomstig artikel 595 verhaal word uit 50
die opbrengs van die verkoop.

(4) The Commissioner may when justified by special circumstances exclude any specific goods or category of goods from state warehouse rent or additional charges.

Accounting

- 576.** (1) The customs officer or licensee in charge of a state warehouse must—
- (a) keep record of— 5
 - (i) all goods received in and removed from the state warehouse; and
 - (ii) all goods that are in terms of section 580(3) required to be recorded in the accounting records of that state warehouse;
 - (b) perform monthly stock checks; and
 - (c) perform such other accounting tasks as may be prescribed by rule or stipulated 10 in the licensee's licence agreement.

(2) A record in terms of subsection (1)(a) must be kept in such a manner and format and must contain such information as may be prescribe by rule.³⁹⁵

Reporting by licensee of state warehouses

577. (1) The licensee of a state warehouse must within three working days after the end of each month or within any extension of that period in terms of section 908, submit to the customs authority a report for that month in connection with all goods in that warehouse. 15

- (2) A report in terms of subsection (1) must contain such information as may be prescribed by rule, including information concerning— 20
- (a) all goods received in the state warehouse during the reporting period;
 - (b) all goods removed from the state warehouse during the reporting period;
 - (c) any goods damaged, destroyed or lost during the reporting period;
 - (d) any goods unaccounted for as at the end of the reporting period; and
 - (e) any surplus goods as at the end of the reporting period. 25

Responsibilities of licensees of licensed state warehouses

578. The licensee of a licensed state warehouse to which goods were removed in terms of section 570(1) or (2) must take all reasonable steps to safeguard the goods in the warehouse against damage, destruction or loss.

Risks in connection with goods removed to or stored in state warehouses 30

- 579.** The importer or exporter, or the owner, of goods removed to or kept in a state warehouse, or, if the importer, exporter or owner is not located in the Republic, the registered agent in the Republic of that importer, exporter or owner, carries the risk for any damage to or destruction or loss of—
- (a) those goods that may— 35
 - (i) occur whilst those goods are removed to, within or from the warehouse, or stored in the warehouse; or
 - (ii) be caused by the handling or opening of any package or container in which those goods are contained, or the inspection of the contents, by a customs officer at the warehouse; or 40
 - (b) any other property that may be caused by—
 - (i) the removal of those goods to, within or from the warehouse, or the storage of those goods in the warehouse; or
 - (ii) the handling or opening of any package or container in which those goods are contained, or the inspection of the contents, by a customs 45 officer at the warehouse.

³⁹⁵. Own computerised system for record keeping purposes is permissible in terms of section 919.

(4) Die Kommissaris kan, waar spesiale omstandighede dit regverdig, enige spesifieke goedere of kategorie goedere van staatspakhuisuur of bykomende gelde uitsluit.

Rekeninghouding

- 576.** (1) Die doeanebeampte of lisensiehouer in beheer van 'n staatspakhuis moet— 5
- (a) rekord hou van—
 - (i) alle goedere ontvang in en verwyder uit die staatspakhuis; en
 - (ii) alle goedere wat ingevolge artikel 580(3) in die rekeningkundige rekords van daardie staatspakhuis verreken moet word;
 - (b) maandelikse voorraadopnames doen; en 10
 - (c) sodanige ander rekeningkundige take uitvoer soos by reël voorgeskryf of in die lisensiehouer se lisensie-ooreenkoms gestipuleer mag word.
- (2) 'n Rekord ingevolge subartikel (1)(a), moet op die wyse en in die formaat gehou word en die inligting bevat soos by reël voorgeskryf mag word.³⁹⁵

Verslagdoening deur lisensiehouers van staatspakhuisse 15

- 577.** (1) Die lisensiehouer van 'n staatspakhuis moet binne drie werksdae na die einde van elke maand of binne enige verlenging van daardie tydperk ingevolge artikel 908, aan die doeanesag 'n verslag vir daardie maand betreffende alle goedere in daardie pakhuis verstrek.
- (2) 'n Verslag ingevolge subartikel (1), moet die inligting bevat soos by reël 20 voorgeskryf mag word, met inbegrip van inligting aangaande—
- (a) alle goedere in die staatspakhuis gedurende die verslagtydperk ontvang;
 - (b) alle goedere uit die staatspakhuis gedurende die verslagtydperk verwyder;
 - (c) enige goedere wat gedurende die verslagtydperk beskadig, vernietig of verlore geraak het; 25
 - (d) enige goedere wat aan die einde van die verslagtydperk rekenskaploos is; en
 - (e) enige surplus goedere aan die einde van die verslagtydperk.

Verantwoordelikhede van lisensiehouers van gelisensieerde staatspakhuisse

578. Die lisensiehouer van 'n gelisensieerde staatspakhuis waarheen goedere ingevolge artikel 570(1) of (2) verwyder is, moet alle redelike stappe doen om die 30 goedere in die pakhuis teen beskadiging, vernietiging of verlies te beveilig.

Risiko's met betrekking tot goedere verwyder na of geberg in staatspakhuisse

- 579.** Die invoerder of uitvoerder, of die eienaar, van goedere verwyder na of gehou in 'n staatspakhuis of, indien die invoerder, uitvoerder of eienaar nie in die Republiek gesetel is nie, die geregistreerde agent in die Republiek van daardie invoerder, 35 uitvoerder of eienaar, dra die risiko van enige skade aan of vernietiging of verlies van—
- (a) daardie goedere wat—
 - (i) mag plaasvind terwyl daardie goedere verwyder word na, binne of uit die pakhuis, of geberg word in die pakhuis; of
 - (ii) veroorsaak mag word deur die hantering of oopmaak van enige 40 verpakking of houer waarin daardie goedere bevat is, of die inspeksie van die inhoud, deur 'n doeanebeampte by die pakhuis; of
 - (b) enige ander eiendom wat veroorsaak mag word deur—
 - (i) die verwydering van daardie goedere na, binne of uit die pakhuis, of die berging van daardie goedere in die pakhuis; of 45
 - (ii) die hantering of oopmaak van enige verpakking of houer waarin daardie goedere bevat is, of die inspeksie van die inhoud, deur 'n doeanebeampte by die pakhuis.

³⁹⁵. Eie gerekenariseerde stelsels vir doeleindes van rekordhouding is ingevolge artikel 919 toelaatbaar.

Part 3

Retention of goods at or removal of goods to licensed premises other than state warehouses

Direction or authorisation for goods to be retained at or removed to licensed premises other than state warehouse 5

580. (1) If a condition for the removal of goods to a state warehouse in terms of section 570(1) or (2) exists, the customs authority may direct or authorise the licensee or other person in physical control of those goods, instead of removing the goods to a state warehouse in terms of that section—

- (a) to retain the goods for a specific period on the premises where they are currently located, provided those premises are licensed premises; or 10
- (b) to remove the goods to any licensed premises determined by the customs authority.

(2) Except where clearly inappropriate, the provisions of this Act relating to state warehouses apply to any licensed premises where goods are retained or to which goods are removed in terms of subsection (1) as if those premises were a licensed state warehouse. 15

(3) Goods retained at or removed to any licensed premises in terms of subsection (1) must for accounting purposes be recorded in the accounting records of a state warehouse operated by the Commissioner, as may be determined by the customs authority. 20

(4) The customs authority must give notice to the licensee of the licensed premises where the goods are retained or to which the goods were removed that —

- (a) subsection (2) applies to those premises for as long as the goods remain on those premises;
- (b) the goods must be kept secured on those premises as if the goods were in a state warehouse; and 25
- (c) the goods are for accounting purposes recorded in the accounting records of a state warehouse specified in the notice.

(5) A copy of the notice referred to in subsection (4) must be submitted to the customs officer in charge of the state warehouse determined in terms of subsection (3). 30

(6) When goods are delivered to licensed premises in compliance with a direction issued in terms of subsection (1)(b)—

- (a) the carrier that transported the goods to those premises must notify the customs authority of the delivery; and
- (b) the licensee of those premises must notify the customs authority of the receipt of the goods. 35

Submission of removal notices

581. Before removing goods in terms of a direction or authorisation issued in terms of section 580(1)(b) to any licensed premises specified in the direction or authorisation, the person who must remove the goods must submit— 40

- (a) a notice of removal of the goods containing such information as may be prescribed by rule, to the licensee of the premises to which those goods are to be removed; and
- (b) a copy of that notice together with all supporting documents concerning those goods which are in the possession of that person to the state warehouse determined in terms of section 580(3). 45

Failure to remove goods

582. If a person to whom a direction or authorisation has in terms of section 580(1)(b) been issued fails to give effect to the direction or authorisation to remove the goods to the licensed premises specified in the direction or authorisation, the customs authority may remove those goods at the risk and expense of that person to those premises. 50

Deel 3

Hou van goedere by of verwydering van goedere na gelisensieerde persele anders as staatspakhuisse

Lasgewing of magtiging om goedere te hou by of te verwyder na gelisensieerde persele anders as staatspakhuisse 5

580. (1) Indien 'n omstandigheid vir die verwydering van goedere na 'n staatspakhuis ingevolge artikel 570(1) of (2) bestaan, kan die doeanegesag die lisensiehouer of ander persoon in fisiese beheer van daardie goedere gelas of magtig om, in stede daarvan om die goedere ingevolge daardie artikel na 'n staatspakhuis te verwyder—

- (a) die goedere vir 'n spesifieke tydperk op die perseel te hou waar dit op daardie tydstip is, mits daardie perseel 'n gelisensieerde perseel is; of 10
- (b) die goedere na 'n gelisensieerde perseel bepaal deur die doeanegesag te verwyder.

(2) Behalwe waar duidelik onvanpas, geld die bepalings van hierdie Wet betreffende staatspakhuisse vir enige gelisensieerde perseel waar goedere gehou of waarheen goedere verwyder word ingevolge subartikel (1) asof daardie perseel 'n gelisensieerde staatspakhuis is. 15

(3) Goedere ingevolge subartikel (1) gehou by of verwyder na enige gelisensieerde perseel moet vir doeleindes van rekenpligtigheid verreken word in die rekeningkundige rekords van 'n staatspakhuis deur die Kommissaris bestuur, soos deur die doeanegesag bepaal mag word. 20

(4) Die doeanegesag moet aan die lisensiehouer van die gelisensieerde perseel waar die goedere gehou of waarheen die goedere verwyder is, kennis gee dat—

- (a) subartikel (2) op daardie perseel van toepassing is vir solank as wat die goedere op daardie perseel aanwesig bly; 25
- (b) die goedere op daardie perseel veilig gehou moet word asof die goedere in 'n staatspakhuis is; en
- (c) die goedere vir doeleindes van rekenpligtigheid in die rekeningkundige rekords van 'n staatspakhuis in die kennisgewing bepaal, verreken word.

(5) 'n Afskrif van die kennisgewing bedoel in subartikel (4) moet aan die doeanebeampte in beheer van die staatspakhuis bepaal ingevolge subartikel (3), gestuur word. 30

(6) Waar goedere aan 'n gelisensieerde perseel volgens voorskrif van 'n lasgewing uitgereik ingevolge subartikel (1)(b) gelewer word—

- (a) moet die vervoerder wat die goedere na daardie perseel vervoer het die doeanegesag van die lewering in kennis stel; en 35
- (b) moet die lisensiehouer van daardie perseel die doeanegesag van die ontvangs van die goedere in kennis stel.

Stuur van verwyderingskennisgewings

581. Alvorens goedere ingevolge 'n lasgewing of magtiging uitgereik ingevolge artikel 580(1)(b) na 'n gelisensieerde perseel vermeld in die lasgewing of magtiging verwyder word, moet die persoon wat die goedere moet verwyder—

- (a) 'n kennisgewing van verwydering van die goedere, wat die inligting bevat soos by reël voorgeskryf mag word, stuur aan die lisensiehouer van die perseel waarheen daardie goedere verwyder word; en 45
- (b) 'n afskrif van daardie kennisgewing, tesame met alle ondersteunende dokumente aangaande daardie goedere wat in die besit van daardie persoon is, aan die staatspakhuis bepaal ingevolge artikel 580(3) stuur.

Versuim om goedere te verwyder

582. Indien 'n persoon aan wie 'n lasgewing of magtiging ingevolge artikel 580(1)(b) uitgereik is, versuim om gevolg te gee aan die lasgewing of magtiging om die goedere na die gelisensieerde perseel vermeld in die lasgewing of magtiging te verwyder, kan die doeanegesag daardie goedere op risiko en koste van daardie persoon na daardie perseel verwyder. 50

Recovery of expenses for removal of goods

583. A person to whom a direction or authorisation has in terms of section 580(1)(b) been issued may recover any expenses incurred in removing the goods to the licensed premises specified in the direction or authorisation or to compensate the Commissioner in terms of section 582, from— 5

- (a) the importer or exporter, or the owner, of the goods;
- (b) the registered agent in the Republic of the importer, exporter or owner, if the importer, exporter or owner is not located in the Republic; or
- (c) the proceeds of the sale of goods in accordance with section 595.

Redirection of goods 10

584. No person may, without the permission of the customs authority—

- (a) redirect goods to which a direction or authorisation issued in terms of section 580(1)(b) applies, to a place other than the licensed premises specified in the direction or authorisation; or
- (b) remove goods from the premises where the goods are retained or to which they were removed in terms of section 580(1)(a) or (b). 15

Charges for goods stored at premises specified in direction or authorisation

585. (1) The Commissioner may by rule regulate storage fees for goods stored at licensed premises where the goods are retained or to which the goods were removed in terms of this Part. 20

(2) Storage fees determined in terms of subsection (1) are—

- (a) payable by persons prescribed by rule; and
- (b) payable to the licensee of the premises where the goods are retained or to which the goods were removed.

(3) If the goods are sold in terms of section 592 or 593 any amount outstanding at the date of sale may be recovered by the person referred to in subsection (2)(b) from the proceeds of the sale in accordance with section 595. 25

(4) The Commissioner may when justified by special circumstances exclude any specific goods or category of goods from storage fees.

Responsibilities of licensee of premises where goods are kept 30

586. The licensee of premises where goods are retained or to which goods were removed in terms of a direction or authorisation issued in terms of section 580(1), must take all reasonable steps to safeguard the goods against damage, destruction or loss.

Risks in connection with goods

587. The importer or exporter, or the owner, of goods retained at, removed to or kept on licensed premises in terms of a direction or authorisation issued in terms of section 580(1), or, if the importer, exporter or owner is not located in the Republic, the registered agent in the Republic of that importer, exporter or owner, carries the risk for any damage to or destruction or loss of— 35

(a) those goods that may— 40

- (i) occur whilst those goods are removed to, within or from those premises, or stored on those premises; or
- (ii) be caused by the handling or opening of any package or container in which those goods are contained, or the inspection of the contents, by a customs officer at those premises; or 45

(b) any other property that may be caused by—

- (i) the removal of those goods to, within or from those premises, or the storage of those goods on those premises; or
- (ii) the handling or opening of any package or container in which those goods are contained, or the inspection of the contents, by a customs officer at those premises. 50

Verhaal van koste vir verwydering van goedere

- 583.** 'n Persoon aan wie 'n lasgewing of magtiging ingevolge artikel 580(1)(b) uitgereik is, kan enige koste wat aangegaan word om die goedere na die gelisensieerde perseel vermeld in die lasgewing of magtiging te verwyder, of om die Kommissaris ingevolge artikel 582 te vergoed, verhaal— 5
- (a) van die invoerder of uitvoerder, of die eienaar, van die goedere;
 - (b) van die geregistreerde agent in die Republiek van die invoerder, uitvoerder of eienaar, indien die invoerder, uitvoerder of eienaar nie in die Republiek gesetel is nie; of
 - (c) uit die opbrengs van die verkoop van goedere ooreenkomstig artikel 595. 10

Herdestinering van goedere

- 584.** Geen persoon mag, sonder die toestemming van die doeanegesag—
- (a) goedere waarop 'n lasgewing of magtiging uitgereik ingevolge artikel 580(1)(b) van toepassing is, herdestineer na 'n plek anders as die gelisensieerde perseel in die lasgewing of magtiging vermeld nie; of 15
 - (b) goedere verwyder van die perseel waar die goedere ingevolge artikel 580(1)(a) of (b) gehou word of waarheen dit verwyder is nie.

Bergingsgelde vir goedere by perseel in lasgewing of magtiging vermeld

- 585.** (1) Die Kommissaris kan by reël die bergingsgelde reguleer vir goedere geberg by 'n gelisensieerde perseel waar die goedere gehou word of waarheen die goedere verwyder is ingevolge hierdie Deel. 20
- (2) Bergingsgelde ingevolge subartikel (1) bepaal, is—
- (a) betaalbaar deur persone wat by reël voorgeskryf word; en
 - (b) betaalbaar aan die lisensiehouer van die perseel waar die goedere gehou word of waarheen die goedere verwyder is. 25
- (3) Indien die goedere ingevolge artikel 592 of 593 verkoop word, kan enige bedrag wat op die datum van verkoop uitstaande is, ooreenkomstig artikel 595 deur die persoon in subartikel (2)(b) bedoel uit die opbrengs van die verkoop verhaal word.
- (4) Die Kommissaris kan, waar spesiale omstandighede dit regverdig, enige spesifieke goedere of kategorie goedere van bergingsgelde uitsluit. 30

Verantwoordelikhede van lisensiehouer van perseel waar goedere gehou word

- 586.** Die lisensiehouer van die perseel waar goedere gehou word of waarheen goedere verwyder is ingevolge 'n lasgewing of magtiging uitgereik ingevolge artikel 580(1), moet alle redelike stappe doen om die goedere teen beskadiging, vernietiging of verlies te beveilig. 35

Risiko's met betrekking tot goedere

- 587.** Die invoerder of uitvoerder, of die eienaar, van goedere gehou by, verwyder na of geberg op 'n gelisensieerde perseel ingevolge 'n lasgewing of magtiging uitgereik ingevolge artikel 580(1), of, indien die invoerder, uitvoerder of eienaar nie in die Republiek gesetel is nie, die geregistreerde agent in die Republiek van daardie invoerder, uitvoerder of eienaar, dra die risiko vir enige beskadiging, vernietiging of verlies van— 40
- (a) daardie goedere wat—
 - (i) mag plaasvind terwyl daardie goedere verwyder word na, binne of uit daardie perseel, of op daardie perseel geberg word; of 45
 - (ii) veroorsaak mag word deur die hantering of oopmaak van enige verpakking of houer waarin daardie goedere bevat is, of die inspeksie van die inhoud, deur 'n doeanebeampte by daardie perseel; of
 - (b) enige ander eiendom wat veroorsaak mag word deur—
 - (i) die verwydering van daardie goedere na, binne of uit daardie perseel, of die berging van daardie goedere op daardie perseel; of
 - (ii) die hantering of oopmaak van enige verpakking of houer waarin daardie goedere bevat is, of die inspeksie van die inhoud, deur 'n doeanebeampte by daardie perseel. 50

Part 4

Disposal of goods in or accounted for in state warehouses

Application of this Part

- 588.** This Part applies to all goods in a state warehouse or accounted for in a state warehouse in terms of section 580(3), excluding— 5
- (a) prohibited goods to be disposed of in terms of section 781 or 782;
 - (b) restricted goods to be disposed of in terms of section 790 or 791;
 - (c) sectorally controlled goods to be disposed of in terms of section 799; and
 - (d) goods subject to a lien in terms of — 10
 - (i) section 704; or
 - (ii) a tax levying Act.³⁹⁶

Publication of lists of goods to which this Part applies

- 589.** (1) The customs authority must—
- (a) compile a list as at a date determined by it of all goods to which this Part applies— 15
 - (i) in each state warehouse; or
 - (ii) accounted for in each state warehouse in terms of section 580(3); and
 - (b) publish the list, in such a manner as may be determined by it.
- (2) A list referred to in subsection (1) must contain in respect of each lot— 20
- (a) a description of the goods;
 - (b) the quantity;
 - (c) any marks and identification numbers on the goods;
 - (d) the name of the carrier who transported the goods;
 - (e) the transport document number of the goods;
 - (f) the date of arrival, in the case of imported goods, or intended export, in the 25 case of goods to be exported;
 - (g) the name of the customs broker or other person who submitted a clearance declaration in respect of the goods, if any;
 - (h) the name of the state warehouse where the goods are kept, or in the case of goods retained at or removed to other premises in terms of section 580(1), the 30 physical address of those premises; and
 - (i) any other information as may be determined by the customs authority.
- (3) The publication of a list in terms of subsection (1)(b) serves as public notification that the goods on the list—
- (a) may be sold in terms of section 592, if the goods are not reclaimed in terms of 35 section 590 within the period referred to in that section;
 - (b) may be sold or may already have been sold in terms of section 593, if that section applies to the goods; or
 - (c) may otherwise be disposed of or may already have been disposed of in terms 40 of section 596, if that section applies to the goods.

Reclaiming of goods in or accounted for in state warehouses

- 590.** (1) A person entitled to goods in or accounted for in a state warehouse may, within a timeframe as may be prescribed by rule from the date of publication of the list reflecting those goods, read with sections 908 and 909, reclaim those goods—
- (a) in the case of imported goods that have not been cleared for home use or a 45 customs procedure, by submitting a clearance declaration to clear the goods for home use or a permissible customs procedure;
 - (b) in the case of imported goods under a customs procedure, by—
 - (i) amending in accordance with section 174 the clearance declaration 50 submitted in respect of the goods, to any extent necessary to secure release of the goods for that customs procedure;

³⁹⁶ See for instance Part 4 of Chapter 3 of the Customs Duty Act.

Deel 4

Beskikking oor goedere in of verreken in staatspakhuis

Toepassing van hierdie Deel

- 588.** Hierdie Deel is van toepassing op alle goedere in 'n staatspakhuis of wat ingevolge artikel 580(3) in 'n staatspakhuis verreken word, uitgesonderd— 5
- (a) verbode goedere waaroor ingevolge artikel 781 of 782 beskik moet word;
 - (b) beperkte goedere waaroor ingevolge artikel 790 of 791 beskik moet word;
 - (c) sektorbeheerde goedere waaroor ingevolge artikel 799 beskik moet word; en
 - (d) goedere onderworpe aan 'n retensiereg ingevolge— 10
 - (i) artikel 704; of
 - (ii) 'n belastingheffings-Wet.³⁹⁶

Publikasie van lys van goedere waarop hierdie Deel van toepassing is

- 589.** (1) Die doeanegesag moet—
- (a) 'n lys saamstel soos op 'n datum deur die doeanegesag bepaal van alle goedere waarop hierdie Deel van toepassing is wat— 15
 - (i) in elke staatspakhuis is; of
 - (ii) in elke staatspakhuis ingevolge artikel 580(3) verreken word; en
 - (b) die lys publiseer op die wyse soos die doeanegesag mag bepaal.
- (2) 'n Lys bedoel in subartikel (1) moet ten opsigte van elke lot die volgende bevat: 20
- (a) 'n Beskrywing van die goedere;
 - (b) die hoeveelheid;
 - (c) enige merke en identifikasienommers op die goedere;
 - (d) die naam van die vervoerder wat die goedere vervoer het;
 - (e) die nommer van die vervoerdokument van die goedere;
 - (f) die datum van aankoms, in die geval van ingevoerde goedere, of van beoogde 25 uitvoer, in die geval van goedere bestem vir uitvoer;
 - (g) die naam van die doeanemakelaar of ander persoon wat 'n klaringsbrief ten opsigte van die goedere ingedien het, as daar is;
 - (h) die naam van die staatspakhuis waar die goedere gehou word, of in die geval van goedere gehou by of verwyder na 'n ander perseel ingevolge artikel 30 580(1), die fisiese adres van daardie perseel; en
 - (i) enige ander inligting soos deur die doeanegesag bepaal mag word.
- (3) Die publikasie van 'n lys ingevolge subartikel (1)(b) dien as openbare kennisgewing dat die goedere op die lys—
- (a) ingevolge artikel 592 verkoop mag word, indien die goedere nie ingevolge 35 artikel 590 teruggeëis word binne die tydperk in daardie artikel bedoel nie;
 - (b) ingevolge artikel 593 verkoop mag word of reeds verkoop mag wees, indien daardie artikel op die goedere van toepassing is; of
 - (c) ingevolge artikel 596 andersins oor beskik mag word of reeds oor beskik mag 40 wees, indien daardie artikel op die goedere van toepassing is.

Terugeis van goedere in of verreken in staatspakhuis

- 590.** (1) 'n Persoon wat op goedere in of verreken in 'n staatspakhuis geregtig is, kan, binne 'n tydsraam vanaf die datum van publikasie van die lys wat daardie goedere aantoon, soos by reël, saamgelees met artikels 908 en 909, voorgeskryf mag word, daardie goedere terugeis— 45
- (a) in die geval van ingevoerde goedere wat nie vir binnelandse gebruik of 'n doeaneprosedure geklaar is nie, deur 'n klaringsbrief in te dien vir die klaring van die goedere vir binnelandse gebruik of 'n toelaatbare doeaneprosedure;
 - (b) in die geval van ingevoerde goedere onder 'n doeaneprosedure, deur— 50
 - (i) die klaringsbrief ingedien ten opsigte van die goedere, ooreenkomstig artikel 174 te wysig insoverre dit nodig mag wees om vrystelling van die goedere vir daardie doeaneprosedure te verseker;

³⁹⁶. Kyk byvoorbeeld Deel 4 van Hoofstuk 3 van die Wet op Doeanereg.

- (ii) replacing in accordance with section 97 any clearance declaration submitted in respect of the goods with a new clearance declaration to clear the goods for another customs procedure or for home use, as may be permissible in the circumstances; or
- (iii) complying with any other requirement of this Act or a tax levying Act necessary to obtain possession of the goods; 5
- (c) in the case of goods that were in free circulation destined for export but that have not been cleared for export, by submitting a clearance declaration to clear the goods for export;
- (d) in the case of goods cleared for export that were in free circulation before cleared for export, by— 10
 - (i) amending in accordance with section 174 the clearance declaration submitted in respect of the goods, to any extent necessary to secure release of the goods for export;
 - (ii) withdrawing the clearance declaration for export; or 15
 - (iii) complying with any other requirement of this Act or a tax levying Act necessary to obtain possession of the goods;
- (e) in the case of goods manufactured in the Republic to which the Excise Duty Act applies, by complying with the requirements of that Act necessary to obtain possession of the goods; or 20
- (f) in the case of goods of a category not referred to in paragraph (a), (b), (c), (d) or (e), by complying with any requirements as may be prescribed by rule for that category of goods.
- (2) Subsection (1) does not apply in respect of goods that— 25
 - (a) are or have been dealt with in terms of section 593;
 - (b) have been abandoned to the Commissioner;
 - (c) have been seized or confiscated; or
 - (d) that are to be destroyed.

Removal of reclaimed goods

- 591.** (1) If the customs authority releases goods reclaimed in terms of section 590(1) for home use or a customs procedure or otherwise approves the reclaim, the goods must be removed from the state warehouse or other premises where the goods are kept within a timeframe as may be prescribed by rule from the date of release or approval. 30
- (2) No goods may be removed in terms of subsection (1) unless all claims referred to in section 595(1)(a) to (g) as may be applicable to the goods have been paid. 35

Sale of goods

- 592.** (1) The customs authority may sell goods reflected in a list published in terms of section 589(1)(b)—
- (a) if the goods were not reclaimed in terms of section 590(1) within the period applicable to the goods; 40
 - (b) if the goods were reclaimed but release of the goods for home use or the required customs procedure was refused³⁹⁷ or the reclaim was otherwise not approved;
 - (c) if section 591 applies to the goods and the goods are not removed from the state warehouse or premises where the goods are kept within the period applicable to the goods; or 45
 - (d) if the goods are confiscated or abandoned goods.
- (2) Imported goods sold in terms of this section are excluded from section 89 and those goods may be allowed into free circulation without clearance for home use, subject to section 599. 50
- (3) Subsection (1) does not—
- (a) prevent goods from being dealt with in accordance with section 593; or

³⁹⁷. See sections 99 and 100 and other provisions regulating the release of goods.

- (ii) enige klaringsbrief ingedien ten opsigte van die goedere, ooreenkomstig artikel 97 deur 'n nuwe klaringsbrief te vervang om die goedere vir 'n ander doeaneprosedure of vir binnelandse gebruik te klaar, soos in die omstandighede toelaatbaar mag wees; of
- (iii) te voldoen aan enige ander voorskrif van hierdie Wet of 'n 5
belastingheffings-Wet wat nodig mag wees om besit van die goedere te verkry;
- (c) in die geval van goedere bestem vir uitvoer wat in vry sirkulasie was maar wat nie vir uitvoer geklaar is nie, deur 'n klaringsbrief vir die klaring van die goedere vir uitvoer in te dien; 10
- (d) in die geval van goedere vir uitvoer geklaar wat in vry sirkulasie was voordat dit vir uitvoer geklaar is, deur—
 - (i) die klaringsbrief ten opsigte van die goedere ingedien, ooreenkomstig artikel 174 te wysig insoverre dit nodig mag wees om vrystelling van die goedere vir uitvoer te verseker; 15
 - (ii) die klaringsbrief vir uitvoer terug te trek; of
 - (iii) te voldoen aan enige ander voorskrif van hierdie Wet of 'n belastingheffings-Wet wat nodig mag wees om besit van die goedere te verkry;
- (e) in die geval van goedere in die Republiek vervaardig waarop die Wet op 20
Aksynsreg van toepassing is, deur te voldoen aan die voorskrifte van daardie Wet wat nodig mag wees is om besit van die goedere te verkry; of
- (f) in die geval van goedere van 'n kategorie nie in paragraaf (a), (b), (c), (d) of (e) vermeld nie, deur te voldoen aan enige vereistes soos by reël vir daardie kategorie goedere voorgeskryf mag word. 25
- (2) Subartikel (1) is nie van toepassing nie ten opsigte van goedere—
 - (a) waarmee daar ingevolge artikel 593 gehandel word of was;
 - (b) wat aan die Kommissaris oorgegee is;
 - (c) waarop beslag gelê is of wat gekonfiskeer is; of
 - (d) wat vernietig moet word. 30

Verwydering van teruggeëisde goedere

591. (1) Indien die doeanegesag teruggeëisde goedere ingevolge artikel 590(1) vir binnelandse gebruik of 'n doeaneprosedure vrystel of andersins die terugeis goedkeur, moet die goedere van die staatspakhuis of ander perseel waar die goedere gehou word, verwyder word binne 'n tydsraam vanaf die datum van vrystelling of goedkeuring, soos 35
by reël voorgeskryf mag word.

(2) Geen goedere mag ingevolge subartikel (1) verwyder word tensy alle eise bedoel in artikel 595(1)(a) tot (g) wat op die goedere van toepassing mag wees, betaal is nie.

Verkoop van goedere

592. (1) Die doeanegesag kan goedere op 'n lys ingevolge artikel 589(1)(b) 40
gepubliseer, verkoop—

- (a) indien die goedere nie ingevolge artikel 590(1) binne die tydperk wat vir die goedere geld, teruggeëis word nie;
- (b) indien die goedere wel teruggeëis is maar vrystelling van die goedere vir binnelandse gebruik of die vereiste doeaneprosedure geweier word³⁹⁷ of die 45
terugeis andersins nie goedgekeur word nie;
- (c) indien artikel 591 op die goedere van toepassing is en die goedere nie binne die tydperk wat vir die goedere geld van die staatspakhuis of perseel waar die goedere gehou word, verwyder word nie; of
- (d) indien die goedere gekonfiskeerde of oorgegewe goedere is. 50

(2) Ingevoerde goedere wat ingevolge hierdie artikel verkoop word, is van artikel 89 uitgesluit en daardie goedere kan in vry sirkulasie sonder klaring vir binnelandse gebruik, behoudens artikel 599, toegelaat word.

(3) Subartikel (1)—

- (a) belet nie dat daar met goedere ooreenkomstig artikel 593 gehandel word nie; 55
of

397. Kyk artikels 99 en 100 en ander bepalings wat die vrystelling van goedere reguleer.

- (b) apply to goods of a kind referred to in section 596(2)(b) or (c).

Urgent sales

- 593.** (1) The customs authority may sell immediately goods that are not of a kind referred to in section 596(2)(b) or (c)—
- (a) if those goods are of a perishable or dangerous nature; or 5
 - (b) if a delay in the sale of the goods would result in diminishing proceeds that would not be sufficient to cover claims referred to in section 595(1)(a) to (g), as may be applicable to the goods.
- (2) Imported goods sold in terms of this section are excluded from section 89 and those goods may be allowed into free circulation without clearance for home use, subject to section 599. 10

Manner of sale

- 594.** (1) Goods may be sold in terms of section 592 or 593 in any manner determined by the Commissioner, which may include a sale—
- (a) by public auction; 15
 - (b) by public or closed tender; or
 - (c) out of hand, when appropriate.
- (2) Dutiable imported goods confiscated in terms of section 766 may be sold in terms of subsection (1) only above a price set by the Commissioner at a level that would not undermine the local production of goods of the relevant kind. 20

Application of proceeds of sales

- 595.** (1) The proceeds of the sale of goods in terms of section 592 or 593 must be applied to pay the following claims in the order of preference as indicated below:
- (a) Any tax, interest or administrative penalty payable on the goods in terms of this Act or a tax levying Act; 25
 - (b) any expenses incurred by the Commissioner in connection with the goods and any amounts payable in terms of section 575(2) to the Commissioner in connection with the goods;
 - (c) any amounts payable in terms of—
 - (i) section 575(2) to the licensee of a licensed state warehouse in connection with the goods, if the goods were kept in a licensed state warehouse; or 30
 - (ii) section 585(2) to the licensee of premises where the goods were kept, if the goods were retained at or removed to such premises in terms of section 580(1);
 - (d) any charges payable to a seaport, airport or railway authority in connection with the goods; 35
 - (e) any charges payable in connection with the goods to a carrier or licensee of a customs controlled area;
 - (f) any expenses payable to a person in terms of section 573 or 583; and
 - (g) any freight and salvage as provided for in section 16 of the Wreck and Salvage Act, 1996 (Act No. 94 of 1996). 40
- (2) Any surplus remaining after all claims in terms of subsection (1) have been met, must on written application by the owner of the goods be paid to the owner: Provided that—
- (a) the application is supported by proof of ownership of the goods; and 45
 - (b) is received by the Commissioner within three years of the date of sale of the goods.
- (3) Subsection (2) does not apply to confiscated or abandoned goods, and any surplus remaining after all claims in terms of subsection (1) have been met accrues to the National Revenue Fund. 50

- (b) is nie van toepassing op goedere van 'n soort in artikel 596(2)(b) of (c) bedoel nie.

Dringende verkope

- 593.** (1) Die doeanebeslag kan goedere wat nie van 'n soort bedoel in artikel 596(2)(b) of (c) is nie, onmiddellik verkoop— 5
- (a) indien daardie goedere van 'n bederfbare of gevaarlike aard is; of
- (b) indien 'n verdrag in die verkoop van die goedere verminderende opbrengs tot gevolg sou hê wat nie voldoende sal wees om die eise bedoel in artikel 595(1)(a) tot (g) wat op die goedere van toepassing mag wees, te dek nie.
- (2) Ingevoerde goedere wat ingevolge hierdie artikel verkoop word, is van artikel 89 10 uitgesluit en daardie goedere kan in vry sirkulasie sonder klaring vir binnelandse gebruik, behoudens artikel 599, toegelaat word.

Wyse van verkoop

- 594.** (1) Goedere kan ingevolge artikel 592 of 593 op enige wyse bepaal deur die Kommissaris verkoop word, met inbegrip van 'n verkoop— 15
- (a) deur openbare veiling;
- (b) deur openbare of geslote tender; of
- (c) uit die hand, waar gepas.
- (2) Belasbare ingevoerde goedere wat ingevolge artikel 766 gekonfiskeer is, kan ingevolge subartikel (1) verkoop word slegs bokant 'n prys wat deur die Kommissaris vasgestel word op 'n vlak wat nie die plaaslike produksie van goedere van die betrokke soort sal ondermyn nie. 20

Aanwending van opbrengs van verkope

- 595.** (1) Die opbrengs van die verkoop van goedere ingevolge artikel 592 of 593 moet aangewend word om die volgende eise te betaal in die rangorde van voorkeur soos hieronder aangedui: 25
- (a) Enige belasting, rente of administratiewe boete wat ingevolge hierdie Wet of 'n belastingheffings-Wet op die goedere betaalbaar is;
- (b) enige onkoste wat deur die Kommissaris in verband met die goedere aangegaan is en enige bedrae wat ingevolge artikel 575(2) aan die Kommissaris in verband met die goedere betaalbaar is; 30
- (c) enige bedrae wat ingevolge—
- (i) artikel 575(2) aan die lisensiehouer van 'n gelisensieerde staatspakhuis in verband met die goedere betaalbaar is, indien die goedere in 'n gelisensieerde staatspakhuis gehou is; of 35
- (ii) artikel 585(2) aan die lisensiehouer van 'n perseel betaalbaar is waar die goedere gehou is, indien die goedere ingevolge artikel 580(1) by so 'n perseel gehou of na so 'n perseel verwyder is;
- (d) enige gelde wat aan 'n seehawe-, lughawe- of spoorwegbeslag in verband met die goedere betaalbaar is; 40
- (e) enige gelde wat aan 'n vervoerder of lisensiehouer van 'n doeanebeheergebied in verband met die goedere betaalbaar is;
- (f) enige koste betaalbaar aan 'n persoon ingevolge artikel 573 of 583; en
- (g) enige vrag en berging waarvoor in artikel 16 van die Wet op Wrakke en Berging, 1996 (Wet No. 94 van 1996), voorsiening gemaak is. 45
- (2) Enige surplus wat oorbly nadat alle eise ingevolge subartikel (1) betaal is, moet op skriftelike aansoek deur die eienaar van die goedere aan die eienaar betaal word: Met dien verstande dat—
- (a) die aansoek gestaaf moet word deur bewys van eiendomsreg van die goedere; en 50
- (b) die aansoek deur die Kommissaris binne drie jaar vanaf die datum van verkoop van die goedere ontvang word.
- (3) Subartikel (2) is nie van toepassing op gekonfiskeerde of oorgegewe goedere nie, en enige surplus wat oorbly nadat alle eise ingevolge subartikel (1) betaal is, val die Nasionale Inkomstefonds toe. 55

Disposal of goods otherwise than by sales

- 596.** (1) The Commissioner is not bound to sell goods referred to in section 592 or 593 and may, subject to subsection (3), instead of selling the goods dispose of the goods in any appropriate manner, including by—
- (a) donating the goods for welfare purposes; 5
 - (b) appropriating the goods to an organ of state, including SARS, for use by that organ of state;
 - (c) making the goods available as humanitarian aid to communities in the Republic or to another country; and
 - (d) destroying the goods. 10
- (2) Subsection (1) must be applied, as may be appropriate in the circumstances, to—
- (a) unsold goods if efforts to sell the goods have been fruitless;
 - (b) goods that cannot economically be sold having regard to the nature or condition of the goods; or
 - (c) goods that pose a risk to public safety, health or morals. 15
- (3) Dutiable imported goods confiscated in terms of section 766 may be disposed of in terms of subsection (1) only in a way that would not undermine the local production of goods of that kind.
- (4) Goods disposed of in terms of subsection (1) may be removed from the state warehouse or premises where the goods are kept as the customs authority may direct. 20
- (5) Disposal of goods in terms of subsection (1) does not affect the liability of a person responsible in terms of this Act or a tax levying Act for paying any tax, expenses or charges in respect of the goods.
- (6) Imported goods disposed of in terms of this section are excluded from section 89 and those goods may be allowed into free circulation without clearance for home use. 25

Non-compliance with sales conditions

- 597.** If the purchaser of goods sold in terms of section 592 or 593 fails to comply with any condition subject to which the goods were sold within a timeframe as may be prescribed by rule from the date of sale, read with sections 908 and 909—
- (a) the sale becomes null and void; 30
 - (b) any amounts paid by the purchaser less expenses incurred with the sale, storage and handling of the goods may be refunded to the purchaser, but the Commissioner is not bound to refund such amounts; and
 - (c) the goods may be resold or section 596 may be applied to the goods.

Removal of goods following sale of goods 35

- 598.** (1) Goods sold in terms of section 592 or 593 must be removed from the state warehouse or premises where the goods are kept, provided that—
- (a) the purchase price has been paid; and
 - (b) the conditions of sale have been complied with.
- (2) If the goods are not removed within a timeframe as may be prescribed by rule from the date of sale of the goods, read with sections 908 and 909—
- (a) the purchaser becomes liable from that date for any amounts payable in terms of section 575(1)(a) and (b) or 585(1) and may not remove the goods unless those amounts are paid; or
 - (b) the customs authority may direct that section 597 be applied to the goods. 45

Tax consequences of goods sold or otherwise disposed of in terms of this Part

- 599.** Goods sold in terms of section 592 or 593 must for tax purposes—

Beskikking oor goedere anders as deur verkope

- 596.** (1) Die Kommissaris is nie verplig om goedere bedoel in artikel 592 of 593 te verkoop nie en kan, behoudens subartikel (3), in stede daarvan om die goedere te verkoop, oor die goedere op enige gepaste wyse beskik, met inbegrip daarvan—
- (a) om die goedere vir welsynsdoeleindes te skenk; 5
 - (b) om die goedere aan 'n staatsorgaan, met inbegrip van SAID, vir gebruik deur daardie staatsorgaan toe te wys;
 - (c) om die goedere as humanitêre bystand aan gemeenskappe in die Republiek of aan 'n ander land beskikbaar te stel; en
 - (d) om die goedere te vernietig. 10
- (2) Subartikel (1) moet, soos in die omstandighede gepas mag wees, toegepas word op—
- (a) onverkoopte goedere indien pogings om die goedere te verkoop vrugtelos was;
 - (b) goedere wat nie ekonomies verkoop kan word nie inaggenome die aard of toestand van die goedere; of 15
 - (c) goedere wat 'n risiko vir openbare veiligheid, gesondheid of morele waardes inhou.
- (3) Oor belasbare ingevoerde goedere wat ingevolge artikel 766 gekonfiskeer is, kan daar ingevolge subartikel (1) beskik word slegs op 'n wyse wat nie die plaaslike produksie van goedere van daardie soort sal ondermyn nie. 20
- (4) Goedere waaroor daar ingevolge subartikel (1) beskik is, kan van die staatspakhuis of perseel waar die goedere gehou word, verwyder word soos die doeanegesag mag gelas.
- (5) Beskikking oor goedere ingevolge subartikel (1) raak nie die aanspreeklikheid van 'n persoon wat ingevolge hierdie Wet of 'n belastingheffings-Wet verantwoordelik is vir die betaling van enige belasting, onkoste of gelde ten opsigte van die goedere nie. 25
- (6) Ingevoerde goedere waaroor daar ingevolge hierdie artikel beskik word, is van artikel 89 uitgesluit en daardie goedere kan in vry sirkulasie sonder klaring vir binnelandse gebruik toegelaat word. 30

Nie-voldoening aan verkoopsvoorwaardes

- 597.** Indien die koper van goedere ingevolge artikel 592 of 593 verkoop, versuim om aan 'n voorwaarde waaronder die goedere verkoop is, binne 'n tydperk vanaf die datum van verkoop soos by reël, saamgelees met artikels 908 en 909, voorgeskryf mag word, te voldoen— 35
- (a) word die verkoop nietig;
 - (b) kan enige bedrae deur die koper betaal, minus onkoste met die verkoop, berging en hantering van die goedere aangegaan, aan die koper terugbetaal word, maar die Kommissaris is nie verplig om sodanige bedrae terug te betaal nie; en 40
 - (c) kan die goedere herverkoop of artikel 596 op die goedere toegepas word.

Verwydering van goedere na verkoop van goedere

- 598.** (1) Goedere ingevolge artikel 592 of 593 verkoop, moet van die staatspakhuis of perseel waar die goedere gehou word, verwyder word mits— 45
- (a) die koopprys betaal is; en
 - (b) daar aan die voorwaardes van verkoop voldoen is.
- (2) Indien die goedere nie binne 'n tydperk vanaf die datum van verkoop van die goedere, soos by reël, saamgelees met artikels 908 en 909, voorgeskryf mag word, verwyder word nie—
- (a) word die koper vanaf daardie datum aanspreeklik vir enige bedrae wat ingevolge artikel 575(1)(a) en (b) of 585(1) betaalbaar is en mag die koper nie die goedere verwyder tensy daardie bedrae betaal is nie; of 50
 - (b) kan die doeanegesag gelas dat artikel 597 op die goedere toegepas word.

Belastinggevolge van goedere verkoop of andersins oor beskik ingevolge hierdie Deel 55

- 599.** Goedere ingevolge artikel 592 of 593 verkoop, moet vir belastingdoeleindes—

- (a) in the case of imported goods, regarded to be cleared for home use under Chapter 8 insofar as the goods are not already in terms of another provision of this Act regarded to be cleared for home use under that Chapter; or
- (b) in the case of goods that were in free circulation before being removed to or accounted for in a state warehouse, regarded to have reverted to free circulation insofar as the goods are not already in terms of another provision of this Act regarded to have reverted to free circulation. 5

Part 5

Other matters

Rules to facilitate implementation of this Chapter 10

600. Rules made in terms of section 903 to facilitate the implementation of this Chapter may include rules prescribing—

- (a) the manner in which goods removed to a state warehouse, or retained at or removed to any licensed premises, must be kept, marked, labelled or otherwise dealt with; and 15
- (b) the conditions on which such goods are kept or otherwise dealt with.

Offences in terms of this Chapter

601. (1) A person is guilty of an offence if that person—

- (a) contravenes section 574 or 584(a) or (b); or
- (b) fails to comply with section 570(1)(a) or (b), 571(1) or (2) or a direction of the customs authority issued in terms of section 570(2) or 580(1). 20

(2) The licensee of a state warehouse is guilty of an offence if that licensee fails to comply with section 576(1) or (2), 577(1) or 578.

(3) A person—

- (a) who must remove goods in terms of a direction or authorisation is guilty of an offence if that person fails to comply with section 581; or 25
- (b) in charge of premises where goods are kept in terms of a direction or authorisation issued in terms of section 580(1) is guilty of an offence if that person fails to comply with section 586.

(4) A person entitled to goods that have been removed to a state warehouse is guilty of an offence if that person fails to comply with section 591(1). 30

(5) An offence referred to in subsection (1)(a) is a Category 1 offence.

CHAPTER 28

REGISTRATION

Part 1 35

Introductory provisions

Purpose of this Chapter

602. The purpose of this Chapter is to provide for the registration of—

- (a) importers and exporter of goods;
- (b) persons acquiring ownership of goods whilst the goods are under a customs procedure; 40
- (c) persons representing in the Republic importers, exporters, carriers and persons referred to in paragraph (b) not located in the Republic;
- (d) persons submitting electronically to the customs authority any declarations,

- (a) in die geval van ingevoerde goedere, geag word vir binnelandse gebruik kragtens Hoofstuk 8 geklaar te wees in soverre die goedere nie reeds ingevolge 'n ander bepaling van hierdie Wet geag word vir binnelandse gebruik kragtens daardie Hoofstuk geklaar te wees nie; of
- (b) in die geval van goedere wat in vry sirkulasie was voordat dit na 'n staatspakhuis verwyder is of in 'n staatspakhuis verreken is, geag word tot vry sirkulasie terug te geval het, in soverre die goedere nie reeds ingevolge 'n ander bepaling van hierdie Wet geag word tot vry sirkulasie terug te geval het nie.

Deel 5 10

Ander aangeleenthede

Reëls ter fasilitering van implementering van hierdie Hoofstuk

600. Reëls ingevolge artikel 903 uitgevaardig om die implementering van hierdie Hoofstuk te fasiliteer, kan reëls insluit wat—

- (a) die wyse voorskryf waarop goedere wat na 'n staatspakhuis verwyder is, of wat gehou word by of verwyder is na enige gelisensieerde perseel, gehou, gemerk, van etikette voorsien of andersins mee gehandel moet word; en
- (b) die voorwaardes voorskryf waarop sodanige goedere gehou of andersins mee gehandel word.

Misdrywe ingevolge hierdie Hoofstuk 20

601. (1) 'n Persoon is aan 'n misdryf skuldig indien daardie persoon—

- (a) artikel 574 of 584(a) of (b) oortree; of
 - (b) versuim om aan artikel 570(1)(a) of (b), 571(1) of (2) of 'n lasgewing van die doeanegesag uitgereik ingevolge artikel 570(2) of 580(1) te voldoen.
- (2) Die lisensiehouer van 'n staatspakhuis is aan 'n misdryf skuldig indien daardie lisensiehouer versuim om aan artikel 576(1) of (2), 577(1) of 578 te voldoen. 25
- (3) 'n Persoon—
- (a) wat goedere ingevolge 'n lasgewing of magtiging moet verwyder, is aan 'n misdryf skuldig indien daardie persoon versuim om aan artikel 581 te voldoen; of 30
 - (b) in beheer van 'n perseel waar goedere ingevolge 'n lasgewing of magtiging uitgereik ingevolge artikel 580(1) gehou word, is aan 'n misdryf skuldig indien daardie persoon versuim om aan artikel 586 te voldoen.
- (4) 'n Persoon wat geregtig is op goedere wat na 'n staatspakhuis verwyder is, is aan 'n misdryf skuldig indien daardie persoon versuim om aan artikel 591(1) te voldoen. 35
- (5) 'n Misdryf bedoel in subartikel (1)(a) is 'n Kategorie 1 misdryf.

HOOFSTUK 28

REGISTRASIE

Deel 1

Inleidende bepalings 40

Doel van hierdie Hoofstuk

602. Die doel van hierdie Hoofstuk is om voorsiening te maak vir die registrasie van—

- (a) invoerders en uitvoerders van goedere;
- (b) persone wat eiendomsreg oor goedere verkry terwyl die goedere onder 'n doeaneprocedure is; 45
- (c) persone wat invoerders, uitvoerders, vervoerders en persone bedoel in paragraaf (b) wat nie in die Republiek gesetel is nie, in die Republiek verteenwoordig;
- (d) persone wat enige klaringsbriewe, verslae, verklarings, opgawes, kennisgewings, aansoeke, versoeke of ander dokumente of kommunikasies 50

- reports, statements, returns, notices, applications, requests or other documents or communications in terms of this Act or a tax levying Act; and
- (e) any persons involved in any other activities prescribed by rule and required by the Commissioner to register in terms of this Chapter.

Registration of importers and exporters 5

603. (1) A person who is an importer or exporter as defined in section 1 may be registered in terms of this Chapter as an importer or exporter, respectively.

(2) No goods may be imported into or exported from the Republic unless the person importing or exporting the goods—

- (a) is registered in terms of this Chapter as an importer or exporter; and 10
(b) if that person is not located in the Republic,³⁹⁸ is represented in the Republic by a registered agent located in the Republic.

(3) Subsection (2) does not apply to—

- (a) a person importing or exporting goods that are not required to be cleared in terms of this Act;³⁹⁹ or 15
(b) any other category of persons exempted by rule from subsection (2).

Registration of persons acquiring ownership of goods whilst under customs procedure

604. No person may acquire ownership of goods whilst those goods are under a customs procedure unless that person— 20

- (a) is registered in terms of this Chapter; and
(b) if that person is not located in the Republic,⁴⁰⁰ is represented in the Republic by a registered agent located in the Republic.

Registration of agents for persons not located in Republic

605. (1) No person may for purposes of this Act or a tax levying Act act as the representative in the Republic of an importer, exporter, carrier or person referred to in section 604 who is not located in the Republic⁴⁰¹ unless that person is registered as an agent. 25

(2) No person may in terms of subsection (1) be registered as an agent unless that person is located in the Republic. 30

Registration of electronic users

606. (1) No person may, either personally or through a person who is a registered electronic user, submit to the customs authority electronically any declaration, report, statement, return, notice, application, request or other document or communication that may or must be submitted to the customs authority in terms of this Act or a tax levying Act unless that person is registered as an electronic user. 35

(2) Subsection (1) does not apply in respect of the electronic submission of an application for registration as an electronic user.

Registration of other categories of persons

607. The Commissioner may by rule require any other category of persons involved in any activity regulated by this Act or the Customs Duty Act not included in sections 603 to 606, to register in terms of this Chapter. 40

398. See section 1(3)(a).

399. See sections 91 and 95.

400. See section 1(3)(a).

401. See section 1(3)(a).

ingevolge hierdie Wet of 'n belastingheffings-Wet, elektronies aan die doeanegesag versend; en

- (e) enige persone betrokke by enige ander aktiwiteit by reël voorgeskryf en wat volgens 'n vereiste van die Kommissaris ingevolge hierdie Hoofstuk moet registreer.

5

Registrasie van invoerders en uitvoerders

603. (1) 'n Persoon wat 'n invoerder of uitvoerder soos omskryf in artikel 1 is, kan ingevolge hierdie Hoofstuk as 'n invoerder of uitvoerder, onderskeidelik, geregistreer word.

(2) Geen goedere mag ingevoer word in, of uitgevoer word uit, die Republiek nie tensy die persoon wat die goedere invoer of uitvoer—

- (a) ingevolge hierdie Hoofstuk as 'n invoerder of uitvoerder geregistreer is; en
(b) indien daardie persoon nie in die Republiek gesetel is nie,³⁹⁸ in die Republiek verteenwoordig word deur 'n geregistreerde agent wat in die Republiek gesetel is.

15

(3) Subartikel (2) is nie van toepassing nie op—

- (a) 'n persoon wat goedere invoer of uitvoer wat nie ingevolge hierdie Wet geklaar hoef te word nie;³⁹⁹ of
(b) enige ander kategorie persone wat by reël van subartikel (2) onthef is.

Registrasie van persone wat eiendomsreg oor goedere onder doeaneprosedure verkry

604. Geen persoon mag eiendomsreg oor goedere verkry terwyl daardie goedere onder 'n doeaneprosedure is nie, tensy daardie persoon—

- (a) ingevolge hierdie Hoofstuk geregistreer is; en
(b) indien daardie persoon nie in die Republiek gesetel is nie,⁴⁰⁰ in die Republiek verteenwoordig word deur 'n geregistreerde agent wat in die Republiek gesetel is.

25

Registrasie van agente vir persone nie in Republiek gesetel

605. (1) Geen persoon mag vir doeleindes van hierdie Wet of 'n belastingheffings-Wet as die verteenwoordiger in die Republiek van 'n invoerder, uitvoerder, vervoerder of persoon in artikel 604 bedoel, wat nie in die Republiek gesetel is nie,⁴⁰¹ optree tensy daardie persoon as 'n agent geregistreer is nie.

(2) Geen persoon mag ingevolge subartikel (1) as 'n agent geregistreer word tensy daardie persoon in die Republiek gesetel is nie.

35

Registrasie van elektroniese gebruikers

606. (1) Geen persoon mag, hetsy persoonlik of deur 'n persoon wat 'n geregistreerde elektroniese gebruiker is, enige klaringsbrief, verslag, verklaring, opgawe, kennisgewing, aansoek, versoek of ander dokument of kommunikasie wat ingevolge hierdie Wet of 'n belastingheffings-Wet by die doeanegesag ingedien kan of moet word, elektronies versend nie tensy daardie persoon as 'n elektroniese gebruiker geregistreer is nie.

(2) Subartikel (1) is nie van toepassing ten opsigte van die elektroniese versending van 'n aansoek om registrasie as 'n elektroniese gebruiker nie.

Registrasie van ander kategorieë persone

607. Die Kommissaris kan by reël van enige ander kategorie persone wat betrokke is by enige aktiwiteit wat deur hierdie Wet of die Wet op Doeanereg gereguleer word wat nie by artikels 603 tot 606 ingesluit is nie, vereis om ingevolge hierdie Hoofstuk te registreer.

45

398. Kyk artikel 1(3)(a).

399. Kyk artikels 91 en 95.

400. Kyk artikel 1(3)(a).

401. Kyk artikel 1(3)(a).

Part 2

Procedure for registration applications

General requirements

- 608.** An application for registration must—
- (a) be made to the customs authority in the form and format as may be prescribed by rule;⁴⁰² 5
 - (b) contain the information as may be required by rule;
 - (c) be signed by the applicant;
 - (d) be accompanied or supported by such documents and information as may be prescribed by rule; and 10
 - (e) be submitted to any Customs Office or transmitted to the customs authority electronically in accordance with section 913.

Consideration and decision of applications

- 609.** (1) The customs authority—
- (a) may request the applicant to submit any additional information before considering the application; and 15
 - (b) must grant the application unless section 610 applies and the application is refused on a ground set out in that section.
- (2) After the customs authority has reached a decision on an application, the customs authority must— 20
- (a) notify the applicant of the decision;⁴⁰³ and
 - (b) in the notification—
 - (i) give reasons for the decision to the applicant, if the application has been refused; and
 - (ii) draw the attention of the applicant to the fact that an appeal may in terms of Chapter 37 be lodged against the refusal of the application, if such appeal is available in the circumstances of the decision. 25

Grounds for refusal of applications

- 610.** (1) The customs authority must refuse an application if—
- (a) the applicant is not entitled to registration in terms of a provision of this Act⁴⁰⁴ or a tax levying Act; 30
 - (b) the applicant—
 - (i) has in respect of the application failed to comply with a requirement of this Act; or
 - (ii) has made a false or misleading statement in the application or any supporting document, or has omitted to state a fact, which is material to the consideration of the application; or 35
 - (c) the tax matters of the applicant are not in order as contemplated in section 917.
- (2) The customs authority may refuse an application if the applicant or an employee of the applicant in a managerial position, or if the applicant is a juristic entity, a director, administrator or trustee of the applicant, has during the five years preceding the application— 40
- (a) breached this Act, a tax levying Act or the Customs and Excise Act, 1964, in a material respect;
 - (b) been convicted of an offence under this Act, a tax levying Act or the Customs and Excise Act, 1964; or 45
 - (c) been convicted of an offence involving fraud or dishonesty.

Issuing of registration certificates

- 611.** (1) Upon approving an application for registration the customs authority must issue a registration certificate to and in the name of the applicant. 50

402. See section 906.

403. See section 912 for methods of conveying decisions.

404. See for instance section 605(2).

Deel 2

Prosedure vir registrasieaansoeke

Algemene vereistes

- 608.** 'n Aansoek om registrasie moet—
- (a) by die doeane gesag gedoen word in die vorm en formaat soos by reël 5 voorgeskryf mag word;⁴⁰²
 - (b) die inligting bevat soos by reël vereis mag word;
 - (c) deur die applikant onderteken word;
 - (d) vergesel of gerugsteun word deur sodanige dokumente en inligting soos by reël voorgeskryf mag word; en 10
 - (e) by enige Doeanekantoor ingedien of elektronies ooreenkomstig artikel 913 aan die doeane gesag versend word.

Oorweging en beslissing van aansoeke

- 609.** (1) Die doeane gesag—
- (a) kan die applikant versoek om enige bykomende inligting te verstrek voordat 15 die aansoek oorweeg word; en
 - (b) moet die aansoek toestaan tensy artikel 610 van toepassing is en die aansoek op 'n grond vermeld in daardie artikel geweier word.
- (2) Nadat die doeane gesag tot 'n besluit oor 'n aansoek gekom het, moet die doeane gesag— 20
- (a) die applikant van die besluit in kennis stel;⁴⁰³ en
 - (b) in die kennisgewing—
 - (i) redes vir die besluit aan die applikant verstrek, indien die aansoek geweier word; en
 - (ii) die aandag van die applikant vestig op die feit dat 'n appèl ingevolge 25 Hoofstuk 37 teen die weiering van die aansoek aangeteken mag word, indien so 'n appèl in die omstandighede van die besluit beskikbaar is.

Gronde vir weiering van aansoeke

- 610.** (1) Die doeane gesag moet 'n aansoek weier indien—
- (a) die applikant ingevolge 'n bepaling van hierdie Wet⁴⁰⁴ of 'n belastingheffings- 30 Wet nie op registrasie geregtig is nie;
 - (b) die applikant—
 - (i) versuim het om aan 'n voorskrif van hierdie Wet ten opsigte van die aansoek te voldoen; of
 - (ii) 'n vals of misleidende verklaring in die aansoek of enige ondersteunende 35 dokument gemaak het, of versuim het om 'n feit te vermeld, wat wesenlik vir die oorweging van die aansoek is; of
 - (c) die belasting sake van die applikant nie in orde is nie soos in artikel 917 beoog.
- (2) Die doeane gesag kan 'n aansoek weier indien die applikant of 'n werknemer van die applikant in 'n bestuurspos of, indien die applikant 'n regsentiteit is, 'n direkteur, 40 administrateur of trustee van die applikant, gedurende die vyf jaar wat die aansoek voorafgaan—
- (a) hierdie Wet, 'n belastingheffings-Wet of die Doeane en Aksynswet, 1964, in 'n wesenlike opsig verbreek het;
 - (b) aan 'n misdryf ingevolge hierdie Wet, 'n belastingheffings-Wet of die Doeane 45 en Aksynswet, 1964, skuldig bevind is; of
 - (c) aan 'n misdryf wat bedrog of oneerlikheid behels, skuldig bevind is.

Uitreik van registrasiesertifikate

- 611.** (1) Wanneer 'n aansoek om registrasie goedgekeur word, moet die doeane gesag 'n registrasiesertifikaat aan, en in die naam van, die applikant uitreik. 50

402. Kyk artikel 906.

403. Kyk artikel 912 vir wyses van oordra van besluite.

404. Kyk byvoorbeeld artikel 605(2).

- (2) The registration certificate must be—
 - (a) handed to the applicant; or
 - (b) sent by registered post or secured electronic means to the applicant.

Contents of registration certificates

- 612.** A registration certificate must state at least— 5
 - (a) the name of the registered person;
 - (b) the registration category and, if applicable, the registration type issued;⁴⁰⁵
 - (c) a customs code allocated to the registered person; and
 - (d) the date from which the certificate takes effect.

Registration conditions 10

- 613.** (1) A registration certificate is issued subject to conditions as determined by the Act or as may be prescribed by rule in respect of the relevant category or type of registration.
- (2) Conditions prescribed by rule in terms of subsection (1) may, in the case of the registration of a person handling goods, include conditions relating to— 15
 - (a) the protection of potential tax revenue on goods imported, exported, received, stored, handled, transported, processed, manufactured or in any way dealt with, managed or controlled by the registered person in terms of the registration certificate;
 - (b) the physical security of such goods; 20
 - (c) the inspection of such goods by customs officers;
 - (d) assistance that the registered person must provide to customs officers in implementing this Act or a tax levying Act in relation to such goods; or
 - (e) compliance by the registered person with this Act or a tax levying Act in relation to such goods. 25
- (3) (a) Each registration as an electronic user is subject to a condition that the registered person must have and maintain—
 - (i) either personally or through a person who is a registered electronic user, the capability of complying with section 913; and
 - (ii) a digital signature approved by the customs authority. 30
- (b) Paragraph (a) does not apply to—
 - (i) a category of registered persons excluded from that paragraph by rule; or
 - (ii) a specific registered person exempted by the customs authority from that paragraph.

Period of validity of registration certificates 35

- 614.** (1) A registration certificate—
 - (a) takes effect from a date specified in the certificate; and
 - (b) remains in force unless it—
 - (i) is withdrawn by the customs authority in terms of Part 4; or
 - (ii) expires in terms of subsection (2). 40
- (2) A registration certificate expires if the registered person in whose name the certificate has been issued, is inactive in relation to the activity for which that person was registered for a continuous period of three years, subject to section 615.

⁴⁰⁵. For registration types see section 626(a).

- (2) Die registrasiesertifikaat moet—
- (a) aan die applikant oorhandig word; of
 - (b) per geregistreerde pos of deur middel van 'n veilige elektroniese proses aan die applikant versend word.

Inhoud van registrasiesertifikate 5

- 612.** 'n Registrasiesertifikaat moet ten minste die volgende vermeld:
- (a) Die naam van die geregistreerde persoon;
 - (b) die registrasiekategorie en, indien van toepassing, die registrasietipe uitgereik;⁴⁰⁵
 - (c) 'n doeanekode wat aan die geregistreerde persoon toegeken is; en 10
 - (d) die datum waarop die sertifikaat van krag word.

Registrasievoorwaardes

613. (1) 'n Registrasiesertifikaat word onderworpe aan voorwaardes uitgereik soos ten opsigte van die betrokke kategorie of tipe registrasie deur hierdie Wet bepaal word of by reël voorgeskryf mag word. 15

(2) Voorwaardes by reël ingevolge subartikel (1) voorgeskryf, kan, in die geval van die registrasie van 'n persoon wat goedere hanteer, voorwaardes insluit met betrekking tot—

- (a) die beveiliging van potensiële belastinginkomste op goedere wat deur die geregistreerde persoon ingevolge die registrasiesertifikaat ingevoer, 20 uitgevoer, ontvang, geberg, hanteer, vervoer, geprosesseer, vervaardig of op enige wyse mee gehandel, bestuur of beheer word;
 - (b) die fisiese sekuriteit van sodanige goedere;
 - (c) die inspeksie van sodanige goedere deur doeanebeamptes;
 - (d) bystand wat die geregistreerde persoon aan doeanebeamptes met betrekking 25 tot sodanige goedere moet voorsien by die implementering van hierdie Wet of 'n belastingheffings-Wet; of
 - (e) voldoening deur die geregistreerde persoon aan hierdie Wet of 'n belastingheffings-Wet met betrekking tot sodanige goedere.
- (3) (a) Elke registrasie as 'n elektroniese gebruiker is onderworpe aan 'n voorwaarde 30 dat die geregistreerde persoon—
- (i) hetsy persoonlik of deur 'n persoon wat 'n geregistreerde elektroniese gebruiker is, die vermoë om aan artikel 913 te voldoen, moet hê en in stand moet hou; en
 - (ii) 'n digitale handtekening wat deur die doeanebesag goedgekeur is, moet hê en 35 in stand moet hou.
- (b) Paragraaf (a) is nie van toepassing nie op—
- (i) 'n kategorie geregistreerde persone wat by reël van daardie paragraaf 40 uitgesluit word; of
 - (ii) 'n spesifieke geregistreerde persoon wat deur die doeanebesag van daardie paragraaf onthef word.

Tydperk van geldigheid van registrasiesertifikate

- 614.** (1) 'n Registrasiesertifikaat—
- (a) word van krag vanaf 'n datum in die sertifikaat gespesifiseer; en
 - (b) bly van krag tensy dit— 45
 - (i) deur die doeanebesag ingevolge Deel 4 ingetrek word; of
 - (ii) ingevolge subartikel (2) verval.
- (2) 'n Registrasiesertifikaat verval indien die geregistreerde persoon in wie se naam die sertifikaat uitgereik is, vir 'n aaneenlopende tydperk van drie jaar onaktief is met betrekking tot die aktiwiteit waarvoor daardie persoon geregistreer is, behoudens artikel 50 615.

405. Vir registrasietipes, kyk artikel 626(a).

Part 3

Renewal and amendment of registration certificates

Application for renewal of registration certificates by inactive registered persons

615. (1) A person referred to in section 614(2) may not later than 30 calendar days before a registration certificate expires in terms of that subsection, read with section 909, apply for the renewal of the certificate. 5

(2) Sections 608, 609 and 610, with any necessary changes as the context may require, apply to applications for the renewal of registration certificates.

(3) If an application for renewal of a registration certificate is not disposed of before the expiry of the certificate, the customs authority may extend the validity of the certificate until the application is disposed of. 10

Issuing of renewed registration certificates

616. (1) Upon approving an application for the renewal of a registration certificate the customs authority must issue a new registration certificate to and in the name of the applicant. 15

(2) The new registration certificate must be handed to the applicant or sent by registered post or secured electronic means to the applicant.

(3) Sections 611, 612, 613 and 614 apply, with any necessary changes as the context may require, to new registration certificates issued in terms of this Part.

Amendment of registration certificates 20

617. (1) A registration certificate may in accordance with any rules that may be prescribed be amended—

- (a) on application by the holder of the certificate; or
- (b) on initiative of the customs authority.

(2) A registration certificate may be amended by— 25

- (a) extending or limiting the purposes of the registration;
- (b) updating or changing any detail on the certificate; or
- (c) correcting a technical or editorial error.

(3) An amendment to a registration certificate takes effect on a date determined by the customs authority. 30

Part 4

Suspension or withdrawal of registration

Grounds for suspension or withdrawal of registration

618. (1) The customs authority must withdraw the registration of a person if that person— 35

- (a) acquired the registration under false pretences;
- (b) is no longer entitled to registration in terms of a provision of this Act⁴⁰⁶ or a tax levying Act; or
- (c) is sequestered or liquidated.⁴⁰⁷

(2) The customs authority may suspend or withdraw the registration of a person if, during the validity period of the registration— 40

- (a) the registered person—
 - (i) has in a material respect breached any condition applicable to the registration in terms of section 613; or
 - (ii) has failed to pay to the Commissioner on or before the due date any tax 45

406. See for instance section 605(2).

407. The executor or administrator may in such a case apply for a new registration.

Deel 3

Hernuwing en wysiging van registrasiesertifikate

Aansoek om hernuwing van registrasiesertifikate

615. (1) 'n Persoon bedoel in artikel 614(2) kan, nie later nie as 30 kalenderdae voordat 'n registrasiesertifikaat, saamgelees met artikel 909, ingevolge daardie subartikel verval, om hernuwing van die sertifikaat aansoek doen. 5

(2) Artikels 608, 609 en 610, met enige nodige aanpassings soos die samehang mag vereis, is op aansoeke om hernuwing van registrasiesertifikate van toepassing.

(3) Indien 'n aansoek om hernuwing van 'n registrasiesertifikaat nie afgehandel word voor die verstryking van die sertifikaat nie, kan die doeanegesag die geldigheid van die sertifikaat verleng totdat die aansoek afgehandel word. 10

Uitreik van hernuwingsregistrasiesertifikate

616. (1) Wanneer 'n aansoek om hernuwing van 'n registrasiesertifikaat goedgekeur word, moet die doeanegesag 'n nuwe registrasiesertifikaat aan, en in die naam van, die applikant uitreik. 15

(2) Die nuwe registrasiesertifikaat moet aan die applikant oorhandig of per geregistreeerde pos of deur middel van 'n veilige elektroniese proses aan die applikant versend word.

(3) Artikels 611, 612, 613 en 614, met enige nodige veranderings soos die samehang mag vereis, is op nuwe registrasiesertifikate uitgereik ingevolge hierdie Deel van toepassing. 20

Wysiging van registrasiesertifikate

617. (1) 'n Registrasiesertifikaat kan volgens voorskrif van enige reëls wat voorgeskryf mag word, gewysig word— 25

- (a) op aansoek deur die houer van die sertifikaat; of
- (b) op inisiatief van die doeanegesag.

(2) 'n Registrasiesertifikaat kan gewysig word deur—

- (a) die doel van die registrasie uit te beperk;
- (b) enige besonderhede op die sertifikaat op te dateer of te verander; of
- (c) 'n tegniese of redaksionele fout reg te stel. 30

(3) 'n Wysiging van 'n registrasiesertifikaat word op 'n datum bepaal deur die doeanegesag van krag.

Deel 4

Opskorting of intrekking van registrasie

Gronde vir opskorting of intrekking van registrasie 35

618. (1) Die doeanegesag moet die registrasie van 'n persoon intrek indien daardie persoon—

- (a) die registrasie onder valse voorwendsels bekom het;
- (b) nie meer op registrasie ingevolge 'n bepaling van hierdie Wet⁴⁰⁶ of 'n belastingheffings-Wet geregtig is nie; of 40
- (c) gesekwestreer of gelikwedeer word.⁴⁰⁷

(2) Die doeanegesag kan die registrasie van 'n persoon opskort of intrek indien, gedurende die geldigheidstydperk van die registrasie—

- (a) die geregistreeerde persoon— 45
 - (i) enige voorwaarde wat ingevolge artikel 613 op die registrasie van toepassing is in 'n wesenlik opsig verbreek het; of
 - (ii) versuim het om op of voor die sperdatum vir betaling enige belasting of ander bedrag aan die Kommissaris te betaal op enige goedere waarvoor

406. Kyk byvoorbeeld artikel 605(2).

407. Die eksekuteur of administrateur kan in so 'n geval om 'n nuwe registrasie aansoek doen.

- or other amount on any goods for which that person is liable in terms of this Act or a tax levying Act; or
- (b) the registered person or an employee of the registered person in a managerial position, or if the registered person is a juristic entity, a director, administrator or trustee of the registered juristic entity—
 - (i) has breached a provision of this Act or a tax levying Act in a material respect;
 - (ii) has been convicted of an offence under this Act or a tax levying Act; or
 - (iii) has been convicted of an offence involving fraud or dishonesty.
- (3) Subsection (2)(b) does not apply if the registered person was not a party to, or could not have prevented, or did not benefit in any material respect from, any such breach or offence by such employee, director, administrator or trustee.

Process

- 619.** (1) If the customs authority intends to suspend or withdraw the registration of a person in terms of section 618, the customs authority must first—
- (a) notify that person by registered post or secured electronic means of—
 - (i) the proposed suspension or withdrawal; and
 - (ii) the reasons for the proposed suspension or withdrawal; and
 - (b) give that person an opportunity to submit representations on the proposed suspension or withdrawal within 30 calendar days of the date the notification referred to in paragraph (a) was posted or transmitted to that person, read with section 908.
- (2) The customs authority may despite subsection (1) suspend the registration of a person with immediate effect if circumstances so demand, but in such a case that person is entitled to submit to the customs authority representations on the suspension within 30 days after the registration has been suspended, read with section 908.

Communication of decisions to suspend or withdraw registration

- 620.** If the customs authority decides to suspend or withdraw the registration of a person, the customs authority must—
- (a) notify the relevant person of the decision, indicating—
 - (i) the period for which the registration is suspended; or
 - (ii) the date from which the registration is withdrawn; and
 - (b) in the notification—
 - (i) give reasons for the decision; and
 - (ii) draw that person's attention to the fact that an appeal may be lodged against the decision in terms of Chapter 37, if such appeal is available in the circumstances of the decision.

Part 5

General matters

Provision of security 40

- 621.** The customs authority may in terms of Chapter 31 require a registered person to provide security to cover any—
- (a) tax risks referred to in section 686(1) in relation to goods imported, exported, received, stored, processed, handled or in any way dealt with, managed or controlled by the registered person or by a person for whom the registered person acts as a representative in the Republic; or
 - (b) other risks referred to in section 686(2).

Transfer of registration certificates

- 622.** A registration certificate may not be transferred.

- daardie persoon ingevolge hierdie Wet of 'n belastingheffings-Wet aanspreeklik is; of
- (b) die geregistreerde persoon of 'n werknemer van die geregistreerde persoon in 'n bestuurspos, of indien die geregistreerde persoon 'n regsenteit is, 'n direkteur, administrateur of trustee van die geregistreerde regsenteit— 5
- (i) 'n bepaling van hierdie Wet of 'n belastingheffings-Wet in 'n wesenlike opsig verbreek het;
- (ii) aan 'n misdryf ingevolge hierdie Wet of 'n belastingheffings-Wet skuldig bevind word; of
- (iii) aan 'n misdryf wat bedrog of oneerlikheid behels, skuldig bevind word. 10
- (3) Subartikel (2)(b) is nie van toepassing nie indien die geregistreerde persoon nie 'n party tot so 'n breuk of misdryf deur so 'n werknemer, direkteur, administrateur of trustee was nie, of dit nie kon voorkom het nie, of nie in 'n wesenlike opsig voordeel daaruit getrek het nie.

Proses 15

- 619.** (1) Indien die doeanegesag voornemens is om die registrasie van 'n persoon ingevolge artikel 618 op te skort of in te trek, moet die doeanegesag eers—
- (a) daardie persoon per geregistreerde pos of deur middel van 'n veilige elektroniese proses in kennis stel van— 20
- (i) die voorgestelde opskorting of intrekking; en
- (ii) die redes vir die voorgestelde opskorting of intrekking; en
- (b) daardie persoon 'n geleentheid bied om binne 30 kalenderdae vanaf die datum waarop die kennisgewing bedoel in paragraaf (a) aan daardie persoon gepos of versend is, saamgelees met artikel 908, verstoë teen die beoogde opskorting of intrekking te rig. 25
- (2) Die doeanegesag kan, ondanks subartikel (1), die registrasie van 'n persoon met onmiddellike effek opskort indien die omstandighede dit nodig maak, maar in so 'n geval is daardie persoon daarop geregtig om binne 30 dae nadat die registrasie opgeskort is, saamgelees met artikel 908, verstoë teen die opskorting tot die doeanegesag te rig.

Kommunikering van besluite om registrasie op te skort of in te trek 30

- 620.** Indien die doeanegesag besluit om die registrasie van 'n persoon op te skort of in te trek, moet die doeanegesag—
- (a) die betrokke persoon van die besluit in kennis stel, met vermelding van— 35
- (i) die tydperk waarvoor die registrasie opgeskort word; of
- (ii) die datum van wanneer af die registrasie ingetrek word; en
- (b) in die kennisgewing—
- (i) redes vir die besluit gee; en
- (ii) daardie persoon se aandag vestig op die feit dat 'n appèl teen die besluit ingevolge Hoofstuk 37 aangeteken kan word, indien so 'n appèl in die omstandighede van die besluit beskikbaar is. 40

Deel 5

Algemene aangeleenthede

Stel van sekuriteit

- 621.** Die doeanegesag kan ingevolge Hoofstuk 31 van 'n geregistreerde persoon vereis om sekuriteit te stel ter dekking van enige— 45
- (a) belastingrisiko's bedoel in artikel 686(1) met betrekking tot goedere ingevoer, uitgevoer, ontvang, geberg, geprosesseer, hanteer of op enige wyse mee gehandel, bestuur of beheer deur die geregistreerde persoon of deur 'n persoon vir wie die geregistreerde persoon as 'n verteenwoordiger in die Republiek optree; of 50
- (b) ander risiko's in artikel 686(2) bedoel.

Oordra van registrasiesertifikate

- 622.** 'n Registrasiesertifikaat mag nie oorgedra word nie.

Change of circumstances on which application for registration was granted

623. If any of the circumstances which were material to the granting of a registration has changed, the registered person must—

- (a) notify the customs authority within a timeframe as may be prescribed by rule from the date of the change, read with section 908; and 5
- (b) submit a fresh application for registration, as the customs authority may require, reflecting the changed circumstances.

Consequences of expiry, suspension or withdrawal of registration

624. (1) As from the date of expiry of a registration or on which a suspension or withdrawal of a registration takes effect, the person who was registered may no longer carry on the activity for which that person was registered. 10

(2) Subsection (1) applies in the case of the suspension of a registration only during the period for which the registration is suspended.

(3) The customs authority may despite subsection (1), on such conditions as the customs authority may determine, including conditions relating to the provision of security, allow the affected person to continue with the activity for which that person was registered for a period necessary to wind up that activity, or, in the case of a suspension, to bring that activity to a halt. 15

Customs authority's powers following expiry, suspension or withdrawal of registration 20

625. If the registration of a person has expired or has been suspended or withdrawn, the customs authority may—

- (a) take control of all or any specific goods in the custody of that person, as may be necessary—
 - (i) for the protection of tax that may be, or become, payable on those goods; 25
 - or
 - (ii) to ensure that this Act or a tax levying Act is complied with in relation to those goods;
- (b) remove, or require that person or the person in whose custody those goods are to remove, the goods to a customs controlled area specified by the customs authority; 30
- (c) require or allow those goods to be cleared for home use or a permissible customs procedure; or
- (d) require that person to pay any costs incurred by the Commissioner in carrying out any actions in terms of paragraph (a), (b) or (c). 35

Rules to facilitate implementation of this Chapter

626. Rules made in terms of section 903 to facilitate the implementation of this Chapter may include rules—

- (a) prescribing —
 - (i) registration types within each category of registration; 40
 - (ii) qualifying requirements for each category of registration or each registration type;
- (b) prescribing processes for, and any other matters relating to, the amendment of registration certificates;
- (c) prescribing simplified registration processes for casual importers or exporters importing or exporting goods below a prescribed value; 45
- (d) exempting importers or exporters referred to in paragraph (c) from any provision of this Chapter;
- (e) prescribing registration fees; and
- (f) prescribing conditions of registration. 50

Offences in terms of this Chapter

627. (1) A person is guilty of an offence if that person—

- (a) imports or exports goods in contravention of section 603(2);

Verandering in omstandighede waarop aansoek om registrasie toegestaan is

- 623.** Indien enige van die omstandighede wat wesenlik was vir die toestaan van 'n registrasie verander het, moet die geregistreerde persoon—
- (a) kennis daarvan aan die doeanegesag gee binne 'n tydsraam vanaf die datum van die verandering soos by reël, saamgelees met artikel 908, voorgeskryf mag word; en
 - (b) 'n nuwe aansoek om registrasie indien, soos die doeanegesag dit nodig mag vind, wat die veranderde omstandighede vermeld.

Gevolg van verval, opskorting of intrekking van registrasie

- 624.** (1) Vanaf die datum waarop 'n registrasie verval of 'n opskorting of intrekking van 'n registrasie van krag word, mag die persoon wat geregistreer was nie meer die aktiwiteit uitvoer waarvoor daardie persoon geregistreer was nie.
- (2) Subartikel (1) geld, in die geval van die opskorting van 'n registrasie, slegs gedurende die tydperk waarvoor die registrasie opgeskort is.
- (3) Die doeanegesag kan ondanks subartikel (1), op die voorwaardes soos die doeanegesag mag bepaal, met inbegrip van voorwaardes betreffende die stel van sekuriteit, die betrokke persoon toelaat om met die aktiwiteit waarvoor daardie persoon geregistreer was, voort te gaan vir 'n tydperk wat nodig is om daardie aktiwiteit tot 'n einde te bring, of in die geval van 'n opskorting, om daardie aktiwiteit te stop.

Doeanegesag se bevoegdhede na verval, opskorting of intrekking van registrasie

- 625.** Indien die registrasie van 'n persoon verval het of opgeskort of ingetrek is, kan die doeanegesag—
- (a) beheer neem van alle of enige spesifieke goedere wat onder toesig van daardie persoon is, soos ook al nodig mag wees—
 - (i) ter dekking van belasting wat op daardie goedere betaalbaar mag wees of word; of
 - (ii) om te verseker dat daar aan hierdie Wet of 'n belastingheffings-Wet met betrekking tot daardie goedere voldoen word;
 - (b) die goedere verwyder, of gelas dat daardie persoon of die persoon onder wie se toesig daardie goedere is dit verwyder, na 'n doeanebeheergebied deur die doeanegesag gespesifiseer;
 - (c) gelas of toestemming verleen dat daardie goedere vir binnelandse gebruik of 'n toelaatbare doeaneprosedure geklaar word; of
 - (d) gelas dat daardie persoon enige koste betaal wat deur die Kommissaris in die uitvoering van enige stappe ingevolge paragraaf (a), (b) of (c), aangegaan word.

Reëls ter fasilitering van implementering van hierdie Hoofstuk

- 626.** Reëls ingevolge artikel 903 uitgevaardig om die implementering van hierdie Hoofstuk te fasiliteer, kan reëls insluit—
- (a) wat—
 - (i) registrasietipes binne elke registrasiekategorie voorskryf;
 - (ii) kwalifiserende vereistes vir elke registrasiekategorie of elke registrasietipe voorskryf;
 - (b) wat prosesse vir, en enige ander aangeleenthede betreffende, die wysiging van registrasiesertifikate voorskryf;
 - (c) wat verkorte registrasieprosesse voorskryf vir toevallige invoerders of uitvoerders wat goedere benede 'n voorgeskrewe waarde invoer of uitvoer;
 - (d) wat invoerders of uitvoerders in paragraaf (c) bedoel van enige bepaling van hierdie Hoofstuk onthef;
 - (e) wat registrasiefooie voorskryf; en
 - (f) wat voorwaardes vir registrasie voorskryf.

Misdrywe ingevolge hierdie Hoofstuk

- 627.** (1) 'n Persoon is aan 'n misdryf skuldig indien daardie persoon—
- (a) goedere in stryd met artikel 603(2) invoer of uitvoer;

- (b) acts as a representative of an importer, exporter, carrier or person referred to in section 604 not located in the Republic in contravention of section 605(1);
 - (c) contravenes section 604 or 622; or
 - (d) fails to comply with section 623.
- (2) A contravention of section 604 is a Category 1 offence. 5

CHAPTER 29

LICENSING

Part 1

Introductory provisions

Definitions 10

628. For the purposes of this Chapter—

“**applicant**” means a person who intends to submit or has submitted an application;

“**application**” means an application in terms of this Chapter for—

- (a) a licence; 15
- (b) the renewal of a licence; or
- (c) the amendment of a licence.

Purpose of this Chapter

629. The purpose of this Chapter is to provide for—

- (a) the licensing of premises as— 20
 - (i) general sea cargo terminals;
 - (ii) special sea cargo terminals;
 - (iii) bulk sea cargo terminals;
 - (iv) container terminals;
 - (v) a combination sea cargo terminal; 25
 - (vi) sea travellers terminals;
 - (vii) multi-purpose sea cargo terminals;
 - (viii) air cargo terminals;
 - (ix) air cargo depots;
 - (x) air travellers terminals; 30
 - (xi) rail cargo terminals;
 - (xii) rail travellers terminals;
 - (xiii) international postal clearance depots;
 - (xiv) container depots;
 - (xv) storage warehouses; 35
 - (xvi) tax free shops;
 - (xvii) SEZ enterprise premises;
 - (xviii) inward processing premises;
 - (xix) home use processing premises; or
 - (xx) state warehouses contemplated in section 569(b); 40
- (b) the licensing of cross-border transmission lines, pipelines, cable-cars and conveyor belts;
- (c) the licensing of carriers;
- (d) the licensing of customs brokers;
- (e) the licensing of stores suppliers; 45
- (f) the licensing of persons—
 - (i) importing goods for home use processing on home use processing premises;
 - (ii) importing goods for inward processing; or
 - (iii) exporting inward processed compensating products; or 50
- (g) the licensing of any other category of premises, persons or facilities as may be specified by rule.

- (b) in stryd met artikel 605(1) as 'n verteenwoordiger optree van 'n invoerder, uitvoerder, vervoerder of persoon in artikel 604 bedoel wat nie in die Republiek gesetel is nie;
 - (c) artikel 604 of 622 oortree; of
 - (d) versuim om aan artikel 623 te voldoen. 5
- (2) 'n Oortreding van artikel 604 is 'n Kategorie 1 misdryf.

HOOFTUK 29

LISENSIËRING

Deel 1

Inleidende bepalinge 10

Woordoms krywing

- 628.** By die toepassing van hierdie Hoofstuk beteken—
- “**aansoek**” 'n aansoek ingevolge hierdie Hoofstuk om—
 - (a) 'n lisensie;
 - (b) die hernuwing van 'n lisensie; of 15
 - (c) die wysiging van 'n lisensie;
- “**applikant**” 'n persoon wat voornemens is om 'n aansoek in te dien of wat 'n aansoek ingedien het.

Doel van hierdie Hoofstuk

- 629.** Die doel van hierdie Hoofstuk is om voorsiening te maak vir— 20
- (a) die lisensieëring van persele as—
 - (i) algemene seevragterminale;
 - (ii) spesiale seevragterminale;
 - (iii) massa seevragterminale;
 - (iv) houerterminale; 25
 - (v) 'n kombinasie seevragterminaal;
 - (vi) seereisigersterminale;
 - (vii) meerdoelige seevragterminale;
 - (viii) lugvragterminale;
 - (ix) lugvragdepots; 30
 - (x) lugreisigersterminale;
 - (xi) spoorvragterminale;
 - (xii) spoorreisigersterminale;
 - (xiii) internasionale posklaringsdepots;
 - (xiv) houerdepots; 35
 - (xv) bergingspakhuis;
 - (xvi) belastingvry-winkels;
 - (xvii) SES ondernemingspersele;
 - (xviii) inwaartse prosesseringspersele;
 - (xix) binnelandse gebruikprosesseringspersele; of 40
 - (xx) staatspakhuis in artikel 569(b) bedoel;
 - (b) die lisensieëring van oor-grens transmissielyste, pyllyne, kabelkarre en vervoerbande;
 - (c) die lisensieëring van vervoerders;
 - (d) die lisensieëring van doeanemakelaars; 45
 - (e) die lisensieëring van voorradeverskaffers;
 - (f) die lisensieëring van persone—
 - (i) wat goedere vir binnelandse gebruikprosessering op binnelandse gebruikprosesseringspersele invoer;
 - (ii) wat goedere vir inwaartse prosessering invoer; of 50
 - (iii) wat inwaarts geprosesseerde kompenseerende produkte uitvoer; of
 - (g) die lisensieëring van enige ander kategorie persele, persone of fasiliteite soos by reël bepaal mag word.

Licensing of categories of premises

- 630.** (1) No person may manage, operate or use any premises falling within a category referred to in section 629(a)(i) to (xvii) unless those premises are licensed in terms of this Chapter.
- (2) No person may manage, operate or use any premises for the processing of imported goods that are cleared in terms of —
- (a) Chapter 18 for inward processing unless those premises are licensed as inward processing premises for the purpose of processing goods of the class or kind specified in the item in a tax levying Act under which the goods are cleared for inward processing; or
 - (b) Chapter 19 for home use processing unless those premises are licensed as home use processing premises for the purpose of processing goods of the class or kind authorised in the item in the Customs Tariff under which the goods are cleared for home use processing.
- (3) No person other than the Commissioner may operate any premises as a state warehouse unless those premises are licenced in terms of this Chapter as a state warehouse.
- (4) Premises referred to in subsection (2) include premises where aspects of home use or inward processing are performed by a subcontractor, but only where the annual business turnover on those premises exceeds an amount referred to in section 428(2) or 449(2).

Licensing of cross-border transmission lines, pipelines, cable-cars and conveyor belts

- 631.** (1) No person may import electricity into the Republic or export electricity from the Republic through a cross-border transmission line unless that transmission line is licensed in terms of this Chapter.
- (2) No person may import goods into the Republic or export goods from the Republic through a cross-border pipeline or by way of a cable-car or conveyor belt unless that pipeline, cable-car or conveyor belt is licensed in terms of this Chapter.

Licensing of carriers

- 632.** (1) Any person who is a carrier as defined in section 1 may be licensed in terms of this Chapter as a carrier for purposes of this Act.
- (2) No carrier may transport goods or travellers into or out of the Republic on board a vessel, aircraft, railway carriage or vehicle operated by that carrier unless that carrier—
- (a) is licensed in terms of this Chapter to transport goods or travellers into or out of the Republic; and
 - (b) if that carrier is not located in the Republic,⁴⁰⁸ is represented in the Republic by a registered agent located in the Republic.
- (3) No carrier may at any place in the Republic load on board a vessel, aircraft, railway carriage or vehicle operated by that carrier any goods that are not in free circulation and transport those goods to another place in the Republic, or through the Republic, unless that carrier—
- (a) is licensed in terms of this Chapter to transport goods that are not in free circulation; and
 - (b) if that carrier is not located in the Republic,⁴⁰⁹ is represented in the Republic by a registered agent located in the Republic.
- (4) Subsection (2) does not apply to a carrier operating a foreign-going vessel or aircraft which transports goods through the Republic without calling or landing at a place in the Republic.

⁴⁰⁸. See section 1(3)(a).
⁴⁰⁹. See section 1(3)(a).

Lisensiëring van kategorieë persele

- 630.** (1) Geen persoon mag enige perseel bestuur, bedryf of gebruik wat binne 'n kategorie bedoel in artikel 629(a)(i) tot (xvii) val tensy daardie perseel ingevolge hierdie Hoofstuk gelisensieer is nie.
- (2) Geen persoon mag enige perseel bestuur, bedryf of gebruik vir die prosessering van ingevoerde goedere wat ingevolge— 5
- (a) Hoofstuk 18 vir inwaartse prosessering geklaar is nie tensy daardie perseel as 'n inwaartse prosesseringsperseel gelisensieer is vir doeleindes van die prosessering van goedere van die klas of soort vermeld in die item in 'n belastingheffings-Wet waarkragtens die goedere vir inwaartse prosessering geklaar is; of 10
- (b) Hoofstuk 19 vir binnelandse gebruikprosessering geklaar is nie tensy daardie perseel as 'n binnelandse gebruikprosesseringsperseel gelisensieer is vir doeleindes van die prosessering van goedere van die klas of soort gemagtig in die item in die Doeanetarief waarkragtens die goedere vir binnelandse gebruikprosessering geklaar is. 15
- (3) Geen persoon behalwe die Kommissaris mag enige perseel as 'n staatspakhuis bestuur nie, tensy daardie perseel ingevolge hierdie Hoofstuk as 'n staatspakhuis gelisensieer is.
- (4) 'n Perseel bedoel in subartikel (2) sluit 'n perseel in waar aspekte van binnelandse gebruik of inwaartse prosessering deur 'n subkontraakteur uitgevoer word, maar slegs waar die jaarlikse besigheidsomset op daardie perseel 'n bedrag bedoel in artikel 428(2) of 449(2) oorskry. 20

Lisensiëring van oor-grens transmissielyne, pyplyne, kabelkarre en vervoerbande

- 631.** (1) Geen persoon mag deur 'n oor-grens transmissielyn elektrisiteit in die Republiek invoer of uit die Republiek uitvoer tensy daardie transmissielyn ingevolge hierdie Hoofstuk gelisensieer is nie. 25
- (2) Geen persoon mag deur 'n oor-grens pyplyn of by wyse van 'n kabelkar of vervoerband goedere in die Republiek invoer of goedere uit die Republiek uitvoer tensy daardie pyplyn, kabelkar of vervoerband ingevolge hierdie Hoofstuk gelisensieer is nie. 30

Lisensiëring van vervoerders

- 632.** (1) Enige persoon wat 'n vervoerder is soos in artikel 1 omskryf, kan ingevolge hierdie Hoofstuk as 'n vervoerder vir doeleindes van hierdie Wet gelisensieer word.
- (2) Geen vervoerder mag goedere of reisigers in of uit die Republiek vervoer aan boord van 'n vaartuig, vliegtuig, spoorwegwa of voertuig onder die operasionele beheer van daardie vervoerder nie tensy daardie vervoerder— 35
- (a) ingevolge hierdie Hoofstuk gelisensieer is om goedere of reisigers in of uit die Republiek te vervoer; en
- (b) indien daardie vervoerder nie in die Republiek gesetel is nie,⁴⁰⁸ in die Republiek verteenwoordig word deur 'n geregistreerde agent wat in die Republiek gesetel is. 40
- (3) Geen vervoerder mag op enige plek in die Republiek enige goedere wat nie in vry sirkulasie is nie oplaai aan boord van 'n vaartuig, vliegtuig, spoorwegwa of voertuig wat onder die operasionele beheer van daardie vervoerder is en daardie goedere na 'n ander plek in die Republiek, of deur die Republiek, vervoer nie tensy daardie vervoerder— 45
- (a) ingevolge hierdie Hoofstuk gelisensieer is om goedere nie in vry sirkulasie nie te vervoer; en
- (b) indien daardie vervoerder nie in die Republiek gesetel is nie,⁴⁰⁹ in die Republiek verteenwoordig word deur 'n geregistreerde agent wat in die Republiek gesetel is. 50
- (4) Subartikel (2) is nie van toepassing op 'n vervoerder wat in operasionele beheer van 'n land-uitgaande vaartuig of vliegtuig is wat goedere deur die Republiek vervoer sonder om by 'n plek in die Republiek aan te doen of te land nie.

408. Kyk artikel 1(3)(a).

409. Kyk artikel 1(3)(a).

Licensing of customs brokers

633. (1) No person may conduct business as a customs broker unless licensed as a customs broker.

(2) No person may be licensed as a customs broker unless that person is located in the Republic. 5

Licensing of other categories of premises, facilities or persons

634. (1) (a) No person may conduct business as a stores supplier unless that person is licensed to undertake such business.

(b) No person may be licensed in terms of subsection (1) unless that person is located in the Republic. 10

(2) No person may—

(a) import goods for inward processing unless that person is licensed as an importer of goods for inward processing;

(b) import goods for home use processing unless that person is licensed as an importer of goods for home use processing; or 15

(c) export goods as inward processed compensating products unless that person is licensed as an exporter of inward processed compensating products.

(3) The Commissioner may by rule require any other category of premises or facilities or any other category of persons involved in any activity regulated by this Act or the Customs Duty Act not listed in section 629(a) to (f), to be licensed in terms of this Chapter. 20

Part 2

Procedures for all applications

General requirements

635. An application must— 25

(a) be made to the customs authority in the form and format as may be prescribed by rule;⁴¹⁰

(b) contain the information as may be required by rule;

(c) be signed by the applicant;

(d) be accompanied or supported by such documents or information as may be prescribed by rule; and 30

(e) be submitted to any Customs Office or transmitted to the customs authority electronically in accordance with section 913.

Consideration and decision of applications

636. (1) The customs authority— 35

(a) may request the applicant to submit any additional information before considering the application; and

(b) must consider the application if all application requirements have been complied with, and may—

(i) grant the application; or 40

(ii) refuse the application.

(2) A decision by the customs authority in terms of subsection (1) must be consistent with this Act and any applicable tax levying Act.

General grounds for refusal of applications

637. (1) The customs authority must refuse an application if— 45

(a) the applicant is not entitled to a licence in terms of a provision of this Act⁴¹¹ or a tax levying Act;

410. See section 906.

411. See for instance section 633(2) and 634(2).

Lisensiëring van doeanemakelaars

633. (1) Geen persoon mag besigheid as 'n doeanemakelaar doen tensy daardie persoon as 'n doeanemakelaar gelisensieer is nie.

(2) Geen persoon mag as 'n doeanemakelaar gelisensieer word tensy daardie persoon in die Republiek gesetel is nie. 5

Lisensiëring van ander kategorieë persele, fasiliteite of persone

634. (1) (a) Geen persoon mag as 'n voorradeverskaffer besigheid doen tensy daardie persoon gelisensieer is om sodanige besigheid te doen nie.

(b) Geen persoon mag ingevolge subartikel (1) gelisensieer word tensy daardie persoon in die Republiek gesetel is nie. 10

(2) Geen persoon mag—

(a) goedere vir inwaartse prosessering invoer tensy daardie persoon as 'n invoerder van goedere vir inwaartse prosessering gelisensieer is nie;

(b) goedere vir binnelandse gebruikprosessering invoer tensy daardie persoon as 'n invoerder van goedere vir binnelandse gebruikprosessering gelisensieer is nie; of 15

(c) goedere as inwaarts geprosesseerde kompenserende produkte uitvoer tensy daardie persoon as 'n uitvoerder van inwaarts geprosesseerde kompenserende produkte gelisensieer is nie.

(3) Die Kommissaris kan by reël vereis dat enige ander kategorie persele of fasiliteite of enige ander kategorie persone betrokke in enige aktiwiteit wat deur hierdie Wet of die Wet op Doeanereg geregleer word en nie in artikel 629(a) tot (f) vermeld word nie, ingevolge hierdie Hoofstuk gelisensieer moet word. 20

Deel 2

Prosedures vir alle aansoeke 25

Algemene vereistes

635. 'n Aansoek moet—

(a) by die doeanegesag gedoen word in die vorm en formaat soos by reël voorgeskryf mag word;⁴¹⁰

(b) die inligting bevat soos by reël vereis mag word; 30

(c) deur die applikant onderteken wees;

(d) vergesel of gerugsteun word deur die dokumente of inligting soos by reël voorgeskryf mag word; en

(e) ingedien word by enige Doeanekantoor of elektronies ooreenkomstig artikel 913 aan die doeanegesag versend word. 35

Oorweging en beslissing van aansoeke

636. (1) Die doeanegesag—

(a) kan die applikant versoek om enige bykomende inligting te verstrek alvorens die aansoek oorweeg word; en

(b) moet die aansoek oorweeg indien daar aan al die aansoekvereistes voldoen is, 40 en kan—

(i) die aansoek toestaan; of

(ii) die aansoek weier.

(2) 'n Besluit deur die doeanegesag ingevolge subartikel (1) moet bestaanbaar met hierdie Wet en enige toepaslike belastingheffings-Wet wees. 45

Algemene gronde vir weiering van aansoeke

637. (1) Die doeanegesag moet 'n aansoek weier indien—

(a) die applikant ingevolge 'n bepaling van hierdie Wet⁴¹¹ of 'n belastingheffings-Wet nie op 'n lisensie geregtig is nie;

410. Kyk artikel 906.

411. Kyk byvoorbeeld artikel 633(2) en 634(2).

- (b) the applicant—
 - (i) has in respect of the application failed to comply with a requirement of this Act; or
 - (ii) has made a false or misleading statement in the application or any supporting document, or has omitted to state a fact, which is material to the consideration of the application; or
 - (c) the tax matters of the applicant are not in order as contemplated in section 917.
- (2) The customs authority may refuse an application if the applicant or an employee of the applicant in a managerial position, or if the applicant is a juristic entity, a director, administrator or trustee of the applicant, has during the five years preceding the application—
- (a) breached this Act, a tax levying Act or the Customs and Excise Act, 1964, in a material respect;
 - (b) been convicted of an offence under this Act, a tax levying Act or the Customs and Excise Act, 1964; or
 - (c) been convicted of an offence involving fraud or dishonesty.

Communication of decisions on applications

- 638.** After the customs authority has reached a decision on an application, the customs authority must—
- (a) notify the applicant of the decision;⁴¹² and
 - (b) in the notification—
 - (i) give reasons for the decision to the applicant, if the application has been refused;
 - (ii) set out any special conditions contemplated in section 642(1)(b) subject to which the licence is to be issued or amended, if the application has been granted; and
 - (iii) draw the attention of the applicant to the fact that an appeal may in terms of Chapter 37 be lodged against the refusal of the application or any such special condition, if such appeal is available in the circumstances of the decision.

Part 3

Applications for new licences

Additional grounds for refusal of application for licence

- 639.** In addition to the general grounds on which an application for a licence may be refused in terms of section 637, the customs authority may refuse such an application also on the ground that—
- (a) the applicant does not qualify for the licence concerned in terms of any qualifications that may be prescribed by rule for licences of that category or type;
 - (b) in the case of an application for the licensing of any premises or facility referred to in section 629(a)(i) to (xx) or (b)—
 - (i) the applicant is not the owner of the premises or facility in respect of which the licence is sought, or does not hold a lease or other right to manage the premises or facility for at least the period for which the licence will be valid; or
 - (ii) the premises or facility is not suitably situated for the licence sought;
 - (c) in the case of an application for the licensing of premises proposed for a depot, the premises is not—
 - (i) situated within ten kilometres, or such further distance as the customs authority may in a special case allow, from the customs seaport or airport it is proposed to serve; and
 - (ii) serviced by road transport;

⁴¹². See section 912 for methods of conveying decisions.

- (b) die applikant—
- (i) ten opsigte van die aansoek versuim het om aan 'n voorskrif van hierdie Wet te voldoen; of
 - (ii) 'n vals of misleidende verklaring in die aansoek of enige ondersteunende dokument gemaak het, of versuim het om 'n feit te vermeld wat weselik vir die oorweging van die aansoek is; of
- (c) die belastingsake van die applikant nie in orde is nie, soos in artikel 917 beoog.
- (2) Die doeanegesag kan 'n aansoek weier indien die applikant of 'n werknemer van die applikant in 'n bestuurspos, of indien die applikant 'n regsentiteit is, 'n direkteur, administrateur of trustee van die applikant, gedurende die vyf jaar wat die aansoek voorafgaan—
- (a) hierdie Wet, 'n belastingheffings-Wet of die Doeane en Aksynswet, 1964, in enige wesentlike opsig verbreek het;
 - (b) aan 'n misdryf ingevolge hierdie Wet, 'n belastingheffings-Wet of die Doeane en Aksynswet, 1964, skuldig bevind is; of
 - (c) aan 'n misdryf wat bedrog of oneerlikheid behels, skuldig bevind is.

Kommunikering van besluite oor aansoeke

638. Sodra die doeanegesag tot 'n besluit oor 'n aansoek gekom het, moet die doeanegesag—
- (a) die applikant van die besluit in kennis stel;⁴¹² en
 - (b) in die kennisgewing—
 - (i) redes vir die besluit aan die applikant verstrek, indien die aansoek geweier is;
 - (ii) enige spesiale voorwaardes bedoel in artikel 642(1)(b) vermeld onderworpe waaraan die lisensie uitgereik of gewysig word, indien die aansoek toegestaan is; en
 - (iii) die aandag van die applikant vestig op die feit dat 'n appèl ingevolge Hoofstuk 37 teen die weiering van die aansoek of so 'n spesiale voorwaarde aangeteken kan word, indien sodanige appèl in die omstandighede van die besluit beskikbaar is.

Deel 3

Aansoeke om nuwe lisensies

Bykomende gronde vir weiering van aansoek om lisensie

639. Benewens die algemene gronde waarop 'n aansoek om 'n lisensie ingevolge artikel 637 geweier kan word, kan die doeanegesag so 'n aansoek ook weier op grond daarvan dat—
- (a) die applikant nie vir die betrokke lisensie kwalifiseer ingevolge enige kwalifikasies wat by reël vir lisensies van daardie kategorie of tipe voorgeskryf mag word nie;
 - (b) in die geval van 'n aansoek om die lisensiering van 'n perseel of fasiliteit in artikel 629(a)(i) tot (xx) of (b) bedoel—
 - (i) die applikant nie die eienaar van die perseel of fasiliteit is ten opsigte waarvan die lisensie benodig word nie, of nie 'n huurkontrak of ander reg hou om die perseel of fasiliteit te bestuur vir minstens die tydperk waarvoor die lisensie geldig sal wees nie; of
 - (ii) die perseel of fasiliteit nie geskik geleë is vir die lisensie wat benodig word nie;
 - (c) in die geval van 'n aansoek om lisensiering van 'n perseel as 'n depot, die perseel nie—
 - (i) binne tien kilometer, of die verdere afstand soos die doeanegesag in 'n bepaalde geval mag toelaat, geleë is van die doeaneseehawe of -lughawe wat dit moet bedien nie; en
 - (ii) deur padvervoer gediens word nie;

412. Kyk artikel 912 vir die wyses waarop besluite oorgedra word.

- (d) in the case of an application for the licensing of premises for the inward processing of goods of a class or kind authorised in a tax levying Act as goods that may be cleared for inward processing, the premises do not comply with a requirement or condition applicable to the clearance of such goods for inward processing; or 5
- (e) in the case of an application for the licensing of premises for the home use processing of goods of a class or kind authorised in the Customs Tariff as goods that may be cleared for home use processing on home use processing premises, the premises do not comply with a requirement or condition applicable to the clearance of such goods for home use processing. 10

Issuing of licences

640. (1) If the customs authority decides to grant an application for a licence, the customs authority must issue the licence to and in the name of the applicant.

- (2) The licence must be—
 - (a) handed to the applicant; or 15
 - (b) sent by registered post or secured electronic means to the applicant.

Contents of licences

- 641.** (1) A licence must state at least—
 - (a) the name of the licensee;
 - (b) the licence category and, if applicable, the licence type issued;⁴¹³ 20
 - (c) the address of the licensed premises, if the licence is issued in respect of premises;
 - (d) a customs code allocated, as the case may be, to—
 - (i) the licensed premises or cross-border transmission line, pipeline, cable-car or conveyor belt; 25
 - (ii) the licensed carrier or customs broker; or
 - (iii) the licensed premises, facility or person referred to in section 634(1), (2) or (3);
 - (e) any special conditions subject to which the licence is issued;
 - (f) the date from which the licence takes effect; and 30
 - (g) any other matters determined by the customs authority.
- (2) A licence for a storage warehouse must indicate—
 - (a) whether the licence is issued for a public or private storage warehouse; and
 - (b) the purposes for which the warehouse may be used.

Licence conditions 35

- 642.** (1) A licence is subject to—
 - (a) any general conditions prescribed by rule in respect of the type or category of licence concerned; and
 - (b) any special conditions determined by the customs authority in respect of the licence to be issued to the applicant. 40
- (2) General conditions prescribed by rule in terms of subsection (1)(a) and any special conditions contemplated in subsection (1)(b) may include conditions relating to—
 - (a) the protection of potential tax revenue on goods received, stored, handled, transported or in any way dealt with, managed or controlled by the licensee in terms of the licence; 45
 - (b) the inspection of such goods by customs officers;
 - (c) the requirements with which the licensee must comply when such goods are detained, seized or confiscated;

413. For licence types see section 665(a).

- (d) in die geval van 'n aansoek om die lisensiëring van 'n perseel vir die inwaartse prosessering van goedere van 'n klas of soort in 'n belastingheffings-Wet gemagtig as goedere wat vir inwaartse prosessering geklaar mag word, die perseel nie aan 'n vereiste of voorwaarde voldoen wat vir die klaring van sodanige goedere vir inwaartse prosessering geld nie; of 5
- (e) in die geval van 'n aansoek om die lisensiëring van 'n perseel vir die binnelandse gebruikprosessering van goedere van 'n klas of soort in die Doeanetarief gemagtig as goedere wat vir binnelandse gebruikprosessering op 'n binnelandse gebruikprosesseringsperseel geklaar mag word, die perseel nie aan 'n vereiste of voorwaarde voldoen wat vir die klaring van sodanige goedere vir binnelandse gebruikprosessering geld nie. 10

Uitreik van lisensies

- 640.** (1) Indien die doeanegesag besluit om 'n aansoek om 'n lisensie toe te staan, moet die doeanegesag die lisensie aan, en in die naam van, die applikant uitreik. 15
- (2) Die lisensie moet—
- (a) aan die applikant oorhandig word; of
- (b) per geregistreerde pos of deur middel van 'n veilige elektroniese proses aan die applikant versend word.

Inhoud van lisensies

- 641.** (1) 'n Lisensie moet minstens die volgende vermeld: 20
- (a) Die naam van die lisensiehouer;
- (b) die lisensiekategorie en, indien van toepassing, die lisensietipe uitgereik;⁴¹³
- (c) die adres van die gelisensieerde perseel, indien die lisensie ten opsigte van 'n perseel uitgereik word;
- (d) 'n doeanekode wat, na gelang van die geval, toegeken is aan— 25
- (i) die gelisensieerde perseel of oor-grens transmissielyn, pyplyn, kabelkar of vervoerband;
- (ii) die gelisensieerde vervoerder of doeanemakelaar; of
- (iii) die gelisensieerde perseel, fasiliteit of persoon in artikel 634(1), (2) of (3) bedoel; 30
- (e) enige spesiale voorwaardes onderworpe waaraan die lisensie uitgereik word;
- (f) die datum waarop die lisensie van krag word; en
- (g) enige ander aangeleenthede deur die doeanegesag bepaal.
- (2) 'n Lisensie vir 'n bergingspakhuis moet—
- (a) aandui of die lisensie vir 'n openbare of private bergingspakhuis uitgereik 35 word; en
- (b) die doel aandui waarvoor die pakhuis gebruik mag word.

Lisensievoorwaardes

- 642.** (1) 'n Lisensie is onderworpe aan—
- (a) enige algemene voorwaardes wat by reël ten opsigte van die betrokke tipe of kategorie lisensie voorgeskryf word; en 40
- (b) enige spesiale voorwaardes wat deur die doeanegesag bepaal word ten opsigte van die lisensie wat aan die applikant uitgereik word.
- (2) Algemene voorwaardes by reël ingevolge subartikel (1)(a) voorgeskryf en enige spesiale voorwaardes bedoel in subartikel (1)(b) kan voorwaardes insluit met betrekking 45 tot—
- (a) die beveiliging van potensiële belastinginkomste op goedere wat deur die lisensiehouer ingevolge die lisensie ontvang, geberg, hanteer, vervoer of op enige wyse mee gehandel, bestuur of beheer;
- (b) die inspeksie van sodanige goedere deur doeanebeamptes; 50
- (c) die vereistes waaraan die lisensiehouer moet voldoen wanneer sodanige goedere onder detensie geplaas, op beslag gelê of gekonfiskeer word;

413. Vir lisensietipes kyk artikel 665(a).

- (d) assistance that the licensee must provide to customs officers in implementing this Act or a tax levying Act in relation to such goods; or
- (e) compliance by the licensee with this Act or a tax levying Act in relation to such goods.

Conditions in respect of licensed premises 5

643. (1) General conditions prescribed by rule in terms of section 642(1)(a) and special conditions contemplated in section 642(1)(b) in respect of licensed premises may include conditions determining—

- (a) the services that may or must be or may not be provided on the licensed premises; 10
- (b) the activities that may or must be or may not be carried out on the licensed premises; and
- (c) the classes or kinds or other categories of goods that may or must be or may not be received, stored, processed, or otherwise dealt with on the licensed premises. 15

(2) Conditions referred to in subsection (1) may in respect of tax free shops include conditions—

- (a) restricting the class or kind or other category of goods and the quantity of goods that may be received or sold in the tax free shop; and
- (b) regulating the receipt of goods in free circulation in the tax free shop and the sale in the tax free shop of those goods together with goods not in free circulation. 20

Conditions in respect of licensed cross-border transmission lines, pipelines, cable-cars and conveyor belts

644. General conditions prescribed by rule in terms of section 642(1)(a) and special conditions contemplated in section 642(1)(b) in respect of any cross-border transmission lines, pipelines, cable-cars or conveyor belts may include conditions—

- (a) determining the classes or kinds or other categories of goods that may be conveyed through such a pipeline or by means of such a cable-car or conveyor belt; 30
- (b) restricting the quantity of goods that may be conveyed through such a pipeline or by means of such a cable-car or conveyor belt; and
- (c) determining technical specifications and other requirements in respect of such a transmission line, pipeline, cable-car or conveyor belt that may be necessary for facilitating the implementation of this Act or a tax levying Act. 35

Conditions in respect of licensed carriers

645. General conditions prescribed by rule in terms of section 642(1)(a) and special conditions contemplated in section 642(1)(b) in respect of licensed carriers may include conditions determining—

- (a) the services that may or must be or may not be provided by the carrier; 40
- (b) the activities that may or must be or may not be carried out by the carrier;
- (c) the classes or kinds or other categories of goods that may or must be or may not be transported by the carrier;
- (d) requirements relating to the transport of goods;
- (e) technical specifications and other requirements in respect of vehicles or containers used for the transport of goods; 45
- (f) requirements for the marking of vehicles or containers used for the transport of goods;
- (g) requirements for the sealing of transported goods; and
- (h) the circumstances in which and the terms on which the transport of goods may be subcontracted to other licensed carriers. 50

- (d) bystand wat die lisensiehouer aan doeanebeamptes met betrekking tot sodanige goedere moet verleen by die implementering van hierdie Wet of 'n belastingheffings-Wet; of
- (e) voldoening deur die lisensiehouer aan hierdie Wet of 'n belastingheffings-Wet met betrekking tot sodanige goedere. 5

Voorwaardes ten opsigte van gelisensieerde persele

643. (1) Algemene voorwaardes voorgeskryf by reël ingevolge artikel 642(1)(a) en spesiale voorwaardes beoog in artikel 642(1)(b) ten opsigte van gelisensieerde persele, kan voorwaardes insluit wat—

- (a) die dienste bepaal wat op die gelisensieerde perseel verskaf mag of moet word of nie verskaf mag word nie; 10
- (b) die aktiwiteite bepaal wat op die gelisensieerde perseel verrig mag of moet word of nie mag word nie; en
- (c) die klasse of soorte of ander kategorieë goedere bepaal wat op die gelisensieerde perseel ontvang, geberg, geprosesseer of andersins mee gehandel mag of moet word of nie ontvang, geberg, geprosesseer of andersins mee gehandel mag word nie. 15

(2) Voorwaardes bedoel in subartikel (1) kan ten opsigte van belastingvry-winkels voorwaardes insluit wat—

- (a) die klas of soort of ander kategorie goedere en die hoeveelheid goedere wat in die belastingvry-winkel ontvang of verkoop mag word, beperk; en 20
- (b) die ontvangs in die belastingvry-winkel van goedere in vry sirkulasie en die verkoop in die belastingvry-winkel van daardie goedere saam met goedere wat nie in vry sirkulasie is nie, reguleer.

Voorwaardes ten opsigte van gelisensieerde oor-grens transmissielyste, pyplyne, kabelkarre en vervoerbande 25

644. Algemene voorwaardes voorgeskryf by reël ingevolge artikel 642(1)(a) en spesiale voorwaardes beoog in artikel 642(1)(b) ten opsigte van enige oor-grens transmissielyste, pyplyne, kabelkarre of vervoerbande kan voorwaardes insluit wat—

- (a) die klasse of soorte of ander kategorieë goedere bepaal wat deur so 'n pyplyn of by wyse van so 'n kabelkar of vervoerband vervoer mag word; 30
- (b) die hoeveelheid van goedere wat deur so 'n pyplyn of by wyse van so 'n kabelkar of vervoerband vervoer mag word, beperk; en
- (c) tegniese spesifikasies en ander vereistes ten opsigte van so 'n transmissielyst, pyplyn, kabelkar of vervoerband bepaal wat nodig mag wees ter fasilitering van die implementering van hierdie Wet of 'n belastingheffings-Wet. 35

Voorwaardes ten opsigte van gelisensieerde vervoerders

645. Algemene voorwaardes voorgeskryf by reël ingevolge artikel 642(1)(a) en spesiale voorwaardes beoog in artikel 642(1)(b) ten opsigte van gelisensieerde vervoerders kan voorwaardes insluit wat— 40

- (a) die dienste bepaal wat deur die vervoerder verskaf mag of moet word of nie verskaf mag word nie;
- (b) die aktiwiteite bepaal wat deur die vervoerder verrig mag of moet word of nie verrig mag word nie;
- (c) die klasse of soorte of ander kategorieë van goedere bepaal wat deur die vervoerder vervoer mag of moet word of nie vervoer mag word nie; 45
- (d) vereistes bepaal wat met die vervoer van goedere verband hou;
- (e) tegniese spesifikasies en ander vereistes bepaal wat ten opsigte van voertuie of houers vir die vervoer van goedere gebruik word;
- (f) vereistes bepaal vir die merk van voertuie of houers wat vir die vervoer van goedere gebruik word; 50
- (g) vereistes bepaal vir die seël van vervoerde goedere; en
- (h) die omstandighede bepaal waarin en die voorwaardes waarop die vervoer van goedere aan ander gelisensieerde vervoerders gesubkontraakteer mag word.

Conditions in respect of licensed customs brokers

646. General conditions prescribed by rule in terms of section 642(1)(a) and special conditions contemplated in section 642(1)(b) in respect of licensed customs brokers may include conditions restricting the customs broker business for which the licence is issued. 5

Period of validity of licences

647. (1) A licence—

- (a) takes effect from a date specified in the licence; and
- (b) remains, subject to subsections (2) and (4), in force for a period of three years from that date or for such shorter period as may be specified in the licence. 10

(2) If during the validity period of a licence accredited client status is granted to the licensee in terms of Chapter 30, that licence remains despite subsection (1)(b) but subject to subsection (4) in force until the end of the period for which the accredited client status certificate was issued.

(3) A licence issued in respect of premises or a facility referred to in section 629(a)(i) to (xx) or (b) lapses if the licensee ceases to be the owner of, or the holder of a lease on or other right to manage, those premises or facility. 15

(4) The period of validity of a licence as applicable in terms of subsection (1)(b) or (2) cease to apply if—

- (a) the customs authority withdraws the licence in terms of Part 6; or 20
- (b) the licence lapses in terms of subsection (3).

Part 4

Renewal of licences

Application for renewal of licences

648. (1) A licensee may not later than 30 calendar days before the expiry of a licence, read with section 909, apply for the renewal of the licence in accordance with section 635. 25

(2) If an application for renewal of a licence is not finalised by the customs authority before the expiry of the validity period of the licence, the customs authority may extend the validity period of the licence until the application is finalised. 30

Additional grounds for refusing applications for renewal

649. In addition to the general grounds on which an application for the renewal of a licence must or may be refused in terms of section 637 or 639, the customs authority may refuse such an application also on the ground that—

- (a) the applicant has breached in a material respect any general or special condition applicable to the licence in terms of section 642(1); or 35
- (b) the licensee has not engaged in the activity for which the licence was issued for a period of at least one year preceding the date of the application for the renewal of a licence.

Issuing of renewed licences 40

650. (1) If the customs authority decides to grant an application for the renewal of a licence, the customs authority must issue a new licence to and in the name of the applicant.

(2) The new licence must be—

- (a) handed to the applicant; or 45
- (b) sent by registered post or secured electronic means to the applicant.

(3) Sections 641 to 647 apply with the necessary changes as the context may require to new licences issued in terms of this Part.

Voorwaardes ten opsigte van gelisensieerde doeanemakelaars

646. Algemene voorwaardes by reël ingevolge artikel 642(1)(a) voorgeskryf en spesiale voorwaardes beoog in artikel 642(1)(b) ten opsigte van gelisensieerde doeanemakelaars kan voorwaardes insluit wat die doeanemakelaar se besigheid waarvoor die lisensie uitgereik word, beperk. 5

Tydperk van geldigheid van lisensies

647. (1) 'n Lisensie—

- (a) word van krag vanaf 'n datum in die lisensie gespesifiseer; en
- (b) bly, behoudens subartikels (2) en (4), van krag vir 'n tydperk van drie jaar vanaf daardie datum of vir die korter tydperk soos in die lisensie gespesifiseer mag word. 10

(2) Indien geakkrediteerde kliëntstatus gedurende die geldigheids tydperk van 'n lisensie ingevolge Hoofstuk 30 aan die lisensiehouer verleen word, bly daardie lisensie, ondanks subartikel (1)(b) maar behoudens subartikel (4), van krag tot die einde van die tydperk waarvoor die sertifikaat van geakkrediteerde kliëntstatus uitgereik is. 15

(3) 'n Lisensie wat ten opsigte van 'n perseel of 'n fasiliteit bedoel in artikel 629(a)(i) tot (xx) of (b) uitgereik is, verval indien die lisensiehouer ophou om die eienaar van, of die houer van 'n huurkontrak in, daardie perseel te wees, of 'n ander reg om daardie perseel of fasiliteit te bestuur, te hou.

(4) Die geldigheids tydperk van 'n lisensie soos ingevolge subartikel (1)(b) of (2) van toepassing is, hou op om van toepassing te wees indien— 20

- (a) die doeanegesag die lisensie ingevolge Deel 6 intrek; of
- (b) die lisensie ingevolge subartikel (3) verval.

Deel 4

Hernuwing van lisensies 25

Aansoek om hernuwing van lisensies

648. (1) 'n Lisensiehouer kan nie later nie as 30 kalenderdae voordat 'n lisensie, saamgelees met artikel 909, verval om die hernuwing van die lisensie ooreenkomstig artikel 635 aansoek doen.

(2) Indien 'n aansoek om hernuwing van 'n lisensie nie deur die doeanegesag afgehandel word voor verstryking van die geldigheids tydperk van die lisensie nie, kan die doeanegesag die geldigheids tydperk van die lisensie verleng totdat die aansoek afgehandel word. 30

Bykomende gronde vir weiering van aansoeke om hernuwing

649. Benewens die algemene gronde waarop 'n aansoek om hernuwing van 'n lisensie ingevolge artikel 637 of 639 geweier moet of kan word, kan die doeanegesag so 'n aansoek ook weier op die grond daarvan dat—

- (a) die applikant enige algemene of spesiale voorwaarde wat ingevolge artikel 642(1) op die lisensie van toepassing is in 'n wesenlike opsig verbreek het; of
- (b) die lisensiehouer vir minstens een jaar wat die datum van die aansoek om hernuwing van 'n lisensie vooraf gegaan het, nie in die aktiwiteit waarvoor die lisensie uitgereik is betrokke was nie. 40

Uitreik van hernuwingslisensies

650. (1) Indien die doeanegesag besluit om 'n aansoek om hernuwing van 'n lisensie toe te staan, moet die doeanegesag 'n nuwe lisensie aan, en in die naam van, die applikant uitreik. 45

(2) Die nuwe lisensie moet—

- (a) aan die applikant oorhandig word; of
- (b) per geregistreerde pos of deur middel van 'n veilige elektroniese proses aan die applikant versend word. 50

(3) Artikels 641 tot 647, met die nodige aanpassings soos die samehang mag vereis, is op nuwe lisensies uitgereik ingevolge hierdie Deel van toepassing.

Part 5

Amendment of licences

General

- 651.** (1) A licence may be amended—
- (a) on application by the licensee; or 5
 - (b) on initiative of the customs authority.
- (2) A licence may be amended by—
- (a) changing, removing or substituting any condition referred to in section 642(1)(b), or attaching any new condition;
 - (b) extending or limiting the purposes for which the licence was issued; 10
 - (c) updating or changing any detail on the licence; or
 - (d) correcting a technical or editorial error.
- (3) An amendment to a licence takes effect on a date determined by the customs authority.

Application for amendment of licence 15

652. A licensee may at any time apply in accordance with section 635 for the amendment of a licence.

Issuing of amended licences

- 653.** (1) If the customs authority decides to grant an application for the amendment of a licence, the customs authority must issue an amended licence to and in the name of the applicant. 20
- (2) The amended licence must be—
- (a) handed to the applicant; or
 - (b) sent by registered post or secured electronic means to the applicant.

Purposes for which customs authority may amend licences 25

- 654.** The customs authority may on own initiative amend a licence—
- (a) if this is necessary for—
 - (i) protecting the state from any loss of tax that may occur on goods received, stored, handled, processed, transported or in any way dealt with, managed or controlled by the licensee in terms of the licence; 30
 - (ii) the physical security of such goods; or
 - (iii) ensuring that this Act and any applicable tax levying Act is complied with by the licensee; or
 - (b) if any circumstances contemplated in section 661 which were material to the initial granting of the licence have changed. 35

Process

- 655.** (1) If the customs authority intends to amend a licence in terms of section 651(1)(b), it must first—
- (a) notify the licensee by registered post or secured electronic means of—
 - (i) the proposed amendment; and 40
 - (ii) the reasons for the proposed amendment; and
 - (b) give the licensee an opportunity to submit representations on the proposed amendment within 30 calendar days of the date the notification referred to in paragraph (a) was posted or transmitted to the licensee, read with sections 908 and 909. 45
- (2) Subsection (1)(b) need not be complied with if the proposal is to amend the licence in a non-substantive way.

Deel 5

Wysiging van lisensies

Algemeen

- 651.** (1) 'n Lisensie kan gewysig word—
- (a) op aansoek deur die lisensiehouer; of 5
 - (b) op inisiatief van die doeanegesag.
- (2) 'n Lisensie kan gewysig word deur—
- (a) enige voorwaarde bedoel in artikel 642(1)(b) te verander, te skrap of te vervang, of deur 'n nuwe voorwaarde by te voeg;
 - (b) die doel waarvoor die lisensie uitgereik is, uit te brei of te beperk; 10
 - (c) enige besonderhede op die lisensie op te dateer of te verander; of
 - (d) 'n tegniese of redaksionele fout reg te stel.
- (3) 'n Wysiging van 'n lisensie word van krag vanaf 'n datum deur die doeanegesag bepaal.

Aansoek om wysiging van lisensie 15

652. 'n Lisensiehouer kan te eniger tyd ooreenkomstig artikel 635 aansoek doen om die wysiging van 'n lisensie.

Uitreik van gewysigde lisensies

- 653.** (1) Indien die doeanegesag besluit om 'n aansoek om wysiging van 'n lisensie toe te staan, moet die doeanegesag 'n gewysigde lisensie aan, en in die naam van, die applikant uitreik. 20
- (2) Die gewysigde lisensie moet—
- (a) aan die applikant oorhandig word; of
 - (b) per geregistreerde pos of deur middel van 'n veilige elektroniese proses aan die applikant versend word. 25

Doelindes waarvoor doeanegesag lisensies kan wysig

- 654.** Die doeanegesag kan op eie inisiatief 'n lisensie wysig—
- (a) indien dit nodig is—
 - (i) om die staat te beveilig teen enige verlies van belasting wat mag ontstaan op goedere wat deur die lisensiehouer ingevolge die lisensie ontvang, geberg, hanteer, geprosesseer, vervoer of op enige wyse mee gehandel, bestuur of beheer word; 30
 - (ii) vir die fisiese beveiliging van sodanige goedere; of
 - (iii) om te verseker dat die lisensiehouer aan hierdie Wet en enige toepaslike belastingheffings-Wet voldoen; of 35
 - (b) indien enige omstandighede in artikel 661 beoog wat wesenlik was vir die aanvanklike toestaan van die lisensie, verander het.

Proses

- 655.** (1) Indien die doeanegesag voornemens is om 'n lisensie ingevolge artikel 651(1)(b) te wysig, moet die doeanegesag eers— 40
- (a) die lisensiehouer per geregistreerde pos of deur middel van 'n veilige elektroniese proses in kennis stel van—
 - (i) die voorgestelde wysiging; en
 - (ii) die redes vir die voorgestelde wysiging; en
 - (b) die lisensiehouer 'n geleentheid bied om verhoë teen die voorgestelde wysiging te rig binne 30 kalenderdae vanaf die datum waarop die kennisgewing bedoel in paragraaf (a) aan die lisensiehouer, saamgelees met artikels 908 en 909, gepos of versend is. 45
- (2) Daar hoef nie aan subartikel (1)(b) voldoen te word indien dit die bedoeling is om die lisensie op 'n nie-wesenlike wyse te wysig nie. 50

Communication of decisions to amend licences

- 656.** (1) If the customs authority decides to amend a licence, it must—
- (a) notify the licensee of the decision;
 - (b) in the notification draw the licensee’s attention to the fact that an appeal may be lodged against the decision in terms of Chapter 37, if such appeal is available in the circumstances of the decision; and
 - (c) issue an amended licence to and in the name of the licensee.
- (2) The amended licence must be handed or sent by registered post or secured electronic means to the applicant.

Part 6

10

Suspension or withdrawal of licences

Grounds for suspension or withdrawal of licences

- 657.** (1) The customs authority must withdraw a licence of a person if the licensee—
- (a) acquired the licence under false pretences;
 - (b) is no longer engaged in the activity for which the licence was issued;
 - (c) no longer qualifies for the licence in terms of a provision of this Act or a tax levying Act or any qualifications prescribed by rule for the category or type of licence concerned; or
 - (d) is sequestered or liquidated.
- (2) The customs authority may suspend or withdraw a licence if—
- (a) the licensee—
 - (i) has in a material respect breached any general or special condition applicable to the licence in terms of section 642(1); or
 - (ii) failed to pay within five working days after it became due any tax or other amount payable by the licensee to the Commissioner in terms of this Act or a tax levying Act on any goods received, stored, handled, processed, transported or in any way dealt with, managed or controlled by the licensee in terms of the licence; or
 - (b) during the validity period of the licence, the licensee or an employee of the licensee in a managerial position, or if the licensee is a juristic entity, a director, administrator or trustee of the juristic entity—
 - (i) has breached a provision of this Act or a tax levying Act in a material respect;
 - (ii) has been convicted of an offence under this Act or a tax levying Act; or
 - (iii) has been convicted of an offence involving fraud or dishonesty;
 - (c) the licensed premises or facility is not operated, managed or used in accordance with this Act; or
 - (d) any circumstances contemplated in section 661 which were material to the granting of the licence have changed.
- (3) Subsection (2)(b) does not apply if the licensee was not a party to, or could not have prevented, or did not benefit in any material respect from, any such breach or offence by such employee, director, administrator or trustee.

Process

- 658.** (1) If the customs authority intends to suspend or withdraw a licence in terms of section 657, it must first—
- (a) notify the licensee by registered post or secured electronic means of—
 - (i) the proposed suspension or withdrawal; and
 - (ii) the reasons for the proposed suspension or withdrawal; and

Kommunikering van besluite om lisensies te wysig

656. (1) Indien die doeanegesag besluit om 'n lisensie te wysig, moet die doeanegesag—
- (a) die lisensiehouer van die besluit in kennis stel;
 - (b) in die kennisgewing die lisensiehouer se aandag vestig op die feit dat 'n appèl ingevolge Hoofstuk 37 teen die besluit aangeteken mag word, indien so 'n appèl in die omstandighede van die besluit beskikbaar is; en
 - (c) 'n gewysigde lisensie aan, en in die naam van, die lisensiehouer uitreik.
- (2) Die gewysigde lisensie moet aan die applikant oorhandig of per geregistreerde pos of deur middel van 'n veilige elektroniese proses versend word.

Deel 6

Opskorting of intrekking van lisensies

Gronde vir opskorting of intrekking van lisensies

657. (1) Die doeanegesag moet 'n lisensie van 'n persoon intrek indien die lisensiehouer—
- (a) die lisensie onder valse voorwendsels bekom het;
 - (b) nie meer betrokke is in die aktiwiteit waarvoor die lisensie uitgereik is nie;
 - (c) nie meer vir die lisensie ingevolge 'n bepaling van hierdie Wet of 'n belastingheffings-Wet of enige kwalifikasies wat by reël vir die betrokke kategorie of tipe lisensie voorgeskryf is, kwalifiseer nie; of
 - (d) gesekwestreer of gelijkwider word.
- (2) Die doeanegesag kan 'n lisensie opskort of intrek indien—
- (a) die lisensiehouer—
 - (i) in 'n wesenlike opsig 'n breuk begaan het van enige algemene of spesiale voorwaarde wat ingevolge artikel 642(1) op die lisensie van toepassing is; of
 - (ii) versuim het om enige belasting of ander bedrag wat deur die lisensiehouer aan die Kommissaris ingevolge hierdie Wet of 'n belastingheffings-Wet betaalbaar is op enige enige goedere deur die lisensiehouer ingevolge die lisensie ontvang, geberg, hanteer, geprosesseer, vervoer of enige wyse mee gehandel, bestuur of beheer, binne vyf werksdae nadat dit betaalbaar geword het, te betaal; of
 - (b) gedurende die geldigheidsydperk van die lisensie, die lisensiehouer of 'n werknemer van die lisensiehouer in 'n bestuurspos of, indien die lisensiehouer 'n regentiteit is, 'n direkteur, administrateur of trustee van die regentiteit—
 - (i) 'n bepaling van hierdie Wet of 'n belastingheffings-Wet in 'n wesenlike opsig verbreek het;
 - (ii) aan 'n misdryf ingevolge hierdie Wet of 'n belastingheffings-Wet skuldig bevind word; of
 - (iii) aan 'n misdryf wat bedrog of oneerlikheid behels skuldig bevind word;
 - (c) die gelisensieerde perseel of fasiliteit nie volgens die voorskrifte van hierdie Wet bedryf, bestuur of gebruik word nie; of
 - (d) enige van die omstandighede in artikel 661 bedoel wat wesenlik vir die toestaan van die lisensie was, verander het.
- (3) Subartikel (2)(b) is nie van toepassing nie indien die lisensiehouer nie 'n party tot so 'n breuk of misdryf deur so 'n werknemer, direkteur, administrateur of trustee was nie, of dit nie kon voorkom het nie, of nie in 'n wesenlike opsig voordeel daaruit getrek het nie.

Proses

658. (1) Indien die doeanegesag voornemens is om 'n lisensie ingevolge artikel 657 op te skort of in te trek, moet die doeanegesag eers—
- (a) die lisensiehouer per geregistreerde pos of deur middel van 'n veilige elektroniese proses in kennis stel van—
 - (i) die voorgestelde opskorting of intrekking; en
 - (ii) die redes vir die voorgestelde opskorting of intrekking; en

- (b) give the licensee an opportunity to submit representations on the proposed suspension or withdrawal within 30 calendar days of the date the notification referred to in paragraph (a) was posted or transmitted to the licensee, read with section 908.

(2) The customs authority may despite subsection (1) suspend a licence with immediate effect if circumstances so demand, but in such a case the licensee is entitled to submit to the customs authority representations on the suspension within 30 days after the licence has been suspended, read with section 908. 5

Communication of decisions to suspend or withdraw licences

659. If the customs authority decides to suspend or withdraw a licence, the customs authority must— 10

- (a) notify the licensee of the decision, indicating—
 - (i) the period for which the licence is suspended; or
 - (ii) the date from which the licence is withdrawn; and
- (b) in the notification draw the licensee's attention to the fact that an appeal may be lodged against the decision in terms of Chapter 37, if such appeal is available in the circumstances of the decision. 15

Part 7

General matters

Provision of security 20

660. The customs authority may in terms of Chapter 31 require a licensee to provide security to cover any—

- (a) tax risks referred to in section 686(1) in relation to goods received, stored, processed, handled, transported or in any way dealt with, managed or controlled by the licensee in terms of the licence; or 25
- (b) other risks referred to in section 686(2).

Change of circumstances on which application for licence was granted

661. (1) If any of the circumstances which were material to the granting of an application for a licence has changed, the licensee must—

- (a) notify the customs authority within a timeframe as may be prescribed by rule from the date of the change, read with section 908; and 30
- (b) submit a fresh application for a licence or amendment of the licence, as the customs authority may require, reflecting the changed circumstances.

(2) Circumstances material to the granting of an application include—

- (a) the legal status, legal identity or financial soundness of the licensee; 35
- (b) the physical security of goods received, stored, handled, processed, transported or in any way dealt with, managed or controlled by the licensee in terms of the licence;
- (c) the plant or equipment used in relation to such goods; and
- (d) the system used to keep record of and to account for such goods. 40

Consequences of expiry, lapsing,⁴¹⁴ suspension or withdrawal of licences

662. (1) As from the date of expiry of a licence or on which a licence lapses or a suspension or withdrawal takes effect—

- (a) the licensed premises or facility may, subject to subsection (3)(a) or (4), no longer be managed, operated or used for the purpose for which it was licensed; 45
- or

⁴¹⁴. See section 647(2).

- (b) die lisensiehouer 'n geleentheid bied om binne 30 kalenderdae vanaf die datum waarop die kennisgewing bedoel in paragraaf (a) aan die lisensiehouer, saamgelees met artikel 908, gepos of versend is vertoë oor die voorgestelde opskorting of intrekking te rig.

(2) Die doeanebesag kan ondanks subartikel (1) 'n lisensie met onmiddellike effek opskort indien die omstandighede dit nodig maak, maar in so 'n geval is die lisensiehouer daarop geregtig om binne 30 dae nadat die lisensie, saamgelees met artikel 908, opgeskort is vertoë aan die doeanebesag oor die opskorting te rig. 5

Kommunikering van besluite om lisensies op te skort of in te trek

659. Indien die doeanebesag besluit om 'n lisensie op te skort of in te trek, moet die doeanebesag— 10

- (a) die lisensiehouer van die besluit in kennis stel, met vermelding van—
(i) die tydperk waarvoor die lisensie opgeskort word; of
(ii) die datum van wanneer af die lisensie ingetrek word; en
(b) in die kennisgewing die lisensiehouer se aandag vestig op die feit dat appèl ingevolge Hoofstuk 37 teen die besluit aangeteken kan word, indien so 'n appèl in die omstandighede van die besluit beskikbaar is. 15

Deel 7

Algemene aangeleenthede

Stel van sekuriteit 20

660. Die doeanebesag kan ingevolge Hoofstuk 31 van 'n lisensiehouer vereis om sekuriteit te stel ter dekking van enige—

- (a) belastingrisiko's in artikel 686(1) bedoel met betrekking tot goedere deur die lisensiehouer ingevolge die lisensie ontvang, geberg, geprosesseer, hanteer, vervoer of op enige ander wyse mee gehandel, bestuur of beheer; of 25
(b) ander risiko's in artikel 686(2) bedoel.

Verandering in omstandighede waarop aansoek om lisensie toegestaan is

661. (1) Indien enige van die omstandighede wat wesenlik was vir toestaan van 'n aansoek om 'n lisensie verander, moet die lisensiehouer—

- (a) kennis daarvan aan die doeanebesag gee binne 'n tydsraam vanaf die datum van die verandering, soos by reël saamgelees met artikel 908 voorgeskryf mag word; en 30
(b) 'n nuwe aansoek om 'n lisensie of wysiging van 'n lisensie indien, soos die doeanebesag mag vereis, wat die veranderde omstandighede vermeld.
(2) Omstandighede wat wesenlik vir die toestaan van 'n aansoek is, sluit in— 35
(a) die regstatus, regsidentiteit of finansiële welstand van die lisensiehouer;
(b) die fisiese beveiliging van goedere deur die lisensiehouer ingevolge die lisensie ontvang, geberg, hanteer, geprosesseer, vervoer of op enige wyse mee gehandel, bestuur of beheer;
(c) die installasies of toerusting wat met betrekking tot sodanige goedere gebruik word; en 40
(d) die stelsel wat gebruik word om rekord te hou en rekenskap te gee van sodanige goedere.

Gevolge van verstryking, verval,⁴¹⁴ opskorting of intrekking van lisensies

662. (1) Vanaf die datum van verstryking van 'n lisensie, of waarop 'n lisensie verval of 'n opskorting of intrekking van krag word— 45

- (a) mag die gelisensieerde perseel of fasiliteit, behoudens subartikel (3)(a) of (4), nie meer bestuur, bedryf of gebruik word vir die doel waarvoor dit gelisensieer is nie; of

⁴¹⁴. Kyk artikel 647(2).

- (b) the licensed person may no longer carry on the activity for which that person was licensed.
- (2) Subsection (1) applies in the case of the suspension of a licence only during the period for which the licence is suspended.
- (3) The customs authority may despite subsection (1), on such conditions as it may determine, including conditions relating to the provision of security, allow— 5
- (a) the activity at the affected premises or facility for which it was licensed to be continued with for a period necessary to wind up that activity, or, in the case of a suspension, to bring that activity to a halt; or
- (b) the affected person to continue with the activity for which that person was licensed for a period necessary to wind up that activity, or, in the case of a suspension, to bring that activity to a halt. 10
- (4) If a licence issued in respect of any premises or facility at a place of entry or exit has expired or lapsed or has been suspended or withdrawn and the port authority has taken temporary possession of those premises or that facility in terms of the National Ports Act, 2005 (Act No. 12 of 2005), the port authority may for the time being manage, operate and use those premises or that facility for purposes of this Act and any applicable tax levying Acts as if a valid licence is in force in respect of those premises or that facility and the port authority is the licensee of those premises or that facility. 15
- (5) (a) The suspension of a licence issued in respect of any premises or facility does not affect the status of those premises or that facility as a customs controlled area. 20
- (b) Despite the expiry, lapsing or withdrawal of the licence issued in respect of premises or a facility referred to in subsection (3)(a) or (4), the premises or facility remains a customs controlled area during the period for which that subsection applies to the premises or facility. 25

Customs authority's powers following expiry, lapsing, suspension or withdrawal of licence

- 663.** If a licence issued in respect of any premises or facility or to a person has expired or lapsed or has been suspended or withdrawn, the customs authority may—
- (a) take control of those premises or that facility or all or any specific goods on those premises or at that facility or in the custody of that person, as may be necessary— 30
- (i) for the protection of tax that may be, or become, payable on those goods; or
- (ii) to ensure that this Act or a tax levying Act is complied with in relation to those goods or the premises or facility; 35
- (b) remove, or require the person who was the licensee to remove, those goods to a customs controlled area specified by the customs authority;
- (c) require or allow those goods to be cleared for home use or a permissible customs procedure; or 40
- (d) require that person to pay any costs incurred by the Commissioner in carrying out any actions in terms of paragraphs (a), (b) or (c).

Transfer of licences

- 664.** (1) (a) A licence may not be transferred.
- (b) If any premises, facility or business licensed in terms of this Chapter is transferred to another person, that person must first apply for a new licence to replace the existing one. 45
- (2) This section does not affect the application of section 662(3) and (4).

Rules to facilitate implementation of this Chapter

- 665.** Rules made in terms of section 903 to facilitate the implementation of this Chapter may include rules prescribing— 50

- (b) mag die gelisensieerde persoon nie meer die aktiwiteit verrig waarvoor daardie persoon gelisensieer was nie.
- (2) Subartikel (1) geld, in die geval van die opskorting van 'n lisensie, slegs gedurende die tydperk waarvoor die lisensie opgeskort is.
- (3) Die doeanegesag kan ondanks subartikel (1), op die voorwaardes soos die doeanegesag mag bepaal, met inbegrip van voorwaardes betreffende die stel van sekuriteit, toestemming verleen dat—
- (a) daar met die aktiwiteit by die betrokke perseel of fasiliteit waarvoor dit gelisensieer was, voortgegaan word vir 'n tydperk wat nodig is om daardie aktiwiteit tot 'n einde te bring, of, in die geval van 'n opskorting, om daardie aktiwiteit te stop; of
- (b) die betrokke persoon voortgaan met die aktiwiteit waarvoor daardie persoon gelisensieer was vir 'n tydperk wat nodig is om daardie aktiwiteit tot 'n einde te bring, of, in die geval van 'n opskorting, om daardie aktiwiteit te stop.
- (4) Indien 'n lisensie wat ten opsigte van enige perseel of fasiliteit by 'n plek van toegang of uitgang uitgereik is, verstryk of verval het of opgeskort of ingetrek is en die hawegesag tydelike besit van daardie perseel of fasiliteit ingevolge die "National Ports Act, 2005" (Wet No. 12 van 2005), geneem het, kan die hawegesag as 'n tussentydse reëling daardie perseel of fasiliteit bestuur, bedryf of gebruik vir doeleindes van hierdie Wet en enige toepaslike belastingheffings-Wette asof 'n geldige lisensie ten opsigte van daardie perseel of fasiliteit van krag is en die hawegesag die lisensiehouer van daardie perseel of fasiliteit is.
- (5) (a) Die opskorting van 'n lisensie wat ten opsigte van enige perseel of fasiliteit uitgereik is, raak nie die status van daardie perseel of fasiliteit as 'n doeanebeheergebied nie.
- (b) Ondanks die verstryking, verval of intrekking van die lisensie wat ten opsigte van 'n perseel of fasiliteit bedoel in subartikel (3)(a) of (4) uitgereik is, bly die perseel of fasiliteit 'n doeanebeheergebied gedurende die tydperk wat daardie subartikel op die perseel of fasiliteit van toepassing is.

Doeanegesag se bevoegdhede na verstryking, verval, opskorting of intrekking van lisensie

- 663.** Indien 'n lisensie wat ten opsigte van enige perseel of fasiliteit of aan 'n persoon uitgereik is, verstryk of verval het of opgeskort of ingetrek is, kan die doeanegesag—
- (a) beheer neem van daardie perseel of fasiliteit of alle of enige spesifieke goedere op daardie perseel of by daardie fasiliteit of in die bewaring van daardie persoon, soos wat nodig mag wees—
- (i) vir die beveiliging van belasting wat op daardie goedere betaalbaar mag wees of word; of
- (ii) om te verseker dat daar aan hierdie Wet of 'n belastingheffings-Wet met betrekking tot daardie goedere of die perseel of fasiliteit voldoen word;
- (b) daardie goedere verwyder, of gelas dat die persoon wat die lisensiehouer was die goedere verwyder, na 'n doeanebeheergebied deur die doeanegesag gespesifiseer;
- (c) gelas of toestemming verleen dat daardie goedere vir binnelandse gebruik of 'n toelaatbare doeaneprosedure geklaar word; of
- (d) daardie persoon gelas om enige onkoste te betaal wat deur die Kommissaris in die uitvoering van enige aksies ingevolge paragrawe (a), (b) of (c) aangegaan is.

Oordra van lisensies

- 664.** (1) (a) 'n Lisensie mag nie oorgedra word nie.
- (b) Indien enige perseel, fasiliteit of besigheid wat ingevolge hierdie Hoofstuk gelisensieer is, aan 'n ander persoon oorgedra word, moet daardie persoon eers om 'n nuwe lisensie aansoek doen om die bestaande een te vervang.
- (2) Hierdie artikel raak nie die toepassing van artikel 662(3) en (4) nie.

Reëls ter fasilitering van implementering van hierdie Hoofstuk

- 665.** Reëls ingevolge artikel 903 uitgevaardig om die implementering van hierdie Hoofstuk te fasiliteer, kan reëls insluit wat die volgende voorskryf:

- (a) licence types within each category of licence;
- (b) qualifying requirements for each category of licence or each licence type;
- (c) supporting documents that must be submitted in respect of an application;
- (d) documents acceptable as proof that the applicant—
 - (i) is the owner of the premises or facility in respect of which a licence is sought; or
 - (ii) holds a lease or other right to manage the premises or facility for at least the period for which the licence will be valid;
- (e) requirements for licensed premises or facilities, and standards that must be maintained in respect of such premises or facilities, including requirements and standards relating to security, equipment and services and the operation of such premises or facilities;
- (f) activities that may, must or may not be performed or allowed on licensed premises;
- (g) the responsibilities and liabilities of licensees, including their responsibilities and liabilities in relation to goods and documents in their custody or under their control, and the time when such liabilities start and end;
- (h) obligatory licence conditions;
- (i) business hours for licensed premises or facilities;
- (j) licensing fees to be paid on licences by licensees;
- (k) requirements relating to the loading, off-loading, receipt, packing, unpacking, consolidating, deconsolidating, storing, processing, delivery, removal or handling in any other way of goods at licensed premises or facilities, as may be appropriate;
- (l) the records, books, accounts and data to be kept by licensees in respect of goods dealt with by licensees in terms of their licences, including, in the case of licensed premises or facilities, the records, books, accounts and data, as may be appropriate, to be kept by licensees in respect of goods loaded, off-loaded, received, packed, unpacked, consolidated, deconsolidated, stored, processed, delivered, removed or in any other way handled at such premises or facilities;
- (m) reporting requirements in respect of goods received, dealt with or delivered by the licensees in terms of their licences;
- (n) requirements to be complied with by a licensee—
 - (i) if any person commits a breach in relation to goods dealt with by the licensee in terms of the licence; or
 - (ii) if goods dealt with by the licensee in terms of the licence are—
 - (aa) detained, seized or confiscated; or
 - (bb) damaged, destroyed, lost or unaccounted for;
- (o) requirements and conditions for the removal of goods from licensed premises, and the documents or information that must be presented to licensees of such premises in respect of such removals;
- (p) matters in connection with the inspection of goods by customs officers; and
- (q) accommodation and other facilities, staff and equipment that must be provided by licensees at licensed premises or facilities to enable customs officers to effectively perform their functions.

Offences in terms of this Chapter

- 666.** A person is guilty of an offence if that person—
- (a) contravenes section 630(1), (2) or (3), 631(1) or (2), 632(2)(a) or (b) or (3), 633(1), 634(1) or (2), 662(1)(a) or (b) or 664; or
 - (b) fails to comply with section 661(1)(a) or a requirement of the customs authority in terms of section 663(a).

- (a) lisensietipes binne elke lisensiekategorie;
- (b) kwalifiserende vereistes vir elke lisensiekategorie of elke lisensietipe;
- (c) ondersteunende dokumente wat ten opsigte van 'n aansoek ingedien moet word;
- (d) dokumente wat aanvaar kan word as bewys dat die applikant— 5
 - (i) die eienaar van die perseel of fasiliteit is ten opsigte waarvan 'n lisensie verlang word; of
 - (ii) 'n huurkontrak of ander reg hou om die perseel of fasiliteit te bestuur vir minstens die tydperk waarvoor die lisensie van krag sal wees;
- (e) vereistes vir gelisensieerde persele of fasiliteite, en standarde wat 10 gehandhaaf moet word ten opsigte van sulke persele of fasiliteite, met inbegrip van vereistes en standarde betreffende sekuriteit, toerusting en dienste en die operering van sulke persele of fasiliteite;
- (f) aktiwiteite wat op gelisensieerde persele uitgevoer of toegelaat mag of moet 15 word of nie uitgevoer of toegelaat mag word nie;
- (g) die verantwoordelikhede en verpligtinge van lisensiehouers, met inbegrip van hulle verantwoordelikhede en verpligtinge met betrekking tot goedere en dokumente in hulle bewaring of onder hulle beheer, en die tyd waarop sulke verpligtinge begin en eindig; 20
- (h) verpligte lisensievoorwaardes; 20
- (i) besigheidsure vir gelisensieerde persele of fasiliteite;
- (j) lisensiefooie betaalbaar deur lisensiehouers op lisensies;
- (k) vereistes betreffende die oplaai, aflaai, ontvangs, verpakking, uitpakking, 25 konsolidering, dekonsolidering, berging, prosessering, lewering, verwydering of hantering op enige ander wyse van goedere by gelisensieerde persele of fasiliteite, soos ook al gepas mag wees;
- (l) die rekords, boeke, rekeninge en data wat deur lisensiehouers gehou moet word ten opsigte van goedere waarmee lisensiehouers ingevolge hulle 30 lisensies handel, met inbegrip van, in die geval van gelisensieerde persele of fasiliteite, die rekords, boeke, rekeninge en data, soos ook al gepas mag wees, wat deur lisensiehouers gehou moet word ten opsigte van goedere opgelaaai, afgelaaai, ontvang, verpak, uitgepak, gekonsolideer, gedekonsolideer, geberg, geprosesseer, gelewer, verwyder of op enige ander wyse mee gehandel by sulke persele of fasiliteite;
- (m) verslagdoeningsvereistes ten opsigte van goedere wat deur die lisensiehouers 35 ingevolge hulle lisensies ontvang, mee gehandel of gelewer word;
- (n) vereistes waaraan deur 'n lisensiehouer voldoen moet word—
 - (i) indien 'n persoon 'n breuk begaan met betrekking tot goedere waarmee die lisensiehouer ingevolge die lisensie handel; of
 - (ii) indien goedere waarmee die lisensiehouer ingevolge die lisensie 40 handel—
 - (aa) onder detensie geplaas, op beslag gelê of gekonfiskeer word; of
 - (bb) beskadig, vernietig, verlore of rekenskaploos raak;
- (o) vereistes en voorwaardes vir die verwydering van goedere vanaf gelisensieerde persele, en die dokumente of inligting wat aan lisensiehouers van 45 sulke persele ten opsigte van sodanige verwyderings verskaf moet word;
- (p) aangeleenthede in verband met die inspeksie van goedere deur doeanebeamptes; en
- (q) akkommodasie en ander geriewe, personeel en toerusting wat deur die lisensiehouers by gelisensieerde persele of fasiliteite beskikbaar gestel moet 50 word om doeanebeamptes in staat te stel om hul funksies effektief uit te voer.

Misdrywe ingevolge hierdie Hoofstuk

666. 'n Persoon is aan 'n misdryf skuldig indien daardie persoon—
- (a) artikel 630(1), (2) of (3), 631(1) of (2), 632(2)(a) of (b) of (3), 633(1), 634(1) 55 of (2), 662(1)(a) of (b) of 664 oortree; of
 - (b) versuim om aan artikel 661(1)(a) of 'n lasgewing van die doeanebesag ingevolge artikel 663(a) te voldoen.

CHAPTER 30

ACCREDITATION

Purpose of this Chapter

- 667.** The purpose of this Chapter is to provide for the conferral of accredited client status on licensees and registered persons that— 5
- (a) have a proven record of compliance with this Act, the tax levying Acts and the Customs and Excise Act, 1964; and
 - (b) are capable of complying with accredited client requirements in terms of this Act.

Application for accredited client status 10

- 668.** (1) Only a licensee or registered person falling within such category and complying with such requirements as may be prescribed by rule may apply for accredited client status.
- (2) An application for accredited client status must— 15
- (a) be made to the customs authority in the form and format as may be prescribed by rule;
 - (b) contain the information required by rule;
 - (c) be signed by the applicant;
 - (d) be accompanied or supported by such documents and information as may be prescribed by rule; and 20
 - (e) be submitted to any Customs Office or transmitted to the Commissioner electronically in accordance with section 913.

Consideration and decision of applications

- 669.** (1) The customs authority—
- (a) may request the applicant to submit any additional information before 25 considering the application; and
 - (b) must consider the application if all requirements that apply to such applications have been complied with, and may—
 - (i) grant the application; or
 - (ii) refuse the application. 30
- (2) If an application is granted, the customs authority must determine the level of accreditation conferred on the applicant.
- (3) A decision by the customs authority in terms of this section must be consistent with this Act and any applicable tax levying Act.

Criteria for accredited client status 35

- 670.** (1) No application for accredited client status may be granted unless the applicant has—
- (a) a record of compliance with this Act, the tax levying Acts and the Customs and Excise Act, 1964, during a period of between two to five years preceding the date of the application, as may be prescribed by rule for the level of accreditation, subject to subsection (3); 40
 - (b) an effective accounting, record keeping and operational system consistent with generally accepted accounting practice;
 - (c) an effective computerised system capable of complying with accredited client requirements; 45
 - (d) the skills or skilled staff to comply with accredited client requirements;
 - (e) sufficient financial resources to comply with accredited client requirements; and
 - (f) complied with any other criteria for accredited status as may be prescribed by rule. 50
- (2) The customs authority must refuse an application—
- (a) if the applicant—

HOOFTUK 30

AKKREDITERING

Doel van hierdie Hoofstuk

- 667.** Die doel van hierdie Hoofstuk is om voorsiening te maak vir die verlening van geakkrediteerde kliëntstatus aan lisensiehouers en geregistreerde persone wat— 5
- (a) 'n bewese rekord het van voldoening aan hierdie Wet, die belastingheffings-Wette en die Doeane en Aksynswet, 1964; en
 - (b) in staat is om aan geakkrediteerde kliënt vereistes ingevolge hierdie Wet te voldoen.

Aansoek om geakkrediteerde kliëntstatus 10

- 668.** (1) Slegs 'n lisensiehouer of geregistreerde persoon wat binne die kategorie val en aan die vereistes voldoen soos by reël voorgeskryf mag word, kan om geakkrediteerde kliëntstatus aansoek doen.
- (2) 'n Aansoek om geakkrediteerde kliëntstatus moet—
- (a) by die doeane gesag gedoen word in die vorm en formaat soos by reël 15 voorgeskryf mag word;
 - (b) die inligting bevat wat by reël vereis word;
 - (c) deur die applikant onderteken word;
 - (d) vergesel of gerugsteun word deur die dokumente en inligting soos by reël 20 voorgeskryf mag word; en
 - (e) by enige Doeane kantoor ingedien word of elektronies ooreenkomstig artikel 913 aan die Kommissaris versend word.

Oorweging en beslissing van aansoeke

- 669.** (1) Die doeane gesag—
- (a) kan die applikant versoek om enige bykomende inligting te verskaf alvorens 25 die aansoek oorweeg word; en
 - (b) moet die aansoek oorweeg indien daar aan alle vereistes voldoen is wat op sulke aansoeke van toepassing is, en kan—
 - (i) die aansoek toestaan; of
 - (ii) die aansoek weier. 30
- (2) Indien 'n aansoek toegestaan word, moet die doeane gesag die vlak van akkreditasie wat aan die applikant verleen word, bepaal.
- (3) 'n Besluit deur die doeane gesag ingevolge hierdie artikel moet bestaanbaar met hierdie Wet en enige toepaslike belastingheffings-Wet wees.

Kriteria vir geakkrediteerde kliëntstatus 35

- 670.** (1) Geen aansoek om geakkrediteerde kliëntstatus mag toegestaan word nie, tensy die applikant—
- (a) 'n rekord van voldoening aan hierdie Wet, die belastingheffings-Wette en die Doeane en Aksynswet, 1964, het gedurende 'n tydperk van tussen twee tot vyf 40 jaar wat die datum van die aansoek voorafgaan, soos by reël voorgeskryf mag word vir die vlak van akkreditasie, behoudens subartikel (3);
 - (b) oor 'n effektiewe rekeningkundige, rekordhouding en operasionele stelsel ooreenkomstig algemeen aanvaarde rekeningkundige praktyk beskik;
 - (c) oor 'n effektiewe gerekenariseerde stelsel beskik wat die vermoë het om aan geakkrediteerde kliënt vereistes te voldoen; 45
 - (d) oor die kundigheid of kundige personeel beskik om aan geakkrediteerde kliënt vereistes te voldoen;
 - (e) oor voldoende finansiële bronne beskik om aan geakkrediteerde kliënt vereistes te voldoen; en
 - (f) voldoen het aan enige ander kriteria vir geakkrediteerde status soos by reël 50 voorgeskryf mag word.
- (2) Die doeane gesag moet 'n aansoek weier—
- (a) indien die applikant—

- (i) does not comply with the criteria for accredited client status referred to in subsection (1);
 - (ii) has not in respect of the application complied with a requirement of this Act; or
 - (iii) has made a false or misleading statement in the application or any supporting document, or has omitted to state a fact, which is material to the consideration of the application; or
 - (b) if the tax matters of the applicant are not in order as contemplated in section 917.
- (3) The customs authority may, despite subsection (1)(a), assess an applicant's compliance with customs requirements on the basis of any records and information available to it if—
- (a) a two to five year compliance record referred to in that subsection is not available with respect to the applicant due to the applicant's limited exposure to the South African customs and excise environment or any other good reason; and
 - (b) there is no evidence of non-compliance by the applicant with customs and excise requirements in other customs and excise jurisdictions.

Communication of decisions on applications

- 671.** After the customs authority has reached a decision on an application, the customs authority must—
- (a) notify the applicant of the decision;⁴¹⁵ and
 - (b) in the notification—
 - (i) give reasons for the decision, if the application has been refused;
 - (ii) set out any special conditions contemplated in section 674(b) subject to which accredited client status has been granted; and
 - (iii) draw the attention of the applicant to the fact that an appeal may in terms of Chapter 37 be lodged against the refusal of the application or any special condition subject to which accredited client status has been granted, if such appeal is available in the circumstances of the decision.

Issuing of accredited client status certificates

- 672.** (1) If the customs authority decides to grant an application, the customs authority must issue an accredited client status certificate to and in the name of the applicant.
- (2) The certificate must be—
- (a) handed to the applicant; or
 - (b) sent by registered post or secured electronic means to the applicant.

Contents of accredited client status certificates

- 673.** An accredited client status certificate must state—
- (a) the name of the person to whom the certificate is issued;
 - (b) the purpose for which accredited status is granted;
 - (c) the level of accreditation conferred on the holder of the certificate;
 - (d) any special conditions subject to which the certificate is issued; and
 - (e) the date from which the accredited client status takes effect.

Conditions

- 674.** Accredited client status is subject to—
- (a) any general conditions determined by this Act or prescribed by rule in respect of accredited client status; and

⁴¹⁵. See section 912 for methods of conveying decisions.

- (i) nie aan die kriteria vir geakkrediteerde kliëntstatus bedoel in subartikel (1) voldoen nie;
 - (ii) nie ten opsigte van die aansoek aan 'n voorskrif van hierdie Wet voldoen het nie; of
 - (iii) 'n vals of misleidende verklaring in die aansoek of enige ondersteunende dokument gemaak het, of nagelaat het om 'n feit te vermeld, wat wesenlik vir die oorweging van die aansoek is; of
- (b) indien die belastingsake van die applikant nie in orde is soos in artikel 917 beoog nie.
- (3) Die doeanebesoeker kan, ondanks subartikel (1)(a), 'n applikant se voldoening aan doeanevereistes evalueer op die basis van enige rekords en inligting wat aan die doeanebesoeker beskikbaar is, indien—
- (a) daar nie 'n twee tot vyf jaar-rekord van voldoening bedoel in daardie subartikel met betrekking tot die applikant beskikbaar is nie weens die applikant se beperkte blootstelling aan die Suid-Afrikaanse doeane en aksynsomgewing of om enige ander goeie rede; en
 - (b) daar geen bewys van nie-voldoening deur die applikant aan doeane- en aksynsvereistes in ander doeane en aksyns-jurisdiksies is nie.

Kommunikering van besluit oor aansoeke

671. Wanneer die doeanebesoeker tot 'n besluit oor 'n aansoek gekom het, moet die doeanebesoeker—
- (a) die applikant van die besluit in kennis stel;⁴¹⁵ en
 - (b) in die kennisgewing—
 - (i) redes vir die besluit aantoon, indien die aansoek geweier is;
 - (ii) enige spesiale voorwaardes beoog in artikel 674(b) vermeld waarop geakkrediteerde kliëntstatus verleen word; en
 - (iii) die aandag van die applikant vestig op die feit dat 'n appèl ingevolge Hoofstuk 37 teen die weiering van die aansoek of enige spesiale voorwaarde waarop geakkrediteerde kliëntstatus verleen is, aangeteken kan word indien so 'n appèl in die omstandighede van die besluit beskikbaar is.

Uitreik van sertifikate van geakkrediteerde kliëntstatus

672. (1) Indien die doeanebesoeker besluit om 'n aansoek toe te staan, moet die doeanebesoeker 'n sertifikaat van geakkrediteerde kliëntstatus aan, en in die naam van, die applikant uitreik.
- (2) Die sertifikaat moet—
- (a) aan die applikant oorhandig word; of
 - (b) per geregistreerde pos of deur middel van 'n veilige elektroniese proses aan die applikant versend word.

Inhoud van sertifikate van geakkrediteerde kliëntstatus

673. 'n Sertifikaat van geakkrediteerde kliëntstatus moet die volgende vermeld:
- (a) die naam van die persoon aan wie die sertifikaat uitgereik is;
 - (b) die doel waarvoor geakkrediteerde status verleen word;
 - (c) die vlak van akkreditasie wat aan die houder van die sertifikaat verleen word;
 - (d) enige spesiale voorwaardes waarop die sertifikaat uitgereik word; en
 - (e) die datum waarop die geakkrediteerde kliëntstatus van krag word.

Voorwaardes

674. Geakkrediteerde kliëntstatus is onderworpe aan—
- (a) enige algemene voorwaardes wat ten opsigte van geakkrediteerde kliëntstatus deur hierdie Wet bepaal of by reël voorgeskryf word; en

415. Kyk artikel 912 vir die wyses waarop besluite oorgedra kan word.

- (b) any special conditions determined by the customs authority, including the giving of security by the person to whom the certificate is issued.

Period of validity of accredited client status certificates

- 675.** (1) An accredited client status certificate—
- (a) takes effect from a date specified in the certificate; and 5
 - (b) remains in force for a period of three years from that date⁴¹⁶ unless the certificate—
 - (i) is withdrawn by the customs authority earlier in terms of section 679; or
 - (ii) lapses earlier in terms of subsection (2) or (3).
- (2) An accredited client status certificate of a registered person lapses before the expiry of the three years' period for which it was issued if the registration of that person is suspended or withdrawn in terms of Part 4 of Chapter 28.
- (3) An accredited client status certificate of a licensee lapses before the expiry of the three years' period for which it was issued if the licence of the licensee—
- (a) lapses in terms of section 647(3); or 15
 - (b) is suspended or withdrawn in terms of Part 6 of Chapter 29.

Non-compliance with criteria for accredited client status

676. The holder of an accredited client status certificate must immediately notify the customs authority if that person is at any time during the period of validity of the certificate no longer in compliance with any of the criteria for accredited client status as set out in section 670(1). 20

Renewal of accredited client status certificates

- 677.** (1) The holder of an accredited client status certificate may not later than 30 calendar days before a certificate lapses apply for the renewal of the certificate.
- (2) Sections 668(2) and 669 to 675, with any necessary changes as the context may require, apply to an application for the renewal of an accredited client status certificate and the issuing of a new accredited client status certificate.
- (3) If an application for renewal of an accredited client status certificate is not disposed of before the expiry of the validity period of the certificate, the customs authority may extend the validity period of the certificate until the application is disposed of. 30

Amendment of accredited client status certificates

- 678.** (1) An accredited client status certificate may in accordance with any rules that may be prescribed be amended—
- (a) on application by the holder of the certificate; or 35
 - (b) on initiative of the customs authority.
- (2) An accredited client status certificate may be amended by—
- (a) changing, removing or substituting any condition referred to in section 674(b), or attaching any new condition;
 - (b) extending or limiting the purposes for which the certificate was issued; 40
 - (c) raising or lowering the level of accreditation;
 - (d) updating or changing any detail on the certificate; or
 - (e) correcting a technical or editorial error.
- (3) An amendment to an accredited client status certificate takes effect on a date determined by the customs authority. 45

416. The granting of accredited status to a registered person or licensee automatically extends the validity period of that person's registration or licence until the end of the validity period of the accredited client status certificate. See sections 614 or 647.

- (b) enige spesiale voorwaardes wat deur die doeanegesag bepaal word, met inbegrip van die stel van sekuriteit deur die persoon aan wie die sertifikaat uitgereik word.

Tydperk van geldigheid van sertifikate van geakkrediteerde kliëntstatus

- 675.** (1) 'n Sertifikaat van geakkrediteerde kliëntstatus— 5
(a) is van krag vanaf 'n datum in die sertifikaat gespesifiseer; en
(b) bly van krag vir 'n tydperk van drie jaar vanaf daardie datum⁴¹⁶ tensy die sertifikaat voor daardie datum—
(i) deur die doeanegesag ingevolge artikel 679 ingetrek word; of
(ii) ingevolge subartikel (2) of (3) verval. 10
(2) 'n Sertifikaat van geakkrediteerde kliëntstatus van 'n geregistreerde persoon verval voor die verstryking van die drie jaar tydperk waarvoor dit uitgereik is, indien die registrasie van daardie persoon ingevolge Deel 4 van Hoofstuk 28 opgeskort of ingetrek word.
(3) 'n Sertifikaat van geakkrediteerde kliëntstatus van 'n lisensiehouer verval voor die verstryking van die drie jaar tydperk waarvoor dit uitgereik is, indien die lisensie van die lisensiehouer— 15
(a) ingevolge artikel 647(3) verval; of
(b) ingevolge Deel 6 van Hoofstuk 29 opgeskort of ingetrek word.

Nie-voldoening aan kriteria vir geakkrediteerde kliëntstatus 20

676. Die houer van 'n sertifikaat van geakkrediteerde kliëntstatus moet die doeanegesag onmiddellik in kennis stel indien daardie persoon te eniger tyd gedurende die geldigheidstydperk van die sertifikaat nie meer aan enige van die kriteria vir geakkrediteerde kliëntstatus soos in artikel 670(1) vermeld, voldoen nie.

Hernuwing van sertifikate van geakkrediteerde kliëntstatus 25

- 677.** (1) Die houer van 'n sertifikaat van geakkrediteerde kliëntstatus kan nie later nie as 30 kalenderdae voordat 'n sertifikaat verval om hernuwing van die sertifikaat aansoek doen.
(2) Artikels 668(2) en 669 tot 675, met enige nodige aanpassings soos die samehang mag vereis, is op 'n aansoek om die hernuwing van 'n sertifikaat van geakkrediteerde kliëntstatus en die uitreik van 'n nuwe sertifikaat van geakkrediteerde kliëntstatus van toepassing. 30
(3) Indien 'n aansoek om hernuwing van 'n sertifikaat van geakkrediteerde kliëntstatus nie voor die verstryking van die geldigheidstydperk van die sertifikaat afgehandel word nie, kan die doeanegesag die geldigheidstydperk van die sertifikaat verleng totdat die aansoek afgehandel word. 35

Wysiging van sertifikate van geakkrediteerde kliëntstatus

- 678.** (1) 'n Sertifikaat van geakkrediteerde kliëntstatus kan ooreenkomstig enige reëls wat voorgeskryf mag word, gewysig word—
(a) op aansoek van die houer van die sertifikaat; of 40
(b) op inisiatief van die doeanegesag.
(2) 'n Sertifikaat van geakkrediteerde kliëntstatus kan gewysig word deur—
(a) enige voorwaarde bedoel in artikel 674(b) te verander, te skrap of te vervang, of 'n nuwe voorwaarde by te voeg;
(b) die doel waarvoor die sertifikaat uitgereik is, uit te brei of te beperk; 45
(c) die vlak van akkreditasie te verhoog of te verlaag;
(d) enige besonderhede op die sertifikaat op te dateer of te verander; of
(e) 'n tegniese of redaksionele fout reg te stel.
(3) 'n Wysiging van 'n sertifikaat van geakkrediteerde kliëntstatus word van krag op 'n datum deur die doeanegesag bepaal. 50

416. Die bestaan van geakkrediteerde status aan 'n geregistreerde persoon of lisensiehouer verleng outomaties die geldigheidstydperk van daardie persoon se registrasie of lisensie tot aan die einde van die geldigheidstydperk van die sertifikaat van geakkrediteerde kliëntstatus. Kyk artikels 614 of 647.

Suspension or withdrawal of accredited client status certificates

- 679.** (1) The customs authority must withdraw an accredited client status certificate if the holder of the certificate—
- (a) acquired the certificate under false pretences; or
 - (b) is no longer in compliance with any of the criteria for accredited client status as set out in section 670(1). 5
- (2) The customs authority may suspend or withdraw an accredited client status certificate if—
- (a) the holder of the certificate—
 - (i) has in a material respect breached any condition applicable to the certificate in terms of section 674; or 10
 - (ii) has failed to pay to the Commissioner within five calendar days after it became due, any tax or other amount for which that person is liable in terms of this Act or a tax levying Act; or
 - (b) during the validity period of the certificate, the holder of the certificate or an employee of the holder of the certificate in a managerial position, or if the holder of the certificate is a juristic entity, a director, administrator or trustee of that juristic entity—
 - (i) has in a material respect breached a provision of this Act or a tax levying Act; 20
 - (ii) has been convicted of an offence under this Act or a tax levying Act; or
 - (iii) has been convicted of an offence involving fraud or dishonesty.
- (3) Subsection (2)(b) does not apply if the holder of the certificate was not a party to, or could not have prevented, or did not benefit in any material respect from, any such breach or offence by such employee, director, administrator or trustee. 25
- (4) The withdrawal or suspension of a person's accredited client status in terms of this section does not affect the continuation of that person's registration or of a licence issued to that person.⁴¹⁷

Process for suspension or withdrawal of accredited client status certificates

- 680.** (1) If the customs authority intends to suspend or withdraw an accredited client status certificate in terms of section 679, the customs authority must first—
- (a) notify the holder of the certificate electronically of—
 - (i) the proposed suspension or withdrawal; and
 - (ii) the reasons for the proposed suspension or withdrawal; and
 - (b) give the holder of the certificate an opportunity to submit representations on the proposed suspension or withdrawal within 30 calendar days of the date the notification referred to in paragraph (a) was transmitted to the holder of the certificate, read with section 908. 35
- (2) The customs authority may despite subsection (1) suspend the accredited client status of a person with immediate effect if circumstances so demand, but in such a case that person is entitled to submit to the customs authority representations on the suspension within 30 calendar days after the accredited client status has been suspended, read with section 908. 40

Communication of decisions to suspend or withdraw accredited client status certificates 45

- 681.** (1) If the customs authority decides to suspend or withdraw an accredited client status certificate, the customs authority must—
- (a) notify the holder of the certificate electronically of the decision, indicating—

417. In terms of section 675(2) and (3) withdrawal or suspension of a registration or licence automatically terminates or suspends an accredited client status certificate. The converse, however, does not apply and an accredited status could be withdrawn or suspended without affecting the continuation of the registration or licence.

Opskorting of intrekking van sertifikate van geakkrediteerde kliëntstatus

- 679.** (1) Die doeanebesag moet 'n sertifikaat van geakkrediteerde kliëntstatus intrek indien die houer van die sertifikaat—
- (a) die sertifikaat onder valse voorwendsels bekom het; of
 - (b) nie meer aan enige van die kriteria vir geakkrediteerde kliëntstatus soos vermeld in artikel 670(1) voldoen nie. 5
- (2) Die doeanebesag kan 'n sertifikaat van geakkrediteerde kliëntstatus opskort of intrek indien—
- (a) die houer van die sertifikaat—
 - (i) enige voorwaarde wat ingevolge artikel 674 op die sertifikaat van toepassing is, in 'n wesenlike opsig verbreek het; of 10
 - (ii) versuim het om enige belasting of ander bedrag waarvoor daardie persoon ingevolge hierdie Wet of 'n belastingheffings-Wet aanspreeklik is, binne vyf kalenderdae nadat dit betaalbaar geword het aan die Kommissaris te betaal; of 15
 - (b) gedurende die geldigheidstydperk van die sertifikaat, die houer van die sertifikaat of 'n werknemer van die houer van die sertifikaat in 'n bestuurspos, of indien die houer van die sertifikaat 'n regsenteit is, 'n direkteur, administrateur of trustee van daardie regsenteit—
 - (i) 'n bepaling van hierdie Wet of 'n belastingheffings-Wet in 'n wesenlike opsig verbreek het; 20
 - (ii) aan 'n misdryf ingevolge hierdie Wet of 'n belastingheffings-Wet skuldig bevind word; of
 - (iii) aan 'n misdryf wat bedrog of oneerlikheid behels skuldig bevind word.
- (3) Subartikel (2)(b) is nie van toepassing nie indien die houer van die sertifikaat nie 'n party tot so 'n breuk of misdryf deur so 'n werknemer, direkteur, administrateur of trustee was nie, of dit nie kon voorkom het nie, of nie in 'n wesenlike opsig voordeel daaruit getrek het nie. 25
- (4) Die intrekking of opskorting van 'n persoon se geakkrediteerde kliëntstatus ingevolge hierdie artikel raak nie die voortsetting van daardie persoon se registrasie of van 'n lisensie wat aan daardie persoon uitgereik is nie.⁴¹⁷ 30

Proses vir opskorting of intrekking van sertifikate van geakkrediteerde kliëntstatus

- 680.** (1) Indien die doeanebesag voornemens is om 'n sertifikaat van geakkrediteerde kliëntstatus ingevolge artikel 679 op te skort of in te trek, moet die doeanebesag eers— 35
- (a) die houer van die sertifikaat elektronies in kennis stel van—
 - (i) die voorgestelde opskorting of intrekking; en
 - (ii) die redes vir die voorgestelde opskorting of intrekking; en
 - (b) die houer van die sertifikaat 'n geleentheid bied om binne 30 kalenderdae vanaf die datum waarop die kennisgewing in paragraaf (a) bedoel aan die houer van die sertifikaat versend is, saamgelees met artikel 908, versoë oor die voorgestelde opskorting of intrekking te rig. 40
- (2) Die doeanebesag kan, ondanks subartikel (1), die geakkrediteerde kliëntstatus van 'n persoon met onmiddellike effek opskort indien omstandighede dit nodig maak, maar in so 'n geval is daardie persoon daarop geregtig om binne 30 dae nadat die geakkrediteerde kliëntstatus opgeskort is, saamgelees met artikel 908, versoë oor die opskorting aan die doeanebesag te rig. 45

Kommunikering van besluite om sertifikate van geakkrediteerde kliëntstatus op te skort of in te trek

- 681.** (1) Indien die doeanebesag besluit om 'n sertifikaat van geakkrediteerde kliëntstatus op te skort of in te trek, moet die doeanebesag— 50
- (a) die houer van die sertifikaat elektronies van die besluit in kennis stel, met vermelding van—

⁴¹⁷ Ingevolge artikel 675(2) en (3) beëindig of skort intrekking of opskorting van 'n registrasie of lisensie 'n geakkrediteerde kliëntstatus outomaties op. Die teenoorgestelde is egter nie van toepassing nie en 'n geakkrediteerde status kan ingetrek of opgeskort word sonder om die voortsetting van die registrasie of lisensie te affekteer.

- (i) the period for which the certificate is suspended; or
 - (ii) the date from which the certificate is withdrawn; and
- (b) in the notification—
- (i) give reasons for the decision; and
 - (ii) draw the attention of the holder of the certificate to the fact that an appeal may be lodged against the decision in terms of Chapter 37, if such appeal is available in the circumstances of the decision. 5
- (2) The holder of an accredited client status certificate which has been withdrawn must return the certificate to the customs authority within three working days of receiving the notice of withdrawal. 10

Benefits of accreditation

- 682.** (1) The Commissioner may by rule prescribe the benefits of persons on whom accredited client status has been conferred, which may include—
- (a) exemption from specific requirements of this Act or a tax levying Act;
 - (b) clearing and obtaining release of goods in accordance with simplified or expedited clearance and release requirements; 15
 - (c) submitting and obtaining customs processing of documents in accordance with simplified or expedited processes;
 - (d) deferment of tax on goods; and
 - (e) simplified tax payment methods. 20
- (2) Different benefits may be prescribed in terms of subsection (1) for different levels of accreditation.

Rules to facilitate implementation of this Chapter

- 683.** Rules made in terms of section 903 to facilitate the implementation of this Chapter may include rules prescribing— 25
- (a) accredited client requirements for holders of accredited client status certificates;
 - (b) the different levels of accreditation that may be conferred;
 - (c) requirements and procedures for designating licensees and registered persons involved in international supply chains as authorised economic operators to facilitate the implementation of security measures in international trade; 30
 - (d) general conditions in respect of accredited client status; and
 - (e) processes for, and any other matters relating to, the amendment of accredited client status certificates.

Offences in terms of this Chapter 35

684. A person is guilty of an offence if that person fails to comply with section 676 or 681(2).

CHAPTER 31

SECURITY FOR PAYMENT OF TAX AND OTHER MONEY OWED TO COMMISSIONER 40

Purpose of this Chapter

- 685.** (1) The purpose of this Chapter is to enable the customs authority to require that security be provided to the Commissioner in order—
- (a) to protect the National Revenue Fund from loss of tax on goods that is or may become payable in terms of a tax levying Act or this Act; or 45
 - (b) to ensure payment of any other money owed to the Commissioner in terms of this Act or a tax levying Act.
- (2) When applying this Chapter to goods to which the Excise Duty Act applies, any reference in this Chapter to tax must be read as including a reference to excise duty, fuel

- (i) die tydperk waarvoor die sertifikaat opgeskort word; of
 - (ii) die datum van wanneer af die sertifikaat ingetrek word; en
- (b) in die kennisgewing—
- (i) redes vir die besluit aantoon; en
 - (ii) die aandag van die houer van die sertifikaat vestig op die feit dat 'n appèl ingevolge Hoofstuk 37 teen die besluit aangeteken kan word, indien sodanige appèl in die omstandighede van die besluit beskikbaar is. 5
- (2) Die houer van 'n sertifikaat van geakkrediteerde kliëntstatus wat ingetrek is, moet binne drie werksdae vanaf ontvangs van die kennisgewing van intrekking die sertifikaat aan die doeanegesag terugbesorg. 10

Voordele van akkreditering

- 682.** (1) Die Kommissaris kan by reël die voordele van persone aan wie geakkrediteerde kliëntstatus verleen is, voorskryf, wat kan insluit—
- (a) die ontheffing van bepaalde voorskrifte van hierdie Wet of 'n belastingheffings-Wet; 15
 - (b) die klaring en verkryging van vrystelling van goedere ooreenkomstig verkorte en versnelde klaring- en vrystellingsvereistes;
 - (c) die indiening en verkryging van doeaneprosessering van dokumente ooreenkomstig verkorte of versnelde prosesse;
 - (d) die uitstel van belasting op goedere; en 20
 - (e) vereenvoudigde betalingsmetodes.
- (2) Verskillende voordele kan ingevolge subartikel (1) vir verskillende vlakke van akkreditasie voorgeskryf word.

Reëls ter fasilitering van implementering van hierdie Hoofstuk

- 683.** Reëls ingevolge artikel 903 uitgevaardig om die implementering van hierdie Hoofstuk te fasiliteer, kan reëls insluit wat die volgende voorskryf: 25
- (a) geakkrediteerde kliëntvereistes vir houers van sertifikate van geakkrediteerde kliëntstatus;
 - (b) die verskillende vlakke van akkreditasie wat verleen kan word;
 - (c) vereistes en prosedures vir die aanwysing van lisensiehouers en geregistreerde persone wat by internasionale verkrygingsprosesse betrokke is as gemagtigde ekonomiese operateurs om die implementering van beveiligingsmaatreëls in internasionale handel te fasiliteer;
 - (d) algemene voorwaardes ten opsigte van geakkrediteerde kliëntstatus; en
 - (e) prosesse vir, en enige ander aangeleenthede betreffende, die wysiging van sertifikate van geakkrediteerde kliëntstatus. 35

Misdrywe ingevolge hierdie Hoofstuk

- 684.** 'n Persoon is aan 'n misdryf skuldig indien daardie persoon versuim om aan artikel 676 of 681(2) te voldoen.

HOOFSTUK 31 40

SEKURITEIT VIR BETALING VAN BELASTING EN ANDER GELDE AAN KOMMISSARIS VERSKULDIG

Doel van hierdie Hoofstuk

- 685.** (1) Die doel van hierdie Hoofstuk is om die doeanegesag te magtig om die stel van sekuriteit aan die Kommissaris te vereis ten einde— 45
- (a) die Nasionale Inkomstefonds teen verlies aan belasting op goedere wat ingevolge 'n belastingheffings-Wet of hierdie Wet betaalbaar is of mag word, te beveilig; of
 - (b) die betaling van enige ander gelde ingevolge hierdie Wet of 'n belastingheffings-Wet aan die Kommissaris verskuldig, te verseker. 50
- (2) By die toepassing van hierdie Hoofstuk op goedere waarop die Wet op Aksynsreg van toepassing is, moet 'n verwysing in hierdie Hoofstuk na belasting uitgelê word om

levy, Road Accident Fund levy or environmental levy imposed in terms of that Act on goods manufactured in the Republic.

When security may be required

686. (1) The customs authority may require security in respect of any goods on which tax is or may become payable in terms of a tax levying Act or this Act if, for any reason, the payment or recovery of the tax on those goods is or will be at risk, including to cover any tax risk in relation to— 5

- (a) goods—
 - (i) imported into or to be exported from the Republic; or
 - (ii) to which the Excise Duty Act applies; 10
- (b) goods loaded, off-loaded, received, packed, unpacked, consolidated, deconsolidated, stored, processed, delivered, removed or in any other way handled—
 - (i) at licensed premises or facilities; or
 - (ii) in terms of section 662(3) at premises or facilities of which the licence has expired or lapsed or been suspended; 15
- (c) goods not in free circulation stored in, or transported in or through the Republic;
- (d) goods released for home use if import tax payable on those goods is not paid before the release of the goods for home use;⁴¹⁸ 20
- (e) goods released for outright export from the Republic if export tax payable on those goods is not paid before the release of the goods for outright export;⁴¹⁹
- (f) goods released for a customs procedure;
- (g) goods conditionally released for home use or a customs procedure;
- (h) goods on which tax is deferred;⁴²⁰ 25
- (i) goods conditionally excluded or exempted from a provision of this Act or a tax levying Act; and
- (j) any other goods that are subject to customs control, if for any reason the payment or recovery of tax is or will be at risk.

(2) The customs authority may require security to ensure the collection of any other money which is or may become payable to the Commissioner in terms of this Act or a tax levying Act, if for any reason the collection of that money is or will be at risk. 30

Persons from whom security may be required

687. (1) Security referred to in section 686(1) may be required from any person who is or may become liable for the payment of any tax on the relevant goods in terms of a tax levying Act or this Act or who for any reason acquires or may acquire physical control of goods not in free circulation, including, in relation to— 35

- (a) goods imported into or to be exported from the Republic by—
 - (i) a registered importer or exporter, from that registered importer or exporter; or 40
 - (ii) an importer or exporter not located in the Republic and represented in the Republic by a registered agent, from the registered agent of that importer or exporter;
- (b) goods that are cleared for home use or a customs procedure, from the person— 45
 - (i) clearing the goods; or

418. For instance when clearance and release of goods are expedited in terms of Chapter 24.

419. For instance when clearance and release of goods are expedited in terms of Chapter 24.

420. For instance section 24 of the Customs Duty Act.

'n verwysing na aksynsreg, brandstofheffing, Padongelukfondsheffing of omgewingsheffing ingevolge daardie Wet opgelê op goedere in die Republiek vervaardig, in te sluit.

Wanneer sekuriteit vereis kan word

686. (1) Die doeanegesag kan sekuriteit vereis ten opsigte van enige goedere waarop belasting ingevolge 'n belastingheffings-Wet of hierdie Wet betaalbaar is of mag word indien daar, om enige rede, 'n risiko is of sal wees met die betaling of verhaling van die belasting op daardie goedere, asook om enige belastingrisiko te dek met betrekking tot—

- (a) goedere—
 - (i) wat in die Republiek ingevoer of uit die Republiek uitgevoer word; of
 - (ii) waarop die Wet op Aksynsreg van toepassing is;
- (b) goedere wat opgelaai, afgelaai, ontvang, verpak, uitgepak, gekonsolideer, gedekonsolideer, geberg, geprosesseer, gelewer, verwyder of op enige ander wyse mee gehandel word—
 - (i) by gelisensieerde persele of fasiliteite; of
 - (ii) ingevolge artikel 662(3) by 'n perseel of fasiliteit waarvan die lisensie verstryk of verval het of opgeskort is;
- (c) goedere wat nie in vry sirkulasie is nie wat geberg word in, of vervoer word in of deur, die Republiek;
- (d) goedere wat vir binnelandse gebruik vrygestel is indien invoerbelasting wat op daardie goedere betaalbaar is nie voor vrystelling van die goedere vir binnelandse gebruik betaal word nie;⁴¹⁸
- (e) goedere wat vir regstreekse uitvoer uit die Republiek vrygestel is indien uitvoerbelasting wat op daardie goedere betaalbaar is nie voor die vrystelling van die goedere vir regstreekse uitvoer betaal word nie;⁴¹⁹
- (f) goedere wat vir 'n doeaneprosedure vrygestel is;
- (g) goedere wat voorwaardelik vir binnelandse gebruik of 'n doeaneprosedure vrygestel is;
- (h) goedere waarop belasting uitgestel is;⁴²⁰
- (i) goedere wat voorwaardelik van 'n bepaling van hierdie Wet of 'n belastingheffings-Wet uitgesluit of onthef is; en
- (j) enige ander goedere wat aan doeanebeheer onderworpe is, indien daar om enige rede 'n risiko verbonde aan die betaling of verhaling van belasting is of sal wees.

(2) Die doeanegesag kan sekuriteit vereis om die invordering van enige ander gelde te verseker wat ingevolge hierdie Wet of 'n belastingheffings-Wet aan die Kommissaris betaalbaar is of mag word, indien daar om enige rede 'n risiko verbonde aan die invordering van daardie gelde is of sal wees.

Persone van wie sekuriteit vereis kan word

687. (1) Sekuriteit bedoel in artikel 686(1) kan van enige persoon vereis word wat ingevolge 'n belastingheffings-Wet of hierdie Wet vir die betaling van enige belasting op die betrokke goedere aanspreeklik is of mag word of wat om enige rede fisiese beheer oor goedere wat nie in vry sirkulasie is nie verkry of mag verkry, asook, met betrekking tot—

- (a) goedere wat in die Republiek ingevoer of uit die Republiek uitgevoer word deur—
 - (i) 'n geregistreerde invoerder of uitvoerder, van daardie geregistreerde invoerder of uitvoerder; of
 - (ii) 'n invoerder of uitvoerder wat nie in die Republiek gesetel is nie en in die Republiek deur 'n geregistreerde agent verteenwoordig word, van die geregistreerde agent van daardie invoerder of uitvoerder;
- (b) goedere wat vir binnelandse gebruik of 'n doeaneprosedure geklaar is, van die persoon wat—
 - (i) die goedere klaar; of

418. Byvoorbeeld wanneer klaring en vrystelling van goedere ingevolge Hoofstuk 24 versnel word.

419. Byvoorbeeld wanneer klaring en vrystelling van goedere ingevolge Hoofstuk 24 versnel word.

420. Byvoorbeeld artikel 24 van die Wet op Doeanereg.

- (ii) who submits a clearance declaration for the clearance of the goods on behalf of another;
- (c) goods released for home use or a customs procedure, from the person to whom the goods are released;
- (d) goods released for the temporary admission or temporary export procedure on authority of a CDP or ATA carnet, from the guaranteeing association guaranteeing that carnet; 5
- (e) goods loaded, off-loaded, received, packed, unpacked, consolidated, deconsolidated, stored, processed, delivered, removed or in any other way handled at licensed premises or a licensed facility, from the licensee of the premises or facility; and 10
- (f) goods transported by—
 - (i) a licensed carrier, from that licensed carrier;
 - (ii) a carrier not located in the Republic and represented in the Republic by a registered agent, from that registered agent; or 15
 - (iii) another person entitled in terms of this Act to transport goods, from that person.

(2) Security referred to in section 686(2) may be required from a person who is or may become liable for the payment of the money owed to the Commissioner.

Time when security may be required 20

688. (1) The customs authority may require security in terms of section 686(1) or (2) at any time during which the payment or recovery of the tax or other money is or will be at risk, including as a pre-condition for—

- (a) the release of the goods for home use or a customs procedure;
- (b) the issuing or renewal of a licence, or at any time after a licence has been issued or renewed; 25
- (c) the issuing or renewal of a registration certificate, or at any time after a registration certificate has been issued or renewed; and
- (d) the granting of any approval,⁴²¹ permission, authorisation, recognition, exemption or other special dispensation in terms of this Act or a tax levying Act. 30

(2) If the risk in relation to the payment or recovery of the tax or other money for which security was given for any reason changes, the customs authority may require the person who has given the security to alter the form, nature or amount of the security or to renew the security as the customs authority may determine. 35

Determination of amount of security

689. (1) Security in terms of this Chapter must be risk based.

(2) When determining the amount of security required, the customs authority must take into account all relevant factors, including—

- (a) an assessment of the risk to the National Revenue Fund, and the monetary extent of that risk, to be covered by the security; 40
- (b) if the person who is to provide the security is a licensee or registered person—
 - (i) the annual turnover of that person's business as a licensee or registered person;
 - (ii) the type of licence or registration issued; and 45
 - (iii) whether that person has accredited client status, and if so, the level of accreditation; and
- (c) any other factors as may be prescribed by rule.

(3) When determining the monetary extent of a tax risk, the customs authority must also take into account— 50

421. For instance approval granted in terms of section 282 to a guaranteeing association to guarantee any tax that may become payable on goods imported into the Republic and placed under the temporary admission procedure on authority of a CPD or ATA carnet.

- (ii) 'n klaringsbrief vir die klaring van die goedere ten behoeve van 'n ander indien;
 - (c) goedere wat vir binnelandse gebruik of 'n doeaneprosedure vrygestel is, van die persoon aan wie die goedere vrygestel word;
 - (d) goedere wat vir die prosedure vir tydelike toelating of tydelike uitvoer op gesag van 'n CDP of ATA carnet vrygestel is, van die vrywaringsvereniging wat daardie carnet waarborg; 5
 - (e) goedere wat by 'n gelisensieerde perseel of 'n gelisensieerde fasiliteit opgelaaï, afgelaaï, ontvang, verpak, uitgepak, gekonsolideer, gedekonsolideer, geberg, geprosesseer, gelewer, verwyder of op enige ander wyse mee gehandel is, van die lisensiehouer van die perseel of fasiliteit; en 10
 - (f) goedere wat vervoer word deur—
 - (i) 'n gelisensieerde vervoerder, van daardie gelisensieerde vervoerder;
 - (ii) 'n vervoerder wat nie in die Republiek gesetel is nie en in die Republiek verteenwoordig word deur 'n geregistreerde agent, van daardie geregistreerde agent; of 15
 - (iii) 'n ander persoon wat ingevolge hierdie Wet die reg het om goedere te vervoer, van daardie persoon.
- (2) Sekuriteit bedoel in artikel 686(2) kan van 'n persoon vereis word wat aanspreeklik is of mag word vir die betaling van die geld wat aan die Kommissaris verskuldig is. 20

Tydstip waarop sekuriteit vereis kan word

- 688.** (1) Die doeanegesag kan sekuriteit ingevolge artikel 686(1) of (2) vereis te eniger tyd wanneer daar 'n risiko met die betaling of verhaling van die belasting of ander gelde is of sal wees, insluitende as 'n voorvereiste vir— 25
- (a) die vrystelling van die goedere vir binnelandse gebruik of 'n doeaneprosedure;
 - (b) die uitreik of hernuwing van 'n lisensie, of te eniger tyd nadat 'n lisensie uitgereik of hernu is;
 - (c) die uitreik of hernuwing van 'n registrasiesertifikaat, of te eniger tyd nadat 'n registrasiesertifikaat uitgereik of hernu is; en 30
 - (d) die toestaan van 'n goedkeuring,⁴²¹ toestemming, magtiging, erkenning, ontheffing of ander spesiale vergunning ingevolge hierdie Wet of 'n belastingheffings-Wet.
- (2) Indien die risiko met betrekking tot die betaling of verhaling van belasting of ander gelde waarvoor die sekuriteit gestel is, om enige rede verander, kan die doeanegesag van die persoon wat die sekuriteit gestel het, vereis om die vorm, aard of bedrag van die sekuriteit te verander of om die sekuriteit te hernu, soos die doeanegesag ook al mag bepaal. 35

Bepaling van bedrag van sekuriteit 40

- 689.** (1) Sekuriteit ingevolge hierdie Hoofstuk, moet risiko gebaseer wees.
- (2) By die bepaling van die bedrag van sekuriteit wat benodig word, moet die doeanegesag alle tersaaklike faktore in ag neem, met inbegrip van—
- (a) 'n evaluering van die risiko vir die Nasionale Inkomstefonds, en die monetêre bestek van daardie risiko, wat deur die sekuriteit gedek moet word; 45
 - (b) indien die persoon wat die sekuriteit moet stel 'n lisensiehouer of geregistreerde persoon is—
 - (i) die jaarlikse omset van daardie persoon se besigheid as 'n lisensiehouer of geregistreerde persoon;
 - (ii) die tipe van lisensie of registrasie uitgereik; en 50
 - (iii) of daardie persoon geakkrediteerde kliëntstatus het, en indien wel, die vlak van akkreditasie; en
 - (c) enige faktore soos by reël voorgeskryf mag word.
- (3) By die bepaling van die monetêre omvang van 'n belastingrisiko, moet die doeanegesag ondermeer in ag neem— 55

421. Byvoorbeeld goedkeuring wat ingevolge artikel 282 aan 'n vrywaringsvereniging verleen word om enige belasting te waarborg wat betaalbaar mag word op goedere wat in die Republiek ingevoer is en op gesag van 'n CPD of ATA carnet onder die prosedure vir tydelike toelating geplaas word.

- (a) the relevant person's record of compliance with tax obligations;
- (b) the likelihood of any interest becoming payable in respect of the tax; and
- (c) the fact that such interest may be recoverable as if part of the tax.⁴²²

Forms of security

- 690.** (1) Security in terms of this Chapter may be in the form of— 5
- (a) a surety bond issued on behalf of the person required to give security—
 - (i) by a financial institution registered or approved by the South African Reserve Bank or the Financial Services Board;
 - (ii) on conditions approved by the Commissioner; and
 - (iii) in a form and format and containing such particulars as may be prescribed by rule; 10
 - (b) any security allowed in terms of an international clearance arrangement; or
 - (c) another kind of security as may be prescribed by rule.
- (2) Security in terms of subsection (1) must either be—
- (a) specific security to cover any tax or other money that is or may become payable by the person giving the security on specific goods or a specific consignment or consignments of goods; or 15
 - (b) general security to cover any tax or other money that is or may become payable by the person giving the security on any goods or on any class or kind or other category of goods during a specified or indefinite period. 20

Security details

- 691.** Security provided in terms of section 690, or a document accompanying the security, must—
- (a) indicate whether it is a specific or general security;
 - (b) specify— 25
 - (i) the name and address of the person giving the security;
 - (ii) the purpose for which the security is given, and if given in relation to specific goods or a specific class or kind or other category of goods, those goods or that class or kind or category of goods;
 - (iii) the goods covered by the security;⁴²³ 30
 - (iv) the amount of the security; and
 - (v) the validity period of the security; and
 - (c) contain such other detail as may be prescribed by rule.

Utilisation of security

- 692.** (1) Security provided in terms of section 690 may be utilised only for the payment or recovery of tax or other money owed to the Commissioner— 35
- (a) in respect of the goods for which the security was given; and
 - (b) for which the person who has given the security is liable or jointly and severally liable, except as otherwise provided in terms of any applicable tax levying Act. 40
- (2) The customs authority must promptly return any security to the person who has given the security if—
- (a) the validity period of the security has expired and the security was not utilised in terms of subsection (1); or
 - (b) the purpose for which the security was given has lapsed. 45

422. See for instance section 45 of the Customs Duty Act.

423. Security is not necessarily consignment based.

- (a) die betrokke persoon se rekord van voldoening aan belastingverpligtinge;
 - (b) die waarskynlikheid dat enige rente ten opsigte van die belasting betaalbaar sal word; en
 - (c) die feit dat sodanige rente verhaal mag word asof dit deel van die belasting is.⁴²²
- 5

Vorms van sekuriteit

- 690.** (1) Sekuriteit ingevolge hierdie Hoofstuk kan in die vorm wees van—
- (a) 'n borgakte wat ten behoeve van die persoon wat sekuriteit moet stel, uitgereik is—
 - (i) deur 'n finansiële instelling wat deur die Suid-Afrikaanse Reserwebank of die Raad op Finansiële Dienste geregistreer of goedgekeur is; 10
 - (ii) op voorwaardes deur die Kommissaris goedgekeur; en
 - (iii) in 'n vorm en formaat en wat die besonderhede bevat soos by reël voorgeskryf mag word;
 - (b) enige sekuriteit wat ingevolge 'n internasionale klaringsreëling toelaatbaar is; 15 of
 - (c) enige ander soort sekuriteit soos by reël voorgeskryf mag word.
- (2) Sekuriteit ingevolge subartikel (1), moet—
- (a) óf spesifieke sekuriteit wees om enige belasting of ander gelde te dek wat deur die persoon wat die sekuriteit stel, betaalbaar is of mag word op bepaalde goedere of 'n bepaalde besending of besendings goedere; 20
 - (b) óf algemene sekuriteit wees om enige belasting of ander gelde te dek wat gedurende 'n spesifieke of onbepaalde tydperk deur die persoon wat die sekuriteit stel, betaalbaar is of mag word op enige goedere of op enige klas of soort of ander kategorie goedere. 25

Besonderhede van sekuriteit

- 691.** Sekuriteit ingevolge artikel 690 gestel, of 'n dokument wat die sekuriteit vergesel, moet—
- (a) aantoon of dit 'n spesifieke of algemene sekuriteit is;
 - (b) die volgende spesifiseer: 30
 - (i) Die naam en adres van die persoon wat die sekuriteit stel;
 - (ii) die doel waarvoor die sekuriteit gestel word, en indien dit gestel word met betrekking tot spesifieke goedere of 'n spesifieke klas of soort of ander kategorie goedere, daardie goedere of daardie klas of soort of kategorie goedere; 35
 - (iii) die goedere wat deur die sekuriteit gedek word;⁴²³
 - (iv) die bedrag van die sekuriteit; en
 - (v) die geldigheidstydperk van die sekuriteit; en
 - (c) die ander besonderhede bevat soos by reël voorgeskryf mag word.

Aanwending van sekuriteit 40

- 692.** (1) Sekuriteit ingevolge artikel 690 gestel, kan aangewend word slegs vir die betaling of verhaling van belasting of ander gelde aan die Kommissaris verskuldig—
- (a) ten opsigte van die goedere waarvoor die sekuriteit gestel is; en
 - (b) waarvoor die persoon wat die sekuriteit gestel het, aanspreeklik is of gesamentlik en afsonderlik aanspreeklik is, behalwe soos anders ingevolge 'n betrokke belastingheffings-Wet bepaal. 45
- (2) Die doeanegesag moet enige sekuriteit aan die persoon wat sekuriteit gestel het, terugbesorg indien—
- (a) die geldigheidstydperk van die sekuriteit verstryk het en die sekuriteit nie ingevolge subartikel (1) aangewend is nie; of 50
 - (b) die doel waarvoor die sekuriteit gestel is, verval het.

422. Kyk byvoorbeeld artikel 45 van die Wet op Doeanereg.
423. Sekuriteit is nie noodwendig besending gebaseer nie.

Rules to facilitate implementation of this Chapter

- 693.** Rules made in terms of section 903 to facilitate the implementation of this Chapter may include rules prescribing—
- (a) conditions for—
 - (i) the withdrawal of security; or 5
 - (ii) the substitution of, or the amendment of the amount of or other detail in relation to, security; and
 - (b) the manner and circumstances in which tax or other money owed to the Commissioner may be recovered from security provided in terms of this Chapter. 10

CHAPTER 32

RECOVERY OF DEBT UNDER ACT⁴²⁴

Purpose of this Chapter

- 694.** The purpose of this Chapter is to provide for the recovery by the Commissioner of money owed to the Commissioner in terms of this Act, including— 15
- (a) any administrative penalty;
 - (b) any costs or expenses incurred and recoverable by the Commissioner from another person in terms of this Act;
 - (c) the proceeds of the sale of goods in terms of section 592 or 593; and
 - (d) any interest referred to in section 701 on amounts not paid on due date. 20

Money owed to Commissioner constitutes debt payable for credit of National Revenue Fund

- 695.** (1) Money owed to the Commissioner in terms of this Act—
- (a) is a debt payable to the Commissioner for credit of the National Revenue Fund, subject to subsection (2); and 25
 - (b) must be recovered by the Commissioner in accordance with this Chapter and any other applicable provisions of this Act.
- (2) (a) If costs or expenses referred to in section 694(b) were paid from SARS' own funds, the amount of those costs or expenses, including any interest on that amount, is a debt payable to the Commissioner for credit of SARS. 30
- (b) The proceeds of the sale of goods referred to in section 694(c) must be applied in accordance with section 595.

Recovery of debt

- 696.** A debt referred to in section 695 may be recovered from— 35
- (a) the person liable for the debt; or
 - (b) any security provided by that person covering that debt.

Recovery of debt from agents

- 697.** If a person mentioned in section 696(a) is not located in the Republic⁴²⁵ or fails to pay the debt when required to do so, and has not provided security from which the Commissioner may recover the debt, the Commissioner may recover the debt from— 40
- (a) the registered agent of that person in the Republic;
 - (b) any person who, in connection with the debt or any goods in respect of which the debt is payable—

424. This Chapter does not cover the recovery of tax, administrative penalties imposed in connection with tax and interest on outstanding tax and penalties. These recoveries are dealt with in the respective tax levying Acts, for instance Chapter 3 of the Customs Duty Act.

425. See section 1(3)(a).

Reëls ter fasilitering van implementering van hierdie Hoofstuk

- 693.** Reëls ingevolge artikel 903 uitgevaardig om die implementering van hierdie Hoofstuk te fasiliteer, kan reëls insluit wat—
- (a) voorwaardes voorskryf vir—
 - (i) die terugtrekking van sekuriteit; of 5
 - (ii) die vervanging van, of die wysiging van die bedrag van of ander besonderhede betreffende, sekuriteit; en
 - (b) die wyse voorskryf waarop en omstandighede voorskryf waarin belasting of ander gelde wat aan die Kommissaris verskuldig is uit sekuriteit ingevolge hierdie Hoofstuk gestel, verhaal kan word. 10

HOOFSTUK 32

VERHAAL VAN SKULDE ONDER HIERDIE WET⁴²⁴

Doel van hierdie Hoofstuk

- 694.** Die doel van hierdie Hoofstuk is om voorsiening te maak vir die verhaal deur die Kommissaris van gelde aan die Kommissaris ingevolge hierdie Wet verskuldig, met inbegrip van— 15
- (a) enige administratiewe boete;
 - (b) enige koste of uitgawes wat ingevolge hierdie Wet deur die Kommissaris aangegaan en van 'n ander persoon verhaalbaar is;
 - (c) die opbrengs uit die verkoop van goedere ingevolge artikel 592 of 593; en 20
 - (d) enige rente in artikel 701 bedoel op bedrae wat nie op die sperdatum vir betaling betaal is nie.

Gelde aan Kommissaris verskuldig is skuld betaalbaar vir krediet van Nasionale Inkomstefonds

- 695.** (1) Gelde aan die Kommissaris ingevolge hierdie Wet verskuldig— 25
- (a) is 'n skuld aan die Kommissaris wat vir krediet van die Nasionale Inkomstefonds, behoudens subartikel (2), betaalbaar is; en
 - (b) moet deur die Kommissaris ooreenkomstig hierdie Hoofstuk en enige ander geldende bepalings van hierdie Wet verhaal word.
- (2) (a) Indien koste of uitgawes in artikel 694(b) bedoel uit SAID se eie fondse betaal 30 is, is die bedrag van daardie koste of uitgawes, met inbegrip van enige rente op daardie bedrag, 'n skuld wat aan die Kommissaris vir krediet van SAID betaalbaar is.
- (b) Die opbrengs uit die verkoop van goedere bedoel in artikel 694(c) moet volgens voorskrif van artikel 595 aangewend word.

Verhaal van skuld 35

- 696.** 'n Skuld bedoel in artikel 695 kan verhaal word van—
- (a) die persoon wat vir die skuld aanspreeklik is; of
 - (b) enige sekuriteit wat deur daardie persoon ter dekking van daardie skuld gestel is.

Verhaal van skuld van agente 40

- 697.** Indien 'n persoon in artikel 696(a) vermeld nie in die Republiek gesetel is nie⁴²⁵ of versuim om die skuld te betaal wanneer daardie persoon aangesê word om dit te doen, en nie sekuriteit gestel het waaruit die Kommissaris die skuld kan verhaal nie, kan die Kommissaris die skuld verhaal van—
- (a) die geregistreerde agent van daardie persoon in die Republiek; 45
 - (b) enige persoon wat in verband met die skuld of enige goedere ten opsigte waarvan die skuld betaalbaar is—

424. Hierdie Hoofstuk dek nie die verhaal van belasting, administratiewe boetes opgelê in verband met belasting, en rente op uitstaande belasting en boetes nie. Hierdie verhalings word hanteer in die onderskeie belastingheffings-Wette, byvoorbeeld Hoofstuk 3 van die Wet op Doeanereg.

425. Kyk artikel 1(3)(a).

- (i) acted as, or gave out to be, the agent of the person liable for the debt; or
- (ii) acted in a fiduciary capacity; or
- (c) any security provided by a person referred to in paragraph (a) or (b) covering that debt.

Liability of person managing juristic entity 5

698. If a person mentioned in section 696(a) or 697 as a person from whom a debt may be recovered, is a juristic entity and that juristic entity fails to pay the debt when required to do so, and has not provided security from which the Commissioner may recover the debt, the Commissioner may recover the debt from a person managing the juristic entity, but only— 10

- (a) after the Commissioner has taken reasonable steps to recover the debt from the entity itself; and
- (b) if non-payment of the debt was the direct result of that person's negligence or mismanagement of the entity's affairs.

Under-recovery of debt 15

699. (1) The customs authority must, subject to subsection (2), correct any under-recovery in the amount of a debt referred to in section 695 by recovering the amount under collected from—

- (a) the person who partially paid that debt;
- (b) any person from whom that debt could have been recovered in terms of section 696, 697 or 698; or 20
- (c) any security provided by a person referred to in paragraph (a) or (b) covering that debt.

(2) If the amount of an under-recovery is less than R100, the customs authority may but is not obliged to recover the under-recovery. 25

Debt recovered from security

700. A person liable for any debt referred to in section 695 is absolved from liability towards the Commissioner if the debt is recovered in full from any security referred to in section 696(b) or 697(c).

Interest on outstanding amounts 30

701. (1) A debt referred to in section 694(a), (b) or (c) not paid on the due date bears interest at a rate determined by the Minister.

(2) Interest determined in terms of subsection (1) must be calculated on daily balances owing, and compounded at the end of each month.

- (3) This section does not apply to— 35
 - (a) a person liable for a debt in terms of subsection (1) who on good grounds is exempted by the Commissioner from paying interest on the debt; or
 - (b) a prosecution avoidance penalty.

Payment of debt in instalments

702. The Commissioner may allow debt referred to in section 695, other than a prosecution avoidance penalty, to be paid in instalments, subject to— 40

- (a) the payment of interest in terms of section 701 on outstanding balances; and
- (b) such conditions as may be prescribed by rule or as the customs authority may determine in any specific case.

Persons having accounts with Commissioner 45

703. (1) If a person has an account with the Commissioner for the payment of tax and other money owed to the Commissioner in terms of this Act or a tax levying Act, any amount—

- (i) opgetree het, of sig voorgedoen het, as die agent van die persoon wat vir die skuld aanspreeklik is; of
- (ii) in 'n fidusiêre hoedanigheid opgetree het; of
- (c) enige sekuriteit wat deur 'n persoon in paragraaf (a) of (b) bedoel ter dekking van daardie skuld gestel is. 5

Aanspreeklikheid van persoon wat regsentiteit bestuur

698. Indien 'n persoon wat in artikel 696(a) of 697 vermeld word as 'n persoon van wie 'n skuld verhaal mag word, 'n regsentiteit is en daardie regsentiteit versuim om die skuld te betaal wanneer daartoe aangesê word, en nie sekuriteit gestel het waaruit die Kommissaris die skuld kan verhaal nie, kan die Kommissaris die skuld verhaal van 'n persoon wat die regsentiteit bestuur, maar slegs— 10

- (a) nadat die Kommissaris redelike stappe gedoen het om die skuld van die entiteit self te verhaal; en
- (b) indien nie-betaling van die skuld die direkte gevolg van daardie persoon se nalatigheid of wanbestuur van die entiteit se sake was. 15

Onderverhaling van skuld

699. (1) Die doeanegesag moet, behoudens subartikel (2), enige onderverhaling in die bedrag van 'n skuld bedoel in artikel 695 regstel deur die bedrag onderverhaal te verhaal van—

- (a) die persoon wat daardie skuld gedeeltelik betaal het; 20
- (b) enige persoon van wie daardie skuld ingevolge artikel 696, 697 of 698 verhaal kon word; of
- (c) enige sekuriteit wat deur 'n persoon in paragraaf (a) of (b) bedoel ter dekking van daardie skuld gestel is.

(2) Indien die bedrag van 'n onderverhaling minder as R100 is, kan die doeanegesag die onderverhaling verhaal maar is nie daartoe verplig nie. 25

Skuld uit sekuriteit verhaal

700. 'n Persoon wat vir enige skuld bedoel in artikel 695 aanspreeklik is, is van aanspreeklikheid teenoor die Kommissaris kwytgestel indien die skuld ten volle verhaal word uit enige sekuriteit in artikel 696(b) of 697(c) bedoel. 30

Rente op uitstaande bedrae

701. (1) 'n Skuld in artikel 694(a), (b) of (c) bedoel wat nie op die sperdatum vir betaling betaal is nie dra rente teen 'n koers deur die Minister bepaal.

(2) Rente ingevolge subartikel (1) bepaal, moet bereken word op daaglikse verskuldigde saldo's, en saamgestel word aan die einde van elke maand. 35

(3) Hierdie artikel geld nie vir—

- (a) 'n persoon wat ingevolge subartikel (1) vir 'n skuld aanspreeklik is wat op goeie gronde deur die Kommissaris van betaling van rente op die skuld onthef word nie; of
- (b) 'n boete vermyding van vervolging nie. 40

Betaling van skuld in paaiemente

702. Die Kommissaris kan toestemming verleen dat 'n skuld in artikel 695 bedoel, anders as 'n boete vermyding van vervolging, in paaiemente betaal word behoudens—

- (a) die betaling ingevolge artikel 701 van rente op uitstaande saldo's; en
- (b) die voorwaardes soos by reël voorgeskryf of deur die doeanegesag in 'n bepaalde geval bepaal mag word. 45

Persone wat rekenings by Kommissaris het

703. (1) Indien 'n persoon 'n rekening by die Kommissaris het vir die betaling van belasting en ander gelde wat ingevolge hierdie Wet of 'n belastingheffings-Wet aan die Kommissaris verskuldig is, kan enige bedrag— 50

- (a) paid by that person to the Commissioner may be debited against that account;
or
 - (b) refunded by the Commissioner to that person may be credited to that account.
- (2) The customs authority must give notice to a person of any amounts debited to or credited against that person's account. 5

Establishing of liens over goods to secure payment of debt

- 704.** (1) In order to secure payment to the Commissioner of a debt owed to the Commissioner for credit of the National Revenue Fund in terms of section 695, a lien in favour of the Commissioner may be established over any goods— 10
- (a) of which the debtor is the owner;
 - (b) of which the debtor is the co-owner; or
 - (c) in which the debtor has any title, right or interest in terms of a credit agreement under the National Credit Act, 2005 (Act No. 34 of 2005).
- (2) When utilising subsection (1) in respect of a debt referred to in subsection (1), Part 4 of Chapter 3 of the Customs Duty Act applies with any necessary changes the context may require. 15

Other mechanisms for recovery of debt

- 705.** Part D of Chapter 11 of the Tax Administration Act, including any criminal and other sanctions contained in that Act for the enforcement of that Part, applies, with any necessary changes as the context may require, to the recovery of a debt referred to in section 695 owed to the Commissioner for credit of the National Revenue Fund. 20

Rules to facilitate implementation of this Chapter

- 706.** Rules made in terms of section 903 to facilitate the implementation of this Chapter may include rules prescribing—
- (a) the methods that may or must be used to pay any debt referred to in section 695 to the Commissioner, including conditions and requirements for— 25
 - (i) cash payments or payments by cheque, and limits on cash and cheque payments;
 - (ii) electronic payments; or
 - (iii) payment in any other way; 30
 - (b) receipts and other documents and other evidence that may be used as proof of payment of any debt;
 - (c) the circumstances in which administrative penalties, interest on such penalties and other payments made to the Commissioner in terms of this Act may be refunded, the manner in and time within which applications for refunds must be submitted and the circumstances and conditions for payment of interest on such refunds; and 35
 - (d) qualification criteria for the payment of debt in instalments.

Offences in terms of this Chapter

- 707.** (1) A person is guilty of an offence if that person in relation to a lien established over goods in terms of section 704 of this Act— 40
- (a) fails to comply with section 53(1) or 54(1) of the Customs Duty Act; or
 - (b) contravenes section 51(5) or (6) or 55(1) or (5) of the Customs Duty Act.
- (2) An offence referred to in subsection (1)(b) is a Category 1 offence.

- (a) wat deur daardie persoon aan die Kommissaris betaal word teen daardie rekening gedebiteer word; of
 - (b) wat deur die Kommissaris aan daardie persoon terugbetaal word ten bate van daardie rekening gekrediteer word.
- (2) Die doeanegesag moet aan 'n persoon kennis gee van enige bedrae gedebiteer teen of gekrediteer ten bate van daardie persoon se rekening. 5

Vestiging van retensieregte oor goedere om betaling van skuld te verseker

- 704.** (1) Ten einde betaling aan die Kommissaris te verseker van 'n skuld wat ingevolge artikel 695 aan die Kommissaris vir die krediet van die Nasionale Inkomstefonds verskuldig is, kan 'n retensiereg ten behoeve van die Kommissaris gevestig word oor enige goedere—
- (a) waarvan die skuldenaar die eienaar is;
 - (b) waarvan die skuldenaar die mede-eienaar is; of
 - (c) waarin die skuldenaar enige titel, reg of belang het ingevolge 'n kredietooreenkoms kragtens die “National Credit Act, 2005” (Wet No. 34 van 2005). 15
- (2) Wanneer subartikel (1) ten opsigte van 'n skuld bedoel in subartikel (1) aangewend word, is Deel 4 van Hoofstuk 3 van die Wet op Doeanereg, met enige nodige aanpassings soos die samehang mag vereis, van toepassing.

Ander wyses van verhaal van skuld 20

- 705.** Deel D van Hoofstuk 11 van die Wet op Belastingadministrasie, met inbegrip van enige strafregtelike en ander sanksies wat vir doeleindes van daardie Deel in daardie Wet ingesluit is, is met enige nodige aanpassings soos die samehang mag vereis, van toepassing op die verhaal van 'n skuld bedoel in artikel 695 wat aan die Kommissaris vir krediet van die Nasionale Inkomstefonds verskuldig is. 25

Reëls ter fasilitering van implementering van hierdie Hoofstuk

- 706.** Reëls ingevolge artikel 903 uitgevaardig om die implementering van hierdie Hoofstuk te fasiliteer, kan reëls insluit wat die volgende voorskryf:
- (a) Die metodes waarvolgens enige skuld bedoel in artikel 695 aan die Kommissaris betaal kan of moet word, met inbegrip van voorwaardes en voorskrifte vir—
 - (i) kontantbetalings of betalings per tjek, en beperkings op kontant- en tjekbetalings;
 - (ii) elektroniese betalings; of
 - (iii) betaling op enige ander wyse; 35
 - (b) kwitansies en ander dokumente en ander bewyse wat gebruik mag word as bewys van betaling van enige skuld;
 - (c) die omstandighede waarin administratiewe boetes, rente op sodanige boetes en ander betalings wat ingevolge hierdie Wet aan die Kommissaris gemaak word, terugbetaal kan word, die wyse waarin en tyd waarbinne aansoeke om terugbetalings ingedien moet word en die omstandighede en voorwaardes vir die betaling van rente op sodanige terugbetalings; en 40
 - (d) kwalifiserende kriteria vir die betaling van skuld in paaiemente.

Misdrywe ingevolge hierdie Hoofstuk

- 707.** (1) 'n Persoon is aan 'n misdryf skuldig indien daardie persoon met betrekking tot 'n retensiereg wat ingevolge artikel 704 van hierdie Wet oor goedere gevestig is—
- (a) versuim om aan artikel 53(1) of 54(1) van die Wet op Doeanereg te voldoen; of
 - (b) artikel 51(5) of (6) of 55(1) of (5) van die Wet op Doeanereg oortree.
- (2) 'n Misdryf bedoel in subartikel (1)(b) is 'n Kategorie 1 misdryf. 50

CHAPTER 33

GENERAL ENFORCEMENT FUNCTIONS

Part 1

Introductory provisions

Purpose and application of this Chapter 5

708. (1) The purpose of this Chapter is to assign enforcement functions to customs officers for the effective enforcement of this Act⁴²⁶ or a tax levying Act, and, in particular, to the extent reasonable in the circumstances—

- (a) to ensure that tax and any other money owed to the Commissioner in terms of this Act or a tax levying Act is paid; 10
- (b) to ensure that goods that are subject to customs control are dealt with in accordance with this Act and the tax levying Acts; and
- (c) to prevent, investigate and take appropriate action against acts or omissions constituting breaches of this Act or a tax levying Act.

(2) The enforcement functions conferred on customs officers in terms of this Chapter— 15

- (a) are additional to the other enforcement functions assigned to customs officers in terms of the other provisions of this Act or a tax levying Act; and
- (b) must be exercised with due regard to other applicable legislation.

(3) This Chapter applies to all goods that in whatever way have become subject to customs control in terms of this Act or a tax levying Act. 20

Part 2

Customs access to areas, premises, facilities, vessels, aircraft, trains, railway carriages and vehicles

Access to areas, premises and facilities 25

709. (1) A customs officer—

- (a) has unqualified access to any area, premises or facility which is, or which is situated, within a customs controlled area; and
- (b) may, at any time, for the purpose of implementing or enforcing this Act or a tax levying Act perform any enforcement function in, on or at any such area, premises or facility or part thereof. 30

(2) A customs officer may at any time, for the purpose of implementing or enforcing this Act or a tax levying Act—

- (a) on authority of a warrant issued in terms of section 715 or, subject to subsections (3) and (4), without a warrant, gain access to any area, premises or facility outside a customs controlled area; and 35
- (b) after having gained access in accordance with paragraph (a)—
 - (i) search the area, premises or facility or part thereof; and
 - (ii) perform any other enforcement function in, on or at the area, premises or facility. 40

(3) A customs officer may in terms of subsection (2)(a) gain warrantless access to any area, premises or facility outside a customs controlled area—

- (a) if the owner or a person in physical control of the area, premises or facility consents to such access;

⁴²⁶ It should be noted that apart from ordinary imported goods or goods destined for export, this Chapter also confers enforcement functions on customs officers in relation to goods in the customs environment that are prohibited, restricted or controlled in terms of other legislation. This enforcement is however done in terms of direct powers conferred on customs officers as part of their duties in terms of this Act.

HOOFTUK 33

ALGEMENE TOEPASSINGSFUNKSIES

Deel 1

Inleidende bepalings

Doel en toepassing van hierdie Hoofstuk 5

708. (1) Die doel van hierdie Hoofstuk is om toepassingsfunksies aan doeanebeamptes vir die effektiewe toepassing van hierdie Wet⁴²⁶ of 'n belastingheffings-Wet op te dra en, in die besonder, in soverre dit in die omstandighede redelik is—

(a) om te verseker dat belasting en ander gelde wat ingevolge hierdie Wet of 'n belastingheffings-Wet aan die Kommissaris verskuldig is, betaal word; 10

(b) om te verseker dat daar met goedere wat aan doeanebeheer onderworpe is volgens voorskrif van hierdie Wet en die belastingheffings-Wette gehandel word; en

(c) om enige handeling of versuime wat 'n breuk van hierdie Wet of 'n belastingheffings-Wet daarstel, te voorkom, te ondersoek en toepaslike stappe daarteen te doen. 15

(2) Die toepassingsfunksies ingevolge hierdie Hoofstuk aan doeanebeamptes verleen—

(a) is bykomend tot die ander toepassingsfunksies wat ingevolge die ander bepalings van hierdie Wet of 'n belastingheffings-Wet aan doeanebeamptes opgedra word; en 20

(b) moet uitgeoefen word met die nodige inagneming van ander tersaaklike wetgewing.

(3) Hierdie Hoofstuk is van toepassing op alle goedere wat op watter wyse ook al aan doeanebeheer ingevolge hierdie Wet of 'n belastingheffings-Wet onderworpe geraak het. 25

Deel 2

Doeanetoegang tot gebiede, persele, fasiliteite, vaartuie, vliegtuie, treine, spoorwegwaens en voertuie

Toegang tot gebiede, persele en fasiliteite

709. (1) 'n Doeanebeampte— 30

(a) het ongekwalifiseerde toegang tot enige gebied, perseel of fasiliteit wat 'n doeanebeheergebied is of binne 'n doeanebeheergebied geleë is; en

(b) kan, te eniger tyd, vir doeleindes van die implementering of toepassing van hierdie Wet of 'n belastingheffings-Wet enige toepassingsfunksie verrig in, op of by enige so 'n gebied, perseel of fasiliteite of gedeelte daarvan. 35

(2) 'n Doeanebeampte kan, te eniger tyd, vir doeleindes van die implementering of toepassing van hierdie Wet of 'n belastingheffings-Wet—

(a) op gesag van 'n lasbrief ingevolge artikel 715 uitgereik of, behoudens subartikels (3) en (4), sonder 'n lasbrief, toegang tot enige gebied, perseel of fasiliteit buite 'n doeanebeheergebied verkry; en 40

(b) nadat toegang ooreenkomstig paragraaf (a) verkry is—

(i) die gebied, perseel of fasiliteit of gedeelte daarvan deursoek; en

(ii) enige ander toepassingsfunksie verrig in, op of by die gebied, perseel of fasiliteit.

(3) 'n Doeanebeampte kan ingevolge subartikel (2)(a) sonder 'n lasbrief toegang tot enige gebied, perseel of fasiliteit buite 'n doeanebeheergebied verkry— 45

(a) indien die eienaar of persoon wat fisies in beheer van die gebied, perseel of fasiliteit is tot sodanige toegang toestem;

426. Daar dien op gelet te word dat afgesien van gewone ingevoerde goedere of goedere bestem vir uitvoer, hierdie Hoofstuk ook toepassingsfunksies aan doeanebeamptes opdra met betrekking tot goedere in die doeaneomgewing wat ingevolge ander wetgewing verbied, beperk of beheer word. Hierdie toepassingsfunksies word egter uitgevoer ingevolge direkte bevoegdhede aan doeanebeamptes as deel van hulle pligte ingevolge hierdie Wet verleen.

- (b) if the area, premises or facility is occupied by a person who is a registered person or licensee and is used by that registered person or licensee for purposes of the business or activity for which that person is a registered person or licensee;
- (c) if the public has access to the area, premises or facility and access is gained at a time whilst the public has access to the area, premises or facility; 5
- (d) in, on or at which there are, or in, on or at which the customs officer on reasonable grounds suspects to find, any goods—
 - (i) that are subject to customs control;
 - (ii) in respect of which a breach of this Act or a tax levying Act is being or has been committed; 10
 - (iii) that are being used or that have been used for an activity that constitutes a breach of this Act or a tax levying Act; or
 - (iv) that are prohibited, restricted, sectorally controlled or counterfeit goods;
- (e) in, on or at which there are, or in, on or at which the customs officer on reasonable grounds suspects to find, any documents concerning— 15
 - (i) any goods described in paragraph (d); or
 - (ii) any activity that constitutes a breach of this Act or a tax levying Act;
- (f) in, on or at which there are, or in, on or at which the customs officer on reasonable grounds suspects to find, any persons having information concerning— 20
 - (i) any goods described in paragraph (d);
 - (ii) any documents described in paragraph (e); or
 - (iii) any activity that constitutes a breach of this Act or a tax levying Act; or
- (g) which is used, or which the customs officer on reasonable grounds suspects is being used, for an activity which constitutes a contravention of this Act or a tax levying Act. 25

(4) A customs officer may in terms of subsection (3)(d), (e), (f) or (g) gain warrantless access to any area, premises or facility outside a customs controlled area only if there are reasonable grounds to believe that a warrant authorising such access would on application in terms of section 715 be issued, but that the delay that might be caused by applying for a warrant is likely to defeat the object of the access. 30

(5) A person in charge of any area, premises or facility referred to in subsection (1) or (2), and any person who works or resides in, on or at such area, premises or facility, must provide such assistance in, on or at such area, premises or facility as may be reasonably required by the customs officer for gaining access to the area, premises or facility or performing any enforcement function in, on or at the area, premises or facility. 35

Use of force to gain access to areas, premises or facilities

710. (1) No person may prevent a customs officer from gaining access to any area, premises or facility or from performing an enforcement function in, on or at the area, premises or facility in terms of section 709, but a person in control of the area, premises or facility, or of any entrance to the area, premises or facility, is entitled to demand that the customs officer— 40

- (a) produce his or her identity card referred to in section 13;
- (b) produce a warrant authorising access to the area, premises or facility or, if the customs officer has no warrant, to explain the grounds on which warrantless access is founded; and 45
- (c) explain the purpose of the access.

(2) If the customs officer is not immediately, or not immediately after having complied with any demand in terms of subsection (1), allowed to gain access to the area, premises or facility or to perform an enforcement function, the customs officer may use force to the extent necessary in the circumstances to gain entry or to perform the enforcement function, including— 50

- (a) by opening in any manner any entrance to the area, premises or facility, or any room, enclosure, place, safe, chest, box, package or container, if it is locked 55

- (b) indien die gebied, perseel of fasiliteit geokkupeer word deur 'n persoon wat 'n geregistreeerde persoon of lisensiehouer is en deur daardie geregistreeerde persoon of lisensiehouer gebruik word vir doeleindes van die besigheid of aktiwiteit waarvoor daardie persoon 'n geregistreeerde persoon of lisensiehouer is; 5
- (c) indien die publiek toegang tot die gebied, perseel of fasiliteit het en toegang verkry word op 'n tydstip waarop die publiek toegang tot die gebied, perseel of fasiliteit het;
- (d) waarin, waarop of waarby daar goedere is, of waarin, waarop of waarby die doeanebeampte op redelike gronde vermoed goedere te vind— 10
- (i) wat aan doeanebeheer onderworpe is;
- (ii) ten opsigte waarvan 'n breuk van hierdie Wet of 'n belastingheffings-Wet begaan word of is;
- (iii) wat gebruik word of is vir 'n aktiwiteit wat 'n breuk van hierdie Wet of 'n belastingheffings-Wet is; of 15
- (iv) wat verbode, beperkte, sektorbeheerde of nagmaakte goedere is;
- (e) waarin, waarop of waarby daar dokumente is, of waarin, waarop of waarby die doeanebeampte op redelike gronde vermoed dokumente te vind, aangaande— 20
- (i) enige goedere in paragraaf (d) beskryf; of
- (ii) enige aktiwiteit wat 'n breuk van hierdie Wet of 'n belastingheffings-Wet is;
- (f) waarin, waarop of waarby daar persone is, of waarin, waarop of waarby die doeanebeampte op redelike gronde vermoed persone te vind, wat inligting het aangaande— 25
- (i) enige goedere in paragraaf (d) beskryf;
- (ii) enige dokumente in paragraaf (e) beskryf; of
- (iii) enige aktiwiteit wat 'n breuk van hierdie Wet of 'n belastingheffings-Wet is; of
- (g) wat gebruik word, of wat die doeanebeampte op redelike gronde vermoed gebruik word, vir 'n aktiwiteit wat 'n oortreding van hierdie Wet of 'n belastingheffings-Wet is. 30
- (4) 'n Doeanebeampte kan ingevolge subartikel (3)(d), (e), (f) of (g) sonder 'n lasbrief toegang tot enige gebied, perseel of fasiliteit buite 'n doeanebeheergebied verkry slegs indien daar redelike gronde is om te glo dat 'n lasbrief wat sodanige toegang magtig op aansoek ingevolge artikel 715 uitgereik sal word, maar dat die vertraging wat met die aansoek om 'n lasbrief veroorsaak mag word die doel van die toegang waarskynlik sal verydel. 35
- (5) 'n Persoon in beheer van 'n gebied, perseel of fasiliteit in subartikel (1) of (2) bedoel, en enige persoon wat in, op of by so 'n gebied, perseel of fasiliteit werk of woon, moet in, op of by so 'n gebied, perseel of fasiliteit die bystand verleen soos redelikerwyse deur die doeanebeampte benodig mag word om toegang tot die gebied, perseel of fasiliteit te verkry of om enige toepassingsfunksie in, op of by die gebied, perseel of fasiliteit te verrig. 40

Gebruik van geweld om toegang tot gebiede, persele of fasiliteite te verkry

710. (1) Niemand mag 'n doeanebeampte verhinder om ingevolge artikel 709 toegang tot enige gebied, perseel of fasiliteit te verkry of om 'n toepassingsfunksie in, op of by die gebied, perseel of fasiliteit te verrig nie, maar 'n persoon in beheer van die gebied, perseel of fasiliteit, of van enige toegang tot die gebied, perseel of fasiliteit, is daarop geregtig om die doeanebeampte te versoek om— 45
- (a) sy of haar identiteitskaart bedoel in artikel 13 te toon; 50
- (b) 'n lasbrief te toon wat toegang tot die gebied, perseel of fasiliteit magtig of, indien die doeanebeampte nie 'n lasbrief het nie, die gronde waarop toegang sonder 'n lasbrief gebaseer word, te verduidelik; en
- (c) die doel van die toegang te verduidelik.
- (2) Indien die doeanebeampte nie onmiddellik, of nie onmiddellik nadat daar aan enige versoek ingevolge subartikel (1) voldoen is, toegelaat word om toegang tot die gebied, perseel of fasiliteit te verkry of om 'n toepassingsfunksie te verrig nie, kan die doeanebeampte geweld in die mate wat in die omstandighede nodig is, gebruik om toegang te verkry of om die toepassingsfunksie te verrig, met inbegrip daarvan— 55
- (a) om op enige wyse enige ingang tot die gebied, perseel of fasiliteit, of enige kamer, binnehof, plek, kluis, kis, boks, verpakking of houer oop te maak, 60

- and the keys are not produced on demand or are otherwise not available; and
- (b) as a last resort by—
 - (i) breaking through any fence, wall, roof or ceiling, or breaking open any door or window, or breaking open any such safe, chest, box, package or container; or
 - (ii) by breaking up any ground or flooring.

Customs access to vessels, aircrafts, trains, railway carriages and vehicles

- 711.** (1) A customs officer—
- (a) has unqualified access to any vessel, aircraft, train, railway carriage or vehicle within a customs controlled area; and
 - (b) may, at any time, for the purpose of implementing or enforcing this Act or a tax levying Act, board or otherwise gain access to any such vessel, aircraft, train, railway carriage or vehicle and perform any enforcement function in, on or at the vessel, aircraft, train, railway carriage or vehicle.
- (2) A customs officer may at any time, for the purpose of implementing or enforcing this Act or a tax levying Act—
- (a) on authority of a warrant issued in terms of section 715 or, subject to subsections (3) and (4), without a warrant, board or otherwise gain access to any vessel, aircraft, train, railway carriage or vehicle outside a customs controlled area; and
 - (b) after having boarded or otherwise gained access to a vessel, aircraft, train, railway carriage or vehicle in accordance with paragraph (a)—
 - (i) search the vessel, aircraft, train, railway carriage or vehicle or part thereof; and
 - (ii) perform any other enforcement function in, on or at the vessel, aircraft, train, railway carriage or vehicle.
- (3) A customs officer may in terms of subsection (2)(a) without a warrant board or otherwise gain access to any vessel, aircraft, train, railway carriage or vehicle outside a customs controlled area—
- (a) if the person in control of the vessel, aircraft, train, railway carriage or vehicle consents to such access;
 - (b) if the vessel, aircraft, train, railway carriage or vehicle is in, on or at an area, premises or facility to which a customs officer has gained access in accordance with section 709(2)(a);
 - (c) on or in which there are, or on or in which the customs officer on reasonable grounds suspects to find, any goods—
 - (i) that are subject to customs control;
 - (ii) in respect of which a breach of this Act or a tax levying Act is being or has been committed;
 - (iii) that are being used or that have been used for an activity that constitutes a breach of this Act or a tax levying Act; or
 - (iv) that are prohibited, restricted, sectorally controlled or counterfeit goods;
 - (d) on or in which there are, or on or in which the customs officer on reasonable grounds suspects to find, any documents concerning—
 - (i) any goods described in paragraph (c); or
 - (ii) any activity that constitutes a breach of this Act or a tax levying Act;
 - (e) on or in which there are, or on or in which the customs officer on reasonable grounds suspects to find, any persons having information concerning—
 - (i) any goods described in paragraph (c);
 - (ii) any documents described in paragraph (d); or
 - (iii) any activity that constitutes a breach of this Act or a tax levying Act; or
 - (f) which has been, or which the customs officer on reasonable grounds suspects

indien dit gesluit is en die sleutels nie op versoek oorhandig word of andersins beskikbaar is nie; en

- (b) as 'n laaste uitweg om—
 - (i) deur enige heining, muur, dak of plafon te breek, of om enige deur of venster oop te breek, of so 'n kluis, kis, boks, verpakking of houër oop te breek; of
 - (ii) enige grond of vloer op te breek.

Doeanetoegang tot vaartuie, vliegtuie, treine, spoorwegwaens en voertuie

711. (1) 'n Doeanebeampte—

- (a) het ongekwalifiseerde toegang tot enige vaartuig, vliegtuig, trein, spoorwegwa of voertuig binne 'n doeanebeheergebied; en
 - (b) kan, te eniger tyd, vir doeleindes van die implementering of toepassing van hierdie Wet of 'n belastingheffings-Wet, aan boord gaan of andersins toegang verkry tot so 'n vaartuig, vliegtuig, trein, spoorwegwa of voertuig en enige toepassingsfunksie in, op of by die vaartuig, vliegtuig, trein, spoorwegwa of voertuig verrig.
- (2) 'n Doeanebeampte kan te eniger tyd, vir doeleindes van die implementering of toepassing van hierdie Wet of 'n belastingheffings-Wet—
- (a) op gesag van 'n lasbrief ingevolge artikel 715 uitgereik of, behoudens subartikels (3) en (4), sonder 'n lasbrief, aan boord gaan van of andersins toegang verkry tot enige vaartuig, vliegtuig, trein, spoorwegwa of voertuig buite 'n doeanebeheergebied; en
 - (b) nadat hy of sy ooreenkomstig paragraaf (a) aan boord van 'n vaartuig, vliegtuig, trein, spoorwegwa of voertuig gegaan of andersins toegang daartoe verkry het—
 - (i) die vaartuig, vliegtuig, trein, spoorwegwa of voertuig of gedeelte daarvan deursoek; en
 - (ii) enige ander toepassingsfunksie in, op of by die vaartuig, vliegtuig, trein, spoorwegwa of voertuig verrig.
 - (3) 'n Doeanebeampte kan ingevolge subartikel (2)(a) sonder 'n lasbrief aan boord gaan van, of andersins toegang verkry tot, enige vaartuig, vliegtuig, trein, spoorwegwa of voertuig buite 'n doeanebeheergebied—
 - (a) indien die persoon in beheer van die vaartuig, vliegtuig, trein, spoorwegwa of voertuig tot sodanige toegang toestem;
 - (b) indien die vaartuig, vliegtuig, trein, spoorwegwa of voertuig in, op of by 'n gebied, perseel of fasiliteit is waartoe 'n doeanebeampte toegang ooreenkomstig artikel 709(2)(a) verkry het;
 - (c) waarop of waarin daar enige goedere is, of waarop of waarin die doeanebeampte op redelike gronde vermoed enige goedere te vind—
 - (i) wat aan doeanebeheer onderworpe is;
 - (ii) ten opsigte waarvan daar 'n breuk van hierdie Wet of 'n belastingheffings-Wet begaan word of is;
 - (iii) wat gebruik word of is vir 'n aktiwiteit wat 'n breuk van hierdie Wet of 'n belastingheffings-Wet is; of
 - (iv) wat verbode, beperkte, sektorbeheerde of nagemaakte goedere is;
 - (d) waarop of waarin daar enige dokumente is, of waarop of waarin die doeanebeampte op redelike gronde vermoed enige dokumente te vind, aangaande—
 - (i) enige goedere in paragraaf (c) beskryf; of
 - (ii) enige aktiwiteit wat 'n breuk van hierdie Wet of 'n belastingheffings-Wet is;
 - (e) waarop of waarin daar enige persone is, of waarop of waarin die doeanebeampte op redelike gronde vermoed persone te vind, wat inligting het aangaande—
 - (i) enige goedere in paragraaf (c) beskryf;
 - (ii) enige dokumente in paragraaf (d) beskryf; of
 - (iii) enige aktiwiteit wat 'n breuk van hierdie Wet of 'n belastingheffings-Wet is; of
 - (f) wat op enige wyse spesifiek vervaardig, aangepas, verander of toegerus is, of deur die doeanebeampte op redelike gronde vermoed word spesifiek

to have been, specifically constructed, adapted, altered or fitted in any manner for the purpose of concealing goods.

(4) A customs officer may in terms of subsection (3)(c), (d), (e) or (f) board or otherwise gain access to any vessel, aircraft, train, railway carriage or vehicle outside a customs controlled area without a warrant only if there are reasonable grounds to believe that a warrant authorising such access would on application in terms of section 715 be issued, but that the delay that might be caused by applying for a warrant is likely to defeat the object of the access. 5

(5) A customs officer may, at any time, for the purpose of implementing this section—

- (a) order the on-board operator of a vessel or vehicle to stop, or of an aircraft to land; or 10
- (b) if necessary and possible, force the vessel, aircraft or vehicle to stop or land, as the case may be.

Roadblocks for vehicles

712. (1) The customs authority may, after consulting the national or a provincial Commissioner of Police establish a roadblock or a checkpoint outside a customs controlled area for enforcing this Act or a tax levying Act. 15

(2) At a roadblock referred to in subsection (1) a customs officer may randomly stop vehicles and—

- (a) check whether any customs documentation is in order; and 20
- (b) exercise in relation to the vehicle and any goods and persons on board the vehicle any other enforcement functions.

(3) Only a customs officer in the official customs uniform may stop vehicles in terms of subsection (2).

Use of force to gain access to vessels, aircraft, trains, railway carriages and vehicles 25

713. (1) No person may prevent a customs officer from boarding or otherwise gaining access to any vessel, aircraft, train, railway carriage or vehicle or from performing an enforcement function in, on or at the vessel, aircraft, train, railway carriage or vehicle in terms of section 711 or 712, but the on-board operator of the vessel, aircraft, train, railway carriage or vehicle is entitled to demand that the customs officer— 30

- (a) produce his or her identity card referred to in section 13;
- (b) produce a warrant authorising access to the vessel, aircraft, train, railway carriage or vehicle or, if the customs officer has no warrant, to explain the grounds on which warrantless access is founded; and
- (c) explain the purpose of the access. 35

(2) If the customs officer is not immediately, or not immediately after having complied with any demand in terms of subsection (1), allowed to board or otherwise gain access to the vessel, aircraft, train, railway carriage or vehicle or to perform an enforcement function, the customs officer may use force to the extent necessary in the circumstances to board or otherwise gain access or to perform the enforcement function, including— 40

- (a) by searching any person for the keys to the vessel, aircraft, train, railway carriage or vehicle or to any cabin, safe, chest, box, package or container on or in the vessel, aircraft, train, railway carriage or vehicle;
- (b) by opening in any manner the vessel, aircraft, train, railway carriage or vehicle or any cabin, safe, chest, box, package or container on or in the vessel, aircraft, train, railway carriage or vehicle, if it is locked and the keys are not produced on demand or are otherwise not available; and 45
- (c) as a last resort, by breaking open the vessel, aircraft, train, railway carriage or vehicle or any such cabin, safe, chest, box, package or container. 50

Searching of areas, premises, facilities, vessels, aircraft, trains, railway carriages or vehicles

714. (1) When searching any area, premises, facility, vessel, aircraft, train, railway carriage or vehicle in terms of this Chapter, a customs officer—

vervaardig, aangepas, verander of toegerus te wees, vir die doel om goedere te versteek.

(4) 'n Doeanebeampte kan ingevolge subartikel (3)(c), (d), (e) of (f) sonder 'n lasbrief aan boord gaan van, of andersins toegang verkry tot, enige vaartuig, vliegtuig, trein, spoorwegwa of voertuig buite 'n doeanebeheergebied slegs indien daar redelike gronde is om te glo dat 'n lasbrief wat sodanige toegang magtig op aansoek ingevolge artikel 715 uitgereik sal word, maar dat die vertraging wat met die aansoek om 'n lasbrief veroorsaak mag word die doel van die toegang waarskynlik sal verydel.

(5) 'n Doeanebeampte kan, te eniger tyd, vir doeleindes van implementering van hierdie artikel—

- (a) die aanboord operateur van 'n vaartuig of voertuig beveel om te stop, of van 'n vliegtuig beveel om te land; of
- (b) indien dit nodig en moontlik is, die vaartuig, vliegtuig of voertuig dwing om te stop of te land, na gelang van die geval.

Padblokkades vir voertuie

712. (1) Die doeanebesoeker kan, na oorlegpleging met die nasionale of 'n provinsiale Kommissaris van Polisie, 'n padblokkade of kontrolepunt buite 'n doeanebeheergebied instel ten einde hierdie Wet of 'n belastingheffings-Wet toe te pas.

(2) 'n Doeanebeampte kan by 'n padblokkade bedoel in subartikel (1) voertuie willekeurig stop en—

- (a) kontroleer of enige doeanedokumentasie in orde is; en
- (b) enige ander toepassingsfunksies met betrekking tot die voertuig en enige goedere en persone aan boord van die voertuig verrig.

(3) Slegs 'n doeanebeampte in die amptelike doeane-uniform mag voertuie ingevolge subartikel (2) stop.

Gebruik van geweld om toegang tot vaartuie, vliegtuie, treine, spoorwegwaens en voertuie te verkry

713. (1) Niemand mag 'n doeanebeampte verhinder om ingevolge artikel 711 of 712 aan boord te gaan van, of andersins toegang te verkry tot, enige vaartuig, vliegtuig, trein, spoorwegwa of voertuig of om 'n toepassingsfunksie in, op of by die vaartuig, vliegtuig, trein, spoorwegwa of voertuig te verrig nie, maar die aanboord operateur van die vaartuig, vliegtuig, trein, spoorwegwa of voertuig is daarop geregtig om die doeanebeampte te versoek om—

- (a) sy of haar identiteitskaart bedoel in artikel 13 te toon;
- (b) 'n lasbrief te toon wat toegang tot die vaartuig, vliegtuig, trein, spoorwegwa of voertuig magtig of, indien die doeanebeampte nie 'n lasbrief het nie, die gronde waarop toegang sonder 'n lasbrief gebaseer word, te verduidelik; en
- (c) die doel van die toegang te verduidelik.

(2) Indien die doeanebeampte nie onmiddellik, of nie onmiddellik nadat daar aan enige versoek ingevolge subartikel (1) voldoen is, toegelaat word om aan boord te gaan van, of andersins toegang te verkry tot, die vaartuig, vliegtuig, trein, spoorwegwa of voertuig of om 'n toepassingsfunksie te verrig nie, kan die doeanebeampte geweld in die mate wat in die omstandighede nodig is, gebruik om aan boord te gaan of andersins toegang te verkry of om die toepassingsfunksie te verrig, met inbegrip daarvan om—

- (a) enige persoon te deursoek vir die sleutels van die vaartuig, vliegtuig, trein, spoorwegwa of voertuig of van enige kajuit, kluis, kis, boks, verpakking of houer op of in die vaartuig, vliegtuig, trein, spoorwegwa of voertuig;
- (b) die vaartuig, vliegtuig, trein, spoorwegwa of voertuig of enige kajuit, kluis, kis, boks, verpakking of houer op of in die vaartuig, vliegtuig, trein, spoorwegwa of voertuig op enige wyse oop te maak, indien dit gesluit is en die sleutels nie op versoek oorhandig word of andersins beskikbaar is nie; en
- (c) as 'n laaste uitweg, die vaartuig, vliegtuig, trein, spoorwegwa of voertuig of so 'n kajuit, kluis, kis, boks, verpakking of houer oop te breek.

Deursoeking van gebiede, persele, fasiliteite, vaartuie, vliegtuie, treine, spoorwegwaens of voertuie

714. (1) Wanneer enige gebied, perseel, fasiliteit, vaartuig, vliegtuig, trein, spoorwegwa of voertuig ingevolge hierdie Hoofstuk deursoek word—

- (a) has free access to every part of the area, premises, facility, vessel, aircraft, train, railway carriage or vehicle;
 - (b) may rummage any part of the area, premises, facility, vessel, aircraft, train, railway carriage or vehicle;
 - (c) may for the purpose of enforcing this Act or a tax levying Act fasten down the hatchways of any vessel, or mark, lock up, seal or otherwise secure any goods or documents found in, on or at the area, premises, facility, vessel, aircraft, train, railway carriage or vehicle; or 5
 - (d) may search in accordance with Part 3 any person found in, on or at the area, premises, facility, vessel, aircraft, train, railway carriage or vehicle. 10
- (2) If any hatchways of a vessel have been fastened down, or any goods or documents have been marked, locked up, sealed or otherwise secured in terms of subsection (1)(c)—
- (a) no person may without the permission of a customs officer— 15
 - (i) open such hatchways;
 - (ii) open, break, destroy, alter or in any way tamper with such lock, seal or mark; or
 - (iii) remove such goods or documents; and
 - (b) the person in charge of the area, premises or facility, or the on-board operator of the vessel, aircraft, train, railway carriage or vehicle, must take all steps reasonable in the circumstances to prevent any contravention of paragraph (a). 20

Issuing of warrants for purpose of this Part

- 715.** (1) Only a magistrate or judge may issue a warrant contemplated in—
- (a) section 709(2)(a) authorising a customs officer to gain access to any area, premises or facility outside a customs controlled area; or 25
 - (b) section 711(2)(a) authorising a customs officer to board or otherwise gain access to any vessel, aircraft, train, railway carriage or vehicle outside a customs controlled area.
- (2) A magistrate or judge may issue a warrant referred to in subsection (1) only on written application by the customs authority setting out under oath or affirmation the grounds why it is necessary for a customs officer—
- (a) to gain access to the relevant area, premises or facility; or 30
 - (b) to board or otherwise gain access to the relevant vessel, aircraft, train, railway carriage or vehicle. 35

Part 3

Stopping, calling on and searching of persons

Stopping or calling on persons

- 716.** (1) A customs officer may, at any time, for the purpose of implementing or enforcing this Act or a tax levying Act—
- (a) stop or call on any person in a customs controlled area, including any traveller or crew member who has entered the Republic or is in the process of leaving the Republic; and 40
 - (b) request that person to produce any or all goods or documents which that person— 45
 - (i) has with him or her;
 - (ii) has brought into the Republic; or
 - (iii) intends to take out of the Republic.
- (2) A customs officer may on authority of a warrant issued in terms of section 721 or, subject to subsections (3) and (4), without a warrant, at any time, for the purpose of implementing or enforcing this Act or a tax levying Act—
- (a) stop or call on any person outside a customs controlled area, including any traveller or crew member who has entered the Republic or is in the process of leaving the Republic; and 50
 - (b) request that person to produce any or all goods or documents which that person— 55

- (a) het 'n doeanebeampte vrye toegang tot elke gedeelte van die gebied, perseel, fasiliteit, vaartuig, vliegtuig, trein, spoorwegwa of voertuig;
 - (b) kan 'n doeanebeampte enige gedeelte van die gebied, perseel, fasiliteit, vaartuig, vliegtuig, trein, spoorwegwa of voertuig deursoek;
 - (c) kan 'n doeanebeampte vir doeleindes van die toepassing van hierdie Wet of 'n 5 belastingheffings-Wet die luikgate van enige vaartuig toesluit, of enige goedere of dokumente in, op of by die gebied, perseel, fasiliteit, vaartuig, vliegtuig, trein, spoorwegwa of voertuig gevind, merk, toesluit, seël of andersins beveilig; of
 - (d) kan 'n doeanebeampte enige persoon in, op of by die gebied, perseel, 10 fasiliteit, vaartuig, vliegtuig, trein, spoorwegwa of voertuig gevind, volgens die voorskrifte van Deel 3 deursoek.
- (2) Indien enige luikgate van 'n vaartuig toegesluit is, of enige goedere of dokumente gemerk, toegesluit, geseël of andersins ingevolge subartikel (1)(c) beveilig is—
- (a) mag niemand sonder die toestemming van 'n doeanebeampte— 15
 - (i) sodanige luikgate oopmaak nie;
 - (ii) so 'n slot, seël of merk oopmaak, breek, vernietig, verander of op enige wyse daarmee peuter nie; of
 - (iii) sodanige goedere of dokumente verwyder nie; en
 - (b) moet die persoon in beheer van die gebied, perseel of fasiliteit, of die 20 aanboord operateur van die vaartuig, vliegtuig, trein, spoorwegwa of voertuig, alle redelike stappe in die omstandighede doen om 'n oortreding van paragraaf (a) van hierdie subartikel te voorkom.

Uitreik van lasbriewe vir doeleindes van hierdie Deel

- 715.** (1) Slegs 'n landdros of regter mag 'n lasbrief beoog in— 25
- (a) artikel 709(2)(a) uitreik wat 'n doeanebeampte magtig om toegang tot enige gebied, perseel of fasiliteit buite 'n doeanebeheergebied te verkry; of
 - (b) artikel 711(2)(a) uitreik wat 'n doeanebeampte magtig om aan boord te gaan van, of andersins toegang te verkry tot, enige vaartuig, vliegtuig, trein, spoorwegwa of voertuig buite 'n doeanebeheergebied. 30
- (2) 'n Landdros of regter kan 'n lasbrief bedoel in subartikel (1) uitreik slegs op skriftelike aansoek deur die doeanebesag wat onder eed of bevestiging die gronde uiteensit waarom dit vir 'n doeanebeampte nodig is—
- (a) om toegang tot die betrokke gebied, perseel of fasiliteit te verkry; of
 - (b) om aan boord te gaan van, of andersins toegang te verkry tot, die betrokke 35 vaartuig, vliegtuig, trein, spoorwegwa of voertuig.

Deel 3

Stop, nadering en deursoeking van persone

Stop of nadering van persone

- 716.** (1) 'n Doeanebeampte kan, te eniger tyd, vir doeleindes van die implementering 40 of toepassing van hierdie Wet of 'n belastingheffings-Wet—
- (a) iemand, met inbegrip van enige reisiger of bemanningslid wat die Republiek binnegekome het of in die proses is om die Republiek te verlaat, in 'n doeanebeheergebied stop of nader; en
 - (b) so iemand versoek om enige of alle goedere of dokumente te toon wat daardie 45 persoon—
 - (i) by hom of haar het;
 - (ii) in die Republiek ingebring het; of
 - (iii) voornemens is om uit die Republiek te neem.
- (2) 'n Doeanebeampte kan op gesag van 'n lasbrief ingevolge artikel 721 uitgereik of, 50 behoudens subartikels (3) en (4), sonder 'n lasbrief, te eniger tyd vir doeleindes van die implementering of toepassing van hierdie Wet of 'n belastingheffings-Wet—
- (a) iemand, met inbegrip van enige reisiger of bemanningslid wat die Republiek binnegekome het of in die proses is om die Republiek te verlaat, buite 'n doeanebeheergebied stop of nader; en 55
 - (b) so iemand versoek om enige of alle goedere of dokumente te toon wat daardie persoon—

- (i) has with him or her;
- (ii) has brought into the Republic; or
- (iii) intends to take out of the Republic.
- (3) A customs officer may without a warrant exercise the powers referred to in paragraphs (a) and (b) of subsection (2) in relation to any person— 5
- (a) who is in, on or at—
- (i) an area, premises or facility to which a customs officer has gained access in accordance with section 709(2)(a); or
- (ii) a vessel, aircraft, train, railway carriage or vehicle to which a customs officer has gained access in accordance with section 712(2)(a); or 10
- (b) who has, or on reasonable grounds is suspected by a customs officer to have, with him or her—
- (i) any goods that are subject to customs control or in respect of which a breach of this Act or a tax levying Act is being or has been committed; or
- (ii) any documents concerning— 15
- (aa) any goods that are subject to customs control or in respect of which a breach of this Act or a tax levying Act is being or has been committed; or
- (bb) any activity which constitutes a breach of this Act or a tax levying Act. 20
- (4) A customs officer may in terms of subsection (3)(b) without a warrant exercise the powers referred to in subsection (2)(a) and (b) in relation to a person outside a customs controlled area only if there are reasonable grounds to believe that a warrant authorising those powers would on application in terms of section 715 be issued, but that the delay that might be caused by applying for a warrant is likely to defeat the object of the exercise of those powers. 25
- (5) If a person referred to in subsection (1) or (2) fails to stop when requested by a customs officer to do so, the customs officer may take such action, including the use of force, to the extent necessary in the circumstances to stop that person.
- Searching of persons** 30
- 717.** (1) A customs officer may search a person stopped or called on in terms of section 716(1) or (2)—
- (a) if that person refuses to comply with a request in terms of that section to produce any goods or documents referred to in that section; or
- (b) if the customs officer on reasonable grounds suspects that that person is concealing— 35
- (i) any goods or documents which that person was requested to produce;
- (ii) any goods in respect of which a breach of this Act or a tax levying Act is being or has been committed; or
- (iii) any documents concerning any goods referred to in subparagraph (ii). 40
- (2) A customs officer may, for purposes of subsection (1) and to the extent necessary in the circumstances, conduct—
- (a) a search of any goods the person may have with him or her;
- (b) a frisk search of the person in accordance with section 718; and
- (c) an external bodily search of the person in accordance with section 719. 45
- (3) A child may be searched in terms of subsection (2)(b) or (c) only in the presence of—
- (a) that child's parent or guardian; or
- (b) if the child is travelling without a parent or guardian, another person who is responsible for the child during travelling. 50
- (4) If a person refuses to be searched, the customs officer may take such action, including the use of force, to the extent necessary in the circumstances to search that person.
- (5) For the purpose of this Act a child is a person under the age of 18 years.

- (i) by hom of haar het;
 - (ii) in die Republiek ingebring het; of
 - (iii) voornemens is om uit die Republiek te neem.
- (3) 'n Doeanebeampte kan sonder 'n lasbrief die bevoegdheids bedoel in paragrawe (a) en (b) van subartikel (2) uitoefen met betrekking tot iemand— 5
- (a) wat in, op of by—
 - (i) 'n gebied, perseel of fasiliteit is waartoe 'n doeanebeampte ooreenkomstig artikel 709(2)(a) toegang verkry het; of
 - (ii) 'n vaartuig, vliegtuig, trein, spoorwegwa of voertuig is waartoe 'n doeanebeampte ooreenkomstig artikel 712(2)(a) toegang verkry het; of 10
 - (b) wat die volgende goedere of dokumente by hom of haar het, of wat 'n doeanebeampte op redelike gronde vermoed by hom of haar te hê:
 - (i) Enige goedere wat aan doeanebeheer onderworpe is of ten opsigte waarvan 'n breuk van hierdie Wet of 'n belastingheffings-Wet begaan word of is; of 15
 - (ii) enige dokumente aangaande—
 - (aa) enige goedere wat aan doeanebeheer onderworpe is of ten opsigte waarvan 'n breuk van hierdie Wet of 'n belastingheffings-Wet begaan word of is; of
 - (bb) enige aktiwiteit wat 'n breuk van hierdie Wet of 'n belastingheffings-Wet is. 20
- (4) 'n Doeanebeampte kan ingevolge subartikel (3)(b) sonder 'n lasbrief die bevoegdheids bedoel in subartikel (2)(a) en (b) met betrekking tot iemand buite 'n doeanebeheergebied uitoefen slegs indien daar redelike gronde is om te glo dat 'n lasbrief wat daardie bevoegdheids magtig op aansoek ingevolge artikel 715 uitgereik sal word, maar dat die verdrag wat met die aansoek om die lasbrief veroorsaak mag word die doel van die uitoefening van daardie bevoegdheids waarskynlik sal verydel. 25
- (5) Indien iemand bedoel in subartikel (1) of (2) versuim om te stop wanneer daartoe deur 'n doeanebeampte versoek, kan die doeanebeampte die stappe doen, met inbegrip van die gebruik van geweld, in die mate soos in die omstandighede nodig is om so iemand te stop. 30

Deursoeking van persone

717. (1) 'n Doeanebeampte kan 'n iemand wat ingevolge artikel 716(1) of (2) gestop of genader is, deursoek—
- (a) indien so iemand weier om aan 'n versoek ingevolge daardie artikel te voldoen om enige goedere of dokumente bedoel in daardie artikel te toon; of 35
 - (b) indien die doeanebeampte op redelike gronde vermoed dat so iemand—
 - (i) enige goedere of dokumente wat so iemand versoek is om te toon, versteek;
 - (ii) enige goedere ten opsigte waarvan 'n breuk van hierdie Wet of 'n belastingheffings-Wet begaan word of is, versteek; of 40
 - (iii) enige dokumente aangaande enige goedere bedoel in paragraaf (b) versteek.
- (2) 'n Doeanebeampte kan, vir die doeleindes van subartikel (1) en in die mate soos in die omstandighede nodig is— 45
- (a) enige goedere deursoek wat so iemand by hom of haar mag hê;
 - (b) so iemand visenteer volgens die voorskrifte van artikel 718; en
 - (c) so iemand uitwendig liggaamlik deursoek volgens die voorskrifte van artikel 719.
- (3) 'n Kind kan ingevolge subartikel (2)(b) of (c) visenteer of deursoek word slegs in die teenwoordigheid van— 50
- (a) daardie kind se ouer of voog; of
 - (b) indien die kind sonder 'n ouer of voog reis, 'n ander persoon wat gedurende die reis vir die kind verantwoordelik is.
- (4) Indien iemand weier om gevisenteer of deursoek te word, kan die doeanebeampte die stappe doen, met inbegrip van die gebruik van geweld, in die mate soos in die omstandighede nodig is om so iemand te visenteer of te deursoek. 55
- (5) Vir doeleindes van hierdie Wet, is 'n kind iemand wat onder die ouderdom van 18 jaar is.

Frisk searches

718. (1) When conducting a frisk search of a person, a customs officer may move his or her hands briskly over the person's body on top of the person's clothing, in order to detect any concealed—

- (a) weapon or object capable of being used to inflict bodily injury; or 5
- (b) goods that are subject to customs control or in respect of which a breach of this Act or a tax levying Act is being or has been committed.

(2) A frisk search may only be conducted by a customs officer who is of the same gender as the person being searched.

External bodily searches 10

719. (1) The customs officer conducting an external bodily search of a person may request the person being searched to remove any outer garments that may hamper the search.

(2) When conducting an external bodily search of a person, a customs officer may, subject to subsection (3), make use of— 15

- (a) any mechanical, electrical, imaging or electronic equipment that can produce an indication that the person may be concealing any specific thing or substance on or in his or her body or in any goods that that person has with him or her;
- (b) sniffer dogs or other animals trained to use their senses for the detection of any specific thing or substance; or 20
- (c) any other search aids as may be prescribed by rule.

(3) A search aid referred to in subsection (2) may only be used by a customs officer trained to use such aid in the conduct of an external bodily search.

(4) An external bodily search may only be conducted— 25

- (a) by a customs officer who is of the same gender as the person being searched; and
- (b) in a place that affords adequate personal privacy to the person being searched.

(5) A person being subjected to an external bodily search may request the presence of another person during the search. 30

Internal bodily searches

720. (1) (a) When a customs officer, after conducting an external bodily search in terms of section 719, on reasonable grounds suspects that a person is internally concealing goods in respect of which a breach of this Act or any tax levying Act is being or has been committed, or if the person admits to internally concealing such goods, the officer may detain the person and arrange for an internal bodily search and, if necessary a removal procedure, to be conducted subject to subsection (2) as soon as practicable. 35

(b) Any detention in terms of paragraph (a) must be under supervision of a medical practitioner.

(2) An internal bodily search and any necessary removal procedure may be conducted only— 40

- (a) by a registered medical practitioner at a place equipped for the carrying out of medical procedures required for an internal bodily search or removal procedure of the kind in question; and
- (b) on authority of a warrant issued by a magistrate or judge in terms of section 45 721 authorising the search and any such removal procedure: Provided that an internal bodily search or removal procedure may be conducted without a search warrant if—
 - (i) the person to be subjected to the internal bodily search or removal procedure consents to the search or procedure in writing; or 50
 - (ii) there is a medical emergency justifying a warrantless search or removal procedure.

Visenterings

- 718.** (1) Wanneer 'n doeanebeampte iemand visenteer, kan die doeanebeampte sy of haar hande vinnig oor die persoon se liggaam bo-oor die persoon se klere beweeg, ten einde te soek vir enige versteekte—
- (a) wapen of voorwerp wat gebruik kan word om liggaamlike besering te veroorsaak; of 5
 - (b) goedere wat aan doeanebeheer onderworpe is of ten opsigte waarvan 'n breuk van hierdie Wet of 'n belastingheffings-Wet begaan word of is.
- (2) 'n Visentering mag uitgevoer word slegs deur 'n doeanebeampte van dieselfde geslag as die persoon wat gevisenteer word. 10

Uitwendige liggaamlike deursoekings

- 719.** (1) Die doeanebeampte wat iemand uitwendig liggaamlik deursoek, kan die persoon wat deursoek word, versoek om enige buitenste kledingstukke wat die deursoeking mag belemmer, te verwyder.
- (2) Wanneer 'n doeanebeampte iemand uitwendig liggaamlik deursoek, kan die doeanebeampte, behoudens subartikel (3), gebruik maak van— 15
- (a) enige meganiese, elektriese, beeldvormende- of elektroniese toerusting wat 'n aanduiding kan gee dat die persoon moontlik 'n spesifieke ding of middel aan of in sy of haar liggaam of in enige goedere wat daardie persoon by hom of haar het, versteek; 20
 - (b) snuffelhonde of ander diere wat opgelei is om hulle sintuie te gebruik vir die opsporing van enige spesifieke ding of middel; of
 - (c) enige ander opsporingshulpmiddels soos by reël voorgeskryf mag word.
- (3) 'n Opsporingshulpmiddel bedoel in subartikel (2) kan slegs deur 'n doeanebeampte gebruik word wat opgelei is om so 'n opsporingshulpmiddel vir 'n uitwendige liggaamlike deursoeking te gebruik. 25
- (4) 'n Uitwending liggaamlike deursoeking mag gedoen word slegs—
- (a) deur 'n doeanebeampte wat van dieselfde geslag is as die persoon wat deursoek word; en
 - (b) op 'n plek wat voldoende persoonlike privaatheid bied vir die persoon wat deursoek word. 30
- (5) 'n Persoon wat aan 'n uitwendige liggaamlike deursoeking onderwerp word, kan versoek dat 'n ander persoon tydens die deursoeking teenwoordig moet wees.

Inwendige liggaamlike deursoekings

- 720.** (1) (a) Wanneer 'n doeanebeampte, nadat iemand ingevolge artikel 719 uitwendig liggaamlik deursoek is, op redelike gronde vermoed dat so iemand enige goedere ten opsigte waarvan 'n breuk van hierdie Wet of enige belastingheffings-Wet begaan word of is, inwendig versteek, of indien die persoon erken dat hy of sy sodanige goedere inwendig versteek, kan die beampte so iemand aanhou en reëlings tref dat 'n inwendige liggaamlike deursoeking en, indien nodig, 'n verwyderingsprosedure behoudens subartikel (2) so gou prakties moontlik uitgevoer word. 40
- (b) Enige aanhouding ingevolge paragraaf (a) moet onder toesig van 'n mediese praktisyn geskied.
- (2) 'n Inwendige liggaamlike deursoeking en enige nodige verwyderingsprosedure kan uitgevoer word slegs— 45
- (a) deur 'n geregistreerde mediese praktisyn by 'n plek wat toegerus is vir die uitvoer van mediese prosedures wat vir 'n inwendige liggaamlike deursoeking en verwyderingsprosedure van die betrokke aard nodig is; en
 - (b) op gesag van 'n lasbrief deur 'n landdros of regter ingevolge artikel 721 uitgereik wat die deursoeking en so 'n verwyderingsprosedure magtig: Met dien verstande dat 'n inwendige liggaamlike deursoeking of verwyderingsprosedure sonder 'n lasbrief uitgevoer mag word indien— 50
 - (i) die persoon wat aan die inwendige liggaamlike deursoeking of verwyderingsprosedure onderwerp word skriftelik tot die deursoeking of verwyderingsprosedure toestem; of 55
 - (ii) dit 'n mediese noodgeval is wat 'n deursoeking of verwyderingsprosedure sonder 'n lasbrief regverdig.

(3) No person other than the medical practitioner performing the search or removal procedure and any other necessary medical assistants may be present during an internal bodily search or removal procedure, except when the person being subjected to the search or removal procedure requests the presence of another person.

(4) No child may be subjected to an internal bodily search or removal procedure in terms of this section except when public health or safety, or the health of the child, is at risk. 5

Issuing of warrants for purpose of this Part

721. (1) Only a magistrate or judge may issue a warrant contemplated in—

(a) section 716(2) authorising a customs officer to exercise the powers referred to in paragraphs (a) and (b) of that section in relation to a person outside a customs controlled area; or 10

(b) section 720(2)(b) authorising an internal bodily search and any necessary removal procedure to be conducted on a person.

(2) A magistrate or judge may issue a warrant contemplated in subsection (1) only on written application by the customs authority setting out under oath or affirmation the grounds why it is necessary for— 15

(a) a customs officer to exercise the powers referred to in section 716(2)(a) and (b) in relation to the relevant person; or

(b) an internal bodily search or removal procedure to be conducted on the relevant person. 20

Part 4

Powers of inspection, sampling, investigation and sealing

Inspection of goods

722. (1) A customs officer may inspect— 25

(a) any goods within a customs controlled area or in, on or at any area, premises, facility, vessel, aircraft, train, railway carriage or vehicle within a customs controlled area;

(b) any goods which a person within a customs controlled area has with him or her; 30

(c) any goods found during a search in terms of this Chapter of—

(i) any area, premises or facility;

(ii) any vessel, aircraft, train, railway carriage or vehicle; or

(iii) any person;

(d) any goods on public display for sale; 35

(e) any goods produced on request by a customs officer in terms of this Chapter;

(f) any goods in respect of which a breach of this Act or a tax levying Act has been committed or on reasonable grounds is suspected by a customs officer to have been committed; or

(g) any goods that are subject to customs control. 40

(2) Goods referred to in subsection (1) may without notice to any person be inspected at any time.

(3) Inspection of goods includes, to the extent necessary for the enforcement of this Act or a tax levying Act—

(a) checking the goods and the packages or containers in which the goods are packed and any marks and other information on those goods, packages or containers; 45

(b) examining the goods and the packages or containers in which the goods are packed, whether—

(i) manually; or 50

(ii) by means of scanning equipment or any mechanical, electrical, imaging

(3) Niemand behalwe die mediese praktisyn wat die deursoeking of verwyderingsprosedure uitvoer en enige ander nodige mediese assistente mag gedurende 'n inwendige liggaamlike deursoeking of verwyderingsprosedure teenwoordig wees nie behalwe wanneer die persoon wat aan die deursoeking of verwyderingsprosedure onderwerp word die teenwoordigheid van 'n ander persoon versoek. 5

(4) Geen kind mag aan 'n inwendige liggaamlike deursoeking of verwyderingsprosedure ingevolge hierdie artikel onderwerp word nie behalwe wanneer daar 'n risiko vir die openbare gesondheid of veiligheid of vir die gesondheid van die kind is.

Uitreik van lasbriewe vir doeleindes van hierdie Deel

721. (1) Slegs 'n landdros of regter kan 'n lasbrief beoog in— 10

(a) artikel 716(2) uitreik wat 'n doeanebeampte magtig om die bevoegdhede bedoel in paragrafe (a) en (b) van daardie artikel met betrekking tot 'n persoon buite 'n doeanebeheergebied uit te oefen; of

(b) artikel 720(2)(b) uitreik wat 'n inwendige liggaamlike deursoeking en enige nodige verwyderingsprosedure wat op 'n persoon uitgevoer moet word, magtig. 15

(2) 'n Landdros of regter kan 'n lasbrief beoog in subartikel (1) uitreik slegs op skriftelike aansoek deur die doeanebesoeker wat onder eed of bevestiging die gronde uiteensit waarom dit nodig is—

(a) vir 'n doeanebeampte om die bevoegdhede bedoel in artikel 716(2)(a) en (b) met betrekking tot die betrokke persoon uit te oefen; of 20

(b) om 'n inwendige liggaamlike deursoeking of verwyderingsprosedure op die betrokke persoon uit te voer.

Deel 4

Bevoegdhede van inspeksie, neem van monsters, ondersoek en seël 25

Inspeksie van goedere

722. (1) 'n Doeanebeampte kan die volgende goedere inspekteer:

(a) Enige goedere binne 'n doeanebeheergebied of in, op of by enige gebied, perseel, fasiliteit, vaartuig, vliegtuig, trein, spoorwegwa of voertuig binne 'n doeanebeheergebied; 30

(b) enige goedere wat 'n persoon binne 'n doeanebeheergebied by hom of haar het;

(c) enige goedere wat gevind word gedurende 'n deursoeking ingevolge hierdie Hoofstuk van—

(i) enige gebied, perseel of fasiliteit; 35

(ii) enige vaartuig, vliegtuig, trein, spoorwegwa of voertuig; of

(iii) enige persoon;

(d) enige goedere wat in die openbaar vir verkoop uitgestal word;

(e) enige goedere wat op versoek van 'n doeanebeampte ingevolge hierdie Hoofstuk getoon word; 40

(f) enige goedere ten opsigte waarvan 'n breuk van hierdie Wet of 'n belastingheffings-Wet begaan is of deur 'n doeanebeampte op redelike gronde vermoed word begaan te wees; of

(g) enige goedere wat aan doeanebeheer onderworpe is.

(2) Goedere bedoel in subartikel (1) kan te eniger tyd sonder enige kennisgewing aan enige persoon geïnspekteer word. 45

(3) Inspeksie van goedere sluit in, in soverre dit vir doeleindes van die toepassing van hierdie Wet of 'n belastingheffings-Wet nodig is—

(a) die nagaan van die goedere en die verpakkings of houers waarin die goedere verpak is en enige merke of ander inligting op daardie goedere, verpakkings of houers; 50

(b) die ondersoek van die goedere en die verpakkings of houers waarin die goedere verpak is, hetsy—

(i) fisies per hand; of

(ii) by wyse van skandeertoerusting of enige meganiese, elektriese, beeldvormende- of elektroniese toestelle wat 'n aanduiding kan gee van 55

- or electronic appliances that can produce an indication of the nature or characteristics of the goods or the contents of the packages or containers;
- (c) opening of packages or containers in which the goods are packed;⁴²⁷
 - (d) carrying out tests on and analysing the goods;
 - (e) determining the quantity, volume or weight of the goods; 5
 - (f) removing the goods to another place in order to carry out any further inspection;
 - (g) subjecting the goods to a chemical, mechanical or technological process;
 - (h) obtaining advice, including expert or technical advice on the goods or a matter relating to the goods; and 10
 - (i) using sniffer dogs or other animals trained to use their senses for the detection of specific substances.
- (4) In scheduling its inspection tasks, the customs authority must give priority to the inspection of perishable goods, live animals and other goods which because of their nature must be processed expeditiously. 15
- (5) When removing any goods in terms of subsection (3)(f) a customs officer must—
- (a) provide a receipt for the goods; and
 - (b) return the goods within a reasonable time unless the goods are detained in terms of Chapter 34.
- (6) The customs authority may require any person selling, offering for sale, dealing in, 20 processing or transporting imported goods—
- (a) if that person is the importer of the goods, to produce proof of—
 - (i) clearance of the goods for home use or a customs procedure;
 - (ii) any tax paid on the goods and the date of payment; and
 - (iii) the marks and numbers of the packages or containers in which the goods 25 were imported; or
 - (b) if that person is not the importer, to disclose the name, address and contact details of the person from whom the goods were obtained.

Production of goods for inspection

723. A customs officer may, for the purpose of section 722, request any person who is 30 in possession or has custody or control of goods referred to in that section to produce those goods or make those goods available for inspection, either immediately or at a time and place specified by the customs officer.

Sampling of goods⁴²⁸

- 724.** (1) A customs officer may take, or direct another person to take and produce, 35 samples of goods, but only when, and in quantities, necessary for—
- (a) conducting an inspection of the goods in terms of section 722;
 - (b) establishing for the purpose of this Act or a tax levying Act, whether as part of such an inspection or not—
 - (i) the nature or characteristics of the goods; 40
 - (ii) the tariff classification, value or origin of the goods;
 - (iii) whether the goods are prohibited, restricted, sectorally controlled or counterfeit goods;
 - (iv) whether the goods are—
 - (aa) the same goods previously cleared or released for a customs 45 procedure;
 - (bb) compensating products obtained from specific goods; or
 - (cc) identical or similar to or of the same class or kind as other goods; or
 - (v) any other fact in relation to the goods as may be prescribed by rule; or
 - (c) use as evidence in a court or other proceedings referred to in Chapter 40. 50

427. See Part 5 of Chapter 22 for opening of international postal articles.

428. See Chapter 23 for sampling of goods by importers, exporters and other persons having an interest in the goods.

die aard of eienskappe van die goedere of die inhoud van die verpakings of houers;

- (c) die oopmaak van verpakings of houers waarin die goedere verpak is;⁴²⁷
- (d) die uitvoer van toetse op en ontleding van die goedere;
- (e) die bepaling van die hoeveelheid, volume of gewig van die goedere; 5
- (f) die verwydering van die goedere na 'n ander plek ten einde enige verdere inspeksie uit te voer;
- (g) die onderwerping van die goedere aan 'n chemiese, meganiese of tegnologiese proses;
- (h) die inwin van advies, met inbegrip van deskundige of tegniese advies oor die goedere of 'n aangeleentheid betreffende die goedere; en 10
- (i) die gebruik van snuffelhonde of ander diere wat opgelei is om hulle sintuie te gebruik vir die opsporing van spesifieke middels.

(4) By die skedulering van sy inspeksietake, moet die doeanegesag voorrang gee aan die inspeksie van bederfbare goedere, lewende diere en ander goedere wat weens hulle aard spoedeisend geprosesseer moet word.

(5) Wanneer enige goedere ingevolge subartikel (3)(f) verwyder word, moet 'n doeanebeampte—

- (a) 'n kwitansie vir die goedere gee; en
- (b) die goedere binne 'n redelike tyd terugbesorg tensy die goedere ingevolge Hoofstuk 34 onder detensie geplaas word. 20

(6) Die doeanegesag kan gelas dat iemand wat ingevoerde goedere verkoop, aanbied vir verkoop, daarin handel, prosesseer of vervoer—

- (a) indien so iemand die invoerder van die goedere is, bewys moet lewer van—
 - (i) die klaring van die goedere vir binnelandse gebruik of 'n 25 doeaneprocedure;
 - (ii) enige belasting wat op die goedere betaal is en die datum van betaling; en
 - (iii) die merke en nommers van die verpakings of houers waarin die goedere ingevoer is; of
- (b) indien so iemand nie die invoerder is nie, die naam, adres en kontakbesonderhede moet verstrek van die persoon van wie die goedere verkry is. 30

Toon van goedere vir inspeksie

723. 'n Doeanebeampte kan, vir doeleindes van artikel 722, enige persoon wat in besit is van, of bewaring het van of beheer het oor, goedere bedoel in daardie artikel versoek om daardie goedere vir inspeksie te toon of beskikbaar te stel, óf onmiddellik óf op 'n 35 tyd en plek deur die doeanebeampte bepaal.

Neem van monsters van goedere⁴²⁸

724. (1) 'n Doeanebeampte kan monsters van goedere neem, of iemand anders gelas om dit te neem en te verskaf, maar slegs wanneer, en in hoeveelhede wat nodig is vir—

- (a) die uitvoering van 'n inspeksie van die goedere ingevolge artikel 722; 40
- (b) die bepaling vir doeleindes van hierdie Wet of 'n belastingheffings-Wet, hetsy as deel van so 'n inspeksie of nie—
 - (i) van die aard of eienskappe van die goedere;
 - (ii) van die tariefindeling, waarde of oorsprong van die goedere;
 - (iii) of die goedere verbode, beperkte, sektorbeheerde of nagemaakte goedere 45 is;
 - (iv) of die goedere—
 - (aa) dieselfde goedere is as wat voorheen vir 'n doeaneprocedure geklaar of vrygestel is;
 - (bb) kompenserende produkte is wat van spesifieke goedere verkry is; of 50
 - (cc) identies of soortgelyk is aan of van dieselfde klas of soort is as ander goedere; of
 - (v) van enige ander feit met betrekking tot die goedere soos by reël voorgeskryf mag word; of
- (c) gebruik as getuienis in 'n hof of ander verrigtinge in Hoofstuk 40 bedoel. 55

427. Kyk Deel 5 van Hoofstuk 22 vir die oopmaak van internasionale posstukke.

428. Kyk Hoofstuk 23 vir die neem van monsters van goedere deur invoerders, uitvoerders en ander persone wat 'n belang by die goedere het.

- (2) Samples taken in terms of subsection (1) may be—
- (a) examined, analysed or tested in any way;
 - (b) subjected to a chemical, mechanical or technological process;
 - (c) used for obtaining advice, including expert or technical advice, on the goods as reflected by the samples or a matter relating to the goods; or 5
 - (d) utilised in any other way necessary for achieving the purposes of subsection (1).
- (3) Samples of goods—
- (a) may be taken in terms of subsection (1)— 10
 - (i) without permission of any person; and
 - (ii) without payment to any person; and
 - (b) must be dealt with and accounted for in a manner as may be prescribed by rule.
- (4) Samples of goods may be taken at any time when required for purposes of this Act or a tax levying Act. 15
- (5) (a) Goods forming part of a specific consignment or contained in a specific package or container must for the purpose of this Act or a tax levying Act be regarded as being of the same nature and having the same characteristics as those of samples taken from those goods, unless proven otherwise.
- (b) Paragraph (a) does not apply if any documents issued in respect of the consignment, package or container indicates that the consignment consists of, or the package or container contains, goods of a dissimilar kind. 20

Carrying out of certain actions in relation to goods and samples by other persons

725. A customs officer may cause the actions referred to in section 722(3)(d) to (h) or 724(2) in relation to goods or samples to be carried out by a person designated by the customs authority and in accordance with the requirements of the customs authority. 25

Liability for costs incurred by SARS

726. The following persons are jointly and severally liable towards the Commissioner for the payment of any costs⁴²⁹ incurred by SARS in connection with the carrying out of any of the actions referred to in section 722(3)(d) to (h) or 724(2) in relation to goods or samples: 30

- (a) A person who—
 - (i) is the owner of the goods;
 - (ii) has a material interest in the goods; or
 - (iii) has the right to dispose of the goods; 35
- (b) the importer of the goods or the person on whose authority the goods were imported into the Republic; or
- (c) the exporter of the goods.

Inspection of documents

- 727.** (1) A customs officer may inspect— 40
- (a) any documents—
 - (i) found during a search in terms of this Chapter of any area, premises, facility, vessel, aircraft, train, railway carriage or vehicle;
 - (ii) found during a search in terms of this Chapter of any person;
 - (iii) produced on request by a customs officer in terms of this Chapter; 45

⁴²⁹. For recovery of these costs see Chapter 32.

- (2) Monsters ingevolge subartikel (1) geneem, kan—
- (a) op enige wyse ondersoek, ontleed of getoets word;
 - (b) aan 'n chemiese, meganiese of tegnologiese proses onderwerp word;
 - (c) gebruik word op advies, met inbegrip van deskundige of tegniese advies, oor die goedere soos weerspieël deur die monsters of 'n aangeleentheid betreffende die goedere, in te win; of 5
 - (d) gebruik word op enige ander wyse wat nodig is om die oogmerke van subartikel (1) te verwesenlik.
- (3) Monsters van goedere—
- (a) kan ingevolge subartikel (1) geneem word— 10
 - (i) sonder toestemming van enige persoon; en
 - (ii) sonder betaling aan enige persoon; en
 - (b) moet mee gehandel en oor rekenskap gegee word op 'n wyse soos by reël voorgeskryf mag word.
- (4) Monsters kan van goedere geneem word te eniger tyd wanneer dit vir doeleindes van hierdie Wet of 'n belastingheffings-Wet nodig is. 15
- (5) (a) Goedere wat deel van 'n bepaalde besending uitmaak of in 'n spesifieke verpakking of houer bevat is, moet vir doeleindes van hierdie Wet of 'n belastingheffings-Wet geag word van dieselfde aard te wees en dieselfde eienskappe te hê as dié van monsters wat van daardie goedere geneem is, tensy daar anders bewys word. 20
- (b) Paragraaf (a) geld nie indien enige dokumente wat ten opsigte van die besending, verpakking of houer uitgereik is, aantoon dat die besending uit goedere van 'n verskillende aard bestaan of dat die verpakking of houer goedere van 'n verskillende aard bevat nie. 25

Verrigting van sekere handeling met betrekking tot goedere en monsters deur ander persone

725. 'n Doeanebeampte kan die handeling bedoel in artikel 722(3)(d) tot (h) of 724(2) met betrekking tot goedere of monsters laat verrig deur 'n persoon deur die doeanegesag aangewys en volgens die voorskrifte van die doeanegesag. 30

Aanspreeklikheid vir kostes deur SAID aangegaan

726. Die volgende persone is gesamentlik en afsonderlik teenoor die Kommissaris aanspreeklik vir die betaling van enige kostes⁴²⁹ deur SAID in verband met die verrigting van enige van die handeling bedoel in artikel 722(3)(d) tot (h) of 724(2) met betrekking tot goedere of monsters aangegaan: 35

- (a) 'n Persoon wat—
 - (i) die eienaar van die goedere is;
 - (ii) 'n wesenlike belang in die goedere het; of
 - (iii) die reg het om oor die goedere te beskik;
- (b) die invoerder van die goedere of die persoon op wie se gesag die goedere in die Republiek ingevoer is; of 40
- (c) die uitvoerder van die goedere.

Inspeksie van dokumente

727. (1) 'n Doeanebeampte kan die volgende dokumente inspekteer: 45
- (a) Enige dokumente—
 - (i) wat tydens 'n deursoeking ingevolge hierdie Hoofstuk van enige gebied, perseel, fasiliteit, vaartuig, vliegtuig, trein, spoorwegwa of voertuig, gevind word;
 - (ii) wat tydens 'n deursoeking ingevolge hierdie Hoofstuk van enige persoon, gevind word; 50
 - (iii) wat op versoek van 'n doeanebeampte ingevolge hierdie Hoofstuk getoon word;

429. Vir verhalings van hierdie onkoste sien Hoofstuk 32.

- (iv) that relate to any act or omission which constitutes, or on reasonable grounds is suspected by a customs officer to constitute, a breach of this Act or a tax levying Act; or
- (v) in respect of which a breach of this Act or a tax levying Act has been committed, or on reasonable grounds is suspected by a customs officer to have been committed; 5
- (b) any documents that relate to—
 - (i) any area, premises or facility within a customs controlled area;
 - (ii) any premises searched in terms of section 709(2);
 - (iii) any vessel, aircraft, train, railway carriage or vehicle within a customs controlled area, or its use, cargo, passengers, crew or stores or its journey, voyage, flight or travelling schedules; or 10
 - (iv) any vessel, aircraft, train, railway carriage or vehicle searched in terms of section 711(2), or its use, cargo, passengers, crew or stores or its journey, voyage or flight schedules; 15
- (c) any documents that relate to—
 - (i) any goods within a customs controlled area, including any goods in, on or at any area, premises, facility, vessel, aircraft, train, railway carriage or vehicle within a customs controlled area;
 - (ii) any goods found during a search in terms of this Chapter of any area, premises, facility, vessel, aircraft, train, railway carriage or vehicle; 20
 - (iii) any goods found during a search in terms of this Chapter of any person;
 - (iv) any goods produced on request by a customs officer in terms of this Chapter;
 - (v) any goods in respect of which a breach of this Act or a tax levying Act has been committed, or on reasonable grounds is suspected by a customs officer to have been committed; or 25
 - (vi) any other goods that are subject to customs control; or
- (d) any records which a person is required to keep or exhibit in terms of—
 - (i) this Act; or 30
 - (ii) a tax levying Act in relation to goods to which this Act applies.
- (2) Inspection of documents includes, to the extent necessary for the enforcement of this Act or a tax levying Act—
 - (a) examining the documents;
 - (b) copying, or making extracts from, the documents; and 35
 - (c) removing the documents in order to make copies or extracts or to carry out any further examinations.
- (3) When removing any documents in terms of subsection (2)(c) a customs officer must—
 - (a) provide a receipt for the documents; and 40
 - (b) return the documents within a reasonable time unless the documents are detained in terms of Chapter 34.

Production of documents for inspection

- 728.** (1) A customs officer may, for the purpose of section 727, request any person who is in possession or has custody or control of a document referred to in that section— 45
- (a) to produce that document or make that document available for inspection, either immediately or at a time and place specified by the customs officer; or
 - (b) to furnish the customs officer with a copy of that document.
- (2) A customs officer may request any person to produce, either immediately or at a time and place specified by the customs officer, any documents which that person is required in terms of this Act or a tax levying Act to submit and has failed to submit. 50

- (iv) wat betrekking het op enige handeling of versuim wat 'n breuk van hierdie Wet of 'n belastingheffings-Wet is, of deur 'n doeanebeampte op redelike gronde vermoed word te wees; of
- (v) ten opsigte waarvan 'n breuk van hierdie Wet of 'n belastingheffings-Wet begaan is, of deur 'n doeanebeampte op redelike gronde vermoed word begaan te wees; 5
- (b) enige dokumente wat betrekking het op—
 - (i) enige gebied, perseel of fasiliteit binne 'n doeanebeheergebied;
 - (ii) enige perseel wat ingevolge artikel 709(2) deursoek is;
 - (iii) enige vaartuig, vliegtuig, trein, spoorwegwa of voertuig binne 'n doeanebeheergebied, of op die gebruik, vrag, passassiers, bemanning of voorrade daarvan of die vaart-, vlug- of reisskedules daarvan; of 10
 - (iv) enige vaartuig, vliegtuig, trein, spoorwegwa of voertuig wat ingevolge artikel 711(2) deursoek is, of op die gebruik, vrag, passassiers, bemanning of voorrade daarvan of die reis-, vaart- of vlugskedules daarvan; 15
- (c) enige dokumente wat betrekking het op—
 - (i) enige goedere binne 'n doeanebeheergebied, met inbegrip van enige goedere in, op of by enige gebied, perseel, fasiliteit, vaartuig, vliegtuig, trein, spoorwegwa of voertuig binne 'n doeanebeheergebied; 20
 - (ii) enige goedere wat tydens 'n deursoeking ingevolge hierdie Hoofstuk van enige gebied, perseel, fasiliteit, vaartuig, vliegtuig, trein, spoorwegwa of voertuig, gevind is;
 - (iii) enige goedere wat tydens 'n deursoeking ingevolge hierdie Hoofstuk van enige persoon, gevind is; 25
 - (iv) enige goedere wat op versoek van 'n doeanebeampte ingevolge hierdie Hoofstuk getoon word;
 - (v) enige goedere ten opsigte waarvan 'n breuk van hierdie Wet of 'n belastingheffings-Wet begaan is, of deur 'n doeanebeampte op redelike gronde vermoed word begaan te wees; of 30
 - (vi) enige ander goedere wat aan doeanebeheer onderworpe is; of
- (d) enige rekords wat iemand moet hou of vertoon ingevolge—
 - (i) hierdie Wet; of
 - (ii) 'n belastingheffings-Wet met betrekking tot goedere waarop hierdie Wet van toepassing is. 35
- (2) Die inspeksie van dokumente sluit in, in die mate waarvoor dit vir die doeleindes van die toepassing van hierdie Wet of 'n belastingheffings-Wet nodig is—
 - (a) die ondersoek van die dokumente;
 - (b) die maak van afskrifte, of uittreksels uit, die dokumente; en
 - (c) die verwydering van die dokumente ten einde afskrifte of uittreksels te maak of om enige verdere ondersoeke uit te voer. 40
- (3) Wanneer enige dokumente ingevolge subartikel (2)(c) verwyder word, moet 'n doeanebeampte—
 - (a) 'n kwitansie vir die dokumente verskaf; en
 - (b) die dokumente binne 'n redelike tydperk terugbesorg tensy die dokumente ingevolge Hoofstuk 34 onder detensie geplaas word. 45

Toon van dokumente vir inspeksie

- 728.** (1) 'n Doeanebeampte kan, by die toepassing van artikel 727, iemand wat in besit is van, of bewaring het van of beheer het oor, 'n dokument bedoel in daardie artikel versoek— 50
- (a) om daardie dokument vir inspeksie te toon of beskikbaar te stel, óf onmiddellik óf op 'n tyd en plek deur die doeanebeampte bepaal; of
 - (b) om aan die doeanebeampte 'n afskrif van daardie dokument te verskaf.
- (2) 'n Doeanebeampte kan iemand versoek om, óf onmiddellik óf op 'n tyd en plek deur die doeanebeampte gespesifiseer, enige dokumente te toon wat so iemand ingevolge hierdie Wet of 'n belastingheffings-Wet moet voorlê en versuim het om voor te lê. 55

Investigative powers

- 729.** (1) A customs officer may, for the purpose of this Act or a tax levying Act—
- (a) question a person concerning any area, premises, facility, vessel, aircraft, train, railway carriage or vehicle to which a customs officer gained access or searched in terms of this Chapter, or concerning any goods, documents or persons in, on or at such area, premises, facility, vessel, aircraft, train, railway carriage or vehicle, who—
 - (i) is the owner or otherwise in charge of the area, premises, facility, vessel, aircraft, train, railway carriage or vehicle;
 - (ii) is or was the on-board operator or a crew member of the vessel, aircraft, train, railway carriage or vehicle at the time of such access or search;
 - (iii) is or was present in, on or at the area, premises, facility, vessel, aircraft, train, railway carriage or vehicle at the time of such access or search;
 - (iv) works in, on or at the area, premises, facility, vessel, aircraft, train, railway carriage or vehicle;
 - (v) performs any duties in connection with the area, premises, facility, vessel, aircraft, train, railway carriage or vehicle;
 - (vi) resides in, on or at the area, premises or facility; or
 - (vii) is the owner or otherwise in possession, custody or control of, or has any interest in, or performs any duties in connection with, any goods or documents in, on or at the area, premises, facility, vessel, aircraft, train, railway carriage or vehicle;
 - (b) question a person concerning any goods or documents inspected, or found during a search, in terms of this Chapter—
 - (i) who is the owner or otherwise in possession, custody or control of, or has any interest in, or performs any duties in connection with, the goods or documents; or
 - (ii) who produced the goods or documents on request by a customs officer;
 - (c) question a person stopped or called on or searched in terms of this Chapter concerning any goods or documents which that person has or had with him or her;
 - (d) question a person concerning any act or omission which constitutes, or on reasonable grounds is suspected by a customs officer to constitute, a breach of this Act or a tax levying Act or a common law offence relating to goods that are subject to customs control; and
 - (e) take photographs or make audio or audio-visual recordings of anything or any person that—
 - (i) may be relevant for the purpose of any inspection or investigation in terms of this Act; or
 - (ii) may afford evidence for the purpose of any criminal or civil proceedings in terms of this Act or a tax levying Act.

(2) A person may be questioned in terms of this section either alone or in the presence of any other person.

Failure or refusal to produce goods or documents or to answer questions

- 730.** (1) If a person is requested in terms of section 723 or 728 to produce any goods or documents or in terms of section 729 required to answer any questions, and fails or refuses to comply with the request or requirement, a customs officer may issue a notice to that person directing that person to appear before that or any other customs officer at a time and place specified in the notice to—
- (a) produce any goods or documents specified in the notice; or
 - (b) answer questions concerning a matter specified in the notice.
- (2) A written notice issued in terms of subsection (1)—
- (a) must be in the form and format as may be prescribed by rule; and

Onderzoekbevoegdheid

729. (1) 'n Doeanebeampte kan vir die doeleindes van hierdie Wet of 'n belastingheffings-Wet—

- (a) iemand aangaande enige gebied, perseel, fasiliteit, vaartuig, vliegtuig, trein, spoorwegwa of voertuig waartoe 'n doeanebeampte toegang verkry het of deursoek het ingevolge hierdie Hoofstuk, of aangaande enige goedere, dokumente of persone in, op of by so 'n gebied, perseel, fasiliteit, vaartuig, vliegtuig, trein, spoorwegwa of voertuig, ondervra wat—
 - (i) die eienaar is of andersins in beheer is van die gebied, perseel, fasiliteit, vaartuig, vliegtuig, trein, spoorwegwa of voertuig; 5
 - (ii) die aanboord operateur of 'n bemanningslid van die vaartuig, vliegtuig, trein, spoorwegwa of voertuig op die tydstip van sodanige toegang of deursoeking is of was; 10
 - (iii) teenwoordig is of was in, op of by die gebied, perseel, fasiliteit, vaartuig, vliegtuig, trein, spoorwegwa of voertuig op die tydstip van sodanige toegang of deursoeking; 15
 - (iv) werk in, op of by die gebied, perseel, fasiliteit, vaartuig, vliegtuig, trein, spoorwegwa of voertuig; 20
 - (v) enige pligte in verband met die gebied, perseel, fasiliteit, vaartuig, vliegtuig, trein, spoorwegwa of voertuig verrig; 20
 - (vi) in, op of by die gebied, perseel of fasiliteit woon; of
 - (vii) die eienaar is of andersins in besit is van, of bewaring het van of beheer het oor, of enige belang het in, of enige pligte verrig in verband met, enige goedere of dokumente in, op of by die gebied, perseel, fasiliteit, vaartuig, vliegtuig, trein, spoorwegwa of voertuig; 25
- (b) iemand aangaande enige goedere of dokumente ingevolge hierdie Hoofstuk geïnspekteer, of gevind tydens 'n deursoeking, ondervra—
 - (i) wat die eienaar is of andersins in besit is van, of bewaring het van of beheer het oor, of enige belang het in, of enige pligte verrig in verband met, die goedere of dokumente; of 30
 - (ii) wat die goedere of dokumente op versoek van 'n doeanebeampte getoon het;
- (c) 'n persoon wat gestop of genader is of deursoek is ingevolge hierdie Hoofstuk, ondervra aangaande enige goedere of dokumente wat daardie persoon aan hom of haar het of gehad het; 35
- (d) 'n persoon ondervra aangaande enige handeling of versuim betreffende goedere wat aan doeanebeheer onderworpe is wat 'n breuk van hierdie Wet of 'n belastingheffings-Wet of 'n gemeenregtelike misdryf is, of deur 'n doeanebeampte op redelike gronde vermoed word so 'n breuk of so 'n misdryf te wees; en 40
- (e) foto's neem of oudio- of oudio-visuele opnames maak van enigiets of enige persoon wat—
 - (i) tersaaklik mag wees vir doeleindes van enige inspeksie of ondersoek ingevolge hierdie Wet; of
 - (ii) bewys vir doeleindes van enige strafregtelike of siviele verrigtinge ingevolge hierdie Wet of 'n belastingheffings-Wet mag lewer. 45

(2) Iemand kan ingevolge hierdie artikel óf alleen óf in die teenwoordigheid van 'n ander persoon ondervra word.

Versuim of weiering om goedere of dokumente te toon of vrae te beantwoord

730. (1) Indien iemand ingevolge artikel 723 of 728 versoek word om enige goedere of dokumente te toon, of ingevolge artikel 729 gelas word om enige vrae te beantwoord, en versuim of weier om aan die versoek of lasgewing te voldoen, kan 'n doeanebeampte 'n kennisgewing aan daardie persoon uitreik wat daardie persoon gelas om voor daardie of enige ander doeanebeampte op 'n tyd en plek gespesifiseer in die kennisgewing te verskyn om— 55

- (a) enige goedere of dokumente gespesifiseer in die kennisgewing te toon; of
- (b) vrae aangaande 'n aangeleentheid gespesifiseer in die kennisgewing te beantwoord.

(2) 'n Skriftelike kennisgewing ingevolge subartikel (1) uitgereik—

- (a) moet in die vorm en formaat wees soos by reël voorgeskryf mag word; en 60

(b) may require the person to answer questions under oath or affirmation.

(3) (a) A person to whom a written notice is issued in terms of subsection (1), must appear before the designated customs officer at the time and place specified in the notice and—

- (i) produce the specified goods or documents; and 5
- (ii) answer all questions put to that person concerning the specified matter.

(b) Questions put to that person must be answered truthfully and to the best of that person's ability despite the fact that the answer might be self-incriminating.

(c) An answer given by a person that incriminates him or her may not be used against that person in any subsequent criminal proceedings against that person. 10

(4) A person may be questioned in terms of this section either alone or in the presence of any other person.

Unsealed containers, vehicle holding compartments, road tankers and packages

731. (1) If a container, the holding compartment of a vehicle capable of being closed, a road tanker or any package as may be specified by rule, which contains goods not in free circulation, is not sealed as required by section 126, a customs officer may— 15

- (a) direct a person responsible for such sealing to affix any such seal or fastening to the container, holding compartment, road tanker or package; or
- (b) at the risk and expense of that person affix the seal or fastening on payment of costs as may be prescribed by rule. 20

(2) A customs officer may at any time affix a seal or fastening or any additional seal or fastening to, or replace any seal or fastening on, any container, holding compartment, road tanker or package which contains goods not in free circulation.

Customs supervision of acts done in relation to goods

732. The customs authority may require that any act that must in terms of this Act be done in relation to goods not in free circulation, be done under customs supervision.⁴³⁰ 25

Part 5

Powers of arrest

Powers of arrest of customs officers

- 733.** The Commissioner— 30
- (a) may determine the category of customs officers who have the power to carry out an arrest for the purpose of enforcing this Act or a tax levying Act; and
 - (b) must furnish each such customs officer with an appropriate certificate and identification card stating that the officer is authorised to carry out an arrest for the purpose of enforcing this Act or a tax levying Act. 35

Manner and effect of an arrest

734. (1) An arrest may be effected with or without a warrant and, unless the person being arrested submits to custody, by actually touching the body of that person or, if the circumstances so require, by forcibly confining that person's body.

⁴³⁰ For customs assistance to persons to ensure compliance with this Act and the tax levying Acts, see section 17.

- (b) kan van die persoon vereis om vrae onder eed of bevestiging te beantwoord.
- (3) (a) Iemand aan wie 'n skriftelike kennisgewing ingevolge subartikel (1) uitgereik is, moet voor die aangewese doeanebeampte op die tyd en plek gespesifiseer in die kennisgewing verskyn en—
- (i) die gespesifiseerde goedere of dokumente toon; en 5
 - (ii) alle vrae wat aan daardie persoon gestel word aangaande die gespesifiseerde aangeleentheid beantwoord.
- (b) Vrae wat aan daardie persoon gestel word, moet eerlik en na die beste van daardie persoon se vermoë beantwoord word ondanks die feit dat die antwoord self-inkriminerend mag wees. 10
- (c) 'n Antwoord deur 'n persoon gegee wat hom of haar inkrimineer, mag nie teen daardie persoon in enige daaropvolgende strafregtelike verrigtinge teen daardie persoon gebruik word nie.
- (4) Iemand kan ingevolge hierdie artikel óf alleen óf in die teenwoordigheid van 'n ander persoon ondervra word. 15

Ongeseëldes houers, houerkompartemente van voertuie, padtenkwaens en verpakkings

731. (1) Indien 'n houer, die houerkompartement van 'n voertuig wat toegesluit kan word, 'n padtenkwa of enige verpakking soos by reël gespesifiseer mag word, wat goedere bevat wat nie in vry sirkulasie is nie, nie volgens voorskrif van artikel 126 geseël is nie, kan 'n doeanebeampte— 20
- (a) iemand wat vir sodanige seëling verantwoordelik is, gelas om so 'n seël of vasmaakmiddel of enige addisionele seël op die houer, houerkompartement, padtenkwa of verpakking aan te bring; of
 - (b) op risiko en koste van daardie persoon die seël of vasmaakmiddel aanbring teen betaling van koste soos by reël voorgeskryf mag word. 25
- (2) 'n Doeanebeampte kan te eniger tyd 'n seël of vasmaakmiddel of enige addisionele seël of vasmaakmiddel aanbring, of enige seël of vasmaakmiddel vervang, op enige houer, houerkompartement, padtenkwa of verpakking wat goedere wat nie in vry sirkulasie is nie bevat. 30

Doeanetoesig oor handeling met betrekking tot goedere verrig

732. Die doeanegesag kan gelas dat enige handeling wat met betrekking tot goedere wat nie in vry sirkulasie is nie verrig moet word, onder doeanetoesig verrig moet word.⁴³⁰

Deel 5 35

Arrestasiebevoegdhede

Doeanebeamptes se arrestasiebevoeghede

733. Die Kommissaris—
- (a) kan die kategorie doeanebeamptes bepaal wat met die bevoegdheid bekleed is om 'n arrestasie vir doeleindes van die toepassing van hierdie Wet of 'n belastingheffings-Wet uit te voer; en 40
 - (b) moet aan elke sodanige doeanebeampte 'n toepaslike sertifikaat en identifikasiekaart uitreik waarop daar gemeld word dat die beampte gemagtig is om 'n arrestasie vir doeleindes van die toepassing van hierdie Wet of 'n belastingheffings-Wet uit te voer. 45

Wyse en uitvoer van arrestasie

734. (1) 'n Arrestasie kan met of sonder 'n lasbrief uitgevoer word en, tensy die persoon wat gearresteer word tot aanhouding toegee, deur werklik die liggaam van daardie persoon aan te raak of, indien die omstandighede dit vereis, deur daardie persoon se liggaam met geweld onder bedwang te bring. 50

430. Vir doeanebystand aan persone om te verseker dat daar aan hierdie Wet en die belastingheffings-Wette voldoen word, kyk artikel 17.

(2) A customs officer effecting an arrest must, at the time of effecting the arrest or immediately after effecting the arrest—

- (a) inform the arrested person of the cause of the arrest; or
- (b) in the case of an arrest effected by virtue of a warrant, hand that person a copy of the warrant if the person arrested so demands. 5

(3) The effect of an arrest is that the person arrested is in lawful custody and that that person will be detained in custody until lawfully discharged or released from custody.

Arrest of person without warrant

735. A customs officer having arresting powers may, without a warrant, arrest—

- (a) the on-board operator of a vessel, aircraft, train, railway carriage or vehicle who refuses—
 - (i) to comply with a lawful command of a customs officer to bring the vessel or vehicle to a stop or to land the aircraft; or
 - (ii) to allow a customs officer to board the vessel, aircraft, train, railway carriage or vehicle for the purpose of enforcing this Act or a tax levying Act; 15
- (b) a person who in contravention of this Act—
 - (i) entered or is suspected of having entered the Republic otherwise than through a place of entry; or
 - (ii) is attempting or suspected of attempting to leave the Republic otherwise than through a place of exit; 20
- (c) a person who—
 - (i) imports, or on reasonable grounds is suspected of having imported, goods into the Republic without complying with this Act; or
 - (ii) is in the process of exporting, or on reasonable grounds is suspected of being in the process of exporting, goods from the Republic without complying with this Act; 25
- (d) a person who—
 - (i) imports, or on reasonable grounds is suspected of having imported, prohibited, restricted or sectorally controlled goods into the Republic in contravention of any legislation applicable to such prohibited, restricted or sectorally controlled goods; 30
 - (ii) is in the process of exporting, or on reasonable grounds is suspected of being in the process of exporting, prohibited, restricted or sectorally controlled goods from the Republic in contravention of any legislation applicable to such prohibited, restricted or sectorally controlled goods; or 35
 - (iii) is found in possession of, or on reasonable grounds is suspected of being in possession of, any prohibited, restricted or sectorally controlled goods in contravention of any legislation applicable to such prohibited, restricted or sectorally controlled goods; 40
- (e) a person who—
 - (i) diverts, or on reasonable grounds is suspected of having diverted, imported goods for home use;
 - (ii) in any way smuggles or on reasonable grounds is suspected of smuggling, goods into or out of the Republic; or 45
 - (iii) is found in possession of, or on reasonable grounds is suspected of being in possession of, any goods diverted for home use or smuggled into or that are being smuggled out of the Republic;
- (f) a person who has been arrested by a customs officer and who has escaped from lawful custody, if found within five calendar days of such an escape; 50
- (g) person found impersonating a customs officer; or
- (h) person who wilfully obstructs a customs officer in the execution of his or her duty.

- (2) 'n Doeanebeampte wat 'n arrestasie uitvoer, moet op die tydstip waarop die arrestasie uitgevoer word of onmiddellik nadat die arrestasie uitgevoer is—
- (a) die gearresterde persoon meedeel wat die rede vir die arrestasie is; of
 - (b) in die geval van 'n arrestasie wat op gesag van 'n lasbrief uitgevoer word, 'n afskrif van die lasbrief aan daardie persoon oorhandig indien die gearresterde persoon dit versoek. 5
- (3) Die effek van 'n arrestasie is dat die persoon wat gearrester is in wettige aanhouding is en dat daardie persoon in aanhouding gehou sal word totdat hy of sy wettiglik uit aanhouding ontslaan en vrygelaat word.

Arrestasie van persoon sonder lasbrief 10

735. 'n Doeanebeampte met arrestasiebevoegdheids kan sonder 'n lasbrief die volgende persone arresteer:

- (a) Die aanboord operateur van 'n vaartuig, vliegtuig, trein, spoorwegwa of voertuig wat weier—
 - (i) om aan 'n wettige bevel van 'n doeanebeampte te voldoen om die vaartuig of voertuig tot stilstand te bring of die vliegtuig te land; of 15
 - (ii) om 'n doeanebeampte aan boord van die vaartuig, vliegtuig, trein, spoorwegwa of voertuig vir doeleindes van die toepassing van hierdie Wet of 'n belastingheffings-Wet toe te laat;
- (b) 'n persoon wat in stryd met hierdie Wet—
 - (i) die Republiek anders as by 'n plek van toegang binnegekome het of vermoed word binne te gekome het; of
 - (ii) poog of vermoed word te poog om die Republiek anders as deur 'n plek van uitgang te verlaat; 20
- (c) 'n persoon wat—
 - (i) sonder om aan hierdie Wet te voldoen goedere in die Republiek invoer, of op redelike gronde vermoed word in te gevoer het; of
 - (ii) in die proses is, of op redelike gronde vermoed word in die proses te wees, om sonder om aan hierdie Wet te voldoen goedere uit die Republiek uit te voer; 25
- (d) 'n persoon wat—
 - (i) verbode, beperkte of sektorbeheerde goedere in die Republiek invoer, of op redelike gronde vermoed word in te gevoer het, in stryd met enige wetgewing wat op sodanige verbode, beperkte of sektorbeheerde goedere van toepassing is; 30
 - (ii) in die proses is om verbode, beperkte of sektorbeheerde goedere uit die Republiek uit te voer, of op redelike gronde vermoed word in die proses te wees om uit te voer, in stryd met enige wetgewing wat op sodanige verbode, beperkte of sektorbeheerde goedere van toepassing is; 35
 - (iii) in besit gevind word, of op redelike gronde vermoed word in besit te wees, van enige verbode, beperkte of sektorbeheerde goedere in stryd met enige wetgewing wat op sodanige verbode, beperkte of sektorbeheerde goedere van toepassing is; 40
- (e) 'n persoon wat—
 - (i) ingevoerde goedere vir binnelandse gebruik afwend, of op redelike gronde vermoed word af te gewend het; 45
 - (ii) op enige wyse goedere in of uit die Republiek smokkel, of op redelike gronde vermoed word te smokkel; of
 - (iii) in besit gevind word, of op redelike gronde vermoed word in besit te wees, van enige goedere wat vir binnelandse gebruik afgewend is of wat in die Republiek ingesmokkel is of daaruit gesmokkel word; 50
- (f) 'n persoon wat deur 'n doeanebeampte gearrester is en wat uit wettige aanhouding ontsnap het, indien binne vyf kalenderdae vanaf sodanige ontsnapping gevind;
- (g) 'n persoon wat homself of haarself valslik voorhou as 'n doeanebeampte; of 55
- (h) 'n persoon wat 'n beampte opsetlik hinder in die uitvoering van sy of haar pligte.

Arrest of person under authority of warrant

736. (1) The customs authority may apply to any magistrate for a warrant authorising the arrest of a specific person.

(2) A magistrate may issue a warrant in terms of subsection (1) only on written application by the customs authority setting out under oath or affirmation— 5

- (a) the offence that has allegedly been committed by the person concerned;
- (b) the grounds on which the person in respect of whom the warrant is being applied for is reasonably suspected of having committed the alleged offence; and
- (c) that the offence was allegedly committed within the area of jurisdiction of that 10
magistrate.

(3) A warrant of arrest issued by a magistrate as contemplated in subsection (2) may be executed by any customs officer and the customs officer executing such warrant must do so in accordance with the terms thereof.

Non-liability for wrongful arrest 15

737. (1) A customs officer arresting a person under a warrant of arrest and who, in the reasonable belief that he or she is arresting that person, arrests another person, is not liable for wrongful arrest.

(2) Any police officer, other customs officer or other person assisting a customs officer making an arrest, or who is required to detain a person so arrested, and who reasonably 20
believes that the said person is the person who has been arrested in accordance with section 735 or 736, is likewise not liable for such assistance or detention.

Breaking open premises for purposes of arrest

738. A customs officer who may lawfully arrest a person in terms of this Part and who knows, or reasonably suspects, such person to be on any premises, may, if he or she first 25
audibly demands entry into such premises and notifies the purpose for which he or she seeks entry and fails to gain entry, break open, enter and search such premises for the purpose of effecting the arrest.

Use of force in effecting arrest

739. (1) For the purposes of this section— 30
“**arrestor**” means a customs officer authorised to carry out the arrest of a suspect;
“**suspect**” means any person in respect of whom an arrestor has or had a reasonable suspicion that such person is committing or has committed an offence; and
“**deadly force**” means force that is likely to cause serious bodily harm or death and includes, but is not limited to, shooting at a suspect with a firearm. 35

(2) If any arrestor attempts to arrest a suspect and the suspect resists the attempt, or flees, or resists the attempt and flees, when it is clear that an attempt to arrest him or her is being made, and the suspect cannot be arrested without the use of force, the arrestor may, in order to effect the arrest, use such force as may be reasonably necessary and proportional in the circumstances to overcome the resistance or to prevent the suspect 40
from fleeing: Provided that the arrestor may use deadly force only if—

- (a) the suspect poses a threat of serious violence to the arrestor or any other person; or
- (b) the suspect is suspected on reasonable grounds of having committed a crime involving the infliction or threatened infliction of serious bodily harm and 45
there are no other reasonable means of effecting the arrest, whether at that time or later.

Detention of arrested person

740. Any person arrested by a customs officer must as soon as possible be brought to a police station or, in the case of an arrest by warrant, to any other place expressly 50

Arrestasie van persoon op gesag van lasbrief

736. (1) Die doeanegesag kan by 'n landdros om 'n lasbrief ter magtiging van die arrestasie van 'n spesifieke persoon aansoek doen .
- (2) 'n Landdros kan 'n lasbrief ingevolge subartikel (1) slegs op skriftelike aansoek deur die doeanegesag uitreik wat onder eed of bevestiging die volgende uiteensit: 5
- (a) Die misdryf wat na bewering deur die betrokke persoon gepleeg is;
 - (b) die gronde waarop die persoon ten opsigte van wie 'n lasbrief aansoek gedoen word redelikerwyse vermoed word die beweerde misdryf te gepleeg het; en
 - (c) dat die misdryf na bewering binne die jurisdiksiegebied van daardie landdros gepleeg is. 10
- (3) 'n Lasbrief vir arrestasie wat deur 'n landdros uitgereik is soos in subartikel (2) beoog, kan deur enige doeanebeampte uitgevoer word, en die doeanebeampte wat so 'n lasbrief uitvoer, moet dit ooreenkomstig die bepalinge daarvan doen.

Nie-aanspreeklikheid vir onregmatige arrestasie

737. (1) 'n Doeanebeampte wat 'n persoon kragtens 'n arrestasielasbrief arresteer en wat, in die redelike geloof dat hy of sy daardie betrokke persoon arresteer, 'n ander persoon arresteer, is nie vir onregmatige arrestasie aanspreeklik nie. 15
- (2) Enige polisiebeampte, ander doeanebeampte of ander persoon wat 'n doeanebeampte in 'n arrestasie bystaan, of van wie dit vereis word om 'n persoon aan te hou wat aldus gearresteer is, en wat redelikerwyse glo dat bedoelde persoon die persoon is wat ooreenkomstig artikel 735 of 736 gearresteer is, is eweneens ook nie vir sodanige bystand of aanhouding aanspreeklik nie. 20

Oopbreek van persele vir doeleindes van arrestasie

738. 'n Doeanebeampte wat 'n persoon wettiglik ingevolge hierdie Deel mag arresteer en wat weet, of redelikerwyse vermoed, dat die persoon op 'n perseel is, kan, indien hy of sy eers hoorbaar toegang tot die perseel eis en die doel waarvoor hy of sy toegang verlang bekendmaak en nie daarin slaag om toegang te verkry nie, die perseel oopbreek, binnegaan en deursoek ten einde die arrestasie uit te voer. 25

Gebruik van geweld om arrestasie uit te voer

739. (1) By die toepassing van hierdie artikel, beteken— 30
- “**arresteerder**” 'n doeanebeampte wat gemagtig is om die arrestasie van 'n verdagte uit te voer;
 - “**dodelike geweld**” geweld wat waarskynlik ernstige liggaamlike letsels of dood sal veroorsaak, met inbegrip van, maar nie beperk nie tot, die skiet met 'n vuurwapen op 'n verdagte; en 35
 - “**verdagte**” enige persoon ten opsigte van wie 'n arresteerder 'n redelike vermoede het of gehad het dat die persoon 'n misdryf pleeg of gepleeg het.
- (2) Indien 'n arresteerder poog om 'n verdagte te arresteer en die verdagte teen die poging weerstand bied, of vlug, of teen die poging weerstand bied en vlug, wanneer dit duidelik is dat daar 'n poging aangewend word om hom of haar te arresteer, en die verdagte nie gearresteer kan word sonder die gebruik van geweld nie, kan die arresteerder, ten einde die arrestasie uit te voer, sodanige geweld gebruik soos in die omstandighede redelikerwyse nodig en proporsioneel mag wees om die weerstand te oorkom of om te voorkom dat die verdagte vlug: Met dien verstande dat die arresteerder dodelike geweld mag gebruik slegs indien— 45
- (a) die verdagte 'n bedreiging van ernstige geweld vir die arresteerder of enige ander persoon inhou; of
 - (b) die verdagte op redelike gronde vermoed word 'n misdryf te gepleeg het wat die toediening of 'n dreigement van toediening van ernstige liggaamlike letsels behels het en daar nie enige ander redelike metode is om die arrestasie uit te voer nie, hetsy op daardie of 'n latere tydstip. 50

Aanhouding van gearresteerde persoon

740. Iemand wat deur 'n doeanebeampte gearresteer is, moet so gou doenlik na 'n polisiekantoor gebring word of, in die geval van 'n arrestasie kragtens 'n lasbrief, na

mentioned in the warrant, and further be dealt with in the manner contemplated in section 50 of the Criminal Procedure Act (Act No. 51 of 1977).

Part 6

Carrying and use of arms and ammunitions

Authority to carry official firearms 5

741. (1) The Commissioner may determine a category of customs officers permitted to carry firearms for the purpose of exercising their enforcement functions.

(2) The Commissioner may issue an official SARS firearm to a customs officer permitted to carry a firearm only after the officer has been trained in the use of firearms of the kind to be issued to the officer and a certificate of competency has been issued to the officer, as may be prescribed by rule. 10

(3) (a) The identity card of a customs officer to whom an official SARS firearm has been issued must indicate that that customs officer is permitted to carry such a firearm.

(b) Such indication on a customs officer's identity card is proof that the officer is permitted to carry an official SARS firearm. 15

Use of official firearms by customs officers

742. (1) A customs officer may use an official firearm only as a last resort and then only—

- (a) in self-defence from imminent or future death or grievous bodily harm; or
- (b) in defence of any other person accompanying or assisting the officer in the execution of his or her duties that are at risk from imminent or future death or grievous bodily harm. 20

(2) Before firing an official firearm a customs officer must, if circumstances permit—

- (a) issue a verbal warning;
- (b) if the warning has no effect, fire a warning shot; and 25
- (c) if the warnings have no effect, direct the line of fire in such a manner that the probable result will not be a fatal injury.

(3) Whenever a customs officer fires an official firearm, that officer must immediately report that fact in writing to the appropriate supervising customs officer in a manner as may be prescribed by rule. 30

Use of non-lethal weapons

743. (1) The Commissioner may authorise the use of non-lethal weapons by customs officers in such circumstances and in such a manner as the Commissioner may determine.

(2) The Commissioner may determine the training requirements applicable to the use of such weapons, the control over such weapons, including reporting procedures and any other matter that the Commissioner may consider reasonably necessary and useful for administering the use of any non-lethal weapons. 35

Part 7

Border control 40

Customs assistance in border control

744. (1) The customs authority may for the purpose of enforcing this Act and the tax levying Acts assist in—

- (a) patrolling the borders of the Republic; and

enige ander plek wat uitdruklik in die lasbrief vermeld word, en verder mee gehandel word op die wyse beoog in artikel 50 van die Strafproseswet, 1977 (Wet No. 51 van 1977).

Deel 6

Dra en gebruik van wapens en ammunisie

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Magtiging om amptelike vuurwapens te dra

741. (1) Die Kommissaris kan 'n kategorie doeanebeamptes bepaal wat vir doeleindes van die uitoefening van hulle toepassingsfunksies toestemming het om vuurwapens te dra.

(2) Die Kommissaris kan 'n amptelike SAID vuurwapen aan 'n doeanebeampte wat toestemming het om 'n vuurwapen te dra, uitreik slegs nadat die beampte in die gebruik van vuurwapens van die soort wat beoog word om aan die beampte uitgereik te word, opgelei is en 'n sertifikaat van bevoegdheid aan die beampte uitgereik is, soos by reël voorgeskryf mag word.

(3) (a) Die identiteitskaart van 'n doeanebeampte aan wie 'n amptelike SAID vuurwapen uitgereik is, moet aandui dat daardie doeanebeampte toestemming het om so 'n vuurwapen te dra.

(b) So 'n aanduiding op 'n doeanebeampte se identiteitskaart is bewys dat die beampte toestemming het om 'n amptelike SAID vuurwapen te dra.

Gebruik van amptelike vuurwapens deur doeanebeamptes

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742. (1) 'n Doeanebeampte mag 'n amptelike vuurwapen gebruik slegs as 'n laaste uitweg en dan slegs—

(a) ter selfverdediging teen dreigende of toekomstige dood of ernstige liggaamlike letsel; of

(b) ter verdediging van enige ander persoon wat die beampte vergesel of bystaan in die verrigting van sy of haar pligte waar daar vir so 'n persoon 'n risiko van dreigende of toekomstige dood of ernstige liggaamlike letsel is.

(2) Voordat 'n doeanebeampte 'n amptelike vuurwapen afvuur, moet die doeanebeampte, indien omstandighede dit toelaat—

(a) 'n mondelinge waarskuwing gee; 30

(b) indien die waarskuwing geen effek het nie, 'n waarskuwingskoot afvuur; en

(c) indien die waarskuwings geen effek het nie, die skoot op so 'n wyse rig dat die waarskynlike gevolg nie 'n noodlottige besering sal wees nie.

(3) Wanneer 'n doeanebeampte 'n amptelike vuurwapen afvuur, moet daardie beampte daardie feit onmiddellik skriftelik aan die betrokke toesighoudende doeanebeampte rapporteer op 'n wyse soos by reël voorgeskryf mag word. 35

Gebruik van nie-dodelike wapens

743. (1) Die Kommissaris kan die gebruik van nie-dodelike wapens deur doeanebeamptes magtig in die omstandighede en op die wyse soos die Kommissaris mag bepaal. 40

(2) Die Kommissaris kan die opleidingsvereistes vir die gebruik van sodanige wapens, die beheer oor sodanige wapens, met inbegrip van rapporteringsprosedures, en enige ander aangeleentheid wat die Kommissaris redelikerwyse nodig en bruikbaar mag beskou vir die aanwending van die gebruik van nie-dodelike wapens, bepaal.

Deel 7

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Grensbeheer

Doeanebystand in grensbeheer

744. (1) Die doeanegesag kan vir doeleindes van die toepassing van hierdie Wet en die belastingheffings-Wette bystand verleen in—

(a) die patrolling van die grense van die Republiek; en 50

- (b) preventing, combating and investigating cross-border crime relating to imported goods and goods in the process of being exported.
- (2) Customs officers may exercise any of their enforcement functions for the purpose of subsection (1).

Acquisition of equipment for border control 5

745. The Commissioner may acquire, in accordance with any applicable legislation relating to conventional arms, any equipment necessary for patrolling the land and sea borders of the Republic, including—

- (a) any patrol boats, aircraft and vehicles; and
- (b) any weapons and ammunition required to equip or supply any customs patrol boat, aircraft or vehicle. 10

Use of customs patrol boats for enforcement functions

746. (1) The customs officer commanding any customs patrol boat having hoisted and carrying or displaying the customs ensign or flag may pursue any vessel and force the vessel to stop where that vessel does not immediately come to a stop when signalled, ordered or required to do so in terms of section 711(5). 15

(2) The customs officer commanding any customs patrol boat involved in the pursuit of a vessel as contemplated in subsection (1) may, after having obtained authorisation from the Commissioner, as a last resort and after having fired a warning, fire at or onto the fleeing vessel to compel it to come to a stop. 20

Right of hot pursuit by sea

747. (1) Customs officers on board a customs patrol boat may exercise on behalf of the Republic, or on behalf of a foreign state, the right of hot pursuit of any vessel in accordance with article 111 of the United Nations Convention of the Law of the Sea (UNCLOS). 25

(2) The seizure of such a vessel and the arrest of a person on board such a vessel may despite any contrary provisions of this Act be effected by any customs officer on board a customs patrol boat.

Exemptions applicable to customs patrol boats, aircraft and vehicles and customs officers 30

748. Despite anything to the contrary contained in any other legislation—

- (a) customs patrol boats, aircraft and vehicles are exempted from—
 - (i) any registration, licensing or other requirement or any related fee normally applicable to the possession or movement of vessels, aircraft or vehicles, if clearly marked and identifiable as a customs patrol boat, aircraft or vehicle; or 35
 - (ii) any mooring, docking, landing or road toll fee, or any similar charge, whilst used for official duties; and
- (b) customs officers serving on board customs patrol boats are exempted from any provisions relating to their competency or certification if adequately trained and tested in accordance with the standards prescribed by rule in order to ensure their competency and certification. 40

Part 8

Other matters

This Chapter not precluding customs officers from assisting in prosecution of offences 45

749. Nothing in this Chapter may be read as precluding a customs officer from—

- (a) investigating for purposes of a criminal prosecution whether an offence in terms of this Act or a tax levying Act has been committed, including a related

- (b) die voorkoming, bekamping en ondersoek van oor-grens misdaad met betrekking tot ingevoerde goedere en goedere wat in die proses van uitvoer is.
- (2) Doeanebeamptes kan enige van hulle toepassingsfunksies vir die doeleindes van subartikel (1) uitoefen.

Aanskaffing van toerusting vir grensbeheer

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745. Die Kommissaris kan, volgens die voorskrifte van enige toepaslike wetgewing betreffende konvensionele wapens, enige toerusting aanskaf wat vir die patrolling van die lands- en seegrense van die Republiek nodig is, met inbegrip van—

- (a) enige patrolliebote, -vliegtuie en -voertuie; en
- (b) enige wapens en ammunisie benodig om enige doeane-patrollieboot, -vliegtuig of -voertuig toe te rus of te bevoorraad.

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Gebruik van doeanepatrolliebote vir toepassingsfunksies

746. (1) Die doeanebeampte in bevel van enige doeanepatrollieboot wat die doeane-embleem of -vlag gehys het en dra of vertoon, kan enige vaartuig agtervolg en die vaartuig tot stilstand dwing waar daardie vaartuig nie onmiddellik tot stilstand kom wanneer dit ingevolge artikel 711(5) beduie, beveel of aangesê word om dit te doen nie.

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(2) Die doeanebeampte in bevel van enige doeanepatrollieboot wat betrokke is by die agtervolging van 'n vaartuig soos in subartikel (1) beoog, kan, nadat magtiging van die Kommissaris verkry is, as 'n laaste uitweg en nadat 'n waarskuwingskoot afgevuur is, na of op die vluggende vaartuig vuur om dit tot stilstand te dwing.

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Reg van agtervolging op die oop see

747. (1) Doeanebeamptes aan boord van 'n doeane-patrollieboot kan ten behoeve van die Republiek, of ten behoeve van 'n ander staat, die reg uitoefen om enige vaartuig ooreenkomstig artikel 111 van die “United Nations Convention of the Law Of the Sea (UNCLOS)” op die oop see agterna te sit.

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(2) Die beslaglegging van so 'n vaartuig en die arrestasie van 'n persoon aan boord van so 'n vaartuig kan ondanks enige andersluidende bepalings van hierdie Wet, deur enige doeanebeampte aan boord van 'n doeane-patrollieboot uitgevoer word.

Ontheffings wat vir doeane-patrolliebote, -vliegtuie en -voertuie en doeanebeamptes geld

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748. Ondanks enigiets tot die teendeel in enige ander wetgewing—

- (a) is doeane-patrolliebote, -vliegtuie en -voertuie onthef van—
- (i) enige registrasie-, lisensierings- of ander vereiste of enige toepaslike fooi wat normaalweg vir die besit of beweging van vaartuie, vliegtuie of voertuie geld, indien dit duidelik gemerk en as 'n doeane-patrollieboot, -vliegtuig of -voertuig identifiseerbaar is; of
- (ii) enige vasmeer-, dok-, landings- of padtolfooi, of enige soortgelyke fooi, wanneer dit vir amptelike pligte gebruik word; en
- (b) is doeanebeamptes wat aan boord van doeane-patrolliebote werk van enige bepalings betreffende hul bekwaamheid of sertifisering onthef indien hulle behoorlik opgelei en getoets is volgens die standaard by reël voorgeskryf om hul bekwaamheid en sertifisering te verseker.

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Deel 8

Ander aangeleenthede

Bystandverlening deur doeanebeamptes in vervolging van misdrywe nie deur hierdie Hoofstuk geraak

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749. Niks in hierdie Hoofstuk mag uitgelê word as sou dit 'n doeanebeampte belet om—

- (a) vir doeleindes van 'n strafregtelike vervolging 'n ondersoek of 'n misdryf ingevolge hierdie Wet of 'n belastingheffings-Wet gepleeg is, te doen nie, met

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common law offence affecting the implementation or enforcement of this Act or a tax levying Act;

- (b) laying criminal charges for the prosecution of any such offence; and
- (c) providing such assistance as may be required by the prosecuting authority for the prosecution of any such offence.

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Production of customs certificates on registration of imported motor vehicles

750. (1) No motor vehicle registering authority in the Republic may register any motor vehicle imported into the Republic unless a certificate issued by the customs authority is produced stating that the requirements of this Act in respect of the vehicle have been complied with.

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(2) For the purposes of subsection (1) the expression “motor vehicle imported into the Republic” includes any motor vehicle manufactured in the Republic which is re-imported into the Republic.

Rules to facilitate implementation of this Chapter

751. (1) Rules made in terms of section 903 to facilitate the implementation of this Chapter may include rules—

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- (a) (i) concerning the use of scanning equipment or any mechanical, electrical, imaging or electronic appliances that can produce an indication of the nature or characteristics of goods in packages or containers or on or in a person’s body; 20
- (ii) prescribing the places where and the circumstances in which such equipment or appliances may be used or the use of such equipment or appliances is compulsory; and
- (iii) regulating access to places where any such equipment or appliances are used; 25
- (b) concerning patrol boat weapons, firearms, ammunition and non-lethal weapons acquired for customs enforcement purposes, including—
 - (i) the record keeping, storage, safe-keeping, transport and disposal of such weapons, firearms, ammunition and non-lethal weapons; 30
 - (ii) the issue of firearms, ammunition and non-lethal weapons to customs officers;
 - (iii) the safe-keeping and other safety and control measures that must be complied with in respect of patrol boat weapons, firearms, ammunition and non-lethal weapons;
 - (iv) the carrying and use of firearms, ammunition and non-lethal weapons by customs officers; 35
 - (v) the submission of reports by customs officers on the firing of a patrol boat weapon or of a firearm or on the use of a non-lethal weapon;
 - (vi) the reporting of theft, loss or damage to a patrol boat weapon or a firearm, ammunition or non-lethal weapon; 40
 - (vii) the manner in which patrol boat weapons and firearms, ammunition and non-lethal weapons must be marked and identified; and
 - (viii) the training and certification requirements for customs officers for the safe use of patrol boat weapons, firearms, ammunition and non-lethal weapons. 45

(2) Rules made in terms of subsection (1)(b) must be consistent with the Firearms Control Act, 2000 (Act No. 60 of 2000), and any other relevant legislation, to the extent applicable.

Offences in terms of this Chapter

752. (1) A person is guilty of an offence if that person— 50

- (a) contravenes—
 - (i) section 710(1) or 713(1); or
 - (ii) section 714(2)(a);
- (b) fails to comply—
 - (i) with section 709(5) or 730(3); 55

- inbegrip van 'n verwante gemeenregtelike misdryf wat die implementering of toepassing van hierdie Wet of 'n belastingheffings-Wet raak;
- (b) strafregtelike klagtes vir die vervolging van so 'n misdryf te lê nie; en
 - (c) die bystand soos deur die vervolgingsgesag benodig mag word vir die vervolging van so 'n misdryf te verleen nie.

Toon van doeanesertifikate by registrasie van ingevoerde motorvoertuie

750. (1) Geen owerheid vir die registrasie van motorvoertuie in die Republiek mag 'n motorvoertuig in die Republiek ingevoer, registreer nie tensy 'n sertifikaat uitgereik deur die doeanegesag getoon word wat aandui dat daar aan die voorskrifte van hierdie Wet ten opsigte van die voertuig voldoen is.

(2) By die toepassing van subartikel (1) sluit die uitdrukking “motorvoertuig in die Republiek ingevoer” enige motorvoertuig in wat in die Republiek vervaardig en in die Republiek heringevoer is.

Reëls ter fasilitering van implementering van hierdie Hoofstuk

751. (1) Reëls ingevolge artikel 903 uitgevaardig om die implementering van hierdie Hoofstuk te fasiliteer, kan reëls insluit—

- (a) (i) rakende die gebruik van skandeertoerusting of enige meganiese, elektriese, beeldvormende- of elektroniese toestelle wat 'n aanduiding van die aard of eienskappe van goedere in verpakkings of houers of aan of in 'n persoon se liggaam kan gee;
- (ii) wat die plekke waar en die omstandighede waarin sodanige toerusting of toestelle gebruik mag word of die gebruik van sodanige toerusting of toestelle verpligtend is, voorskryf; en
- (iii) wat toegang tot plekke waar enige sodanige toerusting of toestelle gebruik word, reguleer;
- (b) betreffende patrolliebootwapens, vuurwapens, ammunisie en nie-dodelike wapens wat vir doeleindes van doeanetoepassing aangeskaf is, met inbegrip van—
 - (i) die rekordhouding, berging, veilige bewaring, vervoer en beskikking oor sodanige wapens, vuurwapens, ammunisie en nie-dodelike wapens;
 - (ii) die uitreik van vuurwapens, ammunisie en nie-dodelike wapens aan doeanebeamptes;
 - (iii) die veilige bewaring en ander veiligheids- en beheermaatreëls waaraan ten opsigte van patrolliebootwapens, vuurwapens, ammunisie en nie-dodelike wapens voldoen moet word;
 - (iv) die dra en gebruik van vuurwapens, ammunisie en nie-dodelike wapens deur doeanebeamptes;
 - (v) die indiening van verslae deur doeanebeamptes oor die afvuur van 'n patrolliebootwapen of 'n vuurwapen of oor die gebruik van 'n nie-dodelike wapen;
 - (vi) die rapportering van diefstal of verlies van, of skade aan, 'n patrolliebootwapen of 'n vuurwapen, ammunisie of nie-dodelike wapen;
 - (vii) die wyse waarop patrolliebootwapens en vuurwapens, ammunisie en nie-dodelike wapens gemerk en geïdentifiseer moet word; en
 - (viii) die opleiding en sertifiseringsvereistes van doeanebeamptes vir die veilige gebruik van patrolliebootwapens, vuurwapens, ammunisie en nie-dodelike wapens.

(2) Reëls ingevolge subartikel (1)(b) uitgevaardig, moet met die Wet op die Beheer van Vuurwapens, 2000 (Wet No. 60 van 2000), en enige ander toepaslike wetgewing, in soverre dit van toepassing is, bestaanbaar wees.

Misdrywe ingevolge hierdie Hoofstuk

752. (1) 'n Persoon is aan 'n misdryf skuldig indien daardie persoon—

- (a) (i) artikel 710(1) of 713(1) oortree; of
- (ii) artikel 714(2)(a) oortree;
- (b) versuim om te voldoen—
 - (i) aan artikel 709(5) of 730(3);

- (ii) with a request of a customs officer in terms of section 716(1)(b) or (2)(b) or 719(1);
 - (iii) when requested by a customs officer in terms of section 716(1)(a) or (2)(a) to stop; or
 - (iv) with a direction or requirement of a customs officer in terms of section 731(1)(a) or 732; or 5
 - (c) does anything to prevent scanning equipment or any mechanical, electrical, imaging or electronic appliance used by the customs authority to produce an indication of the nature or characteristics of goods in packages or containers or on or in a person's body, from producing an image or true image of the goods. 10
- (2) A person in charge of an area, premises or facility is guilty of an offence if that person fails to comply with section 714(2)(b).
- (3) An on-board operator is guilty of an offence if that on-board operator fails to comply with— 15
- (a) section 714(2)(b); or
 - (b) an order of a customs officer in terms of section 711(5)(a).
- (4) An offence referred to in subsection (1)(a)(ii) or (c) is a Category 1 offence.

CHAPTER 34

DETENTION, SEIZURE AND CONFISCATION OF GOODS 20

Purpose and application of this Chapter

- 753.** (1) The purpose of this Chapter is to provide for the detention, seizure and confiscation of goods to which this Chapter applies in order to enforce the provisions of this Act or a tax levying Act.
- (2) This Chapter applies, subject to sections 755 and 756, to all goods, including documents, that in whatever way have become subject to customs control. 25
- (3) The detention, seizure or confiscation of goods in terms of this Chapter does not affect a person's liability for—
- (a) any taxes or charges that may be or become payable by that person in respect of the goods; or 30
 - (b) any administrative penalty or other punishment in terms of this Act, a tax levying Act or any other legislation.

Part 1

Detention of goods

Power to detain goods 35

- 754.** (1) A customs officer may detain any goods to which this Chapter applies—
- (a) for the purpose of investigating or determining whether—
 - (i) a breach of this Act or a tax levying Act has been committed in relation to the goods;
 - (ii) goods claimed to be excluded or exempted from a requirement of this Act or to be goods in respect of which an authorisation, permission, approval, recognition or other special dispensation applies, are in fact goods excluded or exempted from such requirement⁴³¹ or in respect of which such special dispensation applies; 40
 - (iii) the goods are prohibited, restricted or sectorally controlled goods; or 45
 - (iv) the goods have been or are being used in committing an offence;
 - (b) if the detention of the goods is permitted in terms of another provision of this Act or a tax levying Act; or
 - (c) in any other circumstances as may be prescribed by rule.

431. For instance goods excluded in terms of section 91(1) or 95(1) from clearance requirements.

- (ii) aan 'n versoek van 'n doeanebeampte ingevolge artikel 716(1)(b) of (2)(b) of 719(1);
- (iii) wanneer die persoon deur 'n doeanebeampte ingevolge artikel 716(1)(a) of (2)(a) versoek word om te stop; of
- (iv) aan 'n lasgewing of vereiste van 'n doeanebeampte ingevolge artikel 731(1)(a) of 732; of 5
- (c) enigiets doen om te voorkom dat skandeertoerusting of enige meganiese, elektriese, beeldvormende- of elektroniese toestel wat deur die doeanebesag gebruik word om 'n aanduiding van die aard of eienskappe van goedere in verpakings of houers of aan of in 'n persoon se liggaam te gee, 'n beeld of ware beeld van die goedere gee. 10
- (2) 'n Persoon in beheer van 'n gebied, perseel of fasiliteit is aan 'n misdryf skuldig indien daardie persoon versuim om aan artikel 714(2)(b) te voldoen.
- (3) 'n Aanboord operateur is aan 'n misdryf skuldig indien daardie aanboord operateur versuim om te voldoen aan— 15
 - (a) artikel 714(2)(b); of
 - (b) 'n bevel van 'n doeanebeampte ingevolge artikel 711(5)(a).
- (4) 'n Misdryf in subartikel (1)(a)(ii) of (c) bedoel is 'n Kategorie 1 misdryf.

HOOFSTUK 34

DETENSIE, BESLAGLEGGING EN KONFISKERING VAN GOEDERE 20

Doel en toepassing van hierdie Hoofstuk

- 753.** (1) Die doel van hierdie Hoofstuk is om voorsiening te maak vir die detensie, beslaglegging en konfiskering van goedere waarop hierdie Hoofstuk van toepassing is ten einde die bepalings van hierdie Wet of 'n belastingheffings-Wet toe te pas.
- (2) Hierdie Hoofstuk is, behoudens artikels 755 en 756, van toepassing op alle goedere, met inbegrip van dokumente, wat op watter wyse ook al aan doeanebeheer onderworpe raak. 25
- (3) Die detensie, beslaglegging of konfiskering van goedere ingevolge hierdie Hoofstuk raak nie 'n persoon se aanspreeklikheid vir—
- (a) enige belasting of koste wat deur daardie persoon betaalbaar mag wees of mag word ten opsigte van die goedere nie; of 30
 - (b) enige administratiewe boete of ander straf ingevolge hierdie Wet, 'n belastingheffings-Wet of enige ander wetgewing nie.

Deel 1

Detensie van goedere 35

Bevoegdheid om goedere onder detensie te plaas

- 754.** (1) 'n Doeanebeampte kan enige goedere waarop hierdie Hoofstuk van toepassing is onder detensie plaas—
- (a) ten einde 'n ondersoek te doen of te bepaal of—
 - (i) 'n breuk van hierdie Wet of 'n belastingheffings-Wet met betrekking tot die goedere begaan is; 40
 - (ii) goedere waarop daar aanspraak gemaak word dat dit van 'n voorskrif van hierdie Wet uitgesluit of onthef is, of dat dit goedere is ten opsigte waarvan 'n magtiging, toestemming, goedkeuring, erkenning of ander spesiale vergunning geld, inderdaad goedere is wat van so 'n voorskrif uitgesluit of onthef is of ten opsigte waarvan so 'n spesiale vergunning geld;⁴³¹ 45
 - (iii) die goedere verbode, beperkte of sektorbeheerde goedere is; of
 - (iv) die goedere gebruik is of word in die pleeg van 'n misdryf;
 - (b) indien die detensie van die goedere ingevolge 'n ander bepaling van hierdie Wet of 'n belastingheffings-Wet gemagtig is; of 50
 - (c) in enige ander omstandighede soos by reël voorgeskryf mag word.

431. Byvoorbeeld goedere wat ingevolge artikel 91(1) of 95(1) van klaringsvereistes uitgesluit is.

- (2) If such goods consist of documents, a customs officer may detain the documents—
- (a) for the purpose of investigating or determining whether—
 - (i) a breach of this Act or a tax levying Act has been or is being committed in relation to any goods or matter to which the document relates;
 - (ii) the document affords evidence of the commission of such a breach; 5
 - (iii) any goods to which the document relates are prohibited, restricted or sectorally controlled goods; or
 - (iv) any goods to which the document relates have been or are being used in the commission of an offence;
 - (b) if the detention of the document is permitted in terms of another provision of this Act or a provision of a tax levying Act; or 10
 - (c) in any other circumstances as may be prescribed by rule.
- (3) A customs officer may detain goods in terms of subsection (1) or (2) wherever found.

Detention of prohibited, restricted and sectorally controlled goods 15

755. If goods are detained in terms of section 754(1) and it is established after the detention that the goods are prohibited, restricted or sectorally controlled goods that must be detained in terms of Chapter 35—

- (a) the goods must be regarded to be detained in terms of the applicable provision of that Chapter; and 20
- (b) that Chapter becomes applicable to the goods.

Detention of counterfeit goods

756. (1) Section 754 does not apply to the detention of goods solely by reason of the fact that the goods are counterfeit goods or goods suspected to be counterfeit goods.⁴³²

(2) Subsection (1) may not be read as preventing counterfeit goods, or goods suspected of being counterfeit goods, from being detained in terms of section 754 if the reason for the detention is not based on the fact that the goods are counterfeit goods or goods suspected of being counterfeit goods.⁴³³ 25

(3) If counterfeit goods, or goods suspected of being counterfeit goods, are detained in terms of section 754, the provisions of this Chapter and the other provisions applicable to goods detained in terms of that section apply to the goods unless the customs authority directs that Chapter 36 be applied to the goods as if the goods were detained in terms of that Chapter. 30

Notice of detention

757. (1) When detaining goods in terms of section 754(1) or (2), a customs officer must issue a notice of detention to— 35

- (a) the person clearing the goods or who submitted the clearance declaration, if the goods are goods being cleared; or
- (b) the person in whose possession the goods are, or are believed to be, at the time of detention. 40

(2) Subsection (1) does not apply if the person to whom the notice must be issued is unknown or cannot be found.

(3) If the goods are at any licensed premises, the customs authority must electronically in accordance with section 913 notify the licensee of the premises of the detention. 45

432. The detention of counterfeit goods on that ground is dealt with in Chapter 36.

433. This provision allows counterfeit goods to be detained on any of the grounds set out in section 754(1) as long as the detention is not based on the fact that the goods are counterfeit goods, for instance when counterfeit goods are diverted for home use in contravention of the Customs Control Act to evade tax.

- (2) Indien sodanige goedere uit dokumente bestaan, kan 'n doeanebeampte die dokumente onder detensie plaas—
- (a) ten einde 'n ondersoek te doen of te bepaal of—
 - (i) 'n breuk van hierdie Wet of 'n belastingheffings-Wet begaan is of word met betrekking tot enige goedere of aangeleentheid waarop die dokument betrekking het; 5
 - (ii) die dokument bewys daarvan lewer dat so 'n breuk begaan is;
 - (iii) enige goedere waarop die dokument betrekking het verbode, beperkte of sektorbeheerde goedere is; of
 - (iv) enige goedere waarop die dokument betrekking het, gebruik is of word in die pleeg van 'n misdryf; 10
 - (b) indien die detensie van die dokument ingevolge 'n ander bepaling van hierdie Wet of 'n bepaling van 'n belastingheffings-Wet gemagtig word; of
 - (c) in enige ander omstandighede soos by reël voorgeskryf mag word.
- (3) 'n Doeanebeampte kan goedere ingevolge subartikel (1) of (2) onder detensie plaas waar dit ook al gevind word. 15

Detensie van verbode, beperkte en sektorbeheerde goedere

755. Indien goedere ingevolge artikel 754(1) onder detensie geplaas word en dit nadat die goedere onder detensie geplaas is, blyk dat die goedere verbode, beperkte of sektorbeheerde goedere is wat ingevolge Hoofstuk 35 onder detensie geplaas moet word— 20

- (a) moet die goedere geag word ingevolge die toepaslike bepaling van daardie Hoofstuk onder detensie geplaas te wees; en
- (b) word daardie Hoofstuk op die goedere van toepassing.

Detensie van nagemaakte goedere

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756. (1) Artikel 754 is nie van toepassing op die detensie van goedere bloot vanweë die feit dat die goedere nagemaakte goedere is of goedere is wat vermoed word nagemaakte goedere te wees nie.⁴³²

(2) Subartikel (1) mag nie uitgelê word om die detensie ingevolge artikel 754 van nagemaakte goedere, of goedere wat vermoed word nagemaakte goedere te wees, te belet nie indien die rede vir die detensie nie gebaseer is op die feit dat die goedere nagemaakte goedere is of goedere is wat vermoed word nagemaakte goedere te wees nie.⁴³³ 30

(3) Indien nagemaakte goedere, of goedere wat vermoed word nagemaakte goedere te wees, ingevolge artikel 754 onder detensie geplaas word, is die bepalings van hierdie Hoofstuk en die ander bepalings wat vir goedere geld wat ingevolge daardie artikel onder detensie geplaas is, van toepassing op die goedere tensy die doeanebesag gelas dat Hoofstuk 36 op die goedere toegepas moet word asof die goedere ingevolge daardie Hoofstuk onder detensie geplaas is. 35

Detensiekennisgewing

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757. (1) Wanneer goedere ingevolge artikel 754(1) of (2) onder detensie geplaas word, moet 'n doeanebeampte 'n detensiekennisgewing uitreik aan—

- (a) die persoon wat die goedere klaar of die klaringsbrief ingedien het, indien die goedere goedere is wat geklaar word; of
- (b) die persoon in wie se besit die goedere op die tydstip van detensie is of geglo word te wees. 45

(2) Subartikel (1) is nie van toepassing nie indien die persoon aan wie die kennisgewing uitgereik moet word, onbekend is of nie gevind kan word nie.

(3) Indien die goedere by 'n gelisensieerde perseel is, moet die doeanebesag die lisensiehouer van die perseel elektronies ooreenkomstig artikel 913 van die detensie in kennis stel. 50

432. Die detensie van nagemaakte goedere op daardie grond word in Hoofstuk 36 behandel.

433. Hierdie bepaling maak daarvoor voorsiening dat nagemaakte goedere onder detensie geplaas kan word op enige van die gronde in artikel 754(1) vermeld solank die detensie nie gebaseer word op die feit dat die goedere nagemaakte goedere is nie, byvoorbeeld wanneer nagemaakte goedere in stryd met die Wet op Doeanebeheer vir binnelandse gebruik afgewend word om belasting te ontduik.

- (4) A notice of detention must—
- (a) identify the goods to which it relates;
 - (b) state the date from which the goods are detained;
 - (c) state the reason for the detention; and
 - (d) contain any other particulars as may be prescribed by rule. 5

Presence of persons when detained goods are inspected

- 758.** (1) When inspecting goods that have been detained or opening any package or container containing detained goods, a customs officer—
- (a) must, on request by a person clearing the goods or who submitted a clearance declaration in respect of the goods, or that person's representative, allow that person or representative to be present during the inspection or opening of the package or container; or 10
 - (b) may require the person clearing the goods or who submitted the clearance declaration, or that person's representative, to be present during the inspection or opening of the package or container. 15
- (2) Subsection (1) does not prevent a customs officer from inspecting goods or opening a package or container in the absence of a person who submitted a request in terms of that subsection if—
- (a) that person fails to arrive at the appointed time for the customs officer's actions; or 20
 - (b) disclosure of the inspection or opening of the package or container may obstruct the investigation of an offence involving the diversion or smuggling of goods or the evasion of tax.

Place of detention

- 759.** (1) Goods detained in terms of section 754(1) or (2) may pending the action to be taken in respect of the goods— 25
- (a) be kept at the place where they were detained or be removed to any licensed premises as the customs authority may determine; or
 - (b) if the conditions for the removal of the goods in terms of section 570 to a state warehouse exist, be removed to a state warehouse in terms of that section or dealt with in terms of section 580. 30
- (2) No person may remove detained goods from the place where they are kept or stored without the permission of the customs authority.
- (3) If a place where detained goods are kept in terms of subsection (1)(a) is not a customs controlled area, the customs authority has for purposes of this Act access to those goods as if that place is a customs controlled area. 35

Period of detention

- 760.** Goods may in terms of section 754(1) or (2) be detained for a reasonable time pending—
- (a) completion of any steps necessary to enable the customs authority to arrive at a decision concerning the action to be taken in respect of the detained goods; and 40
 - (b) a decision on such action, including a decision on whether the goods should be seized in terms of Part 2.

Termination of detention 45

- 761.** (1) The customs authority must promptly terminate the detention of any goods if—
- (a) the ground for the detention of the goods is no longer relevant;
 - (b) the need for the further detention of the goods have fallen away, including where security is given in the case of goods detained by reason of a risk to collect tax or other debt that may be payable or become payable on the goods; 50
 - (c) the customs authority decides not to seize the goods;

- (4) 'n Detensiekennisgewing moet—
- (a) die goedere waarop dit betrekking het identifiseer;
 - (b) die datum vermeld van wanneer af die goedere onder detensie geplaas word;
 - (c) die rede vir die detensie vermeld; en
 - (d) enige ander besonderhede bevat soos by reël voorgeskryf mag word. 5

Teenwoordigheid van persone wanneer detensiegoedere geïnspekteer word

- 758.** (1) Wanneer goedere wat onder detensie geplaas is, geïnspekteer word of enige verpakking of houer wat detensiegoedere bevat, oopgemaak word—
- (a) moet 'n doeanebeampte, op versoek van 'n persoon wat die goedere klaar of 'n klaringsbrief ten opsigte van die goedere ingedien het, of daardie persoon se verteenwoordiger, daardie persoon of verteenwoordiger toelaat om gedurende die inspeksie of oopmaak van die verpakking of houer teenwoordig te wees; of 10
 - (b) kan 'n doeanebeampte die persoon wat die goedere klaar of die klaringsbrief ingedien het, of daardie persoon se verteenwoordiger, aansê om tydens die inspeksie of oopmaak van die verpakking of houer teenwoordig te wees. 15
- (2) Subartikel (1) belet nie 'n doeanebeampte om goedere te inspekteer of 'n verpakking of houer oop te maak in die afwesigheid van 'n persoon wat 'n versoek ingevolge daardie subartikel gerig het nie indien—
- (a) daardie persoon versuim om op die vasgestelde tyd vir die doeanebeampte se aksies op te daag; of 20
 - (b) bekendmaking van die inspeksie of oopmaak van die verpakking of houer die ondersoek van 'n misdryf betreffende die afwending of smokkel van goedere of die ontduiking van belasting mag belemmer. 20

Plek van detensie 25

- 759.** (1) Goedere wat ingevolge artikel 754(1) of (2) onder detensie geplaas is, kan, hangende die stappe wat ten opsigte van die goedere gedoen mag word—
- (a) gehou word by die plek waar dit onder detensie geplaas is of verwyder word na enige gelisensieerde perseel soos die doeanebesag mag bepaal; of
 - (b) indien die voorwaardes vir die verwydering van die goedere na 'n staatspakhuis ingevolge artikel 570 aanwesig is, na 'n staatspakhuis ingevolge daardie artikel verwyder of ingevolge artikel 580 mee gehandel word. 30
- (2) Geen persoon mag enige goedere wat onder detensie geplaas is, van die plek waar dit gehou of geberg word sonder die toestemming van die doeanebesag verwyder nie. 35
- (3) Indien 'n plek waar detensiegoedere ingevolge subartikel (1)(a) gehou word nie 'n doeanebeheergebied is nie, het die doeanebesag vir doeleindes van hierdie Wet toegang tot daardie plek asof daardie plek 'n doeanebeheergebied is. 35

Tydperk van detensie

- 760.** Goedere kan ingevolge artikel 754(1) of (2) vir 'n redelike tydperk onder detensie gehou word hangende— 40
- (a) die afhandeling van enige stappe wat nodig is om die doeanebesag in staat te stel om tot 'n besluit te kom aangaande die stappe wat ten opsigte van die detensiegoedere gedoen moet word; en
 - (b) 'n besluit oor sodanige stappe, met inbegrip van 'n besluit of daar op die goedere ingevolge Deel 2 beslag gelê moet word. 45

Beëindiging van detensie

- 761.**(1) Die doeanebesag moet die detensie van enige goedere onverwyld beëindig indien—
- (a) die rede vir die detensie nie meer geld nie;
 - (b) die nodigheid vir die verdere detensie van die goedere weggeval het, insluitende waar sekuriteit gestel is in die geval van goedere wat onder detensie geplaas is weens 'n risiko om belasting of ander skuld wat op die goedere betaalbaar is of mag word, te verhaal;
 - (c) die doeanebesag besluit om nie op die goedere beslag te lê nie; 50

- (d) no action is taken within a reasonable time after the goods were detained;
 - (e) the goods were detained in error;
 - (f) any action taken in terms of Chapter 37 against the detention is successful; or
 - (g) a court so orders.
- (2) The customs authority must promptly notify the person to whom the notice of detention was issued if the detention of the goods is terminated in terms of subsection (1). 5
- (3) If the goods are kept at any licensed premises, the customs authority must electronically in accordance with section 913 also notify the licensee of the premises of the termination of the detention. 10

Part 2

Seizure of goods

Power to seize goods

- 762.** (1) The customs authority may seize any goods to which this Chapter applies, including goods detained in terms of section 734(1) or (2)— 15
- (a) if the goods are liable to confiscation in terms of section 766(1);
 - (b) if the goods are or may be needed as evidence in any criminal proceedings;
 - (c) if the seizure of the goods is permitted in terms of another provision of this Act or a provision of a tax levying Act; or
 - (d) in any other circumstances as may be prescribed by rule. 20
- (2) Goods seized in terms of subsection (1)(b) must—
- (a) be handed over to the South African Police Service or kept or stored for the purposes of the South African Police Service; and
 - (b) be dealt with in accordance with the legislation regulating the criminal justice system, provided that imported goods may not be allowed into free circulation unless those goods are cleared and released for home use under Chapter 8.⁴³⁴ 25
- (3) Goods seized in terms of subsection (1)(a), (c) or (d) must be dealt with in accordance with section 570 or 580, if not already dealt with in accordance with any of those sections.
- (4) Section 882 applies if goods that are liable to confiscation are to be seized and the goods cannot readily be found. 30

Notice of seizure

- 763.** (1) When seizing goods in terms of section 762, a customs officer must issue a notice of seizure—
- (a) in the case of goods that were detained in terms of section 754(1) or (2), to the person to whom the notice of detention was issued; 35
 - (b) in the case of goods that have been seized without previous detention, to the person—
 - (i) clearing the goods or who submitted the clearance declaration, if the goods are goods being cleared; or 40
 - (ii) in whose possession the goods are, or are believed to be, at the time of seizure.
- (2) Subsection (1) does not apply if the person to whom the notice must be issued is unknown or cannot be found.
- (3) If the goods are at any licensed premises, the customs authority must electronically in accordance with section 913 also notify the licensee of the premises of the seizure. 45
- (4) A notice of seizure must—
- (a) identify the goods to which it relates;
 - (b) state the date from which the goods are seized; 50

434. See sections 30 to 34 of the Criminal Procedure Act, 1977.

- (d) geen stappe binne 'n redelike tyd nadat die goedere onder detensie geplaas is, gedoen word nie;
- (e) die goedere foutiewelik onder detensie geplaas is;
- (f) enige stappe ingevolge Hoofstuk 37 teen die detensie gedoen, suksesvol is; of
- (g) 'n hof aldus beveel. 5

(2) Die doeanegesag moet onverwyld kennis aan die persoon aan wie die detensiekennisgewing uitgereik is, gee indien die detensie van die goedere ingevolge subartikel (1) beëindig word.

(3) Indien die goedere by 'n gelisensieerde perseel gehou word, moet die doeanegesag die lisensiehouer van die perseel ooreenkomstig artikel 913 elektronies van die beëindiging van die detensie in kennis stel. 10

Deel 2

Beslaglegging op goedere

Bevoegdheid om op goedere beslag te lê

762. (1) Die doeanegesag kan op enige goedere beslag lê waarop hierdie Hoofstuk van toepassing is, met inbegrip van goedere wat ingevolge artikel 734(1) of (2) onder detensie geplaas is— 15

- (a) indien die goedere ingevolge artikel 766(1) aan konfiskering onderhewig is;
- (b) indien die goedere in enige strafregtelike verrigtinge as bewysstukke benodig word of mag word; 20
- (c) indien beslaglegging op die goedere ingevolge 'n ander bepaling van hierdie Wet of 'n bepaling van 'n belastingheffings-Wet gemagtig word; of
- (d) in enige ander omstandighede soos by reël voorgeskryf mag word.

(2) Goedere waarop ingevolge subartikel (1)(b) beslag gelê is, moet—

- (a) aan die Suid-Afrikaanse Polisie diens oorhandig of vir doeleindes van die Suid-Afrikaanse Polisie diens gehou of geberg word; en 25
- (b) mee gehandel word ooreenkomstig die wetgewing wat die strafregstelsel reguleer, op voorwaarde dat ingevoerde goedere nie in vry sirkulasie toegelaat mag word tensy daardie goedere vir binnelandse gebruik kragtens Hoofstuk 8 geklaar en vrygestel is nie.⁴³⁴ 30

(3) Met goedere waarop daar ingevolge subartikel (1)(a), (c) of (d) beslag gelê is, moet daar ooreenkomstig artikel 570 of 580 gehandel word, indien daar nie reeds met die goedere ooreenkomstig enige van daardie artikels gehandel is nie.

(4) Artikel 882 is van toepassing indien daar op goedere wat aan konfiskering onderhewig is, beslag gelê moet word en die goedere nie geredelik gevind kan word nie. 35

Kennisgewing van beslaglegging

763. (1) Wanneer daar op goedere ingevolge artikel 762 beslag gelê word, moet 'n doeanebeampte 'n kennisgewing van beslaglegging uitreik—

- (a) in die geval van goedere wat ingevolge artikel 754(1) of (2) onder detensie geplaas is, aan die persoon aan wie die detensiekennisgewing uitgereik is; 40
- (b) in die geval van goedere waarop daar sonder voorafgaande detensie beslag gelê word, aan die persoon—
 - (i) wat die goedere klaar of die klaringsbrief ingedien het, indien die goedere goedere is wat geklaar word; of
 - (ii) in wie se besit die goedere op die tydstip van beslaglegging is of geglo word te wees. 45

(2) Subartikel (1) is nie van toepassing nie indien die persoon aan wie die kennisgewing uitgereik moet word onbekend is of nie gevind kan word nie.

(3) Indien die goedere by 'n gelisensieerde perseel is, moet die doeanegesag ook die lisensiehouer van die perseel elektronies ooreenkomstig artikel 913 van die beslaglegging in kennis stel. 50

(4) 'n Kennisgewing van beslaglegging moet—

- (a) die goedere waarop dit betrekking het, identifiseer;
- (b) die datum vermeld van wanneer af daar op die goedere beslag gelê word;

434. Kyk artikels 30 tot 34 van die Strafproseswet, 1977.

- (c) state the reason for the seizure; and
- (d) contain any other particulars as may be prescribed by rule.

Termination of seizure

- 764.** (1) The customs authority must immediately terminate the seizure of any goods if— 5
- (a) an application made in terms of section 765 for the termination of the seizure is granted;
 - (b) the goods were seized in error;
 - (c) any action taken in terms of Chapter 37 against the seizure is successful; or
 - (d) a court so orders. 10
- (2) The customs authority must promptly notify the person to whom the notice of seizure was issued if the seizure of the goods is terminated in terms of subsection (1).
- (3) If the goods are kept at any licensed premises, the customs authority must electronically in accordance with section 913 also notify the licensee of the premises of the termination of the seizure. 15
- (4) The termination of a seizure does not reactivate any initial detention of the goods.

Termination of seizure on application by owner of goods

- 765.** (1) A person who is the owner of any goods seized in terms of section 762, may apply to the customs authority for termination of the seizure.
- (2) (a) The burden to prove that the applicant is the owner of any seized goods rests with the applicant. 20
- (b) In the event of disputing claims as to ownership of any goods, the customs authority may not decide the dispute, but must abide by the decision of a court.
- (3) An application in terms of subsection (1) must—
- (a) motivate the reasons why the seizure should be terminated; and 25
 - (b) be in the form and format, contain the information and comply with such other requirements as may be prescribed by rule.
- (4) The customs authority may—
- (a) on good cause shown grant the application subject to any conditions the customs authority may impose;⁴³⁵ or 30
 - (b) refuse the application.
- (5) An application must be refused if granting the application would be inconsistent with this Act, a tax levying Act or any other legislation applicable to the goods.
- (6) If an application is granted the applicant must pay to the Commissioner—
- (a) any outstanding tax, interest on tax and administrative penalty that may be payable on or in respect of the goods; and 35
 - (b) any expenses incurred by the Commissioner in connection with the seizure, and any initial detention, of the goods.
- (7) The customs authority must promptly notify the applicant if the application is granted and the seizure of the goods is terminated. 40
- (8) If the goods are kept at any licensed premises, the customs authority must electronically in accordance with section 913 also notify the licensee of the premises of the termination of the seizure.
- (9) The termination of a seizure does not reactivate any initial detention of the goods.

435. In terms of section 881 these conditions may include the imposition of an administrative penalty equal to the customs value of the goods.

- (c) die rede vir die beslaglegging vermeld; en
- (d) enige ander besonderhede bevat soos by reël voorgeskryf mag word.

Beëindiging van beslaglegging

- 764.** (1) Die doeanegesag moet die beslaglegging van enige goedere onmiddellik beëindig indien— 5
- (a) 'n aansoek wat ingevolge artikel 765 vir die beëindiging van die beslaglegging gedoen is, toegestaan word;
 - (b) daar foutiewelik op die goedere beslag gelê is;
 - (c) enige stappe ingevolge Hoofstuk 37 teen die beslaglegging gedoen, suksesvol is; of 10
 - (d) 'n hof aldus beveel.
- (2) Die doeanegesag moet onverwyld kennis aan die persoon aan wie die kennisgewing van beslaglegging uitgereik is, gee indien die beslaglegging van die goedere ingevolge subartikel (1) beëindig word.
- (3) Indien die goedere by 'n gelisensieerde perseel gehou word, moet die doeanegesag ook die lisensiehouer van die perseel elektronies ooreenkomstig artikel 913 van die beëindiging van die beslaglegging in kennis stel. 15
- (4) Die beëindiging van 'n beslaglegging heraktiveer nie enige aanvanklike detensie van die goedere nie.

Beëindiging van beslaglegging op aansoek deur eienaar van goedere 20

- 765.** (1) 'n Persoon wat die eienaar is van enige goedere waarop daar ingevolge artikel 762 beslag gelê is, kan by die doeanegesag om beëindiging van die beslaglegging aansoek doen.
- (2) (a) Die onus om te bewys dat die applikant die eienaar van enige goedere is waarop daar beslag gelê is, rus op die applikant. 25
- (b) In die geval van betwiste eise betreffende eienskapskap van enige goedere, mag die doeanegesag nie die dispuut beslis nie, maar moet by die beslissing van 'n hof berus.
- (3) 'n Aansoek ingevolge subartikel (1) moet—
- (a) die redes motiveer waarom die beslaglegging beëindig behoort te word; en
 - (b) in die vorm en formaat wees, die inligting bevat en aan die ander vereistes voldoen soos by reël voorgeskryf mag word. 30
- (4) Die doeanegesag kan—
- (a) by die aanvoer van goeie gronde die aansoek onderworpe aan enige voorwaardes toestaan wat die doeanegesag mag oplê;⁴³⁵ of
 - (b) die aansoek weier. 35
- (5) 'n Aansoek moet geweier word indien die toestaan van die aansoek onbestaanbaar sal wees met hierdie Wet, 'n belastingheffings-Wet of enige ander wetgewing wat op die goedere van toepassing is.
- (6) Indien 'n aansoek toegestaan word, moet die applikant aan die Kommissaris—
- (a) enige uitstaande belasting, rente op belasting en administratiewe boete wat op of ten opsigte van die goedere betaalbaar mag wees, betaal; en
 - (b) enige koste deur die Kommissaris aangegaan in verband met die beslaglegging en enige aanvanklike detensie van die goedere, betaal. 40
- (7) Die doeanegesag moet die applikant onverwyld in kennis stel indien die aansoek toegestaan word en die beslaglegging van die goedere beëindig word. 45
- (8) Indien die goedere by 'n gelisensieerde perseel gehou word, moet die doeanegesag ook die lisensiehouer van die perseel elektronies ooreenkomstig artikel 913 van die beëindiging van die beslaglegging in kennis stel.
- (9) Die beëindiging van 'n beslaglegging heraktiveer nie enige aanvanklike detensie van die goedere nie. 50

435. Ingevolge artikel 881 kan hierdie voorwaardes die oplegging van 'n administratiewe boete gelyk aan die doeanewaarde van die goedere insluit.

Part 3

Confiscation of goods

Confiscation of goods

- 766.** (1) The following goods are for purposes of section 762(1)(a) liable to
confiscation: 5
- (a) Any goods in respect of which a breach of this Act or a tax levying Act has
been committed;
 - (b) any goods that must be destroyed or otherwise disposed of to give effect to a
requirement in terms of this Act, a tax levying Act or any other legislation;
 - (c) any other goods conveyed, stored, mixed, packed or found with any goods
referred to in paragraph (a) or (b); 10
 - (d) any goods that have been used in committing a breach of this Act or a tax
levying Act, including—
 - (i) a vessel, aircraft, railway carriage or vehicle or other means of transport;
 - (ii) reusable transport equipment; and 15
 - (iii) plant, machinery, equipment and apparatus;
 - (e) any goods, including a vessel, aircraft, railway carriage or vehicle or other
means of transport, that have been specifically constructed, adapted, altered or
fitted in any manner for the purpose of concealing goods;
 - (f) any document in respect of which a breach of this Act or a tax levying Act has
been committed or which relates to a matter in respect of which a breach of
this Act or a tax levying Act has been committed; or 20
 - (g) any other goods that may be confiscated in terms of any other provision of this
Act or a provision of a tax levying Act.
- (2) The customs authority must confiscate⁴³⁶ any goods referred to in subsection (1)— 25
- (a) if upon expiry of 30 calendar days from the date the goods were seized, read
with section 908—
 - (i) no application for termination of the seizure has been submitted to the
customs authority in terms of section 765; or
 - (ii) no court application for termination of the seizure has been lodged; or 30
 - (b) if any such application has been submitted or lodged but has been refused.
- (3) The customs authority must give written notice of any confiscation of goods in
terms of subsection (2) to a person referred to in section 763(1) unless that person is
unknown or cannot be found.
- (4) Goods confiscated in terms of subsection (2) become the property of the state. 35

Withdrawal of confiscation

- 767.** (1) The customs authority must promptly withdraw the confiscation of any goods
if—
- (a) an application in terms of section 768 for withdrawal of the confiscation is
granted; 40
 - (b) the goods were confiscated in error;
 - (c) any action taken in terms of Chapter 37 against the confiscation is successful;
or
 - (d) a court so orders.
- (2) The customs authority must promptly notify the person to whom notice of the
confiscation was issued if the confiscation of the goods is withdrawn in terms of
subsection (1). 45
- (3) If the goods are kept at any licensed premises, the customs authority must
electronically in accordance with section 913 also notify the licensee of the premises of
the withdrawal of the confiscation. 50

⁴³⁶. Seizure of goods in accordance with Part 2 of this Chapter must precede confiscation.

Deel 3

Konfiskering van goedere

Konfiskering van goedere

766. (1) Die volgende goedere is vir doeleindes van artikel 762(1)(a) aan konfiskering onderhewig: 5

- (a) Enige goedere ten opsigte waarvan 'n breuk van hierdie Wet of 'n belastingheffings-Wet begaan is;
- (b) enige goedere wat vernietig of andersins oor beskik moet word ten einde aan 'n voorskrif ingevolge hierdie Wet, 'n belastingheffings-Wet of enige ander wetgewing gevolg te gee; 10
- (c) enige ander goedere vervoer, geberg, gemeng, verpak of gevind met enige goedere in paragraaf (a) of (b) bedoel;
- (d) enige goedere wat gebruik is in die pleging van 'n breuk van hierdie Wet of 'n belastingheffings-Wet, met inbegrip van—
 - (i) 'n vaartuig, vliegtuig, spoorwegwa of voertuig of ander middel van vervoer; 15
 - (ii) herbruikbare-vervoertoerusting; en
 - (iii) enige installasie, masjienerie, toerusting en apparaat;
- (e) enige goedere, met inbegrip van 'n vaartuig, vliegtuig, spoorwegwa of voertuig of ander middel van vervoer, wat spesifiek op enige wyse vervaardig, 20 aangepas, verander of toegerus is met die doel om goedere te versteek;
- (f) enige dokument ten opsigte waarvan 'n breuk van hierdie Wet of 'n belastingheffings-Wet begaan is of wat betrekking het op 'n aangeleentheid ten opsigte waarvan 'n breuk van hierdie Wet of 'n belastingheffings-Wet begaan is; of 25
- (g) enige ander goedere wat ingevolge enige ander bepaling van hierdie Wet of 'n bepaling van 'n belastingheffings-Wet gekonfiskeer mag word.

(2) Die doeanegesag moet enige goedere bedoel in subartikel (1) konfiskeer—⁴³⁶ 30

- (a) indien daar by verstryking van 30 kalenderdae vanaf die datum waarop daar op die goedere, saamgelees met artikel 908, beslag gelê is— 30
 - (i) geen aansoek vir beëindiging van die beslaglegging by die doeanegesag ingevolge artikel 765 ingedien is nie; of
 - (ii) geen hofaansoek om beëindiging van die beslaglegging ingedien is nie; of
- (b) indien so 'n aansoek ingedien is maar geweier is. 35

(3) Die doeanegesag moet skriftelik kennis van enige konfiskering van goedere ingevolge subartikel (2) aan 'n persoon bedoel in artikel 763(1) gee tensy daardie persoon onbekend is of nie gevind kan word nie.

(4) Goedere ingevolge subartikel (2) gekonfiskeer, word die eiendom van die staat.

Terugtrekking van konfiskering 40

767. (1) Die doeanegesag moet onverwyld die konfiskering van enige goedere terugtrek indien—

- (a) 'n aansoek ingevolge artikel 768 om die terugtrekking van die konfiskering toegestaan word;
- (b) die goedere foutiewelik gekonfiskeer is; of 45
- (c) enige stappe ingevolge Hoofstuk 37 teen die konfiskering gedoen suksesvol is; of
- (d) 'n hof aldus beveel.

(2) Die doeanegesag moet onverwyld aan die persoon aan wie 'n kennisgewing van die konfiskering uitgereik is, kennis gee indien die konfiskering van die goedere 50 ingevolge subartikel (1) teruggetrek word.

(3) Indien die goedere gehou word by 'n gelisensieerde perseel, moet die doeanegesag ook die lisensiehouer van die perseel elektronies ooreenkomstig artikel 913 van die terugtrekking van die konfiskering in kennis stel.

⁴³⁶ Die beslaglegging van goedere ooreenkomstig Deel 2 van hierdie Hoofstuk moet konfiskering voorafgaan.

(4) The withdrawal of a confiscation does not reactivate any initial detention or the seizure of the goods.

Withdrawal of confiscation on application by previous owner

768. (1) A person who before the goods were confiscated in terms of section 766 was the owner of the goods, may apply to the customs authority for the withdrawal of the confiscation. 5

(2) (a) The burden to prove that the applicant was the owner of the goods before the goods were confiscated rests with the applicant.

(b) In the event of disputing claims as to ownership of any goods, the customs authority may not decide the dispute, but must abide by the decision of a court. 10

(3) An application in terms of subsection (1) must—

(a) motivate the reasons why the confiscation should be withdrawn; and

(b) be in the form and format, contain the information and comply with such other requirements as may be prescribed by rule.

(4) The customs authority may— 15

(a) on good cause shown grant an application subject to any conditions the customs authority may impose;⁴³⁷ or

(b) refuse the application.

(5) An application must be refused if granting the application would be inconsistent with any other legislation applicable to the goods. 20

(6) If an application is granted the applicant must pay to the Commissioner—

(a) any outstanding tax, interest on tax and administrative penalty payable on or in respect of the goods;⁴³⁸ and

(b) any expenses incurred by the Commissioner in connection with the confiscation, including the seizure and any initial detention, of the goods. 25

(7) The customs authority must promptly notify the applicant if the application is granted and the confiscation of the goods is withdrawn.

(8) If the goods are kept at any licensed premises, the customs authority must electronically in accordance with section 913 also notify the licensee of the premises of the withdrawal of the confiscation. 30

(9) The withdrawal of a confiscation does not reactivate any initial detention or seizure of the goods.

Disposal of confiscated goods

769. (1) Goods confiscated in terms of section 766 must be sold or otherwise disposed of in accordance with sections 592 to 599, subject to subsection (2). 35

(2) Confiscated goods that are or may be needed as evidence in any criminal proceedings must be—

(a) handed over to the South African Police Service or kept or stored for the purposes of the South African Police Service; and

(b) dealt with in accordance with the legislation regulating the criminal justice system.⁴³⁹ 40

Part 4

General

Rules to facilitate implementation of this Chapter

770. Rules made in terms of section 903 to facilitate the implementation of this Chapter may include rules prescribing processes, timeframes and other requirements for applications to terminate the seizure or confiscation of any goods. 45

437. In terms of section 881 these conditions may include the imposition of an administrative penalty equal to the customs value of the goods.

438. See sections 112 to 115 for tax and penalties that may be payable.

439. See sections 30 to 34 of the Criminal Procedure Act, 1977.

(4) Die terugtrekking van 'n konfiskering heraktiveer nie enige aanvanklike detensie of beslaglegging van die goedere nie.

Terugtrekking van konfiskering op aansoek deur vorige eienaar

768. (1) 'n Persoon wat voordat die goedere ingevolge artikel 766 gekonfiskeer is die eienaar van die goedere was, kan by die doeanegesag om die terugtrekking van die konfiskering aansoek doen. 5

(2) (a) Die onus om te bewys dat die applikant die eienaar van die goedere was voordat die goedere gekonfiskeer is, rus op die applikant.

(b) In die geval van betwisde eise betreffende eienaarskap van enige goedere, mag die doeanegesag nie die dispuut beslis nie, maar moet by die beslissing van 'n hof berus. 10

(3) 'n Aansoek ingevolge subartikel (1) moet—

(a) die redes motiveer waarom die konfiskering teruggetrek behoort te word; en

(b) in die vorm en formaat wees, die inligting bevat en aan sodanige ander vereistes voldoen, soos by reël voorgeskryf mag word.

(4) Die doeanegesag kan— 15

(a) by die aanvoer van goeie gronde 'n aansoek toestaan onderworpe aan enige voorwaardes wat die doeanegesag mag ople;⁴³⁷ of

(b) die aansoek weier.

(5) 'n Aansoek moet geweier word indien toestaan van die aansoek onbestaanbaar sal wees met enige ander wetgewing wat op die goedere van toepassing is. 20

(6) Indien 'n aansoek toegestaan word, moet die applikant aan die Kommissaris—

(a) enige uitstaande belasting, rente op belasting en administratiewe boete wat op of ten opsigte van die goedere betaalbaar is, betaal;⁴³⁸ en

(b) enige koste deur die Kommissaris aangegaan in verband met die konfiskering, met inbegrip van die beslaglegging en aanvanklike detensie, van die goedere, betaal. 25

(7) Die doeanegesag moet die applikant onverwyld in kennis stel indien die aansoek toegestaan en die konfiskering van die goedere teruggetrek word.

(8) Indien die goedere by 'n gelisensieerde perseel gehou word, moet die doeanegesag ook die lisensiehouer van die perseel elektronies ooreenkomstig artikel 913 van die terugtrekking van die konfiskering in kennis stel. 30

(9) Die terugtrekking van 'n konfiskering heraktiveer nie enige aanvanklike detensie of beslaglegging van die goedere nie.

Beskikking oor gekonfiskeerde goedere

769. (1) Goedere ingevolge artikel 766 gekonfiskeer, moet ooreenkomstig artikels 592 tot 599 verkoop of andersins oor beskik word, behoudens subartikel (2). 35

(2) Gekonfiskeerde goedere wat as bewysstukke in enige strafregtelike verrigtinge benodig word of mag word, moet—

(a) aan die Suid-Afrikaanse Polisie diens vir doeleindes van die Suid-Afrikaanse Polisie diens oorhandig of gehou of geberg word; en 40

(b) mee gehandel word ooreenkomstig die wetgewing wat die strafregstelsel reguleer.⁴³⁹

Deel 4

Algemeen

Reëls ter fasilitering van implementering van hierdie Hoofstuk 45

770. Reëls ingevolge artikel 903 uitgevaardig om die implementering van hierdie Hoofstuk te fasiliteer, kan reëls insluit wat prosesse, tydsrame en ander vereistes vir aansoeke om beslaglegging of konfiskering van enige goedere te beëindig, voorskryf.

437. Ingevolge artikel 881 kan hierdie voorwaardes die oplegging van 'n administratiewe boete gelyk aan die doeanewaarde van die goedere insluit.

438. Kyk artikels 112 tot 115 vir belasting en boetes wat betaalbaar mag wees.

439. Kyk artikels 30 tot 34 van die Strafproseswet, 1977.

Offences in terms of this Chapter

- 771.** A person is guilty of an offence if that person—
(a) fails to comply with a requirement issued in terms of section 758(1)(b); or
(b) contravenes section 759(2).

CHAPTER 35

5

PROHIBITED, RESTRICTED AND SECTORALLY CONTROLLED GOODS

Definition

- 772.** In this Chapter—
“**administering authority**”, in relation to—
(a) prohibited goods, means the organ of state administering legislation referred to in section 774(a), (b) or (c); 10
(b) restricted goods, means the organ of state administering legislation referred to in section 783(a), (b) or (c); and
(c) sectorally controlled goods, means the organ of state administering legislation referred to in section 792(a) or (b). 15

Purpose and application of this Chapter

- 773.** (1) The purpose of this Chapter is to provide for customs participation in the implementation of legislation—
(a) prohibiting or restricting the import into, possession in or export from the Republic of certain goods; and 20
(b) regulating compliance of certain goods imported into or to be exported from the Republic with health, agricultural, environmental, safety or other sectoral standards or requirements applicable in terms of such legislation⁴⁴⁰.
(2) This Chapter applies to all prohibited, restricted and sectorally controlled goods that in whatever way have become subject to customs control in terms of this Act. 25
(3) If goods imported into or in the process of being exported from the Republic are—
(a) restricted goods in terms of legislation administered by any administering authority and sectorally controlled goods in terms of legislation administered by another administering authority, the goods must for purposes of this Act be dealt with as both restricted goods in terms of Part 2 and sectorally controlled goods in terms of Part 3: Provided that in the event of any inconsistency between Part 2 and Part 3 in relation to such goods, the provisions of Part 2 prevail over those of Part 3; or 30
(b) restricted goods and sectorally controlled goods in terms of legislation administered by the same administering authority, the goods must for purposes of this Act be dealt with as sectorally controlled goods in terms of Part 3. 35

⁴⁴⁰ It should be noted that in terms of this Chapter Customs are assigned direct powers to detain and deal with goods that are prohibited, restricted or sectorally controlled goods in terms of other legislation.

Misdrywe ingevolge hierdie Hoofstuk

771. 'n Persoon is aan 'n misdryf skuldig indien daardie persoon—
- (a) versuim om te voldoen aan 'n aansegging ingevolge artikel 758(1)(b) uitgereik; of
 - (b) artikel 759(2) oortree. 5

HOOFSTUK 35

VERBODE, BEPERKTE EN SEKTORBEHEERDE GOEDERE

Woordomskrywing

772. In hierdie Hoofstuk beteken—
- “**administrerende gesag**”, met betrekking tot— 10
- (a) verbode goedere, die staatsorgaan wat wetgewing bedoel in artikel 774(a), (b) of (c) administreer;
 - (b) beperkte goedere, die staatsorgaan wat wetgewing bedoel in artikel 783(a), (b) of (c) administreer; en
 - (c) sektorbeheerde goedere, die staatsorgaan wat wetgewing bedoel in artikel 792(a) of (b) administreer. 15

Doel en toepassing van hierdie Hoofstuk

773. (1) Die doel van hierdie Hoofstuk is om voorsiening te maak vir doeanedeelname in die implementering van wetgewing—
- (a) wat die invoer in, besit in of uitvoer uit die Republiek van sekere goedere verbied of beperk; en 20
 - (b) wat voldoening aan gesondheids-, landboukundige-, omgewings-, veiligheids- of ander sektorale standaarde of vereistes reguleer wat ingevolge sodanige wetgewing vir sekere goedere geld wat ingevoer is in, of uitgevoer word uit, die Republiek.⁴⁴⁰ 25
- (2) Hierdie Hoofstuk is van toepassing op alle verbode, beperkte en sektorbeheerde goedere wat op watter wyse ook al aan doeanebeheer ingevolge hierdie Wet onderworpe raak.
- (3) Indien goedere wat in die Republiek ingevoer is of in die proses is om uit die Republiek uitgevoer te word— 30
- (a) beperkte goedere ingevolge wetgewing is wat deur enige administrerende gesag geadministreer word en sektorbeheerde goedere ingevolge wetgewing is wat deur 'n ander administrerende gesag geadministreer word, moet daar met die goedere vir doeleindes van hierdie Wet gehandel word as beide beperkte goedere ingevolge Deel 2 en sektorbeheerde goedere ingevolge Deel 3: Met dien verstande dat in die geval van enige teenstrydigheid tussen Deel 2 en Deel 3 met betrekking tot sodanige goedere, die bepalings van Deel 2 voorrang bo dié van Deel 3 geniet; of 35
 - (b) beperkte goedere en sektorbeheerde goedere ingevolge wetgewing is wat deur dieselfde administrerende gesag geadministreer word, moet daar met die goedere vir doeleindes van hierdie Wet ingevolge Deel 3 as sektorbeheerde goedere gehandel word. 40

440. Daar dien op gelet te word dat daar ingevolge hierdie Hoofstuk direkte bevoegdhede aan Doeane verleen word om goedere wat ingevolge ander wetgewing verbode, beperkte of sektorbeheerde goedere is onder detensie te plaas en daarmee te handel.

Part 1

Prohibited goods

Prohibited goods

- 774.** The following goods are prohibited goods for the purposes of this Act:⁴⁴¹
- (a) Any goods imported into the Republic in contravention of legislation, other than the Counterfeit Goods Act,⁴⁴² prohibiting the importation of those goods; 5
 - (b) any goods in the possession of a person in contravention of legislation, other than the Counterfeit Goods Act, prohibiting the possession of those goods; or
 - (c) any goods in the process of being exported from the Republic in contravention of legislation, other than the Counterfeit Goods Act, prohibiting the 10
exportation of those goods.

Clearance of prohibited goods

- 775.** (1) No person may clear prohibited goods for home use or a customs procedure.
(2) Imported prohibited goods destined for a destination other than the Republic may, despite subsection (1) but subject to subsection (3), be cleared for transshipment or international transit, provided that the clearance of the goods for the transshipment or international transit procedure, the release of the goods for that procedure and the handling or transport of the goods in terms of that procedure, is not inconsistent with the legislation referred to in section 774(a) or (b) read with sections 199 and 246. 15
(3) Subsection (2) may not be read as permitting the clearance of goods for international transit or transshipment if the import or possession of such goods is prohibited by legislation referred to in section 774(a) or (b) for purposes of— 20
- (a) combating the illicit trade in narcotics, arms and ammunition, endangered species or any other goods prescribed by rule;
 - (b) combating the spreading of contagious human, animal or plant diseases; 25
 - (c) protecting the public against hazardous substances;
 - (d) protecting public health or safety; or
 - (e) giving effect to any international obligation binding on the Republic.

Detention of prohibited goods

- 776.** (1) The customs authority must, subject to section 777, detain prohibited goods⁴⁴³ wherever found in the course of exercising its enforcement functions.⁴⁴⁴ 30
(2) The customs authority must, subject to section 777, detain goods as prohibited goods—
- (a) if an administering authority electronically or in writing—

441. To facilitate the implementation of this Act in relation to prohibited goods, SARS has on its website a list of prohibited goods to which Chapter 35 applies.

442. Counterfeit goods in the customs environment must be dealt with in accordance with Chapter 36.

443. If a customs officer has a suspicion that any specific goods are prohibited goods but is unsure, the customs officer may detain the goods in terms of section 754(1)(a)(iii) to determine whether the goods are prohibited goods. If it is determined that the goods are prohibited goods, this Chapter becomes applicable by virtue of section 755.

444. Implementation of section 776(1) is not subject to a request in terms of subsection (2). The only condition is that the goods are found whilst subject to customs control. See section 773(2).

Deel 1

Verbode goedere

Verbode goedere

774. Die volgende goedere is verbode goedere vir doeleindes van hierdie Wet:⁴⁴¹
- (a) Enige goedere wat in die Republiek ingevoer is in stryd met wetgewing, behalwe die Wet op Nagemaakte Goedere,⁴⁴² wat die invoer van daardie goedere verbied; 5
 - (b) enige goedere wat in die besit van 'n persoon is in stryd met wetgewing, behalwe die Wet op Nagemaakte Goedere, wat die besit van daardie goedere verbied; of 10
 - (c) enige goedere wat in die proses is om uit die Republiek uitgevoer te word in stryd met wetgewing, behalwe die Wet op Nagemaakte Goedere, wat die uitvoer van daardie goedere verbied.

Klaring van verbode goedere

775. (1) Niemand mag verbode goedere vir binnelandse gebruik of 'n 15
doeaneprosedure klaar nie.

(2) Ingevoerde verbode goedere bestem vir 'n bestemming anders as die Republiek kan, ondanks subartikel (1) maar behoudens subartikel (3), vir transverskeping of internasionale transito geklaar word, mits die klaring van die goedere vir die transverskepingsprosedure of die prosedure vir internasionale transito, die vrystelling 20
van die goedere vir daardie prosedure en die hantering of vervoer van die goedere ingevolge daardie prosedure, nie met die wetgewing bedoel in artikel 774(a) of (b), saamgelees met artikels 199 en 246, onbestaanbaar is nie.

(3) Subartikel (2) mag nie uitgelê word as sou dit die klaring van goedere vir internasionale transito of transverskeping magtig nie indien die invoer of besit van 25
sodanige goedere deur wetgewing bedoel in artikel 774(a) of (b) verbied word vir doeleindes van—

- (a) die bekamping van die onwettige handel in dwelmmiddels, wapens en ammunisie, bedreigde spesies of enige ander goedere by reël voorgeskryf;
- (b) die bekamping van die verspreiding van aansteeklike menslike, dierlike of 30
plantsiektes;
- (c) die beskerming van die publiek teen gevaarlike middels;
- (d) die beskerming van openbare gesondheid of veiligheid; of
- (e) om gevolg te gee aan enige internasionale verpligting wat bindend op die 35
Republiek is.

Detensie van verbode goedere

776. (1) Die doeanegesag moet, behoudens artikel 777, verbode goedere⁴⁴³ onder detensie plaas waar ook al gevind in die loop van uitoefening van die doeanegesag se toepassingsfunksies.⁴⁴⁴

(2) Die doeanegesag moet, behoudens artikel 777, goedere as verbode goedere onder 40
detensie plaas—

- (a) indien 'n administrerende gesag elektronies of skriftelik—

441. Ten einde die implementering van hierdie Wet met betrekking tot verbode goedere te fasiliteer, het SAID 'n lys van verbode goedere waarop Hoofstuk 35 van toepassing is op die SAID webwerf gepubliseer.

442. Met nagemaakte goedere in die doeanekomgewing moet daar ooreenkomstig Hoofstuk 36 gehandel word.

443. Indien 'n doeaneebeampte vermoed dat enige spesifieke goedere verbode goedere is maar onseker is, kan die doeaneebeampte die goedere ingevolge artikel 754(1)(a)(iii) onder detensie plaas om te bepaal of die goedere wel verbode goedere is. Indien daar bepaal word dat die goedere wel verbode goedere is, word hierdie Hoofstuk van toepassing uit hoofde van artikel 755.

444. Implementering van artikel 776(1) is nie onderhewig aan 'n versoek ingevolge subartikel (2) nie. Die enigste vereiste is dat die goedere gevind word terwyl dit in die doeanekomgewing is. Kyk artikel 773(2).

- (i) notifies the customs authority that those goods are prohibited goods in terms of legislation administered by that authority; and
- (ii) requests the customs authority to detain the goods; or
- (b) if a member of the South African Police Service, electronically or in writing, requests the customs authority to detain the goods for a contravention of legislation referred to in section 774(a), (b) or (c). 5

Certain prohibited goods excluded from detention

777. (1) The following goods are, subject to subsection (2), excluded from detention in terms of section 776:

- (a) Imported prohibited goods that are cleared in terms of section 775(2) for transshipment or international transit, provided that the goods are—
 - (i) dealt with strictly in accordance with the provisions of this Act relating to that procedure; and
 - (ii) exported from the Republic within the period applicable to those goods in terms of that procedure; 15
- (b) prohibited goods that were on board a foreign-going vessel or aircraft when the vessel or aircraft entered the Republic, provided that—
 - (i) the goods are destined for a destination other than the Republic and remain on board that vessel or aircraft until the vessel or aircraft leaves the Republic; and 20
 - (ii) the vessel or aircraft does not call, dock or land at any place in the Republic; or
- (c) prohibited goods that were on board a foreign-going vessel or aircraft when the vessel or aircraft entered the Republic as stores for that vessel or aircraft, provided that the goods— 25
 - (i) are reported in terms of section 346;
 - (ii) are not off-loaded in the Republic; and
 - (iii) are used, or exported from the Republic, on board that vessel or aircraft as stores for that vessel or aircraft.

(2) Subsection (1) does not exclude from detention goods of which the import or possession is prohibited in terms of legislation referred to in section 774(a) or (b) for purposes of— 30

- (a) combating the illicit trade in narcotics, arms and ammunition, endangered species or any other goods prescribed by rule;
- (b) combating the spreading of contagious human, animal or plant diseases; 35
- (c) protecting the public against hazardous substances;
- (d) public health or safety; or
- (e) giving effect to any international obligation binding on the Republic.

Notice of detention

778. (1) When detaining goods in terms of section 776(1) or (2), the customs authority must— 40

- (a) issue a notice to that effect to the person in whose possession the goods are, or are believed to be, at the time of detention; and
- (b) by electronic message or facsimile transmission notify the following persons of the detention of the goods and the date from which the goods were detained: 45
 - (i) The administering authority administering the legislation in terms of which the goods are prohibited goods; and
 - (ii) the member of the South African Police Service who requested the detention, if the goods were detained following a request in terms of section 776(2)(b). 50

(2) If the goods are at any licensed premises, the customs authority must electronically in accordance with section 913 also notify the licensee of the premises of the detention.

- (3) A notice of detention must— 55
 - (a) identify the goods to which it relates;
 - (b) state the date of detention of the goods;

- (i) die doeanegesag in kennis stel dat daardie goedere verbode goedere is ingevolge wetgewing wat deur daardie gesag geadministreer word; en
 - (ii) die doeanegesag versoek om die goedere onder detensie te plaas; of
- (b) indien 'n lid van die Suid-Afrikaanse Polisie diens, elektronies of skriftelik, die doeanegesag versoek om die goedere vir 'n oortreding van wetgewing bedoel in artikel 774(a), (b) of (c) onder detensie te plaas. 5

Sekere verbode goedere van detensie uitgesluit

777. (1) Die volgende goedere is, behoudens subartikel (2), van detensie ingevolge artikel 776 uitgesluit:

- (a) Ingevoerde verbode goedere wat ingevolge artikel 775(2) vir transverskeping of internasionale transito geklaar word, mits—
 - (i) daar met die goedere gehandel word streng volgens voorskrif van die bepalings van hierdie Wet wat op daardie prosedure betrekking het; en
 - (ii) daardie goedere binne die tydperk wat ingevolge daardie prosedure op daardie goedere van toepassing is uit die Republiek uitgevoer word; 15
 - (b) verbode goedere wat aan boord van 'n land-uitgaande vaartuig of vliegtuig was toe die vaartuig of vliegtuig die Republiek binnegekom het, mits—
 - (i) die goedere bestem is vir 'n bestemming anders as die Republiek en aan boord van daardie vaartuig of vliegtuig bly totdat die vaartuig of vliegtuig die Republiek verlaat; en 20
 - (ii) die vaartuig of vliegtuig nie aandoen, dok of land by enige plek in die Republiek nie; of
 - (c) verbode goedere wat aan boord van 'n land-uitgaande vaartuig of vliegtuig was toe die vaartuig of vliegtuig die Republiek binnegekom het as voorrade vir daardie vaartuig of vliegtuig, mits die goedere—
 - (i) ingevolge artikel 346 gerapporteer word; 25
 - (ii) nie in die Republiek afgelaai word nie; en
 - (iii) gebruik word, of uitgevoer word uit die Republiek, aan boord van daardie vaartuig of vliegtuig as voorrade vir daardie vaartuig of vliegtuig. 30
- (2) Subartikel (1) sluit nie goedere van detensie uit nie waarvan die invoer of besit ingevolge wetgewing bedoel in artikel 774(a) of (b) verbied word vir doeleindes van—
- (a) die bekamping van die onwettige handel in dwelmmiddels, wapens en ammunisie, bedreigde spesies of enige ander goedere by reël voorgeskryf; 35
 - (b) die bekamping van die verspreiding van aansteeklike menslike, dierlike of plantsiektes;
 - (c) die beskerming van die publiek teen gevaarlike middels;
 - (d) die openbare gesondheid of veiligheid; of
 - (e) om gevolg te gee aan enige internasionale verpligting wat bindend op die Republiek is. 40

Detensiekennisgewing

778. (1) Wanneer goedere ingevolge artikel 776(1) of (2) onder detensie geplaas word, moet die doeanegesag—

- (a) 'n kennisgewing tot daardie effek uitreik aan die persoon in wie se besit die goedere op die tydstip van detensie is of geglo word te wees; en 45
 - (b) die volgende persone deur elektroniese boodskap of faksimileversending van die detensie van die goedere en die datum van wanneer af die goedere onder detensie geplaas is, in kennis stel:
 - (i) Die administrerende gesag wat die wetgewing ingevolge waarvan die goedere verbode goedere is, administreer; en 50
 - (ii) die lid van die Suid-Afrikaanse Polisie diens wat die detensie versoek het, indien die goedere onder detensie geplaas is na aanleiding van 'n versoek ingevolge artikel 776(2)(b).
- (2) Indien die goedere by 'n gelisensieerde perseel is, moet die doeanegesag ook die lisenasihouer van die perseel elektronies ooreenkomstig artikel 913 van die detensie in kennis stel. 55
- (3) 'n Detensiekennisgewing moet—
- (a) die goedere waarop dit betrekking het, identifiseer;
 - (b) die datum van detensie van die goedere vermeld;

- (c) state the reason for the detention; and
 - (d) contain any other particulars as may be prescribed by rule.
- (4) Subsection (1)(a) does not apply—
- (a) if the person referred to in that subsection is unknown or cannot be found; or
 - (b) in the case of goods that have first been detained in terms of section 754(1)(a)(iii) and in respect of which a detention notice has been issued in terms of section 757. 5

Place where detained goods may be kept

- 779.** (1) Goods detained in terms of section 776(1) or (2) may, pending the action to be taken in respect of the goods, be— 10
- (a) kept at the place where they were detained; or
 - (b) removed to and stored—
 - (i) in a state warehouse in terms of section 570 or at another place determined in terms of section 580(1); or
 - (ii) at any other place of security most suitable in the circumstances as the customs authority may determine. 15
- (2) No person may without the permission of the customs authority remove goods detained in terms of section 776(1) or (2) from the place where they are kept or stored.
- (3) If a place where goods are kept or to which they were removed in terms of subsection (1) is not a customs controlled area, the customs authority has for purposes of this Act access to those goods as if that place is a customs controlled area. 20

Termination of detention

- 780.** (1) The customs authority must promptly terminate the detention of goods if—
- (a) the goods were detained in error;
 - (b) the administering authority administering the legislation in terms of which the goods are prohibited goods, electronically or in writing, requests the customs authority to terminate the detention of the goods; 25
 - (c) the member of the South African Police Service who requested the detention of the goods in terms of section 776(2)(b), electronically or in writing, requests the customs authority to terminate the detention; or 30
 - (d) a court so orders.
- (2) The customs authority may, subject to subsection (3)—
- (a) on application by the importer of prohibited goods referred to in section 774(a), or if the importer is not located in the Republic, the importer's registered agent, terminate the detention of the goods and allow the importer or the importer's registered agent to clear the goods for outright export and immediately export those goods from the Republic at own expense under supervision of the customs authority, provided that— 35
 - (i) the importer or the importer's registered agent did not conceal or attempt to conceal the goods, or did not divert or attempt to divert the goods for home use; and 40
 - (ii) the possession of that kind of goods in the Republic by the importer or the importer's registered agent is not illegal; or
 - (b) on application by the person who intended to export prohibited goods referred to in section 774(c) that were in free circulation before their detention, terminate the detention of the goods and allow those goods to revert to free circulation, provided that— 45
 - (i) that person did not conceal or attempt to conceal the goods for purposes of export; and
 - (ii) the possession of those goods in the Republic by that person is not illegal. 50
- (3) The customs authority may grant an application in terms of subsection (2) only if the applicant submits written proof to the customs authority that the administering authority has no objection to the application.

- (c) die rede vir die detensie vermeld; en
 - (d) enige ander besonderhede bevat soos by reël voorgeskryf mag word.
- (4) Subartikel (1)(a) is nie van toepassing nie—
- (a) indien die persoon bedoel in daardie subartikel onbekend is of nie gevind kan word nie; of 5
 - (b) in die geval van goedere wat aanvanklik ingevolge artikel 754(1)(a)(iii) onder detensie geplaas is en ten opsigte waarvan 'n detensiekennisgewing ingevolge artikel 757 uitgereik is.

Plek waar detensiegoedere gehou kan word

779. (1) Goedere ingevolge artikel 776(1) of (2) onder detensie geplaas, kan, 10
hangende die stappe wat ten opsigte van die goedere gedoen mag word—
- (a) gehou word by die plek waar dit onder detensie geplaas is; of
 - (b) verwyder word na en geberg word—
 - (i) in 'n staatspakhuis ingevolge artikel 570 of by 'n ander plek ingevolge artikel 580(1) bepaal; of 15
 - (ii) by enige ander plek van veiligheid wat in die omstandighede die mees gepas is, soos die doeane gesag mag bepaal.
- (2) Niemand mag sonder die toestemming van die doeane gesag goedere wat ingevolge artikel 776(1) of (2) onder detensie geplaas is van die plek waar dit gehou of geberg word, verwyder nie. 20
- (3) Indien 'n plek waar goedere gehou word, of waarheen dit ingevolge subartikel (1) verwyder is, nie 'n doeanebeheergebied is nie, het die doeane gesag vir doeleindes van hierdie Wet toegang tot daardie goed asof daardie plek 'n doeanebeheergebied is.

Beëindiging van detensie

780. (1) Die doeane gesag moet die detensie van goedere onverwyld beëindig 25
indien—
- (a) die goedere foutiewelik onder detensie geplaas is;
 - (b) die administrerende gesag wat die wetgewing administreer ingevolge waarvan die goedere verbode goedere is, die doeane gesag elektronies of skriftelik versoek om die detensie van die goedere te beëindig; 30
 - (c) die lid van die Suid-Afrikaanse Polisie wat ingevolge artikel 776(2)(b) versoek het dat die goedere onder detensie geplaas moet word, die doeane gesag elektronies of skriftelik versoek om die detensie te beëindig; of
 - (d) 'n hof aldus beveel.
- (2) Die doeane gesag kan, behoudens subartikel (3)— 35
- (a) op aansoek deur die invoerder van verbode goedere in artikel 774(a) bedoel, of indien die invoerder nie in die Republiek gesetel is nie, die invoerder se geregistreerde agent, die detensie van die goedere beëindig en die invoerder of die invoerder se geregistreerde agent toelaat om die goedere vir regstreekse uitvoer te klaar en daardie goedere onmiddellik, op eie koste onder toesig van 40 die doeane gesag, uit die Republiek uit te voer, mits—
 - (i) die invoerder of die invoerder se geregistreerde agent nie die goedere versteek het of gepoog het om dit te versteek nie, of nie die goedere vir binnelandse gebruik afgewend het of gepoog het om dit af te wend nie; 45 en
 - (ii) die besit van daardie soort goedere in die Republiek deur die invoerder of die invoerder se geregistreerde agent nie onwettig is nie; of
 - (b) op aansoek deur die persoon wat voornemens was om verbode goedere bedoel in artikel 774(c) wat voor die detensie daarvan in vry sirkulasie was, uit te voer, die detensie van die goedere beëindig en toestemming verleen dat 50 daardie goedere tot vry sirkulasie terugval, mits—
 - (i) daardie persoon nie die goedere vir doeleindes van uitvoer versteek het of gepoog het om dit te versteek nie; en
 - (ii) die besit van daardie goedere in die Republiek deur daardie persoon nie onwettig is nie. 55
- (3) Die doeane gesag kan 'n aansoek ingevolge subartikel (2) toestaan slegs indien die applikant skriftelike bewys aan die doeane gesag voorlê dat die administrerende gesag geen beswaar teen die aansoek het nie.

Disposal of detained prohibited goods

- 781.** (1) Goods detained in terms of section 776(1) or (2) must be dealt with in accordance with—
- (a) the legislation in terms of which the goods are prohibited goods;
 - (b) the legislation regulating the criminal justice system if and to the extent that the goods are needed as evidence in any criminal proceedings; or
 - (c) section 782, if the administering authority submits a request in terms of that section for the disposal of the goods in terms of that section and the customs authority accedes to the request.
- (2) Prohibited goods referred to in subsection (1)(a) or (b) must be handed over to, or kept under customs control for the purposes of—
- (a) the relevant administering authority, if the goods are to be dealt with in accordance with subsection (1)(a); or
 - (b) the relevant administering authority or the South African Police Service, if the goods are to be dealt with in accordance with subsection (1)(b).

Disposal of prohibited goods by customs authority

- 782.** (1) The administering authority may, despite any legislation administered by it, request the customs authority to dispose in terms of this section of prohibited goods detained in terms of section 776(1) or (2), and if the customs authority accedes to the request, the customs authority must—
- (a) confiscate the goods;
 - (b) notify the person to whom the notice of detention was issued in terms of section 778(1)(a), if such a notice was issued; and
 - (c) dispose of the goods in terms of this section.
- (2) Goods confiscated in terms of subsection (1) become the property of the state.
- (3) Prohibited goods confiscated in terms of subsection (1) and consisting of goods referred to in—
- (a) section 774(a) or (b) must be destroyed or otherwise disposed of in a way that would not allow the goods into free circulation in the Republic; or
 - (b) section 774(c) must be disposed of in any appropriate manner, including by—
 - (i) donating the goods for welfare purposes;
 - (ii) appropriating the goods to an organ of state, including SARS, for use by that organ of state;
 - (iii) making the goods available as humanitarian aid to communities in the Republic;
 - (iv) selling the goods in a manner determined by the Commissioner, which may include a sale—
 - (aa) by public auction;
 - (bb) by public tender; or
 - (cc) out of hand, when appropriate; and
 - (v) destroying the goods.

Part 2

Restricted goods

Restricted goods

- 783.** The following goods are restricted goods for purposes of this Act:⁴⁴⁵
- (a) Any goods imported into the Republic if those goods are subject to legislation restricting the importation of those goods otherwise than on authority of a permit or other authorisation issued in terms of that legislation;

⁴⁴⁵. To facilitate the implementation of this Act in relation to restricted goods, SARS has on its website a list of restricted goods to which Chapter 35 applies.

Beskikking oor verbode goedere wat onder detensie is

- 781.** (1) Daar moet met goedere wat ingevolge artikel 776(1) of (2) onder detensie geplaas is, gehandel word volgens voorskrif van—
- (a) die wetgewing ingevolge waarvan die goedere verbode goedere is;
 - (b) die wetgewing wat die strafregstelsel reguleer indien en in soverre die goedere as bewysstukke in enige strafregtelike verrigtinge benodig word; of 5
 - (c) artikel 782, indien die administrerende gesag 'n versoek ingevolge daardie artikel rig dat daar oor die goedere ingevolge daardie artikel beskik moet word en die doeanegesag toestem om aan die versoek te voldoen.
- (2) Verbode goedere bedoel in subartikel (1)(a) of (b) moet oorhandig word aan, of 10 onder doeanebeheer gehou word vir doeleindes van—
- (a) die betrokke administrerende gesag, indien daar met die goedere volgens voorskrif van subartikel (1)(a) gehandel moet word; of
 - (b) die betrokke administrerende gesag of die Suid-Afrikaanse Polisie diens, indien daar met die goedere volgens voorskrif van subartikel (1)(b) gehandel 15 moet word.

Beskikking oor verbode goedere deur doeanegesag

- 782.** (1) Die administrerende gesag kan, ondanks enige wetgewing deur dié gesag geadministreer, die doeanegesag versoek om ingevolge hierdie artikel oor verbode goedere wat ingevolge artikel 776(1) of (2) onder detensie geplaas is, te beskik, en 20 indien die doeanegesag toestem om aan die versoek te voldoen, moet die doeanegesag—
- (a) die goedere konfiskeer;
 - (b) kennis daarvan aan die persoon gee aan wie die detensiekennisgewing ingevolge artikel 778(1)(a) uitgereik is, indien so 'n kennisgewing wel uitgereik was; en 25
 - (c) oor die goedere ingevolge hierdie artikel beskik.
- (2) Goedere ingevolge subartikel (1) gekonfiskeer, word die eiendom van die staat.
- (3) Verbode goedere wat ingevolge subartikel (1) gekonfiskeer is en wat uit goedere bedoel in—
- (a) artikel 774(a) of (b) bestaan, moet vernietig of andersins oor beskik word op 'n wyse wat nie die goedere in vry sirkulasie in die Republiek laat gaan nie; of 30
 - (b) artikel 774(c) bestaan, moet op enige toepaslike wyse oor beskik word, met inbegrip daarvan om—
 - (i) die goedere vir welsynsdoeleindes te skenk;
 - (ii) die goedere aan 'n staatsorgaan, met inbegrip van SAID, vir gebruik deur 35 daardie staatsorgaan toe te wys;
 - (iii) die goedere as humanitêre hulp aan gemeenskappe in die Republiek beskikbaar te stel;
 - (iv) die goedere te verkoop op 'n wyse deur die Kommissaris bepaal, wat kan insluit 'n verkoop— 40
 - (aa) per openbare veiling;
 - (bb) per openbare tender; of
 - (cc) uit die hand, wanneer dit gepas is; en
 - (v) die goedere te vernietig.

Deel 2

45

Beperkte goedere

Beperkte goedere

- 783.** Die volgende goedere is beperkte goedere vir doeleindes van hierdie Wet:⁴⁴⁵
- (a) Enige goedere in die Republiek ingevoer indien daardie goedere aan wetgewing onderworpe is wat die invoer van daardie goedere beperk anders as op gesag van 'n permit of ander magtiging ingevolge daardie wetgewing uitgereik; 50

445. Ten einde die implementering van hierdie Wet met betrekking tot beperkte goedere te fasiliteer, het SAID 'n lys van beperkte goedere waarop Hoofstuk 35 van toepassing is op die SAID webwerf gepubliseer.

- (b) any goods in the possession of a person if those goods are subject to legislation restricting the possession of those goods by that person otherwise than on authority of a permit or other authorisation issued in terms of that legislation; or
- (c) any goods in the process of being exported from the Republic if those goods are subject to legislation restricting the exportation of those goods otherwise than on authority of a permit or other authorisation issued in terms of that legislation. 5

Clearance of restricted goods

784. (1) No person may clear restricted goods in accordance with section 89 or 93 for home use or a customs procedure unless— 10

- (a) that person submits to the customs authority—
 - (i) a permit or other authorisation issued in terms of the legislation referred to in section 783(a), (b) or (c) which authorises the import, possession or export of the goods; or 15
 - (ii) sufficient information to enable the customs authority to access the electronic database of the organ of state administering that legislation and the customs authority establishes from that database that a permit or other authorisation has been issued in terms of that legislation which authorises the import, possession or export of the goods; or 20
- (b) the administering authority administering that legislation submits to the customs authority electronically in accordance with section 913—
 - (i) a permit or other authorisation issued in terms of that legislation which authorises the import, possession or export of the goods; or
 - (ii) confirmation that such a permit or other authorisation has been issued. 25

(2) Imported restricted goods may, despite subsection (1) but subject to subsection (3), be cleared without a permit or other authorisation referred to in subsection (1) for—

- (a) warehousing pending compliance with the legislation referred to in section 783(a) or (b), provided that the clearance of the goods for the warehousing procedure, the release of the goods for that procedure and the handling or transport of the goods in terms of that procedure, is not inconsistent with that legislation;⁴⁴⁶ 30
- (b) transshipment or international transit, provided that—
 - (i) the goods are destined for a destination other than the Republic; and
 - (ii) the clearance of the goods for the transshipment or international transit procedure, the release of the goods for that procedure and the handling or transport of the goods in terms of that procedure, is not inconsistent with the legislation referred to in section 783(a) or (b) read with sections 199 and 246; or 35
- (c) temporary admission, provided that the clearance of the goods for the temporary admission procedure, the release of the goods for that procedure and the temporary use in the Republic of the goods in terms of that procedure, is not inconsistent with the legislation referred to in section 783(a) or (b). 40

(3) Subsection (2) may not be read as permitting the clearance of restricted goods for a customs procedure referred to in that subsection— 45

- (a) if the import or possession of such goods is restricted in terms of legislation referred to in section 783(a) or (b) for purposes of—
 - (i) combating the illicit trade in narcotics, arms and ammunition, endangered species or any other goods prescribed by rule;
 - (ii) combating the spreading of contagious human, animal or plant diseases; 50
 - (iii) protecting the public against hazardous substances;
 - (iv) protecting public health or safety; or

446. See sections 300(1)(d), 301(1)(b) and 311.

- (b) enige goedere in die besit van 'n persoon indien daardie goedere aan wetgewing onderworpe is wat die besit van daardie goedere deur daardie persoon beperk anders as op gesag van 'n permit of ander magtiging ingevolge daardie wetgewing uitgereik; of
- (c) enige goedere in die proses om uit die Republiek uitgevoer te word indien daardie goedere onderworpe is aan wetgewing wat die uitvoer van daardie goedere beperk anders as op gesag van 'n permit of ander magtiging ingevolge daardie wetgewing uitgereik. 5

Klaring van beperkte goedere

784. (1) Niemand mag beperkte goedere ooreenkomstig artikel 89 of 93 vir binnelandse gebruik of 'n doeaneprosedure klaar nie tensy—

- (a) daardie persoon aan die doeanegesag—
 - (i) 'n permit of ander magtiging voorlê wat ingevolge die wetgewing bedoel in artikel 783(a), (b) of (c) uitgereik is en wat die invoer, besit of uitvoer van die goedere magtig; of 15
 - (ii) voldoende inligting verstrek om die doeanegesag in staat te stel om toegang tot die elektroniese databasis van die staatsorgaan wat daardie wetgewing administreer, te verkry, en die doeanegesag uit daardie databasis vasstel dat 'n permit of ander magtiging wat die invoer, besit of uitvoer van die goedere magtig ingevolge daardie wetgewing uitgereik is; of 20
- (b) die administrerende gesag wat daardie wetgewing administreer aan die doeanegesag elektronies ooreenkomstig artikel 913—
 - (i) 'n permit of ander magtiging versend wat ingevolge daardie wetgewing uitgereik is en wat die invoer, besit of uitvoer van die goedere magtig; of 25
 - (ii) bevestiging verstrek dat sodanige permit of ander magtiging wel uitgereik is.

(2) Ingevoerde beperkte goedere kan, ondanks subartikel (1) maar behoudens subartikel (3), sonder 'n permit of ander magtiging bedoel in subartikel (1) geklaar word vir— 30

- (a) pakhuisberging hangende voldoening aan die wetgewing in artikel 783(a) of (b) bedoel, mits die klaring van die goedere vir die pakhuisbergingsprosedure, die vrystelling van die goedere vir daardie prosedure en die hantering of vervoer van die goedere ingevolge daardie prosedure nie met daardie wetgewing onbestaanbaar is nie;⁴⁴⁶ 35
- (b) transverskeping of internasionale transito, mits—
 - (i) die goedere vir 'n bestemming anders as die Republiek bestem is; en
 - (ii) die klaring van die goedere vir die transverskepingsprosedure of die prosedure vir internasionale transito, die vrystelling van die goedere vir daardie prosedure en die hantering of vervoer van die goedere ingevolge daardie prosedure nie met die wetgewing bedoel in artikel 783(a) of (b), saamgelees met artikels 199 en 246, onbestaanbaar is nie; of 40
- (c) tydelike toelating, mits die klaring van die goedere vir die prosedure vir tydelike toelating, die vrystelling van die goedere vir daardie prosedure en die tydelike gebruik in die Republiek van die goedere ingevolge daardie prosedure, nie met die wetgewing bedoel in artikel 783(a) of (b) onbestaanbaar is nie. 45

(3) Subartikel (2) mag nie uitgelê word as sou dit die klaring van beperkte goedere vir 'n doeaneprosedure in daardie subartikel magtig nie—

- (a) indien die invoer of besit van sodanige goedere ingevolge wetgewing bedoel in artikel 783(a) of (b) beperk word vir doeleindes van—
 - (i) die bekamping van die onwettige handel in dwelmmiddels, wapens en ammunisie, bedreigde spesies of enige ander goedere by reël voorgeskryf;
 - (ii) die bekamping van die verspreiding van aansteeklike menslike, dierlike of plantsiektes; 55
 - (iii) die beskerming van die publiek teen gevaarlike middels;
 - (iv) die beskerming van die openbare gesondheid of veiligheid; of

446. Kyk artikels 300(1)(d), 301(1)(b) en 311.

- (v) giving effect to any international obligation binding on the Republic; or
- (b) if those goods are of a class or kind or fall within a category of goods as may be prescribed by rule.

Detention of restricted goods

785. (1) The customs authority must, subject to section 786, detain restricted goods⁴⁴⁷ 5
wherever found in the course of exercising its enforcement functions⁴⁴⁸ if the import,
possession or export of the goods, as the case may be, is not authorised in terms of a
permit or other authorisation issued in terms of legislation referred to in section 783(a),
(b) or (c) applicable to the goods.

(2) The customs authority must, subject to section 786, detain goods as restricted 10
goods—

- (a) if an administering authority administering the legislation in terms of which
the goods are restricted goods, electronically or in writing—
 - (i) notifies the customs authority that those goods are restricted goods to 15
which that legislation applies and that no permit or other authorisation
has been issued in terms of that legislation authorising the import,
possession or export of those goods; and
 - (ii) requests the customs authority to detain the goods; or
- (b) if a member of the South African Police Service, electronically or in writing,
requests the customs authority to detain the goods for a contravention of 20
legislation referred to in section 783(a), (b) or (c).

Certain restricted goods excluded from detention

786. (1) The following goods are, subject to subsection (2), excluded from detention
in terms of section 785:

- (a) Imported restricted goods that are cleared for warehousing in terms of section 25
784(2)(a) pending compliance with the legislation restricting the import or
possession of the goods, provided that the required permit or other
authorisation is submitted to the customs authority within the period
applicable to the goods in terms of section 305;
- (b) imported restricted goods that are cleared in terms of section 784(2)(b) for the 30
transshipment or international transit procedure, provided that the goods are—
 - (i) dealt with strictly in accordance with the provisions of this Act relating to
that procedure; and
 - (ii) exported from the Republic within the period applicable to those goods 35
in terms of that procedure;
- (c) restricted goods that were on board a foreign-going vessel or aircraft when the
vessel or aircraft entered the Republic, provided that the goods—
 - (i) are destined for a destination other than the Republic;
 - (ii) are not off-loaded in the Republic; and
 - (iii) remain on board that vessel or aircraft until the vessel or aircraft leaves 40
the Republic; and
- (d) restricted goods that were on board a foreign-going vessel or aircraft when the
vessel or aircraft entered the Republic as stores for that vessel or aircraft,
provided that the goods—
 - (i) are reported in terms of section 346; 45
 - (ii) are not off-loaded in the Republic; and

447. If a customs officer has a suspicion that any specific goods are restricted goods but is unsure, the customs officer may detain the goods in terms of section 754(1)(a)(iii) to determine whether the goods are restricted goods. If it is determined that the goods are restricted goods, this Chapter becomes applicable by virtue of section 755.

448. The only condition is that the goods are found whilst subject to customs control. See section 773(2).

- (v) om gevolg te gee aan enige internasionale verpligting wat bindend op die Republiek is; of
- (b) indien daardie goedere van 'n klas of soort is of binne 'n kategorie goedere val soos by reël voorgeskryf mag word.

Detensie van beperkte goedere

5

785. (1) Die doeanegesag moet, behoudens artikel 786, beperkte goedere⁴⁴⁷ onder detensie plaas waar dit ook al in die loop van die uitoefening van die doeanegesag se toepassingsfunksies gevind word⁴⁴⁸ indien die invoer, besit of uitvoer van die goedere, na gelang van die geval, nie gemagtig is nie ingevolge 'n permit of ander magtiging uitgereik ingevolge wetgewing bedoel in artikel 783(a), (b) of (c) wat op die goedere van toepassing is. 10

(2) Die doeanegesag moet, behoudens artikel 786, goedere as beperkte goedere onder detensie plaas—

- (a) indien 'n administrerende gesag wat die wetgewing administreer ingevolge waarvan die goedere beperkte goedere is, elektronies of skriftelik— 15
 - (i) die doeanegesag in kennis stel dat daardie goedere beperkte goedere is waarop daardie wetgewing van toepassing is en dat geen permit of ander magtiging ingevolge daardie wetgewing uitgereik is wat die invoer, besit of uitvoer van daardie goedere magtig nie; en
 - (ii) die doeanegesag versoek om die goedere onder detensie te plaas; of 20
- (b) indien 'n lid van die Suid-Afrikaanse Polisiediens, die doeanegesag elektronies of skriftelik versoek om die goedere vir 'n oortreding van wetgewing bedoel in artikel 783(a), (b) of (c) onder detensie te plaas.

Sekere beperkte goedere van detensie uitgesluit

786. (1) Die volgende goedere is, behoudens subartikel (2), van detensie ingevolge artikel 785 uitgesluit: 25

- (a) Ingevoerde beperkte goedere wat ingevolge artikel 784(2)(a) vir pakhuisberging geklaar is hangende voldoening aan die wetgewing wat die invoer of besit van die goedere beperk, mits die vereiste permit of ander magtiging aan die doeanegesag voorgelê word binne die tydperk wat ingevolge artikel 305 vir daardie goedere geld; 30
- (b) ingevoerde beperkte goedere wat ingevolge artikel 784(2)(b) vir die transverskepingsprosedure of die prosedure vir internasionale transito geklaar word, mits—
 - (i) daar met die goedere streng volgens voorskrif van die bepaling van hierdie Wet gehandel word wat op daardie prosedure betrekking het; en 35
 - (ii) die goedere binne die tydperk wat ingevolge daardie prosedure op daardie goedere van toepassing is uit die Republiek uitgevoer word;
- (c) beperkte goedere wat aan boord van 'n land-uitgaande vaartuig of vliegtuig was toe die vaartuig of vliegtuig die Republiek binnegekom het, mits die goedere— 40
 - (i) vir 'n bestemming anders as die Republiek bestem is;
 - (ii) nie in die Republiek afgelaai word nie; en
 - (iii) aan boord van daardie vaartuig of vliegtuig bly totdat die vaartuig of vliegtuig die Republiek verlaat; en 45
- (d) beperkte goedere wat aan boord van 'n land-uitgaande vaartuig of vliegtuig was toe die vaartuig of vliegtuig die Republiek binnegekom het as voorrade vir daardie vaartuig of vliegtuig, mits die goedere—
 - (i) ingevolge artikel 346 gerapporteer word;
 - (ii) nie in die Republiek afgelaai word nie; en 50

447. Indien 'n doeanebeampte vermoed dat enige spesifieke goedere wel beperkte goedere is maar onseker is, kan die doeanebeampte die goedere ingevolge artikel 754(1)(a)(iii) onder detensie plaas om te bepaal of die goedere wel beperkte goedere is. Indien daar bepaal word dat die goedere wel beperkte goedere is, word hierdie Hoofstuk uit hoofde van artikel 755 van toepassing.

448. Die enigste vereiste is dat die goedere gevind word terwyl dit aan doeanebeheer onderhewig is. Kyk artikel 773(2).

- (iii) are used, or exported from the Republic, on board that vessel or aircraft as stores for that vessel or aircraft.
- (2) Subsection (1) does not exclude from detention goods of which the import, possession or export is restricted in terms of legislation referred to in section 783(a), (b) or (c) for purposes of—
 - (a) combating the illicit trade in narcotics, arms and ammunition, endangered species or any other goods prescribed by rule; 5
 - (b) combating the spreading of contagious human, animal or plant diseases;
 - (c) protecting the public against hazardous substances; or
 - (d) public health or safety. 10

Notice of detention

- 787.** (1) When detaining goods in terms of section 785(1) or (2), the customs authority must—
- (a) issue a detention notice to that effect to the person in whose possession the goods are, or are believed to be, at the time of detention; and 15
 - (b) by electronic message or facsimile transmission notify the following persons of the detention of the goods and the date from which the goods were detained:
 - (i) The administering authority administering the legislation in terms of which the goods are restricted goods; and 20
 - (ii) the member of the South African Police Service who requested the detention, if the goods were detained following a request in terms of section 785(2)(b).
- (2) If the goods are at any licensed premises, the customs authority must electronically in accordance with section 913 also notify the licensee of the premises of the detention. 25
- (3) A notice of detention must—
- (a) identify the goods to which it relates;
 - (b) state the date of detention of the goods;
 - (c) state the reason for the detention; and 30
 - (d) contain any other particulars as may be prescribed by rule.
- (4) Subsection (1)(a) does not apply—
- (a) if the person referred to in that subsection is unknown or cannot be found; or
 - (b) in the case of goods that have first been detained in terms of section 754(1)(a)(iii) and in respect of which a detention notice has been issued in terms of section 757. 35

Place where detained goods may be kept

- 788.** (1) Goods detained in terms of section 785(1) or (2) may, pending the action to be taken in respect of the goods, be—
- (a) kept at the place where they were detained; or 40
 - (b) removed to and stored—
 - (i) in a state warehouse in terms of section 570 or at another place determined in terms of section 580(1); or
 - (ii) at any other place of security most suitable in the circumstances as the customs authority may determine. 45
- (2) No person may without the permission of the customs authority remove goods detained in terms of section 785(1) or (2) from the place where they are kept or stored.
- (3) If a place where goods are kept or to which they were removed in terms of subsection (1) is not a customs controlled area, the customs authority has for purposes of this Act access to those goods as if that place is a customs controlled area. 50

- (iii) gebruik word, of uit die Republiek uitgevoer word, aan boord van daardie vaartuig of vliegtuig as voorrade vir daardie vaartuig of vliegtuig.
- (2) Subartikel (1) sluit nie goedere van detensie uit nie waarvan die invoer, besit of uitvoer ingevolge wetgewing bedoel in artikel 783(a), (b) of (c) beperk word vir doeleindes van—
- (a) die bekamping van die onwettige handel in dwelmmiddels, wapens en ammunisie, bedreigde spesies of enige ander goedere by reël voorgeskryf;
 - (b) die bekamping van die verspreiding van aansteeklike menslike, dierlike of plantsiektes;
 - (c) die beskerming van die publiek teen gevaarlike middels; of
 - (d) die openbare gesondheid of veiligheid.

Detensiekennisgewing

- 787.** (1) Wanneer goedere ingevolge artikel 785(1) of (2) onder detensie geplaas word, moet die doeanegesag—
- (a) 'n detensiekennisgewing tot daardie effek uitreik aan die persoon in wie se besit die goedere op die tydstip van detensie is of geglo word te wees; en
 - (b) die volgende persone per elektroniese boodskap of faksimileversending van die detensie van die goedere en die datum van wanneer af die goedere onder detensie geplaas is, in kennis stel:
 - (i) Die administrerende gesag wat die wetgewing ingevolge waarvan die goedere beperkte goedere is, administreer; en
 - (ii) die lid van die Suid-Afrikaanse Polisiediens wat die detensie versoek het, indien die goedere na aanleiding van 'n versoek ingevolge artikel 785(2)(b) onder detensie geplaas is.
- (2) Indien die goedere by 'n gelisensieerde perseel is, moet die doeanegesag die lisensiehouer van die perseel elektronies ooreenkomstig artikel 913 ook van die detensie in kennis stel.
- (3) 'n Detensiekennisgewing moet—
- (a) die goedere waarop dit betrekking het, identifiseer;
 - (b) die datum van detensie van die goedere vermeld;
 - (c) die rede vir die detensie vermeld; en
 - (d) enige ander besonderhede bevat soos by reël voorgeskryf mag word.
- (4) Subartikel (1)(a) is nie van toepassing nie—
- (a) indien die persoon in daardie subartikel bedoel onbekend is of nie gevind kan word nie; of
 - (b) in die geval van goedere wat aanvanklik ingevolge artikel 754(1)(a)(iii) onder detensie geplaas is en ten opsigte waarvan 'n detensiekennisgewing ingevolge artikel 757 uitgereik is.

Plek waar detensiegoedere gehou kan word

- 788.** (1) Goedere ingevolge artikel 785(1) of (2) onder detensie geplaas, kan, hangende die stappe wat ten opsigte van die goedere gedoen mag word —
- (a) gehou word by die plek waar dit onder detensie geplaas is; of
 - (b) verwyder word na en geberg word—
 - (i) in 'n staatspakhuis ingevolge artikel 570 of by 'n ander plek ingevolge artikel 580(1) bepaal; of
 - (ii) by enige ander plek van veiligheid wat in die omstandighede die mees gepas is, soos die doeanegesag mag bepaal.
- (2) Niemand mag sonder die toestemming van die doeanegesag goedere wat ingevolge artikel 785(1) of (2) onder detensie geplaas is van die plek waar dit gehou of geberg word, verwyder nie.
- (3) Indien 'n plek waar goedere gehou word of waarheen dit ingevolge subartikel (1) verwyder is nie 'n doeanebeheergebied is nie, het die doeanegesag vir doeleindes van hierdie Wet toegang tot daardie goedere asof daardie plek 'n doeanebeheergebied is.

Termination of detention

- 789.** (1) The customs authority must promptly terminate the detention of goods if—
- (a) the goods were detained in error;
 - (b) the administering authority administering the legislation in terms of which the goods are restricted goods, electronically or in writing, requests the customs authority to terminate the detention; 5
 - (c) the member of the South African Police Service who requested the detention of the goods in terms of section 785(2)(b), electronically or in writing, requests the customs authority to terminate the detention; or
 - (d) a court so orders. 10
- (2) The customs authority may, subject to subsection (3)—
- (a) on application by the importer of restricted goods referred to in section 783(a), or if the importer is not located in the Republic, the importer's registered agent, terminate the detention of the goods and allow the importer or the importer's registered agent to clear the goods for outright export and immediately export those goods from the Republic at own expense under supervision of the customs authority, provided that— 15
 - (i) the importer or the importer's registered agent did not conceal or attempt to conceal the goods, or did not divert or attempt to divert the goods for home use; and 20
 - (ii) the possession of that kind of goods in the Republic by the importer or the importer's registered agent is not illegal; or
 - (b) on application by the person who intended to export restricted goods referred to in section 783(c) that were in free circulation before their detention, terminate the detention of the goods and allow those goods to revert to free circulation, provided that— 25
 - (i) that person did not conceal or attempt to conceal the goods for purposes of export; and
 - (ii) the possession of those goods in the Republic by that person is not illegal.
- (3) The customs authority may grant an application in terms of subsection (2) only if the applicant submits written proof to the customs authority that the administering authority has no objection to the application. 30

Disposal of detained restricted goods

- 790.** (1) Goods detained in terms of section 785(1) or (2) must be dealt with in accordance with— 35
- (a) the legislation in terms of which the goods are restricted goods;
 - (b) the legislation regulating the criminal justice system if and to the extent that the goods are needed as evidence in any criminal proceedings; or
 - (c) section 791, if the administering authority submits a request in terms of that section for the disposal of the goods in terms of that section and the customs authority accedes to the request. 40
- (2) Restricted goods referred to in subsection (1)(a) or (b) must be handed over to, or kept under customs control for the purposes of—
- (a) the relevant administering authority, if the goods are to be dealt with in accordance with subsection (1)(a); or 45
 - (b) the relevant administering authority or the South African Police Service, if the goods are to be dealt with in terms of subsection (1)(b).

Disposal of restricted goods by customs authority

- 791.** (1) The administering authority may, despite any legislation administered by it, request the customs authority to dispose in terms of this section of restricted goods detained in terms of section 785(1) or (2), and if the customs authority accedes to the request, the customs authority must— 50
- (a) confiscate the goods;

Beëindiging van detensie

- 789.** (1) Die doeanegesag moet onverwyld die detensie van goedere beëindig indien—
- (a) die goedere foutiewelik onder detensie geplaas is;
 - (b) die administrerende gesag wat die wetgewing administreer ingevolge waarvan die goedere beperkte goedere is die doeanegesag, elektronies of skriftelik, versoek om die detensie te beëindig; 5
 - (c) die lid van die Suid-Afrikaanse Polisie diens wat ingevolge artikel 785(2)(b) versoek het dat die goedere onder detensie geplaas moet word, die doeanegesag elektronies of skriftelik versoek om die detensie te beëindig; of 10
 - (d) 'n hof aldus beveel.
- (2) Die doeanegesag kan, behoudens subartikel (3)—
- (a) op aansoek deur die invoerder van beperkte goedere in artikel 783(a) bedoel, of indien die invoerder nie in die Republiek gesetel is nie, die invoerder se geregistreerde agent, die detensie van die goedere beëindig en die invoerder of die invoerder se geregistreerde agent toelaat om die goedere vir regstreekse uitvoer te klaar en daardie goedere onmiddellik op eie koste onder toesig van die doeanegesag uit die Republiek uit te voer, mits— 15
 - (i) die invoerder of die invoerder se geregistreerde agent nie die goedere versteek het of gepoog het om dit te versteek, of die goedere vir binnelandse gebruik afgewend het of gepoog het om dit af te wend nie; en 20
 - (ii) die besit van daardie soort goedere in die Republiek deur die invoerder of die invoerder se geregistreerde agent nie onwettig is nie; of
 - (b) op aansoek deur die persoon wat voornemens was om beperkte goedere bedoel in artikel 783(c) wat in vry sirkulasie was voor die plasing daarvan onder detensie uit te voer, die detensie van die goedere beëindig en toelaat dat daardie goedere tot vry sirkulasie terugval, mits— 25
 - (i) daardie persoon nie die goedere vir doeleindes van uitvoer versteek het of gepoog het om dit te versteek nie; en 30
 - (ii) die besit van daardie goedere in die Republiek deur daardie persoon nie onwettig is nie.
- (3) Die doeanegesag kan 'n aansoek ingevolge subartikel (2) toestaan slegs indien die applikant skriftelike bewys aan die doeanegesag voorlê dat die administrerende gesag geen beswaar teen die aansoek het nie. 35

Beskikking oor beperkte goedere wat onder detensie is

- 790.** (1) Daar moet met goedere ingevolge artikel 785(1) of (2) onder detensie geplaas, gehandel word volgens voorskrif van—
- (a) die wetgewing ingevolge waarvan die goedere beperkte goedere is;
 - (b) die wetgewing wat die strafregstelsel reguleer indien en in soverre die goedere as bewysstukke in enige strafregtelike verrigtinge benodig word; of 40
 - (c) artikel 791, indien die administrerende gesag 'n versoek ingevolge daardie artikel rig dat daar oor die goedere ingevolge daardie artikel beskik moet word en die doeanegesag toestem om aan die versoek te voldoen.
- (2) Beperkte goedere bedoel in subartikel (1)(a) of (b) moet oorhandig word aan, of onder doeanebeheer gehou word vir doeleindes van— 45
- (a) die betrokke administrerende gesag, indien daar met die goedere volgens voorskrif van subartikel (1)(a) gehandel moet word; of
 - (b) die betrokke administrerende gesag of die Suid-Afrikaanse Polisie diens, indien daar met die goedere ingevolge subartikel (1)(b) gehandel moet word. 50

Beskikking oor beperkte goedere deur doeanegesag

- 791.** (1) Die administrerende gesag kan, ondanks enige wetgewing deur dié gesag gadministreer, die doeanegesag versoek om ingevolge hierdie artikel oor beperkte goedere wat ingevolge artikel 785(1) of (2) onder detensie geplaas is, te beskik, en indien die doeanegesag toestem om aan die versoek te voldoen, moet die doeanegesag— 55
- (a) die goedere konfiskeer;

- (b) notify the person to whom the notice of detention was issued in terms of section 787(1)(a), if such a notice was issued; and
- (c) dispose of the goods in terms of this section.
- (2) Goods confiscated in terms of subsection (1)(a) become the property of the state.
- (3) Restricted goods confiscated in terms of subsection (1)(a) must be disposed of in any appropriate manner, including by—
 - (a) donating the goods for welfare purposes;
 - (b) appropriating the goods to an organ of state, including SARS, for use by that organ of state;
 - (c) making the goods available as humanitarian aid to communities in the Republic or to another country;
 - (d) selling the goods, subject to subsection (4), in a manner determined by the Commissioner, which may include a sale—
 - (i) by public auction;
 - (ii) by public tender; or
 - (iii) out of hand, when appropriate; and
 - (e) destroying the goods.
- (4) Restricted goods confiscated in terms of subsection (1)(a) and consisting of goods referred to in section 783(a) may be sold in terms of subsection (3)(d)—
 - (a) only if a permit or other authorisation has been issued in terms of the legislation restricting the import of the goods; and
 - (b) only above a price set by the Commissioner at a level that will not undermine the local production of goods of the relevant kind.
- (5) Restricted goods confiscated in terms of subsection (1)(a) and consisting of goods referred to in section 783(b) may not be disposed of in terms of subsection (3) in a way that would allow the goods into free circulation in the Republic without a permit or other authorisation issued in terms of the legislation restricting the possession of the goods.

Part 3

Sectorally controlled goods

Sectorally controlled goods

- 792.** The following goods are sectorally controlled goods for purposes of this Act:⁴⁴⁹
- (a) Any goods imported into the Republic if those goods are subject to compliance with sectoral legislation—
 - (i) providing for the rejection or condemnation of the goods if any standards or requirements applicable to those goods in terms of that legislation are not met; and
 - (ii) requiring for that purpose prior approval, inspection or vetting of the goods;⁴⁵⁰ or
 - (b) any goods in the process of being exported from the Republic if those goods are subject to compliance with sectoral legislation—
 - (i) providing for the rejection of the goods for export if any standards or requirements applicable to those goods in terms of that legislation are not met; and
 - (ii) requiring for that purpose prior approval, inspection or vetting of the goods.

Clearance of sectorally controlled goods

- 793.** (1) Section 89, read with section 91, applies to the clearance of sectorally

449. To facilitate the implementation of this Act in relation to sectorally controlled goods, SARS has on its website a list of such goods to which Chapter 35 applies.

450. For instance under the Standards Act, 2008 (Act No. 8 of 2008), compulsory standards are maintained and inspection is compulsory for the importation of certain goods such as fish products.

- (b) kennis daarvan aan die persoon gee aan wie die detensiekennisgewing ingevolge artikel 787(1)(a) uitgereik is, indien so 'n kennisgewing wel uitgereik was; en
- (c) oor die goedere ingevolge hierdie artikel beskik.
- (2) Goedere ingevolge subartikel (1)(a) gekonfiskeer, word die eiendom van die staat. 5
- (3) Daar moet oor beperkte goedere wat ingevolge subartikel (1)(a) gekonfiskeer is op enige gepaste wyse oor beskik word, met inbegrip daarvan om—
- (a) die goedere vir welsynsdoeleindes te skenk;
- (b) die goedere aan 'n staatsorgaan, met inbegrip van SAID, vir gebruik deur daardie staatsorgaan toe te wys; 10
- (c) die goedere as humanitêre hulp aan gemeenskappe in die Republiek of aan 'n ander land beskikbaar te stel;
- (d) die goedere, behoudens subartikel (4), op 'n wyse bepaal deur die Kommissaris te verkoop, wat mag insluit 'n verkoop— 15
- (i) per openbare veiling;
- (ii) per openbare tender; of
- (iii) uit die hand, wanneer dit gepas is; en
- (e) die goedere te vernietig.
- (4) Beperkte goedere wat ingevolge subartikel (1)(a) gekonfiskeer is en goedere bedoel in artikel 783(a) is, kan ingevolge subartikel (3)(d) verkoop word— 20
- (a) slegs indien 'n permit of ander magtiging uitgereik is ingevolge die wetgewing wat die invoer van die goedere beperk; en
- (b) slegs vir meer as teen 'n prys deur die Kommissaris vasgestel op 'n vlak wat nie die plaaslike vervaardiging van goedere van die betrokke soort sal ondermyn nie. 25
- (5) Beperkte goedere wat ingevolge subartikel (1)(a) gekonfiskeer is en goedere bedoel in artikel 783(b) is, mag nie ingevolge subartikel (3) oor beskik word op 'n wyse wat die goedere in vry sirkulasie in die Republiek sal toelaat sonder 'n permit of ander magtiging uitgereik ingevolge die wetgewing wat die besit van die goedere beperk nie.

Deel 3 30

Sektorbeheerde goedere

Sektorbeheerde goedere

- 792.** Die volgende goedere is sektorbeheerde goedere vir doeleindes van hierdie Wet:⁴⁴⁹
- (a) Enige goedere in die Republiek ingevoer indien daardie goedere onderhewig is aan voldoening aan sektorale wetgewing— 35
- (i) wat voorsiening maak vir die verwerping of afkeuring van die goedere indien daar nie aan enige standaard of vereistes wat ingevolge daardie wetgewing vir daardie goedere geld, voldoen word nie; en
- (ii) wat vir daardie doel voorafgaande goedkeuring, inspeksie of keuring van die goedere vereis;⁴⁵⁰ of 40
- (b) enige goedere in die proses om uit die Republiek uitgevoer te word indien daardie goedere onderhewig is aan voldoening aan sektorale wetgewing—
- (i) wat vir die verwerping van die goedere vir uitvoer voorsiening maak indien daar nie aan enige standaard of vereistes wat ingevolge daardie wetgewing vir daardie goedere geld, voldoen word nie; en 45
- (ii) wat vir daardie doel voorafgaande goedkeuring, inspeksie of keuring van die goedere vereis.

Klaring van sektorbeheerde goedere

- 793.** (1) Artikel 89, saamgelees met artikel 91, is van toepassing op die klaring van sektorbeheerde goedere wat in die Republiek ingevoer word, en artikel 93, saamgelees 50

449. Ten einde die implementering van hierdie Wet met betrekking tot sektorbeheerde goedere te fasiliteer, het SAID 'n lys van sodanige goedere waarop Hoofstuk 35 van toepassing is op SAID se webwerf gepubliseer.

450. Byvoorbeeld kragtens die Wet op Standaard, 2008 (Act No. 8 of 2008), is afdwingbare standaard neergelê en is inspeksie vir sekere goedere soos visprodukte verpligtend.

controlled goods imported into the Republic, and section 93, read with section 95, applies to the clearance of sectorally controlled goods to be exported from the Republic.

(2) Clearance of sectorally controlled goods may be proceeded with despite the detention of the goods in terms of section 794, but the goods may not be released for home use or a customs procedure whilst under detention. 5

Detention of sectorally controlled goods

794. (1) The customs authority must, subject to section 795, detain sectorally controlled goods⁴⁵¹ wherever found in the course of exercising its enforcement functions.⁴⁵²

(2) The customs authority must, subject to section 795, detain goods as sectorally controlled goods if an administering authority administering the legislation in terms of which the goods are sectorally controlled goods electronically or in writing—

- (a) notifies the customs authority that those goods are sectorally controlled goods to which that legislation applies and that the goods must first be approved, inspected or vetted before the goods may be proceeded with in the customs process; and 15
- (b) requests the customs authority to detain the goods.

Certain sectorally controlled goods excluded from detention

795. The following goods are, subject to subsection (2), excluded from detention in terms of section 794: 20

- (a) Sectorally controlled goods that were on board a foreign-going vessel or aircraft when the vessel or aircraft entered the Republic, provided that the goods—
 - (i) are destined for a destination other than the Republic;
 - (ii) are not off-loaded in the Republic; and 25
 - (iii) remain on board that vessel or aircraft until the vessel or aircraft leaves the Republic; and
- (b) sectorally controlled goods that were on board a foreign-going vessel or aircraft when the vessel or aircraft entered the Republic as stores for that vessel or aircraft, provided that the goods— 30
 - (i) are reported in terms of section 346;
 - (ii) are not off-loaded in the Republic; and
 - (iii) are used, or exported from the Republic, on board that vessel or aircraft as stores for that vessel or aircraft.

Notice of detention

796. (1) When detaining goods in terms of section 794(1) or (2), the customs authority must—

- (a) issue a detention notice to that effect to the person in whose possession the goods are, or are believed to be, at the time of detention; and
- (b) by electronic message or facsimile transmission notify the administering authority administering the legislation in terms of which the goods are sectorally controlled goods of the detention of the goods and the date from which the goods were detained. 40

(2) If the goods are at any licensed premises, the customs authority must electronically in accordance with section 913 also notify the licensee of the premises of the detention. 45

(3) A notice of detention must—

- (a) identify the goods to which it relates;
- (b) state the date of detention of the goods;

451. If a customs officer has a suspicion that any specific goods are sectorally controlled goods but is unsure, the customs officer may detain the goods in terms of section 754(1)(a)(ii) to determine whether the goods are sectorally controlled goods. If it is determined that the goods are sectorally controlled goods, this Chapter becomes applicable by virtue of section 755.

452. The only condition is that the goods are found whilst subject to customs control. See section 773(2).

met artikel 95, is van toepassing op die klaring van sektorbeheerde goedere wat uit die Republiek uitgevoer word.

(2) Sektorbeheerde goedere kan, ondanks die detensie van die goedere ingevolge artikel 794, geklaar word maar die goedere mag nie vir binnelandse gebruik of 'n doeaneprosedure vrygestel word terwyl dit onder detensie is nie. 5

Detensie van sektorbeheerde goedere

794. (1) Die doeanegesag moet, behoudens artikel 795, sektorbeheerde goedere⁴⁵¹ onder detensie plaas waar dit ook al in die loop van die uitoefening van die doeanegesag se toepassingsfunksies gevind word.⁴⁵²

(2) Die doeanegesag moet, behoudens artikel 795, goedere as sektorbeheerde goedere onder detensie plaas indien 'n administrerende gesag wat wetgewing administreer ingevolge waarvan die goedere sektorbeheerde goedere is elektronies of skriftelik— 10

- (a) die doeanegesag in kennis stel dat daardie goedere sektorbeheerde goedere is waarop daardie wetgewing van toepassing is en dat die goedere eers goedgekeur, geïnspekteer of gekeur moet word voordat daar met die goedere in die doeaneproses voortgegaan kan word; en 15
- (b) die doeanegesag versoek om die goedere onder detensie te plaas.

Sekere sektorbeheerde goedere van detensie uitgesluit

795. Die volgende goedere is, behoudens subartikel (2), van detensie ingevolge artikel 794 uitgesluit: 20

- (a) Sektorbeheerde goedere wat aan boord van 'n land-uitgaande vaartuig of vliegtuig was toe die vaartuig of vliegtuig die Republiek binnegekom het, mits die goedere—
 - (i) vir 'n bestemming anders as die Republiek bestem is; 25
 - (ii) nie in die Republiek afgelaai word nie; en
 - (iii) aan boord van daardie vaartuig of vliegtuig bly totdat die vaartuig of vliegtuig die Republiek verlaat; en
- (b) sektorbeheerde goedere wat aan boord van 'n land-uitgaande vaartuig of vliegtuig was toe die vaartuig of vliegtuig die Republiek binnegekom het as voorrade vir daardie vaartuig of vliegtuig, mits die goedere— 30
 - (i) ingevolge artikel 346 gerapporteer word;
 - (ii) nie in die Republiek afgelaai word nie; en
 - (ii) gebruik word, of uit die Republiek uitgevoer word, aan boord van daardie vaartuig of vliegtuig as voorrade vir daardie vaartuig of vliegtuig. 35

Detensiekennisgewing

796. (1) Wanneer goedere ingevolge artikel 794(1) of (2) onder detensie geplaas word, moet die doeanegesag—

- (a) 'n detensiekennisgewing tot daardie effek uitreik aan die persoon in wie se besit die goedere op die tydstip van detensie is of geglo word te wees; en 40
- (b) die administrerende gesag wat die wetgewing administreer ingevolge waarvan die goedere sektorbeheerde goedere is per elektroniese boodskap of faksimileversending van die detensie van die goedere en die datum van wanneer af die goedere onder detensie geplaas is, in kennis stel.

(2) Indien die goedere by 'n gelisensieerde perseel is, moet die doeanegesag ook die lisensiehouer van die perseel elektronies ooreenkomstig artikel 913 van die detensie in kennis stel. 45

(3) 'n Detensiekennisgewing moet—

- (a) die goedere waarop dit betrekking het, identifiseer; 50
- (b) die datum van detensie van die goedere vermeld;

451. Indien 'n doeanebeampte vermoed dat enige spesifieke goedere sektorbeheerde goedere is maar onseker is, kan die doeanebeampte die goedere ingevolge artikel 754(1)(a)(ii) onder detensie plaas om te bepaal of die goedere wel sektorbeheerde goedere is. Indien daar bepaal word dat die goedere wel sektorbeheerde goedere is, word hierdie Hoofstuk uit hoofde van artikel 755 van toepassing.

452. Die enigste vereiste is dat die goedere gevind word terwyl dit onder doeanebeheer is. Kyk artikel 773(2).

- (c) state the reason for the detention; and
 - (d) contain any other particulars as may be prescribed by rule.
- (4) Subsection (1)(a) does not apply—
- (a) if the person referred to in that subsection is unknown or cannot be found; or
 - (b) in the case of goods that have first been detained in terms of section 754(1)(a)(iii) and in respect of which a detention notice has been issued in terms of section 757. 5

Place where detained goods may be kept

- 797.** (1) Goods detained in terms of section 794(1) or (2) may, pending the action to be taken in respect of the goods, be— 10
- (a) kept at the place where they were detained; or
 - (b) removed to and stored—
 - (i) in a state warehouse in terms of section 570 or at another place determined in terms of section 580(1); or
 - (ii) at any other place of security most suitable in the circumstances as the customs authority may determine. 15
- (2) No person may without the permission of the customs authority remove goods detained in terms of section 794(1) or (2) from the place where they are kept or stored.
- (3) If a place where goods are kept or to which they were removed in terms of subsection (1) is not a customs controlled area, the customs authority has for purposes of this Act access to those goods as if that place is a customs controlled area. 20

Termination of detention

- 798.** (1) The customs authority must promptly terminate the detention of sectorally controlled goods if—
- (a) the goods were detained in error; 25
 - (b) the administering authority confirms that the detention of the goods may be terminated; or
 - (c) a court so orders.
- (2) Sectorally controlled goods of which the detention was terminated in terms of subsection (1) must be allowed to be proceeded with in the customs process. 30

Disposal of detained sectorally controlled goods

- 799.** (1) Imported goods referred to in section 792(a) that are disapproved, rejected or condemned in terms of the applicable sectoral legislation, must be dealt with in accordance with—
- (a) that legislation; or 35
 - (b) the legislation regulating the criminal justice system if and to the extent that the goods are needed as evidence in any criminal proceedings.
- (2) Goods destined for export referred to in section 792(b) that were in free circulation before the detention or before their clearance for export, and that are disapproved or rejected for export in terms of the applicable sectoral legislation, may not be released for export but may revert to free circulation unless that legislation determines otherwise. 40

Part 4

Other matters

Inconsistency of this Chapter with other legislation prohibiting, restricting or controlling import, possession or export of goods 45

800. This Chapter may not be read as affecting the implementation of other legislation referred to in section 774, 783 or 792 prohibiting, restricting or controlling the import, possession or export of goods to the extent that this Chapter is inconsistent with that other legislation.

- (c) die rede vir die detensie vermeld; en
 - (d) enige ander besonderhede bevat soos by reël voorgeskryf mag word.
- (4) Subartikel (1)(a) is nie van toepassing nie—
- (a) indien die persoon in daardie subartikel bedoel onbekend is of nie gevind kan word nie; of 5
 - (b) in die geval van goedere wat aanvanklik ingevolge artikel 754(1)(a)(iii) onder detensie geplaas is en ten opsigte waarvan 'n detensiekennisgewing ingevolge artikel 757 uitgereik is.

Plek waar detensiegoedere gehou kan word

797. (1) Goedere ingevolge artikel 794(1) of (2) onder detensie geplaas, kan, 10
hangende die stappe wat ten opsigte van die goedere gedoen mag word—
- (a) gehou word by die plek waar dit onder detensie geplaas is; of
 - (b) verwyder word na en geberg word—
 - (i) in 'n staatspakhuis ingevolge artikel 570 of by 'n ander plek ingevolge artikel 580(1) bepaal; of 15
 - (ii) by enige ander plek van veiligheid wat in die omstandighede die mees gepas is, soos die doeanegesag mag bepaal.
- (2) Niemand mag sonder die toestemming van die doeanegesag goedere wat ingevolge artikel 794(1) of (2) onder detensie geplaas is van die plek waar dit gehou of geberg word, verwyder nie. 20
- (3) Indien 'n plek waar goedere gehou of waarheen dit ingevolge subartikel (1) verwyder is nie 'n doeanebeheergebied is nie, het die doeanegesag vir doeleindes van hierdie Wet toegang tot daardie goedere asof daardie plek 'n doeanebeheergebied is.

Beëindiging van detensie

798. (1) Die doeanegesag moet onverwyld die detensie van sektorbeheerde goedere 25
beëindig indien—
- (a) die goedere foutiewelik onder detensie geplaas is;
 - (b) die administrerende gesag bevestig dat die detensie van die goedere beëindig kan word; of
 - (c) 'n hof aldus beveel. 30
- (2) Sektorbeheerde goedere waarvan die detensie ingevolge subartikel (1) beëindig is, moet toegelaat word om in die doeaneproses mee voortgegaan te word.

Beskikking oor sektorbeheerde goedere wat onder detensie is

799. (1) Met ingevoerde goedere in artikel 792(a) bedoel wat nie goedgekeur word nie of verwerp of afgekeur word ingevolge die betrokke sektorale wetgewing, moet daar 35
gehandel word volgens voorskrif van—
- (a) daardie wetgewing; of
 - (b) die wetgewing wat die strafregstelsel reguleer indien en in soverre die goedere as bewysstukke in enige strafregtelike verrigtinge benodig word.
- (2) Goedere bedoel in artikel 792(b) bestem vir uitvoer wat in vry sirkulasie was 40
voordat die goedere onder detensie geplaas of vir uitvoer geklaar is, en wat ingevolge die toepaslike sektorale wetgewing vir uitvoer afgekeur of verwerp is, mag nie vir uitvoer vrygestel word nie maar kan tot vry sirkulasie terugval tensy daardie wetgewing anders bepaal.

Deel 4

45

Ander aangeleenthede

Onbestaanbaarheid van hierdie Hoofstuk met ander wetgewing wat invoer, besit of uitvoer van goedere verbied, beperk of beheer

800. Hierdie Hoofstuk mag nie uitgelê word om afbreuk te doen aan die implementering van ander wetgewing bedoel in artikel 774, 783 of 792 wat die invoer, 50
besit of uitvoer van goedere verbied, beperk of beheer in soverre hierdie Hoofstuk nie met daardie ander wetgewing bestaanbaar is nie.

Rules to facilitate implementation of this Chapter

801. Rules made in terms of section 903 to facilitate the implementation of this Chapter may include rules—

- (a) to give effect to the Republic's obligations in terms of an international agreement relating to the prohibition or restriction or controlling of the import into or export from the Republic of goods to which the agreement relates, including rules—
 - (i) prohibiting the import into or export from the Republic of such goods, including goods produced through the exploitation of children; and
 - (ii) restricting the import into or export from the Republic of such goods otherwise than on authority of a permit issued by the customs authority or another organ of state;
- (b) prescribing procedures, forms and timelines in connection with applications referred to in sections 780(2) and 789(2); and
- (c) prescribing the time within and manner in which the carrier or on-board operator of a foreign-going vessel or aircraft entering the Republic must declare prohibited goods on board that vessel or aircraft.⁴⁵³

Offences in terms of this Chapter

- 802.** (1) A person is guilty of an offence if that person—
- (a) contravenes section 775(1), 779(2), 784(1), 788(2) or 797(2); or
 - (b) colludes or makes an arrangement of whatever nature with any other person inside or outside the Republic to defeat or evade a provision of this Chapter in relation to any prohibited, restricted or sectorally controlled goods imported or to be imported into, or exported or to be exported from, the Republic.
- (2) An offence referred to in subsection (1) is a Category 1 offence.

CHAPTER 36

COUNTERFEIT GOODS

Definitions

- 803.** (1) In this Chapter, unless the context otherwise indicates—
- ‘counterfeiting’, ‘counterfeit goods’, ‘counterfeit goods depot’, ‘intellectual property right’, ‘owner’ and ‘protected goods’** have the meanings assigned thereto in the Counterfeit Goods Act, and
- “affected party”**, in relation to goods suspected of being counterfeit goods—
- (a) that are cleared for home use or a customs procedure, means—
 - (i) the person clearing the goods;
 - (ii) the person on whose behalf the goods are cleared; or
 - (iii) a person who acts in relation to those goods on behalf of a person referred to in subparagraph (i) or (ii); or
 - (b) that have not been cleared, means—
 - (i) the consignee, consignor, importer, exporter, owner, manufacturer or person having control of those goods or in whose possession the goods are; or
 - (ii) a person who acts in relation to those goods on behalf of a person referred to in subparagraph (i);
- “right-holder”**, in relation to protected goods, means—
- (a) the owner of an intellectual property right in respect of those protected goods;
 - (b) a licensee of an intellectual property right in respect of those protected goods;
 - (c) a person who has the right to import into, distribute in or export from, the Republic those protected goods; or

⁴⁵³ Travellers and crew members entering the Republic must in terms of section 479 declare any prohibited goods that they have with them.

Reëls ter fasilitering van implementering van hierdie Hoofstuk

- 801.** Reëls ingevolge artikel 903 uitgevaardig om die implementering van hierdie Hoofstuk te fasiliteer, kan reëls insluit—
- (a) om gevolg te gee aan die Republiek se verpligtinge ingevolge 'n internasionale ooreenkoms met betrekking tot die verbod op, of die beperking van of die beheer oor, die invoer in of uitvoer uit die Republiek van goedere waarop die ooreenkoms betrekking het, met inbegrip van reëls—
 - (i) wat die invoer in of die uitvoer uit die Republiek van sodanige goedere verbied, asook goedere deur die uitbuiting van kinders geproduseer; en
 - (ii) wat die invoer in of die uitvoer uit die Republiek van sodanige goedere beperk anders as op gesag van 'n permit uitgereik deur die doeanegesag of 'n ander staatsorgaan;
 - (b) wat prosedures, vorms en tydsrame in verband met aansoeke bedoel in artikels 780(2) en 789(2) voorskryf; en
 - (c) wat die tyd waarin en die wyse voorskryf waarop die vervoerder of aanboord operateur van 'n land-uitgaande vaartuig of vliegtuig wat die Republiek binnekom verbode goedere aan boord van daardie vaartuig of vliegtuig moet verklaar.⁴⁵³

Misdrywe ingevolge hierdie Hoofstuk

- 802.** (1) 'n Persoon is aan 'n misdryf skuldig indien daardie persoon—
- (a) artikel 775(1), 779(2), 784(1), 788(2) of 797(2) oortree; of
 - (b) saamsweer of 'n reëling van watter aard ook al aangaan met 'n ander persoon binne of buite die Republiek om met betrekking tot enige verbode, beperkte of sektorbeheerde goedere wat in die Republiek ingevoer is, of uit die Republiek uitgevoer word, 'n bepaling van hierdie Hoofstuk te verydel of te ontduik.
- (2) 'n Misdryf in subartikel (1) bedoel is 'n Kategorie 1 misdryf.

HOOFTUK 36

NAGEMAAKTE GOEDERE

Woordomskrywing

- 803.** (1) In hierdie Hoofstuk, tensy uit die samehang anders blyk, beteken—
- “**geaffekteerde party**”, met betrekking tot goedere wat vermoed word nagemaakte goedere te wees—
 - (a) wat vir binnelandse gebruik of 'n doeaneprosedure geklaar word—
 - (i) die persoon wat die goedere klaar;
 - (ii) die persoon ten behoeve van wie die goedere geklaar word; of
 - (iii) 'n persoon wat met betrekking tot daardie goedere ten behoeve van 'n persoon bedoel in subparagraaf (i) of (ii) handel; of
 - (b) wat nie geklaar is nie—
 - (i) die geadresseerde, versender, invoerder, uitvoerder, eienaar, vervaardiger of persoon wat beheer oor daardie goedere het of in wie se besit die goedere is; of
 - (ii) 'n persoon wat met betrekking tot daardie goedere ten behoeve van 'n persoon bedoel in subparagraaf (i) handel;
 - “**namaking**”, “**nagemaakte goedere**”, “**nagemaakte goedere depot**”, “**intellektuele goedere reg**”, “**eienaar**” en “**beskermde goedere**” dieselfde as die betekenis in die Wet op Nagemaakte Goedere daaraan geheg;
 - “**reghouer**”, met betrekking tot beskermde goedere—
 - (a) die eienaar van 'n intellektuele goedere reg ten opsigte van daardie beskermde goedere;
 - (b) 'n lisensiehouer van 'n intellektuele goedere reg ten opsigte van daardie beskermde goedere;
 - (c) 'n persoon wat die reg het om daardie beskermde goedere in te voer in, te versprei in, of uit te voer uit, die Republiek; of

⁴⁵³ Reisisigers en bemanningslede wat die Republiek binnekom moet ingevolge artikel 479 enige verbode goedere wat hulle met hulle het verklaar.

- (d) a person who acts on behalf of a person referred to in paragraph (a), (b) or (c) to protect the intellectual property right in respect of those protected goods.

Purpose and application of this Chapter

804. (1) The purpose of this Chapter is to provide for a customs role in combating the trade in counterfeit goods imported into or in the process of being exported from the Republic. 5

(2) This Chapter applies to all counterfeit goods, including goods suspected to be counterfeit goods, that in whatever way have become subject to customs control, but may not be applied to goods that have already been seized in terms of the Counterfeit Goods Act.⁴⁵⁴ 10

(3) In the event of an inconsistency between a provision of this Chapter and the Counterfeit Goods Act, the provision of this Chapter prevails.

Part 1

Detention of suspected counterfeit goods when prior application has been granted

Application for detention of suspected counterfeit goods 15

805. (1) A person claiming to be a right-holder in relation to any protected goods may apply to the customs authority for assistance in combating the trade in counterfeit goods that infringe the intellectual property right in respect of those protected goods by—

- (a) detaining any goods suspected of infringing that intellectual property right as and when any such goods become subject to customs control; and 20
(b) dealing with such detained goods in accordance with this Chapter.

(2) An application must—

- (a) be in the form and format and contain the information as may be prescribed by rule;
(b) give sufficient particulars of the protected goods in respect of which customs assistance is sought in terms of this Chapter; 25
(c) describe the essential physical and other distinctive features, elements and characteristics of goods that may indicate that goods are counterfeit goods that infringe the intellectual property right in respect of those protected goods;
(d) be accompanied by evidence— 30
(i) that an intellectual property right subsists in respect of the goods in respect of which customs assistance is sought in terms of this Chapter;
(ii) that those goods are protected goods;
(iii) that the applicant is a right-holder in relation to those protected goods;
(iv) that counterfeit goods infringing the intellectual property right in respect of those protected goods are believed on reasonable grounds to be imported into or exported from the Republic; and
(v) of the date on which that intellectual property right will expire; and
(e) be accompanied by— 40
(i) an indemnity in terms of which the applicant indemnifies the Commissioner against any liability that may arise from any actions, proceedings, claims or demands whatsoever which may be made or taken against the Commissioner in providing the required assistance;

454. Goods seized in terms of the Counterfeit Goods Act must be dealt with in terms of that Act.

- (d) 'n persoon wat ten behoeve van 'n persoon bedoel in paragraaf (a), (b) of (c) handel om die intellektuele goedere reg ten opsigte van daardie beskermde goedere te beskerm.

Doel en toepassing van hierdie Hoofstuk

804. (1) Die doel van hierdie Hoofstuk is om voorsiening te maak vir 'n rol vir doeane in die bekamping van die handel in nagemaakte goedere wat ingevoer is in, of in die proses is om uitgevoer te word uit, die Republiek. 5

(2) Hierdie Hoofstuk is van toepassing op alle nagemaakte goedere, met inbegrip van goedere wat vermoed word nagemaakte goedere te wees, wat op watter wyse ook al onder doeanebeheer gekom het, maar hierdie Hoofstuk mag nie toegepas word op goedere waarop daar reeds ingevolge die Wet op Nagemaakte Goedere beslag gelê is nie.⁴⁵⁴ 10

(3) In die geval van enige teenstrydigheid tussen 'n bepaling van hierdie Hoofstuk en die Wet op Nagemaakte Goedere is, geniet die bepaling van hierdie Hoofstuk voorrang.

Deel 1

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Detensie van vermeende nagemaakte goedere wanneer voorafgaande aansoek toegestaan word

Aansoek om vermeende nagemaakte goedere onder detensie te plaas

805. (1) 'n Persoon wat beweer die reghouer met betrekking tot enige beskermde goedere te wees, kan by die doanegesag aansoek om bystand doen ten einde die handel in nagemaakte goedere wat inbreuk op die intellektuele goedere reg ten opsigte van daardie beskermde goedere doen, te bekamp deur— 20

(a) enige goedere wat vermoed word op daardie intellektuele goedere reg inbreuk te doen onder detensie te plaas soos en wanneer enige van dié goedere onder doeanebeheer kom; en 25

(b) met sulke goedere wat onder detensie geplaas is volgens voorskrif van hierdie Hoofstuk te handel.

(2) 'n Aansoek moet—

(a) in die vorm en formaat wees, en die inligting bevat, soos by reël voorgeskryf mag word; 30

(b) voldoende besonderhede gee van die beskermde goedere ten opsigte waarvan doeanebystand ingevolge hierdie Hoofstuk verlang word;

(c) die wesenlike fisiese en ander onderskeidende kenmerke, elemente en eienskappe van goedere beskryf wat mag aandui dat goedere nagemaakte goedere is wat op die intellektuele goedere reg ten opsigte van daardie beskermde goedere inbreuk doen; 35

(d) vergesel wees van bewys—

(i) dat 'n intellektuele goedere reg ten opsigte van die goedere bestaan ten opsigte waarvan doeanebystand ingevolge hierdie Hoofstuk verlang word; 40

(ii) dat daardie goedere beskermde goedere is;

(iii) dat die applikant 'n reghouer met betrekking tot daardie beskermde goedere is;

(iv) dat nagemaakte goedere wat op die intellektuele goedere reg ten opsigte van daardie beskermde goedere inbreuk doen op redelike gronde geglo word ingevoer te word in, of uitgevoer te word uit, die Republiek; en 45

(v) van die datum waarop daardie intellektuele goedere reg sal verstryk; en

(e) vergesel wees van—

(i) 'n vrywaring ingevolge waarvan die applikant die Kommissaris vrywaar teen enige aanspreeklikheid wat mag ontstaan uit enige stappe, verrigtinge, eise of vorderings hoegenaamd wat teen die Kommissaris ingestel of gedoen mag word vir die verlening van die verlangde bystand; 50

454. Goedere waarop daar ingevolge die Wet op Nagemaakte Goedere beslag gelê word, moet ingevolge daardie Wet hanteer word.

- (ii) an undertaking in terms of which the applicant undertakes to pay any costs or expenses incurred by, and any charges owed to, the Commissioner in providing the required assistance; and
- (iii) an administration fee as may be prescribed by rule.

Consideration of applications

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806. (1) The customs authority must promptly consider an application in terms of section 805, and must grant the application if satisfied on face value of the evidence and motivations submitted by the applicant—

- (a) that the goods in respect of which customs assistance is sought in terms of this Chapter are protected goods; 10
- (b) that an intellectual property right subsists in respect of those goods;
- (c) that the applicant is a right-holder in relation to those protected goods; and
- (d) that the fear of the applicant that the intellectual property right claimed to subsist in respect of those goods may be infringed, appears to be reasonable in the circumstances. 15

(2) (a) When granting the application, the customs authority must determine the period for which customs assistance in terms of this Chapter will be provided in relation to the protected goods applied for.

(b) A period determined in terms of paragraph (a) may not extend beyond the date on which the intellectual property right in respect of those protected goods will expire. 20

(3) No application in terms of this section may be granted if the tax matters of the applicant are not in order as contemplated in section 917.

Detention of suspected counterfeit goods

807. (1) If a customs officer has reasonable cause to suspect that any specific goods are counterfeit goods that infringe an intellectual property right in respect of protected goods for which an application was granted in terms of section 806, the customs officer must— 25

- (a) detain the goods;
- (b) issue a detention notice to— 30
 - (i) any person who in relation to the suspected counterfeit goods is an affected party; or
 - (ii) the person in whose possession the goods are, or are believed to be, at the time of detention; and
- (c) notify the right-holder who brought the application of— 35
 - (i) the detention of the goods; and
 - (ii) the date from which the goods are detained.

(2) Subsection (1) applies to any suspected counterfeit goods found—

- (a) during clearance or release procedures applicable to the goods;
- (b) during an inspection in terms of this Act;
- (c) when a person complies with a request by a customs officer in terms of this Act to produce any goods; or 40
- (d) during a search in terms of this Act of any premises, or of any vessel, aircraft, train, railway carriage, vehicle or other means of transport, or of any person.

(3) A customs officer's suspicion in terms of subsection (1) must take into account the particulars referred to in section 805(2)(c) stated in the right-holder's application which describe the essential physical and other distinctive features, elements and characteristics of goods that may indicate that the goods are counterfeit goods that infringe the intellectual property right in respect of the protected goods for which the application was granted. 45

(4) A detention notice must— 50

- (a) identify the goods to which it relates;
- (b) state the date from which the goods are detained;
- (c) state the reason for the detention;
- (d) contain any other particulars as may be prescribed by rule; and

- (ii) 'n onderneming ingevolge waarvan die applikant onderneem om enige koste of uitgawes aangegaan deur, en enige gelde verskuldig aan, die Kommissaris vir die verlening van die verlange bystand, te betaal; en
- (iii) 'n administrasiefooï soos by reël voorgeskryf mag word.

Oorweging van aansoeke 5

806. (1) Die doeanebesag moet 'n aansoek ingevolge artikel 805 onverwyld oorweeg, en moet die aansoek toestaan indien die doeanebesag op sigwaarde van die bewys en motiverings wat deur die applikant voorgelê is, tevrede is—

- (a) dat die goedere ten opsigte waarvan doeanebystand ingevolge hierdie Hoofstuk verlang word beskermde goedere is; 10
- (b) dat 'n intellektuele goedere reg ten opsigte van daardie goedere bestaan;
- (c) dat die applikant 'n reghouer met betrekking tot daardie beskermde goedere is; en
- (d) dat die vrees van die applikant dat daar inbreuk gedoen mag word op die intellektuele goedere reg wat beweer word ten opsigte van daardie goedere te bestaan, in die omstandighede redelik blyk te wees. 15

(2) (a) Wanneer die doeanebesag 'n aansoek toestaan, moet die doeanebesag die tydperk bepaal waarvoor doeanebystand ingevolge hierdie Hoofstuk verleen sal word met betrekking tot die beskermde goedere waarvoor aansoek gedoen is.

(b) 'n Tydperk ingevolge paragraaf (a) bepaal, mag nie strek tot 'n datum later as die datum waarop die intellektuele goedere reg ten opsigte van daardie beskermde goedere sal verstryk nie. 20

(3) Geen aansoek ingevolge hierdie artikel, mag toegestaan word indien die belasting sake van die applikant nie in orde soos beoog in artikel 917 is nie.

Plasing van vermeende nagemaakte goedere onder detensie 25

807. (1) Indien 'n doeanebeampte redelike gronde het om te vermoed dat enige spesifieke goedere nagemaakte goedere is wat inbreuk doen op 'n intellektuele goedere reg ten opsigte van beskermde goedere waarvoor 'n aansoek ingevolge artikel 806 toegestaan is, moet die doeanebeampte—

- (a) die goedere onder detensie plaas; 30
- (b) 'n detensiekennisgewing uitreik aan—
 - (i) enige persoon wat met betrekking tot die vermeende nagemaakte goedere 'n geaffekteerde party is; of
 - (ii) die persoon in wie se besit die goedere op die tydstip van detensie is of geglo word te wees; en 35
- (c) die reghouer wat die aansoek gebring het in kennis stel van—
 - (i) die detensie van die goedere; en
 - (ii) die datum van wanneer af die goedere onder detensie geplaas is.

(2) Subartikel (1) is van toepassing op enige vermeende nagemaakte goedere wat gevind word— 40

- (a) tydens die klarings- of vrystellingsprosesse wat op die goedere van toepassing is;
- (b) tydens 'n inspeksie ingevolge hierdie Wet;
- (c) wanneer 'n persoon aan 'n versoek deur 'n doeanebeampte ingevolge hierdie Wet voldoen om enige goedere te toon; of 45
- (d) tydens 'n deursoeking ingevolge hierdie Wet van enige perseel, of van enige vaartuig, vliegtuig, trein, spoorwegwa, voertuig of ander middel van vervoer, of van enige persoon.

(3) 'n Doeanebeampte se vermoede ingevolge subartikel (1) moet in ag neem die besonderhede bedoel in artikel 805(2)(c) wat in die reghouer se aansoek vermeld word wat die wesenlike fisiese en ander onderskeidende kenmerke, elemente en eienskappe van goedere beskryf wat mag aandui dat die goedere nagemaakte goedere is wat op die intellektuele goedere reg ten opsigte van die beskermde goedere waarvoor die aansoek toegestaan is, inbreuk doen. 50

(4) 'n Detensiekennisgewing moet— 55

- (a) die goedere waarop dit betrekking het, identifiseer;
- (b) die datum van wanneer af die goedere onder detensie geplaas is, vermeld;
- (c) die rede vir die detensie vermeld;
- (d) enige ander besonderhede bevat soos by reël voorgeskryf mag word; en

- (e) be delivered by electronic message, by facsimile transmission or by hand.
- (5) Subsection (1)(b) does not apply if the persons referred to in that subsection are unknown or cannot be found.
- (6) Goods detained in terms of subsection (1) must be dealt with in terms of Part 3.

Part 2

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Detention of suspected counterfeit goods in absence of prior approved application

Discovery of suspected counterfeit goods

808. (1) If a customs officer has reasonable cause to suspect that any specific goods are counterfeit goods that infringe the intellectual property right in respect of any protected goods for which no application was made and granted in terms of Part 1, the customs officer must notify the following persons of the goods and the fact that the goods are suspected counterfeit goods: 10

- (a) A person who is believed by the customs officer to be a right-holder in respect of the protected goods in respect of which an intellectual property right is suspected of being infringed; and 15
- (b) any person who in relation to the suspected counterfeit goods is to the knowledge of the customs officer an affected party.

(2) Subsection (1) applies to any suspected counterfeit goods found—

- (a) during clearance or release procedures applicable to the goods;
- (b) during an inspection in terms of this Act; 20
- (c) when a person complies with a request by a customs officer in terms of this Act to produce any goods; or
- (d) during a search in terms of this Act of any premises, or of any vessel, aircraft, train, railway carriage, vehicle or other means of transport, or of any person.

(3) A notification in terms of subsection (1) must be delivered by electronic message, by facsimile transmission or by hand. 25

(4) A customs officer is not obliged to comply with subsection (1) unless the following information is readily available to the customs officer:

- (a) The name of a person who is a right-holder in respect of the protected goods in respect of which an intellectual property right is suspected of being infringed; and 30
- (b) the electronic address or facsimile number of that person.

(5) Subsection (1)(b) does not apply if the person referred to in that subsection is unknown or cannot be found.

(6) Goods to which subsection (1) has been applied may not be released for home use or a customs procedure pending an application for the detention of the goods in terms of section 809. 35

Application for detention of suspected counterfeit goods

809. (1) A person notified in terms of section 808(1)(a) of suspected counterfeit goods, or any other person claiming to be a right-holder in relation to the protected goods in respect of which an intellectual property right is suspected of being infringed by those goods, may, within three working days after the date of notification read with section 908, apply to the customs authority for the detention of the suspected counterfeit goods and for the goods to be dealt with in terms of this Chapter. 40

(2) An application must— 45

- (a) be in the form and format and contain the information as may be prescribed by rule;
- (b) give sufficient particulars of the protected goods which are the subject of the application;

- (e) per elektroniese boodskap, faksimileversending of per hand verstrek word.
- (5) Subartikel (1)(b) is nie van toepassing nie indien die persone in daardie subartikel bedoel onbekend is of nie gevind kan word nie.
- (6) Daar moet met goedere ingevolge subartikel (1) onder detensie geplaas ingevolge Deel 3 gehandel word.

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Deel 2

Detensie van vermeende nagemaakte goedere in afwesigheid van voorafgaande goedgekeurde aansoek

Ontdekking van vermeende nagemaakte goedere

- 808.** (1) Indien 'n doeanebeampte redelike gronde het om te vermoed dat enige spesifieke goedere nagemaakte goedere is wat inbreuk doen op die intellektuele goedere reg ten opsigte van enige beskermde goedere waarvoor geen aansoek ingevolge Deel 1 gedoen en goedgekeur is nie, moet die doeanebeampte die volgende persone van die goedere in kennis stel en van die feit dat die goedere vermeende nagemaakte goedere is:
- (a) 'n Persoon wat die doeanebeampte glo 'n reghouer ten opsigte van die beskermde goedere te wees ten opsigte waarvan 'n intellektuele goedere reg vermoed word op inbreuk gedoen te word; en
- (b) enige persoon wat met betrekking tot die vermeende nagemaakte goedere na die wete van die doeanebeampte 'n geaffekteerde party is.
- (2) Subartikel (1) is van toepassing op enige vermeende nagemaakte goedere wat gevind word—
- (a) tydens die klarings- of vrystellingsprosesse wat op die goedere van toepassing is;
- (b) tydens 'n inspeksie ingevolge hierdie Wet;
- (c) wanneer 'n persoon aan 'n versoek deur 'n doeanebeampte ingevolge hierdie Wet voldoen om enige goedere te toon; of
- (d) tydens 'n deursoeking ingevolge hierdie Wet van enige perseel, of van enige vaartuig, vliegtuig, trein, spoorwegwa, voertuig of ander middel van vervoer, of van enige persoon.
- (3) 'n Kennisgewing ingevolge subartikel (1), moet per elektroniese boodskap, faksimileversending of per hand verstrek word.
- (4) 'n Doeanebeampte is nie verplig om aan subartikel (1) te voldoen nie tensy die volgende inligting redelikerwyse tot die doeanebeampte se beskikking is:
- (a) Die naam van 'n persoon wat 'n reghouer ten opsigte van die beskermde goedere is ten opsigte waarvan 'n intellektuele goedere reg vermoed word op inbreuk gedoen te word; en
- (b) die elektroniese adres of faksimileenommer van daardie persoon.
- (5) Subartikel (1)(b) is nie van toepassing nie indien die persoon in daardie subartikel bedoel onbekend is of nie gevind kan word nie.
- (6) Goedere waarop subartikel (1) toegepas is, mag nie vir binnelandse gebruik of 'n doeaneprosedure vrygestel word nie hangende 'n aansoek om die goedere ingevolge artikel 809 onder detensie te plaas.

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Aansoek om vermeende nagemaakte goedere onder detensie te plaas

- 809.** (1) 'n Persoon wat ingevolge artikel 808(1)(a) van vermeende nagemaakte goedere in kennis gestel is, of enige ander persoon wat daarop aanspraak maak om 'n reghouer te wees met betrekking tot die beskermde goedere ten opsigte waarvan 'n intellektuele goedere reg vermoed word deur daardie goedere op inbreuk gedoen te wees, kan, binne drie werksdae na die datum van die kennisgewing, saamgelees met artikel 908, by die doeanegesag aansoek doen om die vermeende nagemaakte goedere onder detensie te plaas en dat daar met die goedere ingevolge hierdie Hoofstuk gehandel word.
- (2) 'n Aansoek moet—
- (a) in die vorm en formaat wees, en die inligting bevat, soos by reël voorgeskryf mag word;
- (b) voldoende besonderhede gee van die beskermde goedere wat die onderwerp van die aansoek is;

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- (c) describe the essential physical and other distinctive features, elements and characteristics of goods that may indicate that the goods are counterfeit goods that infringe the intellectual property right in respect of those protected goods;
- (d) be accompanied by evidence—
 - (i) that an intellectual property right subsists in respect of the goods that are the subject of the application; 5
 - (ii) that those goods are protected goods;
 - (iii) that the applicant is a right-holder in relation to those protected goods; and
 - (iv) of the date on which that intellectual property right will expire; and 10
- (e) be accompanied by—
 - (i) an indemnity in terms of which the applicant indemnifies the Commissioner against any liability that may arise from any actions, proceedings, claims or demands whatsoever which may be made or taken against the Commissioner in dealing with the goods in terms of this Chapter; 15
 - (ii) an undertaking in terms of which the applicant undertakes to pay any costs or expenses incurred by, and any charges owed to, the Commissioner in dealing with the goods in terms of this Chapter; and
 - (iii) an administration fee as may be prescribed by rule.

Consideration of applications 20

810. (1) The customs authority must promptly consider an application in terms of section 809, and must grant the application if satisfied on face value of the evidence and motivations submitted by the applicant—

- (a) that the goods which are the subject of the application are protected goods;
- (b) that an intellectual property right subsists in respect of those goods; 25
- (c) that the applicant is a right-holder in relation to those protected goods; and
- (d) that the goods suspected to be counterfeit goods are counterfeit goods that infringe the intellectual property right in respect of those protected goods.

(2) If the application is granted the customs authority must—

- (a) detain the goods suspected to be counterfeit goods; 30
- (b) issue a detention notice to—
 - (i) any person who in relation to the suspected counterfeit goods is an affected party; or
 - (ii) the person in whose possession the goods are, or are believed to be, at the time of detention; and 35
- (c) notify the applicant of the date of detention of the goods.

(3) Goods detained in terms of subsection (2) must be dealt with in terms of Part 3.

(4) Subsection (2)(b) does not apply if the persons referred to in that subsection are unknown or cannot be found.

Part 3 40

Procedures for detained suspected counterfeit goods

Inventory of detained goods

811. The customs authority must in accordance with any requirements as may be prescribed by rule make an inventory of goods detained in terms of Part 1 or 2.

- (c) die wesenlike fisiese en ander onderskeidende kenmerke, elemente en eienskappe van goedere beskryf wat mag aandui dat die goedere nagemaakte goedere is wat op die intellektuele goedere reg ten opsigte van daardie beskermdede goedere inbreuk doen;
- (d) vergesel wees van bewys— 5
 - (i) dat 'n intellektuele goedere reg bestaan ten opsigte van die goedere wat die onderwerp van die aansoek is;
 - (ii) dat daardie goedere beskermdede goedere is;
 - (iii) dat die applikant 'n reghouer met betrekking tot daardie beskermdede goedere is; en 10
 - (iv) van die datum waarop daardie intellektuele goedere reg sal verstryk; en
- (e) vergesel wees van—
 - (i) 'n vrywaring ingevolge waarvan die applikant die Kommissaris vrywaar van enige aanspreeklikheid wat mag ontstaan uit enige stappe, verrigtinge of vorderings hoegenaamd wat teen die Kommissaris ingestel of gedoen kan word vir die hantering van die goedere ingevolge hierdie Hoofstuk; 15
 - (ii) 'n onderneming ingevolge waarvan die applikant onderneem om enige koste of uitgawes aangegaan deur, en enige gelde verskuldig aan, die Kommissaris vir die hantering van die goedere ingevolge hierdie Hoofstuk, te betaal; en 20
 - (iii) 'n administrasiefooi soos by reël voorgeskryf mag word.

Oorweging van aansoeke

- 810.** (1) Die doeanegesag moet 'n aansoek ingevolge artikel 809, onverwyld oorweeg, en moet die aansoek toestaan indien die doeanegesag op sigwaarde van die bewyse en motiverings deur die applikant voorgelê, tevrede is— 25
- (a) dat die goedere wat die onderwerp van die aansoek is beskermdede goedere is;
 - (b) dat 'n intellektuele goedere reg ten opsigte van daardie goedere bestaan;
 - (c) dat die applikant 'n reghouer met betrekking tot daardie beskermdede goedere is; en 30
 - (d) dat die goedere wat vermoed word nagemaakte goedere te wees, wel nagemaakte goedere is wat op die intellektuele goedere reg ten opsigte van daardie beskermdede goedere inbreuk doen.
- (2) Indien die aansoek toegestaan word, moet die doeanegesag— 35
- (a) die goedere wat vermoed word nagemaakte goedere te wees onder detensie plaas ;
 - (b) 'n detensiekennisgewing uitreik aan—
 - (i) enige persoon wat met betrekking tot die vermeende nagemaakte goedere 'n geaffekteerde party is; of
 - (ii) die persoon in wie se besit die goedere op die tydstip van detensie is of geglo word te wees; en 40
 - (c) die applikant van die datum van detensie van die goedere in kennis stel.
- (3) Daar moet met goedere wat ingevolge subartikel (2) onder detensie geplaas is ingevolge Deel 3 gehandel word.
- (4) Subartikel (2)(b) is nie van toepassing nie indien die persone in daardie subartikel bedoel onbekend is of nie gevind kan word nie. 45

Deel 3

Prosedures vir plasing van vermeende nagemaakte goedere onder detensie

Inventaris van goedere onder detensie

- 811.** Die doeanegesag moet ooreenkomstig enige vereistes soos by reël voorgeskryf mag word 'n inventaris maak van goedere wat ingevolge Deel 1 of 2 onder detensie geplaas is. 50

Furnishing of personal details of affected parties to right-holders

812. (1) The customs authority must, at the request of a right-holder whose application has been granted in terms of section 806 or 810, furnish the right-holder with the name and address, and contact details, of a person who is an affected party in relation to the detained goods, if available to the customs authority. 5

(2) The right-holder may not use the personal details of an affected person furnished to the right-holder in terms of subsection (1) for any purpose other than for the purpose of this Chapter or the Counterfeit Goods Act.

Furnishing of samples of detained goods to right-holders

813. (1) The customs authority must, at the request of a right-holder whose application has been granted in terms of section 806 or 810, furnish the right-holder with samples of the goods detained in terms of Part 1 or 2. 10

(2) The right-holder—

- (a) is responsible for the collection and return of the samples;
- (b) must acknowledge receipt of the samples; 15
- (c) must return the samples before the detention of the goods is ended;
- (d) may not use the samples for any purpose other than for the purpose of this Chapter or the Counterfeit Goods Act; and
- (e) must comply with such other requirements in relation to those samples as may be determined by the customs authority or as may be prescribed by rule. 20

(3) Any handling of or dealing with samples by the right-holder is at the risk and expense of the right-holder.

Burden on right-holders to protect their rights

814. (1) The right-holder whose application has been granted in terms of section 806 or 810 must, within a period of ten calendar days after the detention of the goods, read with section 908, submit to the customs authority a notice⁴⁵⁵ indicating whether or not the right-holder intends to apply to a court for a finding that the detained goods are counterfeit goods that infringe an intellectual property right in respect of protected goods for which the application in terms of section 806 or 810 was granted. 25

(2) A copy of the notice submitted to the customs authority in terms of subsection (1) must simultaneously be submitted to a person who in relation to the detained goods is an affected party if the name and address or contact details of that person are available to or reasonably determinable by the right-holder. 30

(3) If the right-holder submits a notice indicating that the right-holder—

- (a) intends to apply to a court for a finding that the detained goods are counterfeit goods, the goods must be removed to a counterfeit goods depot in accordance with section 815; or 35
- (b) intends not to apply to a court for a finding that the detained goods are counterfeit goods, the customs authority must promptly terminate the detention of the goods, but no such termination of a detention affects the application of the Counterfeit Goods Act in relation to those goods. 40

Removal of detained goods to counterfeit goods depots

815. (1) Detained goods that must in terms of section 814(3)(a) be removed to a counterfeit goods depot must be removed to the depot within seven calendar days of submission of the notice referred to in section 814(1) to the customs authority, read with section 908. 45

⁴⁵⁵. For methods of submission of notices see section 912.

Verstreking van persoonlike besonderhede van geaffekteerde partye aan reghouers

812. (1) Die doeanegesag moet, op versoek van 'n reghouer wie se aansoek ingevolge artikel 806 of 810 toegestaan is, aan die reghouer van die naam en adres, en kontakbesonderhede, van 'n persoon wat 'n geaffekteerde party met betrekking tot die goedere wat onder detensie geplaas is, verstrek, indien daardie inligting tot die doeanegesag se beskikking is. 5

(2) Die reghouer mag nie die persoonlike besonderhede van 'n geaffekteerde party wat ingevolge subartikel (1) aan die reghouer verstrek is vir enige doel behalwe vir doeleindes van hierdie Hoofstuk of die Wet op Nagemaakte Goedere gebruik nie. 10

Verskaffing van monsters van goedere onder detensie aan reghouers

813. (1) Die doeanegesag moet, op versoek van 'n reghouer wie se aansoek ingevolge artikel 806 of 810 toegestaan is, monsters van die goedere wat ingevolge Deel 1 of 2 onder detensie geplaas is aan die reghouer verskaf.

(2) Die reghouer— 15

- (a) is verantwoordelik vir die haal en terugbesorging van die monsters;
- (b) moet ontvangs van die monsters erken;
- (c) moet die monsters terugbesorg voordat die detensie van die goedere beëindig word;
- (d) mag nie die monsters vir enige doel behalwe vir doeleindes van hierdie Hoofstuk of die Wet op Nagemaakte Goedere gebruik nie; en 20
- (e) moet aan die ander vereistes met betrekking tot daardie monsters voldoen wat deur die doeanegesag bepaal of soos by reël voorgeskryf mag word.

(3) Enige hantering van, of handeling met, monsters deur die reghouer is op risiko en koste van die reghouer. 25

Onus op reghouers om self hul regte te beskerm

814. (1) Die reghouer wie se aansoek ingevolge artikel 806 of 810 toegestaan is, moet binne 'n tydperk van tien kalenderdae nadat die goedere onder detensie geplaas is, saamgelees met artikel 908, 'n kennisgewing aan die doeanegesag voorlê⁴⁵⁵ wat aandui of die reghouer voornemens is om by 'n hof aansoek te doen, al dan nie, vir 'n bevinding dat die goedere wat onder detensie geplaas is nagemaakte goedere is wat inbreuk doen op 'n intellektuele goedere reg ten opsigte van beskermde goedere waarvoor die aansoek ingevolge artikel 806 of 810 toegestaan is. 30

(2) 'n Afskrif van die kennisgewing aan die doeanegesag ingevolge subartikel (1) voorgelê, moet terselfdertyd gestuur word aan 'n persoon wat met betrekking tot die goedere wat onder detensie geplaas is 'n geaffekteerde party is indien die naam en adres of kontakbesonderhede van daardie persoon tot beskikking van die reghouer is of redelikerwyse deur die reghouer vasgestel kan word. 35

(3) Indien die reghouer 'n kennisgewing voorlê wat aandui dat die reghouer—

- (a) wel voornemens is om by 'n hof om 'n bevinding aansoek te doen dat die goedere wat onder detensie geplaas is nagemaakte goedere is, moet die goedere ooreenkomstig artikel 815 na 'n nagemaakte goedere depot verwyder word; of 40
- (b) nie voornemens is om by 'n hof om 'n bevinding aansoek te doen dat die goedere wat onder detensie geplaas is nagemaakte goedere is nie, moet die doeanegesag onverwyld die detensie van die goedere beëindig, maar so 'n beëindiging van 'n detensie raak nie die toepassing van die Wet op Nagemaakte Goedere met betrekking tot daardie goedere nie. 45

Verwydering van goedere onder detensie na nagemaakte goedere depots

815. (1) Detensiegoedere wat ingevolge artikel 814(3)(a) na 'n nagemaakte goedere depot verwyder moet word, moet by die depot besorg word binne sewe kalenderdae vanaf voorlegging aan die doeanegesag van die kennisgewing in artikel 814(1) bedoel, saamgelees met artikel 908.

455. Vir die wyses van voorlegging van kennisgewings, kyk artikel 912.

(2) (a) The right holder must remove the goods under supervision of a customs officer to a counterfeit goods depot at the risk and expense of the right-holder.

(b) The customs officer under whose supervision the goods are removed must obtain an acknowledgement of receipt of the goods on the inventory made in terms of section 811 from the person in charge of the counterfeit goods depot. 5

(3) If the right-holder fails to remove the goods to a counterfeit goods depot within the applicable time referred to in subsection (1), the customs authority may arrange for the removal of the goods to a counterfeit goods depot at the risk and expense of the right-holder.

Court applications by right-holders

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816. (1) If a right-holder has submitted a notice in terms of section 814(1) indicating that the right-holder intends to apply to a court for a finding that the detained goods are counterfeit goods, the right-holder must within a period of ten calendar days after the customs authority has been notified in terms of subsection (1), read with section 908, apply to a court for such a finding. 15

(2) A court application referred to in subsection (1) may be brought on its own or form part of any other civil proceedings instituted by the right-holder in connection with the detained goods against a person who in relation to those goods is an affected party.

(3) If the right-holder fails to comply with subsection (1), the customs authority must promptly terminate the detention of the goods, but no such termination of a detention affects the application of the Counterfeit Goods Act in relation to those goods. 20

Finding by court that detained goods are counterfeit goods

817. (1) If a court adjudicating an application referred to in section 816(1) finds that the detained goods are counterfeit goods that infringe an intellectual property right in respect of protected goods for which an application in terms of section 806 or 810 was granted, the court may, in addition to any other order it may issue— 25

(a) award title in the detained goods to the right-holder who brought the court application without any obligation on the right-holder to pay compensation; or

(b) order a person who is an affected party in relation to the detained goods to disclose to the right-holder— 30

(i) the source from which those goods have been obtained;

(ii) the identity of the persons involved or ostensibly involved in the importation, exportation, manufacture, production and distribution of those goods; and

(iii) the channels of distribution of those goods. 35

(2) If the court makes no award as to title in the goods as provided in subsection (1)(a), the goods must be dealt with in terms of Chapter 34 as prohibited goods.

Finding by court that detained goods are not counterfeit goods

818. If a court adjudicating an application referred to in section 816(1) finds that the detained goods are not counterfeit goods that infringe an intellectual property right in respect of protected goods for which an application in terms of section 806 or 810 was granted— 40

(a) the court may, in addition to any other order it may issue, order the right-holder who brought the application to pay damages in an amount determined by the court to a person who is an affected party in relation to the goods; and 45

(b) the customs authority must promptly terminate the detention of the goods.

(2) (a) Die reghouer moet die goedere onder toesig van 'n doeanebeampte na 'n nagemaakte goedere depot op risiko en koste van die reghouer verwyder.

(b) Die doeanebeampte onder wie se toesig die goedere verwyder word, moet 'n ontvangserkenning van die goedere op die inventaris wat ingevolge artikel 811 gemaak is, van die persoon in beheer van die nagemaakte goedere depot verkry.

(3) Indien die reghouer versuim om die goedere na 'n nagemaakte goedere depot binne die toepaslike tydperk bedoel in subartikel (1) te verwyder, kan die doeanebesag reëlings vir die verwydering van die goedere na 'n nagemaakte goedere depot op risiko en koste van die reghouer tref.

Hofaansoeke deur reghouers

816. (1) Indien 'n reghouer ingevolge artikel 814(1) 'n kennisgewing voorgelê het wat aandui dat die reghouer wel voornemens is om by 'n hof aansoek te doen vir 'n bevinding dat die goedere wat onder detensie geplaas is nagemaakte goedere is, moet die reghouer binne 'n tydperk van tien kalenderdae nadat die doeanebesag ingevolge subartikel (1) in kennis gestel is, saamgelees met artikel 908, by 'n hof om so 'n bevinding aansoek doen.

(2) 'n Hofaansoek bedoel in subartikel (1) kan afsonderlik gebring word of deel vorm van enige ander siviele verrigtinge wat deur die reghouer in verband met die goedere wat onder detensie geplaas is, ingestel word teen 'n persoon wat 'n geaffekteerde party met betrekking tot daardie goedere is.

(3) Indien die reghouer versuim om aan subartikel (1) te voldoen, moet die doeanebesag die detensie van die goedere onverwyld beëindig, maar so 'n beëindiging raak nie die toepassing van die Wet op Nagemaakte Goedere met betrekking tot daardie goedere nie.

Bevinding deur hof dat goedere onder detensie nagemaakte goedere is

817. (1) Indien 'n hof wat 'n aansoek bedoel in artikel 816(1) beslis, bevind dat die goedere onder detensie wel nagemaakte goedere is wat inbreuk doen op 'n intellektuele goedere reg ten opsigte van beskermde goedere waarvoor 'n aansoek ingevolge artikel 806 of 810 toegestaan is, kan die hof, benewens enige ander bevel wat die hof mag uitreik—

(a) eiendomsreg in die goedere onder detensie aan die reghouer wat die hofaansoek gebring het, toeken sonder enige verpligting op die reghouer om vergoeding te betaal; of

(b) 'n persoon wat 'n geaffekteerde party met betrekking tot die goedere onder detensie is, beveel om aan die reghouer die volgende bekend te maak—

(i) Die bron waarvandaan daardie goedere verkry is;

(ii) die identiteit van die persone wat betrokke is of oënskynlik betrokke is by die invoer, uitvoer, vervaardiging, produksie en verspreiding van daardie goedere; en

(iii) die verspreidingskanale van daardie goedere.

(2) Indien die hof geen toekenning betreffende die eiendomsreg in die goedere soos beoog in subartikel (1)(a) maak nie, moet daar met die goedere ingevolge Hoofstuk 34 as verbode goedere gehandel word.

Bevinding deur hof dat goedere onder detensie nie nagemaakte goedere is nie

818. Indien 'n hof wat 'n aansoek bedoel in artikel 816(1) beslis, bevind dat die goedere onder detensie nie nagemaakte goedere is wat inbreuk doen op 'n intellektuele goedere reg ten opsigte van beskermde goedere waarvoor 'n aansoek ingevolge artikel 806 of 810 toegestaan is nie—

(a) kan die hof, benewens enige ander bevel wat die hof mag uitreik, die reghouer wat die aansoek gebring het, beveel om skadevergoeding teen 'n bedrag deur die hof bepaal aan 'n persoon wat 'n geaffekteerde party met betrekking tot die goedere is, te betaal; en

(b) moet die doeanebesag onverwyld die detensie van die goedere beëindig.

Discharge of goods from counterfeit goods depots

- 819.** (1) The person in charge of a counterfeit goods depot to which goods detained in terms of Part 1 or 2 were removed—
- (a) is responsible for the safe storage of those goods in the depot;
 - (b) may not give delivery of the goods to any person without the written permission of the customs authority; and
 - (c) is liable for any tax that is or may become payable on the goods if that person gives delivery of the goods otherwise than in accordance with such written permission.
- (2) If title in the detained goods stored in a counterfeit goods depot is awarded in terms of section 817(1)(a) to the right-holder who brought the court application, the right-holder becomes entitled to the goods provided that the right-holder may take delivery of the goods only in accordance with—
- (a) the other provisions of this Act applicable to the clearance and release of goods for home use or a customs procedure, including provisions of this Act and other applicable legislation relating to the payment of tax; and
 - (b) any conditions the customs authority may impose.
- (3) If the detained goods must in terms of section 817(2) be dealt with as prohibited goods, the goods may be removed from the counterfeit goods depot where the goods are stored only in accordance with the directions of the customs authority.
- (4) If the detention of goods stored in a counterfeit goods depot is terminated in terms of section 818(b), the goods must at the risk and expense of the person claimed to be the right-holder be returned to the place from where they were removed to the counterfeit goods depot unless the affected party and the customs authority agree otherwise.

Part 4

General provisions

Court applications by affected parties

- 820.** Nothing in this Chapter may be read as preventing a person who is an affected party in relation to goods detained in terms of Part 1 or 2 from applying to a court for—
- (a) an order that the detained goods are not counterfeit goods or that the detention of the goods be terminated; or
 - (b) any other appropriate relief.

Seizure of detained goods in terms of Counterfeit Goods Act

- 821.** If goods detained in terms of Part 1 or 2 are seized in terms of the Counterfeit Goods Act—
- (a) the detention of the goods must be regarded to be terminated; and
 - (b) this Chapter no longer applies to the goods.

Rules to facilitate implementation of this Chapter

- 822.** Rules made in terms of section 903 to facilitate the implementation of this Chapter may include rules—
- (a) regarding all matters required or permitted in terms of this Chapter to be prescribed by rule;
 - (b) prescribing the procedures to be followed by customs officers when exercising their powers and duties in terms of this Chapter;
 - (c) prescribing forms required to be completed for the purposes of this Chapter;
 - (d) exempting any class or kind of goods from this Chapter;

Neem van goedere uit nagemaakte goedere depots

- 819.** (1) Die persoon in beheer van 'n nagemaakte goedere depot waarheen goedere wat ingevolge Deel 1 of 2 onder detensie geplaas is, verwyder is—
- (a) is verantwoordelik vir die veilige bewaring van daardie goedere in die depot;
 - (b) mag nie lewering van die goedere aan enige persoon gee sonder die skriftelike toestemming van die doeanegesag nie; en
 - (c) is aanspreeklik vir enige belasting wat op die goedere betaalbaar is of mag word indien daardie persoon lewering van die goedere gee anders as ooreenkomstig so 'n skriftelike toestemming.
- (2) Indien eiendomsreg in die goedere onder detensie wat in 'n nagemaakte goedere depot geberg word, ingevolge artikel 817(1)(a) aan die reghouer wat die hofaansoek gebring het, toegeken word, word die reghouer geregtig op die goedere, met dien verstande dat die reghouer lewering van die goedere mag neem slegs ooreenkomstig—
- (a) die ander bepalings van hierdie Wet wat op die klaring en vrystelling van goedere vir binnelandse gebruik of 'n doeaneprosedure van toepassing is, met inbegrip van bepalings van hierdie Wet en ander toepaslike wetgewing betreffende die betaling van belasting; en
 - (b) enige voorwaardes wat die doeanegesag mag oplê.
- (3) Indien daar ingevolge artikel 817(2) met die goedere onder detensie as verbode goedere gehandel moet word, kan die goedere slegs volgens die voorskrifte van die doeanegesag van die nagemaakte goedere depot waar die goedere geberg word, verwyder word.
- (4) Indien die detensie van goedere wat in 'n nagemaakte goedere depot geberg word, ingevolge artikel 818(b) beëindig word, moet die goedere op risiko en koste van die persoon wat daarop aanspraak gemaak het om die reghouer te wees, teruggebring word na die plek waarvandaan dit na die nagemaakte goedere depot verwyder is tensy die geaffekteerde party en die doeanegesag anders ooreenkom.

Deel 4

Algemene bepalings

Hofaansoeke deur geaffekteerde partye 30

- 820.** Niks in hierdie Hoofstuk mag uitgelê word as sou dit 'n persoon wat 'n geaffekteerde party is met betrekking tot goedere wat ingevolge Deel 1 of 2 onder detensie geplaas is, belet om by 'n hof aansoek te doen om—
- (a) 'n bevel dat die goedere onder detensie nie nagemaakte goedere is nie of dat die detensie van die goedere beëindig moet word; of
 - (b) enige ander gepaste verligting.

Beslaglegging ingevolge Wet op Nagemaakte Goedere op goedere onder detensie

- 821.** Indien daar ingevolge die Wet op Nagemaakte Goedere beslag gelê word op goedere wat ingevolge Deel 1 of 2 onder detensie is—
- (a) moet die detensie van die goedere geag word beëindig te wees; en
 - (b) is hierdie Hoofstuk nie langer op die goedere van toepassing nie.

Reëls ter fasilitering van implementering van hierdie Hoofstuk

- 822.** Reëls ingevolge artikel 903 uitgevaardig om die implementering van hierdie Hoofstuk te fasiliteer, kan reëls insluit—
- (a) aangaande alle aangeleenthede wat ingevolge hierdie Hoofstuk by reël voorgeskryf moet of kan word;
 - (b) wat die prosedures voorskryf wat deur doeanebeamptes gevolg moet word by uitoefening van hulle bevoegdhede en verpligting ingevolge hierdie Hoofstuk;
 - (c) wat die vorms voorskryf wat vir doeleindes van hierdie Hoofstuk voltooi moet word;
 - (d) wat enige klas of soort goedere van hierdie Hoofstuk onthef;

- (e) prescribing the form and format and contents of indemnities or undertakings to be furnished by right-holders in terms of this Chapter;
- (f) prescribing the amount of administration fees that must accompany applications in terms of this Chapter;
- (g) prescribing any conditions or procedures relating to suspected counterfeit goods detained in terms of this Chapter; and 5
- (h) concerning any other matter to facilitate the application of this Chapter.

Offences in terms of this Chapter

823. A person—
- (a) who is the right-holder in respect of goods is guilty of an offence if that person contravenes or fails to comply with section 812(2), 813(2) or 815(1)(a) or (2); or 10
 - (b) in charge of a counterfeit goods depot is guilty of an offence if that person contravenes or fails to comply with section 819(1)(b).

CHAPTER 37 15

RECONSIDERATION OF DECISIONS AND DISPUTE RESOLUTION

Part 1

General provisions

Definitions

824. For the purposes of this Chapter— 20
- “**aggrieved person**” or “**person aggrieved**”, in relation to a decision, means a person who is affected by the decision and who has a right to institute judicial proceedings in respect of that decision should that person elect to do so;
- “**alteration**”, in relation to a decision, includes the substitution of a decision;
- “**decision**”, in relation to the Commissioner, a customs officer or a SARS official who is not a customs officer, means a decision by the Commissioner, a customs officer or such a SARS official in terms of this Act, the Customs Duty Act or the Excise Duty Act, and includes— 25
- (a) such a decision by—
 - (i) the Commissioner or a customs officer as the customs authority; or 30
 - (ii) a customs officer or SARS official under a delegation in terms of this Act;
 - (b) any confirmation, alteration or repeal of such a decision;
 - (c) any refusal or omission to take such a decision within the required or a reasonable time, if this Act, the Customs Duty Act or the Excise Duty Act requires such a decision to be taken; 35
 - (d) any action taken as a result of such a decision; or
 - (e) any refusal or omission to take action as a result of such a decision within the required or a reasonable time, if this Act, the Customs Duty Act or the Excise Duty Act requires such action to be taken;
- “**dispute**” means a disagreement on— 40
- (a) the facts relating to a matter arising from the implementation or enforcement of this Act, the Customs Duty Act or the Excise Duty Act;
 - (b) the interpretation of the law as applicable to those facts; or
 - (c) both the facts and the interpretation of the law as applicable to those facts;
- “**settle**”, in relation to a dispute between the Commissioner and another person, means an agreement between the Commissioner and that other person in terms of which the dispute is settled, in whole or in part, by compromising the disputed matter in such a way that neither the Commissioner nor the other person accepts the other party’s— 45
- (a) version or interpretation of the facts; 50
 - (b) interpretation of the law applicable to those facts; or
 - (c) version or interpretation of the facts and the interpretation of the law applicable to those facts;

- (e) wat die vorm en formaat en inhoud voorskryf van vrywarings of ondernemings wat deur reghouers ingevolge hierdie Hoofstuk verskaf moet word;
- (f) wat die bedrag van administrasiefooi voorskryf wat aansoeke ingevolge hierdie Hoofstuk moet vergesel; 5
- (g) wat enige voorwaardes of prosedures voorskryf betreffende vermeende nagemaakte goedere wat ingevolge hierdie Hoofstuk onder detensie geplaas is; en
- (h) aangaande enige ander aangeleentheid om die toepassing van hierdie Hoofstuk te fasiliteer. 10

Misdrywe ingevolge hierdie Hoofstuk

823. 'n Persoon—

- (a) wat die reghouer ten opsigte van goedere is, is aan 'n misdryf skuldig indien daardie persoon artikel 812(2), 813(2) of 815(1)(a) of (2) oortree of versuim om daaraan te voldoen; of 15
- (b) in beheer van 'n nagemaakte goedere depot is aan 'n misdryf skuldig indien daardie persoon artikel 819(1)(b) oortree of versuim om daaraan te voldoen.

HOOFSUK 37

HEROORWEGING VAN BESLUIE EN GESKILBESLEGTING

Deel 1

20

Algemene bepalinge

Woordomskrywing

824. By die toepassing van hierdie Hoofstuk beteken—

- “**besluit**”, met betrekking tot die Kommissaris, 'n doeanebeampte of 'n SAID beampte wat nie 'n doeanebeampte is nie, 'n besluit deur die Kommissaris, 'n doeanebeampte of so 'n SAID beampte ingevolge hierdie Wet, die Wet op Doeanereg of die Wet op Aksynsreg, met inbegrip van—
 - (a) so 'n besluit deur—
 - (i) die Kommissaris of 'n doeanebeampte as die doeanebesag; of
 - (ii) 'n doeanebeampte of SAID beampte kragtens 'n delegasie ingevolge hierdie Wet; 30
 - (b) enige bevestiging, wysiging of herroeping van so 'n besluit;
 - (c) enige weiering of versuim om so 'n besluit binne die vereiste of 'n redelike tyd te neem, indien hierdie Wet, die Wet op Doeanereg of die Wet op Aksynsreg vereis dat so 'n besluit geneem moet word; 35
 - (d) enige aksie wat as gevolg van so 'n besluit geneem word; of
 - (e) enige weiering of versuim om 'n aksie as gevolg van so 'n besluit binne die vereiste of 'n redelike tyd te neem, indien hierdie Wet, die Wet op Doeanereg of die Wet op Aksynsreg vereis dat so 'n aksie geneem moet word; 40
- “**geskil**” 'n meningsverskil oor—
 - (a) die feite betreffende 'n aangeleentheid wat uit die implementering of toepassing van hierdie Wet, die Wet op Doeanereg of die Wet op Aksynsreg ontstaan;
 - (b) die uitleg van die reg soos op daardie feite van toepassing; of
 - (c) beide die feite en die uitleg van die reg soos op daardie feite van toepassing; 45
- “**skik**”, met betrekking tot 'n geskil tussen die Kommissaris en 'n ander persoon, 'n ooreenkoms tussen die Kommissaris en daardie ander persoon ingevolge waarvan die geskil, ten volle of ten dele, by wyse van 'n kompromie oor die betwiste aangeleentheid bygelê word op so 'n wyse dat nóg die Kommissaris nóg die ander persoon die teenparty se— 50
 - (a) weergawe of begrip van die feite aanvaar;
 - (b) uitleg van die reg wat op daardie feite van toepassing is, aanvaar; of
 - (c) weergawe of begrip van die feite en die uitleg van die reg wat op daardie feite van toepassing is, aanvaar;

“supervisor”, in relation to a customs officer or SARS official, means any official in the SARS hierarchical structure competent to issue work instructions to that customs officer or SARS official.

Purpose and application of this Chapter

- 825.** The purpose of this Chapter is to provide for— 5
- (a) the internal reconsideration of decisions of the Commissioner, customs officers or SARS officials who are not customs officers, in implementing and enforcing this Act, the Customs Duty Act or the Excise Duty Act;⁴⁵⁶ and
 - (b) the settling of disputes arising from the implementation, enforcement or interpretation of this Act, the Customs Duty Act or the Excise Duty Act. 10

Proceedings for internal reconsideration of decisions

- 826.** A decision of the Commissioner, a customs officer or a SARS official may internally be reconsidered and be confirmed, altered or repealed—
- (a) in terms of Part 2 of this Chapter, either— 15
 - (i) on initiative by the Commissioner, whether or not the Commissioner took the decision;
 - (ii) on own initiative by the customs officer or SARS official who took the decision;
 - (iii) on initiative by the supervisor of the customs officer or SARS official who took the decision; or 20
 - (iv) on written request by an aggrieved person;
 - (b) on an appeal lodged by an aggrieved person in terms of Part 3 of this Chapter; or
 - (c) as part of the settlement of a dispute in terms of Part 5 of this Chapter. 25

Proceedings for dispute resolution 25

- 827.** A dispute between the Commissioner and another person arising from the implementation, enforcement or interpretation of this Act, the Customs Duty Act or the Excise Duty Act may be resolved through—
- (a) any of the proceedings referred to in section 826;
 - (b) alternative dispute resolution procedures in terms of Part 4 of this Chapter; 30
 - (c) procedures for the settlement of disputes in terms of Part 5 of this Chapter; or
 - (d) judicial proceedings.

Proceedings to be instituted either personally or through duly authorised representatives

- 828.** The proceedings available to an aggrieved person in terms of sections 826 and 827 may be instituted either personally or through a duly authorised representative. 35

Reasons for decisions

- 829.** (1) A person aggrieved by a decision of the Commissioner, a customs officer or a SARS official is entitled to obtain the reasons for the decision from SARS to enable

⁴⁵⁶ This includes decisions taken by customs officers and SARS officials in terms of this Chapter as supervisors of other customs officers and SARS officials.

“toesighouer”, met betrekking tot ’n doeanebeampte of SAID beampte, enige beampte in die hiërargiese struktuur van SAID wat die bevoegdheid het om werksopdragte aan daardie doeanebeampte of SAID beampte te gee;
“verandering”, met betrekking tot ’n besluit, ook die vervanging van ’n besluit;
“verontregte persoon” of “persoon verontreg”, met betrekking tot ’n besluit, ’n persoon wat deur die besluit geraak word en wat ’n reg tot die instel van geregtelike verrigtinge ten opsigte van daardie besluit het, sou daardie persoon verkies om dit te doen. 5

Doel en toepassing van hierdie Hoofstuk

825. Die doel van hierdie Hoofstuk is om voorsiening te maak vir— 10
- (a) die interne heroorweging van besluite van die Kommissaris, doeanebeamptes of SAID beamptes wat nie doeanebeamptes is nie, by die implementering en toepassing van hierdie Wet, die Wet op Doeanereg of die Wet op Aksynsreg;⁴⁵⁶ en
 - (b) die skikking van geskille wat uit die implementering, toepassing of uitleg van hierdie Wet, die Wet op Doeanereg of die Wet op Aksynsreg ontstaan. 15

Verrigtinge vir interne heroorweging van besluite

826. ’n Besluit van die Kommissaris, ’n doeanebeampte of ’n SAID beampte kan intern heroorweeg word en bevestig, verander of herroep word— 20
- (a) ingevolge Deel 2 van hierdie Hoofstuk, hetsy—
 - (i) op inisiatief van die Kommissaris, ongeag of die Kommissaris die besluit geneem het of nie;
 - (ii) op eie inisiatief van die doeanebeampte of SAID beampte wat die besluit geneem het;
 - (iii) op inisiatief van die toesighouer van die doeanebeampte of SAID beampte wat die besluit geneem het; of 25
 - (iv) op skriftelike versoek deur ’n verontregte persoon;
 - (b) op appèl wat deur ’n verontregte persoon ingevolge Deel 3 van hierdie Hoofstuk aangeteken is; of
 - (c) as deel van die skikking van ’n geskil ingevolge Deel 5 van hierdie Hoofstuk. 30

Verrigtinge vir geskilbeslegting

827. ’n Geskil tussen die Kommissaris en ’n ander persoon wat uit die implementering, toepassing of uitleg van hierdie Wet, die Wet op Doeanereg of die Wet op Aksynsreg ontstaan, kan besleg word by wyse van— 35
- (a) enige van die verrigtinge in artikel 826 bedoel;
 - (b) alternatiewe geskilbeslegtingsprosedures ingevolge Deel 4 van hierdie Hoofstuk;
 - (c) prosedures vir die skikking van geskille ingevolge Deel 5 van hierdie Hoofstuk; of
 - (d) geregtelike verrigtinge. 40

Verrigtinge ingestel te word óf persoonlik óf deur behoorlik gemagtigde verteenwoordigers

828. Die verrigtinge wat vir ’n verontregte persoon ingevolge artikels 826 en 827 beskikbaar is, kan óf persoonlik óf deur ’n behoorlik gemagtigde verteenwoordiger ingestel word. 45

Redes vir besluite

829. (1) ’n Persoon verontreg deur ’n besluit van die Kommissaris, ’n doeanebeampte of ’n SAID beampte is daarop geregtig om die redes vir die besluit van SAID te bekom ten einde daardie persoon in staat te stel om enige gepaste stappe te oorweeg, met

456. Dit sluit besluite in wat deur doeanebeamptes en SAID beamptes ingevolge hierdie Hoofstuk as toesighouers oor ander doeanebeamptes en SAID beamptes geneem is.

that person to consider any appropriate action, including any proceedings available to that person in terms of sections 826 and 827.

(2) Reasons must be given in writing within 30 calendar days⁴⁵⁷ of receipt of a written request by the person requiring the reasons.

Payment of amounts owed to Commissioner not affected by section 826 or 827 proceedings 5

830. (1) No proceedings referred to in section 826 or 827 suspend or defer—

- (a) a person's obligation to pay to the Commissioner an amount owed to the Commissioner in terms of this Act, the Customs Duty Act or the Excise Duty Act; or 10
- (b) the Commissioner's right to recover from a person an amount owed to the Commissioner in terms of this Act, the Customs Duty Act or the Excise Duty Act.

(2) Subsection (1) does not apply if—

- (a) the customs authority agrees to the suspension or deferment of a payment pending conclusion of any proceedings referred to in section 826 or 827; or 15
- (b) a court suspends or defers a payment pending conclusion of any such proceedings.

(3) An application for the suspension or deferment in terms of subsection (2)(a) of a payment pending conclusion of any proceedings referred to in section 826 or 827, must be submitted to the customs authority within a timeframe, in the form and format and in accordance with any requirements as may be prescribed by rule. 20

(4) When considering an application the customs authority must in addition to the factors listed in section 916 also take into account—

- (a) the amount of the disputed payment; 25
- (b) the risk of dissipation of assets by the applicant during the period of suspension or deferment;
- (c) whether the applicant is able to provide adequate security for the payment of the amount;
- (d) whether payment of the amount would result in irreparable financial hardship to the applicant; 30
- (e) whether sequestration or liquidation proceedings are imminent;
- (f) whether fraud is involved in the origin of the dispute; and
- (g) whether the taxpayer has failed to furnish information requested for purposes of a decision which is the subject of the proceedings. 35

(5) The customs authority may at any time withdraw a suspension or deferment granted to a person in terms of this section—

- (a) if eventual recovery of the disputed payment is compromised by the actions of that person;
- (b) if that person abuses the proceedings in terms of this Chapter, including by— 40
 - (i) unreasonably delaying conclusion of the proceedings;
 - (ii) consistently raising frivolous, vexatious or non-relevant issues in the proceedings; or
 - (iii) employing dilatory tactics in the proceedings;
- (c) if on further consideration of the factors referred to in subsection (4), the suspension or deferment should not have been granted; 45
- (d) if there is a material change in any of the grounds on which the suspension or deferment was granted; or
- (e) on any other good ground.

⁴⁵⁷. See section 861.

inbegrip van enige verrigtinge wat ingevolge artikels 826 en 827 vir daardie persoon beskikbaar is.

(2) Redes moet skriftelik gegee word binne 30 kalenderdae⁴⁵⁷ van ontvangs van 'n skriftelike versoek deur die persoon wat die redes verlang.

Betaling van bedrae aan Kommissaris verskuldig nie deur artikel 826 of 827 verrigtinge geraak 5

830. (1) Geen verrigtinge bedoel in artikel 826 of 827 het die effek van opskorting of uitstel van—

(a) 'n persoon se verpligting om 'n bedrag aan die Kommissaris te betaal wat ingevolge hierdie Wet, die Wet op Doeanereg of die Wet op Aksynsreg aan die Kommissaris verskuldig is nie; of 10

(b) die Kommissaris se reg om 'n bedrag van 'n persoon te verhaal wat ingevolge hierdie Wet, die Wet op Doeanereg of die Wet op Aksynsreg aan die Kommissaris verskuldig is nie.

(2) Subartikel (1) is nie van toepassing nie indien— 15

(a) die doeanebesag toestem tot die opskorting of uitstel van 'n betaling hangende die afhandeling van enige verrigtinge in artikel 826 of 827 bedoel; of

(b) 'n hof 'n betaling opskort of uitstel hangende die afhandeling van enige sodanige verrigtinge.

(3) 'n Aansoek vir die opskorting of uitstel van 'n betaling ingevolge subartikel (2)(a) hangende die afhandeling van enige verrigtinge bedoel in artikel 826 of 827 moet aan die doeanebesag voorgelê word binne 'n tydperk, in die vorm en formaat en ooreenkomstig enige vereistes soos by reël voorgeskryf mag word. 20

(4) By oorweging van 'n aansoek moet die doeanebesag, benewens die faktore in artikel 916 vermeld, ook in ag neem— 25

(a) die bedrag van die betwiste betaling;

(b) die risiko van verkwisting van bates deur die applikant gedurende die tydperk van opskorting of uitstel;

(c) of die applikant in staat is om voldoende sekuriteit vir die betaling van die bedrag te stel; 30

(d) of betaling van die bedrag onherstelbare finansiële ontbering vir die applikant tot gevolg sal hê;

(e) of sekwestrasie- of likwidasierigtinge op hande is;

(f) of bedrog betrokke is by die ontstaan van die geskil; en

(g) of die belastingpligtige versuim het om inligting te verskaf wat nodig was vir doeleindes van 'n besluit wat die onderwerp van die verrigtinge is. 35

(5) Die doeanebesag kan te eniger tyd 'n opskorting of uitstel wat aan 'n persoon ingevolge hierdie artikel toegestaan is, intrek—

(a) indien die uiteindelijke verhaling van die betwiste betaling deur die optrede van daardie persoon gekompromitteer word; 40

(b) indien daardie persoon die verrigtinge ingevolge hierdie Hoofstuk misbruik, met inbegrip daarvan om—

(i) die afhandeling van die verrigtinge onredelik te vertraag;

(ii) voortdurend beuselagtige, kwelsugtige of nie-tersaaklike aangeleenthede in die verrigtinge te opper; of 45

(iii) verdragingsaktieke in die verrigtinge te gebruik;

(c) indien by verdere oorweging van die faktore bedoel in subartikel (4), die opskorting of uitstel nie toegestaan moes gewees het nie;

(d) indien daar 'n wesenlike verandering in enige van die gronde is waarop die opskorting of uitstel toegestaan is; of 50

(e) om enige ander goeie rede.

⁴⁵⁷. Kyk artikel 861.

Part 2

Reconsideration of decisions on customs initiative

Purpose of this Part

831. The purpose of this Part is to confer on the Commissioner, customs officers and SARS officials a discretionary power to reconsider their own decisions and the decisions of lower order decision makers, and to confirm, alter or repeal those decisions subject to appropriate limitations where rights have accrued as a result of such decisions. 5

Reconsideration of own decisions

832. The Commissioner, a customs officer or a SARS official may, at any time, on own initiative or on written request by an aggrieved person— 10

- (a) reconsider a decision taken by him or her; and
- (b) subject to sections 835 and 836—
 - (i) confirm, alter or repeal the decision; and
 - (ii) end or undo any action taken as a result of the decision, to the extent that this is necessary to alter or repeal the decision. 15

Reconsideration of decisions by Commissioner

833. The Commissioner may, at any time, on own initiative or on written request by an aggrieved person—

- (a) reconsider a decision taken by a customs officer or a SARS official; and
- (b) subject to sections 835 and 836— 20
 - (i) confirm, alter or repeal the decision; and
 - (ii) end or undo any action taken as a result of the decision, to the extent that this is necessary to alter or repeal the decision.

Reconsideration of decisions by supervisors

834. An official who is a supervisor of a customs officer or a SARS official may, at any time, on own initiative or on written request by an aggrieved person— 25

- (a) reconsider a decision of that customs officer or SARS official; and
- (b) subject to sections 835 and 836—
 - (i) confirm, alter or repeal the decision; and
 - (ii) end or undo any action taken as a result of the decision, to the extent that this is necessary to alter or repeal the decision. 30

When decisions may or may not be reconsidered

835. (1) A decision may be reconsidered and confirmed, altered or repealed in terms of section 832, 833 or 834 either before or after the person to whom the decision relates has been notified of the decision. 35

(2) The following decisions may not be reconsidered, altered or repealed in terms of this Part:

- (a) A decision on or in the course of an administrative appeal in terms of Part 3 of this Chapter;
- (b) a decision which is the subject of— 40
 - (i) such an appeal;
 - (ii) alternative dispute resolution proceedings in terms of Part 4 of this Chapter; or
 - (iii) judicial proceedings;
- (c) a decision which is part of a settlement in terms of Part 5 of this Chapter; and 45

Deel 2

Heroorweging van besluite op doeaneinisiatief

Doel van hierdie Deel

831. Die doel van hierdie Deel is om 'n diskresionêre bevoegdheid aan die Kommissaris, doeanebeamptes en SAID beamptes te verleen om hulle eie besluite en die besluite van laer-rangorde besluitmakers te heroorweeg, en daardie besluite te bevestig, te verander of te herroep behoudens gepaste beperkings waar regte as gevolg van sodanige besluite ontstaan het. 5

Heroorweging van eie besluite

832. Die Kommissaris, 'n doeanebeampte of 'n SAID beampte kan, te eniger tyd, op eie inisiatief of op skriftelike versoek deur 'n verontregte persoon— 10

- (a) 'n besluit deur hom of haar geneem, heroorweeg; en
- (b) behoudens artikels 835 en 836—
 - (i) die besluit bevestig, verander of herroep; en
 - (ii) enige stappe as gevolg van die besluit gedoen, beëindig of ongedaan maak, in soverre sodanige beëindiging of ongedaanmaking nodig is om die besluit te verander of te herroep. 15

Heroorweging van besluite deur Kommissaris

833. Die Kommissaris kan, te eniger tyd, op eie inisiatief of op skriftelike versoek deur 'n verontregte persoon— 20

- (a) 'n besluit deur 'n doeanebeampte of 'n SAID beampte geneem, heroorweeg; en
- (b) behoudens artikels 835 en 836—
 - (i) die besluit bevestig, verander of herroep; en
 - (ii) enige stappe as gevolg van die besluit gedoen, beëindig of ongedaan maak, in soverre sodanige beëindiging of ongedaanmaking nodig is om die besluit te verander of te herroep. 25

Heroorweging van besluite deur toesighouers

834. 'n Beampte wat 'n toesighouer van 'n doeanebeampte of 'n SAID beampte is, kan, te eniger tyd, op eie inisiatief of op skriftelike versoek deur 'n verontregte persoon— 30

- (a) 'n besluit van daardie doeanebeampte of SAID beampte heroorweeg; en
- (b) behoudens artikels 835 en 836—
 - (i) die besluit bevestig, verander of herroep; en
 - (ii) enige stappe as gevolg van die besluit gedoen, beëindig of ongedaan maak, in soverre sodanige beëindiging of ongedaanmaking nodig is om die besluit te wysig of te herroep. 35

Wanneer besluite heroorweeg kan of nie kan word nie

835. (1) 'n Besluit kan ingevolge artikel 832, 833 of 834 heroorweeg en bevestig, verander of herroep word hetsy voordat of nadat die persoon op wie die besluit betrekking het van die besluit in kennis gestel is. 40

(2) Die volgende besluite mag nie ingevolge hierdie Deel heroorweeg, verander of herroep word nie:

- (a) 'n Besluit op of in die loop van 'n administratiewe appèl ingevolge Deel 3 van hierdie Hoofstuk; 45
- (b) 'n besluit wat die onderwerp is van—
 - (i) so 'n appèl;
 - (ii) alternatiewe geskilbeslegtingsverrigtinge ingevolge Deel 4 van hierdie Hoofstuk; of
 - (iii) geregtelike verrigtinge; 50
- (c) 'n besluit wat deel vorm van 'n skikking ingevolge Deel 5 van hierdie Hoofstuk; en

- (d) a decision already communicated to the person affected thereby and which is governed by specific provisions of this Act, the Customs Duty Act or the Excise Duty Act relating to reconsideration, repeal, withdrawal, suspension, amendment or correction of decisions.⁴⁵⁸

Effective date for alteration or repeal of decisions 5

836. A decision may be altered or repealed in terms of section 832, 833 or 834 with effect from a date determined by the official altering or repealing the decision, which may be a date before, on or after the decision to alter or repeal was taken.

Reconsideration of decisions on request of aggrieved persons

837. (1) An aggrieved person has no right to demand that a decision be reconsidered in terms of this Part, and the Commissioner, a customs officer or a SARS official who receives a request from an aggrieved person in terms of this Part for reconsideration of a decision is under no obligation to consider or comply with the request. 10

(2) An aggrieved person who submitted a request in terms of subsection (1) must provide such information concerning the request as the Commissioner, a customs officer or a SARS official may require. 15

(3) Subsection (1) does not affect an aggrieved person's right to lodge an appeal in terms of Part 3.

Part 3

Administrative appeals 20

Purpose of this Part

838. The purpose of this Part is to provide for administrative appeals by persons aggrieved by decisions of customs officers or SARS officials, including decisions taken by customs officers or SARS officials on behalf of the Commissioner.⁴⁵⁹

Appeals against decisions 25

839. (1) A person aggrieved by a decision to which this Part applies of a customs officer or a SARS official may appeal against the decision either to—

- (a) the Commissioner; or
(b) the official in charge of the Customs Office where that customs officer or SARS official is stationed. 30

(2) If a decision falls within a category of decisions that may in terms of section 843(1)(b) be dealt with by an appeal committee, subsection (1)(a) and (b) does not apply and the aggrieved person must appeal against the decision to the appeal committee that has jurisdiction to consider the appeal.

When appeals may not be lodged 35

840. An appeal in terms of this Part may not be lodged if the decision is the subject of—

- (a) alternative dispute resolution in terms of Part 4 of this Chapter; or
(b) judicial proceedings.

^{458.} For instance assessments and determinations in terms of the Customs Duty Act or the Excise Duty Act.

^{459.} It is to be noted that no appeal in terms of this Part lies against a decision taken by the Commissioner personally, but such decisions may be reconsidered by the Commissioner in terms of section 832.

- (d) 'n besluit wat reeds aan die persoon wat daardeur geraak word, oorgedra is en wat deur spesifieke bepalings van hierdie Wet, die Wet op Doeanereg of die Wet op Aksynsreg betreffende heroorweging, herroeping, intrekking, opskorting, wysiging of regstelling van besluite beheers word.⁴⁵⁸

Effektiewe datum vir verandering of herroeping van besluite 5

836. 'n Besluit kan ingevolge artikel 832, 833 of 834 verander of herroep word met ingang van 'n datum wat deur die beampte bepaal word wat die besluit verander of herroep, wat 'n datum kan wees voor, op of na die besluit om te wysig of herroep, geneem is.

Heroorweging van besluite op versoek van verontregte persone 10

837.(1) 'n Verontregte persoon is nie daarop geregtig om te eis dat 'n besluit ingevolge hierdie Deel heroorweeg moet word nie, en die Kommissaris, 'n doeanebeampte of 'n SAID beampte wat 'n versoek van 'n verontregte persoon ingevolge hierdie Deel vir heroorweging van 'n besluit ontvang, is onder geen verpligting om die versoek te oorweeg of aan die versoek te voldoen nie. 15

(2) 'n Verontregte persoon wat 'n versoek ingevolge subartikel (1) rig, moet die inligting aangaande die versoek verskaf soos die Kommissaris, 'n doeanebeampte of 'n SAID beampte mag benodig.

(3) Subartikel (1) raak nie 'n verontregte persoon se reg om 'n appèl ingevolge Deel 3 in te dien nie. 20

Deel 3

Administratiewe appèlle

Doel van hierdie Deel

838. Die doel van hierdie Deel is om voorsiening te maak vir administratiewe appèlle deur persone wat deur besluite van doeanebeamptes of SAID beamptes verontreg is, met inbegrip van besluite wat deur doeanebeamptes of SAID beamptes namens die Kommissaris geneem is.⁴⁵⁹ 25

Appèlle teen besluite

839. (1) 'n Persoon wat verontreg is deur 'n besluit van 'n doeanebeampte of 'n SAID beampte waarop hierdie Deel van toepassing is, kan appèl teen die besluit aanteken by— 30
(a) óf die Kommissaris;
(b) óf die beampte in beheer van die Doeanekantoor waar daardie doeanebeampte of SAID beampte gestasioneer is.

(2) Indien 'n besluit binne 'n kategorie besluite val waarmee 'n appèlkomitee ingevolge artikel 843(1)(b) kan handel, is subartikel (1)(a) en (b) nie van toepassing nie en moet die verontregte persoon teen die besluit na die appèlkomitee appelleer wat jurisdiksie het om die appèl te oorweeg. 35

Wanneer appèlle nie aangeteken kan word nie

840. Geen appèl kan ingevolge hierdie Deel aangeteken word nie indien die besluit die onderwerp is van— 40
(a) alternatiewe geskilbeslegting ingevolge Deel 4 van hierdie Hoofstuk; of
(b) geregtelike verrigtinge.

458. Byvoorbeeld belastingaanslae en bepalings wat ingevolge die Wet op Doeanereg of die Wet op Aksynsreg gemaak word.

459. Daar dien op gelet te word dat daar geen appèl ingevolge hierdie Deel is teen 'n besluit wat deur die Kommissaris persoonlik geneem is nie, maar dat sulke besluite ingevolge artikel 832 deur die Kommissaris heroorweeg kan word.

How and when to appeal

- 841.** (1) An appeal against a decision must be—
- (a) in the manner and in the form and format as may be prescribed by rule;
 - (b) submitted electronically in accordance with section 913 or to the SARS Office which communicated the decision to the appellant; and 5
 - (c) accompanied by—
 - (i) a motivation setting out the grounds of appeal; and
 - (ii) any other documents and information as may be prescribed by rule.
- (2) An appeal must be electronically submitted in accordance with section 913 or reach the SARS Office referred to in subsection (1)(b)— 10
- (a) within 30 working days⁴⁶⁰ from the date the appellant became aware of the decision, or if such person requested reasons for the decision, within 30 working days from the date such person received those reasons; or
 - (b) if the date on which such person became aware of the decision is in dispute, within 30 working days from the date such person is reasonably expected to have become aware of such decision. 15
- (3) A period referred to in subsection (2) may not be extended in terms of section 908 by more than 15 calendar days.

Time within which appeals must be decided

- 842.** (1) An appeal in terms of this Part must be decided— 20
- (a) within 60 calendar days⁴⁶¹ from the date of electronic submission of the appeal in accordance with section 913 or of receipt of the appeal by the SARS Office referred to in section 841(1)(b); or
 - (b) if the appeal was incomplete, within 60 calendar days from the date on which the complete appeal was electronically submitted in accordance with section 913 or received by that SARS Office. 25
- (2) The Commissioner may extend the period referred to in subsection (1) by no more than 30 calendar days.
- (3) An appeal must be regarded as having been upheld if the appeal is not decided within the period mentioned in subsection (1) or as extended in terms of subsection (2). 30
- (4) The customs authority must promptly notify the appellant once an appeal is decided.

Appeal committees

- 843.** (1) The Commissioner may by rule—
- (a) establish appeal committees— 35
 - (i) to consider appeals against decisions of customs officers and SARS officials; and
 - (ii) either to decide those appeals themselves or make recommendations to the Commissioner on the decision of such appeals; and
 - (b) prescribe the categories of decisions that may or must be dealt with by appeal committees. 40
- (2) The Commissioner may in terms of subsection (1) establish—
- (a) specialist appeal committees, for appeals against specific categories of decisions of customs officers and SARS officials wherever stationed; or
 - (b) one or more appeal committees for each SARS Office, for appeals against 45 decisions of customs officers and SARS officials stationed at that Office, excluding appeals against categories of decisions referred to in paragraph (a).
- (3) An appeal committee may be composed of SARS officials only or of both SARS officials and other persons.

⁴⁶⁰. See section 861.

⁴⁶¹. See section 861.

Hoe en waar om te appelleer

- 841.** (1) 'n Appèl teen 'n besluit moet—
- (a) op die wyse en in die vorm en formaat wees soos by reël voorgeskryf mag word;
 - (b) elektronies ooreenkomstig artikel 913, of by die SAID Kantoor wat die besluit aan die appellant oorgedra het, ingedien word; en
 - (c) vergesel wees van—
 - (i) 'n motivering wat die gronde van appèl uiteensit; en
 - (ii) enige ander dokumente en inligting soos by reël voorgeskryf mag word.
- (2) 'n Appèl moet elektronies ooreenkomstig artikel 913 ingedien word of die SAID Kantoor bedoel in subartikel (1)(b) bereik—
- (a) binne 30 werksdae⁴⁶⁰ vanaf die datum waarop die appellant van die besluit bewus geword het, of indien so 'n persoon redes vir die besluit versoek het, binne 30 werksdae vanaf die datum waarop die persoon daardie redes ontvang het; of
 - (b) indien daar 'n geskil oor die datum is waarop so 'n persoon van die besluit bewus geword het, binne 30 werksdae vanaf die datum waarop die persoon redelikerwyse verwag kan word van die besluit bewus te geword het.
- (3) 'n Tydperk bedoel in subartikel (2) mag nie ingevolge artikel 908 met meer as 15 kalenderdae verleng word nie.

Tydperk waarbinne appèlle beslis moet word

- 842.** (1) 'n Appèl ingevolge hierdie Deel, moet beslis word—
- (a) binne 60 kalenderdae⁴⁶¹ vanaf die datum van elektroniese indiening van die appèl ooreenkomstig artikel 913 of van ontvangs van die appèl deur die SAID Kantoor in artikel 841(1)(b) bedoel; of
 - (b) indien die appèl onvolledig was, binne 60 kalenderdae vanaf die datum waarop die volledige appèl elektronies ooreenkomstig artikel 913 ingedien of deur daardie SAID Kantoor ontvang is.
- (2) Die Kommissaris kan die tydperk bedoel in subartikel (1) verleng met nie meer as 30 kalenderdae nie.
- (3) 'n Appèl moet geag word gehandhaaf te wees indien die appèl nie binne die tydperk in subartikel (1) vermeld, of soos ingevolge subartikel (2) verleng, beslis word nie.
- (4) Die doeanegesag moet die appellant onverwyld in kennis stel sodra 'n appèl beslis is.

Appèlkomitees

- 843.** (1) Die Kommissaris kan by reël—
- (a) appèlkomitees instel—
 - (i) om appèlle teen besluite van doeanbeamptes en SAID beamptes te oorweeg; en
 - (ii) om óf daardie appèlle self te beslis óf aanbevelings aan die Kommissaris oor die beslissing van sodanige appèlle voor te lê; en
 - (b) die kategorieë besluite voorskryf wat deur die appèlkomitees behartig kan of moet word.
- (2) Die Kommissaris kan ingevolge subartikel (1)—
- (a) spesialis appèlkomitees instel vir appèlle teen spesifieke kategorieë besluite van doeanbeamptes en SAID beamptes waar hulle ook al gestasioneer mag wees; of
 - (b) vir elke SAID Kantoor een of meer appèlkomitees instel vir appèlle teen besluite van doeanbeamptes en SAID beamptes by daardie Kantoor gestasioneer, uitgesonderd appèlle teen kategorieë besluite in paragraaf (a) bedoel.
- (3) 'n Appèlkomitee kan uit slegs SAID beamptes of uit beide SAID beamptes en ander persone saamgestel word.

460. Kyk artikel 861.

461. Kyk artikel 861.

(4) The Commissioner must designate one of the members of an appeal committee as the chairperson of the committee.

Lapsing of appeals

- 844.** An appeal in terms of section 839 lapses if the aggrieved person, before the appeal is decided— 5
- (a) institutes legal proceedings with regard to the relevant decision; or
 - (b) becomes a party to a settlement in terms of Part 5 with regard to the relevant decision; or
 - (c) withdraws the appeal.

Rules to facilitate implementation of this Part 10

- 845.** Rules made in terms of section 903 to facilitate the implementation of this Part may include rules prescribing—
- (a) the procedures that must be followed in connection with the lodging, consideration and decision of appeals, including any forms that may or must be used in these procedures; 15
 - (b) the matters for which, or the circumstances in which, non-compliance with procedural requirements may be condoned;
 - (c) the giving of reasons for decisions taken on appeal;
 - (d) the categories of decisions that may be appealed against to an appeal committee; 20
 - (e) the powers and duties of appeal committees;
 - (f) the convening of, and procedures at, meetings of appeal committees, including quorum requirements;
 - (g) matters relating to persons serving on appeal committees other than SARS officials, including— 25
 - (i) qualification requirements;
 - (ii) term of office;
 - (iii) conditions of appointment and remuneration;
 - (iv) ethical conduct; and
 - (v) resignation or removal from office; 30
 - (h) administrative assistance to appeal committees; and
 - (i) access to information relevant for an appeal by appeal committees.

Part 4

Alternative dispute resolution

Purpose of this Part 35

- 846.** The purpose of this Part is to provide for alternative dispute resolution procedures to resolve disputes between the Commissioner and persons aggrieved by decisions of—
- (a) the Commissioner; or
 - (b) customs officers or SARS officials, including decisions taken by customs officers and SARS officials on behalf of the Commissioner. 40

Application for alternative dispute resolution

847. A person aggrieved by a decision to which this Part applies of the Commissioner, a customs officer or a SARS official, may apply in writing to the Commissioner to have the matter resolved through alternative dispute resolution procedures prescribed in terms of section 850. 45

Consideration of applications

- 848.** (1) The Commissioner must consider an application in terms of section 847, but may refer a matter for alternative dispute resolution only if—
- (a) the applicant was unsuccessful in an administrative appeal in terms of Part 3 of this Chapter, if the matter concerns a decision of a customs officer or SARS official; 50

(4) Die Kommissaris moet een van die lede van 'n appèlkomitee as die voorsitter van die komitee aanwys.

Verval van appèlle

844. 'n Appèl ingevolge artikel 839 verval indien die verontregte persoon, voordat die appèl beslis word— 5

- (a) regsverrigtinge met betrekking tot die betrokke besluit instel; of
- (b) 'n party tot 'n skikking ingevolge Deel 5 met betrekking tot die betrokke besluit word; of
- (c) die appèl terugtrek.

Reëls ter fasilitering van implementering van hierdie Deel 10

845. Reëls ingevolge artikel 903 uitgevaardig om die implementering van hierdie Deel te fasiliteer, kan reëls insluit wat die volgende voorskryf:

- (a) Die prosedures wat gevolg moet word in verband met die aanteken, oorweging en beslissing van appèlle, met inbegrip van enige vorms wat in hierdie prosedures gebruik mag of moet word; 15
- (b) die aangeleenthede waarvoor, of die omstandighede waarin, nie-voldoening aan prosedurele vereistes gekondoneer mag word;
- (c) die verskaffing van redes vir besluite op appèl geneem;
- (d) die kategorieë besluite waarteen na 'n appèlkomitee geappelleer mag word;
- (e) die bevoegdhede en pligte van appèlkomitees; 20
- (f) die saamroep van, en prosedures by, vergaderings van appèlkomitees, met inbegrip van kworumvereistes;
- (g) aangeleenthede betreffende persone anders as SAID beamptes wat op appèlkomitees dien, met inbegrip van— 25
 - (i) kwalifikasievereistes;
 - (ii) ampstermyn;
 - (iii) voorwaardes van aanstelling en besoldiging;
 - (iv) etiese gedrag; en
 - (v) bedanking of verwydering uit amp;
- (h) administratiewe bystand aan appèlkomitees; en 30
- (i) toegang tot inligting wat vir 'n appèl deur appèlkomitees ter sake is.

Deel 4

Alternatiewe geskilbeslegting

Doel van hierdie Deel

846. Die doel van hierdie Deel is om voorsiening te maak vir alternatiewe geskilbeslegtingsprosedures vir die beslegting van geskille tussen die Kommissaris en persone verontreg deur besluite van— 35

- (a) die Kommissaris; of
- (b) doeanbeamptes of SAID beamptes, met inbegrip van besluite deur doeanbeamptes en SAID beamptes namens die Kommissaris geneem. 40

Aansoek om alternatiewe geskilbeslegting

847. 'n Persoon verontreg deur 'n besluit van die Kommissaris, 'n doeanbeampte of 'n SAID beampte waarop hierdie Deel van toepassing is, kan skriftelik by die Kommissaris aansoek doen om die aangeleentheid te laat besleg deur alternatiewe geskilbeslegtingsprosedures ingevolge artikel 850 voorgeskryf. 45

Oorweging van aansoeke

848. (1) Die Kommissaris moet 'n aansoek ingevolge artikel 847 oorweeg, maar kan 'n aangeleentheid vir alternatiewe geskilbeslegting verwys slegs indien—

- (a) die applikant onsuksesvol was met 'n administratiewe appèl ingevolge Deel 3 van hierdie Hoofstuk, indien die aangeleentheid 'n besluit van 'n doeanbeampte of SAID beampte raak; 50

- (b) the decision is appropriate for alternative dispute resolution; and
 - (c) the decision is not subject to any judicial proceedings or pending judicial proceedings.
- (2) The Commissioner may—
- (a) grant an application in terms of section 847; or 5
 - (b) refuse such an application if—
 - (i) subsection (1) is not complied with; or
 - (ii) alternative dispute resolution is not in the State's interests.

Alternative dispute resolution on initiative by Commissioner

849. The Commissioner may despite sections 842 and 848 agree with the other party 10 to a dispute to have the dispute resolved through alternative dispute resolution procedures prescribed in terms of section 850.

Alternative dispute resolution procedures

850. The Minister may, after consultation with the Cabinet member responsible for the administration of justice, make regulations prescribing— 15

- (a) alternative dispute resolution procedures in terms of which the Commissioner and a person aggrieved by a decision may resolve the matter; and
- (b) categories of decisions which are or are not suitable for alternative dispute resolution.

Part 5 20

Settlement of disputes

Purpose of this Part

851. The purpose of this Part is to regulate the settlement of disputes between the Commissioner and other parties, and to specify—

- (a) the circumstances when it would be inappropriate for the basic principle 25 referred to in section 852 to be tempered; and
- (b) the circumstances when it would be appropriate for the basic principle to be tempered and a decision to be taken to settle a dispute.

Basic principle governing this Part

852. This Part must be applied against the background of— 30

- (a) the basic principle in law that it is the duty of the Commissioner to assess and collect taxes according to legislation enacted by Parliament and not to forgo any taxes properly chargeable and payable; and
- (b) the exception that circumstances may require the strictness and rigidity of this basic principle to be tempered where it is in the best advantage of the state. 35

Circumstances when inappropriate to settle

853. It is inappropriate and not to the best advantage of the state to settle a dispute when—

- (a) the dispute relates to intentional tax evasion or fraud and none of the circumstances contemplated in section 854 exist; 40
- (b) the settlement would be contrary to the law or a clearly established practice of the Commissioner on the matter, and no exceptional circumstances exist to justify a departure from the law or practice;
- (c) it is in the public interest to have judicial clarification of the issue and the case is appropriate for this purpose; 45

- (b) die besluit vir alternatiewe geskilbeslegting geskik is; en
 - (c) die besluit nie die onderwerp van enige geregtelike verrigtinge of hangende geregtelike verrigtinge is nie.
- (2) Die Kommissaris kan—
- (a) 'n aansoek ingevolge artikel 847, toestaan; of 5
 - (b) so 'n aansoek weier indien—
 - (i) daar nie aan subartikel (1) voldoen word nie; of
 - (ii) alternatiewe geskilbeslegting nie in die staat se belang is nie.

Alternatiewe geskilbeslegting op inisiatief van Kommissaris

849. Die Kommissaris kan, ondanks artikels 842 en 848, met die ander party tot 'n geskil ooreenkom om die geskil te laat besleg deur alternatiewe geskilbeslegtingsprosedures ingevolge artikel 850 voorgeskryf. 10

Alternatiewe geskilbeslegtingsprosedures

- 850.** Die Minister kan, na oorlegpleging met die Kabinetslid verantwoordelik vir die regspleging, regulasies uitvaardig wat— 15
- (a) alternatiewe geskilbeslegtingsprosedures voorskryf ingevolge waarvan die Kommissaris en 'n persoon verontreg deur 'n besluit die aangeleentheid kan besleg; en
 - (b) kategorieë besluite voorskryf wat vir alternatiewe geskilbeslegting gepas is of nie is nie. 20

Deel 5

Skikking van geskille

Doel van hierdie Deel

- 851.** Die doel van hierdie Deel is om die skikking van geskille tussen die Kommissaris en ander partye te reguleer, en om— 25
- (a) die omstandighede te spesifiseer wanneer dit onvanpas sou wees om die basiese beginsel bedoel in artikel 852 te versag; en
 - (b) die omstandighede te spesifiseer wanneer dit gepas sou wees om die basiese beginsel te versag en 'n besluit om 'n geskil te skik, te neem.

Basiese beginsel wat hierdie Deel beheers 30

- 852.** Hierdie Deel moet toegepas word teen die agtergrond van—
- (a) die basiese regsbeginnele dat dit die plig van die Kommissaris is om belasting volgens voorskrif van wetgewing deur Parlement uitgevaardig, aan te slaan en in te vorder en om nie enige belastings wat behoorlik opgelê en betaalbaar is, te verbeur nie; en 35
 - (b) die uitsondering dat omstandighede mag vereis dat die strengheid en onbuigsamheid van hierdie basiese beginsel versag moet word waar dit in die beste belang van die Staat is.

Omstandighede wanneer dit onvanpas is om te skik

- 853.** Dit is nie gepas en nie tot die beste voordeel van die staat om 'n geskil te skik nie 40
wanneer—
- (a) die geskil betrekking het op opsetlike belastingontduiking of bedrog en daar geen van die omstandighede beoog in artikel 854 aanwesig is nie;
 - (b) die skikking in stryd met die reg of 'n duidelik gevestigde praktyk van die Kommissaris oor die aangeleentheid sou wees, en daar geen buitengewone 45
omstandighede aanwesig is om 'n afwyking van die reg of praktyk te regverdig nie;
 - (c) dit in die openbare belang is om geregtelike opklaring oor die aangeleentheid te verkry en die saak vir hierdie doel geskik is;

- (d) the pursuit of the matter through the courts will significantly promote compliance with tax legislation and the case is suitable for this purpose; or
- (e) the other party to the dispute has not complied with provisions of legislation administered by the Commissioner and the Commissioner is of the opinion that the non-compliance is of a serious nature. 5

Circumstances when appropriate to settle

- 854.** (1) It is appropriate to settle a dispute when settlement of the dispute will be to the best advantage of the state, taking into account all relevant factors, including—
- (a) whether settlement would be in the interest of good management of the tax system, overall fairness and the best use of the Commissioner’s resources; 10
 - (b) whether settlement would be justified in comparison to any possible benefits that may be derived through litigation, bearing in mind—
 - (i) the cost of litigation;
 - (ii) the prospects of success in a court or dispute resolution procedures;
 - (iii) the prospects of collecting any amounts owed to the Commissioner; and 15
 - (iv) the costs associated with collection;
 - (c) whether there are any complex factual or quantum issues in contention, or any evidentiary difficulties, which will make the case problematic or unsuitable for resolution through litigation;
 - (d) whether the matter involves a situation where a participant or a group of participants in a tax avoidance arrangement has accepted the Commissioner’s position in the dispute, and settlement offers the best prospect of unwinding such tax avoidance arrangements; and
 - (e) whether settlement of the dispute will promote compliance with tax legislation by the person concerned or a group of taxpayers or a section of the public in a cost-effective way. 25
- (2) Any settlement of a dispute in terms of this Chapter must be fair and equitable to the Commissioner, the other party and the state.

Who may settle disputes

- 855.** (1) A dispute may be settled in terms of this Part on behalf of the state only by— 30
- (a) the Commissioner; or
 - (b) a SARS official to whom the power to settle disputes on behalf of the state, or to settle that specific dispute, has been delegated by the Commissioner in terms of section 19.
- (2) The Commissioner or an official referred to in subsection (1)(b) may not settle a dispute on behalf of the state if the Commissioner or that official has, or at any stage had, a personal, family, social, business, professional, employment or financial relationship with the other party to the dispute unless that relationship is trivial or irrelevant to the dispute. 35

Formal requirements for settlement 40

- 856.** (1) A dispute settled in accordance with this Part must be in the form of a written agreement between the parties in a format as may be prescribed by rule.
- (2) The written agreement must—
- (a) set out the agreed position between the parties, including details on—
 - (i) how issues at stake in the dispute were settled; 45
 - (ii) how each of those issues is to be dealt with in future;
 - (iii) any undertakings given by the parties;
 - (iv) the withdrawal of—
 - (aa) any administrative appeal in terms of Part 3 of this Chapter;

- (d) die bereddering van die aangeleentheid deur die howe die nakoming van belastingwetgewing weselik sal bevorder en die saak vir hierdie doel geskik is; of
- (e) die ander party tot die geskil nie aan bepalings van wetgewing wat deur Kommissaris gadministreer word, voldoen het nie en die Kommissaris van oordeel is dat hierdie nie-voldoening van 'n ernstige aard is. 5

Omstandighede wanneer dit gepas is om te skik

854. (1) Dit is gepas om 'n geskil te skik wanneer skikking van die geskil in die beste belang van die staat met inagneming van alle tersaaklike faktore sal wees, met inbegrip daarvan— 10

- (a) of 'n skikking in belang van goeie bestuur van die belastingstelsel, algemene billikheid en die beste gebruik van die Kommissaris se hulpbronne sou wees;
- (b) of 'n skikking geregverdig sou wees gemeet teen enige moontlike voordele wat deur litigasie verkry mag word, gedagtig aan— 15
 - (i) die koste van litigasie;
 - (ii) die vooruitsigte op sukses in 'n hof of geskilbeslegtingsprosedures;
 - (iii) die vooruitsigte op die invordering van enige bedrae wat aan die Kommissaris verskuldig is; en
 - (iv) die koste wat met invordering verband hou;
- (c) of daar enige ingewikkelde feitelike kwessies of kwessies betreffende die omvang van bedrae in geskil, of enige bewysregtelike probleme, is wat die saak problematies of ongeskik vir beslegting deur litigasie sal maak;
- (d) of die aangeleentheid 'n situasie is waar 'n deelnemer of 'n groep deelnemers in 'n belastingvermydingsreëling die Kommissaris se posisie in die geskil aanvaar het, en skikking die beste vooruitsigte bied om so 'n belastingvermydingsreëling tot 'n einde te bring; en 25
- (e) of skikking van die geskil voldoening aan belastingwetgewing deur die betrokke persoon of 'n groep belastingpligtiges of 'n gedeelte van die publiek op 'n koste-effektiewe wyse sal bevorder.

(2) Enige skikking van 'n geskil ingevolge hierdie Hoofstuk moet regverdig en billik teenoor die Kommissaris, die ander party en die staat wees. 30

Wie geskil mag skik

855. (1) 'n Geskil mag ingevolge hierdie Deel ten behoeve van die staat geskik word slegs deur—

- (a) die Kommissaris; of 35
- (b) 'n SAID beampte aan wie die bevoegdheid om geskille ten behoeve van die staat te skik, of om daardie spesifieke geskil te skik, deur die Kommissaris ingevolge artikel 19 gedelegeer is.

(2) Die Kommissaris of 'n beampte bedoel in subartikel (1)(b) mag nie 'n geskil ten behoeve van die staat skik nie indien die Kommissaris of daardie beampte 'n persoonlike, familie-, sosiale, besigheids-, professionele, werks- of finansiële verhouding met die ander party tot die geskil het, of op enige stadium gehad het, tensy daardie verhouding onbenullig of nie tersaaklik tot die geskil is nie. 40

Formele vereistes vir skikking

856. (1) 'n Geskil wat ooreenkomstig hierdie Deel geskik word, moet in die vorm van 'n skriftelike ooreenkoms tussen die partye wees in 'n formaat soos by reël voorgeskryf mag word. 45

(2) Die skriftelike ooreenkoms moet—

- (a) die ooreengekome posisie tussen die partye uiteensit, met inbegrip van besonderhede oor— 50
 - (i) hoe die kwessies wat in die geskil ter sake is, geskik is;
 - (ii) hoe daar met elk van daardie kwessies in die toekoms gehandel moet word;
- (iii) enige ondernemings deur die partye gegee;
- (iv) die terugtrekking van— 55
 - (aa) enige administratiewe appèl ingevolge Deel 3 van hierdie Hoofstuk;

- (bb) any alternative dispute resolution proceedings in terms of Part 4 of this Chapter; or
- (cc) any judicial proceedings; and
- (v) any arrangements for payment; and
- (b) be in full and final settlement of those issues. 5

Settlement conditional upon disclosure of facts

- 857.** (1) The parties involved in a dispute must at all times disclose all relevant facts in discussions during the process of settling the dispute.
- (2) A settlement is conditional upon full disclosure of all material facts known to the parties at the time of settlement. 10
- (3) The Commissioner is bound by a settlement unless—
- (a) material facts were not disclosed to the Commissioner; or
 - (b) there was fraud or misrepresentation of the facts.

Non-compliance

- 858.** The Commissioner has the right to recover any outstanding amounts in full if the other party to the settlement fails to comply with any agreed payment arrangement. 15

Confidentiality

- 859.** The Commissioner and other SARS officials involved in settling a dispute may not disclose the terms of any settlement otherwise than as provided for in section 21 or 860. 20

Record keeping and reporting

- 860.** (1) The Commissioner must—
- (a) maintain a register of all disputes settled in accordance with this Part; and
 - (b) fully document the process in terms of which each dispute was settled, which document must be signed by or on behalf of the Commissioner and the other party to the dispute. 25
- (2) The Commissioner must within 90 calendar days⁴⁶² after the end of each financial year submit to the Auditor-General and the Minister a summary of all disputes settled during the financial year.
- (3) A summary— 30
- (a) may not, subject to section 21, disclose the identity of the other parties to the disputes; and
 - (b) must contain details of— 35
 - (i) the number of disputes settled;
 - (ii) the amount of revenue forgone; and
 - (iii) the estimated amount of savings in litigation costs.

Part 6

Miscellaneous

Exclusion of certain days when determining time periods for purpose of this Chapter 40

- 861.** The days from 16 December of a year to 15 January of the following year, both dates inclusive, must be excluded when determining a time period for purposes of this Chapter.

⁴⁶². See section 861.

- (bb) enige alternatiewe geskilbeslegtingsverrigtinge ingevolge Deel 4 van hierdie Hoofstuk; of
- (cc) enige geregtelike verrigtinge; en
- (v) enige reëlins vir betaling; en
- (b) in volle en finale skikking van daardie kwessies wees. 5

Skikking onderworpe aan voorwaarde dat feite bekend gemaak is

- 857.** (1) Die partye wat by 'n geskil betrokke is, moet te alle tye in gesprekke tydens die proses om die geskil te skik alle tersaaklike feite bekend maak.
- (2) 'n Skikking is onderworpe aan die voorwaarde dat alle wesenlike feite wat op die tydstop van skikking aan die partye bekend was, ten volle bekend gemaak is. 10
- (3) Die Kommissaris is deur 'n skikking gebonde tensy—
- (a) wesenlike feite nie aan die Kommissaris bekend gemaak is nie; of
 - (b) daar bedrog of wanvoorstelling van die feite was.

Nie-voldoening

- 858.** Die Kommissaris is daarop geregtig om enige uitstaande bedrae ten volle te verhaal indien die ander party tot die skikking versuim om aan enige ooreengekome betalingsreëling te voldoen. 15

Vertroulikheid

- 859.** Die Kommissaris en ander SAID beamptes wat by 'n skikking van 'n geskil betrokke is, mag nie die voorwaardes van enige skikking bekend maak behalwe soos in artikel 21 of 860 bepaal nie. 20

Rekordhouding en verslagdoening

- 860.** (1) Die Kommissaris moet—
- (a) 'n register hou van alle geskille wat ooreenkomstig hierdie Deel geskik is; en
 - (b) die proses ingevolge waarvan elke geskil geskik is ten volle dokumenteer, welke dokument deur of namens die Kommissaris en die ander party tot die geskil onderteken moet word. 25
- (2) Die Kommissaris moet binne 90 kalenderdae⁴⁶² na die einde van elke finansiële jaar 'n opsomming van alle geskille wat gedurende die finansiële jaar geskik is aan die Ouditeur-generaal en die Minister voorlê. 30
- (3) 'n Opsomming—
- (a) mag nie, behoudens artikel 21, die identiteit van die ander partye tot die geskil bekend maak nie; en
 - (b) moet besonderhede bevat van— 35
 - (i) die aantal geskille geskik;
 - (ii) die bedrag aan inkomste verbeur; en
 - (iii) die geraamde bedrag van besparings in litigasiekoste.

Deel 6

Diverse aangeleenthede

Uitsluiting van sekere dae by bepaling van tydperke vir doeleindes van hierdie Hoofstuk 40

- 861.** Die dae vanaf 16 Desember van 'n jaar tot 15 Januarie van die volgende jaar, beide datums ingesluit, moet uitgesluit word wanneer 'n tydperk vir doeleindes van hierdie Hoofstuk bepaal word.

⁴⁶². Kyk artikel 861.

Competency of Ombud to review and address complaints relating to customs matters

862. (1) The Ombud appointed in terms of section 14 of the Tax Administration Act, is competent to review and address in accordance with the provisions of sections 16 to 21 and of any regulations issued under section 157(2) of that Act, any complaint by a person affected by the application of this Act, the Customs Duty Act or the Excise Duty Act regarding a service matter or a procedural or administrative matter. 5

(2) When applying the provisions referred to in subsection (1) for the purposes of that subsection, any reference in those provisions to a tax Act must be read as referring also to this Act, the Customs Duty Act and the Excise Duty Act. 10

CHAPTER 38

VOLUNTARY DISCLOSURE RELIEF

Definitions

863. In this Chapter—

“**duty**” means a duty in terms of the Customs Duty Act or a duty or levy in terms of the Excise Duty Act; 15

“**faulty duty determination**” means an incorrect customs or excise duty assessment or re-assessment in respect of goods due to the submission of inaccurate or incomplete, or non-submission, of information to the customs authority which resulted in— 20

- (a) no duty or an incorrect amount of duty being paid or recovered on the goods;
- (b) no interest on duty or an incorrect amount of interest on duty being paid or recovered; or
- (c) an incorrect refund or drawback being made by the Commissioner.

Purpose of this Chapter 25

864. The purpose of this Chapter is to enable persons benefiting from faulty duty determinations to voluntarily disclose such faulty duty determinations in exchange for an undertaking by the Commissioner not to institute criminal proceedings or to impose administrative penalties.

Application for voluntary disclosure relief 30

865. (1) A person who has paid or is liable for the payment of duty or interest on duty, or who has received or is entitled to receive a refund or drawback on duty or interest paid, may apply for voluntary disclosure relief if that person knows or suspects that such duty, interest, refund or drawback is incorrect because of a faulty duty determination.

(2) Voluntary disclosure relief in terms of subsection (1) is not available to a person who is aware of— 35

- (a) a pending customs audit or investigation into that person’s affairs; or
- (b) a customs audit or investigation into that person’s affairs that has commenced, but has not yet been concluded.

(3) An applicant must be regarded to be aware of a pending customs audit or investigation or the commencement of a customs audit or investigation referred to in subsection (1) if any of the following persons was aware of such pending audit or investigation or the commencement of such customs audit or investigation: 40

- (a) A representative of the applicant;
- (b) an officer, shareholder or member of the applicant, if the applicant is a company; 45
- (c) a partner in partnership with the applicant;
- (d) a trustee or beneficiary of the applicant, if the applicant is a trust; or

Bevoegdheid van Ombud om klagtes betreffende doeaneaangeleenthede te hersien en te beredder

862. (1) Die Ombud ingevolge artikel 14 of die Wet op Belastingadministrasie aangestel, is bevoeg om ooreenkomstig die bepalings van artikels 16 tot 21 en van enige regulasies kragtens artikel 157(2) van daardie Wet uitgevaardig, enige klagte deur 'n persoon wat deur die toepassing van hierdie Wet, die Wet op Doeanereg of die Wet op Aksynsreg aangaande 'n diens- of prosedurele of administratiewe aangeleentheid geraak word, te hersien en aan te spreek. 5

(2) By die toepassing van die bepalings bedoel in subartikel (1) vir doeleindes van daardie subartikel moet 'n verwysing in daardie bepalings na 'n Belastingwet uitgelê word as 'n verwysing ook na hierdie Wet, die Wet op Doeanereg en die Wet op Aksynsreg. 10

HOOFSTUK 38

VRYWILLIGE BLOOTLEGGINGSVERLIGTING

Woordoms krywing 15

863. In hierdie Hoofstuk beteken—

“**foutiewe bepaling van reg**” 'n foutiewe aanslag of heraanslag van doeane- of aksynsreg ten opsigte van goedere weens die voorlegging van foutiewe of onvolledige, of die nie-voorlegging van, inligting aan die doeane gesag, wat tot gevolg het dat— 20

- (a) geen reg of 'n foutiewe bedrag aan reg op die goedere betaal of verhaal is of mag word;
- (b) geen rente op reg of 'n foutiewe bedrag aan rente op reg betaal of verhaal is of mag word; of
- (c) 'n foutiewe terugbetaling of teruggawe deur die Kommissaris gedoen is of mag word; 25

“**reg**” 'n reg ingevolge die Wet op Doeanereg of 'n reg of heffing ingevolge die Wet op Aksynsreg.

Doel van hierdie Hoofstuk

864. Die doel van hierdie Hoofstuk is om persone wat voordeel uit foutiewe bepalings van reg trek die geleentheid te bied om vrywilliglik sodanige foutiewe bepalings van reg bloot te lê in ruil vir 'n onderneming deur die Kommissaris om nie strafregtelike verrigtinge in te stel of om administratiewe boetes op te lê nie. 30

Aansoek om vrywillige blootleggingsverligting

865. (1) 'n Persoon wat reg, of rente op reg, betaal het of vir die betaling daarvan aanspreeklik is, of wat 'n terugbetaling of teruggawe op reg of rente wat betaal is, ontvang het of geregtig is om dit te ontvang, kan aansoek doen om vrywillige blootleggingsverligting indien daardie persoon weet of vermoed dat sodanige reg, rente, terugbetaling of teruggawe foutief is weens 'n foutiewe bepaling van reg. 35

(2) Vrywillige blootleggingsverligting ingevolge subartikel (1) is nie beskikbaar nie vir 'n persoon wat bewus is van— 40

- (a) 'n hangende doeane-oudit of -ondersoek van daardie persoon se sake; of
- (b) 'n doeane-oudit of -ondersoek van daardie persoon se sake wat begin het maar nog nie afgehandel is nie.

(3) 'n Applikant moet geag word bewus te wees van 'n hangende doeane-oudit of -ondersoek of van die aanvang van 'n doeane-oudit of -ondersoek bedoel in subartikel (1) indien enige van die volgende persone bewus was van sodanige hangende-oudit of -ondersoek of van die aanvang van sodanige doeane-oudit of -ondersoek: 45

- (a) 'n Verteenwoordiger van die applikant;
- (b) 'n amptenaar, aandeelhouer of lid van die applikant, indien die applikant 'n maatskappy is; 50
- (c) 'n vennoot in 'n vennootskap met die applikant;
- (d) 'n trustee of begunstigde van die applikant, indien die applikant 'n trust is; of

- (e) a person acting for or on behalf of or as an agent or fiduciary of the applicant.
- (4) The customs authority may, despite subsections (2) and (3), but subject to subsection (5), allow a person to apply for voluntary disclosure relief if it is of the view, having regard to the circumstances and ambit of the audit or investigation, that—
- (a) the faulty duty determination on which the proposed application for voluntary disclosure relief is based would not otherwise have been detected in the ordinary course of the audit or investigation; and
 - (b) the application would be in the interest of good customs administration and the best use of the Commissioner's resources.
- (5) An application for voluntary disclosure relief must be submitted to the customs authority within a period of three years from the date of the faulty duty determination on which the application is based.

Requirements for voluntary disclosure relief

- 866.** An application for voluntary disclosure relief may be granted only if the disclosure—
- (a) is voluntary;
 - (b) involved a faulty duty determination;
 - (c) is full and complete in all material respects;
 - (d) involved the potential imposition of an administrative penalty or the institution of criminal proceedings; and
 - (e) will not result in the Commissioner being obliged to pay a refund or drawback or additional refund or drawback.

Procedure following receipt of voluntary disclosure application

- 867.** (1) When a person applies for voluntary disclosure relief, the customs authority must—
- (a) investigate the matter;
 - (b) make a duty assessment or re-assessment in relation to the relevant goods on the basis of the disclosed facts, including, to the extent necessary—
 - (i) a tariff determination or re-determination;
 - (ii) a value determination or re-determination; or
 - (iii) an origin determination or re-determination;
 - (c) determine the amount of—
 - (i) duty or interest outstanding as a result of the faulty duty determination; or
 - (ii) the refund or drawback paid by the Commissioner as a result of the faulty duty determination that was not payable; and
 - (d) consider the application and either grant or refuse the application.
- (2) An assessment, re-assessment, determination or re-determination made in terms of subsection (1)(b) and a determination of the amount owing in terms of subsection (1)(c) is not subject to an administrative appeal in terms of Part 3 of Chapter 37.

Granting of applications

- 868.** If the customs authority grants an application for voluntary disclosure relief, the Commissioner and the applicant may, despite the other provisions of this Act and the provisions of the Customs Duty Act or the Excise Duty Act, but subject to section 870, conclude an agreement in writing—
- (a) setting out details of the faulty duty determination on which the voluntary disclosure relief is based;
 - (b) stating the amount owing to the Commissioner as determined in terms of section 867(1)(b) and (c);
 - (c) containing an undertaking by the applicant to pay to the Commissioner the amount owing in accordance with any arrangements as may be agreed; and

- (e) 'n persoon wat optree vir of ten behoeve van, of as 'n agent van, of in 'n fidusiêre hoedanigheid vir, die applikant.
- (4) Die doeanegesag kan, ondanks subartikels (2) en (3) maar behoudens subartikel (5), 'n persoon toelaat om aansoek om vrywillige blootleggingsverligting te doen indien die doeanegesag van mening is, met inagneming van die omstandighede en die omvang van die oudit of ondersoek, dat— 5
- (a) die foutiewe bepaling van reg waarop die voorgestelde aansoek om vrywillige blootleggingsverligting gebaseer is, nie andersins in die gewone loop van die oudit of ondersoek opgespoor sou gewees het nie; en
- (b) die aansoek in die belang van goeie doeane-administrasie en die beste gebruik van die Kommissaris se hulpbronne sal wees. 10
- (5) 'n Aansoek om vrywillige blootleggingsverligting moet by die doeanegesag ingedien word binne 'n tydperk van drie jaar vanaf die datum van die foutiewe bepaling van reg waarop die aansoek gebaseer is.

Vereistes vir vrywillige blootleggingsverligting 15

866. 'n Aansoek om vrywillige blootleggingsverligting kan toegestaan word slegs indien die blootlegging—

- (a) vrywillig is;
- (b) 'n foutiewe bepaling van reg behels;
- (c) volledig in alle wesenlike opsigte is; 20
- (d) die moontlike oplegging van 'n administratiewe boete of die instelling van strafregtelike verrigtinge inhou; en
- (e) nie tot gevolg sal hê dat die Kommissaris verplig word om 'n terugbetaling of teruggawe of addisionele terugbetaing of teruggawe te betaal nie.

Prosedure na ontvangs van vrywillige blootleggingsaansoek 25

867. (1) Wanneer 'n persoon om vrywillige blootleggingsverligting aansoek doen, moet die doeanegesag—

- (a) die aangeleentheid ondersoek;
- (b) 'n aanslag of heraanslag van reg met betrekking tot die onderhawige goedere op die basis van die blootgelegde feite doen, asook, in die mate wat dit nodig is— 30
- (i) 'n tariefbepaling of -herbepaling;
- (ii) 'n waardebeepaling of -herbepaling; of
- (iii) 'n oorsprongbepaling of -herbepaling;
- (c) die bedrag bepaal van— 35
- (i) reg of rente wat as gevolg van die foutiewe bepaling van reg uitstaande is; of
- (ii) die terugbetaling of teruggawe wat deur die Kommissaris betaal is as gevolg van die foutiewe bepaling van reg wat nie betaalbaar was nie; en
- (d) die aansoek oorweeg en die aansoek óf toestaan óf weier. 40
- (2) 'n Aanslag, heraanslag, bepaling of herbepaling wat ingevolge subartikel (1)(b) gemaak word en 'n bepaling van die bedrag wat ingevolge subartikel (1)(c) verskuldig is, is nie aan 'n administratiewe appèl ingevolge Deel 3 van Hoofstuk 37 onderhewig nie.

Toestaan van aansoeke 45

868. Indien die doeanegesag 'n aansoek om vrywillige blootleggingsverligting toestaan, kan die Kommissaris en die applikant, ondanks die ander bepalings van hierdie Wet en die bepalings van die Wet op Doeanereg of die Wet op Aksynsreg, maar behoudens artikel 870, 'n skriftelike ooreenkoms aangaan wat—

- (a) die besonderhede van die foutiewe bepaling van reg uiteensit waarop die vrywillige blootleggingsverligting gebaseer is; 50
- (b) die bedrag vermeld wat aan die Kommissaris soos bepaal ingevolge artikel 867(1)(b) en (c) verskuldig is;
- (c) 'n onderneming deur die applikant bevat om aan die Kommissaris die bedrag wat verskuldig is, ooreenkomstig enige reëlings waarop daar ooreengekom mag word, te betaal; en 55

- (d) containing an undertaking by the Commissioner that should the applicant comply with the undertaking given in terms of paragraph (c)—
 - (i) the Commissioner will not institute criminal proceedings against the applicant for any offence in terms of this Act, the Customs Duty Act, the Excise Duty Act or the common law arising from the faulty duty determination; and
 - (ii) no administrative penalty will be imposed on the applicant for any breach of this Act, the Customs Duty Act or the Excise Duty Act arising from the faulty duty determination.

Refusal to grant application 10

869. If the customs authority refuses to grant an application for voluntary disclosure relief, it must recover the amount owing as determined in terms of section 867(1)(b) and (c) in accordance with the Customs Duty Act or the Excise Duty Act.

Withdrawal of voluntary disclosure relief

870. (1) If an applicant made a false or misleading statement in an application for voluntary disclosure relief or failed to disclose information that was material for the consideration of the application, the customs authority may—

- (a) cancel any agreement concluded with the applicant in terms of section 868 following approval of the application and withdraw any relief provided for in the agreement; 20
- (b) recover the amount owing as determined in terms of section 867(1)(b) and (c) in accordance with the Customs Duty Act or the Excise Duty Act;
- (c) retain any amount paid to the Commissioner in terms of the agreement as a payment on the amount owed to the Commissioner;
- (d) institute criminal proceedings referred to in section 868(d)(i) against the applicant; and 25
- (e) impose on the applicant any administrative penalty referred to in section 868(d)(ii).

Reporting

871. (1) The Commissioner must annually report to the Auditor-General and the Minister particulars of all voluntary disclosure agreements concluded in terms of this Chapter in respect of applications received during the period reported on. 30

(2) A report in terms of subsection (1) may not disclose the identity of the persons concerned and must contain details of the number of voluntary disclosure agreements and the amount of tax revenue forgone. 35

Anonymous voluntary disclosures

872. (1) The customs authority may on request by an anonymous person issue a nonbinding private opinion as to that person's eligibility for voluntary disclosure relief in terms of this Chapter, including the probable amount of any duty or interest that would be payable, or of any refund or drawback that would have to be paid back, to the Commissioner were the relief to be granted. 40

(2) A request in terms of subsection (1) must provide sufficient information to enable the customs authority to comply with the request, but need not identify any person responsible for causing the faulty duty determination.

Rules to facilitate implementation of this Chapter 45

873. Rules made in terms of section 903 to facilitate the implementation of this Chapter may include rules prescribing—

- (a) the form and format and contents of applications for voluntary disclosure relief;
- (b) any documents that must accompany such applications; 50

- (d) 'n onderneming deur die Kommissaris bevat dat, sou die applikant aan die onderneming gegee ingevolge paragraaf (c) voldoen—
- (i) die Kommissaris nie strafregtelike verrigtinge teen die applikant aanhangig sal maak vir enige misdryf ingevolge hierdie Wet, die Wet op Doeanereg, die Wet op Aksynsreg of die gemenerereg wat met die foutiewe bepaling van reg verband hou nie; en
 - (ii) die applikant geen administratiewe boete opgelê sal word vir enige breuk van hierdie Wet, die Wet op Doeanereg of die Wet op Aksynsreg wat met die foutiewe bepaling van reg verband hou nie.

Weiering om aansoek toe te staan 10

869. Indien die doeanegesag weier om 'n aansoek om vrywillige blootleggingsverligting toe te staan, moet die doeanegesag die bedrag verskuldig soos ingevolge artikel 867(1)(b) en (c) bepaal, ooreenkomstig die Wet op Doeanereg of die Wet op Aksynsreg verhaal.

Intrekking van vrywillige blootleggingsverligting 15

870. (1) Indien 'n applikant 'n vals of misleidende verklaring in 'n aansoek om vrywillige blootleggingsverligting gemaak het of versuim het om inligting bekend te maak wat wesenlik vir die oorweging van die aansoek was, kan die doeanegesag—

- (a) enige ooreenkoms wat met die applikant ingevolge artikel 868 na aanleiding van die goedkeuring van die aansoek aangegaan is, kanselleer en enige verligting waarvoor daar in die ooreenkoms voorsiening gemaak word, intrek;
- (b) die bedrag soos ingevolge artikel 867(1)(b) en (c) bepaal, ooreenkomstig die Wet op Doeanereg of die Wet op Aksynsreg verhaal;
- (c) enige bedrag wat ingevolge die ooreenkoms aan die Kommissaris betaal is as 'n betaling op die bedrag aan die Kommissaris verskuldig, terughou;
- (d) strafregtelike verrigtinge bedoel in artikel 868(d)(i) teen die applikant instel; en
- (e) die applikant 'n administratiewe boete bedoel in artikel 868(d)(ii) oplê.

Verslagdoening

871. (1) Die Kommissaris moet jaarliks aan die Ouditeur-generaal en die Minister verslag doen oor die besonderhede van alle vrywillige blootleggingsooreenkomste wat ingevolge hierdie Hoofstuk aangegaan is ten opsigte van aansoeke gedurende die verslagdoeningstydperk ontvang.

(2) 'n Verslag ingevolge subartikel (1) mag nie die identiteit van die betrokke persone bekend maak nie en moet besonderhede bevat van die aantal vrywillige blootleggingsooreenkomste en die bedrag aan belastinginkomste verbeur.

Naamlose vrywillige blootleggings

872. (1) Die doeanegesag kan, op versoek van 'n naamlose persoon, 'n nie-bindende privaatmening uitreik oor daardie persoon se geskiktheid vir vrywillige blootleggingsverligting ingevolge hierdie Hoofstuk, met inbegrip van die waarskynlike bedrag van reg of rente wat betaalbaar sal wees of van enige terugbetaling of teruggawe wat terugbetaal sal moet word aan die Kommissaris indien die verligting toegestaan sou word.

(2) 'n Versoek ingevolge subartikel (1), moet voldoende inligting verstrek ten einde die doeanegesag in staat te stel om aan die versoek te voldoen, maar hoef nie enige persoon te identifiseer wat vir die veroorsaking van die foutiewe bepaling van reg verantwoordelik is nie.

Reëls ter fasilitering van implementering van hierdie Hoofstuk

873. Reëls ingevolge artikel 903 uitgevaardig om die implementering van hierdie Hoofstuk te fasiliteer, kan reëls insluit wat die volgende voorskryf:

- (a) die vorm en formaat en inhoud van aansoeke om vrywillige blootleggingsverligting;
- (b) enige dokumente wat sodanige aansoeke moet vergesel;

- (c) the manner and time within which such applications must be lodged; and
- (d) the form and format of voluntary disclosure relief agreements.

CHAPTER 39

ADMINISTRATIVE PENALTIES

Types of administrative penalties 5

874. There are for purposes of enforcing this Act the following types of administrative penalties:

- (a) Fixed amount penalties referred to in section 876;
- (b) prosecution avoidance penalties referred to in section 878;
- (c) termination of seizure penalties referred to in section 881; 10
- (d) withdrawal of confiscation penalties referred to in section 881; and
- (e) missing goods penalties referred to in section 882.

Part 1

Administrative penalties for breaches of this Act

Punishment for breaches of this Act 15

875. If a person commits a breach of this Act, the customs authority may—

- (a) in the case of a non-prosecutable breach, impose a fixed amount penalty for the breach; or
- (b) in the case of a prosecutable breach— 20
 - (i) impose a prosecution avoidance penalty for the breach; or
 - (ii) lay a charge for the institution of criminal proceedings for the breach.

Fixed amount penalties

876. (1) (a) The Minister must by notice in the *Gazette* list non-prosecutable breaches of this Act for which fixed amount penalties may be imposed.

(b) A notice in terms of paragraph (a) must list non-prosecutable breaches under the different categories as set out in subsection (2). 25

(2) The fixed amount penalties for the different categories of non-prosecutable breaches of this Act are as follows:

FIXED AMOUNT PENALTIES

Category of breach	Amount of penalty	
Category A	Maximum of R2 500 ⁴⁶³	30
Category B	R5 000	
Category C	R7 500	
Category D	R10 000	35

(3) (a) If a person has been penalised in terms of section 877 for committing a non-prosecutable breach and within a period of three years after the penalty has been imposed, again commits the same non-prosecutable breach, the amount of the fixed amount penalty that may be imposed for that breach is double the applicable amount for that breach in terms of subsection (2). 40

(b) If a person has in accordance with paragraph (a) been penalised for committing a non-prosecutable breach with an amount double the applicable amount for that breach and thereafter, within the remaining part of the same three year period, again commits the same non-prosecutable breach, the amount of the fixed amount penalty that may be imposed for each time that breach was committed during the remaining part of that three year period, is three times the applicable amount for that breach in terms of subsection (2). 45

⁴⁶³ See section 877(3) for warning instead of penalty. A warning counts as a penalty for purposes of section 876(3).

- (c) die wyse waarop en tyd waarbinne sodanige aansoeke ingedien moet word; en
- (d) die vorm en formaat van vrywillige blootleggingsverligtings-ooreenkomste.

HOOFTUK 39

ADMINISTRATIEWE BOETES

Tipes administratiewe boetes 5

874. Daar is vir doeleindes van die toepassing van hierdie Wet die volgende tipes administratiewe boetes:

- (a) Vastebedragboetes in artikel 876 bedoel;
- (b) boetes ter vermyding van vervolging in artikel 878 bedoel;
- (c) beëindiging van beslaglegging-boetes in artikel 881 bedoel; 10
- (d) terugtrekking van konfiskering-boetes in artikel 881 bedoel; en
- (e) vermiste goedere-boetes in artikel 882 bedoel.

Deel 1

Administratiewe boetes vir breuke van hierdie Wet

Straf vir breuke van hierdie Wet 15

875. Indien 'n persoon 'n breuk van hierdie Wet begaan, kan die doeanegesag—

- (a) in die geval van 'n nie-vervolgbare breuk, 'n vastebedragboete vir die breuk oplê; of
- (b) in die geval van 'n vervolgbare breuk— 20
 - (i) 'n boete ter vermyding van vervolging vir die breuk oplê; of
 - (ii) 'n klag lê vir 'n strafregtelike vervolging vir die breuk.

Vastebedragboetes

876. (1) (a) Die Minister moet by kennisgewing in die *Staatskoerant* 'n lys opstel van nie-vervolgbare breuke van hierdie Wet waarvoor vastebedragboetes opgelê kan word.

(b) 'n Kennisgewing ingevolge paragraaf (a), moet nie-vervolgbare breuke lys onder verskillende kategorieë soos in subartikel (2) vermeld. 25

(2) Die vastebedragboetes vir die verskillende kategorieë nie-vervolgbare breuke van hierdie Wet is soos volg:

VASTEBEDRAGBOETES

Kategorie van breuk	Bedrag van boete	
Kategorie A	Maksimum van R2 500 ⁴⁶³	30
Kategorie B	R5 000	
Kategorie C	R7 500	
Kategorie D	R10 000	35

(3) (a) Indien iemand ingevolge artikel 877 vir die pleging van 'n nie-vervolgbare breuk beboet is en binne 'n tydperk van drie jaar nadat die boete opgelê is, weer dieselfde nie-vervolgbare breuk begaan, is die bedrag van die vastebedragboete wat vir daardie breuk opgelê kan word dubbel die toepaslike bedrag vir daardie breuk ingevolge subartikel (2). 40

(b) Indien iemand ooreenkomstig paragraaf (a) vir die pleging van 'n nie-vervolgbare breuk met 'n bedrag van dubbel die toepaslike bedrag vir daardie breuk beboet is en daarna, binne die oorblywende deel van dieselfde drie jaar tydperk, weer dieselfde nie-vervolgbare breuk begaan, is die bedrag van die vastebedragboete wat opgelê kan word vir elke keer wat 'n breuk gedurende die oorblywende deel van daardie drie jaar tydperk begaan word, drie keer die toepaslike bedrag vir daardie breuk ingevolge subartikel (2). 45

463. Kyk artikel 877(3) vir waarskuwing in plek van boete. 'n Waarskuwing tel as 'n boete vir doeleindes van artikel 876(3).

(4) No fixed amount penalty may be imposed in terms of this section for a breach consisting of a failure to submit to the customs authority full or accurate information, other than information that may result in revenue prejudice, if the breach was committed inadvertently and in good faith.

Procedure for imposing fixed amount penalties

5

877. (1) If a person commits a non-prosecutable breach of this Act listed in terms of section 876(1), the customs authority may by notice to that person impose the appropriate fixed amount penalty for the breach in accordance with section 876.

(2) A penalty imposed in terms of subsection (1) must be paid to the Commissioner on or before a date stated in the notice or to which that date may have been postponed in terms of section 908. 10

(3) The customs authority may for a Category A breach referred to in the Table in section 876(2) consisting of a failure to submit to the customs authority full or accurate information other than information that may result in revenue prejudice, impose in terms of subsection (1) a fixed amount penalty for the breach only after it has issued a warning for the same or a similar type of breach to the person who committed the breach. 15

Prosecution avoidance penalties

878. (1) A prosecution avoidance penalty may, instead of a criminal prosecution, be imposed on a person who becomes liable to prosecution for any prosecutable breach of this Act. 20

(2) Subsection (1) may not be applied to a person who on—

- (a) two separate occasions paid a prosecution avoidance penalty for a Category 1 offence and within a period of five years from the date of payment of the penalty on the first occasion again becomes liable to prosecution for a Category 1 offence; 25
- (b) three separate occasions paid a prosecution avoidance penalty for a Category 2 offence and within a period of five years from the date of payment of the penalty on the first occasion again becomes liable to prosecution for a Category 2 offence; or
- (c) three separate occasions paid a prosecution avoidance penalty for any offence in terms of this Act and within a period of five years from the date of payment of the penalty on the first occasion again becomes liable to prosecution for an offence in terms of this Act. 30

Procedure for imposing prosecution avoidance penalties

879. (1) If a person is liable to prosecution for a prosecutable breach of this Act, the customs authority may, subject to section 878(2), issue to that person a notice informing that person of the alleged breach and that prosecution can be avoided if that person elects to have the matter summarily settled by the customs authority by paying a prosecution avoidance penalty to the Commissioner on or before a date stated in the notice. 35

(2) The amount of a prosecution avoidance penalty imposed in terms of subsection (1)— 40

- (a) must be determined in accordance with any limits as may be set by the Commissioner; and
 - (b) may not exceed the maximum fine a court may impose upon conviction of a person for the relevant breach. 45
- (3) Payment of a prosecution avoidance penalty in terms of this section—
- (a) does not amount to a conviction of the person paying the penalty in respect of the relevant breach; and
 - (b) indemnifies the person from prosecution for that breach.

(4) Geen vastebedragboete mag ingevolge hierdie artikel vir 'n breuk opgelê word wat bestaan uit 'n versuim om volledige en juiste inligting, uitgesonderd inligting wat inkomstebenedeling tot gevolg mag hê, aan die doeanegesag voor te lê nie indien die breuk per abuis en te goedertrou begaan is.

Prosedure vir oplegging van vastebedragboetes

5

877. (1) Indien iemand 'n nie-vervolgbare breuk van hierdie Wet begaan wat ingevolge artikel 876(1) gelys is, kan die doeanegesag by kennisgewing aan daardie persoon die toepaslike vastebedragboete vir die breuk ooreenkomstig artikel 876 oplê.

(2) 'n Boete ingevolge subartikel (1) opgelê, moet aan die Kommissaris betaal word voor of op 'n datum in die kennisgewing vermeld of waartoe daardie datum ingevolge artikel 908 uitgestel mag word. 10

(3) Die doeanegesag kan vir 'n Kategorie A breuk bedoel in die Tabel in artikel 876(2) wat bestaan uit 'n versuim om volledige en juiste inligting, uitgesonderd inligting wat inkomstebenedeling tot gevolg mag hê, aan die doeanegesag voor te lê, 'n vastebedragboete ingevolge subartikel (1) vir die breuk oplê slegs nadat hy 'n skriftelike waarskuwing vir dieselfde of 'n soortgelyke tipe breuk aan die persoon wat die breuk begaan het, uitgereik het. 15

Boetes ter vermyding van vervolging

878. (1) Iemand wat vervolgbaar raak vir enige vervolgbare breuk van hierdie Wet kan, instelle van 'n strafregtelike vervolging, 'n boete ter vermyding van vervolging opgelê word. 20

(2) Subartikel (1) geld nie vir iemand wat by—

(a) twee afsonderlike geleenthede 'n boete ter vermyding van vervolging vir 'n Kategorie 1 misdryf betaal het en binne 'n tydperk van vyf jaar vanaf die datum van betaling van die boete by die eerste geleentheid opgelê, weer vir 'n Kategorie 1 misdryf vervolgbaar word nie; 25

(b) drie afsonderlike geleenthede 'n boete ter vermyding van vervolging vir 'n Kategorie 2 misdryf betaal het en binne 'n tydperk van vyf jaar vanaf die datum van betaling van die boete by die eerste geleentheid opgelê, weer vir 'n Kategorie 2 misdryf vervolgbaar word nie; of 30

(c) drie afsonderlike geleenthede 'n boete ter vermyding van vervolging vir enige misdryf ingevolge hierdie Wet betaal het en binne 'n tydperk van vyf jaar vanaf die datum van betaling van die boete by die eerste geleentheid opgelê, weer vir 'n misdryf ingevolge hierdie Wet vervolgbaar word nie.

Prosedure vir oplegging van boetes ter vermyding van vervolging

35

879. (1) Indien iemand vervolgbaar word vir 'n vervolgbare breuk van hierdie Wet kan die doeanegesag, behoudens artikel 878(2), 'n kennisgewing aan so iemand uitreik wat daardie persoon in kennis stel van die beweerde breuk en dat vervolging vermy kan word indien daardie persoon verkies om die aangeleentheid summier deur die doeanegesag te laat skik deur 'n boete ter vermyding van vervolging op of voor 'n datum in die kennisgewing vermeld aan die Kommissaris te betaal. 40

(2) Die bedrag van 'n boete ter vermyding van vervolging ingevolge subartikel (1) opgelê—

(a) moet bepaal word in ooreenstemming met enige perke wat deur die Kommissaris gestel mag word; en 45

(b) mag nie die maksimum boete oorskry wat 'n hof by skuldigbevinding van iemand vir die betrokke breuk mag oplê nie.

(3) Betaling van 'n boete ter vermyding van vervolging ingevolge hierdie artikel—

(a) word nie gereken as 'n skuldigbevinding van iemand wat die boete ten opsigte van die betrokke breuk betaal het nie; en 50

(b) stel die persoon van vervolging vir daardie breuk vry.

Effect of detention, seizure or confiscation of goods on application of this Part

880. The detention, seizure or confiscation of goods in terms of this Act does not prevent the application of this Part in relation to breaches of this Act committed in respect of those goods.

Part 2

5

Other administrative penalties

Termination of seizure and withdrawal of confiscation penalties

881. (1) If the customs authority approves an application in terms of 765 to terminate a seizure or in terms of section 768 to withdraw a confiscation of goods, the customs authority may as a condition for the approval of the application require the applicant to pay an administrative penalty not exceeding the customs value of the goods or, in the case of goods manufactured in an excise warehouse, the value of the goods as determined in terms of the Excise Duty Act. 10

(2) A penalty imposed in terms of subsection (1) must be paid to the Commissioner on or before a date stated in the notice referred to in section 765(7) or 768(7) or to which that date may have been postponed in terms of section 908. 15

Missing goods penalties for goods to be confiscated

882. (1) If goods that are liable to confiscation are to be seized in terms of section 762 and the goods cannot readily be found, the customs authority may, in lieu of the goods, by notice to any one or more of the following persons impose a missing goods penalty equal to the customs value of the goods or, in the case of goods manufactured in an excise warehouse, the value of the goods as determined in terms of the Excise Duty Act: 20

- (a) The person who committed the act which rendered the goods liable to confiscation;
- (b) the person in whose possession the goods were or on reasonable grounds believed to have been immediately before the decision to seize the goods; 25
- (c) the importer or exporter of the goods or, if the importer or exporter is not located in the Republic, the registered agent in the Republic of the importer or exporter; or
- (d) the person who was the owner of the goods at the time of the decision to seize the goods or, if the owner is not located in the Republic, the registered agent in the Republic of the owner. 30

(2) A penalty imposed in terms of subsection (1) must be paid to the Commissioner on or before a date stated in the notice or to which that date may have been postponed in terms of section 908. 35

Part 3

General matters

Applicability of Chapter 37 proceedings⁴⁶⁴

883. (1) The proceedings provided for in Chapter 37, as may be appropriate in the circumstances, apply in respect of— 40

- (a) the imposition of an administrative penalty; or
- (b) the amount of the penalty.

⁴⁶⁴. As a general rule, none of the proceedings referred to in Chapter 37 affect or suspend the obligation to pay an administrative penalty. See section 830.

Effek van detensie, beslaglegging of konfiskering van goedere op toepassing van hierdie Deel

880. Die detensie, beslaglegging of konfiskering van goedere ingevolge hierdie Wet verhinder nie die toepassing van hierdie Deel met betrekking tot breuke van hierdie Wet wat ten opsigte van daardie goedere begaan word nie. 5

Deel 2

Ander administratiewe boetes

Beëindiging van beslaglegging- en terugtrekking van konfiskering-boetes

881. (1) Indien die doeanegesag 'n aansoek ingevolge 765 om 'n beslaglegging te beëindig of ingevolge artikel 768 om 'n konfiskering van goedere terug te trek, goedkeur, kan die doeanegesag as 'n voorwaarde vir die goedkeuring van die aansoek 'n vereiste stel dat die applikant 'n administratiewe boete betaal wat nie die doeanewaarde van die goedere oorskry nie of, in die geval van goedere in 'n aksynspakhuis vervaardig, wat nie die waarde van die goedere soos ingevolge die Wet op Aksynsreg bepaal, oorskry nie. 15

(2) 'n Boete ingevolge subartikel (1) opgelê, moet aan die Kommissaris betaal word op of voor 'n datum vermeld in die kennisgewing in artikel 765(7) of 768(7) bedoel, of waartoe daardie datum ingevolge artikel 908 uitgestel mag word.

Vermiste goedere-boetes vir goedere wat gekonfiskeer moet word

882. (1) Indien daar op goedere wat aan konfiskering onderhewig is ingevolge artikel 762 beslag gelê moet word en die goedere nie redelikerwyse gevind kan word nie, kan die doeanegesag, in plek van die goedere, by kennisgewing aan enige een of meer van die volgende persone 'n vermiste goedere-boete oplê gelyk aan die doeanewaarde van die goedere of, in die geval van goedere in 'n aksynspakhuis vervaardig, die waarde van die goedere soos ingevolge die Wet op Aksynsreg bepaal: 25

- (a) Die persoon wat die daad begaan het wat die goedere aan konfiskering onderhewig gestel het;
- (b) die persoon in wie se besit die goedere was, of op redelike gronde geglo word te gewees het, onmiddellik voordat die besluit om op die goedere beslag te lê, geneem is; 30
- (c) die invoerder of uitvoerder van die goedere of, indien die invoerder of uitvoerder nie in die Republiek gesetel is nie, die geregistreerde agent in die Republiek van die invoerder of uitvoerder; of
- (d) die persoon wat die eienaar van die goedere was op die tydstip van die besluit om op die goedere beslag te lê of, indien die eienaar nie in die Republiek gesetel is nie, die geregistreerde agent in die Republiek van die eienaar. 35

(2) 'n Boete ingevolge subartikel (1) opgelê, moet aan die Kommissaris betaal word op of voor 'n datum in die kennisgewing vermeld, of waartoe daardie datum ingevolge artikel 908 uitgestel mag word.

Deel 3 40

Algemene aangeleenthede

Toepasbaarheid van Hoofstuk 37 verrigtinge⁴⁶⁴

883. (1) Die verrigtinge waarvoor in Hoofstuk 37 voorsiening gemaak word, soos ook al in die omstandighede gepas mag wees, is van toepassing ten opsigte van— 45

- (a) die oplegging van 'n administratiewe boete; of
- (b) die bedrag van die boete.

464. As 'n algemene reël, raak of skort geeneen van die verrigtinge bedoel in Hoofstuk 37 die verpligting op om 'n administratiewe boete te betaal nie. Kyk artikel 830.

(2) Only the amount of a prosecution avoidance penalty and not the imposition of the penalty is subject to proceedings in terms of Part 3, 4 or 5 of Chapter 37.⁴⁶⁵

Rules to facilitate implementation of this Chapter

884. Rules made in terms of section 903 to facilitate the implementation of this Chapter may include rules prescribing the form and format of a notice referred to in section 877(1), 879(1) or 882(1) and the information which such a notice must contain. 5

Offences in terms of this Chapter

885. A person is guilty of an offence if that person has repeatedly for at least five times within a calendar year been penalised in terms of section 877 for committing a non-prosecutable breach or breaches of this Act and that person thereafter again commits a non-prosecutable breach of this Act within the same calendar year. 10

CHAPTER 40

JUDICIAL MATTERS

Part 1

Offences⁴⁶⁶ and penalties 15

Categories of offences in terms of this Act

886. (1) An offence in terms of this Act must be classified as a Category 2 offence unless expressly stated in this Act that it is a Category 1 offence.

(2) An offence classified in terms of subsection (1) as a Category 2 offence, becomes a Category 1 offence despite that subsection if it is proved that the offence was committed to evade tax. 20

General Category 1 offences

- 887.** (1) A person is guilty of a Category 1 offence if that person—
- (a) makes a false statement or provides false or misleading information or omits to state with the intention to mislead information in any document that must in terms of this Act— 25
 - (i) be submitted to the Commissioner or the customs authority; or
 - (ii) be kept or retained by that person;
 - (b) submits to the Commissioner or the customs authority or produces to a customs officer a document in terms of this Act which— 30
 - (i) contains a false statement or incorrect information which that person knows is not true or could not reasonably have believed to be true; or
 - (ii) states, or omits to state, information which is stated or omitted with the intention to mislead;
 - (c) makes use of a document for purposes of this Act which— 35
 - (i) contains a false statement or incorrect information which that person knows is not true or could not reasonably have believed to be true; or
 - (ii) states, or omits to state, information which is stated or omitted with the intention to mislead;
 - (d) makes a false statement or provides false or misleading information when questioned by, or complying with a request of, a customs officer; 40

465. The imposition of a prosecution avoidance penalty cannot be subject to appeal as the person paying the penalty did so because of own choice.

466. For criminal proceedings against corporate bodies or associations of persons other than corporate bodies, see section 332 of the Criminal Procedure Act, 1977 (Act No. 51 of 1977).

(2) Slegs die bedrag van 'n boete ter vermyding van vervolging, en nie die oplegging van die boete nie, is aan verrigtinge ingevolge Deel 3, 4 of 5 van Hoofstuk 37 onderworpe.⁴⁶⁵

Reëls ter fasilitering van implementering van hierdie Hoofstuk

884. Reëls ingevolge artikel 903 uitgevaardig om die implementering van hierdie Hoofstuk te fasiliteer, kan reëls insluit wat die vorm en formaat van 'n kennisgewing in artikel 877(1), 879(1) of 882(1) bedoel, en die inligting wat so 'n kennisgewing moet bevat, voorskryf. 5

Misdrywe ingevolge hierdie Hoofstuk

885. 'n Persoon is aan 'n misdryf skuldig indien daardie persoon herhaaldelik vir minstens vyf keer binne 'n kalenderjaar ingevolge artikel 877 vir die pleging van 'n nie-vervolgbare breuk of breuke van hierdie Wet beboet is en daardie persoon daarna weer 'n nie-vervolgbare breuk van hierdie Wet binne dieselfde kalenderjaar begaan. 10

HOOFSTUK 40

GEREGTELIKE AANGELEENTHEDE 15

Deel 1

Misdrywe⁴⁶⁶ en strawwe

Kategorieë misdrywe ingevolge hierdie Wet

886. (1) 'n Misdryf ingevolge hierdie Wet moet geklassifiseer word as 'n Kategorie 2 misdryf tensy daar uitdruklik in hierdie Wet bepaal word dat dit 'n Kategorie 1 misdryf is. 20

(2) 'n Misdryf wat ingevolge subartikel (1) as 'n Kategorie 2 misdryf geklassifiseer word, word 'n Kategorie 1 misdryf ondanks daardie subartikel indien daar bewys word dat die misdryf gepleeg is om belasting te ontduik.

Algemene Kategorie 1 misdrywe 25

887. (1) Iemand is aan 'n Kategorie 1 misdryf skuldig indien so iemand—

- (a) 'n vals verklaring maak of vals of misleidende inligting verstrek, of met die bedoeling om te mislei, versuim om inligting te verstrek in enige dokument wat ingevolge hierdie Wet—
 - (i) by die Kommissaris of die doeanegesag ingedien moet word; of 30
 - (ii) deur daardie persoon gehou of bewaar moet word;
- (b) 'n dokument ingevolge hierdie Wet by die Kommissaris of die doeanegesag indien of aan 'n doeaneebeampte toon wat—
 - (i) 'n vals verklaring of foutiewe inligting bevat wat so iemand weet nie waar is nie of nie redelikerwyse as waar kon beskou het nie; of 35
 - (ii) inligting vermeld of verswyg wat vermeld of verswyg word met die bedoeling om te mislei;
- (c) vir doeleindes van hierdie Wet gebruik maak van 'n dokument wat—
 - (i) 'n vals verklaring of foutiewe inligting bevat wat daardie persoon weet nie waar is nie of nie redelikerwyse as waar kon beskou het nie; of 40
 - (ii) inligting vermeld of verswyg wat vermeld of verswyg word met die bedoeling om te mislei;
- (d) 'n vals verklaring maak of vals of misleidende inligting verstrek wanneer so iemand ondervra word deur, of voldoen aan 'n versoek van, 'n doeaneebeampte; 45

465. Die oplegging van 'n boete ter vermyding van vervolging kan nie aan appèl onderhewig wees nie aangesien die persoon wat die boete betaal dit uit eie keuse doen.

466. Vir strafregtelike verrigtinge teen regsenteite of verenigings van persone anders as regsenteite, kyk artikel 332 van die Strafproseswet, 1977 (Wet No. 51 van 1977).

- (e) proposes to a customs officer, or gives or promises to give any reward to a customs officer, whether directly or through a third party—
 - (i) to refrain from doing something which that officer must or may do in terms of this Act or a tax levying Act; or
 - (ii) to induce that customs officer to do something which the customs officer may do or may not do in terms of this Act or a tax levying Act; 5
- (f) conspires with a customs officer to do or permit anything in breach of this Act;
- (g) without lawful excuse, brings into the Republic, produces, has in possession or makes available to another person—
 - (i) any blank or incomplete invoice or any billhead or other similar document capable of being completed and used as an invoice for imported goods; or 10
 - (ii) any stamp the imprint of which depicts the name of a company, firm or other business entity in the Republic or a foreign country, or any signs or letters which could be reasonably understood to be a reference to such company, firm or business entity; 15
- (h) without lawful excuse, uses, controls, has in possession or makes available to another person—
 - (i) any official stamp used on authority of the Commissioner for purposes of this Act or a tax levying Act; 20
 - (ii) any other stamp the imprint of which is identical to or resembles the imprint of an official stamp referred to in subparagraph (i); or
 - (iii) a stamp used by a government authority in a foreign country for purposes of customs control or the import or export of goods;
- (i) without lawful excuse, removes, breaks, damages or interferes or tampers with any lock, meter, gauge, rod, seal, mark or fastening placed on or fitted to any warehouse, building, enclosure or other facility, any vessel, aircraft, railway carriage or vehicle, or any container, package or other article, or any goods, in terms of this Act; 25
- (j) conceals, disposes of, processes, damages or destroys any goods to prevent the goods from being detected by the customs authority or to prevent the detention, seizure or confiscation of the goods in terms of this Act; 30
- (k) diverts for home use—
 - (i) goods imported into the Republic—
 - (aa) that have not been cleared for home use or a customs procedure; or 35
 - (bb) that have been cleared for home use but not released for home use; or
 - (ii) goods under a customs procedure,⁴⁶⁷ including compensating products under the inward or outward processing procedure; 40
- (l) conceals diverted goods; 40
- (m) buys, acquires or receives diverted goods from another without reasonable cause for believing that the goods are in free circulation;
- (n) makes an arrangement with a person who supplies, produces, processes or sells goods, or with an agent of any such person or through an intermediary, with the object of defeating or evading a provision of this Act in relation to a quantity of such goods imported or to be imported into, or exported or to be exported from, the Republic; 45
- (o) makes improper use of a licence, registration certificate, accreditation certificate, permit or any other document issued in relation to goods to which this Act applies; or 50
- (p) attempts to commit or assists in committing an act which is a Category 1 offence in terms of this section or any other section of this Act.

⁴⁶⁷. Goods come under a customs procedure when cleared for that customs procedure. See provisions on commencement of customs procedures in Chapters dealing with each customs procedure.

- (e) aan 'n doeanebeampte voorstel, of enige beloning aan 'n doeanebeampte gee of belowe, hetsy direk of deur 'n derde party—
- (i) om nie iets te doen wat daardie beampte ingevolge hierdie Wet of 'n belastingheffings-Wet moet of mag doen nie; of
 - (ii) om daardie doeanebeampte te oorreed om iets te doen wat die doeanebeampte ingevolge hierdie Wet of 'n belastingheffings-Wet mag doen of nie mag doen nie; 5
- (f) met 'n doeanebeampte saamsweer om enigiets te doen of toe te laat wat 'n breuk van hierdie Wet is;
- (g) sonder wettige verskoning enige van die volgende in die Republiek inbring, produseer, in besit het of tot 'n ander persoon se beskikking stel: 10
- (i) Enige blanko of onvoltooide faktuur of enige rekeningvorm of ander soortgelyke dokument wat as 'n faktuur vir ingevoerde goedere voltooi en gebruik kan word; of
 - (ii) enige stempel waarvan die afdruk die naam aantoon van 'n maatskappy, firma of ander besigheidsentiteit in die Republiek of 'n ander land, of enige tekens of letters aantoon wat redelikerwyse verstaan kan word as 'n verwysing na so 'n maatskappy, firma of ander besigheidsentiteit te wees; 15
- (h) sonder wettige verskoning, enige van die volgende gebruik, beheer, in besit het of tot 'n ander persoon se beskikking stel: 20
- (i) Enige amptelike stempel wat op gesag van die Kommissaris vir doeleindes van hierdie Wet of 'n belastingheffings-Wet gebruik word;
 - (ii) enige ander stempel waarvan die afdruk identies is aan, of ooreenstem met, die afdruk van 'n amptelike stempel in subparagraaf (i) bedoel; of 25
 - (iii) 'n stempel wat deur 'n staatsowerheid in 'n ander land vir doeleindes van doeanebeheer of die invoer of uitvoer van goedere gebruik word;
- (i) sonder wettige verskoning enige slot, meter, maatstok, seël, merk of vasmaakmiddel wat ingevolge hierdie Wet geplaas is op of geheg is aan enige pakhuis, gebou, afskorting of ander fasiliteit, enige vaartuig, vliegtuig, spoorwegwa of voertuig, of enige houer, verpakking of ander artikel, of enige goedere, verwyder, breek, beskadig of daarmee inmeng of peuter; 30
- (j) enige goedere wegsteek, van die hand sit, prosesseer, beskadig of vernietig om te verhoed dat die goedere deur die doeanebeslag opgespoor word of om die detensie, beslaglegging of konfiskering van die goedere ingevolge hierdie Wet te voorkom; 35
- (k) vir binnelandse gebruik afwend—
- (i) goedere in die Republiek ingevoer—
 - (aa) wat nie vir binnelandse gebruik of 'n doeane-prosedure geklaar is nie; of 40
 - (bb) wat vir binnelandse gebruik geklaar is maar nie vir binnelandse gebruik vrygestel is nie; of
 - (ii) goedere onder 'n doeane-prosedure,⁴⁶⁷ met inbegrip van kompenseerende produkte onder die prosedure vir inwaartse of uitwaartse prosessering; 45
- (l) goedere wat afgewend is, wegsteek;
- (m) goedere wat afgewend is, koop, aanskaf of ontvang van 'n ander sonder redelike gronde om te glo dat die goedere in vry sirkulasie is; of
- (n) 'n reëling aangaan met 'n persoon wat goedere verskaf, produseer, prosesseer of verkoop, of met 'n agent van so 'n persoon of deur 'n tussenganger, met die doel om 'n bepaling van hierdie Wet met betrekking tot 'n hoeveelheid van sodanige goedere wat ingevoer is of word in, of uitgevoer is of word uit, die Republiek, te verydel of te ontduik; 50
- (o) onbehoorlik gebruik maak van 'n lisensie, registrasiesertifikaat, sertifikaat van akkreditasie, permit of enige ander dokument wat met betrekking tot goedere waarop hierdie Wet van toepassing is, uitgereik is; of 55
- (p) pog om 'n daad wat 'n Kategorie 1 misdryf ingevolge hierdie artikel of enige ander artikel van hierdie Wet is, te pleeg of bystand in die pleging van so 'n daad verleen.

467. Goedere kom onder 'n doeane-prosedure wanneer dit vir daardie doeane-prosedure geklaar word. Kyk bepalinge oor die aanvang van doeane-prosedures in Hoofstukke wat met elke doeane-prosedure handel.

(2) Proof that a person charged with the commission of an offence referred to in subsection (1)(m) purchased, acquired or received from another person the goods which are the subject of the charge and that those goods are diverted goods, is, in the absence of evidence to the contrary which raises a reasonable doubt, sufficient evidence of the absence of reasonable cause. 5

(3) For purposes of subsection (1)(l) or (m) or (2) “**diverted goods**” means goods referred to in subsection (1)(k)(i) or (ii) that have been diverted for home use, but does not include goods which after their diversion have been detained, seized or confiscated in terms of this Act or disposed of in accordance with any applicable legislation.

General Category 2 offences 10

888. A person is guilty of a Category 2 offence if that person—

- (a) hinders or interferes with the customs authority or a customs officer in the performance of an enforcement function or obstructs or prevents the customs authority or a customs officer from performing an enforcement function; 15
- (b) pretends to be a customs officer, or the interpreter or assistant of, or any other person accompanying, a customs officer; 15
- (c) performs an act without the authorisation, permission or approval of the customs authority if such act may in terms of this Act only be performed on authority of such authorisation, permission or approval; 20
- (d) contravenes or fails to comply with a condition subject to which any release, authorisation, permission, approval, exemption or recognition was granted by the customs authority in terms of this Act; or 20
- (e) attempts to commit or assists in committing an act which is a Category 2 offence in terms of this section or any other section of this Act.

Offences committed at places of entry or exit outside Republic 25

889. (1) A person is guilty of an offence if that person at a place outside the Republic designated in terms of section 34 to be a place of entry or exit for the Republic, commits an act which would have constituted an offence in terms of this Act had that act been committed at a place of entry or exit inside the Republic.

(2) A person charged with an offence in terms of subsection (1) may be prosecuted for that offence in any court having jurisdiction at the place where the accused happens to be in the Republic. 30

Penalties for Category 1 offences

890. (1) A person convicted of a Category 1 offence in terms of this Act is liable to imprisonment for a period not exceeding five years or to a fine not exceeding R1 000 000 or a higher amount prescribed in terms of the Adjustment of Fines Act, 1991 (Act No. 101 of 1991), or to both that fine and that imprisonment. 35

(2) If a person convicted for an offence referred to in section 887(1) is at any time within five years of the date of conviction again convicted for an offence referred to in that section, the court must consider the imposition of a period of imprisonment not exceeding the period referred to in subsection (1) without the option of a fine or both such imprisonment and a fine referred to in that subsection. 40

(3) This section does not affect the application of section 891.

Additional punitive powers of courts in criminal proceedings

891. A court convicting a person for an offence referred to in section 186(5) or (6) or 887(1)(a), (b), (c), (d), (e), (f), (g), (h), (k), (l), (m) or (n) may— 45

- (a) summarily inquire into any benefit the convicted person gained by committing the offence;
- (b) determine the monetary value of that benefit; and

(2) Bewys dat 'n persoon wat aangekla word van die pleeg van 'n misdryf bedoel in subartikel (1)(m), die goedere wat die onderwerp van die aanklag is van 'n ander persoon gekoop, aangeskaf of ontvang het en dat daardie goedere goedere is wat afgewend is, is in die afwesigheid van getuienis tot die teendeel wat redelike twyfel daarstel, voldoende bewys van die afwesigheid van redelike gronde. 5

(3) By die toepassing van subartikel (1)(l) of (m) of (2) beteken “**goedere wat afgewend is**” goedere in subartikel (1)(k)(i) of (ii) bedoel wat vir binnelandse gebruik afgewend is, maar sluit nie goedere in wat, nadat hulle afgewend is, ingevolge hierdie Wet onder detensie geplaas, op beslag gelê of gekonfiskeer is of ooreenkomstig enige toepaslike wetgewing oor beskik is nie. 10

Algemene Kategorie 2 misdrywe

888. Iemand is aan 'n Kategorie 2 misdryf skuldig indien so iemand—

- (a) die doeanegesag of 'n doeanebeampte in die verrigting van 'n toepassings-funksie pla of daarmee inmeng of die doeanegesag of 'n doeanebeampte keer of verhinder om 'n toepassingsfunksie te verrig; 15
- (b) hom of haar voordoen as 'n doeanebeampte, of as die tolk of assistent van 'n doeanebeampte, of as enige ander persoon wat 'n doeanebeampte vergesel;
- (c) 'n handeling sonder die magtiging, toestemming of goedkeuring van die doeanegesag verrig indien so 'n handeling ingevolge hierdie Wet slegs op gesag van sodanige magtiging, toestemming of goedkeuring verrig mag word; 20
- (d) 'n voorwaarde waarop enige vrystelling, magtiging, toestemming, goedkeuring, ontheffing of erkenning deur die doeanegesag ingevolge hierdie Wet toegestaan is, oortree of versuim om daaraan te voldoen; of
- (e) poog om 'n daad wat 'n Kategorie 2 misdryf ingevolge hierdie artikel of enige ander artikel van hierdie Wet is, te pleeg of bystand in die pleging van so 'n daad verleen. 25

Misdrywe gepleeg by plekke van toegang of uitgang buite Republiek

889. (1) Iemand is aan 'n misdryf skuldig indien so iemand by 'n plek buite die Republiek wat ingevolge artikel 34 as 'n plek van toegang of uitgang vir die Republiek aangewys is, 'n daad pleeg wat 'n misdryf ingevolge hierdie Wet sou wees indien daardie daad by 'n plek van toegang of uitgang binne die Republiek gepleeg is. 30

(2) Iemand wat van 'n misdryf ingevolge subartikel (1) aangekla word, kan vir daardie misdryf vervolg word in enige hof wat jurisdiksie het by die plek waar die beskuldigde hom of haar in die Republiek bevind.

Strawwe vir Kategorie 1 misdrywe 35

890. (1) Iemand wat aan 'n Kategorie 1 misdryf ingevolge hierdie Wet skuldig bevind word, is by skuldigbevinding strafbaar met gevangenisstraf vir 'n tydperk van hoogstens vyf jaar of met 'n boete van hoogstens R1 000 000 of 'n hoër bedrag wat ingevolge die Wet op Aanpassing van Boetes, 1991 (Wet No. 101 van 1991), voorgeskryf mag word, of met beide daardie boete en daardie gevangenisstraf. 40

(2) Indien iemand wat aan 'n misdryf bedoel in artikel 887(1) skuldig bevind is te eniger tyd binne vyf jaar na die datum van skuldigbevinding weer aan 'n misdryf bedoel in daardie artikel skuldig bevind word, moet die hof die oplegging oorweeg van 'n tydperk van gevangenisstraf van hoogstens die tydperk bedoel in subartikel (1) sonder die opsie van 'n boete, of van beide sodanige gevangenisstraf en 'n boete in daardie subartikel bedoel. 45

(3) Hierdie artikel doen nie afbreuk aan die toepassing van artikel 891 nie.

Bykomende strafbevoegdhede van howe in strafregtelike verrigtinge

891. 'n Hof wat iemand aan 'n misdryf bedoel in artikel 186(5) of (6) of 887(1)(a), (b), (c), (d), (e), (f), (g), (h), (k), (l), (m) of (n) skuldig bevind, kan— 50

- (a) op staande voet ondersoek instel na enige voordeel wat die veroordeelde persoon uit die pleeg van die misdryf verkry het;
- (b) die geldwaarde van daardie voordeel bepaal; en

- (c) in addition to any other penalty imposed on that person for the commission of that offence, impose a fine on that person not exceeding three times the amount of the monetary value of that benefit.

Penalties for Category 2 offences

892. A person convicted of a Category 2 offence in terms of this Act is liable to imprisonment for a period not exceeding three years or to a fine not exceeding R500 000 or a higher amount prescribed in terms of the Adjustment of Fines Act, 1991 (Act No. 101 of 1991), or to both that fine and that imprisonment. 5

Liability of registered agents and of persons managing juristic entities

893. (1) If an importer, exporter, carrier or other person not located in the Republic commits an act (including an omission to perform an act) which is an offence in terms of this Act, the registered agent in the Republic of that importer, exporter, carrier or other person is guilty of an offence if that agent— 10

- (a) knew or should reasonably have known that the importer, exporter, carrier or other person is to commit that act and failed to take reasonable steps within the powers of that agent to prevent that importer, exporter, carrier or other person from committing that act; or 15
- (b) when becoming aware of that act, failed to notify the customs authority of the commission of that act.

(2) If a juristic entity commits an act (including an omission to perform an act) which is an offence in terms of this Act, a person who is a director, administrator or trustee of that entity is guilty of an offence if that person— 20

- (a) knew or should reasonably have known that the entity is to commit that act and failed to take reasonable steps within the powers of that person to prevent the entity from committing that act; or 25
- (b) when becoming aware of that act, failed to notify the customs authority of the commission of that act.

(3) An offence in terms of subsection (1) or (2) is—

- (a) a Category 1 offence if the offence committed by the importer, exporter, carrier or other person, or the juristic entity, is a Category 1 offence; or 30
- (b) a Category 2 offence if the offence committed by the importer, exporter, carrier or other person, or the juristic entity, is a Category 2 offence.

(4) If a juristic entity is liable to prosecution for a breach of this Act which is an offence in terms of this Act, any person who, at the time of the commission of that breach, was a director, administrator or trustee of that juristic entity, or an employee of that entity in a managerial position, or managing on behalf of the entity any premises or business in or in connection with which that breach was committed, is in addition to the entity liable to prosecution for that breach— 35

- (a) if that person— 40
- (i) acting on behalf or in the interests of the entity actually committed the breach; or
- (ii) participated in the commission of the breach; or
- (b) if that person did not actually commit or participated in the commission of the breach, but failed to take reasonable steps within his or her powers when becoming aware of the breach, to prevent the entity from continuing with the commission of the breach. 45

Liability of ordinary employees of juristic entities

894. If a juristic entity is liable to prosecution for a breach of this Act which is an offence in terms of this Act, any person who at the time of the commission of that breach

- (c) benewens enige ander straf wat daardie persoon vir die pleeg van daardie misdryf opgelê word, daardie persoon 'n boete oplê van hoogstens drie keer die geldwaarde van die voordeel.

Strawwe vir Kategorie 2 misdrywe

892. Iemand wat aan 'n Kategorie 2 misdryf ingevolge hierdie Wet skuldig bevind word, is by skuldigbevinding strafbaar met gevangenisstraf vir 'n tydperk van hoogstens drie jaar of met 'n boete van hoogstens R500 000 of 'n hoër bedrag wat ingevolge die Wet op Aanpassing van Boetes, 1991 (Wet No. 101 van 1991), voorgeskryf mag word, of met beide daardie boete en daardie gevangenisstraf. 5

Aanspreeklikheid van geregistreerde agente en van persone wat regsentiteite bestuur 10

893. (1) Indien 'n invoerder, uitvoerder, vervoerder of ander persoon wat nie in die Republiek gesetel is nie 'n daad pleeg (met inbegrip van 'n versuim om 'n handeling te verrig) wat 'n misdryf ingevolge hierdie Wet is, is die geregistreerde agent in die Republiek van daardie invoerder, uitvoerder, vervoerder of ander persoon aan 'n misdryf skuldig indien daardie agent— 15

- (a) geweet het of redelikerwyse moes geweet het dat die invoerder, uitvoerder, vervoerder of ander persoon daardie daad sou pleeg en versuim het om binne die magte van daardie agent redelike stappe te doen om te voorkom dat daardie invoerder, uitvoerder, vervoerder of ander persoon daardie daad pleeg; of 20
- (b) toe die agent bewus geword het van daardie daad, versuim het om die doeanegesag van die pleging van daardie daad in kennis te stel.

(2) Indien 'n regsentiteit 'n daad pleeg (met inbegrip van 'n versuim om 'n handeling te verrig) wat 'n misdryf ingevolge hierdie Wet is, is 'n persoon wat 'n direkteur, administrateur of trustee van daardie entiteit is aan 'n misdryf skuldig indien so iemand— 25

- (a) geweet het of redelikerwyse moes geweet het dat die entiteit daardie daad sou pleeg en versuim het om binne die magte van daardie persoon redelike stappe te doen om te voorkom dat die entiteit daardie daad pleeg; of 30
- (b) toe hy of sy bewus geword het van daardie daad, versuim het om die doeanegesag van die pleging van daardie daad in kennis te stel.

(3) 'n Misdryf ingevolge subartikel (1) of (2) is—

- (a) 'n Kategorie 1 misdryf indien die misdryf wat deur die invoerder, uitvoerder, vervoerder of ander persoon, of die regsentiteit, gepleeg is 'n Kategorie 1 misdryf is; of 35
- (b) 'n Kategorie 2 misdryf indien die misdryf wat deur die invoerder, uitvoerder, vervoerder of ander persoon, of die regsentiteit, gepleeg is 'n Kategorie 2 misdryf is.

(4) Indien 'n regsentiteit vervolg kan word vir 'n breuk van hierdie Wet wat 'n misdryf ingevolge hierdie Wet is, kan iemand wat ten tye van die pleging van daardie breuk 'n direkteur, administrateur of trustee van daardie regsentiteit was, of 'n werknemer van daardie entiteit in 'n bestuurspos was, of namens die entiteit enige perseel of besigheid bestuur het waarop of in verband waarmee daardie breuk gepleeg is, benewens die entiteit vir daardie breuk vervolg word— 45

- (a) indien so iemand—
- (i) handelende namens of in die belang van die entiteit daardie breuk in werklikheid self gepleeg het; of
- (ii) deelgeneem het aan die pleging van die breuk; of
- (b) indien so iemand nie die breuk in werklikheid self gepleeg het of aan die pleging daarvan deelgeneem het nie, maar toe hy of sy bewus geword het van die breuk versuim het om redelike stappe binne die bestek van sy of haar bevoegdheid te doen om te voorkom dat die entiteit met die pleging van die breuk voortgaan. 50

Aanspreeklikheid van gewone werknemers van regsentiteite 55

894. Indien 'n regsentiteit vervolg kan word vir 'n breuk van hierdie Wet wat 'n misdryf ingevolge hierdie Wet is, kan iemand wat ten tye van die pleging van daardie

was an employee of that entity other than an employee referred to in section 893(4) is, in addition to the entity, liable to prosecution for that breach if that person—

- (a) acting on behalf or in the interests of the entity actually committed the breach;
- or
- (b) participated in the commission of the breach.

5

Part 2

Other judicial matters

Civil actions arising from this Act and special procedures for debt collection through civil processes

895. (1) The Commissioner may institute any civil actions necessary for enforcing or implementing this Act, including claims for amounts owing in terms of this Act.⁴⁶⁸ 10

(2) The Commissioner must be cited as defendant or respondent in any civil actions against the state, including SARS, the customs authority, a customs officer and a SARS officer, which arises from the enforcement or implementation of this Act.

(3) If a debt referred to in section 694 (other than a prosecution avoidance penalty) is not paid to the Commissioner on or before the due date, the Commissioner may file with the clerk or registrar of any competent court a statement stating— 15

- (a) the amount of the debt;
- (b) the due date on which the payment was due; and
- (c) the name of the person by whom the debt is payable. 20

(4) A statement referred to in subsection (3) must be certified by or on behalf of the Commissioner as correct.

(5) A statement filed in accordance with subsection (3) has all the effects of, and any proceedings may be taken thereon, as if it were a civil judgement lawfully given in that court in favour of the Commissioner for a liquid debt of the amount specified in the statement. 25

(6) The amount of a debt contained in a statement filed in accordance with subsection (3) may not exceed the civil jurisdiction of the magistrate's court in terms of the Magistrates' Courts Act, 1944 (Act No. 32 of 1944).

(7) Pending the conclusion of any proceedings referred to in Chapter 37 regarding a dispute as to the amount of a debt payable, the statement filed in terms of subsection (3) in respect of that debt must for purposes of subsection (5) be regarded to be correct.

(8) (a) The Commissioner may by notice in writing addressed to the clerk or registrar of the relevant court, withdraw a statement referred to in subsection (3).

(b) A withdrawn statement ceases to have any effect, but does not prevent the Commissioner from instituting proceedings afresh under that subsection in respect of the debt referred to in the withdrawn statement. 35

Advance notice of judicial proceedings against Minister, Commissioner, customs authority, customs officers, SARS officials or state

896. (1) No process by which any judicial proceedings are instituted against the Minister, the Commissioner, SARS, the customs authority, a customs officer, a SARS official or the state on a cause of action arising from the enforcement or implementation of this Act, the Customs Duty Act or the Excise Duty Act may be served before the expiry of a period of 30 calendar days after delivery of a notice in writing setting forth clearly and explicitly— 45

- (a) the cause of action;
- (b) the name and place of residence of the person who is to institute the proceedings; and
- (c) the name and address of that person's attorney or agent, if any.

(2) (a) The notice referred to in subsection (1) must be in the form and format and be delivered in the manner and at the places as may be prescribed by rule. 50

⁴⁶⁸ The Prescription Act, 1969 (Act No. 68 of 1969), determines the period within which civil actions for amounts owing must be instituted.

breuk 'n werknemer, anders as 'n werknemer bedoel in artikel 893(4), van daardie entiteit was, benewens die entiteit vir daardie breuk vervolgt word indien so iemand—

- (a) handelende namens of in die belang van die entiteit die breuk in werklikheid self gepleeg het; of
- (b) deelgeneem het aan die pleging van die breuk.

5

Deel 2

Ander regsangeleenthede

Siviele aksies wat ontstaan uit hierdie Wet en spesiale prosedures vir skuldinvordering deur siviele prosesse

895. (1) Die Kommissaris kan enige siviele aksies wat nodig is vir die toepassing of implementering van hierdie Wet, met inbegrip van eise vir bedrae wat ingevolge hierdie Wet verskuldig is, instel.⁴⁶⁸ 10

(2) Die Kommissaris moet as verweerder of respondent in enige siviele aksies teen die staat, met inbegrip van SAID, die doeanegesag, 'n doeanebeampte en 'n SAID beampte, wat uit die toepassing of implementering van hierdie Wet ontstaan, gesitueer word. 15

(3) Indien 'n skuld in artikel 694 bedoel (anders as 'n boete ter vermyding van vervolging) nie op of voor die sperdatum vir betaling aan die Kommissaris betaal word nie, kan die Kommissaris by die klerk of griffier van enige bevoegde hof 'n verklaring met vermelding van die volgende indien: 15

- (a) Die bedrag van die skuld; 20
- (b) die sperdatum vir betaling van die skuld; en
- (c) die naam van die persoon deur wie die skuld betaalbaar is.

(4) 'n Verklaring bedoel in subartikel (3) moet deur of namens die Kommissaris as korrek gesertifiseer word.

(5) 'n Verklaring wat ooreenkomstig subartikel (3) ingedien is, het al die gevolge van 'n siviele vonnis, en enige verrigtinge kan op gesag daarvan ingestel word asof dit 'n siviele vonnis is, wat regtens in daardie hof ten gunste van die Kommissaris vir 'n likwiede skuld van die bedrag vermeld in die verklaring gegee is. 25

(6) Die bedrag van 'n skuld vermeld in 'n verklaring ingevolge subartikel (3) by die klerk van 'n landdroshof ingedien, mag nie die siviele jurisdiksie van 'n landdroshof ingevolge die Wet op Landdroshowe, 1944 (Wet Nr. 32 van 1944), oorskry nie 30

(7) Hangende die afhandeling van enige verrigtinge bedoel in Hoofstuk 37 met betrekking tot 'n geskil oor die bedrag van 'n skuld wat betaalbaar is, moet die verklaring wat ingevolge subartikel (3) ten opsigte van daardie skuld ingedien is vir doeleindes van subartikel (5) geag word korrek te wees. 35

(8) (a) Die Kommissaris kan by skriftelike kennisgewing aan die klerk of griffier van die betrokke hof 'n verklaring bedoel in subartikel (3) terugtrek.

(b) 'n Verklaring wat teruggetrek is, hou op om van krag te wees, maar belet nie die Kommissaris om van nuuts af verrigtinge kragtens daardie subartikel ten opsigte van die skuld bedoel in die teruggetrekte verklaring in te stel nie. 40

Vooruitkennisgewing van geregtelike verrigtinge teen Minister, Kommissaris, doeanegesag, doeanebeamptes, SAID beamptes of staat

896. (1) Geen proses waarby enige geregtelike verrigtinge teen die Minister, die Kommissaris, SAID, die doeanegesag, 'n doeanebeampte, 'n SAID beampte of die staat ingestel word op grond van 'n eisoorzaak wat ontstaan uit die toepassing of implementering van hierdie Wet, die Wet op Doeanereg of die Wet op Aksynsreg mag beteken word voor die verstryking van 'n tydperk van 30 kalenderdae na die aflewering van 'n skriftelike kennisgewing wat duidelik en uitdruklik die volgende uiteensit nie: 45

- (a) die eisoorzaak;
- (b) die naam en plek van verblyf van die persoon wat die verrigtinge gaan instel; 50
en
- (c) die naam en adres van daardie persoon se prokureur of agent, indien enige.

(2) (a) Die kennisgewing bedoel in subartikel (1) moet in die vorm en formaat wees en afgelewer word op die wyse en by die plekke soos by reël voorgeskryf mag word.

⁴⁶⁸ Die Verjaringswet bepaal die tydperk waarbinne siviele aksies vir bedrae wat verskuldig is, ingestel moet word.

- (b) No notice is valid unless it complies with the requirements prescribed in this section and the rules.
- (3) The Minister, the Commissioner, SARS, the customs authority, a customs officer or a SARS official against whom the proceedings are to be instituted—
- (a) may by agreement with the person who is to institute the proceedings shorten the 30 calendar days' period referred to in subsection (1); or 5
 - (b) must shorten that period if a court so orders.
- (4) A court may, when the interests of justice so requires—
- (a) exempt an applicant from any or all of the notice requirements in this section; or 10
 - (b) shorten the 30 calendar days' period referred to in subsection (1).

Limitation of period for institution of judicial proceedings against Minister, Commissioner, SARS, customs authority, customs officers, SARS officials or state

- 897.** (1) Process by which any judicial proceedings are instituted against the Minister, the Commissioner, SARS, the customs authority, a customs officer, a SARS official or the state on a cause of action arising from the enforcement or implementation of this Act, the Customs Duty Act or the Excise Duty Act must be served before the expiry of a period of one year—
- (a) if the matter was not the subject of administrative proceedings provided for in Part 3, 4 or 5 of Chapter 37, from the date on which the cause of action arose; 20
 - (b) if the aggrieved person has submitted a request or application to have the matter resolved through any such administrative proceedings and the request or application was refused, from the date on which the aggrieved person was informed of the refusal;
 - (c) if the matter was the subject of any such administrative proceedings but the aggrieved person withdrew from the proceedings before a final outcome was reached, from the date on which the aggrieved person withdrew from the proceedings; or 25
 - (d) if the matter was the subject of any such administrative proceedings in which a final outcome was reached, from the date on which the aggrieved person was informed of the final outcome of the proceedings. 30
- (2) The Minister, the Commissioner, SARS, the customs authority, a customs officer or a SARS official against whom the proceedings are to be instituted—
- (a) may by agreement with the person who is to institute the proceedings extend the one year period referred to in subsection (1); or 35
 - (b) must extend that period if a court so orders.
- (3) Notwithstanding the provisions of the Admiralty Jurisdiction Regulation Act, 1983 (Act No. 105 of 1983), when any person applies to the High Court for an order for the sale of any arrested property, such person must deliver a notice of such an application at the place prescribed in the rules. 40

Admissibility of certain certificates and statements in documents

- 898.** (1) A certificate purporting to have been issued and signed by or on behalf of the Commissioner and bearing the official stamp of the Commissioner which states that, according to the Commissioner's records, any of the following actions has or has not occurred, is on production by any person at any criminal or civil proceedings arising from the application of this Act or a tax levying Act, admissible as evidence that that action has or has not occurred: 45
- (a) that any particular goods specified in the certificate have or have not been—
 - (i) imported;
 - (ii) exported; 50
 - (iii) produced or processed in the Republic;
 - (iv) cleared or released for home use or for a specific customs procedure;

(b) Geen kennisgewing is geldig tensy dit voldoen aan die vereistes in hierdie artikel en die reëls voorgeskryf nie.

(3) Die Minister, die Kommissaris, SAID, die doeanegesag, 'n doeanebeampte of 'n SAID beampte teen wie die verrigtinge ingestel gaan word—

- (a) kan by ooreenkoms met die persoon wat die verrigtinge gaan instel, die 30 kalenderdae tydperk bedoel in subartikel (1) verkort; of 5
 - (b) moet daardie tydperk verkort indien 'n hof dit gelas.
- (4) 'n Hof kan, wanneer dit in belang van geregtigheid is—
- (a) 'n applikant van enige of al die kennisgewingsvereistes in hierdie artikel onthef; of 10
 - (b) die 30 kalenderdae tydperk bedoel in subartikel (1) verkort.

Beperking van tydperk vir instel van geregtelike verrigtinge teen Minister, Kommissaris, SAID, doeanegesag, doeanebeamptes, SAID beamptes of staat

897. (1) 'n Prosesstuk waarby enige geregtelike verrigtinge teen die Minister, die Kommissaris, SAID, die doeanegesag, 'n doeanebeampte, 'n SAID beampte of die staat ingestel word op grond van 'n eisoorzaak wat uit die toepassing of implementering van hierdie Wet, die Wet op Doeanereg of die Wet op Aksynsreg ontstaan, moet beteken word voor die verstryking van 'n tydperk van een jaar— 15

- (a) indien die aangeleentheid nie die onderwerp was van administratiewe verrigtinge waarvoor in Deel 3, 4 of 5 van Hoofstuk 37 voorsiening gemaak word nie, vanaf die datum waarop die eisoorzaak ontstaan het; 20
- (b) indien die verontregte persoon 'n versoek of aansoek ingedien het om die aangeleentheid by wyse van enige van daardie administratiewe verrigtinge te laat besleg en die versoek of aansoek geweier is, vanaf die datum waarop die verontregte persoon van die weiering in kennis gestel is; 25
- (c) indien die aangeleentheid die onderwerp was van enige van daardie administratiewe verrigtinge maar die verontregte persoon voordat 'n finale uitkoms bereik is van die verrigtinge onttrek het, vanaf die datum waarop die verontregte persoon van die verrigtinge onttrek het; of
- (d) indien die aangeleentheid die onderwerp was van enige van daardie administratiewe verrigtinge waarin 'n finale uitkoms bereik is, vanaf die datum waarop die verontregte persoon van die finale uitkoms van die verrigtinge in kennis gestel is. 30

(2) Die Minister, die Kommissaris, SAID, die doeanegesag, 'n doeanebeampte of 'n SAID beampte teen wie die verrigtinge ingestel gaan word— 35

- (a) kan by ooreenkoms met die persoon wat die verrigtinge gaan instel die een jaar tydperk bedoel in subartikel (1) verleng; of
- (b) moet daardie tydperk verleng indien 'n hof dit gelas.

(3) Ondanks die bepalings van die Wet op die Reëling van Admiraliteitsjurisdiksie, 1983 (Wet No.105 van 1983), wanneer iemand by die Hoë Hof aansoek doen om 'n bevel vir die verkoop van enige eiendom waarop beslaggelê is, moet so iemand 'n kennisgewing van sodanige aansoek dien by die plek in die reëls voorgeskryf. 40

Toelaatbaarheid van sekere sertifikate en verklarings in dokumente

898. (1) 'n Sertifikaat wat deur of namens die Kommissaris uitgereik en onderteken heet te wees en wat die amptelike stempel van die Kommissaris dra wat meld dat, volgens die Kommissaris se rekords, enige van die volgende handelinge plaasgevind het of nie plaasgevind het nie, is by voorlegging daarvan deur enige persoon by enige strafregtelike of siviele verrigtinge wat uit die toepassing van hierdie Wet of 'n belastingheffings-Wet ontstaan, as getuienis toelaatbaar dat daardie handeling plaasgevind het of nie plaasgevind het nie: 45

- (a) Dat enige bepaalde goedere in die sertifikaat gespesifiseer— 50
 - (i) ingevoer is of nie ingevoer is nie;
 - (ii) uitgevoer is of nie uitgevoer is nie;
 - (iii) in die Republiek geproduseer of geprosesseer is of nie in die Republiek geproduseer of geprosesseer is nie; 55
 - (iv) vir binnelandse gebruik of vir 'n spesifieke doeaneprosedure geklaar of vrygestel is of nie vir binnelandse gebruik of vir 'n spesifieke doeaneprosedure geklaar of vrygestel is nie;

- (v) removed from or to a specific place;
- (vi) received, stored or processed at a specific place;
- (vii) found by a customs officer at any specific place; or
- (viii) used or dealt with in any other manner specified in the certificate;
- (b) that any particular plant specified in the certificate has or has not been— 5
 - (i) found by a customs officer or installed at any specific place; or
 - (ii) used or dealt with in a manner specified in the certificate;
- (c) that tax or an amount of tax on any particular goods specified in the certificate has or has not been paid to the Commissioner;
- (d) that another debt owing to the Commissioner specified in the certificate has or 10 has not been paid to the Commissioner
- (e) that any declaration or other document specified in the certificate has or has not been submitted to the Commissioner or has or has not been submitted by a particular person; or
- (f) that any particular records specified in the certificate have or have not been 15 kept by a particular person.

(2) In any criminal or civil proceedings arising from the implementation or enforcement of this Act or a tax levying Act, a statement in any record, letter or other document submitted, kept or received by or on behalf of any person to the effect that goods of a particular price, value (including any commission, discount, cost, charge, 20 expense, royalty, freight, tax, drawback, refund, rebate or other information which relates to such goods and has a bearing on such price or value), quantity, quality, nature, strength or other characteristic have been produced, imported, exported, ordered, supplied, purchased, sold, dealt with, processed, traded in or held in stock by that person, is admissible as evidence against that person that that person has produced, 25 imported, exported, ordered, supplied, purchased, sold, dealt with, processed, traded in or held in stock goods of that price, value, quantity, quality, nature, strength or other characteristic.

Jurisdiction of magistrate’s court

899. (1) A magistrate’s court may hear and decide any criminal action against a person 30 for an offence in terms of this Act and impose any penalty determined for such offence within its jurisdiction in terms of the Magistrates Courts Act, 1944 (Act No. 32 of 1944).

(2) A magistrate’s court may hear and decide any civil action for the payment of any money claimed by the Commissioner in terms of this Act within its jurisdiction in terms of the Magistrates’ Courts Act, 1944.⁴⁶⁹ . 35

Formal inquiry

900. (1) Part C of Chapter 5 of the Tax Administration Act, including any criminal and other sanctions contained in that Act for the enforcement of that Part, applies, with any necessary changes as the context may require, to an inquiry contemplated in that Part that may become necessary for purposes of this Act, the Customs Duty Act or the Excise 40 Duty Act.

(2) When applying Part D of Chapter 5 of the Tax Administration Act for the purposes of subsection (1), any reference in that Part to a tax Act must be read as referring also to this Act, the Customs Duty Act and the Excise Duty Act.

⁴⁶⁹. This section does not mean that only the magistrate’s court can hear cases for the recovery of amounts owed to the Commissioner.

- (v) van of na 'n spesifieke plek verwyder is of nie van of na 'n spesifieke plek verwyder is nie;
 - (vi) by 'n spesifieke plek ontvang, geberg of geprosesseer is of nie by 'n spesifieke plek ontvang, geberg of geprosesseer is nie;
 - (vii) deur 'n doeanebeampte by 'n spesifieke plek gevind is of nie by 'n spesifieke plek gevind is nie; of 5
 - (viii) op enige ander wyse in die sertifikaat gespesifiseer, gebruik of mee gehandel is of nie gebruik of mee gehandel is nie;
 - (b) dat enige spesifieke installasie in die sertifikaat gespesifiseer—
 - (i) by enige spesifieke plek gevind is deur 'n doeanebeampte of geïnstalleer was of nie gevind is deur 'n doeanebeampte of geïnstalleer was nie; of 10
 - (ii) op 'n wyse in die sertifikaat gespesifiseer, gebruik of aangewend is of nie gebruik of aangewend is nie;
 - (c) dat belasting of 'n bedrag aan belasting op enige spesifieke goedere in die sertifikaat gespesifiseer aan die Kommissaris betaal is of nie betaal is nie; 15
 - (d) dat 'n ander skuld aan die Kommissaris verskuldig wat in die sertifikaat gespesifiseer is aan die Kommissaris betaal is of nie betaal is nie;
 - (e) dat enige klaringsbrief, verklaring of ander dokument in die sertifikaat gespesifiseer by die Kommissaris ingedien is of nie ingedien is nie, of deur 'n spesifieke persoon ingedien is of nie ingedien is nie; of 20
 - (f) dat enige spesifieke rekords in die sertifikaat gespesifiseer deur 'n spesifieke persoon gehou is of nie gehou is nie.
- (2) In enige strafregtelike of siviele verrigtinge wat uit die implementering en toepassing van hierdie Wet of 'n belastingheffings-Wet ontstaan, is 'n bewering in enige rekord, brief of ander dokument wat deur of namens iemand ingedien, voorgelê, verstrekk, gehou of ontvang is, met die strekking dat goedere van 'n bepaalde prys, waarde (met inbegrip van enige kommissie, afslag, koste, fooi, uitgawe, tantiém, vragprys, belasting, teruggawe, terugbetaling, korting of ander inligting betreffende sodanige goedere en wat op sodanige prys of waarde betrekking het), hoeveelheid, kwaliteit, aard, sterkte of ander eienskap deur so iemand geproduseer, ingevoer, uitgevoer, bestel, verskaf, gekoop, verkoop, mee gehandel, geprosesseer, verhandel of in voorraad gehou is, as getuienis toelaarbaar dat daardie persoon goedere van daardie prys, waarde, hoeveelheid, kwaliteit, aard, sterkte of ander eienskap geproduseer, ingevoer, uitgevoer, bestel, verskaf, gekoop, verkoop, mee gehandel, geprosesseer, verhandel of in voorraad gehou het. 35

Jurisdiksie van landdroshof

899. (1) 'n Landdroshof kan binne sy jurisdiksie ingevolge die Wet op Landdroshowe, 1944 (Wet Nr. 32 van 1944), enige strafregtelike aksie teen iemand vir 'n misdryf ingevolge hierdie Wet aanhoor en beslis, en enige straf wat vir so 'n misdryf bepaal word, oplê. 40

(2) 'n Landdroshof kan binne sy jurisdiksie ingevolge die Wet op Landdroshowe, 1944, enige siviele aksie vir die betaling van enige gelde ingevolge hierdie Wet deur die Kommissaris geëis, aanhoor en beslis.⁴⁶⁹

Formele ondersoek

900. (1) Deel C van Hoofstuk 5 van die Wet op Belastingadministrasie, met inbegrip van enige strafregtelike en ander sanksies wat in daardie Wet vir die toepassing van daardie Deel vervat is, met enige nodige aanpassings soos die samehang mag vereis, is van toepassing op 'n ondersoek beoog in daardie Deel wat vir doeleindes van hierdie Wet, die Wet op Doeanereg of die Wet op Aksynsreg nodig mag word. 45

(2) By die toepassing van Deel D van Hoofstuk 5 van die Wet op Belastingadministrasie vir doeleindes van subartikel (1), moet enige verwysing in daardie Deel na 'n Belastingwet uitgelê word as 'n verwysing ook na hierdie Wet, die Wet op Doeanereg en die Wet op Aksynsreg. 50

⁴⁶⁹. Dit beteken nie dat net die landdroshof sake vir die verhaal van bedrae wat aan die Kommissaris verskuldig is, kan aanhoor nie.

Publication of names of offenders

- 901.** (1) The Commissioner may bi-annually publish for general information a list of the names of persons—
- (a) convicted in a final judgement of a Category 1 offence;
 - (b) who paid a prosecution avoidance penalty of R500 000 or more in respect of a Category 1 offence; or 5
 - (c) convicted in a final judgement of an offence in terms of a tax levying Act which involved—
 - (i) the evasion of tax on imported or exported goods; or
 - (ii) any other fraudulent or dishonest behaviour in relation to imported or exported goods. 10
- (2) The publication may in addition to the names of offenders specify—
- (a) particulars of the offence; and
 - (b) particulars of the fine or sentence, or penalty, imposed.
- (3) A person's name must remain on the list for a period of five years. 15
- (4) A court convicting a person for an offence in terms of this Act or a tax levying Act may for purposes of sentencing take judicial notice of any particulars appearing on the list in respect of that person.

CHAPTER 41

MISCELLANEOUS MATTERS 20

Part 1

Regulations, rules and guidelines

Regulations

- 902.** The Minister may make regulations prescribing any matter that may be prescribed by regulation in terms of this Act. 25

Rules

- 903.** (1) The Commissioner may make rules to facilitate the implementation of this Act or any Chapter, Part or other provision of this Act, including rules prescribing—
- (a) any matter that may be prescribed by rule in terms of this Act;
 - (b) the communicative systems administered by SARS for the implementation of this Act, including the conditions and requirements for electronic communication with the Commissioner;
 - (c) the contents of any report, notice, notification or other document that must be submitted to the Commissioner, the customs authority or a customs officer in terms of a provision of this Act; 35
 - (d) the manner in which and the persons by whom such reports, notices, notifications or other documents must be submitted, and the persons who must submit any such reports, notices, notifications or other documents electronically;
 - (e) the combination or simultaneous submission of such reports, notices, notifications or other documents; 40
 - (f) the circumstances in, and the conditions on, which any such reports, notices, notifications or other documents may be amended, and procedures for the amendment of any such reports, notices, notifications or other documents;
 - (g) the records that persons to whom this Act applies must keep for the purposes of this Act and the manner in which, the period for which and the place at which those records must be kept, subject to section 919; 45

Publikasie van name van oortreders

- 901.** (1) Die Kommissaris kan elke twee jaar vir algemene inligting 'n lys van die name van persone publiseer wat—
- (a) in 'n finale beslissing aan 'n Kategorie 1 misdryf skuldig bevind is;
 - (b) 'n boete ter vermyding vervolging van R500 000 of meer ten opsigte van 'n Kategorie 1 misdryf betaal het; of
 - (c) in 'n finale beslissing aan 'n misdryf ingevolge 'n belastingheffings-Wet skuldig bevind is waarby—
 - (i) die ontduiking van belasting op ingevoerde of uitgevoerde goedere betrokke was; of
 - (ii) enige ander bedrieglike of oneerlike optrede met betrekking tot ingevoerde of uitgevoerde goedere betrokke was.
- (2) Die publikasie kan benewens die name van oortreders ook—
- (a) besonderhede van die misdryf spesifiseer; en
 - (b) besonderhede spesifiseer van die boete of gevangenisstraf, of ander straf, wat opgelê is.
- (3) 'n Persoon se naam moet op die lys vir 'n tydperk van vyf jaar bly.
- (4) 'n Hof wat 'n persoon aan 'n misdryf ingevolge hierdie Wet of 'n belastingheffings-Wet skuldig bevind, kan vir doeleindes van vonnis geregtelike kennis neem van enige besonderhede wat ten opsigte van daardie persoon op die lys verskyn.

HOOFTUK 41

DIVERSE AANGELEENTHEDE

Deel 1

Regulasies, reëls en riglyne

Regulasies 25

902. Die Minister kan regulasies uitvaardig wat enige aangeleentheid voorskryf wat ingevolge hierdie Wet by regulasie voorgeskryf kan word.

Reëls

- 903.** (1) Die Kommissaris kan reëls uitvaardig om die implementering van hierdie Wet of enige Hoofstuk, Deel of ander bepaling van hierdie Wet te fasiliteer, met inbegrip van reëls wat die volgende voorskryf: 30
- (a) Enige aangeleentheid wat by reël ingevolge hierdie Wet voorgeskryf kan word;
 - (b) die kommunikatiewe stelsels wat deur SAID vir die implementering van hierdie Wet geadministreer word, asook die voorwaardes en vereistes vir elektroniese kommunikasie met die Kommissaris; 35
 - (c) die inhoud van enige verslag, kennisgewing of ander dokument wat ingevolge 'n bepaling van hierdie Wet ingedien moet word by of voorgelê of verstrekk moet word aan die Kommissaris, die doeanegesag of 'n doeanbeampte; 40
 - (d) die wyse waarop en die persone deur wie sodanige verslae, kennisgewings of ander dokumente ingedien, voorgelê of verstrekk moet word, en die persone wat enige sodanige verslae, kennisgewings of ander dokumente elektronies moet indien, voorlê of verstrekk; 40
 - (e) die gekombineerde of gelyktydige indiening, voorlegging of verstrekking van sodanige verslae, kennisgewings of ander dokumente; 45
 - (f) die omstandighede waarin, en die voorwaardes waarop, enige sodanige verslae, kennisgewings of ander dokumente gewysig kan word, en prosedures vir die wysiging van enige sodanige verslae, kennisgewings of ander dokumente;
 - (g) die rekords wat persone op wie hierdie Wet van toepassing is, vir doeleindes van hierdie Wet moet hou, en die wyse waarop, die tydperk waarbinne en die plek waar daardie rekords gehou moet word, behoudens artikel 919; 50

- (h) the returns persons to whom this Act applies must submit to the customs authority and the manner in which and the periods for which those returns must be submitted;
- (i) the manner and time in which applications may be made for authorisations, permissions, approvals, exemptions or recognitions that may be granted by the customs authority in terms of a provision of this Act, and the circumstances in which the submission of clearance declarations or amended clearance declarations may be regarded as such applications; 5
- (j) the particulars such authorisations, permissions, approvals, exemptions or recognitions must contain and any conditions subject to which such authorisations, permissions, approvals or exemptions are issued; 10
- (k) the contents of any registration certificates, licences or certificates of accreditation;
- (l) the sizes and types of containers in which specific goods, including cigarettes, may be imported into the Republic, and the distinguishing marks or impressions that must appear on the containers of such goods; 15
- (m) the application of the materiality principle in relation to this Act, including criteria for determining when—
 - (i) an interest in goods is to be regarded as a material or beneficial interest;
 - (ii) a benefit received by a person is to be regarded as a material benefit; 20
 - (iii) a breach of this Act is to be regarded as a material breach;
 - (iv) information required for an application in terms of this Act is to be regarded as material for the consideration of the application; and
 - (v) the circumstances in which an application in terms of this Act was granted are to be regarded as material to the granting of the application; 25
- (n) the criteria for determining whether a vessel, aircraft or vehicle is a small vessel, light aircraft or vehicle used as a private means of transport;
- (o) alternative methods for the submission of documents to the customs authority in the absence of, or in the event of a breakdown in, electronic communication; 30
- (p) safeguard measures and the circumstances and manner in which these measures must be applied;
- (q) conditions on which registered electronic users may access computer systems of the Commissioner for purposes of electronic communication with the Commissioner, the customs authority or customs officers, including the conclusion with the Commissioner of user agreements containing terms and conditions as prescribed by rule; 35
- (r) measures to prevent electronic transmissions to or from the electronic address of the Commissioner from being compromised or interfered with, including measures requiring and regulating—
 - (i) the allocation of digital signatures to registered electronic users and, in the case of a user which is a juristic entity, each employee of the user nominated in the user agreement;
 - (ii) the use and protection of such signatures;
 - (iii) the storage and protection of electronic data and the period for which such data must be kept; and 45
 - (iv) the reporting of any security breaches;
- (s) the instruments, meters, gauges, and other appliances and the tables, formulae and other methods of calculation to be used for the purposes of this Act or a tax levying Act for determining the mass, quantity, strength, relative density, temperature, pressure or any other characteristic of any goods; 50
- (t) tables to be used for purposes of this Act or a tax levying Act for determining the quantity of goods regarded to have been—
 - (i) manufactured from any given quantity of goods; or
 - (ii) used in the manufacture of any given quantity of any goods manufactured therefrom; 55

- (h) die opgawes wat persone op wie hierdie Wet van toepassing is aan die doeanegesag moet verstrekk, en die wyse waarop en die tydperk waarvoor daardie opgawes verstrekk moet word;
- (i) die wyse waarop en die tyd waarbinne aansoek gedoen kan word om magtigings, toestemmings, goedkeurings, ontheffings of erkennings wat deur die doeanegesag ingevolge 'n bepaling van hierdie Wet toegestaan kan word, en die omstandighede waarin die indiening van klaringsbriewe of gewysigde klaringsbriewe geag kan word sodanige aansoeke te wees; 5
- (j) die besonderhede wat sodanige magtigings, toestemmings, goedkeurings, ontheffings of erkennings moet bevat en enige voorwaardes waarop sodanige magtigings, toestemmings, goedkeurings of ontheffings uitgereik word; 10
- (k) die inhoud van enige registrasiesertifikaat, lisensie of sertifikaat van akkreditasie;
- (l) die groottes en tipes houers waarin spesifieke goedere, met inbegrip van sigarette, in die Republiek ingevoer mag word, en die onderskeidende merke of indenterings wat op die houers van sodanige goedere moet verskyn; 15
- (m) die toepassing van die wesenlikheidsbeginsel met betrekking tot hierdie Wet, asook kriteria om te bepaal wanneer—
 - (i) 'n belang in goedere geag moet word 'n wesenlike of voordelige belang te wees; 20
 - (ii) 'n voordeel deur 'n persoon ontvang, geag moet word 'n wesenlike voordeel te wees;
 - (iii) 'n breuk van hierdie Wet geag moet word 'n wesenlike breuk te wees;
 - (iv) inligting wat vir 'n aansoek ingevolge hierdie Wet vereis word, geag moet word wesenlik vir oorweging van die aansoek te wees; en 25
 - (v) die omstandighede waarin 'n aansoek ingevolge hierdie Wet toegestaan word, geag moet word as wesenlik vir die toestaan van die aansoek te wees;
- (n) die kriteria om te bepaal of 'n vaartuig, vliegtuig of voertuig 'n klein vaartuig, ligte vliegtuig of voertuig gebruik as 'n private middel van vervoer is; 30
- (o) alternatiewe metodes vir die indiening, voorlegging of verstrekkings van dokumente by of aan die doeanegesag in die afwesigheid van, of in die geval van 'n onderbreking in, elektroniese kommunikasie;
- (p) beveiligingsmaatreëls en die omstandighede en wyse waarop hierdie maatreëls toegepas moet word; 35
- (q) voorwaardes waarop geregistreerde elektroniese gebruikers toegang tot die rekenaarstelsels van die Kommissaris vir doeleindes van elektroniese kommunikasie met die Kommissaris, die doeanegesag of doeaneebeampes mag hê, asook die sluit van gebruikersooreenkomste met die Kommissaris wat terme en voorwaardes bevat soos by reël voorgeskryf word; 40
- (r) maatreëls om te voorkom dat elektroniese kommunikasies na of van die elektroniese adres van die Kommissaris gekompromitteer of mee ingemeng word, asook maatreëls wat die volgende vereis en reguleer:
 - (i) Die toekenning van digitale handtekeninge aan geregistreerde elektroniese gebruikers en, in die geval van 'n gebruiker wat 'n regsentiteit is, elke werknemer van die gebruiker wat in die gebruikersooreenkoms genomineer word; 45
 - (ii) die gebruik en beskerming van sodanige handtekeninge;
 - (iii) die berging en beskerming van elektroniese data en die tydperk waarvoor sodanige data gehou moet word; en 50
 - (iv) die aanmelding van enige sekuriteitsbreuke;
- (s) die instrumente, meters en ander toestelle en die tabelle, formules en ander wyses van berekening wat vir doeleindes van hierdie Wet of 'n belastingheffings-Wet gebruik moet word vir die bepaling van die massa, hoeveelheid, sterkte, relatiewe digtheid, temperatuur, druk of enige ander eienskap van enige goedere; 55
- (t) tabelle vir doeleindes van hierdie Wet of 'n belastingheffings-Wet wat gebruik moet word vir die bepaling van die hoeveelheid goedere wat geag moet word—
 - (i) vervaardig te wees uit enige gegewe hoeveelheid goedere; of
 - (ii) gebruik te wees in die vervaardiging van enige gegewe hoeveelheid van enige goedere wat daaruit vervaardig is; 60

- (u) measures to give effect to or to ensure compliance with provisions of an international agreement referred to in paragraph (c) of the definition of “this Act”;
 - (v) measures to protect private and confidential information obtained by the customs authority in the implementation or enforcement of this Act or a tax levying Act; and 5
 - (w) criminal sanctions for a contravention of or non-compliance with a provision of the rules or an international agreement referred to in paragraph (c) of the definition of “this Act”.
- (2) Rules in terms of this section may— 10
- (a) differentiate between different—
 - (i) categories of persons to which this Act applies;
 - (ii) classes or kinds or other categories of goods;
 - (iii) categories of vessels, aircraft, trains, railway carriages or vehicles;
 - (iv) modes of transport; 15
 - (v) places of entry or exit or categories of places of entry or exit;
 - (vi) customs controlled areas or categories of customs controlled areas;
 - (vii) customs procedures;
 - (viii) taxes;
 - (ix) matters to which this Act applies; or 20
 - (x) categories of customs officers; or
 - (b) be limited in its application to a particular—
 - (i) category of persons to which this Act applies;
 - (ii) class or kind or other category of goods;
 - (iii) category of vessels, aircraft, trains, railway carriages or vehicles; 25
 - (iv) mode of transport;
 - (v) place of entry and exit or category of places of entry or exit;
 - (vi) customs controlled area or category of customs controlled areas;
 - (vii) customs procedure;
 - (viii) tax; 30
 - (ix) matter to which this Act applies; or
 - (x) category of customs officers.
- (3) (a) Rules made in terms of this section take effect from a date specified in those rules, or if no date is specified, from the date of publication of those rules.
- (b) The commencement date specified in any rules may be a date before, on or after 35 the date of publication of those rules.

Consultative processes before promulgation of rules

- 904.** (1) Before rules in terms of section 903 are promulgated, the Commissioner must publish the draft rules in the *Government Gazette* or the SARS website for public comment. 40
- (2) Rules made in terms of section 903 must be submitted to—
- (a) the Minister; and
 - (b) Parliament for parliamentary scrutiny.

Guidelines

- 905.** (1) The Commissioner may publish in a manner determined by the Commissioner guidelines to facilitate the implementation of this Act and the tax levying Acts. 45
- (2) A guideline published in terms of subsection (1) has no binding legal effect.

Manner of promulgation of rules

- 906.** Where this Act states that a matter must or may be prescribed by rule, the Commissioner must prescribe that matter by rule published in the *Government Gazette* 50 unless the Commissioner by rule published in the *Gazette* indicates that that matter is to be prescribed by rule published on the SARS website.

- (u) maatreëls om gevolg te gee aan, of om nakoming te verseker van, bepaling van 'n internasionale ooreenkoms bedoel in paragraaf (c) van die omskrywing van "hierdie Wet";
 - (v) maatreëls ter beskerming van private en vertroulike inligting wat deur die doeanegesag by die implementering of toepassing van hierdie Wet of 'n belastingheffings-Wet verkry word; en 5
 - (w) strawwe vir 'n oortreding van, of nie-voldoening aan, 'n bepaling van die reëls of 'n internasionale ooreenkoms bedoel in paragraaf (c) van die omskrywing van "hierdie Wet".
- (2) Reëls ingevolge hierdie artikel kan— 10
- (a) 'n onderskeid tref tussen verskillende—
 - (i) kategorieë persone waarop hierdie Wet van toepassing is;
 - (ii) klasse of soorte of ander kategorieë goedere;
 - (iii) kategorieë vaartuie, vliegtuie, treine, spoorwegwaens of voertuie;
 - (iv) wyses van vervoer; 15
 - (v) plekke van toegang of uitgang of kategorieë plekke van toegang of uitgang;
 - (vi) doeanebeheergebiede of kategorieë doeanebeheergebiede;
 - (vii) doeaneprosedures;
 - (viii) belasting; 20
 - (ix) aangeleenthede waarop hierdie Wet van toepassing is; of
 - (x) kategorieë doeanebeamptes; of
 - (b) in die toepassing daarvan beperk wees tot 'n bepaalde—
 - (i) kategorie persone waarop hierdie Wet van toepassing is;
 - (ii) klas of soort of ander kategorie goedere; 25
 - (iii) kategorie vaartuie, vliegtuie, treine, spoorwegwaens of voertuie;
 - (iv) wyse van vervoer;
 - (v) plek van toegang en uitgang of kategorie plekke van toegang of uitgang;
 - (vi) doeanebeheergebiede of kategorie doeanebeheergebiede;
 - (vii) doeaneprosedures; 30
 - (viii) belasting;
 - (ix) aangeleentheid waarop hierdie Wet van toepassing is; of
 - (x) kategorie doeanebeamptes.
- (3) (a) Reëls ingevolge hierdie artikel uitgevaardig, tree in werking vanaf 'n datum in daardie reëls vermeld, of indien geen datum vermeld word nie, vanaf die datum van publikasie van daardie reëls. 35
- (b) Die inwerkingtreddingsdatum in enige reëls vermeld, kan 'n datum voor, op of na die datum van publikasie van daardie reëls wees.

Konsultasieprosesse voor uitvaardiging van reëls

904. (1) Voordat enige reëls ingevolge artikel 903 uitgevaardig word, moet die 40
Kommissaris die konsepreëls in die *Staatskoerant* of op die SAID webwerf vir openbare kommentaar publiseer.
- (2) Reëls ingevolge artikel 903 uitgevaardig, moet voorgelê word aan—
- (a) die Minister; en
 - (b) die Parlement vir parlementêre toesig. 45

Riglyne

905. (1) Die Kommissaris kan op 'n wyse deur die Kommissaris bepaal, riglyne publiseer om die implementering van hierdie Wet en die belastingheffings-Wette te fasiliteer.
- (2) 'n Riglyn ingevolge subartikel (1) gepubliseer, het geen bindende regsrag nie. 50

Wyse van afkondiging van reëls

906. Waar hierdie Wet bepaal dat 'n aangeleentheid by reël voorgeskryf moet of kan word, moet die Kommissaris daardie aangeleentheid by reël gepubliseer in die *Staatskoerant* voorskryf tensy die Kommissaris by reël in die *Staatskoerant* gepubliseer, aandui dat daardie aangeleentheid by reël gepubliseer op die SAID webwerf voorgeskrif moet word. 55

Departure from, and condonation of non-compliance with, rules, conditions or requirements

- 907.** (1) The Commissioner may in extraordinary circumstances approve a departure from—
- (a) a rule; 5
 - (b) a condition or requirement imposed by the customs authority in terms of this Act; or
 - (c) a requirement stated on any form or other document that must be submitted to the customs authority in terms of this Act.
- (2) The Commissioner may in extraordinary circumstances condone any non-compliance with— 10
- (a) a rule;
 - (b) a condition or requirement imposed by the customs authority in terms of this Act; or
 - (c) a requirement stated on any form or other document that must be submitted to the customs authority in terms of this Act. 15
- (3) Any person seeking approval in terms of subsection (1) for a departure from, or in terms of subsection (2) condonation of non-compliance with, a rule, condition or requirement may apply for such approval or condonation to the customs authority in a manner as may be prescribed by rule. 20
- (4) In this section “**extraordinary circumstances**”—
- (a) in relation to a departure from a rule, condition or requirement, means circumstances—
 - (i) beyond those that ordinarily apply when that rule, condition or requirement is complied with; and 25
 - (ii) that are beyond the control of the person required to comply with that rule, condition or requirement; and
 - (b) in relation to a condonation of any non-compliance with a rule, condition or requirement, means circumstances that applied when the failure to comply with that rule, condition or requirement occurred— 30
 - (i) beyond those that ordinarily apply when that rule, condition or requirement is complied with; and
 - (ii) that were beyond the control of the person required to comply with that rule, condition or requirement.

Part 2 35

Cross-cutting provisions

Extension of timeframes or periods and postponement of dates⁴⁷⁰

- 908.** (1) The customs authority may on good grounds—
- (a) extend any timeframe or period specified in or in terms of this Act as a timeframe or period— 40
 - (i) within which something must or may be done; or
 - (ii) for which something is or may be allowed; or
 - (b) postpone any date specified in terms of this Act as a date on or before which something must or may be done.
- (2) An extension of a timeframe or period or a postponement of a date may be granted 45 or applied in terms of subsection (1)—
- (a) to a specific person or category of persons; or
 - (b) in relation to—
 - (i) a specific vessel, aircraft, train, railway carriage or vehicle or category of vessels, aircraft, trains, railway carriages or vehicles; 50
 - (ii) a specific consignment of goods;

⁴⁷⁰ It is to be noted that all decisions of the customs authority are subject to internal reconsideration in terms of Part 2 of Chapter 37 provided rights are not affected.

Afwyking van, en kondonering van nie-voldoening aan, reëls, voorwaardes of vereistes

- 907.** (1) Die Kommissaris kan in buitengewone omstandighede goedkeur dat daar afgewyk mag word van—
- (a) 'n reël; 5
 - (b) 'n voorwaarde of vereiste deur die doeanegesag ingevolge hierdie Wet opgelê; of
 - (c) 'n vereiste vermeld op enige vorm of ander dokument wat ingevolge hierdie Wet ingedien moet word by of voorgelê of vertrek moet word aan die doeanegesag. 10
- (2) Die Kommissaris kan in buitengewone omstandighede enige nie-voldoening aan enige van die volgende kondoneer:
- (a) 'n Reël;
 - (b) 'n voorwaarde of vereiste deur die doeanegesag ingevolge hierdie Wet opgelê; of 15
 - (c) 'n vereiste vermeld op enige vorm of ander dokument wat ingevolge hierdie Wet ingedien moet word by of voorgelê of verstrekk moet word aan die doeanegesag.
- (3) Iemand wat ingevolge subartikel (1) goedkeuring verlang om af te wyk van, of wat ingevolge subartikel (2) kondonering verlang vir 'n nie-voldoening aan, 'n reël, voorwaarde of vereiste, kan op 'n wyse soos by reël voorgeskryf mag word by die doeanegesag om sodanige goedkeuring of kondonering aansoek doen. 20
- (4) In hierdie artikel beteken “**buitengewone omstandighede**”—
- (a) met betrekking tot 'n afwyking van 'n reël, voorwaarde of vereiste, omstandighede— 25
 - (i) wat anders is as dié wat normaalweg geld wanneer daar aan daardie reël, voorwaarde of vereiste voldoen word; en
 - (ii) wat buite die beheer van die persoon was wat aan daardie reël, voorwaarde of vereiste moet voldoen; en
 - (b) met betrekking tot 'n kondonering van enige nie-voldoening aan 'n reël, voorwaarde of vereiste, omstandighede wat gegeld het toe die versuim om aan daardie reël, voorwaarde of vereiste te voldoen, plaasgevind het— 30
 - (i) wat anders is as dié wat normaalweg geld wanneer daar aan daardie reël, voorwaarde of vereiste voldoen word; en
 - (ii) wat buite die beheer van die persoon was wat aan daardie reël, voorwaarde of vereiste moet voldoen. 35

Deel 2

Algemeen-geldende bepalinge

Verlenging van tydsraam of tydperke en uitstel van datums⁴⁷⁰

- 908.** (1) Die doeanegesag kan by die aanvoer van goeie gronde— 40
- (a) enige tydsraam of tydperk verleng wat in of ingevolge hierdie Wet gespesifiseer word as 'n tydsraam of tydperk—
 - (i) waarbinne iets gedoen moet of kan word; of
 - (ii) waarvoor iets toegelaat word of kan word; of
 - (b) enige datum wat in of ingevolge hierdie Wet gespesifiseer word as 'n datum 45 waarop of voor wanneer iets gedoen moet of kan word, uitstel.
- (2) 'n Verlenging van 'n tydsraam of tydperk of 'n uitstel van 'n datum kan ingevolge subartikel (1) toegestaan of toegepas word—
- (a) aan of op 'n spesifieke persoon of kategorie persone; of
 - (b) met betrekking tot— 50
 - (i) 'n spesifieke vaartuig, vliegtuig, trein, spoorwegtrek of voertuig of kategorie vaartuie, vliegtuie, treine, spoorwegtrekke of voertuie;
 - (ii) 'n spesifieke besending goedere;

470. Daar dien op gelet te word dat alle besluite van die doeanegesag aan interne heroorweging ingevolge Deel 2 van Hoofstuk 37 onderhewig is mits daar nie aan regte afbreuk gedoen word nie.

- (iii) consignments of the same class or kind or other category of goods imported, to be exported, loaded, off-loaded, handled, stored, processed or in any other way dealt with—
 - (aa) by the same person during a specific period; or
 - (bb) at any specific premises during a specific period; 5
 - (iv) goods of a specific class or kind imported, to be exported, loaded, off-loaded, handled, stored, processed or in any other way dealt with during a specific period;
 - (v) goods loaded, off-loaded, handled, stored, processed or in any other way dealt with at any specific premises; 10
 - (vi) a specific class or kind or other category of goods or cargo; or
 - (vii) a specific matter to which this Act applies.
- (3) Subsection (1) may not be applied to extend a timeframe or period—
- (a) within which a person may apply for a refund in terms of this Act;
 - (b) within which the Commissioner, the customs authority or a customs officer is required in terms of a provision of this Act to perform a specific act; 15
 - (c) referred to in section 284(1), 398(1) or 879(1); or
 - (d) within which an action prescribes in terms of the Prescription Act, 1969 (Act No. 69 of 1969).
- (4) Subsection (1) must be applied subject to any specific limitation in terms of a provision of this Act placed on the extension of a timeframe or period or the postponement of a date referred to in such provision. 20

Shortening of minimum timeframes or periods

- 909.** (1) The customs authority may on good grounds shorten any minimum timeframe or period specified in this Act as a timeframe or period before which something must or may be done or may not be done. 25
- (2) A shortening of a minimum timeframe or period may be granted or applied in terms of subsection (1)—
- (a) to a specific person or category of persons; or
 - (b) in relation to— 30
 - (i) a specific vessel, aircraft, train, railway carriage or vehicle or category of vessels, aircraft, trains, railway carriages or vehicles;
 - (ii) a specific consignment of goods;
 - (iii) consignments of the same class or kind or other category of goods imported, to be exported, loaded, off-loaded, handled, stored, processed or in any other way dealt with— 35
 - (aa) by the same person during a specific period; or
 - (bb) at any specific premises during a specific period;
 - (iv) goods of a specific kind imported, to be exported, loaded, off-loaded, handled, stored, processed or in any other way dealt with during a specific period; or 40
 - (v) goods loaded, off-loaded, handled, stored, processed or in any other way dealt with at any specific premises.
- (3) Subsection (1) may not be applied to shorten a minimum timeframe or period which must expire before which the Commissioner, the customs authority or a customs officer must or may in terms of a provision of this Act perform a specific act. 45

Sworn or solemn declaration

910. When in terms of this Act a person is required to submit to the customs authority a declaration, report, statement, return, notice, notification, application or other document setting out facts or other information, the customs authority may require the person submitting the document to verify the truth of the document by way of a sworn or solemn declaration. 50

- (iii) besendings van dieselfde klas of soort of ander kategorie goedere wat ingevoer, uitgevoer, opgelaaai, afgelaaai, hanteer, geberg, geprosesseer of op enige ander wyse mee gehandel word—
 - (aa) deur dieselfde persoon gedurende 'n spesifieke tydperk; of
 - (bb) by 'n spesifieke perseel gedurende 'n spesifieke tydperk;5
 - (iv) goedere van 'n bepaalde klas of soort wat ingevoer, uitgevoer, opgelaaai, afgelaaai, hanteer, geberg, geprosesseer of op enige ander wyse mee gehandel word gedurende 'n spesifieke tydperk;
 - (v) goedere wat opgelaaai, afgelaaai, hanteer, geberg, geprosesseer of op enige ander wyse mee gehandel word by 'n spesifieke perseel; 10
 - (vi) 'n spesifieke klas of soort of ander kategorie goedere of vrag; of
 - (vii) 'n spesifieke aangeleentheid waarop hierdie Wet van toepassing is.
- (3) Subartikel (1) mag nie toegepas word om 'n tydsraam of tydperk te verleng—
- (a) waarbinne 'n persoon aansoek om 'n terugbetaling ingevolge hierdie Wet mag doen nie; 15
 - (b) waarbinne daar ingevolge 'n bepaling van hierdie Wet van die Kommissaris, die doeanegesag of 'n doeanebeampte vereis word om 'n bepaalde handeling te verrig nie;
 - (c) waarna in artikel 284(1), 398(1) of 879(1) verwys word nie; of
 - (d) waarbinne 'n aksie ingevolge die Verjaringswet, 1969 (Wet Nr. 69 van 1969), 20 verjaar nie.
- (4) Subartikel (1) moet toegepas word behoudens enige spesifieke beperking wat ingevolge 'n bepaling van hierdie Wet op die verlenging van 'n tydsraam of tydperk of die uitstel van 'n datum bedoel in so 'n bepaling geplaas word.

Verkorting van minimum tydsraam of tydperke 25

- 909.** (1) Die doeanegesag kan by die aanvoer van goeie gronde enige minimum tydsraam of tydperk wat in hierdie Wet gespesifiseer is as 'n tydsraam of tydperk voor wanneer iets gedoen moet of kan word of nie gedoen kan word nie, verkort.
- (2) 'n Verkorting van 'n minimum tydsraam of tydperk kan ingevolge subartikel (1) toegestaan of toegepas word— 30
- (a) aan of op 'n spesifieke persoon of kategorie persone; of
 - (b) met betrekking tot—
 - (i) 'n spesifieke vaartuig, vliegtuig, trein, spoorwegtrok of voertuig of kategorie vaartuie, vliegtuie, treine, spoorwegtrokke of voertuie; 35
 - (ii) 'n spesifieke besending goedere;
 - (iii) besendings van dieselfde klas of soort of ander kategorie goedere wat ingevoer, uitgevoer, opgelaaai, afgelaaai, hanteer, geberg, geprosesseer of op enige ander wyse mee gehandel word—
 - (aa) deur dieselfde persoon gedurende 'n spesifieke tydperk; of
 - (bb) op 'n spesifieke perseel gedurende 'n spesifieke tydperk; 40
 - (iv) goedere van 'n spesifieke soort wat ingevoer, uitgevoer, opgelaaai, afgelaaai, hanteer, geberg, geprosesseer of op enige ander wyse mee gehandel word gedurende 'n spesifieke tydperk; of
 - (v) goedere wat opgelaaai, afgelaaai, hanteer, geberg, geprosesseer of op enige ander wyse mee gehandel word by 'n spesifieke perseel. 45
- (3) Subartikel (1) mag nie toegepas word nie om 'n minimum tydsraam of tydperk te verkort wat moet verstryk voordat die Kommissaris, die doeanegesag of 'n doeanebeampte 'n spesifieke handeling ingevolge 'n bepaling van hierdie Wet moet of kan verrig nie.

Geswore of plegtige verklaring 50

- 910.** Wanneer 'n persoon ingevolge hierdie Wet 'n klaringsbrief, verslag, verklaring, opgawe, kennisgewing, aansoek of ander dokument by of aan die doeanegesag moet indien, voorlê of verstrek wat feite of ander inligting uiteensit, kan die doeanegesag van die persoon wat die dokument indien, voorlê of verstrek, vereis om die egtheid van die dokument by wyse van 'n geswore of plegtige verklaring te bevestig. 55

Timeframes for compliance with requests by customs authority

911. When the customs authority requests a person in terms of a provision of this Act to submit a document to it, such request must, except where provided otherwise, specify the timeframe within which the request must be complied with.

Method of conveying or sending decisions and documents 5

912. (1) The Commissioner, the customs authority or a customs officer may convey any decision taken or send any document issued in terms of this Act, including any request, exemption, authorisation, permission, approval, notice, notification, certificate, recognition, direction, condition or refusal, to a person affected by that decision or to whom the document is issued either by— 10

- (a) delivering the decision or document by hand;
- (b) sending the decision or document by post;
- (c) telefaxing the decision or document, if that person is equipped to receive telefax messages; or
- (d) transmitting the decision or document electronically, if that person is 15 registered as an electronic user.

(2) When in terms of this Act a person is required or permitted to submit to the Commissioner, the customs authority, a customs officer or any other person a declaration, application, request, report, statement, return, notice, notification or other document, the document may be submitted by— 20

- (a) delivering the document by hand;
- (b) sending the document by post;
- (c) telefaxing the document; or
- (d) transmitting the document electronically, subject to sections 606 and 913.

(3) Subsection (1) or (2) does not apply if this Act requires that any specific decision 25 or document must be conveyed, sent or submitted in a specific way.

Electronic submission of documents or communications⁴⁷¹

913. (1) When in terms of this Act a person is required or permitted to submit to the Commissioner, the customs authority or a customs officer a declaration, report, statement, return, notice, notification, application, request or other document or 30 communication electronically in accordance with this section, the document or communication must or may, subject to subsections (2) and (3), be submitted—

- (a) in accordance with a specific electronic system prescribed or recognised by rule for such documents or communications;
- (b) to the electronic address of the Commissioner that must be applied for 35 purposes of that electronic system; and
- (c) in accordance with such requirements and conditions as may be prescribed by rule.

(2) When in terms of this Act a person is required to submit a document or communication referred to in subsection (1) in a form and format as may be prescribed 40 by rule, submission through the electronic system prescribed or recognised for that document or communication of the information required in terms of this Act for that document or communication must be regarded to be submission of the document or communication in the required form and format.

(3) When in terms of this Act a person is required to sign a document or 45 communication referred to in subsection (1), and that document or communication is submitted through the electronic system prescribed or recognised for that document or communication, it must be electronically signed in the manner and in accordance with such requirements and conditions as may be required for that system or as prescribed by 50 rule.

⁴⁷¹ A person must be registered as an electronic user to communicate with customs electronically. See section 606.

Tydsrame vir voldoening aan versoeke deur doeane gesag

911. Wanneer die doeane gesag 'n persoon ingevolge 'n bepaling van hierdie Wet versoek om 'n dokument by die doeane gesag in te dien of aan die doeane gesag voor te lê of te verstrek, moet so 'n versoek, behalwe waar daar anders bepaal word, die tydperk spesifiseer waarbinne daar aan die versoek voldoen moet word. 5

Wyse van oordra of versending van besluite en dokumente

912. (1) Die Kommissaris, die doeane gesag of 'n doeane beampte kan enige besluit wat ingevolge hierdie Wet geneem of enige dokument wat ingevolge hierdie Wet uitgereik is, met inbegrip van enige versoek, ontheffing, magtiging, toestemming, goedkeuring, kennisgewing, sertifikaat, erkenning, lasgewing, voorwaarde of weiering, oordra of versend aan 'n persoon wat deur daardie besluit geraak word of aan wie die dokument uitgereik is, deur óf— 10

- (a) die besluit of dokument per hand af te lewer;
- (b) die besluit of dokument per pos te stuur;
- (c) die besluit of dokument per telefax te stuur, indien daardie persoon toegerus is om telefax boodskappe te ontvang; óf 15
- (d) die besluit of dokument elektronies te versend, indien daardie persoon as 'n elektroniese gebruiker geregistreer is.

(2) Wanneer 'n persoon 'n klaringsbrief, aansoek, versoek, verslag, verklaring, opgawe, kennisgewing of ander dokument ingevolge hierdie Wet by of aan die Kommissaris, die doeane gesag, 'n doeane beampte of enige ander persoon moet of kan indien, voorlê of verstrek, kan die dokument ingedien, voorgelê of verstrek word deur— 20

- (a) die dokument per hand af te lewer;
- (b) die dokument per pos te stuur;
- (c) die dokument per telefax te stuur; of 25
- (d) die dokument elektronies te versend, behoudens artikels 606 en 913.

(3) Subartikel (1) of (2) geld nie indien 'n spesifieke besluit of dokument volgens voorskrif van hierdie Wet op 'n spesifieke wyse oorgedra, versend, ingedien, voorgelê of verstrek moet word.

Elektroniese versending van dokumente of kommunikasies⁴⁷¹ 30

913. (1) Wanneer 'n persoon ingevolge hierdie Wet 'n klaringsbrief, verslag, verklaring, opgawe, kennisgewing, aansoek, versoek of ander dokument of kommunikasie elektronies ooreenkomstig hierdie artikel aan die Kommissaris, die doeane gesag of 'n doeane beampte moet of kan versend, moet of kan die dokument of kommunikasie, behoudens subartikels (2) en (3), versend word- 35

- (a) volgens die vereistes van 'n spesifieke elektroniese stelsel wat by reël vir sodanige dokumente of kommunikasies voorgeskryf of erken word;
- (b) aan die elektroniese adres van die Kommissaris wat vir doeleindes van daardie elektroniese stelsel gebruik moet word; en
- (c) volgens voorskrif van die vereistes en voorwaardes soos by reël voorgeskryf mag word. 40

(2) Wanneer 'n persoon 'n dokument of kommunikasie bedoel in subartikel (1), ingevolge hierdie Wet moet indien, voorlê of verstrek in 'n vorm en formaat soos by reël voorgeskryf mag word, moet versending by wyse van die elektroniese stelsel wat vir daardie dokument of kommunikasie voorgeskryf of erken is van die inligting wat ingevolge hierdie Wet vir daardie dokument of kommunikasie vereis word, geag word indiening, voorlegging of verstrekking van die dokument of kommunikasie in die voorgeskrewe vorm en formaat te wees. 45

(3) Wanneer 'n persoon 'n dokument of kommunikasie bedoel in subartikel (1), ingevolge hierdie Wet moet onderteken, en daardie dokument of kommunikasie by wyse van die elektroniese stelsel versend word wat vir daardie dokument of kommunikasie voorgeskryf of erken word, moet dit elektronies onderteken word op die wyse en volgens voorskrif van die vereistes en voorwaardes soos vir daardie stelsel vereis of by reël voorgeskryf mag word. 50

⁴⁷¹ 'n Persoon moet as 'n elektroniese gebruiker geregistreer wees om elektronies met Doeane te kommunikeer. Kyk artikel 606.

(4) When in terms of this Act a person is required to submit a document or communication referred to in subsection (1) electronically or through the electronic system prescribed or recognised for that document or communication—

- (a) the document or communication may in the event of a communications breakdown be submitted in paper format within such period and at such place as the customs authority may determine; or 5
- (b) the customs authority may in any other circumstances—
 - (i) condone any inability of a person to submit the document or communication electronically or through the electronic system prescribed or recognised for that document or communication; and 10
 - (ii) accept the document or communication in paper format within such period and at such place as the customs authority may determine.

(5) For purposes of this Act, the electronic submission of a document or communication does not include the submission of a document or communication by telefax or by cellular phone message. 15

Burden of proof in relation to documents or communications

914. When in terms of this Act a person is permitted or required to submit a declaration, report, statement, return, notice, notification, application, request or other document or communication to the customs authority, the person submitting the declaration, report, statement, return, notice, notification, application, request or other document or communication bears the burden of proving that the information contained therein is true and correct. 20

Documents transmitted or submitted and oaths and affirmations made outside Republic

915. (1) If a declaration, report, statement, return, notice, notification, application, request or other document which may or must be transmitted or submitted in terms of this Act is transmitted to the customs authority from outside the Republic or submitted or presented to a customs officer of the Republic outside the Republic, that declaration, report, statement, return, application, request or other document is for the purposes of this Act as effectual and binding as if transmitted or submitted in the Republic. 25 30

(2) If an oath or affirmation which may or must be made in terms of this Act is made to or before a customs officer of the Republic outside the Republic, that oath or affirmation is for the purposes of this Act as effectual and binding as if made in the Republic.

Factors to be taken into account when considering exemptions, authorisations, permissions, approvals, recognitions and other special dispensations 35

916. (1) Where this Act confers a power on the Commissioner, the customs authority or a customs officer to grant an exemption, authorisation, permission, approval, recognition or other special dispensation to a person in terms of this Act, the Commissioner, customs authority or customs officer must, when considering the granting of that dispensation, take into account all relevant factors, including, to the extent relevant— 40

- (a) those specifically stipulated in the provisions regulating the granting of the dispensation;
- (b) the context in, and purpose for, which the dispensation is given; 45
- (c) the ease with which a provision of this Act can be evaded if the dispensation is given;
- (d) any risks in relation to the payment or recovery of any tax or other money owed to the Commissioner that may arise from the granting of the dispensation and the monetary extent of that risk; 50
- (e) any motivations submitted by the person seeking the dispensation;
- (f) any motivations by a person objecting to the granting of the dispensation, if their rights will be affected by the granting of the dispensation;

- (4) Wanneer 'n persoon 'n dokument of kommunikasie bedoel in subartikel (1), ingevolge hierdie Wet elektronies of deur die elektroniese stelsel wat vir daardie dokument of kommunikasie voorgeskryf of erken word, moet versend—
- (a) kan die dokument of kommunikasie, in die geval van 'n kommunikasie-onderbreking, in papierformaat ingedien, voorgelê of verstrekk word binne die tydperk en by die plek soos die doeanebesag mag bepaal; of 5
 - (b) kan die doeanebesag in enige ander omstandighede—
 - (i) enige onvermoë van 'n persoon kondoneer om die dokument of kommunikasie elektronies of deur die elektroniese stelsel wat vir daardie dokument of kommunikasie voorgeskryf of erken word, te versend; en 10
 - (ii) die dokument of kommunikasie in papierformaat aanvaar binne die tydperk en by die plek soos die doeanebesag mag bepaal.
- (5) Vir doeleindes van hierdie Wet sluit die elektroniese versending van 'n dokument of kommunikasie nie die versending van 'n dokument of kommunikasie per telefax of by wyse van 'n boodskap per sellulêre foon in nie. 15

Bewysonus met betrekking tot dokumente of kommunikasies

914. Wanneer 'n persoon ingevolge hierdie Wet 'n klaringsbrief, verslag, verklaring, opgawe, kennisgewing, aansoek, versoek of ander dokument of kommunikasie by of aan die doeanebesag moet of kan indien, voorlê of verstrekk, rus die onus om te bewys dat die inligting daarin vervat waar en juis is op die persoon wat die klaringsbrief, verslag, verklaring, opgawe, kennisgewing, aansoek, versoek of ander dokument of kommunikasie moet of kan indien, voorlê of verstrekk. 20

Dokumente versend of ingedien vanaf, en eedsverklarings en bevestigings gemaak, buite die Republiek

915. (1) Indien 'n klaringsbrief, verslag, verklaring, opgawe, kennis, kennisgewing, aansoek, versoek of ander dokument wat ingevolge hierdie Wet versend, ingedien, voorgelê of verstrekk kan of moet word, van buite die Republiek af na die doeanebesag versend word of buite die Republiek ingedien word by, of aangebied word aan, 'n doeanebeampte van die Republiek, is daardie klaringsbrief, verslag, verklaring, opgawe, aansoek, versoek of ander dokument vir doeleindes van hierdie Wet net so effektief en bindend asof dit in die Republiek versend, ingedien, voorgelê of verstrekk is. 25 30
- (2) Indien 'n eed of bevestiging wat ingevolge hierdie Wet gemaak kan of moet word, gemaak word aan of voor 'n doeanebeampte van die Republiek buite die Republiek, is daardie eed of bevestiging vir doeleindes van hierdie Wet net so effektief en bindend asof dit in die Republiek gemaak is. 35

Faktore in ag geneem te word by oorweging van ontheffings, magtigings, toestemmings, goedkeurings, erkennings en ander spesiale vergunnings

916. (1) Waar hierdie Wet 'n bevoegdheid aan die Kommissaris, die doeanebesag of 'n doeanebeampte verleen om 'n ontheffing, magtiging, toestemming, goedkeuring, erkenning of ander spesiale vergunning aan 'n persoon ingevolge hierdie Wet te verleen, moet die Kommissaris, doeanebesag of doeanebeampte, by die oorweging van die toestaan van daardie vergunning alle tersaaklike faktore in ag neem, met inbegrip van, in soverre dit tersaaklik is—
- (a) daardie faktore wat spesifiek vermeld word in die bepalinge wat die toestaan van die vergunning reguleer; 45
 - (b) die samehang waarin, en die doel waarvoor, die vergunning verleen word;
 - (c) die gemak waarmee 'n bepaling van hierdie Wet ontduik kan word indien die vergunning verleen word;
 - (d) enige risiko's met betrekking tot die betaling of verhaling van enige belasting of gelde verskuldig aan die Kommissaris wat as gevolg van die toestaan van die vergunning mag ontstaan, en die geldelike omvang van daardie risiko; 50
 - (e) enige motiverings wat deur die persoon wat die vergunning verlang, voorgelê word;
 - (f) enige motiverings wat voorgelê word deur persone wat beswaar teen die toestaan van die vergunning maak, indien hulle regte deur die toestaan van die vergunning geraak sal word; 55

- (g) whether the person seeking the dispensation—
 - (i) has a record of non-compliance with this Act or a tax levying Act;
 - (ii) has been convicted of an offence under this Act or a tax levying Act; or
 - (iii) has been convicted of an offence involving fraud or dishonesty during the five years preceding the application;
- (h) whether the tax matters of the person seeking the dispensation are in order as contemplated in section 917;
- (i) the size of the business of the person seeking the dispensation; and
- (j) any other matter as may be prescribed by rule.

(2) Subsection (1) does not apply to the consideration of applications for registration, licences or accreditation, or the withdrawal or suspension of registration, licences or accreditation, or the imposition or withdrawal of licence, registration or accreditation conditions, and those matters must be disposed of in accordance with Chapters 28, 29 and 30, respectively.

When tax matters must be considered to be in order 15

917. A person's tax matters must be considered to be in order for purposes of this Act or a tax levying Act when—

- (a) there are no outstanding taxes, interest, penalties or other amounts owing to SARS for which that person is liable in terms of this Act, a tax levying Act or any other tax law; or
- (b) there are no outstanding tax returns or other documents that must be submitted for tax purposes to SARS in terms of this Act, a tax levying Act or any other tax law.

Exemptions, authorisations, permissions, approvals, recognitions and directions

918. (1) (a) Where this Act confers a power on the Commissioner, the customs authority or a customs officer to grant an exemption, authorisation, permission, approval or recognition, or to issue a direction, or to allow an act to be carried out, that power includes the power to grant the exemption, authorisation, permission, approval or recognition, or to issue the direction, or to allow the carrying out of such act, on such conditions or for such period as the Commissioner, customs authority or customs officer may determine.

(b) A condition and a period determined in terms of paragraph (a) must be consistent with this Act and any applicable tax levying Act.

(2) Where this Act provides that an act may be carried out only on authority of an exemption, authorisation, permission, approval or recognition granted by the Commissioner, the customs authority or a customs officer, no such exemption, authorisation, permission or approval may be granted to regularise an act that has already been carried out.

Record keeping systems

919. (1) Where a provision of this Act requires a person to keep a record with regard to any specific matter, that record must be kept by means of an appropriate computer-based system, subject to any conditions and requirements as may be prescribed by rule.

(2) The customs authority may, in any specific case, allow a person to deviate from subsection (1) and to use any appropriate paper-based system for record keeping purposes, subject to such conditions or requirements as the customs authority may determine.

Submission of documents through representatives

920. When in terms of this Act a person is required or entitled to submit a declaration, report, statement, return, notice, notification, application, request or other document or communication to the Commissioner, the customs authority or a customs officer, that person may submit the declaration, report, statement, return, notice, notification,

- (g) of die persoon wat die vergunning verlang—
- (i) 'n rekord van nie-voldoening aan hierdie Wet of 'n belastingheffings-Wet het;
 - (ii) aan 'n misdryf ingevolge hierdie Wet of 'n belastingheffings-Wet skuldig bevind is; of
 - (iii) in die vyf jaar wat die aansoek voorafgaan aan 'n misdryf waarby bedrog of oneerlikheid betrokke was, skuldig bevind is;
- (h) of die belastingsake van die persoon wat die vergunning verlang in orde is, soos in artikel 917 beoog;
- (i) die omvang van die besigheid van die persoon wat die vergunning verlang; en
- (j) enige ander aangeleentheid soos by reël voorgeskryf mag word.
- (2) Subartikel (1) geld nie vir die oorweging van aansoeke om registrasie, lisensiëring of akkreditasie, of die intrekking of opskorting van registrasie, lisensies of akkreditasie, of die oplegging of intrekking van lisensie-, registrasie- of akkreditasievoorwaardes nie, en met daardie aangeleenthede moet daar volgens die voorskrifte van Hoofstukke 28, 29 en 30, onderskeidelik, gehandel word.

Wanneer belastingsake beskou moet word in orde te wees

- 917.** 'n Persoon se belastingsake moet vir doeleindes van hierdie Wet of 'n belastingheffings-Wet aanvaar word in orde te wees wanneer—
- (a) daar geen uitstaande belastings, rente, boetes of ander bedrae aan SAID verskuldig is waarvoor daardie persoon ingevolge hierdie Wet, 'n belastingheffings-Wet of enige ander wetgewing aanspreeklik is nie; of
 - (b) daar nie uitstaande belastingopgawes of ander dokumente is wat vir belastingdoeleindes ingevolge hierdie Wet, 'n belastingheffings-Wet of enige ander wetgewing by SAID ingedien moet word nie.

Ontheffings, magtigings, toestemmings, goedkeurings, erkennings en lasgewings

- 918.** (1) (a) Waar hierdie Wet 'n bevoegdheid aan die Kommissaris, die doeanebesag of 'n doeanebeampte verleen om 'n ontheffing, magtiging, toestemming, goedkeuring of erkenning toe te staan, of om 'n lasgewing uit te reik, of om toe te laat dat 'n handeling verrig word, sluit daardie bevoegdheid die bevoegdheid in om die ontheffing, magtiging, toestemming, goedkeuring of erkenning toe te staan, of om die lasgewing uit te reik, of om so 'n handeling toe te laat, op die voorwaardes of vir die tydperk soos die Kommissaris, doeanebesag of doeanebeampte mag bepaal.
- (b) 'n Voorwaarde en 'n tydperk ingevolge paragraaf (a) bepaal, moet met hierdie Wet en enige betrokke belastingheffings-Wet bestaanbaar wees.
- (2) Waar hierdie Wet bepaal dat 'n handeling verrig mag word slegs op gesag van 'n ontheffing, magtiging, toestemming, goedkeuring of erkenning wat deur die Kommissaris, die doeanebesag of 'n doeanebeampte toegestaan is, mag geen sodanige ontheffing, magtiging, toestemming of goedkeuring toegestaan word om 'n handeling wat reeds verrig is, te wettig nie.

Rekordhoudingstelsels

- 919.** (1) Waar daar volgens voorskrif van 'n bepaling van hierdie Wet van 'n persoon vereis word om rekord te hou met betrekking tot enige spesifieke aangeleentheid, moet daardie rekord gehou word by wyse van 'n gepaste rekenaar-gebaseerde stelsel, behoudens enige voorwaardes en vereistes soos by reël voorgeskryf mag word.
- (2) Die doeanebesag kan in enige spesifieke geval toestemming aan 'n persoon verleen om af te wyk van subartikel (1) en om enige gepaste papier-gebaseerde stelsel vir rekordhoudingdoeleindes, behoudens die voorwaardes of vereistes soos die doeanebesag mag bepaal, te gebruik.

Indiening, voorlegging of verstrekking van dokumente deur verteenwoordigers

- 920.** Wanneer ingevolge hierdie Wet 'n persoon 'n klaringsbrief, verslag, verklaring, opgawe, kennis, kennisgewing, aansoek, versoek of ander dokument of kommunikasie by of aan die Kommissaris, die doeanebesag of 'n doeanebeampte moet of kan indien, voorlê of verstrek, kan daardie persoon die klaringsbrief, verslag, verklaring, opgawe, kennis, kennisgewing, aansoek, versoek of ander dokument of kommunikasie deur 'n

application, request or other document or communication through a representative, subject to the other provisions of this Act or any conditions or requirements as may be prescribed by rule.

Publication of international agreements to which Republic is party

921. An international agreement to which the Republic is a party, is enacted into law in the Republic by publication of the agreement in accordance with section 231(4) of the Constitution in the Government *Gazette*. 5

Import and export statistics

922. (1) The Commissioner must—

- (a) compile such statistics regarding the import into and export of goods from the Republic as the Minister may determine; and 10
- (b) publish such statistics at such times and in such manner as the Minister may direct.

(2) A person clearing goods for home use or a customs procedure must, in addition to any particulars necessary for clearing the goods, furnish such further particulars relating to such goods as may for purposes of import and export statistics be prescribed by rule or required by the Commissioner. 15

(3) The Commissioner may for purposes of subsection (1) utilise any information available to the Commissioner in terms of this Act or a tax levying Act, but information published in terms of that subsection— 20

- (a) may not specify—
 - (i) the identity of the person to whom the information relates; or
 - (ii) particulars from which the identity of such a person may be deduced; and
- (b) must be in the public interest.

Liability for damage, loss or expenses 25

923. The State, the Commissioner, the customs authority, a customs officer, a SARS official or a person referred to in section 12(3) is not liable for or in respect of any damage, loss or expenses suffered or incurred by any person arising from any decisions taken or actions performed in good faith in the exercise of a power or duty assigned or delegated to the Commissioner, the customs authority, a customs officer, a SARS official or such person in terms of this Act, the Customs Duty Act or the Excise Duty Act. 30

Legal status of footnotes

924. (1) Footnotes in this Act do not form part of the text of this Act and have no binding legal force.

(2) The Minister may in order to enhance accessibility to this Act, by notice in the *Gazette*— 35

- (a) repeal or amend any of the footnotes; or
- (b) add new footnotes.

Interpretive notes

925. (1) The Commissioner may for the purpose of facilitating understanding of this Act or a tax levying Act compile and make public in any manner determined by the Commissioner interpretive notes on the interpretation of provisions of this Act or a tax levying Act. 40

(2) Interpretive notes made public in terms of subsection (1) have no legal effect and do not bind the Commissioner or any other person. 45

verteenwoordiger, behoudens die ander bepalings van hierdie Wet of enige voorwaardes of vereistes soos by reël voorgeskryf mag word, laat indien, voorlê of verstrek.

Publikasie van internasionale ooreenkomsie waarby Republiek party is

921. 'n Internasionale ooreenkoms waarby die Republiek 'n party is, word as deel van die reg van die Republiek verorden deur die ooreenkoms in die *Staatskoerant* 5 ooreenkomsstig artikel 231(4) van die Grondwet te publiseer.

Invoer- en uitvoerstatistieke

922. (1) Die Kommissaris moet—

- (a) dié statistieke aangaande die invoer van goedere in, en die uitvoer van goedere uit, die Republiek soos die Minister mag bepaal, saamstel; en 10
- (b) daardie statistieke op die tye en op die wyse soos die Minister mag gelas, publiseer.

(2) 'n Persoon wat goedere vir binnelandse gebruik of 'n doeaneprocedure klaar, moet benewens enige besonderhede wat vir die klaring van die goedere vereis word, die verdere besonderhede betreffende sodanige goedere verstrek wat vir doeleindes van invoer- en uitvoerstatistieke by reël voorgeskryf of deur die Kommissaris vereis mag word. 15

(3) Die Kommissaris kan vir doeleindes van subartikel (1) enige inligting gebruik wat ingevolge hierdie Wet of 'n belastingheffings-Wet tot die Kommissaris se beskikking is, maar inligting ingevolge daardie subartikel gepubliseer— 20

- (a) mag nie—
 - (i) die identiteit van die persoon op wie die inligting betrekking het, spesifiseer nie; of
 - (ii) besonderhede waaruit die identiteit van so 'n persoon afgelei kan word, spesifiseer nie; en 25
- (b) moet in die openbare belang wees.

Aanspreeklikheid vir skade, verlies of koste

923. Die staat, die Kommissaris, die doeanebesag, 'n doeanebeampte, 'n SAID beampte of 'n persoon bedoel in artikel 12(3) is nie vir of ten opsigte van enige skade, verlies of koste aanspreeklik wat deur enige persoon gely of aangegaan is wat ontstaan het uit enige besluite geneem of handelinge verrig in goeie trou by die uitoefening van 'n bevoegdheid of plig wat aan die Kommissaris, die doeanebesag, 'n doeanebeampte, 'n SAID beampte of sodanige persoon ingevolge hierdie Wet, die Wet op Doeanereg en die Wet op Aksynsreg opgedra of gedelegeer is nie. 30

Regstatus van voetnotas 35

924. (1) Voetnotas in hierdie Wet vorm nie deel van die teks van hierdie Wet nie en het geen bindende regs-krag nie.

- (2) Die Minister kan ten einde toeganklikheid tot hierdie Wet te bevorder, by kennisgewing in die *Staatskoerant*—
 - (a) enige van die voetnotas herroep of wysig; of 40
 - (b) nuwe voetnotas byvoeg.

Interpretasienotas

925. (1) Die Kommissaris kan ter bevordering van begrip van hierdie Wet of 'n belastingheffings-Wet, interpretasienotas oor die uitleg van bepalings van hierdie Wet of 'n belastingheffings-Wet saamstel en op enige wyse deur die Kommissaris bepaal, 45 publiseer.

(2) Interpretasienotas ingevolge subartikel (1) gepubliseer, het geen regseffek nie en bind nie die Kommissaris of enige ander persoon nie.

Part 3

Transitional provisions

Interpretation of this Part

- 926.** (1) In this Part—
- “Customs Duty Act”** means the Customs Duty Act, 2014 and includes— 5
 - (a) the Customs Tariff;
 - (b) any rules made in terms of that Act;
 - (c) any notices of general application published by the Minister in terms of that Act in the *Gazette*; and
 - (d) any international agreement— 10
 - (i) referred to in section 940 that is binding for purposes of that Act; or
 - (ii) entered into on or after the effective date that is binding for purposes of that Act;
 - “effective date”** means the date on which this Act (excluding Chapters 22 and 38),⁴⁷² the Customs Duty Act and the Customs and Excise Amendment Act, 2014, 15 take effect;
 - “enter”**, in relation to the 1964 Act, means the submission to the Commissioner in terms of the 1964 Act of a declaration in respect of goods for—
 - (a) home consumption;
 - (b) removal in bond; 20
 - (c) warehousing;
 - (d) use under rebate of duty;
 - (e) export; or
 - (f) any other purpose or procedure provided for in the 1964 Act;
 - “Excise Duty Act”** means the Customs and Excise Act, 1964, as amended and 25 renamed the Excise Duty Act by the Customs and Excise Amendment Act, 2014, and includes—
 - (a) the Excise Tariff;
 - (b) the excise rules; and
 - (c) any other instrument referred to in the definition of “this Act” in section 1 of 30 the 1964 Act if and to the extent that that instrument applies to duties, levies or taxes or to goods, persons or matters to which the Excise Duty Act applies;
 - “excise rules”** means—
 - (a) rules made in terms of the 1964 Act that were in force immediately before the 35 effective date, to the extent that those rules apply to, regulate or affect a duty, levy or tax or any goods or persons or other matter to which the Excise Duty Act applies; or
 - (b) rules referred to in paragraph (a) as amended or replaced in terms of the Excise Duty Act on or after the effective date;
 - “existing customs licence”** means a licence— 40
 - (a) issued in terms of the 1964 Act before the effective date for a purpose set out in that Act to a person or in respect of any premises or facility required in terms of sections 630 to 634 of this Act to be licensed for a similar purpose; and
 - (b) that was in force immediately before the effective date; 45
 - “existing customs registration”** means a registration—
 - (a) issued in terms of the 1964 Act before the effective date for a purpose set out in that Act to a person that must or may in terms of sections 603 to 607 of this Act be registered for a similar purpose; and
 - (b) that was in force immediately before the effective date; 50
 - “existing excise licence”** means a licence—
 - (a) issued in terms of the 1964 Act before the effective date for the purposes of that Act to a person or in respect of any premises, property, plant or equipment; and
 - (b) that was in force immediately before the effective date, but excludes any such 55 licence that is an existing customs licence;

⁴⁷². See section 944.

Deel 3

Oorgangsbepalings

Uitleg van hierdie Deel

- 926.** (1) In hierdie Deel, beteken—
- “**aksynsreëls**”— 5
 - (a) reëls uitgevaardig ingevolge die 1964 Wet wat onmiddellik voor die effektiewe datum van krag was, in soverre daardie reëls vir ’n reg, heffing of belasting of enige goedere of persone of ander aangeleentheid waarop die Wet op Aksynsreg van toepassing is, geld of sodanige reg, heffing, belasting, goedere, persone of ander aangeleentheid reguleer of raak; of 10
 - (b) reëls in paragraaf (a) bedoel soos ingevolge die Wet op Aksynsreg op of na die effektiewe datum gewysig of vervang;
 - “**bestaande aksynslisensie**” ’n lisensie wat—
 - (a) ingevolge die 1964 Wet voor die effektiewe datum vir doeleindes van daardie Wet aan ’n persoon of ten opsigte van enige perseel, eiendom, installasie of toerusting uitgereik is; en 15
 - (b) onmiddellik voor die effektiewe datum van krag was, maar nie ook so ’n lisensie wat ’n bestaande doeanelisensie is nie;
 - “**bestaande aksynsregistrasie**” ’n registrasie wat—
 - (a) ingevolge die 1964 Wet voor die effektiewe datum vir doeleindes van daardie Wet aan ’n persoon of ten opsigte van enige perseel, eiendom, installasie of toerusting of ander aangeleentheid uitgereik is; en 20
 - (b) onmiddellik voor die effektiewe datum van krag was, maar nie ook so ’n registrasie wat ’n bestaande doeane registrasie is nie;
 - “**bestaande doeanelisensie**” ’n lisensie wat— 25
 - (a) ingevolge die 1964 Wet voor die effektiewe datum vir ’n doel vermeld in daardie Wet uitgereik is aan ’n persoon of ten opsigte van ’n perseel of fasiliteit wat volgens die vereistes van artikels 630 tot 634 van hierdie Wet vir ’n soortgelyke doel gelisensieer moet wees; en
 - (b) onmiddellik voor die effektiewe datum van krag was; 30
 - “**bestaande doeane registrasie**” ’n registrasie wat—
 - (a) ingevolge die 1964 Wet voor die effektiewe datum vir ’n doel vermeld in daardie Wet aan ’n persoon uitgereik is wat volgens die vereistes van artikels 603 tot 607 van hierdie Wet vir ’n soortgelyke doel geregistreer moet of kan wees; en 35
 - (b) onmiddellik voor die effektiewe datum van krag was;
 - “**effektiewe datum**” die datum waarop hierdie Wet (behalwe Hoofstukke 22 en 38),⁴⁷² die Wet op Doeane en die Wysigingswet op Doeane en Aksyns, 2014, in werking tree;
 - “**klaar**”, met betrekking tot die 1964 Wet, die indiening by die Kommissaris ingevolge die 1964 Wet van ’n deklarasie ten opsigte van goedere vir— 40
 - (a) binnelandse verbruik;
 - (b) verwydering onder waarborg;
 - (c) opslag;
 - (d) gebruik met korting op reg; 45
 - (e) uitvoer; of
 - (f) enige ander doel of prosedure waarvoor in die 1964 Wet voorsiening gemaak word;
 - “**maatreël**” nie ook ’n reël of ander instrument waarna in die omskrywing van “hierdie Wet” in artikel 1 van die Doeane- en Aksynswet, 1964, verwys word 50 nie;⁴⁷³
 - “**Wet op Aksynsreg**” die Doeane- en Aksynswet, 1964, soos deur die Wysigingswet op Doeane en Aksyns, 2014, gewysig en as die Wet op Aksynsreg hernoem, en sluit in—
 - (a) die Aksynstarief; 55
 - (b) die aksynsreëls; en

472. Kyk artikel 944.

473. Reëls en hierdie ander instrumente word uitgesluit aangesien hulle deel vorm van die konsep van “die 1964 Wet”. Kyk omskrywing hierbo van “1964 Wet”.

“existing excise registration” means a registration—

- (a) issued in terms of the 1964 Act before the effective date for the purposes of that Act to a person or in respect of any premises, property, plant or equipment or other matter; and
- (b) that was in force immediately before the effective date, but excludes any such registration that is an existing customs registration; 5

“measure” excludes a rule or other instrument referred to in the definition of “this Act” in section 1 of the Customs and Excise Act, 1964;⁴⁷³

“1964 Act” means the Customs and Excise Act, 1964, as it existed before the effective date, and includes any instrument referred to in the definition of “this Act” in section 1 of that Act. 10

(2) Any reference in this Part to a measure in force in terms of the 1964 Act immediately before the effective date must be read as referring to any of the following measures issued, granted, imposed or made in terms of the 1964 Act⁴⁷⁴ that was in force immediately before the effective date: 15

- (a) any directive, direction, ruling, determination, requirement, restriction or other stipulation;
- (b) any registration, licence, accredited status, certification or other official recognition;
- (c) any approval, permission, authorisation, exclusion, exemption, rebate, relief or other dispensation; 20
- (d) any condition, qualification or limitation;
- (e) any appointment or designation;
- (f) any delegation; and
- (g) any other act or decision not mentioned above that has a continuous legal effect. 25

(3) In the event of an inconsistency between this Act and the 1964 Act in relation to the meaning of a word or expression used in this Part, the meaning assigned to the word or expression in this Act prevails unless the context indicates otherwise.

Application of this Act, Customs Duty Act and Excise Duty Act as from effective date 30

927. As from the effective date—

- (a) this Act applies to the extent indicated in this Act in relation to—
 - (i) all goods and persons that are or become subject to customs control in terms of Chapter 2, excluding— 35
 - (aa) goods and persons referred to in section 929(1) to which, and whilst, the 1964 Act continues to apply in terms of that section; and
 - (bb) international postal articles to which, and whilst, the 1964 Act continues to apply in terms of section 943; and
 - (ii) all other persons and matters regulated or otherwise affected by this Act; 40
- (b) the Customs Duty Act applies to the extent indicated in that Act in relation to—
 - (i) all goods and persons that are or become subject to customs control in terms of Chapter 2 of this Act, excluding goods and persons referred to in section 929(1) to which, and whilst, the 1964 Act continues to apply in terms of that section; and 45
 - (ii) all other persons and matters regulated or otherwise affected by the Customs Duty Act; and

473. Rules and these other instruments are excluded as they form part of the notion of the 1964 Act. See definition above of “1964 Act”.

474. The measures contemplated here include only those issued “in terms of” the 1964 Act, i.e those that were issued legally. Measures that were issued illegally as if authorised in terms of the 1964 Act are not included here.

- (c) enige ander instrument waarna in die omskrywing van “hierdie Wet” in artikel 1 van die 1964 Wet verwys word, indien en insoverre daardie instrument van toepassing is op reg, heffings of belasting of op goedere, persone of aangeleenthede waarop die Wet op Aksynsreg van toepassing is; “Wet op Doeanereg” die Wet op Doeanereg, 2014, en sluit in— 5
- (a) die Doeanetarief;
- (b) enige reëls ingevolge daardie Wet uitgevaardig;
- (c) enige algemeen-geldende kennisgewings wat ingevolge daardie Wet deur die Minister in die *Staatskoerant* gepubliseer is; en
- (d) enige internasionale ooreenkoms— 10
- (i) in artikel 940 bedoel wat vir doeleindes van daardie Wet bindend is; of
- (ii) wat aangegaan is op of na die effektiewe datum wat bindend vir doeleindes van daardie Wet is;
- “1964 Wet” die Doeane- en Aksynswet, 1964, soos dit bestaan het voor die effektiewe datum, met inbegrip van enige instrument waarna in die omskrywing van “hierdie Wet” in artikel 1 van daardie Wet verwys word. 15
- (2) Enige verwysing in hierdie Deel na ’n maatregel wat onmiddellik voor die effektiewe datum ingevolge die 1964 Wet van krag was, moet uitgelê word as ’n verwysing na enige van die volgende maatreëls uitgereik, toegestaan, opgelê of gemaak ingevolge die 1964 Wet⁴⁷⁴ wat onmiddellik voor die effektiewe datum van krag was: 20
- (a) Enige aanwysing, lasgewing, beslissing, bepaling, vereiste, beperking of ander stipulasie;
- (b) enige registrasie, lisensie, geakkrediteerde status, sertifisering of ander amptelike erkenning;
- (c) enige goedkeuring, toestemming, magtiging, uitsluiting, ontheffing, korting, verligting of ander vergunning; 25
- (d) enige voorwaarde, kwalifikasie of beperking;
- (e) enige aanstelling of aanwysing;
- (f) enige delegasie; en
- (g) enige ander handeling of besluit nie hierbo vermeld nie wat ’n voortdurende regsgevolg het. 30
- (3) In die geval van enige teenstrydigheid tussen hierdie Wet en die 1964 Wet met betrekking tot die betekenis van ’n woord of uitdrukking wat in hierdie Deel gebruik word, geniet die betekenis wat aan die woord of uitdrukking in hierdie Wet geheg word, voorrang tensy dit uit die samehang anders blyk. 35

Toepassing van hierdie Wet, Wet op Doeanereg en Wet op Aksynsreg vanaf effektiewe datum

927. Vanaf die effektiewe datum—

- (a) is hierdie Wet, insoverre in hierdie Wet aangedui, van toepassing met betrekking tot— 40
- (i) alle goedere en persone wat ingevolge Hoofstuk 2 aan doeanebeheer onderworpe is of word, uitgesonderd—
- (aa) goedere en persone bedoel in artikel 929(1) waarop, en terwyl, die 1964 Wet ingevolge daardie artikel aanhou om van krag te bly; en
- (bb) internasionale posstukke waarop, en terwyl, die 1964 Wet ingevolge artikel 943 aanhou om van krag te bly; en 45
- (ii) alle ander persone en aangeleenthede wat deur hierdie Wet gereguleer of andersins geraak word;
- (b) is die Wet op Doeanereg, insoverre in daardie Wet aangedui, van toepassing met betrekking tot— 50
- (i) alle goedere en persone wat ingevolge Hoofstuk 2 van hierdie Wet aan doeanebeheer onderworpe is of word, uitgesonderd goedere en persone bedoel in artikel 929(1) waarop, en terwyl, die 1964 Wet ingevolge daardie artikel aanhou om van krag te bly; en
- (ii) alle ander persone en aangeleenthede wat deur die Wet op Doeanereg gereguleer of andersins geraak word; en 55

474. Die maatreëls hier beoog, sluit slegs dié in wat uitgereik is “ingevolge” die 1964 Wet, d.i. die wat regmatiglik uitgereik is. Maatreëls wat onregmatiglik uitgereik is asof ingevolge die 1964 gemagtig, is nie hier ingesluit nie.

- (c) the Excise Duty Act applies to the extent indicated in that Act in relation to—
 - (i) all goods and persons regulated or otherwise affected by that Act, excluding goods and persons referred to in section 929(1) of this Act to which, and whilst, the 1964 Act continues to apply in terms of that section; and
 - (ii) all other matters regulated or otherwise affected by that Act.

Continuation of measures under 1964 Act for purposes of this Act, Customs Duty Act and Excise Duty Act

928. (1) Despite the enactment of this Act, the Customs Duty Act and the Customs and Excise Amendment Act, 2014, any measure in force in terms of the 1964 Act immediately before the effective date in relation to any goods or a person or matter contemplated in section 927(a), (b) or (c), continues on and after the effective date to be in force in relation to those goods or that person or matter but only if and to the extent that a measure of a corresponding kind can in relation to those goods or that person or matter be issued, granted, imposed or made after the effective date in terms of this Act, the Customs Duty Act or the Excise Duty Act.⁴⁷⁵

(2) A measure that continues in force in terms of subsection (1) must for all purposes, including for purposes of any future amendment, substitution, repeal, withdrawal or suspension thereof, be regarded to have been issued, granted, imposed or made in terms of the relevant enabling provision of this Act, the Customs Duty Act or the Excise Duty Act, as the case may be, which provides for a measure of a corresponding kind to be issued, granted or imposed on or after the effective date.⁴⁷⁶

(3) Subsections (1) and (2) must be read subject to sections 931 to 939.

Continued application of 1964 Act on and after effective date in relation to certain goods and persons

929. (1) The 1964 Act continues to be in force in relation to the following goods and persons as fully and effectually as if this Act, the Customs Duty Act and the Customs and Excise Amendment Act, 2013, had not been enacted:

- (a) goods which, immediately before the effective date, were subject to or being dealt with in terms of an entry in terms of the 1964 Act;
- (b) inbound travellers and crew who arrived in the Republic⁴⁷⁷ before the effective date; and
- (c) the accompanied and unaccompanied baggage of travellers and crew referred to in paragraph (b).

(2) The 1964 Act continues to apply to goods referred to in subsection (1)(a) only for as long as those goods are subject to or being dealt with under the entry referred to in that subsection.

(3) If a person desires or is required in terms of the 1964 Act to deal with goods referred to in subsection (1)(a), or any products derived from those goods, in a way or for a purpose which in terms of the 1964 Act requires a further entry for the goods or a separate entry for those products, the following principles⁴⁷⁸ apply:

- (a) If those goods are imported goods and that person desires or is required in terms of the 1964 Act to enter the goods for home consumption or to replace the current entry with an entry for home consumption—

475. The implication is that a 1964 Act measure lapses if the Customs Control Act, the Customs Duty Act or the Excise Duty Act does not provide for a measure of a corresponding kind to be issued, granted, imposed or made in relation to those goods or that person or matter.

476. The purpose of subsection (2) is to enable the amendment, substitution, suspension, withdrawal or repeal of these measures in terms of the new Acts.

477. See section 2 of the Customs Control Act for time of arrival of persons in the Republic.

478. Section 942 provides for rules to regulate the implementation of these principles.

- (c) is die Wet op Aksynsreg, insoverre in daardie Wet aangedui, van toepassing met betrekking tot—
- (i) alle goedere en persone wat deur daardie Wet gereguleer of andersins geraak word, uitgesonderd goedere en persone bedoel in artikel 929(1) van hierdie Wet waarop, en terwyl, die 1964 Wet ingevolge daardie artikel aanhou om van krag te bly; en
 - (ii) alle ander aangeleenthede wat deur daardie Wet gereguleer of andersins geraak word.

Voortsetting van maatreëls kragtens 1964 Wet vir doeleindes van hierdie Wet, Wet op Doeanereg en Wet op Aksynsreg

928. (1) Ondanks die uitvaardiging van hierdie Wet, die Wet op Doeanereg en die Wysigingswet op Doeane en Aksyns, 2014, hou enige maatreël wat ingevolge die 1964 Wet onmiddellik voor die effektiewe datum met betrekking tot enige goedere of 'n persoon of aangeleentheid bedoel in artikel 927(a), (b) of (c) van krag was, aan om op en na die effektiewe datum met betrekking tot daardie goedere of daardie persoon of aangeleentheid van krag te bly maar slegs indien en insoverre 'n maatreël met 'n ooreenstemmende strekking met betrekking tot daardie goedere of daardie persoon of aangeleentheid na die effektiewe datum ingevolge hierdie Wet, die Wet op Doeanereg of die Wet op Aksynsreg uitgereik, toegestaan, opgelê of gemaak kan word.⁴⁷⁵

(2) 'n Maatreël wat ingevolge subartikel (1) aanhou om van krag te bly, moet vir alle doeleindes, asook vir doeleindes van enige toekomstige wysiging, vervanging, herroeping, intrekking of opskorting daarvan, geag word uitgereik, toegestaan, opgelê of gemaak te wees ingevolge die betrokke magtigende bepaling van hierdie Wet, die Wet op Doeanereg of die Wet op Aksynsreg, na gelang van die geval, wat voorsiening maak dat 'n maatreël met 'n ooreenstemmende strekking op of na die effektiewe datum uitgereik, toegestaan of opgelê kan word.⁴⁷⁶

(3) Subartikels (1) en (2) moet behoudens artikels 931 tot 939 verstaan word.

Voortgesette toepassing van 1964 Wet op en na effektiewe datum met betrekking tot sekere goedere en persone

929. (1) Die 1964 Wet hou met betrekking tot die volgende goedere en persone aan om van krag te bly so volkome en effektiewelik asof hierdie Wet, die Wet op Doeanereg en die Wysigingswet op Doeane en Aksyns, 2014, nie uitgevaardig is nie:

- (a) Goedere wat onmiddellik voor die effektiewe datum onderworpe was aan, of mee gehandel word ingevolge, 'n klaring ingevolge die 1964 Wet;
- (b) inkomende reisigers en bemanning wat voor die effektiewe datum in die Republiek⁴⁷⁷ aangekom het; en
- (c) die vergeselde en onvergeselde bagasie van reisigers en bemanning in paragraaf (b) bedoel.

(2) Die 1964 Wet hou aan om op goedere bedoel in subartikel (1)(a) van krag te bly slegs vir solank as wat daardie goedere onderworpe is aan, of mee gehandel word kragtens, die klaring in daardie subartikel bedoel.

(3) Indien 'n persoon verlang of ingevolge die 1964 Wet gebonde is om met goedere bedoel in subartikel (1)(a), of enige produkte verkry uit daardie goedere, te handel op 'n wyse of vir 'n doel wat ingevolge die 1964 Wet 'n verdere klaring vir die goedere of 'n aparte klaring vir daardie produkte nodig maak, geld die volgende beginsels:⁴⁷⁸

- (a) Indien daardie goedere ingevoerde goedere is en daardie persoon verlang of ingevolge die 1964 Wet gebonde is om die goedere vir binnelandse verbruik te klaar of om die bestaande klaring deur 'n klaring vir binnelandse verbruik te vervang—

475. Die implikasie is dat 'n 1964 Wet-maatreël verval indien die Wet op Doeanebeheer, die Wet op Doeanereg of die Wet op Aksynsreg geen magtiging bevat dat 'n maatreël met 'n ooreenstemmende strekking met betrekking tot daardie goedere of daardie persoon of aangeleentheid uitgereik, toegestaan, opgelê of gemaak kan word nie.

476. Die doel van subartikel (2) is om die wysiging, vervanging, opskorting, intrekking of herroeping van hierdie maatreëls ingevolge die nuwe Wette te magtig.

477. Kyk artikel 2 van die Wet op Doeanebeheer vir die tydstip van aankoms van persone in die Republiek.

478. Artikel 942 maak voorsiening vir reëls om die implementering van hierdie beginsels te reël.

- (i) the 1964 Act ceases to be available for the entry of such goods for home consumption;
 - (ii) the goods must be cleared in terms of this Act for home use as if the current entry of the goods were a clearance in terms of this Act; and
 - (iii) the 1964 Act ceases to apply and this Act become applicable to the goods as from the time of clearance of the goods for home use. 5
- (b) If those goods, or any products derived from those goods, are imported goods or goods produced subject to customs control in the Republic⁴⁷⁹ (excluding excisable, fuel levy, environmental levy or Road Accident Fund levy goods manufactured in the Republic) and that person desires or is required in terms of the 1964 Act to enter those goods or those products for a purpose or procedure which is a customs procedure in terms of this Act— 10
- (i) the 1964 Act ceases to be available for the entry of the goods or those products for such purpose or procedure;
 - (ii) the goods or those products must be cleared in terms of this Act for that customs procedure as if the current entry of the goods were a clearance in terms of this Act; and 15
 - (iii) this Act becomes applicable to the goods or those products as from the time of clearance of the goods or those products for that customs procedure. 20
- (c) If the goods are excisable, fuel levy, environmental levy or Road Accident Fund levy goods manufactured in the Republic and that person desires or is required in terms of the 1964 Act to enter those goods for home consumption—
- (i) the goods must be entered in terms of the Excise Duty Act for home consumption; and 25
 - (ii) the Excise Duty Act applies to the goods as from the time of entry of the goods for home consumption.
- (d) If those goods are excisable, fuel levy, environmental levy or Road Accident Fund levy goods manufactured in the Republic and that person desires or is required in terms of the 1964 Act to enter the goods for a purpose or procedure which is not a customs procedure in terms of this Act⁴⁸⁰— 30
- (i) the goods must be entered in terms of the Excise Duty Act for that purpose or procedure; and
 - (ii) the Excise Duty Act applies to the goods as from the time of entry of the goods for that purpose or procedure. 35
- (e) If those goods are excisable, fuel levy, environmental levy or Road Accident Fund levy goods manufactured in the Republic and that person desires or is required in terms of the 1964 Act to enter the goods for a purpose or procedure which is a customs procedure in terms of this Act⁴⁸¹ — 40
- (i) the 1964 Act ceases to be available for the entry of the goods for such purpose or procedure;
 - (ii) the goods must be cleared in terms of this Act for that customs procedure as if the current entry of the goods were a clearance in terms of this Act; and 45
 - (iii) this Act becomes applicable to the goods as from the time of clearance of the goods for that customs procedure.
- (4) If this Act becomes applicable to any goods in terms of subsection (3), any relevant tax levying Act must to the extent applicable be applied to the goods in accordance with the provisions of that tax levying Act. 50
- (5) In this section “current entry” means—
- (a) an entry referred to in subsection (1)(a); or

479. For example products derived from the processing of imported goods under rebate of duty.

480. For instance when such goods are to be removed in bond to another excise warehouse.

481. For instance if such goods are to be exported.

- (i) is die 1964 Wet nie verder vir die klaring van sodanige goedere vir binnelandse verbruik beskikbaar nie;
- (ii) moet die goedere ingevolge hierdie Wet geklaar word vir binnelandse gebruik asof die bestaande klaring van die goedere 'n klaring ingevolge hierdie Wet was; en 5
- (iii) hou die 1964 Wet op om van toepassing te wees en word hierdie Wet op die goedere van toepassing vanaf die tydstip van klaring van die goedere vir binnelandse gebruik.
- (b) Indien daardie goedere, of enige produkte uit daardie goedere verkry, ingevoerde goedere is of goedere is wat onder doeanebeheer in die Republiek⁴⁷⁹ geproduseer is (uitgesonderd aksynsbare, brandstofheffing-, omgewingsheffing- of Padongelukfondsheffinggoedere in die Republiek vervaardig) en daardie persoon verlang of ingevolge die 1964 Wet gebonde is om daardie goedere of daardie produkte vir 'n doel of prosedure te klaar wat 'n doeaneprosedure ingevolge hierdie Wet is— 15
- (i) is die 1964 Wet nie verder vir die klaring van die goedere of daardie produkte vir sodanige doel of prosedure beskikbaar nie;
- (ii) moet die goedere of daardie produkte ingevolge hierdie Wet vir daardie doeaneprosedure geklaar word asof die bestaande klaring van die goedere 'n klaring ingevolge hierdie Wet was; en 20
- (iii) word hierdie Wet op die goedere of daardie produkte van toepassing vanaf die tydstip van klaring van die goedere of daardie produkte vir daardie doeaneprosedure.
- (c) Indien die goedere aksynsbare, brandstofheffing-, omgewingsheffing- of Padongelukfondsheffinggoedere is wat in die Republiek vervaardig is, en daardie persoon verlang of ingevolge die 1964 Wet gebonde is om daardie goedere vir binnelandse verbruik te klaar— 25
- (i) moet die goedere ingevolge die Wet op Aksynsreg vir binnelandse verbruik geklaar word; en
- (ii) is die Wet op Aksynsreg op die goedere van toepassing vanaf die tydstip van klaring van die goedere vir binnelandse verbruik. 30
- (d) Indien daardie goedere aksynsbare, brandstofheffing-, omgewingsheffing- of Padongelukfondsheffinggoedere is wat in die Republiek vervaardig is en daardie persoon verlang of ingevolge die 1964 Wet gebonde is om die goedere vir 'n doel of prosedure te klaar wat nie 'n doeaneprosedure ingevolge hierdie Wet is nie—⁴⁸⁰ 35
- (i) moet die goedere ingevolge die Wet op Aksynsreg vir daardie doel of prosedure geklaar word; en
- (ii) is die Wet op Aksynsreg op die goedere van toepassing vanaf die tydstip van klaring van die goedere vir daardie doel of prosedure. 40
- (e) Indien daardie goedere aksynsbare, brandstofheffing-, omgewingsheffing- of Padongelukfondsheffinggoedere is wat in die Republiek vervaardig is en daardie persoon verlang of ingevolge die 1964 Wet gebonde is om die goedere vir 'n doel of prosedure te klaar wat 'n doeaneprosedure ingevolge hierdie Wet is—⁴⁸¹ 45
- (i) is die 1964 Wet nie verder vir die klaring van die goedere vir sodanige doel of prosedure beskikbaar nie;
- (ii) moet die goedere ingevolge hierdie Wet vir daardie doeaneprosedure geklaar word asof die bestaande klaring van die goedere 'n klaring ingevolge hierdie Wet was; en 50
- (iii) word hierdie Wet op die goedere van toepassing vanaf die tydstip van klaring van die goedere vir daardie doeaneprosedure.
- (4) Indien hierdie Wet van toepassing word op enige goedere ingevolge subartikel (3), moet enige belastingheffings-Wet in soverre dit van toepassing is, op die goedere ooreenkomstig die bepalings van daardie belastingheffings-Wet toegepas word. 55
- (5) In hierdie artikel beteken “bestaande klaring”—
- (a) 'n klaring in subartikel (1)(a) bedoel; of

479. Byvoorbeeld produkte verkry uit die prosessering van ingevoerde goedere onder korting van reg.

480. Byvoorbeeld wanneer sodanige goedere onder waarborg na 'n ander aksynspakhuis verwyder moet word.

481. Byvoorbeeld indien sodanige goedere uitgevoer moet word.

- (b) if the goods have been entered in terms of the Excise Duty Act as contemplated in subsection (3)(d), the entry referred to in that subsection.
- (6) The implementation of the principles set out in subsection (3) may be regulated by rules prescribed by the Commissioner.

Continuation of measures under 1964 Act for purposes of goods and persons referred to in section 929(1) 5

930. (1) Despite the enactment of this Act, the Customs Duty Act and the Customs and Excise Amendment Act, 2013, any measure in force in terms of the 1964 Act immediately before the effective date in relation to any goods or person referred to in section 929(1)(a), (b) or (c), continues on and after the effective date to be in force in relation to those goods or that person, as fully and effectually as if this Act, the Customs Duty Act and the Customs and Excise Amendment Act, 2013, had not been enacted. 10

(2) A measure that continues in force in terms of subsection (1) continues as such subject to any future amendment, substitution, repeal, withdrawal or suspension thereof in terms of the relevant provision of the 1964 Act, which provision may for the purposes of such measure be applied as if this Act, the Customs Duty Act and the Customs and Excise Amendment Act, 2013, had not been enacted.⁴⁸² 15

(3) Subsections (1) and (2) must be read subject to sections 931 to 939.

(4) If this Act becomes applicable in terms of section 929(3) to goods referred to in subsection (1)— 20

- (a) this section ceases to apply; and
- (b) section 928 becomes applicable to a measure referred to in that subsection that is in force in relation to those goods.

Continuation of existing customs registrations

931. (1) An existing customs registration lapses 30 days after the effective date unless the holder of that registration before the expiry of that period submits in terms of Chapter 28 an application to the customs authority for a new registration to replace the existing customs registration.⁴⁸³ 25

(2) If the holder of an existing customs registration applies for a new registration before the expiry of the period referred to in subsection (1), the existing customs registration continues in terms of section 928(1) for all purposes until the application for a new registration is dispensed with in terms of Chapter 28. 30

(3) Subsection (2) does not apply in a case where this Act requires licensing for a matter in respect of which the 1964 Act required registration, and in such a case—

- (a) the holder of the existing customs registration must apply in terms of section 933 for a licence; and 35
- (b) that section applies as if the existing customs registration is an existing customs licence and the holder of that registration is a licensee.

(4) Subsection (2) may not be read as preventing the customs authority from amending, withdrawing or suspending the existing registration in terms of section 928(2) before the application is dispensed with. 40

Continuation of existing excise registrations

932. An existing excise registration is not affected by the enactment of this Act, and such a registration continues in terms of section 928(1) to be in force after the effective date for all purposes until the registration is replaced by a new registration, is withdrawn or lapses in terms of the Excise Duty Act.⁴⁸⁴ 45

482. The purpose of subsection (2) is to enable these existing measures to be amended, substituted, suspended, withdrawn or repealed in terms of the 1964 Act as and when necessary.

483. Persons may pursuant to section 14 of the Interpretation Act at any time before the effective date apply for a new registration provided the application is lodged after the date of promulgation of this Act.

484. It is to be noted that certain registrations granted before the effective date under the Customs and Excise Act, 1964, such as those relating to excise matters, are not affected by Chapter 28, and those registrations continue under the Customs and Excise Act, 1964, as amended (and renamed the Excise Duty Act) by the Customs and Excise Amendment Act, 2013.

(b) indien die goedere ingevolge die Wet op Aksynsreg geklaar is soos in subartikel (3)(d) beoog, die klaring in daardie subartikel bedoel.

(6) Die implementering van die beginsels in subartikel (3) uiteengesit, kan deur reëls deur die Kommissaris voorgeskryf, gereguleer word.

Voortsetting van maatreëls kragtens 1964 Wet vir doeleindes van goedere en persone in artikel 929(1) bedoel 5

930. (1) Ondanks die uitvaardiging van hierdie Wet, die Wet op Doeanereg en die Wysigingswet op Doeane en Aksyns, 2014, hou enige maatreël wat ingevolge die 1964 Wet onmiddellik voor die effektiewe datum met betrekking tot enige goedere of persoon bedoel in artikel 929(1)(a), (b) of (c) van krag was, aan om op en na die effektiewe datum met betrekking tot daardie goedere of persoon van krag te bly, so volkome en effektiewelik asof hierdie Wet, die Wet op Doeanereg en die Wysigingswet op Doeane en Aksyns, 2014, nie uitgevaardig was nie. 10

(2) 'n Maatreël wat ingevolge subartikel (1) van krag bly, duur aldus voort behoudens enige toekomstige wysiging, vervanging, herroeping, intrekking of opskorting daarvan ingevolge die tersaaklike bepaling van die 1964 Wet, welke bepaling vir doeleindes van sodanige maatreël toegepas kan word asof hierdie Wet, die Wet op Doeanereg en die Wysigingswet op Doeane en Aksyns, 2014, nie uitgevaardig is nie.⁴⁸² 15

(3) Subartikels (1) en (2) moet behoudens artikels 931 tot 939 verstaan word.

(4) Indien hierdie Wet ingevolge artikel 929(3) op goedere bedoel in subartikel (1) van toepassing word— 20

(a) hou hierdie artikel op om van toepassing te wees; en

(b) geld artikel 928 vir 'n maatreël bedoel in daardie subartikel wat met betrekking tot daardie goedere van krag is.

Voortsetting van bestaande doeaneregistrasies 25

931. (1) 'n Bestaande doeaneregistrasie verval 30 dae na die effektiewe datum tensy die houer van daardie registrasie voor die verstryking van daardie tydperk 'n aansoek ingevolge Hoofstuk 28 aan die doeanegesag om 'n nuwe registrasie ter vervanging van die bestaande doeaneregistrasie voorlê.⁴⁸³

(2) Indien die houer van 'n bestaande doeaneregistrasie om 'n nuwe registrasie aansoek doen voor die verstryking van die tydperk bedoel in subartikel (1), bly die bestaande doeaneregistrasie ingevolge artikel 928(1) vir alle doeleindes van krag totdat die aansoek om 'n nuwe registrasie ingevolge Hoofstuk 28 afgehandel is. 30

(3) Subartikel (2) is nie van toepassing nie in 'n geval waar hierdie Wet lisensiering vereis vir 'n aangeleentheid ten opsigte waarvan die 1964 Wet registrasie vereis het, en in so 'n geval— 35

(a) moet die houer van die bestaande doeaneregistrasie ingevolge artikel 933 om 'n lisensie aansoek doen; en

(b) is daardie artikel van toepassing asof die bestaande doeaneregistrasie 'n bestaande doanelisensie is en die houer van daardie registrasie 'n lisensiehouer is. 40

(4) Subartikel (2) mag nie uitgelê word om die doeanegesag te verhinder om die bestaande registrasie ingevolge artikel 928(2) te wysig, in te trek of op te skort voordat die aansoek afgehandel word nie.

Voortsetting van bestaande aksynsregistrasies 45

932. 'n Bestaande aksynsregistrasie word nie deur die uitvaardiging van hierdie Wet geraak nie, en so 'n registrasie bly na die effektiewe datum ingevolge artikel 928(1) vir alle doeleindes van krag totdat die registrasie ingevolge die Wet op Aksynsreg deur 'n nuwe registrasie vervang word, ingetrek word of verval.⁴⁸⁴

482. Die doel van subartikel (2) is om voorsiening te maak dat hierdie bestaande maatreëls ingevolge die 1964 Wet gewysig, vervang opgeskort, ingetrek of herroep kan word soos en wanneer nodig.

483. Persone mag ooreenkomstig artikel 14 van die Interpretasiewet ter enige tyd voor die effektiewe datum aansoek doen vir 'n nuwe registrasie met dien verstande dat die aansoek ingedien is na die afkondiging van hierdie Wet.

484. Daar dien op gelet te word dat sekere registrasies wat voor die effektiewe datum kragtens die Doeane- en Aksynswet, 1964, toegestaan is, soos die wat met aksynsaangeleenthede verband hou,

Continuation of existing customs licences

933. (1) An existing customs licence lapses 30 days after the effective date unless the licensee before the expiry of that period submits in terms of Chapter 29 an application to the customs authority for a new licence to replace the existing customs licence.⁴⁸⁵

(2) If the licensee of an existing customs licence applies for a new licence before the expiry of the period referred to in paragraph (a), the existing customs licence continues in terms of section 928(1) for all purposes until the application for a new licence is dispensed with in terms of Chapter 29. 5

(3) Sections 662 and 663 apply if an application for a new licence is refused and the existing customs licence lapses. 10

(4) Subsection (2) may not be read as preventing the customs authority from amending, withdrawing or suspending the existing licence in terms of section 928(2) before the application is dispensed with.

Continuation of existing excise licences

934. An existing excise licence is not affected by the enactment of this Act, and such a licence continues in terms of section 928(1) to be in force after the effective date for all purposes until the licence is replaced by a new licence, is withdrawn or lapses in terms of the Excise Duty Act.⁴⁸⁶ 15

Continuation of accredited status granted before effective date in terms of 1964 Act

935. (1) Accredited status granted before the effective date in terms of the 1964 Act to a person who on the effective date is the holder of— 20

- (a) an existing customs registration or an existing customs licence, lapses on the effective date despite section 928(1) but subject to subsection (2); and
- (b) an existing excise registration or an existing excise licence, continues in terms of section 928(1) to apply after the effective date for all purposes until that accredited status is replaced by a new accredited status, is withdrawn or lapses in terms of the Excise Duty Act. 25

(2) Subsection (1)(a) does not affect any second or third level accredited status granted in terms of section 64E of the 1964 Act to a person referred to in that subsection, except that— 30

- (a) any second level accredited status granted to such a person must for all purposes be regarded to be first level accredited status granted to such a person in terms Chapter 30; and
- (b) any third level accredited status granted to such a person must for all purposes be regarded to be second level accredited status granted to such a person in terms of Chapter 30. 35

Continuation of approvals granted before effective date in terms of 1964 Act to right-holders for customs protection against counterfeit goods

936. (1) An approval granted before the effective date in terms of Chapter XB of the 1964 Act to a right-holder in relation to protected goods, lapses 30 days after the effective date unless that right-holder before the expiry of that period pays to the Commissioner the prescribed administration fee applicable in terms of Chapter 36 of this Act to applications for such approvals. 40

485. Persons may pursuant to section 14 of the Interpretation Act at any time before the effective date apply for a new licence provided the application is lodged after the date of promulgation of this Act.

486. It is to be noted that certain licences issued before the effective date under the Customs and Excise Act, 1964, such as those relating to excise matters, are not affected by Chapter 29, and those licences continue under the renamed Excise Duty Act.

Voortsetting van bestaande doanelisensies

933. (1) 'n Bestaande doanelisensie verval 30 dae na die effektiewe datum tensy die lisensiehouer voor die verstryking van daardie tydperk 'n aansoek ingevolge Hoofstuk 29 aan die doeanegesag om 'n nuwe lisensie ter vervanging van die bestaande doanelisensie voorlê.⁴⁸⁵ 5

(2) Indien die lisensiehouer van 'n bestaande doanelisensie om 'n nuwe lisensie aansoek doen voor die verstryking van die tydperk bedoel in paragraaf (a), bly die bestaande lisensie ingevolge artikel 928(1) vir alle doeleindes van krag totdat die aansoek om 'n nuwe lisensie ingevolge Hoofstuk 29 afgehandel is.

(3) Artikels 662 en 663 is van toepassing indien 'n aansoek om 'n nuwe lisensie geweier word en die bestaande doanelisensie verval. 10

(4) Subartikel (2) mag nie uitgelê word om die doeanegesag te verhinder om die bestaande lisensie ingevolge artikel 928(2) te wysig, in te trek of op te kort voordat die aansoek afgehandel word nie.

Voortsetting van bestaande aksynslisensies

15

934. 'n Bestaande aksynslisensie word nie deur die uitvaardiging van hierdie Wet geraak nie, en so 'n lisensie bly ingevolge artikel 928(1) na die effektiewe datum vir alle doeleindes van krag totdat die lisensie ingevolge die Wet op Aksynsreg deur 'n nuwe lisensie vervang word, ingetrek word of verval.⁴⁸⁶

Voortsetting van geakkrediteerde status voor effektiewe datum ingevolge 1964 Wet toegestaan

20

935. (1) Geakkrediteerde status wat voor die effektiewe datum ingevolge die 1964 Wet aan 'n persoon verleen is wat op die effektiewe datum die houer van—

(a) 'n bestaande doeaneregistrasie of 'n bestaande doanelisensie is, verval op die effektiewe datum ondanks artikel 928(1) maar behoudens subartikel (2); en 25

(b) 'n bestaande aksynsregistrasie of 'n bestaande aksynslisensie is, bly ingevolge artikel 928(1) vir alle doeleindes van krag totdat daardie geakkrediteerde status ingevolge die Wet op Aksynsreg deur 'n nuwe geakkrediteerde status vervang word, ingetrek word of verval.

(2) Subartikel (1)(a) raak nie enige tweede of derde vlak geakkrediteerde status wat ingevolge artikel 64E van die 1964 Wet aan 'n persoon bedoel in daardie subartikel verleen is nie, behalwe dat— 30

(a) enige tweede vlak geakkrediteerde status wat aan so 'n persoon verleen is vir alle doeleindes geag moet word 'n eerste vlak geakkrediteerde status te wees wat aan so 'n persoon ingevolge Hoofstuk 30 verleen is; en 35

(b) enige derde vlak geakkrediteerde status wat aan so 'n persoon verleen is vir alle doeleindes geag moet word 'n tweede vlak geakkrediteerde status te wees wat aan so 'n persoon ingevolge Hoofstuk 30 verleen is.

Voortsetting van goedkeurings voor effektiewe datum ingevolge 1964 Wet aan reghouers vir doeanebeskerming teen nagmaakte goedere toegestaan

40

936. (1) 'n Goedkeuring wat voor die effektiewe datum ingevolge Hoofstuk XB van die 1964 Wet aan 'n reghouer met betrekking tot beskermde goedere gegee is, verval 30 dae na die effektiewe datum tensy daardie reghouer voor die verstryking van daardie tydperk die voorgeskrewe administrasiefooi wat ingevolge Hoofstuk 36 van hierdie Wet vir aansoeke om sodanige goedkeurings geld, aan die Kommissaris betaal. 45

nie deur Hoofstuk 28 geraak word nie, en daardie registrasies duur voort onder die Doeane- en Aksynswet, 1964, soos gewysig (en hernoem as die Wet op Aksynsreg) deur die Wysigingswet op Doeane en Aksyns, 2014.

485. Persone kan volgens artikel 14 van die Interpretasiewet te eniger tyd voor die effektiewe datum om 'n nuwe lisensie aansoek doen mits die aansoek na die datum van publikasie van hierdie Wet ingedien word.

486. Daar dien op gelet te word dat sekere lisensies wat voor die effektiewe datum kragtens die Doeane- en Aksynswet, 1964, uitgereik, soos die wat met aksynsaangeleentede verband hou, nie deur Hoofstuk 29 geraak word nie, en daardie lisensies bestaan voort onder die hernoemde Wet op Aksynsreg.

(2) If a right-holder referred to in subsection (1) pays the prescribed administration fee before the expiry of the period referred to in that subsection, the existing approval under the 1964 Act continues in terms of section 928(1) after the effective date for all purposes until the approval lapses or is withdrawn earlier in terms of Chapter 36.

Continuation of security given before effective date in terms of 1964 Act 5

937. (1) Any security provided by a person to the Commissioner before the effective date in terms of the 1964 Act may after the effective date but before the expiry date of the security (if any), be utilised by the customs authority for the payment or recovery of tax or other money owed to the Commissioner in terms of the 1964 Act in respect of—

- (a) the specific goods for which it was given; 10
- (b) the class or kind or other category of goods for which it was given; or
- (c) the purpose for which it was given.

(2) Subsection (1) does not affect the customs authority's power to require new or additional security from a person in terms of Chapter 31 for purposes of this Act or in terms of the Excise Duty Act for purposes of that Act. 15

Administrative and judicial proceedings

938. The enactment of this Act, the Customs Duty Act and the Customs and Excise Amendment Act, 2014, does not affect the institution, continuation, completion or enforcement of any administrative, civil or criminal proceedings—

- (a) arising from— 20
 - (i) anything done before the effective date in terms of a provision of the Customs and Excise Act, 1964, or any rule under that Act; or
 - (ii) anything done or omitted before the effective date which is or is believed to be an offence under or a breach of such a provision; or
- (b) in respect of — 25
 - (i) any debt, obligation or liability incurred in terms of such a provision; or
 - (ii) any seizure, forfeiture, penalty or punishment imposed in terms of such a provision.

Investigations

939. (1) The enactment of this Act, the Customs Duty Act and the Customs and Excise Amendment Act, 2013, does not affect the institution, continuation or completion of any investigation arising from anything done or omitted before the effective date which is or is believed to be an offence under or a breach of a provision of the Customs and Excise Act, 1964, or any rule under that Act. 30

(2) Subsection (1) may not be read as preventing a customs officer or another SARS official conducting the investigation from applying any investigative powers under this Act for purposes of the investigation. 35

Continuation of certain international agreements

940. The enactment of this Act, the Customs Duty Act and the Customs and Excise Amendment Act, 2014, does not affect the binding force and continued application in the Republic of an international agreement that was incorporated into law in the Republic before the effective date for implementation as part of the 1964 Act. 40

References in legislation to Customs and Excise Act, 1964

941. As from the effective date a reference in any legislation that existed on that date to— 45

(2) Indien 'n reghouer in subartikel (1) bedoel die voorgeskrewe administrasiefooi voor die verstryking van die tydperk in daardie subartikel bedoel betaal, bly die bestaande goedkeuring kragtens die 1964 Wet na die effektiewe datum vir alle doeleindes ingevolge artikel 928(1) van krag totdat die goedkeuring ingevolge Hoofstuk 36 verval of vroeër ingetrek word. 5

Voortsetting van sekuriteit voor effektiewe datum ingevolge 1964 Wet gestel

937. (1) Enige sekuriteit wat ingevolge die 1964 Wet deur 'n persoon aan die Kommissaris voor die effektiewe datum verskaf is, kan na die effektiewe datum, maar voor die vervaldatum van die sekuriteit (indien enige), deur die doeane gesag vir die betaling of verhaling van belasting of ander gelde aan die Kommissaris ingevolge die 1964 Wet verskuldig, gebruik word ten opsigte van— 10

- (a) die spesifieke goedere waarvoor dit gestel was;
- (b) die klas of soort of ander kategorie goedere waarvoor dit gestel was; of
- (c) die doel waarvoor dit gestel was.

(2) Subartikel (1) raak nie die doeane gesag se bevoegdheid om nuwe of bykomende sekuriteit van 'n persoon ingevolge Hoofstuk 31 vir doeleindes van hierdie Wet of ingevolge die Wet op Aksynsreg vir doeleindes van daardie Wet te vereis nie. 15

Administratiewe en geregtelike verrigtinge

938. Die uitvaardiging van hierdie Wet, die Wet op Doeane en die Wysigingswet op Doeane en Aksyns, 2014, raak nie die instelling, voortsetting, afhandeling of toepassing van enige administratiewe, siviele of strafregtelike verrigtinge nie— 20

- (a) wat ontstaan het uit—
 - (i) enigiets wat voor die effektiewe datum ingevolge 'n bepaling van die Doeane- en Aksynswet, 1964, of enige reël kragtens daardie Wet gedoen is; of 25
 - (ii) enigiets wat voor die effektiewe datum gedoen of nagelaat is wat 'n misdryf kragtens, of 'n breuk van, so 'n bepaling is of geglo word te wees; of
- (b) ten opsigte van—
 - (i) enige skuld, verpligting of aanspreeklikheid ingevolge so 'n bepaling opgedoen; of 30
 - (ii) enige beslaglegging, verbeurdverklaring, boete of straf ingevolge so 'n bepaling gedoen of opgelê.

Ondersoeke

939. (1) Die uitvaardiging van hierdie Wet, die Wet op Doeane en die Wysigingswet op Doeane en Aksyns, 2014, raak nie die instelling, voortsetting of afhandeling van enige ondersoek wat ontstaan het uit enigiets wat voor die effektiewe datum gedoen of nagelaat is wat 'n misdryf kragtens, of 'n breuk van, 'n bepaling van die Doeane- en Aksynswet, 1964, of enige reël kragtens daardie Wet, is of geglo word te wees nie. 40

(2) Subartikel (1) mag nie uitgelê word om 'n doeanebeampte of 'n ander SAID beampte wat die ondersoek uitvoer, te verhinder om enige ondersoekbevoegdhede kragtens hierdie Wet vir doeleindes van die ondersoek uit te oefen nie.

Voortsetting van sekere internasionale ooreenkomste

940. Die uitvaardiging van hierdie Wet, die Wet op Doeane en die Wysigingswet op Doeane en Aksyns, 2014, raak nie die regs krag en voortgesette toepassing in die Republiek van 'n internasionale ooreenkoms wat voor die effektiewe datum as deel van die reg van die Republiek ingelyf is vir implementering as deel van die 1964 Wet nie. 45

Verwysings in wetgewing na Doeane- en Aksynswet, 1964

941. Vanaf die effektiewe datum moet 'n verwysing in enige wetgewing wat op daardie datum bestaan het na— 50

- (a) the Customs and Excise Act, 1964, must, as the context may demand and given the restructuring of that Act as from that date, be read as a reference to—
 - (i) the Excise Duty Act;
 - (ii) the Customs Duty Act;
 - (iii) this Act; or
 - (iv) any two of or all the Acts referred to in subparagraphs (i), (ii) and (iii);and
- (b) a specific provision of the Customs and Excise Act, 1964, that has been repealed by the Customs and Excise Amendment Act, 2014, must, as the context may demand, be read as a reference to the corresponding or a superseding provision (if any) in an Act referred to in paragraph (a)(ii) or (iii).

Rules to facilitate transition and to address unforeseen or unintended consequences, anomalies or incongruities

942. (1) The Commissioner may, subject to sections 903(2) and (3), 904 and 906, make rules—

- (a) to regulate the implementation of any provisions of this Part, including any principles set out in section 929;
 - (b) to regulate any transitional matter not provided or not adequately provided for in this Part if—
 - (i) the absence of such provision or of adequate provision may put the payment or collection of tax or compliance with any applicable legislation at risk; or
 - (ii) regulation of such matter is otherwise necessary for an orderly and effective transition; or
 - (c) to address any unforeseen or unintended consequence, or any anomaly or incongruity, that may arise from the implementation or enforcement of a provision of this Act, the Customs Duty Act or the Excise Duty Act.
- (2) Rules made in terms of subsection (1)(c)—
- (a) may suspend or modify or provide for a departure from a provision referred to in that subsection or make such other provision, as may be necessary for addressing the unforeseen or unintended consequence, anomaly or incongruity;
 - (b) must be aimed at substantially reinstating the legal position under the 1964 Act, if that Act regulated the matter before the effective date in a way that avoided the unforeseen or unintended consequence, anomaly or incongruity;
 - (c) may not have the effect of reducing or increasing any person's—
 - (i) liability for import or export tax; or
 - (ii) entitlement to a refund or drawback;
 - (d) must be a law of general application; and
 - (e) remain in force for a period of one year unless—
 - (i) ratified by an Act of Parliament before the expiry of that period; or
 - (ii) repealed earlier.

(3) Rules may be made in terms of subsection (1)(c) only if it is not possible to effect timeously any necessary amendment to this Act, the Customs Duty Act or the Excise Duty Act to address the relevant unforeseen or unintended consequence, anomaly or incongruity.

(4) Subsections (1)(c), (2) and (3) lapse on a date five years from the effective date.

Commencement of Chapters 22 and 38

943. (1) Chapters 22 and 38 do not take effect on the effective date but on a later date determined by the President by proclamation in the *Gazette*.

(2) Until Chapter 22 of this Act takes effect on the date determined in terms of subsection (1), the 1964 Act continues to apply to all international postal articles handled by the South African Post Office.

- (a) die Doeane- en Aksynswet, 1964, soos die samehang mag vereis en gegewe die herstrukturering van daardie Wet vanaf daardie datum, uitgelê word as 'n verwysing te wees na—
- (i) die Wet op Aksynsreg;
 - (ii) die Wet op Doeanereg; 5
 - (iii) hierdie Wet; of
 - (iv) enige twee of al die Wette in subparagrafe (i), (ii) en (iii) bedoel; en
- (b) 'n spesifieke bepaling van die Doeane- en Aksynswet, 1964, wat deur die Wysigingswet op Doeane en Aksyns, 2014, herroep is, soos die samehang mag vereis, uitgelê word as 'n verwysing te wees na die ooreenstemmende of 'n vervangende bepaling (indien enige) in 'n Wet in paragraaf (a)(ii) of (iii) bedoel. 10

Reëls ter fasilitering van oorgang en bereddering van onvoorsiene en onbedoelde gevolg, anomalieë en teenstrydighede

- 942.** (1) Die Kommissaris kan reëls uitvaardig— 15
- (a) ter regulering van die implementering van enige bepalings van hierdie Deel, met inbegrip van enige beginsels in artikel 929 uiteengesit;
 - (b) ter regulering van enige oorgangsaangeleentheid waarvoor daar nie in hierdie Deel voorsiening gemaak is of voldoende voorsiening gemaak is nie indien—
 - (i) die afwesigheid van sodanige voorsiening of van voldoende voorsiening, 'n risiko vir die betaling of invordering van belasting of die nakoming van enige geldende wetgewing skep; of 20
 - (ii) die regulering van so 'n aangeleentheid andersins noodsaaklik is vir 'n ordelike en doeltreffende oorgang; of
 - (c) ter bereddering van enige onvoorsiene of onbedoelde gevolg, of enige anomalie of teenstrydigheid, wat uit die implementering of toepassing van hierdie Wet, die Wet op Doeanereg of die Wet op Aksynsreg mag ontstaan. 25
- (2) Reëls ingevolge subartikel (1)(c) uitgevaardig—
- (a) kan 'n bepaling bedoel in daardie subartikel opskort of aanpas of voorsiening maak vir 'n afwyking daarvan, of sodanige ander voorsiening maak, wat nodig mag wees om die onvoorsiene of onbedoelde gevolg, of anomalie of teenstrydigheid te beredder; 30
 - (b) moet daarop gerig wees om die regsposisie kragtens die 1964 Wet wesenlik te herstel, indien daardie Wet die aangeleentheid voor die effektiewe datum gereguleer het op 'n wyse wat die onvoorsiene of onbedoelde gevolg, anomalie of teenstrydigheid vermy het; 35
 - (c) mag nie die uitwerking hê om iemand se—
 - (i) aanspreeklikheid vir invoer- of uitvoerbelasting te verlaag of te verhoog nie; of
 - (ii) aanspraak op 'n terugbetaling of teruggawe te verlaag of te verhoog nie; 40
 - (d) moet wet van algemene toepassing wees; en
 - (e) bly van krag vir 'n tydperk van een jaar tensy—
 - (i) dit deur 'n wet van die Parlement voor die verstryking van daardie tydperk geratifiseer word; of
 - (ii) vroeër herroep word. 45
- (3) Reëls kan ingevolge subartikel (1)(c) uitgevaardig word slegs indien dit nie moontlik is om betyds enige nodige wysiging van hierdie Wet, die Wet op Doeanereg of die Wet op Aksynsreg ter bereddering van die betrokke onvoorsiene of onbedoelde gevolg, anomalie of teenstrydigheid aan te bring nie.
- (4) Subartikels (1)(c), (2) en (3) verval op 'n datum vyf jaar vanaf die effektiewe datum. 50

Inwerkingtreeding van Hoofstukke 22 en 38

- 943.** (1) Hoofstukke 22 en 38 tree nie in werking op die effektiewe datum nie, maar op 'n latere datum deur die President by proklamasie in die *Staatskoerant* bepaal. 55
- (2) Totdat Hoofstuk 22 van hierdie Wet in werking tree op die datum ingevolge subartikel (1) bepaal, bly die 1964 Wet van toepassing op alle internasionale posstukke wat deur die Suid-Afrikaanse Poskantoor hanteer word.

(3) As from the later date referred to in subsection (1), Chapter 22 and the other provisions of this Act affecting international postal articles handled by the South African Post Office take effect subject to such transitional rules as may be prescribed by rule.

Short title and commencement

944. (1) This Act is called the Customs Control Act, 2014, and takes effect on a date 5
determined by the President by proclamation in the *Gazette*, subject to subsection (2)
and section 943.

(2) A date may not be determined in terms of subsection (1) for the commencement of
this Act unless and until—

- (a) the Customs Duty Act is amended by the addition of a Customs Tariff in an 10
Annexure to that Act; and
- (b) the Excise Duty Act is amended by the addition of an Excise Tariff in an
Annexure to that Act.

(3) Vanaf die latere datum bedoel in subartikel (1) tree Hoofstuk 22 en die ander bepalings van hierdie Wet wat internasionale posstukke raak wat deur die Suid-Afrikaanse Poskantoor hanteer word, in werking behoudens die oorgangsreëls soos by reël voorgeskryf mag word.

Kort titel en inwerkingtreding

5

944. (1) Hierdie Wet heet die Wet op Doeanebeheer, 2014, en tree in werking op 'n datum deur die President by proklamasie in die *Staatskoerant* bepaal, behoudens subartikel (2) en artikel 943.

(2) Geen datum mag ingevolge subartikel (1) bepaal word vir die inwerkingtreding van hierdie Wet nie tensy en totdat— 10

- (a) die Wet op Doeanereg gewysig word deur die byvoeging van 'n Doeanetarief in 'n Bylae by daardie Wet; en
- (b) die Wet op Aksynsreg gewysig word deur die byvoeging van 'n Aksynstarief in 'n Bylae by daardie Wet.