

REPUBLIC OF SOUTH AFRICA

STANDING COMMITTEE AMENDMENTS

TO

CUSTOMS CONTROL BILL

[B 45-2013]

(As agreed to by the Standing Committee on Finance (National Assembly))

[B 45A-2013]

Explanatory Note:

Green denotes editorial changes

Yellow denotes amendments occasioned by comments received

Turquoise denotes amendments on SARS initiative

AMENDMENTS AGREED TO

CUSTOMS CONTROL BILL

[B 45-2013]

CLAUSE 1

1. On page 49, from line 46, to omit the definition of "port authority", and to substitute:

"port authority" means the authority in charge of a customs seaport or a customs airport".

CLAUSE 52

1. On page 77, from line 30, to omit "submitted to the customs authority".

2. On page 77, in line 32, after "(a)" to insert "submitted to the customs authority".

3. On page 77, in line 33, after "(b)", to omit "be".

CLAUSE 58

1. On page 79, from line 25, to omit "submitted to the customs authority".

2. On page 79, in line 27, after "(a)" to insert "submitted to the customs authority".

3. On page 79, in line 28, to omit “be”.

CLAUSE 83

1. On page 84, in line 38, to omit “number”.

2. On page 84, in line 42, before “transport”, to insert “number of the”.

CLAUSE 85

1. On page 85, in line 16, after “advance”, to insert “loading,”.

CLAUSE 90

1. On page 87, in line 37, after “affecting”, to insert “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”.

2. On page 87, after line 42, to insert the following subsection:

“(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.

(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).

(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.

(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.

(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
- (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.”.

CLAUSE 91

1. On page 88, in line 17, to omit “vessel or aircraft”, and to substitute “vessel, aircraft or train”.
2. On page 88, in line 43, to omit “goods contained in the those consignments”, and to substitute “goods contained in those consignments”.

CLAUSE 92

1. On page 89, in line 25, to omit “90”, and to substitute “90(1) or (3)”.

CLAUSE 95

1. On page 92, from line 32, to omit “for delivery to the same addressee”, and to substitute “by the same exporter”.

CLAUSE 118

1. On page 101, in line 14, to omit “section 90”, and to substitute “section 90(1) or (3)”.

CLAUSE 147

1. On page 109, in line 38, after “procedure” to insert “or exported under the export procedure and subsequently cleared for temporary export”.

CLAUSE 172

1. On page 117, in line 27, to omit “submission of the declaration”, and to substitute “submission of the original declaration”.

CLAUSE 175

1. On page 118, in line 34, after “section”, to insert “90(4) or”.
2. On page 118, in line 35, to omit “place referred to in section 90”, and to substitute “place of entry referred to in that section”.

CLAUSE 177

1. On page 119, in line 33, after “section”, to insert “90(4) or”.
2. On page 119, in line 34, to omit “place referred to in section 90”, and to substitute “place of entry referred to in that section”.

CLAUSE 197

1. On page 126, in line 1, after “4” to insert “, 5”.
2. On page 126, in line 2, after “4” to insert “, 5”.

CLAUSE 206

1. On page 128, in line 35, to omit “section 128(1)(g)”, and to substitute “section 123(1)(g)”.
2. On page 128, in line 39, to omit “section 128(1)(g)”, and to substitute “section 123(1)(g)”.

CLAUSE 208

1. On page 129, in line 7, after “declaration” to insert “to another destination”.

CLAUSE 223

1. On page 133, in line 7, after “4” to insert “, 5”.
2. On page 133, in line 8, after “4” to insert “, 5”.

CLAUSE 230

1. On page 134, in line 45, after “declaration” to insert “to another destination”.

CLAUSE 244

1. On page 137, in line 40, after “4” to insert “, 5”.
2. On page 137, in line 41, after “4” to insert “, 5”.

CLAUSE 261

1. On page 141, in line 50, to omit "257(2)(b), 259(1)", and to substitute "257(2)(b) or 259(1)".

CLAUSE 271

1. On page 144, in line 13, after "means of transport", to insert "currently in use".
2. On page 144, in line 22, after "for", to insert "such".

CLAUSE 298

1. On page 150, in line 33, after "4" to insert ", 5".
2. On page 150, in line 34, after "4" to insert ", 5".

CLAUSE 301

1. On page 152, in line 10, to omit "a", and to substitute "another".

CLAUSE 302

1. On page 152, in line 28, to omit "the agent of", and to substitute "the registered agent in the Republic of".
2. On page 152, in line 33, to omit "the agent", and to substitute "the registered agent".

CLAUSE 305

1. On page 153, in line 23, to omit "for".
2. On page 153, in line 26, to omit "for".

CLAUSE 334

1. On page 160, in line 45, after “agent” to insert “located in the Republic”.

CLAUSE 335

1. On page 161, in line 9, to omit “stores on that vessel”, and to substitute “stores for that vessel”.
2. On page 161, in line 13, after the footnote number, to insert “or”.
3. On page 161, in line 19, to omit “on”, and to substitute “for”.

CLAUSE 337

1. On page 161, in line 45, after “4” to insert “, 5”.
2. On page 161, in line 46, after “4” to insert “, 5”.

CLAUSE 340

1. On page 162, in line 21, to omit “the agent”, and to substitute “the registered agent”.

CLAUSE 364

1. On page 170, in line 1, after “4” to insert “, 5”.
2. On page 170, in line 2, after “4” to insert “, 5”.

CLAUSE 366

1. On page 170, in line 14, to omit “the agent”, and to substitute “the registered agent”.

CLAUSE 377

1. On page 173, in line 44, after “4” to insert “, 5”.
2. On page 173, in line 45, after “4” to insert “, 5”.

CLAUSE 386

1. On page 176, in line 53, to omit “the agent”, and to substitute “the registered agent”.

CLAUSE 410

1. On page 182, in line 29, after “4” to insert “, 5”.
2. On page 182, in line 30, after “4” to insert “, 5”.

CLAUSE 421

1. On page 185, in line 18, after “products;” to insert “and”.

CLAUSE 432

1. On page 189, in line 26, after “processed” to insert “compensating”.
2. On page 189, in line 29, after “processed” to insert “compensating”.
3. On page 189, in line 31, after “processed” to insert “compensating”.

CLAUSE 437

1. On page 190, in line 36, after “4” to insert “, 5”.
2. On page 190, in line 37, after “4” to insert “, 5”.

CLAUSE 444

1. On page 192, in line 36, to omit “within”.
2. On page 192, in line 37, before “a timeframe” to insert “within”.

CLAUSE 451

1. On page 195, in line 18, to omit “home use processed products” and to substitute “home use compensating products”.
2. On page 195, in line 21, to omit “home use processed products”, and to substitute “home use compensating products”.
3. On page 196, in line 23, to omit “home use processed products”, and to substitute “home use compensating products”.

CLAUSE 456

1. On page 196, in line 24, after “4” to insert “, 5”.
2. On page 196, in line 25, after “4” to insert “, 5”.

CLAUSE 459

1. On page 197, in line 25, to omit “the agent”, and to substitute “the registered agent”.

CLAUSE 468

1. On page 199, in line 38, to omit “if”, and to substitute “whether”.

CLAUSE 486

1. On page 206, in line 26, after “tax levying Act” to insert “on account of that clearance”.

2. On page 206, in line 36, to omit “tax free limit”, and to substitute “tax free allowance”.

CLAUSE 514

1. On page 214, in line 33, after “if” to insert “the goods are”.

CLAUSE 567

1. On page 233, in line 11, to omit “for import tax purposes”, and to substitute “for purposes of this Act and payment of any import tax”.

CLAUSE 570

1. On page 233, in line 39, to omit “90”, and to substitute “90(1) or (3)”.
2. On page 234, in line 12, after “reason” to insert “are”.

CLAUSE 573

1. On page 234, in line 47, to omit “the agent”, and to insert “the registered agent”.

CLAUSE 576

1. On page 235, in line 27, to omit "580(4)(c)", and to substitute "580(3)".

CLAUSE 579

1. On page 236, in line 3, to omit "the agent", and to substitute "the registered agent".

CLAUSE 580

1. On page 236, in line 44, to omit "must for accounting purposes be recorded", and to substitute "are for accounting purposes recorded".

CLAUSE 583

1. On page 237, in line 22, to omit "the agent", and to substitute "the registered agent".

CLAUSE 584

1. On page 237, in line 30, after "where" to insert "the".

CLAUSE 587

1. On page 238, in line 4, to omit "the agent", and to substitute "the registered agent".

CLAUSE 614

1. On page 245, from line 41, to omit paragraph (b), and to substitute:
"(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).

2. On page 245, from line 43, to omit subsection (2), and to substitute:

“(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.”.

3. On page 245, from line 47, to omit subsection (3).

CLAUSE 615

1. On page 246, in line 3, after “certificates”, to insert “by inactive registered persons”.

2. On page 246, in line 4, after “person”, to insert “referred to in section 614(2)”.

3. On page 246, in line 4, after “certificate”, to insert “expires in terms of that subsection”.

4. On page 246, in line 5, to omit “lapses”.

5. On page 246, in line 9, to omit “validity period of the”.

6. On page 246, in line 10, to omit “period”.

CLAUSE 621

1. On page 247, in line 45, to omit “any”.

CLAUSE 642

1. On page 253, in line 35, after “type” to insert “or category”.

CLAUSE 647

1. On page 255, in line 8, to omit “that”, and to substitute “the”.

CLAUSE 660

1. On page 258, in line 9, to omit “any”.

CLAUSE 661

1. On page 258, in line 14, after “change” to insert “, read with section 908”.

CLAUSE 720

1. On page 277, in line 10, after “search”, to insert “or removal procedure”.
2. On page 227, in line 11, after “search”, to insert “or procedure”.

CLAUSE 729

1. On page 281, in line 7, to omit “premises, facility”, and to substitute “premises or facility”.

CLAUSE 735

1. On page 282, in line 40, to omit “aircraft, train”, and after “stop” to insert “or to land the aircraft”.
2. On page 283, in line 31, to omit “an officer”, and to substitute “a customs officer”.

CLAUSE 749

1. On page 286, in line 22, after “enforcement” to insert “of”.

CLAUSE 750

1. On page 286, in line 32, to omit “imported motor vehicle”, and to substitute “motor vehicle imported into the Republic”.

CLAUSE 789

1. On page 301, in line 34, to omit “: Provided”, and to substitute “, provided”.

CLAUSE 794

1. On page 303, in line 22, after “authority”, to insert “administering the legislation in terms of which the goods are sectorally controlled goods”.

CLAUSE 800

1. On page 305, in line 3, to omit “prohibiting or restricting”, and to substitute “prohibiting, restricting or controlling”.

CLAUSE 824

1. On page 313, in line 4, after “law” to insert “as”.
2. On page 313, in line 5, after “law” to insert “as”.

CLAUSE 830

1. On page 314, in line 48, before “on” to insert “if”.

CLAUSE 835

1. On page 315, in line 38, after “on” to insert “or in the course of”.

2. On page 315, in line 48, after “correction” to insert “of decisions”.

CLAUSE 841

1. On page 317, in line 3, to omit “such person”, and to substitute “the appellant”.

CLAUSE 865

1. On page 322, in line 16, after “duty” to insert “or interest”.

CLAUSE 872

1. On page 324, in line 13, to omit “Part”, and to substitute “Chapter”.

CLAUSE 876

1. On page 325, in line 11, to omit “R5000”, and to substitute “R2500”.

2. On page 325, in line 12, to omit “R10000”, and to substitute “R5000”.

3. On page 325, in line 13, to omit “R15000”, and to substitute “R7500”.

4. On page 325, in line 14, to omit “R20000”, and to substitute “R10000”.

5. On page 325, after line 27, to insert:

“(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.

CLAUSE 877

1. On page 325, in line 29, after “Act” to insert “listed in terms of section 876(1)”.

2. On page 325, from line 35, to omit subsection (3), and to substitute:

“(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.”.

CLAUSE 882

1. On page 326, in line 48, to omit “the agent”, and to substitute “the registered agent”.

2. On page 326, in line 51, to omit “the agent”, and to substitute “the registered agent”.

CLAUSE 893

1. On page 330, in line 15, after “steps” to insert “within the powers of that agent”.

2. On page 330, in line 23, after “steps” to insert “within the powers of that person”.

CLAUSE 898

1. On page 333, in line 3, to omit “application”, and to substitute “implementation or enforcement”.

2. On page 333, in line 9, after “imported,” to insert “exported,”.

3. On page 333, in line 9, after “dealt with,” to insert “processed,”.

4. On page 333, in line 11, after “imported,” to insert “exported,”.

5. On page 333, in line 11, after “dealt with,” to insert “processed,”.

CLAUSE 899

1. On page 333, in line 18, after “action”, to insert “for”.

CLAUSE 903

1. On page 334, in line 36, after “of”, to insert “clearance declarations or”.

2. On page 336, in line 15, to omit “corporate”, and to substitute “juristic”.

CLAUSE 907

1. On page 336, in line 19, to omit “rule”, and to substitute “rules”.

2. On page 336, in line 26, after “requirement” to insert “stated”.

3. On page 336, in line 33, after “requirement” to insert “stated”.

4. On page 336, in line 37, to omit “departure”, and to substitute “approval”.

5. On page 336, in line 40, to omit “of”, and to substitute “from”.

CLAUSE 908

1. On page 337, in line 9, after “Act” to insert “as a date”.

CLAUSE 915

1. On page 339, in line 37, after “return,” to insert “notice, notification”.

CLAUSE 920

1. On page 341, in line 4, to omit “in terms of this Act”.

CLAUSE 926

1. On page 342, in line 15, to omit “Chapter 22”, and to substitute “Chapters 22 and 38”.

CLAUSE 930

1. On page 346, in line 7, after “measure” to insert “referred to in that subsection”.

CLAUSE 942

1. On page 348, in line 42, after “transition”, to insert “and to address unforeseen or unintended consequences, anomalies or incongruities”.
2. On page 348, in line 43, after “942.”, to insert “(1)”.
3. On page 348, in line 43, after “may” to insert “, subject to sections 903(2) and (3), 904 and 906,”.
4. On page 348, in line 43, after “rules”, to omit “not inconsistent with this Part to regulate”.
5. On page 348, in line 44, before “the”, to insert “to regulate”.
6. On page 348, in line 45, to omit “or”.
7. On page 348, in line 46, before “any”, to insert “to regulate”.
7. On page 348, in line 52, to omit the full stop, and to substitute “;or”.
8. On page 348, after line 52, to insert:

“(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

(c) 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.”.

CLAUSE 943

1. On page 349, in line 1, to omit “Chapter 22”, and to substitute “Chapters 22 and 38”.
2. On page 349, in line 2, to omit “Chapter 22 does”, and to substitute “Chapters 22 and 38 do”.