



SWAZILAND

GOVERNMENT GAZETTE

EXTRAORDINARY

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VOL. XVIII]

MBABANE, Friday, June 1st., 1979

[No. 951

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SUPPLEMENT TO  
THE  
SWAZILAND GOVERNMENT  
GAZETTE  
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THE CUSTOMS, FISCAL, EXCISE AND SALES DUTIES  
(AMENDMENT) BILL, 1979

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(Bill No. 2 of 1979)

(To be presented by the Minister of Finance)

Memorandum in terms of the Standing Orders of Parliament.

The object of this Bill is to amend various provisions of the Customs, Fiscal, Excise and Sales Duties Act 1971 (Act No. 21 of 1971) so as to bring them into conformity with the corresponding provisions of the Customs and Excise Act, 1964 of the Republic of South Africa in accordance with Swaziland's obligations under Customs Union Agreement and to provide for certain circumstances necessitated by practice.

D. LUKELE

*Attorney-General.*

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A BILL

entitled

An Act to amend the Customs, Fiscal, Excise and Sales Duties Act, 1971.

*Short title.*

1. This Act may be cited as the Customs, Fiscal, Excise and Sales Duties (Amendment) Act, 1979, and shall be read as one with the Customs, Fiscal, Excise and Sales Duties Act, 1971 (Act No. 21 of 1971) hereinafter called "the principal Act".

*Amendment of section 2.*

2. Section 2 of the principal Act is amended —

- (a) in the definition "container depot" by replacing the reference to "section 3(1)(k)" with "section 5(1)(k)"; and
- (b) by replacing the definition "Minister" with the following—  
"Minister" means the Minister responsible for Finance".

*Amendment of section 5.*

3. Section 5 of the principal Act is amended in sub-section (1) by redesignating paragraph appearing immediately after paragraph (h) as paragraph "(i)".

*Amendment of section 38.*

4. Section 38 of the principal Act is amended by replacing subsection (3) with the following —

“(3) Such person shall further produce the transport document or such other document in lieu thereof as may be approved by the secretary, invoices as prescribed, shipper's statement of expenses incurred by him, copy of the confirmation of sale or other contract of purchase and sale, importer's written clearing instructions and such other documents relating to such goods as the Controller may require in each case and answer all such questions relating to such goods as may be put to him by the Controller.”.

*Amendment of section 39.*

5. Section 39 of the principal Act is amended in sub-section (1) by replacing paragraph (d) with the following —

“(d) in the case of goods purchased by or sold, consigned or disposed of to any person, a correct and sufficient invoice thereof, as prescribed, has been produced to the Controller.”.

*Amendment of Section 40.*

6. Section 40 of the principal Act is replaced with the following —

“Particulars on invoices:

40. (1) The exporter of any goods imported into or exported from Swaziland or the owner of any excisable goods or sales duty goods (manufactured in any customs and excise warehouse shall render a true, correct and sufficient invoice, certificate of value and certificate of origin of such goods in such form and declaring such particulars of such goods as may be prescribed in the regulations and as may be necessary to make a valid entry of such goods and shall furnish such additional information in connection with such invoice, certificate, particulars or goods as the Secretary may, for the purpose of this Act, require at any time:

Provided that different requirements may be prescribed in the regulations in respect of invoices and certificates relating to goods of different classes or kinds or goods to which different circumstances specified in the regulations apply.

(2) Every exporter or manufacturer shall allocate to any goods of a class or kind specified in the regulations for the purposes of this subsection and exported to or from or manufactured in Swaziland after a date specified by the Minister by notice in the Gazette, a distinctive and permanent identification number, code, description, character or other mark in such manner and in accordance with such method as may be prescribed in the regulations and from the day immediately after such date, such number, code, description, character or other mark shall be quoted or reproduced in all prescribed invoices relating to such goods and in all such other documents relating to such goods as may be specified in the regulations.

(3) All particulars in any prescribed invoice and certificate in respect of imported goods shall relate to the goods in the condition in which they are imported into Swaziland and for the purposes of section 106(2) no change in such conditions shall be deemed to have taken place between the time of importation and the time of any examination or analysis decided upon by the Controller or the Secretary unless the importer is able to satisfy the Secretary of any such change and the extent thereof:

Provided that the Secretary may in his discretion refuse to act upon the result of any such examination or analysis if the particulars in such invoices are thereby proved to be incorrect.

(4) (a) All particulars necessary to make a valid entry and all particulars in respect of the normal price or of any commission, discount, cost, charge, expense, royalty, freight, duty, tax, drawback, refund, rebate, remission or other information whatever which relates to and has a bearing on such price shall be declared by the exporter in any prescribed invoices in respect of any imported goods and such particulars shall, except where the Secretary otherwise determines, relate to the final amount of such normal price or commission, discount, cost, charge, expense, royalty, freight, duty, tax, drawback, refund, rebate or remission and to the final particulars or information regarding such goods.

(b) Any particulars referred to in paragraph (a) and declared in any prescribed invoice or certificate in respect of any imported goods shall be subject to any credit or debit note passed by the exporter or to any refund made or becoming due by the exporter or any amount paid or becoming due to the exporter (directly or indirectly, in money or in kind or in any other manner) or to any change of any nature whatever in such particulars in respect of such goods after the date of issue of such invoice or certificate and the exporter shall whenever any such note is passed, or refund is made or becomes due or amount is paid or becomes due or change takes place, forthwith issue an amended invoice or certificate to the importer who shall produce such amended invoice or certificate to the Controller within one month of receipt thereof and report the circumstances to him.

(c) If any particulars referred to in paragraph (a) of this subsection of any imported goods are not declared in the prescribed invoice or certificate in respect thereof or if any change in the particulars declared in any prescribed invoice or certificate relating to any imported goods which occurs after the date of issue of any such invoice or certificate relating to any imported goods which occurs after the date of issue of any such invoice or certificate is not forthwith reported to the Controller by the importer of such goods or if the Secretary has reason to believe that an offence referred to in section 86 (f) or (g) has been committed in respect of any imported goods the Secretary may determine a normal price, origin, date of purchase, quantity, description or any characteristics of such goods according to the best information available to him which shall, subject to a

right of appeal to the Minister, be deemed to be the normal price, origin, date of purchase, quantity, description or the characteristics of such goods.

(d) The right of appeal referred to in paragraph (c) of this subsection shall be exercised within a period of three months from the date of the determination concerned."

*Amendment of section 56.*

7. Section 56 of the principal Act is amended by inserting immediately after subsection (1) of the following new subsection —

"(1 *bis*) The Minister may, in respect of any class or kind of imported goods on which a provisional charge has been imposed under section 57 *bis*, so amended Schedule No. 2 with effect from a date not more than three months prior to the date with effect from which that provisional charge has been imposed."

*Amendment of section 65.*

8. Section 65 of the principal Act is amended by deleting subsection (5) and by inserting immediately after subsection (4) the following new subsection —

"(5) Notwithstanding subsection (1) and (4), the value for customs duty purposes of any imported goods specified in section B of Part 2 of Schedule No. 1 (other than pearls, precious and semi-precious stones, precious metals, rolled precious metals or articles containing or manufactured of such pearls, precious and semi-precious stones, precious metals or rolled precious metals entered under Schedule No. 4) shall be the normal price thereof plus 15 per cent of such price, plus any non-rebated customs duty payable in terms of Part 1 of Schedule No. 1 on such goods, but excluding the customs duty specified in the said Section B of Part 2 of Schedule No. 1 on such goods.

(6) The provisions of subsection (3) or (4) of section 70 shall *mutatis mutandis* apply to the calculation or determination of the value for customs duty purposes of any such imported pearls, precious and semi-precious stones, precious metals, rolled precious metals or articles containing or manufactured of such pearls, precious and semi-precious stones, precious metals or rolled precious metals."

*Amendment of section 69.*

9. Section 69 of the principal Act is amended by adding the following new subsections after subsection (3) —

"(4) Notwithstanding subsections (1) and (2), the value for excise duty purposes of any goods manufactured in Swaziland and specified in Section B of Part 2 of Schedule No. 1 (other than pearls, precious and semi-precious stones, precious metals, rolled precious metals or articles containing or manufactured of such pearls, precious and semi-precious stones, precious metals or rolled precious metals), shall be the value for excise duty purposes of such goods calculated or determined in terms of subsection (1) or (2), plus any non-rebated excise duty payable in terms of Section A of Part 2 of Schedule No. 1 on such goods.



(5) The provisions of section 70(3) or (4) shall *mutatis mutandis* apply to the calculation or determination of the value for excise duty purposes of any such pearls, precious and semi-precious stones, precious metals, rolled precious metals or articles containing or manufactured or such pearls, precious and semi-precious stones, precious metals or rolled precious metals.”.

*Amendment of section 70.*

10. (1) Section 70 of the principal Act is amended —

(a) by replacing subsection (2) with the following —

“(2) The value for sales duty purposes of any goods manufactured in Swaziland, other than goods entered in terms of sales duty item 144.00, except under tariff heading 71.16 thereof, of Schedule No. 1, shall be the value for excise duty purposes of such goods, calculated or determined in terms of section 69 as if they were excisable goods, plus any non-rebated excise duty on such goods not included in the price of such goods, but excluding the sales duty on such goods”;

(b) in subsection (4) by replacing words preceding paragraph (a) with the following —

“(4) The value for sales duty purposes of any imported goods entered in terms of item 709.01 of Schedule No. 7 and any goods manufactured in Swaziland and entered in terms of sales duty item 144.00 except under tariff heading 71.16 thereof, of Schedule No. 1, shall be —”; and

(c) by replacing subsection (5) with the following —

“(5) Whenever any imported goods entered in terms of item 709.01 of Schedule No. 7 or any goods manufactured in Swaziland and entered in terms of sales duty item 144.00, except under tariff heading 71.16 thereof, of Schedule No. 1, are sold in such circumstances that the value thereof for sales duty purposes cannot be calculated in terms of subsection (3), the Secretary may determine a value which shall, subject to a right of appeal to the Minister, be deemed to be the value for sales duty purposes of such goods.”.

*Amendment of section 75.*

11. Section 75 of the principal Act is amended —

(a) by replacing subsection (5) by the following —

“(5) In addition to any liability for duty incurred by any person under any other provision of this Act, the person who enters any goods for use by him under rebate of duty or any person on whose behalf any goods are so entered, shall, subject to the provisions of subsections (6) and (18) of this section and section 45, be liable for the duty on all goods so entered which have not been used or which have been disposed of otherwise than in accordance with the provisions of this section and of the item

under which they were so entered, as if such rebate of duty did not apply to such goods and such person shall pay such duty on demand by the Secretary:

Provided that the Secretary may, if such goods were used in accordance with any other item relating to rebate of duty, accept duty on such goods as if they were entered under such other item:

Provided further that the Secretary may, in his discretion, permit any duty paid on entry of such goods under rebate to the deduction from any duty from which any person becomes liable in terms of this subsection."

- (b) in subsection (5) by deleting the proviso to paragraph (b);
- (c) in subsection (6) by adding the following proviso thereto —
  - "Provided that if the duty in question has after such entry under rebate been increased, the extent of such rebate shall be deemed to be —
  - (a) the difference between the duty actually paid on entry for home consumption and such increased duty; or
  - (b) such increased duty if no duty was paid on entry for home consumption.";
- (d) by replacing the proviso to subsection (9) with the following —
  - "Provided that the Secretary may, in respect of an, class or kind of goods specified in any item of Part 1 of Schedule No. 5 and used in the manufacture of any goods marketed in Swaziland, pay any drawbacks to the extent stated in such item, where goods of comparable class, kind, quality and quantity and manufactured or produced in Swaziland have been used in the manufacture of any goods exported."; and
- (e) in subsection (19) by inserting the following new paragraph immediately after paragraph (c) —
  - "(c *bis*) fermented apple, pear or orange beverage manufactured in Swaziland, 0.5 per cent of the quantity so manufactured on which duty is paid."

*Amendment of section 81.*

12. Section 81 of the principal Act is replaced with the following —

"81. Any person who fails to declare any dutiable goods or goods the importation or exportation of which is prohibited or restricted under any law and which he has upon his person or in his possession, or makes any statement for customs or excise purposes as to any dutiable goods or prohibited or restricted goods upon his person or in his possession from which any dutiable goods or prohibited or restricted goods are omitted, shall, if any such goods are discovered to be or to have been upon his person or in his possession at the time of the failure, or of the statement,

be guilty of an offence and liable on conviction to a fine of two thousand emalangeni or treble the value of the goods in question, whichever is the greater, or imprisonment for two years, or to both, and the goods in question and any other goods contained in the same package as well as the package itself shall be liable to forfeiture."

*Amendment of section 88.*

13. Section 88 of the principal Act is replaced with the following —

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

- (2) (a) If the commission of an offence which renders any imported or manufactured goods liable to forfeiture under this Act, is detected after such goods have been released to the importer thereof or have been taken or delivered from any premises (whether a special customs and excise warehouse or customs and excise manufacturing warehouse, licensed under this Act, or not) and if such goods cannot readily be found, the Secretary may notwithstanding anything to the contrary in this Act contained, demand from the importer or the person who committed the offence in question payment of an amount equal to the value for duty purposes of such goods plus any unpaid duty thereon.

(b) If the amount demanded is not paid within a period of fourteen days after the demand for payment was made it may be recovered in terms of the provisions of this Act as if it were a forfeiture incurred under this Act.

- (c) The provisions of this Act shall apply *mutatis mutandis* in respect of any amount paid to the Secretary or recovered in terms of this subsection, as if such amount were the goods in question and as if such amount had been seized under subsection (1)."

*Amendment of section 95.*

14. Section 95 of the principal Act is amended by adding after subsection (3) the following new subsection —

"(4) Notwithstanding anything in any other law contained, a magistrate's court shall have jurisdiction to give judgement for any amount claimed under this Act, together with the costs of obtaining such judgement."

*Amendment of section 106.*

15. Section 106 of the principal Act is amended by adding after subsection (4) the following new subsection —

"(5) Any goods remaining in the custody or under the control of the department after expiry of a period of 28 days from the date of due entry thereof, may be removed by the Controller to the State warehouse or other place indicated by the Controller, and may thereupon be disposed of in terms of section 42(3)."

*Amendment of section 109.*

16. Section 109 of the principal Act is replaced by the following —

"109. (1) If in the opinion of the Secretary it is necessary for the safeguard of public health or for the safety of the public or the State, he may at any time, and at the expense and risk of the importer, exporter, owner, or pilot concerned, according as the Secretary may determine —

- (a) cause any goods under customs and excise control forthwith to be destroyed or otherwise disposed of; or
- (b) delay the departure of any vehicle from any place in Swaziland for a period not exceeding forty eight hours.

(2) No person shall be entitled to any compensation for loss arising out of any *bona fide* action of the Secretary under subsection (1)."

## THE ROAD TRAFFIC (AMENDMENT) BILL, 1979

(Bill No. 3 of 1979)

(To be presented by the Minister for Works, Power and Communications)

## Memorandum in terms of the Standing Orders of Parliament

The object of this Bill is to amend the Road Traffic Act, 1965 in the following respects —

- (a) to facilitate the introduction of a new system of registration marks and numbers for motor vehicles.
- (b) to provide for the medical examination of certain persons authorized to drive motor vehicles in order to ensure that they are physically and mentally fit to drive; and
- (c) to modify the existing provisions relating to the payment of road tolls by drivers of vehicles entering Swaziland.

D. LUKELE

*Attorney-General*

## A BILL

entitled

An Act to amend the Road Traffic Act, 1965.

ENACTED by the King and the Parliament of Swaziland.

*Short title and commencement.*

1. This Act may be cited as The Road Traffic (Amendment) Act, 1979, and shall be read and construed as one with the Road Traffic Act, 1965, hereinafter referred to as "the principal Act" and shall come into operation on such date as the Minister may, by Notice in the Gazette, appoint.

*Amendment of section 2.*

2. Section 2 of the principal Act is amended by replacing paragraph (a) of the definition "registration number" with the following —

"(a) section 10 (6) (a)

*Amendment of section 10.*

3. Section 10 of the principal Act is amended in paragraph 6 (a) (iii) thereof

by replacing the word "number" with the words "configuration of numbers and letters as the Minister may, by regulations, prescribe".

*Amendment of Section 32.*

4. Section 32 of the principal Act is amended in paragraph (b) of subsection (3) by replacing the word "number" with the words "configuration of numbers and figures".

*Amendment of section 43.*

5. Section 43 of the principal Act is amended by replacing the reference to "subsection (1) (f), (g) or (h)" with the reference "paragraphs (a), (f), (g) or (h) of subsection (1)".

*Addition of section 43 bis.*

6. The principal Act is amended by adding a new section 43 *bis* after section 43, as follows —

*"Powers of Police Officers to require Medical Examination".*

43 *bis* (1) Where a police officer of a rank of not less than Inspector has reasonable grounds to believe that the holder of a learner's or driver's licence should be disqualified from holding such licence on the grounds specified under paragraphs (a), (f), (g), or (h) of section 43 (1), he may order the holder of such licence to be examined by a medical practitioner who shall examine the person as to the disabilities or diseases referred to in those paragraphs.

(2) After the examination of a person referred to in subsection (1), the medical practitioner shall, in writing, transmit to the police officer at whose request the examination was carried out or to any other police officer authorised to receive such reports, a report certifying whether or not the person examined suffers from any of the disabilities or diseases referred to in paragraphs (a), (f), (g) and (h) of section 43 (1).

3. Where a person is, upon examination by a medical practitioner under this section, certified to be suffering from any of the disabilities or diseases referred to in paragraphs (a), (f), (g) and (h) of section 43 (1), the police officer shall so inform the Registrar who shall cancel the licence.

(4) Where a medical practitioner is, in the course of his duties, of the opinion that the holder of a learner's or driver's licence is unfit to drive a motor vehicle by virtue of any of the disabilities or diseases referred to in paragraphs (a), (f), (g) and (h) of section 43 (1), he may report the person to a police officer of a rank of not less than Inspector who shall then act in accordance with subsection (3).

(5) Any person who fails to obey an order of a police officer to be examined in accordance with subsection (1) shall be

guilty of an offence and, on conviction, shall be liable to have his licence cancelled in addition to the penalties set out in section 124 of this Act".

*Amendment of section 137.*

7. Section 137 of the principal Act is amended in paragraph (c) of subsection (1) by inserting after the words "registration mark" the words "and registration number".

*Amendment of section 150.*

8. Section 150 of the principal Act is amended by replacing subsection (2) with the following —

"(2) Every driver of a motor vehicle shall, upon entering into Swaziland, pay the toll imposed under subsection (1) to an officer specified in the notice issued under that subsection in respect of the following types of motor vehicles —

- (a) public motor vehicles, whether or not registered in Swaziland;
- (b) motor vehicles other than public motor vehicles so long as such motor vehicles are registered outside Swaziland.

Provided that no toll shall be payable under this section in respect of —

- (i) a motor vehicle which is the property of the King, the Government of Swaziland, Botswana, Lesotho or the Republic of South Africa; or
- (ii) a motor vehicle which is the property of a diplomatic mission accredited to Swaziland which bears a registration mark identifying it as such.







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