



# Customs @ Wylie

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This e-mail flyer is created by Customs @ Wylie, an initiative of Shepstone & Wylie's, International Transport, Trade & Energy Division.

*We have offices in, amongst other places,  
Durban, Cape Town, Richards Bay and Johannesburg.*

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## **Draft Revenue Amendments Bill, 2007 - Customs and Excise**

### ***Amendment of the definition of Customs Duty***

The South African Customs Authority appears to be leaning towards revenue collection rather than facilitating trade compliance. This is substantiated when an assessment is made of the recent Draft Revenue Laws Amendment Bill, 2007, in which it is proposed that the definition of Customs duty be changed.

Currently the Customs and Excise Act incorrectly classifies excise duties on imported goods as customs duties. Traditionally, excise duty has been applied on locally manufactured goods and customs duties on imported goods.

Practically, it was then interpreted that if a customs duty was payable on a commodity excise duty would not be payable hence the current definition is restrictive in the sense that the one or the other was payable on "excisable" goods.

It has been proposed that excise duties on imports must be separated from customs duties on imports. By inference this then means that an imported commodity could pay both excise duty and customs duty at the same time.

As part of the Explanatory Notes to the Draft Revenue Laws Amendment Bill, 2007 it controversially points out that the inclusion of excise duties within the customs duty definition has *"unintended consequences both in terms of revenue estimation and international comparison of tax revenues"*.

In layman's terms this translates to - a new source of revenue has been found by the simple change of raising excise duty on imported goods.

As a direct result of this proposed amendment, it has been proposed to amend Sections 47 and 65 to take the new definition into account.

### ***Improved control over counterfeit goods***

In line with the recent increased attention that stakeholders, including the World Customs Organisation, have given to this topic, Customs has identified that it does not have sufficient power to really make a difference in combating this problem.

It is proposing that SARS, as expected of the authority controlling imported goods, be the first line of defence against counterfeit goods being entered into the country. Customs officers will be responsible for detaining the goods after which the intellectual property right holder will be required to apply to court for an order declaring the goods in question to be counterfeit.

Section 113 (8) currently provides for detaining illicit goods and handing it over to the appropriate authority however the draft proposed amendments goes further to say that the goods will be handed over to the Counterfeit Goods Depot Operator. The intellectual

property rights holder will then be expected to make the appropriate arrangements to ensure that the goods do not enter the local market.

By Customs handing the counterfeit goods over to the Counterfeit Goods Depot Operator, it should release the burden of State Warehouses overflowing which in turn imposes of Container Depot in respect of goods in overstay.

## **Limited Offer - Customs "Health" Checks**

Customs @ Wylie offers 5 readers an opportunity to have a FREE Customs "Health" Check carried out on their Clearing Agency, Bond Store or other Customs facility, at one address in Durban.

This Health Check will consist of an overview of operations and whether current practice is in line with the Customs and Excise Act.

Each reader will be given a "Prescription" (Report of Findings) which will show discrepancies and why they are considered such.

This offer is valid to the first 5 readers that respond or until 30 November 2007.

#Terms and Conditions apply

## **Contact Us**

We welcome any comments on our articles or any suggestions you may have.

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