



**GOVERNMENT GAZETTE**  
OF THE  
**REPUBLIC OF NAMIBIA**

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**Government Notice**

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**OFFICE OF THE PRIME MINISTER**

No. 74

1991

**PROMULGATION OF ACT OF  
THE NATIONAL ASSEMBLY**

The following Act which has been passed by the National Assembly and signed by the President in terms of the Namibian Constitution is hereby published in terms of Article 56 of that Constitution.

No. 13 of 1991: Sales Tax Amendment Act, 1991.

## EXPLANATORY NOTE:

\_\_\_\_\_ Words underlined with solid line indicate insertions proposed.

[            ] Words in bold type in square brackets indicate omissions proposed.

## ACT

To amend the Sales Tax Proclamation, 1978, so as to increase the rate of sales tax; to make new provision for exemption from sales tax; to extend the liability for sales tax; to empower the Permanent Secretary to report unprofessional conduct and in certain circumstances to disclose confidential information relating to the affairs of a person; to amend Schedules 1, 2 and 5 to the said Proclamation; and to provide for matters incidental thereto.

*(Signed by the President on 25 June 1991)*

BE IT ENACTED by the National Assembly of the Republic of Namibia, as follows:-

Amendment of section 1 of Proclamation AG. 40 of 1978, as amended by section 1 of Act 22 of 1980, section 1 of Act 17 of 1982 and section 1 of Proclamation AG. 22 of 1985.

1. Section 1 of the Sales Tax Proclamation, 1978 (hereinafter referred to as the Proclamation), is hereby amended -

- (a) by the substitution in the definition of "enterprise" of the words preceding paragraph (a) of the following words:

“ ‘enterprise’ means any commercial, industrial, farming, fishing, professional or other enterprise of a continuing nature carried on in [**the territory**] Namibia or partly in [**the territory**] Namibia, in the ordinary course of which -”;

- (b) by the insertion after the definition of "manufacture" of the following definition:

" 'Minister' means the Minister of Finance;";

- (c) by the insertion after the definition of "occasional sale" of the following definition:

" 'Permanent Secretary' means the Permanent Secretary: Finance;";

- (d) by the deletion of the definition of "Secretary";

- (e) by the deletion of the definition of "State"; and

- (f) by the deletion of the definition of "territory".

Amendment of section 5 of Proclamation AG. 40 of 1978, as amended by section 4 of Act 22 of 1980, section 2 of Act 17 of 1982 and section 2 of Proclamation AG. 22 of 1985.

2. Section 5 of the Proclamation is hereby amended by the substitution in subsection (1) for the words preceding paragraph (a) of the following words:

"Subject to the provisions of section 6, there shall be levied and paid, for the benefit of the [Central Revenue Fund] State Revenue Fund, a tax (to be known as the sales tax) calculated at the rate of [ten] 11 per cent of the taxable value of -"

Amendment of section 6 of Proclamation AG. 40 of 1978, as amended by section 5 of Act 22 of 1980, section 3 of Act 17 of 1982 and section 3 of Proclamation AG. 22 of 1985.

3. Section 6 of the Proclamation is hereby amended -

- (a) by the substitution for paragraph (g) of subsection (1) of the following paragraph:

"(g) the sale of trading stock or any taxable service rendered by any vendor (other than a registered vendor) in the ordinary course of carrying on any enterprise, if -

- (i) the gross receipts or accruals of such enterprise during the latest completed year of assessment of the vendor under the Income Tax Act (but excluding any amount derived from any transaction which, by virtue of the provisions of subparagraph (bb), (cc), (dd) or (ee) of paragraph (c) of the definition of "sale" in section 1, is deemed not to be a sale) have not exceeded the sum of [R5 000] R50 000; and

- (ii) such gross receipts or accruals of such enterprise during the period (other than a full period of 12 months) ensuing after the end of such year have not exceeded such sum:

Provided that where such gross receipts or accruals of the enterprise for such ensuing period have exceeded the said sum and the vendor has, within a period of 30 days thereafter or such further period as the [Secretary] Permanent Secretary may regard as reasonable in the circumstances, notified the [Secretary] Permanent Secretary of the change in his or her circumstances as required by section 12(5), the exemption conferred by this paragraph in respect of sales or taxable services rendered by the vendor shall, subject to compliance with the provisions of section 11(4), not be deemed to have ceased to apply by reason of the fact that such receipts or accruals have exceeded the said sum, but shall continue to apply in respect of sales of goods concluded or taxable services rendered by the vendor during the period ending on the date fixed by the [Secretary] Permanent Secretary under section 11(4);” and

- (b) by the addition to subsection (1) of the following paragraph:

“(z) the sale in terms of section 5(1)(h) of any goods set forth in Schedule 7.”

Amendment of section 11 of Proclamation AG. 40 of 1978, as amended by section 9 of Act 22 of 1980, section 6 of Act 17 of 1982 and section 7 of Proclamation AG. 22 of 1985.

4. Section 11 of the Proclamation is hereby amended by the substitution for paragraph (a) of subsection (4) of the following paragraph:

- “(a) Where any vendor has in respect of his or her enterprise been entitled to the exemption under section 6(1)(g) and he or she has in accordance with the provisions of section 12(5) and within the period or further period referred to in the proviso to section 6(1)(g), notified the [Secretary] Permanent Secretary that the gross receipts or accruals of his or her enterprise (as determined in accordance with the provisions of section 6(1)(g)

have exceeded the sum of ~~[R5 000]~~ R50 000, the [Secretary] Permanent Secretary shall notify the vendor that as from a date fixed by the [Secretary] Permanent Secretary the exemption under section 6(1)(g) shall no longer apply and call upon the vendor to furnish the [Secretary] Permanent Secretary, as soon as possible after the date so fixed, with details of the trading stock held by the vendor and not disposed of by him or her on the day before that date, the cost thereof, the names and addresses of the persons from whom such trading stock was acquired and the amounts of tax, if any, borne by the vendor in respect of the sale to him or her or the importation by him or her of such trading stock.”.

Amendment of section 12  
of Proclamation AG. 40  
of 1978.

5. Section 12 of the Proclamation is hereby amended -

(a) by the substitution for subsection (1) of the following subsection:

“(1) Every person who -

(a) on or at any time after **[the date of promulgation of this Proclamation]** 29 June 1978;  
or

(b) in the case of a person carrying on a professional enterprise contemplated in the definition of “enterprise” in section 1, on or at any time after a date determined, with due regard to the date fixed under section 7(2) of the Sales Tax Amendment Act, 1991, by the Minister by notice in the Gazette,

carries on or commences to carry on any enterprise shall within one month reckoned from that date (or, if he or she commences to carry on the enterprise on a later date, from the later date), or within such further period as the [Secretary] Permanent Secretary may allow, furnish the [Secretary] Permanent Secretary with a declaration in such form as the [Secretary] Permanent Secretary may prescribe which shall contain such information relating to the enterprise as may be required by the [Secretary] Permanent Secretary for the purposes of this Proclamation: Provided

that any person who intends to carry on any enterprise may furnish such declaration at the time he or she makes application to any local authority for a licence to carry on such enterprise.”;

- (b) by the substitution for paragraph (a) of subsection (2) of the following paragraph:

“(a) the gross annual receipts or accruals of any enterprise from the sale of goods and from the rendering of taxable services have exceeded [~~R5 000~~] R50 000 or the [~~Secretary~~] Permanent Secretary is satisfied that such gross annual receipts or accruals will exceed [~~R5 000~~] R50 000; or”;

- (c) by the substitution for paragraph (b) of subsection (2) of the following paragraph:

“(b) the gross annual receipts or accruals of any enterprise have consisted of or included amounts derived under financial leases or by way of rental considerations [~~or from the rendering of taxable services~~] or the [~~Secretary~~] Permanent Secretary is satisfied that such gross annual receipts or accruals will consist of or include such amounts; or”.

Insertion of section 44bis in Proclamation AG. 40 of 1978.

6. The following section is hereby inserted in the Proclamation after section 44:

“Reporting of unprofessional conduct.

**44bis.** (1) For the purposes of this section “controlling body” means any professional association, body or board which has been established, whether voluntarily or by or under any law, for the purpose of exercising control in respect on of any profession, calling or occupation and which has power to take disciplinary action against any person who in the carrying on of such profession, calling or occupation fails to comply with or contravenes any rule or code of conduct laid down by such association, body or board.

(2) Where any person who carries on any profession, calling or occupation in respect of which a controlling body has been established has, in relation to the affairs of any other person (hereinafter referred to as a client), done or omitted to do anything which in the opinion of the Permanent Secretary -

- (a) was intended to enable or assist the client to avoid or unduly postpone the performance of any duty or obligation imposed on such client by or under this Act, or by reason of negligence on the part of such person resulted in the avoidance or undue postponement of the performance of any such duty or obligation; and
- (b) constitutes a contravention of any rule or code of conduct laid down by the controlling body which may result in disciplinary action being taken against such person by that body,

the Permanent Secretary may lodge a complaint with the controlling body.

- (3) (a) Notwithstanding the provisions of section 4 of this Proclamation, the Permanent Secretary may in lodging any complaint under subsection (2) disclose such information relating to the client's affairs as in the opinion of the Permanent Secretary it is necessary to place before the controlling body to which the complaint is made.
- (b) Before lodging any such complaint or disclosing such information the Permanent Secretary shall deliver or send to the client and the person against

whom the complaint is to be made a written notification of his or her intended action setting forth the said information. said information.

(c) The client or the said person may within 30 days after the date of such written notification lodge in writing with the Permanent Secretary any objection he or she may have to the lodging of the said complaint.

(d) If on the expiry of the said period of 30 days no objection has been lodged as contemplated in paragraph (c) or, if an objection has been lodged and the Permanent Secretary is not satisfied that the objection should be sustained, the Permanent Secretary may thereupon lodge the complaint as contemplated in subsection (2).

(4) The complaint shall be considered by the controlling body to which it is made and may be dealt with by it in such manner as the controlling body in terms of its rules sees fit: Provided that any hearing of the matter shall not be public and may only be attended by persons whose attendance, in the opinion of the controlling body, is necessary for the proper consideration of the complaint.

(5) The controlling body with which a complaint is lodged and its members shall at all times preserve and aid in preserving secrecy in regard to such information as to the affairs of the client as may be conveyed to them by the Permanent Secretary or as may otherwise come to their notice in the investigation of the Permanent Secretary's complaint and shall not communicate such information to any person what-



soever other than the client concerned or the person against whom the complaint is lodged, unless the disclosure of such information is ordered by a competent court of law.”

Amendment of Schedule 1 to Proclamation AG. 40 of 1978, as amended by section 22 of Act 22 of 1980, section 16 of Act 17 of 1982 and section 14 of Proclamation AG. 22 of 1985.

7. (1) Schedule 1 to the Proclamation is hereby amended -

(a) by the substitution for subparagraph (c) of paragraph 1 of the following subparagraph:

“(c) Services rendered or facilities provided by any person in the course of the carrying on by him or her of any enterprise which is the trade, business or occupation of a dress-maker, tailor, milliner, barber, hairdresser, dry-cleaner, dyer, launderer (including a provider of coin-operated laundry services), blacksmith, locksmith, signwriter, printer, engraver, photographer, processor of photographic material, picture framer, provider of duplicating services, provider of blueprint services, tanner, leather processor, taxidermist, tower of motor vehicles, provider of fumigation or pest-control services, provider of animal care services [**(other than veterinary services or animal care services rendered in the course of farming operations carried on by the provider of such services)**].”;

(b) by the substitution for item (i) of subparagraph (d) of paragraph 1 of the following item:

“(i) such [**professional**] medical services as are provided for his or her own account in the ordinary course of his or her practice as such by -

(aa) a [**registered**] medical practitioner [**dentist, dietician, optometrist, homeopath, naturopath, osteopath, herbalist, nurse, physiotherapist, chiropractor, masseur or orthoptist in the ordinary course of his practice as such**] registered in terms of the provisions of the Medical, Dental and Supplementary Health Service Professions Act, 1974 (Act 56 of 1974), or who

holds a written authority under the Health Services Professions Proclamation, 1989 (Proclamation AG. 70 of 1989);

(bb) a nurse or midwife registered in terms of the provisions of the Nursing Act, 1978 (Act 50 of 1978), or who holds a written authority under the Health Service Professions Proclamation, 1989 (Proclamation AG. 70 of 1989);

(cc) a practitioner registered in terms of the provisions of the Chiropractors Act, 1971 (Act 76 of 1971), or the Homeopaths, Naturopaths, Osteopaths and Herbalists Act, 1974 (Act 52 of 1974); or”; and

(c) by the insertion in paragraph 1 after subparagraph (d) of the following subparagraphs:

“(d)*bis* Professional or other services as are provided for his or her own account in the ordinary course of his or her practice as such by any person registered by a “controlling body” as defined in section 44*bis*(1).

(d)*ter* Professional services as are provided for his or her own account by an advocate or an attorney, or a private company referred to in section 23 of the Attorneys Act, 1979 (Act 53 of 1979), in the ordinary course of his or her practice as such.”.

(2) The provisions of paragraphs (a), in so far as it relates to veterinary services and animal care services, and (c) of subsection (1) shall come into operation on a date to be determined by the President by proclamation in the *Gazette*.

Amendment of Schedule 2 to Proclamation AG. 40 of 1978, as amended by section 23 of Act 22 of 1980, section 17 of Act 17 of 1982 and section 15 of Proclamation AG. 22 of 1985.

8. Schedule 2 to the Proclamation is hereby amended -

(a) by the substitution for subparagraph (c) of paragraph 1 of Division I of the following subparagraph:

- “(c) Gas purchased for the purpose of carrying out any repair or maintenance service referred to in [subparagraph (a) or any repair or maintenance contemplated in] subparagraph (b).”;
- (b) by the deletion of subparagraph (a) of paragraph 3 of Division I;
- (c) by the substitution for Division *1ter* of the following Division:

“DIVISION *1ter*

*Commercial Enterprises*

In the case of any enterprise in the ordinary course of which sales of goods are concluded:

1. Any taxable service (excluding any advertising or publicity service) rendered in respect of goods intended for sale.
  2. Any repair service rendered in respect of goods which were the subject of a sale concluded by such enterprise, where such service is rendered in pursuance of any guarantee to effect that service, and parts purchased in order to effect such service.
  3. Containers and packaging or wrapping materials (including labels) intended to be disposed of to customers of such enterprise.”;
- (d) by the deletion of subparagraph (a) of paragraph 7 of Division II;
- (e) by the deletion of subparagraph (a) of paragraph 8 of Division IV;
- (f) by the substitution for subparagraph (c) of paragraph 8 of Division IV of the following subparagraph:
- “(c) Gas purchased for the purpose of carrying out any repair or maintenance service re-

ferred to in [subparagraph (a) or any repair or maintenance contemplated in] subparagraph (b).”;

(g) by the deletion of subparagraph (a) of paragraph 4 of Division V; and

(h) by the substitution for subparagraph (c) of paragraph 4 of Division V of the following subparagraph:

“(c) Gas purchased for the purpose of carrying out any repair or maintenance service referred to in [subparagraph (a) or any repair or maintenance contemplated in] subparagraph (b).”.

Amendment of Schedule 5 to Proclamation AG. 40 of 1978, as amended by section 26 of Act 22 of 1980 and section 18 of Proclamation AG. 22 of 1985.

9. Schedule 5 to the Proclamation is hereby amended by the addition to paragraph 1 of Part B of the following subparagraph:

“(d) Goods set forth in Schedule 7.”.

Addition of Schedule 7 to Proclamation AG. 40 of 1978.

10. The following Schedule is hereby added to the Proclamation:

#### ”SCHEDULE 7

*(Section 6(1)(z) of this Act)*

#### **Exemption: Certain goods in the form of foodstuffs**

The goods in respect of which the exemption under the provisions of section 6(1)(z) shall apply, shall be as hereinafter set forth, but shall not include any such goods as are supplied for reward in the course of carrying out any agreement -

- (a) for the furnishing or serving of any meal, refreshment, cooked or prepared food or any drink ready for immediate consumption; or
  - (b) for the supply of board and lodging at an inclusive charge.
1. Maize meal, being -

- (a) maize meal graded as super maize meal, special maize meal, sifted maize meal, unsifted maize meal, samp or mealie rice; or
- (b) maize intended to be used for the production of maize meal.

2. Mahango.

Substitution of certain words and expressions in Proclamation AG. 40 of 1978.

**11.** Subject to the provisions of this Act, the Proclamation is hereby amended -

- (a) by the substitution for the words "the territory", wherever they occur, of the word "Namibia".
- (b) by the substitution for the word "Secretary", wherever it occurs, of the words "Permanent Secretary";
- (c) by the substitution for the word "Administrator-General", wherever it occurs, of the word "Minister"; and
- (d) by the substitution for the words "*Official Gazette*", wherever they occur, of the word "*Gazette*".

Short title and commencement.

**12.** This Act shall be called the Sales Tax Amendment Act, 1991, and shall, subject to the provisions of section 7(2), come into operation on 1 July 1991.

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