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GOVERNMENT NOTICES GOEWERMENSKENNISGEWINGS

DEPARTMENT OF AGRICULTURE DEPARTEMENT VAN LANDBOU

No. R. 731

31 May 2002

VETERINARY AND PARA-VETERINARY PROFESSIONS ACT, 1982
(ACT No. 19 OF 1982)

RULES RELATING TO THE PRACTISING OF VETERINARY PROFESSIONS: AMENDMENT

CORRECTION NOTICE

Government Notice No. R. 34 of 18 January 2002 as published in Government Gazette No. 23027 of the said date is hereby corrected by the –

- (a) renumbering of Rule 26(12) to Rule "26(3)"; and
- (b) renumbering of Rule 8(2)(a) and (a) to Rule "8(2)(a) and 8(2)(b)".

No. R. 731

31 Mei 2002

WET OP VETERINÊRE EN PARA-VETERINÊRE BEROEPE, 1982
(WET No. 19 VAN 1982)

REËLS BETREFFENDE DIE BEOEFENING VAN VETERINÊRE BEROEPE: WYSIGING

WYSIGINGSKENNISGEWING

Goewermentskennisgewing No. R.34 van 18 Januarie 2002 soos gepubliseer in Staatskoerant No. 23027 word hierby gewysig deur die –

- (a) hernoemering van Reël 26(12) na Reël "26(3)"; en
- (b) hernoemering van Reël 8(2)(a) en (a) na Reël "8(2)(a) en 8(2)(b)".

**DEPARTMENT OF JUSTICE
DEPARTEMENT VAN JUSTISIE**

No. R. 744

31 May 2002

THE CONSTITUTIONAL COURT

**NOTICE IN TERMS OF RULE 4(8) OF THE RULES OF THE
CONSTITUTIONAL COURT MADE BY THE PRESIDENT OF THE
CONSTITUTIONAL COURT IN CONSULTATION WITH THE CHIEF
JUSTICE UNDER SECTION 171 OF THE CONSTITUTION OF THE
REPUBLIC OF SOUTH AFRICA, 1996 (ACT NO.108 OF 1996), AND
SECTION 16 OF THE CONSTITUTIONAL COURT COMPLEMENTARY
ACT, 1995 (ACT NO.13 OF 1995) IN:**

Case CCT 19/01

IN THE MATTER OF -

**FIRST NATIONAL BANK OF SA LIMITED
t/a WESBANK**

Appellant

versus

**THE COMMISSIONER FOR THE SOUTH
AFRICAN REVENUE SERVICES**

First Respondent

THE MINISTER OF FINANCE

Second Respondent

and

**FIRST NATIONAL BANK OF SA LIMITED
t/a WESBANK**

Appellant

versus

THE MINISTER OF FINANCE

Respondent

ORDER OF COURT

On 16 May 2002 the Constitutional Court made the following order in the above-mentioned case:

- A: In the Cape of Good Hope High Court case *First National Bank of SA Limited v The Minister of Finance* (Case no 9101/94):

The appeal is dismissed with costs and the appellant is ordered to pay the costs in the High Court.

- B: In the Cape of Good Hope High Court case *First National Bank of SA Limited v The Commissioner for the South African Revenue Services and the Minister of Finance* (Case no. 825/99):

1. The appeal succeeds with costs.
2. The provisions of section 114 of the Customs and Excise Act 91 of 1964 are declared to be constitutionally invalid to the extent that they provide that goods owned by persons, other than the person liable to the State for the debts described in the section, are subject to a lien, detention and sale.
3. The order in paragraph 2 shall not apply -
 - 3.1 to sales of goods to purchasers, resulting from the application of the provisions of section 114, where such purchasers have been placed in possession of such goods pursuant to such sales; or,
 - 3.2 to any case in which judgment has been given and in which, as at the date of this order, neither an appeal nor a review is pending or the time for the noting of an appeal has expired.
4. The High Court order is set aside and replaced with the following:
 - "1. The detentions of a Volkswagen Jetta motor vehicle in the possession of Lauray Manufacturers CC belonging to the applicant and of Mercedes-Benz and Volkswagen Golf motor vehicles in the possession of Airpark Halaal Cold Storage CC belonging to the applicant were unlawful.
 2. The applicant is to pay the costs of the postponed hearing on 22 February 2000, such costs to include the costs of two counsel.

3. Save for the costs referred to in paragraph 2, the respondents are to pay the costs of the application in the case of *First National Bank of SA Limited v The Commissioner for the South African Revenue Services and The Minister of Finance* (Case no 825/99)."

Thus done at JOHANNESBURG on 22 May 2002


S B MADONSELA

pp: REGISTRAR: CONSTITUTIONAL COURT

ACKERMANN J

Volkswagen Golf motor vehicles in the possession of Airpark Halaal Cold Storage CC belonging to the applicant was not unlawful.

(2) The applicant is to pay –

- (a) the costs of this application;
- (b) the costs of the postponed hearing on 22 February 2000; and
- (c) the costs of *First National Bank Limited v The Minister of Finance* (Case no 9101/94),¹⁸³

all such costs to include the costs of two counsel.¹⁸⁴

[133] The following orders are accordingly made:

A: In the Cape of Good Hope High Court case *First National Bank of SA Limited v The Minister of Finance* (Case no 9101/94):

The appeal is dismissed with costs and the appellant is ordered to pay the costs in the High Court.

B: In the Cape of Good Hope High Court case *First National Bank of SA Limited v The Commissioner for the South African Revenue Services and the Minister of Finance* (Case no. 825/99):

1. The appeal succeeds with costs.
2. The provisions of section 114 of the Customs and Excise Act 91 of 1964

¹⁸³ By mistake referred to in the High Court order as Case no: 1901/94.

¹⁸⁴ This is the order made by the High Court on 2 March 2001 as subsequently amended on 26 April 2001. It is to be noted that the High Court order, as reflected in both the Butterworths Constitutional and the South African Law Reports does not reflect the amendment brought about by the order of 26 April 2001.

ACKERMANN J

are declared to be constitutionally invalid to the extent that they provide that goods owned by persons, other than the person liable to the State for the debts described in the section, are subject to a lien, detention and sale.

3. The order in paragraph 2 shall not apply –

3.1 to sales of goods to purchasers, resulting from the application of the provisions of section 114, where such purchasers have been placed in possession of such goods pursuant to such sales; or,

3.2 to any case in which judgment has been given and in which, as at the date of this order, neither an appeal nor a review is pending or the time for the noting of an appeal has expired.

4. The High Court order is set aside and replaced with the following:

“1. The detentions of a Volkswagen Jetta motor vehicle in the possession of Lauray Manufacturers CC belonging to the applicant and of Mercedes-Benz and Volkswagen Golf motor vehicles in the possession of Airpark Halaal Cold Storage CC belonging to the applicant were unlawful.

2. The applicant is to pay the costs of the postponed hearing on 22 February 2000, such costs to include the costs of two counsel.

3. Save for the costs referred to in paragraph 2, the respondents are to pay the costs of the application in the case of *First National Bank of SA Limited*

ACKERMANN J

*v The Commissioner for the South African Revenue Services and The
Minister of Finance (Case no 825/99)."*



Chaskalson CJ, Langa DCJ, Kriegler J, Madala J, Mokgoro J, O'Regan J, Sachs J,
Yacoob J, Du Plessis AJ, Skweyiya AJ concur in the judgment of Ackermann J.



For the appellant:

Cape High Court Case Number 825/99

AM Breitenbach and N Bawa instructed by
Field & Gowar Inc, Cape Town.

For the appellant:

Cape High Court Case Number 9101/94. Inc, Cape Town.

SC Kirk-Cohen instructed by Field & Gowar

For the respondents:

GJ Marcus SC, JP Vorster SC and CS
Kahanovitz instructed by the State Attorney,
Cape Town.

No. R. 745

31 May 2002

THE CONSTITUTIONAL COURT

NOTICE IN TERMS OF RULE 4(8) OF THE RULES OF THE CONSTITUTIONAL COURT MADE BY THE PRESIDENT OF THE CONSTITUTIONAL COURT IN CONSULTATION WITH THE CHIEF JUSTICE UNDER SECTION 171 OF THE CONSTITUTION OF THE REPUBLIC OF SOUTH AFRICA, 1996 (ACT NO.108 OF 1996), AND SECTION 16 OF THE CONSTITUTIONAL COURT COMPLEMENTARY ACT, 1995 (ACT NO.13 OF 1995) IN:

Case CCT 28/01

IN THE MATTER OF -

THE MINISTER OF SAFETY AND SECURITY

1st Intervener

versus

THE NATIONAL COMMISSIONER OF THE SOUTH
AFRICAN POLICE SERVICE2nd Intervener

together with

THE MINISTER OF JUSTICE AND
CONSTITUTIONAL DEVELOPMENT

Interested Party

and

THE CENTRE FOR THE STUDY OF VIOLENCE
AND RECONCILIATION

Amicus Curiae

In re

THE STATE

versus

EDWARD JOSEPH WALTERS

Accused No 1

MARVIN EDWARD WALTERS

Accused No 2

ORDER OF COURT

On 21 May 2002 the Constitutional Court made the following order in the above-mentioned case:

1. The order made by the High Court on 12 July 2001 in the case of *The State vs Edward Joseph Walters and Marvin Edward Walters* (Case No 45/2001, Transkei) relating to the constitutional validity of the provisions of section 49(1)(b) and section 49(2) of the Criminal Procedure Act 51 of 1977 is set aside.
2. The following order is submitted for the order referred to in paragraph 1:
 - 2.1 Section 49(2) of the Criminal Procedure Act 51 of 1977 is declared to be inconsistent with the Constitution and invalid.
 - 2.2 The order in 2.1 is prospective only.
3. The case of *The State vs Edward Joseph Walters and Marvin Edward Walters* (Case No 45/2001, Transkei) is referred back to the High Court for resumption and conclusion of the criminal trial against the accused on the basis that section 49(2) of the said Act is constitutionally valid.

Thus done at JOHANNESBURG on 22 May 2002


S B MADONSELA

pp: REGISTRAR: CONSTITUTIONAL COURT

KRIEGLER J

such a distinction between civil and criminal liability and it would to some extent still be unfair to create even civil liability only after the event. As it is, the effect of the SCA's interpretation of the use of force generally in *Govender's* case is that all actions arising out of the shooting of a fugitive from arrest that were not finally disposed of or otherwise defunct when that judgment was delivered, have to be dealt with in accordance with the law as expounded in that case. Consequently, there ought to be an order qualifying prospectivity under section 172(1)(b) of the Constitution in order to prevent injustice.

[76] As regards the period for which the invalidation of section 49(2) should still be suspended, little need be said. There is an amending provision bearing the stamp of approval of the legislature waiting in the wings. It could be put into operation within a matter of days. In any event, should the striking down of subsection 49(2) become effective upon the delivery of this judgment, no harm can befall the country. Subsection (1), as interpreted in *Govender's* case, regulates the use of all force when carrying out an arrest. In the circumstances there need be no suspension of the invalidation of section 49(2) brought about by this judgment.

Order

[77] In the result the following order is made:

1. The order made by the High Court on 12 July 2001 in the case of
The State v Edward Joseph Walters and Marvin Edward Walters

KRIEGLER J

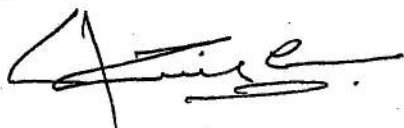
(Case No 45/2001, Transkei) relating to the constitutional validity of the provisions of section 49(1)(b) and section 49(2) of the Criminal Procedure Act 51 of 1977 is set aside.

2. The following order is substituted for the order referred to in paragraph 1:

2.1 Section 49(2) of the Criminal Procedure Act 51 of 1977 is declared to be inconsistent with the Constitution and invalid.

2.2 The order in 2.1 is prospective only.

3. The case of *The State v Edward Joseph Walters and Marvin Edward Walters* (Case No 45/2001, Transkei) is referred back to the High Court for resumption and conclusion of the criminal trial against the accused on the basis that section 49(2) of the said Act is constitutionally valid.



Chaskalson CJ, Langa DCJ, Ackermann J, Madala J, Mokgoro J, O'Regan J, Sachs J, Yacoob J, Du Plessis AJ and Skweyiya AJ concur in the judgment of Kriegler J.

For the 1st and 2nd Intervening Parties:

Adv PJ De Bruyn SC, Adv GJ Joubert
and Adv BJ Pienaar instructed by the
State Attorney, Johannesburg

For the Interested Party:

Adv GJ Marcus SC and Adv M
Chaskalson instructed by Hofmeyr
Herbstein & Gihwala Inc., Sandton

For the *Amicus Curiae*:

Adv G Bizos SC and Adv B Majola
instructed by the Legal Resources
Centre, Johannesburg

SOUTH AFRICAN REVENUE SERVICE SUID-AFRIKAANSE INKOMSTEDIENS

No. R. 751

31 May 2002

CUSTOMS AND EXCISE ACT, 1964.- AMENDMENT OF SCHEDULE NO. 2 (NO. 2/106)

Under section 56 of the Customs and Excise Act, 1964, Part 1 of Schedule No. 2 to the said Act is hereby amended, with retrospective effect to 15 October 2001, to the extent set out in the Schedule hereto.

M MPAHLWA
DEPUTY MINISTER OF FINANCE

SCHEDULE

I Item	II				III Rebate Items	IV Imported from or originating in	V Rate of anti- dumping duty	VI Anno- tations
	Tariff Heading	Code	C. D.	Description				
206.11				By the deletion of item 206.11.				
216.02				By the deletion of code 03.06 to tariff heading 8536.20.				

No. R. 751

31 Mei 2002

DOEANE- EN AKSYNSWET 1964.- WYSIGING VAN BYLAE NO. 2 (NO. 2/106)

Kragtens artikel 56 van die Doeane- en Aksynswet, 1964, word Deel 1 van Bylae No. 2 by genoemde Wet hiermee gewysig, met terugwerkende krag tot 15 Oktober 2001, in die mate in die Bylae hierby aangetoon.

M MPAHLWA
ADJUNKMINISTER VAN FINANSIES

BYLAE

I Item	II				III Korting Items	IV Ingevoer vanaf of afkomstig van	V Skaal van anti-dumping reg	VI Anno- tasies
	Tarief= pos	Kode	T. S.	Beskrywing				
206.11				Deur item 206.11 te skrap.				
216.02				Deur kode 03.06 by tariefpos 8536.20 te skrap.				

No. R. 752

31 May 2002

**CUSTOMS AND EXCISE ACT, 1964.-
AMENDMENT OF SCHEDULE NO. 3 (NO. 3/ 520)**

Under section 75 of the Customs and Excise Act, 1964, Schedule No. 3 to the said Act is hereby amended, with retrospective effect to 1 January 2002, to the extent set out in the Schedule hereto.

**M MPAHLWA
DEPUTY MINISTER OF FINANCE**

SCHEDULE

I				II		III	
Rebate Item	Tariff Heading	Rebate Code	C D	Description	Extent of Rebate	Annotations	
316.01	"4009.41	01.06	69	By the substitution for tariff heading 4009.40 of the following: Tubes and pipes, of vulcanised rubber, reinforced or combined with other materials (excluding metal or textile materials), without fittings, for the manufacture of blower and ram type heaters, ventilation units and air-conditioning systems, identifiable for use solely or principally with motor vehicles with water cooled engines	Full duty"		

No. R. 752

31 Mei 2002

**DOEANE- EN AKSYNSWET, 1964.-
WYSIGING VAN BYLAE NO. 3 (No. 3/ 520)**

Kragtens artikel 75 van die Doeane- en Aksynswet, 1964, word Bylae No. 3 by genoemde Wet hiermee gewysig, met terugwerkende krag tot 1 Januarie 2002, in die mate in die Bylae hierby aangetoon.

**M MPAHLWA
ADJUNKMINISTER VAN FINANSIES**

BYLAE

I				II		III	
Korting= item	Tarief= pos	Korting= kode	C D	Beskrywing	Mate van Korting	Annotations	
316.01	"4009.41	01.06	69	Deur tariefpos 4009.40 deur die volgende te vervang: Buisse en pype van gevulkaniseerde rubber, met ander stowwe (uitgesonderd metaal of tekstielstowwe) versterk of saamgevoeg, sonder toebehoere, vir die vervaardiging van waaier- en ramtype verwarmers, ventilasie-eenhede en lugversorgerstelsels uitkenbaar vir gebruik slegs of hoofsaaklik in motorvoertuie met waterverkoelde enjins	Volle reg"		