

New Customs Legislation

NEW CLIENT TYPES LEAFLET

Customs Sufficient Knowledge Test: Release 1

The Customs Control Act, 2014 and Customs Duty Act, 2014, were published in the Government Gazette in July 2014. These Acts are yet to come into effect on a date still to be determined by the President. Since then, extensive work has been taking place around drafting the Rules under the new Acts and developing systems to support the changes.

The systems for the implementation of new Customs legislation are being developed according to a phased approach. In terms of section 942A of the Customs Control Act, 2014, (“the CCA”), certain powers may be exercised before the effective date of the new legislation in order to facilitate a smooth transition to the new legislation. The section specifically provides for the submission and consideration of applications for licensing and registration under the new legislation before the CCA is effective.

In order to submit certain applications for licensing and registration, applicants must in terms of the CCA and its rules comply with so-called “customs sufficient knowledge” of the new customs legislation, or “CSK”. This means that an applicant has to pass a test to establish CSK before applying for the licences or registrations for which CSK is required. The applicant can either take the test him/herself or nominate someone in their employ to take the test.

For purposes of a smooth transition to the new legislation and because applications for licensing or registration depend on CSK, SARS will make the test available long before the implementation date for submission of applications. It is envisaged that the CSK test will be rolled out in two releases.

A further development towards a smooth transition to the new legislation concerns the reporting of conveyances and goods, or “RCG”. A decision has been taken to amend the rules under section 8 of the Customs and Excise Act, 1964, to provide for a cargo reporting system that comprises as many of the new requirements of Chapter 3 of the CCA as can be accommodated within the 1964 regime.

The rules under section 8 will therefore bring the 1964 RCG position closer to what it eventually will be under the CCA and will aid clients in adapting to compliance with reporting requirements under the CCA.

During Release 1 of the CSK test, the test will be made available to RCG client types as contained in the Customs Control Act of 2014. These clients may on a voluntary basis take the test. However, when RLA goes live in 2019, RCG clients who wish to apply for registration/licensing will have to be CSK compliant in order for the application to be submitted.

Release 2 of the CSK test will be aimed at client types not required to submit reporting documents (non-RCG clients). The date for this release is yet to be confirmed.

The 1964 client types that may voluntarily take the CSK test during Release 1 are listed in the first column of the table below. The second column of the table contains the equivalent of these client types under the CCA.

RCG Client types who need to write the CSK (current vs new names)

CLIENT TYPE – 1964 ACT	CLIENT TYPE – CCA
Transit shed operator	Air Cargo Terminal
General Sea Cargo Terminal	General Sea Cargo Terminal
Special Sea Cargo Terminal	Special Sea Cargo Terminal
Bulk Sea Cargo Terminal	Bulk Sea Cargo Terminal
Container Terminal	Container Terminal
Combination Sea Cargo Terminal	Combination Sea Cargo Terminal
Multi-purpose Sea Cargo Terminal	Multi-purpose Sea Cargo Terminal
Rail Cargo Terminal	Rail Cargo Terminal
Transit shed (Courier)	Courier air cargo Depot
Degrouping Depot	Air cargo depot
Container depot	Container depot
	Air Carrier (local)
	Rail Carrier (local)
Remover of goods in bond by road	Road Carrier (local)
	Own Goods Carrier: Air
	Own Goods Carrier: Rail
	Own Goods Carrier: Road
	Own Goods Carrier: Sea
	Sea Carrier (local)
	Courier (AIR)
	Courier (ROAD)
Clearing Agent	General customs broker
	Courier customs broker
	Registered agent: Carriers (non-local)

Definitions of RCG client types who need to write CSK (under the Customs Control Act, 2014):

Terminal	
Air Cargo Terminal	Premises within a Customs airport where air cargo is: a) Off-loaded from, or loaded on board, foreign-going aircraft; and b) Temporarily stored after being off-loaded or before being loaded.
Container Terminal	Premises, whether situated within a Customs seaport or elsewhere: a) Where packed and empty containers are received; from where

	<p>packed containers are delivered:</p> <ul style="list-style-type: none"> i) To container depots; ii) Directly to consignees upon clearing and release of the contents for home use; or iii) For a Customs procedure upon clearing and release of the contents for that Customs procedure; and <p>b) Where packed and empty containers are temporarily stored after being received or before being delivered.</p>
General Sea Cargo Terminal	<p>Premises within a Customs seaport where break bulk cargo is:</p> <ul style="list-style-type: none"> a) Off-loaded from, or loaded on board, foreign-going vessels; and b) Temporarily stored after being off-loaded or before being loaded, excluding special sea cargo terminal handling break bulk cargo of a specific type.
Special Sea Cargo Terminal	<p>Premises within a Customs seaport where break bulk cargo is: cargo of a specific type, whether bulk or break bulk cargo, but other than cargo in containers is —</p> <ul style="list-style-type: none"> (a) off-loaded from, or loaded on board, foreign-going vessels; and (b) Temporarily stored after being off-loaded or before being loaded.
Bulk Sea Cargo Terminal	<p>Premises within a Customs seaport where bulk cargo is:</p> <ul style="list-style-type: none"> a) Off-loaded from, or loaded on board, foreign-going vessels; and b) Temporarily stored after being off-loaded or before being loaded, excluding special sea cargo terminal handling bulk cargo of a specific type.
Combination Sea Cargo Terminal	<p>Premises situated within a Customs seaport where both break bulk cargo and cargo in containers are:</p> <ul style="list-style-type: none"> a) Off-loaded from, or loaded on board, foreign-going vessels; and b) Temporarily stored after being off-loaded or before being loaded.
Rail Cargo Terminal	<p>Premises on a railway station where cargo is:</p> <ul style="list-style-type: none"> a) Off-loaded from, or loaded on board, cross-border railway carriages; and b) Temporarily stored after being off-loaded or before being loaded.
Multi-purpose Sea Cargo Terminal	<p>Premises within a customs seaport handling any combination of—</p> <ul style="list-style-type: none"> (a) general cargo; (b) special cargo; (c) bulk cargo; and (d) containers, including empty containers.

Depots	
Courier air cargo Depot	Premises to be managed, operated or used as an air cargo depot, solely conducting a courier business. (See air cargo depot)
Air cargo depot	<p>Premises whether within a Customs airport or elsewhere:</p> <ul style="list-style-type: none"> a) Where air cargo is: <ul style="list-style-type: none"> i) Received, packed or unpacked, or consolidated for export, or deconsolidated for delivery; and ii) Temporarily stored; and b) From where air cargo is: <ul style="list-style-type: none"> i) Released for home use or a Customs procedure; or ii) Removed to an air cargo terminal.
Container Depot	<p>Premises, whether situated within a Customs seaport or elsewhere:</p> <ul style="list-style-type: none"> a) Where containers are: <ul style="list-style-type: none"> i) Received;

	<ul style="list-style-type: none"> ii) Packed or unpacked; or iii) Temporarily stored; <p>b) From where containers or the unpacked contents are delivered:</p> <ul style="list-style-type: none"> i) To consignees upon clearing and release of the contents for home use; or ii) For the carrying out of a Customs procedure upon clearing and release of the contents for that Customs procedure; and iii) Where goods are received for packing into containers.
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Customs Broker	
Customs broker	<p>This is a person carrying on business in the Republic by:</p> <ul style="list-style-type: none"> a) Submitting on behalf of other persons Customs clearance declarations for reward to clear goods for home use or a Customs procedure, excluding: <ul style="list-style-type: none"> i) a person who as the registered agent in South Africa of an importer, exporter, owner or carrier of goods not located in the Republic submits a Customs clearance declaration on behalf of that importer, exporter, owner or carrier; or ii) A licensed carrier located in South Africa who submits a Customs clearance declaration on behalf of a person whose goods that carrier is transporting; b) Arranging on behalf of other persons for reward the receipt, delivery or transport of goods imported into or to be exported from South Africa; c) Arranging on behalf of other persons for reward the consolidation or deconsolidation of goods imported into or to be exported from South Africa or consolidating or deconsolidating such goods on behalf of other persons for reward; or d) Handling on behalf of other persons for reward the formalities relating to the import into or the export from South Africa of goods.

Carrier (excluding non-locals)	
Air Carrier (local)	<p>This is a:</p> <ul style="list-style-type: none"> • Shipping line, airline or other person carrying on business by transporting goods or travellers by sea or air for reward; • Person carrying on business by transporting goods or travellers by rail for reward; • Person carrying on business by transporting goods by truck or travellers by bus for reward; or • Person who: <ul style="list-style-type: none"> ○ Conducts a business involving the selling or leasing of goods or the dealing in goods in any other manner, or the packing, repairing, reconditioning, processing or producing of goods; and ○ In the course of conducting that business transports those goods.
Rail Carrier (local)	
Road Carrier (local)	
Sea Carrier (local)	
Own Goods Carrier: Air	
Own Goods Carrier: Rail	
Own Goods Carrier: Road	
Own Goods Carrier: Sea Courier Air Courier Road	

REGISTRANTS – See Rule 28.12 (1) & 28.16 (a)

Registered Agent	
Registered Agent: Importers (non-local);	This is a person located in South Africa who represents:

Registered Agent: General exporters (non-local);	a)	An importer not located in South Africa;
Registered Agent: exporters of any other type (non-local);	b)	An exporter not located in South Africa;
Registered Agent: Owner (non-local)	c)	A carrier not located in South Africa;
Registered Agent: Carriers (non-local)	d)	An owner of goods not located in South Africa, excluding a licensed Customs broker that provides a service as a Customs broker on behalf of an importer, exporter, carrier or owner; and
Registered Agent: Searchers of or for abandoned wreck (non-local).	e)	Non-local searchers of or for abandoned wreck.

For regular updates on the New Customs Acts, go to www.sars.gov.za > Customs and Excise > New Customs Legislation Update

DISCLAIMER

The information contained in this leaflet is intended as guidance only and is not considered to be a legal reference, nor is it a binding ruling. The information does not take the place of legislation and readers who are in doubt regarding any aspect of the information displayed in the leaflet should refer to the relevant legislation, or seek a formal opinion from a suitably qualified individual.