

CUSTOMS

EXTERNAL POLICY

INTERNATIONAL MAIL

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1 SUMMARY OF MAIN POINTS

- a) Postal articles include both ordinary and registered letters:
 - i) Imported into South Africa:
 - A) For delivery in South Africa by the South African Postal Office (SAPO); or
 - B) In transit to another country through South Africa; and
 - ii) Posted in South Africa for export from South Africa through SAPO.
- b) The particulars reflected on the label shall be deemed a declaration for Customs purposes, however in certain circumstances Customs may request the importer or exporter to complete and submit the Customs clearance declaration (CCD) with the necessary supporting documents, such as a permit.
- c) Certain items may be prohibited from being imported or exported into or from South Africa while others may be cleared under conditions only such as under a permit, certificate or licence. Refer to the Consolidated List of Prohibited and Restricted Goods available on the SARS website.
- d) In the event the goods or parcels have been stopped or detained, SAPO informs the sender or recipient of the outcome of inspection as well as the conditions or terms that must be met.

2 POLICY

2.1 Clearance / release procedure

- a) Physical control in respect of postal articles is exercised between the carrier and SAPO.
- b) The Postmaster may detain any postal article under his / her control for inspection by Customs.
- c) The label (CN 22 or CN23) attached to the parcel imported into or exported from South Africa via post is considered as a CCD, provided that all the information needed to assess the duty is contained on the form or label.
- d) Certain importations / exportations through the Post Office are excluded from the special clearance / release procedure and must be cleared at a Customs Branch Office, in the prescribed manner, as set out in legislation. Where such goods are imported via mail SAPO will notify the client to approach Customs for formal clearance. These include:
 - i) Imports, where the intention is to have the goods cleared as follows, must be cleared at the nearest Customs Branch Office prior to collecting the article from the Post Office:
 - A) For warehousing;
 - B) For removal / export in bond / transit;
 - C) Under any heading or item of Schedule 1 (Part 1, 2, 5 or 8) which requires a certificate or permit to be submitted or other conditions to be complied with;
 - D) Under any items of Schedule 3; or
 - E) Under any items of Schedule 2 or 4, with the exclusion of the following mail articles:
 - I) Used personal effects provided for under Item 407.01;
 - II) Unsolicited gifts provided for under Item 412.10; and
 - III) Any goods exported per post for processing or repair and registered for re-importation in terms of Rebate Item 409.04, in which case a CCD must not be insisted upon on re-importation but duty is to be collected by the Post Office on the cost of the repairs.
 - ii) Where the exporter intends to apply for a drawback or a refund of duty in terms of the provisions of any items of Schedules 5 or 6 must be entered at the nearest Customs Branch Office before it is posted; and
 - iii) Clothing and textiles exported for purposes of the African Growth and Opportunity Act (AGOA) must be entered at the nearest Customs Branch Office before it is posted to the United States of America (Rule 13.05).
- e) No importer is allowed to remove, take delivery of or deal with the imported goods in any manner at the Post Office until the assessment and correct duty has been paid over to the Postmaster.

- f) Undelivered postal articles are returned to the sender where the sender is known. Where the sender is unknown undelivered postal articles must be surrendered to SARS for removal to the State Warehouse.

2.2 Customs interventions

- a) Goods are considered to be under Customs control until clearance has been **made** and duty is paid.
- b) Customs Officers are empowered to stop, detain and examine, any goods while under Customs control.
- c) If goods are found not to agree in all respects with the particulars declared relating to the value, description or quantity appearing on the label or invoice such goods may be detained.

2.3 Refunds

- a) If duty is overpaid the importer must apply for a refund on a P.P. 43 (obtainable from the Post Office) to the Postmaster at the Post Office where the duty was paid.
- b) A refund of duty and / or VAT must be applied for within a period of two (2) years from the date of entry for home consumption of the goods to which the manifest relates. **Refer to SC-DT-C-13.**
- c) Refunds of less than 50 cents will not be entertained.

2.4 Record keeping

- a) The recipient / importer of the goods imported / exported by post must keep the following for record purposes for a period of five (5) years:
- i) Books, accounts and documents in respect of all transactions relating to the Rules for the purpose of any acquittal procedure; and
 - ii) Any data related to such documents created by means of a computer.
- b) The five (5) year period is calculated from the end of the calendar year in which the document was created, lodged or required. (Sections 101 and 101A)
- c) Every client must produce such books, accounts and documents on demand.

2.5 Penalties

- a) Failure to adhere to the provisions of the Act, as set out in this document, is considered an offence.
- b) Offences may render the **client** liable to, as provided for in the Act:
- i) Monetary penalties (**Refer to SC-CO-01-02**);
 - ii) Criminal prosecution; and/or
 - iii) Suspension or cancellation of registration, license or accreditation.

2.6 Promotion of Administrative Justice Act

- i) **The Promotion of Administrative Justice Act (PAJA) No. 3 of 2000 gives effect to everyone's right to administrative action that is lawful, reasonable and procedurally fair. Any person whose rights have been adversely affected by administrative action has the right to be given written reasons, as contemplated in Section 33 of the Constitution of the Republic of South Africa, 1996. PAJA:**
- A) **Provides for the review of administrative action by a court or where appropriate, an independent and impartial tribunal;**
 - B) **Imposes a duty on the State to give effect to those rights;**
 - C) **Promotes an efficient administration as well as good governance; and**
 - D) **Creates a culture of accountability, openness and transparency in the Public Administration or in the exercise of a public power or the performance of a public function, by giving effect to the right to just administrative action.**

- ii) Administrative action which significantly and unfavourably affects the rights or valid expectations of any person must be procedurally fair. A fair administrative procedure depends on the circumstances of each case.
- iii) A person must be given:
 - A) Written reasons of the nature and purpose of the proposed administrative action;
 - B) A reasonable opportunity to make representations;
 - C) A clear statement of the administrative action; and
 - D) Adequate notice of any right of review or internal appeal, where applicable.
- iv) Before administrative action can be taken by Customs the client must be allowed the opportunity to:
 - A) Obtain assistance and, in serious or complex cases, legal representation;
 - B) Present and dispute information and arguments; and
 - C) Appear in person.
- v) Clients whose rights have been significantly and unfavourably affected by administrative action and who have not been given reasons for the action may, within ninety (90) days after the date on which the client became aware of the action, request Customs to furnish written reasons for the action.
- vi) Customs must within ninety (90) days after receiving the request, give the client adequate reasons in writing for the administrative action. If Customs fails to furnish adequate reasons for the administrative action, it is presumed in any proceedings for judicial review that the administrative action was taken without good reason.

2.7 Appeals Against Decisions

- i) In cases where clients are not satisfied with any decision taken in terms of the Customs and Excise Act, they have a right of appeal to the relevant appeal committee. The policy in this regard, as well as the process to be followed, is contained in document SC-CC-24.
- ii) Should clients **be unhappy** with a decision of any appeal committee, their recourse will be to lodge an application for ADR (Alternative Dispute Resolution) with the relevant appeal committee. The committee will add its comments thereto and forward the application to the ADR Unit for attention. The policy in this regard, as well as the process to be followed is contained in document SC-CC-26.
- iii) Should clients wish to appeal any decisions in terms of VAT penalties, they are directed to the provisions of Sections 215 to 220 of the Tax Administration Act No. 28 of 2011 for the percentage based penalty and Section 224 of the Tax Administration Act No. 28 of 2011 for the understatement penalty. In this regard, please consult the SARS website or nearest SARS Branch Office.

3 RELATED INFORMATION

3.1 Legislation

TYPE OF REFERENCE	REFERENCE
Legislation and Rules administered by SARS:	Customs and Excise Act No. 91 of 1964: Sections 4(8A), 10(d), 13, 38, 45(2), 46, 76B 101 and 101A Customs and Excise Rules: Rules 13.01 to 13.06
Other Legislation:	Promotion of Administrative Justice Act No. 3 of 2000: Section 3 Post Office Act No. 44 of 1958: Section 26
International Instruments:	Kyoto Convention Specific Annex J: Chapter 2 – Postal Traffic Standards 1-7, 9-11 and Recommended Practice 8 Universal Postal Union Convention: All SAFE Framework of Standards: None

3.2 Cross References

DOCUMENT #	DOCUMENT TITLE
SC-CC-24	Internal Administrative Appeals – External Policy
SC-CC-26	Alternative Dispute Resolution – External Policy
SC-CF-04	Manual for the Completion of Declarations - Manual

3.3 Quality Records

Number	Title
CN22 / CN23	Customs Declaration
P.P. 43	Foreign Parcel Post: Application for Refund of Import Duties

4 DEFINITIONS AND ACRONYMS

AGOA	Free trade agreement as contemplated in the African Growth and Opportunity Act
CN	Customs Notification
Detain / Detention	The goods are the subject of an irregularity under the Act and are under the control of Customs but remain the property of the client
EFTA	European Free Trade Association
EPS	Express Parcel Services
EU	European Union
Postal Article	Includes both ordinary and registered letters
SADC	Southern African Developing Community
SAPO	South African Postal Office
The Act	The Customs and Excise Act No. 91 of 1964
Universal Postal Union	The inter-governmental organisation founded in 1874 by the Treaty of Bern as the "General Postal Union" which, in 1878 was renamed the "Universal Postal Union (UPU)" and which since 1948 has been a specialised agency of the United Nations.
VAT	Value-Added Tax

5 DOCUMENT MANAGEMENT

Policy Owner	Group Executive: Customs Branch
Detail of change from previous revision	<ul style="list-style-type: none"> a) Any form or label completed by a sender is considered a declaration; b) A request to the client to lodge formal clearance; c) The guidance to clients to refer to the Prohibition and Restricted list before importing or exporting goods; and d) Updated Appeals Against Decisions.
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