

CUSTOMS

EXTERNAL POLICY

SPECIAL AND EXTRA ATTENDANCE

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1 SUMMARY OF MAIN POINTS

- a) Clients are required to apply to Customs where special or extra attendance is required in the supervision of:
 - i) Receipt of sight bill of entry;
 - ii) Export under customs supervision for:
 - A) Unpack and repack at the request of the client;
 - B) Temporary imports; and
 - C) Examination without prejudice;
 - iii) Destruction of goods; and
 - iv) Embargo release.
- b) Also included in this document are the charges levied for special and extra attendance.

2 POLICY

2.1 Mandate

- a) Customs Officers are given a mandate to perform:
 - i) Certain services within the specified working hours as special attendance; or
 - ii) Any attendance outside the specified working hours as extra attendance.
- b) The application must be made for the attendance of one (1) Customs Officer in respect of any service contemplated in the Rules except where:
 - i) The client requests the service of more than one (1) Customs Officer and Customs approves the request; and
 - ii) Where goods must be packed and sealed for export or exported under Customs supervision.
- c) The Controller / Branch Manager may arrange for a member of the South African Police Service to accompany the Officer(s) and be present at the attendance.

2.2 Application for special or extra attendance

- a) The application must be submitted in duplicate at least 24 hours in advance on a DA 73 to the Controller / Branch Manager even if there is no charge levied for special/extra attendance.
- b) The proof of approval for requested attendance and relevant copies of the supporting documents related to the attendance must accompany the DA 73 application e.g. (Customs Declaration, road manifest, invoice).
- c) The reason for Export under Customs supervision must be completed on the Customs Declaration.
- d) Completion of the application for special or extra attendance is described on SC-CF-22-A01.
- e) Consideration of application for special or extra attendance:
 - i) The application will be checked to establish if it is a valid application and whether security is required. Where it is an invalid application the clients must correct and resubmit the DA 73.
 - ii) If the application is correct, the DA 73 is registered.

2.3 Charges

- a) The Commissioner may by Rule (Rule 120):
 - i) Determine the services for which charges shall be payable;
 - ii) Determine the rate and method of payment for such charges; and
 - iii) Determine the conditions to such services.

- b) Where an agent requires attendance, a separate charge is not applicable in respect of each importer for whom the service is required.
- c) **Special attendance**
- i) Special attendance charges must be levied from the time the Officers leave the office until they return to the office.
 - ii) Services for which special attendance is charged:
 - A) Subject to Rule 120.06 in respect of any inspection of goods where application is made for abandonment or destruction of goods.
 - B) For Customs supervision:
 - I) Where samples are drawn by an importer in a Customs warehouse;
 - II) Where goods are packed or repacked at an exporter's premises or any other premises as requested by the exporter; and
 - III) In respect of the inspection of goods entered on a sight bill of entry (DA 22);
 - C) On the reporting of unscheduled light aircraft landing at a Customs airport from a destination outside South Africa as contemplated in item 200.04 of the Schedule to the Rules;
 - D) For certification or photocopying of documents; and
 - E) Where any provision of the Act requires that special attendance charges must be levied.
 - iii) Charges for special attendance:
 - A) Special attendance must be charged at R100.00 per Customs Officer, per hour or part thereof.
 - B) In the case where any provision specifies a time prior to the attendance before which the Controller / Branch Manager must be notified and the Controller / Branch Manager is not so notified, R200.00 per Customs Officer, for the first hour or part thereof must be charged. Thereafter the normal charge of R100.00 per Customs Officer, per hour or part thereof applies.
 - iv) Charges for special attendance to certify or photocopy documents:
 - A) R10.00 for certification of a document (irrespective of the number of pages thereof);
 - B) R1.00 for photocopying a page, where paper is supplied by the office making the photocopy;
 - C) R0.50 for photocopying a page, where the applicant supplies the paper; and
 - D) Where an application has been made for special attendance and where such attendance extends after official hours, the continued attendance will be charged as extra attendance, unless:
 - I) The Branch Office operates on a 24 hour basis where extra attendance charges are not to be levied; or
 - II) If the Physical Inspector is able to handover the inspection to another Physical Inspector starting a new shift.
- d) **Extra attendance**
- i) Extra attendance charges must be levied from the time the Officers leave the office or their residence until they return to their residence or the office.
 - ii) Extra attendance is charged:
 - A) Where any provision requires that extra attendance charges must be levied; and
 - B) On any other Customs service where extra attendance is required by a client unless the Act otherwise provides.
 - iii) The charge for extra attendance is not affected by the number of services performed during such attendance by the Customs Officer for the client, unless the Act otherwise provides.
 - iv) Charges for extra attendance:
 - A) Extra attendance must be charged at R150.00 per Customs Officer, per hour or part thereof for the service of any Customs Officer on any day excluding Sunday or a public holiday; and
 - B) Extra attendance must be charged at R200.00 per Customs Officer, per hour or part thereof on Sundays and public holidays.
- e) **When special or extra attendance charges will not be raised**
- i) The inspection of post office parcels.
 - ii) The sealing of ship's or aircraft stores.

- iii) The rummaging of ships or aircraft.
- iv) The reporting of the arrival or departure of ships and aircraft at a port of entry.
- v) The application for release, inspection and release of human remains.
- vi) The entry, inspection and release of goods imported:
 - A) For the relief and distress of persons in cases of famine or other national disaster;
 - B) Under any technical assistance agreement; or
 - C) In terms of any obligation under any international agreement to which South Africa is a party.
- vii) Inspection of premises, audit of transactions and the verification of stock of licensees or registrants for the purposes of any activities regulated by the Act.
- viii) For any attendance required by the Commissioner or a Controller/Branch Manager unless otherwise specified in the Act.

2.4 Booking of special or extra attendance

- a) After the DA 73 has been processed the Client must make a booking for the attendance.
- b) The Client must present his/her copy of DA 73 and a copy of the CEB01 where security is required before the attendance.
- c) The client will be contacted telephonically either the day before or the morning of the scheduled attendance, to confirm that the attendance is still required.
- d) On the scheduled appointment, the Physical Inspector(s) will wait at least fifteen (15) minutes from the time of the scheduled attendance. If the scheduled time, including the additional fifteen 15 minutes lapses, the booking may be cancelled, unless prior notice has been provided that the client is going to be late.

2.5 Transport of Customs Officer(s) to premises of special or extra attendance

- a) SARS will provide the Customs Officers with transport to the place where services are to be rendered.
- b) No SARS employee may accept any gift, hospitality or other inducement that may influence their official duties.

2.6 Conducting of special or extra attendance

- a) Physical Inspector will hand the original DA 73 to the client after the inspection has been finalised.
- b) A copy of the DA 73 will be retained by the Physical Inspector.
- c) No feedback or release will be issued without proof of payment of the attendance charges.

2.7 Payment for special or extra attendance

- a) Payment for attendance charges must be made to the Controller / Branch Manager in cash or by electronic funds transfer. Refer to **GEN-PAYM-01-G01 – Payment Rules – External Guide** for conducting payments.
- b) **Security**
 - i) The Controller / Branch Manager may require security to be lodged **prior to the booking** by taking into account the client's compliance history, size, value and sensitivity of the consignment. Security is required to guarantee the payment of charges incurred in providing the service.
 - ii) If security is required, the client must make a deposit of an amount equal to the total charges to be incurred as estimated by the Controller/Branch Manager.
 - iii) The client must pay the required security prior to commencement of the attendance.
 - iv) Additional payment for charges:
 - A) Once the attendance has been successfully conducted and the outcome has been recorded the **Team Support** will determine if there is any amendment required to the captured DA 73 based on the time the physical inspection was conducted.

- B) If an additional payment is required, the client must pay for the extra hours for the attendance conducted by the Customs Officer(s).
- v) Refund of charges paid in excess:
 - A) Clients need to ensure that they have authenticated the banking details as where a refund is due it will only be paid if the banking details have been authenticated and updated with SARS.
 - B) The following options will be available to the client:
 - I) Refund payment to be issued directly;
 - II) Use of the credit against another open item on the client's account; or
 - III) Use the refund against the client's deferment limit.
 - C) Refer to CA-01-M01 - Customs eAccount on eFiling - External User Manual.
- c) Where no security is required the amount due in charges must be paid by 12:00 on the first official working day after the attendance ends.
- d) Payment for special or extra attendance must be made against the Payment Reference Number (PRN).

2.8 Keeping records

- a) Every client must keep 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.

2.9 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;
 - ii) Criminal prosecution; and/or
 - iii) Suspension and/or cancellation of registration, license, accreditation and/or designation.

2.10 Promotion of Administrative Justice Act

- a) 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:
 - i) Provides for the review of administrative action by a court or where appropriate, an independent and impartial tribunal;
 - ii) Imposes a duty on the State to give effect to those rights;
 - iii) Promotes an efficient administration as well as good governance; and
 - iv) 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.
- b) 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.

- c) A person must be given:
- i) Written reasons of the nature and purpose of the proposed administrative action;
 - i) A reasonable opportunity to make representations;
 - ii) A clear statement of the administrative action; and
 - iii) Adequate notice of any right of review or internal appeal, where applicable.
- d) Before administrative action can be taken by Customs the declarant must be allowed the opportunity to:
- i) Obtain assistance and, in serious or complex cases, legal representation;
 - ii) Present and dispute information and arguments; and
 - iii) Appear in person.
- e) Declarants 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 declarant became aware of the action, request Customs to furnish written reasons for the action.
- f) Customs must within ninety (90) days after receiving the request, give the declarant 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.

2.11 Appeals against decisions

- a) 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.
- b) If clients disagree 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.

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 3(1), 101, 101(A) 120(1)(a) and (b) Customs and Excise Rules: Rule 101A.01A, 120.01-120.07,120A.03 and 201.00
Other Legislation:	Promotion of Administrative Justice Act No. 3 of 2000: Section 3
International Instruments:	Kyoto Convection General Annex Chapter 3, Paragraph 3.1 – 3.5 WCO SAFE Framework of standards: Annex 1: Standard 1.2.1 – 1.2.3 WTO Trade Facilitation Agreement: Section 1 Article 2 - Opportunity to comment, information before entry into force and consultation

3.2 Cross References

DOCUMENT #	DOCUMENT TITLE
CA-01-M01	Customs eAccount on eFiling - External User Manual
GEN-PAYM-01-G01	Payment Rules – External Guide
SC-CC-24	Internal Administrative Appeal – External Policy
SC-CC-26	Alternative Dispute Resolution – External Policy

3.3 Quality Records

Number	Title
CEB01	Customs and Excise Billing
DA 73	Application For Special/Extra Attendance
SC-CF-22-A01	Completion of DA 73 – Application for Special/Extra Attendance

4 DEFINITIONS AND ACRONYMS

Client	Any person participating in any activity regulated by the Act
Extra attendance	An application made by a client on a DA 73 for any attendances outside the specified working hours
Service	Includes the performance of any function or the exercise of any power in terms of the Act
Special attendance	An application made by a client on a DA 73 for specific attendances within the specified working hours.

5 DOCUMENT MANAGEMENT

Policy Owner	Executive: Governance
Detail of change from previous revision	<ul style="list-style-type: none"> a) Removed that the client for special or extra attendance must provide transport to and from the place where the services are to be rendered and accommodation for Customs Officers b) Inserted managing of gifts c) BP01 – Payments – Internal Policy is replaced with GEN-PAYM-01-G01 – Payment Rules – External Guide d) Removed reference to payment made by bank guaranteed cheque e) Removed appeal paragraph with reference to the VAT penalties and TAA f) Included SC-CF-22-A01 to the quality records g) Replaced Physical Inspector with Team Support where applicable
Template number and revision	GC-TM-03 - Rev 9