

RULES IN TERMS OF THE CUSTOMS CONTROL ACT, 2014

Declaratory note: The first number indicates the number of the Chapter in the Act under which the Rule is made and the second number indicates the number of the Rule itself.

Explanatory note on rule numbering: Please note that the Chapters into which these Rules are divided correspond with the Chapter numbers in the Control Act. Each rule is numbered with a combination of two numbers. The first number indicates the number of the Chapter of the Control Act under which the Rule is made which is also the Chapter number of this document in which the rule appears. The second number indicates the serial number of the Rule itself.

CHAPTER 1

MATTERS RELATING TO INTERPRETATION, APPLICATION AND ADMINISTRATION OF THIS CONTROL ACT AND THESE RULES

Part 1: Interpretational matters Interpretation of this Act

Definitions for purposes of these Rules

1.1 (1) In these rules, unless the context otherwise indicates –

“**abandoned**”, in relation to wreck, means when the owner and all other parties having a pecuniary interest in such a wreck have relinquished their rights to search for or salvage the wreck;

Definition moved from Chapter 29 to Chapter 1.

“**accounting period**”, in relation to a CTC, means the period for which imports or exports of a CTC must be accounted for, which period starts at 0:00 on the first day of a calendar month and ends at 24:00 on the last day of that month;

“**accredited client**” means a person on whom accredited client status has been conferred in terms of Chapter 30 of the Control Act;

“**AGOA**” means the African Growth and Opportunity Act (US);

Definition moved from Chapter 28 to Chapter 1.

“**air cargo details**” means the following information in relation to each consignment of air cargo:

- (a) The port of loading;
- (b) the port of discharge;
- (c) in the case of an inbound consignment, an indication of whether the consignment is destined –
 - (i) for the Republic;
 - (ii) for transshipment;
 - (iii) for international transit; or
 - (iv) to remain on board the aircraft without off-loading until it leaves the Republic;
- (d) in the case of an outbound consignment, an indication of whether the consignment is destined for export under –
 - (i) the export procedure;¹ or
 - (ii) another customs procedure that allows the export of goods under that procedure;²
- (e) the number of the master air waybill issued in respect of or covering the consignment, and the identity of the party who issued it;
- (f) if the consignment is part of consolidated cargo –
 - (i) an indication that the consignment is part of such cargo;
 - (ii) the number of any house air waybill issued in respect of the consignment; and
 - (iii) the identity of the party who issued it;
- (g) the full name and **physical and postal** address of the consignor;
- (h) the full name and **physical and postal** address of the consignee;

¹ This could be any goods exported under the export procedure, whether for outright export or under a customs procedure that relies on the export procedure for the clearance of goods for export, such as goods exported for outward processing or inward processed compensating products exported under inward processing.

² Such as transshipment or international transit.

- (i) a precise description of the goods in the consignment, or the six digit Harmonised Tariff Schedule (HTS) Commodity Description and Coding System number under which the goods are classified;
- (j) the number of packages, based on the smallest packing unit, covered by the air waybill issued in respect of the consignment;
- (k) the type of packages;
- (l) the gross mass of the packages;
- (m) the unit of measure; and
- (n) the relevant international dangerous goods code as may be applicable to the goods in terms of the International Air Transport Association (IATA) Dangerous Goods Regulations (DGR), if the goods are hazardous goods;

“**air carrier**” means a person referred to in paragraph (a) of the definition of “carrier” in section 1 of the Control Act;

Definition moved from Chapter 29 to Chapter 1.

“authorised officer”, in relation to a juristic entity, means a director, employee or other official of the entity—

- (a) who is the public officer of the entity within the meaning of the Tax Administration Act; or
- (b) if the entity does not have a public officer, any director, employee or other official of the entity authorised in writing by resolution of the entity to act on its behalf to give effect to any of the entity’s rights and obligations in terms of this Act or a tax levying Act;³

“banking details” in relation to a person holding a bank account, means -

- (a) the name of the bank;
- (b) the account holder’s name;
- (c) the account type and number; and
- (d) the branch code;

“banking details confirmation document” means any of the following documents

³ This definition excludes customs brokers, registered agents or ordinary representatives acting on behalf of juristic entity.

containing the banking details of a person:

(a) A bank certified original bank statement or a legible bank certified copy of an original bank statement;

(b) a bank certified original auto bank statement; or

(c) an original letter from the bank on an official bank letterhead;

“biometric information” has the meaning assigned to it in section 1 of the Tax Administration Act;

“boarding pass” means a document issued during check-in by a carrier –

(a) indicating that a traveller has the permission of the carrier to board the vessel, aircraft or train for a particular voyage, flight or trip; and

(b) reflecting –

(i) the identity of the traveller;

(ii) the voyage, flight or trip number; and

(iii) the date and scheduled time of departure of the vessel, aircraft or train;

Definition moved from Chapter 15 to Chapter 1.

“break bulk cargo details”⁴ means the following information in relation to each consignment of break bulk cargo:

(a) In the case of a consignment transported by sea –

(i) the port of loading; and

(ii) the port of discharge;

(b) in the case of a consignment transported by rail or road –

(i) the place of loading; and

(ii) the place of discharge;

(c) in the case of an inbound consignment, an indication of whether the consignment is destined –

(i) for the Republic;

(ii) for transshipment, if the consignment is transported by sea; or

(iii) for international transit;

⁴ Note definition of “break bulk cargo” in section 1 of Control Act which excludes air cargo from the definition.

- (iv) to remain on board the vessel, ~~truck~~ or railway carriage without off-loading until it leaves the Republic;
- (d) in the case of an outbound consignment, an indication of whether the consignment is destined for export under –
 - (i) the export procedure;⁵ or
 - (ii) another customs procedure that allows the export of goods under that procedure;⁶
- (e) the number of the transport document issued in respect of the goods, and the identity of the party who issued it;
- (f) the full name and physical and postal address of the consignor;
- (g) the full name and physical and postal address of the consignee;
- (h) a precise description of the goods in the consignment, or the relevant Harmonised ~~Tariff Schedule (HTS)~~ Commodity Description and Coding System numbers, to the six digit level, under which the goods are classified;
 - (i) the number of packages;
 - (j) the type of packages;
 - (k) the gross mass of the packages;
 - (l) the unit of measure;
- (m) in the case of a consignment consisting of a vehicle or vehicles, the VIN number of the vehicle or each vehicle;
- (n) the marks and numbers on the packages (optional for a consignment transported by rail and road); and
- (o) the relevant international dangerous goods code as may be applicable to the goods, if the goods are hazardous goods;

“**bulk cargo details**” means the following information in relation to each consignment of bulk cargo:

- (a) In the case of a consignment of bulk cargo transported by sea –
 - (i) the port of loading; and
 - (ii) the port of discharge;
- (b) in the case of a consignment of bulk cargo transported by rail or road –

⁵ This could be any goods exported under the export procedure, whether for outright export or under a customs procedure that relies on the export procedure for the clearance of goods for export, such as goods exported for outward processing or inward processed compensating products exported under inward processing.

⁶ Such as transshipment (for exports by sea or air) or international transit.

- (i) the place of loading; and
- (ii) the place of discharge;
- (c) in the case of an inbound consignment, an indication of whether the consignment is destined –
 - (i) for the Republic;
 - (ii) for transshipment, if the consignment is transported by sea;
 - (iii) for international transit; or
 - (iv) to remain on board the vessel, ~~truck~~ or railway carriage without off-loading until it leaves the Republic;
- (d) in the case of an outbound consignment, an indication of whether the consignment is destined for export under –
 - (i) the export procedure;⁷ or
 - (ii) another customs procedure that allows the export of goods under that procedure;⁸
- (e) the number of the transport document issued in respect of the goods, and the identity of the party who issued it;
- (f) the full name and **physical and postal address** of the consignor;
- (g) the full name and **physical and postal** address of the consignee;
- (h) a precise description of the goods in the consignment or the relevant Harmonised ~~Tariff Schedule (HTS)~~ **Commodity Description and Coding System** number, to the six digit level, under which the goods are classified;
- (i) the gross mass of the goods;
- (j) the unit of measure; and
- (k) the relevant international dangerous goods code as may be applicable to the goods, if the goods are hazardous goods;

“cargo reference number”, **in relation to road cargo**, means **the a** unique reference number assigned by the customs authority to a road manifest;

“cargo type” means the type of cargo distinguishing between –

- (a) dry bulk cargo;

⁷ This could be any goods exported under the export procedure, whether for outright export or under a customs procedure that relies on the export procedure for the clearance of goods for export, such as goods exported for outward processing or inward processed compensating products exported under inward processing.

⁸ Such as transshipment (for exports by sea or air) or international transit.

- (b) liquid bulk cargo;
- (c) break bulk cargo;
- (d) containerised cargo;
- (e) mixed cargo; or
- (f) no cargo;

“**casual exporter**” means a person who exports goods from the Republic on not more than three occasions in any calendar year where the customs value of the goods on none of those occasions exceeds R50 000, but excludes such an exporter who –

- (a) as a traveller or crew member exports goods as part of his or her accompanied or unaccompanied baggage when leaving the Republic:⁹ Provided that this exclusion does not apply to a traveller or crew member in respect of baggage items that are commercial goods; or
- (b) exports through the South African Post Office an international postal article with a customs value not exceeding an upper value determined in terms of section 493(2) or 494(2) of the Control Act;¹⁰

Definition moved from Chapter 28 to Chapter 1.

“**casual importer**” means a person who imports goods on not more than three occasions in any calendar year where the customs value of the goods imported on none of those occasions exceeds R50 000, but excludes such an importer who –

- (a) as a traveller or crew member imports goods as part of his or her accompanied or unaccompanied baggage when entering the Republic:¹¹ Provided that this exclusion does not apply to a traveller or crew member in respect of baggage items that are commercial goods; or
- (b) imports through the South African Post Office an international postal article with a customs value not exceeding an upper value determined in terms of section 493(2) or 494(2) of the Control Act;¹²

Definition moved from Chapter 28 to Chapter 1.

⁹ Rule 28.23 applies to baggage items other than commercial goods exported by travellers and crew.

¹⁰ Rule 28.24 applies to international postal articles exported through the South African Post Office.

¹¹ Rule 28.23 applies to baggage items other than commercial goods imported by travellers and crew.

¹² Rule 28.24 applies to international postal articles imported through the South African Post Office.

“computer-based record keeping system” means a record keeping system referred to in section 919 of the Control Act capable of -

- (a) creating, receiving, keeping and storing electronic records; or
- (b) converting information and documents into electronic records;

Definition moved from Chapter 41 to Chapter 1.

“consolidated cargo” means different consignments –

- (a) packed into the same container; or
- (b) consolidated in any way other than by packing the consignments into the same container;¹³

“contact details”, in relation to a person, means the following information in relation to a person:

- (a) Business telephone number; and
- (b) if available -
 - (i) cell phone number;
 - (ii) e-mail address; and
 - (iii) fax number;

“containerised cargo details” means the following information in relation to each consignment of containerised cargo:

- (a) In the case of a consignment transported by sea –
 - (i) the port of loading; and
 - (ii) the port of discharge;
- (b) in the case of a consignment transported by rail or road –
 - (i) the place of loading; and
 - (ii) the place of discharge;
- (c) in the case of an inbound consignment, an indication of whether the consignment is destined –
 - (i) for the Republic;
 - (ii) for transshipment, if the consignment is transported by sea;
 - (iii) for international transit; or

¹³ Such as goods consolidated in an air cargo container or on a pallet.

- (iv) to remain on board the vessel, ~~truck~~ or railway carriage without off-loading until it leaves the Republic;
- (d) in the case of an outbound consignment, an indication of whether the consignment is destined for export under –
 - (i) the export procedure;¹⁴ or
 - (ii) another customs procedure that allows the export of goods under that procedure;¹⁵
- (e) the number of the transport document issued in respect of or covering the consignment and the identity of the party who issued it, and also, if the consignment is part of consolidated cargo transported by sea,¹⁶ the number of any house bill of lading issued in respect of the consignment and the identity of the party who issued it;
- (f) the full name and physical and postal address of the consignor;
- (g) the full name and physical and postal address of the consignee;
- (h) a precise description of the goods in the consignment, or the six digit Harmonised ~~Tariff Schedule (HTS)~~ Commodity Description and Coding System number under which the goods are classified;
- (i) the gross mass of the goods in the consignment, including packaging;
- (j) the unit of measure;
- (k) the number of packages in the consignment;
- (l) the type of packages; and
- (m) the relevant international dangerous goods number as may be applicable to the goods, if a consignment contains hazardous goods;

“container details” means the following information in relation to each container:

- (a) The service type;
- (b) the container status;
- (c) the container size;
- (d) the container type;
- (e) the container number; and

¹⁴ This could be any goods exported under the export procedure, whether for outright export or under a customs procedure that relies on the export procedure for the clearance of goods for export, such as goods exported for outward processing or inward processed compensating products exported under inward processing.

¹⁵ Such as transshipment (for exports by sea or air) or international transit.

¹⁶ See definition of “consolidated cargo” in relation to containers.

- (f) the seal number; and
- ~~(g) the sealing party;~~

“**container status**” means the purpose for which a container is used, distinguishing between –

- (a) continental transit;
- (b) export;
- (c) import; or
- (d) transshipment;

“**continuous transmission commodity**” or “**CTC**” means –

- (a) a liquid or gas, including a natural gas and a derivative thereof, transported through a cross-border pipeline; or
- (b) electricity transmitted through a cross-border transmission line;

“Control Act” means the Customs Control Act, 2014 (Act No. 31 of 2014), and includes the instruments referred to in paragraphs (a), (b) and (c) of the definition of “this Act” in section 1 of the Customs Control Act, 2014;

“**conveyance number**” means –

- (a) the voyage number, in the case of a vessel;
- (b) the flight number, in the case of an aircraft; or
- (c) the trip number, in the case of a cross-border train, ~~bus or truck~~;

“**courier**” means a carrier licensed to conduct a courier business in terms of Chapter 29 who, for the purpose of clearing and handling courier articles in the course of conducting such a business, may also be the holder of –

- (a) a customs broker licence;
- (b) a registration as an importer or exporter; or
- (c) an air cargo depot licence;

Definition moved from Chapter 29 to Chapter 1.

“**courier article**” means an article handled by a carrier in the course of conducting a courier business;

Definition moved from Chapter 29 to Chapter 1.

“**courier business**” means a business service provided by a carrier in the international transportation of goods on an express door to door delivery basis, either by –

- (a) transporting goods into the Republic for express delivery **to consignees** inside the Republic and delivering the goods to **those** consignees ~~inside the Republic~~;
- (b) receiving in the Republic goods imported for express delivery **to consignees** inside the Republic and delivering those goods to **those** consignees ~~inside the Republic~~;
- (c) collecting goods in the Republic for express delivery outside the Republic, transporting the goods out of the Republic and delivering the goods to consignees outside the Republic; or
- (d) collecting goods in the Republic for express delivery outside the Republic and arranging the export and the delivery of the goods to consignees outside the Republic;

Definition moved from Chapter 29 to Chapter 1.

“**credit push**” means a payment transaction initiated through eFiling, presented as a payment request to the bank of the person making payment, for which an authorisation by that person is required;

Definition moved from Chapter 32 to Chapter 1.

“**crew details**” means –

- (a) full name, date of birth, gender and nationality in respect of each crew member; and
- (b) that crew member’s passport number or **identity travel** document number and the country or organisation that issued the passport or **travel** document;

“**crew identification card**” means a card issued by the carrier operating a foreign-going vessel or aircraft or cross-border train indicating that the person identified on the card is employed by the carrier as a member of the crew of a foreign-going vessel or aircraft or cross-border train operated by the carrier;

Definition moved from Chapter 15 to Chapter 1.

“**customs relationship**” means a business relationship which a person may have with another person who is a registered person or licensee and which involves an activity regulated by the Control Act, the Customs Duty Act or the Excise Duty Act;

“**Professional Customs Sufficient Knowledge Test**” means the test referred to in rule 28.25 and rule 29.42 to establish whether a person has sufficient knowledge of applicable customs laws, guides, interpretive notes, operational manuals and practices –

- (a) administered by –
 - (i) the customs authority; or
 - (ii) a recognised professional body for the purposes of the National Qualifications Framework Act, 2008 (Act 67 of 2008), with the permission of the customs authority and subject to such conditions as the customs authority may determine; and
- (b) the details of which are available on the SARS website or the website of that professional body;

Definition moved from Chapters 28 and 29 to Chapter 1.

“**digital signature**”, in relation to a registered electronic user communicating with the customs authority through EDI, means an electronic signature allocated by the customs authority to a registered electronic user –

- (a) intended by the user using it and the customs authority accepting it to have the same force and effect as a manual signature; and
- (b) which is—
 - (i) unique to that user;
 - (ii) capable of verification;

- (iii) linked or attached to electronically transmitted data in such a manner as to authenticate the attachment of the signature to particular data and the integrity of the data transmitted so that if the data is changed the signature is invalidated;
- (iv) under the exclusive control of that user; and
- (v) in compliance with any further requirements contained in the user agreement;

Definition moved from Chapter 41 to Chapter 1.

“**EDI**” or “**electronic data interchange**” means an electronic communication system for the electronic transfer of information from computer to computer, using a predetermined message standard, as determined by the customs authority, to structure such information;

Definition moved from Chapter 41 to Chapter 1.

“**EFTA**” means the European Free Trade Association consisting of –

- (a) the Republic of Iceland;
- (b) the Principality of Liechtenstein;
- (c) the Kingdom of Norway; and
- (d) the Swiss Confederation;

Definition moved from Chapter 28 to Chapter 1.

“**eFiling**” means a SARS software application available on the SARS website which enables SARS and registered electronic users to generate and deliver electronic filing transactions;¹⁷

Definition moved from Chapter 41 to Chapter 1.

“**electronic record**” means a record that is kept or stored in electronic form on a computer or on another electronic storage media device, whether that record was originally created in an electronic form or converted from any non-electronic form into an electronic form;

Definition moved from Chapter 41 to Chapter 1.

¹⁷ See rule 41.16(2)(c).

“**electronic user agreement**” means the agreement which an **registered** electronic user ~~registered in terms of section 606 of the Control Act~~ **must** conclude with the Commissioner in terms of ~~these~~ Rule **41.12(a)(ii)**;

“**equipment qualifier**” means the type of transport equipment used, distinguishing between –

- (a) container;
- (b) rail carriage; or
- (c) truck;

“**general mandatory reporting information**” means –

- (a) the type of reporting document;
- (b) the reporting document number;
- (c) the message sender identity;
- (d) the message function;
- (e) the transport mode;
- (f) the identity of the carrier;
- (g) the transport ID, in the case of a vessel or aircraft;
- (h) the transport name in the case of a vessel; and
- (i) the conveyance number;

“**goods of South African origin**” means goods that qualify in terms of a tax levying Act as goods of South African origin;

Definition moved from Chapter 28 to Chapter 1.

“**GSP**” means a non-reciprocal generalised system of preferences implemented by a country in relation to goods of South African origin exported to that country;

Definition moved from Chapter 28 to Chapter 1.

“**importer for SEZ CCA development**” means a person who –

- (a) is the holder of a special economic zone operator permit issued in terms of the Special Economic Zones Act; and

- (b) imports goods for purposes of developing an area within the special economic zone that is or is to become a customs controlled area;

Definition moved from Chapter 28 to Chapter 1.

“inbound tax free shop” means a tax free shop located at a place of entry before the checkpoint in a travellers terminal where inbound travellers are processed for purposes of customs control;

Definition moved from Chapter 14 to Chapter 1.

“inbound traveller or crew member” means a person arriving in the Republic on –

- (a) an inbound foreign-going aircraft; or
(b) an inbound foreign-going vessel;

Definition moved from Chapter 14 to Chapter 1.

“instalment payment agreement” means an agreement entered into between a person liable for a debt referred to in section 695 of the Control Act and the Commissioner for payment of the debt in instalments as envisaged in section 702 of that Act;

Definition moved from Chapter 32 to Chapter 1.

“intermediary” means a service provider managing –

- (a) a gateway for an EDI application through which EDI registered electronic users submit and receive electronic messages to and from the customs authority; or
(b) an internet-based server through which registered electronic users log on to the SARS website for the submission and receipt of electronic messages to and from the customs authority through eFiling or another system referred to in rule 41.11(c);

Definition moved from Chapter 41 to Chapter 1.

“licence type”, in relation to –

- (a) premises that must be licensed in terms of section 630 of the Control Act, means a type of licence that may in terms of rule **29.2** be issued in respect of the different categories of those premises;
- (b) cross-border transmission lines, pipelines, cable-cars or conveyor belts that must be licensed in terms of section 631, means a type of licence that may in terms of rule **29.3** be issued in respect of such transmission lines, pipelines, cable-cars or conveyor belts;
- (c) carriers that may or must be licensed in terms of section 632, means a type of licence that may in terms of rule **29.4** be issued to the different categories of those carriers;
- (d) customs brokers that must be licensed in terms of section 633, means a type of licence that may in terms of rule **29.5** be issued to customs brokers;
- (e) stores suppliers that must be licensed in terms of section 634(1), means a type of licence that may in terms of rule **29.6** be issued to stores suppliers;
- (f) importers and exporters involved in the processing procedures that must be licensed in terms of section 634(2), means a type of licence that may be in terms of rule **29.7** be issued to the different categories of such persons; or
- (g) persons searching for abandoned wreck that must be licensed in terms of rule **29.8(1)**, means a type of licence that may in terms of rule **29.8(2)** be issued to such persons;

Definition moved from Chapter 29 to Chapter 1.

“**listed non-prosecutable breach**” means a breach of the Control Act listed in a notice issued by the Minister in terms of section 876(1) of that Act;

Definition moved from Chapter 39 to Chapter 1.

“**local**”, in relation to a person, means a person located in the Republic within the meaning of section 1(3)(a) of the Control Act;

Definition moved from Chapter 28 to Chapter 1.

“**message function**”, in relation to –

- (a) a reporting document contemplated in Chapter 3, means an indication of whether the reporting document is -

- (i) an original document;
 - (ii) an amended document; or
 - (iii) a replaced document; or
- (b) a clearance declaration, means an indication of whether the declaration is –
- (i) an original clearance declaration;
 - (ii) an amended clearance declaration;
 - (iii) a clearance declaration substituted before release;
 - (iv) a clearance declaration substituted after release; or
 - (v) a clearance declaration in respect of a subsequent clearance for home use or a customs procedure;

“message sender identity”, in relation to a reporting document, means the identity¹⁸ of the person who submits the reporting document;

“movement reference number” or **“MRN”** means a unique reference number assigned by the customs authority to a clearance declaration;

“non-lethal weapon” includes a defensive baton, oleoresin capsicum (OC) spray or a tazer;

“non-local”, in relation to a person, means a person not located in the Republic within the meaning of section 1(3)(a) of the Control Act;

Definition moved from Chapter 28 to Chapter 1.

“on-board operator details” means –

- (a) full name, date of birth, gender and nationality in respect of the on-board operator; and
- (b) that on-board operator's passport number or identity document number and the country or organisation that issued the passport or document;

“ordinary representative” means a representative referred to in section 920 of the Control Act that submits a declaration,¹⁹ report, statement, return, notice, notification,

¹⁸ See rule 1.1G

application, request or other document or submission in terms of that section on behalf of another person²⁰ otherwise than -

(a) in a capacity as employee, official, officer, licensed customs broker or registered agent of that other person; or

(b) as an intermediary;

“**outbound tax free shop**” means a tax free shop located beyond the checkpoint in a travellers terminal where outbound travellers are processed for purposes of customs control;

Definition moved from Chapter 14 to Chapter 1.

“**outbound traveller or crew member**” means a person who is about to depart from the Republic on –

(a) an outbound foreign-going aircraft; or

(b) an outbound foreign-going vessel;

Definition moved from Chapter 14 to Chapter 1.

“**own goods carrier**” means a person referred to in paragraph (d) of the definition of “carrier” in section 1 of the Control Act;

Definition moved from Chapter 29 to Chapter 1.

“**pallet**” means a flat device on the deck of which goods are assembled to form a unit load for the purpose of transporting, handling or stacking the goods with the assistance of mechanical appliances;

Definition moved from Chapter 12 to Chapter 1.

“**passenger processing system**” means the electronic system used for the customs processing of -

¹⁹ Note that the reference to a “declaration” in this definition excludes a clearance declaration as ordinary representatives are not included in the list of persons who in terms of section 165 of the Control Act are entitled to submit clearance declarations.

²⁰ Note that although section 920 is an enabling provision that applies generally to the submission of documents to Customs, its application is subject to the other provisions of the Control Act. This means that where the Act contains specific provisions on the submission of documents, the specific provisions will override section 920 to the extent of any inconsistency. For instance, section 165 specifically limits the persons entitled to submit clearance declarations, and this provision will accordingly override the general wording of section 920 and disallow an ordinary representative who is not a licensed customs broker or another authorised person contemplated in that section to submit clearance declarations. It follows that section 920 does not allow ordinary representatives to submit clearance declarations on behalf of clients.

- (a) travellers and crew when entering or leaving the Republic at a place of entry or exit or, in the case of rail travellers and crew, at a rail travellers terminal;
- (b) the accompanied or unaccompanied baggage of those travellers and crew;
and
- (c) a truck, bus, taxi, vehicle, small vessel or light aircraft that is cleared by means of the traveller declaration of the on-board operator;

“**payment advice notice**” means a notice generated by the customs authority upon request by a person liable for a debt, in respect of a payment to be made by that person, which reflects –

- (a) the name of the person making payment;
- (b) the relevant payment reference number;
- (c) the transaction or transactions being settled; and
- (d) the amount to be paid;

Definition moved from Chapter 32 to Chapter 1.

“**payment reference number**” means a unique 19-digit number allocated by the customs authority to identify a payment and ensure the correct allocation of the payment –

- (a) in a notice demanding payment of an amount owed to the Commissioner, or
- (b) in an instalment payment agreement referred to in rule **32.11** as processed by the customs authority;

Definition moved from Chapter 32 to Chapter 1.

“**place of discharge**”, in relation to –

- (a) inbound rail or road cargo, means the rail cargo terminal or place in the Republic where the cargo is to be off-loaded from the cross-border railway carriage or truck transporting the cargo into the Republic; or
- (b) outbound rail or road cargo, means the foreign destination of the cargo;

“**place of dispatch**”, in relation to –

- (a) inbound cargo, means –

- (i) in the case of containerised cargo, the place where the container was packed outside the Republic for exportation to the Republic; or
 - (ii) in the case of bulk or break bulk cargo, the place from where the cargo was originally dispatched from a supplier's premises outside the Republic for exportation to the Republic; or
- (b) outbound cargo, means –
- (i) in the case of containerised cargo, the place where the container was packed inside the Republic for exportation from the Republic; or
 - (ii) in the case of bulk or break bulk cargo, the place from where the cargo was originally dispatched from a supplier's premises inside the Republic for exportation from the Republic;

“place of loading”, in relation to –

- (a) inbound rail or road cargo, means the foreign railway station or place where the cargo is loaded on board a cross-border railway carriage or truck for transport to the Republic; or
- (b) outbound rail or road cargo, means the rail cargo terminal or place in the Republic where the cargo is loaded on board a cross-border railway carriage or truck for transport out of the Republic;

“port of discharge”, in relation to –

- (a) inbound sea or air cargo, means the customs seaport or airport where cargo is to be off-loaded from the foreign-going vessel or aircraft transporting the cargo into the Republic; or
- (b) outbound sea or air cargo, means the foreign seaport or airport where cargo is to be off-loaded from the foreign-going vessel or aircraft transporting the cargo out of the Republic;

“port of loading”, in relation to –

- (a) inbound sea or air cargo, means the foreign seaport or airport where cargo is loaded on board a foreign-going vessel or aircraft for transport to the Republic; or

- (b) outbound sea or air cargo, means the customs seaport or airport where cargo is loaded on board a foreign-going vessel or aircraft for transport out of the Republic;

“preferential tariff treatment”, in relation to the export of goods of South African origin, means the preferential treatment which goods of South African origin receive when exported to a country which –

- (a) is a party to an international trade agreement in terms of which goods of South African origin may be exported to that country duty free or under preferential tariffs; or
- (b) implements a GSP in terms of which goods of South African origin may be exported to that country duty free or under preferential tariffs;

Definition moved from Chapter 28 to Chapter 1.

“prescribed courier article” means a courier article **which is required to be cleared in terms of section 89 or 93 of the Control Act²¹ but which does not** falls within a category of courier articles **that may in terms of rule 24.14(a) be cleared in accordance with simplified clearance procedures** **excluded from simplified clearance by ministerial notice in terms of section 533(2)(a) or (b) of the Control Act;**

Definition moved from Chapter 24 to Chapter 1.

“pro-forma invoice” means an abridged, estimated or preliminary invoice issued by a supplier to a buyer in advance of a delivery of goods otherwise than for purposes of payment, specifying relevant information, such as –

- (a) the names of the parties;
- (b) the class or kind of goods;
- (c) the purchase price or value; and
- (d) transportation and other charges;

Definition moved from Chapter 24 to Chapter 1.

²¹ Note that not all courier articles are required to be cleared. Certain courier articles are altogether excluded from clearance requirements, such as ordinary letters, postcards, printed papers not liable to tax, literature for the blind, trade samples with no commercial value, goods of a customs value below R500, etc. See sections 91(1)(g), (h) and (i) and 95(1)(h), (i) and (j) of the Control Act, and also rule 4.2(g). These courier articles, however, require a permission to remove in terms of rule 4.4 or a permission to load in terms of rule 4.10, as may be appropriate.

“protective and defensive equipment” includes shields, protective vests, helmets, handcuffs, cuff strips, holsters, leg holsters, tactical belts, tactical gloves, knee pads or elbow pads;

“rail carrier” means a person referred to in paragraph (b) of the definition of “carrier” in section 1 of the Control Act transporting goods or travellers by rail for reward;

Definition moved from Chapter 29 to Chapter 1.

“record” means any document or information that must be kept in terms of the Control Act or these Rules;

Definition moved from Chapter 41 to Chapter 1.

“registered electronic user” means a person registered in terms of section 606 of the Control Act as an electronic user;

Definition moved from Chapter 41 to Chapter 1.

“registration type”, in relation to –

- (a) importers that may or must register in terms of section 603 of the Control Act, means a type of registration that may in terms of rule **28.2** be issued to the different categories of those importers;
- (b) exporters that may or must register in terms of section 603, means a type of registration that may in terms of rule **28.3** be issued to the different categories of those exporters;
- (c) persons acquiring ownership of goods under a customs procedure that must register in terms of section 604, means a type of registration that may in terms of rule **28.4** be issued to those persons;
- (d) agents for persons not located in Republic that must register in terms of section 605, means a type of registration that may in terms of rule **28.5** be issued to those persons;
- (e) electronic users that must register in terms of section 606, means a type of registration that may in terms of rule **28.6** be issued to those electronic users;
or

- (f) producers of goods of South African origin that must register in terms of **28.7(1)**, means a type of registration that may in terms of rule **28.7(2)** be issued to those producers;

Definition moved from Chapter 28 to Chapter 1.

“reporting document” means any advance notice, update of an advance notice, arrival or departure report, manifest or outturn report, or any amendment or replacement of such a document, referred to in Chapter 3 of the Control Act;

“reporting document number” means a unique number assigned to a reporting document by the message sender;

“road carrier” means a person referred to in paragraph (c) of the definition of “carrier” in section 1 of the Control Act transporting goods by truck or travellers by bus for reward;

Definition moved from Chapter 29 to Chapter 1.

“road manifest information” means –

- (a) the manifest number;
- (b) the cargo reference number;
- (c) clearance declaration number in respect of goods that are under a customs procedure;
- (d) the identity of the carrier or carrier’s registered agent, if applicable;
- (e) the transport name in relation to the vehicle;
- ~~(f) the conveyance number;~~
- (f) the container number in respect of each container, in respect of containerised goods;
- (g) the identification number of any seal used on –
 - (i) any container on the vehicle; or
 - (ii) the loading compartment of the vehicle;
- ~~(h) the sealing party;~~
- (i) a description of the goods;
- (j) the number of packages, if applicable;

- (k) the mass of the goods;
- (l) the unit of measure;
- (m) on-board operator details and crew details in respect of any other crew on board;

“**SARS electronic filing service**” or “**eFiling**” has the meaning assigned to it in the Rules on Electronic Communication issued under section 255 of the Tax Administration Act;

“**sea carrier**” means a person referred to in paragraph (a) of the definition of “carrier” in section 1 of the Control Act transporting goods or travellers by sea for reward;

Definition moved from Chapter 29 to Chapter 1.

~~“**sealing party**”, in relation to a container, means the party who has sealed the container, distinguishing between –~~

- ~~(a) — the consignor;~~
- ~~(b) — the licensee of the container depot or terminal;~~
- ~~(c) — the carrier; and~~
- ~~(d) — the customs authority;~~

“**self-service facility for trusted or frequent travellers**” means a facility for travellers at a place of entry or exit or, in the case of rail travellers, at a rail travellers terminal, where travellers who are holders of trusted or frequent traveller permits can expeditiously be processed for customs purposes through self-service technological devices and other expediting methods;

Definition moved from Chapter 21 to Chapter 1.

“**service type**”, in relation to a container, means the type of container, distinguishing between –

- (a) an empty container;
- (b) a full FCL (groupage) container;
- (c) an LCL container; and

- (d) a full FCL container;

“**special economic zone**” means a special economic zone within the meaning of the Special Economic Zones Act;

Definition moved from Chapter 29 to Chapter 1.

“**special customs service**” means customs attendance provided –

- (a) at a place other than a Customs Office, a place of entry or exit or any licensed premises, a place of entry or exit, or a Customs Office;²² or
- (b) at a Customs Office, a place of entry or exit or any licensed premises at a time outside the office hours determined by the Commissioner in terms of section 14(1)(c) of the Control Act²³ for that relevant Customs Offices or for the Customs Office serving the area where in which that licensed premises or place of entry or exit or those licensed premises are is situated;

and includes customs supervision as contemplated in sections 91(1)(f)(ii), 95(1)(g)(ii), 477(3)(a)(ii) and (3)(b)(ii), 513(5); 544(2)(d)(iii), 545(2)(d)(iii), 551(2)(a)(iii), 552(2)(a)(iii), 567 and 732 of the Control Act when performed at a place or at a time referred to in paragraph (a) and or at a place and time referred to in paragraph (b);

“sufficient knowledge”, in relation to customs laws, guides, interpretive notes, operational manuals and practices, means, to achieve a score of at least 60 per cent in the –

- (a) Customs Sufficient Knowledge Test; or
- (b) Customs Competency Assessment for Accreditation;

“sufficient knowledge”, in relation to customs laws, guides, interpretive notes, operational manuals and practices, means to pass the relevant Professional Customs Licence Examination;

²² Note the list of Customs Offices published on the SARS Website.

²³ The list of Customs Offices published on the SARS website contains offices hours in respect of each Customs Office.

~~“sufficient knowledge”, in relation to customs laws, guides, operational manuals and practices, means achieving a score of at least 60 per cent in the Customs Competency Assessment for Accreditation.~~

“**stock inventory code**”, in relation to goods in a storage warehouse or a tax free shop, means a unique identifying code assigned by the licensee of the storage warehouse or tax free shop to goods received in that warehouse or tax free shop, for purposes of –

- (a) inventory control; and
- (b) facilitating the keeping and retrieval of records in respect of the goods to which it relates;

Definition moved from Chapter 13 to Chapter 1.

“**SWIFT message**” means a secure and standardised payment message sent electronically by one financial institution to another through the Society for Worldwide Inter-bank Financial Telecommunication (SWIFT) network;

Definition moved from Chapter 32 to Chapter 1.

“**tax free shop**” means an inbound or outbound tax free shop, but excludes a special shop for diplomats;

Definition moved from Chapter 14 to Chapter 1.

“**TDCA**” means the Agreement on Trade, Development and Cooperation between the European Community and their Member States and the Republic;

Definition moved from Chapter 28 to Chapter 1.

“**transhipment depot**” means any premises at a customs seaport or airport contemplated in section 254(1)(a) of the Control Act;

Definition moved from Chapter 29 to Chapter 1.

“**transhipment details**” means the following information in relation to both the vessel or aircraft that transported the inbound transhipment cargo and the vessel or aircraft that is to transport the outbound transhipment cargo:

- (a) The conveyance number;
- (b) the identity of the carrier;
- (c) the transport name;
- (d) the transport ID; and
- (e) the estimated time of arrival or departure, as the case may be;

Definition moved from Chapter 11 to Chapter 1.

“transport document number” means a unique number assigned to a transport document;

“transport ID”, in relation to –

- (a) a vessel, means the radio call sign of the vessel; or
- (b) an aircraft, means the registration number of the aircraft;

“transport mode” means the mode of transport distinguishing between –

- (a) sea transport;
- (b) air transport
- (c) rail transport;
- (d) road transport;
- (e) transport through a postal service provided by the South African Post Office;
- and
- (f) transport through a cross-border transmission line or pipeline;

“transport name”, in relation to –

- (a) sea transport, means the name of the vessel;
- (b) air transport, means the name of the aircraft;
- (c) rail transport, means the registration number of the cross-border train;
- (d) road transport, means the registration number of –
 - (i) the load carrying vehicle or horse;
 - (ii) the trailer, in the case of a trailer; and
 - (iii) an the additional trailer, in the case of an additional trailer; and
- (e) a bus, means the registration number of the bus;

"travel document", in relation to a traveller who is –

- (a) a South African citizen, means a travel document issued to that person in terms of the South African Passport and Travel Documents Act, 1994 (Act 4 of 1994); or
- (b) not a South African citizen, means a travel document identifying that person that has been issued to that person by another government or international treaty organisation to facilitate the movement of that person across international boundaries;

"traveller card" means a document containing basic information concerning a person entering or leaving the Republic;

Definition moved from Chapter 21 to Chapter 1.

"traveller declaration", in relation to a traveller or crew member entering or leaving the Republic, means ~~a printout of a declaration –~~

- ~~(a) electronically generated by the customs authority on behalf of a traveller or crew member from information declared verbally by the traveller or crew member to the customs authority in terms of section 478(1)(a) or 483(1)(a) of the Control Act; and~~
- (b) ~~signed by that traveller or crew member;~~ a traveller declaration that a person entering or leaving the Republic must in terms of rule 21.4 or 21.6 submit to the customs authority;

Definition moved from Chapter 21 to Chapter 1.

"traveller declaration" means the declaration that a person entering or leaving the Republic must in terms of section 478(1) or 483(1) of the Control Act submit to the customs authority.

"traveller details" means –

- (a) the full name, date of birth, gender and nationality of each traveller;
- (b) the traveller's passport number or identity travel document number and the country or organisation that issued the passport or travel document; and
- (c) in the case of –

- (i) inbound sea, air or rail travellers, the date on and the place at which the traveller –
 - (aa) boarded the foreign-going vessel or aircraft or cross-border train; and
 - (bb) the customs sea- or airport or the railway terminal at which the traveller is expected to disembark; or
- (ii) outbound sea, air or rail travellers, the date on and the customs sea- or airport or the railway terminal at which the traveller boarded the foreign-going vessel or aircraft or cross-border train;

“**trusted or frequent traveller permit**” means a permit issued by the customs authority in terms of rule **21.13(2)**;

Definition moved from Chapter 21 to Chapter 1.

“**unit load device**” or “**ULD**” means an aircraft container specially designed and equipped for containing goods for transport in the hold of an aircraft.

Definition moved from Chapter 12 to Chapter 1.

Criteria for determining ~~means of transport as~~ small vessels, light aircraft or vehicles as private means of transport (*section 903(1)(n)*)²⁴

1.1A41.2 (1) A vessel entering or leaving the Republic qualifies for purposes of the Control Act **and these Rules** as a small vessel used as a private means of transport if it –

- (a) has an overall hull length, measured parallel to the waterline, not exceeding 24 meters; and
- (b) is used by a traveller as a private means of transport and not for the transport of goods or persons for reward.

(2) An aircraft entering or leaving the Republic qualifies for purposes of the Control Act **and these Rules** as a light aircraft if it –

²⁴ Note that these criteria for small vessels, light aircraft and vehicles used as a private means of transport is only significant for purposes of sections 272, 278, 383 and 391 of the Control Act, and are not meant to define the terms for wider purposes. ~~Also note that buses, trucks and taxi's may be cleared through simplified procedures as well.~~

- (a) has a gross take-off weight not exceeding 5,6 tons; and
- (b) is used by a traveller for the purpose of private transport and not for the transport of goods or travellers for reward.

(3) A vehicle entering or leaving the Republic qualifies for purposes of the Control Act **and these Rules** as a vehicle used as a private means of transport if it is

–

- (a) a vehicle excluding a bus, truck or taxi; and
- (b) used by a traveller for the purpose of private transport and not for the transport of goods or travellers for reward.

Rule 1.1A moved from rule 41.2.

~~Part 2: Criteria for application of materiality principle (section 903(1)(m))~~

Criteria for determining when interests in goods or businesses are material (section 903(1)(m)(i))

1.1B41.3 (1) Whenever it is necessary to determine for purposes of the Control Act or these Rules whether the interest that a person has in goods or a business is a material interest,²⁵ the interest must be regarded to be a material interest if it –

- (a) consists of an ownership or equity interest in the goods or business exceeding **two five** per cent;
- (b) entitles that person, either directly or indirectly, to take or control final decisions on managing, using, selling or disposing of the goods or business;
- (c) entitles that person, either directly or indirectly, to control at least 30 per cent of the voting power in a juristic entity that has a material interest in the goods or business in terms of paragraph (a) or (b); or
- (d) consists of a close family or business relationship with another person who has a material interest in the goods or business in terms of paragraph (a) or (b).

(2) For purposes of subrule (1)(d) –

²⁵ See for instance the definition of “private storage warehouse” and sections 10(2)(a), 301, 542(3)(d), 549(3)(d) and 726(a)(ii) of the Control Act.

- (a) a close family relationship means a relationship as –
 - (i) partners in a marriage or a domestic partnership;
 - (ii) parent and child;
 - (iii) siblings; or
 - (iv) grandparent and grandchild; and
- (b) a close business relationship means a relationship as –
 - (i) employer and employee;
 - (ii) directors in the same firm;
 - (iii) director in the other’s firm;
 - (iv) director and employee in the same firm;
 - (v) partners in the same firm;
 - (vi) companies in the same group of companies; or
 - (vii) companies directly or indirectly controlled by the same person.

Rule 1.1B moved from rule 41.3.

Criteria for determining when benefits received by persons are material
(section 903(1)(m)(ii))

1.1C 41.4 Whenever it is necessary to determine for purposes of the Control Act or these Rules whether any particular person has benefitted in a material respect from a breach of the Control Act or these Rules,²⁶ the person must be regarded to have benefitted from the breach in a material respect if the conduct constituting the breach resulted in that person unjustly –

- (a) gaining a monetary advantage in excess of R5 000; or
- (b) being granted an exemption, authorisation, permission, approval, recognition or other special dispensation in terms of the Control Act **or these Rules.**

Rule 1.1C moved from rule 41.4.

Criteria for determining when breaches are material *(section 903(1)(m)(iii))*

1.1D 41.5 Whenever it is necessary to determine for purposes of the Control Act or these Rules whether the Control Act or these Rules have been breached by a

²⁶ See for instance sections 618(3), 657(3) and 679(3) of the Control Act.

person in a material respect,²⁷ the Control Act or these Rules must be regarded to have been breached in a material respect if the conduct that constituted the breach –

- (a) was an offence for which the perpetrator was sentenced to imprisonment **of one month or more** with or without the option of a fine;
- (b) was an offence referred to in section 878(2) or 885 and for which the perpetrator was sentenced to a fine of R5 000 or more;
- (c) was found by a court to have been committed by the perpetrator with the intention to deceive or mislead or to evade tax; or
- (d) resulted in the perpetrator gaining an unjust monetary advantage in excess of R5 000.

Rule 1.1D moved from rule 41.5.

Criteria for determining when information is material for consideration of applications (*section 903(1)(m)(iv)*)

1.1E41.6 Whenever it is necessary to determine for purposes of the Control Act or these Rules whether any information is or was material to the consideration or granting of an application by the customs authority in terms of the Control Act or these Rules,²⁸ that information must be regarded to be or to have been material to the consideration of the application if it deals with any of the following matters:

- (a) The legal status or legal identity of the person whose application is under consideration or has been granted;
- (b) the location of –
 - (i) the main place of business where or from where that person conducts or will conduct business in the Republic;
 - (ii) the premises applied for, if the application relates to premises; or
 - (iii) the place where that person is ordinarily resident in the Republic, if that person is an **individual natural person**;
- (c) the solvency or financial soundness of that person;
- (d) that person's record of **prudent behaviour, including** compliance with customs legislation, or of that of an employee of that person in a managerial position,

²⁷ See for instance sections 610(2)(a), 618(2)(a)(i) and (b)(i), 637(2)(a), 649(a), 657(2)(a)(i) and (2)(b)(i) and 679(2)(a)(i) and (2)(b)(i) of the Control Act.

²⁸ See for instance sections 610(1)(b)(ii), 637(1)(b)(ii), 670(2)(a)(iii) and 870(1) of the Control Act.

or, if that person is a juristic entity, of that of a director, administrator or trustee of the juristic entity;

- (e) whether the tax matters of that person are **or were** in order;
- (f) the physical security of goods received, stored, handled, processed, transported or in any other way dealt with, managed or controlled by that person following approval of the application;
- (g) the physical facilities, plant, equipment and other infrastructure **that will to be or that is** used for the receipt, storage, handling, processing or transport of **such** goods;
- (h) the system of recordkeeping and accountability for **such** goods; or
- (i) any other matter that is or was of decisive significance in deciding the application.

Rule 1.1E moved from rule 41.6.

Criteria for determining when circumstances were material to granting of applications (*section 903(1)(m)(v)*)

1.1F41.7 (1) If any of the circumstances in which an application was approved or a registration, licence or other benefit was granted has changed and it is necessary for purposes of the Control Act or these Rules to determine whether the circumstance that has changed was material to the initial approval of the application or the granting of the **registration, licence or other** benefit,²⁹ that circumstance must be regarded to have been material if its substance falls within or pertains to **or affects** any of the following:

- (a) The legal status, **legal capacity** or legal identity of the person whose application was approved or to whom the registration, licence or other benefit was granted, **and –**
 - (i) **if that person is a juristic entity, also that person's incorporation, registration or recognition in terms of the legislation applicable to it; or**
 - (ii) **if that person is a partnership or close corporation, also the membership of the partnership or close corporation;**
- (b) the location of –
 - (i) the main place of business where or from where that person conducts

²⁹ See for instance sections 623, 654(b), 657(2)(d), 661(1) or (2) and 830(5)(d) of the Control Act.

- business in the Republic;
- (ii) the premises that were licensed for the conduct of business; or
 - (iii) place where that person is ordinarily resident in the Republic, if that person is an individual natural person;
- (c) the solvency or financial soundness of that person;
 - (d) that person's record of prudent behaviour, including compliance with customs legislation, or of that of an employee of that person in a managerial position, or, if that person is a juristic entity, of that of a director, administrator or trustee of the juristic entity;
 - (e) a tax clearance from SARS that the tax matters of that person are in order;
 - (f) the physical security of goods received, stored, handled, processed, transported or in any other way dealt with, managed or controlled by that person in terms of the registration, licence or other benefit;
 - (g) the physical facilities, plant, equipment and other infrastructure used for the receipt, storage, handling, processing or transport of goods in terms of the registration, licence or other benefit;
 - (h) the system of record keeping and accountability for such goods; ~~or~~
 - (i) any other matter that was of decisive importance, either alone or together with other matters, in approving the application or granting the registration, licence or other benefit; ~~or~~
 - (j) that person's compliance with the requirement of sufficient knowledge of customs laws, guides, interpretive notes, operational manuals and practices, where applicable.³⁰

(2) Any reference in subrule (1) to a person whose application was approved or to whom a registration, licence or other benefit was granted must, if that person is not located in the Republic, be read as including a reference to the registered agent of that person in the Republic.

Rule 1.1F moved from rule 41.7.

Criteria for determining a person's record of customs and excise compliance

³⁰ See Chapters 28 and 29 of these Rules.

1.1H (21) ~~When applying these Rules, A person's record of compliance with the Control Act, the Customs and Excise Act, 1964, and the tax levying Acts referred to in section 670(1)(a) of the Control Act must for purposes of these Rules be evidenced by the absence of –~~

- ~~(a) any late³¹ or non-payments of duty, levy, tax or interest by that person;~~
- ~~(b) any breaches or contraventions of those Acts committed by that person which resulted in –
 - ~~(i) an administrative penalty imposed on that person, excluding administrative penalties for –
 - ~~(aa) unintentional errors or omissions on documents submitted to the customs authority; or~~
 - ~~(bb) any other non-compliance regarded by the customs authority as which is a minor or mere technical breach committed without the intention to mislead;~~~~
 - ~~(ii) a seizure or confiscation of goods; or~~
 - ~~(iii) a conviction of that person; and or~~~~
- ~~(c) the withdrawal or suspension of any registration, licence, accreditation client status certificate or deferment of duty benefit issued to that person in terms of section 679 of the Control Act.~~

Moved from rule 30.1(2).

(2) A person's record of compliance with an international agreement must for purposes of these Rules be evidenced by the absence of any breaches or contraventions of the agreement by that person which resulted in –

- (a)** an administrative penalty imposed on that person, excluding administrative penalties for –
 - (i)** unintentional errors or omissions on documents submitted to the customs authority; or
 - (ii)** any other non-compliance which is a minor or mere technical breach committed without the intention to mislead;
- (b)** a seizure or confiscation of goods;
- (c)** a conviction of that person; or

³¹ Late payments exclude payments in respect to which section 830(2) of the Control Act applies.

(d) a withdrawal or suspension of any registration, licence, accredited client status certificate or deferment of duty benefit issued to that person.

(3) A person's record of compliance with customs and excise requirements in other customs and excise jurisdictions must for purposes of these Rules be evidenced by the absence of any breaches or contraventions of those requirements by that person which resulted in –

(a) an administrative penalty imposed on that person, excluding administrative penalties for –

(i) unintentional errors or omissions on documents submitted to the customs authority of that jurisdiction; or

(ii) any other non-compliance which is a minor or mere technical breach committed without the intention to mislead;

(b) a seizure or confiscation of goods;

(c) a conviction of that person; or

(d) a withdrawal or suspension of any registration, licence, accredited client status certificate or deferment of duty benefit issued to that person in that jurisdiction.

Manner of stating identity of persons

1.1G Where a provision of these Rules requires a declaration, report, statement, return, notice, notification, application, request or other document or communication that must or may be submitted to the Commissioner, the customs authority or a customs officer, to state the identity of a person, that provision must be complied with by stating -

(a) that person's name and customs code; or

(b) if that person does not have a customs code or if the customs code of that person is not available to the person submitting the document or communication, the name of that person and any other available identification specifics of that person.

Part 2: Customs officers

Performance of enforcement functions by customs officers (section 25)

- 1.2** When performing any enforcement function, customs officers must act in good faith and in a professional, reliable, competent and punctual manner, and may not –
- (a) use their position for private gain or to improperly benefit or prejudice another person;
 - (b) act in a way that compromises the credibility or integrity of the customs authority; or
 - (c) act contrary to the provisions of any applicable policy or code relating to the conduct or ethical behaviour of SARS employees.

Part 3: Special customs services³² (section 17(1)(a))

Applications for special customs services

1.3 (1) (a) A person requiring a special customs service must at least 24 hours before such service is required, submit to the customs authority an application ~~to request~~ **for** that service electronically through eFiling, subject **to rule 41.33A** paragraph (b).

(b) If an application referred to in paragraph (a) is submitted to the customs authority in **terms of rule 41.33A in** paper format, ~~in circumstances where submissions in paper format are permissible,~~³³ ~~the submission~~ **application** must be –

- (i) ~~on Form ... as prescribed as a rule on the SARS website; and~~
- (ii) ~~made~~ **submitted** to the Customs Office that serves the area where the service is required.

(2) An application referred to in subrule (1) must reflect - ~~the following information:~~

- (a) the ~~details~~ **name and customs code** of the applicant; ~~including –~~
 - (i) ~~name;~~
 - (ii) ~~customs code; and~~
 - (ii) ~~contact number;~~

³² See definition of “special customs service” in rule 1.1.

³³ ~~See for instance section 913(4).~~

(b) if the application is submitted by a customs broker, registered agent or ordinary representative on behalf of the applicant, the information specified in rule 41.33D;³⁴

(c) the following information relating to the special customs service that is required:

- (i) The type of service;
- (ii) the date and time when the service is required;
- (iii) the approximate duration of the service; and
- (iv) the place where the service is required; and

(d) the number of customs officers required.

(3) An application referred to in subrule (1) must ~~on request by the customs authority be supported by a motivation of~~ give reasons –

(a) ~~the request for~~ why the special customs service is required;

(b) the for urgency, if any, of the provision of the relevant special customs service is a matter of urgency; and

(c) ~~the attendance of more than one customs officer,~~ if the attendance of more than one customs officer is required.

(4) Reasons referred to in subrule (3) may be motivated in a separate supporting document submitted together with the application in accordance with and subject to Part 7 of Chapter 41 of these Rules.

Charges for special services

1.4 (1) The charge for providing a special customs service is, subject to subrule (2) –

(a) R150 per hour or part thereof per officer, if the service is provided during the office hours determined in terms of section 14(1)(c) of the Control Act for the Customs Office serving the area in which the service is provided; and

³⁴ If the application is submitted on behalf of the applicant by a representative contemplated in section 920 of the Customs Control Act, submission of the application must comply with Part 6 of Chapter 41 of these Rules. Note that the said Part 6 applies only to ordinary representatives which per definition excludes persons submitting documents as customs brokers or registered agents. It follows that Part 6 does not apply to customs brokers and registered agents that submit applications in that capacity.

(b) R200 per hour or part thereof per officer, if the service is provided outside ~~of~~ such office hours.

(2) Charges for special customs services are not levied in respect of the following:

(a) Services provided outside ~~of~~ normal office hours in relation to an application for permission to remove or load human remains in accordance with rule 4.4 or 4.10 respectively; and

(b) services provided in relation to the clearance, inspection and release of goods imported or exported –

(i) as humanitarian aid in the case of national or international disasters; or

(ii) for purposes of any international agreement to which the Republic is a party, including any technical assistance agreement.

(3) The person requiring a special customs service is liable for the reasonable costs of accommodation, calculated in accordance with guidelines determined by the National Treasury, if the duration of the service or the distance to the place where the service is provided, requires the officer providing the service to stay overnight.

Duration of special customs services

1.5 Charges for providing a special customs service are levied at the rate referred to in rule 1.4(1) from –

(a) the time when the service starts until its completion, if the service is performed at a Customs Office; or

(b) the customs officer's time of departure from the Customs Office ~~or from home~~ until the officer's return to the Customs Office, if the service is performed away from a Customs Office.

Payment of charges for special customs services

1.6 **(1)** Payment of charges for special customs services must be made ~~by 12:00 on the first working day after completion of the special service~~ in accordance

with the a payment method contemplated in rule 32.1 by the person who applied for the service.³⁵

(2) Payment must be made -

(a) by 12:00 on the first working day after completion of the special service; or

(b) if the customs authority has approved in terms of subrule (3) a payment arrangement for the person liable for the payment, by 12:00 on the first working day following the end of the relevant payment cycle.

(3) (a) A person who on a regular basis requires special customs services may apply to the customs authority electronically through eFiling, subject to rule 41.33A, for approval of a payment arrangement whereby that person makes payments at the end of each cycle of 14 calendar days for all special customs services provided to that person during the relevant payment cycle.

(b) If an application referred to in paragraph (a) is submitted to the customs authority in terms of rule 41.33A in paper format, the application must be submitted to the Customs Office that serves the area where the services are required.

(c) An application referred to in paragraph (a) must reflect -

(i) the name and customs code of the applicant;

(ii) if the application is submitted by a customs broker, registered agent or ordinary representative on behalf of the applicant, the information specified in rule 41.33D;³⁶

(iii) the frequency special customs services will be required.

(4) An approval granted in terms of subrule (3) may at any time on good cause and after written notice be withdrawn by the customs authority.

³⁵ Payments for special customs services are for credit of SARS.

³⁶ If the application is submitted on behalf of the applicant by a representative contemplated in section 920 of the Customs Control Act, submission of the application must comply with Part 6 of Chapter 41 of these Rules. Note that the said Part 6 applies only to ordinary representatives which per definition excludes persons submitting documents as customs brokers or registered agents. It follows that Part 6 does not apply to customs brokers and registered agents that submit applications in that capacity.

Part 4: Requests for information in possession of Customs

Requests for disclosure of private and confidential information (*section 22 and 23 read with section 903(1)(v)*)

1.741.2A (1) Disclosure of private or confidential information in terms of section 22 or 23 of the Control Act may only take place in accordance with the procedure set out in this rule.

(2) An authorised recipient as contemplated in section 22(1) or a person contemplated in in section 23(3) must when disclosure of private or confidential information is required, direct a request for such disclosure in writing to the Commissioner.

- (3) A request referred to in subrule (2) must –
- (a) be on a letterhead of the relevant authorised recipient, party to the relevant international agreement or international agency, institution or organization; and
 - (b) reflect –
 - (i) a **description** **specific indication** of the confidential information required;
 - (ii) the purpose for which the information is required, including the relevant legislation or international agreement;
 - (iii) a confirmation that the information requested will only be used for the purpose as stated in subparagraph (ii); and
 - (iv) in the case of a person contemplated in section 23(3), the name and contact details and designation of that person.

Rule 1.7 moved from rule 41.2A.

Requests for other information (*section 24(2)*)

41.2B (1) A person referred to in section 24(2)(a) of the Control Act who wishes to obtain information from the customs authority as contemplated in that section, must request such information in accordance with this rule.

(2) A request referred to in subrule (1) must be submitted to the customs authority **by** –

- (i) **electronically through** e-mail; or
- (ii) **by** any of the methods contemplated in section 912(2)(a) to (c).

(3) A request submitted in terms of subrule (2) must –

- (a) be on Form ...as published as a rule on the SARS website; and
- (b) be submitted **as follows** ~~by making use of the following details:~~
 - (i) If sent through e-mail, the e-mail must be directed to the Office of the Commissioner at the e-mail address indicated on the SARS website for receipt of such requests;
 - (ii) if delivered by hand, the request must be delivered to the Office of the Commissioner at 229 Bronkhorst Street, Le Hae La SARS Block A, Nieuw Muckleneuk, Pretoria;
 - (iii) if sent by post, the request must be sent by registered post to the Office of the Commissioner of SARS Private Bag X923, Pretoria, 0001; and
 - (iv) if telefaxed, the fax must be directed to the Office of the Commissioner and sent to the fax number indicated on the SARS website for receipt of such requests.

(4) A request referred to in subrule (1) must reflect –

- (a) ~~the following information in relation to the person submitting the request:~~
 - (i) **That person's** **the name and** customs code **of the person requesting the information** or, if that person does not have a customs code, **the information specified in rule 41.33E(1):** ~~that person's name, contact details and physical address;~~
- (b) **if the request is submitted by a customs broker, registered agent or ordinary representative on behalf of a person referred to in paragraph (a), the information specified in rule 41.33D;³⁷**

³⁷ If the request is submitted on behalf of a person by an ordinary representative in terms of section 920 of the Control Act, Part 6 of Chapter 41 of these Rules will apply. Note that the said Part 6 applies only to ordinary representatives which per definition excludes persons submitting documents as customs brokers or registered agents. It follows that Part 6 does not apply to customs brokers or registered agents that submit such requests in that capacity.

- ~~(ii) if that person is~~
 - ~~(aa) natural person, that person's identity number or passport number; or~~
 - ~~(bb) a juristic entity, the name of the person authorised to act on behalf of that entity, as well as that person's physical address, contact details, identity or passport number and designation; and~~
- ~~(iii) if the application is submitted on behalf of the applicant by an authorised representative, that representative's name and contact details;~~
- (c) a description specific indication of the information required; and
- (d) the purpose for which the information is required, and a motivation why the information is required in the public interest.

(5) If a request referred to in subrule (1) is granted by the customs authority, the requested information will be provided upon payment of a fee of R 150.

CHAPTER 2
CUSTOMS CONTROL, PLACES OF ENTRY AND EXIT AND CUSTOMS
CONTROLLED AREAS

(To be inserted later)

Comment: Please note that the designation of places of entry and exit to be designated in terms of section 31, will be done in the Rules under Chapter 2, which will be published for comment at a later stage.

CHAPTER 3

REPORTING REQUIREMENTS FOR INBOUND AND OUTBOUND VESSELS, AIRCRAFT, TRAINS, BUSES, TRUCKS, PERSONS AND CARGO

Part 1: General

Manner of submission of reporting documents

3.1 A reporting document that must be submitted to the customs authority in terms of Chapter 3 of the Control Act, must –

- (a) if the document is to be submitted by a carrier or cargo reporter or the registered agent of a carrier, by a licensee, or by a port authority, be submitted to the customs authority –
 - (i) through the electronic data interchange system **(EDI)** operated by the Commissioner for such documents; and
 - (ii) in accordance with the conditions of that person's electronic user agreement and registration as an electronic user; or
- (b) if the document is to be submitted by an on-board operator of a vessel, aircraft, bus or truck, be submitted **in paper format manually** to the Customs Office that serves the relevant place of entry or exit.

Transport document number not to be duplicated on more than one transport document

3.2 A carrier or cargo reporter who must submit an advance notice in terms of Chapter 3 of the Control Act must ensure that the transport document number used or assigned to **a the** transport document **for a consignment of goods** is unique and is not duplicated on another transport document for a different consignment of goods **for a period of two years or such other period as may be determined by the Commissioner.**

Part 2: Reporting requirements for arriving and departing foreign-going vessels

Advance containerised cargo loading notices (sections 49 and 87)

3.3 (1) An advance loading notice of containerised cargo³⁸ must be submitted to the customs authority at least 24 hours before the first of those containers is loaded on board the vessel that will transport the cargo to the Republic.

(2) The notice must reflect the following information:

- (a) **The** General mandatory reporting information;³⁹
- (b) the estimated time of loading of the first of the containers to be loaded on board the vessel;**
- (c) the scheduled date of arrival of the vessel at the first customs seaport where the vessel is scheduled to call after entering the Republic;**
- (d) the total number of containers to be loaded for transport to the Republic;**
- (e) container details⁴⁰ in respect of each container scheduled to be on board when the vessel enters the Republic; and**
- (f) containerised cargo details⁴¹ in respect of each consignment, subject to subrule (3);**
- (g) if part of the containerised cargo details will be submitted separately in terms of subrule (3), a statement to that effect; and**
- (h) if the notice will be used as a transshipment clearance declaration as contemplated in section 251 of the Control Act, read with rule 11.4(1)(a), an indicator that the notice will be used for that purpose.**

(3) (a) An advance loading notice of containerised cargo submitted by a carrier need not contain as contemplated in subrule (2)(f) all the containerised cargo details of any specific consignment if the cargo reporter or other person who made the transport arrangements for that consignment with that carrier submits the excluded details in a separate notice to the customs authority.⁴²

(b) A notice referred to in paragraph (a) must be submitted in the same manner and within the same timeframe as the advance loading notice to which

³⁸ See section 49(1)(a)(i) of the Control Act. It is to be noted that an advance cargo loading notice needs to be submitted in respect of containerised cargo only, excluding bulk cargo and break bulk cargo. An advance cargo arrival notice referred to in rule 3.5 must be submitted in respect of these other categories of cargo.

³⁹ See definition of "general mandatory reporting information" in rule 1.1.

⁴⁰ See definition of "container details" in rule 1.1.

⁴¹ See definition of "containerised cargo details" in rule 1.1.

⁴² **This will give freight forwarders two options: Either to provide the house bill information to the carrier to report, or to report this information on their own in a separate notice.**

it relates, and must in addition to the relevant containerised cargo details reflect the following information:

- (a) General mandatory reporting information;⁴³
- (b) the identity of the cargo reporter; and
- (c) container details of all containers in the consignment.

Advance vessel, crew and sea travellers arrival notices (*sections 49 and 87*)

3.4 (1) An advance vessel and crew arrival notice⁴⁴ and an advance sea travellers arrival notice⁴⁵ must be submitted to the customs authority separately.

(2) An advance vessel and crew arrival notice and **an advance** sea travellers arrival notice referred to in subrule (1) must be submitted at least –

- (a) 96 hours before the scheduled arrival of the vessel at the first customs seaport where the vessel is scheduled to call after entering the Republic, if the duration of the voyage to that customs seaport, calculated from the last place where cargo or travellers bound for the Republic were taken on board, is likely to be more than 96 hours; or
- (b) 6 hours before the arrival of the vessel at that customs seaport, if the duration of that voyage is likely to be less than 96 hours.

(3) An advance vessel and crew arrival notice must reflect the following information:

- (a) **The** General mandatory reporting information;
- (b) the vessel's port of departure and all the ports where the vessel will call during its voyage to and in the Republic;
- (d) the scheduled date and estimated time of arrival of the vessel at the first customs seaport where the vessel is scheduled to call after entering the Republic; and
- (e) crew details⁴⁶ in respect of each crew member scheduled to be on board when the vessel enters the Republic.

⁴³ See definition of "general mandatory reporting information" in rule 1.1.

⁴⁴ See section 49(1)(a)(ii) of the Control Act.

⁴⁵ See section 49(1)(a)(iii) of the Control Act.

⁴⁶ See definition of "crew details" in rule 1.1.

(4) An advance **sea** travellers arrival notice must reflect the following information:

- (a) **The** General **mandatory** reporting information; and
- (b) **the** traveller details⁴⁷ in respect of each traveller scheduled to be on board when the vessel enters the Republic.

Advance sea cargo arrival notices (*sections 49 and 87*)

3.5 (1) An advance sea cargo arrival notice⁴⁸ must be submitted to the customs authority –

- (a) in respect of –
 - (i) any containerised cargo on board the vessel for which the cargo reporter submitting the notice is responsible;
 - (ii) any break bulk cargo on board the vessel for which the cargo reporter submitting the notice is responsible;
 - (iii) any bulk cargo on board the vessel for which the cargo reporter submitting the notice is responsible; and
 - (iv) any empty containers on board the vessel for which the cargo reporter submitting the notice is responsible; and
- (b) no later than the timeframe prescribed for the submission of an advance vessel and crew arrival notice and an advance sea travellers arrival notice in terms of rule **3.4(2)**.

(2) An advance sea cargo arrival notice referred to in subrule (1) must reflect the following information:

- (a) **The** General mandatory reporting information;
- (b) the identity of the cargo reporter;
- (c) the scheduled date of arrival of the vessel at the first seaport where the vessel is scheduled to call after entering the Republic;
- (d) the cargo type;⁴⁹ **and**
- (e) if the cargo for which the cargo reporter is responsible consists of –

⁴⁷ See definition of “traveller details” in rule 1.1.

⁴⁸ See section 49(2)(a) of the Control Act.

⁴⁹ See definition of “cargo type” in rule 1.1.

- (i) containerised cargo, container details and containerised cargo details in respect of each consignment scheduled to be on board when the vessel enters the Republic, but only to the extent that that information has not already been included in respect of that consignment in the advance loading notice of containerised cargo submitted in terms of rule 3.3(1);
- (ii) break bulk cargo, break bulk cargo details in respect of each consignment of such cargo scheduled to be on board when the vessel enters the Republic;
- (iii) bulk cargo, bulk cargo details in respect of each consignment of such cargo scheduled to be on board when the vessel enters the Republic; or
- (iv) empty containers, container details in respect of each empty container scheduled to be on board the vessel when the vessel enters the Republic; and

(f) if the notice will be used as a transshipment clearance declaration as contemplated in section 251 of the Control Act, read with rule 11.4(1)(b), an indicator that the notice will be used for that purpose.

Vessel arrival reports (*sections 50 and 87*)

3.6 (1) A vessel arrival report⁵⁰ must be submitted to the customs authority within 30 minutes after the arrival of the vessel at a customs seaport.

(2) A vessel arrival report must reflect the following information:

- (a) The General mandatory reporting information; and
- (b) the date and time of arrival of the vessel.

(3) A vessel arrival report submitted after arrival of the vessel at any subsequent customs seaport after entering the Republic must reflect –

- (a) the general mandatory reporting information; and
- (b) the date and time of arrival of the vessel at the relevant customs seaport.

⁵⁰ See section 50 of the Control Act.

(4) A vessel arrival report submitted by the on-board operator of a vessel not operated by a carrier must —

(a) be submitted on Form; and

(b) reflect the following information: —

(a)(i) The on-board operator details;

(b)(ii) the name of the vessel;

(c)(iii) the transport ID;⁵¹

(d)(iv) the date and time of arrival of the vessel; and

(e)(v) in the case of an arrival report submitted after arrival of the vessel at the first customs seaport after entering the Republic, crew and traveller details in respect of each crew member and traveller on board when the vessel entered the Republic.

Advance vessel, crew and sea travellers departure notices (*sections 51 and 87*)

3.7 (1) An advance vessel and crew departure notice⁵² and an advance sea travellers departure notice⁵³ must be submitted to the customs authority separately.

(2) (a) An advance vessel and crew departure notice and an advance sea travellers departure notice referred to in subrule (1) must, subject to paragraph (b), be submitted to the customs authority at least 24 hours before the scheduled departure of the vessel from a customs seaport, whether to another customs seaport or to a foreign destination.

(b) In the case of a vessel docking at a customs seaport for less than 24 hours, the timeframe referred to in paragraph (a) does not apply and an advance vessel and crew departure notice and an advance sea travellers departure notice referred to in subrule (1) must be submitted at least six hours before departure of the vessel.

(3) An advance vessel and crew departure notice must reflect the following information:

(a) The General mandatory reporting information;

⁵¹ See definition of "transport ID" in rule 1.1.

⁵² See section 51(1)(a)(i) of the Control Act.

⁵³ See section 51(1)(a)(ii) of the Control Act.

- (b) the vessel's port of departure;
- (c) the date and scheduled time of departure of the vessel; and
- (d) crew details in respect of each crew member on board the vessel bound for a foreign destination.

(4) An advance **sea** travellers departure notice must reflect the following information:

- (a) **The** General reporting information; and
- (b) ~~the~~ traveller details⁵⁴ in respect of each traveller scheduled to be on board when the vessel leaves the Republic.

Advance sea cargo departure notices (sections 51 and 87)

3.8 (1) An advance sea cargo departure notice⁵⁵ must be submitted to the customs authority –⁵⁶

- (a) in respect of –
 - (i) any containerised cargo on board the vessel for which the cargo reporter submitting the notice is responsible;
 - (ii) any break bulk cargo on board the vessel for which the cargo reporter submitting the notice is responsible;
 - (iii) any bulk cargo on board the vessel for which the cargo reporter submitting the notice is responsible; and
 - (iv) any empty containers on board the vessel for which the cargo reporter submitting the notice is responsible; and
- (b) no later than the timeframe prescribed in rule **3.7(2)(a)** for the submission of a **combined an** advance vessel **and** crew **departure notice** and **an advance** sea travellers departure notice.

(2) An advance sea cargo departure notice referred to in subrule (1) must reflect the following information:

- (a) **The** General mandatory reporting information;
- (b) the identity of the cargo reporter;

⁵⁴ See definition of "traveller details" in rule 1.1.

⁵⁵ See section 51(2)(a) of the Control Act.

⁵⁶ See section 51(2)(c) of the Control Act for exemption from submission of advance cargo departure notices.

- (c) the cargo type; and
- (d) if the cargo for which the cargo reporter is responsible consists of –
 - (i) containerised cargo, container details and containerised cargo details in respect of each container;
 - (ii) break bulk cargo, break bulk cargo details in respect of each consignment of such cargo;
 - (iii) bulk cargo, bulk cargo details in respect of each consignment of such cargo; or
 - (iv) empty containers, container details in respect of each container.

Applications for permission to depart (*sections 52 and 87*)

3.9 (1) An advance vessel and crew departure notice submitted in accordance with rule 3.7(2) serves also as an application for permission to depart,⁵⁷ in the case of a vessel operated by a carrier.

(2) An application for permission to depart referred to in subrule (1) must be supported by the following documents which must, on request, ~~by the customs authority~~ be submitted to the customs authority subject to and in accordance with Part 7 of Chapter 41 of these Rules:

- (a) A certificate of clearance for a foreign destination;
- (b) a Post Office certificate, if not exempted;
- (c) a ~~Pertnet~~ Transnet National Ports Authority clearance certificate;
- (d) a Department of Home Affairs certificate;
- (e) an income tax certificate of the carrier; and
- (f) safety certificates in respect of radio, load line, equipment, oil pollution prevention, cargo safety construction and passenger safety.

(3) A permission to depart issued in respect of a vessel in terms of section 52 of the Control Act, lapses if the vessel does not depart from the relevant customs seaport within 36 hours after the permission was issued.

⁵⁷ See section 52(1) of the Control Act.

(4) A foreign-going vessel that is not operated by a carrier is hereby in terms of section 86 excluded from the application of section 52, but such exclusion does not affect any obligation to comply with other legislation.

Vessel departure reports (*sections 53 and 87*)

3.10 (1) A vessel departure report⁵⁸ must –

- (a) be submitted to the customs authority within 30 minutes after the departure of the vessel from a customs seaport, whether to another customs seaport or to a foreign destination; and
- (b) reflect the following information:
 - (i) **The** General mandatory reporting information; and
 - (ii) the date and time of departure of the vessel.

(2) A vessel departure report submitted by the on-board operator of a vessel not operated by a carrier must –

- (a) be submitted to the customs authority **on Form** before the departure of the vessel; and
- (b) reflect –
 - (i) the on-board operator details;
 - (ii) the name of the vessel;
 - (iii) the transport ID;
 - (iv) crew and traveller details in respect of each crew member and traveller on board the vessel; and
 - (v) the date and expected time of departure of the vessel.

Part 3: Reporting requirements for arriving and departing foreign-going aircraft

Advance aircraft, crew and air travellers arrival notices (*sections 55 and 87*)

3.11 (1) An advance aircraft and crew arrival notice⁵⁹ and an advance air travellers arrival notice⁶⁰ must be submitted to the customs authority separately.

⁵⁸ See section 53 of the Control Act.

⁵⁹ See section 55(1)(a)(i) of the Control Act.

⁶⁰ See section 55(1)(a)(ii) of the Control Act.

(2) An advance aircraft and crew arrival notice and an advance air travellers arrival notice referred to in subrule (1) must be submitted at least –

- (a) two hours before the arrival of the aircraft at the first customs airport where the aircraft is scheduled to **call land** after entering the Republic, if the duration of the voyage to that customs airport, calculated from the last place where cargo or travellers bound for the Republic were taken on board, is likely to be more than six hours; or
- (b) one hour before the arrival of the aircraft at that customs airport, if the duration of that voyage is likely to be less than six hours.

(3) An advance aircraft and crew arrival notice must reflect the following information:

- (a) **The** General mandatory reporting information;
- (b) the airport of departure and all the airports where the aircraft will **call land** during the voyage to and in the Republic;
- (c) the date and time of departure of the aircraft from the airport of departure;
- (d) the date and scheduled time of arrival of the aircraft at the first customs airport where the aircraft is scheduled to **call land** after entering the Republic; and
- (e) crew details in respect of each crew member scheduled to be on board when the aircraft enters the Republic.

(4) An advance air travellers arrival notice must reflect the following information:

- (a) **The** General mandatory reporting information; and
- (b) traveller details in respect of each traveller scheduled to be on board when the aircraft enters the Republic.

Advance air cargo arrival notices (*sections 55 and 87*)

3.12 (1) An advance air cargo arrival notice⁶¹ must be submitted to the customs authority no later than the timeframe prescribed for submission of an advance **vessel aircraft** and crew arrival notice and an advance air travellers arrival notice **referred to** in rule **3.11**.

⁶¹ See section 55(2) of the Control Act.

(2) An advance air cargo arrival notice referred to in subrule (1) must reflect the following information:

- (a) The identity of the cargo operator;
- (b) the general mandatory reporting information;
- (c) air cargo details⁶² in respect of each consignment scheduled to be on board when the aircraft enters the Republic; and
- (d) the scheduled date and estimated time of arrival of the aircraft at the first airport where the aircraft is scheduled to call after entering the Republic; and
- (e) if the notice will be used as a transshipment clearance declaration as contemplated in section 251 of the Control Act, read with rule 11.4(1)(c), an indicator that the notice will be used for that purpose.

Aircraft arrival reports (sections 56 and 87)

3.13 (1) An aircraft arrival report⁶³ must be submitted to the customs authority within 30 minutes after the arrival of an aircraft at a customs airport.

(2) An aircraft arrival report must reflect the following information:

- (a) The General mandatory reporting information; and
- (b) the date and time of arrival of the aircraft.

(3) An aircraft arrival report submitted by the on-board operator of an aircraft not operated by a carrier must

(a) be submitted on Form.....; and

(b) reflect the following information:

(a)(i) The on-board operator details;

(b)(ii) the transport ID;

(c)(iii) the date and time of arrival of the aircraft at the relevant customs airport; and

(d)(iv) in the case of an arrival report submitted after arrival of the aircraft at the first customs airport after entering the Republic, crew and traveller

⁶² See definition of "air cargo details" in rule 1.1.

⁶³ See section 56(1) of the Control Act.

details in respect of each crew member and traveller on board when the aircraft entered the Republic.

Advance aircraft, crew and air travellers departure notices (*sections 57 and 87*)

3.14 (1) An advance aircraft and crew departure notice⁶⁴ and an advance air travellers departure notice⁶⁵ must be submitted to the customs authority separately.

(2) An advance aircraft and crew departure notice and an advance air travellers departure notice referred to in subrule (1) must –

- (a) be submitted to the customs authority at least six hours before the departure of the aircraft from a customs airport, whether to another customs airport or to a foreign destination;
- (b) reflect the following information:
 - (i) The General mandatory reporting information;
 - (ii) the aircraft's port of departure;
 - (iii) the date and scheduled time of departure of the aircraft; and
 - (iv) crew details in respect of each crew member bound for a foreign destination.

(3) An advance air travellers departure notice must reflect the following information:

- (a) The General mandatory reporting information; and
- (b) traveller details in respect of each air traveller scheduled to be on board when the aircraft leaves the Republic.

Advance air cargo departure notices (*sections 57 and 87*)

3.15 (1) An advance air cargo departure notice⁶⁶ must be submitted to the customs authority no later than the timeframe prescribed in rule 3.14(2)(a) for the submission of an **combined** advance **vessel aircraft** and crew **departure notice** and **an advance** air travellers departure notice.

⁶⁴ See section 57(1)(a)(i) of the Control Act.

⁶⁵ See section 57(1)(a)(ii) of the Control Act.

⁶⁶ See section 57(2)(a) of the Control Act.

(2) An advance air cargo departure notice referred to in subrule (1) must reflect the following information.⁶⁷

- (a) **The** General mandatory reporting information;
- (b) the identity of the cargo reporter; and
- (c) air cargo details in respect of cargo for which the cargo reporter is responsible.

Applications for permission to depart (*section 58*)

3.16 (1) An advance aircraft and crew departure notice ~~and an advance air travellers departure notice~~ submitted in accordance with rule **3.14** serves also as an application for permission to depart,⁶⁸ in the case of an aircraft operated by a carrier.

(2) A permission to depart issued in respect of an aircraft in terms of section 52 of the Control Act, lapses if the aircraft does not depart from the relevant customs airport within six hours after the permission has been issued.

(3) A foreign-going aircraft that is not operated by a carrier is hereby in terms of section 86 excluded from section 58, but such exclusion does not affect any obligation to comply with other legislation.

Aircraft departure reports (*sections 59 and 87*)

3.17 (1) An aircraft departure report⁶⁹ must be submitted to the customs authority within 15 minutes after the departure of the aircraft from a customs airport, whether to another customs airport or to a foreign destination.

(2) An aircraft departure report must reflect the following information:

- (a) **The** General mandatory reporting information; and
- (d) the date and time of departure of the aircraft.

(3) An aircraft departure report submitted by the on-board operator of an aircraft not operated by a carrier must –

⁶⁷ See section 57(2)(c) and (d) of the Control Act for exemption from submission of advance cargo departure notices.

⁶⁸ See section 58 of the Control Act.

⁶⁹ See section 59 of the Control Act.

- (a) be submitted to the customs authority **on Form** before the departure of the aircraft; and
- (b) reflect the following information:
 - (i) The on-board operator details;
 - (ii) the transport ID;
 - (iii) crew and traveller details in respect of each crew member and traveller on board the aircraft; and
 - (iv) the date and expected time of departure of the aircraft.

Part 3: Reporting requirements for arriving and departing cross-border trains

Advance train, rail crew, rail travellers and rail cargo arrival notices (sections 60 and 87)

3.18 (1) An advance train and crew arrival notice,⁷⁰ an advance rail travellers arrival notice⁷¹ and an advance rail cargo arrival notice⁷² must be submitted to the customs authority separately.

(2) An advance train and rail crew arrival notice, an advance rail travellers arrival notice and an advance rail cargo arrival notice referred to in subrule (1) must be submitted at least one hour before arrival of the train at the first railway station in the Republic.

(3) An advance train and rail crew arrival notice must reflect the following information:

- (a) **The** General mandatory reporting information;
- (b) the train's country of departure;
- (c) the final destination of the train on the relevant voyage;
- (d) date and scheduled time of arrival of the train at the first railway station in the Republic;
- (e) the name of each railway station in the Republic where –
 - (i) travellers or crew will disembark;

⁷⁰ See section 60(1)(a) of the Control Act.

⁷¹ See section 60(1)(b) of the Control Act.

⁷² See section 60(1)(c) of the Control Act.

- (ii) cargo will be offloaded; or
- (iii) a railway carriage will be detached;
- (f) the number of crew members scheduled to be on board the train when the train enters the Republic; and
- (g) crew details in respect of each crew member on board the train when the train enters the Republic.

(4) An advance **rail** travellers arrival notice must reflect the following information:

- (a) **The** General mandatory reporting information, as may be applicable;
- (b) the number of rail travellers scheduled to be on board the train when the train enters the Republic; and
- (c) **the** traveller details in respect of each rail traveller on board the train when the train enters the Republic.

(5) An advance rail cargo arrival notice must reflect the following information:

- (a) **The** General mandatory reporting information; and
- (b) if the train is transporting –
 - (i) containerised cargo –
 - (aa) the total number of containers; and
 - (bb) containerised cargo details and container details in respect of each consignment;
 - (ii) bulk cargo –
 - (aa) bulk cargo details; and
 - (bb) the number of each railway carriage transporting bulk cargo; and
 - (iii) break bulk cargo –
 - (aa) the number of consignments;
 - (bb) break bulk cargo details in respect of each consignment; and
 - (cc) the number of each railway carriage transporting break bulk cargo.

Train arrival reports (sections 61 and 87)

3.19 A train arrival report⁷³ must –

- (a) be submitted to the customs authority within 30 minutes after the arrival of the **cross-border** train at each railway station in the Republic referred to in section 61 of the Control Act; and
- (b) reflect the following information:
 - (i) **The** General mandatory reporting information;
 - (ii) the date and time of the train's arrival at that railway station; and
 - (iii) the name of that railway station.

Advance train and **rail crew, **rail** travellers and **rail** cargo departure notices**
(sections 62 and 87)

3.20 (1) An advance train and crew departure notice,⁷⁴ an advance rail travellers departure notice⁷⁵ and an advance rail cargo departure notice⁷⁶ must be submitted to the customs authority separately.

(2) An advance train and **rail** crew departure notice, an advance rail travellers departure notice and an advance rail cargo departure notice referred to in subrule (1) must be submitted at least one hour before the train is scheduled to depart from the first railway station on its voyage to a foreign destination.

(3) An advance train and rail crew departure notice must reflect the following information:

- (a) **The** General mandatory reporting information;
- (b) the country of destination;
- (c) the railway station from where the train will depart;
- (d) the date and scheduled time of departure;
- (e) details of the train's route to the place of exit; and
- (f) crew details in respect of each crew member on board the train destined for a foreign destination.

⁷³ See section 61(1) of the Control Act.

⁷⁴ See section 62(1)(a)(i) of the Control Act.

⁷⁵ See section 62(1)(a)(ii) of the Control Act.

⁷⁶ See section 62(1)(a)(iii) of the Control Act.

(4) An advance rail travellers departure notice must reflect the following information:

- (a) **The** General mandatory reporting information; and
- (b) traveller details in respect of each rail traveller on board the train destined for a foreign destination.

(5) An advance rail cargo departure notice must reflect the following information:

- (a) **The** General mandatory reporting information; and
- (b) if the train is to transport containerised cargo to a foreign destination –
 - (i) total number of containers on board; and
 - (ii) containerised cargo details and container details in respect of each consignment;
- (c) if the train is to transport bulk cargo to a foreign destination –
 - (i) bulk cargo details; and
 - (ii) the number of each railway carriage containing bulk cargo; and
- (c) if the train is to transport break bulk cargo to a foreign destination –
 - (i) the number of consignments;
 - (ii) the break bulk cargo details in respect of each consignment; and
 - (iii) the number of each railway carriage containing break bulk cargo.

Updates of advance train and **rail crew, **rail** travellers and **rail** cargo departure notices** (*sections 62 and 87*)

3.21 (1) Any updates⁷⁷ of an advance departure notice referred to in rule **3.20** must be submitted to the customs authority within one hour after the train has departed from each railway station where –

- (a) travellers or crew or cargo bound for a foreign destination were taken on board that train; or
- (b) a cross-border railway carriage transporting such travellers or crew or cargo was attached to that train.

⁷⁷ See section 62(1)(b) of the Control Act.

(2) An update of an advance train and rail crew departure notice must reflect the following information:

- (a) **The** General mandatory reporting information; and
- (b) crew details in respect of each crew member contemplated in subrule **(1)(a) or (b)**.

(3) An update of an advance rail travellers departure notice must reflect the following information:

- (a) **The** General mandatory reporting information; and
- (b) traveller details in respect of each traveller contemplated in subrule **(1)(a) or (b)**.

(4) An update of an advance rail cargo departure notice must reflect the following information:

- (a) **The** General mandatory reporting information; **and**
- (b) containerised cargo details and container details in respect of each consignment **of cargo** contemplated in subrule **(1)(a) or (b) consisting of containers**;
- (c) bulk cargo details in respect of **each consignment of** **bulk** cargo contemplated in subrule **(1)(a) or (b) consisting of bulk cargo**; and
- (d) break bulk cargo details in respect of each consignment of **break bulk** cargo contemplated in subrule **(1)(a) or (b) consisting of break bulk cargo**.

Train departure reports (*sections 63 and 87*)

3.22 (1) A train departure report⁷⁸ must be submitted to the customs authority within one hour after the departure of **the** train from each railway station where –

- (a) crew, travellers or cargo bound for a foreign destination are taken on board that train; or
- (b) a cross-border railway carriage transporting such crew, travellers or cargo is attached to that train.

(2) A departure report must reflect the following information:

- (a) **The** General mandatory reporting information;

⁷⁸ See section 63(1) of the Control Act.

- (b) the name of the railway station; and
- (c) the date and time of departure.

Please note that amending this rule to provide that a train departure report must be submitted one hour after departure from the last railway station in the Republic requires an amendment to section 63 of the Customs Control Act which will be done during the cycle of amendments. The rule amendment will be effected after section 63 has been amended.

Part 4: Reporting requirements for arriving and departing buses

Advance bus, crew and travellers arrival ~~reports~~ notice (sections 64 and 87)

3.23 (1) An advance bus, crew and travellers arrival notice must be submitted to the customs authority –

- (a) at least one hour before the arrival of the bus at the land border-post where it will enter the Republic; or
- (b) if the place from where the bus departed to the Republic is less than one hour's drive from the border-post, at least ten minutes before the arrival of the bus at that border-post.

(2) An advance bus, crew and travellers arrival notice referred to in subrule (1) must reflect the following information:

- (a) ~~The~~ General mandatory reporting information;
- (b) the land border-post where the bus will enter the Republic;
- (c) the date and scheduled time of arrival of the bus at the border post;
- (d) the on-board operator details;
- (e) the route the bus will follow in the Republic and its destination; and
- (f) crew and traveller details in respect of each crew member and traveller on board the bus.

Reporting of arrival of ~~B~~buses, crew and travellers ~~arrival reports~~ (sections 65 and 87)

3.24 (1) ~~A bus, crew and travellers arrival report~~⁷⁹ ~~must~~

⁷⁹ ~~See section 65(1) of the Control Act.~~

~~(a) be submitted by the on-board operator of the bus manually on Form as prescribed as a rule on the SARS website; and~~

~~(b) must reflect the following information: The on-board operator of a bus must on arrival of the bus at a land border-post where the bus enters the Republic report to a customs officer and provide the following information to the officer for electronic recording, to the extent that the information has not already been submitted in an advance bus, crew and travellers arrival notice referred to in rule 3.23 or an amended advance bus, crew and travellers arrival notice referred to in rule 3.42:~~

~~(i)(a) The~~ General mandatory reporting information;

~~(ii)(b)~~ the on-board operator details;

~~(iii)(c)~~ the date and time of arrival of the bus at ~~that~~ land border-post ~~where the bus enters the Republic;~~

~~(iv)(d)~~ crew and traveller details in respect of each crew member and traveller on board the bus when it enters the Republic; and

~~(v)(e)~~ any other information required ~~on the form~~ by the customs authority for purposes of recording the arrival of the bus, crew and travellers.

~~(2) Crew and traveller details referred to in subrule (1)(b)(iv) must be included in a bus arrival report only to the extent that those details have not already been submitted in—~~

~~(a) an advance bus, crew and travellers arrival notice referred to in rule 3.23(2); or~~

~~(b) an amended advance bus, crew and travellers arrival notice referred to in rule 3.42.~~

(2) The on-board operator must, after the information referred to in subrule (1) has been electronically recorded by the customs officer, confirm the correctness of the information in a manner required by the officer.

Note that section 65(1) of the Customs Control Act, 2014, has been amended as follows:

“(1) The on-board operator of a bus entering the Republic must, upon arrival at the land border-post where the bus enters the Republic, **[submit] report** to the customs

authority at that border-post [an] the arrival [report in respect] of the bus and of all travellers and crew on board the bus in a manner as may be prescribed by rule."

Advance bus, crew and travellers departure notices (sections 66 and 87)

3.25 An advance bus, crew and travellers departure notice⁸⁰ must –

- (a) be submitted at least one hour before the bus reaches the land border-post where it will leave the Republic; and
- (b) reflect the following information:
 - (i) The general mandatory reporting information;
 - (ii) the date and scheduled time of arrival of the bus at the **land** border-post where it will leave the Republic;
 - (iii) **the** on-board operator details;
 - (iv) the foreign destination of the bus; and
 - (v) crew and traveller details in respect of each crew member and traveller on board the bus destined for a foreign destination.

Reporting of departure of buses, crew and travellers ~~departure reports~~ (sections 67 and 87)

3.26 (1) ~~A bus, crew and travellers departure report⁸¹ must~~

~~(a) be submitted by the on-board operator of the bus manually on Form as prescribed as a rule on the SARS website; and~~

~~(b) must reflect the following information: The on-board operator of a bus must on arrival of the bus at a land border-post where the bus will leave the Republic report to a customs officer and provide the following information to the officer for electronic recording, to the extent that the information has not already been submitted in an advance bus, crew and travellers departure notice referred to in rule 3.25 or an amended advance bus, crew and travellers departure notice referred to in rule 3.42:~~

~~(i)(a) **The** General mandatory reporting information;~~

~~(ii)(b) the on-board operator details;~~

~~(iii)(c) the date and time of arrival of the bus at **the** land border-post ~~where the bus will leave the Republic;~~~~

⁸⁰ See section 66(1) of the Control Act.

~~⁸¹ See section 67(1) of the Control Act.~~

~~(iv)(d)~~ crew and traveller details in respect of each crew member and traveller on board the bus destined for a foreign destination; and

~~(v)(e)~~ any other information required ~~on the form~~ by the customs authority for purposes of recording the departure of the bus, crew and travellers.

~~(2) Crew and traveller details referred to in subrule (1)(b)(iv) must be included in a bus departure report only to the extent that those details have not already been submitted in –~~

~~(a) an advance bus, crew and travellers departure notice referred to in rule 3.25; or~~

~~(b) an amended advance bus, crew and travellers departure notice referred to in rule 3.42.~~

(2) The on-board operator must, after the information referred to in subrule (1) has been electronically recorded by the customs officer, confirm the correctness of the information in a manner required by the officer.

Note that section 67(1) of the Customs Control Act, 2014, has been amended as follows:

“(1) The on-board operator of a bus leaving the Republic must **[upon arrival]** at the land border-post where the bus will leave the Republic **[submit] report** to the customs authority at that land border-post **[a] the departure [report in respect]** of the bus and of all travellers and crew on board the bus in a manner as may be prescribed by rule.”

Part 5: Reporting requirements for trucks entering or leaving Republic

Advance truck, crew and cargo arrival notices (sections 68 and 87)

3.27 (1) An advance truck, crew and cargo arrival notice⁸² must be submitted to the customs authority before the arrival of the truck at the land border-post where it will enter the Republic.

⁸² See section 68(1) of the Control Act.

(2) An advance arrival notice referred to in subrule (1) must reflect the following information:

- (a) ~~The~~ General mandatory reporting information;
- (b) the land border-post where the truck will enter the Republic;
- (c) the date and scheduled time of arrival of the truck at the border-post;
- (d) the on-board operator details;
- (e) the route the truck will follow in the Republic and its destination;
- (f) crew details in respect of each crew member on board the truck; and
- (g) if the truck transports –
 - (i) containerised cargo, containerised cargo details and container details in respect of each consignment of containerised cargo on board the truck;
 - (ii) bulk cargo, ~~the~~ bulk cargo details in respect of the bulk cargo on board the truck; and
 - (iii) break bulk cargo, break bulk cargo details in respect of each consignment of ~~that~~ break bulk cargo on board the truck.

~~Truck arrival r~~**Reporting and manifests of incoming** of arrival of truck, crew and cargo (sections 69 and 87)

3.28 (1) ~~A truck and crew arrival report⁸³ must –~~

~~(a) be submitted by the on-board operator of the truck manually on Form as prescribed as a rule on the SARS website; and~~

~~(b) reflect the following information:~~ The on-board operator of a truck must on arrival of the truck at a land border-post where the truck enters the Republic report to a customs officer and provide the following information to the officer for electronic recording, to the extent that the information has not already been submitted in an advance truck, crew and cargo arrival notice referred to in rule 3.27 or an amended advance truck, crew and cargo arrival notice referred to in rule 3.42:

~~(i)(a)~~ ~~The~~ General mandatory reporting information;

~~(ii)(b)~~ the on-board operator details;

⁸³ ~~See section 69(1)(a) of the Control Act.~~

- ~~(iii)(c)~~ the date and time of arrival of the truck at the land border-post where the truck enters the Republic;
- ~~(iv)(d)~~ crew details in respect of each crew member on board the truck when it enters the Republic; ~~and~~
- ~~(e)~~ a description of the truck, including –
- ~~(i)~~ the make and model;
 - ~~(ii)~~ the year of manufacture;
 - ~~(iii)~~ the registration number;
 - ~~(iv)~~ the country of registration; and
 - ~~(v)~~ the engine number and the vehicle identification number; and
- ~~(v)(f)~~ any other information required ~~on the form~~ by the customs authority for purposes of recording the arrival of the truck, crew and cargo.

- ~~(2)~~— A manifest⁸⁴ ~~of incoming cargo on board the truck must –~~
- ~~(a)~~— ~~be submitted by the on-board operator of the truck manually on Form DA 187 as prescribed as a rule on the SARS website; and~~
- ~~(b)~~— ~~reflect the road manifest information⁸⁵ required on the form.~~

- ~~(3)~~— ~~Crew details referred to in subrule (1)(b)(iv) must be included in a truck and crew arrival report, and manifest information referred to in subrule (2)(b) must be included in a manifest of incoming cargo, only to the extent that those details and information have not already been submitted in –~~
- ~~(a)~~— ~~an advance truck, crew and cargo arrival notice referred to in rule 3.27(1); or~~
- ~~(b)~~— ~~an amended advance arrival notice referred to in rule 3.42.~~

(2) The on-board operator must, after the information referred to in subrule (1) has been electronically recorded by the customs officer, confirm the correctness of the information in a manner required by the officer.

Note that section 69(1) of the Customs Control Act, 2014, has been amended as follows:

⁸⁴ See section 69(1)(b) of the Control Act.

⁸⁵ See definition of “road manifest information” in rule 1.1.

“(1) The on-board operator of a truck entering the Republic must upon arrival at the land border-post where the truck enters the Republic **[submit] report** to the customs authority at that land border-post in a manner as may be prescribed by rule—

(a) **[an] the arrival [report in respect]** of the truck and crew; and

(b) **[a manifest of]** all cargo on board the truck.”.

Advance truck, crew and cargo departure notices (sections 70 and 87)

3.29 (1) An advance truck, crew and cargo departure notice⁸⁶ must be submitted at least one hour before the truck reaches the land border-post where it will leave the Republic.

(2) An advance departure notice referred to in subrule (1) must reflect the following information:

- (a) **The** General mandatory reporting information;
- (b) the land border-post where the truck will leave the Republic;
- (c) the date and scheduled time of arrival of the truck at the border-post;
- (d) the on-board operator details;
- (e) details of the truck’s destination;
- (f) crew details in respect of each crew member on board the truck; and
- (g) if the truck transports –
 - (i) containerised cargo, containerised cargo details and container details in respect of each consignment of containerised cargo on board the truck;
 - (ii) bulk cargo, bulk cargo details in respect of **the** bulk cargo on board the truck; and
 - (iii) break bulk cargo, break bulk cargo details in respect of each consignment of **that** break bulk cargo on board the truck.

~~Truck and crew Reporting of departure reports and manifests of outgoing of trucks, crew and cargo~~ (sections 71 and 87)

3.30 (1) ~~A truck and crew departure report⁸⁷ must—~~

⁸⁶ See section 70(1) of the Control Act.

~~⁸⁷ See section 71(1) of the Control Act.~~

~~(a) be submitted by the on-board operator of the truck manually on Form as prescribed as a rule on the SARS website; and~~

~~(b) reflect the following information: The on-board operator of a truck must on arrival of the truck at a land border-post where the truck will leave the Republic report to a customs officer and provide the following information to the officer for electronic recording, to the extent that the information has not already been submitted in an advance truck, crew and cargo departure notice referred to in rule 3.29 or an amended advance truck, crew and cargo departure notice referred to in rule 3.42:~~

~~(i)(a) The General mandatory reporting information;~~

~~(ii)(b) the on-board operator details;~~

~~(iii)(c) the date and time of arrival of the truck at that land border-post where the truck will leave the Republic;~~

~~(iv)(d) crew details in respect of each crew member on board the truck destined for a foreign destination; and~~

~~(e) a description of the truck, including –~~

~~(i) the make and model;~~

~~(ii) the year of manufacture;~~

~~(iii) the registration number;~~

~~(iv) the country of registration; and~~

~~(v) the engine number and the vehicle identification number; and~~

~~(v)(f) any other information required on the form by the customs authority for purposes of recording the departure of the truck, crew and cargo.~~

~~(2) A manifest of outgoing cargo on board the truck must –~~

~~(a) be submitted by the on-board operator of the truck manually on Form DA 187 as prescribed as a rule on the SARS website;~~

~~(b) reflect the road manifest information required on the form.~~

~~(3) Crew details referred to in subrule (1)(b)(iv) must be included in a truck and crew departure report, and manifest information referred to in subrule (2)(b) must be included in a manifest of outgoing cargo, only to the extent that those details and information have not already been submitted in –~~

~~(a) an advance truck, crew and cargo departure notice referred to in rule 3.29(1);
or~~

~~(b) an amended advance departure notice referred to in rule 3.42.~~

(2) The on-board operator must, after the information referred to in subrule (1) has been electronically recorded by the customs officer, confirm the correctness of the information in a manner required by the officer.

Note that section 71(1) of Act 31 of 2014, has been amended as follows:

“(1) The on-board operator of a truck due to leave the Republic with cargo on board must **[upon arrival]** at the land border-post where the truck will leave the Republic **[submit]** report to the customs authority at that land border-post in a manner as may be prescribed by rule—

(a) **[a]** the departure **[report in respect]** of the truck and crew; and

(b) **[a manifest of]** all cargo on board the truck.”.

Part 6: Cargo outturn reports by licensees of sea cargo terminals and depots

Outturn reports on containers off-loaded from or loaded on board vessels at sea cargo terminals (sections 73 and 87)

3.31 (1) An outturn report in respect of containers off-loaded from a vessel⁸⁸ at a sea cargo terminal must be submitted to the customs authority at intervals as may be agreed ~~upon by~~ **between** the licensee of the terminal and the customs authority, but no later than 24 hours after the last container covered by the relevant report has been off-loaded from the vessel.

(2) An outturn report referred to in subrule (1) must reflect the following information:

- (a) **The** General mandatory reporting information;
- (b) the terminal where off-loaded;
- (c) the date of arrival of the vessel at the terminal;

⁸⁸ See section 73(1) of the Control Act.

- (d) the landed purpose;
- (e) the number of containers off-loaded;
- (f) the date and time each container was off-loaded;
- (g) the container details listed in paragraph (a), (b), (d) and (e) of the definition of “container details”⁸⁹ in respect of each container; and
- (h) in the case of containers off-loaded for transshipment, transshipment details⁹⁰ in relation to those containers.

(3) An outturn report in respect of containers loaded on board a vessel⁹¹ at a sea cargo terminal must be submitted to the customs authority no later than 24 hours after the last container has been loaded on board the vessel.

(4) An outturn report referred to in subrule (3) must reflect the following information:

- (a) ~~The~~ General mandatory reporting information;
- (b) the terminal where loaded;
- (c) the date of scheduled departure of the vessel from the terminal;
- (d) the number of containers loaded;
- (e) the date and time each container was loaded;
- (f) the container details listed in paragraph (a), (c), (d) and (e) of the definition of “container details” in respect of each container; and
- (g) in the case of containers loaded under the transshipment procedure, transshipment details in relation to those containers.

Outturn reports on break bulk cargo and bulk cargo off-loaded from or loaded on board vessels at sea cargo terminals (sections 74 and 87)

3.32 (1) An outturn report in respect of break bulk and bulk cargo off-loaded from a vessel⁹² at a sea cargo terminal must be submitted to the customs authority no later than seven calendar days after the break bulk or bulk cargo has been fully offloaded from the vessel.

⁸⁹ See definition of “container details” in rule 1.1

⁹⁰ See definition of “transshipment details” in rule 1.1.

⁹¹ See section 73(2) of the Control Act.

⁹² See section 74(1) of Control Act.

(2) An outturn report referred to in subrule (1) must reflect the following information:

- (a) **The** General mandatory reporting information;
- (b) the terminal where off-loaded;
- (c) the date of arrival of the vessel at the terminal;
- (d) the cargo type;
- (e) in the case of break bulk cargo –
 - (i) **the** break bulk cargo details listed in paragraphs (h) to (o) of the definition of “break bulk cargo details”⁹³ in respect of each consignment of break bulk cargo off-loaded;
 - (ii) the number of packages in each consignment off-loaded;
 - (iii) the gross mass of those packages;
 - (iv) details of any excess or shortage found in any consignment off-loaded as measured against the applicable transport documents; and
 - (v) the date the consignment was fully off-loaded;
- (f) in the case of bulk cargo –
 - (i) **the** bulk cargo details listed in paragraphs (h) to (k) of the definition of “bulk cargo details”⁹⁴ in respect of bulk cargo off-loaded;
 - (ii) the gross mass of bulk cargo off-loaded;
 - (iii) details of any excess or shortage found in the quantity off-loaded as measured against the applicable transport documents; and
 - (iv) the date the bulk cargo was fully off-loaded; and
- (g) in the case of a consignment of break bulk cargo or bulk cargo off-loaded for transshipment, transshipment details in relation to that consignment.

(3) An outturn report of break bulk and bulk cargo loaded on board a vessel⁹⁵ at a sea cargo terminal must be submitted to the customs authority no later than seven calendar days after the break bulk or bulk cargo has been fully loaded on board the vessel.

⁹³ See definition of “break bulk cargo details” in rule 1.1

⁹⁴ See definition of “bulk cargo details” in rule 1.1

⁹⁵ See section 74(2) of the Control Act.

(4) An outturn report referred to in subrule (3) must reflect the following information:

- (a) **The** General mandatory reporting information;
- (b) the terminal where loaded;
- (c) the date of the scheduled departure of the vessel from the terminal;
- (d) the cargo type;
- (e) in the case of break bulk cargo –
 - (i) **the** break bulk cargo details listed in paragraphs (h) to (o) of the definition of “break bulk cargo details” in respect of each consignment of break bulk cargo off-loaded;
 - (ii) the number of packages in each consignment loaded;
 - (iii) the gross mass of those packages;
 - (iv) details of any excess or shortage found in any consignment loaded as measured against the applicable transport documents; and
 - (v) the date the consignment was fully loaded;
- (f) in the case of bulk cargo –
 - (i) **the** bulk cargo details listed in paragraphs (h) to (k) of the definition of “bulk cargo details” in respect of bulk cargo off-loaded;
 - (ii) the gross mass or volume of bulk cargo loaded;
 - (iii) details of any excess or shortage found in the quantity loaded as measured against the applicable transport documents; and
 - (iv) the date the bulk cargo was fully loaded; and
- (g) in the case of a consignment of break bulk cargo or bulk cargo loaded under the transshipment procedure, transshipment details in relation to that consignment.

(5) Cargo for which the licensee of the relevant terminal has not received a transport document must not be included in the outturn report referred to in subrule (1) or (3), but a separate outturn report must be submitted in terms of rule **3.40**.

Notification of transshipment cargo remaining at sea cargo terminal for longer than 21 calendar days

3.32A (1) The licensee of a sea cargo terminal must notify the customs authority of any cargo cleared for transshipment that remains at the terminal for longer than 21 calendar days after the cargo has been cleared.

(2) (a) A notification referred to in subrule (1) must be submitted to the customs authority electronically through eFiling, subject to rule **41.33A**.

(b) If the notification is submitted to the customs authority in terms of rule **41.33A** in paper format, the notification must be submitted to the Customs Office that serves the area where the goods are.

(3) A notification referred to in subrule (1) must reflect –

(a) the customs code of the sea cargo terminal;

(b) if the notification is submitted by a customs broker or ordinary representative on behalf of the licensee of the sea cargo terminal, the information specified in rule **41.33D**.⁹⁶

(c) transshipment details of the relevant cargo;

(d) if the cargo is -

(i) containerised cargo, container details;

(ii) break bulk cargo, break bulk cargo details; or

(iii) bulk cargo, bulk cargo details; and

(e) the reason why the cargo remained at the terminal for longer than 21 days, which may be motivated in a separate supporting document submitted together with the notification subject to and in accordance with Part 7 of Chapter 41 of these Rules.

Outturn reports on containers removed from or received at sea cargo terminals (*sections 75 and 87*)

3.33 (1) An outturn report in respect of containers containing imported goods removed from a sea cargo terminal⁹⁷ must be submitted to the customs authority at hourly intervals.

⁹⁶ If the notification is submitted in terms of section 920 of the Customs Control Act by an ordinary representative on behalf of the licensee of the terminal, the notification must comply with the additional requirements set out in Part 6 of Chapter 41 of these Rules. Note that the said Part 6 applies only to ordinary representatives which per definition excludes persons submitting documents as customs brokers. It follows that Part 6 does not apply to customs brokers that submit notifications on behalf of licensees in that capacity.

⁹⁷ See section 75(1)(a) of the Control Act.

(2) A gate-out outturn report referred to in subrule (1) must reflect the following information:

- (a) **The** General mandatory reporting information;
- (b) the date of arrival at the terminal of the vessel from which each container was off-loaded;
- (c) the terminal where off-loaded;
- (d) the date of off-loading;
- (e) the landed purpose;
- (f) the gate-out date and time;
- (g) **the** premises to which each container is removed;
- (h) container details in respect of each container; and
- (i) in the case of containers off-loaded for transshipment, transshipment details in relation to those containers.

(3) An outturn report in respect of containers containing goods destined for export received at a sea cargo terminal⁹⁸ must be submitted to the customs authority at hourly intervals.

(4) A gate-in outturn report referred to in subrule (3) must reflect the following information:

- (a) **The** General mandatory reporting information;
- (b) the terminal where received;
- (c) the gate-in date and time;
- (d) the date of scheduled loading;
- (e) the date of scheduled departure of the transporting vessel;
- (f) container details in respect of each container; and
- (g) in the case of containers to be loaded under the transshipment procedure, transshipment details in relation to those containers.

Outturn reports on containers received at or removed from container depots
(sections 75 and 87)

⁹⁸ See section 75(1)(b) of the Control Act.

3.34 (1) An outturn report in respect of containers containing imported goods received at a container depot⁹⁹ must be submitted at hourly intervals.

(2) A gate-in outturn report referred to in subrule (1) must reflect the following information:

- (a) The General mandatory reporting information;
- (b) the date of arrival of the vessel at the terminal where the containers were off-loaded;
- (c) the terminal where off-loaded;
- (d) the depot where received;
- (e) the gate-in date and time; and
- (f) container details in respect of each container.

(3) An outturn report in respect of containers containing goods destined for export removed from a container depot¹⁰⁰ must be submitted to the customs authority at hourly intervals.

(4) A gate-out outturn report referred to in subrule (3) must reflect the following information:

- (a) The gGeneral mandatory reporting information;
- (b) the depot from where dispatched;
- (c) the terminal where to be loaded;
- (d) the date of scheduled departure of the vessel on which the containers are to be loaded;
- (e) the gate-out date and time; and
- (f) container details in respect of each container.

Outturn reports on cargo unpacked from or packed into containers at container depots (*sections 76 and 87*)

3.35 (1) An outturn report in respect of all imported cargo unpacked from containers at a container depot¹⁰¹ must be submitted to the customs authority at 24 hourly intervals.

⁹⁹ See section 75(2)(a) of the Control Act.

¹⁰⁰ See section 75(2)(b) of the Control Act.

(2) An outturn report referred to in subrule (1) must reflect the following information:

- (a) **The** General mandatory reporting information;
- (b) the container depot where unpacked;
- (c) the date and time of unpacking of each container;
- (d) container details in respect of each container;
- (e) the number of packages found;
- (f) the type of packages found;
- (g) the gross mass (KGM) of packages found; and
- (h) in the case of any discrepant packages found –
 - (i) the package condition;
 - (ii) a description of what the packages or contents should be; and
 - (iii) a description of the type of packages or contents found.

(3) An outturn report in respect of all cargo destined for export packed into containers at a container depot¹⁰² must be submitted to the customs authority at 24 hourly intervals.

(4) An outturn report referred to in subrule (3) must reflect the following information –

- (a) **The** General mandatory reporting information;
- (b) the container depot where packed;
- (c) the date and time of packing;
- (d) container details in respect of each container;
- (e) the number of packages packed;
- (f) the type of packages packed; and
- (g) in the case of any discrepant packages presented for packing –
 - (i) the package condition;
 - (ii) a description of what the packages or contents should be; and
 - (iii) a description of the type of packages or contents found.

¹⁰¹ See section 76(1)(a) of Control Act.

¹⁰² See section 76(1)(b) of Control Act.

(5) Cargo for which the licensee of the relevant depot has not received a transport document must not be included in the outturn report referred to in subrule (1) or (3), but a separate outturn report must be submitted in terms of rule **3.40**.

Notification of export cargo remaining at container depot for longer than prescribed period (*section 76(3)*)

3.36 Section 76(3) must be complied with if any cargo remains at a container depot for longer than **three five** calendar days after delivery of the cargo to the depot for export.

Part 7: Cargo outturn reports by licensees of air cargo terminals and depots

Outturn reports on cargo off-loaded from or loaded on board aircraft at air cargo terminals (*sections 77 and 87*)

3.37 (1) An outturn report of cargo off-loaded from an aircraft at an air cargo terminal¹⁰³ must be submitted to the customs authority no later than 24 hours after the aircraft has been fully unloaded.

(2) An outturn report referred to in subrule (1) must reflect the following information:

- (a) **The** General mandatory reporting information;
- (b) the date and time of arrival of the aircraft;
- (c) the date and time the cargo on the aircraft was fully off-loaded;
- (d) the terminal where off-loaded;
- (e) air cargo details¹⁰⁴ in relation to each consignment of air cargo off-loaded;
- (f) details of any excess or shortage found in any consignment off-loaded as measured against the applicable transport documents; and
- (g) in the case of a consignment of air cargo off-loaded for transshipment, transshipment details¹⁰⁵ in relation to that consignment.

¹⁰³ See section 77(a) of Control Act.

¹⁰⁴ See definition of "air cargo details" in rule **1.1**

¹⁰⁵ See definition of "transshipment details" in rule **1.1**

(3) An outturn report of cargo loaded on board an aircraft at an air cargo terminal¹⁰⁶ must be submitted to the customs authority no later than 24 hours after the cargo has been loaded on board the aircraft.

(4) An outturn report referred to in subrule (3) must reflect the following information:

- (a) **The** General mandatory reporting information;
- (b) the date and time of scheduled departure of the aircraft;
- (c) the date and time the cargo was fully loaded on the aircraft;
- (d) the terminal where loaded;
- (e) air cargo details in relation to each consignment of air cargo loaded;
- (f) details of any excess or shortage found in any consignment loaded as measured against the applicable transport documents; and
- (g) in the case of a consignment of air cargo loaded under the transshipment procedure, transshipment details in relation to that consignment.

(5) Cargo for which the licensee of the relevant terminal has not received a transport document must not be included in the outturn report referred to in subrule (1) or (3), but a separate outturn report must be submitted in terms of rule **3.40**.

Notification of transshipment cargo remaining at air cargo terminal for longer than 21 calendar days

3.32A (1) The licensee of an air cargo terminal must notify the customs authority electronically through any cargo cleared for transshipment that remains at the terminal for longer than 21 calendar days after the cargo has been cleared.

(2) (a) A notification referred to in subrule (1) must be submitted to the customs authority electronically through eFiling, subject to rule 41.33A.

(b) If the notification is submitted to the customs authority in terms of rule 41. 33A in paper format, the notification must be submitted to the Customs Office that serves the area where the goods are.

¹⁰⁶ See section 77(b) of Control Act.

- (3) A notification referred to in subrule (1) must include –
- (a) the customs code of the air cargo terminal;
 - (b) if the notification is submitted by a customs broker or ordinary representative on behalf of the licensee of the air cargo terminal, the information specified in rule 41.33D;¹⁰⁷
 - (c) transshipment details of the relevant cargo;
 - (d) air cargo details of the relevant cargo; and
 - (e) the reason why the cargo remained at the terminal for longer than 21 days, which may be motivated in a separate supporting document submitted together with the notification subject to and in accordance with Part 7 of Chapter 41 of these Rules.

Outturn reports on cargo unpacked or packed at air cargo depots (*section 78 and 87*)

3.38 (1) An outturn report in respect of all imported cargo received and deconsolidated or unpacked at an air cargo depot¹⁰⁸ must be submitted to the customs authority no later than 24 hours after deconsolidation or unpacking of the cargo.

(2) An outturn report referred to in subrule (1) must reflect the following information:

- (a) The General mandatory reporting information;
- (b) the date and time of arrival of the aircraft;
- (c) the air cargo depot where deconsolidated or unpacked;
- (d) the date and time of deconsolidation of the consignment;
- (e) air cargo details in respect of each consignment;
- (f) the number of packages found;
- (g) the type of packages found;
- (h) the gross mass (KGM) of packages found; and
- (i) in the case of any discrepant packages found –

¹⁰⁷ If the notification is submitted in terms of section 920 of the Customs Control Act by an ordinary representative on behalf of the licensee of the terminal, the notification must comply with the additional requirements set out in Part 6 of Chapter 41 of these Rules. Note that the said Part 6 applies only to ordinary representatives which per definition excludes persons submitting documents as customs brokers. It follows that Part 6 does not apply to customs brokers that submit notifications on behalf of licensees in that capacity.

¹⁰⁸ See section 78(1)(a) of Control Act.

- (i) the package condition;
- (ii) a description of what the packages or contents should be; and
- (iii) a description of the type of packages or contents found.

(3) An outturn report in respect of all cargo destined for export packed or consolidated at an air cargo depot must be submitted to the customs authority no later than 24 hours after the cargo has been packed or consolidated.

(4) An outturn report referred to in subrule (1) must reflect the following information:

- (a) **The** General mandatory reporting information;
- (b) the air cargo depot where the cargo is consolidated or packed;
- (c) the date and time of consolidation of the cargo or **of** packing of **the air container** **a unit load device**¹⁰⁹;
- (d) air cargo details in respect of each consignment;
- (e) the type of packages presented for consolidation or packing;
- (f) the gross mass (KGM) of those packages; and
- (g) in the case of any discrepant packages found –
 - (i) the package condition;
 - (ii) a description of what the packages or contents should be; and
 - (iii) a description of the type of packages or contents found.

(5) Cargo for which the licensee of the relevant depot has not received a transport document must not be included in the outturn report referred to in subrule (1) or (3), but a separate outturn report must be submitted in terms of rule **3.40**.

Notification of cargo remaining at air cargo depot for longer than prescribed period (*section 78(3)*)

3.39 Section 78(3) must be complied with if any cargo remains at an air cargo depot for longer than **onethree** calendar days^s after delivery of the cargo to the depot for export.

¹⁰⁹ See definition of unit load device” in rule 1.1

Part 8: Cargo outturn reports by licensees of rail cargo terminals

Outturn reports on containers removed from or received at rail cargo terminals

(section 81)

3.39A (1) An outturn report in respect of containers containing imported goods removed from a rail cargo terminal must be submitted to the customs authority at hourly intervals.

(2) A gate-out outturn report referred to in subrule (1) must reflect the following information:

(a) General mandatory reporting information;

(b) the date of arrival at the terminal of the train from which each container was off-loaded;

(c) the terminal where off-loaded;

(d) the date of off-loading;

(e) the landed purpose;

(f) the gate-out date and time;

(g) the premises to which each container is removed; and

(h) container details¹¹⁰ in respect of each container.

(3) An outturn report in respect of containers containing goods destined for export received at rail cargo terminal must be submitted to the customs authority at hourly intervals.

(4) A gate-in outturn report referred to in subrule (3) must reflect the following information:

(a) General mandatory reporting information;

(b) the terminal where received;

(c) the gate-in date and time;

(d) the date of scheduled loading;

(e) the date of scheduled departure of the transporting train; and

(f) container details in respect of each container.

¹¹⁰ See definition of "container details" in rule 1.1

Part 9: Provisions applicable to outturn reports generally

Outturn reports on cargo with no transport documents (section 79)

3.40 (1) A separate outturn report in respect of cargo referred to in section 74, 76, 77 or 78 of the Control Act for which the licensee of the relevant terminal or depot has not received a transport document, must be submitted within the same timeframe applicable to that cargo in terms of rule **3.32, 3.35, 3.37** and **3.38**.

(2) A separate outturn report referred to in subrule (1) must to the extent possible contain the same information as prescribed in rules **3.32, 3.35, 3.37** and **3.38**, as may be applicable, for outturn reports.

Reports of shortlanded, shortshipped, shortpacked or excess cargo (section 80)

3.41 Any outturn report submitted in terms of this Part **6 or 7** in respect of cargo off-loaded, deconsolidated or unpacked must, where relevant, specify—

- (a) any containers that have been shortlanded or overlanded;
- (b) any goods which have been shortlanded, shortpacked, shortshipped as measured against the manifest or are in excess of manifested quantities;
- (c) unmanifested excess goods; or
- (d) that the goods have been fully accounted for according to the manifest.

Part **810: Other reporting matters**

Submission of amended reporting documents (section 87)

3.42 (1) A person who has submitted a reporting document in terms of this Chapter must amend the document by submitting an amended reporting document reflecting the amended information if –

- (a) any information which has been reported has subsequently changed; or
- (b) any incorrect, incomplete or out-dated information has been reported.

(2) (a) An amended reporting document must be submitted immediately when the person concerned becomes aware of the changed, incomplete, incorrect or out-dated information.

(b) If the amendment to a reporting document affects the quantity of cargo previously reported, the amended report must furnish an explanation.

(3) An amended reporting document submitted in terms of subrule (1) –

(a) must contain the original information as amended by the updated information;
and

(b) replaces the original document.

Submission of reporting documents by registered agents (section 85)

3.42A A reporting document submitted by a registered agent on behalf of a carrier not located in the Republic must, in addition to the name and customs code of the agent, also reflect the identity of the carrier.¹¹¹

¹¹¹ See also rule **41.33D**

CHAPTER 4
GENERAL PRINCIPLES GOVERNING CLEARANCE AND RELEASE OF GOODS
AND CUSTOMS PROCEDURES

Part 1: Additional provisions on clearance timeframes¹¹² Clearance and exclusions from clearance in respect of imported goods

Timeframes for submission of clearance declarations in respect of goods for imported CTCs ~~by means of cross-border pipelines or cross-border transmission lines~~ (section 90(1)(e) and (f))

4.1 A clearance declaration to clear goods imported through a cross-border pipeline or a cross-border transmission line for home use or a customs procedure must be submitted to the customs authority within the timeframe as set out in rule 8.2 25 calendar days after the end of each accounting period¹¹³ during which the goods were imported.¹¹⁴

Timeframes for submission of export clearance declarations for exported CTCs ~~goods exported by means of cross-border pipelines or cross-border transmission lines~~ (section 94(1)(e) and (f))

4.5 A clearance declaration to clear goods to be for exported through a cross-border pipeline or a cross-border transmission line must be submitted to the customs authority within the timeframes as set out in rule 16.2 25 calendar days after the end of each accounting period during which the goods were exported.¹¹⁵

Timeframe for submission of supplementary export clearance declaration in respect of goods containerised at container depot (section 94(2)(a))

4.6 A supplementary export clearance declaration¹¹⁶ referred to in section 94(2)(a) of the Control Act must be submitted no later than one hour before the container reaches the sea cargo terminal where the goods will be loaded for export.

¹¹² Timeframes prescribed in this Part are those contemplated in sections 90(1)(e) and (f) and 94(1)(e) and (f) of the Control Act.

¹¹³ See definition of "accounting period" in rule 1.1

¹¹⁴ See also rule 8.2

¹¹⁵ See also rule 16.11

¹¹⁶ See rule 7.2 for form and format for clearance declarations.

Timeframe for submission of export clearance declarations in respect of for prescribed courier articles exported by air (section 94(3))

4.7 (1) Prescribed courier articles¹¹⁷ to be exported by air are hereby determined as a category of goods to which section 94(3) of the Control Act applies.

(2) A clearance declaration¹¹⁸ referred to in section 94(3) of the Control Act in respect of to clear prescribed courier articles of a value higher than the value determined by the Minister in terms of 533(2)(a),¹¹⁹ for export by air must be submitted no later than one hour before the goods leave the air cargo terminal courier articles are taken to the foreign-going aircraft in which they are to be exported for loading on board the foreign-going aircraft in which the goods are to be exported.¹²⁰

Part 2: Goods excluded from import clearance requirements

Additional categories of imported goods excluded from import clearance requirements (section 91(1)(k))

4.2. The following additional categories of imported goods¹²¹ are excluded from sections 89 and 90 of the Control Act and goods falling within these categories are not required to be cleared in accordance with those sections:

- (a) South African foreign-going naval vessels;
- (b) South African foreign-going military and naval aircraft;
- (c) foreign-going naval vessels and military and naval aircraft of foreign countries on official visits to the Republic;
- (d) foreign-going aircraft used by foreign officials and other dignitaries of other governments or international organisations for official visits to the Republic; and
- (e) foreign-going aircraft used by officials and other dignitaries of the South African government officials for official foreign travel visits abroad; and

¹¹⁷ See definition of "prescribed courier article" in rule 1.1

¹¹⁸ See rule 7.2 for form and format for clearance declarations.

¹¹⁹ ~~Courier articles of a value lower than the value determined in terms of section 533(1)(a), must be cleared in accordance with the simplified clearance procedure set out in rule 24.11.~~

¹²⁰ See also rule 24.15

¹²¹ These categories are additional to those listed in section 91 of the Control Act.

- (f) fish, crustaceans, molluscs, birds or any other marine animals and any parts of, or products derived from such fish, crustaceans, molluscs, birds or animals landed in the Republic direct from a foreign-going vessel recognised as a ship of South African nationality in terms of the Ship Registration Act, 58 of 1998, to the extent that those products are obtained outside the Republic.¹²²

Customs permission required for removal into free circulation of certain imported goods excluded from clearance requirements (*section 117(e) and (f)*)

4.3 Imported goods excluded from clearance requirements in terms of section 91(1)(g), (h) ~~and or~~ (j) of the Control Act, may be removed into free circulation from the customs controlled area where the goods are, but only after the customs authority has approved, after arrival of the goods, an application **in terms of rule 4.4** for permission to remove the goods into free circulation ~~as contemplated rule 4.4~~.

Application for permission to remove **rule 4.3 goods** (*section 117*)

4.4 (1) (a) An application for permission to remove goods referred to in rule **4.3** into free circulation must be submitted by or on behalf of the person entitled to claim the goods –

- (i) electronically through eFiling, subject to ~~paragraph (b)~~ **rule 41.33A**; and
- (ii) within the same timeframe or at the same time as applicable in terms of section 90(1)(a), (b), (c) or (d), as may be appropriate, for the submission of clearance declarations in respect of goods that are required to be cleared.

(b) If an application referred to in paragraph (a) is submitted in **terms of rule 41.33A** in paper format, ~~in circumstances where submissions in paper format are permissible,~~¹²³ **the application submission** must be **submitted**–

~~(i) on Form....as published as a rule on the SARS website; and~~

~~(ii) made~~ to the Customs Office that serves the area where the goods are.

(2) An application referred to in subrule (1) must reflect the following information:

¹²² If obtained inside the Republic, i.e. in South African territorial waters or on an island which is part of the territory of the Republic, no clearance and therefore no exclusion from clearance requirements is required, as the goods are not being "imported".

¹²³ See for instance section 913(4).

- (i) The name and customs code ~~identity number and~~ address of the applicant or, if the applicant does not have a customs code, the information specified in rule 41.33E(1);
- (b) if the application is submitted by a customs broker, registered agent or ordinary representative on behalf of the applicant, the information specified in rule 41.33D;¹²⁴
- (ii) a description of the goods; and
- (iii) the transport document number.¹²⁵

(3) An application referred to in subrule (1) must be supported by the following documents, which must be submitted together with the application subject to and in accordance with Part 7 of Chapter 41 of these Rules:

- (a) An invoice, if applicable, and, a bill of lading or air waybill in the case of goods contemplated in section 91(1)(g) and or (h) of the Control Act, a transport document; ~~or~~ and
- (b) an import permit issued by the Department of Health, in the case of human remains contemplated in section 91(1)(j) of the Act. ~~—~~
- ~~(i) — a certified copy of the death certificate and an import permit issued by the Department of Health.; and~~
- ~~(ii) — a certificate issued by a medical practitioner confirming that the deceased did not suffer from an infectious disease and that the transportation of the remains does not constitute a threat to public health.~~

~~(4) — (a) — Supporting documents referred to in subrule (3) must within the timeframe indicated in the request be submitted to the customs authority electronically through eFiling, subject to paragraph (b).~~

~~(b) — If supporting documents referred to in paragraph (a) are submitted to the customs authority in paper format in circumstances where~~

¹²⁴ If the application is submitted on behalf of the applicant by an ordinary representative in terms of section 920 of the Control Act, Part 6 of Chapter 41 of these Rules will apply. Note that the said Part 6 applies only to ordinary representatives which per definition excludes persons submitting documents as customs brokers or registered agents. It follows that Part 6 does not apply to customs brokers or registered agents who submit documents in that capacity.

submissions in paper format are permissible,¹²⁶ submission must be made to the Customs Office where the application has been submitted, or at another Customs Office indicated in the request.

Customs to be notified of failure to remove rule 4.3 goods

4.4A (1) If a person to whom permission in terms of rule 4.4 to remove rule 4.3 goods was granted fails to remove the goods within three calendar days after the permission was granted, that person must notify the customs authority of the failure.

(2) (a) A notification referred to in subrule (1) must be submitted to the customs authority electronically through eFiling, subject to rule 41.33A.

(b) If the notification is submitted to the customs authority in terms of rule 41.33A in paper format, the notification must be submitted to the Customs Office that serves the area where the goods are.

(3) A notification in terms of this rule must reflect the following information:

(a) the details referred to in rule 4.4(2)(a) in relation to the person to whom the permission was granted;

(b) if the notification is submitted by a customs broker, registered agent or ordinary representative on behalf of the person to whom the permission was granted, the information specified in rule 41.33D;¹²⁷

(c) a description of the goods; and

(d) the reference number of the permission to remove.

Part 3: Goods excluded from export clearance requirements ~~Clearances and exclusions from clearance in respect of goods destined for export~~

¹²⁶ See for instance section 913(4).

¹²⁷ If the notification is submitted by an ordinary representative in terms of section 920 of the Customs Control Act on behalf of the person to whom permission to remove was granted, submission of the notification must comply with the additional requirements set out in Part 6 of Chapter 41 of these Rules. Note that the said Part 6 applies only to ordinary representatives which per definition excludes persons submitting documents as customs brokers or registered agents. It follows that Part 6 does not apply to customs brokers registered agents that submit documents in that capacity.

Additional categories of goods destined for export excluded from export clearance requirements (*section 95(1)(l)*)

4.8 The following additional categories of goods destined for export are excluded from sections 93 and 94 of the Control Act and goods falling within these categories are not required to be cleared in accordance with those sections:

- (a) South African foreign-going naval vessels;
- (b) South African foreign-going military and naval aircraft;
- (c) foreign-going naval vessels and military and naval aircraft of foreign countries on official visits to the Republic;
- (d) foreign-going aircraft used by foreign officials and other dignitaries of other governments or international organisations for official visits to the Republic; and
- (e) foreign-going aircraft used by officials and other dignitaries of the South African government officials for official visits abroad foreign travel.

Customs permission required for loading of certain goods excluded from export clearance requirements (*section 117(e) and (f)*)

4.9 Goods destined for export that are excluded from clearance requirements in terms of section 95(1)(h), (i) and (k) of the Control Act may be loaded for export only after the customs authority has approved an application in terms of rule 4.10 for permission to load the goods as contemplated in rule 4.10.

Applications for permission to load rule 4.9 goods (*section 117*)

4.10. (1) (a) An application for permission to load goods referred to in rule **4.9** must be submitted by or on behalf of the exporter of such goods –

- (i) electronically through eFiling, subject to paragraph (b) rule 41.33A; and
- (ii) within the same timeframe or at the same time as required in terms of section 94(1)(a), (b), (c) or (d), as may be appropriate, for the submission of clearance declarations in the case of goods that are required to be cleared.

(b) If an application referred to in paragraph (a) is submitted in paper format to the customs authority in terms of rule 41.33A in paper format, in

circumstances where submissions in paper format are permissible,¹²⁸ the submission application must be —

~~(i) on Form...as published as a rule on the SARS website; and~~

(ii) made submitted to the Customs Office that serves the area where the goods are to be exported.

(2) An application referred to in subrule (1) must reflect the following information:

(a) The name and customs code identity number, contact number and address of the applicant or, if the applicant does not have a customs code, the information specified in rule 41.33E(1);

(b) if the application is submitted by a customs broker, registered agent or ordinary representative on behalf of the applicant, the information specified in rule 41.33D;¹²⁹

(c) a description of the goods; and

(d) the transport document number.

(3) An application referred to in subrule (1) must be supported by the following documents, in the case of which must be submitted together with the application subject to and in accordance with Part 7 of Chapter 41 of these Rules:

(a) An invoice, if applicable, and, in the case of goods contemplated in section 95(1)(h) or (i) of the Control Act, a transport document; or

(a)(b) an export permit issued by the Department of Health, in the case of human remains contemplated in section 95(1)(k). ~~be supported by —~~

~~(i) a certified copy of the death certificate issued by the Department of Health; and~~

~~(ii) a certificate issued by a medical practitioner confirming that the deceased did not suffer from an infectious disease and that the transportation of the remains does not constitute a threat to public health;~~

¹²⁸ See for instance section 913(4).

¹²⁹ If the application is submitted on behalf of the applicant by an ordinary representative in terms of section 920 of the Customs Control Act, the application must comply with the additional requirements set out in Part 6 of Chapter 41 of these Rules. Note that the said Part 6 applies only to ordinary representatives which per definition excludes persons submitting documents as customs brokers or registered agents. It follows that Part 6 does not apply to customs brokers or registered agents that submit documents in that capacity.

~~(4) (a) Supporting documents must within the timeframe indicated in the request be submitted to the customs authority electronically through eFiling, subject to paragraph (b).~~

~~(b) If supporting documents referred to in paragraph (a) are submitted to the customs authority in paper format in circumstances where submissions in paper format are permissible,¹³⁰ the submission must be made to the Customs Office where the application has been submitted, or to another Customs Office indicated in the request.~~

Customs to be notified if goods not loaded of failure to load for export rule 4.9 goods

4.11 (1) ~~The A~~ person to whom permission to load goods was granted pursuant to an application in terms of rule 4.10 to load rule 4.9 goods for export must in accordance with subrule (2), within three days after the granting of such permission, notify the customs authority in accordance with subrule (2) of a failure to load goods for export or to export such goods if the goods are not loaded for export within three calendar days after the permission was granted.

(2) (a) A notification ~~contemplated~~ referred to in subrule (1) must be submitted to the customs authority electronically through eFiling, subject to ~~paragraph (b)~~ rule 41.33A.

(b) If ~~a~~ the notification ~~referred to in paragraph (a)~~ is submitted to the customs authority in terms of rule 41.33A in paper format, ~~in circumstances where submissions in paper format are permissible,¹³⁴~~ the submission notification must be on Form....as published as a rule on the SARS website at submitted to the Customs Office that serves the ~~area where~~ place of exit through which the goods are to be exported.

(3) A notification in terms of this rule must reflect the following information:
(a) The details referred to in rule 4.10(2)(a) in relation to the person to whom the permission was granted: The name, identity number, contact number and address of the person to whom permission to load has been granted ;

¹³⁰ See for instance section 913(4).

¹³⁴ See for instance section 913(4).

- (b) if the notification is submitted by a customs broker, registered agent or ordinary representative on behalf of the person to whom the permission was granted, the information specified in rule 41.33D;¹³²
- (c) a description of the goods; and
- (d) reference number of the permission to load.

Part 4: Withdrawal of clearance exclusions

Circumstances for withdrawal of exclusions (section 117(a))

4.12 The circumstances in which the customs authority may withdraw an exclusion from clearance requirements referred to in section 91 or 95 of the Control Act applicable to specific goods or goods imported or to be exported by a specific person, are as follows:

- (a) If a provision of this Act or a tax levying Act has been breached in connection with goods imported or to be exported under the exclusion;
- (b) if the importer or exporter uses or has used the exclusion –
 - (i) to evade tax;
 - (ii) to circumvent a provision of this Act or a tax levying Act that would otherwise be applicable to the goods;
 - (iii) to commit a fraudulent or dishonest act in relation to imported or exported goods; or
 - (iv) to otherwise abuse a system or procedure of this Act or a tax levying Act;
- (c) if any condition subject to which the goods were excluded is breached; and
- (d) if the name of the importer or exporter appears on a list published in terms of section 901 of the Control Act.

Procedure for withdrawal of exclusions (section 117(a))

4.13 (1) If rule 4.12 applies, the customs authority may withdraw with immediate effect an exclusion in respect of –

¹³² If the notification is submitted by an ordinary representative in terms of section 920 of the Control Act on behalf of the person to whom permission to load has been granted, submission of the notification must comply with the additional requirements set out in Part 6 of Chapter 41 of these Rules. Note that the said Part 6 applies only to ordinary representatives which per definition excludes persons submitting documents as customs brokers or registered agents. It follows that Part 6 does not apply to customs brokers or registered agents who submit documents in that capacity.

- (a) specific goods imported or to be exported; or
- (b) goods to be imported or exported by a specific person during a period as it may determine.

(2) When withdrawing an exclusion, the customs authority must give written notice to the importer or exporter affected by the withdrawal of –

- (a) the withdrawal of the exclusion; and
- (b) the reasons for the withdrawal.

(3) A person notified of the withdrawal of an exclusion in terms of subrule (1)(a) must immediately after receipt of the notification ~~proceed with the clearance of~~ clear the relevant goods in accordance with the applicable provisions regulating the clearance of goods of that class or kind.

(4) Any withdrawal of an exclusion in terms of this rule is subject to internal reconsideration in accordance with any of the proceedings provided for in Chapter 37 of the Control Act.

Part 5: Additional measures on clearance and release of goods

Clearance substitutions before release of goods (sections 97 and 117(b))

4.14 (1) A clearance substitution of goods before release of the goods as provided for in section 97 of the Control Act is permissible in the following circumstances:

- (a) When goods are cleared for home use and home use clearance of the goods was not permissible in the circumstances;
- (b) when goods are cleared for a customs procedure and clearance for that procedure was not permissible in the circumstances;
- (c) when clearance of the goods for home use or the relevant customs procedure was permissible in the circumstances but the person clearing the goods, on justifiable grounds acceptable to the customs authority, desires to substitute the clearance; or
- (d) when the customs authority on any other justifiable grounds gives permission for the clearance to be substituted.

(2) The substitution of a clearance declaration does not affect any criminal proceedings that may have been instituted, any administrative penalty that may have been imposed or any other steps that may have been taken as a result of a breach of the Act.

Clearance substitutions for goods already released for home use (*sections 107 and 117(b)*)

4.15 A clearance substitution of goods already released for home use as provided for in section 107 of the Control Act is permissible only if –

- (a) the goods are identifiable as the goods originally imported;
- (b) the goods, if packed, are still in their original packaging; and
- (c) there are no administrative penalties outstanding in respect of the goods.

Conditional release of goods (*section 104(b)*)

4.16 (1) Goods that require special equipment for unloading or that are of such a nature that they must be unloaded or handled under specific conditions, are released for home use or a customs procedure subject to the following conditions:

- (a) That a customs inspection may be conducted at the importer's premises or other premises nominated by the importer;
- (b) that if such inspection is conducted, the attendance fee for the customs inspection at such premises is paid; and
- (c) that seals and fastenings may be removed only in the presence of a customs officer unless the customs authority allows otherwise.

(2) The conditions referred to in subrule (1) are additional to any other conditions that may be imposed in terms of section 104(a) of the Control Act.

Additional circumstances when goods under customs procedure must for tax purposes be regarded to have reverted to free circulation¹³³ (section 113(1)(c) read with section 117)

¹³³ For tax implications if goods are regarded as having reverted to free circulation, see section 161 of the Control Act.

4.8A For purposes of section 113(1)(c) of the Control Act, free circulation goods that –

(a) automatically came under the tax free shop procedure in terms of section 317(1)(a) must for tax purposes be regarded to have reverted to free circulation if the goods –

(i) are after receipt in the tax free shop not accepted and returned; or

(ii) are not sold in the shop within the period applicable to the goods in terms of section 327(a); or

(b) were cleared for the stores procedure in terms Part 2 of Chapter 15 of the Control Act must for tax purposes be regarded to have reverted to free circulation if the goods are not accepted as stores for a foreign-going vessel or aircraft or a cross-border train and returned.

Part 36: ~~Redirection and~~ Transfer of ownership of goods under customs procedures

Rule 4.17 moved to rule 5.4A.

Applications for approval to transfer ownership of goods under customs procedures (*section 111*)

4.18 (1) —No person may apply for approval to transfer the ownership of goods or a share in the ownership of goods in terms of section 111(1) of the Control Act unless the prospective transferee complies with section 604.

(2) —An application referred to in subrule (1) must on request by the customs authority be supported by proof that the prospective transferee complies with section 604.

Restrictions on transfer of ownership of goods under inward or home use processing

4.18A (1) Ownership of imported goods under –

(a) the inward processing procedure may be transferred only to a person that is a licensee of inward processing premises licensed for the inward processing of the class or kind of goods in question; or

(b) the home use processing procedure may be transferred only to a person that is a licensee of home use processing premises licensed for the home use processing of the class or kind of goods in question.

(2) Ownership of inward processed compensating products may be transferred only to a person licensed as an exporter of inward processed compensating products of the class or kind of products in question.

Applications where all goods covered by same clearance declaration are transferred

4.19 (1) If ownership of all the goods covered by a specific clearance declaration is to be transferred, the prospective transferor must apply for approval contemplated in section 111(1) of the Control Act by submitting –

(a) a draft amended clearance declaration replacing the prospective transferor with the prospective transferee as the person clearing the goods; or

(b) in the case of the transfer of goods that have been cleared for warehousing in a private warehouse,¹³⁴ a draft clearance declaration specifying the prospective transferee as the person clearing the goods for a permissible customs procedure –

(i) substituting the previous declaration, if the transfer takes place before release or within 90 days after release of the goods;¹³⁵ or

(ii) subsequent to the clearance for warehousing in the private warehouse,¹³⁶ if the transfer takes place more than 90 days after release of the goods.

¹³⁴ An amended clearance declaration cannot be used for the application, because "private storage warehouse" is defined as premises used exclusively by the licensee of the premises for the storage of goods owned by the licensee or in which the licensee has a material interest. The goods will therefore have to be cleared out of the private warehouse.

¹³⁵ See section 107(2) of the Control Act.

¹³⁶ See section 110 of the Customs Control Act.

(2) Transmission by the customs authority of the draft amended clearance declaration to the transferee constitutes confirmation of the granting of an application referred to in subrule (1).

(3) The transferee must within three working days of receipt of confirmation by the customs authority that an application referred to in subrule (1) has been granted, electronically notify the customs authority whether the draft amended clearance declaration submitted in terms of subrule (1)(a), or the draft clearance declaration submitted in terms of subrule (1)(b) submitted by the transferor in terms of that subrule is accepted.

(4) The amended clearance declaration or the subsequent clearance declaration, as the case may be, takes effect upon such acceptance of the amended clearance declaration or substituting or subsequent declaration by the transferee.

Applications where only portion of goods covered by clearance declaration is transferred

4.20 (1) If only a portion of the goods covered by a specific clearance declaration is to be transferred, the prospective transferor must apply for approval contemplated in section 111(1) of the Control Act by submitting –

(a) two draft amended clearance declarations splitting the existing declaration between –

(ai) one draft amended clearance declaration covering the quantity of goods that will not be transferred and for which the prospective transferor will remain the person clearing the goods; and

(bii) a second draft amended clearance declaration one covering the quantity of goods that will be transferred and for which the prospective transferee will be regarded to be the person clearing the goods in terms of section 111(5)(b); or

(b) in the case of the transfer of a portion of goods that have been cleared for warehousing in a private warehouse¹³⁷ –

¹³⁷ An amended clearance declaration cannot be used for the application, because “private storage warehouse” is defined as premise used exclusively by the licensee of the premises for the storage of goods owned by the licensee or in which the licensee has a material interest. The goods will therefore have to be cleared out of the private warehouse.

- (i) a draft amended clearance declaration covering the quantity of goods that will not be transferred and for which the prospective transferor will remain the person clearing the goods; and
- (ii) a draft clearance declaration indicating the prospective transferee as the person clearing the quantity of the goods that will be transferred for a permissible customs procedure –
 - (aa) substituting the previous declaration, if the transfer takes place before release or within 90 days after release of the goods; or
 - (bb) subsequent to the clearance for warehousing in the private warehouse, if the transfer takes place more than 90 days after release of the goods.

(2) Transmission by the customs authority of the draft amended clearance declaration referred to in subrule (1)(a)(ii) or the relevant draft clearance declaration referred to in subrule (1)(b)(ii) to the transferee constitutes confirmation of the granting of an application referred to in subrule (1).

(3) Upon confirmation by the customs authority that an application referred to in subrule (1) has been granted, the transferee must electronically notify the customs authority whether the draft amended clearance declarations submitted by the transferor in terms of that subrule (1)(a)(ii) or (b)(ii), depending on the circumstances, are is accepted.

(4) The amended clearance declaration or the subsequent clearance declaration, as the case may be, take effect upon such acceptance of the amended clearance declaration or of the substituting or subsequent declaration by the transferee.

Applications where share in ownership of goods covered by clearance declaration is transferred

4.21 (1) If only a share in the goods covered by a specific clearance declaration is to be transferred, the prospective transferor must apply for approval contemplated in section 111(1) of the Control Act by submitting a draft amended clearance

declaration reflecting –

- (a) the prospective co-ownership of the goods by adding the prospective transferee to the clearance declaration as an additional person clearing the goods;¹³⁸ and
- (b) the share of the goods being transferred, reflected as a percentage or portion.

(2) Transmission by the customs authority of the draft amended clearance declaration to the transferee constitutes confirmation of the granting of an application referred to in subrule (1).

(3) Upon confirmation by the customs authority that an application referred to in subrule (1) has been granted, the transferee must electronically notify the customs authority whether the draft amended clearance declaration submitted by the transferor in terms of that subrule is accepted.

(4) The amended clearance declaration takes effect upon such acceptance of the amended clearance declaration by the transferee.

Part 5: Recordkeeping by persons conducting business in imported goods

Persons who must keep records (section 116)

4.22 (1) (a) Registered persons and licensees must keep records relating to the business they conduct as registered persons or licensees as may be required by, and in accordance with, the specific provisions of the Control Act, the tax levying Acts, rules, international trade agreements and other measures, applicable to them.

(b) Persons who are not registered persons or licensees and any person who deals in, sells or offers for sale any imported goods, or uses imported goods in a manufacturing process, must ~~in accordance with section 919 of the Control Act~~ keep books, accounts and documents relating to those goods, including

-
- (a) purchase orders for goods;

¹³⁸ Note that any duty payable on the goods must in terms of section 27(1) of the Customs Duty Act be paid by the person clearing the goods. If both the transferor and transferee are the persons clearing the goods they will both be liable for the duty.

- (b) invoices;
- (c) delivery notes;
- (d) receipt notes;
- (e) proof of payments made and received; and
- (f) any other documents as may be required in terms of other applicable legislation that may affect the payment of tax.

~~(2) Records that must be kept in terms of subrule (1)(b) may be kept either by means of an appropriate computer-based system or paper-based system.¹³⁹~~

~~(2) Records referred to in subrule (1) must be kept –~~
~~(a) for a period of five years calculated from the end of the calendar year in which any such document was created;~~
~~(b) in a secure place on that person's business premises; and~~
~~(c) according to a filing system which enables quick access to information pertaining to specific goods or a specific transaction.~~

~~(3) This rule must be read subject to any provisions of the Control Act or a tax levying Act prescribing record-keeping requirements for persons who are licensees or registered in terms of the Act or a tax levying Act.~~

Records to be produced to Customs on request (section 116)

4.23 (1) A person referred to in rule 4.22(1)(a) or (b) who has been requested by a customs officer to produce or submit a book, account or document any record referred to in that rule, must submit a produce or submit such record referred to in section 116 of the Control Act to the customs authority subject to and in accordance with Part 7 of Chapter 41 of these Rules within the timeframe specified in a request, or if no timeframe is specified in such request, within one working days after the date of the request.

~~(2) A copy or a computer printout of any record or document requested may with the permission of the customs authority and subject to such conditions as~~

¹³⁹ Part 5 of Chapter 41 of these Rules applies also to records that must be kept in terms of rule 4.22(1)(b).

the customs authority may determine, be submitted and such a copy or printout may for purposes of the Act and a tax levying Act be regarded to be the original record or document requested.

CHAPTER 5
GENERAL PRINCIPLES GOVERNING TRANSPORT, SEALING AND LOADING
OF GOODS

Part 1: Transport of goods not in free circulation

Transport of goods not in free circulation with other goods in same vehicle
(section 124)

5.1 If goods not in free circulation are transported as contemplated in section 124 of the Control Act with goods in free circulation on the same vehicle, the following requirements apply:

- (a) The goods not in free circulation and the goods in free circulation must be separately identifiable; and
- (b) once a container containing goods not in free circulation has been sealed, the seal may not be broken to load goods in free circulation.

Receipt notifications by carriers when receiving goods not in free circulation for transport (sections 131 and 903)

5.1A (1) A carrier¹⁴⁰ receiving goods not in free circulation for transport in any of the following circumstances must, within three hours of receipt of the goods,¹⁴¹ notify the customs authority electronically through eFiling of the receipt of the goods:

See new rule 41.10B for notification periods when goods are delivered or received after hours or on days other than working days.

- (a) Where the carrier receives goods not in free circulation -
 - (i) for transport under a customs procedure from a customs controlled area to another customs controlled area not served by the same Customs Office; or
 - (ii) for redirection with the permission of the customs authority in terms of section 208, 230, 304, 322, 415 or 442 of the Control Act to a place other than a place referred to in the relevant section; or

¹⁴⁰ This includes all licensed and non-local carriers who have registered agents in the Republic transporting goods in the Republic.

¹⁴¹ See rule **41.10B**

(b) where goods not in free circulation are transferred with the customs authority's permission in terms of section 130 of the Control Act to that carrier's vehicle or container from a vehicle or container operated by another carrier.

(2) Any receipt notification referred to in subrule (1) must reflect the following information:

(a) The name and customs code of the carrier or, in the case of a non-local carrier, the name or customs code of the carrier and the name and customs code of the registered agent of the carrier;

(b) if the notification is submitted by a customs broker, registered agent or ordinary representative on behalf of the carrier, the information specified in rule 41.33D;¹⁴²

(c) the date and time the carrier received the goods;

(d) the customs code of the customs controlled area where the carrier received the goods or, if the place where the carrier received the goods is not a customs controlled area, the physical address or other specifics of that place;

(e) the movement reference number of the clearance declaration submitted in respect of the goods;

(f) in the case of non-containerised goods -

(i) confirmation that the goods received by the carrier correspond in class or kind with the goods described in the release notification issued in respect of the goods; and

(ii) the quantity received;

(g) in the case of containerised goods -

(i) confirmation -

(aa) that the container and seal numbers of the container or containers received by the carrier correspond with the container and seal numbers on the release notification; and

¹⁴² If the notification is submitted on behalf of the carrier by a representative in terms of section 920 of the Customs Control Act, the notification must comply with Part 6 of Chapter 41 of the Customs Control Rules. Note that the said Part 6 applies only to ordinary representatives which per definition excludes persons submitting documents as customs brokers or registered agents. It follows that Part 6 does not apply to customs brokers and registered agents that submit documents on behalf of carriers in that capacity.

(bb) that the seal on the container or on each container received is intact;¹⁴³ and

(ii) the quantity of containers received; and

(h) if no confirmation referred to in paragraph (f)(i) or (g)(i) can be given, the reason why confirmation cannot be given, which may be motivated in a separate supporting document submitted together with the notification subject to and in accordance with Part 7 of Chapter 41 of these Rules.

(3) A receipt notification that must in terms of this rule be submitted to the customs authority by a carrier must, in the case of a carrier that is not located in the Republic, be submitted either by the carrier or that carrier's registered agent in the Republic.

Delivery notifications by carriers when delivering goods not in free circulation at destination (sections 131 and 903)

~~41.1A (1) A carrier must, notify the customs authority of the receipt of goods whenever~~

~~(i) that carrier receives the goods for transport under a customs procedure from a customs controlled area to another customs controlled area not served by the same Customs Office; or~~

~~(ii) goods not in free circulation are transferred to that carrier's vehicle or container from a vehicle or container operated by another carrier, in circumstances contemplated in section 130, 211 or 233 of the Control Act.~~

5.1B (1) A carrier¹⁴⁴ must when transporting goods not in free circulation referred to in subrule **5.1A**(1)(a) or (b) must, within three hours of the delivery of the goods¹⁴⁵ at the customs controlled area to which the goods were transported or at the other place to which the goods were redirected with the permission of the customs authority, notify the customs authority electronically through eFiling of the delivery of those goods.

See new rule 41.10B.

¹⁴³ Note that any seal discrepancies must in terms of rule 5.6 be reported by a person who receives physical control of a container.

¹⁴⁴ This includes all licensed and non-local carriers who have registered agents in the Republic transporting goods in the Republic.

¹⁴⁵ See rule 41.10B

~~(a) to the customs controlled area to which the goods were transported under the relevant customs procedure; or~~

~~(b) if the goods were redirected with the permission of the customs authority to another destination,¹⁴⁶ to that other destination.~~

(2) Any receipt or delivery notification referred to in subrule (1) or (2) must reflect the following information:

(a) The name and customs code of the carrier or, in the case of a non-local carrier, the name or customs code of the carrier and the name and customs code of the registered agent of the carrier;

(b) if the notification is submitted by a customs broker, registered agent or ordinary representative on behalf of the carrier, the information specified in rule 41.33D;

~~(c) the customs procedure under which the goods are transported;~~

(c) the date and time of receipt or delivery of the goods;

(d) the place of receipt or delivery of the goods the customs code of the customs controlled area where the goods were delivered or, if the place where the goods were delivered is not a customs controlled area, the physical address of that place;

~~(f) the conveyance number;¹⁴⁷ of the carrier;~~

~~(g) the transport name;¹⁴⁸ of the carrier;~~

~~(h) the transport document number, road manifest number or unique consignment reference number;~~

(e) the movement reference number of the clearance declaration submitted in respect of the goods under which the goods are transported;

(f) in the case of non-containerised goods -

(i) confirmation that the goods delivered at the destination correspond in class or kind with the goods described in the release notification issued in respect of the goods; and

(ii) the quantity delivered;

¹⁴⁶ See for instance sections 208, 230, 304, 322, 415(1)(c) and 442(2) of the Control Act.

¹⁴⁷ See definition of "conveyance number" in rule 1.

¹⁴⁸ See definition "transport name" in rule 1.

(g) in the case of containerised goods -

(i) confirmation -

(aa) that the container and seal numbers of the container or containers delivered at the destination correspond with the container and seal numbers on the release notification; and

(bb) that the seal on the container or on each container delivered is intact;¹⁴⁹ and

(ii) the quantity of containers delivered; and

(h) if no confirmation referred to in paragraph (f)(i) or (g)(i) can be given, the reason why confirmation cannot be given, which may be motivated in a separate supporting document submitted together with the notification subject to and in accordance with Part 7 of Chapter 41 of these Rules.

~~(f) a description of the goods;~~

~~(k) in the case of a delivery notification in terms of subrule (1)(a)(ii) -~~

~~(i) the identification number of any seal that was broken or affixed due to the transfer of the goods; and~~

~~(ii) the container number, if the goods are transported in a new container, and~~

~~(l) in the case of a notification in terms of subrule (2)(b), the customs code or physical address of the place where the goods were delivered.~~

(3) Subrules (1) and (2) and (3) apply also where a provision of the Control Act specifically requires a carrier to notify the customs authority of the receipt or delivery of goods not in free circulation under a customs procedure.¹⁵⁰

(4) A delivery notification that must in terms of this rule be submitted to the customs authority by a carrier must, in the case of a carrier that is not located in the Republic, be submitted either by the carrier or that carrier's registered agent in the Republic.

¹⁴⁹ Note that any seal discrepancies must in terms of rule 5.6 be reported by a person who receives physical control of a container.

¹⁵⁰ See for instance section 304(2)(a) of the Control Act.

Reporting of breakdowns, accidents and other unforeseen events (section 125)¹⁵¹

5.2 (1) (a) A breakdown, accident or other unforeseen event occurring during the course of transporting goods not in free circulation,¹⁵² which compromises the integrity of the goods or the transport of the goods, must for purposes of section 125 of the Control Act be reported electronically through eFiling, subject to ~~paragraph (b)~~ **rule 41.33A**.

(b) If a report referred to in paragraph (a) is submitted to the customs authority in **terms of rule 41.33A in** paper format, ~~in circumstances where submissions in paper format are permissible,~~¹⁵³ the **submission report** must be ~~—~~

~~(i) on Form...as published as a rule on the SARS website;~~¹⁵⁴ and

~~(ii) made submitted to the Customs Office that serves the area where the breakdown, accident or other unforeseen event occurred designated by the Commissioner in terms of section 14 of the Control Act to receive such reports.~~

(2) A report referred to in subrule (1) must reflect the following information:

(a) ~~The identity of the carrier~~ **If a carrier transported the goods, the name and customs code of the carrier or, in the case of a non-local carrier, the name or customs code of the carrier and the name and customs code of the registered agent of the carrier;**

(b) **if a person referred to in section 122(c) of the Control Act transported the goods, the name and customs code of that person or, if that person does not have a customs code, the information specified in rule 41.33E(1);**

(c) **if the report is submitted by a customs broker, registered agent or ordinary representative on behalf of a carrier or a person referred to in paragraph (b), the information specified in rule 41.33D;**¹⁵⁵

¹⁵¹ Note that section 125 of the Control Act and this rule overlap with rules 25.14 and 25.15 in the case of certain accidents. Where this overlap occurs, the report in terms of rule 25.14 or 25.15 must be regarded to be a report also for purposes of section 125 and this rule. See rule 5.2(4).

¹⁵² Note that section 125 and this rule do not apply to all instances where goods not in free circulation are transported, for instance before the goods are off-loaded from a foreign-going vessel or aircraft or a cross-border train. See section 120 of the Control Act.

¹⁵³ See for instance section 913(4).

¹⁵⁴ See section 912(2) of the Control Act for manner of submission.

¹⁵⁵ If the report is submitted by an ordinary representative in terms of section 920 of the Customs Control Act on behalf of the carrier or other person transporting the goods, submission of the report must comply with the additional requirements set out in Part 6 of Chapter 41 of these Rules. Note that the said Part 6 applies only to ordinary representatives which per definition excludes persons submitting documents as customs brokers or

- (d) the conveyance number, **if applicable**;
- (e) the transport name;¹⁵⁶
- (f) if the goods are transported in a container –
 - (i) the container number; and
 - (ii) any marks and other numbers on the container;
- (g) a description of the goods;
- (h) the identification number of the seal;
- ~~(i) the identity of the sealing party;¹⁵⁷~~
- (i)** whether the seal is broken;
- (j)** the transport document number;
- (k)** details of the accident, breakdown or other unforeseen event;
- (l)** the precise location of the relevant means of transport; and
- (m)** whether transfer of goods to another means of transport or container is required.

(3) Circumstances in which the integrity of goods is compromised for purposes of subrule (1) include the following:

- (a) When the goods have been destroyed, damaged, lost or decreased in value, volume or quantity due to the breakdown, accident or other unforeseen event;
- (b) when a customs seal affixed to a holding compartment or container in which the goods are transported has been broken or damaged due to the breakdown, accident or other unforeseen event; or
- (c) when the breakdown, accident or other unforeseen event necessitated the re-loading of goods onto another means of transport or into another container.

(4) A report submitted in terms of rule 25.14 or 25.15 involving a vessel, aircraft or train that has been involved in an accident in the Republic must be regarded also to be a report required for purposes of section 125 if the report concerns an accident that must be reported in terms of this rule for purposes of section 125.

registered agents. It follows that Part 6 does not apply to customs brokers and registered agents who submit documents in that capacity.

¹⁵⁶ See definition of “transport name” in rule 1.1 in relation to road transport.

¹⁵⁷ ~~See definition of “sealing party” in rule 1.1.~~

Customs permissions to transfer goods between vehicles or containers
(section 130)

5.3 (1) For purposes of section 130(2) of the Control Act the other circumstances where permission may be given for the transfer of goods not in free circulation from the vehicle or container in which the goods are transported to another vehicle or container after commencement of the transport, are where damage is caused to the vehicle or container due to –

- (a) a natural occurrence; or
- (b) a hostile act by a third party.

(2) If goods are to be transferred to another vehicle in the circumstances contemplated in section 130, the person who cleared the goods for the customs procedure under which the goods are transported, must submit to the customs authority –

- (a) an amended clearance declaration as required by section 174(2)¹⁵⁸ reflecting–
 - (i) the registration number of the vehicle to which the goods are transferred;
 - (ii) the transport document number; and
 - (iii) the name or customs code of the carrier or the person referred to in section 122(c) that is in operational control of the vehicle to which the goods are transferred; and
- (b) the reference number of the report referred to in rule 5.2.

(3) If goods are to be transferred to another container in the circumstances contemplated in section 130, the person who cleared the goods for the customs procedure under which the goods are transported must submit to the customs authority –

- (a) an amended clearance declaration to reflect the number of the container to which the goods are transferred; and
- (b) the reference number of the report referred to in rule 5.2.

¹⁵⁸ See Chapter 7 for submission of clearance declarations.

(4) Submission of an amended clearance declaration as required in terms of subrule (2) or (3) must for purposes of section 130 be regarded to be an application for permission to transfer goods between vehicles or containers.

(5) If the customs authority in terms of section 174(4)(b) issues a new release notification contemplated in that section, the new release notification must for purposes of section 130 be regarded to be permission for the transfer.

(6) The customs authority may, in order to ensure the integrity of the transfer operation, require the transfer to be done under customs supervision.

(7) Application for permission to transfer goods in accordance with this rule may be made immediately after the goods were transferred in the case of –

- (a) live animals;
- (b) perishable goods;
- (c) dangerous goods;
- (d) goods required for medical emergencies; or
- (e) goods that are due to the circumstances contemplated in section 130(2) in danger of being damaged or destroyed.

Endorsement of new carrier's transport document or road manifest when goods are transferred of goods to other vehicles or containers operated by other carriers (section 130)

5.4 (1) If a vehicle contemplated in rule 5.3(2) or a container contemplated in rule 5.3(3) is under the operational control of another carrier, the new carrier must –

- (a) give notice in accordance with rule ~~29.35(a)(ii)~~ 5.1A(1)(b) to the customs authority that the goods were received by that carrier for transfer to another that carrier's vehicle or container; and
- (b) endorse include in that carrier's transport document ~~or road manifest~~¹⁵⁹ with
 - (i) the transport name of the previous vehicle in which the goods were transported, if applicable;

¹⁵⁹ This endorsement must be effected by the on-board operator of the new carrier's vehicle on the paper copy of the road manifest which must be carried in the vehicle.

- (ii) the number of the container in which the goods were previously transported, if applicable;
- (iii) the identification number of the seal on the previous container, if applicable;
- (iv) the name or customs code or name of the previous carrier; and
- (v) the number of the previous that carrier's transport document or road manifest, as may be applicable.

Application for permission to redirect transport of goods under customs procedures to places other than authorised places (sections 208, 230, 304, 322, 415 and 442)

4.175.4A (1) Application to the customs authority for permission contemplated in section 208, 230, 304, 322, 415 or 442 of the Control Act to redirect the transport of goods under a customs procedure to a place other than a place referred to in the applicable section, must, before the goods are redirected to that other place, be made by the person clearing the goods¹⁶⁰ for the customs procedure under which the goods are transported by submitting to the customs authority an amended clearance declaration as required by section 174(2)¹⁶¹ reflecting the amended particulars.

(2) If the customs authority in terms of section 174(4)(b) issues a new release notification referred to in that section, the new release notification must for purposes of section 208, 230, 304, 322, 415 or 442, as may be applicable, be regarded to be permission for the redirection.

(3) An application referred to in subrule (1) must state the reason for the redirection, which may be motivated in a separate supporting document submitted together with the application subject to and in accordance with Part 7 of Chapter 41 of these Rules.

Delivery notifications by persons transporting goods to premises to which goods were redirected (section 903(1)(c) and (d))

¹⁶⁰ See section 166 of the Control Act for meaning of "person clearing goods".

¹⁶¹ See Chapter 7 of the Control Act for submission of amended clearance declarations.

5.4B (1) A carrier transporting goods under permission granted in terms of rule **5.4A**, must upon delivery of the goods at the premises to which the goods were redirected comply with rule **5.1B**.

(2) A person referred to in section 122(c) of the Control Act transporting goods under permission granted in terms of rule **5.4A**, must upon delivery of the goods at the premises to which the goods were redirected, within three hours of delivery of the goods,¹⁶² notify the customs authority of the delivery of the goods, electronically through eFiling.

See new rule 41.10B.

(3) A delivery notification in terms of subrule (2) must reflect the following information:

(a) The name and customs code of the person referred to in subrule (2)(a) that transported the goods or, if that person does not have a customs code, the information specified in rule **41.33E(1)**;

(b) if the notification is submitted by a customs broker, registered agent or ordinary representative on behalf of the person that transported the goods, the information specified in rule **41.33D**;¹⁶³

(c) the customs code or physical address of the premises to which the goods were redirected;

(d) the date and time of delivery of the goods at those premises;

(e) the movement reference number¹⁶⁴ of the clearance declaration submitted in respect of the goods;

(f) in the case of non-containerised goods -

(i) confirmation that the goods delivered at those premises correspond in class or kind with the goods described in the release notification issued in respect of the goods; and

(ii) the quantity delivered;

¹⁶² See rule **41.10B**

¹⁶³ If the notification is submitted in terms of section 920 of the Customs Control Act by an ordinary representative on behalf of the person who transported the goods, the notification must comply with the additional requirements set out in Part 6 of Chapter 41 of these Rules. Note that the said Part 6 applies only to ordinary representatives which per definition excludes persons submitting documents as customs brokers or registered agents. It follows that Part 6 does not apply to customs brokers and registered agents that in that capacity submit delivery notifications on behalf of persons who transported the goods.

¹⁶⁴ See definition of "movement reference number" in rule 1.1.

- (g) in the case of containerised goods -
- (i) confirmation -
 - (aa) that the container and seal numbers of the container or containers delivered at those premises correspond with the container and seal numbers on the release notification; and
 - (bb) that the seal on the container or on each container delivered is intact;¹⁶⁵ and
 - (ii) the quantity of containers delivered;
- (h) if no confirmation referred to in paragraph (f)(i) or (g)(i) can be given, the reason why confirmation cannot be given, which may be submitted in a separate supporting document subject to and in accordance with Part 7 of Chapter 41 of these Rules.

Receipt notifications by persons in control of premises to which goods were redirected (section 903(1)(c) and (d))

5.4C (1) The licensee of the premises to which goods were redirected, or, if those premises are not licensed, the person in control of those premises, must within three hours of receipt of the goods¹⁶⁶ at those premises notify the customs authority of the receipt of the goods, electronically through eFiling.

See new rule 41.10B.

(2) A receipt notification referred to in subrule (1) must reflect the following information:

- (a) The name or customs code of the carrier or person referred to in rule **5.4B**(1) or (2) that delivered the goods at the premises to which the goods were redirected;
- (b) if the notification is submitted by a customs broker, registered agent ordinary representative on behalf of the licensee or person in control of the premises to which goods were redirected, the information specified in rule **41.33D**.¹⁶⁷

¹⁶⁵ Note that any seal discrepancies must in terms of rule **5.6** be reported by a person who receives physical control of a container.

¹⁶⁶ See rule **41.10B**

¹⁶⁷ If the notification is submitted in terms of section 920 of the Customs Control Act by an ordinary representative on behalf of the licensee or person in control of the premises, the notification must comply with the additional

- (c) the customs code of the premises to which the goods were redirected or, if those premises are not licensed, the physical address of those premises;
- (d) the name and customs code of the licensee or other person in control of those premises or, if that person does not have a customs code, the information specified in rule 41.33E(1);
- (e) the date and time of receipt of the goods at those premises;
- (f) the movement reference number¹⁶⁸ of the clearance declaration submitted in respect of the goods;
- (g) in the case of non-containerised goods -
 - (i) confirmation that the goods received at those premises correspond in class or kind with the goods described in the release notification issued in respect of the goods; and
 - (ii) the quantity received;
- (h) in the case of containerised goods -
 - (i) confirmation -
 - (aa) that the container and seal numbers of the container or containers received at those premises correspond with the container and seal numbers on the release notification; and
 - (bb) that the seal on the container or on each container received is intact;¹⁶⁹ and
 - (ii) the quantity of containers received;
- (i) if no confirmation referred to in paragraph (g)(i) or (h)(i) can be given, the reason why confirmation cannot be given, which may be motivated in a separate supporting document submitted together with the notification subject to and in accordance with Part 7 of Chapter 41 of these Rules.

(3) No separate receipt notification needs to be submitted by the licensee or other person in control of the premises to which the goods were redirected if that licensee or other person transported the goods to those premises and submits a

requirements set out in Part 6 of Chapter 41 of these Rules. Note that the said Part 6 applies only to ordinary representatives which per definition excludes persons submitting documents as customs brokers. It follows that Part 6 does not apply to customs brokers that submit receipt notifications in that capacity on behalf of those licensees or persons.

¹⁶⁸ See definition of "movement reference number" in rule 1.1.

¹⁶⁹ Note that any seal discrepancies must in terms of rule 5.6 be reported by a person who receives physical control of a container.

delivery notification in terms of rule 5.4B(2) that reflects the name and customs code of that licensee or other person or, if that other person does not have a customs code, the information specified in rule 41.33E(1), and in such a case the submission of the delivery notification may be regarded as compliance with this rule.

Part 2: Sealing, seal verification and reporting of seal discrepancies

Seals and sealing of vehicles, containers and packages (sections 126 and 131)

- 5.5** (1) A seal affixed to a container must meet or exceed –
- (a) ISO International Standard (IS) 17712:2010, in the case of mechanical seals; and
 - (b) ISO International Standard (IS) 18185:2007, in the case of electronic seals.

Seal verification and reporting of seal discrepancies (section 131(a))

- 5.6** (1) A person who receives physical control of a container ~~laden with~~ **containing** goods not in free circulation must upon receipt of the container check whether –
- (a) the container is sealed; and
 - (b) the seal is intact or shows any signs of tampering.

(2) A person referred to in subrule (1) must in accordance with subrule (3) immediately report to the customs authority any seal on a container referred to in that subrule that –

- (a) is missing; or
- (b) shows signs of tampering.

(3) (a) A report referred to in subrule (2) must be submitted electronically through eFiling, subject to ~~paragraph (b)~~ **rule 41.33A**.

(b) If a report referred to in subrule (2) is submitted to the customs authority **in terms of rule 41.33A** in paper format, ~~in circumstances where submissions in paper format are permissible,~~⁴⁷⁰ the **report submission** must be –

⁴⁷⁰ See for instance section 913(4).

- (i) ~~on Form...as published as a rule on the SARS website;~~¹⁷¹ and
- (ii) ~~made~~ **submitted** to the Customs Office that serves the area where the goods are.

(4) A report referred to in subrule (2) must reflect the following information:

- (a) The **name and** customs code of the **person in physical control of the container;** ~~licensee submitting the report;~~
- (b) **if the report is submitted by a customs broker, registered agent or ordinary representative on behalf of the person in physical control of the container, the information specified in rule 41.33D;**¹⁷²
- (c) the name **or customs code** of **the person** ~~licensee~~ from whom the container was received;
- (d) the container number;
- (e) the date and time when **the** container was received;
- (f) a description of the seal discrepancy;
- (g) date and time the discrepancy was confirmed;
- (h) physical location of the container; **and**
- (i) the identification number of the replacement seal.

Affixing of replacement seals (*section 131(a)*)

5.7 (1) When a person referred to in rule **5.6(1)** establishes that a container seal is missing or tampered with, that person must affix a replacement seal on the container and record the new seal number in the report referred to in that rule.

(2) A seal referred to in **this subrule (1)** must be supplied and affixed by and at the risk and expense of –

- (a) a carrier **or person referred to in section 122(c) of the Control Act that transported** ~~transporting~~ the relevant container; or

¹⁷¹ See section 912(2) of the Control Act for manner of submission.

¹⁷² If the report is submitted by an ordinary representative in terms of section 920 of the Customs Control Act on behalf of the person who receives physical control of the container, submission of the report must comply with the additional requirements set out in Part 6 of Chapter 41 of these Rules. Note that the said Part 6 applies only to ordinary representatives which per definition excludes persons submitting documents as customs brokers or registered agents. It follows that Part 6 does not apply to customs brokers and registered agents that submit documents in that capacity.

- (b) the licensee of a container terminal or container depot where the relevant container is received or from where it is removed, or where it is packed, unpacked or loaded.

Records to be kept in relation to seals (section 131)

5.8 (1) A person affixing or replacing a security seal to the holding compartment of a vehicle or a container must, in accordance with section 919 of the Control Act, read with Part 5 of Chapter 41 of these Rules, keep record¹⁷³ in respect of each seal affixed or replaced by recording –

- (a) the identification number of the seal; and
- (b) in respect of each seal affixed or replaced-
- (i) the container number, in the case where the seal was affixed to or replaced on a container;
 - (ii) the transport name, in the case where the seal was affixed to or replaced on the holding compartment of a vehicle; and
 - (iii) the date when the seal was affixed or replaced.

~~(2) A person referred to in subrule (1) must in accordance with section 919 of the Control Act keep sealing records referred to in this rule for a period of five years calculated from the end of the calendar year in which any such record was created~~

~~(a) in a secure place on that person's business premises; and~~

~~(b) if that person is allowed in terms of section 919(2) to keep records in paper format, according to a filing system which enables quick access to information pertaining to specific goods or a specific transaction.~~

(2) Records must be produced or submitted to the customs authority on request subject to and in accordance with Part 7 of Chapter 41 of these Rules and within a timeframe stated in the request, or, if no timeframe is specified in such request, within one working days after the date of the request.

¹⁷³ Note that this recordkeeping requirement applies in addition to any other recordkeeping requirements contained in these Rule or a provision of the Control Act or a tax levying Act relating to licensees or registered persons.

~~(4) — A copy or computer printout of any record requested may subject to such conditions as the customs authority may determine, be submitted, and such a copy or printout may for purposes the Control Act and a tax levying Act be regarded to be the original record requested.~~

Sub (4) now incorporated in 41.33B

CHAPTER 6
TAX STATUS OF GOODS¹⁷⁴

¹⁷⁴ No rules required under this Chapter.

CHAPTER 7

STANDARD PROCESSES AND REQUIREMENTS FOR CLEARANCE AND RELEASE OF GOODS

Part 1: Completion and submission of clearance declarations

Form and format for clearance declarations (*section 167(3)*)

7.1 (a) A clearance declaration contemplated in section 164 (a) to (d)¹⁷⁵ of the Control Act must be submitted electronically through EDI or eFiling, subject to paragraph (b) rule 41.33A.

~~(b) If a clearance declaration is submitted in paper format by a person authorised by rule 7.3 to submit in paper format, or in any of the circumstances contemplated in section 913(4), submission must be on Form SAD500..... as published as a rule on the SARS website.~~

Additional information to be reflected on clearance declarations (*section 167(1)(k)*)

7.2 In addition to the information listed in section 167(1)(a) to (j) of the Control Act, a clearance declaration must reflect –

- (a) the message function;
- (b) the number of any invoice issued in respect of the goods;
- (c) the transport mode; and
- (d) the date of arrival, in the case of imported goods;
- (e) if the clearance declaration is intended to serve as –
 - (i) an application to clear a specific parcel, container or consignment on incomplete or provisional information, an indication to that effect;
 - (ii) an application for a refund in terms of rule 4.2 of the Customs Duty Rules, a refund indicator code;
 - (iii) a notification of intent to claim a drawback in terms of rule 4.4 of the Customs Duty Rules, the drawback item number; or
 - (iv) an application for registration as a casual importer or exporter, an indication to that effect; and

¹⁷⁵ For clearance declarations contemplated in section 164(1)(e), refer to Chapter 24.

(f) a prior authorisation indicator, in the case of a provisional or incomplete clearance declaration submitted on authority of a formal application to clear goods on incomplete or provisional clearance information contemplated in rule **24.3**;

(f) any other information required for specific purposes by these Rules.

Categories of persons who may submit clearance declarations **in paper format manually** (section 168(1))

- 7.3** ~~(1)~~ A clearance declaration contemplated in section 164(a) to (d) of the Control Act may be submitted in paper format by a person who is not accredited if –
- (a) the person submitting the declaration submits 10 or less clearance declarations per calendar month; or
 - (b) the clearance declaration does not exceed 10 consignment lines.

Completion of **clearance** declarations

7.4. **(1)** When completing ~~and submitting~~ a clearance declaration the person clearing the goods must **have regard to the Declaration Completion Manual as published on the SARS website** ~~comply with Part 5 of this Chapter~~.

(2) The valuation method used for determining the customs value of goods being cleared must be indicated on the clearance declaration by inserting one of the following symbols, as may be applicable, in the appropriate space on the declaration:¹⁷⁶

- (a) “1”, if the primary valuation method as contemplated in section 127 of the Customs Duty Act was used;
- (b) “2”, if the identical goods method as contemplated in section 128(1)(a) of the Customs Duty Act was used;
- (c) “3”, if the similar goods method as contemplated in section 128(1)(b) of the Customs Duty Act was used;
- (d) “4”, if the deductive method as contemplated in section 128(1)(c) of the Customs Duty Act was used;

¹⁷⁶ See section 116(2)(a) of the Customs Duty Act.

(e) “5”, if the computed method as contemplated in section 128(1)(d) of the Customs Duty Act was used; or

(f) “6”, if the fall-back method as contemplated in section 128(1)(e) of the Customs Duty Act was used.

(3) Any family, personal, employment or business relationship between the buyer and seller must be indicated on the clearance declaration by inserting one of the following symbols, as may be applicable, in the appropriate space on the declaration:¹⁷⁷

(a) “R”, if related within the meaning of section 130 of the Customs Duty Act; or

(b) “N”, if not related within the meaning of that section.

Part 2: Rules relating to supporting documents for clearance of goods

Supporting documents for manual clearances (*section 168(2) read with section 176*)

7.5 A person submitting a clearance declaration in paper format as contemplated in section 168(2) of the Control Act or in any of the circumstances contemplated in section 913(4)(a)(ii) or (b) must at the Customs Office where, and at the time when, the clearance declaration is submitted, have available with him or her for production or submission to the customs authority if such production or submission is requested, all supporting documents relevant to that clearance declaration.

Contents of clearance instruction of principal (*section 176(1)(c)*)

7.6 (1) A clearance instruction referred to in section 176(1)(c) of the Control Act used in support of a clearance declaration or an amended clearance declaration submitted by a customs broker must reflect at least the following information:

(a) The name and customs code ~~and the identity number or passport number~~ of the principal issuing the instruction and, if the principal is an individual, the identity document or passport number of that individual;

~~(b) a description of the goods to which the instruction relates;~~

¹⁷⁷ See section 116(2)(b) of the Customs Duty Act.

- (b) whether the goods are to be cleared for a specific customs procedure or for home use;
- (c) the origin of the goods;
- (d) any origin determination applicable to the goods;
- (e) the tariff heading, or a precise description of the goods on which the tariff classification of the goods may be determined;
- (f) any tariff determination applicable to the goods;
- (g) the price paid or payable for the goods;
- (h) the quantity of the goods;
- (i) the customs valuation method used;
- (j) any the-value determination applicable to the goods;
- (k) any advance ruling applicable to the goods;
- (l) the destination of the goods;
- (m) the trade agreement, if any, under which the goods are to be cleared;
- (n) the GSP, if any, under which the goods are to be cleared;
- (o) the tax method of payment of any tax method to be used; and
- ~~(n) the Financial Account Number (FAN), if applicable.~~
- (p) any other information required for specific purposes by these Rules.

(2) A clearance instruction reflecting the information listed in subrule (1) must support every amendment of a clearance declaration submitted by a customs broker.

Customs Control Act, 2014, to be amended to provide for simplified clearance instructions and clearance instructions covering clearances for specific period.

Notifications in respect of change of particulars on or circumstances relating to invoices (*sections 177(4) and 178(5)(a)*)

7.8 (1) Submission of an amended clearance declaration reflecting the particulars as changed, must for purposes of sections 177(4) and 178(5)(a) of the Control Act be regarded to be a notification to the customs authority as required in terms of those sections.

(2) An amended clearance declaration referred to in subrule (1) must, if applicable, be supported by –

- (a) the amended invoice or a debit or credit note;
- (b) a statement contemplated in section 178(5); and
- (c) any other document providing evidence of the change in particulars or circumstances.

Part 4: Recordkeeping

Keeping of information ~~in respect of~~ supporting clearance declarations (*section 179(a)*)

7.9 Documents and records ~~in respect of a clearance~~ referred to in section 179 of the Control Act must, ~~subject to subrule (2),~~ be kept and retained in accordance with section 919, read with Part 5 of Chapter 41 of these Rules. ~~—~~

- ~~(a) — for a period of five years after the date of clearance of the goods;~~
- ~~(b) — in a secure place on that person's business premises; and~~
- ~~(c) — according to a filing system which enables quick access to information pertaining to specific goods or a specific transaction.~~

~~(2) — A person authorised in terms of rule 7.3 to submit clearance declarations in paper format, or a person allowed in terms of section 919 to use a paper based record keeping system, may keep documents referred to in subrule (1) according to an appropriate paper based record keeping system conforming with the requirements set out in paragraphs (a) to (c) of that subrule.~~

Documents or records to be produced or submitted to Customs on request (*section 179(b)*)

7.10 ~~(4)~~ A person clearing goods must produce or submit a document or record referred to in section 176 of the Control Act to the customs authority on request, subject to and in accordance with Part 7 of Chapter 41 of these Rules ~~within the timeframe specified in a request in terms of section 179(b), or if no timeframe is specified in such request, within one working days after the date of the request.~~

~~(2) — A copy or a computer printout of a document or record requested may with the permission of the customs authority and subject to such conditions as the customs authority may determine, be submitted and such a copy or printout may for purposes of the Control Act and a tax levying Act be regarded to be the original document or record requested.~~

Sub (2) now incorporated in rule 41.33B.

~~Part 5:~~

CHAPTER 8 HOME USE OF GOODS

Measurement of CTC's¹⁷⁸ (section 191)

8.1 (1) The quantity of a CTC imported from each supplier during an accounting period¹⁷⁹ must be determined by –

- (a) taking a measurement of the CTC transported through the pipeline or transmitted through the transmission line at the start and at the end of every accounting period; and
- (b) subtracting the start value from the end value.

(2) Measurements referred to in subrule (1)(a) must be taken only at the place and in accordance with the method indicated in the importer's registration certificate issued in terms of section 611 of the **Customs** Control Act.

(3) The quantity of the CTC measured as contemplated in subrule (1) must be regarded to be the quantity of the CTC imported into the Republic, if the CTC is imported directly to the place where the measurement takes place.

Clearance of CTC's (sections 191 and 90(1)(e) and (f))

8.2 (1) Only the following persons may submit clearance declarations to clear a CTC for home use:

- (a) A registered importer of a CTC;
- (b) **the registered agent of an exporter of a CTC not located in the Republic;** or
- (c) a licensed customs broker duly authorised to submit a clearance declaration on behalf of a person referred to in paragraph (a) **or (b).**

(2) **(a)** A person referred to in subrule (1) must, **subject to paragraph (b),** within **the timeframe set out in rule 4.1 25 days after the end of each accounting period,** submit electronically through EDI **or eFiling, subject to rule 41.33A,** a regular clearance declaration for home use in respect of the quantity of a CTC imported

¹⁷⁸ See definition of "continuous transmission commodity" in rule 1.1.

¹⁷⁹ See definition of "accounting period" in rule 1.1.

during ~~that~~ **the relevant** accounting period, as determined in accordance with rule **8.4.**¹⁸⁰

~~(b) If a clearance declaration referred to in paragraph (a) is submitted to the customs authority in paper format, in circumstances where submissions in paper format are permissible,¹⁸¹ the submission must be on Form SAD 500 as published as a rule on the SARS website to the Customs Office that serves the area where the measurement of the CTC is taken.~~

(3) A separate clearance declaration must be submitted in respect of each supplier from whom a CTC was imported during the relevant period.

Information to be reflected on home use clearance declaration for CTC's

8.3 A clearance declaration for home use of a CTC contemplated in in rule **8.2** must reflect the following information:

- (a) The information listed in section 167 (a), (e) to (i) of the Control Act;
- (b) the information required in terms of section 190;
- (c) the date of measurement for purposes of the relevant accounting period;
- (d) the customs code of the cross-border transmission line or pipeline; and
- (e) any additional information that the customs authority may require.

Supporting documents for clearance of CTC's (section 191)

8.4 (1) A clearance for home use of a CTC must, in addition to the documents referred to in sections 176(1)(a), (c) and (d) of the Control Act, be supported by a summary of the accounting record referred to in rule **8.5(1)**; ~~if the customs authority so requests.~~

(2) An invoice relating to the import of a CTC must, in addition to the applicable information listed in section 177, also reflect –

- (a) the period to which the invoice relates;
- (b) the unit of measure and the number of units imported; **and**
- (c) the price per unit. ~~and~~

¹⁸⁰ Note that in terms of section 81(1)(a) of the Customs Duty Act the applicable rate of import duty is the rate applicable to the goods at the time when the goods are cleared for home use. For determination of time of clearance, see section 173 of the Control Act.

¹⁸¹ See for instance section 913(4).

~~(d) — the total price paid or payable in respect of the importation.~~

(3) ~~(a)~~ Supporting documents referred to in this rule must ~~on request and within the timeframe indicated in the request~~ be submitted to the customs authority ~~on request, subject to and in accordance with Part 7 of Chapter 41 of these Rules.~~ ~~electronically through EDI, subject to paragraph (b).~~

~~(b) — If supporting documents referred to in paragraph (a) are submitted to the customs authority in paper format in circumstances where submissions in paper format are permissible,⁴⁸² the submission must be made to the Customs Office that serves the area where the measurements are taken.~~

Recordkeeping *(section 192 read with 179)*

8.5 (1) A registered importer of a CTC must in accordance with section 919 of the Control Act, ~~read with Part 5 of Chapter 41 of these Rules,~~ keep full accounting records of any CTC imported into the Republic.

(2) Records referred to in subrule (1) include –

- (a) documents supporting the clearance of a CTC for home use, as required by section 176;
- (b) a record of each measurement of a CTC during each accounting period; and
- (c) any other records that may be necessary for determining the history of any transaction relating to the import of a CTC.

~~(3) — Records referred to in this rule must be kept —~~

~~(a) — for a period of five years calculated from the end of the calendar year in which any such document was created;~~

~~(b) — in a secure place on the importer's business premises; and~~

~~(c) — according to a filing system which enables quick access to information pertaining to a specific accounting period.~~

⁴⁸² See for instance section 913(4).

(4) This rule must be read subject to any provisions of the **Control** Act or a tax levying Act prescribing record-keeping requirements for persons who are licensees or registered **persons** in terms of the **Control** Act or a tax levying Act.

Records to be produced or submitted to Customs on request (*section 192 read with section 179*)

8.6 ~~(1)~~ An importer of a CTC who has been requested by a customs officer to produce or submit a record **or document to the customs authority, must submit or produce** such record **or document** ~~to the customs authority~~ **subject to and in accordance with Part 7 of Chapter 41 of these Rules** ~~within the timeframe specified in the request, or if no timeframe is specified in such request, within one working days after the date of the request.~~

~~(2) — A copy or a computer printout of any record requested may subject to such conditions as the customs authority may determine, be submitted and such a copy or printout may for purposes of the Act and a tax levying Act be regarded to be the original document or record requested.~~

Sub (2) now incorporated in rule 41.33B.

CHAPTER 9
NATIONAL AND INTERNATIONAL TRANSIT¹⁸³

Part 1: General provisions

Goods excluded from international transit procedure (*section 194(3)*)

9.1 The international transit procedure is not available for ~~the following categories of goods:~~ (a) **imported** cigarettes in containers bearing the identification mark referred to section 54(2) of the Excise Duty Act, 1964.

~~(b) ...~~

~~(c) ...~~

Customs seaports and airports for international transit purposes (*section 198*)

9.2 (1) Goods may only be off-loaded from or loaded onto foreign-going vessels under the international transit procedure at the following customs seaports:

- (a) Cape Town;
- (b) Durban;
- (c) East London;
- (d) Mossel Bay;
- (e) Port Elizabeth;
- (f) Port of Ngqura;
- (g) Richards Bay; and
- (h) Saldanha Bay.

(2) Goods may only be off-loaded from or loaded onto aircraft under the international transit procedure at the following customs airports:

- (a) Cape Town International Airport;
- (b) King Shaka International Airport; and
- (c) OR Tambo International Airport.

Use of other documents as transit clearance declarations for postal articles
(*section 203*)

¹⁸³ Transit includes the transport of goods by sea, after the goods have been off-loaded from the importing vessel. In the 1964 Act this type of transport was dealt with as "coastwise carriage".

9.3 (1) An air cargo transfer manifest may, for purposes for section 203 of the Control Act, serve or be submitted as a transit clearance declaration.

(2) An air cargo transfer manifest referred to in subrule (1) must reflect the following minimum information:

- (a) The air waybill number;
- (b) the name of the customs airport where the goods are transferred;
- (c) the name of the transferring carrier;
- (d) the name of the receiving carrier;
- (e) the name of airport of destination indicated on the air waybill;
- (f) the number of packages; and
- (g) the weight of the packages and unit of measurement.

(3) This rule takes effect on the date on which Chapter 22 of the Control Act takes effect.¹⁸⁴

Part 2: Transit operations

Commencement and completion periods for transit operations (section 206)¹⁸⁵

9.4 (1) The commencement period for a transit operation contemplated in section 206(1) of the Control Act is –

- (a)** seven calendar days from release of the goods for transit in the case of –
 - (i)** goods that must be containerised for export at a container depot;
 - (ii)** bulk cargo;
 - (iii)** break bulk cargo; and
 - (iv)** goods transported in abnormal loads; or
- (b)** three calendar days from the release of the goods for transit in the case of containerised cargo.

(2) **(a)** Subject to paragraph (b), the completion period for –

¹⁸⁴ See section 943 of the Control Act which provides for implementation of the postal provisions at a later date.

¹⁸⁵ Note that a transit operation ends when the goods under transit reach the delivery point. This must be distinguished from the completion of a transit procedure which ends when goods are cleared for another permissible customs procedure or home use (in the case of national transit procedure), or when goods are exported (in the case of international transit procedure).

- (ai) a national transit operation as contemplated in section 206(2) is two **calendar** days from commencement of the transit operation; and
- (bii) an international transit operation as contemplated in section 206(3) is three **calendar** days from commencement of the transit operation.

(b) The completion period for a national or international transit operation involving goods transported in abnormal loads is seven calendar days from commencement of the transit operation.

Notification of failures to comply with commencement and completion periods referred to in rule 9.4

9.4A (1) (a) A notification ~~contemplated in~~ **of failure to comply with a commencement or completion period as required in terms of** section 206(4) of the Control Act must be submitted to the customs authority¹⁸⁶ electronically through eFiling, subject to ~~paragraph (b)~~ **rule 41.33A, not later than three hours after the failure has occurred.**

(b) If a notification referred to in paragraph (a) is submitted to the customs authority in **terms of rule 41.33A in** paper format, ~~in circumstances where submissions in paper format are permissible,~~¹⁸⁷ ~~the submission notification must be on Form... as published as a rule on the SARS website~~ **submitted** to the Customs Office that serves the area where the starting point of the transit operation is situated.

(2) A notification in terms of this rule must reflect the following information:

- (a) The customs code ~~of the licensee~~ of the customs controlled area where the transit operation was ~~supposed~~ **intended** to have commenced or ended;
- (b) if the notification is submitted by a customs broker or ordinary representative on behalf of the licensee of the customs controlled area referred to in paragraph (a), the information specified in rule 41.33D;¹⁸⁸**

¹⁸⁶ This notification must in terms of section 206(4) of the Control Act be submitted by the licensee of the customs controlled area where the transit operation commences or ends, as the case may be.

¹⁸⁷ See for instance section 913(4).

¹⁸⁸ If the notification is submitted on behalf of a licensee by an ordinary representative in terms of section 920 of the Customs Control Act, the notification must comply with the additional requirements set out in Part 6 of Chapter 41 of these Rules. Note that the said Part 6 applies only to ordinary representatives which per definition excludes persons submitting documents as customs brokers. It follows that Part 6 does not apply to customs brokers that submit documents in that capacity.

- (c) the MRN—movement reference number of the transit clearance declaration under which the goods are transported;
- (d) the name or customs code of the licensed carrier responsible for carrying out the transit operation;
- (e) whether the failure was in relation to –
 - (i) a commencement period contemplated in rule 9.4(1)(a) or (b); or
 - (ii) a completion period contemplated in rule 9.4(2)(a) or (b); and
- (e) the reason for the failure, which may be motivated in a separate supporting document submitted together with the notification subject to and in accordance with Part 7 of Chapter 41 of these Rules.

Limitations on routes for transit operations (section 207)

9.5 (1) Road routes for purposes of section 207(1) of the Control Act are limited to national roads as envisaged in the South African National Roads Agency Limited and National Roads Act, 1998 (Act No. 7 of 1998).

(2) Subrule (1) does not preclude a carrier from using a road which is not a national road –

(a) in order to –

- (i) gain access to the nearest a national road when travelling from the starting point of a transit operation; or
- (ii) to reach a delivery point of a transit operation after travelling on a national road; or

(b) in the event of a road closure affecting a national road referred to in subrule (1).

Procedure for obtaining permission to redirect goods from starting point or to delivery point of transit operation (section 208)

9.6 (1) If a person intends to redirect goods under a transit operation as contemplated in section 208 of the Control Act, that person must apply to an application for the customs authority's for permission for the redirection of the goods must be submitted in accordance with rule 4.175.4A.

(2) Rules 5.4B and 5.4C apply to the delivery and receipt of goods at a place to which goods are redirected under permission granted in terms of subrule (1).

Technical specifications for holding compartments of vehicles or containers used in transit of goods (*section 210*)

9.7 (1) A holding compartment of a vehicle or a container used in the transit of goods must conform to the following technical specifications:

- (a) It must be possible to affix a security seal to the holding compartment of the vehicle or the container in an easy and effective manner;
- (b) doors and all other closing systems of the holding compartment or the container must be –
 - (i) fitted with a device, secured by at least two bolts, riveted or welded to the nuts on the inside of the door or closing system, which enables easy and effective sealing of the holding compartment or the container; and
 - (ii) constructed in a manner covering all interstices and ensuring complete and effective closure;
- (c) screws, bolts, hinge-pins and other fasteners must be welded to the outer parts of the hinges for a door and any other closing system of the holding compartment of a vehicle or the container, so that the door or other closing system is incapable of being lifted off its hinge-pins once shut, unless the door or other closing system has a locking device which is inaccessible from the outside and which prevents the door or closing system from being lifted off its hinge-pins;
- (d) the holding compartment or the container must be constructed in such a way that no goods can be removed from or introduced into the holding compartment or container after it has been sealed, without obvious damage to the holding compartment or the container, or without breaking the seal;
- (d) there must be no concealed space in the holding compartment or the container where goods can be hidden;
- (e) any space, in the holding compartment or the container, including compartments, receptacles and other recesses, which are capable of holding goods are readily accessible for customs inspection;

- (f) the inside surface of any empty space formed by the different layers of the sides, floor or roof of the holding compartment or the container must be firmly fixed, solid, unbroken and incapable of being dismantled without leaving obvious traces of tampering; and
- (f) any opening made in the floor of the holding compartment or the container for technical purposes such as for lubrication and maintenance must be fitted with a cover capable of being fixed in such a way that the holding compartment or container is inaccessible from the outside.

(2) (a) The technical specifications specified in subrule (1) apply to refrigerator vehicles, furniture vehicles, road tankers and rail tankers in so far as it is possible to comply with those specifications taking into account the purpose of the vehicle.

(b) Any flange (filler cap), drain cock or manhole of a road or rail tanker must be constructed and equipped in such a manner to allow simple and effective customs sealing.

(3) Goods released by the customs authority for transit on vehicles in unenclosed holding compartments may be transported only in accordance with any conditions subject to which such release was given.

~~Endorsement of new carrier's transport document or road manifest with previous vehicle or container details. Transfer of goods in transit to another vehicle or container operated by another carrier~~ (section 211)¹⁸⁹

9.8 Rule 5.4 must be complied with when goods under a transit operation are transferred from one vehicle or container to another vehicle or container operated by another carrier.

~~Endorsement details contemplated in section 211(b)(i) of the Control Act must reflect at least~~

~~(a) the transport name of the previous vehicle in which the goods were transported, if applicable;~~

¹⁸⁹ ~~For notice of transfer of goods contemplated in section 211(a), see rules 29.X to 29.XX.~~

- (b) the number of the container in which the goods were previously transported, if applicable;
- (c) the identification number of any seal used on the holding compartment of the vehicle or container;
- (d) the customs code of the previous carrier; and
- (e) the number of the previous carrier's transport document or road manifest, as may be applicable.

Application for permission to interrupt transit operations to carry out activities in relation to goods in transit (section 213(1))

9.8A. (1) Application for permission to interrupt a transit operation for an activity contemplated in section 213(1) of the Control Act may, before commencement of the activity, be made by –

- (a) the carrier responsible for the transit operation;
- (b) the registered agent of that carrier, if the carrier is not located in the Republic;
or
- (c) the person by or whose behalf the goods were cleared for transit.

(2) (a) An application referred to in subrule (1) must be submitted electronically through eFiling, subject to rule **41.33A**.

(b) If an application referred to in subrule (1) is submitted to the customs authority in terms of rule **41.33A** in paper format, the application must be submitted to the Customs Office that serves the area where the goods are.

(3) The application must reflect –

- (a) the name and customs code of the applicant or, if a carrier not located in the Republic is the applicant, the name or customs code of the carrier and the name and customs code of that carrier's registered agent;
- (b) if the application is submitted by a customs broker, registered agent or ordinary representative on behalf of the applicant, the information specified in rule **41.33D**;¹⁹⁰

¹⁹⁰ If the application is submitted by an ordinary representative in terms of section 920 of the Customs Control Act on behalf of the applicant, the application must comply with the additional requirements set out in Part 6 of

- (c) the movement reference number of the clearance declaration submitted in respect of the goods;
- (d) the transport name of the vehicle in which the goods are transported, if applicable;
- (e) the number of the container in which the goods are transported, if applicable;
- (f) the number of any seal used on the holding compartment of the vehicle or the container;
- (g) the transport document number, as applicable;
- (h) the purpose for which the transit operation is to be interrupted;
- (i) the reason why the transit operation is to be interrupted for that purpose, which may be motivated in a separate supporting document submitted together with the application subject to and in accordance with Part 7 of Chapter 41 of these Rules; and
- (j) the place where and the time when the activity will be carried out.

Format of road manifest to be kept by road carrier (section 214)

9.9— A road manifest referred to in section 214(1) of the Control Act must be kept in paper format and contain road manifest information.¹⁹⁴

Section 214 has been repealed in TALAB, 2015.

Requirements relating to completion procedures for transit operations (section 216)

9.10— (1) If the customs authority in terms of section 216(1)(a) of the Control Act requests proof of the completion of a transit operation from the carrier who carried out the transit operation or the person who cleared the goods for transit, proof as prescribed in terms of rule 9.11 must within two working days of the date of the request be submitted to the customs authority electronically through eFiling, subject to subrule (2).

(2) If proof of completion of a transit operation is submitted to the customs authority in paper format in circumstances where submission in paper format is

Chapter 41 of these Rules. Note that the said Part 6 applies only to ordinary representatives which per definition excludes persons submitting documents as customs brokers or registered agents. It follows that Part 6 does not apply to customs brokers and registered agents who submit applications in that capacity.

¹⁹⁴ See definition of “road manifest information” in rule 1.1.

permissible,¹⁹² such submission must be to the Customs Office that serves the area where the transit operation commenced.

(3) If the delivery point of goods transported by road under an international transit operation is a land border post where the goods are to be exported, the on-board operator must upon arrival at the land border post present the international transit release notification to the customs authority at that land border post.

Delivery notifications by carriers carrying out transit operations

9.10A (1) A carrier carrying out a transit operation must upon delivery of the goods at the delivery point comply with rule **5.1B**.

(2) If goods are transported by road or rail under an international transit operation, the carrier must within three hours of arrival of the goods at the land border post or rail border crossing where the goods are exported comply with rule **5.1B** as if that land border post or rail border crossing is the delivery point for the purpose of the transit operation.

Documents that constitute proof of completion of transit operations (section 216(2))

9.11 Proof of the completion of a transit operation for purposes of section 216(2) of the Control Act is constituted by a carrier's **delivery notification notice of delivery of goods** referred to in rule **29.XX9.10A**.

Receipt notifications by licensees of customs controlled areas constituting delivery points (section 903(1)(c) and (d))

9.11A (1) The licensee of a customs controlled area which is the delivery point for goods under a transit operation, must within three hours of receipt of the transit goods at the delivery point,¹⁹³ notify the customs authority of the receipt of the goods electronically through eFiling.

¹⁹² See for instance section 216(2)(c) and section 913(4).

¹⁹³ See rule **41.10B**

(2) A receipt notification referred to in subrule (1) must reflect the following information:

(a) The name and customs code of the carrier that delivered the goods at the delivery point or, in the case of a non-local carrier, the name or customs code of the carrier and the name and customs code of the carrier's registered agent;

(b) the customs code of the customs controlled area which is the delivery point for the goods;

(c) if the notification is submitted by a customs broker or ordinary representative on behalf of the licensee of the customs controlled area which is the delivery point for the goods, the information specified in rule 41.33D;¹⁹⁴

(d) the date and time of receipt of the goods at the delivery point;

(e) the movement reference number¹⁹⁵ of the transit clearance declaration;

(f) in the case of non-containerised goods -

(i) confirmation that the goods received at the delivery point correspond in class or kind with the goods described in the release notification issued in respect of the goods; and

(ii) the quantity delivered;

(g) in the case of containerised goods -

(i) confirmation -

(aa) that the container and seal numbers of the container or containers received at the delivery point correspond with the container and seal numbers on the release notification; and

(bb) that the seal on the container or on each container received is intact;¹⁹⁶ and

(ii) the quantity of containers received;

(h) if no confirmation referred to in paragraph (f)(i) or (g)(i) can be given, the reason why confirmation cannot be given, which may be motivated in a

¹⁹⁴ If the notification is submitted in terms of section 920 of the Customs Control Act by an ordinary representative on behalf of the licensee, the notification must comply with the additional requirements set out in Part 6 of Chapter 41 of these Rules. Note that the said Part 6 applies only to ordinary representatives which per definition excludes persons submitting documents as customs brokers. It follows that Part 6 does not apply to customs brokers that in that capacity submit receipt notifications on behalf of licensees.

¹⁹⁵ See definition of "movement reference number" in rule 1.1.

¹⁹⁶ Note that any seal discrepancies must in terms of rule 5.6 be reported by a person who receives physical control of a container.

separate supporting document submitted together with the notification subject to and in accordance with Part 7 of Chapter 41 of these Rules.

Timeframe for export of goods under international transit (*section 217(2)*)

9.12 The timeframe that must be applied for purposes of section 217(2) of the Control Act for the export of goods under international transit is ten **calendar** days, calculated from commencement of the international transit operation.

Proof of export of goods under international transit (*section 217 (3)(a)*)

9.13 (1) If the customs authority in terms of section 217(3)(a) of the Control Act requests proof from the person who cleared goods for international transit that the goods have been exported, proof as prescribed in terms of rule **9.14** must **within two working days of the request** be submitted to the customs authority **subject to and in accordance with Part 7 of Chapter 41 of these Rules** **electronically through eFiling,** **subject to subrule (2).**¹⁹⁷

(2) **Part 7 of Chapter 41 of these Rules, with any necessary changes the context may require, applies to any proof submitted in terms of subrule (1).**

(3) If proof of export of goods is submitted to the customs authority **in terms of rule 41.33A** in paper format, **in circumstances where submissions in paper format are permissible,**¹⁹⁸ such **submission proof** must be **submitted** to the Customs Office that serves the area where the international transit operation commenced.

Documents that constitute proof of export¹⁹⁹ (*section 217(3)*)

9.14 (1) The following documents **are acceptable** **may serve** as proof for purposes of section 217(3)(a) of the Control Act that goods were exported:

(a) For export by sea, a shipped on board bill of lading;

¹⁹⁷ **If the proof is submitted in terms of section 920 of the Control Act by an ordinary representative on behalf of the person who cleared the goods, the submission must comply with the additional requirements set out in Part 6 of Chapter 41 of these Rules. Note that the said Part 6 applies only to ordinary representatives which per definition excludes persons submitting documents as customs brokers or registered agents. It follows that Part 6 does not apply to customs brokers and registered agents who submit proof in that capacity.**

¹⁹⁸ **See for instance section 216(2)(c) and section 913(4).**

¹⁹⁹ Proof contemplated in this rule will only be requested by the customs authority if the customs authority is not satisfied on cargo reporting information provided in terms of Chapter 3, that goods were loaded on board the means of transport on which it was to be exported from the Republic.

- (b) for export by air, an shipped on board air waybill endorsed to confirm loading of the goods on board the aircraft;
- (c) for export by rail, any document stamped and signed by the rail carrier, evidencing receipt of the goods by that carrier, including a rail consignment note; and
- (d) for export by road, a release notification stamped by customs.²⁰⁰

Transport of second hand vehicles in transit (section 218(a))

9.15 (1) Any imported second hand vehicles cleared for international transit by road must during the transit operation be carried on board a vehicle truck or trailer designed for the transport of vehicles.

(2) Any imported new vehicle may be transported in transit under its own power.

(3) For purposes of this rule "vehicle" means a motor car, bus, mini-bus, truck or motor cycle.

Part 3: Recordkeeping by licensed carriers and registered agents of non-local carriers

Additional rRecords to be kept by carriers in relation to transport of goods under national or international transit operations procedure (section 665(4)903(1)(g))

9.16 (1) In addition to the records to be kept by a A licensed carrier carrying out a national or international transit operation or, if the carrier is not located in the Republic, that carrier's registered agent, must in terms of section 665(4)903(1)(g) of the Control Act, read with Part 5 of Chapter 41 of these Rules, keep records must be kept of all goods in transit –

- (a) all goods received, transported, delivered, transferred or in any other way handled by the carrier in the Republic under the transit operation; and

²⁰⁰ Customs will only stamp a release notification in the event of a systems breakdown.

(b) any goods damaged, destroyed, lost or unaccounted for whilst under the control of the carrier in the Republic when carrying out the transit operation.

(2) Records must be produced or submitted to the customs authority on request, subject to and in accordance with Part 7 of Chapter 41 of these Rules.

NB. Part dealing with international transit of electricity to be inserted once amendments to Chapter 7 of the Control Act, 2014, enabling such transit has been finalised.

CHAPTER 10
EXCISE WAREHOUSE TRANSIT PROCEDURE

Part 1: Excise warehouse transit operations²⁰¹

Commencement and completion periods for excise warehouse transit operations (*section 229*)

10.1 (1) The commencement period for an excise warehouse transit operation contemplated in section 229(1) of the Control Act is **24 hours** -

(a) **seven calendar days from release of the goods for excise warehouse transit in the case of -**

(i) **bulk cargo; or**

(ii) **break bulk cargo;**

(b) **three calendar days from the release of the goods for excise warehouse transit in the case of containerised cargo.**

(2) (a) **Subject to paragraph (b),** the completion period for an excise warehouse transit operation contemplated in section 229(2) is two **calendar** days from the commencement of the excise warehouse transit operation.

(b) **The completion period for an excise warehouse transit operation involving goods transported in abnormal loads is seven calendar days from commencement of the transit operation.**

Persons other than carriers who may permitted to carry out excise warehouse transit operations (*section 239(b) read with section 231*)

10.9 An excise warehouse transit operation may, **in addition to a licensed carrier referred to in section 231 of the Control Act,** also be carried out by –

(a) the licensee of an excise manufacturing warehouse, in the case of goods cleared for excise warehouse transit to that excise manufacturing warehouse;
or

²⁰¹ It is to be noted that a pipeline used for discharging liquid goods from vessels to a warehouse are licensed as part of an excise warehouse in terms of the Excise Duty Act, and therefore this movement does not constitute excise warehouse transit.

- (b) the licensee of a storage warehouse, in the case of an excise warehouse transit operation commencing at that storage warehouse.

Notification of failure to comply with commencement or completion periods
(section 229)

10.2 (1) (a) **Notice** A notification of failure to comply with a commencement and or completion period as required in terms of section 229(3) of the Control Act must be submitted to the customs authority²⁰² electronically through eFiling, subject to paragraph (b) rule 41.33A, not later than three hours after the failure occurred.

(b) If a notice notification referred to in paragraph (a) is submitted to the customs authority in terms of rule 41.33A in paper format, in circumstances where submissions in paper format are permissible,²⁰³ submission the notification must be —

(i) — on Form.....as prescribed as a rule on the SARS website; and

(ii) — made submitted to the Customs Office that serves the area where the goods are starting point of the excise warehouse transit operation is situated.

(2) A notice notification referred to in subrule (1) must reflect the following information:

(a) The customs code of the customs controlled area where the transit operation was intended to have commenced or ended;

(b) if the notification is submitted by a customs broker or ordinary representative on behalf of the licensee of the customs controlled area referred to in paragraph (a), the information specified in rule 41.33D;²⁰⁴

(c) the movement reference number of the excise transit clearance declaration under which the goods are transported;²⁰⁵ indicated on the clearance declaration in relation to the goods;

²⁰² This notification must in terms of section 206(4) of the Control Act be submitted by the licensee of the customs controlled area where the transit operation commences or ends, as the case may be.

²⁰³ See section 913(4) of the Control Act.

²⁰⁴ If the notification is submitted on behalf of a licensee by an ordinary representative in terms of section 920 of the Customs Control Act, the notification must comply with the additional requirements set out in Part 6 of Chapter 41 of these Rules. Note that the said Part 6 applies only to ordinary representatives which per definition excludes persons submitting documents as customs brokers. It follows that Part 6 does not apply to customs brokers that submit notifications in that capacity.

²⁰⁵ See definition of “movement reference number” in rule 1.1.

- (d) the **name or** customs code of the carrier **or warehouse licensee** responsible **for carrying out the excise warehouse transit operation;**
- ~~(e) a description of the goods;~~
- ~~(d) the physical location of the goods;~~
- ~~(e) the date when the transit operation should have commenced or should have been completed, as the case may be;~~
- (e) whether the failure was in relation to –
 - (i) a commencement period contemplated in rule **10.1(1)(a)** or (b); or
 - (ii) a completion period contemplated in rule **10.1(2)(a)** or (b); and
- (f) the reason for the failure, **which may be motivated in a separate supporting document submitted together with the notification subject to and in accordance with Part 7 of Chapter 41 of these Rules.** ~~to comply with the commencement or completion period; and~~
- ~~(g) whether the commencement or completion period had previously been extended in terms of section 908.~~

Procedure for obtaining permission to redirect goods from starting point or to delivery point of excise warehouse transit operation (*section 230*)

10.3 (1) If a person intends to redirect goods under an excise warehouse transit operation to another destination as contemplated in section 230 of the Control Act, ~~that person must apply to~~ **an application for** the customs authority's **for** permission for the redirection of **the** goods **must be submitted** in accordance with rule **4.175.4A**.

(2) **Rules 5.4B and 5.4C apply to the delivery and receipt of goods at a place to which goods are redirected under permission granted in terms of subrule (1).**

Routes for transport of goods in transit to licensed excise manufacturing warehouses (*section 231(3)(c)*)

10.4 (1) Goods transported by road under an excise warehouse transit operation may only be transported on national roads as envisaged in the South African National Roads Agency Limited and National Roads Act, 1998 (Act No. 7 of 1998).

- (2) Subrule (1) does not preclude a carrier **or other licensee carrying out the transit operation** from using a road which is not a national road –
- (a) in order to –
- (i) gain access to a national road when travelling from the starting point of an excise transit operation; or
- (ii) to reach a delivery point of an excise transit operation after travelling on a national road contemplated in that subrule; or
- (b) in the event of a road closure affecting a national road referred to in subrule (1).**

Technical requirements of vehicles or containers used in excise warehouse transit operations (*section 232*)

10.5 A vehicle or container used in an excise warehouse transit operation must comply with the requirements set out in rule **9.7**.

Notices of Transfer of goods in excise warehouse transit to other vehicle or container operated by other carrier and endorsement of new carrier's transport document or road manifest (*section 233*)

10.6 Rule **5.4** **applies** **must be complied with** when goods under an excise warehouse transit operation are transferred from one vehicle or container to another **vehicle or container operated by another carrier**.

Format of road manifest to be kept by road carrier (*section 235(2)(a)*)

10.7 A road manifest referred to in section 235(2)(a) of the Control Act must reflect road manifest information²⁰⁶ and be kept in paper format.

Section 235 of the Customs Control Act has been repealed in TALAB 2015.

Delivery notifications by carriers and warehouse licensees carrying out excise warehouse transit operations

10.7A (1) A carrier carrying out an excise warehouse transit operation must upon delivery of the goods at the delivery point comply with rule **5.1B**.

²⁰⁶ Please see definition of "road manifest information".

(2) A warehouse licensee referred to in rule 10.9(a) or (b) carrying out an excise warehouse transit operation must upon delivery of the goods at the delivery point, within three hours of delivery of the goods,²⁰⁷ notify the customs authority of the delivery of the goods, electronically through eFiling.

(3) A delivery notification in terms of subrule (2) must reflect the following information:

(a) The name and customs code of the warehouse licensee referred to in rule 10.9(a) or (b) carrying out the excise warehouse transit operation;

(b) if the notification is submitted by a customs broker or ordinary representative on behalf of the warehouse licensee referred to in paragraph (a), the information specified in rule 41.33D;²⁰⁸

(c) the movement reference number²⁰⁹ of the excise warehouse transit clearance declaration under which the goods were transported;

(d) the date and time of delivery of the goods at the excise manufacturing warehouse;

(e) the customs code of the excise manufacturing warehouse;

(f) in the case of non-containerised goods -

(i) confirmation that the goods delivered at the excise warehouse correspond in class or kind with the goods described in the release notification issued in respect of the goods; and

(ii) the quantity delivered;

(g) in the case of containerised goods -

(i) confirmation -

(aa) that the container and seal numbers of the container or containers delivered at the excise warehouse correspond with the container and seal numbers on the release notification; and

(bb) that the seal on the container or on each container delivered is intact;²¹⁰ and

²⁰⁷ See rule 41.10B

²⁰⁸ If the notification is submitted in terms of section 920 of the Customs Control Act by an ordinary representative on behalf of a warehouse licensee, the notification must comply with the additional requirements set out in Part 6 of Chapter 41 of these Rules. Note that the said Part 6 applies only to ordinary representatives which per definition excludes persons submitting documents as customs brokers. It follows that Part 6 does not apply to customs brokers that in that capacity submit delivery notifications on behalf of warehouse licensees.

²⁰⁹ See definition of "movement reference number" in rule 1.1.

- (ii) the quantity of containers delivered; and
- (h) if no confirmation referred to in paragraph (f)(i) or (g)(i) can be given, the reason why confirmation cannot be given, which may be motivated in a separate supporting document submitted together with the notification subject to and in accordance with Part 7 of Chapter 41 of these Rules.

Receipt notifications by licensees of excise manufacturing warehouses when goods are delivered at excise warehouses (section 903(1)(c))

10.7B (1) The licensee of an excise manufacturing warehouse must within three hours of the receipt of goods²¹¹ delivered at the warehouse under an excise warehouse transit operation, notify the customs authority of the receipt of the goods, electronically through eFiling.

(2) A receipt notification referred to in subrule (1) must reflect the following information:

- (a) The name or customs code of the carrier or warehouse licensee referred to in rule 10.9(a) or (b) that delivered the goods at the excise manufacturing warehouse;
- (b) the customs code of the excise manufacturing warehouse;
- (c) if the notification is submitted by a customs broker or ordinary representative on behalf of the warehouse licensee referred to in paragraph (a), the information specified in rule 41.33D;²¹²
- (d) the date and time of receipt of the goods at the excise manufacturing warehouse;
- (e) the movement reference number²¹³ of the excise warehouse transit clearance declaration under which the goods were transported;
- (f) in the case of non-containerised goods -

²¹⁰ Note that any seal discrepancies must in terms of rule 5.6 be reported by a person who receives physical control of a container.

²¹¹ See rule 41.10B

²¹² If the notification is submitted in terms of section 920 of the Customs Control Act by an ordinary representative on behalf of the excise warehouse licensee, the notification must comply with the additional requirements set out in Part 6 of Chapter 41 of these Rules. Note that the said Part 6 applies only to ordinary representatives which per definition excludes persons submitting documents as customs brokers. It follows that Part 6 does not apply to customs brokers that in that capacity submit receipt notifications on behalf of excise warehouse licensees.

²¹³ See definition of "movement reference number" in rule 1.1.

- (i) confirmation that the goods received at the excise warehouse correspond in class or kind with the goods described in the release notification issued in respect of the goods; and
 - (ii) the quantity received;
- (g) in the case of containerised goods -
- (i) confirmation -
 - (aa) that the container and seal numbers of the container or containers received at the excise warehouse correspond with the container and seal numbers on the release notification; and
 - (bb) that the seal on the container or on each container received is intact;²¹⁴ and
 - (ii) the quantity of containers received;
- (h) if no confirmation referred to in paragraph (f)(i) or (g)(i) can be given, the reason why confirmation cannot be given, which may be motivated in a separate supporting document submitted together with the notification subject to and in accordance with Part 7 of Chapter 41 of these Rules

(3) If the licensee of the excise warehouse where the goods were delivered, transported the goods to the warehouse, a delivery notification submitted by the licensee in terms of rule 10.7A(2) may be regarded as compliance with this rule and no separate receipt notification need to be submitted.

Proof of completion of excise warehouse transit operations (*section 237*)

10.8 (4) Proof of the completion of an excise warehouse transit operation for purposes of section 237(2) of the Control Act is constituted by –

- (a) if the transit operation was carried out by a carrier, a the carrier's delivery notification notice of delivery of goods referred to in submitted in terms of rule 29.XX5.1B, read with rule 10.7A(1); or
- (b) in the case of a person if the transit operation was carried out by a licensee referred to in rule 10.9(a) or (b), a goods received note delivery notification submitted in terms of rule 10.7A(2); or issued by the licensee of the excise manufacturing warehouse where the goods have been delivered.

²¹⁴ Note that any seal discrepancies must in terms of rule 5.6 be reported by a person who receives physical control of a container.

(c) a receipt notification submitted in terms of rule **10.7B**.

~~(2) (a) A goods received note contemplated in subrule (1)(b) must be submitted within two working days of the request by the customs authority to submit such proof electronically through eFiling, subject to paragraph (b).~~

~~(b) If proof of delivery is submitted to the customs authority in paper format, in circumstances where submissions in paper format are permissible,²⁴⁵ the submission must be made to the Customs Office that serves the area where the excise warehouse transit operation was completed.~~

Part 2: ~~Part 3: Recordkeeping~~ Records to be kept by licensed carriers and other licensees carrying out in relation to transport of goods under excise warehouse transit operations

~~Additional~~ Records to be kept by carriers in relation to transport of goods under excise warehouse transit operations procedure ~~(section 903(1)(g))~~

10.10 (1) A licensed carrier or a licensee referred to in rule 10.9(a) or (b) carrying out an excise warehouse transit operation must in accordance with terms of section ~~919~~903(1)(g) of the Control Act, read with Part 5 of Chapter 41 of these Rules, keep records of all goods transported under excise warehouse transit –

- (a) all goods received, delivered, transported or in any other way handled by that carrier or licensee under the excise transit operation; and
- (b) any goods damaged, destroyed, lost or unaccounted for whilst under the control of that carrier or licensee when carrying out the excise warehouse transit operation.

~~(2) Records referred to in this rule must be kept for a period of five years calculated from the end of the calendar year in which any such record was created~~

~~(a) in a secure place on that person's business premises; and~~

²⁴⁵ See for instance section 913(4).

~~(b) — if that person is allowed in terms of section 919(2) to keep records in paper format, according to a filing system which enables quick access to information pertaining to specific goods or a specific transaction.~~

(2) Records must be produced or submitted to the customs authority on request, subject to and in accordance with Part 7 of Chapter 41 of these Rules and ~~within a timeframe stated in the request, or if no timeframe is specified in such request, within one working days after the date of the request.~~

~~(4) — A copy or computer printout of any record requested may, subject to such conditions as the customs authority may determine, be submitted, and such a copy or printout may for purposes the Control Act and a tax levying Act be regarded to be the original record requested.~~

Sub (4) now incorporated in rule 41.33B.

CHAPTER 11 TRANSHIPMENT PROCEDURE

“contact details” means the following information in relation to the person to which it relates:

- (a) business telephone number;
- (b) e-mail address; and
- (c) fax number;

“transshipment details” means the following information in relation to both the vessel or aircraft that transported the incoming transshipment cargo and the vessel or aircraft that is to transport the outgoing transshipment cargo:

- (a) The conveyance number;
- (b) the identity of the carrier;
- (c) the transport name;
- (d) the transport ID; and
- (e) the estimated time of arrival or departure, as the case may be;

Part 1: Introductory provisions

Limitation of customs seaports and airports for transshipment purposes (section 245(1))

11.1 (1) Customs seaports where goods may be transhipped as contemplated in –

- (a) section 241(2)(a) of the Control Act are limited to –
 - (i) Cape Town;
 - (ii) Durban;
 - (iii) East London;
 - (iv) Port Elizabeth;
 - (v) Port of Ngqura; and
 - (vi) Richards Bay; and
- (b) section 241(2)(b) are limited to the transfer of goods between the customs seaports Port Elizabeth and Port of Ngqura.

- (2) Customs airports where goods may be transhipped are limited to –
- (a) Cape Town International Airport;
 - (b) King Shaka International Airport;
 - (c) OR Tambo International Airport; and
 - (d) Port Elizabeth International Airport.

Part 2: Clearance and release of goods for transhipment²¹⁶

Timeframe for submission of transhipment clearance declarations (*section 248(2)(b)*)

11.2 (1) A transhipment clearance declaration to clear goods for transhipment or document contemplated in section 251 of the Control Act must be submitted –

- (a) in the case of transhipment goods on board a vessel, at least one calendar day before the vessel arrives at the customs seaport where the goods will be transhipped; or
- (b) in the case of transhipment goods on board an aircraft, at least two hours before the aircraft arrives at the customs airport where the goods will be transhipped.²¹⁷

(2) An advance notice referred to in rule 11.4(1)(a), (b) or (c) may serve as a transhipment clearance declaration as contemplated in section 251 only if the notice was submitted within the timeframe applicable to it in terms of rule 3.1(1), 3.5(1)(b) or 3.12(1), as the case may be.

~~Additional information for transhipment clearance declarations~~ (*section 249(1)(f)*)

~~11.3~~ A transhipment clearance declaration must in addition to the information contemplated in section 249(1) of the Control Act, reflect –

- ~~(a) the expected date of arrival of the foreign-going vessel or aircraft on board of which the goods are to be transported out of the Republic; and~~

²¹⁶ For provisions relating to the clearance for transhipment of prohibited or restricted goods, see section 775 and section 784(2)(b) of the Control Act, respectively.

²¹⁷ These timeframes may in a specific case be shortened in terms of section 909 of the Control Act.

~~(b) the expected date of departure of the foreign-going vessel or aircraft on board of which the goods are to be transported out of the Republic.~~

Use of other documents as transshipment clearance declarations (section 251)

11.4 (1) ~~Any of~~ the following documents ~~may, subject to rule 11.5, serve as a clearance declaration for the transshipment of goods as~~ contemplated in section 251 of the Control Act ~~may subject to rule 11.5, be used as a transshipment clearance declaration:~~

- (a) an advance loading notice of containerised cargo submitted in terms of rule 3.3(1), in the case of ~~sea~~ containerised cargo to be cleared for transshipment;
- ~~(b) an advance sea cargo arrival notice submitted in terms of rule 3.5, in the case of bulk or break bulk cargo to be cleared for transshipment; or~~
- (c) an advance air cargo arrival notice submitted in terms of rule 3.12, in the case of air cargo to be cleared for transshipment.

(2) A ~~transport document or advance notice referred to~~ document contemplated in subrule (1) must indicate that ~~the document it will serve is being used~~ as a transshipment clearance declaration.²¹⁸

(3) ~~No advance notice referred to in subrule (1) may serve as a transshipment clearance declaration unless the person submitting the notice²¹⁹ is - the cargo reporter or registered agent of a cargo reporter may submit a document contemplated in subrule (1), unless that cargo reporter or registered agent—~~

- ~~(a) is an accredited client in terms of Chapter 30 of the Control Act; or~~
- (a) ~~is a licensed carrier or customs broker~~ authorised in terms of that person's licence ~~or registration certificate~~ to ~~submit use~~ such ~~notices documents~~ as ~~transshipment~~ clearance declarations;²²⁰
- ~~(b) the registered agent of a non-local carrier²²¹ authorised in that agent's registration certificate to use such notices as transshipment clearance~~

²¹⁸ See rules 3.3(2), 3.5(2) and 3.12(2).

²¹⁹ Note the definition of "cargo reporter" in section 1 of the Control Act if this person submits the advance notice as a cargo reporter. The cargo reporter could either be the carrier who transports the cargo or the customs broker who arranged the transport of the cargo.

²²⁰ Carriers and customs brokers may apply for permission to make use of advance notices referred to in rule 11.4 as transshipment clearance declarations through their licensing applications. See rule 29.18(a)(ii) for carriers and rule 29.19(a)(ii) for customs brokers.

²²¹ See section 85 of the Control Act.

declarations;²²²

(c) a non-local carrier who has a registered agent authorised as contemplated in paragraph (b); or

(d) an accredited client in terms of Chapter 30 of the Control Act.

~~Other documents not~~ **Only regular clearance declarations** to be used **as transshipment clearance declarations** for transshipment between customs seaports served by ~~the~~ same Customs Office

11.5 A transport document or **advance notice document** referred to in rule 11.4(1) may not be used for the clearance of goods being transhipped as contemplated in section 241(2)(b) **of the Control Act**, and in such a case a **regular** transshipment clearance declaration referred to in section 249 must be submitted.

Submission of arrival report a precondition for release of goods for transshipment (*section 260*)

11.6 Submission of a vessel arrival report in terms of rule 3.6 or an aircraft arrival report in terms of rule 3.13, as may be applicable, is a precondition for the release of goods cleared for transshipment ~~by making use of~~ **if** a document referred to in rule 11.4(1) **(b), (c) or (d) is used for the clearance.**²²³

Part 3: Rules relating to transshipment operations

Notification of movement of transshipment goods between licensed premises at customs seaport or airport (*section 254(2)*)

11.7 Submission of an outturn report on containers removed from a sea cargo terminal referred to in rule 3.33(1) and (2) must, in the case of transshipment goods to be removed from a sea cargo terminal, be regarded to be a notification contemplated in section 254(2) of the Control Act.

Commencement and completion periods for transshipment operations and export of transshipment goods (*section 255*)

²²² Agents for non-local carriers may apply for permission to make use of advance notices referred to in rule 11.4 as transshipment clearance declarations through their registration applications. See rule 28.9(3)(i).

²²³ See section 101(1)(b) of the control Act.

11.8 (1) The period within which a transshipment operation must commence as contemplated in section 255(1) of the Control Act is **2472** hours from release of the goods for transshipment, **subject section 908 and 909 of the Control Act.**

(2) The period within which a transshipment operation must be completed as contemplated in section 255(2) of the Control Act is **seven 21** calendar days from commencement of the transshipment operation, **subject section 908 and 909 of the Control Act.**

Non-compliance with commencement or completion periods Notifications when transshipment operations are unlikely to commence within commencement period (section 256(1))²²⁴

11.9 (1) **(a)** A notification contemplated in -
(a) section 256(1)(a) ~~or (b) or (2)~~ of the Control Act must be submitted to the customs authority **before the commencement period for the transshipment operation applicable to the goods in terms of rule 11.8(1) expires; or**
(b) section 256(1)(b) must be submitted to the customs authority at regular intervals of 24 hours after submission of the notification referred to in paragraph (a).

(2) (a) A notification referred to in subrule (1)(a) or (b) must be **submitted** electronically through eFiling, subject to **rule 41.33A paragraph (b).**

(b) If **the** notification ~~referred to in paragraph (a)~~ is submitted to the customs authority **in terms of rule 41.33A** in paper format, ~~in circumstances where submissions in paper format are permissible,~~²²⁵ **the submission the notification** must be **submitted**-

~~(i) on Form ... as published as a rule on the SARS website; and~~

~~(ii) made~~ to the Customs Office that serves the customs seaport **or seaports** or **the customs** airport **or airports** where the goods are to be transhipped.

²²⁴ **In terms of section 256(1) of the Control Act the person clearing the goods for transshipment must submit these notifications. This person could in terms of section 248(1) either be the cargo reporter or the cargo reporter's registered agent in the Republic, or the cargo reporter or registered agent on whose behalf a customs broker has submitted the clearance declaration.**

²²⁵ ~~See section 913(4) of the Control Act.~~

(3) A notification referred to in subrule (1) must, in addition to the information required by, respectively, subsection (1)(a) or (b) ~~or (2)~~ of section 256, reflect –

- (a) the name and customs code of the person clearing the goods;
- (b) if the notification is submitted by a custom broker or ordinary representative on behalf of the person clearing the goods, the information specified in rule **41.33D**,²²⁶
- (c) the movement reference number²²⁷ of the transshipment clearance declaration;
- (d) the transport document number, if a transport document is used as a transshipment clearance declaration;
- (e) the reporting document number²²⁸ of the ~~document~~ **advance notice** referred to in rule **11.4(1)**, ~~in the case of other documents~~ **if an advance notice is** used as a transshipment clearance declaration; and
- (f) ~~in the case of –~~
 - (i) ~~a section 256(1)(a) or (b) notification, –~~
 - (aa) ~~the customs code of the person who cleared the goods for transshipment; and~~
 - (bb) the transport name²²⁹ and conveyance number²³⁰ in relation to the vessel or aircraft. ~~or~~
 - (ii) ~~a section 256(2) notification, the customs code of the licensed premises where the transshipment goods currently are.~~

Notification of failure to comply with completion periods (section 256(2))²³¹

11.9A (1) (a) A notification of a failure to comply with a completion period as required in terms of section 256(2) of the Control Act must be submitted to the customs authority electronically through eFiling, subject to rule **41.33A**, not later than three hours after the failure occurred.

²²⁶ If the notification is submitted in terms of section 920 of the Customs Control Act by an ordinary representative on behalf of the person clearing the goods, the notification must comply with the additional requirements set out in Part 6 of Chapter 41 of these Rules. Note that the said Part 6 applies only to ordinary representatives which per definition excludes persons submitting documents as customs brokers. It follows that Part 6 does not apply to customs brokers that submit notifications on behalf of such persons in their capacity as customs broker.

²²⁷ See the definition of “movement reference number” in rule 1.1.

²²⁸ See the definition of “reporting document number” in rule 1.1.

²²⁹ See the definition of “transport name” in rule 1.1.

²³⁰ See the definition of conveyance number in rule 1.1.

²³¹ This notification must in terms of section 256(2) of the Control Act be submitted by the licensee of the customs controlled area where the transit goods are in temporary storage or handled.

(b) If a notification referred to in paragraph (a) is submitted to the customs authority in terms of rule 41.33A in paper format the notification must be submitted to the Customs Office that serves the customs seaport or seaports or the customs airport or airports where the goods are to be transhipped.

(2) A notification referred to in subrule (1) must, in addition to the information required by, respectively, subsection (1)(a) or (b) or (2) of section 256, reflect –

(a) the name and customs code of the licensee of the customs controlled area where the transit goods are in temporary storage or handled;

(b) if the notification is submitted by a customs broker or ordinary representative on behalf of the licensee referred to in paragraph (a), the information specified in rule 41.33D;²³²

(c) the movement reference number²³³ of the transshipment clearance declaration;

(d) the transport document number, if a transport document is used as a transshipment clearance declaration;

(e) the reporting document number²³⁴ of the advance notice referred to in rule 11.4(1), if an advance notice is used as a transshipment clearance declaration.

Part 4: Other matters

Timeframe for export of transshipment goods (section 259(3))

11.10 The timeframe that must be applied for purposes of section 259(3) for the export of transshipment goods is **ten 21** calendar days **from the commencement of the transshipment operation, subject section 908 and 909 of the Control Act.**

²³² If the notification is submitted in terms of section 920 of the Customs Control Act by an ordinary representative on behalf of the licensee of the customs controlled area, the notification must comply with the additional requirements set out in Part 6 of Chapter 41 of these Rules. Note that the said Part 6 applies only to ordinary representatives which per definition excludes persons submitting documents as customs brokers. It follows that Part 6 does not apply to customs brokers that submit notifications on behalf of such licensees in their capacity as customs broker.

²³³ See the definition of “movement reference number” in rule 1.1.

²³⁴ See the definition of “reporting document number” in rule 1.1.

Notification of delay in exporting transshipment goods (section 259(3))²³⁵

11.11 (1) (a) A notification contemplated in -

(a) section 259(3)(a) ~~or (b)~~ of the Control Act must be submitted to the customs authority within three hours after the timeframe applicable to the export of the transshipment goods in terms of rule 11.10 has expired; or

(b) section 259(3)(b) must be submitted to the customs authority at regular intervals of 24 hours after submission of the notification referred to in paragraph (a).

(2) (a) A notification referred to in subrule (1)(a) or (b) must be submitted electronically through eFiling, subject to rule 41.33A ~~paragraph (b)~~.

(b) If the notification ~~referred to in paragraph (a)~~ is submitted to the customs authority in terms of rule 41.33A in paper format ~~in circumstances where submissions in paper format are permissible,~~²³⁶ ~~the submission~~ the notification must be submitted—

(i) ~~on Form ... as published as a rule on the SARS website; and~~

(ii) ~~made~~ to the Customs Office that has serves the customs seaport or seaports or the customs airport or airports where the goods are transhipped.

(2) A notification referred to in subrule (1) must, in addition to the information required by, respectively, subsection (3)(a) or (b) of section 259, reflect –

(a) the name and customs code of the person clearing the goods;

(b) if the notification is submitted by a custom broker or ordinary representative on behalf of the person clearing the goods, the information specified in rule 41.33D;²³⁷

(c) the movement reference number of the transshipment clearance declaration;

(d) the transport document number, if a transport document is used as a transshipment clearance declaration;

²³⁵ In terms of section 259(3) of the Control Act the person clearing the goods for transshipment must submit these notifications. This person could in terms of section 248(1) either be the cargo reporter or the cargo reporter's registered agent in the Republic, or the cargo reporter or registered agent on whose behalf a customs broker has submitted the clearance declaration.

²³⁶ See section 913(4) of the Control Act

²³⁷ If the notification is submitted in terms of section 920 of the Customs Control Act by an ordinary representative on behalf of the person clearing the goods, the notification must comply with the additional requirements set out in Part 6 of Chapter 41 of these Rules. Note that the said Part 6 applies only to ordinary representatives which per definition excludes persons submitting documents as customs brokers. It follows that Part 6 does not apply to customs brokers that submit notifications on behalf of such persons in their capacity as customs broker.

- (e) the reporting document number²³⁸ of the **document advance notice** referred to in rule 11.4(1), **in the case of other documents if an advance notice is** used as transshipment clearance declarations; and
- ~~(c) the customs code of the person who cleared the goods for transshipment;~~
- (f) the transport name²³⁹ and conveyance number²⁴⁰ in relation to the vessel or aircraft on board which the goods were loaded for export.

Proof of export of goods under transshipment (section 259(4))²⁴¹

11.12 (1) **(a)** ~~If the customs authority, as contemplated in terms of section 259(4)(a), requests proof from the person who cleared goods for transshipment that the goods have been exported, p~~Proof as prescribed in ~~terms of~~ rule 11.13 must, **for purposes of section 259(4)(a) of the Control Act, within two working days of the request** be submitted to the customs authority **on request** **electronically through eFiling, subject to subrule (2).**

(b) **Part 7 of Chapter 41 of these Rules applies with any necessary changes the context may require to the submission of proof referred to in paragraph (a).**

(2) If proof of export of goods is submitted to the customs authority **in terms of rule 41.33A** in paper format ~~in circumstances where submissions in paper format are permissible,~~²⁴² **such submission such proof** must be **made submitted** to the Customs Office that serves the customs seaport **or seaports** or **the customs airport or airports** where the goods were transhipped.

Documents that constitute proof of export²⁴³ (section 259(4))

11.13 The following documents ~~are acceptable~~ **may serve** as proof for purposes of section 259(4)(a) that transshipment goods were exported:

²³⁸ See the definition of "reporting document number" in rule 1.1.

²³⁹ See the definition of "transport name" in rule 1.1.

²⁴⁰ See the definition of "conveyance number" in rule 1.1.

²⁴¹ **In terms of section 259(4) of the Control Act the person clearing the goods for transshipment must provide proof of export of the transshipment goods. This person could in terms of section 248(1) either be the cargo reporter or the cargo reporter's registered agent in the Republic, or the cargo reporter or registered agent on whose behalf a customs broker has submitted the clearance declaration.**

²⁴² ~~See section 913(4) of the Control Act.~~

²⁴³ Proof contemplated in this rule will only be requested by the customs authority if it is not satisfied on cargo reporting information provided in terms of Chapter 3, that goods were loaded on board the means of transport on which it was to be exported from the Republic.

- (a) A shipped on board bill of lading, in the case of an export by sea; or
- (b) an ~~shipped on board~~ air waybill endorsed to confirm loading of the goods on board the aircraft, in the case of an export by air.

CHAPTER 12

TEMPORARY ADMISSION PROCEDURE

Definitions

12.1 In this Chapter –

“unit load device” or “ULD” means an aircraft container specially designed and equipped for containing goods for transport in the hold of an aircraft;

“packing material” means any materials or articles used, in the state in which those materials or articles are imported as reusable transport equipment, to pack, cover, protect, stow or separate goods being transported.²⁴⁴ **and**

“pallet” means a flat device on the deck of which goods are assembled to form a unit load for the purpose of transporting, handling or stacking the goods with the assistance of mechanical appliances.

Extent to which standard provisions relating to supporting documents apply to goods cleared for temporary admission (*section 267(2)*)

12.2 All the provisions of Chapter 7 of the Control Act relating to supporting documents apply to goods that are cleared for temporary admission.

Applications for temporary admission in terms of Customs Tariff (*section 293 read with section 903(1)(i)*)

12.2A Whenever a provision in the Customs Tariff requires a person intending to clear good for temporary admission to submit an application for permission to do so

—

(a) submission of a clearance declaration for temporary admission procedure in respect of the relevant goods must be regarded to be such an application; and

(b) the release notification issued by the customs authority in respect of those goods must be regarded to be granting of such an application.

²⁴⁴ As “packing material” is used in the context of this Chapter as a type of reusable transport equipment, packing materials such as straw, paper, glass wool, and shavings when imported in bulk are not included in the definition.

Part 1: Rules applicable to temporary admission under international clearance arrangements²⁴⁵

Applications for approval of guaranteeing associations (sections 282(1)(a) **and 903(1)(i)**)

12.3 (1) (a) An application contemplated in section 282(1)(a) of the Control Act must be submitted electronically through eFiling, subject to **paragraph (b) rule 41.33A**.

(b) If an application referred to in paragraph (a) is submitted to the customs authority **in terms of rule 41.33A** in paper format **in circumstances where submissions in paper format are permissible,**²⁴⁶ **the submission the application** must be **submitted**

(i) on Form ... as published as a rule on the SARS website; and

(ii) made to the Customs Office where registration and licensing applications are processed.

(3) An application referred to in subrule (1) must reflect the following information:

(a) The following information in relation to the guaranteeing association:

(i) The name physical address and postal address;

(ii) the contact details of the guaranteeing association;

(a) The registered or official name of the association;

(b) the name under which it conducts business;

(c) the entity type;

(d) its registration number or the number of its founding document, indicating whether the entity is incorporated, registered or recognised in terms of the laws of the Republic or another country, and if another country, the name of that country;

(e) date of registration, incorporation or recognition;

(f) its contact details and its physical and postal addresses in the Republic;

²⁴⁵ For clearance of commercial trucks, buses and taxis, private vehicles, small vessels and light aircraft where no international clearance arrangements are available for such bus or taxi or private vehicle, small vessel or light aircraft, see rules under Part 3 of Chapter 24.

²⁴⁶ See section 913(4) of the Control Act.

- (iii)g) the banking details²⁴⁷ of the ~~guaranteeing association's~~ its bank account in the Republic; and
- (iv)h) the name of ~~its authorised officer~~²⁴⁸ ~~person authorised to act on behalf of the guaranteeing association~~, as well as ~~that person's~~ –
 - (aa) ~~that person's date of birth~~, identity ~~document~~ number or passport number;
 - (bb)ii) citizenship; and
 - (cc)iii) contact details and ~~physical and postal~~ addresses in the Republic;
- (i) if the application is submitted by an ordinary representative on behalf of the association referred to in paragraph (a), the information specified in rule **41.33D**,²⁴⁹
- (j) ~~the names and~~ contact details ~~in relation to~~ of each issuing association whose carnets are guaranteed by the guaranteeing association;
- (k) the international agreement in terms of which the approval is sought; and
- (l) ~~confirmation~~ that security as contemplated in section 282(2)(b) has been given.

(4) An application referred to in this rule must be supported by the following documents:

- (a) An undertaking by the applicant to guarantee –
 - (i) the payment of any money that may become payable to the Commissioner on any goods cleared for temporary admission on authority of a CPD or ATA carnet guaranteed by the applicant; and
 - (ii) the performance of any other function and fulfilment of any other obligation specified in the Convention or an agreement under which the relevant carnets are to be issue or guaranteed;
- (b) if the Convention on Temporary Admission or any international agreement referred to in section 280(1)(a)(ii) requires the guaranteeing association to be affiliated with an appropriate international organisation, a document evidencing such affiliation; and

²⁴⁷ See definition of “banking details” in rule 1.1

²⁴⁸ See definition of “authorised officer” in rule 1.1.

²⁴⁹ If the application is submitted in terms of section 920 of the Customs Control Act by an ordinary representative on behalf of the applicant, the application must comply with the additional requirements set out in Part 6 of Chapter 41 of these Rules.

(c) the resolution passed ~~at a meeting of~~ ~~by~~ the ~~controlling~~ board ~~of Directors~~ of the guaranteeing association ~~in terms of which~~ ~~appointing~~ the person referred to in subrule (3)(h) ~~authorised to act on behalf~~ ~~as the authorised officer~~ of the guaranteeing association.

(5) ~~(a)~~ Supporting documents referred to in subrule (4) must ~~on request, and within the timeframe indicated in the request~~ be submitted to the customs authority ~~on request, subject to and in accordance with Part 7 of Chapter 41 of these Rules.~~ ~~electronically through eFiling, subject to paragraph (b).~~

~~(b) If supporting documents referred to in paragraph (a) are submitted to the customs authority in paper format, in circumstances where submissions in paper format are permissible,²⁵⁰ submission must be made to the Customs Office where registration and licensing applications are processed.~~

Suspension or withdrawal of approval of guaranteeing associations

12.4 (1) The customs authority may suspend or withdraw an approval granted to a guaranteeing association in terms of rule **12.3** if the guaranteeing association –

- (a) fails or refuses to act in terms of an undertaking referred to in rule **12.3**(4)(a); or
- (b) terminates its affiliation with an appropriate international organisation as may be required by the Convention on Temporary Admission or any international agreement referred to in section 280(1)(a)(ii) ~~of the Control Act.~~

(2) If the customs authority intends to suspend or withdraw an approval in terms of subrule (1), it must first –

- (a) notify the guaranteeing association of the proposed suspension or withdrawal and of the reasons for the proposed suspension or withdrawal; and
- (b) give the guaranteeing association an opportunity to submit representations on the proposed suspension or withdrawal within 30 calendar days of the date of notification referred to in paragraph (a).

²⁵⁰ ~~See section 913(4) of the Control Act.~~

(3) The customs authority may despite subrule (2) suspend or withdraw an approval with immediate effect if circumstances so demand but in such a case the guaranteeing association is entitled to submit to the customs authority representations on the suspension or withdrawal within 30 calendar days after the suspension or withdrawal.

(4) A suspension or withdrawal in terms of this rule does not, in respect of carnets accepted by the customs authority before the date of withdrawal or suspension, affect the guaranteeing association's obligations in terms of an undertaking referred to in rule 12.3(4)(a).

Notification of withdrawal as guaranteeing association

12.5 (1) (a) If a guaranteeing association approved in terms of rule 12.3 intends to withdraw as guaranteeing association, that guaranteeing association must, at least six months in advance of the date of withdrawal of guarantee, submit to the customs authority a notification of withdrawal electronically through eFiling, subject to ~~paragraph (b)~~ rule 41.33A.

(b) If a notification referred to in paragraph (a) is submitted to the customs authority in terms of rule 41.33A in paper format, ~~in terms of rule 41.XXX~~ ~~circumstances where submissions in paper format are permissible,~~²⁵⁴ ~~submission~~ the notification must be ~~—~~

(i) ~~on Form...~~as published as a rule on the SARS website; and

(ii) ~~made~~ submitted to the Customs Office where registration and licensing applications are processed.

(2) A notification referred to in subrule (1) must reflect the following information:

(a) The name and customs code ~~address and contact details,~~ of the guaranteeing association;

²⁵⁴ ~~See section 913(4) of the Control Act.~~

(b) if the notification is submitted by an ordinary representative on behalf of the association referred to in paragraph (a), the information specified in rule **41.33D**,²⁵²

~~(b) the customs code of the guaranteeing association;~~

(c) the date ~~of~~ on which the withdrawal will become effective; and

(d) the reason for the withdrawal, which may be motivated in a separate supporting document submitted together with the notification subject to and in accordance with Part 7 of Chapter 41 of these Rules.

(3) A notification in terms of this rule does not affect the guaranteeing association's obligations in terms of an undertaking referred to in rule **12.3(4)(a)** in respect of carnets accepted by the customs authority before the date ~~of~~ on which the withdrawal will become effective referred to in subrule (2)(c).

Applications for replacement extension of validity period of CPD or ATA carnets before expiry about to expire²⁵³ (sections 284(2) and 903(1)(j))

12.6 (1) The validity period of a CPD or ATA carnet may be extended only by the issuing association with the approval of the customs authority of a replacement carnet extending the validity period of the carnet.

(2) (a) An application for approval to issue a replacement carnet extending the validity period of an existing carnet -

(i) may only be submitted by or on behalf of the guaranteeing association guaranteeing the carnet; and

(ii) must be submitted to the customs authority electronically through eFiling, subject to rule **41.33A**, at least 30 calendar days²⁵⁴ before the expiry date of the carnet.

(b) If an application referred to in paragraph (a) is submitted to the customs authority in terms of rule **41.33A** in paper format, the application must be

²⁵² If the notification is submitted in terms of section 920 of the Customs Control Act by an ordinary representative on behalf of the association, the notification must comply with the additional requirements set out in Part 6 of Chapter 41 of these Rules.

²⁵³ For the extension of the validity period of a carnet, an application for replacement of the carnet is required.

²⁵⁴ This period may be shortened in terms of section 909 of the Control Act.

submitted to the Customs Office where registration and licensing applications are processed.

(1) (a) The guaranteeing association in relation to a CPD or ATA carnet must, after receipt of notification from a carnet holder that an extension of the validity period in respect of the carnet is required, and at least 30 calendar days²⁵⁵ before the expiry date of the carnet apply for approval for the issuing of a replacement carnet by submitting an application to the customs authority electronically through eFiling, subject to paragraph (b).

(b) If an application referred to in paragraph (a) is submitted to the customs authority in paper format, in circumstances where submissions in paper format are permissible,²⁵⁶ submission must be —

- (i) on Form...as published as a rule on the SARS website; and
- (ii) made to the Customs Office where registration and licensing applications are processed.

(3) An application referred to in subrule (2) must reflect the following information:

- (a) The name and customs code of the guaranteeing association;
- (b) if the application is submitted by an ordinary representative on behalf of the association referred to in paragraph (a), the information specified in rule **41.33D**;²⁵⁷
- (c) the customs code name, physical and postal addresses and contact details of the issuing association;
- (d) the name, and postal addresses and citizenship of the CPD or ATA carnet holder;
- (e) the CPD or ATA carnet number;
- (f) the expiry date of -
 - (i) the existing carnet; and
 - (ii) the replacement carnet;

²⁵⁵ This period may be shortened in terms of section 909 of the Control Act.

²⁵⁶ See section 913(4) of the Control Act.

²⁵⁷ If the notification is submitted in terms of section 920 of the Customs Control Act by an ordinary representative on behalf of the licensee of the association, the notification must comply with the additional requirements set out in Part 6 of Chapter 41 of these Rules. Note that the said Part 6 applies only to ordinary representatives which per definition excludes persons submitting documents as customs brokers. It follows that Part 6 does not apply to customs brokers that submit notifications on behalf of such associations in their capacity as customs broker.

- (g) the date on which the goods were cleared for temporary admission on authority of the carnet; and
- (h) a motivation the reason for the replacement extension of the validity period of the carnet, which may be motivated in a separate supporting document submitted together with the application subject to and in accordance with Part 7 of Chapter 41 of these Rules.

(4) If the application is approved a replacement CPD or ATA carnet indicating the extended validity period may be issued.

(5) A replacement carnet issued pursuant to an application in terms of this rule must in all respects be identical to the previous carnet which it replaces, except in respect to the carnet number and the validity period of the carnet, which must commence immediately after the previous carnet expires.

Applications for replacement of carnets destroyed, lost or stolen (*sections 286(1) and 903(1)(i)*)

12.7 (1) Approval by the customs authority for the replacement of a CPD or ATA carnet that has been destroyed, lost or stolen, as contemplated in section 286(1) of the Control Act, must be applied for in terms of this rule.

(2) (a) An application for approval of the to issue a replacement of a CPD or ATA carnet -

(i) may only be submitted by or on behalf of the guaranteeing association guaranteeing the carnet; and

(ii) must, after receipt of a notification by a carnet holder that a replacement of that carnet is required, be submitted by the guaranteeing association in relation to the carnet in respect of which an amendment or replacement is required, be submitted to the customs authority electronically through eFiling, subject to paragraph (b) rule 41.33A.

(b) If an application referred to in paragraph (a) is submitted to the customs authority in terms of rule 41.33A in paper format, in circumstances where

~~submissions in paper format are permissible,~~²⁵⁸ ~~submission~~ the application must be

~~(i) on Form...~~ ~~as published as a rule on the SARS website;~~ and

~~(ii) made~~ submitted to the Customs Office where registration and licensing applications are processed.

(3) An application referred to in subrule (1) must reflect the following information:

(a) The name and customs code of the guaranteeing association;

(b) if the application is submitted by an ordinary representative on behalf of the association referred to in paragraph (a), the information specified in rule 41.33D;²⁵⁹

~~(c) the~~ customs code name, physical address and contact details of the issuing association;

~~(d) the name and~~ postal address and citizenship of the CPD or ATA carnet holder;

~~(e) the CPD or ATA carnet number;~~

~~(f) the expiry date of the carnet;~~

~~(g) the date on which the goods were cleared for temporary admission on authority of the carnet; and~~

~~(h) a motivation~~ the reason for the replacement of the carnet, which may be motivated in a separate supporting document submitted together with the application subject to and in accordance with Part 7 of Chapter 41 of these Rules.

(4) An application for the replacement of a CPD or ATA carnet in terms of this rule must be supported by an affidavit by the carnet holder setting out the circumstances in which the carnet was destroyed, lost or stolen.

(5) ~~(a)~~ A supporting document referred to in subrule (4) must ~~on request and within the timeframe indicated in the request~~ be submitted to the

²⁵⁸ ~~See section 913(4) of the Control Act.~~

²⁵⁹ If the notification is submitted in terms of section 920 of the Customs Control Act by an ordinary representative on behalf of the licensee of the customs controlled area, the notification must comply with the additional requirements set out in Part 6 of Chapter 41 of these Rules.

customs authority on request, subject to and in accordance with Part 7 of Chapter 41 of these Rules.

~~(b) — If a supporting document referred to in this rule is submitted to the customs authority in paper format, in circumstances where submissions in paper format are permissible,²⁶⁰ submission must be made to the Customs Office referred to in subrule (2)(b)(ii).~~

(6) A replacement carnet issued pursuant to an application in terms of this rule must in all respects, except for the carnet number in the case of a CPD carnet, be identical to the previous carnet that it replaces.²⁶¹

Production to customs authority of replacement carnets

12.8 (1) If a replacement carnet is issued to a carnet holder pursuant to an application in terms rule **12.6** or **12.7**, the carnet holder must at any Customs Office produce to the customs authority, subject to subrule (2) –

- (a) the previous CPD or ATA carnet which has been replaced, in the case of a replacement in terms of rule **12.6** or 12.6A;
- (b) the new carnet replacing the previous one; and
- (c) a letter from the customs authority evidencing approval for the replacement of the carnet obtained pursuant to an application in terms of rule **12.6** or **12.7**.

(2) The documents referred to in subrule (1) must be produced together with the goods identified in the carnet –

- (a) before the expiry of the previous carnet, in the case of a replacement in terms of rule **12.6**; and
- (b) as soon as possible after receipt of the new carnet replacing the previous one, in the case of a replacement in terms of rule **12.7**.

Requirements relating to clearance on authority of carnets

²⁶⁰ See section 913(4) of the Control Act.

²⁶¹ Please Note that the validity period of the replacement carnet must also be identical to that of the previous carnet.

12.9 (1) A person clearing goods on authority of a CPD or ATA carnet must at the Customs Office serving the place of entry produce the carnet and the goods identified in the carnet to the customs authority together with –

- (a) in the case of a CPD carnet –
 - (i) the carnet holder’s identity document or passport;
 - (ii) the carnet holder’s drivers licence and international driving permit;
 - (iii) registration documentation in respect of the vehicle, including of the trailer,²⁶² if any;
 - (iv) a document evidencing valid local third party insurance coverage; and
 - (v) the bill of lading or air waybill referencing the carnet number, if transported by sea or air; and
- (b) in the case of an ATA carnet –
 - (i) the carnet holder’s identity document or passport, or if another person acts as the carnet holder’s representative, that person’s identity document or passport; and
 - (ii) if the carnet was issued in respect of goods of which the import into the Republic is restricted, the relevant import permit issued in respect of the goods.

(2) A person clearing goods on authority of a CPD or ATA carnet must upon re-export at the Customs Office serving the place of exit produce the carnet and the goods identified in the carnet to the customs authority together with –

- (a) in the case of a CPD carnet –
 - (i) the carnet holder’s identity document or passport;
 - (ii) registration documentation in respect of the vehicle, including of the trailer,²⁶³ if any;
 - (iii) a document evidencing valid local third party insurance coverage; and
 - (iv) the bill of lading or air waybill referencing the carnet number, if transported by sea or air; and
- (b) in the case of an ATA carnet, the carnet holder’s identity document or passport, or if another person acts as the carnet holder’s representative, that person’s identity document or passport.

²⁶² The definition of “vehicle” in section 1 of the Control Act also includes a trailer.

²⁶³ The definition of “vehicle” in section 1 of the Control Act also includes a trailer.

Documents that are acceptable as proof of re-export of goods under temporary admission in terms of international clearance arrangements (section 279)

12.10 The following documents are acceptable as proof for purposes of section 279 of the Control Act that goods were loaded for export:

- (a) An exportation voucher;
- (b) a certificate of location;
- (c) for export by sea, a shipped on board bill of lading, referencing the carnet number;
- (d) for export by air, ~~an shipped on board~~ air waybill, referencing the carnet number and endorsed to confirm loading of the goods on board the aircraft; and
- (e) for export by rail, any document stamped and signed by the rail carrier, evidencing receipt of the goods by that carrier, including a rail consignment note.

Part 2: Rules applicable to goods that automatically come under temporary admission procedure

Reporting of interruption or discontinuation of current use of vessel, aircraft, locomotive or railway carriage (section 289(2))

12.11 (1) (a) An interruption or discontinuation of the current use of a vessel, aircraft, locomotive or railway carriage, as contemplated in section 289(2) of the Control Act,²⁶⁴ must for purposes of that section be reported to the customs authority electronically through eFiling, subject to ~~paragraph (b)~~ rule 41.33A.

(b) If a report referred to in paragraph (a) is submitted to the customs authority in terms of rule 41.33A in paper format, ~~in circumstances where submissions in paper format are permissible,~~²⁶⁵ ~~the submission of~~ the report must be

~~(a) on Form... as published as a rule on the SARS website; and~~

~~(b) made~~ submitted to the Customs Office that serves place of entry where the

²⁶⁴ Section 289(1) of the Control Act specifies precisely the vessels, aircraft, locomotives and railway carriages to which the reporting obligation referred to in section 289(2) applies.

²⁶⁵ ~~See section 913(4) of the Control Act.~~

~~goods~~ the relevant vessel, aircraft, locomotive or railway carriage entered the Republic.

(2) A report referred to in subrule (1) must reflect the following information:²⁶⁶

(a) The name and customs code of the licensed carrier or registered agent submitting the report as required in terms of section 289(2) ~~as may be applicable~~;

(b) if the report is submitted by a customs broker or ordinary representative on behalf of the carrier or agent referred to in paragraph (a), the information specified in rule 41.33D;²⁶⁷

(c) the conveyance number;²⁶⁸

(d) the transport name;²⁶⁹

(e) a description of the nature of the current use of the relevant vessel, aircraft, locomotive or railway carriage ~~means of transport that had been interrupted or discontinued~~;

(f) the place of entry where the vessel, aircraft, locomotive or railway carriage entered the Republic;

(g) the date of arrival of the vessel, aircraft, locomotive or railway carriage at the place referred to in paragraph (f) ~~when the means of transport entered the Republic~~;

(h) the location of the ~~means of transport~~ vessel, aircraft, locomotive or railway carriage;

(i) the date ~~of the~~ interruption or discontinuation commenced; and

(j) the reason for the interruption or discontinuation, which may be motivated in a separate supporting document submitted together with the report subject to and in accordance with Part 7 of Chapter 41 of these Rules.

²⁶⁶ For additional information to be contained in reports submitted on behalf of a carrier by a customs broker, registered agent or ordinary representative, see rule 41.33D.

²⁶⁷ If the report is submitted in terms of section 920 of the Customs Control Act by an ordinary representative on behalf of the carrier or registered agent, the report must comply with the additional requirements set out in Part 6 of Chapter 41 of these Rules. Note that the said Part 6 applies only to ordinary representatives which per definition excludes persons submitting documents as customs brokers. It follows that Part 6 does not apply to customs brokers that submit reports on behalf of carriers and registered agents in that capacity.

²⁶⁸ See definition of “conveyance number” in rule 1.1.

²⁶⁹ See definition of “transport name” in rule 1.1.

Reporting of interrupted or discontinuation of current use of reusable transport equipment automatically under temporary admission (section 290(2))

12.12 (1) (a) An interruption or discontinuation of the current use of reusable transport equipment, as contemplated in section 290(2) of the Control Act,²⁷⁰ must for purposes of that section be reported to the customs authority electronically through eFiling, subject to paragraph (b) rule 41.33A.

(b) If a report referred to in paragraph (a) is submitted to the customs authority in terms of rule 41.33A in paper format, in circumstances where submissions in paper format are permissible,²⁷⁴ submission the report must be –
(i) on Form...as published as a rule on the SARS website;
(ii) made submitted to the Customs Office that serves the place of entry where the goods relevant reusable transport equipment entered the Republic.

(2) A report referred to in subrule (1) must reflect the following information:

- (a) The customs code of the licensed carrier or registered agent submitting the report as required in terms of section 290(2), as may be applicable;
- (b) if the report is submitted by a customs broker or ordinary representative on behalf of the carrier or agent referred to in paragraph (a), the information specified in rule 41.33D;²⁷²
- (c) the type of reusable transport equipment;
- (d) in respect of containers²⁷³ –
(i) the container number of each container; and
(ii) the quantity of containers;
- (e) in respect of unit load devices –
(i) the number of each device; and
(ii) the quantity of devices;
- (f) in respect of pallets –
(i) the number of each pallet, if numbered; and

²⁷⁰ Section 290(1) of the Control Act specifies precisely the reusable transport equipment to which the reporting obligation referred to in section 290(2) applies.

²⁷⁴ See section 913(4) of the Control Act.

²⁷² If the report is submitted in terms of section 920 of the Customs Control Act by an ordinary representative on behalf of the carrier or registered agent, the report must comply with the additional requirements set out in Part 6 of Chapter 41 of these Rules. Note that the said Part 6 applies only to ordinary representatives which per definition excludes persons submitting documents as customs brokers. It follows that Part 6 does not apply to customs brokers that submit reports on behalf of carriers and registered agents in that capacity.

²⁷³ Note that "container" includes a specialised container used for the transportation of nuclear fuel.

- (ii) the quantity of pallets;
- (g) in respect of packing materials –
 - (i) the type of packing material; and
 - (ii) the quantity, volume or mass of the packing material;
- (h) the place of entry where the reusable transport equipment entered the Republic;
- (i) the date of arrival of the reusable transport equipment at the place referred to in paragraph (h) when the reusable transport equipment entered the Republic;
- (j) the location of the reusable transport equipment;
- (k) the date of the interruption or discontinuation commenced; and
- (l) the reason for the interruption or discontinuation, which may be motivated in a separate supporting document submitted on request subject to and in accordance with Part 7 of Chapter 41 of these Rules.

Additional requirements relating to reusable transport equipment under temporary admission procedure (section 293(f))

12.13 The following additional requirements apply to reusable transport equipment that automatically came under the temporary admission procedure in terms of Part 5 of Chapter 12 of the Control Act:

- (a) Packing material under the temporary admission procedure –
 - (i) may not be used for the packing of goods in the course of internal transport in the Republic whilst that packing material is under temporary admission procedure; and
 - (ii) must be re-exported by the same importer of the material or the same carrier who brought the packing material into the Republic.
- (b) Containers under the temporary admission procedure may be used for the internal transport of goods in the Republic only once before being re-exported, provided that the route for such internal transport is a reasonably direct route to the place of exit from where the containers will be re-exported from the Republic; ~~and~~
- (c) Pallets under the temporary admission procedure may be –
 - (i) used for the internal transport of goods in the Republic; and
 - (ii) replaced by pallets of the same quantity, of the same type and of substantially the same value as the pallets which came into the

Republic under temporary admission, for the purpose of re-exportation in compliance with the temporary admission procedure.

- (d) All reusable transport equipment under the temporary admission procedure must, subject to section 908 of the Control Act, be exported within a period of six months from the date when such goods came under the temporary admission procedure in terms of section 290(1).

Part 3: Recordkeeping and miscellaneous matters

Records to be kept of reusable transport equipment under temporary admission by carrier or carrier's registered agent (section 290(1)(c))

12.14 Records of reusable transport equipment under the temporary admission procedure that must for purposes of section 290(1)(c) of the Control Act must be kept by the carrier responsible for the equipment or the carrier's registered agent, include of the following information:

- (a) In respect of each container that enters or leaves the Republic automatically under the temporary admission procedure –
- (i) the container number;
 - (ii) the size or type;
 - (iii) the place of entry where the container enters the Republic or the place of exit where it leaves the Republic; and
 - (iv) the date of departure from or arrival at the place referred to in subparagraph (iii) when the container enters or leaves the Republic;
- (b) in respect of each unit load device that enters or leaves the Republic automatically under the temporary admission procedure –
- (i) the device number;
 - (ii) the size or type;
 - (iii) the place of entry where the device enters the Republic or the place of exit where the device leaves the Republic; and
 - (iv) the date of departure from or arrival at the place referred to in subparagraph (iii) when the container enters or leaves the Republic;
- and

- (c) in respect of each pallet that enters the Republic **automatically** under the temporary admission procedure –
- (i) the number of each pallet, if numbered;
 - (ii) the place of entry where the pallet enters the Republic or the place of exit where the pallet leaves the Republic; and
 - (iii) the date **of departure from or arrival at the place referred to in subparagraph (ii).** ~~when the pallet enters or leaves the Republic~~

Keeping and submission of records

12.15 (1) Records referred to in rule **12.14** must be kept in accordance with section 919 of the Control Act, **read with Part 5 of Chapter 41 of these Rules.** ~~—~~

~~(a) — for a period of five years calculated from the end of the calendar year in which any such record was created;~~

~~(b) — in a secure place on the business premises of the licensed carrier or registered agent contemplated in section 290(1)(c); and~~

~~(c) — if that carrier or agent is allowed in terms of section 919(2) to keep records in paper format, according to a filing system which enables quick access to information pertaining to specific goods or a specific transaction.~~

~~(2) — This rule must be read subject to any provisions of the Control Act or a tax levying Act prescribing specific record keeping requirements for persons who are licensees or registered in terms of the Act or a tax levying Act.~~

(2) Records must be **produced or** submitted to the customs authority on request, **subject to and in accordance with Part 7 of Chapter 41 of these Rules** ~~and within a timeframe stated in the request, or if no timeframe is specified in such request, within three working days after the date of the request.~~

~~(4) — A copy or computer printout of any record requested may subject to such conditions as the customs authority may determine, be submitted, and such a copy or printout may for purposes the Control Act and a tax levying Act be regarded to be the original record requested.~~

Sub (4) now incorporated in 41.33B

Measures to ensure accurate identification of goods under temporary admission upon re-export (*section 293(d)*)

12.16 Measures contemplated in section 293(d) of the Control Act include –

- (a) recording upon entry into the Republic any marks and numbers or other specific identifying characteristics in respect of goods under temporary admission procedure and comparing those marks and numbers or other identifying characteristics upon re-export, which include –
 - (i) in respect of a vehicle –
 - (aa) the make and model;
 - (bb) the year of manufacture;
 - (cc) whether it is a diesel or petrol engine;
 - (dd) the odometer reading;
 - (ee) the engine number;
 - (ff) the **vehicle identification number** (VIN) **or** chassis number;
 - (gg) the registration number;
 - (hh) the colour; and
 - (ii) a description of the sound - and satellite navigation system fitted in the vehicle, if applicable;
 - (iii) in respect of reusable transport equipment, the details listed in rule **12.14**; and
 - (iii) in respect of other identifiable goods –
 - (aa) a description;
 - (bb) any marks, numbers or other indications permanently affixed to the goods;
 - (cc) the model and serial number, if applicable;
 - (dd) the quantity, volume or mass; and
 - (ee) the country of origin;
- (b) taking samples of goods for purposes of comparison or making use of illustrations, photographs or technical descriptions for purposes of verification of the goods upon re-export; and
- (c) affixing customs marks to goods, including customs seals and identification bands.

CHAPTER 13 WAREHOUSING PROCEDURE

~~“stock inventory code”, in relation to goods in a storage warehouse or a tax free shop, means a unique identifying code assigned by the licensee of the storage warehouse or tax free shop to goods received in that warehouse or tax free shop, for purposes of –~~

~~(a) — inventory control; and~~

~~(b) — facilitating the keeping and retrieval of records in respect of the goods to which it relates;~~

Part 1: Transport of goods under warehousing procedure and submission of delivery and receipt notifications

Persons other than carriers permitted to transport goods to storage warehouses under warehousing procedure (section 313(f) read with section 122(c))

13.1 The following persons are hereby, in addition to carriers referred to other than persons contemplated in section 122(a) or (b) of the Control Act, may also authorised to transport, using own transport, goods under the warehousing procedure to a storage warehouse or when the goods are temporarily removed from the warehouse in terms of section 310(b) or (c):

(a) The licensee of the a private storage warehouse, using own transport, in the case of goods transported to a or temporarily removed from that private storage warehouse; or

(b) the owner²⁷⁴ of the goods, using own transport, in the case of goods transported to or temporarily removed from a public warehouse. or –

~~(c) — a person referred to in paragraph (a) or (b), in the case of goods temporarily removed from the warehouse in terms of section 310(b) or (c).~~

²⁷⁴ See definition of “owner” in section 1(1) of the Control Act.

Transport of new imported vehicles cleared for warehousing

13.1A (1) A person entitled in terms of rule 13.1(a) or (b) to transport goods to, or to temporarily remove goods from, a storage warehouse may, in the case of new imported vehicles, transport or remove the vehicles in terms of that rule under their own power.

(2) Any imported second hand vehicles cleared for warehousing must, when transported to, or temporarily removed from, a customs warehouse, be carried on board a truck or trailer designed for the transport of vehicles.

(3) For purposes of this rule "vehicle" means a motor car, bus, mini-bus, truck or motor cycle.

Procedure for obtaining permission to Redirection of goods cleared for warehousing to place other than warehouse mentioned in clearance declaration (section 304(1))

13.2 (1) If a person intends to redirect goods cleared for warehousing to a place other than the storage warehouse mentioned in the clearance declaration, as contemplated in section 304(1) of the Control Act, that person must an application in accordance with rule ~~4.17~~ **5.4A** apply must be submitted to the customs authority for permission for the redirection of goods to that other place.

(2) Rules **5.4B** and **5.4C** apply to the delivery and receipt of goods at a place to which goods are redirected under permission granted in terms of subrule (1).

Delivery notifications by carriers when goods are delivered under warehousing procedure ~~to~~ at storage warehouses ~~or other authorised places~~ (sections 304(2)(a) and 903(1)(c) and (d))

13.3 A licensed carrier that transported goods under the warehousing procedure to a storage warehouse ~~or another place authorised in terms of rule 13.2 and 4.17,~~ must notify the customs authority in accordance with rule ~~29.355.1B~~ **29.355.1B** of the delivery of the goods.

Delivery notifications by persons other than carriers when delivering goods are delivered under warehousing procedure ~~to~~ at storage warehouses (*sections 313(f) and 903(1)(c) and (d)*)²⁷⁵

13.4 (1) ~~(a)~~ A person referred to in rule **13.1** ~~(a) or~~ (b) ~~or (e)~~ that transported goods under the warehousing procedure to a storage warehouse, must, within three hours of delivery of the goods at the warehouse or another place authorised in terms of rule 4.17, notify the customs authority of the delivery of the goods, electronically through eFiling, subject to paragraph (b).

~~(b) — If a delivery notification referred to in paragraph (a) is submitted to the customs authority in paper format, in circumstances where submissions in paper format are permissible,²⁷⁶ the submission must be —~~

~~(i) — on Form ... as published as a rule on the SARS website; and~~

~~(ii) — made to the Customs Office serving the area where the storage warehouse is situated.~~

(2) A delivery notification in terms of subrule (1) must reflect the following information:

(a) The name and customs code, ~~identity number, contact details and address~~ of the person who transported the goods to the storage warehouse or, if that person ~~s~~ does not have a customs code, if any, the information required in terms of rule 41.33E;

(b) if the notification is submitted by a customs broker, registered agent or ordinary representative on behalf of the person referred to in paragraph (a), the information specified in rule 41.33D;²⁷⁷

(c) the date and time of delivery of the goods at the storage warehouse;

(d) the customs code ~~name and physical address~~ of the storage warehouse where the goods were delivered;

²⁷⁵ See rules **5.1A** and **5.1B** for receipt and delivery notifications by carriers transporting goods under the warehousing procedure.

²⁷⁶ See section 913(4) of the Control Act.

²⁷⁷ If the notification is submitted in terms of section 920 of the Customs Control Act by an ordinary representative on behalf of the person transporting the goods, the notification must comply with the additional requirements set out in Part 6 of Chapter 41 of these Rules. Note that the said Part 6 applies only to ordinary representatives which per definition excludes persons submitting documents as customs brokers or registered agents. It follows that Part 6 does not apply to customs brokers or registered agents that submit notifications on behalf of such persons in that capacity.

~~(d) — in the case of delivery to another location, the physical address of the other premises authorised in terms of rule 4.17;~~

~~(fe) the movement reference number²⁷⁸ of the warehouse clearance declaration submitted in respect of the goods; in terms of which the goods were cleared for warehousing, if applicable.~~

~~(f) in the case of non-containerised goods -~~

~~(i) confirmation that the goods delivered at the storage warehouse correspond in class or kind with the goods described in the release notification issued in respect of the goods; and~~

~~(ii) the quantity delivered;~~

~~(g) in the case of containerised goods -~~

~~(i) confirmation -~~

~~(aa) that the container and seal numbers of the container or containers delivered at the storage warehouse correspond with the container and seal numbers on the release notification; and~~

~~(bb) that the seal on the container or on each container delivered is intact;²⁷⁹ and~~

~~(ii) the quantity of containers delivered;~~

~~(h) if no confirmation referred to in paragraph (f)(i) or (g)(i) can be given, the reason why confirmation cannot be given, which may be motivated in a separate supporting document submitted together with the notification subject to and in accordance with Part 7 of Chapter 41 of these Rules.~~

~~(e) — a description of the goods, including the quantity of the goods delivered; and~~

~~(3) — This rule does not apply if the licensee of a private storage warehouse transported the goods with own transport to the warehouse.²⁸⁰~~

Receipt notifications by licensees of storage warehouses when goods are delivered for storage in received at storage warehouses (sections 304(2)(b), 313(b) and 903(1)(c))

²⁷⁸ See definition of “movement reference number” in rule 1.1.

²⁷⁹ Note that any seal discrepancies must in terms of rule 5.6 be reported by a person who receives physical control of a container.

²⁸⁰ In such a case the receipt notification that the licensee must submit in terms of rule 13.5 will indicate that the licensee transported the goods.

13.5 (1) The licensee of a storage warehouse must notify the customs authority in accordance with subrule (2) of the receipt at that warehouse of –

- (a) goods cleared and released for warehousing in that warehouse; and
- (b) goods in free circulation to be warehoused in that warehouse.

(2) ~~(a)~~ A receipt notification referred to in subrule (1) must, within three hours of receipt of the goods,²⁸¹ be submitted to the customs authority electronically through eFiling, ~~subject to paragraph (b).~~

~~(b) If a receipt notification is submitted to the customs authority in paper format, in circumstances where submissions in paper format are permissible,²⁸² the notification must be submitted –~~

~~(i) on Form...published as a rule on the SARS website; and~~

~~(ii) to the Customs Office that serves the area where the storage warehouse is situated.~~

(3) A receipt notification in respect of goods not in free circulation transported under the warehousing procedure referred to in subrule (1)(a) must reflect the following information:

~~(a) If the goods are goods cleared and released for warehousing in that warehouse –~~

~~(i) the name, identity number and contact details or customs code of the carrier, or of the other person referred to in rule 13.1(b) or (c) that transported delivered the goods to at the storage warehouse; or, if the goods were transported by the licensee of the warehouse, a statement to that effect;~~

~~(b) the name of the licensee of the storage warehouse where the goods were received;~~

~~(c) if the notification is submitted by a customs broker or ordinary representative on behalf of the licensee of the storage warehouse, the information specified in rule 41.33D;²⁸³~~

²⁸¹ See rule 41.10E

²⁸² See section 913(4) of the Control Act.

²⁸³ If the notification is submitted in terms of section 920 of the Customs Control Act by an ordinary representative on behalf of the licensee of the storage warehouse, the notification must comply with the additional requirements set out in Part 6 of Chapter 41 of these Rules. Note that the said Part 6 applies only to ordinary representatives

- (iii)d) the customs code of the storage warehouse where the goods were received;
- (ii)e) the date and time of receipt of the goods at the storage warehouse;
- (vi)f) the movement reference number²⁸⁴ of any applicable warehousing the warehouse clearance declaration submitted in respect of the goods;
- ~~(iv) in relation to non-containerised goods, a description of the goods which description must include –~~
 - ~~(aa) the tariff classification;~~
 - ~~(bb) the quantity, volume or weight of the goods; and~~
 - ~~(cc) marks and numbers on the goods, if applicable;~~
 - ~~(v) in relation to containerised goods –~~
 - ~~(aa) the container number; and~~
 - ~~(bb) the seal number;²⁸⁵ and~~
- (g) in the case of non-containerised goods -
 - (i) confirmation that the goods received at the storage warehouse correspond in class or kind with the goods described in the release notification issued in respect of the goods; and
 - (ii) the quantity received;
- (h) in the case of containerised goods -
 - (i) confirmation -
 - (aa) that the container and seal numbers of the container or containers received at the storage warehouse correspond with the container and seal numbers on the release notification; and
 - (bb) that the seal on the container or on each container received is intact;²⁸⁶ and
 - (ii) the quantity of containers received;
- (i) if no confirmation referred to in paragraph (g)(i) or (h)(i) can be given, the reason why confirmation cannot be given, which may be motivated in a separate supporting document submitted together with the notification subject to and in accordance with Part 7 of Chapter 41 of these Rules.

which per definition excludes persons submitting documents as customs brokers. It follows that Part 6 does not apply to customs brokers that submit notifications on behalf of licensees in that capacity.

²⁸⁴ See definition of “movement reference number” in rule 1.1.

²⁸⁵ See rule 5.6 which places an obligation in relation to seal verification and reporting of seal discrepancies on a person who receives physical control of a container.

²⁸⁶ Note that any seal discrepancies must in terms of rule 5.6 be reported by a person who receives physical control of a container.

(4) A receipt notification in respect of goods in free circulation referred to in subrule (1)(b) must reflect the following information:²⁸⁷ ~~(b) if the goods are free circulation goods:~~

(a) the name or customs code of the carrier or other person that transported the goods to the storage warehouse;

(b) the name of the licensee of the storage warehouse where the goods were received;

(c) if the notification is submitted by a customs broker or ordinary representative on behalf of the licensee, the information specified in rule 41.33D;²⁸⁸

(d) the customs code of the storage warehouse where the goods were delivered;

(e) the date and time of receipt of the goods at the storage warehouse; and

(f) ~~a description~~ the class or kind of goods received, ~~including~~ as well as the quantity of goods received.

(5) If the licensee of a private storage warehouse where goods were delivered, transported the goods to the warehouse under a clearance and release for warehousing in that warehouse, a delivery notification submitted by the licensee in terms of rule 13.4 may be regarded as compliance with subrule (1)(a) of this rule and no separate receipt notification needs to be submitted in respect of those goods.²⁸⁹

Receipt notifications when goods under warehousing procedure are redirected to places other than storage warehouses (sections 304(1) and 903(1)(c))

~~13.6 (1) (a) If goods under the warehousing procedure are redirected in terms of rule 13.2, and 4.17, to a place other than a storage warehouse, the person in charge of that place must, within three hours of receipt of the goods at that other place, notify the customs authority of receipt of the goods, electronically through eFiling, subject to paragraph (b).~~

²⁸⁷ For additional information to be contained in notifications submitted on behalf of a person by a customs broker, registered agent or ordinary representative, see rule 41.33D.

²⁸⁸ If the notification is submitted in terms of section 920 of the Customs Control Act by an ordinary representative on behalf of the licensee of the storage warehouse, the notification must comply with the additional requirements set out in Part 6 of Chapter 41 of these Rules. Note that the said Part 6 applies only to ordinary representatives which per definition excludes persons submitting documents as customs brokers. It follows that Part 6 does not apply to customs brokers that submit notifications on behalf of licensees in that capacity.

²⁸⁹ Note that this exemption does not absolve the licensee of a private storage warehouse from submitting in terms of rule 13.5(1)(b) receipt notifications in respect of goods in free circulation received at the warehouse.

~~(b) If a receipt notification is submitted to the customs authority in paper format, in circumstances where submissions in paper format are permissible,²⁹⁰ the notification must be submitted~~

~~(i) on Form...published as a rule on the SARS website; and~~

~~(ii) to the Customs Office that serves the area where that place is situated.~~

~~(2) A receipt notification referred to in subrule (1) must reflect the following information:~~

~~(d) The physical address of the place to which the goods were delivered, or the customs code of that place, if any;~~

~~(e) The name, identity number and contact details or customs code of the carrier or other person referred to in rule 13.1 that transported the goods to the place referred to in subrule (1) (a);~~

~~(b) the name, identity number, contact details and physical and postal address of the person in charge of the place to which the goods are delivered, or that person's customs code, if any;~~

~~(d) the date and time of receipt of the goods;~~

~~(e) in relation to non-containerised goods, a description of the goods which description must include~~

~~(aa) the tariff classification;~~

~~(bb) the quantity, volume or weight of the goods; and~~

~~(cc) marks and numbers on the goods, if applicable;~~

~~(f) in relation to containerised goods~~

~~(aa) the container number; and~~

~~(bb) the seal number;²⁹⁴ and~~

~~(g) the movement reference number²⁹² of any applicable warehousing clearance declaration in respect of the goods.~~

All redirections moved to general rules 5.4A, 5.4B and 5.4C.

Part 2: Warehousing periods for goods under warehousing procedure

²⁹⁰ See section 913(4) of the Control Act.

²⁹⁴ See rule 5.6 which places an obligation in relation to seal verification and reporting of seal discrepancies on a person who receives physical control of a container.

²⁹² See definition of "movement reference number" in rule 1.1.

Extension of maximum warehousing periods for goods other than restricted goods (section 305(1) and (2))

13.7 (1) An application for an extension in terms of section 908 of the Control Act of the maximum warehousing period mentioned in section 305(1) must be submitted to the customs authority at least 21 working days before the expiry of that period.²⁹³

(2) The maximum period **referred to in section 305(1)** for which the following classes, kinds or categories of goods may be warehoused, may be extended for a maximum period as stated below for the specific class, kind or category of goods:

- (a) Spare parts for vessels, aircraft or trains: For five years;
- (b) oceanic fibre optic cables: For five years; and
- (c) **goods authorised in the Customs Tariff as goods** ~~equipment and spare parts~~ to be used **in the manufacture of any equipment, installation or device, for use solely in** ~~for~~ oil drilling and mineral exploration **operations**, including off-shore oil drilling and minerals exploration **operations**.²⁹⁴ For five years.

Maximum warehousing periods for restricted goods and extensions of such periods (section 305(4))

13.8 (21) The maximum warehousing period for restricted goods contemplated in section 305(4) of the Control Act is –

- (a) thirty calendar days for second hand vehicles; and
- (b) ninety calendar days for all other restricted goods,²⁹⁵ **subject to the legislation referred to in section 783(a) or (b).**

Par (b) - timeframe to be in line with applicable sectoral legislation.

(12) An application for an extension in terms of section 908 of the Control Act of the maximum warehousing period mentioned in subrule (21) must be

²⁹³ The procedure for such applications is dealt with in ~~the rules under Chapter 41.9.~~

²⁹⁴ Goods imported in terms of relief item 460.23 in the Customs Tariff.

²⁹⁵ But note section 784(3) which does not allow the warehousing of goods in circumstances referred to in that subsection.

submitted to the customs authority at least five working days before the expiry of that period.²⁹⁶

(3) The maximum warehousing period referred to in subrule (1) may not be extended **for by** more than 30 calendar days.

Part 3: Recordkeeping and reporting of goods in storage warehouses

Inventory control system for goods in storage warehouses

13.9 (1) The licensee of a storage warehouse must establish and maintain an inventory control system for goods in that warehouse to reflect against the stock inventory code assigned to the goods in terms of rule **13.10** –

- (a) the information listed in rule **13.12** in respect of free circulation goods, if goods in free circulation are stored together with goods under the warehousing procedure in that warehouse; and
- (b) the information listed in rule **13.11** in respect of goods under the warehousing procedure.

(2) An inventory control system referred to in this rule must -

- (a)** enable the customs authority to **physically** identify the goods in free circulation stored in the warehouse and to distinguish those goods from the goods under the warehousing procedure; **and**
- (b)** be kept in accordance with section 919 of the Control Act, read with the other provisions of this Part and Part 5 of Chapter 41 of these Rules.

(3) Records kept in terms of an inventory control system must be produced or submitted to the customs authority on request, subject to and in accordance with Part 7 of Chapter 41 of these Rules.

Stock inventory codes to be assigned to all goods received in storage warehouses

²⁹⁶ The procedure for such applications is dealt with in **the rules under Chapter 41.9.**

13.10 The licensee of a storage warehouse must upon receipt of any goods in that warehouse –

- (a) document those goods on the inventory control system **established** for that warehouse **established** in terms of rule **13.9**; and
- (b) assign to such goods a stock inventory code, against which the information referred to in **section 307 of the Control Act or** rule **13.11** or **13.12** must be accessible in respect of such goods.

Inventory control and recordkeeping of goods under warehousing procedure
(sections 307 and 313(a))

13.11 (1) ~~An~~ **The** inventory control system **for a public or private storage warehouse** ~~contemplated in rule 13.9~~ must reflect, in addition to the information required in terms of section 307 of the Control Act, the following details in relation to goods cleared and released for storage in that warehouse against the inventory stock code assigned to those goods in terms of rule **13.10**:

- (a) A description of the goods, which description must include –
 - (i) the tariff classification;
 - (ii) the customs value;
 - (iii) the quantity, volume or weight of the goods as may be applicable; and
 - (iv) any marks and numbers on the goods;
- (b) the movement reference number²⁹⁷ and date of the clearance declaration in terms of which the goods were cleared for storage in the warehouse;
- (c) in the case of goods removed temporarily from the warehouse for a purpose contemplated in section 310(b) or (c) –
 - (i) the purpose of the removal;
 - (ii) the date of removal;
 - (iii) the place where goods were removed to; and
 - (iv) the date of return of the goods;
- (d) in the case of goods sampled or accessed as contemplated in section 513, the information referred to in rule 23.4(d);**
- (e) subject to subrule (2),** any documents issued in respect of the goods from the time the goods are received in the warehouse until the goods are removed

²⁹⁷ See definition of “movement reference number” in rule 1.1.

from the warehouse under a clearance and release for home use or a customs procedure, or removed from the warehouse in terms of section 310(d) or (e), including –

- (i) any documentary evidence of origin issued in respect of the goods to which the licensee of the warehouse has access;
- (ii) any receipt notification submitted in terms of rule 13.5 in relation to the goods;
- (iii) any authorisation granted by the customs authority for an extension of a warehousing period pursuant to an application referred to in rule 41.9;
- (iv) any report submitted to the customs authority as required in terms of section 308;
- (v) any permission granted by the customs authority pursuant to an application referred to in rule 13.2;
- (vi) any approval granted issued by the customs authority for the temporary removal of goods from the warehouse as contemplated in section 310(b) or (c);
- (vii) any detention, seizure or confiscation notice issued by the customs authority in terms of Chapter 34 of the Control Act;
- (viii) any contract of purchase and sale concluded in respect of the goods whilst in the warehouse;
- (ix) any purchase order issued by a prospective buyer in respect of the goods whilst in the warehouse;
- (x) any worksheet referred to in section 82(1)(a) of the Duty Act;
- (xi) in the case of goods damaged, destroyed, lost or unaccounted for whilst under the warehousing procedure, any documents submitted or issued in terms of Chapter 25 of the Control Act for purposes of the application of that Chapter; and
- (xii) any abandonment notice issued by the customs authority in terms of section 564;
- (x) the reference number of any permit or other authorisation referred to in section 7842 issued in respect of restricted goods in the warehouse; and

- (g) when the goods are cleared for removal from the warehouse, the movement reference number²⁹⁸ and date of any clearance declaration in terms of which the goods are cleared for home use or a customs procedure.

(2) In the case of a public storage warehouse, documents referred to in subrule (1)(e)(i), (viii), (ix) and (x) need not be reflected in the inventory control system against the inventory stock code.

Inventory control and recordkeeping of free circulation goods in storage warehouses *(section 313(b))*

13.12 (1) ~~An~~ The inventory control system for a public or private storage warehouse contemplated in rule 13.9 must reflect the following details in relation to any goods in free circulation in the storage warehouse against the inventory stock code assigned to such goods in terms of rule **13.10**:

- (a) A description of the goods, including the quantity, volume or weight of the goods;
- (b) any marks and numbers on the goods;
- (c) the date of receipt of the goods in the warehouse;
- (d) in the case of a private warehouse, the reference number and the date of the sales invoice issued upon sale of the goods, if the goods were bought; and
- ~~(e) — the reference number and date of any permit, authorisation or documentary evidence of origin issued in respect of the goods;~~
- (f) in the case of goods removed from the warehouse, ~~for a purpose contemplated in section 310 of the Control Act —~~
 - ~~(i) — the date of removal. ; and~~
 - ~~(ii) — in the case of a removal contemplated in paragraph (c) of that section, also the place to which the goods are removed; and~~
- ~~(g) — an indication in respect of damaged, destroyed, lost or unaccounted for goods, that the goods are damaged, destroyed, lost or unaccounted for.; and~~
- ~~(h) — any documents relating to all transactions or activities pertaining to goods from the time the goods are received in the warehouse until the goods are~~

²⁹⁸ See definition of “movement reference number” in rule 1.1.

cleared for home use or another customs procedure as may be permissible, including any

- (i) authorisations granted by the customs authority for an extension of a warehousing period;
- (ii) reports submitted to customs as required in terms of section 308 of the Control Act;
- (iii) permissions granted by the customs authority;
- (iv) detention, seizure or confiscation notices issued by the customs authority in terms of Chapter 34 of the Control Act;
- (v) contracts of purchase and sale, licence and royalty agreements, or other contract or agreement in respect of the goods, if applicable;
- (vi) transfer pricing policies between a trade company and its subsidiaries;
- (vii) purchase orders issued by a prospective buyer in respect of the goods whilst in the warehouse;
- (viii) invoices or other proof of payment;
- (ix) packing slips;
- (x) delivery notes;
- (xi) worksheets referred to in section 82(1)(a) of the Duty Act; and
- (xii) documents constituting proof of damage, destruction or loss, in the case of goods damaged, destroyed, lost or unaccounted for.²⁹⁹

Reports to be submitted in connection with warehoused restricted goods
(sections 308 and 313(g))

13.13 (1) (a) A report contemplated in section 308 of the Control Act must be submitted in relation to all if restricted goods are stored in a storage warehouse.

(2) (a) A report referred to in subrule (1) must -

- (i) cover monthly periods commencing immediately after the end of the calendar month during which restricted goods are were first received in that warehouse; and

²⁹⁹ See sections 551 to 554 of the Control Act.

(ii) must within seven working days after the end of each calendar month be submitted to the customs authority electronically through eFiling, subject to paragraph (b) and in accordance with Part 7 of Chapter 41 of these Rules.

(b) If a report referred to in paragraph (a) is submitted to the customs authority in terms of rule 41.33A in paper format, in circumstances where submissions in paper format are permissible,³⁰⁰ the submission the report must be made submitted to the Customs Office that serves the area where the storage warehouse is situated.

(23) A report referred to in subrule (1) must -

(a) be in the form of an extract copy of the warehouse inventory contemplated in rule 13.12(1) reflecting particulars of restricted goods in the storage

warehouse for the relevant reporting period; and

(b) reflect state the customs code of the storage warehouse; and

(c) if the report is submitted by a customs broker or ordinary representative on behalf of the licensee of the storage warehouse, state the information specified in rule 41.33D.³⁰¹

Part 4: Actions in relation to warehoused goods

Ad hoc Application for permission to carry out sorting, packing and other actions in connection with specific warehoused goods (section 309)

13.14 (1) (a) An application for permission to sort, separate, grade, pack, repack, label or re-label specific goods warehoused in a storage warehouse, as contemplated in section 309 of the Control Act, must be submitted to the customs authority electronically through eFiling, subject to rule 41.33A, at least seven working days 24 hours before the commencement of the intended action in connection with the goods subject to paragraph (b).

³⁰⁰ See section 913(4) of the Control Act.

³⁰¹ If the report is submitted in terms of section 920 of the Customs Control Act by an ordinary representative on behalf of the licensee of the storage warehouse, the notification must comply with the additional requirements set out in Part 6 of Chapter 41 of these Rules. Note that the said Part 6 applies only to ordinary representatives which per definition excludes persons submitting documents as customs brokers. It follows that Part 6 does not apply to customs brokers that submit notifications on behalf of licensees in that capacity.

(b) If an application referred to in paragraph (a) is submitted to the customs authority **in terms of rule 41.33A** in paper format, ~~in circumstances where submissions in paper format are permissible,~~³⁰² the application must be submitted –
(i) ~~on Form...as published as a rule on the SARS website;~~³⁰³ and
(ii) to the Customs Office that serves the area where the storage warehouse is situated.

(2) An application referred to in subrule (1) must be made -

(a) in the case of goods in a private warehouse, by the licensee of the private storage warehouse; or

(b) in the case of goods in a public warehouse, by the owner of the goods, or the registered agent of the owner if the owner is not located in the Republic.

(3) An application referred to in subrule (1) must reflect –

(a) the name or customs code of the applicant;

(b) if the application is submitted by a customs broker, registered agent or ordinary representative on behalf of the applicant, the information specified in rule 41.33D;³⁰⁴

(c) the customs code of the storage warehouse where the proposed sorting, packing or other action to be taken in connection with the goods will be carried out ~~goods are warehoused;~~

(d) the movement reference number³⁰⁵ ~~of any the~~ warehouse clearance declaration submitted in respect of the goods;

(e) ~~particulars relating to the proposed sorting, packing or other action, including whether proposed sorting, packing or other action to be taken will affect all the goods covered by the clearance declaration and, if not,~~ a description of the goods that will be affected, which description must include –

(i) the tariff classification;

(ii) the quantity, volume or weight of the goods;

³⁰² See section 913(4) of the Control Act.

³⁰³ See section 912(2) of the Control Act for manner of submission.

³⁰⁴ If the application is submitted in terms of section 920 of the Customs Control Act by an ordinary representative on behalf of the applicant, the application must comply with the additional requirements set out in Part 6 of Chapter 41 of these Rules. Note that the said Part 6 applies only to ordinary representatives which per definition excludes persons submitting documents as customs brokers or registered agents. It follows that Part 6 does not apply to customs brokers and registered agents that submit applications on behalf of applicants in that capacity.

³⁰⁵ See definition of “movement reference number” in rule 1.1.

- (iii) the customs value of the goods; and
- (iv) any marks and numbers on the goods; ~~and~~
- ~~(ee) if the action taken in connection with the goods involves packaging, a description of the final packaging;~~
- (ii) the inventory stock code assigned ~~to the goods~~ in terms of rule 13.10 ~~to the affected goods; and~~
- (g) the place where the action is to be carried out.

(4) An application referred to in subrule (1) must be supported by ~~any documents that can substantiate the information referred to in subrule (2) -~~

- (a) a document setting out particulars of the proposed sorting, packing or other action, including a description of the nature of the action and, if the action involves packaging, a description of the final packaging; and
- (b) if the goods need to be removed to another place for the action, a document setting out -
 - (i) a description of any security measures to be taken at that place to ensure that the integrity of the goods are not compromised;
 - (ii) the proposed date of removal and proposed date of return of the goods; and
 - (iii) the reason why the action cannot be carried out at the storage warehouse.

(5) Supporting documents referred to in subrule (4) must be submitted to the customs authority on request, subject to and in accordance with Part 7 of Chapter 41 of these Rules.

~~(4) (a) If the customs authority so requests, a supporting document must within the timeframe indicated in the request be submitted to the customs authority electronically through eFiling, subject to paragraph (b).~~

~~(b) If a supporting document referred to in paragraph (a) is submitted to the customs authority in paper format in circumstances where submissions in paper format are permissible,³⁰⁶ submission must be to the Customs~~

³⁰⁶ See section 913(4) of the Control Act.

Office referred to in subrule (1)(b)(ii) or to another Customs Office indicated in the request.

(6) Approval of an application in respect of goods that need to be removed from the storage warehouse for the proposed sorting, packing or other action and in respect of which the information referred to in subrule (4)(b) has been provided, must be regarded to be permission required in terms of section 310 of the Control Act for the removal of the goods.

(7) The licensee of a public storage warehouse is, in the case of an application referred to in subrule (2)(b), entitled to a copy of any approval granted in respect of the application.

Application for standing permission to carry out sorting, packing and other actions in connection with goods warehoused in private storage warehouses (section 309)

13.14A (1) The licensee of a private storage warehouse may apply for standing permission to sort, separate, grade, pack, repack, label or re-label goods warehoused in the warehouse, as contemplated in section 309 of the Control Act.

(2) (a) An application for standing permission must be submitted to the customs authority electronically through eFiling, subject to rule **41.33A**.

(b) If an application referred to in paragraph (a) is submitted to the customs authority in terms of rule **41.33A** in paper format, the application must be submitted to -

(i) the Customs Office that serves the area where the private storage warehouse is situated; or

(ii) if the application is submitted as part of an application for licensing of the private storage warehouse, the Customs Office where applications for licensing are processed.

(3) An application referred to in subrule (1) in relation to a private storage warehouse already licensed must reflect –

(a) the name of the applicant;

- (b) if the application is submitted by a customs broker, registered agent or ordinary representative on behalf of the applicant, the information specified in rule 41.33D;³⁰⁷
- (c) the customs code of the private storage warehouse;
- (d) a description of the kind or class of goods in respect of which the sorting, packing or other action for which standing permission is required is to be taken; and
- (e) the place where the action is to be carried out.

(4) An application submitted in respect of a licenced warehouse as provided for in subrule (3) must be supported by –

- (a) a document setting out particulars of the proposed sorting, packing or other action, including a description of the nature of the action and, if the action involves packaging, a description of the final packaging; and
- (b) if the goods need to be removed to another place for the action, a document setting out -
 - (i) a description of any security measures to be taken at that place to ensure that the integrity of the goods are not compromised;
 - (ii) the timeframe within which the goods will be returned to the storage warehouse; and
 - (iii) the reason why the action cannot be carried out at the storage warehouse.

(6) Approval of an application in respect of goods that need to be removed from the storage warehouse for the proposed sorting, packing or other action and in respect of which the information referred to in subrule (4)(b) has been provided, must be regarded to be permission required in terms of section 310 of the Control Act for the removal of the goods.

³⁰⁷ If the application is submitted in terms of section 920 of the Customs Control Act by an ordinary representative on behalf of the applicant, the application must comply with the additional requirements set out in Part 6 of Chapter 41 of these Rules. Note that the said Part 6 applies only to ordinary representatives which per definition excludes persons submitting documents as customs brokers. It follows that Part 6 does not apply to customs brokers that submit applications on behalf of applicants in that capacity.

Applications for approval to remove goods from storage warehouses for ~~of repair or preservation operations and timeframe for return of goods after removal for repairs or preservation operations~~ (section 310(b))

13.18 (1) (a) An application for approval to remove goods from a storage warehouse for carrying out ~~of~~ a repair or preservation operation in terms of section 310(b) of the Control Act must be submitted to the customs authority electronically through eFiling, subject rule 41.33A, at least seven working days before the commencement of the proposed repair or preservation operation. ~~subject to paragraph (b) by –~~

- ~~(i) the licensee of a private storage warehouse; or~~
- ~~(ii) the owner of the goods, or the agent of the owner, if not located in the Republic, in the case of goods warehoused in a public storage warehouse.~~

(b) If an application referred to in paragraph (a) is submitted to the customs authority in terms of rule 41.33A in paper format, ~~in circumstances where submissions in paper format are permissible,~~³⁰⁸ the application must be submitted –

- ~~(i) on Form....as published as a rule on the SARS website;~~³⁰⁹ and
- ~~(ii) to the Customs Office that serves the area where the warehouse is situated.~~

(2) An application referred to in subrule (1) must be made -

- (a) in the case of goods in a private warehouse, by the licensee of ~~a~~ the private storage warehouse; or
- (b) in the case of goods in a public warehouse, by the owner of the goods, or the registered agent of the owner if the owner is not located in the Republic, ~~in the case of goods warehoused in a public storage warehouse.~~

(3) An application referred to in subrule (1) must reflect –

- (a) the name or customs code of the applicant;
- (b) if the application is submitted by a customs broker or ordinary representative on behalf of the applicant, the information specified in rule 41.33D;³¹⁰

³⁰⁸ See section 913(4) of the Control Act.

³⁰⁹ See section 912(2) of the Control Act for manner of submission.

³¹⁰ If the application is submitted in terms of section 920 of the Customs Control Act by an ordinary representative on behalf of the applicant, the application must comply with the additional requirements set out in Part 6 of Chapter 41 of these Rules. Note that the said Part 6 applies only to ordinary representatives which per definition excludes persons submitting documents as customs brokers. It follows that Part 6 does not apply to customs brokers that submit applications on behalf of applicants in that capacity.

- (c) the customs code of the storage warehouse where the goods are warehoused;
- ~~(b) the customs code of the applicant, in the case of goods warehoused in a public warehouse;~~
- (ed) the movement reference number³¹¹ of any the warehouse clearance declaration in terms of which submitted in respect of the goods were cleared for storage in the warehouse;
- (e) details of the goods to in respect of which whether the proposed repair or preservation operation is to be carried out in respect of all the goods covered by the clearance declaration, and, if not, details of the goods in respect of which the operation will be carried out, including (†) a description of the goods, which description must include –
- (i) the tariff classification;
 - (ii) the quantity, volume or weight of the goods;³¹²
 - (iii) the customs value of the goods; and
 - (iv) any marks and numbers on the goods; and
- (ie) the inventory stock code assigned to the goods in terms of rule 13.10 to the goods in respect of which the operation is to be carried out; and
- (f) the place where the repair or preservation operation is to be carried out.

(4) An application referred to in subrule (1) must be supported by documents setting out –

- (a) a description of the nature of the repair or preservation operation;
- ~~(ii) the place where the repair or preservation operation is to be performed;~~
- (b) a description of any security measures to be taken by the licensee, including at the place to which where the goods will be removed to, to ensure that the integrity of the goods are not compromised;
- (c) the proposed date of removal and proposed date of return of the goods, if the goods need to be removed; and
- (d) a motivation as to the reason why the repair or preservation operation cannot be performed carried out at the storage warehouse. and

³¹¹ See definition of “movement reference number” in rule 1.1.

³¹² The actual quantities in the unit of measurement as indicated in the relevant tariff heading must be reflected.

~~(3) An application referred to in subrule (1) must be supported by any documents that can substantiate the information referred to in subrule (2).~~

(5) Supporting documents referred to in subrule (4) must be submitted to the customs authority on request, subject to and in accordance with Part 7 of Chapter 41 of these Rules.

~~(4) (a) If the customs authority so requests, a supporting document must within the timeframe indicated in the request be submitted to the customs authority electronically through eFiling, subject to paragraph (b).~~

~~(b) If a supporting document referred to in paragraph (a) is submitted to the customs authority in paper format in circumstances where submissions in paper format are permissible,³¹³ the submission must be made to the Customs Office where the application has been submitted, or to another Customs Office indicated in the request.~~

(6) The licensee of a public storage warehouse is, in the case of an application referred to in subrule (2)(b), entitled to a copy of the any approval granted in respect of an the application ~~in terms of this rule.~~

(7) The timeframe for the return of goods removed from a storage warehouse for a repair or preservation operation as contemplated in section 310(b) of the Control Act is three working days after removal of the goods.³¹⁴

Additional purposes for which warehoused goods may be removed from warehouses (section 310(c))

13.15 Goods may, in addition to the purposes contemplated in section 310(a), (b), (d) or (e) of the Control Act, be removed from a storage warehouse also for the purpose of carrying out any of the following actions, in circumstances where provided that these actions cannot be carried out at the warehouse:

(a) Actions referred to in rule 13.14 or 13.14A:

³¹³ See section 913(4) of the Control Act.

³¹⁴ This period may be extended in terms of section 908 of the Control Act.

- (b) in respect of bulk homogeneous goods for purposes of tariff headings 2707; 2713 to 2715; 2901; 2902 and 3403:
- (i) Cleaning;
 - (ii) decanting;
 - (iii) desalting;
 - (iv) water separation;
 - (v) filtering;
 - (vi) colouring; and
 - (vii) marking; and
- (c) in respect of goods for purposes of tariff headings other than the tariff headings referred to in paragraph (a):
- (i) Removal of dust;
 - (ii) sifting or screening;
 - (iii) sorting or grading;
 - (iv) classifying;
 - (v) matching (including the making-up of sets of articles);
 - (vi) washing;
 - (vii) trimming, filing, slitting or cutting; and
 - (viii) separating defective goods from prime quality goods.

Application for permission to remove warehoused goods from storage warehouses other than for purposes specifically provided for repair or preservation operations or for purposes listed in rule 13.15 (section 310(c))

13.17 (1) (a) An application for permission the customs authority's approval contemplated in terms of section 310(c) of the Control Act to remove warehoused goods from a storage warehouse for a purpose other than a purpose referred to in section 310(a), (b), (d) or (e) or in rule 13.15,³¹⁵ other than for repair or preservation contemplated in section 310(b) or for a purpose listed in rule 13.15, must be submitted to the customs authority electronically through eFiling, subject rule 41.33A, at least seven three working days before the removal of the goods. subject to paragraph (b), by

³¹⁵ Note that this rule only applies to the removal of goods from a storage warehouse where there is no specific provision in the Control Act for such removal. Instances where the Control Act provides such specific provision are contained in section 310(a), (b), (d) and (e) and also in rule 13.15 as read with section 310(c). For these removals no approval in terms of this rule is necessary.

- ~~(i) the licensee of a private storage warehouse; or~~
- ~~(ii) the owner of the goods, or the agent of the owner, if not located in the Republic, in the case of goods warehoused in a public storage warehouse.~~

(b) If an application referred to in paragraph (a) is submitted to the customs authority **in terms of rule 41.33A** in paper format, ~~in circumstances where submissions in paper format are permissible,~~³¹⁶ the application must be submitted –

- ~~(i) on Form....as published as a rule on the SARS website;~~³¹⁷ and
- ~~(ii) to the Customs Office that serves the area where the warehouse is situated.~~

(2) An application referred to in subrule (1) must be submitted -

- (a) in the case of goods in a private warehouse, by** the licensee of **a the** private storage warehouse; or
- (b) in the case of goods in a public warehouse, by** the owner of the goods, or the **registered** agent of the owner, if **the owner is** not located in the Republic, ~~in the case of goods warehoused in a public storage warehouse.~~

(3) An application referred to in subrule (1) must reflect –

- (a) the name or customs code of the applicant;**
- ~~(a) the **name or** customs code of the applicant, **in the case of goods warehoused in a public warehouse;**~~
- (b) if the application is submitted by a customs broker or ordinary representative on behalf of the applicant, the information specified in rule 41.33D;**³¹⁸
- ~~(c) the customs code of the storage warehouse where the goods are warehoused;~~
- ~~(ed) the movement reference number³¹⁹ of **any the warehouse** clearance declaration **in terms of which submitted in respect of** the goods **were cleared for storage in the warehouse;**~~

³¹⁶ See section 913(4) of the Control Act.

³¹⁷ See section 912(2) of the Control Act for manner of submission.

³¹⁸ If the application is submitted in terms of section 920 of the Customs Control Act by an ordinary representative on behalf of the applicant, the application must comply with the additional requirements set out in Part 6 of Chapter 41 of these Rules. Note that the said Part 6 applies only to ordinary representatives which per definition excludes persons submitting documents as customs brokers. It follows that Part 6 does not apply to customs brokers that submit applications on behalf of applicants in that capacity.

³¹⁹ See definition of “movement reference number” in rule 1.1.

- (e) whether all the goods covered by the clearance declaration are to be removed and, if not, details of the goods to be removed, including a description of the goods, which description must include –
 - (i) the tariff classification;
 - (ii) the quantity, volume or weight of the goods;³²⁰
 - (iii) the customs value of the goods; and
 - (iv) any marks and numbers on the goods;
- (f) the inventory stock code assigned ~~to the goods~~ in terms of rule **13.10** to the goods to be removed;
- (g) the place to which the goods are to be removed; and
- (h) the purpose for which the goods are to be removed.

(4) An application referred to in subrule (1) must be supported by documents setting out –

- (a) details in relation to particulars of the purpose for which the goods are to be removed; ~~including –~~
- (b) particulars of any ~~a description of the proposed~~ action to be ~~performed on or~~ carried out in connection with the goods;
- ~~(ii) the place where the proposed action is to be performed;~~
- (c) a description of any security measures to be taken ~~by the licensee, including~~ at the place to which ~~where~~ the goods will be removed ~~to,~~ to ensure that the integrity of the goods are not compromised;
- (d) the proposed date of removal and proposed date of return of the goods; and
- (e) ~~a motivation as to~~ the reason why the proposed action (if any) cannot be performed at the storage warehouse.

~~(3) An application referred to in subrule (1) must be supported by any documents that can substantiate the information referred to in subrule (2).~~

(5) Supporting documents referred to in subrule (4) must be submitted to the customs authority on request, subject to and in accordance with Part 7 of

³²⁰ The actual quantities in the unit of measurement as indicated in the relevant tariff heading must be reflected.

Chapter 41 of these Rules. (4) (a) If the customs authority so requests, a supporting document must within the timeframe indicated in the request be submitted to the customs authority electronically through eFiling, subject to paragraph (b).

(b) If a supporting document referred to in paragraph (a) is submitted to the customs authority in paper format in circumstances where submissions in paper format are permissible,³²⁴ the submission must be made to the Customs Office where the application has been submitted, or to another Customs Office indicated in the request.

(6) The licensee of a public storage warehouse is, in the case of an application referred to in subrule (2)(b), entitled to a copy of the any approval granted in respect of an the application in terms of this rule.

Timeframes for return or clearance of goods removed from storage warehouses (section 310(c))

13.16 The timeframe within which warehoused goods removed from a storage warehouse for a purpose listed in rule 13.15 or approved by the customs authority in terms of rule 13.17 section 310(c) of the Control Act, must either be returned to the warehouse or cleared and released as contemplated in section 310(a), is three working days after removal of the goods.³²²

Receipt notifications by licensees of storage warehouses when warehoused goods removed from warehouse are returned to warehouse (sections 313(c) and 903(1)(c))

13.18A (1) The licensee of a storage warehouse must notify the customs authority in accordance with subrule (2) of the receipt at the warehouse of goods when warehoused goods removed from that warehouse in terms of section 310 of the Control Act are returned to the warehouse.

³²⁴ See section 913(4) of the Control Act.

³²² This period may be extended in terms of section 908 of the Control Act.

(2) A receipt notification referred to in subrule (1) must, within three hours of receipt of the goods,³²³ be submitted to the customs authority electronically through eFiling.

(3) A receipt notification referred to in subrule (1) must reflect the following information:

- (a) the name of the licensee and the customs code of the storage warehouse;
- (b) if the notification is submitted by a customs broker or ordinary representative on behalf of the licensee, the information specified in rule 41.33D;³²⁴
- (c) the name or customs code of the carrier, or of the other person referred to in rule 13.1(a) or (b) that delivered the goods at the storage warehouse;
- (d) the date and time of receipt of the goods at the storage warehouse;
- (e) the movement reference number³²⁵ of the warehouse clearance declaration submitted in respect of the goods;
- (f) confirmation that the goods received at the storage warehouse correspond in class or kind and quantity with the goods removed from the warehouse; and
- (g) if no such confirmation can be given, particulars of why confirmation cannot be given.

Part 5: Measures to ensure effective customs control over goods under warehousing procedure

Measures to ensure effective customs control during temporary removal of goods as contemplated in section 310 (section 313(c)(ii))

13.19 A place to which goods are temporarily removed in terms of section 310(b) and (c) must comply with the security standards for storage warehouses referred to in rule 29.27(b).

³²³ See rule 41.10B.

³²⁴ If the notification is submitted in terms of section 920 of the Customs Control Act by an ordinary representative on behalf of the licensee, the notification must comply with the additional requirements set out in Part 6 of Chapter 41 of these Rules. Note that the said Part 6 applies only to ordinary representatives which per definition excludes persons submitting documents as customs brokers. It follows that Part 6 does not apply to customs brokers that submit applications on behalf of licensees in that capacity.

³²⁵ See definition of "movement reference number" in rule 1.1.

Storage of free circulation goods with goods not in free circulation in same storage warehouse (section 299(2))

13.20 (21) **In the case of goods consisting of unpacked dry or liquid homogeneous goods.** Bulk goods in free circulation may be stored in the same storage warehouse

with bulk goods not in free circulation, provided that –

- (a) the dutiability of the goods not in free circulation is not affected by storing the goods together with free circulation goods;
- (b) the free circulation goods are distinguished from the goods not in free circulation by means of a stock inventory code assigned in accordance with rule **13.10**; and
- (c) the free circulation goods are kept physically separate if the goods are not identical to the goods not in free circulation in respect of tariff classification, quality and technical characteristics.

(12) **Break bulk** **In the case of all other goods.** goods in free circulation may be stored in the same storage warehouse with **break bulk** goods not in free circulation, provided that the free circulation goods are distinguished from the goods not in free circulation by means of a stock inventory code assigned in accordance with rule **13.10**.

(3) All goods in a storage warehouse must be easily accessible for customs inspection.

CHAPTER 14 TAX FREE SHOP PROCEDURE

Definitions

“inbound tax free shop” means a tax free shop located at a place of entry before the checkpoint in a travellers terminal where inbound travellers are processed for purposes of customs control;

“inbound traveller or crew member” means a person, arriving in the Republic on—
(a) an inbound foreign-going aircraft; or
(b) an inbound foreign-going vessel;

“outbound tax free shop” means a tax free shop located after the checkpoint in a travellers terminal where outbound travellers are processed for purposes of customs control;

“outbound traveller or crew member” means a person who is about to depart from the Republic on—
(a) an outbound foreign-going aircraft; or
(b) an outbound foreign-going vessel;

“tax free shop” means an inbound or outbound tax free shop, but excludes a special shop for diplomats;

Part 1: Establishment of, and transport of goods to and receipt of goods in, tax free shops

Places where tax free shops may be established

14.1 Tax free shops may be established at the following –

- (a) customs seaports designated as places of entry or exit in terms of section 31(1)(a) of the Control Act:
 - (i) Durban customs seaport; and
 - (ii) Cape Town customs seaport; and

- (b) customs airports designated as places of entry or exit in terms of section 31(1)(b):
- (i) Cape Town International Airport;
 - (ii) King Shaka International Airport;
 - (iii) Kruger Mpumalanga International Airport; and
 - (iv) OR Tambo International Airport.

Only licensees apart from carriers permitted to transport goods under tax free shop procedure ~~to tax free shops~~ (section 332(b) read with section 122(c))

14.2 ~~For purposes of section 122(c) of the Control Act the~~ Licensees ~~s~~ of a tax free shops ~~s~~ are hereby, in addition to carriers referred to in section 122(a) or (b) of the ~~Control Act, authorised~~ ~~permitted~~ to transport, using own transport, goods not in free circulation -

(a) to a tax free shop under the tax free shop procedure; or

(b) when the goods are transferred from the shop in terms of section 328(1)(c).³²⁶

Procedure for obtaining authorisation to redirect goods to location other than licensed tax free shop (section 322)

14.2A (1) If a person intends to redirect goods cleared and released for supply to a tax free shop to a place other than the licensed tax free shop indicated in the clearance declaration, an application in accordance with rule 5.4A must be submitted for the customs authority's permission to redirect the goods to that other place.

(2) Rules 5.4B and 5.4C apply to the delivery and receipt of goods at a place to which goods are redirected under permission granted in terms of subrule (1).

Delivery notifications of delivery by carriers of when delivering goods not in free circulation ~~to~~ at tax free shops

14.3 A carrier that transported goods not in free circulation to a tax free shop ~~for sale in the shop~~ under the tax free shop procedure must notify the customs authority of the delivery of the goods ~~to~~ at the shop in accordance with rule ~~29.355.1B~~

³²⁶ Note that as goods in free circulation to be sold in a tax free shop are not transported to the shop under the tax free shop procedure, any person is entitled to transport such goods.

Delivery notifications by licensees when delivering goods not in free circulation at tax free shops (sections 332(c) and 903(1)(c) and (d))³²⁷

14.3A (1) A licensee of a tax free shop that transported goods not in free circulation under the tax free shop procedure to a storage warehouse must, within three hours of delivery of the goods³²⁸ at the shop, notify the customs authority of the delivery of the goods, electronically through eFiling.

(2) A delivery notification in terms of subrule (1) must reflect the following information:

- (a)** The name of the licensee that transported the goods to the tax free shop;
- (b)** if the notification is submitted by a customs broker or ordinary representative on behalf of the licensee, the information specified in rule **41.33D**;³²⁹
- (c)** the customs code of the tax free shop where the goods were delivered;
- (d)** the date and time of delivery of the goods at the tax free shop;
- (e)** the movement reference number³³⁰ of the tax free shop clearance declaration submitted in respect of the goods;
- (f)** in the case of non-containerised goods -
 - (i)** confirmation that the goods delivered at the tax free shop correspond in class or kind with the goods described in the release notification issued in respect of the goods; and
 - (ii)** the quantity delivered;
- (g)** in the case of containerised goods -
 - (i)** confirmation -
 - (aa)** that the container and seal numbers of the container or containers delivered at the tax free shop correspond with the container and seal numbers on the release notification; and

³²⁷ See rules **5.1A** and **5.1B** for receipt and delivery notifications by carriers transporting goods under the warehousing procedure.

³²⁸ See rule **41.10B**.

³²⁹ If the notification is submitted in terms of section 920 of the Customs Control Act by an ordinary representative on behalf of the licensee, the notification must comply with the additional requirements set out in Part 6 of Chapter 41 of these Rules. Note that the said Part 6 applies only to ordinary representatives which per definition excludes persons submitting documents as customs brokers. It follows that Part 6 does not apply to customs brokers that submit notifications on behalf of licensees in that capacity.

³³⁰ See definition of "movement reference number" in rule 1.1.

(bb) that the seal on the container or on each container delivered is intact;³³¹ and

(ii) the quantity of containers delivered;

(h) if no confirmation referred to in paragraph (f)(i) or (g)(i) can be given, the reason why confirmation cannot be given, which may be motivated in a separate supporting document submitted together with the notification subject to and in accordance with Part 7 of Chapter 41 of these Rules.

Receipt notifications of receipt of when both free circulation and non-free circulation goods are received in at tax free shops

14.4 (1) The licensee of a tax free shop must within ~~three working days~~ **three hours** of receipt³³² ~~in at~~ the tax free shop of ~~any~~ goods for sale in the shop, ~~whether those goods are in free circulation or not in free circulation,~~ notify the customs authority ~~in accordance with subrule (2) of the receipt of the goods,~~ **electronically through eFiling.**

~~(2) (a) A receipt notification referred to in subrule (1) must be submitted to the customs authority electronically through eFiling, subject to paragraph (b).~~

~~(b) If a notification referred to in paragraph (a) is submitted to the customs authority in paper format, in circumstances where submissions in paper format are permissible, the submission the notification must be on Form ...as published as a rule on the SARS website at the Customs Office serving the area where the tax free shop is situated.~~

(2) A receipt notification referred to in subrule (1) **in respect of goods not in free circulation** must reflect the following information:

(a) The name, ~~identity number and contact details~~ **or customs code** of the carrier ~~or other person that transported~~ **delivered** the goods to the tax free shop ~~or, if the goods were transported by the licensee, a statement to that effect,~~³³³

(b) the name of the licensee of the tax free shop where the goods were received;

³³¹ Note that any seal discrepancies must in terms of rule 5.6 be reported by a person who receives physical control of a container.

³³² See rule 41.10B

³³³ In terms of section 122 of the Control Act, read with rule 14.2, only a carrier and the licensee of a tax free shop are permitted to transport goods not in free circulation to the shop. **Goods in free circulation can be transported by any person.**

- (c) if the notification is submitted by a customs broker or ordinary representative on behalf of the licensee, the information specified in rule 41.33D;³³⁴
- (d) the customs code of the tax free shop where the goods were received;
- (e) the date and time of receipt of the goods at the tax free shop;
- (f) a description of the goods, including the exact quantity received;
- (f) the movement reference number of the tax free shop clearance declaration, in the case of goods not in free circulation;
- (g) in the case of non-containerised goods -
 - (i) confirmation that the goods received at the tax free shop correspond in class or kind with the goods described in the release notification issued in respect of the goods; and
 - (ii) the quantity received;
- (h) in the case of containerised goods -
 - (i) confirmation -
 - (aa) that the container and seal numbers of the container or containers received at the tax free shop correspond with the container and seal numbers on the release notification; and
 - (bb) that the seal on the container or on each container received is intact;³³⁵ and
 - (ii) the quantity of containers received; and
- (i) if no confirmation referred to in paragraph (g)(i) or (h)(i) can be given, the reason why confirmation cannot be given, which may be motivated in a separate supporting document submitted together with the notification subject to and in accordance with Part 7 of Chapter 41 of these Rules.

(3) A receipt notification referred to in subrule (1) in respect of goods in free circulation must reflect the following information:

- (a) The name of the carrier or other person that transported the goods to the tax free shop;

³³⁴ If the notification is submitted in terms of section 920 of the Customs Control Act by an ordinary representative on behalf of the licensee, the notification must comply with the additional requirements set out in Part 6 of Chapter 41 of these Rules. Note that the said Part 6 applies only to ordinary representatives which per definition excludes persons submitting documents as customs brokers. It follows that Part 6 does not apply to customs brokers that submit notifications on behalf of licensees in that capacity.

³³⁵ Note that any seal discrepancies must in terms of rule 5.6 be reported by a person who receives physical control of a container.

- (b) the name of the licensee of the tax free shop where the goods were received;
- (c) if the notification is submitted by a customs broker or ordinary representative on behalf of the licensee, the information specified in rule 41.33D;³³⁶
- (d) the customs code of the tax free shop where the goods were received;
- (e) the date and time of receipt of the goods at the tax free shop; and
- (f) the class or kind of goods received, and the quantity received.

(4) If the licensee of a tax free shop transported goods not in free circulation to the shop under a clearance and release for the tax free shop procedure, a delivery notification submitted by the licensee in terms of rule 14.3A may be regarded as compliance with subrule (1) of this rule, and no separate receipt notification needs to be submitted in respect of those goods.³³⁷

Part 2: Sale, keeping and removal of goods in tax free shops

Goods that may be sold in tax free shops (section 323(1))

14.5 Goods contemplated in section 323(1) of the Control Act are -

- (a) confectionary;
- (b) cosmetics and toiletries, including lotions, creams, soaps, bath products and similar products;
- (c) perfumes, eau de toilettes and colognes;
- (d) watches;
- (e) jewellery;
- (f) handbags;
- (g) leather products;
- (h) sunglasses;
- (i) tobacco and tobacco products;
- (j) alcoholic beverages;
- (k) electronic goods; and

³³⁶ If the notification is submitted in terms of section 920 of the Customs Control Act by an ordinary representative on behalf of the licensee, the notification must comply with the additional requirements set out in Part 6 of Chapter 41 of these Rules. Note that the said Part 6 applies only to ordinary representatives which per definition excludes persons submitting documents as customs brokers. It follows that Part 6 does not apply to customs brokers that submit notifications on behalf of licensees in that capacity.

³³⁷ Note that this exemption does not absolve the licensee of a tax free shop from submitting in terms of rule 14.4(1) receipt notifications in respect of goods in free circulation received at the shop.

- (l) clothes.

Pre-departure transactions relating to goods in inbound tax free shops for delivery upon return (*section 332*)

14.6 (1) The licensee of an inbound tax free shop may enter into an agreement with an outbound traveller or crew member prior to that traveller or crew member's departure from the Republic for the sale and supply of goods in the inbound tax free shop³³⁸ on the return of that traveller or crew member to the Republic, subject to subrules (2) and (3).

- (2) A licensee referred to in subrule (1) must –
 - (a) be satisfied that the outbound traveller or crew member referred to in subrule (1) is in possession of a valid boarding pass, crew identification card or airline ticket³³⁹ indicating that that traveller or crew member is about to depart from the Republic;
 - (b) request the following information in respect of the prospective purchaser at the time of the agreement:
 - (i) Full name;
 - (ii) passport or travel document number, or identity number;
 - (iii) boarding pass number or crew identification card number, as may be applicable;
 - (iv) scheduled date of departure from the Republic and scheduled date of arrival back in the Republic; and
 - (v) particulars of the means of transport on which the traveller or crew member is to depart from the Republic, including flight or voyage number.

(3) (a) A traveller or crew member referred to in subrule (1) must upon that traveller or crew member's arrival back in the Republic as an inbound traveller or crew member, collect the goods in respect of which the agreement of sale had been entered into at the relevant inbound tax free shop.

³³⁸ Please note that the normal tax free limit as fixed for a particular class or kind of goods applies to such goods.

³³⁹ An airline ticket is only acceptable if the agreement is entered into before a boarding pass has been issued.

(b) Ownership of the tax free shop goods purchased in terms of this rule may only be transferred on the premises of the inbound tax free shop when that traveller or crew member collects the goods on his or her return upon showing a valid boarding pass or crew identification card indicating arrival from a place outside the Republic.

Issuing of sales invoices (*section 325*)

14.7 A sales invoice contemplated in section 325 of the Control Act must reflect –

- (a) a description of the goods to which it relates, including the stock inventory code and the quantity;
- (b) the date of issue of the sales invoice;
- (c) the sales price of the goods in South African Rand;
- (d) the customs code of the tax free shop issuing the sales invoice; and
- (e) the following information in respect of the purchaser:
 - (i) full name;
 - (ii) passport **or travel document** number and boarding pass number;
 - (iii) date of arrival in the case of an inbound traveller, or date of departure in the case of an outbound traveller; and
 - (iv) particulars of the means of transport on which the traveller arrived in or is about to depart from the Republic, including flight or voyage number.

Packing and sealing of goods purchased in tax free shops

14.8 Goods sold in a tax free shop must be –

- (a) packaged in a transparent package together with the sales invoice referred to in rule **14.7** issued in respect of the goods, in a manner ensuring that the particulars on the invoice as well as the goods are clearly visible and identifiable; and
- (b) sealed to ensure that the goods cannot be removed from the package without the seal being broken.

Ticketing, labelling or marking goods on display in tax free shops (*section 332*)

14.9 All goods displayed for sale in a tax free shop must be ticketed, labelled or marked to indicate that the selling price does not include tax.

Application for approval of off-site retail outlets (section 326(1))

14.10 (1) (a) An application for approval to establish an off-site retail outlet contemplated in section 326(1) of the Control Act must prior to establishing such outlet be submitted to the customs authority electronically through eFiling, subject to ~~paragraph (b)~~ **rule 41.33A**.

(b) If an application referred to in paragraph (a) is submitted to the customs authority **in terms of rule 41.33A** in paper format, ~~in circumstances where submissions in paper format are permissible,~~³⁴⁰ the **application submission** must be **submitted on Form ... as published as a rule on the SARS website at** **to** the Customs Office that serves the area where the tax free shop for which the proposed off-site outlet is to be established, is situated.

(2) An application referred to in subrule (1) must reflect the following information:

(a) The name of the applicant;

(b) if the application is submitted by a customs broker or ordinary representative on behalf of the applicant, the information specified in rule 41.33D;³⁴¹

(c) the customs code of the tax free shop for which the off-site outlet is to be established; and

(d) the physical address of the proposed off-site outlet; and

(e) the purpose for which the off-site outlet is to be established.

(3) An application referred to in subrule (1) must ~~on request of the customs authority~~ be supported by –

(a) a site and building plan indicating the location of the proposed off-site outlet in relation to that tax free shop; and

(b) documents setting out standard operating procedures in relation to security measures that will be implemented to ensure the security of goods in the off-site outlet.

³⁴⁰ See section 913(4) of the Control Act.

³⁴¹ If the application is submitted in terms of section 920 of the Customs Control Act by an ordinary representative on behalf of the applicant, the application must comply with the additional requirements set out in Part 6 of Chapter 41 of these Rules. Note that the said Part 6 applies only to ordinary representatives which per definition excludes persons submitting documents as customs brokers. It follows that Part 6 does not apply to customs brokers that submit applications on behalf of applicants in that capacity.

(4) Supporting documents referred to in subrule (3) must be submitted to the customs authority on request, subject to and in accordance with Part 7 of Chapter 41 of these Rules.

Transfer of goods between tax free shops and off-site outlets (*section 326(1)(f)*)

14.11 Goods may be transferred between a tax free shop and an off-site outlet established for that tax free shop only by a person referred to in rule **14.2**.

Application for extension of maximum period goods may be kept in tax free shop (*sections 327*)

14.12 (1) The licensee of a tax free shop may in accordance with rule **41.9** apply to the customs authority for the extension of the maximum period, contemplated in section 327 of the Control Act, for which goods may remain in a tax free shop.

(2) An application referred to in subrule (1) must be submitted at least 21 working days before the expiry of the applicable period for the relevant goods.

Additional circumstances in which goods may be removed from tax free shops (*section 328(1)(f)*)

14.12A Goods in a tax free shop may, in addition to the circumstances set out in section 328(1) of the Control Act, be removed from the tax free shop also if –

(a) goods in the shop have been damaged or destroyed and the damaged goods or any parts, materials or residues obtained from the destroyed goods must be removed from the shop, provided the licensee of the shop has given notice to the customs authority in terms of Chapter 25 of the Control Act of the goods damaged or destroyed; or

(b) goods that were in free circulation when supplied to the shop,³⁴² are to be removed from the shop –

(i) in compliance with the timeframe applicable to the goods in terms of **section 327**;

³⁴² Note that goods that were not in free circulation when supplied to a tax free shop may, when the goods are to be removed from the shop for a reason mentioned in rule **14.12A(b)(i)**, (ii) or (iii), only be removed from the shop in terms of a clearance contemplated in section 328(1)(b) of the Control Act.

- (ii) due to deterioration in the quality of the goods; or
- (iii) due to expiry of the sell-by date.

Application for approval to remove goods in other circumstances from tax free shops contemplated in (section 328(1)(f))³⁴³

14.13 (1) (a) An application for the customs authority's approval contemplated in section 328(1)(f) of the Control Act to remove goods from a tax free shop in circumstances other than as set out in section 328(1)(a) to (e) or rule **14.12A**, must at least **seven three** working days prior to the removal of the goods be submitted to the customs authority by the licensee of the tax free shop electronically through eFiling, subject to ~~paragraph (b)~~ **rule 41.33A**.

(b) If an application referred to in paragraph (a) is submitted to the customs authority **terms of rule 41.33A** in paper format, ~~in circumstances where submissions in paper format are permissible,~~³⁴⁴ ~~the application submission~~ must be ~~submitted on Form ... as published as a rule on the SARS website~~ at the Customs Office that serves the area where the tax free shop is situated.

(2) An application referred to in subrule (1) must reflect the following information:

- (a) **The name of the applicant;**
- (b) **if the application is submitted by a customs broker or ordinary representative on behalf of the applicant, the information specified in rule 41.33D;**³⁴⁵
- (c) the customs code of the tax free shop;
- (d) ~~a description~~ **the class or kind** of ~~the~~ goods and the stock inventory code assigned to the goods; and
- (e) the ~~purpose~~ **reason** for the removal of the goods, **which may be submitted in a separate supporting document subject to and in accordance with Part 7 of Chapter 41 of these Rules.**

³⁴³ This rule also applies to goods that were in free circulation before the goods were supplied to the tax free shop.

³⁴⁴ See section 913(4) of the Control Act.

³⁴⁵ If the application is submitted in terms of section 920 of the Customs Control Act by an ordinary representative on behalf of the applicant, the application must comply with the additional requirements set out in Part 6 of Chapter 41 of these Rules. Note that the said Part 6 applies only to ordinary representatives which per definition excludes persons submitting documents as customs brokers. It follows that Part 6 does not apply to customs brokers that submit applications on behalf of applicants in that capacity.

~~(3) An application referred to in subrule (1) must on request of the customs authority be supported by any document that can substantiate the information referred to in subrule (2).~~

~~(4) (a) Supporting documents referred to in subrule (3) must within the timeframe indicated in the request be submitted to the customs authority electronically through eFiling, subject to paragraph (b).~~

~~(b) If supporting documents referred to in paragraph (a) are submitted to the customs authority in paper format in circumstances where submissions in paper format are permissible,³⁴⁶ submission must be made to the Customs Office that serves the area where the tax free shop is situated.~~

Manipulation, alteration or combination of goods in tax free shops for purposes of display or sale (section 329)

14.14 Goods in a tax free shop may be manipulated, altered or combined as contemplated in section 329 of the Control Act **only** by performing the following actions **only** in relation to the goods –

- (a) stamping;
- (b) labelling;
- (c) ticketing;
- (d) marking; or
- (e) any other action as approved by the customs authority in **accordance with terms of** rule **14.15**.

Application for approval to manipulate, alter or combine goods in tax free shops (section 329)

14.15 (1) (a) The licensee of a tax free shop must at least five working days before undertaking a proposed manipulation, alteration or combination of goods in the tax free shop, submit an application for approval contemplated in section 329 of the Control Act to the customs authority electronically through eFiling, subject to **rule 41.33A** paragraph (b).

³⁴⁶ ~~See section 913(4) of the Control Act.~~

(b) If an application referred to in paragraph (a) is submitted to the customs authority **in terms of rule 41.33A** in paper format, **in circumstances where submissions in paper format are permissible,**³⁴⁷ **the submission must be on Form ... as published as a rule on the SARS website** **the application must be submitted** to the Customs Office that serves the area where the tax free shop is situated.

(2) An application referred to in subrule (1) must reflect the following information:

- (a) The **name of the applicant;**
- (b) if the application is submitted by a customs broker or ordinary representative on behalf of the applicant, the information specified in rule 41.33D;**³⁴⁸
- (c) the customs code of the tax free shop;
- (d) **a description** **the class or kind** of goods and the stock inventory code assigned to the goods;
- (e) **a description** **particulars** of the proposed manipulation, alteration or combination of the goods; and
- (f) the **purpose of** **reason for** the proposed manipulation, alteration or combination of the goods.

(3) The information referred to in subrule (2)(e) and (f) may be provided in separate supporting documents submitted together with the application subject to and in accordance with Part 7 of Chapter 41 of these Rules.

~~(3) An application referred to in subrule (1) must on request of the customs authority be supported by any document that can substantiate information referred to in subrule (2).~~

~~(4) (a) Supporting documents referred to in subrule (3) must within the timeframe indicated in the request be submitted to the customs authority electronically through eFiling, subject to paragraph (b).~~

³⁴⁷ See section 913(4) of the Control Act.

³⁴⁸ If the application is submitted in terms of section 920 of the Customs Control Act by an ordinary representative on behalf of the applicant, the application must comply with the additional requirements set out in Part 6 of Chapter 41 of these Rules. Note that the said Part 6 applies only to ordinary representatives which per definition excludes persons submitting documents as customs brokers. It follows that Part 6 does not apply to customs brokers that submit applications on behalf of applicants in that capacity.

~~(b) If supporting documents referred to in paragraph (a) are submitted to the customs authority in paper format in circumstances where submissions in paper format are permissible,³⁴⁹ submission must be made to the Customs Office that serves the area where the tax free shop is situated.~~

Part 3: Accountability for goods in tax free shops

Inventory control system for tax free shops (section 330)

14.16 (1) An inventory control system contemplated in section 330 of the Control Act must -

(a) be kept in accordance with section 919 of the Control Act, read with the other provisions of this Part and Part 5 of Chapter 41 of these Rules; and

(b) enable the customs authority to perform detailed audits of the business conducted at and in connection with the tax free shop, including in relation to

–

(ai) non-free circulation goods received in the shop under the tax free shop procedure, to verify the information declared on the clearance declaration; and

(bii) free circulation goods received for sale in the tax free shop, to verify any information declared for VAT exemption purposes.

(2) The licensee of a tax free shop must upon receipt of goods in that tax free shop –

(a) document those goods on the inventory control system for that tax free shop, established as contemplated in section 330 of the Control Act; and

(b) assign to such goods a unique stock inventory code against which the information referred to in rule **14.17** or **14.18**, as may be applicable, must be accessible in respect of such goods.

Inventory control and recordkeeping of goods cleared for tax free shop procedure (section 330)

³⁴⁹ ~~See section 913(4) of the Control Act.~~

14.17 In addition to the information contemplated in section 330(a) to (d) **of the Control Act**, the inventory control system must reflect the following in relation to goods cleared for tax free shop procedure and received in the tax free shop:

- (a) ~~a description~~ **the class or kind** of goods, **including as well as** –
 - (i) the customs value;
 - (ii) the tariff classification;
 - (iii) the quantity, volume or weight of the goods; and
 - (iv) any marks and numbers on the goods;
- (b) the movement reference number and date of the clearance declaration in terms of which the goods were –
 - (i) cleared for tax free shop procedure; or
 - (ii) if unsold from the tax free shop, cleared for home use or for another permissible customs procedure;
- (c) the reference number and the date of the sales invoice issued upon sale of the goods, if the goods were sold;
- (d) the reference number and date of any permit, authorisation or preference certificate issued in respect of the goods;
- (e) in the case of goods removed from the tax free shop for a purpose contemplated in section 328(1) ~~of the Control Act~~ –
 - (i) the date of removal; and
 - (ii) in the case of a removal contemplated in paragraph (c) of that ~~sub~~ section, also the place to which the goods are removed;
- (f) an indication in respect of damaged, destroyed, lost or unaccounted for goods, that the goods are damaged, destroyed, lost or unaccounted for; and
- (g) any documents relating to all transactions or activities pertaining to goods from the time the goods are received in the tax free shop until the goods are **removed from the shop** ~~sold from the tax free shop or if unsold, cleared for home use or another customs procedures as may be permissible~~, including any -
 - (i) authorisations granted by the customs authority for an extension of a tax free shop period pursuant to an application referred to in rule **14.12**;
 - (ii) reports submitted to customs as required in terms of section 331 ~~of the Control Act~~;

- (iii) permissions granted by the customs authority pursuant to an application referred to in rule **14.13**;
- (iv) detention, seizure or confiscation notices issued by the customs authority in terms of Chapter 34 **of the Control Act**;
- (v) contracts of sale, licence and royalty agreements, or other contract or agreement in respect of the goods, if applicable;
- (vi) transfer pricing policies between a trade company and its subsidiaries;
- (vii) purchase orders;
- (viii) invoices or other proof of payment;
- (ix) packing slips;
- (x) delivery notes;
- (xi) transport documents;
- (xii) certificates of origin;
- (xiii) clearance declarations and release notifications;
- (xiv) worksheets;
- (xv) import permits in respect of restricted goods; and
- (xvi) **in the case of goods damaged, destroyed, lost or unaccounted for, any documents submitted or issued in terms of Chapter 25 of the Control Act** constituting proof of damage, destruction or loss **or of goods unaccounted for**; ~~in the case of goods damaged, destroyed, lost or unaccounted for.~~³⁵⁰
- (xiv) **any** worksheets **referred to in section 82(1)(a) of the Duty Act**;
- (xv) import permits in respect of restricted goods; and
- ~~(xvi) documents constituting proof of damage, destruction or loss; in the case of goods damaged, destroyed, lost or unaccounted for;~~³⁵⁴
- (xvi) abandonment notices issued by the customs authority in terms of section 564 of the Control Act.**

Inventory control and recordkeeping of free circulation goods received in tax free shops (section 330)

³⁵⁰ See sections 541 to 547 of the Control Act.

³⁵⁴ See sections 541 to 547 of the Control Act.

14.18 In addition to the information contemplated in section 330(a) to (d) **of the Control Act**, the inventory control system must reflect the following in relation to free circulation goods received in the tax free shop:

- (a) ~~a description of the~~ **the class or kind of** goods, **including as well as** the quantity, volume or weight of the goods;
- (b) any marks and numbers on the goods;
- (c) the date of receipt of the goods in the tax free shop;
- (d) the reference number and the date of the sales invoice issued upon sale of the goods, if the goods were sold;
- ~~(e) the reference number and date of any permit, authorisation or preference certificate issued in respect of the goods;~~
- (e) in the case of goods removed from the tax free shop for a purpose contemplated in section 328(1) ~~of the Control Act~~ –
 - (i) the date of removal; and
 - (ii) in the case of a removal contemplated in paragraph (c) of that **subsection**, also the place to which the goods are removed;
- (f) ~~an indication in respect~~ **in the case** of damaged, destroyed, lost or unaccounted for goods -
 - (i) **an indication** that the goods are damaged, destroyed, lost or unaccounted for; **and**
 - any documents constituting proof of damage, destruction or loss or that the goods are unaccounted for; and**
- (g) ~~any documents relating to~~ all transactions or activities pertaining to the goods from the time the goods are received in the tax free shop until the goods are **removed from the shop** ~~sold from the tax free shop or if unsold, cleared for home use or another customs procedures as may be permissible~~, including any -
 - (i) authorisations granted by the customs authority for an extension of a tax free shop period pursuant to an application referred to in rule **14.12**;
 - (ii) reports submitted to customs **as required** in terms of section 331 **of the Control Act**;
 - (iii) permissions granted by the customs authority pursuant to an application referred to in rule **14.13**;

- (iv) detention, seizure or confiscation notices issued by the customs authority in terms of Chapter 34 of the Control Act;
- (v) contracts of sale, licence and royalty agreements, or other contract or agreement in respect of the goods, if applicable;
- (vi) transfer pricing policies between a trade company and its subsidiaries;
- (vii) purchase orders;
- (viii) invoices or other proof of payment;
- (ix) packing slips;
- (x) delivery notes; **and**
- ~~(xi) worksheets; and~~
- ~~(xvi) documents constituting proof of damage, destruction or loss; in the case of goods damaged, destroyed, lost or unaccounted for;³⁵² **and**~~
- (xi) abandonment notices issued by the customs authority in terms of section 564.**

Reports to be submitted in connection with goods in tax free shops (*section 331*)

14.19 (1) (a) A report contemplated in section 331 of the Control Act must be in the form of a return and must be submitted at monthly intervals **to the customs authority electronically through eFiling, subject to rule 41.33A**, within seven working days after the end of each month; ~~to the customs authority electronically through eFiling, subject to paragraph (b).~~

(b) If a report referred to in paragraph (a) is submitted to the customs authority **in terms of rule 41.33A** in paper format ~~in circumstances where submissions in paper format are permissible,³⁵³~~ the **report submission** must be **submitted on Form ... as published as a rule on the SARS website** at the Customs Office that serves the area where the tax free shop is situated.

(2) A report referred to in subrule (1) must in respect of all goods referred to in section 331(2) **of the Control Act** reflect the following information in addition to the information listed in that **subsection**:

(a) The name of the licensee of the tax free shop:

³⁵² See sections 551 to 554 of the Control Act.

³⁵³ See section 913(4) of the Control Act.

- (b) if the report is submitted by a customs broker or ordinary representative on behalf of the licensee, the information specified in rule **41.33D**;³⁵⁴
- (c) the customs code of the tax free shop;
- (d) a precise description the class or kind of the goods, including as well as –
 - (i) the quantity, volume or weight; and
 - (ii) the stock inventory code allocated to the goods as contemplated in rule **14.16(2)(b)**; and
- (e) the date of receipt, sale or removal, as applicable, in respect of all goods referred to in that subsection.

Records to be produced or submitted to Customs on request

14.20 (1) A licensee of a tax free shop who has been requested by a customs officer to produce or submit any record referred to in rule **14.17(g)** and **14.18(h)** must produce or submit such the record to the customs authority subject to and in accordance with Part 7 of Chapter 41 of these Rules within the timeframe indicated in the request, or if no timeframe is specified in such request, within three working days after the request.

~~(2) A copy of such document or record may, subject to the approval of the customs authority, be submitted and such a copy or printout may for purposes of the Control Act and a tax levying Act be regarded to be the original document or record requested.~~

Part 4: Special shops for diplomats

Definition

14.21 For purposes of this Part –

“**special shop for diplomats**” means a shop contemplated in section 332(d) of the Control Act, established for the tax free retail sale of goods to persons entitled to diplomatic immunities or privileges under the Diplomatic Immunities and Privileges Act, 2001 (Act No. 37 of 2001), and includes any storage facilities on the premises.

³⁵⁴ If the report is submitted in terms of section 920 of the Customs Control Act by an ordinary representative on behalf of the licensee, the report must comply with the additional requirements set out in Part 6 of Chapter 41 of these Rules. Note that the said Part 6 applies only to ordinary representatives which per definition excludes persons submitting documents as customs brokers. It follows that Part 6 does not apply to customs brokers that submit reports on behalf of licensees in that capacity.

Place where special shops for diplomats may be established (*section 332 (g)*)

14.22 A special shop for diplomats may be established only in the Tshwane Metropolitan area and within a ten kilometre radius from the premises of a diplomatic mission as defined in the Diplomatic Immunities and Privileges Act, 2001.

Clearance of goods not in free circulation for supply Application of provisions regulating tax free shop procedure to special shops for diplomats

14.23 (1) The provisions of the Control Act and these Rules regulating the tax free shop procedure, except insofar as any such provision is modified, qualified or deviated from in this Part, apply with any necessary changes the context may require to –

- (a) goods not in free circulation supplied to a special shop for diplomats; and
- (b) goods in free circulation received at a special shop for diplomats.

(2) (a) No goods not in free circulation may be supplied to a special shop for diplomats unless those goods are cleared and released under the tax free shop procedure as applied in terms of subrule (1)(a), and all those goods come under the tax free shop procedure when cleared for that procedure.

(b) All goods in free circulation received at a special shop for diplomats come under the tax free shop procedure as applied in terms of subrule (1)(b).

Completion of tax free shop procedure in relation to goods received in special shops for diplomats

14.24 (1) The tax free shop procedure in relation to goods in a special shop for diplomats is, subject to subsection (2), completed when the goods are sold and the purchaser removes the goods from the shop.

(2) The tax free shop procedure, in relation to goods in a special shop for diplomats, ends before its completion if—

- (a) the goods before completion of the procedure are cleared and released for another customs procedure or for home use, as may be permissible in the circumstances; or

- (b) completion of the procedure is interrupted by an occurrence referred to in section 109(2) of the Control Act.

Persons to whom goods may be sold in special shops for diplomats (*section 332(d)*)

14.25 Goods in a special shop for diplomats may be sold only to a person –

- (a) entitled to diplomatic immunities or privileges under the Diplomatic Immunities and Privileges Act, 2001 (Act No. 37 of 2001); and
- (b) who is in possession of –
- (i) a valid diplomatic identity card issued to that person by –
- ~~(i) an embassy, consulate, or other diplomatic mission of a foreign country in the Republic; or~~
- ~~(ii) a diplomatic mission of an international organisation or institution in the Republic; and~~ the government department responsible for diplomatic relations; and
- (ii) a certification issued by the government department responsible for diplomatic relations, authorising the sale and quantities of the goods to be sold.

Issuing of sales invoices

14.26 No goods may be sold from a special shop for diplomats unless a sales invoice containing at least the following information is issued to the purchaser in respect of the sale:

- (a) ~~A description of the~~ The class or kind of goods to which it relates, ~~including as well as~~ the stock inventory code and the quantity;
- (b) the date of issue of the sales invoice;
- (c) the selling price of the goods in South African Rand;
- (d) the name and physical address of the shop issuing the sales invoice; ~~and~~
- (e) the name of the purchaser;
- (f) the number of the diplomatic identity card of the purchaser;
- (g) the name of the diplomatic mission or international organisation or institution to which the purchaser is attached ~~which issued the diplomatic identity card;~~
- and

- (h) the accreditation number issued to that diplomatic mission or international organisation or institution in terms of the Diplomatic Immunities and Privileges Act, 2001.

Off-site outlets for special shops for diplomats disallowed

14.27 No off-site outlet may be established for a special shop for diplomats.

Removal of goods from special shops for diplomats

14.28 (1) Goods may be removed from a special shop for diplomats in the following circumstances only:

- (a) When the goods are sold to a person referred to in rule **14.25**;
- (b) in the case of goods cleared and released for the tax free shop procedure, if goods not sold as contemplated in paragraph (a) are cleared and released for home use or another customs procedure, as may be permissible in the circumstances;
- (c) if any steps referred to in section 115 of the Control Act are taken in respect of the goods and such steps require removal of the goods from the shop; ~~or~~
- (d) if the goods are detained, seized or confiscated and the customs authority directs in terms of Chapter 34, 35 or 36 of the Control Act that the goods be removed to another place; ~~or~~
- (e) if any of the circumstances set out in rule **14.12A** or approved in terms of rule **14.13** apply.

(2) Section 328(2) ~~of the Control Act~~ applies in respect of goods removed from a special shop for diplomats in contravention of subrule (1), or used or sold as samples, perfume testers or other items used for promoting sales in the shop.

CHAPTER 15

STORES PROCEDURE³⁵⁵

Definition

“boarding pass” means a document issued during check-in by a licensed carrier –

(a) indicating that a traveller has the permission of the carrier to board the vessel, aircraft or train for a particular voyage, flight or trip; and

(b) reflecting –

(i) the identity of the traveller;

(ii) the voyage, flight or trip number; and

(iii) the date and scheduled time of departure of the vessel, aircraft or train;

“crew identification card” means a card issued by the carrier operating a foreign-going vessel or aircraft or cross-border train indicating that the person identified on the card is employed by the carrier as a member of the crew of that vessel, aircraft or train;

Part 1: Introductory rules

³⁵⁵ **Typical** goods to which the stores procedure applies, include –

- (a) all consumables for use as stores on board a vessel, aircraft or train referred to in section 334(2) of the Control Act, such as –
- (i) foodstuffs;
 - (ii) mineral waters and non-alcoholic drinks;
 - (iii) alcoholic drinks including ales, beers, wine and spirits;
 - (iv) tobacco or manufactured tobacco products, including cigarettes, cigarillos, cigars, hand-rolling tobacco, smoking tobacco and chewing tobacco or tobacco substitutes;
 - (v) soaps and toiletries;
 - (vi) medicinal supplies;
 - (vii) stationary and other consumer products;
 - (viii) books, magazines and dvd's;
 - (ix) cleaning compounds and materials;
 - (x) boiler compounds, fuel, fuel oil treatment preparations, lubricants and filter sponges;
 - (xi) coating for boilers and boiler bricks;
 - (xii) paints, varnishes, solvents and corrosion and rust inhibitors;
 - (xiii) gas for refrigeration, welding and other on-board purposes;
 - (xiv) matches and lighter fluid in dispensing cans;
 - (xv) smoke abatement and oils slick dispersant preparations;
 - (xvi) coal; and
 - (xvii) products for the preservation, treatment or preparation on board of the goods carried;
- (b) all spare parts for the vessel, aircraft or train that may be needed for the operation or maintenance of the vessel, aircraft or train; and
- (c) tax free items for sale to travellers and crew consisting of items similar to those that may be bought in tax free shops.

Classes or kinds of goods excluded from ~~the~~ definition of “stores” (*section 1(1)*)

15.1 Personal effects of a traveller or crew member or commercial goods in a traveller or crew member’s accompanied or unaccompanied baggage are excluded from the definition of “stores” in section 1 of the Control Act.

~~Tariff classification to be reflected on certain documents to be submitted for purposes of stores procedure~~

~~**15.2** The following tariff classification must be reflected on a stores clearance declaration, stores arrival or departure report, application or notification or other document required to be submitted to the customs authority in terms of Chapter 15 of the Control Act:~~

~~(a) In relation to stores consisting of alcoholic beverages and tobacco products for consumption by travellers and crew : 9992.00.10;~~

~~(b) in relation to stores consisting of products other than goods referred to in paragraph (a) for consumption or use by travellers and crew: 9992.00.20; and~~

~~(c) in relation to stores consisting of goods necessary to operate or maintain the foreign-going vessel or aircraft or cross-border train during its voyage, flight or journey: 9992.00.90.~~

Only licensed stores suppliers apart from carriers permitted to transport goods not in free circulation to vessels, aircraft or trains under stores procedure (*sections 122(c) and 359(e)(i)*)

15.3 For purposes of section 122(c) of the Control Act a licensed stores supplier supplying stores to a foreign-going vessel or aircraft, or cross-border train, is **hereby, in addition to carriers referred to** in section 122(a) or (b) of the Control Act, permitted to transport, using own transport, imported goods not in free circulation under the stores procedure to the vessel, aircraft or train.

Part 2: Rules ~~relating to clearance and release~~ regulating reporting of stores taken on board in Republic

Delivery notifications by carriers when delivering stores under stores procedure to foreign-going vessels or aircraft or cross-border trains

15.3A A carrier that transported goods under the stores procedure to a foreign-going vessel or aircraft or cross-border train must notify the customs authority of the delivery of the goods to the vessel, aircraft or train in accordance with rule **5.1B**.

Delivery notifications by stores suppliers when delivering stores under stores procedure to foreign-going vessels or aircraft or cross-border trains

15.3B (1) A licensed stores supplier that transported stores under the stores procedure to a foreign-going vessel or aircraft or cross-border train must, within three hours³⁵⁶ of delivery of the stores to the vessel, aircraft or train, notify the customs authority of the delivery of the stores, electronically through eFiling.

(2) A delivery notification in terms of subrule (1) must reflect the following information:

- (a) The name and customs code of the licensed stores supplier that transported the stores;
- (b) if the notification is submitted by a customs broker or ordinary representative on behalf of the stores supplier, the information specified in rule **41.33D**;³⁵⁷
- (c) the movement reference number of the stores clearance declaration submitted in respect of the goods;
- (d) the customs code of the customs seaport, airport or railway station where the stores were delivered to the foreign-going vessel or aircraft or cross-border train;
- (e) the date and time of delivery of the goods;
- (f) the transport name and conveyance number of the vessel, aircraft or train to which the goods were delivered;
- (g) in the case of non-containerised goods -

³⁵⁶ See rule **41.10B**

³⁵⁷ If the notification is submitted in terms of section 920 of the Customs Control Act by an ordinary representative on behalf of the stores supplier, the notification must comply with the additional requirements set out in Part 6 of Chapter 41 of these Rules. Note that the said Part 6 applies only to ordinary representatives which per definition excludes persons submitting documents as customs brokers. It follows that Part 6 does not apply to customs brokers that submit notifications on behalf of stores suppliers in that capacity.

- (i) confirmation that the goods delivered by the stores supplier correspond in class or kind with the goods described in the release notification issued in respect of the goods; and
 - (ii) the quantity delivered;
- (h) in the case of containerised goods -
- (i) confirmation -
 - (aa) that the container and seal numbers of the container or containers delivered by the stores supplier correspond with the container and seal numbers on the release notification; and
 - (bb) that the seal on the container or on each container delivered is intact;³⁵⁸ and
 - (ii) the quantity of containers delivered; and
- (i) if no confirmation referred to in paragraph (g)(i) or (h)(i) can be given, the reason why confirmation cannot be given, which may be motivated in a separate supporting document submitted together with the notification subject to and in accordance with Part 7 of Chapter 41 of these Rules.

Acknowledgement of receipt of stores taken on board (section 343)

15.4 (1) An acknowledgement of receipt referred to in section 343 of the Control Act of a specific delivery of stores to a foreign-going vessel or aircraft or cross-border train must, within three hours after that delivery of the stores were taken on board the vessel, aircraft or train in the Republic, be submitted to the customs authority electronically through eFiling, subject to rule 41.33A paragraph (b).

(b) If an acknowledgement of receipt referred to in paragraph (a) is submitted to the customs authority in terms of rule 41.33A in paper format, in circumstances where submissions in paper format are permissible,³⁵⁹ the submission the acknowledgement of receipt must be —

- (i) on Form.....as published as a rule on the SARS website; and
- (ii) made submitted to the Customs Office that serves the place of entry or exit where the stores were taken on board.

(c) The carrier operating a foreign-going vessel or aircraft or cross-

³⁵⁸ Note that any seal discrepancies must in terms of rule 5.6 be reported by a person who receives physical control of a container.

³⁵⁹ See section 913(4) of the Control Act.

border train may submit an acknowledgement of receipt on behalf of the on-board operator.

(2) An acknowledgement of receipt referred to in subrule (1) must reflect the following information:

- (a) The On-board operator details of the on-board operator submitting the receipt or on whose behalf the receipt is submitted;³⁶⁰
- (b) the name and customs code of the carrier operating the vessel, aircraft or train, or if the carrier is not located in the Republic, also the name or customs code of the carrier and the name and customs code of the carrier's registered agent in the Republic;
- (c) if the receipt is submitted by a customs broker or ordinary representative on behalf of the on-board operator, the information specified in rule 41.33D;³⁶¹
- (d) the name and customs code of the carrier or stores supplier that delivered or supplied the stores, if the stores were supplied by a carrier or stores supplier;
- (e) the movement reference number³⁶² of any the stores clearance declaration submitted in respect of the stores;
- (f) the customs code of the customs seaport, airport or railway station where the stores were delivered to the foreign-going vessel or aircraft or cross-border train;
- (g) the transport name;³⁶³ and country of registration
- (h) the conveyance number;³⁶⁴
- (i) the date and time when the stores were taken on board;
- ~~(h) a description of the stores taken on board, which description must include~~
 - ~~(i) the tariff classification;~~
 - ~~(ii) the customs value; and~~
 - ~~(iii) the exact quantity, weight or volume;~~
- (i) in the case of non-containerised goods -

³⁶⁰ See definition of "on-board operator details" in rule 1.1.

³⁶¹ If the receipt is submitted in terms of section 920 of the Customs Control Act by an ordinary representative on behalf of the on-board operator, the receipt must comply with the additional requirements set out in Part 6 of Chapter 41 of these Rules. Note that the said Part 6 applies only to ordinary representatives which per definition excludes persons submitting documents as customs brokers. It follows that Part 6 does not apply to customs brokers that submit such receipts on behalf of on-board operators in that capacity.

³⁶² See definition of "movement reference number" in rule 1.1

³⁶³ See the definition of "transport name" in rule 1.1.

³⁶⁴ See definition of "conveyance number" in rule 1.1.

- (i) confirmation that the goods received by the on-board operator correspond in class or kind with the goods described in the release notification issued in respect of the goods; and
- (ii) the quantity received;
- (k) in the case of containerised goods -
 - (i) confirmation -
 - (aa) that the container and seal numbers of the container or containers received by the on-board operator correspond with the container and seal numbers on the release notification; and
 - (bb) that the seal on the container or on each container received is intact;³⁶⁵ and
 - (ii) the quantity of containers received; and
- (l) if no confirmation referred to in paragraph (j)(i) or (k)(i) can be given, the reason why confirmation cannot be given, which may be motivated in a separate supporting document submitted together with the notification subject to and in accordance with Part 7 of Chapter 41 of these Rules; and
- (m) a description, and quantity, weight or volume, of the stores not accepted and returned, including the information referred to in paragraph (j)(i) to (iii). and
- ~~(j) a declaration that the particulars on the acknowledgement are true and correct.~~

Part 3: Rules relating to reporting and control of ~~regulating~~ stores under stores procedure

Stores that must be sealed upon arrival at a customs seaport or airport

15.5 (1) The on-board operator of a foreign-going vessel or aircraft or a cross-border train must, subject to subrule (2), when a stores arrival report must be submitted in terms of section 346 of the Control Act, seal the following goods, or request³⁶⁶ the customs authority to seal such goods:

- (a) firearms, including air - , alarm - or gas pistols;
- (b) ammunition;

³⁶⁵ Note that any seal discrepancies must in terms of rule 5.6 be reported by a person who receives physical control of a container.

³⁶⁶ This request must be reflected on the stores arrival report. See rule 15.20.

- (c) cigarettes, cigars, tobacco and any other manufactured tobacco products and substitutes;
- (d) ales, beer, wine, spirits or other alcoholic drinks; and
- (e) habit forming drugs, **excluding medicine used by a traveller or crew member in terms of a doctor's prescription.**

(2) The standard quantities of alcohol and tobacco and manufactured tobacco substitutes referred to in rule **15.6** may be left unsealed for personal use by travellers and crew members.

Standard quantities of certain stores allowed for personal use of travellers or crew members on board vessels whilst in Republic (*section 347(2) read with section 348(3)*)

15.6 Standard quantities of stores for purposes of section 347(2) of the Control Act allowable per traveller or crew member are the following in relation to –

- (a) alcohol:
 - (i) Six cans or bottles of beer per day, not exceeding 440ml per can or bottle;
 - (ii) one bottle of wine per day, not exceeding 750 millilitres; and
 - (iii) three bottles of spirits or liqueur per 10 days, not exceeding 1125 millilitres per bottle; and
- (b) tobacco and manufactured tobacco substitutes:
 - (i) 20 cigarettes per day;
 - (ii) 250 grams of tobacco per 10 days; or
 - (iii) 5 cigars, regardless of weight, per 10 days.

Application for permission to break customs seals or interfere with secured stores (*section 347(3)*)

15.7 (1) (a) Permission contemplated in section 347(3) of the Control Act to break any seal placed on stores³⁶⁷ or to interfere with stores otherwise secured must be obtained by submitting an application for such permission to the customs authority electronically through eFiling, subject to **paragraph (b) rule 41.33A.**

³⁶⁷ This includes stores sealed in terms of rule **15.5**.

(b) If an application referred to in paragraph (a) is submitted to the customs authority **in terms of rule 41.33A** in paper format ~~in circumstances where submissions in paper format are permissible,~~³⁶⁸ the **application submission** must be **submitted** —

~~(i) on Form.....as published as a rule on the SARS website; and~~

~~(ii) made~~ to the Customs Office that serves **the area in which** the relevant customs seaport, airport or railway station **is situated**.

(2) An application referred to in subrule (1) must reflect the following information:

~~(a) The On-board operator details;~~³⁶⁹

(a) The **name and** customs code of the carrier or, **and** if the carrier is not located in the Republic, **the name or customs code of the carrier and** **also** the **name and** customs code of the carrier's registered agent in the Republic;

~~(b) if the application is submitted by a customs broker or ordinary representative on behalf of the applicant, the information specified in rule 41.33D;~~³⁷⁰

(c) the transport name;³⁷¹ ~~and country of registration of the vessel, aircraft or train;~~

(d) the conveyance number;³⁷²

(e) the name **and customs code** of the customs seaport, airport or railway station where the vessel, aircraft or train has arrived;

(f) the date and time of arrival of the vessel, aircraft or train;

(g) the length of time the vessel, aircraft or train will stay at that seaport, airport or railway station;

(h) **a description** **the class or kind** of the relevant stores; ~~which description must includes~~ —

~~(i) the seal number, if applicable;~~

~~(ii) the tariff classification;~~

³⁶⁸ See for section 913(4) of the Control Act.

³⁶⁹ See definition of "on-board operator details" in rule 1.1.

³⁷⁰ If the application is submitted in terms of section 920 of the Customs Control Act by an ordinary representative on behalf of the carrier, the application must comply with the additional requirements set out in Part 6 of Chapter 41 of these Rules. Note that the said Part 6 applies only to ordinary representatives which per definition excludes persons submitting documents as customs brokers. It follows that Part 6 does not apply to customs brokers that submit applications on behalf of carriers in that capacity.

³⁷¹ See definition of "transport name" in rule 1.1.

³⁷² see definition of "conveyance number" in rule 1.1.

- ~~(iii) — the exact quantity, volume or weight;~~
- ~~(iv) — the customs value; and~~
- ~~(v) — any marks and numbers on the goods, if applicable;~~
- (i) the movement reference number of the clearance declaration reflecting those stores or the reference number of the stores arrival report reflecting those stores; and
- (j) ~~a motivation of~~ the reason why the proposed breaking of any seal placed on the stores, or interference with stores secured in another way, is required, which may be motivated in a separate supporting document submitted together with the application subject to and in accordance with Part 7 of Chapter 41 of these Rules.

Application for customs permission to issue stores for use on vessels in customs seaports (section 348(1) and (2))

15.8 (1) (a) The on-board operator of a foreign-going vessel must apply to the customs authority for permission to issue stores as contemplated in section 348(1) of the Control Act by submitting an application electronically through eFiling, subject to ~~paragraph (b)~~ **rule 41.33A**.

(b) If an application referred to in paragraph (a) is submitted to the customs authority in terms of rule 41.33A in paper format, ~~in circumstances where submissions in paper format are permissible,~~³⁷³ the application submission must be submitted —

- ~~(i) — on Form.....as published as a rule on the SARS website; and~~
- ~~(ii) — made~~ to the Customs Office that serves the relevant customs seaport.

(2) An application referred to in subrule (1) must reflect the following, in addition to the information listed in section 348(1)(a) and (b):

- (a) The On-board operator details of the on-board operator submitting the application or on whose behalf the application is submitted;³⁷⁴
- (b) the name and customs code of the carrier operating the vessel or, if the carrier is not located in the Republic, the name or customs code of the carrier

³⁷³ See section 913(4) of the Control Act.

³⁷⁴ See definition of “on-board operator details” in rule 1.1.

and the name and customs code of the carrier's registered agent in the Republic;

- (c) if the application is submitted by a customs broker or ordinary representative on behalf of the on-board operator, the information specified in rule 41.33D;³⁷⁵
- (d) the transport name;³⁷⁶
- (e) the conveyance number;³⁷⁷
- (f) the name of the customs seaport;
- (g) the date and time of arrival at the customs seaport;
- (h) the length of time the vessel will stay at that seaport;
- (i) a description the class or kind of the stores required for the duration of the stay at the customs seaport; which description must including –
 - (i) the tariff classification;
 - (i) the exact quantity, volume or weight, as may be appropriate; and
 - (ii) the customs value.
 - (iv) any marks and numbers on the goods, if applicable.
- (j) the movement reference number of the clearance declaration reflecting those stores or the reference number of the stores arrival report reflecting those stores.

(3) If at the time of submission of an application contemplated in section 348(1), the on-board operator is aware that additional quantities of stores will be required for circumstances contemplated in section 348(2)(a) or (b), permission for the issuing of such additional stores may be requested in that application by including, as may be appropriate, in addition to the information listed in subrule (2) –

- (a) in the case of a delay in the departure of the vessel, the reason for and duration of the delay;
- (b) in the case of a function to be hosted on board, a description of the function and the number of attendees; and

³⁷⁵ If the application is submitted in terms of section 920 of the Customs Control Act by an ordinary representative on behalf of the on-board operator, the application must comply with the additional requirements set out in Part 6 of Chapter 41 of these Rules. Note that the said Part 6 applies only to ordinary representatives which per definition excludes persons submitting documents as customs brokers. It follows that Part 6 does not apply to customs brokers that submit such applications on behalf of on-board operators in that capacity.

³⁷⁶ See definition of "transport name" in rule 1.1.

³⁷⁷ See definition of "conveyance number" in rule 1.1.

(c) in the case of the vessel remaining in the customs seaport for longer than ten days, the additional number of days.

(4) If additional stores are required subsequent to the submission of an application referred to in subrule (1) for circumstances contemplated in section 348(2)(a) or (b), application for permission for the issuing of such additional stores must be made in terms of subrule (1), reflecting in addition to the information listed in subrule (2), the information listed in subrule (3)(a), (b) or (c), as may be appropriate.

(5) The information referred to in subrule (3)(a), (b) or (c) may be provided in a separate supporting document submitted subject to and in accordance with Part 7 of Chapter 41 of these Rules.

Record to be kept by on-board operators in respect of stores issued on vessels (section 348(4))

15.9 A record contemplated in section 348(4) of the Control Act must be kept electronically and reflect the following information:

- (a) The name and customs code of the carrier or, and if the carrier is not located in the Republic, also the name or customs code of the carrier and the name and customs code of the carrier's registered agent in the Republic;
- (b) the transport name³⁷⁸ and country of registration of the vessel;
- (c) on-board operator details;³⁷⁹
- (d) the conveyance number;³⁸⁰
- (e) the reference number of any permission to issue stores contemplated in section 348 (1) or (2);
- (f) the date of issue of stores referred to in paragraph (e);
- (g) ~~a description of the~~ class or kind of stores issued in terms of section 348, ~~which description must including~~ –
 - ~~(i) the tariff classification;~~
 - (i) the exact quantity, volume or weight of the goods stores issued, as may be applicable; and

³⁷⁸ See definition of "transport name" in rule 1.1.

³⁷⁹ See definition of "on-board operator details" in rule 1.1.

³⁸⁰ See definition of "conveyance number" in rule 1.1.

- (ii) the customs value; and
- ~~(iv) marks and numbers on the goods, if applicable;~~
- (h) in respect of stores issued that became damaged, destroyed, lost or unaccounted for whilst under the stores procedure, in respect of stores issued that became damaged, destroyed, lost or unaccounted for, the information referred to in paragraph (g) ~~(i) to (iv)~~ in respect of those stores;
- (i) in respect of stores issued that remained unused, the information referred to in paragraph (g) ~~(i) to (iv)~~ in respect of those stores; and
- (j) in respect of issued stores sold to travellers and crew whilst the vessel is in the customs seaport, the information referred to paragraph (g) ~~(i) to (iv)~~ in respect of those stores.

Categories of vessels, aircraft and trains permitted to carry tax free items for sale to travellers and crew (section 349)

15.10 (1) The following categories of vessels, aircraft and trains referred to in section 334(2) of the Control Act are permitted to carry tax-free items listed in subrule (2) for sale to travellers and crew:

- (a) Foreign-going vessels used for transporting travellers by sea for reward;
- (b) foreign-going aircraft used for transporting travellers by air for reward; and
- (c) cross-border trains used for transporting travellers by rail for reward.

(2) Tax-free items that may be carried on board a vessel, aircraft or train referred to in subrule (1) for sale to travellers and crew are –

- (a) confectionary;
- (b) cosmetics and toiletries, including lotions, creams, soaps, bath products and similar products;
- (c) perfumes, eau de toilettes and colognes;
- (d) watches;
- (e) jewellery;
- (f) handbags;
- (g) leather products;
- (h) sunglasses;
- (i) tobacco and tobacco products;
- (j) alcoholic beverages;

- (k) electronic goods; and
- (l) clothes.

Sale of tax free items on board foreign-going vessels, aircraft or cross-border trains (sections 349 and 359(b))

15.11 (1) Tax free items may be sold on board a foreign-going vessel or aircraft or cross-border train as contemplated in section 349 of the Control Act –

- (a) only to travellers with boarding passes and crew members with valid crew identification cards on a journey from or to a place outside the Republic and only whilst those travellers and crew are on board the vessel, aircraft or train for purposes of that journey;
- (b) in the case of a vessel, aircraft or train entering the Republic, until the vessel, aircraft or train arrives at the last customs seaport or airport or train station in the Republic where travellers on a journey from outside the Republic disembark from the vessel, aircraft or train; and
- (c) in the case of a vessel, aircraft or train leaving the Republic, only after the first travellers bound for a destination outside the Republic, have boarded the vessel, aircraft or train.

(2) No stores may be sold tax free to passengers travellers and crew on board a foreign-going vessel or aircraft or a cross-border train referred to in rule 15.10 unless a sales invoice reflecting the following information is issued in respect of the sale:

- (a) the customs code of the carrier issuing the sales invoice and, if the carrier is not located in the Republic, also of the carrier's registered agent in the Republic;
- (b) the transport name³⁸¹ and country of registration;
- (c) the conveyance number;³⁸²
- (d) a description of the the class or kind of stores sold, which description must including as well as the quantity, weight or volume;
- (e) the date of issue of the sales invoice;
- (f) the sales price of the goods; and

³⁸¹ See the definition of "transport name" in rule 1.1.

³⁸² See definition of "conveyance number" in rule 1.1.

- (g) the following information in respect of the purchaser:
- (i) Full name; and
 - (ii) passport **or travel document** number and boarding pass number.

Additional purposes for which stores may be removed from vessels, aircraft or trains (*section 350(1)(b)(iv)*)

15.12 Additional purposes contemplated in section 350(1)(b)(iv) **of the Control Act** for which stores may be removed from a foreign-going vessel, aircraft or cross-border train are –

- (a) cleaning crockery and cutlery;
- (b) washing linen and blankets; **and**
- (c) cleaning and repackaging headphones; **and**
- ~~(d) any other purpose approved by the customs authority in terms of rule 15.13.~~

Application for approval to remove stores from vessels, aircraft or trains (*section 350(1)(b)(iv)*)

15.13 (1) (a) An application for approval to remove stores from a foreign-going vessel, aircraft or cross-border train ~~for a purpose referred to in rule 15.12(d)~~ **contemplated in section 350(1)(b)(iv) of the Control Act** must be submitted to the customs authority by the carrier operating the vessel or aircraft or train electronically through eFiling, subject to ~~paragraph (b)~~ **rule 41.33A**.

(b) If an application referred to in paragraph (a) is submitted to the customs authority **in terms of rule 41.33A** in paper format, ~~in circumstances where submissions in paper format are permissible,~~³⁸³ the application must be submitted ~~on Form ... as published as a rule on the SARS website~~ to the Customs Office that serves the customs seaport, airport or railway station from where the vessel, aircraft or train is scheduled to depart.

(2) An application referred to in subrule (1) must reflect the following information:

³⁸³ ~~See section 913(4) of the Control Act.~~

- (a) The name and customs code of the carrier or, and if the carrier is not located in the Republic, also the name or customs code of the carrier and the name and customs code of the carrier's registered agent in the Republic;
- ~~(b) if the application is submitted by a customs broker or ordinary representative on behalf of the applicant, the information specified in rule 41.33D;³⁸⁴~~
- (c) the transport name;³⁸⁵ and country of registration;
- (d) the conveyance number;³⁸⁶
- ~~(d) on-board operator details;³⁸⁷~~
- (e) ~~a description of the~~ the class or kind of stores to be removed, ~~which description must include~~ as well as –
- ~~(i) the tariff classification;~~
- (i) the quantity, volume or weight of the goods, as may be applicable; and
- (ii) the customs value; and
- ~~(iv) marks and numbers on the goods, if applicable;~~
- ~~(f) the movement reference number of any applicable stores clearance declaration;~~ the MRN of the clearance declaration reflecting those stores or the reference number of the stores arrival report reflecting those stores;
- (g) the ~~purpose for which~~ reason why the stores are to be removed, which may be motivated in a separate supporting document submitted together with the application subject to and in accordance with Part 7 of Chapter 41 of these Rules; and
- (h) the period for which removal is required.

~~(3) An application referred to in subrule (1) must on request of the customs authority be supported by a motivation of the reasons why it is necessary for the stores to be removed from the vessel, aircraft or train.~~

³⁸⁴ If the application is submitted in terms of section 920 of the Customs Control Act by an ordinary representative on behalf of the carrier, the application must comply with the additional requirements set out in Part 6 of Chapter 41 of these Rules. Note that the said Part 6 applies only to ordinary representatives which per definition excludes persons submitting documents as customs brokers. It follows that Part 6 does not apply to customs brokers that submit such applications on behalf of carriers in that capacity.

³⁸⁵ See the definition of "transport name" in rule 1.1.

³⁸⁶ See definition of "conveyance number" in rule 1.1.

³⁸⁷ See the definition of "on-board operator details" in rule 1.1.

Timeframe for return of stores removed from vessels, aircraft or trains (*section 350(4)*)

15.14 Goods removed as contemplated in –

- (a) section 350(1)(b)(i) **of the Control Act** must be returned to the vessel, aircraft or train when the vessel or aircraft is ready to depart; and
- (b) section 350(1)(b)(ii) or (iv) must be returned to the vessel, aircraft or train **that from which** it was removed **from** within three calendar days from date of removal, **subject to sections 908 and 909**.

Applications for permission to remove stores from vessel or aircraft for purpose of storage elsewhere (*section 351*)

15.15 (1) (a) The carrier operating a foreign-going vessel or aircraft **must may** apply for permission for the removal of stores from the vessel or aircraft in the circumstances contemplated in section 351 of the Control Act by submitting an application to the customs authority electronically through eFiling, subject to **paragraph (b) rule 41.33A**.

(b) If an application referred to in paragraph (a) is submitted to the customs authority **in terms of rule 41.33A** in paper format, **in circumstances where submissions in paper format are permissible,**³⁸⁸ the application must be submitted **on Form ...as published as a rule on the SARS website** to the Customs Office that serves the customs seaport or airport where the vessel or aircraft is **located**.

(2) An application referred to in subrule (1) must reflect the following information:

- (a) The **name and** customs code of the carrier **or, and** if the carrier is not located in the Republic, **also** the **name or** customs code **of the carrier and the name and customs code** of the carrier's registered agent in the Republic;
- (b) if the application is submitted by a customs broker or ordinary representative on behalf of the applicant, the information specified in rule 41.33D,**³⁸⁹
- (c) the transport name,**³⁹⁰ **and country of registration;**

³⁸⁸ See section 913(4) of the Control Act.

³⁸⁹ If the application is submitted in terms of section 920 of the Customs Control Act by an ordinary representative on behalf of the carrier, the application must comply with the additional requirements set out in Part 6 of Chapter 41 of these Rules. Note that the said Part 6 applies only to ordinary representatives which per definition excludes persons submitting documents as customs brokers and registered agents. It follows that Part 6 does not apply to customs brokers and registered agents that submit such applications on behalf of carriers in that capacity.

- (d) the conveyance number;³⁹¹
- ~~(d) on-board operator details;³⁹²~~
- (e) ~~a description of the~~ the class or kind of stores to be removed, ~~which description must include~~ as well as –
 - ~~(i) the tariff classification;~~
 - (i) the quantity, volume or weight of the goods, as may be applicable; and
 - (ii) the customs value; and
 - ~~(iv) marks and numbers on the goods, if applicable;~~
- ~~(f) the movement reference number of any applicable stores clearance declaration;~~ the movement reference number of the clearance declaration reflecting those stores or the reference number of the stores arrival report reflecting those stores;
- (g) the reason why storage of the stores at another location is required, which may be motivated in a separate supporting document submitted together with the application subject to and in accordance with Part 7 of Chapter 41 of these Rules;
- (h) the physical address of the premises where the stores will be stored, and the name and contact details of the person ~~operation~~ in control of those premises; and
- (i) the period for which such storage is required.

~~(3) An application referred to in subrule (1) must on request of the customs authority be supported by a motivation of the reasons why it is necessary for the stores to be stored at another location.~~

(5) (a) Submission of a simplified clearance declaration in terms of rule 24.16 to clear stores for warehousing in the private storage warehouse of a stores supplier must for purposes of this rule be regarded to be an application for permission to move the stores to the private warehouse.

³⁹⁰ See the definition of “transport name” in rule 1.1.

³⁹¹ See definition of “conveyance number” in rule 1.1.

~~³⁹² See the definition of “on-board operator details” in rule 1.1.~~

(b) Release by the customs authority of the stores for warehousing in that private warehouse must for purposes of this rule be regarded to be permission for the removal of the stores to that warehouse.

Removal of waste derived from stores on foreign-going vessels, aircraft or cross-border trains (section 350(1)(b)(iii))

15.15A (1) Any commercially valuable waste derived from stores on a foreign-going vessel or aircraft or a cross-border train that is removed for disposal in terms of section 350(1)(b)(iii) of the Control Act, must -

(a) be cleared for home use under Chapter 8 of the Control Act or for a permissible customs procedure within three working days after such removal, if the stores from which the waste was derived were -

(i) stores on board the vessel, aircraft or train when it arrived in the Republic; or

(ii) goods not in free circulation when cleared under the stores procedure for supply as stores to the vessel, aircraft or train; or

(b) revert to goods in free circulation if the stores from which the waste was derived were goods in free circulation when cleared under the stores procedure for supply as stores to the vessel, aircraft or train.

(2) Waste referred to in subrule (1)(a) must for purposes of the Control Act and any applicable tax levying Act be regarded to have been imported at the time it is cleared for home use of a customs procedure.

Kinds and classes of stores that may be replaced by equivalent goods in free circulation (sections 352(1) and 359(d))

15.16 Stores of the following kinds or classes may be replaced with equivalent goods in free circulation as contemplated in section 352(1) of the Control Act:

- (a) Perishable stores no longer usable or of which the quality has deteriorated;
- (b) stores with an expiry date that has been reached or will be reached in the course of the next voyage; and
- (c) stores that are broken or damaged or for any other reason no longer usable.

Application for permission to remove and replace stores with equivalent goods in free circulation (section 352(1))

15.17 (1) (a) An application for permission to remove stores from a foreign-going vessel or aircraft and to replace those stores with equivalent goods as contemplated in section 352(1) of the Control Act,³⁹³ must be submitted to the customs authority electronically through eFiling, subject to ~~paragraph (c)~~ **rule 41.33A**.

(b) If an application referred to in paragraph (a) is submitted to the customs authority **in terms of rule 41.33A** in paper format, ~~in circumstances where submissions in paper format are permissible,~~³⁹⁴ the application must be submitted ~~on Form ... as published as a rule on the SARS website~~ to the Customs Office that serves the customs seaport or airport where the ~~stores are to be removed and replaced~~ **vessel or aircraft is**.

(2) An application referred to in paragraph (a) may be ~~submitted~~ **made** by

- (a) the stores supplier who cleared the goods for supply as stores to the relevant vessel or aircraft;
- (b) the carrier operating the vessel or aircraft; **or**
- (c) that carrier's registered agent, if the carrier is not located in the Republic. ~~or~~**
- (d) a customs broker.**

(3) An application referred to in subrule (1) must reflect the following information:

- (a) The **name and** customs code of the applicant;
- (b) if the application is submitted by a customs broker or ordinary representative on behalf of the applicant, the information specified in rule 41.33D,³⁹⁵**
- (b) the transport name;³⁹⁶ **and country of registration;**
- (c) the conveyance number;³⁹⁷

³⁹³ Section 352 of the Control Act is available in instances such as where stores have reached their expiry date, the goods supplied are not of the required quality, etc.

³⁹⁴ ~~See section 913(4) of the Control Act.~~

³⁹⁵ **If the application is submitted in terms of section 920 of the Customs Control Act by an ordinary representative on behalf of the carrier, the application must comply with the additional requirements set out in Part 6 of Chapter 41 of these Rules. Note that the said Part 6 applies only to ordinary representatives which per definition excludes persons submitting documents as customs brokers. It follows that Part 6 does not apply to customs brokers that submit such applications on behalf of carriers in that capacity.**

³⁹⁶ See the definition of "transport name" in rule 1.1.

- (d) on-board operator details;³⁹⁸
- (e) a description of the the class or kind of stores to be removed and replaced, ~~which description must include~~ as well as –
- ~~(i) the tariff classification;~~
 - (i) the technical characteristics of the goods;
 - (ii) the quantity, volume or weight of the stores, as may be applicable; and
 - (iii) the customs value; and
 - ~~(v) marks and numbers on the stores, if applicable;~~
- (f) ~~the movement reference number of any applicable stores clearance declaration;~~ the movement reference number of the clearance declaration reflecting those stores or the reference number of the stores arrival report reflecting those stores;
- (g) ~~a description of the~~ the class or kind of the equivalent goods, ~~which description must include~~ as well as –
- (i) the quality;
 - (ii) the technical characteristics; and
 - (iii) the quantity, or volume or weight, as may be applicable; and
- (h) the reason why the stores need to be removed and replaced, which may be motivated in a separate supporting document submitted together with the application subject to and in accordance with Part 7 of Chapter 41 of these Rules.

(5) Goods under the stores procedure which are removed from a foreign-going vessel or aircraft and replaced by equivalent goods with the permission of or on direction by the customs authority in terms of section 352, become goods in free circulation without any further customs formalities.

Notification of aborted voyages

15.18 ~~An arrival report³⁹⁹ submitted in terms of rule 3.6 or rule 3.13 in respect of a foreign-going vessel or aircraft returning to the Republic in circumstances~~

³⁹⁷ See definition of “conveyance number” in rule 1.1.

³⁹⁸ See the definition of “on-board operator details” in rule 1.1.

~~contemplated in section 356(1) of the Control Act must be regarded to be a notification referred to in subsection (2) of that section.~~ A stores arrival report referred to in rule 15.20 in respect of a foreign-going vessel or aircraft returning to the Republic in circumstances contemplated in section 356(1) of the Control Act, containing an aborted voyage indicator contemplated in paragraph (j) of that rule must be regarded to be a notification referred to in subrule (2) of that section”.

Part 4: Stores arrival and departure reports

Railway stations where stores arrival and departure reports must be submitted *(section 346(1)(b) and 354(1)(b))*

15.19 The railway station prescribed for purposes of submission of –

- (a) a stores arrival report contemplated in section 346(1)(b) and (2)(c) of the Control Act is the first railway station in the Republic after the train entered the Republic; and
- (b) a stores departure report contemplated in section 354(1)(b) and (2)(c) is the last railway station in the Republic before the cross-border train leaves the Republic.

Submission of, and information to be reflected on, stores arrival reports⁴⁰⁰ *(sections 346 and 355)*

15.20 ~~(1)~~ A stores arrival report referred to in section 346 of the Control Act must be submitted by the carrier operating the foreign-going vessel or aircraft or cross-border train to the customs authority electronically through EDI and must reflect the following information:

- (a) ~~The~~ General mandatory reporting information⁴⁰¹ in relation to the vessel, aircraft or train;
- (b) the date and time of arrival of –
 - (i) the vessel or aircraft at the customs seaport or airport referred to in section 346(1)(a); or

³⁹⁹ Please note that a stores arrival report referred to in rule 15.19 must be submitted together with the arrival report.

⁴⁰⁰ See rule 3.6 for timeframe for submission of vessel arrival report, rule 3.13 for timeframe of submission of aircraft arrival report and rule 3.19 for timeframe of train arrival report.

⁴⁰¹ See the definition of “general mandatory reporting information” in rule 1.1.

- (ii) the train at the train station referred to in rule **15.19(a)**;
- ~~(c) the country of registration of the vessel, aircraft or train;~~
- (c) the name of the customs seaport or airport –
 - (i) from which the vessel or aircraft was underway;
 - (ii) where the vessel or aircraft has arrived; and
 - (iii) where the vessel or aircraft will make its next stop;
- (d) the name of the train station referred to in rule **15.19** where the train has arrived;
- (e) ~~a description of~~ the class or kind of all stores on board upon arrival of the vessel, aircraft or train at the relevant seaport, airport or train station, ~~which description must include~~ as well as -
 - (i) the tariff classification;
 - (ii) the quantity, volume or weight of the goods, as may be applicable;
 - (iii) the customs value; and
 - (iv) marks and numbers on the goods, if applicable;
- (f) an indication which stores have been sealed in terms of rule **15.5**, and the applicable seal numbers;
- (g) an indication whether customs supervision is required ~~a request~~ to seal goods that must in terms of rule **15.5** be sealed, if not already sealed by the on-board operator in terms of that rule; ~~and~~
 - (i) in the case of stores in the personal possession of a crew member on board the vessel, aircraft or train, also crew details⁴⁰² in respect of that crew member; and
 - (j) in the case of a vessel or aircraft returning to the Republic in circumstances contemplated in section 356(1), an indicator that the vessel or aircraft aborted its voyage and returned to the Republic.

Submission of, and information to be reflected in, stores departure reports⁴⁰³

(sections 354 and 355)

15.21 (1) A stores departure report referred to in section 354 of the Control Act must be submitted by the carrier operating the foreign-going vessel or aircraft or

⁴⁰² See the definition of “crew details” in rule 1.1.

⁴⁰³ See rule **3.10** for timeframe for submission of vessel departure report, rule **3.17** for timeframe of submission of aircraft departure report and rule **3.22** for timeframe of train departure report.

cross-border train⁴⁰⁴ to the customs authority electronically through EDI and must reflect the following information:

- (a) ~~The~~ General mandatory reporting information in relation to the vessel, aircraft or train;
- ~~(b) the country of registration of the vessel, aircraft or train;~~
- (b) the date and time of departure of –
 - (i) the vessel or aircraft from the customs seaport or airport referred to in section 354(1)(a); or
 - (ii) the train from the train station referred to in rule **15.19**(b);
- (c) the ~~name~~ customs code of the customs seaport, airport or railway station from where the vessel, aircraft or train has departed;
- (d) in the case of a vessel or aircraft departing to another customs seaport or airport in the Republic, the name of that seaport or airport;
- (e) ~~a description~~ class or kind of all stores on board upon departure, ~~which description must include~~ as well as –
 - (i) the tariff classification;
 - (ii) the quantity, volume or weight of the goods, as may be applicable;
 - (iii) the customs value; and
 - (iv) any marks and numbers on the goods, if applicable;
- (h) an indication which of those stores –
 - (i) are sealed; or
 - (ii) were taken on board at the seaport, airport or train station from which the vessel, aircraft or train is departing; and
- (i) in the case of stores in the personal possession of a crew member on board the vessel, aircraft or train, also crew details⁴⁰⁵ in respect of that crew member.

⁴⁰⁴ See rule **15.19** for railway stations where stores departure reports must be submitted.

⁴⁰⁵ See the definition of “crew details” in rule 1.1.

CHAPTER 16 EXPORT PROCEDURE⁴⁰⁶

Part 1: Clearance and release of goods for export

Timeframes for delivery of goods cleared for export to depots and export terminals (section 368(1))

16.1 The timeframe for delivery of –

- (a) goods to be containerised at a container depot as contemplated in section 368(1)(a) **of the Control Act**, is at least six hours before the goods are packed into containers for export;
- (b) goods to be packed at an air cargo depot as contemplated in section 368(1)(b), is at least four hours before the goods are packed for export; and
- (c) goods **referred to in section 368(1)(c)(i) and (ii)** to the terminal where the goods will be loaded for export ~~as contemplated in section 368(1)(c)~~, is at least –
 - ~~(i) twelve hours before the export stack for the vessel on board of which the goods are to be loaded is scheduled to close, in the case of containerised goods to be delivered to a sea cargo terminal;~~
 - (ii) **nine five** hours before the foreign-going aircraft on board of which the goods are to be loaded is scheduled to depart, in the case of goods to be delivered to an air cargo terminal;
 - (iii) **nine five** hours before the cross-border railway carriage on board of which the goods are to be loaded is scheduled to depart, in the case of containerised goods to be delivered to a rail cargo terminal; and
 - (iii v) **six four** hours before the foreign-going vessel or cross-border railway carriage on which the goods are to be loaded is scheduled to depart, in

⁴⁰⁶ It is to be noted that the rules in terms of this Chapter apply only to goods that are exported under the export procedure as contemplated in section 361(2) of the Control Act, viz.

- (a) outright exports;
- (b) exports under—
 - (i) the outbound leg of the temporary admission procedure contemplated in Part 2 of Chapter 12;
 - (ii) the temporary export procedure contemplated in Part 2 of Chapter 17; or
 - (iii) the outward processing procedure contemplated in Chapter 20; or
- (c) exports of inward processed compensating products contemplated in Part 3 of Chapter 18.

the case of bulk or break bulk goods to be delivered to a sea- or rail cargo terminal.

Goods to which timeframes for delivery to depots and terminals do not apply

(section 368(2)(c))

16.2 The timeframes set out in rule 16.1 do not apply to —

(a) courier articles exported by air;

(b) live animals;

(c) perishable goods; and

(d) hazardous goods.

Additional categories of goods excluded from section 369(1) *(section 369(2))*

16.3 Section 369(1) of the Control Act does not apply to the following additional categories of goods:

(a) goods released for export in accordance with expedited release procedures in terms of Part 2 of Chapter 24;

(b) goods released for export in accordance with simplified clearance and release procedures in terms of Part 3 of Chapter 24; and

(c) international postal articles handled by the South African Post Office;

(d) goods that are excisable goods in terms of the Excise Duty Act; and

(e) inward processed compensating products.

Timeframes for notification of failures to export of goods released for export

(section 370(1))

16.4 The timeframes that must be applied for purposes of section 370(1) of the Control Act must be calculated as follows:

(a) the actual time since release of the goods for export until the goods reach the sea cargo terminal, plus four ~~four~~ seven calendar days, in the case of exports by sea;

(b) the actual time since release of the goods for export until the goods reach the air cargo terminal, plus two calendar days, in the case of exports by air;

(c) the actual time since release of the goods for export until the goods reach the rail cargo terminal, plus five calendar days, in the case of exports by rail; and

- (d) the actual time since release of the goods for export until the goods reach the land border post, plus ~~thirty minutes~~ **one hour**, in the case of exports by road.

Notification of failure to export goods within prescribed timeframes (*section 370(1)(a)*)

16.5 (1) (a) A notification of failure to export goods within the timeframe determined in rule **16.4** must be submitted to the customs authority electronically through eFiling, subject to ~~paragraph (b)~~ **rule 41.33A**.

(b) If a notification referred to in paragraph (a) is submitted to the customs authority **in terms of rule 41.33A** in paper format, ~~in circumstances where submissions in paper format are permissible,~~⁴⁰⁷ the notification must be submitted —
(i) ~~on Form.....as prescribed as a rule on the SARS website; and~~
(ii) ~~to the Customs Office that serves the place of exit from where the goods are to be exported.~~

(2) A notification referred to in subrule (1) must reflect the following information:

- (a) The name and customs code of the person who cleared the goods for export;
- (b) **if the notification is submitted by a customs broker, registered agent or ordinary representative on behalf of the person referred to in paragraph (a), the information specified in rule 41.33D;**⁴⁰⁸
- (c) the movement reference number of the export clearance declaration **submitted in respect of the goods;** and
- (d) the reason why the goods were not exported within the timeframe applicable to the goods, **which may be motivated in a separate supporting document submitted together with the notification subject to and in accordance with Part 7 of Chapter 41 of these Rules.**

~~(3) A notification referred to in subrule (1) must be supported by any documents substantiating the reason for the failure relied on.~~

⁴⁰⁷ See section 913(4).

⁴⁰⁸ If the notification is submitted in terms of section 920 of the Customs Control Act by an ordinary representative on behalf of the person clearing, the notification must comply with the additional requirements set out in Part 6 of Chapter 41 of these Rules. Note that the said Part 6 applies only to ordinary representatives which per definition excludes persons submitting documents as customs brokers or registered agents. It follows that Part 6 does not apply to customs brokers and registered agents that submit such notifications in that capacity.

~~(4) (a) If the customs authority so requests a supporting document must within the timeframe indicated in the request be submitted to the customs authority electronically through eFiling, subject to paragraph (b).~~

~~(b) If a supporting document referred to in paragraph (a) is submitted to the customs authority in paper format in circumstances where submissions in paper format are permissible, the submission must be made to the Customs Office where the application had been made submitted, or to another Customs Office indicated in the request.~~

Documents constituting proof that goods were loaded for export⁴⁰⁹ (section 370(2) and 372(c))

16.6 The following documents are acceptable as proof for purposes of sections 370(2) and 372(c) of the Control Act that goods were loaded for export:

- (a) For export by sea, a shipped on board bill of lading;
- (b) for export by air, an ~~shipped on board~~ air waybill, endorsed to confirm loading of the goods on board the aircraft;
- (c) for export by rail, any document stamped and signed by the rail carrier, evidencing receipt of the goods by that carrier, including a rail consignment note; and
- (d) for export by road, a release notification stamped by customs.⁴¹⁰

Part 2: Transport of goods not in free circulation under export procedure

Persons other than carriers permitted to transport goods not in free circulation under export procedure (section 122(c) read with section 372(b))

16.7 The following persons ~~other than carriers may~~ are hereby, in addition to carriers referred to in section 122(a) or (b) of the Control Act, authorised for purposes of section 122(c) of the Control Act to transport goods not in free circulation, using own transport, to a place of exit under the export procedure:

- (a) The owner ~~or exporter~~ of the goods, using own transport;

⁴⁰⁹ Proof contemplated in this rule will only be requested by the customs authority if the customs authority is not satisfied on cargo reporting information provided in terms of Chapter 3, that goods were loaded on board the means of transport on which it was to be exported from the Republic.

⁴¹⁰ Customs will only stamp a release notification in the event of a systems breakdown.

- (b) the exporter clearing the goods for export; and
- (c) the licensee of any licensed premises where the goods are, using own transport.

Part 3: Recordkeeping

Recordkeeping by registered exporters

16.8 (1) A person registered as an exporter in terms of Chapter 28 of the Control Act must keep books, accounts and documents in respect of all transactions relating to any goods exported, including –

- (a) all documents in respect of the clearance of goods for export; and
- (b) any other records that may be necessary for determining the history of any transaction relating to the export of goods, including documents contemplated in rule **16.6** providing proof of –
 - (i) loading of goods for export; and
 - (ii) export of goods.

(2) Documents referred to in subrule (1) must, subject to subrule (3), be kept in accordance with section 919 of the Control Act, read with Part 5 of Chapter 41 of these Rules.

- ~~(a) for a period of five years after the date of clearance of the goods;~~
- ~~(b) in a secure place on the exporter's business premises; and~~
- ~~(c) according to a filing system which enables quick access to information pertaining to specific goods or a specific transaction.~~

~~(3) A person authorised in terms of rule 7.2 to submit clearance declarations in paper format or a person allowed in terms of section 919 of the Control Act to use a paper based record keeping system, may keep documents referred to in subrule (1) according to a paper based record keeping system conforming with the requirements set out in paragraphs (a) to (c) of that subrule.~~

Documents or records to be produced or submitted to Customs on request

16.9 (1) A registered exporter must produce or submit a document or record referred to in section 176 of the Control Act, and read with rule **16.8**, to the customs

authority on request, subject to and in accordance with Part 7 of Chapter 41 of these Rules. within a timeframe specified in the request in terms of section 179 (b), or if no timeframe is specified in such request, within three working days after the date of the request.

~~(2) A copy or a computer printout of any document or record requested may subject to such conditions as the customs authority may determine, be submitted and such a copy or printout may for purposes of the Control Act and a tax levying Act be regarded to be the original document or record requested.~~

Sub (2) now incorporated in rule 41.33B.

Part 4: Specific rules relating to export of CTC's through cross-border transmission lines and pipelines (section 371)

Places and methods for measurement of CTC's

16.10 (1) The quantity of a CTC exported during an accounting period must be determined by –

- (a) taking a measurement of the CTC transported through the pipeline or transmitted through the transmission line at the start and the end of every accounting period; and
- (b) subtracting the start value from the end value.

(2) Measurements referred to in subrule (1)(a) must be taken only at the place and in accordance with the method indicated in applicable to the importer in terms of the importer's registration certificate issued in terms of section 611 of the Customs Control Act.

(3) The quantity of a CTC measured as contemplated in subrule (1) must be regarded to be the quantity of the CTC exported from the Republic, if the CTC is exported directly from the point where the measurement takes place.

Clearance of CTCs

16.11 (1) Only the following persons may submit clearance declarations to clear a CTC for export:

- (a) A registered exporter of a CTC;
- (b) ~~the registered agent of an exporter of a CTC not located in the Republic;~~ or
- (c) a licensed customs broker duly authorised to submit a clearance declaration on behalf of a person referred to in paragraph (a) ~~or (b).~~

(2) ~~(a)~~ A person referred to in subrule (1) must, ~~subject to paragraph (b),~~ within ~~the timeframe set out in rule 4.2,~~ ~~25 calendar days after the end of each accounting period~~ submit electronically through EDI ~~or eFiling, subject to rule 41.33A,~~ a regular export clearance declaration in respect of the quantity of a CTC exported during ~~that~~ ~~the relevant~~ accounting period, as determined in accordance with rule **16.10**.

~~(b) If a clearance declaration referred to in paragraph (a) is submitted to the customs authority in paper format in circumstances where submissions in paper format are permissible,⁴⁴⁴ the submission must be on Form SAD 500 as published as a rule on the SARS website to the Customs Office that serves the area where the place where the measurements are taken, is situated.~~

(3) A separate clearance declaration must be submitted in respect of a CTC exported to a consignee during each accounting period.

Information to be reflected on export clearance declaration for CTC's

16.12 A clearance declaration for the export of a CTC contemplated in in rule **16.11** must reflect the following information:

- (a) the information listed in section 167 (a) and (e) to (i) of the Control Act;
- (b) the date of measurement for purposes of the relevant accounting period;
- (c) the customs code of the cross-border transmission line or pipeline; and
- (d) any additional information that the customs authority may require.

Supporting documents for clearance of CTC's

⁴⁴⁴ ~~See section 913(4).~~

16.13 (1) A clearance declaration for the export of a CTC must, in addition to the documents referred to in section 176(1)(a), (c) and (d) of the Control Act, be supported by a summary of the accounting records referred to in rule **16.14**(1), ~~if the customs authority so requests.~~

(2) An invoice relating to the export of a CTC must, in addition to the applicable information listed in section 177 ~~of the Control Act~~, also reflect –

- (a) the period to which the invoice relates;
- (b) the unit of measure and the number of units exported;
- (c) the place of measurement; and
- (d) the price per unit.; ~~and~~
- ~~(e) the total price paid or payable in respect of the export.~~

(3) ~~(a)~~ Supporting documents referred to in this rule must ~~on request and within the timeframe indicated in the request~~ be submitted to the customs authority on request, subject to and in accordance with Part 7 of Chapter 41 of these Rules ~~electronically through EDI subject to paragraph (b).~~

~~(b) If supporting documents referred to in this rule are submitted to the customs authority in paper format in circumstances where submissions in paper format are permissible,⁴¹² the submission must be made to the Customs Office that serves the area where the place where the measurements are taken, is situated.~~

Recordkeeping in relation to export of CTC's (section 371(a))

16.14 (1) A registered exporter of a CTC must in accordance with section 919 of the Control Act, read with Part 5 of Chapter 41 of these Rules, keep full accounting records of any CTC exported from the Republic.

- (2) Records referred to in subrule (1) include –
- (a) relevant documents supporting the clearance of a CTC for export, as required by section 176 ~~of the Control Act~~;
 - (b) a record of each measurement of a CTC during each accounting period; and

⁴¹² ~~See section 913(4).~~

- (c) any other records that may be necessary for determining the history of any transaction relating to the export of a CTC.

~~(3) Records referred to in this rule must be kept—~~

~~(a) for a period of five years calculated from the end of the calendar year in which any such document was created;~~

~~(b) in a secure place on the importer's business premises; and~~

~~(c) according to a filing system which enables quick access to information pertaining to a specific accounting period.~~

(3) This rule must be read subject to any provisions of the Control Act or a tax levying Act prescribing record-keeping requirements for persons who are licensees or registered in terms of that Act or a tax levying Act.

Records and documents to be produced or submitted to Customs on request

(section 371(a))

16.15 (1) An importer exporter of a CTC that has been requested by a customs officer to produce or submit a record or document, must produce or submit such the record or document to the customs authority subject to and in accordance with Part 7 of Chapter 41 of these Rules ~~within a timeframe specified in the request, or if no timeframe is specified in such request, within three working days after the date of the request.~~

~~(2) A copy or computer printout of a document or record may subject to such conditions as the customs authority may determine, be submitted and such a copy or printout may for purposes of the Control Act and a tax levying Act be regarded to be the original document or record requested.~~

Sub (2) now incorporated in rule 41.33B.

CHAPTER 17

TEMPORARY EXPORT PROCEDURE

Definitions

17.1 In this Chapter –

“unit load device” or “ULD” means an aircraft container specially designed and equipped for containing goods for transport in the hold of an aircraft;

“packing material” means any materials or articles used, in the state in which those materials or articles are imported as reusable transport equipment, to pack, cover, protect, stow or separate goods being transported.⁴¹³ ~~and~~

~~“pallet” means a flat device on the deck of which goods are assembled to form a unit load for the purpose of transporting, handling or stacking the goods with the assistance of mechanical appliances.~~

Part 1: Rules applicable to temporary export of goods under international clearance arrangements⁴¹⁴

Application for approval of issuing associations located in Republic (section 395)

17.2 (1) Approval by the customs authority contemplated in section 395 of the Control Act must be applied for in terms of this rule.

(2) (a) An application for approval of an issuing association must be submitted by an issuing association electronically through eFiling, subject to ~~paragraph (b)~~ **rule 41.33A**.

(b) If an application referred to in paragraph (a) is submitted to the customs authority **in terms of rule 41.33A** in paper format, ~~in circumstances where~~

⁴¹³ As “packing material” is used in the context of this Chapter as a type of reusable transport equipment, packing materials such as straw, paper, glasswool, and shavings when imported in bulk are not included in the definition.

⁴¹⁴ For clearance of commercial trucks, buses and taxis, private vehicles, small vessels and light aircraft where no international clearance arrangements are available for such bus or taxi or private vehicle, small vessel or light aircraft, see rules under Part 3 of Chapter 24.

submissions in paper format are permissible,⁴⁴⁵ the application submission must be submitted –

(i) on Form ... as published as a rule on the SARS website; and

(ii) made to the Customs Office where registration and licensing applications are processed.

(3) An application referred to in subrule (2) must reflect the following information:

(a) The registered or official name of the issuing association;

(b) the name under which it conducts business;

(c) the entity type;

(d) its registration number or the number of its founding document, indicating whether the entity is incorporated, registered or recognised in terms of the laws of the Republic or another country, and if another country, the name of that country;

(e) date of registration, incorporation or recognition;

(a) the following information in relation to the issuing association:

(f) The issuing association's its physical and postal address in the Republic;

(g) The issuing association's its contact details;

(h) full the banking details⁴¹⁶ of the issuing association's its bank account in the Republic; and

(i) the name of the person authorised to act on behalf its authorised officer⁴¹⁷ of the issuing association, as well as that person's officer's –

(i) date of birth, identity document number or passport number;

(ii) citizenship; and

(iii) contact details and physical and postal address in the Republic;

(j) if the application is submitted by an ordinary representative on behalf of the association referred to in paragraph (a), the information specified in rule 41.33D,⁴¹⁸ and

(k) the international agreement in terms of which the approval is sought.

⁴⁴⁵ See section 913(4) of the Control Act.

⁴¹⁶ See definition of "banking details" in rule 1.1

⁴¹⁷ See definition of "authorised officer" in rule 1.1.

⁴¹⁸ If the application is submitted in terms of section 920 of the Customs Control Act by an ordinary representative on behalf of the applicant, the application must comply with the additional requirements set out in Part 6 of Chapter 41 of these Rules.

(4) An application referred to in this rule must be supported by the following documents:

- (a) If the Convention on Temporary Admission or any international agreement referred to in section 393(1)(a)(ii) requires the issuing association to be affiliated with an appropriate international organisation, a document evidencing such affiliation; and
- (b) the resolution passed ~~at a meeting of~~ **by** the **controlling** board **of Directors** of the issuing association ~~in terms of which~~ **appointing** the person referred to in subrule (3)(i) ~~is authorised to act on behalf~~ **as the authorised officer** of the issuing association.

(5) ~~(a)~~ Supporting documents referred to in subrule (4) must ~~on request and within the timeframe indicated in the request~~ be submitted to the customs authority **on request, subject to and in accordance with Part 7 of Chapter 41 of these Rules** ~~electronically through eFiling, subject to paragraph (b).~~

~~(b) If supporting documents referred to in paragraph (a) are submitted to the customs authority in paper format in circumstances where submissions in paper format are permissible,⁴⁴⁹ submission must be made to the Customs Office where registration and licensing applications are processed.~~

Suspension or withdrawal of approval of issuing associations

17.3 (1) The customs authority may suspend or withdraw an approval granted to an issuing association in terms of rule **17.2** if the issuing association terminates its affiliation with an appropriate international organisation as may be required by the Convention on Temporary Admission or any international agreement referred to in section 393(1)(a)(ii) **of the Control Act**.

(2) If the customs authority intends to suspend or withdraw an approval in terms of subrule (1), it must first –

- (a) notify the issuing association of the proposed suspension or withdrawal and of the reasons for the proposed suspension or withdrawal; and

⁴⁴⁹ ~~See section 913(4) of the Control Act.~~

(b) give the issuing association an opportunity to submit representations on the proposed suspension or withdrawal within 30 calendar days of the date of notification referred to in paragraph (a).

(3) The customs authority may despite subrule (2) suspend or withdraw an approval with immediate effect if circumstances so demand but in such a case the issuing association is entitled to submit to the customs authority representations on the suspension or withdrawal within 30 calendar days after the suspension or withdrawal.

Notification of withdrawal as issuing association

17.4 (1) (a) If an issuing association approved in terms of rule **17.2** intends to withdraw as an issuing association, that issuing association must, at least six months in advance of the date of withdrawal, submit to the customs authority a notification of withdrawal electronically through eFiling, subject to ~~paragraph (b)~~ **rule 41.33A**.

(b) If a notification referred to in paragraph (a) is submitted to the customs authority **in terms of rule 41.33A** in paper format, ~~in circumstances where submissions in paper format are permissible,~~⁴²⁰ **the notification submission** must be **submitted** –

~~(i) on Form... as published as a rule on the SARS website; and~~

~~(ii) made~~ to the Customs Office where registration and licensing applications are processed.

(2) A notification referred to in subrule (1) must reflect the following information:

(a) The name **and customs code** ~~address and contact details~~, of the issuing association;

(b) if the notification is submitted by an ordinary representative on behalf of the association, the information specified in rule 41.33D;⁴²¹

~~(b) the customs code of the guaranteeing association;~~

⁴²⁰ See section 913(4) of the Control Act.

⁴²¹ If the notification is submitted in terms of section 920 of the Customs Control Act by an ordinary representative on behalf of the association, the notification must comply with the additional requirements set out in Part 6 of Chapter 41 of these Rules.

- (c) the date ~~of~~ on which the withdrawal will become effective; and
- (d) the reason for the withdrawal, which may be submitted in a separate supporting document subject to and in accordance with Part 7 of Chapter 41 of these Rules.

(3) A notification in terms of this rule does not affect the validity of any carnet issued by the issuing association before the date ~~of~~ on which the withdrawal will become effective referred to in subrule (2)(c).

Requirements relating to clearance on authority of carnets

17.5 A person clearing goods on authority of an CPD or ATA carnet must at the Customs Office serving the place of exit upon export, or at the place of entry upon re-entry, produce the carnet and the goods identified in the carnet to the customs authority, together with –

- (a) that person's identity document or passport as may be applicable, or if another person acts as the carnet holder's representative, that person's identity document or passport; and
- (b) if the carnet was issued in respect of goods of which the export is restricted, the relevant export permit issued in respect of the goods.

Part 2: Rules applicable to goods which automatically come under temporary export procedure

Reporting of interruption or discontinuation of current use of vessel, aircraft, locomotive or railway carriage (section 402(2))

17.6 (1) (a) An interruption or discontinuation of the current use of a vessel, aircraft, locomotive or railway carriage as contemplated in section 402(2) of the Control Act,⁴²² must for purposes of that section be reported electronically through eFiling, subject to ~~paragraph (b)~~ rule 41.33A.

(b) If a report referred to in paragraph (a) is submitted to the customs authority in terms of rule 41.33A in paper format, ~~in circumstances where~~

⁴²² Section 402(1) of the Control Act specifies the vessels, aircraft, locomotives and railway carriages to which the reporting obligation referred to in section 402(2) applies.

~~submissions in paper format are permissible,⁴²³ submission of the report must be submitted –~~

~~(a) on Form...as published as a rule on the SARS website; and~~

~~(b) made to the Customs Office that serves the place of exit where the goods relevant vessel, aircraft, locomotive or railway carriage left the Republic.~~

(2) A report referred to in subrule (1) must reflect the following information:

(a) The name and customs code of the licensed carrier or registered agent submitting the report as required in terms of section 402(2) as may be applicable;

(b) if the report is submitted by a customs broker or ordinary representative on behalf of the carrier or agent referred to in paragraph (a), the information specified in rule 41.33D;⁴²⁴

(c) the conveyance number;⁴²⁵

(d) the transport name;⁴²⁶

(e) a description of the nature of the current use of the relevant vessel, aircraft, locomotive or railway carriage means of transport that had been interrupted or discontinued;

(f) the place of exit where the vessel, aircraft, locomotive or railway carriage left the Republic;

(g) the date of departure of the vessel, aircraft, locomotive or railway carriage from the place referred to in paragraph (f) when the means of transport left the Republic;

(h) the location of the means of transport vessel, aircraft, locomotive or railway carriage;

(i) the date of the interruption or discontinuation commenced; and

⁴²³ See section 913(4).

⁴²⁴ If the report is submitted in terms of section 920 of the Customs Control Act by an ordinary representative on behalf of the carrier or registered agent, the report must comply with the additional requirements set out in Part 6 of Chapter 41 of these Rules. Note that the said Part 6 applies only to ordinary representatives which per definition excludes persons submitting documents as customs brokers. It follows that Part 6 does not apply to customs brokers that submit reports on behalf of carriers and registered agents in that capacity.

⁴²⁵ See definition of “conveyance number” in rule 1.1.

⁴²⁶ See definition of “transport name” in rule 1.1.

- (j) the reason for the interruption or discontinuation, which may be motivated in a separate supporting document submitted together with the notification subject to and in accordance with Part 7 of Chapter 41 of these Rules.

Reporting of interruption or discontinuation of current use of reusable transport equipment (section 403(2))

17.7 (1) (a) An interruption or discontinuation of the current use of reusable transport equipment as contemplated in section 403(2) of the Control Act,⁴²⁷ must for purposes of that section be reported to the customs authority electronically through eFiling, subject to ~~paragraph (b)~~ rule 41.33A.

(b) If a report referred to in paragraph (a) is submitted to the customs authority in terms of rule 41.33A in paper format, ~~in circumstances where submissions in paper format are permissible,~~⁴²⁸ submission the report must be submitted –

~~(i) on Form...as published as a rule on the SARS website; and~~

~~(ii) made~~ to the Customs Office that serves the place of exit where the goods relevant reusable transport equipment left the Republic.

(2) A report referred to in subrule (1) must reflect the following information:

(a) The name and customs code of the licensed carrier or registered agent submitting the report as required in terms of section 403(2), ~~as may be applicable;~~

~~(b) if the report is submitted by a customs broker or ordinary representative on behalf of the carrier or agent referred to in paragraph (a), the information specified in rule 41.33D;~~⁴²⁹

(c) the type of reusable transport equipment;

(d) in respect of containers⁴³⁰ –

(i) the container number of each container; and

⁴²⁷ Section 403(1) of the Control Act specifies the reusable transport equipment to which the reporting obligation referred to in section 403(2) applies.

⁴²⁸ ~~See section 913(4).~~

⁴²⁹ If the report is submitted in terms of section 920 of the Customs Control Act by an ordinary representative on behalf of the carrier or registered agent, the report must comply with the additional requirements set out in Part 6 of Chapter 41 of these Rules. Note that the said Part 6 applies only to ordinary representatives which per definition excludes persons submitting documents as customs brokers. It follows that Part 6 does not apply to customs brokers that submit reports on behalf of carriers and registered agents in that capacity.

⁴³⁰ Note that "container" includes a specialised container used for the transport of nuclear fuel.

- (ii) the quantity of containers;
- (e) in respect of unit load devices –
 - (i) the number of each device; and
 - (ii) the quantity of devices;
- (f) in respect of pallets –
 - (i) the number of each pallet, if numbered; and
 - (ii) the quantity of pallets;
- (g) in respect of packing materials –
 - (i) the type of packing material; and
 - (ii) the quantity, volume or mass of the packing material;
- (h) the place of exit where the reusable transport equipment left the Republic;
- (i) the date of departure of the reusable transport equipment from the place referred to in paragraph (h) when the reusable transport equipment left the Republic;
- (j) the date when the reusable transport equipment left the Republic;
- (k) the location of the reusable transport equipment;
- (l) the date of the interruption or discontinuation commenced; and
- (m) the reason for the interruption or discontinuation, which may be motivated in a separate supporting document submitted on request subject to and in accordance with Part 7 of Chapter 41 of these Rules.

Part 3: Recordkeeping and miscellaneous Other matters

Notification of goods under temporary export not returned to Republic (section 404(b))

17.7A (1) (a) A notification contemplated in section 404(b) of the Control Act that goods exported under the temporary export procedure will not be returned to the Republic must be submitted to the customs authority electronically through eFiling, subject to rule **41.33A**.

(b) If a notification referred to in paragraph (a) is submitted to the customs authority in terms of rule **41.33A** in paper format, the notification must be submitted to the Customs Office that serves the place of exit from where the goods were exported.

(2) A notification referred to in subrule (1) must reflect the following information:

(a) The name and customs code of the exporter or registered agent submitting the notification;

(b) if the notification is submitted by a customs broker or ordinary representative on behalf of the exporter or agent referred to in paragraph (a), the information specified in rule **41.33D**;⁴³¹

(c) the movement reference number of the temporary export clearance declaration submitted in respect of the goods; and

(d) the reason why the goods will not be returned to the Republic, which may be motivated in a separate supporting document submitted together with the notification subject to and in accordance with Part 7 of Chapter 41 of these Rules.

Records to be kept of goods temporarily exported under regular clearance and release procedures (section 903(1)(g))

17.8 A person clearing goods for temporary export under Part 2 of Chapter 17 of the Control Act must keep record of documents and information relating to –

- (a) the clearance and release of the goods for temporary export;
- (b) any tax paid in respect of the goods or any benefit received in terms of an export incentive scheme;
- (c) any refund or drawback reclaimed on export in respect of the goods;
- (d) any manufacturing, processing or repairs done abroad, other than maintenance in connection with the use of the goods whilst abroad;
- (e) any goods damaged, destroyed or lost whilst abroad; and
- (f) any deterioration in the condition of the goods whilst abroad.

Records to be kept of reusable transport equipment under temporary export procedure by carrier or carrier's registered agent (sections 403(1)(c))

⁴³¹ If the notification is submitted in terms of section 920 of the Customs Control Act by an ordinary representative on behalf of the exporter, the notification must comply with the additional requirements set out in Part 6 of Chapter 41 of these Rules. Note that the said Part 6 applies only to ordinary representatives which per definition excludes persons submitting documents as customs brokers and registered agents. It follows that Part 6 does not apply to customs brokers that submit reports on behalf of exporters in that capacity.

17.9 (1) Records of reusable transport equipment under the temporary export procedure that must for purposes of section 403(1)(c) of the Control Act be kept by the carrier responsible for the equipment or by that carrier's registered agent, must include ~~of~~ the following information:

- (a) In respect of each container that leaves or enters the Republic automatically under the temporary export procedure –
 - (i) the container number;
 - (ii) the size or type;
 - (iii)** the place of exit where the container leaves the Republic ~~or~~ and the place of entry where it re-enters the Republic; and
 - (iv)** the date of departure from or arrival at the place referred to in subparagraph (iii) ~~when the container leaves or enters the Republic;~~
- (b) in respect of each unit load device that leaves or enters the Republic automatically under the temporary export procedure –
 - (i) the device number;
 - (ii) the size or type;
 - (iii)** the place of exit where the device leaves the Republic ~~or~~ and the place of entry where the device re-enters the Republic; and
 - (iv)** the date of departure from or arrival at the place referred to in subparagraph (iii) ~~when the device leaves or enters the Republic;~~ and
- (c) in respect of each pallet that leaves or enters the Republic automatically under the temporary export procedure –
 - (i) the number of each pallet, if numbered;
 - (ii)** the place of exit where the pallet leaves the Republic ~~or~~ and the place of entry where the pallet re-enters the Republic; and
 - (iii)** the date of departure from or arrival at the place referred to in subparagraph (ii) ~~when the pallet leaves or enters the Republic.~~

Keeping and submission of records

17.10 (1) Records referred to in rules **17.8** and **17.9** must be kept in accordance with section 919 of the Control Act, read with Part 5 of Chapter 41 of these Rules. ~~—~~

- ~~(a) — for a period of five years calculated from the end of the calendar year in which any such record was created;~~
- ~~(b) — (i) — in a secure place on the business premises of the licensed or~~

~~registered person; or~~

~~(ii) in any secure place, in the case of a traveller keeping records referred to in rule 17.8; and~~

~~(c) if the person keeping record is allowed in terms of section 919(2) to keep records in paper format, according to a filing system which enables quick access to information pertaining to specific goods or a specific transaction.~~

~~(2) This rule must be read subject to any provisions of the Act or a tax levying Act prescribing specific record keeping requirements for persons who are licensees or registered in terms of the Act or a tax levying Act.~~

~~(32) Records must be produced or submitted to the customs authority or a customs officer on request, subject to and in accordance with Part 7 of Chapter 41 of these Rules and within a timeframe stated in the request, or if no timeframe is specified in such request, within three working days after the date of the request.~~

~~(4) A copy or computer printout of any record requested may, subject to such conditions as the customs authority may determine, be submitted, and such a copy or printout may for purposes the Control Act and a tax levying Act be regarded to be the original record requested.~~

Sub (2) now incorporated into rule 41.33B.

Measures to ensure accurate identification of goods under temporary export upon their return (section 405(e))

17.11 Measures contemplated in section 405(e) of the Control Act to ensure accurate identification of goods under temporary export upon their return include –

- (a) recording before goods under temporary export leave the Republic any marks and numbers or other specific identifying characteristics in respect of such goods and comparing those marks and numbers or other identifying characteristics upon re-importation, which include –
 - (i) in respect of a vehicle –
 - (aa) the make and model;
 - (bb) the year of manufacture;

- (cc) whether it is a diesel or petrol engine;
 - (dd) the odometer reading;
 - (ee) the engine number;
 - (ff) the **vehicle identification number** (VIN) **and** chassis number;
 - (gg) the registration number;
 - (hh) the colour; and
 - (ii) a description of the sound- and satellite navigation system fitted in the vehicle, if applicable;
- (ii) in respect of reusable transport equipment, the details referred to in rule **17.9**; and
- (iii) in respect of other identifiable goods –
- (aa) a description of the goods;
 - (bb) any marks, numbers or other indications permanently affixed to the goods;
 - (cc) the model and serial number, if applicable;
 - (dd) the quantity, volume or mass; and
 - (ee) the country of origin;
- (b) taking samples of goods for purposes of comparison or making use of illustrations, photographs or technical descriptions for purposes of verification of the goods upon re-export; and
- (c) affixing customs marks to goods, including customs seals and identification bands.

CHAPTER 18
INWARD PROCESSING PROCEDURE

Part 1: Clearance and release of imported goods for inward processing

Additional requirements for clearance of goods for inward processing (*section 412(d)*)

18.1 ~~(1) — The licensee of premises who is to carry out the inward processing of goods to be cleared for inward processing must —~~

~~(a) — if that licensee is the person clearing the goods, give the undertaking contemplated in section 412(d)(i) of the Control Act on the clearance declaration submitted to clear the goods for inward processing; and~~

~~(b) — if that licensee is not the person clearing the goods, submit the undertaking contemplated in section 412(d)(i) and the advice referred to in section 412(d)(ii) of the Control Act electronically through eFiling to the customs authority.⁴³²~~

(2) Security referred to in section 412(e) must have been provided at the time of licensing as provided for in section 660.

~~(3) — A clearance of goods for inward processing must be supported by a document setting out any measures taken in terms of section 458(d).~~

Moved to rule 18.20A.

Part 2: Transport of goods to and receipt of goods in inward processing premises

Persons other than carriers who may transport goods under inward processing procedure (*section 432(f)* read with section 122(c))

18.2 The following persons are hereby, in addition to carriers referred to in ~~other than carriers are for purposes of~~ section 122(c) (a) or (b) of the Control Act ~~permitted~~ authorised to transport, using own transport, imported goods under the

⁴³² ~~In terms of section 412 of the Control Act no release can be given for inward processing unless the undertaking and advice referred to in section 412(d) have been submitted.~~

inward processing procedure or compensating products, by-products or waste obtained from the imported goods:

- (a) The licensee of the inward processing premises where the processing of the goods is to be carried out, ~~using own transport~~; and
- (b) a person referred to in section 413(a), ~~using own transport~~.

~~Procedure for obtaining authorisation to~~ **Redirection of goods to location other than licensed inward processing premises** (section 415(1))

18.3 (1) If a person intends to redirect goods cleared for inward processing to a location other than the licensed inward processing **premises** where the goods are to be processed as contemplated in section 415(1) of the Control Act, ~~that person must in accordance with rule 4.17 apply to~~ **an application in accordance with rule 5.4A must be submitted to** the customs authority for ~~authorisation to~~ **permission for the redirection of** the goods to that other location.

(2) **Rules 5.4B and 5.4C apply to the delivery and receipt of goods at a place to which goods are redirected under permission granted in terms of subrule (1).**

~~Notification of~~ **Delivery notifications of goods to** ~~at~~ **inward processing premises or other authorised premises** (section 415(1)(b)(i))

18.4 (1) (a) A carrier that transported goods to inward processing premises ~~or another place authorised in terms of rule 4.17,~~ must notify the customs authority ~~of the delivery of the goods~~ in accordance with rule ~~29.35~~ **5.1B of the delivery of the goods.**

(b) A person referred to in rule **18.2(a) or (b)** that transported goods to inward processing premises ~~or another place authorised in terms of rule 4.17,~~ must notify the customs authority of the delivery of the goods in accordance with subrule (2).

(2) (a) A notification contemplated in subrule (1)(b) must, within three hours of delivery of the goods⁴³³ at the inward processing premises, be submitted to the customs authority electronically through eFiling, ~~subject to paragraph (b)~~.

See new rule 41.10B.

~~(b) — If a notification referred to in paragraph (a) is submitted to the customs authority in paper format, in circumstances where submissions in paper format are permissible, the submission must be —~~

~~(i) — on Form.....as published as a rule on the SARS website; and~~

~~(ii) — made to the Customs Office that serves the area where the inward processing premises or other place authorised in terms of rule 4.17 is situated.~~

(3) A notification contemplated in subrule (2) must reflect the following information:

(a) The name and customs code of the person ~~contemplated in rule 18.2(b)~~ that transported the goods to the home use processing premises;

(b) if the notification is submitted by a customs broker, registered agent or ordinary representative on behalf of the person referred to in paragraph (a), the information specified in rule 41.33D;⁴³⁴

(c) the date and time of delivery of the goods;

(d) the customs code ~~physical address~~ of the inward processing premises where the goods were delivered;

(e) the movement reference number⁴³⁵ of the home use processing clearance declaration in respect of the goods;

~~(d) — in the case of delivery to another location, the physical address of the other premises authorised in terms of rule 4.17;~~

~~(e) — in relation to the goods —~~

~~(i) — if not containerised, a description of the goods, including —~~

~~(aa) — the tariff classification;~~

⁴³³ See rule 41.10B

⁴³⁴ If the notification is submitted in terms of section 920 of the Customs Control Act by an ordinary representative on behalf of the person that transported the goods, the notification must comply with the additional requirements set out in Part 6 of Chapter 41 of these Rules. Note that the said Part 6 applies only to ordinary representatives which per definition excludes persons submitting documents as customs brokers or registered agents. It follows that Part 6 does not apply to customs brokers and registered agents that submit notifications on behalf of such persons in that capacity.

⁴³⁵ See definition of “movement reference number” in rule 1.1.

- (bb) the quantity, volume or weight of the goods, as may be applicable; and
- (cc) marks and numbers on the goods, if applicable; and
- (ii) if containerised –
 - (aa) the container number; and
 - (bb) the seal number;⁴³⁶ and
- (f) in the case of non-containerised goods –
 - (i) confirmation that the goods delivered at the inward processing premises correspond in class and kind with the goods described in the release notification issued in respect of the goods; and
 - (ii) the quantity delivered;
- (g) in the case of containerised goods –
 - (i) confirmation –
 - (aa) that the container and seal number of the container or containers delivered at the inward processing premises correspond with the container and seal numbers on the release notification; and
 - (bb) that the seal on the container or on each container delivered is intact;⁴³⁷ and
 - (ii) the quantity of containers delivered; and
- (h) if no confirmation referred to in paragraph (f)(i) and (g)(i) can be given, the reason why confirmation cannot be given, which may be motivated in a separate supporting document submitted together with the notification subject to and in accordance with Part 7 of Chapter 41 of these Rules.
- (f) the movement reference number⁴³⁸ of the inward processing clearance declaration in respect of the goods.

Receipt notifications of receipt of goods at by licensees of inward processing premises or other locations when goods are received at inward processing premises (section 415(1)(b)(ii))

⁴³⁶ See rule 5.6 which places an obligation in relation to seal verification and reporting of seal discrepancies on a person who receives physical control of a container.

⁴³⁷ Note that any seal discrepancies must in terms of rule 5.6 be reported by a person who receives physical control of a container.

⁴³⁸ See definition of “movement reference number” in rule 1.1.

18.5 (1) (a) The licensee of inward processing premises ~~or, if the goods were redirected 4.17 to another location, the person in charge of that location,~~ must notify the customs authority of the receipt of goods at those premises ~~or that location~~ in accordance with subrule (2).

(2) (a) A notification contemplated in subrule (1) must within three hours of receipt of the goods⁴³⁹ be submitted to the customs authority electronically through eFiling, subject to ~~paragraph (b).~~

~~(b) — If a notification is submitted to the customs authority in paper format in circumstances where submissions in paper format are permissible,⁴⁴⁰ the submission must be —~~

~~(i) — on Form published as a rule on the SARS website; and~~

~~(ii) — made to the Customs Office that serves the area where the licensed inward processing premises or the location where the goods were redirected to in terms of rule 4.17, is situated.~~

(3) A notification referred to in subrule (2) must reflect the following information:

(a) The name, ~~identity number and contact details~~ or customs code of the carrier or other person referred to in rule 18.2(b) that transported the goods to the inward processing premises ~~or the other location where the goods were redirected to in terms of rule 4.17 or, if the goods were transported by the licensee of the inward processing premises, a statement to that effect;~~

(b) the name of the licensee of the inward processing premises submitting the notification ~~the physical address of that other location;~~

(c) if the notification is submitted by a customs broker or ordinary representative on behalf of the licensee of the inward processing premises, the information specified in rule 41.33D;⁴⁴¹

⁴³⁹ See rule 41.10B

⁴⁴⁰ See section 913(4) of the Control Act

⁴⁴¹ If the notification is submitted in terms of section 920 of the Customs Control Act by an ordinary representative on behalf of the licensee of the inward processing premises, the notification must comply with the additional requirements set out in Part 6 of Chapter 41 of these Rules. Note that the said Part 6 applies only to ordinary representatives which per definition excludes persons submitting documents as customs brokers. It follows that Part 6 does not apply to customs brokers that submit notifications on behalf of such persons in that capacity.

- (d) the customs code of the inward processing premises where the goods were received;
- ~~(c) the name, identity number, contact details and address of the person in charge of that other location;~~
- (e) the date and time of receipt of the goods at the inward processing premises;
- (f) the movement reference number⁴⁴² of the inward processing clearance declaration submitted in respect of the goods.
- ~~(e) in relation to the goods –~~
- ~~(i) if not containerised, a description of the goods including –~~
- ~~(aa) the tariff classification;~~
- ~~(bb) the quantity, volume or weight of the goods; and~~
- ~~(cc) marks and numbers on the goods, if applicable; and~~
- ~~(ii) if containerised –~~
- ~~(aa) the container number; and~~
- ~~(bb) the seal number;⁴⁴³ and~~
- (g) in the case of non-containerised goods –
- (i) confirmation that the goods received at the inward processing premises correspond in class and kind with the goods described in the release notification issued in respect of the goods; and
- (ii) the quantity received;
- (h) in the case of containerised goods –
- (i) confirmation –
- (aa) that the container and seal number of the container or containers received at the inward processing premises correspond with the container and seal numbers on the release notification; and
- (bb) that the seal on the container or on each container received is intact;⁴⁴⁴ and
- (ii) the quantity of containers received; and

⁴⁴² See definition of “movement reference number” in rule 1.1.

⁴⁴³ ~~See rule 5.6 which places an obligation in relation to seal verification and reporting of seal discrepancies on a person who receives physical control of a container.~~

⁴⁴⁴ Note that any seal discrepancies must in terms of rule 5.6 be reported by a person who receives physical control of a container.

(i) if no such confirmation can be given, the reason why confirmation cannot be given, which may be motivated in a separate supporting document submitted together with the notification subject to and in accordance with Part 7 of Chapter 41 of these Rules.

~~(f) the movement reference number⁴⁴⁵ of the inward processing clearance declaration in respect of the goods.~~

(4) If the licensee of inward processing premises where goods were delivered, transported the goods to the inward processing premises under a clearance and release for inward processing, a delivery notification submitted by the licensee in terms of rule 18.4 may be regarded as compliance with subrule (1)(a) of this rule and no separate receipt notification needs to be submitted in respect of those goods.

Conditions for release of goods for inward processing (*section 415(2)(b)*)

18.6 It is a condition of the release of goods cleared for inward processing that the inward processed compensating products obtained from those goods must be exported from the Republic to a country outside the other SACU member states.

Part 3: Rules regulating inward processing procedure

Application for approval to appoint subcontractor (*sections 428(1) and 432(a)(ii)*)

18.7 (1) (a) An application for approval to appoint a subcontractor contemplated in section 428(1) of the Control Act must be submitted to the customs authority electronically through eFiling, subject to ~~paragraph (b)~~ **rule 41.33A**.

(b) If an application is submitted to the customs authority **in terms of rule 41.33A** paper format ~~in circumstances where submissions in paper format are permissible,~~⁴⁴⁶ the **application submission** must be **submitted** –
(i) ~~on Form..... published as a rule on the SARS website; and~~
(ii) **made** to the Customs Office serving the area where the inward processing premises of the applicant are situated.

⁴⁴⁵ See definition of “movement reference number” in rule 1.1.

~~⁴⁴⁶ See section 913(4) of the Control Act.~~

(2) An application referred to in subrule (1) must reflect the following information:

- (a) The name of the applicant and the customs code of the applicant's inward processing premises;
- (b) if the application is submitted by a customs broker or ordinary representative on behalf of the applicant, the information specified in rule 41.33D,⁴⁴⁷
- (c) the customs code of the premises where the proposed subcontracted aspect of the inward processing is to take place or, if those premises do not have a customs code -
 - (i) the information specified in rule 41.33E ~~the name, identity number and contact details~~ of the subcontractor operating those premises ~~where the proposed subcontracted aspect of the inward processing is to take place~~; and
 - (ii) the physical address of those premises;
- (d) the nature and extent of the proposed subcontracted inward processing to be undertaken by the subcontractor;
- (e) the movement reference number⁴⁴⁸ ~~assigned to any~~ of the inward processing clearance declaration submitted in respect of the goods; and
- (f) the time period required for completion of the proposed subcontracted inward processing.

(3) An application referred to in subrule (1) must be supported by the proposed agreement in terms of which the subcontractor is to be appointed by the licensee.

(4) ~~(a) If the customs authority so requests a~~ A supporting document referred to in subrule (3) must be submitted to the customs authority on request, subject to and in accordance with Part 7 of Chapter 41 of these Rules, electronically through eFiling, subject to paragraph (b).

⁴⁴⁷ If the application is submitted in terms of section 920 of the Customs Control Act by an ordinary representative on behalf of the licensee of the inward processing premises, the application must comply with the additional requirements set out in Part 6 of Chapter 41 of these Rules. Note that the said Part 6 applies only to ordinary representatives which per definition excludes persons submitting documents as customs brokers. It follows that Part 6 does not apply to customs brokers that submit applications on behalf of such licensees in that capacity.

⁴⁴⁸ See definition of "movement reference number" in rule 1.1.

~~(b) If a supporting document referred to in paragraph (a) is submitted to the customs authority in paper format in circumstances where submissions in paper format are permissible,⁴⁴⁹ the submission must be made to the Customs Office where the application has been submitted, or to another Customs Office indicated in the request.~~

Annual business turnover for licensing of subcontractors' premises (section 428(2))

18.8 The licensing requirement set out in section 428(2) of the Control Act for premises where the subcontracted processing of goods under the inward processing procedure is carried out, applies if the annual business turnover on those premises exceeds five million Rand.

Obligations of subcontractors relating to processing of goods (section 432(a)(ii))

18.9 Rules **18.17**, **18.18**, **18.19** and **18.20** are applicable, with any necessary changes as the context may require, to a subcontractor that is not a licensee appointed pursuant to an application in terms of rule **18.7**.

Movement of imported goods, inward processed compensating products, by-products and waste between different locations (section 432(a)(iii))

18.10 (1) **(a)** Imported goods cleared for inward processing and compensating products, by-products and commercially valuable waste obtained from those imported goods may not be moved from the premises of the licensee that carries out the inward processing, or of a subcontractor appointed in terms of section 428 **of the Control Act**, to another **inward processing premises location** without the permission of the customs authority.⁴⁵⁰

~~(7)(b) Subrules (1) to (6) de Paragraph (a) does not apply if in the case of -~~

~~(i) ownership of the imported goods, compensating products, by-products or commercially valuable waste has been transferred with the customs~~

⁴⁴⁹ See section 913(4) of the Control Act.

⁴⁵⁰ A separate application for the return of the goods to the inward processing premises from which it was initially removed is not required. The movement of the goods will be tracked by the delivery and receipt notifications referred to in rule **18.11**.

authority's approval in terms of Part 6 of Chapter 4 of these Rules and the movement to another location is occasioned by that transfer of ownership;⁴⁵¹

or

(ii) compensating products are moved by a carrier or a person referred to in rule 16.7 in terms of a clearance for export.

(2) (a) An application for permission contemplated in subrule (1) must be submitted to the customs authority by the licensee or subcontractor, as the case may be, electronically through eFiling prior to the intended removal of the goods, ~~of the inward processed~~ compensating products, by-products or waste, subject to ~~paragraph (b)~~ rule 41.33A.

(b) If an application referred to in subrule paragraph (a) is submitted to the customs authority in terms of rule 41.33A in paper format, ~~in circumstances where submissions in paper format are permissible,~~⁴⁵² the application submission must be submitted —

(i) ~~on Form as published as a rule on the SARS website; and~~

(ii) ~~made~~ to the Customs Office that serves the area ~~where the location~~ where the relevant goods, inward processed compensating products, by-products or waste are, ~~is situated~~.

(3) An application referred to in this rule must reflect the following information:

(a) The name of the applicant;

(b) if the application is submitted by a customs broker or ordinary representative on behalf of the applicant, the information specified in rule 41.33D;⁴⁵³

(c) ~~the following details relating to~~ the customs code of the premises from where the relevant goods, inward processed compensating products, by-products or

⁴⁵¹ Where the movement is occasioned by an approved transfer of ownership of goods, the goods will be removed on authority of a clearance declaration and not pursuant to an application in terms of this rule. As in the case of any delivery or receipt of goods not in free circulation, delivery and receipt notifications referred to in rule 18.11 must be submitted.

⁴⁵² See section 913(4) of the Control Act.

⁴⁵³ If the application is submitted in terms of section 920 of the Customs Control Act by an ordinary representative on behalf of the applicant, the application must comply with the additional requirements set out in Part 6 of Chapter 41 of these Rules. Note that the said Part 6 applies only to ordinary representatives which per definition excludes persons submitting documents as customs brokers. It follows that Part 6 does not apply to customs brokers that submit applications on behalf of applicants in that capacity.

- commercially valuable waste are to be moved or, if to be moved from unlicensed subcontractor's premises, the physical address of the premises;
- ~~(i) In the case of a movement from licensed inward processing premises, the customs code of the premises; or~~
- ~~(ii) in the case of a movement from unlicensed premises of a subcontractor, the physical address of the premises and the name and contact details of the subcontractor;~~
- (d) the physical address and customs code, if any, of the premises to which the goods are to be moved or, if to be moved to unlicensed premises -
- (i) the physical address of the premises; and
- (ii) the information specified in rule 41.33E of the person in control of those premises;
- ~~(g) in the case of premises referred to in paragraph (f) under control of a subcontractor, the name and contact details of the subcontractor.; and~~
- (e) if the goods to be moved are the imported goods -
- (i) the movement reference number⁴⁵⁴ of the inward processing clearance declaration in terms of which the goods were cleared for inward processing submitted in respect of the goods; and
- (ii) the quantity, volume or weight of the goods to be moved;
- ~~(c) in the case of the imported goods to be moved, a description of the goods including—~~
- ~~(i) the customs value;~~
- ~~(ii) the tariff classification;~~
- ~~(iii) the quantity, volume or weight of the goods; and~~
- ~~(iv) any marks and numbers on the goods, if applicable;~~
- (f) ~~in the case of~~ if the goods to be moved are inward processed compensating products, by-products or commercially valuable waste, to be moved, a description of the nature of the products, by-products or waste, including the quantity, volume or weight; and
- (g) the nature of any processing –
- (i) to be undertaken at the premises to which the goods are to be moved;
- or

⁴⁵⁴ See definition of “movement reference number” in rule 1.1.

(ii) that had been undertaken at the premises from where the compensating products, by-products or commercially valuable waste are to be moved.

(4) An application for removal involving a subcontractor must be supported by the agreement in terms of which the subcontractor had been appointed by the licensee.

(5) ~~(a) If the customs authority so requests~~ A supporting document referred to in subrule (4) must ~~within the timeframe indicated in the request~~ be submitted to the customs authority ~~on request electronically through eFiling,~~ subject to ~~paragraph (b) and in accordance with Part 7 of Chapter 41 of these Rules.~~

~~(b) If a supporting document referred to in paragraph (a) is submitted to the customs authority in paper format in circumstances where submissions in paper format are permissible,⁴⁵⁵ the submission must be made to the Customs Office where the application has been submitted, or to another Customs Office indicated in the request.~~

(6) Goods or compensating products, by-products or waste removed in terms of this rule must be removed by a licensed carrier or another person referred to in rule 18.2 within three working days ~~of~~ after the approval of an application ~~to remove~~ in terms of this rule has been submitted to the applicant.

Delivery and receipt notifications ~~of delivery and receipt in respect~~ of goods removed in terms of rule 18.10

18.11 (1) Notice of delivery and receipt of goods moved in terms of rule 18.10 must be given in accordance with ~~the procedure established in~~ rules 18.4 and 18.5, respectively, subject to subrule (3).

(2) Rules 18.4 and 18.5 must, in the case of the movement of imported goods cleared for inward processing or compensating products, by-products or commercially valuable waste obtained from those imported goods, be applied for

⁴⁵⁵ ~~See section 913(4) of the Control Act.~~

purposes of subrule (1) with any necessary changes the context may require, and in such application any reference to inward processing premises must, subject to subrule (3), be read also as a reference to the premises of a subcontractor, whether licensed or unlicensed.⁴⁵⁶

(3) This rule does not apply to a subcontractor operating unlicensed premises, and such a subcontractor is not required to submit receipt notifications in terms of this rule when goods are delivered at the premises of the subcontractor.

Notification of failure to clear inward processed compensating products for export within section 418(1) timeframe contemplated in section 418(1) of the Control Act (section 418(2))

18.12 (1) (a) A notice notification of failure to comply with the timeframe limit for clearance of inward processed compensating products for export contemplated in section 418(2) of the Control Act must be submitted electronically through eFiling, subject to paragraph (b) rule 41.33A.

(b) If a notice notification referred to in paragraph (a) is submitted to the customs authority in terms of rule 41.33A in paper format, in circumstances where submissions in paper format are permissible,⁴⁵⁷ the notification submission must be submitted –

(i) on Form ... as published as a rule on the SARS website; and

(ii) made to the Customs Office that serves the area where the goods are.

(2) A notice notification referred to in subrule (1) must reflect the following information:

(a) The name and customs code of the person submitting the notice who cleared the imported goods for inward processing;

(b) if the notification is submitted by a customs broker, registered agent or ordinary representative on behalf of the person who cleared the goods, the information specified in rule 41.33D;⁴⁵⁸

⁴⁵⁶ The idea is that the carrier must submit a delivery notification for deliveries to unlicensed premises of a subcontractor whilst the subcontractor is not required to submit a receipt notification for receipts at unlicensed premises.

⁴⁵⁷ See section 913(4) of the Control Act.

⁴⁵⁸ If the notification is submitted in terms of section 920 of the Customs Control Act by an ordinary representative on behalf of the person clearing the goods, the notification must comply with the additional requirements set out

- (c) ~~a description of the~~ the class or kind of inward processed compensating products in respect of which the failure was committed, as well as the quantity, volume or weight;
- (d) the physical ~~location of~~ address of the premises where those products are;
- (e) the date ~~when~~ by which those products should have been cleared for export;
- (f) the movement reference number⁴⁵⁹ of the inward processing clearance declaration in respect of the imported goods from which those compensating products were obtained; and
- (g) the reason for the failure to comply with the timeframe for export, which may be motivated in a separate supporting document submitted together with the notification subject to and in accordance with Part 7 of Chapter 41 of these Rules.

Application for permission to clear for home use goods under inward processing (section 423(2)(a))

18.13 (1) (a) An application contemplated in section 423(2)(a) of the Control Act must before expiry of the timeframe referred to in section 418(1) be submitted to the customs authority electronically through eFiling, subject to ~~paragraph (b)~~ rule 41.33A.

(b) If an application referred to in paragraph (a) is submitted to the customs authority in terms of rule 41.33A in paper format, ~~in circumstances where submissions in paper format are permissible,~~⁴⁶⁰ the application, submission must be submitted ~~on Formas published as a rule on the SARS website~~ to the Customs Office serving the area where the goods are.

(2) An application referred to in subrule (1) must reflect the following information:

- (a) The name and customs code of the person who cleared the goods for inward processing;

in Part 6 of Chapter 41 of these Rules. Note that the said Part 6 applies only to ordinary representatives which per definition excludes persons submitting documents as customs brokers or registered agents. It follows that Part 6 does not apply to customs brokers that submit notifications on behalf of such persons in that capacity.

⁴⁵⁹ See definition of "movement reference number" in rule 1.1.

⁴⁶⁰ ~~See section 913(4) of the Control Act.~~

- (b) if the application is submitted by a customs broker, registered agent or ordinary representative on behalf of the applicant, the information specified in rule 41.33D;⁴⁶¹
- (c) the movement reference number⁴⁶² and date of the inward processing clearance declaration submitted in respect of the goods; and
- (d) if only a portion of the goods cleared for inward processing is to be cleared for home use; and a description of the goods, including—
- (i) the customs value;
 - (ii) the tariff classification;
 - (iii) the quantity, or volume or weight of the goods; and
 - (iv) any marks and numbers on the goods, if applicable
- (3) An application referred to in this rule must be supported by—
- (e) a motivation of the reason why the inward processed compensating products obtained from those the imported goods were not will not be exported, which may be motivated in a separate supporting document submitted together with the application subject to and in accordance with Part 7 of Chapter 41 of these Rules.

~~(b) any documents supporting the motivation referred to in paragraph (b)~~

~~(4) (a) If the customs authority so requests A supporting document must within the timeframe indicated in the request be submitted to the customs authority electronically through eFiling, subject to paragraph (b).~~

~~(b) If a supporting document referred to in paragraph (a) is submitted to the customs authority in paper format in circumstances where submissions in paper format are permissible,⁴⁶³ the submission must be made to the Customs Office where the application has been submitted, or to another Customs Office indicated in the request.~~

Issuing of inward processing licences regarded to be approval Submission of

⁴⁶¹ If the application is submitted in terms of section 920 of the Customs Control Act by an ordinary representative on behalf of the applicant, the application must comply with the additional requirements set out in Part 6 of Chapter 41 of these Rules. Note that the said Part 6 applies only to ordinary representatives which per definition excludes persons submitting documents as customs brokers or registered agents. It follows that Part 6 does not apply to customs brokers or registered agents that submit applications on behalf of applicants in that capacity.

⁴⁶² See definition of “movement reference number” in rule 1.1.

⁴⁶³ See section 913(4) of the Control Act.

conversion rates for approval (section 425(1))

18.14 (1) — An applicant applying in terms of rule **29.21** for licensing as an importer of goods for inward processing, or for the licensing of inward processing premises where goods cleared for inward processing are to be processed, must, at the time when an application for licensing is submitted, submit to the customs authority for approval the conversion rate contemplated in section 425(1) of the Control Act to be used for the purposes of such processing.

If the customs authority approves in terms of Chapter 29 of these Rules an application of a person for a licence to import goods for inward processing or to use premises as inward processing premises, approval of the application must be regarded also to be an approval of a conversion rate contemplated in section 425(1) of the Control Act to be used in the inward processing of the class or kind of imported goods to which the rate applies, provided the information required in terms of rule **29.17(d)** or **29.21(2)(e)** has been provided in the licence application.

Use of equivalent goods (section 429(1) and 432(b)(i))

18.15 (1) (a) If the licensee of inward processing premises where goods cleared for inward processing are to be processed intends to **make use of** **replace goods cleared for inward processing with** equivalent goods **in free circulation**, that licensee must, prior to the use of those equivalent goods, apply for permission to use equivalent goods as contemplated in section 429(1) of the Control Act by submitting an application to the customs authority electronically through eFiling, subject to **paragraph (b)** **rule 41.33A**.

(b) If an application referred to in paragraph (a) is submitted to the customs authority **in terms of rule 41.33A** in paper format, **in circumstances where submissions in paper format are permissible,**⁴⁶⁴ the **application submission** must be **submitted** —

(i) — on Formas published as a rule on the SARS website; and

(ii) — **made** to the Customs Office that serves the area where the inward processing premises are situated.

⁴⁶⁴ See section 913(4) of the Control Act.

(2) An application referred to in subrule (1) must reflect the following information:

- (a) the customs code of the inward processing premises;
- (b) if the application is submitted by a customs broker or ordinary representative on behalf of the applicant, the information specified in rule 41.33D;⁴⁶⁵
- (c) the movement reference number⁴⁶⁶ of the inward processing clearance declaration submitted in respect of the goods;
- ~~(a) a description of the imported goods to be replaced by the equivalent goods, including—~~
 - ~~(i) the tariff classification;~~
 - ~~(ii) the quality;~~
 - ~~(iii) the technical characteristics;~~
 - ~~(iv) the quantity, volume or weight of the goods;~~
 - ~~(v) the customs value; and~~
 - ~~(vi) any marks and numbers on the goods, if applicable;~~
- (d) the date of import of the imported goods;
- (e) if not all the goods indicated on the clearance declaration are to be replaced by equivalent goods, the quantity, volume or weight of the goods to be replaced;
- (f) a statement that the equivalent goods replacing the imported goods are identical in description, quality, technical characteristics and quantity with the imported goods;
- ~~(d) a description of the equivalent goods, including—~~
 - ~~(i) the quality;~~
 - ~~(ii) the technical characteristics; and~~
 - ~~(iii) the quantity, volume or weight of the goods;~~
- (g) the name and contact details in respect of the supplier of the equivalent goods; and
- (h) the supplier's invoice number.

⁴⁶⁵ If the application is submitted in terms of section 920 of the Customs Control Act by an ordinary representative on behalf of the applicant, the application must comply with the additional requirements set out in Part 6 of Chapter 41 of these Rules. Note that the said Part 6 applies only to ordinary representatives which per definition excludes persons submitting documents as customs brokers. It follows that Part 6 does not apply to customs brokers that submit applications on behalf of applicants in that capacity.

⁴⁶⁶ See definition of "movement reference number" in rule 1.1.

- (3) An application referred to in subrule (1) must be supported by –
- (a) a document from the supplier of the equivalent goods setting out the product specifications in relation those goods; and
 - (b) the supplier's invoice in respect of the equivalent goods.

(4) ~~(a) If the customs authority so requests~~ A supporting document referred to in subrule (3) must ~~within the timeframe indicated in the request~~ be submitted to the customs authority on request, electronically through eFiling, subject to ~~paragraph (b) and in accordance with Part 7 of Chapter 41 of these Rules.~~

~~(b) If a supporting document referred to in paragraph (a) is submitted to the customs authority in paper format in circumstances where submissions in paper format are permissible,⁴⁶⁷ the submission must be made to the Customs Office where the application had been made submitted, or to another Customs Office indicated in the request.~~

Timeframe for export of inward processed compensating products (*section 430 (1)(b)(iii)*)

18.16 Section 430(1)(b)(iii) of the Control Act becomes applicable if compensating products obtained from the processing of imported goods under the inward processing procedure and cleared and released for export as inward processed compensating products are not exported from the Republic within the timeframe referred to in rule **16.4**, subject section 908.

Part 4: Recordkeeping and reporting in relation to goods on inward processing premises

Processing register for inward processing premises (*section 427(1) and 432*)

18.17 (1) The licensee of inward processing premises where goods are processed under the inward processing procedure, must in accordance with section 919 of the Control Act, read with Part 5 of Chapter 41 of these Rules, establish and maintain a processing register reflecting the information referred to in rule **18.18**.

⁴⁶⁷ ~~See section 913(4) of the Control Act~~

(2) A licensee referred to in subrule (1) must for purposes of identifying imported goods cleared and released for inward processing received on that licensee's premises as well as inward compensating products or by-products obtained from such imported goods –

- (a) upon receipt of imported goods cleared for inward processing on those premises –
 - (i) document those goods in the processing register; and
 - (ii) assign to such goods a unique code to be reflected in the register and displayed on the goods; and
- (b) upon obtaining inward processed compensating products or by-products from the processing of goods referred to in paragraph (a) –
 - (i) document those products in the processing register; and
 - (ii) assign to such products a unique code to be reflected in the register and displayed on the products.

Record keeping in respect of goods on inward processing premises (*sections 427 and 432(d)*)

18.18 (1) A processing register referred to in rule **18.17** must, from the time of licensing of the inward processing premises, reflect information concerning the following in respect of imported goods received at the inward processing premises:

- (a) A description The class or kind of goods received, including as well as –
 - (i) the customs value;
 - (ii) the tariff classification;
 - (iii) the quantity, volume or weight of the goods; and
 - (iv) any marks and numbers on the goods, if applicable;
- (b) the movement reference number⁴⁶⁸ of any clearance declaration in terms of which the goods were cleared –
 - (i) for inward processing; and
 - (ii) ~~from the inward processing premises~~ for home use ~~after granting by the customs authority of an application contemplated~~ in terms of section 423(2)(a) of the Control Act, read with rule **18.13**;

⁴⁶⁸ See definition of "movement reference number" in rule 1.1.

- (c) any permit, authorisation or preference certificate issued in respect of the goods, including the reference number and date of such permit, authorisation or certificate;
- (d) goods removed in accordance with rule **18.10**, including –
 - (i) the information referred to in paragraph (a), (b)(i) and (c) in relation to such goods;
 - (ii) the reference number of the removal permission; and
 - (iii) in the case of a removal to the premises of a subcontractor, the name **of the subcontractor** and the **customs code or** physical address of the subcontractor's premises;
- (e) goods damaged, destroyed, lost or unaccounted for, including the information referred to in paragraph (a), (b)(i) and (c) in relation to such goods;
- (f) the quantity, volume or weight of imported goods processed and the balance of unprocessed imported goods;
- (g) inward processed compensating products, by-products or commercially valuable waste obtained from the processing of the imported goods received, including -
 - (i) the quantity, volume or weight; and
 - (ii) the conversion rate approved in **accordance with terms of** rule **18.14**;
- (h) compensating products, by-products or commercially valuable waste obtained from the imported goods that were damaged, destroyed, lost or unaccounted for, including a description of the nature of such products or waste and the quantity, volume or weight;
- (i) compensating products, by-products or commercially valuable waste obtained from the imported goods that were removed in accordance with rule **18.10**, including the reference number of the removal permission; **and**
- (j) equivalent goods used, including -
 - (i) the reference number of any authorisation contemplated in rule **18.15**; and
 - (ii) a description of the goods, including the quantity, weight or volume;
- (k) goods abandoned in terms of section 564; and**
- (l) in the case of goods sampled or accessed as contemplated in section 513, the information referred to in rule 23.4(d).**

(2) The licensee of inward processing premises where goods are processed under the inward processing procedure, must in addition to the records referred to in subrule (1), keep record, in accordance with section 919 of the Control Act, read with Part 5 of Chapter 41 of these Rules, of any documents in respect of activities pertaining to imported goods cleared for inward processing, from the time those goods are received on the inward processing premises until the compensating products obtained from those goods are removed from the premises, or any unprocessed imported goods are cleared for another customs procedure or for home use, including any –

- (a) reports submitted to the customs authority as required in terms of section 427 of the Control Act;
- (b) permissions to remove goods granted by the customs authority pursuant to an application referred to in rule **18.10**;
- (c) approvals to appoint a subcontractor granted by the customs authority pursuant to an application referred to in rule **18.7**;
- (d) approvals for the use of equivalent goods granted by the customs authority pursuant to an application referred to in rule **18.15**;
- (e) detention, seizure or confiscation notices issued by the customs authority in terms of Chapter 34 of the Control Act;
- (f) transport documents;
- (g) certificates documentary evidence of origin;
- (h) clearance declarations, supporting documents required and release notifications in respect of the goods;
- (i) ~~documents constituting proof of damage, destruction or loss, in the case of goods damaged, destroyed, lost or unaccounted for;~~ documents submitted or issued in terms of Chapter 25 of the Control Act for purposes of the application of that Chapter, if goods are damaged, destroyed, lost or unaccounted for whilst under the inward processing procedure; and
- (j) documents acceptable as proof of loading for export,⁴⁶⁹ in respect of inward processed compensating products; and
- (k) abandonment notices issued by the customs authority in terms of section 564;
and

⁴⁶⁹ See rule **16.6**.

- (i) processing records in respect of the goods.

Reports to be submitted by licensees of inward processing premises (sections 427(1) and 432(d) and (e))

18.19 (1) (a) A report contemplated in section 427(1) of the Control Act must cover three-monthly reporting periods commencing on the date of licensing, and must within 25 calendar days after the end of each three monthly reporting period be submitted to the customs authority electronically through eFiling, subject to paragraph (b) and in accordance with Part 7 of Chapter 41 of these Rules.

(b) If a report referred to in paragraph (a) is submitted to the customs authority in paper format in circumstances where submissions in paper format are permissible,⁴⁷⁰ the submission must be made to the Customs Office that serves the area where the inward processing premises are situated.

(2) A report referred to in subrule (1) must be in the form of a copy of the processing register referred to in rule 18.17(1) for the relevant reporting period and reflect —

(a) the customs code of the inward processing premises; and

(b) if the report is submitted by a customs broker or ordinary representative on behalf of the licensee of the inward processing premises, state the information specified in rule 41.33D.⁴⁷¹

Records to be produced or submitted to Customs on request

18.20 (1) —The licensee of inward processing premises must produce or submit any record or document referred to in rule 18.18 to the customs authority or a customs officer on request, subject to and in accordance with Part 7 of Chapter 41 of these Rules within the timeframe indicated in the request, or if no timeframe is specified in such request, within three working days after the request.

⁴⁷⁰ See section 913(4) of the Control Act.

⁴⁷¹ If the report is submitted in terms of section 920 of the Control Act by an ordinary representative on behalf of the licensee, the report must comply with the additional requirements set out in Part 6 of Chapter 41 of these Rules. Note that the said Part 6 applies only to ordinary representatives which per definition excludes persons submitting documents as customs brokers. It follows that Part 6 does not apply to customs brokers that submit reports on behalf of licensees in that capacity.

~~(2) — A copy of such record or document may, subject to the approval of the customs authority, be submitted and such a copy or printout may for purposes of the Control Act and a tax levying Act be regarded to be the original record or document requested.~~

Sub (2) now incorporated in rule 41.33B.

Part 5: General

Clearance of goods for export as inward processed compensating products

18.20A (1) A clearance declaration clearing goods for export as inward processed compensating products must be supported by –

- (a) a document setting out the measures referred to in rule 29.29(f) that have been taken to ensure that the compensating products were obtained from imported goods cleared for inward processing; and
- (b) a document referencing the movement reference number and date of the inward processing clearance declaration or declarations submitted in respect of the imported goods from which those compensating products were obtained.

(2) A supporting document referred to in subrule (1)(a) or (b) must be submitted to the customs authority on request subject to and in accordance with Part 7 of Chapter 41 of these Rules.

Storage of free circulation goods used in processing with imported goods under inward processing procedure (section 432(g))

18.21 Goods in free circulation used for processing may, subject to a permission obtained in terms of rule 18.15 in the case of equivalent goods,⁴⁷² be stored at inward processing premises together with imported goods under the inward processing procedure.

⁴⁷² Customs permission is therefore not required if the relevant free circulation goods to be stored with the goods under inward processing are not equivalent goods.

CHAPTER 19
HOME USE PROCESSING PROCEDURE

Part 1: Clearance and release of imported goods for home use processing

**Additional requirements for clearance of goods for home use processing
(section 439(d))**

19.1 (1) The licensee of premises who is to carry out the home use processing of goods to be cleared for home use processing must –

(a) if that licensee is the person clearing the goods, give the undertaking contemplated in section 439(d)(i) of the Control Act on the clearance declaration submitted to clear the goods for home use processing; and

(b) if that licensee is not the person clearing the goods, submit the undertaking contemplated in section 439(d)(i) and the advice referred to in section 439(d)(ii) of the Control Act electronically through eFiling to the customs authority.⁴⁷³

(2) Security referred to in section 439(e) must have been provided at the time of licensing as provided for in section 660.

Part 2: Transport of goods to and receipt of goods in home use processing premises

Persons other than carriers who may transport goods under home use processing procedure (section 451(d) read with section 122(c))

19.2 The following persons are hereby, in addition to other than carriers are for purposes of referred to in section 122(e)(a) or (b) of the Control Act, permitted/authorised to transport, using own transport, goods under the home use processing procedure:

(a) The licensee of the home use processing premises where the home use processing is to be carried out, using own transport; and

(b) a person referred to in section 440(a), using own transport.

⁴⁷³ In terms of section 439 of the Control Act no release can be given for home use processing unless the undertaking and advice referred to in section 439(d) have been submitted.

Procedure for obtaining authorisation to Redirection of goods to locations other than licensed inward home use processing premises (section 442(2)(a))

19.3 (1) If a person intends to redirect goods cleared for inward home use processing to a location other than the licensed home use processing premises where the goods are to be processed as contemplated in section 442(2)(a) of the Control Act, that person must in accordance with rule 4.17 apply to an application in accordance with rule 5.4A must be submitted to the customs authority for authorisation to permission for the redirection of the goods to that other location.

(2) Rules 5.4B and 5.4C apply to the delivery and receipt of goods at a place to which goods are redirected under permission granted in terms of subrule (1).

Notification of Delivery notifications of goods to at home use processing premises or other authorised premises (section 442(2)(b)(i))

19.4 (1) (a) A carrier that transported goods to home use processing premises or another place authorised in accordance with rule 14.7, must notify the customs authority of the delivery of the goods in accordance with rule 29.35 5.1B of the delivery of the goods.

(b) A person contemplated in rule 19.2(a) or (b) that transported goods to home use processing premises or another place authorised in accordance with rule 14.7, must notify the customs authority of the delivery of the goods in accordance with subrule (2).

(2) (a) A notification contemplated in subrule (1)(b) must within three hours of delivery of the goods⁴⁷⁴ at the home use processing premises be submitted to the customs authority electronically through eFiling, subject to paragraph (b).

(b) If a notification referred to in paragraph (a) is submitted to the customs authority in paper format in circumstances where submissions in paper format are permissible,⁴⁷⁵ the submission must be

(i) on Form ... as published as a rule on the SARS website; and

⁴⁷⁴ See rule 41.10B

⁴⁷⁵ See section 913(4) of the Control Act.

~~(ii) made to the Customs Office that serves the area where the home use processing premises or other place authorised in terms of 4.17 is situated.~~

(3) A notification contemplated in subrule (1)(b) must reflect the following information:

(a) The name and customs code of the person ~~contemplated in rule 19.2(b) that transported the goods to the home use processing premises;~~

~~(b) if the notification is submitted by a customs broker or ordinary representative on behalf of the person referred to in paragraph (a), the information specified in rule 41.33D;⁴⁷⁶~~

~~(c) the date and time of delivery of the goods;~~

~~(d) the customs code ~~physical address~~ of the home use processing premises where the goods were delivered;~~

~~(e) the movement reference number⁴⁷⁷ of the home use processing clearance declaration submitted in respect of the goods;~~

~~(d) in the case of delivery to another location, the physical address of the other premises authorised in accordance with rule 4.17;~~

~~(e) in relation to the goods –~~

~~(i) if not containerised, a description of the goods; including –~~

~~(aa) the tariff classification;~~

~~(bb) the quantity, volume or weight of the goods; and~~

~~(cc) marks and numbers on the goods, if applicable; and~~

~~(i) if containerised –~~

~~(aa) the container number; and~~

~~(bb) the seal number;⁴⁷⁸ and~~

~~(f) in the case of non-containerised goods –~~

~~(i) confirmation that the goods delivered at the home use processing premises correspond in class and kind with the goods described in the release notification issued in respect of the goods; and~~

⁴⁷⁶ If the notification is submitted in terms of section 920 of the Customs Control Act by an ordinary representative on behalf of the person that transported the goods, the notification must comply with the additional requirements set out in Part 6 of Chapter 41 of these Rules. Note that the said Part 6 applies only to ordinary representatives which per definition excludes persons submitting documents as customs brokers. It follows that Part 6 does not apply to customs brokers that submit notifications on behalf of such persons in that capacity.

⁴⁷⁷ See definition of “movement reference number” in rule 1.1.

⁴⁷⁸ See rule 5.6 which places an obligation in relation to seal verification and reporting of seal discrepancies on a person who receives physical control of a container.

- (ii) the quantity delivered;
- (g) in the case of containerised goods –
 - (i) confirmation –
 - (aa) that the container and seal number of the container or containers delivered at the home use processing premises correspond with the container and seal numbers on the release notification; and
 - (bb) that the seal on the container or on each container delivered is intact;⁴⁷⁹ and
 - (ii) the quantity of containers delivered; and
- (h) if no confirmation referred to in paragraph (f)(i) and (g)(i) can be given, the reason why confirmation cannot be given, which may be motivated in a separate supporting document submitted together with the notification subject to and in accordance with Part 7 of Chapter 41 of these Rules.
- ~~(f) the movement reference number⁴⁸⁰ of the home use processing clearance declaration in respect of the goods.~~

Receipt notifications by licensees of home use processing premises of receipt of when goods are received at home use processing premises (sections 442(2)(b)(ii) and 903(1)(c))

19.5 (1) The licensee of home use processing premises ~~or, if the goods were redirected in terms of rule 4.17 to another location, the person in charge of that location~~ must notify the customs authority of the receipt of goods at those premises ~~or that location~~ in accordance with subrule (2).

(2) (a) A notification contemplated in subrule (1) must within three hours of receipt of the goods⁴⁸¹ be submitted to the customs authority electronically through eFiling, ~~subject to paragraph (b).~~

~~(b) If a notification is submitted to the customs authority in paper format, in circumstances where submissions in paper format are permissible,⁴⁸² the submission must be~~

⁴⁷⁹ Note that any seal discrepancies must in terms of rule 5.6 be reported by a person who receives physical control of a container.

⁴⁸⁰ See definition of “movement reference number” in rule 1.1.

⁴⁸¹ See rule 41.10B

- ~~(a) on Form ... as published as a rule on the SARS website; and~~
- ~~(b) made to the Customs Office that serves the area where the licensed home use processing premises or the location goods were redirected to in terms of rule 4.17 is situated.~~

(3) A notification referred to in subrule (2) must reflect the following information:

- (a) The name, ~~identity number, contact details~~ or customs code of the carrier or other person contemplated in rule 19.2(b) that transported the goods to the home use processing premises ~~or the other location where the goods were redirected to in terms of rule 4.17~~ or, if the goods were transported by the licensee of the home use processing premises, a statement to that effect;
- (b) the name of the licensee of the home use processing premises submitting the notification; ~~the physical address of that other location;~~
- ~~(c) the name, identity number, contact details and physical and postal address of the person in charge of that other location;~~
- (c) if the notification is submitted by a customs broker or ordinary representative on behalf of the licensee of the inward processing premises, the information specified in rule 41.33D;⁴⁸³
- (d) the customs code of the inward processing premises where the goods were received;
- (e) the date and time of receipt of the goods at the home use processing premises;
- (f) the movement reference number⁴⁸⁴ of the home use processing clearance declaration submitted in respect of the goods;
- ~~(e) in relation to the goods —~~
 - ~~(i) a description of the goods including —~~
 - ~~(aa) the tariff classification;~~
 - ~~(bb) the quantity, volume or weight of the goods; and~~

⁴⁸² See section 913(4) of the Control Act.

⁴⁸³ If the notification is submitted in terms of section 920 of the Customs Control Act by an ordinary representative on behalf of the licensee of the inward processing premises, the notification must comply with the additional requirements set out in Part 6 of Chapter 41 of these Rules. Note that the said Part 6 applies only to ordinary representatives which per definition excludes persons submitting documents as customs brokers. It follows that Part 6 does not apply to customs brokers that submit notifications on behalf of such licensees in that capacity.

⁴⁸⁴ See definition of “movement reference number” in rule 1.1.

- ~~(cc) marks and numbers on the goods, if applicable; and~~
 - ~~(ii) if containerised –~~
 - ~~(aa) the container number; and~~
 - ~~(bb) the seal number;⁴⁸⁵ and~~
 - ~~(f) the movement reference number⁴⁸⁶ of the home use processing clearance declaration in respect of the goods.~~
 - (g) in the case of non-containerised goods –
 - (i) confirmation that the goods received at the home use processing premises correspond in class and kind with the goods described in the release notification issued in respect of the goods; and
 - (ii) the quantity received;
 - (h) in the case of containerised goods –
 - (i) confirmation –
 - (aa) that the container and seal number of the container or containers received at the home use processing premises correspond with the container and seal numbers on the release notification; and
 - (bb) that the seal on the container or on each container received is intact;⁴⁸⁷ and
 - (ii) the quantity of containers received; and
 - (i) if no confirmation referred to in paragraph (g)(i) and (h)(i) can be given, the reason why confirmation cannot be given, which may be motivated in a separate supporting document submitted together with the notification subject to and in accordance with Part 7 of Chapter 41 of these Rules.

(4) if the licensee of home use processing premises where goods were delivered, transported the goods to the home use processing premises under a clearance and release for home use processing, a delivery notification submitted by the licensee in terms of rule 19.4 may be regarded as compliance with subrule (1) of

⁴⁸⁵ See rule 5.6 which places an obligation in relation to seal verification and reporting of seal discrepancies on a person who receives physical control of a container.

⁴⁸⁶ See definition of “movement reference number” in rule 1.1.

⁴⁸⁷ Note that any seal discrepancies must in terms of rule 5.6 be reported by a person who receives physical control of a container.

this rule and no separate receipt notification needs to be submitted in respect of those goods.

Part 3: Rules regulating home use processing procedure

Applications for approval to appoint subcontractor (section 449(3))

19.6 (1) (a) An application contemplated in section 449(3) of the Control Act must be submitted to the customs authority electronically through eFiling, subject to paragraph (b) **rule 41.33A**.

(b) If an application is submitted to the customs authority in **terms of rule 41.33A in** paper format, ~~in circumstances where submissions in paper format are permissible,~~⁴⁸⁸ the **application submission** must be **submitted** -

~~(i) on Form.... published as a rule on the SARS website; and~~

~~(ii) made~~ to the Customs Office serving the area where the home use **processing** premises of the applicant are situated.

(2) An application referred to in subrule (1) must reflect the following information:

(a) The **name of the applicant and the** customs code of the applicant's **home use processing** premises;

~~(b) if the application is submitted by a customs broker or ordinary representative on behalf of the applicant, the information specified in rule 41.33D.~~⁴⁸⁹

~~(c) the customs code of the premises where the proposed subcontracted aspect of the home use processing is to take place or, if those premises do not have a customs code -~~

~~(i) the information specified in rule 41.33E the name, identity number and contact details of the subcontractor operating those premises where the proposed subcontracted aspect of the home use processing is to take place; and~~

~~(ii) the physical address of those premises;~~

⁴⁸⁸ See section 913(4) of the Control Act.

⁴⁸⁹ If the application is submitted in terms of section 920 of the Customs Control Act by an ordinary representative on behalf of the licensee of the home use processing premises, the application must comply with the additional requirements set out in Part 6 of Chapter 41 of these Rules. Note that the said Part 6 applies only to ordinary representatives which per definition excludes persons submitting documents as customs brokers. It follows that Part 6 does not apply to customs brokers that submit applications on behalf of such licensees in that capacity.

- (d) the nature and extent of the proposed subcontracted **home use** processing to be undertaken by the subcontractor;
- (e) the movement reference number⁴⁹⁰ **assigned to** **of** the home use processing clearance declaration **submitted** in respect of the goods; and
- (f) the time period required for completion of the proposed subcontracted home use processing.

(3) An application referred to in subrule (1) must be supported by the proposed agreement in terms of which the subcontractor is to be appointed by the licensee.

(4) ~~(a) — If the customs authority so requests~~ A supporting document referred to in subrule (3) must ~~within the timeframe indicated in the request~~ be submitted to the customs authority **on request**, ~~electronically through eFiling, subject to paragraph (b)~~ **subject to and in accordance with Part 7 of Chapter 41 of these Rules.**

~~(b) — If a supporting document referred to in paragraph (a) is submitted to the customs authority in paper format in circumstances where submissions in paper format are permissible,⁴⁹⁴ the submission must be made to the Customs Office where the application has been submitted, or to another Customs Office indicated in the request.~~

Annual business turnover limits for licensing of subcontractors' premises (*section 449(2)*)

19.7 The licensing requirement set out in section 449(2) of the Control Act for premises where the subcontracted processing of goods under home use processing procedure is carried out, applies if the annual business turnover on those premises exceeds five million Rand.

Obligations of subcontractors relating to processing of goods (*section 451(a)(ii)*)

⁴⁹⁰ See definition of "movement reference number" in rule 1.1.

⁴⁹⁴ ~~See section 913(4) of the Control Act.~~

19.8 Rules 19.13, 19.14, 19.15 and 19.16 are applicable, with the necessary changes as the context may require, to a subcontractor that is not a licensee appointed pursuant to an application in terms of rule 19.7.

Movement of imported goods cleared for home use processing, home use compensating products, and by-products and waste between different locations (section 451(a)(iii))

19.9 (1) (a) Imported goods cleared for home use processing and compensating products, by-products and commercially valuable waste obtained from the processing of those imported goods may not ~~without the permission of the customs authority~~ be moved from the premises of the licensee that carries out the home use processing, or of a subcontractor appointed in terms of section 449 of the Control Act, to another processing premises location without the permission of the customs authority.⁴⁹²

(b) Paragraph (a) does not apply ~~to~~ if –

- (i) ~~ownership of the imported goods, compensating products, by-products or commercially valuable waste has been transferred with the customs authority's approval in terms of Part 6 of Chapter 4 of these Rules and the movement to another location is occasioned by that transfer of ownership;~~⁴⁹³
- (ii) ~~home use processed the~~ compensating products ~~that have~~ are in terms of section 445 ~~been allowed to be~~ dealt with and moved as goods in free circulation; ~~and or~~
- (iii) ~~the~~ by-products ~~or~~ commercially valuable waste ~~that have~~ are in terms of section 446 ~~been allowed to be~~ dealt with and moved as goods in free circulation.

(2) (a) An application for permission contemplated in subrule (1) must be submitted to the customs authority by the licensee ~~or subcontractor, as the case may be,~~ electronically through eFiling prior to the intended removal of the goods,

⁴⁹² Note that a separate application for the return of the goods to the home use processing premises from which it was initially removed is not required. The movement of the goods will be tracked by the delivery and receipt notifications referred to in rule 19.10.

⁴⁹³ Where the movement is occasioned by an approved transfer of ownership of goods, the goods will be removed on authority of a clearance declaration and not pursuant to an application in terms of this rule. As in the case of any delivery or receipt of goods not in free circulation, delivery and receipt notifications referred to in rule 19.10 must be submitted.

home use **processed** compensating products, by-products or waste, subject to **paragraph (b) rule 41.33A**.

(b) If an application referred to in subrule (a) is submitted to the customs authority **in terms of rule 41.33A** in paper format **in circumstances where submissions in paper format are permissible,**⁴⁹⁴ the **submission application** must be **submitted** –

(i) on Form as published as a rule on the SARS website; and

(ii) made to the Customs Office that serves the area **where location** where the relevant goods, home use **processed** compensating products, by-products or waste are, **is situated**.

(3) An application referred to in subrule (1) must reflect –

(a) the name of the applicant;

(b) if the application is submitted by a customs broker or ordinary representative on behalf of the applicant, the information specified in rule 41.33D;⁴⁹⁵

(c) the following details relating to the customs code of the premises from where the relevant imported goods, home use **processed compensating products, by-products or waste are to be moved **or, if to be moved from unlicensed subcontractor's premises, the physical address of the premises:****

(i) In the case of a movement from licensed home use processing premises, the customs code of the premises; and

(ii) in the case of a movement from unlicensed premises of a subcontractor, the physical address of the premises and the name and contact details of that subcontractor;

(d) the **physical address and customs code, **if any,** of the premises to which the goods, compensating products, by-products or waste are to be moved **or, if to be moved to unlicensed premises -****

(i) the physical address of the premises; and

(ii) the information specified in rule 41.33E of the person in control of those premises;

⁴⁹⁴ See section 913(4) of the Control Act.

⁴⁹⁵ If the application is submitted in terms of section 920 of the Customs Control Act by an ordinary representative on behalf of the applicant, the application must comply with the additional requirements set out in Part 6 of Chapter 41 of these Rules. Note that the said Part 6 applies only to ordinary representatives which per definition excludes persons submitting documents as customs brokers. It follows that Part 6 does not apply to customs brokers that submit applications on behalf of applicants in that capacity.

- (e) if the goods to be moved are the imported goods -
- (i) the movement reference number⁴⁹⁶ of the home use processing clearance declaration under which the imported goods were cleared for home use processing submitted in respect of the goods; and
 - (ii) the quantity, volume or weight of the goods to be moved;
- ~~(c) in the case of imported goods to be moved, a description of the goods including -~~
- ~~(i) the value;~~
 - ~~(ii) the tariff classification;~~
 - ~~(iii) the quantity, volume or weight of the goods; and~~
 - ~~(iv) any marks and numbers on the goods, if applicable;~~
- (f) ~~in the case of~~ if the goods to be moved are compensating products, by-products or waste ~~to be moved~~, a description of the nature of the products, by-products or waste, including the quantity, volume or weight; and
- (g) the nature of any processing -
- (i) to be undertaken at the premises to which the goods are to be moved; or
 - (ii) that had been undertaken at the premises from where the compensating products, by-products or commercially valuable waste are to be moved.
- ~~(g) in the case of the premises referred to in paragraph (f) under control of a subcontractor, the name and contact details of the subcontractor.~~

(4) An application for removal involving a subcontractor must be supported by the agreement in terms of which the subcontractor had been appointed by the licensee.

(5) ~~(a) If the customs authority so requests~~ A supporting document referred to in subrule (4) must within the timeframe indicated in the request be submitted to the customs authority on request electronically through eFiling, subject to paragraph (b) and in accordance with Part 7 of Chapter 41 of these Rules.

⁴⁹⁶ See definition of “movement reference number” in rule 1.1.

~~(b) If a supporting document referred to in paragraph (a) is submitted to the customs authority in paper format in circumstances where submissions in paper format are permissible,⁴⁹⁷ the submission must be made to the Customs Office where the application has been submitted, or to another Customs Office indicated in the request.~~

(6) Goods, compensating products, by-products, or waste removed in terms of this rule must be removed by a licensed carrier or another person referred to in rule 19.2 within three working days after the approval of an application to remove in terms of this rule has been submitted to the applicant.

Delivery and receipt notifications of delivery and receipt in respect of goods removed in terms of rule 19.9

19.10 (1) Notification of delivery and receipt of goods moved in terms of rule 19.9 must be given in accordance with ~~the procedure established in~~ rules 19.4 and 19.5 respectively, subject to subrule (3).

(2) Rules 19.4 and 19.5 must, in the case of the movement of imported goods cleared for home use processing or compensating products, by-products or commercially valuable waste obtained from those imported goods, be applied for purposes of subrule (1) with any necessary changes the context may require, and in such application any reference to home use processing premises must, subject to subrule (3), be read also as a reference to the premises of a subcontractor, whether licensed or unlicensed.⁴⁹⁸

(3) This rule does not apply to a subcontractor operating unlicensed premises, and such a subcontractor is not required to submit receipt notifications in terms of this rule when goods are delivered at the premises of the subcontractor.

⁴⁹⁷ ~~See section 913(4) of the Control Act.~~

⁴⁹⁸ The idea is that the carrier must submit a delivery notification for deliveries to unlicensed premises of a subcontractor whilst the subcontractor is not required to submit a receipt notification for receipts at unlicensed premises.

Clearance for home use of imported goods falling within rebate item 317.03 when not used for production of home use compensating products (section 164(1)(f) read with 443(2))

19.10A A quarterly account submitted to the customs authority in terms of Note 3 to rebate item 317.03 in respect of goods under the home use processing procedure may serve as a home use clearance declaration contemplated in section 443(2) of the Control Act for any imported goods under that procedure that are no longer intended to be used for the production of home use compensating products of the class or kind stated in the home use processing clearance declaration submitted in respect of those goods.

Notification of failure to complete home use processing of goods within section 444(1) timeframe contemplated in section 444(1) of the Control Act

19.11 (1) (a) A notice notification of failure to comply with the timeframe for completion of processing of imported goods under the home use processing procedure contemplated in section 444(1) of the Control Act, must be submitted to the customs authority electronically through eFiling, subject to paragraph (b) rule **41.33A**.

(b) If a notice notification referred to in paragraph (a) is submitted to the customs authority in terms of rule **41.33A** in paper format, in circumstances where submissions in paper format are permissible,⁴⁹⁹ the notice notification submission must be submitted —

- (i) on Form ... as published as a rule on the SARS website; and
- (ii) made to the Customs Office that serves the area where the goods are.

(2) A notice notification referred to in subrule (1) must reflect the following information:

(a) The name and customs code of the person submitting the notice who cleared the goods for home use processing;

⁴⁹⁹ See section 913(4) of the Control Act.

- (b) if the notification is submitted by a customs broker, registered agent or ordinary representative on behalf of the person who cleared the goods, the information specified in rule 41.33D;⁵⁰⁰
- (c) the movement reference number⁵⁰¹ of the home use processing clearance declaration submitted in respect of the imported goods;
- (d) the nature of the processing that was to be undertaken;
- (e) the quantity, volume or weight of the imported goods in respect of which the failure was committed;
- ~~(c) — a description of the imported goods that were to be processed, including —~~
 - ~~(i) — the customs value;~~
 - ~~(ii) — the tariff classification;~~
 - ~~(iii) — the quantity, volume or weight of the goods; and~~
 - ~~(iv) — marks and numbers on the goods, if any;~~
- (f) the physical address of the premises where the goods are;
- (g) the date when the processing of those imported goods should have been completed; and
- (h) the reason for the failure to comply with the timeframe for completion of the processing, which may be motivated in a separate supporting document submitted together with the notification subject to and in accordance with Part 7 of Chapter 41 of these Rules.

Issuing of home use processing licences regarded to be approval Submission of conversion rates for approval (section 447(1))

19.12 ~~An applicant applying in terms of rule 29... for licensing as an importer of goods for home use processing, or for the licensing of home use processing premises where goods cleared for home use processing are to be processed, must, at the time when an application for licensing is submitted, submit for approval the conversion rate contemplated in section 447(1) of the Control Act to be used for the purposes of such processing, to the customs authority.~~

⁵⁰⁰ If the notification is submitted in terms of section 920 of the Customs Control Act by an ordinary representative on behalf of the applicant, the notification must comply with the additional requirements set out in Part 6 of Chapter 41 of these Rules. Note that the said Part 6 applies only to ordinary representatives which per definition excludes persons submitting documents as customs brokers or registered agents. It follows that Part 6 does not apply to customs brokers that submit notifications on behalf of such persons in that capacity.

⁵⁰¹ See definition of “movement reference number” in rule 1.1.

If the customs authority approves in terms of Chapter 29 of these Rules an application of a person for a licence to import goods for home use processing or to use premises as home use processing premises, approval of the application must be regarded also to be an approval of a conversion rate contemplated in section 447(1) of the Control Act to be used in the home use processing of the class or kind of imported goods to which the rate applies, provided the information required in terms of rule 29.17(d) or 29.21(2)(e) has been provided in the licence application.

Part 4: Recordkeeping and reporting in relation to goods on licensed home use processing premises

Processing register for home use processing premises (section 448(1) and 451)

19.13 (1) The licensee of home use processing premises where goods are processed under the home use processing procedure must, in accordance with section 919 of the Control Act read with Part 5 of Chapter 41 of these Rules, establish and maintain a processing register reflecting the information referred to in rule **19.14**.

(2) A licensee referred to in subrule (1) must for purposes of identifying imported goods cleared and released for home use processing received on that licensee's premises as well as home use compensating products or by-products obtained from such imported goods –

- (a) upon receipt of imported goods cleared for home use processing on those premises –
 - (i) document those goods in the processing register; and
 - (ii) assign to such goods a unique code to be reflected in the register and displayed on the goods; and
- (b) upon obtaining home use **processed** compensating products or by-products from the processing of goods referred to in paragraph (a) –
 - (i) document those products in the processing register; and
 - (ii) assign to such products a unique code to be reflected in the register and displayed on the products.

Record keeping in respect of goods on home use processing premises (*section 448(1)*)

19.14 (1) A processing register referred to in rule **19.13** must, from the time of licensing of the home use processing premises, reflect the following **information** in respect of imported goods received at the home use processing premises:

- (a) **A description** **The class or kind** of goods **received**, **including as well as** –
 - (i) the **customs** value;
 - (ii) the tariff classification;
 - (iii) the quantity, volume or weight of the goods; and
 - (iv) any marks and numbers on the goods, if applicable;
- (b) the movement reference number⁵⁰² of the **home use processing** clearance declaration **submitted in respect of the goods** ~~in terms of which the goods were cleared for home use processing~~;
- (c) any permit, authorisation or preference certificate issued in respect of the goods, including the reference number and date of such permit, authorisation or certificate;
- (d) goods removed in accordance with rule **19.9**, including –
 - (i) the information referred to in paragraph (a), (b)(i) and (c) in relation to such goods;
 - (ii) the reference number of the removal permission; and
 - (iii) in the case of a removal to the premises of a subcontractor, the name **of the subcontractor** and **the customs code or** physical address of the subcontractor's premises;
- (e) goods damaged, destroyed, lost or unaccounted for, including the information referred to in paragraph (a), (b)(i) and (c) in relation to such goods;
- (f) the quantity, volume or weight of imported goods processed and the balance of unprocessed imported goods;
- (g) home use processed compensating products, by-products or commercially valuable waste obtained from the processing of imported goods received, **including as well as** –
 - (i) the quantity, volume or weight; and
 - (ii) the conversion rate approved in ~~accordance with~~ **terms of** rule **19.12**;

⁵⁰² See definition of "movement reference number" in rule 1.1.

- (h) compensating products, by-products or commercially valuable waste that were damaged, destroyed, lost or unaccounted for, **including as well as** a description of the nature of such products or waste and the quantity, volume or weight; **and**
- (i) compensating products, by-products or commercially valuable waste that were removed in accordance with rule **19.9**, including the reference number of the removal permission;
- (j) goods abandoned in terms of section 564; and**
- (k) in the case of goods sampled or accessed as contemplated in section 513, the information referred to in rule 23.4(d).**

(2) The licensee of home use processing premises where goods are processed under the home use processing procedure, must in addition to the records referred to in subrule (1), keep record, **in accordance with section 919 of the Control Act read with Part 5 of Chapter 41 of these Rules,** of any documents in respect of activities pertaining to imported goods cleared for home use processing, from the time those goods are received on the home use processing premises until the compensating products obtained from those goods are removed from the premises, or any unprocessed **imported** goods are cleared for home use or another permissible procedure,⁵⁰³ including any –

- (a) reports submitted to the customs authority as contemplated in section 448(1) of the Control Act;
- (b) permissions to remove goods granted by the customs authority pursuant to an application referred to in rule **19.9**;
- (c) approvals to appoint a subcontractor granted by the customs authority pursuant to an application referred to in rule **19.6**;
- (d) detention, seizure or confiscation notices issued by the customs authority in terms of Chapter 34 of the Control Act;
- (e) transport documents;
- (f) **certificates documentary evidence** of origin;
- (g) clearance declarations, supporting documents required and release notifications in respect of the goods;

⁵⁰³ See section 443(2) of the Control Act.

- (h) ~~documents constituting proof of damage, destruction or loss, in the case of goods damaged, destroyed, lost or unaccounted for; documents submitted or issued in terms of Chapter 25 of the Control Act for purposes of the application of that Chapter, if goods are damaged, destroyed, lost or unaccounted for whilst under the inward processing procedure; and~~
- (i) ~~abandonment notices issued by the customs authority in terms of section 564; and~~
- (j) processing records in respect of the goods.

Reports to be submitted in connection with home use processing (*sections 448(1) and 451(b)*)

19.15 (1) ~~(a)~~ A report contemplated in section 448(1) of the Control Act must cover three monthly reporting periods commencing on the date of licensing, and must within 25 calendar days after the end of each three monthly reporting period be submitted to the customs authority electronically ~~through eFiling~~, subject to ~~paragraph (b)~~ and in accordance with Part 7 of Chapter 41 of these Rules.

~~(b) If a report referred to in paragraph (a) is submitted to the customs authority in paper format in circumstances where submissions in paper format are permissible,⁵⁰⁴ the submission must be made to the Customs Office that serves the area where the home use processing premises are situated.~~

(2) A report referred to in subrule (1) must be a copy of the processing register referred to in rule **19.14**(1) for the relevant reporting period and reflect —

(a) the customs code of the home use processing premises; and

(b) if the report is submitted by a customs broker or ordinary representative on behalf of the licensee of the home use processing premises, the information specified in rule **41.33D**.⁵⁰⁵

(3) A quarterly account submitted in terms of Note 3 to rebate item 317.03 in respect of home use processing premises where manufacturing of goods under

⁵⁰⁴ ~~See section 913(4) of the Control Act.~~

⁵⁰⁵ If the report is submitted in terms of section 920 of the Control Act by an ordinary representative on behalf of the licensee, the report must comply with the additional requirements set out in Part 6 of Chapter 41 of these Rules. Note that the said Part 6 applies only to ordinary representatives which per definition excludes persons submitting documents as customs brokers. It follows that Part 6 does not apply to customs brokers that submit reports on behalf of licensees in that capacity.

that rebate item takes place, serves as a regular report in respect of those goods for purposes section 448(1).

Records to be produced to Customs on request

19.16 The licensee of home use processing premises must produce or submit any record or document referred to in rule **19.14** to the customs authority or a customs officer on request, subject to and in accordance with Part 7 of Chapter 41 of these Rules within the timeframe indicated in the request, or if no timeframe is specified in such request, within three working days after the request.

~~(2) — A copy of such record or document may, subject to the approval of the customs authority, be submitted and such a copy or printout may for purposes of the Control Act and a tax levying Act be regarded to be the original record or document requested.~~

sub (2) now incorporated in rule 41.33B.

CHAPTER 20
OUTWARD PROCESSING PROCEDURE

Additional requirements for clearance of goods for outward processing
(section 458(c))

20.1 (1) — The person who cleared goods for outward processing must give the undertaking contemplated in section 458(c)(i) of the Control Act on the clearance declaration submitted to clear the goods for outward processing.⁵⁰⁶

(2) — A clearance of goods for outward processing must be supported by a document setting out any measures taken in terms of section 458(d).

Additional documents to support clearance of goods for outward processing

Submission of conversion rates for approval *(section 176(1)(d) 469(1))*

20.1 (1) (a) — A person clearing goods clearance declaration clearing goods for outward processing must, when submitting a clearance declaration for export of goods for outward processing, simultaneously submit for approval in addition to the supporting documents referred to in section 176 of the Control Act, be supported also by –

(a) a document setting out measures taken to ensure that when goods are cleared for home use as outward processed compensating products obtained from the exported goods, those goods can be verified as compensating products obtained from those goods;

(b) a copy of the agreement in terms of which the person operating the processing premises abroad undertakes to carry out the processing of the goods at those premises; and

(c) a document setting out the conversion rate contemplated in section 469(1) of the Control Act to be applied in the outward processing of the exported goods to the customs authority. electronically through eFiling, subject to paragraph (b).

⁵⁰⁶ Goods may not be cleared for outward processing unless an undertaking referred to in section 458(c)(i) of the Control Act has been submitted.

~~(b) — If a conversion rate referred to in paragraph (a) is submitted to the customs authority in paper format in circumstances where submissions in paper format are permissible,⁵⁰⁷ the submission must be on Formas published as a rule on the SARS website at the Customs Office serving the place of exit where the goods cleared for outward processing will be exported from the Republic.~~

~~(3) — A submission referred to in subrule (1) must be supported by the agreement with the person operating the processing premises abroad to undertake the processing of the goods there.~~

(2) (a) — If the customs authority so requests a **A** supporting document referred to in subrule ~~(3)~~(1) must ~~within the timeframe indicated in the request~~ be submitted to the customs authority **on request electronically through eFiling**, subject to ~~paragraph (b)~~ **and in accordance with Part 7 of Chapter 41 of these Rules.**

~~(b) — If a supporting document referred to in paragraph (a) is submitted to the customs authority in paper format in circumstances where submissions in paper format are permissible,⁵⁰⁸ the submission must be made to the Customs Office where the submission of the conversion rate had been made, or to another Customs Office indicated in the request.~~

(3) A **submission supporting document** referred to in subrule (1) must - reflect the following information:

(i) The customs code of the person clearing the goods for outward processing;

(ii) a description of the factors that were taken into account in determining the conversion rate to be applied to the goods exported for outward processing;

(iii) the quantity of goods to be exported for outward processing;

(iv) the quantity of outward processed compensating products expected to be obtained from those goods; and

(v) the duration of the outward processing.

⁵⁰⁷ See section 913(4) of the Control Act.

⁵⁰⁸ See section 913(4) of the Control Act.

(4) Issuing by the customs authority in terms of section 180 of the Control Act of a release notification for the outward processing of the goods must be regarded to be approval by the customs authority of the conversion rate as contemplated in section 469(1).

Notification of non-clearance of compensating products obtained from goods under outward processing not to be cleared for home use as outward compensating products (section 471(f))

20.2 (1) A person who cleared goods for outward processing must, at least seven calendar days before the timeframe applicable to the goods in terms of section 465 of the Control Act for the clearing for home use of the compensating products obtained from those goods expires, notify the customs authority that those goods or a portion of those goods will not be cleared for home use as outward processed compensating products.

(2) (a) A notice notification referred to in subrule (1) must be submitted to the customs authority electronically through eFiling, subject to paragraph (b) rule **41.33A**.

(b) If a notification referred to in paragraph (a) is submitted to the customs authority in terms of rule **41.33A** in paper format, in circumstances where submissions in paper format are permissible,⁵⁰⁹ the notification submission must be submitted –

(i) on Form.....as published as a rule on the SARS website; and

(ii) made to the Customs Office that serves the place of exit where the goods cleared for outward processing were exported from the Republic.

(3) A notice notification referred to in subrule (1) must reflect the following information:

(a) the name and customs code of the person submitting the notice who cleared the goods for outward processing;

⁵⁰⁹ See section 913(4) of the Customs Control Act.

- (b) if the notification is submitted by a customs broker, registered agent or ordinary representative on behalf of the person referred to in paragraph (a), the information specified in rule 41.33D;⁵¹⁰
- (c) the movement reference number⁵¹¹ of the outward processing clearance declaration submitted in respect of the goods;
- ~~(c) a description of the goods exported for outward processing, including –~~
 - ~~(i) the customs value;~~
 - ~~(ii) the tariff classification;~~
 - ~~(iii) the quantity, volume or weight of the goods; and~~
 - ~~(iv) marks and numbers on the goods, if any;~~
- (d) the nature of the processing that was or was to be undertaken;
- (e) if only a portion of the products obtained from the processing of the exported goods will be cleared for home use as outward processed compensating products, the portion that will not be cleared;
- (f) the reason why ~~the compensating~~ products obtained from those goods, ~~or portion of the compensating products~~ will not be cleared for home use as outward processed compensating products, which may be motivated in a separate supporting document submitted together with the notification subject to and in accordance with Part 7 of Chapter 41 of these Rules.

Form and format of statement referred to in section 468(2) of Control Act

20.3 (1) (a) If the customs authority requests in terms of section 468(2) of the Control Act a statement referred to in that section, the statement must, within the timeframe for submission indicated in the request, be submitted electronically through eFiling subject to paragraph (b) and in accordance with Part 7 of Chapter 41 of these Rules.

~~(b) If a statement referred to in paragraph (a) is submitted to the customs authority in paper format in circumstances where submissions in paper format are permissible,⁵¹² the submission must be on Formas published as a~~

⁵¹⁰ If the notification is submitted in terms of section 920 of the Control Act by an ordinary representative on behalf of the person who cleared the goods, the notification must comply with the additional requirements set out in Part 6 of Chapter 41 of these Rules. Note that the said Part 6 applies only to ordinary representatives which per definition excludes persons submitting documents as customs brokers or registered agents. It follows that Part 6 does not apply to customs brokers and registered agents that submit notifications on behalf of such persons in that capacity.

⁵¹¹ See definition of "movement reference number" in rule 1.1.

⁵¹² See section 913(4) of the Control Act.

~~rule on the SARS website at the Customs Office serving the place of entry where the outward processed compensating products were imported.~~

(2) A statement referred to in subrule (1) must in addition to the information stated in section 468(2)(a) and (b) reflect the following information:

- (a) The **name and** customs code of the person ~~submitting the statement~~ **clearing the products for home use as outward processed compensating products;**
- ~~(b) if the statement is submitted by a customs broker, registered agent or ordinary representative on behalf of the person referred to in paragraph (a), the information specified in rule 41.33D;~~⁵¹³
- (c) the movement reference number⁵¹⁴ of the **outward processing** clearance declaration submitted in respect of the exported ~~of the goods for outward processing;~~
- (d) the name and **customs code** ~~contact details~~ of the exporter or other person who reclaimed **or received** any import or domestic tax on the goods exported for outward processing **or, if that person does not have a customs code, the information required in terms of rule 41.33E;** and
- (e) the nature of any benefit contemplated in section 468(2)(b) ~~paid to~~ **reclaimed or received by** that exporter or other person, ~~and the name and contact details of that person.~~

Submission of conversion rates for approval (section 469(1))

~~20.4 (1) (a) A person clearing goods for outward processing must when submitting a clearance declaration for export of goods for outward processing, simultaneously submit for approval the conversion rate contemplated in section 425(1) of the Control Act to the customs authority, electronically through eFiling, subject to paragraph (b);~~

~~(b) If a conversion rate referred to in paragraph (a) is submitted to the customs authority in paper format in circumstances where submissions in paper~~

⁵¹³ If the statement is submitted in terms of section 920 of the Control Act by an ordinary representative on behalf of the person clearing the goods, the statement must comply with the additional requirements set out in Part 6 of Chapter 41 of these Rules. Note that the said Part 6 applies only to ordinary representatives which per definition excludes persons submitting documents as customs brokers or registered agents. It follows that Part 6 does not apply to customs brokers and registered agents that submit such statements on behalf of such persons in that capacity.

⁵¹⁴ See definition of "movement reference number" in rule 1.1.

format are permissible,⁵⁴⁵ the submission must be on Formas published as a rule on the SARS website at the Customs Office serving the place of exit where the goods cleared for outward processing will be exported from the Republic.

(2) A submission referred to in subrule (1) must reflect the following information:

(a) A description of the factors that were taken into account in determining the conversion rate to be applied to the goods exported for outward processing;

(b) the quantity of goods to be exported for outward processing;

(c) the quantity of outward processed compensating products expected to be obtained from those goods; and

(d) the duration of the outward processing.

(3) A submission referred to in subrule (1) must be supported by the agreement with the person operating the processing premises abroad to undertake the processing of the goods there.

(4) (a) If the customs authority so requests a supporting document referred to in subrule (3) must within the timeframe indicated in the request be submitted to the customs authority electronically through eFiling, subject to paragraph (b).

(b) If a supporting document referred to in paragraph (a) is submitted to the customs authority in paper format in circumstances where submissions in paper format are permissible,⁵⁴⁶ the submission must be made to the Customs Office where the submission of the conversion rate had been made, or to another Customs Office indicated in the request.

⁵⁴⁵ See section 913(4) of the Control Act.

⁵⁴⁶ See section 913(4) of the Control Act.

CHAPTER 21

CUSTOMS PROCESSING OF PERSONS ENTERING OR LEAVING REPUBLIC

Definitions

21.1 In this Chapter, unless the context otherwise indicates –

“**applicant**”, in relation to an application, means a person who intends to submit or has submitted an application;

“**application**” means an application in terms of this Chapter for —

- (a) a trusted or frequent traveller permit; or
- (b) the renewal of a trusted or frequent traveller permit

~~“**biometric information**” has the meaning assigned to it in section 1 of the Tax Administration Act;~~

~~“**permit details**”, in relation to a permit holder, means the information provided by that person in -~~

- ~~(a) an application referred to in rule **21.10**; or~~
- ~~(b) a subsequent update of that information in terms of rule **21.19**;~~

“**permit holder**” means a person to whom a trusted or frequent travellers permit has been issued in terms of rule **21.13(2)**;

~~“**self-service facility for trusted or frequent travellers**” means a facility at a place of entry or exit where holders of trusted or frequent traveller permits can be expeditiously processed for customs purposes through self-service technological devices and other expediting methods;~~

~~“**traveller card**” means a document containing basic information concerning a person entering or leaving the Republic;~~

~~“**traveller declaration**”, in relation to a traveller or crew member entering or leaving the Republic, means a printout of a declaration —~~

~~(a) electronically generated by the customs authority on behalf of a traveller or crew member from information declared verbally by the traveller or crew member to the customs authority in terms of section 478(1)(a) or 483(1)(a) of the Control Act; and~~

~~(b) signed by that traveller or crew member;~~

~~“trusted or frequent traveller permit” means a permit issued by the customs authority in terms of rule 21.13(2).~~

Part 1: Traveller declarations and clearance of baggage by persons entering or leaving Republic

Declaration of personal, travel and baggage information by persons entering or leaving Republic (*sections 478(1) and 483(1)*)

21.2 (1) The actions to be performed in terms of section 478(1) or 483(1) of the Control Act by a person entering or leaving the Republic consist of the completion and submission of –

- (a) a traveller card on Form as published as a rule .on the SARS website for this purpose; and
- (b) a traveller declaration on Form as published as a rule on the SARS website for this purpose.

(2) A traveller card and traveller declaration referred to in subrule (1) must be submitted to the customs authority at the place of entry or exit through which the person enters or leaves the Republic.⁵¹⁷

Traveller cards for persons entering Republic (*section 478(1)*)

21.3 (1) An entry traveller card must be completed ~~by hand~~ **in writing** and submitted by all persons entering the Republic, excluding those referred to in section 477(3) of the Control Act.⁵¹⁸

⁵¹⁷ Note that where a channel processing system is in effect at a place of entry or exit, a traveller declaration is only necessary if the traveller has baggage items to declare. In other words, a traveller who has nothing to declare and chooses the green channel will only submit a traveller card but no traveller declaration, and a traveller who has items to declare and chooses the red channel will submit both a traveller card and a traveller declaration.

⁵¹⁸ Section 477(3) refers to transit travellers and crew.

(2) An entry traveller card referred to in subrule (1) must be signed by the traveller or crew member submitting the traveller card and reflect –

- (a) the following personal details in respect of the traveller or crew member:
- (i) full name;
 - (ii) ~~identity number or~~ passport or travel document number;
 - (iii) citizenship;
 - (iv) occupation;
 - (v) if that person is located in the Republic, his or her physical and postal address in the Republic;
 - (vi) if that person is not located in the Republic –
 - (aa) the ~~name of the place and~~ physical address of the place where he or she will be staying until leaving the Republic;
 - (bb) name of the person in control of that place and the ~~e-mail,~~ ~~cellular telephone or fixed telephone~~ contact details of that person at that address; and
 - (cc) the date of intended departure from the Republic;
- (b) if that person entered the Republic on board a vessel, aircraft or train –
- (i) that person's boarding pass number;
 - (ii) the voyage, flight or trip number; and
 - (iii) the date and time of arrival of the vessel or aircraft at the place of entry or of the train at the rail traveller terminal where that person disembarks;
- (c) the reason for entering the Republic;
- (d) whether the traveller or crew member has accompanied baggage and unaccompanied baggage, only accompanied baggage, or only unaccompanied baggage;
- (e) whether the traveller or crew member has in his or her accompanied or unaccompanied baggage any items consisting of –
- (i) prohibited, restricted or sectorally controlled goods;
 - (ii) commercial goods;
 - (iii) goods, excluding personal effects, brought into the Republic temporarily for later re-exportation from the Republic –
 - (aa) in an unaltered state; or

- (bb) after having been remodelled, processed, repaired or altered in the Republic;
- (iv) goods, excluding personal effects, previously taken out of the Republic and returned to the Republic –
 - (aa) in an unaltered state; or
 - (bb) after having been remodelled, processed, repaired or altered abroad;
- (v) goods of a class or kind for which a tax free limit has been fixed and of which the total quantity exceeds the tax free limit fixed for that class or kind of goods; or
- (vi) goods, excluding items referred to in subparagraphs (i) to (v) and personal effects, of which the combined customs value exceeds the tax free allowance.

Traveller declarations⁵¹⁹ for persons entering Republic (*sections 478(1)(b) and 479(1)*)

21.4 (1) An entry traveller declaration must be submitted by all persons entering the Republic, excluding –

- (a) persons entering the Republic through a place of entry where a channel processing system is provided and who choose the green channel, unless the customs authority demands otherwise in terms of section 488(3)(a) of the Control Act;
- (b) persons entering the Republic through a place of entry where no channel processing system is provided, and who have no accompanied or unaccompanied baggage items that must be declared in terms of section 479(1)(a) to (e);
- (c) permit holders who enter the Republic through a place of entry where a self-service facility for trusted or frequent travellers is provided, who choose to proceed directly to that facility for purposes of customs processing and who

⁵¹⁹ A traveller declaration may in terms of Chapter 24 be used as a simplified clearance declaration for accompanied and unaccompanied baggage which must in terms of section 480(1) of the Control Act be cleared. Note that commercial goods in a traveller's accompanied or unaccompanied baggage must in terms of section 480(2)(b) be cleared on a regular clearance declaration, unless the customs authority determines otherwise in a specific case.

- have no accompanied or unaccompanied baggage items that must be declared in terms of section 479(1)(a) to (e);
- (d) persons referred to in section 477(3).⁵²⁰
- (2) An entry traveller declaration referred to in subrule (1) must reflect –
- (a) the following personal details in respect of the traveller or crew member:
- (i) name;
 - (ii) ~~identity number or~~ passport ~~or travel document~~ number;
 - (iii) citizenship;
 - (iv) if that person is located in the Republic, his or her physical ~~and postal~~ address in the Republic;
 - (v) if that person is not located in the Republic –
 - (aa) the ~~name of the place and~~ physical address ~~of the place~~ where he or she will be staying until leaving the Republic;
 - (bb) ~~name of the person in control of that place and the e-mail,~~ ~~cellular telephone or fixed telephone~~ contact details of that person ~~at that address~~; and
 - (cc) the date of intended departure from the Republic;
- (b) if that person entered the Republic on board a vessel, aircraft or train –
- (i) that person's boarding pass number;
 - (ii) the voyage, flight or trip number; and
 - (iii) the date and time of arrival of the vessel or aircraft at the place of entry or of the train at the rail traveller terminal where that person disembarks;
- (c) the information listed in rule **24.11**(3)(a) to (e);⁵²¹
- (d) the information listed in rule **24.12**(3)(a) to (e), in the case of a person being the on-board operator of a commercial truck, bus or taxi entering the Republic;⁵²² and

⁵²⁰ Section 477(3) refers to transit travellers and crew.

⁵²¹ If the traveller declaration contains this information, the traveller declaration serves as a simplified clearance in terms of rule **24.11** for the accompanied en unaccompanied baggage items mentioned in the declaration.

⁵²² If the traveller declaration contains this information, the traveller declaration serves as a simplified clearance in terms of rule **24.12** for the commercial truck, bus or taxi mentioned in the declaration.

- (e) the information listed in rule **24.13(3)(a)** to (d), in the case of a person being the on-board operator of a vehicle, small vessel or light aircraft entering the Republic as a private means of transport for the traveller.⁵²³

Traveller cards for persons leaving Republic (section 483(1))

21.5 (1) An exit traveller card must be completed **by hand in writing** and submitted by all persons about to leave the Republic, excluding those referred to in section 477(3) of the Control Act.⁵²⁴

(2) An exit traveller card referred to in subrule (1) must be signed by the traveller or crew member submitting the card and must reflect –

- (a) the following personal details in respect of the traveller or crew member:
- (i) full name;
 - (ii) ~~identity number or~~ passport **or travel document** number;
 - (iii) citizenship;
 - (iv) occupation;
 - (v) if that person is located in the Republic –
 - (aa) his or her physical **and postal** address in the Republic;
 - (bb) the name and e-mail, cellular telephone or fixed telephone contact details of a contact person in the Republic;
 - (cc) the date of intended return to the Republic;
 - (vi) if that person is not located in the Republic, the last physical address where he or she stayed before leaving the Republic;
- (b) if that person will be leaving the Republic on board a vessel, aircraft or train –
- (i) that person's boarding pass number;
 - (ii) the voyage, flight or trip number; and
 - (iii) the date and time of scheduled departure of the vessel or aircraft from the place of exit or of the train from the rail traveller terminal where that person will board;
- (c) the reason for travelling out of the Republic;

⁵²³ If the traveller declaration contains this information, the traveller declaration serves as a simplified clearance in terms of rule **24.13** for the vehicle, small vessel or light aircraft mentioned in the declaration.

⁵²⁴ Section 477(3) refers to transit travellers and crew.

- (d) whether the traveller or crew member has accompanied baggage and unaccompanied baggage, only accompanied baggage or only unaccompanied baggage;
- (e) whether the traveller or crew member has in his or her accompanied or unaccompanied baggage any items consisting of –
 - (i) prohibited, restricted or sectorally controlled goods;
 - (ii) commercial goods;
 - (iii) goods, excluding personal effects, to be taken out of the Republic for later re-importation into the Republic –
 - (aa) in an unaltered state; or
 - (bb) after having been remodelled, processed, repaired or altered abroad;
 - (iv) goods, excluding personal effects, previously brought into the Republic that –
 - (aa) are in an unaltered state; or
 - (bb) has been remodelled, processed, repaired or altered whilst in the Republic; or
 - (v) goods, excluding items referred to in subparagraphs (i) to (iv) and personal effects, of which the combined customs value exceeds the tax free allowance.

Traveller declarations⁵²⁵ for persons leaving Republic (*sections 483(1)(b) and 484(1)*)

21.6 (1) An exit traveller declaration must be submitted by all persons about to leave the Republic, excluding –

- (a) persons leaving the Republic through a place of exit where a channel processing system is provided and who choose the green channel, unless the customs authority demands otherwise in terms of section 488(3)(a) of the Control Act;

⁵²⁵ A traveller declaration may in terms of Chapter 24 be used as a simplified clearance declaration for accompanied and unaccompanied baggage which must in terms of section 485(1) of the Control Act be cleared. Note that commercial goods in a traveller's accompanied or unaccompanied baggage must in terms of section 485(2)(b) be cleared on a regular clearance declaration, unless the customs authority determines otherwise in a specific case.

- (b) persons leaving the Republic through a place of exit where no channel processing system is provided, and who have no accompanied or unaccompanied baggage items that must be declared in terms of section 484(1)(a) to (e);
- (c) permit holders leaving the Republic through a place of exit where a self-service facility for trusted or frequent travellers is provided, who choose to proceed directly to that facility for purposes of customs processing and who have no accompanied or unaccompanied baggage items that must be declared in terms of section 484(1)(a) to (e); or
- (d) persons referred to in section 477(3).

(2) An exit traveller declaration referred to in subrule (1) must reflect –

- (a) the following personal details in respect of the traveller or crew member:
 - (i) name;
 - (ii) ~~identity number or~~ passport ~~or travel document~~ number;
 - (iii) citizenship;
 - (iv) if that person is located in the Republic –
 - (aa) his or her physical ~~and postal~~ address in the Republic; and
 - (bb) the name and e-mail, cellular telephone or fixed telephone contact details of a contact person in the Republic;
 - (v) if that person is not located in the Republic, the last physical address where he or she stayed before leaving the Republic;
- (b) if that person is leaving the Republic on board a vessel, aircraft or train –
 - (i) that person's boarding pass number;
 - (ii) the voyage, flight or trip number; and
 - (iii) the date and time of expected departure of the vessel or aircraft from the place of exit or of the train from the rail traveller terminal where that person will board;
- (c) the information listed in rule **24.11(4)(a) to (e)**, in the case of a traveller or crew member leaving the Republic;⁵²⁶

⁵²⁶ If the traveller declaration contains this information, the traveller declaration serves as a simplified clearance in terms of rule **24.11** for the accompanied en unaccompanied baggage items mentioned in the declaration.

- (d) the information listed in rule **24.12(3)(a)** to (e), in the case of a person being the on-board operator of a commercial truck, bus or taxi leaving the Republic;⁵²⁷
- (e) the information listed in rule **24.13(3)(a)** to (d), in the case of a person being the on-board operator of a vehicle, small vessel or light aircraft leaving the Republic as a private means of transport for the traveller;⁵²⁸ and
- (f) if the person is the holder of a trusted or frequent traveller permit, the permit number.

Subsequent submission of traveller declarations for unaccompanied baggage

(section 489(a))

21.7 (1) If a traveller or crew member entering or leaving the Republic has unaccompanied baggage in respect of which no traveller declaration is submitted at the time of customs processing of the traveller or crew member, the declaration may at any time after such customs processing of the traveller or crew member –

- (a) be electronically generated by the customs authority from information declared verbally by either the traveller or crew member or a person nominated by the traveller or crew member; and
- (b) be submitted by the traveller, crew member or nominated person.

(2) A traveller declaration signed and submitted by a person nominated by the traveller or crew member must for purposes of these Rules be regarded to be a traveller declaration signed and submitted by the traveller or crew member.

(3) A traveller declaration submitted by a nominated person must be accompanied by –

- (a) a letter of authorisation signed by the traveller or crew member; and
- (b) copy of that person's identification document or driver's license, or, if that person is not a South African citizen, a copy of his or her passport **or travel document**, including, if applicable, a visa or immigration permit.

⁵²⁷ If the traveller declaration contains this information, the traveller declaration serves as a simplified clearance in terms of rule **24.12** for the commercial truck, bus or taxi mentioned in the declaration.

⁵²⁸ If the traveller declaration contains this information, the traveller declaration serves as a simplified clearance in terms of rule **24.13** for the vehicle, small vessel or light aircraft mentioned in the declaration.

(4) No person may be nominated for purposes of this rule unless that person is located in the Republic.

Part 2: Channel processing system for travellers and crew (section 488(1) and (2))

Channel processing system

21.8 (1) A traveller or a crew member entering or leaving the Republic through a place of entry or exit where a channel processing system is provided, may choose to proceed through either the green or the red channel ~~to exit~~ **in** the traveller terminal at that place **of entry or exit**.

(2) (a) Proceeding through the green channel must be regarded⁵²⁹ to be a declaration in terms of section 478(1) or 483(1) of the Control Act by the traveller or crew member that he or she has no accompanied or unaccompanied baggage items that must be declared in terms of section 479(1)(a) to (e) or 484(1)(a) to (e), as the case may be.

(b) Proceeding through the red channel indicates that the traveller or crew member has accompanied or unaccompanied baggage items that must be declared in terms of section 479(1)(a) to (e) or 484(1)(a) to (e), as the case may be.

(3) Choosing the green channel does not exclude the traveller or crew member from customs intervention in terms of Chapter 33 of the Control Act.⁵³⁰

(4) Choosing the red channel renders the traveller or crew member subject to –

- (a) customs processing;
- (b) submission of an entry or exit traveller declaration; and
- (c) compliance with clearance requirements in respect of accompanied and unaccompanied baggage items that must be cleared.⁵³¹

⁵²⁹ In terms of such a channel system it is not necessary to submit a traveller declaration referred to in rule 21.2(1)(b) if the traveller chooses the green channel. See section 488(3) of the Control Act. At places of entry or exit where there is no such system in place, the declaration must be submitted whether the traveller has goods to declare or not.

⁵³⁰ See section 488(2)(b) of the Control Act.

⁵³¹ See section 480 and 484 of the Control Act.

Part 3: Trusted or frequent travellers (section 489(c))

Self-service facilities for trusted or frequent travellers

21.9 (1) A person who is the holder of a trusted or frequent traveller permit and who enters or is leaving the Republic through a place of entry or exit where a self-service facility for trusted or frequent travellers is provided, may choose to proceed directly to that facility **in the traveller terminal at that place of entry or exit** for purposes of customs processing **and to exit the traveller terminal through processing at the facility.**

(2) If a permit holder chooses in terms of subrule (1) to proceed directly to a self-service facility for trusted or frequent travellers and that person has accompanied or unaccompanied baggage items that must be declared in terms of section 479(1)(a) to (e) or 484(1)(a) to (e) **of the Control Act**, as the case may be, that person must –

- (a) indicate his or her permit number on the traveller declaration; and
- (b) submit the declaration either manually at that facility or electronically through eFiling to the customs authority.

(3) An electronic submission referred to in subrule (2)(b) may be made at any time after check-in, in the case of an air traveller or crew member.

(4) A supporting document for a declaration referred to in subrule (2)(b), must be submitted to the customs authority on request, subject to and in accordance with to Part 7 of Chapter 41 of these Rules.

(5) Choosing a self-service facility for trusted or frequent travellers does not exclude the traveller or crew member from customs intervention in terms of Chapter 33 of the Control Act.

Application for trusted or frequent traveller permits

21.10 (1) No traveller or crew member entering or leaving the Republic may make use of a self-service facility for trusted or frequent travellers at a place of entry or exit unless that person is the holder of a trusted or frequent traveller permit.

(2) (a) A person who wishes to apply for a trusted or frequent traveller permit or renewal of a trusted or frequent traveller permit may do so by submitting an application to the customs authority electronically through eFiling, subject to paragraph (b) rule 41.33A.

(b) If an application is submitted to the customs authority in terms of rule 41.33A in paper format in circumstances where submissions in paper format are permissible,⁵³² the application submission must be –

~~(i) — must be on Form..... published as a rule on the SARS website for the relevant purpose; and~~

~~(ii) — may be submitted to any the Customs Office designated by the Commissioner in terms of section 14 of the Control Act to receive applications.~~

~~(3f) An application referred to in subrule (2) must indicate whether the application is an application for a new permit or an application for the renewal of an existing permit, and if for renewal of an existing permit, (g) the number of the applicant's existing permit, in the case of an application for renewal of an existing permit.~~

(4) An application for a new permit must reflect –

(a) the personal details of the applicant, which must include –

(i) full name;

(ii) date of birth and identity number or passport number;

(iii) citizenship;

(iv) occupation; and

(v) contact details, including physical and postal addresses in the Republic;

(b) if the application is submitted by an ordinary representative on behalf of the applicant, the information specified in rule 41.33D;⁵³³

⁵³² See section 913(4) of the Control Act.

- (c) full the banking⁵³⁴ details of the applicant's bank account in the Republic;
- ~~(d) the applicant's~~
 - ~~(i) income tax number; and~~
 - ~~(ii) value-added tax number, if any;~~
- ~~(e) the expiry date of the applicant's tax clearance certificate;~~
- (d) in the case of a parent or guardian assisting a child under 18 years of age or a person who by reason of physical incapacity cannot apply independently, a statement to that effect; and
- (e) the applicant's consent to the recording and use of the applicant's fingerprints and other biometric information by the customs authority for purposes of identification of the applicant and performing background and criminal record checks in relation to the applicant.

(5) An application for renewal of an existing permit must -

- (a) be submitted not later than 30 calendar days before the validity period of the existing permit expires; and**
- (b) reflect –**
 - (i) the applicant's name and customs code;**
 - (ii) if the application is submitted by an ordinary representative on behalf of the applicant, the information specified in rule 41.33D,⁵³⁵ and**
 - (iii) particulars of any change in the permit details of the applicant.**

(6) A person under the age of 18 years may submit an application only with the assistance of his or her guardian unless that person is emancipated by an order of a court.

Supporting documents for applications

21.11 (1) An application for a trusted or frequent traveller permit referred to in rule 21.10 must be supported by the following documents:

⁵³³ If the application is submitted in terms of section 920 of the Customs Control Act by an ordinary representative on behalf of the applicant, the application must comply with the additional requirements set out in Part 6 of Chapter 41 of these Rules.

⁵³⁴ See definition of "banking details" in rule 1.1

⁵³⁵ If the application is submitted in terms of section 920 of the Customs Control Act by an ordinary representative on behalf of the applicant, the applicant must comply with the additional requirements set out in Part 6 of Chapter 41 of these Rules.

- (a) a certified copy of the identity document, passport or other document proving identity and citizenship of the applicant;
- (b) a certified copy of the permanent residence permit issued in terms of the Immigration Act, 2002 (Act No. 13 of 2002), if the applicant is not a South African citizen;
- (c) a certified extract from the applicant's passport to provide proof of the number of international trips undertaken during a calendar month as required in terms of rule 21.12(c);
- (d) the original or a legible certified copy of –
 - (i) a municipal account issued to the applicant to confirm the applicant's physical address; and
 - (ii) a fixed line telephone or contract cellular phone account issued to the applicant to confirm the applicant's telephone contact details;
- (e) a document banking details confirmation document⁵³⁶ confirming the applicant's banking details, ~~including the name of the bank, the account holder's name, the account type and number, and the branch code, which may be –~~
 - ~~(i) a bank certified original bank statement or a legible bank certified copy of an original bank statement;~~
 - ~~(ii) a bank certified original auto bank statement; or~~
 - ~~(iii) an original letter from the applicant's bank on an official bank letterhead;~~
- ~~(f) a tax clearance certificate that the applicant's tax matters are in order as contemplated in section 917 of the Control Act; and~~
- (f) any other documents which the customs authority may require in a particular case.

(2) A supporting document referred to in subrule (1) must be submitted to the customs authority on request, subject to and in accordance with Part 7 of Chapter 41 of these Rules.

⁵³⁶ See definition of "banking details confirmation document" in rule 1.1

~~(2) A supporting document referred to in subrule (1) may not be older than three months.~~

~~(3) An applicant must on request by the customs authority make available to it the original of any supporting document referred to in subrule (1) as well as any information, books, accounts and other documents necessary for verifying any statements made by the applicant in the application.~~

Pre-conditions for submission of applications for trusted or frequent traveller permits

21.12 An application for a trusted or frequent traveller permit or renewal of such a permit may only be submitted by a person –

- (a) who is a South African citizen or the holder of a permanent residence permit in terms of the Immigration Act, 2002, (Act no. 13 of 2002);
- (b) who is not excluded from admission to the Republic in terms of the Immigration Act, 2002;
- (c) who usually undertakes at least three international trips per calendar month;
- (d) who consents to the recording and use of his or her fingerprints and other biometric information by the customs authority for purposes of identification and performing background and criminal record checks and has consented to such use in writing;
- (e) whose tax matters are in order;
- (f) who has a record of compliance with the Control Act, the Customs and Excise Act, 1964, and the tax levying Acts, for a period of at least three years preceding the date of application; and
- (g) who has not been convicted of any offence involving fraud or dishonesty.

Consideration of applications and issue of permits

21.13 (1) An application for a trusted or frequent traveller permit may be approved or refused by the customs authority, and the applicant is entitled to be notified of and, if refused, reasons for the decision.

(2) If an application is approved the customs authority must issue a trusted or frequent traveller permit to and in the name of the applicant which must be –

- (a) delivered by hand to the applicant **in any secured way**; or
- (b) sent to the applicant by registered post.

Contents of trusted or frequent traveller permits

21.14 A trusted or frequent traveller permit must **reflect contain** –

- (a) a colour identification photograph of the permit holder;
- (b) the full name and customs code of the permit holder;
- (c) a statement that the permit holder may use self-service facilities for trusted or frequent travellers at places of entry and exit;
- (d) the date on which the permit takes effect;
- (e) the validity period of the permit; and
- (f) the number of the permit.

Validity period of trusted or frequent traveller permits

21.15 A trusted or frequent traveller permit —

- (a) takes effect from a date specified in the permit; and
- (b) remains valid for a period of one year from the date referred to in paragraph (a) unless—
 - (i) a shorter validity period is specified on the permit; or
 - (ii) the permit is withdrawn by the customs authority in terms of rule **21.17**

Conditions applicable to trusted or frequent traveller permits

21.16 **(1)** A trusted or frequent traveller permit is issued subject to the following conditions:

- (a) The permit holder may not –
 - (i) transfer the permit to another person;
 - (ii) allow another person to use **a the** permit; or
 - (iii) use or attempt to use a permit which has expired or has been suspended or withdrawn by the customs authority.
- (b) The permit holder must immediately **inform notify** the customs authority **in in writing** if –
 - (i) **that permit holder's his or her** permit is lost or stolen; or

- (ii) any of the circumstances which were material⁵³⁷ to the granting of the application for the permit changes.
- (c) The permit holder must maintain compliance with rule **21.12**(a) to (c) and (e) to (g).

(2) (a) A notification referred to in subrule (1)(b) must be submitted to the customs authority electronically through eFiling, subject to rule 41.33A.

(b) If a notification is submitted to the customs authority in terms of rule 41.33A in paper format, the notification must be submitted to the Customs Office designated by the Commissioner in terms of section 14 of the Control Act to receive such notifications.

(3) A notification referred to in subrule (1)(b) must reflect –

- (a) the name and customs code of the permit holder;**
- (b) if the notification is submitted by an ordinary representative on behalf of the permit holder, the information specified in rule 41.33D;**
- (c) the permit number; and**
- (d) particulars, as may be applicable, of –**
 - (i) the theft or loss of the permit; or**
 - (ii) the changed circumstances.**

Suspension or withdrawal of trusted or frequent traveller permits

21.17 (1) A trusted or frequent traveller permit issued in terms of this Part may be suspended or withdrawn⁵³⁸ if the permit holder –

- (a) breaches a condition applicable to the permit in terms of rule **21.16**;
- (b) breaches a provision of the Control Act or a tax levying Act; **or**
- (c) acquired the permit under false pretences; **or**
- (d) is no longer in compliance with a pre-condition referred to in rule 21.12 for the submission of applications for trusted or frequent traveller permits.**

⁵³⁷ Rule **21.12** sets out pre-conditions for the submission of applications for trusted or frequent traveller permits and compliance with these pre-conditions is accordingly material to the granting of an application.

⁵³⁸ Any decision to suspend or withdraw a permit is subject to internal reconsideration in accordance with any of the proceedings provided for in Chapter 37.

(2) If the customs authority intends to suspend or withdraw a permit, it must first –

- (a) notify the permit holder of the proposed suspension or withdrawal and of the reasons for the proposed suspension or withdrawal; and
- (b) give the permit holder an opportunity to submit representations on the proposed suspension or withdrawal within 30 calendar days of the date of notification referred to in paragraph (a).

(3) The customs authority may despite subsection (1) suspend the permit with immediate effect if circumstances so demand, but in such a case the permit holder is entitled to submit to the customs authority representations on the suspension within 30 days after the permit has been suspended.

Renewal of trusted or frequent traveller permits

~~21.18 (1) A trusted or frequent traveller permit holder may not later than 30 calendar days before the validity period of the permit expires, apply for the renewal of the permit.~~

~~(2) Rules 21.10 to 21.13 apply with any necessary changes the context may require to an application for the renewal of a trusted or frequent traveller permit.~~

Taken up in rule 21.10.

Updating of permit details

21.19 (1) If any of the permit details of the holder of a trusted or frequent traveller permit have or are to change, the permit holder must promptly update those details in accordance with this rule.

(2) An update in terms of subrule (1) containing the following information must be submitted to the customs authority electronically through eFiling, subject to rule 41.33A:

- (a) The name and customs code of the permit holder;

- (b) if the update is submitted by an ordinary representative on behalf of the person referred to in paragraph (a), the information specified in rule **41.33D**,⁵³⁹
- (c) particulars of the change in permit details; and
- (d) the effective date of the change.

⁵³⁹ If the update is submitted in terms of section 920 of the Customs Control Act by an ordinary representative on behalf of the permit holder, the update must comply with the additional requirements set out in Part 6 of Chapter 41 of these Rules.

CHAPTER 22

**(INTERNATIONAL POSTAL ARTICLES HANDLED BY SOUTH AFRICAN POST
OFFICE**

(No Rules at this stage as this Chapter will be implemented at a later stage)

CHAPTER 23
ACCESS TO AND SAMPLING OF GOODS⁵⁴⁰

Applications for permission to access goods subject to customs control⁵⁴¹ for purposes of taking samples or performing actions permitted in terms of rule 23.2 (section 513(1))

23.1 (1) (a) An application for permission to access goods for the purpose of taking samples or performing actions permitted in terms of rule **23.2** as contemplated in section 513 of the Control Act, must, at least one working day before the date when access for the intended purpose is required, be submitted to the customs authority electronically through eFiling ~~at least two working days before the date when access for the intended purpose is required~~, subject to ~~paragraph (b)~~ rule 41.33A.

(b) If an application referred to in paragraph (a) is submitted to the customs authority in terms of rule 41.33A in paper format, ~~in circumstances where submissions in paper format are permissible,~~⁵⁴² the application must be submitted –
(i) ~~on Form....as published as a rule on the SARS website; and~~
(ii) ~~to the Customs Office that serves the customs controlled area where the goods are.~~

(2) An application referred to in subrule (1) must reflect –
(a) the name and customs code of the person clearing or entitled to clear the goods, ~~and in the case of a person acting on behalf of the person who clears or is entitled to clear goods, the name, identity number⁵⁴³ and contact details of that person;~~
(b) if the application is submitted by a customs broker, registered agent or ordinary representative on behalf of the person referred to in paragraph (a), the information specified in rule 41.33D;⁵⁴⁴

⁵⁴⁰ Note that sampling of goods by customs officers are not dealt with in this Chapter, but in Part 5 Chapter 33.

⁵⁴¹ See section 28 of the Control Act for goods that are subject to customs control.

⁵⁴² See section 913(4) of the Control Act.

⁵⁴³ In the case of a natural person.

⁵⁴⁴ If the application is submitted in terms of section 920 of the Control Act by an ordinary representative on behalf of the applicant, the application must comply with the additional requirements set out in Part 6 of Chapter

- ~~(b) if the applicant is a person acting on behalf of the person who clears or is entitled to clear goods, an indication that that person is authorised to act on behalf of the person clearing or entitled to clear the goods;~~
- (c) the customs code of the customs controlled area⁵⁴⁵ where the goods are;
- (d) whether the purpose of the required access is to take samples or to perform an action referred to in rule **23.2**;
- (e) in the case of an action referred to in rule **23.2**, a description of the proposed action;
- (f) the purpose of the proposed taking of samples or performance of the other action referred to in rule **23.2** and in the case of a purpose contemplated in section 513(2)(c)(ii), a motivation of that purpose;
- (g) the proposed date on which access is required;
- (h) the estimated time required for the taking of samples or performance of the other action referred to in rule **23.2**, as the case may be;
- (i) whether the affected goods have been cleared and, in the case of goods if not yet cleared for home use or a customs procedure, an indication of whether the goods will be cleared for home use or a customs procedure, and also the procedure for which it will be cleared;
- (j) in the case of if the affected goods that have already been cleared for home use or a customs procedure, the movement reference number⁵⁴⁶ of the clearance declaration issued in respect of the affected goods;
- (k) if the affected goods have not yet been cleared, a description of the affected goods, which must in the case of an action referred to in –
- (i) rule **23.2**(a) or (b), be the best description that can be given in the circumstances; and
 - (ii) rule **23.2**(c) or (d), include –
 - (aa) the tariff classification;
 - (bb) the exact quantity, volume or weight, as may be appropriate;
 - (cc) the customs value; and

41 of these Rules. Note that the said Part 6 applies only to ordinary representatives which per definition excludes persons submitting documents as customs brokers or registered agents. It follows that Part 6 does not apply to customs brokers or registered agents that submit applications on behalf of applicants in that capacity.

⁵⁴⁵ The customs code to be reflected in respect of vessels that are at a docking facility outside a seaport must be the customs code of the terminal of which that docking facility forms part.

⁵⁴⁶ See definition of “movement reference number” in rule 1.1.

- (dd) any marks and numbers on the goods, if applicable;
- (l) the transport document number⁵⁴⁷ in relation to the affected goods; **and**
- (m) the invoice number in relation to the affected goods.

- (3) An application referred to in subrule (1) must be supported by –
- (a) any transport document issued in relation to the goods; **and**
 - (b) any invoice issued in relation to the goods. **and**
 - ~~(c) an authorisation⁵⁴⁸ to act on behalf of the person clearing or entitled to clear the goods, in the case of the applicant being a person acting on behalf of the person clearing or entitled to clear the goods.~~

(4) ~~(a) If the customs authority so requests,~~ A supporting document referred to in subrule (3) must ~~within the timeframe indicated in the request~~ be submitted to the customs authority **on request** ~~electronically through eFiling,~~ subject to ~~paragraph (b) and in accordance with Part 7 of Chapter 41 of these Rules.~~

~~(b) If a supporting document referred to in paragraph (a) is submitted to the customs authority in paper format in circumstances where submissions in paper format are permissible,⁵⁴⁹ submission must be to the Customs Office referred to in subrule (1)(b)(ii) or to another Customs Office indicated in the request.~~

Actions that may be performed in relation to goods subject to customs control (section 513(1)(b))

23.2 For purposes of section 513(1)(b) of the Control Act actions in relation to goods subject to customs control include –

- (a) viewing or examining goods in order to establish whether the goods comply with any conditions set out in **the relevant a** contract of sale **applicable to the goods;**
- (b) viewing or examining goods in order to obtain or verify information supplied on a provisional or incomplete clearance declaration in terms of Part 1 of Chapter 24 of the Control Act;

⁵⁴⁷ See definition of “transport document number” in rule 1.1.

⁵⁴⁸ ~~In the case of a customs broker, this authorisation can be included in the clearance instruction of the customs broker.~~

⁵⁴⁹ ~~See section 913(4) of the Control Act.~~

- (c) examining goods to which Chapter 25 of the Control Act applies in order to establish the extent of **any** damage or deterioration; and
- (d) performing operations necessary to preserve the goods in their unaltered state, including –
 - (i) cleaning;
 - (ii) removal of dust; and
 - (iii) repair or change of faulty packaging.

Costs arising from **accessing **to** and **sampling** **of** goods or other actions **in relation to goods to be carried by applicant****

23.3 The **applicant** **person that applied for permission in terms of rule 23.1** must carry any costs arising from the access to and sampling of the goods or the performance of an action referred to in rule **23.2** in connection with the goods.

Conditions for **accessing and **sampling** **goods** and performing actions **referred to in rule 23.2**** (*section 516*)

23.4 If an application referred to in rule **23.1** is granted **by the customs authority**, sampling of goods or performing an action referred to in rule **23.2** must take place subject to the following conditions:

- (a) The person permitted to access the goods or a person acting on that person's behalf, must produce to the customs authority at the customs controlled area⁵⁵⁰ where the goods are –
 - (i) that person's identity document **or passport**;
 - (ii) in the case of a person acting on behalf of the person permitted to access the goods, also an authorisation to act on behalf of that person; and
 - (iii) the reference number of the authorisation granted pursuant to the application in terms of rule **23.1**;
- (c) the quantity drawn as a sample may not be more than the quantity necessary for inspection or analysis, and counter-analysis, if required; and
- (d) the person permitted to access and sample the goods, or a person acting on that person's behalf, must sign a sample register to confirm –

⁵⁵⁰ **In the case of goods on board vessels docked at a docking facility outside a seaport, a person requiring access to the goods must be identified at the terminal of which that docking facility forms part.**

- (i) the identity of the person taking delivery of the sample, including name, identity document or passport number and designation;
- (ii) the date and time when delivery of the sample is taken;
- (iii) the movement reference number of the clearance declaration submitted in relation to the goods in respect of which the sample was taken, if the goods have already been cleared;
- (iv) the number of the transport document number issued in relation to the goods in respect of which the sample was taken, if the goods have not been cleared yet;
- (v) a full description of the sample, including the quantity; and
- (vi) whether the sample taken will be returned and if so, the anticipated date of return.

Record keeping by licensees in relation to samples taken or other actions performed

23.5 (1) The licensee of the premises where goods are located in respect of which sampling or other action referred to in rule **23.2** takes place, must in accordance with section 919 of the Control Act read with Part 5 of Chapter 41 of these Rules, keep record of the information referred to in rule **23.4(d)**, including the date of return in the case of goods that are returned.

(2) Records must be produced or submitted to the customs authority on request, subject to Part 7 of Chapter 41 of these Rules.

CHAPTER 24

EXPEDITED CLEARANCE AND RELEASE OF GOODS

Definitions

24.1 In this Chapter –

“courier” means a person licensed to conduct a courier business;

“courier article” means an article handled by a carrier in the course of conducting a courier business;

“medical emergency” means a situation where medical intervention⁵⁵¹ is essential and time is of the essence –

- (a) to obtain medical equipment or therapeutic drugs needed for that intervention; or
- (b) to collect donor organs for transplant on a patient;

“prescribed courier article” means a courier article which does not fall within a category of courier articles excluded from simplified clearance by ministerial notice in terms of section 533(2)(a) or (b) of the Control Act;

“pro-forma invoice” means an abridged, estimated or preliminary invoice issued by a supplier to a buyer in advance of a delivery of goods otherwise than for purposes of payment, specifying relevant information, such as –

- (a) names of the parties;
- (b) the class or kind of goods;
- (c) the purchase price or value; and
- (d) transportation and other charges;

“permission” means a permission granted by the customs authority on application in terms of section 522(1), 530(1) or 534(1) of the Control Act to an applicant –

⁵⁵¹ This could include a veterinary intervention.

- (a) to clear, and **to** obtain release of, goods on incomplete or provisional clearance information in terms of Part 1 of Chapter 24 of the Act;
- (b) to obtain release of goods subject to subsequent clearance of the goods in terms of Part 2 of that Chapter; or
- (c) to clear, and **to** obtain release of, goods in accordance with simplified procedures in terms of Part 3 of that Chapter;

“traveller declaration” means the declaration that a person entering or leaving the Republic must in terms of section 478(1) or 483(1) of the Control Act submit to the customs authority.

Part 1: Clearance and release of goods on incomplete or provisional clearance information

Exclusion of certain categories of goods from incomplete or provisional clearance (section 538)

24.2 (1) Part 1 of Chapter 24 of the Control Act does not apply to –

- (a) **imported** cigarettes and other **imported** tobacco products that are subject to excise duty; and
- (b) **imported** wine, spirits **and** beer and other **imported** alcoholic beverages that are subject to excise duty.

(2) Goods falling within a category referred to in subrule (1) must be cleared in accordance with regular clearance requirements as may be applicable to the goods.

Formal applications to clear goods and obtain release of goods on incomplete or provisional clearance information (sections 522 and 538)⁵⁵²

24.3 (1) (a) An **formal** application for permission as contemplated in section 522(2)(a)(i) or (ii) of the Control Act to clear, and **to** obtain release of, goods on incomplete or provisional clearance information ~~including an incomplete or provisional clearance declaration that in terms of the proviso to section 522(2)(b)~~

⁵⁵² No application is necessary in the case of an incomplete clearance provided for in section 94(2) of the Control Act.

~~serves as an application contemplated in section 522(2)(a)(i),~~ must be submitted to the customs authority electronically through eFiling, subject to ~~paragraph (b)~~ **rule 41.33A**.

(b) If an application referred to in paragraph (a) is submitted to the customs authority **in terms of rule 41.33A** in paper format, ~~in circumstances where submissions in paper format are permissible,~~⁵⁵³ the application must be ~~—~~

~~(i) — on Form ... as published as a rule on the SARS website; and~~

~~(ii) — submitted to the Customs Office that serves the customs controlled area where the goods are or to which the goods are destined~~ ~~for~~.

(2) An application in terms of subrule (1) must reach the customs authority no later than the following timeframes, as may be applicable:

(a) For applications referred to in section 522(2)(a)(i) in relation to goods to which section 90 or 94 apply: no later than 48 hours before the time for submission of a clearance declaration in respect of those goods expires in terms of section 90 or 94;⁵⁵⁴

(b) for applications referred to in section 522(2)(a)(i) in relation to goods already under a customs procedure (other than goods referred to in paragraph (a)): at any time whilst the goods are under that procedure,⁵⁵⁵ and

(c) for all applications referred to in section 522(2)(a)(ii): no later than 10 working days before the start of the period applied for.⁵⁵⁶

(3) An application referred to in subrule (1) must state the following information:

(a) The applicant's **name and** customs code ~~or, if the applicant falls within a category of persons exempted from registration, the applicant's name, identity number, contact number and physical address;~~

⁵⁵³ See for instance section 913(4) of the Control Act.

⁵⁵⁴ This timeframe will apply to an application for incomplete or provisional clearance of a specific parcel, container or consignment of goods that is in the process of being imported through a place of entry or exported through a place of exit.

⁵⁵⁵ This timeframe will apply to an application for incomplete or provisional clearance of a specific parcel, container or consignment of goods already under a customs procedure, such as warehousing.

⁵⁵⁶ This timeframe will apply to an application for incomplete or provisional clearance of goods of a specific class or kind or other category to be cleared during a specified future period.

- (b) if the application is submitted by a customs broker, registered agent or ordinary representative on behalf of the applicant, the information specified in rule 41.33D;⁵⁵⁷
- (c) whether the application is in respect of—
- (i) a specific parcel, container or consignment of goods, as contemplated in section 522(2)(a)(i);⁵⁵⁸ or
 - (ii) a specific class or kind or other category of goods to be cleared by the applicant during a specific period, as contemplated in section 522(2)(a)(ii);
- (d) in the case of an application referred to in paragraph (c)(i) of this subrule—
- (i) a description of the class or kind of goods in the specific parcel, container or consignment of goods applied for;
 - (ii) whether the goods will be cleared for home use or a customs procedure and, if for a customs procedure, the required customs procedure; and
 - (iii) the customs controlled area where the goods are or to which the goods are destined for;

Par (iv) moved to sub(5)(a).

- (e) in the case of an application referred to in paragraph (c)(ii) of this subrule—
- (i) a description of the specific class or kind or other category of goods applied for;
 - (ii) the specific period applied for; and
 - (iii) the customs controlled area where the goods are or will be or to which the goods are destined for; and

Par (f) moved to sub(5)(b).

- (f) whether the outstanding information or documents will be available at the time of submission of the supplementary declaration.

⁵⁵⁷ If the application is submitted in terms of section 920 of the Customs Control Act by an ordinary representative on behalf of the applicant, the application must comply with the additional requirements set out in Part 6 of Chapter 41 of these Rules. Note that the said Part 6 applies only to ordinary representatives which per definition excludes persons submitting documents as customs brokers or registered agents. It follows that Part 6 does not apply to customs brokers or registered agents that submit applications on behalf of applicants in that capacity.

⁵⁵⁸ Note that submission of a formal application for clearance and release on incomplete or provisional clearance information is not necessary in the case of a specific parcel, container or consignment of goods contemplated in section 522(2)(a)(i) as the proviso to section 522(2)(b) provides that a person clearing such goods may simply submit an incomplete or provisional clearance declaration which will then be regarded as an application. See rule 24.3A which deals with the situation where an incomplete or provisional clearance declaration is submitted as an application for incomplete or provisional clearance.

(4) In the case of an application referred to in **subrule (3)(c)(ii)** **section 522(2)(a)(iii)** the period applied for may not be longer than the period for which the applicant's registration or licence will remain valid.

Sub (4)(a) moved to rule 24.3A

(5) **(a)** An application referred to in subrule (1) must be supported by at least the following documents:

(a) in the case of an application referred to in subrule (3)(c)(i), a statement setting out the reason why the information or documents necessary for a regular clearance of the goods are not at hand for the submission of a regular clearance declaration, and if due to a delay in obtaining such information or documents, whether such delay is attributable to the negligence of any person and could have been avoided if measures have been taken timeously;

(b) in the case of an application referred to in subrule (3)(c)(ii), a statement setting out the reason why the information or documents necessary for a regular clearance of the goods will not be at hand for the submission of a regular clearance declaration, and if due to delays in obtaining such information or documents, whether such delays –

- (i) is common practice within the industry in which the applicant operates;
- (ii) is due to inherent characteristics of the goods or handling of the goods;⁵⁵⁹ and
- (iii) can be avoided if measures are taken timeously;

(c) a valid tax clearance certificate that the tax matters of the applicant are in order, ~~if the applicant falls within a category of persons exempted from registration;~~

(d) subject to ~~paragraph (b)~~ **subrule (6)**, an invoice issued in respect of the goods by the person who—

- (i)** exports the goods to or from the Republic; or
- (ii)** supplied the goods to be exported to or from the Republic; and

⁵⁵⁹ Such as difficulties in the measurement of bulk goods.

(e) the importer or exporter's written clearing instructions, if the applicant is a customs broker.

(6) If a final invoice for the goods is not available at the time of submission of the application, the application must be supported by a pro-forma invoice issued in respect of the goods.

(7) Supporting documents referred to in subrule (4) must accompany an application referred to in subrule (1) be submitted to the customs authority on request, subject to and in accordance with Part 7 of Chapter 41 of these Rules.

(8) An application in terms of subrule (3)(c)(i) for the clearance of a specific parcel, container or consignment of goods on incomplete information, including an incomplete clearance declaration that in terms of the proviso to section 522(2)(b) serves as such an application, may not be submitted if the outstanding information can be included provisionally in a provisional clearance declaration. In such a case an application for provisional clearance may be submitted.

(9) This rule does not apply if an incomplete or provisional clearance declaration is in terms of the proviso to section 522(2)(b) used to serve as an application contemplated in subrule (3)(c)(i). If such a clearance declaration is used as an application for incomplete or provisional clearance, rule 24.3A applies.

Clearance declarations serving as applications to clear and obtain release of goods on incomplete or provisional clearance information (proviso to section 522(2)(b))

24.3A (1) If an incomplete or provisional clearance declaration is submitted to serve in terms of the proviso to section 522(2)(b) of the Control Act as an application contemplated in section 522(2)(a)(i), the declaration must -

(a) contain a statement to that effect; and

(b) indicate whether the outstanding information or documents will be available at the time of submission of the supplementary declaration.

(2) A clearance declaration referred to in subrule (1) must be submitted in accordance with rule 7.1 and within the timeframe applicable to the clearance of the relevant goods.

(3) A clearance declaration referred to in subrule (1) must be supported by the following documents:

(a) The documents prescribed in terms of section 176(1) to support a clearance declaration for the clearance of goods for home use or the required customs procedure, as may be appropriate;

(b) a statement setting out the reason why the information or documents necessary for a regular clearance of the goods are not at hand for the submission of a regular clearance declaration, and if due to a delay in obtaining such information or documents, whether such delay is attributable to the negligence of any person and could have been avoided if measures have been taken timeously; and

(c) a valid tax clearance certificate that the tax matters of the applicant are in order.

(4) If a final invoice for the goods as required in terms of section 176(1)(a) is not available at the time of submission of the clearance declaration, the declaration must be supported by a pro-forma invoice issued in respect of the goods.

(5) Supporting documents referred to in subrule (3) must be submitted to the customs authority on request, subject to and in accordance with Part 7 of Chapter 41 of these Rules.

(6) An incomplete clearance declaration that in terms of the proviso to section 522(2)(b) serves as an application for incomplete clearance, may not be submitted if the outstanding information can be included provisionally in a provisional clearance declaration. In such a case a clearance declaration that serves as an application for provisional clearance may be submitted.

Conditions subject to which permissions are granted (*section 522(3)*)

24.4 A permission granted to an applicant to clear and **to** obtain release of goods on incomplete or provisional clearance information during a specific period as contemplated in section 522(2)(a)(ii) of the Control Act, is subject to the condition that the customs authority may withdraw the permission –

- (a) if the applicant –
 - (i) obtained the permission under false pretences; or
 - (ii) has in a material respect breached a provision of the Control Act, these Rules or a tax levying Act;
- (b) if any of the circumstances which were material to the granting of the application for permission has changed; or
- (c) if the applicant fails to provide security which the customs authority may require at any time during the validity period of the permission to cover any risks in relation to tax payable or that may become payable on the goods.

Supporting documents for incomplete and provisional clearance declarations

(sections 523(2) and 524(2))

24.5 (1) An incomplete or provisional clearance declaration must be supported by **the documents referred to in section 176(1) of the Control Act: Provided that at least –**

- ~~(a) subject to subrule (2), an invoice issued in respect of the goods by the person who
 - ~~(i) exports the goods to or from the Republic; or~~
 - ~~(ii) supplied the goods to be exported to or from the Republic;~~~~
- ~~(b) a transport document issued in respect of the goods; and~~
- ~~(c) in the case of a clearance through a customs broker, the clearance instruction or authorisation of the principal.~~

~~(2)~~ if a final invoice for the goods **as required in terms of section 176(1)(a)** is not available at the time of submission of the declaration, the declaration must be supported by a pro-forma invoice issued in respect of the goods.

(2) ~~(a) Unless already submitted as part of an application referred to in rule 24.3(1),~~ Supporting documents referred to in subrule (1) ~~and, if applicable, (2),~~ must ~~upon request and within the timeframe indicated in the request~~ be submitted to

the customs authority **on request**, **electronically through eFiling**, subject to **paragraph (b)** and in accordance with Part 7 of Chapter 41 of these Rules.

~~(b) If supporting documents referred to in paragraph (a) are submitted to the customs authority in paper format in circumstances where submissions in paper format are permissible,⁵⁶⁰ the submission must be made to the Customs Office where the application has been submitted, or to another Customs Office indicated in the request.~~

Timeframe for submission of supplementary clearance declarations (*section 526*)

24.6 A supplementary clearance declaration contemplated in section 526 of the Control Act must, subject to ~~subrule (2)~~ **rule 4.6**, be submitted to the customs authority within five working days from the date of acceptance by the customs authority of the incomplete or provisional clearance declaration in terms of section 171 ~~of the Control Act~~ for home use or a customs procedure.

Part 2: Release of goods subject to subsequent compliance with clearance requirements

Limitation of categories of goods to which expedited release may be applied (*section 529 read with section 538(a)*)

24.7 Part 2 of Chapter 24 of the Control Act may not be applied to goods⁵⁶¹ other than the following categories:

- (a) **G**oods to be used for or **in during** a medical emergency;
- (b) goods to be used for humanitarian relief efforts;
- (c) goods to be used as spares for foreign-going vessels or aircraft, cross-border trains, trucks and buses in urgent situations that put their conveyance schedules at risk;
- (d) live animals; and
- (e) hazardous goods.

⁵⁶⁰ See for instance section 913(4) of the Control Act.

⁵⁶¹ Note that this Part cannot in terms of section 529 of the Control Act be applied to restricted goods and sectorally controlled goods.

Application procedure for expedited release (sections 530(2) and 538)

24.8 (1) (a) An application for permission as contemplated in section 530(1) of the Control Act to obtain expedited release of goods for home use or a customs procedure in accordance with expedited procedures, must be submitted to the customs authority electronically through eFiling, subject to ~~paragraph (b)~~ **rule 41.33A**.

(b) If an application referred to in paragraph (a) is submitted to the customs authority **in terms of rule 41.33A** in paper format ~~in circumstances where submissions in paper format are permissible,~~⁵⁶² the application must be ~~—~~

~~(i) — on Form ... as published as a rule on the SARS website; and~~

~~(ii) — submitted to the Customs Office that serves the customs controlled area where the goods are or to which the goods are destined for.~~

(2) An application in terms of subrule (1) –

(a) must, in the case of goods to which section 90 or 94 apply, reach the customs authority no later than 48 hours before the estimated time of arrival of the goods at the place of entry or exit through which the goods are to be imported or exported;⁵⁶³ or

(b) may, in the case of goods already under a customs procedure (other than goods referred to in paragraph (a)), be submitted at any time whilst the goods are under that procedure.⁵⁶⁴

(3) An application referred to in subrule (1) must ~~contain~~ **reflect** the following **information**:

(a) The applicant's **name and** customs code ~~or, if the applicant falls within a category of persons exempted from registration, the applicant's name, identity number, contact number and physical address;~~

~~(b) if the application is submitted by a customs broker, registered agent or ordinary representative on behalf of the applicant, the information specified in rule 41.33D;~~⁵⁶⁵

⁵⁶² ~~See for instance section 913(4) of the Control Act.~~

⁵⁶³ This timeframe will apply to an application for expedited release of goods that are in the process of being imported through a place of entry or exported through a place of exit.

⁵⁶⁴ This timeframe will apply to an application for ~~simplified clearance~~ **expedited release** of a specific parcel, container or consignment of goods already under a customs procedure, such as warehousing.

⁵⁶⁵ **If the application is submitted in terms of section 920 of the Customs Control Act by an ordinary representative on behalf of the applicant, the application must comply with the additional requirements set out in Part 6 of Chapter 41 of these Rules. Note that the said Part 6 applies only to ordinary representatives which per definition**

- (c) a description of the goods in respect of which expedited release is required;
- (d) the customs controlled area where the goods are or to which the goods are destined for;

Existing (d) moved to sub(4).

- (e) whether the goods will be cleared for home use or a customs procedure, and if for a customs procedure, the desired customs procedure; and
- (f) the undertaking contemplated in section 530(3)(a)(iii).

(4) An application referred to in subrule (1) must be supported by a statement setting out the reason –

- (a) why expedited release is required; and
- (b) why the applicable clearance requirements cannot be complied with immediately.

(5) Supporting documents referred to in subrule (4) must be submitted to the customs authority on request, subject to and in accordance with Part 7 of Chapter 41 of these Rules.

Conditions subject to which permissions to obtain expedited release are granted (section 530(4))

24.9 Any permission granted to an applicant to obtain expedited release of goods is subject to the condition that the applicant must provide any security the customs authority may require, before or after release of the goods, to cover any risks in relation to tax payable or that may become payable on the goods, unless the goods are already covered by security for any tax risks that may arise.

Timeframe for submission of regular clearance declarations (section 531)

24.10 A regular clearance declaration contemplated in section 531 of the Control Act must be submitted to the customs authority within three calendar days from the date of release of the goods in terms of section 180.

excludes persons submitting documents as customs brokers or registered agents. It follows that Part 6 does not apply to customs brokers or registered agents that submit applications on behalf of applicants in that capacity.

Part 3: Simplified clearance and release of goods

List of goods categories for which simplified clearance is available

24.10A Part 3 of Chapter 24 of the Control Act, read with Part 3 of this Chapter of the Rules, provides for the following categories of goods to be cleared and released in accordance with simplified requirements:

- (a) Accompanied and unaccompanied baggage items for which simplified clearance is available in terms of sections 480(2) and 485(2);⁵⁶⁶
- (b) commercial trucks, buses, taxis, private vehicles, small vessels and light aircraft used as a means of transport for which simplified clearance under -
 - (i) the temporary admission procedure is available in terms of sections 270, 271, 272, 276, 277 or 278; or
 - (ii) the temporary export procedure is available in terms of sections 381, 382, 383, 389, 390 and 391;⁵⁶⁷
- (c) courier articles referred to in rule 24.14(a) to be cleared for home use or export;⁵⁶⁸
- (d) stores referred to in rule 24.14(b) to be cleared for warehousing in the warehouse of a stores supplier;⁵⁶⁹ and
- (e) any specific consignment of goods not falling under a category of goods referred to in paragraphs (a) to (d) which the customs authority allows in terms of section 533(3) to be cleared and released in terms of simplified requirements.⁵⁷⁰

Simplified clearance requirements for accompanied and unaccompanied baggage items of persons entering or leaving Republic (section 533(1)(a))

⁵⁶⁶ No prior application for simplified clearance required for this category. For simplified clearance requirements for baggage items, see rule 24.11.

⁵⁶⁷ No prior application for simplified clearance required for this category. For simplified clearance requirements for these means of transport, see rules 24.12 and 24.13.

⁵⁶⁸ Prior application for simplified clearance required but application for courier licence in terms of rule 24.22(1) regarded to be the application. No formal application therefore needed. For simplified clearance requirements for courier articles, see rule 24.15.

⁵⁶⁹ Prior application for simplified clearance required but application for stores supplier licence in terms of rule 24.22(2) regarded to be the application. No formal application therefore needed. For simplified clearance requirements for these stores, see rule 24.16.

⁵⁷⁰ Prior application for simplified clearance required which can either be a formal application referred to in rule 24.17 or an application through submission of a clearance declaration in terms of rule 24.18A. No formal application therefore needed. For simplified clearance requirements for these goods, see rule 24.18

24.11 (1) A traveller declaration submitted by a person entering or leaving the Republic⁵⁷¹ and containing the information specified in subrule (3) or (4) may serve as a clearance declaration for items in that person's accompanied and unaccompanied baggage –

- (a) that must in terms of section 480(1) or 485(1) of the Control Act be cleared; and
- (b) which that person is in terms of section 480(2) or 485(2) permitted to clear in accordance with simplified clearance requirements.⁵⁷²

(2) A traveller declaration used in terms of subrule (1) as a clearance declaration for the clearance of items in the baggage of a person entering or leaving the Republic must be submitted when that person is processed through the passenger processing system at the place of entry or exit through which that person entered or is leaving the Republic.

(3) A traveller declaration of a person entering the Republic which is used in terms of subrule (1) as a clearance declaration for items in that person's baggage must, apart from the information a traveller declaration must contain in terms of rule **21.4** and **21.6**, also contain the following information:

- (a) A list of all **of** that person's baggage items that are cleared by means of the traveller declaration, distinguishing between –
 - (i) any items that that person brings into the Republic temporarily for later re-exportation from the Republic,⁵⁷³ **distinguishing differentiating** between—
 - (aa) items to be re-exported in an unaltered state; and
 - (bb) items to be re-exported after being remodelled, processed, repaired or altered in the Republic;
 - (ii) any items previously taken out of the Republic that that person returns to the Republic,⁵⁷⁴ **distinguishing differentiating** between—

⁵⁷¹ See rules **21.4** and **21.6** for traveller declaration.

⁵⁷² Note that baggage items that consist of commercial goods as defined in section 476 of the Control Act must in terms of section 480(2)(b) be cleared in accordance with regular clearance requirements unless Customs determines otherwise in a specific case and allows a simplified clearance of those commercial goods. Rule **24.11** will apply where Customs allows a simplified clearance of any specific commercial goods.

⁵⁷³ This paragraph refers to items mentioned in section 479(1)(b) of the Control Act.

⁵⁷⁴ This paragraph refers to items mentioned in section 479(1)(c) of the Control Act.

- (aa) items returned in an unaltered state; and
- (bb) items that have undergone remodelling, processing, repair or alteration abroad;
- (iii) any items of a class or kind for which a tax free limit has been fixed and of which the quantity exceeds that limit;⁵⁷⁵
- (iv) any items of a class or kind to which the tax free allowance is to be applied and of which the combined customs value exceeds that allowance;⁵⁷⁶ and
- (v) any items that are commercial goods and in respect of which a simplified clearance is allowed in terms of section 480(2)(b);
- (b) a description of each such item or class or kind of items, which must include –
 - (i) the quantity, weight or volume;
 - (ii) the tariff classification;
 - (iii) the customs value; and
 - (iv) the origin;
- (c) ~~a statement~~ – whether the items or class or kind of items referred to in paragraph (a) are cleared for home use or a customs procedure and, if for a customs procedure, for which customs procedure;
- (d) in the case of items cleared for remodelling, processing, repair or alteration in the Republic under the inward processing procedure, particulars of the nature of the remodelling, processing, repair or alteration; and
- (e) in the case of commercial goods referred to in paragraph (a)(v), the customs code issued to the person as a casual importer of goods.⁵⁷⁷

(4) A traveller declaration of a person leaving the Republic which is used in terms of subrule (1) as a clearance declaration for items in that person's baggage must, apart from the information a traveller declaration must contain in terms of rule **21.6**, also contain the following information:

- (a) A list of all that person's baggage items that are cleared by means of the traveller declaration, distinguishing between –

⁵⁷⁵ This paragraph refers to items mentioned in section 479(1)(e)(ii) read with 479(2)(a) of the Control Act.

⁵⁷⁶ This paragraph refers to items mentioned in section 479(1)(e)(iii) read with 479(2)(b) of the Control Act.

⁵⁷⁷ See rule **28.2** for the temporary registration of casual importers and exporters.

- (i) any items that that person takes out of the Republic temporarily for later re-importation into the Republic,⁵⁷⁸ distinguishing differentiating between—
 - (aa) items to be re-imported in an unaltered state; and
 - (bb) items to be remodelled, processed, repaired or altered abroad;
 - (ii) any items previously brought into the Republic that that person takes out of the Republic,⁵⁷⁹ distinguishing differentiating between –
 - (aa) items that are in an unaltered state; and
 - (bb) items that have undergone remodelling, processing, repair or alteration in the Republic;
 - (iii) any items of a class or kind to which the tax free allowance is to be applied and of which the combined customs value exceeds that allowance;⁵⁸⁰ and
 - (iv) any items that are commercial goods and in respect of which a simplified clearance is allowed in terms of section 485(2)(b);
- (b) a description of each such item or class or kind of items, which must include –
- (i) the quantity, weight or volume;
 - (ii) the tariff classification;
 - (iii) the customs value; and
 - (iv) the origin;
- (c) the customs procedure under which the items or class or kind of items referred to in paragraph (a) are cleared for export;
- (d) in the case of items cleared for remodelling, processing, repair or alteration abroad under the outward processing procedure, particulars of the nature of the remodelling, processing, repair or alteration; and
- (e) in the case of commercial goods referred to in paragraph (a)(iv), the customs code issued to the person as a casual exporter of goods.⁵⁸¹

⁵⁷⁸ This paragraph refers to items mentioned in section 484(1)(b) of the Control Act.

⁵⁷⁹ This paragraph refers to items mentioned in section 484(1)(c) of the Control Act.

⁵⁸⁰ This paragraph refers to items mentioned in section 484(1)(e)(ii) read with 484(2) of the Control Act.

⁵⁸¹ See rule 28.3 for the temporary registration of casual importers and exporters.

(5) A traveller declaration used as a clearance declaration must be supported by any invoices and other commercial documents issued in respect of any of the baggage items cleared by means of the traveller declaration.

(6) A person submitting a traveller declaration serving as a clearance declaration in terms of this rule must at the place of entry or exit where, and at the time when, the traveller declaration is submitted, have available with him or her for production to the customs authority if such production is requested, all supporting documents relevant to that traveller declaration.

Simplified clearance requirements for commercial trucks, buses and taxis temporarily entering or leaving the Republic as means of transport (*section 533(1)(b)*)⁵⁸²

24.12 (1) A traveller declaration submitted by the on-board operator of a **commercial** truck, bus or taxi entering or leaving the Republic and containing the information specified in subrule (3) may serve as a clearance declaration for the clearance of the truck, bus or taxi under –

- (a) the temporary admission procedure for –
 - (i) temporary admission into the Republic when the truck, bus or taxi enters the Republic;⁵⁸³ or
 - (ii) export under that procedure when the truck, bus or taxi leaves the Republic;⁵⁸⁴ or
- (b) the temporary export procedure for –
 - (i) temporary export from the Republic when the truck, bus or taxi leaves the Republic;⁵⁸⁵ or
 - (ii) home use as re-imported unaltered goods when the truck, bus or taxi re-enters the Republic.⁵⁸⁶

(2) A traveller declaration used in terms of subrule (1) as a clearance declaration for a truck, bus or taxi entering or leaving the Republic must be submitted

⁵⁸² This rule does not apply to means of transport entering or leaving the Republic under a CPD carnet dealt with in Part 4 of Chapter 12 or Part or Part 4 of Chapter 17.

⁵⁸³ See sections 270 and 271 of the Control Act.

⁵⁸⁴ See sections 276 and 277 of the Control Act.

⁵⁸⁵ See sections 381 and 382 of the Control Act.

⁵⁸⁶ See sections 289 and 390 of the Control Act.

when the on-board operator of the truck, bus or taxi is processed through the passenger processing system at the land border-post through which the truck, bus or taxi entered or is leaving the Republic.

(3) The traveller declaration of the on-board operator of a truck, bus or taxi entering or leaving the Republic which is used in terms of subrule (1) as a clearance declaration for the truck, bus or taxi must, apart from the information a traveller declaration must contain in terms of rules **21.4** and **21.6**, also contain the following information:

- (a) ~~the~~ On-board operator details;
- (b) a description of the truck, bus or taxi, which description must include –
 - (i) the make and model;
 - (ii) the year of manufacture;
 - (iii) the registration number;
 - (iv) the country of registration; and
 - (v) the engine number and the **vehicle identification number** (VIN) ~~or~~ chassis number;
- (c) in the case of a truck or bus operated by a carrier, the name and ~~contact details or the~~ customs code of the carrier and, if the carrier is not located in the Republic, **the name or customs code of the carrier and the name and customs code** ~~also~~ of the carrier's registered agent in the Republic;
- (d) if the truck, bus or taxi is entering the Republic, whether it is cleared –
 - (i) for temporary admission into the Republic and, if so, the expected date of re-export; or
 - (ii) for home use as unaltered goods under the temporary export procedure and, if so, the date it left the Republic; and
- (e) if the truck, bus or taxi is leaving the Republic, whether it is cleared –
 - (i) for temporary export from the Republic and, if so, the expected date it is to return to the Republic; or
 - (ii) for export under the temporary admission procedure and, if so, the date it entered the Republic.

(4) An on-board operator submitting a traveller declaration serving as a clearance declaration in terms of this rule must at the place of entry or exit where,

and at the time when, the traveller declaration is submitted, have available with him or her for production to the customs authority if such production is requested, all supporting documents relevant to that traveller declaration, including the following:

- (a) The relevant cross border transport permit as may be required by, and issued in terms of, the Cross-Border Road Transport Act, 1998 (Act No. 4 of 1998);
- (b) in respect of a commercial truck or bus operated by a carrier, a letter from the carrier identifying the on-board operator and authorising him or her to drive the truck or bus across the border into or out of the Republic;
- (c) in respect of a truck, bus or taxi –
 - (i) owned by the on-board operator or a carrier, as the case may be, a certified copy of the vehicle's registration certificate; or
 - (ii) not owned by the on-board operator or a carrier, as the case may be, a letter from the owner authorising the movement of the vehicle across the border into or out of the Republic.

Simplified clearance requirements for vehicles, small vessels and light aircraft temporarily entering or leaving the Republic as private means of transport (section 533(1)(b))⁵⁸⁷

24.13 (1) A traveller declaration submitted by the on-board operator of a vehicle, small vessel or light aircraft entering or leaving the Republic as a private means of transport for a traveller visiting the Republic or for a traveller visiting abroad, and which contains the information specified in subrule (3), may serve as a clearance declaration for the clearance of the vehicle, small vessel or light aircraft under –

- (a) the temporary admission procedure for –
 - (i) temporary admission into the Republic when the vehicle, small vessel or light aircraft enters the Republic;⁵⁸⁸ or
 - (ii) export under that procedure when the vehicle, small vessel or light aircraft leaves the Republic;⁵⁸⁹ or
- (b) the temporary export procedure for –
 - (i) temporary export from the Republic when the vehicle, small vessel or light aircraft leaves the Republic;⁵⁹⁰ or

⁵⁸⁷ This rule does not apply to means of transport entering or leaving the Republic under a CPD carnet dealt with in Part 4 of Chapter 12 or Part 4 of Chapter 17.

⁵⁸⁸ See section 272 of the Control Act.

⁵⁸⁹ See section 278 of the Control Act.

- (ii) home use as re-imported unaltered goods when the vehicle, small vessel or light aircraft re-enters the Republic.⁵⁹¹

(2) A traveller declaration used in terms of subrule (1) as a clearance declaration for a vehicle, small vessel or light aircraft entering or leaving the Republic must be submitted when the on-board operator of the vehicle, small vessel or light aircraft is processed through the passenger processing system at the place of entry or exit through which the vehicle, small vessel or light aircraft entered or is leaving the Republic.

(3) The traveller declaration of the on-board operator of a vehicle, small vessel or light aircraft entering or leaving the Republic which is used in terms of subrule (1) as a clearance declaration for the vehicle, small vessel or light aircraft must, apart from the information a traveller declaration must contain in terms of rules **21.4** and **21.6**, also contain the following information:

- (a) **The** On-board operator details;
- (b) a description of the vehicle, small vessel or light aircraft, which description must include –
 - (i) the make and model;
 - (ii) the year of manufacture;
 - (iii) the registration number;
 - (iv) the country of registration; and
 - (v) in the case of a vehicle, the engine number and the **vehicle identification number** (VIN) **or** chassis number;
- (c) if the vehicle, small vessel or light aircraft is entering the Republic, whether it is cleared –
 - (i) for temporary admission into the Republic and, if so, the expected date of re-export; or
 - (ii) for home use as unaltered goods under the temporary export procedure and, if so, the date it left the Republic; and
- (d) if the vehicle, small vessel or light aircraft is leaving the Republic, whether it is cleared –

⁵⁹⁰ See section 383 of the Control Act.

⁵⁹¹ See section 391 of the Control Act.

- (i) for temporary export from the Republic and, if so, the expected date it is to return to the Republic; or
- (ii) for export under the temporary admission procedure and, if so, the date it entered the Republic.

(4) An on-board operator submitting a traveller declaration serving as a clearance declaration in terms of this rule must at the place of entry or exit where, and at the time when, the traveller declaration is submitted, have available with him or her for production to the customs authority if such production is requested, all supporting documents relevant to that traveller declaration, including the following:

(a) In respect of a vehicle –

- (i) owned by the on-board operator, a certified copy of the vehicle's registration certificate; or**
- (ii) not owned by the on-board operator, a letter from the owner authorising the movement of the vehicle across the border into or out of the Republic; or**

(b) in respect of a small vessel or light aircraft -

- (i) owned by the on-board operator, a certified copy of a document proving ownership; or**
- (ii) not owned by the on-board operator, a letter from the owner authorising the movement of the vessel or aircraft across the border into or out of the Republic.**

Additional categories of goods that may be cleared and released in accordance with simplified clearance requirements (section 533(1)(c))

24.14 In addition to the categories of goods referred to in section 533(1)(a) and (b) of the Control Act,⁵⁹² the following categories of goods may, subject to section

⁵⁹² Goods that may in terms of section 533(1)(a) or (b) of the Control Act be cleared in accordance with simplified clearance procedures are:

- (a) accompanied and unaccompanied baggage in terms of sections 480(2) or 485(2);
- (b) the following means of transport entering or leaving the Republic under the temporary export procedure or the temporary admission procedure:
 - (i) commercial trucks in terms of section 270, 276, 381 or 389;
 - (ii) buses and taxis in terms of section 271, 277, 382 or 390; or
 - (iii) private vehicles, small boats and light aircraft used as a private means of transport by travellers in terms of section 272, 278, 383 or 391.

533(2)(a) and (b),⁵⁹³ also be cleared and released in accordance with the simplified requirements set out in Part 3 of Chapter 24 of the Control Act:

- (a) Courier articles⁵⁹⁴ –
 - (i) imported into the Republic that are in terms of section 89 required to be cleared for home use or a customs procedure; or
 - (ii) to be exported from the Republic that are in terms of section 93 required to be cleared for export; and
- (b) stores⁵⁹⁵ for any reason to be removed from a foreign-going vessel or aircraft or cross-border train to the private storage warehouse of a stores supplier that are in terms of section 299(1) required to be cleared for warehousing in that warehouse.⁵⁹⁶

Simplified clearance requirements for prescribed courier articles (*section 533(1)(c)*)

24.15 (1) (a) Prescribed courier articles may be cleared for home use or a **permissible** customs procedure by the submission of a simplified clearance declaration containing the minimum information specified in subrule (4) to the customs authority electronically through **EDI or** eFiling, subject to **paragraph (b) rule 41.33A**.

(b) If a simplified clearance declaration referred to in paragraph (a) is submitted **in terms of rule 41.33A** in paper format, **in any of the circumstances contemplated in section 913(4) of the Control Act**, the declaration must be –

- (i) — on Form ... as published as a rule on the SARS website; and**
- (ii) — submitted to the Customs Office that serves the place of entry or exit through which the courier articles are imported or to be exported.**

⁵⁹³ In terms of section 533(2)(a) and (b) the Minister may by notice in the Gazette restrict the categories of goods prescribed by rule under section 533(1)(c) that may be cleared in accordance with simplified procedures, to goods that have a customs value of less than a specified amount or in respect of which a tax below a specified amount is payable. Such a notice has been issued in respect of courier articles under **Government Notice**

⁵⁹⁴ **No formal application for simplified clearance in terms of section 534 is necessary as the application for the courier licence is regarded also to be an application for simplified clearance.**

⁵⁹⁵ **No formal application for simplified clearance in terms of section 534 is necessary as the application for the stores suppliers licence is regarded also to be an application for simplified clearance.**

⁵⁹⁶ Stores consisting of goods that were in free circulation before cleared for the stores procedure are excluded here as such stores, when removed from the vessel, aircraft or train, revert to free circulation whether or not taken to the private warehouse of a stores supplier. Provisions applicable to goods reverting to free circulation include sections 113, 161, 350 and 353 of the Control Act.

(2) A simplified clearance declaration clearing a consignment of prescribed courier articles must be submitted –

- (a) in the case of imported courier articles, before the arrival of the consignment at the place of entry through which the consignment will enter the Republic; or
- (b) in the case of courier articles to be exported –
 - (i) by air, no later than one hour before the courier articles are taken to the foreign-going aircraft in which they are to be exported for loading on board the aircraft; or
 - (ii) by road, within the same timeframes as prescribed in terms of section 94 for the regular clearance of goods destined for export by road.

(3) Only a licensed courier may submit a simplified clearance declaration for the clearance of prescribed courier articles handled by that courier.⁵⁹⁷

(4) A simplified clearance declaration referred to in subrule (1) must state –

- (a) the **name and** customs code **of the courier** ~~s for which the courier is licenced or registered~~ and, unless the courier is the importer or exporter, also –
 - ~~(i) — the **name and** customs code of the importer or exporter; or~~
 - ~~(ii) — if the importer or exporter falls within a category of persons exempted from registration, the importer or exporter's name, identity number, contact number and physical address;~~
- (b) the transport name;
- (c) the conveyance number;
- (d) the transport document number;
- (e) in the case of a consignment of imported prescribed courier articles –
 - (i) a unique identifier number generated by the courier for each courier article in the consignment;
 - (ii) details of the consignee of each courier article, which must include that person's customs code, if any, or name and physical **and postal** address;

⁵⁹⁷ Note that the courier acts in this instance as either the importer or exporter of the courier articles or the holder of a customs broker's licence for courier articles contemplated in rule **29.5**

- (iii) details of the consignor of each courier article, which must include that person's customs code, if any, or name and physical and postal address;
 - (iv) the delivery address;
 - (v) a description of each courier article, which must include –
 - (aa) quantity, weight or volume;
 - (bb) tariff classification;
 - (cc) customs value; and
 - (dd) country of origin; and
- (f) in the case of a consignment of prescribed courier articles to be exported from the Republic –
- (i) a unique identifier number generated by the courier for each courier article in the consignment;
 - (ii) details of the consignor of each courier article, which must include that person's customs code, if any, and name and physical and postal address;
 - (iii) name of the consignee of each courier article and foreign delivery address; and
 - (iv) a description of each courier article, which must include –
 - (aa) quantity, weight or volume;
 - (bb) tariff classification;
 - (cc) customs value; and
 - (dd) country of origin.

(5) A simplified clearance declaration for clearing a consignment of prescribed courier articles must be supported by at least –

- (a) an invoice or other commercial document issued in respect of a courier article by the person who –
 - (i) exports the courier article to or from the Republic; or
 - (ii) supplied the courier article to be exported to or from the Republic;
- (b) the transport document issued in respect of that consignment of courier articles; and
- (c) the clearance instructions or authorisations given to the courier by the importers or exporters of the courier articles in the consignment, except where

the courier is the importer or exporter.

(6) Supporting documents referred to in subrule (5) must be submitted to the customs authority on request, subject to and in accordance with Part 7 of Chapter 41 of these Rules.

Simplified clearance requirements for stores removed from vessels, aircraft and trains to warehouses of stores suppliers (*section 533(1)(c)*)

24.16 (1) (a) Stores that are for any reason to be removed from a foreign-going vessel or aircraft or cross-border train to the private storage warehouse of a stores supplier and that are in terms of section 299(1) of the Control Act required to be cleared for warehousing before removal to that warehouse, may be cleared for warehousing in that warehouse by the submission of a simplified clearance declaration containing the minimum information specified in subrule (4), to the customs authority electronically through EDI or eFiling, subject to ~~paragraph (b)~~ rule 41.33A.

(b) If a simplified clearance declaration referred to in paragraph (a) is submitted in terms of rule 41.33A in paper format ~~in any of the circumstances contemplated in section 913(4) of the Control Act~~, the declaration must be —
(i) ~~on Form ... as published as a rule on the SARS website; and~~
(ii) submitted to the Customs Office that serves the area in which the warehouse is located.

(2) A simplified clearance declaration referred to in subrule (1) must be submitted before the removal of the stores from the vessel, aircraft or train to the warehouse.

(3) A simplified clearance declaration referred to in subrule (1) must reflect —

(a) the name and customs code of the person clearing the stores for warehousing in the private warehouse;

(b) if the application is submitted by a customs broker on behalf of the person referred to in paragraph (a), the information specified in rule 41.33D;

- (c) the customs code of the warehouse;
- (d) the transport name of the vessel, aircraft or train from which the goods are to be removed;
- (e) the conveyance number;
- (f) ~~a description~~ the class or kind of ~~the~~ stores to be warehoused, ~~which must include~~ as well as –
 - (i) the quantity, weight or volume;
 - (ii) the tariff classification; and
 - (iii) the customs value;
- (g) whether the stores were on board the vessel, aircraft or train when it entered the Republic or whether the stores were taken on board in the Republic; and
- (h) if the stores were taken on board in the Republic, the movement reference number of the relevant stores clearance declaration issued in respect of the stores.

Par (f) moved to sub (4)(a).

(4) A simplified clearance declaration referred to in subrule (1) must be supported by at least -

- (a) a statement setting out the reason for the removal of the stores to the warehouse;
- (b) an invoice or other commercial document issued in respect of the stores by a stores supplier who initially supplied the stores to the vessel, aircraft or train; and
- (c) in the case of a clearance through a customs broker, the clearance instruction of the principal.

(5) Supporting documents referred to in subrule (4) must be submitted to the customs authority on request, subject to and in accordance with Part 7 of Chapter 41 of these Rules.

Formal application for simplified clearance of goods referred to in section 533(3) (sections 534(2)(b) and 538(b))⁵⁹⁸

24.17 (1) (a) An application for permission as contemplated in section 534(2)(a)(i) of the Control Act⁵⁹⁹ to clear and obtain release of a specific consignment of goods referred to in section 533(3) for home use or a customs procedure in accordance with simplified requirements must be submitted to the customs authority electronically through eFiling, subject to ~~paragraph (b)~~ **rule 41.33A**.

(b) If an application referred to in paragraph (a) is submitted to the customs authority **in terms of rule 41.33A** in paper format, ~~in circumstances where submissions in paper format are permissible,~~⁶⁰⁰ the application must be —
(i) ~~on Form ... as published as a rule on the SARS website; and~~
(ii) ~~submitted to the Customs Office that serves the customs controlled area where the goods are or to which the goods are destined~~ **for**.

(2) An application in terms of subrule (1) must reach the customs authority no later than the following timeframes, as may be applicable:

(a) For applications referred to in section 534(2)(a)(i) in relation to goods to which section 90 or 94 apply: No later than 48 hours before the time for submission of a clearance declaration in respect of those goods expires in terms of section 90 or 94;⁶⁰¹ or

(b) for applications referred to in section 534(2)(a)(i) in relation to goods already under a customs procedure (other than goods referred to in paragraph (a)): At any time whilst the goods are under that procedure.⁶⁰²

(3) An application in terms of subrule (1) must **state reflect** —

⁵⁹⁸ It is to be noted that in terms of section 534(4) no prior application is required for accompanied or unaccompanied baggage referred to in section 533(1)(a) or for means of transport referred to in section 533(1)(b). The application requirement is therefore confined to simplified clearance of goods to which section 533(3) applies as no formal application is in view of rule **24.22** required for courier articles and unused stores returned to a stores supplier's warehouse.

⁵⁹⁹ Simplified clearance in terms of section 533(3) is only available for "specific" consignments and not for simplified clearance of goods during a future period.

⁶⁰⁰ ~~See for instance sections 168 and 913(4) of the Control Act.~~

⁶⁰¹ This timeframe will apply to an application for simplified clearance of a specific parcel, container or consignment of goods that is in the process of being imported through a place of entry or exported through a place of exit.

⁶⁰² This timeframe will apply to an application for simplified clearance of a specific parcel, container or consignment of goods already under a customs procedure, such as warehousing.

- (a) the applicant's **name and** customs code; ~~or, if the applicant falls within a category of persons exempted from registration, the applicant's name, identity number, contact number and physical address;~~
- (b) if the application is submitted by a customs broker, registered agent or ordinary representative on behalf of the applicant, the information specified in rule 41.33D;⁶⁰³**
- (b) a description of the class or kind of goods in the specific parcel, container or consignment applied for;
- (c) whether the goods will be cleared for home use or a customs procedure and, if for a customs procedure, the required customs procedure; **and**
- (d) the place of entry through which the goods are imported or the place of exit through which the goods are to be exported. **And**

Par (e) moved to sub(4).

(4) (a) An application referred to in subrule (1) must be supported by at least the following documents:

- (i) a motivated **ion explanation** of the reasons why simplified clearance and release of the relevant goods are required;
- (ii) subject to paragraph (b), an invoice issued in respect of the goods by the person who—
 - (aa) exports the goods to or from the Republic; or
 - (bb) supplied the goods to be exported to or from the Republic; **and**
- (iii) the transport document issued in respect of the goods. **and**
- ~~(iv) a valid tax clearance certificate that the tax matters of the applicant are in order.~~

(b) If a final invoice for the goods is not available at the time of submission of the application, the application must be supported by a pro-forma invoice issued in respect of the goods.

⁶⁰³ If the application is submitted in terms of section 920 of the Control Act by an ordinary representative on behalf of the applicant, the application must comply with the additional requirements set out in Part 6 of Chapter 41 of these Rules. Note that the said Part 6 applies only to ordinary representatives which per definition excludes persons submitting documents as customs brokers or registered agents. It follows that Part 6 does not apply to customs brokers or registered agents that submit applications on behalf of applicants in that capacity.

(5) Supporting documents referred to in subrule (4) must ~~accompany an application referred to in subrule (1)~~ be submitted to the customs authority on request, subject to and in accordance with Part 7 of Chapter 41 of these Rules.

(6) This rule does not apply if a simplified clearance declaration is in terms of the proviso to section 534(2)(b) used to serve as an application contemplated in section 534(2)(a)(i). If such a clearance declaration is used as an application for simplified clearance, rule 24.18A applies.

Simplified clearance requirements for goods referred to allowed in terms of section 533(3) for simplified clearance

24.18 (1) (a) A specific consignment of goods referred to in section 533(3) of the Control Act in respect of which formal approval for simplified clearance has in terms of rule 24.17 been obtained, may be cleared for home use or a customs procedure by the submission of a simplified clearance declaration containing the minimum information specified in subrule (4) to the customs authority electronically through EDI or eFiling, subject to ~~paragraph (b)~~ rule 41.33A.

(b) If a simplified clearance declaration referred to in paragraph (a) is submitted in terms of rule 41.33A in paper format in any of the circumstances contemplated in section 913(4) of the Control Act, the declaration must be

~~(i) on Form ... as published as a rule on the SARS website; and~~

~~(ii) submitted to the Customs Office that serves the customs controlled area where the goods are or to which the goods are destined for.~~

(2) A simplified clearance declaration clearing a consignment of such goods for home use or a customs procedure –

(a) must, in the case of goods to which section 89 or 93 applies, be submitted within the same timeframes as prescribed in terms of section 90 or 94 for the regular clearance of goods; or

(b) may, in the case of goods already under a customs procedure (other than goods referred to in paragraph (a)), be submitted at any time whilst the goods are still under that procedure.

(3) A simplified clearance declaration referred to in subrule (1) must **state/reflect** –

- (a) the **name and** customs code of the person clearing the goods; **and, if cleared through a customs broker, also the customs code of the customs broker;**
- (b) if the declaration is submitted by a customs broker on behalf of the person referred to in paragraph (a), the information specified in rule 41.33D;**
- (c) the transport name;
- (d) the conveyance number;
- (e) the transport document number;
- (f) a description of the **class or kind of** goods, which must include –
 - (i) quantity, weight or volume;
 - (iii) tariff classification;
 - (iv) customs value; and
 - (v) country of origin; and
- (g) the **reference** number of the permission granted in terms of rule 24.17 in respect of the goods.

(4) A simplified clearance declaration **submitted** for clearing a consignment of **such** goods must be supported by at least **the documents referred to in section 176(1)(a), (b) and (c).**

- ~~(a) an invoice or other commercial document issued in respect of the goods;~~
- ~~(b) the transport document; and~~
- ~~(c) the clearance instruction or authorisation given to the customs broker, if the goods are cleared through a customs broker.~~

(5) Supporting documents referred to in subrule (4) must be submitted to the customs authority on request, subject to and in accordance with Part 7 of Chapter 41 of these Rules.

Clearance declarations serving as applications for simplified clearance of goods referred to in section 533(3) (proviso to section 534(2)(b))

24.18A (1) If a simplified clearance declaration is submitted to serve in terms of the proviso to section 534(2)(b) of the Control Act as an application

contemplated in section 534(2)(a)(i) for the simplified clearance of goods referred to in section 533(3), the declaration must -

(a) contain a statement to that effect; and

(b) be submitted -

(i) in accordance with rule 24.18(1); and

(ii) within the timeframe referred to in rule 24.18(2).

(2) (a) A clearance declaration referred to in subrule (1) must, in addition to the documents referred to in rule 24.18(4), be supported by a statement setting out the reason why simplified clearance and release of the relevant goods is required.

(b) If a final invoice for the goods as required in terms of section 176(1)(a) is not available at the time of submission of the clearance declaration, the declaration must be supported by a pro-forma invoice issued in respect of the goods.

(3) Supporting documents referred to in subrule (2) must be submitted to the customs authority on request, subject to and in accordance with Part 7 of Chapter 41 of these Rules.

Part 4: Permissions

Permissions not transferable

24.19 No permission referred to in this Chapter granted by the customs authority may be transferred to another person.

Period of validity of permissions for incomplete, provisional or simplified clearance of goods

24.20 (1) A permission granted by the customs authority on application in terms of section 522(2)(a)(i) or 534(2)(a)(i) of the Control Act for the incomplete, provisional or simplified clearance of a specific parcel, container or consignment of goods applies only to that specific parcel, container or consignment of goods.

(2) A permission granted by the customs authority on application in terms of section 522(2)(a)(ii) for the incomplete **or** provisional **or simplified clearance** of a specific class or kind or other category of goods during a specific future period –

- (a) takes effect from a date specified in the permission; and
- (b) is valid for the period stated in the permission, unless the permission is suspended or withdrawn as contemplated in rule **24.21**.

(3) **This rule Subrule (2)** does not apply to the simplified clearance of goods referred to in rule **24.22**.

Withdrawal of permissions

24.21 (1) A permission granted by the customs authority on application in terms of section 522**(2)(a)(ii)** of the Control Act for the incomplete, provisional or simplified clearance of goods during a future period may be suspended or withdrawn by the customs authority if the person to whom the permission was granted –

- (a) has committed a material breach of the Control Act, these Rules or a tax levying Act;
- (b) no longer qualifies for such permission; or
- (c) has failed to comply with a condition subject to which the permission was granted.

(2) A person may, after being notified of the customs authority's intention to suspend or withdraw a permission, submit written representations to the customs authority on the proposed suspension or withdrawal within 30 calendar days of the date of notification.⁶⁰⁴

(3) The customs authority may, despite subrule (2) suspend or withdraw a permission with immediate effect if circumstances so demand but in such a case the person affected by the suspension or withdrawal is entitled to submit to the customs authority representations on the suspension or withdrawal within 30 calendar days after the suspension or withdrawal.

⁶⁰⁴ See rule **41.33H** for the submission of representations to the customs authority.

Certain licences to be regarded as permissions for simplified clearance of goods during validity period of licence

24.22 (1) If the customs authority has issued a courier licence to a carrier in terms of rule **29.4(e)** –

- (a) the application submitted by the carrier for such licence in terms of Chapter 29 of the Control Act must for all purposes be regarded also to be an application in terms of section 534(2)(a)(ii) for the simplified clearance of prescribed courier articles during the validity period of the licence;
- (b) the courier licence issued to the carrier must for all purposes be regarded to be a permission granted by the customs authority in terms of section 534(1) for the simplified clearance of prescribed courier articles during the validity period of the licence; and
- (c) suspension or withdrawal of the licence by the customs authority in terms of Part 6 of Chapter 29 of that Act must for all purposes be regarded also to be a suspension or withdrawal of such permission in terms of rule **24.21**.

(2) If the customs authority has issued a stores supplier licence to a person in terms of section 634(1) –

- (a) the application submitted by that person for such licence in terms of Chapter 29 must for all purposes be regarded also to be an application in terms of section 534(2)(a)(ii) for the simplified clearance for warehousing in a private storage warehouse of stores that are for any reason to be removed from a foreign-going vessel or aircraft or cross-border train to such warehouse during the validity period of the licence;
- (b) the stores supplier licence issued to that person must for all purposes be regarded to be a permission granted by the customs authority in terms of section 534(1) for the simplified clearance for warehousing of such stores during the validity period of that licence; and
- (c) suspension or withdrawal of the licence by the customs authority in terms of Part 6 of Chapter 29 of that Act must for all purposes be regarded also to be a suspension or withdrawal of such permission in terms of rule **24.21**.

CHAPTER 25
DAMAGED, DESTROYED, LOST OR UNACCOUNTED GOODS

Part 1: Goods other than compensating products

Notifications by persons referred to in section 542(2)⁶⁰⁵ of goods damaged, destroyed, lost or unaccounted for (section 542)

25.1 (1) (a) If goods to which Part 1 of Chapter 25 of the Control Act applies⁶⁰⁶ become damaged, destroyed, lost or unaccounted for, the person referred to in section 542(2) must submit the notification referred to in section 542(1) to the customs authority –

- (i) electronically through eFiling, subject to ~~paragraph (b)~~ **rule 41.33A**; and
- (ii) **in two phases as set out in subrule (2).**

(b) If a notification is submitted to the customs authority **in terms of rule 41.33A** in paper format, ~~in circumstances where submissions in paper format are permissible,~~⁶⁰⁷ the notification must be –

~~(i) on Form as published as a rule on the SARS website for this purpose;~~
~~and~~

~~(ii) submitted to the Customs Office that serves the place where –~~

- (i) the damaged goods or salvageable parts or materials of the destroyed goods currently are;
- (ii) the goods were when they became damaged, destroyed or lost; or
- (iii) it was discovered that the goods are lost or unaccounted for.

(2) A notification referred to in subrule (1) comprises –

(a) a first phase notification which must -

- (i) be submitted immediately after the person referred to in section 542(2) becomes aware that the goods have been damaged, destroyed, lost or unaccounted for; and**
- (ii) reflect basic information prescribed in subrule (3); and**

⁶⁰⁵ Note that the person referred to in section 542(2) of the Control Act is obliged to submit the notification. Failure to do so may result in a penalty. For other consequences of failure to submit, see section 543.

⁶⁰⁶ See section 541(1) and (2) of the Control Act for goods to which Part 1 of Chapter 25 applies. That section must be read with section 540(2) which excludes certain goods altogether from Chapter 25.

⁶⁰⁷ ~~See section 913(4) of the Control Act.~~

- (b) a second phase notification which must -
- (i) be submitted within 10 working days after submission of the first phase notification; and
 - (ii) reflect comprehensive information as prescribed in subrule (4) and be supported by supporting documents referred to in subrule (5).
- (2) — A notification referred to in subrule (1) must be submitted —
- (a) — in the case of goods that were on board a vessel, aircraft or train at the time of an incident referred to in rule 25.14, no later than three working days from the day on which the report referred to in that rule was submitted;
 - (b) — in the case of goods that were on board a vehicle at the time of an incident referred to in section 125, no later than three working days from the time the report referred to in that section was submitted; or
 - (c) — in the case of any other goods,⁶⁰⁸ no later than three working days from the day on which the person who submits the notification became aware of the fact that the goods were damaged, destroyed, lost or unaccounted for.⁶⁰⁹ —
- (3) The first phase notification referred to in subrule (2)(a) must reflect —
- (a) the name and customs code of the person notifying or, if that person does not have a customs code, the information specified in rule 41.33E(1);
 - (b) if the notification is submitted by a custom broker, registered agent or ordinary representative on behalf of the person notifying, the information specified in rule 41.33D;⁶¹⁰
 - (c) in the case of goods becoming damaged, destroyed, lost or unaccounted for —
 - (i) during transport on a vessel, aircraft, train or vehicle —
 - (aa) the transport name and the conveyance number, and the transport ID if applicable;⁶¹¹ and

⁶⁰⁸ For instance when damage occurs at a terminal, depot or storage warehouse.

⁶⁰⁹ Note that the timeframes in rule 25.1(2) are subject to extension in terms of section 908 of the Control Act.

⁶¹⁰ If the notification is submitted in terms of section 920 of the Customs Control Act by an ordinary representative on behalf of the person notifying, the notification must comply with the additional requirements set out in Part 6 of Chapter 41 of these Rules. Note that the said Part 6 applies only to ordinary representatives which per definition excludes persons submitting documents as customs brokers or registered agents. It follows that Part 6 does not apply to customs brokers and registered agents that submit notifications on behalf of such persons in their capacity as customs broker or registered agent.

⁶¹¹ See relevant definitions in rule 1.1.

- (bb) the exact location⁶¹² where the incident occurred, if the goods became damaged, destroyed or lost due to an incident; or
- (ii) on any premises, the customs code of those premises or, if those premises are unlicensed premises, the physical address of the premises;
- (d) whether the goods that were damaged, destroyed, lost or unaccounted for have been cleared, and -
 - (i) if cleared, the movement reference number of the clearance declaration submitted in respect of the goods; or
 - (ii) if not cleared, a general description of those goods and the transport document number of any transport document issued in respect of the goods; and
- (e) the nature of any incident that caused the goods to become damaged, destroyed, lost or unaccounted for, and the date and approximate time when the incident occurred.

(4) The second phase notification referred to in subrule (2)(b) must, in addition to the information referred to in section 542(4), and to the extent that such information is not already reflected in the first phase notification referred to in subrule (2)(a), also contain the following information reflect:

- (a) The name and customs code of the person submitting the notification notifying or, if that person does not have a customs code, the information specified in rule 41.33E(1);
- (b) if the notification is submitted by a custom broker, registered agent or ordinary representative on behalf of the person notifying, the information specified in rule 41.33D;⁶¹³ and
- (c) for purposes of section 542(4)(a), the quantity, volume or weight of the goods that were damaged, destroyed, lost or unaccounted for; and

⁶¹² This could be provided by the GPS coordinates.

⁶¹³ If the notification is submitted in terms of section 920 of the Customs Control Act by an ordinary representative on behalf of the person notifying, the notification must comply with the additional requirements set out in Part 6 of Chapter 41 of these Rules. Note that the said Part 6 applies only to ordinary representatives which per definition excludes persons submitting documents as customs brokers or registered agents. It follows that Part 6 does not apply to customs brokers that submit notifications on behalf of such persons in their capacity as customs broker or registered agent.

(d) if the goods that were damaged, destroyed, lost or unaccounted for have not been cleared -

(i) an accurate description of the class or kind of the those goods, preferably by way of which must include (i) the tariff classification; —

~~(ii) the quantity, volume or weight, as may be appropriate;~~

~~(iii) the customs value;~~

(ii) the container or ULD number, in the case of goods packed into a container or consolidated in a ULD; and

(iii) any numbers or marks on the goods. and

~~(e) the transport document number of any transport document issued in respect of the goods, in the case of goods that have not yet been cleared.~~

(5) A second phase notification referred to in subrule (2)(b) must, in addition to the documentary proof referred to in section 542(4)(e), be accompanied supported by the following documents, which must, if not already submitted to the customs authority,⁶¹⁴ be submitted together with the notification, subject to and in accordance with Part 7 of Chapter 41 of these Rules:

(a) a statement setting out the circumstances how the goods became damaged, destroyed, lost or unaccounted for;

(b) a copy of any transport document issued in respect of the goods;

(c) in the case of goods damaged or destroyed due to a cause mentioned in section 544(1) or 545(1), an independent appraisal or analysis by a qualified appraiser, assessing the extent –

(i) of the damage and the loss in value of the goods;⁶¹⁵ or

(ii) to which any parts or materials have been or are salvageable from the destroyed goods;⁶¹⁶ and

(d) a copy of any invoice issued in respect of the goods in respect of goods that have not yet been cleared.

(e) in the case of goods damaged or destroyed due to an accident involving a vessel or aircraft, the inventory compiled in terms of rule 25.17 of all wreck

⁶¹⁴ For instance at the time when the goods were cleared.

⁶¹⁵ See section 544(2)(d) of the Control Act.

⁶¹⁶ See section 545(2)(d) of the Control Act.

originating from the vessel or aircraft that was recovered from the site where the accident occurred.

(6) (a) A second phase notification referred to in subrule (2)(b) must, in the case of goods damaged or destroyed due to an accident involving a vessel or aircraft, also be supported by the inventory compiled in terms of rule 25.17 of all wreck originating from the vessel or aircraft that was recovered from the site where the accident occurred.

(b) A supporting document referred to in paragraph (a) must be submitted on request, subject to Part 7 of Chapter 41 of these Rules.

(7) (a) Where goods became damaged, destroyed, lost or unaccounted for due to an incident referred to in section 125 or rule 25.14,⁶¹⁷ which was reported in accordance with rule 5.2 or 25.14, such a report may be regarded as compliance with the requirement in terms of this rule to submit a first phase notification referred to in subrule (2)(a), and in such a case no first phase notification needs to be submitted.

(b) In circumstances referred to in paragraph (a), the second phase notification referred to in subrule (2)(b) must include any information required in terms of subrule (3) that was not reflected in the relevant report.

(8) A person referred to in section 542(3) is, on written request to the person required in terms of section 542(2) to submit the a notification referred to in rule (2)(a) or (b), entitled to a copy of the notification.

Notifications by persons referred to in section 542(3) of goods damaged, destroyed, lost or unaccounted for (section 542)

25.2 (1) (a) If a person referred to in section 542(3) of the Control Act elects to submit a notification referred to in section 542(1),⁶¹⁸ the notification must be submitted to the customs authority electronically through eFiling, subject to paragraph (b) rule 41.33A.

⁶¹⁷ Also take note of rule 5.2 and its footnote in this respect.

⁶¹⁸ Note that the person referred to in section 542(3), unlike the person referred to in section 542(2), is not obliged to submit the notification but may do so to protect his or her own interests, for instance where the person referred to in section 542(2) fails to submit the notification.

(b) If a notification is submitted to the customs authority **in terms of rule 41.33A** in paper format, ~~in circumstances where submissions in paper format are permissible,~~⁶¹⁹ the notification must be –

- ~~(i) on Formas published as a rule on the SARS website for this purpose; and~~
- (ii)** – submitted to the Customs Office that serves the place where –
 - (i)** the damaged goods or salvageable parts or materials of the destroyed goods currently are;
 - (ii)** the goods were when they became damaged, destroyed or lost; or
 - (iii)** it was discovered that the goods are lost or unaccounted for.

(2) A notification referred to in subrule (1) comprises –

(a) a first phase notification which must -

- (i) be submitted immediately after the person referred to in section 542(3) becomes aware that the goods have been damaged, destroyed, lost or unaccounted for; and**
- (ii) reflect basic information prescribed in rule 25.1(3); and**

(b) a second phase notification which must -

- (i) be submitted within 10 working days after submission of the first phase notification; and**
- (ii) reflect comprehensive information as prescribed in rule 25.1(4) and be supported by supporting documents referred to in rule 25.1(5).**

~~(2) A notification referred to in subrule (1) must be submitted –~~

- ~~(a) no later than three working days from the day on which the person who submits the notification became aware of the fact that the goods were damaged, destroyed, lost or unaccounted for; or~~
- ~~(b) if a notification has already in terms of rule 25.1 been submitted by a person referred to in section 542(2) in relation to the relevant goods no later than three working days from the day on which the person who submits the notification in terms of this rule became aware of the submission of that notification.~~⁶²⁰

⁶¹⁹ See section 913(4) of the Control Act.

⁶²⁰ Note that these timeframes are subject to extension in terms of section 908.

- ~~(3) — A notification referred to in subrule (1) must —~~
- ~~(a) — in addition to the information referred to in section 542(4), also contain the information specified in rule 25.1(3), except that if the person submitting the notification does not have a customs code, that person's name and physical and postal address and, if a natural person, identity or passport number, must be stated on the notification; and~~
- ~~(b) — in addition to the documentary proof referred to in section 542(4)(e), be accompanied by the following documents if not already submitted⁶²⁴ to the customs authority:~~
- ~~(i) — A copy of the transport document issued in respect of the goods;~~
- ~~(ii) — copies of any invoices issued in respect of the goods; and~~
- ~~(iii) — in the case of goods damaged or destroyed due to a cause mentioned in section 544(1) or 545(1) an independent appraisal or analysis by a qualified appraiser, assessing the extent —~~
- ~~(aa) — of the damage and the loss in value of the goods;⁶²² or~~
- ~~(bb) — to which any parts or materials have been or are salvageable from the destroyed goods.⁶²³~~

(3) A person referred to in section 542(3) is entitled to submit a notification **in terms of this rule** irrespective of whether the person required in terms of section 542(2) to submit the notification has done so or not.

Documentary evidence to prove that goods became damaged, destroyed, lost or unaccounted for (section 558(a))

25.3 The documents that may be submitted to the customs authority as evidence to prove that the goods became damaged, destroyed, lost or unaccounted for due to a cause referred to in section 544(1), 545(1), 546(1) or 547(1) of the Control Act, include the following, as may be appropriate:

- (a) An affidavit deposed to by a person who has knowledge of the facts —

⁶²¹ For instance at the time when the goods were cleared.

⁶²² See section 544(2)(d) of the Control Act.

⁶²³ See section 545(2)(d) of the Control Act.

- (i) setting out the facts and circumstances in which the goods became damaged, destroyed, lost or unaccounted for; and
 - (ii) stating that the goods became damaged, destroyed or lost or unaccounted for due to a circumstance referred to in section 544(1), 545(1), 546(1) or 547(1), and not due to any wilful act, negligence or default of the person in physical control of or responsible for the goods;
- (b) in the case of goods damaged due to the inherent characteristics of the goods, an independent appraisal or analysis by a qualified appraiser assessing the damage to the goods due to such inherent characteristics and the loss in value, volume, weight or quantity in accordance with any standards or criteria applicable to the appraisal of goods falling within the ambit of the relevant industry;
- (c) a credit note from the supplier of the goods indicating an amount granted by the supplier to pay compensation for any damaged, destroyed, lost or unaccounted for goods;
- (d) an invoice from the supplier of the goods indicating that the supplier is replacing the damaged, destroyed, lost or unaccounted for goods without cost to the importer, exporter or owner;
- (e) a written commitment by the person referred to in section 542(2) or that person's insurer to pay compensation for the damaged, destroyed, lost or unaccounted for goods;
- (f) in the case of goods that have become damaged, destroyed or lost due to a hostile act by a third party, such as wilful damage to property, pilfering, theft, robbery or hijacking, a police report to that effect;
- (g) in the case of goods that have become damaged or destroyed due to an accident or fire, a police report or fire official's report to that effect;
- (h) in the case of goods being lost or unaccounted for, any document that can provide evidence, depending on the particular circumstances, that –
 - (i) the goods were short shipped, left behind or forgotten somewhere;
 - (ii) the goods were loaded on board the wrong vessel, aircraft, train or vehicle;
 - (iii) the goods were off-loaded at the wrong place;
 - (iv) the goods were withdrawn from the export stack;

- (v) an administrative error occurred in documents or records relating to the goods; or
- (iv) that the goods for any other reason became unaccounted for.

Timeframe for complying with section 544(2)(d) in relation to damaged goods

25.4 If section 544(2)(d) of the Control Act becomes applicable to any damaged goods, the damaged goods must within three calendar days after the customs authority has accepted documentary proof submitted to it in terms of section 544(1), be dealt with in terms of section 544(2)(d)(i), (ii) or (iii).

Timeframe for purposes of section 545(2)(d) in relation to parts or materials salvaged or salvageable from destroyed goods

25.5 If section 545(2)(d) of the Control Act becomes applicable to any destroyed goods, any parts or materials salvaged or salvageable from the destroyed goods must within three days after the customs authority has accepted documentary proof submitted to it in terms of section 545(1), be dealt with in terms of section 545(2)(d)(i), (ii) or (iii).

Additional causes recognised as justifiable for goods becoming unaccounted for (section 547(1)(c))

25.6 ~~The non-loading of goods due to late cancellation for, or withdrawal of goods from, the export stack is~~ **Additional causes recognised** for purposes of section 547(1)(c) of the Control Act **recognised** as **a** justifiable **cause** for goods becoming unaccounted for. ~~are—~~

~~(a) non-loading of goods due to late cancellation for, or withdrawal of goods from, the export stack;~~

~~(b) ...~~

~~(c) ...~~

Part 2: Compensating products

Notifications by persons referred to in section 549(2)⁶²⁴ of compensating products damaged, destroyed, lost or unaccounted for (section 549)

25.7 (1) (a) If compensating products to which Part 2 of Chapter 25 of the Control Act applies⁶²⁵ become damaged, destroyed, lost or unaccounted for, the person referred to in section 549(2) must submit the notification referred to in section 549(1) to the customs authority -

- (i) electronically through eFiling, subject to ~~paragraph (b)~~ **rule 41.33A; and**
- (ii) **in two phases as set out in subrule (2).**

(b) If a notification is submitted to the customs authority **in terms of rule 41.33A** in paper format, ~~in circumstances where submissions in paper format are permissible,~~⁶²⁶ the notification must be -

- ~~(i) on Form... as published as a rule on the SARS website for this purpose; and~~
- ~~(ii) submitted to the Customs Office that serves the place where -~~
 - (i) the damaged compensating products or salvageable parts or materials of the destroyed compensating products currently are;
 - (ii) the compensating products were when they became damaged, destroyed or lost; or
 - (iii) it was discovered that the compensating products are lost or unaccounted for.

(2) A notification referred to in subrule (1) comprises -

(a) a first phase notification which must -

- (i) **be submitted immediately after the person referred to in section 549(2) becomes aware that the goods have been damaged, destroyed, lost or unaccounted for; and**
- (ii) **reflect basic information prescribed in subrule (3); and**

(b) a second phase notification which must -

- (i) **be submitted within 10 working days after submission of the first phase notification; and**

⁶²⁴ Note that the person referred to in section 549(2) of the Control Act is obliged to submit the notification. Failure to do so may result in a penalty. For other consequences of failure to submit, see section 550.

⁶²⁵ See section 548(1) and (2) of the Control Act for compensating products to which Part 2 of Chapter 25 applies. That section must be read with section 540(2) which excludes certain goods altogether from Chapter 25. Also note that Part 2 only applies to inward and outward processed compensating products and not to home use processed products which upon production become goods in free circulation.

~~⁶²⁶ See section 913(4) of the Control Act.~~

(ii) reflect comprehensive information as prescribed in subrule (4) and be supported by supporting documents referred to in subrule (5).

~~(2) A notification referred to in subrule (1) must be submitted –~~

~~(a) in the case of compensating products that were on board a vessel, aircraft or train at the time of an incident referred to in rule 25.14, no later than three working days from the day on which the report referred to in that rule was submitted;~~

~~(b) in the case of compensating products that were on board a vehicle at the time of an incident referred to in section 125, no later than three working days from the time the report referred to in that section was submitted; or~~

~~(c) in any other case, no later than three working days from the day on which the person who submits the notification became aware of the fact that the compensating products were damaged, destroyed, lost or unaccounted for.⁶²⁷~~

(3) The first phase notification referred to in subrule (2)(a) must reflect –

(a) the name and customs code of the person notifying or, if that person does not have a customs code, the information specified in rule 41.33E(1);

(b) if the notification is submitted by a custom broker, registered agent or ordinary representative on behalf of the person notifying, the information specified in rule 41.33D;⁶²⁸

(c) in the case of compensating products that became damaged, destroyed, lost or unaccounted for –

(i) during transport on a vessel, aircraft, train or vehicle –

(aa) the transport name and the conveyance number, and the transport ID if applicable;⁶²⁹ and

(bb) the exact location⁶³⁰ where the incident occurred, if the compensating products became damaged, destroyed or lost due to an incident; or

⁶²⁷ Note that these timeframes are subject to extension in terms of section 908 of the Control Act.

⁶²⁸ If the notification is submitted in terms of section 920 of the Customs Control Act by an ordinary representative on behalf of the person notifying, the notification must comply with the additional requirements set out in Part 6 of Chapter 41 of these Rules. Note that the said Part 6 applies only to ordinary representatives which per definition excludes persons submitting documents as customs brokers or registered agents. It follows that Part 6 does not apply to customs brokers and registered agents that submit notifications on behalf of such persons in their capacity as customs broker or registered agent.

⁶²⁹ See relevant definitions in rule 1.1.

- (ii) on any premises, the customs code of those premises or, if those premises are unlicensed premises, the physical address of the premises;
- (d) an indication whether the compensating products that were damaged, destroyed, lost or unaccounted for have been cleared, and -
 - (i) if cleared, the movement reference number of the clearance declaration submitted in respect of the compensating products; or
 - (ii) if not yet cleared, a general description of those compensating products and the transport document number of any transport document issued in respect of the compensating products; and
- (e) the nature of any incident that caused the compensating products to become damaged, destroyed, lost or unaccounted for, and the date and approximate time when the incident occurred.

(4) A The second phase notification referred to in subrule (2)(b) must, in addition to the information referred to in section 549(4), and to the extent that such information is not already reflected in the first phase notification referred to in subrule (2)(a), also contain reflect the following information:

- (a) The name and customs code of the person ~~submitting the notification or, in the case of an unlicensed subcontractor, the name and contact details of the subcontractor and physical address of the premises;~~ notifying or, if that person does not have a customs code, the information specified in rule 41.33E(1);
- (b) if the notification is submitted by a custom broker, registered agent or ordinary representative on behalf of the person notifying, the information specified in rule 41.33D;⁶³¹
- (c) ~~for purposes of section 549(4)(a) —~~

⁶³⁰ This could be provided by the GPS coordinates.

⁶³¹ If the notification is submitted in terms of section 920 of the Customs Control Act by an ordinary representative on behalf of the person notifying, the notification must comply with the additional requirements set out in Part 6 of Chapter 41 of these Rules. Note that the said Part 6 applies only to ordinary representatives which per definition excludes persons submitting documents as customs brokers or registered agents. It follows that Part 6 does not apply to customs brokers that submit notifications on behalf of such persons in their capacity as customs broker or registered agent.

if the compensating products that were damaged, destroyed, lost or unaccounted for have been cleared, the quantity, volume or weight of those compensating products;

~~(i) the movement reference number of the clearance declaration clearing the compensating products; as —~~

~~(aa) inward processed compensating products for export; or~~

~~(bb) outward processed compensating products for home use; or~~

~~(ii) the quantity, volume or weight, as may be appropriate;~~

(d) if the compensating products that were damaged, destroyed, lost or unaccounted for have not yet been cleared, an accurate description of the class or kind of the those compensating products, which must include as well as —

(i) the tariff classification;

(ii) the quantity, volume or weight, as may be appropriate;

(iii) the customs value;

(iv) the container or ULD number, in the case of compensating products packed into a container or consolidated in a ULD; and

(v) any marks or numbers on the goods; and

~~(e) the transport document number of any transport document issued in relation to the compensating products, in the case of compensating products not yet cleared.~~

(e) the movement reference number of the clearance declaration submitted in respect of the goods from which those compensating products were obtained.

(5) A second phase notification referred to in subrule (2)(b) must, in addition to the documentary proof referred to in section 549(4)(f), be accompanied supported by the following documents, which must, if not already submitted⁶³² to the customs authority, be submitted together with the notification, subject to and in accordance with Part 7 of Chapter 41 of these Rules:

(a) a statement setting out the circumstances how the compensating products became damaged, destroyed, lost or unaccounted for;

⁶³² For instance at the time when the goods were cleared.

- (b) a copy of the transport document issued in respect of the compensating products; **and**
- (c) in the case of compensating products damaged or destroyed due to a cause mentioned in section 551(1) or 552(1), an independent appraisal or analysis by a qualified appraiser, assessing the extent –
 - (i) of the damage and the loss in value of the compensating products;⁶³³
or
 - (ii) to which any parts or materials have been or are salvageable from the destroyed compensating products;⁶³⁴ **and**
- (d) **a copy of any invoice issued in respect of the goods.**

(6) (a) A second phase notification referred to in subrule (2)(b) must, in the case of compensating products damaged or destroyed due to an accident involving a vessel or aircraft, also be supported by the inventory compiled in terms of rule 25.17 of all wreck originating from the vessel or aircraft that was recovered from the site where the accident occurred.

(b) A supporting document referred to in paragraph (a) must be submitted on request, subject to Part 7 of Chapter 41 of these Rules.

(7) (a) Where compensating products became damaged, destroyed, lost or unaccounted for due to an incident referred to in section 125 or rule 25.14,⁶³⁵ which was reported in accordance with rule 5.2 or rule 25.14, such a report may be regarded as compliance with the requirement in terms of this rule to submit a first phase notification referred to in subrule (2)(a), and in such a case no first phase notification needs to be submitted.

(b) In circumstances referred to in paragraph (a), the second phase notification referred to in subrule (2)(b) must include any information required in terms of subrule (3) that was not reflected in the relevant report.

⁶³³ See section 551(2) of the Control Act.

⁶³⁴ See section 552(2) of the Control act.

⁶³⁵ Also take note of rule 5.2 and its footnote in this respect.

(8) A person referred to in section 549(3) is, on written request to the person required in terms of section 549(2) to submit the a notification referred to in rule (2)(a) or (b), entitled to a copy of the notification.

Notifications by persons referred to in section 549(3) of compensating products damaged, destroyed, lost or unaccounted for (section 549)

25.8 (1) (a) If a person referred to in section 549(3) of the Control Act elects to submit a notification referred to in section 549(1),⁶³⁶ the notification must be submitted to the customs authority electronically through eFiling, subject to paragraph (b) rule 41.33A.

(b) If a notification is submitted to the customs authority in terms of rule 41.33A in paper format, ~~in circumstances where submissions in paper format are permissible,~~⁶³⁷ the notification must be –

- ~~(i) on Form..... as published as a rule on the SARS website for this purpose; and~~
- ~~(ii)~~ submitted to the Customs Office that serves the place where –
 - (i) the damaged compensating products or salvageable parts or materials of the destroyed compensating products currently are;
 - (ii) the compensating products were when they became damaged, destroyed or lost; or
 - (iii) it was discovered that the compensating products are lost or unaccounted for.

(2) A notification referred to in subrule (1) comprises –

(a) a first phase notification which must -

- (i) be submitted immediately after the person referred to in section 549(3) becomes aware that the compensating products have been damaged, destroyed, lost or unaccounted for; and
- (ii) reflect basic information prescribed in rule 25.7(3); and

(b) a second phase notification which must -

- (i) be submitted within 10 working days after submission of the first phase notification; and

⁶³⁶ Note that the person referred to in section 549(3), unlike the person referred to in section 549(2), is not obliged to submit the notification but may do so to protect his or her interests, for instance where the person referred to in section 549(2) fails to submit the notification.

⁶³⁷ See section 913(4) of the Control Act.

(ii) reflect comprehensive information as prescribed in rule 25.7(4) and be supported by supporting documents referred to in rule 25.7(5).

(2) A notification referred to in subrule (1) must be submitted —

(a) no later than three working days from the day on which the person who submits the notification became aware of the fact that the compensating products were damaged, destroyed, lost or unaccounted for; or

(b) if a notification has already in terms of rule 25.7 been submitted by a person referred to in section 549(2) in relation to the relevant compensating products, no later than three working days from the day on which the person who submits the notification in terms of this rule became aware of the submission of that notification.⁶³⁸

(3) A notification referred to in subrule (1) must —

(a) in addition to the information referred to in section 549(4), also contain the information specified in rule 25.7(3), except that if the person submitting the notification does not have a customs code, that person's name and address and, if a natural person, identity or passport number, must be stated on the notification; and

(b) in addition to the documentary proof referred to in section 549(4)(f), be accompanied by the following documents if not already submitted⁶³⁹ to the customs authority:

(i) A copy of the transport document issued in respect of the compensating products, if applicable;

(ii) any invoices issued in respect of the compensating products; and

(iii) in the case of compensating products damaged or destroyed due to a cause mentioned in section 551(1) or 552(1), an independent appraisal or analysis by a qualified appraiser, assessing the extent

(aa) of the damage and the loss in value of the compensating products;⁶⁴⁰ or

⁶³⁸ Note that these timeframes are subject extension in terms of section 908 of the Control Act.

⁶³⁹ For instance at the time when the compensating products were cleared.

⁶⁴⁰ See section 551(2) of the Control Act.

~~(bb) to which any parts or materials have been or are salvageable from the destroyed compensating products.⁶⁴⁴~~

(3) A person referred to in section 549(3) is entitled to submit a notification in terms of this rule irrespective of whether the person required in terms of section 549(2) to submit the notification has done so or not.

Documentary evidence to prove that compensating products became damaged, destroyed, lost or unaccounted for (*section 558(a)*)

25.9 The documents that may be submitted to the customs authority as evidence to prove that compensating products became damaged, destroyed, lost or unaccounted for due to a cause referred to in section 551(1), 552(1), 553(1) or 554(1) of the Control Act, include the following, as may be applicable:

- (a) An affidavit deposed to by a person with knowledge of the facts –
 - (i) setting out the facts and circumstances in which the compensating products became damaged, destroyed, lost or unaccounted for; and
 - (ii) stating that the compensating products became damaged, destroyed or lost or unaccounted for due to a circumstance referred to in section 551(1), 552(1), 553(1) or 554(1), and not due to any wilful act, negligence or default of the person in physical control of or responsible for the compensating products;
- (b) in the case of compensating products damaged due to the inherent characteristics of the compensating products, an independent appraisal or analysis by a qualified appraiser assessing the damage to the compensating products due to such inherent characteristics and the loss in value, volume, weight or quantity in accordance with any standards or criteria applicable to the appraisal of goods falling within the ambit of the relevant industry;
- (c) a written commitment by the person referred to in section 549(2) or that person's insurer to pay compensation for the damaged, destroyed, lost or unaccounted for compensating products;

⁶⁴⁴ See section 552(2) of the Control Act.

- (d) in the case of compensating products that have become damaged, destroyed or lost due to a hostile act by a third party, such as wilful damage to property, pilfering, theft, robbery or hijacking, a police report to that effect;
- (e) in the case of compensating products that have become damaged or destroyed due to an accident or fire, a police report or fire official's report to that effect; and
- (f) in the case of compensating products being unaccounted for, any document that can provide evidence, depending on the particular circumstances, that –
 - (i) the goods were withdrawn from the export stack, in the case of inward processed compensating products; or
 - (ii) an administrative error occurred in documents or records relating to the compensating products.

Additional causes recognised as justifiable for compensating products becoming unaccounted for (*section 554(1)(d)*)

25.10 ~~The non-loading of goods due to late cancellation for, or withdrawal of goods from, the export stack is~~ **Additional causes recognised** for purposes of section 554(1)(d) of the Control Act **recognised** as **a** justifiable **cause** for compensating products becoming unaccounted for. ~~are~~

~~(a) non-loading of goods due to late cancellation for, or withdrawal of from, the export stack;~~

~~(b) ...~~

~~(c) ...~~

Part 3: Seized, confiscated or abandoned goods

Notifications by licensees when seized, confiscated or abandoned goods become damaged, destroyed, lost or unaccounted for (*section 556*)⁶⁴²

25.11 (1) (a) If seized, confiscated or abandoned goods become damaged, destroyed, lost or unaccounted for, the licensee referred to in section 556(2) of the Control Act must submit the notification referred to in section 556(1) to the customs authority electronically through eFiling, subject to ~~paragraph (b)~~ **rule 41.33A**.

⁶⁴² Note that in terms of section 540(2)(a) this Chapter does not apply to goods that become damaged, destroyed, lost or unaccounted for in a state warehouse. Chapter 27 applies to such goods.

(b) If a notification is submitted to the customs authority **in terms of rule 41.33A in paper format**, ~~in circumstances where submissions in paper format are permissible,~~⁶⁴³ the notification must be –

~~(i) on Form..... as published as a rule on the SARS website for this purpose; and~~

~~(ii)~~ submitted to the Customs Office that serves the licensed premises or other place where –

- (i) the damaged goods or salvageable parts or materials of the destroyed goods currently are;
- (ii) the goods were when they became damaged, destroyed or lost; or
- (iii) it was discovered that the goods are lost or unaccounted for.

(2) A notification referred to in subrule (1) must be submitted –

- (a) in the case of goods that were on board a vessel, aircraft or train at the time of an incident referred to in rule **25.14**, no later than three working days from the day on which the report referred to in that rule was submitted;
- (b) in the case of goods that were on board a vehicle at the time of an incident referred to in section 125, no later than three working days from the time the report referred to in that section was submitted; or
- (c) in the case of any other goods, no later than three working days from the day on which the person who submits the notification became aware of the fact that the goods were damaged, destroyed, lost or unaccounted for.⁶⁴⁴

(3) A notification referred to in subrule (1) must **reflect the following information:**

- (a) **state** The **name and** customs code of the licensee submitting the notification;
- (b) **if the notification is submitted by a custom broker or ordinary representative on behalf of the licensee, the information specified in rule 41.33D;**⁶⁴⁵
- (c) ~~identify the goods damaged, destroyed or lost or unaccounted for with reference to~~ the **reference** number of the notice of seizure or confiscation or

⁶⁴³ See section 913(4) of the Control Act.

⁶⁴⁴ Note that these timeframes are subject to extension in terms of section 908 of the Control Act.

⁶⁴⁵ If the notification is submitted in terms of section 920 of the Customs Control Act by an ordinary representative on behalf of the licensee, the notification must comply with the additional requirements set out in Part 6 of Chapter 41 of these Rules. Note that the said Part 6 applies only to ordinary representatives which per definition excludes persons submitting documents as customs brokers. It follows that Part 6 does not apply to customs brokers that submit notifications on behalf of licensees in their capacity as customs broker.

~~the reference number~~ of the approval of abandonment, as may be applicable to the goods; and

(d) the quantity, volume or weight of those goods that were damaged, destroyed, lost or unaccounted for.

(3) A notification referred to in subrule (1) must be supported by the following documents, which must be submitted together with the notification subject to and in accordance with Part 7 of Chapter 41 of these Rules:

- (a) indicate a statement setting out how, when and where the goods became damaged, destroyed or lost or unaccounted for; and
- (b) if the goods became damaged, destroyed or lost or unaccounted for due to a cause set out in section 556(4), ~~be accompanied by~~ documentary evidence to that effect.

Documentary evidence to prove that goods became damaged, destroyed, lost or unaccounted for (*section 558(a)*)

25.12 The documents that may be submitted to the customs authority as evidence to prove that the seized, confiscated or abandoned goods became damaged, destroyed, lost or unaccounted for due to a cause referred to in section 556(4) of the Control Act, include the following, as may be applicable:

- (a) An affidavit deposed to by or on behalf of the licensee –
 - (i) setting out the facts and circumstances in which the goods became damaged, destroyed, lost or unaccounted for; and
 - (ii) stating that the goods became damaged, destroyed or lost or unaccounted for due to a circumstance referred to in section 556(4), and not due to any wilful act, negligence or default of the licensee in physical control of or responsible for the goods;
- (b) in the case of goods damaged due to the inherent characteristics of the goods, an independent appraisal or analysis by a qualified appraiser assessing the damage to the goods due to such inherent characteristics and the loss in value, volume, weight or quantity in accordance with any standards or criteria applicable to the appraisal of goods falling within the ambit of the relevant industry;

- (c) in the case of goods that have become damaged, destroyed or lost due to a hostile act by a third party, such as wilful damage to property, pilfering, theft, robbery or hijacking, a police report to that effect;
- (d) in the case of goods that have become damaged or destroyed due to an accident or fire, a police report or fire official's report to that effect; and
- (e) in the case of goods being unaccounted for, any document that can provide a justifiable reason why the goods are unaccounted for.

Part 4: Accidents involving vessels, aircraft or trains⁶⁴⁶

Application of this Part

25.13 This Part applies to –

- (a) any foreign-going vessel or aircraft or cross-border train; and
- (b) any domestic vessel, aircraft or train transporting goods not in free circulation within the Republic.

Reporting of accidents involving vessels, aircraft or trains operated by carriers⁶⁴⁷

25.14 (1) (a) The carrier operating a vessel, aircraft or train referred to in rule **25.13**(a) or (b) that has stranded, crashed or become lost in the Republic or that has been involved in an accident which compromised the integrity of any goods to which Chapter 25 of the Control Act applies⁶⁴⁸ on board the vessel, aircraft or train, must immediately upon becoming aware of the incident report the incident to the customs authority electronically through eFiling,⁶⁴⁹ subject to **paragraph (b) rule 41.33A**.

(b) If a report referred to in paragraph (a) is submitted to the customs authority **in terms of rule 41.33A** in paper format, **in circumstances where submissions in such format are permissible,**⁶⁵⁰ the report must be submitted –

(i) on Form..... as published as a rule on the SARS website for that purpose; and

⁶⁴⁶ For accidents involving trucks carrying goods not in free circulation, see section 125 of the Control Act.

⁶⁴⁷ Forced landings or calls are dealt with in rules under section 37 of the Control Act.

⁶⁴⁸ See section 540(2) of the Control Act for goods to which Chapter 25 applies.

⁶⁴⁹ The purpose of this report is to enable Customs to take immediate action as may be necessary and to send out officers to the site where the incident occurred to perform inspections and to take control of the movement of goods.

⁶⁵⁰ See section 913(4) of the Control Act.

(ii) —to the Customs Office nearest to the place where the incident occurred.

(2) A report referred to in subrule (1) must state reflect the following information:

(a) the name and customs code of the carrier submitting the report or, if the carrier is not located in the Republic, the name or customs code of the carrier and the name and customs code of that carrier's registered agent in the Republic;

(b) if the report is submitted by a custom broker or ordinary representative on behalf of the carrier, the information specified in rule 41.33D;⁶⁵¹

(c) the transport name and the conveyance number⁶⁵² of the vessel, aircraft or train, and the transport ID in the case of a vessel or aircraft;

(d) if the vessel, aircraft or train is or has been on a voyage in respect of which reporting requirements in terms of Chapter 3 of the Control Act apply, the number of –

(i) the advance vessel, aircraft or train arrival notice submitted to the customs authority, in the case of an inbound voyage;⁶⁵³ or

(ii) the vessel, aircraft or train departure report submitted to the customs authority, in the case of an outbound voyage;⁶⁵⁴

(e) a general description of the goods that were on board the vessel, aircraft or train at the time of the incident;

(f) a general description of the goods that were damaged, destroyed, lost or unaccounted for;

(g) whether there are salvageable goods at the site;

(h) the nature, circumstances and approximate time of the incident;

(i) the coordinates of the place where the incident occurred;

(j) any steps the carrier took to secure the site; and

(k) whether a law enforcement agency is present on the site.

⁶⁵¹ If the notification is submitted in terms of section 920 of the Customs Control Act by an ordinary representative on behalf of the carrier, the notification must comply with the additional requirements set out in Part 6 of Chapter 41 of these Rules. Note that the said Part 6 applies only to ordinary representatives which per definition excludes persons submitting documents as customs brokers. It follows that Part 6 does not apply to customs brokers that submit notifications on behalf of carriers in their capacity as customs broker.

⁶⁵² See definitions in rule 1.1.

⁶⁵³ See rules 3.4, 3.11 and 3.18.

⁶⁵⁴ See rule 3.10, 3.17 and 3.22

- (3) A report submitted to the customs authority in terms of subrule (1) -
- (a) must for purposes of rule 25.2 or 25.7 be regarded to be a first phase notification referred to in that rule in respect of any goods or compensating products that became damaged, destroyed, lost or unaccounted for as a result of the accident; and
- (b) Compliance with this rule does not exempt a carrier from compliance with sections 542(1) and 549(1) of the Control Act, read with rules 25.1 and 25.7, the obligation to submit a second phase notification referred to in rule 25.1(2)(b) or 25.7(2)(b) in respect of any goods or compensating products that became damaged, destroyed, lost goods or unaccounted for as a result of the accident.

Reporting of accidents involving vessels or aircraft not operated by carriers

25.15 (1) The owner, on-board operator or a crew member of a foreign-going vessel or aircraft not operated by a carrier that has stranded, crashed or become lost in the Republic must, in circumstances where it is possible for the owner, on-board operator or crew member to do so,⁶⁵⁵ report the incident to the customs authority within 24 hours.

(2) A report referred to in subrule (1) must be submitted either electronically, by fax, by hand delivery or in any other way available in the circumstances to the owner, on-board operator or crew member.

(3) A law enforcement or rescue agency involved in recovery operations at the site of, or in respect of, the incident must without delay notify the customs authority of the incident.

- (4) A report referred to in subrule (1) must state –
- (a) the identity document or passport number of the owner, on-board operator or crew member submitting the report;
- (b) the coordinates or other details of the place where the incident occurred;

⁶⁵⁵ This requirement obviously does not apply in circumstances where it is impossible for the owner, on-board operator or crew member to notify the customs authority, for instance where the owner, on-board operator and crew members are injured or have perished.

- (c) the date and approximate time when the incident occurred;
- (d) the nature, circumstances and time of the incident; and
- (e) whether a law enforcement agency has secured the site.

Part 5: Wreck

Application of this Part to licensed searchers of or for abandoned wreck

25.16 (1) This Part does not apply to abandoned wreck found or recovered by a person who is a licensed searcher of or for abandoned wreck.

(2) The licence issued to a searcher of or for abandoned wreck⁶⁵⁶ must be regarded to be permission contemplated in section 557(1) of the Control Act to remove abandoned wreck to the extent that such removal is permitted by and carried out in accordance with that person's license conditions.

Inventory of wreck originating from stranded or sunken vessels or crashed aircraft (section 558(c))

25.17 (1) The carrier operating a vessel or aircraft referred to in rule **25.13**(a) or (b) that has stranded, sunk or crashed, must compile an inventory of all wreck originating from the vessel or aircraft that was recovered from the site where the vessel stranded or sunk or the aircraft crashed, distinguishing, insofar as this is possible, between wreck that consists of –

- (a) the vessel or aircraft itself or its remains; and
- (b) cargo and other goods⁶⁵⁷ that were on board the vessel or aircraft when it stranded, sunk or crashed.

(2) In the case of cargo and goods referred to in subrule (1)(b), the inventory must distinguish between damaged and undamaged goods.

(3) If a stranded vessel is re-floated and resumes its voyage either under its own power or on tow by another vessel, an inventory referred to in subrule (1)

⁶⁵⁶ See rule **29.8**.

⁶⁵⁷ Such as fuel and other stores.

must be compiled only in relation to any cargo and other goods removed from the vessel during the recovery operation.

(4) **An inventory compiled in terms of this rule must support a second phase notification submitted in terms of rule 25.1(2)(b) or 25.7(2)(b).** (a) ~~The carrier must within three calendar days after submission of the report referred to in rule 25.14 submit the inventory to the customs authority electronically through eFiling,⁶⁵⁸ subject to paragraphs (b) and (c).~~

~~(b) If the carrier submits notification referred to in rule 25.1 the inventory must accompany that notification.~~

~~(c) If an inventory is submitted to the customs authority in paper format in circumstances where submissions in paper format are permissible,⁶⁵⁹ the inventory must be submitted –~~

~~(i) on Form... as published as a rule on the SARS website for that purpose; and~~

~~(ii) to the Customs Office nearest to the place where the incident occurred.~~

(5) Compliance with this rule does not exempt a carrier from compliance with sections 542 and 549 of the Control Act, read with rules 25.1 and 25.7, in relation to goods that became damaged, destroyed, lost goods or unaccounted for as a result of the incident.

Procedures for dealing with wreck originating from stranded **or sunken vessels or crashed aircraft (section 557(4))**

25.18 (1) The carrier that operated a vessel or aircraft referred to in rule 25.13(a) or (b) that has stranded, **sunken** or crashed must in collaboration with any law enforcement agencies present at the site where the incident occurred –

(a) take all reasonable steps to ensure that no wreck consisting of goods with a commercial value is illegally removed from the vessel or aircraft or from the site; and

(b) remove wreck which has a commercial value that was recovered from the stranded **or sunken** vessel or crashed aircraft to a state warehouse or any

⁶⁵⁸ ~~The purpose of this report is to enable Customs to take immediate action as may be necessary and to send out officers to the site where the incident occurred to perform inspections and to take control of the movement of goods.~~

⁶⁵⁹ ~~See section 913(4) of the Control Act.~~

licensed premises determined by the customs authority in terms of section 570(3) or 580(1)(b) **of the Control Act**, as the case may be.

- (2) Subrule (2)(b) does not apply to wreck consisting of goods that –
- (a) remain on a stranded vessel if the vessel is re-floated and resumes its voyage either under its own power or on tow by another vessel, and in such a case the goods may only be off-loaded at a place of entry or another place approved by the customs authority; or
 - (b) can clearly be identified as goods in free circulation, and in such a case the carrier must deal with those goods in terms of its contract of carriage.

- (3) Imported goods on board a vessel referred to in rule (2)(a) that is off-loaded at –
- (a) a place of entry, must be dealt with in accordance with section 89; or
 - (b) any other place referred to in that subrule, must be removed to a state warehouse or any licensed premises determined by the customs authority in terms of section 570(3) or 580(1)(b), as the case may be.

- (4) Any goods under a customs procedure on board a vessel referred to in rule (2)(a) that is off-loaded at –
- (a) a place of entry –
 - (i) in the case of goods under the export procedure or a procedure that allows the export of goods under that procedure, remains under that procedure until the goods are exported; or
 - (ii) in the case of goods under any other customs procedure, remains under that procedure until cleared for another permissible customs procedure or for home use; or
 - (b) any other place referred to in that subrule, must be removed to a state warehouse or any licensed premises determined by the customs authority in terms of section 570(3) or 580(1)(b), as the case may be.

- (5) Prohibited and restricted goods, whether damaged or undamaged, must be dealt with in accordance with Chapter 35 of the Control Act.

Notification by persons who obtain possession of wreck by chance⁶⁶⁰ (section 557(2))

25.19 (1) A notification submitted in terms of section 557(2) of the Control Act by a person in possession of wreck must reflect –

- (a) that person's name and customs code or, if that person does not have a customs code, the information specified in rule 41.33E ~~contact details and identity or passport number~~;
- (b) the best description that can be given of the wreck, which must include –
 - (i) if it consists of apparent commercial goods, the class or kind of goods and approximate quantity; or
 - (ii) if it is a container, the number on the container;
- (c) the place where, and the circumstances in which, the wreck was found; and
- (d) if the wreck was removed for preservation or safe-keeping, the place to which it was removed.⁶⁶¹

(2) A notification referred to in subrule (1) must in accordance with section 557(2)(a) be submitted to the nearest Customs Office within 48 hours after the wreck was found. The submission must be submitted by hand, fax or e-mail on Formas published as a rule on the SARS website for this purpose.

(3) Subrules (1) and (2) do not apply to a person in possession of wreck if that person is the carrier who operated the vessel or aircraft from which the wreck originated or a person appointed by that carrier to take charge of any recovery operations.

Right of carriers to restore their possession of wreck found or removed by other persons (sections 557(4) and 558(c))

⁶⁶⁰ Note that "wreck" is per definition not only the remains of a stranded or sunken vessel or crashed aircraft, but includes any part of the vessel or aircraft and any goods that are or were on the vessel or aircraft or that were strewn around or washed away. It also includes goods that fell overboard from a vessel during a voyage and washed up on the beach.

⁶⁶¹ Note that wreck may in terms of section 557(1) of the Control Act be moved for preservation or safe-keeping purposes without customs permission.

25.20 (1) The carrier who operated a vessel or aircraft referred to in rule **25.13(a)** or (b) that has stranded, **sunk** or crashed or from which any goods were lost on its voyage is entitled, unless the customs authority determines otherwise –

- (a) to take possession of any wreck originating from that vessel or aircraft that was found by or is in the possession of or was removed by any other person; and
- (b) to deal with that wreck as part of the goods –
 - (i) recovered at that site; or
 - (ii) which were on board the vessel or aircraft during its voyage.

(2) If the carrier has appointed a person to take charge of any recovery at the site of a stranded **or sunken** vessel or crashed aircraft or to recover any goods that were lost on the vessel or aircraft's voyage, that person may exercise the rights referred to in subrule (1) on behalf of the carrier.

Part 6: General

Obligations of carriers not located in Republic

25.21 Where in this Chapter an obligation to comply with a requirement or to exercise a right⁶⁶² is conferred on a carrier, that obligation must be complied with or that right may be exercised, in the case of a carrier who is not located in the Republic, either by the carrier or that carrier's registered agent in the Republic.

⁶⁶² See rule **25.20**.

CHAPTER 26
ABANDONMENT OF GOODS TO COMMISSIONER AND DESTRUCTION OF
GOODS UNDER CUSTOMS SUPERVISION

Part 1: Abandonment of goods to Commissioner

Application for permission to abandon goods to Commissioner⁶⁶³ (section 562)

26.1 (1) (a) An application referred to in section 562(1) of the Control Act must be submitted to the customs authority electronically through eFiling, subject to ~~paragraph (b)~~ **rule 41.33A**.

(b) If an application referred to in paragraph (a) is submitted to the customs authority **in terms of rule 41.33A** in paper format, ~~in circumstances where submissions in paper format are permissible,~~⁶⁶⁴ the **application submission** must be **submitted** –

~~(i) on Form as published as a rule on the SARS website; and~~

~~(ii) made~~ to the Customs Office serving the area where the goods in respect of which abandonment is applied for, are located.

(2) An application referred to in subrule (1) must in addition to the information referred to section 562(2)(a) to (d), reflect **the following information:**

(a) The **name and** customs code of the applicant;

(b) if the application is submitted by a customs broker, registered agent or ordinary representative on behalf of the applicant, the information specified in rule 41.33D;⁶⁶⁵

⁶⁶³ The abandonment of goods in cases where the goods have no value or where the income generated by the sale of the goods is not likely to exceed the expenses in connection with the sale thereof, would probably not be in the best interest of the state as contemplated in section 563(a) of the Control Act, and in such cases applicants should rather consider an application in terms of rule 26.4 for the destruction of the goods.

⁶⁶⁴ ~~See section 913(4) of the Control Act.~~

⁶⁶⁵ **If the application is submitted on behalf of the applicant by an ordinary representative in terms of section 920 of the Control Act, Part 6 of Chapter 41 of these Rules will apply. Note that the said Part 6 applies only to ordinary representatives which per definition excludes persons submitting documents as customs brokers or registered agents. It follows that Part 6 does not apply to customs brokers or registered agents who submit documents in that capacity.**

- (c) ~~the current location of the goods, indicated by~~ the customs code of the ~~licensed~~ premises where the goods are or, if those premises do not have a customs code, the physical address of those premises;
- (d) if the goods have been cleared, the movement reference number of ~~any~~ the clearance declaration submitted in respect of the goods; ~~and~~
- (e) in the case of damaged goods or salvaged parts or materials of destroyed goods, the reference number of any notification submitted in terms of rule 25.1 or 25.7 in respect of the goods damaged or destroyed; ~~and~~
- (f) whether, in case of refusal of the application, the applicant opts for destruction of the goods under customs supervision, and if so, whether the applicant has any intention to utilise any remaining scrap or waste after the destruction.

(3) An application referred to in subrule (1) must be supported by –

- (a) any invoice issued in respect of the goods; and
- (b) any transport document ~~that had been~~ issued in respect of the goods.

(4) A supporting documents referred to in subrule (3) must ~~if the customs authority so requests within the timeframe indicated in the request~~ be submitted to the customs authority on request electronically through eFiling, subject to ~~paragraph (b)~~ and in accordance with Part 7 of Chapter 41 of these Rules.

~~(b) — If a supporting document referred to in paragraph (a) is submitted to the customs authority in paper format in circumstances where submissions in paper format are permissible,⁶⁶⁶ the submission must be to the Customs Office where the application had been submitted, or to another Customs Office indicated in the request.~~

Additional information to be reflected on abandonment notices (*section 564(2)(c)*)

26.2 In addition to the information referred to in section 564(2)(a) and (b) of the Control Act, an abandonment notice must reflect the physical address of the state warehouse or place of safety to which the goods must be removed as determined by the customs authority in terms of section 565(c)(i).

⁶⁶⁶ ~~See section 913(4) of the Control Act.~~

Consequences of refusal of application for abandonment (*section 566*)

26.3 ~~If after the refusal of an application referred to in rule 26.1, and the applicant opts for destruction of the goods the goods must be destroyed under customs supervision in accordance with any requirements as the customs authority may determine.~~

(1) If the customs authority refuses an application submitted in terms of rule 26.1 and the applicant has in terms of rule 26.1(2)(g) opted for the destruction of the goods if the application is refused -

(a) the goods must be destroyed under customs supervision as if the applicant has submitted an application in terms of rule 26.4 that has been approved by the customs authority;

(b) the cost of destruction of the goods and any costs incidental thereto must be borne by the applicant; and

(c) the applicant must be regarded to have given the undertakings referred to in rule 26.4(2)(h) and (j).

(2) If the customs authority refuses an application submitted in terms of rule 26.1 and the applicant has not in terms of rule 26.1(2)(g) opted for the destruction of the goods if the application is refused, the goods must -

(a) if not cleared, be cleared for home use or a permissible customs procedure; or

(b) if already cleared for home use or a permissible customs procedure, continue to be dealt with in terms of the relevant clearance.

Part 2: Destruction of goods under customs supervision

Application to destroy goods under customs supervision (*section 567*)

26.4 (1) (a) An application referred to in section 567(1) of the Control Act must be submitted to the customs authority electronically through eFiling, subject to paragraph (b) **rule 41.33A**.

(b) If an application referred to in paragraph (a) is submitted to the customs authority **in terms of rule 41.33A** in paper format, ~~in circumstances where~~

submissions in paper format are permissible,⁶⁶⁷ the application submission must be submitted –

(i) on Form ... as published as a rule on the SARS website; and

(ii) made to the Customs Office serving the area where the goods in respect of which destruction is applied for, are located.

(2) An application referred to in subrule (1) must reflect the following information:

(a) The name and customs code of the applicant;

(b) if the application is submitted by a customs broker, registered agent or ordinary representative on behalf of the applicant, the information specified in rule 41.33D;⁶⁶⁸

(c) the current location of the goods, indicated by the customs code of the licensed premises where the goods are or, if those premises do not have a customs code, the physical address of those premises;

(d) if the goods have been cleared, the movement reference number of any the clearance declaration submitted in respect of the goods;

(e) if the goods have not been cleared, a description of the goods in sufficient detail to identify the goods;

(f) in the case of damaged goods or salvaged parts or materials of destroyed goods, the reference number of any notification submitted in terms of rule 25.1 or 25.7 in respect of the goods damaged or destroyed;

(g) a description of the method of destruction;⁶⁶⁹

(h) an undertaking to pay any costs in connection with the destruction of the goods;

(i) in respect of customs supervision for the destruction of the goods⁶⁷⁰ –

(i) the date and time when the special customs service⁶⁷¹ is required;

⁶⁶⁷ See section 913(4) of the Control Act.

⁶⁶⁸ If the application is submitted on behalf of the applicant by an ordinary representative in terms of section 920 of the Control Act, Part 6 of Chapter 41 of these Rules will apply. Note that the said Part 6 applies only to ordinary representatives which per definition excludes persons submitting documents as customs brokers or registered agents. It follows that Part 6 does not apply to customs brokers or registered agents who submit documents in that capacity.

⁶⁶⁹ The method of destruction must adhere to any applicable legislation relating to the protection of the environment and health and safety.

⁶⁷⁰ Note that a separate application for the provision of special customs services in terms of rule 1.3 is not required in this case.

⁶⁷¹ See definition of “special customs service” in rule 1.1.

- (ii) the approximate duration of the special customs service;
 - (iii) the place where the special customs service is required; and
 - (iv) the number of customs officers required; ~~and~~
- (j) an undertaking to pay costs associated with the provision of special customs services provided in connection with the destruction of the goods; ~~and~~
- (k) whether the applicant has any intention to utilize any waste or scrap remaining after destruction.**

- (3) An application referred to in subrule (1) must be supported by –
- (a) a ~~motivation~~ **statement setting out the reason** for the application to destroy the goods;
 - (b) any invoice issued in respect of the goods;
 - (c) any transport document issued in respect of the goods;** and
 - (d) a motivation of the attendance of more than one customs officer, if the attendance of more than one customs officer is required.

(4) ~~A~~ **supporting documents** referred to in subrule (3) must ~~if the customs authority so requests within the timeframe indicated in the request~~ be submitted to the customs authority **on request electronically through eFiling**, subject to ~~paragraph (b)~~ **and in accordance with Part 7 of Chapter 41 of these Rules.**

~~(b) If a supporting document referred to in paragraph (a) is submitted to the customs authority in paper format in circumstances where submissions in paper format are permissible,⁶⁷² the submission must be made to the Customs Office where the application had been submitted, or to another Customs Office indicated in the request.~~

Requirements for Destruction of goods under customs supervision (*section 567(3)*)

26.5 (1) If an application referred to in rule **26.4** is approved by the customs authority, the goods must be destroyed on the date indicated by the customs authority in an approval notice issued to the applicant.

⁶⁷² ~~See section 913(4) of the Control Act.~~

(2) The cost of ~~the~~ destruction of the goods and any costs incidental thereto must be borne by the applicant ~~owner of the goods~~.

Timeframe for clearance of waste or scrap remaining after ~~the~~ destruction of goods (*section 567(4)(a)*)

26.6 The timeframe for purposes of section 567(4)(a) is three working days after the date of destruction of the goods.⁶⁷³

⁶⁷³ This timeframe is subject to section 908 of the Control Act.

CHAPTER 27

STATE WAREHOUSES

Definitions

27.1 In this Chapter, unless the context otherwise indicates –

“**freight ton**”, for purposes of calculating state warehouse rent, means a unit of measurement equal to either one metric ton (1000kg) or one cubic meter, depending on whichever of the two yields the greatest amount of revenue when multiplied with the rate prescribed in rule **27.24(2)**, and, for purposes of this definition, any fraction of a metric ton or a cubic metre must be regarded as a whole metric ton or cubic metre, as the case may be;

“**goods description**”, in relation to goods to be described in a notice, notification or application submitted in terms of this Chapter, includes the following information relating to the goods to the extent that that information is available to the person submitting the notice, notification or application:

- (a) In the case of break bulk goods –
 - (i) the tariff classification or a description of the ~~content of~~ **class or kind** of goods in the packages;
 - (ii) the type, quantity and weight of the packages; and
 - (iii) any marks and numbers on the packages;
- (b) in the case of containerised goods –
 - (i) the container numbers;
 - (ii) the number of containers;
 - (iii) the weight and volume of the containers; and
 - (iv) the tariff classification or a description of the ~~type~~ **class or kind** of goods in each container;
- (c) in the case of bulk goods –
 - (i) the tariff classification or a description of the ~~type~~ **class or kind** of goods; and
 - (ii) the weight or volume of the goods;
- (d) in the case of a vehicle, whether containerised or not –

- (i) the make and model;
 - (ii) the year of manufacture;
 - (iii) the odometer reading;
 - (iv) the engine number;
 - (v) the vehicle identification number (VIN) or chassis number; and
 - (vi) the registration number; and
- (e) in the case of baggage of a person entering or leaving the Republic, any names and other personal details indicated on the baggage items;

“recording state warehouse”, in relation to goods -

- (a) retained at or removed to licensed premises other than a state warehouse under a direction or authorisation issued in terms of section 580(1)(a) or (b), the state warehouse in the accounting records of which those goods must be recorded for state warehousing purposes in terms of section 580(3); **or**
- (b) redirected under a permission granted in terms of section 574 or 584, the state warehouse in the accounting records of which those goods must be recorded for state warehousing purposes in terms of rule 27.3(3);

“state warehouse inventory code”, in relation to goods in or accounted for in a state warehouse, means a unique identifying code assigned by the customs officer or licensee in charge of a state warehouse to goods received in or accounted for in that warehouse for purposes of –

- (a) inventory control; and
- (b) facilitating the keeping and retrieval of records in respect of the goods to which it relates;

“state warehousing”, in relation to goods that are or have become subject to Chapter 27 of the Control Act, means the storage of such goods –

- (a) in a state warehouse referred to in section 570(3); **or**
- (b) on any licensed premises referred to in section 580(1)(a) or (b) as if the goods were removed to a state warehouse; **or**
- (c) on any premises to which the goods were redirected under a permission granted in terms of section 574 or 584.

Part 1: Removal of goods to state warehouses⁶⁷⁴

Removal notices by persons in physical control of goods to be removed to state warehouses (section 571)

27.2 (1) (a) If goods are to be removed to a state warehouse in compliance with section 570(1)⁶⁷⁵ or a direction issued in terms of section 570(2) of the Control Act, the person referred to in section 571 must submit the removal notice contemplated in that section ~~electronically through eFiling~~ to the customs officer or licensee in charge of the warehouse determined in terms of section 570(3) to which the goods must be removed.

~~(b) A removal notice referred to in paragraph (a) must be submitted~~

~~:~~

~~(i) electronically through eFiling subject to section 913(4), if the goods must be removed to a state warehouse operated by the Commissioner; or~~

~~(ii) by email, tefax or hand delivery, if the goods must be removed to a licensed state warehouse notice.~~

~~(b) If a removal notice referred to in paragraph (a) is submitted in paper format in circumstances where submissions in paper format are permissible,⁶⁷⁶ the notice must be~~

~~(i) on Form... as published as a rule on the SARS website for this purpose; and~~

~~(ii) submitted to the relevant state warehouse to which the goods must be removed.~~

(2) A removal notice referred to in subrule (1)⁶⁷⁷ must reflect the following information:

(a) The name and customs code of the person ~~submitting the notice~~ that must remove the goods to the state warehouse or, if that person does not have a customs code, the information specified in rule 41.33E(1);

⁶⁷⁴ Note that this Part complements Part 2 of Chapter 27 of the Control Act, in other words, where goods are actually removed to state warehouses.

⁶⁷⁵ In terms of section 570(1) of the Control Act the duty to remove the goods to a state warehouse falls on the licensee in physical control of the goods.

⁶⁷⁶ See section 913(4) of the Control Act.

⁶⁷⁷ Note that section 571(2) of the Control Act requires the person submitting the removal notice to attach to the notice all supporting documents concerning the goods that are in the possession of that person.

- (b) if the notice is submitted by a customs broker, registered agent or ordinary representative on behalf of the person referred to in paragraph (a), the information specified in rule 41.33D;⁶⁷⁸
- (c) the customs code of the state warehouse to which the goods are to be removed;
- (d) the estimated date on and time at which the of delivery of the goods are expected to arrive at the state warehouse;
- (e) the name or customs code of the carrier or other person that will deliver the goods;
- (f) whether the goods are removed to the state warehouse in compliance with section 570(1) or a direction issued in terms of section 570(2) and, if in terms of a direction, the reference number of the direction;
- (g) the goods description;⁶⁷⁹
- (h) the condition of the goods;
- (i) whether the goods are dangerous goods and, if so, the UN Dangerous Goods Code applicable to the goods, or any warning markings on the goods;
- (j) whether there are any special storage requirements in relation to the goods;
- (k) in the case of perishable goods, any indicated expiry date;
- (l) in the case of goods that have been cleared, the movement reference number⁶⁸⁰ of the clearance declaration issued submitted in relation to the goods;
- (m) in the case of goods that have not been cleared, the transport document number of the transport document issued in respect of the goods; and
- (n) whether, to the knowledge of the person submitting the notice referred to in paragraph (a) –
- (i) there are any charges outstanding in respect of the goods at the time of submission of the notice; or
 - (ii) the goods are the subject of any legal proceedings; and
- (o) the reason why the goods have become subject to state warehousing.

⁶⁷⁸ If the notice is submitted in terms of section 920 of the Customs Control Act by an ordinary representative on behalf of the person notifying, the notification must comply with the additional requirements set out in Part 6 of Chapter 41 of these Rules. Note that the said Part 6 applies only to ordinary representatives which per definition excludes persons submitting documents as customs brokers or registered agents. It follows that Part 6 does not apply to customs brokers or registered agents that submit notices on behalf of persons in that capacity.

⁶⁷⁹ See definition of “goods description” in rule 27.1

⁶⁸⁰ See definition of “movement reference number” in rule 1.1

(3) All supporting documents relating to the goods that are in the possession of the person referred to in section 571 submitting the notice must be submitted together with the notice to the customs officer or licensee in charge of the state warehouse to which the goods are removed. Part 7 of Chapter 41 of these Rules applies to the submission of supporting documents in terms of this subrule to the customs officer in charge of the warehouse to which the goods are removed.

(4) A supporting document referred to in subrule (3) must -

- (i)** if the goods are removed to a state warehouse operated by the Commissioner, be submitted to the customs officer in charge of the warehouse subject to and in accordance with Part 7 of Chapter 41 of these Rules; or
- (ii)** if the goods are removed to a licensed state warehouse, be submitted to the licensee of the warehouse by email, telefax or hand delivery.

Unpacking of containers containing goods of different consignors or consignees

27.6 (1) If a consignment of goods packed into a container is to be removed to a state warehouse in compliance with section 570(1) or a direction issued in terms of section 570(2) of the Control Act and that container also contains a consignment of goods not affected by section 570(1) or that direction –

- (a)** the affected consignment must be removed from the container for removal to the state warehouse; and
- (b)** the unaffected consignment in the container must be allowed to proceed in accordance with the Control Act.

(2) If subrule (1) applies, the affected ~~consignment may be removed from the container at the terminal or the~~ container ~~may~~ **must** be removed to a container depot for such removal.

Hours for delivery of goods to state warehouses

27.7 Goods may be delivered to a state warehouse only during –

- (a) the hours of attendance determined in terms of section 14 of the Control Act for the warehouse, in the case of a delivery to a state warehouse operated by the Commissioner; or
- (b) the ordinary business hours of the state warehouse, in the case of a delivery to a licensed state warehouse.

Part 2: Retention of goods at, or removal of goods to, licensed premises other than state warehouses⁶⁸¹

Application for authorisation to retain or remove goods for state warehousing purposes on or to licensed premises other than state warehouses (section 580(1))

27.8 (1) A licensee or other person in physical control of goods referred to in section 580(1) of the Control Act may in accordance with this rule apply for authorisation contemplated in that section –

- (a) to retain the goods for state warehousing on the licensed premises where the goods are currently located; or
- (b) to remove the goods for state warehousing to licensed premises other than a state warehouse.

(2) (a) An application for authorisation referred to in subrule (1) must be submitted to the customs authority electronically through eFiling, subject to ~~paragraph (b)~~ **rule 41.33A**.

(b) If an application referred to in paragraph (a) is submitted to the customs authority **in terms of rule 41.33A** in paper format, ~~in circumstances where submissions in paper format are permissible,~~⁶⁸² the application must be –

- ~~(i) on Form..... as published as a rule on the SARS website for this purpose;~~
- and**
- ~~(ii) submitted to the Customs Office serving the licensed premises where the goods are to be state warehoused.~~

⁶⁸¹ Note that this Part complements Part 3 of Chapter 27 of the Control Act; in other words, where goods are removed to licensed premises as if those premises were state warehouses.

⁶⁸² ~~See section 913(4) of the Control Act.~~

(3) An application referred to in subrule (2) must reflect the following information:

- (a) The name and customs code of the applicant ~~person submitting the application;~~
- (b) if the application is submitted by a customs broker or ordinary representative on behalf of the applicant, the information specified in rule 41.33D;⁶⁸³
- (c) whether section 570(1) applies to the goods or whether a direction in terms of section 570(2) was issued in relation to the goods and, if a direction was issued, the reference number of the direction;
- (d) the customs code of the licensed premises where the goods are to be retained or to which the goods are to be removed; ~~the applicant is applying to~~
 - ~~(i) retain the goods; or~~
 - ~~(ii) remove the goods to;~~
- (e) the goods description;⁶⁸⁴
- (f) whether the goods are dangerous goods and, if so, the UN Dangerous Goods Code applicable to the goods, or any warning markings on the goods;
- (g) whether there are any special storage requirements in relation to the goods;
- (h) in the case of perishable goods, any indicated expiry date;
- (i) in the case of goods that have been cleared, the movement reference number⁶⁸⁵ of the clearance declaration submitted ~~issued~~ in relation to the goods;
- (j) in the case of goods that have not been cleared, the transport document number of the transport document issued in respect of the goods;
- (k) the reason why section 570(1) or (2) became applicable to the goods;
- (l) the reason why the goods are –
 - (i) to be retained on those premises; or
 - (ii) to be removed to other licensed premises other than a state warehouse; and

⁶⁸³ If the application is submitted on behalf of the applicant by an ordinary representative in terms of section 920 of the Control Act, Part 6 of Chapter 41 of these Rules will apply. Note that the said Part 6 applies only to ordinary representatives which per definition excludes persons submitting documents as customs brokers. It follows that Part 6 does not apply to customs brokers who submit documents on behalf of applicants in that capacity.

⁶⁸⁴ See definition of “goods description” in rule 27.1

⁶⁸⁵ See definition of “movement reference number” in rule 1.1.

- (m) whether, to the knowledge of the applicant –
- (i) there are any charges outstanding in respect of the goods at the time of submission of the application; and
 - (ii) the goods are the subject of any legal proceedings.

(4) The reason referred to in subrule (3)(k) or (l) may be motivated in a separate supporting document submitted together with the application subject to and in accordance with Part 7 of Chapter 41 of these Rules.

Submission of retention notices by persons licensees in physical control respect of goods to be retained on licensed premises (section 581(2))

27.9 (1) (a) If goods are in compliance with a direction or under authority of an authorisation issued in terms of section 580(1)(a) of the Control Act to be retained for state warehousing purposes on any licensed premises where the goods are currently located, the licensee of those premises must submit a notice of retention of the goods on those premises electronically, through eFiling subject to section 913(4), to the customs officer in charge of the recording state warehouse together with all supporting documents concerning those goods which are in the possession of the licensee of those premises.

(b) — If a retention notice referred to in paragraph (a) is submitted in paper format in circumstances where submissions in paper format are permissible,⁶⁸⁶ the notice must be submitted to the recording warehouse on Form..... as published as a rule on the SARS website for this purpose.

(2) A retention notice referred to in subrule (1) must reflect the following information:

- (a) The name of the licensee of the licensed premises where the goods are to be retained and contact details, or the customs code of those premises person submitting the notice;

⁶⁸⁶ See section 913(4) of the Control Act.

- (b) if the notice is submitted by a customs broker or ordinary representative on behalf of the licensee, the information specified in rule 41.33D;⁶⁸⁷
- (c) the reference number of the section 580(1) authorisation authorising or direction directing the retention of the goods on ~~the licensed~~ those premises ~~where the goods are currently located~~;
- (d) whether section 570(1) applies to the goods or whether a direction in terms of section 570(2) was issued in relation to the goods and, if a direction was issued, the reference number of that direction;
- (e) the goods description;⁶⁸⁸
- (f) the condition of the goods;
- (g) whether the goods are dangerous goods and, if so, the UN Dangerous Goods Code applicable to the goods, or any warning markings on the goods;
- (h) whether there are any special storage requirements in relation to the goods;
- (i) in the case of perishable goods, any indicated expiry date;
- (j) in the case of goods that have been cleared, the movement reference number⁶⁸⁹ of any clearance declaration issued in relation to the goods;
- (k) ~~in the case of goods that have not been cleared,~~ the transport document number ~~of the transport document issued in respect of the goods~~;
- (l) the reason why section 570(1) or (2) became applicable to the goods; and
- (m) whether, to the knowledge of the person ~~submitting the notice~~ referred to in paragraph (a) –
- (i) there are any charges outstanding in respect of the goods at the time of submission of the notice; or
 - (ii) the goods are the subject of any legal proceedings.
- (3) ~~A retention notice referred to in this rule must be accompanied by~~ All supporting documents relating to the goods that are in the possession of the ~~person~~

⁶⁸⁷ If the notice is submitted in terms of section 920 of the Customs Control Act by an ordinary representative on behalf of the licensee, the notice must comply with the additional requirements set out in Part 6 of Chapter 41 of these Rules. Note that the said Part 6 applies only to ordinary representatives which per definition excludes persons submitting documents as customs brokers. It follows that Part 6 does not apply to customs brokers that submit notices on behalf of licensees in that capacity.

⁶⁸⁸ See definition of “goods description” in rule 27.1

⁶⁸⁹ See definition of “movement reference number” in rule 1.1

licensee submitting the notice must be submitted together with the notice to the customs officer in charge of the recording state warehouse, subject to and in accordance with Part 7 of Chapter 41 of these Rules.

Submission of removal notices by persons in physical control of goods to be removed to licensed premises other than state warehouses (section 581(1))

27.10 (1) (a) If goods are in compliance with a direction or under authority of an authorisation issued in terms of section 580(1)(b) of the Control Act to be removed to licensed premises other than a state warehouse, the licensee or other person referred to in section 581 in physical control of the goods must submit the removal notice referred to in section 581(a) electronically through eFiling to –

- (i) the licensee of the premises to which the goods are removed; and
- (ii) the customs officer in charge of the recording state warehouse.

(b) A removal notice referred to in paragraph (a) must be submitted

:

(i) by email, tefax or hand delivery to the licensee of the premises to which the goods are removed; and

(ii) electronically through eFiling, subject to section 913(4), to the customs officer in charge of the recording state warehouse.

~~(b) If a removal notice referred to in paragraph (a) is submitted in paper format in circumstances where submissions in paper format are permissible,⁶⁹⁰ the notice must be~~

~~(i) on Form..... as published as a rule on the SARS website for this purpose; and~~

~~(ii) submitted to the business address of the licensee of the premises to which the goods must be removed in terms of the direction or authorisation.⁶⁹¹~~

(2) A removal notice referred to in subrule (1) must reflect the following information:

⁶⁹⁰ ~~See section 913(4) of the Control Act.~~

⁶⁹¹ Note that a copy of the removal notice, together with all supporting documents, must in terms of section 581(b) be submitted to the state warehouse in which the goods must in terms of section 580(3) be recorded for state warehousing purposes.

- (a) the name and ~~contact details, or~~ customs code of the person ~~submitting the notice~~ that will remove the goods or, if that person does not have a customs code, the information specified in rule **41.33E(1)**;
- (b) if the notification is submitted by a customs broker, registered agent or ordinary representative on behalf of the person referred to in paragraph (a), the information specified in rule **41.33D**;⁶⁹²
- (c) the customs code of the licensed premises to which the goods will be removed;
- (d) the reference number of the **section 580(1)** authorisation authorising **or direction directing** the removal of the goods to those premises;
- (e) whether section 570(1) applies to the goods or whether a direction in terms of section 570(2) was issued in relation to the goods and, if a direction was issued, the reference number of the direction;
- (f) the **estimated** date **on** and time **at which the** **of delivery of the** goods **are expected to arrive** at the licenced premises to which the goods are removed;
- (g) the **name or** customs code of the carrier or other person that will **deliver transport** the goods;
- (h) the goods description;⁶⁹³
- (i) the condition of the goods;
- (j) whether the goods are dangerous goods and, if so, the UN Dangerous Goods Code applicable to the goods, or any warning markings on the goods;
- (k) whether there are any special storage requirements in relation to the goods;
- (l) in the case of perishable goods, any indicated expiry date;
- (m) in the case of goods that have been cleared, the movement reference number⁶⁹⁴ of the clearance declaration **issued submitted** in relation to the goods;
- (n) **in the case of goods that have not been cleared,** the transport document number; **and**

⁶⁹² If the notice is submitted in terms of section 920 of the Customs Control Act by an ordinary representative on behalf of the person that must remove the goods, the notice must comply with the additional requirements set out in Part 6 of Chapter 41 of these Rules. Note that the said Part 6 applies only to ordinary representatives which per definition excludes persons submitting documents as customs brokers and registered agents. It follows that Part 6 does not apply to customs brokers and registered agents that submit notifications on behalf of such persons in that capacity.

⁶⁹³ See definition of "goods description" in rule 27.1

⁶⁹⁴ See definition of "movement reference number" in rule 1.1

- (o) whether, to the knowledge of the person ~~submitting the notice~~ referred to in paragraph (a) –
- (i) there are any charges outstanding in respect of the goods at the time of submission of the notice; ~~and~~ or
 - (ii) the goods are the subject of any legal proceedings; ~~and~~ and
- (p) the reason why section 570(1) or (2) became applicable to the goods.

(3) All supporting documents relating to the goods that are in the possession of the person referred to in subrule (2)(a) must be submitted together with the notice, subject to and in accordance with Part 7 of Chapter 41 of these Rules, to the customs officer in charge of the recording state warehouse.

Unpacking of containers containing goods of different consignors or consignees

27.14 (1) If a consignment of goods packed in a container is to be removed in compliance with a direction or under authority of an authorisation of the customs authority in terms of section 580(1)(b) of the Control Act to any licensed premises other than a state warehouse and that container also contains a consignment of goods not affected by that direction or authorisation –

- (a) the affected consignment must be removed from the container for removal to those premises; and
- (b) the unaffected consignment in the container must be allowed to proceed in accordance with the Control Act.

(2) If subrule (1) applies, the affected ~~consignment may be removed from the container at the terminal or the~~ container ~~may~~ must be removed to a container depot for such removal.

~~Hours for delivery of goods to licensed premises other than state warehouses~~

~~**27.15** — Goods may be delivered for state warehousing purposes to licensed premises referred to in section 580(1) of the Control Act only during the ordinary business hours of those premises.~~

Part 3: Redirection of goods to be removed to state warehouses or authorised licensed premises

Application for permission to redirection of goods to other places intended for removal to state warehouses (section 574)

27.3 If a person intends to redirect goods in terms of section 574 of the Control Act to a place other than the state warehouse determined in terms of section 570(3), that person must in accordance with rule 4.17 apply to the customs authority for permission for the redirection of goods to that other place.

(1) (a) An application for permission contemplated in section 574 or 584 of the Control Act to redirect the transport of goods to a place other than the state warehouse determined in terms of section 570(3) or the licensed premises determined in terms of section 580(1)(b), must, before the goods are redirected to that other place, be submitted to the customs authority electronically through eFiling, subject to rule 41.33A.

(b) If an application referred to in paragraph (a) is submitted to the customs authority in terms of rule 41.33A in paper format, the application must be submitted to the Customs Office that serves the area where the goods are.

(2) An application referred to in subrule (1) must reflect the following information:

(a) The name and customs code of the licensee or other person in physical control of the goods applying for the permission;

(b) if the application is submitted by a customs broker or ordinary representative on behalf of the applicant, the information specified in rule 41.33D;⁶⁹⁵

(c) whether section 570(1) applies to the goods or whether a direction in terms of section 570(2) was issued in relation to the goods and, if a direction was issued, the reference number of the direction;

(d) whether a direction or authorisation in terms of section 580(1)(b) was issued in relation to the goods and, if so, the reference number of the direction or authorisation;

⁶⁹⁵ If the application is submitted on behalf of the applicant by an ordinary representative in terms of section 920 of the Control Act, Part 6 of Chapter 41 of these Rules will apply. Note that the said Part 6 applies only to ordinary representatives which per definition excludes persons submitting documents as customs brokers. It follows that Part 6 does not apply to customs brokers who submit documents in that capacity.

- (e) the goods description of the goods to be redirected;⁶⁹⁶
- (f) the customs code of the premises to which the goods are to be redirected or, if those premises do not have a customs code, the physical address of the premises; and
- (g) the reason for the intended redirection, which may be motivated in a separate supporting document submitted together with the application subject to and in accordance with Part 7 of Chapter 41 of these Rules.

(3) Any permission granted for the redirection of the goods in terms of section 574 or 584 is subject to a condition that the goods must for accounting purposes be recorded in the accounting records of -

- (a) a state warehouse operated by the Commissioner, as may be determined by the customs authority; or
- (b) the state warehouse determined in terms of section 580(3) as the state warehouse in whose accounting records those goods must be recorded.

~~Redirection of goods intended for removal to licensed premises (section 584)~~

~~27.11 If a person intends to redirect goods in terms of section 584 of the Control Act to a place other than the licensed premises determined in terms of section 580(1)(b), that person must in accordance with rule 4.17 apply to the customs authority for permission for the redirection of goods to that other place.~~

Part 4: Delivery and receipt notifications

Receipt notifications by carriers when receiving goods for transport for state warehousing purposes (sections 570, 580 and 600)

27.2A (1) A carrier⁶⁹⁷ receiving goods for transport to a state warehouse, any licensed premises contemplated in section 580(1)(b) of the Control Act or any other place to which the goods are redirected in terms of a permission granted in terms of section 574 or 584 must, within three hours of receipt of the goods,⁶⁹⁸ notify the customs authority electronically through eFiling of the receipt of the goods.

⁶⁹⁶ See definition of "goods description" in rule 27.1

⁶⁹⁷ This includes all licensed and non-local carriers who have registered agents in the Republic transporting goods in the Republic.

⁶⁹⁸ See rule 41.10B

(2) Any receipt notification referred to in subrule (1) must reflect the following information:

- (a) The name and customs code of the carrier or, in the case of a non-local carrier, the name or customs code of the carrier and the name and customs code of the registered agent of the carrier;
- (b) if the notification is submitted by a customs broker, registered agent or ordinary representative on behalf of the carrier, the information specified in rule 41.33D;⁶⁹⁹
- (c) the date and time the carrier received the goods;
- (d) the customs code of the customs controlled area where the carrier received the goods or, if the place where the carrier received the goods is not a customs controlled area, the physical address or other specifics of that place;
- (e) in the case of goods that have been cleared, the movement reference number⁷⁰⁰ of the clearance declaration submitted in relation to the goods;
- (f) the destination of the goods;
- (g) the transport document number or unique consignment reference number;
and
- (h) the goods description of the goods received.

Delivery notifications by carriers of receipt and delivery of when delivering goods at destination to state warehouses (sections 570(5)(a), 580(6)(a) and 600)

27.4 (1) A carrier that transports goods to a state warehouse, any licensed premises contemplated in section 580(1)(b) of the Control Act or any other place to which the goods are redirected in terms of a permission granted in terms of section 574 or 584 must, notify the customs authority of the receipt and delivery of the goods in accordance with rule 29.35 within three hours of delivery of the goods,⁷⁰¹ notify the customs authority electronically through eFiling of the delivery of the goods.

⁶⁹⁹ If the notification is submitted on behalf of the carrier by a representative in terms of section 920 of the Customs Control Act, the notification must comply with Part 6 of Chapter 41 of the Customs Control Rules. Note that the said Part 6 applies only to ordinary representatives which per definition excludes persons submitting documents as customs brokers or registered agents. It follows that Part 6 does not apply to customs brokers and registered agents that submit documents on behalf of carriers in that capacity.

⁷⁰⁰ See definition of "movement reference number" in rule 1.1

⁷⁰¹ See rule 41.10B

(2) Any delivery notification referred to in subrule (1) must reflect the following information:

- (a) The name and customs code of the carrier or, in the case of a non-local carrier, the name or customs code of the carrier and the name and customs code of the registered agent of the carrier;
- (b) if the notification is submitted by a customs broker, registered agent or ordinary representative on behalf of the carrier, the information specified in rule **41.33D**;
- (c) in the case of goods that have been cleared, the movement reference number⁷⁰² of the clearance declaration submitted in relation to the goods;
- (d) the date and time of delivery of the goods;
- (e) the customs code or physical address of the state warehouse, licensed premises or other place where the goods were delivered;
- (f) confirmation that the goods delivered by the carrier correspond with the goods description on the carrier's receipt notification submitted in terms of rule **27.2A**; and
- (g) if no confirmation referred to in paragraph (i) can be given, the reason why confirmation cannot be given, which may be motivated in a separate supporting document submitted together with the notification subject to and in accordance with Part 7 of Chapter 41 of these Rules.

Submission of notifications by carriers not located in Republic

27.4A A delivery notification that must in terms of rule **27.2A** or **27.4** be submitted to the customs authority by a carrier must, in the case of a carrier that is not located in the Republic, be submitted either by the carrier or that carrier's registered agent in the Republic.

Receipt notifications of receipt of goods for goods received at in licensed state warehouses, other licensed premises and places to which goods are redirected (*section 570(5)(b), 580(6)(a) and 600*)

⁷⁰² See definition of "movement reference number" in rule 1.1

27.5 (1) ~~If the state warehouse determined by the customs authority in terms of section 570(3) of the Control Act is a state warehouse operated by a licensee, that licensee must notify the customs authority in accordance with subrule (2) of all goods received at that warehouse in terms of section 570(1) or (2).~~

If goods are received at a licensed state warehouse in compliance with section 570(1) or a direction issued in terms of 570(2), or at other licensed premises in compliance with a direction or under an authorisation issued in terms of section 580(1)(b), or at any other place under a permission granted in terms of section 574 or 584, the licensee of the licensed state warehouse or other licensed premises, or the licensee or other person in control of that other place, must within three hours of receipt of the goods,⁷⁰³ notify the customs authority electronically through eFiling of the receipt of the goods.

~~(2) (a) A receipt notification contemplated in subrule (1) must within three hours of receipt of the goods be submitted to the customs authority electronically through eFiling, subject to paragraph (b).~~

~~(2) If a notification is submitted to the customs authority in paper format, in circumstances where submissions in paper format are permissible,⁷⁰⁴ the notification must be —~~

- ~~(i) on Form..... as published as a rule on the SARS website for this purpose;~~
- ~~— and~~
- ~~(ii) submitted to the Customs Office that serves the area where the state warehouse is situated.~~

(2) A receipt notification referred to in subrule (1) must reflect the following information:

- (a) The name of the licensee of the licensed state warehouse, other licensed premises or other place where the goods were received or, if that other place is not licensed premises, the name of the person in control of that place;
- (b) if the notification is submitted by a customs broker or ordinary representative on behalf of the licensee, the information specified in rule 41.33D;⁷⁰⁵

⁷⁰³ See rule 41.10B

⁷⁰⁴ See section 913(4) of the Control Act.

- (c) the customs code of the licensed state warehouse, other licensed premises or other place where the goods were received or, if that other place does not have a customs code, the physical address of that place;
- (d) the name and customs code of the carrier or other licensee that delivered the goods or, in the case of a non-local carrier, the name or customs code of the carrier and the name and customs code of the registered agent of the carrier;
- (e) in the case of goods that have been cleared, the movement reference number of the clearance declaration submitted in relation to the goods, if applicable;
- ~~(b) whether the goods were removed to the state warehouse in compliance with section 570(1) or a direction issued in terms of section 570(2) and, if in terms of a direction, the reference number of the direction; —~~
- (f) the reference number of -
- (i) the removal notice submitted to the state warehouse licensee in terms of section 571(1)(b); or
 - (ii) the notice submitted to the licensee of the other licensed premises in terms of section 580(4);
- (g) the date and time of receipt of the goods at the state warehouse, licensed premises or other place;
- (h) whether confirmation that the goods description⁷⁰⁶ on the removal notice submitted to the state warehouse licensee in terms of section 571 or to the licensee of those other licensed premises in terms of section 581 corresponds with the goods received; and
- ~~(i) if no confirmation referred to in paragraph (g) can be given, the reason why confirmation cannot be given, which may be motivated in a separate supporting document submitted together with the notification subject to and in accordance with Part 7 of Chapter 41 of these Rules.~~
- ~~(g) the transport document number, road manifest number or unique consignment reference number; and~~

⁷⁰⁵ If the notification is submitted in terms of section 920 of the Customs Control Act by an ordinary representative on behalf of the licensee, the notification must comply with the additional requirements set out in Part 6 of Chapter 41 of these Rules. Note that the said Part 6 applies only to ordinary representatives which per definition excludes persons submitting documents as customs brokers. It follows that Part 6 does not apply to customs brokers that submit notifications on behalf of licensees in that capacity.

⁷⁰⁶ See definition of "goods description" in rule 27.1

(3) A delivery or receipt notification to be submitted in terms of this rule must state the reference number of the permission granted by the customs authority for the redirection of the goods.

Notification by carriers of receipt and delivery of goods to licensed premises other than state warehouse *(section 580(6)(a))*

27.12 A carrier that transports goods to licensed premises determined in terms of section 580(1)(b) of the Control Act, must notify the customs authority of the receipt and delivery of the goods in accordance with rule **29.35**.

Notification of receipt of goods removed to licensed premises other than state warehouse *(section 580(6)(b))*

27.13 (1) — If goods are removed in compliance with a direction or under authority of an authorisation of the customs authority in terms of section 580(1)(b) of the Control Act to any licensed premises other than a state warehouse, the licensee of those premises must notify the customs authority of the receipt of the goods at that place in accordance with subrule (2).

(2) — (a) — A notification referred to in subrule (1) must within three hours of receipt of the goods be submitted to the customs authority electronically through eFiling, subject to paragraph (b).

(b) — If a notification is submitted to the customs authority in paper format in circumstances where submissions in paper format are permissible,⁷⁰⁷ the notification must be —

- (i) — on Form published as a rule on the SARS website for this purpose; and
- (ii) — submitted to the Customs Office that serves the area in which the licensed premises to which the goods were removed are situated.

(3) — A notification referred to in subrule (2) must reflect —

(a) — the customs code of the premises to which the goods were removed;

⁷⁰⁷ See section 913(4) of the Control Act.

- ~~(b) the reference number of the customs authority's direction or authorisation issued in terms of section 580(1)(b) under which the goods are delivered to those premises;~~
- ~~(c) the customs code of the carrier or other licensee that delivered the goods;~~
- ~~(d) the date and time of receipt of the goods;~~
- ~~(e) the reference number of the removal notice submitted to the licensee of those premises in terms of rule 27.10;~~
- ~~(f) whether the goods description⁷⁰⁸ on the removal notice corresponds with the goods received;~~
- ~~(g) the transport document number; and~~
- ~~(h) the movement reference number of any clearance declaration in relation to the goods, if applicable.~~

Part 5: Reclaim of goods in or accounted for in state warehouses⁷⁰⁹

Timeframe for reclaiming of goods in or accounted for in state warehouses
(section 590(1))

27.16 (1) The timeframes⁷¹⁰ within which goods in or accounted for in a state warehouse may in terms of section 590(1) of the Control Act be reclaimed, are as follows:

- (a) For the categories of goods reclaimed under section 590(1)(a) to (e): A period commencing on the date when the goods were received in or accounted for in the state warehouse and ending 30 calendar days after the date of publication of the list referred to in section 589(1) in which those goods are included.
- (b) For categories of goods reclaimed under section 590(1)(f):
 - (i) In the case of goods in or accounted for in a state warehouse in error or without legal justification,⁷¹¹ a period commencing on the date when

⁷⁰⁸ See definition of "goods description" in rule 27.1

⁷⁰⁹ For the reclaim of goods in or accounted for in a state warehouse on account of an attachment in terms of section 704 of the Control Act, section 51 of the Customs Duty Act or section 114 of the Excise Duty Act for purposes of establishing a lien over the goods and that are released from the lien without being disposed of, see the provisions dealing with such liens.

⁷¹⁰ Note that the timeframes set out in this rule may be shortened or extended in terms of section 908 or 909 of the Control Act.

⁷¹¹ For instance where goods were seized or confiscated without justification or customs erroneously issues a direction in terms of section 570(2) for the state warehousing of goods. Such mistakes will usually come to light in Chapter 37 proceedings.

the customs authority admits the error or absence of justification or the error or absence of justification is confirmed in administrative appeal proceedings or by a court in a final judgement and ending, subject to subrule (2), 30 calendar days after the date of publication of the list referred to in section 589(1) in which those goods are included;

- (ii) in the case of goods falling within a category referred to in section 570(1)(a)(ii), a period commencing on the date when the goods were received in or accounted for in the state warehouse until the expiry of 30 calendar days from the date of publication of the list referred to in section 589(1) in which those goods are included.

(2) If the ground for the state warehousing of goods is the subject of any administrative appeal or court proceedings, the period applicable to the goods in terms of subrule (1)(b)(i) ends despite that subrule 30 calendar days after –

- (a) the decision in those administrative proceedings on the matter is given; or
- (b) the court decides the matter in a final judgement.

Procedure for reclaiming goods (*section 590(1)*)

27.17 (1) If a person entitled to reclaim goods in or accounted for in a state warehouse that fall within a category referred to in section 590(1)(a) to (e) of the Control Act submits a clearance declaration, an amended clearance declaration or any other document contemplated in that section for purposes of reclaiming the goods, that clearance declaration, amended clearance declaration or other document must be –

- (a) submitted to the customs authority –
 - (i) within the timeframe referred to in rule **27.16**(1)(a); and
 - (ii) in accordance with the ordinary requirements applicable to the submission of clearance declarations, amended clearance declarations or such documents; and
- (b) supported by all documents that are ordinarily required to support such clearance declarations, amended clearance declarations or other documents.

(2) (a) If a person entitled to reclaim goods in or accounted for in a state warehouse that do not fall within a category referred to in section 590(1)(a) to

(e)⁷¹² ~~desires~~wishes to reclaim those goods, the goods must be reclaimed under section 590(1)(f) by the submission by or on behalf of the applicant of an application

—

(i) on Form..... as may be prescribed as a rule on the SARS website for this purpose;

(ii) within the timeframe referred to in rule 27.16(1)(b)(i) or (ii), as may be applicable to the goods.

(b) The application must —

(f) be submitted either electronically through eFiling to the customs authority or manually to the state warehouse where the goods are or in which the goods are accounted for. ~~;~~ and

~~(ii) — In the case of goods that are claimed to have been state warehoused in error or without legal justification be supported by evidence to that effect~~

(3) An application referred to in subrule (2) must reflect the following information:

(a) the name and customs code of the applicant or, if the if that person does not have a customs code, the information specified in rule 41.33E(1);

(b) if the application is submitted by a customs broker, registered agent or ordinary representative on behalf of the applicant, the information specified in rule 41.33D;⁷¹³

(c) the customs code of the state warehouse where the goods are or in which the goods are accounted for and, if the goods are kept on other licensed premises or any other place, also the customs code or physical address of those premises or other place;

(d) the goods description;⁷¹⁴

(e) the reason why the goods were state warehoused; and

⁷¹² For instance goods in or accounted for in a state warehouse in error or without legal justification.

⁷¹³ If the application is submitted on behalf of the applicant by an ordinary representative in terms of section 920 of the Control Act, Part 6 of Chapter 41 of these Rules will apply. Note that the said Part 6 applies only to ordinary representatives which per definition excludes persons submitting documents as customs brokers or registered agents. It follows that Part 6 does not apply to customs brokers and registered agents who submit documents in that capacity.

⁷¹⁴ See definition of “goods description” in rule 27.1

(f) the grounds for the reclaim, which may be motivated in a separate supporting document submitted together with the reclaim subject to and in accordance with Part 7 of Chapter 41 of these Rules.

Timeframe for removal of goods successfully reclaimed (section 591(1))

27.18 The timeframe within which goods in or accounted for in a state warehouse must in terms of section 591(1) of the Control Act be removed from the state warehouse or the other premises where the goods are kept, is three working days from the date the customs authority releases the goods or otherwise approves the reclaim in terms of that section.⁷¹⁵

Procedure for removal of goods successfully reclaimed

27.19 (1) Goods in or accounted for in a state warehouse that have been successfully reclaimed in terms of section 590(1) of the Control Act may not be removed from the state warehouse or other premises where the goods are kept unless –

- (a) the person who reclaimed the goods has given notice to the customs authority of the intended removal on Form..... as may be prescribed as a rule on the SARS website for this purpose;⁷¹⁶ and
- (b) the customs authority has authorised such removal.

(2) The notification referred to in subrule (1)(a) may be submitted either electronically through eFiling to the customs authority or manually to the state warehouse where the goods are or are accounted for.

(3) A notification referred to in subrule (1) must reflect the following information:

- (a) the name or customs code of the person who successfully reclaimed the goods;
- (b) the customs code or physical address of the state warehouse or other premises where the goods are kept;

⁷¹⁵ Note that this timeframe may be shortened or extended in terms of section 908 or 909 of the Control Act. See Rules 41.9 and 41.10.

⁷¹⁶ Note that no notification is necessary if the goods are reclaimed through a clearance declaration or amended clearance declaration. See rule 27.19(4).

- (c) if the goods were reclaimed through a document referred to in rule 27.17(1), other than a clearance declaration or amended clearance declaration, the reference number of the document used for purposes of reclaiming the goods;
- (d) if the goods were reclaimed through an application in terms of rule 27.17(2), the reference number of the customs authority's approval of the application;
- (e) the date of the approval of the reclaim; and
- (f) the date on which the goods will be removed.

(4) If the customs authority releases for home use or a customs procedure goods reclaimed in terms of section 590(1)(a) to (d) –

- (a) the clearance declaration or amended clearance declaration submitted in terms of that section must be regarded to be the notification referred to in subrule (1)(a); and
- (b) the release notification issued by the customs authority in terms of section 180 must be regarded to be the authorisation referred to in subrule (1)(b).

(5) Goods may be removed from the state warehouse or other premises where the goods are kept only during the ordinary business hours of the state warehouse or such other premises on a working day.

Part 6: Removal of sold goods from state warehouses or other premises

Timeframe for removal of sold goods (section 598)

27.20 The timeframe within which goods that have been sold in terms of section 592 or 593 of the Control Act must in terms of section 598(2) be removed from the state warehouse or other premises where the goods are kept, is three working days from the date of sale of the goods.⁷¹⁷

Procedure for removal of sold goods

27.21 (1) Goods in or accounted for in a state warehouse that have been sold in terms of section 592 or 593 may not be removed from the state warehouse or other premises where the goods are kept unless –

⁷¹⁷ Note that this timeframe may be extended in terms of section 908 of the Control Act.

- (a) the person who purchased the goods has notified the customs authority of the intended removal on Form..... as may be prescribed as a rule on the SARS website for this purpose; and
- (b) the customs authority has authorised such removal.

(2) The notification may be submitted either electronically through eFiling to the customs authority or manually to the state warehouse where the goods are or are accounted for.

(3) A notification referred to in subrule (1) must reflect –

- (a) the name of the person to whom the goods were sold;**
- (b) the number of the invoice issued for the sale of the goods;**
- (c) the customs code or physical address of the state warehouse or other premises where the goods are kept; and**
- (d) the date on which the goods will be removed.**

(4) Goods may be removed from the state warehouse or other premises where the goods are kept only during the ordinary business hours of the state warehouse or such other premises on a working day.

Part 7: Removal of goods from state warehouses or other premises disposed of otherwise than by sales

Timeframe for removal of goods disposed of otherwise than by sales (*section 596*)

27.22 The timeframe within which goods that have been disposed of in terms of section 596(1) of the Control Act must in terms of section 596(4) be removed from the state warehouse or other premises where the goods are kept, **is** as the customs authority may direct.

Procedure for removal of goods disposed of otherwise than by sales

27.23 (1) If goods in or accounted for in a state warehouse that have been donated, appropriated or made available to an organisation or organ of state in terms of section 596(1)(a), (b) or (c) of the Control Act are to be removed from the state

warehouse or other premises where the goods are kept by that organisation or organ of state, those goods may not be removed unless –

- (a) the organisation or organ of state has notified the customs authority of the intended removal on Form..... as may be prescribed as a rule on the SARS website for this purpose; and
- (b) the customs authority has authorised such removal.

(2) The notification may be submitted either electronically through eFiling to the customs authority or manually to the state warehouse where the goods are or are accounted for.

(3) A notification referred to in subrule (1) must reflect –

- (a) the name of the organisation or organ of state to which the goods were donated, appropriated or made available;
- (b) the reference number of the customs authority's authorisation authorising the goods to be donated, appropriated or made available to the organisation or organ of state;
- (c) the customs code or physical address of the state warehouse or other premises where the goods are kept; and
- (d) the date on which the goods will be removed.

(4) Goods may be removed from the state warehouse or other premises where the goods are kept only during the ordinary business hours of the state warehouse or such other premises on a working day.

Part 8: State warehouse rent

Goods on and rates at which state warehouse rent is payable (*section 575(1)(a)*)

27.24 (1) State warehouse rent contemplated in section 575(1)(a) of the Control Act must, subject to the other provisions of this Part, be paid in respect of all goods in a state warehouse.

(2) State warehouse rent is charged at the following rates:

- (a) R57 per freight ton per calendar day for all goods other than goods referred to in paragraph (b) or (c);
- (b) R2 per kilogram per calendar day for accompanied and unaccompanied baggage of persons who entered or were leaving the Republic; and
- (c) R2 per kilogram per calendar day for goods referred to in section 91(1)(g) or (h).

(3) For purposes of subrule (2) the weight or volume of goods is measured by

–

- (a) including the outer packing material used to pack, cover, protect, stow or separate goods being transported; and
- (b) in the case reusable transport equipment –
 - (i) including the pallet on which goods are stored for transport; or
 - (ii) excluding the container in which goods are stored for transport.

Additional charges for goods requiring special care or treatment (*section 575(1)(b)*)

27.25 Any additional charges contemplated in section 575(1)(b) of the Control Act for goods in a warehouse that require special care or treatment –

- (a) may not exceed the actual costs incurred by the state warehouse in providing such special care or treatment; and
- (b) is recoverable as if those charges were part of the state warehouse rent payable in respect of those goods.

Period for which state warehouse rent is charged

27.26 (1) (a) State warehouse rent for goods successfully reclaimed in terms of section 590(1) of the Control Act is charged from the day the goods were received in the state warehouse up to the day the customs authority releases the goods or otherwise approves the reclaim in terms of section 591.

(b) If those goods are not removed from the state warehouse within the period applicable to the goods in terms of rule **27.18** and section 592(1)(c) is not applied to the goods, additional rent is charged from the day following the day on which that period expires until the day the goods are removed from the state warehouse.

(c) If section 592(1)(c) is applied to those goods, this subrule ceases to apply to the goods and subrule (2) becomes applicable to the goods.

(2) (a) State warehouse rent for goods sold in terms of section 592 or 593 is charged from the day the goods were received in the state warehouse up to the day on which the goods were sold.

(b) If those goods are not removed from the state warehouse within the period applicable to the goods in terms of rule **27.20** and section 598(2)(a) is applied to the goods, additional rent is charged from the date of sale up to the day the goods are removed from the state warehouse.

(3) When calculating the number of days in the period for which state warehouse rent is payable, the number of days must be calculated inclusive of both the day on which that period started and the day on which that period ended.

Persons by whom state warehouse rent is payable

27.27 (1) State warehouse rent for goods referred to in –

- (a) rule **27.26**(1)(a) or (b) is payable by the person who successfully reclaimed the goods;
- (b) rule **27.26**(2)(a) is payable from the proceeds of the sale of the goods; or
- (c) rule **27.26**(2)(b) is payable by the purchaser of the goods.

(2) Subrule (1) must be read subject to rule **27.28**.

Circumstances in which state warehouse rent may not be recovered from persons entitled to reclaim goods

27.28 No state warehouse rent charged in respect of goods in a state warehouse may be recovered from a person entitled to reclaim the goods if the goods were removed to or secured in the state warehouse –

- (a) in error;
- (b) on account of an alleged breach⁷¹⁸ of the Control Act or a tax levying Act and it is established either by the customs authority, in an administrative appeal or

⁷¹⁸ See definition of “breach” in section 1 of the Control Act.

- by a court in a final judgement that –
- (i) no such breach was committed;
 - (ii) the act or omission that was committed did not constitute such a breach; or
 - (iii) the person entitled to reclaim the goods was not a party to the breach and did not benefit or stand to benefit from the breach;
- (c) on account of a detention, seizure or confiscation of the goods and, as may be appropriate –
- (i) the detention is terminated in terms of section 761(1)(e), (f) or (g);
 - (ii) the seizure is terminated in terms of section 764(1)(b), (c) or (d); or
 - (iii) the confiscation is withdrawn in terms of section 767(1)(b), (c) or (d);
- (d) on account of an attachment of the goods in terms of section 704 of the Control Act, section 51 of the Customs Duty Act or section 114 of the Excise Duty Act for purposes of establishing a lien over the goods and the goods are released from the lien⁷¹⁹ without being sold for purposes of paying the debt for which the lien was established; or
- (e) on account of an alleged contravention of legislation not administered by the Commissioner and it is established either by the authority administering that legislation or by a court in a final judgement that –
- (i) no such contravention was committed; or
 - (ii) the act or omission that was committed did not constitute such a contravention.

Part 9: Storage fees for state warehousing of goods at premises other than state warehouses

Rates at which storage fees are payable (section 585(1))

27.29 Storage fees contemplated in section 585(1) of the Control Act charged by the licensee of licensed premises for goods retained at or removed to those premises for state warehouse purposes in terms of section 580(1), may not exceed the normal rates charged by that licensee for the storage of goods on those premises.

⁷¹⁹ See for instance section 56(c) of the Customs Duty Act.

Persons by whom storage fees are payable (section 585(2)(a))

27.30 (1) Storage fees charged by the licensee of licensed premises for goods retained at or removed to those premises in terms of section 580(1) of the Control Act for state warehouse purposes, are –

- (a) in the case of goods successfully reclaimed in terms of section 590(1), payable by the person who reclaimed the goods; or
- (b) in the case of goods sold in terms of section 592 or 593, payable from the proceeds of the sale of the goods: Provided that if additional storage fees become payable due to a failure to remove the goods from those premises within the timeframe applicable to the goods in terms of rule **27.20** and section 598(2)(a) is applied to the goods, the additional storage fees are payable by the purchaser.

(2) Subrule (1) must be read subject to rule **27.31**.

Circumstances in which storage fees may not be recovered from persons entitled to reclaim goods

27.31 No storage fees charged in respect of goods retained at or removed to licensed premises for state warehouse purposes may be recovered from a person entitled to reclaim the goods if the goods were retained at or removed to those premises –

- (a) in error;
- (b) on account of an alleged breach⁷²⁰ of the Control Act or a tax levying Act and it is established either by the customs authority, in an administrative appeal or by a court in a final judgement that –
 - (i) no such breach was committed;
 - (ii) the act or omission that was committed did not constitute such a breach; or
 - (iii) the person entitled to reclaim the goods was not a party to the breach and did not benefit or stand to benefit from the breach;
- (c) on account of a detention, seizure or confiscation of the goods and, as may be appropriate –

⁷²⁰ See definition of “breach” in section 1 of the Control Act.

- (i) the detention is terminated in terms of section 761(1)(e), (f) or (g);
- (ii) the seizure is terminated in terms of section 764(1)(b), (c) or (d); or
- (iii) the confiscation is withdrawn in terms of section 767(1)(b), (c) or (d);
- (d) on account of an attachment of the goods in terms of section 704 of the Control Act, section 51 of the Customs Duty Act or section 114 of the Excise Duty Act for purposes of establishing a lien over the goods and the goods are released from the lien without being sold for purposes of paying the debt in respect of which the lien was established; or
- (e) on account of an alleged contravention of legislation not administered by the Commissioner and it is established either by the authority administering that legislation or by a court in a final judgement that –
 - (i) no such contravention was committed; or
 - (ii) the act or omission that was committed did not constitute such a contravention.

Part 10: Record keeping of goods in or accounted for in state warehouses

State warehouse inventory registers (section 576)

27.32 (1) The customs officer or licensee in charge of a state warehouse must keep and maintain a state warehouse register for purposes of keeping record of –

- (a) all goods received in that state warehouse in terms of section 570(3) of the Control Act;
- (b) all goods accounted for in that state warehouse in terms of section 580(3) **or rule 27.3(3)**;
- (c) all goods removed from –
 - (i) that state warehouse, in the case of goods referred to in paragraph (a); and
 - (ii) the licensed premises **or other place** where the goods are kept, in the case of goods referred to in paragraph (b);
- (d) any goods in the state warehouse or on those premises that are damaged or destroyed or that have become lost or unaccounted for.

(2) A state warehouse register must –

- (a) be computer based; and

- (b) reflect the information referred to in rule **27.34**.

Unique state warehouse inventory codes

27.33 (1) The customs officer or licensee in charge of a state warehouse must for purposes of identifying goods in or accounted for in that state warehouse assign a unique state warehouse inventory code to each consignment of those goods –

- (a) in the case of goods in that state warehouse, upon receipt of the goods in the state warehouse; or
- (b) in the case of goods accounted for in that state warehouse, upon receipt of the retention notice referred to in rule **27.9** or the removal notice referred to in rule **27.10** submitted in respect of that consignment.

(2) The unique state warehouse inventory code assigned to a consignment of goods must be –

- (a) recorded in the state warehouse register; and
- (b) displayed on that consignment by means of marking the goods or attaching a label to the goods.

Information to be recorded in state warehouse registers

27.34 (1) The state warehouse register kept in terms of rule **27.32** must reflect the following information in respect of each consignment of goods received in or accounted for in the state warehouse:

- (a) Whether the goods were –
 - (i) removed to the state warehouse;
 - (ii) retained for state warehousing purposes at the licensed premises where the goods were; **or**
 - (iii) removed for state warehousing purposes to licensed premises other than a state warehouse; **or**
 - (iv) redirected to another place in terms of section 574 or 584;**
- (b) the customs code or name and contact details of the person who –
 - (i) in compliance with section 570(1) **of the Control Act** or a direction issued in terms of section 570(2) was responsible for removing the goods to the state warehouse;

- (ii) in compliance with a direction or under authority of an authorisation issued in terms of section 580(1)(a) was responsible for retaining the goods for state warehousing purposes at the licensed premises where the goods were; ~~or~~
 - (iii) in compliance with a direction or under authority of an authorisation issued in terms of section 580(1)(b) was responsible for removing the goods for state warehousing purposes to licensed premises other than a state warehouse; or
 - (iv) under a permission issued in terms of section 574 or 584 was responsible for redirecting the goods for state warehousing purposes to another place;
- (c) in the case of paragraph (b)(ii), ~~or~~ (iii) or (iv), the reference number of the direction, ~~or~~ authorisation or permission under which the goods were for state warehousing purposes retained at or removed to those premises or redirected to that other place;
- (d) in the case of goods removed to a state warehouse, ~~or to~~ licensed premises that are not a state warehouse or a place to which the goods were redirected
-
- (i) the customs code of the carrier or other licensee that delivered the goods to the state warehouse, ~~or~~ those premises or that other place; and
 - (ii) the date on which the goods were received in the state warehouse, ~~or~~ those premises or that other place;
- (e) in the case of goods retained for state warehousing purposes on the licensed premises where the goods were, the date from which the goods were retained;
- (f) the reason why the goods became subject to state warehousing;
- (g) in the case of goods imported or that were destined for export from the Republic –
- (i) the customs code of the importer, exporter or owner of the goods and, if the importer, exporter or owner is not located in the Republic, also of the registered agent in the Republic of the importer, exporter or owner;

- (ii) if the importer or exporter is a traveller, the traveller's name, contact details and passport **or travel document** number ~~or identity document number~~; or
- (iii) if the importer, exporter or owner is unknown, a statement to that effect;
- (h) in the case of goods that were seized or confiscated, the name and contact details of the owner or person in whose possession the goods were;
- (i) in the case of goods manufactured in the Republic to which the Excise Duty Act applies, the excise code of the manufacturer;
- (j) in the case of lien goods referred to in section 570(1)(b), a statement to that effect and the name and contact details of the owner of the goods;
- (k) the goods description;⁷²¹
- (l) the condition of the goods;
- (m) whether the goods are dangerous goods and, if so, the UN Dangerous Goods Code applicable to the goods, or any warning markings on the goods;
- (n) whether there are any special storage requirements in relation to the goods;
- (o) in the case of perishable goods, any indicated expiry date;
- (p) in the case of goods that have been cleared, the movement reference number⁷²² of the clearance declaration **submitted** ~~issued~~ in relation to the goods;
- (q) the transport document number in relation the goods;
- (r) the shelf or block number where the goods are stored in the state warehouse or the licensed premises on which the goods were retained or to which the goods were removed, **if applicable**;
- (s) whether there are any taxes, administrative penalties or interest outstanding or payable in connection with the goods and, if so –
 - (i) the type of tax or penalty; and
 - (ii) the amount outstanding or payable;
- (t) whether there are any expenses incurred by the Commissioner outstanding or payable in connection with the goods and, if so –
 - (i) the type of expense incurred; and
 - (ii) the amount outstanding or payable;

⁷²¹ See definition of "goods description" in rule 27.1

⁷²² See definition of "movement reference number" in rule 1.1

- (u) whether there are any charges or expenses referred to in section 595(1)(d), (e), (f) or (g) outstanding or payable in connection with the goods and, if so –
 - (i) particulars of the charge or expense;
 - (ii) the amount outstanding or payable; and
 - (iii) the person to whom payable; and
- (v) whether the goods are the subject to any administrative appeal or judicial proceedings.

(2) If a consignment of goods is to be removed from a state warehouse or the licensed premises **or other place** where the goods are kept for state warehousing purposes, the following additional information must be recorded in the state warehouse register in respect of the relevant consignment of goods:

- (a) In the case of goods successfully reclaimed in terms of section 590(1) –
 - (i) the **name and** customs code ~~or name and identity or passport number⁷²³, and contact details,~~ of the person who successfully reclaimed the goods, **or if that person does not have a customs code, the information required in terms of rule 41.33E;**
 - (ii) the reference number of any release notification or other approval issued by the customs authority in terms of section 591;
 - (iii) the amount of each claim referred to in section 591(2);
 - (iv) whether all those claims have been paid;
 - (v) the reference number of the authorisation issued by the customs authority in terms of rule **27.19** for the removal of the goods;
- (b) in the case of goods that have been sold –
 - (i) the date of sale;
 - (ii) the name, **physical address** and contact details of the purchaser;
 - (iii) the purchase price;
 - (iv) if the goods were sold conditionally, details of the condition subject to which the goods were sold;
 - (v) date when the purchase price was paid in full;

⁷²³ In the case of a natural person.

- (vi) whether the purchase price was sufficient to pay all claims referred to in section 595(1) and, if not, the amount on each claim that remained unpaid; and
- (vii) the reference number of the authorisation issued by the customs authority in terms of rule **27.21** for the removal of the goods;
- (c) in the case of goods disposed of in terms of section 596 –
 - (i) the manner in which the goods are to be disposed of;
 - (ii) if the goods are donated, appropriated or made available to an organisation or organ of state, the name, **physical address** and contact details of that organisation or organ of state; and
 - (iii) the reference number of the authorisation issued by the customs authority in terms of rule **27.23** for the removal of the goods;
- (d) the date of removal of the goods;
- (e) the customs code or name and identity **document** or passport number, and contact details, of the person who physically removes the goods; and
- (f) the means of transport used for the removal, and if by vehicle, the registration number of the vehicle.

(3) If goods in a state warehouse or on other premises **or place** where goods are kept for state warehousing purposes are damaged or destroyed or become lost or unaccounted for, the following additional information must be recorded in the state warehouse register in respect of the relevant consignment of goods:

- (a) Whether the goods are damaged, destroyed, lost or unaccounted for;
 - (b) the cause, distinguishing between –
 - (i) in the case of goods that were damaged, destroyed or lost –
 - (aa) a natural occurrence;
 - (bb) an accident;
 - (cc) a hostile act by another person; and
 - (dd) the inherent characteristics of the goods; and
 - (ii) in the case of goods that have become unaccounted for –
 - (aa) a short delivery;
 - (bb) an administrative error in any documents relating to the goods;
- and

- (cc) another justifiable cause;
- (c) any explanation as to why the event occurred;
- (d) whether the damaged goods or any scrap that remained in the case of destroyed goods are capable of being economically sold; and
- (e) whether, and when, steps were taken to report the matter in terms of Chapter 25 of the Control Act.⁷²⁴

Record to be kept of all supporting and other documents

27.35 The customs officer or licensee in charge of a state warehouse must in addition to the information referred to in rule **27.34**, keep record of all documents pertaining to goods received in or accounted for in the state warehouse from the time those goods are received in or accounted for in the state warehouse until the goods are removed from the state warehouse or the licensed premises on which the goods were retained or to which the goods were removed for state warehouse purposes, including all –

- (a) supporting documents referred to in section 571(2) or 581(b) of the Control Act;
- (b) removal notices received in terms of section 571(1) or 581(1)(b);
- (c) retention notices received in terms of **section 581(2)** ~~rule 27-9~~;
- (d) receipt notices referred to in section 570(5)(b) or 580(6)(b);
- (e) invoices in relation to expenses or charges incurred in relation to the goods;
- (f) release notifications or other approvals issued by the customs authority with regard to goods successfully reclaimed in terms of section 590(1); and
- (g) authorisations issued in terms of rule **27.19**, **27.21** or **27.23** for the removal of the goods from a state warehouse or premises where the goods are kept for state warehousing purposes.

Reports to be submitted by **licensees of state warehouses in connection with goods in state warehouses (section 577)**

27.36 (1) (a) A report contemplated in section 577 of the Control Act must be submitted to the customs authority electronically through eFiling subject to ~~paragraph (b)~~ **rule 41.33A**.

⁷²⁴ Note that Chapter 25 does not apply to goods in a state warehouse operated by the Commissioner. See section 540(2)(a).

(b) If a report referred to in paragraph (a) is submitted to the customs authority **in terms of rule 41.33A** in paper format, ~~in circumstances where submissions in paper format are permissible,~~⁷²⁵ ~~the submission~~ **the report** must be ~~made~~**submitted** to the Customs Office that serves the area in which the state warehouse is situated.

(2) A report referred to in subrule (1) must be in the form of a computer extract of the state warehouse register contemplated in rule **27.34** covering all entries in the register relating to goods during the relevant reporting period, **and must reflect –**

(a) the customs code of the state warehouse; and

(b) if the report is submitted by a customs broker or ordinary representative on behalf of the licensee of the storage warehouse, the information specified in rule 41.33D.⁷²⁶

Part 11: Miscellaneous matters

Timeframe for compliance with conditions of sale (section 597)

27.37 The timeframe for purposes of section 597 of the Control Act is within five calendar days from the date of sale of the goods.⁷²⁷

Application to pay over surplus remaining after meeting of claims (section 595(2))

27.38 (1) (a) An application referred to in section 595(2) of the Control Act must be submitted to the customs authority ~~on Formas published as a rule on the SARS website for this purpose.~~⁷²⁸ **by the owner electronically through eFiling, subject to rule 41.33A.**

⁷²⁵ See section 913(4) of the Control Act.

⁷²⁶ If the report is submitted in terms of section 920 of the Customs Control Act by an ordinary representative on behalf of the licensee of the state warehouse, the report must comply with the additional requirements set out in Part 6 of Chapter 41 of these Rules. Note that the said Part 6 applies only to ordinary representatives which per definition excludes persons submitting documents as customs brokers. It follows that Part 6 does not apply to customs brokers that submit these reports on behalf of licensees in that capacity.

⁷²⁷ Note that application may be made in terms of rule **41.9** for extension of this timeframe in cases where, for example, a condition of sale requires the obtaining of a permit.

⁷²⁸ See section 912(2) of the Control Act for manner of submission.

(b) If an application referred to in paragraph (a) is submitted to the customs authority in terms of rule 41.33A in paper format, the application must be submitted to the Customs Office that serves the area where the state warehouse that conducted the sale is situated.

(2) An application referred to in subrule (1) must reflect –

- (a) the name and customs code ~~or name and identity or passport number,~~⁷²⁹ and contact details of the applicant, or if the applicant does not have a customs code, the information required in terms of rule 41.33E;
- (b) if the application is submitted by a customs broker, registered agent or ordinary representative on behalf of the applicant, the information specified in rule 41.33D;⁷³⁰
- (c) the banking details of the applicant's bank account into which the amount owed to the applicant must be paid;
- (d) the customs code of the state warehouse or licensed premises where the goods were before being sold;
- (e) the lot number of the goods on the list published in terms of section 589;
- (f) a statement that the applicant was the owner of the goods; and
- (g) a request to pay over any surplus of the proceeds of sale of the goods;

(3) If the customs authority so requests, proof of ownership referred to in section 595(2)(a) must within the timeframe indicated in the request be submitted to the customs authority.

Timeframe within which imported goods excluded from clearance requirements must be claimed to avoid state warehousing (section 570(1)(a)(ii))

27.39 To avoid being state warehoused, goods referred to in section 570(1)(a)(ii)⁷³¹ of the Control Act must be claimed within three working days after having been off-

⁷²⁹ In the case of a natural person.

⁷³⁰ If the application is submitted in terms of section 920 of the Customs Control Act by an ordinary representative on behalf of the applicant, the application must comply with the additional requirements set out in Part 6 of Chapter 41 of these Rules. Note that the said Part 6 applies only to ordinary representatives which per definition excludes persons submitting documents as customs brokers or registered agents. It follows that Part 6 does not apply to customs brokers and registered agents that submit applications on behalf of applicants in that capacity.

⁷³¹ These goods consist of accompanied and unaccompanied baggage and low value or no value goods not required to be cleared.

loaded from the means of transport in which the goods were imported into the Republic.

Measures to ensure effective state warehouse operation and control

27.40 The customs officer or licensee in charge of a state warehouse or the licensee of premises where goods are state warehoused must ensure that –

- (a) goods in the state warehouse or on those premises are stored in a safe and secure environment and that adequate security measures are taken for the protection of the goods, including –
 - (i) locking and guarding of buildings;
 - (ii) exercising control over any keys to buildings on the premises;
 - (iii) monitoring and controlling access to the premises and requiring visitors to sign an admittance register and to display visitor's permits; and
 - (iv) implementing any additional safety and control measures in respect of high value or high risk goods;
- (b) goods are labelled clearly and accurately and stored and arranged in an orderly manner that facilitates stock checks which must be performed on a regular basis;
- (c) that **any** racks or shelves are numbered and floors are marked according to rows to enable the whereabouts of specific goods to be easily determined,;
- (d) goods of a perishable or dangerous nature are stored in conditions appropriate to the nature of the goods; and
- (e) suitable handling and loading equipment and other tools required for wrapping and opening of packages are available on the premises.

Storage of counterfeit goods in state warehouses

27.41 **This Chapter does not apply to counterfeit goods stored in a state warehouse, and such goods must be kept apart from other goods in the warehouse and dealt with in accordance with the provisions applicable to counterfeit goods.**

CHAPTER 28

REGISTRATION

Definitions

28.1 In this Chapter, unless the context otherwise indicates –

“AGOA” means the African Growth and Opportunity Act (US);

“applicant” means a person who intends to submit or has submitted an application;

“application” means an application in terms of Chapter 28 of the Control Act for –

- (a) registration;
- (b) the renewal of a registration; or
- (c) the amendment of a registration certificate;

“registration details”, in relation to a registered person, means the information provided by the registered person in -

- (a) a registration application referred to in rule **28.9**; or
- (b) a subsequent update of that information in terms of rule **28.26**.

~~**“casual exporter”** means a person who exports goods from the Republic on not more than three occasions in any calendar year where the customs value of the goods on none of those occasions exceeds R50 000, but excludes such an exporter who –~~

- ~~(a) as a traveller or crew member exports goods as part of his or her accompanied or unaccompanied baggage when leaving the Republic;⁷³² Provided that this exclusion does not apply to a traveller or crew member in respect of baggage items that are commercial goods; or~~

⁷³² Rule **28.23** applies to baggage items other than commercial goods exported by travellers and crew.

(b) exports through the South African Post Office an international postal article with a customs value not exceeding an upper value determined in terms of section 493(2) or 494(2) of the Control Act;⁷³³

“casual importer” means a person who imports goods on not more than three occasions in any calendar year where the customs value of the goods imported on none of these occasions exceeds R50 000, but excludes such an importer who —

(a) as a traveller or crew member imports goods as part of his or her accompanied or unaccompanied baggage when entering the Republic;⁷³⁴ Provided that this exclusion does not apply to a traveller or crew member in respect of baggage items that are commercial goods; or

(b) imports through the South African Post Office an international postal article with a customs value not exceeding an upper value determined in terms of section 493(2) or 494(2) of the Control Act;⁷³⁵

“EFTA” means the European Free Trade Association consisting of —

- (a) the Republic of Iceland;
- (b) the Principality of Liechtenstein;
- (c) the Kingdom of Norway; and
- (d) the Swiss Confederation;

“goods of South African origin” means goods that qualify in terms of a tax levying Act as goods of South African origin;

“GSP” means a non-reciprocal generalised system of preferences implemented by a country in relation to goods of South African origin exported to that country;

“local”, in relation to an applicant or a licensee or registered person, means an applicant or a licensee or registered person located in the Republic within the meaning of section 1(3)(a) of the Control Act;

⁷³³ Rule 28.24 applies to international postal articles exported through the South African Post Office.

⁷³⁴ Rule 28.23 applies to baggage items other than commercial goods imported by travellers and crew.

⁷³⁵ Rule 28.24 applies to international postal articles imported through the South African Post Office.

“non-local”, in relation to an applicant or a licensee or registered person, means an applicant or a licensee or registered person not located in the Republic within the meaning of section 1(3)(a) of the Control Act;

“preferential tariff treatment”, in relation to the export of goods of South African origin, means the preferential treatment which goods of South African origin receive when exported to a country which —

(a) — is a party to an international trade agreement in terms of which goods of South African origin may be exported to that country duty free or under preferential tariffs; or

(b) — implements a GSP in terms of which goods of South African origin may be exported to that country duty free or under preferential tariffs;

“public officer”, in relation to a juristic entity which is a company as defined in the Tax Administration Act, means the public officer of the entity within the meaning of section 246 of that Act;

“Professional Customs Registration Examination” means the examination referred to in rule 28.25 to establish whether a person has sufficient knowledge of applicable customs laws, guides, interpretive notes, operational manuals and practices —

(a) — administered by —

(i) — the customs authority; or

(ii) — a recognised professional body for the purposes of the National Qualifications Framework Act, 2008 (Act 67 of 2008), with the permission of the customs authority and subject to such conditions as the customs authority may determine; and

(b) — the details of which are available on the SARS website or the website of that professional body;

“registration type”, in relation to —

(a) — importers that may or must register in terms of section 603, means a type of registration that may in terms of rule 28.2 be issued to the different categories of those importers;

(b) — exporters that may or must register in terms of section 603, means a type of registration that may in terms of rule 28.3 be issued to the different categories of those exporters;

(c) — persons acquiring ownership of goods under a customs procedure that must register in terms of section 604, means a type of registration that may in terms of rule 28.4 be issued to those persons;

(d) — agents for persons not located in Republic that must register in terms of section 605, means a type of registration that may in terms of rule 28.5 be issued to those persons;

(e) — electronic users that must register in terms of section 606, means a type of registration that may in terms of rule 28.6 be issued to those electronic users;
or

(f) — producers of goods of South African origin that must register in terms of 28.7(1), means a type of registration that may in terms of rule 28.7(2) be issued to those producers;

“importer for SEZ CCA development” means a person who —

(a) — is the holder of a special economic zone operator permit issued in terms of the Special Economic Zones Act; and

(b) — imports goods for purposes of developing an area within the special economic zone that is or is to become a customs controlled area;

“sufficient knowledge”, in relation to customs laws, guides, interpretive notes, operational manuals and practices, means to pass the relevant Professional Customs Registration Examination;

“TDCA” means the Agreement on Trade, Development and Cooperation between the European Community and their Member States and the Republic.

Part 1: Registration types

Registration types for importers (section 603)

28.2 The registration types that may in terms of section 603 of the Control Act be issued for the registration of persons as importers are -

- (a) registration as a local general importer;
- (b) registration as a non-local general importer;
- (d) registration as a **local** CTC importer;
- (e) registration as a non-local CTC importer;**
- (f)** registration as an importer for SEZ CCA development; or
- (g)** registration as a casual importer.

Registration types for exporters (section 603)

28.3 The registration types that may in terms of section 603 of the Control Act be issued for the registration of persons as exporters are -

- (a)
 - (i) registration as a local general exporter;
 - (ii) registration as a non-local general exporter; **or**
 - (iii) registration as a **local** CTC exporter; **or**
 - (iv) registration as a non-local CTC exporter;**
- (b)
 - (i) registration as a local exporter for SACU-EFTA preferential tariff treatment;
 - (ii) registration as a non-local exporter for SACU-EFTA preferential tariff treatment;
 - (iii) registration as an approved local exporter for SACU-EFTA preferential tariff treatment; or
 - (iv) registration as an approved non-local exporter for SACU-EFTA preferential tariff treatment;
- (c)
 - (i) registration as a local exporter for SADC preferential tariff treatment; or
 - (ii) registration as a non-local exporter for SADC preferential tariff treatment;
- (d)
 - (i) registration as a local exporter for TDCA preferential tariff treatment;
 - (ii) registration as a non-local exporter for TDCA preferential tariff treatment;
 - (iii) registration as an approved local exporter for TDCA preferential tariff treatment; or
 - (iv) registration as an approved non-local exporter for TDCA preferential tariff treatment;
- (e) registration as a local or non-local exporter for preferential tariff treatment under AGOA's GSP;

- (f) (i) registration as a local exporter for preferential tariff treatment under Russia's GSP; or
- (f) (ii) registration as a non-local exporter for preferential tariff treatment under Russia's GSP;
- (g) (i) registration as a local exporter for preferential tariff treatment under Norway's GSP; or
- (g) (ii) registration as a non-local exporter for preferential tariff treatment under Norway's GSP;
- (h) (i) registration as a local exporter for preferential tariff treatment under Turkey's GSP; or
- (h) (ii) registration as a non-local exporter for preferential tariff treatment under Turkey's GSP; or
- (i) registration as a casual exporter.

Registration types for persons acquiring ownership of goods whilst under customs procedures (*section 604*)

28.4 The registration types that may in terms of section 604 of the Control Act be issued for the registration of persons acquiring ownership of goods whilst under a customs procedure are –

- (a) registration as a local person acquiring ownership of goods under a customs procedure; or
- (b) registration as a non-local person acquiring ownership of goods under a customs procedure.

Registration types for agents of non-local licensees and registered persons (*section 605*)

28.5 The registration types that may in terms of section 605 of the Control Act be issued for the registration of persons as agents in the Republic for non-local licensees or registered persons are –

- (a) registration as an agent for non-local importers;
- (b) registration as an agent for –
 - (i) non-local general exporters; or
 - (ii) non-local exporters of any other type;

- (c) registration as an agent for non-local persons acquiring ownership of goods under a customs procedure;
- (d) registration as an agent for non-local carriers; or
- (e) registration as an agent for non-local searchers of or for abandoned wreck.

Registration types for electronic users (*section 606*)

28.6 The registration types that may in terms of section 606 of the Control Act be issued for the registration of persons as electronic users are –

- (a) registration as an electronic user (eFiling); or
- (b) registration as an electronic user (Electronic Data Interchange).

Registration of producers of goods of South African goods of origin and registration types (*section 607*)

28.7 (1) No product may be certified as goods of South African goods of origin for purposes of export under preferential treatment unless the producer⁷³⁶ of that product is in relation to that product registered as a producer of goods of South African goods of origin.

(2) The registration types that may in terms of subrule (1) be issued for the registration of persons as producers of goods of South African goods of origin are -

- (a) registration as a South African producer of goods of South African origin for exports under SACU-EFTA Agreement;
- (b) registration as a South African producer of goods of South African origin for exports under SADC Agreement;
- (c) registration as a South African producer of goods of South African origin for exports under TDCA;
- (d) registration as a South African producer of goods of South African origin for exports under AGOA's GSP;
- (e) registration as a South African producer of goods of South African origin for exports under Russia's GSP;
- (f) registration as a South African producer of goods of South African origin for exports under Norway's GSP; or

⁷³⁶ Manufacturers of goods are included under the definition of "producer" in section 1 of the Control Act.

- (g) registration as a ~~South African~~ producer of goods of South African origin for exports under Turkey's GSP.

Part 2: Rules generally regulating all applications for registration or renewal or amendment of existing registrations

Persons who may apply for registration or renewal or amendment of existing registrations (section 608)

28.8 (1) (a) Any person⁷³⁷ may apply for registration of any registration type, subject to subrules (2), (3), (4) and (5).⁷³⁸

(b) Only a registered person may apply for the renewal or amendment of that person's registration, subject to subrules (2), (3), (4) and (5).

(2) (a) An application ~~by a natural person~~ may be made submitted either by —

(i) that the person applying; personally or

(ii) by another that person's ordinary representative acting on that person's behalf in terms of Part 6 of Chapter 41 of these Rules, subject to paragraph (b).

(b) No licensed customs broker or registered agent may in their capacity as customs broker or registered agent make or submit an application on behalf of another person in terms of paragraph (a)(ii).⁷³⁹

(3) (a) ~~An applicant who is~~ An individual ~~natural person~~ with limited contractual capacity may apply in terms of subrule (1) only with the assistance of ~~must be assisted by~~ his or her guardian, curator or trustee, subject to paragraph subrule (b5).

(b5) A person under the age of 18 years may apply for registration only with the assistance of his or her guardian unless that person is emancipated by order of a court.

⁷³⁷ Note that "person" is defined in section 1 of the Act to include a natural person, a juristic entity, an organ of state and an official of an organ of state.

⁷³⁸ Although any person can apply for registration of any type, it should be noted that the customs authority is obliged in terms of section 610(1) of the Control Act to refuse certain applications, such as those where the applicant is in terms of a provision of the Act not entitled to the registration type applied for.

⁷³⁹ The effect of this provision is that a customs broker or registered agent is not barred from submitting an application on behalf of another as an ordinary representative, provided Part 6 of Chapter 41 of these Rules applicable to ordinary representatives is complied with.

(43) ~~An application by~~ A juristic entity⁷⁴⁰ may ~~be made on behalf of the~~ entity, if the applicant is apply in terms of subrule (1) –

- (a) if the entity is a company or co-operative, only through ~~by~~ a duly authorised director or manager, or the ~~public~~ authorised officer, of the company or cooperative;
- (b) if the entity is a close corporation or partnership, only through ~~by~~ a duly authorised member of or partner in or a manager, or the ~~public~~ authorised officer, of the close corporation or partnership;
- (c) if the entity is an association, club or other body of persons, only through ~~by~~ the chairperson, manager or the ~~public~~ authorised officer of that association, club or other body of persons;
- (d) if the entity is a trust or trust fund, only through ~~by~~ the administrator, ~~or~~ trustee or the authorised officer of the trust or trust fund;
- (e) if the entity is an entity referred to in paragraph (a) to (d) in liquidation or under judicial management, only through ~~by~~ the liquidator or judicial manager of the entity or, if the liquidator or judicial manager is a company or firm, a duly authorised senior official of the company or firm;
- (f) if the entity is the estate of a deceased or insolvent person, only through ~~by~~ the executor or administrator of the estate or, if the executor or administrator is a company or firm, a duly authorised senior official of the company or firm;
or
- (g) if the entity is an organ of state, only through ~~by~~ an official of that organ of state in an executive position.

(5) If an ordinary representative referred to in subrule (2)(a)(ii) submits an application on behalf of a juristic entity, the authorisation required in terms of rule 41.30(1)(a) must be granted and signed by a person permitted in terms of subrule (4) to act for the entity.

~~(4) A person applying on behalf of an applicant in terms of subrule (2) or (3) must act in accordance with a written authorisation granted by the applicant to that person.~~

⁷⁴⁰ See definition of “juristic entity” in section 1 of the Act.

Applications for registration and renewal or amendment of existing registration (section 608)⁷⁴¹

28.9 (1)—(a) An application by a person for registration or for the renewal or amendment of an existing registration must be submitted to the customs authority electronically through eFiling, subject to **rule 41.33A** paragraph (b).

(b)—If an application referred to in paragraph (a) is submitted to the customs authority in paper format in circumstances where submissions in paper format are permissible,⁷⁴² the application —

(i) — must be on the form as published as a rule on the SARS website for the relevant registration; and

(ii) — may be submitted to any Customs Office.

(2) An application referred to in subrule (1) must, subject to subrule (7) -

(a) state **the following:** whether the application is for –

(i) registration;

(ii) the renewal of an existing registration; or

(iii) the amendment of a registration;

(b) if the applicant is a juristic entity, state the name of the individual authorised in terms of rule 28.8(4) to act for the entity, as well as that person's physical address, contact details, identity document or passport number and capacity;

(c) if the application is submitted by an ordinary representative on behalf of the applicant, state the information specified in rule 41.33D;⁷⁴³

(d) state whether the tax matters of the applicant are in order as contemplated in section 917 of the Control Act; and

(e) reflect the additional information required in terms of subrule (3), (4) or (5), as may be applicable.

⁷⁴¹ In terms of rule 3.12(2)(a) of the Customs Duty Rules a person entitled to apply for a deferment of duty benefit may, in the case of a person referred to in section 189(a), (b), (c) or (d) of the Control Act, apply for the deferment benefit simultaneously with that person's registration application.

⁷⁴² See for instance sections 608(e) and 913(4) of the Control Act.

⁷⁴³ If the application is submitted in terms of section 920 of the Customs Control Act by an ordinary representative on behalf of the licensee, the application must comply with the additional requirements set out in Part 6 of Chapter 41 of these Rules.

~~(g3)~~ ~~in the case of~~ An application for a new registration referred to in subrule (2)(a)(i) must reflect the following additional information:

- (a) Particulars of the applicant, which must include –
- (i) if the applicant is an individual –
 - (aa) his or her full name;
 - (bb) every other name under which the applicant conducts business;
 - (cc) date of birth and identity document or passport number;
 - (dd) citizenship; and
 - (ee) contact details, ~~including and~~ physical and postal addresses in the Republic or elsewhere; or
 - (ii) if the applicant is a juristic entity –
 - (aa) its registered or official name;
 - (bb) every name under which the applicant conducts business;
 - (cc) the entity type;
 - (dd) its registration number or the number of its founding document, indicating whether the entity is incorporated, registered or recognised in terms of the laws of the Republic or another country, and if another country, which country;
 - (ee) date of registration, incorporation or recognition;
 - (ff) its contact details, ~~including and~~ its physical and postal addresses in the Republic or elsewhere; and
 - ~~(gg) the name and other details listed in subparagraph (i)(cc) to (ee) of a natural person applying on behalf of the entity;~~
 - (gg) the name of the individual who, for purposes of the Control Act and the tax levying Acts, will be the entity's authorised officer,⁷⁴⁴ as well as that individual's physical address, contact details, identity document or passport number and designation or capacity;

~~(b) the applicant's –~~

~~(i) income tax number; and~~

~~(ii) value-added tax number;~~

(b) the registration category and type applied for;

⁷⁴⁴ See definition of “authorised officer” in rule 1.1.

- (c) if the applicant intends to make use of the services of a customs broker –
- (i) the name and customs code of the applicant's customs broker; and
 - (ii) particulars of the individual within the applicant's organisation authorised to issue clearance instructions to the customs broker, which must include that individual's name, physical address, contact details, identity or passport number and capacity or designation;
- (d) if the applicant is located in the Republic -
- (i) full the banking details⁷⁴⁵ of the applicant's bank account in the Republic; and if the applicant is located in the Republic;
 - (ii) if the bank account referred to in subparagraph (i) is not the bank account into which any refund or drawback that may become payable to the applicant in terms of the Control Act or the Customs Duty Act must be paid, also the banking details⁷⁴⁶ of a bank account in the Republic into which such refund or drawback must be paid;⁷⁴⁷
- (e) if for the registration of a person if the applicant is not located in the Republic -
- (i) the name and customs code of the applicant's registered agent in the Republic;⁷⁴⁸ and
 - (ii) the banking details⁷⁴⁹ of a bank account in the Republic into which any refund or drawback that may become payable to the applicant in terms of the Control Act or the Customs Duty Act must be paid;
- (f) if any person other than the applicant will be authorised to apply for any refund or drawback in terms of the Control Act or the Customs Duty Act to which the applicant may become entitled, that person's name and customs code, or if that person does not have a customs code, the information specified in rule 41.33E(1);
- (g) if in the case of an application for the registration of a person as a local or non-local CTC importer or exporter, the customs code of the cross-border transmission line or cross-border pipeline through which the CTC will be imported or exported; and

⁷⁴⁵ See definition of "banking details" in rule 1.1

⁷⁴⁶ See definition of "banking details" in rule 1.1

⁷⁴⁷ Note that registered persons must in terms of rule 28.26 update their registration details whenever these details change. This requirement also applies to a change in banking details and in persons authorised to apply for refunds or drawbacks.

⁷⁴⁸ See sections 1(3)(a) and 605 of the Control Act.

⁷⁴⁹ See definition of "banking details" in rule 1.1

- (h) in the case of an application for registration as an agent for a principal not located in the Republic -
- (i) whether the applicant is informed of the name and customs code of that principal's customs broker in the Republic; and
 - (ii) whether the applicant or a person within the applicant's organisation contemplated in rule 28.25 has taken the Customs Sufficient Knowledge Test;
- (i) in the case of an application for registration as an agent of a non-local carrier, whether the applicant intends making use of a reporting document as a transshipment clearance declaration as contemplated in section 251 of the Control Act;⁷⁵⁰
- (j) the location and physical address of the place where the records of the applicant's business as a registered person are or will be kept;⁷⁵¹
- (k) the customs code allocated in respect of any other registration or any licence issued to the applicant in terms of the Control Act or the Excise Duty Act;
- (l) details of the applicant's customs relationships, including the other party's customs code and the nature of the relationship;⁷⁵² and
- (m) whether the applicant or an employee of the applicant in a managerial position, or if the applicant is a juristic entity, a director, administrator or trustee of the applicant, has during the five years preceding the application—
- (i) committed a breach of the Control Act, a tax levying Act or the Customs and Excise Act, 1964, in a material respect;
 - (ii) been convicted of an offence under the Control Act, a tax levying Act or the Customs and Excise Act, 1964;
 - (iii) been convicted of an offence involving fraud or dishonesty; or
 - (iv) was insolvent or in liquidation or under judicial management, as the case may be.

(h4) in the case of An application for renewal of an existing registration referred to in subrule (2)(a)(ii) must reflect the following additional information:

⁷⁵⁰ See rule 11.4(3).

⁷⁵¹ Note that records must be kept on the premises prescribed in rule 41.21 for the time period prescribed in that rule. If the registered person, after expiry of that period, applies in terms of rule 41.22 or 41.23 to keep records at a different location in or outside the Republic, the details provided in paragraph (j) must be updated in terms of rule 28.26

⁷⁵² See definition of "customs relationship" in rule 1.1

- (a) The name ~~and customs code~~ of the registered person applying for renewal of the registration;
- (b) the registration category and type of the existing registration and the customs code allocated to the applicant for that registration; and
- (c) particulars of any change in the registration details of the applicant.

(5) ~~in the case of~~ An application for the amendment of a registration certificate referred to in subrule (2)(a)(iii) must reflect the following additional information:

- (a) the name of the registered person applying for the amendment of the registration certificate;
- (b) ~~the particulars referred to in paragraph (h)~~the registration category and type of the existing registration and the customs code allocated to the applicant for that registration; and
- (c) particulars of any change in the registration details of the applicant;
- (d) full particulars of the amendment applied for; and
- (e) ~~motivated the~~ reason for the amendment, which may be motivated in a separate supporting document submitted together with the application subject to and in accordance with Part 7 of Chapter 41 of these Rules.

(6) (a) A person may in the same application apply for more than one registration type.

(b) A registered person may in the same application apply for the renewal or amendment of more than one existing registration of which that person is the holder.

(7) Subrules (2) and (3) ~~does~~ not apply to an application for registration of a person as a casual importer or exporter,⁷⁵³ and such an application must state the following:

- (a) Particulars of the applicant, which must include –
 - (i) if the applicant is an individual –

⁷⁵³ See also rule 28.22.

- (aa) his or her full name;
- (bb) ~~date of birth and~~ identity document ~~number~~ or passport number; and
- (cc) contact details, ~~including and~~ physical and postal addresses in the Republic; or
- (ii) if the applicant is a juristic entity –
 - (aa) its registered or official name;
 - (bb) the entity type;
 - (cc) its registration number or the number of its founding document, indicating whether the entity is incorporated, registered or recognised in terms of the laws of the Republic or another country, and if another country, which country; and
 - (dd) its contact details, ~~including and~~ its physical and postal addresses in the Republic;

~~(b) the applicant's –~~

~~(i) income tax number; and~~

~~(ii) value added tax number; and~~

- (b) if the applicant, ~~in the case of an application for registration of a person as a casual importer or exporter,~~ intends to make use of the services of a customs broker, the name and customs code of the applicant's customs broker.

Applications for new registration or renewal of registration for SACU-EFTA Agreement

28.10 In addition to complying with the other requirements of this Part, no person may submit an application for –

- (a) a new registration as an approved local or non-local exporter for SACU-EFTA preferential tariff treatment, unless the applicant –
 - (i) is the holder of a registration as a local or non-local exporter for SACU-EFTA preferential tariff treatment;
 - (ii) has exported ~~at least 12~~ ~~more than one~~ shipment per annum of goods of South African origin under that registration; and
 - (iii) has a record of compliance with the SACU-EFTA Agreement; or

- (b) renewal of registration of an existing registration as an approved local or non-local exporter for SACU-EFTA preferential tariff treatment, unless the applicant –
 - (i) has exported ~~at least 12~~ **more than one** shipment per annum of goods of South African origin under that registration; and
 - (ii) has a record of compliance with the SACU-EFTA Agreement.

Applications for new registration or renewal of registration for TDCA

28.11 In addition to complying with the other requirements of this Part, no person may submit an application for –

- (a) a new registration as an approved local or non-local exporter for TDCA preferential tariff treatment, unless the applicant –
 - (i) is the holder of a registration as a local or non-local exporter for TDCA preferential tariff treatment;
 - (ii) has exported ~~at least 12~~ **more than one** shipment per annum of goods of South African origin under that registration; and
 - (iii) has a record of compliance with the TDCA; or
- (b) renewal of registration of an existing registration as an approved local or non-local exporter for TDCA preferential tariff treatment, unless the applicant –
 - (i) has exported ~~at least 12~~ **more than one** shipment per annum of goods of South African origin under that registration; and
 - (ii) has a record of compliance with the TDCA.

Applications for registration ~~or renewal of registration~~ of agents of non-local licensees or registered persons (section 626(a))

28.12 (1) ~~In addition to complying with the other requirements of this Part, no person may submit a~~ **An application for registration ~~or the renewal of an existing registration~~ to act as the agent in the Republic of a non-local licensee or registered person as contemplated in section 605(1) of the Control Act ~~may, subject to subrule (2), be submitted before~~ **unless** the applicant, or another person within the applicant's organisation contemplated in rule **28.25**, has **complied with the requirement of** sufficient knowledge of customs laws, guides, interpretive notes, operational manuals and practices relating to the business of such an agent,**

provided that no application may be granted unless the applicant has complied with that requirement.

(2) An application referred to in subrule (1) lapses if the applicant or a person within the applicant's organisation has not complied with the sufficient knowledge requirement within 90 calendar days from the date of submission of the application.

(3) No application for renewal of an existing registration to act as the agent in the Republic of a non-local licensee or registered person as contemplated in section 605(1) of the Control Act may be submitted unless the applicant, or another person within the applicant's organisation contemplated in rule 28.25, has complied with the requirement of sufficient knowledge of customs laws, guides, interpretive notes, operational manuals and practices relating to the business of such an agent.

~~(2) An application referred to in subrule (1) must be accompanied by a document listing the name and identity or passport number of each person within the applicant's organisation who has completed the relevant Professional Customs Registration Examination successfully.~~

Documents required for supporting all applications for registration and renewal or amendment of existing registrations (section 609)

28.13 (1) An application for registration of any registration type, ~~or for the renewal or amendment of any existing registration, by a person located in the Republic~~ must be supported by the following documents, which must subject to and in accordance with Part 7 of Chapter 41 of these Rules, be submitted together with the application:

- (a) A banking details confirmation document⁷⁵⁴ confirming the applicant's banking details of the bank account referred to in rule 28.9(3)(e) and (f)(ii), as may be applicable, into which any refund or drawback that may become payable to

⁷⁵⁴ See definition of "banking details confirmation document" in rule 1.1

the applicant in terms of the Control Act or the Customs Duty Act must be paid;

, including the name of the bank, the account holder's name, the account type and number, and the branch code, which may be –

(ii) — a bank certified original bank statement or a legible bank certified copy of an original bank statement;

(ii) — a bank certified original auto bank statement; or

(iii) — an original letter from the applicant's bank on an official bank letterhead;

(b) the original or a certified copy of –

(i) a municipal account or fixed line telephone account issued to the applicant to confirm the applicant's physical address, if the applicant is located in the Republic; and

(ii) a telephone account ~~or an account~~ issued to the applicant to confirm the applicant's telephone contact details;

(c) if the applicant is a juristic entity, a certified copy of the founding document or any certificate issued in terms of the laws of the Republic or of another country certifying that the applicant is incorporated, registered or recognised in terms of the laws of the Republic or that other country;

(d) a certified copy of the identity document or passport proving identity and citizenship –

(i) if the applicant is a an individual natural person, of the applicant;

(ii) if the applicant is a company or cooperative, of the managing director, the financial director and every other director, and of the public authorised officer, of the company or cooperative;

(iii) if the applicant is a close corporation or partnership, of the public authorised officer and every member of or partner in the close corporation or partnership;

(iv) if the applicant is a trust or trust fund, of the trustee or administrator of the trust or trust fund if the trustee or administrator is an individual, and of the authorised officer of the trust or trust fund;

(v) if the applicant is an association, a club or any other body, of the chairperson or manager, and of the public authorised officer, of the association, club or other body;

- (vi) if the applicant is an entity referred to in subparagraph (i) to (v) in liquidation or under judicial management, of the liquidator or judicial manager of the entity if that liquidator or judicial manager is an individual;
 - (vii) if the applicant is the estate of a deceased or insolvent person, the executor or administrator of the estate if that executor or administrator is an individual; or
 - (viii) if the applicant is an organ of state, the official to whom the function in respect of the activity for which registration is required, is delegated;
- (e) a certified copy of the authorisation authorising a person contemplated in —
- (i) — rule **28.8(2)(a)(ii)** to act ~~on behalf~~ as an ordinary representative of the applicant; or
 - (ii) rule 28.9(3)(i) to apply for refunds and drawbacks on behalf of the applicant;
- (f) if not already required in terms of paragraph (d), a certified copy of the identity document or passport of —
- (i) — ~~an authorised~~ person referred to in paragraph (e), if that person is an individual if not already required in terms of paragraph (d); and
 - (ii) a duly authorised person referred to in rule 28.8(4), if the applicant is a juristic entity;
- (g) if the applicant applies for registration as an agent for a non-local licensees or registered persons –
- (i) a certified copy of the agency contract between the applicant and the non-local licensee or registered person; and
 - (ii) if the non-local licensee or registered person is a juristic entity, a certified copy of the founding document or any certificate issued in terms of the laws of the country where the non-local licensee or registered person is incorporated, registered or recognised certifying such incorporation, registration or recognition;
- (h) if the applicant applies for registration as a local or non-local CTC importer or exporter, a certified copy of any lease agreement or other agreement whereby the applicant will import or export the CTC through a cross-border transmission line or cross-border pipeline; and

- (i) if the applicant applies for registration as an importer for SEZ CCA development, a certified copy of the site and layout plan of the customs controlled area within the special economic zone showing the exact demarcated area to be developed by imported goods; and
(i) if applicable, a document setting out any circumstances referred to in rule 28.9(3)(p).

(2) An application for the renewal or amendment of any existing registration must be supported by the following documents submitted together with the application subject to and in accordance with Part 7 of Chapter 41 of these Rules:

- (a) The documents referred to in subrule (1)(d), (e) and (f), as may be applicable;
(b) a document confirming or evidencing particulars of any change in the registration details of the applicant; and
(c) in the case of an application for amendment of an existing registration, documents substantiating any material facts mentioned in the motivation for the amendment referred to in rule 28.9(5)(e).

~~(2) Certified copies of any documents referred to in subrule (1) or (2) may not be older than three months.~~

~~(3) An applicant must on request by the customs authority make available to it any information, books, accounts and other documents necessary for—~~
~~(a) verifying any statements made by the applicant in the application; or~~
~~(b) ascertaining facts relating to the activity in respect of which registration is sought.~~

~~Disclosure of circumstances that may affect granting of application (section 610)~~

~~28.14 (1) An applicant must for purposes of section 610(2) of the Control Act disclose whether—~~

- ~~(a) the applicant or an employee of the applicant in a managerial position, or if the applicant is a juristic entity, a director, administrator or trustee of the applicant, has during the five years preceding the application—~~

- (i) committed a breach of the Act, a tax levying Act or the Customs and Excise Act, 1964, in a material respect;
 - (ii) been convicted of an offence under the Act, a tax levying Act or the Customs and Excise Act, 1964; or
 - (iii) been convicted of an offence involving fraud or dishonesty; or
 - (iv) was insolvent or in liquidation or under judicial management, as the case may be; or
- (b) the tax matters of the applicant are in order.

(2) If any of the circumstances referred to in subrule (1) applies in respect of the application, the applicant must furnish full details with the application.

Supporting and certain Other documents to be submitted or made available to customs authority on request

28.15 An applicant must on request by the customs authority –

- (a) submit to it any other documents that may be required in terms of this Part to support for purposes of considering an application; and
- (b) make available to it any information, books, accounts and other documents necessary for -
 - (i) verifying any statements made by the applicant in the application; or
 - (ii) ascertaining facts relating to the activity in respect of which registration is sought.

Part 3: Registration conditions

General conditions subject to which applicable to all registrations are issued

(section 613(1))

28.16 (1) All registrations are subject to the following general conditions:

- (a) The registered person may not authorise or allow any other person to use on the registered person's behalf the customs code issued by the customs authority to the registered person, except where expressly required or permitted in terms of these Rules.

- (b) The registered person must whenever transacting business relating to the purpose for which that person was registered, indicate that customs code on any document issued by that person, including on –
- (i) any communication to the customs authority or another organ of state; and
 - (ii) any authorisation issued by the registered person to any registered agent, ~~or~~ customs broker or ordinary representative acting on behalf of the registered person.

~~(c) The name of the registered person as reflected on the registration certificate must be prominently displayed on a sign at each the main business premises where the registered person conducts business relating to the purpose for which the registration was granted.~~

~~(dc)~~ The registration certificate or a certified copy of the registration certificate, or an official SARS letter of confirmation of registration, must be kept at each ~~such~~ business premises where the registered person conducts business relating to the purpose for which the registration was granted.

~~(ed)~~ All reports, applications, declarations, notifications and other documents or communications that must or may be submitted by the registered person to the customs authority in terms of the Control Act, or a tax levying Act must be submitted electronically through EDI or eFiling, as may be applicable, except where a communication is submitted to the customs authority in paper format subject to rule 41.33A. A document or communication submitted in paper format must be submitted in accordance with any applicable requirements of these Rules or as the customs authority may direct in a specific case. ⁷⁶⁵ In the circumstances where submissions in paper format are permissible. ~~in circumstances where submissions in paper format are permissible.⁷⁶⁵ In the case of communications in paper format, the communication must be –~~

- ~~(i) on a form as published as a rule on the SARS website for the relevant communication; and~~
- ~~(ii) Unless provided otherwise in these Rules or the customs authority otherwise directs in a specific case, must be submitted to the Customs Office serving –~~

⁷⁶⁵ See for instance section 913(4) of the Control Act.

~~(aa) the customs controlled area where the goods to which the communication relates are or are destined for;~~

~~(bb) the area in which the business premises of the registered person or of that person's registered agent in the Republic is situated; or~~

~~if neither item (aa) or (bb) applies any Customs Office.~~

(e) The registered person must promptly notify the customs authority of any occurrence that may in terms of section 618 of the Control Act constitute a ground for suspension or withdrawal of that person's registration.

(f) The records a registered person must keep in connection with the activity or other purpose for which that person is registered must be kept in accordance with Part 5 of Chapter 41 of these Rules.

(2) Subrule (1)(b) and (c) ~~(d) and (e)~~ does not apply to a person in relation to that person's registration as an electronic user.

Additional conditions in relation applicable to local registered agents of non-local licensees and registered persons (section 613)

28.17 All registrations issued to agents for non-local licencees and registered persons are, in addition to those listed set out in rule 28.16, subject to the following further general conditions:

(a) The agent must maintain sufficient knowledge of customs laws, guides, interpretive notes, operational manuals and practices by having available at all times within the business at least one person contemplated in rule 28.25 who has successfully completed the relevant Customs Sufficient Knowledge Test. ~~Professional Customs Registration Examination.~~

(b) The agent must promptly give notice in terms of rule 28.27 to the customs authority if paragraph (a) is at any stage no longer being complied with.

(c) The agent must take all reasonable steps to ensure that the agent's principal complies with the Control Act, these Rules and any applicable tax levying Act.

(d) If the agent's principal commits an act (including an omission to perform an act) which is a breach in terms of Control Act, these Rules or any applicable tax levying Act for which an administrative penalty may be imposed, the

customs authority may hold the agent liable for the payment of that penalty if the agent—

- (i) knew or should reasonably have known that the principal is to commit that act and failed to take reasonable steps within the powers of the agent to prevent the principal from committing that act; or
- (ii) when becoming aware of that act, failed to notify the customs authority of the commission of that act.⁷⁵⁶

Additional conditions ~~in relation~~ applicable to registered electronic users
(section 613)

28.18 The registration of an electronic user is, in addition to the conditions ~~listed set out~~ in rule **28.16**, subject to the following further general condition:

The registered person, in the case of a person who electronically communicates with the customs authority directly for the submission of any declarations, reports, statements, returns, ~~notifications~~, notices, applications, requests or other documents or communications, must –

- (a) be appropriately electronically enabled for the electronic user registration type for which that person has been registered and, thereafter, at all times maintain that enablement; ~~and~~
- (b) sign, and submit to the customs authority; ~~in the case of a registration for EDI, or accept online in the case of a registration for eFiling,~~ the electronic user agreement for the relevant registration type⁷⁵⁷ and thereafter on an on-going basis comply with the agreement.

Part 4: Recordkeeping and reporting

Records to be kept by registered persons (section 626)

28.19 (1) A registered person must, ~~in accordance with section 919 of the Control Act, read with Part 5 of Chapter 41 of these Rules,~~ keep such records as may be necessary to fully and accurately reflect all transactions relating to the

⁷⁵⁶ For liability of agent for criminal offences committed by the principal, see section 893(1) of the Control Act and section 218(1) of the Customs Duty Act.

⁷⁵⁷ Pro forma electronic user agreements are published on the SARS website.

activity or other purpose for which that person is registered, including any books, accounts and documents, whether created manually or by means of a computer.

~~(2) The record keeping system of a licensee referred to in subrule (1) must comply with section 919 of the Control Act.~~

(32) The records kept in terms of subrule (1) must include –

- (a) a record of all declarations, reports, **notifications, notices,** returns and other documents submitted or issued by the registered person in terms of the Control Act or a tax levying Act;
- (b) a record of all documents received by the registered person in terms of the Control Act or a tax levying Act; **and**

~~(c) in the case of a licensee responsible for goods cleared for a customs procedure, all records that must in terms of the Control Act be kept for purposes of that customs procedure; and~~

- (c) a record of compliance with the Control Act and the tax levying Acts reflecting evidence of compliance and at least the following occurrences, if any:
 - (i) Any late or non-payment of duty, levy, tax or interest by the registered person;
 - (ii) any customs queries and stop notes issued to the registered person and the outcome in each case;
 - (iii) any warnings issued to the registered person by the customs authority and the outcome in each case;
 - (iv) any administrative penalties imposed on the registered person, and whether confirmed or mitigated;
 - (v) any criminal proceedings instituted against the registered person and the outcome of the proceedings; and
 - (vi) any corrective steps taken and maintained by the registered person to ensure compliance.

Time for, and manner in which, records must be kept

~~28.20 (1) Records referred to in rule 28.19(1) must be retained –~~

- ~~(a) for a period of five years calculated from the end of the calendar year in which such record was created;~~

- ~~(b) in a secure place~~
- ~~(i) on the registered person's business premises; or~~
 - ~~(ii) with the permission of the customs authority and subject to such conditions as the customs authority may determine, on any other premises;~~
- ~~(b) according to a filing system that enables quick access to information pertaining to a specific transaction; and~~
- ~~(c) in their original form subject to section 14 of the Electronic Communications and Transactions Act, 2002.~~

~~(2) A registered person may with the permission of the customs authority and subject to such conditions as the customs authority may determine, retain instead of the original of any book, account or document in paper format~~

- ~~(a) a copy of that record in paper format, obtained through reproduction by means of photocopying; or~~
- ~~(b) an electronic copy of that record in electronically imaged or microfilmed format, provided that~~
 - ~~(i) any electronic or microfilm image must be easily accessible and readable; and~~
 - ~~(ii) the imaging program complies with any requirements in terms of the Electronic Communications and Transactions Act, 2002.~~

Content covered in Part 5 of Chapter 41 of these Rules.

Records and returns to be produced or submitted to customs authority on request

28.21 (1) A registered person must produce or submit any record referred to in rule **28.19** or render such returns or submit such particulars in connection with that person's transactions, as the customs authority may request require.

(2) (a) Records referred to in subrule (1) must be submitted subject to and in accordance with Part 7 of Chapter 41 of these Rules.

(b) Part 7 of Chapter 41 of these Rules, with any necessary changes the context may require, applies to the submission of returns and particulars referred to in subrule (1).

~~(2) A registered person who has been requested by a customs officer to produce any record referred to in rule 28.19 may with the permission of the customs authority and subject to such conditions as the customs authority may determine, produce a copy of such record which, in such a case, may for purposes of the Control Act and a tax levying Act be regarded to be the original record.~~

Part 5: *Simplified registration processes and exemptions for certain categories of persons*
Application of registration requirements to casual and other small importers and exporters

Persons acquiring ownership of goods whilst under customs procedure

(section 604 read with section 626(c) and (d))

28.21A (1) If the customs authority in terms of section 111 of the Control Act, read with Part 6 of Chapter 4 of these Rules, approves the transfer of the ownership or a share in the ownership of goods under a customs procedure to another person, the person acquiring ownership or a share in the ownership of the goods -

(a) is exempted from -

(i) section 608 to submit an application for registration contemplated in section 604 in relation to the goods or share acquired by that person;
and

(ii) Part 2 of this Chapter; and

(b) becomes entitled to the registration in relation to those goods or share without submission of an application for registration.

(2) A registration certificate issued in terms of section 611 to the person acquiring ownership or a share in ownership of the goods applies only in relation to those particular goods, and the customs code issued to that person may only be used for purposes of those goods.

Casual importers and exporters (*section 603 read with section 626(c) and (d)*)

28.22 (21) If an unregistered casual importer or exporter clears goods for home use or a customs procedure and indicates in terms of rule 7.2(e)(iv) that the clearance declaration must serve as an application for registration as a casual importer or exporter –

- (a) the clearance declaration submitted by or on behalf of that casual importer or exporter in terms of section 90 or 94 of the Control Act must be regarded to be an application for registration of that person as a casual importer or exporter, as the case may be; and
- (b) the release by the customs authority of those goods for home use or a customs procedure must be regarded to be the customs authority's approval of the registration application; and
- (c) the identity number or passport number of the casual importer or exporter or, if the casual importer or exporter is a juristic entity, the identity number or passport number of the entity's authorised officer, must be taken to be the customs code of the casual importer or exporter.

(12) (a) A casual importer or exporter using the simplified registration procedure provided for in subrule (1) is exempted from Part 2 of Chapter 28 of these Rules.

(b) Parts 2 and 3 of Chapter 28 of the Control Act and Parts 2 and 4 of these Rules apply to those casual importers and exporters subject to the provisions of this Part subrule (1), and in the event of any inconsistency between a provision of any of those Parts and that subrule casual importers and exporters are exempted from that provision to the extent of the inconsistency.

(3) A casual importer or exporter whose application for registration is approved in terms of the simplified procedure provided for in a provision referred to in subrule (1) or regarded to have been approved in terms of subrule (2)(b) (1), remains registered as a casual importer or exporter for a period of three calendar years, including the calendar year in which that person was registered as a casual importer or exporter, unless the customs authority withdraws the registration earlier in terms of Part 4 of Chapter 28 of the Control Act.

(4) Subrule (3) also applies if a casual importer or exporter applies for registration as a casual importer or exporter in terms of the formal procedure provided for in Part 2 of Chapter 28 of the Control Act, read with Part 2 of Chapter 28 of these Rules.

(5) No person may be registered as a casual importer or exporter, whether in terms of the formal procedure provided for in Part 2 of Chapter 28 of the Control Act or the simplified procedure provided for in subrule (1), ~~in terms of a provision referred to in subrule (1) or in terms of subrule (2)~~ unless that person is located in the Republic.⁷⁵⁸

Travellers and crew importing or exporting baggage items other than commercial goods (sections 603(3) and 626)

28.23 Travellers and crew members who when entering or leaving the Republic import or export, as part of their accompanied or unaccompanied baggage, items that are not commercial goods, are hereby in relation to such items exempted from the requirement in section 603(1) of the Control Act to register as an importer or exporter.⁷⁵⁹

Persons importing or exporting international postal articles through South African Post Office

28.24 (1) Persons importing or exporting through the South African Post Office international postal articles with a customs value –

- (a) exceeding an upper value determined in terms of section 493(2) or 494(2) of the Control Act, are hereby in relation to such articles exempted from Parts 2 and 3 of Chapter 28 of that Act and Parts 2, 3 and 4 **of Chapter 28** of these Rules;⁷⁶⁰ or

⁷⁵⁸ See proviso to paragraph (a) of the definition of “casual importer” or “casual exporter”.

⁷⁵⁹ The effect of this exemption is that none of the provisions of Chapter 28 of the Control Act will apply to these travellers **and crew members** in relation to baggage items other than commercial goods. If travellers **or crew members** have commercial goods, they must register in terms of rule **28.9** as an importer or exporter or, if they are casual importers or exporters, they must register in terms of rule **28.23** as a casual importer or exporter.

⁷⁶⁰ Note that this is only a partial exemption from Chapter 28 of the Control Act.

- (b) not exceeding an upper value determined in terms of section 493(2) or 494(2), are hereby in relation to such articles exempted from the requirement in section 603(1) of the Control Act to register as an importer or exporter.⁷⁶¹

(2) If a person importing or exporting through the South African Post Office an international postal article with a customs value exceeding the upper value referred to in subrule (1)(a), clears that article in terms of section 480(2)(b) or 485(2)(b) for home use or a customs procedure –

- (a) the clearance declaration submitted by or on behalf of that person in respect of that article must be regarded to be an application for registration as an importer or exporter, as the case may be; and
- (b) the release by the customs authority of the article for home use or a customs procedure must be regarded to be the customs authority's approval of the registration application.

(3) A person whose application for registration as an importer or exporter is regarded to have been approved in terms of subrule (2)(b) is registered as an importer or exporter only for purposes of importing or exporting international postal articles through the South African Post Office.

(4) Until Chapter 22 of the Control Act takes effect in terms of section 943 of that Act⁷⁶² –

- (a) the upper value referred to in subrule (1) or (2) must be regarded to be the same amount as the amount determined by ministerial notice in terms of section 533(2)(a) of that Act;
- (b) any reference in subrule (1) or (2) to the clearing of a postal article in terms of section 480(2)(b) or 485(2)(b) must be read as a reference to an entry in terms of the Customs and Excise Act, 1964;

⁷⁶¹ The effect of this exemption is that none of the provisions of Chapter 28 of the Control Act will apply to these persons importing or exporting through the South African Post Office international postal articles with a value below the upper limit.

⁷⁶² Note that rule **28.24** cannot technically be implemented before Chapter 22 of the Control Act takes effect in terms of section 943 of that Act. That section provides that until Chapter 22 takes effect the Customs and Excise Act, 1964, as it existed immediately before the 2014 Amendment Act, will continue to apply to international postal articles. The interpretive adjustments as provided in subrule (4) above are accordingly necessary in the interim until Chapter 22 takes effect.

- (c) any reference in subrule (1) or (2) to a clearance declaration must be read as a reference to a bill of entry within the meaning of the Customs and Excise Act, 1964; and
- (d) any reference to release for home use or a customs procedure in subrule (1) or (2) must be read as a reference to release for home consumption or another purpose within the meaning of the Customs and Excise Act, 1964.

Part 6: General

Customs Sufficient Knowledge Test ~~Professional Customs Registration Examination~~ (section 626(a))

28.25 (1) **Any of** the following persons may take the **Customs Sufficient Knowledge Test** ~~Professional Customs Registration Examination~~ to establish sufficient knowledge of customs laws, guides, interpretive notes, operational manuals and practices for purposes of registration in terms of this Chapter **where sufficient knowledge is in terms of this Chapter a requirement for registration**.⁷⁶³

- (a) If the applicant is **an individual natural person** –
 - (i) the applicant himself or herself; or
 - (ii) a person in the employ of the applicant authorised by the applicant to take the ~~examination~~**test**; or
- (b) if the applicant is a juristic entity –
 - (i) a person referred to in rule **28.8(4)**; or
 - (ii) a person in the employ of the applicant authorised by the applicant to take the ~~examination~~**test**.

(2) There is no restriction on the number of times the ~~test~~ **examination** may be taken in order to achieve the score required to establish sufficient knowledge.

(3) The score required for the test to establish sufficient knowledge is 60 per cent.

⁷⁶³ See rule **28.17**

(4) A person who has successfully completed the Customs Sufficient Knowledge Test remains eligible for purposes of these Rules for a period of three years, and to continue to be eligible must at the expiry of that period repeat the test.

Updating of registration details

28.26 (1) If any of the registration details of a registered person have or are to change, the registered person must promptly update those details in accordance with this rule at the request of and within a period specified by the customs authority update the registration details of that person.⁷⁶⁴

(2) An update in terms of subrule (1) containing the following information must be submitted to the customs authority electronically through eFiling, subject to rule 41.33A:

- (a) The customs code of the registered person;
- (b) particulars of the change in registration details; and
- (c) the effective date of the change.

(3) If the change in registration details affect the information on the registered person's registration certificate, the update must be effected through an application in terms of rule 28.9 for an amendment of the certificate.⁷⁶⁵

Notification of change in circumstances material to granting of registration (section 623 read with 903(1)(m)(v))

28.27 (1) When complying with section 623 of the Control Act, a registered person must notify the customs authority of any change of circumstances that were material to the granting of that person's registration,⁷⁶⁶ within three working days of the change having occurred, read with section 908 of the Control Act.

⁷⁶⁴ If the update is submitted on behalf of the registered person by an ordinary representative contemplated in section 920 of the Customs Control Act, the update must comply with the additional requirements set out in Part 6 of Chapter 41 of these Rules. Note that the said Part 6 applies only to ordinary representatives which per definition excludes persons submitting documents as customs brokers or registered agents. It follows that Part 6 does not apply to customs brokers and registered agents that submit an update in that capacity. An update submitted on behalf of the registered person by a customs broker, registered agent or ordinary representative must contain the additional information referred to in rule 41.33D.

⁷⁶⁵ Note the limitation in rule 28.8(2)(b) on customs brokers and registered agents to apply on behalf of clients.

⁷⁶⁶ See rule 1.1F for circumstances material to the granting of a person's registration.

(2) (a) A notification referred to in subrule (1) must be submitted to the customs authority electronically through eFiling, subject to **rule 41.33A** paragraph (b).

~~(b) If a notification is submitted to the customs authority in paper format in circumstances where submissions in paper format are permissible,⁷⁶⁷ the notification must be –~~

~~(i) on Form published as a rule on the SARS website for the purpose of such notifications in paper format; and~~

~~(ii) submitted to any Customs Office.~~

(3) A notification referred to in subrule (1) must state –

(a) the **name and** customs code **issued to** **of** the registered person; **and**

(b) if the notification is submitted by a customs broker, registered agent or ordinary representative on behalf of the registered person, the information specified in rule 41.33D;⁷⁶⁸ and

(c) particulars of the changed circumstances.

~~(4) Circumstances material to the granting of an application for registration include –~~

~~(a) the legal status, legal capacity or legal identity of the registered person, and –~~

~~(i) if the registered person is a juristic entity, also the registered person's incorporation, registration or recognition in terms of the legislation applicable to it; or~~

~~(ii) if the registered person is a partnership or close corporation, also the membership of the partnership or close corporation;~~

~~(b) the financial soundness and solvency of the registered person;~~

~~(c) the fixed physical address of the place where –~~

~~(i) the registered person is ordinarily resident in the Republic, if the registered person is an individual natural person;~~

⁷⁶⁷ See for instance section 913(4) of the Control Act.

⁷⁶⁸ If the notification is submitted in terms of section 920 of the Customs Control Act by an ordinary representative on behalf of the registered person, the notification must comply with the additional requirements set out in Part 6 of Chapter 41 of these Rules. Note that the said Part 6 applies only to ordinary representatives which per definition excludes persons submitting documents as customs brokers or registered agents. It follows that Part 6 does not apply to customs brokers or registered agents that submit notifications on behalf of registered persons in that capacity.

~~(ii) — the registered person has its business in the Republic, if the registered person is a juristic entity;~~

~~(iii) — the registered agent of the registered person is ordinarily resident in the Republic, if the registered person has such an agent and that agent is an individual natural person; or~~

~~(iv) — the registered agent of the registered person has its place of business in the Republic, if the registered person has such an agent and that agent is a juristic entity;~~

~~(d) — the tax matters of the registered person; and~~

~~(e) — the registered person's compliance with the requirement of sufficient knowledge of customs laws, guides, interpretive notes, operational manuals and practices, where applicable.⁷⁶⁹~~

Moved to rule **1.1F**

⁷⁶⁹ See rule 28.17

CHAPTER 29 LICENSING

Definition⁷⁷⁰

29.1 In this Chapter, unless the context otherwise indicates –

“licence details”, in relation to a licensee, means the information provided by the licensee in –

- (a) a licensing application referred to in rule **29.10**; or
- (b) a subsequent update of that information in terms of rule **29.42A**.

“abandoned”, in relation to wreck, means when all parties having a pecuniary interest in the wreck have relinquished their rights to search for or salvage the wreck;

“air carrier” means a person referred to in paragraph (a) of the definition of “carrier” in section 1 of the Control Act;

“courier” means a carrier licensed to conduct a courier business and who, for the purpose of clearing and handling courier articles in the course of conducting such a business, may also be the holder of –

- (a) a customs broker licence;
- (b) a registration as an importer or exporter; or
- (c) an air cargo depot licence;

“courier business” means a business service provided by a carrier in the international transportation of goods on an express door to door delivery basis, either by –

- (a) transporting goods into the Republic for express delivery inside the Republic and delivering the goods to consignees inside the Republic;
- (b) receiving in the Republic goods imported for express delivery inside the Republic and delivering those goods to consignees inside the Republic;

⁷⁷⁰ Note that the words “applicant” and “application” are defined for purposes of licensing in section 628 of the Control Act.

(c) — collecting goods for express delivery outside the Republic, transporting the goods out of the Republic and delivering the goods to consignees outside the Republic; or

(d) — collecting goods in the Republic for express delivery outside the Republic and arranging the export and the delivery of the goods to consignees outside the Republic;

“licence type”, in relation to—

(a) — premises that must be licensed in terms of section 630 of the Control Act, means a type of licence that may in terms of rule 29.2 be issued in respect of the different categories of those premises;

(b) — cross-border transmission lines, pipelines, cable cars or conveyor belts that must be licensed in terms of section 631, means a type of licence that may in terms of rule 29.3 be issued in respect of such transmission lines, pipelines, cable cars or conveyor belts;

(c) — carriers that may or must be licensed in terms of section 632, means a type of licence that may in terms of rule 29.4 be issued to the different categories of those carriers;

(d) — customs brokers that must be licensed in terms of section 633, means a type of licence that may in terms of rule 29.5 be issued to customs brokers;

(e) — stores suppliers that must be licensed in terms of section 634(1), means a type of licence that may in terms of rule 29.6 be issued to stores suppliers;

(f) — importers and exporters involved in the processing procedures that must be licensed in terms of section 634(2), means a type of licence that may in terms of rule 29.7 be issued to the different categories of such persons; or

(g) — persons searching for abandoned wreck that must be licensed in terms of rule 29.8(1), means a type of licence that may in terms of rule 29.8(2) be issued to such persons;

“local”, in relation to an applicant or a licensee or registered person, means an applicant or a licensee or registered person located in the Republic within the meaning of section 1(3)(a) of the Control Act;

“non-local”, in relation to an applicant or a licensee or registered person, means an

applicant or a licensee or registered person not located in the Republic within the meaning of section 1(3)(a) of the Control Act;

“own goods carrier” means a person referred to in paragraph (d) of the definition of “carrier” in section 1 of the Control Act;

“Professional Customs Licence Examination” means the examination referred to in rule 29.42 to establish whether a person has sufficient knowledge of applicable customs laws, guides, interpretive notes, operational manuals and practices –

(a) — administered by —

(i) — the customs authority; or

(ii) — a recognised professional body for the purposes of the National Qualifications Framework Act, 2008 (Act 67 of 2008), with the permission of the customs authority and subject to such conditions as the customs authority may determine; and

(b) — the details of which are available on the SARS website or the website of that professional body;

“public officer”, in relation to a juristic entity which is a company as defined in the Tax Administration Act, means the public officer of the entity within the meaning of section 246 of that Act;

“rail carrier” means a person referred to in paragraph (b) of the definition of “carrier” in section 1 of the Control Act transporting goods or travellers by rail for reward;

“road carrier” means a person referred to in paragraph (c) of the definition of “carrier” in section 1 of the Control Act transporting goods by truck or travellers by bus for reward;

“sea carrier” means a person referred to in paragraph (a) of the definition of “carrier” in section 1 of the Control Act transporting goods or travellers by sea for reward;

“special economic zone” means a special economic zone within the meaning of

the Special Economic Zones Act;

“sufficient knowledge”, in relation to customs laws, guides, interpretive notes, operational manuals and practices, means to pass the relevant Professional Customs Licence Examination;

“transhipment depot” means any premises at a customs seaport or airport contemplated in section 254(1)(a).

Part 1: Licence types

Licence types for premises (section 630)

29.2 (1) The licence types that may in terms of section 630 of the Control Act, read with subrule (2), be issued for the licensing of premises are:

- (a) A general sea cargo terminal licence authorising the premises to be managed, operated or used as a general sea cargo terminal;
- (b) a special sea cargo terminal licence authorising the premises to be managed, operated or used as a special sea cargo terminal;
- (c) a bulk sea cargo terminal licence authorising the premises to be managed, operated or used as a bulk sea cargo terminal;
- (d) a container terminal licence authorising the premises to be managed, operated or used as a container terminal;
- (e) a combination sea cargo terminal licence authorising the premises to be managed, operated or used as a combination sea cargo terminal;
- (f) a sea travellers terminal licence authorising the premises to be managed, operated or used as a sea travellers terminal;
- (g) a multi-purpose sea cargo terminal licence authorising the premises to be managed, operated or used as a multi-purpose sea cargo terminal;
- (h) an air cargo terminal licence authorising the premises to be managed, operated or used as an air cargo terminal;
- (i) (i) an air cargo depot licence authorising the premises to be managed, operated or used as an air cargo depot; or

- (ii) a courier air cargo depot licence authorising the premises to be managed, operated or used as an air cargo depot solely for conducting a courier business;
- (j) an air travellers terminal licence authorising the premises to be managed, operated or used as an air travellers terminal;
- (k) a rail cargo terminal licence authorising the premises to be managed, operated or used as a rail cargo depot;
- (l) a rail travellers terminal licence authorising the premises to be managed, operated or used as a rail travellers terminal;
- (m) an international postal clearance depot licence authorising the premises to be managed, operated or used as an international postal clearance depot;⁷⁷¹
- (n) a container depot licence authorising the premises to be managed, operated or used as a container depot;
- (o)
 - (i) a public storage warehouse licence authorising the premises to be managed, operated or used as a public storage warehouse **for a specific purpose**;
 - (ii) a private storage warehouse licence authorising the premises to be managed, operated or used as a private storage warehouse for a specific purpose;
 - (iii) an SEZ public storage warehouse licence authorising the premises to be managed, operated or used as an SEZ enterprise public storage warehouse for a specific purpose; or
 - (iv) an SEZ private storage warehouse licence authorising the premises to be managed, operated or used as an SEZ enterprise private storage warehouse for a specific purpose;
- (p)
 - (i) an inbound tax free shop licence authorising the premises to be managed, operated or used as an inbound tax free shop;
 - (ii) an outbound tax free shop licence authorising the premises to be managed, operated or used as an outbound tax free shop; or
 - (iii) a special shop for diplomats licence authorising the premises to be managed, operated or used as a special shop for diplomats;

⁷⁷¹ This licence type will only apply as from the date on which Chapter 22 of the Control Act becomes effective. See section 943.

- (q) (i) an inward processing premises licence authorising the premises to be managed, operated or used as inward processing premises; or
- (q) (ii) an SEZ inward processing premises licence authorising the premises to be managed, operated or used as an SEZ enterprise inward processing premises;
- (r) (i) a home use processing premises licence authorising the premises to be managed, operated or used as home use processing premises; or
- (r) (ii) an SEZ home use processing premises licence authorising the premises to be managed, operated or used as an SEZ enterprise home use processing premises;
- (s) a state warehouse licence contemplated in section 569(b) of the Control Act authorising the premises to be managed, operated or used as such a state warehouse; or
- (t) a transshipment depot licence authorising the premises to be managed, operated or used as a transshipment depot.

(2) No person may manage, operate or use any premises as a transshipment depot unless those premises are in terms of section 634(3) of the Control Act licensed as such a depot.⁷⁷²

Licence types for cross-border facilities (*section 631*)

29.3 The licence types that may be issued for the licensing of cross-border import or export facilities in terms of section 631 of the Control Act are:

- (a) A cross-border transmission line licence authorising the transmission line to be used for –
 - (i) the import of electricity; or
 - (ii) the export of electricity from the Republic;
- (b) a cross-border pipeline licence authorising the pipeline to be used for –
 - (i) the import of a CTC; or
 - (ii) the export of a CTC from the Republic;

⁷⁷² Section 630 of the Control Act prohibits the use of premises of the categories listed in rule 29.2 unless licensed, whilst section 632(3) enables the addition of further categories premises to be controlled through licensing. Transshipment depots is an additional category added in terms of section 632(3).

- (c) a cross-border cable-car licence authorising the cable-car to be used for –
 - (i) the import of a CTC; or
 - (ii) the export of a CTC from the Republic; or
- (d) a cross-border conveyor belt licence the conveyor belt to be used for –
 - (i) the import of a CTC; or
 - (ii) the export of a CTC from the Republic.

Licence types for carriers (*section 632*)

29.4 (1) The licence types that may be issued for the licensing of persons as carriers in terms of section 632 of the Control Act are:

- (a) A local or non-local sea carrier licence authorising the licensee to transport for reward by sea –
 - (i) goods into or out of the Republic;
 - (ii) travellers into or out of the Republic; or
 - (iii) goods not in free circulation within the Republic;
- (b) a local or non-local air carrier licence authorising the licensee to transport for reward by air –
 - (i) goods into or out of the Republic;
 - (ii) travellers into or out of the Republic; or
 - (iii) goods not in free circulation within the Republic;
- (c) a local or non-local rail carrier licence authorising the licensee to transport for reward by rail –
 - (i) goods into or out of the Republic;
 - (ii) travellers into or out of the Republic; or
 - (iii) goods not in free circulation within the Republic;
- (d) a local or non-local road carrier licence authorising the licensee to transport for reward by road –
 - (i) goods into or out of the Republic;
 - (ii) travellers into or out of the Republic; or
 - (iii) goods not in free circulation within the Republic;
- (e) a courier licence authorising the licensee to conduct a courier business; or
- (f) an own goods carrier licence authorising the licensee to transport goods as contemplated in paragraph (d) of the definition of “carrier” in section 1 of the Control Act.

(2) The issue of a courier licence in terms of subrule (1)(e) to a carrier does not affect the application of the Postal Services Act, 1998 (Act No. 124 of 1998), to the extent that that carrier conducts a courier service as contemplated in that Act.

Licence types for customs brokers (section 633)

29.5 The licence types that may be issued for the licensing of persons as customs brokers in terms of section 633 of the Control Act are:

- (a) A general customs broker licence authorising the licensee to carry out any or all of the business modes listed in the definition of “customs broker” in section 1 of the Control Act;⁷⁷³ or
- (b) a courier customs broker licence authorising the licensee to carry out any or all of the business modes listed in the definition of “customs broker” solely for purposes of conducting a courier business.⁷⁷⁴

Licence types for stores suppliers (section 634(1))

29.6 The licence types that may be issued for the licensing of persons as stores suppliers in terms of section 634(1) of the Control Act are:

- (a) A stores supplier licence for foreign-going vessels;
- (b) a stores supplier licence for foreign-going aircraft; or
- (c) a stores supplier licence for cross-border trains.

Licence types for importers and exporters involved in processing procedures (section 634(2))⁷⁷⁵

29.7 The licence types that may be issued in terms of section 634(2) of the Control Act for the licensing of persons as importers or exporters involved in the processing procedures are:

⁷⁷³ A person licensed in terms of the Control Act as a customs broker to clear goods on behalf of other persons, is in terms of section 64B of the Excise Duty Act regarded to be a licensed clearing agent for purposes of that Act, and such a customs broker is accordingly without any additional licensing under that Act entitled to enter excisable goods in terms of that Act for removal in bond between excise warehouses or for home consumption.

⁷⁷⁴ Note that a carrier conducting a courier business will be allowed to clear courier goods either as a customs broker in terms of this licence or as the importer or exporter of the courier articles. See definition of “**courier business**” in rule 1.1

⁷⁷⁵ Note that licensees of inward or home use processing premises are exempted from the requirement to license as an importer of goods for inward or home use processing. See section 634(2A) of the Control Act.

- (a) An importer of goods for inward processing licence;
- (b) an importer of goods for home use processing licence; or
- (c) an exporter of inward processed compensating products licence.

Licensing of persons ~~searching or~~ searching for, ~~or searching,~~ abandoned wreck (section

634(3))⁷⁷⁶

29.8 (1) No person may search ~~an~~ ~~for~~ abandoned wreck or ~~search for any~~ ~~specific~~ abandoned wreck unless that person is licensed in terms of section 634(3) of the Control Act for that purpose.

(2) No person not located in the Republic may be licensed in terms of subrule (1) as a searcher ~~of~~ ~~for abandoned wreck~~ or ~~for~~ ~~as a searcher of any specific~~ abandoned wreck unless that person is represented in the Republic by a registered agent located in the Republic.⁷⁷⁷

(3) The licence types that may be issued in terms of subrule (1) for the licensing of persons to search ~~for abandoned wreck or~~ ~~for~~ ~~to search any specific~~ abandoned wreck are:

- (a) A local searcher for or of abandoned wreck licence; or
- (b) a non-local searcher for or of abandoned wreck licence.

Part 2: ~~Rules generally regulating~~ ~~General requirements for~~ all applications for new licences or renewal or amendment of existing licences

Persons who may apply for new licences or renewal or amendment of existing licences (section 635)

29.9 (1) (a) Any person⁷⁷⁸ may apply for a new licence of any licence type, subject to subrules (2), (3), (4) and (5).⁷⁷⁹

⁷⁷⁶ Note that this rule applies only to *abandoned* wreck and not to wrecked, damaged or distressed vessels and aircraft or to goods washed ashore that have not been abandoned by the owner. Parts 4 and 5 of Chapter 25 of these Rules apply to such wrecks and goods.

⁷⁷⁷ See section 1(3)(a) of the Control Act.

⁷⁷⁸ Note that "person" is defined in section 1 of the Act to include a natural person, a juristic entity, an organ of state and an official of an organ of state.

(b) Only the licensee to whom a licence has been issued may apply for the renewal or amendment of that licence, subject to subrules (2), (3), (4) and (5).

(2) (a) An application ~~by a natural person~~ may be ~~made~~ ~~submitted~~ either by :

(i) ~~that the~~ person ~~applying;~~ ~~personally~~ or

(ii) ~~by another that~~ person's ~~ordinary representative~~ acting on that person's behalf ~~in terms of Part 6 of Chapter 41 of these Rules, subject to paragraph (b).~~

(b) No licensed customs broker or registered agent may ~~in their capacity as customs broker or registered agent~~ make ~~or submit~~ an application on behalf of another person ~~in terms of paragraph (a)(ii).~~⁷⁸⁰

(3) (ae) ~~An applicant who is~~ ~~An individual~~ ~~natural person~~ with limited contractual capacity ~~may apply in terms of subrule (1) only with the assistance of~~ ~~must be assisted by~~ his or her guardian, curator or trustee, subject to ~~paragraph~~subrule (b5).

(b5) A person under the age of 18 years may apply ~~for registration~~ only with the assistance of his or her guardian unless that person is emancipated by order of a court.

(43) ~~An application by~~ A juristic entity⁷⁸¹ may ~~be made on behalf of the entity, if the applicant is~~ ~~apply in terms of subrule (1)~~ –

(a) ~~if the entity is~~ a company or co-operative, ~~by~~ ~~only through~~ a ~~duly authorised~~ director, ~~a~~ ~~or~~ manager, or the ~~public~~ ~~authorised~~ officer, of the company or co-operative;

(b) ~~if the entity is~~ a close corporation or partnership, ~~by~~ ~~only through~~ a ~~duly authorised~~ member of or partner in or a manager, or the ~~public~~ ~~authorised~~ officer, of the close corporation or partnership;

⁷⁷⁹ Although any person can apply for a licence of any type, it should be noted that the customs authority is obliged in terms of section 637(1) of the Control Act to refuse certain applications, such as those where the applicant is in terms of a provision of the Act not entitled to the licence type applied for.

⁷⁸⁰ The effect of this provision is that a customs broker or registered agent is not barred from submitting an application on behalf of another as an ordinary representative, provided Part 6 of Chapter 41 of these Rules applicable to ordinary representatives is complied with.

⁷⁸¹ See definition of "juristic entity" in section 1 of the Control Act.

- (c) **if the entity is** an association, club or other body of persons, **by only through** the chairperson or manager, or the **public authorised** officer, of that association, club or other body of persons;
- (d) **if the entity is** a trust or trust fund, **by only through** the administrator, ~~or~~ **trustee or authorised officer** of the trust or trust fund;
- (e) **if the entity is** an entity referred to in paragraph (a) to (d) in liquidation or under judicial management, **by only through** the liquidator or judicial manager of the entity **or, if the liquidator or judicial manager is a company, a duly authorised senior official of the company;**
- (f) **if the entity is** the estate of a deceased or insolvent person, **by only through** the executor or administrator of the estate **or, if the executor or administrator is a company, a duly authorised senior official of the company;** or
- (g) **if the entity is** an organ of state, **by only through** an official of that organ of state in an executive position.

(5) If an ordinary representative referred to in subrule (2)(a)(ii) submits an application on behalf of a juristic entity, the authorisation required in terms of rule 41.30(1)(a) must be granted and signed by a person authorised in terms of subrule (4) to act for the entity.

~~(4) — A person applying on behalf of an applicant in terms of subrule (2) or (3) must act in accordance with a written authorisation granted by the applicant to that person.~~

Applications for new licences and renewal or amendment of existing licences

(section 635) ⁷⁸²

29.10 (1) ~~(a)~~ — An application for a new licence or for the renewal or amendment of an existing licence must be submitted to the customs authority electronically through eFiling, subject to **rule 41.33A** ~~paragraph (b).~~

⁷⁸² In terms of rule 3.12(2)(a) of the Customs Duty Rules a person entitled to apply for a deferment of duty benefit may, in the case of a person referred to in section 189(a), (b), (c) or (d) of the Control Act, apply for the deferment benefit simultaneously with that person's licensing application.

~~(b) If an application referred to in paragraph (a) is submitted to the customs authority in paper format in circumstances where submissions in paper format are permissible,⁷⁸³ the application~~

~~(i) must be on the form as published as a rule on the SARS website for the relevant licence; and~~

~~(ii) may be submitted to any Customs Office.~~

(2) An application referred to in subrule (1) must -

(a) state **the following**: whether the application is for -

- (i) a new licence;
- (ii) the renewal of an existing licence; or
- (iii) the amendment of a licence;

(b) if the applicant is a juristic entity, state the name of the individual through whom the entity applies in terms of rule **29.9(4)**, as well as that person's physical address, contact details, identity document or passport number and capacity;

(c) if the application is submitted by an ordinary representative on behalf of the applicant, state the information specified in rule **41.33D**;⁷⁸⁴

(d) state whether the tax matters of the applicant are in order as contemplated in section 917 of the Customs Control Act;

(e) state the expiry date of the applicant's tax clearance certificate; and

(f) reflect the additional information required in terms of subrule (3), (4) or (5), as may be applicable.

~~(g3) in the case of~~ An application for a new licence referred to in subrule **(2)(a)(i)** must reflect the following additional information:

(a) Particulars of the applicant, which must include -

- (i) if the applicant is an individual -
 - (aa) his or her full name;
 - (bb) every other name under which the applicant conducts business;
 - (cc) date of birth and identity document or passport number;

⁷⁸³ See for instance sections 635(e) and 913(4) of the Control Act.

⁷⁸⁴ If the application is submitted in terms of section 920 of the Customs Control Act by an ordinary representative on behalf of the licensee, the application must comply with the additional requirements set out in Part 6 of Chapter 41 of these Rules.

- (dd) citizenship; and
- (ee) contact details, **including and** physical and postal addresses in the Republic or elsewhere; or
- (ii) if the applicant is a juristic entity –
 - (aa) its registered or official name;
 - (bb) every name under which the applicant conducts business;
 - (cc) the entity type;
 - (dd) its registration number or the number of its founding document, indicating whether the entity is incorporated, registered or recognised in terms of the laws of the Republic or another country, and if another country, which country;
 - (ee) date of registration, incorporation or recognition;
 - (ff) its contact details, **including and** its physical and postal addresses in the Republic or elsewhere; and
 - ~~(gg) the name and other details listed in subparagraph (i)(cc) to (ee) of a natural person applying on behalf of the entity;~~
 - (gg) the name of the individual who, for purposes of the Control Act and the tax levying Acts, will be the entity's authorised officer,⁷⁸⁵ as well as that officer's physical address, contact details, identity or passport number and designation or capacity;**
- ~~(b) full details of the applicant's bank account in the Republic if the applicant is located in the Republic;~~
- ~~(b) the applicant's –

 - ~~(i) income tax number; and~~
 - ~~(ii) value added tax number;~~~~
- ~~(d) expiry date of the applicant's tax clearance certificate;~~
- ~~(e) the location and physical address of the place where the records of the applicant's business as a licensee are or will be kept;~~
- (b) the licence category and type applied for **and**;**
- (c) if **application is made** for the licensing of any premises or other facility –**

⁷⁸⁵ See definition of "authorised officer" in rule 1.1.

- (i) the location and physical address of the premises or facility ~~or, if~~ the premises applied for consist of a complex of premises, the location and address of each premises in the complex; and
- (ii) the purpose for which ~~it~~ the premises or facility will be operated, managed or used; ~~or~~ and
- (iii) whether the premises or facility is already licensed for another licence type or in terms of the Excise Duty Act, and, if so, the customs code issued in respect of that licence;⁷⁸⁶
- (d) any additional information required in terms of Part 3 for the licence category and type applied for;
- (e) if the applicant is located in the Republic -
 - (i) the banking details⁷⁸⁷ of the applicant's bank account in the Republic; and
 - (ii) if the bank account referred to in subparagraph (i) is not the bank account into which any refund or drawback that may become payable to the applicant in terms of the Control Act or the Customs Duty Act must be paid, also the banking details⁷⁸⁸ of a bank account in the Republic into which such refund or drawback must be paid;⁷⁸⁹
- (f) if the applicant is not located in the Republic -
 - (i) the name and customs code of the applicant's registered agent in the Republic;⁷⁹⁰ and
 - (ii) the banking details⁷⁹¹ of a bank account in the Republic into which any refund or drawback that may become payable to the applicant in terms of the Control Act or the Customs Duty Act must be paid;
- (g) if any person other than the applicant will be authorised to apply for any refund or drawback in terms of the Control Act or the Customs Duty Act to which the applicant may become entitled, that person's name and customs

⁷⁸⁶ Note that premises may in certain circumstances be licensed for more than a single purpose, for instance, nothing prevents a licensed excise manufacturing warehouse from being licensed as home use processing premises.

⁷⁸⁷ See definition of "banking details" in rule 1.1

⁷⁸⁸ See definition of "banking details" in rule 1.1

⁷⁸⁹ Note that licensees must in terms of rule 29.42A update their licence details whenever these details change. This requirement also applies to a change in banking details and in persons authorised to apply for refunds or drawbacks.

⁷⁹⁰ See sections 1(3)(a) and 605 of the Control Act.

⁷⁹¹ See definition of "banking details" in rule 1.1

code, or if that person does not have a customs code, the information specified in rule 41.33E(1);

- (h) the location and physical address of the place where the records of the applicant's business as a licensee are or will be kept;⁷⁹²
- (i) particulars of any other licence or any registration issued to the applicant in terms of the Control Act or the Excise Duty Act;
- (j) details of the applicant's customs relationships, including the other party's customs code and the nature of the relationship;⁷⁹³ and
- (k) whether the applicant or an employee of the applicant in a managerial position, or if the applicant is a juristic entity, a director, administrator or trustee of the applicant, has during the five years preceding the application—
 - (i) committed a breach of the Act, a tax levying Act or the Customs and Excise Act, 1964, in a material respect;
 - (ii) been convicted of an offence under the Act, a tax levying Act or the Customs and Excise Act, 1964;
 - (iii) been convicted of an offence involving fraud or dishonesty; or
 - (iv) was insolvent or in liquidation or under judicial management, as the case may be.

(h4) ~~in the case of~~ An application for renewal of an existing licence referred to in subrule (2)(a)(ii) must reflect the following additional information:

- (a) The category and type of the existing licence; ~~and~~
- (ii) the name ~~and customs code~~ of the licensee applying for renewal of the licence ~~or the location~~ and the customs code allocated in respect of the licence of the premises or facility in respect of which it was issued;
- (c) particulars of any change in the licence details of the applicant.

(i5) ~~in the case of~~ An application for the amendment of a licence referred to in subrule (2)(a)(ii) must reflect the following additional information:

- (a) ~~the particulars referred to in paragraph (h)~~ The category and type of the existing licence; ~~and~~

⁷⁹² Note that records must be kept on the premises prescribed in rule 41.21 for the time period prescribed in that rule. If the licensee after expiry of that period applies in terms of rule 41.22 or 41.23 to keep records at a different location in or outside the Republic, the details provided in paragraph (e) must be updated in terms of rule 29.42A.

⁷⁹³ See definition of "customs relationship" in rule 1.1

- (b) the name of the licensee applying for the amendment of the licence and the customs code allocated in respect of the licence;
- (c) particulars of any change in the licence details of the applicant;
- (d) full particulars of the amendment applied for; and
- (iii)e) ~~motivated~~ the reason for the amendment, which may be motivated in a separate supporting document submitted together with the application subject to and in accordance with Part 7 of Chapter 41 of these Rules.

(36) (a) A person may ~~in the same application~~ apply for more than one licence type, including more than one licence type per person, premises or facility.

(b) A licensee may in the same application apply for the renewal or amendment of more than one existing licence of which that licensee is the holder.

Documents required ~~to for~~ supporting ~~for~~ all applications for new licences and renewal ~~or amendment~~ of existing licences (section 635)(d))

29.11 (1) An application for a new licence of any licence type ~~or for the renewal of an existing licence~~ must be supported by the following documents, which must, subject to and in accordance with Part 7 of Chapter 41 of these Rules, be submitted together with the application:

(a) A ~~banking details confirmation~~ document⁷⁹⁴ confirming the ~~applicant's~~ banking details of a bank account referred to in rule 29.10(3)(f) or (g)(ii), as may be applicable, into which any refund or drawback that may become payable to the applicant in terms of the Control Act or the Customs Duty Act must be paid;

~~including the name of the bank, the account holder's name, the account type and number, and the branch code, which may be—~~

- ~~(i) a bank certified original bank statement or a legible bank certified copy of an original bank statement;~~
- ~~(ii) a bank certified original auto bank statement; or~~
- ~~(iii) an original letter from the applicant's bank on an official bank letterhead;~~

⁷⁹⁴ See definition of "banking details confirmation document" in rule 1.1

- (b) the original or a legible certified copy of –
 - (i) a municipal account or fixed line telephone account issued to the applicant to confirm the applicant’s physical address; and
 - (ii) a fixed line telephone or contract cellular phone account issued to the applicant to confirm the applicant’s telephone contact details; and
- (c) if the applicant is a juristic entity, a certified copy of the founding document or any certificate issued in terms of the laws of the Republic or of another country certifying that the applicant is incorporated, registered or recognised in terms of the laws of the Republic or that other country;
- (d) a certified copy of the identity document or passport or other document proving identity and citizenship –
 - (i) if the applicant is an individual natural person, of the applicant;
 - (ii) if the applicant is a company or cooperative, of the managing director, the financial director and every other director, and of the public authorised officer, of the company or cooperative;
 - (iii) if the applicant is a close corporation or partnership, of the public authorised officer and every member of or partner in the close corporation or partnership;
 - (iv) if the applicant is a trust or trust fund, of the trustee or administrator of the trust or trust fund if that trustee or administrator is an individual, and of the authorised officer of the trust or trust fund;
 - (v) if the applicant is an association, a club or any other body, of the chairperson or manager, and of the public authorised officer of the association, club or other body;
 - (vi) if the applicant is an entity referred to in subparagraph (i) to (v) in liquidation or under judicial management, of the liquidator or judicial manager of the entity if that liquidator or judicial manager is an individual; or
 - (vii) if the applicant is the estate of a deceased or insolvent person, the executor or administrator of the estate if that executor or administrator is an individual;
- (e) a certified copy of the authorisation authorising a person contemplated in —
 - (i) rule 29.9(2)(a)(ii) to act as an ordinary representative on behalf of the applicant; and

- (ii) rule 29.10(3)(i) to apply for refunds and drawbacks on behalf of the applicant;
- (f) if not already required in terms of paragraph (d), a certified copy of the identity document or passport of –
- (i) an authorised person referred to in paragraph (e), if that person is an individual, if not already required in terms of paragraph (d); and
- (ii) a duly authorised person referred to in rule 29.9(4), if the applicant is a juristic entity;
- (g) documents evidencing that the applicant has in place –
- (i) an information security policy and security procedures or mechanisms in place to protect the applicant's electronic systems from unauthorised access; and
- (ii) procedures and back-up capabilities in place to protect it against the loss of information; and
- (j) if applicable, a document setting out any circumstances referred to in rule 29.10(3)(l).

(2) An application for the renewal or amendment of any existing licence must be supported by the following documents, which must be submitted together with the application subject to and in accordance with Part 7 of Chapter 41 of these Rules:

- (a) The documents referred to in subrule (1)(d), (e) and (f), as may be applicable;
- (b) a document confirming or evidencing particulars of any change in the licence details of the applicant; and
- (c) in the case of an application for amendment of an existing licence, documents substantiating any material facts mentioned in the motivation for the amendment referred to in rule 29.10(5)(e).

~~(3) Certified copies of any documents referred to in subrule (1) or (2) may not be older than three months.~~

(3) This rule does not apply in respect of an application for a new licence or renewal of an existing licence to operate as a carrier or searcher of or for wreck not located in the Republic.

Additional supporting documents required to support for applications for licensing of premises (section 630)

29.12 An application for the licensing of any premises in terms of section 630 of the Control Act must, in addition to the documents and information listed in rule 29.11, be supported by the following documents, which must, subject to and in accordance with Part 7 of Chapter 41 of these Rules, be submitted together with the application:

■

- (a) Documents proving or confirming the physical address of –
 - (i) the premises to which the application relates; and
 - (ii) the premises where the records of the business to which the application relates will be kept, if those premises are not the same as those mentioned in subparagraph (i);
- (b) a site plan showing the exact location of the premises or complex of premises in relation to adjoining properties and public roads, including (i) vehicle and other access points to the premises; and
 - (ii) any adjoining premises licensed for any purpose in terms of this Chapter;
- (c) a layout plan showing the exact location of the areas within the premises to be used for purposes of the licence type applied for, including the location of –
 - (i) access points to buildings on the premises such as doors, windows, openings fitted with roller shutters, lifts and staircases;
 - (ii) electronic security sensors;
 - (iii) areas set aside for specific activities relating to goods, such as secure or temporary storage of goods, unpacking of containers, consolidation for export; and
 - (iv) in the case of a substantial business -
 - (aa) areas set aside for the performance of enforcement functions by customs officers; and
 - (vbb) vehicle parking bays, also indicating which parking bays are allocated for use by customs officers;
- (d) documents evidencing compliance with any requirements of other legislation applicable to the premises;

- (e) documents evidencing the applicant's ownership of or other right to the premises,⁷⁹⁵ including –
 - (i) a title deed or other deed of ownership or entitlement; or
 - (ii) a lease agreement; **and**
- (f) documents setting out procedures to ensure the physical security of –
 - (i) the premises;
 - (ii) any goods on the premises; and
 - (iii) the records relating to the business conducted on the premises; **and**
- (g) in the case of an application for the licensing of inward processing premises, a document describing the measures that will be taken to verify that goods cleared for export from the Republic in terms of Part 3 of Chapter 18 of the Control Act are inward processed compensating products obtained from the relevant imported goods.

Supporting and certain Other documents to be submitted or made available to customs authority on request

29.13 An applicant must on request by the customs authority –

- (a) submit to it any **other** documents **that may be** required **in terms of this Part and Part 3 to support for purposes of considering** an application; and
- (b) make available to it any information, books, accounts and other documents necessary for –
 - (i) verifying any statements made by the applicant in the application; or
 - (ii) ascertaining facts relating to the premises, facility or activity in respect of which a new licence or a renewal or amendment of a licence is sought.

Part 3: ~~Rules regulating specific~~ **Additional requirements for applications for specific licence types**

Applications for new licences or renewal of licences of premises as bulk sea cargo, special bulk sea cargo or multi-purpose sea cargo terminals

29.13A **An application for a new licence or the renewal of a licence to manage, operate and use premises as a bulk sea cargo, special bulk sea cargo or multi-**

⁷⁹⁵ See sections 639(b) and 665(d) of the Control Act.

purpose sea cargo terminal as contemplated in section 630(1) of the Control Act must state the following additional information:

- (a) The place where measurements will be taken of any liquid bulk cargo loaded or off loaded at the terminal; and
- (b) the method of measurement.

Applications for new licences or renewal of licences of premises as public or private storage warehouses (section 665(b))

29.14 (1) ~~In addition to complying with the requirements set out in Part 2 of this Chapter, no person may submit~~ An application for a new licence or the renewal of a licence to manage, operate and use premises as a public or private storage warehouse as contemplated in section 630(1) of the Control Act, including a public or private storage warehouse in a special economic zone, ~~unless~~ **must -**

(a) state the following additional information:

- (i) The purpose for which the warehouse will be used with reference to sections 300 and 301;
- (ii) **whether** the applicant, or another person within the applicant's organisation contemplated in rule **29.42(1)**, has sufficient knowledge of customs laws, manuals and practices relating to managing, operating and using premises as a public or private storage warehouse; and
- (iii) ~~the applicant provides in the application~~ specifics of the inventory control system to be used in the warehouse, including the waste inventory control system; **and**

(2b) ~~An application referred to in subrule (1) must be~~ **supported** ~~accompanied~~ by a document

~~(a) motivating the need for~~

~~(i) a public storage warehouse in the area concerned; or~~

~~(ii) a private warehouse of the type applied for; and~~

~~(b)~~ listing the name and identity or passport number of each person within the applicant's organisation that has completed the relevant

~~Professional Customs Licensing Examination~~ **Customs Sufficient**

Knowledge Test successfully, **which must, subject to and in**

accordance with Part 7 of Chapter 41 of these Rules, be submitted

together with the application.

Applications for new licences or renewal of licences for cross-border transmission lines, pipelines, cable-cars and conveyor belts (*section 665(b)*)

29.14A ~~In addition to complying with the requirements set out in Part 2 of this Chapter,~~ An application for a new licence or the renewal of a licence to import or export goods through a cross-border transmission line or pipeline or by means of a cable-car or conveyor belt as contemplated in section 631 of the Control Act must ~~disclose~~ **state the following additional information:**

- (a) The place where measurements are to be taken; and
- (b) in the case of a cross-border pipeline, cable-car or conveyor belt –
 - (i) the class or kind of CTC to be imported or exported through or by means of the pipeline, cable-car or conveyor belt; and
 - (ii) the method of measurement of all CTCs to be imported or exported through or by means of the pipeline, cable-car or conveyor belt.

Applications for new licences or renewal of licences of premises as state warehouses (*section 665(b)*)

29.15 ~~(1) In addition to complying with Part 2, no person may submit~~ An application for a new licence or the renewal of a licence to operate premises as a state warehouse as contemplated in section 630(3) of the Control Act ~~unless~~ **must**
:

- (a) **state the following additional information:**
 - (i) **Whether** the applicant, or another person within the applicant's organisation contemplated in rule **29.42(1)**, has sufficient knowledge of customs laws, manuals and practices relating to operating premises as a state warehouse; and
 - (ii) ~~the applicant provides in the application~~ specifics of the inventory control system to be used in the state warehouse, including the waste inventory control system; **and**
- (b) ~~An application referred to in subrule (1) must~~ be **supported** **accompanied** by a document listing the name and identity or passport number of each person within the applicant's organisation that completed the relevant **Professional Customs Licensing Examination** **Customs Sufficient Knowledge Test** successfully, **which must, subject to and in accordance with Part 7 of Chapter 41 of these Rules, be submitted together with the application.**

Applications for new licences or renewal of licences of premises as tax free shops and special shops for diplomats (section 665(b))

29.16 ~~(1) In addition to complying with Part 2, no person may submit~~ An application for a new licence or the renewal of a licence to manage, operate and use premises as a tax free shop or a special shop for diplomats as contemplated in section 630(1) of the Control Act ~~unless~~ **must -**

(a) state the following additional information:

- (i) Whether** the applicant, or another person within the applicant's organisation contemplated in rule **29.42(1)**, has sufficient knowledge of customs laws, manuals and practices relating to managing, operating and using premises as a tax free shop or a special shop for diplomats; and
 - (ii) the applicant provides in the application** specifics of the inventory control system to be used in the tax free shop or the special shop for diplomats, including the waste inventory control system; **and**
- (b) An application referred to in subrule (1) must be supported accompanied** by a document listing the name and identity or passport number of each person within the applicant's organisation that completed the relevant **Professional Customs Licensing Examination Customs Sufficient Knowledge Test** successfully, which must, subject to and in accordance with of Chapter 41 of these Rules, be submitted together with the application.

Applications for new licences or renewal of licences of premises as inward or home use processing premises (section 665(b))

29.17 ~~In addition to complying with Part 2, no person may submit~~ An application for a new licence or the renewal of a licence to manage, operate and use premises as inward or home use processing premises as contemplated in section 630(2) of the Control Act, including such premises within a special economic zone, ~~unless the applicant specifies in the application~~ **must state the following additional information:**

- (a)** The class or kind of imported goods to be processed under the new or renewed licence at the premises under the inward or home use processing procedure;
- (b)** the type of inward or home use processed compensating products into which those goods will be processed;

- (c) any by-products and waste that will in the ordinary course of such processing be obtained;
- (d) the conversion rate contemplated in section 425 or 447 of the Control Act to be used for the purposes of the processing of **these** goods **of each class or kind** into compensating products,⁷⁹⁶ including –
 - (i) the factors that were taken into account in determining the conversion rate; and
 - (ii) any other relevant information to explain the conversion rate; and
- (e) whether such processing will be undertaken for own account or on behalf of the holder of a licence type referred to in rule **29.7**(a) or (b). **and**

Applications for new licences or renewal of licences as carriers (*section 632*)

29.18 ~~In addition to complying with Part 2,~~ An application for a new licence or the renewal of a licence to conduct business as a carrier as contemplated in section 632 of the Control Act must –

- (a) **state the following additional information:**
 - (i) **The name and customs code of the applicant's registered agent in the Republic, if the applicant is not located in the Republic;⁷⁹⁷ and**
 - (ii) **whether the applicant intends making use of a reporting document as a transshipment clearance declaration as contemplated in section 251 of the Control Act;⁷⁹⁸ and**
- (b) be supported by the following additional documents **which must, subject to and in accordance with Part 7 of Chapter 41 of these Rules, be submitted together with the application:**
 - (i) If the applicant is located in the Republic,⁷⁹⁹ documents proving or confirming the physical address of –
 - (aa) the premises from where the applicant's business as a carrier in the Republic will be conducted under the new or renewed licence; and

⁷⁹⁶ Note that this application will in terms of rule **18.14** or **19.12** be regarded also as an application for custom's approval of the conversion rate.

⁷⁹⁷ See sections 1(3)(a) and 605 of the Control Act. Note that a person applying for **a customs broker licence or courier licence** must be located in the Republic.

⁷⁹⁸ **See rule 11.4(3).**

⁷⁹⁹ See section 1(3)(a) of the Control Act.

- (bb) the premises where the records of the applicant's business as a carrier will be kept, if those premises are not the same as those referred to in subparagraph (i); and
- (ii) if the applicant is not located in the Republic, **a copy of** the agency agreement between the applicant and a registered agent located in the Republic concluded for purposes of representing the applicant in the Republic.⁸⁰⁰

Applications for new licences or renewal of licences as customs brokers
(sections 633 and 665(b))

29.19 ~~(1) In addition to complying with Part 2, no person may submit~~ An application for a new licence or the renewal of a licence to conduct business as a customs broker as contemplated in section 633 of the Control Act ~~unless~~ **must** -

(a) **state the following additional information:**

- (i) **Whether** the applicant, or another person within the applicant's organisation contemplated in rule **29.42(1)**, has sufficient knowledge of customs laws, manuals and practices relating to the business of a customs broker; **and**
- (ii) **whether the applicant intends making use of a reporting document as a transshipment clearance declaration as contemplated in section 251 of the Control Act;**⁸⁰¹ **and**

(b) ~~the application is~~ **be** supported **by the following** documents **which must, subject to and in accordance with Chapter 41 of these Rules, be submitted together with the application:**

- (i) **documents** proving or confirming the physical address of –
 - (aa) the premises where the applicant will conduct the business of a customs broker under the new or renewed licence; and
 - (bb) the premises where the records of the applicant's business as a customs broker will be kept, if those premises are not the same as those referred to in **subparagraph item (aa); and**
- (ii) ~~An application referred to in subrule (1) must be accompanied by~~ a document listing the name and identity or passport number of each

⁸⁰⁰ See section 632(2)(b) and(3)(b) of the Control Act.

⁸⁰¹ See rule **11.4(3)**.

person within the applicant's organisation who completed the relevant **Professional Customs Licensing Examination Customs Sufficient Knowledge Test** successfully.

Applications for new licences or renewal of licences as stores suppliers
(section 634(1))

29.20 (1) ~~In addition to complying with Part 2, no person may submit~~ An application for a new licence or the renewal of a licence to conduct business as a stores supplier as contemplated in section 634(1) of the Control Act ~~unless the application is~~ **must be** supported by documents proving or confirming the physical address of –

- (a) the premises from where the applicant will conduct the business as a stores supplier under the new or renewed licence; and
- (b) the premises where the records of the applicant's business as a stores supplier will be kept, if those premises are not the same as those referred to in paragraph (a).

(2) **Supporting documents referred to in subrule (1) must, subject to and in accordance with Part 7 of Chapter 41 of these Rules, be submitted together with the application.**

Applications for new licences or renewal of licences as importers and exporters of goods under processing procedures (sections 634(2) and 665(b))⁸⁰²

29.21 (1) ~~In addition to complying with Part 2,~~ No person may submit an application for a new licence or the renewal of a licence of any of the following licence types as contemplated in section 634(2) of the Control Act unless the applicant is located in the Republic:⁸⁰³

- (a) An importer of goods for inward processing licence;
- (b) an importer of goods for home use processing licence; or
- (c) an exporter of inward processed compensating products licence.

⁸⁰² Note that licensees of inward or home use processing premises are exempted from the requirement to license as an importer of goods for inward or home use processing. See section 634(2A) of the Control Act.

⁸⁰³ See section 1(3)(a) of the Control Act.

(2) ~~No person may submit~~ An application contemplated in subrule (1)(a) or (b) relating to a licence type referred to in paragraph (a) or (b) of that subrule ~~unless~~ must state the following additional information:

~~(a) the applicant specifies in the application –~~

- (a) The customs code and physical address of the licensed inward or home use processing premises where the imported goods will be processed ~~under the new or renewed licence;~~
- (b) the class or kind of imported goods that will be imported under the inward or home use processing procedure for processing on those premises;
- (c) the type of inward or home use processed compensating products into which those goods will be processed;
- (d) any by-products and waste that will be obtained in the ordinary course of such processing; and
- (e) the conversion rate contemplated in section 425 or 447 of the Control Act to be used for purposes of the processing of ~~those~~ goods of each class or kind into compensating products,⁸⁰⁴ including –
 - (i) the factors that were taken into account in determining the conversion rate; and
 - (ii) any other relevant information to explain the conversion rate.

(3) ~~the~~ An application contemplated in subrule (1)(a) or (b) must be supported by the following documents, which must, subject to and in accordance with Part 7 of Chapter 41, be submitted together with the application:

- (a) The agreement between the importer and the licensee of inward or home use processing premises where the goods imported by the importer are to be processed, setting out –
 - (i) the terms on which such processing will be undertaken;
 - (ii) specifics of the conversion rate referred to in section 425 or 447 of the Control Act to be used for purposes of such processing; and
 - (iii) the party who, in the case of inward processing, will be responsible for exporting the compensating products obtained from such processing;

⁸⁰⁴ Note that this application will in terms of rule 18.14 or 19.12 be regarded also as an application for customs' approval of the conversion rate.

- (b) documents proving or confirming the physical address of –
- (i) the premises from where the applicant's business as such an importer ~~or exporter~~ will be conducted; ~~and~~
 - (ii) the premises where the records of the applicant's business as such an importer ~~or exporter~~ will be kept, if those premises are not the same as those referred to in subparagraph (i); ~~and~~
 - (iii) in the case of inward processing, a document describing the measures that will be taken to verify that goods cleared for export from the Republic in terms of Part 3 of Chapter 18 of the Control Act are inward processed compensating products obtained from the relevant imported goods.

(4) ~~No person may submit~~ An application contemplated in subrule (1)~~(c)~~ ~~relating to a licence type referred to in paragraph (c) of that subrule unless~~ must state the following additional information:

~~(a) — the applicant specifies in the application —~~

- (a) The type of inward processed compensating products that will be exported under the new or renewed licence; and
- (b) the customs code or physical address of the licensed inward processing premises where the compensating products will be obtained.

(5) An application referred to in subrule (4) must be supported by the following documents, which must, subject to and in accordance with Part 7 of Chapter 41, be submitted together with the application:

- (a) The agreement between the exporter and the licensee of the inward processing premises where the goods from which those products will be obtained are to be processed, setting out the terms on which the exporter will acquire those products for export; ~~and~~
- (b) documents proving or confirming the physical address of –
 - (i) the premises from where the applicant's business as such an exporter will be conducted; and
 - (ii) the premises where the records of the applicant's business as such an exporter will be kept, if those premises are not the same as those referred to in subparagraph (i) item (aa); and

- (c) a document describing the measures that will be taken to verify that goods cleared for export from the Republic in terms of Part 3 of Chapter 18 of the Control Act are inward processed compensating products obtained from the relevant imported goods.

Applications for new licences or renewal of licences to search for abandoned wreck or to search specific abandoned wreck (section 634(3))

29.22 ~~In addition to complying with Part 2, no person may submit~~ An application for a new licence or the renewal of a licence to search for abandoned wreck or a specific abandoned wreck contemplated in rule 28.8(1) ~~unless~~ **must -**

(a) state the following additional information:

~~(a) the applicant specifies in the application –~~

- (i) In the case of an application relating to a specific wreck –
 - (aa) details of the wreck applied for;
 - (bb) whether the wreck is older than 50 years; and
 - (cc) if the location of the wreck is known, its location, and if the location is unknown, the area to be searched;
- (ii) in the case of an application relating to the search for any wreck, the area to be searched; and
- (iii) the name and customs code of the applicant's registered agent in the Republic if the applicant is not located in the Republic,⁸⁰⁵ and

(b) An application be supported by the following documents, which must, subject to and in accordance with Part 7 of Chapter 41 of these Rules, be submitted together with the application:

- (i) If the applicant is located in the Republic,⁸⁰⁶ documents proving or confirming the physical address of –
 - (aa) the premises from where the applicant's business as such a searcher for or of wreck will be conducted; and
 - (bb) the premises where the records of the applicant's business as such a searcher for or of wreck will be kept, if those premises are not the same as those referred to in item (aa);

⁸⁰⁵ See sections 1(3)(a) and 605 of the Control Act. Note that a person applying for a customs broker licence or courier licence must be located in the Republic.

⁸⁰⁶ See section 1(3)(a) of the Control Act.

- (ii) if the applicant is not located in the Republic, a copy of the agency agreement between the applicant and a registered agent located in the Republic concluded for purposes of representing the applicant in the Republic as contemplated in rule 29.8(2);
- (iii) a document –
 - (aa) evidencing that the specific wreck to be searched or searched for has been abandoned; or
 - (bb) setting out the grounds for the applicant’s belief that the wreck has been abandoned;
- (iv) if the specific wreck to be searched for or to be searched is older than 50 years, a written permission of the National Monuments Council authorising the search; and
- (v) in the case of the renewal of an existing licence –
 - (aa) a report on the activities of the licensee during the validity period of the existing licence; and
 - (bb) details of anticipated activities during the validity period of the renewed licence.

Compliance with requirement of sufficient knowledge of customs laws, guides, interpretive notes, operational manuals and practices

29.22A (1) An applicant applying for any of the following categories or types of licences, or the renewal of such a licence, must have sufficient knowledge of customs laws, guides, interpretive notes, operational manuals and practices by having available within the applicant’s business at least one person contemplated in rule 29.42(1) that has completed the relevant Customs Sufficient Knowledge Test:

- (a) terminal;**
- (b) container or air cargo depot;**
- (c) public or private storage warehouse;**
- (d) state warehouse;**
- (e) tax free shop;**
- (f) special shop for diplomats;**
- (g) customs broker;**
- (h) carrier;**
- (i) inward processing premises;**

(j) home use processing premises;

(k) stores supplier; and

(l) courier.

(2) Application for a licence referred to in subrule (1) may, subject to subrule (3), be submitted before the applicant complies with subrule (1), provided that no application may be granted unless the applicant has complied with that requirement.

(3) An application for a licence referred to in subrule (1) lapses if the applicant does not comply with that subrule within 90 calendar days from the date of submission of the application.

(4) No application for renewal of an existing licence category or type referred to in subrule (1) may be submitted unless the applicant, or another person in the applicant's organisation contemplated in rule 29.42(1), has complied with the requirement of sufficient knowledge of customs laws, guides, interpretive notes, operational manuals and practices relating to the business of such a licensee.

Part 4: Licence conditions

General conditions applicable to all licences (section 642(1)(a))

29.23 (1) All licences are subject to the following general conditions:

- (a) The licensee must upon request by the customs authority furnish security as contemplated in section 660 of the Control Act to cover any tax risk that may arise in relation to goods **not in free circulation** that may at any time be under the control of the licensee.
- (b) The licensee may not authorise or allow any other person to use on the licensee's behalf the customs code issued by the customs authority to that licensee, except where specifically required or permitted in these Rules.
- (c) The licensee must whenever transacting business relating to the purpose for which the licence was granted, indicate that customs code on any document issued by the licensee, including on –

- (i) any communication to the customs authority or another organ of state; and
- (ii) any authorisation issued by the licensee to any registered agent, ~~or~~ any licensed customs broker or carrier **or any ordinary representative** to act on behalf of the licensee.

~~(d) The licensee must prominently display the name in which the licence was issued on a sign at each business office where the licensee conducts business relating to the purpose for which the licence was issued.~~

- (d) The licence or a certified copy of the licence, or an official SARS letter of confirmation of licensing, must at all times be kept on –
 - (i) the licensed premises, if applicable; or
 - (ii) the business premises of the licensee or, if the licensee is a carrier or searcher for or of wreck not located in the Republic, the business premises of that licensee's registered agent in the Republic.

(e) All reports, applications, declarations, notifications and other **documents or** communications that must or may be submitted by the licensee to the customs authority in terms of the Control Act or a tax levying Act must be submitted electronically through EDI or eFiling, as may be applicable, except where a **document or** communication is submitted to the customs authority in paper format **subject to rule 41.33A. A document or communication submitted in terms of rule 41.33A in paper format, must be submitted in accordance with any applicable requirements of these Rules or as the customs authority may direct in a specific case.** ~~in circumstances where submissions in paper format are permissible.⁸⁰⁷ In the case of communications in paper format, the communication must be –~~

- ~~(i) on a form as published as a rule on the SARS website for the relevant communication; and~~
- ~~(ii) unless provided otherwise in these Rules or the customs authority otherwise directs in a specific case, must be submitted to –~~
 - ~~(iii) the Customs Office serving –~~
 - ~~(aa) the licensed premises to which the communication relates;~~

⁸⁰⁷ See for instance section 913(4) of the Control Act.

- ~~(bb) — the customs controlled area where the goods to which the communication relates are or are destined for; or~~
- ~~(cc) — if neither of items subparagraphs (i) or (ii) apply, the business premises of the licensee or of that licensee's registered agent in the Republic; or~~
- ~~(ii) — if neither item (aa) or (bb) applies, any Customs Office.~~
- (f) The licensee must take all reasonable steps to safeguard all goods **not in free circulation** that are at any stage under the licensee's physical control, against damage, destruction or loss.
- (g) The records a licensee must keep in connection with the business or activity for which the licence was issued, must be kept **in accordance with Part 5 of Chapter 41 of these Rules.** ~~in a secure place and may not be removed or destroyed without the prior permission of the customs authority. Any computerised record system used by the licensee must have —~~
- ~~(i) — the capacity to provide a printout of any single page or document in the system; and~~
- ~~(ii) — an effective backup system.~~
- ~~(i) — The licensee must at all times keep the customs authority informed of the physical address of the place —~~
- ~~(i) — where the records relating to the business or activity for which the licence was issued are kept; and~~
- ~~(ii) — to which such records are moved, if the records are at any stage moved to another place.~~
- (h) The licensee must provide all reasonable assistance to customs officers conducting an inspection or search in terms of Chapter 33 of the Control Act –
- (i) on the licensed premises;**
- (ii)** on any premises managed, operated or used by the licensee for purposes of the business or activity for which the licence was issued, including any premises on which records referred to in paragraph (g) are kept;⁸⁰⁸ or
- (iii)** of or for any goods or documents under the physical control of the licensee.

⁸⁰⁸ See also section 888 of the Control Act in terms of which it is a criminal offence to hinder, interfere with or obstruct a customs officer from performing his or her enforcement functions.

Additional general conditions applicable to ~~all~~ licensed cargo terminals
(sections 642(1)(a), 643 and 665(h))

29.24 (1) All licences issued in respect of cargo terminals are, in addition to those listed in rule **29.23**, subject to the following further general conditions:

- (a) The licensee must regulate the movement of inbound and outbound cargo through the terminal in a manner that takes account of the reasonable requirements of customs officers to perform their enforcement functions on the terminal effectively.
- (b) The licensee must provide permanent adequate space within the terminal to the customs authority to carry out its enforcement functions on a continuous basis, including –
 - (i) office accommodation and counter facilities for the performance of administrative work arising from such enforcement functions;
 - (ii) an area for the inspection of goods;
 - (iii) a place for the installation of scanning equipment; and
 - (iv) parking space for customs officers.
- (c) The licensee must provide permanent adequate space within the terminal or at any nearby premises for the temporary storage⁸⁰⁹ of goods.
- (d) The licensee must provide a separate area within the terminal or at any nearby premises for the temporary safekeeping of detained or seized goods pending steps to be taken in connection with the goods in terms of the Control Act.
- ~~(e) The licensee must operate the terminal on a common user basis and may not discriminate against any person in respect of the services and facilities provided.~~
- (e) The licensee must within three hours after the delivery at the terminal of non-containerised goods⁸¹⁰ under a customs procedure by a carrier or a person referred to in section 122(c) of the Control Act, notify the customs authority electronically through eFiling of the receipt of those goods ~~not in free circulation delivered by a licensed carrier at the terminal under a customs~~

⁸⁰⁹ See definition of “temporary storage” in section 1 of the Control Act.

⁸¹⁰ Containerised goods are excluded from these notifications as such goods are notified by way of outturn reports in terms of section 75 of the Control Act.

procedure.⁸¹¹ ~~Provided that this condition does not apply if the licensee is in terms of the Control Act required to submit an outturn report in respect of the receipt of such goods at that terminal.~~

- (f) Any receipt notification referred to in paragraph (e) must reflect the following information:
- (i) ~~The name of the licensee and the customs code of the terminal where the goods were received;~~
 - (ii) ~~if the notification is submitted by a customs broker or ordinary representative on behalf of the licensee, the information specified in rule 41.33D;⁸¹²~~
 - (iii) The ~~name or~~ customs code ~~or name~~ of the carrier ~~or other person~~ that delivered the goods;
 - (iv) the date and time of receipt of the goods at the terminal;
 - ~~(iii) the customs code of the terminal;~~
 - (v) the movement reference number of the clearance declaration submitted in respect of the goods; ~~and~~
 - (vi) the transport document number, ~~road manifest number~~ or unique consignment reference number;
 - (vii) ~~confirmation that the goods received at the terminal correspond in class and kind with the goods described in the release notification issued in respect of the goods;~~
 - (viii) ~~the quantity of goods received; and~~
 - (ix) ~~if no confirmation referred to in subparagraph (vii)(aa) or (viii)(aa) or (bb) can be given, the reason why confirmation cannot be given, which may be submitted in a separate supporting document subject to and in accordance with Part 7 of Chapter 41 of these Rules.~~
 - ~~(vi) a description of the goods, which must include —~~
 - ~~(aa) the class or kind; and~~

⁸¹¹ For receipt notifications by licensees of storage warehouses see section 304(2)(b) of the Control Act, by licensees of inward processing premises see section 415(1)(b)(ii), and by licensees of home use processing premises see section 442(2)(b)(ii). Receipt notifications by licensees of excise warehouses are dealt with in terms of the Excise Duty Act.

⁸¹² ~~If the notification is submitted in terms of section 920 of the Customs Control Act by an ordinary representative on behalf of the licensee, the notification must comply with the additional requirements set out in Part 6 of Chapter 41 of these Rules. Note that the said Part 6 applies only to ordinary representatives which per definition excludes persons submitting documents as customs brokers. It follows that Part 6 does not apply to customs brokers that submit notifications on behalf of licensees in that capacity.~~

~~(bb) the quantity, weight or volume.~~

(2) All licences issued in respect of bulk sea cargo, special bulk sea cargo or multi-purpose sea cargo terminals are, in addition to those listed in rule 29.23 and rule (2), subject to the following further general conditions:

(a) The licensee must install and maintain meters, gauges, and other appliances to be used in measuring the mass, quantity, strength, relative density, temperature, pressure or any other characteristic of any liquid bulk cargo loaded or off loaded at the terminal.

(b) The licensee must -

(i) in accordance with any standards or criteria applicable to the relevant liquid bulk cargo industry, make accurate measurements of, and for assessing the actual loss in, the volume, weight or quantity of any liquid bulk cargo loaded or off loaded at the terminal; and

(ii) within 72 hours after a measurement was made notify the customs authority electronically through eFiling, subject to rule 41.33A, of the measurement.

(c) The licensee must notify the customs authority of any change in -

(i) the method of measurement of liquid bulk cargo loaded or off-loaded at the terminal; or

(ii) the place where the measurements are taken.

(d) Any notification referred to in paragraph (b)(ii) or (c) must reflect the following information:

(i) The name of the licensee and the customs code of the terminal where the goods were received;

(ii) if the notification is submitted by a customs broker or ordinary representative on behalf of the licensee, the information specified in rule 41.33D;⁸¹³

(iii) the date and time of the measurement;

⁸¹³ If the notification is submitted in terms of section 920 of the Customs Control Act by an ordinary representative on behalf of the licensee, the notification must comply with the additional requirements set out in Part 6 of Chapter 41 of these Rules. Note that the said Part 6 applies only to ordinary representatives which per definition excludes persons submitting documents as customs brokers. It follows that Part 6 does not apply to customs brokers that submit notifications on behalf of licensees in that capacity.

(iv) in the case of a notification referred to in paragraph (b)(ii), particulars of the measurement; and

(v) in the case of a notification referred to in paragraph (c), particulars of the proposed change.

Additional general conditions applicable to all licensed traveller terminals
(sections 642(1)(a), 643 and 665(h))

29.25 All licences issued in respect of traveller terminals are, in addition to those listed in rule **29.23**, subject to the following further general conditions:

- (a) The licensee must regulate the movement of outbound and inbound travellers and crew through the terminal in a manner that takes account of the reasonable requirements of customs officers to perform their enforcement functions at the terminal effectively.
- (b) The licensee must provide permanent adequate space within the terminal for the customs processing of outbound and inbound travellers and crew members and their accompanied and unaccompanied baggage, including –
 - (i) office accommodation and counter facilities for the performance of administrative work arising from such customs processing and other enforcement functions in connection with such travellers and crew members;
 - (ii) an area for the inspection of baggage;
 - (iii) a place for the installation of scanning equipment;
 - (iv) private facilities for interviewing, and the bodily searching searches of, persons by customs officers; and
 - (v) parking space for customs officers.
- (c) The movement of travellers and crew at the terminal must be organised in such a way that all travellers and crew must move through the space made available to the customs authority in terms of paragraph (a) for the customs processing of travellers and crew.
- (d) The licensee must provide permanent space within the terminal or at any nearby premises for the temporary storage of unaccompanied and unclaimed baggage.
- (e) The licensee must provide a separate area within the terminal or at any nearby premises for the temporary safekeeping of detained or seized

baggage pending steps to be taken in connection with the baggage in terms of the Control Act.

~~(f) The licensee must operate the terminal on a common user basis and may not discriminate against any person in respect of the services and facilities provided.~~

Additional general conditions applicable to **all licensed cargo depots** (sections 642(1)(a), 643 and 665(h))

29.26 All licences issued in respect of cargo depots, including transshipment depots, are, in addition to those listed in rule **29.23**, subject to the following further general conditions:

- (a) The licensee must regulate the movement of inbound and outbound cargo through the depot in a manner that takes account of the reasonable requirements of customs officers to perform their enforcement functions in the depot effectively.
- (b) The licensee must provide permanent space within the depot to the customs authority to carry out its enforcement functions on a continuous basis, including –
 - (i) office accommodation and counter facilities for the performance of administrative work arising from such enforcement functions;
 - (ii) an area for the inspection of goods;
 - (iii) a place for the installation of scanning equipment; and
 - (iv) parking space for customs officers.
- (c) The licensee must provide permanent space within the depot or at any nearby premises for the temporary storage⁸¹⁴ of goods.
- (d) The licensee must provide a separate area within the depot or at any nearby premises for the temporary safekeeping of detained or seized goods pending steps to be taken in connection with the goods in terms of the Control Act.

~~(e) The licensee must operate the depot on a common user basis and may not discriminate against any person in respect of the services and facilities provided.~~

⁸¹⁴ See definition of “temporary storage” in section 1 of the Control Act.

~~(f) The licensee must, notify the customs authority of the receipt of goods not in free circulation delivered by a licensed carrier at the depot under a customs procedure:⁸¹⁵ Provided that this condition does not apply if the licensee is in terms of the Control Act required to submit an outturn report in respect of the receipt of such goods at that depot.~~

(f) Any receipt notification referred to in paragraph (f) must reflect the following information:

(i) The name of the licensee and the customs code of the depot where the goods were received;

(ii) if the notification is submitted by a customs broker or ordinary representative on behalf of the licensee, the information specified in rule 41.33D;⁸¹⁶

(iii) the name or customs code or name of the carrier that delivered the goods;

(iv) the date and time of receipt of the goods at the depot;

~~(iii) the customs code of the depot;~~

(v) the movement reference number of the clearance declaration submitted in respect of the goods;

(vi) the transport document number, road manifest number or unique consignment reference number;

(vii) in the case of non-containerised goods –

(aa) confirmation that the goods received at the depot correspond in class and kind with the goods described in the release notification issued in respect of the goods; and

(bb) the quantity received;

(viii) in the case of containerised goods –

⁸¹⁵ For receipt notifications by licensees of storage warehouses see section 304(2)(b) of the Control Act, by licensees of inward processing premises see section 415(1)(b)(ii), and by licensees of home use processing premises see section 442(2)(b)(ii). Receipt notifications by licensees of excise warehouses are dealt with in terms of the Excise Duty Act.

⁸¹⁶ If the notification is submitted in terms of section 920 of the Customs Control Act by an ordinary representative on behalf of the licensee, the notification must comply with the additional requirements set out in Part 6 of Chapter 41 of these Rules. Note that the said Part 6 applies only to ordinary representatives which per definition excludes persons submitting documents as customs brokers. It follows that Part 6 does not apply to customs brokers that submit notifications on behalf of licensees in that capacity.

- (aa) confirmation that the container and seal number of the container or containers received at the depot correspond with the container and seal numbers on the release notification; and
 - (bb) confirmation that the seal on the container or on each container received is intact;⁸¹⁷ and
 - (cc) the quantity of containers received; and
 - (ix) if no confirmation referred to in subparagraph (vii)(aa) or (viii)(aa) or (bb) can be given, the reason why confirmation cannot be given, which may be submitted in a separate supporting document subject to and in accordance with Part 7 of Chapter 41 of these Rules.
- ~~(vi) a description of the goods, which must include –~~
- ~~(aa) the class or kind; and~~
 - ~~(bb) the quantity, weight or volume.~~

Additional general conditions applicable to all licensed storage warehouses
(sections 642(1)(a), 643 and 665(h))

29.27 (1) All licences issued in respect of public or private storage warehouses, including those within a special economic zone, are, in addition to those listed in rule **29.23**, subject to the following further general conditions:

- (a) The building structure in which the public or private storage warehouse is housed must be ~~structurally sound~~ sturdy and suitable for the purpose for which it is used, ~~and have walls of brick, stone or concrete and a roof of slate, tiles or iron,~~ and must comply with –
 - (i) any applicable fire prevention standards; and
 - (ii) any applicable health and safety regulations.
- (b) The public or private storage warehouse must –
 - (i) be conducted in a way that safeguards the goods in the warehouse against conduct in breach of the Control Act or any other misappropriation; and
 - (ii) have adequate security measures in place, suitable to the type of structure, to ensure the physical security of the goods, including, if

⁸¹⁷ Note that any seal discrepancies must in terms of rule 5.6 be reported by a person who receives physical control of a container.

- appropriate, adequate locking devices for windows, doors and gates and permanently installed electronic security equipment, to prevent –
- (aa) unauthorised entry;
 - (bb) burglary; and
 - (cc) illegal removal of goods;
- (c) The licensee of a public or private storage warehouse must whenever necessary provide adequate space to customs officers within the warehouse to enable them to conduct their enforcement functions on the premises.
- (d) The licensee of a public or private storage warehouse may not make any alterations to any existing structure on the premises without the prior approval of the customs authority.
- (fe) The licensee of a public or private storage warehouse must –
- (i) maintain sufficient knowledge of customs laws, manuals and practices by having available at all times within the licensee’s business at least one person contemplated in rule **29.42**(1) who has completed the relevant ~~Professional Customs Licence Examination~~Customs Sufficient Knowledge Test successfully; and
 - (ii) promptly give notice in terms of rule **29.44** to the customs authority if subparagraph (i) is at any stage not complied with.
- (2) All licences issued in respect of public storage warehouses, including those within a special economic zone, are, in addition to those listed in subrule (1) and in rule **29.23**, subject to the following further general conditions:
- (a) Any racks or shelves in a warehouse must be numbered and any floor storage space must be marked in rows, in the case of goods stacked or packed on racks or shelves or on the floor.
 - (b) Goods must be stored, packed or stacked in a systematic manner and must be labelled clearly and accurately and arranged in a way that facilitates the tracking of goods, depending on the nature of the goods stored in, and the structure of, the warehouse.
 - (c) Stock checks must be performed on a regular basis.
 - (d) Additional safety and control measures must be maintained for high value or high risk goods.
 - (e) Goods that are of a perishable or dangerous nature must be stored in

conditions appropriate to the nature of the goods.

- (f) Suitable handling and loading equipment and other tools required for the wrapping and opening of packages must be available on the premises, **depending on the nature of the goods.**
- (g) The licensee of a public storage warehouse must provide a separate area within the warehouse for the temporary storage of detained or seized goods pending steps to be taken in connection with the goods in terms of the Control Act.
- ~~(i) The licensee of a public storage warehouse must operate the warehouse on a common user basis and may not discriminate against any person in respect of the services and facilities provided.~~

Additional general conditions applicable to all licensed tax free shops (*sections 642(1)(a), 643 and 665(h)*)

29.28 All licences issued in respect of tax free shops are, in addition to those listed in rule **29.23**, subject to the following further general conditions:

- (a) The **building structure** in which the tax free shop and any off-site outlet for the shop is housed must be **structurally sound sturdy and suitable for the purpose for which it is used,** ~~and have walls of brick, stone or concrete and a roof of slate, tiles or iron,~~ and must comply with –
 - (i) any applicable fire prevention standards; and
 - (ii) any applicable health and safety regulations.
- (b) The tax free shop and any off-site outlet for the shop must –
 - (i) be conducted in a way that safeguards the goods in the shop or outlet against conduct in breach of the Control Act or any other misappropriation; and
 - (ii) have adequate security measures in place to ensure the physical security of the goods, including adequate locking devices for windows, doors and gates and permanently installed electronic security equipment, to prevent –
 - (aa) unauthorised entry;
 - (bb) burglary; and
 - (cc) illegal removal of goods.

- (c) The tax free shop must have a separate sales area for the retail display of goods for sale to customers and a storage area for the supply of goods to the sales area.
- (d) The **public customer** entrance to the shop or outlet must lead directly into the sales area where goods are on retail display for sale to customers.
- (e) No customers may be allowed into other parts of the shop such as storerooms where goods are not on public display.
- ~~(f) The licensee must operate the licensed tax free shop on a common user basis and may not discriminate against any person in respect of the services and facilities provided.~~
- (f) The licensee of the tax free shop must whenever necessary provide adequate space to customs officers within or at the shop to enable them to conduct their enforcement functions on the premises.
- ~~(g) The licensee of a tax free shop may not allow any other person to use on the licensee's behalf the customs code issued by the customs authority to that licensee, except where expressly required or permitted in these Rules.~~
- (g) The licensee must –
 - (i) maintain sufficient knowledge of customs laws, manuals and practices by having available at all times within the licensee's business at least one person contemplated in rule 29.42(1) who has completed the relevant Customs Sufficient Knowledge Test successfully; and
 - (ii) promptly give notice in terms of rule 29.44 to the customs authority if subparagraph (i) is at any stage not complied with.

Additional general conditions applicable to special shops for diplomats
(sections 642(1)(a), 643 and 665(h))

29.28A All licences issued in respect of special shops for diplomats are, in addition to those listed in rule 29.23, subject to the following further general conditions:

- (a) The structure in which the special shop for diplomats is housed must be sturdy and suitable for the purpose for which it is used, and must comply with
 - (i) any applicable fire prevention standards; and
 - (ii) any applicable health and safety regulations.

- (b) The special shop for diplomats must –
- (i) be conducted in a way that safeguards the goods in the shop or outlet against conduct in breach of the Control Act or any other misappropriation; and
 - (ii) have adequate security measures in place to ensure the physical security of the goods, including adequate locking devices for windows, doors and gates and permanently installed electronic security equipment, to prevent –
 - (aa) unauthorised entry;
 - (bb) burglary; and
 - (cc) illegal removal of goods.
- (c) The special shop for diplomats must have a separate sales area for the retail display of goods for sale to customers and a storage area for the supply of goods to the sales area.
- (d) The customer entrance to the shop or outlet must lead directly into the sales area where goods are on retail display for sale to customers.
- (e) No customers may be allowed into other parts of the shop such as storerooms where goods are not on public display.
- (f) The licensee of the special shop for diplomats must whenever necessary provide adequate space to customs officers within or at the shop to enable them to conduct their enforcement functions on the premises.
- (g) The licensee must –
- (i) maintain sufficient knowledge of customs laws, manuals and practices by having available at all times within the licensee's business at least one person contemplated in rule 29.42(1) who has completed the relevant Customs Sufficient Knowledge Test successfully; and
 - (ii) promptly give notice in terms of rule 29.44 to the customs authority if subparagraph (i) is at any stage not complied with.

Additional general conditions applicable to all licensed inward processing premises (sections 642(1)(a), 643 and 665(h))

29.29 All licences issued in respect of inward processing premises,⁸¹⁸ including those within a special economic zone, are, in addition to those listed in rule **29.23**, subject to the following further general conditions:

- (a) The **buildings structure** in which the inward processing is undertaken must be **structurally sound sturdy and suitable for the purpose for which it is used, and have walls of brick, stone or concrete and a roof of slate, tiles or iron,** and must comply with –
 - (i) any applicable fire prevention standards; and
 - (ii) any applicable health and safety regulations.
- (b) The inward processing premises must –
 - (i) be managed in a way that safeguards the goods on the premises against conduct in breach of the Control Act or any other misappropriation; and
 - (ii) have adequate security measures in place, **suitable to the type of structure,** to ensure the physical security of the goods, including, **if appropriate,** adequate locking devices for windows, doors and gates and permanently installed electronic security equipment, to prevent –
 - (aa) unauthorised entry;
 - (bb) burglary; and
 - (cc) illegal removal of goods.
- (c) The licensee may not make any alterations to any existing structure **on forming part of** the inward processing premises without the prior approval of the customs authority.
- (d) When processing goods under the inward processing procedure on the premises, the conversion rate applicable to the goods and as approved by the customs authority must be used for the conversion of the goods to inward processed compensating products for purposes of the Control Act and any applicable tax levying Act.⁸¹⁹
- (e) The licensee must whenever necessary provide adequate space to customs officers on the inward processing premises to enable them to conduct their enforcement functions on the premises.

⁸¹⁸ See section 630(2)(a) of the Control Act.

⁸¹⁹ See section 425 of the Control Act.

(f) The licensee must take adequate measures to ensure that goods cleared for export from the Republic in terms of Part 3 of Chapter 18 of the Control Act can be verified as inward processed compensating products obtained from imported goods cleared for inward processing.

(g) The licensee must –

(i) maintain sufficient knowledge of customs laws, manuals and practices by having available at all times within the licensee's business at least one person contemplated in rule 29.42(1) who has completed the relevant Customs Sufficient Knowledge Test successfully; and

(ii) promptly give notice in terms of rule 29.44 to the customs authority if subparagraph (i) is at any stage not complied with.

Additional general conditions applicable to all licensed home use processing premises (sections 642(1)(a), 643 and 665(h))

29.30 All licences issued in respect of home use processing premises,⁸²⁰ including those within a special economic zone, are, in addition to those listed in rule 29.23, subject to the following further general conditions:

(a) The buildings structure in which the home use processing is undertaken must be ~~structurally sound~~ sturdy and suitable for the purpose for which it is used, ~~and have walls of brick, stone or concrete and a roof of slate, tiles or iron,~~ and must comply with –

- (i) any applicable fire prevention standards; and
- (ii) any applicable health and safety regulations.

(b) The home use processing premises must –

- (i) be managed in a way that safeguards the goods on the premises against conduct in breach of the Control Act or any other misappropriation; and
- (ii) have adequate security measures in place, suitable to the type of structure, to ensure the physical security of the goods, including, if appropriate, adequate locking devices for windows, doors and gates and permanently installed electronic security equipment, to prevent –
 - (aa) unauthorised entry;

⁸²⁰ See section 630(2)(b) of the Control Act.

- (bb) burglary; and
- (cc) illegal removal of goods.
- (c) The licensee may not make any alterations to any existing structure ~~on~~ **forming part of** the home use processing premises without the prior approval of the customs authority.
- (d) When processing goods under the home use processing procedure on the premises, the conversion rate applicable to the goods and as approved by the customs authority must be used for the conversion of the goods to home use processed compensating products for purposes of the Control Act and any applicable tax levying Act.⁸²¹
- (e) The licensee must whenever necessary provide adequate space to customs officers on the home use processing premises to enable them to conduct their enforcement functions on the premises.
- (f) The licensee must –**
 - (i) maintain sufficient knowledge of customs laws, manuals and practices by having available at all times within the licensee’s business at least one person contemplated in rule 29.42(1) who has completed the relevant Customs Sufficient Knowledge Test successfully; and**
 - (ii) promptly give notice in terms of rule 29.44 to the customs authority if subparagraph (i) is at any stage not complied with.**

Additional general conditions applicable to ~~all~~ licensed state warehouses
(sections 642(1)(a), 643 and 665(h))

29.31 All licences issued in respect of state warehouses referred to in section 569(b) of the Control Act are, in addition to those listed in rule **29.23**, subject to the following further general conditions:

- (a) The ~~building structure~~ **building structure** in which the state warehouse is housed must be ~~structurally sound~~ **sturdy and suitable for the purpose for which it is used, and have walls of brick, stone or concrete and a roof of slate, tiles or iron,** and must comply with –
 - (i) any applicable fire prevention standards; and
 - (ii) any applicable health and safety regulations.

⁸²¹ See section 447 of the Control Act.

- (b) The state warehouse must –
 - (i) be conducted in a way that safeguards the goods in the warehouse against conduct in breach of the Control Act or any other misappropriation; and
 - (ii) have adequate security measures in place, suitable to the type of structure, to ensure the physical security of the goods, including, if appropriate, adequate locking devices for windows, doors and gates and permanently installed electronic security equipment, to prevent –
 - (aa) unauthorised entry;
 - (bb) burglary; and
 - (cc) illegal removal of goods.
- (c) The licensee of a state warehouse must whenever necessary provide adequate space to customs officers within the warehouse to enable them to conduct their enforcement functions on the premises.
- (d) The licensee of a state warehouse may not make any alterations to any existing structure on forming part of the premises without the prior approval of the customs authority.
- (e) The licensee must –
 - (i) maintain sufficient knowledge of customs laws, manuals and practices by having available at all times within the licensee's business at least one person contemplated in rule **29.42(1)** who has completed the relevant Professional Customs Licence Examination Sufficient Knowledge Test successfully; and
 - (ii) promptly give notice in terms of rule **29.44** to the customs authority if subparagraph (i) is at any stage not complied with.
- (f) All goods received in the state warehouse until it is removed from the warehouse must be accounted for on an appropriate and effective stock inventory system.
- (g) Any racks or shelves in the warehouse must be numbered and any floor storage space must be in marked rows, in the case of goods stacked or packed on racks or shelves or on the floor.
- (h) Goods must be stored, packed or stacked in an orderly systematic manner and must be labelled clearly and accurately and arranged in a way that

facilitates stock checks⁸²² and the tracking of goods, depending on the nature of goods stored in, and the structure of, the warehouse.

- (i) Additional safety and control measures must be maintained for high value or high risk goods.
- (j) Goods that are of a perishable or dangerous nature must be stored in conditions appropriate to the nature of the goods.
- (k) Suitable handling and loading equipment and other tools required for the wrapping and opening of packages must be available on the premises, depending on the nature of the goods.
- (l)
 - (i) The entry and exit of all persons and vehicles into or out of a state warehouse must be monitored and controlled.
 - (ii) Records must be kept of all visitors, and the reason for such visits which must be recorded in an admittance register.
 - (iii) All visitors entering the warehouse must sign the register on entry as well as on exit.
 - (iv) All visitors must display visitor's permits which must be provided for this purpose.

Additional general conditions applicable to all licensed cross-border transmission lines (*sections 642(1)(a), 644 and 665(h)*)

29.32 All licences issued in respect of cross-border transmission lines are, in addition to those listed in rule **29.23**, subject to the further general condition that the licensee must inform the customs authority of any change in –

- (a) the method of measurement of electricity imported or exported through the cross-border transmission line; or
- (b) the place where measurements are taken.

Additional general conditions applicable to all licensed cross-border pipelines (*sections 642(1)(a), 644 and 665(h)*)

29.33 All licences issued in respect of cross-border pipelines are, in addition to those listed in rule **29.23**, subject to the further general condition that the licensee must inform the customs authority of any change in –

⁸²² Note that in terms of section 576 of the Control Act stock checks must be performed on a monthly basis.

- (a) the class or kind of CTC imported or exported through the cross-border pipeline;
- (b) the method of measurement of all CTCs imported or exported through the cross-border pipeline; or
- (c) the place where measurements are taken.

Additional general conditions applicable to all licensed cross-border cable-cars and conveyor belts (*sections 642(1)(a), 644 and 665(h)*)

29.34 All licences issued in respect of cross-border cable-cars or conveyor belts are, in addition to those listed in rule **29.23**, subject to the further general condition that the licensee must inform the customs authority of any change in –

- (a) the class or kind of CTC imported or exported by way of the cross-border cable-car or conveyor belt;
- (b) the method of measurement of all CTC imported or exported by way of the cross-border cable-car or conveyor belt; and
- (c) the place where measurements are taken.

Additional general conditions applicable to all licensed carriers (*sections 642(1)(a), 645 and 665(h)*)

29.35 All licences issued in respect of carriers are, in addition to those listed in rule **29.23**, subject to the following further general condition:

~~(a) The carrier must, within three hours of receipt for transport of goods not in free circulation, notify the customs authority of the receipt of such goods not in free circulation whenever –~~

~~(i) that carrier receives such goods for transport under a customs procedure from a customs controlled area to another customs controlled area not served by the same Customs Office; or~~

~~(ii) goods not in free circulation are transferred to that carrier's vehicle or container from a vehicle or container operated by another carrier, in circumstances contemplated in section 130, 211 or 233 of the Control Act.~~

~~(b) The carrier must when transporting goods not in free circulation referred to in paragraph (a) notify the customs authority of the delivery of those goods, within three hours of delivery –~~

(i) to the customs controlled area to which the goods must be transported under the relevant customs procedure; or

(ii) if the goods were redirected with the permission of the customs authority to another destination,⁸²³ to that other destination.

(c) Any receipt or delivery notification referred to in paragraph (a) or (b) must reflect the following information:

(i) The customs code of the carrier;

(ii) the customs procedure under which the goods are transported;

(iii) the date and time of receipt or delivery of the goods;

(iv) the place of receipt or delivery of the goods;

(v) the conveyance number⁸²⁴ of the carrier;

(vi) the transport name⁸²⁵ of the carrier;

(vii) the transport document number, road manifest number or unique consignment reference number;

(viii) the movement reference number of the clearance declaration under which the goods are transported;

(ix) a description of the goods;

(x) in the case of a notification in terms of paragraph (a)(ii) —

(aa) the identification number of any seal that was broken or affixed due to the transfer of the goods; and

(bb) the container number, if the goods are transported in a new container; and

(xi) in the case of a notification in terms of paragraph (b)(ii), the customs code or physical address of the place where the goods were delivered;

(xii) that the goods were, as the case may be —

(aa) —

(bb) delivered at the customs controlled area in accordance with the information reflected on the release notification issued in respect of the goods.??

⁸²³ See for instance sections 208, 230, 304, 322, 415(1)(c) and 442(2) of the Control Act.

⁸²⁴ See definition of “conveyance number” in rule 1.

⁸²⁵ See definition “transport name” in rule 1.

~~(d) Paragraphs (a), (b) and (c) apply also where a provision of the Control Act specifically requires a carrier to notify the customs authority of the receipt or delivery of goods not in free circulation under a customs procedure.⁸²⁶~~

~~(e) A carrier transporting goods and persons for reward must operate the carrier business on a common user basis and may not discriminate against any person in respect of the services and facilities provided.~~

See new rules 5.1A and 5.1B.

(a) The licensee must –

(i) maintain sufficient knowledge of customs laws, manuals and practices by having available at all times within the licensee's business at least one person contemplated in rule 29.42(1) who has completed the relevant Customs Sufficient Knowledge Test; and

(ii) promptly give notice in terms of rule 29.44 to the customs authority if subparagraph (i) is at any stage not complied with.

Additional general conditions applicable to all licensed customs brokers
(sections 642(1)(a), 646 and 665(h))

29.36 All licences issued in respect of customs brokers are, in addition to those listed in rule 29.23, subject to the following further general conditions:

(a) The licensee is entitled to carry out any or all of the business modes referred to in the definition of “customs broker” in section 1 of the Control Act unless the licence specifically excludes any of those business modes from the licence.

(b) The licensee must –

(i) maintain sufficient knowledge of customs laws, manuals and practices by having available at all times within the licensee's business at least one person contemplated in rule 29.42(1) who has completed the relevant ~~Professional Licence Examination~~ **Customs Sufficient Knowledge Test**; and

(ii) promptly give notice in terms of rule 29.44 to the customs authority if subparagraph (i) is at any stage not complied with.

⁸²⁶ See for instance section 304(2)(a) of the Control Act.

(c) The licensee must keep **separately record of** all **original** authorisations referred to in section 165(1)(b) of the Control Act in terms of which the licensee submits clearance declarations on behalf of other persons, **in a separate package** for a period of at least five years.

~~(d) The licensee must operate the customs broker business on a common user basis and may not discriminate against any person in respect of the services and facilities provided.~~

Additional general conditions applicable to all licensed stores suppliers
(sections 642(1)(a) and 665(h))

29.36A All licences issued in respect of stores suppliers are, in addition to those listed in rule **29.23**, subject to the following further general conditions:

(a) A stores supplier that delivers goods cleared for the stores procedure to a foreign-going vessel, foreign-going aircraft or cross-border train must, within three hours of delivery of the goods⁸²⁷ at the terminal where the goods will be loaded on board that vessel, aircraft or train notify the customs authority of the delivery of the goods.

(b) Any delivery notification referred to in paragraph (a) must reflect the following information:

(i) The name and customs code of the stores supplier;

(ii) if the notification is submitted by a customs broker or ordinary representative on behalf of the stores supplier, the information specified in rule **41.33D**;⁸²⁸

(ii) the date and time of delivery of the goods;

(iii) confirmation -

(aa) that the goods delivered correspond with the goods described in the release notification issued in respect of the goods; or

(bb) in the case of containerised goods, that the container number of each container delivered correspond with the container number on the release notification; and

⁸²⁷ See rule **41.10B**

⁸²⁸ If the notification is submitted in terms of section 920 of the Customs Control Act by an ordinary representative on behalf of the stores supplier, the notification must comply with the additional requirements set out in Part 6 of Chapter 41 of these Rules. Note that the said Part 6 applies only to ordinary representatives which per definition excludes persons submitting documents as customs brokers. It follows that Part 6 does not apply to customs brokers that submit notifications on behalf of stores suppliers in that capacity.

(iv) if no such confirmation can be given, the reason why confirmation cannot be given, which may be motivated in a separate supporting document submitted together with the notification subject to and in accordance with Part 7 of Chapter 41 of these Rules.

Additional general conditions applicable to all licensed importers and exporters of goods under inward or home use processing procedures (sections 642(1)(a) and 665(h))⁸²⁹

29.37 All licences issued in respect of importers of goods for inward or home use processing⁸³⁰ are, in addition to those listed in rule **29.23**, subject to the following further general conditions:

- (a) The imported goods –
 - (i) must be delivered to the inward or home use premises of the licensee with whom the importer has concluded an agreement for the processing of the goods; and
 - (ii) may be processed only by **or under the control of** that licensee.
- (b) The importer is responsible for ensuring, in the case of the inward processing of the goods, that all compensating products derived from the inward processing of the imported goods are exported in accordance with Chapter 18 of the Control Act, unless otherwise provided for in the agreement referred to in paragraph (a).

Additional general conditions applicable to all licensed searchers of or for abandoned wreck (section 634(3)(a) and rule 29.8)

29.38 All licences issued in respect of searchers of or for abandoned wreck are, in addition to those listed in rule **29.23**, subject to the following further general conditions:

- (a) The licence does not diminish the rights of any other person to whom a similar licence has been or may be issued.

⁸²⁹ These conditions will only apply to those importers and exporters of goods under the inward or home use processing procedures that are specifically licensed for the purpose of such imports and exports. These conditions do not apply to licensees of inward or home use processing premises who themselves import goods for inward or home use processing. See section 634(2) of the Control Act.

⁸³⁰ See section 634(2)(a) and (b) of the Control Act.

- (b) The licence only covers a wreck or wrecks that have been abandoned and does not confer any right on the licensee to search or work a wreck where another party is still exercising or is yet to exercise their salvage rights. The onus to establish whether a wreck has been abandoned or the rights of another party will be infringed by searching or working a wreck rests with the licensee.
- (c) Unless the customs authority determines otherwise in a specific case, any goods recovered by the licensee from an abandoned wreck –
 - (i) must be regarded to be imported goods imported on the date of their recovery; and
 - (ii) attract import tax at the rate as specified in any applicable tax levying Act for goods of that class or kind.
- (d) If the licensee recovers any unopened safe, chest, container or other receptacle from a wreck, the licensee –
 - (i) must immediately give notice of the unopened safe, chest, container or other receptacle to the nearest Customs Office;
 - (ii) may open the safe, chest, container or other receptacle only under customs supervision unless the customs authority determines otherwise; and
 - (iii) must compile a list of all goods found in the safe, chest, container or other receptacle.
- (e) If the goods recovered from a wreck are imported goods or in terms of paragraph (c) regarded to be imported goods, the licensee must within three days of the date of recovery of the goods –
 - (i) clear the goods for home use or a customs procedure and, if cleared for home use, pay to the Commissioner any import tax payable on the goods in terms of any applicable tax levying Act; and
 - (ii) pay to the Commissioner, in addition –
 - (aa) a royalty of 15 per cent of the customs value of the goods; and
 - (bb) any expenses incurred by the Commissioner for services rendered to the licensee in connection with the goods.
- (f) The customs authority may direct the licensee to obtain at own cost a sworn appraisal of the recovered goods if the customs value of the goods cannot be readily determined.

- (g) If the licensee fails to comply with paragraph (e)(i) or (ii), the goods must be removed to a state warehouse pending compliance with that paragraph in accordance with Chapter 27 of the Customs Control Act.
- (h) The licensee must keep a register at the licensee's place of business or, if the licensee is not located in the Republic, at the place of business of the licensee's registered agent in the Republic, specifying –
 - (i) all goods recovered by the licensee from any wreck covered by the licence;
 - (ii) the date of recovery;
 - (iii) the class or kind of goods and the quantity, weight or volume;
 - (iv) the date cleared for home use or a customs procedure; and
 - (v) the movement reference number of the clearance declaration.
- (i) The licensee must notify the customs authority of –
 - (i) the date of commencement with operations in terms of the licence, which must be within three months from the date of issue of the licence; and
 - (ii) the date of cessation of operations.
- (j) The licence does not affect the application of any other legislation applicable to the search of or for wreck, including the recovery of goods from any wreck.
- (k) The licensee may not disturb or remove any wreck older than 50 years without the permission of the National Monuments Council.

Part 5: Recordkeeping and reporting

Records to be kept by licensees (*section 665(l)*)

29.39 (1) A licensee must, in accordance with section 919 of the Control Act, read with Part 5 of Chapter 41 of these Rules, keep such books, accounts, data and other records, as may be necessary to fully and accurately reflect the business conducted by the licensee for the particular licence type.

~~(2) The record keeping system of a licensee referred to in subrule (1) must comply with section 919 of the Control Act.~~

- (2)** The records kept in terms of subrule (1) must include –

- (a) a record of all declarations, applications, reports, notifications, notices, returns and other documents submitted or issued by the licensee in terms of the Control Act or a tax levying Act;
- (b) a record of all documents received by the licensee in terms of the Control Act or a tax levying Act;
- (c) in the case of a licensed cargo terminal, depot or cross-border facility transmission line, pipeline, cable car or conveyor belt, a record of –
 - (i) all goods loaded, off-loaded, received, packed, unpacked, consolidated, deconsolidated, temporarily stored, delivered, removed or in any other way handled at such terminal, depot or facility cross-border transmission line, pipeline, cable car or conveyor belt; and
 - (ii) all goods damaged, destroyed, lost or unaccounted for at such terminal, depot or facility cross-border transmission line, pipeline, cable car or conveyor belt;
- (d) in the case of a licensee responsible for goods cleared for a customs procedure, all records that must in terms of the Control Act be kept for purposes of that customs procedure; and
- (e) in the case of all licensees, a record of compliance with the Control Act and the tax levying Acts reflecting evidence of compliance and at least the following occurrences, if any:
 - (i) Any late or non-payment of duty, levy, tax or interest by the licensee if the licensee is held responsible for such payment;
 - (ii) any customs queries and stop notes issued to the licensee and the outcome in each case;
 - (iii) any warnings issued to the licensee by the customs authority and the outcome in each case;
 - (iv) any administrative penalties imposed on the licensee, and whether confirmed or mitigated;
 - (v) any criminal proceedings instituted against the licensee and the outcome of the proceedings; and
 - (vi) any corrective steps taken and maintained by the licensee to ensure compliance.

Time for, and manner in which, records must be kept

~~29.40 (1) — Records referred to in rule 29.39(1) must be retained —~~

~~(a) — for a period of five years calculated from the end of the calendar year in which such record was created;~~

~~(b) — in a secure place on the licensed premises (if any) or the licensee's business premises;~~

~~(c) — according to a filing system which enables quick access to information pertaining to specific goods or a specific transaction; and~~

~~(d) — in their original form subject to section 14 of the Electronic Communications and Transactions Act, 2002.~~

~~(2) — A licensee may with the permission of the customs authority and subject to such conditions as the customs authority may determine, retain instead of the original of any book, account or document in paper format —~~

~~(a) — a copy of that record in paper format, obtained through reproduction by means of photocopying; or~~

~~(b) — an electronic copy of that record in electronically imaged or microfilmed format, provided that —~~

~~(i) — any electronic or microfilm image must be easily accessible and readable; and~~

~~(ii) — the imaging program complies with any requirements in terms of the Electronic Communications and Transactions Act, 2002.~~

Records to be produced or submitted and returns to be rendered to customs authority on request

29.41 (1) A licensee must produce or submit any record referred to in rule **28.39** or render such returns or submit such particulars in connection with that person's transactions, as the customs authority may require.

(2) (a) Records referred to in subrule (1) must be submitted subject to and in accordance with Part 7 of Chapter 41 of these Rules.

(b) Part 7 of Chapter 41 of these Rules, with any necessary changes the context may require, applies to the submission of returns and particulars referred to in subrule (1).

(2) — A licensee who has been requested by a customs officer to produce any record referred to in rule 29.39 may with the permission of the customs authority and subject to such conditions as the customs authority may determine, produce a copy of such record which, in such a case, may for purposes of the Control Act and a tax levying Act be regarded to be the original record.

Part 6: General provisions

Professional Customs Licence Examination Customs Sufficient Knowledge Test (section 665(b))

29.42 (1) **Any of** the following persons may take the **Professional Customs Licence Examination Customs Sufficient Knowledge Test** to establish sufficient knowledge of customs laws, guides, interpretive notes, operational manuals and practices for purposes of licensing in terms of this Chapter **where sufficient knowledge is in terms of this Chapter a requirement for the licence**.⁸³¹

- (a) If the applicant is **an individual natural person** –
 - (i) the applicant himself or herself; or
 - (ii) a person in the employ of the applicant authorised by the applicant to take the **examination test**; or
- (b) if the applicant is a juristic entity –
 - (i) a person referred to in rule 29.9(4) duly authorised **to act for the entity**; or
 - (ii) a person in the employ of the applicant authorised by the applicant to take the **examination test**.

(2) There is no restriction on the number of times the **examination test** may be taken in order to achieve the score required to establish sufficient knowledge.

(3) The score required for the test to establish sufficient knowledge is 60 per cent.

⁸³¹ See rules 29.14, 29.15, 29.16, 29.19, 29.27, 29.31 and 29.36

(4) A person who has successfully completed the Customs Sufficient Knowledge Test remains eligible for purposes of these Rules for a period of three years, and to continue to be eligible must at the expiry of that period repeat the test.

Updating of licence details

29.42A (1) If any of the licence details of a licensee have or are to change, the licensee must promptly update those details in accordance with this rule.⁸³²

(2) An update in terms of subrule (1) containing the following information must be submitted to the customs authority electronically through eFiling, subject to rule **41.33A**:

- (a) The customs code of the licensee;
- (b) particulars of the change in licence details; and
- (c) the effective date of the change.

(3) If the change in licence details affect the information on the licensee's licence, the update must be effected through an application in terms of rule **29.10** for an amendment of the licence.

Change of circumstances on which applications for licences were granted

~~(section 661)~~

~~**29.43** Apart from the circumstances set out in section 661(2) of the Control Act, the following further circumstances are also material to the granting of an application for a licence:~~

- ~~(a) The place~~
 - ~~(i) where the licensee is ordinarily resident in the Republic, if the licensee is a natural person;~~
 - ~~(ii) from where the licensee conducts its business in the Republic, if the licensee is a juristic entity;~~

⁸³² If the update is submitted on behalf of the licensee by an ordinary representative contemplated in section 920 of the Customs Control Act, the update must comply with the additional requirements set out in Part 6 of Chapter 41 of these Rules. Note that the said Part 6 applies only to ordinary representatives which per definition excludes persons submitting documents as customs brokers or registered agents. It follows that Part 6 does not apply to customs brokers and registered agents who submit an update in that capacity. An update submitted on behalf of the licensee by a customs broker, registered agent or ordinary representative must contain the additional information referred to in rule **41.33D**.

- ~~(iii) — where the registered agent of the licensee is ordinarily resident in the Republic, if the licensee has such an agent and that agent is a natural person; or~~
- ~~(iv) — from where the registered agent of the licensee conducts its business in the Republic, if the licensee has such an agent and that agent is a juristic entity;⁸³³~~
- ~~(b) — the fact that the licensee is an incorporated, registered or recognised entity in terms of specific legislation, if the licensee is a juristic entity;~~
- ~~(c) — the membership composition of the licensee, if the licensee is a partnership or close corporation;~~
- ~~(d) — the fact that the licensee holds ownership or a lease or other recognised right in the licensed premises or facility;~~
- ~~(e) — the tax matters of the licensee;⁸³⁴ and~~
- ~~(f) — the licensee's compliance with the requirement of sufficient knowledge of customs laws, manuals and practices, where applicable.⁸³⁵~~

Moved to rule 1.1F.

Notification of change of circumstances **on which applications for licences were granted** (section 661)

29.44 (1) When complying with section 661(1) of the Control Act, a licensee must notify the customs authority of any change of circumstances which were material to the granting of the relevant licence,⁸³⁶ within three working days of the change having occurred, read with section 908 of the Control Act.

- (2) ~~(a)~~ — A notification referred to in subrule (1) must be submitted to the customs authority electronically through eFiling, subject to **rule 41.33A** ~~paragraph (b)~~.

⁸³³ The reason why this is included here as a material circumstance is because some licensees, such as customs brokers, are required to be located in the Republic and others, such as carriers not located in Republic, are required to have registered agent located in the Republic. If these circumstances change, it affects the continuation of the licence.

⁸³⁴ See section 917 of the Control Act.

⁸³⁵ See rule **29.42**.

⁸³⁶ See section 661(2) of the Control Act and rule **1.1F** for circumstances material to the granting of an application for a licence.

~~(b) If a notification is submitted to the customs authority in paper format in circumstances where submissions in paper format are permissible,⁸³⁷ the notification must be –~~

~~(i) on form..... as published as a rule on the SARS website for the purpose of such notifications in paper format; and~~

~~(ii) submitted to any Customs Office.~~

(3) A notification referred to in subrule (1) must state –

(a) the name of the licensee and the customs code issued in respect of the licence;

(b) if the notification is submitted by a customs broker registered agent or ordinary representative on behalf of the person referred to in paragraph (a), the information specified in rule 41.33D;⁸³⁸

(c) particulars of the changed circumstances, which may be submitted in a separate supporting document subject to Part 7 of Chapter 41 of these Rules.⁸³⁹

Reporting by licensees of breaches of Control Act, these Rules or tax levying Acts (section 665(n)(i))

29.45 (1) If a licensee discovers or becomes aware of a breach of the Control Act, these Rules or a tax levying Act committed by any person in relation to goods handled or otherwise dealt with by the licensee in terms of the licence, the licensee must immediately report the breach to –

(a) a customs officer on the premises where the goods are, if the goods are on licenced premises where the customs authority has a permanent presence; or

(b) the customs authority electronically through eFiling, subject to rule 41.33A ~~subrule (2).~~

⁸³⁷ See for instance section 913(4) of the Control Act.

⁸³⁸ If the notification is submitted in terms of section 920 of the Customs Control Act by an ordinary representative on behalf of the licensee, the notification must comply with the additional requirements set out in Part 6 of Chapter 41 of these Rules. Note that the said Part 6 applies only to ordinary representatives which per definition excludes persons submitting documents as customs brokers or registered agents. It follows that Part 6 does not apply to customs brokers or registered agents that submit notifications on behalf of licensees in that capacity.

⁸³⁹ See section 661(2) of the Control Act and rule **1.1F**.

~~(2) — If a notification is submitted to the customs authority in paper format in circumstances where submissions in paper format are permissible,⁸⁴⁰ the notification must be submitted to any Customs Office.~~

(2) A report referred to in subrule (1) must reflect –

(a) the customs code of the licensee;

(b) if the report is submitted by a customs broker, registered agent or ordinary representative on behalf of the licensee, the information specified in rule **41.33D**;⁸⁴¹

(b) particulars of the breach, which may be submitted in a separate supporting document subject to and in accordance with Part 7 of Chapter 41 of these Rules; and

(c) details of the person that committed the breach to the extent that such details are known to the licensee.

⁸⁴⁰ See for instance section 913(4).

⁸⁴¹ If the report is submitted in terms of section 920 of the Customs Control Act by an ordinary representative on behalf of the licensee, the report must comply with the additional requirements set out in Part 6 of Chapter 41 of these Rules. Note that the said Part 6 applies only to ordinary representatives which per definition excludes persons submitting documents as customs brokers or registered agents. It follows that Part 6 does not apply to customs brokers or registered agents that submit reports on behalf of licensees in that capacity.

CHAPTER 30 ACCREDITATION

Definitions

30.1 (1) In this Chapter, unless the context otherwise indicates –

“accredited client” means a person on whom accredited status has been conferred;

“applicant”, in relation to an application, means a person who intends to submit or has submitted an application;

“application” means an application in terms of Chapter 30 of the Control Act for—

- (a) accredited client status;
- (b) the renewal of an accredited client status certificate; or
- (c) the amendment of an accredited client status certificate;

“application form for Competency Assessment” means an application form as prescribed as a rule on the SARS website for persons applying to take competency assessments;

“Customs Accreditation Self-evaluation” means a self-evaluation completed by an applicant on a form as prescribed as a rule on the SARS website for the purpose of establishing whether the applicant has the ability to comply with accredited client requirements;

“Customs Competency Assessment for Accreditation” or **“Competency Assessment”** means an assessment administered by the customs authority to a person referred to in rule **30.10** to establish whether that person has sufficient knowledge of customs laws, guides, interpretive notes, operational manuals and practices for purposes of accredited client status;

“Customs Relationship Manager” means a SARS official tasked with facilitating the relationship between an accredited client and the customs authority;

~~“public officer”, in relation to a juristic entity which is a company as defined in the Tax Administration Act, means the public officer of the entity within the meaning of section 246 of that Act;~~

~~“sufficient knowledge”, in relation to customs laws, guides, operational manuals and practices, means achieving a score of at least 60 per cent in the Customs Competency Assessment for Accreditation.~~

~~(2) — When applying these rules, a record of compliance with the Control Act, the Customs and Excise Act, 1964, and the tax levying Acts referred to in section 670(1)(a) of the Control Act must be evidenced by the absence of —~~

~~(a) — any late⁸⁴² or non-payments of duty, levy, tax or interest by that person;~~

~~(b) — any breaches or contraventions of those Acts committed by that person which resulted in —~~

~~(i) — an administrative penalty imposed on that person, excluding administrative penalties for —~~

~~(aa) — unintentional errors or omissions on documents submitted to the customs authority; or~~

~~(bb) — any other non-compliance regarded by the customs authority as a minor or mere technical breach committed without the intention to mislead;~~

~~(ii) — a seizure or confiscation of goods; or~~

~~(iii) — a conviction of that person; and~~

~~(c) — the withdrawal of an accreditation client status certificate in terms of section 679 of the Control Act.~~

Subrule (2) moved to rule 1.1H.

Part 1: Applications for accredited client status and for renewal or amendment of accredited client certificates

⁸⁴² Late payments exclude payments in respect to which section 830(2) of the Control Act applies.

Persons who may apply for accredited client status (section 668(1))

30.2 (1) (a) Only registered importers or exporters may apply for accredited client status, subject to subrules (2), (3) and (4).

(b) Only the registered importer or exporter to whom an accredited client status certificate has been issued may apply for the renewal or amendment of that certificate, subject to subrules (2), (3) and (4).

(2) (a) An application ~~by a registered importer or exporter who is a natural person~~ may be ~~made~~ submitted either by –

(i) ~~that the~~ person applying personally; or

(ii) ~~by another~~ that person's ordinary representative acting on that person's behalf in terms of Part 6 of Chapter 41 of these Rules, subject to paragraph (b).

(b) No licensed customs broker or registered agent may in their capacity as customs broker or registered agent make or submit an application on behalf of another person in terms of paragraph (a)(ii).⁸⁴³

(3) ~~An application by~~ A registered importer or exporter referred to in subrule (2)(a)(i) that is a juristic entity⁸⁴⁴ may apply in terms of subrule (1) ~~be made on behalf of the entity, if the applicant is~~ –

(a) if the entity is a company or co-operative, only through ~~by~~ a duly authorised director or manager, or the ~~public~~ authorised officer, of the company or co-operative;

(b) if the entity is a close corporation or partnership, only through ~~by~~ a duly authorised member of or partner in or a manager, or the ~~public~~ authorised officer, of the close corporation or partnership;

(c) if the entity is an association, club or other body of persons, only through ~~by~~ the chairperson or manager, or the ~~public~~ authorised officer of, that association, club or other body of persons;

⁸⁴³ The effect of this provision is that a customs broker or registered agent is not barred from submitting an application on behalf of another as an ordinary representative, provided Part 6 of Chapter 41 of these Rules applicable to ordinary representatives is complied with.

⁸⁴⁴ See definition of "juristic entity" in section 1 of the Control Act.

- (d) if the entity is a trust or trust fund, only through ~~by~~ the administrator, ~~or~~ trustee or authorise officer of the trust or trust fund;
- (e) if the entity is an organ of state, only through ~~by~~ an official of that organ of state in an executive position.

(4) If an ordinary representative referred to in subrule (2)(a)(ii) applies on behalf of a juristic entity, the authorisation required in terms of rule 41.30(1)(a) must be granted and signed by a person authorised in terms of subrule (3) to act for the entity.

~~(4) — A person applying on behalf of an applicant in terms of subrule (2) or (3) must act in accordance with a written authorisation granted by the applicant to that person.~~

Applications for accredited client status and renewal or amendment of accredited client certificates⁸⁴⁵ (sections 668, 677 and 678)

30.3 (1) ~~(a)~~—An application for accredited client status or renewal or amendment of an accredited client status certificate must be submitted to the customs authority electronically through eFiling, subject to rule **41.33A**,⁸⁴⁶ ~~paragraph (b).~~

~~(b) — If an application is submitted to the customs authority in paper format in circumstances where submissions in paper format are permissible,⁸⁴⁷ the submission must be on Form..... published as a rule on the SARS website for the relevant purpose.~~⁸⁴⁸

(2) An application referred to in subrule (1) must -

(a) state whether the application is for –

(i) an accredited client status certificate;

(ii) the renewal of an existing accredited client status certificate; or

(iii) the amendment of an accredited client status certificate;

(b) state the name and customs code of the applicant;

⁸⁴⁵ See preconditions for submission of applications as set out in Part 2 of this Chapter.

⁸⁴⁶ Section 668(2)(e) of the Control Act provides that an application may be submitted to any Customs Office.

⁸⁴⁷ See section 913(4) of the Control Act.

⁸⁴⁸ See section 668(2)(e) of the Control Act.

- (c) if the applicant is a juristic entity, state the name of the individual authorised in terms of rule 30.2(3) to act for the entity, as well as that person's physical address, contact details, identity number or passport number and capacity;
- (d) if the application is submitted by an ordinary representative on behalf of the applicant, state the information specified in rule 41.33D;⁸⁴⁹
- (e) state whether the tax matters of the applicant are in order as contemplated in section 917 of the Customs Control Act;
- (f) state the expiry date of the applicant's tax clearance certificate; and
- (e) reflect the additional information prescribed in subrule (3), (4) or (5), as may be applicable.

(3) An application for an accredited client status certificate referred to in subrule (2)(a)(i) must reflect the following additional information:

- ~~(a) the customs code of the applicant;~~
- ~~(b) if applicable, the name of the natural person applying on behalf of the applicant, as well as that person's position, identity number or passport number and contact details;~~
- ~~(c) an indication of whether the application is an application for accredited client status or for the renewal or amendment of an accredited client status certificate;~~
- ~~(d) the reference number of the accredited client status certificate, in the case of an application for renewal or amendment;~~
- (a) A statement that the applicant complies with section 670(1) of the Control Act, read with rule 30.8 and;
- (b) in the case of an if the applicant that relies on section 670(3) for non-compliance with section 670(1)(a) - , the following additional information:
 - (i) the applicant's period of exposure to the South African customs and excise environment;
 - (ii) whether the applicant has a record of compliance with customs and excise requirements in other customs and excise jurisdictions, and if so, in which jurisdiction and for how long;

⁸⁴⁹ If the application is submitted in terms of section 920 of the Customs Control Act by an ordinary representative on behalf of the licensee, the application must comply with the additional requirements set out in Part 6 of Chapter 41 of these Rules.

- (iii) whether the applicant has any evidence of such a record of compliance, and if so, which evidence; and
- (iv) whether the applicant has been convicted of an offence involving fraud or dishonesty in another jurisdiction;
- (c) the reference number of any Customs Accreditation Self-evaluation and Accreditation Competency Assessment relevant to the application; **and**
- (d)** a statement that the applicant's tax matters are in order.

~~(h) in the case of an application for renewal of a certificate the expiry date of the certificate;~~

~~(i) in the case of an application for amendment of a certificate, the reference number of the accredited client status certificate and details of the required amendment; and~~

(4) An application for the renewal of an existing accredited client status certificate referred to in subrule (2)(a)(ii) must reflect the following additional information:

(a) The reference number and the expiry date of the existing certificate;

(b) a statement that the applicant complies with section 670(1) of the Control Act, read with rule **30.8.⁸⁵⁰**

(c) the reference number of any Customs Accreditation Self-evaluation and Accreditation Competency Assessment relevant to the application; and

(d) particulars of any change in the registration or licence details of the applicant.

(5) An application for the amendment of a registration certificate referred to in subrule (2)(a)(iii) must reflect the following additional information:⁸⁵¹

(a) The reference number and the expiry date of the existing certificate;

(b) full particulars of the amendment applied for;

(c) particulars of any change in the registration or licence details of the applicant;

and

⁸⁵⁰ See section 677(2) of the Control Act.

⁸⁵¹ Note that in the case of an amendment of an accredited client status certificate referred to in section 678(2)(d) and (e), completion of a Customs Accreditation Self-evaluation and the taking of a Competency Assessment is not required. See rule 30.7(3).

(d) the reason for the amendment, which may be motivated in a separate supporting document submitted together with the application subject to and in accordance with Part 7 of Chapter 41 of these Rules.

Documents required for supporting documents applications for accredited client status and for renewal or amendment of accredited client certificates

(section 668(d))

30.4 (1) An application must be supported by the following documents which must, subject to and in accordance with Part 7 of Chapter 41 of these Rules, be submitted together with the application:

~~(a) A copy of the Accreditation Competency Certificate issued by the customs authority in respect of every person who complies with the requirement of sufficient knowledge of customs laws, guides, interpretive notes, operational manuals and practices;~~

(a) Proof that the applicant has sufficient financial resources, which may consist of –

(i) a copy of audited financial statements of the applicant covering a period of the three for the financial years preceding the date of application; or

(ii) in the absence of such financial statements, an auditor's certificate to this effect;

(b) an auditor's opinion on the effectiveness of the applicant's internal accounting, recordkeeping and operational system and its consistency with generally accepted accounting principles; and

~~(d) a tax clearance certificate that the applicant's tax matters are in order as contemplated in section 917 of the Control Act;~~

~~(e) in the case of an application for amendment of an accredited client status certificate, a motivation of the reasons for the amendment; and~~

(c) in the case of an applicant referred to in section 670(3) –

(i) any evidence of a record of compliance with customs and excise requirements in another customs and excise jurisdiction; and

~~(ii) any other documents or information as the customs authority may request in a particular case.~~

(2) A supporting document referred to in subrule (1) **(a)(ii) or (b)** may not be older than three months.

(3) An applicant must on request by the customs authority make available to it - ~~the original of any supporting document referred to in subrule (1), as well as~~ **(a)** any information, books, accounts and other documents necessary for **the purpose of considering the application or** verifying any statements made by the applicant in the application; **and**
(b) any other documents or information as the customs authority may request in a particular case.

(4) Subrules **(1)(a) to (d), (2) and (3)(a)** does not apply in respect of an application for amendment of an accredited client status certificate referred to in section 678(2)(d) or (e).

Part 2: Pre-conditions for submission of applications

Pre-conditions for submission of applications for accredited client status

(section 668(1))

30.5 In order to establish the ability of an applicant to comply with the criteria for accreditation contemplated in section 670 of the Control Act, read with rule **30.8**, no application for accredited client status may be submitted to the customs authority unless –

- (a) the applicant has completed the Customs Accreditation Self-evaluation;
- (b) the applicant, after having completed the Self-evaluation ~~referred to in paragraph (a),~~ has obtained permission from the customs authority for the applicant personally, or **for** another person referred to in rule **30.10(1)** nominated by the applicant, to take the Competency Assessment; and
- (c) the applicant or that person has passed the Competency Assessment and an Accreditation Competency Certificate has been issued to the applicant or that person.

Pre-conditions for submission of applications for renewal of accredited client status certificates

30.6 (1) In order to establish whether an applicant applying for renewal of an accredited client status certificate will have the ability to maintain under the renewed certificate compliance with the criteria for accreditation set out in section 670 of the Control Act, read with rule **30.8**, no application for the renewal of such a certificate may be submitted to the customs authority unless –

- (a) the applicant has completed the Customs Accreditation Self-evaluation;
- (b) the applicant, after having completed the Self-evaluation ~~referred to in paragraph (a)~~, has obtained permission from the customs authority for the applicant personally, or **for** another person referred to in rule **30.10(1)** nominated by the applicant, to take the Competency Assessment; and
- (c) the applicant or that person has passed the Competency Assessment and an Accreditation Competency Certificate has been issued to the applicant or that person.

(2) Subrule (1)(b) and (c) does not apply if the applicant or a person within the applicant's organisation is the holder of a valid Accreditation Competency Certificate.

Pre-conditions for submission of applications for amendment of accredited client status certificates (*sections 678 and 683(e)*)

30.7 (1) In order to establish whether an applicant applying for the amendment of an accredited client status certificate referred to in section 678(2)(a), (b) or (c) of the Control Act will have the ability to maintain under the amended certificate compliance with the criteria for accreditation set out in section 670, read with rule **30.8**, no application for the amendment of such a certificate may be submitted to the customs authority unless —

- (a) the applicant has completed the Customs Accreditation Self-evaluation;
- (b) the applicant, after having completed the Self-evaluation ~~referred to in paragraph (a)~~, has obtained permission from the customs authority for the applicant personally, or **for** another person referred to in rule **30.10(1)** nominated by the applicant, to take the Competency Assessment; and
- (c) the applicant or that person has passed the Competency Assessment and an Accreditation Competency Certificate has been issued to the applicant or that person.

(2) Subrules (1)(b) and (c) do not apply if the applicant or a person within the applicant's organisation is the holder of a valid Accreditation Competency Certificate.

(3) There are no pre-conditions for an application for amendment of an accredited client status certificate referred to in section 678(2)(d) or (e) and such an application may be submitted forthwith.

Part 3: Criteria of and conditions for accredited client status

Degree of compliance with required criteria (sections 668, 670 and 683)

30.8 The degree of compliance with section 670 of the Control Act for accredited status is as follows:

- (a) The applicant must for purposes of section 670(1)(a) have a record of compliance with the Control Act, the Customs and Excise Act, 1964, and the tax levying Acts, for a period of at least three years preceding the date of application;⁸⁵²
- (b) the applicant may not have ~~been convicted of~~ a previous conviction for any offence involving fraud or dishonesty;
- (c) the applicant must for purposes of section 670(1)(b) have and maintain an effective internal accounting, recordkeeping and operational system which is consistent with generally accepted accounting principles, and which must –
 - (i) reflect a full audit trail of all the applicant's customs transactions and activities for a period of at least three years preceding the date of application;
 - (ii) have procedures for verifying the accuracy of clearance declarations submitted by or on behalf of the applicant; and
 - (iii) have internal controls for detecting illegal or irregular transactions and activities;

⁸⁵² For applications submitted during the three years following the effective date for the commencement of the Control Act, the record of compliance must include compliance with the Customs and Excise Act, 1964, during that portion of the period when the 1964 Act was still in force.

- (d) the applicant must for purposes of section 670(1)(c) have a computerised system which –
 - (i) has stored, backed-up and archived all the applicant's business records for a period of at least three years preceding the date of application; and
 - (ii) has the capacity for –
 - (aa) prompt retrieval or recovery of all those records; and
 - (bb) securing those records and protecting it from unauthorised access;
- (e) the skills required for the accredited client or that client's staff must for purposes of section 670(1)(d) include sufficient knowledge of customs laws, guides, interpretive notes, operational manuals and practices to implement and maintain an effective accredited client compliance system;
- (f) the applicant must have sufficient financial resources, as must be evidenced by –
 - (i) audited financial statements for a period of at least three the financial years preceding the date of application; or
 - (ii) other proof of financial resources as the customs authority may allow in a specific case; and
- (g) bills of entry in terms of the Customs and Excise Act, 1964, and clearance declarations in terms of the Control Act submitted by or on behalf of the applicant during the period of three years preceding the application that were incorrect because of errors in the spaces for quantity, description, classification, value or origin of goods, may not exceed 5% of all such bills of entry and clearance declarations submitted by or on behalf of the applicant during that period.

General conditions subject to which accredited client status is granted (*section 674*)

30.9 (1) All accredited client certificates are issued subject to the following general conditions:

- ~~(a) — The accredited client must, if the customs authority so requests, on the first day of every calendar month submit a report to the customs authority detailing errors on clearance declarations submitted during the previous calendar~~

month in respect of the quantity, classification or description, value or origin of goods.

- (a) The accredited client must promptly notify the customs authority of –
- (i) any breach or contravention of the Control Act or a tax levying Act which affects the client's record of compliance⁸⁵³ for purposes of this Chapter; or
 - (ii) any conviction of that client for an offence involving fraud or dishonesty.
- (b) The accredited client must –
- (i) have sufficient knowledge of customs laws, guides, interpretive notes, operational manuals and practices to implement and maintain an effective accredited client compliance system by having available at all times within that client's organisation at least one person who is the holder of an Accreditation Competency Certificate; and
 - (ii) promptly **notify** ~~give notice to~~ the customs authority if subparagraph (i) is at any stage not complied with.

(2) A notification referred to in subrule (1)(a) or (b)(ii) must –

(a) be submitted to the customs authority electronically through eFiling, subject to rule 41.33A; and

(b) reflect –

(i) the customs code of the accredited client; and

(ii) if the notification is submitted by a customs broker, registered agent or ordinary representative on behalf of the accredited client, the information specified in rule 41.33D;⁸⁵⁴

(iii) in the case of a notification referred to in subrule (1)(b), details of the breach or conviction, which may be given in a separate supporting document submitted together with the application subject to and in accordance with Part 7 of Chapter 41 of these Rules; and

⁸⁵³ See rule 1.1H.

⁸⁵⁴ If the notification is submitted in terms of section 920 of the Customs Control Act by an ordinary representative on behalf of the accredited client, the notification must comply with the additional requirements set out in Part 6 of Chapter 41 of these Rules. Note that the said Part 6 applies only to ordinary representatives which per definition excludes persons submitting documents as customs brokers or registered agents. It follows that Part 6 does not apply to customs brokers or registered agents that submit notifications on behalf of accredited clients in that capacity.

(iv) in the case of a notification referred to in subrule (1)(c)(ii), a statement that the sufficient knowledge requirement is no longer complied with.

Part 4: Customs Competency Assessment for Accreditation

Persons that may take Competency Assessments (section 683(d))

30.10 (1) Any of the following persons may take the Competency Assessment to establish whether an applicant has sufficient knowledge for purposes of rule **30.8**(e):

- (a) If the applicant is an individual natural person, the applicant or a person in the permanent employ of the applicant nominated by the applicant to be responsible for ensuring compliance with customs legislation and requirements; or
- (b) if the applicant is a juristic entity, any of the following persons nominated and duly authorised by the applicant to be responsible for ensuring compliance with customs legislation and requirements:
 - (i) In the case of a company or co-operative, a director or manager, or the public authorised officer, of the company or co-operative;
 - (ii) in the case of a close corporation or partnership, a member of or partner in, or a manager, or the public authorised officer, of the close corporation or partnership;
 - (iii) in the case of an association, club or other body of persons, the chairperson or manager, or the public authorised officer, of that association, club or other body of persons;
 - (iv) in the case of a trust or trust fund, by the administrator or trustee of the trust or trust fund; or
 - (v) a person in the permanent employ of -
 - (aa) any of the entities referred to in item (i) to (iv); or
 - (bb) an administrator or trustee referred to in subparagraph (iv), if that administrator or trustee is a juristic entity.

(2) There is no restriction on the number of times the Competency Assessment may be repeated by a person referred to in subrule (1) in order to achieve the score required to establish sufficient knowledge, provided that the same person may not take the Assessment more than three times in a calendar year.

Replacement of holders of Accreditation Competency Certificates (*section 683(a)*)

30.11 If an accredited client intends to replace a person referred to in rule **30.10** who holds the Accreditation Competency Certificate for purposes of compliance with rule **30.8(e)** the accredited person must –

- (a) nominate another person referred to in rule **30.10** to be responsible for ensuring compliance with customs legislation and requirements; and
- (b) apply on the application form for competency assessments for that person to take the Competency Assessment.

Issue and validity period of Accreditation Competency Certificates

30.12 (1) The customs authority must issue an Accreditation Competency Certificate to each person who achieves the score required to establish sufficient knowledge.

(2) An Accreditation Competency Certificate issued in terms of subrule (1) remains valid for a period of three years as from the date of issue.

Part 5: Other matters

Benefits of accredited client status (*section 682*)

30.13 Accredited clients are entitled, as may be determined by the customs authority, to –

- (a) the services of a Customs Relationship Manager;
- (b) less frequent routine document and physical inspections **by customs officers**;
- (c) prioritisation by the customs authority of requests by the accredited client for tariff and valuation determinations;
- (d) reduction of the amount of any security required in terms of Chapter 31 of the Control Act;
- (e) priority access to non-intrusive inspection techniques when goods are stopped or detained for inspection;
- (f) exemption from customs supervision in specific circumstances;
- (g) reduction of charges for special customs services referred to in rule **1.4**;

- (h) prioritisation of applications for special customs services in terms of rule 1.3;
or
- (i) prioritisation of refund and drawback applications in terms of Chapter 4 of the **Customs** Duty Act.

Procedure for amendment of accredited client status certificates on customs initiative⁸⁵⁵ (*section 678(b)*)

30.14 (1) If the customs authority intends to amend the accredited status certificate of an accredited client in terms of section 678(1)(b) of the Control Act, that person is entitled to—

- (a) prior notification by registered post or secured electronic means of—
 - (i) the proposed amendment; and
 - (ii) the reasons for the proposed amendment; and
- (b) an opportunity to submit representations on the proposed amendment within 30 calendar days of the date the notification referred to in paragraph (a) was posted or transmitted to that person.

(2) Subrule (1)(b) does not apply if the proposal is to effect technical amendments or corrections to the certificate.

⁸⁵⁵ A decision by customs to amend an accredited client certificate is subject to **internal reconsideration in accordance with any of** the proceedings provided for in Chapter 37 of the Control Act.

CHAPTER 31
SECURITY FOR PAYMENT OF TAX AND OTHER MONEY OWED TO
COMMISSIONER

Part 1: Determination and provision of security

Additional factors to be taken into account for purposes of determining amount of security (section 689(1)(c))

31.1 When determining the amount of security to be provided by the person who is required in terms of section 686 of the Control Act to provide security, the following factors may, in addition to the factors referred to in section 689(2)(a) and (b), be taken into account:

- (a) Whether that person, or in the case of a juristic entity, a director, administrator or trustee of that entity, has ever been convicted of a criminal offence;
- (b) whether that person has ever been insolvent or in liquidation;
- (c) whether that person, in the case of a juristic entity, is listed on the a licensed stock exchange;
- (d) whether that person, in the case of a juristic entity, qualifies for small business status, as evidenced by –
 - (i) an annual gross income of R14 million or less;
 - (ii) the shareholders in or members of that person all being natural persons; and
 - (iii) the shareholders in or members of that person not holding any shares or interest in the equity of another company, excluding –
 - (aa) shares in a company listed on the a licensed stock exchange;
 - (bb) a participatory interest in a collective investment scheme; or
 - (cc) an interest in a body corporate;
- (e) whether that person is an existing customs client, and if so –
 - (i) the period for which that person has been a customs client; and
 - (ii) that person's record of compliance with the Control Act, the Customs and Excise Act, 1964, and the tax levying Acts referred to in section 670(1)(a) of the Control Act during that period; and

- (f) whether that person is new to the South African customs and excise environment, and if so, whether that person has evidence of a record of compliance with customs and excise requirements in other customs and excise jurisdictions.

Other forms of security (*section 690(1)(c)*)

31.2 For purposes of section 690(1)(c) other forms of security are –

- (a) a provisional payment in terms of rule **31.3**; and
- (b) a guarantee referred to in Part 3 of this Chapter, issued by a financial institution registered or approved by the South African Reserve Bank or the Financial Services Board.

Security provided in the form of provisional payments (*section 690(1)(c)*)

31.3 (1) (a) A person **who wishes to** provide security in the form of a provisional payment must submit an application for provisional payment to the customs authority electronically through eFiling, subject to **paragraph (b) rule 41.33A**.

(b) If an application referred to in paragraph (a) is submitted to the customs authority **in terms of rule 41.33A** in paper format, **in circumstances where submissions in paper format are permissible,**⁸⁵⁶ the **application submission** must be **submitted –**

(i) — on Form.....as published as a rule on the SARS website; and

(ii) — made to the Customs Office serving the customs controlled area where the goods covered by the provisional payment are to be released for home use or a customs procedure.

(2) An application referred to in subrule (1) must in addition to the information referred to in section 691(a) and (b) of the Control Act, read with rule **31.4**, reflect **–**

(a) — the name and customs code of the person providing security; **and**

⁸⁵⁶ See section 913(4) of the Control Act.

(b) if the application is submitted by a customs broker, registered agent or ordinary representative on behalf of the applicant, the information specified in rule 41.33D.⁸⁵⁷

Additional details to be provided in respect of security (section 691(c))

31.4 In addition to the details referred to in section 691(a) and (b) of the Control Act, security provided in terms of section 690 or a document accompanying such security must contain—

- (a) a description of the kind of security; and
- (b) in the case of security covering specific goods, the movement reference number of any clearance declaration in relation to the goods.

Notification of change in circumstances

31.5 (1) A person who has provided security in terms of Chapter 31 of the Control Act must notify the customs authority of any change in circumstances –

- (a) that were material at the time when the customs authority –
 - (i) requested security in terms of Chapter 31 of the Control Act;⁸⁵⁸ or
 - (ii) determined the amount of security, having regard to the factors referred to in section 689 read with rule 31.1; or
- (b) that affects the continued validity of a surety bond or guarantee issued as security in terms of section 690.

(2) (a) A notification referred to in subrule (1) must be submitted electronically through eFiling, subject to ~~paragraph (b)~~ rule 41.33A.

(b) If a notification referred to in paragraph (a) is submitted to the customs authority in terms of rule 41.33A in paper format, ~~in circumstances where submissions in paper format are permissible,~~⁸⁵⁹ the ~~submission notification~~ must be submitted –

~~(i) on Form...as published as a rule on the SARS website; and~~

⁸⁵⁷ If the application is submitted in terms of section 920 of the Customs Control Act by an ordinary representative on behalf of the applicant, the application must comply with the additional requirements set out in Part 6 of Chapter 41 of these Rules. Note that the said Part 6 applies only to ordinary representatives which per definition excludes persons submitting documents as customs brokers or registered agents. It follows that Part 6 does not apply to customs brokers and registered agents that submit applications on behalf of applicants in that capacity.

⁸⁵⁸ The decision to require security is risk based.

⁸⁵⁹ See section 913(4) of the Control Act.

(ii) ~~made~~ to the Customs Office where the surety bond or guarantee was submitted in terms of rule **31.6** or **31.12**.

(3) A notification referred to in subrule (1) must reflect the following information:

- (a) The **name and** customs code of the person ~~submitting the notification~~ notifying;
- (b) **if the notification is submitted by a customs broker, registered agent or ordinary representative on behalf of the person notifying, the information specified in rule 41.33D.⁸⁶⁰**
- (c) details of the change in circumstances; and
- (d) the bond or guarantee number, in the case of a change in circumstances that affects a surety bond or a guarantee.

Part 2: Surety bonds

Form and format of, and particulars to be reflected on, surety bonds (*sections 690(1)(a)(iii) and 691(c)*)

- 31.6** (1) A surety bond referred to in section 690(1)(a) of the Control Act must –
- (a) be issued on the surety bond form applicable to the particular activity in relation to the goods which the bond is intended to cover, as published as a rule on the SARS website;
 - (b) contain at least the security details referred to in section 691(a) and (b);
 - (c) be signed by the parties to the bond; and
 - (d) be submitted manually, together with the supporting documents referred to in rule **31.7**, to the Customs Office indicated in the request for security.

Supporting documents to be submitted with surety bonds

31.7 The following supporting documents must be submitted **manually together** with a surety bond referred to in rule **31.6**:

⁸⁶⁰ **If the notification is submitted in terms of section 920 of the Customs Control Act by an ordinary representative on behalf of the person notifying, the notification must comply with the additional requirements set out in Part 6 of Chapter 41 of these Rules. Note that the said Part 6 applies only to ordinary representatives which per definition excludes persons submitting documents as customs brokers or registered agents. It follows that Part 6 does not apply to customs brokers and registered agents that submit applications on behalf of persons notifying in that capacity.**

- (a) In the case of a bond issued on behalf of a natural person, a certified copy of that person's identity document or passport;
- (b) in the case of a bond issued on behalf of a juristic entity, a certified copy of the document authorising the person or persons who signed the bond on behalf of the entity, to act on behalf of the entity; and
- (c) a certified copy of the identity document or passport of any authorised person referred to in paragraph (b).

Withdrawal of surety bonds (*section 693(a)(i)*)

31.8 (1) (a) If a financial institution referred to in section 690(1)(a)(i) intends to withdraw a surety bond issued in terms of that subsection, that financial institution must at least 30 calendar days before the date of withdrawal referred to in subrule (2)(d), submit a notification of withdrawal to the customs authority electronically through eFiling, subject to ~~paragraph (b)~~ **rule 41.33A**.

(b) If a notification referred to in paragraph (a) is submitted to the customs authority **in terms of rule 41.33A** in paper format, ~~in circumstances where submissions in paper format are permissible,~~⁸⁶⁴ the **notification submission** must be **submitted** –

~~(i) on Form....as published as a rule on the SARS website; and~~

~~(ii) made~~ to the Customs Office where the surety bond was submitted in terms of rule **31.6**.

(2) A notification referred to in subrule (1) must reflect the following information:

- (a) The name, **physical and postal** address and contact details of the financial institution;
- (b) the bond number;
- (c) the name and contact details of the person on whose behalf the bond was issued;
- (d) the date on which the withdrawal will become effective; and

⁸⁶⁴ ~~See section 913(4) of the Control Act.~~

- (e) the reason for the withdrawal, which may be motivated in a separate supporting document submitted together with the notification subject to and in accordance with Part 7 of Chapter 41 of these Rules.

(3) A notification in terms of this rule of the withdrawal of a surety bond does not affect any liability of the financial institution under that bond that has arisen or may arise in relation to goods –

- (a) imported before the date of withdrawal referred to in subrule (2)(d), in the case of a bond given on behalf of an importer;
- (b) cleared for export before the date of withdrawal referred to in subrule (2)(d), in the case of a bond given on behalf of an exporter;
- (c) received at any licensed premises before the date of withdrawal referred to in subrule (2)(d), in the case of a bond given on behalf of a licensee of licensed premises;
- (d) received by a licensed carrier before the date of withdrawal referred to in subrule (2)(d), in the case of a bond given on behalf of a licensed carrier;
- (e) in respect of which a customs broker has performed a service as such a broker on behalf of another before the date of withdrawal referred to in subrule (2)(d), in the case of a bond given on behalf of a customs broker;
- (f) supplied by a stores supplier as stores for a foreign-going vessel or aircraft or a cross-border train before the date of withdrawal referred to in subrule (2)(d), in the case of a bond given on behalf of a stores supplier;
- (g) processed under the inward or home use processing procedure before the date of withdrawal referred to in subrule (2)(d), in the case of a bond given on behalf of a licensee of inward or home use processing premises; and
- (h) manufactured in any licensed excise manufacturing warehouse before the date of withdrawal referred to in subrule (2)(d), in the case of a bond given on behalf of the licensee of an excise manufacturing warehouse.

New security to replace bonds withdrawn in terms of rule 31.8

31.9 If a notification of withdrawal was submitted in terms of rule **31.8** in relation to a surety bond, the person on whose behalf that bond was issued must before the date of withdrawal referred to in rule **31.4(2)(d)**, ensure that new security, which must

become effective upon withdrawal of the surety bond, is provided, unless the customs authority determines otherwise.

Application for amendment of bond amount

31.10 (1) (a) A person on whose behalf a surety bond was issued must, if that person requires an amendment of the bond amount, submit an application for approval of amendment of the bond amount to the customs authority electronically through eFiling, subject to ~~paragraph (b)~~ **rule 41.33A**.

(b) If an application referred to in paragraph (a) is submitted to the customs authority **in terms of rule 41.33A** in paper format, ~~in circumstances where submissions in paper format are permissible,~~⁸⁶² the **submission application** must be **submitted** –

~~(i) on Form...as published as a rule on the SARS website; and~~

~~(ii) made~~ to the Customs Office where the surety bond was submitted in terms of rule **31.6**.

(2) An application referred to in subrule (1) must reflect the following information:

(a) The **name and** customs code of the applicant;

(b) if the application is submitted by a customs broker, registered agent or ordinary representative on behalf of the applicant, the information specified in rule 41.33D;⁸⁶³

(c) the bond number;

(d) the bond amount;

(e) whether an increase or decrease of the amount is applied for; and

(f) the reason for the increase or decrease, as the case may be.

(3) (a) If the customs authority approves the application, the applicant must ensure that either a new surety bond replacing the existing bond and complying

⁸⁶² See section 913(4) of the Control Act.

⁸⁶³ If the application is submitted in terms of section 920 of the Customs Control Act by an ordinary representative on behalf of the applicant, the application must comply with the additional requirements set out in Part 6 of Chapter 41 of these Rules. Note that the said Part 6 applies only to ordinary representatives which per definition excludes persons submitting documents as customs brokers or registered agents. It follows that Part 6 does not apply to customs brokers and registered agents that submit applications on behalf of applicants in that capacity.

with rule **31.6** or an addendum to the existing surety bond, as the customs authority may determine, reflecting the amended bond amount, is issued.

(b) A surety bond or addendum referred to in paragraph (a) must within 14 working days after the applicant was notified of approval of the application be submitted manually, together with the supporting documents referred to in subrule (4), to the customs authority at the Customs Office indicated in the approval.

(4) A surety bond or an addendum to a surety bond referred to in subrule (3) must be supported by the following documents, which must be submitted to the customs authority on request, subject to and in accordance with Part 7 of Chapter 41 of these Rules:

- (a) The approval issued by the customs authority pursuant to the application referred to in subrule (1), indicating the recalculated bond amount;
- (b) a copy of the surety bond indicating the bond amount to be amended by the new bond or the surety bond addendum;
- (c) in the case of the applicant being a natural person, a certified copy of that person's identity document or passport;
- (d) in the case of the applicant being a juristic entity, a certified copy of the document authorising the person or persons who signed the bond or addendum on behalf of the entity, to act on behalf of the entity; and
- (e) a certified copy of the identity document or passport of any authorised person referred to in paragraph (d).

Amendments of bond amounts on initiative of customs authority

31.11 (1) (a) If the customs authority on its own initiative instructs a person on whose behalf a surety bond was issued to amend the bond amount to an amount as recalculated by the customs authority, that person must ensure that either a new surety bond replacing the existing surety bond and complying with rule **31.6** or an addendum to the existing surety bond, as the customs authority may determine, reflecting the amended bond amount, is issued.

(b) A surety bond or addendum referred to in paragraph (a) must within 14 working days after the person was notified of the customs authority's instruction to amend the bond amount be submitted manually, together with the

supporting documents referred to in subrule (2), to the customs authority at the Customs Office indicated in the instruction.

(2) A surety bond or an addendum to a surety bond referred to in subrule (1) must be supported by the following documents, which must be submitted to the customs authority on request, subject to and in accordance with Part 7 of Chapter 41 of these Rules:

- (a) The instruction issued by the customs authority indicating the recalculated bond amount;
- (b) a copy of the surety bond indicating the bond amount to be amended by the new bond or the surety bond addendum;
- (c) a certified copy of the authorisation authorising the person or persons who signed the bond or addendum on behalf of the applicant, to act on behalf of the applicant; and
- (d) a certified copy of the identity document or passport of any authorised person referred to in paragraph (c).

Part 3: Guarantees

Form and format of, and particulars to be reflected on, guarantees

31.12 (1) A guarantee referred to in rule 31.2(b) must –

- (a) be issued on the guarantee form applicable to the particular goods or the particular activity in relation to the goods which the guarantee is intended to cover, as published as a rule on the SARS website;
- (b) contain at least the security details referred to in section 691(a) and (b) of the Control Act;
- (c) be signed by the financial institution issuing the guarantee; and
- (d) be submitted manually, together with the supporting documents referred to in rule 31.13, to the Customs Office indicated in the request for security.

Supporting documents to be submitted with guarantees

31.13 The following supporting documents must be submitted manually together with a guarantee referred to in rule 31.2(b):

- (a) In the case of a guarantee issued on behalf of a natural person, a certified copy of that person's identity document or passport;
- (b) in the case of a guarantee issued on behalf of a juristic entity, a certified copy of the document authorising the person or persons who acted on behalf of the entity in obtaining the guarantee, to act on behalf of the entity; and
- (c) a certified copy of the identity document or passport of any authorised person referred to in paragraph (b).

Cancellation of guarantees only by written agreement (*section 693(a)(i)*)

31.14 (1) A guarantee referred to in rule 31.2(b) may be cancelled only by written agreement between the financial institution that issued the guarantee and the Commissioner.

(2) If a guarantee is cancelled in accordance with subrule (1), the cancellation does not affect any liability of the financial institution under that guarantee that has arisen or may arise in relation to goods –

- (a) imported before the date of cancellation, in the case of a guarantee for the benefit of an importer;
- (b) cleared for export before the date of cancellation, in the case of a guarantee for the benefit of an exporter;
- (c) received at any licensed premises before the date of cancellation, in the case of a guarantee for the benefit of the licensee of licensed premises;
- (d) received by a licensed carrier before the date of cancellation, in the case of a guarantee for the benefit of a licensed carrier;
- (e) in respect of which a customs broker has performed a service as such a broker on behalf of another before the date of cancellation, in the case of a guarantee for the benefit of a customs broker;
- (f) supplied by a stores supplier as stores for a foreign-going vessel or aircraft or a cross-border train before the date of cancellation, in the case of a guarantee for the benefit of a stores supplier;
- (g) processed under the inward or home use processing procedure before the date of cancellation, in the case of a guarantee for the benefit of a licensee of inward or home use processing premises; and

- (h) manufactured in any licensed excise manufacturing warehouse before the date of cancellation, in the case of a guarantee for the benefit of the licensee of an excise manufacturing warehouse.

Amendment of guarantees only by written agreement

31.15 A guarantee referred to in rule **31.2(b)** may be amended only by written agreement between the financial institution that issued the guarantee and the Commissioner.

CHAPTER 32

RECOVERY OF DEBT UNDER CONTROL ACT⁸⁶⁴

Definitions

32.1 In this Chapter —

“credit push” means a payment transaction initiated through eFiling, presented as a payment request to the bank of the person making payment, for which an authorisation by that person is required;

“instalment payment agreement” means an agreement entered into by a person liable for a debt referred to in section 695 of the Control Act and the Commissioner for payment of the debt in instalments as envisaged in section 702 of the Act;

“payment advice notice” means a notice generated by the customs authority upon request by a person liable for a debt, in respect of a payment to be made by that person, which reflects —

- (a) — the name of the person making payment;
- (b) — the relevant payment reference number;
- (c) — the transaction or transactions being settled, and
- (d) — the amount to be paid;

“payment reference number” means a unique 19-digit number allocated by the customs authority to identify a payment and ensure the correct allocation of the payment —

- (a) — in a notice demanding payment of an amount owed to the Commissioner, or
- (b) — in an instalment payment agreement referred to in rule 32.11 as processed by the customs authority;

⁸⁶⁴ Note that this Chapter applies only to the recovery of debt that becomes payable to the Commissioner under the Control Act. The recovery of tax and other debt, including the payment of refunds, under the Customs Duty Act and the Excise Duty Act is regulated by those Acts.

“SWIFT message” means a secure and standardised payment message sent electronically by one financial institution to another through the Society for Worldwide Inter-bank Financial Telecommunication (SWIFT) network.

Part 1: Methods of payment and conditions for such payment

Methods that may be used to pay debt to the Commissioner (section 706(a))

32.1 (1) The following payment methods may, **subject to the conditions set out in respect of each method in terms of rules 32.2 to 32.6 respectively,** be used to pay a debt to the Commissioner, subject to subrule (2):

- (a) Cash payment;
- (b)(e)** cheque payment;
- (c)(e)** payment by electronic funds transfer, including payment effected by using SWIFT message in the case of international payments;
- (d)(e)** credit push payment initiated through eFiling; and
- (e)(f)** debit or credit card payment.

(2) If a person making payment in terms of this Chapter is **a** registered **electronic user** for eFiling, the payment method referred to in subrule (1)**(e)(d)** must be used, **except in the case of a systems breakdown referred to in section 913 of the Control Act in which case the payment method in subrule (1)(c) may be used.**

Conditions and requirements for cash payments (section 706(a)(i))

32.2 (1) Cash payments may be made at **—**
(a) **—** any Customs Office during the office hours determined for that Customs Office in terms of section 14(1)(c)(i) of the Control Act; **or**
(b) **a bank.**

(2) (a) The maximum amount of cash that may be paid per transaction at a Customs Office is limited to –

- (i) R 2000,00 in bank notes;
- (ii) R 50,00 in R5 coins;
- (iii) R 20,00 in R2 coins;
- (iv) R 20,00 in R1 coins; **and**

(v) R 5,00 each in 10c to 50c coins. ~~and~~

~~(vi) 50c in 5c coins.~~

(b) Paragraph (a) does not apply to cash payments at a place of entry or exit made by travellers and crew members entering or leaving the Republic.

(3) All cash payments made at a Customs Office are rounded off to the nearest 5-10 cents, to the benefit of the person making payment.

(4) A cash payment must ~~be accompanied by~~ in the case of a payment made at –

(a) a Customs Office as contemplated in subrule (1)(a), be accompanied by a payment reference number; and

(b) a bank as contemplated in subrule (1)(b), be accompanied by a payment advice notice that is not older than seven calendar days.

Conditions and requirements for payment by cheque (section 706(a)(i))

32.3 (1) Cheque payments may be made at –

(a) any Customs Office during the office hours determined for that Customs Office in terms of section 14(1)(c)(i) of the Control Act; or

(b) at a bank.

(2) The following conditions apply to payments made by cheque:

(a) A cheque must be signed and made out to “South African Revenue Service” in any of the official languages of the Republic and the payment must be reflected in Rand;

(b) no cheque payment ~~may be made~~ by a person in respect of whom two cheques made out to the South African Revenue Service had been “referred to drawer” in the three years preceding the date of payment will be accepted, unless that person can show cause why the cheque payment should be allowed in the circumstances;

(c) a cheque exceeding an amount of R10 000 must be bank guaranteed;

- (d) the total amount for payment made by cheque by the same person per day is R50 000, irrespective of the number of cheque payments required to be made on that day;
- (e) no post-dated cheques will be accepted; and
- (f) a cheque payment must ~~be accompanied by~~ in the case of a payment made at –
 - (i) a Customs Office as contemplated in subrule (1)(a), be accompanied by a payment reference number; and
 - (ii) a bank as contemplated in subrule (1)(b), be accompanied by a payment advice notice that is not older than seven calendar days.

Conditions and requirements for payments by electronic funds transfer
(section 706(a)(ii))

32.4 The following conditions apply in respect of payments made by electronic funds transfer through internet banking facilities:

- (a) Electronic funds transfers may be done only through internet banking facilities of banks where SARS is listed on the bank's preconfigured beneficiary ID listing, by selecting the applicable SARS beneficiary identification code;
- (b) in the case of electronic fund transfers effected by using SWIFT message –
 - (i) payments may be done only through the internet banking facilities of a bank which supports payment effected by using SWIFT message; and
 - (ii) the SARS beneficiary identification code for foreign payments must be indicated; and
- (c) a payment by electronic funds transfer must be supported by a ~~payment advice notice which must be submitted to SARS.~~ payment reference number.

Requirements for credit push payment initiated by eFiling (section 706(a)(iii))

32.5 (1) A person who wishes to make use of the credit push payment method must –

- (a) be registered for eFiling; and
- (b) make use of a bank that supports this payment method.

(2) A credit push payment must be supported by a payment reference number.

Conditions and requirements for debit or credit card payments (*section 706(a)(iii)*)

32.6 The following conditions apply in respect of debit or credit card payments:

- (a) Payments by debit or credit card may be made by a traveller or a crew member when entering or leaving the Republic at the place of entry or exit or, in the case of rail travellers and crew, at the rail travellers terminal –
 - (i) where that traveller or crew member is processed through the Passenger Processing System; or
 - (ii) in the case of a trusted or frequent traveller, where that traveller is processed at a self-service facility for trusted or frequent travellers;
- (b) payment must be in Rand;
- (c) the traveller or crew member or other person tendering the card must be the account holder authorised user of the card; and
- (d) only approved debit or credit cards as indicated on notice boards at the relevant traveller terminal or Customs Office or on a list published on the SARS website may be accepted; and
- (e) payment by debit or credit card must be supported by a payment reference number.

Part 2: Payment of debt in instalments (*section 702(b) and (d)*)

Conditions for payment of debt in instalments

32.7 Debt referred to in section 702 of the Control Act may be paid in instalments only if the customs authority has in terms of this Part entered into an instalment payment agreement referred to in rule **32.12** with the person liable for the debt.

Applications for instalment payment agreements

32.8 (1) (a) A person who is liable for debt referred to in section 702 of the Control Act and who cannot pay the debt in a single payment may apply to the Commissioner electronically through eFiling, subject to paragraph (b) rule 41.33A, for permission to pay that debt in instalments.

~~(b) If an application is submitted to the Commissioner in paper format, in circumstances where submissions in paper format are permissible,⁸⁶⁵ the submission~~

~~(i) must be on Form..... published as a rule on the SARS website for the relevant purpose; and~~

~~(ii) may be submitted to any Customs Office.~~

(32) An application referred to in subrule (1) must reflect (a) the following information in relation to the applicant:

(a) The applicant's name and customs code of the applicant or, if the applicant does not have a customs code, the information required in terms of rule 41.33E; ~~the applicant's name, physical address and contact details;~~

~~(ii) if the applicant is a natural person, identity or passport number; and~~

~~(iii) if the applicant is a juristic entity, the name of the person authorised to act on behalf of the entity, as well as that person's physical address, contact details, identity or passport number and capacity;~~

(b) if the application is submitted by a customs broker, registered agent or ordinary representative on behalf of the applicant, the information specified in rule 41.33D;⁸⁶⁶

(c) the reference number of any document that demanded payment of the debt;

(d) the kind and amount of the debt owed to the Commissioner;

(e) the reason why the applicant cannot pay the debt in a single payment, which may be motivated in a separate supporting document submitted subject to and in accordance with Part 7 of Chapter 41 of these Rules;

(f) whether the applicant anticipates income or other receipts which can be used to satisfy the debt, including a list of such anticipated incomes or receipts indicating the date when the income or receipt is expected;

~~(f) details of~~

⁸⁶⁵ See section 913(4) of the Control Act.

⁸⁶⁶ If the application is submitted in terms of section 920 of the Customs Control Act by an ordinary representative on behalf of the applicant, the application must comply with the additional requirements set out in Part 6 of Chapter 41 of these Rules. Note that the said Part 6 applies only to ordinary representatives which per definition excludes persons submitting documents as customs brokers or registered agents. It follows that Part 6 does not apply to customs brokers and registered agents that submit applications on behalf of applicants in that capacity.

- ~~(i) the applicant's assets, investments and policies, including a description of the asset, the type of investment or policy, the name of the institution and the relevant values and, if applicable, maturity dates;~~
 - ~~(ii) the applicant's debtors and creditors including names and contact details and amounts owed or owing; and~~
 - ~~(iii) contracts or tenders awarded to the applicant, if any, including the name of the institution or contracting party, the contract or tender number, the contract or tender value and the commencement and completion dates;~~
- (g) a list of contracts or tenders awarded to the applicant, if any, including the name of the contracting party or institution, the contract or tender number, the value of the contract or tender and the commencement and completion dates;
and
- (h) the instalments and ~~proposed~~ repayment period, which may not exceed a period of twelve months, proposed by the applicant;⁸⁶⁷ and
 - (i) the name and contact details of the applicant's auditor or financial adviser.

(3) An application referred to in subrule (1) must be supported by the following documents, which must be submitted together with the application,⁸⁶⁸ subject to and in accordance with Part 7 of Chapter 41 of these Rules:

- (a) The applicant's bank statements for a period of six months preceding the application, certified by the bank;
- (b) evidence of the applicant's financial resources and liabilities, which may consist of –
 - (i) a copy of the applicant's audited financial statements for the financial year preceding the date of application; or
 - (ii) in the absence of such financial statements, an auditor's certificate to this effect;
- (c) documentary evidence of the applicant's –
 - (i) assets, investments and policies, including a description of the asset, the type of investment or policy, the name of the institution and the relevant values and, if applicable, maturity dates;

⁸⁶⁷ This period is subject to extension in terms of section 908 of the Control Act.

⁸⁶⁸ See rule 41.33C(1) for the electronic submission of documents "together with" an application.

- (ii) debtors and creditors including names, contact details and amounts owed or owing; and
- (iii) contracts or tenders awarded to the applicant, if any, including the name of the institution or contracting party, the contract or tender number, the contract or tender value and the commencement and completion dates;
- (d) ~~in the case of~~ if the applicant ~~being~~ is a juristic entity, a certified copy of the document authorising the person who submitted the application on behalf of the entity, to act on behalf of the entity; and
- (e) a certified copy of the identity document or passport of any authorised person referred to in paragraph (d).

~~(4) (a) Supporting documents referred to in subrule (3) must be submitted to the Commissioner together with the application referred to in subrule (1).~~

Consideration of applications and notification of decisions

32.9 An application for permission to pay that debt in instalments referred to in rule **32.8** may be approved or refused, and the applicant is entitled to be notified of the decision.

Qualification criteria for payment of debt in instalments

32.10 The qualification criteria for the payment of debt in instalments are as follows:

- (a) The applicant suffers from a deficiency in assets, funds or liquidity and it is reasonably certain that that deficiency will be rectified in the near future;
- (b) the applicant anticipates income or other receipts that will be available for satisfying the debt;
- (c) the prospect of immediate recovery of the debt is poor or uneconomical but is likely to improve in future;
- (d) activity to recover the debt would be harsh in the particular case and the instalment payment agreement is unlikely to prejudice tax collection; and
- (e) the applicant provides security as may be required by the Commissioner.

Instalment payment agreements

32.11 (1) After being notified of the approval of an application in terms of rule **32.9** the applicant must complete the instalment payment agreement as published as a rule on the SARS website for that purpose.

(2) An instalment payment agreement must contain **at least** the following details:

- (a) The **name and** customs code of the **debtor person liable for payment of the outstanding amount**, or if **the debtor that person** does not have a customs code, **the information specified in rule 41.33E(1)**~~the debtor's name, physical address and contact details;~~
- (b) ~~in the case of~~ **if** the **debtor person liable for payment of the outstanding amount** **being is** a juristic entity, the name of ~~the person authorised to act on behalf of that entity~~ **the entity's authorised officer**, as well as that **person officer's** physical **and postal** address, contact details, identity number or passport number and capacity;
- (c) the type of debt;
- (d) the amount of the debt;
- (e) the interest rate applicable;
- (f) the instalment amount;
- (g) the repayment period;
- (h) payment dates;** and
- (i)** conditions for –
 - (i) the repayment in instalments as may be determined by the Commissioner in the specific case to secure the collection of the debt; and
 - (ii) the amendment and termination of the agreement.

(3) An instalment payment agreement must –

- (a) be signed by the parties to the agreement; and
- (b) be submitted manually together with the supporting documents referred to in subrule **(4)**, to any Customs Office.

(4) An instalment payment agreement must be supported by –

- (a) in the case of a natural person, a certified copy of that person's identity document or passport;
- (b) in the case of a juristic entity, a certified copy of the document authorising the person who signed the agreement on behalf of the entity, to act on behalf of the entity; and
- (c) a certified copy of the identity document or passport of any authorised person referred to in paragraph (b).

~~(5) When an instalment payment is made to the Commissioner, the payment must be supported by a payment advice notice which must be submitted to SARS.~~

Part 3: Refunds of administrative penalties, interest on penalties, and other payments made to Commissioner in terms of Control Act (section 706(c))⁸⁶⁹

Circumstances in which refunds may be claimed

32.12 (1) A refund of any administrative penalty, interest or other payment made to the Commissioner in terms of the Control Act may be claimed only if –

- (a) the penalty, interest or other payment was paid in error—
 - (i) on or in respect of goods or in circumstances in respect of which it was not payable;
 - (ii) by a person not liable for that penalty, interest or payment;
 - (iii) due to a clerical, typographical, electronic or other administrative fault or an incorrect assumption on which the calculation of the penalty, interest or other payment was based;
- (b) any action taken in terms of Chapter 37 of the Control Act against the penalty, interest or other payment or the amount of the penalty, interest or other payment is successful; or
- (c) a final judgement of a court creates an entitlement to a refund of a penalty, interest or other payment or a part of the amount of the penalty, interest or other payment.

⁸⁶⁹ Note that this Part deals only with refunds of payments made to the Commissioner in terms of the Control Act. Refunds of payments made in terms of a tax levying Act, are dealt with in the relevant tax levying Act.

(2) A person who has paid an administrative penalty or interest or has made any other payment to the Commissioner in terms of Chapter 32 of the Control Act in circumstances to which subrule (1) applies, may apply in terms of rule **32.13** to the customs authority for a refund of that penalty, interest or other payment.

Application for refund of administrative penalties, interest and other payments

32.13 (1) (a) A person may apply for a refund of an administrative penalty, interest or other payment made to the Commissioner by submitting an application within the timeframe referred to in rule **32.14** to the customs authority electronically through eFiling, subject to **rule 41.33A** paragraph (b).

~~(b) If an application is submitted to the customs authority in paper format in circumstances where submissions in paper format are permissible,⁸⁷⁰ the submission~~

~~(i) must be on Form..... published as a rule on the SARS website for the relevant purpose; and~~

~~(ii) may be submitted to any Customs Office.~~

(2) An application referred to in subrule (1) must reflect **the following information**:

~~(a) the following information in relation to the applicant:~~

(a) The **applicant's name and** customs code **of the applicant**, or if the applicant does not have a customs code, **the information specified in rule 41.33E(1)**~~the applicant's name, physical address and contact details;~~

(b) if the notification is submitted by a customs broker, a registered agent or ordinary representative on behalf of the licensee, the information specified in rule 41.33D;⁸⁷¹

~~(ii) if the applicant is a natural person, the applicant's identity number or passport number;~~

⁸⁷⁰ See section 913(4) of the Control Act.

⁸⁷¹ If the application is submitted in terms of section 920 of the Customs Control Act by an ordinary representative on behalf of the applicant, the application must comply with the additional requirements set out in Part 6 of Chapter 41 of these Rules. Note that the said Part 6 applies only to ordinary representatives which per definition excludes persons submitting documents as customs brokers or registered agents. It follows that Part 6 does not apply to customs brokers and registered agents that submit applications on behalf of applicants in that capacity.

~~(iii) if the applicant is a juristic entity, the name of the person authorised to act on behalf of that entity, as well as that person's physical address, contact details, identity or passport number and capacity;~~

- (c) the type of debt in respect of which the refund is applied for;
- (d) the reference number of any document that demanded payment of the debt;
- (e) the amount of the debt paid and the date of payment;
- (f) the circumstance referred to in rule 32.12(1) that justifies the application for a refund;
- (g) in the case of the applicant relying on a circumstance referred to in rule 32.12(1)(b) or (c), the date and number of the decision in the Chapter 37 proceedings or of the final judgement of a court;
- (h) whether the applicant has any outstanding debt with the Commissioner; and
- (i) ~~in the case of an applicant that does not have a customs code, full details~~ the banking details⁸⁷² of -
 - (i) the applicant's bank account in the Republic into which the refund must be paid, if the applicant that does not have a customs code; or
 - (ii) another bank account in the Republic into which the refund must be paid, if the applicant's bank account is not the bank account into which the refund must be paid.

(3) An application referred to in subrule (1) must be supported by the following documents which must be submitted together with the application subject to and in accordance with Part 7 of Chapter 41 of these Rules:

- (a) ~~in the case of an applicant who does not have a customs code -~~
 - (i) A banking details confirmation document⁸⁷³ confirming -
 - (i) the applicant's banking details, if the applicant does not have a customs code; or
 - (ii) the banking details of the other bank account into which the refund must be paid, if the refund must be paid into that other account;
- ~~including the name of the bank, the account holder's name, the account type and number, and the branch code, which may be~~

⁸⁷² See definition of "banking details" in rule 1.1

⁸⁷³ See definition of "banking details confirmation document" in rule 1.1

- ~~(aa) a bank certified original bank statement or a legible bank certified copy of an original bank statement;~~
- ~~(bb) a bank certified original auto bank statement; or~~
- ~~(ii) an original letter from the applicant's bank on an official bank letterhead;~~
- (b) in the case of **if** the applicant **being is** a juristic entity –
 - (i) a certified copy of the document authorising the person who submitted the application on behalf of the entity, to act on behalf of the entity; and
 - (ii) a certified copy of the identity document or passport of any authorised person referred to in subparagraph (i); and
- (c) documentary evidence of the circumstance referred to in rule **32.12(1)** which the applicant relies on for justification of the application, which may include –
 - (i) proof of payment reflecting an amount erroneously paid referred to in rule **32.12(1)(a)** and any documents evidencing the error;
 - (iii) a notification by the customs authority of the outcome of any action taken in terms of Chapter 37 of the Control Act referred to in rule **32.12(1)(b)**; or
 - (iv) the final judgement of a court referred to in rule **32.12(1)(c)**.

Time within which applications for refunds must be submitted

32.14 (1) An application for a refund in terms of this Part must be submitted to the customs authority within a period of three years from the date on which the amount reclaimed in terms of the application was paid, or if the amount was paid in instalments, from the date the first instalment was paid.

(2) Subrule (1) does not apply if the entitlement to, or the extent of, a refund is determined or otherwise affected by—

- (a) a decision in any administrative appeal or dispute resolution proceedings or a dispute settlement, and in such a case an application for the refund must be submitted to the customs authority within 180 calendar days from the date the decision was given or the matter was settled, as the case may be; or
- (b) a final judgement of a court, and in such a case an application for the refund must be submitted to the customs authority within 180 calendar days from the date the final judgement was given.

(3) If the grounds for a decision given in any appeal or dispute resolution proceedings referred to in subrule (2)(a) or in a final judgement referred to in subrule (2)(b) will, when applied to administrative penalties, or to interest on administrative penalties, or to other payments made to the Commissioner in terms of Chapter 32 of the Control Act that were not the subject of those proceedings or judgement, also affect those other penalties, interest or payments, applications for a refund may in terms of subrule (2)(a) or (b) be submitted only in relation to those payments that were made after a date⁸⁷⁴ three years prior to the date of payment of the penalty, interest or other payment that was the subject of those proceedings or judgement.

Consideration of applications

32.15 (1) In order for the merits of an application for a refund to be considered, the application must be a valid application.

- (2) An application is valid if –
- (a) the applicant is in terms of rule **32.12** competent to submit the application;
 - (b) the application complies with rule **32.13**;
 - (c) the application was submitted within the applicable timeframe referred to in rule **32.14**(1) and (2); and
 - (d) the application qualifies in terms of rule **32.14**(3), if that rule applies.

(3) (a) If the customs authority invalidates an application in terms of subsection (2) it must notify the applicant of the invalidation, the date of invalidation and the reason for the invalidation.

(b) If the customs authority validates an application in terms of subsection (2), it must notify the applicant of the validation and the validation date.

(4) The customs authority must consider a validated application on the merits and, within 21 working days of validation of the application, either—

- (a) approve the application and pay the refund to the applicant;
- (b) refuse the application; or

⁸⁷⁴ This covers all payments during the period from this date up to the date of the decision or final judgement and also payments made after the date of the decision or judgement which are not consistent with the decision or judgement.

(c) reject the application on technical grounds.

Re-submission of rejected applications

32.15A. (1) An application for a refund referred to in rule **32.13** that was rejected in terms of rule **32.15(4)(c)** on technical grounds, may be rectified and resubmitted to the customs authority.

(2) If an application referred to in subrule (1) is resubmitted to the customs authority within five working days from the date of rejection of the previous application, the resubmitted application must be regarded for purposes of rule **32.14** to have been submitted on the date the previous application was submitted.

(3) A resubmitted application must be dealt with in accordance with rule **32.15**.

(4) If an application referred to in this rule is not submitted within the timeframe referred to in subrule (3), a fresh application may be submitted.

(5) If an application referred to in this rule is not submitted within the timeframe referred to in subrule (3), a fresh application must be submitted if the applicant wishes to continue with the application.

Interest payable on refunds (*section 706(c)*)

32.16 (1) If a person becomes entitled in terms of this Part to claim a refund of administrative penalties, including interest on such penalties, and of other payments paid to the Commissioner, no interest is payable on the amount of that penalty or interest, or of that other payment except as provided for in subsection (2).

(2) If the customs authority fails to pay a refund approved in terms of rule **32.15(4)** within the 21 working days' period referred to in that rule, the applicant is entitled to interest, at a rate determined by the Minister, on the amount of the refund or drawback, for a period commencing on the expiry of that 21 days' period up to the date of payment of the refund or drawback.

(3) Interest determined in terms of subsection (2) must be calculated on daily balances owing and compounded at the end of each month.

Recovery of refunds paid in certain circumstances

32.17 (1) A person to whom a refund was paid in terms of this Part is obliged to repay the amount of the refund to the Commissioner if payment of the refund was made in error.

(2) A repayment referred to in subrule (1) must be made as the customs authority may direct in the demand for repayment.

Set-off of refund against amount owing

32.18 (1) When a refund becomes payable in terms of this Part to a person who has failed to pay an amount of tax, duty, levy, charge, interest or administrative penalty levied or imposed under the Control Act or any other legislation administered by the Commissioner within the period required for payment of the amount, the customs authority may set off the amount of such refund against the amount which that person has failed to pay.⁸⁷⁵

(2) Subsection (1) may not be applied to an amount of outstanding tax, duty, levy, charge, interest or administrative penalty if the customs authority has in terms of section 830 of the Control Act suspended or deferred payment of that amount pending institution or conclusion of proceedings in terms of Chapter 37.

⁸⁷⁵ Please note that if payment of an amount of tax, duty, levy, charge, interest or administrative penalty has been deferred to a future date, that amount only becomes payable at that future date. Consequently there cannot be a "failure" to pay the amount before that date. It also follows that if a refund is paid before that date, the refund cannot be set off against the deferred amount before that date.

CHAPTER 33 GENERAL ENFORCEMENT FUNCTIONS

Definitions

33.1 In this Chapter –

“non-lethal weapon” means a defensive baton, oleoresin capsicum (OC) spray or a tazer;

“official instruction” means any instruction issued by –

- (a) the Commissioner; or
- (b) a customs officer in a supervisory capacity acting within his or her delegated mandate;

“protective and defensive equipment” means shields, protective vests, helmets, handcuffs, cuff strips, holsters, leg holsters, tactical belts, tactical gloves, knee pads or elbow pads.

Part 1: Use of scanning equipment and other mechanical, electrical, imaging or electronic appliances for inspection of goods (section 751(1)(a))

Conditions for use of scanning equipment and other appliances

33.2 Scanning equipment and other mechanical, electrical, imaging or electronic appliances that may in terms of section 722(3)(b)(ii) of the Control Act be used for examining goods –

- (a) may be operated only by customs officers **accredited who have undergone appropriate training** to **do so operate such equipment or appliances**; and
- (b) must, if used on a person, be of a non-intrusive nature.

Avoiding or interfering with scanning equipment and other appliances

33.3 (1) If any scanning equipment or other mechanical, electrical, imaging or electronic appliance referred to in section 722(3)(b)(ii) of the Control Act is installed or being operated by customs officers at the entrance to any restricted area which is

or forms part of a customs controlled area, no person may without permission of the customs authority enter that area otherwise than through that entrance.

(2) If any scanning equipment or other mechanical, electrical, imaging or electronic appliance referred to in section 722(3)(b)(ii) is installed or being operated by customs officers in a customs controlled area for purposes of examining goods, including goods on a person or in a package or container, no person may –

- (a) interfere or cause an interference with the equipment or appliance in order to deceive; or
- (b) do anything to prevent the equipment or appliance from producing –
 - (i) a true image of the goods or of the contents of the package or container; or
 - (ii) a true result of the purpose for which it is used.

Cargo scanning equipment

33.4 (1) Cargo scanning equipment may be used at –

- (a) the Durban customs seaport;
- (b) the Cape Town customs seaport; and
- (c) the land border-post at Beit Bridge.

(2) All containers imported or to be exported through the places of entry or exit referred to in subrule (1) selected by the customs authority must be presented for scanning.

(3) Cargo scanning equipment must at all times be operated by at least two customs officers with the required training referred to in rule 33.2(a).

Part 2: Carrying, custody and use of firearms and ammunition by customs officers (section 751(1)(b))

Issue of firearms to customs officers (section 741(2))

33.5 A customs officer falling in the category of customs officers that may carry firearms as contemplated in section 741(1) of the Control Act must comply with the following pre-qualifications before a firearm may be issued to the officer:

- (a) The officer must be in possession of a valid competency certificate issued in terms of the Firearms Control Act, 2000 (Act No. 60 of 2000);
- (b) the officer must ~~successfully have~~
 - (i) ~~have~~ undergone psychometric evaluation; ~~and~~
 - (ii) ~~based on such evaluation, have been found fit to be issued with a firearm;~~
- (c) the officer must comply with the requirements of section 9(1) of the Firearms Control Act, 2000; and
- (d) the officer must give a written undertaking to control and use the firearm strictly in accordance with Part 6 of Chapter 33 of the Control Act, these Rules, the Firearms Control Act, 2000, and any official instructions.

Conditions subject to which firearms ~~and ammunition~~ are issued

33.6 A firearm ~~and ammunition~~ is issued to a customs officer subject to the following conditions:

- (a) During the officer's official working hours, the firearm ~~and ammunition~~ –
 - (i) must be carried by the officer on his or her person in accordance with official instructions or protocol; and
 - (ii) may be left in the custody of another person only if permission has been granted by the ~~officer's supervisor~~ ~~SARS official responsible for the control of SARS firearms, non-lethal weapons and protective and defensive equipment.~~
- (b) ~~The firearm and ammunition must after every shift be returned to the SARS official responsible for the control of SARS firearms, non-lethal weapons and protective and defensive equipment, subject to paragraph (c).~~
- (c) When off-duty the officer may retain possession of the firearm and any ammunition issued to the officer only if –
 - (i) permission has been granted by the ~~officer's supervisor~~ ~~the SARS official responsible for the control of SARS firearms, non-lethal weapons and protective and defensive equipment;~~ and
 - (ii) the firearm and ammunition is secured ~~in a gun safe~~ at the officer's place of residence ~~in a gun safe~~ approved in terms of the Firearms Control Act, 2000.
- (d) The officer must attend at least four practical training sessions at a shooting range which complies with the applicable compulsory specification set in

terms of the Standards Act, 2008 (Act No. 20 of 2008), and which is accredited in terms of the Firearms Control Act, 2000.

- (e) A training session referred to in paragraph (a) must include the actual firing of a firearm of the type issued to the officer.
- (f) The firearm or ammunition issued to the officer may not be used for hunting, recreational or other private purposes.
- (g) The Commissioner or the SARS official responsible for the control of SARS firearms, non-lethal weapons and protective and defensive equipment may at any time –
 - (i) request the officer to return the firearm or ammunition; or
 - (ii) instruct another customs officer to remove the firearm or ammunition from the officer's possession.

Shooting incidents

33.7 (1) Whenever a firearm issued to a customs officer is discharged, the officer must immediately submit a report on the incident to his or her supervisor.

(2) A shooting incident report referred to in subrule (1) must –

- (a) be submitted on Formas published as a rule on the SARS website; and
- (b) state –
 - (i) the name, designation and contact details of the customs officer submitting the report;
 - (ii) the circumstances in which, and the reasons why, the firearm was discharged;
 - (iii) whether any person was injured in the incident and, if so –
 - (aa) the name and the physical and postal addresses and other personal contact details of the injured person that are available to the officer; and
 - (bb) the nature of the injury and whether it was fatal or not;
 - (iii) whether any goods were damaged in the incident and, if so –
 - (aa) the name and the physical and postal addresses and other personal contact details of the owner or person in whose possession the goods were, that are available to the officer; and
 - (bb) the nature and extent of the damage;

- (iv) whether the incident was reported to the South African Police Service, and if so, the Crime Administration System (CAS) number issued number assigned to the case by the South African Police Service; and
- (v) any other information required on the form.

(3) This rule does not apply if the firearm is discharged for purposes of official target practice except if a person is injured or property is damaged as a result of such target practice.

Use of ammunition

33.8 (1) A customs officer to whom a firearm has been issued must within five days after the end of each calendar month report to his or her supervisor the amount of any ammunition rounds used discharged during that month.

- (2) An ammunitions report referred to in subrule (1) must –
 - (a) be submitted on Formas published as a rule on the SARS website; and
 - (b) state –
 - (i) the name, designation and contact details of the customs officer submitting the report;
 - (ii) the number of rounds used discharged;
 - (iii) the calibre;
 - (iv) the purpose for which those rounds were used discharged; and
 - (v) any other information required on the form.

Theft , loss or damage to firearms or ammunition

33.9 (1) A customs officer to whom a firearm has been issued must immediately report to his or her supervisor any theft or loss of, or damage to, the firearm or any ammunition issued to the officer for official use.

- (2) A theft, loss or damage report referred to in subrule (1) must –
 - (a) be submitted on Formas published as a rule on the SARS website; and
 - (b) state –
 - (i) the name, designation and contact details of the customs officer submitting the report;

- (ii) the circumstances in which the firearm **or ammunition** was stolen, lost or damaged and, if damaged, the nature of the damage;
- (iii) whether the incident was reported to the South African Police Service, and if so, the **Crime Administration System (CAS) number issued number assigned to the case** by **the** South African Police Service; and
- (iv) any other information required on the form.

Non-compliance or negligence ground for disciplinary, dismissal or criminal proceedings

33.10 A customs officer to whom a firearm **or ammunition** has been issued is subject to disciplinary or dismissal proceedings and, when appropriate, criminal proceedings, if the officer –

- (a) contravenes or fails to comply with a provision of –
 - (i) Part 6 of Chapter 33 of the Control Act;
 - (ii) a rule contained in this Part; or
 - (iii) the Firearms Control Act, 2000; or
- (b) acts negligently in relation to the use of the firearm or to his or her possession of the firearm or ammunition issued for official use.

Part 3: Custody and use of non-lethal weapons and protective and defensive equipment by customs officers (section 751(1)(b))

Issue of non-lethal weapons to customs officers

33.11 A customs officer must comply with the following pre-qualifications before a non-lethal weapon may be issued to the officer:

- (a) The officer must successfully have undergone appropriate training in the use of non-lethal weapons of the type to be issued to the officer;
- (b) the officer must **successfully have –**
 - (i) have undergone psychometric evaluation; and**
 - (ii) based on such evaluation, have been found suitable to handle non-lethal weapons;** and
- (c) the officer must give a written undertaking to control and use the non-lethal weapon strictly in accordance with any official instructions.

Conditions subject to which non-lethal weapons and protective and defensive equipment are issued

33.12 A non-lethal weapon and any protective and defensive equipment are issued to a customs officer subject to the following conditions:

- (a) The non-lethal weapon and protective and defensive equipment may not without the permission of the SARS official responsible for the control of SARS firearms, non-lethal weapons and protective and defensive equipment or that officer's supervisor be left in the custody of another person.
- (b) The non-lethal weapon and protective and defensive equipment must after every shift be returned to the SARS official responsible for the custody of firearms, non-lethal weapons and protective and defensive equipment, subject to paragraph (c).
- (c) When off-duty the officer may retain possession of the non-lethal weapon and any protective and defensive equipment issued to the officer only if –
 - (i) permission has been granted by the SARS official responsible for the control of SARS firearms, non-lethal weapons and protective and defensive equipment; and
 - (ii) the non-lethal weapon is properly secured at the officer's place of residence.
- (d) The officer is subject to periodic training in control and defensive tactics and scenario-based training as the Commissioner may require.
- (e) The non-lethal weapon and protective and defensive equipment may not be used for private purposes.
- (f) The Commissioner or the SARS official responsible for the control of SARS firearms, non-lethal weapons and protective and defensive equipment may at any time –
 - (i) request the officer to return the non-lethal weapon or protective and defensive equipment; or
 - (ii) instruct another customs officer to remove the non-lethal weapon or protective and defensive equipment from the officer's possession.

Use of non-lethal weapons in incidents where persons were injured

33.13 (1) Whenever a person is injured through the use of a non-lethal weapon

issued to a customs officer, the officer must immediately submit a report on the incident to his or her supervisor.

- (2) An incident report referred to in subrule (1) must –
- (a) be submitted on Formas published as a rule on the SARS website; and
 - (b) state –
 - (i) the name, designation and contact details of the customs officer submitting the report;
 - (ii) the circumstances in which, and the reasons why, the non-lethal weapon was used;
 - (iii) the name and the physical and postal addresses es and other personal contact details of the injured person that are available to the officer;
 - (iv) the nature of the injury;
 - (v) whether any goods were damaged in the incident and, if so –
 - (aa) the name and the physical and postal addresses es and other personal contact details of the owner or person in whose possession the goods were, that are available to the officer; and
 - (bb) the nature and extent of the damage;
 - (vi) whether the incident was reported to the South African Police Service, and if so, the Crime Administration System (CAS) number issued number assigned to the case by the South African Police Service; and
 - (vii) any other information required on the form.

Theft or loss of non-lethal weapons and protective and defensive equipment

33.14 (1) A customs officer to whom a non-lethal weapon or any protective and defensive equipment has been issued must immediately report to his or her supervisor any theft or loss of the non-lethal weapon or protective and defensive equipment.

- (2) A theft or loss report referred to in subrule (1) must –
- (a) be submitted on Formas published as a rule on the SARS website; and
 - (b) state –
 - (i) the name, designation and contact details of the customs officer submitting the report;

- (ii) the circumstances in which the non-lethal weapon or protective and defensive equipment was stolen or lost;
- (iii) whether the incident was reported to the South African Police Service, and if so, the ~~Crime Administration System (CAS) number issued~~ number assigned to the case by the South African Police Service; and
- (iv) any other information required on the form.

Non-compliance or negligence ground for disciplinary or dismissal ~~of~~ proceedings

33.15 A customs officer to whom a non-lethal weapon or any protective and defensive equipment has been issued is subject to disciplinary or dismissal proceedings if the officer –

- (a) contravenes or fails to comply with a provision of a rule contained in this Part; or
- (b) acts negligently in the use or in his or her possession of the non-lethal weapon ~~or in his or her possession of the non-lethal weapon or protective and defensive equipment.~~

Part 4: Customs patrol boats (section 751(1)(b))

Crew of customs patrol boats

33.16 (1) A customs patrol boat must be operated by a team of customs officers consisting of a captain and at least three other crew members.

(2) Customs officers operating a customs patrol boat must comply with any applicable legal requirements, and have the requisite skills and experience as determined by the Commissioner, to operate the boat and its equipment.

Boarding of vessels from customs patrol boats

33.17 When boarding another vessel from a customs patrol boat, the customs officer boarding the other vessel must –

- (a) be clothed in the official customs uniform;
- (b) identify himself or herself by producing his or her identity card issued in terms of section 13 of the Control Act; and

- (c) state the reason for boarding the vessel.

Incidents involving the firing of patrol boat weapons

33.18 (1) Whenever a customs patrol boat weapon is discharged, the captain of the boat must immediately upon returning to base submit a report on the incident to his or her supervisor.

(2) An incident report referred to in subrule (1) must –

- (a) be submitted on Formas published as a rule on the SARS website; and
(b) state –

(i) the name, designation and contact details of the customs officer submitting the report;

(ii) the circumstances in which, and the reasons why, and the date and time the weapon was discharged;

(iii) the name, nationality and other details of any vessel involved in the incident;

(iv) whether any person was injured in the incident and, if so –

(aa) the name and the physical and postal addresses and other personal contact details of the injured person that are available to the captain; and

(bb) the nature of the injury and whether it was fatal or not;

(v) whether any goods were damaged in the incident and, if so –

(aa) the name and the physical and postal addresses and other personal contact details of the owner or person in whose possession the goods were that are available to the captain; and

(bb) the nature and extent of the damage;

(vi) whether any person was arrested during the incident and, if so –

(aa) the name and the physical and postal addresses, nationality and other personal contact details of the person arrested that are available to the captain; and

(bb) the reason for the arrest;

(vii) whether the incident was reported to the South African Police Service, and if so, the Crime Administration System (CAS) number issued number assigned to the case by the South African Police Service; and

(viii) any other information required on the form.

(3) This rule does not apply if the weapon is discharged for purposes of official target practice except if a person is injured or property is damaged as a result of such target practice.

Part 5: Other matters

Taking and receiving of samples by customs officers (section 724(3)(b)) ⁸⁷⁶

33.19 (1) A customs officer taking or receiving a sample of goods in the exercise of his or her powers in terms of section 724 of the Control Act must promptly issue a receipt for the sample to the person in physical control of the goods.

(2) A receipt referred to in subrule (1) must be issued on Form ...as published as a rule on the SARS website for that purpose.

(3) The receipt must reflect the following particulars:

- (a) The name and customs code of the person in physical control of the goods, if that person has a customs code;
- (b) the name of the customs officer who took or received the sample;
- (c) a description of the goods from which the sample was taken;
- (d) the quantity, volume or weight of the sample;
- (e) the place where and the date on which the sample was taken;
- (f) the purpose for which the sample was taken;
- (g) the customs value of the sample, if a clearance declaration has been submitted and the value can be determined from the information on the declaration; and
- (g) whether the sample will be returned to the goods; and
- (h) whether the client or representative of the client -
 - (i) requested to be present when the sample is taken; and
 - (ii) was present when the sample was taken.

⁸⁷⁶ Rates applicable to special customs services will only apply when samples are taken on request by a client or as a result of a refund application, tariff classification application or value determination.

(3) When taking or handling samples, a customs officer must follow any applicable –

- (a) health and safety guidelines; and
- (b) official instructions, including any standard operating procedures regulating the handling and safeguarding of samples.

~~(4) — The rates applicable to special customs services apply when samples are taken on request by another or as a result of a refund application, tariff classification application or value determination.~~

Directions to persons to formally appear before designated customs officers
(section 730(2)(a))

33.20 (1) A notice issued **by a customs officer** to a person in terms of section 730 of the Control Act to appear before a designated customs officer to produce any goods or documents or to answer questions must –

- (a) be on Formas published as a rule on the SARS website **for this purpose**; and
- (b) state, in addition to the matters referred to in that section –
 - (i) the name of that person;**
 - (ii) the name and contact details of the customs officer issuing the notice;**
 - (iii) the name of the designated customs officer before whom the person must appear;**
 - (iv)** particulars of the failure by that person to comply with a request by a customs officer to produce goods or documents or to answer questions, including –
 - (aa) the date on which and the place where the failure occurred; and
 - (bb) the name of that customs officer; and
 - (v)** the consequences for that person if he or she fails to appear before the designated customs officer at the time and place specified in the notice.

(2) A person appearing before a designated customs officer may during the proceedings be assisted by another person, including a legal practitioner.

Offences

33.21 A customs officer to whom a firearm or **a non-lethal weapon** has been issued is guilty of an offence if that officer –

- (a) contravenes a condition relating to that firearm contained in rule **33.6(a)(ii)**, (b), **(c)** or **(f)** **or rule 33.12(a), (b), (c) or (e), as may be applicable;**
- (b) fails to comply with a request referred to in rule **33.6(g)(i)** **or 33.12(f)(i)**; or
- (c) acts negligently in the use of that firearm and such negligence resulted in the death or wounding of a person.

CHAPTER 34
DETENTION, SEIZURE AND CONFISCATION OF GOODS

Part 1: Detention of goods

Other circumstances in which goods or documents may be detained (*section 754(1)(c) and (2)(c)*)

34.1 A customs officer may, in addition to the purposes set out in –

- (a) section 754(1)(a) and (b) of the Control Act, detain goods also for the purpose of investigating or determining whether the goods are goods to which an international agreement or an international obligation binding on the Republic which prohibits, restricts or controls the import into or export from the Republic, relates; and
- (b) section 754(2)(a) and (b), detain any document also for the purpose of investigating or determining whether any goods to which the document relates are goods to which an international agreement or an international obligation binding on the Republic which prohibits, restricts or controls the import into or export from the Republic, relates.

Notices of detention (*section 757(4)(d)*)

34.2 A notice of detention must in addition to the particulars set out in paragraphs (a) to (c) of section 757(4) of the Control Act, also reflect –

- (a) the reference number and date of issue of the notice;
- (b) the name, **contact details** and designation of the customs officer issuing the notice;
- (c) the **physical** address of the place where the goods are detained;
- (d) the name of the person referred to in section 757(1) to whom the notice is issued, and the customs code of that person if that person has a customs code;
- (e) in the case of goods in respect of which a clearance declaration has been submitted, the movement reference number of the clearance declaration;
- (f) the transport document number in relation to the goods, if available;
- (g) a general description of the condition of the goods; and

- (h) the date and time when inspection of the goods is scheduled to take place, **if known at the time of issuing of the notice.**⁸⁷⁷

Request to be present when detained goods are inspected or opened (*section 758(1)*)

34.3 (1) A request by a person referred to in section 758(1)(a), or that person's representative, to be present during an inspection of goods or during the opening of a package or container that has been detained, must be –

- (a) directed either orally or in writing to a customs officer; or
(b) submitted to the customs authority electronically through eFiling, **subject to rule 41.33A.**

(2) If a request referred to in subrule (1)(b) is submitted to the customs authority in terms of rule 41.33A in paper format, the request must be submitted to the Customs Office that serves the place where the goods are detained.

(3) A request submitted in writing or electronically must reflect –

- (a) the customs code of the person referred to in section 758(1)(a) **or, if that person does not have a customs code, the information specified in rule 41.33E;**
(b) **if the request is submitted by a customs broker, registered agent or ordinary representative on behalf of the person referred to in paragraph (a), the information specified in rule 41.33D;**⁸⁷⁸
(c) the reference number of the notice of detention; and
(d) if the person contemplated in paragraph (a) will be represented by another person during the inspection or the opening of the package or container, the name, capacity and contact details of that person; **and**
(e) **any preference that the person requesting may have in respect of the place where the inspection should take place.**⁸⁷⁹

⁸⁷⁷ If the date is not known at the stage when the notice is issued, Customs will inform the person to whom the notice was issued as soon as the date is known.

⁸⁷⁸ If the request is submitted on behalf of the person by an ordinary representative in terms of section 920 of the Control Act, Part 6 of Chapter 41 of these Rules will apply. Note that the said Part 6 applies only to ordinary representatives which per definition excludes persons submitting documents as customs brokers or registered agents. It follows that Part 6 does not apply to customs brokers or registered agents who submit such requests in that capacity.

(4) A request in terms of this rule must be directed to a customs officer or submitted to the customs authority within **24 hours one working day** of issuing of a notice of detention in terms of section 757.

(5) A person who directed or submitted a request in terms of this rule is entitled to be informed of the **place and** time appointed for the inspection or the opening of the package or container.

Application for permission to remove detained goods from place where kept or stored (section 759(2))

34.4 (1) (a) Permission contemplated in section 759(2) of the Control Act must be obtained by submitting to the customs authority an application for permission to remove detained goods electronically through eFiling, subject to **paragraph (b) rule 41.33A**.

(b) If an application referred to in paragraph (a) is submitted to the customs authority **in terms of rule 41.33A** ~~in paper format in circumstances where submissions in paper format are permissible,~~⁸⁹⁰ the **submission application** ~~–~~ must be **submitted**–

~~(i) on Form as published as a rule on the SARS website; and~~

~~(ii) made~~ to the Customs Office serving the area where the **detained** goods are **kept detained**.

(2) An application referred to in subrule (1) must reflect –

(a) ~~the following information in relation to the applicant:~~

~~(i) the name~~ **and customs code of the** applicant's ~~customs code~~ **or, if that person does not have a customs code, the information specified in rule 41.33E;**

~~(ii) if the applicant is a~~

~~(aa) natural person, the applicant's identity number or passport number; or~~

⁸⁷⁹ Note that although the person requesting may indicate a preference, the place where the inspection will take place always remains subject to the customs authority's direction.

⁸⁸⁰ See section 913(4) of the Control Act.

~~(bb) juristic entity, the name of the person authorised to act on behalf of the entity, as well as that person's physical and postal address, contact details, identity or passport number and designation;~~

(b) if the application is submitted by a customs broker, registered agent or ordinary representative on behalf of the applicant, the information specified in rule 41.33D;⁸⁸¹

(c) the current location of the detained goods;

(d) the reference number of the notice of detention, if available;

(e) in respect of goods for which a clearance declaration has been submitted, the movement reference number of the clearance declaration ~~in respect of the goods;~~

(f) in respect of goods for which no clearance declaration has been submitted, the transport document number in relation to the goods;

(g) if the application relates to only a portion of the detained consignment, a description of ~~the relevant goods~~ that portion of the consignment to identify the goods, which description must include –

(i) the tariff classification;

(ii) the quantity, volume or weight of the goods, as may be applicable; and

(iii) any marks and numbers on the goods, if applicable;

(h) the physical address of the place to which the detained goods will be removed; and

(i) ~~a motivation setting out~~ the reason why the facilities at the current location are not suitable for the detention of the goods and why the goods should be removed, which may be motivated in a separate supporting document submitted together with the application subject to and in accordance with Part 7 of Chapter 41 of these Rules.

(3) An application referred to in subrule (1) must be supported by ~~any documents that can substantiate the information referred to in subrule (2):~~

⁸⁸¹ If the application is submitted on behalf of the applicant by an ordinary representative in terms of section 920 of the Control Act, Part 6 of Chapter 41 of these Rules will apply. Note that the said Part 6 applies only to ordinary representatives which per definition excludes persons submitting documents as customs brokers or registered agents. It follows that Part 6 does not apply to customs brokers or registered agents that submit applications in that capacity.

a statement setting out description of –

- (a) the security measures at the place to which the goods will be removed, to ensure that the integrity of the goods is not compromised; and
- (b) the infrastructure, personnel and equipment available at that place to enable the suitable or specialised storage and handling required in respect of goods of that class or kind.

(4) Supporting documents referred to in subrule (3) must, **subject to Part 7 of Chapter 41 of these Rules, be submitted on request** ~~accompany the application referred to in subrule (2).~~

Part 2: Seizure of goods

Other circumstances in which goods may be seized (section 762(1)(d))

34.5 The customs authority may, in addition to the circumstances set out in section 762(1)(a) to (c) of the Control Act, seize goods if the goods were imported or exported in contravention of an international agreement or an international obligation binding on the Republic which prohibits, restricts or controls the import into or export from the Republic of those goods.

Notice of seizure (section 763(4)(d))

34.6 A notice of seizure must in addition to the particulars set out in paragraphs (a) to (c) of section 763(4) of the Control Act, also reflect –

- (a) the reference number and date of issue of the notice;
- (b) the name, **contact details** and designation of the customs officer issuing the notice;
- (c) if the goods were detained prior to seizure, the reference number of the notice of detention;
- (d) the **physical** address of the place where the seized goods are to be kept;
- (e) the name of the person referred to in section 763(1) to whom the notice is issued, and the customs code of that person if that person has a customs code;
- (f) in the case of goods in respect of which a clearance declaration has been submitted, the movement reference number of the clearance declaration;

- (g) the transport document number in relation to the goods, if available; and
- (h) the general condition of the goods.

Applications for termination of seizure (*section 765(3)(b) read with 770*)

34.7 (1) (a) An application for termination of a seizure of goods as contemplated in section 765(1) of the Control Act, must within 30 **calendar** days of the date of seizure of the goods⁸⁸² be submitted to the customs authority electronically through eFiling, subject to ~~paragraph (b)~~ **rule 41.33A**.

(b) If an application referred to in paragraph (a) is submitted to the customs authority **in terms of rule 41.33A** in paper format, ~~in circumstances where submissions in paper format are permissible,~~⁸⁸³ the **submission application** must be **submitted** -

~~(i) on Form ... as published as a rule on the SARS website; and~~

~~(ii) made~~ to the Customs Office serving the area where the seized goods are kept.

(2) An application for termination of seizure must in addition to the information required in section 765(3)(a) reflect -

(a) ~~the following information in relation to the applicant:~~

~~(i) the name and customs code of the applicant's customs code or, if that person does not have a customs code, the information specified in rule 41.33E;~~

~~(ii) if the applicant is a -~~

~~(aa) natural person, the applicant's identity number or passport number; or~~

~~(bb) juristic entity, the name of the person authorised to act on behalf of the entity, as well as that person's physical and postal address, contact details, identity or passport number and designation;~~

⁸⁸² If no application for termination of seizure is received by the customs authority within 30 calendar days from the date of seizure of the goods, the customs authority must in terms of section 766(2)(a) of the Control Act confiscate the goods.

⁸⁸³ ~~See section 913(4) of the Control Act.~~

(b) if the application is submitted by a customs broker, registered agent or ordinary representative on behalf of the applicant, the information specified in rule 41.33D;⁸⁸⁴

- (c) the reference number of –
- (i) the notice of detention issued in respect of the goods, if any; and
 - (ii) the notice of seizure issued in respect of the goods;
- (d) a statement that the applicant is the owner of the goods.

(3) An application referred to in subrule (1) must be supported by the following documents, which must be submitted together with the application subject to and in accordance with Part 7 of Chapter 41 of these Rules:

- (a) any Documentary evidence that the applicant is the owner of the goods, which evidence may include –
- (i) a copy of a contract of sale indicating the applicant as the buyer;
 - (ii) a copy of an invoice or sales receipt issued to the applicant; or
 - (iii) a copy of a court judgement indicating the applicant as the owner;
- (b) the motivation referred to in section 765(3)(a) of the reason why the seizure should be terminated;
- (c) any documentary evidence substantiating any facts mentioned in the motivation referred to in section 765(3)(a) ~~the reason why the seizure should be terminated as relied on in the application~~; and
- (d) in the case of ~~the~~ an applicant ~~being~~ that does not have a customs code and who is –
- (i) an individual natural person, a copy of the identity document or passport of the applicant; or
 - (ii) a juristic entity, a copy of the document authorising the person who submitted the application on behalf of the entity, to act on behalf of the entity.

⁸⁸⁴ If the application is submitted on behalf of the applicant by an ordinary representative in terms of section 920 of the Control Act, Part 6 of Chapter 41 of these Rules will apply. Note that the said Part 6 applies only to ordinary representatives which per definition excludes persons submitting documents as customs brokers or registered agents. It follows that Part 6 does not apply to customs brokers or registered agents who submit applications in that capacity.

~~(4) Supporting documents referred to in subrule (3) must accompany the application referred to in subrule (1).~~

Part 3: Confiscation of goods

Notices of confiscation (*section 766(3)*)

34.8 A notice of confiscation referred to in section 766(3) of the Control Act must –

- (a) identify the goods to which it relates;
- (b) state the date from which the goods are confiscated;
- (c) reflect –
 - (i) the reference number **of the notice of confiscation** and the date of issue;
 - (ii) the reference number and date of the notice of seizure issued in relation to the goods;
 - (iii) the name, **contact details** and designation of the customs officer issuing the notice of confiscation; and
 - (iv) the name of the person referred to in section 763(1), and the customs code of that person, if available.

Applications for withdrawal of confiscation (*section 768(3)(b) read with 770*)

34.9 (1) (a) An application for withdrawal of the confiscation of goods as contemplated in section 768(1) of the Control Act must be submitted to the customs authority –

- (i) within 30 calendar days of the date of confiscation; and
- (ii) electronically through eFiling, subject to ~~paragraph (b)~~ **rule 41.33A**.

(b) If an application referred to in paragraph (a) is submitted to the customs authority **in terms of rule 41.33A** in paper format, ~~in circumstances where submissions in paper format are permissible,~~⁸⁸⁵ the **application submission** must be **submitted** –

~~(i) on Form ... as published as a rule on the SARS website; and~~

⁸⁸⁵ ~~See section 913(4) of the Control Act.~~

(ii) ~~be made~~ to the Customs Office serving the area where the confiscated goods are kept.

(2) An application for withdrawal of confiscation must reflect –

(a) ~~the following information in relation to the applicant:~~

(i) ~~the applicant's~~ **name and** customs code or, if the applicant does not have a customs code, **the information specified in rule 41.33E;**

~~the applicant's name, physical address and contact details;~~

(ii) ~~if the applicant is a natural person, the applicant's identity number or passport number;~~

(iii) ~~if the applicant is a juristic entity, the name of the person authorised to act on behalf of the entity, as well as that person's physical and postal address, contact details, identity or passport number and capacity;~~

(b) if the application is submitted by a customs broker, registered agent or ordinary representative on behalf of the applicant, the information specified in rule 41.33D;⁸⁸⁶

(c) a statement that the applicant is the owner of the goods;

(d) the reference number of the notice of confiscation issued in respect of the relevant goods; and

(e) whether the applicant has submitted an application for termination of seizure in terms of rule 34.6 in respect of the goods which has been refused by the customs authority.⁸⁸⁷

(3) An application referred to in subrule (1) must be supported by **the following documents, which must be submitted together with the application subject to and in accordance with Part 7 of Chapter 41 of these Rules:**

(a) Documentary evidence that the applicant was the owner of the goods prior to confiscation, which evidence may include –

(i) a copy of a contract of sale indicating the applicant as the buyer;

⁸⁸⁶ **If the application is submitted on behalf of the applicant by an ordinary representative in terms of section 920 of the Control Act, Part 6 of Chapter 41 of these Rules will apply. Note that the said Part 6 applies only to ordinary representatives which per definition excludes persons submitting documents as customs brokers or registered agents. It follows that Part 6 does not apply to customs brokers or registered agents who submit applications in that capacity.**

⁸⁸⁷ An application for withdrawal of a confiscation based on the same grounds on which the refused application for termination of seizure was based, will **be refused obviously be futile.**

- (ii) a copy of an invoice or sales receipt issued to the applicant; or
- (iii) a copy of a court judgement indicating that the applicant is the owner;

~~(b) the motivation referred to in section 768(3)(a) of the reason why the confiscation should be withdrawn;~~

(c) any documentary evidence substantiating any facts mentioned in the motivation referred to in section 768(3)(a) ~~the reason why the confiscation should be withdrawn as relied on in the application;~~ and

(d) in the case of ~~the~~ an applicant ~~being~~ that does not have a customs code and who is—

- (i) an individual ~~natural person~~, a copy of the identity document or passport of the applicant; or
- (ii) a juristic entity, a copy of the document authorising the person who submitted the application on behalf of the entity, to act on behalf of the entity.

~~(4) Supporting documents referred to in subrule (3) must accompany the application referred to in subrule (1).~~

CHAPTER 35
PROHIBITED, RESTRICTED AND SECTORALLY CONTROLLED GOODS

Part 1: Prohibited goods

Additional particulars to be reflected on notices of detention (*section 778(3)(d)*)

35.1 A notice of detention issued in respect of prohibited goods in terms of section 778(3) of the Control Act must in addition to the particulars set out in paragraphs (a) to (c) of that subsection, also reflect –

- (a) the reference number and date of issue of the notice;
- (b) the name, **contact details** and designation of the customs officer issuing the notice;
- (c) the **physical** address of the place where the **detained** prohibited goods are **kept detained**;
- (d) the name of the person referred to in section 778(1)(a) to whom the notice is issued, and the customs code of that person if that person has a customs code;
- (e) in the case of goods in respect of which a clearance declaration has been submitted, the movement reference number of the clearance declaration; and
- (f) the transport document number in relation to the goods, if available.

Applications for termination of detention (*section 780(2)(a) and (b) read with section 903(1)(i)*)

35.2 (1) If a person referred to in section 780(2)(a) or (b) of the Control Act intends to apply for the termination of a detention of prohibited goods⁸⁸⁸ as contemplated in that section, that person must within three working days of the date of detention of the goods –

- (a) in the case of imported prohibited goods, submit an export clearance declaration in respect of those goods; or

⁸⁸⁸ Note that only the importer or exporter, or the importer or exporter's registered agent, may submit such an application, and only in the circumstances set out in section 780(2)(a)(i) and (ii), for goods of which the import but not the possession is prohibited, and (b)(i) and (ii), for goods of which the export but not the possession is prohibited.

(b) in the case of prohibited goods that were in the process of being exported, request a withdrawal of the export clearance declaration.⁸⁸⁹

(2) (a) Submission of an export clearance declaration in terms of subrule (1)(a) must be regarded as an application contemplated in section 780(2)(a), and release by the customs authority must be regarded as approval of the application.

(b) A request for withdrawal of a clearance declaration in terms of subrule (1)(b) must be regarded as an application contemplated in section 780(2)(b), and acceptance of the withdrawal request by the customs authority must be regarded as approval of the application.

(3) An export clearance declaration referred to in subrule (1)(a) must –

(a) in addition to the information required in terms of section 367, indicate that it is a clearance declaration for the export of previously imported prohibited goods; and

(b) be accompanied supported by a copy of a letter or other document from the administering authority confirming that it has no objection to the goods being exported.⁸⁹⁰

(4) A request for withdrawal referred to in subrule (1)(b) must be supported a copy of a letter or other document from the administering authority confirming that it has no objection to the goods reverting to free circulation.

(5) If an application in terms of this rule is granted, the applicant must pay to the Commissioner –

(a) any administrative penalty that may be payable in respect of the goods; and

(b) any expenses incurred by the Commissioner in connection with the detention of the goods.

Part 2: Restricted goods

⁸⁸⁹ See section 175(2)(e) of the Control Act.

⁸⁹⁰ See section 780(3) of the Control Act.

Additional particulars to be reflected on notices of detention (*section 787(3)(d)*)

35.3 A notice of detention issued in respect of restricted goods in terms of section 787(3) of the Control Act must in addition to the particulars set out in paragraphs (a) to (c) of that subsection, also reflect –

- (a) the reference number and date of issue of the notice;
- (b) the name, **contact details** and designation of the customs officer issuing the notice;
- (c) the **physical** address of the place where the **detained** restricted goods are **kept detained**;
- (d) the name of the person referred to in section 787(1)(a) to whom the notice is issued, and the customs code of that person if that person has a customs code;
- (e) in the case of goods in respect of which a clearance declaration has been submitted, the movement reference number of the clearance declaration; and
- (f) the transport document number in relation to the goods, if available.

Application for termination of detention (*section 789(2)(a) and (b) read with section 903(1)(i)*)

35.4 (1) If a person referred to in section 789(2)(a) or (b) of the Control Act intends to apply for the termination of a detention of restricted goods as contemplated in that section,⁸⁹¹ that person must within three working days of the date of detention of the goods –

- (a) in the case of imported restricted goods, submit an export clearance declaration in respect of those goods; or
- (b) in the case of restricted goods that were in the process of being exported, request a withdrawal of the export clearance declaration.⁸⁹²

(2) (a) Submission of an export clearance declaration in terms of subrule (1)(a) must be regarded as an application contemplated in section 789(2)(a),

⁸⁹¹ Note that only the importer or exporter, or the importer or exporter's registered agent, may submit such an application, and only in the circumstances set out in section 789(2)(a)(i) and (ii), for goods of which the import but not the possession is restricted, and (b)(i) and (ii), for goods of which the export but not the possession is restricted.

⁸⁹² See section 175(2)(e) of the Control Act.

and release by the customs authority must be regarded as approval of the application.

(b) Request for withdrawal of a clearance declaration in terms of subrule (1)(b) must be regarded as an application contemplated in section 789(2)(b), and acceptance of the withdrawal request by the customs authority must be regarded as approval of the application.

(3) An export clearance declaration referred to in subrule (1)(a) must –

- (a) in addition to the information required in terms of section 367, indicate that it is a clearance declaration for the export of prohibited goods; and
- (b) be supported by a copy of a letter or other document from the administering authority confirming that it has no objection to the goods being exported.⁸⁹³

(4) A request for withdrawal referred to in subrule (1)(b) must be supported a copy of a letter or other document from the administering authority confirming that it has no objection to the goods reverting to free circulation.

(5) If an application is granted, the applicant must pay to the Commissioner –

- (a) any administrative penalty that may be payable in respect of the goods; and
- (b) any expenses incurred by the Commissioner in connection with the detention of the goods.

Part 3: Sectorally controlled goods

Additional particulars to be reflected on notices of detention (section 796(3)(d))

35.5 A notice of detention issued in respect of sectorally controlled goods in terms of section 796(3) of the Control Act must in addition to the particulars set out in paragraphs (a) to (c) of that subsection, also reflect –

- (a) the reference number and date of issue of the notice;
- (b) the name, **contact details** and designation of the customs officer issuing the notice;

⁸⁹³ See section 789(3) of the Control Act.

- (c) the **physical** address of the place where the sectorally controlled goods are detained;
- (d) the name of the person referred to in section 796(1)(a) to whom the notice is issued, and the customs code of that person, if that person has a customs code;
- (e) the movement reference number of the clearance declaration submitted in respect of the goods; and
- (f) the transport document number in relation to the goods, if available.

CHAPTER 36 COUNTERFEIT GOODS

Definitions

36.1 In this Chapter, unless the context otherwise indicates –

“**Paris Convention**” has the meaning assigned to it in section 1 of the Trade Marks Act; and

“**Trade Marks Act**” means the Trade Marks Act, 1993 (Act No. 194 of 1993).

Part 1: Applications for detention of suspected counterfeit goods and notices of detention

Application by right-holders for detention of suspected counterfeit goods (section 805(2) and 809(2))

36.2 (1) (a) An application by a right-holder for the detention of suspected counterfeit goods in terms of section 805(2) and 809(2) of the Control Act must be submitted to the customs authority electronically through eFiling, subject to ~~paragraph (b)~~ **rule 41.33A**.

(b) If an application referred to in paragraph (a) is submitted to the customs authority **in terms of rule 41.33A** in paper format, ~~in circumstances where submissions in paper format are permissible,~~⁸⁹⁴ the **application submission** must be **submitted** –

~~(i) on Form as published as a rule on the SARS website; and~~

~~(ii) made~~ to the Customs Office designated by the Commissioner in terms of section 14 of the Control Act to receive applications for licensing and registration.

(2) An application referred to in subrule (1) must reflect –

~~(a) a reference number;~~

⁸⁹⁴ ~~See section 913(4) of the Control Act.~~

- (a) ~~the following information in relation to the applicant:~~
- ~~(i) the applicant's customs code, or if the applicant does not have a customs code, the information specified in rule 41.33E; name, physical address and contact details;~~
 - ~~(ii) if the applicant is –~~
 - ~~(aa) a natural person, the applicant's identity number or passport number; or~~
 - ~~(bb) a juristic entity, the name of the person authorised to act on behalf of the entity, as well as that person's physical and postal address, contact details, identity or passport number and designation or capacity; and~~
 - ~~(iii) if the application is submitted on behalf of the applicant by a representative, also the name, physical and postal address and contact details of the representative;~~
- (b) if the application is submitted by a customs broker, registered agent or ordinary representative on behalf of the applicant, the information specified in rule 41.33D;⁸⁹⁵
- (c) sufficient particulars of the protected goods as required in section 805(2)(b) or 809(2)(b), as may be applicable, which must, as a minimum, include the following:
- (i) The brand name of the protected goods;
 - (ii) the tariff classification;
 - (iii) whether the intellectual property right in the protected goods is –
 - (aa) a registered trade mark;
 - (bb) a trade mark which is entitled to protection under the Paris Convention as a well known trade mark within the meaning of section 35(1) of the Trade Marks Act;
 - (cc) a copyright; or
 - (dd) a mark to which section 15 of the Merchandise Marks Act, 1941 (Act 17 of 1941), applies;

⁸⁹⁵ If the application is submitted on behalf of the applicant by an ordinary representative in terms of section 920 of the Control Act, Part 6 of Chapter 41 of these Rules will apply. Note that the said Part 6 applies only to ordinary representatives which per definition excludes persons submitting documents as customs brokers or registered agents. It follows that Part 6 does not apply to customs brokers or registered agents that submit applications in that capacity.

- (iv) particulars of any official recognition of that right by any country and, in the case of a trade mark registered in the Republic, the registration number;
 - (v) the expiry date of that right, if any;
 - (vi) the name of the author, in the case of a copyright; and
 - (vii) the country in which those protected goods are produced;
- (d) information as required in section 805(2)(b) or 809(2)(b), as may be applicable, that describes the essential physical and other distinctive features, elements and characteristics of goods that may indicate that the goods are counterfeit goods infringing the rights attached to those protected goods; and
- (e) the minimum quantity of goods that should be detained by the customs authority to enable the right-holder to apply to a court for a finding that the goods are counterfeit goods that infringe that right-holder's intellectual property right.

(3) An application referred to in subrule (1) must, in addition to the documents referred to in section 805(2)(e)(i) and (ii) or section 809(2)(e)(i) and (ii), as may be applicable, be **accompanied by supported by the following documents, which must be submitted together with the application⁸⁹⁶ subject to and in accordance with Part 7 of Chapter 41 of these Rules:**

- (a) Photographs or brochures that may assist with describing –
 - (i) the protected goods which are the subject of the application; and
 - (ii) the alleged counterfeit goods, if available;
- (b) if the right-holder for purposes of the application is a person referred to in paragraph (d) of the definition of “right-holder” in section 803, a document authorising that person to act in relation to those protected goods in the Republic;
- ~~(c) if the applicant is a juristic entity, a document authorising a person contemplated in subrule (2)(b)(ii)(bb) to act on behalf of the applicant;~~
- ~~(d) if the application is submitted by a representative referred to subrule (2)(b)(iii), a document authorising that representative to submit the application on behalf of the applicant;~~

⁸⁹⁶ See rule 41.33C for submission of supporting documents “together with” other documents.

- (c) in the case of a trade mark registered in the Republic, a certificate of registration issued in terms of the Trade Marks Act or a copy of an entry in the trade mark register certified by the registrar of trademarks referred to in that Act;
- (d) in the case of a trade mark entitled to protection under the Paris Convention as a well known trade mark within the meaning of section 35(1) of the Trade Marks Act, an affidavit deposed to by or on behalf of the applicant confirming that the trade mark falls within the meaning of section 35 of that Act and that the applicant is a right-holder in relation to that trade mark;
- (e) in the case of a copyright, an affidavit deposed to by or on behalf of the applicant confirming that the applicant is a right-holder in relation to that copyright;
- (f) in the case of a mark to which section 15 of the Merchandise Marks Act, 1941 (Act 17 of 9141), applies, an affidavit deposed to by or on behalf of the applicant confirming that the applicant is a right-holder in relation to that mark;
- (g) a list of persons authorised by the right-holder to import or export the protected goods, if any;
- (h) a list of persons that in the past imported or exported counterfeit goods that infringed the intellectual property right attached to the protected goods, if any; and
- (i) an indemnity referred to in section 805(2)(e)(i) or 809(2)(e)(i) and an undertaking referred to in section 805(2)(e)(ii) or 809(2)(e)(ii), as may be applicable.

(4) The administration fee for purposes of section 805(2)(e)(iii) and section 809(2)(e)(iii) is R 2000,00.

Form and format of indemnity and undertaking to pay costs (section 822(e))

36.3 An indemnity referred to in sections 805(2)(e)(i) and 809(2)(e)(i) of the Control Act and an undertaking referred to in sections 805(2)(e)(ii) and 809(2)(e)(ii) of that Act must be –

- (a) submitted to the customs authority (i) as a combined document on Formpublished as a rule on the SARS website for that purpose; and

~~(ii) — in the same format in which the application which it accompanies is submitted;⁸⁹⁷ and~~

(b) be signed by the applicant and two witnesses.

Detention notices in respect of suspected counterfeit goods (*section 807(4)(d) and 810(2)(b)*)

36.4 (1) A detention notice in respect of suspected counterfeit goods referred to in section 807(4) of the Control Act must in addition to the particulars set out in paragraphs (a) to (c) of section 807(4), also reflect –

- (a) the reference number and date of issue of the notice;
- (b) the name, **contact details** and designation of the customs officer issuing the notice;
- (c) the **physical** address of the place where the **detained** suspected counterfeit goods are **detained kept**;
- (d) the name of the person to whom the notice is issued, and the customs code of that person if that person has a customs code;
- (e) in the case of goods in respect of which a clearance declaration has been submitted, the movement reference number of the clearance declaration; and
- (f) the transport document number in relation to the goods, if available.

(2) A detention notice in respect of suspected counterfeit goods referred to in section 810(2)(b) must reflect –

- (a) the date from which the goods are detained;
- (b) the reason for the detention; and
- (c) the other information set out in subrule (1)(a) to (f).

Notifications to right-holders that goods were detained (*section 807(1)(c) read with section 822*)

36.5 A notification to a right-holder referred to in section 807(1)(c) of the Control Act must, in addition to the information referred to in section 807(1)(c)(i) and (ii), also contain –

⁸⁹⁷ ~~I.e. if an application referred to in rule 36.2 is submitted electronically through eFiling as contemplated in subrule (1)(a) of that rule, the indemnity accompanying that application must be submitted simultaneously through eFiling, and if the application is submitted manually as contemplated in subrule (1)(b) of that rule, the indemnity must also be submitted manually.~~

- (a) a description of the goods detained as suspected counterfeit goods, which description must include –
 - (i) the class or kind of goods;
 - (ii) the country of origin;
 - (iii) any essential or distinctive features, elements or characteristics of the goods; and
 - (iv) the quantity, volume or weight of the goods, as may be applicable; and
- (b) the **physical** address of the place where the detained suspected counterfeit goods are kept.

Part 2: Procedures for detained suspected counterfeit goods

Inventory of suspected counterfeit goods detained (section 811)

36.6 (1) A customs officer who has detained suspected counterfeit goods must within three working days after a detention notice referred to in rule **36.4** was issued in terms of section 807(1)(b) or 810(2)(b) of the Control Act, compile an inventory of such goods as contemplated in section 811.

- (2) An inventory referred to in subrule (1) must reflect –
 - (a) the reference number of the inventory;
 - (b) the name, **contact details and** designation **and contact number** of the customs officer who detained the goods;
 - (c) the place, date and time of detention;
 - (d) the reference number of the detention notice referred to in rule **36.4** issued in respect of the goods;
 - (e) the name, physical **and postal** address and contact details of the owner, importer or exporter of the goods;
 - (f) a list of the goods detained, including a description of –
 - (i) the class or kind of goods;
 - (ii) the country of origin;
 - (iii) any essential or distinctive features, elements or characteristics of the goods that allegedly infringe a right attached to the relevant protected goods; and

- (iv) the quantity, volume or weight of the detained goods as may be applicable;
- (g) a declaration by the customs officer referred to in paragraph (b) that the goods reflected in the list have been detained as suspected counterfeit goods;
- (h) the reference number of any authorisation pursuant to a request referred to in rule **36.8**; and
- (i) provision for an acknowledgement of receipt of the goods by the person in charge of a counterfeit goods depot, if the goods are removed to a counterfeit goods depot in terms of section 815.

(3) If the goods are removed to a counterfeit goods depot in terms of section 815, a copy of the inventory reflecting acknowledgement of receipt of the person in charge of the counterfeit goods depot must be provided to the person in charge of the depot.

Requests for personal details of affected parties (*section 812(1)*)

36.7 (1) (a) A request in terms of section 812(1) of the Control Act by a right-holder to the customs authority for personal details of affected parties, must be submitted to the customs authority electronically through eFiling, subject to **paragraph (b) rule 41.33A**.

(b) If a request referred to in paragraph (a) is submitted to the customs authority **in terms of rule 41.33A** in paper format, **in circumstances where submissions in paper format are permissible,⁸⁹⁸** the **submission request** must be **submitted** –

(a) on Form ... as published as a rule on the SARS website; and

(b) made to the Customs Office serving the area where the **detained** suspected counterfeit goods are **detained kept**.

(2) A request referred to in subrule (1) must reflect –

(a) **the following information in relation to the right holder:**

⁸⁹⁸ See section 913(4) of the Control Act.

- (i) ~~the right-holder's customs code, or if the right-holder does not have a customs code, the information specified in rule 41.33E; the right-holder's name, physical address and contact details; and~~
- (ii) ~~if the right-holder is a~~
 - (aa) ~~natural person, the right-holder's identity number or passport number; or~~
 - (bb) ~~a juristic entity, the name of the person authorised to act on behalf of the entity, as well as that person's physical and postal address, contact details, identity or passport number and designation or capacity; and~~
 - (iii) ~~if the request is submitted on behalf of the right-holder by a representative, also the name, physical and postal address and contact details of the representative;~~
- (b) ~~if the request is submitted by a customs broker, registered agent or ordinary representative on behalf of the right-holder, the information specified in rule 41.33D;⁸⁹⁹~~
- (c) the reference number of the notification sent to the right-holder in terms of section 807(1)(c) or 810(2)(c); and
- (d) a request to furnish the name and address and contact details of any person who is an affected party in relation to the suspected counterfeit goods detained.

Requests for samples of detained suspected counterfeit goods (*section 813(1)*)

36.8 (1) (a) A request in terms of section 813(1) of the Control Act by a right-holder to the customs authority for the furnishing of samples of detained goods suspected to be counterfeit goods, must be submitted to the customs authority electronically through eFiling, subject to ~~paragraph (b)~~ **rule 41.33A**.

(b) If a request referred to in paragraph (a) is submitted to the customs authority **in terms of rule 41.33A** in paper format, ~~in circumstances where~~

⁸⁹⁹ If the request is submitted on behalf of the right-holder by an ordinary representative in terms of section 920 of the Control Act, Part 6 of Chapter 41 of these Rules will apply. Note that the said Part 6 applies only to ordinary representatives which per definition excludes persons submitting documents as customs brokers or registered agents. It follows that Part 6 does not apply to customs brokers or registered agents that submit documents in that capacity.

~~submissions in paper format are permissible,⁹⁰⁰ the submission request must be submitted –~~

~~(a) on Form ... as published as a rule on the SARS website; and~~

~~(b) made to the Customs Office serving the area where the detained suspected counterfeit goods are detained kept.~~

(2) A request referred to in subrule (1) must reflect –

- (a) the information referred to in rule 36.7(2)(a) and (b);
- (b) the number of samples requested;
- (c) the proposed dates when the samples will be collected and returned; and
- (d) the identity of the person who will be collecting the samples, including name, contact details, identity number and designation.

Requirements in relation to samples furnished in terms of section 813 of the Control Act (813(2)(c))

36.9 If a request referred to in rule 36.8 is granted, sampling of goods must take place in accordance with the following requirements:

- (a) The right-holder or person acting on the right-holder's behalf collecting the samples, must produce to the customs authority at the place where the detained counterfeit goods are kept –
 - (i) that person's identity document;
 - (ii) in the case of a person acting on behalf of the right-holder, also an authorisation to act on behalf of the right-holder; and
 - (iii) the reference number of the authorisation granted pursuant to the request for the furnishing of samples in terms of rule 36.8;
- (b) the quantity furnished as samples may not be more than the quantity necessary for inspection or analysis, and counter-analysis, if required; and
- (c) the right-holder or a person acting on the right-holder's, must sign a sample register to confirm –
 - (i) the identity of the person taking delivery of the samples, including name, contact details, identity number and designation;
 - (ii) the date and time when delivery of the samples is taken;

⁹⁰⁰ See section 913(4) of the Control Act.

- (iii) a full description of the samples, including the quantity; and
- (iv) the anticipated date when the samples will be returned.

Notices of intention whether court action is to be lodged (*section 814(1)*)

36.10 (1) (a) A notice of intention which a right-holder must submit to the customs authority in terms of section 814(1) of the Control Act must be submitted to the customs authority electronically through eFiling, subject to ~~paragraph (b)~~ **rule 41.33A**.

(b) If a notice referred to in paragraph (a) is submitted to the customs authority **in terms of rule 41.33A** in paper format, ~~in circumstances where submissions in paper format are permissible,~~⁹⁰¹ the **submission notice** must be **submitted** –

~~(a) on Form ... as published as a rule on the SARS website; and~~

~~(b) made~~ to the Customs Office serving the area where the ~~detained~~ suspected counterfeit goods are **detained kept**.

(2) A notice referred to in subrule (1) must reflect –

- (a) the date of the notification;
- (b) the information referred to in rule **36.7(2)(a)**;
- (c) the reference number of the notification sent to the right-holder in terms of section 807(1)(c) or 810(2)(c);
- (d) whether the intention of the right-holder is –
 - (i) to apply to a court for a finding that the detained goods are counterfeit goods; or
 - (ii) not to apply for such a finding; and
- (e) the name and contact details of the person that will remove the goods to the counterfeit goods depot.

(3) When giving notice in terms of this rule of the intention to apply to a court for a finding that the detained goods are counterfeit goods, the right-holder must in terms of rule **1.3** apply for the provision of special customs services in

⁹⁰¹ ~~See section 913(4) of the Control Act.~~

relation to the removal of the goods to the counterfeit goods depot under customs supervision.

Application for permission to discharge goods from counterfeit goods depots
(section 819(1)(b))

36.11 (1) (a) An application by the person in charge of a counterfeit depot for the customs authority's permission to discharge goods from the depot as contemplated in section 819(1)(b) of the Control Act, must be submitted to the customs authority electronically through eFiling, subject to ~~paragraph (b)~~ **rule 41.33A**.

(b) If an application referred to in paragraph (a) is submitted to the customs authority **in terms of rule 41.33A** in paper format, ~~in circumstances where submissions in paper format are permissible,~~⁹⁰² the application must be submitted –
~~(i) on Form....as published as a rule on the SARS website; and~~
~~(ii) to the Customs Office designated by the Commissioner in terms of section 14 of the Control Act to receive applications for licensing and registration.~~

(2) An application referred to in subrule (1) must reflect –

- (a) the name and contact details of the person in charge of the counterfeit goods depot;
- (b) the physical address of the counterfeit goods depot;
- (c) the reference number of the inventory referred to in section 815(2)(b) read with rule **36.6** in respect of the goods to be discharged; and
- (d) the reason for the discharge of the goods from the counterfeit goods depot.

⁹⁰² See section 913(4) of the Control Act.

CHAPTER 37 DISPUTE RESOLUTION⁹⁰³

Amendments to Chapter 37 of the CCA not finalised yet

Definitions

37.1 In this Chapter –

“disputed or affected payment” means a payment that is or will be in dispute, or is or will otherwise be affected by proceedings referred to in section 827(1) of the **Customs** Control Act;

“TAA Dispute Resolution Rules” means the rules published in terms of the Tax Administration Act in Government Notice 550 of 2014, as may from time to time be amended.

Application for suspension or deferment of amounts payable to Commissioner (section 830)

37.1 (1) If a person aggrieved by a decision⁹⁰⁴ of the Commissioner, a customs officer or a SARS official intends to lodge an objection against the decision in terms of section 827(1)(a) of the **Customs** Control Act, an application referred to in section 830(3) to suspend or defer a disputed or affected payment pending conclusion of the objection and any other proceedings referred to in section 827(1) that may follow disallowance of the objection, must be submitted to the customs authority –

- (a) not later than the expiry of the period within which that person may lodge the objection in terms of rule 7 of the TAA Dispute Resolution Rules; or
- (b) if reasons for the decision are requested in terms of rule 6 of the TAA Dispute Resolution Rules, not later than the expiry of the period within which reasons for the decision may in terms of that rule be requested.

⁹⁰³ Note that Chapter 9 of the Tax Administration Act and the regulations issued under that Chapter regulate all dispute resolution proceedings available to persons aggrieved by decisions taken in terms of the Customs Control Act, the Customs Duty Act and the Excise Duty Act and that no rules under Chapter 37 of the Control Act other than those dealt with above are accordingly necessary.

⁹⁰⁴ See definition of “decision” in section 824 of the Control Act.

(2) (a) An application referred to in subrule (1) must be submitted to the customs authority electronically through eFiling, subject to ~~paragraph (b)~~ **rule 41.33A**.

(b) If an application referred to in paragraph (a) is submitted to the customs authority in paper format, ~~in circumstances where submissions in paper format are permissible,~~⁹⁰⁵ the application must be ~~—~~

~~(i) — on Form ... as published as a rule on the SARS website; and~~

~~(ii)~~ submitted to the SARS office which communicated the decision to the applicant.

(3) An application referred to in subrule (1) must state the following information:

(a) The applicant's **name and** customs code or, if the applicant does not have a customs code, **the information specified in rule 41.33E;** ~~falls within a category of persons excluded from the requirement to register, the applicant's name, identity number, contact number and physical address;~~

(b) if the application is submitted by a customs broker, registered agent or ordinary representative on behalf of the applicant, the information specified in rule 41.33D;⁹⁰⁶

(c) particulars of the decision complained against;

(d) particulars of the disputed or affected payment which the applicant seeks to be suspended; and

(e) the reason why the a motivation why suspension of the payment is sought, **which may be motivated in a separate supporting document submitted together with the application subject to and in accordance with Part 7 of Chapter 41 of these Rules.**

⁹⁰⁵ See for instance section 913(4) of the Control Act.

⁹⁰⁶ If the application is submitted on behalf of the applicant by an ordinary representative in terms of section 920 of the Control Act, Part 6 of Chapter 41 of these Rules will apply. Note that the said Part 6 applies only to ordinary representatives which per definition excludes persons submitting documents as customs brokers or registered agents. It follows that Part 6 does not apply to customs brokers or registered agents that submit applications in that capacity.

CHAPTER 38

TO BE INSERTED LATER

Note that in terms of section 943 of the Control Act, this Chapter does not take effect on the effective date

CHAPTER 39 ADMINISTRATIVE PENALTIES

Definition

~~39.1 In this Chapter—~~

~~“listed non-prosecutable breach” means a breach of the Control Act listed in a notice issued by the Minister in terms of section 876(1) of that Act.~~

Contents of notices imposing fixed amount penalties *(sections 877 and 884)*

39.1 A fixed amount penalty notice issued in terms of section 877(1) of the Control Act to a person who committed a listed non-prosecutable breach must contain the following information:

- (a) The name **or customs code** of the person who committed the breach;
- (b) that person’s physical address;
- (c) the penalty notice number;
- (d) the number of the section of the Control Act or number of the rule that has been breached;
- (e) particulars of the breach and the date on which the breach was committed;
- (f) the category in which the breach falls;
- (g) the number of times the same non-prosecutable breach has been committed within the applicable three years’ cycle;⁹⁰⁷
- (h) the penalty amount;
- (i) due date for payment of penalty;
- (j) the name **and contact details** of the customs officer issuing the notice; and
- (k) a **note notice** drawing attention to the fact that an objection may in terms of section 883 be lodged against the imposition of the penalty.

Contents of notices imposing prosecution avoidance penalties *(sections 879 and 884)*

⁹⁰⁷ See section 876(2) and (3) for applicable three year cycle.

39.2 A prosecution avoidance penalty notice issued in terms of section 879(1) of the Control Act to a person who allegedly committed a prosecutable breach must contain the following information:

- (a) The name **or customs code** of the person who allegedly committed the breach;
- (b) that person's physical address;
- (c) the penalty notice number;
- (d) the number of the section of the Control Act or number of the rule that has allegedly been breached;
- (e) particulars of the alleged breach and the date on which the breach was committed;
- (f) the penalty amount;
- (g) due date for payment of penalty;
- (h) the name **and contact details** of the customs officer issuing the notice; and
- (i) a **note notice** drawing attention to the fact that –
 - (i) prosecution can be avoided if the person elects to have the matter summarily settled by paying the penalty before the due date; and
 - (ii) an objection may in terms of section 883 be lodged against the amount of the penalty.⁹⁰⁸

Contents of notices imposing missing goods penalties (*sections 882 and 884*)

39.3 A missing goods penalty notice issued in terms of section 882(1) of the Control Act to a person referred to in that section must contain the following information:

- (a) The name **or customs code** of the person to whom the notice is issued;
- (b) that person's physical address;
- (c) the penalty notice number;
- (d) particulars of the missing goods;
- (e) the reason why the goods are to be seized;
- (f) the penalty amount;⁹⁰⁹
- (g) due date for payment of penalty;

⁹⁰⁸ Note that an objection in terms of section 883 of the Control Act can only be lodged against the amount of the penalty and not against the imposition of the penalty.

⁹⁰⁹ The penalty must be equal to the customs value of the goods or, in the case of goods manufactured in an excise manufacturing warehouse, the value of the goods as determined in terms of the Excise Duty Act.

- (h) the name and contact details of the customs officer issuing the notice; and
- (k) a note notice drawing attention to the fact that –
 - (i) the goods cannot readily be found;
 - (ii) the penalty is imposed in lieu of the missing goods; and
 - (iii) an objection may in terms of section 883 be lodged against the imposition or the amount of the penalty.

CHAPTER 40
JUDICIAL MATTERS

Notification to exonerate registered agents and directors, administrators and trustees from prosecution (*section 893(1)(b) or (2)(b)*)

40.1 (1) (a) A notification referred to in section 893(1)(b) or (2)(b) of the Control Act must be submitted to the customs authority electronically through eFiling, subject to ~~paragraph (b)~~ **rule 41.33A**.

(b) If a notification referred to in paragraph (a) is submitted to the customs authority **in terms of rule 41.33A** in paper format, ~~in circumstances where submissions in paper format are permissible, the notification submission~~ must be **submitted** –

~~(i) on Form ... as published as a rule on the SARS website; and~~

~~(ii) made~~ to the Customs Office that serves the area in which the act was committed.

(2) A notification referred to in subrule (1) must reflect the following information:

(a) If the notification is submitted by a registered agent in terms of section 893(1)(b) –

(i) the customs code of the registered agent; and

(ii) the customs code of the importer, exporter, carrier or other person not located in the Republic referred to in section 893(1) that committed the offence;

(b) if the notification is submitted by a director, administrator or trustee of a juristic entity in terms of section 893(2)(b) –

(i) the name, contact details and designation of the director, administrator or trustee; and

(ii) the customs code of the juristic entity that committed the offence, or if the entity does not have a customs code, the name and registration number or tax reference number of the juristic entity;

(c) a description of the act or omission that constituted the offence, and the date of commission; and

- (d) particulars of any steps taken by the person submitting the notification to prevent the act or omission referred to in paragraph (c) from being committed; and
- (e) if no steps were taken to prevent the act or omission, the reason for such inaction.

Notice of intended judicial proceedings (*section 896(2)*)

40.2 (1) A notice referred to in section 896(1) of the Control Act must be submitted to the customs authority –

- (a) electronically through –
 - (i) eFiling; or
 - (ii) e-mail; or
- (b) by any of the methods contemplated in section 912(2)(a) to (c).

(2) A notice submitted in terms of subrule (1)(a)(ii) or (b), must –

- (a) be on Form ...as published as a rule on the SARS website; and
- (b) be submitted by making use of the details provided in subrule (3).

(3) Details for submission of a notice in terms of subrule (1)(a)(ii) and (b) are the following:

- (a) if sent through e-mail, the e-mail must be directed to the Senior Manager: Litigation (Customs) at the e-mail address indicated on the SARS website for receipt of such notifications;
- (b) if delivered by hand, the notice must be handed to –
 - (i) the Senior Manager: Litigation (Customs) at 381 Middel Street, First floor Khanyisa, Nieuw Muckleneuk, Pretoria; or
 - (ii) to another person at that office authorised in writing to receive such notices;
- (c) if sent by post, the notice must be sent by registered post to the Senior Manager: Litigation (Customs), Private Bag X923, Pretoria, 0001; and
- (d) if telefaxed, the fax must be directed to the Senior Manager: Litigation (Customs) and sent to the fax number indicated on the SARS website for receipt of such notifications.

(4) A notice referred to in subrule (1) must, in addition to the information required in terms of section 896(1)(a) to (c), also reflect –

- (a) ~~the following information concerning the person intending to institute judicial proceedings:~~(i) the name and customs code, ~~if any of the person intending to institute judicial proceedings or, if that person does not have a customs code, that person's name and~~ contact details;
- (b) if the notice is submitted on behalf of a juristic entity by a person within the entity's organisation authorised to act on behalf of the entity, that person's name and designation;
- (c) the name and contact details of the attorney ~~or representative~~ of the person intending to institute judicial proceedings;
- (d) details of the Customs Office where the cause of action arose or where the matter that gave rise to the cause of action was dealt with;
- (e) the name and contact details of the customs officer or committee that primarily dealt with the matter, if such details are available; and
- (f) the kind of judicial proceedings to be instituted.

(5) If a notice is submitted by registered post in accordance with subrule (2)(c), the 30 calendar day period referred to in section 896(1) is calculated from the date of receipt of the notice at the address mentioned in subrule (2)(b).

(6) A notice referred to in this rule must be supported by the following documents:

- (a) In the case of the person notifying being a natural person, a certified copy of that person's identity document or passport;
- (b) in the case of the person notifying being a juristic entity, a certified copy –
 - (i) of the document authorising the person referred to in subrule (4)(b) to act on behalf of the entity; and
 - (ii) of the identity document or passport of that person.

Application to enter into agreement to shorten notice period (section 896(3)(a))

40.3 (1) A person intending to institute judicial proceedings against the Minister, the Commissioner, SARS, the customs authority, a customs officer or a SARS official on a cause of action arising from the enforcement of the Control Act, the Duty

Act or the Excise Duty Act, that wishes to enter into an agreement contemplated in section 896(3) of the Control Act to shorten the notice period referred to in section 896(1), must apply for such an agreement in terms of this rule.

- (2) An application referred to in subrule (1) must –
- (a) be submitted to the customs authority in accordance with rule **40.2(1)**;
 - (b) if submitted in accordance with rule **40.2(1)(a)(ii)** or (b) –
 - (i) be on Form ...as published as a rule on the SARS website **for this purpose**; and
 - (ii) be submitted by making use of the details provided in rule **40.2(3)**.
- (3) An application referred to in subrule (1) must reflect the following information:
- (a) The **name and** customs code of the applicant, or if the applicant does not have a customs code, **the applicant's** name, contact details and physical **and postal** addresses;
 - (b) if the application is submitted on behalf of a juristic entity by a person **within the entity's organisation** authorised to act on behalf of the entity, that person's name and designation;
 - (c) the name and contact details of the attorney or representative of the applicant;
 - (d) the proposed notice period for which agreement is sought; and
 - (e) a motivation for the shortening of the notice period.

Application to enter into agreement to extend period for institution of judicial proceedings (*section 897(2)(a)*)

40.4 (1) A person who intends to institute judicial proceedings against the Minister, the Commissioner, SARS, the customs authority, a customs officer or a SARS official on a cause of action arising from the enforcement of the Control Act, the Duty Act or the Excise Duty Act, that wishes to enter into an agreement contemplated in section 897(2)(a)(3) of the Control Act to extend the one year period for the institution of such proceedings referred to in subsection (1) of that section, must apply for such an agreement in terms of this rule.

- (2) An application referred to in subrule (1) must –

- (a) be submitted to the customs authority in accordance with rule **40.2(1)**; and
- (b) if submitted in accordance with rule **40.2(1)(a)(ii)** or (b) –
 - (i) be on Form ...as published as a rule on the SARS website **for this purpose**; and
 - (ii) be submitted by making use of the details provided in rule **40.2(3)**.

(3) An application referred to in subrule (1) must reflect the following information:

- (a) The **name and** customs code of the applicant, or if the applicant does not have a customs code, **the applicant's** name, contact details and physical **and postal** addresses;
- (b) if the application is submitted on behalf of a juristic entity by a person **within the entity's organisation** authorised to act on behalf of the entity, that person's name and designation;
- (c) the name and contact details of the attorney or representative of the applicant;
- (d) the proposed extension for which agreement is sought; and
- (e) a motivation for the extension of the period.

Notice of application for sale of arrested property (section 897(3))

40.5 The address for purposes of section 897(3) of the Control Act is as follows:

The Senior Manager: Litigation (Customs) at 381 Middel Street, First floor Khanyisa, Nieuw Muckleneuk, Pretoria.

CHAPTER 41
MISCELLANEOUS MATTERS

Part 1: General

Definitions

41.1 In this Chapter—

“computer-based record keeping system” means a record keeping system referred to in section 919 of the Control Act capable of creating, receiving and storing electronic records or converting information and documents into electronic records;

“digital signature”, in relation to a registered electronic user communicating with the customs authority through EDI, means an electronic signature allocated by the customs authority to the user—

(a) intended by the registered user using it and the customs authority accepting it to have the same force and effect as a manual signature; and

(b) which is—

(i) unique to the registered user;

(ii) capable of verification;

(iii) linked or attached to electronically transmitted data in such a manner as to authenticate the attachment of the signature to particular data and the integrity of the data transmitted so that if the data is changed the signature is invalidated;

(iv) under the exclusive control of the registered user; and

(v) in compliance with any further requirements contained in the user agreement;

“EDI” or **“electronic data interchange”** means an electronic communication system for the electronic transfer of information from computer to computer, using a predetermined message standard, as determined by the customs authority, to structure such information;

“eFiling” means a SARS software application available on the SARS website which enables SARS and registered users to generate and deliver electronic filing transactions;⁹⁴⁰

“electronic record” means a record that is kept or stored in electronic form on a computer or on another electronic storage media device, whether that record was originally created in an electronic form or converted from any non-electronic form into an electronic form;

“intermediary” means a service provider managing—

(a) a gateway for an EDI application through which EDI registered electronic users submit and receive electronic messages to and from the customs authority; or

(b) an internet-based server through which registered electronic users log on to the SARS website for the submission and receipt of electronic messages to and from the customs authority through eFiling or another system referred to in rule 41.11(c);

“record” means any document or information that must be kept in terms of the Control Act or these Rules.

“registered electronic user” means a person registered in terms of section 606 of the Control Act as an electronic user;

“representative”—

(a) in relation to electronic communication with the customs authority or where it occurs in Part 4, means a registered electronic user communicating with the customs authority on behalf of another person through a computer system referred to in rule 41.11, but excludes an intermediary; or

(b) in relation to communication with the customs authority in a manner other than through a computer system referred to in rule 41.11, means a person

⁹¹⁰ See rule 41.16(2)(c).

~~communicating with the customs authority in such manner on behalf of another person;~~

Definition replaced by def. for “ordinary representative” in rule 1.1

~~“user agreement” means an electronic user agreement referred to in rule 41.12(b).~~

Part 3: Departures from requirements, condonation of non-compliances and extension or shortening of timeframes ~~Application for purposes of sections 907, 908 and 909 of Control Act~~

Application for approval of departures from, or for condonation of non-compliance with, rules, conditions or requirements (section 907(3))

41.8 (1) An application for approval of a departure from, or condonation of non-compliance with, a rule, condition or requirement referred to in section 907(3) of the Control Act must be submitted to the customs authority –

(a) electronically through –

(i) eFiling, if this mode of submission is available for the relevant applications; or

(ii) e-mail; or

(b) by any of the methods contemplated in section 912(2)(a) to (c).

(2) An application submitted in terms of subrule (1)(a)(ii) ~~and or~~ (b), must –

(a) be on Form ...as published as a rule on the SARS website; ~~and~~

~~(b) — be submitted by making use of the details provided in subrule (3).~~

~~(3) — Details for submission of an application in terms of subrule (1)(a)(ii) and (b) are the following:~~

(b) if sent ~~through~~ by e-mail, ~~the e-mail must~~ be directed to the Customs Legislative Policy Division at the e-mail address indicated on the SARS website for receipt of such applications;

(b) if delivered by hand, ~~the application must~~ be delivered to the Customs Legislative Policy Division, at 381 Middel Street, First floor Khanyisa, Nieuw Muckleneuk, Pretoria;

- (c) if sent by post, ~~the application must~~ be sent by registered post to the Customs Legislative Policy Division, Private Bag X923, Pretoria, 0001; and
- (d) if telefaxed, ~~the fax must~~ be directed to the Customs Legislative Policy Division and sent to the fax number indicated on the SARS website for the receipt of such applications.

(3) An application referred to in subrule (1) must reflect the following information:

- (a) the name and customs code of the applicant or, if the applicant does not have a customs code, ~~the applicant's name and contact details~~ the information specified in rule 41.33E(1):
- (b) if the application is submitted ~~on behalf of the applicant by a person authorised to act on behalf of the applicant, that person's name and contact details~~ by a customs broker, registered agent or ordinary representative on behalf of the applicant, the information specified in rule 41.33D;⁹¹¹
- (c) whether –
 - (i) approval is sought for a departure contemplated in section 907(1)(a), (b) or (c); or
 - (ii) condonation is sought for a non-compliance contemplated in section 907(2)(a), (b) or (c);
- (d) particulars of the departure for which approval is sought or the non-compliance for which condonation is sought, referencing the relevant rule, condition or requirement;
- (e) a description of the departure or non-compliance; and
- (f) ~~a motivation of~~ the reason why the circumstances that gave rise to the departure, or in which the non-compliance occurred, are considered to fall within the definition of “extraordinary circumstances” as set out in section 907(4), which may be motivated in a separate supporting document submitted together with the application subject to and in accordance with Part 7 of this Chapter.

⁹¹¹ If the application is submitted in terms of section 920 of the Control Act by an ordinary representative on behalf of the applicant, the application must comply with the additional requirements set out in Part 6 of Chapter 41 of these Rules. Note that the said Part 6 applies only to ordinary representatives which per definition excludes persons submitting documents as customs brokers or registered agents. It follows that Part 6 does not apply to customs brokers or registered agents that submit applications on behalf of applicants in that capacity.

~~(3) An application referred to in subrule (1) must be accompanied by the following documents:~~

~~(a) in the case of a person submitting the application on behalf of the applicant, an authorization to act on behalf of the applicant;~~

~~(b) any documents that can substantiate the information relied on by the applicant in terms of subrule (4)(e).~~

Application for extension of timeframes or periods or postponement of dates (section 908)

41.9 (1) A person **desiring that wishes** to have a timeframe or period extended or a date postponed in terms of section 908 of the Control Act must apply for such extension or postponement in terms of this rule.

(2) (a) An application referred to in subrule (1) must be submitted to the customs authority electronically through eFiling, subject to ~~paragraph (b)~~ **rule 41.33A**.

(b) If an application referred to in paragraph (a) is submitted to the customs authority **in terms of rule 41.33A** in paper format, ~~in circumstances where submissions in paper format are permissible,~~⁹¹² the **application submission** must be **submitted** –

~~(i) on Form ... as published as a rule on the SARS website; and~~

~~(ii) made~~ to the Customs Office as may with reference to section 908(2) be appropriate in the circumstances, or as may be determined or directed by the customs authority in a specific case.

(3) An application referred to in subrule (1) must reflect **the following information:**

(a) The **name and** customs code of the applicant or, if the applicant does not have a customs code, ~~the applicant's name and contact details~~ **the information specified in rule 41.33E(1):**

(b) if the application is submitted ~~on behalf of the applicant by an authorised representative, that representative's customs code or, if the representative~~

⁹¹² See section 913(4) of the Control Act.

~~does not have a customs code, the representative's name and contact details by a customs broker, registered agent or ordinary representative on behalf of the applicant, the information specified in rule 41.33D.~~⁹¹³

- (c) the relevant section of the Control Act or rule prescribing the timeframe, period or date which is required to be extended or postponed;
- (d) the extended timeframe or period or postponed date applied for;
- (e) whether extension of the timeframe or period or postponement of the date applied for is for purposes of⁹¹⁴ –
 - (i) section 908(2)(a);
 - (ii) section 908(2)(b)(i);
 - (iii) section 908(2)(b)(ii)
 - (iv) section 908(2)(b)(iii)(aa);
 - (v) section 908(2)(b)(iii)(bb);
 - (vi) section 908(2)(b)(iv);
 - (vii) section 908(2)(b)(v);
 - (viii) section 908(2)(b)(vi); or
 - (ix) section 908(2)(b)(vii); and
- (f) the reason why the extension or postponement is required, which may be motivated in a separate supporting document submitted together with the application subject to and in accordance with Part 7 of this Chapter.

⁹¹³ If the application is submitted on behalf of the applicant by an ordinary representative in terms of section 920 of the Control Act, Part 6 of Chapter 41 of these Rules will apply. Note that the said Part 6 applies only to ordinary representatives which per definition excludes persons submitting documents as customs brokers or registered agents. It follows that Part 6 does not apply to customs brokers or registered agents that submit such applications in that capacity.

⁹¹⁴ Section 908(2) of the Control Act provides the following:

(2) An extension of a timeframe or period or a postponement of a date may be granted or applied in terms of subsection (1)—

- (a) to a specific person or category of persons; or
- (b) in relation to—
 - (i) a specific vessel, aircraft, train, railway carriage or vehicle or category of vessels, aircraft, trains, railway carriages or vehicles;
 - (ii) a specific consignment of goods;
 - (iii) consignments of the same class or kind or other category of goods imported, to be exported, loaded, off-loaded, handled, stored, processed or in any other way dealt with—
 - (aa) by the same person during a specific period; or
 - (bb) at any specific premises during a specific period;
 - (iv) goods of a specific class or kind imported, to be exported, loaded, off-loaded, handled, stored, processed or in any other way dealt with during a specific period;
 - (v) goods loaded, off-loaded, handled, stored, processed or in any other way dealt with at any specific premises;
 - (vi) a specific class or kind or other category of goods or cargo; or
 - (vii) a specific matter to which this Act applies.”.

~~(g) — all information relevant to the subrule (3)(e)(i) to (ix) purpose for which the extension or postponement is required, which will be necessary to enable the customs authority to arrive at a decision concerning the application.~~

~~(4) — An application referred to in subrule (1) must be accompanied by the following documents:~~

~~(a) — In the case of a person submitting the application on behalf of the applicant, an authorisation to act on behalf of the applicant; and~~

~~(b) — any documents that can substantiate the information relied on or provided by the applicant in terms of subrule (3)(e) and (g)~~

(5) An application in terms of this rule must, unless otherwise provided for in these Rules,⁹¹⁵ be submitted prior to the expiry of the timeframe, period or date to which the extension or postponement relates.⁹¹⁶

Applications for shortening minimum timeframes or periods (*section 909*)

41.10 (1) A person ~~desiring~~ **that wishes** to have a minimum timeframe or period shortened in terms of section 909 of the Control Act, must apply for such shortening in terms of this rule.

(2) (a) An application referred to in subrule (1) must be submitted to the customs authority electronically through eFiling, subject to ~~paragraph (b)~~ **rule 41.33A**.

(b) If an application referred to in paragraph (a) is submitted to the customs authority **in terms of rule 41.33A** in paper format, ~~in circumstances where submissions in paper format are permissible,~~⁹¹⁷ the **application submission** must be **submitted** —

~~(i) — on Form ... as published as a rule on the SARS website; and~~

⁹¹⁵ See for instance rules **13.7** and **13.8** which prescribe a specific timeframe for warehousing extensions.

⁹¹⁶ Applications should be submitted timeously to enable Customs to dispose of the application before expiry of the timeframe. Late applications may expose applicants to penalties if the application is refused and there is no time left for compliance with the timeframe.

⁹¹⁷ See section 913(4) of the Control Act.

(ii) ~~made~~ to the Customs Office as may with reference to section 909(2) be appropriate in the circumstances, or as may be determined or directed by the customs authority in a specific case.

(3) An application in terms of subrule (1) must reflect the following information:

- (a) The name and customs code of the applicant, or if the applicant does not have a customs code, ~~the applicant's name and contact details~~ the information specified in rule 41.33E(1):
- (b) if the application is submitted ~~on behalf of the applicant by an authorised representative, that representative's customs code or, if the representative does not have a customs code, the representative's name and contact details~~ by a customs broker, registered agent or ordinary representative on behalf of the applicant, the information specified in rule 41.33D,⁹¹⁸
- (c) the relevant section of the Control Act or rule prescribing the timeframe or period which is required to be shortened;
- (d) the shortened timeframe or period applied for;
- (e) whether shortening of the timeframe or period applied for is for purposes of⁹¹⁹
 -
 - (i) section 909(2)(a);
 - (ii) section 909(2)(b)(i);
 - (iii) section 909(2)(b)(ii);

⁹¹⁸ If the application is submitted on behalf of the applicant by an ordinary representative in terms of section 920 of the Control Act, Part 6 of Chapter 41 of these Rules will apply. Note that the said Part 6 applies only to ordinary representatives which per definition excludes persons submitting documents as customs brokers or registered agents. It follows that Part 6 does not apply to customs brokers or registered agents that submit such applications in that capacity.

⁹¹⁹ Note that section 909(2) of the Control Act provides as follows:

- (1) —“(2) A shortening of a minimum timeframe or period may be granted or applied in terms of subsection
- (a) to a specific person or category of persons; or
 - (b) in relation to—
 - (i) a specific vessel, aircraft, train, railway carriage or vehicle or category of vessels, aircraft, trains, railway carriages or vehicles;
 - (ii) a specific consignment of goods;
 - (iii) consignments of the same class or kind or other category of goods imported, to be exported, loaded, off-loaded, handled, stored, processed or in any other way dealt with—
 - (aa) by the same person during a specific period; or
 - (bb) at any specific premises during a specific period;
 - (iv) goods of a specific kind imported, to be exported, loaded, off-loaded, handled, stored, processed or in any other way dealt with during a specific period; or
 - (v) goods loaded, off-loaded, handled, stored, processed or in any other way dealt with at any specific premises.”.

- (iv) section 909(2)(b)(iii)(aa);
 - (v) section 909(2)(b)(iii)(bb);
 - (vi) section 909(2)(b)(iv); or
 - (vii) section 909(2)(b)(v); and
- (f) the reason why shortening of the timeframe or period is required, **which may be motivated in a separate supporting document submitted together with the application subject to and in accordance with Part 7 of this Chapter.**
- ~~(g) all information relevant to the purpose with reference to paragraph (f)(i) to (vii) for which shortening of the timeframe or period is required, which will be necessary to enable the customs authority to arrive at a decision concerning the application.~~

~~(4) An application referred to in subrule (1) must be accompanied by the following documents:~~

- ~~(a) In the case of a person submitting the application on behalf of the applicant, an authorisation to act on behalf of the applicant; and~~
- ~~(b) any documents that can substantiate the information relied on or provided by the applicant in terms of subrule (3)(e) and (g).~~

(5) An application in terms of this rule must, unless otherwise provided for in these Rules, be submitted prior to the expiry of the timeframe or period for which the shortening is required.⁹²⁰

Categories of documents to which automatic extension of timeframes apply in event of systems breakdown (section 913(4))

41.10A The timeframes applicable in terms of the Control Act or these Rules to the submission of the following documents are automatically extended in terms of section 914(4)(a)(i) of the Control Act in the event of a a communications breakdown:

- (a) clearance declarations;**

⁹²⁰ Applications should be submitted timeously to enable Customs to dispose of the application before the cut off time. Late applications may expose applicants to penalties if the application is refused and there is no time left for meeting the cut off time.

(b) reporting documents and reports;

(c) notifications and notices;

(d) supporting documents to be submitted to support a document referred to in paragraph (a), (b) or (c).

Notification periods when goods are delivered or received after hours or on days other than working days

41.10B When in terms of these Rules a person is required to notify the customs authority of the delivery or receipt of any goods at a place within a prescribed timeframe and the goods are delivered or received at that place outside the ordinary business hours of that person on a working day or on a day which is not a working day, the notification must be submitted not later than three hours of the commencement of the business hours of that person on the next working day.

Part 4: *Electronic Communication* through electronic communicative systems

Communicative systems administered by SARS (section 903(1)(b))

41.11 SARS administers the following electronic communicative systems for purposes of implementing the Control Act and the Customs Duty Act in relation to the electronic submission of documents:

- (a) EDI, for the submission of the following documents that must be submitted electronically to the customs authority in terms of Chapter 3 of the Control Act:
 - (i) Advance loading, arrival and departure notices;
 - (ii) arrival and departure reports;
 - (iii) manifests of inbound and outbound cargo;
 - (iv) updates of advance notices; and
 - (v) outturn reports;
- (b) EDI or eFiling, for the submission of all other documents that may or must be submitted electronically to the customs authority in terms of the Control Act or the Customs Duty Act and that can be submitted through EDI or eFiling; and
- (c) any other software applications available on the SARS website for the delivery of documents such as supporting documents and records.

General conditions and requirements for electronic communication with customs authority (*sections 903(1)(b),(q) and (r) and 913*)

41.12 (1) Accessing a computer system referred to in rule **41.11** is subject to the following conditions:

- (a) A person **desiring that wishes** or **is** required to access and use such a computer system for purposes of communicating electronically with the customs authority, either for own business or as a **customs broker, registered agent or ordinary** representative on behalf of another person, must –
 - (i) be registered as an electronic user in terms of section 606 of the Control Act for the specific computer system;
 - (ii) enter into an electronic user agreement with the Commissioner for the specific computer system as published on the SARS website or available on eFiling; and
 - (iii) access and use the applicable computer system in accordance with this Part and the applicable electronic user agreement.
- (b) A person using an **ordinary** representative for purposes of communicating electronically with the customs authority through EDI, must be registered as an electronic user in terms of section 606 of the Control Act.⁹²¹
- (d) A registered electronic user installing any software for purposes of electronic communication with the customs authority through such a computer system, must install the software at own cost except where SARS provides it free of charge.

Digital signatures and conditions and requirements applicable to digital signatures for EDI

41.13 (1) A person communicating with the customs authority through EDI must have a digital signature allocated by the customs authority.

(2) When registering a person as an EDI electronic user, a digital signature must be allocated—

⁹²¹ See section 606 of the Control Act.

- (a) if the user is an individual natural person, to the user and to each employee of the user nominated in the electronic user agreement as a person authorised to communicate with the customs authority on behalf of the user; or
- (b) if the user is a juristic entity, to each official or employee of the entity nominated in the electronic user agreement as a person authorised to communicate the customs authority on behalf of the entity.

(3) The digital signature must be used by a registered electronic user in relation to the electronic submission of documents that are in terms of the Control Act required to be signed.

(4) A valid digital signature linked or attached to an electronic communication and communicated to the customs authority in accordance with this Part must for all purposes be regarded to be the registered electronic user's hand signature.

When electronic communications must be attributed to registered electronic users

41.14 An electronic communication or document submitted to the customs authority must be attributed to have been generated or transmitted by a registered electronic user if it was generated or transmitted by —

- (a) the user;
- (b) an official or employee of the user authorised in the electronic user agreement to generate or transmit electronic messages on behalf of the user;
- (c) a customs broker, registered agent or ordinary representative authorised by the user to generate or transmit electronic messages on behalf of the user; or
- (d) a computer system programmed by or on behalf of the user to generate or transmit electronic messages automatically.

Reporting of security breaches in relation to electronic transmissions (*section 903(1)(r)(iv)*)

41.15 (1) A registered electronic user must upon becoming aware of any security breach in relation electronic transmissions to the customs authority, notify the customs authority of the breach.

(2) A notification referred to in subrule (1) must be submitted to the customs authority electronically through eFiling.

- (3) A notification referred to in subrule (1) must reflect –
- (a) the customs code of the electronic user; and
 - (b) particulars of the breach in security, including –
 - (i) an explanation of what caused the breach;⁹²²
 - (ii) the circumstances in, and date on which the breach occurred, if known; and
 - (iii) the impact of the breach on electronic communications with the customs authority;
 - (c) measures taken to contain or mitigate the risk associated with the breach; and
 - (d) whether the measures referred to in paragraph (c) had resolved the breach or not.

Electronic communication through computer systems administered by SARS
(section 903(1)(q) and (r))

41.16 (1) The rules published by Government Notice No. 644 dated 25 August 2014, excluding rule 5 thereof, apply for purposes of electronic communication between registered electronic users and the customs authority through a computer system referred to in rule **41.11**, subject to subrule (2).

- (2) The rules referred to in subrule (1) apply with any necessary changes as the context may require, and in such application any reference in those rules to –
- (a) a tax Act must be read as including a reference to the Control Act;
 - (b) an electronic filing system must be read as including a reference to a computer system referred to in rule **41.11**;
 - (c) an electronic filing transaction must be read as including a reference to an electronic communication required or permitted in terms of the Control Act or these Rules;

⁹²² I.e whether the breach was due to hardware or software failure, computer hacking, theft etc.

- (d) an electronic communicator or registered electronic user must be read as including a reference to a person registered in terms of the Control Act as an electronic user;
- (e) an electronic signature must in the case of electronic communication through EDI be read as including a reference to a digital signature as defined in rule **41.1**;
- (f) a registered tax practitioner must be read as including a reference to a person registered in terms of the Control Act as an electronic user and who communicates electronically with the customs authority as a **n-authorised customs broker, registered agent or ordinary** representative on behalf of another; and
- (g) a taxpayer must be read as including a reference to a licensee or a person registered for any purpose in terms of the Control Act.

(3) In the event of any inconsistency between a provision of these Rules and the rules referred to in subrule (1), the provision of these Rules prevail.

Offences

41.17 A person is guilty of a Category 1 offence if that person uses in any electronic communication to the Commissioner, the customs authority or a customs officer a digital signature allocated to any other person without that other person's consent.

Part 4A: Communication otherwise than through electronic communication systems

Submission of documents and communications in paper format

41.33A (1) If a declaration, report, statement, return, notice, notification (excluding a delivery or receipt notification), application, request, record or other document or communication is submitted to the customs authority in paper format in circumstances where submissions in paper format are permissible,⁹²³ the submission must be –

⁹²³ See for instance sections 912 and 913(4) of the Control Act. Where there is a specific requirement in the Control Act or these Rules that a document must be submitted electronically, section 913 will apply and the document must be submitted through the applicable electronic communicative system referred to in rule **41.11** except in the situations described in section 913(4)(a)(ii) or (b). Where there is no such specific requirement that

- (a) on a form as published as a rule on the SARS website for the relevant document or communication, subject to subrule (2); and
- (b) made to any Customs Office except where provided otherwise in the Control Act or these Rules for a specific document or communication.

(2) Subrule (1)(a) does not apply if the document or communication to be submitted is a supporting document, record or another document for which no specific form or format has been published on the SARS website.

Part 8: General provisions regarding information to be submitted

Additional information to be stated in submissions by customs brokers, registered agents or ordinary representatives on behalf of principals

41.33D If a customs broker, registered agent or ordinary representative submits a declaration, report, statement, return, notice, notification, application, request, record or other document or communication to the customs authority on behalf of a principal, that document or submission must, in addition to the information prescribed in the Control Act, a tax levying Act or these Rules for that document or communication, state -

- (a) that the document or communication is submitted on behalf of the principal;⁹²⁴
- (b) if the document or communication is submitted by a customs broker or registered agent, the name and customs code of the customs broker or registered agent; and
- (c) if the document or communication is submitted by an ordinary representative, the name of the representative, and -
 - (i) if the ordinary representative is an individual, his or her identity document or passport number, contact details and physical and postal addresses in the Republic; or
 - (ii) if the ordinary representative is a juristic entity -
 - (aa) its contact details and physical and postal addresses in the Republic; and

a document must be submitted electronically or where the Control Act or these Rules allow for other forms of communication, section 913 will not apply and the document may be submitted through any of the methods specified in section 912.

⁹²⁴ See rule **1.1G**

(bb) the name and contact details of a contact person.

Information to be provided in communications where persons do not have customs codes

41.33E (1) When in terms of a provision of these Rules the customs code of a person is required to be stated in any declaration, report, statement, return, notice, notification, application, request or other document or communication that must or may be submitted to the customs authority and that person does not have a customs code, the following information must be provided in that document or communication in respect of that person, subject to subrule (2):

(a) If that person is an individual, his or her -

- (i) full name;
- (ii) identity document number or passport number;
- (iii) physical and postal addresses; and
- (iv) contact details; or

(b) if that person is a juristic entity -

- (i) the registered or official name of the entity;
- (ii) its registration number or the number of its founding document, indicating whether the entity is incorporated, registered or recognised in terms of the laws of the Republic or another country, and if another country, the name of that country;
- (iii) its physical and postal addresses;
- (iv) its contact details; and
- (v) the name and contact details of a contact person.

(2) Subrule (1) applies only where a person does not have a customs code and these Rules specifically require the information referred to in that subrule to be provided in respect of that person.⁹²⁵

Multiple customs codes

41.33EE When in terms of a provision of these Rules the customs code of a person, premises or facility must be stated in any declaration, report, statement,

⁹²⁵ This rule can obviously not apply where a submission is made by or on behalf of a person that must have a customs code, such as a licensee or registered person.

return, notice, notification, application, request or other document or communication that must or may be submitted to the customs authority, and more than one customs code has been issued to that person or in respect of those premises or that facility, the customs code that must be stated is the one that applies to the activity in respect of which that document or communication must or may be submitted.

Submission of representations

41.33H (1) Whenever a person is in terms of a provision of the Control Act or these Rules entitled to submit representations to the customs authority in connection with any matter, the representations must be submitted –

(a) through eFiling, if this method of submission is available for the relevant representations;

(b) by e-mail; or

(c) by any of the methods contemplated in section 912(2)(a) to (c) of the Control Act.

(2) Representations referred to in subrule (1) must -

(a) if submitted by e-mail, be directed to the Division of SARS or Customs Office concerned at the e-mail address of that Division or Office indicated on the SARS website for the receipt of the relevant representations;

(b) if delivered by hand, be delivered to Division of SARS or Customs Office concerned;

(c) if sent by post, be sent by registered mail to the Division of SARS or Customs Office concerned; and

(d) if submitted by telefax, be directed to the Division of SARS or Customs Office concerned and sent to the fax number of that Division or Office indicated on the SARS website for receipt of the relevant representations.

(3) Representations referred to in subrule (1) must reflect –

(a) the name or customs code of the person making the representations;

- (b) if the representations are submitted by a customs broker, registered agent or ordinary representative on behalf of the person making the representations, the information specified in rule 41.33D;⁹²⁶
- (c) the provision of the Control Act or these Rules in terms of which the representations are submitted; and
- (d) the arguments relied on by the person making the representations.

Part 6: Submission of documents and communications through ordinary representatives (section 920)

Requirements for submission of documents and communications through ordinary representatives⁹²⁷

41.30 (1) **When** **if** a person in terms of section 920 of the Control Act makes use of an ordinary representative to submit a declaration,⁹²⁸ report, statement, return, notice, notification, application, request, record or other document or communication to the Commissioner, the customs authority or a customs officer –

- (a) the representative appointed by the principal may **act** make the submission on behalf of the principal only in accordance with a written authorisation setting out the representative's mandate and terms of appointment; and
- (b) the document or communication must be signed by the principal if the Control Act or these Rules require the document or communication to be signed by the person who may or must submit the document or communication.

(2) If a document or communication is submitted through EDI or eFiling by an authorised ordinary representative on behalf of a principal, a requirement that the

⁹²⁶ If the representations are submitted by an ordinary representative in terms of section 920 of the Customs Control Act on behalf of a person, the representations must comply with the additional requirements set out in Part 6 of Chapter 41 of these Rules. Note that the said Part 6 applies only to ordinary representatives which per definition excludes persons submitting documents as customs brokers or registered agents. It follows that Part 6 does not apply to customs brokers and registered agents that submit representations in that capacity.

⁹²⁷ Note that although section 920 is an enabling provision that applies generally to the submission of documents to Customs, its application is subject to the other provisions of the Control Act. This means that where the Act contains specific provisions on the submission of documents, the specific provisions will override section 920 to the extent of any inconsistency. For instance, section 165 specifically limits the persons entitled to submit clearance declarations, and this provision will accordingly override the general wording of section 920 and disallow a representative who is not a licensed customs broker or another authorised person contemplated in that section to submit clearance declarations. It follows that section 920 does not allow ordinary representatives to submit clearance declarations on behalf of clients.

⁹²⁸ The reference to a "declaration" in this Part excludes a clearance declaration as ordinary representatives are not included in the list of persons who in terms of section 165 of the Control Act are entitled to submit clearance declarations.

document or communication must be signed by the principal, as contemplated in subrule (1)(b), must for all purposes regarded to have been complied with if submission of the document or communication by the representative is in accordance with the requirements of Part 4.

(3) Any submission of a document or communication by **an ordinary** representative on behalf of a principal must be supported by the written authorisation referred to in subrule (1)(a).

(4) A supporting document referred to in subrule (3) must be submitted to the customs authority on request, subject to and in accordance with Part 7 of this Chapter.

Liability of principals for submission of documents and communications through **ordinary representatives**

41.31. (1) Ordinary representatives may not make or submit a declaration, report, statement, return, notice, notification, application, request, record or other document or communication on behalf of another in their own name, and any such document or communication must for purposes of the Control Act, the Customs Duty Act and these Rules be regarded to have been made and submitted by the principal.

(2) When a person in terms of section 920 of the Control Act authorises **an ordinary** representative to submit a declaration, report, statement, return, notice, notification, application, request, **record** or other document or communication ~~to the Commissioner, the customs authority or a customs officer,~~ the principal –

- (a) is not absolved from liability for any breach of the Control Act **or a tax levying Act** committed by the representative merely because the principal did not actually commit that breach; and
- (b) is liable as if that breach was committed by the principal.

Exclusions

41.32. This Part ~~does not apply~~ **applies** to customs brokers and registered agents submitting a declaration, report, statement, return, notice, notification, application, request, **record** or other document or communication to the Commissioner, the

customs authority or a customs officer on behalf of their clients only when the customs broker or registered agent submits the document or communication in their capacity as an ordinary representative.⁹²⁹ If a document or communication is submitted in their capacity as customs broker or registered agent, this Part does not apply.

Contents of written representatives' authorisations to representatives

41.33. (1) An authorisation referred to in rule **41.30**(1)(a) must contain –

- (a) the following information in relation to the principal:(i) the principal's name and customs code or, (ii) if the principal does not have a customs code, the information specified in rule 41.33E; ~~the principal's name, ID number,~~⁹³⁰ ~~contact details physical and postal address;~~
- (b) the following information in relation to regarding the ordinary representative:
 - (i) If the representative is an individual, his or her full name, identity document or passport number, contact details and physical and postal addresses in the Republic; or
 - (ii) if the representative is a juristic entity –
 - (aa) registered or official name of the entity;
 - (bb) its registration number or the number of its founding document, indicating whether the entity is incorporated, registered or recognised in terms of the laws of the Republic or another country, and if another country, the name of that country;
 - (cc) its contact details and its physical and postal addresses in the Republic or elsewhere; and
 - (ee) the name and contact details of a contact person;
 - ~~(i) — The representative's name, ID number,⁹³⁴ contact details, physical and postal address; and~~
 - ~~(ii) — designation;~~
- (c) particulars of the representative's mandate and terms of appointment;

⁹²⁹ As customs brokers and registered agents are specifically regulated in terms of the Control Act, they operate in accordance with those specific provisions of the Act applicable to them when submitting documents and communications on behalf of their clients. Also note that customs brokers and registered agents are in terms of rules **28.8**(2)(b) and **29.9**(2)(b) not allowed to submit registration and licence applications on behalf of other persons in their capacity as customs broker or registered agent. If they want to submit such applications on behalf of clients, they must act as ordinary representative.

⁹³⁰ In the case of a natural person.

⁹³⁴ In the case of a natural person.

- ~~(d) the reason why the principal elects to make use of a representative;~~ and
- (d) the signatures of the principal and two witnesses and the date and place of signature.

(2) An authorisation must –

- (a) support **any the** submission by the authorised **ordinary** representative of **any** communication or document **on behalf of the principal** to the Commissioner, the customs authority or a customs officer in terms of the Control Act or these Rules; and
- (b) be submitted to the customs authority where such submission is required in terms of **the Control Act or** these Rules or by the customs authority.

Part 7: General provisions regulating submission of supporting documents and records

Manner of submission of supporting documents and records

41.33B (1) Whenever any specific supporting document or record is in terms of a provision of the Control Act or these Rules required or permitted to be submitted to the Commissioner, the customs authority or a customs officer, the document or record must be submitted -

- (a) by means of any electronic communicative system referred to in rule **41.11** applicable to the submission of the documents or records of the kind in question or as the customs authority may direct; or
- (b) in circumstances where the submission of such documents or records otherwise than by means of an electronic communicative system referred to in rule **41.11** is permissible,⁹³² by means of a method as may be specifically prescribed in these Rules or provided for in section 912.

(2) An electronic submission referred to in subrule (1)(a) or a copy or printout referred to in subrule (1)(b) may for purposes the Control Act and these Rules be regarded to be the original of the relevant document or record unless the customs authority determines otherwise.

⁹³² See **for instance** section 913(4)(a)(ii) or (b) of the Control Act.

Timeframes for submission of supporting documents and records

41.33CCCC (1) If the customs authority or customs officer requests the submission of a supporting document or record, the document or record must be submitted within the timeframe stated in the request or, if no timeframe is stated in the request, within -

(a) 24 hours from the time of the request, in the case of documents supporting a clearance declaration; or

(b) three working days after the date of the request, in all other cases.

(2) Subrule (1) does not apply if another timeframe is prescribed in terms of a provision of the Control Act or these Rules for a specific supporting document or record.

Submission of supporting documents together with other submissions

41.33C (1) Whenever in these Rules a person is required or permitted to submit electronically a supporting document together with a declaration, report, statement, return, notice, notification, application, request, record or other document or communication, submission of the supporting document separately but within a timespan of one hour of submission of the other document or communication must be regarded to be a submission that was effected together with the other document or communication, whether the supporting document and the other document or communication were submitted by means of the same or different methods.

(2) A reference in subrule (1) to a declaration excludes a clearance declaration.

Substantiation of disputable facts mentioned in documents submitted to customs authority

41.33CA A document submitted to the customs authority in terms of these Rules stating a disputable fact must be supported by documentary evidence substantiating that fact, which must be submitted on request subject to and in accordance with the other provisions of this Part.

Supporting documents already in possession of Customs

41.33CC No supporting document that must in terms of the Control Act, a tax levying Act or these Rules be submitted to support a declaration, report, statement, return, notice, notification, application, request, record or other document or communication needs to be submitted if the document is already in the possession of the customs authority, unless the customs authority specifically requests that the document must be submitted.

Submission of alternative documents instead of supporting documents

41.33CCC An alternative document may instead of a supporting document be used or submitted in support of a declaration, report, statement, return, notice, notification, application, request, record or other document or communication in terms of the Control Act, a tax levying Act or these Rules, provided that the alternative document is capable of being used for the purpose of confirming, substantiating or evidencing the same information for which the relevant supporting document is required.

Submission of certified copies of supporting documents, alternative documents and records

41.33CCCC A certified copy of any supporting document, alternative document referred to in rule **41.33CCC** or record submitted in terms of the Control Act or these Rules may not be older than three months.

Translation of particulars on supporting documents

7.741.33CCCCC (1) If the particulars on a supporting document referred to in ~~section 176(1)~~ required in terms of the Control Act, the Customs Duty Act or these Rules are not reflected in English, the person required to submit the document ~~clearing the goods~~ must, on request by the customs authority and at that person's own cost, provide the customs authority with an English translation of any unclear particulars on the supporting document.

(2) A translation referred to in subrule (1) must be submitted to the customs authority within a timeframe ~~and in a manner indicated~~ stated in the request

or, if no timeframe is stated in the request, within three working days of the date of the request.⁹³³

This rule moved from rule 7.7.

Part 5: Recordkeeping systems ~~(section 919)~~

Recordkeeping systems to comply with this Part (sections 903(1)(g) and 919)

41.18 A record keeping system that a person must use ~~in terms of section 919~~ for purposes of the Control Act, whether computer-based or paper-based, must be in accordance with and subject to the conditions and requirements contained in this Part.⁹³⁴

Minimum requirements for record keeping systems

41.19 (1) The computer- or paper-based system used for the keeping or retention of records must as a minimum enable the person required to keep record to obtain, without undue delay, access to the information and documents in the system, including to information and documents pertaining to specific goods and specific transactions stipulated by the customs authority.

(2) If a computer-based system is used, electronic records must be kept and retained in an acceptable electronic form.

(3) For purposes of subrule (2), electronic records are in an acceptable electronic form if—

- (a) the integrity of the electronic records satisfies the standard contained in section 14(1)(a) and section 14(2) of the Electronic Communications and Transactions Act, 2002 (Act No. 25 of 2002);
- (b) the person keeping or retaining those records can without undue delay furnish the customs authority with –
 - (i) an electronic copy or extract of any of those records in a format that can be accessed, read and correctly analysed by a computer

⁹³³ For manner of submission of documents, see rule 41.33B(1).

⁹³⁴ The persons who are required to keep record and the information and documents to be kept record of are set out in specific provisions of the Control Act and the rules under the different chapters.

- programme used by the customs authority, should the customs authority or a customs officer request such a copy or extract; or
- (ii) a paper-based copy or extract of any of those records, should the customs authority or a customs officer request such a copy or extract; and
- (c) the customs authority or a customs officer can access such records for the purpose of performing an enforcement function.⁹³⁵

(4) The onus to establish which programmes the customs authority uses for purposes of subrule (23)(b)(i) is on the person keeping or retaining the electronic records.

Measures to assist understanding of computer-based systems

41.20 (1) A person keeping or retaining records by means of a computer-based system must –

- (a) prepare and keep a paper-based explanatory guide that accurately describes that person's computer-based system and how to access and understand that person's method of keeping or retaining electronic records; and
- (b) make the explanatory guide available to the customs authority on request.

(2) The explanatory guide must include an explanation of the following:

- (a) How transactions are created, processed and stored;
- (b) which reports are generated and how such reports are generated;
- (c) how often electronic records are stored;
- (d) the format used to store and archive the records, including a description of the media, software and hardware used;
- (e) the locality where records are stored or archived, or from where records can be accessed;
- (f) a data dictionary that explains how records are indexed when created, processed, stored or backed-up; and
- (g) the procedures and protocols in place to prevent the unauthorised deletion, alteration or destruction of records.

⁹³⁵ See definition of "enforcement function" in section 1 of the Control Act.

(3) If an electronic record consists of any non-electronic record converted to an electronic form, or of any existing electronic record converted to another electronic form, a separate record must be kept of the following:

- (a) A chronological record and explanation of all changes or upgrades to the software and hardware used, including explanations of how the new system can recreate an acceptable electronic form referred to in rule **41.19(3)**;
- (b) where applicable, explanations of migrations of data that may have taken place across either software or hardware;
- (c) a detailed record of the controls which maintain the integrity of the old system together with a record of the records processed to an electronic or another electronic format as applicable; and
- (d) an explanation of archival and back-up facilities under any obsolete or old electronic systems used.

(4) If a person carries out internet-based transactions, the explanatory guide referred to in subrule (1) and a record referred to in subrule (3) must also contain a description of—

- (a) the web-log created to identify individual transactions; and
- (b) the security measures used to maintain the identity and authenticity of transactions.

Location of records

41.21 (1) Records must, subject rule **41.23**, be kept and retained at a fixed physical address in the Republic which –

- (a) in the case of records kept by a licensee in connection with activities and goods on any licensed premises, must be the licensed premises;⁹³⁶
- (b) in the case of records kept by a person registered or licensed for a business or activity, must be the premises occupied by that person for the purposes of the business or activity for which that person is registered or licensed;⁹³⁷
- (c) in the case of records kept by the licensee of any licensed cross-border transmission line, pipeline, cable-car or conveyor belt, must be the premises

⁹³⁶ Customs has in terms of section 709(1)(a) of the Control Act access to these premises without a warrant.

⁹³⁷ Customs has in terms of section 709(3)(b) of the Control Act access to these premises without a warrant.

occupied by the licensee for the purposes of the business or activity for which the transmission line, pipeline, cable-car or conveyor belt is licensed; or

- (d) in the case of records kept by a person who is not a registered person or licensee and who conducts a business contemplated in rule 4.22(1)(b) referred to in section 116 of the Control Act, must be the premises occupied by that person or licensee for the purpose of carrying on the that business or activity for which that person is registered or licensed.

(2) Records kept in terms of subrule (1) at premises referred to in that subrule may with the permission of the customs authority be moved to and kept at any other premises in the Republic, provided that such permission may be applied for only after the expiry of a period of twelve months –

- (a) in the case of records relating to imported goods cleared for home use, since the goods have unconditionally been released for home use;
- (b) in the case of records relating to goods under a customs procedure, since the customs procedure has been completed;⁹³⁸ and
- (c) in the case of records relating to the transport of goods otherwise than under a customs procedure, since the goods were delivered at the destination.

(3) A permission granted in terms of subrule (2) is subject to –

- (a) the condition that the owner or person in physical control of the premises where the records will be kept must provide a standing consent for purposes of section 709(3)(a) to warrantless entry of the premises by customs officers at any reasonable time for accessing and inspecting those records; and
- (b) any other conditions as the customs authority may impose in terms of section 918.

(4) Records must be kept or retained in a secure place on the premises where it must be kept or retained in terms of subrule (1) or (2).

Application for permission to move and keep records elsewhere than at premises prescribed in rule 41.21

⁹³⁸ See section 109 of the Control Act and the Chapters on the various customs procedures for the time when a customs procedure is completed.

41.22 (1) (a) An application for permission referred to in rule **41.21**(2) must be submitted to the customs authority electronically through eFiling, subject to ~~paragraph (b)~~ **rule 41.33A**.

(b) If an application referred to in paragraph (a) is submitted to the customs authority **in terms of rule 41.33A** in paper format, ~~in circumstances where submissions in paper format are permissible,~~⁹³⁹ the **application submission** must be **submitted** –

~~(i) on Form as published as a rule on the SARS website; and~~

~~(ii) made~~ to the Customs Office designated by the Commissioner in terms of section 14 of the Control Act to receive applications for licensing and registration.

(2) An application referred to in subrule (1) must reflect **the following information:**

(a) The **applicant's name and** customs code **of the applicant, or if the applicant does not have a customs code, the information specified in rule 41.33E(1):**

~~(b) if the applicant is –~~

~~(i) a natural person, the applicant's identity number or passport number;~~
~~or~~

~~(ii) a juristic entity, the name of the person authorised to act on behalf of that entity, as well as that person's physical address, contact details, identity or passport number and designation or capacity; and~~

~~(b) if the application is submitted on behalf of the applicant by a representative, also the name, physical address and contact details of the representative by a customs broker or ordinary representative on behalf of the applicant, the information specified in rule 41.33D;~~⁹⁴⁰

(c) a description of the records to which the application relates, including whether the records are kept electronically or in paper format;

(d) the current location of the records;

(e) the physical address of the premises where the records are to be moved to and kept;

⁹³⁹ See section 913(4) of the Control Act.

⁹⁴⁰ If the application is submitted on behalf of the applicant by an ordinary representative in terms of section 920 of the Control Act, Part 6 of Chapter 41 of these Rules will apply. Note that the said Part 6 applies only to ordinary representatives which per definition excludes persons submitting documents as customs brokers. It follows that Part 6 does not apply to customs brokers that submit such applications in that capacity.

- (f) the name and contact details of the person in control of the premises referred to in (e);
- (g) a statement that –
 - (i) rule 41.21(2) has been complied with the records have been kept at the premises referred to in rule 41.21(1) for the prescribed time with reference to the relevant requirements in paragraphs (a) to (c) of that subrule;
 - (ii) the owner or person in physical control of the premises where the records are to be moved to and kept has given a standing consent referred to in rule 41.21(3); and
 - (iii) any login codes, keys or passwords necessary for the customs authority to access electronic records will be available as required in terms of rule 41.27, if the application is granted; and
- (h) a motivation of the need to keep the reason why the records are to be moved to and kept at the premises referred to in paragraph (e), which may be motivated in a separate supporting document submitted together with the application subject to and in accordance with Part 7 of this Chapter.

(3) An application referred to in subrule (1) must be accompanied supported by the following supporting documents

- (a) a standing consent by the owner or person in physical control of the premises where the records are to be moved to and kept referred to in rule 41.21(3), which must be submitted together with the application subject to and in accordance with Part 7 of this Chapter.
- (b) if the application is submitted on behalf of the applicant by an ordinary representative, a document authorising that person to act as representative; and
- (c) any other document that may support the information provided by the applicant in the application.

(4) The customs authority may request any further relevant documentation necessary to consider the application and the applicant must submit such documentation within the timeframe indicated by the customs authority in the request.

Keeping of electronic records outside Republic

41.23 A person may with the permission of the customs authority keep or retain electronic records at a location outside the Republic, provided –

- (a) those electronic records are accessible from a computer-based system on the premises referred to in rule **41.21**(1) or (2) where the records would otherwise have ~~to be~~ **en** kept or retained;
- (b) the locality where the records are proposed to be kept or retained will not obstruct that person's access to those records;
- (c) there is an international agreement in place between the Republic and the country in which that person proposes to keep those records, which will facilitate the customs authority in obtaining information from or through the government of that country on any matter concerning those records;
- (d) keeping or retaining the records at a location outside the Republic will not compromise compliance with rule **41.19**; and
- (e) such permission may be applied for only after the expiry of a period of twelve months –
 - (i) in the case of records relating to imported goods cleared for home use, since the goods have unconditionally been released for home use;
 - (ii) in the case of records relating to goods under a customs procedure, since the customs procedure has been completed;⁹⁴¹ and
 - (iii) in the case of records relating to the transport of goods otherwise than under a customs procedure, since the goods were delivered at the destination.

Application to keep electronic records at places outside Republic

41.24 (1) (a) A person who wishes to obtain permission contemplated in rule **41.23** to keep or retain electronic records at a location outside the Republic must submit an application for such permission to the customs authority electronically through eFiling, subject to ~~paragraph (b)~~ **rule 41.33A**.

(b) If an application referred to in paragraph (a) is submitted to the customs authority **in terms of rule 41.33A** in paper format, ~~in circumstances~~

⁹⁴¹ See section 109 of the Control Act and the Chapters on the various customs procedures for the time when a customs procedure is completed.

where submissions in paper format are permissible,⁹⁴² the submission application must be submitted –

(i) on Form ... as published as a rule on the SARS website; and

(ii) made to the Customs Office designated by the Commissioner in terms of section 14 of the Control Act to receive applications for licensing and registration.

(2) An application referred to in subrule (1) must reflect the following information:

(a) The applicant's name and customs code of the applicant, or if the applicant does not have a customs code, the information specified in rule 41.33E(1);

(b) if the applicant is –

(i) a natural person, the applicant's identity number or passport number; or

(ii) a juristic entity, the name of the person authorised to act on behalf of that entity, as well as that person's physical address, contact details, identity or passport number and designation or capacity; and

(b) if the application is submitted on behalf of the applicant by a representative, also the name, physical address and contact details of the representative by a customs broker or ordinary representative on behalf of the applicant, the information specified in rule 41.33D;⁹⁴³

(c) a description of the electronic records to which the application relates;

(d) the current location of the electronic records;

(e) details relating to the locality where the electronic records are proposed to be kept or retained outside of the Republic, including –

(i) the physical address; and

(ii) the name of a contact person and that person's contact details;

(f) the name or particulars of the computer software or electronic platform to be used by the applicant for the storage of the records;

(g) the physical address of the premises referred to in rule 41.23(a) from where the records will be accessible with reference to rule 41.21(1) or (2);

⁹⁴² See section 913(4) of the Control Act.

⁹⁴³ If the application is submitted on behalf of the applicant by an ordinary representative in terms of section 920 of the Control Act, Part 6 of Chapter 41 of these Rules will apply. Note that the said Part 6 applies only to ordinary representatives which per definition excludes persons submitting documents as customs brokers. It follows that Part 6 does not apply to customs brokers that submit such applications in that capacity.

- (h) particulars of the relevant international agreement referred to in rule 41.23(c) that will apply in relation to the records facilitate the customs authority in obtaining information from or through the government of the country in which the records will be kept or retained on any matter concerning those records;
- (i) a statement that -
- (i) rule 41.23(e) will be has been complied with, specifically stating -;
 - (ii) that the locality where the records will be kept or retained will not obstruct the applicant's access to those records;
 - (iii) keeping or retaining the records at that location outside the Republic will not compromise compliance with rule 41.19; and
 - (iv) that any login codes, keys or passwords necessary for the customs authority to access electronic records will be available as required in terms of rule 41.27, if the application is granted; and
- (j) a motivation of the need to keep the reason why the records are to be kept at the premises referred to in paragraph (e), which may be motivated in a separate supporting document submitted together with the application subject to and in accordance with Part 7 of this Chapter.

(3) An application referred to in subrule (1) must be accompanied supported by the following documents

(a) If the application is submitted on behalf of the applicant by a representative, a document authorising that person to act as representative;

(b) an extract of the applicant's electronic records as contemplated in rule 41.19(3)(b)(i) and, which must be submitted together with the application subject to and in accordance with Part 7 of this Chapter.

(c) any other document that may support the information provided by the applicant in the application.

(4) The customs authority may request any further relevant documentation necessary to consider the application and the applicant must submit such documentation within the timeframe indicated by the customs authority in the request.

Period and manner of retention of records

41.25 (1) A document or information that must be kept record of must be retained for a period of at least five years calculated from the end of the calendar year in which the transaction or activity to which the document or information relates was concluded or has occurred.

(2) If those records are retained by means of a computer-based system, the person who keeps the records must ensure that there is adequate storage capacity in the system for the duration of the period referred to in subrule (1), which includes—

- (a) the storage of the electronic records in a manner that is appropriate to the media used by the person;
- (b) the storage of all electronic signatures, keys and certificates where these are held; and
- (c) the storage of recovery procedure to decrypt electronic records that are encrypted.

Outsourcing of record keeping functions

41.26 If a person required to keep record of any information or documents procures a service provider to manage on that person's behalf that person's record keeping system, or any aspect of that system, that person –

- (a) is not relieved of responsibility to comply with this Part only because that person has procured a service provider to manage that system or aspect of that system; and
- (b) is liable for any breach of this Part by the service provider as if that person has committed the breach.

Inspection of records

41.27 (1) A person who keeps or retains records must allow a customs officer to inspect those records at any reasonable time on the premises –

- (a) where the records are kept or retained; or
- (b) from where those records are accessible, in the case of electronic records kept outside the Republic in terms of rule **41.23**.

(2) In the course of an inspection, the computer system used by the

person who keeps or retains records in an electronic format, must be capable of demonstrating positively that the provisions of this Part are complied with, including validating that—

- (a) the electronic records meet the standard of integrity referred to in rule **41.19(3)(a)**; and
- (b) rule **41.19(3)(b)** and (c) can be complied with.

(3) Any login codes, keys or passwords required to access the electronic records must be available at all reasonable times to enable an inspection of the records to be carried out.

(4) The explanatory guide referred to in rule **41.20(1)** must be available at all reasonable times to enable an inspection of the records to be carried out.

(5) A person's electronic records must be capable of being copied to storage media required by the customs authority, if an electronic record, or part of an electronic record, is required to be produced or submitted.

Making electronic records available for audit

41.28 (1) Electronic records must be able to be made available for the purpose of an audit in terms of the Control Act, which includes having the following available on the date and at the time that an audit is scheduled to start:

- (a) Any login codes, keys or passwords required to access the electronic records for the purpose of an audit;
- (b) the explanatory guide and records referred to in rule **41.20**; and
- (c) any computer and software manuals that are relevant to accessing and understanding the relevant computer system.

Transitional provision relating to records kept in terms of Customs and Excise Act

41.29 This Part, does not apply to the retention of records kept in terms of the Customs and Excise Act up to the effective date as defined in section 926 of the Control Act, and such records must be retained after that date as if the Customs and

Excise Act has not been amended by the Customs and Excise Amendment Act, 2014.

Short title and commencement

41.34 These Rules are called the Customs Control Rules and take effect on the effective date as defined in section 926 of the Control Act.