

DRAFT FOR EXTERNAL COMMENT 2 SEPTEMBER 2021

GENERAL EXPLANATORY NOTE:

[] Words that are between square brackets and in bold typeface, indicate deletions from the existing rules

_____ Words that are underlined with a solid line, indicate insertions in the existing rules

SOUTH AFRICAN REVENUE SERVICE

No.

R.

2021

CUSTOMS AND EXCISE ACT, 1964

AMENDMENT OF RULES

Under sections 19, 60 and 120 of the Customs and Excise Act, 1964 (Act No. 91 of 1964), the rules published in Government Notice R.1874 of 8 December 1995, are herewith amended to the extent set out in the Schedule hereto **with effect from 1 June 2022**.

EDWARD CHRISTIAN KIESWETTER

COMMISSIONER FOR THE SOUTH AFRICAN REVENUE SERVICE

SCHEDULE

Insertion of rule

1. The following rule is hereby inserted after rule 19.08:

“The rules numbered 19.09 followed by further digits relate to the requirements in respect of monitoring of certain customs and excise warehouses through CCTV cameras”

Definitions

19.09.01 (1) For purposes of these rules, unless the context otherwise indicates –

“bonded goods” means any manufactured or imported tobacco products in a licensed customs and excise warehouse that have not been entered for home consumption;

“customs and excise warehouse for the manufacture or the storage of tobacco products” means a customs and excise warehouse for –

- (a) the manufacture of tobacco products;
- (b) the storage of tobacco products for export;
- (c) the storage of tobacco products for supply to any other customs and excise storage warehouse licensed –
 - (i) as a duty free shop;
 - (ii) as a special shop for diplomats; or
 - (ii) for the supply of dutiable goods to foreign-going ships or aircraft; or
- (d) the storage of imported tobacco products;

“CCTV equipment” means a closed-circuit system consisting of video cameras, a video recording unit, and wireless data networks that allow the transfer of images from video cameras to display monitors whilst not openly transmitting signals, and includes an independent battery power supply;

“licensee” means a person operating premises licenced in terms of section 60 as a customs and excise warehouse for the manufacture or the storage of tobacco products;

“these rules” means the rules numbered 19.09; and

“tobacco products” means products classifiable and liable to excise duty under items 104.30 and 104.35 of Part 2A of Schedule No.1.

(2) For purposes of these rules, “delivery” of an e-mail notification takes place as set out in rule 3(2)(a) of the Rules for Electronic Communication published in terms of section 255 of the Tax Administration Act, 2011 by Government Notice No. 644 dated 25 August 2014.

Installation of CCTV equipment for monitoring a licensing condition for certain customs and excise warehouses

19.09.02 (a) The licensing of a customs and excise warehouse for the manufacture or the storage of tobacco products is subject to a condition that CCTV equipment be installed on the relevant premises for purposes of monitoring bonded goods and activities carried out in respect of such goods in the areas referred to in rule **19.02.03**.

(b) A licensee must within five working days of delivery by SARS of an e-mail notification informing the licensee of the installation date in respect of CCTV equipment –

(i) confirm receipt of the notification and acceptance of the installation date specified therein; or

(ii) confirm receipt of the notification and, if necessary, on good grounds request a reasonable alternate date.

(c) The operation of a licence is not affected by the date of installation fixed in accordance with paragraph (b).

Areas to be monitored

19.09.03 (a) The following areas of a customs and excise warehouse premises must be monitored by CCTV equipment:

(i) Any manufacturing area;

- (ii) any packaging area; and
- (iii) any despatch or loading area on the premises where tobacco products are loaded onto vehicles for transport.

(b) CCTV equipment installed in areas referred to in paragraph (a) must –

- (i) provide the best possible visibility and coverage of the relevant area; and
- (ii) in the case of a despatch or loading area referred to in paragraph (a)(iii), show loading activities as well as detail of vehicles used, including the make, colour and number plate.

Installation of CCTV equipment to be done by officer or authorised person

19.09.04 CCTV equipment is installed at the cost of the Commissioner –

- (a) by an officer or any other person authorised by the Commissioner to install the equipment; and
- (b) on the date and at the estimated time fixed in accordance with rule 19.09.02(b).

Responsibilities of applicants and licensees in respect of CCTV equipment

19.09.05 (a) A licensee must ensure that an officer or any other person authorised by the Commissioner to install the CCTV equipment is admitted to the premises at a date and time fixed in accordance with rule 19.09.02(b).

(b) A licensee must ensure that –

- (i) the CCTV equipment at all times provides a clear and unobstructed view of bonded goods and activities carried out in respect of it in areas referred to in rule 19.09.03;

- (ii) measures are put in place to safeguard all the components of the CCTV system, including its recording of accurate footage, against tampering, manipulation, interference, damage or destruction by any person or through any event; and
- (iii) an officer or any other person authorised by the Commissioner be admitted to the premises –
 - (aa) to inspect, repair or replace CCTV equipment reported as faulty; or
 - (bb) to access, check and copy footage stored on the CCTV equipment.
- (c) The responsibilities mentioned in paragraph (b) are conditions for licensing.

Offences in relation to CCTV equipment installed in terms of these rules

- 19.09.06** (a) No person may –
- (i) tamper or interfere with, manipulate, damage or destroy CCTV equipment or cause tampering or interference with, or the manipulation, damaging or destruction of CCTV equipment;
 - (ii) tamper or interfere with, manipulate, damage or destroy CCTV recorded footage or cause tampering or interference with, or the manipulation, damaging or destruction of CCTV recorded footage; or
 - (iii) intentionally obstruct in any way the clear view or accurate recording of footage provided by CCTV equipment of bonded goods and activities carried out in respect thereof in areas referred to in rule **19.09.03**.
- (b) A person convicted of an offence referred to in –
- (i) paragraph (a)(i) is liable to a fine not exceeding R50 000 or double the value of the CCTV equipment in respect of

which the offence was committed, whichever is the greater, or imprisonment for a period not exceeding 1 year or both such fine and imprisonment; and

(ii) paragraph (a)(ii) or (iii) is liable to a fine not exceeding R50 000 or treble the value of the excise duty liability in respect of the bonded goods in the customs and excise warehouse at the time the offence was committed, whichever is the greater, or imprisonment for a period not exceeding 2 years or both such fine and imprisonment.

Transitional arrangement in respect of persons who are licensees on the effective date of these rules

19.09.07 (a) Any person who is a licensee on the effective date of these rules, must within five working days of delivery by SARS of an e-mail notification informing the licensee of the installation date in respect of CCTV equipment –

(i) confirm receipt of the notification and acceptance of the installation date specified therein; or

(ii) confirm receipt of the notification and, if necessary, on good grounds request a reasonable alternate date.

(b) The operation of a current licence is not affected by the date of installation fixed in accordance with paragraph (a).

(c) If a licensee fails to comply with paragraph (a), the Commissioner may in terms of section 60(2)(b) cancel or suspend the relevant licence.”.