



PROVISIONAL PAYMENTS

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1 PURPOSE

- a) This policy sets out the requirements for provisional payments (PPs) lodged by importers and exporters to secure revenue that is due or may become due to Customs.
- b) It covers the lodgement, maintenance, monitoring and liquidation of PPs.

2 SCOPE

- a) This policy applies to all PPs lodged for Customs purposes.
- b) The DA 70 (hard copy) must not be used for:
 - i) Import goods declaration-based PPs; or
 - ii) Travellers covered in SC-PA-01-11.
- c) This document **does not** apply to:
 - i) The completion of DA 70 for manual PPs relating to export goods declarations, as set out in SC-CF-25-A01;
 - ii) Excise PPs, as documented in SE-PP-02;
 - iii) Payments at cash offices, as explained in GEN-PAYM-01-G01;
 - iv) The iCBS processes declarations and PPs for unregistered clients; and
 - v) PPs accepted on the Passenger Processing System (PPS), as documented in SC-PA-01-11.
- d) A letter of undertaking between SARS and other government agencies (OGAs) may be used instead of a PP.

3 POLICY STATEMENT

3.1 Purpose and application of a provisional payment

- a) Provisional payments are used to secure duties, taxes, levies, and VAT while compliance with a condition is outstanding. In exceptional cases, a PP may also be lodged where additional security is required, for a short period.
- b) A PP must specify:
 - i) The reason for lodging the PP;
 - ii) The amount;
 - iii) The conditions to be fulfilled; and
 - iv) The applicable time period.
- c) PPs may be lodged in the following circumstances:
 - i) Pending tariff, value, or duty determination;
 - ii) Anti-dumping, countervailing, or safeguard duties;
 - iii) Conditional release of goods;
 - iv) Temporary imports;
 - v) Possible underpayments in duties and taxes;
 - vi) Contraventions or forfeiture matters; and
 - vii) Embargo releases.
- d) The conditions of all PPs must be complied with within a prescribed period as indicated in the table below.

e) Customs will send the client a reminder before the PP expires.

i) **PP types captured on import goods declarations only**

DESCRIPTION	CALENDAR DAYS ALLOWED
A) Provisional Payment lodged in terms of Section 57A pending the investigation to the imposition of an Anti-dumping (PPA) on goods imported.	180
B) Provisional Payment lodged in terms of Section 57A pending the investigation to the imposition of a countervailing (PPC) on goods imported.	180
C) Provisional Payment lodged in terms of Section 57A pending the investigation to the imposition of a safeguard duty (PPG) on goods imported.	180
D) Provisional Payment lodged to cover duties and VAT on goods temporary admitted under rebate, pending production of proof of export of the goods, originally imported, within 180 days or pending the production and processing of an amendment declaration for "home use" bringing duties and/or VAT to account (PPT).	180
E) To cover duties/VAT conditional release at time of submitting an import declaration (PPR).	30
F) Provisional Payment lodged to cover possible under-entry in duties and VAT pending production of documents: invoice, transport document, proof of payment, literature, etc. (excluding permits/certificates) (PPR).	30
G) Provisional Payment lodged, in terms of Section 107(2) on goods which were released under a special undertaking [embargo - (PPE)] to the indicated premises pending Customs examination and adjustment to the declaration if necessary and finalisation of the Service Manager inspection report.	30
H) Provisional Payment lodged in terms of Section 47(9)(a) to cover a possible under-entry of duty and VAT, in order to obtain release of the goods pending submission of evidence to motivate an appeal and finalisation of Service Manager inspection report (TDN) (PPR).	180
I) Provisional Payment lodged in terms of Section 65(4)(a) to cover a possible under-entry of Duty and VAT, in order to obtain release of the goods pending submission of evidence to motivate an appeal and finalisation of Service Manager inspection report within 180 days determination (VDN) (PPR).	180

ii) **PPs lodged for contravention and forfeiture - goods declaration and manual PPs**

DESCRIPTION	CALENDAR DAYS ALLOWED
A) Provisional payment pending a decision on the imposition of a suitable penalty in terms of Section 91 (PEN).	50
B) Provisional payment pending a decision on the imposition of suitable forfeiture amount (FOR).	50

iii) **Manual provisional payments lodged for the following reasons are captured on the SSM Billing system (CEB)**

DESCRIPTION	CALENDAR DAYS ALLOWED
A) Finalisation of a carnet (insert carnet holder's name and carnet number) to cover possible duties, levies, and/or VAT (refer to SC-TA-01-04).	90
B) Provisional payments lodged for the finalisation of State Warehouse auctions and sales.	180
C) Non-declaration types of contraventions, for example late submission of acquittal documents.	30
D) Provisional payments lodged for export declaration(s).	30

3.2 Submitting an import **goods** declaration-based provisional payment

- a) A PP for an import transaction must be **completed and** submitted on an amended import **goods declaration (SAD 500) as set out in SC-CF-55-A01**.
- b) All import goods declaration-based PPs must be declared per line. **The only exception** is a PP lodged for an embargo release. **The embargo release** PP must be declared on line one (1) of the **goods declaration**.
- c) The import goods declaration-based PP must be **captured on the** amended declaration, **as set out in SC-CF-55-A01, by inserting:**
 - i) The **required** PP abbreviation in the Duty Tax Type field; and
 - ii) The PP amount.
- d) A PP may not be accepted pending the production of general import permits, for example EUR1 certificates.
 - i) A PP may only be accepted pending the production of permits required under other Acts or by other organisations. This includes, for example a permit issued by the Commissioner of the South African Police Service for the importation of dangerous weapons or goods subject to release by the Plant Inspector.
 - ii) **Where a permit is required from another authority**, the client must provide written confirmation from the relevant organisation that a valid permit exists. The client must also forward **an electronic** copy of the permit to the Controller/Branch Manager.
 - iii) These PPs must not be less than R5 000.
- e) The client must lodge an import goods **declaration-based PP** for processing, for example **in the following cases:**
 - i) Temporary imports under Schedule 4 – the reason for lodging such PP will be to cover duties and VAT pending proof of export.
 - ii) In respect of Anti-dumping duty, safeguarding and countervailing.
 - iii) Provisional declaration – where goods are imported and at the time the importer is not able to declare the correct tariff heading or value for Customs duty purposes due to a dispute and “on consignment goods” where the value is not known at time of importation. The importer is then requested to lodge a PP to cover the additional duties and taxes that may be applicable as a result of the dispute.
 - iv) In cases of “possible underpayments” in duty on **goods declarations**, clients are not required to sign the application in terms of Section 91 portion of a PP. An example of this would be where a local tariff determination is not accepted by the importer, the matter would be referred to Head Office for tariff determination on a DA 314 and a PP would be lodged to cover the possible duties and taxes which may become payable.

3.3 Completion and submission of a manual provisional payment

- a) A DA 70 (hard copy) must be submitted manually for non-declaration PPs. Completion of the DA 70 is explained in SC-CF-25-A01.
- b) The manual submission and processing of a DA 70 (hard copy) must only be used for PPs lodged for the following reasons:
 - i) Cash desk for unregistered clients;
 - ii) Carnets, **set out in SC-TA-01-04**;
 - iii) Non-declaration types of contraventions, for example late submission of acquittal **as listed in SC-CO-01-01-A01**;
 - iv) Export **goods declarations, as documented in SC-CF-55**; or
 - v) **Service Manager technical issues**.

- c) The PP (hard copy) must be submitted at the SARS office closest to the client's business premises. The client must complete and sign the PP, unless it is completed by a **Customs** Officer.
- d) Before submitting the prescribed PP form (DA 70) to the Customs Branch Office the **client** must:
 - i) Complete the DA 70 and ensure that all required fields are completed in accordance with SC-CF-25-A01; and
 - ii) Attach a copy of the:
 - A) Inspection report; or
 - B) Official letter issued to the client.
- e) **Unregistered clients must make use of a clearing agent to submit a manual PP on their behalf.**
- f) The Branch Officer receiving the PP must **verify compliance by confirming that the:**
 - i) PP is completed correctly;
 - ii) **PP is signed, where applicable;**
 - iii) PP's time period is indicated correctly; and
 - iv) PP amount is **calculated correctly.**
- g) If any mistakes are found with the completion of the PP, the PP will be rejected and the reason for rejection will be written on the back of the PP (this would be the fold over the bottom right-hand corner of the form). The Customs Officer rejecting the PP will print his/her name and provide a contact number for any queries relating to the rejection **as documented in** SC-CF-25-A01.
- h) The PP is handed back to the client or placed in the client's box.
- i) If correct, the Enquiry Officer will sign the PP in the field "for official use only" and complete the internal process.
- j) The first copy of the PP and a copy of the CEB01 which reflects the case number and PRN is handed to the client, alternatively the documents are placed in the client's box as notification that payment should be made.
- k) The client must use the payment reference number (PRN) on the CEB01 to make payment.
- l) The case number is the unique PP number which must be used for liquidation purposes.
- m) The Customs Officer or Team must receive a processed copy from the client as proof of payment.
- n) In instances where an amended **goods** declaration must also be processed, the client must insert the PP case number on the amended **goods declaration** and submit to Customs for processing.

3.4 Payment process

- a) No refund or payment can be made if the banking details are not captured and authenticated on the relevant system. For the process of authentication refer to SC-CF-19.
- b) Deposits **lodged as** a PP in lieu of bonds (SC-SE-05), at time of licensing or registration are not accepted for surety for any new applications.
- c) Deposits will only be accepted for duty and/or VAT which are due or may become due, pending compliance with a specified condition or obligation to Customs within a stipulated period, for example the **goods declaration process.**
- d) Payments made on a PP can only be made via EFT/eFiling or cash. The deferment scheme cannot be used for PPs.

- e) Clients required to declare goods electronically in terms of Rule 101A.01A(2)(a)(v) must, whether or not registered for payment of duty, use the SARS eFiling service when making payment to SARS **as explained in** GEN-PAYM-01-G01.
- f) A Customs Officer will capture the manual PP and provide the client with a copy of the CEB01 **reflecting** the PRN to enable payment.
- g) Goods (cargo) must not be released before payment of the PP is received.**

3.5 Maintenance and compliance of provisional payments

3.5.1 Extension of time period

- a) Clients may apply for **an** extension of the time period within which the PP conditions must be complied with, **before expiry of the PP**.
- b) A **written** application for extension must be made on a company letterhead. The minimum information required on the application letter must contain the following:
 - i) SSM reference <insert PP case number>;
 - ii) Local/Movement reference number <insert LRN/MRN>;
 - iii) Applicant details <insert name and client code>;
 - iv) Insert reason for extension of time period and number of days required; and
 - v) Insert the declaration as below: "I <insert full names>, for and on behalf of <insert company's/client's name>, in my capacity as <insert capacity>, am duly authorised to sign this declaration. I hereby undertake to comply with the requirements of the Customs and Excise Act, 1964, and the rules in respect of the goods or circumstances to which this provisional payment relates within the period determined by the Commissioner."
- c) The letter must be signed and dated by the client. **The following applies** for a:
 - i) Import **goods** declaration-based PP the letter must be scanned to the PP case as documented in SC-CF-55; or
 - ii) Manual PP the letter must be submitted to the Branch Office where the original PP was lodged.
- d) Customs will consider the reason for the requested extension and assess each application on its merits.
- e) The client must be notified:
 - i) For import **goods declaration**-based PPs via a CUSRES message. If the application is granted, a CUSRES 48 will be sent to the client including the new expiry date. **For a list of all the possible CUSRES messages refer to SC-CF-55-A09.**
 - ii) For manual PPs via a written communication.
- f) Calendar Days**
 - i) **Customs applies calendar days when calculating prescribed time periods, unless otherwise specified.**
 - ii) **Legislative time periods must be calculated in accordance with Section 4 of the Interpretation Act No. 33 of 1957, by excluding the first day and including the last day. Where the last day falls on a Sunday or public holiday, the period extends to the next day that is not a Sunday or public holiday.**

3.5.2 Record a registered appeal

- a) The current process of lodging an appeal against penalties and forfeiture by submitting a DA 51 must be followed.
- b) The client must scan a copy of the registered appeal, DA 51, to the PP case to be recorded on the register.

- c) The declarant (declaration-based PPs) will receive a CUSRES 43 confirming that the appeal application received was recorded on the PP register.
- d) Once an appeal is recorded against a PP the system will not allow liquidation of such PP unless the appeal is finalised and the appeal status removed from the system.
- e) Once the appeal process has been finalised, the client must liquidate the PP accordingly and attach the final outcome of the appeal to the PP case, if applicable.

3.5.3 Liquidation of provisional payments

- a) An application to liquidate a PP should be received:
 - i) From the client once the conditions under which the PP was lodged are complied with; or
 - ii) Where an Internal Administrative Appeal Committee decided to refund a part or full amount of a PP deposited by a client.
- b) Clients must ensure that where PPs are to be liquidated the following are adhered to:
 - i) All PP conditions have been fully dealt with or met.
 - ii) All PPs must be liquidated in full before the PP becomes time expired. SARS may audit the client's documents that relates to the PP concerned.
- c) Liquidation is allowed on a penalty or forfeiture under the following circumstances:
 - i) After the expiry date plus seven (7) days has been reached and the client has been notified of the intention to liquidate; or
 - ii) If an appeal on the case has been finalised.
- d) Where the conditions for lodging a PP have not been complied with, duties and taxes covered by the PP must be brought to account on an amended goods declaration as documented in SC-CF-55 and the PP liquidated by the client.
- e) If the conditions of the PP require that an invalid, or incorrectly presented goods declaration be adjusted, see Sections 39 and 40, the amounts due, or correction needed must be adjusted or brought to account on an amended goods declaration.
- f) PPs covering possible duties, VAT and penalties pending the outcome of court cases or appeals may not be liquidated.
- g) The onus rests upon the client to ensure that the lodged PP is followed up and liquidated within the time period indicated on the PP.
- h) A reminder letter of outstanding PPs will be forwarded to clients on a regular basis indicating that the listed PPs were not liquidated within the stipulated periods.
- i) PPs lodged as surety may only be liquidated to the declarant and not to SARS.
- j) If a client repeatedly fails to liquidate PPs within the required period without a valid reason, SARS may take corrective action to secure future compliance. The imposition of nominal, disciplinary penalties in terms of the Act would be a consideration.
- k) The liquidation of a PP will require that the client has a financial account at the specific Customs office or a national financial account (cash account).
- l) If a PP liquidation results in a credit, no refund will be issued to the client until the client's authentication has been done. The client authentication process will create a financial account for the client upon which the refund amount of the PP may be requested. Refer to SC-CF-19 for authentication details.

3.5.4 Liquidation of manual provisional payments

- a) If the conditions of the PP require that an invalid, or incorrectly presented **goods** declaration be adjusted, see Sections 39 and 40, the amounts due, or correction needed must be adjusted or brought to account on an amended **goods** declaration, and processed by the client.
- b) The client must submit the liquidation application and supporting documents to the Customs Officer. The supporting documents may include literature or an inspection report. The Customs Officer will consider the application and may approve the liquidation of the PP.
- c) If the proof provided does not comply with the PP conditions the Customs Officer will reject the application with a written reason, signature and name printed at the back of the PP to the client.
- d) Clients must submit a letter indicating the reasons for the non-compliance of the conditions for liquidating PPs within the prescribed time to the Controller/Branch Manager.
- e) If a PP is older than two (2) years such PP will not be liquidated and the money will not be refunded to the client as the payment is forfeited to SARS.

3.5.5 Liquidation of import **goods declaration**-based provisional payments

- a) For the finalisation of the payment of the provisional charge as set by ITAC, the following must be adhered to:
 - i) To finalise PPs where Anti-dumping Duty is imposed retrospectively in terms of Section 56:
 - A) The Anti-dumping duty is brought to account on an amended declaration inserting the Anti-Dumping item and thereafter the PP may be:
 - I) Offset against the PP as legislated in Section 57A(3);
 - II) Liquidated; or
 - III) Refunded.
 - B) Where the amount of the PP on the goods in question:
 - I) Exceeds the duty retrospectively imposed on the goods, the amount of the difference must be refunded to the depositor; or
 - II) Is less than the amount of the Anti-dumping Duty imposed, the amount of the difference must not be collected (refer Section 57A).
 - ii) To finalise PPs where no retrospective Anti-dumping Duties are imposed the PP must be liquidated and made payable (refunded) to the depositors.
 - iii) The periods for which PPs are held pending the imposition of Anti-dumping Duty, must normally not exceed six (6) months, but the period would be in line with that in the Government Gazette notice.
 - A) The PPs must be finalised or liquidated within the six (6) month period, unless the Minister of Finance has extended the time.
 - B) Controller/Branch Managers monitors PPs from becoming time expired, i.e. held for a period of more than six (6) months without reason or authority.
 - iv) Exemption from payment of Anti-dumping Duty
 - A) In terms of Section 55(5) the Commissioner may exempt certain goods from the payment of Anti-dumping Duty.
 - B) These goods are trade samples, replacement parts and other goods imported not for trade purposes.
- b) The administration or control measures for safeguarding and countervailing duties are similar to those mentioned for Schedule 2 Part 1 (Anti-dumping).
- c) A client must submit an amended **goods declaration** to liquidate a PP, and scan documentary proof to the PP case as documented in SC-CF-55.
- d) Once the declarant has complied with the conditions of the PP, the client must apply for liquidation of the PP which is done by submitting an amended **goods declaration** removing the original PP amount.
- e) If PP conditions are not met, duties and/or VAT must be brought to account on an amended **goods declaration** including the liquidation request.

- f) For finalised appeal cases where PP amounts must be liquidated to the declarant in full or in part, the client must submit an amended **goods declaration** to liquidate the PP.
- g) The declarant will receive a CUSRES 13 message to submit supporting documents relating to the compliance of the PP conditions.
- h) Once accepted, a CUSRES 27 and 45 and/or 49 message is sent to the declarant.
- i) Any credit due will be posted to the declarant's financial account (FAN).

4 REFERENCES

4.1 Legislation

TYPE OF REFERENCE	REFERENCE
Legislation and Rules administered by SARS:	Customs and Excise Act No. 91 of 1964: Sections 3(1), 39, 40, 47(9), 55(2)(b), 57A(1) to (3) and (5), 60, 64, 65, 76(4)(a), 76B, 80, 81, 83, 84, 87, 88, 91, 93, 98, 99, 107 and 113 VAT Act No. 89 of 1991: Section 7(1)(b)
Other Legislation:	Bill of Exchange Act No. 34 of 1964: All Interpretation Act No. 33 of 1957: Sections 2 and 4 Payments Association of South Africa (PASA): All Public Finance Management (PFMA) Act No. 1 of 1999: Sections 7, 12, 21, 29, 40(1a), 45, 76(2)(h), 51 and 55 Treasury Regulations issued in terms of PFMA Act No. 1 of 1999: Part 5 paragraphs 11.3 and 15.4; Part 6 paragraphs 15.9 and 15.12; Part 7 paragraphs 17.2 and 18
International Instruments:	International Financial Reporting Standards (IFRS): All Revised Kyoto Convention General Annex: Chapter 3 Standards 3.8, 3.12, 3.41 and 3.43; Chapter 4 Standard 4.23; Chapter 5 Standard 5.1 - 5.3, 5.6 and 5.7; Specific Annex B Chapter 3 Standard 1 and Specific Annex J Chapter 1 Recommended Practise 15 WCO SAFE Framework of Standards: None Generally Accepted Accounting Practice (GAAP): All Generally Recognised Accounting Practice (GRAP): All

4.2 Cross References

DOCUMENT #	DOCUMENT TITLE
GEN-PAYM-01-G01	SARS Payment Rules – External Guide
SC-CF-19	Licensing Registration and Designation – External Policy
SC-CF-25-A01	Completion of DA 70 – External Annexure
SC-CF-55	Goods Declarations – External Policy
SC-CF-55-A01	Completion of Goods Declarations – External Annexure
SC-CF-55-A09	Customs Status Response Messages – External Annexure
SC-CO-01-02	Offences and Penalties – External Policy
SC-CO-01-01-A01	Contravention List – External Annexure
SC-PA-01-11	Traveller Processing – External Policy
SC-SE-05	Bonds – External Policy
SC-TA-01-04	ATA and CPD Carnet – External Policy
SE-PP-02	Excise Provisional Payments – External Policy

4.3 Quality Records

NUMBER	TITLE
CEB01	Customs/Excise Billing
DA 51	Internal Administrative Appeal
DA 70	Application to Make Provisional Payment

NUMBER	TITLE
DA 314	Application for Tariff Determination
SAD 500	Customs Declaration Form

5 DEFINITIONS AND ACRONYMS

The definitions, acronyms and abbreviations can be accessed via the following centralised link: [Glossary webpage A-M](#) and [Glossary webpage N-Z](#).