

SMME Trader Rights and Obligations

South African Revenue Service



The purpose and SARS Vision 2024

Purpose:

- This presentation is merely to provide information in an easily understandable format and is intended to make the provisions of the legislation more accessible
- The information therefore has no binding legal effect and the relevant legislation must be consulted in the event of any doubt as to the meaning or application of any provision.

SARS Vision

To build a smart modern SARS with unquestionable integrity, trusted and admired by Government, the public, as well as our international peers.

We focus on the following strategic intents:

**MAKE IT EASY &
SIMPLE TO
COMPLY**

**MODERNIZE
SYSTEMS TO PROVIDE
SEAMLESS ONLINE
DIGITAL SERVICES**

**CREATE
AWARENESS,
CLARITY &
CERTAINTY**

**MAKE IT HARD TO
NOT COMPLY**

Legislation

Points of Discussion



SMME Trader Rights & Obligations

Dispute, Appeal & Alternative Dispute Resolution

Fraud & Corruption

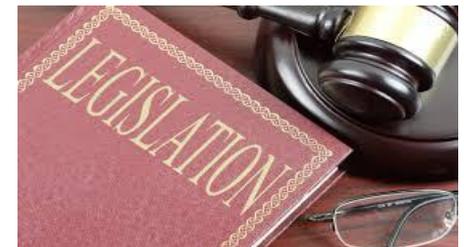
Safety, Security, Harassment & Gender-Based Violence

SMME Trader Rights & Obligations



SARS Mandate & Legislation

- Constitution of the Republic of South Africa, Act 108, 1996
- Promotion of Access to Information Act 2, 2000
- Promotion of Administrative Justice Act 3, 2000
- Protection of Personal Information Act 4, 2013
- Public Finance Management Act 1 of 1999
- Income Tax Act, 1962
- Customs and Excise Act, 1964
- Value-Added Tax Act, 1991
- Tax Administration Act, 2011



Service Charter Small Print



Where it is not explicit in the charter about customs and excise, customs and excise should be regarded as a tax. Tax system should be regarded as inclusive.

Disclaimer:

This Charter (including any time periods stipulated herein) is subject to any applicable Act of Parliament. Should any aspect of this Charter be in conflict with the applicable legislation, the applicable legislation will take precedence.

Meaning of Service Charter Rights and Obligations

You have a Right to:

Clarity and certainty (to be informed) of obligations to SARS

- Be empowered & enabled as a taxpayer & trader proactively
- Receive customized support
- Have access to leverage products (digital & manual)
- Participate in SARS surveys

You have an Obligation to:

Timeously engage, register, and comply with legal obligations

- Find out and honour due dates
- Register for relevant tax and subscribe to others as you meet minimum requirements
- Withhold any trust tax money and pay it over to SARS on time

Meaning of Service Charter Rights and Obligations

You have a Right to:

Excellent service irrespective of the method of engagement with SARS

- Experience high-quality service
- SARS to exceed taxpayer's expectations
- Consistent service wherever one engages SARS
- Service recovery on raised issue

You have an Obligation to:

Cooperate in full, and provide accurate and truthful information through efficient and timeous engagement via appropriate channels

- No understatement or over declaration
- Engagement is through efficient and effective means or channel

Meaning of Service Charter Rights and Obligations

You have a RIGHT to:

Be heard, complain and lodge disputes that are resolved timeously

- When not satisfied, engage the immediate supervisor/manager there
- Escalate through SARS complaints processes
- Request for reasons if one does not understand an outcome
- Lodge an objection within prescribed timelines
- Escalate to Office of Tax Ombud if exhausted SARS processes in disagreement with SARS on administrative matters

You have an OBLIGATION to:

Provide all supporting documentation and information within the required timeframes

- Acquaint with SARS issued letters on requested information
- Safely store used data and or information used for tax purposes for a minimum of five years
- Observe timelines
- Update SARS with current contact and banking information

Meaning of Service Charter Rights and Obligations

You have a RIGHT to:

Be treated without fear, favour, or prejudice by SARS in a confidential manner, within the relevant legislative framework

- All to be equal before the law
- No intimidation or harassment
- No unfair treatment
- No unlawful disclosure of taxpayer-declared information
- Be treated professionally by SARS

You have an OBLIGATION to:

Act honestly and have respect for the tax system

- Honour your tax obligations
- Be loyal to the country & tax system
- Assist in deterring non-compliance by reporting tax fraud and non-compliance with tax legislation
- Refuse to collude or conceal criminality
- Report any fraud or criminality you are aware of
- Apply your fiscal citizenry responsibility all the time

Meaning of Service Charter Rights and Obligations

You have a RIGHT to:

Be represented by a professional

- Ethically qualified certified and or practitioner/agent can be authorized to handle your matters with SARS
- All transactions done in the account by representative will be regarded as done by the taxpayer/trader
- Representative will participate in stakeholders' forum on taxpayer's behalf to improve tax administration

You have an OBLIGATION to:

Accept personal responsibility for all SARS affairs and not abdicate accountability

- Your tax reference number(s) and your credentials remain your identity and will be safely stored
- Representation does not delegate accountability
- Whatever your representative is authorized to do, it is on your behalf

Meaning of Service Charter Rights and Obligations

You have a RIGHT to:

Respect by all SARS officials

- Courteous behaviour all the times
- Respect is mutual
- Considered honest unless proven otherwise
- Delightful service experience by all SARS officials

You have an OBLIGATION to:

Respect for the legislative work done by all SARS officials

- Accept an enquiry/transaction outcome to have been done faithfully
- Will be factual in all transactions
- Accept that voluntary compliance is the taxpayer's responsibility
- Avoid tax evasion and illegal tax avoidance



Dispute

A dispute resolution process is initiated when the Trader is aggrieved by an assessment or not satisfied with a decision taken by SARS if the decision is subject to objection and appeal, they have a right to dispute the assessment or decision.



Purpose of the Internal Administrative Appeals & Alternative Dispute Resolution Guidelines

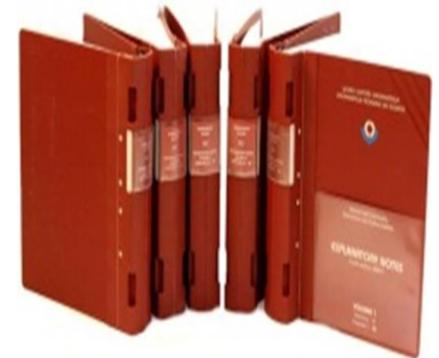
To formalize the appeal process with a view to:

- Bringing SARS closer in line with international best practice
- To seek a fair, equitable and legal resolution of the dispute between an aggrieved Trader and SARS
- Eliminating the problems experienced in the past
- Making provision for specific committees and stipulating the Appeals each should deal with
- Aligning the dispute resolution process within SARS and also with the Constitution and the Promotion of Administrative Justice Act
- Providing both officers and stakeholders with guidelines as to exactly what process should be followed

Legislation

The right of appeal in Customs matters originates from the Kyoto Convention (Chapter 10 of the General Annex) and is provided for in the legislation and procedures of many Customs administrations.

The legal provisions for the Internal Administrative Appeal Process are contained in Sections 77A to H of the Customs and Excise Act and Rules 77H.01 to 77H.16.



Appeal Process

Lodging An Appeal



Appeals must be in writing under cover of a duly completed and signed form DA51 and submitted to the office where the decision was made and must be delivered to the manager of the office/head of Division in Head Office within 30 days of the date of the decision, or, where reasons for a decision were requested, within 30 days from the date the appellant was advised that sufficient reasons have already been provided or within 30 days from the date the reasons were in fact provided.

Failure to comply with the requirements of form DA51 may result in the appeal not being accepted as valid and rejected which will result in delays in the finalisation of the appeal.

Form DA 51 is available on: www.sars.gov.za/?s=DA51

Appeal Process

Acknowledgment of receipt

Receipt of appeals must be acknowledged in writing within 10 days of receipt provided all information and documents are available and must be finalized as soon as possible but not later than 60 days after the appeal was lodged

Ensure that all the information / supporting documentation is submitted

Where all the information is not submitted the applicant must be requested in writing to provide the missing information and documents

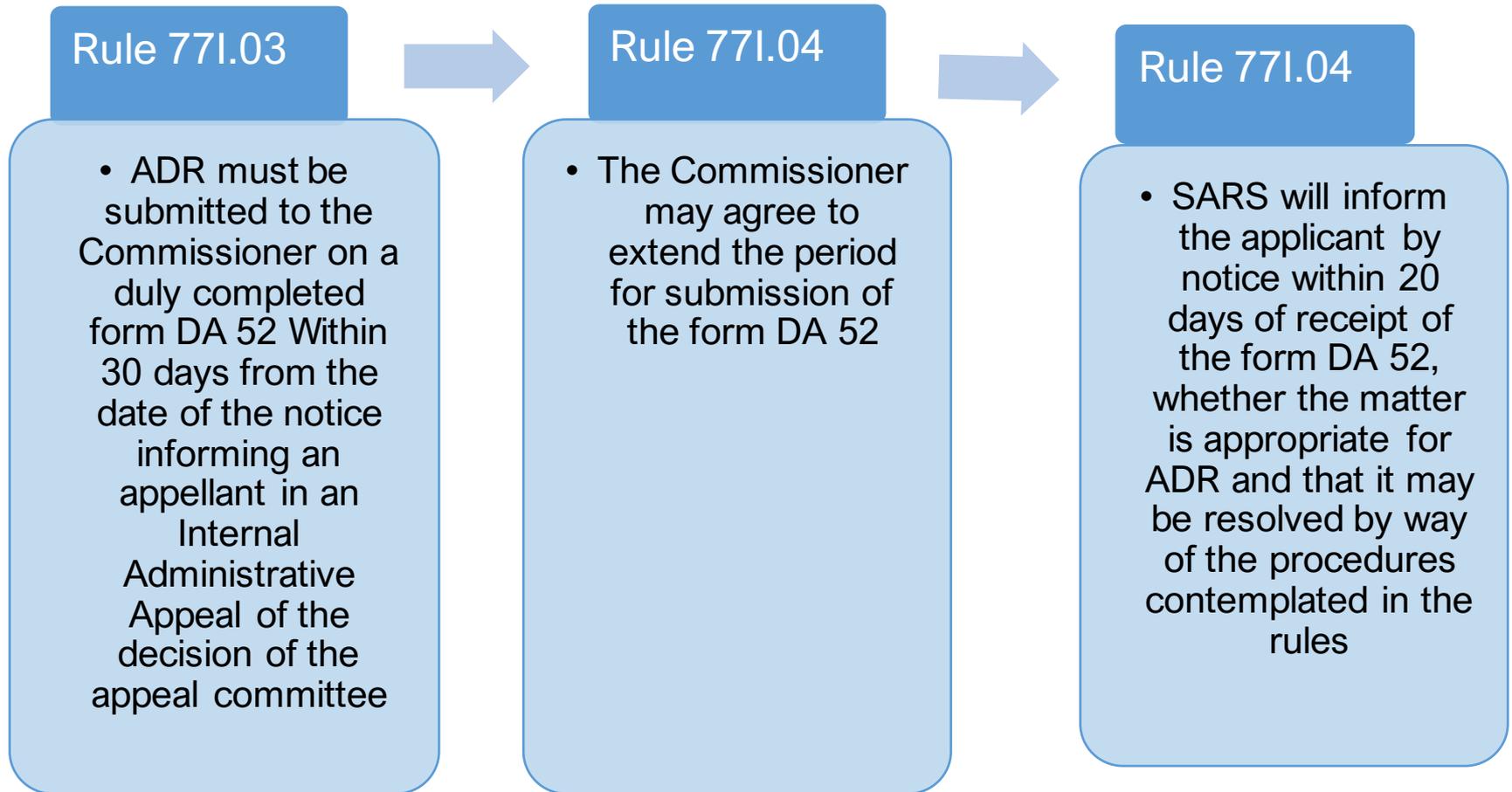


Alternative Dispute Resolution (ADR) / Objection Process

Section
77I of the
Act

- The ADR Process may be initiated by the aggrieved Trader; however, SARS determines whether a matter is suitable for ADR.
- An aggrieved Trader may elect the ADR process following a decision of an appeal committee.
- Tariff, Valuation and Origin matters are considered to be of a technical nature. ADR would require the expertise of the Tariff, Valuation and Origin Division in cases where they are aggrieved by the CENAC.
- An Appellant who disagrees with the VAT part of an Appeal Committee decision must be advised that an objection must be submitted by the Appellant using the manual ADR1-notice of objection form in addition to the customs appeal process (DA52).

ADR Process after Internal Administrative Appeal



Form DA 52 is available on: www.sars.gov.za/?s=da52

ADR Process as an Alternative to Judicial Proceedings

Rule 771.03

- The Trader must deliver a duly completed form DA 52 to the appropriate Appeal Committee, should he/she wish to pursue the ADR process within 30 days

Rule 771.03

- Should DA 52 form not be delivered within 30 days after the date of the notice by SARS, the matter may not be dealt with under the procedures contemplated in these rules

Rule 771.04

- SARS will inform the Trader whether the matter is appropriate for ADR within 20 days after receipt of such a notice

Fraud and Corruption

Fraud and Corruption



SARS is committed to clamping down any activities relating to tax fraud; however, tax matters are confidential, and therefore no feedback can be provided to any whistle-blower in terms of Section 67 to 69 of the Tax Administration Act.

You can report any suspicious activity through the channels below:

<https://secure.sarsefiling.co.za/AdHocCaseSourcing>

Hotline: 0800 00 2870

Reporting Channel for cases involving employees

- Where an employee solicits payments for any SARS service
- If you suspect that any bribery, fraud, theft or other breach has occurred or may occur with the involvement of/by any SARS employee
- You may request to remain anonymous should you and/or the circumstances so require
- Reports must be made in good faith – i.e., reasonable suspicion must exist

Report any fraud, corruption, serious misconduct or unethical behaviour here:

Anti-Corruption@sars.gov.za

SpeakOut@sars.gov.za



Safety, Security, Harassment & Gender-Based Violence

Bill of Rights – Sec 195

195. Basic values and principles governing public administration

1. Public administration must be governed by the democratic values and principles enshrined in the Constitution, including the following principles:

- a. A high standard of professional ethics must be promoted and maintained.
- b. Efficient, economic and effective use of resources must be promoted.
- c. Public administration must be development-oriented.
- d. Services must be provided impartially, fairly, equitably and without bias.
- e. People's needs must be responded to, and the public must be encouraged to participate in policy-making.
- f. Public administration must be accountable.
- g. Transparency must be fostered by providing the public with timely, accessible and accurate information.
- h. Good human-resource management and career-development practices, to maximise human potential, must be cultivated.
- i. Public administration must be broadly representative of the South African people, with employment and personnel management practices based on ability, objectivity, fairness, and the need to redress the imbalances of the past to achieve broad representation.

SARS - A harassment & Gender-Based Violence Free Environment

You are now entering a Gender-Based Violence Free Zone. SARS is intolerant of any form of harassment, bullying or any act of violence within these premises



Safety, Security, Harassment & Gender-Based Violence

SARS will endeavour to create a safe environment for everyone by encouraging its officials to monitor their individual behaviours and speaking up when colleagues cross the line, or by reporting instances wherein the working environment is unsafe.

Encourages cultural diversity

SARS embrace tolerance, diversity and the protection of women, vulnerable groups at various ports of entry and will endeavour to ensure their safety and build a better trade facilitation environment for future generations and women in particular.

Freedom to trade

Women of racial groups should be freely given a space to conduct trade of their choice at the ports of entry without fear of harassment and prejudice based on gender.

Safety, Security, Harassment & Gender-Based Violence

Traders and Travellers are encouraged to speak out whenever they experience any form of harassment within the ports of entry. The following emergency numbers should be contacted to report cases of gender-based violence:

Emergency Numbers

SARS National Security Command Centre: **012 422-6025/6031**

GBV Command Centre: **0800 428 428**

SAPS Crime Stop: **0860 10111**

Stop Gender Violence: **0800 150 150**



SPEAK UP!

“SARS will, at all material times, listen attentively to victims of gender-based violence i.e. We hear you. We believe you. We stand with you”.

Remember our Digital Channels

▪ We've made it easier for you

Go Digital!

- Download the SARS MobiApp via your app store
- Register for eFiling
- SARS Online Query System
- USSD System

▪ Visit us on our Social Media platforms

- LinkedIn



- Facebook



- Twitter



- For more information, visit the:

- SMME webpage on the SARS website: www.sars.gov.za. This can be accessed on landing page.

- SARS TV - YouTube channel: www.youtube.com/sarstv



Thank you
Re a leboha
Re a leboga
Ndza Khensa
Dankie
Ndi a livhuwa
Ngiyabonga
Enkosi
Ngiyathokoza