

SOUTH AFRICAN REVENUE SERVICE

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CUSTOMS AND EXCISE ACT, 1964 AMENDMENT OF RULES (NO. DAR/37)

Under sections 7, 11 and 120 of the Customs and Excise Act, 1964, the rules published in Government Notice R.1874 of 8 December 1995 are amended to the extent set out in the Schedule hereto.

PRAVIN JAMNADAS GORDHAN
COMMISSIONER FOR THE SOUTH AFRICAN REVENUE SERVICE

SCHEDULE

(a) By the insertion after rule 7.13 of the following rule:

“Special provisions in respect of the report of arrival of a foreign fishing vessel from which fish will be landed for storage as contemplated in section 21(3)

- 7.14 (a) Where the master of a foreign fishing vessel from which fish will be landed for storage as contemplated in section 21(3), or the master’s agent appointed in terms of section 97, reports the arrival of the vessel, form DA 1 must, in addition to any other document required in terms of rule 7.01, be accompanied by a duly completed Cargo Declaration DA 1A which shall be deemed to be a manifest for the fish landed from such vessel.
- (b) Form DA 1A must be amended and submitted to the Controller, after sorting of the fish in an export storage warehouse as contemplated in the rules for section 21(3), not later than three days after receipt of the account (DA 1B) contemplated in rule 21.03.09(b)(ii)(bb).”

(b) By the insertion after rule 11.02 of the following rule:

“Special provisions in respect of fish landed from a foreign fishing vessel

- 11.03 (a) Fish landed from a foreign fishing vessel for the purposes contemplated in the rules for section 21(3) must, if the Controller so permits, be delivered by the master or the master’s agent appointed as contemplated in section 97 to a special export storage warehouse as provided for in those rules.
- (b) (i) When delivering the fish, the master or master’s agent must declare on two copies of form DA 1A that all fish landed have been delivered to the special export storage warehouse and furnish both copies to the licensee of that warehouse.
- (ii) The licensee of the special export storage warehouse must acknowledge receipt of the fish on those copies –
- (aa) return one copy to the master or master’s agent, and
- (bb) retain one copy which must be submitted to the Controller together with the account (DA 1B) contemplated in rule 21.03.09(b)(ii)(bb).
- (c) Fish so delivered shall, from the time of delivery, be subject to the provisions of section 21(3) and its rules.”

(c) By the insertion after the rules for section 20 of the following rules:

“RULES FOR SECTION 21

The rules numbered 21.03 followed by further digits relate to goods and the activities in respect thereof contemplated in section 21(3)

Definitions

21.03.01 For the purposes of these rules and any form or other document to which these rules relate, unless otherwise specified or the context otherwise indicates -

(a) any word or expression to which a meaning has been assigned in the Act bears the meaning so assigned, and

“**activity**” or “**activities**” means any activity or activities in connection with the storage or handling of goods in, or removal of goods from an export storage warehouse;

“**BLNS country**” means the Republic of Botswana, the Kingdom of Lesotho, the Republic of Namibia or the Kingdom of Swaziland;

“**break bulk**” means goods received in the storage warehouse as separate packages;

“**bulk**” means a large quantity of unpacked dry or liquid homogeneous goods shipped loose in a ship or transported by a vehicle or in a container or other receptacle;

“**consolidated**”, “**consolidate**”, “**consolidation**” or any cognate expression relating to the packing of goods into one shipment, means goods from a consignor or several consignors that are consolidated for carriage to a consignee or several consignees by container or otherwise;

“**container**” means a container as defined in section 1(2);

“**customs and excise laws and procedures**” shall have the meaning assigned thereto in rule 59A.01(a);

“**deconsolidate**” includes to unpack any consolidated imported goods or to split one import shipment into various export shipments in an export storage warehouse;

“**export**” includes the removal of goods from a special customs and excise warehouse in the Republic to a consignee in a BLNS country and “**exporter**” has a corresponding meaning;

“**import**” includes the removal of goods from a BLNS country to a consignee for storage in a special customs and excise storage warehouse in the Republic and “**importer**” has a corresponding meaning;

“**special export storage warehouse**” means a customs and excise storage warehouse licensed for the purposes contemplated in these rules;

“**the Act**” includes any provision of “this Act” as defined in section 1 of the Customs and Excise Act, 1964 (Act No. 91 of 1964);

(b) any reference in these rules to “**goods**” or “**goods free of duty**” shall, unless otherwise specified, be deemed to include a reference to goods liable to duty entered for storage in a special export storage warehouse.

Delegation

21.03.02 Subject to section 3(2) where -

(a) any power that may be exercised by the Commissioner, except for the power to make rules, in accordance with the provisions of the Act, including these rules, is not specifically delegated; or

(b) any duty that shall be performed by the Commissioner in accordance with the provisions of the Act, including these rules, is not specifically assigned,

to any Controller or officer in these rules or in any section or rule regulating any requirement in respect of goods to which section 21(3) or these rules relate, such power is delegated or such duty is assigned, as the case may be, to the person responsible in the Operations section in the Customs division of the South African Revenue Service.

Application of section 21(3) and these rules

- 21.03.03 (a) The provisions of section 21(3) and these rules apply to -
- (i) goods and activities in any special export storage warehouse where -
 - (aa) goods are directly entered on importation for storage in such warehouse;
 - (bb) goods are directly entered on importation for storage in such warehouse and stored and consolidated or deconsolidated therein for export;
 - (cc) subject to paragraph (d), activities as contemplated in section 25, are undertaken by the licensee, accredited importer, exporter or clearing agent or any other person;
 - (ii) any fish landed from a foreign fishing vessel and delivered to a special export storage warehouse as contemplated in rule 11.03.
- (b) Provided section 21(3) and these rules are complied with, dutiable goods may also be stored in a special export storage warehouse, whether or not such goods are imported in the same consignment as goods free of duty.
- (c) The provisions of section 21(3) and these rules do not apply to -
- (i) any special customs and excise warehouse operating as -
 - (aa) a duty free shop; or
 - (bb) a supplier of stores for foreign-going ships or aircraft;
 - (ii) any goods, including goods from any BLNS country, brought into the Republic for transit to a country outside the Republic.
- (d) Except with the approval and under the supervision of the licensee, no activities contemplated in these rules shall be undertaken in such warehouse by any person other than the licensee.
- (e) Subject to rule 21.03.09(c)(iv), no goods entered for warehousing in a special export storage warehouse may be entered for removal in bond to -
- (i) any such or other customs and excise storage warehouse; or
 - (ii) any consignee in a BLNS country, except to a licensee of a customs and excise warehouse.

Entry of goods for storage and export

- 21.03.04 (a) (i) Any goods intended for storage in a special export storage warehouse, must be entered on a form SAD 500, purpose code WE.
- (ii) Goods so entered and received in such warehouse are subject to compliance with section 21(3) and these rules and, except on good cause shown, the relevant SAD 500 may not be substituted or cancelled for placing the goods under any other customs procedure.
- (b) (i) Where any entered particulars change prior to export due to repacking, consolidation or deconsolidation or for any other reason the relevant SAD 500 must be amended by a voucher of correction to reflect such change.
- (ii) Where goods are repacked or consolidated, the voucher of correction must reflect the countable quantities in which the goods are so repacked or consolidated.
- (iii) The goods concerned may not be exported unless the voucher of correction has been processed at the office of the Controller.
- (c) Goods imported into the Republic from a BLNS country or goods imported from outside the common customs area whether or not through a BLNS country that are destined for storage in a special customs and excise storage warehouse shall be subject to compliance with the following procedures:
- (i) (aa) At the office of the Controller where the goods enter the Republic -
 - (A) a form SAD 500, purpose code IM5 and a form SAD 502 for goods imported from a BLNS country;

- (B) a form SAD 500, purpose code RIB and a form SAD 502 or a form SAD 500 WE and a form SAD 505 for goods imported from outside the common customs area, must, notwithstanding that a SAD form may have been processed in a BLNS country, be processed for removal in bond of the goods to such warehouse;
 - (bb) security, as the Controller may require, for any duty or value-added tax in terms of the Value-Added Tax Act, 1991 (Act No. 89 of 1991) leviable on such goods must be furnished by the person entering the goods for removal in bond;
 - (ii) (aa) form SAD 500, purpose code WE and a form SAD 505 must be processed for the purpose of storage of the goods in the special customs and excise storage warehouse at the office of the Controller where the warehouse is situated;
 - (bb) a duly processed form SAD 500 and acknowledgement by the licensee may be accepted by the Controller where security is furnished as proof that the obligations under the removal procedure have been fulfilled.
- (d) Goods removed for export to –
- (i) a BLNS country, must be declared on a form SAD 500, purpose code XIB if dutiable goods and if non-dutiable goods, be declared on a form SAD 500, purpose code XE and a form SAD 502.;
 - (ii) a destination outside the common customs area whether or not carried through a BLNS country, must be declared on form SAD 500, purpose code XE and a form SAD 502.

Payment of duty and VAT on samples

- 21.03.05 Where any samples are taken as contemplated in rule 21.03.03(a)(i)(cc)(B), the duty and value added tax (VAT) payable thereon must be paid to the Controller before removal from such warehouse.

Storage and handling of goods

- 21.03.06 (a) Unless otherwise specified in section 21 and these rules, the provisions of the Act relating to the storage of goods in a customs and excise storage warehouse shall apply to goods stored in a special export storage warehouse.
- (b) (i) Any waste or scrap caused by sorting, grading or repacking or other process must -
- (aa) be destroyed under supervision of an officer monthly or at such intervals as the Controller may determine; or
 - (bb) be entered for home consumption; and
- (ii) the quantity destroyed or entered for home consumption deducted from the quantity entered for storage.
- (c) Goods removed from such warehouse for export, if wholly or partly transported by road, must, except if exempted by rule be carried by a licensed remover of goods in bond contemplated in section 64D.

Keeping of books accounts and documents

- 21.03.07 (a) For the purposes of section 101 and notwithstanding anything to the contrary in any rule contained, every licensee must -
- (i) keep proper books, accounts and documents and any data created by means of a computer, of all transactions relating to the activity in respect of which the licence is issued, for a period of five years calculated from the end of the calendar year in which any such document was created, lodged or required for the purposes of any customs and excise procedure;
 - (ii) include in such books, accounts, documents and any data any requirements prescribed in any provision of the Act in respect of a storage warehouse for imported goods;
 - (ii) produce such books, accounts, documents and data on demand at any reasonable time and render such returns or submit such particulars in connection with the transactions relating to the licensed activity as the Commissioner may require.

- (b) Such books, accounts, documents and data must include -
 - (i) Where applicable -
 - (aa) proper accounting reports of each type of goods received, stored, the operations carried out in respect thereof, the quantity of waste or scrap and the quantity of goods removed for export;
 - (bb) copies of invoices, dispatch delivery notes, bills of entry, transport documents, orders, payments received and made, and such other documents relating to the export of the goods of which particulars must be inserted on the bill of entry export as contemplated in rule 38.15;
 - (cc) copies of the contract of carriage entered into between the licensee and the licensed remover of goods in bond and delivery instructions issued to such remover in respect of each consignment;
 - (dd) a monthly reconciliation of all movements of goods into and out of such warehouse and operations carried out in respect thereof as contemplated in paragraph (aa);
- (c) The requirements specified in paragraphs (a) and (b) shall apply *mutatis mutandis*, as may be applicable in each case, to any importer, exporter, clearing agent or other person who partakes in any activity contemplated in these rules.

Licensing of a special customs and excise export storage warehouse

- 21.03.08 Any person or any licensee of any special customs and excise storage warehouse who intends operating an export storage warehouse must apply for a licence on form DA 185 and the appropriate annexure.

Special provisions relating to the handling and storage in a special export storage warehouse of fish landed from a foreign fishing vessel

- 21.03.09 *Definitions and application*
- (a) For the purpose of any activity relating to fish landed from a foreign fishing vessel and received in an export storage warehouse, unless the context otherwise indicates -
 - “fish” includes crustaceans, molluscs and other aquatic invertebrates classifiable in any item of Chapter 3 of Part 1 of Schedule No. 1;
 - “fishing vessel” includes a factory ship for processing fish;
 - “foreign fishing vessel” means a fishing vessel not registered in a Member State of SACU;
 - “sort” or “sorting” includes any activity -
 - (i) to determine the mass, species and quantity;
 - (ii) relating to the loading of such fish in a pallet and numbering of such pallet for tracking and identification purposes.
- Activities in a special export storage warehouse*
- (b) (i) The licensee of the export storage warehouse shall be -
 - (aa) liable for the duty on all fish received as contemplated in rule 11.03; and
 - (bb) be responsible for all activities in connection with the fish while stored in such warehouse.
 - (ii) Within three days after receipt of the fish the licensee must -
 - (aa) complete sorting;
 - (bb) record full particulars of the fish determined on sorting in account DA 1B; and
 - (cc) furnish copies of such account -
 - (A) to the master or master’s agent; and
 - (B) together with the copy of form DA 1A on which receipt of the fish is acknowledged, as required by rule 11.03, to the Controller.
- Entry*
- (c) Within 14 days after furnishing of the account (DA 1B) contemplated in paragraph (b)(ii)(bb) the fish must be duly entered, as may be applicable, on form SAD 500 for -
 - (i) storage for export;
 - (ii) home consumption;
 - (iii) removal in transit to a destination within or outside the common customs area; or
 - (iv) removal in bond to any other special export storage warehouse.

Defective, restricted or prohibited fish

- (d) (i) Any fish which are defective, or which are restricted or prohibited in terms of any law must be placed in a separate secure area of the export storage warehouse.
- (ii) Such fish must be destroyed in terms of the provisions of the Act, or exported on arrangement with and subject to such procedures as determined by the Controller.

Payment or deficiencies

- (e) There must be paid on demand to the Controller any duty and value-added tax due in terms of the Value Added Tax Act, 89 of 1991 -
 - (aa) by the master or the master's agent on any deficiency between landed quantities and quantities received in the special export storage warehouse;
 - (bb) by the licensee of the special export storage warehouse on any deficiency between quantities received and stored.

Implementation arrangements

21.03.10 After a period of 60 days from the date these rules are published, no person shall be allowed to deal with any goods as contemplated in these rules except in a special export storage warehouse."

(d) by the substitution for paragraph (b) of rule 25.01 of the following paragraph:

- “(b) This rule does not apply to any special customs and excise storage warehouse for which a licence is issued in accordance with the provisions of section 21 -
 - (i) allowing the licensee, subject to conditions imposed by the Commissioner, to dispose of goods from such warehouse in rendering services -
 - (aa) as a duty free shop;
 - (bb) as a supplier of stores for foreign-going ships and aircraft;
 - (cc) as a stockist for supplying specified goods for home consumption including under rebate of duty;
 - (dd) in respect of which the Commissioner, on good cause shown, determines that this rule is not applicable; or
 - (ii) for the storage of goods contemplated in section 21(3).”

(d) By the insertion of the following forms in item 202.00 in the Schedule to the rules:

- “DA 1A - Cargo Declaration (in respect of fish landed from foreign fishing vessels;
- DA 1B - Account (of fish landed from foreign fishing vessels and received into a special export storage warehouses)”

