

SOUTH AFRICAN REVENUE SERVICE

Government Gazette No. 43245

No. R.473

2020-04-24

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

CUSTOMS AND EXCISE ACT, 1964

AMENDMENT OF RULES

Under sections 8, 59A, 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 24 April 2020.**

EDWARD CHRISTIAN KIESWETTER

COMMISSIONER FOR THE SOUTH AFRICAN REVENUE SERVICE

SCHEDULE

Amendment of rule 8.04

1. The following rule is hereby substituted for rule 8.04:

“Registration of persons submitting reporting documents

8.04 (1) A person required in terms of these rules to submit a reporting document must, notwithstanding being registered or licensed under any other provision of the Act, apply for registration, in accordance with subrule (2), as a person submitting reporting documents.

(2) An application referred to in subrule (1) must –
(a) be submitted –
(i) electronically via –
(aa) eFiling or another electronic communicative system administered by SARS, as may be applicable; or
(bb) branch front end capturing, by visiting a Customs and Excise Office where this service is available, as indicated on the SARS website; or
(ii) in paper format to the Commissioner on form DA 8, DA 8A, DA 8B[,] or DA 8C, as may be applicable, and the appropriate annexure to the relevant form, at a Customs and Excise Office as indicated on the SARS website for receipt of such applications;
and
(b) comply with all the requirements specified on the electronic application, the relevant form or the annexure.

(3) An application referred to in subrule (2)(a)(ii) must, in the case of **[the]** an applicant [being] intending to act as a registered agent of a carrier not located in the Republic **[and intending to]** for purposes of submitting reporting documents on behalf of that carrier as contemplated in rule **8.05**, be **[accompanied]** supported by form DA 185.D.

(4) (a) No supporting document that must in terms of a requirement referred to in subrule (2)(b) be submitted to the Commissioner in support of an application, needs to be submitted in respect of a subsequent application for registration or licensing, unless the information has subsequently changed or the Commissioner specifically requests that the document must be submitted.

(b) A supporting document submitted electronically in accordance with subrule (2)(a)(i) may for purposes of this rule be regarded to be the original of the relevant document required unless the Commissioner determines otherwise.

(5) For purposes of this rule “branch front end capturing” as referred to in subrule (2)(a)(i)(bb), means the electronic capturing by an officer at a Customs and Excise Office as indicated on the SARS website, of information provided by the applicant as may be required for the application, on the SARS electronic system used for purposes of processing applications.”.

Substitution of rule 19.01

2. The following rule is hereby substituted for rule 19.01:

“[Approval] Licensing of customs and excise warehouses

19.01 An application **[form]** for the licensing of a customs and excise warehouse shall be completed in all details and shall be **[accompanied]** supported by such plans (signed and dated by the applicant), description of the warehouse or other particulars as may be required.”.

Amendment of rule 19.02

3. Rule 19.02 is hereby amended by the substitution for the words preceding paragraph (a) of the following words:

“**19.02** Application for the licensing of a customs and excise warehouse may be made to the **[Controller] Commissioner** in respect of – ”.

Amendment of rule 19A.02

4. Rule 19A.02 is hereby amended –

(a) by the substitution for subparagraph (i) of paragraph (a) of the following subparagraph:

“(i) apply in accordance with rule 60.01A(b)(ii) **[on form DA185 and the appropriate annexures thereto]** and must comply with all the requirements specified **[therein,]** on form DA 185 and the relevant

annexure, in these rules, any relevant section or item of Schedule No. 8 governing such licences, any requirement specified in Schedule No. 6 and any additional requirements that may be determined by the Commissioner;”;

- (b) by the deletion of subparagraph (ii) of paragraph (b); and
- (c) by the deletion of paragraph (c).

Substitution of rule 21.03.08

5. The following rule is hereby substituted for rule 21.03.08:

“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 in accordance with rule 60.01A(b)(ii) [on form DA 185 and the appropriate annexure].”.

Amendment of rule 21.04.03

6. Rule 21.04.03 is hereby amended by the substitution for subparagraph (i) of paragraph (a) of the following subparagraph:

“(i) apply for a special customs and excise storage warehouse licence in accordance with rule 60.01A(b)(ii) [on form DA 185 and the appropriate annexure thereto] and must comply with all the requirements specified [therein,] on form DA 185 and the relevant annexure, in these rules, any relevant section or item of Schedule No. 8 governing such licences and any additional requirements that may be determined by the Commissioner.”.

Amendment of rule 21A.04

7. Rule 21A.04 is hereby amended by the substitution for subparagraph (i) of paragraph (b) of the following subparagraph:

“(i) A[n] person operating an SEZ [operator may] must, [apply on] by submitting to the Commissioner form DA185 and the [appropriate] relevant annexures in accordance with rule 59A.01A(b)(i)(bb), apply –
(aa) for registration; and

(bb for an area to be designated as a CCA.”.

Amendment of rule 21A.08

8. Rule 21A.08 is hereby amended by the substitution for subparagraph (i) of paragraph (a) of the following subparagraph:

“(i) Every CCA enterprise must, depending on the requirements in respect of the particular activity or premises, be registered or licensed in accordance with **[the provisions of the Act]** rule 59A.01A(b)(i)(bb) or rule 60.01A(b)(ii), as the case may be, by submission of [on a] form DA 185 and the [appropriate] relevant annexure.”.

Amendment of rule 21A.09

9. Rule 21A.09 is hereby amended –

(a) by the substitution for subparagraph (i) of paragraph (a) of the following subparagraph:

“(i) **[Whenever any of the particulars furnished in any application for registration or a licence changes in any material way,]** The registered person or licensee, as the case may be, shall advise the Commissioner in accordance with rule 59A.05(1) or rule 60.05(2) of any change in circumstances as contemplated in that rule, or in accordance with rule 59A.08(2) or 60.07(2)(a) of any change in particulars furnished in the application for licensing [within seven days from the date of the occurrence of such event by submitting a completed application form DA185 and the appropriate annexure reflecting the changed particulars.]”;

(b) by the deletion of subparagraph (ii) of paragraph (a); and

(c) by the substitution for subparagraph (iv) of paragraph (a) of the following subparagraph:

“(iv) **[On approval of the application for the changed particulars,]** The Commissioner may issue a new registration or licence in respect of such change.”.

Substitution of rule 35.01

10. The following rule is hereby substituted for rule 35.01:

“**35.01** Rules 19.01 to 19.06 shall *mutatis mutandis* apply to the **[approval]** licensing and conduct of any special customs and excise warehouse for the manufacture of wine.”.

Amendment of rule 36A.01

11. Rule 36A.01 is hereby amended by the substitution for the words preceding paragraph (a) of the following words:

“Every manufacturer of excisable goods specified in Section B of Part 2 of Schedule No. 1 and every owner of such goods manufactured for him partly or wholly from materials owned by such owner shall apply to the **[Controller]** Commissioner in accordance with rule 60.01A(b)(ii) **[on a form DA 185 and the relevant annexure]** for the licensing of his premises as a special customs and excise warehouse. The application **[These forms, duly completed,]** shall be **[accompanied]** supported by –”.

Substitution of rule 36A.02

12. The following rule is hereby substituted for rule 36A.02:

“**36A.02** Any such licensee shall notify the **[Controller]** Commissioner **[immediately, or in advance, of any change, or contemplated change in his legal identity, the name under which the trades or his registered address. In such event the licensee shall furnish the Controller with a form DA 185 and the relevant annexure, duly completed, together with the original licence issued by the Controller of Customs and Excise.]** in accordance with rule 60.05(2) of any change in circumstances as contemplated in that rule, or in accordance with rule 60.07(2)(a) of any change in particulars furnished in the application for licensing.

Amendment of rule 37A.11

13. Rule 37A.11 is hereby amended by the substitution for paragraph (a) of the following paragraph:

“(a) Any person referred to in section 37A(7)(b)(ii) and any other person who uses marked goods, or marked goods mixed with or contaminated by

other goods, for mixing or blending with other goods in the production of goods not capable of use as fuel in any engine, for own use or sale or disposal in any manner whether or not for any consideration, shall register in accordance with rule 59A.01A.(b)(i)(bb) as a producer of such goods, and no person shall so mix or blend such goods for such use, sale or disposal unless so registered.”.

Amendment of rule 37.12

14. Rule 37A.12 is hereby amended by the substitution for subparagraph (iii) of paragraph (a) of the following subparagraph:

“(iii) such person is registered in accordance with rule 59A.01A.(b)(i)(bb) where the quantity so mixed exceeds 2500 litres at any one time.”.

Amendment of rule 37A.13

15. Rule 37A.13 is hereby amended by the substitution for subparagraph (ii) of paragraph (a) of the following paragraph:

“(ii) if any such person who supplies fuel to aircraft, other than the licensee of a customs and excise warehouse, is registered in accordance with rule 59A.01A.(b)(i)(bb) as a supplier of aviation kerosene to aircraft (whether or not for supply to own aircraft).”.

Repeal of rule 37A.15

16. Rule 37A.15 is hereby repealed.

Amendment of rule 37B.02

17. The following rule is hereby substituted for rule 37B.02:

“Any person who manufactures biodiesel on the date these rules come into operation or intends manufacturing biodiesel must **[apply on form DA 185 and the appropriate annexures]**–

(a) if he or she qualifies as a non-commercial manufacturer of biodiesel, apply for registration as a non-commercial manufacturer of biodiesel in accordance with rule 59A.01A.(b)(i)(bb) **[in terms of section 59A and the rules thereto]; or**

(b) if he or she is a commercial manufacturer of biodiesel, apply–

- (i) for registration as a commercial manufacturer of biodiesel in accordance with rule 59A.01A(b)(i)(bb) **[in terms of section 59A and the rules thereto]**; and
- (ii) in accordance with rule 69.01A(b)(ii) for licensing of his or her manufacturing premises as a customs and excise manufacturing warehouse for the commercial manufacture of biodiesel in Category 1 or 2 as contemplated in rule 37B.16.”.

Amendment of rule 37B.04

18. Rule 37B.04 is hereby amended by the substitution for paragraph (b) of the following paragraph:

“(b) The provisions of rule 19A.02(a) shall apply *mutatis mutandis* to an [A]application for such a licence **[must be made on form DA 185 and the relevant annexure, and the provisions of rule 19A.02(a) shall apply *mutatis mutandis* to such an application]**.”.

Amendment of rule 38A.03

19. Rule 38A.03 is hereby amended –

(a) by the substitution for paragraph (a) of the following paragraph:

“(a) licensing of a special customs and excise storage warehouse must be submitted in accordance with rule 60.01A(b)(ii); or”;

(b) by the substitution for paragraph (b) of the following paragraph:

“(b) registration as a registered user for the purposes of electronic communication in accordance with section 101A and the rules made thereunder, must be made **[on form DA 185 and the relevant annexure]** in accordance with rule 59A.01A(b)(i)(bb); or”.

Substitution of rule 39.08

20. The following rule is hereby substituted for rule 39.08:

“39.08 The clearer shall, before any bill of entry is delivered to the place indicated by the Controller, insert in the field provided therefor the customs and excise client number issued to the clearing agent, importer or exporter, as the case may be. **[Application for such a number shall be made to the Office**

on a form DA 185 (Application form: Licensing / Registration of Customs and Excise Clients) and the applicable annexure(s), and any subsequent change or contemplated change of any of the particulars furnished or a request for cancellation of such client number shall be reported on such form.]”.

Amendment of rule 46A1.03

21. Rule 46A1.03 is hereby amended –

(a) by the substitution for paragraph (a) of the following paragraph:

“(a) Every exporter and manufacturer of textile and apparel articles for the purposes of the AGOA shall be registered **[and shall submit a completed form DA 185 together with]** in accordance with rule 59A.01A(b)(i) and rule 59A.01A(b)(i)(bb) respectively, and –

(i) in the case of the exporter, **[a completed]** Annexure DA 185.4A2 **[and exporter’s application for registration (DA 46A1.02 incorporated in Section A thereof)]** or the corresponding screen or page of the electronic application must be submitted; and

(ii) in the case of the manufacturer, **[a completed]** Annexure DA 185.4A4 **[and manufacturer’s application for registration (DA 46A1.03 incorporated in Section A thereof)]** must be submitted.”;

(b) by the substitution for paragraph (b) of the following paragraph:

“(b) If the exporter is also the manufacturer of the goods concerned **[both the]** forms **[DA 46A1.02 (incorporated in Section A of Annexure] DA 185.4A2[)]** or the corresponding screen or page of the electronic application and **[DA 46A1.03 (incorporated in Section A of Annexure] DA 185.4A4[)]** must be completed.”; and

(c) by the substitution for paragraph (c) of the following paragraph:

“(c) If submitted in paper format, the completed and signed application shall be submitted to the manager responsible for the administration of the rules of origin section in Head Office, to whom the powers under section 46A(6) are delegated.”.

Amendment of rule 46A3.05

22. Rule 46A3.05 is hereby amended by the substitution for paragraph (a) of the following paragraph:

- “(a) every exporter and producer of GSP goods shall be registered **[and shall submit to the Commissioner a completed form DA 185 and the relevant annexure]** in accordance with rule 59A.01A(b)(i) and rule 59A.01A(b)(i)(bb) respectively, and in the case of –
- (i) an exporter, **[a completed]** Annexure DA 185.4A2 **[and exporter’s application for registration (DA 46A1.02 incorporated in Section C thereof)]** or the corresponding screen or page of the electronic application must be submitted;
and
 - (ii) a producer, **[a completed]** Annexure DA 185.4A7 must be submitted;”.

Amendment of rule 46A4.04

23. Rule 46A4.04 is hereby amended by the substitution for paragraph (a) of the following paragraph:

- “(a) every exporter and producer of GSP goods shall be registered in accordance with rule 59A.01A(b)(i) and rule 59A.01A(b)(i)(bb) respectively, and **[shall submit to the Commissioner a completed form DA 185 and the relevant annexure]** in the case of –
- (i) an exporter, **[a completed]** Annexure DA 185.4A2 **[and exporter’s application for registration (DA 46A.01 incorporated in Section C thereof)]** or the corresponding screen or page of the electronic application must be submitted;
and
 - (ii) a producer, Annexure DA 185.4A7 must be submitted;”.

Amendment of rule 46A5A.04

24. Rule 46A5A.04 is hereby amended –

(a) by the substitution for paragraph (a) of the following paragraph:

“(a) For the purposes of section 46A(6) and section 59A –

(i) every exporter and producer of GSP goods must be registered in accordance with rule 59A.01A(b)(i) and rule 59A.01A(b)(i)(bb) respectively, and **[must submit to the Commissioner a completed form DA 185 and the relevant annexure]** in the case of –

(aa) an exporter, Annexure DA 185.4A2 **[and form DA 46A.01 incorporated in Section C thereof]** or the corresponding screen or page of the electronic application must be submitted;

(bb) a producer, Annexure DA 185.4A7 **[and form DA 46A.02 incorporated in Section A thereof]** must be submitted;”;
and

(b) by the substitution for item (bb) of paragraph (d)(i) of the following item:

“(bb) be registered as contemplated in rule 46A5A.04 and produce for this registration the documents specified in **[section 13 of]** form DA 185 or in the electronic application;”.

Amendment of rule 46A5A.16

25. Rule 46A5A.16 is hereby amended by the substitution for item (bb) of paragraph (c)(ii) of the following item:

“(bb) the exporter, who exports a consignment of originating goods of an export value not exceeding[,] NOK 60 000, must state the registration number issued when registered **[on form DA 185]** as contemplated in rule 46A5A.04(a)(i).”.

Amendment of rule 49A.01

26. Rule 49A.01 is hereby amended by the substitution for subparagraph (i) of paragraph (f) of the following subparagraph:

“(i) every exporter and producer of goods to be exported to any of the member states of the European Union shall be registered in accordance

with rule 59A.01A(b)(i) and rule 59A.01A(b)(i)(bb) respectively, and [shall submit to the Commissioner a completed form DA 185 and the relevant annexure] in the case of –

- (aa) an exporter, Annexure DA 185.4A2 or the corresponding screen or page of the electronic application must be submitted;
- (bb) a producer, Annexure DA 185.4A7 must be submitted;”.

Amendment of rule 49A.20 (24,25)

27. Rule 49A.20 (24, 25) is hereby amended by the substitution for paragraph (c) of the following paragraph:

- “(c) Application for approved exporter status must be made in accordance with rule 59A.01A(b)(i) [on forms DA 185], and Annexure DA 185.4A2 [and DA 49A.02] or the corresponding screen or page of the electronic application must be submitted.”.

Amendment of rule 49A.48.03

28. Rule 49A.48.03 is hereby amended by the substitution for item (aa) of paragraph (a)(ii) of the following item:

- “(aa) approved exporter status is granted on application in accordance with rule 59A.01A(b)(i), and submission of annexure [form] DA 185. 4A2 and [Annexure DA 49.02] or the corresponding screen or page of the electronic application must be submitted; and”.

Amendment of rule 49B.01

29. Rule 49B.01 is hereby amended by the substitution for subparagraph (i) of paragraph (f) of the following subparagraph:

- “(i) every exporter and producer of goods to be exported to any of the member states of the Southern African Development Community shall be registered in accordance with rule 59A.01A(b)(i) and rule 59A.01A(b)(i)(bb) respectively, and [shall submit to the

Commissioner a completed form DA 185 and the relevant annexure]

in the case of –

- (aa) an exporter, Annexure DA 185.4A2 or the corresponding screen or page of the electronic application must be submitted;
- (bb) a producer, Annexure DA 185.4A7 must be submitted;”.

Amendment of rule 49D.01

30. Rule 49D.01 is hereby amended by the substitution for paragraph (f) of the following paragraph:

“(f) Registration of exporter

For the purposes of section 49(6) and section 59A –

- [(a)](i)** every exporter and producer of goods to be exported to any of the member states of the EFTA shall be registered in accordance with rule 59A.01A(b)(i) and rule 59A.01A(b)(i)(bb) respectively, and **[shall submit to the Commissioner a completed form DA 185 and the relevant annexure]** in the case of –
 - [(i)](aa)** an exporter, Annexure DA 185.4A2 or the corresponding screen or page of the electronic application must be submitted;
 - [(i)](bb)** a producer, Annexure DA 185.4A7 must be submitted;
- [(b)](ii)** if the exporter is also the producer of the goods concerned, application for registration as exporter, as well as a producer, must be so submitted.”.

Amendment of rule 49D.18 (19), (22)

31. Rule 49D.18 (19), (22) is hereby amended by the substitution for paragraph (b) of the following paragraph:

- “(b) Application for approved exporter status must be made **[on the DA 185 form and its relevant Annexures]** in accordance with rule 59A.01A(b)(i).”.

Amendment of rule 49E.01

32. Rule 49E.01 is hereby amended –

(a) by the substitution for subparagraph (a) of paragraph (f) of the following subparagraph:

“**[(a)](i)** every exporter and producer of goods to be exported to any of the member states of the MERCOSUR shall be registered in accordance with rule 59A.01A(b)(i) and rule 59A.01A(b)(i)(bb) respectively, and **[shall submit to the Commissioner a completed form DA 185 and the relevant annexure]** in the case of–

(aa) an exporter, Annexure DA 185.4A2 or the corresponding screen or page of the electronic application must be submitted;

(bb) a producer, Annexure DA 185.4A7 must be submitted;” and

(b) By the renumbering of subparagraph (b) of paragraph (f) as subparagraph (ii).

Amendment of rule 54F.04

33. Rule 54F.04 is hereby amended –

(a) by the substitution for subparagraph (i) of paragraph (a) of the following subparagraph:

“(i) apply in accordance with rule 60.01A(b)(ii) [on form DA 185 and the appropriate annexures thereto] and must comply with all the requirements specified **[therein,]** on form DA 185 and the relevant annexure, in these rules, any relevant section or item of Schedule No. 8 governing such licences and any additional requirements that may be determined by the Commissioner;”;

(b) by the deletion of subparagraph (ii) of paragraph (b); and

(c) by the deletion of paragraph (c).

Amendment of rule 54FA.03

34. Rule 54FA.03 is hereby amended by the substitution for subparagraph (i) of paragraph (b) of the following subparagraph:

“(i) apply in accordance with rule 60.01A(b)(ii) [on form DA 185 and the relevant annexure thereto] and must comply with all the requirements specified **[therein,]** on form DA 185 and the relevant annexure, in these

rules, any relevant section or item of Schedule No. 8 governing such licences and any additional requirements that may be determined by the Commissioner;”.

Amendment of rule 54FA.04

35. Rule 54FA.04 is hereby amended by the substitution for the words in paragraph (a) preceding subparagraph (i) of the following words:

“(a) Every person who generates electricity and is not required to license his or her generation plant as contemplated in rule 54FA.03 must register in accordance with rule 59A.01A(b)(i)(bb) **[on form DA 185 and the appropriate annexure thereto]** if electricity is generated from– ”.

Amendment of rule 54I.03

36. Rule 54I.03 is hereby amended by the substitution for paragraph (a) of the following paragraph:

“(a) Any person who manufactures sugary beverages **[on the date these rules come into operation]** or intends manufacturing sugary beverages must apply **[on form DA 185 and the appropriate annexures]** –

- (i) if he or she qualifies as a non-commercial manufacturer, for registration as a non-commercial manufacturer of sugary beverages in accordance with rule 59A.01A(b)(i)(bb) **[in terms of section 59A and the rules thereto]**; or
- (ii) if he or she is classified as a commercial manufacturer, for licensing of his or her manufacturing premises as a customs and excise manufacturing warehouse for the commercial manufacture of sugary beverages in accordance with rule 60.01A(b)(ii).”.

Substitution of rule 59A.01

37. The following rules are hereby substituted for rule 59A.01:

“59A.01 Definitions[and application for registration]

(a) For **[the]** purposes of the**[se]** rules under section 59A and any form to which **[these]** such rules relate, unless the context otherwise indicates –

“annexure”, in relation to an application means, depending on the circumstances—

- (a) any annexure to form DA 185; or
- (b) any screen or page of an electronic application which is the equivalent of any annexure referred to in paragraph (a);

“applicant” means a person that intends to or has submitted an application, but excludes a person submitting an application on behalf of another person;

“application” means an application for registration under section 59A;

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

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

“branch front end capturing” or “BFE capturing”, in relation to an application, means the electronic capturing by an officer at a Customs and Excise Office as indicated on the SARS website, of information provided by the applicant as may be required for the application on the internal SARS electronic system used for purposes of processing applications;

“customs and excise laws and procedures” includes –

- ([i]a) any provision contemplated in the definition of “this Act” in the Customs and Excise Act, 1964 (Act 91 of 1964);**
- ([ii]b) any condition or obligation imposed, any process or procedure instituted or any manual or other directive issued, by the Commissioner or a Controller for the purpose of administering any activity regulated by the Act; and**

(iii)c) any provision of any other law prohibiting or restricting or otherwise controlling the manufacture, use, importation, exportation, transit carriage, removal or other movement of goods administered under any provision of the Act;

“customs and excise relationship” means a business relationship which involves an activity regulated by this Act which a registered person has with another person that is a registered person or licensee;

“day” means any day other than a Saturday, Sunday or a public holiday;

“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;

“electronic application” means –

- (a)** an eFiling application or an application via another electronic communicative system administered by SARS, as may be applicable; or
- (b)** an application via the internal SARS electronic system used for purposes of BFE capturing;

“foreign principal” means according to the context a registered importer, registered exporter or licensed remover of goods in bond, not located in the Republic;]

“located in the Republic” [means, in the case of], in relation to –

- (i)a)** a natural person, [a natural] means that such person is ordinarily resident in the Republic at a specific physical address in the Republic; and
- (ii)b)** a juristic person, means that such person [a juristic entity] –
 - (aa)i)** [which] is incorporated, registered or recognised in terms of the laws of the Republic or of another country; and
 - (bb)ii)** [which] has a place of business at a specific physical address in the Republic;

“**person**” includes –

- (**[i]**a) any natural person or any insolvent or deceased estate;
- (**[ii]**b) any juristic person incorporated in the Republic or a juristic person not incorporated in the Republic [**that has**], or any other association of persons whether or not formed in the Republic [**that has, a place of business at a specific physical address in the Republic**];
- (**[iii]**c) any institution, including any scientific or educational institution, for the benefit of its members or the public [**that is**] whether or not established in the Republic [**and has a place of business at a specific physical address in the Republic**];
- (**[iv]**d) a partnership;
- (**[v]**e) a trust; and
- (**[vi]**f) an organ of state;

“**rebate user**” means any person who obtains any goods under rebate of duty in terms of any item of Schedule No. 3, 4 or 6;

“**registered agent**” means a person located in the Republic, [**who is a nominated agent of a foreign principal and is**] registered [**as prescribed**] in terms of the[se] rules under section 59A to act on behalf of –

- (a) an importer, exporter, remover in bond or searcher of or for wreck not located in the Republic, in taking any action, performing any function or complying with any requirement in terms of this Act; or
- (b) a “carrier” for purposes of the rules under section 8 who is not located in the Republic, in submitting reporting documents on behalf of that carrier as contemplated in rule 8.05;

“**registrant**” or “**registered client**” or “**registered person**” means any person registered under any provision of the Act;

“**South African Revenue Service taxpayer reference number**” means a taxpayer number contemplated in section 24 of the Tax Administration Act; and

“the Act” includes any provision of “this Act” as defined in the Customs and Excise Act, 1964 (Act 91 of 1964).

- (b) For purposes of rule 59A.04(1) and rule 59A.05 an applicant’s or registrant’s tax matters must be considered to be in order if that applicant or registrant has no outstanding–
- (i) taxes, interest, penalties or other amounts due and payable to SARS for which he or she is liable in terms of this Act or any other tax law; or
 - (ii) tax returns or other documents that must be submitted for tax purposes to SARS in terms of this Act or any other tax law.

59A.01A Submission of applications for registration and updating of registration details

- (a) Persons intending to engage in the following activities regulated by the Act must apply for registration:
- (i) Importing or exporting goods;
 - (ii) producing or manufacturing goods for purposes of preferential tariff treatment in terms of international trade agreements or non-reciprocal generalised systems of preference;
 - (iii) exporting goods for purposes of preferential tariff treatment in terms of international trade agreements or non-reciprocal generalised systems of preference;
 - (iv) representing–
 - (A) an importer, exporter, a remover in bond or searcher of or for wreck not located in the Republic as registered agent, or
 - (B) a “carrier” for purposes of the rules under section 8, who is not located in the Republic as registered agent for purposes of submitting reporting documents in terms of those rules;
 - (v) submitting communications to the Commissioner electronically as electronic users;
 - (vi) utilising rebate items under Schedules No. 3, 4 and rebate - and refund items under Schedule 6;
 - (vii) operating a Special Economic Zone or a CCA enterprise;

- (viii) manufacturing goods for purposes of drawback items 501.00 to 521.00 of Schedule No. 5;
- (ix) generating electricity in circumstances where the person is not required to license his or her generation plant in terms of rule 54FA.03;
- (x) activities in relation to marked goods and certain goods free of duty contemplated in section 37A, as prescribed under subsection (9)(d) of that section;
- (xi) non-commercially manufacturing biofuel;
- (xii) non-commercially manufacturing sugary beverages;
- (xiii) obtaining a registration number for a still in compliance with rule 63.01 (b) or 63.04(c);
- (xiv) manufacturing excisable goods solely for the purpose of own use by that manufacturer as contemplated in section 116; and
- (xv) any other activity for which registration may be required in terms of the Act, the Schedules thereto or the rules.

- (b) (i) **[Except as elsewhere specified in the Act in respect of any activity, a]**Application for registration must, subject to subparagraph (iA), be made –
- (aa) electronically via–
 - (A) eFiling or another electronic communicative system administered by SARS, as may be applicable; or
 - (B) BFE capturing by visiting a Customs and Excise Office where this service is available, as indicated on the SARS website; or
 - (bb) in paper format on the prescribed form DA 185 and the relevant annexure as published on the SARS website, submitted at any Customs and Excise Office, except where provided otherwise in the Act or these Rules for a specific application.[to the Commissioner or the Controller in whose control area the activity will be conducted and from whom the form is obtainable.]

- (iA) Applications in respect of the activities referred to in paragraph (a)(ii) and (v) to (xv) must be submitted in paper format as contemplated in subparagraph (i)(bb).
- (ii) The applicant must comply with all the requirements specified in form DA 185 or the electronic application and the relevant annexure, as the case may be, these rules[,] **and** any other relevant **[rule and any condition or obligation imposed by the Commissioner]** provision referred to in rule 59A.02(1)(b).
- (iiA) (aa) No supporting document that must in terms of a requirement referred to in subparagraph (ii) be submitted to the Commissioner in support of an application, needs to be submitted if the document is already in the possession of the Commissioner, unless the information has subsequently changed or the Commissioner specifically requests that the document must be submitted.
- (bb) A supporting document submitted electronically in accordance with rule 59A.01A(b)(i)(aa) may for purposes of the rules under section 59A be regarded to be the original of the relevant document required unless the Commissioner determines otherwise.
- (iii) An applicant for registration as an importer or exporter not located in the Republic [foreign principal] must [-
- (aa) apply on form DA 185 and the appropriate annexure for registration in respect of the activity for which registration is required; and**
- (bb)]** if submitting an application in paper format as contemplated in paragraph (b)(i)(bb), [nominate a] disclose the person intended to act as registered agent for that importer or exporter on form DA 185.D[;
- (cc) be represented by a registered agent in the performance of any function regulated by the Act].**

- (iiiA) A person registered as an importer or exporter not located in the Republic following the submission of an electronic application contemplated in paragraph (b)(i)(aa), must disclose the person acting as registered agent for that importer or exporter in accordance with rule 59A.06A.
- (iv) An applicant for registration as a registered agent must–
- (aa) apply on form DA 185 or the electronic application and the **[appropriate]** relevant annexure; and
- (bb) before registration, furnish the security **[bond]** the Commissioner may require, **[and]** specifying the obligations the Commissioner may determine.
- (v) A registered agent for **[nominated by a foreign principal]** –
- (aa) an importer or exporter contemplated in subparagraph (iii) or a remover in bond contemplated in rule 64D.01 or a searcher of or for wreck contemplated in rule 64C.01–
- (A) _____ must act **[as agent]** on behalf of **[the foreign principal]** that importer, exporter, remover in bond or searcher of or for wreck in the performance of any function regulated by the Act; and
- [(bb)](B)** may perform the functions of a licensed clearing agent on behalf of **[a foreign principal]** that importer, exporter, remover in bond or searcher of or for wreck on complying with all the obligations imposed by the Act on such a registered agent; and
- (bb) a “carrier” not located in the Republic for purposes of submitting reporting documents in terms of the rules under section 8, may submit any reporting document on behalf of that carrier as contemplated in rule 8.05.
- (c) (i) The Commissioner may at any time–
- (aa) require **[that]** any registrant or class of registrants–
- (A) to update or confirm current registration information within a period specified by **[complete]** completing and submitting in accordance with rule 59A.01A(b)(i) or (iA), [a]

the electronic application or form DA 185 and the relevant annexure, and [within a period specified by the Commissioner for updating of existing information or]to furnish any additional information required, if applicable;

(B) who furnished security for any purpose in terms of the Act, to submit particulars thereof in a format prescribed by the Commissioner; or

(bb) after reasonable notice to the clients concerned, amend existing registrations by allocating separate registration numbers for clients participating in customs activities and clients participating in excise activities.

(ii) **[If the form DA 185 is not received within the period specified by the Commissioner the registrant will not be able to transact any customs or excise business under the existing registration.]**The Commissioner may in terms of section 59A(2)(b) cancel or suspend a registration if a registrant –

(aa) does not update registration information in accordance with subparagraph (i)(aa)(A) read with subparagraph (iii)(A); or

(bb) updates registration information, but fails to comply with a requirement stated in form DA 185 or the electronic application and the relevant annexure: Provided that in respect of a registration issued before 20 April 2020, a registrant is entitled to a grace period of 60 days before suspension or cancellation proceedings are commenced in terms of the proviso in paragraph (b) of section 60(2), as applied by section 59A(2)(c), to prove compliance with any requirement that did not exist at the time when that registrant's registration was granted.

(iii) The Commissioner may –

(A) on reasonable grounds extend a period specified in terms of subparagraph (i)(aa)(A) or the grace period contemplated in subparagraph (ii)(bb); or

(B) if circumstances so demand, despite subparagraph (ii)(bb) summarily suspend a registration after the grace period of 60 days if the registrant failed to comply with the relevant requirement within that time.

- (d) (i) All registrations referred to in General Note 2 of Schedule No. 6 will come into operation on 1 April 2006 and any person requiring such a registration, must in accordance with rule 59A.01A(b)(i) apply **[on a DA 185]** for registration in terms of the appropriate item of that Schedule.
- (ii) Subject to the exceptions specified in General Note 2 (a), (b) and (c) of Schedule No. 6 any registration in terms of any item of Schedule No. 6 existing on 31 March 2006 shall terminate on that date.”.

Amendment of rule 59A.02(1)

38. Rule 59A.02(1) is hereby amended by the substitution for paragraph (b) of the following paragraph:

- “(b) Specific requirements **[in respect of]** for certain **[applicants]** applications[,] in respect of activities, procedures or premises, **as the case may be,** are prescribed in form DA 185 or the electronic application and its annexures, as the case may be, **[specific application forms and]** the following sections, **[and their]** rules or Schedule references, and other specific forms as may be mentioned:
- (i) Section 21A(14)(d)(i) and (15), and rule 21A.04(b), 21A.08, 21A.09 and 21A.14 in respect of the operator of a Special Economic Zone or a CCA enterprise;
- (ii) section 37A(9), and rules 37A.12 to 37A.15 in respect of marked goods **[and other goods contemplated in the section];**
- (iii) section 37B(4)(a), rule 37B.02 and 37A.03 in respect of the manufacturing of biofuel;
- [(ii)iv]** section 46A(6)[,] and rule 46A1.03(a), rule 46A1.03, 46A2.04 46A3.05, 46A4.04, 46A5.04, 46A5A.04, 49A.01(f), 49A.20, 49A.48.03, 49B.01(f), 49D.01(f), 49D.18, 49E.01(f) and 49A.18(19)(20), and forms DA 1854A2 and DA 185.4A4 in respect of preferential tariff treatment in terms of non-reciprocal generalised systems of preference or international trade

agreements**[and forms DA 46A1.02 incorporated in Section A of Annexure DA 1854A2 and DA 46A1.03 incorporated in Section A of Annexure DA 185.4A4, respectively, exporter and manufacturer of goods to which AGOA relates];**

[(iii)v) section 47B(4)(b) and (5)(c), rule 47B.03(a) and 47B.06 and form APT 101 and APT 102 in respect of the [–] operator [for] of a chargeable aircraft and the [section 47B(6) –] agent of the operator;

[(iv) rule 49A.18(19)(20) – approved exporter form DA 49A.02 incorporated in Section B of Annexure DA 185.4A2;]

(vi) rule 54FA.04 in respect of the generation of electricity by persons not required to license generation plants in terms of rule 54FA.03;

(vii) section 54J and rule 54I.03 in respect of the manufacturing of sugary beverages;

(viii) section 75, rules for section 75 and Notes to Schedules Nos. 3, 4, 5 and 6 and items specified therein in respect of rebates or refunds of duty; and

(ix) section 101A and rules for section 101A in respect of electronic users.”.

Amendment of rule 59A.03(1)

39. Rule 59A.03(1) is hereby amended –

(a) by the substitution for item *(bb)* of paragraph *(a)*(i) of the following item:

“*(bb)* is represented by a registered agent, [if that person is] in the case of an importer or exporter not located in the Republic [foreign principal, is represented by a registered agent].”;

(b) by the substitution for subparagraph *(ii)* of paragraph *(a)* of the following subparagraph:

“(ii) Subject to any provision of the Act in which requirements for registration are specified, a person may apply for registration if such person is –

(aa) a natural person who is –

(A) a citizen or a permanent resident of the Republic or has a place of business at a specific physical address in the

- Republic, except in the case of an importer or exporter not located in the Republic who is required to register; and
- (B) at least 18 years old unless emancipated by court order; or
- (bb) a juristic person, **[that has a place of business at a specific physical address]** located in the Republic except in the case of an importer or exporter not located in the Republic that is required to register, submitting through – [a representative of that juristic person duly authorised by that juristic person to apply, and if a company, may include a public officer appointed by the company and approved by SARS in terms of section 246 of the Tax Administration Act, 2011 (Act No. 28 of 2011)];
- (cc) the person having the effective management of an association of persons whether or not formed in the Republic that has a place of business at a specific physical address in the Republic;
- (dd) if a partnership or a trust composed of individuals each of whom meets the qualifications required in item (aa);
- (ee) in the case of –
- (A) a deceased estate, the executor of the estate;
- (B) an insolvent estate, the trustee;
- (C) an organ of state, the official to whom the function in respect of the activity for which registration is required, is delegated;
- (D) any institution, the person having the effective management of such institution.]
- (A) if the entity is a company or co-operative, a duly authorised director or manager or the authorised officer of the company or cooperative;
- (B) if the entity is a close corporation or partnership, a duly authorised member of or partner in or a manager or the authorised officer of the close corporation or partnership;

- (C) if the entity is an association, club or other body of persons, the chairperson, manager or the authorised officer of that association, club or other body of persons;
 - (D) if the entity is a trust or trust fund, the administrator, trustee or the authorised officer of the trust or trust fund;
 - (E) if the entity is an entity referred to in sub item (A) to (D) in liquidation or under judicial management, 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, 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, an official of that organ of state in an executive position.”;
- (c) by the substitution for sub item B of item (aa) of paragraph (a)(iii) of the following sub item:
- “(B) declares those goods for home consumption **[(codes A11 and A12)]**, temporary export **[(code A13)]** or export **[(codes H60 and H61)]**,”
- (d) by the substitution for item (bb) of paragraph (a)(iii) of the following item:
- “(bb) is a natural person **[located in the Republic]**; and”;
- (e) by the deletion of subparagraph (iv) of paragraph (a);
- (f) by the substitution in paragraph (b)(i) for the words preceding item (aa) of the following words:
- “Before deciding whether to approve or refuse any application for registration **[as a registered agent]** the Commissioner **[must]** may conduct investigations to—”; and
- (g) by the deletion of paragraph (d).

Substitution of rule 59A.04(1)

40. The following rule is hereby substituted for rule 59A.04(1):

“59A.04(1) Information regarding contraventions and other matters to be furnished on application [form]

- (a) For the purposes of section 59A(1)(b)(ii) and (2) **[and the *mutatis mutandis* application of the provisions of section 60(2)]**, **[every person applying for registration]** an applicant shall indicate on form DA 185, or on the electronic application, as the case may be, whether –
- (i) a person contemplated in section 60(2)(a)(ii) during the preceding five years **[any person to whom these rules relate] –**
- ([i]aa)** has contravened or failed to comply with the provisions of the Act;
([ii]bb) has failed to comply with any condition, obligation or other requirement imposed by the Commissioner;
([iii]cc) has been convicted of any offence under the Act;
([iv]dd) has been convicted of any offence involving fraud or dishonesty; or
[(v)] **has made any false or misleading statement in any material respect or omitted to state any material fact which was required to be stated in any application for registration or for any other purpose under the Act;**
([vi]ee) **[was]** has been insolvent or **[in liquidation]** or liquidated, as the case may be; and
- (ii) the applicant's tax matters are in order.
- (b) (i) If the answer is “yes” in respect of any provision of [to any question specified in] paragraph (a)(i), or “no” in respect of paragraph (a)(ii), full details must be furnished with the application.
- (ii) Any applicant may, where it is contended in respect of paragraph (a)(i)(aa) or **([ii]bb)** that the contravention, **[or]** failure or non-compliance was inadvertent, without fraudulent intent or gross negligence, include a submission to this effect with form DA 185 or the electronic application, as the case may be.

(c) For purposes of section 59A(2) and section 60(2)(a)(i)(aa) as applied to registration applications by section 59A(2)(c), it is a requirement that the applicant’s tax matters must be in order.

(d) Paragraph (c) does not apply in respect of applications in relation to activities referred to in rule 59A.01A(a)(ix) to (xiv).”.

Substitution of rule 59A.05(1)

41. The following rule is hereby substituted for 59A.05(1):

“59A.05(1) Information regarding contraventions and other matters to be furnished after submitting the application or after registration

(a) Where an applicant or a registrant, as the case may be,**[any person to whom these rules relate,]** after an application for registration is submitted or after registration becomes aware that –

(i) that applicant or registrant or an employee of that applicant or registrant as contemplated in section 60(2)(a)(ii) –

([i]aa) contravenes or fails to comply with the provisions of the Act;

([ii]bb) fails to comply with any condition or obligation imposed by the Commissioner;

([iii]cc) is convicted of any offence under the Act;

([iv]dd) is convicted of any offence involving fraud or dishonesty; or

([v]ee) is sequestered or liquidated; or

(ii) that applicant or registrant –

(aa) is no longer able to claim that the tax matters of the applicant or registrant are in order; or

([vi]bb) no longer carries on the business for which the registration was issued,

the Commissioner must be informed by such person of that fact within seven days of the occurrence of such event on form DA 185 or on the electronic application, as the case may be.

(b) The provisions of rule 59A.04(1)(b)**([ii])** shall apply *mutatis mutandis* for **[the]** purposes of paragraph (a)(i) and (ii)(aa).

(c) For purposes of section 59A(2)(b) and –

- (i) section 60(2)(a)(i)(aa) as applied by section 59A(2)(c) it is a requirement that the applicant's tax matters must remain in order; and
- (ii) section 60(2)(b)(ii)(dd) as applied by section 59A(2)(c) it is a condition that the registrant's tax matters must remain in order.
- (d) Paragraph (c) does not apply in respect of applications in relation to activities referred to in rule 59A.01A(a)(ix) to (xiv)."

Amendment of rule 59A.06(1)

42. Rule 59A.06(1) is hereby amended by the substitution for paragraph (b) of the following paragraph:

- “(b) A registrant must whenever transacting business relating to the purpose for which that person was registered, indicate the [The] customs and excise client number contemplated in paragraph (a) on any document issued by that registrant, including on [must be] –
- (i) **[quoted in]** all communications to the South African Revenue Service or any other organ of state and reflected on all prescribed documents for transacting customs and excise business; and
 - (ii) **[reflected in]** the authorisation for any registered agent, clearing agent or other representative to act on behalf of that registrant. **[to transact the business to which the registration relates for production to the Commissioner or the Controller, as the case may be.]”.**

Insertion of rules 59A.06A, 59A.06B and 59A.06C

43. The following rules are hereby inserted after rule 59A.06(1):

“59A.06A Disclosure of customs and excise relationships

- (a) A registered person that applied for registration in accordance with rule 59A.01A(b)(i)(aa) or rule 8.04(2)(a)(i) or that updated current registration information in accordance with rule 59A.01A(b)(i)(aa) must promptly disclose to the Commissioner—

- (i) any customs and excise relationship which that person has entered into for purposes of the activity for which that person is registered; and
 - (ii) any customs and excise relationship referred to in subparagraph (i) that has been terminated or has lapsed.
- (b) A disclosure referred to in paragraph (a) must reflect—
 - (i) the name and customs and excise client number of the registered person making the disclosure or on whose behalf the disclosure is made;
 - (ii) the date of the disclosure;
 - (iii) the name and customs and excise client number of the registered person or licensee who is the other party to the customs and excise relationship;
 - (iv) the nature of the customs and excise relationship;
 - (v) whether the disclosure relates to—
 - (aa) the conclusion of a customs and excise relationship referred to in paragraph (a)(i); or
 - (bb) the termination or lapsing of a customs and excise relationship referred to in paragraph (a)(ii); and
 - (vi) in the case of a disclosure referred to in subparagraph (v)(aa), whether the other party to the customs and excise relationship is authorised by the registered person to—
 - (aa) use the customs and excise client number of the registered person on documents submitted by that party to the Commissioner on behalf of the registered person;
 - (bb) submit refund or drawback applications on behalf of the registered person; or
 - (cc) apply for a duty deferment benefit on behalf of the registered person, or operate on a deferment account of the registered person, if that person is a deferment benefit holder.
- (c) A disclosure referred to in paragraph (a) must be made by or on behalf of the registered person either —

- (i) electronically through the communicative system indicated on the SARS website for that purpose; or
 - (ii) in person by visiting any Customs and Excise Office where this service is available, as indicated on the SARS website.
- (d) A disclosure referred to in paragraph (a) must be supported by any—
- (i) agreement entered into between the parties that governs the customs and excise relationship;
 - (ii) authorisations given by the parties for purposes of the customs and excise relationship; and
 - (iii) other documents that may be required by the Commissioner for purposes of noting a customs and excise relationship.

59A.06B Confirmation or rejection of customs and excise relationships by other party

- (a) A person named in a disclosure referred to in rule 59A.06A(a) by a registered person as the other party to a customs and excise relationship must, subject to paragraph (d), within seven working days from the date of being notified by the Commissioner of the disclosure through the electronic communicative system referred to in rule 59A.06A(c), either confirm or reject the relationship.
- (b) If a person named as the other party to a customs and excise relationship in terms of paragraph (a)—
- (i) confirms the relationship, the Commissioner must note in the electronic communicative system particulars of the relationship for purposes of its validation processes relating to declarations, reports, statements, returns, notices, notifications, applications, requests or other documents submitted by or on behalf of the licensee which involve that other party; or
 - (ii) rejects the relationship or fails to either confirm or reject the relationship within the prescribed timeframe, the disclosure becomes ineffective and the Commissioner may disregard the alleged relationship for purposes of such validation processes.

(c) A confirmation or rejection referred to in paragraph (a) must be done electronically through the communicative system indicated on the SARS website for that purpose.

(d) This rule only applies to persons named in a disclosure that have been

=

(i) registered pursuant to an application for registration contemplated in rule 59A.01A(b)(i)(aa) or rule 8.04(2)(a)(i) or that have updated current registration information in accordance with rule 59A.01A(b)(i)(aa); or

(ii) licensed pursuant to an application for licensing contemplated in rule 60.01A(b)(i) or that have updated current licensing information in accordance with that rule.

59A.06C Fresh disclosure of customs and excise relationships upon failure by other party to confirm or reject relationship

(a) If the other party to a customs and excise relationship disclosed in terms of rule 59A.06A fails to confirm or reject the relationship in accordance with rule 59A.06B, the registered person that made the disclosure may disclose the relevant relationship to the Commissioner afresh.

(b) Rules 59A.06A and 59.06B apply with any necessary changes the context may require to a fresh disclosure in terms of paragraph (a)."

Amendment of rule 59A.07(2)

44. Rule 59A.07(2) is hereby amended by the substitution for paragraph (a) of the following paragraph:

“(a) Any registration shall be valid until **[the Commissioner]**–

(i) the registrant informs the Commissioner in terms of rule 59A.05(1)(a)(vi) that the registrant no longer carries on the activity for which the registration was issued, or **[cancels it after receipt of a written request or]** it is found that the registrant no longer carries on the business for which the registration was issued;

- (ii) the Commissioner cancels or suspends the registration as contemplated in section 59A(2)(b) read with paragraph (c) of that subsection.”.

Substitution of rule 59A.08(2)

45. The following rule is hereby substituted for rule 59A.08(2):

“59A.08(2) [Controller] Commissioner to be advised of any changed particulars

- (a) Whenever any of the particulars furnished in any application for registration or in an update of such particulars after registration changes **[in any material way]**, the registered person shall promptly advise the Commissioner **[Controller within seven days of the occurrence of such event]** by submitting in terms of rule 59A.01A(a)(i) the electronic application or [a] form DA 185 and the relevant annexure reflecting the changed particulars.
- (b) For the purposes of section 59A(2)(a), **[in any case]** where in the opinion of the Commissioner the security is in any manner compromised by such change, the form, nature or amount of such security shall be altered as the Commissioner may require.”.

Substitution of rule 59A.10(2)

46. The following rule is hereby substituted for rule 59A.10(2):

“59A.10(2) Sufficient knowledge

[Any] Registration of a registered agent is issued subject to the condition that the registrant or at least one of the registrant’s employees permanently employed at the premises where or from where the business will be conducted must have sufficient knowledge of customs and excise laws and procedures to ensure that the activities to which the registration relates are conducted efficiently and in compliance with the provisions of such laws and procedures.”.

Insertion of rule 59A.11

47. The following rule is hereby inserted after rule 59A.10(2):

“59A.11 Communication through eFiling or another electronic communicative system for receipt of applications

- (a) The rules for electronic communication published in terms of section 255 of the Tax Administration Act by Government Notice No. 644 dated 25 August 2014, excluding rule 5 thereof, apply for purposes of electronic communication contemplated in the rules under section 59A, subject to paragraph (b).
- (b) The rules for electronic communication referred to in paragraph (a) apply with any necessary changes as the context may require, and in such application any reference in those rules to—
- (i) a tax Act must be read as including a reference to the Customs and Excise Act or the rules thereunder;
 - (ii) an electronic filing system must be read as including a reference to eFiling or another electronic communicative system administered by SARS for purposes of submission of applications in terms of the rules under section 59A;
 - (iii) an electronic filing transaction must be read as including a reference to an electronic communication permitted in terms of the rules under section 59A;
 - (iv) an electronic communicator or registered electronic user must be read as including a reference to a person registered in terms of section 59A as an electronic user;
 - (v) a registered tax practitioner must be read as including a reference to a person registered in terms of section 59A as an electronic user and who submits applications electronically as a clearing agent, registered agent or other representative on behalf of another; and
 - (vi) a taxpayer must be read as including a reference to a registrant.
- (c) In the event of any inconsistency between a provision of the rules under section 59A and the rules for electronic communication referred to in paragraph (a), the provision of the former prevails.”.

Repeal of rule 59A.11(2)

48. Rule 59A.11(2) is hereby repealed.

Substitution of rule 60.01(1)

49. The following rules are hereby substituted for rule 60.01(1):

“60.01(1) Definitions [and application for licence]

(a) For the purposes of the the[se] rules under section 60 and any form to which such rules relate, unless the context otherwise indicates –

“annexure”, in relation to an application, means, depending on the circumstances –

(a) any annexure to form DA 185; or

(b) any screen or page of an electronic application which is the equivalent of any annexure referred to in paragraph (a);

“applicant” means a person that intends to or has submitted an application, but excludes a person submitting an application on behalf of another person;

“application” means an application for licensing contemplated in section 60;

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

(a) who is the public officer of the juristic person within the meaning of the Tax Administration Act; or

(b) if the juristic person does not have a public officer, any director, employee or other official of the juristic person authorised in writing to act on its behalf to give effect to any of the juristic person’s rights and obligations in terms of this Act;

“branch front end capturing” or “BFE capturing”, in relation to an application, means the electronic capturing by an officer at a Customs and Excise Office as indicated on the SARS website, of information provided by the applicant as may be required for the application on the

internal SARS electronic system used for purposes of processing applications;

“customs and excise laws and procedures” includes –

- (**[i]**a) any provision contemplated in the definition of “this Act” in the Customs and Excise Act, 1964 (Act 91 of 1964);
- (**[ii]**b) any condition or obligation imposed, any process or procedure instituted or any manual or other directive issued, by the Commissioner or a Controller for the purpose of administering any activity regulated by the Act; and
- (**[iii]**c) any provision of any other law prohibiting or restricting or otherwise controlling the manufacture, use, importation, exportation, transit carriage, removal or other movement of goods administered under any provision of the Act;

“customs and excise relationship” means a business relationship which involves an activity regulated by this Act which a licensee has with another person that is a registered person or licensee;

“day” means any day other than a Saturday, Sunday or a public holiday;

“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;

“electronic application” means –

- (a) an eFiling application or an application via another electronic communicative system administered by SARS, as may be applicable; or
- (b) an application via the internal SARS electronic system used for purposes of BFE capturing;

“licensee” means any person licensed under any provision of the Act;

“located in the Republic”, in relation to –

- (a) a natural person, means that such person is ordinarily resident in the Republic at a specific physical address in the Republic; and
- (b) a juristic person, means that such person –
 - (i) is incorporated, registered or recognised in terms of the laws of the Republic or of another country; and
 - (ii) has a place of business at a specific physical address in the Republic;

“person” includes –

- (i)a** any natural person or any insolvent or deceased estate;
- (ii)b** any juristic person incorporated in the Republic or a juristic person not incorporated in the Republic **[that has]**, or any other association of persons whether or not formed in the Republic **[that has an established place of business in the Republic];**
- (iii)c** a partnership; **[or]**
- (iv)d** a trust; or
- (e)** organ of state;

“registered agent” has the meaning assigned to it in rule 59A.01(a);
and

“the Act” includes any provision of this Act as defined in the Customs and Excise Act, 1964 (Act 91 of 1964).

- (b) **[(i) Any reference in these rules to a “licensee” or “applicant for a licence” shall be deemed to include a reference to any person contemplated in the definition of person.]**

For purposes of rule 60.04(2) and rule 60.05(2) an applicant’s or licensee’s tax matters must be considered to be in order if that applicant or licensee has no outstanding –

- (i) taxes, interest, penalties or other amounts due and payable to SARS for which he or she is liable in terms of this Act or any other tax law; or
- (ii) tax returns or other documents that must be submitted for tax purposes to SARS in terms of this Act or any other tax law.

[(ii) Any reference to customs and excise laws and procedures in any form to which these rules relate shall be deemed to be a reference to customs and excise laws and procedures defined in paragraph (a).]

60.01A Submission of applications for licensing and updating of licensing details

(a) Applications for licensing must be submitted in respect of –

- (i) certain categories of premises regulated in terms of the Act, including –
 - (aa) customs and excise storage warehouses, customs and excise manufacturing warehouses, special customs and excise storage warehouses and special customs and excise manufacturing warehouses;
 - (bb) container depots;
 - (cc) degrouping depots;
- (ii) activities regulated in terms of the Act, including –
 - (aa) acting as a clearing agent;
 - (bb) searching wreck or searching for wreck;
 - (cc) operating as a remover in bond;
 - (dd) operating as an agricultural distiller;
 - (ee) owning, possessing or keeping a still;
 - (ff) manufacturing or importing stills for sale or repairing stills for reward; and
 - (gg) distributing fuels obtained from the licensee of a customs and excise manufacturing warehouse; and
- (iii) any premises or activity for which licensing may be required in terms of the Act, Schedules or the rules.

- [(c) (i) From the date these rules are published form DA 185 and the relevant annexure must be completed by an applicant for a licence or renewal of a licence.**
- (ii) For the purpose of amplifying and updating licence files, licensees who or which are not required to renew licences annually must complete and submit to the Commissioner form DA 185 and the applicable annexure, obtainable from Controllers or the Commissioner, as soon as reasonably possible after the date of publication of these rules.**
- (d) Where an annexure to form DA 185 does not provide for an application for a licence required under the Act, application must be made on the existing form prescribed therefore until an annexure to form DA 185 in respect of such licence is published in the Schedule to the rules.]**

- (b) Application for licensing must, subject to paragraph (c), be made –
- (i) electronically via –
- (aa) eFiling or another electronic communicative system administered by SARS, as may be applicable; or
- (bb) BFE capturing by visiting a Customs and Excise Office where this service is available, as indicated on the SARS website; or
- (ii) in paper format on the prescribed form DA 185 and the relevant annexure as published on the SARS website, submitted at any Customs and Excise Office, except where provided otherwise in the Act or these Rules for a specific application.
- (c) Applications in respect of all premises or activities referred to in paragraph (a), except for an application in respect of activities referred to in paragraph (a)(ii)(aa) and (cc), must be submitted in paper format as contemplated in paragraph (b)(ii).

- [(e) (i) Application for a licence or renewal of a licence on form DA**

185 and the relevant annexure must be submitted to the Commissioner and if approved, the licence will be issued by the Controller on furnishing or security and payment of the prescribed licence fee.]

- (d) **[(ii)]** The applicant must comply with all the requirements specified in **[the]** form DA 185 or the electronic application and the relevant annexure, as the case may be, these rules, any relevant **[section of the Act]** provision referred to in rule 60.02(1), the Notes to the item in Schedule No. 8 in which the licence is prescribed, and any other rule **[and any condition or obligation imposed by the Commissioner].**
- (e) **[(iii)]** No part of any licence fee that may be payable is refundable on cancellation or withdrawal of a licence.
- (f) No supporting document that must in terms of a requirement referred to in subparagraph (d) be submitted to the Commissioner in support of an application, needs to be submitted if the document is already in the possession of the Commissioner, unless the information has subsequently changed or the Commissioner specifically requests that the document must be submitted.
- (g) A supporting document submitted electronically in accordance with rule 60.01A(b)(i) may for purposes of the rules under section 60 be regarded to be the original of the relevant document required unless the Commissioner determines otherwise.
- [(f)h]** A separate licence is, unless otherwise specified, required for each type of premises or activity in respect of which a licence is required under any provision of [prescribed in] the Act, any relevant item of Schedule No. 8 or the rules.”.

Amendment of rule 60.02(1)

50. Rule 60.02(1) is hereby amended –

- (a) by the substitution for the heading of the following heading:
“**Provisions of the Act relating to licensing, and furnishing of security**”;
and
- (b) by the substitution for paragraph (b) of the following paragraph:

“(b) **[Additional]** Specific requirements in respect of certain [an] applications in respect of [for a licence or a licensee and] premises or activities [where relevant] are prescribed in the relevant item of Schedule No. 8 in which such licence is specified, in [the application] form DA 185 or the electronic application and [the relevant] its annexures, as the case may be, or in the following sections [or]and [their] the relevant rules under such sections:

- (i) Sections 19, 19A, 21, 27, 35, 36A, 54E, 54F, 54J, [and] 61, and 64 [(in respect of customs and excise storage or manufacturing warehouses and special customs and excise storage or manufacturing warehouses licensed for various purposes [licence]);
- (ii) section 21A in respect of CCA enterprises;
[(ii) 36A (special customs and excise warehouse licence for goods liable to excise duty under Section B of Part 2 of Schedule No. 1);]
- (iii) section 62 [(in respect of agricultural distillers [licence]);
- (iv) section 63 [(in respect of owning, possessing or keeping of stills [licence]);
- [(v) 64 (manufacture of wine in a special customs and excise warehouse);]**
- (v[i]) section 64A [(in respect of container depots [licence]);
- (vi[i]) section 64B [(in respect of clearing agents [licence]);
- (vii[i]) section 64C [(in respect of [licence to] searchers of or for wreck [or search for wreck]);
- [(ix)viii) section 64D [(in respect of removers of goods in bond [licence]);**
- (ix) section 64F in respect of distributors of fuels obtained from the licensee of a customs and excise manufacturing warehouses;
and
- (x) section 64G in respect of degrouping depots.”.

Amendment of rule 60.03(2)

51. Rule 60.03(2) is hereby amended –

- (a) by the insertion of following heading after the number “60.03(2)”:
“Persons that may apply for licensing”; and
- (b) by the substitution for paragraph (a) of the following paragraph:
“(a) Subject to the provisions of the Act in which any requirement regarding licensing is specified, a person may apply for a licence if such person is –
- (i) a natural person who is –
 - (aa) a citizen or a permanent resident of the Republic or has a place of business at a specific physical address in the Republic, except in the case of a remover in bond not located in the Republic or a person searching for wreck or searching wreck who is required to license; and
 - (bb) at least 18 years old unless emancipated by court order;
 - (ii) a juristic person **[that has a place of business at a specific physical address]** located in the Republic, except in the case of a remover in bond or a person searching for wreck or searching wreck not located in the Republic that is required to license, submitting through – [a representative of that juristic person duly authorised by that juristic person to apply, and if a company, may include a public officer appointed by the company and approved by SARS in terms of section 246 of the Tax Administration Act, 2011 (Act No. 28 of 2011);
 - (iii) a partnership or a trust composed of individuals each of whom meets the qualifications required in subparagraph (i);
 - (iv) the person having the effective management of any other association of persons whether or not formed in the Republic that has a place of business at a specific physical address in the Republic;
 - (v) in the case of –
 - (aa) a deceased estate, the executor of the estate;
 - (bb) an insolvent estate, the trustee.]
 - (aa) if the entity is a company or co-operative, a duly authorised director or manager or the authorised officer of the company or cooperative;

- (bb) if the entity is a close corporation or partnership, a duly authorised member of or partner in or a manager or the authorised officer of the close corporation or partnership;
- (cc) if the entity is an association, club or other body of persons, the chairperson, manager or the authorised officer of that association, club or other body of persons;
- (dd) if the entity is a trust or trust fund, the administrator, trustee or the authorised officer of the trust or trust fund;
- (ee) if the entity is an entity referred to in items (aa) to (dd) in liquidation or under judicial management, 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;
- (ff) if the entity is the estate of a deceased or insolvent person, 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
- (gg) if the entity is an organ of state, an official of that organ of state in an executive position.”.

Substitution of rule 60.04(2)

52. The following rule is hereby substituted for rule 60.04(2):

“60.04(2) Information regarding contraventions and other matters to be furnished on application [form]

(a) For **[the]** purposes of section 60(2) **[every person applying for a licence]** an applicant must indicate on form DA 185, or on the electronic application, as the case may be, whether –

(i) a person contemplated in section 60(2)(a)(ii) during the preceding five years **[any person to whom these rules relate]**

–

[(i)aa) has contravened or failed to comply with the provisions of the Act;

- (~~ii~~)bb) has failed to comply with any condition, obligation or other requirement imposed by the Commissioner;
 - (~~iii~~)cc) has been convicted of any offence under the Act;
 - (~~iv~~)dd) has been convicted of any offence involving fraud or dishonesty; or
 - [(v) has made any false or misleading statement in any material respect or omitted to state any material fact which was required to be stated in any application for a new licence or renewal of a licence or for any other purpose under the Act; or]**
 - (~~vi~~)ee) **[was] has been insolvent or [in liquidation] liquidated**, as the case may be; and
 - (ii) the applicant's tax matters are in order.
- (b) If the answer is “yes” **[to any questions specified in]** in respect of any provision of paragraph (a)(i), or “no” in respect of paragraph (a)(ii), full details must be furnished with the application.
- (c) Any applicant may, where it is contended in respect of paragraph (a)(i)(aa) or (~~ii~~)bb), that the contravention, **[or] failure or non-compliance** was inadvertent, without fraudulent intent or gross negligence, include a submission to this effect with form DA 185 or the electronic application, as the case may be.
- (d) For purposes of section 60(2)(a)(i)(aa) it is a requirement that the applicant's tax matters must be in order.”.

Substitution of rule 60.05(2)

53. The following rule is hereby substituted for rule 60.05(2):

“60.05(2) Information regarding contraventions and other matters to be furnished after submitting the application or after licensing

- (a) Where an applicant or licensee, as the case may be,**[any person to whom these rules relate]**, after submitting an application to license or to renew**[al of]** a licence, or after licensing becomes aware that –
- (i) that applicant or licensee or an employee of the applicant or licensee as contemplated in section 60(2)(a)(ii) –
- (i)**[i]aa)** contravenes or fails to comply with the provisions of the Act;
- (ii)**[ii]bb)** fails to comply with any condition or obligation imposed by the Commissioner;
- (iii)**[iii]cc)** is convicted of any offence under the Act;
- (iv)**[iv]dd)** is convicted of any offence involving dishonesty; or
- (v)**[v]ee)** is sequestrated or liquidated; or
- (ii) the applicant or licensee–
- (aa) is no longer able to claim that the tax matters of the applicant or licensee are in order;
- (vi)**[vi]bb)** no longer carries on the business for which the licence was issued; or
- (vii)**[vii]cc)** is no longer qualified according to the qualifications prescribed in the rules;
- the Commissioner must be informed of that fact within seven days of the occurrence of such event on form DA 185 or on the electronic application, as the case may be.
- (b) The provisions of rule 60.04(2)**(b)** and **(c)** shall apply *mutatis mutandis* for the purposes of paragraph **(a)**(i) and **(ii)****(aa)**.
- (c)** For purposes of –
- (i) section 60(2)(a)(i)(aa) it is a requirement that the applicant’s tax matters must remain in order; and
- (ii) section 60(2)(b)(ii)(dd) it is a condition that the licensee’s tax matters must remain in order.

Amendment of rule 60.06

54. Rule 60.06 is hereby amended by the substitution for paragraph **(b)** of the following paragraph:

- “(b) A licensee must whenever transacting business relating to the purpose for which that person is licensed, indicate the customs and excise client number contemplated in paragraph (a) on any document issued by that licensee, including on [must be] –
- (i) **[quoted in]** all communications to the South African Revenue Service or any other organ of state **[and reflected on all prescribed documents for transacting customs and excise business]; and**
 - (ii) **[reflected in]** the authorisation for any registered agent, clearing agent or other representative to act on behalf of that licensee. [to transact the business to which the licence relates for production to the Commissioner or the Controller, as the case may be.]”.

Insertion of rules 60.06A, 60.06B and 60.06C

55. The following rules are hereby inserted after rule 60.06:

“60.06A Disclosure of customs and excise relationships

- (a) A licensee that applied for licensing in accordance with rule 60.01A(b)(i) or that updated current licensing information in accordance with that rule must promptly disclose to the Commissioner—
- (i) any customs and excise relationship which that licensee has entered into for purposes of the premises or activity in respect of which that licensee is licensed; and
 - (ii) any customs and excise relationship referred to in subparagraph (i) that has been terminated or has lapsed.
- (b) A disclosure referred to in paragraph (a) must reflect—
- (i) the name and customs and excise client number of the licensee making the disclosure or on whose behalf the disclosure is made;
 - (ii) the date of the disclosure;
 - (iii) the name and customs and excise client number of the registered person or licensee who is the other party to the customs and excise relationship;
 - (iv) the nature of the customs and excise relationship;
 - (v) whether the disclosure relates to—

- (aa) the conclusion of a customs and excise relationship referred to in paragraph (a)(i); or
 - (bb) the termination or lapsing of a customs and excise relationship referred to in paragraph (a)(ii); and
 - (vi) in the case of a disclosure referred to in subparagraph (v)(aa), whether the other party to the customs and excise relationship is authorised by the licensee to—
 - (aa) use the customs and excise client number of the licensee on documents submitted by that party to the Commissioner on behalf of the licensee;
 - (bb) submit refund or drawback applications on behalf of the licensee; or
 - (cc) apply for a duty deferment benefit on behalf of the licensee, or operate on a deferment account of the licensee, if that person is a deferment benefit holder.
- (c) A disclosure referred to in paragraph (a) must be made by or on behalf of the licensee either —
 - (i) electronically through the communicative system indicated on the SARS website for that purpose; or
 - (ii) in person by visiting any Customs and Excise Office where this service is available, as indicated on the SARS website.
- (d) A disclosure referred to in paragraph (a) must be supported by any—
 - (i) agreement entered into between the parties that governs the customs and excise relationship;
 - (ii) authorisations given by the parties for purposes of the customs and excise relationship; and
 - (iii) other documents that may be required by the Commissioner for purposes of noting a customs and excise relationship.

60.06B Confirmation or rejection of customs and excise relationships by other party

- (a) A person named in a disclosure referred to in rule 60.06A(a) by a licensee as the other party to a customs and excise relationship must, subject to paragraph (d), within seven working days from the date of being notified by the Commissioner of the disclosure through the electronic communicative system referred to in rule 60.06A(c), either confirm or reject the relationship.
- (b) If a person named as the other party to a customs and excise relationship in terms of paragraph (a)—
- (i) confirms the relationship, the Commissioner must note in the electronic communicative system particulars of the relationship for purposes of its validation processes relating to declarations, reports, statements, returns, notices, notifications, applications, requests or other documents submitted by or on behalf of the licensee which involve that other party; or
 - (ii) rejects the relationship or fails to either confirm or reject the relationship within the prescribed timeframe, the disclosure becomes ineffective and the Commissioner may disregard the alleged relationship for purposes of such validation processes.
- (c) A confirmation or rejection referred to in paragraph (a) must be done electronically through the communicative system indicated on the SARS website for that purpose.
- (d) This rule only applies to persons named in a disclosure that have been
- =
- (i) registered pursuant to an application for registration contemplated in rule 59A.01A(b)(i)(aa) or rule 8.04(2)(a)(i) or that updated current registration information in accordance with rule 59A.01A(b)(i)(aa); or
 - (ii) licensed pursuant to an application for licensing contemplated in rule 60.01A (b)(i) or that updated current licensing information in accordance with that rule.

60.06C Fresh disclosure of customs and excise relationships upon failure by other party to confirm or reject relationship

- (a) If the other party to a customs and excise relationship disclosed in terms of rule 60.06A fails to confirm or reject the relationship in accordance with rule 60.06B, the registered person that made the disclosure may disclose the relevant relationship to the Commissioner afresh.
- (b) Rules 60.06A and 60.06B apply with any necessary changes the context may require to a fresh disclosure in terms of paragraph (a)."

Substitution for rule 60.07(2)

56. The following rule is hereby substituted for rule 60.07(2):

“60.07(2) [Controller] Commissioner to be advised of any changed particulars

- (a) Whenever any of the particulars furnished in any application **[for a licence]** or in an update of such particulars after licensing changes **[in any material way]**, the licensee shall promptly advise the Commissioner **[Controller within seven days of the occurrence of such event]** by submitting in terms of rule 60.01A(b) read with (c), the electronic application or [a] form DA 185 and the relevant annexure reflecting the changed particulars.
- (b) **[In any case]** Where in the opinion of the Commissioner the security is in any manner compromised by [such] a change referred to in paragraph (a), the form, nature or amount of such security shall be altered as the Commissioner may in terms of section 60(1)(c)(ii) require.”.

Amendment of rule 60.10

57. Rule 60.10 is hereby amended –

- (a) by the substitution for item (aa) of paragraph (a)(i) of the following item:
- “(aa) to update or confirm current licensing information within a period specified by [complete] completing and submitting in accordance with rule 60.01A(b) read with (c), [a] the electronic application where applicable, or form DA 185 and the relevant annexure, and [within a period specified by the Commissioner for updating of existing information or] to furnish any additional information required, if applicable;” and

(b) by the substitution for paragraph (b) of the following paragraph:

“(b) **[If the form DA 185 is not received within the period specified by the Commissioner the licensee will not be able to transact any customs or excise business under the existing licence.]** The Commissioner may in terms of section 60(2)(b) cancel or suspend a licence if a licensee –

(i) does not update licensing information in accordance with paragraph (a)(i)(aa) read with subparagraph (iii)(A); or

(ii) updates licensing information, but fails to comply with a requirement stated in form DA 185 or the electronic application and the relevant annexure: Provided that in respect of a licence issued before 20 April 2020, a licensee is entitled to a grace period of 60 days before suspension or cancellation proceedings are commenced in terms of the proviso in paragraph (b) of section 60(2), to prove compliance with any requirement that did not exist at the time when that licensee’s licence was granted.

(iii) The Commissioner may–

(A) on reasonable grounds extend a period specified in terms of paragraph (a)(i)(aa) or the grace period contemplated in subparagraph (ii); or

(B) if circumstances so demand, despite subparagraph (b)(ii) summarily suspend a licence after the grace period of 60 days if the licensee failed to comply with the relevant requirement within that time.”.

Repeal of rule 60.10(2)

58. Rule 60.10(2) is hereby repealed.

Insertion of rule 60.10A

59. The following rule is hereby inserted after rule 60.10(1):

“60.10A Communication through eFiling or another electronic communicative system for receipt of applications

- (a) The rules for electronic communication published in terms of section 255 of the Tax Administration Act by Government Notice No. 644 dated 25 August 2014, excluding rule 5 thereof, apply for purposes of electronic communication contemplated in the rules under section 60, subject to paragraph (b).
- (b) The rules for electronic communication referred to in paragraph (a) apply with any necessary changes as the context may require, and in such application any reference in those rules to—
- (i) a tax Act must be read as including a reference to the Customs and Excise Act or the rules thereunder;
 - (ii) an electronic filing system must be read as including a reference to eFiling or another electronic communicative system administered by SARS for purposes of submission of applications in terms of the rules under section 60;
 - (iii) an electronic filing transaction must be read as including a reference to an electronic communication permitted in terms of the rules under section 60;
 - (iv) an electronic communicator or registered electronic user must be read as including a reference to a person registered in terms of section 59A as an electronic user;
 - (v) a registered tax practitioner must be read as including a reference to a person registered in terms of section 59A as an electronic user and who submits applications electronically as a clearing agent, registered agent or other representative on behalf of another; and
 - (vi) a taxpayer must be read as including a reference to a licensee.
- (c) In the event of any inconsistency between a provision of the rules under section 60 and the rules for electronic communication referred to in paragraph (a), the provision of the former prevails.”

Substitution of rule 62.01

60. The following rule is hereby substituted for rule 62.01:

“**62.01** Application by an agricultural distiller for a licence to keep a still or to distil, shall be made to the **[Controller]** Commissioner in accordance with rule 60.01A(b)(ii) **[on the prescribed form]**.”

Amendment of rule 63.01

61. Rule 63.01 is hereby amended by the substitution for –

(a) paragraph (a) of the following paragraph:

“(a) in accordance with rule 60.01A(b)(ii) apply **[on form DA 185 and the appropriate annexure]** for a licence to manufacture or import stills for sale or to repair stills for reward;”;

(b) paragraph (b) of the following paragraph:

“(b) immediately on manufacture or importation by him of any still, apply in accordance with rule 59A.01A(b)(i)(bb) **[on form DA 185 and the appropriate annexure]** to register such still;”.

Substitution of rule 63.02

62. The following rule is hereby substituted for rule 63.02:

“63.02 Every person who owns, possesses or keeps a still shall in accordance with rule 60.01A(b)(ii) apply for a license **[on form DA 185 and the appropriate annexure]**, unless such still is used solely for distilling water or any other purpose for which a licence is not required.”.

Amendment of rule 63.04

63. Rule 63.04 is hereby amended by the substitution for paragraph (c) of the following paragraph:

“(c) apply in accordance with rule 59A.01A(b)(i)(bb) **[on form DA 185 and the appropriate annexure]** to register such still; and”.

Amendment of rule 63.07

64. Rule 63.07 is hereby amended by the substitution for paragraph (a) of the following paragraph:

“(a) Every agricultural distiller shall in accordance with rule 60.01A(b)(ii) apply **[on form DA 185 and the appropriate annexure]** for a licence for the distillation of spirits as an agricultural distiller.”.

Substitution of rule 64.01

65. The following rule is hereby substituted for rule 64.01:

“64.01 Application for a licence to manufacture wine in a special customs and excise warehouse shall be made to the **[Controller]** Commissioner in accordance with rule 60.01A(b)(ii) **[on the prescribed form]**.”.

Substitution of rule 64A.01

66. The following rule is hereby substituted for rule 64A.01:

“64A.01 Application for a licence to operate a container depot shall be made to the **[Controller]** Commissioner in accordance with rule 60.01A(b)(ii) **[on the prescribed form]**.”.

Amendment of rule 64B.01(1,2,3,4)

67. Rule 64B.01(1,2,3,4) is hereby amended by the substitution for item (aa) of paragraph (a)(i) of the following item:

“(aa) apply in accordance with rule 60.01A(b) on form DA 185 or the electronic application and the relevant annexure or the corresponding screen or page of the electronic application, as the case may be and comply with all the requirements specified therein and in the rules and any additional requirements that may be determined by the Commissioner;”.

Substitution of rule 64C.01

68. The following rule is hereby substituted for rule 64C.01:

“64C.01 Application for a licence to search wreck or to search for wreck shall be made to the Commissioner in accordance with rule 60.01A(b)(ii). **[to the nearest Controller on the prescribed form]**”.

Substitution of rule 64C.04

69. The following rule is hereby substituted for rule 64C.04:

“64C.04 Unless searching operations are commenced three months from the date of issue of the licence or if the licensee fails to comply with any of the conditions stated on such licence the licence may be cancelled or suspended in terms of section 60(2)(b) of the Act.”.

Amendment of rule 64D.01(1,3)

70. Rule 64D.01(1,3) is hereby amended –

(a) by the substitution for subparagraph (i) of paragraph (c) of the following subparagraph:

“(i) apply in accordance with rule 60.01A(b) on form DA 185 or the electronic application and the relevant annexure or the corresponding screen or page of the electronic application, as the case may be, and comply with all the requirements specified therein, in section 64D and these rules and any additional requirements that may be determined by the Commissioner;”;

(b) by the substitution for subparagraph (ii) of paragraph (c) of the following subparagraph:

“(ii) except in the case of a **[foreign principal] remover in bond not located in the Republic, as contemplated in the rules under section 60,** submit with the application the completed agreement in accordance with the pro forma agreement specified in these rules;”;

(c) by the substitution for paragraph (d) of the following paragraph:

“(d) A **[foreign principal] remover in bond not located in the Republic** must [–

[(i) apply on form DA 185 and the appropriate annexure for licensing in respect of the activity for which licensing is required; and

(ii)] if submitting an application in paper format as contemplated in rule 60.01A(b)(ii) [nominate a] disclose the person intended to act as registered agent for that remover in bond on form DA 185.D; and

(iii) be represented by a registered agent in the performance of any function regulated by the Act].”; and

(d) the insertion of the following paragraph after paragraph (d):

“(e) A person licensed as a remover in bond not located in the Republic subsequent to submission of an electronic application contemplated in

rule 60.01A(b)(i), must disclose the person acting as registered agent for that remover in bond in accordance with rule 60.06A.”.

Amendment of rule 64D.03(1)

71. Rules 64D.03(1) is hereby amended by the substitution –

(a) for subparagraph (v) of paragraph (a) of the definition of “consignor” of the following paragraph:

“(v) any registered agent **[nominated by and]** acting on behalf of a **[foreign principal]** remover in bond not located in the Republic [as contemplated in the rules for section 59A;]; and

(b) for subparagraph (i) of paragraph (c) of the following subparagraph:

“(i) Any reference in these rules to **[“foreign principal”]** “located in the Republic”, and “registered agent”, shall, with the necessary changes, have the meaning assigned thereto in rule 59A.01.”.

Amendment of rule 64D.10(5)

72. Rule 64D.10(5) is hereby amended by the substitution for paragraph (d) of the following paragraph:

“(d) **[(i)]** Whenever any particulars regarding the legal status or address of the remover in bond whose liabilities are secured under the security provided change in any manner whatsoever, such remover shall immediately –

(aa) **[advise the Controller]** notify the Commissioner in accordance with rule 60.05(2) of any change in circumstances as contemplated in that rule, or in accordance with rule 60.07(2)(a) of any change in particulars furnished in the application for licensing;

(bb) provide such supporting documents **[addendums to the Controller]** as may be required; and

[(cc) substitute the security where appropriate;]

[(dd)](cc) comply with such requirements and directions as the Controller may issue in respect of security.”.

Amendment of rule 64F.02

73. Rule 64F.02 is hereby amended by –

(a) the substitution for subparagraph (i) of paragraph (a) of the following subparagraph:

“(i) apply in accordance with rule 60.01A(b)(ii) **[on form DA 185 and the appropriate annexure thereto]** and must comply with all the requirements specified **[therein,]** on form DA 185 and the relevant annexure, in these rules, any relevant section or item of Schedule No. 8 governing such licences, any requirement specified in Schedule No. 6 and any additional requirements that may be determined by the Commissioner;”;

(b) the substitution for subparagraph (iv) of paragraph (b) of the following subparagraph:

“(iv) A licensed distributor must notify the Commissioner in accordance with rule 60.05(2) of any change in circumstances as contemplated in that rule, or in accordance with rule 60.07(2)(a) of any change in particulars furnished in the application for licensing, and **[whenever any particulars regarding the legal status or address of the licensed distributor change in any manner whatsoever, such distributor]** shall **[immediately]** –

[(aa) advise the Controller;

(bb)(aa) provide such supporting documents **[addendums to the Controller]** as may be required;

[(cc) substitute the security where appropriate;

(dd)(bb) comply with such requirements and directions as the Controller may issue in respect of security.”; and

(c) the deletion of subparagraph (ii) of paragraph (c).

Amendment of rule 64G.03

74. Rule 64G.03 is hereby amended –

- (a) by the substitution for paragraph (c) of the following paragraph:
 - “(c) Any applicant for a licence or renewal of a licence must apply in accordance with rule 60.01A(b)(ii) [on form DA64G.01] and comply with all the requirements contemplated in section 64G(1)(b).”; and
- (b) by the deletion of subparagraph (ii) of paragraph (d).

Amendment of rule 64G.04

75. Rule 64G.04 is hereby amended –

- (a) by the substitution for subparagraph (i) of paragraph (a) of the following subparagraph:
 - “(i) pay any [the prescribed] licence fee that may be prescribed;”
- (b) by the deletion of subparagraph (ii) of paragraph (a); and
- (c) by the deletion of paragraph (b).

Amendment of rule 64G.06

76. Rule 64G.06 is hereby amended –

- (a) by the substitution for subparagraph (i) of paragraph (a) of the following subparagraph:
 - “(i) **[Whenever any of the particulars furnished in any application for a licence changes in any material way, t]The licensee shall advise the Commissioner in accordance with rule 60.05(2) of any change in circumstances as contemplated in that rule, or in accordance with rule 60.07(2)(a) of any change in particulars furnished in the application for licensing. [within 7 days from the date of the occurrence of such event by submitting a completed application form DA64G.01 reflecting the changed particulars.]**”; and
- (b) by the deletion of subparagraph (ii) of paragraph (a)

Substitution of rule 64G.11

77. The following rule is hereby substituted for rule 64G.11:

“[Submission of reports required in terms of section 8 and] Electronic communication

- [(a) A degrouping operator must register in terms of section 8 for the purpose of submission of any cargo report required to be submitted in terms of that section and its rules.**
- (b) For the purpose of electronic communication [with the Commissioner, the Controller or an officer as] contemplated in section 101A, [including any report referred to in paragraph (a),] [the] a degrouping operator must register as a user in accordance with rule 59A.01A(b)(i)(bb) and enter into a user agreement as prescribed in [the said] section 101A and its rules.”.**

Amendment of rule 101A.02(3)

78. Rule 101A.02(3) is hereby amended by the substitution for subparagraph (i) of paragraph (a) of the following subparagraph:

- “(i) submit the application in accordance with rule 59A.01A(b)(i)(bb) **[apply on form DA 185 and the relevant annexure thereto]** and comply with all the requirements specified therein, in section 101A and these rules and any additional requirements that may be determined by the Commissioner;”.

Amendment of rule 116.01

79. Rule 116.01 is hereby amended by the substitution for paragraph (a) of the following paragraph:

- “(a) A manufacturer of excisable goods who manufactures such goods solely for the purpose of own use by that manufacturer, as contemplated in section 116, must—
- (i) apply in accordance with rule 59A.01A(b)(i)(bb) **[on form DA 185 and the appropriate annexure]** for registration as such a manufacturer **[in terms of section 59A and the rules thereto]**; and
- (ii) for purposes of distillation, apply in accordance with rule 60.01A(b)(ii) **[on form DA 185 and the appropriate annexure]**

for a licence to own, possess or keep a still **[in terms of] as contemplated in** section 63 and the rules thereto.”.

Substitution of forms

80. Item 202.00 of the Schedule to the rules is hereby amended by the substitution of the following forms:

- “DA 8 Application for registration to submit reports – Sea cargo
- DA 8A Application for registration to submit reports – Air cargo
- DA 8B Application for registration to submit reports – Rail cargo
- DA 8C Application for registration to submit reports – Road cargo
- DA 185 Application form: Registration/Licensing of Customs and Excise Clients
- DA 185.4A1 Registration Client Type 4A1 – Importer (located or not located in the Republic)
- DA 185.4A2 Registration Client Type 4A2 – Exporter (located or not located in the Republic)
- DA 185.4A3 Registration Client Type 4A3 - Rebate User (Schedule No's 3, 4 and 6)
- DA 185.4A4 Registration Client Type 4A4 – Manufacturer
- DA 185.4A5 Registration Client Type 4A5 - Special manufacturing warehouse: Automotive Production and Development Programme (APDP)
- DA 185.4A6 Registration Client Type 4A6 – Electronic User
- DA 185.4A7 Registration Client Type 4A7 – Producer
- DA185.4A8 Registration Client Type 4A8 – Commercial manufacturer of biofuel (Section 37B and Rule 37B.02(b))
- DA 185.4A9 Registration Client Type 4A9 – Non-commercial manufacturer of biofuel (Section 37B and Rule 37B.02(a))

- DA 185.4A10 Registration Client Type 4A10 – Manufacturer in terms of drawback items 501.00 to 521.00 of Schedule No. 5
- DA 185.4A11 Registration Client Type 4A12 – Special Economic Zone (SEZ) and/or designation of a Customs Controlled Area (CCA) – Sections 21A, 59 and rule 21A.04)
- DA 185.4A12 Registration Client Type 4A12 – Electricity Producer (Chapter VA and section 59A and the rules thereto 54FA.04)
- DA 185.4A13 Registration Client Type 4A13 – Registered Agent
- DA 185.4A14 Registration Client Type 4A14 - Registered Still
- DA 185.4A15 Registration Client Type 4A15 - Manufacture of excisable goods solely for own use by the manufacturer
- DA 185.4A16 Client Type 4A16 – Non-commercial manufacturer of sugary beverages (Section 59A and Rule 54I.03)
- DA 185.4B1 Special Manufacturing Warehouse – (Section 21 and the rules thereto)
- DA 185.4B2 Manufacturing Warehouse – (Sections 19A, 27, 54E, 54J, 54AA and the rules thereto)
- DA 185.4B3 Storage Warehouse (Section 19 and the rules thereto)
- DA 185.4B4 Special Storage Warehouse (Sections 19A and 21 and the rules thereto)
- DA 185.4B5 Clearing Agent – (Section 64B and the rules thereto)
- DA 185.4B6 Remover of goods in Bond (Located/ not located in the Republic) – (Section 64D and the rules thereto)
- DA 185.4B7 Distributor of Fuel – (Section 64F and the rules thereto)
- DA 185.4B8 Special Ad Valorem Manufacturing Warehouse – (Section 36A and the rules thereto)

- DA 185.4B9 Storage Warehouse (Customs Controlled Area Enterprise) –
(Sections 19A, 21, 21A and Rule 21A.10)
- DA 185.4B10 Manufacturing Warehouse (Customs Controlled Area Enterprise) –
(Sections 19A, 21A, 27 and Rule 21A.10)
- DA185.4B11 Distillation of spirits by an agricultural distiller (Section 62 and rule
63.07)
- DA 185.4B12 To own, possess or keep stills (Section 63 and rule 116.01)
- DA 185.4B13 To manufacture or import stills for sale or to repair stills for reward
(rule 63.01)
- DA 185C Disclosure of Registered Agent
- DA 185D Security Particulars

Insertion of forms

81. Item 202.00 of the Schedule to the rules is hereby amended by the substitution of the following forms:

- DA 185.4B14 Degrouping depot (Section 64G and rules thereto)
- DA 185.4B15 Searching wreck or searching for wreck (Section 64C and rule
64C.01)
- DA 185.4B16 Container depot (Section 64A and rule 64A.01)