



Accreditation of Clients

Customs & Excise



South African Revenue Service

Accreditation of Clients

Preface

This guide has been prepared to provide an overview of the key legislative requirements under the Customs and Excise Act 91 of 1964 applicable to accreditation of clients.

It does not go into comprehensive technical and legal detail and should therefore not be used as a legal reference.

This guide has no binding legal effect.

For more information, assistance and guidance you may –

- visit the **SARS website**;
- contact the SARS National Contact Centre –
 - if calling locally, on 0800 00 7277;
 - if calling from abroad, on +27 11 602 2093 (only between 8am and 4:30pm South African time);
- have a virtual consultation with a SARS consultant by making an appointment via the **SARS website**;
- visit your nearest SARS branch office, preferably after making an appointment via the **SARS website**; or
- contact your own tax advisor or tax practitioner.

Comments on this guide may be e-mailed to **C&E_LegislativeComments@sars.gov.za**.

Legislative Policy: Customs and Excise
SOUTH AFRICAN REVENUE SERVICE
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1. Purpose

This guide provides an overview of the key legislative requirements under the Customs and Excise Act 91 of 1964 (the Act) applicable to accreditation of clients.

2. Introduction

Rule 64E.04(1) provides for two levels of accredited status, namely –

- Level 1 – Authorised Economic Operator (Compliance); and
- Level 2 – Authorised Economic Operator (Security).

"To the extent that Customs can rely on its partners in the trade community to evaluate and address threats to their own supply chain, the risk confronting Customs is reduced. Therefore, companies that demonstrate a verifiable willingness to enhance supply chain security will benefit. Minimising risk in this way helps Customs in performing their security functions, and in facilitating legitimate trade."¹

The Authorised Economic Operator (AEO) is a model programme promoted by the World Customs Organisation (WCO). The standards for launching and maintaining an AEO Programme are contained in Pillar 2 of the WCO SAFE Framework of Standards (WCO SAFE FoS). The objective of the Programme is to secure and facilitate global trade whilst providing incentives that benefit both customs and traders that have decided to work in partnership.

The SAFE AEO Programme offers an opportunity for customs to share its security responsibilities with private sector operators, while at the same time rewarding them with a number of facilitation benefits that include quicker movement of low-risk cargo through customs, improved security levels, optimised supply chain costs through security efficiencies, enhanced reputation, increased business opportunities, improved understanding of customs requirements, and better communication between the AEO and the customs administration.²

The current rules under section 64E of the Act align more closely to the standards of Pillar 2 of the WCO SAFE FoS than the previous rules under section 64E of the Act.

3. Customs and Excise Act 91 of 1964

The following table refers to the **key provisions** under the Act that are relevant. This table is not exhaustive and other provisions under the Act may also find application.

CUSTOMS AND EXCISE ACT, 1964	
Section	
59A	Registration of persons participating in activities regulated by the Act
60	Licence fees according to Schedule No. 8
64E	Accredited clients

¹ WCO SAFE FoS.

² WCO SAFE Package or AEO Implementation Guidance.

80	Serious offences and their punishment
81	Non-declaration in respect of certain goods
82	Prohibition with regard to stamps
83	Irregular dealing with or in goods
84	False documents and declarations
86	Certain specified offences
101	Business accounts, documents etc to be available for inspection
101A	Electronic communication for the purposes of customs and excise procedures
Rules under the Customs and Excise Act, 1964	
Rules for section 59A	Registration of persons participating in activities regulated by the Act
Rules for section 60	Issuing and renewal of licences
Rules for section 64E	Accreditation of clients

The Act and Rules are available on the **SARS website** under Legal Counsel ⇨ Primary Legislation (the Act) and Secondary Legislation (Rules).

4. Who may apply for accreditation?

A person registered or licenced for any customs activity under the provisions of the Act that is located in the Republic may apply for Level 1 or 2 accredited status.³

Two conditions must therefore be met before you apply for accreditation, namely, you must be –

- registered or licenced for any customs activity; and
- located in the Republic.

For purposes of the above –

- **“customs activity”** means an activity regulated by the Act and involving the import or export of goods, the handling, transit, conveyance, storage and processing of imported goods, or goods to be exported, which are subject to customs control;⁴ and
- **“located in the Republic”** in relation to⁵ –
 - a natural person, means that such person is ordinarily resident in the Republic at a specific physical address in the Republic; and

³ See rule 64E.04(2)(a) to the Act.

⁴ See rule 64E.01 to the Act for the definition of “customs activity”.

⁵ See rule 64E.01 to the Act for the definition of “located in the Republic”.

- a juristic person, means that such person –
 - is incorporated, registered or recognised under the laws of the Republic or of another country; and
 - has a place of business at a specific physical address in the Republic.

Although persons that are not located in the Republic (foreign principals) may be registered or licensed for certain customs activities and be represented in the Republic by a registered agent located in the Republic, the foreign principal will not be eligible to apply for accredited status in accordance with the definition of “located in the Republic”.

Nevertheless, a foreign principal that has been awarded AEO status in the country where it is located may be eligible for benefits in the Republic as determined in the Mutual Recognition Agreement concluded with that country.

A registered agent acting for a registrant or licensee that is not located in the Republic may not **in that capacity** apply for, or be awarded, accredited status.⁶

5. What are the criteria for Level 1 accredited status?

To qualify for Level 1 accredited status, an applicant must meet the criteria below.⁷

5.1 Record of compliance

The applicant must have a record of compliance with the Act for three years preceding the date of application, as evidenced by an absence of –

- a contravention of sections 80 to 84, and 86 of the Act that resulted in the imposition of any administrative penalty, excluding administrative penalties for –
 - unintentional errors or omissions on documents submitted to customs; or
 - any other non-compliance which is a minor or mere technical breach committed without the intention to mislead; and
- any suspension or cancellation of a registration or a licence, or a deferment benefit granted to the applicant under the Act.

The Commissioner may, despite the above, assess an applicant’s record of compliance with customs requirements based on any records and information available to the Commissioner at the time of application, if a three-year compliance record referred to above is not available as a result of the applicant’s limited exposure to the South African customs and excise environment.

The applicant must further have no –

- outstanding –
 - taxes, interest, penalties or other amounts due and payable to SARS for which he or she is liable under the Act or any other tax law; or
 - tax returns or other documents that must be submitted for tax purposes to SARS under the Act or any other tax law; and

⁶ See rule 64E.04(2)(c) to the Act.

⁷ See rule 64E.12 to the Act.

- conviction for any offence under the Act or any other tax law.

5.2 Computer system and operational procedures and processes

The applicant must have and maintain –

- a computer system conforming to any conditions specified in the user agreement referred to in section 101A;
- an effective internal accounting, record keeping and operational system which is consistent with generally accepted accounting principles, and which must –
 - reflect a full audit trail of all the applicant's customs transactions and activities; and
 - have verifiable procedures for backup, recovery, fallback, archiving and retrieval of business records; and
- internal controls for detecting illegal or irregular transactions and activities.

5.3 Sufficient knowledge of customs and excise laws and procedures

The applicant must have sufficient knowledge of customs and excise laws and procedures to implement and maintain an effective accredited client status compliance system, as evidenced by an Accreditation Competency Assessment Certificate issued under rule 64E.06.

5.4 Sufficient financial resources

The applicant must have sufficient financial resources, as evidenced by –

- audited financial statements of the business for the past three financial years or such lesser period as the Commissioner may allow in a specific case; or
- in the absence of such statements, other evidence of the financial viability of the business, which may include proof of available financial resources as the Commissioner may allow.

6. What are the benefits for Level 1 accredited status?

The holder of a Level 1 accredited status is entitled to any one or more of the following benefits as may be determined by the Commissioner generally, for a particular category of clients, or in a particular case:⁸

- The services of a Client Relationship Manager.
- Reduction of the amount of any security required under the Act.
- Fewer documentary and physical inspections for compliance risks.
- Prioritising of requests for tariff and valuation determinations.
- Prioritising of access to non-intrusive inspection techniques when goods are stopped or detained for inspection.
- Prioritising and expediting of inspections.
- The inspection of goods at the client's premises on appointment, irrespective of the type of goods, and the exemption from payment of a fee for such inspections.

⁸ See rule 64E.14 to the Act.

- Authorisation to make use, in accordance with an agreement entered into with SARS, of a unique SARS logo identifying the holder recognised by SARS as a person with AEO status.
- Recognition by other customs authorities of the Level 1 accredited status issued to the holder –
 - to the extent provided for in mutual recognition arrangements between SARS and such customs authorities, published on the SARS website; and
 - provided that consent has been given by the holder on the electronic application for the sharing of such information as may be necessary to assure effective and continued mutual recognition.
- Co-ordination of interventions undertaken or required to mitigate compliance risks in respect of such holder's goods by officers and officials from other government agencies –
 - to the extent provided for in memoranda of understanding between SARS and such agencies; and
 - provided that consent has been given by the holder on the electronic application for the sharing of such information as may be necessary for the facilitation of the co-ordinated intervention.

7. What are the criteria for Level 2 accredited status?

In order to qualify for Level 2 accredited status, the applicant must meet the criteria for Level 1 under 5. The **record of compliance** is **five years** in respect of applicants for Level 2 accredited status.⁹

An applicant for Level 2 accredited status must, in addition, meet the following safety and security standards:¹⁰

- The applicant must implement adequate and appropriate security measures to secure premises, buildings and facilities, including prohibiting unauthorised access by any person, vehicle or goods to security sensitive areas within such premises, buildings and facilities that present a higher security risk if breached, by implementing a system of access control or other appropriate security precautions.
- Security measures must be in place in respect of personnel and other persons gaining access to the applicant's premises providing for –
 - the unique identification of an individual as a member of the applicant's personnel to mitigate the risk of unauthorised persons gaining access to secure areas;
 - security screening in respect of prospective employees applying for posts that entail working in security sensitive areas;
 - periodic security screening of current employees working in security sensitive areas; and

⁹ See rule 64E.13(1) to the Act.

¹⁰ See rule 64E.13(2) to the Act.

- the identification, recording and dealing with unauthorised or unidentified persons, such as photo identification and sign-in registers for visitors at all entry points to the premises.
- The applicant must identify his or her business partners participating in any aspect of the supply chain of goods involved in the relevant customs activity, and must be able to demonstrate that efforts were made to ensure that business partners meet or enhance supply chain security requirements through –
 - the review of relevant commercial information relating to prospective contracting parties before entering into contractual arrangements; and
 - the implementation of appropriate contractual arrangements or other measures appropriate for the applicant's business model.
- Measures must be in place to ensure that the security and integrity of cargo and any conveyance is maintained whilst under the applicant's supervision or control, including procedures for –
 - storing of, access to, and removal of cargo and conveyances in secure areas;
 - proper sealing by designated personnel;
 - training of operators of conveyances used for the transportation of cargo to ensure the security of conveyances and the cargo at all times;
 - inspection of conveyances and recognising and reporting compromised seals, cargo and conveyances, as well as keeping record of inspections; and
 - ensuring that cargo is secure during transport and whilst loading or unloading from a conveyance.
- The applicant must have a contingency plan for crisis management and recovery procedures to mitigate any risk of loss or destruction of the applicant's records and information.
- Regularly reviewed measures must be in place for the education and training of personnel with regard to the risks associated with the international supply chain, the recognition of suspicious incidents and potential threats and actions to be taken in response to it.
- Adequate information technology security measures must be employed to protect the applicant's information technology systems, evidenced by –
 - a dedicated person responsible for managing information technology and information technology security;
 - written information technology security procedures or confirmation of the implementation of information security measures;
 - employee training in respect of information technology security policies, procedures and standards;
 - monitoring systems to identify improper access to information technology, tampering with or the altering of business data, as well as procedures to deal with any breaches of security by personnel or other persons;
 - measures providing for –
 - accessing of information technology systems by personnel through individually assigned accounts;

- limiting access to master data and the creation of user profiles providing access to information connected to the specific tasks of the user; and
 - periodic change of passwords;
- security features incorporated into information security systems, such as firewalls, spyware, encryption, monitoring of software; and
- the physical securing of the applicant's information technology server room, including authorised access control.
- The applicant must at all times have dedicated personnel with an understanding of its business and access to the relevant information tasked with consultation, co-operation and communication with SARS in relation to customs matters.
- The applicant must practice good corporate governance and be able to show compliance with the guidelines contained in the latest revision of the King Report on Corporate Governance, to the extent applicable to the applicant.

8. What are the benefits for Level 2 accredited status?

The holder of a Level 2 accredited status is entitled to, **in addition to Level 1 benefits prescribed under rule 64E.14(a)**, any one or more of the following benefits as may be determined by the Commissioner generally, for a particular category of clients, or in a particular case:¹¹

- (a) Exemption, on conditions determined by the Commissioner, from customs supervision following application by such holder for special or extra attendance in relation to –
 - (i) the examination of goods entered on a sight bill of entry;
 - (ii) the unpacking and repacking of goods for export;
 - (iii) the export of goods temporarily imported;
 - (iv) the examination of goods without prejudice; and
 - (v) the destruction of goods.
- (b) Prioritising of applications for special or extra attendance services where such holder is not exempted from supervision as contemplated in bullet (a).
- (c) No charges being imposed for special or extra attendance in respect of applications referred to in bullet (b) if the attendance is provided during hours of attendance contemplated in rule 120.01.
- (d) Expedited processing of refund and drawback applications.
- (e) Provision of targeted training sessions.
- (f) Provision of trade statistics on a quarterly basis.
- (g) Extension of validity of the relevant license issued to such holder under section 60.
- (h) Reduced cyclical compliance audits for licensees, which will not affect risk-based audits or mandatory audits for purposes of maintaining the accredited status.
- (i) Fewer documentary and physical inspections for compliance and supply chain security risks.
- (j) Exemption from security payments.

¹¹ See rule 64E.15 to the Act.

- (k) Co-ordination of interventions undertaken or required to mitigate compliance and security risks in respect of such holder's goods by officers and officials from other government agencies –
- to the extent provided for in memoranda of understanding between SARS and such agencies; and
 - provided that consent has been given by the holder on the electronic application for the sharing of such information as may be necessary for the facilitation of the co-ordinated intervention.
- (l) Recognition by other customs authorities of the Level 2 accredited client status issued to the holder –
- to the extent provided for in mutual recognition arrangements between SARS and such customs authorities, published on the **SARS website**; and
 - provided that consent has been given by the holder on the electronic application for the sharing of such information as may be necessary to assure effective and continued mutual recognition.

9. What are the application requirements for accreditation?

You must apply electronically via eFiling on the Registration Licensing and Accreditation (RLA) system or by means of branch front end capturing at a Customs and Excise Office where this service is available as indicated on the SARS website.¹²

The application must be supported by a signed copy of the relevant Accreditation Agreement, available on the **SARS website**, and any other supporting documents that may be necessary for proving compliance with the criteria, which must be uploaded to the system on request. The electronic application will give you an indication of which supporting documents may be required.

All customs activities for which an applicant is registered or licenced under the provisions of the Act will be considered for purposes of the application for accredited status.¹³

The consideration and approval or refusal of applications, and the cancellation or suspension of accredited status is delegated to the Accreditation Committee.¹⁴

10. How long will my accredited status be valid?

Your accredited status takes effect on the date specified in the status and remains valid for a period of five years.¹⁵

An accredited status lapses before its expiry if –

- the status is cancelled by the Commissioner as contemplated in section 64E(3);
- the status holder's registration or licence is suspended or cancelled under section 60(2); or

¹² See rule 64E.05 to the Act.

¹³ See rule 64E.04(2)(b) to the Act.

¹⁴ See rule 64E.02(1)(b) read with rule 64E.03 to the Act.

¹⁵ See rule 64E.09 to the Act.

- the status holder no longer intends to retain the status and notifies the Commissioner of such intention.

11. Will accredited status extend to subsequent customs registrations or licences granted?

Yes. Accredited status extends to any registration or licence in respect of a customs activity subsequently granted to the holder under section 59A or 60, provided that the holder complies in respect of any such registration or licence to the applicable criteria for the relevant level of accredited client status.¹⁶

12. Do I have to renew my accredited status?

Yes. The holder of an accredited client status may not later than 30 calendar days before expiry of the status apply for renewal of the status electronically on the RLA system. All the provisions applicable to an application for accreditation apply with the necessary changes for purposes of an application for renewal of accredited client status.¹⁷

¹⁶ See rule 64E.04(10) to the Act.

¹⁷ See rule 64E.11 to the Act.