

**CUSTOMS**

**EXTERNAL POLICY**

**REGISTRATION, LICENSING AND  
DESIGNATION**

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## 1 SUMMARY OF MAIN POINTS

- a) This policy deals with the types of clients required to be registered:
- i) Automotive Production Development Programme (APDP);
  - ii) Approved exporters;
  - iii) Cargo reporter (e.g. carriers, port / rail authorities or operators);
  - iv) Electronic communication with SARS;
  - v) Exporters (located in South Africa or not);
  - vi) Importers (located in South Africa or not);
  - vii) Special Economic Zone (SEZ) Operators, Designated areas as Customs controlled areas within an SEZ and CCA Enterprise, Section 21A;
  - viii) Manufacturers in terms of drawback items 501.00 to 521.00;
  - ix) Producers for preferential trade agreements and generalised system of preference (GSP); and
  - x) Rebate users in terms of Schedule 3, 4 and 6; and
  - xi) Registered Agents in terms of Rule 59A.01.
- b) In addition, the document deals with types of clients, premises or facilities required to be licensed:
- i) Carriers - removers of goods in bond (local or foreign);
  - ii) Clearing agents;
  - iii) Depots: container and degrouping;
  - iv) Customs warehouses:
    - A) Storage warehouses (OS) including Customs controlled area enterprises;
    - B) Manufacturing warehouses including Customs controlled area enterprises;
    - C) Special storage warehouses (SOS):
      - I) Storage of local manufactured and /or imported goods for supplies to foreign going aircraft or vessels as stores, spares and equipment;
      - II) Inbound and / or outbound duty and tax free shops; and
      - III) Storage of imported second hand motor vehicles; and
    - D) Stockist warehouses.
  - v) Removers of goods in bond (located in South Africa or not); or
  - vi) Search abandoned wrecks or for abandoned wrecks (Searcher).
- c) Designation of a portion of the SEZ landmass as a Customs controlled area is also covered.
- d) Registration to participate in the Deferments scheme is also discussed.
- e) The appointment of facilities for specific purposes:
- i) Container terminal; and
  - ii) Transit shed.
- f) The following are not covered in this policy:
- i) Surety (e.g. Bonds and / or addendums) – (refer to SC-SE-05);
  - ii) Designations other than terminals and SEZ or Customs controlled area related activities;
  - iii) The Legal entity registration which must precede registration, licensing or designation, see ECS-LER-03;
  - iv) Accreditation, see SC-CF-27;
  - v) Completion of the application form(s) and annex see SC-CF-23;
  - vi) Administration of trade agreements, see SC-RO-02; or
  - vii) Management of deferments, see SC-DT-B-02.

## 2 POLICY

### 2.1 Persons who must and / or may apply for registration or licence

- a) The Commissioner may require any of the following person or entities participating in any activity regulated by the Act to be registered, licensed, designated or approved:
- i) A natural person who is a citizen or a permanent resident of South Africa or has an established place of business (fixed physical address) in South Africa and is at least eighteen (18) years old or emancipated by a court order at time of application;
  - ii) A juristic person that has an established place of business (fixed physical address) in South Africa;
  - iii) The person having the effective management of an association of persons whether or not formed in South Africa that has an established place of business in South Africa;
  - iv) A partnership or a trust composed of individuals each of whom is a natural person who is a citizen or a permanent resident of South Africa or has an established place of business in South Africa and is at least eighteen (18) years old or emancipated by a court order at time of application;
  - v) 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 (applicable to registration only); and
    - D) Institutions, the person having the effective management of such institution (applicable to registration only); or
  - vi) A foreign principal not located in South Africa.
- b) The following person(s) who is duly authorised in writing by the applicant (including the authorised officer of the applicant) may submit an application for registration or licensing on behalf of the applicant to Customs:

APPLICANT (ENTITY)	PERSON(S) DULY AUTHORISED
i) Company or Co-operative	A) Director; B) Manager; or C) Authorised officer of the company or co-operative
ii) Close corporation or partnership	A) Member; B) Partner; C) Manager; or D) Authorised officer of the close corporation or partnership
iii) Association, club or other body of persons	A) Chairperson; B) Manager; C) Authorised officer of the association, club or other body of persons
iv) Trust or trust fund	A) Administrator; B) Trustee; or C) Authorised officer of the trust or trust fund
v) If any of the entities mentioned in paragraph i) to iv) is in liquidation or under judicial management	A) The liquidator or judicial manager of the entity; B) If the liquidator or judicial manager is a company or firm, the duly authorised senior official of the company or firm
vi) Estate of a deceased or insolvent person(s)	A) Executor; B) Administrator of the estate; or C) If the executor or administrator is a company or firm, the duly authorised senior official of the company or firm

APPLICANT (ENTITY)	PERSON(S) DULY AUTHORISED
vii) Organ of state	An official in an executive position
viii) Institution	The person having effective management of the institution

- c) A licensed clearing agent or registered agent may not apply on behalf of any applicant. In other words, the applicant must sign his/her own application form. However, a licensed clearing agent or registered agent may submit an application on behalf of any applicant for registration, licensing, approval or designation purposes, provided the applicant issued such representative of the clearing agent or registered agent with a letter of authorisation. The duly authorised representative of the clearing agent or registered agent must visit a Customs Branch Office:
- i) Where the RLA capturing functionality is available and request the BFE Agent to capture the applicant's RLA application; or
  - ii) If a non RLA client type, the representative must manually submit the DA 185, the relevant annex and the supporting documents to the BFE agent at a Customs Branch Office close to the place of business.
- d) Exemption from registration requirements is allowed when all the following conditions are met:
- i) Natural person who imports or exports goods:
    - A) With a total declared value is less than R 150 000.00 during a calendar year; or
    - B) Which are classifiable under tariff subheading 9999.0010 or 9999.00.20.
  - ii) Person who is not a South African citizen and exports a South Africa registered motor vehicle to a non-SACU country for his/her personal use.
- e) Registration Licensing and Accreditation (RLA) client type applications must be submitted to Customs electronically through eFiling, if a registered eFiler (refer to GEN-ELEC-18-G01), or to a BFE agent at a Customs Branch Office where RLA capturing capabilities are available. This applies to the following client types:

APPLICATION TYPES	CATEGORY		
	REPORTING	REGISTRATION	LICENSING
Airport Authorities	X		
Any person carrying on business in South Africa by arranging on behalf of other persons for reward the receipt, delivery or transport of goods imported into or to be exported from South Africa. This person could be: <ol style="list-style-type: none"> <li>a) A licensed clearing agent;</li> <li>b) A Non-Vessel Operating Common Carrier (NVOCC's); or</li> <li>c) A freight forwarder.</li> </ol>	X		
Approved exporter for SADC-EPA or SACU/EFTA		X	
Carriers not located in South Africa e.g. sea, air, rail, road own goods carrier	X		
Container depot Operator	X		

APPLICATION TYPES	CATEGORY		
	REPORTING	REGISTRATION	LICENSING
Container Terminal	X		
Customs storage warehouse (excluding CCA Enterprise storage warehouses)			X
De-grouping depot Operator	X		
Exporter for AGOA		X	
Exporter for GSP e.g. Norway, Russia or Turkey		X	
Exporter for SADC, SADC-EPA, SACU/EFTA or SACU/MERCOSUR		X	
Exporters (whether located in South Africa or not)		X	
Importers (whether located in South Africa or not)		X	
Licensed remover of goods in bond whether located in South Africa or not			X
Licensing as a Clearing agent – Section 64B			X
Manufacturer – AGOA		X	
Producers in term of SAD-EPA, SADC, SACU-MERCOSUR, SACU/EFTA and GSP – Norway, Russia and Turkey		X	
Railway authorities	X		
Registered agent representing carriers (including licensed remover of goods in bond) not located in South Africa	X		
Registered agent representing exporters not located in South Africa		X	
Registered agent representing importers not located in South Africa		X	
Registered agent representing Searchers for or of wreck (non-local)		X	
Road Cargo Carrier	X		
Sea cargo carriers	X		
Search an abandoned wreck or search for an abandoned wreck (whether located in South Africa or not)			X
SEZ Operator		X	

APPLICATION TYPES	CATEGORY		
	REPORTING	REGISTRATION	LICENSING
Transit Shed Operator	X		
Wharf operator	X		

- f) Submission of application via eFiling:
- i) In order to submit an RLA application electronically to SARS, the applicant must be registered with SARS as:
    - A) A Legal Entity (LE), see ECS-LER-03; and
    - B) An eFiler, see IT-AE-44-F02.
  - ii) The eFiler:
    - A) Logs onto eFiling;
    - B) Selects the portfolio type and taxpayer details of the applicant on whose behalf an application will be submitted;
    - C) Ensures that he/she selected the correct RLA user Role (RLA – Manage Customs Product Information);
    - D) Selects:
      - I) Customs Registration under the menu of option for Customs;
      - II) Registration Licensing Accreditation;
      - III) The New registration radio button; and
      - IV) Continue button; and
      - V) New application under the RLA Registration menu;
    - E) Indicates whether he/she is a local or non-local applicant;
    - F) Selects the RLA Client type applying for under the selected category (e.g. Registration, Licensing or Reporting);
    - G) Captures the product and client level mandatory details;
    - H) Answers all the questions listed under Disclosure Customs. If the answer to any of the questions is “Yes” a full motivation must be provided on a letter head and
    - I) Selects the Conclude button.
  - iii) The Customs Trader Portal (CTP) validates the mandatory information captured, if:
    - A) Invalid, the eFiler will be required to re-capture the information invalid.
    - B) Valid, CTP displays a list of the required documents to be uploaded by the eFiler including the motivation mentioned in paragraph ii)I) (if applicable), which must be uploaded under additional documents.
  - iv) Failure to upload the required documents within seven (7) calendar days will result in the application being removed automatically and new application to be submitted.
  - v) Once the required document(s) have been uploaded, the eFiler:
    - A) Selects the Declaration tick box; and
    - B) Clicks on the submit button to submit his/her application.
- g) Where the applicant is unable to submit the application for an RLA client type on eFiling:
- i) The applicant may submit the application at a Customs Branch Office where RLA capturing capabilities are available.
  - ii) The applicant must ensure that he/she is in possession of all the supporting document that relates to his/her client type application (see DA 185 and relevant annex) before visiting a Customs Branch Office.
  - iii) The BFE agent at the Customs Branch Office will capture his/her application if it is in order.
  - iv) Once the case has been created, the BFE agent will provide the Applications reference number and the case number to the applicant.
- h) The following Customs client types (referred to as non RLA Customs Client types) must submit his/her:
- i) Application form(s) (for example DA 185/DA 8 and relevant annexes); and
  - ii) Supporting document(s) (see to DA 185 and relevant annex) manually to any Customs Branch Office for processing via SARS Service Manager (SSM):

APPLICATION TYPES	REPORTING	REGISTRATION	LICENSING
APDP		X	
Approved exporter for AfCFTA		X	
Approved exporter for SACUM-UK EPA		X	
CCA Enterprise storage warehouses (OS or SOS)			X
Container Depot			X
Container Terminal	X		
Customs Storage warehouse			X
Degrouping Depot			X
EDI user		X	
Exporter for AfCFTA		X	
Exporter for SACUM-UK EPA		X	
Manufacturer in terms of drawback		X	
Port Authorities	X		
Producers in terms of AfCFTA		X	
Producers in terms of SACUM-UK EPA		X	

## 2.2 Conditions

- a) Customs may impose conditions on a registered or licensed person that relates to:
- i) The protection of potential tax revenue on goods received, stored, handled, transported or in any way dealt with, managed or controlled by the licensee in terms of the licence;
  - ii) The inspection of such goods by Customs Officers;
  - iii) Assistance that the licensee must provide to Customs Officers to detained, seized or confiscated goods; or
  - iv) Compliance by the licensee with this Act or a tax levying Act in relation to such goods.
- b) The applicant:
- i) Must first register as a legal entity in order to be registered or licensed as a Customs client type, refer to ECS-LER-03.
  - ii) Must submit a separate application for each client type.
  - iii) Must comply with the requirements specified in:
    - A) The applicable application forms whether in an electronic or manually format, refer to DA 185/DA 8;
    - B) The relevant annex; and
    - C) The provisions in the Act that relates to the client type.
  - iv) May authorise someone else (a natural or juristic person) who is located in South Africa to apply on his/her behalf provided such nominated person is duly authorised in writing to apply on his/her behalf.
- c) Documents uploaded can be the original or a certified copy of the original, see DA 185 block 13.



- d) Customs client number
- i) A registrant or licensee may not authorise or allow another person to use his/her Customs client number, except where expressly required or permitted in terms of the Act.
  - ii) The Customs client number or facility code (see SC-CF-04-A08) must be indicated on:
    - A) Any communication to Customs; or
    - B) Any authorisation issued to a registered agent or Customs clearing agent that will be acting on behalf of such registered or licensed person.
- e) The registered or licensed person must:
- i) Inform Customs within seven (7) working days if he/she:
    - A) No longer carries on the business for which the registration or licence was issued.
    - B) No longer complies with the qualifications prescribed in the Rules.
  - ii) Make available any information, books, accounts and other documents necessary on request for:
    - A) Verifying any statements made by the applicant or the authorised officer of the applicant in the application; or
    - B) Ascertaining facts relating to the activity in respect of which registration is sought.
  - iii) Take any reasonable steps to safeguard all goods that are at any stage under his/her physical control against damage, destruction or loss.
- f) No person may transact business with Customs until all obligations relating to registration or licence have been met.
- g) The application approval (SC-CF-05-A04) and certificate (SC-CF-05-A29) must be:
- i) Kept on the registered or licensed premises; and
  - ii) Made available to a Customs Officer upon request or during the inspection of the registered or licensed premises.
- h) Any directives issued by Customs in connection with procedures applicable to the registration or licensing of a person subsequent to the date of application or during the validity period of the registration or licence issued on approval of the said application, must be:
- i) Deemed to be part of the afore-mentioned terms and conditions from the date on which such directives are issued; and
  - ii) Observed by the registrant or licensee as if they were included therein and duly subscribed to by the registrant or licensee.
- i) Premises or facilities that will be used for storage, manufacturing or processing purposes must be:
- i) Approved by Registration and Licensing for that purpose; and
  - ii) Open to authorised Customs Officers at all reasonable times for inspection, verification of records and operations including supervision of tallying operations, to verify whether the registered or licensed person complies with the requirements.
- j) A contract concluded between a registrant or licensee and another person to perform any of its functions will not relieve the registrant or licensee of its responsibilities under the Act and SARS policies and procedure.
- k) The applicant must:
- i) Inform the Commissioner within seven (7) working days if he/she:
    - A) Failed to comply with any conditions or obligation imposed by the Commissioner;
    - B) Committed an offence under the Act;
    - C) Committed an offence that involved fraud or dishonesty;
    - D) Has been sequestered or liquidated; or
    - E) No longer carries on the business for which the applicant or the authorised officer of the applicant has been registered or licensed.

- ii) At time of application, declare that he/she has not contravene/failed to comply with any of the provisions of the Act.
- l) All applications captured electronically on behalf of the applicant at a Customs Branch Office must be signed using the digital signature pad. If the signature pad is not available, the BFE agent must complete SC-CF-05-A28 and request the applicant to sign SC-CF-05-A28.
- m) Customs may require an applicant to furnish a **surety** (refer to see SC-SE-04). If a surety is required the assessment will be based on:
  - i) Financial non-compliance (e.g. outstanding debt);
  - ii) Non-submission of returns across all taxes; and
  - iii) Compliance records.
- n) Bank account details
  - i) If bank account details are provided at time of application, it will enable Customs to pay any refunds into the bank account provided.
  - ii) A bank account can be linked to other product types for example Excise and / or APT.
  - iii) In the case of an importer not located in South Africa who do not have a South African bank account, the client must use the bank account of a third party that is located in South Africa.
- o) The current SARS Service Manager (SSM) authentication functionality will be used to authenticate (validate) the applicant or the authorised officer of the applicant (refer to ECS-LER-03). If the applicant or the authorised officer fails to authenticate his/her details, the application will be rejected.

## 2.3 Customs client types and facilities requirements

### 2.3.1 Automotive Production and Development Programme (APDP)

- a) The applicant must register with Customs as:
  - i) An Importer and / or exporter (see paragraph 2.3.9); and
  - ii) A rebate user (see paragraph 2.3.13).
- b) The premises where the manufacturing or processing will be conducted must be registered as a Special manufacturing warehouse for APDP purposes (see annex DA 185.4A5).
- c) The applicant must manually submit to any Customs Branch Office:
  - i) His/her completed DA 185, annex 4A5; and
  - ii) The relevant supporting documents as prescribed in:
    - A) The DA 185;
    - B) The annex 4A5; and
    - C) SC-CD-19-A01.

### 2.3.2 Cargo Reporters

- a) Carrier(s), port or railway authorities or operator(s) (e.g. depot, container terminal, wharf or transit shed operator) must register with SARS for the purpose of submitting, receiving and processing cargo reports on the Cargo Processing System (CPS), if:
  - i) Transporting goods or travellers into or out of South Africa on board a vessel, aircraft, railway carriage or vehicle; or
  - ii) Loading on board a vessel, aircraft, railway carriage or vehicle any goods that are not in free circulation i.e. bonded goods, at any place in South Africa and then transport those goods to another place in South Africa or through South Africa. Road carriers removing goods in bond must first licence with Customs in terms of Section 64D.

- b) The external policy on Reporting of Conveyances and Goods (SC-CC-38) describes the submission, acquittals of cargo reports and the responsibilities of carrier(s) and operator(s) in accordance with Section 8 read with Section 101A and the rules thereto.
- c) A carrier who is not located in South Africa must:
  - i) Appoint a registered agent in South Africa for the purpose of submitting cargo reports in terms of Section 8 on his/her behalf (refer to paragraph 2.3.14); and
  - ii) Submit a letter of appointment to the appointed registered agent located in South Africa.
- d) Cargo reporters mentioned in paragraph 2.1 e) must apply for registration:
  - i) Through eFiling, if a registered eFiler; or
  - ii) If not a registered eFiler, the applicant must:
  - iii) Visit a Customs Branch Office where the RLA capturing functionality is available and request the BFE agent to capture the application on his/her behalf; and
  - iv) Provide the relevant supporting document(s) as prescribed in:
    - A) The DA 8;
    - B) The relevant annex; and
    - C) SC-CF-19-A01.
- e) Port Authorities must manually submit to any Customs Branch:
  - i) His/her completed DA 8, annex DA 8.01; and
  - ii) The relevant supporting documents as prescribed in:
    - A) The DA 8;
    - B) The annex DA 8.01; and
    - C) SC-CF-19-A01.
- f) Customs will indicate the facility code (see SC-CF-04-A08) in the letter of approval SC-CF-05-A21.
- g) Cargo reporters must also register as an EDI user to submit reports electronically to SARS, see paragraph 2.3.8.

### 2.3.3 Customs clearing agent

- a) Any person(s) (excluding a registered agent) who lodge a CCD for reward on behalf of another Customs client type or provide a service which includes the clearance of goods must license with Customs as a Customs clearing agent (refer to Section 64B).
- b) The applicant must provide:
  - i) The names of each person or employee(s) who have at least five (5) years' experience in the clearing agent industry;
  - ii) The place (e.g. Customs control area) where such licensed clearing agent will be conducting business with SARS; and
  - iii) The agreement mentioned in Rule 64R.05(6).
- c) Licensed Customs clearing agents who wants to represent entities not located in South Africa must also register as a registered agent, see paragraph 2.3.14.
- d) The applicant must submit his/her application:
  - i) Through eFiling, if a registered eFiler; or
  - ii) If not a registered eFiler, the applicant must:
    - A) Visit at a Customs Branch Office where the RLA capturing functionality is available and request the BFE Agent to capture his/her application on his/her behalf; and
    - B) Provide the relevant supporting document(s) as prescribed in:
      - I) The DA 185;
      - II) The annex 4B5; and
      - III) SC-CF-19-A01.

- e) If a clearing agent's business includes the receipt, delivery or the transport of imported or exported goods into or from South Africa on behalf of other person for reward, he/she must also register with Customs as a Cargo reporter, see paragraph 2.3.2

#### 2.3.4 Customs storage warehouse

- a) Section 19 makes provision for the licensing of a Customs storage warehouse, Section 21 for a SOS and Section 21A for a Customs warehouse licensed within a designated area within a SEZ which had been approved by the Minister of Trade and Industry and Customs.
- b) Storage and manufacturing warehouses may be licensed on the same premises provided they are separated from each another.
- c) The site plan:
  - i) Must be a detailed plan of the premises but needs not be a blueprint although it must be according to scale;
  - ii) It must show the position(s) of the proposed storage warehouse in relation(s) to the adjoining building(s) and public thoroughfare(s);
  - iii) Adequate space must be provided to enable Customs Officers to conduct enforcement functions on the premises; and
  - iv) Signed and dated by the applicant.
- d) A special storage warehouse for export for the storage of second hand motor vehicles:
  - i) May not be leased or otherwise ceded to or allow any other party to use the licensed warehouse;
  - ii) May under no circumstances be approved in the immediate vicinity or close proximity of a land port of entry;
  - iii) Must have gates wide enough to allow a car carrier to offload or load the vehicles from or into the warehouse;
  - iv) May not load or offload vehicles on public roads, this must be done within the warehouse facility; and
  - v) May not conduct repairs or servicing, except for the fitment of batteries, reflectors and chevrons.
- e) Duty and tax free shops:
  - i) Any person who intends to operate such a facility must first obtain approval from the relevant port authority before approaching Customs; and
  - ii) The sales area must be separated from the storage areas.
- f) The Customs warehouse number allocated will consist of:
  - i) The location of the warehouse, e.g. Johannesburg (JHB) or Cape Town (CTN); and
  - ii) The warehouse type:
    - A) OS for storage warehouse; or
    - B) SOS for special storage warehouse.
- g) Movements into or between, and export movements from any licensed warehouse facility must be done either by the licensee or a licensed remover of goods in terms of Section 64D.
- h) A licensee is liable for the duty on all goods stored or manufactured in a Customs warehouse until he/she can provide proof that the goods in question have been duly cleared through Customs and delivered or exported from South Africa.
- i) The following table indicates the differences between the various Customs storage warehouses:

	SECTION 19 WAREHOUSE		SPECIAL STORAGE WAREHOUSE (SOS)		
	Storage (OS)	Stockist (OS)	Section 21(1)	Export Section 21(3)	CCA Enterprise Section 21A
Application form	DA185				
Annex	DA185 4B3 (ii)	DA185 4B3 (iii)	DA 185 4B4 (i), (iv) (v) and (vi)	DA185 4B4 (ii)	DA185 4B9 / B10
Type of goods	Dutiable imported goods		Dutiable imported goods including second hand motor vehicles	Dutiable and duty free imported goods	
<b>Storage of goods for:</b>					
Home use	Yes	Yes	Yes	No	Yes
Export	Yes	No	Yes	Yes	Yes
Inward processing	Yes	Yes	Yes	No	Yes
Home use processing	Yes	No	No	No	Yes
Supply to	Anyone	Home Use: Anyone Inward processing: rebate users	Anyone, except in the case of in- / outbound duty and tax free shops: travellers or ship / aircraft stores	Anyone	Anyone
Repacking of goods within a licensed warehouse	Provided approval has been obtained from Customs	No approval required from Customs			
Sorting of goods within a licensed warehouse	Provided approval has been obtained from Customs	No approval required from Customs			
(De)Consolidation	No			Yes	No
Customs Procedure Code (CPC)	E40-00 or E42-00	E40-00	E42-00	E42-00	E40-00 or E42-00
The person who may store the goods	The licensee or any importer / exporter	The licensee	The licensee who must be the owner of the vehicles	The licensee or an accredited importer	The licensee or importer / exporter
Storage Period	Two (2)	Two (2) years	Two (2) years	Six (6) months	Two (2) years

	SECTION 19 WAREHOUSE		SPECIAL STORAGE WAREHOUSE (SOS)		
	Storage (OS)	Stockist (OS)	Section 21(1)	Export Section 21(3)	CCA Enterprise Section 21A
Extension of storage	One (1) year Request thirty (30) days before the storage period expires		Three months on good cause Request prior to expiring of the six (6) months storage period	(3)	One (1) year Request thirty (30) days before the storage period expires
Surety	One (1) per Customs control area				
Validity period of license issued	Indefinite, subject to the conditions the Commissioner may impose				1 January to 31 December

- j) The applicant must submit **his/her application**:
- iii) **Through eFiling, if a registered eFiler; or**
  - iv) **If not a registered eFiler, the applicant must:**
    - A) **Visit a Customs Branch Office where the RLA capturing functionality is available and request the BFE Agent to capture his/her application on his/her behalf; and**
    - B) **Provide** the relevant supporting documents as prescribed in:
      - I) The DA 185;
      - II) The relevant annex; and
      - III) SC- CF-19-A01.
- k) **Applicants who must license a CCA Enterprise storage warehouse must manually submit:**
- i) **His/her completed DA 185 and annex 4B9 to any Customs Branch; and**
  - ii) **The relevant supporting documents as prescribed in:**
    - A) **The DA 185;**
    - B) **The annex 4B9; and**
    - C) **SC-CF-19-A01.**

### 2.3.5 Container Terminal

- a) Container terminals must first license with the National Ports authority TRANSNET. Once licensed and appointed by the Commissioner in terms of the Schedules to the Rules, the operator of such container terminal must register with Customs as a cargo reporter (see paragraph 2.3.2) to report the:
- i) Loading of containers onto vessels and off-loading of containers from vessels;
  - ii) Transhipment of containers;
  - iii) Storage of containers;
  - iv) Stacking and unstacking of containers;
  - v) Receipt for shipment and the delivery of containers;
  - vi) Transfer of containers within the terminal;
  - vii) Transfer of containers between terminals, if requested, including container or cargo transfers for Customs inspection purposes.
- b) **Once the Commissioner approved the container terminal facility**, the operator is also required to register **with Customs** as:
- i) **A cargo reporter, see paragraph 2.3.2; and**
  - ii) **An EDI user to enable him/her to submit his/her cargo reports electronic to SARS through the CPS system, see paragraph 2.3.8.**

### 2.3.6 Depot

- a) In terms of Section 6, the Commissioner may appoint or prescribe places where depots may be established.
- b) There are two (2) types of depots:
  - i) Container depots, see annex 4B16; and
  - ii) Degrouping depots for air cargo, see annex 4B14.
- c) Persons operating or managing these depots must first license the premises as:
  - i) A container depot in terms of Section 64A for the:
    - A) Storage of containers until the content has been cleared for home use or for outright export;
    - B) Unpacking of containers;
    - C) Detention, seizure of goods or containers;
    - D) Physical inspection of containers or the content of containers;
    - E) The delivery of the content of containers to the importer after the content has been duly entered; or
    - F) Packing of containers for export.
  - ii) A degrouping depot in terms of Section 64G for the:
    - A) Removing of air cargo from a transit shed before due entry thereof for storage;
    - B) Detention of air cargo;
    - C) Unpacking of air cargo;
    - D) Examination of consolidated packing or its contents;
    - E) Removal to another degrouping depot; or
    - F) Delivery of air cargo to the importer after due entry thereof.
- d) The applicant must manually submit to a Customs Branch Office:
  - i) His/her completed DA 185 if licensing as a
    - A) Container depot license, the relevant annex 4B16; or
    - B) Degrouping depot, the relevant annex 4B14; and
  - ii) The relevant supporting document(s) as prescribed in:
    - A) The DA 185;
    - B) The relevant annex; and
    - C) SC-CF-19-A01.
- e) Once the depot is licensed, the licensee must register with Customs:
  - i) As a cargo reporter for the purpose of reporting inbound and outbound movement of goods or cargo for such licensed premises (see paragraph 2.3.2); and
  - ii) As an EDI user to communicate, such reports electronically to Customs via the CPS (see paragraph 2.3.8).
- f) The site plan must indicate areas for:
  - i) Customs to perform enforcement functions;
  - ii) Physical inspection of container or air cargo;
  - iii) Installation of scanners;
  - iv) Parking space for Customs Officers; and
  - v) Temporary safekeeping of detained or seized goods, containers or air cargo pending steps to be taken in connection with the goods.
- g) SARS will, once the application has been approved, issue a facility code (see SC-CF-04-A08) to the licensed premises. This facility code will be reflected on the on the letter of approval SC-CF-05-A04 and the certificate (SC-CF-05-A29).

### 2.3.7 Deferment facility

- a) Deferment is not a client type, it is a facility granted to existing registered or licensed Customs clients to defer payment of duty for a period and up to a maximum amount of duty.
- b) The registrant or licensee must complete the DA 650 to apply for the deferment facility and submit the required documents as prescribed in SC-CF-19-A01.
- c) The applicant must indicate the total limit required in duty and VAT.
- d) The amount of surety to be provided will be determined by Customs (see SC-SE-05) before the facility is granted.
- e) Any application for amendment of dates, or an increase, or decrease of deferment limits, requires a new bond to be completed and approved accordingly (see SC-SE-05).
- f) Clients with overdue debt(s) may not partake in this facility.
- g) The External Policy SC-DT-B-02 encapsulates the deferment requirements and processing of Customs duties and VAT, e.g. monitoring of limits, adjustments, payments and decision regarding suspension and cancellation).

### 2.3.8 Electronic communication with SARS

- a) The following registrants or licensees must register with Customs as an Electronic Data Interchange (EDI) user for the electronic submission of:
  - i) Cargo reports through the CPS system (see paragraph 2.3.2) (refer to SC-CC-12); or
  - ii) CCD in terms of goods imported into or exported from South Africa by:
    - A) Importers and exporters (see paragraph 2.3.9); or
    - B) Customs clearing agent(s) (see paragraph 2.3.3) or Registered agent(s) (see paragraph 2.3.14).
- b) Importers, exporters, Customs clearing agents or registered agents are not required to register with Customs as an EDI user, if he/she submits less than ten (10) declarations per calendar month that do not exceed ten (10) lines.
- c) The applicant must manually submit to Customs Branch Office:
  - i) His/her completed DA 185, annex 4A6; and
  - ii) The relevant supporting document(s) as prescribed in:
    - A) The DA 185;
    - B) The annex 4A6; and
    - C) SC-CF-19-A01.
  - iii) The user agreement must be signed and initialled by the applicant and two (2) witnesses on all pages; and
  - iv) On an official company letterhead, confirm:
    - A) The company particulars;
    - B) The Customs client number;
    - C) Whether the applicant is a new or existing EDI user; and
    - D) That adequate measures have been introduced to:
      - I) Retain control of the digital signature;
      - II) Prevent disclosure of digital signature to any unauthorised person;
      - III) Inform the Commissioner immediately if the digital signature has been compromised in any manner;
      - IV) Ensure that information remains complete and unaltered;
      - V) Ensure that the standard of reliability is in accordance with the standard of the user agreement and the applicable section and Rule;
      - VI) Backups;
      - VII) Access control; and
      - VIII) Identification and notification security breaches.



- d) A registered EDI user:
  - i) Must adhere to the conditions stipulated in the user agreement; and
  - ii) Is accountable for all liabilities and obligations arising from the electronic communication with Customs.
- e) The registrant must communicate with Customs via e-mail if his/her computer system is inoperative.
- f) If approved SARS will issues a digital certificate.

### 2.3.9 Importer and exporter

- a) No person may import into or export from South Africa unless registered as an importer or exporter.
- b) A person intending to import or exporter can be located in South Africa or in another country.
- c) Applications to be an importer (**annex 4A1**) and exporter (**annex 4A2**) must submit:
  - i) Through eFiling; or
  - ii) If not a registered eFiler, the applicant must:
    - A) Visit a Customs Branch Office where the RLA capturing functionality is available and request the BFE agent to capture his/her application on his/her behalf; and
    - B) Provide the relevant supporting document(s) as prescribed in:
      - I) The DA 185;
      - II) The **annex 4A1 or 4A2**; and
      - III) SC-CF-19-A01.
- d) Importers or exporters not located in South Africa must:
  - i) First register themselves with SARS as a legal entity, (refer to ECS-LER-03);
  - ii) Nominate a registered agent located in South Africa as his/her representative;
  - iii) Disclose such relationship, either via:
    - A) eFiling, if a registered eFiler.
    - B) If not a registered eFiler, the applicant must:
      - I) Visit a Customs Branch Office where the RLA capturing functionality is available; and
      - II) Provide the relevant supporting document(s) as prescribed in the DA 185, the **annex 4A1 or 4A2** and SC-CF-19-A01.
    - C) Where a non RLA client nominates an RLA client he/she must complete and submit the DA 185, the **annex 4A1 or 4A2**, the DA 185.D and the required documents.
    - D) Where an RLA client nominates a non RLA client he/she must:
      - I) Complete and upload the DA 185.D as an additional document through eFiling, if a registered eFiler; or
      - II) If unable to upload it through eFiling or not a registered eFiler, the nominator must submit the completed DA 185D to a SARS Customs Branch Office where the RLA BFE capturing functionality is available.
- e) In order to disclose a new relationship via eFiling the registered eFiler (nominator):
  - i) Logs onto eFiling;
  - ii) Selects:
    - A) Customs on the eFiling ribbon;
    - B) Customs Registration under the menu options;
    - C) Registration Licensing Accreditation; and
    - D) The Customs client number radio button;
  - iii) Clicks on the Continue button to display the RLA client's dashboard;
  - iv) Clicks on the RLA link on the client's RLA dashboard to display the RLA menu options;
  - v) Clicks on the Relationship option on the RLA menu;
  - vi) Selects the client's RLA client type; and

- vii) Captures the Customs client number of the RLA client to be nominated (e.g. nominee), if:
  - A) Invalid, the eFiler must obtain the correct Customs client number from the nominated RLA client (nominee) and re-capture it; or
  - B) Valid, the eFiler:
    - I) Adds the client type details of the nominated RLA client (nominee);
    - II) Completes the Notice of Disclosure Declaration;
    - III) Captures the authorised officers details; and
    - IV) Submits the Notice of disclosure which allows CTP to send an SMS and an e-mail to the nominated RLA client's inbox.
  
- f) In order to confirm or reject a new relationship via eFiling the eFiler (nominee) must:
  - i) Log onto eFiling;
  - ii) Select:
    - A) Customs on the eFiling ribbon;
    - A) Customs Registration under the menu options;
    - B) Registration Licensing Accreditation; and
    - C) The Customs client number radio button;
  - iii) Click on the Continue button to display the RLA client's dashboard;
  - iv) Click on the RLA link on the RLA dashboard;
  - v) Select the applicable nomination listed under My Disclosure on the client's RLA dashboard (nominee) to display the Notice of Disclosure details;
  - vi) If the nominated RLA client (nominee):
    - A) Agrees with the Notice of Disclosure, click on the Confirmation button; or
    - B) Disagrees with the Notice of Disclosure, click on the Rejections button; and
  - vii) Click on the Ok button after CTP displays a message (e.g. Notice of Disclosure has been accepted or rejected) which allows CTP to send an SMS and an e-mail to the nominated RLA client's informing him/her that the relationship has been confirmed or rejected by the nominated RLA client (nominee).
  
- g) In order to cancel an existing relationship via eFiling the eFiler (nominator or nominee) must:
  - i) Log onto eFiling;
  - ii) Select:
    - A) Customs on the eFiling ribbon;
    - B) Customs Registration under the menu options;
    - C) Registration Licensing Accreditation; and
    - D) The Customs client number radio button;
  - iii) Click on the Continue button to display the RLA client's dashboard;
  - iv) Click on the RLA link on the RLA dashboard; and
  - v) Select the applicable relationship to be cancelled under My Relationship to display the relationship details after which CTP displays a message "Are you sure you wish to Cancel this relationship":
    - A) If the incorrect relationship has been selected for cancelation, click on the No button to return to the RLA client's dashboard to select the correct relationship to be cancelled; or
    - B) If the correct relationship has been selected, click on the OK button to display a message "Relationship has been cancelled" which allows CTP to send an SMS and an e-mail to the affected RLA client that the relationship has been cancelled.
  
- h) Where an RLA client is unable to disclose, confirm or reject a new relationship or cancel an existing relationship through eFiling:
  - i) The RLA client must:
    - A) Ensure that he/she is in possession of the required documents; and
    - B) Visit a SARS Customs Branch Office where the RLA capturing capabilities are available.
  - ii) If the required documents are in order the BFE agent at the Customs Branch Office:
    - A) Captures, confirms or rejects the new relationship or cancels an existing relationship on behalf of the RLA client;
    - B) Uploads the required documents; and

- C) Submits, confirms or rejects the new relationship or cancel an existing relationship on behalf of the RLA client, which allows CTP to send an SMS and an email to the relevant RLA client's inbox.
- i) Entities not located in South Africa who clears cargo for international transit only through South Africa is not required to register with Customs as an importer or exporter.
- j) Exporter who exports goods under the AfCFTA or SACUM-UK EPA must manually submit to any Customs Branch Office:
  - i) His/her completed DA 185, annex 4A2; and
  - ii) The relevant supporting documents as prescribed in:
    - A) The DA 185;
    - B) The annex 4A2; and
    - C) SC-CF-19-A01.

### 2.3.10 Approved exporters

- a) Exporters of products under the SADC – EPA, SACU-EFTA, SACUM-UK EPA and/or AfCFTA and/or international trade agreements must apply for an origin certificate at a Customs Branch Office unless they are approved exporter. Approved exporter status allows exporters to make use of origin declarations in lieu of the certificate of origin, irrespective of the value of a shipment, provided:
  - i) The products exported fulfil all origin requirements in terms of the of the trade agreement;
  - ii) The exporter complies with the conditions imposed by Customs;
  - iii) All origin declarations on his/her invoices contain the Customs authorisation number;
  - iv) Origin declarations apply to all products exported;
  - v) The applicant, the authorised officer of the applicant or his/her authorised representative has:
    - A) Not contravened the requirements of the trade agreement;
    - B) Not committed any offence in terms of the Act for the past two (2) years;
    - C) Provided the necessary guarantees to verify the originating status of the exported goods; and
    - D) Given a written undertaking accepting responsibility for all invoice declarations to be issued.
  - vi) Approved exporter's status must be cancelled if:
    - A) A false origin declaration concerning the origin or value of any consignment is made;
    - B) The requirements of the agreements or of the Rules are not complied with; or
    - C) Customs has not been notified that the goods no longer fulfil the required origin conditions, i.e.:
      - I) Change in the source of materials;
      - II) Change in the manufacturing process;
      - III) The need for approval ceases; and/or
      - IV) If a change in the legal identity or address of the approved exporter has occurred.
  - vii) Where approved exporter status has been cancelled or the use of an origin declaration on his/her invoices have been prohibited the exporters must apply for a certificate of origin in respect of all exports for which originating status is claimed. SC-RO-02 describes the requirements for origin declarations.
- b) Exporters of quota products is excluded from applying for approved exporter status unless the Manager: Rules of Origin (ROO) grants approved exporter status after consultations with the relevant Government Department. However, this exception does not apply to exporters of quota products under the SADC - EPA of which the Department of Environment, Forestry and Fisheries (DEFF) have not approved a quota.
- c) Applications to be an approved exporter in terms of the:
  - i) SADC – EPA, SACU-EFTA or SACU/MERCOSUR trade agreements must be submitted:
    - A) Through eFiling, if a registered eFiler; or
    - B) If not a registered eFiler, the applicant must:
      - I) Visit a Customs Branch Office where the RLA capturing functionality is available and request the BFE Agent to capture his/her application on his/her behalf; and

- II) Provide the relevant supporting document(s) as prescribed in the DA 185, the annex 4A2 and SC-CF-19-A01.
- ii) AfCFTA or SACUM-UK EPA must manually submit to any Customs Branch Office:
  - A) His/her completed DA 185, annex 4A2; and
  - B) The relevant supporting documents as prescribed in:
    - I) The DA 185;
    - II) The annex 4A2; and
    - III) SC-CF-19-A01.

### 2.3.11 Manufacturer in terms of drawback

- a) Persons who use imported goods in the manufacturing, processing, finishing, equipping or packing of goods for export may claim a drawback of the Customs duties paid at time of importation, if registered in terms of Schedule 5 drawback items.
- b) The applicant must manually submit to a Customs Branch Office in whose are of control the manufacturing premises is situated:
  - i) His/her completed the DA 185 and annex 4A10; and
  - ii) The relevant supporting document(s) as prescribed in:
    - A) The DA 185;
    - B) The annex 4A10; and
    - C) SC-CF-19-A01.
- c) The applicant must provide details of:
  - i) The type of imported material that will be used in the manufacturing of other goods or articles;
  - ii) The type of goods or articles that will be manufactured from such imported material; and
  - iii) The method that will be used to prove his/her drawback claim (see the notes to Schedule 5 Part 1).
- d) The external policy on drawbacks (SC-DT-C13) describes:
  - i) The qualifying criteria for claiming a drawback; and
  - ii) The documentation required; and
  - iii) The submission of drawback claim.

### 2.3.12 Producers in terms of international trade agreements

- a) Any exporter who produces goods of South African origin in order to export the goods for the purposes of preferential treatment in terms of the following international trade agreements or non-reciprocal generalised systems of preference must registered as a producer to export qualifying products:
  - i) Economic Partnership Agreement (EPA) between the European Union and the Southern African Development Community (SADC) - EPA Group;
  - ii) SADC Agreement;
  - iii) Free Trade Agreement between the European Free Trade Association (EFTA) and the Southern African Customs Union;
  - iv) Agreement between the Common Market of the South (MERCOSUR) and the Southern African Customs Union (SACU);
  - v) General System of Preferences (GSP):
    - A) Russia;
    - B) Norway;
    - C) Turkey.
  - vi) African Continental Free Trade Agreement (AfCFTA); and
  - vii) Economic Partnership between the SACU Member States and Mozambique and the United Kingdom of Great Britain and Northern Ireland (SACUM-UK EPA).
- b) The exporter (applicant) must submit **his/her application:**
  - i) **Through eFiling, if a registered eFiler; or**

- ii) **If not a registered eFiler, the applicant must:**
  - A) Visit a Customs Branch Office where the RLA capturing functionality is available and request the BFE Agent to capture his/her application on his/her behalf; and
  - B) Provide the relevant supporting document(s) as prescribed in:
  - C) The DA 185;
  - D) The annex 4A7; and
  - E) SC-CF-19-A01.
- c) The external policy (SC-RO-02) contains the criteria that must be met when determining the origin of goods imported into or exported from South Africa.

### 2.3.13 Rebate user

- a) In order to import goods under the following rebates the importer must also register with Customs as a rebate user:
  - i) Any rebate items of Schedule 3;
  - ii) Rebate item 410.03; and
  - iii) Rebate item 470.03.
- b) The applicant and the rebate store must be located in South Africa.
- c) The applicant must manually submit to the Customs Branch Office in whose area of control the rebate store premises is situated:
  - i) His/her completed DA 185, annex 4A3; and
  - ii) The relevant supporting document(s) prescribed in:
    - A) The DA 185;
    - B) The annex 4A3; and
    - C) SC-CF-19-A01.
- d) The applicant must comply with the conditions specified in the rebate item(s) listed at the time of his/her application.
- e) Where an International Trade Administration Commission (ITAC) permit is required in terms of the rebate item, the applicant can only be registered as a rebate user if he/she is the holder of such a permit.
- f) Rebate premises or facilities that are situated in the same building or on the same floor together with other businesses must be separated from each other.
- g) Bulk storage tanks used must be calibrated and Customs must be able to seal it, if and when necessary.
- h) The following additional supporting documents must be presented with the application form:
  - i) The ITAC permit, if required by the rebate item.
  - ii) The agreement between the importer or exporter and the manufacturer which must stipulate:
    - A) The terms on which the manufacturing or production will be undertaken;
    - B) The yield; and
    - C) The party who will be responsible for the products manufactured or produced.
  - iii) A plan (not necessarily a blueprint) of the premises showing the exact location of the proposed rebate store (e.g. store, vessel, tank and yard).
  - iv) A list of plant and machinery.
- i) The following external guides:
  - i) SC-PR-01-02 provides for the interpretation and application of Rebate item 470.03, including the processing of applications by registrants, clearance of goods under rebate and accounting of the imported goods, see; and
  - ii) SC-CF-55 provides for the submission of CCD by rebate users in terms of Schedule 3.

### 2.3.14 Registered Agent

- a) The person applying for registration as a “Registered Agent” must be located in South Africa.
- b) The applicant must submit his/her application:
  - i) Through eFiling, if registered as an eFiler; or
  - ii) If not a registered eFiler, the applicant must:
    - A) Visit a Customs Branch Office where the RLA capturing functionality is available; and
    - B) Provide the relevant supporting document(s) as prescribed in:
      - I) The DA 185;
      - II) The annex 4A13; and
      - III) SC-CF-19-A01.
- c) The applicant may be:
  - i) A natural person, ordinarily South Africa resident; or
  - ii) A juristic person incorporated, registered or recognised in terms of the laws of South Africa or of another country.
- d) The nominated registered agent (in terms of annex DA 185 D):
  - i) Is liable for the fulfilment of all obligations imposed on either the importer, exporter or licensed remover;
  - ii) May complete and submit a CCD on behalf of a foreign principal; and
  - iii) May submit an application form on behalf of a foreign principal (e.g. importer, exporter or remover of goods in bond) to Customs.
- e) A registered agent(s) located in South Africa may represent the following client types not located in South Africa:
  - i) Importer, see paragraph 2.3.9;
  - ii) Exporter; see paragraph 2.3.9;
  - iii) Licensed removers of goods in bond, see paragraph 2.3.15;
  - iv) Carriers e.g. sea, air, road or own goods carrier, see paragraph 2.3.2.; or
  - v) Persons searching wreck or searching for wrecks, see paragraph 2.3.16.
- f) A registered agent may submit an RLA client type application electronically:
  - i) Through eFiling, if registered as an eFiler; or
  - ii) If not a registered eFiler, the registered agent must:
    - A) Visit a Customs Branch Office where the RLA capturing functionality service is available to disclose his/her relationship only if both clients are RLA client types; and
    - B) Provide the relevant supporting document(s) as prescribed in:
      - I) The DA 185;
      - II) The relevant annex; and
      - III) SC-CF-19-A01.
- g) The following details must be disclosed:
  - i) The name and Customs client number of the registrant or licensee making the disclosure or on whose behalf the disclosure is made;
  - ii) The date of the disclosure;
  - iii) The name and Customs client number of the nominated person, e.g. registered agent;
  - iv) The nature of their relationship, e.g. submission of declaration, reports, statements, returns, notices, notification, application, request or other documents;
  - v) If the relationship relates to:
    - A) A new relationship; or
    - B) An existing relationship that must be terminated; and

- vi) That authorisation is given to the nominated registered agent to:
  - A) Use registrants or licensees Customs client number on documents to be submitted to Customs on the foreign registrant or licensee;
  - B) Submit refund or drawback application on behalf of the foreign registrant or licensee;
  - C) Apply on behalf of the foreign registrant or licensee for a duty deferment benefit; or
  - D) Operate on the foreign registrant or licensee deferment account, if a deferment benefit holder.
- h) A nominated Registered agent must within seven (7) working days from the date of nomination confirm or reject the relationship electronically:
  - i) Through eFiling, if registered as an eFiler; or
  - ii) If not a registered eFiler, the nominated registered agent must:
    - A) Visit a Customs Branch Office where the RLA capturing functionality is available; and
    - B) Provide the relevant supporting document(s) as prescribed in:
      - I) The DA 185;
      - II) The relevant annex; and
      - III) SC-CF-19-A01.
- i) If the relationship is not confirmed or he/she rejects the relationship, another registered agent must be nominated in order for the foreign principal to transaction with Customs.
- j) The applicant or the authorised officer of the applicant must:
  - i) Be permanently employed at the premises where or from where the business must be conducted; and
  - ii) Have sufficient knowledge of Customs laws and procedures to ensure that the activities to which the application relates are conducted efficiently and in compliance with the provisions of such laws and procedures.
- k) A nominator (e.g. foreign principal) can establish a number of relationships with the same RLA client type (e.g. Registered agent).
- l) No SARS intervention is required at time of setting up the relationship.
- m) The establishment and cancellation of relationships is bi-directional.
- n) A registered agent appointed by a licensed remover of goods in bond not located in South Africa must at time of application indicate the bond limit.

### 2.3.15 Remover of goods in bond

- a) Any person who removes bonded goods via road in the following circumstances, must be licensed as a remover of goods:
  - i) To a destination:
    - A) Within the common Customs area, e.g. direct removal of imported goods in bond (RIB);
    - B) Outside the common Customs area, e.g. a direct removal of imported goods in bond in transit (RIT); or
  - ii) From any places appointed in terms of Section 6 (e.g. places of entry, ports, Customs and Excise airports) where imported goods can be landed from a ship, aircraft or other vehicle to a Customs and Excise warehouse; or
- b) The following person are exempted from being a licensed remover of goods in bond:
  - i) Container operators who must move containers to a:
    - A) Container terminal; or
    - B) Container depot to which it has been consigned to.
  - ii) Importers, Rebate user (Schedule 3, 4 and 6) or licensees of any premises or a Customs licensed warehouse who use their own transport to remove goods:
    - A) From the place in South Africa where it landed to their premises; or

- B) From their premises to another premises within South Africa or to any other country within the common Customs area.
- iii) CCA enterprise who removes goods to:
  - A) Another CCA enterprise within the designated CCA; or
  - B) A SEZ operator within the same designated CCA.
- c) The applicant must submit his/her application:
  - i) Through eFiling, if registered as an eFiler; or
  - ii) If not a registered eFiler, the applicant must:
    - A) Visit a Customs Branch Office where the RLA capturing functionality is available; and
    - B) Provide the relevant supporting document(s) as prescribed in:
      - I) The DA 185;
      - II) The annex 4B6; and
      - III) SC-CF-19-A01.
- d) The external policy SC-TR-01-05 focus on the specific provisions pertaining to Section 64D and the rules thereto that relates to the removal of goods in bond.

### 2.3.16 Search an abandoned wreck or to search for an abandoned wreck

- a) No person may search any abandoned wreck or search for an abandoned wreck unless licensed with Customs.
- b) The person must submit **his/her application**:
  - i) **Through eFiling, if a registered eFiler; or**
  - ii) **If not a registered eFiler, the applicant must:**
    - A) **Visit a Customs Branch Office where the RLA capturing functionality is available and request the BFE Agent to capture his/her application on his/her behalf; and**
    - B) **Provide** the relevant supporting document(s) as prescribed in:
      - I) The DA 185;
      - II) The annex 4B15; and
      - III) SC-CF-19-A01.
- c) The onus is on the applicant to establish whether the wreck had been abandoned or that the rights of another party will not be infringed before applying for a licence to search any abandoned wreck or to search for an abandoned wreck.
- d) There are two (2) types of persons that may apply:
  - i) A person located in South Africa; or
  - ii) A foreign principal represented by a nominated registered agent located in South Africa.
- e) The applicant who is located in South Africa must provide a **surety** to Customs before his/her application for licensing will be approved (see SC-SE-05). If the applicant is not located in South Africa, his/her nominated registered agent must provide the required **surety** to Customs.
- f) Any wreck older than fifty (50) years may not be disturbed or removed by a licensed person without the permission of the National Monuments Council.
- g) The licensee must cancel his/her licence when he/she:
  - i) Fails to commence work within three (3) months from the date of issuing of the licence;
  - ii) Terminates operations; or
  - iii) Is not able to comply with any of the conditions stipulated by Customs.
- h) Customs may issue more than one (1) licence to search or salvage a particular abandoned wreck. No licence gives the applicant the exclusive right to search for any particular abandoned wreck.



- i) The Commissioner may by Rule prescribe the circumstances and the conditions under which a licence may be issued to the searcher.

### 2.3.17SEZ

- a) In terms of Schedule 4 a registered SEZ operator / licensed Customs controlled area enterprises may import goods of any description without the payment of Customs duty and VAT for:
  - i) The manufacturing of other goods by a licensed Customs controlled area enterprise within a Customs controlled area, see rebate item 498.01.
  - ii) Use in the construction and maintenance of the infrastructure of a Customs controlled area within an SEZ, see rebate item 498.02. Infrastructure is limited to the basic structural elements permanently installed in a Customs controlled area which include sanitation supply of electricity, roads, bridges, buildings and the like.
- b) SEZ operator
  - i) The holder of a valid SEZ operator's permit issued by the Minister of Trade and Industry authorising such person to develop and operate a new or existing SEZ must **submit his/her application:**
    - A) **Through eFiling, if a registered eFiler; or**
    - B) **If not a registered eFiler, the applicant must:**
      - I) **Visit a Customs Branch Office where the RLA capturing functionality is available and request the BFE Agent to capture his/her application on his/her behalf; and**
      - II) **Provide** the relevant supporting document(s) as prescribed in the DA 185, annex 4A11 and SC-CF-19-A01.
  - ii) The SEZ operator must provide his/her VAT registration number at time of application, if a registered VAT vendor.
  - iii) The business plan must demonstrate that the SEZ operator will maintain:
    - A) The buildings;
    - B) The roads;
    - C) The equipment; and
    - D) The security of the area.
  - iv) No surety is required (refer to SC-SE-05 - Bonds - External Policy) at the time of the application or the inspection of the premises.
- c) Customs controlled areas within an SEZ
  - i) Any area designated as a Customs controlled area on the business plan of the SEZ must be registered with Customs before a number will be allocated to the designated Customs controlled area.
  - ii) The SEZ operator must insert on the annex 4A11:
    - A) The name of Customs controlled area;
    - B) Describe the area to be designates as a Customs controlled area; and
    - C) Physical address of the Customs controlled areas where the Customs controlled area enterprise will be conducting his/her business from within the SEZ.
  - iii) The applicant or the authorised officer of the applicant must conform to the requirements determined by Customs which are enumerated in SC-CW-02-01.
- d) Customs controlled area enterprise (special storage / manufacturing warehouse)
  - i) Located permanently within a SEZ Customs controlled area must be licensed with Customs.
  - ii) The applicant must manually submit his/her DA 185 and the supporting documents as prescribed in the DA 185, the relevant annex and SC-CF-19-A01 together with the following annex:
    - A) Special storage warehouse – annex 4B9 (see paragraph 2.3.4); and / or
    - B) Manufacturing warehouse – annex 4B10 (see paragraph 2.3.13).
- e) The applicant may be requested to provide a **surety** in the form of a surety bond, see SC-SE-05.

### 2.3.18 Transit sheds

- a) Transit shed is secure premises approved by Customs for the temporary storage of cargo in transit removed from a ship, aircraft or vehicle until the cargo has been Customs cleared. These premises are located on or near a pier or wharf at harbours, airports or at land border post at point of entry into South Africa.
- b) These facilities are being approved for the storage of:
  - i) Imported break bulk goods removed from a ship, aircraft or vehicles; or
  - ii) Break bulk cargo that needs to be packed into or loaded onto a ship, aircraft or vehicle for export purposes from South Africa.
- c) Persons operating a transit shed must register with Customs as a:
  - i) Cargo reporter, see paragraph 2.3.2; and
  - ii) EDI user to submit cargo reports electronic to SARs through the CPS system, see paragraph 2.3.8.
- d) Customs may at time of application prescribe the following conditions that relates to:
  - i) Security requirements regarding the premises, equipment of the transit shed and control measures to be observed in a transit shed;
  - ii) Any procedure or obligation in connection with packages received;
  - iii) Reports to be made and procedures that relates to packages received, signs of damage, tampering or other discrepancy; and
  - iv) Records to be kept in respect of the storage and movement of goods and any other activity in the operation of the transit shed.
- e) The person operating the transit shed shall remain liable for the duties and taxes payable until he or she can provide evidence that the cargo received:
  - i) Is delivered to the nominated degrouping depot/State warehouse; or
  - ii) Has been exported from South Africa.

### 2.4 The amendment of an existing registration or licence information

- a) The registrant or licensee must inform Customs of any amendments or changes within seven (7) working days.
- b) Non RLA clients must complete and submit the relevant application form(s), annex and only the supporting documents as prescribed in the DA 185, the relevant annex and SC-CF-19-A01 that relate to such amendment.
- c) RLA Client types can only update existing information through eFiling or via a Customs Branch Office where the RLA capturing facility is available.
- d) In order to submit an application to amend an RLA client's existing information through eFiling, the registered eFiler must:
  - i) Log onto eFiling;
  - ii) Select:
    - A) Customs on the eFiling ribbon;
    - B) Customs Registration under the menu options;
    - C) Registration Licensing Accreditation; and
    - D) The Customs client number radio button;
  - iii) Click on the Continue button to display the RLA client's dashboard;
  - iv) Select the client type to be amended under Registered Client types on the client's RLA dashboard to display the Client Type Level menu;
  - v) Select Manage under Client Type Level menu to display the Amend option;
  - vi) Click on the Amend option;

- vii) Capture the reason for amendment;
  - viii) Select the Amend button to display the existing Client Type Level details;
  - ix) Capture the required details to be amended;
  - x) Click on the Next button to submit the change;
  - xi) Answer all the questions listed under Disclosure Customs;
  - xii) If any of the answers is "Yes" upload a separate page which provides full details of each contravention and / or offence to the RLA case; and
  - xiii) Select the Conclude button to validate the details being amended:
    - A) If the details are invalid, CTP displays an error message and indicates the invalid Client Level details that must be re-captured; or
    - B) If the details being amended are valid, CTP displays the Summary option under the Client Type Level menu; and
    - C) The eFiler must:
      - I) Click on the Summary option to display the Summary page which displays the changes in red;
      - II) Click on the Next button to display the list of required document(s) to be uploaded;
      - III) Tick off each Required Document(s);
      - IV) Upload the required document(s) within seven (7) calendar days, failing which CTP removes the case automatically from RLA;
      - V) Tick the Declaration tick box once all the required documents have been successfully uploaded; and
      - VI) Submit the case, which allows CTP to send an SMS and an e-mail to the RLA client's RLA inbox.
- e) Where an RLA client is unable to submit his/her application to amend existing information on his/her profile through eFiling:
- i) The RLA client must:
    - A) Ensure that he/she is in possession of all the required documents that relates to the information to be amended; and
    - B) Visit a SARS Customs Branch Office where the RLA capturing capabilities are available.
  - ii) If the required documents are in order the BFE agent at the Customs Branch Office:
    - A) Captures the amendment application on behalf of the RLA client;
    - B) Uploads the required documents, if applicable; and
    - C) Submits the application on behalf of the RLA client, which allows CTP to send an SMS and an e-mail to the RLA client's inbox.
- f) No licence may be transferred from one (1) person to another person; however, a licence may be endorsed by the Commissioner to transfer it from one (1) approved premises to another approved premise within the same area of control and subject to no alteration in legal ownership.
- g) In the following circumstances an amendment cannot be applied for:
- i) The licensee may apply for an additional licence to conduct business in another Customs control area. The licensee must submit a new application to the Controller / Branch Manager in that Customs control area.
  - ii) When an existing registered or licenced juristic person ceases to exist, he/she must submit an application to Customs to cancel his/her registration or licence.
  - iii) The creation of a new juristic person requires a new application for registration and licensing to be submitted.
  - iv) When existing registered or licensed sole proprietorships or individual partnerships amalgamate, a new application must be submitted for the new individual being registered or licenced.

## 2.5 The issuing and renewal of a licence

- a) Schedule 8 prescribes:
  - i) The type of activity, premises that must be issued with a licence;
  - ii) The licence fee to be charged; and
  - iii) The period of validity of a licence issued.

- b) Licenses are effective from the date specified on the licence issued.
- c) Each licenced premises or activity must be issued with a separate licence.
- d) Warehousing licenses may be issued to:
  - i) Different warehouse types on a single site; and/or
  - ii) A single warehouse extended to more than one (1) site within the same office of control.
- e) A licence must not be issued until the applicant or the authorised officer of the applicant has provided the required surety bond (refer to SC-SE-04).
- f) Customs may also inform a person to renew his/her licence, see SC-CF-05-A18.
- g) All licensees who are required to renew their licenses in terms of Schedule 8 must submit their applications for renewal (DA 185 and relevant annex) **sixty (60)** calendar days before it expires manually to any Customs Branch Office. No supporting documents is required.

## 2.6 The refusal of an application

- a) Section 59A(2)(b) and 60(2)(a) empowers SARS to refuse any new application for registration or licensing when an applicant:
  - i) Contravened or failed to comply with the requirement of the Act;
  - ii) Made a false or misleading statement in the application or any supporting document;
  - iii) Omits to state any facts, which is material to the consideration of the application;
  - iv) Has any matters outstanding, for example:
    - A) Debt exceeding the amount of R 1 000 e.g. duties, interest, penalties or other amounts due to SARS; or
    - B) CCD, accounts or tax returns; or
    - C) Other documents in terms of the Act or any other tax laws administered by SARS;
  - v) Does not have sufficient knowledge;
  - vi) In the case of special storage warehouses for second hand motor vehicles:
    - A) Is not the owner of the registered or licensed premises in respect of which the registration or licence is sought; or
    - B) Does not hold a lease or other right to manage or operate a registered or licensed premises for at least the period for which the registration or licence will be valid;
  - vii) Failed to comply with any condition, obligation or other requirements imposed by the Commissioner;
  - viii) Has not engaged in any activity for a period of at least one (1) year preceding the date of his/her application for renewal of his/her licence; or
  - ix) Has during the five (5) years preceding the application:
    - A) Contravened or failed to comply with the provision of the Act; or
    - B) Been convicted of an offence:
      - I) In terms of the Act or other tax laws administered by SARS; or
      - II) Involving fraud or dishonesty.
  - x) Premises:
    - A) Is not situated within a suitable distance from the office of the Controller/Branch Manager e.g. container/degrouping depot; or
    - B) Does not comply with a requirement or condition applicable to manufacturing or processing premises of goods of a class or kind authorised in terms of the Schedule 3, 4, 5 and 6.
  - xi) Is not in possession of all the required supporting document at time of application:
    - A) The application will be refused; and
    - B) The applicant must be advised of the supporting documents to be obtained before his/her application will be processed.
- b) The above disqualifying conditions also apply to an employee of the applicant in a managerial position, the director, the administrator or trustee of the applicant.

- c) When an entity is not found on SSM during the authentication process, the application of such entity will be refused and be informed to first register himself or herself as a legal entity, see ECS-LER-03.
- d) When an application has been refused, SARS will:
  - i) Sends a notification to the applicant's RLA inbox on CTP, if a registered eFiler. If not a registered eFiler the applicant must visit a Customs Branch Office where the RLA capturing functionality is available and request the BFE agent for a copy of his/her letter (SC-CF-05-A06); or
  - ii) Issue and forward a scanned copy of SC-CF-05-A06 or SC-CF-05-A24 to the applicant via e-mail.

## 2.7 The relocation of existing licensed premises

- a) General conditions
  - i) An applicant must submit a letter of explanation stating the reasons for relocation at least sixty (60) calendar days prior to the relocation to the Controller / Branch Manager in whose area the existing licensed premises is licensed.
  - ii) Customs must issue a letter of acknowledgement of receipt (SC-CF-05-A02) to the applicant.
  - iii) The relocated premises must be physically inspected to determine if the applicant complies with the conditions and / or the requirements of the Act before relocation may be granted.
- b) When a licensed premises is being relocated within the same Controller's / Branch Manager's area (e.g. Johannesburg):
  - i) The licensee of the existing licensed premises must **submit** his/her application **for amendment**:
    - A) **Through eFiling, if a registered eFiler; or**
    - B) **If not a registered eFiler, the applicant must:**
      - I) **Visit a Customs Branch Office where the RLA capturing functionality is available and request the BFE Agent to capture his/her application on his/her behalf; and**
      - II) Provide only the document(s) that relate to the information being amended (e.g. physical address of the relocated premises).
  - ii) The applicant will retain his/her existing Customs client number and the Customs warehouse number.
  - iii) The licensee may be requested to increase or decrease his/her surety, see SC-SE-05.
  - iv) Once the relocated premises is approved, Customs must issue SC-CF-05-A04 to the licensee.
- c) When a licensed premises must be relocated to a different Controller's / Branch Manager's area (e.g. Durban to Johannesburg):
  - i) The licensee of the existing licensed premises (e.g. Durban) must **submit a new application**:
    - A) **Through eFiling, if a registered eFiler; or**
    - B) **If not a registered eFiler, the applicant must:**
      - I) **Visit a Customs Branch Office where the RLA capturing functionality is available and request the BFE Agent to capture his/her application on his/her behalf; and**
      - II) Provide the relevant supporting document(s) as prescribed in the DA 185, annex 4A11 and SC-CF-19-A01.
  - ii) Once the new premises is successfully licensed, the old licensed premises must be cancelled, the licensee must submit **his/her cancellation application**:
    - A) **Through eFiling, if a registered eFiler; or**
    - B) **If not a registered eFiler, the applicant must:**
      - I) **Visit a Customs Branch Office where the RLA capturing functionality is available and request the BFE Agent to capture his/her application on his/her behalf;**
      - II) Provide a letter stating the reason for cancellation; and
      - III) Does not need to provide the relevant supporting documents with his/her request for cancellation.
  - iii) The applicant will retain his/her Customs client number but a new sub-number must be issued to the new licensed premises (e.g. Johannesburg);

- iv) Customs must issue:
  - A) SC-CF-05-A04 to the licensee for the licensing of his/her new premises (e.g. Johannesburg); and
  - B) **SC-CF-05-A09** to the licensee for the Cancellation of his/her existing licensed premises (e.g. Durban).
- v) The surety of the existing licensed premises must only be cancelled once:
  - A) All other obligations have been met; and
  - B) The new licensed premises surety is registered (see SC-SE-05).

## 2.8 The suspensions and cancellation of registered or licensed person

- a) A registered or licensed person must notify Customs of any occurrence that may constitute a reason for suspension or cancellation of his/her registration or license.
- b) A registrant or licensee who wants to cancel his/her registration or licence must submit an application for cancellation:
  - i) Through eFiling, if an RLA client who is a registered eFiler.
  - ii) At a Customs Branch Office where the RLA capturing facility is available, if an RLA client who is not a registered eFiler.
  - iii) At a Customs Branch Office if a non RLA client.
- c) The applicant must submit with his/her application for cancellation a letter that indicates his/her reason(s) for cancellation that will be uploaded as an additional document.
- d) No supporting documents are required.
- e) In order to cancel an existing RLA client type through eFiling, the registered eFiler must:
  - i) Log onto eFiling;
  - ii) Select:
    - A) Customs on the eFiling ribbon;
    - B) Customs Registration under the menu options;
    - C) Registration Licensing Accreditation; and
    - D) The Customs client number radio button;
  - iii) Click on the Continue button to display the RLA client's dashboard;
  - iv) Select the client type to be cancelled under Registered Client types to display the Client Type Level menu;
  - v) Select Manage under Client Type Level menu;
  - vi) Select the option Withdraw;
  - vii) Capture the reason for withdrawal;
  - viii) Click on the Withdrawn button;
  - ix) Tick the Declaration tick box; and
  - x) Submit the case, which allows CTP to send an SMS and an e-mail to the RLA client's RLA inbox.
- h) Where an RLA client is unable to submit his/her application for cancellation through eFiling the RLA client must:
  - i) Visit a SARS Customs Branch Office where the RLA capturing capabilities are available; and
  - ii) Request the BFE agent to capture and submit the application for cancellation on his/her behalf which allows CTP to send an SMS and an e-mail to the RLA client's inbox.
- i) Customs may suspend or cancel a registrant or licensee, if:
  - i) Acquired under false pretences;
  - ii) It is no longer required in terms of the Act;
  - iii) In the case of a warehouse for second hand motor vehicles, the registrant or licensee ceases to be the owner of or the holder of a lease or other right to manage or operate a registered or licensed premises; or

- iv) The registrant or licensee:
  - A) Is sequestrated or liquidated;
  - B) Is convicted of an offence that includes fraud or dishonesty;
  - C) Does not complying with the requirements specified in any condition or provision of the Act or Rules; or
  - D) Fails to:
    - I) Pay Customs on or before the due date;
    - II) Notify Customs of any changes; or
    - III) Renew his/her licence before it expires.
- j) Where any breach or offence by an employee, director, administrator or trustee is committed, the registration or licence will not be suspended or cancelled provided that the registrant or licensee:
  - i) Was not a party to the breach or offence, or
  - ii) Could not have prevented it, or
  - iii) Did not benefit in any material respect from it.
- k) When a person's registration or licence is suspended or cancelled, Customs may:
  - i) Take control of all or any specific goods in his/her possession to:
    - A) Protect any duties and taxes that may be, or become, payable on those goods; or
    - B) Ensure compliance with the Act in relation to those goods;
  - ii) Remove, or require the person or the person in whose possession the goods are to remove the goods to a Customs control area specified by Customs;
  - iii) Require or allow the goods to be cleared for home use or a permissible Customs procedure;
  - iv) Require the person to pay any costs incurred in carrying out any actions in terms of paragraph (i), (ii) or (iii);
  - v) Allow the affected person to continue to:
    - A) Process outward entries until a final decision has been taken; or
    - B) Complete transactions that commenced prior to the suspension or cancellation date; or
  - vi) In the case of a suspension, bring any activities to a halt.
- l) When a registered/licensed premises is suspended/cancelled the person operating or managing it may no longer manage, operate, use or carry out any activities for which such premises was registered or licensed.
- m) Customs must issue the intention of suspension or cancellation letter (SC-CF-05-A08) to the registrant or licensed person informing him/her of the reason(s) for the intention to suspend or cancel his/her registration or licence.
- n) If new requirements or conditions have been issued to a registration or license the client must be given a period of sixty (60) **calendar** days to become compliant with such new requirements or conditions. If the client fails to comply with such new requirements or conditions the normal notice period of proposed suspension or cancellation is given, see paragraph o).
- o) Customs must issue a notice of suspension or cancellation (SC-CF-05-A09) if the registered or licensed person fails to submit his/her written representation within 21 working days.
- p) Any licence fee payed or part of it is not refundable on cancellation of a licence.
- q) Once the application for cancellation has been approved by SARS, a scanned copy of SC-CF-05-A26 must be forwarded to the applicant via e-mail.

## 2.9 The reinstatement of a suspended or cancelled registrant or licensee

- a) When the Licensing Registration Cancellation Committee (LRCC), appeal committee or a court overrules the decision to cancel or suspend a registrant or licensee, Registration and Licensing must inform the registrant or licensee of the reinstatement of his/her registration and / or licence.
- b) The client must submit his/her written representation for reinstatement before the LRCC or appeal committee may overrule the decision of cancellation or suspension.

- c) The client must provide in his/her written representation:
  - i) Reason(s) for reinstatement; and
  - ii) The appropriate steps that he/she will take to prevent occurrence(s) of a similar nature in future.
- d) The client must forward his/her request for reinstatement to Registration and Licensing in Alberton.

## 2.10 The disclosure of information to another person

- a) Anyone that requests the disclosure of information on behalf of another registered or licensed Customs client must have been duly authorised as the entity's representative.
- b) The authorised person must provide Customs with the case number or declaration number being queried as well as his/her ID number.
- c) At Customs Branch Offices the requestor must provide:
  - i) His/her original ID document, passport, driver's licence or a temporary identity document to the Customs Officer for authentication;
  - ii) A letter issued by the applicant, registered or licensed Customs client authorising the person visiting the Customs Branch Office as his/her representative. See ECS-LER-03 for details on legal entity registration and authentication.
- d) Customs will not be able disclose any information pertaining to the entity where:
  - i) The above information or documents are not provided by the representative of the entity; or
  - ii) The representative fails to answer all the authentication questions posed to him / her correctly.

## 2.11 Manage RLA inbox

- a) The purpose of the RLA inbox is to allow RLA clients to manage notifications and / or correspondence sent by SARS that relates to RLA applications submitted.
- b) SARS sends an SMS to the affected RLA client to notify them of any correspondence.
- c) If a registered eFiler, he/she:
  - i) Logs onto eFiling;
  - ii) Selects:
    - A) Customs on the eFiling ribbon;
    - B) Customs Registration under menu option;
    - C) Registration Licensing Accreditation option; and
    - D) Customs client number radio button;
  - iii) Clicks on the continue button to display the client's RLA dashboard;
  - iv) Clicks on the Inbox icon to display the RLA inbox;
  - v) Views the notification and / or correspondence sent by SARS; and
  - vi) Will be able to:
    - A) Indicate which notifications and / or correspondence have been read or not read by clicking of the Read or Unread icon;
    - B) Archive notifications and / or correspondence by clicking on the Archive icon;
    - C) Print or save any attachments (e.g. Notice of Refusal issued by SARS) by clicking on the Attachment icon; or
    - D) Upload documents that are required by SARS to finalise the application by clicking on the link provided on the notification to display the Request for Document screen that enables the eFiler to upload and submit the required documents to SARS.
- d) When an RLA client is unable to access his/her RLA inbox through eFiling or is not a registered eFiler, he/she must:
  - i) Visit a SARS Customs Branch Office where the RLA capturing capabilities are available; and



- ii) Request the BFE agent for assistance to review, print or upload his/her document(s) that are being required by SARS.

## 2.12 Keeping of records

- a) Every client must keep for record purposes for a period of five (5) years:
  - i) Books, accounts and documents in respect of all transactions relating to the Rules for the purpose of any acquittal procedure; and
  - ii) Any data related to such documents created by means of a computer.
- b) The five (5) year period is calculated from the end of the calendar year in which the document was created, lodged or required. (Sections 101 and 101A)
- c) Every client must produce such books, accounts and documents on demand.
- d) Any books and records (including electronic registers) must be kept in a safe place on the registered or licensed premises and may not be removed or destroyed without the prior permission of Customs.
- e) Clients using electronic record keeping systems must ensure that:
  - i) The format that will be used has been approved by Customs;
  - ii) Backups are done at the end of each business day; and
  - iii) Any information contained in such electronic system can be printed upon request by a Customs Officer.

## 2.13 Penalties

- a) Failure to adhere to the provisions of the Act is considered an offence.
- b) Offences may render the applicant liable to, as provided for in the Act:
  - i) Monetary penalties (refer to SC-CO-01-02);
  - ii) Criminal prosecution; or
  - iii) Suspension / cancellation of their deferment account registration, license, accreditation and / or designation.

## 2.14 Promotion of Administrative Justice Act

- a) Any action on behalf of the State, which may be detrimental to any person, organisation or company, must be made in a fair manner with good reason(s). All penalties are therefore carefully deliberated, uniformly implemented and reasons and / or evidence for such actions maintained.
- b) Just administrative action requires the Customs officer to consider all the facts presented and obtained in addition to affording the client the opportunity to be heard, prior to instituting any administrative action.
- c) The Promotion of Administrative Justice Act (PAJA) No. 3 of 2000 gives effect to everyone's right to administrative action that is lawful, reasonable and procedurally fair. Any person whose rights have been adversely affected by administrative action has the right to be given written reasons, as contemplated in Section 33 of the Constitution of the Republic of South Africa, 1996. PAJA:
  - i) Provides for the review of administrative action by a court or where appropriate, an independent and impartial tribunal;
  - ii) Imposes a duty on the State to give effect to those rights;
  - iii) Promotes an efficient administration as well as good governance; and
  - iv) Creates a culture of accountability, openness and transparency in the Public Administration or in the exercise of a public power or the performance of a public function, by giving effect to the right to just administrative action.

- d) Administrative action, which significantly and unfavourably affects the rights or valid expectations of any person, must be procedurally fair. A fair administrative procedure depends on the circumstances of each case.
- e) A person must be given:
- i) Written reasons of the nature and purpose of the proposed administrative action;
  - ii) A reasonable opportunity to make representations;
  - iii) A clear statement of the administrative action; and
  - iv) Adequate notice of any right of review or internal appeal, where applicable.
- f) Before administrative action can be taken by Customs the client must be allowed the opportunity to:
- i) Obtain assistance and, in serious or complex cases, legal representation;
  - ii) Present and dispute information and arguments; and
  - iii) Appear in person.
- g) Clients whose rights have been significantly and unfavourably affected by administrative action and who have not been given reasons for the action may, within thirty (30) days after the date on which the client became aware of the action, request Customs to furnish written reasons for the action.
- h) Customs must within forty five (45) days after receiving the request, give the client adequate reasons in writing for the administrative action. If Customs fails to furnish adequate reasons for the administrative action, it is presumed in any proceedings for judicial review that the administrative action was taken without good reason.

## 2.15 Appeals against decisions

- a) In cases where applicants are not satisfied with any decision taken in terms of the Act they have a right of appeal to the relevant appeal committee. The policy in this regard, as well as the process to be followed, is contained in document SC-CA-02.
- b) Should clients be unhappy with a decision of any appeal committee their recourse will be to lodge an application for ADR (Alternative Dispute Resolution) with the relevant appeal committee. The committee must add its comments thereto and forward the application to the ADR Unit for attention. The policy in this regard, as well as the process to be followed is contained in document SC-CC-26.

## 3 RELATED INFORMATION

### 3.1 Legislation

TYPE OF REFERENCE	REFERENCE
Legislation and Rules administered by SARS:	<p><b>Customs and Excise Act No. 91 of 1964:</b> Sections 1(1), 4, 8, 18, 18A,19, 19A, 21, 21A, 22, 23, 25, 27, 38, 38A; 41, 43, 44, 44A, 47, 47A, 48, 49, 59, 59A, 60 – 64, 64A – G, 65, 73, 75, 77, 78 to 86A, 99A 101, 101A 105, 107A, 113(1), 113(2) 114 and <b>120</b></p> <p><b>Customs and Excise Rules:</b> 00.03, 00.07, 8.03, 8.04, 8.06, 8.08, 18.01 - 18.15;18A.01 -18A.06; 21A.01 to 21A.13, 38.01 to 38.16, 38A.03, 39.04 to 39.08, 39.14, 41.01 to 41.05, 45.01 to 45.02, 49A, 49D, <b>49F, 49G</b>, 59A, 60 – 64, 64A – G, 65.01 to 65.03, 75.01 to 75.24, 101.01 to 101.03, 101A.01 to 101A.12, 120.03 to 120.04, 120A.03, and 120.08 to 120.09</p> <p>Rebate items 412.07 and 498.00</p> <p>Items 860.05 and 860.10 of Schedule 8</p> <p><b>Schedule 10:</b> Parts - This Schedule provides for the publication of agreements as a part of Customs legislation in order to give effect there to:</p> <p>a) <b>Free Trade Agreements</b></p> <ol style="list-style-type: none"> <li>i) Treaty of the Southern African Development Community and the Protocol on Trade: Annex I and Appendix II thereto and Annex VII and the Addendum thereto (SADC)</li> <li>ii) Free trade agreement between the European Free Trade Association</li> </ol>

TYPE OF REFERENCE	REFERENCE
	<p>(EFTA) and the Southern African Customs Union (SACU): Annex V: Articles 14(1)(b), 19 and 22 (SACU-EFTA)</p> <p>iii) Economic Partnership Agreement between the SADC EPA states, of the one (1) part, and the European Union (EU) and its member states, of the other part (SADC EPA): Part A of the Schedule to general notes to Part 1 of Schedule 1: Protocol 1, Annex V,; Articles 22 and 24 thereof (SADC EPA)</p> <p>iv) Agreement establishing the African Continental Free Trade Area (AfCFTA) and its Protocols, Annexes and Appendices: Part F of the Schedule to general notes to Part 1 of Schedule No.1: Annex 2</p> <p>v) Economic Partnership Agreement between the SACU member states and Mozambique, of the one (1) part, and the United Kingdom of Great Britain (UK) and Northern Ireland, of the other part: Part A of the Schedule to general notes to Part 1 of Schedule 1: Protocol 1, (SACUM-UK EPA)</p> <p>b) <b>Free Trade Agreement between the European Free Trade Association (EFTA) and the Southern African Customs Union (SACU):</b> Annex V, Articles 14(1)(b), 19 and 22</p> <p>c) <b>Preferential Trade Agreements</b> - Preferential trade agreement between the Common Market of the South (MERCOSUR) and the Southern African Customs Union (SACU) Part D of the Schedule to General Notes to Part 1 of Schedule 1: Annex III</p> <p>d) <b>Generalised Systems of Preferences</b></p> <p>i) Preferential tariff treatment of textile and apparel articles imported directly into the territory of the USA from South Africa as contemplated in the AGOA</p> <p>ii) Non-reciprocal preferential tariff under the GSP granted to developing countries by the Norway</p> <p>iii) Non-reciprocal tariff treatment under the GSP granted to developing countries by the Russian Federation, the Republic of Belarus and the Republic of Kazakhstan</p> <p>iv) Non-reciprocal tariff treatment under the GSP granted to developing countries by the Republic of Turkey</p> <p><b>Value-Added Tax Act No. 89 of 1991:</b> Sections 1, 7 to 11, 13, 18 and Schedule 1</p>
Other Legislation:	<p><b>Manufacturing Development Act No. 187 of 1993:</b> Section 10</p> <p><b>National Ports Act No. 12 of 2005:</b> Section 65</p> <p><b>Promotion of Administrative Justice Act No. 3 of 2000:</b> Section 3, 4 and 5</p> <p><b>Public Finance Management Act No. 1 of 1999</b></p> <p><b>SEZ Regulations</b> published in Government Notice R39667 of 9 February 2016</p> <p><b>Special Economic Zone Act No. 16 of 2014:</b> Sections 23 and 24</p>
International Instruments:	<p><b>Kyoto Convention General Annex Chapter 3</b> Clearance and other Customs Formalities: Standards 3.6 and 3.21; <b>Chapter 5</b> Security: Standards 5.1; 5.2; 5.4; 5.6 and 5.7; <b>Chapter 7</b> Information Technology : Standards 7.1 and 7.4; <b>Chapter 8</b> Relationships between Customs and Third Parties: Standards 8.1; 8.2; 8.3; 8.4; 8.6 and 8.7; <b>Chapter 9</b> Information, Decisions and Rulings Supplied by Customs: Standards 9.4 and 9.8; <b>Chapter 10</b> Appeals in Customs Matters: Standards 10.1; 10.2; 10.3; 10.5; 10.6; 10.7; 10.8; 10.9; 10.10; 10.11 and 10.12</p> <p><b>Kyoto Convention Specific Annex A: Chapter 2</b> Temporary Storage of Goods Paragraph 2 and 6; <b>Specific Annex B Chapter 3</b> Relief from import duties and taxes – Paragraph 7 (b); <b>Specific Annex D: Chapter 1</b> Customs Warehouses: Paragraph 4; <b>Specific Annex E</b> Customs Transit: Chapter 1 Paragraph 5; <b>Specific Annex K</b> Origin: Chapter 2 Paragraphs 5, 6, 9, 10, 11</p> <p><b>WTO Trade Facilitation Agreement:</b> Section 1 Article 1 – Publication and Availability of Information, Section 1 Article 4 – Appeal or Review Procedures, Section 1 Article 6 Discipline on Fees and Charges Imposed on or in Connection with Importation and Exportation No. 3 – Penalty Discipline</p>

### 3.2 Cross References

DOCUMENT #	DOCUMENT TITLE
ECS-LER-03	Legal Entity – External Standard
SC-CA-02	Internal Administrative Appeal – External Policy
SC-CC-26	Alternative Dispute Resolution – External Policy
SC-CC-38	Reporting of Conveyances and Goods – External Policy
SC-CF-19-A01	Documentary Requirements – External Annex
SC-CF-23	Completion of DA 185 and DA 186
SC-CF-26	Application to submit cargo reports – External Manual
SC-CF-55	Clearance Declaration - External Policy
SC-CO-01-02	Offence and Penalties – External Policy
SC-CW-01-07	Duty and Tax Free Shops – External Policy
SC-CW-02-01	Industrial Development Zone – External Guide
SC-DT-B-02	Deferments – External Policy
SC-PR-01-02	Rebate item 470.03 – External Guide
SC-RO-02	Administration of Trade Agreements – External Policy
SC-SE-05	Bonds – External Policy
SC-TR-01-04	Removal of Goods – External Policy

## 4 DEFINITIONS AND ACRONYMS

<b>Abandoned</b>	<p>a) When the owner has thrown away or discarded with the intention of relinquishing ownership. The property or anyone does therefore not own the property or thing.</p> <p>b) On interpretation of common law, "an owner of a wrecked property (other than flotsam, jetsam and lagan) 'automatically' abandons the right to such property to the State. If the owner fails to take steps to salvage the property (wreck) within a period of a year and six (6) weeks of the ship's foundering or where, after taking such steps, the owner discontinues any salvage operations for a period of a year and six (6) weeks".</p>
<b>AfCFTA</b>	African Continental Free Trade Area
<b>AGOA</b>	Alternative Dispute Resolution
<b>AGOA</b>	African Growth and Opportunity Act
<b>APDP</b>	Automotive Production Development Programme
<b>CCD</b>	Customs clearance declaration
<b>CPC</b>	Customs procedure code
<b>CPS</b>	Cargo Processing System
<b>CRCS</b>	Customs Compliance Risk and Case Selection
<b>Customs Branch Office</b>	The Branch Office, port of entry or exit or Customs Compliance Centre that handles and processes the application forms
<b>DEFF</b>	Department of Environment, Forestry and Fisheries
<b>EFTA</b>	European Free Trade Association
<b>Electronic data interchange (EDI)</b>	The electronic transfer from computer to computer of information using an agreed standard to structure the information
<b>EPA</b>	Economic Partnership Agreement
<b>Foreign Principle</b>	The foreign principal is a registered importer, registered exporter or licensed remover of goods in bond not located in South Africa as prescribed in Rule 59A.01 (a).
<b>FTA</b>	Free Trade Agreement
<b>GSP</b>	Generalised System of Preference
<b>ITAC</b>	International Trade Administration Commission of South Africa
<b>Licensing</b>	A formal permission from a government or any constituted authority to perform a specified business or profession that also contains rules and regulations on how such business or profession must be conducted
<b>LRCC</b>	Licence Registration Cancellation Committee
<b>MCP</b>	My Compliance Profile
<b>NVOCC's</b>	Non-Vessel Operating Common Carriers
<b>OS</b>	Storage Warehouse
<b>PAJA</b>	Promotion of Administrative Justice Act

<b>Regulations</b>	A regulation or regulations or any amendment thereof enacted in terms of the Manufacturing Development Act No. 187 of 1993 and the SEZ Act No. 16 of 2014
<b>ROO</b>	Rules of Origin
<b>SACU</b>	The Southern African Customs Union, consisting of: The Republic of South Africa; The Republic of Botswana; The Kingdom of Lesotho; The Republic of Namibia; and The Kingdom of eSwatini
<b>SACU-EFTA</b>	The Free Trade Agreement between the EFTA States and the SACU States
<b>SACU-MERCOSUR</b>	Agreement between the Common Market of the South (MERCOSUR) and the Southern African Customs Union (SACU)
<b>SACUM-UK EPA</b>	Economic Partnership between the SACU Member States and Mozambique and the United Kingdom of Great Britain and Northern Ireland
<b>SADC</b>	Southern African Development Community
<b>SADC-EPA</b>	Economic Partnership Agreement between the EU and the SADC EPA Group
<b>SEZ</b>	Special Economic Zone
<b>SOS</b>	Special Storage Warehouse
<b>SSM</b>	SARS Service Manager System
<b>Wreck</b>	Includes: a) Any flotsam, jetsam, lagan or derelict; b) Any portion of a vessel or aircraft that has been lost or abandoned or that has been stranded or crashed; c) Any of the cargo, stores, apparatus or equipment of any such vessel or aircraft; and d) Any personal property on board such vessel or aircraft when it was lost / abandoned or when it was stranded or crashed

## 5 DOCUMENT MANAGEMENT

<b>Policy Owner</b>	<b>Head: Accreditation and Licensing</b>
<b>Detail of change from previous revision</b>	<b>Updated the 28 client types who will be able to submit their application to Customs either through eFiling or at a Customs Branch Office where the Registration, Licensing and Accreditation (RLA) capturing capability is available.</b>
<b>Template number and revision</b>	GC-TM-03 - Rev 9