

EXCISE

EXTERNAL POLICY

SPECIAL OR EXTRA ATTENDANCE

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1 SUMMARY OF MAIN POINTS

- a) This policy applies to clients that are required to apply to Excise where special or extra attendance is required in the supervision of:
 - i) Destruction of goods; and
 - ii) Un-pack and re-pack of goods at the request of the client.
- b) Also included in this policy are the charges levied for:
 - i) An EO required to certify or photocopy a document(s); and
 - ii) Special or extra attendance.

2 POLICY

2.1 Mandate

- a) Excise Officers (EO's) are given a mandate to perform:
 - i) Certain services within the specified working hours as special attendance; or
 - ii) Any attendance outside the specified working hours as extra attendance.
- b) The Controller / Branch Manager may arrange for a member of the South African Police Service (SAPS) to accompany the EO(s) and be present at the attendance.

2.2 Application for special and extra attendance

- a) Application must be submitted in duplicate, at least 24 hours in advance, on a DA 73 to the Controller / Branch Manager even if no charge is levied for special or extra attendance.
- b) The proof of approval for requested attendance and relevant copies of the supporting documents related to the attendance must accompany the DA 73 application e.g. clearance declaration, invoice).
- c) Application must be made for the attendance of one (1) EO in respect of any service contemplated in the Rules except where:
 - i) The client requests the service of more than one (1) EO and the Controller / Branch Manager approves the request.
 - ii) The Controller / Branch Manager decides on reasonable grounds that the attendance of more than one (1) EO is required.
- d) Consideration of application for special or extra attendance:
 - i) The application will be checked to establish if it is a valid application and whether security is required. Where it is an invalid application the client must correct and resubmit the DA 73.
 - ii) If the application is correct, the DA 73 is registered.
- e) Completion of the application for special or extra attendance is described in [SE-GEN-08-A01](#).

2.3 Charges

- a) In terms of Rule 120 the Commissioner may:
 - i) Determine the services for which charges shall be payable;
 - ii) Determine the rate and method of payment for such charges; and
 - iii) Determine the conditions of such services.
- b) Special attendance:
 - i) Special attendance charges must be levied from the time the EO's leave the Branch Office (B/O) until they return to the B/O.

- ii) Services for which special attendance is charged:
 - A) Subject to Rule 120.06 with respect to any inspection of goods where application is made for abandonment or destruction of goods.
 - B) For Excise supervision:
 - I) Where samples are drawn by a manufacturer in a manufacturing warehouse;
 - II) Where goods are packed or repacked at a manufacturer's premises or any other premises as requested by the manufacturer.
 - C) For certification or photocopying of documents; and
 - D) Where any provision requires that special attendance, charges must be levied.
 - iii) Charges for special attendance:
 - A) Special attendance must be charged at R 100.00 per EO, per hour or part thereof.
 - B) In the case where any provision specifies a time prior to the attendance before which the Controller/Branch Manager must be notified and the Controller/Branch Manager is not so notified, R 200.00 per EO, for the first hour or part thereof must be charged. Thereafter the normal charge of R 100.00 per EO, per hour or part thereof applies.
 - iv) Charges for special attendance to certify or photocopy documents:
 - A) R 10.00 for certification of a document (irrespective of the number of pages thereof);
 - B) R 1.00 for photocopying a page, where paper is supplied by the B/O making the photocopy; or
 - C) R 0.50 for photocopying a page, where the applicant supplies the paper.
 - D) Where an application has been made for special attendance and where such attendance extends after official hours, the continued attendance must then be charged as extra attendance, unless the B/O operates on a 24-hour basis where extra attendance charges are not to be levied.
- c) Extra attendance:
- i) Extra attendance charges must be levied from the time the EO's leave the B/O or their residence until they return to their residence or the B/O.
 - ii) Extra attendance is charged:
 - A) Where any provision requires that extra attendance charges must be levied; and
 - B) Any other Excise service where extra attendance is required by a client unless the Act otherwise provides.
 - iii) The charge for extra attendance is not affected by the number of services performed during such attendance by the EO for the client, unless the Act otherwise provides for it.
 - iv) Charges for extra attendance:
 - A) Extra attendance must be charged at R 150.00 per EO, per hour or part thereof for the service of any EO on any day excluding Sunday or a public holiday.
 - B) Extra attendance must be charged at R 200.00 per EO, per hour or part thereof on Sundays and public holidays.
- d) Special or extra attendance will not be charged:
- i) For the inspection of a premises, audit of transactions and the verification of stock of licensees or registrants for the purposes of any activities regulated by the Act.
 - ii) For any attendance required by the Commissioner or a Controller / Branch Manager unless otherwise specified in the Act.

2.4 Booking of special or extra attendance

- a) After the DA 73 has been processed, the client must make a booking for the attendance.
- b) The client must present his / her copy of the DA 73 and a copy of the CEB 01 where security is required before the attendance.
- c) The client will be contacted telephonically either the day before or the morning of the scheduled attendance, to confirm that the attendance is still required.
- d) On the scheduled appointment, the EO(s) will wait at least fifteen (15) minutes from the time of the scheduled attendance. If the scheduled time, including the additional fifteen 15 minutes lapses, the booking may be cancelled, unless prior notice has been provided that the client is going to be late.

2.5 Transport

- a) The SARS will provide the EO's with transport to the place where services are to be rendered.
- b) No SARS employee may accept any gift, hospitality or other inducement that may influence their official duties.

2.6 Conducting of special or extra attendance

- a) The EO will hand the original DA 73 to the client after the inspection has been finalised.
- b) A copy of the DA 73 will be retained by the EO.
- c) No feedback or release will be issued without proof of payment of the attendance charges.

2.7 Payment for special or extra attendance

- a) Payment for attendance charges must be made via eFiling. Alternative payment channels must only be used if the eFiling service is not available (refer to GEN-PAYM-01-G01).

2.7.1 Security

- a) The Controller / Branch Manager may require security to be lodged prior to the booking by taking into account the client's compliance history, size, value and sensitivity of the consignment. Security is required to guarantee the payment of charges incurred in providing the service.
- b) If security is required, the client must make a deposit of an amount equal to the total charges to be incurred as estimated by the Controller / Branch Manager.
- c) The client must pay the required security prior to commencement of the attendance.
- d) Additional payment for charges:
 - i) Once the attendance has been successfully conducted and the outcome has been recorded, the EO will determine if there is any amendment required to the captured DA 73 based on the time the physical inspection was conducted.
 - ii) If an additional payment is required, the client must pay for the extra hours for the attendance conducted by the EO(s).
- e) Refund of charges paid in excess:
 - i) Clients need to ensure that they have authenticated the banking details, as where a refund is due, it will only be paid if the banking details have been authenticated and updated with the SARS.
 - ii) The following options will be available to the client:
 - A) Refund payment to be issued directly;
 - B) Use of the credit against another open item on the client's account; or
 - C) Use the refund against the client's deferment limit.
 - iii) Refer to EA-01-M01 – Excise eAccount on eFiling – External User Manual.
- f) Where no security is required, the amount due in charges must be paid by 12:00 on the first official working day after the attendance ends.
- g) Payment for special or extra attendance must be made against the Payment Reference Number (PRN).

2.8 Keeping of records

- a) Clients must keep documentation 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.

2.9 Penalties

- a) Failure to adhere to the provisions of the Act, as set out in this document, is considered an offence.
- b) Offences may render the client liable to, as provided for in the Act:
 - i) Monetary penalties;
 - ii) Criminal prosecution; and / or
 - iii) Suspension or cancellation of registration, license or accreditation.

2.10 Promotion of Administrative Justice Act

- a) 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.
- b) Administrative action, which significantly and unfavourably affects the rights or valid expectations of any person, must be procedurally fair. A fair administration procedure depends on the circumstances of each case.
- c) A person must be given:
 - i) Written notice 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.
- d) Before administrative action can be taken by Excise, 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.
- e) Just administrative action requires Excise Officers 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.
- f) Clients whose rights have been significantly and unfavourably affected by administrative action and who have not been given reasons for the action may, after the date on which the client became aware of the action, request Excise to furnish written reasons for the action.
- g) Excise must after receiving the request, give the client adequate reasons in writing for an administrative action. It must, subject to subsection (4) of the Promotion of Administrative Justice Act 3. of 2000 and in the absence of proof to the contrary, be presumed in any proceedings for judicial review that the administrative action was taken without good reason.

2.11 Appeals against decisions

- a) In cases where clients are not satisfied with any decision taken in terms of the Customs and Excise 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 SE-APL-02.
- b) If clients disagree with a decision of any appeal committee, their recourse will be to lodge an application for Alternative Dispute Resolution (ADR) with the relevant appeal committee. The committee will 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:	Customs and Excise Act No. 91 of 1964: Sections 3(1), 101, 101A; 120(1)(a) and (b) Customs and Excise Rules: Rule 120 to 120.07, 120A.03 and 201.00
Other Legislation:	Promotion of Administrative Justice Act No. 3 of 2000: Section 3
International Instruments:	None

3.2 Cross References

DOCUMENT #	DOCUMENT TITLE
EA-01-M01	eAccount on eFiling - External Manual
GEN-PAYM-01-G01	SARS Payment Rules – External Guide
SC-CC-24	Administrative Appeal – External Policy
SC-CC-26	Alternative Dispute Resolution – External Policy
SE-APL-02	Internal Administrative Appeal – External Policy

3.3 Quality Records

Number	Title
CEB 01	Customs and Excise Billing
DA 73	Application for Special or Extra Attendance
SE-GEN-08-A01	Completion of the DA 73 – External Annex

4 DEFINITIONS AND ACRONYMS

B/O	Branch Office
Commissioner	Commissioner of the SARS
Controller / Branch Manager	The officer designated by the Commissioner to be the Controller/Branch Manager of Customs and Excise in respect of that area or matter and includes officers acting under the control or direction of any officer so designated by the Commissioner.
EO	Excise Officer
Extra attendance	An application made by a client on a DA 73 for any attendances outside the specified working hours (Schedule to the Rules, paragraph 201.00)
PRN	Payment Reference Number
SAPS	South African Police Service
SARS	South African Revenue Service
Special attendance	An application made by a client on a DA 73 for specific attendances within the specified working hours (Schedule to the Rules, paragraph 201.00)

5 DOCUMENT MANAGEMENT

Policy Owner	Head: Business Design and Engineering
Detail of change from previous revision	Paragraph 1(a) has been amended to indicate the various types of supervision; Paragraph 2.5 has been amended; Paragraph 2.7.1(e) has been added; Provision has been made for the Promotion of Administrative Justice Act under paragraph 2.10; 'Cross References' and 'Quality Records' under paragraphs 3.2 and 3.3 have been updated, respectively; Policy owner changed; and Document Q-code changed from SE-FS-15 to SE-GEN-08.
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