

EXCISE

EXTERNAL POLICY

LICENSING AND REGISTRATION

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1 SUMMARY OF MAIN POINTS

- a) This policy deals with the types of registrations and licences administered by Excise and sets the requirements that must be met prior to and subsequent to registration and licensing for selected activities.
- b) The purpose of registration and licensing is to regulate specific activities pertaining to Excisable / Levy goods and to govern acceptable practice in terms of the Act.
- c) The following Excise client **registrations** are covered by this policy:
- i) Commercial manufacturer of biodiesel;
 - ii) Commercial manufacturer of sugary beverages;
 - iii) Diamond producer, dealer, beneficiator or the holder of an export permit;
 - iv) Electricity producer;
 - v) Manufacture of Excisable Goods solely for own use by the manufacturer – Section 116;
 - vi) Non-commercial manufacturer of biodiesel;
 - vii) Non-commercial manufacturer of sugary beverages;
 - viii) Rebate User (Schedule 6);
 - ix) Registered still; or
 - x) Tobacco leaf dealer.
- d) The following Excise client **licences** are covered by this policy:
- i) **Excise Warehouses:**
 - A) Manufacturing Warehouses (VM);
 - B) Primary and Secondary Manufacturing Warehouses (VMP and VMS);
 - C) Special Manufacturing Warehouses (SVM);
 - D) Special Storage Warehouses (SOS);
 - E) Storage Warehouses (OS); and
 - F) Special Ad Valorem Manufacturing Warehouse for purposes of Excise duty specified in Section B of Part 2 of Schedule 1 (VS).
 - ii) **Licensed Distributor of Fuel (LDF)** - Although not an Excise “warehouse”, Section 60 read with Section 64F stipulates that any person, other than the licensee of a fuel-manufacturing warehouse, who wishes to claim a refund on fuel, have to license as an LDF with the SARS. Such refunds can only be claimed on fuel obtained at any place in South Africa (SA) from duty paid stocks of a fuel-manufacturing warehouse for delivery to any destination outside SA.
 - iii) **Agricultural Distiller** - Although not an Excise “warehouse”, Section 60 read with Section 62 stipulates that any person distilling spirits has to license. Only renewal of existing agricultural distiller licenses, as no new licenses, shall be granted to any person after the commencement of the Customs & Excise Act 91 of 1964.
 - iv) **Stills** – Although not an Excise “warehouse”, Section 60 read with Section 63 stipulates that any person who owns or has in his possession or under his control any still, has to license. This includes the manufacture or importation of stills for sale or the repair of stills for reward.
- e) This policy does not cover:
- i) The legal entity registration which must precede registration or licensing (refer to ECS-LER-03).
 - ii) Bonds as this is dealt with in document SE-BON-02; and
 - iii) Completion of the DA 185 as this is dealt with in document SE-LR-03-M01.

2 POLICY

2.1 Persons who must and / or may apply for registration or license

- a) The Commissioner may require any of the following persons or class of persons as contemplated in Rule 59A.03(1) participating in any activity regulated by the Act to be registered or licensed:
- i) A natural person who is a citizen or a permanent resident of SA or has a place of business at a specific physical address in SA and is at least eighteen (18) years old unless emancipated by a court order;

- ii) A juristic person that has a place of business at a specific physical address in SA, a representative of that juristic person duly authorised by that juristic person to apply, and if a company, may include a public officer appointed by the company and approved by the SARS in terms of Section 246 of the Tax Administration Act, 2011 (Act No. 28 of 2011);
 - iii) The person having the effective management of an association of persons whether or not formed in SA that has a place of business at a specific physical address in SA; and
 - 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 SA or has an established place of business in SA and is at least eighteen (18) years old or emancipated by court order at time of application.
 - v) The following persons must apply in the case of:
 - A) A deceased estate - The executor;
 - 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; and
 - D) Any institution - The person having the effective management of such institution.
- b) No third party may apply for registration and / or licensing on behalf of an applicant.

2.2 Application

- a) The DA 185 Registration / Licensing application is available online at www.sars.gov.za or at any Customs and Excise Branch Office (BO).
- b) Except as elsewhere specified in the Act in respect of any activity, application for registration must be made on the prescribed form DA 185 and the relevant annexure to the Controller / Branch Manager in whose area of control the activity will be conducted and from whom the form is obtainable.
- c) The applicant must comply with all the requirements specified in form DA 185 and the relevant annexure, these rules, any other relevant rule and any condition or obligation imposed by the Commissioner.
- d) The applicant must complete the mandatory fields of the DA 185 and the relevant annexure (as stipulated per client type) and the supporting documents that contain all the information requested in the application must be submitted with the DA 185.
- e) The Commissioner may require any person to furnish surety in the form, nature and amount he / she deems necessary (refer to SE-BON-02).
- f) All producers of malt beer for commercial sale must in terms of Section 36 in respect of each brand produced in SA, register with the SARS the brand name under which such beer will be produced for commercial sale. In addition, the declared alcoholic strength by volume (A/V) and the quantity, which will be indicated on each container size of the beer, must be registered and declared on the label / container and / or any invoice, delivery note or similar document issued in relation to the malt beer.
- g) All new registrations and licences may be subject to investigations prior to approval or refusal of applications.

2.2.1 Refusal of an application

- a) Section 59A(2)(b) and 60(2)(a) empowers the SARS to refuse any new application for registration or licensing when an applicant:
 - i) Fails 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 e.g. duties / levies, interest, penalties or other amounts due to Excise; or
 - B) Accounts or tax returns; or
 - C) Other documents in terms of the Act or any other tax laws administered by the SARS;
 - v) Breached any condition or obligation in terms of the Act;
 - vi) 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

- vii) Has during the five (5) years preceding the application:
 - A) Breached any provision of the Act or other tax laws administered by SARS; 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.
- b) Above sub-paragraphs (a)(vii)(A) and (a)(vii)(B) will not apply in respect of an employee if the applicant can prove that he / she was not a party to or could not prevent any such act or omission by such employee.
- c) These disqualifying provisions also apply to an employee of the applicant in a managerial position, the director, the administrator or trustee of the applicant.

2.3 Conditions

- a) Excise 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 registrant and / or licensee;
 - ii) The inspection of such goods by Excise Officers (EO's);
 - iii) The registrant and / or licensee must provide assistance to EO's with regards to detained, seized or confiscated goods; or
 - iv) Compliance by the registrant and / or licensee with the Act or a tax levying Act in relation to such goods.
- b) A registered or licensed person may not authorise or allow another person to use his / her Excise client code, except where expressly required or permitted in terms of the Act.
- c) The Excise client code must be indicated on:
 - i) Any communication to Excise or another organ of state; or
 - ii) Any authorisation issued to an Excise client or representative that will be acting on behalf of such registered or licensed person.
- d) No person may transact business with Excise until all obligations relating to registration / licencing have been met.
- e) The registered or licensed person must:
 - i) Inform Excise within seven (7) working days of when the applicant, registrant or licensee:
 - A) No longer carries on the business for which the licence or registration 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 in the application; or
 - B) Ascertaining facts relating to the activity in respect of which registration / licensing 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) The application approval letter issued by the Trader Registration division must be:
 - i) Kept on the registered or licensed premises; and
 - ii) Made available to an EO upon request or during the inspection of the registered or licensed premises.
- g) Any directives issued by Excise 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 deemed to be part of the afore-mentioned terms and conditions from the date on which such directives are issued and must be observed by the registrant or licensee as if they were included therein and duly subscribed to by the registrant or licensee.

- h) Premises or facilities that will be used for the storage, manufacturing or processing purpose must be:
- i) Approved by the Trader Registration division for that purpose; and
 - ii) Open to authorised EO's at all reasonable times for inspection, verification of records and operations including supervision of tallying operations and to verify whether the registered or licensed person complies with the requirements.
- i) A contract concluded between a registrant or licensee and another person to perform any of its functions may not relieve the registrant or licensee of its responsibilities under the Act and the SARS policies and procedure.
- j) Any registration is issued subject to the condition that the registrant / licensee or at least one (1) of the registrant's / licensee's employees permanently employed at the premises where or from where the business will be conducted must have sufficient knowledge of Customs and Excise laws and procedures (refer to Rule 59A.10(2)).

2.4 Requirements for Excise clients and facility requirements

2.4.1 Registrant (including Rebate User – Schedule 6)

- a) In the case of a non-commercial manufacturer of biodiesel / electricity producer / non-commercial manufacturer of sugary beverages / rebate user, the applicant must complete the DA 185 and relevant annexure DA 185.4A3 / DA 185.4A9 / DA 185.4A12 / DA 185.4B2 and submit it to the Excise Office in whose area of control the manufacturing or producing premises or facility is situated.
- b) The following additional supporting documents must be presented with the application (DA 185):
- i) Registration certificate of business (an issued by the Registrar of Companies or Master of the Supreme Court in a case of a trust);
 - ii) Resolution / consent or other authority applicable;
 - iii) Site plan:
 - A) Must be a detailed plan of the premises but need not be a blueprint although it must be according to scale;
 - B) Must show the position(s) of the proposed storage warehouse in relation(s) to the adjoining building(s) and public thoroughfare(s);
 - C) Adequate office space must be provided to enable EO's to conduct enforcement functions on the premises; and
 - D) Must be signed and dated by the applicant.
 - iv) A list of plant and machinery; and
 - v) Identity / passport documents of -
 - A) Individual.
 - B) Partnership, Close Corporation and Trust (All members / partners / trustees).
 - C) Company (All Directors, including Managing Director and Financial Director).
- c) In the case of a non-commercial manufacturer of biodiesel (manufactures **less** than 25 000 litres of biodiesel per calendar month **AND** 300 000 litres of biodiesel per calendar year), he / she must - .
- i) Open a monthly biodiesel manufacturing record which must contain –
 - A) The name and registration number issued;
 - B) The month and year to which the record relates;
 - C) The date of each manufacturing process;
 - D) The quantity, per manufacturing process, of methanol, ethanol, catalyst, neutralising agent, any other additives, vegetable oil and any other products used in that process;
 - E) The quantity yield, per manufacturing process, of methanol, ethanol, glycerol, any other products and biodiesel produced from that process;
 - F) In the case of a blend of biodiesel and distillate fuel, the quantity of biodiesel and the quantity of distillate fuel used in that blend and the quantity of the blended product; and
 - G) In the case where no biodiesel was manufactured during the month, a production figure reflected as "NIL".
- d) Every person who generates electricity and is not required to license his / her generation plant as contemplated in Rule 54FA.03 must register if electricity is generated from:

- i) Non-renewable sources in an electricity plant with an installed capacity exceeding 3MW, but not exceeding 5MW; or
 - ii) Co-generation as specified in Note 2(c) to item 148.01.01 of Section B of Part 3 of Schedule 1; and
 - iii) Sources specified in Note 2(d) to the Levy Item 148.01.01, in the electricity generation plant with an installed capacity exceeding 3MW.
- e) In the case of an exempted Electricity Producer, records must include:
- i) Quantities of non-renewable energy source materials received and used for electricity generation: and
 - ii) The quantities / megawatt of electricity generated from such materials and, separately, by co-generation.
- f) Electricity producers applying for exemption must declare that he / she will operate an electricity generation plant with an installed generation capacity of between three (3) and five (5) megawatt per kilowatt / hour.
- g) Any person who manufactures sugary beverages or intends manufacturing sugary beverages with a sugar content **NOT** exceeding 500 kilogram per calendar year shall be regarded as a non-commercial manufacturer and must apply for exemption.
- h) In the case of Diamond Export Levy the applicant must complete the DL 185 and submit it to the Controller / Branch Manager: Johannesburg or handed in at any of the following offices for forwarding to the Office of the Controller / Branch Manager: Johannesburg:
- i) Bloemfontein;
 - ii) Cape Town;
 - iii) Kimberley;
 - iv) OR Tambo International Airport; or
 - v) Upington.
- i) The following additional supporting documents must be presented with the application (DL 185):
- i) In the case of a producer, a copy of the document in terms of which the Regulator issued the producer concerned with a unique registration number as prescribed in the Regulations to the Diamond Act, 1986 Act No. 56 of 1986);
 - ii) In the case of a dealer or diamond beneficiator, a copy of the licence issued by the Regulator issued to the dealer or diamond beneficiator concerned in terms of the provisions of the Diamond Act, 1986;
 - iii) In the case of the holder of a permit a copy of the permit issued by the Regulator; and / or
 - iv) A DL 1 in respect of any election described in Section 8 of the Diamond Export Levy (Administration) Act, 2007.
- j) Rebate User -
- i) The applicant and the rebate store must be located in SA.
 - ii) The applicant must complete the DA 185 and annex DA185 4A3 and submit it to the Excise Office in whose area of control the manufacturing or producing premises or facility is situated.
- k) The applicant must comply with the conditions specified in the relevant rebate item(s) listed at the time of his / her application.
- l) Rebate stores that are situated in the same building or on the same floor together with other businesses must be separated from each other.
- m) Bulk storage tanks used must be calibrated and Excise must be able to seal it, if and when necessary.
- n) The registrant must keep proper records, books and any data created by means of a computer of all transactions and activities relating to the registration for a period of five (5) years, calculated from the end of the calendar year in which any such document was created and, more specifically:

- i) In the case of a **Registered Rebate User** (Schedule 6) such records must include a Rebate Register reflecting the following information:
 - A) All receipts of rebated Excisable product; i.e.
 - I) Licensed name of supplier / manufacturer / intermediate supplier;
 - II) Volume received;
 - III) Nature / rebate item under which the product was received; and
 - IV) DA 33A number and date per which the product was received.
 - B) All usages / applications of rebated Excisable product; i.e.
 - I) Description of product manufactured;
 - II) Volume of product manufactured; and
 - III) Volume of rebated Excisable product used.
 - C) Stock figures of rebated Excisable product on hand.
 - D) Sales / removals of product; i.e.
 - I) Sales invoice / delivery note number and date for manufactured product sold / removed; and
 - II) DA 62 number and date for transfers of rebated Excisable product to other registered rebate users.

- o) A registrant must always present a copy of his / her valid registration certificate when demanded by an AE.

- p) A contract between a registrant and another entity to perform any relevant function on the registrant's behalf will not relieve such registrant from his / her responsibilities under the Act and this procedure.

- q) Manufacture for own use -
 - i) A manufacturer of Excisable goods who manufactures such goods solely for the purpose of own use by that manufacturer, as contemplated in Section 116, must –
 - A) Apply on form DA 185 and annexure DA 185.4A15 for registration in terms of Section 59A and the rules thereto; and
 - B) For purposes of distillation, apply on form DA 185 and annexure DA 185.4B12 for a licence to own, possess or keep a still in terms of Section 63 and the rules thereto.
 - ii) Unless the Commissioner determines otherwise, no security is required, by a manufacturer applying for registration or licensing as contemplated in paragraph (i).
 - iii) A manufacturer of Excisable goods solely for own use, who is registered as contemplated in item (A) of paragraph (i) above, must –
 - A) Keep detailed records in respect of the –
 - I) Description of any goods manufactured and stored;
 - II) Description of any manufacturing and storage processes;
 - III) Capacity of any manufacturing plant and equipment;
 - IV) Capacity of any storage facility and equipment;
 - B) Keep a monthly register of any goods manufactured that reflects the –
 - I) Opening stock at the start of the month;
 - II) Quantities manufactured and stored;
 - III) Quantities used and purpose of use;
 - IV) Quantities removed and purpose of removal;
 - V) Quantities lost or destroyed and the reason; and
 - VI) Closing stock at the end of the month; and
 - C) Keep available the records contemplated in paragraph (A) for a period of at least five (5) years after the date of manufacture for inspection on demand by an officer.

- r) Registered Still –
 - i) Every still maker and still importer shall –
 - A) Immediately on manufacture or importation by him / her of any still, apply on form DA 185 and annexure DA 185.4A14 to register such still;
 - B) Permanently affix the registration number obtained in terms of the registration under paragraph (A) to such still, together with his name, address and the capacity of the still; and
 - ii) Keep a register with the following information in respect of any still:
 - A) Registration number contemplated in paragraph (B);
 - B) Date of manufacture, where applicable;

- C) Date of importation, where applicable;
 - D) Type, brand and capacity; and
 - E) The following information on the sale of such still-
 - I) Sales invoice number;
 - II) Date of sale;
 - III) Value of sale;
 - IV) Name and address of purchaser;
 - V) Delivery note number; and
 - VI) Delivery address.
- iii) Every still maker, still importer or person in possession of any still that was not marked in accordance with Rule 63.01 shall immediately-
- A) Advise the nearest Customs and Excise BO;
 - B) Provide that Customs and Excise BO with the following information, where available, in respect of such still -
 - I) Type, brand and capacity;
 - II) Name and address of the manufacturer; and
 - III) Manufacturer's serial number;
 - C) Apply on form DA 185 and the appropriate annexure to register such still;
 - D) Permanently affix the registration number obtained in terms of the registration under paragraph (c) to such still, together with his name, address and the capacity of the still; and
 - E) No person shall obliterate, obscure or alter the prescribed markings on any still or have in his / her possession any still without such markings unless the nearest Customs and Excise BO has granted approval in writing.
- s) Tobacco leaf dealer –
- i) Every tobacco leaf dealer shall:
 - A) Register for that purpose with the Commissioner on form DA 185 and the appropriate annexure in terms of Section 59A and the rules thereto.
- t) **Simplify temporary registration for the purposes of Rebate Item 621.08:**
- i) **For the purposes of Rebate Item 621.08, the following special conditions shall apply to recipients and users of partially denatured or un-denatured ethyl alcohol for the manufacture of disinfectant classifiable in heading 38.08 of Part 1 of Schedule 1 for the duration of the national state of disaster declared in terms of Section 27(1) of the National Disaster Management Act, 2002 (Act No. 57 of 2002), by Government Notice No. 313 of 15 March 2020 –**
 - A) **Manufacturers of disinfectant classifiable in heading 38.08 must apply for temporary registration in the form of a letter on the official business letterhead to one of the following email addresses:**
 - I) **Bmvubu@sars.gov.za;**
 - II) **NMotete@sars.gov.za; or**
 - III) **avandermescht@sars.gov.za.**
 - ii) **The application for temporary registration must include at least the following information:**
 - I) **Trade name,**
 - II) **Physical address,**
 - III) **Description, tariff heading of the goods to be manufactured,**
 - IV) **Specific rebate item applicable to the ethyl alcohol, and**
 - V) **Details of the licensed supplier(s).**
 - iii) **The temporary registration issued will only be valid from the date on which the letter of approval is issued until the state of national disaster ends as contemplated in Section 27(5) of the National Disaster Management Act.**

2.4.2 Licensee (Custom and Excise warehouse)

- a) Sections 19A and 27 makes special provision for Customs and Excise warehouses in which Excisable or fuel levy goods are manufactured or stored.
- b) Section 54E makes provision for a Customs and Excise manufacturing warehouse in which environmental levy goods and Health Promotion Levy on sugary beverages are manufactured.

- c) Storage and manufacturing warehouses may be licensed on the same premises provided they are separated from each other.
- d) A licensee can have a second or third factory / plant or premises under the same name in other areas of SA (e.g. other towns or cities).
- e) No licensee may conduct other business / manufacturing in or on the same factory / plant that is licensed as a manufacturing or storage warehouse with the SARS.
- f) The following additional supporting documents must be presented with the application (DA 185):
 - i) Registration certificate of business (an issued by the Registrar of Companies or Master of the Supreme Court in a case of a trust);
 - ii) Resolution / consent or other authority applicable;
 - iii) Site plan:
 - A) Must be a detailed plan of the premises but need not be a blueprint although it must be according to scale;
 - B) Must show the position(s) of the proposed storage warehouse in relation(s) to the adjoining building(s) and public thoroughfare(s);
 - C) Adequate office space must be provided to enable EO's to conduct enforcement functions on the premises; and
 - D) Must be signed and dated by the applicant.
 - iv) A list of plant and machinery; and
 - v) Identity / passport documents of -
 - A) Individual.
 - B) Partnership, Close Corporation and Trust (All members / partners / trustees).
 - C) Company (All Directors, including Managing Director and Financial Director).
- g) A warehouse number allocated must consist of:
 - i) The location of the warehousing place, e.g. Johannesburg (JHB) or Cape Town (CTN); and
 - ii) The warehouse type:
 - A) VM / VMP / VMS for manufacturing warehouse;
 - B) VS for Special Ad Valorem manufacturing warehouse;
 - C) OS for storage warehouse;
 - D) SOS for special storage warehouse; and`
 - E) SVM for special manufacturing warehouse.
- h) When a warehouse licence is cancelled, the number originally allocated to the warehouse in question may not be re-allocated to another warehouse.
- i) Movements into or between movements from any licensed warehouse facility must be done either by the licensee or a licensed remover of goods (ROG) in terms of Section 64D.
- j) A licensee is liable for the duty / levy on all goods stored or manufactured in a Customs and Excise warehouse until he / she can provide proof that the goods in question have been duly cleared through the SARS and delivered or exported from SA.
- k) The licensed premises must be open to authorised EO's at all reasonable times for inspection, verification of records and operations including supervision of tallying operations.
- l) The licensee must keep proper records, books and any data created by means of a computer of all transactions and activities relating to the licence for a period of five (5) years, calculated from the end of the calendar year in which any such document was created.
- m) In addition to this, the licensee of a warehouse must keep, and maintain on a daily basis, a warehouse register reflecting the following information:
 - i) Opening and closing stock of materials for use in the manufacture of Excise duty / levy goods as well as the average production / yield rate of such materials;
 - ii) Opening and closing stock of Excise duty / levy goods;
 - iii) Tariff items and quantities of Excise duty / levy goods manufactured, received; used in the manufacture of other Excise duty / levy goods and / or removed ex warehouse;

- iv) Tariff items and quantities of goods irretrievably lost or abandoned or destroyed; and
 - v) Tariff items and quantities of duty paid and / or rebated Excise duty / levy goods returned to warehouse / stock for which a refund or set-off, of Excise duty / levy was applied for / claimed.
- n) Ad Valorem Excise duty
- i) Section 36A makes provision for a special Customs and Excise warehouse for purposes of Excise duty specified in Section B of Part 2 of Schedule 1.
 - ii) Section 36A(1) stipulates that every manufacturer of Excisable goods specified in Section B of Part 2 of Schedule 1, and every owner of Excisable goods specified in Section B of Part 2 of Schedule 1, manufactured for him partly or wholly from materials owned by such owner, shall license his premises as a Special Ad Valorem Manufacturing warehouse for purposes of Excise duty specified in Section B of Part 2 of Schedule 1.
 - iii) Section 36A(2)(b)(iii) further stipulates that the Commissioner may, in such circumstances as he may deem expedient, license the premises of any dealer in Excisable goods as a Special Ad Valorem Manufacturing warehouse for purposes of Excise duty specified in Section B of Part 2 of Schedule 1.
 - iv) Exemption from licensing for Ad Valorem Excise duty –
 - A) In terms of Section 36A(3), Ad Valorem Excise goods manufactured by any entity (i.e. any company, close corporation, co-operative society, firm, partnership, statutory body or club) for his / her own use and not for sale or disposal under circumstances which, in the opinion of the Commissioner, do not constitute a business venture, may be exempted from licensing and payment of the relevant Ad Valorem Excise duty. Application for such exemption must be made in writing, to the Commissioner.
 - B) In terms of Section 36A(4) read with Rule 36A.03(a), manufacturers of goods subject to Ad Valorem Excise duty, may be exempted, from licensing and payment of such duty if the value for Ad Valorem Excise duty purposes of such goods during the preceding calendar year did not exceed and is not likely to exceed R 50 000 during a calendar year. Application for such exemption must be made, in writing, to the local Controller / Branch Manager and must be supported by a declaration of such value for duty purposes.
 - v) Such exemption shall only be valid for one (1) calendar year. The applicant must apply for renewal of the exemption on or before 31 December of each year.
 - vi) Such exempted clients shall keep suitable production and disposal records, which must be made available for inspection on demand by an EO.
 - vii) Joint licensing [Section 36A(2)(b)(i)]
 - A) The Commissioner may, subject to such conditions as he may impose in each case –
 - l) Where the production and disposal of any Excisable goods specified in Section B of Part 2 of Schedule 1 are performed by different persons, or under other circumstances rendering it expedient in his opinion to do so, issue one (1) licence under the provisions of this Act in respect of the premises of two (2) or more persons concerned, and thereupon each such person shall be jointly and severally liable for the Excise duty specified in Section B of Part 2 of Schedule 1 on all the Excisable goods specified in Section B of Part 2 of Schedule 1 concerned, any one paying, the other or others to be absolved *pro tanto*.
- o) Agricultural distiller -
- i) Every agricultural distiller shall apply on form DA 185 and annexure DA 185.4B11 for a license for the distillation of spirits as an agricultural distiller.
 - ii) When an agricultural distiller ceases the distillation of spirits or ceases to be an agricultural distiller in terms of the provisions of the Act, he / she shall, in addition to any notification under any provision of the rules regarding any spirits manufactured by him / her, immediately notify the nearest Customs and Excise BO of the disposal of any still in his possession.
 - iii) As contemplated in Section 62 –
 - A) After the commencement of the Customs and Excise Act, a license as an agricultural distiller shall not be granted to any person who had not at any time before such commencement been licensed under any law relating to Excise as an agricultural distiller.
 - iv) Existing agricultural distiller licenses have a validity period from 1 January to 31 December and must be renewed on an annual basis.

- p) Carbon Tax
- i) Rule 54FD.02 makes provision that every carbon taxpayer must –
 - A) Obtain a consolidated licence for the combination of each of its emissions facilities as its Customs and Excise manufacturing warehouse for the generation of emissions liable to carbon tax; and
 - B) Designate the premises of its operational control in SA as the premises for such a consolidated licence.
 - ii) Notwithstanding paragraph (i), no taxpayer must apply to license an emissions facility where an activity listed in Schedule 2 of the Carbon Tax Act exclusively occurs in respect of which –
 - A) Such taxpayer has a basic tax-free allowance of 100%; or
 - B) A tax threshold indicated as 'not applicable' applies.
 - iii) The provisions of Rule 19A.02 shall apply with any necessary changes as the context may require to any application for a licence or renewal of a licence contemplated in this Rule.
 - iv) Every licensee must advise the Commissioner in accordance with Rule 21A.09 of any change in particulars provided in its application for licensing.
- q) Stills
- i) Every person who owns, possesses or keeps a still shall apply for a license on form DA 185 and annexure DA 185.4B12, unless such still is used solely for distilling water or any other purpose for which a license is not required.
 - ii) No person may sell, remove or otherwise dispose of a still unless the nearest Customs and Excise BO has granted approval in writing.
 - ii) Every still maker and still importer shall –
 - A) Apply on form DA 185 and annexure DA 185.4B13 for a license to manufacture or import stills for sale or to repair stills for reward;
 - B) Immediately on manufacture or importation by him / her of any still, apply on form DA 185 and annexure DA 185.4A14 to register such still;
 - C) Permanently affix the registration number obtained in terms of the registration under paragraph (B) to such still, together with his name, address and the capacity of the still; and
 - iii) Every still maker and still importer shall keep a register with the following information in respect of any still:
 - A) Registration number contemplated in paragraph (C) above;
 - B) Date of manufacture, where applicable;
 - C) Date of importation, where applicable;
 - D) Type, brand and capacity; and
 - E) The following information on the sale of such still-
 - II) Sales invoice number;
 - III) Date of sale;
 - IV) Value of sale;
 - V) Name and address of purchaser;
 - VI) Delivery note number; and
 - VII) Delivery address.

2.4.3 Responsibilities

- a) The Excise client code awarded to a **registrant** must be:
 - i) Quoted in all communications to the SARS or any other organ of state and reflected on all prescribed documents for transacting Excise business; and
 - ii) Reflected in the authorisation for any agent to transact the business to which the registration relates.
- b) The registrant must not allow any other person to use such registration in any Excise business or transaction. The obligation for the safeguarding and usage of the client number is vested with the registrant.
- c) The registered premises must be open to authorised EO's at all reasonable times for inspection, verification of records and operations including supervision of tallying operations.

- d) The Excise client code awarded to a **licensee** must be:
 - i) Quoted in all communications to the SARS or any other organ of state and reflected on all prescribed documents for transacting Excise business.
 - ii) Reflected in the authorisation for any agent to transact the business to which the licence relates.
- e) The licence holder must not allow any other person to use such licence in any Excise business or transaction. The obligation for the safeguarding and usage of the Excise client code is vested with the licensee.
- f) A licensee must always present a copy of his / her valid licence (DA 103) when demanded by an EO.
- g) A contract between a licensee and another entity to perform any relevant function on the licensee's behalf will not relieve such licensee from his / her responsibilities under the Act and this procedure.

2.4.4 Suitability of buildings

- a) This section stipulates the basic (physical) requirements set for establishing a rebate store or warehouse and therefore only applies to the various types of Excise registered premises / warehouses, excluding LDF's.
- b) There are no set rules regarding the suitability of buildings for Customs and Excise warehouses, the under-mentioned may however, be regarded as guiding principles. The Commissioner may set any other reasonable requirement he / she deems necessary in a specific case in order to secure the SARS' interests:
 - i) The building must be structurally sound and safeguarded against fire and burglary.
 - ii) The premises must be securely fenced.
 - iii) The walls of the building must be of brick, stone or concrete and the roof of slate, tiles or iron.
 - iv) All windows, doors, gates and other means of access must be fitted with adequate locking devices, which allow for the SARS locks or seals.
 - v) The building must be equipped with electric / electronic security measures.
 - vi) The building must comply with health and safety regulations.
 - vii) In the case of a building housing both rebated and duty / levy free / duty paid goods on the same floor, the rebated goods must be clearly partitioned off / separated from such other goods. The partitioning used must be of wood or other substantial material and must extend to the ceiling or at least as high as to prevent casual access to the rebated goods.
 - viii) A separate area for the safekeeping of goods, which have not been released due to detention and / or seizure, must be provided.
 - ix) Sufficient space and facilities must be provided to enable the SARS staff to conduct an examination of goods.
 - x) Suitable accommodation, office furniture, parking and toilet facilities must be provided to AE's at any reasonable time free of charge.
 - xi) The building must be approved by the local municipality.

2.5 Licence fee provisions

- a) Schedule 8 prescribes:
 - i) The type of activity, premises or facility 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) Licences are effective from the date specified on the licence issued.
- c) The applicant **may** be required to pay a licence fee as prescribed in Schedule 8 before a licence is issued.
- d) Schedule 8 prescribes the following validity periods for Excise licences:

Manufacturing of Excisable goods	Indefinite, subject to the conditions the Commissioner may impose.
Manufacturing of Ad Valorem Excise Duty Goods	Indefinite, subject to the conditions the Commissioner may impose.
Manufacturing or storage of Environmental Levy Goods	From the effective date until 31 December of the year in which it was issued.
Storage of Excisable / Leviable goods	Indefinite, subject to the conditions the Commissioner may impose.
Licensed Distributor of Fuel	From the effective date until 31 December of the year in which it was issued.
Distillation of spirits by an agricultural distiller	1 January to 31 December
To own, possess or keep a still	Three (3) years subject to conditions or such lesser period as the Commissioner may impose in each case
To manufacture or import for sale or to repair for reward a still	Three (3) years subject to conditions or such lesser period as the Commissioner may impose in each case

2.5.1 Issuing and renewal of a licence

- a) Licenses are effective from the date specified on the licence issued.
- b) Warehousing licences must be issued to:
 - i) Different warehouse types on a single site; and / or
 - ii) A single warehouse extended to more than one site within the same B/O of control.
- c) A license must be renewed thirty (30) calendar days before it expires. Excise may also inform a person to renew his / her licence.

2.6 The amendment of an existing registration or licence

- a) The registrant or licensee must inform Excise of any amendments by completing the relevant application DA 185 with the relevant annexure and must submit only the documents that relate to such amendment.
- b) In the following circumstance an amendment may not be applied for:
 - i) The licensee may apply for an additional licence to conduct business in another Excise control area. The licensee must submit a new application to the Controller / Branch Manager in that Excise control area.
 - ii) When an existing registered or licenced juristic person ceases to exist, he / she must submit an application to Excise 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.

2.7 Licence conditions

- a) A licence must be issued for the respective premises based on the type of application received and approved by the Trader Registration division.
- b) The activities for which the licence is required, the person and the conditions imposed must be reflected on the specific licence issued.
- c) Applicants for warehouses must apply for separate licences for each individual warehouse.
- d) No alterations may be made on such licence by the applicant and the licence must be available for inspection by Excise when requested.

- e) No licence can be transferred from one (1) person to another person; however, a licence may be endorsed by the Commissioner to allow a transfer from one (1) approved premise to another within the same area of control and subject to no alteration in legal ownership.
- f) Excise may at any reasonable time, inspect the warehouse concerned in order to verify whether it complies with the prescribed requirements.

2.8 Amalgamation

- a) During amalgamation, the final legal entity which results from the amalgamation has to have existed and been licensed prior to the amalgamation.
- b) If the amalgamation results in a new or a previously unlicensed legal entity, a new application must be submitted.
- c) The notification must include the following in respect of the amalgamation:
 - i) A certified copy of amendment to the articles of incorporation;
 - ii) The names of any new directors that may have joined as a result of the change; and
 - iii) If security is needed, endorsement to the bond must be submitted to reflect the change.

2.9 Change registration or license particulars

- a) The Commissioner must be advised of a change whenever any of the particulars furnished in any application for registration or a licence changes in any way. The licensee must advise the Commissioner within seven (7) working days from the date of the occurrence of such event by submitting a DA 185 and the appropriate annexures reflecting the changed particulars.
- b) Changes will only be effective once final approval has been received from the Commissioner.
- c) Whenever any of the current licence particulars changes, the licensee must advise the Controller / Branch Manager within seven (7) days of such change by submitting a DA 185 and / or the relevant annexure, reflecting the changed particulars (refer to ECS-LER-03).
- d) The changes may include:
 - i) Where the legal status or the name of the registrant or licensee changes for any reason; or
 - ii) Address; or
 - iii) Directors of an entity; or
 - iv) Individual(s) who has / have sufficient knowledge of Customs and Excise laws and procedures.
- e) Change in legal identity will require a new application supported by all relevant documents, vetting reports and security.
- f) If security or additional security is required because of the change, security must be submitted or the existing security (bond) must be endorsed to that effect.
- g) In certain cases, only a limited vetting report is required from Customs and Excise Compliance, Risk and Case Selection (CECRCS) division, unless there are exceptional reasons for a full report.
- h) These types of cases would be uploaded to the SARS Service Manager (SSM) for amendments as a result of the following:
 - i) Change of directors;
 - ii) Change in warehouse address;
 - iii) Extension of warehouse facilities / risk; and
 - iv) Amendment of registration / licensing condition.
 - v) Renewal of license distributor of fuel (LDF).
- i) Change of ownership and / or name:
 - i) In the case of a change of ownership, a new licence application has to be made.

- ii) For example, if another company purchases the assets of a dissolved registered / licensed entity, the licence is no longer valid. The purchasing entity has to submit an application for a new registration / licence and meet all prescribed requirements.
 - iii) The notification must include the following in respect of the new name:
 - A) In the case of a company or closed corporation a certified copy of revised articles or certificate showing the new legal name;
 - B) In case of an individual's name change, an originally certified copy on an identity document reflecting such change; and
 - C) A list of current directors and / or members; and
 - D) If security is needed, endorsement to the bond must be submitted to reflect the new name.
 - iv) Change of ownership is not allowed in case of sole proprietorships or individual partnerships as the registration / licence is granted to an individual or partnership.
 - v) Change in legal identity will require a new application supported by all relevant documents and security (bonds).
- j) Renewal of a licensed distributor of fuel (LDF):
- i) In the case where a LDF wants to renew his / her licence it must be treated as a new application.
 - ii) The client must submit an original DA 185 together with all the relevant supporting documents.
 - iii) Required supporting documents:
 - A) DA 185;
 - B) A resolution;
 - C) Valid ITAC (International Trade Administration Commission of South Africa) permit(s) for the relevant products;
 - D) A valid wholesale licence certificate issued by the Department of Energy; and
 - iv) The application must be sent for full vetting.
 - v) The case must be sent to the Trader Registration division for consideration.
 - vi) The client must provide a letter with the following information:
 - A) The type of fuel that's being bought;
 - B) Where they buy their fuel; and
 - C) Who are they intend supplying with fuel.
 - vii) The client must ensure that they comply with Sections 37A and 64F of the Act and the Rules thereto.

2.10 The relocation of an existing registered / licensed premises

- a) General conditions:
- i) An applicant must submit a letter of explanation stating the reasons for relocation at least sixty (60) days prior to the relocation to the Controller / Branch Manager in whose area the existing registered / licensed premises or facility is registered / licensed.
 - ii) The acknowledgement letter must be issued to the applicant.
 - iii) The relocated premises or facility 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 registered / licensed premises or facility is being relocated **within the same Controller's / Branch Manager's area:**
- i) The registrant / licensee of the existing registered / licensed premises or facility must:
 - A) Submit a DA 185 and the relevant annexure indicating that this is an amendment of existing information; and
 - B) Provide only the document(s) that relates to the information being amended (e.g. physical address of the relocated premises or facility).
 - ii) The applicant will retain his / her existing Excise client code and the existing Customs and Excise warehouse number).
 - iii) The registrant / licensee may be requested to increase or decrease his / her security (refer to SE-BON-02).
 - iv) Once the relocated premises or facility is approved, the registrant / licensee must be informed in writing.

- c) When a registered / licensed premises intends relocating **to a different Controller's / Branch Manager's area (e.g. Johannesburg to Durban):**
- i) The registrant / licensee of the existing registered / licensed premises must provide to the Controller / Branch Manager in whose area the new registered / licensed premises will be licensed (e.g. Durban):
 - A) A duly completed DA 185 and the relevant annexure indicating that this is a new application; and
 - B) The relevant supporting documents.
 - ii) Once the new premises or facility is successfully registered / licensed, the registrant / licensee:
 - A) Must submit a DA 185 to the Controller / Branch Manager in whose area the old premises or facility was registered / licensed for cancellation of that registered / licensed premises or facility (e.g. Johannesburg);
 - B) Must provide a letter stating the reason for cancellation; and
 - C) Does not need to provide the relevant supporting documents with his / her request for cancellation.
 - iii) The applicant will retain his / her Excise client code but a new Customs and Excise warehouse number must be issued to the new registered / licensed premises or facility (e.g. Durban);
 - iv) The approval letter must be issued to the licensee for the:
 - A) Registration / Licensing of his / her new premises or facility (e.g. Durban); and
 - B) Cancellation of his / her existing registered / licensed premises or facility (e.g. Johannesburg).
 - v) The surety (bond) of the existing registered / licensed premises or facility must only be cancelled once:
 - A) All other obligations have been met; and
 - B) The new registered / licensed premises or facility surety is registered (refer to SE-BON-02).

2.11 The alteration of an existing registered / licensed premises

- a) When alteration of a warehouse is contemplated, the registrant / licensee must advise the Controller / Branch Manager in writing at least sixty (60) days prior to the effective date thereof.
- b) Acknowledgement of receipt of the application for alteration of a warehouse must be made in writing.
- c) If mere alteration to an existing Customs and Excise warehouse is applied for, the existing registration / licence and warehouse number must be retained.
- d) A physical inspection of the premises must be conducted by the Excise BO to ascertain that the new business location / warehouse / alteration meet all physical requirements.
- e) In terms of Rules 27.02 and 27.03:
 - i) Plans of the premises and plant to be used in connection with the manufacturing of goods in a Customs and Excise manufacturing warehouse and location of the plant on such premises shall be submitted to the Controller / Branch Manager with as many copies as he / she may require, before commencement of manufacturing and no alteration to such premises or plant shall be made without the prior permission of the Controller / Branch Manager. Distinguishing marks or numbers as the Controller / Branch Manager may require shall be indicated on every room, vessel, still, utensil or other plant and such mark or number shall be shown on schedules submitted with such plans; and
 - ii) Vessels, stills and other plants in a Customs and Excise manufacturing warehouse shall be placed, fixed and connected as the Controller / Branch Manager may require and the registrant / licensee shall not alter the shape, position or capacity of any plant or install any additional or new plant or remove any plant without the permission of the Controller / Branch Manager after submission to him of an application for alteration of such plant.
- f) Approval of the application for alteration of a Customs and Excise warehouse must be made in writing.

2.11.1 Trader Registration division

- a) The Trader Registration division must then proceed as follows:
- i) Consider the two (2) applications in the same meeting.
 - ii) If in order, approve the application for licensing of the new licensee.
 - iii) If in order, pend the application for cancellation until such time, as the stock has been transferred to the new licensee.
 - iv) The clients as well as the BO have to be informed accordingly.

2.12 Suspension and / or cancellation of a registered or licensed person

- a) The Controller / Branch Manager deals with applications for and decisions regarding possible licence and registration cancellations or suspensions.
- b) The registrant / licensee may be **suspended** in the following instances:
- i) Failure to pay any amount demanded under the Act by the due date;
 - ii) Has any outstanding obligations (client must be given 21 days to meet all outstanding obligations); or
 - iii) Failure to renew the expired licence within the lapsed period.
- c) The registrant / licensee may be **cancelled** under the following instances:
- i) If sequestrated or liquidated;
 - ii) Acquired the registration / license under false pretences;
 - iii) If the holder of the status is deceased or sold the company;
 - iv) No longer carries on the business for which the status was issued;
 - v) Is no longer qualified according to the qualifications prescribed in the Rules;
 - vi) Failed to pay any amount demanded under the Act by the due date;
 - vii) If the applicant or an employee has (except where it can be proven that the applicant was not a party or could not prevent any such act or omission by the employee):
 - A) Contravened or failed to comply with the provisions of the Act;
 - B) Been convicted of an offence that includes fraud or dishonesty under the Act;
 - C) Been convicted of an offence involving dishonesty; or
 - D) Failed to comply with any condition or obligation imposed by the Commissioner in respect of such registration / licence.
- d) Where a registrant or licensee wishes to cancel his / her registration / license he / she must notify Excise thereof and must submit:
- i) A duly completed DA 185;
 - ii) A letter that contains his / her reasons for cancellation; and
 - iii) Resolution / consent or other authority applicable.
- e) No supporting documents are required.
- f) 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.
- g) When a person's registration or licence is suspended or cancelled, Excise may:
- i) Take control of all or any specific goods in his / her possession to:
 - A) Protect any duties / levies 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 an control area specified by Excise;
 - iii) Require or allow the goods to be cleared for home use;

- iv) Require the person to pay any costs incurred in carrying out any actions in terms of paragraph (i), (ii) or (iii) above;
 - v) Allow the affected person to continue to 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.
- h) When a registered or licensed premise is suspended or cancelled, the person operating or managing it may no longer manage, operate, use or carry out any activities for which such premises or facility was registered or licensed.
 - i) The registered or licensed person must be informed in writing of the intention to suspend or cancel his / her registration or licence.
 - j) When the registered or licensed person fails to submit his / her written representation within 21 working days Excise must notify the client in writing of his / her suspension or cancellation.

2.12.1 Simultaneous cancellation and registration of licensed warehouses on the same premises

- a) The situation may present itself that company A intends to stop acting as a licensee (e.g. manufacturing, trading, etc.) and that company B intends to take over these activities by purchasing company A with the intent of continuing with the manufacturing (uninterrupted) or trading of e.g. wine. **It often happens that company A still has stock on hand and thus has a duty liability towards the SARS.**
- b) The normal practise is that company A must apply for cancellation (DA 185) and company B must apply to be licensed as a manufacturer (DA 185). For these applications to be finalised, company A would have had to close down its manufacturing line and it should then account and pay all liabilities towards the SARS.
- c) In the following circumstances and as approved by the respective Senior Manager of the region, the following process may be followed:
 - i) The two (2) applications can be simultaneously received by the Trader Registration division to consider. The reason for this would be that company A has stock on hand, which it would want to transfer in bond, to company B.
 - ii) Both applications can then be considered by the Trader Registration division, under the following conditions:
 - A) Company A is informed that the Excise duty must first be brought to account on the stock at hand before the application for cancellation can be approved. Where company A is not able to do so, then company B will have to pay the Excise duty. Normal practise is that company A is cancelled and the debt (duty) is collected before company B can be licensed.
 - B) Company B is informed that the application to license cannot be approved before company A has fulfilled its duty liability.
- d) In **exceptional circumstances** as determined by the respective Senior Manager of the relevant region, the following process may be followed under stringent management supervision to facilitate the practical transition:
 - i) Both applications for cancellation and licensing must be submitted simultaneously.
 - ii) Company A (seller) must apply for cancellation by following the normal process:
 - A) Completes DA 185 and informs the BO of cancellation.
 - B) BO conducts final inspection, etc.
 - C) In this instance, the BO will establish that there is stock on hand.
 - D) **The company must indicate when they will stop manufacture or trade (e.g. 31 March 2018).**
 - E) Closure amounts / liability to be confirmed as at this date.
- e) Company A must however further furnish an undertaking for the liability amount in question, which –
 - i) Must be on a company letterhead.
 - ii) Must have the following content:

- A) <Company name>.hereby undertakes to pay any amount of duty as defined in the Customs and Excise Act, No. 91 of 1964 ("the Act") for which <company name>is liable following any audit, investigation, inspection or verification of any books, accounts and other documents required to be kept by <company name> under the provisions of the Act duly conducted in terms of the provisions of the Act, which liability becomes payable following any letter of demand duly issued in terms of the Act following upon such audit, investigation, inspection or verification conducted during the process of transitioning the business operations of <company name> to <company name>, including but not limited to closing down inspections preceding the cancellation of the <company name> licences and registrations.
- f) Company A must furthermore provide a **guarantee** for the payment of the outstanding liabilities towards the SARS, as at the date of cancellation.
- g) Company B (buyer) must apply for licensing by following the normal process:
- i) Completes the DA 185;
 - ii) BO conducts an inspection, etc.
 - iii) **The company must indicate when they intent to commence with manufacturing or trading for which an Excise license is required (e.g. 1 April 2018)**
- h) Company B must furnish an undertaking for the liability of the entity to be cancelled, which –
- i) Must be on a company letterhead.
 - ii) Must have the following content:
 - A) <Company name> hereby undertakes to, upon presentation of a lawful letter of demand, make payment to the SARS of any amount of duty for which it becomes liable as a result of any discrepancy that may arise through the process of transitioning the business operations of <company name> to <company name>, including the closing down inspections preceding the cancellation of the <company name> licenses and registrations.
- i) Company B must furthermore provide a guarantee for the payment of the outstanding liabilities by company A towards the SARS, as at the date of cancellation of company A.
- j) The Trader Registration division must then proceed as follows:
- i) Consider the two (2) applications simultaneously.
 - ii) If in order, approve the application for licensing of the new licensee.
 - iii) If in order, pend the application for cancellation until the stock has been transferred to the new licensee.
 - iv) The clients as well as the BO(s) to be informed accordingly.
- k) Stock Transfer:
- i) In the case of wine, vermouth and Other Fermented Beverages (OFB), the process to transfer the stock will be as follows:
 - A) Wine, vermouth and OFB will be transferred by completing and issuing of a DA 32 / SAWIS 6.
 - B) In the case of wine, vermouth and OFB, the warehouse “to be cancelled” must pass a DA 32 / SAWIS 6 removal certificate of the stock to be carried over to the new licensee who must sign the acknowledgment of receipt on the DA 32 / SAWIS 6 (confirming receipt of such stock).
- l) In the case of spirits, the process to transfer the stock will be as follows:
- i) In the spirits environment movements between VMS warehouses are not allowed. Spirits is assessed once it enters the VMS and the duty is payable within 110 / 130 days after the end of the accounting period in which the spirits was receipted in the VMS Excise account. The VMS account does not carry a stock balance because of the DAS principle.
 - ii) In terms of stock that is assessed but which still has a payment date in the future, the duty must be paid either up front before the “old” VMS is cancelled or a bank guarantee must be provided

- for amounts still due and payable.
 - iii) In the case of a VMP and SOS warehouse with stock on hand the stock will then have to be transferred to the new warehouse by way of passing a removal declaration (E 45-00) which must be acquitted with a declaration (E 46-45) by the receiving warehouse.
- m) In the case of spirits, the process to transfer the stock will be as follows:
 - iv) In the spirits environment movements between VMS warehouses are not allowed. Spirits is assessed once it enters the VMS and the duty is payable within 110 / 130 days after the end of the accounting period in which the spirits was receipted in the VMS excise account. The VMS account does not carry a stock balance because of the DAS principle.
 - v) In terms of stock that is assessed but which still has a payment date in the future, the duty must be paid either up front before the "old" VMS is cancelled or a bank guarantee must be provided for amounts still due and payable.
 - vi) In the case of a VMP and SOS warehouse with stock on hand the stock will then have to be transferred to the new warehouse by way of passing a removal declaration (E 45-00) which must be acquitted with a declaration (E 46-45) by the receiving warehouse.

2.13 The reinstatement of a suspended or cancelled registrant or licensee

- a) The Trader Registration division must inform the registrant or licensee of the re-instatement of his / her registration or licence when the Licensing and Registration Cancellation Committee (LRCC), appeal committee or a court overrules the decision of suspension / cancellation.
- b) The client must submit his / her written representation for re-instatement before the LRCC or appeal committee may overrule the decision of suspension or cancellation.
- c) The client must provide in his / her written representation:
 - i) Reason(s) for re-instatement; and
 - ii) The appropriate steps that he / she will take to prevent occurrence(s) of a similar nature in future.

2.14 The disclosure of information to another person

- a) Anyone that requests the disclosure of information on behalf of another registered or licensed Excise client must have been duly authorised as the entity's representative.
- b) The authorised person must provide Excise with the case number being queried as well as his / her ID number.
- c) At the Excise BO the requestor must provide:
 - i) His / her original ID document, passport, driver's licence or a temporary identity document to the EO for authentication;
 - ii) A letter issued by the applicant or registered or licensed Excise client authorising the person visiting the Excise BO as his / her representative (refer to ECS-LER-03 for details on legal entity registration and authentication).
- b) Excise 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.

2.15 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 (refer to Sections 101 and 101A).

Every client must produce such books, accounts and documents on demand.
- c) 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 the Commissioner or Controller / Branch Manager.
- d) Clients using electronic record keeping systems must ensure that:
 - i) The format that will be used has been approved by Excise;
 - 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 an AE.

2.16 Penalties

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

2.17 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 administrative procedure depends on the circumstances of each case.
- c) 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.
- d) Administrative action can be taken by Excise and the client will 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) 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.

- f) Excise must within ninety (90) days after receiving the request, give the client adequate reasons in writing for the administrative action. If Excise 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.

2.18 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 SE-APL-02.
- b) If Clients disagree with a decision of any appeal committee, their recourse must 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-25.

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 19A, 27, 36, 36A, 54E, 54FD, 59, 59A, 60, 61, 62, 63, 64D, 64F, 101, 101A and 116. Customs and Excise Rules: 19A.02, 21A.09, 27.02, 27.03, 59A.00 to 59A.11(2), 60.00 to 60.10(1), 61.01, 62.01, 63.01 to 63.07, 101.01 to 101.03(a) and 101A.01 to 101A.12 and 107A. Tax Administration Act No. 28 of 2011: Sections 215 to 220 ; 224 and 246
Other Legislation:	Carbon Tax Act, 2019 (Act No. 15 of 2019) Diamond Act, 1986 (Act No. 56 of 1986) Diamond Export Levy (Administration) Act, 2007 (Act No. 15 of 2007): Section 8 Promotion of Administrative Justice Act, No. 3 of 2000
International Instruments:	None

3.2 Cross References

DOCUMENT #	DOCUMENT TITLE
ECS-LER-03	Legal Entity – External Policy
SC-CC-26	Alternative Dispute Resolution – External Policy
SE-APL-02	Internal Administrative Appeal – External Policy
SE-BON-02	Bond – External Policy
SE-LR-02	Licensing and Registration – External Policy
SE-LR-03-M01	Completion of DA 185 – External Manual

3.3 Quality Records

Number	Title
DA 51	Internal Administrative Appeal in Terms of the Customs and Excise Act, 1994
DA 52	Application for Alternative Dispute Resolution (ADR) in terms of the Customs and Excise Act, 1964
DA 103	Licence Certificate
DA 185	Application form: Registration / Licensing of Customs and Excise Clients
DA 185.C	Security Particulars

4 DEFINITIONS AND ACRONYMS

Act	Customs and Excise Act No. 91 of 1964
A/V	Alcoholic strength by volume
BO	Branch Office
CIPC	Companies and Intellectual Property Commission

Commissioner	Commissioner for the South African Revenue Service
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 an officer acting under the control or direction of any officer so designated by the Commissioner
EO	Excise Officer
ITAC	International Trade Administration Commission
LDF	Licensed Distributor of Fuel
Licensing Registration	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.
MW	Megawatt
OS	Storage Warehouse
ROG	Remover of Goods
SA	South Africa
SARS	South African Revenue Service
Schedule 6	Refunds and Rebates of Excise duties, Fuel levy and Environmental levy
Schedule 8	Licences
Section B of Part 2 of Schedule 1	Ad Valorem Excise Duties on locally manufactured goods or on imported goods of the same class or kind
SOS	Special Storage Warehouse
SSM	SARS Service Manager
SVM	Special Manufacturing Warehouse
Tobacco dealer leaf	Any person who engages in the storing, processing or transacting of tobacco leaf product, excluding the farming thereof
VM	Manufacturing Warehouse
VMP	Primary Manufacturing Warehouse
VMS	Secondary Manufacturing Warehouse
VS	Special Ad Valorem Manufacturing Warehouse

5 DOCUMENT MANAGEMENT

Policy Owner	Executive: Excise
Detail of change from previous revision	A new paragraph 2.4.1(t) has been inserted for the purposes of Rebate Item 621.08, regarding the special conditions, which shall apply to recipients and users of partially denatured or un-denatured ethyl alcohol for the manufacture of disinfectant classifiable in heading 38.08.
Template number and revision	GC-TM-03 - Rev 9