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GOVERNMENT NOTICES

SOUTH AFRICAN REVENUE SERVICE

No. R. 699

29 June 2009

CUSTOMS AND EXCISE ACT, 1964 AMENDMENT OF RULES (No. DAR/54)

Under sections 38, 39, 101A and 120 of the Customs and Excise Act, 1964, the rules published in Government Notice R.1874 of 8 December 1995 are amended to the extent set out in the Schedule hereto with effect from **4 July 2009**.

GEORGE NGAKANE VIRGIL MAGASHULA
ACTING COMMISSIONER FOR THE SOUTH AFRICAN REVENUE SERVICE

SCHEDULE

- (a) By the substitution for the heading of and for rules 38.08 to 38.12 of the following headings and rules:

“Release of entered imported goods or goods for export

- “38.08 (a) For the purposes of the rules numbered 38.08 to 38.12, unless otherwise specified or the context otherwise indicates

—

“accredited declarant” means a declarant who has been accredited as contemplated in section 64E;

“declarant” means a person who makes due entry of goods as contemplated in sections 38 and 39;

“declarant release message” means the electronic communication by an accredited declarant of all the information contained in an electronic message to a release authority;

“electronic message” means an electronic communication in accordance with the provisions of section 101A, its rules, the user agreement and user manual from the Commissioner to –

- (i) a declarant or accredited declarant who entered by means of electronic communication any –
 - (aa) imported goods or goods for import, including goods for storage in a customs and excise warehouse, or goods for export as contemplated in sections 38 and 39; or
 - (bb) any goods for removal from a customs and excise storage warehouse; or
- (ii) the declarant or accredited declarant and the release authority,

for release or detention of the goods concerned;

“goods” means imported goods, goods for export, as may be applicable, whether or not containerized, or goods in a customs and excise storage warehouse, but excluding accompanied personal effects of a passenger or a member of a crew, that –

- (i) in the case of imported goods, have been carried by a ship or vehicle from a port or place outside the common customs area to a port or place in the Republic and have been unloaded at that port or place;
- (ii) in the case of goods for export, are goods at a port or place in the Republic ready for loading on to a ship or vehicle for carriage to a port or place outside the common customs area;
- (iii) in the case of goods in a customs and excise storage warehouse, are goods which after due entry are removed from such warehouse for any purpose authorised by this Act;

“release” means that for the purposes of the Act or any other law goods are allowed to pass from the control of the Commissioner as contemplated in section 107(2)(a);

“release authority” means –

- (i) any master, pilot or other carrier in respect of any goods for which such a master, pilot or carrier is liable until lawful delivery of the goods, after due entry thereof to an importer or his agent as contemplated in section 44(5)(a);
- (ii) a container operator approved by the Commissioner in terms of section 96A in respect of goods contained in a FCL container to be released from a container terminal contemplated in section 6(1)(hA) or a container depot contemplated in section 6(1)(hB);
- (iii) the depot operator of a container depot licensed in terms of section 64A, in respect of any goods contained in a LCL container or FCL (groupage) container defined in the rules for section 8 to be released from a such a container depot;
- (iv) the degrouping operator who is a licensee of a degrouping depot licensed in terms of section 64G, in respect of any air cargo to be released from such depot;
- (v) the licensee of a customs and excise storage warehouse in respect of any goods released from a customs and excise storage warehouse contemplated in section 19, 19A or section 21; or

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

- (b) In these rules any word or expression to which a meaning has been assigned in the rules for section 8 of the Act bears the meaning so assigned.

(c) Subject to section 12 and the rules made thereunder, section 18(1)(d) or (e) or 38(3) and rule 38.14, any provision relating to customs and excise storage or manufacturing warehouses, as may be applicable, no –

- (i) imported goods landed in the Republic may be delivered from the place of landing;
- (ii) goods may be loaded on a ship or vehicle for export at the place of shipment;
- (iii) goods may be removed from a customs and excise storage warehouse,

except upon due entry and after release is authorised as prescribed in these rules.

(d) If any person delivers, loads or removes any goods contemplated in paragraph (c) before release thereof is authorised, such goods shall, if the Controller so requires, at the expense of the person concerned, be returned to the place from which the goods were so delivered, loaded or removed or delivered to any other place the Controller may determine.

Electronic release or detention of goods

38.09 (a) The Commissioner may authorize the release or detention of all or any part of goods entered by a declarant by transmitting an electronic message releasing or detaining such goods to both the declarant and the relevant release authority in control of such goods.

(b) Where the declarant and the release authority have both received an electronic message from the Commissioner authorizing the release of all or part of any goods entered by the declarant, such goods may only be delivered, loaded or removed, as may be applicable, subject to compliance with the provisions of subparagraphs (c) and (d).

- (c) (i) Where the goods have been electronically entered by a person who is an accredited declarant the person concerned –
- (aa) must print out the complete electronic release message and present it to the release authority in order to obtain release of the goods; or
 - (bb) in instances where he or she and the release authority are able to electronically communicate with each other, transmit a declarant release message to the release authority concerned in order to obtain release of the goods.
- (ii) Where the goods –
- (aa) have been manually entered by an accredited declarant; or
 - (bb) by a person who is not an accredited declarant; or
 - (cc) is under the control of a release authority that is not a registered user as contemplated in section 101A,
- the goods may only be delivered, loaded or removed, as may be applicable, subject to compliance with the provisions of rule 38.10.
- (d) A release authority in control of goods for which it has received an electronic message may only deliver, load or remove goods or cause such goods to be delivered, loaded or removed if the electronic message received by it confirms that –
- (i) the goods may be released;
 - (ii) no SARS computer printed release notification is required; and
 - (iii) subject to paragraphs (f) and (g) all the information contained in the electronic message corresponds to –
 - (aa) all the information reflected on the printed release message contemplated in rule 38.09(c)(i)(aa) presented by the accredited declarant; or

- (bb) all the information contained in the declarant release message received from the relevant accredited declarant, and the goods concerned.
- (e) Electronic release is not valid and the release authority may not release the goods where the release message does not comply with the requirements of paragraph (d)(iii).
- (f) (i) An accredited declarant may apply to the Commissioner to be exempted from the requirement contemplated in paragraph (c)(i)(aa) or (bb) where the accredited declarant and the release authority are related to each other in business, by shareholding or in any other manner that the Commissioner may determine.
- (ii) The exemption contemplated in subparagraph (i) shall be subject to such conditions as the Commissioner may consider reasonably necessary to ensure proper compliance with these rules.
- (g) Where an exemption referred to in rule 38.09(f) is granted the release authority may deliver, load or remove goods or cause such goods to be delivered, loaded or removed on notification by the accredited declarant that he or she has received an electronic message releasing the goods.

Goods not released or detained by electronic message

- 38.10 (a) Where goods are not released or detained by electronic message as contemplated in rule 38.09 –
- (i) release of any duly entered goods may be authorised by the Controller only by –
- (aa) endorsing any copy of the relevant SAD form to that effect;
- (bb) issuing a computer printed release notification on a SARS letterhead; or

- (ii) may only be delivered if release is authorised by –
 - (aa) the Controller on form DA 74;
 - (bb) the authority contemplated in subparagraph (i)(bb); or
 - (cc) an electronic release message that releases goods previously detained as contemplated in rule 38.09(a) or in rule 38.10(a)(ii).

Keeping of records

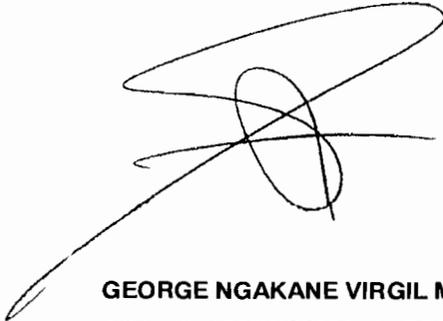
- 38.12 (a) An accredited declarant and release authority must keep all electronic messages, declarant release messages, or any other documents referred to in these rules for a period of five years from the date that that message was transmitted or that document generated.
- (b) Any such electronic message, declarant release message, or any other documents must be produced to a customs officer on demand.”

No. R. 700

29 June 2009

CUSTOMS AND EXCISE ACT, 1964
AMENDMENT OF RULES (NO. DAR / 55)

Under sections 6 and 120 of the Customs and Excise Act, 1964, the rules published in Government Notice R.1874 of 8 December 1995 are amended to the extent set out in the Schedule hereto.



GEORGE NGAKANE VIRGIL MAGASHULA
ACTING COMMISSIONER FOR THE SOUTH AFRICAN REVENUE SERVICE

SCHEDULE

- (a) By the substitution in rule 120A.03(b) for subparagraph (iii) of the following subparagraph:
- “(iii) Such imports or exports by air will only be entertained during the specified hours of attendance at the following places:

| Airports: | Hours | | |
|-----------------------|--|--|--|
| | Unaccompanied movable goods (weekdays only) | commercial or Accompanied commercial or movable goods | or Accompanied commercial or movable goods |
| | Exports: | Imports: | |
| Cape Town Int | 07:45 – 16:15 | 08:00 – 15:00 | 00:00 – 24:00 |
| Durban Int | 07:30 – 16:00 | 07:30 – 14:30 | 00:00 – 24:00 |
| Gateway (Pietersburg) | 08:00 – 17:00 | 08:00 – 17:00 | 00:00 – 24:00 |
| OR Tambo Int | 08:00 – 16:30 | 08:00 – 15:00 | 00:00 – 24:00 |
| Lanseria | 08:00 – 17:00 | 08:00 – 17:00 | 00:00 – 24:00 |
| Nelspruit | 08:00 – 17:00 | 08:00 – 17:00 | 00:00 – 24:00 |
| Port Elizabeth | 07:30 – 16:00 | 07:30 – 14:30 | 00:00 – 24:00" |

(b) By the substitution in rule 120A.03(b) for subparagraph (iv) of the following subparagraph:

“(iv) Such imports or exports **by sea** will only be entertained during the specified hours of attendance at the following places:

| Harbours: | Hours | | |
|----------------|---|---------------|---|
| | Unaccompanied commercial or movable goods (weekdays only) | Imports: | Accompanied commercial or movable goods |
| | Exports: | | |
| Cape Town | 07:30 – 16:15 | 08:00 – 15:00 | 00:00 – 24:00 |
| Durban | 07:15 – 16:00 | 08:00 – 15:00 | 00:00 – 24:00 |
| East London | 07:30 – 16:15 | 08:00 – 15:00 | 00:00 – 24:00 |
| Port Elizabeth | 07:30 – 16:15 | 08:00 – 15:00 | 00:00 – 24:00 |
| Port of Ngqura | 07:30 – 16:15 | 08:00 – 15:00 | 00:00 – 24:00 |
| Richards Bay | 07:15 – 16:00 | 08:00 – 15:00 | 00:00 – 24:00 |
| Mossel Bay | 07:30 – 16:15 | 08:00 – 15:00 | 00:00 – 24:00 |
| Saldanha | 07:30 – 16:15 | 07:30 – 16:15 | 00:00 – 24:00” |

(c) By the substitution for item 200.01 of the Schedule to the Rules of the following item:

"200.01 Places of entry
(Section 6(1)(a) of the Act)

Cape Town
Durban
East London
Mossel Bay
Port Elizabeth
Port of Ngqura
Richards Bay
Saldanha Bay"

(d) By the substitution for item 200.02 of the Schedule to the Rules of the following item:

"200.02 Warehousing places
(Section 6(1)(c) of the Act)

Beit Bridge
Bloemfontein
Cape Town
Durban
East London
Germiston
Johannesburg
OR Tambo International Airport
Kimberley
Komatipoort
Mossel Bay
Oudtshoorn
Paarl
Pietermaritzburg
Port Elizabeth
Port of Ngqura
Pretoria
Richards Bay
Robertson
Saldanha Bay
Stellenbosch
Upington
Vredendal
Worcester
and such places in the vicinity of the above-stated places as may be allowed on application."

- (e) By the substitution in item 200.03 of the Schedule to the Rules for paragraph (a) of the following paragraph:

“(a) Beit Bridge
Cape Town International Airport
OR Tambo International Airport
Lebombo
through which goods may be imported or exported, through which persons may enter or leave the Republic and where goods may be entered for customs and excise purposes.”

- (f) By the substitution in item 200.03 of the Schedule to the Rules for paragraph (g) of the following paragraph:

“(g) Beit Bridge
Bloemfontein
Cape Town
Cape Town International Airport
Durban
Durban International Airport
East London
Germiston
Johannesburg
OR Tambo International Airport
Kimberley
Lanseria International Airport
Lebombo
Mossel Bay
Paarl
Pietermaritzburg
Port Elizabeth
Port Elizabeth International Airport
Port of Ngqura
Pretoria
Richards Bay
Upington
where goods contemplated in section 49 may be imported or exported and where such goods may be entered for customs and excise purposes.”

(g) By the substitution in the Schedule to the Rules for item 200.04 of the following item:

"200.04 **Customs and excise airports**
(Section 6(1)(e) of the Act)

Bloemfontein International Airport
Cape Town International Airport
Durban International Airport
OR Tambo International Airport
Kruger Mpumalanga International Airport
Lanseria International Airport
Pilansberg International Airport
Polokwane International Airport
Port Elizabeth International Airport
Upington International Airport

Note:

Aircraft pilots requiring clearance at the above-mentioned airports (except OR Tambo International Airport, and in respect of scheduled international flights at Cape Town and Durban International Airports) at which no resident customs and excise officers are stationed, are required to give at least 12 hours notice of the time and date of their arrival or departure to the customs and excise office at the places mentioned, in order that arrangements may be made for the attendance of the necessary officers."

(h) By the substitution in item 200.05 of the Schedule to the Rules for the words "**Johannesburg International Airport**" of "**OR Tambo International Airport**"

(ij) By the addition in item 200.05 of the Schedule to the Rules before the words "**Richards Bay**" of the following:

"**Port of Ngqura**
Harbour Area"

(k) By the substitution in item 200.06 of the Schedule to the Rules for the words "**Johannesburg International Airport**" of "**OR Tambo International Airport**"

(l) By the substitution for item 200.07 of the Schedule to the Rules of the following item:

"200.07

Container terminals

(Section 6(1)(hA) of the Act)

Cape Town

(a) Ben Schoeman Dock, Harbour area.

(b) "Combi" terminal, between E and G berths, Harbour area.

(c) Belcon terminal, Bellville

Durban

Wharfs Nos. 200 to 205, pier No. 2, Harbour area

East London

Wharfs Nos. 4 and 6, East Bank, Buffalo River

Johannesburg

(a) "City Deep" terminal, Houer Road, City Deep.

(b) "Vaalcon" terminal, Viljoensdrift Railway Station, Viljoensdrift, District Sasolburg.

(c) "Eastcon" terminal, Dunnottar Railway Station, Dunnottar.

Port Elizabeth

Berths Nos. 100 to 103, Charl Malan Wharf, Harbour area

Port of Ngqura

Berths Nos. D100, D101, D102 and D103

Pretoria

"Pretcon" terminal, Corner Paul Kruger and Mansfield Streets, Eloffsdal, and where the existing terminal is inadequate to accommodate the number of containers involved, any additional location approved by the Controller concerned for the temporary use as a container terminal."

(m) By the substitution in item 201.00 of the Schedule to the Rules for the words "Johannesburg International Airport" where they appear in any of the sub-items of "OR Tambo International Airport"