

**SOUTH AFRICAN REVENUE SERVICE**

**Gazette No. 32838**

**No. R. 1240**

**31 December 2009**

**CUSTOMS AND EXCISE ACT, 1964  
AMENDMENT OF RULES (DAR/67)**

Under sections 49B 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  
COMMISSIONER FOR THE SOUTH AFRICAN REVENUE SERVICE**

**SCHEDULE**

- (a) By the substitution in rule 49B.01 for paragraph (e) of the following paragraph:
- “(e) (i) Subject to section 3(2), any power, duty or function contemplated in section 49(6), is delegated in terms of section 49(6)(b)(vi) to the extent specified in these rules to the Manager: Origin Administration, the Controller or any officer designated by that Manager or Controller.
- (ii) For the purposes of subparagraph (i) any officer authorised by the Manager: Origin Administration or the Controller, may exercise any power conferred or duty or function imposed on any authority in Annex I or on any officer in terms of any other provision of this Act for the purpose of verification of the originating status of goods or the fulfilment of the other requirements of Annex I.”

(b) By the substitution in rule 49B.06(5) for paragraph (a) of the following paragraph:

“(a) Where any importer requests approval to import goods contemplated in the Rule in more than one consignment application shall be in writing and -

(i) in the case of any machine provided for in Additional Note 1 of Section XVI of Part 1 of Schedule No. 1, apply to the Senior Manager: Customs Legislative and Interpretation at Head Office and forward a copy of the application to the Manager: Origin Administration;

(ii) in the case of other unassembled or disassembled goods the application shall be made to the Manager: Origin Administration stating a full description of the goods, the tariff heading, the number of consignments and include pro forma invoices of each.”

(c) By the substitution in rule 49B.07(6) for paragraph (a) of the following paragraph:

“(a) Application shall be made to the Controller in writing;”

(d) By the substitution in rule 49B.10(9)1(b) for subparagraph (iii) of the following subparagraph:

“(iii) The SCO, export bill of entry and supporting documents shall be delivered for processing at the office of the Controller nearest to the place of business of the exporter unless the Manager: Origin Administration or the Controller otherwise determines.”

(e) By the substitution in rule 49B.10(9)2(a) for subparagraph (ii) of the following subparagraph:

“(ii) it is demonstrated to the satisfaction of the authorised officer contemplated in rule 49B.01(e)(ii) that the SCO was issued but was not accepted at importation in the Member State of destination for technical reasons.”

- (f) By the substitution in rule 49B.10(9)2 for paragraph (e) of the following paragraph:  
“(e) The application for the issue of the SCO retrospectively shall be considered by the Controller.”
- (g) By the substitution in rule 49B.10(9)3(b) for the words preceding subparagraph (i) of the following words:  
“(b) The exporter shall furnish to the Controller where the original SCO was issued –“
- (h) By the substitution in rule 49B.10(9)3 for paragraphs (c) and (d) of the following paragraphs:  
“(c) The Controller must –  
(i) ensure that a copy of the original application form is attached to the application form for a duplicate; and  
(ii) take into account the facts and circumstances considered when the original SCO was issued.  
(d) If the Controller decides to certify the duplicate SCO, he or she shall stamp and sign it in the same way as any other SCO, but in Box 13 after the word “Date”, he or she shall insert the words “from which this duplicate certificate is valid” and thereafter the date of the original SCO.”
- (ij) By the substitution in rule 49B.10(9)4 for paragraph (a) of the following paragraph:  
“(a) Any SCO in respect of imported goods requiring verification shall be submitted on the form Verification of Origin contained in Appendix IV to Annex I by the Manager: Origin Administration to the customs authority of the Member State where the SCO was issued.”
- (k) By the substitution in rule 49B.10(9)4(b) for subparagraph (i) of the following subparagraph:  
“(i) If the Controller has reasonable doubts about an SCO, the originating status of the goods concerned or the fulfilment of the other requirements of Annex I, such Controller may, unless the Manager: Origin Administration otherwise determines, allow release only on the furnishing of adequate security pending a report by the customs authority of the Member State on the originating status of the goods.”

- (l) By the substitution for rule 49B.14 of the following paragraph:  
“49B.14 Any person involved in a dispute concerning any decision or determination in respect of the application or interpretation of any provision of origin may, before any appeal to court as contemplated in section 49(7)(b), make use of any procedure provided for in Chapter XA of the Act.”
- (m) By the substitution in rule 49B.17.01(a)(i) for the definitions of “SADC Member State” and “SACU Central Coordinating Authority” of the following definitions:  
“SACU Central Coordinating Authority” (which the addendum states is SARS (the South African Revenue Service)) shall be the officer to whom any power, duty or function for the purposes of administering the provisions of Annex VII and the Addendum relating to such authority is delegated in these rules.  
  
“SADC Member State” means any SADC Member State listed in paragraph 6 of Note K of the General Notes to Schedule No. 1 which member states are, Botswana, Lesotho, Madagascar, Malawi, Mauritius, Mozambique, South Africa, Swaziland, Tanzania, Zambia and Zimbabwe.”
- (n) By the substitution in rule 49B.17.01(a)(iii) for item (aa) of the following item:  
“(aa) In terms of Article 1 of Annex VII sugar must be wholly produced by the sugar producer in the non-SACU SADC Member State to qualify for a quota.”
- (o) By the substitution in rule 49B.17.01(b) for subparagraph (i) of the following subparagraph:  
“(i) Subject to section 3(2), any power, duty or function contemplated in section 49(6) including those of the SACU Central Coordinating Authority contemplated in the Addendum is delegated in terms of section 49(6)(b)(vi) to the extent specified in these rules to the MOA, the Controller or any officer designated by that Manager or Controller.”
- (p) By the substitution in rule 49B.17.02(b) for the wording preceding subparagraph (i) of the following wording:

“(b) Procedures applicable to the MOA in exercising the powers and performing the duties and functions of the SACU Central Coordinating Authority.”

(q) By the substitution in rule 49B.17.02(b) for subparagraph (i) of the following subparagraph:

“(i) The MOA shall ensure that SARS is notified in writing by the non-SACU SADC Member State of -

(aa) the quota allocating authority responsible for administering the duty-free quota access for net surplus sugar produced in SADC countries (paragraph 1.1 of the Addendum);

(bb) the certificate of origin issuing authority responsible for administering the duty-free quota access for net surplus sugar produced in the SADC countries (paragraph 1.2 of the Addendum);  
and

(cc) the particulars of each exporter registered by, and to whom quotas have been allocated by, the quota allocating authority (paragraph 2.2 of the Addendum).”

(r) By the substitution in rule 49B.17.02(b) for subparagraph (ii) of the following subparagraph:

“(ii) (aa) Such Member State is only allowed one quota allocating authority and one certificate of origin issuing authority (paragraph 1.3 of the Addendum).

(bb) Only imports of sugar from registered exporters notified as contemplated in subparagraph (i)(cc) may be entered under item 460.04 (paragraph 2.3 of the Addendum).

(cc) Quota allocations and adjustments thereof must be notified to the SACU Central Coordinating Authority by the quota allocating authority in writing within seven working days after such allocations or adjustments have been made (paragraph 3.3 of the Addendum).

(dd) The MOA must advise all Controllers and the customs administrations of the SACU Member States of the particulars of the quota allocating authority, the origin authority, each registered exporter and the quotas allocated to that exporter.

- (ee) The MOA must record the details referred to in subparagraph (i) for verification purposes and for deductions when imports are made into SACU (paragraph 2.2 of the Addendum).”
- (s) By the substitution in rule 49B.17.02(b) for subparagraphs (iii) and (iv) and both subparagraphs (v) of the following subparagraphs:
- “(iii) In terms of paragraph 5 of the Addendum, the MOA must submit quarterly reports to the TCS on the following:
- (aa) “The number and details of registered exporters per Member State”;
  - (bb) “The volume and value of certificates of origin utilised by each qualifying Member State; and”
  - (cc) “The quantities still available in terms of allocated quantitative limits for each Member State”.
- (iv) The MOA must keep complete records of all documentation relating to the administration of the sugar quotas including all notifications to and from the relevant authorities, the TCS and ports of entry.”
- (t) By the substitution in rule 49B.17.02 for paragraph (c) of the following paragraph:
- “(c) Procedures applicable to the clearance of sugar at the port of entry:
- (i) (aa) Upon presentation of an original certificate of origin, the customs authority of the importing SACU Member State shall verify the details of the exporter appearing on the certificate against the details of the registered exporter sent by the quota allocating authority and received from the MOA.
  - (bb) In cases of reasonable doubt, regarding those details, the customs authority of the importing SACU Member State shall, in accordance with the provisions of rule 9(3) and 9(4) of Annex I, submit a report, the certificate of origin, and all relevant documents to the Commissioner for attention of the MOA for verification.
  - (cc) The request for verification shall be submitted by the MOA to the issuing authority on the form contained in Appendix IV to Annex I.
  - (dd) The customs authority shall, in accordance with the provisions of rule 9(4) of Annex I, where the enquiry solely concerns further evidence, allow release of the consignment

of sugar on the furnishing of adequate security to cover the duty at the general rate of duty specified in Part 1 of Schedule No. 1.

- (ii) If the certificate of origin is found to be untrue in any material way the consignment must be dealt with as contemplated in rule 49B.17.11(10).
- (iii) The number of the certificate of origin and a declaration that the sugar complies with the requirements of Annex VII and the Addendum, must be endorsed on the import bill of entry concerned.
- (iv) Where sugar for which the certificate of origin has been issued is not exported within 20 working days from the date of issue, duty must be collected at the general rate of duty specified in Part 1 of Schedule No. 1 as contemplated in Note 4(d) to item 460.04.
- (v) Customs ports of entry in SACU must –
  - (aa) upon clearance notify the Central Coordinating Authority (the MOA in SARS Head Office) of imports under the quota arrangement contemplated in these rules (paragraph 4.4 of the Addendum); and
  - (bb) keep certificates of origin, import bills of entry, notifications and other communications received from the MOA and other documents relating to such importations for a period of five years from the date any consignment is entered for home consumption.”