



Validity of Import Entries

Customs & Excise



South African Revenue Service

Validity of Import Entries

Preface

This guide provides information on the compliance of import entries with sections 39 and 40 of the Customs and Excise Act, 1964 (the Act). It does not go into comprehensive technical and legal detail and should therefore not be used as a legal reference.

This guide has no binding legal effect.

Should you require more information you may –

- visit the SARS website at **www.sars.gov.za**;
- contact the SARS National Contact Centre –
 - if calling locally, on 0800 00 7277;
 - if calling from abroad, on +27 11 602 2093 (only between 8am and 4pm South African time);
- have a virtual consultation with a SARS consultant by making an appointment via the **SARS website**;
- visit your nearest SARS branch office, preferably after making an appointment via the **SARS website**; or
- contact your own tax advisor or tax practitioner.

Comments on this guide may be e-mailed to **C&E_LegislativeComments@sars.gov.za**.

Legislative Policy: Customs and Excise
SOUTH AFRICAN REVENUE SERVICE
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1. Purpose

This guide provides information for you to comply with sections 39 and 40 of the Customs and Excise Act, 1964 (the Act) so that costs of non-compliance can be avoided.

2. Introduction

Commercial goods imported into South Africa must be cleared through customs. Clearance through customs is made on a bill of entry. For a bill of entry to comply with the Act it must meet the requirements prescribed in section 39 and to be valid it must comply with section 40(1).

The Commissioner is, under section 117, charged with compiling and tabulating import and export trade statistics. The Commissioner primarily determines import and export trade statistics from data declared on bills of entry. Correctly declared bills of entries ensure the integrity and correctness of trade statistics published by the Commissioner and used by other government departments to, amongst others, make important trade policy decisions.

Your compliance is important to compile correct and reliable trade statistics, to assess the correct duties and taxes due, to determine if the goods may be prohibited or restricted, or to qualify for preferential treatment or for a rebate of duty.

Importers are required to do a self-assessment to determine their obligations under the Act. Due to the volume of goods imported it is not feasible for customs to audit every entry or inspect every consignment. As a result, customs use a system of risk management and risk assessment. According to the risk consignments may be released or may be subject to further interrogation such as documentary inspections and, if required, physical inspections at the time of entry. Consignments released without interrogation may be subject to post-clearance audits after release of the goods.

Failure to make a correct and valid entry may result in additional costs associated with non-compliance such as detention costs, additional duties and VAT, penalties and in certain cases, forfeiture of the goods to the state. In serious cases where there is false declaration, fraud or misrepresentation or nondisclosure of any material facts, prosecution of offenders may be pursued.

3. Customs and Excise Act, 1964

The table below refers to the **key provisions** in the Act that are relevant to due entry. This table is not exhaustive and other provisions in the Act may also find application.

Customs and Excise Act, 1964	
Section	
1	Definition of "importer"
39	Importer and exporter to produce documents and pay duties.
40	Validity of entries
113	Prohibition and restrictions

The Act and the Rules are available on the SARS website at www.sars.gov.za under Legal Counsel ⇒ Primary Legislation (the Act) and Secondary Legislation (Rules).

4. What is an entry?

Commercial goods imported into South Africa must be cleared through customs. Clearance of commercial goods through customs is made on a bill of entry (SAD form).

For the purposes of this guide this bill of entry is referred to as an entry.

5. Must all entries comply with the conditions and requirements prescribed in section 39?

Yes. Section 39 describes essentially your obligations in respect of submission of the entry and the documents you must be in possession of before you submit the entry. It requires that the person entering any imported goods for any purpose under the provisions of the Act must, amongst others –

- deliver the entry in the prescribed form and include the full particulars as indicated and required on the entry;
- indicate on the entry, the purpose for which the goods are being entered, for example, warehousing, rebate or home consumption;
- make a declaration on the entry, as to the correctness of the particulars and purpose on such entry;
- produce on request the documents relating to the consignment entered including –
 - commercial invoice, transport document, confirmation of sale or other contract of purchase and sale, importer's written clearing instructions;
 - any permit, certificate or other authority issued under any other law authorising the importation of goods;
 - information regarding the tariff classification, transaction value and origin of such goods as the Commissioner may require; and
 - such other documents relating to such goods as may be required in each case; and
- pay all duties due on the goods.

6. Must all entries be valid?

Yes. Any entry made under the Act must be valid as contemplated in section 40(1). A valid entry will include any entry made under the Act for example, an entry for –

- home consumption;
- removal in bond;
- warehousing; and
- rebate (Schedule nos. 3, 4 or 6).

7. What is a valid entry?

According to section 40(1), for an entry to be valid it must meet the following requirements:

- The description and particulars of the goods and the marks and particulars of the packages declared in that entry must correspond with the description and particulars of the goods and the marks and particulars of the packages as reported under section 7 or 12 viz. the transport document or in any certificate, permit or other document, by which the importation of those goods is authorised.
- The goods must have been properly described in the entry by the denomination and with the characters, tariff heading and item numbers and circumstances according to which they are charged with duty or are admitted under any provision of this Act or are permitted to be imported;
- The true value of the goods on which duty is leviable or which is required must be declared under the provisions of this Act and the true territory of origin, territory of export and means of carriage must have been declared.
- In the case of goods purchased by or sold, consigned or disposed of to any person in the Republic, a correct and sufficient invoice of such goods, as prescribed, must have been produced or must be available on request.
- The correct duty due must have been paid provided that no bill of entry is invalid by reason of any deferment referred to in the proviso to section 39(1)(b).

8. What are the implications of an invalid entry?

Under section 40(2) goods taken or delivered or removed by virtue of an entry which is not valid out of any ship, aircraft, vehicle, transit shed, container terminal, container depot, customs and excise warehouse or other place where they have been deposited with the sanction of customs, shall be deemed to be goods landed or taken without due entry of such goods.

An entry may be processed and released by customs and delivered out of any ship, aircraft, vehicle, transit shed, container terminal, container depot, customs and excise warehouse or other place where they have been deposited. However, if it is found thereafter that the entry is not valid according to the circumstances prescribed in section 40(1), the entry will be regarded as an invalid entry not meeting the test for due entry.

This may result in customs raising an assessment for additional duty, VAT, penalties and possibly forfeiture of the goods.

9. What should I do if I discover that I have delivered an invalid entry or an entry that does not in every respect comply with section 39?

Importers that realise that they have submitted an invalid entry or an entry that does not in every respect comply with section 39, have an obligation under section 40(3) to correct any incorrect particulars declared on the entry by means of a voucher of correction.

According to section 40(3) an importer shall, on discovering that a bill of entry delivered by it does not in every respect comply with section 39 or is invalid under section 40 (1), adjust that bill of entry without delay by means of a voucher of correction.