



*South African Revenue Service*

**RULES WORKSHOP : CHAPTERS 11- 20 AND 24  
26 NOVEMBER 2014**

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# TRANSHIPMENT

- **Limitation of customs seaports and airports** - Proposals were received to increase the number of customs seaports and airports for transshipment purposes
  - Partially accepted
  - On receipt of sufficient motivation in respect of the use of a particular seaport or airport for transshipment purposes, consideration will be given to amending the Rules
- **Port of Ngqura and Port Elizabeth** - Clarification was requested in respect of the transfer of goods between the customs seaports of Port Elizabeth and Port of Ngqura for the purposes of transshipment
  - The current Tax Administration Laws Amendment Bill amends section 241(2) to allow for the transfer of imported goods from one foreign going vessel at a customs seaport (Port Elizabeth) to another foreign-going vessel at another customs seaport (Port of Ngqura) served by the same customs office for the purposes of transshipment

# TRANSHIPMENT

- **Extension of timeframes** - Comments were received regarding the timeframes for the commencement and completion periods for transshipment operations and export of transshipment goods
- After consideration of the motivation received, the Rules will be amended to provide for:
  - 72 hours for the commencement of the transshipment operation instead of the current 24 hours
  - 21 days for the completion of the transshipment operation from commencement of the transshipment operation instead of the current 7 days
  - 21 days for the export of transshipment goods(good loaded on board the export conveyance)
- If these timeframes are not sufficient, section 908 provides for the extension of timeframes upon application
- Such an extension could be inter alia in relation to a specific consignment of goods or a specific kind or other category of cargo during a specific period

# TRANSHIPMENT

- **Time of submission of clearance declaration** - Comments were received regarding the reluctance to submit transshipment declarations prior to arrival
  - Not accepted
- The off-loading of the vessel is dependent upon the goods being released for the transshipment procedure
- In order to facilitate timeous off-loading of transshipment goods, release must be granted upon arrival and therefore the necessity to submit the clearance declaration prior to arrival

# TRANSHIPMENT

- **Use of other documents** - Clarification was sought regarding the use of other documents as transshipment clearance declarations
- In the case of sea cargo to be cleared for transshipment, an advance loading notice of containerised cargo submitted in terms of Rule 3.3(1) will serve as a transshipment declaration
- In the case of air cargo to be cleared for transshipment, an advance air cargo arrival notice submitted in terms of Rule 3.12 will serve as a transshipment declaration

# TEMPORARY ADMISSION

- **Clearance declaration as application** - A comment revealed that there was no provision dealing with circumstances in which the submission of a clearance declaration may be regarded as an application for permission for temporary admission
  - Accepted
- A rule will be inserted in the Rules of Chapter 12 providing where the Customs Tariff requires an application for permission for temporary admission prior to submission of clearance declaration, the submission of a clearance declaration may be regarded as an application for temporary admission
- The rule will also provide that the release notification must be regarded to be the permission/approval

# TEMPORARY ADMISSION

- **Reusable transport equipment** - Concerns were raised about the:
  - absence of **temporary admission** period for reusable transport equipment
  - obligation that **packing material must be exported** by the same carrier who brought the packing material into the Republic
  - the requirement that containers may be used for the **internal transport** in the Republic only once
- South Africa is a party to the "Convention On Temporary Admission"
- This Convention has combined all existing Conventions on temporary admission into one instrument
- It provides for simplified and harmonized procedures and standardized model customs documents for temporary importation of goods specified in the Annexes



# TEMPORARY ADMISSION

- **Temporary admission period**
  - A rule will be inserted to provide for a 6 month period for the exportation of reusable transport equipment from the date of temporary admission - Article 6 of Annex B.3
- **Export of packing material**
  - The obligation that packing material must be exported by the same carrier who brought the packing material into the Republic is contained in Article 4.1 (a) of Annex B.3
- **Internal transport**
  - The obligation that containers may be used for the internal transport in the Republic only once before being re-exported is contained in Article 4.1 (b) of Annex B.3
  - The export leg of goods removed from JHB to DNB does not constitute internal transport and is therefore allowed

# WAREHOUSING

- **USE OF OWN TRANSPORT** – Comments were received proposing that the licensee of a public warehouse be allowed to use own transport
  - Not accepted
  - The principle is that the owner of goods not in free circulation is allowed to use own registered transport to carry his goods from and to customs controlled areas
  - The licensee of a public warehouse will transport as a service for reward and therefore needs to be licensed as a carrier
- **REDIRECTION** – Comments were received proposing that goods released for warehousing should be allowed to be delivered to the carrier's premises and from there delivered in stages to warehouse
  - Not accepted
  - This constitutes diversion which is a customs offence
  - Application for re-direction must be submitted in all circumstances
- **MANUAL SUBMISSION OF NOTIFICATIONS** – Comments were received proposing manual delivery and receipt notifications should be allowed to be submitted within 24 hours
  - Partially accepted
  - Timeframes will be provided in respect of system failures starting from the return to normal operation of the system

# WAREHOUSING

- **REPORTING REQUIREMENTS FOR GOODS IN FREE CIRCULATION** – Comments proposed that the reporting requirements should not apply to free circulation goods stored in storage warehouses
  - Not accepted
  - The storage of free circulation goods with goods not in free circulation is a trade facilitation measure which is permitted by the Customs authority provided specific requirements/conditions are met. This condition is to mitigate risks such as substitution of goods in free circulation with goods not in free circulation
  
- **MAXIMUM WAREHOUSING PERIOD** – Comments were received recommending that:
  - the motor industry should be allowed a maximum warehousing period of 5 years because it has an obligation to hold parts for a period of up to 10 years
    - Not accepted
    - The basis for this legal obligation is unknown and appears to be a contractual obligation
    - It will be considered if there is a legal obligation other than a contractual obligation
  - The maximum warehousing period for restricted goods should be extended to 180 days in line with other regulatory authorities' policy like the NRCS
    - Not accepted
    - The NRCS policy is that the importer of goods subject to their legislation must at time of arrival be in possession of an authorisation
    - This provision is trade facilitative in that it allows an importer a further “extension” of that period provided he/she can get authorisation

# WAREHOUSING

- **DEFINITION AND IDENTIFICATION OF EQUIPMENT AND SPARE PARTS FOR OIL DRILLING –**  
Clarification was sought regarding how equipment and spare parts for oil drilling will be defined or identified
  - It will be identified by its HS classification
- **DISTINGUISHING FREE CIRCULATION GOODS FROM GOODS NOT IN FREE CIRCULATION –**  
Comments were received raising a concern that it is not possible to physically identify bulk goods as referred to in rule 13.9(2)
  - Accepted
  - The term “physical” will be deleted from the provision
- **RESTRICTED GOODS –** Clarification was sought regarding the meaning of “restricted goods” and it was suggested that restricted goods be defined
  - Not accepted
  - Section 783 of the Control Act explains “restricted goods”
  - The current P&R List applies
  - The list will be amended to differentiate between prohibited, restricted and sectorally controlled goods, and once completed, it will be circulated for comment

# WAREHOUSING

- **INVENTORY CONTROL AND MANAGEMENT SYSTEM** – Concerns were raised about the requirement that a warehouse inventory control system must reflect contracts of purchase and sale and purchase orders, as these documents are not provided to licensees of public warehouses, and it was recommended that a distinction be made between public and private warehouses
  - Accepted
  - The provision will be amended to deal with recordkeeping in relation to public and private warehouses separately
- **REPACKING OF WAREHOUSED GOODS** – A proposal was made to include a dispensation for continuous repacking similar to current SOS bond stores
  - Accepted
  - An application for permission to carry out sorting, packing and other actions in connection with warehoused goods of a specific class or kind during a specific period will be considered

# WAREHOUSING

- **REMOVAL OF GOODS** – Comments were received
  - Recommending that the timeframe for return or clearance of goods removed from a storage warehouse to be changed from 3 working days to 14 days
    - Not accepted
    - There is no motivation provided for the extension to 14 days
    - Section 908 allows for the extension of time frames or periods
  - Recommending that the timeframe for submitting an application for permission to remove goods from a storage warehouse be changed from 7 working days to 24 hours prior
    - Partially accepted
    - The timeframe will be amended to 3 working days. In an emergency a person may apply in terms of section 909 for shortening of the timeframe
    - The 3 working day period is to allow SARS to consider the application
  - Questioning why a place to which goods are temporarily removed should comply with the security standards for storage warehouses if security has been lodged
    - Revenue collection is not the only risk consideration, security of the supply chain, which includes risks such as diversion and substitution, must also be considered
    - In terms of the Revised Kyoto Convention customs may determine the conditions governing such removals - See Guidelines to Specific Annex D Chapter 1 Customs Warehouses

# WAREHOUSING

- **STORAGE OF BULK GOODS AND BREAK BULK GOODS** – Comments were received questioning why only free circulation break bulk and bulk cargo may be stored with non-free circulation goods
  - The provision is intended to apply to all goods
  - Rule 13.20 will be clarified to reflect this intention
  
- **STORAGE OF FREE CIRCULATION GOODS WITH GOODS NOT IN FREE CIRCULATION** – Comments were received recommending that goods in free circulation be permitted to be stored with goods cleared under the warehouse procedure in the same tank and not only in the same warehouse
  - It is allowed, see rule 13.20 read with the definition of “premises” in section 1 of the Customs Control Act

# WAREHOUSING

## **ASSIGNING OF INVENTORY CODES** – Clarification was sought regarding

- Whether there is a specific format for the inventory codes
  - The licensee to create his own codes
- Whether the inventory code must be assigned per product or per consignment
  - The code should allow the customs authority to identify and distinguish free circulation goods from goods not in free circulation at the smallest unit level
- Whether the inventory code only applies to new stock entering the tank or also stock already in the tanks
  - The inventory code will apply to all new and old stock that come under customs control when the Customs Control Act and Customs Duty Act take effect
- Whether the inventory system is comparable to the current bond store register
  - Yes



# WAREHOUSING

- **WAREHOUSE TYPES AND MAXIMUM WAREHOUSING PERIOD** – Comments revealed uncertainty as to whether the Control Act still provides for OS and SOS warehouses and whether the two year warehousing period still applies
  - The Customs Control Act does not provide for OS and SOS customs storage warehouses
  - The Customs Control Act provides for two types of storage warehouses, namely public storage warehouses and private storage warehouses
  - The two year maximum warehousing period apply to both types of customs storage warehouses
- **REMOVAL TO OVER BORDER DESTINATIONS** – Comments were received proposing that the timeframe for return of goods removed from storage warehouses be changed from 3 days to 21 days to provide for bulk products which may have to be reworked at an over border destination
  - Not accepted
  - For the purposes of reworking, over border destination removals are exports and must comply with the export procedure

# STORES

- **APPLICATION OF TARIFF HEADINGS FOR TOBACCO AND ALCOHOL**– Comments were received recommending that the applicable TH on the ex-bond entries remain the same as on the warehousing entries to avoid confusion
  - Accepted
  - Rule 15.2 will be deleted
- **ACKNOWLEDGEMENT OF RECEIPT OF STORES ON BOARD VESSEL** – Comments were received requesting that:
  - Licensed VM's be exempted from the requirements of rule 15.4 (acknowledgement of receipt of stores)
    - The on-board operator of a vessel is required to acknowledge receipt of stores on board and not the licensee of the VM
  - The three hour time limit for acknowledgement of receipt of stores must be extended to two working days
    - Not accepted

# STORES

- **SUBMISSION OF ARRIVAL/DEPARTURE REPORTS AND ACKNOWLEDGEMENT OF RECEIPT NOTIFICATIONS** – Clarification was sought as to why stores arrival /departure reports can be submitted via EDI whilst the rest of the reporting must be done through e-filing
  - Both channels will be available
- **USE OF OWN TRANSPORT** – Clarification was sought regarding the meaning of “own transport” and a proposal made to allow sub-contractors to move goods on behalf of stores suppliers
  - Not accepted
  - “Own transport” is intended to mean vehicles registered in the name of the stores supplier
  - Transport sub-contractors are permitted to be used, provided they are licensed as carriers

# EXPORT TIMEFRAMES

- Rule 16.1 prescribes timeframes for the delivery of goods to depots and export terminals to allow for inspection
- **Reducing the stack time** - A proposal was received to delete the 12 hour timeframe for delivery of containerised goods prior to export stack closure because this will effectively reduce the stack time by 12 hours
  - Accepted
  - The 12 hour timeframe will be deleted. However, the Act and the rules will be amended to place the onus on the exporter to deliver containerised goods timeously to the sea cargo terminal to allow for inspection

## EXPORT TIMEFRAMES (cont.)

- **Export of perishables, explosives and human remains** - Concerns were raised that the timeframes prescribed in rule 16.1 will not facilitate the export of perishables, explosives and human remains
  - Accepted due to the nature of these goods
  - Provision will be made to exclude live animals, perishables and hazardous goods from the timeframes prescribed in rule 16.1.
  - Human remains are regulated in section 95 and are therefore excluded from export clearance requirements
- **Depot and Terminal inspection** - Comment was received that goods should not be subject to both a 6 hour (depot) and 12 hour (terminal) inspection
  - This comment is accepted as this was not the intention

## EXPORT TIMEFRAMES (cont.)

- **Airfreight** - Comment that airfreight shipments are under time pressure and cannot be delivered 9 hours prior to departure. It was proposed that this requirement be removed
  - Not accepted
  - However, the timeframe of 9 hours will be reduced to 5 hours in line with SAA cargo delivery requirements
- **Bulk and break bulk** - A comment was received that delivery of bulk and break bulk cargo 6 hours before vessel or railway carriage is scheduled to depart should be removed
  - Not accepted
  - However, the timeframe of 6 hours will be reduced to 4 hours
- **Notification of failure to export goods** - Comment was received that the timeframe of 4 calendar days for notification of failure to export goods released for export is not sufficient due to the extended time it takes to load large vessels. It was proposed that the timeframe should be extended to 7 calendar days
  - This comment is accepted

# INWARD PROCESSING

- **Undertaking** – Clarification was sought regarding the “undertaking” in section 412(d) and the “measures” contemplated in section 412(f) as conditions for clearance of imported goods for inward processing.
  - Accepted
  - The provision relating to the “undertaking “ will be deleted as the obligation to comply to the legal framework cannot be dependent on the “undertaking”
  - Consequential amendments to other relevant Chapters will be effected
- **Measures** - Clarity was sought in respect of the “measures” contemplated in section 412(f) as conditions for clearance of imported goods for inward processing
  - The provision relating to “measures” will be deleted and included in Rule 29.21 as a qualifying requirement for licensing of an inward processing premises
- **Storage of free circulation goods with goods under inward processing procedure** - Clarification was sought regarding permission for the storage of goods in free circulation used in processing
- Permission will only be required for the storage of equivalent goods in free circulation

# EXPEDITED CLEARANCE AND RELEASE

- **SECURITY** – Comments were received recommending that the simplified clearance procedures should state that security will not be required
  - Not accepted
  - In terms of Chapter 31 of the Control Act security is risk based (see in particular section 689(1))
- **PROOF OF DECLARATION** – Comments were received recommending that a provision should be inserted requiring customs to furnish the declarant with a stamped copy of the traveller declaration, to serve as proof that the declaration was processed by customs
  - The declarant will be provided with a printed version of the processed traveller declaration with a traveller declaration reference number
- **FORMAL DECLARATION ON FORM SAD 500** – The current practice of requiring a formal declaration for removing parts or spares used for repairs in transit on board means of transport is onerous and costly
  - An exit or entry traveller declaration by an on-board operator will serve as an import or export declaration for parts or spares to be used for repairs in circumstances where such goods are on board the means of transport



## EXPEDITED CLEARANCE AND RELEASE

- **GOODS FOR REPAIRS AND IN TRANSIT** – Concerns were raised that the rules do not cater for a situation where, during its stay in the Republic (1) repairs to a means of transport may become necessary during its stay in the Republic and (2) goods are imported for equipping or supplying the means of transport
  - Goods imported on board the means of transport as parts or spares to be used for repairing the means of transport in the case of a breakdown must be declared by the on board operator on an entry traveller declaration temporarily for later exportation in an unaltered state; or after having been remodelled, processed, repaired or altered in the Republic
- **FOREIGN REGISTRATION WHERE COMMERCIAL GOODS ARE IMPORTED** – Complaints were received regarding the registration of foreign yachtsmen
  - Foreign registration is a non-negotiable where goods are imported for commercial purposes
  - The foreign registration process will be simplified
- **EXTENSION OF TEMPORARY ADMISSION PERIOD** - Comments were received proposing a six month admission period for small foreign-going vessels and a two week weather window. Concerns were also raised about foreign travellers being forced to extend a stay in the Republic due to unforeseen vessel repairs that prohibit them from leaving on the vessel
  - The period determined in terms of section 269 may be extended in terms of section 908 upon application only once unless there is good cause shown for an additional extension

# CROSS CUTTING PROVISIONS-RECORD KEEPING

- **Record Keeping** - The comments received highlighted a need for off-site storage of records and electronic record keeping
  - Accepted
  - Rules will be amended to provide for **off-site record keeping in the Republic** for records relating to-
    - goods that have entered free circulation
    - goods in respect of which the customs procedure has been completed
    - carriage of goods completed more than 12 months ago
- This amendment seeks to strike a balance between legitimate need for off-site storage and availability of documents during routine post clearance audits
- Section 919 provides for electronic record keeping and the Rules for Chapter 41 will regulate such record keeping
- Rules will be developed in respect of storage of electronic records subject to approval at a location **outside the Republic**

# CROSS CUTTING PROVISIONS-NOTIFICATIONS

- Comments were received regarding:
  - The extension of time frames for notification
  - The requirement of various details on the notification of delivery of goods to licensed premises
  - who may submit such notification
- **Time frames**
  - Not accepted
- **Details on notification**
  - Accepted
  - Rules will be amended to accept information/details as per release notification
- **Who may submit**
  - A common law agent may submit the notification on behalf of a licensed carrier provided the agent is nominated on licensing application
  - A foreign carrier's registered agent

# OTHER COMMENTS

COMMENT	RESPONSE
The owner, exporter or licensee must be allowed to subcontract to a licensed remover of goods	The owner, exporter or licensee is allowed to subcontract to a licensed carrier - see to rule 16.7
Recordkeeping - Recommend 5 years <b>following</b> the year the declaration was submitted	Noted. Clients can keep records for longer than prescribed period
Extend timeframe of 25 calendar days after the end of each accounting period for submission of export clearance declaration for CTC's	Not accepted as this timeframe is sufficient. It is also the current position. Application for extension can be made in terms of section 908 for valid reasons
Will SARS issue a customs code for each cross border transmission line	Cross border transmission lines must be licensed in terms of section 631 and will be issued with a customs code
Request for exemption from the timeframe for delivery of goods to the terminal for fuel supplied by a licensed stores supplier	The export procedure does not apply to the export of stores and therefore this timeframe will not apply
Clarity is requested on the interpretation of rule 16.4 (d) – notification of failure to export goods by road released for export	Goods for export by road are released when the vehicle that will transport the goods out of the Republic has reached the land border post where the goods are to be exported. A 30 minute timeframe is prescribed to drive across the border thereby exporting the goods. The 30 minutes will be increased to one hour.

# OTHER COMMENTS

COMMENT	RESPONSE
Rule 11.11(b)(ii)- reference to “has” should be replaced by “that”	Accepted
Rule 18.5(3)- Clearing instructions to serve as notification of goods	Not accepted. A clearing instruction does not confirm receipt at inward processing premises
Rule 19.3-Reference to “inward ” should be replaced by “home use”	Accepted
Reference to rule 41 in rule 13.11	Accepted. The application process applicable will be prescribed in terms of section 908 of Chapter 41
Rule 13.11(d)(xi) to provide for a loss allowance of 1,5%	Not accepted. Actual loss is the policy
Rule 13.19- Reference to rule 29...relating to the security for storage warehouses which had not been published for comment at the time	Noted. The security standards have since been published as rule 29.27
Clarification was sought as to whether duty free goods are allowed to be stored in a customs warehouse with VAT deferred	Yes. See section 144 read with the definition of “import tax” in section 1 of the Customs Control Act

# OTHER COMMENTS

COMMENT	RESPONSE
Clarification was sought as to whether VAT will be paid on losses and how the tank variances will be expected to be accounted for.	Yes. Rules under Chapter 25 (specifically rule 25.3) prescribes the accounting for actual losses
Clarification was sought regarding the format of stock control reports	Rule 13.13(2) prescribes the format of stock control reports, and provides that it must be “..in the form of a copy of the warehouse inventory...”

**THANK YOU**  
**Questions?**