

SOUTH AFRICAN REVENUE SERVICE

DRAFT CUSTOMS CONTROL RULES CHAPTERS 21, 23 AND 25 - 31

This is the Third Batch of the Draft Customs Control Rules containing draft rules made under Chapters 21, 23 and 25 - 31 of the Customs Control Act, 2014 (Act No. 31 of 2014).

Your comments are invited to be submitted **by no later than 14 November 2014** under cover of the provided [Comment Sheet Template](#) per email to Ms Samantha Authar at sauthar@sars.gov.za.

Please note that the various Chapters of the Control Act deal comprehensively with the topics dealt with in the corresponding Chapters of these Rules. The function of the rules contained in a particular Chapter is simply to facilitate implementation of the relevant Chapter of the Act where, for instance, a provision of that Chapter requires details to be prescribed by rule. As a subsidiary instrument, the rules cannot and should not be read in isolation of the relevant Chapter of the Act. Each rule must be read together with the empowering provision indicated for the particular rule, or other applicable provisions.

CHAPTER 21

CUSTOMS PROCESSING OF PERSONS ENTERING OR LEAVING REPUBLIC

Definitions

21.1 In this Chapter, unless the context otherwise indicates –

“**applicant**”, in relation to an application, means a person who intends to submit or has submitted an application;

“**application**” means an application in terms of this Chapter for —

- (a) a trusted or frequent traveller permit; or
- (b) the renewal of a trusted or frequent traveller permit

“**biometric information**” has the meaning assigned to it in section 1 of the Tax Administration Act;

“**permit holder**” means a person to whom a trusted or frequent travellers permit has been issued in terms of rule **21.13(2)**;

“**self-service facility for trusted or frequent travellers**” means a facility at a place of entry or exit where holders of trusted or frequent traveller permits can be expeditiously processed for customs purposes through self-service technological devices and other expediting methods;

“**traveller card**” means a document containing basic information concerning a person entering or leaving the Republic;

“**traveller declaration**”, in relation to a traveller or crew member entering or leaving the Republic, means a printout of a declaration –

- (a) electronically generated by the customs authority on behalf of a traveller or crew member from information declared verbally by the traveller or crew member to the customs authority in terms of section 478(1)(a) or 483(1)(a) of the Control Act; and
- (b) signed by that traveller or crew member;

Please note that the following definition in Chapter 24 will be adapted as follows:
“**traveller declaration**” means an entry or exit traveller declaration that a person entering or leaving the Republic must in terms of rule **21.4** or **21.6** submit to the customs authority.

“**trusted or frequent traveller permit**” means a permit issued by the customs authority in terms of rule **21.13(2)**.

Part 1: Traveller declarations and clearance of baggage by persons entering or leaving Republic

Declaration of personal, travel and baggage information by persons entering or leaving Republic (sections 478(1) and 483(1))

21.2 (1) The actions to be performed in terms of section 478(1) or 483(1) of the Control Act by a person entering or leaving the Republic consist of the completion and submission of –

- (a) a traveller card on Form as published as a rule .on the SARS website for this purpose; and
- (b) a traveller declaration on Form as published as a rule on the SARS website for this purpose.

(2) A traveller card and traveller declaration referred to in subrule (1) must be submitted to the customs authority at the place of entry or exit through which the person enters or leaves the Republic.¹

Traveller cards for persons entering Republic (*section 478(1)*)

21.3 (1) An entry traveller card must be completed by hand and submitted by all persons entering the Republic, excluding those referred to in section 477(3) of the Control Act.²

(2) An entry traveller card referred to in subrule (1) must be signed by the traveller or crew member submitting the traveller card and reflect –

- (a) the following personal details in respect of the traveller or crew member:
 - (i) full name;
 - (ii) identity number or passport number;
 - (iii) citizenship;
 - (iv) occupation;
 - (v) if that person is located in the Republic, his or her physical address in the Republic;
 - (vi) if that person is not located in the Republic –
 - (aa) the name of the place and physical address where he or she will be staying until leaving the Republic;
 - (bb) the e-mail, cellular telephone or fixed telephone contact details of that person at that address; and
 - (cc) the date of intended departure from the Republic;
- (b) if that person entered the Republic on board a vessel, aircraft or train –
 - (i) that person's boarding pass number;
 - (ii) the voyage, flight or trip number; and
 - (iii) the date and time of arrival of the vessel or aircraft at the place of entry or of the train at the rail traveller terminal where that person disembarks;

¹ Note that where a channel processing system is in effect at a place of entry or exit, a traveller declaration is only necessary if the traveller has baggage items to declare. In other words, a traveller who has nothing to declare and chooses the green channel will only submit a traveller card but no traveller declaration, and a traveller who has items to declare and chooses the red channel will submit both a traveller card and a traveller declaration.

² Section 477(3) refers to transit travellers and crew.

- (c) the reason for entering the Republic;
- (d) whether the traveller or crew member has accompanied baggage and unaccompanied baggage, only accompanied baggage, or only unaccompanied baggage;
- (e) whether the traveller or crew member has in his or her accompanied or unaccompanied baggage any items consisting of –
 - (i) prohibited, restricted or sectorally controlled goods;
 - (ii) commercial goods;
 - (iii) goods, excluding personal effects, brought into the Republic temporarily for later re-exportation from the Republic –
 - (aa) in an unaltered state; or
 - (bb) after having been remodelled, processed, repaired or altered in the Republic;
 - (iv) goods, excluding personal effects, previously taken out of the Republic and returned to the Republic –
 - (aa) in an unaltered state; or
 - (bb) after having been remodelled, processed, repaired or altered abroad;
 - (v) goods of a class or kind for which a tax free limit has been fixed and of which the total quantity exceeds the tax free limit fixed for that class or kind of goods; or
 - (vi) goods, excluding items referred to in subparagraphs (i) to (v) and personal effects, of which the combined customs value exceeds the tax free allowance.

Traveller declarations³ for persons entering Republic (*sections 478(1)(b) and 479(1)*)

21.4 (1) An entry traveller declaration must be submitted by all persons entering the Republic, excluding –

³ A traveller declaration may in terms of Chapter 24 be used as a simplified clearance declaration for accompanied and unaccompanied baggage which must in terms of section 480(1) of the Control Act be cleared. Note that commercial goods in a traveller's accompanied or unaccompanied baggage must in terms of section 480(2)(b) be cleared on a regular clearance declaration, unless the customs authority determines otherwise in a specific case.

- (a) persons entering the Republic through a place of entry where a channel processing system is provided and who choose the green channel, unless the customs authority demands otherwise in terms of section 488(3)(a) of the Control Act;
- (b) persons entering the Republic through a place of entry where no channel processing system is provided, and who have no accompanied or unaccompanied baggage items that must be declared in terms of section 479(1)(a) to (e);
- (c) permit holders who enter the Republic through a place of entry where a self-service facility for trusted or frequent travellers is provided, who choose to proceed directly to that facility for purposes of customs processing and who have no accompanied or unaccompanied baggage items that must be declared in terms of section 479(1)(a) to (e);
- (d) persons referred to in section 477(3).⁴

(2) An entry traveller declaration referred to in subrule (1) must reflect –

- (a) the following personal details in respect of the traveller or crew member:
 - (i) name;
 - (ii) identity number or passport number;
 - (iii) citizenship;
 - (iv) if that person is located in the Republic, his or her physical address in the Republic;
 - (v) if that person is not located in the Republic-
 - (aa) the name of the place and physical address where he or she will be staying until leaving the Republic;
 - (bb) the e-mail, cellular telephone or fixed telephone contact details of that person at that address; and
 - (cc) the date of intended departure from the Republic;
- (b) if that person entered the Republic on board a vessel, aircraft or train –
 - (i) that person's boarding pass number;
 - (ii) the voyage, flight or trip number; and

⁴ Section 477(3) refers to transit travellers and crew.

- (iii) the date and time of arrival of the vessel or aircraft at the place of entry or of the train at the rail traveller terminal where that person disembarks;
- (c) the information listed in rule **24.11(3)(a)** to (e);
- (d) the information listed in rule **24.12(3)(a)** to (e), in the case of a person being the on-board operator of a commercial truck, bus or taxi entering the Republic; and
- (e) the information listed in rule **24.13(3)(a)** to (d), in the case of a person being the on-board operator of a vehicle, small vessel or light aircraft entering the Republic as a private means of transport for the traveller.

Traveller cards for persons leaving Republic (*section 483(1)*)

21.5 (1) An exit traveller card must be completed by hand and submitted by all persons about to leave the Republic, excluding those referred to in section 477(3) of the Control Act.⁵

(2) An exit traveller card referred to in subrule (1) must be signed by the traveller or crew member submitting the card and must reflect –

- (a) the following personal details in respect of the traveller or crew member:
 - (i) full name;
 - (ii) identity number or passport number;
 - (iii) citizenship;
 - (iv) occupation;
 - (v) if that person is located in the Republic –
 - (aa) his or her physical address in the Republic;
 - (bb) the name and e-mail, cellular telephone or fixed telephone contact details of a contact person in the Republic;
 - (cc) the date of intended return to the Republic;
 - (vi) if that person is not located in the Republic, the last physical address where he or she stayed before leaving the Republic;
- (b) if that person will be leaving the Republic on board a vessel, aircraft or train –
 - (i) that person’s boarding pass number;

⁵ Section 477(3) refers to transit travellers and crew.

- (ii) the voyage, flight or trip number; and
- (iii) the date and time of scheduled departure of the vessel or aircraft from the place of exit or of the train from the rail traveller terminal where that person will board;
- (c) the reason for travelling out of the Republic;
- (d) whether the traveller or crew member has accompanied baggage and unaccompanied baggage, only accompanied baggage or only unaccompanied baggage;
- (e) whether the traveller or crew member has in his or her accompanied or unaccompanied baggage any items consisting of –
 - (i) prohibited, restricted or sectorally controlled goods;
 - (ii) commercial goods;
 - (iii) goods, excluding personal effects, to be taken out of the Republic for later re-importation into the Republic –
 - (aa) in an unaltered state; or
 - (bb) after having been remodelled, processed, repaired or altered abroad;
 - (iv) goods, excluding personal effects, previously brought into the Republic that –
 - (aa) are in an unaltered state; or
 - (bb) has been remodelled, processed, repaired or altered whilst in the Republic; or
 - (v) goods, excluding items referred to in subparagraphs (i) to (iv) and personal effects, of which the combined customs value exceeds the tax free allowance.

Traveller declarations⁶ for persons leaving Republic (*sections 483(1)(b) and 484(1)*)

21.6 (1) An exit traveller declaration must be submitted by all persons about to leave the Republic, excluding –

⁶ A traveller declaration may in terms of Chapter 24 be used as a simplified clearance declaration for accompanied and unaccompanied baggage which must in terms of section 485(1) of the Control Act be cleared. Note that commercial goods in a traveller's accompanied or unaccompanied baggage must in terms of section 485(2)(b) be cleared on a regular clearance declaration, unless the customs authority determines otherwise in a specific case.

- (a) persons leaving the Republic through a place of exit where a channel processing system is provided and who choose the green channel, unless the customs authority demands otherwise in terms of section 488(3)(a) of the Control Act;
- (b) persons leaving the Republic through a place of exit where no channel processing system is provided, and who have no accompanied or unaccompanied baggage items that must be declared in terms of section 484(1)(a) to (e);
- (c) permit holders leaving the Republic through a place of exit where a self-service facility for trusted or frequent travellers is provided, who choose to proceed directly to that facility for purposes of customs processing and who have no accompanied or unaccompanied baggage items that must be declared in terms of section 484(1)(a) to (e); or
- (d) persons referred to in section 477(3).

(2) An exit traveller declaration referred to in subrule (1) must reflect –

- (a) the following personal details in respect of the traveller or crew member:
 - (i) name;
 - (ii) identity number or passport number;
 - (iii) citizenship;
 - (iv) if that person is located in the Republic –
 - (aa) his or her physical address in the Republic; and
 - (bb) the name and e-mail, cellular telephone or fixed telephone contact details of a contact person in the Republic;
 - (vi) if that person is not located in the Republic, the last physical address where he or she stayed before leaving the Republic;
- (b) if that person is leaving the Republic on board a vessel, aircraft or train –
 - (i) that person’s boarding pass number;
 - (ii) the voyage, flight or trip number; and
 - (iii) the date and time of expected departure of the vessel or aircraft from the place of exit or of the train from the rail traveller terminal where that person will board;
- (c) the information listed in rule **24.11(4)(a) to (e)**, in the case of a traveller or crew member leaving the Republic;

- (d) the information listed in rule **24.12(3)(a)** to (e), in the case of a person being the on-board operator of a commercial truck, bus or taxi leaving the Republic;
- (e) the information listed in rule **24.13(3)(a)** to (d), in the case of a person being the on-board operator of a vehicle, small vessel or light aircraft leaving the Republic as a private means of transport for the traveller; and
- (f) if the person is the holder of a trusted or frequent traveller permit, the permit number.

Subsequent submission of traveller declarations for unaccompanied baggage
(section 489(a))

21.7 (1) If a traveller or crew member entering or leaving the Republic has unaccompanied baggage in respect of which no traveller declaration is submitted at the time of customs processing of the traveller or crew member, the declaration may at any time after such customs processing of the traveller or crew member –

- (a) be electronically generated by the customs authority from information declared verbally by either the traveller or crew member or a person nominated by the traveller or crew member; and
- (b) be submitted by the traveller, crew member or nominated person.

(2) A traveller declaration signed and submitted by a person nominated by the traveller or crew member must for purposes of these Rules be regarded to be a traveller declaration signed and submitted by the traveller or crew member.

(3) A traveller declaration submitted by a nominated person must be accompanied by –

- (a) a letter of authorisation signed by the traveller or crew member; and
- (b) copy of that person's identification document or driver's license, or, if that person is not a South African citizen, a copy of his or her passport, including, if applicable, a visa or immigration permit.

(4) No person may be nominated for purposes of this rule unless that person is located in the Republic.

Part 2: Channel processing system for travellers and crew (section 488(1) and (2))

Channel processing system

21.8 (1) A traveller or a crew member entering or leaving the Republic through a place of entry or exit where a channel processing system is provided, may choose to proceed through either the green or the red channel to exit the traveller terminal at that place.

(2) (a) Proceeding through the green channel must be regarded⁷ to be a declaration in terms of section 478(1) or 483(1) of the Control Act by the traveller or crew member that he or she has no accompanied or unaccompanied baggage items that must be declared in terms of section 479(1)(a) to (e) or 484(1)(a) to (e), as the case may be.

(b) Proceeding through the red channel indicates that the traveller or crew member has accompanied or unaccompanied baggage items that must be declared in terms of section 479(1)(a) to (e) or 484(1)(a) to (e), as the case may be.

(3) Choosing the green channel does not exclude the traveller or crew member from customs intervention in terms of Chapter 33 of the Control Act.⁸

(4) Choosing the red channel renders the traveller or crew member subject to –

- (a) customs processing;
- (b) submission of an entry or exit traveller declaration; and
- (c) compliance with clearance requirements in respect of accompanied and unaccompanied baggage items that must be cleared.⁹

Part 3: Trusted or frequent travellers (section 489(c))

⁷ In terms of such a channel system it is not necessary to submit a traveller declaration referred to in rule 21.2(1)(b) if the traveller chooses the green channel. See section 488(3) of the Control Act. At places of entry or exit where there is no such system in place, the declaration must be submitted whether the traveller has goods to declare or not.

⁸ See section 488(2)(b) of the Control Act.

⁹ See section 480 and 484 of the Control Act.

Self-service facilities for trusted or frequent travellers

21.9 (1) A person who is the holder of a trusted or frequent traveller permit and who enters or is leaving the Republic through a place of entry or exit where a self-service facility for trusted or frequent travellers is provided, may choose to proceed directly to that facility for purposes of customs processing and to exit the traveller terminal through processing at the facility.

(2) If a permit holder chooses in terms of subrule (1) to proceed directly to a self-service facility for trusted or frequent travellers and that person has accompanied or unaccompanied baggage items that must be declared in terms of section 479(1)(a) to (e) or 484(1)(a) to (e), as the case may be, that person must –

- (a) indicate his or her permit number on the traveller declaration; and
- (b) submit the declaration either manually at that facility or electronically through e-filing to the customs authority.

(3) An electronic submission referred to in subrule (2) may be made at any time after check-in, in the case of an air traveller or crew member.

(4) Choosing a self-service facility for trusted or frequent travellers does not exclude the traveller or crew member from customs intervention in terms of Chapter 33 of the Control Act.

Application for trusted or frequent traveller permits

21.10 (1) No traveller or crew member entering or leaving the Republic may make use of a self-service facility for trusted or frequent travellers at a place of entry or exit unless that person is the holder of a trusted or frequent traveller permit.

(2) (a) A person who wishes to apply for a trusted or frequent traveller permit may do so by submitting an application to the customs authority electronically through e-filing, subject to paragraph (b).

(b) If an application is submitted to the customs authority in paper format in circumstances where submissions in paper format are permissible,¹⁰ the submission –

- (i) must be on Form..... published as a rule on the SARS website for the relevant purpose; and
- (ii) may be submitted to any Customs Office.

(3) An application must reflect –

- (a) the personal details of the applicant, which must include –
 - (i) full name;
 - (ii) date of birth and identity number or passport number;
 - (iii) citizenship;
 - (iv) occupation; and
 - (v) contact details, including physical and postal addresses in the Republic;
- (b) full details of the applicant's bank account in the Republic;
- (c) the applicant's –
 - (i) income tax number; and
 - (ii) value-added tax number, if any;
- (d) the expiry date of the applicant's tax clearance certificate;
- (e) in the case of a parent or guardian assisting a child under 18 years of age or a person who by reason of physical incapacity cannot apply independently, a statement to that effect;
- (f) whether the application is an application for a new permit or an application for the renewal of an existing permit;
- (g) the number of the applicant's permit, in the case of an application for renewal of an existing permit; and
- (h) the applicant's consent to the recording and use of the applicant's fingerprints and other biometric information by the customs authority for purposes of identification of the applicant and performing background and criminal record checks in relation to the applicant.

¹⁰ See section 913(4) of the Control Act.

(4) A person under the age of 18 years may submit an application only with the assistance of his or her guardian unless that person is emancipated by an order of a court.

Supporting documents for applications

21.11 An application for a trusted or frequent traveller permit must be supported by the following documents:

- (a) a certified copy of the identity document, passport or other document proving identity and citizenship of the applicant;
- (b) a certified copy of the permanent residence permit issued in terms of the Immigration Act, 2002 (Act No. 13 of 2002), if the applicant is not a South African citizen;
- (c) a certified extract from the applicant's passport to provide proof of the number of international trips undertaken during a calendar month as required in terms of rule **21.12(c)**;
- (d) the original or a legible certified copy of –
 - (i) a municipal account issued to the applicant to confirm the applicant's physical address; and
 - (ii) a fixed line telephone or contract cellular phone account issued to the applicant to confirm the applicant's telephone contact details;
- (e) a document confirming the applicant's banking details, including the name of the bank, the account holder's name, the account type and number, and the branch code, which may be –
 - (i) a bank certified original bank statement or a legible bank certified copy of an original bank statement;
 - (ii) a bank certified original auto bank statement; or
 - (iii) an original letter from the applicant's bank on an official bank letterhead;
- (f) a tax clearance certificate that the applicant's tax matters are in order as contemplated in section 917 of the Control Act; and
- (g) any other documents which the customs authority may require in a particular case.

(2) A supporting document referred to in subrule (1) may not be older than three months.

(3) An applicant must on request by the customs authority make available to it the original of any supporting document referred to in subrule (1) as well as any information, books, accounts and other documents necessary for verifying any statements made by the applicant in the application.

Pre-conditions for submission of applications for trusted or frequent traveller permits

21.12 An application for a trusted or frequent traveller permit may only be submitted by a person –

- (a) that is a South African citizen or the holder of a permanent residence permit in terms of the Immigration Act, 2002, (Act no. 13 of 2002);
- (b) that is not excluded from admission to the Republic in terms of the Immigration Act, 2002;
- (c) that usually undertakes at least three international trips per calendar month;
- (d) that consents to the recording and use of his or her fingerprints and other biometric information by the customs authority for purposes of identification and performing background and criminal record checks and has consented to such use in writing;
- (e) whose tax matters are in order;
- (f) that has a record of compliance with the Control Act, the Customs and Excise Act, 1964, and the tax levying Acts, for a period of at least three years preceding the date of application; and
- (g) that has not been convicted of any offence involving fraud or dishonesty.

Consideration of applications and issue of permits

21.13 (1) An application for a trusted or frequent traveller permit may be approved or refused, and the applicant is entitled to be notified of the decision.

(2) If an application is approved the customs authority must issue a trusted or frequent traveller permit to and in the name of the applicant which must be –

- (a) delivered by hand to the applicant; or

- (b) sent to the applicant by registered post.

Contents of trusted or frequent traveller permits

21.14 A trusted or frequent traveller permit must contain –

- (a) a colour identification photograph of the permit holder;
- (b) the full name and customs code of the permit holder;
- (c) a statement that the permit holder may use self-service facilities for trusted or frequent travellers at places of entry and exit;
- (d) the date on which the permit takes effect;
- (e) the validity period of the permit; and
- (f) the number of the permit.

Validity period of trusted or frequent traveller permits

21.15 A trusted or frequent traveller permit —

- (a) takes effect from a date specified in the permit; and
- (b) remains valid for a period of one year from the date referred to in paragraph (a) unless—
 - (i) a shorter validity period is specified on the permit; or
 - (ii) the permit is withdrawn by the customs authority in terms of rule **21.17**

Conditions applicable to trusted or frequent traveller permits

21.16 A trusted or frequent traveller permit is issued subject to the following conditions:

- (a) The permit holder may not –
 - (i) transfer the permit to another person;
 - (ii) allow another person to use a permit; or
 - (iii) use or attempt to use a permit which has expired or has been suspended or withdrawn by the customs authority.
- (b) The permit holder must immediately inform the customs authority in writing if –
 - (i) that permit holder's permit is lost or stolen; or
 - (ii) any of the circumstances which were material¹¹ to the granting of the

¹¹ Rule **21.12** sets out pre-conditions for the submission of applications for trusted or frequent traveller permits and compliance with these pre-conditions is accordingly material to the granting of an application.

application for the permit changes.

- (c) The permit holder must maintain compliance with rule **21.12**(a) to (c) and (e) to (g).

Suspension or withdrawal of trusted or frequent traveller permits

21.17 (1) A trusted or frequent traveller permit issued in terms of this Part may be suspended or withdrawn¹² if the permit holder –

- (a) breaches a condition applicable to the permit in terms of rule **21.16**;
- (b) breaches a provision of the Control Act or a tax levying Act; or
- (c) acquired the permit under false pretences.

(2) If the customs authority intends to suspend or withdraw a permit, it must first –

- (a) notify the permit holder of the proposed suspension or withdrawal and of the reasons for the proposed suspension or withdrawal; and
- (b) give the permit holder an opportunity to submit representations on the proposed suspension or withdrawal within 30 calendar days of the date of notification referred to in paragraph (a).

(3) The customs authority may despite subsection (1) suspend the permit with immediate effect if circumstances so demand, but in such a case the permit holder is entitled to submit to the customs authority representations on the suspension within 30 days after the permit has been suspended.

Renewal of trusted or frequent traveller permits

21.18 (1) A trusted or frequent traveller permit holder may not later than 30 calendar days before the validity period of the permit expires, apply for the renewal of the permit.

(2) Rules **21.10** to **21.13** apply with any necessary changes the context may require to an application for the renewal of a trusted or frequent traveller permit.

¹² Any decision to suspend or withdraw a permit is subject to internal reconsideration in accordance with any of the proceedings provided for in Chapter 37.

CHAPTER 23
ACCESS TO AND SAMPLING OF GOODS

Applications for permission to access goods subject to customs control for purposes of taking samples or performing actions permitted in terms of rule 23.2 (section 513(1))

23.1 (1) (a) An application for permission to access goods for the purpose of taking samples or performing actions permitted in terms of rule **23.2** as contemplated in section 513 of the Control Act, must be submitted to the customs authority electronically through e-filing at least two working days before the date when access for the intended purpose is required, subject to paragraph (b).

(b) If an application referred to in paragraph (a) is submitted to the customs authority in paper format in circumstances where submissions in paper format are permissible,¹³ the application must be submitted –

- (i) on Form....as published as a rule on the SARS website; and
- (ii) to the Customs Office that serves the customs controlled area where the goods are.

(2) An application referred to in subrule (1) must reflect –

- (a) the customs code of the person clearing or entitled to clear the goods, and in the case of a person acting on behalf of the person who clears or is entitled to clear goods, the name, identity number¹⁴ and contact details of that person;
- (b) if the applicant is a person acting on behalf of the person who clears or is entitled to clear goods, an indication that that person is authorised to act on behalf of the person clearing or entitled to clear the goods;
- (c) the customs code of the customs controlled area where the goods are;
- (d) whether the purpose of the required access is to take samples or to perform an action referred to in rule **23.2**;
- (e) in the case of an action referred to in rule **23.2**, a description of the proposed action;

¹³ See section 913(4) of the Control Act.

¹⁴ In the case of a natural person.

- (f) the purpose of the proposed taking of samples or performance of the other action referred to in rule **23.2** and in the case of a purpose contemplated in section 513(2)(c)(ii), a motivation of that purpose;
 - (g) the proposed date on which access is required;
 - (h) the estimated time required for the taking of samples or performance of the other action referred to in rule **23.2**, as the case may be;
 - (i) a description of the affected goods, which must in the case of an action referred to in –
 - (i) rule **23.2**(a) or (b), be the best description that can be given in the circumstances; and
 - (ii) rule **23.2**(c) or (d), include –
 - (aa) the tariff classification;
 - (bb) the exact quantity, volume or weight, as may be appropriate;
 - (cc) the customs value; and
 - (dd) any marks and numbers on the goods, if applicable.
 - (j) the transport document number¹⁵ in relation to the affected goods;
 - (k) the invoice number in relation to the affected goods;
 - (l) in the case of goods which have already been cleared for home use or a customs procedure, the movement reference number¹⁶ of the clearance declaration in respect of the goods; and
 - (m) in the case of goods not yet cleared for home use or a customs procedure, an indication of whether the goods will be cleared for home use or a customs procedure, and also for which procedure.
- (3) An application referred to in subrule (1) must be supported by –
- (a) any transport document issued in relation to the goods;
 - (b) any invoice issued in relation to the goods; and
 - (c) an authorisation¹⁷ to act on behalf of the person clearing or entitled to clear the goods, in the case of the applicant being a person acting on behalf of the person clearing or entitled to clear the goods.

¹⁵ See definition of “transport document number” in rule 1.1.

¹⁶ See definition of “movement reference number” in rule 1.1.

¹⁷ In the case of a customs broker, this authorisation can be included in the clearance instruction of the customs broker.

(4) (a) If the customs authority so requests, a supporting document must within the timeframe indicated in the request be submitted to the customs authority electronically through e-filing, subject to paragraph (b).

(b) If a supporting document referred to in paragraph (a) is submitted to the customs authority in paper format in circumstances where submissions in paper format are permissible,¹⁸ submission must be to the Customs Office referred to in subrule (1)(b)(ii) or to another Customs Office indicated in the request.

Actions that may be performed in relation to goods subject to customs control
(section 513(1)(b))

23.2 For purposes of section 513(1)(b) of the Control Act actions in relation to goods subject to customs control include –

- (a) viewing or examining goods in order to establish whether the goods comply with any conditions set out in the relevant contract of sale;
- (b) viewing or examining goods in order to obtain or verify information supplied on a provisional or incomplete clearance declaration in terms of Part 1 of Chapter 24 of the Control Act;
- (c) examining goods to which Chapter 25 of the Control Act applies in order to establish the extent of damage or deterioration; and
- (d) performing operations necessary to preserve the goods in their unaltered state, including –
 - (i) cleaning;
 - (ii) removal of dust; and
 - (iii) repair or change of faulty packaging.

Costs arising from access to and sampling of goods or other actions in relation to goods to be carried by applicant

23.3 The applicant must carry any costs arising from the access to and sampling of the goods or the performance of an action referred to in rule **23.2** in connection with the goods.

¹⁸ See section 913(4) of the Control Act.

Conditions for sampling and performing actions referred to in rule 23.2 (section 516)

23.4 If an application referred to in rule 23.1 is granted, sampling of goods or performing an action referred to in rule 23.2 must take place subject to the following conditions:

- (a) The person permitted to access the goods or a person acting on that person's behalf, must produce to the customs authority at the customs controlled area where the goods are –
 - (i) that person's identity document;
 - (ii) in the case of a person acting on behalf of the person permitted to access the goods, also an authorisation to act on behalf of that person; and
 - (iii) the reference number of the authorisation granted pursuant to the application in terms of rule 23.1;
- (c) the quantity drawn as a sample may not be more than the quantity necessary for inspection or analysis, and counter-analysis, if required; and
- (d) the person permitted to access and sample the goods or a person acting on that person's behalf, must sign a sample register to confirm –
 - (i) the identity of the person taking delivery of the sample, including name, identity number and designation;
 - (ii) the date and time when delivery of the sample is taken;
 - (iii) the movement reference number in relation to the goods in respect of which the sample was taken, if the goods have already been cleared;
 - (iv) the transport document number in relation to the goods in respect of which the sample was taken, if the goods have not been cleared yet;
 - (v) a full description of the sample, including the quantity; and
 - (vi) whether the sample taken will be returned and if so, the anticipated date of return.

Record keeping by licensees in relation to samples taken or other actions

23.5 The licensee of the premises where goods are located in respect of which sampling or other action referred to in rule 23.2 takes place, must keep record of the information referred to in rule 23.4(d), including the date of return in the case of goods that are returned.

CHAPTER 25
DAMAGED, DESTROYED, LOST OR UNACCOUNTED GOODS

Part 1: Goods other than compensating products

Notifications by persons referred to in section 542(2)¹⁹ of goods damaged, destroyed, lost or unaccounted for (section 542)

25.1 (1) (a) If goods to which Part 1 of Chapter 25 of the Control Act applies²⁰ become damaged, destroyed, lost or unaccounted for the person referred to in section 542(2) must submit the notification referred to in section 542(1) to the customs authority electronically through e-filing, subject to paragraph (b).

(b) If a notification is submitted to the customs authority in paper format in circumstances where submissions in paper format are permissible,²¹ the notification must be –

- (i) on Formas published as a rule on the SARS website for this purpose; and
- (ii) submitted to the Customs Office that serves the place where –
 - (aa) the damaged goods or salvageable parts or materials of the destroyed goods currently are;
 - (bb) the goods were when they became damaged, destroyed or lost; or
 - (cc) it was discovered that the goods are lost or unaccounted for.

- (2) A notification referred to in subrule (1) must be submitted –
- (a) in the case of goods that were on board a vessel, aircraft or train at the time of an incident referred to in rule **25.14**, no later than three working days from the day on which the report referred to in that rule was submitted;
 - (b) in the case of goods that were on board a vehicle at the time of an incident referred to in section 125, no later than three working days from the time the report referred to in that section was submitted; or

¹⁹ Note that the person referred to in section 542(2) of the Control Act is obliged to submit the notification. Failure to do so may result in a penalty. For other consequences of failure to submit, see section 543.

²⁰ See section 541(1) and (2) of the Control Act for goods to which Part 1 of Chapter 25 applies. That section must be read with section 540(2) which excludes certain goods altogether from Chapter 25.

²¹ See section 913(4) of the Control Act.

- (c) in the case of any other goods,²² no later than three working days from the day on which the person who submits the notification became aware of the fact that the goods were damaged, destroyed, lost or unaccounted for.²³

(3) A notification referred to in subrule (1) must, in addition to the information referred to in section 542(4), also contain the following information:

- (a) The customs code of the person submitting the notification;
- (b) for purposes of section 542(4)(a), a description of the goods, which must include –
- (i) the tariff classification;
 - (ii) the quantity, volume or weight, as may be appropriate;
 - (iii) the customs value;
 - (iv) the container or ULD number, in the case of goods packed into a container or consolidated in a ULD; and
 - (v) any numbers or marks on the goods; and
- (c) the transport document number of any transport document issued in respect of the goods, in the case of goods that have not yet been cleared.

(4) A notification referred to in subrule (1) must, in addition to the documentary proof referred to in section 542(4)(e), be accompanied by the following documents if not already submitted²⁴ to the customs authority:

- (a) A copy of any transport document issued in respect of the goods;
- (b) in the case of goods damaged or destroyed due to a cause mentioned in section 544(1) or 545(1), an independent appraisal or analysis by a qualified appraiser, assessing the extent –
- (i) of the damage and the loss in value of the goods;²⁵ or
 - (ii) to which any parts or materials have been or are salvageable from the destroyed goods;²⁶ and
- (c) a copy of any invoice issued in respect of the goods in respect of goods that have not yet been cleared.

²² For instance when damage occurs at a terminal, depot or storage warehouse.

²³ Note that the timeframes in rule 25.1(2) are subject to extension in terms of section 908 of the Control Act.

²⁴ For instance at the time when the goods were cleared.

²⁵ See section 544(2)(d) of the Control Act.

²⁶ See section 545(2)(d) of the Control Act.

(5) A person referred to in section 542(3) is, on written request to the person required to submit the notification, entitled to a copy of the notification.

Notifications by persons referred to in section 542(3) of goods damaged, destroyed, lost or unaccounted for (section 542)

25.2 (1) (a) If a person referred to in section 542(3) of the Control Act elects to submit a notification referred to in section 542(1),²⁷ the notification must be submitted to the customs authority electronically through e-filing, subject to paragraph (b).

(b) If a notification is submitted to the customs authority in paper format in circumstances where submissions in paper format are permissible,²⁸ the notification must be –

- (i) on Formas published as a rule on the SARS website for this purpose; and
- (ii) submitted to the Customs Office that serves the place where –
 - (aa) the damaged goods or salvageable parts or materials of the destroyed goods currently are;
 - (bb) the goods were when they became damaged, destroyed or lost; or
 - (cc) it was discovered that the goods are lost or unaccounted for.

(2) A notification referred to in subrule (1) must be submitted –

- (a) no later than three working days from the day on which the person who submits the notification became aware of the fact that the goods were damaged, destroyed, lost or unaccounted for; or
- (b) if a notification has already in terms of rule **25.1** been submitted by a person referred to in section 542(2) in relation to the relevant goods, no later than three working days from the day on which the person who submits the notification in terms of this rule became aware of the submission of that notification.²⁹

²⁷ Note that the person referred to in section 542(3), unlike the person referred to in section 542(2), is not obliged to submit the notification but may do so to protect his or her interests, for instance where the person referred to in section 542(2) fails to submit the notification.

²⁸ See section 913(4) of the Control Act.

²⁹ Note that these timeframes are subject to extension in terms of section 908.

- (3) A notification referred to in subrule (1) must –
- (a) in addition to the information referred to in section 542(4), also contain the information specified in rule **25.1(3)**, except that if the person submitting the notification does not have a customs code, that person's name and address and, if a natural person, identity or passport number, must be stated on the notification; and
 - (b) in addition to the documentary proof referred to in section 542(4)(e), be accompanied by the following documents if not already submitted³⁰ to the customs authority:
 - (i) A copy of the transport document issued in respect of the goods;
 - (ii) copies of any invoices issued in respect of the goods; and
 - (iii) in the case of goods damaged or destroyed due to a cause mentioned in section 544(1) or 545(1) an independent appraisal or analysis by a qualified appraiser, assessing the extent –
 - (aa) of the damage and the loss in value of the goods;³¹ or
 - (bb) to which any parts or materials have been or are salvageable from the destroyed goods.³²
- (4) A person referred to in section 542(3) is entitled to submit a notification irrespective of whether the person required in terms of section 542(2) to submit the notification has done so or not.

Documentary evidence to prove that goods became damaged, destroyed, lost or unaccounted for (*section 558(a)*)

25.3 The documents that may be submitted to the customs authority as evidence to prove that the goods became damaged, destroyed, lost or unaccounted for due to a cause referred to in section 544(1), 545(1), 546(1) or 547(1) of the Control Act, include the following, as may be appropriate:

- (a) An affidavit deposed to by a person who has knowledge of the facts –
 - (i) setting out the facts and circumstances in which the goods became damaged, destroyed, lost or unaccounted for; and

³⁰ For instance at the time when the goods were cleared.

³¹ See section 544(2)(d) of the Control Act.

³² See section 545(2)(d) of the Control Act.

- (ii) stating that the goods became damaged, destroyed or lost or unaccounted for due to a circumstance referred to in section 544(1), 545(1), 546(1) or 547(1), and not due to any wilful act, negligence or default of the person in physical control of or responsible for the goods;
- (b) in the case of goods damaged due to the inherent characteristics of the goods, an independent appraisal or analysis by a qualified appraiser assessing the damage to the goods due to such inherent characteristics and the loss in value, volume, weight or quantity in accordance with any standards or criteria applicable to the appraisal of goods falling within the ambit of the relevant industry;
- (c) a credit note from the supplier of the goods indicating an amount granted by the supplier to pay compensation for any damaged, destroyed, lost or unaccounted for goods;
- (d) an invoice from the supplier of the goods indicating that the supplier is replacing the damaged, destroyed, lost or unaccounted for goods without cost to the importer, exporter or owner;
- (e) a written commitment by the person referred to in section 542(2) or that person's insurer to pay compensation for the damaged, destroyed, lost or unaccounted for goods;
- (f) in the case of goods that have become damaged, destroyed or lost due to a hostile act by a third party, such as wilful damage to property, pilfering, theft, robbery or hijacking, a police report to that effect;
- (g) in the case of goods that have become damaged or destroyed due to an accident or fire, a police report or fire official's report to that effect;
- (h) in the case of goods being lost or unaccounted for, any document that can provide evidence, depending on the particular circumstances, that –
 - (i) the goods were short shipped, left behind or forgotten somewhere;
 - (ii) the goods were loaded on board the wrong vessel, aircraft, train or vehicle;
 - (iii) the goods were off-loaded at the wrong place;
 - (iv) the goods were withdrawn from the export stack;
 - (v) an administrative error occurred in documents or records relating to the goods; or
 - (iv) that the goods for any other reason became unaccounted for.

Timeframe for complying with section 544(2)(d) in relation to damaged goods

25.4 If section 544(2)(d) of the Control Act becomes applicable to any damaged goods, the damaged goods must within three calendar days after the customs authority has accepted documentary proof submitted to it in terms of section 544(1), be dealt with in terms of section 544(2)(d)(i), (ii) or (iii).

Timeframe for purposes of section 545(2)(d) in relation to parts or materials salvaged or salvageable from destroyed goods

25.5 If section 544(2)(d) of the Control Act becomes applicable to any destroyed goods, any parts or materials salvaged or salvageable from the destroyed goods must within three days after the customs authority has accepted documentary proof submitted to it in terms of section 545(1), be dealt with in terms of section 545(2)(d)(i), (ii) or (iii).

Additional causes recognised as justifiable for goods becoming unaccounted for (section 547(1)(c))

25.6 Additional causes recognised for purposes of section 547(1)(c) of the Control Act as justifiable for goods becoming unaccounted for are –

(a) non-loading of goods due to late cancellation for, or withdrawal of goods from, the export stack;

(b) ...

(c) ...

Part 2: Compensating products

Notifications by persons referred to in section 549(2)³³ of compensating products damaged, destroyed, lost or unaccounted for (section 549)

25.7 (1) (a) If compensating products to which Part 2 of Chapter 25 of the Control Act applies³⁴ become damaged, destroyed, lost or unaccounted for, the

³³ Note that the person referred to in section 549(2) of the Control Act is obliged to submit the notification. Failure to do so may result in a penalty. For other consequences of failure to submit, see section 550.

³⁴ See section 548(1) and (2) of the Control Act for compensating products to which Part 2 of Chapter 25 applies. That section must be read with section 540(2) which excludes certain goods altogether

person referred to in section 549(2) must submit the notification referred to in section 549(1) to the customs authority electronically through e-filing, subject to paragraph (b).

(b) If a notification is submitted to the customs authority in paper format in circumstances where submissions in paper format are permissible,³⁵ the notification must be –

- (i) on Form.... as published as a rule on the SARS website for this purpose; and
- (ii) submitted to the Customs Office that serves the place where –
 - (aa) the damaged compensating products or salvageable parts or materials of the destroyed compensating products currently are;
 - (bb) the compensating products were when they became damaged, destroyed or lost; or
 - (cc) it was discovered that the compensating products are lost or unaccounted for.

(2) A notification referred to in subrule (1) must be submitted –

- (a) in the case of compensating products that were on board a vessel, aircraft or train at the time of an incident referred to in rule **25.14**, no later than three working days from the day on which the report referred to in that rule was submitted;
- (b) in the case of compensating products that were on board a vehicle at the time of an incident referred to in section 125, no later than three working days from the time the report referred to in that section was submitted; or
- (c) in any other case, no later than three working days from the day on which the person who submits the notification became aware of the fact that the compensating products were damaged, destroyed, lost or unaccounted for.³⁶

(3) A notification referred to in subrule (1) must, in addition to the information referred to in section 549(4), also contain the following information:

from Chapter 25. Also note that Part 2 only applies to inward and outward processed compensating products and not to home use processed products which upon production become goods in free circulation.

³⁵ See section 913(4) of the Control Act.

³⁶ Note that these timeframes are subject to extension in terms of section 908 of the Control Act.

- (a) The customs code of the person submitting the notification or, in the case of an unlicensed subcontractor, the name and contact details of the subcontractor and physical address of the premises;
- (b) for purposes of section 549(4)(a) –
 - (i) the movement reference number of the clearance declaration clearing the compensating products as –
 - (aa) inward processed compensating products for export; or
 - (bb) outward processed compensating products for home use; or
 - (ii) a description of the compensating products, which must include –
 - (aa) tariff classification;
 - (bb) the quantity, volume or weight, as may be appropriate;
 - (cc) the customs value;
 - (dd) the container or ULD number, in the case of compensating products packed into a container or consolidated in a ULD; and
 - (ee) any marks or numbers on the goods; and
- (e) the transport document number of any transport document issued in relation to the compensating products, in the case of compensating products not yet cleared.

(4) A notification referred to in subrule (1) must, in addition to the documentary proof referred to in section 549(4)(f), be accompanied by the following documents if not already submitted³⁷ to the customs authority:

- (a) A copy of the transport document issued in respect of the compensating products; and
- (b) in the case of compensating products damaged or destroyed due to a cause mentioned in section 551(1) or 552(1), an independent appraisal or analysis by a qualified appraiser, assessing the extent –
 - (i) of the damage and the loss in value of the compensating products;³⁸ or
 - (ii) to which any parts or materials have been or are salvageable from the destroyed compensating products.³⁹

³⁷ For instance at the time when the goods were cleared.

³⁸ See section 551(2) of the Control Act.

³⁹ See section 552(2) of the Control act.

(5) A person referred to in section 549(3) is, on written request to the person required to submit the notification, entitled to a copy of the notification.

Notifications by persons referred to in section 549(3) of compensating products damaged, destroyed, lost or unaccounted for (*section 549*)

25.8 (1) (a) If a person referred to in section 549(3) of the Control Act elects to submit a notification referred to in section 549(1),⁴⁰ the notification must be submitted to the customs authority electronically through e-filing, subject to paragraph (b).

(b) If a notification is submitted to the customs authority in paper format in circumstances where submissions in paper format are permissible,⁴¹ the notification must be –

- (i) on Form..... as published as a rule on the SARS website for this purpose; and
- (ii) submitted to the Customs Office that serves the place where –
 - (aa) the damaged compensating products or salvageable parts or materials of the destroyed compensating products currently are;
 - (bb) the compensating products were when they became damaged, destroyed or lost; or
 - (cc) it was discovered that the compensating products are lost or unaccounted for.

(2) A notification referred to in subrule (1) must be submitted –

- (a) no later than three working days from the day on which the person who submits the notification became aware of the fact that the compensating products were damaged, destroyed, lost or unaccounted for; or
- (b) if a notification has already in terms of rule **25.7** been submitted by a person referred to in section 549(2) in relation to the relevant compensating products, no later than three working days from the day on which the person who submits the notification in terms of this rule became aware of the submission of that notification.⁴²

⁴⁰ Note that the person referred to in section 549(3), unlike the person referred to in section 549(2), is not obliged to submit the notification but may do so to protect his or her interests, for instance where the person referred to in section 549(2) fails to submit the notification.

⁴¹ See section 913(4) of the Control Act.

⁴² Note that these timeframes are subject extension in terms of section 908 of the Control Act.

- (3) A notification referred to in subrule (1) must –
- (a) in addition to the information referred to in section 549(4), also contain the information specified in rule **25.7(3)**, except that if the person submitting the notification does not have a customs code, that person's name and address and, if a natural person, identity or passport number, must be stated on the notification; and
 - (b) in addition to the documentary proof referred to in section 549(4)(f), be accompanied by the following documents if not already submitted⁴³ to the customs authority:
 - (i) A copy of the transport document issued in respect of the compensating products, if applicable;
 - (ii) any invoices issued respect of the compensating products; and
 - (iii) in the case of compensating products damaged or destroyed due to a cause mentioned in section 551(1) or 552(1), an independent appraisal or analysis by a qualified appraiser, assessing the extent –
 - (aa) of the damage and the loss in value of the compensating products;⁴⁴ or
 - (bb) to which any parts or materials have been or are salvageable from the destroyed compensating products.⁴⁵
- (4) A person referred to in section 549(3) is entitled to submit a notification irrespective of whether the person required in terms of section 549(2) to submit the notification has done so or not.

Documentary evidence to prove that compensating products became damaged, destroyed, lost or unaccounted for (section 558(a))

25.9 The documents that may be submitted to the customs authority as evidence to prove that compensating products became damaged, destroyed, lost or unaccounted for due to a cause referred to in section 551(1), 552(1), 553(1) or 554(1) of the Control Act, include the following, as may be applicable:

⁴³ For instance at the time when the compensating products were cleared.

⁴⁴ See section 551(2) of the Control Act.

⁴⁵ See section 552(2) of the Control Act.

- (a) An affidavit deposed to by a person with knowledge of the facts –
 - (i) setting out the facts and circumstances in which the compensating products became damaged, destroyed, lost or unaccounted for; and
 - (ii) stating that the compensating products became damaged, destroyed or lost or unaccounted for due to a circumstance referred to in section 551(1), 552(1), 553(1) or 554(1), and not due to any wilful act, negligence or default of the person in physical control of or responsible for the compensating products;
- (b) in the case of compensating products damaged due to the inherent characteristics of the compensating products, an independent appraisal or analysis by a qualified appraiser assessing the damage to the compensating products due to such inherent characteristics and the loss in value, volume, weight or quantity in accordance with any standards or criteria applicable to the appraisal of goods falling within the ambit of the relevant industry;
- (c) a written commitment by the person referred to in section 549(2) or that person's insurer to pay compensation for the damaged, destroyed, lost or unaccounted for compensating products;
- (d) in the case of compensating products that have become damaged, destroyed or lost due to a hostile act by a third party, such as wilful damage to property, pilfering, theft, robbery or hijacking, a police report to that effect;
- (e) in the case of compensating products that have become damaged or destroyed due to an accident or fire, a police report or fire official's report to that effect; and
- (f) in the case of compensating products being unaccounted for, any document that can provide evidence, depending on the particular circumstances, that –
 - (i) the goods were withdrawn from the export stack, in the case of inward processed compensating products; or
 - (ii) an administrative error occurred in documents or records relating to the compensating products.

Additional causes recognised as justifiable for compensating products becoming unaccounted for (*section 554(1)(d)*)

25.10 Additional causes recognised for purposes of section 554(1)(d) of the Control Act as justifiable for compensating products becoming unaccounted for are –

- (a) non-loading of goods due to late cancellation for, or withdrawal of from, the export stack;
- (b) ...
- (c) ...

Part 3: Seized, confiscated or abandoned goods

Notifications by licensees when seized, confiscated or abandoned goods become damaged, destroyed, lost or unaccounted for *(section 556)*⁴⁶

25.11 (1) (a) If seized, confiscated or abandoned goods become damaged, destroyed, lost or unaccounted for, the licensee referred to in section 556(2) of the Control Act must submit the notification referred to in section 556(1) to the customs authority electronically through e-filing, subject to paragraph (b).

(b) If a notification is submitted to the customs authority in paper format in circumstances where submissions in paper format are permissible,⁴⁷ the notification must be –

- (i) on Form..... as published as a rule on the SARS website for this purpose; and
- (ii) submitted to the Customs Office that serves the licensed premises or other place where –
 - (aa) the damaged goods or salvageable parts or materials of the destroyed goods currently are;
 - (bb) the goods were when they became damaged, destroyed or lost; or
 - (cc) it was discovered that the goods are lost or unaccounted for.

(2) A notification referred to in subrule (1) must be submitted –

- (a) in the case of goods that were on board a vessel, aircraft or train at the time of an incident referred to in rule **25.14**, no later than three working days from the day on which the report referred to in that rule was submitted;
- (b) in the case of goods that were on board a vehicle at the time of an incident referred to in section 125, no later than three working days from the time the report referred to in that section was submitted; or

⁴⁶ Note that in terms of section 540(2)(a) this Chapter does not apply to goods that become damaged, destroyed, lost or unaccounted for in a state warehouse. Chapter 27 applies to such goods.

⁴⁷ See section 913(4) of the Control Act.

- (c) in the case of any other goods, no later than three working days from the day on which the person who submits the notification became aware of the fact that the goods were damaged, destroyed, lost or unaccounted for.⁴⁸

(3) A notification referred to in subrule (1) must –

- (a) state the customs code of the licensee submitting the notification;
- (b) identify the goods damaged, destroyed or lost or unaccounted for with reference to the number of the notice of seizure or confiscation or the reference number of the approval of abandonment;
- (c) indicate how, when and where the goods became damaged, destroyed or lost or unaccounted for; and
- (d) if the goods became damaged, destroyed or lost or unaccounted for due to a cause set out in section 556(4), be accompanied by documentary evidence to that effect.

Documentary evidence to prove that goods became damaged, destroyed, lost or unaccounted for (*section 558(a)*)

25.12 The documents that may be submitted to the customs authority as evidence to prove that the seized, confiscated or abandoned goods became damaged, destroyed, lost or unaccounted for due to a cause referred to in section 556(4) of the Control Act, include the following, as may be applicable:

- (a) An affidavit deposed to by or on behalf of the licensee –
 - (i) setting out the facts and circumstances in which the goods became damaged, destroyed, lost or unaccounted for; and
 - (ii) stating that the goods became damaged, destroyed or lost or unaccounted for due to a circumstance referred to in section 556(4), and not due to any wilful act, negligence or default of the licensee in physical control of or responsible for the goods;
- (b) in the case of goods damaged due to the inherent characteristics of the goods, an independent appraisal or analysis by a qualified appraiser assessing the damage to the goods due to such inherent characteristics and the loss in value, volume, weight or quantity in accordance with any standards

⁴⁸ Note that these timeframes are subject to extension in terms of section 908 of the Control Act.

or criteria applicable to the appraisal of goods falling within the ambit of the relevant industry;

- (c) in the case of goods that have become damaged, destroyed or lost due to a hostile act by a third party, such as wilful damage to property, pilfering, theft, robbery or hijacking, a police report to that effect;
- (d) in the case of goods that have become damaged or destroyed due to an accident or fire, a police report or fire official's report to that effect; and
- (e) in the case of goods being unaccounted for, any document that can provide a justifiable reason why the goods are unaccounted for.

Part 4: Accidents involving vessels, aircraft or trains⁴⁹

Application of this Part

25.13 This Part applies to –

- (a) any foreign-going vessel or aircraft or cross-border train; and
- (b) any domestic vessel, aircraft or train transporting goods not in free circulation within the Republic.

Reporting of accidents involving vessels, aircraft or trains operated by carriers⁵⁰

25.14 (1) (a) The carrier operating a vessel, aircraft or train referred to in rule **25.13**(a) or (b) that has stranded, crashed or become lost in the Republic or that has been involved in an accident which compromised the integrity of any goods to which Chapter 25 of the Control Act applies⁵¹ on board the vessel, aircraft or train, must immediately upon becoming aware of the incident report the incident to the customs authority electronically through e-filing,⁵² subject to paragraph (b).

⁴⁹ For accidents involving trucks carrying goods not in free circulation, see section 125 of the Control Act.

⁵⁰ Forced landings or calls are dealt with in rules under section 37 of the Control Act.

⁵¹ See section 540(2) of the Control Act for goods to which Chapter 25 applies.

⁵² The purpose of this report is to enable Customs to take immediate action as may be necessary and to send out officers to the site where the incident occurred to perform inspections and to take control of the movement of goods.

(b) If a report referred to in paragraph (a) is submitted to the customs authority in paper format in circumstances where submissions in such format are permissible,⁵³ the report must be submitted –

- (i) on Form..... as published as a rule on the SARS website for that purpose; and
- (ii) to the Customs Office nearest to the place where the incident occurred.

(2) A report referred to in subrule (1) must state –

- (a) the customs code of the carrier submitting the report;
- (b) the transport name and the conveyance number⁵⁴ of the vessel, aircraft or train, and the transport ID in the case of a vessel or aircraft;
- (c) if the vessel, aircraft or train is or has been on a voyage in respect of which reporting requirements in terms of Chapter 3 of the Control Act apply, the number of –
 - (i) the advance vessel, aircraft or train arrival notice submitted to the customs authority, in the case of an inbound voyage;⁵⁵ or
 - (ii) the vessel, aircraft or train departure report submitted to the customs authority, in the case of an outbound voyage;⁵⁶
- (d) a general description of the goods that were on board the vessel, aircraft or train at the time of the incident;
- (e) whether there are salvageable goods at the site;
- (f) the nature, circumstances and approximate time of the incident;
- (g) the coordinates of the place where the incident occurred;
- (h) any steps the carrier took to secure the site; and
- (i) whether a law enforcement agency is present on the site.

(3) Compliance with this rule does not exempt a carrier from compliance with sections 542(1) and 549(1) of the Control Act, read with rules **25.1** and **25.7**, in relation to goods that became damaged, destroyed, lost goods or unaccounted for as a result of the incident.

⁵³ See section 913(4) of the Control Act.

⁵⁴ See definitions in rule 1.1.

⁵⁵ See rules 3.4, 3.11 and 3.18.

⁵⁶ See rule 3.10, 3.17 and 3.22

Reporting of accidents involving vessels or aircraft not operated by carriers

25.15 (1) The on-board operator or a crew member of a foreign-going vessel or aircraft not operated by a carrier that has stranded, crashed or become lost in the Republic must, in circumstances where it is possible for the on-board operator or crew member to do so,⁵⁷ report the incident to the customs authority within 24 hours.

(2) A report referred to in subrule (1) must be submitted either electronically, by fax, by hand delivery or in any other way available in the circumstances to the on-board operator or crew member.

(3) A law enforcement or rescue agency involved in recovery operations at the site of, or in respect of, the incident must without delay notify the customs authority of the incident.

- (4) A report referred to in subrule (1) must state –
- (a) the identity or passport number of the on-board operator or crew member;
 - (b) the coordinates or other details of the place where the incident occurred;
 - (c) the date and approximate time when the incident occurred;
 - (d) the nature, circumstances and time of the incident; and
 - (e) whether a law enforcement agency has secured the site.

Part 5: Wreck

Application of this Part to licensed searchers of or for abandoned wreck

25.16 (1) This Part does not apply to abandoned wreck found or recovered by a person who is a licensed searcher of or for abandoned wreck.

(2) The licence issued to a searcher of or for abandoned wreck must be regarded to be permission contemplated in section 557(1) of the Control Act to remove abandoned wreck to the extent that such removal is permitted by and carried out in accordance with that person's license conditions.

⁵⁷ This requirement obviously does not apply in circumstances where it is impossible for the on-board operator or crew member to notify the customs authority, for instance where the on-board operator and crew members are injured or have perished.

Inventory of wreck originating from stranded vessels or crashed aircraft
(section 558(c))

25.17 (1) The carrier operating a vessel or aircraft referred to in rule **25.13**(a) or (b) that has stranded or crashed, must compile an inventory of all wreck originating from the vessel or aircraft that was recovered from the site where the vessel stranded or the aircraft crashed, distinguishing, insofar as this is possible, between wreck that consists of –

- (a) the vessel or aircraft itself or its remains; and
- (b) cargo and other goods⁵⁸ that were on board the vessel or aircraft when it stranded or crashed.

(2) In the case of cargo and goods referred to in subrule (1)(b), the inventory must distinguish between damaged and undamaged goods.

(3) If a stranded vessel is re-floated and resumes its voyage either under its own power or on tow by another vessel, an inventory referred to in subrule (1) must be compiled only in relation to any cargo and other goods removed from the vessel during the recovery operation.

(4) (a) The carrier must within three calendar days after submission of the report referred to in rule **25.14** submit the inventory to the customs authority electronically through e-filing,⁵⁹ subject to paragraphs (b) and (c).

(b) If the carrier submits a notification referred to in rule **25.1** the inventory must accompany that notification.

(c) If an inventory is submitted to the customs authority in paper format in circumstances where submissions in paper format are permissible,⁶⁰ the inventory must be submitted –

- (i) on Form.... as published as a rule on the SARS website for that purpose; and
- (ii) to the Customs Office nearest to the place where the incident occurred.

⁵⁸ Such as fuel and other stores.

⁵⁹ The purpose of this report is to enable Customs to take immediate action as may be necessary and to send out officers to the site where the incident occurred to perform inspections and to take control of the movement of goods.

⁶⁰ See section 913(4) of the Control Act.

(5) Compliance with this rule does not exempt a carrier from compliance with sections 542 and 549 of the Control Act, read with rules **25.1** and **25.7**, in relation to goods that became damaged, destroyed, lost goods or unaccounted for as a result of the incident.

Procedures for dealing with wreck originating from stranded vessels or crashed aircraft (*section 557(4)*)

25.18 (1) The carrier who operated a vessel or aircraft referred to in rule **25.13**(a) or (b) that has stranded or crashed must in collaboration with any law enforcement agencies present at the site where the incident occurred –

- (a) take all reasonable steps to ensure that no wreck consisting of goods with a commercial value is illegally removed from the vessel or aircraft or from the site; and
- (b) remove wreck which has a commercial value that was recovered from the stranded vessel or crashed aircraft to a state warehouse or any licensed premises determined by the customs authority in terms of section 570(3) or 580(1)(b), as the case may be.

(2) Subrule (2)(b) does not apply to wreck consisting of goods that –

- (a) remain on a stranded vessel if the vessel is re-floated and resumes its voyage either under its own power or on tow by another vessel, and in such a case the goods may only be off-loaded at a place of entry or another place approved by the customs authority; or
- (b) can clearly be identified as goods in free circulation, and in such a case the carrier must deal with those goods in terms of its contract of carriage.

(3) Imported goods on board a vessel referred to in rule (2)(a) that is off-loaded at –

- (a) a place of entry, must be dealt with in accordance with section 89; or
- (b) any other place referred to in that subrule, must be removed to a state warehouse or any licensed premises determined by the customs authority in terms of section 570(3) or 580(1)(b), as the case may be.

(4) Any goods under a customs procedure on board a vessel referred to in rule (2)(a) that is off-loaded at –

(a) a place of entry –

(i) in the case of goods under the export procedure or a procedure that allows the export of goods under that procedure, remains under that procedure until the goods are exported; or

(ii) in the case of goods under any other customs procedure, remains under that procedure until cleared for another permissible customs procedure or for home use; or

(b) any other place referred to in that subrule, must be removed to a state warehouse or any licensed premises determined by the customs authority in terms of section 570(3) or 580(1)(b), as the case may be.

(5) Prohibited and restricted goods, whether damaged or undamaged, must be dealt with in accordance with Chapter 35 of the Control Act.

Notification by persons who obtain possession of wreck by chance⁶¹ (section 557(2))

25.19 (1) A notification submitted in terms of section 557(2) of the Control Act by a person in possession of wreck must reflect –

(a) that person's name, contact details and identity or passport number;

(b) the best description that can be given of the wreck, which must include –

(i) if it consists of apparent commercial goods, the class or kind of goods and approximate quantity; or

(ii) if it is a container, the number on the container;

(c) the place where, and the circumstances in which, the wreck was found; and

(d) if the wreck was removed for preservation or safe-keeping, the place to which it was removed.⁶²

⁶¹ Note that "wreck" is per definition not only the remains of a stranded vessel or crashed aircraft, but includes any part of the vessel or aircraft and any goods that are or were on the vessel or aircraft or that were strewn around or washed away. It also includes goods that fell overboard from a vessel during a voyage and washed up on the beach.

⁶² Note that wreck may in terms of section 557(1) of the Control Act be moved for preservation or safe-keeping purposes without customs permission.

(2) A notification referred to in subrule (1) must in accordance with section 557(2)(a) be submitted to the nearest Customs Office within 48 hours after the wreck was found. The submission must be submitted by hand, fax or e-mail on Formas published as a rule on the SARS website for this purpose.

(3) Subrules (1) and (2) do not apply to a person in possession of wreck if that person is the carrier who operated the vessel or aircraft from which the wreck originated or a person appointed by that carrier to take charge of any recovery operations.

Right of carriers to restore their possession of wreck found or removed by other persons (*sections 557(4) and 558(c)*)

25.20 (1) The carrier who operated a vessel or aircraft referred to in rule **25.13**(a) or (b) that has stranded or crashed or from which any goods were lost on its voyage is entitled, unless the customs authority determines otherwise –

- (a) to take possession of any wreck originating from that vessel or aircraft that was found by or is in the possession of or was removed by any other person; and
- (b) to deal with that wreck as part of the goods –
 - (i) recovered at that site; or
 - (ii) which were on board the vessel or aircraft during its voyage.

(2) If the carrier has appointed a person to take charge of any recovery at the site of a stranded vessel or crashed aircraft or to recover any goods that were lost on the vessel or aircraft's voyage, that person may exercise the rights referred to in subrule (1) on behalf of the carrier.

Part 6: General

Obligations of carriers not located in Republic

25.21 Where in this Chapter an obligation to comply with a requirement or to exercise a right⁶³ is conferred on a carrier, that obligation must be complied with or

⁶³ See rule **25.20**.

that right may be exercised, in the case of a carrier who is not located in the Republic, either by the carrier or that carrier's registered agent in the Republic.

CHAPTER 26
ABANDONMENT OF GOODS TO COMMISSIONER AND DESTRUCTION OF
GOODS UNDER CUSTOMS SUPERVISION

Part 1: Abandonment of goods to Commissioner

Application for permission to abandon goods to Commissioner⁶⁴ (section 562)

26.1 (1) (a) An application referred to in section 562(1) of the Control Act must be submitted to the customs authority electronically through e-filing, subject to paragraph (b).

(b) If an application referred to in paragraph (a) is submitted to the customs authority in paper format in circumstances where submissions in paper format are permissible,⁶⁵ the submission must be –

- (i) on Formas published as a rule on the SARS website; and
- (ii) made to the Customs Office serving the area where the goods in respect of which abandonment is applied for, are located.

(2) An application referred to in subrule (1) must in addition to the information referred to section 562(2)(a) to (d), reflect –

- (a) the customs code of the applicant;
- (b) the current location of the goods, indicated by the customs code of the licensed premises;
- (c) the movement reference number of any clearance declaration in respect of the goods; and
- (d) the reference number of any notification in terms of rule **25.1** of goods damaged or destroyed.

(3) An application referred to in subrule (1) must be supported by –

- (a) any invoice issued in respect of the goods; and
- (b) any transport document that had been issued in respect of the goods.

⁶⁴ The abandonment of goods in cases where the goods have no value or where the income generated by the sale of the goods is not likely to exceed the expenses in connection with the sale thereof, would probably not be in the best interest of the state as contemplated in section 563(a) of the Control Act, and in such cases applicants should rather consider an application in terms of rule **26.4** for the destruction of the goods.

⁶⁵ See section 913(4) of the Control Act.

(4) Supporting documents referred to in subrule (3) must, if the customs authority so requests, within the timeframe indicated in the request be submitted to the customs authority electronically through e-filing, subject to paragraph (b).

(b) If a supporting document referred to in paragraph (a) is submitted to the customs authority in paper format in circumstances where submissions in paper format are permissible,⁶⁶ the submission must be to the Customs Office where the application had been submitted, or to another Customs Office indicated in the request.

Additional information to be reflected on abandonment notices (*section 564(2)(c)*)

26.2 In addition to the information referred to in section 564(2)(a) and (b) of the Control Act, an abandonment notice must reflect the physical address of the state warehouse or place of safety to which the goods must be removed as determined by the customs authority in terms of section 565(c)(i).

Consequences of refusal of application for abandonment (*section 566*)

26.3 If after the refusal of an application referred to in rule **26.1**, the applicant opts for destruction of the goods, the goods must be destroyed under customs supervision in accordance with any requirements as the customs authority may determine.

Part 2: Destruction of goods under customs supervision

Application to destroy goods under customs supervision (*section 567*)

26.4 (1) (a) An application referred to in section 567(1) of the Control Act must be submitted to the customs authority electronically through e-filing, subject to paragraph (b).

⁶⁶ See section 913(4) of the Control Act.

(b) If an application referred to in paragraph (a) is submitted to the customs authority in paper format in circumstances where submissions in paper format are permissible,⁶⁷ the submission must be –

- (i) on Form ...as published as a rule on the SARS website; and
- (ii) made to the Customs Office serving the area where the goods in respect of which destruction is applied for, are located.

(2) An application referred to in subrule (1) must reflect –

- (a) the customs code of the applicant;
- (b) the current location of the goods, indicated by the customs code of the licensed premises;
- (c) a description of the goods in sufficient detail;
- (d) a motivation for the application to destroy the goods;
- (e) an undertaking to pay any costs in connection with the destruction of the goods;
- (f) the movement reference number of any clearance declaration in respect of the goods;
- (g) the reference number of any notification in terms of rule **25.1** of goods damaged or destroyed;
- (h) a description of the method of destruction;⁶⁸
- (i) in respect of customs supervision for the destruction of the goods⁶⁹ –
 - (i) the date and time when the special customs service⁷⁰ is required;
 - (ii) the approximate duration of the special customs service;
 - (iii) the place where the special customs service is required; and
 - (iv) the number of customs officers required; and
- (j) an undertaking to pay costs associated with the provision of special customs services provided in connection with the destruction of the goods.

(3) An application referred to in subrule (1) must be supported by –

- (a) any invoice issued in respect of the goods; and

⁶⁷ See section 913(4) of the Control Act.

⁶⁸ The method of destruction must adhere to any applicable legislation relating to the protection of the environment and health and safety.

⁶⁹ Please note that a separate application for the provision of special customs services in terms of rule **1.3** is not required in this case.

⁷⁰ See definition of “special customs service” in rule **1.1**.

(b) a motivation of the attendance of more than one customs officer, if the attendance of more than one customs officer is required.

(4) Supporting documents referred to in subrule (3) must if the customs authority so requests, within the timeframe indicated in the request be submitted to the customs authority electronically through e-filing, subject to paragraph (b).

(b) If a supporting document referred to in paragraph (a) is submitted to the customs authority in paper format in circumstances where submissions in paper format are permissible,⁷¹ the submission must be made to the Customs Office where the application had been submitted, or to another Customs Office indicated in the request.

Requirements for destruction under customs supervision (*section 567(3)*)

26.5 (1) If an application referred to in rule **26.3** is approved by the customs authority, the goods must be destroyed on the date indicated by the customs authority in an approval notice issued to the applicant.

(2) The cost of the destruction of the goods and any costs incidental thereto must be borne by the owner of the goods.

Timeframe for clearance of waste or scrap remaining after the destruction of goods (*section 567(4)(a)*)

26.6 The timeframe for purposes of section 567(4)(a) is three working days after the date of destruction of the goods.⁷²

⁷¹ See section 913(4) of the Control Act.

⁷² This timeframe is subject to section 908 of the Control Act.

CHAPTER 27

STATE WAREHOUSES

Definitions

27.1 In this Chapter, unless the context otherwise indicates –

“**freight ton**”, for purposes of calculating state warehouse rent, means a unit of measurement equal to either one metric ton (1000kg) or one cubic meter, depending on whichever of the two yields the greatest amount of revenue when multiplied with the rate prescribed in rule **27.24(2)**, and, for purposes of this definition, any fraction of a metric ton or a cubic metre must be regarded as a whole metric ton or cubic metre, as the case may be;

“**goods description**”, in relation to goods to be described in a notice, notification or application submitted in terms of this Chapter, includes the following information relating to the goods to the extent that that information is available to the person submitting the notice, notification or application:

- (a) In the case of break bulk goods –
 - (i) the tariff classification or a description of the content of the packages;
 - (ii) the type, quantity and weight of the packages; and
 - (iii) any marks and numbers on the packages;
- (b) in the case of containerised goods –
 - (i) the container numbers;
 - (ii) the number of containers;
 - (iii) the weight and volume of the containers; and
 - (iv) the tariff classification or a description of the type of goods in each container;
- (c) in the case of bulk goods –
 - (i) the tariff classification or a description of the type of goods; and
 - (ii) the weight or volume of the goods;
- (d) in the case of a vehicle, whether containerised or not –
 - (i) the make and model;
 - (ii) the year of manufacture;
 - (iii) the odometer reading;

- (iv) the engine number;
 - (v) the vehicle identification number (VIN) or chassis number; and
 - (vi) the registration number; and
- (e) in the case of baggage of a person entering or leaving the Republic, any names and other personal details indicated on the baggage items;

“recording state warehouse”, in relation to goods retained at or removed to licensed premises other than a state warehouse under a direction or authorisation issued in terms of section 580(1)(a) or (b), the state warehouse in the accounting records of which those goods must be recorded for state warehousing purposes in terms of section 580(3);

“state warehouse inventory code”, in relation to goods in or accounted for in a state warehouse, means a unique identifying code assigned by the customs officer or licensee in charge of a state warehouse to goods received in or accounted for in that warehouse for purposes of –

- (a) inventory control; and
- (b) facilitating the keeping and retrieval of records in respect of the goods to which it relates;

“state warehousing”, in relation to goods that are or have become subject to Chapter 27 of the Control Act, means the storage of such goods –

- (a) in a state warehouse referred to in section 570(3); or
- (b) on any licensed premises referred to in section 580(1)(a) or (b) as if the goods were removed to a state warehouse.

Part 1: Removal of goods to state warehouses⁷³

Removal notices by persons in physical control of goods to be removed to state warehouse (*section 571*)

27.2 (1) (a) If goods are to be removed to a state warehouse in compliance with section 570(1) or a direction issued in terms of section 570(2) of the Control Act,

⁷³ Note that this Part complements Part 2 of Chapter 27 of the Control Act, in other words, where goods are actually removed to state warehouses.

the person referred to in section 571 must submit the removal notice contemplated in that section electronically through e-filing to the customs officer or licensee in charge of the warehouse determined in terms of section 570(3) to which the goods must be removed.

(b) If a removal notice referred to in paragraph (a) is submitted in paper format in circumstances where submissions in paper format are permissible,⁷⁴ the notice must be –

- (i) on Form.... as published as a rule on the SARS website for this purpose; and
- (ii) submitted to the relevant state warehouse to which the goods must be removed.

(2) A removal notice referred to in subrule (1)⁷⁵ must reflect –

- (a) the customs code of the person submitting the notice;
- (b) the date on and time at which the goods are expected to arrive at the state warehouse;
- (c) the customs code of the carrier or other person that will deliver the goods;
- (d) whether the goods are removed to the state warehouse in compliance with section 570(1) or a direction issued in terms of section 570(2) and, if in terms of a direction, the reference number of the direction;
- (e) the reason why the goods have become subject to state warehousing;
- (f) the goods description;⁷⁶
- (g) the condition of the goods;
- (h) whether the goods are dangerous goods and, if so, the UN Dangerous Goods Code applicable to the goods, or any warning markings on the goods;
- (i) whether there are any special storage requirements in relation to the goods;
- (j) in the case of perishable goods, any indicated expiry date;
- (k) in the case of goods that have been cleared, the movement reference number⁷⁷ of the clearance declaration issued in relation to the goods;
- (l) the transport document number; and
- (m) whether, to the knowledge of the person submitting the notice –

⁷⁴ See section 913(4) of the Control Act.

⁷⁵ Note that section 571(2) of the Control Act requires the person submitting the removal notice to attach to the notice all supporting documents concerning the goods that are in the possession of that person.

⁷⁶ See definition of “goods description” in rule 27.1

⁷⁷ See definition of “movement reference number” in rule 1.1

- (i) there are any charges outstanding in respect of the goods at the time of submission of the notice; and
- (ii) the goods are the subject of any legal proceedings.

Redirection of goods intended for removal to state warehouses (*section 574*)

27.3 If a person intends to redirect goods in terms of section 574 of the Control Act to a place other than the state warehouse determined in terms of section 570(3), that person must in accordance with rule **4.17** apply to the customs authority for permission for the redirection of goods to that other place.

Please note that rule 4.17 will be amended to provide also for redirections in terms of Chapter 27.

Notification by carriers of receipt and delivery of goods to state warehouses (*section 570(5)(a)*)

27.4 A carrier that transports goods to a state warehouse, must notify the customs authority of the receipt and delivery of the goods in accordance with rule **29.35**.

Notification of receipt of goods in state warehouses (*section 570(5)(b)*)

27.5 (1) If the state warehouse determined by the customs authority in terms of section 570(3) of the Control Act is a state warehouse operated by a licensee, that licensee must notify the customs authority in accordance with subrule (2) of all goods received in that warehouse in terms of section 570(1) or (2).

(2) (a) A receipt notification contemplated in subrule (1) must within three hours of receipt of the goods be submitted to the customs authority electronically through e-filing, subject to paragraph (b).

(b) If a notification is submitted to the customs authority in paper format in circumstances where submissions in paper format are permissible,⁷⁸ the notification must be –

- (i) on Form..... as published as a rule on the SARS website for this purpose; and

⁷⁸ See section 913(4) of the Control Act.

(ii) submitted to the Customs Office that serves the area where the state warehouse is situated.

(3) A receipt notification referred to in subrule (2) must reflect –

- (a) the customs code of the state warehouse;
- (b) whether the goods were removed to the state warehouse in compliance with section 570(1) or a direction issued in terms of section 570(2) and, if in terms of a direction, the reference number of the direction;
- (c) the customs code of the carrier or other licensee that delivered the goods;
- (d) the date and time of receipt of the goods;
- (e) the reference number of the removal notice submitted to the state warehouse licensee in terms of section 571(1)(b);
- (f) whether the goods description⁷⁹ on the removal notice corresponds with the goods received;
- (g) the transport document number, road manifest number or unique consignment reference number; and
- (h) the movement reference number of any clearance declaration in relation to the goods, if applicable.

Unpacking of containers containing goods of different consignors or consignees

27.6 (1) If a consignment of goods packed in a container is to be removed to a state warehouse in compliance with section 570(1) or a direction issued in terms of section 570(2) of the Control Act and that container also contains a consignment of goods not affected by section 570(1) or that direction –

- (a) the affected consignment must be removed from the container for removal to the state warehouse; and
- (b) the unaffected consignment in the container must be allowed to proceed in accordance with the Control Act.

⁷⁹ See definition of “goods description” in rule **27.1**

(2) If subrule (1) applies, the affected consignment may be removed from the container at the terminal or the container may be removed to a container depot for such removal.

Hours for delivery of goods to state warehouses

27.7 Goods may be delivered to a state warehouse only during –

- (a) the hours of attendance determined in terms of section 14 of the Control Act for the warehouse, in the case of a delivery to a state warehouse operated by the Commissioner; or
- (b) the ordinary business hours of the state warehouse, in the case of a delivery to a licensed state warehouse.

Part 2: Retention of goods at, or removal of goods to, licensed premises other than state warehouses⁸⁰

Application for authorisation to retain or remove goods for state warehousing purposes on or to licensed premises other than state warehouses (*section 580(1)*)

27.8 (1) A licensee or other person in physical control of goods referred to in section 580(1) of the Control Act may in accordance with this rule apply for authorisation contemplated in that section –

- (a) to retain the goods for state warehousing on the licensed premises where the goods are currently located; or
- (b) to remove the goods for state warehousing to licensed premises other than a state warehouse.

(2) (a) An application for authorisation referred to in subrule (1) must be submitted to the customs authority electronically through e-filing, subject to paragraph (b).

(b) If an application referred to in paragraph (a) is submitted to the customs authority in paper format in circumstances where submissions in paper format are permissible,⁸¹ the application must be –

⁸⁰ Note that this Part complements Part 3 of Chapter 27 of the Control Act; in other words, where goods are removed to licensed premises as if those premises were state warehouses.

- (i) on Form..... as published as a rule on the SARS website for this purpose; and
- (ii) submitted to the Customs Office serving the licensed premises where the goods are to be state warehoused.

(3) An application referred to in subrule (2) must reflect –

- (a) the customs code of the person submitting the application;
- (b) whether section 570(1) applies to the goods or whether a direction in terms of section 570(2) was issued in relation to the goods and, if a direction was issued, the reference number of the direction;
- (c) the reason why section 570(1) or (2) became applicable to the goods;
- (d) the goods description;⁸²
- (e) whether the goods are dangerous goods and, if so, the UN Dangerous Goods Code applicable to the goods, or any warning markings on the goods;
- (f) whether there are any special storage requirements in relation to the goods;
- (g) in the case of perishable goods, any indicated expiry date;
- (h) in the case of goods that have been cleared, the movement reference number⁸³ of the clearance declaration issued in relation to the goods;
- (i) the transport document number;
- (j) the customs code of the licensed premises where the applicant is applying to –
 - (i) retain the goods; or
 - (ii) remove the goods to;
- (k) the reason why the goods are –
 - (i) to be retained on those premises; or
 - (ii) to be removed to other licensed premises other than a state warehouse; and
- (l) whether, to the knowledge of the applicant –
 - (i) there are any charges outstanding in respect of the goods at the time of submission of the application; and
 - (ii) the goods are the subject of any legal proceedings.

⁸¹ See section 913(4) of the Control Act.

⁸² See definition of “goods description” in rule 27.1

⁸³ See definition of “movement reference number” in rule 1.1.

Submission of retention notices by persons in physical control of goods to be retained on licensed premises

27.9 (1) (a) If goods are in compliance with a direction or under authority of an authorisation issued in terms of section 580(1)(a) of the Control Act to be retained for state warehousing purposes on any licensed premises where the goods are currently located, the licensee of those premises must submit a notice of retention of the goods on those premises electronically through e-filing to the recording state warehouse together with all supporting documents concerning those goods which are in the possession of the licensee of those premises.

(b) If a retention notice referred to in paragraph (a) is submitted in paper format in circumstances where submissions in paper format are permissible,⁸⁴ the notice must be submitted to the recording warehouse on Form..... as published as a rule on the SARS website for this purpose.

(2) A retention notice referred to in subrule (1) must reflect –

- (a) the name and contact details, or customs code, of the person submitting the notice;
- (b) the reference number of the authorisation authorising the retention of the goods on the licensed premises where the goods are currently located;
- (c) whether section 570(1) applies to the goods or whether a direction in terms of section 570(2) was issued in relation to the goods and, if a direction was issued, the reference number of the direction;
- (d) the reason why section 570(1) or (2) became applicable to the goods;
- (e) the goods description;⁸⁵
- (f) the condition of the goods;
- (g) whether the goods are dangerous goods and, if so, the UN Dangerous Goods Code applicable to the goods, or any warning markings on the goods;
- (h) whether there are any special storage requirements in relation to the goods;
- (i) in the case of perishable goods, any indicated expiry date;

⁸⁴ See section 913(4) of the Control Act.

⁸⁵ See definition of “goods description” in rule 27.1

- (j) in the case of goods that have been cleared, the movement reference number⁸⁶ of any clearance declaration issued in relation to the goods;
- (k) the transport document number; and
- (l) whether, to the knowledge of the person submitting the notice –
 - (i) there are any charges outstanding in respect of the goods at the time of submission of the notice; and
 - (ii) the goods are the subject of any legal proceedings.

(3) A retention notice referred to in this rule must be accompanied by all supporting documents relating to the goods which are in the possession of the person submitting the notice.

Submission of removal notices by persons in physical control of goods to be removed to licensed premises other than state warehouse (section 581)

27.10 (1) (a) If goods are in compliance with a direction or under authority of an authorisation issued in terms of section 580(1)(b) of the Control Act to be removed to licensed premises other than a state warehouse, the person referred to in section 581 must submit the removal notice referred to in section 581(a) electronically through e-filing to –

- (a) the licensee of the premises to which the goods are removed; and
- (b) the recording state warehouse.

(b) If a removal notice referred to in paragraph (a) is submitted in paper format in circumstances where submissions in paper format are permissible,⁸⁷ the notice must be –

- (i) on Form..... as published as a rule on the SARS website for this purpose; and
- (ii) submitted to the business address of the licensee of the premises to which the goods must be removed in terms of the direction or authorisation.⁸⁸

(2) A removal notice referred to in subrule (1) must reflect –

⁸⁶ See definition of “movement reference number” in rule 1.1

⁸⁷ See section 913(4) of the Control Act.

⁸⁸ Note that a copy of the removal notice, together with all supporting documents, must in terms of section 581(b) be submitted to the state warehouse in which the goods must in terms of section 580(3) be recorded for state warehousing purposes.

- (a) the name and contact details, or customs code, of the person submitting the notice;
- (b) the reference number of the authorisation authorising the removal of the goods to those premises;
- (c) the date on and time at which the goods are expected to arrive at the licenced premises to which the goods are removed;
- (d) the customs code of the carrier or other person that will deliver the goods;
- (e) whether section 570(1) applies to the goods or whether a direction in terms of section 570(2) was issued in relation to the goods and, if a direction was issued, the reference number of the direction;
- (f) the reason why section 570(1) or (2) became applicable to the goods;
- (g) the goods description;⁸⁹
- (h) the condition of the goods;
- (i) whether the goods are dangerous goods and, if so, the UN Dangerous Goods Code applicable to the goods, or any warning markings on the goods;
- (j) whether there are any special storage requirements in relation to the goods;
- (k) in the case of perishable goods, any indicated expiry date;
- (l) in the case of goods that have been cleared, the movement reference number⁹⁰ of any clearance declaration issued in relation to the goods;
- (m) the transport document number; and
- (n) whether, to the knowledge of the person submitting the notice –
 - (i) there are any charges outstanding in respect of the goods at the time of submission of the notice; and
 - (ii) the goods are the subject of any legal proceedings.

Redirection of goods intended for removal to licensed premises (*section 584*)

27.11 If a person intends to redirect goods in terms of section 584 of the Control Act to a place other than the licensed premises determined in terms of section 580(1)(b), that person must in accordance with rule **4.17** apply to the customs authority for permission for the redirection of goods to that other place.

⁸⁹ See definition of “goods description” in rule **27.1**

⁹⁰ See definition of “movement reference number” in rule **1.1**

Please note that rule 4.17 is to be amended to also provide for applications for redirection in terms of Chapter 27.

Notification by carriers of receipt and delivery of goods to licensed premises other than state warehouse (section 580(6)(a))

27.12 A carrier that transports goods to licensed premises determined in terms of section 580(1)(b) of the Control Act, must notify the customs authority of the receipt and delivery of the goods in accordance with rule **29.35**.

Notification of receipt of goods removed to licensed premises other than state warehouse (section 580(6)(b))

27.13 (1) If goods are removed in compliance with a direction or under authority of an authorisation of the customs authority in terms of section 580(1)(b) of the Control Act to any licensed premises other than a state warehouse, the licensee of those premises must notify the customs authority of the receipt of the goods at that place in accordance with subrule (2).

(2) (a) A notification referred to in subrule (1) must within three hours of receipt of the goods be submitted to the customs authority electronically through e-filing, subject to paragraph (b).

(b) If a notification is submitted to the customs authority in paper format in circumstances where submissions in paper format are permissible,⁹¹ the notification must be –

- (i) on Form published as a rule on the SARS website for this purpose; and
- (ii) submitted to the Customs Office that serves the area in which the licensed premises to which the goods were removed are situated.

(3) A notification referred to in subrule (2) must reflect –

- (a) the customs code of the premises to which the goods were removed;
- (b) the reference number of the customs authority's direction or authorisation issued in terms of section 580(1)(b) under which the goods are delivered to those premises;

⁹¹ See section 913(4) of the Control Act.

- (c) the customs code of the carrier or other licensee that delivered the goods;
- (d) the date and time of receipt of the goods;
- (e) the reference number of the removal notice submitted to the licensee of those premises in terms of rule **27.10**;
- (f) whether the goods description⁹² on the removal notice corresponds with the goods received;
- (g) the transport document number; and
- (h) the movement reference number of any clearance declaration in relation to the goods, if applicable.

Unpacking of containers containing goods of different consignors or consignees

27.14 (1) If a consignment of goods packed in a container is to be removed in compliance with a direction or under authority of an authorisation of the customs authority in terms of section 580(1)(b) of the Control Act to any licensed premises other than a state warehouse and that container also contains a consignment of goods not affected by that direction or authorisation –

- (a) the affected consignment must be removed from the container for removal to those premises; and
- (b) the unaffected consignment in the container must be allowed to proceed in accordance with the Control Act.

(2) If subrule (1) applies, the affected consignment may be removed from the container at the terminal or the container may be removed to a container depot for such removal.

Hours for delivery of goods to licensed premises other than state warehouses

27.15 Goods may be delivered for state warehousing purposes to licensed premises referred to in section 580(1) of the Control Act only during the ordinary business hours of those premises.

Part 3: Reclaim of goods in or accounted for in state warehouses⁹³

⁹² See definition of “goods description” in rule **27.1**

Timeframe for reclaiming of goods in or accounted for in state warehouses
(section 590(1))

27.16 (1) The timeframes⁹⁴ within which goods in or accounted for in a state warehouse may in terms of section 590(1) of the Control Act be reclaimed, are as follows:

- (a) For the categories of goods reclaimed under section 590(1)(a) to (e): A period commencing on the date when the goods were received in or accounted for in the state warehouse and ending 30 calendar days after the date of publication of the list referred to in section 589(1) in which those goods are included.

Please note that section 590(1) of the Control Act will be amended to provide for a timeframe commencing when goods are received in the warehouse and not after the list is published.

- (b) For categories of goods reclaimed under section 590(1)(f):
- (i) In the case of goods in or accounted for in a state warehouse in error or without legal justification,⁹⁵ a period commencing on the date when the customs authority admits the error or absence of justification or the error or absence of justification is confirmed in administrative appeal proceedings or by a court in a final judgement and ending, subject to subrule (2), 30 calendar days after the date of publication of the list referred to in section 589(1) in which those goods are included;
- (ii) in the case of goods falling within a category referred to in section 570(1)(a)(ii), a period commencing on the date when the goods were received in or accounted for in the state warehouse until the expiry of 30 calendar days from the date of publication of the list referred to in section 589(1) in which those goods are included.

⁹³ For the reclaim of goods in or accounted for in a state warehouse on account of an attachment in terms of section 704 of the Control Act, section 51 of the Customs Duty Act or section 114 of the Excise Duty Act for purposes of establishing a lien over the goods and that are released from the lien without being disposed of, see the provisions dealing with such liens.

⁹⁴ Note that the timeframes set out in this rule may be shortened or extended in terms of section 908 or 909 of the Control Act.

⁹⁵ For instance where goods were seized or confiscated without justification or customs erroneously issues a direction in terms of section 570(2) for the state warehousing of goods. Such mistakes will usually come to light in Chapter 37 proceedings.

(2) If the ground for the state warehousing of goods is the subject of any administrative appeal or court proceedings, the period applicable to the goods in terms of subrule (1)(b)(i) ends despite that subrule 30 calendar days after –

- (a) the decision in those administrative proceedings on the matter is given; or
- (b) the court decides the matter in a final judgement.

Procedure for reclaiming goods (*section 590(1)*)

27.17 (1) If a person entitled to reclaim goods in or accounted for in a state warehouse that fall within a category referred to in section 590(1)(a) to (e) of the Control Act submits a clearance declaration, an amended clearance declaration or any other document contemplated in that section for purposes of reclaiming the goods, that clearance declaration, amended clearance declaration or other document must be –

- (a) submitted to the customs authority –
 - (i) within the timeframe referred to in rule **27.16**(1)(a); and
 - (ii) in accordance with the ordinary requirements applicable to the submission of clearance declarations, amended clearance declarations or such documents; and
- (b) supported by all documents that are ordinarily required to support such clearance declarations, amended clearance declarations or other documents.

(2) (a) If a person entitled to reclaim goods in or accounted for in a state warehouse that do not fall within a category referred to in section 590(1)(a) to (e) desires to reclaim those goods, the goods must be reclaimed under section 590(1)(f) by the submission by or on behalf of the applicant of an application –

- (i) on Form..... as may be prescribed as a rule on the SARS website for this purpose;
- (ii) within the timeframe referred to in rule **27.16**(1)(b)(i) or (ii), as may be applicable to the goods.

(b) The application must –

- (i) be submitted either electronically through e-filing to the customs authority or manually to the state warehouse where the goods are or in which the goods are accounted for; and

- (ii) in the case of goods that are claimed to have been state warehoused in error or without legal justification, be supported by evidence to that effect.

Timeframe for removal of goods successfully reclaimed (*section 591(1)*)

27.18 The timeframe within which goods in or accounted for in a state warehouse must in terms of section 591(1) of the Control Act be removed from the state warehouse or the other premises where the goods are kept, is three working days from the date the customs authority releases the goods or otherwise approves the reclaim in terms of that section.⁹⁶

Procedure for removal of goods successfully reclaimed

27.19 (1) Goods in or accounted for in a state warehouse that have been successfully reclaimed in terms of section 590(1) of the Control Act may not be removed from the state warehouse or other premises where the goods are kept unless –

- (a) the person who reclaimed the goods has given notice to the customs authority of the intended removal on Form..... as may be prescribed as a rule on the SARS website for this purpose; and
- (b) the customs authority has authorised such removal.

(2) The notification may be submitted either electronically through e-filing to the customs authority or manually to the state warehouse where the goods are or are accounted for.

(3) Goods may be removed from the state warehouse or other premises where the goods are kept only during the ordinary business hours of the state warehouse or such other premises on a working day.

(4) If the customs authority releases for home use or a customs procedure goods reclaimed in terms of section 590(1)(a) to (d) –

⁹⁶ Note that this timeframe may be shortened or extended in terms of section 908 or 909 of the Control Act.

- (a) the clearance declaration or amended clearance declaration submitted in terms of that section must be regarded to be the notification referred to in subrule (1)(a); and
- (b) the release notification issued by the customs authority in terms of section 180 must be regarded to be the authorisation referred to in subrule (1)(b).

Part 4: Removal of sold goods from state warehouses or other premises

Timeframe for removal of sold goods (section 598)

27.20 The timeframe within which goods that have been sold in terms of section 592 or 593 of the Control Act must in terms of section 598(2) be removed from the state warehouse or other premises where the goods are kept, is three working days from the date of sale of the goods.⁹⁷

Procedure for removal of sold goods

27.21 (1) Goods in or accounted for in a state warehouse that have been sold in terms of section 592 or 593 may not be removed from the state warehouse or other premises where the goods are kept unless –

- (a) the person who purchased the goods has notified the customs authority of the intended removal on Form..... as may be prescribed as a rule on the SARS website for this purpose; and
- (b) the customs authority has authorised such removal.

(2) The notification may be submitted either electronically through e-filing to the customs authority or manually to the state warehouse where the goods are or are accounted for.

(3) Goods may be removed from the state warehouse or other premises where the goods are kept only during the ordinary business hours of the state warehouse or such other premises on a working day.

⁹⁷ Note that this timeframe may be extended in terms of section 908 of the Control Act.

Part 5: Removal of goods from state warehouses or other premises disposed of otherwise than by sales

Timeframe for removal of goods disposed of otherwise than by sales (*section 596*)

27.22 The timeframe within which goods that have been disposed of in terms of section 596(1) of the Control Act must in terms of section 596(4) be removed from the state warehouse or other premises where the goods are kept as the customs authority may direct.

Procedure for removal of goods disposed of otherwise than by sales

27.23 (1) If goods in or accounted for in a state warehouse that have been donated, appropriated or made available to an organisation or organ of state in terms of section 596(1)(a), (b) or (c) of the Control Act are to be removed from the state warehouse or other premises where the goods are kept by that organisation or organ of state, those goods may not be removed unless –

- (a) the organisation or organ of state has notified the customs authority of the intended removal on Form..... as may be prescribed as a rule on the SARS website for this purpose; and
- (b) the customs authority has authorised such removal.

(2) The notification may be submitted either electronically through e-filing to the customs authority or manually to the state warehouse where the goods are or are accounted for.

(3) Goods may be removed from the state warehouse or other premises where the goods are kept only during the ordinary business hours of the state warehouse or such other premises on a working day.

Part 6: State warehouse rent

Goods on and rates at which state warehouse rent is payable (*section 575(1)(a)*)

27.24 (1) State warehouse rent contemplated in section 575(1)(a) of the Control Act must, subject to the other provisions of this Part, be paid in respect of all goods in a state warehouse.

(2) State warehouse rent is charged at the following rates:

- (a) R57 per freight ton per calendar day for all goods other than goods referred to in paragraph (b) or (c);
- (b) R2 per kilogram per calendar day for accompanied and unaccompanied baggage of persons who entered or were leaving the Republic; and
- (c) R2 per kilogram per calendar day for goods referred to in section 91(1)(g) or (h).

(3) For purposes of subrule (2) the weight or volume of goods is measured by

–

- (a) including the outer packing material used to pack, cover, protect, stow or separate goods being transported; and
- (b) in the case reusable transport equipment –
 - (i) including the pallet on which goods are stored for transport; or
 - (ii) excluding the container in which goods are stored for transport.

Additional charges for goods requiring special care or treatment (*section 575(1)(b)*)

27.25 Any additional charges contemplated in section 575(1)(b) of the Control Act for goods in a warehouse that require special care or treatment –

- (a) may not exceed the actual costs incurred by the state warehouse in providing such special care or treatment; and
- (b) is recoverable as if those charges were part of the state warehouse rent payable in respect of those goods.

Period for which state warehouse rent is charged

27.26 (1) (a) State warehouse rent for goods successfully reclaimed in terms of section 590(1) of the Control Act is charged from the day the goods were received in the state warehouse up to the day the customs authority releases the goods or otherwise approves the reclaim in terms of section 591.

(b) If those goods are not removed from the state warehouse within the period applicable to the goods in terms of rule **27.18** and section 592(1)(c) is not applied to the goods, additional rent is charged from the day following the day on which that period expires until the day the goods are removed from the state warehouse.

(c) If section 592(1)(c) is applied to those goods, this subrule ceases to apply to the goods and subrule (2) becomes applicable to the goods.

(2) (a) State warehouse rent for goods sold in terms of section 592 or 593 is charged from the day the goods were received in the state warehouse up to the day on which the goods were sold.

(b) If those goods are not removed from the state warehouse within the period applicable to the goods in terms of rule **27.20** and section 598(2)(a) is applied to the goods, additional rent is charged from the date of sale up to the day the goods are removed from the state warehouse.

(3) When calculating the number of days in the period for which state warehouse rent is payable, the number of days must be calculated inclusive of both the day on which that period started and the day on which that period ended.

Persons by whom state warehouse rent is payable

27.27 (1) State warehouse rent for goods referred to in –

- (a) rule **27.26**(1)(a) or (b) is payable by the person who successfully reclaimed the goods;
- (b) rule **27.26**(2)(a) is payable from the proceeds of the sale of the goods; or
- (c) rule **27.26**(2)(b) is payable by the purchaser of the goods.

(2) Subrule (1) must be read subject to rule **27.28**.

Circumstances in which state warehouse rent may not be recovered from persons entitled to reclaim goods

27.28 No state warehouse rent charged in respect of goods in a state warehouse may be recovered from a person entitled to reclaim the goods if the goods were removed to or secured in the state warehouse –

- (a) in error;

- (b) on account of an alleged breach⁹⁸ of the Control Act or a tax levying Act and it is established either by the customs authority, in an administrative appeal or by a court in a final judgement that –
 - (i) no such breach was committed;
 - (ii) the act or omission that was committed did not constitute such a breach; or
 - (iii) the person entitled to reclaim the goods was not a party to the breach and did not benefit or stand to benefit from the breach;
- (c) on account of a detention, seizure or confiscation of the goods and, as may be appropriate –
 - (i) the detention is terminated in terms of section 761(1)(e), (f) or (g);
 - (ii) the seizure is terminated in terms of section 764(1)(b), (c) or (d); or
 - (iii) the confiscation is withdrawn in terms of section 767(1)(b), (c) or (d);
- (d) on account of an attachment of the goods in terms of section 704 of the Control Act, section 51 of the Customs Duty Act or section 114 of the Excise Duty Act for purposes of establishing a lien over the goods and the goods are released from the lien⁹⁹ without being sold for purposes of paying the debt for which the lien was established; or
- (e) on account of an alleged contravention of legislation not administered by the Commissioner and it is established either by the authority administering that legislation or by a court in a final judgement that –
 - (i) no such contravention was committed; or
 - (ii) the act or omission that was committed did not constitute such a contravention.

Part 7: Storage fees for state warehousing of goods at premises other than state warehouses

Rates at which storage fees are payable (section 585(1))

27.29 Storage fees contemplated in section 585(1) of the Control Act charged by the licensee of licensed premises for goods retained at or removed to those premises for

⁹⁸ See definition of “breach” in section 1 of the Control Act.

⁹⁹ See for instance section 56(c) of the Customs Duty Act.

state warehouse purposes in terms of section 580(1), may not exceed the normal rates charged by that licensee for the storage of goods on those premises.

Persons by whom storage fees are payable (section 585(2)(a))

27.30 (1) Storage fees charged by the licensee of licensed premises for goods retained at or removed to those premises in terms of section 580(1) of the Control Act for state warehouse purposes, are –

- (a) in the case of goods successfully reclaimed in terms of section 590(1), payable by the person who reclaimed the goods; or
- (b) in the case of goods sold in terms of section 592 or 593, payable from the proceeds of the sale of the goods: Provided that if additional storage fees become payable due to a failure to remove the goods from those premises within the timeframe applicable to the goods in terms of rule **27.20** and section 598(2)(a) is applied to the goods, the additional storage fees are payable by the purchaser.

(2) Subrule (1) must be read subject to rule **27.31**.

Circumstances in which storage fees may not be recovered from persons entitled to reclaim goods

27.31 No storage fees charged in respect of goods retained at or removed to licensed premises for state warehouse purposes may be recovered from a person entitled to reclaim the goods if the goods were retained at or removed to those premises –

- (a) in error;
- (b) on account of an alleged breach¹⁰⁰ of the Control Act or a tax levying Act and it is established either by the customs authority, in an administrative appeal or by a court in a final judgement that –
 - (i) no such breach was committed;
 - (ii) the act or omission that was committed did not constitute such a breach; or

¹⁰⁰ See definition of “breach” in section 1 of the Control Act.

- (iii) the person entitled to reclaim the goods was not a party to the breach and did not benefit or stand to benefit from the breach;
- (c) on account of a detention, seizure or confiscation of the goods and, as may be appropriate –
 - (i) the detention is terminated in terms of section 761(1)(e), (f) or (g);
 - (ii) the seizure is terminated in terms of section 764(1)(b), (c) or (d); or
 - (iii) the confiscation is withdrawn in terms of section 767(1)(b), (c) or (d);
- (d) on account of an attachment of the goods in terms of section 704 of the Control Act, section 51 of the Customs Duty Act or section 114 of the Excise Duty Act for purposes of establishing a lien over the goods and the goods are released from the lien without being sold for purposes of paying the debt in respect of which the lien was established; or
- (e) on account of an alleged contravention of legislation not administered by the Commissioner and it is established either by the authority administering that legislation or by a court in a final judgement that –
 - (i) no such contravention was committed; or
 - (ii) the act or omission that was committed did not constitute such a contravention.

Part 8: Record keeping of goods in or accounted for in state warehouses

State warehouse inventory registers (section 576)

- 27.32** (1) The customs officer or licensee in charge of a state warehouse must keep and maintain a state warehouse register for purposes of keeping record of –
- (a) all goods received in that state warehouse in terms of section 570(3) of the Control Act;
 - (b) all goods accounted for in that state warehouse in terms of section 580(3);
 - (c) all goods removed from –
 - (i) that state warehouse, in the case of goods referred to in paragraph (a); and
 - (ii) the licensed premises where the goods are kept, in the case of goods referred to in paragraph (b);
 - (d) any goods in the state warehouse or on those premises that are damaged or destroyed or that have become lost or unaccounted for.

- (2) A state warehouse register must –
 - (a) be computer based; and
 - (b) reflect the information referred to in rule **27.34**.

Unique state warehouse inventory codes

27.33 (1) The customs officer or licensee in charge of a state warehouse must for purposes of identifying goods in or accounted for in that state warehouse assign a unique state warehouse inventory code to each consignment of those goods –

- (a) in the case of goods in that state warehouse, upon receipt of the goods in the state warehouse; or
- (b) in the case of goods accounted for in that state warehouse, upon receipt of the retention notice referred to in rule **27.9** or the removal notice referred to in rule **27.10** submitted in respect of that consignment.

(2) The unique state warehouse inventory code assigned to a consignment of goods must be –

- (a) recorded in the state warehouse register; and
- (b) displayed on that consignment by means of marking the goods or attaching a label to the goods.

Information to be recorded in state warehouse registers

27.34 (1) The state warehouse register kept in terms of rule **27.32** must reflect the following information in respect of each consignment of goods received in or accounted for in the state warehouse:

- (a) Whether the goods were –
 - (i) removed to the state warehouse;
 - (ii) retained for state warehousing purposes at the licensed premises where the goods were; or
 - (iii) removed for state warehousing purposes to licensed premises other than a state warehouse;
- (b) the customs code or name and contact details of the person who –

- (i) in compliance with section 570(1) or a direction issued in terms of section 570(2) was responsible for removing the goods to the state warehouse;
 - (ii) in compliance with a direction or under authority of an authorisation issued in terms of section 580(1)(a) was responsible for retaining the goods for state warehousing purposes at the licensed premises where the goods were; or
 - (iii) in compliance with a direction or under authority of an authorisation issued in terms of section 580(1)(b) was responsible for removing the goods for state warehousing purposes to licensed premises other than a state warehouse;
- (c) in the case of paragraph (b)(ii) or (iii), the reference number of the direction or authorisation under which the goods were for state warehousing purposes retained at or removed to those premises;
- (d) in the case of goods removed to a state warehouse or to licensed premises that are not a state warehouse –
- (i) the customs code of the carrier or other licensee that delivered the goods to the state warehouse or those premises; and
 - (ii) the date on which the goods were received in the state warehouse or those premises;
- (e) in the case of goods retained for state warehousing purposes on the licensed premises where the goods were, the date from which the goods were retained;
- (f) the reason why the goods became subject to state warehousing;
- (g) in the case of goods imported or that were destined for export from the Republic –
- (i) the customs code of the importer, exporter or owner of the goods and, if the importer, exporter or owner is not located in the Republic, also of the registered agent in the Republic of the importer, exporter or owner;
 - (ii) if the importer or exporter is a traveller, the traveller's name, contact details and passport number or identity document number; or
 - (iii) if the importer, exporter or owner is unknown, a statement to that effect;

- (h) in the case of goods that were seized or confiscated, the name and contact details of the owner or person in whose possession the goods were;
- (i) in the case of goods manufactured in the Republic to which the Excise Duty Act applies, the excise code of the manufacturer;
- (j) in the case of lien goods referred to in section 570(1)(b), a statement to that effect and the name and contact details of the owner of the goods;
- (k) the goods description;¹⁰¹
- (l) the condition of the goods;
- (m) whether the goods are dangerous goods and, if so, the UN Dangerous Goods Code applicable to the goods, or any warning markings on the goods;
- (n) whether there are any special storage requirements in relation to the goods;
- (o) in the case of perishable goods, any indicated expiry date;
- (p) in the case of goods that have been cleared, the movement reference number¹⁰² of the clearance declaration issued in relation to the goods;
- (q) the transport document number in relation the goods;
- (r) the shelf or block number where the goods are stored in the state warehouse or the licensed premises on which the goods were retained or to which the goods were removed;
- (s) whether there are any taxes, administrative penalties or interest outstanding or payable in connection with the goods and, if so –
 - (i) the type of tax or penalty; and
 - (ii) the amount outstanding or payable;
- (t) whether there are any expenses incurred by the Commissioner outstanding or payable in connection with the goods and, if so –
 - (i) the type of expense incurred; and
 - (ii) the amount outstanding or payable;
- (u) whether there are any charges or expenses referred to in section 595(1)(d), (e), (f) or (g) outstanding or payable in connection with the goods and, if so –
 - (i) particulars of the charge or expense;
 - (ii) the amount outstanding or payable; and
 - (iii) the person to whom payable; and

¹⁰¹ See definition of “goods description” in rule 27.1

¹⁰² See definition of “movement reference number” in rule 1.1

- (v) whether the goods are the subject to any administrative appeal or judicial proceedings.

(2) If a consignment of goods is to be removed from a state warehouse or the licensed premises where the goods are kept for state warehousing purposes, the following additional information must be recorded in the state warehouse register in respect of the relevant consignment of goods:

- (a) In the case of goods successfully reclaimed in terms of section 590(1) –
 - (i) the customs code or name and identity or passport number¹⁰³, and contact details, of the person who successfully reclaimed the goods;
 - (ii) the reference number of any release notification or other approval issued by the customs authority in terms of section 591;
 - (iii) the amount of each claim referred to in section 591(2);
 - (iv) whether all those claims have been paid;
 - (v) the reference number of the authorisation issued by the customs authority in terms of rule **27.19** for the removal of the goods;
- (b) in the case of goods that have been sold –
 - (i) the date of sale;
 - (ii) the name and contact details of the purchaser;
 - (iii) the purchase price;
 - (iv) if the goods were sold conditionally, details of the condition subject to which the goods were sold;
 - (v) date when the purchase price was paid in full;
 - (vi) whether the purchase price was sufficient to pay all claims referred to in section 595(1) and, if not, the amount on each claim that remained unpaid; and
 - (vii) the reference number of the authorisation issued by the customs authority in terms of rule **27.21** for the removal of the goods;
- (c) in the case of goods disposed of in terms of section 596 –
 - (i) the manner in which the goods are to be disposed of;

¹⁰³ In the case of a natural person.

- (ii) if the goods are donated, appropriated or made available to an organisation or organ of state, the name and contact details of that organisation or organ of state; and
- (iii) the reference number of the authorisation issued by the customs authority in terms of rule **27.23** for the removal of the goods;
- (d) the date of removal of the goods;
- (e) the customs code or name and identity or passport number, and contact details, of the person who physically removes the goods; and
- (f) the means of transport used for the removal, and if by vehicle, the registration number of the vehicle;

(3) If goods in a state warehouse or on other premises where goods are kept for state warehousing purposes are damaged or destroyed or become lost or unaccounted for, the following additional information must be recorded in the state warehouse register in respect of the relevant consignment of goods:

- (a) Whether the goods are damaged, destroyed, lost or unaccounted for;
- (b) the cause, distinguishing between –
 - (i) in the case of goods that were damaged, destroyed or lost –
 - (aa) a natural occurrence;
 - (bb) an accident;
 - (cc) a hostile act by another person; and
 - (dd) the inherent characteristics of the goods; and
 - (ii) in the case of goods that have become unaccounted for –
 - (aa) a short delivery;
 - (bb) an administrative error in any documents relating to the goods; and
 - (cc) another justifiable cause;
- (c) any explanation as to why the event occurred;
- (d) whether the damaged goods or any scrap that remained in the case of destroyed goods are capable of being economically sold; and
- (e) whether, and when, steps were taken to report the matter in terms of Chapter 25 of the Control Act.¹⁰⁴

¹⁰⁴ Note that Chapter 25 does not apply to goods in a state warehouse operated by the

Record to be kept of all supporting and other documents

27.35 The customs officer or licensee in charge of a state warehouse must in addition to the information referred to in rule **27.34**, keep record of all documents pertaining to goods received in or accounted for in the state warehouse from the time those goods are received in or accounted for in the state warehouse until the goods are removed from the state warehouse or the licensed premises on which the goods were retained or to which the goods were removed for state warehouse purposes, including all –

- (a) supporting documents referred to in section 571(2) or 581(b) of the Control Act;
- (b) removal notices received in terms of section 571(1) or 581(b);
- (c) retention notices received in terms of rule **27.9**;
- (d) receipt notices referred to in section 570(5)(b) or 580(6)(b);
- (e) invoices in relation to expenses or charges incurred in relation to the goods;
- (f) release notifications or other approvals issued by the customs authority with regard to goods successfully reclaimed in terms of section 590(1); and
- (g) authorisations issued in terms of rule **27.19**, **27.21** or **27.23** for the removal of the goods from a state warehouse or premises where the goods are kept for state warehousing purposes.

Reports to be submitted in connection with goods in state warehouses (*section 577*)

27.36 (1) (a) A report contemplated in section 577 of the Control Act must be submitted to the customs authority electronically through e-filing subject to paragraph (b).

(b) If a report referred to in paragraph (a) is submitted to the customs authority in paper format in circumstances where submissions in paper format are permissible,¹⁰⁵ the submission must be made to the Customs Office that serves the area in which the state warehouse is situated.

Commissioner. See section 540(2)(a).

¹⁰⁵ See section 913(4) of the Control Act.

(2) A report referred to in subrule (1) must be in the form of a computer extract of the state warehouse register contemplated in rule **27.34** covering all entries in the register relating to goods during the relevant reporting period.

Part 9: Miscellaneous matters

Timeframe for compliance with conditions of sale (section 597)

27.37 The timeframe for purposes of section 597 of the Control Act is within five calendar days from the date of sale of the goods.¹⁰⁶

Application to pay over surplus remaining after meeting of claims (section 595(2))

27.38 (1) An application referred to in section 595(2) of the Control Act must be submitted to the customs authority on Formas published as a rule on the SARS website for this purpose.¹⁰⁷

- (2) An application referred to in subrule (1) must reflect –
- (a) the customs code or name and identity or passport number,¹⁰⁸ and contact details of the applicant;
 - (b) the banking details of the applicant;
 - (c) the customs code of the state warehouse or licensed premises where the goods were before being sold;
 - (d) the lot number of the goods on the list published in terms of section 589;
 - (e) a statement that the applicant was the owner of the goods; and
 - (f) a request to pay over any surplus of the proceeds of sale of the goods;

(3) If the customs authority so requests, proof of ownership referred to in section 595(2)(a) must within the timeframe indicated in the request be submitted to the customs authority.

¹⁰⁶ Note that application may be made in terms of rule **41**...for extension of this timeframe in cases where, for example, a condition of sale requires the obtaining of a permit.

¹⁰⁷ See section 912(2) of the Control Act for manner of submission.

¹⁰⁸ In the case of a natural person.

Timeframe within which imported goods excluded from clearance requirements must be claimed to avoid state warehousing (*section 570(1)(a)(ii)*)

27.39 To avoid being state warehoused, goods referred to in section 570(1)(a)(ii)¹⁰⁹ of the Control Act must be claimed within three working days after having been off-loaded from the means of transport in which the goods were imported into the Republic.

Measures to ensure effective state warehouse operation and control

27.40 The customs officer or licensee in charge of a state warehouse or the licensee of premises where goods are state warehoused must ensure that –

- (a) goods in the state warehouse or on those premises are stored in a safe and secure environment and that adequate security measures are taken for the protection of the goods, including –
 - (i) locking and guarding of buildings;
 - (ii) exercising control over any keys to buildings on the premises;
 - (iii) monitoring and controlling access to the premises and requiring visitors to sign an admittance register and to display visitor's permits; and
 - (iv) implementing any additional safety and control measures in respect of high value or high risk goods;
- (b) goods are labelled clearly and accurately and stored and arranged in an orderly manner that facilitates stock checks which must be performed on a regular basis;
- (c) that racks or shelves are numbered and floors are marked according to rows to enable the whereabouts of specific goods to be easily determined;
- (d) goods of a perishable or dangerous nature are stored in conditions appropriate to the nature of the goods; and
- (e) suitable handling and loading equipment and other tools required for wrapping and opening of packages are available on the premises.

¹⁰⁹ These goods consist of accompanied and unaccompanied baggage and low value or no value goods not required to be cleared.

CHAPTER 28

REGISTRATION

Definitions

Note: All definitions except “applicant”, “application”, “AGOA”, “EC”, “EFTA”, “GSP”, “TDCA”, “Professional Customs Registration Examination” and “sufficient knowledge” to be moved to rule 1.1

28.1 In this Chapter, unless the context otherwise indicates –

“AGOA” means the African Growth and Opportunity Act (US);

“applicant” means a person who intends to submit or has submitted an application;

“application” means an application in terms of Chapter 28 of the Control Act for –

- (a) registration;
- (b) the renewal of a registration; or
- (c) the amendment of a registration certificate;

“casual exporter” means a person who exports goods from the Republic on not more than three occasions in any calendar year where the customs value of the goods on none of those occasions exceeds R50 000, but excludes such an exporter who –

- (a) as a traveller or crew member exports goods as part of his or her accompanied or unaccompanied baggage when leaving the Republic;¹¹⁰ Provided that this exclusion does not apply to a traveller or crew member in respect of baggage items that are commercial goods; or
- (b) exports through the South African Post Office an international postal article with a customs value not exceeding an upper value determined in terms of section 493(2) or 494(2) of the Control Act;¹¹¹

¹¹⁰ Rule **28.23** applies to baggage items other than commercial goods exported by travellers and crew.

¹¹¹ Rule **28.24** applies to international postal articles exported through the South African Post Office.

“casual importer” means a person who imports goods on not more than three occasions in any calendar year where the customs value of the goods imported on none of those occasions exceeds R50 000, but excludes such an importer who –

- (a) as a traveller or crew member imports goods as part of his or her accompanied or unaccompanied baggage when entering the Republic;¹¹² Provided that this exclusion does not apply to a traveller or crew member in respect of baggage items that are commercial goods; or
- (b) imports through the South African Post Office an international postal article with a customs value not exceeding an upper value determined in terms of section 493(2) or 494(2) of the Control Act;¹¹³

“EFTA” means the European Free Trade Association consisting of –

- (a) the Republic of Iceland;
- (b) the Principality of Liechtenstein;
- (c) the Kingdom of Norway; and
- (d) the Swiss Confederation;

“goods of South African origin” means goods that qualify in terms of a tax levying Act as goods of South African origin;

“GSP” means a non-reciprocal generalised system of preferences implemented by a country in relation to goods of South African origin exported to that country;

“local”, in relation to an applicant or a licensee or registered person, means an applicant or a licensee or registered person located in the Republic within the meaning of section 1(3)(a) of the Control Act;

“non-local”, in relation to an applicant or a licensee or registered person, means an applicant or a licensee or registered person not located in the Republic within the meaning of section 1(3)(a) of the Control Act;

¹¹² Rule **28.23** applies to baggage items other than commercial goods imported by travellers and crew.

¹¹³ Rule **28.24** applies to international postal articles imported through the South African Post Office.

“preferential tariff treatment”, in relation to the export of goods of South African origin, means the preferential treatment which goods of South African origin receive when exported to a country which –

- (a) is a party to an international trade agreement in terms of which goods of South African origin may be exported to that country duty free or under preferential tariffs; or
- (b) implements a GSP in terms of which goods of South African origin may be exported to that country duty free or under preferential tariffs;

“public officer”, in relation to a juristic entity which is a company as defined in the Tax Administration Act, means the public officer of the entity within the meaning of section 246 of that Act;

“Professional Customs Registration Examination” means the examination referred to in rule **28.25** to establish whether a person has sufficient knowledge of applicable customs laws, guides, interpretive notes, operational manuals and practices –

- (a) administered by –
 - (i) the customs authority; or
 - (ii) a recognised professional body for the purposes of the National Qualifications Framework Act, 2008 (Act 67 of 2008), with the permission of the customs authority and subject to such conditions as the customs authority may determine; and
- (b) the details of which are available on the SARS website or the website of that professional body;

“registration type”, in relation to –

- (a) importers that may or must register in terms of section 603, means a type of registration that may in terms of rule **28.2** be issued to the different categories of those importers;
- (b) exporters that may or must register in terms of section 603, means a type of registration that may in terms of rule **28.3** be issued to the different categories of those exporters;

- (c) persons acquiring ownership of goods under a customs procedure that must register in terms of section 604, means a type of registration that may in terms of rule **28.4** be issued to those persons;
- (d) agents for persons not located in Republic that must register in terms of section 605, means a type of registration that may in terms of rule **28.5** be issued to those persons;
- (e) electronic users that must register in terms of section 606, means a type of registration that may in terms of rule **28.6** be issued to those electronic users;
or
- (f) producers of goods of South African origin that must register in terms of **28.7(1)**, means a type of registration that may in terms of rule **28.7(2)** be issued to those producers;

“importer for SEZ CCA development” means a person who –

- (a) is the holder of a special economic zone operator permit issued in terms of the Special Economic Zones Act; and
- (b) imports goods for purposes of developing an area within the special economic zone that is or is to become a customs controlled area;

“sufficient knowledge”, in relation to customs laws, guides, interpretive notes, operational manuals and practices, means to pass the relevant Professional Customs Registration Examination;

“TDCA” means the Agreement on Trade, Development and Cooperation between the European Community and their Member States and the Republic.

Part 1: Registration types

Registration types for importers (section 603)

28.2 The registration types that may in terms of section 603 of the Control Act be issued for the registration of persons as importers are:

- (a) registration as a local general importer;
- (b) registration as a non-local general importer;
- (d) registration as a CTC importer;

- (e) registration as an importer for SEZ CCA development; or
- (f) registration as a casual importer.

Registration types for exporters (*section 603*)

28.3 The registration types that may in terms of section 603 of the Control Act be issued for the registration of persons as exporters are:

- (a)
 - (i) registration as a local general exporter;
 - (ii) registration as a non-local general exporter; or
 - (iii) registration as a CTC exporter;
- (b)
 - (i) registration as a local exporter for SACU-EFTA preferential tariff treatment;
 - (ii) registration as a non-local exporter for SACU-EFTA preferential tariff treatment;
 - (iii) registration as an approved local exporter for SACU-EFTA preferential tariff treatment; or
 - (iv) registration as an approved non-local exporter for SACU-EFTA preferential tariff treatment;
- (c)
 - (i) registration as a local exporter for SADC preferential tariff treatment; or
 - (ii) registration as a non-local exporter for SADC preferential tariff treatment;
- (d)
 - (i) registration as a local exporter for TDCA preferential tariff treatment;
 - (ii) registration as a non-local exporter for TDCA preferential tariff treatment;
 - (iii) registration as an approved local exporter for TDCA preferential tariff treatment; or
 - (iv) registration as an approved non-local exporter for TDCA preferential tariff treatment;
- (e) registration as a local or non-local exporter for preferential tariff treatment under AGOA's GSP;
- (f)
 - (i) registration as a local exporter for preferential tariff treatment under Russia's GSP; or
 - (ii) registration as a non-local exporter for preferential tariff treatment under Russia's GSP;

- (g) (i) registration as a local exporter for preferential tariff treatment under Norway's GSP; or
- (g) (ii) registration as a non-local exporter for preferential tariff treatment under Norway's GSP;
- (h) (i) registration as a local exporter for preferential tariff treatment under Turkey's GSP; or
- (h) (ii) registration as a non-local exporter for preferential tariff treatment under Turkey's GSP; or
- (i) registration as a casual exporter.

Registration types for persons acquiring ownership of goods whilst under customs procedures (*section 604*)

28.4 The registration types that may in terms of section 604 of the Control Act be issued for the registration of persons acquiring ownership of goods whilst under a customs procedure are:

- (a) registration as a local person acquiring ownership of goods under a customs procedure; or
- (b) registration as a non-local person acquiring ownership of goods under a customs procedure.

Registration types for agents of non-local licensees and registered persons (*section 605*)

28.5 The registration types that may in terms of section 605 of the Control Act be issued for the registration of persons as agents in the Republic for non-local licensees or registered persons are:

- (a) registration as an agent for non-local importers;
- (b) registration as an agent for –
 - (i) non-local general exporters; or
 - (ii) non-local exporters of any other type;
- (c) registration as an agent for non-local persons acquiring ownership of goods under a customs procedure;
- (d) registration as an agent for non-local carriers; or
- (e) registration as an agent for non-local searchers of or for abandoned wreck.

Registration types for electronic users (*section 606*)

28.6 The registration types that may in terms of section 606 of the Control Act be issued for the registration of persons as electronic users are:

- (a) registration as an electronic user (e-filing); or
- (b) registration as an electronic user (Electronic Data Interchange).

Registration of producers of South African goods of origin and registration types (*section 607*)

28.7 (1) No product may be certified as South African goods of origin for purposes of export under preferential treatment unless the producer¹¹⁴ of that product is in relation to that product registered as a producer of South African goods of origin.

(2) The registration types that may in terms of subrule (1) be issued for the registration of persons as producers of South African goods of origin are:

- (a) registration as a South African producer of origin for exports under SACU-EFTA Agreement;
- (b) registration as a South African producer of origin for exports under SADC Agreement;
- (c) registration as a South African producer of origin for exports under TDCA;
- (d) registration as a South African producer of origin for exports under AGOA's GSP;
- (e) registration as a South African producer of origin for exports under Russia's GSP;
- (f) registration as a South African producer of origin for exports under Norway's GSP; or
- (g) registration as a South African producer of origin for exports under Turkey's GSP.

Part 2: Rules generally regulating all applications for registration or renewal or amendment of existing registrations

¹¹⁴ Manufacturers of goods are included under the definition of "producer" in section 1 of the Control Act.

Persons who may apply for registration or renewal or amendment of existing registrations (*section 608*)

28.8 (1) (a) Any person¹¹⁵ may apply for registration of any registration type, subject to subrules (2), (3), (4) and (5).¹¹⁶

(b) Only a registered person may apply for the renewal or amendment of that person's registration, subject to subrules (2), (3), (4) and (5).

(2) (a) An application by a natural person may be made either by that person personally or by another person acting on that person's behalf.

(b) No licensed customs broker or registered agent may make an application on behalf of another person.

(c) An applicant who is a natural person with limited contractual capacity must be assisted by his or her guardian, curator or trustee, subject to subrule (5).

(3) An application by a juristic entity¹¹⁷ may be made on behalf of the entity, if the applicant is –

- (a) a company or co-operative, by a director or manager, or the public officer, of the company or cooperative;
- (b) a close corporation or partnership, by a member of or partner in or a manager, or the public officer, of the close corporation or partnership;
- (c) an association, club or other body of persons, by the chairperson or manager, or the public officer, of that association, club or other body of persons;
- (d) a trust or trust fund, by the administrator or trustee of the trust or trust fund;
- (e) an entity referred to in paragraph (a) to (d) in liquidation or under judicial management, by the liquidator or judicial manager of the entity;
- (f) the estate of a deceased or insolvent person, by the executor or administrator of the estate; or
- (g) an organ of state, by an official of that organ of state in an executive position.

¹¹⁵ Note that "person" is defined in section 1 of the Act to include a natural person, a juristic entity, an organ of state and an official of an organ of state.

¹¹⁶ Although any person can apply for registration of any type, it should be noted that the customs authority is obliged in terms of section 610(1) of the Control Act to refuse certain applications, such as those where the applicant is in terms of a provision of the Act not entitled to the registration type applied for.

¹¹⁷ See definition of "juristic entity" in section 1 of the Act.

(4) A person applying on behalf of an applicant in terms of subrule (2) or (3) must act in accordance with a written authorisation granted by the applicant to that person.

(5) A person under the age of 18 years may apply for registration only with the assistance of his or her guardian unless that person is emancipated by order of a court.

Application for registration and renewal or amendment of existing registrations (*section 608*)

28.9 (1) (a) An application by a person for registration or for the renewal or amendment of an existing registration must be submitted to the customs authority electronically through e-filing, subject to paragraph (b).

(b) If an application referred to in paragraph (a) is submitted to the customs authority in paper format in circumstances where submissions in paper format are permissible,¹¹⁸ the application –

- (i) must be on the form as published as a rule on the SARS website for the relevant registration; and
- (ii) may be submitted to any Customs Office.

(2) An application referred to in subrule (1) must, subject to subrule (4), state the following:

- (a) Particulars of the applicant, which must include –
 - (i) if the applicant is an individual –
 - (aa) his or her full name;
 - (bb) every other name under which the applicant conducts business;
 - (cc) date of birth and identity document or passport number;
 - (dd) citizenship; and
 - (ee) contact details, including physical and postal addresses in the Republic or elsewhere; or
 - (ii) if the applicant is a juristic entity –

¹¹⁸ See for instance sections 608(e) and 913(4) of the Control Act.

- (aa) its registered or official name;
 - (bb) every name under which the applicant conducts business;
 - (cc) the entity type;
 - (dd) its registration number or the number of its founding document, indicating whether the entity is incorporated, registered or recognised in terms of the laws of the Republic or another country, and if another country, which country;
 - (ee) date of registration, incorporation or recognition;
 - (ff) its contact details, including its physical and postal addresses in the Republic or elsewhere; and
 - (gg) the name and other details listed in subparagraph (i)(bb) to (ee) of a natural person applying on behalf of the entity;
- (b) full details of the applicant's bank account in the Republic, if the applicant is located in the Republic;
 - (c) the applicant's –
 - (i) income tax number; and
 - (ii) value-added tax number;
 - (d) expiry date of the applicant's tax clearance certificate;
 - (e) the location and physical address of the place where the records of the applicant's business as a registered person are or will be kept;
 - (f) whether the application is for –
 - (i) registration;
 - (ii) the renewal of an existing registration; or
 - (iii) the amendment of a registration;
 - (g) in the case of an application for a new registration –
 - (i) the registration category and type applied for;
 - (ii) if for the registration of a person not located in the Republic, the name and customs code of the applicant's registered agent in the Republic;¹¹⁹
 - (iii) if for the registration of a person as a CTC importer or exporter, the customs code of the cross-border transmission line or cross-border pipe line through which the CTC will be imported or exported; and

¹¹⁹ See sections 1(3)(a) and 605 of the Control Act.

- (iv) if the applicant intends to make use of the services of a customs broker, the name and customs code of the applicant's customs broker;
- (h) in the case of an application for renewal of an existing registration –
 - (i) the registration category and type of the existing registration; and
 - (ii) the name and customs code of the registered person; and
- (i) in the case of an application for the amendment of a registration certificate –
 - (i) the particulars referred to in paragraph (h);
 - (ii) full particulars of the amendment applied for; and
 - (iii) motivated reasons for the amendment.

(3) (a) A person may in the same application apply for more than one registration type.

(b) A registered person may in the same application apply for the renewal or amendment of more than one existing registration of which that person is the holder.

(4) Subrule (2) does not apply to an application for registration of a person as a casual importer or exporter,¹²⁰ and such an application must state the following:

- (a) Particulars of the applicant, which must include –
 - (i) if the applicant is an individual –
 - (aa) his or her full name;
 - (bb) date of birth and identity document or passport number; and
 - (cc) contact details, including physical and postal addresses in the Republic; or
 - (ii) if the applicant is a juristic entity –
 - (aa) its registered or official name;
 - (bb) the entity type;
 - (cc) its registration number or the number of its founding document, indicating whether the entity is incorporated, registered or recognised in terms of the laws of the Republic or another country, and if another country, which country; and

¹²⁰ See also rule **28.22**.

- (dd) its contact details, including its physical and postal addresses in the Republic;
- (b) the applicant's –
 - (i) income tax number; and
 - (ii) value-added tax number; and
- (c) if the applicant intends to make use of the services of a customs broker, the name and customs code of the applicant's customs broker.

Application for new registration or renewal of registration for SACU-EFTA Agreement

28.10 In addition to complying with the other requirements of this Part, no person may submit an application for –

- (a) a new registration as an approved local or non-local exporter for SACU-EFTA preferential tariff treatment, unless the applicant –
 - (i) is the holder of a registration as a local or non-local exporter for SACU-EFTA preferential tariff treatment;
 - (ii) has exported at least 12 shipments per annum of goods of South African origin under that registration; and
 - (iii) has a record of compliance with the SACU-EFTA Agreement; or
- (b) renewal of registration of an existing registration as an approved local or non-local exporter for SACU-EFTA preferential tariff treatment, unless the applicant –
 - (i) has exported at least 12 shipments per annum of goods of South African origin under that registration; and
 - (ii) has a record of compliance with the SACU-EFTA Agreement.

Applications for new registration or renewal of registration for TDCA

28.11 In addition to complying with the other requirements of this Part, no person may submit an application for –

- (a) a new registration as an approved local or non-local exporter for TDCA preferential tariff treatment, unless the applicant –
 - (i) is the holder of a registration as a local or non-local exporter for TDCA preferential tariff treatment;

- (ii) has exported at least 12 shipments per annum of goods of South African origin under that registration; and
 - (iii) has a record of compliance with the TDCA; or
- (b) renewal of registration of an existing registration as an approved local or non-local exporter for TDCA preferential tariff treatment, unless the applicant –
- (i) has exported at least 12 shipments per annum of goods of South African origin under that registration; and
 - (ii) has a record of compliance with the TDCA.

Application for registration or renewal of registration of agents of non-local licensees or registered persons (*section 626(a)*)

28.12 (1) In addition to complying with the other requirements of this Part, no person may submit an application for registration or the renewal of an existing registration to act as the agent in the Republic of a non-local licensee or registered person as contemplated in section 605(1) of the Control Act unless the applicant, or another person within the applicant's organisation contemplated in rule **28.25**, has sufficient knowledge of customs laws, guides, interpretive notes, operational manuals and practices relating to the business of such an agent.

(2) An application referred to in subrule (1) must be accompanied by a document listing the name and identity or passport number of each person within the applicant's organisation who has completed the relevant Professional Customs Registration Examination successfully.

Documents to support all applications for registration and renewal or amendment of existing registrations (*section 609*)

28.13 (1) An application for registration of any registration type or for the renewal or amendment of an existing registration by a person located in the Republic must be supported by the following documents:

- (a) A document confirming the applicant's banking details, including the name of the bank, the account holder's name, the account type and number, and the branch code, which may be –
 - (ii) a bank certified original bank statement or a legible bank certified copy of an original bank statement;

- (ii) a bank certified original auto bank statement; or
 - (iii) an original letter from the applicant's bank on an official bank letterhead;
- (b) the original or a certified copy of –
 - (i) a municipal or fixed line telephone account issued to the applicant to confirm the applicant's physical address; and
 - (ii) a telephone account or an account issued to the applicant to confirm the applicant's telephone contact details;
- (c) if the applicant is a juristic entity, a certified copy of the founding document or any certificate issued in terms of the laws of the Republic or of another country certifying that the applicant is incorporated, registered or recognised in terms of the laws of the Republic or that other country;
- (d) a certified copy of the identity document or passport proving identity and citizenship –
 - (i) if the applicant is a natural person, of the applicant;
 - (ii) if the applicant is a company or cooperative, of the managing director, the financial director and every other director, and of the public officer of the company or cooperative;
 - (iii) if the applicant is a close corporation or partnership, of the public officer and every member or partner in the close corporation or partnership;
 - (iv) if the applicant is a trust or trust fund, of the trustee or administrator of the trust or trust fund;
 - (v) if the applicant is an association, a club or any other body, of the chairperson or manager, and of the public officer of the association, club or other body;
 - (vi) if the applicant is an entity referred to in subparagraph (i) to (v) in liquidation or under judicial management, of the liquidator or judicial manager of the entity;
 - (vii) if the applicant is the estate of a deceased or insolvent person, the executor or administrator of the estate; or
 - (viii) if the applicant is an organ of state, the official to whom the function in respect of the activity for which registration is required, is delegated;
- (e) a certified copy of the authorisation authorising a person contemplated in rule **28.8(4)** to act on behalf of the applicant;

- (f) a certified copy of the identity document or passport of an authorised person referred to in paragraph (e), if not already required in terms of paragraph (d);
- (g) if the applicant applies for registration as an agent for non-local licensees or registered persons –
 - (i) a certified copy of the agency contract between the applicant and the non-local licensee or registered person; and
 - (ii) if the non-local licensee or registered person is a juristic entity, a certified copy of the founding document or any certificate issued in terms of the laws of the country where the non-local licensee or registered person is incorporated, registered or recognised certifying such incorporation, registration or recognition;
- (h) if the applicant applies for registration as a CTC importer or exporter, a certified copy of any lease agreement or other agreement whereby the applicant will import or export the CTC through a cross-border transmission line or cross-border pipeline; and
- (i) if the applicant applies for registration as an importer for SEZ CCA development, a certified copy of the site and layout plan of the customs controlled area within the special economic zone showing the exact demarcated area to be developed by imported goods.

(2) Certified copies of any documents referred to in subrule (1) may not be older than three months.

(3) An applicant must on request by the customs authority make available to it any information, books, accounts and other documents necessary 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 is sought.

Disclosure of circumstances that may affect granting of application (*section 610*)

28.14 (1) An applicant must for purposes of section 610(2) of the Control Act disclose whether –

- (a) the applicant or an employee of the applicant in a managerial position, or if

the applicant is a juristic entity, a director, administrator or trustee of the applicant, has during the five years preceding the application—

- (i) committed a breach of the Act, a tax levying Act or the Customs and Excise Act, 1964, in a material respect;
 - (ii) been convicted of an offence under the Act, a tax levying Act or the Customs and Excise Act, 1964; or
 - (iii) been convicted of an offence involving fraud or dishonesty; or
 - (iv) was insolvent or in liquidation or under judicial management, as the case may be; or
- (b) the tax matters of the applicant are in order.

(2) If any of the circumstances referred to in subrule (1) applies in respect of the application, the applicant must furnish full details with the application.

Supporting and certain other documents to be submitted or made available to customs authority on request

28.15 An applicant must on request by the customs authority –

- (a) submit to it any documents required in terms of this Part to support an application; and
- (b) make available to it any information, books, accounts and other documents necessary for verifying any statements made by the applicant in the application.

Part 3: Registration conditions

General conditions subject to which registrations are issued (*section 613(1)*)

28.16 (1) All registrations are subject to the following general conditions:

- (a) The registered person may not authorise or allow any other person to use on the registered person's behalf the customs code issued by the customs authority to the registered person, except where expressly required or permitted in terms of these Rules.
- (b) The registered person must whenever transacting business relating to the purpose for which that person was registered, indicate that customs code on any document issued by that person, including on –

- (i) any communication to the customs authority or another organ of state; and
 - (ii) any authorisation issued by the registered person to any registered agent or customs broker acting on behalf of the registered person;
- (c) The name of the registered person as reflected on the registration certificate must be prominently displayed on a sign at each business premises where the registered person conducts business relating to the purpose for which the registration was granted.
- (d) The registration certificate or a certified copy of the registration certificate, or an official SARS letter of confirmation of registration, must be kept at each such business premises.
- (e) All reports, applications, declarations, notifications and other communications that must or may be submitted by the registered person to the customs authority in terms of the Control Act or a tax levying Act must be submitted electronically through e-filing, except where a communication is submitted to the customs authority in paper format in circumstances where submissions in paper format are permissible.¹²¹ In the case of communications in paper format, the communication must be –
 - (i) on a form as published as a rule on the SARS website for the relevant communication; and
 - (ii) unless provided otherwise in these Rules or the customs authority otherwise directs in a specific case, be submitted to the Customs Office serving –
 - (aa) the customs controlled area where the goods to which the communication relates are or are destined for;
 - (bb) the area in which the business premises of the registered person or of that person's registered agent in the Republic is situated; or
 - (cc) if neither item (aa) or (bb) applies, any Customs Office.
- (f) The registered person must promptly notify the customs authority of any occurrence that may in terms of section 618 constitute a ground for suspension or withdrawal of that person's registration.

¹²¹ See for instance section 913(4) of the Control Act.

(2) Subrule (1)(b), (c), (d) and (e) does not apply to a person in relation to that person's registration as an electronic user.

Additional conditions in relation to local agents of non-local licensees and registered persons (*section 613*)

28.17 All registrations issued to agents are, in addition to those listed in rule **28.16**, subject to the following further general conditions:

- (a) The agent must maintain sufficient knowledge of customs laws, guides, interpretive notes, operational manuals and practices by having available at all times within the business at least one person contemplated in rule **28.25** who has completed the relevant Professional Customs Registration Examination.
- (b) The agent must promptly give notice in terms of rule **28.27** to the customs authority if paragraph (a) is at any stage no longer being complied with
- (c) The agent must take all reasonable steps to ensure that the agent's principal complies with the Control Act, these Rules and any applicable tax levying Act.
- (d) If the agent's principal commits an act (including an omission to perform an act) which is a breach in terms of Control Act, these Rules or any applicable tax levying Act for which an administrative penalty may be imposed, the customs authority may hold the agent liable for the payment of that penalty if the agent—
 - (i) knew or should reasonably have known that the principal is to commit that act and failed to take reasonable steps within the powers of the agent to prevent the principal from committing that act; or
 - (ii) when becoming aware of that act, failed to notify the customs authority of the commission of that act.¹²²

Additional conditions in relation to electronic users (*section 613*)

28.18 The registration of an electronic user is, in addition to the conditions listed in rule **28.16**, subject to the following further general condition:

¹²² For liability of agent for criminal offences committed by the principal, see section 893(1) of the Control Act and section 218(1) of the Customs Duty Act.

The registered person, in the case of a person who electronically communicates with the customs authority directly for the submission of any declarations, reports, statements, returns, notices, applications, requests or other documents or communications, must –

- (a) be appropriately electronically enabled for the electronic user registration type for which that person has been registered and, thereafter, at all times maintain such enablement;
- (b) sign, and submit to the customs authority, the electronic user agreement for the relevant registration type¹²³ and thereafter on an on-going basis comply with the agreement.

Part 4: Recordkeeping and reporting

Records to be kept by registered persons (*section 626*)

28.19 (1) A registered person must keep such records as may be necessary to fully and accurately reflect all transactions relating to the activity or other purpose for which that person is registered, including any books, accounts and documents, whether created manually or by means of a computer.

(2) The record keeping system of a licensee referred to in subrule (1) must comply with section 919 of the Control Act.

- (3) The records kept in terms of subrule (1) must include –
- (a) a record of all declarations, reports, returns and other documents submitted or issued by the registered person in terms of the Control Act or a tax levying Act;
 - (b) a record of all documents received by the registered person in terms of the Control Act or a tax levying Act;
 - (c) in the case of a licensee responsible for goods cleared for a customs procedure, all records that must in terms of the Control Act be kept for purposes of that customs procedure; and

¹²³ Pro forma electronic user agreements are published on the SARS website.

- (d) a record of compliance with the Control Act and the tax levying Acts reflecting evidence of compliance and at least the following occurrences, if any:
 - (i) Any late or non-payment of duty, levy, tax or interest by the registered person;
 - (ii) any customs queries and stop notes issued to the registered person and the outcome in each case;
 - (iii) any warnings issued to the registered person by the customs authority and the outcome in each case;
 - (iv) any administrative penalties imposed on the registered person, and whether confirmed or mitigated;
 - (v) any criminal proceedings instituted against the registered person and the outcome of the proceedings; and
 - (vi) any corrective steps taken and maintained by the registered person to ensure compliance.

Time for, and manner in which, records must be kept

28.20 (1) Records referred to in rule **28.19**(1) must be retained –

- (a) for a period of five years calculated from the end of the calendar year in which such record was created;
- (b) in a secure place –
 - (i) on the registered person's business premises; or
 - (ii) with the permission of the customs authority and subject to such conditions as the customs authority may determine, on any other premises;
- (b) according to a filing system that enables quick access to information pertaining to a specific transaction; and
- (c) in their original form subject to section 14 of the Electronic Communications and Transactions Act, 2002.

(2) A registered person may with the permission of the customs authority and subject to such conditions as the customs authority may determine, retain instead of the original of any book, account or document in paper format –

- (a) a copy of that record in paper format, obtained through reproduction by means of photocopying; or

- (b) an electronic copy of that record in electronically imaged or microfilmed format, provided that –
 - (i) any electronic or microfilm image must be easily accessible and readable; and
 - (ii) the imaging program complies with any requirements in terms of the Electronic Communications and Transactions Act, 2002.

Records and returns to be produced to Customs on request

28.21 (1) A registered person must produce any record referred to in rule **28.19** or render such returns or submit such particulars in connection with that person's transactions, as the customs authority may require.

(2) A registered person who has been requested by a customs officer to produce any record referred to in rule **28.19** may with the permission of the customs authority and subject to such conditions as the customs authority may determine, produce a copy of such record which, in such a case, may for purposes of the Control Act and a tax levying Act be regarded to be the original record.

Part 5: Application of registration requirements to casual and other small importers and exporters

Casual importers and exporters (section 626(c) and (d))

28.22 (1) Parts 2 and 3 of Chapter 28 of the Control Act and Parts 2 and 4 of these Rules apply to casual importers and exporters, subject to the provisions of this Part.

- (2) If an unregistered casual importer or exporter clears goods for home use or a customs procedure –
 - (a) the clearance declaration submitted by or on behalf of that casual importer or exporter in terms of section 90 or 94 of the Control Act must be regarded to be an application for registration of that person as a casual importer or exporter, as the case may be; and

(b) the release by the customs authority of those goods for home use or a customs procedure must be regarded to be the customs authority's approval of the registration application.

(3) A casual importer or exporter whose application for registration is approved in terms of a provision referred to in subrule (1) or regarded to have been approved in terms of subrule (2)(b) remains registered as a casual importer or exporter for a period of three calendar years, including the calendar year in which that person was registered as a casual importer or exporter, unless the customs authority withdraws the registration earlier in terms of Part 4 of Chapter 28 of the Control Act.

(4) No person may be registered as a casual importer or exporter in terms of a provision referred to in subrule (1) or in terms of subrule (2) unless that person is located in the Republic.¹²⁴

Travellers and crew importing or exporting baggage items other than commercial goods (*sections 603(3) and 626*)

28.23 Travellers and crew members who when entering or leaving the Republic import or export, as part of their accompanied or unaccompanied baggage, items that are not commercial goods, are hereby in relation to such items exempted from the requirement in section 603(1) of the Control Act to register as an importer or exporter.¹²⁵

Persons importing or exporting international postal articles through South African Post Office

28.24 (1) Persons importing or exporting through the South African Post Office international postal articles with a customs value –

¹²⁴ See proviso to paragraph (a) of the definition of “casual importer” or “casual exporter”.

¹²⁵ The effect of this exemption is that none of the provisions of Chapter 28 of the Control Act will apply to these travellers in relation to baggage items other than commercial goods. If a traveller has commercial goods, the traveller must register in terms of rule **28.9** as an importer or exporter or, if the traveller is a casual importer or exporter, he or she must register in terms of rule **28.23** as a casual importer or exporter.

- (a) exceeding an upper value determined in terms of section 493(2) or 494(2) of the Control Act, are hereby in relation to such articles exempted from Parts 2 and 3 of Chapter 28 of that Act and Parts 2, 3 and 4 of these Rules;¹²⁶ or
- (b) not exceeding an upper value determined in terms of section 493(2) or 494(2), are hereby in relation to such articles exempted from the requirement in section 603(1) of that Act to register as an importer or exporter.¹²⁷

(2) If a person importing or exporting through the South African Post Office an international postal article with a customs value exceeding the upper value referred to in subrule (1)(a), clears that article in terms of section 480(2)(b) or 485(2)(b) for home use or a customs procedure –

- (a) the clearance declaration submitted by or on behalf of that person in respect of that article must be regarded to be an application for registration as an importer or exporter, as the case may be; and
- (b) the release by the customs authority of the article for home use or a customs procedure must be regarded to be the customs authority's approval of the registration application.

(3) A person whose application for registration as an importer or exporter is regarded to have been approved in terms of subrule (2)(b) is registered as an importer or exporter only for purposes of importing or exporting international postal articles through the South African Post Office.

(4) Until Chapter 22 of the Control Act takes effect in terms of section 943 of that Act¹²⁸ –

- (a) the upper value referred to in subrule (1) or (2) must be regarded to be the same amount as the amount determined by ministerial notice in terms of section 533(2)(a) of that Act;

¹²⁶ Note that this is only a partial exemption from Chapter 28 of the Control Act.

¹²⁷ The effect of this exemption is that none of the provisions of Chapter 28 of the Control Act will apply to these persons importing or exporting through the South African Post Office international postal articles with a value below the upper limit.

¹²⁸ Note that rule **28.24** cannot technically be implemented before Chapter 22 of the Control Act takes effect in terms of section 943 of that Act. That section provides that until Chapter 22 takes effect the Customs and Excise Act, 1964, as it existed immediately before the 2014 Amendment Act, will continue to apply to international postal articles. The interpretive adjustments as provided in subrule (4) above are accordingly necessary in the interim until Chapter 22 takes effect.

- (b) any reference in subrule (1) or (2) to the clearing of a postal article in terms of section 480(2)(b) or 485(2)(b) must be read as a reference to an entry in terms of the Customs and Excise Act, 1964;
- (c) any reference in subrule (1) or (2) to a clearance declaration must be read as a reference to a bill of entry within the meaning of the Customs and Excise Act, 1964; and
- (d) any reference to release for home use or a customs procedure in subrule (1) or (2) must be read as a reference to release for home consumption or another purpose within the meaning of the Customs and Excise Act, 1964.

Part 6: General

Professional Customs Registration Examination (*section 626(a)*)

28.25 (1) The following persons may take the Professional Customs Registration Examination to establish sufficient knowledge of customs laws, guides, interpretive notes, operational manuals and practices for purposes of registration in terms of this Chapter:¹²⁹

- (a) If the applicant is a natural person –
 - (i) the applicant himself or herself; or
 - (ii) a person in the employ of the applicant authorised by the applicant to take the examination; or
- (b) if the applicant is a juristic entity –
 - (i) a person referred to in rule **28.8**(3); or
 - (ii) a person in the employ of the applicant authorised by the applicant to take the examination.

(2) There is no restriction on the number of times the examination may be taken in order to achieve the score required to establish sufficient knowledge.

Updating of registration details

28.26 A registered person must at the request of and within a period specified by the customs authority update the registration details of that person.

¹²⁹ See rule **28.17**

Notification of change in circumstances material to granting of registration

(section 623 read with 903(1)(m)(v))

28.27 (1) When complying with section 623 of the Control Act, a registered person must notify the customs authority of any change of circumstances which were material to the granting of that person's registration, within three working days of the change having occurred, read with section 908 of the Control Act.

(2) (a) A notification referred to in subrule (1) must be submitted to the customs authority electronically through e-filing, subject to paragraph (b).

(b) If a notification is submitted to the customs authority in paper format in circumstances where submissions in paper format are permissible,¹³⁰ the notification must be –

- (i) on Formpublished as a rule on the SARS website for the purpose of such notifications in paper format; and
- (ii) submitted to any Customs Office.

(3) A notification referred to in subrule (1) must state –

- (a) the customs code issued to the registered person; and
- (b) particulars of the changed circumstances.

(4) Circumstances material to the granting of an application for registration include –

- (a) the legal status, legal capacity or legal identity of the registered person, and –
 - (i) if the registered person is a juristic entity, also the registered person's incorporation, registration or recognition in terms of the legislation applicable to it; or
 - (ii) if the registered person is a partnership or close corporation, also the membership of the partnership or close corporation;
- (b) the financial soundness and solvency of the registered person;
- (c) the fixed physical address of the place where –
 - (i) the registered person is ordinarily resident in the Republic, if the

¹³⁰ See for instance section 913(4) of the Control Act.

- registered person is a natural person;
- (ii) the registered person has its business in the Republic, if the registered person is a juristic entity;
 - (iii) the registered agent of the registered person is ordinarily resident in the Republic, if the registered person has such an agent and that agent is a natural person; or
 - (iv) the registered agent of the registered person has its place of business in the Republic, if the registered person has such an agent and that agent is a juristic entity;
- (d) the tax matters of the registered person; and
 - (e) the registered person's compliance with the requirement of sufficient knowledge of customs laws, guides, interpretive notes, operational manuals and practices, where applicable.¹³¹

¹³¹ See rule **28.17**

CHAPTER 29

LICENSING

Definitions

Note: All definitions except “Professional Customs Licence Examination” and “sufficient knowledge” to be moved to rule 1.1

29.1 In this Chapter, unless the context otherwise indicates –

“**abandoned**”, in relation to wreck, means when all parties having a pecuniary interest in the wreck have relinquished their rights to search for or salvage the wreck;

“**air carrier**” means a person referred to in paragraph (a) of the definition of “carrier” in section 1 of the Control Act;

“**courier**” means a carrier licensed to conduct a courier business and who, for the purpose of clearing and handling courier articles in the course of conducting such a business, may also be the holder of –

- (a) a customs broker licence;
- (b) a registration as an importer or exporter; or
- (c) an air cargo depot licence;

“**courier business**” means a business service provided by a carrier in the international transportation of goods on an express door to door delivery basis, either by –

- (a) transporting goods into the Republic for express delivery inside the Republic and delivering the goods to consignees inside the Republic;
- (b) receiving in the Republic goods imported for express delivery inside the Republic and delivering those goods to consignees inside the Republic;
- (c) collecting goods for express delivery outside the Republic, transporting the goods out of the Republic and delivering the goods to consignees outside the Republic; or

- (d) collecting goods in the Republic for express delivery outside the Republic and arranging the export and the delivery of the goods to consignees outside the Republic;

“licence type”, in relation to –

- (a) premises that must be licensed in terms of section 630 of the Control Act, means a type of licence that may in terms of rule **29.2** be issued in respect of the different categories of those premises ;
- (b) cross-border transmission lines, pipelines, cable-cars or conveyor belts that must be licensed in terms of section 631, means a type of licence that may in terms of rule **29.3** be issued in respect of such transmission lines, pipelines, cable-cars or conveyor belts ;
- (c) carriers that may or must be licensed in terms of section 632, means a type of licence that may in terms of rule **29.4** be issued to the different categories of those carriers;
- (d) customs brokers that must be licensed in terms of section 633, means a type of licence that may in terms of rule **29.5** be issued to customs brokers;
- (e) stores suppliers that must be licensed in terms of section 634(1), means a type of licence that may in terms of rule **29.6** be issued to stores suppliers;
- (f) importers and exporters involved in the processing procedures that must be licensed in terms of section 634(2), means a type of licence that may be in terms of rule **29.7** be issued to the different categories of such persons; or
- (g) persons searching for abandoned wreck that must be licensed in terms of rule **29.8(1)**, means a type of licence that may in terms of rule **29.8(2)** be issued to such persons;

“local”, in relation to an applicant or a licensee or registered person, means an applicant or a licensee or registered person located in the Republic within the meaning of section 1(3)(a) of the Control Act;

“non-local”, in relation to an applicant or a licensee or registered person, means an applicant or a licensee or registered person not located in the Republic within the meaning of section 1(3)(a) of the Control Act;

“own goods carrier” means a person referred to in paragraph (d) of the definition of “carrier” in section 1 of the Control Act;

“Professional Customs Licence Examination” means the examination referred to in rule 29.42 to establish whether a person has sufficient knowledge of applicable customs laws, guides, interpretive notes, operational manuals and practices –

- (a) administered by –
 - (i) the customs authority; or
 - (ii) a recognised professional body for the purposes of the National Qualifications Framework Act, 2008 (Act 67 of 2008), with the permission of the customs authority and subject to such conditions as the customs authority may determine; and
- (b) the details of which are available on the SARS website or the website of that professional body;

“public officer”, in relation to a juristic entity which is a company as defined in the Tax Administration Act, means the public officer of the entity within the meaning of section 246 of that Act;

“rail carrier” means a person referred to in paragraph (b) of the definition of “carrier” in section 1 of the Control Act transporting goods or travellers by rail for reward;

“road carrier” means a person referred to in paragraph (c) of the definition of “carrier” in section 1 of the Control Act transporting goods by truck or travellers by bus for reward;

“sea carrier” means a person referred to in paragraph (a) of the definition of “carrier” in section 1 of the Control Act transporting goods or travellers by sea for reward;

“special economic zone” means a special economic zone within the meaning of the Special Economic Zones Act;

“**sufficient knowledge**”, in relation to customs laws, guides, interpretive notes operational manuals and practices, means to pass the relevant Professional Customs Licence Examination;

“**transhipment depot**” means any premises at a customs seaport or airport contemplated in section 254(1)(a).

Part 1: Licence types

Licence types for premises (*section 630*)

29.2 (1) The licence types that may in terms of section 630 of the Control Act, read with subrule (2), be issued for the licensing of premises are:

- (a) A general sea cargo terminal licence authorising the premises to be managed, operated or used as a general sea cargo terminal;
- (b) a special sea cargo terminal licence authorising the premises to be managed, operated or used as a special sea cargo terminal;
- (c) a bulk sea cargo terminal licence authorising the premises to be managed, operated or used as a bulk sea cargo terminal;
- (d) a container terminal licence authorising the premises to be managed, operated or used as a container terminal;
- (e) a combination sea cargo terminal licence authorising the premises to be managed, operated or used as a combination sea cargo terminal;
- (f) a sea travellers terminal licence authorising the premises to be managed, operated or used as a sea travellers terminal;
- (g) a multi-purpose sea cargo terminal licence authorising the premises to be managed, operated or used as a multi-purpose sea cargo terminal;
- (h) an air cargo terminal licence authorising the premises to be managed, operated or used as an air cargo terminal;
- (i) (i) an air cargo depot licence authorising the premises to be managed, operated or used as an air cargo depot; or
(ii) a courier air cargo depot licence authorising the premises to be managed, operated or used as an air cargo depot solely for conducting a courier business;

- (j) an air travellers terminal licence authorising the premises to be managed, operated or used as an air travellers terminal;
- (k) a rail cargo terminal licence authorising the premises to be managed, operated or used as a rail cargo depot;
- (l) a rail travellers terminal licence authorising the premises to be managed, operated or used as a rail travellers terminal;
- (m) an international postal clearance depot licence authorising the premises to be managed, operated or used as an international postal clearance depot;¹³²
- (n) a container depot licence authorising the premises to be managed, operated or used as a container depot;
- (o)
 - (i) a public storage warehouse licence authorising the premises to be managed, operated or used as a public storage warehouse;
 - (ii) a private storage warehouse licence authorising the premises to be managed, operated or used as a private storage warehouse for a specific purpose;
 - (iii) an SEZ public storage warehouse licence authorising the premises to be managed, operated or used as an SEZ enterprise public storage warehouse for a specific purpose; or
 - (iv) an SEZ private storage warehouse licence authorising the premises to be managed, operated or used as an SEZ enterprise private storage warehouse for a specific purpose;
- (p)
 - (i) an inbound tax free shop licence authorising the premises to be managed, operated or used as an inbound tax free shop;
 - (ii) an outbound tax free shop licence authorising the premises to be managed, operated or used as an outbound tax free shop; or
 - (iii) a special shop for diplomats licence authorising the premises to be managed, operated or used as a special shop for diplomats;
- (q)
 - (i) an inward processing premises licence authorising the premises to be managed, operated or used as inward processing premises; or

¹³² This licence type will only apply as from the date on which Chapter 22 of the Control Act becomes effective. See section 943.

- (ii) an SEZ inward processing premises licence authorising the premises to be managed, operated or used as an SEZ enterprise inward processing premises;
- (r) (i) a home use processing premises licence authorising the premises to be managed, operated or used as home use processing premises; or
 - (ii) an SEZ home use processing premises licence authorising the premises to be managed, operated or used as an SEZ enterprise home use processing premises;
- (s) a state warehouse licence contemplated in section 569(b) of the Control Act authorising the premises to be managed, operated or used as such a state warehouse; or
- (t) a transshipment depot licence authorising the premises to be managed, operated or used as a transshipment depot.

(2) No person may manage, operate or use any premises as a transshipment depot unless those premises are in terms of section 634(3) of the Control Act licensed as such a depot.

Licence types for cross-border facilities (*section 631*)

29.3 The licence types that may be issued for the licensing of cross-border import or export facilities in terms of section 631 of the Control Act are:

- (a) A cross-border transmission line licence authorising the transmission line to be used for –
 - (i) the import of electricity; or
 - (ii) the export of electricity from the Republic;
- (b) a cross-border pipeline licence authorising the pipeline to be used for –
 - (i) the import of a CTC; or
 - (ii) the export of a CTC from the Republic;
- (c) a cross-border cable-car licence authorising the cable-car to be used for –
 - (i) the import of a CTC; or
 - (ii) the export of a CTC from the Republic; or
- (d) a cross-border conveyor belt licence the conveyor belt to be used for –
 - (i) the import of a CTC; or
 - (ii) the export of a CTC from the Republic.

Licence types for carriers (*section 632*)

29.4 The licence types that may be issued for the licensing of persons as carriers in terms of section 632 of the Control Act are:

- (a) A local or non-local sea carrier licence authorising the licensee to transport for reward by sea –
 - (i) goods into or out of the Republic;
 - (ii) travellers into or out of the Republic; or
 - (iii) goods not in free circulation within the Republic;
- (b) a local or non-local air carrier licence authorising the licensee to transport for reward by air –
 - (i) goods into or out of the Republic;
 - (ii) travellers into or out of the Republic; or
 - (iii) goods not in free circulation within the Republic;
- (c) a local or non-local rail carrier licence authorising the licensee to transport for reward by rail –
 - (i) goods into or out of the Republic;
 - (ii) travellers into or out of the Republic; or
 - (iii) goods not in free circulation within the Republic;
- (d) a local or non-local road carrier licence authorising the licensee to transport for reward by road –
 - (i) goods into or out of the Republic;
 - (ii) travellers into or out of the Republic; or
 - (iii) goods not in free circulation within the Republic;
- (e) a courier licence authorising the licensee to conduct a courier business; or
- (f) an own goods carrier licence authorising the licensee to transport goods as contemplated in paragraph (d) of the definition of “carrier” in section 1 of the Control Act.

Licence types for customs brokers (*section 633*)

29.5 The licence types that may be issued for the licensing of persons as customs brokers in terms of section 633 of the Control Act are:

- (a) A general customs broker licence authorising the licensee to carry out any or all of the business modes listed in the definition of “customs broker” in section 1 of the Control Act;¹³³ or
- (b) a courier customs broker licence authorising the licensee to carry out any or all of the business modes listed in the definition of “customs broker” solely for purposes of conducting a courier business.¹³⁴

Licence types for stores suppliers (*section 634(1)*)

29.6 The licence types that may be issued for the licensing of persons as stores suppliers in terms of section 634(1) of the Control Act are:

- (a) A stores supplier licence for foreign-going vessels;
- (b) a stores supplier licence for foreign-going aircraft; or
- (c) a stores supplier licence for cross-border trains.

Licence types for importers and exporters involved in processing procedures (*section 634(2)*)

29.7 The licence types that may be issued in terms of section 634(2) of the Control Act for the licensing of persons as importers or exporters involved in the processing procedures are:

- (a) An importer of goods for inward processing licence;
- (b) an importer of goods for home use processing licence; or
- (c) an exporter of inward processed compensating products licence.

Licensing of persons searching or searching for abandoned wreck (*section 634(3)*)¹³⁵

29.8 (1) No person may search an abandoned wreck or for abandoned wreck

¹³³ A person licensed in terms of the Control Act as a customs broker to clear goods on behalf of other persons, is in terms of section 64B of the Excise Duty Act regarded to be a licensed clearing agent for purposes of that Act, and such a customs broker is accordingly without any additional licensing under that Act entitled to enter excisable goods in terms of that Act for removal in bond between excise warehouses or for home consumption.

¹³⁴ Note that a carrier conducting a courier business will be allowed to clear courier goods either as a customs broker in terms of this licence or as the importer or exporter of the courier articles. See definition of “**courier business**” in rule 1.1

¹³⁵ Note that this rule applies only to abandoned wreck and not to wrecked, damaged or distressed vessels and aircraft or to goods washed ashore that have not been abandoned by the owner. Parts 4 and 5 of Chapter 25 of these Rules apply to such wrecks and goods.

unless that person is licensed in terms of section 634(3) of the Control Act for that purpose.

(2) No person not located in the Republic may be licensed in terms of subrule (1) as a searcher of or for abandoned wreck unless that person is represented in the Republic by a registered agent located in the Republic.¹³⁶

(3) The licence types that may be issued in terms of subrule (1) for the licensing of persons to search for abandoned wreck are:

- (a) A local searcher of or for abandoned wreck licence; or
- (b) a non-local searcher of or for abandoned wreck licence.

Part 2: Rules generally regulating all applications for new licences or renewal or amendment of existing licences

Persons who may apply for new licences or renewal or amendment of existing licences (*section 635*)

29.9 (1) (a) Any person¹³⁷ may apply for a new licence of any licence type, subject to subrules (2), (3), (4) and (5).¹³⁸

(b) Only the licensee to whom a licence has been issued may apply for the renewal or amendment of that licence, subject to subrules (2), (3), (4) and (5).

(2) (a) An application by a natural person may be made either by that person personally or by another person acting on that person's behalf.

(b) No licensed customs broker or registered agent may make an application on behalf of another person.

(c) An applicant who is a natural person with limited contractual capacity must be assisted by his or her guardian, curator or trustee, subject to subrule (5).

¹³⁶ See section 1(3)(a) of the Control Act.

¹³⁷ Note that "person" is defined in section 1 of the Act to include a natural person, a juristic entity, an organ of state and an official of an organ of state.

¹³⁸ Although any person can apply for a licence of any type, it should be noted that the customs authority is obliged in terms of section 637(1) of the Control Act to refuse certain applications, such as those where the applicant is in terms of a provision of the Act not entitled to the licence type applied for.

(3) An application by a juristic entity¹³⁹ may be made on behalf of the entity, if the applicant is –

- (a) a company or co-operative, by a director, a manager or the public officer of the company or co-operative;
- (b) a close corporation or partnership, by a member of or partner in or a manager or the public officer of the close corporation or partnership;
- (c) an association, club or other body of persons, by the chairperson or manager or the public officer of that association, club or other body of persons;
- (d) a trust or trust fund, by the administrator or trustee of the trust or trust fund;
- (e) an entity referred to in paragraph (a) to (d) in liquidation or under judicial management, by the liquidator or judicial manager of the entity;
- (f) the estate of a deceased or insolvent person, by the executor or administrator of the estate; or
- (g) an organ of state, by an official of that organ of state in an executive position.

(4) A person applying on behalf of an applicant in terms of subrule (2) or (3) must act in accordance with a written authorisation granted by the applicant to that person.

(5) A person under the age of 18 years may apply for a licence only with the assistance of his or her guardian unless that person is emancipated by an order of a court.

Applications for new licences and renewal or amendment of existing licences

(section 635)

29.10 (1) (a) An application for a new licence or for the renewal or amendment of an existing licence must be submitted to the customs authority electronically through e-filing, subject to paragraph (b).

(b) If an application referred to in paragraph (a) is submitted to the customs authority in paper format in circumstances where submissions in paper format are permissible,¹⁴⁰ the application –

¹³⁹ See definition of “juristic entity” in section 1 of the Control Act.

- (i) must be on the form as published as a rule on the SARS website for the relevant licence; and
- (ii) may be submitted to any Customs Office.

(2) An application referred to in subrule (1) must state the following:

- (a) Particulars of the applicant, which must include –
 - (i) if the applicant is an individual –
 - (aa) his or her full name;
 - (bb) every other name under which the applicant conducts business;
 - (cc) date of birth and identity document or passport number;
 - (dd) citizenship; and
 - (ee) contact details, including physical and postal addresses in the Republic or elsewhere; or
 - (ii) if the applicant is a juristic entity –
 - (aa) its registered or official name;
 - (bb) every name under which the applicant conducts business;
 - (cc) the entity type;
 - (dd) its registration number or the number of its founding document, indicating whether the entity is incorporated, registered or recognised in terms of the laws of the Republic or another country, and if another country, which country;
 - (ee) date of registration, incorporation or recognition;
 - (ff) its contact details, including its physical and postal addresses in the Republic or elsewhere; and
 - (gg) the name and other details listed in subparagraph (i)(bb) to (ee) of a natural person applying on behalf of the entity;
- (b) full details of the applicant's bank account in the Republic if the applicant is located in the Republic;
- (c) the applicant's –
 - (i) income tax number; and
 - (ii) value-added tax number;
- (d) expiry date of the applicant's tax clearance certificate;

¹⁴⁰ See for instance sections 635(e) and 913(4) of the Control Act.

- (e) the location and physical address of the place where the records of the applicant's business as a licensee are or will be kept;
- (f) whether the application is for –
 - (i) a new licence;
 - (ii) the renewal of an existing licence; or
 - (iii) the amendment of a licence;
- (g) in the case of an application for a new licence, the licence category and type applied for and, if for the licensing of –
 - (i) any premises or other facility –
 - (aa) the location and physical address of the premises or facility; and
 - (bb) the purpose for which it will be operated, managed or used; or
 - (ii) a person to conduct business as a carrier or as a searcher of or for abandoned wreck, the name and customs code of the applicant's registered agent in the Republic if the applicant is not located in the Republic;¹⁴¹
- (h) in the case of an application for renewal of an existing licence –
 - (i) the category and type of the existing licence; and
 - (ii) the name and customs code of the licensee or the location and customs code of the premises or facility in respect of which it was issued; and
- (i) in the case of an application for the amendment of a licence –
 - (i) the particulars referred to in paragraph (h);
 - (ii) full particulars of the amendment applied for; and
 - (iii) motivated reasons for the amendment.

(3) (a) A person may in the same application apply for more than one licence type.

(b) A licensee may in the same application apply for the renewal or amendment of more than one existing licence of which that licensee is the holder.

Documents required to support all applications for new licences and renewal of existing licences (section 635)(d))

¹⁴¹ See sections 1(3)(a) and 605 of the Control Act. Note that a person applying for a courier licence must be located in the Republic.

29.11 (1) An application for a new licence of any licence type or for the renewal of an existing licence must be supported by the following documents:

- (a) A document confirming the applicant's banking details, including the name of the bank, the account holder's name, the account type and number, and the branch code, which may be –
 - (i) a bank certified original bank statement or a legible bank certified copy of an original bank statement;
 - (ii) a bank certified original auto bank statement; or
 - (iii) an original letter from the applicant's bank on an official bank letterhead;
- (b) the original or a legible certified copy of –
 - (i) a municipal account issued to the applicant to confirm the applicant's physical address; and
 - (ii) a fixed line telephone or contract cellular phone account issued to the applicant to confirm the applicant's telephone contact details; and
- (c) if the applicant is a juristic entity, a certified copy of the founding document or any certificate issued in terms of the laws of the Republic or of another country certifying that the applicant is incorporated, registered or recognised in terms of the laws of the Republic or that other country;
- (d) a certified copy of the identity document, passport or other document proving identity and citizenship –
 - (i) if the applicant is a natural person, of the applicant;
 - (ii) if the applicant is a company or cooperative, of the managing director, the financial director and every other director, and of the public officer of the company or cooperative;
 - (iii) if the applicant is a close corporation or partnership, of the public officer and every member or partner in the close corporation or partnership;
 - (iv) if the applicant is a trust or trust fund, of the trustee or administrator of the trust or trust fund;
 - (v) if the applicant is an association, a club or any other body, of the chairperson or manager, and of the public officer of the association, club or other body;
 - (vi) if the applicant is an entity referred to in subparagraph (i) to (v) in liquidation or under judicial management, of the liquidator or judicial

- manager of the entity; or
- (vii) if the applicant is the estate of a deceased or insolvent person, the executor or administrator of the estate;
- (e) a certified copy of the authorisation authorising a person contemplated in rule **29.9(4)** to act on behalf of the applicant;
- (f) a certified copy of the identity document or passport of an authorised person referred to in paragraph (e), if not already required in terms of paragraph (d); and
- (g) documents evidencing that the applicant has –
 - (i) an information security policy and security procedures or mechanisms in place to protect the applicant’s electronic systems from unauthorised access; and
 - (ii) procedures and back-up capabilities in place to protect it against the loss of information.

(2) Certified copies of any documents referred to in subrule (1) may not be older than three months.

(3) This rule does not apply in respect of an application for a new licence or renewal of an existing licence to operate as a carrier or searcher of or for wreck not located in the Republic.

Additional documents required to support applications for licensing of premises (*section 630*)

29.12 An application for the licensing of any premises in terms of section 630 of the Control Act must, in addition to the documents and information listed in rule **29.11**, be supported by –

- (a) documents proving or confirming the physical address –
 - (i) of the premises to which the application relates; and
 - (ii) of the premises where the records of the business to which the application relates will be kept, if those premises are not the same as those mentioned in subparagraph (i);
- (b) a site plan showing the exact location of the premises in relation to adjoining properties and public roads, including –

- (i) vehicle and other access points to the premises; and
 - (ii) any adjoining premises licensed for any purpose in terms of this Chapter;
- (c) a layout plan showing the exact location of the areas within the premises to be used for purposes of the licence type applied for, including the location of –
- (i) access points to buildings on the premises such as doors, windows, openings fitted with roller shutters, lifts and staircases;
 - (ii) electronic security sensors;
 - (iii) areas set aside for specific activities relating to goods, such as secure or temporary storage of goods, unpacking of containers, consolidation for export;
 - (iv) areas set aside for the performance of enforcement functions by customs officers; and
 - (v) vehicle parking bays, also indicating which parking bays are allocated for use by customs officers;
- (c) documents evidencing compliance with any requirements of other legislation applicable to the premises;
- (d) documents evidencing the applicant's ownership of or other right to the premises,¹⁴² including –
- (i) a title deed or other deed of ownership or entitlement; or
 - (ii) a lease agreement; and
- (e) documents setting out procedures to ensure the physical security of –
- (i) the premises;
 - (ii) any goods on the premises; and
 - (iii) the records relating to the business conducted on the premises.

Supporting and certain other documents to be submitted or made available to customs authority on request

29.13 An applicant must on request by the customs authority –

- (a) submit to it any documents required in terms of this Part and Part 3 to support an application; and

¹⁴² See sections 639(b) and 665(d) of the Control Act.

- (b) make available to it any information, books, accounts and other documents necessary for –
 - (i) verifying any statements made by the applicant in the application; or
 - (ii) ascertaining facts relating to the premises, facility or activity in respect of which a new licence or a renewal or amendment of a licence is sought.

Part 3: Rules regulating specific applications

Applications for new licences or renewal of licences of premises as public or private storage warehouses (section 665(b))

29.14 (1) In addition to complying with the requirements set out in Part 2 of this Chapter, no person may submit an application for a new licence or the renewal of a licence to manage, operate and use premises as a public or private storage warehouse as contemplated in section 630(1) of the Control Act, including a public or private storage warehouse in a special economic zone, unless –

- (a) the applicant, or another person within the applicant's organisation contemplated in rule **29.42**(1), has sufficient knowledge of customs laws, manuals and practices relating to managing, operating and using premises as a public or private storage warehouse; and
- (b) the applicant provides in the application specifics of the inventory control system to be used in the warehouse, including the waste inventory control system.

(2) An application referred to in subrule (1) must be accompanied by a document –

- (a) motivating the need for –
 - (i) a public storage warehouse in the area concerned; or
 - (ii) a private warehouse of the type applied for; and
- (b) listing the name and identity or passport number of each person within the applicant's organisation who completed the relevant Professional Customs Licensing Examination successfully.

Applications for new licences or renewal of licences for cross-border transmission lines, pipelines, cable-cars and conveyor belts (*section 665(b)*)

29.14A In addition to complying with the requirements set out in Part 2 of this Chapter, an application for a new licence or the renewal of a licence to import or export goods through a cross-border transmission line or pipeline or by means of a cable-car or conveyor belt as contemplated in section 631 of the Control Act must disclose –

- (a) the place where measurements are to be taken; and
- (b) in the case of a cross-border pipeline, cable-car or conveyor belt –
 - (i) the class or kind of CTC to be imported or exported through or by means of the pipeline, cable-car or conveyor belt; and
 - (ii) the method of measurement of all CTCs to be imported or exported through or by means of the pipeline, cable-car or conveyor belt.

Applications for new licences or renewal of licences of premises as state warehouses (*section 665(b)*)

29.15 (1) In addition to complying with Part 2, no person may submit an application for a new licence or the renewal of a licence to operate premises as a state warehouse as contemplated in section 630(3) of the Control Act unless –

- (a) the applicant, or another person within the applicant's organisation contemplated in rule **29.42**(1), has sufficient knowledge of customs laws, manuals and practices relating to operating premises as a state warehouse; and
- (b) the applicant provides in the application specifics of the inventory control system to be used in the state warehouse, including the waste inventory control system.

(2) An application referred to in subrule (1) must be accompanied by a document listing the name and identity or passport number of each person within the applicant's organisation who completed the relevant Professional Customs Licence Examination successfully.

Applications for new licences or renewal of licences of premises as tax free shops (*section 665(b)*)

29.16 (1) In addition to complying with Part 2, no person may submit an application for a new licence or the renewal of a licence to manage, operate and use premises as tax free shop as contemplated in section 630(1) of the Control Act unless –

- (a) the applicant, or another person within the applicant's organisation contemplated in rule **29.42**(1), has sufficient knowledge of customs laws, manuals and practices relating to managing, operating and using premises as a tax free shop; and
- (b) the applicant provides in the application specifics of the inventory control system to be used in the tax free shop, including the waste inventory control system.

(2) An application referred to in subrule (1) must be accompanied by a document listing the name and identity or passport number of each person within the applicant's organisation who completed the relevant Professional Customs Licence Examination successfully.

Applications for new licences or renewal of licences of premises as inward or home use processing premises (*section 665(b)*)

29.17 In addition to complying with Part 2, no person may submit an application for a new licence or the renewal of a licence to manage, operate and use premises as inward or home use processing premises as contemplated in section 630(2) of the Control Act, including such premises within a special economic zone, unless the applicant specifies in the application –

- (a) the class or kind of imported goods to be processed under the new or renewed licence at the premises under the inward or home use processing procedure;
- (b) the type of inward or home use processed compensating products into which those goods will be processed;
- (c) any by-products and waste that will in the ordinary course of such processing be obtained;

- (d) the conversion rate contemplated in section 425 or 447 of the Control Act to be used for the purposes of the processing of those goods into compensating products,¹⁴³ including –
 - (i) the factors that were taken into account in determining the conversion rate; and
 - (ii) any other relevant information to explain the conversion rate; and
- (e) whether such processing will be undertaken for own account or on behalf of the holder of a licence type referred to in rule **29.7**(a) or (b).

Applications for new licences or renewal of licences as carriers (*section 632*)

29.18 In addition to complying with Part 2, an application for a new licence or the renewal of a licence to conduct business as a carrier as contemplated in section 632 of the Control Act must be supported by the following additional documents:

- (a) If the applicant is located in the Republic,¹⁴⁴ documents proving or confirming the physical address of –
 - (i) the premises from where the applicant's business as a carrier in the Republic will be conducted under the new or renewed licence; and
 - (ii) the premises where the records of the applicant's business as a carrier will be kept, if those premises are not the same as those referred to in subparagraph (i); and
- (b) if the applicant is not located in the Republic, the agency agreement between the applicant and a registered agent located in the Republic concluded for purposes of representing the applicant in the Republic.¹⁴⁵

Applications for new licences or renewal of licences as customs brokers (*sections 633 and 665(b)*)

29.19 (1) In addition to complying with Part 2, no person may submit an application for a new licence or the renewal of a licence to conduct business as a customs broker as contemplated in section 633 of the Control Act unless –

¹⁴³ Note that this application will in terms of rule **18.14** or **19.12** be regarded also as an application for custom's approval of the conversion rate.

¹⁴⁴ See section 1(3)(a) of the Control Act.

¹⁴⁵ See section 632(2)(b) and(3)(b) of the Control Act.

- (a) the applicant, or another person within the applicant's organisation contemplated in rule **29.42(1)**, has sufficient knowledge of customs laws, manuals and practices relating to the business of a customs broker;
- (b) the application is supported by documents proving or confirming the physical address of –
 - (i) the premises where the applicant will conduct the business of a customs broker under the new or renewed licence; and
 - (ii) the premises where the records of the applicant's business as a customs broker will be kept, if those premises are not the same as those referred to in subparagraph (i).

(2) An application referred to in subrule (1) must be accompanied by a document listing the name and identity or passport number of each person within the applicant's organisation who completed the relevant Professional Customs Licence Examination successfully.

Applications for new licences or renewal of licences as stores suppliers
(section 634(1))

29.20 In addition to complying with Part 2, no person may submit an application for a new licence or the renewal of a licence to conduct business as a stores supplier as contemplated in section 634(1) of the Control Act unless the application is supported by documents proving or confirming the physical address of –

- (a) the premises from where the applicant will conduct the business as a stores supplier under the new or renewed licence; and
- (b) the premises where the records of the applicant's business as a stores supplier will be kept, if those premises are not the same as those referred to in paragraph (a).

Applications for new licences or renewal of licences as importers and exporters of goods under processing procedures *(sections 634(2) and 665(b))*

29.21 (1) In addition to complying with Part 2, no person may submit an application for a new licence or the renewal of a licence of any of the following

licence types as contemplated in section 634(2) of the Control Act unless the applicant is located in the Republic:¹⁴⁶

- (a) An importer of goods for inward processing licence;
- (b) an importer of goods for home use processing licence; or
- (c) an exporter of inward processed compensating products licence.

(2) No person may submit an application contemplated in subrule (1) relating to a licence type referred to in paragraph (a) or (b) of that subrule unless –

- (a) the applicant specifies in the application –
 - (i) the physical address of the licensed inward or home use processing premises where the imported goods will be processed under the new or renewed licence;
 - (ii) the class or kind of imported goods that will be imported under the inward or home use processing procedure for processing on those premises;
 - (iii) the type of inward or home use processed compensating products into which those goods will be processed;
 - (iv) any by-products and waste that will be obtained in the ordinary course of such processing; and
 - (v) the conversion rate contemplated in section 425 or 447 of the Control Act to be used for purposes of the processing of those goods into compensating products,¹⁴⁷ including –
 - (aa) the factors that were taken into account in determining the conversion rate; and
 - (bb) any other relevant information to explain the conversion rate;
- (b) the application is supported by the following documents:
 - (i) The agreement between the importer and the licensee of inward or home use processing premises where the goods imported by the importer are to be processed, setting out –
 - (aa) the terms on which such processing will be undertaken;

¹⁴⁶ See section 1(3)(a) of the Control Act.

¹⁴⁷ Note that this application will in terms of rule **18.14** or **19.12** be regarded also as an application for customs' approval of the conversion rate.

- (bb) specifics of the conversion rate referred to in section 425 or 447 of the Control Act to be used for purposes of such processing; and
 - (cc) the party who, in the case of inward processing, will be responsible for exporting the compensating products obtained from such processing;
- (ii) documents proving or confirming the physical address of –
- (aa) the premises from where the applicant’s business as such an importer or exporter will be conducted; and
 - (bb) the premises where the records of the applicant’s business as such an importer or exporter will be kept, if those premises are not the same as those referred to in item (aa).
- (3) No person may submit an application contemplated in subrule (1) relating to a licence type referred to in paragraph (c) of that subrule unless –
- (a) the applicant specifies in the application –
 - (i) the type of inward processed compensating products that will be exported under the new or renewed licence; and
 - (ii) the physical address of the licensed inward processing premises where the compensating products will be obtained; and
 - (b) the application is supported by the following documents:
 - (i) The agreement between the exporter and the licensee of the inward processing premises where the goods from which those products will be obtained are to be processed, setting out the terms on which the exporter will acquire those products for export; and
 - (ii) documents proving or confirming the physical address of –
 - (aa) the premises from where the applicant’s business as such an exporter will be conducted; and
 - (bb) the premises where the records of the applicant’s business as such an exporter will be kept, if those premises are not the same as those referred to in item (aa).

Applications for new licences or renewal of licences to search abandoned wreck or for abandoned wreck (section 634(3))

29.22 In addition to complying with Part 2, no person may submit an application for a new licence or the renewal of a licence to search an abandoned wreck or for abandoned wreck contemplated in rule **28.8(1)** unless –

- (a) the applicant specifies in the application –
 - (i) in the case of an application relating to a specific wreck –
 - (aa) details of the wreck applied for;
 - (bb) whether the wreck is older than 50 years; and
 - (cc) if the location of the wreck is known, its location, and if the location is unknown, the area to be searched; or
 - (ii) in the case of an application relating to the search for any wreck, the area to be searched; and
- (b) the application is supported by the following documents:
 - (i) If the applicant is located in the Republic,¹⁴⁸ documents proving or confirming the physical address of –
 - (aa) the premises from where the applicant’s business as such a searcher of or for wreck will be conducted; and
 - (bb) the premises where the records of the applicant’s business as such a searcher of or for wreck will be kept, if those premises are not the same as those referred to in item (aa);
 - (ii) if the applicant is not located in the Republic, the agency agreement between the applicant and a registered agent located in the Republic concluded for purposes of representing the applicant in the Republic as contemplated in rule **29.8(2)**;
 - (iii) a document –
 - (aa) evidencing that the specific wreck to be searched or searched for has been abandoned; or
 - (bb) setting out the grounds for the applicant’s belief that the wreck has been abandoned;
 - (iv) if the specific wreck to be searched or searched for is older than 50 years, a written permission of the National Monuments Council authorising the search; and
 - (v) in the case of the renewal of an existing licence –

¹⁴⁸ See section 1(3)(a) of the Control Act.

- (aa) a report on the activities of the licensee during the validity period of the existing licence; and
- (bb) details of anticipated activities during the validity period of the renewed licence.

Part 4: Licence conditions

General conditions applicable to all licences *(section 642(1)(a))*

29.23 (1) All licences are subject to the following general conditions:

- (a) The licensee must upon request by the customs authority furnish security as contemplated in section 660 of the Control Act to cover any tax risk that may arise in relation to goods that may at any time be under the control of the licensee.
- (b) The licensee may not authorise or allow any other person to use on the licensee's behalf the customs code issued by the customs authority to that licensee, except where specifically required or permitted in these Rules.
- (c) The licensee must whenever transacting business relating to the purpose for which the licence was granted, indicate that customs code on any document issued by the licensee, including on –
 - (i) any communication to the customs authority or another organ of state; and
 - (ii) any authorisation issued by the licensee to any registered agent or any licensed customs broker or carrier to act on behalf of the licensee.
- (d) The licensee must prominently display the name in which the licence was issued on a sign at each business office where the licensee conducts business relating to the purpose for which the licence was issued.
- (e) The licence or a certified copy of the licence, or an official SARS letter of confirmation of licensing, must at all times be kept on –
 - (i) the licensed premises, if applicable; or
 - (ii) the business premises of the licensee or, if the licensee is a carrier or searcher of or for wreck not located in the Republic, the business premises of that licensee's registered agent in the Republic.
- (f) All reports, applications, declarations, notifications and other communications that must or may be submitted by the licensee to the customs authority in

terms of the Control Act or a tax levying Act must be submitted electronically through e-filing or EDI, as may be applicable, except where a communication is submitted to the customs authority in paper format in circumstances where submissions in paper format are permissible.¹⁴⁹ In the case of communications in paper format, the communication must be –

- (i) on a form as published as a rule on the SARS website for the relevant communication; and
- (ii) unless provided otherwise in these Rules or the customs authority otherwise directs in a specific case, be submitted to the Customs Office serving –
 - (aa) the licensed premises to which the communication relates;
 - (bb) the customs controlled area where the goods to which the communication relates are or are destined for; or
 - (cc) if neither of items (aa) or (bb) apply, the business premises of the licensee or of that licensee's registered agent in the Republic.
- (g) The licensee must take all reasonable steps to safeguard all goods that are at any stage under the licensee's physical control, against damage destruction or loss.
- (h) The records a licensee must keep in connection with the business or activity for which the licence was issued must be kept in a secure place and may not be removed or destroyed without the prior permission of the customs authority. Any computerised record system used by the licensee must have –
 - (i) the capacity to provide a printout of any single page or document in the system; and
 - (ii) an effective backup system.
- (i) The licensee must at all times keep the customs authority informed of the physical address of the place –
 - (i) where the records relating to the business or activity for which the licence was issued are kept; and
 - (ii) to which such records are moved, if the records are at any stage moved to another place.

¹⁴⁹ See for instance section 913(4) of the Control Act.

- (j) The licensee must provide all reasonable assistance to customs officers conducting an inspection or search in terms of Chapter 33 of the Control Act –
 - (i) on any premises managed, operated or used by the licensee for purposes of the business or activity for which the licence was issued, including any premises on which records referred to in paragraph (h) are kept;¹⁵⁰ or
 - (ii) of or for any goods or documents under the physical control of the licensee.

Additional general conditions applicable to all licensed cargo terminals
(sections 642(1)(a), 643 and 665(h))

29.24 All licences issued in respect of cargo terminals are, in addition to those listed in rule **29.23**, subject to the following further general conditions:

- (a) The licensee must regulate the movement of inbound and outbound cargo through the terminal in a manner that takes account of the reasonable requirements of customs officers to perform their enforcement functions on the terminal effectively.
- (b) The licensee must provide permanent adequate space within the terminal to the customs authority to carry out its enforcement functions on a continuous basis, including –
 - (i) office accommodation and counter facilities for the performance of administrative work arising from such enforcement functions;
 - (ii) an area for the inspection of goods;
 - (iii) a place for the installation of scanning equipment; and
 - (iv) parking space for customs officers.
- (c) The licensee must provide permanent adequate space within the terminal or at any nearby premises for the temporary storage¹⁵¹ of goods.
- (d) The licensee must provide a separate area within the terminal or at any nearby premises for the temporary safekeeping of detained or seized goods pending steps to be taken in connection with the goods in terms of the Control Act.

¹⁵⁰ See also section 888 of the Control Act in terms of which it is a criminal offence to hinder, interfere with or obstruct a customs officer from performing his or her enforcement functions.

¹⁵¹ See definition of “temporary storage” in section 1 of the Control Act.

- (e) The licensee must operate the terminal on a common user basis and may not discriminate against any person in respect of the services and facilities provided.
- (f) The licensee must notify the customs authority of the receipt of goods not in free circulation delivered by a licensed carrier at the terminal under a customs procedure:¹⁵² Provided that this condition does not apply if the licensee is in terms of the Control Act required to submit an outturn report in respect of the receipt of such goods at that terminal.
- (g) Any receipt notification referred to in paragraph (f) must reflect the following information:
 - (i) The customs code or name of the carrier that delivered the goods;
 - (ii) the date and time of receipt of the goods at the terminal;
 - (iii) the customs code of the terminal;
 - (iv) the transport document number, road manifest number or unique consignment reference number;
 - (v) the movement reference number of any clearance declaration submitted in respect of the goods; and
 - (vi) a description of the goods, which must include –
 - (aa) the class or kind; and
 - (bb) the quantity, weight or volume.

Additional general conditions applicable to all licensed traveller terminals
(sections 642(1)(a), 643 and 665(h))

29.25 All licences issued in respect of traveller terminals are, in addition to those listed in rule **29.23**, subject to the following further general conditions:

- (a) The licensee must regulate the movement of outbound and inbound travellers and crew through the terminal in a manner that takes account of the reasonable requirements of customs officers to perform their enforcement functions on the terminal effectively.

¹⁵² For receipt notifications by licensees of storage warehouses see section 304(2)(b) of the Control Act, by licensees of inward processing premises see section 415(1)(b)(ii), and by licensees of home use processing premises see section 442(2)(b)(ii). Receipt notifications by licensees of excise warehouses are dealt with in terms of the Excise Duty Act.

- (b) The licensee must provide permanent adequate space within the terminal for the customs processing of outbound and inbound travellers and crew members and their accompanied and unaccompanied baggage, including –
 - (i) office accommodation and counter facilities for the performance of administrative work arising from such customs processing and other enforcement functions in connection with such travellers and crew members;
 - (ii) an area for the inspection of baggage;
 - (iii) a place for the installation of scanning equipment;
 - (iv) private facilities for interviewing and bodily searches of persons by customs officers; and
 - (v) parking space for customs officers.
- (c) The movement of travellers at the terminal must be organised in such a way that all travellers must move through the space made available to the customs authority in terms of paragraph (a) for the customs processing of travellers.
- (d) The licensee must provide permanent space within the terminal or at any nearby premises for the temporary storage of unaccompanied and unclaimed baggage.
- (e) The licensee must provide a separate area within the terminal or at any nearby premises for the temporary safekeeping of detained or seized baggage pending steps to be taken in connection with the baggage in terms of the Control Act.
- (f) The licensee must operate the terminal on a common user basis and may not discriminate against any person in respect of the services and facilities provided.

Additional general conditions applicable to all licensed cargo depots (*sections 642(1)(a), 643 and 665(h)*)

29.26 All licences issued in respect of cargo depots, including transshipment depots, are, in addition to those listed in rule **29.23**, subject to the following further general conditions:

- (a) The licensee must regulate the movement of inbound and outbound cargo through the depot in a manner that takes account of the reasonable

requirements of customs officers to perform their enforcement functions in the depot effectively.

- (b) The licensee must provide permanent space within the depot to the customs authority to carry out its enforcement functions on a continuous basis, including –
 - (i) office accommodation and counter facilities for the performance of administrative work arising from such enforcement functions;
 - (ii) an area for the inspection of goods;
 - (iii) a place for the installation of scanning equipment; and
 - (iv) parking space for customs officers.
- (c) The licensee must provide permanent space within the depot or at any nearby premises for the temporary storage¹⁵³ of goods.
- (d) The licensee must provide a separate area within the depot or at any nearby premises for the temporary safekeeping of detained or seized goods pending steps to be taken in connection with the goods in terms of the Control Act.
- (e) The licensee must operate the depot on a common user basis and may not discriminate against any person in respect of the services and facilities provided.
- (f) The licensee must notify the customs authority of the receipt of goods not in free circulation delivered by a licensed carrier at the depot under a customs procedure:¹⁵⁴ Provided that this condition does not apply if the licensee is in terms of the Control Act required to submit an outturn report in respect of the receipt of such goods at that depot.
- (g) Any receipt notification referred to in paragraph (f) must reflect the following information:
 - (i) The customs code or name of the carrier that delivered the goods;
 - (ii) the date and time of receipt of the goods at the depot;
 - (iii) the customs code of the depot;
 - (iv) the transport document number, road manifest number or unique consignment reference number;

¹⁵³ See definition of “temporary storage” in section 1 of the Control Act.

¹⁵⁴ For receipt notifications by licensees of storage warehouses see section 304(2)(b) of the Control Act, by licensees of inward processing premises see section 415(1)(b)(ii), and by licensees of home use processing premises see section 442(2)(b)(ii). Receipt notifications by licensees of excise warehouses are dealt with in terms of the Excise Duty Act.

- (v) the movement reference number of any clearance declaration submitted in respect of the goods; and
- (vi) a description of the goods, which must include –
 - (aa) the class or kind; and
 - (bb) the quantity, weight or volume.

Additional general conditions applicable to all licensed storage warehouses
(sections 642(1)(a), 643 and 665(h))

29.27 (1) All licences issued in respect of public or private storage warehouses, including those within a special economic zone, are, in addition to those listed in rule **29.23**, subject to the following further general conditions:

- (a) The building in which the public or private storage warehouse is housed must be structurally sound and have walls of brick, stone or concrete and a roof of slate, tiles or iron, and must comply with –
 - (i) any applicable fire prevention standards; and
 - (ii) any applicable health and safety regulations.
- (b) The public or private storage warehouse must –
 - (i) be conducted in a way that safeguards the goods in the warehouse against conduct in breach of the Control Act or any other misappropriation; and
 - (ii) have adequate security measures in place to ensure the physical security of the goods, including adequate locking devices for windows, doors and gates and permanently installed electronic security equipment, to prevent –
 - (aa) unauthorised entry;
 - (bb) burglary; and
 - (cc) illegal removal of goods;
- (c) The licensee of a public or private storage warehouse must whenever necessary provide adequate space to customs officers within the warehouse to enable them to conduct their enforcement functions on the premises.
- (d) The licensee of a public or private storage warehouse may not make any alterations to any existing structure on the premises without the prior approval of the customs authority.

(2) All licences issued in respect of public storage warehouses, including those within a special economic zone, are, in addition to those listed in subrule (1) and rule **29.24**, subject to the following further general conditions:

- (a) The licensee of a public storage warehouse must –
 - (i) maintain sufficient knowledge of customs laws, manuals and practices by having available at all times within the licensee’s business at least one person contemplated in rule **29.42(1)** who has completed the relevant Professional Customs Licence Examination; and
 - (ii) promptly give notice in terms of rule **29.44** to the customs authority if paragraph (a) is at any stage not complied with.
- (b) Racks or shelves in the warehouse must be numbered and floor storage space must be in marked rows.
- (c) Goods must be stored in a systematic manner and must be labelled clearly and accurately and arranged in a way that facilitates the tracking of goods.
- (d) Stock checks must be performed on a regular basis.
- (e) Additional safety and control measures must be maintained for high value or high risk goods.
- (f) Goods that are of a perishable or dangerous nature must be stored in conditions appropriate to the nature of the goods.
- (g) Suitable handling and loading equipment and other tools required for the wrapping and opening of packages must be available on the premises.
- (h) The licensee of a public storage warehouse must provide a separate area within the warehouse for the temporary storage of detained or seized goods pending steps to be taken in connection with the goods in terms of the Control Act.
- (i) The licensee of a public storage warehouse must operate the warehouse on a common user basis and may not discriminate against any person in respect of the services and facilities provided.

Additional general conditions applicable to all licensed tax free shops (*sections 642(1)(a), 643 and 665(h)*)

29.28 All licences issued in respect of tax free shops are, in addition to those listed in rule **29.23**, subject to the following further general conditions:

- (a) The building in which the tax free shop and any off-site outlet for the shop is housed must be structurally sound and have walls of brick, stone or concrete and a roof of slate, tiles or iron, and must comply with –
 - (i) any applicable fire prevention standards; and
 - (ii) any applicable health and safety regulations.
- (b) The tax free shop and any off-site outlet for the shop must –
 - (i) be conducted in a way that safeguards the goods in the shop or outlet against conduct in breach of the Control Act or any other misappropriation; and
 - (ii) have adequate security measures in place to ensure the physical security of the goods, including adequate locking devices for windows, doors and gates and permanently installed electronic security equipment, to prevent –
 - (aa) unauthorised entry;
 - (bb) burglary; and
 - (cc) illegal removal of goods;
- (c) The tax free shop must have a separate sales area for the retail display of goods for sale to customers and a storage area for the supply of goods to the sales area.
- (d) The public entrance to the shop or outlet must lead directly into the sales area where goods are on retail display for sale to customers.
- (e) No customers may be allowed into other parts of the shop such as storerooms where goods are not on public display.
- (f) The licensee must operate the licensed tax free shop on a common user basis and may not discriminate against any person in respect of the services and facilities provided.
- (g) The licensee of the tax free shop must whenever necessary provide adequate space to customs officers within or at the shop to enable them to conduct their enforcement functions on the premises.
- (h) The licensee of a tax free shop may not allow any other person to use on the licensee's behalf the customs code issued by the customs authority to that licensee, except where expressly required or permitted in these Rules.

Additional general conditions applicable to all licensed inward processing premises (*sections 642(1)(a), 643 and 665(h)*)

29.29 All licences issued in respect of inward processing premises,¹⁵⁵ including those within a special economic zone, are, in addition to those listed in rule **29.23**, subject to the following further general conditions:

- (a) The buildings in which the inward processing is undertaken must be structurally sound and have walls of brick, stone or concrete and a roof of slate, tiles or iron, and must comply with –
 - (i) any applicable fire prevention standards; and
 - (ii) any applicable health and safety regulations.
- (b) The inward processing premises must –
 - (i) be managed in a way that safeguards the goods on the premises against conduct in breach of the Control Act or any other misappropriation; and
 - (ii) have adequate security measures in place to ensure the physical security of the goods, including adequate locking devices for windows, doors and gates and permanently installed electronic security equipment, to prevent –
 - (aa) unauthorised entry;
 - (bb) burglary; and
 - (cc) illegal removal of goods;
- (c) The licensee may not make any alterations to any existing structure on the inward processing premises without the prior approval of the customs authority.
- (d) When processing goods under the inward processing procedure on the premises, the conversion rate applicable to the goods and as approved by the customs authority must be used for the conversion of the goods to inward processed compensating products for purposes of the Control Act and any applicable tax levying Act.¹⁵⁶
- (e) The licensee must whenever necessary provide adequate space to customs officers on the inward processing premises to enable them to conduct their enforcement functions on the premises.

¹⁵⁵ See section 630(2)(a) of the Control Act.

¹⁵⁶ See section 425 of the Control Act.

Additional general conditions applicable to all licensed home use processing premises (*sections 642(1)(a), 643 and 665(h)*)

29.30 All licences issued in respect of home use processing premises,¹⁵⁷ including those within a special economic zone, are, in addition to those listed in rule **29.23**, subject to the following further general conditions:

- (a) The buildings in which the home use processing is undertaken must be structurally sound and have walls of brick, stone or concrete and a roof of slate, tiles or iron, and must comply with –
 - (i) any applicable fire prevention standards; and
 - (ii) any applicable health and safety regulations.
- (b) The home use processing premises must –
 - (i) be managed in a way that safeguards the goods on the premises against conduct in breach of the Control Act or any other misappropriation; and
 - (ii) have adequate security measures in place to ensure the physical security of the goods, including adequate locking devices for windows, doors and gates and permanently installed electronic security equipment, to prevent –
 - (aa) unauthorised entry;
 - (bb) burglary; and
 - (cc) illegal removal of goods;
- (c) The licensee may not make any alterations to any existing structure on the home use processing premises without the prior approval of the customs authority.
- (d) When processing goods under the home use processing procedure on the premises, the conversion rate applicable to the goods and as approved by the customs authority must be used for the conversion of the goods to home use processed compensating products for purposes of the Control Act and any applicable tax levying Act.¹⁵⁸
- (e) The licensee must whenever necessary provide adequate space to customs

¹⁵⁷ See section 630(2)(b) of the Control Act.

¹⁵⁸ See section 447 of the Control Act.

officers on the home use processing premises to enable them to conduct their enforcement functions on the premises.

Additional general conditions applicable to all licensed state warehouses
(sections 642(1)(a), 643 and 665(h))

29.31 All licences issued in respect of state warehouses referred to in section 569(b) of the Control Act are, in addition to those listed in rule **29.23**, subject to the following further general conditions:

- (a) The building in which the state warehouse is housed must be structurally sound and have walls of brick, stone or concrete and a roof of slate, tiles or iron, and must comply with –
 - (i) any applicable fire prevention standards; and
 - (ii) any applicable health and safety regulations.
- (b) The state warehouse must –
 - (i) be conducted in a way that safeguards the goods in the warehouse against conduct in breach of the Control Act or any other misappropriation; and
 - (ii) have adequate security measures in place to ensure the physical security of the goods, including adequate locking devices for windows, doors and gates and permanently installed electronic security equipment, to prevent –
 - (aa) unauthorised entry;
 - (bb) burglary; and
 - (cc) illegal removal of goods;
- (c) The licensee of a state warehouse must whenever necessary provide adequate space to customs officers within the warehouse to enable them to conduct their enforcement functions on the premises.
- (d) The licensee of a state warehouse may not make any alterations to any existing structure on the premises without the prior approval of the customs authority.
- (e) The licensee must –
 - (i) maintain sufficient knowledge of customs laws, manuals and practices by having available at all times within the licensee’s business at least

- one person contemplated in rule **29.42(1)** who has completed the relevant Professional Customs Licence Examination; and
- (ii) promptly give notice in terms of rule **29.44** to the customs authority if subparagraph (i) is at any stage not complied with.
- (f) All goods received in the state warehouse until it is removed from the warehouse must be accounted for on an appropriate and effective stock inventory system.
 - (g) Racks or shelves in the warehouse must be numbered and floor storage space must be in marked rows.
 - (h) Goods must be stored in an orderly manner and must be labelled clearly and accurately and arranged in a way that facilitates stock checks¹⁵⁹ and the tracking of goods.
 - (i) Additional safety and control measures must be maintained for high value or high risk goods.
 - (j) Goods that are of a perishable or dangerous nature must be stored in conditions appropriate to the nature of the goods.
 - (k) Suitable handling and loading equipment and other tools required for the wrapping and opening of packages must be available on the premises.
 - (l)
 - (i) The entry and exit of all persons and vehicles into or out of a state warehouse must be monitored and controlled.
 - (ii) Records must be kept of all visitors, and the reason for such visits which must be recorded in an admittance register.
 - (iii) All visitors entering the warehouse must sign the register on entry as well as on exit.
 - (iv) All visitors must display visitor's permits which must be provided for this purpose.

Additional general conditions applicable to all licensed cross-border transmission lines (*sections 642(1)(a), 644 and 665(h)*)

29.32 All licences issued in respect of cross-border transmission lines are, in addition to those listed in rule **29.23**, subject to the further general condition that the licensee must inform the customs authority of any change in –

¹⁵⁹ Note that in terms of section 576 of the Control Act stock checks must be performed on a monthly basis.

- (a) the method of measurement of electricity imported or exported through the cross-border transmission line; or
- (b) the place where measurements are taken.

Additional general conditions applicable to all licensed cross-border pipelines
(sections 642(1)(a), 644 and 665(h))

29.33 All licences issued in respect of cross-border pipelines are, in addition to those listed in rule **29.23**, subject to the further general condition that the licensee must inform the customs authority of any change in –

- (a) the class or kind of CTC imported or exported through the cross-border pipeline;
- (b) the method of measurement of all CTCs imported or exported through the cross-border pipeline; or
- (c) the place where measurements are taken.

Additional general conditions applicable to all licensed cross-border cable-cars and conveyor belts (sections 642(1)(a), 644 and 665(h))

29.34 All licences issued in respect of cross-border cable-cars and conveyor belts are, in addition to those listed in rule **29.23**, subject to the further general condition that the licensee must inform the customs authority of any change in –

- (a) the class or kind of CTC imported or exported by way of the cross-border cable-car or conveyor belt;
- (b) the method of measurement of all CTC imported or exported by way of the cross-border cable-car or conveyor belt; and
- (c) the place where measurements are taken.

Additional general conditions applicable to all licensed carriers (sections 642(1)(a), 645 and 665(h))

29.35 All licences issued in respect of carriers are, in addition to those listed in rule **29.23**, subject to the following further general conditions:

- (a) The carrier must notify the customs authority of the receipt of goods not in free circulation whenever –

- (i) that carrier receives such goods for transport under a customs procedure from a customs controlled area to another customs controlled area not served by the same Customs Office; or
 - (ii) goods not in free circulation are transferred to that carrier's vehicle or container from a vehicle or container operated by another carrier, in circumstances contemplated in section 130, 211 or 233 of the Control Act.
- (b) The carrier must when transporting goods not in free circulation referred to in paragraph (a) notify the customs authority of the delivery of those goods –
- (i) to the customs controlled area to which the goods must be transported under the relevant customs procedure; or
 - (ii) if the goods were redirected with the permission of the customs authority to another destination,¹⁶⁰ to that other destination.
- (c) Any receipt or delivery notification referred to in paragraph (a) or (b) must reflect the following information:
- (i) The customs code of the carrier;
 - (ii) the customs procedure under which the goods are transported;
 - (iii) the date and time of receipt or delivery of the goods;
 - (iv) the place of receipt or delivery of the goods;
 - (v) the conveyance number¹⁶¹ of the carrier;
 - (vi) the transport name¹⁶² of the carrier;
 - (vii) the transport document number, road manifest number or unique consignment reference number;
 - (viii) the movement reference number of the clearance declaration under which the goods are transported;
 - (ix) a description of the goods;
 - (x) in the case of a notification in terms of paragraph (a)(ii) –
 - (aa) the identification number of any seal that was broken or affixed due to the transfer of the goods; and
 - (bb) the container number, if the goods are transported in a new container; and

¹⁶⁰ See for instance sections 208, 230, 304, 322, 415(1)(c) and 442(2) of the Control Act.

¹⁶¹ See definition of "conveyance number" in rule 1.

¹⁶² See definition "transport name" in rule 1.

- (xi) in the case of a notification in terms of paragraph (b)(ii), the customs code or physical address of the place where the goods were delivered.
- (d) Paragraphs (a), (b) and (c) apply also where a provision of the Control Act specifically requires a carrier to notify the customs authority of the receipt or delivery of goods not in free circulation under a customs procedure.¹⁶³
- (e) A carrier transporting goods and persons for reward must operate the carrier business on a common user basis and may not discriminate against any person in respect of the services and facilities provided.

Additional general conditions applicable to all licensed customs brokers
(sections 642(1)(a), 646 and 665(h))

29.36 All licences issued in respect of customs brokers are, in addition to those listed in rule **29.23**, subject to the following further general conditions:

- (a) The licensee is entitled to carry out any or all of the business modes referred to in the definition of “customs broker” in section 1 of the Control Act unless the licence specifically excludes any of those business modes from the licence.
- (b) The licensee must –
 - (i) maintain sufficient knowledge of customs laws, manuals and practices by having available at all times within the licensee’s business at least one person contemplated in rule **29.42(1)** who has completed the relevant Professional Customs Licence Examination; and
 - (ii) promptly give notice in terms of rule **29.44** to the customs authority if subparagraph (i) is at any stage not complied with.
- (c) The licensee must keep all original authorisations referred to in section 165(1)(b) of the Control Act in terms of which the licensee submits clearance declarations on behalf of other persons, in a separate package for a period of at least five years.
- (d) The licensee must operate the customs broker business on a common user basis and may not discriminate against any person in respect of the services and facilities provided.

¹⁶³ See for instance section 304(2)(a) of the Control Act.

Additional general conditions applicable to all licensed importers and exporters of goods under inward or home use processing procedures (sections 642(1)(a) and 665(h))¹⁶⁴

29.37 All licences issued in respect of importers of goods for inward or home use processing¹⁶⁵ are, in addition to those listed in rule **29.23**, subject to the following further general conditions:

- (a) The imported goods –
 - (i) must be delivered to the inward or home use premises of the licensee with whom the importer has concluded an agreement for the processing of the goods; and
 - (ii) may be processed only by that licensee.
- (b) The importer is responsible for ensuring, in the case of the inward processing of the goods, that all compensating products derived from the inward processing of the imported goods are exported in accordance with Chapter 18 of the Control Act, unless otherwise provided for in the agreement referred to in paragraph (a).

Additional general conditions applicable to all licensed searchers of or for abandoned wreck (section 634(3)(a) and rule 29.8)

29.38 All licences issued in respect of searchers of or for abandoned wreck are, in addition to those listed in rule **29.23**, subject to the following further general conditions:

- (a) The licence does not diminish the rights of any other person to whom a similar licence has been or may be issued.
- (b) The licence only covers a wreck or wrecks that have been abandoned and does not confer any right on the licensee to search or work a wreck where another party is still exercising or is yet to exercise their salvage rights. The onus to establish whether a wreck has been abandoned or the rights of another party will be infringed by searching or working a wreck rests with the licensee.

¹⁶⁴ These conditions will only apply to those importers and exporters of goods under the inward and home use processing procedures that are specifically licensed for the purpose of such imports and exports. These conditions do not apply to licensees of inward or home use processing premises who themselves import goods for inward or home use processing. See section 634 of the Control Act.

¹⁶⁵ See section 634(2)(a) and (b) of the Control Act.

- (c) Unless the customs authority determines otherwise in a specific case, any goods recovered by the licensee from an abandoned wreck –
 - (i) must be regarded to be imported goods imported on the date of their recovery; and
 - (ii) attract import tax at the rate as specified in any applicable tax levying Act for goods of that class or kind.
- (d) If the licensee recovers any unopened safe, chest, container or other receptacle from a wreck, the licensee –
 - (i) must immediately give notice of the unopened safe, chest, container or other receptacle to the nearest Customs Office;
 - (ii) may open the safe, chest, container or other receptacle only under customs supervision unless the customs authority determines otherwise; and
 - (iii) must compile a list of all goods found in the safe, chest, container or other receptacle.
- (e) If the goods recovered from a wreck are imported goods or in terms of paragraph (c) regarded to be imported goods, the licensee must within three days of the date of recovery of the goods –
 - (i) clear the goods for home use or a customs procedure and, if cleared for home use, pay to the Commissioner any import tax payable on the goods in terms of any applicable tax levying Act; and
 - (ii) pay to the Commissioner, in addition –
 - (aa) a royalty of 15 per cent of the customs value of the goods; and
 - (bb) any expenses incurred by the Commissioner for services rendered to the licensee in connection with the goods.
- (f) The customs authority may direct the licensee to obtain at own cost a sworn appraisal of the recovered goods if the customs value of the goods cannot be readily determined.
- (g) If the licensee fails to comply with paragraph (e)(i) or (ii), the goods must be removed to a state warehouse pending compliance with that paragraph in accordance with Chapter 27 of the Customs Control Act.
- (h) The licensee must keep a register at the licensee's place of business or, if the licensee is not located in the Republic, at the place of business of the licensee's registered agent in the Republic, specifying –

- (i) all goods recovered by the licensee from any wreck covered by the licence;
 - (ii) the date of recovery;
 - (iii) the class or kind of goods and the quantity, weight or volume;
 - (iv) the date cleared for home use or a customs procedure; and
 - (v) the movement reference number of the clearance declaration.
- (i) The licensee must notify the customs authority of –
- (i) the date of commencement with operations in terms of the licence, which must be within three months from the date of issue of the licence; and
 - (ii) the date of cessation of operations.
- (j) The licence does not affect the application of any other legislation applicable to the search of or for wreck, including the recovery of goods from any wreck.
- (k) The licensee may not disturb or remove any wreck older than 50 years without the permission of the National Monuments Council.

Part 5: Recordkeeping and reporting

Records to be kept by licensees *(section 665(l))*

29.39 (1) A licensee must keep such books, accounts, data and other records, as may be necessary to fully and accurately reflect the business conducted by the licensee for the particular licence type.

(2) The record keeping system of a licensee referred to in subrule (1) must comply with section 919 of the Control Act.

- (3) The records kept in terms of subrule (1) must include –
- (a) a record of all declarations, reports, returns and other documents submitted or issued by the licensee in terms of the Control Act or a tax levying Act;
 - (b) a record of all documents received by the licensee in terms of the Control Act or a tax levying Act;
 - (c) in the case of a licensed cargo terminal, depot or cross-border facility, a record of –

- (i) all goods loaded, off-loaded, received, packed, unpacked, consolidated, deconsolidated, temporarily stored, delivered, removed or in any other way handled at such terminal, depot or facility; and
 - (ii) all goods damaged, destroyed, lost or unaccounted for at such terminal, depot or facility;
- (d) in the case of a licensee responsible for goods cleared for a customs procedure, all records that must in terms of the Control Act be kept for purposes of that customs procedure; and
- (e) in the case of all licensees, a record of compliance with the Control Act and the tax levying Acts reflecting evidence of compliance and at least the following occurrences, if any:
- (i) Any late or non-payment of duty, levy, tax or interest by the licensee if the licensee is held responsible for such payment;
 - (ii) any customs queries and stop notes issued to the licensee and the outcome in each case;
 - (iii) any warnings issued to the licensee by the customs authority and the outcome in each case;
 - (iv) any administrative penalties imposed on the licensee, and whether confirmed or mitigated;
 - (v) any criminal proceedings instituted against the licensee and the outcome of the proceedings; and
 - (vi) any corrective steps taken and maintained by the licensee to ensure compliance.

Time for, and manner in which, records must be kept

29.40 (1) Records referred to in rule **29.39**(1) must be retained –

- (a) for a period of five years calculated from the end of the calendar year in which such record was created;
- (b) in a secure place on the licensed premises (if any) or the licensee's business premises;
- (c) according to a filing system which enables quick access to information pertaining to specific goods or a specific transaction; and
- (d) in their original form subject to section 14 of the Electronic Communications and Transactions Act, 2002.

(2) A licensee may with the permission of the customs authority and subject to such conditions as the customs authority may determine, retain instead of the original of any book, account or document in paper format –

- (a) a copy of that record in paper format, obtained through reproduction by means of photocopying; or
- (b) an electronic copy of that record in electronically imaged or microfilmed format, provided that –
 - (i) any electronic or microfilm image must be easily accessible and readable; and
 - (ii) the imaging program complies with any requirements in terms of the Electronic Communications and Transactions Act, 2002.

Records to be produced and returns to be rendered to customs authority on request

29.41 (1) A licensee must produce any record referred to in rule **28.39** or render such returns or submit such particulars in connection with that person's transactions, as the customs authority may require.

(2) A licensee who has been requested by a customs officer to produce any record referred to in rule **29.39** may with the permission of the customs authority and subject to such conditions as the customs authority may determine, produce a copy of such record which, in such a case, may for purposes of the Control Act and a tax levying Act be regarded to be the original record.

Part 6: General provisions

Professional Customs Licence Examination (section 665(b))

29.42 (1) The following persons may take the Professional Customs Licence Examination to establish sufficient knowledge of customs laws, guides, interpretive notes, operational manuals and practices for purposes of licensing in terms of this Chapter:¹⁶⁶

¹⁶⁶ See rules **29.14**, **29.15**, **29.16**, **29.19**, **29.27**, **29.31** and **29.36**

- (a) If the applicant is a natural person –
 - (i) the applicant himself or herself; or
 - (ii) a person in the employ of the applicant authorised by the applicant to take the examination; or
- (b) if the applicant is a juristic entity –
 - (i) a person referred to in rule **29.9(3)**; or
 - (ii) a person in the employ of the applicant authorised by the applicant to take the examination.

(2) There is no restriction on the number of times the examination may be taken in order to achieve the score required to establish sufficient knowledge.

Change of circumstances on which applications for licences were granted

(section 661)

29.43 Apart from the circumstances set out in section 661(2) of the Control Act, the following further circumstances are also material to the granting of an application for a licence:

- (a) The place –
 - (i) where the licensee is ordinarily resident in the Republic, if the licensee is a natural person;
 - (ii) from where the licensee conducts its business in the Republic, if the licensee is a juristic entity;
 - (iii) where the registered agent of the licensee is ordinarily resident in the Republic, if the licensee has such an agent and that agent is a natural person; or
 - (iv) from where the registered agent of the licensee conducts its business in the Republic, if the licensee has such an agent and that agent is a juristic entity;¹⁶⁷
- (b) the fact that the licensee is an incorporated, registered or recognised entity in terms of specific legislation, if the licensee is a juristic entity;

¹⁶⁷ The reason why this is included here as a material circumstance is because some licensees, such as customs brokers, are required to be located in the Republic and others, such as carriers not located in Republic, are required to have registered agent located in the Republic. If these circumstances change, it affects the continuation of the licence.

- (c) the membership composition of the licensee, if the licensee is a partnership or close corporation;
- (d) the fact that the licensee holds ownership or a lease or other recognised right in the licensed premises or facility;
- (e) the tax matters of the licensee;¹⁶⁸ and
- (f) the licensee's compliance with the requirement of sufficient knowledge of customs laws, manuals and practices, where applicable.¹⁶⁹

Notification of change of circumstances (*section 661*)

29.44 (1) When complying with section 661(1) of the Control Act, a licensee must notify the customs authority of any change of circumstances which were material to the granting of the relevant licence, within three working days of the change having occurred, read with section 908 of the Control Act.

(2) (a) A notification referred to in subrule (1) must be submitted to the customs authority electronically through e-filing, subject to paragraph (b).

(b) If a notification is submitted to the customs authority in paper format in circumstances where submissions in paper format are permissible,¹⁷⁰ the notification must be –

- (i) on form..... as published as a rule on the SARS website for the purpose of such notifications in paper format; and
- (ii) submitted to any Customs Office.

(3) A notification referred to in subrule (1) must state –

- (a) the customs code issued in respect of the licence;
- (b) particulars of the changed circumstances.¹⁷¹

Reporting by licensees of breaches of Control Act, these Rules or tax levying Acts (*section 665(n)(i)*)

29.45 (1) If a licensee discovers or becomes aware of a breach of the Control Act, these Rules or a tax levying Act committed by any person in relation to goods

¹⁶⁸ See section 917 of the Control Act.

¹⁶⁹ See rule **29.42**.

¹⁷⁰ See for instance section 913(4) of the Control Act.

¹⁷¹ See section 661(2) of the Control Act and rule **29.43**.

handled or otherwise dealt with by the licensee in terms of the licence, the licensee must immediately report the breach to –

- (a) a customs officer on the premises where the goods are, if the goods are on licenced premises where the customs authority has a permanent presence; or
- (b) the customs authority electronically through e-filing, subject to subrule (2).

(2) If a notification is submitted to the customs authority in paper format in circumstances where submissions in paper format are permissible,¹⁷² the notification must be submitted to any Customs Office.

¹⁷² See for instance section 913(4).

CHAPTER 30 ACCREDITATION

Definitions

30.1 (1) In this Chapter, unless the context otherwise indicates –

“accredited client” means a person on whom accredited status has been conferred;

Please note that this definition will move to rule 1.1

“applicant”, in relation to an application, means a person who intends to submit or has submitted an application;

“application” means an application in terms of Chapter 30 of the Control Act for—

- (a) accredited client status;
- (b) the renewal of an accredited client status certificate; or
- (c) the amendment of an accredited client status certificate;

“application form for Competency Assessment” means an application form as prescribed as a rule on the SARS website for persons applying to take competency assessments;

“Customs Accreditation Self-evaluation” means a self-evaluation completed by an applicant on a form as prescribed as a rule on the SARS website for the purpose of establishing whether the applicant has the ability to comply with accredited client requirements;

“Customs Competency Assessment for Accreditation” or **“Competency Assessment”** means an assessment administered by the customs authority to a person referred to in rule **30.10** to establish whether that person has sufficient knowledge of customs laws, guides, interpretive notes, operational manuals and practices;

“Customs Relationship Manager” means a SARS official tasked with facilitating the relationship between an accredited client and the customs authority;

“public officer”, in relation to a juristic entity which is a company as defined in the Tax Administration Act, means the public officer of the entity within the meaning of section 246 of that Act;

Please note that this definition will move to rule 1.1

“sufficient knowledge”, in relation to customs laws, guides, operational manuals and practices, means achieving a score of at least 60 per cent in the Customs Competency Assessment for Accreditation.

(2) When applying these rules, a record of compliance with the Control Act, the Customs and Excise Act, 1964, and the tax levying Acts referred to in section 670(1)(a) of the Control Act must be evidenced by the absence of –

- (a) any late¹⁷³ or non-payments of duty, levy, tax or interest by that person;
- (b) any breaches or contraventions of those Acts committed by that person which resulted in –
 - (i) an administrative penalty imposed on that person, excluding administrative penalties for –
 - (aa) unintentional errors or omissions on documents submitted to the customs authority; or
 - (bb) any other non-compliance regarded by the customs authority as a minor or mere technical breach committed without the intention to mislead;
 - (ii) a seizure or confiscation of goods; or
 - (iii) a conviction of that person; and
- (c) the withdrawal of an accreditation client status certificate in terms of section 679 of the Control Act.

¹⁷³ Late payments exclude payments in respect to which section 830(2) of the Control Act applies.

Part 1: Applications for accredited client status and for renewal or amendment of accredited client certificates

Persons who may apply for accredited client status (section 668(1))

30.2 (1) (a) Only registered importers or exporters may apply for accredited client status, subject to subrules (2), (3) and (4).

(b) Only the registered importer or exporter to whom an accredited client status certificate has been issued may apply for the renewal or amendment of that certificate, subject to subrules (2), (3) and (4).

(2) (a) An application by a registered importer or exporter who is a natural person may be made either by that person personally or by another person acting on that person's behalf.

(b) No licensed customs broker or registered agent may make an application on behalf of another person.

(3) An application by a registered importer or exporter who is a juristic entity¹⁷⁴ may be made on behalf of the entity, if the applicant is –

- (a) a company or co-operative, by a director or manager, or the public officer, of the company or co-operative;
- (b) a close corporation or partnership, by a member of or partner in or a manager, or the public officer, of the close corporation or partnership;
- (c) an association, club or other body of persons, by the chairperson or manager, or the public officer of, that association, club or other body of persons;
- (d) a trust or trust fund, by the administrator or trustee of the trust or trust fund;
- (e) an organ of state, by an official of that organ of state in an executive position.

(4) A person applying on behalf of an applicant in terms of subrule (2) or (3) must act in accordance with a written authorisation granted by the applicant to that person.

¹⁷⁴ See definition of "juristic entity" in section 1 of the Control Act.

Applications (sections 668, 677 and 678)

30.3 (1) (a) An application for accredited client status or renewal or amendment of an accredited client status certificate must be submitted to the customs authority electronically through e-filing, subject to paragraph (b).

(b) If an application is submitted to the customs authority in paper format in circumstances where submissions in paper format are permissible,¹⁷⁵ the submission must be on Form..... published as a rule on the SARS website for the relevant purpose.¹⁷⁶

(2) An application referred to in subrule (1) must reflect –

- (a) the customs code of the applicant;
- (b) if applicable, the name of the natural person applying on behalf of the applicant, as well as that person's position, identity number or passport number and contact details;
- (c) an indication of whether the application is an application for accredited client status or for the renewal or amendment of an accredited client status certificate;
- (d) the reference number of the accredited client status certificate, in the case of an application for renewal or amendment;
- (e) a statement that the applicant complies with section 670(1) of the Control Act, read with rule **30.8** and, in the case of an applicant that relies on section 670(3) for non-compliance with section 670(1)(a), the following additional information:
 - (i) The applicant's period of exposure to the South African customs and excise environment;
 - (ii) whether the applicant has a record of compliance with customs and excise requirements in other customs and excise jurisdictions, and if so, in which jurisdiction and for how long;
 - (iii) whether the applicant has any evidence of such a record of compliance, and if so, which evidence; and

¹⁷⁵ See section 913(4) of the Control Act.

¹⁷⁶ Section 668(2)(e) of the Control Act provides that an application may be submitted to any Customs Office.

- (iv) whether the applicant has been convicted of an offence involving fraud or dishonesty in another jurisdiction;
- (f) a statement that the applicant's tax matters are in order;
- (g) the reference number of any Customs Accreditation Self-evaluation and Accreditation Competency Assessment relevant to the application;¹⁷⁷
- (h) in the case of an application for renewal of a certificate, the expiry date of the certificate; and
- (i) in the case of an application for amendment of a certificate, details of the required amendment.

Supporting documents

30.4 (1) An application must be supported by the following documents:

- (a) A copy of the Accreditation Competency Certificate issued by the customs authority in respect of every person who complies with the requirement of sufficient knowledge of customs laws, guides, interpretive notes, operational manuals and practices;
- (b) proof that the applicant has sufficient financial resources, which may consist of –
 - (i) a copy of audited financial statements of the applicant covering a period of the three years preceding the date of application; or
 - (ii) in the absence of such financial statements, an auditor's certificate to this effect;
- (c) an auditor's opinion on the effectiveness of the applicant's internal accounting, recordkeeping and operational system and its consistency with generally accepted accounting principles;
- (d) a tax clearance certificate that the applicant's tax matters are in order as contemplated in section 917 of the Control Act;
- (e) in the case of an application for amendment of an accredited client status certificate, a motivation of the reasons for the amendment; and
- (f) in the case of an applicant referred to in section 670(3) –
 - (i) any evidence of a record of compliance with customs requirements in

¹⁷⁷ Note that in the case of an amendment of an accredited client status certificate referred to in section 678(2)(d) and (e), completion of a Customs Accreditation Self-evaluation and the taking of a Competency Assessment is not required. See rule **30.7(3)**.

- another customs and excise jurisdiction; and
- (ii) any other documents or information as the customs authority may request in a particular case.

(2) A supporting document referred to in subrule (1) may not be older than three months.

(3) An applicant must on request by the customs authority make available to it the original of any supporting document referred to in subrule (1) as well as any information, books, accounts and other documents necessary for verifying any statements made by the applicant in the application.

(4) Subrule (1)(a) to (d) does not apply in respect of an application for amendment of an accredited client status certificate referred to in section 678(2)(d) or (e).

Part 2: Pre-conditions for submission of applications

Pre-conditions for submission of applications for accredited client status

(section 668(1))

30.5 In order to establish the ability of an applicant to comply with the criteria for accreditation contemplated in section 670 of the Control Act, read with rule **30.8**, no application for accredited client status may be submitted to the customs authority unless –

- (a) the applicant has completed the Customs Accreditation Self-evaluation;
- (b) the applicant, after having completed the Self-evaluation referred to in paragraph (a), has obtained permission from the customs authority for the applicant personally, or another person referred to in rule **30.10(1)** nominated by the applicant, to take the Competency Assessment; and
- (c) the applicant or that person has passed the Competency Assessment and an Accreditation Competency Certificate has been issued to the applicant or that person.

Pre-conditions for submission of applications for renewal of accredited client status certificates

30.6 (1) In order to establish whether an applicant applying for renewal of an accredited client status certificate will have the ability to maintain under the renewed certificate compliance with the criteria for accreditation set out in section 670 of the Control Act, read with rule **30.8**, no application for the renewal of such a certificate may be submitted to the customs authority unless –

- (a) the applicant has completed the Customs Accreditation Self-evaluation;
- (b) the applicant, after having completed the Self-evaluation referred to in paragraph (a), has obtained permission from the customs authority for the applicant personally, or another person referred to in rule **30.10(1)** nominated by the applicant, to take the Competency Assessment; and
- (c) the applicant or that person has passed the Competency Assessment and an Accreditation Competency Certificate has been issued to the applicant or that person.

(2) Subrule (1)(b) and (c) does not apply if the applicant or a person within the applicant's organisation is the holder of a valid Accreditation Competency Certificate.

Pre-conditions for submission of applications for amendment of accredited client status certificates (*sections 678 and 683(e)*)

30.7 (1) In order to establish whether an applicant applying for the amendment of an accredited client status certificate referred to in section 678(2)(a), (b) or (c) of the Control Act will have the ability to maintain under the amended certificate compliance with the criteria for accreditation set out in section 670, read with rule **30.8**, no application for the amendment of such a certificate may be submitted to the customs authority unless —

- (a) the applicant has completed the Customs Accreditation Self-evaluation;
- (b) the applicant, after having completed the Self-evaluation referred to in paragraph (a), has obtained permission from the customs authority for the applicant personally, or another person referred to in rule **30.10(1)** nominated by the applicant, to take the Competency Assessment; and

(c) the applicant or that person has passed the Competency Assessment and an Accreditation Competency Certificate has been issued to the applicant or that person.

(2) Subrule (1)(b) and (c) do not apply if the applicant or a person within the applicant's organisation is the holder of a valid Accreditation Competency Certificate.

(3) There are no pre-conditions for an application for amendment of an accredited client status certificate referred to in section 678(2)(d) or (e) and such an application may be submitted forthwith.

Part 3: Criteria of and conditions for accredited client status

Degree of compliance with required criteria (sections 668, 670 and 683)

30.8 The degree of compliance with section 670 of the Control Act for accredited status is as follows:

- (a) The applicant must for purposes of section 670(1)(a) have a record of compliance with the Control Act, the Customs and Excise Act, 1964, and the tax levying Acts, for a period of at least three years preceding the date of application;
- (b) the applicant may not have been convicted of any offence involving fraud or dishonesty;
- (c) the applicant must for purposes of section 670(1)(b) have and maintain an effective internal accounting, recordkeeping and operational system which is consistent with generally accepted accounting principles, and which must –
 - (i) reflect a full audit trail of all the applicant's customs transactions and activities for a period of at least three years preceding the date of application;
 - (ii) have procedures for verifying the accuracy of clearance declarations submitted by or on behalf of the applicant; and
 - (iii) have internal controls for detecting illegal or irregular transactions and activities;

- (d) the applicant must for purposes of section 670(1)(c) have a computerised system which –
 - (i) has stored, backed-up and archived all the applicant's business records for a period of at least three years preceding the date of application; and
 - (ii) has the capacity for –
 - (aa) prompt retrieval or recovery of all those records; and
 - (bb) securing those records and protecting it from unauthorised access;
- (e) the skills required for the accredited client or that client's staff must for purposes of section 670(1)(d) include sufficient knowledge of customs laws, guides, interpretive notes, operational manuals and practices to implement and maintain an effective accredited client compliance system;
- (f) the applicant must have sufficient financial resources, as must be evidenced by –
 - (i) audited financial statements for a period of at least three years preceding the application; or
 - (ii) other proof of financial resources as the customs authority may allow in a specific case; and
- (g) bills of entry in terms of the Customs and Excise Act, 1964, and clearance declarations in terms of the Control Act submitted by or on behalf of the applicant during the period of three years preceding the application that were incorrect because of errors in the spaces for quantity, description, classification, value or origin of goods, may not exceed 5% of all such bills of entry and clearance declarations submitted by or on behalf of the applicant during that period.

General conditions subject to which accredited client status is granted (*section 674*)

30.9 (1) All accredited client certificates are issued subject to the following general conditions:

- (a) The accredited client must, if the customs authority so requests, on the first day of every calendar month submit a report to the customs authority detailing errors on clearance declarations submitted during the previous calendar

month in respect of the quantity, classification or description, value or origin of goods.

- (b) The accredited client must promptly notify the customs authority of –
 - (i) any breach or contravention of the Control Act or a tax levying Act which affects the client's record of compliance for purposes of this Chapter; or
 - (ii) any conviction of that client for an offence involving fraud or dishonesty.
- (c) The accredited client must –
 - (i) have sufficient knowledge of customs laws, guides, interpretive notes, operational manuals and practices to implement and maintain an effective accredited client compliance system by having available at all times within that client's organisation at least one person who is the holder of an Accreditation Competency Certificate; and
 - (ii) promptly give notice to the customs authority if subparagraph (i) is at any stage not complied with.

Part 4: Customs Competency Assessment for Accreditation

Persons that may take Competency Assessments *(section 683(d))*

30.10 (1) Any of the following persons may take the Competency Assessment to establish whether an applicant has sufficient knowledge for purposes of rule **30.8(e)**:

- (a) If the applicant is a natural person, the applicant or a person in the permanent employ of the applicant nominated by the applicant to be responsible for ensuring compliance with customs legislation and requirements; or
- (b) if the applicant is a juristic entity, any of the following persons nominated by the applicant to be responsible for ensuring compliance with customs legislation and requirements:
 - (i) In the case of a company or co-operative, a director or manager, or the public officer, of the company or co-operative;
 - (ii) in the case of a close corporation or partnership, a member of or partner in, or a manager, or the public officer, of the close corporation or partnership;
 - (iii) in the case of an association, club or other body of persons, the

chairperson or manager, or the public officer, of that association, club or other body of persons;

- (iv) in the case of a trust or trust fund, by the administrator or trustee of the trust or trust fund; or
- (v) a person in the permanent employ of any of the entities referred to in item (i) to (iv).

(2) The Competency Assessment may be repeated by a person referred to in subrule (1) in order to achieve the score required to establish sufficient knowledge, provided that the same person may not take the Assessment more than three times in a calendar year.

Replacement of holders of Accreditation Competency Certificates (*section 683(a)*)

30.11 If an accredited client intends to replace a person referred to in rule **30.10** who holds the Accreditation Competency Certificate for purposes of compliance with rule **30.8(e)** the accredited person must –

- (a) nominate another person referred to in rule **30.10** to be responsible for ensuring compliance with customs legislation and requirements; and
- (b) apply on the application form for competency assessments for that person to take the Competency Assessment.

Issue and validity period of Accreditation Competency Certificates

30.12 (1) The customs authority must issue an Accreditation Competency Certificate to each person who achieves the score required to establish sufficient knowledge.

(2) An Accreditation Competency Certificate issued in terms of subrule (1) remains valid for a period of three years as from the date of issue.

Part 5: Other matters

Benefits of accredited client status (*section 682*)

30.13 Accredited clients are entitled, as may be determined by the customs authority, to –

- (a) the services of a Customs Relationship Manager;
- (b) less frequent routine document and physical inspections;
- (c) prioritisation by the customs authority of requests by the accredited client for tariff and valuation determinations;
- (d) reduction of the amount of any security required in terms of Chapter 31 of the Control Act;
- (e) priority access to non-intrusive inspection techniques when goods are stopped or detained for inspection;
- (f) exemption from customs supervision in specific circumstances;
- (g) reduction of charges for special customs services referred to in rule 1.4;
- (h) prioritisation of applications for special customs services in terms of rule 1.3; or
- (i) prioritisation of refund and drawback applications in terms of Chapter 4 of the Duty Act.

Procedure for amendment of accredited client status certificates on customs initiative¹⁷⁸ (*section 678(b)*)

30.14 (1) If the customs authority intends to amend the accredited status certificate of an accredited client in terms of section 678(1)(b) of the Control Act, that person is entitled to—

- (a) prior notification by registered post or secured electronic means of—
 - (i) the proposed amendment; and
 - (ii) the reasons for the proposed amendment; and
- (b) an opportunity to submit representations on the proposed amendment within 30 calendar days of the date the notification referred to in paragraph (a) was posted or transmitted to that person.

(2) Subrule (1)(b) does not apply if the proposal is to effect technical

¹⁷⁸ A decision by customs to amend an accredited client certificate is subject to internal reconsideration in accordance with any of the proceedings provided for in Chapter 37 of the Control Act.

amendments or corrections to the certificate.

CHAPTER 31
SECURITY FOR PAYMENT OF TAX AND OTHER MONEY OWED TO
COMMISSIONER

Part 1: Determination and provision of security

Additional factors to be taken into account for purposes of determining amount of security (section 689(1)(c))

31.1 When determining the amount of security to be provided by the person who is required in terms of section 686 of the Control Act to provide security, the following factors may, in addition to the factors referred to in section 689(1)(a) and (b), be taken into account:

- (a) Whether that person, or in the case of a juristic entity, a director, administrator or trustee of that entity, has ever been convicted of a criminal offence;
- (b) whether that person has ever been insolvent or in liquidation;
- (c) whether that person, in the case of a juristic entity, is listed on the stock exchange;
- (d) whether that person, in the case of a juristic entity, qualifies for small business status, as evidenced by –
 - (i) an annual gross income of R14 million or less;
 - (ii) the shareholders in or members of that person all being natural persons; and
 - (iii) the shareholders in or members of that person not holding any shares or interest in the equity of another company, excluding –
 - (aa) shares in a company listed on the stock exchange;
 - (bb) a participatory interest in a collective investment scheme; or
 - (cc) an interest in a body corporate;
- (e) whether that person is an existing customs client, and if so –
 - (i) the period for which that person has been a customs client; and
 - (ii) that person's record of compliance during that period; and
- (f) whether that person is new to the South African customs and excise environment, and if so, whether that person has evidence of a record of compliance with customs and excise requirements in other customs and excise jurisdictions.

Other forms of security (*section 690(1)(c)*)

31.2 For purposes of section 690(1)(c) other forms of security are –

- (a) a provisional payment in terms of rule **31.3**; and
- (b) a guarantee referred to in Part 3 of this Chapter, issued by a financial institution registered or approved by the South African Reserve Bank or the Financial Services Board.

Security provided in the form of provisional payments (*section 690(1)(c)*)

31.3 (1) (a) A person who provides security in the form of a provisional payment must submit an application for provisional payment to the customs authority electronically through e-filing, subject to paragraph (b).

(b) If an application referred to in paragraph (a) is submitted to the customs authority in paper format in circumstances where submissions in paper format are permissible,¹⁷⁹ the submission must be –

- (i) on Form.....as published as a rule on the SARS website; and
- (ii) made to the Customs Office serving the customs controlled area where the goods covered by the provisional payment are to be released for home use or a customs procedure.

(2) An application referred to in subrule (1) must in addition to the information referred to in section 691(a) and (b) of the Control Act, read with rule **31.4**, reflect the customs code of the person providing security.

Additional details to be provided in respect of security (*section 691(c)*)

31.4 In addition to the details referred to in section 691(a) and (b) of the Control Act, security provided in terms of section 690 or a document accompanying such security must contain–

- (a) a description of the kind of security; and
- (b) in the case of security covering specific goods, the movement reference number of any clearance declaration in relation to the goods.

¹⁷⁹ See section 913(4) of the Control Act.

Notification of change in circumstances

31.5 (1) A person who has provided security in terms of Chapter 31 of the Control Act must notify the customs authority of any change in circumstances –

- (a) that were material at the time when the customs authority –
 - (i) requested security in terms of Chapter 31 of the Control Act;¹⁸⁰ or
 - (ii) determined the amount of security, having regard to the factors referred to in section 689 read with rule **31.1**; or
- (b) that affects the continued validity of a surety bond or guarantee issued as security in terms of section 690.

(2) (a) A notification referred to in subrule (1) must be submitted electronically through e-filing, subject to paragraph (b).

(b) If a notification referred to in paragraph (a) is submitted to the customs authority in paper format in circumstances where submissions in paper format are permissible,¹⁸¹ the submission must be –

- (i) on Form....as published as a rule on the SARS website; and
- (ii) made to the Customs Office where the surety bond or guarantee was submitted in terms of rule **31.6** or **31.12**.

(3) A notification referred to in subrule (1) must reflect the following information:

- (a) The customs code of the person submitting the notification;
- (b) details of the change in circumstances; and
- (c) the bond or guarantee number, in the case of a change in circumstances that affects a surety bond or a guarantee.

Part 2: Surety bonds

Form and format of, and particulars to be reflected on, surety bonds (*sections 690(1)(a)(iii) and 691(c)*)

31.6 (1) A surety bond referred to in section 690(1)(a) of the Control Act must –

¹⁸⁰ The decision to require security is risk based.

¹⁸¹ See section 913(4) of the Control Act.

- (a) be issued on the surety bond form applicable to the particular activity in relation to the goods which the bond is intended to cover, as published as a rule on the SARS website;
- (b) contain at least the security details referred to in section 691(a) and (b);
- (c) be signed by the parties to the bond; and
- (d) be submitted manually, together with the supporting documents referred to in rule **31.7**, to the Customs Office indicated in the request for security.

Supporting documents to be submitted with surety bonds

31.7 The following supporting documents must be submitted with a surety bond referred to in rule **31.6**:

- (a) In the case of a bond issued on behalf of a natural person, a certified copy of that person's identity document or passport;
- (b) in the case of a bond issued on behalf of a juristic entity, a certified copy of the document authorising the person or persons who signed the bond on behalf of the entity, to act on behalf of the entity; and
- (c) a certified copy of the identity document or passport of any authorised person referred to in paragraph (b).

Withdrawal of surety bonds (*section 693(a)(i)*)

31.8 (1) (a) If a financial institution referred to in section 690(1)(a)(i) intends to withdraw a surety bond issued in terms of that subsection, that financial institution must at least 30 calendar days before the date of withdrawal referred to in subrule (2)(d), submit a notification of withdrawal to the customs authority electronically through e-filing, subject to paragraph (b).

(b) If a notification referred to in paragraph (a) is submitted to the customs authority in paper format in circumstances where submissions in paper format are permissible,¹⁸² the submission must be –

- (i) on Form...as published as a rule on the SARS website; and
- (ii) made to the Customs Office where the surety bond was submitted in terms of rule **31.6**.

¹⁸² See section 913(4) of the Control Act.

(2) A notification referred to in subrule (1) must reflect the following information:

- (a) The name, address and contact details of the financial institution;
- (b) the bond number;
- (c) the name and contact details of the person on whose behalf the bond was issued;
- (d) the date on which the withdrawal will become effective; and
- (e) the reason for the withdrawal.

(3) A notification in terms of this rule of the withdrawal of a surety bond does not affect any liability of the financial institution under that bond that has arisen or may arise in relation to goods –

- (a) imported before the date of withdrawal referred to in subrule (2)(d), in the case of a bond given on behalf of an importer;
- (b) cleared for export before the date of withdrawal referred to in subrule (2)(d), in the case of a bond given on behalf of an exporter;
- (c) received at any licensed premises before the date of withdrawal referred to in subrule (2)(d), in the case of a bond given on behalf of a licensee of licensed premises;
- (d) received by a licensed carrier before the date of withdrawal referred to in subrule (2)(d), in the case of a bond given on behalf of a licensed carrier;
- (e) in respect of which a customs broker has performed a service as such a broker on behalf of another before the date of withdrawal referred to in subrule (2)(d), in the case of a bond given on behalf of a customs broker;
- (f) supplied by a stores supplier as stores for a foreign-going vessel or aircraft or a cross-border train before the date of withdrawal referred to in subrule (2)(d), in the case of a bond given on behalf of a stores supplier;
- (g) processed under the inward or home use processing procedure before the date of withdrawal referred to in subrule (2)(d), in the case of a bond given on behalf of a licensee of inward or home use processing premises; and
- (h) manufactured in any licensed excise manufacturing warehouse before the date of withdrawal referred to in subrule (2)(d), in the case of a bond given on behalf of the licensee of an excise manufacturing warehouse.

New security to replace bonds withdrawn in terms of rule 31.8

31.9 If a notification of withdrawal was submitted in terms of rule **31.8** in relation to a surety bond, the person on whose behalf that bond was issued must before the date of withdrawal referred to in rule **31.4(2)(d)**, ensure that new security, which must become effective upon withdrawal of the surety bond, is provided, unless the customs authority determines otherwise.

Application for amendment of bond amount

31.10 (1) (a) A person on whose behalf a surety bond was issued must, if that person requires an amendment of the bond amount, submit an application for approval of amendment of the bond amount to the customs authority electronically through e-filing, subject to paragraph (b).

(b) If an application referred to in paragraph (a) is submitted to the customs authority in paper format in circumstances where submissions in paper format are permissible,¹⁸³ the submission must be –

- (i) on Form....as published as a rule on the SARS website; and
- (ii) made to the Customs Office where the surety bond was submitted in terms of rule **31.6**.

(2) An application referred to in subrule (1) must reflect the following information:

- (a) The customs code of the applicant;
- (b) the bond number;
- (c) the bond amount;
- (d) whether an increase or decrease of the amount is applied for; and
- (e) the reason for the increase or decrease, as the case may be.

(3) (a) If the customs authority approves the application, the applicant must ensure that either a new surety bond replacing the existing bond and complying with rule **31.6** or an addendum to the existing surety bond, as the customs authority may determine, reflecting the amended bond amount is issued.

¹⁸³ See section 913(4) of the Control Act.

(b) A surety bond or addendum referred to in paragraph (a) must within 14 working days after the applicant was notified of approval of the application be submitted manually, together with the supporting documents referred to in subrule (4), to the customs authority at the Customs Office indicated in the approval.

(4) A surety bond or an addendum to a surety bond referred to in subrule (3) must be supported by –

- (a) the approval issued by the customs authority pursuant to the application referred to in subrule (1), indicating the recalculated bond amount;
- (b) a copy of the surety bond indicating the bond amount to be amended by the new bond or the surety bond addendum;
- (c) in the case of the applicant being a natural person, a certified copy of that person's identity document or passport;
- (d) in the case of the applicant being a juristic entity, a certified copy of the document authorising the person or persons who signed the bond or addendum on behalf of the entity, to act on behalf of the entity; and
- (e) a certified copy of the identity document or passport of any authorised person referred to in paragraph (d).

Amendments of bond amounts on initiative of customs authority

31.11 (1) (a) If the customs authority on its own initiative instructs a person on whose behalf a surety bond was issued to amend the bond amount to an amount as recalculated by the customs authority, that person must ensure that either a new surety bond replacing the existing surety bond and complying with rule **31.6** or an addendum to the existing surety bond, as the customs authority may determine, reflecting the amended bond amount is issued.

(b) A surety bond or addendum referred to in paragraph (a) must within 14 working days after the person was notified of the customs authority's instruction to amend the bond amount be submitted manually, together with the supporting documents referred to in subrule (2), to the customs authority at the Customs Office indicated in the instruction.

(2) A surety bond or an addendum to a surety bond referred to in subrule (1) must be supported by –

- (a) the instruction issued by the customs authority indicating the recalculated bond amount;
- (b) a copy of the surety bond indicating the bond amount to be amended by the new bond or the surety bond addendum;
- (c) a certified copy of the authorisation authorising the person or persons who signed the bond or addendum on behalf of the applicant, to act on behalf of the applicant; and
- (d) a certified copy of the identity document or passport of any authorised person referred to in paragraph (c).

Part 3: Guarantees

Form and format of, and particulars to be reflected on, guarantees

31.12 (1) A guarantee referred to in rule **31.2(b)** must –

- (a) be issued on the guarantee form applicable to the particular goods or the particular activity in relation to the goods which the guarantee is intended to cover, as published as a rule on the SARS website;
- (b) contain at least the security details referred to in section 691(a) and (b) of the Control Act;
- (c) be signed by the financial institution issuing the guarantee; and
- (d) be submitted manually, together with the supporting documents referred to in rule **31.13**, to the Customs Office indicated in the request for security.

Supporting documents to be submitted with guarantees

31.13 The following supporting documents must be submitted with a guarantee referred to in rule **31.2(b)**:

- (a) ...
- (b) ...
- (b) ...

To be inserted.

Cancellation of guarantees only by written agreement (*section 693(a)(i)*)

31.14 (1) A guarantee referred to in rule **31.2(b)** may be cancelled only by written agreement between the financial institution that issued the guarantee and the Commissioner.

(2) If a guarantee is cancelled in accordance with subrule (1), the cancellation does not affect any liability of the financial institution under that guarantee that has arisen or may arise in relation to goods –

- (a) imported before the date of cancellation, in the case of a guarantee for the benefit of an importer;
- (b) cleared for export before the date of cancellation, in the case of a guarantee for the benefit of an exporter;
- (c) received at any licensed premises before the date of cancellation, in the case of a guarantee for the benefit of the licensee of licensed premises;
- (d) received by a licensed carrier before the date of cancellation, in the case of a guarantee for the benefit of a licensed carrier;
- (e) in respect of which a customs broker has performed a service as such a broker on behalf of another before the date of cancellation, in the case of a guarantee for the benefit of a customs broker;
- (f) supplied by a stores supplier as stores for a foreign-going vessel or aircraft or a cross-border train before the date of cancellation, in the case of a guarantee for the benefit of a stores supplier;
- (g) processed under the inward or home use processing procedure before the date of cancellation, in the case of a guarantee for the benefit of a licensee of inward or home use processing premises; and
- (h) manufactured in any licensed excise manufacturing warehouse before the date of cancellation, in the case of a guarantee for the benefit of the licensee of an excise manufacturing warehouse.

Amendment of guarantees only by written agreement

31.15 A guarantee referred to in rule **31.2(b)** may be amended only by written agreement between the financial institution that issued the guarantee and the Commissioner.

