

Please note that these rules must be read together with the provisions of section 39B of the Customs and Excise Act, 1964, and are intended to supplement the content already contained that section.

GENERAL EXPLANATORY NOTE:

[] Words that are between square brackets and in bold typeface, indicate deletions from the existing rules

_____ Words that are underlined with a solid line, indicate insertions in the existing rules

CUSTOMS AND EXCISE ACT, 1964
AMENDMENT OF RULES

The rules under the Customs and Excise Act, 1964 (Act No. 91 of 1964), published in Government Notice R.1874 of 8 December 1995, are herewith amended to the extent set out in the Schedule hereto **with effect from**

THOMAS SWABIHI MOYANE
COMMISSIONER FOR THE SOUTH AFRICAN REVENUE SERVICE

SCHEDULE

Insertion of rules under section 39B of Act 91 of 1964

1. The following rules are hereby inserted after rule 39.15 of the rules under the Customs and Excise Act, 1964 (Act 91 of 1964):

“RULES FOR SECTION 39B OF THE ACT

Exclusion of certain classes or kinds of goods from incomplete or provisional entry (section 39B(13)(b))

39B.01 (1) The following categories of goods are hereby excluded from the application of section 39B of the Act:

- (a) Imported cigarettes and other imported tobacco products that are subject to excise duty; and
- (b) imported wine, spirits and beer and other imported alcoholic beverages that are subject to excise duty.

(2) Goods referred to in subrule (1) may not be entered by way of incomplete or provisional entry and due entry must be made in respect of such goods in accordance with the provisions of sections 38 and 39 of the Act.

Particulars to be contained in incomplete and provisional bills of entry
(section 39B(5) and (6), read with subsection (13)(d))

39B.02 (1) An incomplete bill of entry must, apart from the particulars listed in section 39B(5)(a)(i) of the Act, contain –

- (a) the tariff classification of the goods; and
- (b) an indication that –
 - (i) the bill of entry serves as an application for incomplete entry;
and
 - (ii) the outstanding particulars or documents will be available at the time of submission of the supplementary bill of entry.

(2) A provisional bill of entry must, apart from the particulars referred to in section 39B(6)(a) and (b) –

- (a) contain all the particulars required for entry contemplated in section 39(1)(a);
- (b) contain an indication that –
 - (i) the bill of entry serves as an application for provisional entry;
and
 - (ii) the particulars or documents confirming or correcting any particulars or documents provisionally included will be available at the time of submission of the supplementary bill of entry; and

(c) indicate in accordance with any instructions contained in the Declaration Completion Manual as published on the SARS website for completing the bill of entry, precisely which of the particulars are included provisionally, pending subsequent confirmation or correction.

(3) A bill of entry referred to in subrule (1) or (2) must –

(a) be submitted electronically in terms of section 101A(2), read with rule 101A.01A(2); or

(b) if delivered manually in paper format, be delivered at the Controller's office through which the goods are imported or to be exported.

Supporting documents for incomplete and provisional bills of entry

(section 39B(5)(c) and (6)(c), read with subsection (13)(d))

39B.03 (1) An incomplete or provisional bill of entry must be supported by –

(a) the documents referred to in –

(i) section 39 of the Act, in the case of an incomplete bill of entry; or

(ii) section 39B(6)(c), in the case of a provisional bill of entry; and

(b) a statement setting out the reason why the information or documents necessary for due entry in respect of the goods are not at hand and, if as a result of a delay in obtaining such information or documents, also setting out whether such delay –

(i) is attributable to the negligence of any person and could have been avoided if measures have been taken timeously; or

(ii) is common practice within the industry in which the applicant operates, or due to the inherent characteristics of the goods.

(2) Any supporting document referred to in subrule (1) relating to an incomplete or provisional bill of entry submitted electronically as contemplated in rule 39B.02(3)(a), must be submitted on request.

Conditions subject to which approvals for incomplete or provisional entry are granted (section 39B(4))

39B.04 The granting of an approval for an importer or exporter to enter and to obtain release of goods on an incomplete or a provisional bill of entry is subject to the condition that the Commissioner may withdraw the approval—

(a) if the applicant—

(i) obtained the approval under false pretences; or

(ii) does not fulfil any obligation in terms of the Act or these Rules in respect of the procedure under which the goods are entered; or

(b) if the applicant fails to provide security which the Commissioner may require in respect of the approval to cover any risks in relation to tax payable on the goods.

Delivery and form of supplementary bills of entry (section 39B(9))

39B.05 (1) A supplementary bill of entry must within the timeframe referred to in section 39B(9)(a) of the Act, read with paragraph (d) of that subsection –

(a) be submitted electronically in terms of section 101A(2), read with rule 101A.01A(2); or

(b) if delivered manually in paper format, be delivered at the office referred to in paragraph (c) of section 39B(9).

(2) A supplementary bill of entry must be an adjusted version of the incomplete or provisional bill of entry and must contain all the particulars required for due entry, including –

(a) a reference to the relevant incomplete or provisional bill of entry to which it relates, as contemplated in section 39B(9)(b);

(b) any outstanding particulars not previously included on the bill of entry to which it relates;

(c) the correct account of particulars previously submitted provisionally;
and

(d) any other necessary adjustment of particulars previously included.

Applications for extension of timeframe for submission of supplementary bills of entry (section 39B(9)(d))

39B.06 (1) An application contemplated in section 39B(9)(d) of the Act for extension of the timeframe within which a supplementary bill of entry must be submitted or delivered, must before the expiry of that timeframe be –
(a) submitted electronically in terms of section 101A(2) of the Act; or
(b) if delivered manually in paper format, be delivered to the same office where the incomplete or provisional bill of entry was delivered.

(2) An application referred to in subrule (1) must reflect –
(a) the name and customs code of the applicant;
(b) a reference to the incomplete or provisional bill of entry to which the application relates;
(c) the extended timeframe applied for, provided that this extended period may not exceed a seven day period as contemplated in section 39B(9)(d); and
(d) the reason why the extension is required, which may be motivated in a separate supporting document submitted to the Commissioner on request.”.

Amendment of rules for section 41 of Act 91 of 1964

2. The rules for section 41 of the Customs and Excise Act, 1964 (Act 91 of 1964), are hereby amended by –

(a) the substitution for –

(i) rule 41.01 of the following rule:

“41.01 Any person entering any goods imported or to be imported shall produce to the Controller **[at the time of presenting the bill of entry in question]** upon request, an original invoice from the supplier of the goods showing all particulars as may be required in terms of the Act and these rules.”;

(ii) rule 41.03 of the following rule:

“41.03 Any person entering any goods for export shall produce to the Controller **[at the time of presentation of the bill of entry in question,]** upon request, an invoice containing the particulars **[as the Controller may**

require] as may be required in terms of the Act and these rules;

(iii) rule 41.04 for the following rule:

“41.04 An invoice required in terms of the provisions of =

(a) rule 41.01 shall not be taken as satisfying the requirements of that rule if it does not contain, in addition to any proprietary or trade name of such goods, a full description of the nature and characteristics of such goods together with such particulars thereof as are required to assess the duty due and to compile trade statistics[-]; and

(b) rule 41.03 must contain the same particulars required for tax invoices in terms of section 20(4) or (5) of the Value Added Tax Act, 1991 (Act No. 89 of 1991), as may be applicable in the circumstances.”; and

(iv) rule 41.05 for the following rule:

“41.05 Any particulars on any invoice in respect of any goods imported [goods] or goods to be exported shall be in one of the official languages.”; and

(b) the insertion after rule 41.05 of the following rule:

“41.06 An importer or exporter must, in addition to complying with the requirements relating to invoices contained in the Act or these rules, also ensure compliance with any specific requirements for invoices in respect of a particular type of goods prescribed by any other law.”.