

**SOUTH AFRICAN REVENUE SERVICE**

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**CUSTOMS AND EXCISE ACT, 1964**

**AMENDMENT OF RULES (NO. DAR/66)**

Under sections 19A and 120 of the Customs and Excise Act, 1964, the rules published in Government Notice R. 1874 of 8 December 1995 are amended to the extent set out in the Schedule hereto as follows:

- (1) General Rules 19A.01 to 19A.10 published in Government Notice R.1251 (Government Gazette No. 23897) on 1 October 2002 insofar as they relate to beer and spirits and rules numbered 19A2.01 and 19A2.02 in respect of beer and rules numbered 19A3.01 to 19A3.06 in respect of spirits shall come into operation on 26 February 2003.
- (2) Where rule 19A3.06 states any date before 26 February 2003 for any requirement that date is specified in respect of transitional arrangements made with licensees of customs and excise warehouses and persons who intend licensing customs and excise warehouses in order to implement the procedures specified in the rules referred to in paragraph (1) on 26 February 2003.

**PRAVIN JAMNADAS GORDHAN  
COMMISSIONER FOR THE SOUTH AFRICAN REVENUE SERVICE**

**SCHEDULE**

By the insertion in the rules for section 19A after the rules numbered 19A1 of the following:

**"19A2        Rules in respect of beer**

**19A2.01      Customs and excise warehouses for the manufacture or storage of beer**

- (a) These rules are additional to the general rules numbered 19A.
- (b) A customs and excise warehouse for the manufacture or storage of beer may be licensed only as a
  - (i) manufacturing warehouse for the manufacture of beer;
  - (ii) special storage warehouse for the storage of beer for export; or
  - (iii) special storage warehouse for the storage of beer for supply to any other customs and excise storage warehouse licensed as -
    - (aa) a duty free shop; or
    - (bb) for the supply of dutiable goods to foreign-going ships or aircraft.
- (c) For the purposes of section 19A(1)(a)(ii), beer stored as contemplated in paragraph (a)(ii) and (iii), may not be removed from such warehouses for home consumption and payment of duty, except if-
  - (i) The Commissioner on good cause shown, and subject to such conditions as he may impose in each case, permits such removal;
  - (ii) The goods are required to be removed from such warehouse as contemplated in section 19(9).

**19A2.02 Clearance of beer from the customs and excise manufacturing warehouse and payment of duty**

- (a) Where beer is removed from a customs and excise manufacturing warehouse for home consumption and payment of duty, the invoice or dispatch delivery note duly completed and issued as contemplated in rule 19A.04, shall, subject to compliance with the provisions of section 38(4), be deemed to be due entry for home consumption of such beer.

- (b) (i) In accordance with rule 19A.06, the excise duty account on prescribed form DA 260 together with the validating bill of entry (DA 610) must be submitted for the relevant accounting month by the licensee of the customs and excise manufacturing warehouse to reach the Controller within 30 days after closing of accounts during the hours of business prescribed in item 201.20 of the Schedule to the Rules for acceptance of bills of entry and for receipt of duties and other revenue.
  - (ii) Excise duty payable as calculated on form DA 260 and entered on form DA 610 must be paid to reach the Controller during the hours of business prescribed in item 201.20 of the Schedule to the Rules for acceptance of bills of entry and for receipt of duties and other revenue in respect of the account for-
    - (aa) every month except February -
      - (A) half of the duty payable within 30 days after the end of the accounting month;
      - (B) half of the duty payable within 60 days after the end of the accounting month;
    - (bb) February, the full amount payable on or before the second last working day of March.
  - (iii) If payment is made by electronic funds transfer, proof of payment must be submitted to the Controller during the hours of business specified in subparagraph (i).
- (c) Any goods removed for any of the following purposes must be entered, in the case of:
- (i) export, including supply as stores for foreign-going ships or aircraft, on form DA 550, at the office of the Controller, before removal of the goods so exported or supplied;
  - (ii) rebate of duty, on form DA 610 (ZGR) at the office of the Controller before each such removal;

- (iii) removal in bond to any customs and excise warehouse within the common customs area, on form DA 610 (ZIB) at the office of the Controller before each such removal.
- (d) Whenever goods are removed to a customs and excise manufacturing or storage warehouse on issuing form DA 610 in accordance with the provisions of paragraph (c)(iii), the licensee of the receiving warehouse must process form DA 610 (ZRW) at the office of the Controller in respect of goods so received within 7 days after the date of removal from such warehouse.
- (e)
  - (i) Any removal in bond or export of beer by road is subject to the provisions of the rules for section 64D.
  - (ii) Subject to the provisions of any other rule regarding the carriage of goods, a copy of the processed bill of entry must accompany the driver of the vehicle to its destination and must be produced to an officer on demand.

**19A3 Rules in respect of spirits**

**19A3.01 Customs and excise warehouses which may be licensed for the primary manufacture (VMP), secondary manufacture (VMS) or storage of spirits**

- (a)
  - (i) These rules are additional to the general rules numbered 19A.
  - (ii) Unless the context otherwise indicates or where otherwise specified, for the purpose of the rules in respect of spirits -

“blend” means the combination of two or more different substances, including spirits, to obtain one potable product;

“denatured spirits” means spirits denatured to make them unfit for use as a beverage by the addition of any substance in accordance with the provisions of any item of Schedule No. 6 and includes methylated spirits;

“matured spirits” means spirits stored in wooden vats for a period of at least three years to allow the said spirits to mature;

“mixture” means the combination of two or more spirituous products of the same class or kind to obtain a product of a consistently acceptable standard;

“spirits” includes spirituous products;

“spirituous products” includes spirituous beverages;

“stabilisation” means storage of a blend or mixture for a period of time to allow the combined product to become stable;

“VMP warehouse” means a customs and excise manufacturing warehouse for primary production of spirits used for the activities prescribed in these rules;

“VMS warehouse” means a customs and excise manufacturing warehouse for secondary production of spirits used for the activities prescribed in these rules.

- (iii) When accounting for any quantity of spirits in terms of any provision of these rules, such quantity must be expressed in litres of absolute alcohol at 20° C.
- (b) A customs and excise warehouse for the manufacture or storage of spirits may be licensed only as a -
- (i) manufacturing warehouse for primary production of spirits (VMP warehouse);
  - (ii) manufacturing warehouse for secondary production of spirits (VMS warehouse) for use in spirituous beverages;
  - (iii) special storage warehouse for the storage of spirits for export, which may be for –

- (aa) unpacked spirits as contemplated in section 75 (18)(bA); or
  - (bb) packed spirits.
- (iv) special storage warehouse for the storage of spirits for supply to any other customs and excise storage warehouse licensed as a duty free shop or for the supply of dutiable goods to foreign-going ships and aircraft;
- (v) special storage warehouse for -
- (aa) denaturing of spirits and packing of such denatured spirits; or
  - (bb) packing or repacking of undenatured plain spirits for supply to rebate users registered as contemplated in the rules for section 59A to obtain such spirits under rebate of duty in terms of the provisions of items 607.04.10.02 to 607.04.10.16, 609.04.50 and 609.04.55 of Schedule No. 6 for the manufacture of other goods or for such other purposes as may be specified in such items; or
  - (cc) both the activities contemplated in subparagraphs (aa) and (bb).
- (c) (i) Manufacture of spirits from the distillation or re-distillation of any substance must take place in a VMP warehouse; and
- (ii) the following additional activities may take place in a VMP warehouse:
- (aa) re-distillation of spirits (including gin distillation);
  - (bb) maturation of spirits;
  - (cc) maceration of spirits;
  - (dd) mixing of the same types of spirits to obtain consistent quality standards.

- (d) (i) Blending and stabilising of spirits must, and in addition, bottling and packaging of spirits may, take place in a VMS warehouse.
- (ii) Any installation used only for bottling and packaging of spirits will not be licensed as a VMS warehouse.
- (e) For the purposes of section 19A(1)(a)(ii), spirits stored in a customs and excise warehouse as contemplated in paragraph (b)(iii), (iv) or (v) may not be removed from such warehouse for home consumption and payment of duty, except if -
  - (i) the Commissioner on good cause shown, and subject to such conditions as he may impose in each case, permits such removal,
  - (ii) the goods are required to be removed from such warehouse in terms of the provisions of section 19(9); and
  - (iii) In the case of (b)(v), such spirits are removed to a registered rebate user as contemplated in that paragraph.

**19A3.02 Clearance of spirits from a VMP warehouse and payment of duty**

- (a) (i) Where spirits are removed from a VMP warehouse for home consumption and payment of duty, the invoice or dispatch delivery note duly completed and issued as contemplated in rule 19A.04, shall, subject to compliance with the provisions of section 38(4), be deemed to be due entry for home consumption of such spirits.
- (ii) (aa) In accordance with rule 19A.06, the excise account on prescribed form DA 260 and its schedules, in respect of the relevant accounting month, which is to be specified in such form, together with the bill of entry (DA 610) must be submitted and the excise duty as calculated on form DA 260 paid by the licensee of the VMP warehouse to reach the Controller within 30 days after the closing of accounts during the hours of business prescribed in item 201.20 of the Schedule to the Rules for acceptance of bills of entry and for receipt of duties and other revenue.

- (bb) If payment is made by electronic funds transfer, proof of payment must be submitted to reach the Controller during the period and the hours of business specified in subparagraph (aa).
  
- (b) (i) The quantity of spirits removed in bond or exported from a VMP warehouse may, where liability has ceased as contemplated in rule 19A.09, be deducted by the licensee of such warehouse from the quantity of spirits accounted for, provided the rate of duty leviable at the time the spirits were so entered for removal in bond or for export is the same as the rate applicable to the quantity of spirits so accounted for on such form DA 260.
  
- (ii) where such rates differ an appropriate adjustment must be made on form DA 260 in respect of the excise duty payable.

**19A3.03 Clearance of spirits received in a VMS warehouse and payment of duty**

- (a) Spirits received in the VMS warehouse from the VMP warehouse must be entered by the licensee of the VMS warehouse on a form DA 610 (ZRW) within 7 days after the date of removal to such warehouse.
  
- (b) (i) For the purposes of section 19A(1)(a)(i), all spirits received in the VMS warehouse from a VMP warehouse during any accounting month shall be deemed to have been entered for home consumption on the date of closing of accounts as prescribed in rule 19A.06.
  
- (ii) The stock account duly completed in respect of all the spirits received during such accounting month shall, subject to compliance with the provisions of section 38(4), be deemed to be due entry of such spirits.
  
- (c) Only spirits that have been blended and stabilised (spirituous beverages) may be removed from a VMS warehouse for purposes of home consumption.



- (d) From the quantity so received from the VMP warehouse there may, subject to paragraph (e), be deducted by the licensee of the VMS warehouse 1,5 per cent from the excise account as contemplated in section 75(18)(a) or (b).
- (e)
  - (i) The 1,5 per cent referred to in paragraph (d) is only deductible in respect of spirits used for blending and stabilising and the quantity of spirits so used must be specified on form DA 260.
  - (ii) The 1,5per cent is not deductible where such spirits are exported in the circumstances contemplated in section 75(18)(bA).
- (f) An excise account on prescribed form DA 260 and its schedules, in respect of the excise duty payable on the spirits received from the VMP warehouse during the relevant accounting month and deemed to have been entered for home consumption as contemplated in paragraph (b), which is to be specified in such form, together with the validating bill of entry DA 610, must be submitted by the licensee of the VMS warehouse to reach the Controller within 30 days after the date of closing of accounts, during the hours of business prescribed in item 201.20 of the Schedule to the Rules for acceptance of bills of entry and for receipt of duties and other revenue.
- (g)
  - (i) The excise duty payable as calculated on form DA 260 and entered on form DA 610 must be paid to the Controller in respect of such spirits -
    - (aa) blended into blends not containing at least 25per cent alcohol by volume matured spirits, within 110 days after the end of such accounting month;
    - (bb) blended into blends containing at least 25per cent alcohol by volume matured spirits, within 130 days after the end of such accounting month;  
and
    - (cc) not blended into blends as described in paragraph (aa) and (bb), within 110 days after the end of such accounting month.

- (ii) Payment of such excise duty must reach the Controller within the specified periods during the hours of business prescribed in item 201.20 of the Schedule to the Rules for acceptance of bills of entry and for receipt of duties and other revenue.
- (iii) If payment is made by electronic funds transfer, proof of payment must be submitted to reach the Controller during the periods and the hours of business specified in paragraph (f).
- (iv)
  - (aa) The form DA 33A referred to in rule 19A3.04, which is required to be completed by a licensee of a storage warehouse contemplated in rule 19A3.01 (b) (v) in respect of each removal of spirits supplied under rebate of duty, shall be deemed to be an entry for home consumption for such spirits.
  - (bb) In accordance with rule 19A.06(f)(i), the excise account on prescribed form DA 260 and its schedules, in respect of the relevant accounting period, which is to be specified in such form, together with the validating bill of entry (DA 610) must be submitted, and the excise duty as calculated on form DA 260 paid, by the licensee of such storage (SOS) warehouse, to reach the Controller within 14 days at the end of March, June, September and December after the closing of accounts for each such quarter, during the hours of business prescribed in item 201.20 of the Schedule to the Rules for acceptance of bills of entry and for receipt of duties and other revenue.
  - (cc) If payment is made by electronic funds transfer, proof of payment must be submitted to reach the Controller during the period and the hours of business specified in subparagraph (bb).
- (h)
  - (i) For the purpose of section 19A(1)(c), the quantity of spirits in spirituous beverages removed in bond or exported from a VMS warehouse after entry or deemed entry for home consumption may, after liability has ceased as contemplated in rule 19A.09, be deducted from the quantity of spirits received in such VMS warehouse and accounted for on form DA 260 for payment of excise duty in any subsequent month, provided the licensee proves that the rate of duty applicable at the time the

spirits were so entered and removed or exported is the same as the rate applicable to the quantity of spirits so accounted for on the relevant form DA 260 for payment of excise duty.

- (ii) Where the licensee produces such proof and such rate differs, an appropriate adjustment must be made on form DA 260 in respect of the excise duty payable.
- (iii) Where the licensee is unable to produce proof of such rate of duty in respect of the spirits so removed in bond or exported, the lowest rate applicable during a period of 12 months prior to the date on which the spirits were so entered for removal in bond or for export must, for the purposes of section 75(11A), be used for determining any adjustment to the excise duty payable for such accounting month.

**19A3.04 Removal of spirits from a customs and excise warehouse for any purpose other than for home consumption and payment of duty**

- (a) No spirits shall be removed from one VMP warehouse to another VMP warehouse unless for any of the following purposes -
  - (i) re-distillation (including gin distillation);
  - (ii) maturation;
  - (iii) maceration;
  - (iv) mixing, in order to obtain consistent quality standards.
- (b) Spirits may be removed in bond from a VMP warehouse to a VMS warehouse for the purposes specified in rule 19A3.01(b)(ii) and (d).
- (c) No spirits may be removed in bond between one VMS warehouse and another VMS warehouse.

- (d) (i) Any goods removed for any of the following purposes must be entered, in the case of:
- (aa) export, including supply as stores for foreign-going ships or aircraft, on form DA 550, at the office of the Controller, before removal of the goods so exported or supplied;
  - (bb) rebate of duty, on form DA 33A which must be completed in quadruplicate for each such removal.
  - (cc) removal in bond to any customs and excise warehouse within the common customs area, on form DA 610 (ZIB) which must be received at the office of the Controller within 24 hours after such removal.
- (ii) Whenever goods are removed from a customs and excise storage warehouse on issuing form DA33A in accordance with the provisions of paragraph (i)(bb), the licensee of the warehouse must submit a summary of such removals on form DA 610 (ZGR) for processing at the office of the Controller in respect of goods removed and delivered, together with the excise account required to be submitted in terms of rule 19A3.03(g).
- (iii) The provisions of subparagraph (ii) shall apply *mutatis mutandis* in respect of a licensed storage warehouse where spirits are denatured in terms of any item of Schedule No. 6.
- (iv) Any removal in bond or export of spirits by road is subject to the provisions of the rules for section 64D.
- (v) Subject to the provisions of any other rule regarding the carriage of goods, a copy of the relevant bill of entry DA610, or if not processed at the office of the Controller at the time of removal, a copy of the draft bill of entry DA610 submitted to the office of the Controller for processing must accompany the driver of the vehicle to its destination and must be produced to an officer on demand.

- (vi) Where any goods are carried by a licensed remover of goods in bond, such driver of the vehicle must in addition to any form authorising such removal, also produce the relevant road manifest to an officer on demand.
  
- (vii) (aa) When form DA 33A is used for the transport by road of goods in bond from a customs and excise warehouse by the licensee of the customs and excise warehouse using own transport or by a licensed remover of goods in bond -
  - (A) the licensee and the driver of the vehicle on loading of the goods;  
and
  - (B) the rebate user and the driver of the vehicle on delivery of the goods;must complete the declarations on the form.
  
- (bb) The licensee must-
  - (A) keep one copy of the DA 33A and furnish one copy to the rebate user; and
  - (B) furnish two copies to the licensed remover of goods in bond, where applicable, who must after completion by the rebate user on delivery of the spirits provide the licensee with one copy.
  
- (cc) (A) The licensee must keep a register of each form DA 33A issued and must include therein the rebate user's name and address, client number and quantity delivered.
  
- (B) A copy of the register must accompany the form DA 610 (ZGR) contemplated in paragraph (d)(ii).

- (dd) Form DA 610 (ZGR), processed as contemplated in paragraph (d)(ii) and the duly completed declaration by the authorised person on form DA 33A acknowledging receipt on behalf of the rebate user may, subject to paragraph (ee), be accepted for the purposes of rule 19A.09 in respect of goods so removed by the licensee.
- (ee) Whenever any goods are removed to rebate users or removed in bond or exported by the licensee of a customs and excise warehouse, the licensee must include with the excise account required to be submitted in terms of these rules a statement to the effect that -
  - (i) the goods removed to rebate users, removed in bond or exported as reflected in the account were duly delivered to the rebate user or the licensee of the warehouse to which the goods were removed in bond or were duly exported, as the case may be;
  - (ii) a record of the proof of such delivery or export is available at the licensed premises and will be kept in accordance with the requirements of rule 19A.05.
- (viii) (aa) Whenever goods are removed to a customs and excise manufacturing or storage warehouse on issuing form DA 610(ZIB) in accordance with the provisions of paragraph (d)(i)(cc), the licensee of the receiving warehouse must process form DA 610 (ZRW) at the office of the Controller in respect of goods so received within 7 days after the date of removal to such warehouse.
- (bb) The duly completed form DA610 (ZIB) and a copy of form DA 610 (ZRW) may, subject to paragraph (c), rule 19A.06(e) and any other rule relating to the movement of goods, be accepted for purposes of rule 19A.09.
- (ix) (aa) Only a licensee of a VMS warehouse may export spirituous beverages manufactured in such warehouse from stocks owned and stored by such licensee on any premises outside such warehouse.

- (bb) A licensee of a VMS warehouse who so exports spirituous beverages may set off the duty paid or payable on the spirits in such beverages against duty payable on spirits as declared on a monthly account on complying with the provisions of item 609.24 of Schedule No.6.
  
- (c) Whenever any goods are removed to rebate users or removed in bond or exported by the licensee of a customs and excise warehouse, the licensee must include with the excise account required to be submitted in terms of these rules a statement to the effect that -
  - (i) the goods removed to rebate users, removed in bond or exported as reflected in the account were duly delivered to the rebate user or the licensee of the warehouse to which the goods were removed in bond or were duly exported, as the case maybe;
  - (ii) a record of the proof of such delivery or export is available at the licensed premises and will be kept in accordance with the requirements of rule 19A.05.

**19A3.05 Deductions from or set-off against monthly accounts in respect of goods subject to movement procedures**

The provisions of rules 19A.06(e) and 19A.09 shall apply *mutatis mutandis* to any deduction or set-off from monthly accounts and such deduction or set-off may only be made on compliance with the procedures regulating the movement of the goods concerned.

**19A3.06 Transitional arrangements**

**Licensing and de-licensing**

- (a) (i) (aa) Before 21 February 2003 or within a reasonable period after such date, every licensee of an existing customs and excise primary manufacturing (VMP) warehouse, all applicants for customs and excise secondary manufacturing (VMS) warehouses; and

- (bb) at any time, any applicant for a licence for a customs and excise storage warehouse contemplated in rule 19A3.01(b), must apply for a licence on form DA 185 and the appropriate annexure, which must be submitted together with the supporting documents required and the completed pro forma agreement in accordance with the requirements specified in rule 19A.02.
  
- (ii) (aa) The existing license of the manufacturing (VMP) warehouse will remain in force unless the Controller decides to cancel such licence and issue a new licence.
  
- (bb) Any licensee shall furnish such additional security as the Commissioner may require before 31 March 2003.
  
- (b) (i) (aa) On 26 February 2003 at 15:00 licensees of all customs and excise manufacturing or storage warehouses excluding a licensee of a storage warehouse licensed as a duty free shop or for the supply of dutiable goods to foreign-going ships or aircraft, must take stock of all spirits which have not at that time been entered for home consumption and removed from such warehouses as contemplated in section 38(4) and the rules for section 20.
  
- (bb) An account for spirituous products removed from any such warehouse from the last date of closing of duty accounts preceding 26 February 2003 and 15:00 on 26 February 2003 must be submitted to the Controller, and the duty due paid thereon not later than the penultimate working day of March 2003 during the hours of business prescribed in item 201.20 of the Schedule to the Rules for acceptance of bills of entry and for receipt of duties and other revenue.
  
- (ii) Stock reports must reflect in respect of each type of such products -
  - (aa) the stock figure by quantity;



- (bb) the applicable rate of duty;
  
- (cc) assessed excise duty amounts, except in the case of stock in primary manufacturing (VMP) warehouses, at the rate of duty leviable on 27 February 2003.
  
- (iii) Stock reports together with Certificate of removal forms DA32 must be submitted to the Controller during the hours of business referred to in paragraph (b)(i)(bb) on 27 February 2003 and such forms DA 32 shall, for the purposes of section 38(4), be deemed to be entries for home consumption of such stocks on that date.
  
- (iv) Within 7 days of conclusion of such stocktaking licensees must submit to the Controller any amendments to such stock reports together with any amended form DA32 where applicable.
  
- (v) Any goods in transit from any manufacturing or storage warehouse to another such warehouse must be shown separately and included in the stock of the receiving warehouse.
  
- (vi) Officers may without prior notice attend the stocktaking at any such warehouse.
  
- (vii) Officers may verify or monitor stocktaking in conjunction with licensees as the Controller may consider necessary.

**Transfers in bond to, and de-licensing of, storage warehouse**

- (c) (i) After 15:00 on 26 February 2003 no goods may be removed in bond to any customs and excise storage warehouse unless such storage warehouse has been licensed for any of the purposes specified in rule 19A3.01(b)(iii). (iv) and (v), including a storage warehouse licensed as a duty free shop or for the supply of dutiable goods to foreign going ships or aircraft.

- (ii) Where the licence of any licensed storage warehouse is cancelled as contemplated in section 19A(3) the surety bond will be cancelled when the licensee has fulfilled all obligations under such bond.

**Assessment and payment of duty**

- (d) (i) The Controller will furnish in the form of a schedule confirmation of the duties payable on the spirits in stock according to the stock reports and forms DA32 and any amendments thereto referred to in paragraph (b)(ii) on or before 31 March 2003.
- (ii) The licensee must submit a form DA610 reflecting the duty payable in accordance with such schedule and pay the duty due in three equal monthly payments, to be paid on or before the penultimate working day of each month, starting on 29 April 2003.

**Entry for home consumption and payment of duty from 27 February 2003**

- (e) From 27 February 2003 spirits in a VMP warehouse and spirits received in a VMS warehouse must be entered for home consumption and payment of duty as respectively contemplated in rule 19A3.02 and 19A3.03."