

SOUTH AFRICAN REVENUE SERVICE

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**CUSTOMS AND EXCISE ACT, 1964
AMENDMENT OF RULES (DAR/93)**

Under sections 54F and 120 of the Customs and Excise Act, 1964, the rules published in Government Notice R.1874 of 8 December 1995 are amended with retrospective effect from **1 July 2009** to the extent set out in the Schedule hereto.

**GEORGE NGAKANE VIRGIL MAGASHULA
COMMISSIONER FOR THE SOUTH AFRICAN REVENUE SERVICE**

SCHEDULE

(a) By the substitution in rule 54FA.03 for the heading of the following heading:

“Application for a licence and furnishing of security”

(b) By the substitution in rule 54FA.04 for paragraph (a) of the following paragraph:

“(a) Every person who generates electricity and is not required to license his or her generation plant as contemplated in rule 54FA.03 must register on form DA 185 and the appropriate annexure thereto if electricity is generated from—

- (i) non-renewable sources in an electricity plant with an installed capacity exceeding 3MW, but not exceeding 5MW; or
- (ii) (aa) co-generation as specified in Note 2(c) to item 148.01.01 of Section B of Part 3 of Schedule No. 1; or
(bb) sources as specified in Note 2(d) to the said item 148.01.01,

in an electricity generation plant with an installed capacity exceeding 3MW.”

(c) By the substitution in rule 54FA.08(b) for subparagraph (ii) of the following subparagraphs:

- “(ii) a record wherein the registrant must record daily the quantities of electricity generated from—
 - (aa) renewable sources; or
 - (bb) co-generation or sources respectively contemplated in rule 54FA.04(a)(ii)(aa) and (bb);
- (iii) a record from which can be readily ascertained that the electricity generated over a calendar year by a registrant contemplated in rule 54FA.04(a)(ii), is generated in accordance with provisions of Note 2(c) or (d), as may be applicable, to item 148.01.01 of Section B of Part 3 of Schedule No. 1.”

(d) By insertion after rule 54FA.09 of the following heading and rule:

“Implementation of the amendments to Note 2(c) and (d) and other Notes of Section B of Part 3 of Schedule No. 1

54FA.10 (a) For the purposes of implementing Note 2(c) or (d) of Section B of Part 3 of Schedule No. 1 with effect from 1 July 2009, a person who generates electricity from sources contemplated in Note 2(d) or Note 5 of Section B of Part 3 of Schedule No. 1 in an electricity generating plant with an installed capacity exceeding 3MW, must submit a report, prepared, signed and certified by an engineer accredited with the Engineering Council of South Africa, of the electricity so generated for every calendar year as contemplated in Note 6 of Section B of Part 3 of Schedule No. 1.

- (b) If a person is not required to license his or her electricity plant as contemplated in paragraph (c), the report referred to in paragraph (a) for the calendar years—
 - (i) 1 July 2009 to 30 June 2010 and 1 July 2010 to 30 June 2011 must be submitted to reach the Commissioner on or before 29 February 2012; and

- (ii) commencing 1 July 2011, must be submitted to reach the Commissioner within 30 days after the end of each calendar year.
- (c) Where according to the report referred to in paragraph (a) the electricity generated does not comply with Note 2(c) or (d) of Section B of Part 3 of Schedule No. 1, as may be applicable, for any calendar year and such electricity is generated in an electricity generation plant with an installed capacity exceeding 5MW, the electricity producer must—
- (i) (aa) in the case of any of the two calendar years 1 July 2009 to 30 June 2010 and 1 July 2010 to 30 June 2011, apply before 29 February 2012; and
 - (bb) in respect of any following calendar year, apply within 10 days after the end of that calendar year, for a licence for his or her electricity generation plant as contemplated in rule 54FA.03;
- (ii) subject to paragraph (d), submit an account on form DA 176, the report referred to in paragraph (a) and payment of the environmental levy due to reach the Commissioner within 30 days after the end of that calendar year.
- (d)
- (i) In respect of the calendar years 1 July 2009 to 30 June 2010 and 1 July 2010 to 30 June 2011, completed forms DA 176, the report and payment must be submitted to reach the Commissioner on or before 23 March 2012.
 - (ii) Except as otherwise specified in this rule, the provisions of rule 54FA.06(a), (b), (c) and (e), with the necessary changes, apply to the submission of form DA 176 and payment contemplated in paragraph (c)(ii) and subparagraph (i).
 - (iii) On licensing the electricity generation plant as contemplated in paragraph (c) any registration issued to the licensee in terms of rule 54FA.04(a) will be cancelled.

- (e) A licensee contemplated in paragraph (c) who—
- (i) generates electricity complying with Note 2(c) or (d), as may be applicable, during the following calendar year must submit the report referred to in paragraph (a) together with a nil return on form DA 176 to reach the Commissioner within 30 days after the end of that calendar year;
 - (ii) for two consecutive calendar years generates electricity complying with the said Note 2(c) and (d), as may be applicable, may thereafter on good cause shown apply to the Commissioner for cancellation of the licence and for registration in terms of paragraph 54FA.04(a).

(f) Any engineer who compiles a report as contemplated in rule 54FA.10(a), which—

- (i) contains a false statement or misleading information which he or she did not believe to be true or could not reasonably have believed to be true; or
 - (ii) omits to state information which was omitted with the intention to mislead,
- is guilty of an offence.

(e) By the renumbering in item 200.03 of the Schedule to the rules of paragraph (k) listing places for the administration of the environmental levy on electricity as contemplated in the rules numbered 54FA, as paragraph (l).

(f) By the substitution in item 202.00 of the Schedule to the rules for forms DA 185, DA 185.4A12 and DA 185.4B2 of the following forms—

“DA 185 - APPLICATION FORM: REGISTRATION/LICENSING OF CUSTOMS AND EXCISE CLIENTS

DA 185.4A12 - REGISTRATION CLIENT TYPE 4A12 – ELECTRICITY PRODUCER (Chapter VA and section 59A and the rules thereto)

DA 185.4B2 – LICENSING CLIENT TYPE 4B2 – MANUFACTURING
WAREHOUSE”