

**CUSTOMS**

**EXTERNAL POLICY**

**BONDS**

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## 1 SUMMARY OF MAIN POINTS

- a) A bond is a form of security requested by the Commissioner for a client applying for registration, licensing or designation.
- b) Clients required to furnish security must apply for a bond and can also apply for the cancellation and increase or decrease of bonds at their nearest Branch Office.

## 2 POLICY

### 2.1 Security as a condition

- a) In terms of Sections 47B(6), 54E(4), 59A(2)(a), 60(1)(c), 61(1) and (2), 64A(2) and (3), 64B(3) and (4), 64C(1) and 64D(5) the Commissioner may require that security be furnished, in the form, nature or amount determined by the Commissioner in order to protect the State from any loss likely to be incurred as a result of the activities to be carried out.
- b) The amount of the security will be determined in terms of standards and assessed on an individual basis in terms of the criteria established.
- c) The CA01 or CA02 must only be used to increase the amount of the original bond amount which therefore increases the total security.
- d) Clients can make use of various Financial Institutions for various client type bonds. This means that a client can have a rebate bond from Financial Institution X and another warehouse bond from Financial Institution Y.
- e) Only one (1) bond and/or addendum may be furnished to secure the risk per functionality and/or the limit required. In other words a client cannot have a bond from Financial Institution X and another from Financial Institution Y both for the same warehouse bond.
- f) Only an addendum registered with the same Financial Institution as the original bond it relates to will be accepted.
- g) The client is responsible and must inform SARS immediately if any information on a bond e.g. Financial Institution, director, etc. has changed.
- h) The following bonds or addendums must be submitted manually to the applicable Branch Office and is applicable to all new registrations or licences which require bonds or addendums:

Bond Header	Description	Bond number
i)	Customs Addendum: Amend Bond Amount	CA01
ii)	Customs Addendum: Amend Deferment Amount	CA02
iii)	Customs Bond: Consignor	CB01
iv)	Customs Bond: Road Remover	CB02
v)	Customs Bond: Rebate (3rd Schedule)	CB03
vi)	Customs Bond: Clearing Agent	CB04
vii)	Customs Bond: Deferment	CB05
viii)	Customs Bond: Rebate (Item 410.03)	CB06
ix)	Customs Bond: Rebate (Item 470.03)	CB07
x)	Customs Bond: Rebate (Item 498.01)	CB08
xi)	Customs Bond: Rebate (Item 498.02)	CB09
xii)	Customs Bond: Manufacturer In CCA	CB10
xiii)	Customs Bond: Warehouse (OS & SOS)	CB11
xiv)	Customs Bond: Degrouping Depot	CB12
xv)	Customs Bond: Container Depot	CB13
xvi)	Customs Bond: Ship Wreck	CB14
xvii)	Customs Bond: Container Operator	CB15
xviii)	Customs Bond: ATA Carnets	CB16
xix)	Customs Bond: CPD Carnets	CB17
xx)	Customs Bond: SEZ Operator - CCA Rebate	CB19

Bond Header Description	Bond number
xxi) Customs Bond: SEZ Operator - CCA SOS Warehouse	CB20
xxii) Customs Bond: SEZ Operator - CCA Manufacturing Warehouse	CB21
xxiii) Customs Bond: Registered Agent	CB22
xxiv) Customs Bond: Temporary Rebate (Schedule 4)	CB23

- i) Bonds and addendums which were registered before the effective date of this document will remain effective and is not required to be replaced unless there is any legal requirement, such as a change in the conditions or an increase of bond amounts. For this purpose the following bond numbers apply:

Bond Header Description	Bond number
i) Customs Bond: Rebate (Schedule 3)	DA 107E
ii) Customs Bond: Warehouse (OS & SOS)	DA 108E
iii) Customs Addendum	DA 109E
iv) Customs Bond: Clearing Agent	DA 110E
v) Customs Bond: Ship Wreck	DA 262
vi) Customs Bond: Deferment	DA 651
vii) Addendum To Deferment Guarantee	DA 651A
viii) Customs Bond: Rebate (Item 410.03)	Form 77
ix) Pro Forma Bond for a remover of goods in bond	Pro Forma - Rule 64D
x) Pro Forma Bond for a remover of goods by a consignor	Pro Forma - Rule 64D
xi) Pro forma addendum to removal bond – Rule 64D.10(5)	Pro Forma - Rule 64D
xii) Pro forma addendum furnished by consignor for increasing the amount of the bond – Rule 64D.11(5)	Pro Forma - Rule 64D
xiii) Customs Bond: Degrouping Depot	Pro Forma – Rule 64G

- j) In terms of Section 59A(2)(a) the Commissioner may before registration require any person or class of persons to furnish such security in the form, nature or amount as may be determined by the Commissioner to protect the State from any loss likely to be incurred as a result of the activities to be registered.
- k) In terms of Section 60(1)(c)(i) any person applying for a licence under any provision of this Act shall, before such licence is issued, furnish security in the form, nature or amount as may be determined by the Commissioner to protect the State from any loss likely to be incurred as a result of the activities to be licensed.
- l) The security must be in the form of a bond issued by any approved financial institution:
- i) A list of the insurers approved to issue bonds can be found at [www.fsb.co.za](http://www.fsb.co.za); or
  - ii) A list of South African registered banks (locally controlled) can be found at [www.resbank.co.za](http://www.resbank.co.za).
- m) Under no circumstances must bonds from foreign registered banks be accepted.
- n) The client type and form(s) that must be used to furnish security as a result of registration, license or designation is prescribed in SC-SE-04-A21.
- o) Clearing agent bonds and bank guarantees held by Customs will be cancelled in terms of the cancellation of bonds process and returned to the applicable Financial Institution.
- p) It is the prerogative of the Commissioner for the South African Revenue Service that if any client is non-compliant over a period of six (6) months, a bond can be enforced or the bond amount can be increased.
- q) In all instances where bonds/addendums are required the bond/addendum amount must cover duty and tax, except in the case of Schedule 3 and registration for Rebate Items 498.01 and 498.02 where it must only cover the duty.
- r) A bond must be furnished if goods are transported by:
- i) A South African licensed carrier – Road bond (CB01); or
  - ii) A foreign carrier not located in South Africa and represented in South Africa by a registered agent – consignor bond furnished by any person as provided for in Rule 64D.

- s) Bonds in respect of carnets:
- i) Approved guaranteeing associations undertake to pay to the Customs authorities of the Contracting Party in the territory of which it is established, the amount of the import duties and taxes and any other amount payable in the event of non-compliance with the conditions of temporary admission or of Customs Transit, in respect of goods and vehicles introduced into that territory under cover of temporary admission papers.
  - ii) South Africa is a signatory to the Annexures of the Istanbul Convention that covers the temporary importation and exportation of goods by using the international documents. Refer to SC-TA-01-04 – ATA Carnet Policy and SC-TA-01-06 – CPD Carnet Policy.
- t) The Special Economic Zone (SEZ) Operator may arrange a bond on behalf of any of the following Customs Control Area Enterprises (CCA's) located in a Customs Control Area (CCA) of an SEZ:
- i) Rebate registrant (Rebate Item 498.01);
  - ii) Manufacturing warehouse, or
  - iii) Special storage warehouse.
- u) The clients (CCA and SEZ Operator) located in a CCA may arrange and furnish their own bonds (CB08 – CB10).
- v) No bond is required if the CCA is already registered as a rebate user in the same CCA or applies for registration as rebate user and licensing as manufacturing warehouse in the same CCA.
- w) Security can be waived (not required/called for) where:
- i) The client type is not listed in the policy/sop for the furnishing of security;
  - ii) The clearing agent/registered agent is not required to lodge a bond at the time of application;
  - iii) The applicant applying for rebate in terms of items 498.01 and 498.02 are not required according to the VAT Act to pay VAT and therefore no bond is required for the VAT amount; or
  - iv) Furthermore, no security would be required on any commodities that are duty free.
- x) As the deferment limit (this is the amount the client requests as limit for deferment) is linked to the security amount, it may be varied in two (2) ways:
- i) The security can be equal to the deferment limit (100%); or
  - ii) The security can be less than the deferment limit (partial).
- y) For peak periods (deferments only) the client can request an increase in limit by completing the DA 650 and DA 185.C. The client must indicate in writing what the increased amount and period is and also completes the addendum (CA02). The peak period increase can only be registered when a client has a partial bond. An additional bond will not be required, however once the deferment period in which the increase was granted ends the increase automatically falls away and reverts to the original deferment limit amount. (Refer to SC-DT-B-02 – Deferments – External Standard).
- z) A deferment bond (CB05) can only be temporarily increased by using the addendum (CA02) for the specific period where after the addendum must be cancelled if all obligations have been met.
- aa) A Registered Agent bond (CB22) is used by a Registered Agent who presents a foreign principal in South Africa. (Rule 59A.01(b)).

## 2.2 Bonds and addendums

### 2.2.1 Receipt of bond or addendum application

- a) The client will receive the bond or addendum template and amount of security required from Trade Registration for completion and signatories by the applicant and financial institution indicating the amount required for security. (Refer to SC-SE-04-A21)
- b) The completed bond or addendum form and supporting documents must be submitted to the nearest Branch Office.

- c) The client must submit his/her original signed bond or addendum together with:
  - i) A copy of the letter originally forwarded to him/her requesting a bond or addendum indicating the amount;
  - ii) The original resolution passed at a meeting of the board of directors; or
  - iii) The original express consent of the close corporation; to the Branch Manager's office where the application was lodged manually. (Refer to SC-SE-04-A27)
- d) Trade Registration will acknowledge receipt of the original bond or addendum and supporting documents when the client submits the documents manually within five (5) working days.

### 2.2.2 Verification of bonds, addendums and supporting documents

- a) The client must ensure that
  - i) The bond or addendum has been issued by a **South African registered bank** (locally controlled) or an insurer registered with the Financial Services Board (FSB) for the purpose of issuing bonds.
  - ii) The terms and conditions i.e. the wording as contained in the bond or addendum document has not been altered or changed.
  - iii) The lawfully delegated principal representative's names as per the resolution or consent in writing appear on the bond or addendum.
  - iv) The bond or addendum amount as per requesting letter corresponds to the bond or addendum amount.
  - v) The full names of the representatives and their designations of the individuals authorised to sign on behalf of the principal and financial institution appears on the bond or addendum.
  - vi) A signatory signs in his/her own capacity and not on behalf of someone else.
  - vii) The signatures of two (2) witnesses are present for each signature of the individuals authorised to sign the bond or addendum on behalf of the principal and financial institution.
  - viii) The corporate seal (stamp) of the financial institution is impressed on the bond or addendum.
  - ix) The reference number from the financial institution is inserted on the bond or addendum.
  - x) No correction fluid has been used on the bond or addendum.
  - xi) The financial institution on both the bond and addendum corresponds. An addendum to a bond may not be accepted if underwritten by two (2) different financial institutions.
- b) The addendum will only be used to increase the amount of surety and not to change any legal identity, change of ownership, etc.
- c) If there is a change in legal identity, change of ownership, etc. the client is requested to complete the applicable application form and annexure as prescribed in the Rules. (Refer to SC-CF-05)
- d) The representative(s) whose name(s) appearing on the original resolution passed at a meeting of the board of directors or the express consent of the close corporation will be the only person(s) authorised to sign the bond or addendum.
- e) All signatories on the bond or addendum must correspond with the listed names indicated as authorised representative(s) on the resolution or letter of consent.
- f) Authorised representatives and their witness(es) whose name(s) appear on the bond or addendum must initial at the bottom of each page of the bond or addendum except for the last page where the original signatures of the representatives and witnesses must appear.
- g) If any of the above is not in order the original bond or addendum will be rejected to the client with reasons for the necessary corrective action.
- h) The addendum must clearly identify the bond to which it refers, including the name of the financial institution, the bond number, the date of issue and the name of the principal and the amount by which the bond is increased.

### 2.2.3 Registration of the bond or addendum

- a) The bond or addendum will be rejected to the client with reasons if it is not valid or all the required documents are not submitted.
- b) Trade Registration will register the bond or addendum on the applicable SARS system and forward a registration letter to the client and financial institution by courier.

### 2.3 Standard amount of security required

Bond Header Description		Bond Number	Standard Amount of Security (the amount the applicant determines as limit for coverage)
a)	Customs Bond: Consignor	CB01	The security amount must cover any duties and taxes on goods that will be transported at any given time.
b)	Customs Bond: Road Remover	CB02	
c)	Customs Bond: Rebate (Schedule 3)	CB03	<ol style="list-style-type: none"> <li>i) An amount that will cover any duties that will be rebated at any given time in an approved Customs rebate store.</li> <li>ii) As a standard new clients are requested to project the duties on goods that will be rebated in a twelve (12) month period.</li> <li>iii) The standard for existing clients is the duties that were rebated in the preceding twelve (12) months.</li> </ol>
d)	Customs Bond: Clearing Agent	CB04	<ol style="list-style-type: none"> <li>i) No bond is required at time of application for licensing as a clearing agent.</li> <li>ii) A bond will only be determined if the client is found to be non-compliant over a period six (6) months as determined by Trade Registration.</li> <li>iii) The bond amount must be determined based on the under-mentioned and only one (1) bond must be accepted to enable the client to conduct business country-wide (all branch offices):               <ol style="list-style-type: none"> <li>A) First non-compliance: R 100 000</li> <li>B) Second non-compliance: R 150 000</li> <li>C) Third non-compliance: R 200 000</li> </ol> </li> <li>iv) No deductions as per paragraph 2.4 may be applied.</li> </ol>
e)	Customs Bond: Registered Agent	CB22	
f)	Customs Bond: Deferment	CB05	Two (2) separate amounts must be supplied to cover the Duty and VAT for deferment for the duration of the deferment period.
g)	Customs Bond: Rebate (Item 410.03)	CB06	<ol style="list-style-type: none"> <li>i) An amount that will cover any duties and taxes that will be rebated at any given time in an approved Customs rebate store.</li> <li>ii) As a standard new clients are requested to project the duties and taxes on goods that will be rebated in a twelve (12) month period.</li> <li>iii) The standard for existing clients is the duties and taxes that were rebated in the preceding twelve (12) months.</li> </ol>
h)	Customs Bond: Rebate (Item 470.03)	CB07	

Bond Header Description	Bond Number	Standard Amount of Security (the amount the applicant determines as limit for coverage)
i) Customs Bond: Rebate (Item 498.01) j) Customs Bond: Rebate (Item 498.02)	CB08  CB09	i) An amount that will cover any duties and taxes that will be rebated at any given time in an approved Customs rebate store. ii) As a standard new clients are requested to project the duties and taxes on goods that will be rebated in a twelve (12) month period. iii) The standard for existing clients is the duties and taxes that were rebated in the preceding twelve (12) months. iv) In this case taxes exclude VAT. v) The standard amount for duties should only cover dutiable commodities / material – therefore the standard amount should exclude any material which is duty free.
k) Customs Bond: Manufacturer In CCA	CB10	i) An amount that will cover any duties and taxes that will be rebated at any given time in an approved Customs manufacturing store. ii) As a standard new clients are requested to project the duties and taxes on goods that will be rebated in a twelve (12) month period. iii) The standard for existing clients is the duties and taxes that were rebated in the preceding twelve (12) months. iv) The standard amount for duties should only cover dutiable commodities / material – therefore the standard amount should exclude any material which is duty free. v) No bond is required if the applicant is already registered as a rebate user in the same CCA or applies for registration as rebate user and licensing as manufacturing warehouse in the same CCA.
l) Customs Bond: Warehouse (OS and SOS) including those in a CCA of an SEZ	CB11	The standard security amount must cover the duties and taxes on goods that will be stored in a licensed Customs warehouse and be calculated based on a one (1) month average of the duties and taxes calculated over a twelve (12) month period.
m) Customs Bond: Degrouping Depot n) Customs Bond: Container Depot o) Customs Bond: Container Operator	CB12 CB13 CB15	i) R 1 000 000 (one million rand) ii) No deductions as per paragraph 2.4 may be applied
p) Customs Bond: Ship Wreck	CB14	i) The R 5 000 (five thousand rand) reflects the full bond amount that must be furnished (fixed) ii) No deductions as per paragraph 2.4 may be applied

Bond Header Description		Bond Number	Standard Amount of Security (the amount the applicant determines as limit for coverage)
q) r)	Customs Bond: ATA Carnets Customs Bond: CPD Carnets	CB16 CB17	i) An amount that will cover any duties and taxes that will be rebated at any given time. ii) As a standard new clients are requested to project the duties and taxes on goods that will be rebated in a twelve (12) month period. iii) The standard for existing clients is the duties and taxes that were rebated in the preceding twelve (12) months.
s)	Customs Bond: SEZ Operator - CCA Rebate	CB19	i) An amount that will cover any duties and taxes (in this case taxes exclude VAT) on the goods that will be stored in a rebate store (located in a CCA of an SEZ) at any given time. ii) As a standard, the security amount must be project over a twelve (12) month period.
t)	Customs Bond: SEZ Operator - CCA SOS Warehouse	CB20	i) An amount that will cover any duties and taxes on the goods that will be stored in a SOS warehouses (located in a CCA of an SEZ) at any given time. ii) As a standard, the security amount must be project over a twelve (12) month period.
u)	Customs Bond: SEZ Operator - CCA Manufacturing Warehouse	CB21	i) An amount that will cover any duties and taxes on the goods that will be utilised in the manufacturing process in a manufacturing warehouse (located in a CCA of an SEZ) at any given time. ii) As a standard, the security amount must be projected over a twelve (12) month period.
v)	Customs Bond: Temporary Rebate (Schedule 4)	CB23	i) An amount that will cover any duties and taxes that will be temporary imported. ii) New clients are requested to project the duties and taxes on goods that will in future be temporarily imported.

## 2.4 Deduction of security from the standard amount

- a) SARS will determine the deductions applicable on receipt of the SC-SE-05-A01 depending on the merits of each case.
- b) No deductions must be allowed if the client is:
- i) Non-compliant; or
  - ii) Insolvent; or
  - iii) In liquidation; or
  - iv) Has a criminal record.
- c) No deductions will be allowed against any fixed bonds, e.g. Container depots, Container Operator, Ship Wrecks, Degrouping Depots, etc.

## 2.5 Change in legal status

- a) The client must ensure that their legal status has not changed from the time he/she has furnished a bond.
- b) A change in a legal status can render the bond furnished invalid and may result in the client being suspended.
- c) The following are regarded as changes in legal status and a new bond must be obtained:
  - i) Change in the name of a company;
  - ii) Change in legal identity of a company;
  - iii) Mergers of companies; and
  - iv) Takeovers of companies.
- d) If SARS becomes aware that a client's legal status has changed a letter will be forwarded to the client giving a period of thirty (30) days to produce a replacement bond, failing which the client will be suspended.
- e) An addendum (CA01/CA02) may not be utilised for any change in legal identity.
- f) The licensing, registration, designation policy must be adhered to in cases of legal changes. (Refer to SC-CF-19)
- g) If no replacement bond is received within the prescribed period the client will be suspended.

## 2.6 Request for increase or decrease of bond amount

- a) Any Customs Team may motivate for the request for:
  - i) Security when the security has been waived; or
  - ii) The increase or decrease of an existing bond.
- b) A client may inform Trade Registration of his/her recalculation of the standard bond amount with the request to increase/decrease the amount of security accordingly. On receipt of such an application and SC-SE-05-A01 the Office will reconsider the risk, apply the applicable deductions, and recalculate the bond amount.
- c) If a bond must be increased Trade Registration must inform the client accordingly. A new bond or addendum must be submitted to Trade Registration within fourteen (14) working days. If no bond/addendum is received the client will be suspended without any further notice.
- d) The client must submit a new bond with the correct bond amount if a bond amount is decreased.
- e) The bond amount can only be decreased after the CRA process has been followed and the risk identified. An application for the decrease of the bond amount must be treated as follows:
  - i) Secured amount is supported by a bond and an addendum:
    - A) The applicant may apply for the decrease of the secured amount up to the full amount of the addendum. In this case the addendum must be cancelled if all obligations there under have been met; or
    - B) The applicant may apply for the decrease of the secured amount up to the full amount of the addendum and a portion of the bond. In this case a new bond with a new secure amount must be presented by the client where after the original bond and addendum will be cancelled if all obligations there under have been met; or
  - ii) Secured amount is only supported by a bond - A new bond with the decreased amount must be presented by the client where after the original bond will be cancelled if all obligations there under have been met.
- f) Trade Registration will advise the client whether the increase/decrease application has been approved.

## 2.7 Notice of cancellation and withdrawal of bond

- a) The bond and/or addendum will only be cancelled once all outstanding obligations have been met.
- b) A bond shall be cancelled in the following instances:
  - i) On notice of cancellation by the registrant or licensee;
  - ii) When the financial institution gives notice in writing of withdrawal of the bond;
  - iii) When the registrant or licensee has undergone a change in legal identity, or
  - iv) When the registrant or licensee has defaulted, is unable to meet its obligations and SARS deems it necessary to cancel the registration or licence or a specific functionality.
- c) A client, who has no further use for the registration or licenced premises/facility, may apply to the Customs authority for the cancellation of such facility. As a result all bonds furnished for such activities may also be cancelled.
- d) Notice of withdrawal of bond by a Financial Institution:
  - i) In terms of Rule 120.09 any person who has furnished a bond may give the Commissioner for the South African Revenue Service thirty (30) calendar day's notice of withdrawal of such bond. The thirty (30) calendar days period must commence from the date of receipt of the notification of withdrawal from the financial institution by SARS and not from the date of the notification to the client.
  - ii) After the expiry of the thirty (30) calendar day's period, no new obligations can accrue under the bond concerned. However, the financial institution remains responsible for transactions entered into prior to the expiry of the bond. If the financial institution gives notice to withdraw the bond, the client must furnish a new bond prior to the cancellation of the current bond or else the functionality will be cancelled with the bond. Such replacement bond will only become effective on the date following the cancellation date of the previous bond.
  - iii) The client type may be suspended in order to allow the client additional time to obtain a replacement bond. The additional time period cannot exceed another thirty (30) calendar days.
- e) Trade Registration will notify the client and financial institution of the cancellation.
- f) The original cancelled bond will be returned to the financial institution per registered mail.

## 2.8 Withdrawal of surety by financial institution

- a) If the financial institution gives SARS notice of withdrawal, Trade Registration will inform the client of the financial institution's intent of withdrawal within three (3) working days and forward an acknowledgement to the financial institution.
- b) The client must apply for a new bond as prescribed in paragraph 2.2 and SC-CF-19.
- c) If no new bond has been received within thirty (30) calendar days from the client the bond will be cancelled and the client will be suspended.
- d) Such replacement bond will only become effective on the date following the system's cancellation date of the previous bond. This means that all new transactions will be processed against the new bond whilst Trade Registration must ensure, that within thirty (30) days, all obligations recorded against the cancelled bond (old bond) have been met.

## 2.9 Breach of conditions covered by a bond

- a) When the conditions for which a bond has been furnished are not met, SARS will withhold a sufficient portion of the bond to cover the outstanding amount payable.
- b) After reasonable attempts have been made to collect from the principal debtor, relevant documentation to substantiate the claim and a request for payment of the actual amount to be paid by the financial institution will be made to the financial institution concerned with a copy to the principal debtor. (Refer to SC-CF-19)

- c) On receipt of a request for the withholding of a bond Trade Registration will deactivate the bond on the applicable system in order to prevent any further transactions to be processed.
- d) Trade Registration will notify the client and the financial institution of cancellation of the bond and/or addendum.
- e) When the amount has been settled by the financial institution the bond will be cancelled as per paragraph 2.7.

## 2.10 Bond/addendum authentication

- a) Bonds and addendums will be authenticated with the applicable financial institutions once a year.
- b) A letter will be sent to the various financial institutions requesting confirmation within thirty (30) calendar days that the bonds and/or addendums held by them are still applicable and valid.
- c) If any bonds and/or addendums are not authenticated the client will be notified accordingly for the replacement thereof.

## 2.11 Keeping records

- a) Every client must keep for record purposes for a period of five (5) years:
  - i) Books, accounts and documents in respect of all transactions relating to the Rules for the purpose of any acquittal procedure; and
  - ii) Any data related to such documents created by means of a computer.
- b) The five (5) year period is calculated from the end of the calendar year in which the document was created, lodged or required. (Sections 101 and 101A).
- c) Every client must produce such books, accounts and documents on demand.
- d) The client must keep a copy of the completed and signed bond or addendum for record purposes.

## 2.12 Penalties

- a) Failure to adhere to the provisions of the Act, as set out in this document, is considered an offence.
- b) Offences may render the client liable to, as provided for in the Act:
  - i) Monetary penalties;
  - ii) Criminal prosecution; and/or
  - iii) Suspension and/or cancellation of registration, license, accreditation and/or designation.

## 2.13 Promotion of Administrative Justice Act

- a) The Promotion of Administrative Justice Act (PAJA) No. 3 of 2000 gives effect to everyone's right to administrative action that is lawful, reasonable and procedurally fair. Any person whose rights have been adversely affected by administrative action has the right to be given written reasons, as contemplated in Section 33 of the Constitution of the Republic of South Africa, 1996. PAJA:
  - i) Provides for the review of administrative action by a court or where appropriate, an independent and impartial tribunal;
  - ii) Imposes a duty on the State to give effect to those rights;
  - iii) Promotes an efficient administration as well as good governance; and
  - iv) Creates a culture of accountability, openness and transparency in the Public Administration or in the exercise of a public power or the performance of a public function, by giving effect to the right to just administrative action.

- b) Administrative action, which significantly and unfavourably affects the rights or valid expectations of any person, must be procedurally fair. A fair administrative procedure depends on the circumstances of each case.
- c) A person must be given:
- i) Written reasons of the nature and purpose of the proposed administrative action;
  - ii) A reasonable opportunity to make representations;
  - iii) A clear statement of the administrative action; and
  - iv) Adequate notice of any right of review or internal appeal, where applicable.
- d) Before administrative action can be taken by Customs the client must be allowed the opportunity to:
- i) Obtain assistance and, in serious or complex cases, legal representation;
  - ii) Present and dispute information and arguments; and
  - iii) Appear in person.
- e) Clients whose rights have been significantly and unfavourably affected by administrative action and who have not been given reasons for the action may, within ninety (90) days after the date on which the client became aware of the action, request Customs to furnish written reasons for the action.
- f) Customs must within ninety (90) days after receiving the request, give the client adequate reasons in writing for the administrative action. If Customs fails to furnish adequate reasons for the administrative action, it is presumed in any proceedings for judicial review that the administrative action was taken without good reason.

## 2.14 Appeals against decisions

- a) In cases where clients are not satisfied with any decision taken in terms of the Customs and Excise Act they have a right of appeal to the relevant appeal committee. The policy in this regard, as well as the process to be followed, is contained in document SC-CC-24.
- b) Should clients be unhappy with a decision of any appeal committee their recourse will be to lodge an application for ADR (Alternative Dispute Resolution) with the relevant appeal committee. The committee will add its comments thereto and forward the application to the ADR Unit for attention. The policy in this regard, as well as the process to be followed is contained in document SC-CC-26.

## 3 RELATED INFORMATION

### 3.1 Legislation

TYPE OF REFERENCE	REFERENCE
Legislation and Rules administered by SARS:	<b>Customs and Excise Act No. 91 of 1964:</b> Sections 39(1)(B), 47B(6), 54E (4), 59A, 59A(2)(a), 60(1)(c), 61(1) and (2), 64A(2) and (3), 64B(3) and (4), 64C (1), 64D, 64E, 64(G), 75(10)(a), 101, 101A 107(2)(a), 114, 119A,120A,120(1)(mA) <b>Customs and Excise Rules:</b> 18A.08, 18A.10(a), 19A.02(a), 19A.08(c), 20.17(b), 26.01(f), 37A.14(b), 46A.2.16(c), 49A.12(12)(b), 49B.10(9)4(b), 54F.04(a), 59A.07(2), 59A.08(2), 60.01(1)(e), 60.02(1)(d), 60.07(2), 64B.01(1,2,3,4), 64D.01(1,3)(c), 64D.04(1), 64D.09(4), 64D.10(5), 64D.11(5), 64D.13(9), 64D(19), 64F.02, 64G.03, 64G.04, 64G.06, 120.08, 120.09. <b>Value-Added Tax Act No. 89 of 1991: 7, 11, 13, 14 and Schedule 1</b>
Other Legislation:	<b>Credit Agreements Act No. 75 of 1980:</b> Section 1 <b>General Law Amendment Act No. 50 of 1956:</b> Section 6 <b>National Archives of South Africa Act No. 43 of 1996: All</b> <b>National Credit Act No. 34 of 2005: All</b> <b>National Small Business Act No. 102 of 1996:</b> Section 1, Schedule to the Act <b>Promotion of Administrative Justice Act No. 3 of 2000:</b> Section 3 <b>Public Finance Management Act No. 1 of 1999: All</b>
International Instruments:	<b>Istanbul Convention:</b> Annex A and C <b>Kyoto Convention:</b> General Annex, Chapter 5: Security Standard 5.1 -5.7 Specific Annex D: Chapter 1, Standard 14, Specific Annex E: Chapter 1,

TYPE OF REFERENCE	REFERENCE
	Standard 3

### 3.2 Cross References

DOCUMENT #	DOCUMENT TITLE
SC-CC-24	Internal Administrative Appeal - External Policy
SC-CC-26	Alternative Dispute Resolution – External Policy
SC-CF-19	Licensing, Registration and Designation – External Policy
SC-DT-B-02	Deferment – External Standard
SC-SE-04-A21	Bond Types And Form Numbers
SC-SE-06	Completion of Bonds And Addendums – External Manual
SC-TA-01-04	ATA Carnet - External Policy
SC-TA-01-06	CPD Carnet - External Policy
SC-TR-01-05	Removal of Goods – External Policy
SE-FS-05	Excise Bonds – External Standard

## 4 DEFINITIONS AND ACRONYMS

<b>AA</b>	Automobile Association
<b>AA of South Africa</b>	The Automobile Association of South Africa
<b>Act</b>	The Customs and Excise Act No. 91 of 1964
<b>Amendment of bond</b>	To add an addendum to the original bond in order to increase the total security amount
<b>ATA</b>	Admission Temporaire/Temporary Admission
<b>ATA Carnet</b>	Is an international Customs document, which covers the approved temporary importation and/or exportation of qualifying goods from or into South Africa (including the BLNS countries) in terms of the Istanbul Convention e.g. a) goods for display or use at exhibitions, fairs, shows, meetings or similar events; b) commercial samples owned abroad and imported for the purpose of being shown or demonstrated and c) professional equipment (including ancillary apparatus and accessories) owned abroad and for use solely by or under the supervision of a person resident abroad or a legal person established abroad.
<b>Authentication Bond(s)</b>	The confirmation received from the FI that the bonds/addendums are still valid. For the purpose of this document bonds refer to the bonds prescribed as well as the deferment guarantee.
<b>CA</b>	Customs Addendum
<b>CB</b>	Customs Bond
<b>CC</b>	Close Corporation
<b>CCA</b>	Customs Control Area within an SEZ
<b>CIPC</b>	Companies and Intellectual Property Commission formerly known as CIPRO
<b>CPD</b>	Carnet De Passages en Douane
<b>CPD Carnet</b>	Carnet De Passages en Douane for motor vehicles and trailers is the French for a booklet allowing motor vehicles and trailers through a Customs territory. It is an internationally accepted Customs document used to facilitate the temporary (duty and tax free) importation and / or exportation of mainly motor vehicles into South Africa (including the BLNS countries) and contracting parties provide an internationally valid guarantee for these vehicles. A CPD also assists contracting parties to waive import and export prohibitions and restrictions e.g. Import Permits and import approval certification from the South African Bureau of Standards (SABS) provided the vehicle is finally re-exported and not entered for home consumption (for motor vehicles, trailers, caravans and other goods covered by the CPD).
<b>Duty</b>	A duty imposed in the Customs Tariff on goods imported into the Republic, and includes an ordinary import duty, anti-dumping duty, countervailing duty and safeguard duty
<b>Financial Institution (FI)</b>	Banking or insurance institution approved by the Financial Services Board
<b>Foreign Principal</b>	The foreign principal is a registered importer, registered exporter or licensed remover

	of goods in bond not located in South Africa as prescribed in Rule 59A.01(a).
<b>FSB</b>	Financial Services Board
<b>LTD</b>	Limited
<b>OS</b>	Storage Warehouse
<b>Person</b>	Includes a company, close corporation, co-operative society, firm, partnership, statutory body or club
<b>PTY</b>	Proprietary
<b>Registered Agent</b>	An agent of a foreign principal who is located in South Africa and registered as prescribed in Rule 59A.01(a)
<b>SACCI</b>	South African Chamber of Commerce and Industry
<b>Security</b>	That which ensures to the satisfaction of Customs that an obligation to the Customs will be fulfilled
<b>SEZ</b>	Special Economic Zone
<b>Suretyship</b>	A contract in terms of which one person (the surety) binds himself/herself as debtor to the creditor of another person (the principal debtor) to render the whole or part of the performance due to the creditor by the principal debtor if and to the extent that the principal debtor fails, without lawful excuse, to render the performance himself/herself
<b>Tax</b>	Refers to any levy, VAT or tax that is levied by SARS
<b>VAT</b>	Value-Added Tax

## 5 DOCUMENT MANAGEMENT

<b>Policy Owner</b>	Executive: Customs and Excise Processing
<b>Detail of change from previous revision</b>	Removed references to the Tax Administrative Act No. 28 of 2011 (TAA) from document in the standard "Appeals against decisions" and in the "Reference - Legislation and Rules administered by SARS" paragraphs.
<b>Template number and revision</b>	GC-TM-03 - Rev 9