

CUSTOMS

EXTERNAL POLICY

**ACQUITTAL OF CUSTOMS
DECLARATIONS**

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1 SUMMARY OF MAIN POINTS

- a) All bonded goods moved in terms of Section 18 and the Rules thereto must be acquitted.
- b) Under certain circumstances, goods may be moved in bond or in transit, with the temporary suspension of duties and Value-Added Tax (VAT) payable. In these cases it is necessary to acquit the liability of the bond holder once it is established that the goods have reached their intended destination.
- c) The following procedure codes must be acquitted:
 - i) Customs clearance declarations (CCD) with procedure code E 42-00, E 40-00, B 20-00 or B 21-00;
 - ii) CCDs ex-warehouse with procedure codes E 43-40 or E 44-43;
 - iii) Export CCDs with procedure codes H 67-40 or F 53-40; and
 - iv) CCDs in transit or re-exported to and from Botswana, Lesotho, Namibia and Swaziland (BLNS countries) – see SC-TR-01-03-A06.
- d) For all supervision, verification and/or proof of export related matters refer to SC-CF-55.
- e) The following are excluded from this document:
 - i) Excise acquittals; and
 - ii) The following procedure codes which do not require acquittal as they are not bonded clearances:
 - A) CCDs with procedure codes: A 11-00, A 15-00 and K 85-00;
 - B) CCDs with procedure code: K 85-40; and
 - C) Some export CCDs (see SC-TR-01-03-A06).

2 STANDARD

2.1 Liability for acquittal documents

- a) Whenever goods are moved under duty and/or VAT suspension, the goods remain under Customs control until they have left South Africa or are duly entered. The liable party must obtain proof in the following scenarios:
 - i) Goods removed to a place in the common Customs area have been duly entered at that place;
 - ii) Goods which were destined for any country in Africa beyond the borders of SACU have been duly taken out of that area;
 - iii) Goods in transit through South Africa from any country in Africa have been duly taken out of South Africa; or
 - iv) In other cases that goods have been duly taken out of SACU.
- b) The duty and VAT will become payable upon demand if:
 - i) Liability has not ceased as contemplated in subsection 18(3)(a);
 - ii) The goods have been diverted; or
 - iii) Deemed to have been diverted as contemplated in subsection 18(13).
- c) The bond holder is responsible for production of the acquittal document to Customs via any third party of his/her choice i.e. clearing agent, importer, etc. when SARS calls for such. The bond holder will still be held liable for the schedule.
- d) Goods removed by road to and from the warehouse may only be so removed by a licensed remover of goods (ROG) as per Section 64D and the rules thereto unless exempt.
- e) The licensed remover of goods (ROG) transporting the goods between the warehouses is liable for payment of the relevant duty and VAT if he/she has signed for the product but fails to deliver the consignment at the indicated premises. (SC-TR-01-05)

- f) The Commissioner may allow a licensed remover of goods in bond to subcontract the removal or carriage of goods to which Section 64D relates to another licensed remover of goods in bond. It may not be subcontracted to foreign hauliers. When a licensed remover of goods so subcontracts, both such licensed removers shall be jointly and severally liable for the fulfilments of all obligations under Section 64D(6) including the payment of duties, charges and any penalties or amounts demanded under Section 88(2)(a). (SC-TR-01-05)
- g) Liability for duties, taxes and acquittals of goods moved in bond or in transit by road will be enforced in the following order:
- i) Where the agent processed a CCD and a licensed remover removes the goods under cover of a road bond:
 - A) The agent;
 - B) The licensed remover;
 - C) The guarantor (lodger of the bond or principal debtor); then
 - D) The financial institution (co-principal debtor).
 - ii) Where the agent processed a CD and a foreign haulier removes the goods under cover of a consignor bond or PP:
 - A) The agent;
 - B) The guarantor (lodger of the bond or principal debtor) or lodger of the PP; then
 - C) The financial institution (co-principal debtor).
 - iii) Where the agent processed a CCD and a licensed warehouse owner removes the goods under cover of a warehouse bond:
 - A) The agent;
 - B) The remover, which will be the warehouse licensee;
 - C) The guarantor (lodger of the bond or principal debtor); then
 - D) The financial institution (co-principal debtor).
 - iv) Where the agent processed a CCD and a subcontractor or licensed remover removes the goods under cover of a consignor bond, PP or road bond:
 - A) The agent;
 - B) The licensed remover;
 - C) The subcontractor;
 - D) The guarantor (lodger of the bond or principal debtor) or lodger of the PP; then
 - E) The financial institution (co-principal debtor).
 - v) Where the agent processed a CCD and a licensed remover removes the goods under cover of a consignor bond or PP:
 - A) The agent;
 - B) The licensed remover;
 - C) The guarantor (lodger of the bond or principal debtor) or lodger of the PP; then
 - D) The financial institution (co-principal debtor).
- h) The duty and VAT will become payable upon demand if:
- i) Liability has not ceased as contemplated in Subsection 18(3)(a);
 - ii) The goods have been diverted; or
 - iii) The goods are deemed to have been diverted as contemplated in Subsection 18(13).
- i) Goods removed by road to and from the warehouse may only be so removed by a licensed remover of goods (ROG) as per Section 64D and the Rules thereto unless exempt. Refer to SC-SE-05, SC-CF-25 and SC-TR-01-05.

2.2 Partial movement or export

- a) If a single consignment is cleared for different purposes (e.g. part of a consignment are cleared removal in transit and part warehoused), separate CCD forms must be completed. Part clearances for one (1) procedure code are not acceptable.
- b) All goods cleared on a single CCD B 21-00 or B 20-00 must move across the border and the SAD 502 must be endorsed by the Customs office that the goods cleared on such CCD has been verified, examined or supervised for acquittal purposes where applicable.

- c) If it is not logistically possible to move all goods simultaneously to their destination it can be moved in smaller quantities at a time at the discretion of the Controller/Branch Manager. (SC-TR-01-05)

2.3 Documents required for acquittal purposes

- a) If there are any differences between the acquittal document details and the import, export or transit CCD, an amended CCD must be processed to amend the CCD before the acquittal document can be accepted. A CCD cannot just be cancelled. An application to cancel must be made to the Branch Office of acceptance of the CCD before the amended CCD is processed.
- b) The provisions and forms related to proof of export are prescribed in SC-TR-01-03-A06 and SC-CF-55 and such will be accepted for acquittal purposes.
- c) All goods exported or in transit for acquittal purposes will not be examined or supervised unless as required in SC-CF-55.
- d) If any in bond/transit CCD was processed and the goods were not removed to its final destination the Branch Office will consider the acquittal if the following documents are submitted:
- i) Destruction notice issued by Customs;
 - ii) Abandonment notice issued by Customs;
 - iii) Seizure notice issued by Customs or SAPS (a detention notice cannot be used as an acquittal document);
 - iv) The MRN for the SAD 503, if the CCD is cancelled;
 - v) The MRN for the CPC E 40-00 or E 42-00;
 - vi) DA 322 – State warehouse slip; or
 - vii) The MRN for the home consumption process in respect of each in bond CCD as per attached printout must be processed bringing the outstanding amounts of VAT and duty to account.

2.4 Type of acquittal documents which will not be valid

- a) No acquittal document will be valid if it is improperly or fraudulently obtained.
- b) No acquittal document is valid if it does not comply in all respects with the requirements prescribed by legislation and this policy and the related standard operating procedure.

2.5 When to obtain acquittals

- a) Clients must obtain valid proof and keep it for record purposes (not for producing such proof to the Controller/Branch Manager) as prescribed in terms of Section 18(3)(b)(i) read with Rules 18.07, 18A.04, 120A.01(c) and 120B.04(a) within thirty (30) days from the date of the CCD.
- b) When calculating the above mentioned thirty (30) day period:
- i) **Exclude** the **first** day (date of CCD); and
 - ii) **Include** the **last** day (30th day) unless:
 - A) The last day falls on a Sunday: then the next working day is regarded as the last day (30th day);
 - B) The last day is on a Saturday: the previous working day must be determined as the last day (30th day).
 - iii) Refer to the Introduction of the Act, Computation of the number of days, paragraphs 2, 3, 6 – 8.

2.6 In case of non-submission

- a) A letter of demand will be issued if the required acquittal documents as requested were not produce within the seven (7) day period and that the duties and Value-Added Tax (VAT) is therefore due.
- b) The client has seven (7) days from the date of the letter of demand (SC-CO-01-01-A04) to reply.

- c) If the client produces the acquitting documents within the seven (7) day period, the duty and VAT may be disregarded but the full penalty for the late submission of acquittal remains payable. An amended letter will be sent to the client to indicate the withdrawal of the call for duty and VAT.
- d) If only part of the acquittal documents is produced, amended letters will be forwarded to the client.
- e) If no acquittals are received, duties and VAT must be brought to account on a CCD.
- f) If the client has paid the duties, taxes and penalties and the correct acquittal documents have been presented thereafter the client can request the duty to be refunded via a general refund claim - refer to SC-DT-C-13.

2.7 Extension of time period to obtain acquittal

- a) Each Controller/Branch Manager may upon due consideration of all facts extend the period to obtain proof of acquittals under the circumstances he / she may deem valid but not longer than an additional thirty (30) days. The client must request this consideration in writing and before the original thirty (30) day period has elapsed. Good cause shown in terms of Rule 18.07(a) may include the following circumstances:
 - i) Where goods are removed by road transport via SACU or destined to any country within Africa, where the remover will not return to South Africa within the thirty (30) day period with the necessary documentation as proof of export (see SC-TR-01-03-A06 and SC-CF-55.), the exporter or appointed clearing agent shall in writing notify the Controller/Branch Manager of such and make the necessary arrangement and agreed upon time period within which to submit such documents;
 - ii) Where a transport vehicle breaks down while in transit through South Africa from or to any country in Africa or via SACU; and/or
 - iii) Vis major.
- b) Where extension is granted, clients must ensure that they comply with the time period granted. No penalties will be called for during the extended period.

2.8 Replacement of bonded CCD

- a) If goods are not going to be exported via a CCD (procedure code B 21-00, B 20-00 or H 67-40) within the thirty (30) day period, the client must submit a fully motivated application for replacement to the Controller's/Branch Manager's office, at whose Office the original CCD e.g. CCD procedure code B 21-00, was processed.
- b) The client will be informed in writing if permission was granted for the replacement of the CCD in question.
- c) If permission is granted, a warehouse CCD (procedure code E 42-00 or E 40-00) must be processed referring to the original export or in bond or transit CCD.
- d) Where a CCD, accepted by the Controller/Branch Manager as being in order, is allowed to be replaced, another appropriate CCD must first be substituted in place thereof. This means that at any stage in the switch over from one (1) CCD to another the goods must be covered by a CCD.
- e) Where goods are subsequently exported after the replacement CCD has been passed and payment of duty and VAT has occurred, the client may be entitled to a refund of such payment.
- f) A CCD with procedure code:
 - i) B 21-00 can only be replaced and a new CCD processed with procedure code E 42-00 if the intention remains to remove the goods from South Africa;
 - ii) B 20-00 can only be replaced and a new CCD processed with procedure code E 40-00 or E 42-00;
 - iii) H 67-40 can only be replaced if based on a procedure code E 40-00 and a new CCD processed with the procedure code E 40-00; and

- iv) Any other procedure code such as A 11-00, E 40-00, may be used if the goods are intended to remain in South Africa and all import requirements pertaining to that procedure code have been met as referred to in paragraphs i) – iii) above.
 - v) H 67-40 can only be replaced if based on an E 42-00 with a new CCD with the procedure code E 42-00.
- g) The client must ensure that the:
- i) CCDs be submitted for processing within five (5) days from the date of the permission letter; and
 - ii) A copy of the new (replaced) and amended CCD processed be handed to the Branch Office who granted the permission for acquittal purposes.

2.9 When to produce acquittals

- a) Where the Controller/Branch Manager requests the submission of valid proof and other information and documents as contemplated in Section 18(3)(b)(iii), such proof, information and documents must be submitted to reach the specific Branch Office within seven (7) days after date of such request.
 - b) When calculating the above mentioned seven (7) day period exclude the first day of letter and include the last day (seventh day) unless the last day falls on a Sunday, then the next working day is the last day (seventh day). In cases where the last day is a Saturday the previous working day is the last day (seventh day).
 - c) Acquittals will only be requested after the expiry of the thirty (30) day period contemplated in Rule 18.07(b) as the client is allowed the whole aforementioned period to obtain the acquittals.
 - d) A letter will be forwarded to the client indicating that the office is requesting the acquittal documents of the CCD indicated on such printout-within seven (7) days from the date of the letter.
- a) Only originally processed and/or Customs stamped documents will be accepted. (No faxed copies.) Refer to SC-TR-01-02-A06 and SC-CF-55.
 - b) No manual amendments or alteration on acquittal documents will be accepted unless it has been initialled by the person who originally signed the document. No correction fluid is allowed on documents.
 - e) Clients must not submit acquittal documents if not requested by the Branch Office.

2.10 Where can documents be presented for acquittal purposes

- a) If clients required reports on outstanding acquittals, such application must be in writing to the Controller/Branch Manager where the original CCD(s) was/were processed indicating the period required.
- b) A Controller/Branch Manager will issue a letter requesting the client to produce the acquittals; such acquittals must only be presented to the requesting Office.
- c) The client must submit the acquittal documents under cover of a letter as per example SC-TR-01-03-A03 to the requesting Branch Office. Refer to SC-TR-01-03-A06 and SC-CF-55.
- d) On presentation of the submission letter and acquittal documents to the Branch Office, the Officer signs and date stamps the original acceptance letter at the enquiry counter as proof that the acquittal documents were submitted by the client (acknowledgement of receipt) and then hands back the 1st copy of the acceptance letter to the client.
- e) The original and second copy will be allocated a serial number and only be endorsed/date stamped and the second copy handed back to the client once the acquittal documents have been acquitted or rejected, while the original acquittal documents must be returned together with the letter to the client.
- c) If a client does submit the acquittal documents which were not requested by the Branch Office, the Branch Office may verify the authenticity thereof provided.

- d) It should be borne in mind that the Controller/Branch Manager can request the acquittal document at any stage after the due date to verify the correctness thereof.

2.11 Customs verification

- a) If there are any differences between the acquittal document details, the CCD and the road manifest, an amended CCD must be processed to amend the CCD before the acquittal document will be accepted.
- b) A B 21-00 CCD cannot be acquitted with another B 21-00 CCD. Only a B 20-00 CCD can be acquitted with a B 21-00 CCD.
- c) In the case of unpack/repack of FCL containers, Customs will require documented proof that this was done under Customs supervision or that the goods were delivered to a registered depot for unpack/repack. The Depot must produce a letter that they did the supervision on Customs behalf. The letter should reflect the container number, seal number, and number of packages of the container of which the goods were unpacked from and the same information as to the container it was packed into. This letter must be produced with the acquittal documents. Refer to Section 18(13) and Rule 18.14.
- d) Acquittal documents will be returned to the client to review, if any were rejected.
- e) The CCD will be clearly endorsed as to the reason for the rejection, the date and signature of the Officer.
- f) Once Customs is satisfied with the above requirements the acquittal document will be stamped ACQUITTED, dated, signed by the Customs Officer and forwarded to the enquiry counter where it is handed back to the client.
- g) Only the acquittal documents requested by the Branch Office will bear the "Acquitted" stamp impression.

2.12 In instances of non-compliance

- e) Non-acquittal of outstanding CCDs may lead to the loss of revenue to the fiscus as duties and VAT which are due have not been paid, as well as the contravention of various laws in South Africa.
- f) In terms of Section 18(7) the Commissioner is empowered by the said Section to refuse to accept CCDs for the removal of goods in bond from a person who persistently fails to comply with such Rules or conditions or who has committed an offence referred to in Section 80.

2.13 Transit goods and theft

- a) Stolen goods must be reported to the South African Police Service by the client and the case number and report must be submitted to the relevant Branch Office.
- b) The duty and VAT on stolen goods remains payable as they have been entered into home consumption.

2.14 Record keeping

- 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.

2.15 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 recipient/importer liable to, as provided for in the Act:
- i) Monetary penalties (SC-CO-01-02);
 - ii) Criminal prosecution; and/or
 - iii) Suspension/cancellation of registration/license/accreditation.
- c) If acquittal documents are not submitted for acquittal purposes within the prescribed time the client may be liable to penalties.

2.16 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) Just administrative action requires the Customs Officer to consider all the facts presented and obtained in addition to affording the **client** the opportunity to be heard, prior to instituting any administrative action.
- e) 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.
- f) 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.
- g) 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.

2.17 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:	Customs and Excise Act No 91 of 1964 : Sections 12(1)(a) & (b);18, 18A,19, 19A, 20, 38, 44(1) & (4), 44(6)(a) & (b), 47(1), 64B, 64D, 64F, 80, 84, 87, 88, 91 – 94, 98, 99, 101 and 120 Customs and Excise Rules: Rules 12.01, 12.02, 13.01, 18, 18A, 19, 19A,20, 44(1) & (4), 44(6)(a) & (b), 47(1), 64D, 64F, 101.01, 101A01, 120.00,120A.01 and 120B VAT Act No. 89 of 1991: Section 7(1)(b)
Other Legislation:	Interpretation Act No. 33 of 1957: Sections 2 and 4 Promotion of Access to Information Act No. 2 of 2000: All Promotion of Administrative Justice Act No. 3 of 2000: Sections 3 and 5
International Instruments:	Kyoto Convention: Specific Annex E, Chapter 1 – Customs Transit: Standard: 1-4, 8, 10, 12, 13, 15, 16, 23 and 24 Recommended Practice: 9, 11, 17, 18, 21, 22 and 25 WCO Framework of Standards: Annex 1: 1.2.1 -1.2.3, 2.4 and 10

3.2 Cross References

DOCUMENT #	DOCUMENT TITLE
SC-CC-24	Administrative Appeal - External Policy
SC-CC-26	Alternative Dispute Resolution - External Policy
SC-CF-04	Completion Of Declarations – External Manual
SC-CF-22	Special and Extra Attendance – External Policy
SC-CF-25	Provisional Payments - External Standard
SC-CO-01-02	Offences and Penalties – External Standard
SC-DT-C-06	Completion Procedure of DA 66
SC-DT-C-13	Refund and Drawback - External Standard
SC-CF-55	Customs Clearance Declaration – External Policy
SC-SE-05	Bonds - External Policy
SC-TR-01-03-A06	Acquittal Document Requirements
SC-TR-01-05	Removal of Goods - External Policy

3.3 Quality Records

- a) Completed forms as listed below will be regarded as records which must be kept for record purposes as prescribed in the Policy.
- b) The following Quality Records are generated in terms of this procedure.

Number	Title
-	Any correspondence received from the client or SARS
DA 322	States Warehouse Slip
DA 70	Application to Make Provisional Payment
SAD 500	Customs Declaration Form
SAD 501	Customs Declaration Form (Continuation Sheet)

Number	Title
SAD 502	Customs Declaration Form (Transit Control)
SAD 504	SAD: Voucher of Correction (direct)
SAD 505	Customs Declaration Form (BOND CONTROL)
SAD 506	SAD: Continuations Sheet (for SAD 504 and SAD 514)
SAD 551	SAD: Continuation Sheet: Export
SAD 554	SAD: Voucher of Correction: Exports
SAD 601	SAD: Continuation Sheet: (ex-warehouse) Imported Goods
SAD 604	SAD: Voucher of Correction: (ex-warehouse) Imported Goods
SAD 611	SAD: Continuation Sheet: (ex-warehouse or fuel levy goods ex-duty paid stocks)

4 DEFINITIONS AND ACRONYMS

Act	Customs and Excise Act No. 91 of 1964
BLNS countries	The Republic of Botswana; The Kingdom of Lesotho; The Republic of Namibia; and The Kingdom of Swaziland
CCD	Customs Declaration
CPC	Customs Procedure Code
Force Majeure	A superior or irresistible force, an event or effect that cannot be reasonably anticipated or controlled. This will include natural calamities such as storms, lightning, shipwreck, inundations, fires, hostile incursions, exceptional droughts or frosts. Force majeure is the same as vis major.
International transit	A Customs procedure that allows goods to be transported through South Africa from the place of landing to another country
National transit	A Customs procedure that allows goods to be transported in South Africa from one (1) Customs controlled area to another Customs controlled area In the current dispensation goods removed in bond to warehouses in SACU is also considered national transit
Removal of goods In Bond/Transit	Goods imported and – a) Intended for direct removal in bond to a destination within SACU, entered on a CCD procedure code B 20-00; b) Intended for direct removal in transit to a destination outside SACU, entered on a CCD procedure code B 21-00; c) Removed from a place where landed in South Africa from a ship, aircraft, or other vehicle to a Customs and excise warehouse, entered for warehousing, on a CCD procedure code E 40-00 or E 42-00; or d) Removed from a Customs and excise warehouse to another such warehouse, entered on a CCD procedure code E 43-40. Exportation of locally manufactured or imported goods ex warehouse, – Removed direct outside South Africa or SACU, entered on a CCD procedure codes EX or F 53-40.
ROG	Licensed Remover of Goods in Bond by road
SACU	The Southern African Customs Union, consisting of: The Republic of South Africa; The Republic of Botswana; The Kingdom of Lesotho; The Republic of Namibia; and The Kingdom of Swaziland
SAD	Single administration document
VAT	Value-Added Tax
Vis Major	See force majeure
WCO	World Customs Organisation

5 DOCUMENT MANAGEMENT

Policy Owner	Group Executive: Customs Branch
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Detail of change from previous revision	Deleting the VAT penalties under the Tax Administrations Act, referred to in the appeals against decisions paragraph. All appeals are dealt with under the Customs and Excise Act.
Template number and revision	GC-TM-03 - Rev 9