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GOVERNMENT NOTICES
GOEWERMENTSKENNISGEWINGS

No. R. 684

1 June 2004

SOUTH AFRICAN REVENUE SERVICE
SUID-AFRIKAANSE INKOMSTEDIENS

CUSTOMS AND EXCISE ACT, 1964
AMENDMENT OF RULES (NO. DAR/93)

Under the sections of Chapter VA and section 120 of the Customs and Excise Act, 1964, the rules published in Government Notice R.1874 of 8 December 1995 are amended with effect from 1 June 2004 to the extent set out in the Schedule hereto.

PRAVIN JAMNADAS GORDHAN
COMMISSIONER FOR THE SOUTH AFRICAN REVENUE SERVICE

SCHEDULE

(a) By the insertion of the following rules after the rules for section 54:

"RULES FOR CHAPTER VA OF THE ACT IN RESPECT OF ENVIRONMENTAL LEVY GOODS

Application of provisions

54F.01 (a) The provisions of these rules apply to environmental goods manufactured in or imported into the Republic which are liable to environmental levy as specified in Part 3 of Schedule No. 1.

(b) For the purposes of these rules and any form to which these rules relate, unless the context otherwise indicates-

(i) "accounting period" means the period prescribed in rule 54F.07;

"agreement" means the *pro forma* agreement prescribed in these rules;

"BLNS country" means the Republic of Botswana, the Kingdom of Lesotho, the Republic of Namibia or the Kingdom of Swaziland;

"bond" means the *pro forma* bond prescribed in these rules;

"consignor" for the purpose of rule 54F.12 means the licensee of a customs and excise manufacturing warehouse;

"customs and excise laws and procedures" shall have the meaning assigned thereto in rule 59A.01(a);

"goods", means environmental levy goods specified in Part 3 of Schedule No. 1;

"licensee" means the licensee of a customs and excise manufacturing or storage warehouse;

"manufacturing warehouse" means a licensed customs and excise manufacturing warehouse;

"quarterly" in relation to the account to be submitted by a licensee means the accounting period of three months prescribed in rule 54F.07;

"refund" includes any set-off against, or any deduction from any account required to be submitted by a licensee of a customs and excise warehouse as authorised in terms of any provision of the Act;

"SARS" means the South African Revenue Service;

"storage warehouse" means a licensed customs and excise storage warehouse;

"the Act" includes any provision of "this Act" as defined in the Customs and Excise Act, 1964 (Act No. 91 of 1964);

"warehouse" means a licensed customs and excise manufacturing or storage warehouse.

(c) Except as otherwise provided in Chapter VA and these rules -

(i) any provision of the Act relating to -

(aa) a customs and excise manufacturing or storage warehouse, the manufacture or storage of goods in such a warehouse including liability for duty, payment of duty, removal of goods from such warehouse for home consumption, removal in bond, export, entry under rebate of duty, the responsibility of the licensee and any other requirement prescribed in connection with any such warehouse;

(bb) the importation of goods and imported goods;

(cc) the exportation of goods;

(ii) sections 59A and 60 and the rules therefor including the definitions in such rules;

(iii) sections 64D and 64E and the rules therefor including the definitions in such rules; and

(iii) the rules numbered 120A,

shall, as may be applicable, apply *mutatis mutandis* to any environmental goods manufactured in or imported into the Republic.

Delegation

54F.02 Subject to section 3(2), where –

- (a) any power that may be exercised by the Commissioner, except for the power to make rules, in accordance with the provisions of this Act, including these rules, is not specifically delegated, or
- (b) any duty that shall be performed by the Commissioner in accordance with the provisions of the Act, including these rules, is not specifically assigned, to any Controller or officer in these rules or in any section or rule regulating the operation of customs and excise warehouses,

such power is delegated or such duty is assigned, as the case may be, to the Assistant General Manager: Trade Services, Customs and Excise.

Restrictions in respect of customs and excise warehouses for the manufacture or storage of environmental levy goods

- 54F.03**
- (a) Customs and excise warehouses for the manufacture or storage of environmental goods manufactured in the Republic may be licensed only for the purposes of –
 - (i) manufacture of environmental goods;
 - (ii) storage of such goods for export (including for supply as stores to foreign-going ships or aircraft).
 - (b)
 - (i) Environmental levy goods stored as contemplated in paragraph (a)(ii) shall be subject *mutatis mutandis* to the provisions of section 19A; and
 - (ii) for the purposes of these rules may not be removed from such warehouse for home consumption and payment of duty, except if the Commissioner, on good cause shown, and subject to such conditions as he may impose in each case, permits such removal.
 - (c) Any environmental levy goods imported from a country outside the common customs area, shall, when stored in a customs and excise storage warehouse, in addition to any other provision of the Act, be subject to any exception or adaptation prescribed in these rules.

Applications for and refusal, suspension or cancellation of a licence

- 54F.04**
- (a) A person applying for a licence or renewal of a licence for a customs and excise manufacturing warehouse or a customs and excise storage warehouse must –
 - (i) apply on form DA 185 and the appropriate annexures thereto and comply with all the requirements specified therein, in these rules, any relevant section or item of Schedule No. 8 governing such licences and any additional requirements that may be determined by the Commissioner;
 - (ii) submit with the application the completed agreement in accordance with the *pro forma* agreement specified in these rules;
 - (iii)
 - (aa) before a licence is issued furnish the security the Commissioner may require;
 - (bb) if security is furnished in the form of a bond, such bond -
 - (A) is subject to the provisions of rules 120.08 and 120.09;
 - (B) must be in the form of the *pro forma* bond prescribed in these rules;

- (iv) the *pro forma* agreement and *pro forma* bond are specified in terms of and shall form part of this rule.
- (b) An expression in the *pro forma* agreement shall, unless the context otherwise indicates, have the meaning assigned thereto in the Act or in the rules for section 60 or these rules.
- (c)
 - (i) The provisions of section 60(2) shall apply *mutatis mutandis* in respect of the refusal of an application for a new licence or renewal of a licence or cancellation or suspension of a licence for a customs and excise warehouse.
 - (ii) The provisions of rule 60.09(2) shall apply *mutatis mutandis* in respect of the *pro forma* advice to be issued in respect of suspension or cancellation of a licence.

Issue of invoices or dispatch delivery notes in respect of goods removed from a customs and excise warehouse

- 54F.05**
- (a) Any licensee of any customs and excise warehouse who removes any environmental levy goods, from such warehouse for any purpose contemplated in section 20(4) and these rules, including for export or for removal to a BLNS country, must in addition to any other document required to be completed in respect of any procedure prescribed in the Act, issue an invoice or dispatch delivery note, serially or transaction numbered and dated which must include at least –
 - (i) the licensed name, customs client number, warehouse number (where applicable) and physical address of the licensee who so removes such goods;
 - (ii) a statement: “environmental levy goods” and a description of the goods so removed, the relevant tariff item and if applicable, the rebate item;
 - (iii) the quantity of goods so removed;
 - (iv) the date of removal of the goods;
 - (v) the name or business name (if any) and the address of the person to whom the goods are removed;
 - (vi) the number of the customs and excise warehouse to which the goods are removed, if applicable;
 - (vii) where applicable, the price charged for each unit and the total price of the invoiced goods;
 - (viii) where the goods are removed to a destination in the Republic for any purpose other than home consumption, the customs client number of the person to whom the goods are so removed;
 - (ix) a reference number according to which the goods can be readily identified in the production and other accounting records of the manufacturer, or the accounting records of the importer, as the case may be;
 - (x) in all instances, any other particulars required for determining the rate and amount of duty on any goods specified in such invoice and removed from such warehouse.
 - (b)
 - (i)
 - (aa) Such invoice or dispatch delivery note issued in respect of environmental levy goods removed for home consumption and payment of duty from a customs and excise manufacturing warehouse, shall, subject to compliance with the requirements of section 38(4) be deemed to be due entry for home consumption for such goods.
 - (bb) For the purposes of subparagraph (aa) and section 38(4)(b) such an invoice or dispatch delivery note must also be issued in respect of environmental levy goods removed for distribution free of charge or for use by the licensee.

- (ii) The duty on the goods so removed as contemplated in subparagraph (i) must be accounted for in the monthly accounts as required in terms of rule 54F.07.

Keeping of books, accounts and documents

- 54F.06** (a) For the purposes of section 101 and notwithstanding anything to the contrary in any rule contained, every licensee must –
- (i) keep proper books, accounts and documents and any data created by means of a computer, of all transactions relating to the activity in respect of which the licence is issued, for a period of five years calculated from the end of the calendar year in which any such document was created, lodged or required for the purposes of any customs and excise procedure;
 - (ii) include in such books, accounts, documents and data any requirements prescribed in any provision of the Act in respect of the activity for which the licence is issued;
 - (iii) produce such books, accounts, documents and data on demand at any reasonable time and render such returns or submit such particulars in connection with the transactions relating to the licensed activity as the Commissioner may require.
- (b) Such books, accounts, documents and data must include-
- (i) Where applicable-
 - (aa) proper accounting records of each type of goods manufactured, imported, received, stored, used or removed;
 - (bb) copies of invoices, dispatch delivery notes, bills of entry, forms CCA1, transport documents, orders, payments received and made and proof of delivery to the consignee in respect of goods removed for any purpose excluding home consumption and payment of duty;
 - (cc) copies of the contract of carriage entered into between the licensee and a licensed remover of goods in bond and delivery instructions issued to such remover in respect of each consignment;
 - (dd) copies of the monthly accounts rendered for payment of duty in respect of warehouses authorised to dispose of goods for home consumption;
 - (ee) a stock account balanced monthly whether or not the licensee is authorised to dispose of goods for home consumption and payment of duty.
 - (ii) where such warehouse is a manufacturing warehouse, a stock record wherein the licensee must record daily-
 - (aa) receipts of materials for manufacturing;
 - (bb) quantities of materials used and the nature and quantities of environmental levy goods produced from such materials;
 - (cc) the production rate of the materials used;
 - (dd) nature and quantities of by-products or other goods manufactured;
 - (ee) a separate record of goods lost, damaged, destroyed and defective goods returned as may be allowed in terms of the relevant item of Schedule No. 6.

Closing and submission of accounts in respect of goods manufactured and received into, and removed from, a customs and excise manufacturing warehouse and payment of duty

- 54F.07**
- (a) For the purposes of sections 20(4), 38(4) and 39(2A), any goods to which these rules relate that are entered for removal and removed from any customs and excise manufacturing warehouse for any purpose, including to any other warehouse, shall be subject to the provisions of Chapter VA and *mutatis mutandis* to the provisions of section 19A and to such restrictions, procedures and other requirements prescribed in these rules.
- (b) (i) (aa) Subject to the provisions of these rules, for the purposes of sections 38(4) and 39(2A) and payment of duty, the licensee of a customs and excise manufacturing warehouse must submit, within the period prescribed in subparagraph (ii) -
- (A) accounts on form DA 161A, if applicable, together with any supporting documents prescribed in these rules;
- (B) validating bills of entry (DA 610);
- (C) payment of the environmental levy goods as calculated on form DA 161A, in respect of all environmental levy goods carried forward, received and produced in, and removed from, such warehouse for any purpose during the accounting period contemplated in subparagraph (iv).
- (ii) The documents and payment specified in subparagraph (i) must be submitted by such licensee to reach the Controller within 30 days after the last day of the accounting period, but not later than the penultimate working day of the month following such last day, during the hours of business prescribed in item 201.20 of the Schedule to the rules for acceptance of bills of entry and for receipts of duties and other revenue.
- (iii) If payment is made by electronic funds transfer, proof of such payment must be submitted to reach the Controller during the period and the hours of business specified in subparagraph (ii).
- (iv) For the purposes of subparagraph (i), an accounting period shall be a period of three months calculated from the first day of any month during which manufacturing of environmental levy goods commences or environmental levy goods are manufactured until the last day of the month on which such period ends: Provided that where the month of February is included in any accounting period of a licensee, such period must, irrespective of the date on which it would have ended if so calculated, end on the last day of February and payment effected during March as contemplated in paragraph (b)(ii).
- (c) (i) When completing account form DA 161A, no quantity in respect of any goods removed -
- (aa) under rebate of duty, or
- (bb) in bond under the provisions of section 18 to any storage warehouse; or
- (cc) in terms of any procedure authorising a refund of duty; or
- (dd) exported under section 18A,
- may be deducted or set-off from the total quantity of goods accounted for on such form, unless it is proved that liability for duty has ceased as contemplated in rule 54F.10.
- (ii) where a lesser quantity of goods is -
- (aa) removed and entered at the place of destination in the case of goods removed in bond,
- (bb) exported;
- (cc) delivered to the rebate user;

(dd) or removed in terms of any other procedure;
only the quantity so entered at the place of destination or exported, delivered or removed
may be so deducted or set-off on the relevant form DA 161A.

Duties amended in a taxation proposal under section 58(1)

54F.09 (a) The provisions of rule 19A.08 shall apply *mutatis mutandis* if any environmental levy is increased in a taxation proposal as contemplated in section 58.

Liability for duty for environmental levy goods manufactured in the Republic

54F.10 (a) Subject to paragraph (b), the provisions of section 18(2) and (3), in the case of environmental levy goods manufactured in the Republic entered for removal in bond from a customs and excise warehouse, or the provisions of section 18A(1) and (2), in the case of such goods entered for export from a customs and excise warehouse, shall apply in respect of the liability and the termination of liability for duty of a licensee who so enters such goods and such liability shall, unless proof has been obtained in an improper or fraudulent manner, cease in the case of –

- (i) (aa) goods contemplated in section 18(3)(a), if the goods have been received in the customs and excise warehouse and entered for re-warehousing at the destination in the Republic; or
- (bb) goods carried by road to any BLNS country to which they were removed in terms of any document authorised in these rules, the goods have been duly taken out of the Republic;
- (ii) goods contemplated in section 18A(1) and (2) that are exported by road to any country in Africa, outside the common customs area, when it is proved that the goods have been received in such country at the customs office of destination;
- (iii) goods exported or removed to any BLNS country by means of any ship or aircraft, when it is proved that the goods have been loaded into, for carriage by such ship or aircraft to the country of destination;
- (iv) goods carried by rail to any destination outside the Republic, when the licensee confirms that the goods were received by the consignee in the country of destination; or
- (v) goods entered under rebate of duty for delivery to a rebate user, when such user duly acknowledges receipt of such goods.

(b) where in respect of any goods removed in bond or removed in terms of any procedure authorising a refund of duty or exported –

- (i) any proof has been improperly or fraudulently obtained; or
- (ii) any goods are damaged or destroyed or lost or diminished before liability has ceased as contemplated in paragraph (a).

the licensee shall furnish a full report within 14 days after such an event and pay any duty due to the Controller.

Removal of imported environmental levy goods to a BLNS country or from a BLNS country to the Republic or for export from the Republic to a country outside the common customs area

- 54F.11**
- (a) (i) Where any environmental levy goods are imported by an importer in the Republic intended for removal to a BLNS country or for export to a destination outside the common customs area, such goods must on importation be entered for storage in a customs and excise storage warehouse licensed for the storage of imported goods.
 - (ii) Where such goods -
 - (aa) are removed to a BLNS country, such goods must be entered for removal in bond and removed to such country in accordance with section 18 and its rules;
 - (bb) are exported to a country outside the common customs area, such goods must be entered for export and exported in accordance with section 18A and its rules;
 - (cc) are so removed or exported by road, the carriage of such goods shall, in addition, be subject to section 64D and its rules.
 - (iii) Proof that the goods have been duly entered in the BLNS country of destination as contemplated in section 18(3), may include a certified copy of a bill of entry duly processed in such country in terms of which the goods have been entered for customs purposes under tariff subheadings 3923.21.10 or 3923.29.10 specified in Part 1 of Schedule No. 1.
- (b) Where environmental levy goods are imported by an importer in a BLNS country through a place of entry in the Republic such goods must be removed in bond to such country in terms of section 18 and its rules.
- (c) (i) Any environmental levy goods imported into a BLNS country, shall, when brought into the Republic, from such country, be subject to -
 - (aa) both the duties leviable in Part 1 and Part 3 of Schedule No. 1; or
 - (bb) if proof of payment of the duty leviable under the said Part 1 is produced, the duty under the said Part 3 (environmental levy) only.
- (ii) Such duty must be paid at the place of entry where the goods enter the Republic.

Environmental levy goods removed from a customs and excise manufacturing warehouse for removal in bond to a destination in the Republic or for removal to a BLNS country or for export or returned from a BLNS country

- 54F.12**
- (a) Any environmental levy goods removed from a customs and excise manufacturing warehouse 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 at the office of the Controller before each such removal;
 - (iii) removal in bond to any customs and excise storage warehouse for export as contemplated in rule 54F.03 or to a duty free shop, on form DA 610 at the office of the Controller before each such removal.
 - (iv) removal to a consignee in a BLNS country, on form CCA1 in accordance with the procedures prescribed in paragraph (d).
- (b) The provisions of paragraph (a)(i) apply *mutatis mutandis* in respect of any goods exported from a customs and excise storage warehouse contemplated in rule 54F.03.

- (c) Where environmental levy goods are exported, removed in bond or removed to a BLNS country by a licensee of a manufacturing warehouse or exported by a licensee of a storage warehouse, as the case may be, and are wholly or partly carried by road, such goods must, except where the licensee uses own transport, be carried by a licensed remover of goods in bond contemplated in section 64D.
- (d) (i) Environmental levy goods manufactured in the Republic must be removed to a BLNS country for consumption in such country, only, -
(aa) by a licensee of a customs and excise manufacturing warehouse;
(bb) from stocks entered or deemed to have been entered for home consumption and payment of duty as contemplated in rule 54F.07(b);
(cc) in accordance with the procedures prescribed in this rule, in order to qualify for set-off of environmental levy against the monthly account as contemplated in rule 54F.13.
- (ii) (aa) The environmental levy goods must be entered on form CCA1 which must be processed at the SARS border post where the vehicle carrying the goods leaves the Republic for the BLNS country of destination.
(bb) The invoice of which the number is entered on the form CCA1, must in addition to any other document required by SARS, accompany the form CCA1 when it is delivered to the SARS border post for processing.
(cc) When processing the form CCA1 the officer must stamp the invoice (or a copy thereof) with the official date stamp and endorse the number of the form CCA1 thereon.
(dd) The licensee must include in the records to be kept in terms of rule 54F.06 -
(A) the consignor's copy of the form CCA1;
(B) the invoice (or copy thereof) endorsed at the SARS border post with the CCA1 number;
(C) copy of the road manifest;
(D) proof of delivery to the consignee; and
(E) proof of payment for the consignment.
- (e) (i) Whenever goods are removed to such a customs and excise storage or any other manufacturing warehouse or duty free shop on form DA 610 in accordance with the provisions of paragraph (a)(iii), the licensee of the receiving warehouse must process form DA 610 at the office of the Controller in respect of goods so received within 7 days after the date of removal from such warehouse.
(ii) The licensee of the receiving warehouse must furnish a copy of such processed form DA 610 to the licensee of the manufacturing warehouse from which the goods were removed who must keep it on record for the purposes of rule 54F.10.
- (f) Where goods are removed by ship, air or rail to a BLNS country, or for export, the licensee must keep for the purposes of rule 54F.10 -
(i) a copy of the bill of lading in respect of goods carried by ship;
(ii) a copy of the air waybill in respect of goods carried by aircraft;
(iii) a copy of the consignment note in respect of goods carried by rail;
(iv) proof of payment for the consignment.

- (g) (i) The licensee must keep a register of each -
(aa) form CCA1 processed;
(bb) air waybill, bill of lading or consignment note of goods removed by air, sea or rail to a BLNS country;
(cc) air waybill, bill of lading or consignment note of goods exported to a country outside the common customs area.
- (ii) Such register must include in respect of goods -
(aa) removed to a BLNS country the consignee's name and address, invoice number and quantity delivered;
(bb) where the goods are carried by road by a licensed remover of goods in bond, the name and client number of such remover.
- (h) The licensee must include with the environmental levy account required to be submitted in terms of rule 54F.03 a statement to the effect that -
(i) the goods removed to a BLNS country, goods removed in bond to a customs and excise storage warehouse, a duty free shop or exported as reflected in the account were duly so removed and delivered to the consignee in the BLNS country or the licensee of the storage or exported, as the case may be.
(ii) a record of the proof of such removal or export is available at the licensed premises and will be kept in accordance with the requirements of rule 54F.06.
- (ij) Where environmental levy goods manufactured in the Republic are returned from a BLNS country, the environmental levy thereon must be paid at the place of entry where the goods are brought into the Republic.

54F.13 *Deductions from or set-off against accounts*

- (a) Deduction from or set-off against accounts may only be made by the licensee on compliance with the relevant conditions and procedures prescribed in each case.
- (b) Deductions from dutiable quantities may be made in respect of -
(i) goods removed in bond or exported where liability has ceased in terms of the Act;
(ii) goods for which any rebate of duty is allowed in terms of any item of Schedule No. 6 where the licensee has duly complied with the provisions of such item or where such goods have been received by the person entitled to such rebate, as the case may be;
(iii) any set-off referred to in paragraph (c) if so indicated on form DA 161A.
- (c) Set-off is allowed in respect of goods which have been entered or deemed to have been entered for home consumption where such set-off is authorised in terms of any item of Schedule No. 6 on compliance with the requirements of such item.
- (d) (i) Where any goods are returned, the licensee must issue a credit note to the person concerned and must on form DA 161A -
(aa) add the goods to stock as returns;
(bb) deduct the environmental levy, paid or payable on goods returned by such person from the amount payable;

- (ii) the licensee must keep a copy of the credit note and the delivery / stock return note from the person who returned the goods with the records contemplated in rule 54F.01.

54F.14 *Implementation of Chapter VA and these rules*

- (a) Every licence applied for before the date the provisions of Chapter VA and these rules come into operation will be issued with effect from the date the said chapter and rules come into operation.
- (b) Every manufacturer must take stock, and keep a stock report on record, in respect of goods liable to the environmental levy on the manufacturing premises and in storage when manufacturing operations stop on the day before these provisions come into operation.
- (c) The quantity of the goods found to be in stock must be shown as an endorsement on the first environmental levy account required to be submitted in terms of these rules.
- (d) The licensee must when issuing any invoice or delivery note contemplated in rule 54F.05 in respect of goods manufactured before the date the environmental levy came into operation, endorse such invoice or note "manufactured before 1 June 2004".
- (e) In accordance with rule 54F.07(b), the accounting period of three months must commence on 1 June 2004.

CUSTOMS AND EXCISE ACT, 1964 (ACT NO. 91 OF 1964)

LICENSING OF CUSTOMS AND EXCISE WAREHOUSES

Pro Forma Agreement between the licensee of a Customs and Excise Warehouse
and the Commissioner

Annexure A

As _____
(Full name of applicant – hereinafter referred to as “licensee”)

of _____
(Physical address of applicant – not a PO Box)

herein represented by

_____	_____
Full name	Witness

*duly authorised thereto by virtue of –

- (a) *a resolution passed at a meeting of the Board of Directors held at
on..... day of; or
- (b) *express consent in writing of all the partners of a partnership / *members of the close corporation / *trustees of the
trust; or
- (c) *being a person having the management of any other association of persons referred to in rule 60.02(2)(a)(iv),

has applied for a customs and excise warehouse licence; and
(*Delete whichever is not applicable)

as the Commissioner has considered the application and decided to issue a licence subject to compliance with the terms and
conditions of this agreement, it is agreed that the licensee shall be bound by the following:

1. Licensee undertakes to furnish security in the amount determined and in a form and in the nature determined by the
Commissioner and to maintain such security until such time as the Commissioner is on good cause shown satisfied that every
liability incurred under the Act by the licensee has ceased and each of the conditions of the licence has been complied with.
2. Licensee acknowledges as a precondition to being allowed to engage in the activities regulated by the Act and for which the
licence is granted that it –
 - (a) understands that its rights to conduct the business of a customs and excise warehouse are subject to compliance with
customs and excise laws and procedures, the provisions of this agreement and any standards of conduct that may be

- imposed by the Commissioner;
- (b) is aware of the civil and criminal regulatory consequences of non-compliance with such laws and procedures and the provisions of this agreement.
- (c) (i) Licensee is aware of and acknowledges the statutory powers, rights and obligations of the Commissioner and his/her delegated officers to inspect for the purposes of the Act the books, accounts, documents and other records of the business in respect of which the licence is issued, including such records in respect of individual clients or specific transactions as well as the banking accounts and records relating to the business conducted under the licence.
- (ii) Licensee hereby agrees to and authorises the inspection of such books and documents and business banking accounts as the Commissioner and the delegated officers may require.
- (d) Licensee is aware of its obligations and undertakes to advise the Commissioner for the purposes of section 60(2) of the Act, whenever the licensee or any employee (except in respect of subparagraph (v) of the licensee -
- (i) has contravened or failed to comply with the provisions of the Act;
- (ii) has failed to comply with any condition or requirement of this agreement or any condition or obligation imposed by the Commissioner in respect of such licence;
- (iii) is convicted of any offence under the Act;
- (iv) is convicted of any offence involving dishonesty;
- (v) is sequestered or liquidated;
- (vi) fails to comply with the qualification requirement set out in the rules for section 60; or
- (vii) ceases to carry on the business for which the licence is issued,
- and licensee acknowledges the right of the Commissioner to cancel or suspend the licence in accordance with the provisions of section 60(2) on the grounds of any of these provisions or requirements.
- (e) Licensee in addition undertakes:
- (i) to keep on the business premises books, accounts, documents and other records relating to the transactions of the business comprising, where applicable, at least -
- (aa) in the case of imported goods, copies of the relative import bills of entry, transport documents, suppliers invoices, packing lists, bank stamped invoices, payment advices and other documents required in terms of section 39 of the Act;
- (bb) in the case of exported goods, copies of the relative export bills of entry, invoices and other transport documents;
- (cc) in the case of goods subject to rules of origin such records as are prescribed in the rules for sections 46, 46A and 49;
- (dd) every contract entered into and any instruction given to any licensed remover of goods in bond in respect of the carriage of goods by such remover;
- (ee) books, accounts, and documents as proof of fulfilment of any obligation relating to the removal of goods in bond, re-warehousing, goods exported or other goods for which such proof as required in terms of any provision of the Act; and
- (ff) to keep any other books, accounts, documents and other records which may be required in terms of any rule relating to any business transacted as a licensee of a customs and excise warehouse under the provisions of the Act;
- (ii) notwithstanding any other provisions in the Act or the rules thereto, to keep such books, accounts, documents or other records available for inspection by the Commissioner for a period of five years calculated from the

end of the calendar year in which any such document was created, lodged or required for the purposes of any customs and excise procedure;

- (iii) to answer and to ensure that any employee answers, fully and truthfully any questions of the Commissioner or an officer relating to its business or that of its principal required to be answered for purposes of the Act;
 - (iv) to render such returns or submit such particulars in connection with its transactions and the goods to which the transactions relate as the Commissioner or his or her delegated officer may require;
 - (v) to institute adequate administrative measures and procedures in and for its business and if and when able to do so to improve such measures so as to ensure –
 - (aa) that the contents of all documents submitted to the Commissioner or a Controller for purposes of the Act are duly verified and completed in accordance with the provisions of the Act;
 - (bb) that every person in the employ of the licensee and engaged in the customs and excise warehouse business of the licensee is conversant with customs and excise laws and procedures, the contents of this agreement and with the requirements relating to the business of the licensee and the customs and excise administration in respect of such business and is able to answer any question that may be required to be answered for purposes of the Act;
3. Licensee is aware of the obligation to account for all dutiable goods produced or stored and at all times to be able to prove the fulfilment of any obligation relating to the payment of duty, export, removal in bond or other movement of such goods as may be required in terms of any provision of the Act.
4. Licensee understands and accepts -
- (i) that any application for a new licence or renewal of a licence may be refused on the grounds specified in section 60(2) and where any of the provisions are applicable licensee undertakes to disclose all relevant facts when applying for such licence;
 - (ii) the condition prescribed in the rules for section 60 that at least the licensee or one of its directors, members, partners, trustees or employees, as the case may be, transacting the customs and excise related business with clients of such business at the premises or in the area for which the licence is issued shall have sufficient knowledge of customs and excise laws and procedures to transact such business efficiently and in compliance with the provisions of such laws and procedures.
5. Licensee undertakes to render such proof, including audited financial statements, as may be required from time to time in order to prove that it has, and is maintaining, sufficient financial resources to conduct its business in an efficient and responsible manner.
6. (a) The licensee chooses *domicillium citandi et executandi* at:

- (b) The Commissioner chooses *domicilium citandi et executandi* at:

7. thus done and signed at _____ on this _____
- _____

Licensee

Witness

Thus done and signed at _____ on this _____

for and on behalf of Commissioner

Witness

Witness

SOUTH AFRICAN REVENUE SERVICE

PRO FORMA BOND FOR ENVIRONMENTAL LEVY GOODS
(To be furnished by the applicant for a licence in accordance with the provisions of section 54 of the Customs and Excise Act, 1964 (Act 91 of 1964) and the rules for the said section 54F)

KNOW ALL WHOM IT MAY CONCERN THAT –

WHEREAS as Principal Debtor, herein represented by:

1.

2.
in their respective capacities as

1.

2.

- * being duly authorised thereto by virtue of a resolution passed at a meeting of the Board of Directors held at on the day of
- * being duly authorised thereto with the express consent in writing of all the members of the close corporation / all the partners of a partnership / trustees of the trust held at on the day of

and:

..... as Surety and Co-Principal Debtor in *solidum* herein represented by:

1.

2.
in their respective capacities as

1.

2.

being duly authorised thereto by virtue of standard internal *banking / insurance regulations relating to signing powers
(* Delete which is not applicable)

are truly and lawfully indebted and are held and firmly bound to the Commissioner for the South African Revenue Service

in the amount of R..... (amount in words) to be paid to the said Commissioner,

for which payment well and truly to be made we bind ourselves jointly and severally, each for the whole our heirs, executors, administrators and assigns,

FURTHERMORE we, the Principal Debtor(s) and Co-Principal Debtor(s) renounce and waive the exceptions:

- (i) *Beneficium ordinis seu excussionis;*
 - (ii) *Beneficium divisionis;* and
 - (iii) Any other exception that may be taken in law,
- with the meaning and effect of which we are fully acquainted.

WHEREAS the Principal Debtor has applied for a licence in respect of the premises to be used as a customs and excise manufacturing warehouse for the manufacture of goods liable to environmental levy subject to the customs and excise laws of the Republic relating to licensing of a customs and excise manufacturing warehouse and the Commissioner has approved the application.

NOW THEREFORE the conditions of this obligation are that –

- (i) if the environmental levy on all goods liable to such levy manufactured in the customs and excise manufacturing warehouse shall have been paid to the Commissioner or the goods have been otherwise accounted for in accordance with the customs and excise laws and procedures prescribed in or in terms of the Customs and Excise Act, 1964; or
- (ii) if in respect of all such goods not duly accounted for, the environmental levy leviable thereon in terms of the said Customs and Excise Act, 1964 shall have been paid to the Commissioner;

THEN if the aforesaid conditions are applicable this obligation shall in relation to such goods be void, otherwise to be and remain in full force and effect.

This bond is not transferable or negotiable.

All admissions or acknowledgements of indebtedness made by the Principal Debtor shall be binding upon the Co-Principal Debtor.

The Commissioner or his delegated officer shall be at liberty, without affecting the Commissioner's rights hereunder, to release securities provided by or on behalf of the Principal Debtor by any person, association of persons, firm or company and to give time to, or compound or make other arrangements with the Principal Debtor, its legal representative in insolvency, judicial management or otherwise.

Any claim arising hereunder may be recovered in any division of the High Court of South Africa as the Commissioner may elect and the Co-Principal Debtor hereby consents and submits to the jurisdiction of such a Court in respect of any such claim.

Signed by the Principal at on this day of 20.....

..... Signature of Principal Signature of Principal

In the presence of the subscribed witnesses:

- 1.
2.

Signed by the Surety(ies) and Co-Principal Debtor(s) on this day of 20..... at

..... Signature of Surety and Co-Principal Debtor Signature of Surety and Co-Principal Debtor

In the presence of the subscribed witnesses:

- 1.
2.

(b) By the insertion of form DA 161A in item 202.00 of the Schedule to the rules.



DA 161A

ENVIRONMENTAL LEVY ACCOUNT FOR PLASTIC BAGS
(Chapter VA of the Customs and Excise Act, 91 of 1964 and the rules therefor)

Manufacturing Warehouse No:		Customs Client No:	
Client Details:		Period:	
Licensee:	From:	To:
Physical Address:		
Postal Code:		
Statistical Unit Code		No.	No.
Tariff Subheading / Item		3921.29.10/147.01	3923.21/147.01
1.	Opening Balance		
2.	Plus Production		
3.	Plus Returns		
	TOTAL (A)		
4.	Less Removals and Rebates:		
4.1	Sales: Republic		
4.2	Sales: BLNS countries		
4.3	Exports		
4.4	Storage Warehouse		
4.5	Rebates	Item 660.01	
		Item 660.02 (<i>vis major</i>)	
		Item 660.03	
	TOTAL REMOVALS (B)		
5.	CLOSING BALANCE (A minus B)		
6.	DUTIABLE TOTAL (4.1 plus 4.2)		
	Rate of levy on dutiable total	R0,03	R0,03
	LEVY ON DUTIABLE TOTAL (C)	R	R
7.	Less Levy Paid or payable -	R	R
7.1	• Proved removals to BLNS	Item 660.01	R
7.2	• Returns from Republic (other than recycling)	Item 661.03	R
7.3	• Returns for Recycling	Item 660.02	R
	TOTAL (D) (total of 7)	R	R
8.	Less: Overpaid on previous account	R	R
9.	Plus: Underpaid on previous account	R	R
10.	NETT LEVY PAYABLE (E) (C minus D minus 8 plus 9)	R	R
Serial numbers of all Invoices for above-mentioned period (see Annexure):			
I in my capacity as of, hereby declare that the particulars herein are correct and comply with the customs and excise laws and procedures.			
Signature		Date	
FOR OFFICIAL USE ONLY			
DATE STAMP		NUMBER	
Checked by:		Date:	
Audited by:		Date:	

See Overleaf for Notes

ENVIRONMENTAL LEVY ACCOUNT		DA 161A
Notes: (Particulars to be specified)		
* Insert number of bags for items 1 to 5.		
1.	Opening balance: Balance carried forward from previous period – to be completed from second accounting period	
2.	Production for the three months of the accounting period.	
3.	Returns from the Republic or returns from a BLNS country for which credit notes have been issued. In the case of returns from a BLNS country the environmental levy thereon must have been paid on entry into the Republic.	
4.1	Sales:	<ul style="list-style-type: none"> • Republic
4.2		<ul style="list-style-type: none"> • BLNS countries
4.3	Removals:	<ul style="list-style-type: none"> • Export
4.4		<ul style="list-style-type: none"> • Storage Warehouse (For export or duty free shop (rule 54A.03))
4.5	Rebates:	<ul style="list-style-type: none"> • Proof of delivery or use under rebate, as the case may be, must be kept available on record
5.	Closing balance at end of accounting period	
6.	Dutiable total: Sales in Republic and to consignees in BLNS countries	
C	Levy on dutiable total = number of bags X 3cents	
7.	Less levy on goods:	
7.1	<ul style="list-style-type: none"> • removed to BLNS countries (only if proof of exit from the Republic had been obtained) (CCA1) 	
7.2	<ul style="list-style-type: none"> • returned from purchasers in the Republic – credit notes must be issued 	
7.3	<ul style="list-style-type: none"> • returned for recycling – credit notes must be issued 	
8 – 9	Please state in a separate report particulars of the relevant accounting periods and an explanation of the overpayment or underpayment, as the case may be. Attach relevant documents.	
10.	Levy payable on or before the penultimate working day of the month following the last day of the accounting period.	