

General Explanatory Note:

- [] Words in bold type in square brackets indicate omissions from existing rules.
- _____ Words underlined with a solid line indicate insertions in existing rules.

SOUTH AFRICAN REVENUE SERVICE

No. R. 509

22 June 2007

CUSTOMS AND EXCISE ACT, 1964
AMENDMENT OF RULES (NO. DAR/36)

Under sections 18A, 19A, 20, 24, 28, 35, 36A, 37A, 37B, 38, 46A, 49A, 49B, 59A, 60, 75, 96, 101A and 120 of the Customs and Excise Act, 1964, the rules published in Government Notice R.1874 of 8 December 1995 are amended to the extent set out in the Schedule hereto.

PRAVIN JAMNADAS GORDHAN
COMMISSIONER FOR THE SOUTH AFRICAN REVENUE SERVICE

SCHEDULE

- (a) By the substitution in rule 18A.08(g) for subparagraph (i) of the following subparagraph:
- “(i) Such exports shall only take place through the following border posts in the common customs area: Beit Bridge, Lebombo, Kazangulu (Botswana), Oshikango (Namibia), **[and] Lomahasha (Swaziland) and Mhlumeni (Swaziland);** and”
- (b) By the substitution in rule 19A3.01(b) for subparagraph (v)(bb) of the following subparagraph:
- “(bb) special customs and excise storage warehouse licensed for packing or repacking of undenatured and partially denatured spirits for supply to rebate users registered as contemplated in subparagraph (aa).”
- (c) By the substitution in rule 19A3.06 for paragraph (a) of the following paragraph:
- “(a) Every licensee of any special customs and excise storage warehouse contemplated in rule 19A3.01(b)(iii), (iv) and (v), must submit to the Controller within 14 days after the end of March, June, September and December for each quarter an account on form DA 260 in respect of goods received into, goods removed from and goods in stock, in such warehouse.

- (d) By the substitution for the heading of rule 19A4.02 of the following heading:
“Clearance of fuel levy goods from a customs and excise manufacturing or special storage warehouse[s] and payment of duty”
- (e) By the substitution in rule 19A4.04(a) for subparagraph (iii) of the following subparagraph:
“(iii) Only a licensee of such manufacturing warehouse or the special customs and excise storage warehouse contemplated in rule 19A4.01(b)(ii) or a licensed distributor as contemplated in section 64F may export fuel levy goods.”
- (f) By the substitution in rule 19A4.04(a) for subparagraph (viii) of the following subparagraph:
“(viii) Every consignor must ensure that sufficient copies of –
(A) SAD forms are processed at the office of the Controller; or
(B) form DA 35 are prepared.
for the completion in respect of the movement of the goods concerned as prescribed in these rules and such forms.”
- (g) By the substitution for rule 20.21 of the following rule:
“20.21 In the case of goods liable to excise duty only and removed in bond from one customs and excise warehouse to another any copy of a certificate for the removal of excisable [specified] goods ex warehouse (form DA 32) relating to the removal of such goods shall on being deposited in the entry box in such warehouse to which such goods were so removed be deemed to be a bill of entry for re-warehousing in respect of such goods in that warehouse.”
- (h) By the substitution in rule 24.04 for the wording preceding subparagraph (i) of the following wording:
“Foreign registered ships on pleasure cruises that call at coastal ports for short visits shall, subject, in each case, to the prior approval of the Controller be exempt from the payment of duty on stores of tariff headings Nos. [22.01,] 22.02, 22.03, 22.05, 22.06, 22.07, 22.09 and 24.02 supplied for own use to passengers of such ships provided –“
- (ij) By the substitution for the heading of rule 28.01 of the following heading:
“Ascertaining the [strength and] quantity of spirits for duty purposes”
- (k) By the substitution for rule 35.04 of the following rule:
“35.04 In the case of any removal of wine ex warehouse for payment of duty, the relative invoice referred to in rule 35.03 shall be deemed to be a certificate for removal of excisable [specified] goods but copies of such invoices shall not be deposited in the entry box unless required in writing by the Controller on the date or for the period mentioned in rule 20.14. The quantities of wine removed for payment of duty under the provisions of this rule may, at the time of declaration on a bill of entry in terms of the provisions of rule 10.13 be reduced by the percentage specified in section 75(18)(c) in respect of wine and duty shall be calculated on such reduced quantities.”

- (l) By the substitution for rule 36A.01 of the following rule:
- “36A.01 Every manufacturer of excisable goods specified in Section B of Part 2 of Schedule No. 1 and every owner of such goods manufactured for him partly or wholly from materials owned by such owner shall apply to the Controller on [a form DA 181] form DA 185 and the relevant annexure for the licensing of his premises as a special customs and excise warehouse. [Such form] These forms, duly completed, shall be accompanied by –
- (a) a duly completed Certificate of Value for goods liable to Excise Duty. Should any change in such manufacturer’s or owner’s sales policy occur, the Controller shall be furnished with a fresh Certificate of Value;
 - (b) a list of machines and/or equipment which in terms of section [114(1)(AA)] 114(1)(aA) will automatically be subject to a lien; and
 - (c) a list of names and addresses of directors/partners/proprietors of/in the company concerned.”
- (m) By the substitution for rule 36A.02 of the following rule:
- “36A.02 Any such licensee shall notify the Controller immediately, or in advance, of any change, or contemplated change in his legal identity, the name under which he trades or his registered address. In such event the licensee shall furnish the Controller with [a fresh form DA 181] form DA 185 and the relevant annexure, duly completed, together with [his licence] the original licence issued by the Controller of Customs and Excise.”
- (n) By the substitution in rule 37A.03 for paragraph (d) of the following paragraph:
- “(d) Such licensee shall keep such record available for at least three years from the date of the last entry therein for inspection on demand by [and] an officer.”
- (o) By the substitution in rule 37B.01 for the definition of “biodiesel” of the following definition:
- ““biodiesel” means a biofuel as defined in Additional Note 1 to Chapter 38 of Part 1 of Schedule No. 1 [Part 1] to the Act;”
- (p) By the substitution for the heading of rule 37B.02 of the following heading:
- “**Manufacturers of biodiesel to register or to register and license**”
- (q) By the substitution for the heading of rule 37B.04 of the following heading:
- “**Commercial manufacturers of biodiesel to [license] licence**”
- (r) By the substitution in rule 37B.04 for paragraph (b) of the following paragraph:
- “(b) Application for such a licence must be made on form DA 185 and the relevant annexure and the provisions of rule 19A.02(a) shall apply *mutatis mutandis* to such an application.”
- (s) By the substitution for the heading of rule 37B.05 of the following heading:
- “**Cancellation of biodiesel manufacturing [license] licence**”
- (t) By the substitution for rule 37B.05 of the following rule:
- “37B.05 **The Commissioner may [on application]–**

- (a) on application cancel a customs and excise manufacturing warehouse licence for the manufacture of biodiesel, where he or she is satisfied that the licensee will no longer -
- (i) manufacture biodiesel; or
- (ii) manufacture biodiesel in commercial quantities; and
- (b) return or refund any security if all obligations in terms thereof have been fulfilled.
- (u) By the substitution for the heading of rule 37B.06 of the following heading:
“Plants and machinery subject to a lien”
- (v) By the substitution for rule 37B.12 of the following rule:
“37B.12 Copies of monthly biodiesel manufacturing records, or such other reproductions thereof as the Commissioner may allow under section 101(1A), must be retained by a non-commercial manufacturer and kept available for inspection by an officer for a period of [5] five years calculated from the end of the calendar year during which any such record was created.”
- (w) By the substitution in rule 37B.22 for paragraph (b) of the following paragraph:
“(b) A person who already manufactures biodiesel on 1 April 2006 is allowed until 28 April 2006 to deliver a duly completed application together with supporting documents for registration or an application for [a] registration and a [license] licence as prescribed in rule 37B.02.”
- (x) By the substitution in rule 38.16(a)(i) for the definition of “accounting period” of the following definition:
““accounting period” means the period within which imports or exports of a continuous transmission commodity must be accounted for and entered on a bill of entry or SAD form.”
- (y) By the substitution in rule 38.16(b) for subparagraph (i) of the following subparagraph:
“(i) Any CTC imported or exported must be accounted for and entered or declared as prescribed in this rule.”
- (z) By the substitution in rule 38.16(b)(iv) for subparagraph (aa) of the following subparagraph:
“(aa) at the place of entry specified in item 200.03(ij) in the Schedule to the [rules] Rules, make due entry or declare in terms of the Act of the quantity of CTC imported or exported during that accounting period; and”
- (aa) By the substitution in rule 38.16(b)(iv)(bb) for subparagraphs (A) and (B) of the following subparagraphs:
“(A) submit separate bills of entry or SAD forms in respect of each supplier from which a CTC was received during the period concerned;
(B) pay any duty and value-added tax due during the hours of business prescribed in item 201.20 of the Schedule to the Rules for acceptance of bills of entry or SAD forms and for receipts and other revenue;”
- (bb) By the substitution in rule 38.16(b)(iv) for subparagraph (cc) of the following subparagraph:
“(cc) in the case of exports, separate bills of entry or SAD forms must be submitted in respect of each consignee to which a CTC was transported during the period concerned.”

- (cc) By the substitution in rule 38.16(b)(v) for subparagraph (aa) for the following subparagraph:
 “All bills of entry or SAD forms submitted to the Controller must be accompanied by invoices, a summary of the accounting record required to be kept as contemplated in subparagraph (b)(i) and such other documents as the Commissioner may require.”
- (dd) By the substitution in rule 38.16 for paragraph (c) of the following paragraph:
 “(c) Where a CTC is transported to or from the territory of a SACU Member State, [~~form CCA1 or~~ form SAD 500, [~~as may be applicable~~] in terms of the rules numbered 120A [~~and 120B~~], must be submitted together with an invoice as contemplated in subparagraph (b)(v), to the Controller for each accounting period within the time prescribed in subparagraph (b)(iii).”
- (ee) By the substitution in rule 46A1.03 for paragraph (a) of the following paragraph:
 “(a) Every exporter and manufacturer of textile and apparel articles for the purposes of the AGOA shall be registered and shall submit a completed form DA 185 together with -
 (i) in the case of the exporter, a completed Annexure [~~DA 185.02~~] DA 185.4A2 and exporter’s application for registration (DA 46A1.02) incorporated in Section A thereof; and
 (ii) in the case of the manufacturer, a completed Annexure [~~DA 185.04~~] DA 185.4A4 and manufacturer’s application for registration (DA 46A1.03) incorporated in Section A thereof.”
- (ff) By the withdrawal of the following forms printed after the form named “African Growth and Opportunity Act – Application for a Visa” after rule 46A1.14:
 “DA 46A1.02 - Exporter’s Application for Registration for the purposes of the AGOA;
 DA 46A1.03 - Manufacturer’s Application for Registration for the purposes of the AGOA.”
- (gg) By the substitution in rule 46A1.02 for subparagraph (i) of paragraph (a) of the following subparagraph:
 “(i) The certificate of origin and the application for a visa, respectively numbered [~~DA 46A.01~~] DA 46A1.01 and DA 46A1.01(a), which must be completed by exporters when exporting goods for the purposes of the AGOA, are inserted in the Schedule to the Rules.”
- (hh) By the substitution in rule 46A1.03 for paragraphs (a) and (b) of the following paragraphs:
 “(a) Every exporter and manufacturer of textile and apparel articles for the purposes of the AGOA shall be registered and shall submit a completed form DA 185 together with -
 (i) in the case of the exporter, a completed Annexure [~~DA 185.02~~] DA 185.4A2 and exporter’s application for registration [~~(form DA 46A1.02)]~~ (DA 46A1.02 incorporated in Section A thereof); and
 (ii) in the case of the manufacturer, a completed [~~form DA 185.02~~] Annexure DA 185.4A4 and manufacturer’s application for registration [~~(form DA 46A1.03)]~~ (DA 46A1.03 incorporated in Section A thereof).”
 (b) If the exporter is also the manufacturer of the goods concerned, both the forms DA 46A1.02 (incorporated in Section A of Annexure DA 185.4A2) and DA 46A1.03 (incorporated in Section A of Annexure DA 185.4A4) must be completed.”
- (iji) By the substitution in rule 46A2.04 for paragraph (a) of the following paragraph:

- “(a) every exporter and producer of GSP goods shall be registered and shall submit to the Commissioner a completed form DA 185 and the relevant annexure in the case of -
- (i) an exporter, Annexure [DA 185.02 and DA 46A.01] DA 185.4A2 and form DA 46A.01 incorporated in Section C thereof;
 - (ii) a producer, Annexure [DA 185.14 and DA 46A.02] DA 185.4A7 and form DA 46A.02 incorporated in Section C thereof.”
- (kk) By the substitution in rule 49A.01 for paragraph (f) of the following paragraph:
- “(f) Registration of exporter and producer
For the purposes of section 49(6) and section 59A -
- (a) every exporter and producer of goods to be exported to any of the member states of the European Community shall be registered and shall submit to the Commissioner a completed form DA 185 and the relevant annexure in the case of -
 - (i) an exporter, Annexure [DA 185.02 and DA 46A.01] DA 185.4A2 and form DA 46A.01 incorporated in Section C thereof;
 - (ii) a producer, Annexure [DA 185.14 and DA 46A.02] DA 185.4A7 and form DA 46A.02 incorporated in Section C thereof;
 - (b) if the exporter is also the producer of the goods concerned, application for registration as exporter, as well as a producer, must be so submitted.”
- (ll) By the substitution in rule 49A.18(19), (20) for paragraph (c) of the following paragraph:
- “(c) Application for approved exporter status must be made on forms DA 185, [DA 185.02 and DA 49A.01] DA 185.4A2 and DA 49A.02.”
- (mm) By the substitution in rule 49B.01 for paragraph (f) of the following paragraph:
- “(f) Registration of exporter and producer
For the purposes of section 49(6) and section 59A -
- (a) every exporter and producer of goods to be exported to any of the member states of the Southern African Development Community shall be registered and shall submit to the Commissioner a completed form DA 185 and the relevant annexure in the case of -
 - (i) an exporter, Annexure [DA 185.02 and DA 46A.01] DA 185.4A2 and form DA 46A.01 incorporated in Section C thereof;
 - (ii) a producer, Annexure [DA 185.14 and DA 46A.02] DA 185.4A7 and form DA 46A.02 incorporated in Section C thereof.”
- (nn) By the deletion in rule 59A.01 for paragraph (d).
- (oo) By the substitution in rule 59A.02(1)(b) for subparagraphs (ii) and (iv) of the following subparagraphs:
- “(ii) section 46A(6), rule 46A1.03 and forms DA 46A1.02 incorporated in Section A of Annexure DA 185.4A2 and DA 46A1.03 incorporated in Section A of Annexure DA 185.4A4, respectively, exporter and manufacturer of goods to which AGOA relates;
- (iv) rule 49A.18(19),(20) – approved exporter form DA 49A.02 incorporated in Section B of Annexure DA 185.4A2.”
- (pp) By the deletion for rule 60.10(2).

(qq) By the substitution for rule 75.16 of the following rule:

“75.16 The Controller may, in respect of any goods referred to in rule 75.01 or in respect of any industry or any class of registrant using such goods, require that a special stock record or special production record in a form approved by him and reflecting such particulars as he may decide, be kept in respect of such goods or for such industry or by such registrant in addition to or in lieu of the stock record or production record referred to in rule 75.14 or 75.15.

If the Controller requires cutting orders to be kept in respect of any industry such cutting orders shall have a sample snippet of the material affixed thereto and shall reflect, *inter alia*, the number and date of the bill of entry, the total number of metres entered, the rating (the number of metres required in the manufacture of each garment or unit) and the number of garments intended to be manufactured and the number actually manufactured.”

(rr) By the substitution in rule 96.02 for paragraph (a) of the following paragraph:

“(a) Every person who intends to institute legal proceedings as contemplated in section 96 [of] must deliver, within the period prescribed in subsection (1)(a), a duly completed form DA 96 (Notice in terms of section 96(1)(a) of the Customs and Excise Act, 1964), to the Commissioner informing him or her of the intended litigation.”

(ss) By the substitution in rule 101A.11(a) for subparagraph (ii) of the following subparagraph:

“(ii) Where any registrant applies for amendment of a user agreement for the purpose of Internet, the registrant must submit a completed [form DA 185.12] Annexure DA 185.4A6 with the application for amendment.”

(tt) By the withdrawal of the following forms under item 202.00 of the Schedule to the Rules:

- “DA 46A1.02 - Exporter’s Application for Registration for the purposes of the AGOA;
- DA 46A1.03 - Manufacturer’s Application for Registration for the purposes of the AGOA;
- DA 46A.01 - Exporter’s Application for Registration for the purposes of the GSP;
- DA 46A.02 - Producer’s Application for Registration for the purposes of the GSP;
- DA 49A.02 - Application for Approved Exporter Status in terms of the EC Agreement
- DA 57 - Request to Defer Payment of Revenue due to Customs and Excise
- DA 57.01 - Request to Defer Payment of VAT and Payslip i.r.o. Revenue due to Customs and Excise
- DA 58 - Settlement of Deferred Payment of Revenue due to Customs and Excise”

(uu) By the insertion in item 202.00 of the Schedule to the Rules of the following form after the form numbered DA 185.4A9:

“DA 185.4A10 Registration Client Type 4A10 – Manufacturer i.t.o. Drawback Items 501.00 to 521.00”

(vv) By the insertion in item 202.00 of the Schedule to the Rules of the following form after the form numbered DA 185.4B7:

DA 185.4B8 Licensing Client Type 4B8 – Special Ad Valorem Manufacturing Warehouse”

(ww) By the substitution in item 202.00 of the Schedule to the Rules of the following forms:

“DA 185 Application Form: Registration / Licensing of Customs and Excise Clients

DA 185.4A3 Registration Client Type 4A3 – Rebate User (Schedules 3, 4 and 6)”