

## **The latest on when and how to register as an importer in South Africa**

In order to import commercial goods into South Africa, a Customs registration number is required to complete the import bill of entry. A customs registration number is also required to complete an export bill of entry for the export of commercial goods.

The term “commercial goods” is defined to mean all goods other than:

- personal effects and sporting and recreational equipment, new or used, imported as accompanied or unaccompanied passenger’s baggage by non-residents of South Africa for their own use during their stay in South Africa;
- personal effects and sporting and recreational equipment, new or used, exported by residents of South Africa for their own use, to Botswana, Lesotho, Namibia or Swaziland, and subsequently re-imported as accompanied or unaccompanied passenger’s luggage by such residents;
- goods imported as accompanied passengers’ baggage by non-residents or residents of South Africa in specific limited quantities e.g.
  - wine;
  - spirituous and other alcoholic beverages;
  - cigarettes;
  - cigarettes or pipe tobacco; and
  - perfumery.
- other goods, new or used with a total value not exceeding R1250 per person (excluding goods of the class listed above).

In addition, the Customs and Excise Act 91 of 1964 (“the Act”) provides that the South African Revenue Service (“SARS”) may require any person participating in any activity regulated by the Act to license or register for Customs purposes.

A person may apply to the nearest SARS Customs Controller / Branch Manager for registration or licensing if such person is –

- A natural person who is a citizen or a permanent resident of South Africa or has an established place of business in South Africa and is at least 21 years old at time of application;

- A juristic person that has an established place of business in South Africa;
- The person having the effective management of an association of persons whether or not formed in South Africa that has an established place of business in South Africa;
- A partnership or a trust composed of individuals each of whom is a natural person who is a citizen or a permanent resident of South Africa or has an established place of business in South Africa and is at least 21 years old at time of application;
- In the case of –
  - A deceased estate, the executor of the estate;
  - An insolvent estate, the trustee;
  - An organ of state, the official to whom the function in respect of the activity for which registration is required, is delegated; and
  - Any institution, the person having the effective management of such institution.

SARS will grant the registration subject to the condition that the applicant himself or at least one of the applicant's employees must be permanently employed at the premises where or from where the business will be conducted and that person must have sufficient knowledge of Customs laws and procedures to ensure that the activities to which the application relates are conducted efficiently and in compliance with the provisions of such laws and procedures.

A third party cannot apply for registration or licensing on behalf of an applicant.

The application for registration must be submitted to the relevant SARS Controller or Branch Manager in whose control area the business is situated.

SARS may require any person to furnish a surety or guarantee in the form, nature or amount determined. SARS may review the form, nature or amount of such surety or guarantee at any time.

Persons that wish to register must complete the form DA 185 together with the relevant annexures and submit the completed forms together with the required annexures to the SARS Customs offices in the area in which their business is situated. If all the required information is in place, the registration should be completed and the person should be issued with a customs code within 10 working days.

SARS does not charge a fee for the granting of a licence to import or export.

SARS has the authority to refuse any application for a new registration, and to refuse any application for a new licence or refuse any application for licence renewal, subject to review by the High Court. The application may be refused by SARS if an applicant does not comply with the requirements of the application or abide by any condition imposed by SARS. Applicants are cautioned not to make false or misleading statements with respect to any material fact and not to omit to state any material fact which is required to be stated in the application for a licence. SARS may refuse an application due to false statements being made or material facts being omitted.

If an employee of the applicant has contravened or failed to comply with the provisions of the Act; or has been convicted of an offence under the Act; or has been convicted of an offence involving dishonesty; or failed to comply with any condition or obligation imposed by SARS in respect of licensing; or failed to comply with any condition or obligation imposed by SARS in respect of registration, this will be grounds for refusal of an application. This will not apply if it can be proved that the applicant was not a party or could not prevent any such act or omission by the employee.

In the past, SARS used to allow importers to utilise the general code 70707070 to import or export goods in South Africa provided that the value for each consignment was less than R20 000,00, subject to the limitation of three such consignments during any calendar year. This is no longer allowed by SARS. The importation or exportation of commercial goods will therefore require a Customs code.

SARS recently re-issued the DA 185 customs registration form. The new form requires the following information to be submitted in support of the application for registration:

- One of the following:
  - A cancelled cheque; or
  - A legible certified copy or original bank statement to confirm the account holder's name, account number and branch code; or
  - An original letter from the bank on the bank's letterhead; or
  - An original auto bank statement.
- Certified copies of:

- Municipal account not older than three months to confirm the address of the business;
- VAT; Income Tax; PAYE; and UIF letters from SARS to confirm revenue registration details;
- CIPRO registration letter confirming when the entity was registered;
- Identity documents or passports of all directors;
- Telephone account not older than 3 months to confirm contact details;
- Company resolution authorising one director to apply for registration with SARS.

Our experience of recent has been that the application process for registration with Customs is user friendly and that SARS personnel are willing to assist to speed up the application process.

Importers and exporters are nevertheless urged to ensure that their applications for registration are submitted to SARS well in advance of the goods being loaded for export to or from South Africa.

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