



INFORMATION SHEET

CUSTOMS

ADMINISTRATIVE PENALTIES

Administrative Penalties Scheme – Importers, Exporters and Customs Brokers

Customs can apply administrative penalties for non-compliance with Customs legislation in relation to the provision of false or misleading statements. Customs now has two options if it decides to pursue enforcement action. One option is to prosecute and the other option is to issue a notice under the Administrative Penalties Scheme.

How does it work?

Customs will consider which sanction is the best means of achieving future compliance. Some of the types of sanctions available to Customs are:

- warning letters
- imposition of penalties (50% to 200% of the duty unpaid, not declared or attempted to be avoided or where the goods are exempt, free or zero rated from duty a penalty of not more than 5% of the value of the goods)
- prosecution action (in some cases Customs may also prosecute in addition to imposing a penalty).

Additionally Customs can also cause the

- removal from, or modification to, the self assessment benefit by examining and verifying each

transaction which may result in delays in clearing goods

- cancellation or suspension of Customs licences for clients (e.g. Brokers, warehouse operators)

Can a penalty be remitted or withdrawn?

A person to whom a penalty notice has been issued may lodge an application in writing with Customs, via the Regional Director in your region, seeking a remittance or withdrawal of the penalty notice. You should state your reasons for seeking such action and provide supporting evidence. A Customs delegate will consider each case on its merits and will advise you in writing of the decision.

An application seeking remittance or withdrawal must be lodged with Customs within 30-days of the penalty notice being issued and, importantly, such application may only be made after the penalty amount has been paid. Failure to comply with these requirements will be grounds for your application to be refused.

What if a penalty is not remitted or withdrawn and I still disagree?

You may appeal to the newly formed Customs Review Tribunal, an independent body, by using the appeal mechanisms under sections 177 and 178 of the Customs Act. The Tribunal will consider the matter

and will make a decision that is binding on both parties. Only after this appeal mechanism has been exhausted are you able to lodge an appeal in the National Court.

What happens if I don't pay the penalty?

Where the false or misleading statement has resulted in the loss of duty, the lost duty must be paid in addition to the penalty imposed. If you choose not to pay, the amount of duty lost, together with the penalty will become a debt to the State and Customs will pursue the debt through the Courts.

Customs may also refuse to clear any subsequent importations or exportations, and in certain cases, may seize your goods and sell them to pay off the debt.

A simple check list to ensure compliance with Customs requirements and to avoid the imposition of an administrative penalty

- Have you consulted with your service providers (e.g. your Customs Broker) or with Customs to verify that the tariff classification, tariff treatment, and valuation of the goods you import and export are in accordance with the requirements of the Customs Act?
- Can you produce to Customs sufficient documents and supporting information, including certificates of origin that we need to verify your import and export transactions?
- Have you ensured that your imported and exported goods comply with the requirements of other agencies (e.g. NAQIS, Police, Censorship Board, CITES)?

Do you have all the necessary licences and permits?

- Are there systems links between your Customs documents and your purchasing, receiving, vendors' invoice, and payables processes? Have you documented these processes to identify any shortcomings?
- Have you verified the links between your Customs documents and your accounting systems and procedures? In other words, have you selected a representative sample and conducted an audit?
- Have you determined your current level of compliance as well as that of your service providers?
- Have you identified any shortcomings in your systems or processes that you need to address?
- Do you have a plan to address any shortcomings you identified in your systems or processes?
- Does your plan include a strategy for monitoring compliance over time?

This information is provided as a guide only.

For more information please contact your nearest Customs office or write to The Commissioner of Customs, PO Box 777, Port Moresby, NCD or visit our website at

www.customs.gov.pg

Legislative References:

Customs Act Sections 147A to 147G