NamRA
Namibia Revenue Agency

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TABLE OF ABBREVIATIONS, ACRONYMS AND DEFINTIONS

Term, Abbreviation / Acronym	Meaning
Administrative Deposit	The standard amount prescribed in the NamRA Customs Contravention List and ordinarily requested upon the issue of a section 101 Admission of Guilt pending the finalisation of the administrative settlement process.
Administrative Settlement	The administrative resolution of a Customs offence in accordance with section 101 of the Customs and Excise Act, 1998.
Act	Customs and Excise Act, 1998 (Act No. 20 of 1998).
Appeals and Objections Unit	The organisational unit responsible for considering objections, representations and appeals submitted under these Guidelines on behalf of the Commissioner.
Bribery	The offering, giving, soliciting, receiving or acceptance of any benefit with the intention of improperly influencing the administration of the Customs and Excise Act, 1998.
CCD	Customs Clearance Declaration.
Commissioner	The Commissioner of the Namibia Revenue Agency appointed in terms of the Namibia Revenue Agency Act, 2017.
Contravention	Any act or omission that fails to comply with a provision of the Customs and Excise Act, 1998, the Rules, licence or permit conditions, or any lawful requirement made under the Act.
Corruption	Any abuse of entrusted authority or position for private gain that compromises the integrity of Customs administration.
Customs Contravention List	The NamRA Customs Contravention List prescribing the standard administrative deposits and operational responses applicable to identified Customs and Excise contraventions.
Customs Official	An officer appointed or authorised to administer the Customs and Excise Act, 1998.
Customs Offence	A contravention constituting an offence under sections 88 to 96 of the Customs and Excise Act, 1998.
Declarant	A person authorised under section 41 of the Customs and Excise Act, 1998 to lodge a goods declaration.
Detention	The lawful retention of goods under Customs control in accordance with the Customs and Excise Act, 1998.
Evasion	Any deliberate act or omission intended to avoid or reduce the payment of Customs duties, taxes or other charges, or to circumvent the requirements of the Customs and Excise Act, 1998.

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Term, Abbreviation / Acronym	Meaning
Final Administrative Penalty	The administrative penalty determined in accordance with these Guidelines following the conclusion of the section 101 administrative settlement process.
Fraud	Any intentional act involving deception, false declarations or fraudulent documentation for the purpose of evading the Customs and Excise Act, 1998 or reducing duties, taxes or other charges lawfully payable.
Goods Declaration	A declaration made in the prescribed form indicating the Customs procedure applicable to goods and containing the particulars required under the Customs and Excise Act, 1998.
Guidelines	These Customs Offences and Administrative Penalty Guidelines.
Integrity and Fraud Risk	The risk that a contravention involves deliberate dishonesty, corruption, fraud or conduct undermining the integrity of Customs administration.
Mitigating Circumstances	Facts or circumstances that may be considered by the Commissioner or the Commissioner's authorised delegate in determining the final administrative penalty following written representations.
NamRA	Namibia Revenue Agency.
Operational Response	The standard enforcement response prescribed in the NamRA Customs Contravention List for an identified contravention.
Penalty	An administrative penalty imposed under section 101 of the Customs and Excise Act, 1998 in accordance with these Guidelines.
Primary Risk	The principal enforcement risk associated with a contravention, namely Revenue Risk, Customs Control Risk, Trade Compliance Risk or Integrity and Fraud Risk.
Revenue Risk	The risk that a contravention may result in the loss of Customs duties, taxes or other revenue due to the State.
Revenue and Trade Fraud	Any intentional act or omission involving deception, concealment or false declarations to evade Customs duties or taxes or obtain an unlawful financial or commercial advantage.
Section 101 Admission of Guilt	The notice issued under section 101 of the Customs and Excise Act, 1998 offering an administrative settlement of an identified Customs offence.
Seizure	The lawful taking of possession or control of goods under the Customs and Excise Act, 1998.

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Term, Abbreviation / Acronym	Meaning
SOP	The Customs Offences and Administrative Penalty Standard Operating Procedure.
Standard Administrative Deposit	The amount prescribed in the NamRA Customs Contravention List that is ordinarily requested upon the issue of a section 101 Admission of Guilt.
Trade Compliance Risk	The risk that a contravention undermines compliance with Customs legislation, procedures or international trade obligations.

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1. PURPOSE

1.1 The purpose of these Guidelines is to establish a consistent, fair and transparent administrative framework for the implementation of administrative settlements under section 101 of the Customs and Excise Act, 1998.

1.2 These Guidelines provide policy direction for the uniform administration of Customs and Excise offences by:

(a) establishing the principles governing the administration of administrative penalties;
(b) promoting the consistent application of the NamRA Customs Contravention List;
(c) guiding the exercise of administrative discretion in accordance with the Customs and Excise Act, 1998 and the principles of administrative justice;
(d) providing a framework for the consideration of mitigating circumstances and the determination of administrative penalties;
(e) promoting the consistent referral of appropriate matters for criminal investigation where administrative enforcement alone is insufficient; and
(f) supporting the fair, transparent and consistent administration of objections, appeals and reviews.

1.3 These Guidelines should be read together with the NamRA Customs Contravention List and the Customs Offences and Administrative Penalty Standard Operating Procedure. While these Guidelines establish the policy governing the administration of Customs and Excise offences, the Contravention List prescribes the standard administrative deposits and operational responses applicable to identified contraventions, and the Standard Operating Procedure prescribes the operational process to be followed by Customs officials.

1.4 These Guidelines do not create new offences, administrative penalties or enforcement powers. All offences, statutory penalties and enforcement powers remain those prescribed by the Customs and Excise Act, 1998.

2. INTRODUCTION

2.1 Sections 88 to 96 of the Customs and Excise Act, 1998 establish the statutory framework governing Customs and Excise offences and prescribe the corresponding penalties for non-compliance. These provisions classify offences according to their nature and seriousness, including general contraventions, less serious offences, serious offences, non-declaration, false declarations, irregular dealings in goods, offences relating to Customs stamps and seals, Excise-related offences and other specified offences. The Customs and Excise Act, 1998 further prescribes the maximum statutory penalties that may be imposed, including monetary penalties, forfeiture of goods and, where appropriate, criminal prosecution.

2.2 While the Customs and Excise Act, 1998 establishes the offences, statutory penalties and enforcement powers available to the Commissioner, it does not

prescribe the administrative methodology for determining the appropriate enforcement response in individual cases. In particular, the Act does not prescribe standard administrative deposits, operational responses or the administrative processes to be followed in implementing section 101 administrative settlements. Accordingly, these Guidelines establish the administrative policy framework for the consistent, fair and transparent administration of Customs and Excise offences.

2.3 In accordance with section 2(5) of the Customs and Excise Act, 1998, the Commissioner may introduce administrative measures necessary to streamline Customs controls and procedures, provided that such measures do not compromise revenue interests, national security or international security. These Guidelines constitute one such administrative measure by establishing the policy principles governing the administration of Customs and Excise offences and administrative settlements under section 101 of the Act.

2.4 These Guidelines form part of an integrated Customs administrative enforcement framework comprising of the following instruments"

(a) the **Customs and Excise Act, 1998**, which establishes the statutory offences, penalties and enforcement powers;
(b) these **Customs Offences and Administrative Penalty Guidelines**, which establish the policy principles governing the fair, consistent and transparent administration of Customs and Excise offences;
(c) the **NamRA Customs Contravention List**, which prescribes the standard administrative deposits and operational responses applicable to identified contraventions; and
(d) the **Customs Offences and Administrative Penalty Standard Operating Procedure**, which prescribes the operational process to be followed by Customs officials in administering administrative settlements under section 101.

2.5 Together, these instruments promote legal certainty, consistency, procedural fairness and transparency in the administration of Customs and Excise offences while supporting voluntary compliance, effective revenue protection and the efficient implementation of the Customs and Excise Act, 1998.

3. GUIDELINE STATEMENT

3.1 The Customs and Excise Act, 1998 prescribes the offences and the maximum statutory penalties that may be imposed for contraventions of the Act. These statutory penalties establish the legal limits of the penalties that may be imposed and shall not be interpreted as requiring the automatic imposition of the maximum penalty in every case.

3.2 It is the policy of the Namibia Revenue Agency to administer Customs and Excise offences in a manner that promotes voluntary compliance while ensuring the consistent, fair, transparent and proportionate enforcement of the Customs and Excise Act, 1998.

3.3 Accordingly, NamRA shall ordinarily administer administrative settlements by applying the standard administrative deposits prescribed in the NamRA Customs Contravention List rather than determining individual administrative penalty amounts on a case-by-case basis. The standard administrative deposits are indicative administrative settlement amounts intended to promote consistency in the administration of section 101 and should not be interpreted as replacing or exceeding the statutory penalties prescribed by the Customs and Excise Act, 1998. This approach promotes consistency, predictability, transparency and equal treatment in the administration of section 101 of the Customs and Excise Act, 1998.

3.4 The standard administrative deposits prescribed in the NamRA Customs Contravention List do not constitute the final administrative penalty in every case. Where a trader submits written representations in accordance with these Guidelines, the Commissioner or the Commissioner's authorised delegate shall consider all relevant facts, representations and any mitigating circumstances before determining whether:

(a) the full administrative deposit shall be retained as the final administrative penalty;

(b) part of the administrative deposit shall be retained and the balance refunded; or

(c) the administrative deposit shall be refunded in full.

3.5 Administrative settlements under section 101 are intended to provide an efficient mechanism for resolving appropriate Customs and Excise contraventions without the need for criminal prosecution in every instance. However, where the facts disclose deliberate fraud, organised non-compliance, corruption or any other aggravating circumstances that warrant criminal investigation in the public interest, administrative action may be taken in addition to criminal investigation or prosecution.

3.6 The implementation of these Guidelines shall at all times be guided by the principles of legality, procedural fairness, consistency, proportionality, transparency, accountability and sound administrative justice set out in section 4 of these Guidelines.

4. GUIDING PRINCIPLES

The administration of Customs penalties shall be guided by the following principles:

4.1 Legality: Administrative penalties shall only be imposed in respect of offences prescribed under the Customs and Excise Act, 1998 and in accordance with the powers delegated by the Commissioner. All administrative action shall be taken in accordance with the applicable provisions of the Customs and Excise Act, 1998, these Guidelines and any lawful instruction issued by the Commissioner.

4.2 **Consistency:** Similar contraventions committed under similar circumstances shall receive similar administrative treatment unless material differences justify a different outcome. The standard administrative deposits prescribed in the NamRA Customs Contravention List shall be applied uniformly to promote consistency, predictability and equal treatment across all Customs and Excise Offices.

4.3 **Fairness and Procedural Fairness:** Administrative action shall be lawful, reasonable and procedurally fair. Persons affected by an administrative penalty shall, where provided for by law, be afforded a reasonable opportunity to make written representations before a final determination is made. Administrative decisions shall be impartial, objective and free from bias or discrimination.

4.4 **Proportionality:** Administrative penalties shall be proportionate to the seriousness of the contravention and the level of risk presented. In determining the appropriate administrative response, consideration shall be given to the nature and seriousness of the contravention, the actual or potential prejudice to the revenue, the integrity of Customs controls and any other relevant circumstances prescribed by these Guidelines.

4.5 **Transparency:** Administrative decisions shall be supported by documented reasons and communicated to the affected person in accordance with the Customs and Excise Act, 1998. The publication of the NamRA Customs Contravention List further promotes transparency by providing traders with advance notice of the standard administrative deposits and operational responses ordinarily applicable to identified contraventions.

4.6 **Accountability:** Officials exercising delegated authority remain accountable for ensuring that administrative penalties are imposed lawfully, consistently and in accordance with these Guidelines, the applicable delegation of authority and the Customs and Excise Act, 1998. The exercise of delegated authority shall be subject to appropriate oversight, review and internal quality assurance.

4.7 **Voluntary Compliance:** Administrative penalties are intended to encourage voluntary compliance with the Customs and Excise Act, 1998 while maintaining the integrity of Customs controls, facilitating legitimate trade and protecting the revenue. Administrative settlements should therefore promote future compliance rather than operate solely as punitive measures.

4.8 **Risk-Based Enforcement:** The NamRA Customs administrative penalty framework adopts a risk-based approach to enforcement. The standard administrative deposits prescribed in the NamRA Customs Contravention List have been determined by considering the primary enforcement risk associated with each identified contravention, including:

(i) revenue risk;
(ii) Customs control risk;

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(iii) trade compliance risk; and
(iv) integrity and fraud risk.

(a) The identification of the primary enforcement risk assists in determining the relative seriousness of a contravention and provides the policy basis for the proposed standard administrative deposit prescribed in the NamRA Customs Contravention List. Contraventions presenting a greater risk to revenue, Customs control, trade compliance or the integrity of Customs administration ordinarily justify a higher administrative deposit than contraventions presenting a lower level of enforcement risk.

(b) The standard administrative deposits have been developed with reference to recognised international good practice, including the South African Revenue Service Customs Contravention List, and have been adapted to reflect Namibia's legislative framework and operational environment. In every case, the proposed administrative deposit remains subject to the maximum statutory penalty prescribed by the Customs and Excise Act, 1998 and shall not exceed the legal limits established by the Customs and Excise Act, 1998.

(c) A trader's compliance history shall be taken into account in determining the appropriate enforcement response. Repeated contraventions demonstrate an increased compliance risk and may justify a progressively stronger administrative and enforcement response.

(d) Where the Customs and Excise Act, 1998 prescribes that a penalty can be calculated as three times the value of the goods or duty concerned, the Commissioner may apply that legislative provision, subject to the requirements of the Customs and Excise Act, 1998 for repeat offenders.

(e) In addition, repeated non-compliance may justify enhanced compliance interventions, including Post Clearance Audit, suspension or cancellation of licences or registrations, detention or seizure of goods, or referral for criminal investigation where warranted by the facts and circumstances of the case:

Compliance History	Administrative Response
First Contravention	Education and awareness where appropriate, or the issue of a section 101 Admission of Guilt applying the standard administrative deposit prescribed in the NamRA Customs Contravention List, depending on the nature and seriousness of the contravention.
Second Contravention	Issue a section 101 Admission of Guilt applying the standard administrative deposit prescribed in the NamRA Customs Contravention List together with enhanced compliance monitoring and consideration of additional compliance interventions, including Post

Compliance History	Administrative Response
	Clearance Audit, targeted compliance verification or enhanced trader monitoring.
Third or Subsequent Contravention	Where a Customs official becomes aware of repeated non-compliance, the matter may be escalated to the Commissioner or the Commissioner's authorised delegate for determination in accordance with section 12 of these Guidelines.

(f) Nothing in this principle prevents the Commissioner or an authorised delegate from referring any matter for criminal investigation where the facts disclose deliberate fraud, organised non-compliance, corruption or any other aggravating circumstances that warrant criminal investigation in the public interest.

4.9 Limiting Administrative Discretion: One of the principal objectives of the NamRA Customs administrative penalty framework is to promote consistency in the administration of Customs and Excise offences by limiting unnecessary administrative discretion when determining the standard administrative deposit applicable to an identified contravention. Accordingly, investigating officials shall ordinarily be responsible only for:

(i) identifying the applicable legislative contravention;
(ii) selecting the corresponding contravention contained in the NamRA Customs Contravention List;
(iii) applying the prescribed standard administrative deposit; and
(iv) issuing the section 101 Admission of Guilt together with the prescribed application for provisional payment.

(a) Except where otherwise authorised by the Customs and Excise Act, 1998, these Guidelines or the Commissioner, investigating officials shall not determine administrative penalty amounts on a case-by-case basis.

(b) The application of standard administrative deposits is intended to reduce inconsistent decision-making, promote equal treatment of traders, enhance transparency and ensure the consistent administration of section 101 administrative settlements throughout Namibia.

5. SCOPE OF GUIDELINES

5.1 These Guidelines apply to all Customs and Excise officials exercising powers relating to the administration of Customs and Excise administrative penalties under the Customs and Excise Act, 1998.

5.2 These Guidelines further apply to all administrative settlements concluded under section 101 of the Customs and Excise Act, 1998 and should be read together

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with the NamRA Customs Contravention List and the Customs Offences and Administrative Penalty Standard Operating Procedure.

5.3 The objective of these Guidelines is to promote the uniform, fair and transparent administration of Customs and Excise administrative penalties throughout Namibia by ensuring that—

(a) similar contraventions committed under similar circumstances ordinarily receive similar administrative treatment;
(b) the standard administrative deposits prescribed in the NamRA Customs Contravention List are applied consistently across all Customs and Excise Offices;
(c) administrative discretion is exercised lawfully, consistently and in accordance with these Guidelines; and
(d) the rights of affected persons are respected through the application of the principles of procedural fairness and administrative justice.

5.4 The implementation of these Guidelines shall be supported through appropriate governance, oversight, quality assurance, monitoring and periodic review to promote the consistent administration of Customs and Excise administrative penalties throughout the Namibia Revenue Agency.

6. PROCESS OWNER

6.1 The Head: Customs and Excise is the Process Owner of these Guidelines and is responsible for their implementation, administration, monitoring and periodic review.

6.2 The Process Owner shall ensure that these Guidelines remain aligned with the Customs and Excise Act, 1998, the NamRA Customs Contravention List, the Customs Offences and Administrative Penalty Standard Operating Procedure and any other applicable policies, procedures or legislative amendments.

7. RESPONSIBILITIES

Role	Responsibility
Commissioner	Document Owner responsible for approving these Guidelines, exercising powers reserved under the Customs and Excise Act, 1998 and providing strategic oversight over the administration of Customs and Excise administrative penalties.
Head: Customs and Excise	Process Owner responsible for the implementation, administration, monitoring and periodic review of these Guidelines, the NamRA Customs Contravention List and the Customs Offences and Administrative Penalty Standard Operating Procedure. Responsible for promoting the

Role	Responsibility
	consistent administration of administrative penalties throughout the Customs and Excise Department and recommending amendments where necessary.
Senior Managers / Managers	Ensure the consistent implementation of these Guidelines within their areas of responsibility; provide technical guidance to officials; exercise delegated authority where applicable; monitor compliance; and conduct supervisory oversight and quality assurance over the administration of administrative penalties.
Principal Customs and Excise Officers	Investigate suspected contraventions; determine the appropriate administrative response in accordance with the NamRA Customs Contravention List; administer section 101 administrative settlements within delegated authority; maintain complete records; and refer matters requiring escalation or criminal investigation in accordance with these Guidelines and the Standard Operating Procedure.
Senior Customs and Excise Officers	Detect and report suspected contraventions; conduct preliminary investigations; gather and record relevant evidence; implement administrative settlements in accordance with delegated authority; and perform any other functions assigned under these Guidelines and the Standard Operating Procedure.
Senior and Customs and Excise Officers	Detect suspected contraventions; perform inspections, examinations and other enforcement activities; secure evidence; implement lawful Customs control measures; and report suspected contraventions to the appropriate supervising officer for further action.
Appeals and Objections Unit	Consider objections and representations submitted by affected persons in accordance with the applicable legislative framework; make recommendations to the Commissioner or authorised delegate; and communicate the outcome of appeals or reviews in accordance with applicable procedures.
Internal Affairs / Centralised Investigations	Investigate matters referred for criminal investigation, corruption, fraud or other serious misconduct; provide investigative support where required; and liaise with law enforcement authorities and the Office of the Prosecutor-General where appropriate.

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8. ADMINISTRATIVE PENALTY FRAMEWORK

8.1 The NamRA Customs administrative penalty framework consists of four complementary instruments, each serving a distinct but interrelated purpose in the administration of Customs and Excise offences:

Instrument	Purpose
Customs and Excise Act, 1998	Establishes Customs and Excise offences, prescribes the maximum statutory penalties and provides the legal powers necessary to administer, enforce and prosecute offences under the Customs and Excise Act, 1998.
Customs Offences and Administrative Penalty Guidelines	Establishes the policy principles governing the administration of administrative settlements under section 101 of the Customs and Excise Act, 1998.
NamRA Customs Contravention List	Prescribes the standard administrative deposits and operational responses ordinarily applicable to identified Customs and Excise contraventions.
Customs Offences and Administrative Penalty Standard Operating Procedure	Prescribes the operational process to be followed by Customs officials when administering administrative settlements under section 101 of the Customs and Excise Act, 1998.

8.2 These instruments should be read together and applied as a single administrative framework. The Customs and Excise Act, 1998 establishes the legal obligations, offences, penalties and enforcement powers; these Guidelines establish the policy governing the administration of administrative settlements; the NamRA Customs Contravention List provides the standard administrative deposits and operational responses applicable to identified contraventions; and the Standard Operating Procedure prescribes the operational process to be followed by Customs officials.

8.3 The NamRA Customs Contravention List shall constitute the primary operational reference for determining the standard administrative deposit applicable to an identified contravention. Customs officials shall ordinarily apply the standard administrative deposit prescribed in the Contravention List when issuing a section 101 Admission of Guilt, unless otherwise provided by law or these Guidelines.

8.4 The standard administrative deposits prescribed in the NamRA Customs Contravention List are intended to promote consistency, transparency and predictability in the administration of section 101 of the Customs and Excise Act, 1998. They do not replace the statutory penalties prescribed by the Act, nor do they constitute the final administrative penalty in every case.

8.5 Where a trader submits written representations in accordance with these Guidelines, the Commissioner or the Commissioner's authorised delegate may, after considering all relevant facts, representations and mitigating circumstances, determine whether:

(a) the full administrative deposit shall be retained as the final administrative penalty;
(b) part of the administrative deposit shall be retained and the balance refunded; or
(c) the administrative deposit shall be refunded in full.

8.6 Nothing in these Guidelines limits the Commissioner's powers under the Customs and Excise Act, 1998 to detain or seize goods, institute forfeiture proceedings, recover outstanding duties and taxes, issue a Letter of Demand, or refer appropriate matters for criminal investigation or prosecution where warranted by the facts and circumstances of the case.

9. ADMINISTRATIVE SETTLEMENTS UNDER SECTION 101

9.1 Where a Customs official establishes that a person has committed a contravention for which an administrative settlement is appropriate, the official shall issue a section 101 Admission of Guilt in accordance with the Customs and Excise Act, 1998, these Guidelines and the Customs Offences and Administrative Penalty Standard Operating Procedure.

9.2 The standard administrative deposit prescribed in the NamRA Customs Contravention List shall ordinarily be applied when issuing a section 101 Admission of Guilt. Where necessary to secure compliance with the Act or protect the revenue, Customs officials may exercise any applicable Customs control measures, including the detention of goods, in accordance with the Customs and Excise Act, 1998.

9.3 A trader who elects to accept a section 101 administrative settlement may submit written representations together with any supporting documentation considered relevant to the determination of the administrative penalty. Such representations shall be submitted within the period prescribed in the Standard Operating Procedure.

9.4 Where no written representations are received within the prescribed period and the administrative deposit has been paid, the administrative settlement shall ordinarily be regarded as finalised, subject to any applicable review, appeal or other lawful action provided for under the Customs and Excise Act, 1998.

9.5 Where written representations are received, the matter shall be referred to the Appeals and Objections Unit for consideration on behalf of the Commissioner or the Commissioner's authorised delegate. Following consideration of the representations and all other relevant facts, the Commissioner or authorised delegate may determine that:

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(a) the full administrative deposit shall be retained as the final administrative penalty;
(b) part of the administrative deposit shall be retained and the balance refunded; or
(c) the administrative deposit shall be refunded in full.

9.6 The submission of written representations does not prevent the Commissioner from exercising any other enforcement powers available under the Customs and Excise Act, 1998, including the detention or seizure of goods, the recovery of outstanding duties and taxes, or the referral of appropriate matters for criminal investigation or prosecution where warranted by the facts and circumstances of the case.

10. FINAL DETERMINATION OF ADMINISTRATIVE PENALTIES

10.1 The final determination of an administrative penalty shall be based on a **risk-based** and offence-specific methodology, ensuring that penalties are proportionate to the nature and severity of the contravention. The applicable calculation method shall be determined by the relevant contravention in this Guideline and may include:

- Fixed monetary amount – e.g. N$1,500 for procedural or administrative contraventions.
- Percentage of underpayment – e.g. 25% of the underpaid duty or taxes.
- Percentage of the value of the offending goods – e.g. 50% of the value of the goods.
- Percentage of an overclaimed refund or rebate – e.g. a prescribed percentage of the overclaimed amount.
- Full value of the goods – e.g. 100% of the value of the offending goods for the most serious contraventions.

This methodology promotes consistency, transparency, and equitable application of administrative penalties while ensuring that each penalty reflects the risk and impact of the specific offence.

10.2 The standard administrative deposit prescribed in the NamRA Customs Contravention List constitutes the amount ordinarily to be requested upon the issue of a section 101 Admission of Guilt. Customs officials shall apply the prescribed standard administrative deposit and shall not vary the amount unless otherwise authorised by law or these Guidelines.

10.3 Where no written representations are received within the prescribed period and the administrative deposit has been paid, the administrative deposit shall ordinarily constitute the final administrative penalty.

10.4 Where written representations are received in accordance with these Guidelines, the matter shall be referred to the Appeals and Objections Unit for consideration on behalf of the Commissioner or the Commissioner's authorised delegate.

10.5 Following consideration of the trader's representations, the supporting documentation and all other relevant facts, the Commissioner or the Commissioner's authorised delegate may determine that:

(a) the full administrative deposit shall be retained as the final administrative penalty;
(b) part of the administrative deposit shall be retained and the balance refunded; or
(c) the administrative deposit shall be refunded in full.

10.6 In making the final determination, the Commissioner or the Commissioner's authorised delegate shall have regard to:

(a) the nature and seriousness of the contravention;
(b) the actual or potential prejudice to the revenue;
(c) the trader's written representations;
(d) any supporting evidence submitted by the trader;

(e) any mitigating circumstances established by the evidence;
(f) the requirements of the Customs and Excise Act, 1998; and
(g) any other relevant facts or circumstances considered necessary for the fair and lawful administration of the administrative settlement.

10.7 Nothing in this section limits the Commissioner's powers under the Customs and Excise Act, 1998 to institute any other lawful administrative or enforcement action where warranted by the facts and circumstances of the case.

11. DETENTION, SEIZURE AND REVENUE PROTECTION

11.1 The administrative settlement process established under section 101 of the Customs and Excise Act, 1998 does not limit or replace the Commissioner's statutory enforcement powers under the Act. Customs officials may, where authorised by the Customs and Excise Act, 1998, exercise any lawful enforcement power necessary to secure compliance with the Act, protect the revenue or maintain Customs control.

11.2 Where appropriate, Customs officials may exercise the powers conferred under the Customs and Excise Act, 1998 to—

(a) detain goods as a Customs control measure;
(b) seize goods where authorised by the Act;
(c) institute forfeiture proceedings;
(d) recover outstanding duties, taxes, interest or any other monies lawfully due to the Namibia Revenue Agency;
(e) issue a Letter of Demand for any outstanding duties, taxes or other amounts payable;
(f) implement debt recovery measures in accordance with the applicable legislative and administrative framework; and
(g) exercise any other enforcement power conferred by the Customs and Excise Act, 1998.

11.3 The detention of goods is a Customs control measure intended to secure compliance with the Customs and Excise Act, 1998 and to protect the revenue pending the conclusion of the applicable administrative or enforcement process. The detention of goods shall not, in itself, constitute an administrative penalty.

11.4 Where a section 101 Admission of Guilt has been issued, goods may remain under Customs control for the period prescribed in the Standard Operating Procedure to facilitate compliance with the administrative settlement process or until otherwise dealt with in accordance with the Customs and Excise Act, 1998.

11.5 Where an administrative settlement is not concluded or where any duties, taxes or other amounts remain outstanding after the expiry of the prescribed period, Customs officials shall implement the appropriate enforcement measures in accordance with the Customs and Excise Act, 1998, including the issuance of a Letter of Demand and the recovery of outstanding amounts in accordance with applicable NamRA policies and procedures.

11.6 The exercise of the Commissioner's detention, seizure, forfeiture and revenue recovery powers shall at all times be exercised lawfully, proportionately and in accordance with the Customs and Excise Act, 1998, these Guidelines and any other applicable NamRA policies and procedures.

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12. REPEAT OFFENDERS

12.1 The standard administrative deposits prescribed in the NamRA Customs Contravention List represent the ordinary administrative response to identified contraventions and are intended to promote consistency in the implementation of section 101 of the Customs and Excise Act, 1998.

12.2 Where a Customs official becomes aware that a trader has committed repeated contraventions of the Customs and Excise Act, 1998, the matter must be escalated to the Commissioner or the Commissioner's authorised delegate for determination.

12.3 Following consideration of the facts and circumstances of the case, the Commissioner or the Commissioner's authorised delegate may:

(a) approve the standard administrative deposit prescribed in the NamRA Customs Contravention List;
(b) where permitted by the Customs and Excise Act, 1998, approve an enhanced administrative settlement, including an administrative penalty calculated with reference to the statutory principle of up to three times the value of the goods or the duty concerned; or
(c) determine that an administrative settlement is not appropriate and refer the matter for criminal prosecution in accordance with the Customs and Excise Act, 1998.

13. CRIMINAL REFERRALS

13.1 Administrative settlements under section 101 of the Customs and Excise Act, 1998 do not replace criminal enforcement where the facts and circumstances of a particular case justify criminal investigation or prosecution. Administrative enforcement and criminal enforcement are complementary enforcement mechanisms intended to promote compliance with the Customs and Excise Act, 1998.

13.2 A matter should be referred for criminal investigation where there is evidence of:

(a) deliberate fraud or intentional evasion of the Customs and Excise Act, 1998;
(b) the submission or use of false, forged or altered documents;
(c) smuggling or the unlawful importation, exportation or removal of goods;
(d) organised revenue evasion or other organised criminal activity;
(e) corruption, bribery or collusion involving Customs officials or regulated persons;
(f) obstruction of Customs officials in the lawful execution of their duties;
(g) repeated serious contraventions demonstrating a deliberate pattern of non-compliance;
(h) deliberate removal, diversion or disposal of goods under Customs control; or

(i) any other aggravating circumstances which, having regard to the facts and circumstances of the case, warrant criminal investigation or prosecution in the public interest.

13.3 The categories of contraventions that ordinarily require mandatory criminal referral are identified in Part H of the NamRA Customs Contravention List.

13.4 The referral of a matter for criminal investigation does not prevent the Commissioner from exercising any other lawful administrative or enforcement power available under the Customs and Excise Act, 1998, including the detention or seizure of goods, the recovery of outstanding duties and taxes, or the administration of an appropriate administrative settlement where permitted by law.

13.5 The detailed operational procedures governing criminal referrals, including the preparation of referral reports, supporting documentation, approval requirements and liaison with Internal Affairs, Centralised Investigations and law enforcement agencies, are prescribed in the Customs Offences and Administrative Penalty Standard Operating Procedure.

14. DELEGATION OF AUTHORITY

14.1 In accordance with section 3 of the Customs and Excise Act, 1998, the Commissioner may exercise any power or perform any duty under these Guidelines personally or through a Customs official acting under the Commissioner's direction and within the limits of any applicable delegation of authority.

14.2 For purposes of promoting consistency, accountability and appropriate supervisory oversight in the administration of section 101 administrative settlements, the following indicative approval authorities shall ordinarily apply to the approval of the standard administrative deposits prescribed in the NamRA Customs Contravention List:

Administrative Deposit	Approving Authority
Up to N$8 000	Senior Customs and Excise Officer / Shift Supervisor
Above N$8 000 up to N$40 000	Principal Customs and Excise Officer
Above N$40 000 up to N$200 000	Regional Manager
Above N$200 000 up to N$500 000	Senior Manager
Above N$500 000	Head: Customs and Excise

14.3 Nothing in this section limits the powers of the Commissioner under the Customs and Excise Act, 1998 to exercise any statutory power personally or through an authorised Customs official, or to require a matter to be referred to a higher level where warranted by the seriousness, complexity or public interest.

15. APPEALS AND REVIEWS

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15.1 A person aggrieved by any administrative decision taken under these Guidelines may exercise any right of objection, review or appeal available under the Customs and Excise Act, 1998.

15.2 The submission of written representations during the administrative settlement process does not limit or prejudice any statutory right of objection, review or appeal provided for under the Customs and Excise Act, 1998.

15.3 Where written representations are received in accordance with these Guidelines, the matter shall be considered by the Appeals and Objections Unit, which shall make recommendations to the Commissioner or the Commissioner's authorised delegate regarding the final determination of the administrative penalty.

15.4 The administration of objections and appeals shall be undertaken in accordance with the Customs and Excise Act, 1998 and the applicable NamRA policies and procedures.

16. RECORDS MANAGEMENT

16.1 Customs officials shall ensure that all administrative settlements, supporting documentation and administrative decisions taken under these Guidelines are accurately recorded and retained in accordance with the Customs and Excise Act, 1998 and NamRA's applicable records management policies and procedures.

16.2 The detailed operational requirements for the preparation, recording, approval and retention of administrative penalty records are prescribed in the Customs Offences and Administrative Penalty Standard Operating Procedure.

17. MONITORING AND REVIEW

17.1 The Head: Customs and Excise shall monitor the implementation of these Guidelines to promote the consistent, fair and transparent administration of Customs and Excise administrative penalties throughout the Namibia Revenue Agency.

17.2 Monitoring activities may include the review of administrative settlement decisions, compliance trends, recurring contraventions, appeals, judicial decisions, operational challenges and any other matters relevant to the effective administration of the Customs and Excise Act, 1998.

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17.3 The outcomes of monitoring activities shall be used to identify opportunities to improve the NamRA Customs administrative penalty framework, strengthen voluntary compliance and promote consistent decision-making.

18. REVIEW OF THE GUIDELINES

These Guidelines shall be reviewed at least every three years, or earlier where required to reflect amendments to the Customs and Excise Act, 1998 or amendments to any other applicable legislation, changes in Customs operations or Organisational requirements, judicial decisions affecting the administration of Customs and Excise offences, or lessons arising from implementation or any other matter considered necessary by the Commissioner.

19. EFFECTIVE DATE

These Guidelines will be effective upon the date of the Commissioner's approval.

20. APPROVAL

The Customs Offences and Administrative Penalty Guidelines are hereby approved.

Sam SHIVUTE
COMMISSIONER

28-08-2026
DATE