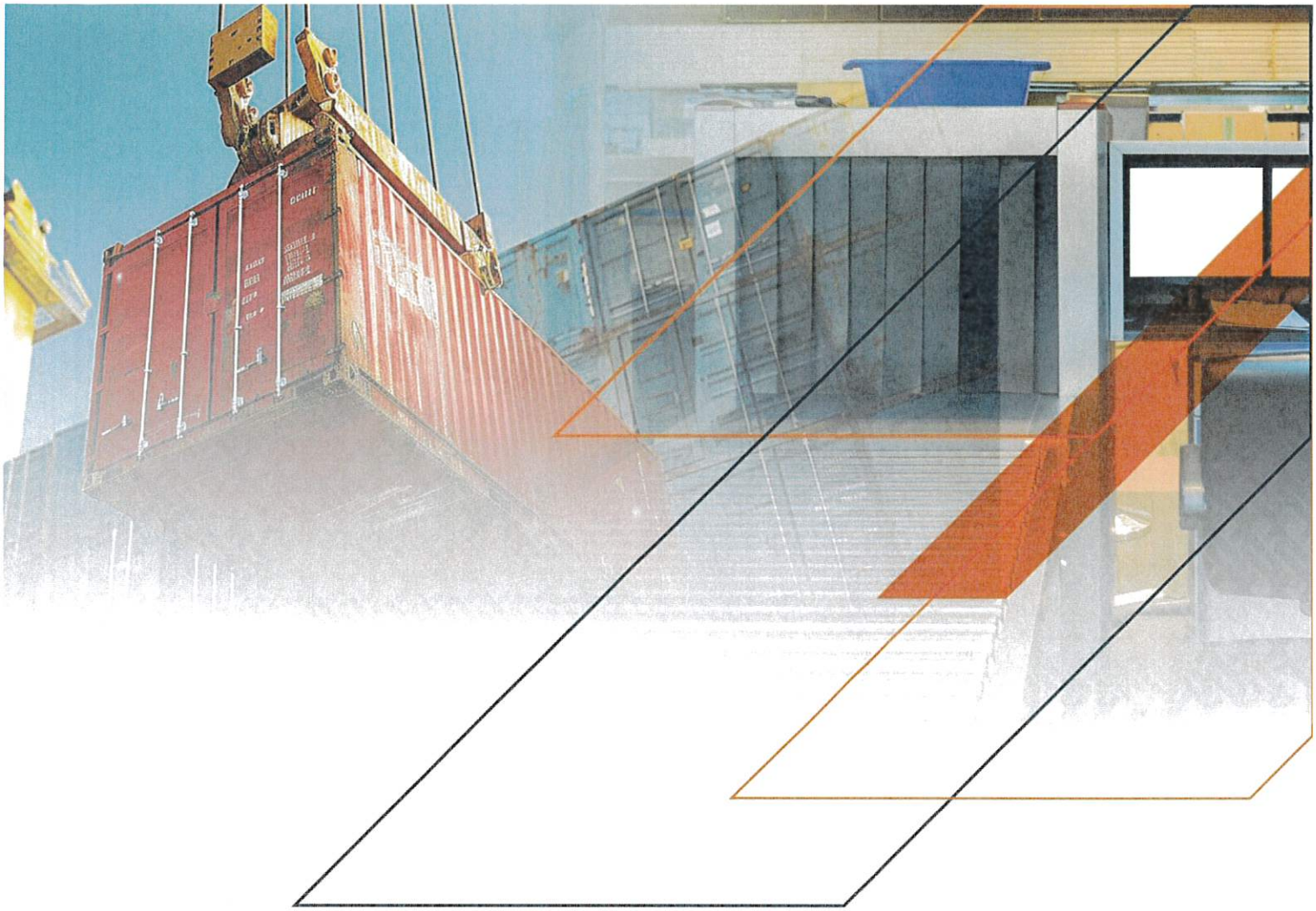

STANDARD OPERATING PROCEDURE (SOP)

FOR ENFORCEMENT AND APPLICATION OF CUSTOMS OFFENCES AND ADMINISTRATIVE PENALTIES UNDER SECTION 101 OF THE CUSTOMS AND EXCISE ACT, 1998

NamRA
Namibia Revenue Agency

STANDARD OPERATING PROCEDURE FOR ENFORCEMENT AND APPLICATION OF CUSTOMS OFFENCES AND ADMINISTRATIVE PENALTIES UNDER SECTION 101 OF THE CUSTOMS AND EXCISE ACT, 1998	
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1. PURPOSE

1.1 The purpose of this Standard Operating Procedure (SOP) for the Administration of Customs Offences and Penalties under section 101 of the Customs and Excise Act, 1998 prescribe the standard operational procedures to be followed by Customs and Excise officials in the administration of Customs offences and administrative settlements under section 101 of the Customs and Excise Act, 1998.

1.2 This SOP provides a consistent operational process for:

(a) identifying Customs and Excise contraventions;
(b) applying the NamRA Customs Contravention List;
(c) issuing section 101 Admissions of Guilt;
(d) administering administrative settlements;
(e) receiving and processing administrative deposits;
(f) considering representations submitted by traders;
(g) referring matters to the Appeals and Objections Unit;
(h) administering repeat offenders;
(i) referring appropriate matters for criminal investigation; and
(j) recording and monitoring administrative penalty decisions.

1.3 This SOP must be read together with;

(a) the Customs and Excise Act, 1998;
(b) the Customs Offences and Administrative Penalty Guidelines; and
(c) the NamRA Customs Contravention List.

2. SCOPE

2.1 This SOP applies to all Customs and Excise officials exercising powers or performing functions relating to the administration of Customs offences and administrative settlements under section 101 of the Customs and Excise Act, 1998.

2.2 It applies to all Customs and Excise contraventions identified in the NamRA Customs Contravention List, including matters relating to imports, exports, temporary importations, transit movements, Customs warehouses, licensing and registration, valuation, origin, rebates, refunds, Excise and all other Customs matters administered under the Customs and Excise Act, 1998.

3. DEFINITIONS AND/OR ACRONYMS

TERM	DEFINITION
Act	Customs and Excise Act, 1998 (Act No. 20 of 1998), as amended.
Administrative Deposit	The standard monetary amount prescribed in the NamRA Customs Contravention List for purposes of a section 101 administrative settlement.
Administrative Settlement	The settlement of a Customs offence in accordance with section 101 of the Act through payment of an administrative deposit.
Appeals and Objections Unit	The NamRA business unit responsible for considering representations submitted under section 101 administrative settlements.
Commissioner	Commissioner of the Namibia Revenue Agency.

Contravention	Any act or omission that fails to comply with the Customs and Excise Act, 1998 and which appears in the NamRA Customs Contravention List.
Contravention List	The NamRA Customs Contravention List approved by the Commissioner.
Enhanced Monitoring	Additional compliance measures implemented following an administrative settlement to monitor future compliance.
Goods at Risk	Goods which may lawfully be detained, seized or otherwise dealt with under the Customs and Excise Act, 1998 pending completion of Customs enforcement action.
Primary Enforcement Risk	The principal compliance risk assigned to a contravention for purposes of determining the standard administrative deposit.
Repeat Offender	A person who has committed repeated contraventions of the Customs and Excise Act, 1998 and whose matter may be escalated to the Commissioner for determination.
Section 101 Admission of Guilt	The administrative settlement process established by section 101 of the Act.
SOP	SOP
WTO	World Trade Organization
WCO	World Customs Organization

3. LEGAL REFERENCES

3.1 Customs and Excise Act, 1998 (Act No. 20 of 1998)

3.2 Internal References

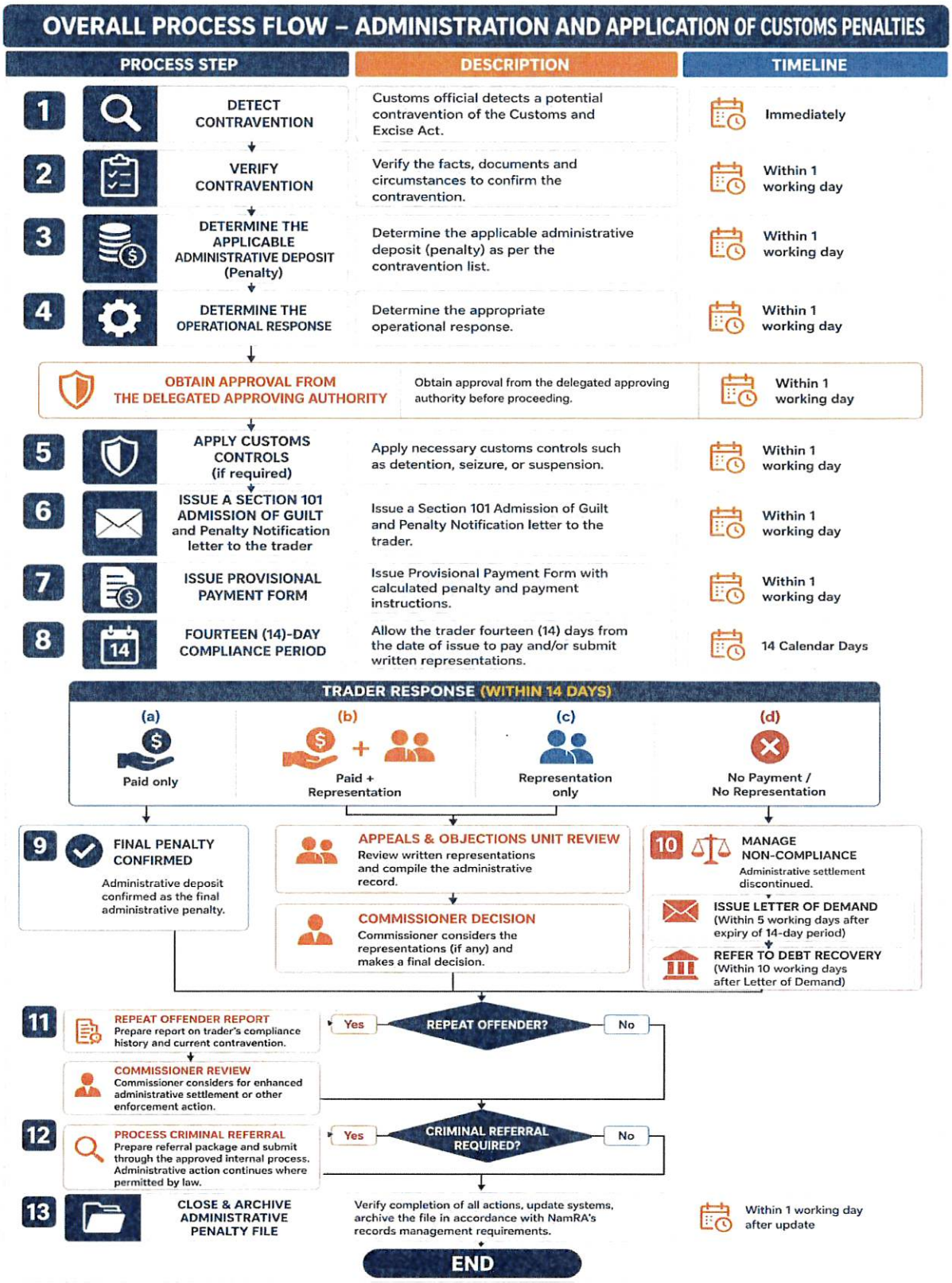
- Customs Offences and Administrative Penalty Guidelines; and
- NamRA Customs Contravention List.

3.3 International Reference

- Revised Kyoto Convention (RKC), Specific Annex H, Chapter 1 – Customs Offences
- WTO TFA Article 4-Procedures for appeals and review

4. RELATED DOCUMENTS / SOPs

- Customs Offences and Administrative Penalty Guidelines;
- NamRA Customs Contravention List
- SOP for Conducting Physical Examination of Goods
- Customs Valuation Control SOP
- Post Clearance Audit (PCA) SOP
- Management of Detained Goods SOP
- Management of Seized Goods SOP
- Risk Management SOP



5. OPERATIONAL PROCESS

5.1. Administration of customs offences and administrative penalties

Customs officials shall administer administrative settlements consistently and shall apply the standard administrative deposits prescribed in the NamRA Customs Contravention List unless otherwise determined by the Commissioner or the Commissioner's authorised delegate in accordance with the Guidelines.The operational process for administering Customs offences consists of the following stages:

1. Identification of the contravention;
2. Verification of the legislative basis;
3. Determination of the applicable administrative deposit;
4. Determination of the operational response;
5. Application of Customs control measures;
6. Issue of the section 101 Admission of Guilt;
7. Payment of the administrative deposit;
8. Consideration of representations;
9. Finalisation of the administrative penalty;
10. Debt recovery where applicable;
11. Repeat offenders; and
12. Criminal referrals where appropriate.

The administration of Customs administrative penalties shall be undertaken in accordance with the following operational sequence. Each step is supported by the detailed procedures contained in this SOP and shall be applied in conjunction with the Customs and Excise Act, 1998, the Customs Offences and Administrative Penalty Guidelines, and the NamRA Customs Contravention List;

Step	Operational Activity	Key Operational Activities	Expected Outcome
Step 1	**Identify the Contravention**	Detect or receive information relating to a suspected contravention; establish the facts; identify the applicable statutory obligation; collect and secure documentary and physical evidence; interview the trader where necessary; and open an administrative penalty case file.	Contravention identified and supported by sufficient evidence.
Step 2	**Verify the Legislative Basis**	Confirm the applicable legislative provision, offence and corresponding contravention listed in the NamRA Customs Contravention List; verify that sufficient evidence exists to support the administrative settlement; and refer any legislative uncertainty to the immediate supervisor before proceeding.	Correct legislative provision and contravention confirmed.

Step 3	**Determine the Administrative Deposit and Operational Response**	Identify the prescribed administrative deposit, operational response, primary compliance risk and approving authority from the NamRA Customs Contravention List. Where required, obtain approval from the delegated approving authority before proceeding. The prescribed administrative deposit shall not be amended unless authorised by the Commissioner in accordance with the Customs Offences and Administrative Penalty Guidelines.	Administrative deposit, operational response and approval confirmed.
Step 4	**Implement Customs Control Measures**	Where authorised and necessary, implement Customs control measures to protect revenue, maintain Customs control and preserve evidence. Such measures may include detention or seizure of goods, detention of conveyances, retention of goods under Customs control, suspension of release, securing documentary evidence or any other lawful enforcement action authorised by the Act.	Revenue protected and Customs control maintained pending completion of the administrative settlement process.
Step 5	**Issue the Section 101 Admission of Guilt**	Prepare and issue the prescribed Section 101 Admission of Guilt together with the Contravention Notification Letter. Record the trader's particulars, legislative provision, contravention reference, prescribed administrative deposit, operational response, payment period and the trader's right to submit written representations within fourteen (14) days.	Trader formally notified of the contravention and proposed administrative settlement.
Step 6	**Issue the Provisional Payment Form**	Issue the prescribed Application to Make Provisional Payment immediately after issuing the Section 101 Admission of Guilt. Explain the purpose of the provisional payment, the amount payable, payment procedures, statutory fourteen (14)-day compliance period, the trader's right to submit written representations and the consequences of non-payment. Obtain acknowledgement of receipt where practicable.	Trader informed of payment requirements, statutory timeframes and available remedies.

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Step 7	**Administer the Fourteen (14)-Day Compliance Period**	Allow the trader fourteen (14) days from the date of issue of the Section 101 Admission of Guilt to pay the prescribed administrative deposit and/or submit written representations with supporting documentation. Monitor compliance throughout the prescribed period and maintain Customs control measures where necessary.	Statutory compliance period administered in accordance with Section 101 of the Act.
Step 8	**Review the Outcome of the Compliance Period**	Upon expiry of the fourteen (14)-day period, determine whether the trader has: (a) paid the administrative deposit only; (b) paid the administrative deposit and submitted written representations; (c) submitted written representations without payment; or (d) failed to pay or submit representations. Record the outcome and proceed with the appropriate administrative action.	Appropriate administrative process initiated based on the trader's response.
Step 9	**Determine the Final Administrative Penalty**	Where payment has been received and no written representations have been submitted within fourteen (14) days, confirm the administrative deposit as the final administrative penalty. Where written representations have been received, compile the administrative record and refer the matter to the Appeals and Objections Unit for recommendation to the Commissioner. Implement the Commissioner's determination, including any approved refund, and update all relevant Customs records.	Final administrative penalty determined and implemented.
Step 10	**Manage Non-Compliance**	Where the prescribed administrative deposit has not been paid within the prescribed period, record that the administrative settlement has not been concluded. Continue or implement Customs control measures where authorised, determine outstanding duties, taxes and penalties, issue a Letter of Demand, refer the matter for debt recovery and implement any further enforcement action authorised by the Act.	Administrative settlement discontinued and enforcement action initiated.

Step 11	**Manage Repeat Offenders and Enhanced Administrative Enforcement**	Where repeated contraventions are identified, prepare a Repeat Offender Report detailing the trader's compliance history and current contravention. Submit the report to the Commissioner for consideration of an enhanced administrative settlement or any other enforcement action permitted by the Customs Offences and Administrative Penalty Guidelines.	Repeat offender referred for enhanced administrative enforcement.
Step 12	**Process Criminal Referrals**	Where the prescribed operational response requires consideration of a criminal referral or mandatory criminal referral, prepare the prescribed referral package, including the investigation report, documentary evidence, witness statements, Section 101 Admission of Guilt (where applicable) and any supporting documentation, and submit the matter through the approved internal process. Administrative action shall continue where permitted by law.	Criminal referral completed in accordance with approved procedures.
Step 13	**Close and Archive the Administrative Penalty File**	Verify that all administrative actions have been completed, including implementation of the Commissioner's determination, processing of approved refunds, debt recovery referrals, criminal referrals and updates to Customs systems. Allocate or verify the unique case reference, close the administrative penalty file and archive all records in accordance with NamRA's records management requirements.	Administrative penalty matter formally closed and all records securely retained.

6. ROLES AND RESPONSIBILITIES

The Customs administrative penalty framework consists of the following complementary role players, each serving a distinct purpose:

Role Player	Roles and Responsibilities

Customs Official	Detect contraventions, conduct preliminary enquiries, collect and secure evidence, verify the legislative basis, determine the prescribed administrative deposit and operational response, implement Customs control measures where required, issue the Section 101 Admission of Guilt, Contravention Notification Letter and Application to Make Provisional Payment, monitor the fourteen (14)-day compliance period, compile administrative records, refer representations and criminal matters where applicable, update Customs systems and maintain the administrative penalty file.
Senior Customs & Excise Officer / Shift Supervisor	Review matters within delegated authority, provide technical guidance, approve administrative settlements within delegated limits, verify compliance with this SOP and ensure complete case documentation before authorisation.
Principal Customs & Excise Officer	Approve administrative settlements within delegated authority, provide technical oversight, review complex matters and ensure consistent application of the Customs Offences and Administrative Penalty Guidelines.
Regional Manager / Senior Manager / Head: Customs and Excise	Exercise delegated approval authority, oversee implementation of administrative penalties within their jurisdiction, ensure consistency in decision-making and escalate matters requiring the Commissioner's consideration.
Appeals and Objections Unit	Receive and review written representations, assess supporting documentation, prepare recommendations for the Commissioner, communicate the Commissioner's determination and facilitate approved refunds where applicable.
Debt Management Unit	Recover outstanding administrative penalties, duties, taxes and other amounts due following referral by Customs in accordance with NamRA debt recovery procedures.
Finance Division	Receive and reconcile administrative penalty payments, process approved refunds and maintain financial records in accordance with NamRA financial procedures.

Commissioner	Approve deviations from the prescribed administrative deposit where permitted by the Customs Offences and Administrative Penalty Guidelines, determine appeals arising from written representations, approve enhanced administrative settlements for repeat offenders, authorise criminal referrals where applicable and exercise any statutory powers conferred by the Customs and Excise Act, 1998.
Internal Affairs / Centralised Investigations	Investigates matters referred for criminal investigation in accordance with the operational response prescribed in the NamRA Customs Contravention List and these Guidelines.

7. APPROVAL AUTHORITY

The approval of administrative settlements shall be exercised in accordance with the approval authorities prescribed in the Customs Offences and Administrative Penalty Guidelines.
For operational purposes, the following approval levels shall apply:

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

No Customs official may approve an administrative settlement outside the limits of his or her delegated authority unless in an acting capacity. Where the prescribed administrative deposit exceeds the approving authority of the investigating official, the matter shall be referred to the appropriate approving authority before the section 101 administrative settlement is finalised.

8. STANDARD FORMS

The following standard forms shall be used, where applicable, in the administration of section 101 administrative settlements:

(a) Application to Make Provisional Payment (incorporating the Section 101 Admission of Guilt);
(b) Administrative Penalty Register; and
(e) any other form approved.

The Customs official shall ensure that the appropriate form is completed and placed on the administrative penalty file before the matter is finalised.

9. QUALITY ASSURANCE

Supervisors shall ensure that administrative settlements are administered in accordance with:

(a) the Customs and Excise Act, 1998;
(b) the Customs Offences and Administrative Penalty Guidelines;
(c) the NamRA Customs Contravention List; and
(d) this Standard Operating Procedure.

Quality assurance reviews may be undertaken periodically to promote nationally consistent application of administrative settlements.

10. ANNEXES

10.1 Customs Offences and Administrative Penalty Guidelines;
10.2 NamRA Customs Contravention List
10.3 Application to Make Provisional Payment (incorporating the Section 101 Admission of Guilt)
10.4 Administrative Penalty Register

11. EFFECTIVE DATE

This Standard Operating Procedure shall come into operation on the date approved by the Commissioner.

12. APPROVAL

This Standard Operating Procedure (SOP) for the Administration of Customs Offences and Penalties under section 101 of the Customs and Excise Act, 1998 is hereby approved:

Sam SHIVUTE
COMMISIONER

28.08.2026
DATE