NamRA CUSTOMS ADMINISTRATIVE PENALTY FRAMEWORK

FOR TRADERS, IMPORTERS, EXPORTERS, CLEARING AGENTS, WAREHOUSE OPERATORS, TRANSPORTERS, MANUFACTURERS, LICENCE HOLDERS AND OTHER CUSTOMS STAKEHOLDERS

Q1: What is the Customs Administrative Penalty Framework?

A: The Framework is NamRA's approved system for the consistent, fair and transparent administration of Customs offences and administrative settlements under section 101 of the Customs and Excise Act, 1998 (Act No. 20 of 1998). It combines Customs and Excise Act, 1998, the Administrative Guidelines, the Contravention List, the Standard Operating Procedure (SOP) and prescribed forms which must be applied together.

Q2: When does the Framework take effect?

A: The Framework took effect on 14 October 2026, following approval of the Administrative Guidelines, SOP and Contravention List.

Q3: Why has NamRA introduced the Framework?

A: The Framework is designed to ensure consistency in decision-making, improve transparency and accountability, apply penalties in a fair and proportionate manner, promote voluntary compliance and strengthen revenue protection and Customs control.

Q4: Does the Contravention List create new offenses?

A: No. It does not create new offenses. It simply identifies existing legal contraventions and assigns standard administrative responses and penalty amounts to support consistent implementation.

Q5: Who is affected by the Framework?

A: The Framework applies to all Customs stakeholders, including importers and exporters, clearing agents, warehouse operators, transporters, manufacturers, license holders and any person subject to the Customs and Excise Act, 1998.

Q6: What happens if a contravention is identified?

A: A Customs official will identify and verify the contravention, determine the applicable penalty using the Contravention List, obtain the required approval and issue a formal Section 101 notice.

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Q7: What is a section 101 notice?

A: A Section 101 notice is a formal written notice issued by NamRA to inform a trader or stakeholder that a Customs contravention has been identified and that an administrative penalty (deposit) is being applied. The notice will include the details of the contravention, the legal basis (relevant provision of the Customs and Excise Act, 1998), the amount of the administrative penalty and instructions on payment and next steps. It also provides the stakeholder with an opportunity to comply with the penalty and/or submit written representations within the prescribed period.

Q8: How is the administrative deposit determined?

A: Administrative deposits are determined using the Contravention List and may be a fixed amount, or a percentage of duty, value, or another prescribed base.

Q9: Are all penalties based on a percentage of the value of goods?

A: No. Many penalties are fixed amounts. The applicable amount depends on the specific contravention.

Q10: Can you provide examples of fixed deposit administrative penalties and percentage-based deposits?

A: Yes. The Contravention List includes fixed administrative deposits such as N$2,000, N$8,000 and N$20,000 for specified contraventions. The exact amount depends on the applicable contravention.

The Contravention List also includes percentage-based administrative penalties. For example, where a listed contravention prescribes an administrative penalty of 25% of duty and if duty amounts to N$40,000, the applicable rate is 25%, then the standard deposit will be N$10,000. The exact legal entry and calculation base must always be confirmed.

Q11: What is the difference between an administrative penalty and a standard deposit?

A: A standard deposit is the initial amount determined by NamRA using the approved Contravention List when a contravention is identified. It is a provisional amount paid as part of the administrative settlement process. An administrative penalty is the final amount determined after the case has been considered, including any written representations or additional information submitted by the stakeholder. In summary:

- The standard deposit = the starting (provisional) amount
- The administrative penalty = the final confirmed outcome, which may be the full deposit, a reduced amount (with a partial refund), or fully refunded.

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Q12: What if the calculated penalty is below a minimum amount?

A: Where a minimum penalty amount is prescribed, the minimum will apply. For example, C2 provides 25% of additional duty subject to a minimum of N$2,000.

Q13: What happens after a Section 101 notice is issued?

A: You will be given a provisional payment process and 14 days to comply and/or submit written representations.

Q14: Can I challenge or respond to a penalty?

A: Yes. You may submit written representations with supporting documents within the prescribed period and make use of the objection, review or appeal processes available under the Customs and Excise Act, 1998.

Q15: What outcomes are possible after representations?

A: After review, the penalty may be confirmed in full, reduced (partial refund) or fully withdrawn (full refund), depending on the facts, evidence, mitigating circumstances and applicable law and Guidelines.

Q16: Can I object or appeal against the outcome of my representation?

A: A person affected by an administrative decision may exercise the objection, review or appeal rights available under the Customs and Excise Act, 1998. The Framework does not remove statutory rights.

Q17: Does paying the administrative deposit mean I owe nothing else?

A: No. Administrative settlement does not necessarily remove duties, taxes, forfeiture, detention, seizure, recovery or other lawful Customs measures that may apply.

Q18: Can NamRA still detain or seize goods when a penalty is issued?

A: Yes. Goods may be detained or seized where authorised under the Customs and Excise Act, 1998. The administrative penalty process does not limit Customs control or enforcement powers..

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Q19: What happens in cases of serious fraud or misconduct?

A: Serious offences such as fraud, smuggling, forgery, etc. may be referred for criminal investigation or prosecution. The Framework identifies circumstances warranting criminal referral and Part H of the Contravention List identifies serious offences for which a mandatory criminal referral must be made.

Q20: Does an administrative penalty prevent criminal action?

A: No. The Guidelines expressly state that administrative settlements do not replace criminal enforcement where the facts and circumstances warrant criminal investigation or prosecution.

Q21: What should I do if I believe a penalty is incorrect?

A: Submit your written representations and supporting evidence within the prescribed period of 14 days and use the applicable objection/review/appeal mechanism available under the Customs and Excise Act, 1998.

Q22: What records should I keep?

A: You should maintain accurate records, including declarations, invoices, permits, licences, transport documents, Customs correspondence and other records required for your Customs transactions. Good records support timely and fair resolution of cases.

Q23: How can I avoid penalties?

A: You can reduce risk by submitting accurate and complete declarations, using the correct tariff classification and valuation, paying duties on time, complying with all Customs requirements, keeping proper records and responding promptly to Customs queries.

Q24: Will the Framework be reviewed?

A: Yes. The Framework will be continuously monitored and will undergo a formal review six months after its initial implementation to assess its effectiveness and incorporate any necessary changes and recommendations. Thereafter, the Framework will be reviewed every three years from the date of approval, or earlier where the need arises due to changes in legislation, policy, operational requirements, or other relevant developments.

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Q25: Where can I access the Framework documents?

A: The Framework consists of three documents: a Guideline, an SOP, and a Contravention List. The Contravention List is publicly available on NamRA Website, NamRA's official communication channels.

Q26: Where can I get help or seek further clarification?

A: Please contact NamRA through the official Customs and Excise contact channels published with the public notice or your nearest NamRA office.

Q27: Is the Framework intended to make Customs enforcement harsher?

A: No. The Framework is designed to simplify processes, improve consistency and ensure fairness and proportionality. Its goal is to encourage voluntary compliance, not to penalise unnecessarily, but to ensure fair, consistent and predictable outcomes for all stakeholders.

Important

This FAQ provides general guidance only. The outcome of any specific case depends on the Customs and Excise Act, 1998, the applicable contravention, the facts of the case and the approved procedures and legal processes.