



# **GUIDELINE ON ADMINISTRATION OF ADMINISTRATIVE PENALTIES**

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## **1. Introduction**

The implementation of the new and automated Customs procedures as part of the Customs Modernisation Project has resulted in new ways procedures and process that have to be followed in order to clear goods and efficiently have move goods across the Lesotho borders.

These procedures, both on the clearance of goods on the ASYCUDA World system, and on the actual movement of goods at the border posts, need to follow and adhere to agreed way of work. This is to ensure efficiency on both the system and the border posts.

## **2. Objective**

The objective of this document is to guide Customs Officers and Declarants on the application of Administrative Penalties when there is non-adherence to the new procedures and process which have to be followed in order to clear goods and efficiently have move goods across the Lesotho borders. The Administrative Penalties will apply for non-adherence on the ASYCUDA World and at the border posts.

The guide will define at what stage of the clearance process penalties will be imposed. It will also standardise the application of the said penalties across all of Customs. Finally, the guide defines the processes that need to be followed in the application of the penalties.

## **3. Scope**

The guideline covers all the processes that need to be followed in the application of Administrative Penalties in the clearance process. It also addressees processes that need to be followed during Post Clearance Audit and Inspection.

## **4. Application of Administration Penalties**

### **a. Clearance Hub**

When an error is detected in a declaration the following steps will be taken by the Clearance Officer: all shall be in accordance with Annex 1

- i. Communicate the error to the declarant by e-mail or e-query form and indicate the monetary administrative penalties payable.

- ii. The declarant has option of accepting or rejecting the administrative penalty charged and shall communicate such decision immediately
- iii. If accepting shall sent a fill and singed admission of guilty form to clearance hub indicating the amount payable.
- iv. Upon admission of guilt the clearance shall release the declaration and payment shall be made within 7 days

If the declarant does not accept that has made an error the Clearance Officer escalates the matter to the Supervisor who will discuss with the Declarant to reach finality in the matter. The Clearance Officer finalises the clearance process on the basis of the decision made by the Supervisor.

## **b. Border Posts/Ports of Entry**

### **I. Customs inspections related offences.**

- i. The border offences shall be charged in accordance with Remission of additional taxes and penalties Notice 17,2014

### **Border Post offenses**

When a Customs Inspector finds a case of non-adherence to agreed procedures and contravention of customs and Excise act at Border post he inspector shall

i)The Customs Inspector reports the case and recommends the imposition of a penalty to the Supervisor.

ii) The Supervisor authorises the penalty through issuance of an Admission of Guilt form. The Offender/Declarant signs the Admission of Guilty form and pays the relevant penalty to the Customs Cashier (in line with the Admission of Guild form). The consignment shall not be released until penalties are paid and failure to pay shall lead to detention of the consignment.

iii) If the Declarant does not accept that he acted contrary to agreed procedures, and that he has made an error the Inspection Officer escalates the matter to the Supervisor who will discuss with the Declarant to reach finality in the matter.

All other administrative penalties shall be applied in accordance with Annex 2 as attached to the guide

### **Annex I-Schedule of common errors and corresponding penalties**

<b>Error</b>	<b>Explanation</b>	<b>Type of error</b>	<b>Sanction</b>	<b>Penalty</b>
Documents attachments not done properly	No attachments/partial attachments	Violation of section 40(1)(c) of the Act <sup>1</sup>	Administrative penalty	M100.00
	Wrong attachments (attachments that do not relate to the declaration)	False declaration	Administrative Penalty	M100.00
Use of wrong Procedure Codes & Regimes Extra SACU	Use of wrong Procedure Codes and or Regimes by Declarants	Violation of Section 40(1)(a) of the Act: With possible loss of revenue	Administrative penalty	M5000.00
Use of wrong Procedure Codes & Regimes Intra SACU	Use of wrong Procedure Codes and or Regimes by Declarants	without possible loss of revenue	Administrative penalty	M200.00
Use of wrong method of payment	Using the wrong Method of payment e.g. cash instead of deferment.	Administrative error	Administrative penalty	M100.00
Use of wrong commodity codes: ExtraSACU	Declarant selects and uses the wrong commodity codes	Misclassification as per Section 85(1) of the Act	Administrative penalty	M5,000.00
Use of wrong commodity code:	Declarant selects and uses the wrong commodity codes	Misclassification as per Section 85(1) of the Act:	Administrative penalty	M200.00

<sup>1</sup> The act refers to the Customs and Excise Act No. 10 of 1982

Intra SACU		Without possible loss of revenue		
		Misclassification as per Section 85(1) of the Act: With possible loss of revenue	Administrative Penalty	M5000.00
Duplication of declarations	duplication of declarations, including on cases where Declarants need to address queries in initial entries	Administrative error	Administrative penalty	M100.00
Unattended queries	Declarants ignorance of queries made by Clearance Officers, leaving declarations hanging for 12 hours	Administrative error	Administrative penalty	M100.00
Use of wrong TIN	Declarant inputs wrong TIN on the declaration	Administrative error	Administrative of penalty	M100.00
Use of incorrect office code	Where the Declarant selects and uses the wrong office code. E.g. selection of office code of Maseru Bridge for goods declared at Maputsoe Bridge	Administrative error	Administrative of penalty	M100.00
Input of	The Declarant inputs a different value for Mass and/or Weight	Violation of Section 85(1) of the Act (false declaration)	Administrative penalties	M100.00

incorrect Mass and/or Weight	compared to the accompanying invoice	Without possible loss of revenue		
		Violation of Section 85(1) of the Act (false declaration): With possible loss revenue	Administrative penalties	5000.00
Use of wrong value details	The Declarant declares different values to those on the invoice <sup>2</sup>	Violation of Section 85(1) of the Act (false declaration)	Administrative penalty	M2000.00
Sharing of ASYCUDA World system passwords with unregistered people	Declarants giving and sharing their ASYCUDA World system passwords with unauthorized users to access the system and submit declarations	Violation of Section 66 of the Act	Administrative penalty	M1,000.00
Unauthorised parking of vehicles at un-demarcated areas at the border post	Declarants or vehicle drivers parking at un-demarcated areas at the border posts	Administrative error	Administrative penalty	M100.00
Unauthorised leaving of vehicles at the border post	Declarants or vehicle drivers leaving their vehicles parked at the border posts	Administrative error	Administrative penalty	M100.00

Wrong currency conversion	Declarants use wrong exchange rate or date of exchange	Administrative error	Administrative penalty	2000.00
Arrival without a Proceed to Border document	Declarants and vehicle drivers proceed to the border post without a Proceed to Border document or authorisation	Administrative error	Administrative of penalty	M100.00