

APPEALS

CUSTOMS ACT

PART XV – APPEALS

Division 1 – Customs Review Tribunal

177. INTERPRETATION

In this Part, unless the contrary intention appears –

Decision means “a decision of the Commissioner General which is subject to review by the Customs Review Tribunal and can be a;

- (b) decision relating to the value or liability of the goods to duty; or,
- (c) a decision relating to the amount or rate of customs duty on any goods or as to the liability of goods to customs duty under any customs tariff that has resulted in the owner of the goods paying the duty under protest under Section 176 of the Customs Act; or,
- (d) decision under this Act and or the Excise Act relating to the issue, suspension or cancellation of a licence; or
- (e) a ruling pursuant to Part XIX of this Act,

but does not include a decision in relation to seizure of forfeited goods.”

177A. ESTABLISHMENT OF THE CUSTOMS REVIEW TRIBUNAL

A Customs Review Tribunal is hereby established to hear applications for review of a decision of the Commissioner General.

177B. APPOINTMENT OF THE MEMBERS OF THE CUSTOMS REVIEW TRIBUNAL

- (1) The Customs Review Tribunal is constituted by three members appointed by the Minister.
- (2) Subject to Subsections (3) and (4) a person may be appointed as a member of the Tribunal only if the person has special knowledge, experience or skills relevant to the functions of the Tribunal.
- (3) The following persons cannot be appointed as a member of the Tribunal
 - (a) a customs officer or an officer of the Internal Revenue Commission
 - (b) a licensed customs broker or a member of the Customs Brokers Association
 - (c) a persons who, has been convicted of an customs offence or criminal offence
 - (d) an undischarged bankrupt.
- (4) The members of the Tribunal are appointed for a period of three years and are eligible for re-appointment.

- (5) A member holds office on such terms and conditions including in relation to remuneration, as the Minister determines.
- (6) The Minister shall terminate the appointment of a member to the Tribunal, by notice in writing, who-
 - (a) becomes an undischarged bankrupt; or
 - (b) is convicted of a customs offence or criminal offence; or
 - (c) is unable to perform the duties of the office or has engaged in misconduct; or
 - (d) resigns as a member of the Tribunal.

Division 2 – Review and Appeals

178 RIGHT TO APPEAL

- (1) Any person who is dissatisfied with the decision of the Customs, may in the first instance appeal to the Commissioner General for a review of the decision within 30 days of the notice of the decision.
- (2) The appeal must be in writing, and shall state fully and in detail the grounds upon which it relies on to appeal.
- (3) A person may apply, in writing, to the Commissioner General for an extension of time to appeal and the Commissioner General may, if satisfied there is a reasonable cause, grant an application under this Section and shall serve notice of the decision on the applicant.
- (4) The Commissioner General may, where he considers it necessary, require the applicant in writing to furnish information or evidence relating to his appeal, before making a decision on the appeal.
- (5) The Commissioner General shall after consideration of the appeal, allow the appeal in whole or part or disallow the appeal.
- (6) The Commissioner General shall serve notice of the decision in writing to the appellant as soon as practicable after making the decision.
- (7) Where the decision of the Commissioner General is to disallow the appeal the Commissioner General shall state the reasons in writing and give notice to the applicant of his rights to lodge a further appeal with the Customs Review Tribunal”.

178A. REVIEW OF DECISION BY CUSTOMS REVIEW TRIBUNAL

- (1) A person dissatisfied with a decision of the Commissioner General may make an application to the Customs Review Tribunal within 30 days of the notice of a decision.
- (2) The Review Tribunal may, in reviewing the decision of the Commissioner General exercise all the powers and discretions of the Commissioner – General.
- (3) The Review Tribunal may confirm, vary or set aside the decision of the Commissioner General.
- (4) The Review Tribunal when giving its decision shall state in writing its findings of facts and its reasons in law for the decision.

178B. APPEAL TO THE NATIONAL COURT

(1) A party to a proceeding before the Review Tribunal who is dissatisfied with the decision of the Tribunal may, within 30 days after being notified of the decision of the Tribunal, or within such further times as the National Court may allow, file a notice of appeal in accordance with the National Court Rules.

178C. EFFECT OF DECISION

(1) The decision of the Customs Review Tribunal is binding and takes effect forthwith.

(2) The fact that an appeal is pending does not in the meantime interfere with or affect the decision of the Tribunal and any customs duties and taxes payable may be recovered as if no appeal were pending.

(3) Where an appeal is pending at the National Court against the decision of the Tribunal, the decision of the Tribunal is binding and remains in force unless a stay of the decision is granted by the National Court.

CUSTOMS REGULATIONS

PART XII. APPEALS

70. FORM OF APPEAL

(1) An appeal against a decision of the Commissioner General under Section 178B shall be made in writing and accompanied with relevant information..

(2) The appeal shall be communicated to the office of the Chairman.

70A. NOTICE OF REVIEW

(1) The Customs Review Tribunal shall cause notices to be served upon the Commissioner General and the applicant of the date the review is to take place.

(2) Notice of the review shall be given no less than 14 days before the date on which the review is to take place.

(3) A notice under this regulation may be served either personally or by post.

70B. ORDER, PLACE AND TIME OF REVIEW

(1) All appeals to the Customs Review Tribunal shall be numbered consecutively and unless the Tribunal otherwise directs, the reviews shall take place in the order in which the applications are received.

(2) The sittings of the Tribunal for the purpose of reviews shall be held in such place or places and at such time or times as are fixed by the Tribunal.

- (3) The Tribunal is not required to sit on public holidays.

70C. CONDUCT OF REVIEW

- (1) Subject to this Part, reviews by the Customs Review Tribunal shall be conducted as the Tribunal from time to time directs.
- (2) All reviews shall be in camera unless the applicant otherwise requires.
- (3) Where a review takes place in public the decision shall be given at a public meeting of the Tribunal.
- (4) Either party to a review may nominate a person to represent him at the review.
- (5) The Tribunal may adjourn a review from time to time as it thinks fit.

70D. EVIDENCE

- (1) Subject to the next succeeding subregulation, the Customs Review Tribunal—
 - (a) shall take all oral evidence on oath or affirmation and for that purpose the person constituting the Tribunal has power to administer oaths and affirmations; and
 - (b) may receive, without formal proof, a copy, duly certified as correct by a responsible officer of the State, of any government or of any public, municipal or other local body or authority within Papua New Guinea, or a document in the possession of the State or of that government, body or authority, as the case may be, and may take into consideration any statement or particular contained in the copy of that document; and
 - (c) may receive, without formal proof, any other document containing any statement or particular that, in the opinion of the Tribunal, is relevant to the question in issue in the review (not being a document that has been brought into existence solely for the purpose of the review) and may take into consideration any such statement or particular.
- (2) The Tribunal may, by notice in writing, require a person—
 - (a) to furnish the Tribunal with such information as, in the opinion of the Tribunal, is necessary for the purpose of a review by the Tribunal; or
 - (b) to attend and give evidence before the Tribunal, or before an officer authorized by the Tribunal to take evidence concerning the matter in review, and may require him to produce all books, documents and other papers in his custody or under his control relating to that matter in review;

and the Tribunal may require the information or evidence to be given on oath, and either verbally or in writing, and for that purpose the person constituting the Tribunal or the officer authorized by him has power to administer oaths.

- (3) A person shall not, without just cause or excuse shown by him, refuse or neglect to comply with a requirement made on him under this regulation or to answer fully and truly any question put to him by the Tribunal, or by an officer authorized by the Tribunal to take evidence, in connection with a review.

70E. DECISIONS OF THE CUSTOMS REVIEW TRIBUNAL

(1) The Tribunal shall forward copies of its decision on a review to the Commissioner General and to the applicant, and the Commissioner General shall, unless the decision has been appealed from, give effect to the decision forthwith.

(2) The Tribunal may, from time to time, compile and publish summaries of its decisions.

70F. COMMUNICATIONS TO THE CUSTOMS REVIEW TRIBUNAL

Communications to the Tribunal may be addressed to the Chairman Customs Review Tribunal in the care of the office of the Commissioner General.

70G. REVIEW LODGEMENT FEE

The fee applicable is a non-refundable fee of K1000.00.