



CUSTOMS APPEAL PROCEDURES

A guide to Customs Appeal Procedures.



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1.INTRODUCTION

1.1 What are your rights as an importer?

At the Seychelles Revenue Commission (SRC) we aim to treat you with honesty, fairly, reasonably and respectfully. We also aim to communicate clearly, provide the basis for decisions taken, and encourage voluntary compliance.

Likewise, we also respect your right to an appeal in the event that you are still not satisfied with the decision taken. In line with our taxpayer's charter, you have the right to object to decisions made pertaining to your customs affairs if you are not satisfied with the decisions provided.

You also have the right to appeal to the Revenue Tribunal which has been set up, independently of SRC should you still not be satisfied with the decision provided after objection to have your case reviewed, on merit, from both the taxpayers and SRC's, before the final decision is taken by the Revenue Tribunal independently from SRC.

After having exhausted all means, if you are still not happy with the decision received, you can appeal to the Supreme Court and if still not satisfied, take your grievance to the Court of Appeal.

As stipulated in SI 60 of 2012: "A right to appeal against administrative decision," importers transacting with Customs have the right to object decisions made by the Customs Division, should the importer be dissatisfied with the decision received.

The right to an appeal ensures importers can contest to a decision if they are not satisfied. The process also allows Customs the chance to review whether the administrative decision provided to the importer is in line with applicable laws.

2. THE GOVERNING LAW

2.1 What are the legal basis for a customs appeal ?

1. Customs Management Act (CMA) 2011 and subsequent regulations

2. CMA: Decisions relating to the application of Customs law:

- **Section 31**: Responsibility of a person lodging information.
- **Section 32**: Appeal against administrative decision.
- **Section 33**: Grounds for annulment of decision.
- **Section 34**: Revocation and amendment of decision.

3. S.I 60 of 2012, Customs Management (Appeal against administrative decisions) Regulations, 2012

4. Revenue Administration Act, 2009

- **Section 16** : Appeal to Revenue Tribunal.
- **Section 17**: Appeal to Supreme Court.
- **Section 18**: Appeal to Court of Appeal.
- **Section 72**: Application for Review of a Reviewable Decision.
- **Section 75**: Proceedings of the Revenue Tribunal.
- **Section 76**: Discontinuance, Dismissal or Reinstatement of Application.
- **Section 77**: Decision of Revenue Tribunal.
- **Section 78**: Appeal from Decision of Revenue Tribunal.
- **Section 79**: Offences relating to Revenue Tribunal.

5. S.I 71 of 2013, Revenue Administration (Review Form and Fees) Regulations, 2013



3. THE RIGHT OF APPEAL

3.1 Who can file an appeal?

The Customs Management Act 2011, provides any person who is dissatisfied with a decision of the Commissioner of Customs the right to make an appeal against the decision in the prescribed manner as stipulated in the Customs Management Act.

Any person aggrieved by a customs-related decision, includes:

- Importers;
- Exporters;
- Customs Agents;
- Clearing and Forwarding Agents;
- Other persons whose rights or interests are affected.

3.2 What does 'Aggrieved Person' mean?

An aggrieved person is someone who:

- Suffers a financial loss due to a customs decision;
- Has been subjected to penalties, fines or enforcement actions by Customs Administration;
- Has detained goods, seized or forfeited by Customs;
- Has been denied a legal benefit, such as a duty exemption, refund or drawback.

3.3 What are the different avenues to lodge an appeal?

The Customs Management Act, 2011 and the Revenue Administration Act, 2009 provides any person opting for a review of a decision or omission made by Customs the opportunity to:

- Appeal to the Commissioner General
- Revenue Tribunal
- Supreme Court
- Court of Appeal

3.4 What decision can be appealed under the Customs Management Act?

Examples of decisions that can be appealed Under **Section 32(1)** of the Customs Management Act, 2011, are as follows:

Customs valuation of goods: If the declared value has increased, leading to higher duties.

Tariff classification decisions: A product is classified under a higher-duty category.

Assessment of customs duties and taxes: Calculation errors that cause an increase in duties and taxes payable to Customs Division.

Administrative penalties and fines: Penalties for late submission or incorrect documentation.

Seizure or forfeiture of goods : Goods held or confiscated by Customs.

Refusal of exemptions, rebates, or refunds : Denied duty drawback or tax relief.



4. THE APPEAL PROCEDURES

4.1 What is the limit period to file an appeal?

Any person who is not satisfied with a decision taken by Customs Division has 60 days from the date the person has been served with a decision (in writing) to lodge an appeal to the Commissioner General.

4.2 Can I request for more time to submit the appeal?

An aggrieved person can write to the Commissioner General to request for an extension to lodge an appeal. The Commissioner General may grant the extension on reasonable grounds.

4.3 How do I file an appeal?

The aggrieved person must lodge the appeal using the Application to Appeal Form downloaded via the SRC's website at www.src.gov.sc.

The completed application form must then be emailed to the secretary of the **Customs Appeal Committee** to customsappealcommittee@srcgov.sc



The appeal must clearly entail the following information:

- The ground of appeal (reasons justifying the inaccuracy of the decision taken by Customs Division)
- Relevant documents and evidence to support the appeal.

Note: Ensure to provide supporting evidence to support the appeal. Most appeals case fails to proceed further due to lack of documentations or proper evidence lodged.

4.4 Can I submit new additional evidence at a later stage of the appeal ?

The aggrieved person is allow to submit any additional information or any new evidence received at a later stage of the appeal that was not submitted to Customs previously related to the appeal.

4.5 When will SRC give a response to the appeal application ?

An acknowledgement note will be provided within **48 hours** upon receipt of the appeal application.

The Commissioner General has **30 days** to provide a decision after the appeal has been filed. The final decision will be communicated in writing to the applicant informing if:

- The appeal has been dismissed; OR
- If the grounds of the appeal is valid; OR
- If the appeal will reverse or vary the original decision made by the Customs Division.

4.6 What is the role of the Commissioner General in the appeal process?

Under **Section 32 (1)** of the Customs Management Act 2011, the Commissioner General serves as the first-level appellate authority. The Commissioner General has the power to review the original decision carefully and independently, following the decision made by the Commissioner of Customs.

The Commissioner General will assess and examine all evidences and arguments submitted, review the legality and accuracy of the decision made by the Commissioner of Customs in adherence to applicable laws and regulations.

The final decision of the Commissioner General may:

- Confirm the decision taken by Customs Division.
- Vary or amend the decision taken by Customs Division to correct errors made.
- Completely set aside the decision taken by Customs Division, if it is found to be unlawful.

The Commissioner General's responsibility is to ensure that customs decisions are legally correct and just, protecting the rights of the aggrieved person while upholding the law.

4.7 What happens if I do not accept the appeal result?

If you are dissatisfied with the decision of the Commissioner General, you have the right to lodge an appeal to the Revenue Tribunal in accordance to the procedures iterated in the Revenue Administration Act 2009.

5. APPEAL TO REVENUE TRIBUNAL

5.1 Who can lodge an appeal to the Revenue Tribunal?

A person aggrieved by a decision taken by the Commissioner General in the case of a customs matter may lodge an appeal under **Section 16** of the Revenue Administration Act, 2009 to the Revenue Tribunal.

5.2 What is the time limit to file an appeal to the tribunal?

The timeframe to lodge an appeal to the tribunal is within **30 days** from the date of the decision of the Commissioner General is made. Late appeal will generally be dismissed outright, regardless of their merit.

5.3 What is the process to submit an appeal?

The prescribed application form to submit an appeal to the tribunal is provided for under the Statutory Instrument 71 of 2013, Revenue Administration (Review Form and Fees) Regulations. The applicant must ensure the following information is provided with the form:

- Stating clear ground for the review of the appeal.
- Providing supporting documents

The applicant must comply with all the legal requirements of the appeal process by using the prescribed application form, submitting the application within the allowable timeframe and make payment of the applicable administrative fees. Failure to observe these requirements risks invalidating the appeal.

5.4 Can I withdraw the appeal after submitting my application ?

The aggrieved person can withdraw their application to the revenue tribunal at any time by submitting a written notice of withdrawal to the tribunal. Under **Section 76 (1)** of the Revenue Administration Act, the tribunal can also dismiss applications if:

- An applicant fails to appear in person or be represented at a hearing.
- An applicant fails within a reasonable time to proceed with an application or comply with the direction of the Revenue Tribunal in relation to the application.

The applicant has thirty days (30) after receiving notification that the application has been dismissed, to re-apply to the Revenue Tribunal for reinstatement of the application.

5.5 Do I have the right of representation at the Revenue tribunal?

A person may be represented before the revenue tribunal by a lawyer or any other person whom the tribunal may admit to be heard on behalf of the applicant.

5.6 What is the responsibility of an applicant when submitting an objection ?

Simply being unhappy with a decision of Customs Division is not enough to lodge an appeal. The applicant must understand who carries the burden of proof in an appeal case. The burden of proof rest with the person challenging the decision and the person must present legal proof and evidence that the Commission General has made an error in providing such decision or that the decision is unlawful, unreasonable, or unfair.

The role of SRC in the appeal process is to justify the decision of the Commissioner General by showing that SRC has taken all procedural steps correctly from its audit stage to issuance of penalties, assessment and even enforcement measures in line with applicable laws.

6.THE REVENUE TRIBUNAL PROCEDURES

6.1 What is the purpose of Revenue Tribunal?

The Revenue Tribunal is established under **Section 70** of the Revenue Administration Act, 2009. It is mandated to hear applications for review of decisions made under the revenue laws of the SRC. The revenue tribunal provides a formal avenue for taxpayers who are dissatisfied with a decision made by the Commissioner General to lodge an appeal and request for a review of decisions made by SRC.

6.2 What is the role of Revenue Tribunal in customs administrative decisions ?

The Revenue Administration Act, 2009, **Section 32(3)** ensures there is an independent check on administrative decisions, protecting the rights of anyone affected by customs decisions and therefore the tribunal has the authority to uphold the decision, make changes, or cancel it entirely, offering a final administrative resolution before any judicial review is considered.

6.3 Is there any applicable fee to file an appeal to the tribunal?

The application fee to lodge an appeal to the Revenue Tribunal are as follows:

For tax debts in dispute up to SCR25,000	Fees payable is SCR500
For tax debts in dispute between SCR25,000 to SR.100,000	Fees Payable SCR2500
For tax debts in dispute above SCR1 00,000	Fees payable SCR5000
For any other decisions to be reviewed.	SCR 500

6.4 What are the steps in the proceeding of an appeal case?

When conducting an appeal case, the revenue tribunal may:

- Take evidence or oath or affirmation
- Summon a person to appear before the tribunal to give evidence.
- Proceed in the absence of a party who had reasonable notice of the proceeding or adjourn the proceeding from time to time.

6.5 When is a decision of an appeal given ?

The revenue tribunal will provide a written decision on the appeal as soon as practicable after the hearing has been completed. The decision will be served to the SRC and the aggrieved person within **seven** days (7) from when the decision was taken.

The decision will justify findings on materials and questions of facts in reference to the evidence submitted before the tribunal.

6.6 What are the possible outcomes of an appeal ?

The possible outcomes of an appeal may :

- Re-confirm the original decision of the SRC.
- Vary or amend the decision of the SRC, resulting in a partial or full change in the original ruling made.
- Have penalties reviewed or not applied in its entirety.
- Have the customs duties reassessed, potentially lowering the amount owed.
- Have the case be referred back to SRC for reconsideration and further review.
- Be dismissed, leaving the original decision unchanged.

6.7 Are there other legal avenues I can explore, if am still not satisfied with the decision of the Tribunal ?

Any party dissatisfied with a decision of the revenue tribunal may appeal to the Supreme court.

7. APPEAL TO SUPREME COURT AND COURT OF APPEAL

7.1 When can I lodge my case to the supreme court?

The appeal must be lodged with the Registrar of the Supreme Court within thirty days (30) after the applicant has been served with notice of the decision from the Revenue Tribunal.

An appeal to the Supreme Court may be made on a question of law only, and the notice of appeal shall state the question or questions of law that will be raised on the appeal.



7.2 What are the possible outcomes from the Supreme court ?

The Supreme court shall hear and determine the appeal based on:

A) in the case of an appeal relating to an objection decision make an order as per **section 17** of the Revenue Administration Act, where appropriate by reason of its decision:

- Order an affirming decision;
- Setting aside the decision of the Revenue Tribunal;
- Order the case to Revenue Tribunal or Commissioner General for consideration in accordance with the directions given by the court.

B) In the case of an appeal relating to any other reviewable decision make an order as appropriate to:

- Affirm the decision of the tribunal;
- Set aside the decision of the tribunal;
- Remit the case to the original decision maker for consideration.

Any party to a proceeding before the Supreme Court dissatisfied with the Court's decision on an appeal from the Revenue Tribunal may lodge a notice of appeal against the decision to the Court of Appeal.

Your obligations as an importer

Maintain accurate and complete records

Keep records of invoices, declarations, and supporting documents for 7 years

Understand Customs obligations

Duties, taxes, procedures and other compliance requirements.

Seek clarification early

Resolve potential issues immediately with Customs, before they escalate.

Use appeals responsibly

Not as a tool to delay compliance or payment.

This guide is not intended as a definitive advice but to be used only as an explanatory guide. It is strongly recommended that where there are aspects relating to law which are not clear or covered in this guide, reference needs to be made to the Customs Management Act (CMA) 2011, Revenue Administration Act 2009, and/or subsequent regulations. These documents can be found on our website:

www.src.gov.sc





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