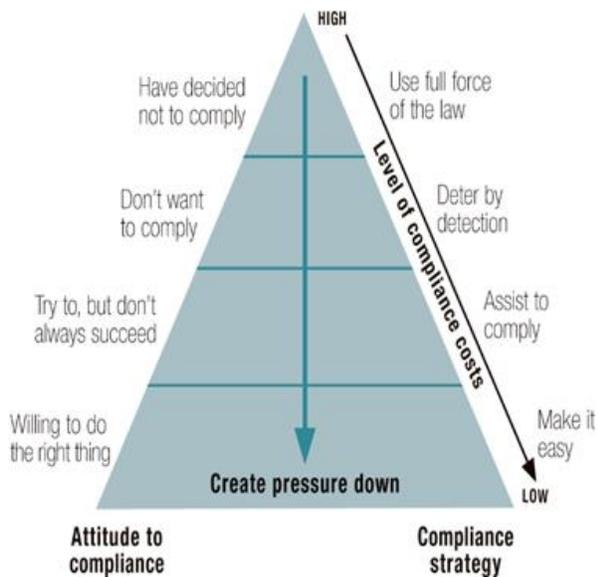


2018

OFFENCE MANAGEMENT POLICY AND PROCEDURES



JAMAICA CUSTOMS AGENCY
Public Version

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1. Foreword

A Committee was established to conduct a comprehensive review of the offence management process within the Jamaica Customs Agency (JCA). The Committee reviewed the offence process and procedures and made recommendations concerning the most efficient and effective way of processing offences having regard to the need to balance trade facilitation and protecting the society. These include, ensuring that the recommended process and procedures are consistent with best practices and international standards where applicable. The recommendations of the Committee have been incorporated into this new Offence Management Policy and Procedures for the JCA.

This document outlines the JCA's new approach to dealing with offences and penalties administratively and aims to simplify the offence process by:

1. Delegating the processing and finalization of some offences to line Managers in charge of stations where offences occur;
2. Fully utilizing Information Communication Technology (ICT) in the process;
3. Making the overall offence process simpler for the trader;
4. Reducing the time to process offences; and,
5. Making the process and procedures for processing offences more transparent

The new approach recognizes that the levying of penalties for offenses of the Customs Law is not intended as a means of revenue collection. Instead, it is aimed at fostering and encouraging compliance. As such, supervisors and managers should engage with traders to address situations that gave rise to offenses against the Customs Law.

The imposition and processing of some penalties have been delegated to Managers. This is intended to address offenses of a less serious nature or at a lower end of noncompliance. Serious offences will continue to be dealt with by the Commissioner or through specialized Units.

Most offenses arise because of errors in declaration resulting in false declaration or excess goods or mistakes where customs cannot prove dishonesty or intent to defraud the revenue; or offenses concerning licences and permits for goods which are restricted or are regulatory controlled. The processing of such offenses have been delegated to Managers using a Schedule of pre-mitigated amounts of penalties.

As such, a reduced penalty equivalent to the duty should be imposed where a declaration made contains an error or omission which resulted in the declaration being incorrect. However, Managers must be guided by their authority as set out in this policy and procedures document. Such authority must not be exceeded without the approval or acquiescence of the Commissioner.

It is hoped that the Policies and Procedures set out in this document and the annexed *Offence Processing User Guide* will serve as an aid for the processing of offences in the Customs System and will modernise the processing of Customs offences and make the process more efficient.

Mrs. Velma Ricketts-Walker
CEO & Commissioner of Customs

1st April 2018

REVISED OFFENSE POLICY AND PROCEDURES

2. Introduction

A Customs offence is any offense or attempted offense of the Customs law. The levying of penalties for offenses of the Customs law is not intended as a means of revenue collection, but more, as a means of fostering and encouraging compliance. Hence, in the case of a first offence which is not serious, consideration should be given to issuing a warning letter.

Any action giving rise to a breach of the Customs laws is an offense. This document outlines the Jamaica Customs Agency's (JCA's) approach to dealing with offenses and penalties administratively and aims to modernize the offense process by:

6. Delegating the processing and finalization of some offenses to line Managers in charge of stations where offenses occur;
7. Fully utilizing Information Communication Technology (ICT) in the process;
8. Making the overall offense process simpler for the trader;
9. Reducing the time to process offenses; and,
10. Making the process and procedures for processing offenses more transparent

Additionally, Supervisors and Managers should engage with traders to address the problems which may give rise to offenses. The imposition of penalties which are delegated to Managers is intended to address offenses of a less serious nature or at a lower end of noncompliance. Serious offences will continue to be dealt with by the Commissioner or through specialized Units.

3. Enforcement of the Law

There is no single source listing all Customs offences and penalties and the various Customs offences and their related penalties are incorporated in various provisions of the Customs Laws. Likewise, the quantum of penalties varies from provision to provision.

The Customs Act predates the Revised Kyoto Convention (RKC) and other similar international customs instruments dealing with modern Customs formalities such as the World Trade Organization Trade Facilitation Agreement (WTO-TFA). Hence, there is no detailed procedure set out in the Customs Act to deal administratively with offenses.

The main administrative provisions addressing the issue of penalties and offences in a general way are provided for in sections 217 and 219 of the Customs Act.

Section 217 provides that:

“Where a penalty is prescribed for the commission of an offence under this Act or any regulations made thereunder such offence shall be punishable by a penalty not exceeding the penalty so prescribed; provided that where by reason of the commission of any offence the payment of any customs duty has or might have been evaded the penalty imposed shall, unless the court for special reasons thinks fit to order otherwise, and without prejudice to the power of the court to impose a greater penalty, be not less than treble the amount of duty payable.”

Notwithstanding the penalties applicable for any offence by virtue of any relevant section or by virtue of s.217, the Commissioner has been empowered to administratively settle (that is, to impose a lower or no penalty at all based on the request of the offender and the circumstances of the offence). This is provided for in s.219 which states that:

“Subject to the approval of the Minister (which approval may be signified by general directions to the Commissioner) and notwithstanding anything contained in s.217, the Commissioner may mitigate or remit any penalty or restore anything seized under the customs laws at any time prior to the commencement of proceedings in any court against any person for an offence against the customs laws or for the condemnation of any seizure.”

In the past, the Commissioner’s power under s.219 was exercised on a case by case basis. This approach may not have been the most objective and transparent way of administering an offense regime.

The consequences of either seeking or not seeking mitigation will be more transparent and objective going forward. An alleged offender will therefore have the following options upon being cited for an offense under the Customs Act.

1. Request that the offence be settled administratively based on mitigating factors (Seek mitigation under s.219) and if the appropriate Customs official (Unit Manager or Commissioner, as stipulated in this policy) agrees that mitigation is applicable, pays the reduced penalty as per published schedule for the relevant offence.
2. Where the alleged offender does not dispute the offence and there are no mitigating circumstances and hence mitigation is inapplicable, the alleged offender should pay the penalty amount as per the Customs Act.
3. Where the alleged offender disputes the commission of the offence or claims innocence then the alleged offender may object/appeal the decision of Customs. Note that this is not a request for mitigation but an appeal and should be treated as such.
4. Where the alleged offender takes no action within 30 days after being cited and after subsequent communication and reminders then consideration should be given to enforcement actions. These may include; suspension of previously granted authorization or privilege such as revocation of AEO or Green Lane status, or court action or any other recourse legally or procedurally available.

Based on the above, it is crucial for the JCA to properly and clearly explain to the alleged offender his/her rights and the possible options available for resolution and seek to ascertain the course of action the alleged offender wishes to pursue after the offence has been cited.

4. Penalty Limits

The Customs Act provides for the imposition of penalties in varied forms. This includes, fixed scaling penalties such as, not exceeding a fixed amount (S.223 – penalty for not providing documents); treble the import duties or treble the value plus forfeiture (S.211 – penalty for concealment or diversion of duty relief – Ss.32 and 33); a fixed amount or treble the value of the goods (S.209 – false declaration).

As noted above, s.217 also sets general limits on penalties.

The unpredictable manner in which penalties are imposed under the Customs Act is not consistent with good governance and does not foster compliance. Hence, the Agency has now developed a schedule which lists the penalties to be imposed under items “1” and “2” of section three above.

This schedule lists all the offences under the Customs Act, the normal penalties applicable where mitigation is not an option, and a fixed penalty to be imposed where mitigation is applicable. In addition to these penalties or in lieu, there may be other sanctions such as “warnings” or suspension of authorization, approval or privilege granted.

See attached schedule for further information.

5. Appeals and Mitigation

The preparation of a schedule of penalties means that penalties being imposed by the Manager of a Unit would already have been known and hence no need for further mitigation by the Commissioner unless the offense is outside the authority given to Managers.

However, in cases where the offense itself is being contested (where the offender disputes the offense or claims innocence), the alleged offender should still have recourse to an appeal process – note again, that this is distinct from a request for mitigation.

Such an appeal shall be dealt with by the Internal Review Committee in an expeditious manner; that is, within one or two business days.

6. Exercise of the Commissioner’s Mitigation Power under S.219

The approval of reduced amounts exhibited in the schedule to this policy represents amounts already mitigated by the Commissioner and must be deemed applicable for the relevant offences.

Hence, there is no need for a subsequent referral to the Commissioner for a decision. However, an alleged offender must request mitigation and consent to the Commissioner mitigating to benefit from reduced penalties in the circumstances already approved for reduced penalties under this policy. The circumstances are:

- Offenses involving errors and omissions materially affecting declarations to Customs;
- Offenses with a maximum penalty not exceeding one million dollars; and,
- Offenses regarding permits and licenses.

Note: The decision to accept a request for reduced penalty and to apply approved mitigated penalties at the unit level is only applicable in the circumstances delineated in sections 7, 8 and 9 for which reduced penalties have already been approved by the Commissioner as provided for in the attached schedule. Any mitigation request falling outside these categories must be submitted to the Commissioner by the Unit Manager.

7. The Imposition of penalty for Errors and Omissions

Many offenses will arise because of errors in declarations. These are usually in the nature of false declarations or concealments (excess goods), or mistakes where Customs cannot prove dishonesty or intent to defraud the revenue.

The processing of these offenses will be delegated through a system of fixed penalties or a penalty equivalent to a percentage of the duty payable. See Penalty Schedule.

A reduced penalty equivalent to the duty payable will be imposed where a declaration made contains an error or omission; and either of the following applies:

- (A) As a result of the error or omission, an amount of duty payable has not been paid or declared for payment; or
- (B) Would not have been paid or declared for payment
- (C) The entry is otherwise materially incorrect.

Note that any penalty imposed under this part is in addition to any tax and duty otherwise due under the Customs laws.

8. Application of Reduced/Mitigated Penalties to Petty Offences.

This applies to an offence that is committed in relation to goods:

- (a) The Customs value of which does not exceed one million dollars;
- (b) On which duties and taxes payable does not exceed one million dollars; or
- (c) On which the duties and taxes evaded or attempted to be evaded does not exceed one million dollars.

This applies in circumstances where:

- (a) A person does not dispute the commission of an offence in relation to goods falling in the categories above; and
- (b) Such person requests and consents to the offence being dealt with by the Commissioner.

A mitigated penalty equivalent to one hundred percent (100%) of the applicable duties and taxes may be imposed.

The payment of a sum satisfactory to the Commissioner indicated above should relieve an offender of further liability to prosecution for the offence in respect of which payment has been made. An admission in writing of the commission of an offence by an offender should not, where the Commissioner declines to exercise her power be admissible as evidence in any prosecution for the offence.

9. Reduced/Mitigated Penalties for Licenses/Permit Offenses

Offenses regarding permits and licenses will result in the application of a fixed reduced penalty as provided for in the schedule sanctioned by the Commissioner.

10. Voluntary Disclosure Relief

Where a purported offender discovers and voluntarily discloses a contravention prior to documentary review by Customs, no penalty should be imposed. Such disclosure should be made in writing and before the Agency begins to make enquiries in relation to any Customs compliance, assessment and duty issues.

Voluntary disclosure relief is only available where the disclosure concerns submission of inaccurate or incomplete, or non-submission, of information to the Commissioner which resulted in an incorrect duty or tax assessment in respect of goods.

Voluntary Disclosure Relief is not available for license and permit offenses.

In the absence of detailed rules promulgated by the Commissioner; any decision concerning Voluntary Disclosure Relief must be sanctioned by the Commissioner.

11. The Right to be heard before a Penalty is Imposed

The Officer who cites the offense or his superior should inform the alleged offender of the imposition of the penalty.

The alleged offender should be given the opportunity to explain or present any further information to be taken into account including, any reasonable excuse and any:

- Additional information that may not have been taken into account; or
- Mitigating circumstances that warrant reduction of the normal penalty upon request

12. Citation and Notification of Penalty

The Officer citing the offense/offence should:

- Consider the facts of the case;
- Consider grounds for reasonable excuse or mitigation;
- Consider any aggravating factors;
- Consider any representations made;
- Where necessary, consult with supervisor/manager;
- Decide whether imposing a penalty is the appropriate course of action and
- Based on the above, make recommendation for the imposition of a penalty.

The Supervisor or Manager will decide the amount of any penalty based on the Schedule of Mitigated Penalties and impose the penalty.

The Supervisor or Manager must apply the scheduled reduced penalty where mitigation has been requested and there are acceptable mitigating circumstances.

Mitigating or aggravating circumstances noted by the officer, Supervisor or Manager must be documented in their comments in the electronic system.

13. Appeals from Mitigated Penalties

In case of disagreement with either a warning letter, liability to penalty or the amount of the penalty, an alleged offender has recourse to a review by the Internal Review Committee, after depositing the full amount of penalty imposed.

14. Recording and Accounting for Offenses

All offenses dealt with administratively are to be recorded/processed in the Asycuda World Customs Management System and a Supervisor or Manager should approve the case in the system and this will be retained and available as a record for that offence/offender.

15. Issuance of Warning Letters

The recommended approach is to issue a warning letter in relation to a first offence which is not considered serious and to impose a penalty if further offenses occur. Offences not considered serious are those falling within the scope of sections 6, 7 and 8 of this policy. The standardized Warning letter template must be followed. The issuance of a warning letter should be authorized by the responsible Director.

16. Offence Notice (Citing of Offense)

An Offence Notice/Offense Citation should be issued where the Customs Act is offensed. A warning letter is not to be issued in lieu of such a notice but where applicable and appropriate under this policy, only in lieu of penalty.

The issuance of an Offence Notice should be authorized by either the unit's Supervisor or Manager.

The standardized template for the Offence Notice should be used by the Agency and copies of all correspondence, including any response to the notice should be uploaded in the Asycuda World Customs Management System.

The standardized request for reduced/mitigated penalty and consent for the Commissioner to mitigate should be utilized to request mitigation.

17. Non-Payment and Appeal after Mitigation Request

Where there is an appeal of the decision of Customs after a request for mitigation, the full amount of penalty provided for under the Customs Act must be deposited prior to any such appeal where the mitigation or reduced penalty was not granted.

Where there is an appeal against a reduced penalty or where mitigation was granted, such amounts to be deposited prior to appeal must not be less than the reduced/mitigated penalty.

The amounts to be deposited upon any request for mitigation or to benefit from any reduced penalty approved by the Commissioner must not be less than the reduced/mitigated penalty that will be applicable if such mitigation/request for reduced penalty is granted as provided for in the attached schedule.

18. Outstanding Duties, Taxes and Fees

The issuance of a Warning Letter or an Offence Notice is without prejudice to any liability to customs duty, taxes and fees. Where an offense gives rise to an outstanding liability, the liability should be pursued in the normal way and is not affected in any way by decisions to issue a warning or impose penalties.

19. Processing Time for Offenses

The processing of offenses at the Unit level should be done within the same business day that the offence is committed or latest by the following business day, once the alleged offender accepts the Offence Notice, does not dispute the offense and makes the relevant payment.

In the case where an Offence Notice is being challenged, the appeal should be dispatched immediately to the Director or the Internal Review Committee which should make its decision by the following business day the latest.

20. Offense Documentation

Except for a Warning Letter, which may also be delivered electronically to the offender's email address supplied to the JCA, Offence Notices or related receipts acknowledging payments, which may also be delivered electronically if agreed to by the alleged offender or his representative; the issuance of physical documents should be avoided where possible. Instead, the preference should be for electronic means of communication which may be confirmed or followed up by other means.

The JCA may email all relevant documentation to the declarant's (importer or broker) email address which is registered with Customs and confirm receipt where this is a more convenient method of communicating with the Declarant.

Offense records should be created using the automated Customs Management System with electronic copies of all relevant or associated documents uploaded as attachments.

The offenders' records or files should be in an electronic form and should move between or among Customs participants by the granting of access to such records. All processing should be done electronically.

Offenders' electronic records may include the following documents as attachments where necessary:

1. Proof of identity such as copy of national identification document (Only where necessary)
2. Standardized Request for Reduced Penalty and Consent to Mitigate where appropriate
3. Offence Notice / Offense Citation
4. Warning Letter, if applicable

5. Grounds of Appeal, if applicable
6. Any other relevant documents where necessary, appropriate or required

Supervisors and Managers should ensure that only necessary or required documents are uploaded and that request for documents that cannot be justified or rationalized are not made or uploaded.

The Inspection Act/Comment Box should be completed in detail when processing offences in the system by all reviewers, data entry personnel or anyone who effects adjustment to any record.

The Supervisor is to review the creation of the electronic offense record prepared by the offense Officer after which the Manager is to finalize the offense by ensuring that the payment is recorded or deposit or is brought to account and the offense record closed on the system without delay.

The system will generate required notifications/messages to interested parties, such as directors and senior directors, where required as well as allow for the generation of offense reports.

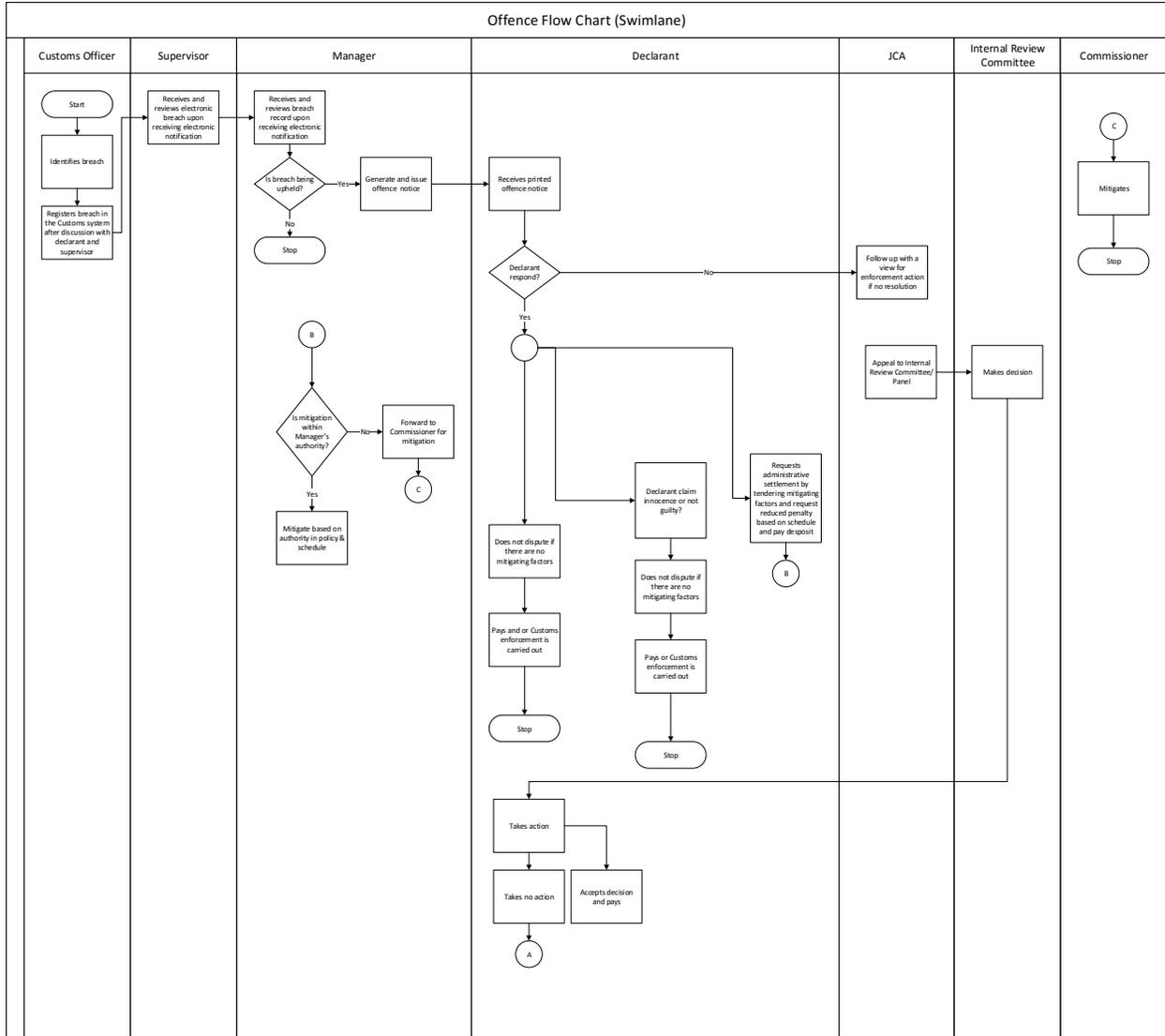
Where an Offence Notice is being contested, a review panel or the reviewer may access the relevant electronic record to continue with processing of the offense and note their decision and comments in the Inspection Act/Comment Box prior to the finalizing of the record on the system.

21. Guidance for Customs Actions in Offense Scenarios

SCENARIOS	DETAIN	RELEASE
a) Goods Imported without permit/license and none is obtained prior to clearance	✓	
b) Cash contravening the Proceeds of Crime Act	✓	
c) Goods strictly prohibited under the Customs laws or any other Jamaican law.	✓	
d) Goods in offense required as evidence by a competent tribunal or Customs	✓	
e) Where the Commissioner or the Customs decides to prosecute an offence rather than settle administratively	✓	
f) Goods not falling under "a" to "e" above where the alleged offender seeks mitigation before clearance and no deposit is made for possible penalties and/or duties and taxes	✓	
g) Goods not falling under "a" to "e" above where the alleged offender seeks mitigation/reduced penalty and provide the required deposit towards possible penalties and settle all outstanding duties and taxes		✓
h) Goods imported without permit/license but for which one is issued/obtained prior to clearance and penalty is imposed and duties and taxes settled		✓
i) In all cases where penalty imposed and duties and taxes are settled and all other Customs formalities are complied with		✓
j) In all cases where the revenue, the protection of the Jamaican society or national security is likely to be at risk	✓	

Where seizure is more appropriate in case where detention is specified that course of action may be pursued. In any case, detention may serve as a first step towards seizure.

22. Offence Process Flow



23. Appendices

1. General Penalty Provisions

S.207	General Penalty	<i>Save as otherwise provided in section 208 any person who shall be convicted of any offence against the customs laws for which no specific penalty is provided shall incur a penalty of ten thousand dollars.</i>
S.208	Penalty in case of forfeiture	<i>Where any aircraft, ship, carriage or goods become liable to forfeiture under the customs laws, any person who shall be knowingly concerned in the act or omission which renders the same liable to forfeiture shall be guilty of an offence against this Act, and shall incur the penalty provided by this Act in respect of such offence, or, where no such penalty is provided, shall incur a penalty not exceeding treble the value of the goods seized and any such person may be arrested and detained by any officer, and taken before a Resident Magistrate or two Justices to be dealt with according to law: Provided that no person shall be arrested whilst actually on board any aircraft or ship in the service of a foreign state or country.</i>
S.217	Limit of Penalty	<i>Where a penalty is prescribed for the commission of an offence under this Act or any regulations made thereunder such offence shall be punishable by a penalty not exceeding the penalty so prescribed; provided that where by reason of the commission of any offence the payment of any customs duty has or might have been evaded the penalty imposed shall, unless the court for special reasons thinks fit to order otherwise, and without prejudice to the power of the court to impose a greater penalty, be not less than treble the amount of duty payable.</i>
S.219	Commissioner may mitigate penalty	<i>Subject to the approval of the Minister (which approval may be signified by general directions to the Commissioner) and notwithstanding anything contained in section 217, the Commissioner may mitigate or remit any penalty or restore anything seized under the customs laws at any time prior to the commencement of proceedings in any court against any person for an offence against the Customs laws or for the condemnation of any seizure.</i>
S.220	Rewards	<i>The Commissioner may, with the approval of the Minister, reward any person who informs him of any offence against the customs laws or assists in the recovery of any fine or penalty.</i>
S.240	Prosecution for Customs offences	<i>(1) Subject to the express provisions of the customs laws, any offences under the customs laws may be prosecuted, and any penalty or forfeiture imposed by the customs laws may be, sued for, prosecuted and recovered summarily, and all rents, charges, expenses and duties, and all other sums of money whatsoever payable under the customs laws may be recovered and enforced in a summary manner on the complaint of any officer.</i>

		<i>(2) Where a court is satisfied that a person accused of an offence under the customs laws has absconded or, after due enquiry, cannot be found in Jamaica, the court if satisfied, after such investigation as it thinks fit, that any goods connected with the alleged offence were imported into the Island, or knowingly acquired, in contravention of the customs laws, may direct the forfeiture or disposal of such goods as could have been forfeited or disposed of under this Act if that person had been found guilty of the offence of which he is accused.</i>
S.241	Time limit for prosecution	<i>Proceedings under the customs laws may be commenced at any time within seven years after the date of the offence.</i>
S.242	Alternative Sentence	<i>Where any court has imposed a penalty for any offence against the customs laws, and such penalty is not paid, the court may, notwithstanding anything contained in any other enactment, order the defendant who is convicted of such offence, in default of payment of the penalty adjudged to be paid, to be imprisoned, with or without hard labour, for any term not exceeding one year, where the penalty does not exceed one hundred thousand dollars, or five years where the penalty exceeds one hundred thousand dollars.</i>
S.243	Imprisonment for second offence	<i>Where a penalty of fifty thousand dollars or upwards has been incurred under the customs laws, and the defendant has previously been convicted for an offence against the customs laws, or has previously incurred a pecuniary penalty or forfeiture under the customs laws which has been enforced in any court, the court may, if it thinks fit, in lieu of ordering payment of a pecuniary penalty, order the defendant to be imprisoned, with or without hard labour, for any period not exceeding five years.</i>
S.246	Officer may prosecute	<i>Any officer may prosecute and conduct any information or other proceeding under the customs laws in respect of any offence or penalty.</i>
S.250	Onus of proof on defendant in certain cases	<i>(1) In any prosecution under the customs laws, the proof that the proper duties have been paid in respect of any goods, or that the same have been lawfully imported or exported, or lawfully put into or out of any aircraft or ship, or lawfully transferred from one aircraft or ship to another aircraft or ship shall lie on the defendant. (2) The averment that the Commissioner has elected that any particular penalty should be sued for or recovered, or that any goods thrown overboard, staved or destroyed were thrown overboard, staved or destroyed to prevent seizure, or that any person is an officer, or that any person was employed for the prevention of smuggling, or that the offence was committed, or that any act was done within the limits of any port, or in the waters of the Island, or over the Island, or where the offence is committed in any port or place in the Island, the naming of such port or place in any information or proceedings, shall be deemed sufficient, unless the defendant in any such case shall prove the contrary.</i>
S.257A	Minister may amend penalties by Order	<i>The Minister may, by order subject to affirmative resolution of the House of Representatives, amend or vary any penalty or fine under this Act.</i>

2. Standardized Form of Consent/Request for the Commissioner to Mitigate Penalty



STANDARD FORM OF CONSENT/REQUEST FOR THE COMMISSIONER TO MITIGATE PENALTY

Name of Importer/Exporter					
Importer/Exporter Contact Details		Telephone Numbers	TRN	Email Address	
Company Representative Contact Details		First Name	Last Name	Importer/Exporter Seal/Stamp	
Status of Company Representative					
Customs Broker Details		First Name	Last Name		
Clearance Declaration Reference Information		Declaration Number	Customs Office Code		Declaration Date
Nature of Offense					
Reasons/Grounds for Seeking Commissioner's Mitigation. (Mitigating Factors on which application is based)					
Additional Evidence and Supporting Documents Supplied to Customs					
Request to Commissioner		AS THE IMPORTER/EXPORTER OF THE GOODS/ARTICLES I DO NOT CONTEST THE INFRACTION COMMITTED AND CONSENT WITHOUT DURESS TO THE COMMISSIONER OF CUSTOMS IMPOSING AND REQUIRING THAT I PAY A REDUCED/MITIGATED PENALTY AS REQUESTED BY ME.			
Applicant's Declaration		<p>By signing this application form, I accept and understand that this application does not guarantee that I will receive a reduced penalty. I acknowledge that any information and supporting documentation supplied to the Commissioner of Customs is done voluntarily in order to facilitate the processing of this application.</p> <p>I furthermore acknowledge that the information provided by me, is to the best of my knowledge both true and correct, and that I understand that any incorrect or inaccurate information or documentation submitted may adversely affect the processing of this application and may also amount to an offence under the Customs Act.</p>			
Applicant's Signature			Date: DD/MM/YY		
			/ /		
Customs Broker Declaration (Where Authorised By Importer to act in relation to the processing of this offence)		I believe the information and facts stated in this Application for Mitigation of Penalty are true to the best of my knowledge, information and belief and I am duly authorized by the Importer of the goods to sign this application on their behalf.			
Customs Broker's Signature		Customs Broker Number	Date: DD/MM/YY		
			/ /		
For Official Use Only					
Internal Reference No.					
Receipt Date		DD/MM/YY: / /			

3. Standard Form of Appeal for Offences against the Customs Act



STANDARD FORM OF APPEAL FOR OFFENCES AGAINST THE CUSTOMS ACT

Name of Individual/Business				
Contact Details	Telephone Numbers		TRN	Email Address
Company Representative Contact Details	First Name		Middle Name	Surname
	Telephone Numbers		TRN	Email Address
Customs Broker Trading Name Contact Details	First Name		Middle Name	Surname
	Trading Name			
	Telephone Number		Broker No.	Email Address
Clearance Declaration Details	Declaration Number		Customs Office Code	Declaration Date
				Item Nos.
Reasons/Grounds of Appeal				
Additional Evidence and Supporting Documents Supplied to Customs	1.			
	2.			
	3.			
	4.			
	5.			
Appellant Signature			Date: DD/MM/YY	
			/ /	
For Official Use Only				
Internal Reference No.				
Receipt Date	DD/MM/YY: / /			

4. Schedule of Mitigated Offences and Penalties

Offence Sections	Offence Description	Customs Act Penalty	Mitigated Penalty Under S. 219	Policy Reference
51	Arrival Procedure	100,000.00	100,000.00	Paragraphs 6, 7 & 8
55	Interference with seal	200,000.00	200,000.00	Paragraphs 6, 7 & 8
56	Unlawful discharge	Not less than treble import duties and taxes and not more than treble value of goods plus forfeiture	100% of duty. Where goods are not dutiable, 100% of value	Paragraphs 6, 7 & 8
64	Officer accommodation	100,000.00	50,000.00	Paragraphs 6, 7 & 8
65.6	Advance report of aircraft/ship	1,000,000.00 and Forfeiture	500,000.00	Paragraphs 6, 7 & 8
66	Non-compliance with S. 65	Refusal to grant clearance	Refusal to grant clearance	Paragraphs 6, 7 & 8
68	Account of cargo to be provided	1,000,000.00 and Forfeiture	500,000.00	Paragraphs 6, 7 & 8
71	Master to answer questions	100,000.00	100,000.00	Paragraphs 6, 7 & 8
72	Wrongful breaking bulk	1,000,000.00 and Forfeiture	500,000.00	Paragraphs 6, 7 & 8
79	Bullion and Coin	100,000.00	100,000.00	Paragraphs 6, 7 & 8
94.2	Illegal Disembark/loading	100,000.00	100,000.00	Paragraphs 6, 7 & 8
106	Interference with goods in private warehouse	100,000.00	100,000.00	Paragraphs 6, 7 & 8
139	Offense of sections 133 to 138 (Loading and Exportation of Goods)	100,000.00	100,000.00	Paragraphs 6, 7 & 8
144	Export restriction	100,000.00	100,000.00	Paragraphs 6, 7 & 8

<i>Offence Sections</i>	<i>Offence Description</i>	<i>Customs Act Penalty</i>	<i>Mitigated Penalty Under S. 219</i>	<i>Policy Reference</i>
149	Offense of sections 145 to 148 (Loading of Goods)	Forfeiture and 200,000.00	200,000.00	Paragraphs 6, 7 & 8
150	Interfering with secured goods	50,000.00 and Forfeiture	50,000.00	Paragraphs 6, 7 & 8
155	Short loading of bonded goods	Forfeiture and 100,000.00	100,000.00	Paragraphs 6, 7 & 8
168	Goods not declared in content	Not less than treble import duties and taxes and not more than treble value of goods plus forfeiture	100% of duty. Where goods are not dutiable, 100% of value	Paragraphs 6, 7 & 8
179	Coastwise cargo Sunday prohibition	50,000.00 and forfeiture of goods and aircraft or ship may be seized and detained until payment of penalty	No penalty where permission is given	Paragraphs 6, 7 & 8
209	False declaration	500,000.00 or treble the value of the goods, whichever is greater	100% of duty.	Paragraphs 6, 7 & 8
210	Permits/Licenses	Forfeiture and Not less than treble import duties and taxes and not more than treble value of goods plus forfeiture	In the case of a business, 100,000.00 and 50,000.00 for individuals per shipment/bill of lading. Where treble the import duties/taxes and treble the value is less than the 100,000.00 or 50,000.00 for a business or individual respectively then treble the value or import duties should be imposed as the penalty	Paragraphs 6, 7 & 8
210.1	Evading Customs Laws regarding imported or exported goods	Forfeiture and Not less than treble import duties and taxes and not more than treble value of goods plus forfeiture	100% of duty. Where goods are not dutiable, 100% of value	Paragraphs 6, 7 & 8
211	Concealed goods	Forfeiture and Not less than treble import duties and taxes and not more than treble value of goods plus forfeiture	100% of duty. Where goods are not dutiable, 100% of value	Paragraphs 6, 7 & 8

Note:

The Authority of Managers to mitigate is limited to the sections of the Customs Act listed in this schedule and to the amounts stipulated in relation to the relevant section as provided for in this schedule.

Mitigated amounts denoted ad valorem (as a percentage of duties and taxes or values) are limited to situations where either the value or duties and taxes do not exceed One Million Dollars.