



REPUBLIC OF THE PHILIPPINES  
DEPARTMENT OF FINANCE  
**BUREAU OF CUSTOMS**

**INTERNAL ADMINISTRATION GROUP**  
CENTRAL RECORDS MANAGEMENT DIVISION

March 26, 2018

**The Director**  
Office of the National Administrative Register (ONAR)  
UP Law Center Diliman, Quezon City


Sir/Ma'am:

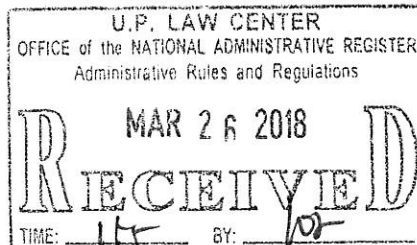
Transmitted are three certified true copies and soft copy (word format in compact disc rewritable) of the following Customs Memorandum Order, to wit:

**CMO 04-2018: MANUAL OF PROCEDURE FOR FORFEITURE CASES**

Thank you.

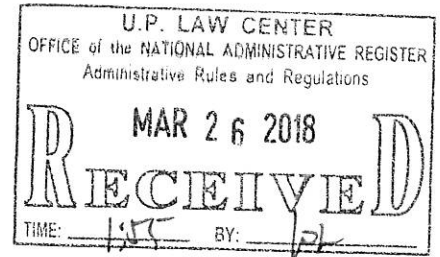
Very truly yours,

  
GLADYS C. CABUGAWAN  
Chief, CRMD





REPUBLIC OF THE PHILIPPINES  
DEPARTMENT OF FINANCE  
BUREAU OF CUSTOMS  
MANILA 1099



**CUSTOMS MEMORANDUM ORDER (CMO)**  
NO. 4-2018

**SUBJECT: MANUAL OF PROCEDURE FOR FORFEITURE CASES**

**Section 1. Scope and Coverage.** This CMO prescribes the guidelines and detailed procedures governing forfeiture proceedings in the Bureau of Customs pursuant to Section 204 of the Customs Modernization and Tariff Act (CMTA).

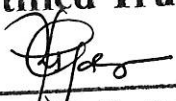
**Section 2. Objectives.**

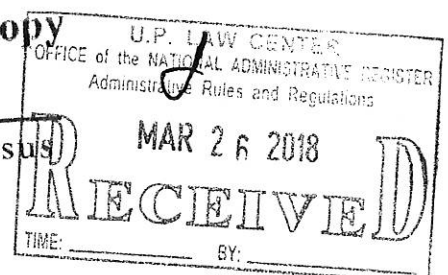
- 2.1. To provide just, fair and expeditious resolution of forfeiture cases in the Bureau.
- 2.2. To ensure uniformity and consistency in the application of customs policies, rules and regulations in forfeiture proceedings.
- 2.3. To introduce innovations and best practices consistent with the law.

**Section 3. General Provisions.**

- 3.1. The Bureau shall exercise exclusive original jurisdiction over all forfeiture cases under the CMTA.
- 3.2. The venue shall be at the Law Division of the Collection District which issued the Warrant of Seizure and Detention (WSD). For Collection Districts without Law Divisions, the venue shall be at the Office of the District Collector. Upon motion, the venue may be held at the Legal Service, Revenue Collection Monitoring Group (RCMG).
- 3.3. These Rules shall be liberally construed to carry out the objectives of the CMTA and other relevant legislations.
- 3.4. Any interlocutory order or referral to other offices shall toll the running of the reglementary period.
- 3.5. If the subject shipment involves prohibited or restricted goods, the same shall be *ipso facto* be forfeited in favor of the government.

Page 1 of 8 – CMO No. 4-2018 Certified True Copy

  
Raquel G. De Jesus  
SVCOO  
CRMD - BOC



- 3.6. Days as used in this CMO shall refer to working days.
- 3.7. The Bureau shall, in accordance with international standards, utilize information and communications technology in managing the recordation of cases and the dissemination and utilization of resolutions or decisions in forfeiture cases.

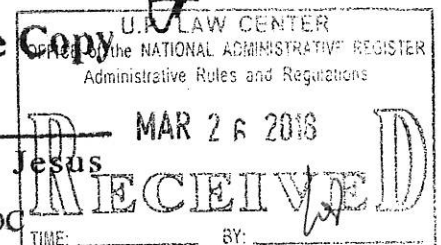
**Section 4. Pleadings, Notices and Appearances.**

- 4.1. All pleadings shall be filed personally, by private courier service, or electronically<sup>1</sup> with the appropriate Law Division or Office of the District Collector. Soft copies of pleadings shall also be submitted simultaneously either by electronic mail or in an external drive.
- 4.2. In the event that the pleadings are sent through private courier service, the date of sending shall be considered as the date of filing.
- 4.3. Pleadings filed beyond the reglementary period shall not be considered.
- 4.4. Where WSDs are issued by the District Collector involving the same consignee, commodity and violation, these cases may be consolidated. In case where two (2) hearing officers are assigned, the same shall be consolidated with the lower/lowest docket number.
- 4.5. A lawyer appearing in any forfeiture case shall be duly authorized by the claimant. All pleadings and motions submitted by a lawyer appearing for the claimant shall indicate his/her office address, electronic mail address, Attorney's Roll Number, updated Integrated Bar of the Philippines (IBP) and Professional Tax Receipt (PTR) Numbers and Mandatory Continuing Legal Education (MCLE) compliance.
- 4.6. In case the claimant is a juridical entity, it may also authorize a responsible officer of the company to appear on its behalf.
- 4.7. For individual claimants or where the goods are of small value, the licensed customs brokers or authorized representative may be allowed to represent for and on its behalf.

<sup>1</sup> Subject to the issuance of Internal Rules and Regulations on Electronic Filing

Certified True Copy

*Raquel G. De Jesus*  
 Raquel G. De Jesus  
 SVCOO  
 QRMD - BOC



- 3.6. Days as used in this CMO shall refer to working days.
- 3.7. The Bureau shall, in accordance with international standards, utilize information and communications technology in managing the recordation of cases and the dissemination and utilization of resolutions or decisions in forfeiture cases.

**Section 4. Pleadings, Notices and Appearances.**

- 4.1. All pleadings shall be filed personally, by private courier service, or electronically<sup>1</sup> with the appropriate Law Division or Office of the District Collector. Soft copies of pleadings shall also be submitted simultaneously either by electronic mail or in an external drive.
- 4.2. In the event that the pleadings are sent through private courier service, the date of sending shall be considered as the date of filing.
- 4.3. Pleadings filed beyond the reglementary period shall not be considered.
- 4.4. Where WSDs are issued by the District Collector involving the same consignee, commodity and violation, these cases may be consolidated. In case where two (2) hearing officers are assigned, the same shall be consolidated with the lower/lowest docket number.
- 4.5. A lawyer appearing in any forfeiture case shall be duly authorized by the claimant. All pleadings and motions submitted by a lawyer appearing for the claimant shall indicate his/her office address, electronic mail address, Attorney's Roll Number, updated Integrated Bar of the Philippines (IBP) and Professional Tax Receipt (PTR) Numbers and Mandatory Continuing Legal Education (MCLE) compliance.
- 4.6. In case the claimant is a juridical entity, it may also authorize a responsible officer of the company to appear on its behalf.
- 4.7. For individual claimants or where the goods are of small value, the licensed customs brokers or authorized representative may be allowed to represent for and on its behalf.

<sup>1</sup> Subject to the issuance of Internal Rules and Regulations on Electronic Filing

Certified True Copy

*Raquel G. De Jesus*  
 Raquel G. De Jesus  
 SVCOO  
 CRMD - BOC

LAW CENTER  
 OFFICE of the NATIONAL ADMINISTRATIVE REGISTER  
 Administrative Rules and Regulations  
 MAR 26 2018  
 RECEIVED  
 TIME: \_\_\_\_\_ BY: *DR*


- 4.8. An attorney-in-fact appearing in any forfeiture case must be duly authorized by the claimant. Authorization issued by claimant currently abroad must be duly authenticated by the appropriate Consular Office.
- 4.9. Failure of the party appearing without proper authorization from the claimant for two (2) successive hearings shall result to the presentation of the evidence *ex parte* by the Government Prosecutor.
- 4.10. Counsel or other authorized representatives shall have the authority to bind their clients or principals in all matters of procedure including but not limited to entering into offer of settlement by fine or redemption.
- 4.11. Any change or withdrawal of counsel or authorized representative shall be made in accordance with the Rules of Court.
- 4.12. Notice of Hearing shall be served by personal service or, if not practicable by reason of distance and lack of personnel to effect personal service, by private courier service or electronic mail. Proof of such service shall be attached to the record of the case.

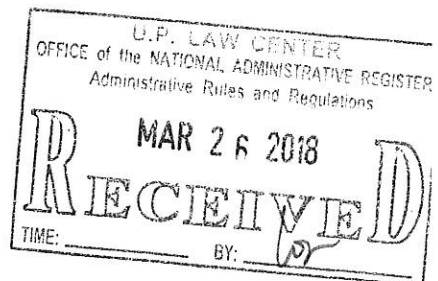
**Section 5. Designation of Hearing Officer and Prosecutor.**

- 5.1. Within twenty four (24) hours from issuance of the WSD, the District Collector shall endorse the same to the Law Division for the assignment of a Hearing Officer.
- 5.2. For Collection Districts without a Law Division, the District Collector, within twenty four (24) hours from issuance of the WSD, shall designate any lawyer assigned to the Collection District as a Hearing Officer. If there is no lawyer assigned in the Collection District, the District Collector shall request for a Hearing Officer from the Prosecution and Litigation Division (PLD), Legal Service.<sup>2</sup> within forty-eight (48) hours from the issuance of the WSD.
- 5.3. In all cases, the District Collector shall request a Government Prosecutor from the PLD, Legal Service within forty-eight (48) hours from issuance of the WSD.

<sup>2</sup>Executive Order No. 724

**Certified True Copy**

4-2018   
 \_\_\_\_\_  
 RACHEL G. De Jesus  
 SVCOO  
 CRMD - BOC




## **Section 6. Preliminary Conference**

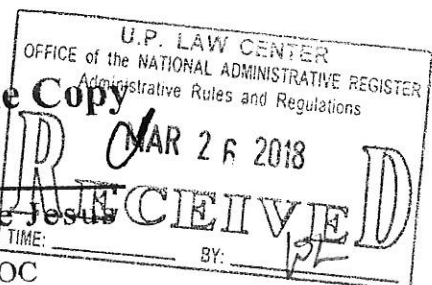
- 6.1.** The Hearing Officer shall within fifteen (15) days or five (5) days in case of perishable goods, from the issuance of the WSD, conduct a Preliminary Conference. All parties including the claimant or its duly authorized representative, apprehending or alerting unit, customs examiners, or customs officer concerned and Government Prosecutor shall be duly notified of the scheduled date.
- 6.2.** The Preliminary Conference shall discuss the following:
  - 6.2.1.** Defining and simplifying the issues of the case;
  - 6.2.2.** Entering into admission or stipulation of facts;
  - 6.2.3.** Marking of exhibits;
  - 6.2.4.** The possibility of disposition of goods pending forfeiture proceedings in case of perishable articles; and
  - 6.2.5.** The possibility of settlement by fine.
- 6.3.** The Preliminary Conference shall be completed in one (1) day. Failure of either party to appear for two (2) consecutive hearing dates shall, through a Position Paper, cause the presentation of evidence *ex parte*.

## **Section 7. Hearing Proper.**

- 7.1.** The Hearing Officer shall require the claimant to submit its verified Position Paper, within five (5) days after the Preliminary Conference, copy furnished the Government Prosecutor.
- 7.2.** Within five (5) days from receipt of the Position Paper, the Government Prosecutor shall file its Comment, copy furnished the claimant. The claimant may file its verified Reply within three (3) days from receipt thereof, copy furnished the Government Prosecutor. After submission of the last pleading or clarificatory hearing as provided for under Section 7.3 hereof, the case will be submitted for resolution.
- 7.3.** The Hearing Officer may call and set two (2) clarificatory hearings after submission of the last pleading, for the proper resolution of the case.

Certified True Copy

  
Raquel G. De Jesus  
SVCOO  
CRMD - BOC



- 7.4. The District Collector shall render a decision within 30 (thirty) days or ten (10) days in case of perishable goods, upon issuance of an Order submitting the case for resolution.

**Section 8. Prohibited Pleadings and Motions.** The following pleadings and motions shall not be allowed and acted upon by the Law Division or Office of the District Collector:

- 8.1. Motion for Postponement – A motion for postponement is prohibited, except if it is based on acts of God and force majeure.
- 8.2. Motion for Reconsideration
- 8.3. Motion for Extension of Time to File Pleadings
- 8.4. Motion to Quash/Recall/Lift/Set-aside or any other similar motion, except when the WSD was issued pursuant to the following:
- 8.4.1. In case of goods seized pursuant to the power of the Commissioner to inspect and visit<sup>3</sup>, the claimant was able to prove payment of duties and taxes as evidenced by authentic documents and the release of the goods will not be contrary to law;
- 8.4.2. In case of goods seized pursuant to the power of the Commissioner to inspect and visit<sup>4</sup>, the claimant was able to prove that the goods are not of foreign origin or the goods are manufactured locally and the release of the goods will not be contrary to law;
- 8.4.3. The District Collector issuing the WSD has no territorial jurisdiction over the seized goods<sup>5</sup>, without prejudice to the issuance of the WSD by the District Collector having territorial jurisdiction thereof;
- 8.4.4. When the concerned regulatory agency, in cases of regulated goods, has issued the necessary clearances or licenses in accordance with its governing laws and regulations; and
- 8.4.5. Other analogous circumstances as determined by the Commissioner and specified under a corresponding Customs Memorandum Order.

<sup>3</sup> cf. CMTA, Title II, Chapter 3, Section 224

<sup>4</sup> cf. CMTA, Title II, Chapter 3, Section 224

<sup>5</sup> cf. The Rules of Court of The Philippines, Rule 117, Section 3 (b)

**Certified True Copy**

*[Signature]*  
Raguels G. De Jesus  
SVCOO  
CRMD - BOC

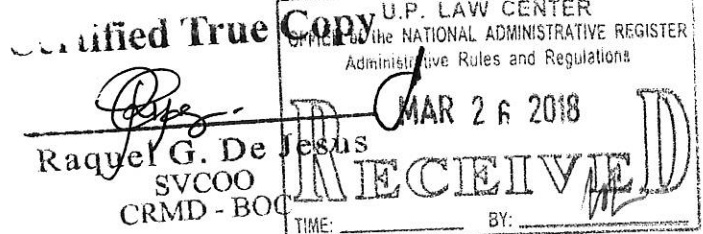
U.P. LAW CENTER  
OFFICE of the NATIONAL ADMINISTRATIVE REGISTER  
Administrative Rules and Regulations  
MAR 26 2018  
**RECEIVED**  
TIME: BY: *[Signature]*

8.5. Motion to Suspend/Hold in Abeyance Forfeiture Proceedings

8.6. Motion to Reopen

**Section 9. Appeal to the Commissioner.**

- 9.1. The aggrieved importer or exporter or any stakeholder directly affected by the adverse decision of the District Collector may appeal the decision by filing a Notice of Appeal with a corresponding Memorandum on Appeal within fifteen (15) days or five (5) days in case of perishable goods, from receipt thereof.
- 9.2. Upon receipt of the Notice of Appeal and Memorandum on Appeal with proof of payment of the requisite appeal fee, the District Collector shall immediately transmit all the records of the proceedings to the Appellate Division, Legal Service within five (5) days, from the receipt of the appeal. A soft copy of the decision shall also be sent to the Appellate Division, Legal Service via electronic mail at [appellatedivision888@gmail.com](mailto:appellatedivision888@gmail.com).
- 9.3. The Chief, Appellate Division shall immediately assign the case to a Reviewing Officer who shall have ten (10) days or five (5) days in case of perishable goods, to submit a recommendation. Such recommendation shall immediately be transmitted for review of the Director, Legal Service which shall have ten (10) days or five (5) days in case of perishable goods, to transmit his recommendation to the Deputy Commissioner, RCMG. The latter shall in turn transmit his recommendation to the Commissioner within five (5) days or three (3) days in case of perishable goods, from receipt of the recommendation from the Director, Legal Service.
- 9.4. The Commissioner shall decide on the appeal within five (5) days, or two (2) days in the case of perishable goods, from receipt of the records from the RCMG: Provided, that the period to resolve shall not run until the complete records of the case is received by the Office of the Commissioner.
- 9.5. An appeal filed beyond the prescribed period or an appeal filed without the payment of the required appeal fee or payment of the appeal fee beyond the period to file an appeal shall be dismissed.
- 9.6. The filing of the Notice of Appeal without the corresponding Memorandum on Appeal shall likewise be dismissed.






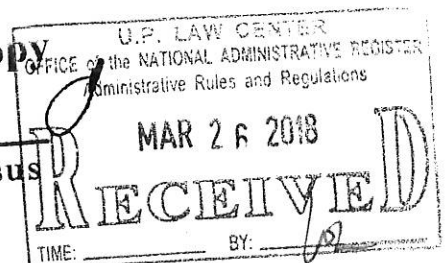
**Section 10. Automatic Review.**

- 10.1.** The Commissioner shall automatically review any decision by the District Collector adverse to the government. The District Collector shall elevate the entire records of the case to the Appellate Division within five (5) days from the issuance of the decision. A soft copy of the decision shall also be sent to the Appellate Division, Legal Service via electronic mail at [appellatedivision888@gmail.com](mailto:appellatedivision888@gmail.com).
- 10.2.** The Chief, Appellate Division shall immediately assign the case to a Reviewing Officer who shall have ten (10) days or three (3) days in case of perishable goods, to submit a recommendation. Such recommendation shall immediately be transmitted for review of the Director, Legal Service which shall have ten (10) days or three (3) days in case of perishable goods, to transmit his recommendation to the Deputy Commissioner, RCMG. The latter shall in turn transmit his recommendation to the Commissioner within five (5) days or two (2) days in case of perishable goods, from receipt of the recommendation from the Director, Legal Service.
- 10.3.** The Commissioner shall decide on the case within five (5) days or two (2) days in case of perishable goods, from receipt of the records from the RCMG: Provided, that the period to resolve shall not run until the complete records of the case is received by the Office of the Commissioner.
- 10.4.** When no decision is rendered within the prescribed period or when a decision adverse to the government is rendered by the Commissioner involving goods with Free on Board (FOB) or Free Carrier (FCA) value of ten million pesos (Php 10,000,000.00) or more, the records of the decision of the Commissioner, or of the District Collector under review, as the case may be, shall be elevated to the Secretary of Finance within five (5) days from the lapse of the prescribed period to resolve or from the date of issuance of decision, for review by the Secretary of Finance.
- 10.5.** The decision issued by the Secretary of Finance, whether or not a decision was rendered by the Commissioner within thirty (30) days, or within ten (10) days in the case of perishable goods, from receipt of the records, shall be final upon the Bureau, subject to appeal to the Court of Tax Appeals.<sup>6</sup>

<sup>6</sup>cf. Section 7 RA 9282.

Certified True Copy

  
Raquel G. De Jesus  
SVCOO  
CRMD - BOC



**10.6.** The Secretary of Finance shall within thirty (30) days or ten (10) days, for perishable goods review the decision of the District Collector or the Commissioner, provided that when no decision is rendered within the prescribed period, the Decision of the District Collector or the Commissioner shall be deemed approved.

**Section 11. Repealing Clause.** This CMO repeals previously issued CMOs which are inconsistent with the provisions here stated.

**Section 12. Separability Clause.** If any part of this CMO is declared unconstitutional or contrary to existing laws, other parts not so declared shall remain in full force or effect.

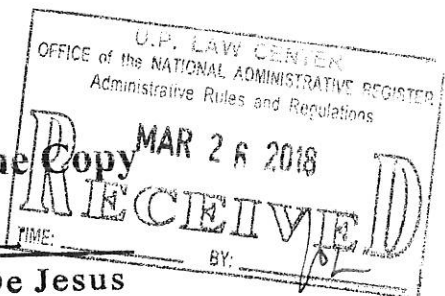
**Section 13. Effectivity.** This CMO shall take effect immediately and shall last until revoked.

**ISIDRO S LAPEÑA, PhD, CSEE**  
Commissioner



MAR 22 2018

Certified True Copy



*Raquel G. De Jesus*  
Raquel G. De Jesus  
SVCOO  
CRMD - BOC