

**[CUSTOMS MEMORANDUM ORDER NO. 4-2018
(A), May 20, 2018]**

**AMENDMENT OF CMO 4-2018 RE: MANUAL OF PROCEDURE FOR
FORFEITURE CASES**

Adopted: 26 April 2018

Date Filed: 02 May 2018

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.
- 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^[1] 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 mailing 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 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.

4.8 Any appearance and pleading filed by a representative of the Claimant without proper written authority shall not be considered by the Hearing Officer.

4.9 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.

4.10 Any change or withdrawal of counsel or authorized representative shall be made in accordance with the Rules of Court.

4.11 Notice of Hearing shall be served by personal service or, if not practicable by reason of distance and lack of personnel to effect the same, 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, may motu proprio conduct a hearing or may 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^[2] 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.

Section 6. Hearing Proper.

6.1 The Hearing Officer shall immediately conduct the preliminary conference hearing of the forfeiture case which should be terminated within seven (7) days from the issuance of the Warrant of Seizure and Detention.

6.2 All parties including the claimant or its duly authorized representative, apprehending or alerting unit, customs examiners, or other customs officer concerned and the Government Prosecutor shall be duly notified of the scheduled date of preliminary conference.

6.3 During the Preliminary Conference the following shall be discussed:

- 6.3.1 Defining and simplifying the issues of the case;
- 6.3.2 Entering into admission or stipulation of facts;
- 6.3.3 Marking of exhibits;
- 6.3.4 The possibility of disposition of the goods pending forfeiture proceedings in case of perishable articles;
- 6.3.5 The possibility of settlement; and
- 6.3.6 Dates for submission of respective Position Papers of the parties

6.4 The Hearing Officer shall require the Claimant to submit its verified Position Paper within five (5) days from the termination of the Preliminary Conference, copy furnished the Government Prosecutor. Failure on the part of the Claimant to submit its verified Position Paper within the prescribed period shall be deemed as waiver on its part to submit the same. No Motion for Extension shall be allowed.

6.5 Within five (5) days from receipt of the Position Paper, the Government Prosecutor shall file its Comment, copy furnished the Claimant. Failure to submit the Comment within the prescribed period shall be deemed waiver on the part of the Government Prosecutor to submit his Comment.