



Ottawa, September 17, 2008

# MEMORANDUM D1-2-1

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## In Brief

### SPECIAL SERVICES

1. Revisions made to this memorandum are the result of the Government of Canada Paper Burden Reduction Initiative and the Canada Border Services parallel Business Simplification Initiative.
2. Please make note that the *Special Service (Customs) Regulations* included in this update are the current Regulations available on the Justice Canada Website. These Regulations have not been revised.



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Ottawa, September 17, 2008

# MEMORANDUM D1-2-1

## SPECIAL SERVICES

This memorandum outlines the conditions under which special services can be provided, and the charges that are applicable thereon.

### *Special Services (Customs) Regulations*

SOR/86-1012

#### *Customs Act*

#### *Special Services (Customs) Regulations*

#### REGULATIONS RESPECTING SPECIAL CUSTOMS SERVICES

#### *Short Title*

1. These Regulations may be cited as the *Special Services (Customs) Regulations*.

#### *Interpretation*

2. In these Regulations, "chief officer of customs", with respect to an area or place, means the manager of the customs office or customs offices that serve that area or place. (*agent en chef des douanes*)

#### *Special Services*

3. (1) Subject to subsection (2), the following services performed by an officer at the request of a person in charge of imported goods or goods destined for exportation shall be considered to be special services:

- (a) any services performed outside the hours fixed by the Deputy Minister for the performance of that service;
- (b) any service performed in a place outside the area served by a customs office; or
- (c) any service performed outside the ordinary course of the officer's duties.

(2) The following services performed by an officer are not special services:

- (a) the examination of or acceptance of reports in respect of a military conveyance, unless that conveyance is being used in a commercial operation;
- (b) the release of human remains;
- (c) the release of perishable goods needed for the preservation of human life or health; and
- (d) the release of non-perishable goods urgently needed for the preservation of human life or health.

## *Special Services Charges*

4. Every person for whom a special service is performed by an officer other than an officer referred to in section 5 shall pay \$25 for the performance of that service.

5. (1) Where an officer is called in on duty to perform a special service for a person, that person shall pay

- (a) \$54 for the first two hours or portion thereof spent in the performance of that service; and
- (b) \$27 for each additional hour or portion thereof spent in the performance of that service.

(2) No charge is payable for the time spent by an officer referred to in subsection (1) on meals and rest.

(3) Where more than one officer referred to in subsection (1) is required to perform a special service, the chargeable time in respect of that service shall be the aggregate of the time spent by all those officers in the performance of that service.

#### *Transportation, Accommodation and Meals*

[SOR/95-200, s. 1(F)]

6. (1) Subject to subsections (2) to (4), where a special service is to be performed by an officer, the person requesting that service shall provide the officer with such transportation, accommodation and meals as may be required for that officer to perform that service.

(2) For the purposes of subsection (1), the transportation, accommodation and meals provided shall be comparable in quality to those that would otherwise be authorized by the Treasury Board *Travel Directive* in effect at the time that the special service is provided.

(3) Where a person requesting a special service does not provide an officer with accommodation, meals or transportation and the officer is required to obtain accommodation, meals or commercial transportation, the person requesting the special service shall pay, in respect thereof, an amount based on the rates and allowances set out in the Treasury Board *Travel Directive* in effect at the time that the special service is provided.

(4) Where a person requesting a special service does not provide an officer with transportation and the officer is required to use a privately owned conveyance, or a conveyance owned or leased by the Government of Canada, the person requesting the service shall pay, in respect of the use of that conveyance, the greater of

(a) an amount based on the allowances for the use of privately owned conveyances that are set out in the Treasury Board *Travel Directive* in effect at the time that the special service is provided; and

(b) five dollars. SOR/95-200, s. 2.

#### *Security*

7. (1) Where the chief officer of customs for the place or area in which a special service is to be performed is of the opinion that security is required to guarantee the payment of charges incurred in providing that service, the person requesting that service shall deposit with the chief officer of customs security in an amount equal to the total charges to be incurred as estimated by the chief officer of customs.

(2) The security deposited under subsection (1) shall be in the form of

- (a) cash;
  - (b) a certified cheque;
  - (c) a transferable bond issued by the Government of Canada; or
  - (d) a bond issued by
    - (i) a company that is registered and holds a certificate of registry to carry on the fidelity or surety class of insurance business and that is approved by the President of the Treasury Board as a company whose bonds may be accepted by the Government of Canada,
    - (ii) a member of the Canadian Payments Association referred to in section 4 of the *Canadian Payments Association Act*,
    - (iii) a corporation that accepts deposits insured by the Canada Deposit Insurance Corporation or the Régie de l'assurance-dépôts du Québec to the maximum amounts permitted by the statutes under which those institutions were established,
    - (iv) a credit union as defined in subsection 137(6) of the *Income Tax Act*, or
    - (v) a corporation that accepts deposits from the public, if repayment of the deposits is guaranteed by Her Majesty in right of a province.
- SOR/91-274; SOR/2001-197, s. 1.

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### GUIDELINES AND GENERAL INFORMATION

#### **Hours of Service Prescribed by the President**

1. The Canada Border Service Agency (CBSA) provides authorized service Monday through Friday, exclusive of statutory holidays to approximately 1200 locations

nationally. The hours of operation are available by visiting the directory of CBSA offices located on the CBSA website at [www.cbsa.gc.ca](http://www.cbsa.gc.ca).

**Note:** For the purpose of this memorandum, Remembrance Day, and when falling on a four day weekend, Easter Monday and Boxing Day, are not considered statutory holidays.

2. The President has named 24 commercial locations as Designated Commercial Offices (DCO). Commercial services are provided at these locations 24 hours a day, 7 days a week without the imposition of special service charges as specified in the requirements prescribed under section 3 of the Regulations. A list of the DCO's is available by visiting the directory of CBSA offices located at: [www.cbsa.gc.ca](http://www.cbsa.gc.ca).

#### **Release of Commercial Goods**

3. Effective April 1, 2008, release requests for commercial goods must be transmitted to the CBSA using an Electronic Data Interchange (EDI) service option, unless otherwise specified, in accordance with CBSA policy. EDI is offered 24 hours a day, seven days a week without the imposition of special service charges.

4. The submission of a paper release request will require special service charges when service is requested at a specific location outside of the hours listed on the directory of offices unless the goods fall under section 3(2) of the Regulations.

5. All procedures for the release of goods are listed in Memorandum D17-1-4, *Release of Commercial Goods*.

6. All highway border offices will review release requests of commercial shipments between the hours of midnight and 0800, 365 days a year upon payment of the special service charge prescribed in sections 4 and 5 of the Regulations

7. Highway Sufferance Warehouse hours are reflective of the CBSA servicing site also referred to as the Hub and are listed on the directory of CBSA offices. Shipments will be released between the hours of 1700 and midnight, Monday through Friday, and the hours of 0800 and midnight, Saturday, Sunday and Statutory holidays without the imposition of special service charges provided the conditions described for release procedures in paragraph 3 of this memorandum are met, and that the estimated time of arrival of the shipment or the estimated time for which release is requested is shown on the release documents presented under paragraph 3 of this memorandum.

8. Subject to the availability of qualified officers, all highway sufferance warehouses will process release documentation of commercial shipments between the hours of midnight and 0800, 365 days a year, upon payment of the special service charge prescribed in section 5 of the Regulations.

9. The authorized hours of service prescribed by the President at CBSA offices for the acceptance of reports from operators of aircraft, trains, vessels and motor vehicles and the manifesting of goods conveyed thereon is the time between the commencement of the first authorized shift and the termination of the final authorized shift at any particular release point.

10. The President may amend these hours of service when required.

11. The President has directed that:

(a) The authorized hours of service for release of the following classes of goods are those hours an officer is on duty at the release point concerned on an authorized shift.

(i) goods classified under classification number 9810.00.00.00;

(ii) commercial items regardless of value that accompany the traveller and qualify for admission under temporary importation Y38 or A.T.A. Carnet procedures; and

(iii) personal baggage of a traveller.

(b) The authorized hours of service for the release of the following goods shall be any time that release is requested:

(i) human remains;

(ii) perishable goods needed for the preservation of human life or health such as blood plasma and human organs; and

(iii) non-perishable goods such as medical equipment for specified emergencies urgently needed for the preservation of human life or health.

(c) The authorized hours of service for the processing of release documentation of goods qualifying for “the extended release privileges” as outlined in the Appendix A to this memorandum, shall be those hours an officer is on duty on an authorized shift at the release point concerned provided that documentation presented meets the Release on Minimum Documentation (RMD) requirements in accordance with the CBSA policy on submitting paper release requests.

### **Transportation Fees, Billing and Miscellaneous Provisions**

12. Where any service is given for which transportation fees are payable and the party accommodated does not provide the officer's transportation, the officer may use a taxi, his personal automobile or other acceptable means of transportation.

13. Where the officer uses his privately owned vehicle on authorized government business travel transportation fees will be subject to a minimum charge of \$5.00, at the rates identified in the Treasury Board of Canada Secretariat *Travel Rates* directives. The rates are payable in cents per kilometre and can be found by visiting: [www.tbs.gc.ca](http://www.tbs.gc.ca).

14. Special services charges and transportation fees shall be paid at the time the service is rendered except where billing privileges have been extended to customs brokers, regular importers/owners and transportation companies. An official receipt on form K21, *Cash Receipt*, shall be issued covering such payment. In the case of companies with billing privileges, payments shall be made to the office that controls the account.

15. Failure to pay a special service charge within 15 days of the date of the billing statement will result in denial of future requests for special services.

16. Postal branches and Canada border services offices not processing international traffic will be closed on all statutory holidays. When a statutory holiday falls on a weekend, the day designated as the holiday in lieu thereof will be considered the statutory holiday.

17. In the case of authorized hours at airports, seaports and highway border offices for the acceptance of reports and the manifesting of cargo, hours of service will be based primarily on the traffic volume but other facilities available in the immediate area will also be taken into consideration. Therefore, the authorized hours of service will be those hours when a shift is on duty to give service at that particular point.

18. Special services charges will be assessed at all times where service is provided beyond the jurisdiction of a CBSA office. In such a case the party accommodated shall also provide or pay for the officer's transportation and accommodation. For the purposes of these provisions “jurisdiction of a CBSA office” means the area encompassing the release points, sufferance and bonded warehouses as well as passenger handling facilities which are normally serviced by the CBSA office.

### **Assessment of Special Services Charges**

19. Sections 4 and 5 of the Regulations provide that the amount of special services fee to be charged is dependant on whether the officer performing the special service is on duty on an authorized shift. In the event a service is provided under the conditions prescribed in section 4 of the Regulations, but the border services officer continues to perform a service after the termination of the authorized shift, the provisions of section 5 of the Regulations will apply to that portion of the service provided after the end of the authorized shift.

20. Subsection 5(3) of the *Special Services Regulations* provides that the aggregate of the time spent by all officers engaged in providing a special service prescribed in subsection 5(1) of the Regulations shall be calculated to determine the amount to be charged. For example, if two officers each work one and one-half hours, the person accommodated will be charged for three hours service. If two officers on an authorized shift perform a service, the person accommodated will be charged the rate prescribed in section 4 of the Regulations.

21. Where a service is provided for a party under the conditions prescribed in paragraph 5(1)(a) of the Regulations, the party is entitled to subsequent service at that release point or station during the initial two hour period without further assessment. If additional service is requested during the next consecutive hour following the initial two hour period, a charge for one hour will be assessed for service given during this third consecutive hour. Where there is a lapse of one hour between the initial two hour period and the next service given, the latter service is subject to the conditions of paragraph 5(1)(a) of the Regulations. If a meal period is taken by the officer during a special service assignment, that period will be excluded from the time charged to the party accommodated. That is, if an assignment begins at 11:00 a.m. with a lunch period of one hour at 12:00 noon, the two hour period will be extended to 2:00 p.m.

22. In any case where more than one special service prescribed in section 4 of the Regulations is provided to one party during one call, the special service charge will be assessed as if only one service were provided. Where more than one party is accommodated, a separate charge will be assessed against each party. For example, if a broker requests release of several shipments consigned to various importers/owners, a separate charge will be assessed against each importer/owner.

23. In any case where more than one special service prescribed in paragraph 5(1) of the Regulations is provided to one party during one call, the special services charge will be assessed as if only one service were provided but the total time spent in performing the services will be calculated in determining the amount to be charged. Where more than one party is accommodated, a separate charge will be assessed against each party. For example, if a broker requests "after hours" release of several shipments consigned to various importers/owners, a separate minimum charge will be assessed against each importer/owner. There are two exceptions to this practice and these are outlined in the two following paragraphs.

24. In the case of several "part-load" shipments of fresh fruit or vegetables contained in one rail car or highway vehicle consigned to various consignees who have deposited security for release prior to payment, special services charges will be assessed as if all the shipments, which are cleared by one broker or agent, were consigned to

one importer/owner. It will be the responsibility of the broker or agent to prorate the assessment among the consignees concerned. While a railway agent or motor vehicle operator may request such releases for the convenience of their respective companies, final accounting documents must be presented by the importer/owner or his authorized agent and the charges for the release will be assessed against the transportation company. Where two or more importers/owners or agents effect release of part-loads of a rail car, truck or trailer, each person shall be assessed the service charge prescribed in paragraph 5(1)(a) or section 4 of the Regulations.

**Note:** This procedure is limited to fresh fruit and vegetables and is due to peculiarities in the marketing practices relating to these commodities.

25. The second exception relates to the release of goods for display at conventions or exhibitions, which are classified under tariff item 9993.00.00.00. In these instances, a licensed customs broker or a delegated person may obtain release of any number of consignments for one convention or exhibition on payment of one assessment prescribed by paragraph 5(1)(a) or section 4 of the Regulations, provided proper authority from all consignees is obtained. Refer to Memorandum D8-1-2, *International Events and Convention Services Program (IECSP)* for additional information.

26. In cases of convoy duty within or beyond the jurisdiction of a CBSA office as well as all other duties outside this jurisdiction, if an officer on an authorized shift is not available to perform the service, the party accommodated must pay special services charges as prescribed in subsection 5(1) of the Regulations for the actual time spent in performing the special services or convoy duty and the travelling time of the officer to and from his station or residence. Furthermore, all meals and accommodation costs incurred by the officer shall be provided or paid for by the party accommodated. Should the border service officer's return be delayed through unforeseen circumstances such as bad weather or vehicle breakdown, the resultant layover period will not be subject to special services charges. To clarify the determination of hours to be charged in such instances the following is an example:

An officer assumes convoy duty or proceeds on an assignment beyond the jurisdiction of the customs office at 8:00 a.m., April 5.

April 5 — actual time spent travelling and at work  
8:00 a.m. — 6:00 p.m. — 10 hours

Returned to customs office — April 6 — Travelling  
time 8:00 a.m. to 10:00 a.m. — 2 hours

Number of hours subject to special services charge —  
12 hours

27. If an officer on an authorized shift is available to perform the services described in paragraph 25 above, the party accommodated must pay special services charges as prescribed in section 4 of the Regulations.

28. Special services charges will be assessed for service requested at an importer's/owner's premises to supervise the marking, examination, exportation or destruction of goods or other similar matters. The party accommodated will also be responsible for the transportation and any other expenses incurred by an officer. When such duties are performed on CBSA premises or at a sufferance warehouse, special services charges will only apply if it is necessary to assign an officer for the specific purpose of supervising the operation. If the officer can perform the function in conjunction with his regular assignment, charges will not be assessed.

29. The regional chief officer may authorize service at private roads for the importation of logs provided proper and adequate accommodation is provided for the officer and special services charges are paid. Where such service is requested at private international roads that can be considered as "dead end" in that they are only used for logging operations, the regional chief officer may authorize service on a "spot check" basis. Such service is conditional upon the operator assuming full responsibility for his crews and upon payment of special services and transportation charges.

30. The provision of special services under the *Special Services (Customs) Regulations* is generally not subject to either the goods and services tax (GST) or the harmonized sales tax (HST) in the participating provinces of New Brunswick, Newfoundland and Labrador, and Nova Scotia because in most cases the services are exempt under Schedule V to the *Excise Tax Act*. GST or HST may apply to special services performed under paragraph 3(1)(c) of the *Special Services (Customs) Regulations* where that service does not directly relate to an exempt service such as the CBSA clearance function.

### **Customs Bonded Warehouses**

31. Where a border services officer's attendance is required at a customs bonded warehouse (CBW), special services charges are to be assessed. Charges shall not be assessed for visits to CBW solely for audit purposes since such audits are for departmental control rather than for the benefit of the CBW operator.

32. In as much as goods may be removed from ships stores warehouses servicing vessels without CBSA supervision, the warehouse keeper may arrange for delivery directly to the vessel. Where the services of a border services officer are required to place the goods under seal on board the vessel beyond authorized hours, special services charges will be assessed, and the party accommodated will also provide or pay for the border services officer's transportation. Charges are not to be assessed for service to

an individually owned and operated fishing vessel. However, transportation charges are applicable when the service is given outside authorized hours or beyond the jurisdiction of the CBSA office.

33. In the case of ships stores warehouses servicing aircraft, special services charges shall be assessed for supervision of the delivery into and removal from the warehouse. An additional charge is not to be assessed for supervising the loading of the stores onto an aircraft at any time.

### **Operators of Aircraft, Trains, Vessels and Motor Vehicles**

34. Where service is requested for the inward or outward clearance of an aircraft, train, vessel or motor vehicle at a time when an authorized shift is not scheduled, special services charges will be assessed against the carrier. The assessment will be calculated by determining the total person hours utilized in clearing the aircraft, vessel, vehicle or train, the processing of the cargo, passengers and their baggage and all other services pertaining to the clearance. The carrier will also provide or pay for the transportation of all officers engaged in furnishing the service.

35. Ordinarily, special services will be rendered only when the CBSA is satisfied as to the urgent nature of the situation. This restriction will not apply in the case of after hours service to pleasure craft. Service to this type of traffic will be given only upon request and on payment of special services charges as per CBSA policies.

### **Effects of Settlers, Summer Settlers and Returning Residents**

36. Special services charges shall not be assessed for the examination of the effects of settlers, seasonal residents, returning residents or bequeathed effects during authorized hours at a destination within the jurisdiction of a CBSA office. The release of such effects at inland CBSA offices is subject to the conditions described in paragraphs 3 to 7 of this memorandum. Where examination and release must be made outside the jurisdiction of a CBSA office, charges are applicable at all times. In all such cases, the party accommodated shall provide or pay for the transportation of the border services officer checking the goods being unloaded.

37. Settlers, seasonal residents, returning residents and bequeathed effects may be cleared at CBSA offices without assessment of special services charges at any time a border services officer is on duty on an authorized shift, except where the effects are transported by an approved carrier. Where clearance is given outside authorized hours, the accounting document will be numbered in accordance with the traffic office series.

**Military and Federal Government Aircraft, Vehicles and Vessels**

38. Paragraph 3(2)(a) of the Regulations provides that special services do not include the examination or documentation at any time of military aircraft, vessels or motor vehicles. This provision applies to all federal government aircraft, vessels and vehicles whether or not they are operated by the Department of National Defence, and to Canadian and foreign conveyances. Examination and documentation will be provided on request, and will not be considered as a special service. Transportation costs will not be assessed.

**Note:** Special services charges including transportation costs will apply where the aircraft, vessel or vehicle is being used in a commercial operation, i.e., leased or rented to non-governmental sources for commercial purposes.

39. Under a reciprocal agreement between the United States Air Force and the Canadian Forces, the latter service has agreed to pay the CBSA charges incurred in connection with the clearance of aircraft operated by either service. Special services charges and transportation costs will not apply, unless the activity involves a commercial operation.

## APPENDIX A

## EXTENDED RELEASE PRIVILEGES

1. Goods in any of the following categories may be released under the conditions outlined in paragraph 11(c) of this memorandum at the discretion of a border services officer without the imposition of a special service charge.
2. Importers/owners or brokers are not required to make a written application to request extended release privileges prior to/or at the time of importation of the goods. However, an importer/owner or broker may make a written request to the regional director general concerned if there is any doubt that the commodity qualifies for after hours release without special services charges.
3. An importer/owner or broker who has been granted extended release privileges for a certain commodity in one region, but has been refused extended release privileges for the same commodity in another region, may make representation to the following address:

Canada Border Services Agency  
 Admissibility Branch  
 Border and Compliance Program Directorate  
 Ottawa, Ontario  
 K1A 0L8

Attention: Manager, Release Programs and Commercial Direction

The decision rendered by Release Programs and Commercial Direction Division will be transmitted to all CBSA regions and will be binding.

**Categories:**

- (a) **Time Sensitive:** Goods that lose their value or principal utility if not used within an imminent time frame, e.g., newspapers, tape recordings and exposed film for news broadcasts, printing plates, etc.
- (b) **Perishable Goods:** Goods which are subject to speedy decay and spoilage, e.g., live animals, fresh or frozen meat, fish, fruits and vegetables, flowers, dairy products, human plasma, etc.
- (c) **Hazardous Goods:** Goods that represent a potential safety risk, e.g., radioactive materials, liquid gas, explosives, caustic substances, etc.
- (d) **Bulk:**
  - (1) A homogeneous shipment of one commodity that is loose (not individually packaged) or in mass (indefinite shape) and generally must be shovelled, blown, pumped, scooped or forked in handling, e.g., sand, lumber, poles, coal, gravel, salt, scrap, cement, fertilizer, etc.
  - (2) Goods that would otherwise qualify under (d)(1), but are unitized by bagging, boxing, palletizing, strapping, spooling, etc.
- (e) **Precious Goods:** Goods which, for security reasons, require quick release when they arrive in Canada, e.g., gold ingots, diamonds, original works of art, etc.
- (f) **Parts:** Parts required for the repair of vehicles, aircraft, watercraft, machinery and other equipment, e.g., parts for automobiles, computers, agricultural equipment, etc. Extended release privileges will apply only in cases where delays in release would cause financial hardships, and will not apply to normal importations of inventory stock or production parts.
- (g) **Aircraft, Vehicle and Vessel Emergency Repairs:** Repairs which resulted from an unforeseen contingency that occurred outside of Canada and were necessary to enable the safe return of the conveyance to Canada.
- (h) **Special:**
  - (1) Reusable containers, racks, bins, pallets, etc., eligible for entry under classification numbers 9813.00.00.10 and 9814.00.00.10.
  - (2) Production and Service goods imported by General Motors of Canada Limited, Ford Motor Company of Canada Limited, and Chrysler Canada Limited.
  - (3) Alcoholic beverages imported by provincial liquor control boards.



**REFERENCES**

<p><b>ISSUING OFFICE –</b> Licensing, Export and Accounting Policy Division</p>	<p><b>HEADQUARTERS FILE –</b> 6063-12</p>
<p><b>LEGISLATIVE REFERENCES –</b> <i>Customs Act</i>, paragraphs 164(1)(i), section 166 and 167</p>	<p><b>OTHER REFERENCES –</b> N/A</p>
<p><b>SUPERSEDED MEMORANDA “D” –</b> D1-2-1, January 1, 1988</p>	

Services provided by the Canada Border Services Agency are available in both official languages.

