S O P

CUSTOMS BROKERS’ SECTION

VARIOUS OPERATION DETAILS
Customs brokers generally act as an intermediary between traders and Customs in Customs clearance processes. Brokers’ knowledge of Customs laws and processes in addition to their work experience in the trade supply chain can be useful for both traders and Customs. While brokers support traders by providing all necessary documentation and undertaking formalities related to cargo clearance, Customs brokers are also expected to maintain government interests by ensuring compliance with Customs and other regulatory requirements and the collection of appropriate duties and taxes.

2. In India, a Customs House Agent (CHA) is licensed to act as an agent for transaction of any business relating to the entry or departure of conveyances or the import or export of goods at a customs station. CHAs maintain detailed, itemized and up-to-date accounts. A CHA license may be temporary or permanent.

3. The licenses so issued to the various Customs House Agent are guided by the Customs Brokers Licensing Regulations (CBLR) which was issued and thereafter amended from time to time to suit the requirements of law and changes in procedures of other accessory rules and regulations. At present the CBLR, 2018 is being followed by the Customs units situated all over the country to handle all the matters related to Customs Brokers Licensees.

4. The matters being dealt in the Customs Brokers Licensing Regulations, 2018 are enumerated in the following pages.
The Customs Broker Section (CBS) deals with the implementation of provisions of Custom Broker Licensing Regulations (CBLR), 2018 in Mumbai Customs Zone – I, II and III. Few of the important issues performed by CBS are as follows:-

1. Issuance of new Custom Broker Licenses in Mumbai (Regulation 7(2) of CBLR, 2018).

2. Granting permission to Customs Broker Licenses to work in Mumbai for Customs Broker Licenses registered in places other than Mumbai (Regulation 7(3) of CBLR, 2018).

3. The Customs Broker Licenses is valid for a period of ten years and renewal of the same is done under Regulation 9(2) of CBLR, 2018.

4. Approval of changes in Director/Partner/ Constitution of a Custom Broker firm or company or concern (Regulation 11 and 12 of CBLR, 2018).

5. The issuance of Custom Passes of “F”, “G”, and “H” category to Proprietor/Director/Partner/Employees of Custom Broker and to the employees of Importer/Exporter under self category is done under Regulation 13 of CBLR, 2018.


8. Suspension of Custom Broker Licenses (Regulation 16 of CBLR, 2018).

9. Revoking of License and imposition of penalty (Regulation 17 and 18 of CBLR, 2018).
ADDITION / DELETION OF PARTNER(S) OR DIRECTOR(S)

Any change in Directors/Managing directors/Partners of a company or firm shall be done by communicating the same to Pr. Commissioner within one month of the process of admission/deletion of Directors/Managing directors/Partners.

a) Addition or deletion of Partner(s)
   i) Appointment letters of partners to be added
   ii) Resignation letters of partners to be deleted
   iii) Death certificate of partner(s) in case of demise of existing partner(s)
   iv) Copy of Custom Pass of incumbent partner(s) from earlier company
   v) Copy of Custom Pass of incumbent partner(s) if issued in same company
   vi) KYC docs. of incumbent partner(s) e.g PAN, Aadhar, Passport etc
   vii) Copy of Partnership deed.

b) Addition or deletion of Director(s)
   i) Form DIR 12 for both the incoming additional director(s) and outgoing director(s)
   ii) Copy of Board’s Resolution for appointment and deletion of director(s)
   iii) Appointment letters of director(s) to be added
   iv) Death certificate of director(s) in case of demise of existing director(s)
   v) Copy of Custom Pass of incumbent director(s) from earlier company
   vi) Copy of Custom Pass of incumbent director (s) if issued in same company
   vii) KYC docs. of incumbent director(s) e.g PAN, Aadhar, Passport, Electricity Bill, Telephone Bill etc.

Workflow of Directors/Managing directors/Partners

Documents to be submitted within 30 days to Pr. Commissioner informing about the addition/deletion of the incumbent/s

Documents submitted are scrutinised.

Documents not satisfactory

In case the clarification/ documents is not satisfactory, the file is sent back for scrutiny.

Documents are OK

If all OK, file is forwarded to Pr. Commissioner for Approval. If Not approved, the same may be sent for scrutiny.

After scrutiny, if any discrepancy, deficiency is noted, the CB is asked for further clarification/ documents as the case may be. Documents re-scrutinised. If OK, application with documents is forwarded to AC/DC with or without remarks for scrutiny.

If all OK, file is moved to JC/ADC CBS for inspection/scrutiny and approval.

Whether approval granted or not has to be informed to CB and if any directions are given, the same may be followed by the concerned staff.
GRANT OF LICENSE UNDER 7(2) OF CBLR, 2018

1) Applicant applies for new license in form A.
2) Filing of application in Form A along with all supporting documents.
3) Documents scrutinized while CIU/DRI/CID clearance will be sought. If any deficiency is observed, Deficiency Memo will be sent asking for the required documents.
4) If the application meets all the criteria mentioned in CBLR, 2018, the application is moved to AC/DC for approval or otherwise. If approved, the application is moved to Commissioner for acceptance or otherwise.
5) Commissioner may accept or reject the application and send back the documents for clarification.
6) Acceptance / rejection is communicated to applicant.
7) If accepted, Public Notice is issued and License booklet is issued. The CB number will be allotted by System Manager. Data will be forwarded to Ice Gate for integration.

Work Flow of 7(2) New License Application

1. Applicant applies for new license in form A
2. Submits all documents supporting Form A. Documents scrutinized.
3. If Deficiency/ Discrepancies observed. Deficiency Memo issued
4. Application submitted to policy manager for verification from various agencies
5. Application is scrutinized by policy manager.
6. Deficiency/ Discrepancies observed?
7. Application submitted to Commissioner of Customs for approval.
8. Commissioner of Customs approves the new license under regulation 7(2), CBLR 2018
9. Applicant issued new license in Form B1 for proprietorship and B2 for partnership or PVT ltd.
GRANT OF LICENSE UNDER 7(3) OF CBLR, 2018

1) Filing of application in Form C along with all supporting documents.
2) If any deficiency is observed, Deficiency Memo will be sent asking for the required documents.
3) Antecedents of CB are verified from different agencies and NOC from parent Commissionerate is also sought.
4) If the application meets all the criteria mentioned in CBLR, 2018, the application is moved to AC/DC for approval or otherwise. If approved, the application is moved to Commissioner for acceptance or otherwise.
5) Commissioner may accept or reject the application and send back the documents for clarification.
6) Acceptance / rejection is communicated to applicant.
7) If accepted, Public Notice is issued and Original License booklet is endorsed stating that CB has been granted permission to operate in Mumbai Customs under regulation 7(3) of CBLR 2018. The CB number will be allotted by System Manager.

Work Flow of 7(3)

1. Applicants submit form C for intimation along with other required documents
2. Scrutiny of submitted documents
3. If any deficiencies in documents, a deficiency memo is issued to CB listing documents to be submitted.
4. Antecedents of CB and Power of attorney holder are verified and NOC from parent commissionerate is sought.
5. If nothing adverse is reported against CB, they are granted permission u/r 7 (3) of CBLR 2018 to operate in Mumbai Customs
DUPLICATE LICENSE / PASS ISSUANCE

- Duplicate license is issued in case of theft/misplaced/loss of license. It is issued under regulations of CBLR, 2018.
- Custom broker (CB) files an application for duplicate CB license.
- FIR copy is mandatory in case of Lost/Theft/Misplaced license. However, duplicate license may also be issued if the original license is in torn condition.
- After receiving the application for duplicate license, CIU clearance is mandatory from all the zones of the Customs Commissionerate.
- If nothing adverse is observed, duplicate license may be issued.

Work flow for duplicate license:-

a) CB files for duplicate license.

Scrutiny of documents
1. PAN card or copy of license if any along other docs.
2. FIR is must.

CIU clearance is sought from all zones of Customs Commissionerates for adverse report, if any.

If nothing adverse is received from Customs Commissionerates, Then duplicate license is issued.

b) CB files for duplicate license/license book.

If original license is in torn or illegible condition. CIU clearance is sought from all zones of Customs Commissionerates.

License may be issued if nothing adverse is reported.

Work flow for Duplicate Custom Pass.

CB files application for duplicate license.

Scrutiny of Documents.
1. Pan card or Copy of License if any
2. FIR
3. Passport size photo
4. Appointment letter of CB
5. Result copy of in case of G and H Cards

If any documents is/are not submitted, deficiency Memo will be issued. If all documents submitted, then

If any adverse report is received, license not issued.

If nothing adverse is received from Customs Commissionerates, Then duplicate license is issued.

CB produces the documents. Documents scrutinized.

Pass may be issued with be approval of DC/AC.
CANCELLATION OF CUSTOMS PASS

1) Cancellation is required when any Custom Pass holder wants to leave the CB firm or company.
2) The concerned CB applies for the cancellation of the pass of its employee / partner / director etc.
3) Original Custom pass of the person is to be submitted with the cancellation application.
4) Verification from Custom agencies / Police for that particular pass holder is required before taking cancellation on record.
5) If verification is OK, then pass cancellation is kept on record.
6) If on verification, the CB / Custom pass holder is found to be involved in any action matter or not.
7) If the CB / Custom pass holder not involved, pass cancellation is approved.
8) If CB / Custom pass holder is found to be involved in any action matter against the CB, action needs to be initiated against the pass holder.

Workflow of Cancellation of Custom Pass

The concerned CB applies for the cancellation of the pass of its employee / partner / director etc. Original Custom pass of the person is to be submitted with the cancellation application.

Verification from Custom agencies / Police for that particular pass holder is required before taking cancellation on record.

If O.K. Custom Pass cancelled
If Custom pass holder is found to be involved in any action matter, action is initiated
RECONSTITUTION OF CB LICENSE

Reconstitution of CB license generally takes place when there is a change from :-

a) Private limited to Partnership
b) Private limited to proprietorship
c) Partnership to Private limited
d) Partnership to Proprietorship
e) Proprietorship to Private limited
f) Proprietorship to Partnership

In all the above, a F card holding or regulation 6 qualified person to whom license has been issued, should be present after constitution. Under Regulation 7(2) of CBLR, 2018, it is equivalent to applying fresh license and thus the CB needs to apply for reconstitution in Form A.

Process

1) The applicant shall submit the communication for reconstitution within 60 days from the changes.
2) Applicant has to select the type to be reconstituted in the CB
   If the applicant is Private limited firm, the two options available are -
   a) Private limited to Partnership
   b) Private limited to proprietorship
   If applicant is proprietorship, the two options available are -
   a) Proprietorship to Private limited
   b) Proprietorship to Partnership
   If applicant is partnership, two options available are –
   a) Partnership to Private limited
   b) Partnership to Proprietorship
3) The applicant has to choose on of the above options according to his needs to submit suitable documents accordingly.
4) The application is scrutinized by the concerned officer, especially with regards to time limit. If documents are not found to be in order or any deficiency noted, the same has to be informed to CB accordingly.
5) Once complete documents received, clearance has to be sought from CIU/SIIB/DRI and if any thing adverse is observed, the same has to be mentioned in remarks before forwarding to application to AC/DC CB Section.
6) The application along with the recommendation of AC/DC shall be moved to Commissioner who may decide according to the merit of the case. The decision of Commissioner should be communicated to CB.
Reconstitution Work flow

CB applied for reconstitution

If CB is a proprietorship
CB can apply for reconstitution for Pvt. Ltd. or Partnership.

If CB is a Pvt. Ltd. Company
CB Can apply for Proprietor or Partnership.

If CB is a partnership firm.
CB can apply for Proprietor or Pvt. Ltd.

CB submits application along with all documents within the specified time limit.

Application is scrutinized and if any deficiency is observed then Deficiency Memo is issued.

The CB submits the required documents. The application is then scrutinized again.

Discrepancies Observed?

Application submitted to policy manager (DC/AC). The application is forwarded to Commissioner of Customs (G) with suitable remarks.

Commissioner of Customs (G) may accept the application and approve reconstitution if everything is in order. In case of any discrepancy the application will be rejected by Commissioner of Customs (G) and impose penalty especially if the reconstitution in not communicated within time limit.
OFFENCE MANAGEMENT

Offence is received from various agencies / offices.
1) Offence report is received in the section
2) A new action file is created and the offence report is put up to Supdt. for information and further direction. Also, attempts are made in the section to find out whether the CB had committed any previous offence and what action was taken by the department in the previous offence.
3) Supdt. either forwards the file to AC/DC with his remarks or may send the file back to EO/PO for clarification. However, once clarified, the file has to go to AC/DC, CBS for further forwarding to JC/ADC with their observations/remarks.
4) ADC/JC may send the file to Commissioner with his remarks or ask for clarification from staff below.
5) Commissioner gives order/s in the file regarding the action to be taken against the CB in the matter.

Usually the following orders are given by the Commissioner :-

A) If it is Parent (License Issuing Commissionerate) Commissionerate:
i) Suspend license immediately for all Customs Stations. License may also be suspended for specified number of Customs Stations, instead of all India, reasons for which has to be recorded in writing.
ii) If license is suspended, Personal hearing (PH) has to be given to CB within the next 15 days.
iii) Commissioner has to pass an order within 15 days of Personal hearing. In the order, the suspension on CB is either continued or revoked.
iv) If suspension is continued, then procedure as per is followed which is summarized as below:
   a) Notice (Show Cause) is to be issued to CB within 90 days from the receipt of offence report.
   b) Inquiry Officer (IO) of the rank of AC/DC is appointed in the above notice. IO conducts inquiry in the matter and submits report within 90 days of issuance of the above notice.
   c) Commissioner shares the copy of the inquiry report with the CB and gives him time, not less than 30 days, to submit his representation. Opportunity of Personal hearing (PH) is given to CB.
   d) Commissioner, after considering the report of IO and the representation of CB, passes order as deemed fit by either revoking the suspension of the license or revoking the license of CB within 90 days from the date of submission of inquiry report by IO. Commissioner may also impose penalty upto Rs. 50,000/- on CB. Also, partial or full amount of security given by CB at the time of issuance of license may be forfeited by the Commissioner.

B) If it is Non-Parent Commissionerate:
i) Commissioner may prohibit the CB to work in one or more Customs Stations. This prohibition is not more than 30 days.
ii) Commissioner immediately intimates the parent Commissionerate of CB about the offence of the CB. The offence report is also forwarded from this Commissionerate along with all the relevant papers, to the parent Commissionerate.
iii) The parent Commissionerate then starts the procedure mentioned above.

Time Line

0 → Offence report received in section
License suspended immediately

Personal Hearing to CB within 15 days

Max 15 days
Order for continuation or revocation of suspension in 15 days

90 days
Notice is issued within 90 days of receipt of offence report

180 days
IO submits report to Commr. Within 90 days of notice issuance

Copy of IO report shared with CB

3 days (min) time given to CB for submission of his representation (Personal Hearing)

270 days
Final Order (Order-in-Original) within 90 days of submission of report.

Work flow of Offence Management

Offence Report received in Section

Is Mumbai the parent Commissionerate?

Yes

Is immediate suspension noted

No

Is Inquiry to be initiated?

Yes

Issue notice to CB and appoint IO simultaneously.

No

IO submits inquiry report to Commissioner.

Commissioner shares IO report with CB

Personal Hearing to CB

Suspension continuation or revocation order

Is suspension required? Or Inquiry is needed in the matters?

Yes

Final order. If penalty or security forfeiture is there in order, it is collected before revoking suspension

No

Case closed

Is CB License to be revoked?

Yes

CB License revoked

No

Case closed

Prohibit CB License

Forward offence report to parent Commissionerate

Case Closed

CB license suspension (if there) revoked if penalty (if any) paid

CUSTOMS PASS ISSUANCE
a) “F”, “G”, and “H” CARD :-

F cards are issued through concerned files. CB should provide necessary documents like PAN card, Aadhar card, Date of Birth, etc.

“F” card is issued in form F of CBLR, 2018 which has following details:-

i) Custom Broker License Number
ii) Name
iii) Designation (Proprietorship/Partner/Employee)
iv) PAN No.
v) Aadhar No.
vi) Issued at
vii) Valid upto
viii) Type of Custom Broker (Proprietorship/Partner/Employee)
ix) Photograph of applicant

Work flow of “F”, “G”, and “H” card issuance

Application received from CB only with necessary documents and fees paid if applicable.

Verification in respect of the person whose card is to be issued is carried out through various agencies through letters. The applications as well as the letters to various agencies are put up to AC/DC for perusal and signature. Documents scrutinized.

All necessary documents present in application.

Yes
DC/AC signs letters for verification.

No
Issue deficiency memo to CB to furnish missing docs/information
Card not issued to CB. Intimated CB

CB furnishes the required doc/information

Verifications received.
Card issued to CB. Intimated CB