

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.

WORK OF CUSTOMS BROKER SECTION, NCH

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.
6. Revocation of Custom Broker Licenses and imposition of penalty (Regulation 14 of CBLR, 2018).
7. Prohibition of Custom Broker Licenses (Regulation 15 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.

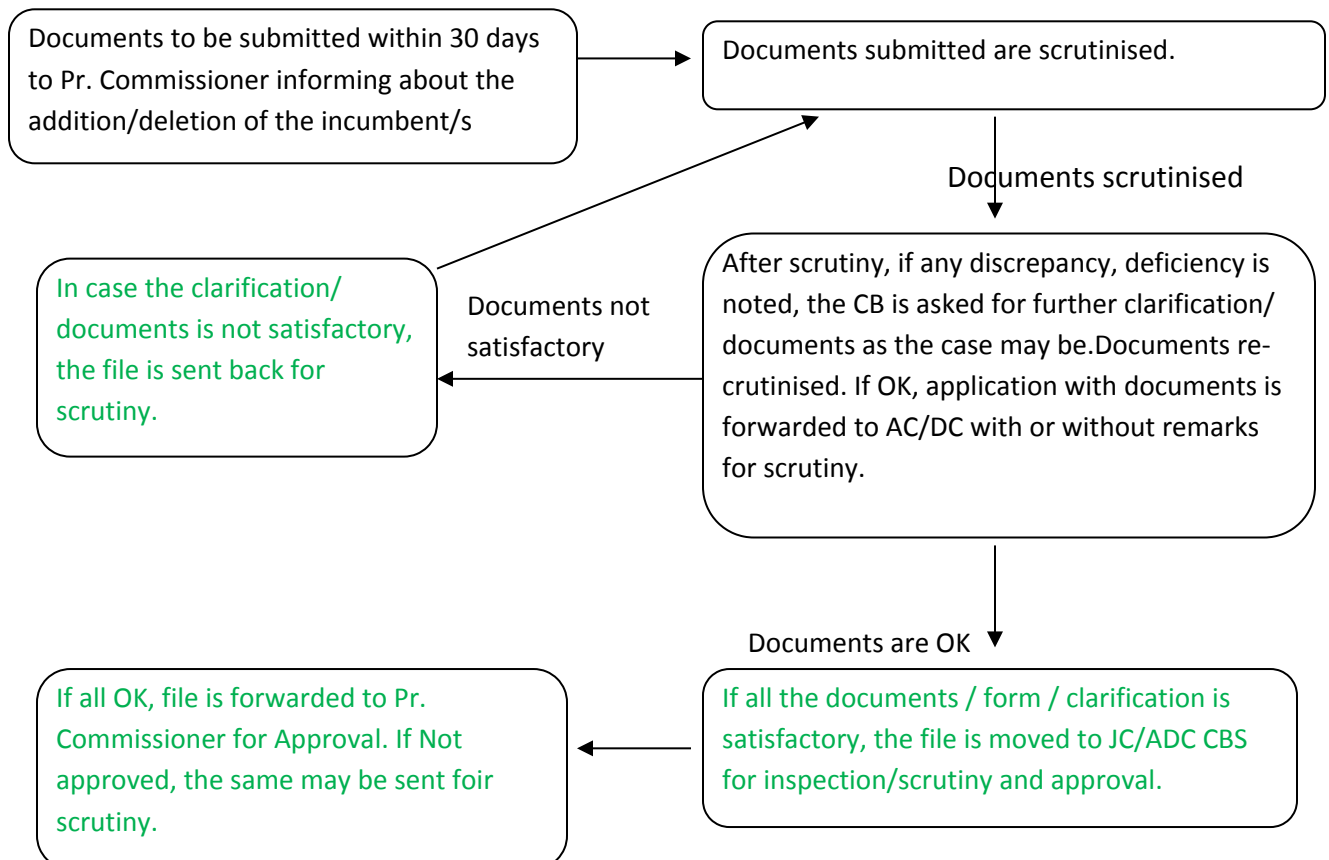
a) Addition or deletion of Partner(s)

- 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

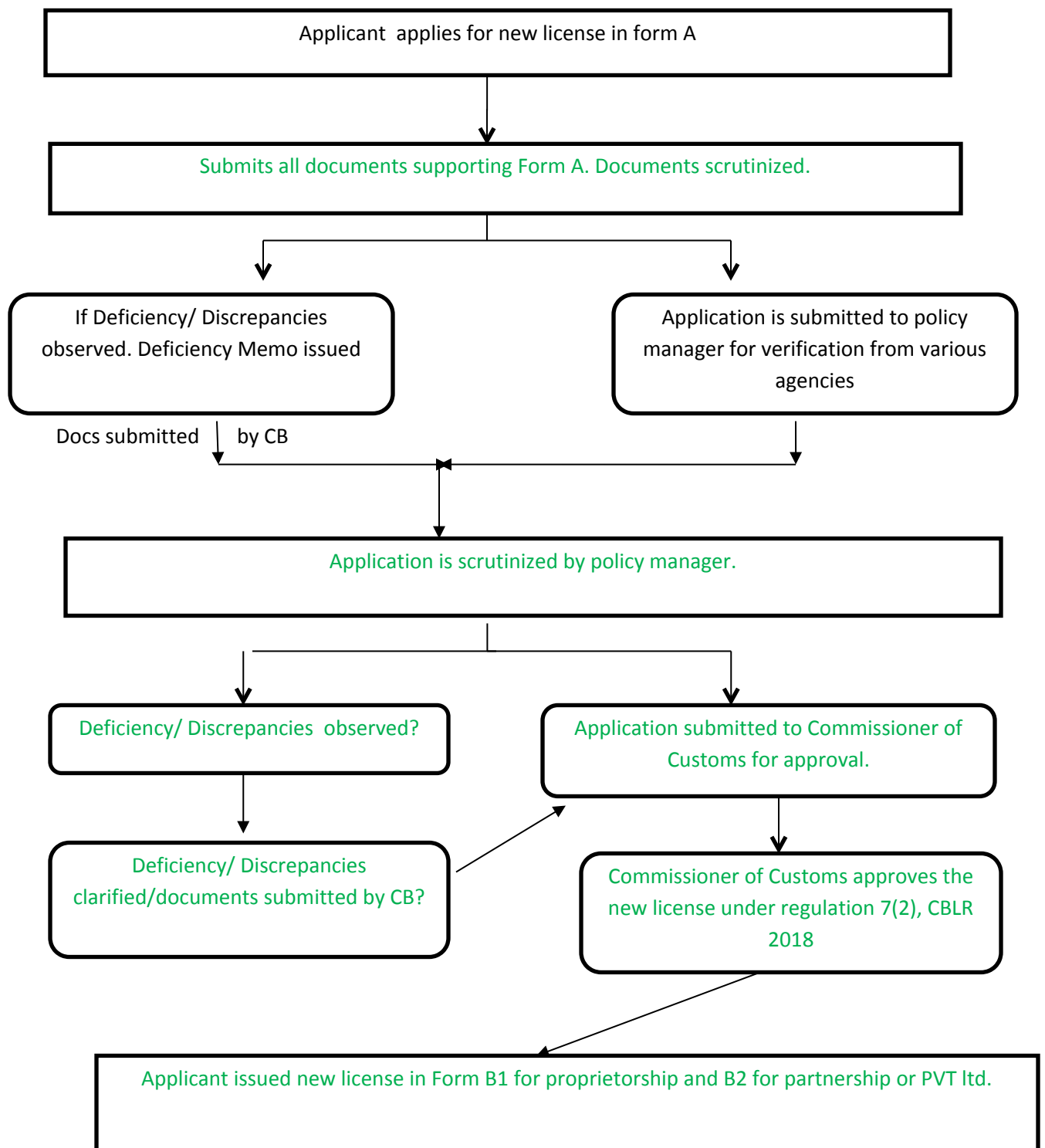


Whether approval granted or not has to be informed to CB and if any directions are given, the same may be followed by the concerned staff.

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.

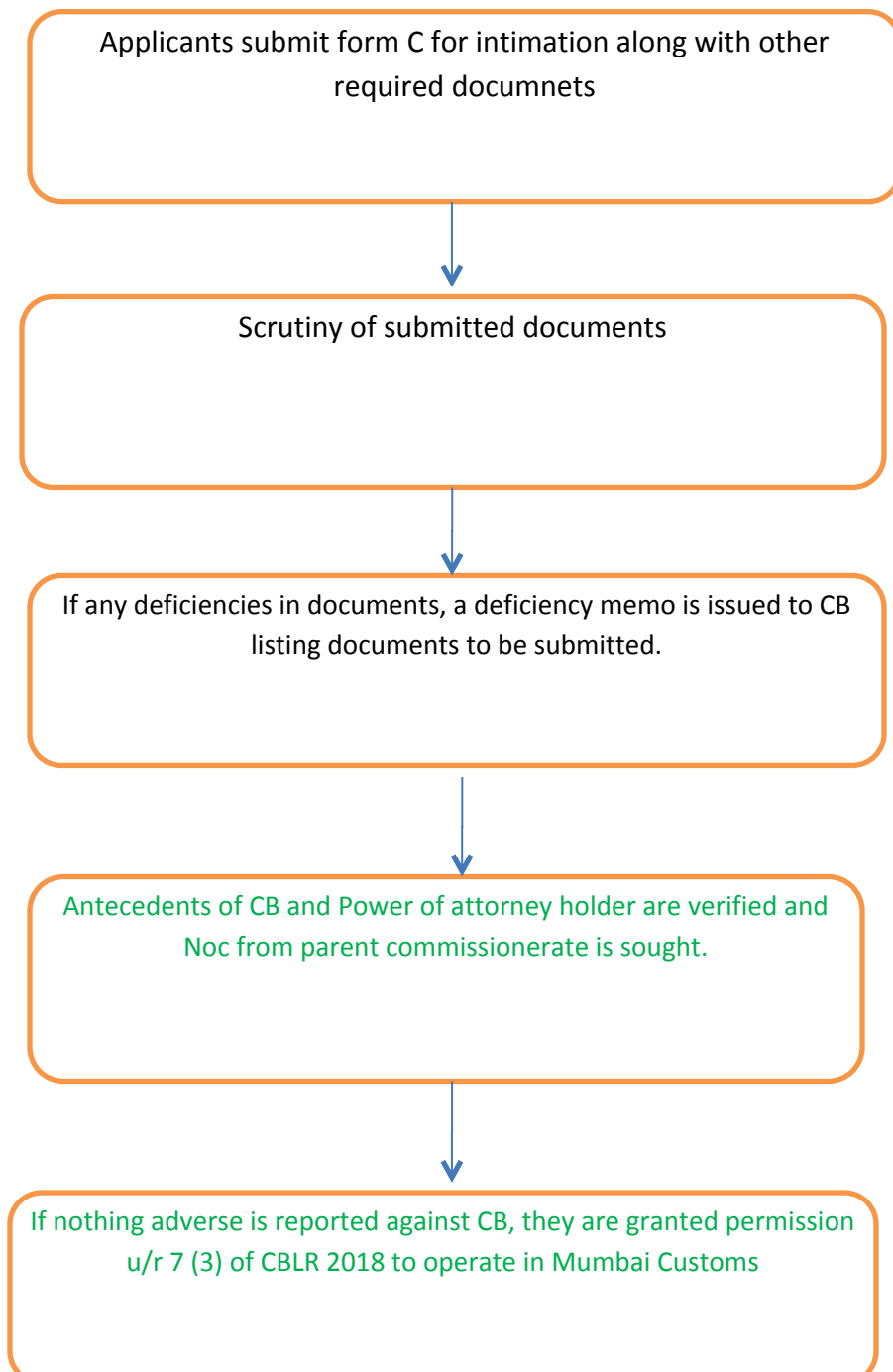
Work Flow of 7(2) New License Application



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)

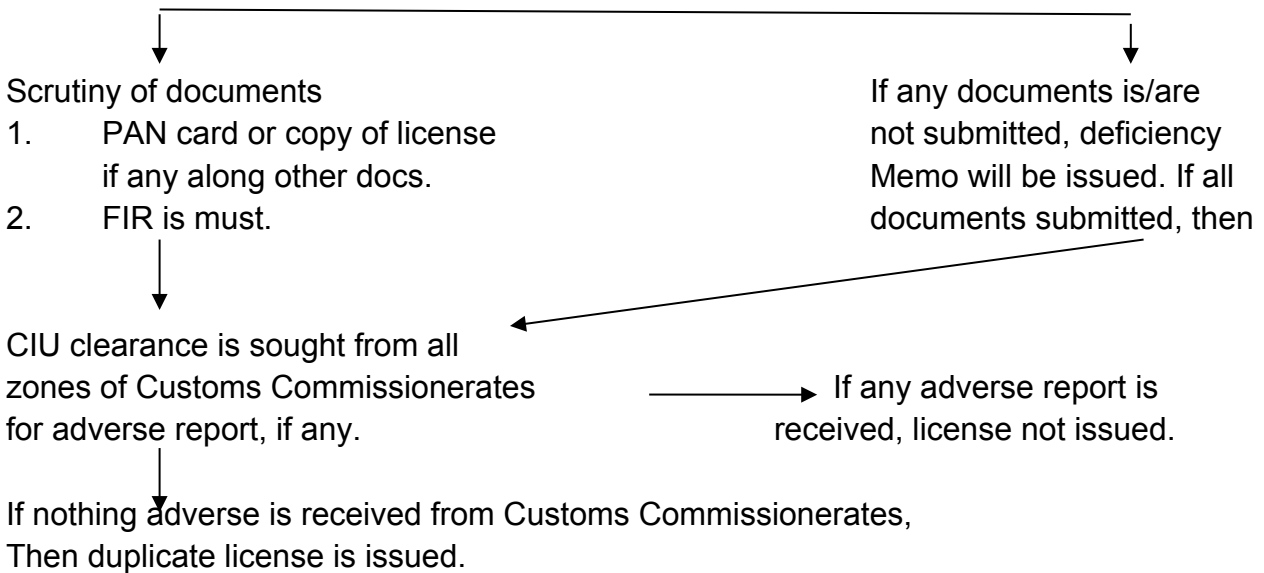


DUPLICATE LICENSE / PASS ISSUANCE

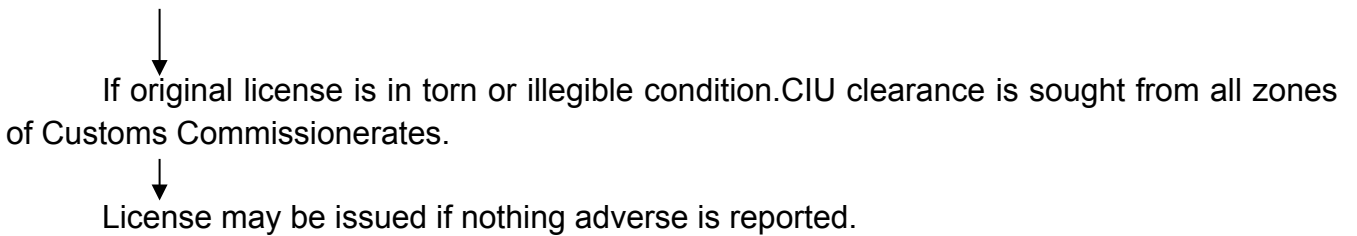
- Duplicate license is issued in case of theft/misplaced/loss of license. It is issued under regulations of CBLR, 2018.
- Custom broker (CB) files an application for duplicate CB license
- FIR copy is mandatory in case of Lost/Theft/Misplaced license. However, duplicate license may also be issued if 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:-

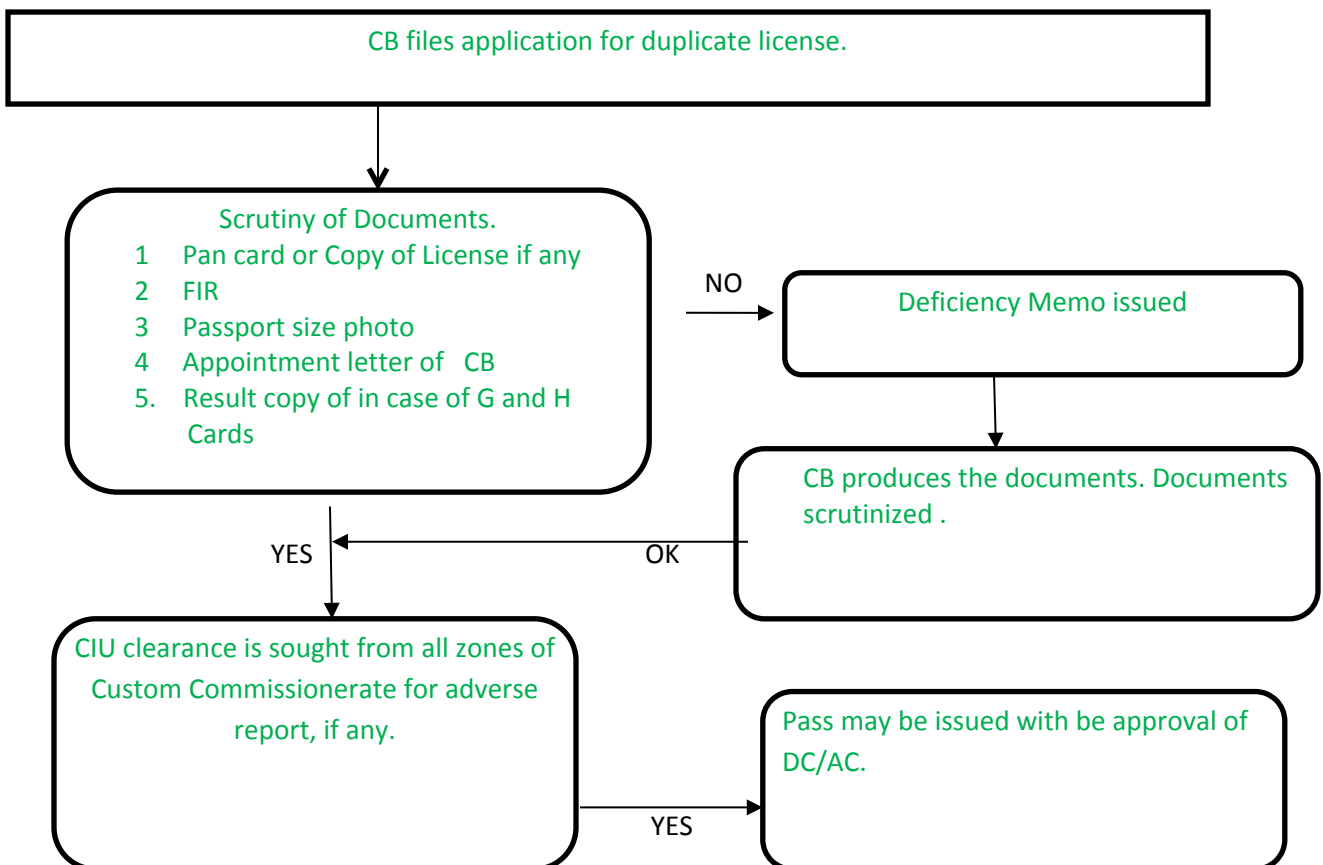
a) CB files for duplicate license.



b) CB files for duplicate license/license book.



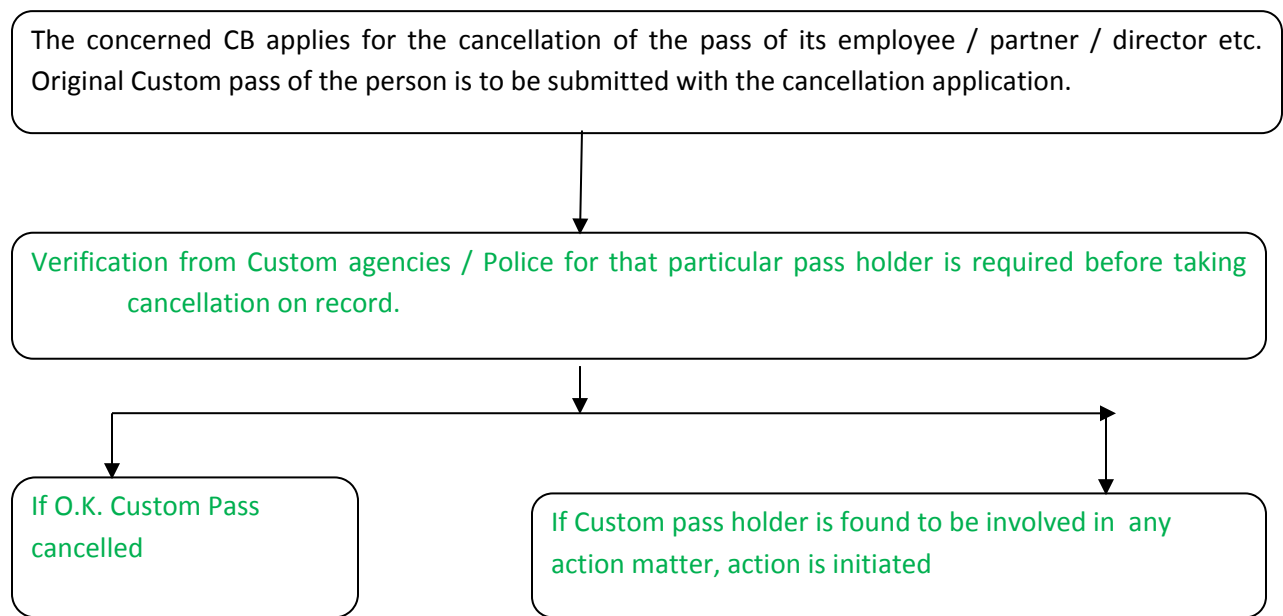
Work flow for Duplicate Custom Pass.



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



RECONSTITUTION OF CB LICENSE

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

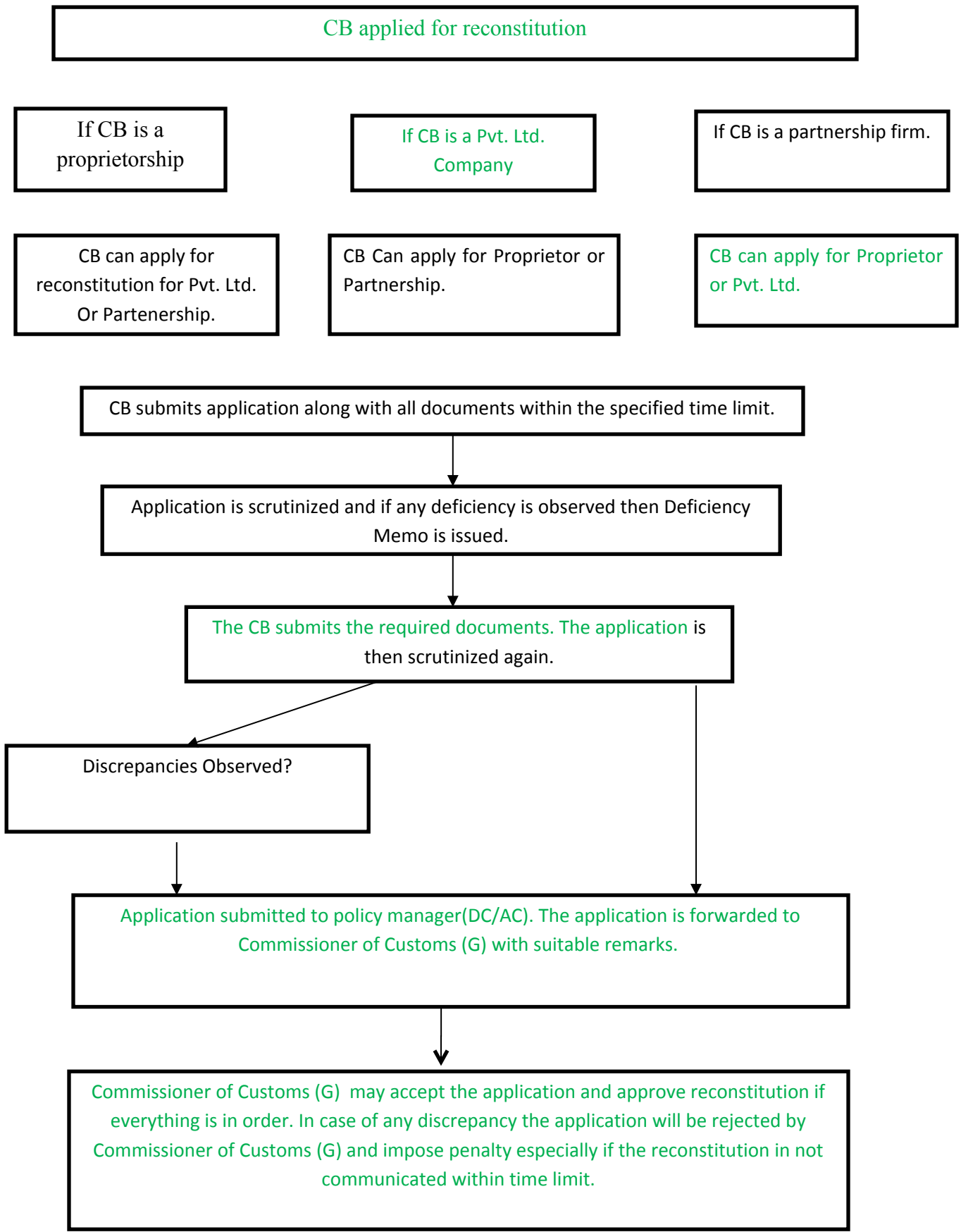
- a) Private limited to Partnership
- b) Private limited to proprietorship
- c) Partnership to Private limited
- d) Partnership to Proprietorship
- e) Proprietorship to Private limited
- f) Proprietorship to Partnership

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 proprietorshipIf applicant is proprietorship, the two options available are -
 - a) Proprietorship to Private limited
 - b) Proprietorship to PartnershipIf applicant is partnership, two options available are –
 - a) Partnership to Private limited
 - b) Partnership to Proprietorship
- 3) The applicant has to choose one 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 removed to Commissioner who may decide according to the merit of the case. The decision of Commissioner should be communicated to CB.

Reconstitution Work flow



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 sent 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

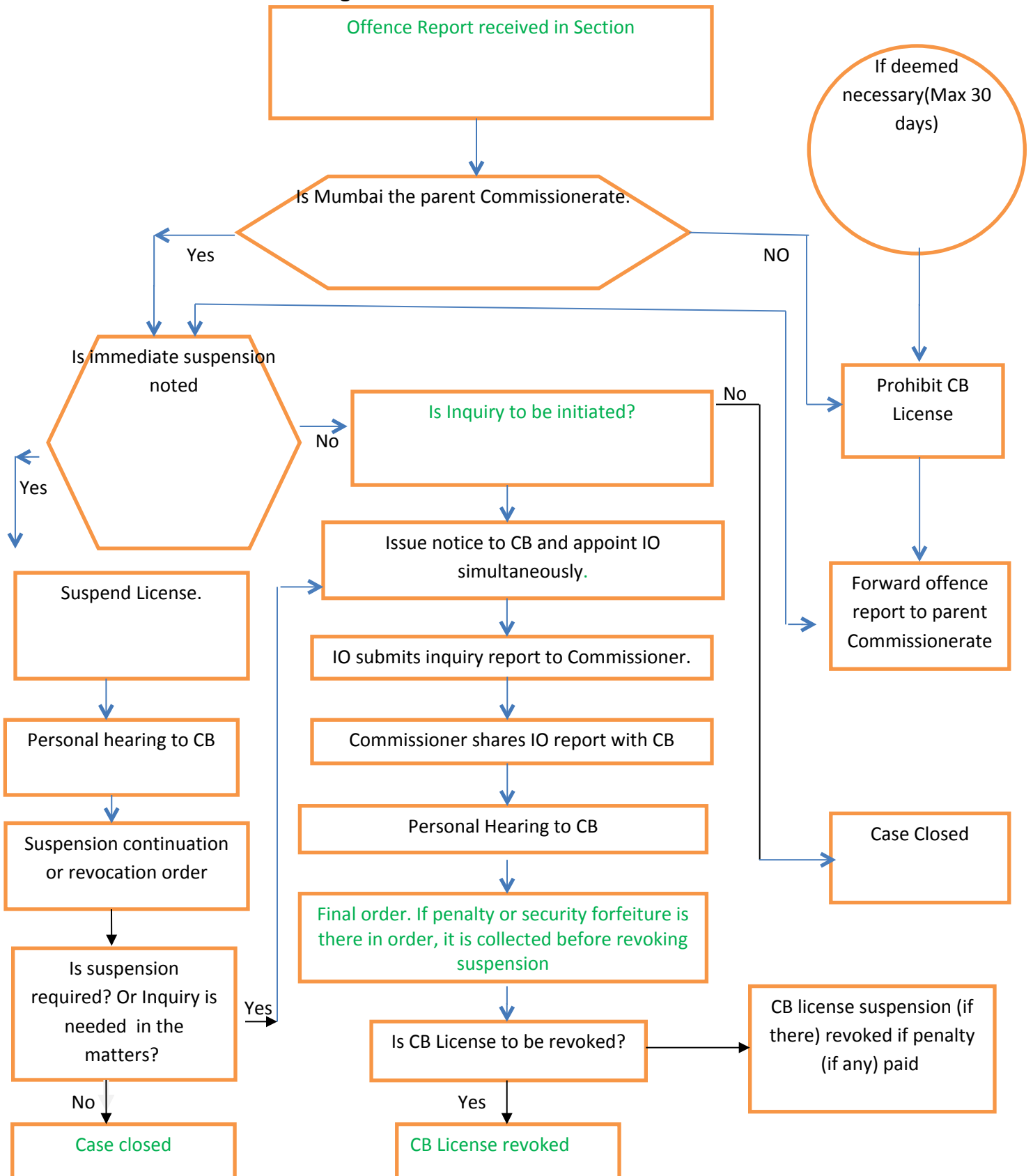
180 days IO submits report to Commr. Within 90 days of notice issuance

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



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

