

NOTE ON FUTURE OF CUSTOM BROKER

There have been numerous cases where it is noticed that CBr have been charged by Customs for violating Regulation 1 (4) of the Customs Broker Licensing Regulations 2018 (and the preceding ones) inter alia other Regulations.

The Federation has also come across many cases:

1. where individuals who have passed the G Card exam request other Customs Brokers for endorsing the CBr Licence to other cities under Regulation 7 (3) of the 2018 Regulations
2. Use the password and identification of an existing CBr to transact Customs Brokerage.

In both cases it is done specifically since an Individual who does not have a License but has an opportunity to undertake Customs clearance and uses the CBr License of another for commercial purposes by bypassing all the Regulations applicable to a CBr.

In all cases the person using the License of another does not qualify to be Licensed by Customs.

Regulation 7 (3) read with Regulation 13 (6) gives an easy route to bypass the requirement of a CBr License by such individuals.

It needs to be understood clearly that there is a misuse of these Regulations.

[Large number of Customs Brokers use Regulation 7 (3) along with Regulation 13 (6) to do fully compliant and legitimate business].

The need is to find a way to curb the misuse.

Another angle to the misuse is that if there is an issue and the License is to be Prohibited or Suspended or Revoked the erring individual - in all cases the person hiring the License used to go Scot free and the License holder used to be punished. To make it equitable and curb such practices a small step was initiated in the Customs Broker Licensing Regulations to take suitable action against the G card holder also in case of an offence under the Regulations ; The Customs Act and Allied Acts. This measure though welcome has had limited impact on curbing this nuisance.

The Regulations cast many obligations on the CBr - the important ones being :

1. KYC
2. Know your staff.

The Federation would like to submit as below:

1. Everyone working in Customs on a Customs Brokers License must always prominently wear the Customs pass on their person.
2. Whenever a G card is issued in addition to appointment letter of the CBr License holder department may like to check the Salary and other payments being made to the individual concerned.
3. CBr to give a declaration while receiving a new License or endorsing the same to another city or submitting the same for renewal that :
 - (A) Bills have been raised for all Customs Clearance undertaken with their own GST number.
 - (B) All G cards issued under their License are in their direct employment and all processes of compliance under the Provident Fund Act ; Employees State Insurance Scheme ; Local shops and Establishment requirements (per location) have been met with and complied.

Department may also like to randomly verify availability of documents for clearance within the 5 year period in each city where the License is sought to be operational.

FFFAI needs to be careful to remain within the Regulations and also be sensitive that there are large number of compliant Customs Brokers who must not be affected. Further we should not really link or billing to the actual Importer or Exporter since regulations refer only to KYC.