

**THE OFFICIAL GAZETTE – 24TH DECEMBER, 1983**  
**LEGAL SUPPLEMENT – B**

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GUYANA

No. 6 of 1983

REGULATIONS

Made Under

THE CUSTOMS ACT  
(Cap. 82:01)

IN EXERCISE OF THE POWERS CONFERRED UPON ME BY SECTIONS 243 AND 275 OF THE CUSTOMS ACT, I HEREBY MAKE THE FOLLOWING REGULATIONS:—

1. These Regulations, which amend the Customs Regulations\*, may be cited as the Customs (Amendment) Regulations 1983. Citation.
  
2. Regulation 14 of the Principal Regulations is hereby amended by renumbering paragraph (3) thereof inserted by the Customs (Amendment) Regulations No. 3 of 1981 as paragraph (4) of Regulation 14. Amendment of Regulation 14 of the Principal Regulations
  
3. Regulation 174 of the Principal Regulations is hereby amended in the following respects:— Amendment of Regulation 174 of the Principal Regulations.
  - (a) by the insertion in paragraph (1) immediately after the words “in this regulation” of the words “and as specified by the Comptroller”;
  - (b) by the substitution in paragraph (2) —
    - (i) for the word “four” of the word “twenty-five”;
    - (ii) for the word “two” of the word “fifteen”;
  - (c) by the substitution in paragraph (3) for the word “one” of the word “five”;

\*Cap. 82:01 Subsidiary Legislation

- (d) by the substitution in paragraphs (4) and (5) for the word "four" wherever it occurs of the word "fifteen";
- (e) by the deletion of paragraph (6) and the substitution of the following paragraph therefor;
  - "(6) In respect of services rendered, other than as mentioned in paragraphs (2) to (5), the fees to be paid shall be determined in accordance with the number of officers of the Customs and Excise Department employed and calculated in accordance with the rates of overtime as specified by the Comptroller."

Insertion of new PART XXI. 4. PART XXI of the Principal Regulations is hereby revoked and the following PART substituted therefor —

**"PART XXI**

**CUSTOMHOUSE BROKER**

Where a licence is required.

202. Subject to regulation 203, a person shall not transact business with the Customs on behalf of others unless he holds a licence to do so issued by the Comptroller. Any person not so licensed shall not charge any fee or accept any other consideration such as special inducement, promise or advantage, bestowal of gift or favour or other things of value. The licence shall be in Form C65 and shall be valid from the date of issue until 31st December in the same year. The fee to be charged for such licence shall be \$500.00 annually.

Where no licence is required.

203. No licence shall be required to engage in transactions with the Customs or any representative thereof by the following —

- (a) an importer or exporter transacting business with the Customs solely on his own behalf or his authorised regular employees or officers who act only for him in the transaction of such business;
- (b) an employee of a broker acting solely for his employer where —
  - (i) the broker has authorised the employee, a resident of Guyana, to sign Customs documents on his behalf and has filed a power

of attorney for that purpose with the Comptroller; or

(ii) the broker has filed with the Comptroller a statement identifying the employee as authorised to transact business on his behalf;

(c) an authorised agent of the master or owner of an aircraft or ship transacting business in connection with entry and clearance of such aircraft or ship.

**Withdrawal of authority to sign Customs documents.** 204. Where the employee is given authority under either regulation 203 (b) (i) or 203(b) (ii) the broker shall promptly give notice to the Comptroller of the withdrawal of authority of any such employee.

**Saving as to licences issued prior to regulations.** 204A. Licences in force which have been issued prior to the effective date of these regulations shall continue in force up to and including 31st December, 1983.

**Basic requirements for licensed broker.** 204B. An applicant for a licence shall —

- (a) where the applicant is an individual
  - (i) be a citizen of Guyana but not an officer or employee of the Government of Guyana;
  - (ii) be eighteen years of age or upwards;
  - (iii) be of good character;
  - (iv) establish through an examination that he has sufficient knowledge of Customs and related laws, regulations and procedures to render valuable service to importers and exporters. Sufficient knowledge shall be established in part by obtaining a certificate showing that at least seventy-five per cent of the marks were obtained at the examination; and
  - (v) have an office in which his Customs transactions shall be performed;

- (b) where the applicant is a partnership —

  - (i) be registered under the Business Names (Registration) Act;
  - (ii) be a partnership of which at least two partners are licensed brokers; and
  - (iii) be a partnership which has an office in which its Customs transactions are performed by a partner who is a licensed broker or a qualified employee under the responsible supervision and control of such partner;
- (c) where the applicant is a company, corporation or an unincorporated body —

  - (i) in the case of a company, be a company registered under the Companies Act;
  - (ii) be a company, corporation or unincorporated body empowered to transact business with the Customs on behalf of others;
  - (iii) have at least two officers who are licensed brokers; and
  - (iv) have an office in which its Customs transactions are performed by a licensed broker or a qualified employee under the responsible supervision and control of a licensed broker.

**Application for Licence.** 204C An application for a broker's licence shall be submitted to the Comptroller along with a police clearance of the applicant and a fee of two hundred and fifty dollars which shall be held on deposit pending processing of the application. The application shall be submitted not later than thirty days before the examination which the applicant shall be required to take under regulation 204B.

**Publication of notice of application.** 204D. Upon receipt of the application the comptroller shall cause a notice to be published in the Gazette on at least two consecutive Saturdays stating that the application has been filed. The notice shall

give the name and address of the applicant and, if the applicant is in a partnership or intends to transact business with the Customs on behalf of a company, corporation or an unincorporate body, the name and address of such partnership, company, corporation or unincorporate body. The notice shall invite written comments or information regarding the issue of the licence not later than seven days after the date of the last publication.

**Withdrawal of application.** 204E. If, before the date of an examination, an applicant informs the Comptroller that he is desirous of withdrawing his application, that application shall be treated as withdrawn. The Comptroller shall refund fifty dollars from the application fee held on deposit to the applicant and the balance shall be brought to account by the Comptroller.

**Examination of applicant for Customs broker's licence.** 204F. The written examination shall be designed to determine the applicant's knowledge of Customs and related laws, regulations and procedures and his ability to render valuable service to importers and exporters. The examination shall be prepared and graded in the headquarters of the Customs and Excise Department in Georgetown, Guyana.

**Date and place of Examination.** 204G. Examinations shall be held at the Customs and Excise Department in Georgetown on the first Monday in April and October annually or at such times as the Comptroller may direct. The Comptroller shall give the applicant notice of the exact time and place when and where the examination shall be held.

**Failure to appear for examination** 204H. If the applicant fails to appear for an examination without notification in advance or explanation reasonable in the opinion of the Comptroller of the circumstances which made it impossible or impracticable to give notification, the Comptroller shall inform him that his application is denied because of his failure to appear for the examination to establish his qualifications for a licence, and the application fee held on deposit shall be brought to account by the Comptroller.

**Failure to pass examination.** 204I. If the applicant does not obtain a grade satisfactory to the Comptroller, the Comptroller shall inform him that the application for a licence is denied because of failure to pass the examination, and the application fee held on deposit shall be brought to account by the Comptroller.

- Success at examination. 204J. If the applicant is successful at the examination, the Comptroller shall refer the application to the proper officer for an investigation and report.
- Investigation of applicant. 204K. The investigation shall ascertain facts relevant to the question whether the applicant is qualified and shall cover, but need not be limited to —
- (a) the accuracy of the statements made in the application;
  - (b) the business integrity of the applicant; and
  - (c) the reputation of the applicant.
- Report and return of application. 204L. The proper officer shall return the application with his report and recommendation to the Comptroller, who may require further investigation to be conducted if additional facts are deemed necessary in respect of the application.
- Security. 204M. If the Comptroller finds that the applicant is qualified, he shall require the applicant to give security in such sum to assure compliance with any pertinent law, regulation or instruction or for the protection of the revenue.
- Issue of certificate and licence. 204N. When an applicant who has, to the satisfaction of the Comptroller, complied with all the provisions of these regulations necessary for the granting of a licence, the application fee held on deposit shall be brought to account and the applicant issued with a certificate, which shall, on presentation to the proper officer, be evidence of the applicant's right to be granted a licence or the renewal thereof. On payment of the licence fee prescribed by regulation 202 he shall be issued with a licence. Such licence shall be issued in the name of the individual licensee and not in his capacity as a member or officer of the organisation with which he is connected.
- Denial of application for licence. 204O. If the Comptroller determines that the application for a licence shall be denied for any reason, notice of denial in writing shall be given by him to the applicant. The notice of denial shall state the reasons why the licence was not issued.
- Grounds for denial of application for or revocation or suspension of licence. 204P. The grounds sufficient to justify denial of an application for or a revocation or suspension of a licence shall include —

- (a) failure or refusal to comply with the duties, responsibilities or requirements of a Custom-house broker;
- (b) failure to meet any requirement set forth in these regulations;
- (c) failure to establish the business integrity and goods character of the applicant;
- (d) any wilful misstatement of pertinent facts in the application;
- (e) any conduct which would be deemed unfair in commercial transactions by accepted standards;
- (f) a reputation imputing to the applicant's criminal, dishonest or unethical conduct, or a record of such conduct; or
- (g) any other ground which, in the opinion of the Comptroller, is sufficient.

**Re-application for licence.** 204.Q Each applicant who has been denied a licence may re-apply at any time in accordance with the provisions of these regulations.

**Record of transactions** 204R. Each broker shall keep, in a correct, orderly and itemised manner, records of account reflecting all his financial transactions as a broker. He shall keep and maintain on file a copy of each entry, specification or shipping bill made by him with all supporting papers, copies of all his correspondence and all other documents relating to his Customs business.

**Retention of books and papers.** 204S. Books and papers, other than powers of attorney, as defined in regulation 204 II and required by regulation 204R to be kept by a broker, shall be retained for at least three years after the date of entry.

Powers of attorney shall be retained until revoked, and revoked power of attorney and letters of revocation shall be retained for three years after the date of revocation.

**Books and papers confidential.** 204T. All books and papers referred to in these regulations which pertain to the business of a client of a broker shall be considered confidential, and the broker shall not disclose their contents or any in-

formation connected therewith to any person other than such client, an officer or other accredited officer, or employee of the Government of Guyana acting in the execution of his duties, except on subpoena by a court of competent jurisdiction.

**Books and papers for examination.** 204U. During the period of retention, the broker shall keep his books and papers in such manner that they may readily be examined, and they shall be made available for inspection, copying, reproduction or other official use by the Customs on demand within the period of retention or within any longer period of time during which they remain in the possession of the broker.

**Interference with examination of books and papers.** 204V. A broker shall not refuse access to, conceal, remove or destroy the whole or any part of any book or paper relating to his transactions as a broker which is being sought, or which the broker has reasonable grounds to believe may be sought by the Customs or any representative thereof, nor shall he otherwise interfere, or attempt to interfere, with any proper and lawful efforts to procure or reproduce information contained in such book or paper.

**Audit or inspection of books and papers.** 204W. An officer shall make such audit or inspection of the books and papers required to be kept and maintained by a broker as may be necessary to enable the Comptroller or other proper officer to determine whether or not the broker is complying with the requirements of these regulations. Furthermore, the officer may inspect such books and papers to obtain information regarding specific Customs transactions for the purpose of protecting importers or the revenue. The officer conducting the audit or inspection shall submit a report of the findings to the Comptroller.

**Responsible supervision.** 204X. Every licensed broker operating as a sole proprietor, every licensed broker who is a partner in a partnership or an officer of a company, corporation or unincorporate body which is licensed as a broker shall exercise responsible supervision and control over the transaction of business with the Customs of such sole proprietorship, partnership, company, corporation or unincorporate body.

**List of employees.** 204Y. Within 30 days after the date of a written demand by the Comptroller, a licensed Customhouse broker shall submit a list of the names, addresses, licence numbers and national identification card num-



bers persons currently employed. He shall, within ten days after the employment of any new employees, furnish the Comptroller with the names, addresses and national identification card numbers of such employees. If the employment of any such employees is terminated, the Customhouse broker shall promptly inform the Comptroller.

Supervision  
of employees.

204Z. Every broker shall exercise such supervision of his employees so as to ensure proper conduct on the part of the employees in the transaction of business with the Customs. Every broker shall be held strictly responsible for the acts or omissions of his employees within the scope of their employment and for the acts or omissions of such employees which, in the exercise of reasonable care and diligence, the broker should have foreseen.

Diligence in  
correspondence.

204AA. Each broker shall exercise due diligence in answering correspondence and in preparing or assisting in the preparation and filing of documents relating to any matter handled by him as a broker.

Change of  
business  
address.

204BB. When a broker changes his business address, he shall immediately give written notice of his new address to the Comptroller.

Change of  
organisation.

204CC. A partnership, company, corporation or unincorporate body shall immediately notify the Comptroller of the date on which any broker who is a partner, member, or officer of such partnership, company, corporation or unincorporate body ceases to be one of its partners, members or officers and the name of the broker who will succeed him as a partner, member or officer; or of any change in the Articles of Agreement, Articles of Association or the provisions of any Act establishing any such body.

Change of  
name.

204DD. A broker who changes his name shall submit to the Comptroller evidence of his authority to use the new name.

False in-  
formation.

204EE. A broker shall not file or cause to be filed or assist in the filing of any claim, or of any document, affidavit, or other paper, known by such broker to be false, nor shall he knowingly give or solicit or procure the giving of any false or mis'leading information or testimony in any matter pending before the Customs.

**Government records.** 204FF. A broker shall not procure or attempt to procure, directly or indirectly, information from Government records of any officer of the Government, being information to which access is not granted by the proper authority.

**Undue influence upon an officer.** 204GG. A broker shall not influence or attempt to influence the conduct of any officer in any matter pending before the Customs or any representative thereof by the use of threat, false accusation, duress, or the offer of any special inducement or promise of advantage, or by bestowing any gift or favour or other things of value.

**Offences.** 204HH. Any person who commits a breach of any of these regulations shall be guilty of an offence.

**Definitions.** 204II. In this Part —

“books and papers” include all books, accounts, records, papers, documents, powers of attorney and correspondence of a broker relating to his customs business;

“Customhouse broker” or “broker” means a person who is licensed under these regulations to transact business with the Customs on behalf of others.”.

**Amendment of Form C. 65 of the Principal Regulations.** 5. Form C. 65 of the Principal Regulations is hereby amended by the substitution for the heading “CLEARING AGENTS LICENCE” of the heading “CUSTOMHOUSE BROKERS LICENCE” and for the words “\$5.00” of the words “\$500.00”.

Made this 7th day of December, 1983.

*Carl B. Greenidge,*  
Minister of Finance and Economic Planning.