

# **MEMORANDUM D1-8-1**

Ottawa, March 26, 1993

## **SUBJECT**

### **LICENSING OF CUSTOMS BROKERS**

This Memorandum outlines and explains the procedures to be followed by an individual or company when applying for a Customs Brokers Licence, and the conditions under which such a customs broker must operate once the licence is issued.

#### **Regulations**

### **REGULATIONS RESPECTING THE LICENSING OF CUSTOMS BROKERS**

#### **Short Title**

1. These Regulations may be cited as the Customs Brokers Licensing Regulations.

#### **Interpretation**

2. In these Regulations,  
"Act" means the Customs Act;  
"chief officer of customs", with respect to a customs broker, means the manager of a local customs office or customs offices that serve the area in which the broker transacts business, or proposes to transact business, as a customs broker;  
"licence" means a licence to transact business as a customs broker issued pursuant to section 9 of the Act.

#### **Prescribed Qualifications for Customs Brokers**

3. (1) An individual is qualified under these Regulations if the individual
  - (a) is a citizen or permanent resident of Canada;
  - (b) is of good character;
  - (c) is at least eighteen years of age;
  - (d) has sufficient financial resources to conduct his business in a responsible manner;  
and
  - (e) has a sufficient knowledge of the laws and procedures relating to importations and exportations determined in accordance with section 4.

(2) A partnership is qualified under these Regulations if the partnership

(a) in the case of a partnership composed of individuals,

(i) is composed of individuals each of whom meets the qualifications prescribed in paragraphs (1)(a) to (c),

(ii) has sufficient financial resources to conduct its business in a responsible manner, and

(iii) has at least one partner who has a sufficient knowledge of the laws and procedures relating to importations and exportations determined in accordance with section 4; and

(b) in the case of a partnership composed of corporations,

(i) is composed of corporations each of which meets the qualifications prescribed in paragraphs (3)(a) to (c),

(ii) has sufficient financial resources to conduct its business in a responsible manner, and

(iii) has at least one partner that meets the qualification prescribed in paragraph (3)(d).

(3) A corporation is qualified under these Regulations if

(a) the corporation

(i) is incorporated in Canada,

(ii) is of good reputation, and

(iii) has sufficient financial resources to conduct its business in a responsible manner;

(b) all of the directors of the corporation are of good character;

(c) a majority of the directors of the corporation are citizens or permanent residents of Canada; and

(d) at least one officer of the corporation has a sufficient knowledge of the laws and procedures relating to importations and exportations determined in accordance with section 4.

4. (1) Subject to subsection (2), a sufficient knowledge of the laws and procedures relating to importations and exportations is established, for the purposes of paragraph 3(1)(e), subparagraphs 3(2)(a)(iii) and (b)(iii) and paragraph 3(3)(d) if the individual, partner or officer has

(a) first attained a grade of at least 60 per cent on the Customs Brokers Qualifying Examination given pursuant to section 15; and

(b) attained a grade of at least 60 per cent on the Customs Brokers Professional Examination given pursuant to section 15, if

(i) the examination was written not more than six months before the date of the application for a licence, or

(ii) where the examination was written more than six months before the date of the application for a licence, the individual, partner or officer transacted business as a customs broker, whether on his own behalf or on behalf of a licensee, from within six months after the date on which the examination was written until not more than six months before the date of the application for the licence.

(2) For the purposes of paragraph 3(1)(e), subparagraphs 3(2)(a)(iii) and (b)(iii) and paragraph 3(3)(d), a sufficient knowledge of the laws and procedures relating to importations and exportations is established, if the individual, partner or officer

(a) prior to the coming into force of these Regulations, met the requirement under the Custom-House Brokers Licensing Regulations of having a sufficient knowledge of the law relating to customs matters to discharge the obligations of a customs broker; and

(b) transacted business as a customs broker, whether on his own behalf or on behalf of a person to whom a licence was issued under subsection 118(1) of the former Customs Act, being chapter C-40 of the Revised Statutes of Canada, 1970, until not more than six months before the date of the application for a licence.

#### **Prescribed Qualifications for Persons Transacting Business as Customs Brokers on Behalf of Persons so Licensed**

5. (1) An individual who is not a licensed customs broker who transacts business as a customs broker on behalf of an individual who is a licensed customs broker must be an employee of the licensed customs broker and

(a) meet the qualifications prescribed in paragraphs 3(1)(a) to (c); and

(b) have a sufficient knowledge of the laws and procedures relating to importations and exportations, determined in accordance with section 6.

(2) An individual who is not a licensed customs broker who transacts business as a customs broker on behalf of a partnership composed of individuals that is a licensed customs broker must be

(a) a partner of the partnership and

(i) meet the qualifications prescribed in paragraphs 3(1)(a) to (c), and

(ii) have a sufficient knowledge of the laws and procedures relating to importations and exportations, determined in accordance with section 4; or

(b) a partner or an employee of the partnership and

(i) meet the qualifications prescribed in paragraphs 3(1)(a) to (c), and

(ii) have sufficient knowledge of the laws and procedures relating to importations and exportations determined in accordance with section 6.

(3) An individual who is not a licensed customs broker who transacts business as a customs broker on behalf of a partnership composed of corporations must be

(a) an officer of one of the partners and

(i) meet the qualifications prescribed in paragraphs 3(1)(a) to (c), and

(ii) have sufficient knowledge of the laws and procedures relating to importations and exportations determined in accordance with section 4; or

(b) an employee of one of the partners or of the partnership and

(i) meet the qualifications prescribed in paragraphs 3(1)(a) to (c), and

(ii) have sufficient knowledge of the laws and procedures relating to importations and exportations, determined in accordance with section 6.

(4) An individual who is not a licensed customs broker who transacts business as a customs broker on behalf of a corporation that is a licensed customs broker must be

(a) an officer of the corporation and

(i) meet the qualifications prescribed in paragraphs 3(1)(a) to (c), and

(ii) have a sufficient knowledge of the laws and procedures relating to importations and exportations, determined in accordance with section 4; or

(b) an employee of the corporation and

(i) meet the qualifications prescribed in paragraphs 3(1)(a) to (c), and

(ii) have a sufficient knowledge of the laws and procedures relating to importations and exportations determined in accordance with section 6.

6. For the purposes of paragraphs 5(1)(b), (2)(b), 3(b) and 4(b), an individual has a sufficient knowledge of the laws and procedures relating to importations and exportations if the person

(a) attained a grade of at least 60 per cent on the Customs Brokers Qualifying Examination given pursuant to section 15;

(b) meets the knowledge requirement determined in accordance with subsection 4(2);  
or

(c) establishes that

(i) prior to the coming into force of these Regulations, he had successfully completed the Customs Brokers Employee Qualifying Course given by the Canadian Institute of Customs House Brokers, and

(ii) he has been continuously employed since completing the Course referred to in subparagraph (i) in the transaction of business as a customs broker on behalf of a person to whom a licence was issued under subsection 118(1) of the former Customs Act, being chapter C-40 of the Revised Statutes of Canada, 1970.

### **Application for Licence or Renewal**

7. An application for a licence must be made in the prescribed form and be submitted in duplicate to the chief officer of customs for the area in which the applicant proposes to transact business as a customs broker.

8. (1) On receipt of an application for a licence and before a licence is issued, the chief officer of customs to whom the application is made shall display, for a period of two weeks in the customs office managed by him, a public notice of the application, setting out

(a) where the applicant is an individual, the applicant's full name and address and the business name to be used,

(b) where the applicant is a partnership composed of individuals,

- (i) the full name and address of each partner,
  - (ii) the name of each partner who meets the knowledge requirement determined in accordance with section 4, and
  - (iii) the business name to be used;
- (c) where the applicant is a partnership composed of corporations
- (i) the legal name of each partner,
  - (ii) the head office address of each partner,
  - (iii) the name and address of every officer and director of each partner,
  - (iv) the names of the officers and directors of each partner who meet the knowledge requirement determined in accordance with section 4, and
  - (v) the business name to be used,
- (d) where the applicant is a corporation,
- (i) the legal name of the corporation,
  - (ii) the head office address of the corporation,
  - (iii) the name and address of each officer and director,
  - (iv) the name of each officer or director who meets the knowledge requirement determined in accordance with section 4, and
  - (v) the business name to be used if other than the legal name of the corporation,
- (e) the name of the individual who will manage each business office,
- (f) the name of each individual who will transact business on a full-time basis as a customs broker at a business office maintained in the area served by that customs office and meets the knowledge requirement determined in accordance with section 6,
- (g) in respect of each individual referred to in paragraph (f), the business office of the applicant at which the individual will transact business.
- (2) The notice referred to in subsection (1) shall invite written comments or information from the public regarding the application.

9. An application for the renewal of a licence must be made in the prescribed form, and must be submitted in duplicate to the chief officer of customs at the customs office located at the place specified in the licence not later than the 15th day of February preceding the day on which the licence will expire.

### **Security**

10. (1) Before a licence is issued or renewed, the customs broker shall, in respect of the licence to be issued or renewed, deposit security with the chief officer of customs in the amount of \$50,000 to protect Revenue Canada for Customs and Excise against loss while the licence or renewal thereof is in effect.

(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 permitted by the statutes under which those institutions were established,

(iv) a credit union as defined in paragraph 137(6)(b) of the Income Tax Act,

(v) a corporation that accepts deposits from the public, if repayment of the deposits is guaranteed by Her Majesty in right of a province, or

(vi) a bank named in Schedule A or B to the Bank Act.

## **Fees**

11. (1) A fee of \$600 must be paid before a licence is issued.

(2) A renewal fee of \$600 must be paid before a licence is renewed.

(3) A renewal fee must be refunded if, prior to the 15th day of February preceding the day on which the licence will expire, the customs broker withdraws the application for renewal by notice in writing to the chief officer of customs.

## **Duration**

12. A licence, including a licence that has been renewed, expires on the 31st day of March next following the date on which the licence or its renewal is expressed to be effective.

## **Terms and Conditions**

13. (1) Subject to subsection (2), a licence authorizes the holder to transact business as a customs broker

(a) at the customs office specified in the licence, if the holder maintains at least one business office in the area served by that customs office;

(b) at any customs office located at a place set out in the schedule; and

(c) at any other customs office, through a qualified customs broker whose licence specifies that customs office, if the business originates within the area referred to in paragraph (a).

(2) A licence only authorizes the transaction of business as a customs broker at a business office referred to in paragraph (1)(a) if at least one individual who transacts business on a full-time basis as a customs broker at the business office meet the knowledge requirement determined in accordance with section 4, if the individual transacts business on his own behalf, or in accordance with section 6, if the individual transacts business on behalf of another person.

## **Transaction of Business as a Customs Broker**

14. Every customs broker shall

(a) display prominently at each business office at which he transacts business as a customs broker



- (i) where the customs broker is a partnership or a corporation, a sign bearing the name under which the partnership or corporation is authorized to transact business as a customs broker, and
  - (ii) the licence or a copy thereof;
- (b) immediately notify in writing the chief officer of customs of any change
- (i) in the address of a business office at which he transacts business as a customs broker,
  - (ii) in the legal or business name of the partnership or the corporation, where the customs broker is a partnership or a corporation,
  - (iii) in the membership of the partnership, where the customs broker is a partnership,
  - (iv) in the officers or directors of the corporation, where the customs broker is a corporation,
  - (v) of a manager of a business office,
  - (vi) in the ownership of the business or corporation, where the customs broker is an individual or corporation, and
  - (vii) in the individuals meeting the knowledge requirement determined in accordance with section 4 who are employed on a full-time basis by the holder of the licence;
- (c) furnish to the importer or exporter in respect of each transaction made on his behalf a copy of the customs accounting documents pertaining thereto, bearing the customs accounting number and official customs stamp; and
- (d) promptly account to a client importer or exporter for funds received
- (i) for the client from the Receiver General for Canada, and
  - (ii) from the client in excess of the duties or other charges payable in respect of the client's business with the of Revenue Canada for Customs and Excise.

## **Examinations**

15. (1) The Customs Brokers Professional Examination and the Customs Brokers Qualifying Examination shall be given at least twice a year at such times as the Minister or a person designated by him for the purposes of section 9 of the Act directs.

(2) Notice of the time and place of an examination shall be posted in the office of the chief officer of customs and shall be mailed to all individuals who have expressed an interest in taking the examination, not less than 60 days prior to the date of the examination.

16. Each individual proposing to write an examination must

(a) file an application therefor in the prescribed form with the chief officer of customs at the nearest customs office at least 30 days prior to the date set for the examination; and

(b) at the time the application is made, pay a fee of

(i) \$100, in the case of the Customs Brokers Professional Examination, or

(ii) \$25, in the case of the Customs Brokers Qualifying Examination.

## **Records**

17. (1) Every customs broker shall keep

(a) records and books of account indicating all financial transactions made while transacting business as a customs broker;

(b) a copy of each customs accounting document made while transacting business as a customs broker and copies of all supporting documents;

(c) copies of all correspondence, bills, accounts, statements and other papers received or prepared by him that relate to the transaction of business as a customs broker; and

(d) separately, all of the records, books of account and copies of transactions referred to in paragraphs (a) to (c) relating to business transacted pursuant to paragraph 13(1)(c).

(2) Every customs broker shall retain the records, books of account and copies mentioned in paragraphs (1)(a) to (d) for a period of six years from the end of the calendar year

(a) in respect of which the records and books of account are kept;

(b) in which the customs accounting document is made; or

(c) in which the correspondence, bills, accounts, statements or other papers were received or prepared by the customs broker.

## **Cancellation or Suspension**

18. (1) The Minister or a person designated by the Minister for the purposes of section 9 of the Act may suspend or cancel the licence of a customs broker if the customs broker has

- (a) contravened the provisions of an Act of Parliament or a regulation made thereunder relating to the importation or exportation of goods;
- (b) acted to defraud Her Majesty or a client;
- (c) suggested a plan for the evasion of any duties or other debts due to Her Majesty in right of Canada that involves the contravention of the provisions of an Act of Parliament or a regulation made thereunder;
- (d) failed to comply with these Regulations;
- (e) became insolvent or bankrupt;
- (f) engaged in any dishonest conduct while transacting business as a customs broker;
- (g) ceased to carry on business as a customs broker or failed to carry out his duties and responsibilities as a customs broker in a competent manner; or
- (h) is no longer qualified under these Regulations.

(2) Before a licence is cancelled or suspended the Minister or a person designated by him for the purposes of section 9 of the Act shall cause to be given to the customs broker

- (a) 30 days notice of the proposed cancellation or suspension;
- (b) reasonable information concerning any allegations with respect to any of the grounds referred to in paragraphs (1)(a) to (h) on which the Minister proposes to cancel or suspend the licence;
- (c) a reasonable opportunity to respond and make representations as to why the licence should not be cancelled or suspended.

## **Surrender of Licence**

19. Every customs broker shall forthwith surrender his licence to the chief officer of customs at the customs office specified in the licence if

(a) the licence has been cancelled; or

(b) the customs broker has ceased to transact business as a customs broker.

## **SCHEDULE**

### **Province of Newfoundland**

Argentia  
Botwood  
Burin  
Fortune  
Gander  
Goose Bay Airport  
Grand Falls  
Harbour Grace  
Port-aux-Basques

### **Province of Nova Scotia**

Amherst  
Antigonish  
Baddeck  
Bridgewater  
Digby  
Liverpool  
Lunenburg  
Middleton  
New Glasgow  
Shelburne  
Windsor

### **Province of Prince Edward Island**

Charlottetown  
Summerside

**Province of New Brunswick**

Andover  
Campbellton  
Campobello  
Caraquet  
Centreville  
Clair  
Grand Falls  
Grand Manan  
McAdam  
Newcastle  
St. Andrews  
St. Leonard  
Sussex

**Province of Québec**

Cap-aux-Meules  
Daaquam  
Dundee  
East Hereford  
Farnham  
Frelighsburg  
Gaspé  
Hemmingford  
Lac Mégantic  
La Tuque  
Montmagny  
Noyan  
Paspébiac  
Pohénégamook  
Rimouski  
Rivière-du-Loup  
Sutton

**Province of Ontario**

Carleton Place  
Cochrane  
Goderich  
Kenora  
Little Current  
Nanticoke  
Parry Sound  
Pembroke  
Port Colborne  
Port Hope

Port Lambton  
Southampton  
Tillsonburg

**Province of Manitoba**

Coulter  
Crystal City  
Gretna

**Province of Saskatchewan**

North Battleford  
Weyburn  
Yorkton

**Province of British Columbia**

Boundary Bay  
Cascade  
Courtenay  
Kitimat  
Nelson

**GUIDELINES AND GENERAL INFORMATION**

**LICENSING ADVISORY COMMITTEE (LAC)**

1. The Licensing Advisory Committee advises the Minister on the issuance, renewal, suspension or cancellation of licences and on any other matters respecting the licensing of brokers. Committee consists of:

- (a) the Assistant Deputy Minister, Customs Programs Branch and the Assistant Deputy Minister, Customs Operations Branch;
- (b) a representative of the Canadian Society of Customs Brokers (CSCB); and
- (c) a second representative of the Canadian Society of Customs Brokers (CSCB) acts as an observer on the Committee.

2. The position of Secretary to the Committee is held by the Director, Inspection and Control Division, Customs Operations Branch. The role of the Secretary is to administer the business of the Committee and advise any individual regarding the Committee's decisions in connection with the granting of licences and other matters.

## **QUALIFICATIONS**

3. A licence can be granted to a sole proprietorship, a corporation or a partnership of individuals or corporations. The qualifications for each type of licence are contained in section 3 of the Regulations.

### **Qualified Officer**

4. Throughout this Memorandum, the term "qualified officer" refers to an individual who has been granted a licence on his own behalf or on behalf of a partnership or corporation. In addition to meeting the requirements of section 3 of the Regulations governing such items as residency, citizenship, age and character, this individual must meet the knowledge and experience qualifications set out in section 4 of the Regulations.

5. Qualified officers can lose their eligibility to apply for a licence through a break in service within the brokerage industry over six months. Where an individual's eligibility is forfeited due to such a break in service, their status may be reacquired through successful completion of the Customs Brokers Professional Examination.

### **Qualified Person**

6. An individual who has been designated to transact business with Customs on behalf of a licensed broker is referred to as a "designated qualified person". In addition to meeting the requirements of section 3 of the Regulations governing such items as citizenship, age and character, this individual must meet the knowledge and experience qualifications of section 6 of the Regulations.

7. The designated qualified person of a brokerage firm must be an owner, partner, or employee of the business.

8. Qualified persons who meet the knowledge qualifications through successful completion of the qualifying course offered by the former Canadian Institute of Customs-House Brokers (prior to 1986) are required to be continuously employed with a licensed customs broker in order to maintain eligibility to be a designated qualified person. Where an individual's eligibility is forfeited due to a break in service, their status may be reacquired through successful completion of the Customs Brokers Qualifying Examination. A sample of the Application for Customs Brokers Qualifying Examination, form L 55A, is contained in Appendix A to this Memorandum.

### **Absence of Designated Qualified Person**

9. Absences of the designated qualified person from a brokerage firm will be permitted in the following circumstances:

(a) For planned absences, such as vacation or maternity leave, the qualified person may be absent for a period of up to four (4) weeks provided that a temporary replacement is obtained. Where such a replacement cannot be obtained, the Regional Collector may approve an absence under the following conditions:

- (1) an acceptable explanation is submitted;
- (2) the remaining staff in the broker's office are capable of dealing with the on-going work; and
- (3) appropriate arrangements are made so that if a client of the broker is in need of advice, the qualified person can be contacted.

(b) For unplanned absences, such as sudden illness or abrupt termination, with the permission of the Regional Collector, the office may operate without a designated qualified person for a period up to ninety (90) calendar days. If the qualified person has not been replaced at that time, the licence is subject to cancellation.

## **LICENCES**

### **Application for Licence**

10. An application for a licence must be made on form L 53, Application for Customs Brokers Licence, by the qualified officer. Applications must be completed in detail to show information relating to the proprietor, all the partners, or all the directors, officers and shareholders of a corporation. Completion instructions for form L 53 are contained in Appendix B, to this Memorandum.

11. The complete application package must include the following documentation:

- (a) a completed application, form L 53, in duplicate;
- (b) security in the amount of \$50,000;
- (c) a copy of the certificate of registration or incorporation (for corporate applications), proving the firm is registered in the province where it intends to conduct business;
- (d) a copy of a financial statement providing evidence of financial resources;
- (e) for corporate applicants, a resolution of the Board of Directors appointing the qualified officer as an officer of the corporation; and



(f) form L 60, Customs Brokers Questionnaire, completed by each principal of the company, including the qualified officer, qualified person, officers, directors and all major shareholders.

12. The signature of the qualified officer must be witnessed by a Customs official, at either a regional Customs office by the Regional Collector or by the Chief Officer of Customs at the office where the applicant proposes to conduct business.

13. After witnessing, the complete application must be submitted to the Chief Officer for the area in which the applicant proposes to conduct business.

14. Applicants must demonstrate that they have sufficient financial resources to conduct their business in a responsible manner. All financial guarantors must be disclosed in order that the Department can establish that the guarantors are solvent and reputable. Evidence of financial resources may be provided by:

(a) an audited financial statement, where the applicant is for any other purpose required to prepare same;

(b) an unaudited financial statement where the applicant is not ordinarily required to prepare audited statements; or

(c) a pro forma balance sheet relative to personal finances and holdings, when the applicant has not carried on any business in the fiscal year preceding the date of application.

## **Security**

15. Security in the amount of \$50,000 must be deposited with each application. The security can be in the form of cash, certified cheque, a transferable bond issued by the Government of Canada, or a bond issued by companies providing security acceptable to the Department. Additional information on security and a list of acceptable surety companies can be found in Memorandum D1-7-1, Posting Security for Transacting Bonded Operations. A sample of the acceptable surety bond format, Canada Customs Bond, form D 120, is contained in Appendix C to this Memorandum.

16. The Canadian Society of Customs Brokers posts a surety bond with the Department on behalf of many of its members.

## **Processing of Applications**

17. Upon receipt of an application, the Chief Officer of Customs will post a Notice of Application for Customs Brokers Licence, form L 56, for a period of two weeks (10 business days) inviting written comments or information from the public regarding the application. A sample of form L 56 is contained in Appendix D to this Memorandum.

18. The application package, including any written responses to the Notice, will be forwarded to the responsible Regional Collector's office for processing.

19. The good character requirement for qualified officers, directors and designated qualified persons is established by a departmental investigation (conducted by the Regional office) on these individuals, specifically with respect to criminal records, credit history, personal and work references. All principals are required to complete form L 60, Customs Brokers Questionnaire (a sample of form L 60 with completion instructions is contained in Appendix E to this Memorandum). Once the investigations have been completed and all documentation has been submitted, the Regional Collector will review and sign the application form and the complete application package will be forwarded to the Secretary.

20. The application package will be reviewed by the Secretary, who, if satisfied that the applicant meets all the requirements of the Regulations, will recommend to the Minister that a licence be granted.

21. If the application is approved by the Minister, the applicant will be notified that a licence has been granted.

22. The Regional Collector will ensure that the requirements of section 13 of the Regulations pertaining to accommodations are met before permitting the applicant to commence business, including payment of the licence fee, and a verification of the broker's premises.

23. The Secretary will respond to all written comments received from the public concerning the application.

24. Where all required information and completed documentation has been submitted, the application process takes approximately three months from the date of submission.

### **Licence Fees**

25. The licence fee for customs brokers is \$600 and must be paid prior to the issuance of a new or additional licence. As applications for a broker's licence may be rejected by the Minister, the licence fee will not be collected until authorization to commence business has been given to the Regional Collector by the Secretary.

26. Where a new application is required during the course of a fiscal year owing to a change in ownership of a business, a new licence fee must be paid and no rebate of the fee previously paid will be granted.

27. A licence fee will not be refunded when a licensee ceases operations prior to the end of the fiscal year.

## **Rejection of Application**

28. If the Committee recommends that a licence should not be granted, the applicant will be advised and may request the Committee to review the decision on the basis of new or additional information.

## **Additional Licences**

29. When a licensed customs broker wishes to apply for an additional licence for another Customs office, a complete application including all documentation is required. The Notice of Application for a Customs Brokers Licence, form L 56 must be posted for two weeks (ten business days) to invite written comments or information from the public, and an investigation into the designated qualified person will be conducted.

30. The Secretary will usually give permission to the broker to operate pending approval by the Minister, provided that no changes have taken place since the previous application and there are no problems identified by the background investigation. However, where any change or problem is identified, conditional permission cannot be granted, and the application will be processed as a new application.

## **Licence Validity**

31. It is the responsibility of the broker to formally advise the Chief Officer of Customs in writing of any changes affecting the validity of a licence. It is the responsibility of the Chief Officer of Customs to ensure that all changes are transmitted to the Secretary through the Regional Collector.

32. It is also the responsibility of the Chief Officer of Customs to ensure that customs brokers are kept fully aware throughout the licence period of any problem relating to their performance and responsibility.

## **Renewal**

33. Licence holders are required to submit an application for renewal of their licence(s) every year. A sample of form L 54, Application for Renewal of Customs Brokers Licence, is contained in Appendix F to this Memorandum. The application must be signed by the qualified officer of the company and submitted to the Chief Officer of Customs, in duplicate, together with the renewal fee and replacement security, where applicable. The application for renewal must be submitted no later than February 15.

34. The L 54's will be witnessed and returned to the customs broker for distribution to each Customs office where the broker holds a licence. The applications for renewal may also be submitted with or without payment, through the Customs office where the qualified officer is located.

35. For those companies which hold more than one licence,

(a) licence fees may be paid at each Customs office where the broker holds a licence,  
or

(b) the fees may be paid on either a regional or national basis at one Customs office.

36. Where payment is made at a centralized point, Customs will ensure that each form L 54 is stamped as paid and notated with the appropriate K 21 receipt number. In these cases only, brokers will not have to provide individual copies of the K 21 receipt in addition to the form L 54, to each Customs office when applying for licence renewal.

37. Once payment is received, a renewal certificate form M 54 will be issued. A sample of form M 54 is contained in Appendix G to this Memorandum.

38. If at the time of licence renewal, an application for renewal is received from a licensee who has ceased to carry on business as a broker, the application will not be approved, but will be forwarded to the Secretary through the Regional Collector for licence cancellation proceedings pursuant to paragraph 18(1)(g) of the Regulations.

## **TRANSACTION OF BUSINESS**

### **Change of Ownership**

39. An application for a new licence, form L 53, must be submitted when the ownership of a business changes, regardless of whether the name under which the firm is to operate changes. The licensee must notify the Chief Officer of Customs in writing of the proposed change, and submit a complete application, including all documentation, once the change has been effected. The application will be processed as a new application and the licence fee will be collected when the Minister grants the licence.

40. In the case of sole proprietorships or partnerships of individuals, change of ownership is not allowed as the licence is granted to the individual or partnership. The proprietor or partnership may form an incorporated company and apply for a new licence for the corporation in order to sell the business.

### **Change of Name**

41. An application for a new licence, form L 53, must be submitted if the name under which the firm is to operate has been changed, however a new licence fee is not required. The qualified officer of the broker must notify the Chief Officer of Customs in writing of the change and provide legal documentation to support the change. A Notice of Application for Customs Brokers Licence, form L 56, may be posted by the Department to announce the change.

## **Importer Receipts**

42. Where the broker is a CADEX participant and therefore a copy of the accounting document bearing the customs accounting number and official customs stamp is not available, the broker must provide to the importer/exporter a receipt which reports the following details of the transaction:

- (a) customs transaction number, including line number where applicable;
- (b) description of goods;
- (c) value and tariff code of each item;
- (d) exchange date; and
- (e) rates of duties and taxes and amounts of duties and taxes paid or refunded.

## **Accommodations**

43. The business office mentioned in section 13 of the Regulations must consist of not less than a separate desk, telephone, independent files and records, and must have a complete set of Departmental D Series Memoranda with update service.

44. Each business office must display a sign bearing the name under which the broker is licensed to operate. In addition, the licence or copy thereof must be displayed.

## **Non-broker Customs Offices**

45. The Schedule referred to in subsection 13(b) of the Regulations contains a list of Customs offices at which no customs brokers are licensed. All licensed customs brokers are permitted to transact business at these locations. Pending changes to the Regulations, please be advised that there are now brokers licensed at New Glasgow, Nova Scotia and Rivière-du-Loup, Québec. For more details on Customs offices, refer to Departmental Memoranda D1-1-1, List of Customs Offices and D1-8-2, Directory of Licensed Customs Brokers.

## **EXAMINATIONS**

46. Departmental policy with regard to the Customs Brokers Qualifying Examination and the Customs Brokers Professional Examination is contained in Memorandum D1-8-3, Customs Brokers Examinations.

## **RECORDS**

47. The methods and procedures outlined in Memorandum D17-1-21, Maintenance of Records and Books in Canada By Importers, also apply to those records to be kept by brokers, pursuant to subsection 17(1) of the Regulations.

## **SUSPENSION OR CANCELLATION**

48. The Minister may suspend or cancel a broker's licence if the licence holder has met one or more of the conditions prescribed in section 18 of the Regulations.

49. When a licence is to be suspended or cancelled, the Minister will advise the licensee by registered mail of the reasons for, and the effective date of, the proposed suspension or cancellation.

50. The licensee is provided thirty (30) calendar days to make representations in person or in writing, as to why the licence should not be suspended or cancelled.

51. In instances where corrective action is required by the licensee, a proposed suspension shall be withdrawn when the Minister is satisfied that the reasons for suspension no longer exist.

52. The licensee will be advised by the Secretary, by registered mail, when a suspended licence has been reinstated.

53. The notice of cancellation will be withdrawn when the Minister is satisfied that the cause for the cancellation no longer exists.

### **Inactive Licences**

54. When a customs broker's licence is cancelled or when the broker has ceased to transact business as a customs broker, the licence must be surrendered to the Chief Officer of Customs, who will forward it to the Secretary through the Regional Collector.

## **BROKERAGE FEES**

55. Fees charged for brokerage services constitute a private business transaction between the broker and the client. The Department does not intervene in fee disputes unless the client can demonstrate that the broker is in contravention of the Regulations by dishonest conduct, fraud or incompetence.

## **ADDITIONAL INFORMATION**

56. All correspondence relating to the administration of the Customs Brokers Licensing Regulations should be addressed to:

Revenue Canada  
Customs, Excise and Taxation  
Ottawa, Ontario  
K1A 0L5

Attention: Director, Inspection and Control Division, Commercial Operations Branch

### **Appendix A**

Application for Customs Brokers Qualifying Examination  
[Form L 55A not reproduced here]

### **Appendix B**

Application for Customs Brokers Licence  
[Form L 53 not reproduced here]

### **Appendix C**

Canada Customs Bond  
[Form D 120 not reproduced here]

### **Appendix D**

Notice of Application for Customs Brokers Licence  
[Form L 56 not reproduced here]

### **Appendix E**

Customs Brokers Questionnaire  
[Form L 60 not reproduced here]

### **Appendix F**

Application for Renewal of Customs Brokers Licence  
[Form L 54 not reproduced here]

## **Appendix G**

Renewal of Licence for Customs Broker  
[Form M 54 not reproduced here]

### **REFERENCES**

#### **ISSUING OFFICE —**

Brokers Licensing Section, Inspection and Control Division

#### **LEGISLATIVE REFERENCES —**

Customs Act, Section 9  
C.R.C., c.

#### **HEADQUARTERS FILE —**

7637-0

#### **SUPERSEDED MEMORANDA "D" —**

D1-8-1, November 10, 1986

#### **OTHER REFERENCES —**

D1-1-1, D1-6-1, D1-6-2, D1-7-1, D1-8-2, D1-8-3, D17-1-21

SERVICES PROVIDED BY THE DEPARTMENT ARE AVAILABLE IN BOTH  
OFFICIAL LANGUAGES.

THIS MEMORANDUM IS ISSUED UNDER THE AUTHORITY OF THE DEPUTY  
MINISTER OF NATIONAL REVENUE, CUSTOMS AND EXCISE.