Circular No. 62/98- Customs

dated 28/8/1998

F.No. 502/108/96- Cus- VI

Government of India

Ministry of Finance

Department of Revenue, New Delhi

Subject : Clarifications on provision of the amended C.H.A.L.R. 1984.

It may be recalled that the CHALR 1984 was amended vide notifns. No. 44/97 dated 15/9/1997 and 71/97 dated 19/12/1997 - Cus. (NT). Two of the major amendments are as under :

Regln 6(a) was amended stipulating that the applicant for a temporary licence should be a graduate from a recognized university and have experience of Customs clearance work for a period of not less than three years inthe capacity of form 'G' pass holder, in addition to the other earlier existing conditions. The commissioner could relax this period from 3 years to 1 year for reasons to be recorded in writing.

Under the newly introduced Regulation 9(5), regular CHA licensees have been permitted to authorise **one** of their employees/ partners/ directors from their firm to appear in the regulation 9 examination. These would be inaddition to the already present Regulation 9 examination pass person existing in the firm.

The queries raised by Commissioners on these regulations among others have been considered by the Board and clarification on these issues are as under :

Q(1) Can the Diploma in "Customs clearance and Freight forwarding " offered by the Bombay University be considered equivalent of a graduate degree, which is an essential requirement under Reg'n 6(a) of the CHALR for the purpose of issue of temporary licence.

A) Since this diploma is not equivalent to a degree it cannot be considered as such. However, if any university declares such a diploma as equivalent to the degree then, that diploma would be eligible.

Q(2) the amended Regulation 9(5) permits regular CHA licensees to authorise one of their employees / partners/ directors to appear in the Regulation 9 examination. How many chances would these additional persons have in the examination and within what time period would they be required to clear the Regulation 9 examination.

A) It has been decided that such examines would be allowed three attempts within a period of 2 years from the date of application by the licensee for the examination.

Q(3) Regulation 10(2) (c) states that the CHAs who are granted regular licences under Regulation 10 are required to produce evidence of Knowledge of the local language of the Customs Stations at which he wishes to conduct business.
What would constitute proof of knowledge of local language ? Furthermore who would be required to produce it, the CHA or his authorised representative.

A) The level of adequacy of knowledge of local language and proof thereof are to be decided by the Commissioners at their own level since the rules do not specify any levels of knowledge. In case of doubts the Chief Commissioner may be consulted. In the case of the main officer, the CHA as well as his authorised representative would be required to possess knowledge of the local language. In the case of the branch office, knowledge of local language by the authorised representative in charge of the office would be considered sufficient.

Q(4) Would the additional representative of the CHA licensee, who has cleared the Regulation 9 examination on behalf of the organisation [under the new Regulation 9(5)], be permitted to apply for an independent CHA licence under Regulation 10.

A) Such a person can apply for an independent license when applications are called, provided he fulfills all the conditions prescribed under Regulation 6 of CHALR '84. If he merely possesses proof of clearance of Regulation 9 examination as a result of Regulation 9(5), without having other essential ingredients prescribed under Regulation 6, then he would not eligible for an independent CHA licence even though the Regulation 9 examination is o a higher level as compared to the Regulation 20(3) examination. In addition the Regulations do not envisage indiscriminate allowing of representatives to sit for the examination under Regulation 9 as only an additional member has been allowed only w.e.f. 1997. Commissioners may be cautious in this aspect.

Q(5) In many Commissionerate there are persons who have been given a temporary CHA licence under the unamended regulations which did not insist upon Graduation as a requirement of temporary licence under Regulation 6. Should such persons be accorded a permanent licence as and when they become eligible by fulfilling prescribed conditions.

A) Since the temporary licences were given without insisting upon the criterion of possession of a graduate degree which was according to criteria then existing such persons would be eligible to permanent licences.

Q(6) It has been requested from various quarters that those having experience in dealing with Customs clearance, should be issued a Form 'G' even if they do not have the required educational qualification of 10th pass.

A) Assuming that they have the requisite Knowledge, such persons cannot be considered for issue of a Form 'G' as they do not fulfill the requirements under Reg'n 20.

Q(7) Before the amendments in Sept. 1997 it was not essential for a Licensee to be a graduate. The question is, would such licences granted before Sept. 1997, be entitled for renewal even if the licence holder is not a graduate ?

A) Yes, Such licences would be eligible for renewal as when they were initially issued, the requirement of the licence holder being a graduate was not there.

Q(8) Before the amendments in Sept. 97 and application for a 'G' pass was not required to be a 10th standard pass person. Would such persons, to whom 'G' passes had been issued under the unamended regulation be eligible for renewal of the form 'G' issued earlier.

A) Yes, Such 'G' passes would be eligible for renewal as, when they were initially issued the requirement of the 'G' pass holder being a 10th passes person was not there.

Q(9) Regulation 9(5) permits a licensee to authorise one employee/ partner /director to appear in the Regulation 9 examination. Would this addl. person also be required to fulfill the requirement of Regulation 6 i.e. possession of Graduate degree, being an employee of a licensee, possession of form 'G' and work experience of at least three years in the capacity of a form 'G' pass holder.

A) This addl. person is required to be graduate. However, as he would not be eligible to apply for separate temporary licence (on the basis of having passed the Regulation 9 examination), he need not be a 'G' pass holder or have experience in the capacity of 'G' pass holder for a period of three year.

In case it is felt that certain other issues require further clarifications, you are requested to please intimate.

Sd/-
(Ranjana Jha)
Under Secretary of the Govt. of India

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