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2019 *Customs (Customs Appeal Commission) Regulations* SRO. 4

GRENADA

STATUTORY RULES AND ORDERS NO. 4 OF 2019

THE MINISTER IN EXERCISE OF THE POWERS CONFERRED ON HIM BY SECTION 264 OF THE CUSTOMS ACT NO. 9 OF 2015 HEREBY MAKES THE FOLLOWING REGULATIONS—

(Gazetted 1st March, 2019).

PART I

PRELIMINARY

1. Citation. These Regulations may be cited as the—

CUSTOMS (CUSTOMS APPEAL COMMISSION) REGULATIONS, 2019.

2. Definitions. In these Regulations—

“Act” means the Customs Act No. 9 of 2015;

“appellant” means a person or his or her representative who files a notice of appeal under regulation 3;

“Commission” means the Customs Appeal Commission;

“parties to an appeal” means the appellant, Comptroller or any person named in an appeal; and

“representative” means a person who is authorised to act on behalf of an appellant.

PART II

APPEALS TO THE COMMISSION

3. Notice of appeal.—(1) For the purposes of section 207 of the Act, a person who wishes to appeal a decision of the Comptroller, may fill out and file a notice of appeal in triplicate with the Secretary to the Commission, as set out in Form No. 1 of Schedule I.

(2) A notice of appeal may be filed by any of the means specified in regulation 6.

(3) A notice of appeal must be submitted to the Commission within twenty-one days of receiving the decision of the Comptroller, or within such period of extension that the Commission may grant in accordance with section 209 of the Act.

(4) A notice of appeal must—

- (a) be in writing;
- (b) concisely state the grounds of appeal; and
- (c) include full details of the appeal together with any information which may assist the Commission in considering the appeal.

(5) A notice of appeal under sub-regulation (1), must be accompanied by the filing fee set out in Schedule II.

(6) The Secretary to the Commission shall issue receipts for the fees collected under sub-regulation (5).

4. Acknowledgement of receipt of notice of appeal. Subject to regulation 5, the Commission shall acknowledge receipt of every notice of appeal under regulation 3, within 7 days of receiving the notice of appeal.

5. Incomplete or defective notice of appeal.—(1) Where the Commission receives a notice of appeal which is incomplete or otherwise defective, the Commission shall notify the appellant or his or her representative in writing, identifying the errors and setting out how the errors may be corrected.

(2) The Commission shall specify the period of time within which the notice of appeal under sub-regulation (1), must be re-filed with the Commission.

(3) Every notice of appeal re-filed under this regulation must be and accompanied by the fee set out in Schedule II.

(4) Where the Commission notifies an appellant of an incomplete or defective notice of appeal under sub-regulation (1), and the appellant fails to rectify the error, the Commission may refuse to process the notice of appeal, if it is reasonable to do so.

PART III

FILING OF DOCUMENTS

6. Methods of filing a notice of appeal.—(1) A notice of appeal may be filed with the Commission by—

- (a) delivering the notice of appeal to the Secretary of the Commission;
- (b) mailing the notice of appeal to the office of the Commission; or
- (c) such other manner as the Commission may determine.

(2) Without prejudice to sub-regulation (1), any document may be filed electronically, but where the Commission is unable to receive or retrieve the document electronically, a hard copy of the document must be filed with the Commission.

7. Accepting copies of documents.—(1) Subject to sub-regulation (2), the Commission will be satisfied with a copy of a document.

(2) If a party to the appeal challenges the authenticity of a document, or if the Commission is concerned about the document's authenticity, the Commission may request that the original document or a certified copy of the document be filed.

8. Rejecting documents. The Commission may reject any document, any evidence, any written submission or any requested information which is not filed in accordance with timelines set by the Commission

PART IV

SERVICE OF DOCUMENTS

9. Methods of service.—(1) An appellant shall serve a copy of a notice of appeal and all supporting documents on the parties to the appeal in the following manner—

- (a) by personal delivery;
- (b) by transmitting a copy to a party via fax or email where the party provides a fax number or an email address;
- (c) by mail and or courier services; or
- (d) by such other means as the Commission directs.

(2) Where a party to an appeal is represented, service of any document shall be directed to the representative of the party by any of the above means.

(3) Any other party to an appeal may serve documents on the other parties to the appeal in the manner indicated in sub-regulation (1).

PART V

VARYING, WITHDRAWING AND DISMISSING AN APPEAL

10. Varying the grounds of an appeal.—(1) An appellant may on application vary the grounds of appeal.

(2) An appellant shall file any proposed variation to the grounds of an appeal with the Commission and shall serve a copy on the parties to the appeal.

11. Withdrawing an appeal.—(1) An appellant may withdraw an appeal—

- (a) orally, at a hearing; or
- (b) at any time, by filing written notice in Form No. 2 of Schedule I with the Commission.

(2) Upon receiving a Notice under sub-regulation 1(b), the Commission shall notify the parties to the appeal by sending copies of the said notice to them.

12. Dismissing an appeal.—(1) The Commission may at any time dismiss an appeal—

- (a) if the Commission is satisfied that the appeal discloses no reasonable grounds for bringing the appeal;
- (b) if the Commission is satisfied that the appeal is frivolous or vexatious;
- (c) if the Commission is satisfied that the appeal is an abuse of the Commission's process; or
- (d) if the Commission is satisfied that a hearing date was set and the parties to the appeal were notified pursuant to regulation 14, and before the hearing of the appeal, the appellant requested an adjournment of the hearing, and six months have elapsed since

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that request, without the appellant requesting the rescheduling of the matter.

(2) Where the Commission proposes to exercise its powers under this regulation, the Commission shall notify the parties to the appeal in writing of its intention to dismiss the appeal, and may request oral or written submissions or both within a specified time, or both, from the parties to the appeal.

(3) After considering the submissions received under sub-regulation (2), the Commission may do all or any of the following—

- (a) extend a period or state a period for an action to be taken;
- (b) issue directions with respect to the further processing of the appeal;
- (c) schedule a hearing date; or
- (d) dismiss the appeal.

PART VI

HEARING APPEALS

13. Hearing of an appeal. Every appeal must be determined at a hearing before the Commission—

- (a) except where the appeal is withdrawn by the appellant;
- (b) except where the appeal is dismissed; or
- (c) except where the parties to the appeal consent to the appeal being decided without the holding of an oral hearing.

14. Notification of date for hearing an appeal.—(1) In accordance with section 210 of the Act, when a date for hearing an appeal is set, the Commission shall serve notice on the parties to the appeal of the date for the hearing as set out in Form No. 3 of Schedule I.

(2) Where the hearing date set under sub-regulation (1) proves burdensome to one or more of the parties to the appeal, a party to the appeal may fill out and file

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with the Commission, within 14 days of receiving the notice under sub-regulation (1), a request for an alternative date for the hearing as set out in Form No. 4 of Schedule I.

(3) Where the request for an alternative date is granted, the Commission shall serve further notice on the parties to the appeal of the new date for the hearing as set out in Form No. 3 of Schedule I.

(4) If a hearing date is set under sub-regulation (1), the Commission shall not accept additional notices of appeal or new issues of appeal for the same hearing date.

15. Adjourning of hearing of an appeal. The Commission may adjourn a hearing if the Commission determines that it is fair and reasonable to do so.

16. Issuing of summons. The Commission may issue a summons—

- (a) in Form No. 5 of Schedule I, requiring the person named to attend and give evidence in a hearing; or
- (b) in Form No. 6 of Schedule I, requiring the person named to produce any papers, documents, records in that person's possession which are relevant to the matters before the Commission.

17. Non-attendance at hearing of an appeal. If a party to an appeal who was served with a notice in accordance with regulation 11, fails to attend a scheduled hearing, the Commission may make any direction it considers appropriate, including—

- (a) hearing the matter in the absence of the appellant, if the representative of the appellant wishes to proceed;
- (b) hearing the matter on the basis of the documents before it, upon proof of service of the notice of hearing on the parties to the appeal; or
- (c) adjourning the matter, subject to any conditions the Commission may impose.

18. Decisions of the Commission.—(1) The Commission, after considering an appeal, may—

- (a) confirm;
- (b) vary,

(c) substitute in part or in whole

the decision of the Comptroller, under the Act.

(2) Every decision of the Commission shall be given in writing, with a statement of the reasons for the decision.

(3) A copy of the decision shall be given to the parties of the appeal.

PART VII

MISCELLANEOUS

19. Payment of filing fees into Consolidated Fund. The Commission shall pay the fees collected under these regulations into the Consolidated Fund.

SCHEDULE I

(Regulation 3(1))

FORM NO. 1

NOTICE OF APPEAL

SECTION 1 - APPELLANT CONTACT INFORMATION

1. Name
 Mr..... Miss..... Mrs.....
2. Address of appellant.....
3. Mailing Address.....
4. Telephone numbers (h) (w)..... (m).....
5. Email address.....
6. If the appellant is a company or business—
 - (a) Name of company or business.....
 - (b) Name of authorised person who is bringing the appeal on behalf of the company or business

- (c) Contact information of authorised person in paragraph (b)

Telephone number(s)

Email address.....

Mailing address.....

SECTION 2 - REPRESENTATION *(tick the appropriate box)*

7. I have a representative ☐

8. I intend to appoint a representative ☐

9. I am representing myself ☐

If you have a representative, or intend to appoint and authorise one complete the information below.

10. I appoint and authorise as my representative to act on my behalf in this appeal. My representative contact information is as follows—

11. Name of representative

12. Address of representative

13. Telephone numbers(h) (w).....(m).....

14. Email address.....

15. Mailing address.....

16.
Signature of person appointing representative
 (print name) Date

17.
Signature of Representative
 (print name)

SECTION 3 - WHAT ARE YOU APPEALING *(use additional pages if necessary)*

18. I am appealing the decision of the Comptroller for the following reason(s):.....

.....

.....

Provide a detailed description of how you have been aggrieved by the decision of the Comptroller, including any evidence you wish to have considered by the Commission. *(use additional pages if necessary)*.

.....

.....

.....

.....

.....

.....

I have attached a certified copy of the decision of the Comptroller to this form.

SECTION 4 - ADDITIONAL INFORMATION

19. Please use this section to provide any additional information you feel the Commission may require in considering your appeal.

.....

.....

.....

.....
Signature

.....
Name

.....
Date

A representative may only sign this form if he/she is authorised.

I solemnly declare that the information contained in this notice of appeal is true and correct.

FORM NO. 2

(Regulation 11(1)(c))

NOTICE OF WITHDRAWAL OF APPEAL

Applicant: (NAME OF APPLICANT IN APPEAL)

Take notice that the appellant.....hereby
withdraws Appeal No. of and dated the day
of..... 20..... lodged with the Commission against the decision of the
Comptroller.

Dated this day of 20.....

Signed by.....

Appellant/representative of the appellant

FORM NO. 3

(Regulations 14(1) and 14(3))

NOTIFICATION OF DATE FOR HEARING

Appeal No.

Between..... **Appellant**

and

..... **Respondent**

To
(Name)

.....
(Address)

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Take notice that there will be a hearing of the above matter before the
 Commission on..... the day of
 20.....
 at.....

Take further notice that you are or your representative is required to attend the
 hearing.

.....
Commission

.....
Date

FORM NO. 4

(Regulation 14(2))

REQUEST FOR ALTERNATIVE DATE FOR HEARING

Appeal No.

Between..... **Appellant**
 and

..... **Respondent**

A notification was served on me on.....
 setting the date for the hearing of the above matter as the..... day of
 20.....

For the reasons set out below, this date has proven burdensome to me and I
 hereby request that an alternative date be set for the hearing of the appeal.

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Reasons for Request:

.....

.....

.....

.....

.....

(Provide a detailed statement of your reasons for requesting an alternative date for the hearing of your appeal. Use additional pages if necessary).

Proposed alternative date(s):

.....

.....

I, the Appellant/Respondent, solemnly declare that all information contained in this form is true and correct.

.....

Signature of Appellant/Respondent

.....

Date

FORM NO. 5

(Regulation 16(a))

SUMMONS TO GIVE EVIDENCE

Appeal No.

Between..... **Appellant**

and

..... **Respondent**

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To
(Name)

.....
(Address)

YOU ARE REQUIRED to appear before the Commission and to give evidence in the above appeal at:

(Time) (am/pm), on the.....

day of at
(Place)

And on each subsequent day of the hearing of this matter until you are excused/released from further attendance.

.....
Commission

.....
Date

This summons was issued by the Commission on its own motion or on application of the appellant *(deleted whichever is inapplicable)*.

FORM NO. 6

(Regulation 16(b))

SUMMONS TO PRODUCE DOCUMENTS

Appeal No.

Between

..... **Appellant**

and

..... **Respondent**

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To
(Name)

.....
(Address)

YOU ARE REQUIRED to PRODUCE the following documents to the

Commission on or before the day of, 20.....

.....
.....
.....
.....

.....
Commission

.....
Date

This summons has been issued by the Commission on its own motion or upon application. (Delete whichever is inapplicable).

SCHEDULE II

(Regulations 3(5) and 5(3))

FEES

Filing fee	\$ 200.00
Re-filing fee	\$ 100.00

Made by the Minister this 20th day of February, 2019.

KEITH C. MITCHELL

Minister responsible for Finance.

GRENADA

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