



Office of The Minister

REPUBLIC OF LIBERIA  
MINISTRY OF COMMERCE & INDUSTRY  
MONROVIA



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**ADMINISTRATIVE REGULATION**

**No. 003/06/12**

**TO : ALL BUSINESS ENTERPRISES AND THE  
GENERAL PUBLIC**

**SUBJECT : MINISTERIAL REVIEW PANEL FOR  
INSPECTION SANCTIONS**

**DATE : 26 JUNE 2012**

**1.0 GENERAL RULE**

The Minister of Commerce and Industry is empowered through the General Business Law to issue regulations for the administration of the provisions of the Law from time to time.

**2.0 POLICY**

**2.1** Pursuant to the Government of Liberia's reform agenda highlighted in its Poverty Reduction Strategy (P.R.S), it is the intent of the Ministry to establish sound administrative procedures which will remove the on-site sanctioning power of the Ministry's inspectors and have that power vested in an internal administrative body, which will be responsible for delivering financial and other punitive sanctions to violating business entities. Such sanctions will only be delivered pending reviews based on the inspector's findings as well as statements provided by the business proprietor.

### **3.0 PURPOSE**

- 3.1** The removal of the sanctioning powers of Commerce Inspectors comes after complaints from the business community that inspectors had too much discretion when it came to implementing fines for perceived violations. Because inspectors had great flexibility in levying fines, this created opportunities for rent-seeking behavior, in order to avoid official sanctioning of businesses.
- 3.2** The effects of rent-seeking by Commerce Inspectors further widens the divide between Government and the private-sector, in that the private sector continues to display a lack of trust in Government's ability to maintain a transparent, pro-business environment. Businesses are forced to transfer the costs associated with an oppressive inspection regime on to the consumer, which at this time in Liberia's development is a significant burden that both consumers and business operators cannot afford.
- 3.3** The current frequency of business inspections in Liberia creates avenues for rent-seeking from government inspectors. With estimates reflecting nearly 100% frequency of inspections, this repeated interface between government and private sector does not translate to greater regulatory compliance. Businesses are at a significant disadvantage because they are not fully informed as to their rights and responsibilities required under Liberian law. As a result, businesses are subjected to overly critical Commerce Inspectors, who seize the opportunity to extort monies from businesses in exchange for not levying an official ministry sanction.
- 3.4** In order to prevent the solicitation and payment of bribes, the levying of official sanctions against businesses found to be in violation of the law will be dispensed by a ministerial administrative review panel which will be tasked with reviewing the findings of the field officer's on-site visit and supporting statements offered by the sanctioned business entity. The internal administrative structure will act as "check-and-balance" system on the Ministry's external interactions with the private sector. This process will ensure transparency, accountability and

responsiveness from both the government and private sector, which would foster an environment of compliance with regulations set forth by the Government.

#### **4.0 PROCEDURE**

##### **4.1 REVIEW PANEL**

###### **4.1.1 COMPOSITION**

**4.1.1.1** The initial Review Panel will comprise of three (3) persons; two (2) senior commerce inspectors and the Deputy Inspector General.

**4.1.1.2** Senior Commerce Inspectors that serve on the Review Panel must have served as a Field Inspector for at least seven (7) years and possess at minimum a Bachelor's Degree.

**4.1.1.3** Selection of the review panel will be based on consultations between the Assistant Minister for Commerce and the Inspector-General.

**4.1.1.4** With the exception of the Deputy Inspector General, the remaining members of the Panel shall be rotated on a regular basis.

##### **4.2 ADJUDICATION**

**4.2.1** All decisions reached shall be in accordance with the General Business Law.

**4.2.2** The decisions based upon the statements and evidence presented must be decided by unanimous vote of the sitting panel.

**4.2.3** If any member of the panel has any close association with the business appearing before the panel, the panel member must recuse themselves from the proceedings to avoid any potential conflicts of interest.

**4.2.4** Panelist must take into account both the inspector's on-site notes and observations and must also give the business proprietor or an authorized representative, an opportunity to respond to allegations made in the inspector's report.

**4.2.4.1** When the panel has made its decision on the hearing, the decision, in the form of written communication, is sent to the business proprietor or his/her authorized agent within forty-eight (48) hours of the decision.

**4.2.4.2** The written communication shall indicate whether the business operation was given an official warning or a fine, consistent with the classification of the violation.

**4.3** **INTERMEDIATE APPEAL**

**4.3.1** If the business owner/proprietor is dissatisfied with the decision reached by the Review Panel, the proprietor, as a matter of right, may appeal the decision in writing, within thirty (30) business days, to the Inspector-General of the Ministry of Commerce & Industry.

**4.3.2** Failure to initiate appeal process within the scheduled time, bars the appealing business entity from seeking recourse through administrative process.

**4.3.3** The Inspector-General, based on documentation from the Review Panel as well as the testimony of the Business proprietor or his/her authorized agent, may independently make the determination as to whether the Review Panel's decision was with or without merit.

**4.3.4** The Inspector-General shall provide a final written determination of the appeal which shall be communicated to the Business Proprietor or his/hers authorized agent within 24 hours of the decision.

**4.4 FINAL ADMINISTRATIVE APPEAL**

**4.4.1** The business proprietor, who received an unfavorable decision by the Inspector-General regarding the sanction, may on written application, appeal to the Assistant Minister for Commerce on the previous ruling.

**4.4.2** Business proprietor must appeal the decision in writing within thirty (30) business days from the previous ruling.

**4.4.3** Failure to initiate appeal process within the scheduled time, bars the appealing business entity from seeking recourse through administrative process.

**4.4.4** The Assistant Minister shall take into consideration all documentations provided by the previous reviewers as well as a written statement provided by the business proprietor or an authorized agent, as it relates to the sanctions against the particular business operation.

**4.4.5** Upon final review, the Assistant Minister shall provide a written determination within 7 business days regarding the business proprietor's appeal.

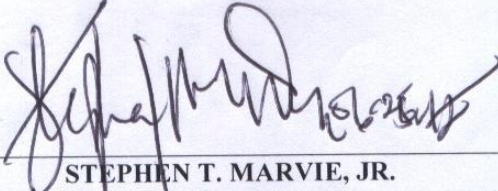
**4.5 APPEAL TO THE COMMERCIAL COURT**

**4.5.1** As a matter of law, a business owner may seek to resolve the issue of his/her administrative fine in the formal judicial system if he/she so determines that that particular forum is best to decide on the particular sanction.

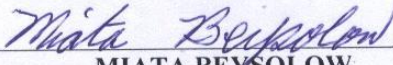
**5.0 EFFECTIVE DATE**

This regulation shall take immediate effect upon signing.

SIGNED: \_\_\_\_\_

  
STEPHEN T. MARVIE, JR.  
ASSISTANT MINISTER FOR COMMERCE & TRADE

APPROVED: \_\_\_\_\_

  
MIATA BEVSOLOW  
MINISTER OF COMMERCE & INDUSTRY