

New Mangalore Part Trust (Licensing of Stevedores) Regulation 2009

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Rule

NEW-MANGALORE-PART-TRUST-LICENSING-OF-STEVEDORES-REG of 2009

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New Mangalore Part Trust (Licensing of Stevedores) Regulation 2009 Published vide Notification New Delhi, the 27th September, 2012 Ministry of Transport (Deptt of Surface Transport) (Ports Wing) G.S.R. 725(E). - In exercise of the powers conferred by Sub Section (1) of Section 124 read with Sub Section 1 of Section 132 of the Major Port Trust Act, 1963 (38 of 1963), the Central Government hereby approves with modification the New Mangalore Port Trust (Licensing of Stevedores) Regulation, 2009 made by the Board of Trustee of New Mangalore Port in exercise of the powers conferred on them by Section 123 of the said Act, as detailed in the schedule annexed to this Notification. In exercise of powers conferred by section 126 of the Major Port Trusts Act, 1963 (38 of 1963)- the Central Government hereby makes the following regulations, namely:-

1. Short title and commencement.

(1) These regulations may be called the New Mangalore Part Trust (Licensing of Stevedores) Regulation 2009. (2) They shall come into force on the date of their publication in Official Gazette.

2. Definitions.

- In these regulations, unless the context otherwise requires, (i) "Act" means the Major Port Trusts Act, 1963; (ii) "Board" means the Board of Trustees of New Mangalore Port constituted under the Act; (iii) "Chairman" means Chairman of the Port; (iv) "Form" means form Annexed to these regulations; (v) "Stevedore" is an authorized agent for loading and unloading and stowage of cargo in any form on board the vessels in Ports; (vi) "Traffic Manager" means the officer for the time being in

charge of Traffic Department of New Mangalore Port Trust and includes the deputies and assistants to the Traffic Manager and any other Officers acting under the authority of the Traffic Manager.

3. Scope/Period of Issue/Renewal of Stevedoring License.

- The Stevedoring Policy shall cover the following activities:-(i)Stevedoring undertaken by the Port.(ii)Stevedoring by the licensed stevedore(iii)Stevedoring by the BOT terminal operator as prescribed in the license agreement.(1)The Stevedoring may cover the activities on board involving workmen, extending to hooking for export (loading) cargo and unhooking of import (unloading) cargo or whatever practice prevalent in port.(2)The Chairman may issue stevedoring license for a period of Three years, on application, to persons to act as stevedores at the Port to perform the work of landing and shipping of goods between vessels in the Port and the wharves, piers, quays or docks, belonging to or in the possession of the Board and any other work involved in the stevedoring of vessels within the Port.No Stevedore shall be allowed to work on board any vessels in the Port except under a license issued by the Chairman under these regulations after expiry of six months from the date of notification.The license shall be valid for a period of 3 years from the date of issuance of license.The license will be strictly renewed on the basis of achieving minimum guaranteed throughput/prescribed performance of 50,000 M.T per annum, and as fixed from time to time. There will not be any automatic renewal of the licence. Licence, may be renewed on written application made three months prior to expiry of the licence.

4. Stevedoring Charges.

- The stevedoring charges are levied by Stevedores from the principals for the stevedoring services which include the charges payable to the Port. The Charges to be collected by the stevedores from the principals should be left to the parties as per the market forces. The Charges will be on Tonnage basis and not on percentage of labour by taking into account the wage cost of full complement deployed presently which could be tapered off in the long run.

5. License for Stevedores/Stevedoring.

- Stevedoring licenses shall be issued by the Port, In case the firm fulfils the following criteria:(i)It shall be a company or firm registered under the Companies Act 1952 or an establishment registered under any of other legal entity.(ii)Shall deposit an amount of Rs.5.00 lakhs as Security deposit.(iii)The Stevedores shall be liable, to provide minimum equipment/gear either owned or hired,(iv)The Stevedores should undertake to employ at least 4 Supervisory personnel with minimum two years of cargo handling/stowage experience. Their profile have to be enclosed along with the application.(v)The fee for issue/renewal of license shall be minimum of Rs.50,000 (Fifty thousand only) for the period of the license which may be revised from time to time and be fixed by the New Mangalore Port Trust.The Stevedores shall undertake to provide minimum equipment/gear either owned or hired.

6. Production of evidence of stevedoring work done.

- No license for stevedoring shall be granted unless the applicant produces evidence for, (i) That he has maintained/would maintain the input/ output norms of handling different commodities as may be laid down by the Board from time to time (ii) That his financial standing to meet the obligations to the workers and staff employed on account of wage and compensation under the Workmen's Compensation Act, 1925. Payment of Wages Act, 1936, Industrial Disputes Act 1947, or any other law for the time being in force and makes a deposit of Rs.5.00 Lakhs in cash or any other acceptable security which will be refunded/ discharged after the termination/expiry of the license without any interest. (iii) That he undertakes to have in his employment such minimum staff and have in his possession such minimum gear as may be prescribed by the Board for Undertaking stevedoring efficiently and (iv) That he shall also produce a Bank Guarantee for Rs.5.00 lakhs so as to meet any contingency; Note: Vessel Owners, Vessel operators, Steamer agents and importers and exporters would also be eligible for grant of license.

7. Issue of new stevedoring License.

- The new stevedoring license will be issued after inviting application by advertisement in the local daily. The consideration of such application may be reviewed in that regard shall be in accordance with the regulations. The purpose to provide every person who wishes to apply for a license on an opportunity to make an application to be considered by the Chairman in accordance with law, and Port Regulations.

8. Duties and responsibilities of stevedore.

- Every stevedore, shall be subject to the following duties, obligations and responsibilities during the currency of stevedoring license issued to them by the Port to ensure safe and efficient handling as per Stevedoring license regulations, keeping in view of the following basic criteria :- (a) He shall ensure, due compliance by all the staff and the workers employed by him during the operation of landing and shipping or transshipping goods of work incidental thereto, of the provisions of the Indian Dock Laborers' Act, 1934, the Indian Dock workers Regulation, of Employment Act 1948, along with Rules, 1962, the Dock Workers (Safety, Health and Welfare) Scheme, 1961 and Notifications issued there under the Industrial Disputes Act, 1947, the payment of Bonus Act 1965 with rules 1975 and other rules & regulation schemes applicable to such Stevedoring operations and for the time being in force and as per the Amendments in future. (b) He shall carry out the operation with his own gear arranged by him; (c) He shall be solely responsible for any accident or damage resulting from the use of any gear used by him; (d) He shall comply with all accepted safe practices in relation to operations performed by him; (e) He shall indemnify the Port against all third party claims arising out of operations performed by him; (f) Whenever the Port has to pay compensations to any of its employees or workers or his dependents under the provisions of the Workmen's compensation Act 1923 and during the course of work performed for a stevedore or any employee or worker employed by the Stevedores, for the such work, the stevedore shall reimburse the Port any sum so paid, and for such purpose the amount of the compensation as determined under the Workmen's Compensation Act, 1923, shall be taken as binding and conclusive, between the Board

and the Stevedore;(g)If any gear, Plant and other property of the Port is damaged in the course of any such operation the stevedore shall compensate the Port for such loss or damage, extent of which shall be, decided by the Chairman after carrying out a proper enquiry;(h)He shall agree to refer any dispute or difference between him and the New Mangalore Port Trust as to the payment of compensation its quantum or any connected question to an Arbitrator nominated by the Board;(i)He shall be responsible to employ at least one experienced person to supervise in every vessel in respect of which he has under taken the stevedoring operations;(j)He shall submit proper information asked for by the Chairman or the Traffic Manager from time to time;(k)He shall ensure that all the dues of the Board are paid on the appointed dates, failing which his licence shall not be renewable and be liable to suspension/ cancelled under these regulations;(l)He shall provide for adequate supervision over the workers employed by him in order to ensure maximum productivity consistent with the requirements of safety.(m)He shall provide all the necessary gear equipment duly tested for the respective type of cargo;(n)He shall produce the gear equipment with necessary annealing and test certificate for inspection periodically or whenever demanded by the Dy. Director of Dock Safety, or the Traffic Manager.(o)He shall provide the workers necessary protective safety appliances appropriate for the type of cargo.(p)He shall ensure that the workers are available at the work site throughout the shift period, except during, the recess hours and render the normal output and shall take effective steps to improve the performance whenever output falls below normal;(q)He shall make adequate arrangement for ancillary operations such as filling, stitching and breaking of cargo, stacking of cargo, stowage of cargo, etc on board the vessel;(r)He shall undertake to pay to workers engaged by him wages in accordance with the terms of Wage settlement arrived at between the Central Government and the Federations of Port Trust and Dock Workers, from time to time;(s)He shall not assign, transfer or in any manner part with any interest or benefit in or under the licence to any other person without the prior approval in writing to the Chairman;(t)He shall comply with such instructions as may be issued from time by time by the Traffic Manager in the Interest of safety, improved productivity and labour discipline;(u)He shall pay scheduled, charges to the Port in advance.

9. Change in name/constitution etc to be communicated.

(1)Where the stevedore is a firm or a Company, it shall immediately communicate to the Chairman any change in the Director, Managing Director or partners, as the case may be, with a copy of the document in support of the such change.(2)Any change in the name, title, or constitution of a firm or a company holding a stevedoring licence shall be communicated to the Chairman forthwith. The firm or Company undergoing such a change shall submit a fresh application for the grant of new license: provided that the Chairman may allow such firm or Company to carry on business till a decision is taken on such fresh application.

10. Validity / Renewal of licence.

- (i) The License will be valid for a period of three years from the issuance of Licence.(ii)The Licence will be strictly renewed on the basis of achieving minimum guaranteed throughout/prescribed performance parameters of 50,000 MT per annum assured during last 3 years and as fixed from time to time(iii)Application as per the prescribed proforma of the Port for renewal of Stevedores

License shall be made at-least three month before the expiry of the license.(iv)If the Stevedore fulfils the required conditions and is eligible for renewal but awaiting safety clearance before expiry of the licerise period, Port may permit the stevedoring operation on execution of an indemnity bond.

11. Power of Chairman to suspend a licence pending enquiry.

- The Traffic Manager shall report any violation of terms and conditions of the stevedoring licence by the Stevedore to the Chairman and the Chairman may, pending enquiry, within a period of 60 days from the date of the order of enquiry suspend the licence issued to a Stevedore for a period not exceeding three months if he finds expedient and necessary to do so in the interest of the Port.

12. Cancellation/Suspension of Licence.

(a)The Port may at any time suspend or cancel the license issued to a Stevedore for violation of any of the terms of licence or for any reasons listed below when:(b)The CEO of the stevedoring firm has been convicted by the Court of any offence involving moral turpitude and sentenced in respect thereof to imprisonment for not less than six months and a period of five years has not elapsed from the date of expiry of the sentence.(c)The firm handles less than the minimum guaranteed throughout / the prescribed parameters as fixed by the Port.(d)Violates safety regulations and mandatory Dock Safety measures.(e)Adopts improper and unsafe handling methods.(g)Misrepresents or mistakes of material facts.(h)Adjudged, insolvent or going into liquidation.(i)Causing obstruction to any work in the Port.(k)Transfers the stevedoring operations or subjects the license to any other individual or parties.(l)Violates security related rules & instructions like ISPS code compliance etc.(m)Any misconduct which in the opinion of the Port.(n)warrant such cancellation or suspension.(o)Indulges in illegal/corrupt practices.(p)Violation of safety precautions.(q)Low productivity.(r)Lack of suspension over stevedoring workers.(s)Improper and unsafe handling of packages.(t)Any breach in operation of the Stevedoring at the Port.(u)Non compliance of any statutory provisions applicable to Stevedoring operation at the Port.Provided that no such license shall be cancelled or suspended as the case may be until the holder of the license has been given a reasonable opportunity for showing cause why his license should not be cancelled as the case may be.

13. Appeal.

(1)Any person aggrieved by orders of the Chairman granting or refusing to grant a license or renewing to renew a license or suspending s license under these regulation may prefer an appeal in writing to the Central Government within 30 days of the communication of the orders appealed against.(2)The Central Government shall pass such orders on the appeal as it deems fit after giving are opportunity of being heard to the appellant.(3)Not withstanding anything contained in sub-regulation (1), an appeal may be admitted after the period of thirty days if the appellant satisfies the Central Government that he had sufficient cause for not making an application within such period.....Traffic ManagerNew Mangalore Port Trust