

The Shipping Development Fund (Loans And Other Financial Assistance) Rules, 1975

UNION OF INDIA

India

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Rule

THE-SHIPPING-DEVELOPMENT-FUND-LOANS-AND-OTHER-FINANCIAL ASSISTANCE) RULES, 1975

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1764.

G.S.R. 539 (E), dated 25th October, 1975. - In exercise of the powers conferred by section 19 of the Merchant Shipping Act, 1958 (44 of 1958), the Central Government hereby makes the following rules, namely :-

1. Short title, application and commencement.

(1)These rules may be called the Shipping Development Fund (Loans and Other Financial Assistance) Rules, 1975.(2)They shall apply to loans and financial assistance to fishing companies for the acquisition and maintenance of trawlers.(3)They shall come into force on the date of their publication in the Official Gazette.

2. Definitions.

- In these rules, unless the context otherwise requires,-(a)"Act" means the Merchant Shipping Act, 1958 (44 of 1958);(b)"application" means an application made under rule 3;(c)"Chairman" means the Chairman of the Committee;(d)"Committee" means the Shipping Development Fund Committee;(e)"Fishing company" means a company formed and registered under the Companies

Act, 1956 (1 of 1956) and having sea fishing as its main object;(f)"Fund" means the Shipping Development Fund;(g)"Government director" means the Government director on the Board of directors of a fishing company which is not owned or controlled by Government;(h)"Secretary" means the Secretary to the committee;(i)"trawler" means a fishing vessel and includes a purse-seiner, long liner and a combination vessel for multi-purpose fishing, having in each case, an overall length of not less than twenty metres.

3. Application for loan or other financial assistance.

(1)A fishing company desirous of raising a loan or obtaining other financial assistance from the Fund for the acquisition and maintenance of trawlers shall apply to such officer as the Central Government in the Department of Agriculture may, by notification in the Official Gazette, authorise in this behalf (hereinafter referred to as the Authorised Officer).(2)Every application referred to in sub-rule (1) shall be made in such form as is specified in Part A of the form of application set out in the Appendix to these rules, and every such application shall be accompanied by an attested copy of the resolution of the fishing company authorising the raising of the loan or obtaining other financial assistance.

4. Security of application.

- The Authorised Officer shall scrutinise every application received by him and after such scrutiny, the Central Government in the Department of Agriculture shall, after making necessary entries in Part B of the form of application, forward it to the Secretary.

5. Consideration by the Committee.

- The Secretary shall then place the application before the Committee for consideration at its next meeting, or in case of urgency, at a meeting specially convened for the purpose with the approval of the Chairman.

6. Decision of the committee to be recorded.

- The decision of the Committee on each application, which shall be in the form of a resolution, duly passed by the Committee, shall be recorded in Part C of the form of application. Loan exceeding Rs. 100 lakhs to be made with the prior approval of Central Government.- The Committee shall not grant any loan or other financial assistance exceeding Rs. 100 (one hundred) lakhs in value except with the prior approval of the Central Government in the Ministry of Shipping and Transport.

8. Terms of loan or other financial assistance. - (1) Every loan or other financial assistance granted under these rules shall be on the terms and conditions specified from time to time by the Central Government in pursuance of sub-section (2) of section 16 of the Act.

(2) No loan or other financial assistance shall be granted to a fishing company unless such company has furnished security to the satisfaction of the Committee.

9. Communication of decision.

- The Secretary shall communicate to the fishing company and to the Central Government in the Department of Agriculture the decision on the application and the terms and conditions under which the loan or other financial assistance has been granted to the fishing company.

10. Acceptance of loan or other financial assistance and execution of loan documents.

(1) If the terms and conditions of the loan or other financial assistance are acceptable to the fishing company, it shall arrange to have a resolution, passed at a meeting of the Board of directors, or, where necessary, the resolution of the company in general meeting, authorising the raising of the loan or obtaining other financial assistance on the terms and conditions, specified by the Central Government, on behalf of the fishing company, the documents specified in sub-rule (5), and to affix the common seal of the company on such documents. (2) The resolution referred to in sub-rule (1) shall specify the assets, which are proposed to be offered as security for the loan or other financial assistance, as the case may be, or the other securities which are proposed to be offered for the purpose aforesaid and that the terms and conditions specified by the Central Government are acceptable to the company. (3) It shall be the duty of the Secretary to get the documents, specified in sub-rule (5), executed by or on behalf of the fishing company. (4) No loan or other financial assistance shall be released to a fishing company unless a deed mortgaging the trawlers has been duly executed by or on behalf of the fishing company [or such other security as is acceptable to the Committee has been duly furnished] [Inserted by G.S.R. 561(E), dated 19th November, 1975.], to the satisfaction of the Committee and the fishing company has---(a) registered such mortgage [of the trawlers] [Inserted by G.S.R. 561(E), dated 19th November, 1975.] with the Registrar of the Companies as required by the Companies Act, 1956 (1 of 1956) and in the case of mortgage of any other assets offered as security by the company, it has been registered by other authorities where required by law so to do, and thereafter also registered with the Registrar of Companies as aforesaid; (b) taken out proper insurance policies in respect of the trawlers or any other assets of the company offered as security to the Committee and duly assigned such insurance policies to the Committee. (c) registered the mortgage deeds of the trawlers with the Registrar of Ships. (5) The documents referred to in sub-rule (2) are--(a) the loan agreement, (b) mortgage deed in respect of the trawlers mortgaged as security, (c) the deed of covenants to accompany the mortgage deed, (d) in the case of bank guarantee or any other form of security approved by the Committee, the relevant documents to be executed in that connection. (e) any other document which in the opinion of the Committee is considered necessary and essential to safeguard the interests of the Committee.

11. Payment of Loan Amount.

- After all formalities referred to in rule 10 have been complied with by the borrowing fishing

company, the Secretary shall draw a cheque in favour of the company for the amount of loan, or, where the Committee intends to give the guarantee for the due payment of the dues of the fishing company in relation to the acquisition and maintenance of trawlers, the Secretary shall draw up the deed, or letter of guarantee and get it executed by or on behalf of the Committee, and where the amount is to be paid in instalments, the Secretary shall draw the cheques in favour of the fishing company on the due dates and for the appropriate amount of such instalments.

12. Payment of Loan.

(1) The borrowing fishing company shall repay the amount of the loan and the interest thereon in accordance with the terms and conditions of the loan, under intimation to the Department of Agriculture. (2) The Department of Agriculture and where the borrowing fishing company is a company which is not owned or controlled by Government, also the Government director shall keep a watch. (a) on the repayment of the loan and shall bring any default by the borrowing fishing company to the notice of the Secretary who shall immediately make a report to the Committee for such action as the Committee may consider necessary; (b) generally on the affairs of the borrowing fishing company and shall immediately bring to the notice of the Secretary any happenings or development which may affect the credit-worthiness of the borrowing fishing company or the sea-worthiness of the trawlers mortgaged to the Committee. Appendix (See rules 3, 4 and 6) Form Of Application

Part A

Application for Loan or Other Financial Assistance

- 1. Name and address of the applicant with date of incorporation.**
- 2. Authorised Capital of the fishing company.**
- 3. Debt : Equity ratio.**
- 4. Issued, subscribed and paid-up capital as certified by the company auditor or as per last balance sheet.**
- 5. Does the applicant satisfy the requirements of Section 21 of the Merchant Shipping Act, 1958 (give details to elucidate the answer). In case of company names of directors and their technical qualifications.**
- 6. Number and total G.T.R. of vessel (s) owned by the applicant and its/their insured value and also its/their market value.**

7. In the case of companies in existence for three years or more copies of balance sheet and profits and loss accounts for the last three years (indicating working results assets liabilities and dividends if any, declared) may be furnished. In the case of others, necessary information to the extent available may be furnished.

8. Surplus funds available as on--

(a) Last Balance Sheet date. (i) Current assets. (ii) Loans and advances. (iii) Investments. (iv) Unfinished voyages/anticipated earnings/still to be recovered. (v) Other current assets, if any (details may please be furnished). Total (I) Less investment and other current assets, if any, tied up as security or otherwise not mobilizable (details may be furnished). (b) Loss : (i) Current liabilities. (ii) NO Provisions. (iii) Unfinished voyages/advance earnings. (iv) Other current liabilities, if any (furnish details). Total (II) (c) Net total (I-II) = III. (d) Add : Generation of resources during the current financial year. (i) Depreciation on existing fleet. (ii) Net surplus on existing fleet (after providing for interest charges), including Non-operating earnings. (e) (i) Depreciation on trawlers delivered during the year, separately for each. (ii) Operating surplus on above separately for each trawler [indicate details of calculations of (i) and (ii) above. (f) Loan guarantee assistance earlier taken from Shipping Development Fund Committee/Government/Other institutions (give details). (g) Other Capital Receipts, if any (give details). Total (IV) (h) Total III and IV = (V) (i) Deduct out-go : (i) Gross payment to Shipyard/Financing Institutions on existing fleet. (ii) Gross payment as above on trawlers delivered during the year (give details). (iii) Repayment of principal to Shipping Development Fund Committee/Government/other financing institutions on : (a) Loans already sanctioned. (b) Loans/guarantee applied for (give details). (iv) Payment of interest to : (a) Shipping Development Fund Committee/Government/other financing institutions. (b) To Shipyard for trawlers delivered during the year (unless the interest charges have already been taken into account in arriving at Net Surplus). (v) Dividend. (vi) Other Capital out-go, if any, like Tax, etc. Total (VI) (j) Net Surplus available (i.e., V-VI) = VII. (k) (Deduct) working capital requirement (Basis of assessment may be given). Total (VIII) Note. - In future years, only the increase on this account, if any, is to be provided for. Reasons for proposing the increase should be explained. (l) Net Surplus Resources available as on (the end of the current financial year) (i.e., VII-VIII). Note. - Similar statement should be prepared for the next four years.

9. (i) Details of Income-tax and other tax liabilities upon the end of the assessment year preceding the date of application of loan.

(ii) Provision made to meet such liabilities and particulars thereof. (iii) The actual annual assessment for income-tax and other taxes as against details given in (i) above. (iv) Whether any proceedings were taken or are pending against the applicant for recovery of any taxes ? If so, furnish full details.

10. Particulars of loan/s, if any, already granted to the applicant by Government of India/Shipping Development Fund Committee.

(i) Amount/s of loan/s, date of grant and rate of interest. (ii) Trawlers against which the loan/s was/were granted. (iii) Repayment/s commenced or to commence from which date and to be made in how many instalments. (iv) Whether there has been in the past any default in the payment of instalment of other principal or interest and, if so, on how many occasions and for what reasons? (v) What action, if any, was taken by the lending authority in connection with the default referred to above. (vi) Outstanding balance of Government/Shipping Development Fund Committee loan/s and also other loan/s if any.

11. (i) Whether there has been any default in the compliance of any of the terms of the loan agreements and other loan documents in respect of loans mentioned in item 10 and, if so, on how many occasions and for what reasons ?

(ii) Whether the applicant has been subject to punitive action by other Ministries/Departments of Government and, if so, the particulars thereof and the reasons therefor. Full details should be furnished.

12. (i) Trawlers now proposed to be acquired or built.

(ii) Area in which the trawlers to be acquired or built will be operated. (iii) Cost of trawlers. (iv) Amount of loan or other financial assistance now required from the fund.

13. What security, in addition to the mortgage of the loan trawler, is the company prepared to offer, if so, required by the Shipping Development Fund Committee and pending the building of the loan trawler, what interim security is proposed to be furnished ?

14. If the trawler(s) in the existing conditions, and is/are proposed to be purchased second-hand, if the applicant is satisfied that the trawler(s) is/are (a) in good condition (b) the price is reasonable (c) suitable for the trade for which intended ? Copies of any reports etc. received by the Company regarding (a) maybe furnished.

15. What documentary proof the applicant furnishes in support of the actual cost of acquisition or building of the trawler(s).

16. Whether the applicant is aware of the terms on which the loans are usually granted by the Shipping Development Fund Committee and, if so, whether the company is prepared to accept them entirety; or, if not, in what respect the company desires modifications of these terms and for what reasons ?

17. (i) Anticipated working results in future, and

(ii) Whether such results fully establish the possibility of the applicant repaying the loan within the period of amortisation without any difficulty. To be signed by the applicant or his authorised representative.

Part B

(To be filled by the Department of Agriculture in the Ministry of Agriculture and Irrigation, Government of India)

1. Is the Department of Agriculture satisfied that the particulars furnished above by the applicant are correct to the extent that they can be verified ?

2. In particular, does the applicant satisfy the requirements of section 21 of the Merchant Shipping Act, 1958 (44 of 1958) ?

3. Is the Department of Agriculture generally satisfied after making such consultation as they deem necessary from their Technical Officers and Director of Fisheries of the State concerned, that the fishing vessel(s) proposed to be purchased or built is/are good for the price proposed to be paid and is/are suitable for the trade(s) in which it is intended to be put ?