

The Kandla Port Trust (Licensing of Stevedores) Regulation, 2010

UNION OF INDIA

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Rule

THE-KANDLA-PORT-TRUST-LICENSING-OF-STEVEDORES-REGULATION of 2010

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The Kandla Port Trust (Licensing of Stevedores) Regulation, 2010 Published vide Notification New Delhi, the 17th June, 2010 Ministry of Shipping G.S.R. 522(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 Trusts Act, 1963 (38 of 1963), the Central Government hereby approves with modification the Kandla Port Trust (Licensing of Stevedores) Regulation, 2010 made by the Board of Trustee of Kandla 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.

2. The said notification shall come into force from the date of publication of this Notification in the Official Gazette.

Schedule

Regulation In exercise of the powers conferred by sub-sections (f) to (c) of Section 123 of the Major Port Trusts Act, 1963 (38 of 1963) the Board of Trustees hereby makes the following Regulations, namely :-

1. Short title and commencement.

- These regulations may be called the Kandla Port Trust (Licensing of Stevedores) Regulation, 2010. They shall come into force on publication of approval thereto by the Central Government in the

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 the Port of Kandla as constituted under the Act.(iii)'Chairman' means the Chairman of the Board.(iv)'Form' means form annexed to these Regulations.(v)'Stevedore' means a person to whom a stevedoring licence has been given under regulation 3 and includes a person who is stevedore by virtue of Regulation 11 and who is an authorized agent for loading and unloading and storage 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 the Kandla Port Trust and includes the deputies and assistants to the Traffic Manager and any other officer acting under the authority of the Traffic Manager.

3. Scope.

- The 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.The Stevedoring may cover the activities on board involving workmen and extending to unhooking for export (loading) Cargo and hooking of import (unloading) cargo involving workmen on-board or whatever practice prevalent in Kandla Ports.

4. Issue of stevedoring licenses.

- (i) The Chairman may issue stevedoring licenses for the period for three years on application of persons to act as stevedores as the Port to perform the work of loading 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 works involved in the stevedoring of vessels within the Port.(ii)No stevedore shall be allowed to work on Board any vessel in the Port except under a license issued by the Chairman under these regulations.(iii)The stevedoring licenses shall be issued to the firms fulfilling the following criteria:(a)It shall be a Company registered under Companies Act or a partnership firm or any other legal entity.(b)It shall deposit security of Rs. 5 lakhs.(c)Stevedores shall undertake to provide minimum equipment/gear either owned or hired,(d)The Stevedores should undertake to employ at least 4 Supervisory personnel with minimum two years of cargo handling/ stowage experience. Their profile has to be enclosed along with the application.(e)The fee for issue/renewal of license shall be Rs. 50,000 for the period of the license which may be revised from time to time.

5. Production of evidence of capacity to do stevedoring work.

- No Licence to work as a stevedore shall be granted unless the applicant:(a)Produces evidence that he would maintain the input/output norms or handling different commodities as may be laid down by the Chairman from time to time.(b)Produces evidence of his financial standing to meet the

obligations to the workers and staff employed on account of wages and compensation under the Workmen's Compensation Act, 1923, Payment of Wages Act, 1936, Industrial Disputes Act, 1947, or any other Law for the time being in force, and give a solvency certificate for Rs.10 lakh, Note: - The vessel owners, vessel operators, steamer agents and importers and exporters would also be eligible for grant of a licence.

6. Duties and responsibilities of stevedore.

- Every stevedore, shall have the following duties. Obligations and responsibilities during the currency of stevedoring licence issued to him by the Chairman, namely: (a) He shall ensure due compliance by all the staff and the workers employed by him during the operation of landing and shipping of transshipping, goods or work incidental there of the provisions of the Indian Dock Labourers Act, 1934 the Indian Dock Labourers Regulation, 1948. The Dock Workers (Safety, Health and Welfare) Scheme, 1961 and notification issued thereunder, the Industrial Disputes Act, 1947, the payment at Bonus Act, 1965, the Payment of Wages Act, Minimum Wages Act and rules, regulations and scheme issued thereunder relating to such operations and for the time being in force. (b) He shall carry out the operations with gear owned or hired 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 operation performed by him. (e) He shall indemnify the Board against all third party claims arising out of operations performed by him. (f) Whenever the Board has to pay compensation to any of its employees or workmen or his dependents under the provisions of the Workmen's Compensation Act or any other law for the time being in force, in consequence of any accident arising out of and/or during the course of work performed by a Stevedore or any employee/s or worker/s for the time being or employed under the stevedore the stevedore shall reimburse the Board any sum so paid. For such purpose, the amount of the compensation as determined under the Workmen's Compensation Act or any other law for the time being in force, shall be taken as binding and conclusive as between the Board and the Stevedores. (g) If any gear, plant or other property of the Board is damaged in the course of any such operation, the Stevedore shall compensate the Board for such loss or damage, the extent of such compensation being decided by the Chairman or the officer authorized by him after carrying out a proper enquiry. (h) He shall agree to refer any dispute or difference between him and the Kandla Port Trust as to the payment of compensation its quantum or any connected questions to an Arbitrator nominated by the Chairman. (i) He shall be responsible to employ at least on experienced person to supervise every vessel in respect to which he has undertaken the stevedoring operations. (j) He shall submit promptly any information asked for by the Chairman or the Traffic Manager from time to time. (k) He shall ensure that all the dues of Board are paid in advance. Failing which his Licence shall not be renewed and be liable to be cancelled under these regulation. (l) He shall provide for adequate supervision over the workers employed by him in order to ensure that maximum productivity is ensured consistent with requirements of safety. (m) He shall provide all the necessary gear, equipment, duly tested and found suitable for the various types of cargoes. (n) He shall product the gear equipment with necessary annealing and test certificates, for inspection periodically or whenever demanded by the Inspector, 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 and shall falls below normal.(q)He shall make adequate at arrangements for ancillary operation such as filling, stitching and breaking of cargo, stacking of cargo, stowage of cargo etc. on board vessels.(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 Federation of Port 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.(t)He shall comply with such instructions as may be issued from time to time by the Traffic Manager in the interest of safety, improved productivity and labour discipline.(u)Whenever casual workers, are deployed, the stevedore should ensure that such worker are covered by the insurance policy.(v)Stevedore shall pay charges to Port in advance as applicable from time to time.(w)The stevedore may deploy adequate supervisory personnel per vessel.

7. Applications for grant/renewal of licence.

(1)The application for grant of renewal of stevedoring license shall be made in Form 'A' to the Traffic Manager.(2)The Applicant shall pay as licence fee of Rs 50,000 (Rupee Fifty Thousand only) or any other amount determined by the board before the licence is issued or renewed.(3)Every licence granted or renewed under these regulations shall being in Form 'B'.(4)The application for renewal of stevedore licence shall be made at least three months before the expiry of the licence. If the application for renewal is not received within the stipulated period of three months, such applications may be accepted on payment of Rs. 500 (Rupees Five Hundred only) by the Chairman :Provided that the application for renewal together with late fee is received by the Traffic Manager before the actual date of expiry of the licence.(5)In the event of loss or defacing of the original licence, a duplicate licence may be obtained on an application to the Traffic Manager on payment of Rs 1,000 (Rupees One Thousand Only).(6)Change in name constitution etc. to be communicated:(i)Where the stevedore is a firm or 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 documents in support of such change.(ii)Any, change in the name, title or constitution or a firm or company holding a stevedoring licence shall be communicated to the Chairman forthwith. The firm or company undergoing such as change shall submit a fresh application for the grant or new licence provided that the Chairman may allow such a firm or company to carry on business till a decision is taken on such fresh application.

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

- The Traffic Manager shall report any violation of the terms and conditions of the stevedoring licence by the stevedore to the Chairman and the Chairman may, pending enquiry, suspend for a period as may be required depending upon the case, the licence issued to a stevedore, if he finds it expedient and necessary to do so in the interest of the Port.

9. Cancellation, suspension of licence.

- The Chairman may at any time suspend for such a period as it may deem fit, or cancel the licence issued to a stevedore or violation of any of the terms of the licence or for any of the reasons listed below when :-(i)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.(ii)The firm handles less than the minimum guaranteed through put/the prescribed parameters as fixed by the Port.(iii)Violates safety, regulations and mandatory Dock Safety measures.(iv)Lack of supervision over stevedoring workers.(v)Adopts improper and unsafe handling methods.(vi)Misrepresents or misstates of material facts.(vii)The stevedore being adjudged insolvent or going into liquidation.(viii)Causing obstruction to any work in the Port.(ix)Transfers the stevedoring operations or sublets the license to any other individual or parties.(x)Any misconduct which in the opinion of the Board warrant such cancellation or suspension.(xi)Violates security related rules and instruction like ISPS code compliance etc.(xii)Indulges in illegal/corrupt practices.No stevedoring licence shall be cancelled or suspended until the Stevedore has been given a reasonable opportunity for showing cause why his license should not be cancelled or suspended and after recording reasons for which cancellation or suspension as the case may be.

10. Appeal.

(1)Any person aggrieved by the order of the Chairman granting or refusing to grant a licence or renewing or refusing to renew a licence or suspending a licence under these regulations may prefer an appeal in writing to the Board within thirty days of the communication of the order appealed against.(2)The Board shall pass such order on the appeal as it deem fit after giving an opportunity of being heard to the applicant within a period of 3 months from the date of appeal.(3)Notwithstanding anything contained in the Regulations (1) the appeal may be admitted after the period of thirty days if the applicant satisfies the Board that he had sufficient cause for not making an application within such period.

11. Deployment of workers form Port/Licence holder or Outside.

- In case the Port is unable to supply the requisite workers against the requisition placed by stevedores, the port may allow the stevedores to make their own arrangement for this purpose.

12. Datum, Norms for Productivity, etc.

- Datum, Norms for productivity, rate of incentive etc. may be determined by the ports from time to time duly taking determined by the ports from time to time duly taking cognizance of the performance parameters during last three years.

13. Training, use of Modern Technology.

- The personnel deployed in stevedoring activities shall be trained in modern methods of cargo handling for improving the productivity, efficiency and safety. It is suggested that such specialized training courses for stevedoring operatives shall be introduced in the Indian Maritime University.

14.

Notwithstanding anything contained in these Regulations, the existing stevedoring licenses issued under Kandla Port Trust (Licencing of Stevedores) Regulation, 1988 shall be deemed to have been issued under this regulations till the date of renewal

15. Repeal.

- The Kandla Port Trust (Licensing of Stevedores) Regulation, 1988, as applicable to the stevedores of Kandla Port Trust immediately before commencement of these regulations, are hereby repealed. Form 'A' To The Traffic Manager, Kandla Port Trust Application Form for the Grant/Renewal of Stevedoring Licence

1. Name of the applicant:

2. Whether individual, firm or Company (Article of Partnerships/Company to be produced):

3. Full Address:

4. Years/s for which license is required:

5. *Name/s of the Steamship Company/Charterer of Ships/Owner of cargo with whom the contract for stevedoring their vessel/cargo subsist or is proposal to be entered (Proof of contract for the period covered is to be appended. The approximate tonnage for each party is to be indicated):

6. *Previous experience in the filed:

(The cargo and tonnage stevedored in the previous 5 years in case of new applicant and 2 years for renewal to be furnished.)

7. Proof of financial ability to meet the obligations on account of wages, compensation under Workmen's Compensation Act, etc.:

(A certificate from the Bankers as to the financial ability and Income Tax Clearance Certificate to be produced.)

8. Whether the application has/is willing is acquire adequate gear for stevedoring the contracted vessel/cargo:

(List of gear with necessary certificate to be furnished.)

9. The detail profiles of four supervisory personnel with two years of cargo handling experience:

10. Whether the applicant has cleared all dues if any, payable to the Port Trust?

11. Whether the applicant has made the following deposits:

(a)Licence fee of Rs. 50,000 (Pl furnish details).(b)Security Deposit of Rs. 5,00,000 (Pl furnish details).I affirm that the particulars given are true to the best of my knowledge and belief.I agree to furnish any other information/produce any record for inspection as may be required to consider the request for grant of licence.I agree to abide by the Kandla Port Trust (Licensing of Stevedores) Regulations, 2010 and to comply with the directions made by the Kandla Port Trust, from time to time, if the license is issued/renewed.Place:Date:Signature of the applicant*Columns 5 and 6 will not be applicable in case of a fresh applicant or any applicant under probation.Form "B"(Emblem of Kandla Port Trust)Licence for Undertaking Stevedoring Operation at Kandla Port

1. Name of the Licencee.....

2. Address.....

3. Period for which the license is granted

From..... to.....

4. Any other particulars required to mentioned

.....

5.

6.

7.

SealChairmanKandla Port TrustConditions:

1. This license is subject to the provisions of the Major Port Trusts Act, 1963 and the Kandla Port Trust (Licensing of Stevedores) Regulations, 2010.

2.

3.

(Here point the conditions subject to which the license is given, e.g. the duties and responsibilities enlisted in Regulation 5 of the Draft Regulations).