

The Paradip Port Trust (Licensing of Stevedores) Regulation, 2009

UNION OF INDIA

India

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Rule

THE-PARADIP-PORT-TRUST-LICENSING-OF-STEVEDORES-REGULATION of 2009

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The Paradip Port Trust (Licensing of Stevedores) Regulation, 2009 Published vide Notification New Delhi, the 21st May, 2010 Ministry of Shipping G.S.R. 465(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 Paradip Port Trust (Licensing of Stevedores) Regulation, 2009 made by the Board of Trustees of Paradip 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 the powers conferred under 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.

(1) These regulations may be called the Paradip Port Trust (Licensing of Stevedores) Regulations, 2009. (2) They shall come into force on the date of their publication in the, Official Gazette as required under Section 124 of the Major Port Trusts Act.

2. Definition.

- 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 Paradip as constituted under the Act; (iii) 'Chairman' means Chairman of the Board; (iv) 'Form' means Form annexed in these regulations; (v) 'Stevedore' means a person or a firm to whom Stevedoring Licence is issued under

Regulation 3 and includes a person who is a Stevedore by virtue of Regulation 10 and who undertakes loading/unloading, stowage of cargo in any form on board the vessels in a port.(vi)'Traffic Manager' means the Officer for the time being in charge or the Traffic Department of the Paradip Port Trust and includes the Deputy and Assistant Traffic Managers and any other officers acting under the authority of the Traffic Manager.

3. Scope.

- Stevedoring covers the following activities:(i)Stevedoring undertaken by the port.(ii)Stevedoring undertaken by the licenced Stevedores.(iii)Stevedoring by the BOT Terminal Operator.

4. Issue of Stevedoring Licence.

(1)The Chairman may issue stevedoring licenses 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.(2)No Stevedores shall be allowed to work on board any vessel in the Port except under a licence issued by the Chairman under these regulations.(3)The licence will be strictly renewed on the basis of achieving minimum guaranteed throughput/prescribed performance parameters as fixed by the Port.(4)If the stevedore fulfils the required conditions and is eligible for renewal but awaiting safety clearance, the port may permit the stevedoring operation by executing an indemnity Bond.

5. Production of Evidence of Stevedoring work done/Capacity to do such work.

- No Licence for stevedoring be granted unless the applicant produces evidence:(a)that he has maintained/would maintain that input/output norms of handling different commodities as maybe laid down by the Board from time to time.(b)That his financial standing allows him to meet the obligations to the workers and staff employed on account of wage and compensation under the Workmen's Compensation Act, 1923 Payment of Wages Act, 1963, Industrial Disputes Act, 1947 or any other law for the time being in force; and makes a deposit of rupees (5) Five lakhs in cash or bank draft which will be refunded after the termination/expiry of the licence.(c)That he undertakes to have in his employment four (4) supervisory staff with minimum of two year of cargo handling experience and that he submits the profiles of his employees along with the application for issue/renewal of license.(d)That he has in his possession such minimum gear as may be prescribed by the Board for undertaking stevedoring efficiently.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 stevedores.

- Every stevedore, shall be subject to the following duties, obligations and responsibilities during the currency of stevedoring licence, namely :-(a)He shall ensure due compliance by all the staff and the

workers employed by him during operation of landing and shipping of transshipping goods or work incidental thereto, of the provisions of the Indian Dock Labourers Act, 1964; the Indian Dock Labourers Regulations, 1948, the Dock Workers' (Safety), Health and Welfare Scheme, 1961 and notifications issued thereunder, the Industrial Disputes Act, 1947, the Payment or Bonus Act, 1965 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 by engaging workers supplied by the port and with the gears owned or hired by him. In case the port is unable to supply the requisite workers against the requisition placed by the stevedore, he will make his own arrangement for this purpose with permission from port.(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 relations to operations 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 compensations to any of its employees or workers or his dependants under the provisions of the Workmen's Compensation Act, 1923 in consequence of any accident arising out of, and during the course of work performed by a Stevedore or any employee or worker employed by him, the Stevedore shall reimburse the Board any sum so paid and for such purpose, the quantum 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 Board is damaged in the course of any such operation, the Stevedore shall compensate the Board for such loss or damage, the 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 Paradip 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 undertaken the stevedoring operations.(j)He shall submit promptly any information asked for by the Chairman, Traffic Manager or any other Competent Officer of the Board 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 be 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 certificates, for inspection periodically or whenever demanded by the Inspector Dock Safety or the Traffic Manager or any other Officer.(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 worksite 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 arrangements for ancillary operations such as filling, stitching, cleaning, breaking, stacking, stowage of cargo, etc. on board the vessels and whenever casual workers are engaged for such operations he should ensure that such workers are covered by the insurance policy.(r)The stevedoring personnel shall be trained in modern methods of cargo handling for improving productivity, efficiency and safety.(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 of the chairman;(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)He shall ensure to keep the

Security and other Deposits valid during the currency of Stevedoring Licence.(v)He shall pay the scheduled charges to the port in advance.

7. Application for grant/renewal of licence.

(1)The application for grant or renewal of Stevedoring license shall be made in Form-A to the Traffic Manager.(2)The applicant shall pay a licence fee of Rs. 50,000 (Rupees fifty thousand) only before the licence is issued or renewed. Every licenced stevedore shall deposit a sum of Rs. 5,00,000 (Rupees five lakhs) only as security deposit for the proper performance of work under the license. The Security deposit will not carry any interest and will be refunded after the licence is cancelled/surrendered/expired and after adjusting the claims, if any, due to the board.(3)Every licence granted or renewed under these regulations shall be in Form-B.(4)The application for renewal of stevedoring 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 late fee of Rs. 50 (Rupees fifty) only by the Chairman:Provided that the application for renewal together with the late fee is received by Traffic Manager before the actual date of expiry of the licence.(5)Upon receipt of an application in Form 'A' the Chairman may grant/renew a licence or refuse grant/renewal of licence for reasons to be recorded in writing.(6)Provided further that the applicant will be intimated of such refusal in writing.(7)In the event of loss or defacing of the original licence, a duplicate licence, may be obtained on an application made to the Traffic Manager on payment of Rs. 100.00 (Rupees one hundred only).(8)Change in name, constitution, etc. be communicated:(1)Where the Stevedore is a firm of a Company it shall immediately communicate to the Chairman about any change in the Director, Managing Director or Partners, as the case may be with a copy of the document in support of 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 licence:Provided that the Chairman may allow such firm or company to carry on business till a decision is taken on such from application.

8. Suspension of Licenses.

(1)The Chairman may, at any time, suspend for such period as it may deem fit, or cancel the licence issued to a Stevedore for violation of any of the terms of the licence or for any of the reasons listed below:(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 year has not elapsed from the date of expiry of the sentence.(ii)The firm handles less than the minimum guaranteed through out the prescribed parameters as fixed by the port.(iii)Violates safety regulations and mandatory Dock Safety measures.(iv)Adopts improper and unsafe handling methods.(v)Adjudged insolvent or going into liquidation.(vi)Lacks supervision over stevedoring workers.(vii)Causes obstruction to any work in the port.(viii)Mis-represents of mis-states of materia1 facts.(ix)Transfers the stevedoring operations or Sub-lets the licence to any other individual or parties.(x)Any misconduct which in the opinion of the Chairman warrants such cancellation or suspension.(xi)Indulges in any illegal/corrupt practices.(2)No Stevedoring Licence

shall be cancelled or suspended until the Stevedore has been given a reasonable opportunity for showing cause why his licence should not be cancelled or suspended and after recording of reasons for such cancellation or suspension.

9. Appeal.

(1) Any person aggrieved by any of cancellation, suspension or refusal of license made under these regulations may prefer an appeal in writing to the Central Government within thirty days of the communications of the order appealed against. (2) The Central Government shall pass such order on the appeal as it deems fit after giving an opportunity of being heard to the appellant. Notwithstanding anything contained in sub-regulation (1), an appeal may be admitted after the period of thirty days, if the appellant satisfied the Central Government that he has sufficient cause for not making an application within such period.

10.

Notwithstanding anything contained in these Regulations, stevedoring licences which may be in force on the date of issue of these regulations shall be deemed to have been issued under these Regulations and shall continue to be valid till the expiry of the period of such licences.

11. Repeal.

- Rules No. 62, 63 and 64 of Paradip Port Rules, 1966 dealing with Stevedoring Licence shall stand repealed from the date this Regulation comes into force. Form 'A' To The Traffic Manager, Paradip Port Trust. Application Form For The Grant/renewal of Stevedoring Licence

1. Name of the applicant:

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

3. Full Address:

4. Year/s for which licence 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).] [Columns 5 and will not be applicable in case of a fresh applicant or any applicant under probation.]

6. [Previous experience in the field:] [Columns 5 and will not be applicable in case of a fresh applicant or any applicant under probation.]

(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 applicant has/is willing to 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. (P1 furnish details)

(b) Security Deposit of Rs. 5,00,000 (P1 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 Paradip Port Trust (Licensing of Stevedores) Regulations, 2009 and to comply with the directions made by the Paradip Port Trust, from time to time, if the licence is issued/renewed. Place: Date: Signature of the applicant Form "B" (Emblem of Paradip Port Trust) Licence For Undertaking Stevedoring Operation at Paradip Port

1. Name of the Licensee

2. Address.....

3. Period for which the licence is granted

Fromto

4. Any other particulars required to mentioned

.....

3. Period for which the licence is granted

5.

6.

7.

Seal:ChairmanParadip Port TrustConditions:

1. This licence is granted subject to the provisions of the Major Port Trusts Act, 1963 and the Paradip Port Trust (Licencing of Stevedores) Regulations, 2009.

2.

3.

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