

Mumbai Port Trust (Licensing of Stevedores and Allied Matters) Regulations, 2012

UNION OF INDIA

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Rule

MUMBAI-PORT-TRUST-LICENSING-OF-STEVEDORES-AND-ALLIED-MATTERS-REGULATIONS, 2012

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Mumbai Port Trust (Licensing of Stevedores and Allied Matters) Regulations, 2012Published vide Notification No. G.S.R. 577(E), dated 21st July, 2015Ministry of Shipping(Ports Wing)G.S.R. 577(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 Mumbai Port Trust (Licensing of Stevedores and Allied Matters) Regulations, 2012, made by the Board of Trustees for the Mumbai Port Trust in exercise of 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 Gazette of India.

Mumbai Port Trust

Schedule

1. Short Title.

(1)These regulations may be called Mumbai Port Trust (Licensing of Stevedores and Allied Matters) Regulations, 2012.(2)They shall come into force on the day on which the Central Government's approval thereto shall be published 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 Mumbai as constituted under the Act.(iii)"Chairman" means Chairman of the Board of Trustees.(iv)"Dock Labour Board" means the Mumbai Dock Labour Board constituted under the Dock Workers' Regulations of Employment Act, 1948 (Act 9 of 1948).(v)"Traffic Manager" means the officer for the time being in charge of Traffic Department and includes the Deputies and Assistants to the Traffic Manager and any other officers acting under the authority of the Traffic Manager.(vi)"Stevedore" is an authorized agent to whom a stevedoring licence has been given under Regulation 4 for loading and unloading and stowage of cargo in any form on board the vessels in Port.3.1The Chairman may, on application, issue stevedoring licence for a period of three years or such shorter period as he may consider proper, to a company registered under Companies Act or a Partnership Firm or any other legal entity, 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 stevedoring in the Port. The vessel owners/ vessel operators/ steamer agents, the BOT terminal operator and importers and exporters would also be eligible for grant of licence.3.2No stevedore shall be allowed to work on board any vessel in the Port except under such licence.3.3No licence to work as a stevedore shall be granted unless the applicant produces-(a)evidence that a Shipping Company/ Charterer of Ship/ Owner of cargo be prepared to enter into a contract for stevedoring with him.(b)evidence that he has maintained/would maintain the input/output norms of handling different commodities as may be laid down from time to time.(c)proof of his financial stability to meet the obligation to labour and staff employed on account of wages and compensation under Workmen's Compensation Act, 1923, the payment of Wages Act, 1936, the Industrial Dispute Act, 1947 and/ or any other law in force at that time.(d)proof of having in his employment at least 4 Supervisory Personnel with minimum two years of cargo handling/stowage experience and have in his possession such minimum gear and equipment as may be specified by the Board from time to time.(e)a Bank Guarantee for Rupees Five Lakhs so as to meet any contingency.

4. Duties and Responsibilities of a Stevedore.

- During the currency of a stevedoring licence issued by the Chairman the following obligations and responsibilities shall be fulfilled by the Stevedore, viz.(1)He shall be responsible for the due observance and performance by all staff and labour employed by him during the operation of landing and shipping or transshipping goods or work incidental thereto of the provisions in all the relevant acts, rules, regulations and orders relating to such operations for the time being in force.(2)He shall ensure that all such operations conform in all respects to the requirements prescribed by the rules and regulations and schemes framed under the Dock Workers (Regulations of Employment) Act, 1948 (9 of 1948) or any other law in force from time to time.(3)Such operations shall be carried out with his own gear, or gear arranged by him.(4)He shall be solely responsible for any accidents or damage resulting from the use of defective gear.(5)He shall comply with all accepted safe practices in relation to such operations.(6)He shall indemnify the Board against all third party claims arising out of such operations.(7)Whenever the Board has to pay compensation to any of its employee or workman whether registered or otherwise or his dependents

under the provisions of the Workmen's Compensation Act, in consequence of any accident arising out of and during the course of work performed by a stevedore or any employees or workers employed by him for the time being, 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 shall be taken as binding and conclusive as between the Board and the Stevedore.(8)Whenever casual workers are deployed, the stevedore should ensure that such workers are covered by the Insurance Policy.(9)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.Note. - For the purpose of sub-regulation 7 above, the term employee or worker shall include a registered or casual worker of the Dock Labour Board.(10)Every stevedore shall employ at least one experienced Foreman and Tindal to superintend the loading or unloading of cargo or bunkering at each hatch-way at which loading/unloading or bunkering is being carried on. The Tindal shall supervise the slinging or unslinging of goods in the hold and whenever a vessel is loading cargo in between decks alone, shall see that the between-deck hatches that are provided with cross beams and fore and aft beams have all such beams fixed in their proper places, and that the hatch covers are properly put on and effectively secured to prevent their displacement before commencing the work; the Foreman shall remain on deck and see that the crane chain is not taken out of the square of the hatch-way, and that the hook does not catch the coaming's or foul any of the ship's gear or damage any structure or erection ashore. The Foreman shall give correct signals to the crane driver and shall superintend the taking off and putting on the beams and hatch covers and shall see that persons keep out of danger on deck and do not stand under any hoist. It shall also be the duty of the Foreman when work is stopped for the day or night, to search and satisfy himself that no one is remaining in the hold and the stevedore shall be solely responsible to the owners of the ship and to the Board in the event of any injury or damage being caused to any person or property in the course of loading, unloading or bunkering operations.(11)The stevedore shall submit promptly any information asked for by the Chairman or the Traffic Manager from time to time.(12)The stevedore shall ensure that all the dues of the Board and the Dock Labour Board are paid in advance. His licence shall not be renewed unless such dues have been settled in full.(13)He shall provide for adequate supervision over the workers employed by him to ensure that maximum productivity is ensured consistent with requirements of safety.(14)He shall provide all the gears, equipment (duly tested and found suitable for the various types of cargoes), protective equipments and safety appliances required for the various types of cargo and produce all items and gears for inspection with necessary annealing and test certificates periodically or when demanded by the Inspector, Dock Safety, or any officer of the Traffic Department or the Dock labour Board.(14a)He shall provide the workers necessary protective safety appliances appropriate for the type of cargo.(15)He shall ensure that the workers are available at the work spot throughout the shift period, except during the recess hours and render the normal output of approved standards as prescribed by the Board or the Dock Labour Board.(16)He shall take immediate and effective steps to improve the performance whenever the output falls below the prescribed standards.(17)He shall make adequate arrangements, for ancillary operation such a filling, stitching and breaking of cargo, stacking of cargo, storage of cargo, etc. on board vessels.(18)He shall handle such tonnage during a specified period as may be prescribed by the Board from time to time.(19)He shall be regular in payment of his contribution to the Provident Fund in accordance with the Mumbai Dock Labour Board's Employees Provident Fund Rules and in

payment of dues to the Labour. He shall not infringe any rules relating to the hiring of labour from the said Board.(20)He shall undertake to pay the workers engaged by him wages in accordance with the terms of wage settlement arrived at between the appropriate authority and the Federations of Port and Dock Workers from time to time.(21)He shall not assign, transferrer or in any manner part with any interest or benefit in or under the licence to any other person without prior approval in writing of the Chairman.

5. Submission of Application.

- (i) The application for grant/renewal of a stevedoring licence shall be made in Form 'A'.(ii)The applicant shall pay a licence fee of Rs. 50,000 or such fee as may be decided by the Chairman from time to time before the licence is issued or renewed. Every licenced stevedore shall deposit a sum of Rs. 50,000 as Earnest Money for the proper performance of the work permitted under the licence. The Earnest Money shall not carry any interest and will be refunded when the licence ceases to operate after adjusting claims, if any, to the Board(iii)Every licence granted or renewed under these regulations shall be in Form 'B'.(iv)Applications for renewal of the licence shall be made at least three months before the expiry of the licence. If an application for the renewal is not received within the stipulated period, the application may be accepted on payment of a late fee of Rs.500 for each day of delay, or such fee as may be prescribed by the Chairman from time to time, provided the application for renewal, together with such late fee is received by the Traffic Manager before the actual date of expiry of the licence.(v)In the event of loss or defacing of the original licence, the stevedore may apply to the Traffic Manager for a duplicate licence alongwith a copy of police complaint and on payment of Rs. 1000.

6.

The stevedore shall comply with such instructions as maybe issued from time to time by the Traffic Manager in the interests of safety, improved productivity and labour discipline.

7.

The stevedore shall not make payment of any illegal gratification by whatever name called or any form of illegal inducement to any worker.

8.

(a)Any firm or company holding a stevedoring licence shall immediately communicate to the Traffic Manager any change in Director, Managing Director or Partners as the case may be.(b)Any change in the name title or constitution of a firm or a company holding stevedoring licence shall be communicated to the Traffic Manager forthwith. The firm or company undergoing such change shall submit a fresh application for the grant of licence provided that the Traffic Manager may with the sanction of the Chairman allow the firm or company to carry on business till such time as a decision is taken on such fresh application. The fresh licence required to be issued, in such cases, will,

however, attract the same charges as are payable for the issue of a new licence.

9.

The Chairman shall report any violation of the terms and conditions of the stevedoring licence by the stevedore to the Government and may pending enquiry, suspend for a period not exceeding three months, licence issued to the stevedore if he finds it expedient and necessary to do so in the interest of the Port.

10.

The Chairman may at any time suspend for such a period as he may deem fit or cancel the licence issued to stevedore for violation of any of the terms of licence or for any of the reasons listed below.(i)Violation of safety regulations & Mandatory Dock Safety Measures,(ii)The firm handles less than the minimum guaranteed throughput / the prescribed parameters as fixed by the port.(iii)Lack of supervision over the stevedoring work.(iv)Adopts improper and unsafe handling of packages.(v)Misrepresentation or mis-statement of material facts.(vi)Stevedore being adjudged insolvent or going in liquidation causing obstruction to any work in the Port.(vii)Transfers the Stevedoring operations or Sublets the licence to any other individual or party.(viii)Making payment of illegal gratification by whatever name called or in form of illegal inducement to the workers.(ix)Any Misconduct which in the opinion of the Board warrants such cancellation or suspension.(x)Violates security related rules & instructions like ISPS code compliance etc.(xi)Indulges in illegal/ corrupt practices.(xii)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.Provided that no such licence shall be cancelled or suspended, as the case may be, until holder of the licence has been given a reasonable opportunity for showing cause why his licence should not be cancelled or suspended as the case may be.

11.

A licence shall be cancelled, if after the grant thereof it is discovered that the application for licence contained any misrepresentation of material facts or if the licensee shall have been adjudged insolvent or shall have gone into liquidation, as the case may be.

12.

Upon these regulations coming into force the Docks Bye Law Nos. 66,66A and 67 of the Bombay Port Trust Docks Bye Laws shall stand repealed

13. Appeal.

(1)Any person aggrieved by any order under these regulations may prefer an appeal, in writing to the Chairman or any other higher authority within thirty days of the communication of the order appealed against.(2)The Chairman or any other higher authority shall pass such order on the appeal as it deems fit after giving an opportunity of being heard to the appellant.(3)Notwithstanding anything contained in sub-regulation 1, an appeal may be admitted after the period of thirty days if the appellant satisfies the Chairman or any other higher authority that he had sufficient cause for not making an application within such period.

14. Deployment of Workers From Port/ DLBS/ License Holder or Outside.

- In case the Port is unable to supply the requisite workers against the requisition placed by the Stevedores, the Port may allow the Stevedores to make their own arrangement for this purpose, subject, inter-alia, to their agreeing to pay at least the minimum wages that the Board may fix from time to time for the purpose.

15. 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.

16.

Notwithstanding anything contained in these Regulations, Stevedoring licences that may be in force on the date of issue of these Amendment 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.

17. Repeal and Saving.

- The Bombay Port Trust (Licensing of Stevedores and Allied Matters) Regulations, 1979 read with the Bombay Port Trust (Licensing of Stevedores and Allied Matters) Amendment Regulations, 1989 are hereby repealed. Notwithstanding such repeal, anything done or any action taken under the Bombay Port Trust (Licensing of Stevedores and Allied Matters) Regulations, 1979 and the Bombay Port Trust (Licensing of Stevedores and Allied Matters) Amendment Regulations, 1989 shall be deemed to have been done or taken under the corresponding provisions of these Regulations. Form 'A' Mumbai Port Trust[See Regulation 6(i)]Application for Grant/ Renewal of Stevedoring Licence

1. Name of the firm/individual (Article of Ownership/ partnership to be produced for the grant of fresh licence) :
2. Full Address :
3. Year/s for which licence is required :

- Whether the applicant has entered into a contract with Vesselowners/Charterer of ships/owner of cargo for stevedoring the vessels calling at this Port (Proof of contract for the period to be produced) :
- Financial capability (Proof of financial capability to meet the obligations to labour on account of wages and compensation under Workmen's Compensation Act etc. from their Bankers to be produced in the case of grant of fresh licence) :
- Whether the applicant is willing to acquire/maintain minimum gear prescribed under the Regulations (list of minimum gear to be furnished) :
- Whether the applicant is willing to employ/has in his employment such minimum staff prescribed under the Regulations (minimum requirement of staff furnished in the list attached. Details of staff employed shall be furnished) :
- Previous experience in the field :
- Whether the applicant has cleared all the dues on account of transactions he had with the Mumbai Port Trust (Clearance certificate to be produced) :
- Whether licence fee has been paid If so, the receipt should be produced (payment of licence fee in case of renewal shall be made in advance under the Rules) :

I agree to pay on advice the fee prescribed for the grant of fresh Stevedoring Licence. If the Licence is granted/renewed, I will abide by the Regulations, Rules and Conditions as may be prescribed or comply with any other directions issued from time to time by the Mumbai Port

Trust.-----Signature of the Applicant Place : Mumbai Dated : (a) The applicant shall furnish/produce any other information or records as may be required by the Mumbai Port Trust to consider his request for the grant of licence. (b) The grant of licence shall be entirely at the discretion of the Mumbai Port Trust. (c) The applicant should fulfil the requirements at items (6) and (7) before the grant of the licence. (d) While applying for the grant of fresh licence or renewal of licence, the applicant may strike off the words/lines whichever not applicable. Form 'B' Mumbai Port Trust [See Regulation 6(iii)] Licence to Stevedore Vessels in the Docks Not Transferable Year

_____ 20 - 20 No. _____ This is to Notify that

_____ carrying on business in the firm name and style of _____ Stevedore in accordance with the Mumbai Port Trust (Licencing of Stevedores and Allied Matters) Amendment Regulations, 2012 is/are hereby licenced by the Chairman, Mumbai Port Trust, as Stevedore in discharging and loading, stuffing and destuffing of cargoes upto _____ but subject to and in conformity with the Docks Regulations in force from time to time and the provisions of the Mumbai Port Trust (Licencing of Stevedores and Allied Matters) Amendment Regulations, 2012 and subject to the conditions mentioned herein below. Traffic Manager Date _____ Mumbai Port Trust Conditions: Stevedores in their capacity as Employers shall be held responsible for non performance/ malfeasance/ misfeasance by their Supervisory staff and work people. Any infringement or disregard of any kind of the provisions of the Docks regulations, Stevedoring Regulations shall be viewed seriously and penalties shall be imposed which may include suspension/withdrawal of licence.

- 2. The provisions regarding the employment of young persons covered by Employment of Children Act, 1938 and the Factories Act, 1948 and the Dock Workers (Safety, Health and Welfare) Act, 1986 and The Dock Workers (Safety, Health & Welfare) Regulations 1990 as from time to time amended wherever they may be applicable shall be fully complied with.**
- 3. The licence may be cancelled or suspended if the Stevedores commits default in payment of his contribution to the Provident Fund in accordance with the Mumbai Port Trust Employees' Provident Fund Rules or commits default in payment due to labour or infringes any rules relating to indenting of labour from Mumbai Port Trust or fails to pay wages at a rate not less than the minimum of the Wage Revision Committee scales as accepted by the Central Government applicable to the respective categories or commits breach of the instruction of the Traffic Manager, MbPT or any of his subordinate Officers relating to the use of gear or fails to provide protective equipment to labours/supervisory staff for handling Hazardous cargo as required by law.**
- 4. The Licensee shall ensure that he has on his roll minimum supervisory staff employed on the basis of manning scale fixed by the MbPT from time to time. He shall engage workers and Supervisory staff in accordance with agreement arrived at from time to time between Unions and MbPT.**
- 5. The Stevedore shall comply with the norms fixed by the Port from time to time in discharging/ loading of vessels.**
- 6. The Licensee shall ensure that all loading and unloading operations are carried out with the prescribed/proper gear and they shall have to be equipped with minimum gear and equipments as per norms fixed, depending upon the type of cargoes handled by each Stevedore. He shall be held responsible for any accident or damage resulting from use of defective gear.**
- 7. The Licensee shall comply with such instructions as may be issued from time to time by the Traffic Manager in the interest of safety, improving productivity, discipline and efficiency of operations.**

8. Performance below productivity norms fixed by the Traffic Manager may entail the ships being taken out of the Docks and further may call upon penal action against the Licensee. The Licensee shall strictly comply with the provisions of the Mumbai Port Trust (Licencing of Stevedores and Allied Matters) Amendment Regulations, 2012.

Date _____Traffic ManagerMumbai Port Trust