

# **The Merchant Shipping (Civil Liability For Oil Pollution Damage) Rules, 2008**

UNION OF INDIA

India

## **The Merchant Shipping (Civil Liability For Oil Pollution Damage) Rules, 2008**

### **Rule**

### **THE-MERCHANT-SHIPPING-CIVIL-LIABILITY-FOR-OIL-POLLUTION-DAMAGE-RULES-2008**

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The Merchant Shipping (Civil Liability For Oil Pollution Damage) Rules, 2008 Published vide Notification G.S.R. 219(E), dated 27.3.2008, published in Gazette of India, Extraordinary, Part 2, Section 3(i), dated 27.3.2008.

### **16.**

/739In exercise of the powers conferred by section 352-R of the Merchant Shipping Act, 1958 (44 of 1958) and in supersession of the Merchant Shipping (Form of Certificate of Insurance for Civil Liability for Oil Pollution Damage) Rules, 1985, the Central Government hereby makes the following rules, namely:-

Brought into force on 27.3.2008.

#### **1. Short title and commencement .-(1) These rules may be called The Merchant Shipping (Civil Liability for Oil Pollution Damage) Rules, 2008.**

(2)They shall come into force on the date of their publication in the Official Gazette.

#### **2. Definitions .-(1) In these rules, unless the context otherwise requires,-**

(a)"Act" means the Merchant Shipping Act, 1958 (44 of 1958);(b)"Form" means a Form annexed to these rules;(c)"Ship's tonnage" means the gross tonnage which is calculated in accordance with the Merchant Shipping (Tonnage Measurement of Ships) Rules, 1987;(d)"Section" means section of the

Act;(e)"Unit of Account" means the Special Drawing Right as defined by the International Monetary Fund in respect of India which shall be converted into rupees on the basis of official value in rupees of Special Drawing Right as determined by Reserve Bank of India on the date of constitution of Fund.(2)The words and expressions used in these rules but not defined, but defined in the Act, shall have the meanings respectively assigned to them in the Act.

**3. Limitation of liability of the owner .-The owner of a ship shall be entitled to limit his liability for oil pollution damage in respect of any one incident, to an aggregate amount of-**

(a)45,10,000 units of account, where the ship's tonnage does not exceed 5,000 units of tonnage;(b)631 units of account, for every additional unit of tonnage, where the ship's tonnage exceeds 5,000 units of tonnage:Provided that the said aggregate amount shall, not in any event, exceed 8,97,70,000 units of account.

**4. Application for issue of Certificate of Insurance/other Financial Security .-(1) The owner of Indian ship, who has maintained insurance or other financial security in respect of that ship in accordance with the provisions of sub-section (1) of section 352-N, shall make an application to the Director General for issue or renewal of Certificate of Insurance/other Financial Security in respect of civil liability for oil pollution damage, in Form "A".**

(2)The owner or agent of any foreign ship, who has maintained insurance or other financial security in respect of such foreign ship in accordance with the provisions of the International Convention on Civil Liability for Oil Pollution Damage, 1969 (as amended from time to time), may also make an application to the Director General for issue of a Certificate of Insurance/other Financial Security in respect of civil liability for oil pollution damage, in Form "A".(3)Every application under sub-rules (1) and (2) shall contain such particulars as may be mentioned therein and be accompanied by documentary evidence regarding maintenance of such insurance or other financial security and a fee of rupees five thousand by demand draft drawn in favour of Director General of Shipping.

**5. Certificate of Insurance/other Financial Security in respect of civil liability for oil pollution damage .-After receiving the application under sub-rule (1) or sub-rule (2) of rule 4, the Director General shall, on being satisfied about the maintenance of insurance or other financial security in respect of that ship, issue the Certificate of Insurance/other Financial Security in respect of civil liability for oil pollution damage, in Form "B".**

**6. Issue of duplicate certificate .-Where, the certificate issued under rule 5 is destroyed or defaced or otherwise lost, the owner or agent of the ship may apply to the Director General for issuance of a duplicate certificate on the payment of a fee of rupees one thousand, in Form "C":**

Provided that in case a lost certificate is traced or found by the owner or his agent subsequently, he shall return the same to the Director General.

**7. Penalty .-Whoever contravenes any of the provisions of these rules shall be punishable with fine in accordance with the provisions of section 458.**

FORM "A"(See rule 4)Form Of Application For Certificate Of Insurance Or Other Financial Security Maintained Under The Act

**1. Name of the Ship :**

**2. Distinctive Number of letters :**

**3. Port of Registry :**

**4. Name of Owner/agent and address :**

**5. (i) Gross Tonnage :**

(ii)Net Tonnage :(Attach a photo copy of Certificate of Registry)

**6. (a) Particulars of Insurance or other financial security maintained :**

(Attach documentary evidence to show maintenance of insurance or other financial security)(b)Limits of the Liability :(c)Period of validity :(Attach documentary evidence to show period of validity)

**7. Fee paid (in rupees) :**

(Payable by demand draft drawn in favour of Director-General of Shipping)I hereby solemnly declare that the particulars given in this form are true and correct to the best of my knowledge and belief. I request you to issue Certificate of Insurance or other Financial Security accordingly.I have been authorised by the owner to make this application (in case of

agent).Place.....Date.....Signature of ApplicantName.....\*Strike out if not applicable.\*any existing or expired certificate shall be enclosed.FORM "B"(See rule 5)(Form of Certificate to be issued by the Director General of Shipping)Certificate Of Insurance Or Other Financial Security In Respect Of Civil Liability For Oil

## Pollution Damage

Name of ship Distinctive Number or letters Port of registry Name and address of owner

This is to certify that there is in force in respect of the above-named ship a policy of insurance or other financial security satisfying the requirements of rule 4/the International Convention on Civil Liability for Oil Pollution Damage, 1992/International Convention on Civil Liability for Oil Pollution Damage, 1969.Type of

Security.....

of

Security.....

and Address of the Insurer(s) and/or

Guarantor(s)Name.....

certificate is valid

until.....

or certified by the Government of

India.....

designation of the

State)At.....On.....

and Title of issuing or certifying officialExplanatory Notes. - (1) If desired, the designation of the State may include a reference to the competent public authority of the country where the certificate is issued.(2)If the total amount of security has been furnished by more than one source, the amount of each of them should be indicated.(3)If security is furnished in several forms, these should be enumerated.(4)The entry "Duration of Security" must stipulate the date on which such security takes effect.FORM "C"(See rule 6)Form Of Application For A Duplicate Certificate Of Insurance Or Other Financial Security Maintained Under The Merchant Shipping Act, 1958

### 1. Name of the Ship :

### 2. Distinctive Number of letters :

### 3. Port of Registry :

### 4. Name of Owner/agent and address :

### 5. (i) Gross Tonnage :

(ii)Net Tonnage :(Attach a photo copy of Certificate of Registry)

### 6. (a) Particulars of Insurance or other financial security maintained :

(Attach documentary evidence to show maintenance of insurance or other financial security)(b)Limits of the Liability :(c)Period of validity :(Attach documentary evidence to show

period of validity)

## 7. Fee paid (in rupees) :

(Payable by demand draft drawn in favour of Director-General of Shipping) I hereby solemnly declare that the particulars contained in this form are true and correct to the best of my knowledge and that Certificate of Insurance described in rule 4 was defaced/destroyed or otherwise lost under the following circumstances

:-\* .....<sup>†</sup>.....I request you to issue a duplicate Certificate of Insurance accordingly. I have been authorised by the owner to make this application (in case of agent). Place.....Date.....Signature of ApplicantName.....Address.....\*Strike out if not applicable.\*Defaced certificate to be attached with the application.