

# **The Merchant Shipping (Recruitment And Placement Of Seafarers) Rules, 2005**

UNION OF INDIA

India

## **The Merchant Shipping (Recruitment And Placement Of Seafarers) Rules, 2005**

### **Rule**

### **THE-MERCHANT-SHIPING-RECRUITMENT-AND-PLACEMENT-OF-SEAFARERS-RULES-2005**

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### **16.**

/738In exercise of the powers conferred by sub-section (3) of section 95 of the Merchant Shipping Act, 1958 (44 of 1958), the Central Government hereby makes the following rules, namely:--

#### **1. Short title and commencement .-(1) These rules may be called The Merchant Shipping (Recruitment and Placement of Seafarers) Rules, 2005.**

(2)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)"advisory board" means the advisory board or other authority constituted by the Central Government under clause (a) of sub--section (3) of section 95 of the Act;(c)"Director" means the Director of the seamen's employment office concerned or any other officer authorised by the Director-General in this behalf;(d)"Director-General" means the "Director-General of Shipping" appointed under section 7 of the Act;(e)"employer" means any person, who has assumed the responsibility of employing seafarers

for himself or for any other person in respect of a ship and who has agreed to take over all such duties and responsibilities;(f)"Form" means a Form appended to these rules;(g)"inspecting authority" means any officer subordinate to the Director--General or any other person or body of persons professionally competent to carry out inspection under rule 3 and authorised by the Director-General in this behalf;(h)"license" means the recruitment and placement service license issued under rule 4;(i)"ship owner" means the owner of a ship or any organisation or any person such as manager, agent or bareboat charterer, who or which has assumed the responsibility for operation of the ship from such owner and who or which on assuming such responsibilities had agreed to take over all the duties and responsibilities as such owner.(j)[ society, means the Seafarers Welfare Fund Society as defined in the Merchant Shipping (Seamen's levy of fees rules) 1974]

### **3. Inspection .-(1) The inspecting authority shall carry out the inspection of recruitment and placement service so as to ensure that--**

(a)no fees or other charges for recruitment or for providing employment to seafarers are borne directly or indirectly, in whole or in part, by the seafarer:Provided that the cost of the requisite medical examination or requisite certificates or passport or visa or continuous discharge certificate shall be borne by the seafarer;(b)the seafarers' personal data is collected, stored, processed, combined and communicated to third parties:Provided that the right to privacy of the seafarer and the need to protect confidentiality as per general employment practices shall be maintained;(c)the management and staff are adequately trained persons having relevant knowledge of the maritime industry to the extent of the duties assigned;(d)no means, mechanism or list is used with the intention to prevent or deter seafarers from gaining employment;(e)the employment contract or agreement contains a provision to repatriate the seafarer in the event of his being stranded at any place or transportation of the mortal remains of an expired seafarer:Provided that the employment contract or agreement shall be in accordance with any law for the time being in force and collective agreements, if any:Provided further that the seafarer is informed of his rights and duties under the employment contract or agreement prior to placement:Provided also that the seafarer shall be supplied with a copy of employment contract or agreement and the terms of such contract or agreement shall be explained to him before he signs the same;(f)the provisions relating to prohibition against discrimination contained in section 97-A of the Act are not violated;(g)records of all seafarers recruited are maintained;(h)a seafarer recruited or placed is qualified and holds the requisite documents for the job concerned;(i)a proper grievance redressal mechanism is adopted in regard to any complaint made against the recruitment and placement service or against the ship owner:Provided that any unresolved grievance against the recruitment and placement service or the ship owner shall be brought to the notice of the Director-General or the country to which the ship belongs, as the case may be:Provided further that any complaint against a recruitment and placement service or a ship owner may be directly referred by the seafarer to the Director-General or the country to which the ship belongs;(j)the seamen's employment office concerned and next of kin of the seafarer is informed of each death or disability of the seafarer within forty-eight hours of such death or disability in Form V;(k)the details of the employer and the ship owner are maintained in respect of each ship;(l)an acknowledgement containing the name, address, license number and its validity is issued to the seafarer on filing an application for placement;(m)the responsibility, authority and inter-relation of all the personnel in the recruitment and placement service who

manage, perform and verify the work are defined and adequate resources and infrastructure are available to carry out their functions.(2)On completion of an inspection under sub-rule (1), the inspecting authority shall submit a report to the Director within a period of fifteen days:Provided that the Director-General may permit such inspection authority to submit a report within a further period not exceeding fifteen days.(3)Notwithstanding anything contained in sub-rule (2) or sub-rule (4), the Director-General may require any inspecting authority to submit a report to him directly or cause any other inspections to be done as he deems fit.(4)The Director shall ensure that annual inspections or inspections otherwise required by these rules are carried out by the inspecting authority.(5)The recruitment and placement service shall pay a fee of ten thousand rupees for every inspection under these rules.(6)Where the inspecting authority is an officer subordinate to the Director--General, the recruitment and placement service shall remit the fee referred to in sub-rule (5) by way of crossed demand draft drawn on a scheduled bank and payable at the seamen's employment office concerned:Provided that where an inspecting authority is an authority other than an officer subordinate to the Director-General, the fees shall be directly paid to such authority.

#### **4. Recruitment and placement service license .-(1) A recruitment and placement service registered in India may apply for a recruitment and placement license to the seamen's employment office concerned in Form I:**

Provided that the Director shall examine the report of the inspecting authority and issue the license on authorisation by the Director-General:Provided further that the Director-General may authorise the Director to issue a license after any inspection carried out under sub-rule (3) of rule 3.(2)A recruitment and placement service license and such number of attested copies thereof equal to the number of branch offices of the recruitment and placement service shall be issued in Form II.(3)An application for license shall be accompanied by--(a)a declaration in Form III;(b)a fee for twenty thousand rupees drawn in favour of the Director concerned by way of crossed demand draft;(c)a copy of the employment contract entered into between the employer and the seafarer;(d)a statement of qualification and experience of the management personnel in Form VIII;(e)[ a copy of the agreement between the recruitment and placement service and the employer or the ship owner as the case may be, in Form IX;](f)such number of bank guarantees as required under sub-rule (12).(4)The contract and the agreement referred to in clause (c) and clause (e) of sub-rule (3) shall make provision for the repatriation of a stranded seafarer, his maintenance and the transportation of the mortal remains of an expired seafarer.(5)A license shall be issued for a period not exceeding five years.(6)An application for renewal of license shall be in Form VI and shall be accompanied by--(a)declaration in Form III;(b)a fee of ten thousand rupees in favour of the Director concerned by way of crossed demand draft;(c)a copy of the employment contract entered into between the employer and the seafarer;(d)a statement of qualification and experience of the management personnel in Form VIII;(e)[ a copy of the agreement between the recruitment and placement service and the employer or the ship owner "as the case may be, in Form IX;] [ Substituted by G.S.R. 580(E), dated 14.9.2005 (w.e.f. 14.9.2005).](f)such number of bank guarantees as required under sub-rule (12).(7)The contract and the agreement referred to in clause (c) and clause (e) of sub-rule (6) shall make provision for the repatriation of a stranded seafarer, his maintenance and the transportation of the mortal remains of an expired seafarer.(8)An application for renewal of license shall be submitted by a recruitment and placement service before three months of the date of expiry

of such license.(9)The license issued under these rules shall not be transferable.(10)The recruitment and placement service shall, from time to time, intimate the Director any change in the place of business within seven days of such change and apply for a fresh license on payment of a fee of five thousand rupees in the manner specified in sub-rule (3).(11)The license shall be prominently displayed at the premises of the recruitment and placement service at a place accessible to public.(12)The bank guarantee referred to in clause (f) of sub-rule (3) or in clause (f) of sub-rule (6) shall be in accordance with the Table below:-[TABLE

Sl.No.	Number of jobs	Amount of bank guarantee in Indian Rupees
1	Upto 50	5.00 lakhs
2	51 to 250	7.50 lakhs
3	251 to 500	10.00 lakhs
4	501 to 750	12.50 lakhs
5	751 to 1000	15.00 lakhs
6	1001 and above	20.00 lakhs

] [Substituted by G.S.R. 580(E), dated 14.9.2005 (w.e.f. 14.9.2005). ](13)The bank guarantee shall be drawn in favour of the seamen's employment office, which shall be drawn on a scheduled bank in India"> (13) The bank guarantee shall be drawn in favour of the seamen's employment office, which shall be drawn on a scheduled bank in India"> (13) The bank guarantee shall be drawn in favour of the seamen's employment office, which shall be drawn on a scheduled bank in India"> (13) The bank guarantee shall be drawn in favour of the seamen's employment office, which shall be drawn on a scheduled bank in India.(14)A bank guarantee shall be in the denomination commensurate with the number of jobs and shall be valid at all times.(15)In the event of any change in the number of jobs, the recruitment and placement service may furnish the requisite bank guarantee within a period of one month from the date of such change.(16)Without prejudice to the foregoing sub-rules, the recruitment and placement service shall ensure that a seafarer with whom an employment agreement is entered into is placed on board a ship.(17)[ In the event of any change in the agreement between the recruitment and placement service and the employer or the shipowner, as the case may be, or in the event of any new agreement with any other employer or ship owner, the recruitment and placement service shall, within seven days thereof, intimate the same to the Director along with the copy of the amended agreement, or new agreement, as the case may be.] [ Inserted by G.S.R. 318(E), dated 30.4.2007 (w.e.f. 30.4.2007).]

## 5. Functions of seamen's employment office .-(1) The seamen's employment office shall-

(a)issue or renew a license referred to in rule 4 on receipt of authorisation from the Director-General;(b)maintain a register of license and to assign distinct license numbers and to display the details of license on the website;(c)maintain a register of recruitment and placement service to whom license is rejected, or suspended or cancelled and the details thereof and display it on website;(d)maintain the details of complaints received from seafarers concerning working or living conditions on board a ship;(e)refer, where required, the complaints concerning the activities

of the recruitment and placement service from seafarers to the advisory board;(f)maintain details of information received in cases of death or disability of seafarers;(g)maintain registers of seafarers in respect of various categories of seafarers;(h)maintain a register for [quarterly reports] received from the recruitment and placement service in Form IV;(2)Where the recruitment and placement service fails to repatriate the seafarer in the event of his being stranded or fails to transport the mortal remains of an expired seafarer, the bank guarantee may be utilised by the seamen's employment office for the aforesaid purposes and also for the maintenance of the stranded seafarer.[5A. Welfare Fund Contribution:- (a) The Recruitment and Placement Service shall pay rupees six thousand per seaman to the Seafarers Welfare Fund Society, a Welfare Fund Contribution for promoting the welfare of seafarers per annum, below the rank of an officer engaged on board foreign flag ships excluding trainees, on the basis of the actual period of employment of the seamen] [Inserted by Notification No. GSR 33 (E) dated 16.1.2014](b)All the Recruitment and Placement Service providers engaging seafarers on India flag foreign going ships shall ensure that Welfare Fund Contribution for every seamen below the rank of an officer engaged by them excluding trainees be paid the rupees four thousand eight hundred per annum for the purpose of promoting the welfare of seafarers to the Seafarer's Welfare Fund Society, Mumbai] [Inserted by Notification No. GSR 33 (E) dated 16.1.2014 (w.e.f. 18.3.2005)](c)All the Recruitment and Placement Service providers engaging seafarers on India flag home trade ships shall, ensure that Welfare Fund Contribution for every seamen below the rank of an officer engaged by them excluding trainees, be paid the rupees two thousand four hundred per annum for the purpose of promoting the welfare of seafarers to the Seafarer's Welfare Fund Society, Mumbai] [Inserted by Notification No. GSR 33 (E) dated 16.1.2014](d)The above contributions shall be paid on a quarterly basis to the Seafarers' Welfare Fund Society] [Inserted by Notification No. GSR 33 (E) dated 16.1.2014]

## **6. Suspension or withdrawal of recruitment and placement service license**

**.-(1) On a report by the inspecting authority or a complaint by a seafarer or otherwise, the Director-General may authorise the Director to issue a notice in Form VII to the recruitment and placement service requiring it to show cause within a period of thirty days from the date of issue of such notice as to why the license shall not be suspended or withdrawn.**

(2)The Director-General, after considering the reply to the show-cause notice, shall as soon as possible but not later than thirty days from the date of receipt of reply, if any, authorise the Director to pass such order of suspension or withdrawal as he deems fit and communicate the same to the recruitment and placement service and forward a copy thereof alongwith a detailed report to the Central Government forthwith.(3)Every order passed under sub-rule (2) shall be self-contained and give reasons for the conclusions stated therein for suspension or withdrawal of license.

**7. Appeal .-Any person aggrieved of an order under rule 6 may within thirty days of the date of receipt of such order appeal to the Central Government, which shall pass an order thereon within thirty days from the date of receipt of such appeal.**

**8. Transitional provision .-Notwithstanding anything contained in the foregoing rules, a person, company, institution, agency or other organisation in the public or private sector which is engaged in recruiting seafarers on behalf of employers or placing seafarers with employers may obtain a license [on or before 31st December, 2006] from the date of commencement of these rules:**

Provided that a person, company, institution, agency or other organisation in the public or private sector may continue to function as such till such person, company, institution, agency or other organization obtains a license under these rules.FORM IApplication For Recruitment And Placement Service License[See rule 4(1)]

1. Name
2. Status (person/company/institution/agency or other organisation)
3. Date of incorporation
4. Name, designation and address of the authorised signatories
5. Telephone Number
6. Fax Number
7. Website and e-mail id.
8. (a) Registered Office Address  
(b) Address of all branches
9. Whether the office is owned/leased/hired
10. Residential address of the authorized signatories
11. Name and address of all the Bankers
12. Permanent income-tax number & GIR No., if applicable (enclose a copy of the previous years' income-tax returns)
13. Details of Business during the last five years- enclose Profit and Loss Account& Balance sheet
14. Experience, if any, in recruitment of seafarer, number of years
15. Whether any authorised signatory has been associated with any recruiting agency in the past if so, give details.
16. If previously in the business of recruitment of seafarers total number of seafarers deployed year-wise, country-wise and category-wise during the last five years.
17. Whether there are any complaints pending in respect of seafarers recruited, if so, details thereof.
18. Whether there is any criminal or civil case pending in any court. If so, details thereof.
19. Whether any authorised signatory has been convicted. If so, details thereof.
20. Total number of agreements/contracts with employer with details thereof
21. Number of seafarers proposed to be recruited.
22. Other Shipping related activities carried out, if any.

Undertaking I/we undertake that all that are stated above are true and correct to the best of my/our knowledge, information and belief and in the event of any of the information furnished above is found false or incorrect in any respect, I/we shall abide by any decision of the Director, seamen's employment office. Date..... Name and designation of the applicant Seal List of enclosures (i) Prescribed fee (ii) Agreement with the ship owner/employer (iii) Copy of certificate of incorporation (iv) Profit and Loss Account & Balance sheet for last five years (v) Certificate of the assets and liabilities by a chartered accountant FORM-II Recruitment And Placement Service Licence [see rule 4 (2)]

1. Name of the Recruitment and Placement Service \_\_\_\_\_

2. Address of the registered office \_\_\_\_\_

3. Address of branch(s) \_\_\_\_\_

4. Status (person/company/institution/agency or other organization.) \_\_\_\_\_

5. License number \_\_\_\_\_

This is to certify that the ..... has presented the requisite documents and has complied with the procedures prescribed under rules 3 and 4 of the Merchant Shipping (Recruitment and Placement of Seafarers) Rules, 2005. Subject to the conditions referred to in the rules, and unless the licence is suspended or withdrawn in writing, this licence is valid

from.....to..... Date..... Signature of the

Director, Seamen's Employment Office Stamp & Seal FORM III Declaration [see rules 4(3)(a) and

4(6)(a)] I/We, person/company/institution/agency or other organisation of..... hereby declare

that (i) I/ We shall conduct the business at.....; (ii) I/We shall carry out the business during the

period of the validity of the licence; (iii) I/We shall conduct the business under signatures and seal of the authorised signatories; (iv) I/We shall not transfer the licence; (v) I/We shall display the licence at

a place accessible to public in the registered office and also the attested copy of the licence at a place accessible to public in the branch Office; (vi) I/We shall not charge any fee from the seafarers for the

purpose of recruitment or for providing employment; (vii) I/We shall maintain the following

permanent records at the Registered Office as under: (a) [ a register of name and address of seafarers, employed or placed on board by me/us; ] [Substituted by G.S.R. 318 (E), dated 30-4-2007 (w.e.f.

30-4-2007).] (b) a register containing charges for travel documents, medical examination etc.

collected from the seafarers; (c) bio-data (giving full particulars including name, address, age, skill,

experience and address of next of kin) of each seafarer recruited; (d) copies of employment contracts

of each seafarer; (e) originals of all MoUs/contract/agreements with the employers; (f) all documents

relating to recruitment of seafarers, including office copies of all advertisement issued, letters of

interviews, where applicable, and correspondence with applicants, original award sheet leading to

the selection, names and addresses of persons involved in the selection process, copies of letters of

appointments and other particulars, etc, for a minimum period of five years. (g) a register of claims

for compensation for injury or details of death of the seafarers along with the details of the next of

kin of the seafarer, passport number, country of employment, nature of injury or death, as the case

may be, date of accident, name and address of the employer and the details of compensation

paid; (h) such other records as may be required to be maintained; (viii) I/We shall furnish a monthly

report of the preceding month by the 10th of the succeeding month; (ix) I/We shall not charge the

repatriation expenses from the seafarer in the event of his being stranded and also will not charge for transportation of the mortal remains of a dead seafarer;(x)I/We shall ensure that all seafarers recruited are in possession of valid documents for the job for which they are recruited (i.e. Passport, Visa, CDC, COC, required qualification certificates etc.)(xi)I/We shall ensure that all ships on which seafarers are recruited and placed are covered adequately by the P&I insurance(xii)I/We shall ensure that all seafarers recruited and placed with the ship owners are adequately covered by insurance coverage.(xiii)I/We ensure that all the personnel in our office are adequately trained and have relevant knowledge of the maritime industry.(xiv)I/We declare that I/we are not convicted under any law and that no criminal proceedings are pending.(xv)I/We declare that I/we have valid contracts with all ship owner's/agent's for whom we recruit seafarers.(xvi)I/We shall ensure that all rights of seafarers will be duly protected and all seafarers shall enter into valid contracts of employment and sign article of agreements.I/We declare that to the best of my/our knowledge, belief and information the above particulars are correct and complete. I/We am/are aware that any false statement or information shall render the application

cancelled.Date.....Signature of  
person/company/institution/agency or other organisation[FORM IV] [Substituted by G.S.R. 318 (E), dated 30.4.2007 (w.e.f. 30.4.2007) ]Report To Be Forwarded To Director, Seamen's Employment Office, By The Recruitment And Placement Services(See rule 5 (1)(h))

1. Name of the Recruitment and Placement Service License No.

2. Period of License From To

3. Details of Seafarers engaged during the quarter

Sl.No.	Name of Seafarer	CDC No.	Rank	Date of Engagement	Date of Disengagement	Name of Vessel	Date of Signing on	Date of Signing off	Period of Contract	Flag
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#### 4. Details of Seafarers repatriated prior to completion of contract

Sl.No.	Name of Seafarer	CDC No.	Name of Vessel	Flag	Date of Signing on	Date of Signing off	Reason
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## 5. Brief of death/injury/missing cases

.....Authorised SignatoryFORM VReport Of Death Or Disability Of A Seafarer[See rule 3(1)(j)]

1. Name of seafarer :
2. Sex :
3. Age :
4. Date of Birth :
5. CDC No. :
6. COC details, where applicable :
7. Next-of-kin details :
  - (a) Name :
  - (b) Relationship :
  - (c) Address, Tel. No. and E-mail/Fax address :
8. Nature of accident / incident including damages/casualties suffered (use additional sheet if required) :
9. Details of ship involved in marine casualty/incident :
  - (a) Name of Ship and IMO No. :
  - (b) Tonnage :
  - (c) Location of ship :
  - (d) Flag :
  - (e) Coastal state(s) involved :
  - (f) Name of P&I club :
  - (g) Name of Captain :
  - (h) Details of owners :
10. Details of recruitment and placement service in India :
  - (a) Name :
  - (b) Address, Tel. No. and E-mail/Fax address :
  - (c) License No. :
11. Details of Assistance given to the seafarer :
12. Insurance Coverage of the seafarer :

Name and Designation of Authorised Signatory.....Signature and SealPlace.....Date.....FORM VIForm Of Application For Renewal Of License[See rule 4(6)]

1. Name :
2. Status[person/company/institution/agency or other organisation] :
3. Licencenumber and date of issue :

4. Validity period of license :
5. Total number of seafarers employed during the period of license-category wise Pending :  
complaints of seafarers recruited and if so, details thereof.
6. Whether there is any criminal or civil case pending in any court. If so, details thereof. :
7. Whether any authorised signatory has been convicted. :  
If so, details thereof. :
8. Details of change of registered office/branch :
9. Total number of agreement/ contracts signed with employers. Please give the details Flag-wise :  
and ownership wise

Undertaking I/We undertake that all that are stated above are true and correct to the best of my/our knowledge, information and belief and in the event of any of the information furnished above is found false or incorrect in any respect, I/We shall abide by any decision of the Director, seamen's employment office. Date..... Name and designation of the applicant Seal List of enclosures -(i) Prescribed fee (ii) Agreement with the ship owner/ employer (iii) Copy of certificate of incorporation (iv) Profit and Loss Account and Balance sheet for last five years (v) Certificate of the assets and liabilities by a chartered accountant FORM VI I Show Cause Notice To Recruitment And Placement Service [See rule

6(1)] To..... Sir, Whereas..... a Recruitment and Placement Service has been issued a licence bearing number..... for the period..... to..... by the Director, Seamen's Employment Office under Merchant Shipping (Recruitment and Placement of Seafarers) Rules, 2005.

## 2. Whereas..... has failed to comply with the following provisions for the following reasons:-

(a) (b) (c) (d) Now, therefore, the Director Seamen's Employment Office under rule 6 of the Merchant Shipping (Recruitment and Placement of Seafarers) Rules, 2005. directs..... to show cause as to why the Recruitment and Placement Service Licence bearing No..... should not be suspended/withdrawn. Yours faithfully, Director

SEO Place..... Date..... FORM VIII Qualification And Experience Of Management Personnel [see rule 4 (3)(d) and 4 (6)(d)] Name of the Recruitment and Placement Service..... Address.....

## 1. Designation..... Name.....

Responsibilities..... Educational Qualification..... Professional Qualification..... Experience.....

**2. Designation.....Name.....**

Responsibilities.....Educational  
Qualification.....Professional  
Qualification.....Experience.....

**3. Designation.....Name.....**

Responsibilities.....Educational  
Qualification.....Professional  
Qualification.....Experience.....

**4. Designation.....Name.....**

Responsibilities.....Educational  
Qualification.....Professional  
Qualification.....Experience.....

**5. Designation: Medical Officer Name.....**

Qualification.....Experience.....DGS  
Approval No.....[FORM IX] [ Inserted by G.S.R. 580 (E), dated  
14-9-2005 (w.e.f. 14-9-2005) ]Agreement Between Recruitment And Placement Service And The  
Employer/ship OwnerName, Address and full style of the employer/Ship  
owner:.....

address and full style of the recruitment and placement  
service:.....

the above-named recruitment and placement service has entered into an agreement with the  
above-named employer/ship owner for the recruitment and placement of seafarers on board for and  
on behalf on the employer as agent only.The employer/ship owner undertakes to repatriate the  
seafarers so employed if standard at any place as well as to look after his reasonable maintenance  
and to transport the mortal remains of the seafarer, if permissible under local laws, in case of  
death.Signed, stamped and delivered:(For and on behalf of the employer/ship owner)Signed,  
stamped and delivered:(For and on behalf of the recruitment and placement service).