

The Chennai Port Trust (Licensing of Stevedores) Regulations, 2009

UNION OF INDIA

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Rule

THE-CHENNAI-PORT-TRUST-LICENSING-OF-STEVEDORES-REGULATIONS of 2009

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The Chennai Port Trust (Licensing of Stevedores) Regulations, 2009 Published vide Notification New Delhi, the 26th May, 2010 Ministry of Shipping G.S.R. 466(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 Trust Act, 1963 (38 of 1963), the Central Government hereby approves the Chennai Port Trust (Licensing of Stevedores) Regulation, 2009 made by the Board of Trustee of Chennai Port in exercise of the powers conferred on them by Section 123 of the said Act and published in the Tamil Nadu Government Gazette dated 30th December, 2009 and 6th January, 2010 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.

Annexure Chennai Port Trust In exercise of the powers conferred under Section 123 of the Major Port Trust Act, 1963 (Act 38 of 1963), the Board of Trustees of Chennai Port hereby frames, subject to the approval of the Central Government, the following Regulations in supersession of the eXisting Madras Port Trust (Licensing of Stevedores) Regulations 1987 and subject to publication as required under Section 124 of the said Act :-

1. Short Title.

- (i) These Regulations may be called "The Chennai Port Trust (Licensing of Stevedores) Regulations, 2009". (ii) These Regulations shall come into force on the date of their publication in

the Official Gazette under Section 124 (1) of the Major Port Trusts Act, 1963.

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 Chennai as constituted under the Act.iii) "Chairman" means Chairman of the Board.iv) "Traffic Manager" means the Traffic Manager of the Port Trust Board and Head of the Traffic Department.v) "Form" means form annexed to these Regulations.vi) "Stevedore" is an authorized agent for loading and unloading and stowage of cargo in any form on board the vessels in Ports.

3. Scope.

- These Regulations shall cover the following activities:i) Stevedoring undertaken by the Portii) Stevedoring by the licensed stevedoreiii) Stevedoring by the BOT Terminal operator as prescribed in the license arrangement.The Stevedoring may cover the activities on board involving workmen and extending to hooking for export (loading) cargo and unhooking of import (unloading) cargo involving workmen on-board or whatever practice prevalent in Ports.

4. Stevedoring Charges.

- The Stevedoring charges are levied by the stevedores from the principals for the stevedoring services which include the charges payable to the Port. Charges to be collected by the stevedores on the principals and should be left to the parties and the market forces.

5. License For Stevedores/Stevedoring.

- Stevedoring licenses shall be issued by the Chairman, in case the firm fulfils the following criteria:i) It shall be a Company registered under Companies Act or a partnership firm or any other legal entity;ii) The financial standing of a stevedore to meet the obligations to the workers and staff employed on account of wage compensation under the Workmen's Compensation Act, 1923, Payment of Wages Act, 1936, Industrial Dispute Act, 1947, or any other law for the time being in force; and makes a deposit of Rs. 5 lakhs or any other acceptable security which will be refunded without interest/discharged on the termination/expiry of the license after meeting the obligations, if any;iii) The Stevedores shall undertake to provide minimum equipment gear either owned or hired.iv) 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.v) The fee for issue of Stevedoring license shall be a minimum of Rs. 50,000 for the period of the license which may be revised by the Board from time to time.

6. Change in Name, Constitution, etc. to be communicated.

- (i) Any company registered under the Companies Act or a Partnership firm or any other legal entity holding a stevedoring license shall immediately communicate to the Chairman any change of the Director, Managing Director or partner as the case may be, with a copy of the document in support of such change.ii) Any change in the name, title or constitution of a firm or company holding a Stevedoring license shall be communicated to the Chairman forthwith. The firm or company undergoing such a change shall submit a fresh application for the grant of a license; provided that the Chairman may at his discretion allow such a firm or company to carry on business till such time a decision is taken on such fresh application. The fresh license required to be issued in such cases will however attract the same changes as are payable for the issue of a new license.

7. Validity/Renewal of License.

- (i) The fee for renewal of license shall be a minimum of Rs. 50,000/- for the period of the license which may be revised by the Board from time to time.ii) The Stevedoring license shall be valid for a period of three calendar years. License issued after 1st of January shall be valid till the end of next 2 calendar years from the date of issuance of license.iii) The License will be strictly renewed on the basis of achieving minimum guaranteed throughput/prescribed performance parameters as fixed by the Port.iv) The application for grant/renewal of a Stevedoring license shall be made in form A to the Traffic Manager (Specimen Form A - annexed).v) Every license granted or renewed under these regulations shall be in form B (Specimen Form B - annexed).vi) Before issue of renewal of licenses, a report regarding the safety performance and compliance of Dock Safety Statutes shall be obtained from the 'Inspector' declared under the Dock Workers (Safety, Health and Welfare) Act, 1986 which shall be taken into consideration while granting the renewal of the license.If the Stevedore fulfils the required conditions and is eligible for renewal but awaiting safety clearance before expiry of the license period, Port may permit the stevedoring operation by executing an indemnity bond.vii) In the event of loss or defacing of the original license, a duplicate license may be obtained on an application made to the Traffic Manager on payment of Rs. 1000/..viii) The application for renewal of stevedoring license shall be made at least 3 months before the expiry of the license. If the application for renewal is not received within the stipulated period of 3 months, such applications may be accepted on payment of Rs. 1000/- by the Traffic Manager, provided that the application for renewal together with the late fee is received by the Traffic Manager before the actual date of expiry of the license.

8. Duties and Responsibilities of a Stevedore.

- During the currency of a stevedoring license, issued by the Chairman, the following duties and responsibilities and performance parameters of stevedores to ensure the safe and efficient handling as per their Stevedoring Licensing Rules, shall be fulfilled by the stevedores:i) The Stevedore shall ensure that all such operations conform in all respects to the requirements prescribed by or under the Dock Workers (Safety, Health and Welfare) Act, 1986 and the Dock Workers (Safety, Health and Welfare) Regulations, 1990.ii) Stevedore shall comply with all accepted safe practices in relation to such operations.iii) Stevedore shall be solely responsible for any accident or damage resulting from

the use of defective gear.iv) Stevedore shall indemnify the Board against all third party claims arising out of such operations.v) In event of any accident, stevedore is liable to settle the claim as per the Workmen's Compensation Act.vi) Whenever casual workers are deployed, the stevedore should ensure that such workers are covered by the insurance policy.vii) If any gear, plant or any other property of the Board is damaged by the stevedore in the course of any such operations, the stevedore shall compensate the Board for such loss or damage.viii) Stevedore shall pay scheduled charges to Port in advance.ix) The stevedore may deploy adequate supervisory personnel per vessel.ix) The Stevedore shall ensure that all the amount due to the Board is paid on the appointed dates, failing which the license is liable to be cancelled.x) The Stevedore 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.

9. Cancellation/Suspension of License.

(a)The Chairman may at any time suspend or cancel the license issued to a Stevedore for violation of any of the terms of the license or for any 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 throughput/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) Misrepresents or misstates of material facts.vi) Adjudged insolvent or going into liquidation.vii) Causing obstruction to any work in the Port.viii) Transfers the stevedoring operations or sublets the license to any other individual or parties.ix) Violates security related rules and instructions like ISPS Code compliance etc.,x) Any misconduct which in the opinion of the Board warrant such cancellation or suspension.xi) Indulges in illegal / corrupt practices.b) Provided that no such license shall be cancelled or suspended as the case may be until the holder of the license has been given a reasonable opportunity for showing cause why his license should not be cancelled or suspended as the case may be.

10. Appeal.

- (i) Any person aggrieved by any order of the Chairman relating to cancellation / suspension / refusal to issue licenses under these Regulations may prefer an appeal in writing to the Central Government, or any other higher authority as the case may be within 30 days of the communication of the order appealed against.(ii)The Central Government shall pass such order on the appeal as it deems fit after giving an opportunity of being heard to the appellant.

11. Deployment of Workers From Port/License Holder or Outsider.

- 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, subject to the condition that they should obtain the license from the authority concerned.

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 cognizance of the performance parameters during last 3 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 from a recognized Maritime University.

14. Miscellaneous.

- The forms required for grant/renewal of Stevedoring License under these regulations shall be such as may be prescribed by Chairman from time to time.

15. Interpretation.

- If any question arises as to the interpretation of these Regulations or in respect of any matter not hereinabove or subsequently provided for, the same shall be decided by the Board.

16. Repeal and Savings.

- The Madras Port Trust (Licensing of Stevedores) Regulations 1987 procedures, practices and customs corresponding to these regulations and in force immediately before the commencement of these regulations are hereby repealed. Provided that any order made or action taken under the regulations, procedures, practices, and customs so repealed shall be deemed to have been made or taken under the corresponding provisions of these regulations. Form-A Chennai Port Trust To The Traffic Manager, Chennai 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 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 subsists or is proposed 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 field (The cargo and tonnage stevedored in the previous 3 years to be furnished) :
- 7 Amount 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 gear for stevedoring the contracted vessel/cargo? (List of gear with necessary certificate to be furnished) :

9 Whether the applicant has/is willing to have in his employment adequate staff with experience and conversant with Rules and Regulations (A list of the Staff and their experience to be furnished) :

10 Whether the applicant has cleared all the amounts, if any, on account of transactions he had with the Chennai Port Trust/Chennai Dock Labour Board/Chennai Stevedores Association? :

11 Whether the license fee and the earnest money deposit has been made? (The receipt for the payment is to be attached. The license fee and the deposit will be refunded if the license is not issued/renewed). :

12 Whether the applicant has deposited a sum of Rs.5 lakhs in cash or any other acceptable security? :

I affirm that the particulars given are true to the best of my knowledge. I agree to furnish any other information/produce any record for inspection as may be required to consider the request for grant of license. I agree to abide by the Chennai Port Trust (Licensing of Stevedores) Regulations 2009 and to comply with any other conditions made by the Chairman from time to time, if the license is issued/renewed. Signature of Applicant. Place: Date: N.B.: The grant/renewal of license will be entirely at the discretion of the Chairman.