

The Tuticorin Port Trust (Licensing of Stevedores) Regulations, 2010

UNION OF INDIA

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Rule

THE-TUTICORIN-PORT-TRUST-LICENSING-OF-STEVEDORES-REGUL of 2010

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The Tuticorin Port Trust (Licensing of Stevedores) Regulations, 2010Published vide Notification New Delhi, the 22nd March, 2011Ministry of Shipping(Ports Wing)G.S.R. 227(E). - In exercise of the powers confirmed 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 the Tuticorin Port Trust (Licensing of Stevedores) Regulations, 2010 as set out in the Schedule annexed to this Notification.

2. The said Regulation shall come into effect from the date of publication of this Notification in the Official Gazette.

Schedule

Tuticorin Port TrustIn exercise of the powers conferred under Section 123 of the Major Port Trust Act, 1963 (Act 38 of 1963), the Board of Trustees of Tuticorin Port hereby forms, subject to the approval of the Central Government, the following Regulations in supersession of the existing Tuticorin Port Trust (Licensing of Stevedores) Regulations, 1985 and subject to publication as required under Section 124 of the said Act :-

1. Short title.

- (i) These regulations may be called the Tuticorin Port Trust (Licensing of Stevedores) Regulations,

2010.(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. Scope & Applicability.

- The regulations shall cover the following activities :-(i)Stevedoring undertaken by the Port(ii)Stevedoring by the licensed stevedores(iii)Stevedoring by the BOT Terminal Operator as prescribed in the license agreementThe 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.

3. 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 Tuticorin as constituted under the Act;(iii)"Chairman" means Chairman of the Board;(iv)"Form" means the form annexed to these regulations;(v)"Stevedore" means the firm licensed by the Authority under these regulations for stevedoring work in the Port.(vi)"Traffic Manager" means the Officer for the time being in charge of the Traffic Department of the Tuticorin Port Trust.

4. Issue of Stevedoring license.

- (i) The Chairman may issue stevedoring license for a period of three years, on application, to a company registered under Companies Act or a partnership firm or any other legal entity for stevedoring in the Port.(ii)No stevedore shall be allowed to work on Board any vessel in the Port except under a license issued by the Chairman under these Regulations.(iii)The financial standing of a Stevedore to meet the obligations to the workers and staff employed on account of wage and compensation under the Workmen's Compensation Act, 1923, the Payment of Wages Act, 1936, the Industrial Disputes Act, 1947, or any other law for the time being in force and Deposits security of at least Rs. 5 lakhs which will be refunded / discharged without interest after the termination / expiry of the license after meeting the obligations, if any;(iv)The Stevedore shall undertake to have in his employment at least 4 supervisory personnel with minimum 2 years experience and have in his possession such minimum gear as may be prescribed by the Board for undertaking stevedoring efficiently;(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.

5. Duties and responsibilities of stevedore.

- Every stevedore, shall be subject to the following duties, obligations and responsibilities during the currency of stevedoring license issued to him by the Board namely -(a)the Stevedore shall ensure due compliance by all the staff and the workers employed by him during the operation of landing and shipping or transshipping goods or work incidental thereto, of the provisions of the Indian Dock Labourers Act, 1934, the Indian Dock Labourers Regulations, 1948, the Dock Workers (Health and

Welfare) Scheme 1961 and notifications issued there under, the Industrial Disputes Act, 1947, the Payment of Bonus Act, 1965 and rules, regulations and schemes issued there under, relating to such operations and for the time being in force;(b)the Stevedore shall under take to provide minimum Equipment/Gear either owned or hired by him;(c)the Stevedore shall be solely responsible for any accident or damage resulting from the use of any gear used by him;(d)the Stevedore shall comply with all accepted safe practices in relation to operations performed by him;(e)the Stevedore shall indemnify the Board against all third party claims arising out of operations performed by him;(f)In event of any accident, stevedore is liable to settle the claim as per the Workmen's Compensation Act;(g)Whenever casual workers are deployed, the stevedore should ensure that such worker are covered by the insurance policy;(h)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;(i)the Stevedore shall agree to refer any dispute or difference between him and the Tuticorin Port Trust as to the payment of compensation. Its quantum or any connected question to an Arbitrator nominated by the Board;(j)the Stevedore shall undertake to employ at least 4 Supervisory personnel with minimum two years of cargo handling/stowage experience. Their profiles have to be enclosed along with the application.(k)the Stevedore shall submit promptly any information asked for by the Chairman or the Traffic Manager from time to time;(l)the Stevedore shall pay scheduled charges to Port/DLBs in advance. In case of dues pending, the License to the firm will not be renewable and liable to be cancelled.(m)the Stevedore shall provide for adequate supervision over the workers employed by in order to ensure maximum productivity consistent with the requirements of safety;(n)the Stevedore shall provide all the necessary gear equipment duly tested for the respective type of cargo;(o)the Stevedore 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;(p)the Stevedore shall provide the workers necessary protective safety appliances appropriate for the type of cargo;(q)the Stevedore shall ensure that the workers are available at the work site 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;(r)the Stevedore shall make adequate arrangements for ancillary operations such as filling, stitching and breaking of cargo, stacking of cargo, stowage of cargo, etc. on board the vessels;(s)In case the Port is unable to supply the requisite workers against the requisition placed by the stevedores, the Port may allow the stevedore to make their own arrangement for this purpose.(t)the Stevedore shall undertake to pay to workers engaged by him wages in accordance with the terms of wage settlement arrived at between the Central Government and the Federations of Port and Dock Workers, from time to time;(u)the Stevedore shall not assign, transfer or in any manner part with any interest or benefit in or under the license to any other person without the prior approval in writing of the Chairman;(v)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;

6. 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 stevedores on the principals and should be left to the parties and the market forces.

7. Validity/Renewal of license.

- (i) The application for grant or renewal of a stevedoring license shall be made in Form-A to the Traffic Manager.(ii)The applicant shall pay a license fee of Rs. 50,000/- before the license is issued or renewed.(iii)Every license granted or renewed under these regulations shall be in Form-B.(iv)The Stevedoring License shall be valid for a period of three financial years. Licenses issued after 1st April shall be valid till the end of next 2 financial years from the date of issuance of License(v)The License will be strictly renewed on the basis of achieving the throughput fixed by the Board from time to time.(vi)The application for renewal of stevedore license shall be made three months before expiry of the license. Delayed renewal applications will not be accepted and the License will expire in terms on the expiry date.(vii)Before issue of renewal of licenses, a report regarding the safety performance 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 fulfills 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.(viii)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 rupees one thousand.

8. Change in name, constitution, etc. to be communicated.

- (i) Where the Stevedore is a firm or a Company, it shall immediately communicate to the Chairman 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;(ii)Any change in the name, title or constitution of a firm or a company holding a Stevedoring Licensee 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 license; Provided that the Chairman may allow such firm or Company to carry on business till a decision is taken on such fresh application.

9. Cancellation/Suspension of Stevedoring License.

- The Chairman may at any time suspend for such period as he may deem fit, or cancel the license issued to a Stevedore for violation of any of the terms of the license 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 years has not elapsed from the date of expiry of the sentence.(ii)violation of safety precautions;(iii)The firm handles less than the minimum guaranteed throughput/the prescribed parameters as fixed by the Port;(iv)lack of supervision over stevedoring workers;(v)improper and unsafe handling of packages;(vi)mis-representation or mis-statement of material facts;(vii)the stevedore being adjudged insolvent or going into liquidation;(viii)causing obstruction to any work in the Port;(ix)sub-letting of work to any other individual or parties;(x)any mis-conduct which, in the opinion of the Board, warrants such cancellation or suspension;(xi)Violates security related rules & instructions like ISPS code compliance etc.(xii)Indulges in illegal/ corrupt practices;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.

- Any person aggrieved by any order relating to cancellation/suspension/refusal to issue licenses, may prefer an appeal in writing to the Chairman or any other higher authority as the case may be within 30 days of the communication of the order appealed against.

11. Other Miscellaneous.

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1. 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 stevedores, the Port may allow the stevedores to make their own arrangement for this purpose.

2. 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.

3. 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. It is suggested that such specialized training courses for stevedoring operatives shall be introduced in the Indian Maritime University.

4. 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.

The above Regulations shall be effective from the date of Notification.

Form-A
Tuticorin Port Trust Traffic Department
To The Traffic Manager, Tuticorin Port Trust.
Application Form For The Grant/Renewal of Stevedoring Licence

1 Name of the applicant

2 Whether a company registered under Companies Act or a partnership firm or any other legal entity (Article of partnership/Company to be produced)

- 3 FullAddress
- 4 Year/sfor which licence is required
- 5 Name/sof the Steamship Company/Charterer of ships/Owner of cargo, withwhom the contract
for stevedoring their vessel/cargo subsists oris proposed to be entered: (proof of Contract for
the periodcovered is to be appended. The approximate tonnage for each partyis to be indicated)
- 6 Previousexperience in the field (The cargo and tonnage stevedored inprevious 3 years to be
furnished)
- 7 Amountof financial ability to meet the obligation on account of wages,compensation Act, etc.
(A Certificates from the Bankers as to thefinancial ability and PAN Card Xerox)
- 8 Whetherthe applicant has/is willing to acquire adequate gear forstevedoring the contracted
vessel/cargo? (List of gear withnecessary Certificates to be furnished)
- 9 Whetherthe applicant has/is willing to have in his employment adequatestaff with experience
and conversance with Rules and Regulations?(A list of the staff and their experience to be
furnished)
- 10 Whetherthe applicant has cleared all dues, if any, on account oftransactions he had with the
Port Trust?
- 11 Whetherthe applicant has made the following deposits:-Licence fee ofRs. 50,000/-Deposit of
Rs. 5.00 lakh towards liabilities underthe Workmen's Compensation Act, 1923, Payment of
Wages Act, 1936,Industrial Disputes Act, 1947, etc. and to meet contingency validfor the period
for with the licence is required under column 4 ofthis Form

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 license.I agree to abide by the Tuticorin Port Trust (Licensing of Stevedores) Regulations, 2010, and to comply with the directions made by the Tuticorin Port Trust, from time to time, if the licence is issued/renewed.Signature of applicant/SealPlace:Date:No: TPT/SL/Tuticorin Port TrustLicence For Undertaking Stevedoring Operations At Tuticorin Port

1. Name of the Licensee :

2. Address :

3. Period for which the license is granted :

4. Minimum tonnage to be handled :

5. Conditions subject to which the license is issued :

SealLicensing Authority_____Designation ChairmanPlace TuticorinConditions (As Per Regulations 2010)