

The Shipping Development Fund (Loans) Rules, 1961

UNION OF INDIA

India

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Rule THE-SHIPPING-DEVELOPMENT-FUND-LOANS-RULES-1961 of 1961

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1763.

G.S.R. 494, dated 27th March, 1961. - In exercise of the powers conferred by section 19 of the Merchant Shipping Act, 1958 (44 of 1958), the Central Government hereby makes the following rules, namely :

1. Short title.

- These rules may be called the Shipping Development Fund (Loans) Rules, 1961.

2. Definitions.

- In these rules,--(a)'Act' means the Merchant Shipping Act, 1958;(b)'Chairman' means the Chairman of the Shipping Development Fund Committee;(c)'Committee' means the Shipping Development Fund Committee;(d)'Directorate' means the Directorate General of Shipping, Bombay;(e)'Government Director' means the Government Director on the Board of Directors of Indian Shipping Companies in the private sector;(f)'Secretary' means the Secretary to the Shipping Development Fund Committee.

3. Application for loan.

- A shipping company desirous of raising a loan from the Shipping Development Fund shall apply to the Directorate in Part A of the form of application in the Appendix to these rules together with a

copy of the resolution of the company authorising the raising of the loan.

4. Scrutiny of application by Director General.

- The Director General shall scrutinise every application received by him and after recording his views in Part B of the application forward it to the Secretary.

5. Comments of Government Director.

- Where the application is made by a company in the private sector, the Director General shall, before forwarding the application to the Secretary also obtain the remarks and recommendations of the Government Director in Part C of the application.

6. Consideration by the Committee.

- The Secretary shall then place the application before the Committee for consideration at its next meeting, or in case of urgency, at a meeting specially convened for the purpose with the approval of the Chairman.

7. Decision of Committee to be recorded.

- The decision of the Committee on each application, which shall be in the form of a resolution duly passed by the Committee, shall be recorded in Part D of the application.

8. [Prior approval of Government. [Substituted by G.S.R. 1074, dated 14th July, 1970.]

- Every decision of the Committee to grant a loan exceeding Rs. 100 lakhs shall be subjected to the approval by the Central Government and such approval shall be sought by the Secretary before the decision of the Committee is communicated to the Directorate:][Provided that a decision of the Committee to grant a loan exceeding Rs. 25 lakhs but not exceeding Rs. 100 lakhs shall also be subject to the approval of the Central Government if such a decision has not been concurred in by the representative of the Ministry of Finance (Department of Expenditure) on the Committee.]
[Inserted by G.S.R. 707, dated 16th May, 1972.]

9. Terms of loan.

- Every loan granted under these rules shall be on the terms and conditions, specified from time to time by the Central Government in pursuance of sub-section (2) of section 16 of the Act.

10. Communication of decision.

- The Secretary shall communicate to the Director General the decision on the application and the terms and conditions of the loan and the Director General shall, in turn, communicate the same to the Company.

11. Acceptance of loan and execution of loan documents.

(1) If the terms and conditions of the loan are acceptable to the company, the company shall arrange to have a formal resolution passed at a meeting of the Board of Directors authorising the raising of the loan on the terms and conditions governing it and also specify the officers of the company who shall execute the loan documents on behalf of the company and affix the common seal of the company on the documents. (2) The company shall, in consultation with the Director General, take steps to draw up and duly execute the documents specified in sub-rule (5) and shall send to the Director General the documents so executed along with an attested copy of the resolution referred to in sub-rule (1). (3) The Director General shall forward the said documents and the attested copy of the resolution to the Secretary who shall arrange for the execution of the documents on behalf of the Committee. (4) The Director General shall also ensure that the borrowing company has—(a) registered the mortgage of the ship/s with the Registrar of Companies as required by the Indian Companies Act, 1956; (b) taken out proper insurance policies in respect of the ship/s mortgaged to the Committee and duly assigned the policies to the Committee. (5) The documents referred to in sub-rule (2) are—(a) the loan agreement, (b) the statutory mortgage deed in respect of the ship/s mortgaged as security, (c) the supplementary deed to accompany the statutory deed, (d) in the case of bank guarantee or any other form of security, the relevant documents to be executed in that connection.

12. Payment of loan amount.

- After all the formalities referred to in rule 11 have been complied with by the borrower company, the Secretary shall draw a cheque in favour of the company for the amount of the loan. Where the amount is to be paid in instalments, the Secretary shall draw the cheques on the due dates and for the appropriate amounts of such instalments. The cheque or each of the cheques, as the case may be, shall be sent to the Director General for transmission to the Company.

13. Repayment of loan.

(1) The borrower company shall repay the amount of the loan and the interest thereon in accordance with the terms and conditions of the loan. (2) The Director General and, where the borrower company is a company in the private sector, also the Government Director, shall keep a watch—(a) on the repayment of the loan and shall bring any default by the borrower company to the notice of the Secretary who shall immediately make a report to the Committee for such action as the Committee may consider necessary; (b) generally on the affairs of the borrower company and shall immediately bring to the notice of the Secretary any happening or development which affects the

credit worthiness of the borrower company or the sea-worthiness of the ship/s mortgaged to the Committee.[Appendix [Substituted by G.S.R. 665, dated 29th March, 1968.](See rule 3)Application for Grant of Loan for Acquisition of Ships

Part A

1. Name and address of the company.

2. Authorised capital.

3. Issued, subscribed and paid-up capital.

4. Does the company satisfy the requirements of section 21 of the Merchant Shipping Act, 1958 ? (Please give details to elucidate the answer).

5. Number and total GRT of vessels (s) owned by the company and its/their insured value and also its/their market value.

6. In the case of companies in existence for three years or more, copies of Balance Sheet and Profit and Loss Accounts for the last three years (indicating working results assets and Liabilities and dividends if any, declared) may be furnished. In the case of others, necessary information to the extent available may be furnished.

7. (i) Details of current assets, separately for trading and non-trading assets, as on the date of application or as near thereto as possible. A statement of the moneys due by sundry debtors for more than six months as on the date of application or as near thereto as possible.

(ii)Details of loans and advances indicating the parties to whom they have been given and the terms and conditions on which they have been given.(iii)Details of fixed deposits, the terms and conditions of such deposits and whether they can be mobilised for the raising of resources, and if not, why not ?(iv)Details of reserves and Burp;uses and the extent they are free and available for being ploughed back into business.(v)Details of current liabilities indicating the period over which they are to be liquidated.

8. (i) Details of income-tax and other tax liabilities up to the end of the assessment year preceding the date of application of loan.

(ii) Provision made to meet such liabilities and particulars thereof. (iii) The actual annual assessment for income-tax and other taxes as against details given in (i) above. (iv) Whether any proceedings were taken or are pending against the company for recovery of any taxes? If so, please furnish full details.

9. Particulars of loan/s, if any, already granted to the company by Government of India/Shipping Development Fund Committee.

10. (i) Amount/s of loan/s, date of grant and rate of interest.

(ii) Ships against which the loan/s was/were granted. (iii) Repayment/s commenced or to commence from which date and to be made in how many instalments. (iv) Whether there has been in the past any default in the payment of instalments of either principal or interest and, if so, on how many occasions and for what reasons. (v) What action, if any, was taken by the lending authority in connection with default referred to above. (vi) Outstanding balance of Government/Shipping Development Fund Committee loan/s and also other loan/s, if any.

11. (i) Whether there has been any default in the compliance of any of the terms of the loan agreements and other loan documents in respect of loans mentioned in item 9 above and if so, on how many occasions and for what reasons?

(ii) Whether the company has been subject to punitive action by other Ministries/departments of Government and if so, the particulars thereof and the reasons therefor. Full details should be furnished.

12. (i) Ship/s now proposed to be acquired or built.

(ii) Trade in which the ship/s to be acquired or built will be operated. (iii) NO Cost of the ship/s. (iv) Amount of loan now required from the Fund.

13. What security, in addition to the mortgage of the loan vessel, is the company prepared to offer, if so required by the Shipping Development Fund Committee and pending the building of the loan vessel, what interim security is proposed to be furnished?

14. If the vessel/s is/are proposed to be purchased second-hand, is the company satisfied that the vessel/s is/are (a) in good condition (b) the price is reasonable in the existing conditions, and (c) suitable for the trade for which intended? Copies of any reports etc., received by the company regarding (a) maybe furnished.

15. What documentary proof the company will furnish in support of the actual cost of the acquisition or building of the vessel/s ?

16. Whether the company is aware of the terms on which loans are usually granted by the Shipping Development Fund Committee and if so, whether the company is prepared to accept them in their entirety; or, if not, in what respects the company desires modifications of these terms and for what reasons ?

17. (i) Anticipated working results in future, and

(ii) Whether such results fully establish the possibility of the company repaying the loan within the period of amortization without any difficulty? To be signed by the Managing Director or other authorised official of the Company.

Part B

(To be filled by the Director-General of Shipping)

1. Is the Director-General of Shipping satisfied that the particulars furnished above by the company are correct to the extent that they can be verified ?

2. In particular, does the company satisfy the requirements of section 21 of the Merchant Shipping Act, 1958 ?

3. Is the Director-General of Shipping generally satisfied after making such consultation as he deems necessary from his Technical Officers, that the vessel(s) proposed to be purchased or built is/are good for the price proposed to be paid and is/are suitable for the trade(s) in which it is/they are intended to be put ?

4. Does the Director-General of Shipping recommend the grant of the loan applied for by the company ? Is he satisfied that there is a reasonable prospect of the company being able to repay the loan within the period of amortization and the security offered by the company including the interim security is good and sufficient ?

5.

(1) Whether the Director-General of Shipping while recommending the grant of loan, has taken into account the liquid cash resources of the company available with it and reserves etc., built by it ? If so, does he still recommend the full loan applied for and if so for what reasons ? (ii) Whether the company has committed any default in the compliance of the terms of the loan agreements and or other loan documents in respect of loans already granted either by the Government of India or the Shipping Development Fund Committee and if so, on how many occasions and for what reasons and with what results ? (iii) Has the Director-General of Shipping come across any adverse remarks from other departments of Government or other sources on the activities of the company and, if so, the details thereof may be given. In the light of these adverse remarks, does he still recommend the loan applied for and if so, on what precise grounds?

6. In case the company desires any modification of the usual terms, to what extent does the Director-General of Shipping recommend them and on what precise grounds ?

7. Has the Director-General of Shipping any special comments to offer on the proposals ?

(To be signed by the Director-General of Shipping or other authorised officer of the Director-General of Shipping).

Part C

Remarks/recommendations of Government Director :To be signed by the Government Director.

Part D

Decision of the Shipping Development Fund Committee To be signed by Secretary, Shipping Development Fund Committee.]