

MERCHANT SHIPPING (LEVY OF SEAMEN'S WELFARE FEE) RULES, 1974

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MERCHANT SHIPPING (LEVY OF SEAMEN'S WELFARE FEE) RULES, 1974

In exercise of the powers conferred by clauses (d) and (e) sub-section (2) of Sec. 218 and by Sec. 457 of the Merchant Shipping Act, 1958 (44 of 1958), and of all other powers hereunto enabling, the Central Government hereby makes the following rules, namely

1. Short title and application :-

(1) These rules may be called the Merchant Shipping (Levy of Seamen's Welfare Fee) Rules, 1974.

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

(3) They shall apply to every ship engaging any seaman under Sec. 100 and Sec. 114 of the Act.

2. Definitions :-

In these rules, unless the context otherwise requires:

(a) "Act" means the Merchant Shipping Act, 1958 (44 of 1958);

(b) "proper officer" means the Shipping Master, Bombay or any other officer so appointed by the Central Government by a notification published in the Official Gazette;

(c) "Schedule" means Schedule to these rules;

(d) "Seafarers Welfare Fund Society" means the Society registered under the Societies Registration Act, 1860 (21 of 1860);

(e) "shipping master" includes an officer-in-charge of the office specified by a notification under sub-section (3) of Sec. 11 of the Act for conducting the whole or any part of the business of the shipping office; and

(f) "Year" means a financial year commencing from the first day of April in each year.

3. Levy and collection of Seamens Welfare fee :-

(1) There shall be levied and collected on each Seaman engaged under Sec. 100 or under Section 114 of the Act, a fee at the rate of [twenty five rupees] per year hereinafter referred to as annual, fee for the purpose of providing amenities to seamen and for the welfare of seamen.

(2) The annual fee shall be payable to the proper officer by the master, owner or agent of a ship and it shall be payable on every seaman held in engagement by the master, owner or agent of such ship on the commencement of each year:

Provided that in the year of commencement of these rules the annual fee shall be payable on every seaman held in engagement by the master, owner or agent of a ship on the commencement of these rules.

(3) The annual fee shall become payable from the first day of the year and shall be paid not later than the thirty-first day of May of that year: Provided that in the year of commencement of these rules the annual fee shall be paid within sixty days from the commencement of these rules.

(4) The annual fee shall be paid by the master, owner or agent of a ship to the proper officer by cheque crossed account payee in favour of the proper officer who shall deposit the same within seven days through challan into the treasury for credit to the revenue receipt head "XI-Mercantile Marine Seamen's Welfare Fee".

(5) For every payment of annual fee received by the proper officer there shall be issued a receipt in the form specified in Schedule I.

(6) Every master owner or agent of a ship shall on the request of the proper officer furnish such information as are necessary for the proper implementation of these rules.

(7) Notwithstanding anything contained in sub-rule (1) in the year of commencement of these rules, the annual fee payable under these rules shall be rupees five per seaman irrespective of the commencement of these rules.

4. Voluntary contribution :-

Any funds collected, prior to the date of commencement of these rules, from master, owners, or agents of ships as a result of any collective agreement between such masters, owners or agents and the National Welfare Board for Seafarers or as a result of any voluntary contribution made by such masters, owners, or agents for the purposes of welfare of seafarers in their employ, shall, on commencement of these rules, be brought on the books of the proper officer and be disbursed in the like manner as if they were collected under the provisions of rule 3.

5. Security for payment of annual fee in respect of Seamen engaged on ships other than Indian ships :-

(1) The master, owner or agent of a ship other than an Indian ship shall give to the proper officer a bond with the [for such amount not exceeding rupees five hundred as may be fixed by proper officer], shall be conditioned for the full payment of the annual fee due from the master, owner or agent of the ship, with expenses, if any, incurred in the recovery of the annual fee:

Provided that the proper officer shall waive the requirement of this sub-rule in respect of owners of ships who employ seamen from India and have a Company Roster of their own.

(2) Any bond executed by the master or owner of there than an Indian ship under sub-section (3) of Sec. 114 or any security given by the agent of any such ship under the proviso to that sub-section may be deemed to be a sufficient bond or, as the case may be, security for the purpose of sub-rule (1):

Provided that any existing bond furnished under sub-section (3) of Sec. 114 of the Act shall be deemed to be a bond under this rule.

(3) Where any bond or security referred to in sub-rule (2) is given to any shipping master who is not appointed as a proper officer under these rules, he shall transmit necessary particulars of the said bond or security to the proper officer as soon after any such bond is executed or, as the case may be security is accepted.

(4) Any bond executed or security given under this rule shall be enforceable by any competent court in the same manner as if they had been given to it.

(5) Where any bond or security is enforced by a competent court, the court may decide as to the costs of the proceeding and the person from whom and the extent to which such costs shall be recovered and treated as expenses under these rules.

6. Determination of dispute as to the liability for payment :-

If any dispute arises as to the amounts due for payment these rules in respect of any ship or as to the liability for payment of such amounts 1[the dispute shall if both parties thereto so agree be referred to the Director General for adjudication and in any such event the decision of the Director General shall be binding on both the Parties].

7. Refusal for port clearance :-

(1) Where any master owner or agent of a ship fails to make payment of annual fee due from him within the time fixed under rule 3, the proper officer shall serve a notice on the master, owner or agent of the ship concerned calling upon him to pay the fee within thirty days from the date of such notice, whereafter he may communicate the particulars of the defaulter to the Collector of Customs who shall not grant port clearance to the ship until the amount of annual fee due in respect of that ship, including the expenses of collecting such a fee have been paid or until adequate security for payment thereof under rule 5 has been furnished to his satisfaction.

(2) If any ship in respect of which annual fee is payable at any port leaves such port without the amount referred to in sub-rule (1) having been paid, the Collector of Customs may be writing require the Collector of Customs of any other port to which the ship may proceed, or in which she may be, to recover the said amount.

(3) Any Collector of Customs to whom a requisition is sent under sub-rule (2) shall proceed to recover the said amount as if it were

payable under these rules at the port at which he is the Customs Collector and the Certificate of the Collector of Customs at the port at which the said amount became payable, stating that amount payable shall be sufficient proof in any proceedings under these rules that such amount is payable.

(4) The Collector of Customs shall on recovery of the amount referred to in sub-rule (3), issue to the person paying the same a receipt in the form specified in Schedule I and shall forward the same together with the other papers, if any, to the proper officer through the Collector of Customs at the port at which the said amount became payable.

8. Receipt and expenditure :-

(1) The amount of annual fee collected under these rules shall be credited to the Consolidated Fund of India under the revenue receipt head "XI Mercantile Marine Seamen's Welfare Fee".

(2) The Central Government may determine the cost of collection of the annual fees for every year and after deducting such costs from the gross collection referred to in sub-rule (1), the net proceed shall be paid to the Seafarers Welfare Fund Society after due appropriation by the Parliament.

(3) All payments made under sub-rule (2) shall be debited to the expenditure head "54 Mercantile Marine Contributions/Payments on account of Seamen's Welfare Fee".

9. Refund of excess payments :-

(1) Where annual fee paid by the master, owner or agent of ship is in excess of the amount due from him under these rules, the excess amount shall be refunded if claim there for is preferred before expiry of 1[twelve months] from the date of payment. No such claim shall be entertained if preferred after the expiry of twelve months from the date of payment.

(2) Any refund made under sub-rule (1) shall be adjusted under the head "XI Mercantile Marine Deduct Refunds"

Provided that the competent authority may, for reasons to be recorded in writing extend such period by a further period upto twelve months.]

10. Penalties :-

Any person who contravenes any provision of these rules or fails to comply with any provision thereof shall be guilty of an offence and shall be punishable with fine which may extend to 1[two hundred rupees] and when the breach is a continuing one with a further fine which may extend to fifty rupees for every day alter the first during which the breach continues.

SCHEDULE 1

SCH.1

SCHEDULE II

Proforma Account for the Year

(Rule 10)

(a) Seamens Welfare Fee dues from the owners in respect of

(i) Arrears.

(ii) Current year.

(b) Seamens Welfare Fee actually collected in respect of

(i) Arrears.

(ii) Current year.

(c) Securities, if any, held for effecting payment of levy, under rule 5 in respect of

(i) Past Payment.

(ii) Current Payment.

(d) Refund of excess payment under rule 9.

(e) Cost of collection as determined by the Central Government.

(f) Miscellaneous expenditure, if any.

(g) Amount of levy paid to the Seafarers (Welfare Fund Society) Central Government.

Signature of the proper officer

Officer authorized under sub-rule (2) of rule 3.

Date:

SCHEDULE 1

SCH.2