

## **MERCHANT SHIPPING (WRECKS AND SALVAGE) RULES, 1974**

### CONTENTS

#### **PART 1 :- PRELIMINARY**

1. Short title and commencement
2. Definitions

#### **PART 2 :- WRECKS**

3. Communication of intelligence of wreck
4. Procedure to be observed on finding a wreck
5. Procedure for taking possession of sunken or abandoned wreck
6. Action to be taken on taking possession of a wreck
7. Publication of notification by receiver
8. Report to underwriter
9. Claims to wreck
10. Claims in doubtful cases
11. Claims by agents or assigns
12. Claim of a representative of deceased owner
13. Delivery of wreck to rightful owner
14. Sale of unclaimed wreck
15. Procedure for the sale of a wreck
16. Wreck spread over two or more receivers jurisdiction
17. Wreck delivered in the jurisdiction of another receiver
18. Property proved not to be wreck
19. Buoys found adrift or ashore

#### **PART 3 :- SALVAGE**

20. Salvage
21. Determination of amount due as salvage
22. Appointment of valuers
23. Salvage Award

#### **PART 4 :- GENERAL**

24. Salvage and other charges payable by owner
25. Services rendered to vessels stranded or otherwise in distress
26. Receipts and expenditure
27. Fees
28. Report book
29. Penalties

## **SCHEDULE 1 :- SCHEDULE**

### **MERCHANT SHIPPING (WRECKS AND SALVAGE) RULES, 1974**

<sup>1</sup>1. Published in the Gazette of India, 1974, Sec. 3(i), p. 2826. In exercise of the powers conferred by Sec. 404 and sub-section (2) of Sec. 458 of the Merchant Shipping Act, 1958 (44 of 1958) and of all powers hereunto enabling, the Central Government hereby makes the following rules, namely

#### PART 1

#### PRELIMINARY

#### **1. Short title and commencement :-**

(1) These rules may be called the Merchant Shipping (Wrecks and Salvage) Rules, 1974.

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

#### **2. Definitions :-**

(1) In these rules, unless the context otherwise requires,

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

(b) "jurisdiction" in relation to a receiver of wreck means the local limits specified in the notification issued under sub-section (1) of Sec. 391 of the Act;

(c) "Mercantile Marine Department District" means the areas of jurisdiction of the respective principal officers specified in the First Schedule to these rules;

(d) "near the coast of India" means at any port or place in India or within the territorial waters of India;

(e) "owner" includes the master of a vessel where the wreck comprises of a vessel;

(f) "principal officer" means an officer appointed by virtue of sub-section (2) of Sec. 8 of the Act;

(g) "port" means a port as defined in the Indian Ports Act, 1908 (15 of 1908);

(h) "receiver" means the receiver of wrecks appointed under sub-

section (1) of Sec. 391 of the Act;

(i) "Schedule" means a Schedule annexed to these rules;

(j) "valuer" means any person appointed by the receiver under these rules to assess the value of any vessel, or any equipment of such vessel, or any other article of cargo or stores of such vessel.

(2) Words and expressions used in these rules but not defined in sub-rule (1) shall have the respective meaning assigned to them in the Act.

PART 2  
WRECKS

**3. Communication of intelligence of wreck :-**

Where a receiver receives intelligence of any vessel having been wrecked or stranded or of being in distress, he shall, immediately on receipt of such intelligence, communicate it to the principal officer.

**4. Procedure to be observed on finding a wreck :-**

(1) Any person who finds and takes possession of a wreck within the limits of jurisdiction of a receiver or brings any such wreck within such limits shall, as soon as practicable make a report in writing to the receiver in the form specified in the Second Schedule.

(2) The receiver shall forward a copy of every such report to the principal officer.

**5. Procedure for taking possession of sunken or abandoned wreck :-**

(1) When a receiver receives intelligence that a wreck, being a vessel is sunk or stranded near the coasts of India and is abandoned by its owner he shall, as soon as practicable, proceed to the place where such vessel lies, drop a lead line over such vessel and make a declaration that he has taken possession of the wreck in exercise of his powers under the Act.

(2) Where a receiver receives intelligence that a wreck not being a vessel, is found near the coasts of India, he shall, as soon as practicable, proceed to the place where such wreck is lying and take possession of the wreck physically. Where it is not practicable to take physical possession of the wreck he shall make a declaration that he has taken possession of the wreck in exercise of his powers

under the Act.

**6. Action to be taken on taking possession of a wreck :-**

(1) The receiver in taking possession of a wreck shall

(a) if the wreck consists of a vessel other than an Indian vessel, send a written intimation giving particulars of the wrecked vessel to the nearest consular officer of the country in which the vessel is registered under intimation to the principal officer;

(b) if the wreck consists of an Indian vessel, send a written intimation to the owners of the vessel, under intimation to the principal officer;

(c) if the wreck consists of any parts, articles, or equipments of a vessel other than an Indian vessel, send a written intimation giving particulars of such parts, articles or equipments of the vessel to the nearest of the vessel under intimation to the principal officer;

(d) if the wreck consists of any parts, articles or equipments of an Indian vessel, send a written intimation giving particulars of such parts, articles or equipments of the vessel to the owners of the vessel, under intimation to the principal officer;

(e) if the wreck consists of any cargo cast overboard from vessel other than an Indian vessel, send a written intimation giving particulars of such cargo to the nearest consular officer of the country in which the ship is registered, under intimation to the nearest customs officer and the principal officer;

(f) if the wreck consists of any cargo cast overboard from an Indian vessel engaged in trading otherwise than in the coasting trade of India, send a written intimation giving particulars of such cargo to the owner of the vessel, under intimation to the nearest customs officer and the principal officer

(g) if the wreck consists of any cargo cast overboard from an Indian ship engaged in the coasting trade of India, send a written intimation giving full particulars of such cargo to the owner of the vessel, under intimation to the principal officer; and

(h) if the wreck consists of any vessel owned and operated by a Government Department or any article of cargo or equipment of such vessel, send a written intimation giving full particulars of such vessel or, as the case may be, its articles of cargo or equipment to

the appropriate authorities of the Department concerned under intimation to the principal officer:

Provided that where in any case referred to in Cls. (c), (d), (e), (f) or (g) the identity of the vessel from which the wreck has ensued has not been established, the receiver shall send intimation to the principal officer.

(2) Where any wreck, being a vessel, sunken or stranded causes or is likely to cause an obstruction or danger to navigation in a fairway leading to any port or place in India, the receiver shall send a report of such obstruction or danger to navigation to the principal officer in the form set out in the Third Schedule. Such report shall, as far as practicable, define the size and nature of the obstruction and its location on the appropriate hydrographic chart.

#### **7. Publication of notification by receiver :-**

(1) Every notification to be published by a receiver under Sec. 397 of the Act shall be in the form set out in the Fourth Schedule. Every such notification shall be issued within forty eight hours of taking possession of the wreck and be displayed on the notice board in the office of the receiver for not less than fourteen days. A copy of every such notification shall be sent to the principal officer.

(2) Where the estimated value of any wreck exceeds, five hundred rupees, the receiver may, in addition to the notification to in sub-rule (1), publicise the wreck by an advertisement in three consecutive issues of at least two newspaper which have a wide circulation in the Mercantile Marine Department District concerned.

#### **8. Report to underwriter :-**

Where a wreck consists of a vessel or of any article or equipment belonging to a vessel, the receiver shall forward a copy each of the notification issued by him under Sec. 397 of the Act and advertisement, if any issued under the sub-rule (2) of rule 7, to the appropriate underwriters, if known.

#### **9. Claims to wreck :-**

All claims to the wreck or sale proceeds thereof shall be made to the receiver in Part I of the Fifth Schedule.

#### **10. Claims in doubtful cases :-**

Where, in respect of any claim made for the delivery of a wreck or, as the case may be, for the sale proceeds thereof, the receiver has

any doubt as to the title of the claimant, he may require such claimant to fill up Part II of the First Schedule and may further require him to produce such other evidence of title to the claim as he may consider sufficient for entertaining the claim. In any such case the receiver may make inquiries from registrar of ships, shipper, consignee and other person as he may deem necessary for satisfying himself as to title of the claimant.

**11. Claims by agents or assigns :-**

No claim made by an agent or, as the case may be, an assignee of the owner of the wreck may be entertained unless the claimant satisfies the receiver, by production of such documents as he may consider sufficient for such satisfaction, that the agent or assignee has been duly authorised in this behalf by the owner.

**12. Claim of a representative of deceased owner :-**

No claim in respect of any article of wreck or sale proceeds thereof belonging to any deceased master, seaman or passenger of a wrecked vessel shall be entertained unless the claimant satisfies the receiver, by production of such documentary evidence as the receiver may deem necessary, as to his title to such article or sale proceed thereof.

**13. Delivery of wreck to rightful owner :-**

(1) Any rightful owner of a wreck, who has established his title to a wreck or any part thereof or the sale proceeds of such wreck or part thereof to the satisfaction of the receiver in accordance with the provisions of these rules, shall be under an obligation to pay to the receiver salvage charges, any other expenditure properly incurred by the receiver for the recovery, preservation or safety of the wreck and fees payable to the receiver under rule 27.

(2) A receiver may withhold delivery of any wreck or part thereof or sale proceeds of such wreck or part thereof to any claimant until his claim referred to in sub-rule (1) is settled in full.

(3) For the purposes of this rule a claimant shall be under an obligation to pay salvage charges and other expenses incurred by the receiver in respect of the entire property constituting the wreck notwithstanding whether his claim pertains to the entire property or a part thereof.

(4) The receiver shall, on handing over a wreck or sale proceeds thereof obtain from the claimant a receipt in Part I of the Fifth

Schedule.

**14. Sale of unclaimed wreck :-**

(1) Receiver may sell any wreck which attracts the provisions of Sec. 398 of the Act of accordance with the provisions of rule 15.

(2) No wreck which does not attract the provisions of Sec. 398 of the Act, may be sold except under instructions in writing from the Central Government or any other officer authorised by it in this behalf. In respect of every such wreck receiver shall seek instructions from the Central Government or any other officer authorised by it in this behalf through the principal officer immediately after expiry of 12 months from the date of taking possession of the wreck.

**15. Procedure for the sale of a wreck :-**

(1) A receiver shall not sell any wreck otherwise than by public auction. Every such sale shall be made on "as is where is" basis with purchaser assuming full responsibility for any taxes payable to Government or port authorities and for encumbrance on the wreck such as maritime liens.

(2) A notice for sale of a wreck shall be published not less than fourteen days in advance of the appointed date of sale, in three consecutive issues of at least two daily newspapers having a wide circulation in the Mercantile Marine Department District concerned. Every such notice shall include

(a) the description of the wreck under sale, its site and other known details, if any;

(b) the percentage of the auction price that shall have to be paid as down- payment immediately after the conclusion of the auction;

(c) the period within which the balance amount shall be payable by the successful bidder;

(d) any other details as may be deemed necessary depending upon the nature of the wreck being sold and the circumstances under which it is being sold;

(e) a provision reserving right in the receiver to reject highest bid or to postpone or cancel the sale without assigning any reason therefor;

(f) a provision to the effect that amount of down-payment referred to in Cl. (b) shall be liable to forfeiture, should be successful bidder fail to effect full and final payment of the balance amount within the period stipulated in Cl. (c).

(3) Where a receiver does not accept highest bid or postpones or cancels any auction he shall record in writing the reasons therefor and make a report to the Central Government.

(4) Where any auction is frustrated by reason of receiver having rejected the highest bid, or having cancelled the auction or by reason of failure on the part of the highest bidder to effect full and final payment of the price within the stipulated period, the receiver shall organise a fresh sale of the wreck.

**16. Wreck spread over two or more receivers jurisdiction :-**

When a part of any wreck is washed or brought ashore within the jurisdiction of one receiver and the remaining part thereof is so washed or brought ashore in the jurisdiction of another receiver or receivers, each receiver shall act independently of each other.

**17. Wreck delivered in the jurisdiction of another receiver**

**:-**

When a wreck found in the jurisdiction of any receiver is delivered to any other receiver, the latter shall immediately report the matter to the former. The disposal of such wreck shall be done by the receiver to whom it is delivered in the like manner as if it was found in his jurisdiction.

**18. Property proved not to be wreck :-**

(1) No receiver shall take possession of any property which prima facie does not appear to be a wreck.

(2) Any property taken possession of by the receiver is found as not constituting a wreck, shall be delivered to the rightful owner when claimed subject to the latter agreeing to meet the reasonable expenses incurred by the receiver for its safe preservation as contemplated in rule 25.

**19. Buoys found adrift or ashore :-**

When receiver receives intelligence of any buoy being adrift or having been washed ashore or when any such buoy is delivered to him he shall send a report with such particulars as may be available to the nearest office of the directorate of light houses and light



ships under intimation to the principal officer. Where a receiver is not able to communicate with the nearest office of the directorate of light houses and light ships, he shall report the matter to the principal officer who shall transmit the report to the appropriate authorities.

### PART 3

#### SALVAGE

### **20. Salvage :-**

(1) Owner of any vessel in distress or master or any other person duly authorised by the owner in this behalf may enter into an agreement with any person for rendering salvage services to the vessel in distress. Any such agreement may provide for (i) the amount payable to the salvor in the event of successful completion of the venture; (ii) the amount payable to the salvor in the event of partial success of the venture; (iii) the rights and responsibilities of the parties to the contract including the right of salvor for remuneration and remedies for its recovery; (iv) the manner in which any dispute arising out of the agreement shall be settled; and (v) any other matter of particular importance or relevance to the subject matter of the agreement.

(2) Where any vessel to which salvage services have been rendered constitutes a wreck, the owner thereof, if he claims the wreck, should be afforded an opportunity to settle all matters relating to salvage charges between him and the salvor. In any such case the delivery of the wreck to the owner shall be withheld until the receiver is satisfied that all claims relating to salvage charges have been settled to the satisfaction of the parties concerned.

(3) Where in any such case, the owner of the salvor reports to the receiver that matters relating to salvage could not be settled amicably between the parties and the dispute is sought to be settled in accordance with the provisions of sub-Sees. (4) and (5) of Sec. 402 of the Act, the receiver shall withhold delivery of the wreck to the owner until the judgment of the competent court becomes available and on receipt of the judgment he shall cause the claim relating to salvage charges to be settled in accordance with the said judgment before making over delivery of the wreck to the owner.

(4) Where any vessel to which salvage services are rendered constitutes a wreck but the owner does not claim the wreck, the

receiver shall undertake responsibility for settling all matters relating to salvage in accordance with the provisions of rule 21.

**21. Determination of amount due as salvage :-**

(1) Save where there exists an express agreement between the owner and salvor, the amount of salvage due to any person under the provisions of Sec. 402 of the Act shall be determined having regard to the following considerations, namely:

(a) nature and degree of danger to which human life and/or property saved was exposed;

(b) aggregate value of the property saved;

(c) sale proceeds of salvaged property where such property was sold;

(d) nature and degree of risk incurred by salvor;

(e) value of salvor's property engaged in salvage service and nature and degree of danger to which it was exposed;

(f) responsibilities incurred in performance of salvage services such as risk to insurance, liability to passengers or cargo or both through deviation or delay;

(g) loss incurred in performance of salvage service such as detention, loss of profitable trade, damage suffered by vessel, its equipment or gear

(h) expenses properly incurred by salvor in furtherance of salvage service;

(i) expenses incurred by salvor towards loss of or injury to life or damage to property arising out of salvage service

(j) skill shown by salvor in rendering service and

(k) time spent and labour involved in rendering salvage service.

(2) Where Cl. (k) of sub-rule (1) is the only criterion on which salvage claim is based, no salvage shall be payable.

**22. Appointment of valuers :-**

(1) For the purposes of determining the value of any property salvaged or for valuating any factor referred in sub-rule (1) of rule 21 the receiver may appoint a valuer from a panel of valuers which shall be recommended to him by principal officer on request.

(2) The receiver shall keep on record the valuer's report and give attested copies thereof to the owner and salvor.

(3) There shall be paid to the valuer such charges as the receiver may consider reasonable and any such charges shall be a charge on the expense account of salvage:

Provided that where a valuer is appointed at the request of either the owner or the salvor without the consent of the other party, the charges shall be paid by the party at whose request the valuer was appointed.

### **23. Salvage Award :-**

(1) No salvage award shall be made

(a) in any case where the property or sale proceeds thereof are claimed by the owner or his duly authorised agent or assign, until the title of the claimant to the said property or sale proceeds thereof is established;

(b) in any case where the property is not claimed by its owner or his duly authorised agent or assign, until the said property is sold;

(c) in any case where either party has applied for the appointment of valuer under rule 22, until the valuer's charges has been paid.

(2) Where the receiver has made a salvage award, he shall withhold the delivery of the wreck to the owner until the owner obtains a release from the salvor in respect of salvage due to him under the said award.

(3) Where the receiver has disposed of any wreck he shall settle the salvor's claim in accordance with the award from within the sale proceeds of the wreck and obtain a receipt from the salvor in token of his having received the amount in full and final settlement of his claim, before effecting payment of balance sale proceeds to the owner.

#### PART 4 GENERAL

### **24. Salvage and other charges payable by owner :-**

(1) There shall be paid to the receiver the following amounts before the wreck or other property or both, or the sale proceeds thereof, is handed over to the owner or his duly authorised agent or assignee, in pursuance of Sec. 399 of the Act, namely:

(a) the amount of expenses including

(i) warehousing charges;

(ii) transport charges;

(iii) security arrangement charges; and

(iv) travelling charges;

(b) the amount of fees due to the receiver under rule 27.

(2) Where the receiver has dealt with salvage matters respecting any wreck pursuant to the provisions of sub-rule (4) of rule 20, the amount referred to in sub-rule (1) shall also include the amount of salvage determined under rule 21 and the charges if any payable to the valuer under rule 22:

Provided that the valuer's charges shall not be included in the amount if the valuer was not appointed on application from any other party.

(3) The receiver shall furnish to the claimant a statement of charges and other deductions referred to in sub-rule (1) together with attested copies of relevant vouchers.

(4) The receiver shall on handing wreck or any other property or sale proceeds thereof to the claimant obtain a receipt from the claimant in token of having received such wreck, other property or the sale proceeds thereof in Part I of the Fifth Schedule.

**25. Services rendered to vessels stranded or otherwise in distress :-**

(1) Where any vessel not constituting a wreck, on being stranded or otherwise in distress, receives any assistance from the receiver for saving life or property on board, including its gear, ankle, boats and other equipments, the owner of such vessel or property shall be liable for payment of all expenditure reasonably incurred by the receiver in providing such assistance.

(2) Where, in respect of any such services, salvage charges become due to any person under the provisions of the Act or any charges become due to the receiver under sub-rule (1) the receiver shall have the authority to detain the vessel until all such claims respecting salvage and other charges are settled by the owner:

Provided that no vessel shall be detained under this sub-rule if the

owner thereof provides adequate security to the receiver for payment of any amount due from him.

(3) Any security given in pursuance of proviso to sub-rule (2) shall be enforceable by a competent court having jurisdiction under sub-section (4) of Sec. 402 of the Act in the like manner as if a bail had been granted and enforced by that court.

**26. Receipts and expenditure :-**

The receiver shall meet all expenses and other charges incurred by him in performance of his duties from the sanctioned budget of the principal officer under the appropriate expenditure head and shall credit all <sup>1</sup> [receipts including the fees received under rule 27,] to the appropriate revenue head:

Provided that port authorities performing duties by virtue of their appointment as receivers under Sec. 391 of the Act, shall debit all such expenses and other charges and credit all receipts to their respective port funds.

1. Published in the Gazette of India, 1974, Sec. 3(i), p. 2826.

**27. Fees :-**

In respect of all or any of the matters specified in the Sixth Schedule there shall be paid to the receiver such fees as are specified in the said Schedule.

**28. Report book :-**

(1) Every receiver shall maintain a register in the form specified in the Seventh Schedule recording full particulars of any wreck which he has taken possession of and of the monies received and paid in respect of any such wreck.

(2) Where, in respect of any wreck salvage becomes due to any person, the receiver shall obtain the Salvor's warrant in the form specified in the Eighth Schedule before finalisation of accounts.

**29. Penalties :-**

Whosoever commits a breach of any of the provisions of these rules shall be punishable with fine which may extend up to one thousand rupees and if the breach is a continuous one with further fine which may extend to rupees fifty for every day after the first during which the breach is continuous.

