

SHIPPING DEVELOPMENT FUND (LOANS AND OTHER FINANCIAL ASSISTANCE) RULES, 1975

CONTENTS

1. Short title, application and commencement
2. Definitions
3. Application for loan or other financial assistance
4. Security of application
5. Consideration by the Committee
6. Decision of the committee to be recorded
7. Loan exceeding Rs. 100 lakhs to be made with the prior approval of Central Government
8. Terms of loan or other financial assistance
9. Communication of decision
10. Acceptance of loan or other financial assistance and execution of loan documents
11. Payment of Loan Amount
12. Payment of Loan

SHIPPING DEVELOPMENT FUND (LOANS AND OTHER FINANCIAL ASSISTANCE) RULES, 1975

¹1. Published in the Gazette of India, Extraordinary, 1975, Pt. II, Sec. 3 (i), p. 2191. 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, application and commencement :-

(1) These rules may be called the Shipping Development Fund (Loans and Other Financial Assistance) Rules, 1975.

(2) They shall apply to loans and financial assistance to fishing companies for the acquisition and maintenance of trawlers.

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

2. Definitions :-

In these rules, unless the context otherwise requires,

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

- (b) "application" means an application made under rule 3 ;
- (c) "Chairman" means the Chairman of the Committee;
- (d) "Committee" means the Shipping Development Fund Committee;
- (e) "Fishing company" means a company formed and registered under the Companies Act, 1956 (1 of 1956) and having sea fishing as its main object;
- (f) "Fund" means the Shipping Development Fund;
- (g) "Government director" means the Government director on the Board of directors of a fishing company which is not owned or controlled by Government;
- (h) "Secretary" means the Secretary to the committee;
- (i) "trawler" means a fishing vessel and includes a purse-seiner, long liner and a combination vessel for multi-purpose fishing, having in each case, an overall length of not less than twenty metres.

3. Application for loan or other financial assistance :-

(1) A fishing company desirous of raising a loan or obtaining other financial assistance from the Fund for the acquisition and maintenance of trawlers shall apply to such officer as the Central Government in the Department of Agriculture may, by notification in the Official Gazette, authorise in this behalf (hereinafter referred to as the Authorised Officer).

(2) Every application referred to in sub-rule (1) shall be made in such form as is specified in Part A of the form of application set out in the Appendix to these rules, and every such application shall be accompanied by an attested copy of the resolution of the fishing company authorising the raising of the loan or obtaining other financial assistance.

4. Security of application :-

The Authorised Officer shall scrutinise every application received by him and after such scrutiny, the Central Government in the Department of Agriculture shall, after making necessary entries in Part B of the form of application, forward it to the Secretary.

5. 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.

6. Decision of the 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 C of the form of application.

7. Loan exceeding Rs. 100 lakhs to be made with the prior approval of Central Government :-

The Committee shall not grant any loan or other financial assistance exceeding Rs. 100 (one hundred) lakhs in value except with the prior approval of the Central Government in the Ministry of Shipping and Transport.

8. Terms of loan or other financial assistance :-

(1) Every loan or other financial assistance 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.

(2) No loan or other financial assistance shall be granted to a fishing company unless such company has furnished security to the satisfaction of the Committee.

9. Communication of decision :-

The Secretary shall communicate to the fishing company and to the Central Government in the Department of Agriculture the decision on the application and the terms and conditions under which the loan or other financial assistance has been granted to the fishing company.

10. Acceptance of loan or other financial assistance and execution of loan documents :-

(1) If the terms and conditions of the loan or other financial assistance are acceptable to the fishing company, it shall arrange to have a resolution, passed at a meeting of the Board of directors, or, where necessary, the resolution of the company in general meeting, authorising the raising of the loan or obtaining other financial assistance on the terms and conditions, specified by the Central Government, on behalf of the fishing company, the documents

specified in sub-rule (5), and to affix the common seal of the company on such documents.

(2) The resolution referred to in sub-rule (1) shall specify the assets, which are proposed to be offered as security for the loan or other financial assistance, as the case may be, or the other securities which are proposed to be offered for the purpose aforesaid and that the terms and conditions specified by the Central Government are acceptable to the company.

(3) It shall be the duty of the Secretary to get the documents, specified in sub-rule (5), executed by or on behalf of the fishing company.

(4) No loan or other financial assistance shall be released to a fishing company unless a deed mortgaging the trawlers has been duly executed by or on behalf of the fishing company ¹[or such other security as is acceptable to the Committee has been duly furnished], to the satisfaction of the Committee and the fishing company has

(a) registered such mortgage ¹ [of the trawlers] with the Registrar of the Companies as required by the Companies Act, 1956 (1 of 1956) and in the case of mortgage of any other assets offered as security by the company, it has been registered by other authorities where required by law so to do, and thereafter also registered with the Registrar of Companies as aforesaid;

(b) taken out proper insurance policies in respect of the trawlers or any other assets of the company offered as security to the Committee and duly assigned such insurance policies to the Committee.

(c) registered the mortgage deeds of the trawlers with the Registrar of Ships.

(5) The documents referred to in sub-rule (2) are

(a) the loan agreement,

(b) mortgage deed in respect of the trawlers mortgaged as security,

(c) the deed of covenants to accompany the mortgage deed,

(d) in the case of bank guarantee or any other form of security approved by the Committee the relevant documents to be executed

in that connection.

(e) any other document which in the opinion of the Committee is considered necessary and essential to safeguard the interests of the Committee.

1. Ins. by G.S.R. 561 (E), dated 19th November, 1975.

11. Payment of Loan Amount :-

After all formalities referred to in rule 10 have been complied with by the borrowing fishing company, the Secretary shall draw a cheque in favour of the company for the amount of loan, or, where the Committee intends to give the guarantee for the due payment of the dues of the fishing company in relation to the acquisition and maintenance of trawlers, the Secretary shall draw up the deed, or letter of guarantee and get it executed by or on behalf of the Committee, and where the amount is to be paid in instalments, the Secretary shall draw the cheques in favour of the fishing company on the due dates and for the appropriate amount of such instalments.

12. Payment of Loan :-

(1) The borrowing fishing company shall repay the amount of the loan and the interest thereon in accordance with the terms and conditions of the loan, under intimation to the Department of Agriculture.

(2) The Department of Agriculture and where the borrowing fishing company is a company which is not owned or controlled by Government, also the Government director shall keep a watch.

(a) on the repayment of the loan and shall bring any default by the borrowing fishing 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 borrowing fishing company and shall immediately bring to the notice of the Secretary any happenings or development which may affect the credit-worthiness of the borrowing fishing company or the sea-worthiness of the trawlers mortgaged to the Committee.