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PART II

statutory Notifications containing Rules and Orders issued by all Ministries and Divisions of the Government of Pakistan and their Attached and Subordinate Offices and the Supreme Court of Pakistan

GOVERNMENT OF PAKISTAN

MINISTRY OF COMMUNICATIONS

[PORTS & SHIPPING WING]

NOTIFICATION

Karachi, the 2nd November, 1998

Attested

S. MASARRAT ALAM

Dep. M. Manager

Printing Corporation of Pakistan Press
University Road, Karachi.

Phone : 4931098 - 9231020

S.R.O. 34 (KE) 99:

In exercise of the powers conferred by Sections 24, and 26A of the Merchant Shipping Act, 1923 (XXI of 1923), the Federal Government is pleased to make the following rules, namely:—

1. Short title and commencement.—(1) These rules may be called the Pakistan Merchant Shipping (Licence to Engage or Supply Seamen) Rules, 1998.
(2) They shall come into force at once.
2. (1) Definitions.—In these rules, unless there is anything repugnant in the subject or context:—
(a) "Act" means the Merchant Shipping Act, 1923 (XXI of 1923):

(61)

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- (b) "agreement" means the document containing terms and conditions agreed between the competent authority and licensee;
- (c) "business" means recruitment and placement services seafarers;
- (d) "company" means a Company as defined in the Companies Ordinance, 1984 (XLVII of 1984);
- (e) "competent authority" means the Director-General, Ports and Shipping Wing or an officer authorised by him;
- (f) "form" means the forms annexed to these rules;
- (g) "Operational Standards" means the performance criteria the company while conducting recruitment and placement services which include qualifications, training required for management and staff of licensee, in accordance with national instruments on training, certification and lab standards; and
- (h) "seafarer or seaman" means every person engaged in capacity on board any ship under the Act;

(2) All other expressions used but not defined in these rules shall have the same meaning as assigned to them under the Act.

3. Application for grant of licence to engage or supply seafarer. Any company intending to engage or supply seafarers or seamen on merchant ships shall apply to the Competent Authority on Form LRPS-1 for grant of a licence.

4. Eligibility and documentation for grant of licence.—(1) The applicant shall be a citizen of Pakistan, meeting the requirements of Operational Standards, knowledge of subject and procedures as provided in Appendix-1 and Appendix-2 to these rules.

(2) The applicant desirous of licence to engage or supply seafarers shall submit the following documents, namely:—

- ✓ (a) a certificate from the concerned office of the Income Tax showing National Tax Number of the Company;
- ✓ (b) a certificate from his banker showing the financial position of the Company;
- ✓ (c) Police verification of character and credence of applicant;
- (d) duly filled, sealed and signed application Form-LRPS-1 with supporting documents as prescribed in the form required by these rules;
- ✓ (e) bank guarantee of two hundred fifty thousand rupees prescribed in Form-LRPS-3;

- (f) sealed and signed an agreement on a judicial stamp paper of Rs. 100/- as prescribed in Form-LRPS-2;
- (g) copy of the Memorandum and Articles of the Association of the company;
- (h) bio-data of the dealing officials supervising recruitment and placement services and other documents as required by the Operational Standards specified in Appendix-1;
- (i) fleet strength alongwith the name, flag, age, type and tonnage of the vessels and the categorised capacity of crew to carry of a shipping company or of those vessels for which the Principals have agreed to man the vessels from Pakistan;
- (j) category-wise estimated annual requirement of Pakistani seafarers to be engaged by the company;
- (k) copy of the agreement between the company and its Principals authorizing the company to undertake recruitment and placement services for their vessels; and
- (l) any other document which may be demanded by the competent authority relevant to issuance of a licence.

Procedure for grant of licence:—(1) On receipt of an application under rule 4, the competent authority shall issue a receipt for consideration of the application and, if deemed necessary, shall make further enquiry and seek additional information and call for an interview.

- (2) The competent authority shall, when satisfied that the applicant meets the requirement under these rules, direct the applicant in writing to furnish a irrevocable bank guarantee of amount as specified under clause (c) of sub-rule (2) of rule 4, in favour of the Director-General within thirty days of such directive.
- (3) The competent authority shall, on receipt of the bank guarantee under sub-rule (2), grant a licence to the company in Form LRPS-4 to engage or supply seafarers.
- (4) The licence shall be valid for five years from the date of its issue and may be renewable under rule 9.
- (5) In case the company is not found fit for grant of a licence, the competent authority shall record its reasons for refusal and inform the applicant accordingly:

Provided that such refusal shall not debar the applicant from seeking licence a fresh after conforming to the condition for grant of a licence.

6. **Rejection of application on grounds of incorrect statement.**—(1) If any statement made in the application is found to be incomplete or false, the competent authority shall give the applicant an opportunity to explain his position in writing within such period as it may be specified.
- (2) If no explanation is given within the time specified by the competent authority, or if the explanation so given is found unsatisfactory, the competent authority shall reject the application.
7. **Licence not transferable.**—The licence granted to a person under these rules shall not be transferable.
8. **Endorsements.**—(1) The licence issued to a company shall be subject to annual endorsement by the competent authority after verification of its Code of conduct specified in rule 14.
- (2) The licensee shall apply to the competent authority atleast fifteen days before the due date of his endorsement and make arrangements for inspection.]
9. **Renewal of licence.**—(1) A licensee shall apply on Form LRPS-1 accompanied by original licence to the competent authority for renewal of a licence at least one month before the date of its expiry, failing which his licence shall stand cancelled on such date.
- (2) Where an application for renewal of a licence is made after the due date or the original licence is not endorsed annually under rule 8, it shall be treated as a fresh application for the grant of a licence within the meaning of these rules.
10. **Refusal to renew the licence.**—The competent authority shall refuse to renew the licence :—
- (i) if the licensee contravenes the provisions of the agreement made between the parties (Form LRPS-2) or fails to honour the Code of conduct under these rules, or his bank guarantee has been encashed; or
- (ii) if the competent authority is satisfied that the circumstances exist by which the licence may not be renewed, he shall record his reasons for refusal to renew the licence and inform the licensee accordingly.
11. **Suspension or Cancellation of licence.**—The competent authority shall, after affording the licensee an opportunity of showing cause against the action proposed to be taken by order in writing, suspend or cancel the licence in any of the following cases, namely :—
- (a) if, in the opinion of the competent authority, the licensee contravenes the provisions of the agreement made between the parties or such contravention is against the interest of seafarers ;

(b) if, the licensee suspends or changes his nature of business as recruitment and placement services without prior permission of the competent authority and does not resume it within one month from the date of such suspension or change within the time specified by the competent authority; and

(c) if, the licensee becomes insolvent or performs his business below the Operational Standards or is unable to follow the Code of conduct specified in these rules.

12. **Suspension of business by the licensee.**—(1) The licensee shall, when he intends to suspend his business, apply with reasons to the competent authority for grant of permission to do so.

(2) The competent authority, when satisfied, shall permit the licensee to suspend his business for a period but not exceeding six months subject to such conditions as specified in the permission order.

13. **Change in nature or composition of business.**—(1) The licensee shall, if there is any change in the nature or composition of his business, inform the competent authority in writing within one month and apply for endorsement of the licence or for grant of a fresh licence as the case may be.

(2) The competent authority shall, upon receipt of information under sub-rule (1), endorse the licence accordingly or, as the case may be, grant a fresh licence under these rules.

14. **Code of conduct.**—The following shall be the code of conduct for the licensee, namely :

(a) the licensee shall adhere to ethics of commercial practices and shall refrain from unfair labour activities in relation to its dealings with seafarers ;

(b) the licensee shall abide by the provisions of the agreement made between the company and the competent authority and the Articles of Agreement made between the company and the seafarer ;

(c) the licensee shall honour the commitment of payment of wages, repatriation and medical care to the engaged seafarers ;

(d) the licensee shall, in the event of a dispute, make every effort to settle the matter amicably at the earliest possible opportunity ;

(e) the licensee shall maintain at all time during the validity of licence the Operational Standards as Appendix-1 to these rules ; and

(f) the licensee shall conduct his business in accordance with the rules, regulation, statutory instruments, circulars, notification concerning seafarers issued by the Federal Government from time to time.

15. Redemption of bank guarantee.—(1) A licensee or, in the event of his death, his legal heirs, shall after the expiry of six months from the date of winding up of his business or cancellation of his licence, apply to the competent authority to redeem his bank guarantee, and where applicable provide a succession certificate from the competent court.

(2) On receipt of an application, under sub-rule (1), if the competent authority is of the opinion that the bank guarantee furnished under sub-rule (2) of rule 5 has served the purpose, it shall inform within one month, the bank concerned to redeem the bank guarantee :—

16. Encashment of bank guarantee and suspension of licence.— When the competent authority is satisfied that there is enough proof that seafarers have not been paid their wages and the licensee is not in a position to meet his commitment to compensate the seafarers whom he had engaged, the competent authority shall encash the bank guarantee and compensate the aggrieved seafarers proportionately.

(2) When sub rule (1) is invoked, the licence issued to such company shall automatically stand suspended till such time the licensee fully compensate the aggrieved seafarers and furnish a fresh bank guarantee to the competent authority.

[No. F. 3 (2) 93. SH-III]

MUHAMMAD RIAZUDDIN,
Station Officer (SH-III).

Appendix I

[See rule 2 (1b), 44 (2b) and 114 (6)]

OPERATIONAL STANDARD

The person or company holding licence to engage or employ seafarers shall, at all times during the currency of the licence, maintain the following conditions, namely:—

- (i) An adequate trained staff responsible for recruitment and placement of seafarers;
- (ii) The minimum number of staff shall not be less than one of In-charge and two supervising personnel;
- (iii) The In-charge of the recruitment and placement services shall be—
 - (a) a Master Mariner with at least three years command experience; or