



Technical Circular

No.: 070/2020

Date: 04th May 2020

Subject: DGS M.S. Notice No. 07 of 2020 Reg. Terms and Conditions of employment of Seafarers engaged on Indian flag ships

1. Government of India in order to ensure complete effect of the provisions of Merchant Shipping Act, 1958 and Rules & Regulations made therein in respect of employment of Indian seafarers on Indian flagged ships and in the context of Maritime Labour Convention, 2006 has, vide M.S. Notice No. 07 of 2020, prescribed the following **terms and conditions of employment** which shall be incorporated in clear and unambiguous manner in the Seafarer Employment Agreements (SEA) / Articles of Agreement (AOA).
 - A) The contents of SEA / AOA/ and CBA (where forming part of SEA) shall also include following
 - a. GT , Type of Ship, Trading area (Foreign going / Coastal/Near coastal voyage / Harbour)
 - b. The overtime allowance – whether on fixed monthly basis (in hours) OR on basis of actual overtime hours worked.
 - c. National holidays are to be taken into account.
 - d. Other allowances payable to seafarer.
 - e. The CBA must have express provisions in respect of contributions towards Seafarer’s Welfare Fund Society (SWFS) and Seamen’s Provident Fund Organization (SPFO) which shall be made by shipping companies and same shall not be deducted from the wages payable to the seafarer.
 - f. CBA agreed between ship-owners association and seafarer’s organizations including wages as determined under the CBA shall be strictly implemented by the individual members, however such shipowners association and seafarer’s organisations should be duly registered in accordance with the Indian laws.
 - B) In cases where CBA does not form part of SEA /AOA, the following must be complied;
 - a. Terms and conditions of employment are detailed in the SEA/ AOA with respect to the amount of wages, other remuneration, death & disability compensation and other terms and conditions for a seafarer shall be no less than the amount agreed upon in any CBA (Foreign going / Home Trade / Coastal) between any registered ship owners/seafarers' organization within India OR
 - b. The amount periodically set by the Joint Maritime Commission or another body authorized by the Governing body of the International Labour Office.

C) Any provisions made in SEA/ AOA / CBA should not contravene the provisions under Merchant Shipping Act, 1958 as amended and Merchant Shipping (Maritime Labour) Rules 2016 or any other applicable Act or Rules.

D) Following points have been detailed for compliance by ship owner;

- a. All travel arrangements and costs including boarding & lodging arrangements where required, for seafarers when joining ship and for repatriation upon sign off from ship which will be responsibility of the ship owner.
- b. Personal protective and working gear, food & catering, drinking water, hygienic and healthy living conditions and recreational facilities on board shall be provided to the seafarers free of cost which shall be mentioned in the CBA/AOA/SEA;
- c. Death and disability compensations for all “Trainees” shall not be less than INR 10 Lakhs.
- d. Payment of gratuity is optional as may be agreed in the CBA/ AOA/ SEA.
- e. The disability compensation shall be over and above the cost of treatment and the wages payable as applicable. A disability of 50 % or more shall be considered as full disability.
- f. In case of loss or damage to the personal effects of the seafarer, as a result of the vessel, where he/she is employed, foundering or being lost, the compensation to the seafarer will be made in accordance with the terms and conditions agreed in CBA/AOA/SEA.
- g. CBA/AOA/SEA shall specify the liability of ship owner to provide legal support and to bear legal expenses and means to cover this liability in the event if a seafarer is stranded, detained, arrested or in the captivity at a port during the course of employment onboard ship.
- h. A probation period of not exceeding 10 weeks shall be applicable in case of Deck or Engine cadet or Trainee rating.
- i. The wages as determined in the CBA, sector wise (Foreign Going/Home Trade /Coastal) shall prevail.
- j. Seafarer Union/Association may collect their subscription & fee directly from seafarers and it shall not be part of CBA. Any deduction towards union fee, donation from wages of a seafarer or on behalf of seafarer will be subject to the seafarer giving a clear written authorization to the employer / shipowner.
- k. Copy of a CBA entered/renewed shall be submitted to Administration (Directorate General of Shipping, Shipping Master Office & Seamen’s Employment Office) for reference and record.

2. Ship owners/ operators and masters of Indian flagged ships are advised to be guided by above.

Enclosure: DGS M.S. Notice No. 07 of 2020, dated 24 April 2020.

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पोत परिवहन मंत्रालय / MINISTRY OF SHIPPING

नौवहन महानिदेशालय, मुंबई
DIRECTORATE GENERAL OF SHIPPING, MUMBAI

F. No. CR/MLC/CBA/2017

Dated: 24.04.2020

Merchant Shipping Notice No. 7 of 2020

Sub.: Terms & Conditions for employment of Seafarers engaged on Indian flag ships-reg.

The Directorate General of Shipping, Govt. in order to satisfy itself of the provisions of Merchant Shipping Act, 1958 and Rules & Regulations made thereunder, undertaken a review in the context of Maritime Labour Convention (MLC), 2006 as amended to ensure complete effect of its provisions for employment of Indian seafarers engaged on Indian flag ships. The Terms & Conditions were deliberated in consultations with the stakeholders and were placed on the official website of D G Shipping from 20.12.2019 to 20.01.2020 for valuable comments/suggestions of the stakeholders. The comments/suggestions so received were further examined and finalized. Accordingly, the said Terms & Conditions, annexed to this notice as Annexure-I are promulgated with immediate effect.

2. This issues with the approval of Director General of Shipping & Additional Secretary to the Govt. of India.

Encl.: Annexure-I

(Subhash Barguzer)

Deputy Director General of Shipping (Crew)

Copy to:

1. All stakeholders through DGS website
2. Assistant Director (OL) for Hindi version
3. Computer Cell for placing this Notice in the DGS website

बीटा बिल्डिंग, 9वीं मंजिल, आई थिंक टेक्नो कैम्पस, कांजूर गाँव रोड, कांजूरमार्ग (पूर्व) मुंबई-400042

9th Floor, BETA Building, I-Think Techno Campus, Kanjur Village Road, Kanjurmarg (E), Mumbai-400042

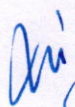
फ़ोन/Tel No.: +91-22-2575 2040/1/2/3 फ़ैक्स/Fax.: +91-22-2575 2029/35 ई-मेल/Email: dgship-dgs@nic.in वेबसाइट/Website: www.dgshipping.gov.in

“Terms & Conditions” for employment of Seafarers engaged on Indian flag ships

1. Whereas Merchant Shipping Act, 1958 provides for engagement & placement of Indian seafarers on Indian flag ships.
2. And whereas Section 100 and 101 of Merchant Shipping Act, 1958 require a contract to be entered into between the seafarer and master of every Indian ship.
3. And whereas in addition to the contract as mentioned above, it has also been the established practice, between the ship-owners associations and seafarers' representative unions in India, to negotiate and agree to more detailed terms and conditions of employment for seafarers on Indian flag ships, generally referred to as “Collective Bargaining Agreement” (CBA) as defined in Rule 3 (b) of Merchant Shipping (Maritime Labour) Rules, 2016.
4. And whereas Rule 8 of Merchant Shipping (Maritime Labour) Rules, 2016 also envisage that seafarers working on Indian flag ships shall have a seafarers' employment agreement (SEA) as defined in Rule 2 (h) of the said rules, signed by both the seafarer and the shipowner or a representative of the shipowner.
5. And whereas Maritime Labour Convention (MLC) 2006, as amended, lays down the “terms and conditions” of employment of seafarers. India has ratified MLC and made necessary provisions in the Merchant Shipping Act, 1958 and accordingly promulgated Merchant Shipping (Maritime Labour) Rules, 2016 and issued Merchant Shipping Notices and Circulars providing guidelines for compliance with MLC 2006.
6. And whereas Rule 9 (5) of Merchant Shipping (Maritime Labour) Rules, 2016 lays down that wages included in the CBA or SEA shall be in accordance with the guidelines as laid down in the Maritime Labour Convention, 2006.
7. And whereas minimum “notice period” for premature termination in accordance with Rule 8 (5) (g) and in the manner prescribed in Rule 8 (6) and Rule 8 (7) of the Merchant Shipping (Maritime Labour) Rules, 2016 which should be specified in CBA entered between shipowners



- organisations and seafarers organisations or AoA/SEA entered between shipowner and seafarer as the case may be;
8. And whereas particulars as per provisions under Section 101 of Merchant Shipping Act, 1958 and Rule 8 of Merchant Shipping (Maritime Labour) Rules, 2016, is to be followed and included in a AoA/SEA;
 9. And whereas transportation of seafarers' mortal remains and/or expenses for funeral as applicable is to be borne by the shipowner as per Rule 19 (2) (d) of Merchant Shipping (Maritime Labour) Rules, 2016, in case of death of a seafarer occurring on board or ashore during the period of engagement;
 10. And whereas to deal with seafarers' personal effect left on board, if any, shall be delivered to him/her or his/her next of kin at free of cost by the ship-owner in accordance with Section 152-160 of Merchant Shipping Act, 1958;
 11. And whereas provision of the "Financial Security" by the shipowner as required under Rule 19 of Merchant Shipping (Maritime Labour) Rules, 2016 as amended and relevant Merchant Shipping Notices/Circulars and the details of which shall be made available to the seafarer on board;
 12. And whereas provisions under section 97 and 97 A of Merchant Shipping Act, 1958 and Rules made there-under not to be contravened;
 13. And whereas monthly rate of Seamen's Provident Fund (SPF) payable in accordance with Seamen's Provident Fund Act, 1966. The SPF shall be payable to Seamen's Provident Fund Organisation (SPFO) for all categories of seafarers employed on board ships except for trainees, riding crew or any other person employed on board ship who is not defined as a "seafarer" by Indian Maritime Administration;
 14. And whereas welfare fund contribution to be made by shipping companies to Seafarers Welfare Fund Society (SWFS) in accordance with Rule 6 of Merchant Shipping (Recruitment & Placement of Seafarers) Rules, 2016;
 15. And whereas it has been noticed that the terms and conditions of employment of seafarers are not mentioned clearly and in unambiguous terms in many instances leading to ineffective enforcement of rights by the seafarers for resolution of disputes, especially with reference to



wages, death and disability compensation and basic conditions to work on board ship.

16. In view of the above, the following are prescribed which shall be incorporated in clear and unambiguous manner in the "terms and conditions" of employment in SEA/AoA for seafarers to be engaged on Indian flag ships:

16.1. The "term & conditions" of employment of seafarers, employed on Indian flag ships, contained in SEA or AoA shall be in compliance with the Merchant Shipping Act 1958, as amended, and Rules made there under e.g. Merchant Shipping (Maritime Labour) Rules, 2016, and relevant Merchant Shipping Notices/Circulars/Orders and guidelines issued there-under.

16.2. For the purpose of this Notice "Coastal Ship" shall mean any of the following Ships exclusively engaged in Indian Coastal trade:

(1) Ships (except tankers) under 6,000 Gross Tonnage (GT) and under 8,000 Kilowatt (KW) main propulsion power, registered under Merchant Shipping Act, 1958;

(2) Dredgers under 10,000 GT and under 10,000 KW propulsion power operating in Indian ports on the Indian coast;

(3) Oil Tankers and vegetable oil carriers under 3,000 GT and under 3,000 KW main propulsion power;

(4) River Sea vessels (RSVs) category 1,2,3, and 4;

provided that these provisions shall not apply to: -

(a) Ships carrying bulk chemicals or gas in any form (packaged or otherwise);

(b) Fishing vessels;

(c) Military and Government ships not used for commercial purposes.

16.3. The contents of SEA/AoA and CBA where forming part of SEA/AoA, shall also include the following:

(a) GT, type of the ships and trading area (for example: Foreign Going/Near Coastal Voyage/Coastal/Harbor);

(b) National holidays are to be taken in to account;

(c) The overtime allowance whether on fixed monthly (mention hours) basis or on the basis of actual overtime hours worked;

(d) Other payable allowances in the wages of seafarers, if any.

16.4. The CBA shall have express provision for welfare fund contribution to be made by shipping companies to Seafarers Welfare Fund Society (SWFS) and Seamen's Provident Fund Organisation (SPFO). CBA shall not have any provision for deduction or receipt or collection of any contribution in the name of welfare fund or provident fund except for SWFS and SPFO.

Provided that the ship-owners who may wish to provide any additional benefits to the seafarers not already covered under the SWFS/SPFO, are free to provide such benefits, for the welfare of seafarers, through mutual agreement entered between such ship-owners association and the seafarer union. However, such a mechanism shall not form part of the CBA.

16.5. Welfare fund contribution to be made by the shipping companies referred to in para 16.4 above shall not be deducted from the wages payable to the seafarer.

16.6. Respective CBA agreed between ship-owners association and seafarers' organizations including wages as determined under the CBA shall be strictly implemented by the individual members, however such shipowners association and seafarers organisations should be duly registered in accordance with the Indian laws.

16.7. Where the CBA does not form part of SEA/AoA signed between seafarer and ship owner for any reason including their not being member of any shipowners association, it must comply with the following in their SEA/AoA: -

- (i) "terms and conditions" of employment are detailed in the AoA/SEA with respect to the amount of wages, other remuneration, death & disability compensation and other terms and conditions for a seafarer shall be no less than the amount agreed upon in any CBA [in the relevant sector [i.e. Foreign Going/HomeTrade/Coastal] between any registered shipowners/seafarers' organization within India or;
- (ii) the amount periodically set by the Joint Maritime Commission or another body authorized by the Governing body of the International Labour Office.

Note 1: Since the CBA is the agreement between majority of the stakeholders based on an intense consultative process, which is also revised from time-to-time based on various relevant factors, is a vital document for bench marking the wages of different categories of seafarers and anything below that mentioned in SEA, which does not refer to any CBA, is considered to be unfair and inappropriate. It has been considered that the CBA, which contains the wages and other terms and conditions of employment of a seafarer on board a ship, is a result of a consultative process between the association/bodies representing employers and the employees and provides a benchmark for the purpose.

Note 2: For greater clarity it is further explained that the MLC, 2006 includes the international procedure for establishing a minimum monthly basic pay or wage figure for able seafarers (AB). The minimum wage as set periodically by the International Labour Organisation's Joint Maritime Commission. Although this minimum wage relates only to able seafarers, in practice the wage level for other seafarers is extrapolated from the amount agreed in the Joint Maritime Commission.

[Ref. C2.2-wages, Compendium of Maritime Labour Instruments of ILO Second Edition, 2015]

- 16.8. The terms and conditions for employment of seafarers shall be set out or referred to in a clear & unambiguous manner. Any provision made in the AoA/SEA/CBA should not contravene the provisions under Merchant Shipping Act, 1958, as amended or Merchant Shipping (Maritime Labour) Rules, 2016) or any other rules made or Notices/Circulars/ Guidelines issued thereunder or any other applicable Act or Rules. However, following points are reiterated for compliance: -
- (a) all travel arrangements and costs including boarding & lodging arrangements where required, for seafarers when joining ship and for repatriation upon sign off from ship which will be responsibility of the shipowner;
 - (b) personal protective and working gear, food & catering, drinking water, hygienic and healthy living conditions and recreational

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facilities on board shall be provided to the seafarers free of cost which shall be mentioned in the CBA/AoA/SEA;

(c) death and disability compensation for all "trainees" shall not be less than Rs. 10 Lakh. [As per decision of Indian Maritime Administration conveyed to INSA vide F.No.CR/CDC/1/2018, dated 16.10.2018]

- 16.9. The payment of "Gratuity" is optional as may be agreed in the CBA/AoA/SEA.
- 16.10. Agreement should be gender neutral. (Provisions of the Maternity Benefit Act, 1961, as amended, should apply).
- 16.11. The disability compensation which shall be over and above the cost of treatment and the wages payable as applicable. A disability of 50% or more shall be considered as full disability.
- 16.12. In case of loss or damage to the personal effects of the seafarer, as a result of the vessel's, where he/she is employed, foundering or being lost, the compensation to the seafarer will be made in accordance with the terms and conditions agreed in CBA/AoA/SEA.
- 16.13. CBA/AoA/SEA shall specify the liability of ship-owner to provide legal support and to bear legal expenses and means to cover this liability in the event if a seafarer is stranded, detained, arrested or in the captivity at a port during the course of employment onboard ship.
- 16.14. The provision for probation period in case of Deck or Engine Cadet or Trainee Rating [a probation period of not exceeding 10 weeks shall be applicable.]
- 16.15. Considering the principle of free collective bargaining system, the wages as determined in the CBA, sector wise [vig. Foreign Going/Home Trade/Coastal] shall prevail.
- 16.16. Without prejudice to the principle of free collective bargaining system, it must be ensured that the CBA/AoA/SEA shall not contravene provisions under section 97 and 97 A of Merchant Shipping Act, 1958 and Rules made there-under.
- 16.17. Union/Association may collect their subscription & fee directly from seafarers and it shall not be part of CBA. Any deduction towards union fee, donation from wages of a seafarer or on behalf of seafarer will be

subject to the seafarer giving a clear written authorization to the employer.

16.18. These terms and conditions contain minimum broader requirements; the collective agreements may cover other requirements under Merchant Shipping Act, 1958 as amended and Maritime Labour Convention, 2006 as amended in detail as may be mutually agreed under CBA.

16.19. Copy of a CBA entered/renewed shall be submitted to Administration [Directorate General of Shipping, Shipping Master Office & Seamen's Employment Office] for reference and record.

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