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The Gazette of the Democratic Socialist Republic of Sri Lanka
EXTRAORDINARY

අංක 1402/19 - 2005 ජූලි 22 වැනි සිකුරාදා - 2005.07.22
No. 1402/19 - FRIDAY, JULY 22, 2005

(Published by Authority)

PART I : SECTION (I) — GENERAL

Government Notifications

L.D.B. 19/72 (II).

THE LICENSING OF SHIPPING AGENTS ACT, No. 10 OF 1972

REGULATIONS made by the Minister of Ports and Aviation under Section 10 read with Section 3 of the Licensing of Shipping Agents Act, No. 10 of 1972.

MANGALA SAMARAWEEERA,
Minister of Ports and Aviation.

Colombo,
22th July, 2005.

Regulations

1. These regulations may be cited as the Freight Forwarders and Non Vessel Operating Common Carriers (Licensing) Regulations, 2005.

2. (1) No company, partnership or person, other than a registered Shipping line or Airline, engaged in providing international transportation services, shall carry on the business of a Freight Forwarder on a Non Vessel Operating Common Carrier without obtaining a licence under these regulations.

For the purposes of these regulations "International Transportation Service" means any service directly related to the transportation of goods or passengers from—

- (a) a place in Sri Lanka to a place out side Sri Lanka ;
- (b) from a place outside Sri Lanka to a place in Sri Lanka up to the point of landing unless such services are carried out under a specified contract of carriage according to the documents of carriage issued by a Freight Forwarder or Non Vessel Operating Common Carrier who is registered with the Central Bank of Sri Lanka ;
- (c) from a place outside Sri Lanka to another place outside Sri Lanka.

(2) Every company or partnership which desires to carry on the business of a Freight Forwarder or a Non Vessel operating Common Carrier shall make an application for a licence in that behalf, to the Director of Merchant Shipping Substantially in the form set out in the Schedule hereto.

(3) Directors of Merchant Shipping may request any further information from the applicant as appropriate.

3. Every application for a licence under these regulations, shall contain all such information as the Director of Merchant Shipping may require for the purpose of processing the application.

4. Every application for a licence shall be accompanied by a written undertaking by the applicant company or partnership to furnish to the Director of Merchant Shipping information on any change in the Board of Directors of the Company or partners of the Partnership.

5. No company or partnership shall be eligible for a licence to carry on the business of a Freight Forwarder or a Non Vessel Operating Common Carrier unless—

(1) it is a limited liability public or a private company duly formed and registered under the Companies Act, No. 17 of 1982 and -

(a) has a minimum paid up capital of Rs. 250,000 and provides a bank guarantee for Rs. 500,000 in favour of Director of Merchant Shipping ;

(b) in which the majority of Directors are citizens of Sri Lanka and not less than sixty per centum of the issued shares with voting rights are held by -

(i) citizens of Sri Lanka ; or

(ii) any other company or companies incorporated in Sri Lanka in which the majority of directors are citizens of Sri Lanka :

Provided however that a citizen of Sri Lanka holding shares in any company referred to in this sub-paragraph shall be deemed not to be the holder of such shares or part thereof if he holds such shares as the nominee or the trustee or the agent of a non citizen of Sri Lanka ;

(2) it is a partnership in which not less than sixty percent of the partnership capital is owned by citizens of Sri Lanka ;

(3) the company or partnership shall, if so required by the Director of Merchant Shipping furnish proof by way of affidavit from share holders or partner as the case may be, to the fact of his being a citizen of Sri Lanka. Any declaration in such affidavit, if found to be incorrect, shall render such company or partnership liable to have its licence or any privilege granted to such company or partnership cancelled, withdrawn or suspended, as the case may be, by the Director of Merchant Shipping ;

(4) it has on its staff a person in the capacity of a Director or General Manager who has experience in the field of international transportation service to the satisfaction of the Director of Merchant Shipping ;

(5) it has been registered as an international transportation service provider with Exchange Control Department of the Central Bank of Sri Lanka ;

(6) it has obtain a forwarders "all risks liability" insurance cover from an insurance company recognized by the Director of Merchant Shipping.

6. (1) There shall be paid an annual licence fee of rupees ten thousand (Rs. 10,000) by a Freight Forwarder or a Non Vessel Operating Common Carrier.
- (2) Every application for a licence shall be made with the relevant fee which shall be refunded in case where the application for a licence is refused.
- (3) A licence issued under the Licensing Shipping Agent Act, No. 10 of 1972 for any other purpose or category shall not suffice for the carrying on of the business of a Freight Forwarder or a Non Vessel operating common carrier without a licence being obtained under these regulations.

7. Every license issued under these regulations shall unless earlier cancelled or suspended be valid up to the thirty-first day of December of the year in respect of which such licence issued.

8. Every application for a licence shall be made within sixty days from the publication of these regulations.

9. (1) Every application for renewal of a licence under these regulations shall be substantially in the form set out in the Schedule hereto.
- (2) Every application for the renewal of a licence for any year shall be made on or before the thirtieth day of November of the preceding year.

SCHEDULE [Regulation 2 and 9 (1)]

APPLICATION FOR RENEWAL OF/A LICENCE TO CARRY ON THE BUSINESS OF A FREIGHT FORWARDER OR A NON VESSEL OPERATING COMMON CARRIER

1. Name of Applicant :
2. Registered Address :
3. (i) Number and the Date of Incorporation under Companies Act, No. 17 of 1982 Company Registered
No. : Date of Incorporation :
- (ii) Name of Partnership and registration No. (If registered) :
4. Address of Principal Place of business, Telephone No. :
Fax No. : Email Address :
5. State whether Private or Public Company :
6. Particulars of Foreign share holding if any :
7. Paid-up Capital :
8. Particulars of bank guarantee :
9. Registration Number with the Exchange Control Department of the Central Bank of Sri Lanka :
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10. Details of all risks liability insurance coverage :
11. Name of the CEO/GM and his experience in the field of international Freight Forwarding :
12. What Business other than that of a Freight Forwarder or a Non Vessel Operating Common Carrier is carried on by the applicant :

13. Names, Address and Nationality of five Directors or Partners :
14. Particulars of previous Licence No. Year :
15. Volume of cargo handled in Sri Lanka by applicant Freight Forwarder/Non-Vessel Operating Common Carrier in the last three years. (Please give break down separately in respect of each year)

We declare that to the best of our knowledge and belief, all the statements contained in this application are true and correct. We undertake to notify any changes in the Board of Directors/Partnership.

Names and signatures of the Directors or Partners.

Date :

Note.—certified copies of all the relevant certificates/statements are attached.

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L.D.B - 19/72 (II).

LICENSING OF SHIPPING AGENTS ACT, No. 10 OF 1972

REGULATIONS made by the Minister of Ports and Aviation under section 10 read with section 3 of the Licensing of Shipping Agents Act, No. 10 of 1972.

MANGALA SAMARAWEEA,
Minister of Ports and Aviation.

Colombo,
....., 2005.

Regulations

1. These regulations may be cited as the Container Operators' Regulation, 2005.
2. Every company, which desires to carry on business as a Container Operator shall make an application for a licence in that behalf, to the Director of Merchant Shipping, substantially in the form set out in the Schedule hereto.
3. Every application for a licence shall contain all such information as the Director of Merchant Shipping may require for the purpose of processing the application.
4. Every application for a licence shall be accompanied by –
 - (a) a certificate, from the relevant authority stating that the contained Depot of the applicant company conforms to all the regulations of the Urban Development Authority or of any local authority concerning Container depots ;
 - (b) a written undertaking by the applicant company to the Director of Merchant Shipping to inform any changes in the shareholdings and Board of Directors of such company ;
 - (c) a declaration by the applicant company that they will not provide any service to any company, partnership, individual or corporation purporting to act as shipping agent, freight-forwarder or non-vessel operating common carrier without the authority of a licence issued under the Licensing of Shipping Agents Act, No. 10 of 1972.

5. No Company shall be eligible for a Licence to carry on business as a Container Operator unless -

- (a) it is a public or a private company with a minimum paid up capital of Rs. 250,000 and provides a bank guarantee for Rs. 500,000 in favour of Director of Merchant Shipping ;
- (b) it is a public or a private company with limited liability of which not less than sixty per centum of the shares are owned by -
 - (i) persons who are citizens of Sri Lanka ; or
 - (ii) a partnership in which not less than sixty per centum of the partnership capital is owned by citizens of Sri Lanka ; or
 - (iii) a public company incorporated in Sri Lanka and quoted in the Colombo Stock Exchange, in which the majority of Directors are citizens of Sri Lanka, or
 - (iv) a company incorporated in Sri Lanka in which the majority of Directors are citizens of Sri Lanka and not less than sixty per centum of the issued shares carrying voting rights are held by -
 - A. citizens of Sri Lanka ; or
 - B. any other company or companies incorporated in Sri Lanka in which the majority of Directors are citizens of Sri Lanka ;

Provided however that a citizen of Sri Lanka holding shares in any company referred to in this subparagraph shall be deemed not to be holder of such shares or part thereof if he holds such shares as the nominee or the trustee or the agent of a non citizen of Sri Lanka ;

Provided further that such company shall, if required to do so by the Director of Merchant Shipping furnish proof in that behalf by way of an affidavit from such shareholders.

Any declaration in such affidavit, if found to be incorrect shall render such company liable to have its Licence or any privilege granted to such company cancelled, withdrawn or suspended, by the Director of merchant Shipping.

- 6. (1) The annual fee payable for a Licence to be a Container Operator shall be Rupees Ten Thousand (Rs. 10,000).
- * (2) Every application for a licence shall be accompanied by the required fee which shall be refunded in every case where the application for a licence is refused.
- (3) A Licence obtained under the Licensing of Shipping Agents Act, No. 10 of 1972 for any other category shall not suffice for the carrying on of the business of a Container Operator without a licence being obtained under these regulations.

7. Every licence issued under these regulations shall, unless earlier cancelled or suspended be valid up to the thirty-first day of December of the year in respect of which such Licence was issued.

- 8. (1) Every application for renewal of a licence under these regulations shall be substantially in the form set out in the Schedule hereto.
- (2) Every application for the renewal of a licence for any year shall be made on or before the thirtieth day of November of the preceding year.

9. Every application for a licence shall be made within sixty days from the publication of these regulations.

10. Any Container Operator which maintains an Inland Container Depot shall levy charges from a user, for the services rendered in terms of the tariff recommended by the Association of Inland Container Depot Operators and approved by the Controller or Exchange.

SCHEDULE

APPLICATION FORM FOR A LICENCE OR FOR RENEWAL OF A LICENCE TO CARRY ON BUSINESS AS A CONTAINER OPERATOR.

1. Name of the applicant :
2. Registered address :
3. Number and the date of incorporation under Companies Act, No. 17 of 1982 Company Registration No.
Date of Incorporation :
4. Address of principal place of business, Telephone No. :
5. State whether private or public company :
6. Particulars of foreign shareholding, if any :
7. Paid-up capital :
8. Business other than that of a Container Operator, carried on by the Applicant :
9. Particulars of Bank Guarantee :
10. Names, Addresses and Nationality of Directors :
11. Particulars of previous licence No. : Year :
- (If applicable)
12. Volume of inbound and outbound containers handled in Sri Lanka by applicant Container Operating Company in the last three years
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We declare that we read the regulations and understood them fully, and that to the best of our knowledge and belief, all the statements contained in this application are true and correct.

We also undertake to inform the Director of Merchant Shipping, of any changes in the Board of Directors.

Note. - The following documents are attached :

1. A certified copy of the Certificate of Incorporation - Memorandum and Articles of Association and certified copy of Form 48 (to be submitted during the initial application)
2. Certified copies of Agreements entered into with foreign and local ship operations, owners or their agents, freight forwarders, container leasing companies, importers, exporters, consolidators or non-vessel operating common carriers.

Names and Signatures of the Directors.

Date :

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