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The Gazette of the Democratic Socialist Republic of Sri Lanka

EXTRAORDINARY

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PART I : SECTION (I) — GENERAL

Government Notifications

THE LICENSING OF SHIPPING AGENTS FREIGHT FORWARDERS, NON-VESSEL OPERATING COMMON CARRIERS AND CONTAINER OPERATORS ACT, No. 10 OF 1972

REGULATIONS made by the Minister of Highways, Ports and Shipping under Section 10 read with Section 3 of the Licensing of Shipping Agents Freight Forwarders, Non Vessel Operating Common Carriers and Container Operators Act, No. 10 of 1972.

MAHINDA RAJAPAKSHA,
Minister of Highways, Ports and Shipping.

Colombo,
28th August, 2014.

Regulations

1. These regulations may be cited as the Freight Forwarders and Non Vessel Operating Common Carriers (Licensing) Regulations, No. 2014 and shall come into effect from the date hereof.
2. Every company desirous of carrying on or carrying on the business of a Freight Forwarder or a Non Vessel Operating Common Carrier shall make and application for a licence in that behalf, to the Director General of Merchant Shipping (hereinafter referred to as “ the Director-General”) substantially in the Form set out in the Schedule hereto.
3. Every application for a licence shall contain all such information as the Director-General may require for the purpose of processing the application and shall be accompanied by the relevant fee.
4. Every application for a licence shall be accompanied by a written statement stating that the applicant company shall without delay furnish information relating to any change in the Board of Directors of the company, to the Director-General.
5. No company shall be eligible for a License to carry on the business of a Freight Forwarder or a Non Vessel Operating Common Carrier unless it is a limited liability, public or private company duly formed and registered or re-registered under the Companies Act, No. 7 of 2007, 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 citizens of Sri Lanka



6. Notwithstanding the provisions in the regulation 5 above, a company is eligible, for a licence to carry on the businesses referred to therein if-

- (a) Such company has already received the approval of the Board of Investment of Sri Lanka in terms of the Exchange Control notice published in *Gazette Extraordinary* No. 1232/14 of April 19, 2002 for a higher percentage of foreign investment and only up to that percentage of issued share capital is held by non Sri Lankan citizens.
- (b) Such company has been approved by the Board of Investment in terms of Finance Act/Commercial Hub Regulation No. 1 of 2013 made under part IV of the Finance Act, No. 12 of 2012 is amended by Finance Act, No. 12 of 2013.
- (c) Such company receiving approval in terms of the Exchange Control notice published in *Gazette Extraordinary* No. 1232/14 of April 19, 2002 for a higher percentage of foreign investment from the Board of Investment of Sri Lanka, after the publication of this regulation, has brought in a minimum investment of US\$ 10 million toward the share capital of the company by way of an inward remittance and have a minimum of 20% issued shares carrying voting rights of the company are held by citizen of Sri Lanka.

7. A citizen of Sri Lanka holding shares in any company referred to Section 5 and 6 shall be deemed not to be holder of such shares or part hereof 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 General, furnish proof in that behalf by way of affidavit from such shareholders.

8. An applicant which is a Freight Forwarder, or Non Vessel Operating Common Carrier which furnished a document of carriage or a Forwarders Cargo Receipt or provides all other connected services with respect of international carriage of goods, including total logistical services, shall be issued a "Class A" category licence, subject to the following conditions :-

- (a) that a bank guarantee to the value of Rupees Five Hundred Thousand (Rs. 500,000) shall be provided in favour on the Director-General ;
- (b) that a staff officer who has a minimum of five years experience in the field of international transportation services shall be employed on the staff ;
- (c) that the applicant is registered as a Freight Forwarder with the Exchange Control Department of the Central Bank of Sri Lanka ;
- (d) that the applicant possess as a forwarders "all risk liability" insurance cover for a minimum of US \$ One Hundred Thousand (US \$ 100,000) and minimum cover of US \$ Fifty Thousand (US \$ 50,000) for errors and omissions, from an insurance company recognized by the Director-General ;
- (e) that there shall be in its permanent staff a minimum of two persons who have completed professional training and are holding valid certification in cargo handling, by air or sea, including handling of dangerous cargo from a recognized Institute ;
- (f) that the "Standard Trading Conditions" as accepted by Insurance Companies in Sri Lanka for the issuance of Liability Insurance Covers or the issuance of International Federation of Freight Forwarders Association Bills of Lading, specified by the Director-General shall be complied with.

9. An applicant which is engaged in carrying on Freight and Transport related services excluding the issuance of Documents of Carriage for international freight transportation such as Bill of Lading, House Bill of Lading Seaway

Bill, Airway Bill, House Airway Bill, Multi Modal Transport Documents Forwarders Cargo Documents, shall be issued as Class B Category license, subject to the following conditions :-

- (a) a bank guarantee for Rupees Two Hundred and Fifty Thousand (Rs. 250,000) shall be provided in favour of the Director-General ;
 - (b) that the applicant shall be registered as a Freight Forwarder with the Exchange Control Department of the Central Bank of Sri Lanka ;
 - (c) that the "Standard Trading Conditions" as accepted by Insurance Companies in Sri Lanka for issuance of liability insurance covers or the issuance of International Federation of Freight Forwarders Association Bills of Lading as specified by the Director-General.
10. (1) Every licence issued in terms of these regulations shall, unless earlier cancelled or suspended be valid upto the Thirty First day of December of the year in respect of which such license was issued.
 - (2) Every Freight Forwarder or a Non Vessel Operating Common Carrier shall pay an annual license fee of Rupees Ten Thousand (Rs. 10,000) .
 11. (1) Every application for renewal of a license shall be made substantially in the Form set out in the Schedule hereto.
 - (2) Every application for the renewal of a licence for a any year shall be made on or before the thirtieth day of November of the preceding year.
 12. Every license carrying on the business of a Freight Forwarder or a Non Vessel Operating Common Carrier shall comply with such guidelines as may be issued, from time to time, by the Director-General, in the interest of the general public.
 13. Where any information or particulars, contained in any Declaration or Affidavit submitted as required under these regulations, is found to be incorrect or false, the Director-General may forthwith take steps to cancel the licence issued to such company or withdraw or suspend the same or withdraw or suspend the use of any privileges granted to such company.
 14. For the purpose of this regulation company shall means a limited liability, public or private company duly formed and registered or re-registered under the Companies Act, No. 7 of 2007.
 15. The Regulations made under Section 10 read with Section 3 of the Licensing of Shipping Agents Freight Forwarders, Non-Vessel Operating Common Carriers and Container Operations Act, No. 10 of 1972 and published in the *Gazette Extraordinary* No. 1847/53 of January 31, 2014 cited as Freight Forwarders, Non Vessel Operating Common Carriers (Licensing) 2014 is hereby rescinded .

SCHEDULE

(Regulations 2 and 8)

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

1. Name of Applicant :
2. Registered Address :
3. Number and the Date of Incorporation of the Company under Companies Act, No. 7 of 2007
 - (i) Company Registration No. :
 - (ii) Date of Incorporation :
4. Address of the Principal Place of business :
5. Telephone No.Fax No.....E mail Address :

6. Whether Private or Public Company :.....
7. Paid-up Capital of the Company :.....
8. Particulars of the Foreign share holding, if any:.....
9. Particulars of bank guarantee:.....
10. Registration Number of the Exchange Control Department of the Central Bank of Sri Lanka :.....
11. Details of all risks liability insurance coverage:.....
12. Name of the Staff Officer referred to in paragraph (b) of regulation 5 and his experience in the field of international transportation services :.....
13. Particulars of any previous License No. (if applicable) Year:.....
14. The volume of cargo handled in Sri Lanka by applicant Freight Forwarder/Non-Vessel Operating Common Carrier in the last three years (include a separate break down in respect of each year).

We hereby undertake to notify the Director-General of Merchant Shipping, of any changes of the Board of Directors and or the contact details of the company.

We hereby confirm that we are fully conversant with the provisions of the written law relating to the activities covered by this licence.

We hereby declare that we will not provide any service to any company, partnership, individual or corporation purporting to act as shipping Agent or Container Operator other than under the authority of a licence issued under the Licensing of Shipping Agents Freights Forwarders, Non-Vessel Operating Common Carriers and Container Operators Act, No. 10 of 1972.

We declare that, to the best of our knowledge and belief, all the statements contained in this application are true and correct.

.....
Name/Names and Signature/Signatures of the Director/Directors.

Date :.....

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