



भारतसरकार / GOVERNMENT OF INDIA
पत्तन, पोत परिवहन और जलमार्ग मंत्रालय
MINISTRY OF PORTS, SHIPPING AND WATERWAYS
नौवहनमहानिदेशालय, मुंबई
DIRECTORATE GENERAL OF SHIPPING, MUMBAI

F. NO. 23-MISC/42/2022-CREW – DGS

Date: 01.09.2022

DGS Circular No. 20 of 2022

Subject: Instructions regarding deductions from seafarers' wages -- Recent news clippings about alleged misappropriation of funds from trusts of unions meant for welfare of seafarers, deductions of amounts from seafarers' wages etc., - Reg.

1. WHEREAS the "terms & conditions, of employment of seafarers, employed on Indian flag ships, contained in Seafarers' Employment Agreement (SEA) or Article of Agreement (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, MS (RPS) Rules, 2016 and relevant Merchant Shipping Notices/Circulars/Orders and guidelines issued there-under.

2. Whereas Section 97 of the MS Act 1958 as amended lays down as below:

“97. Receipt of remuneration, donation, fees, etc., from seamen for shipping them prohibited.—

(1) A person or company or organization including a union purporting to represent the interests of seamen shall not demand or receive, either directly or indirectly, from any seaman or person seeking employment as seaman or any person on his behalf, any remuneration or donation or fees or compulsory subscription of any kind attributable from such seaman or person's employment as seaman, other than the fees authorized by this Act.

(2) It shall be the duty of the company employing or proposing to employ person as seaman to ensure that no money has been demanded or received by any person or company or organization including the union purporting to represent the interests of seamen by way of any remuneration or donation or fees or compulsory subscription of any kind attributable to employment of such person as seaman.”

3. Whereas the Directorate while taking note that agreement like NMB also contained provision for contribution to various funds other than SWFS had issued letter 19.06.2017/07.07.2017 to the stakeholders with a direction to separate the two components of such contribution by entering into two agreements. First part should contain the wages payable to seafarer, along with statutory contribution to SWFS and contribution to SPFO. Contribution towards gratuity fund which is directly beneficial to the seafarer could also be included in the agreement. Second agreement may contain all such contribution which is made directly by ship-owner towards other funds other than SWFS/SPFO/Gratuity.

4. Whereas the Directorate, in order to satisfy itself of the provisions of Merchant Shipping Act, 1958 and Rules & Regulations made there under, undertook 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 and issued Merchant Shipping Notice No. 7 of 2020 dated 24.04.2020 containing the Terms and Conditions for Employment of Seafarers engaged on Indian Flag Ships.

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5. Whereas as per condition 16.4. of the said MS Notice, the CBA shall have express provision for welfare fund contribution to Seafarers Welfare Fund Society (SWFS) and Seamen's Provident Fund Organization (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.
6. Whereas as per para 16.5 of the said MS Notice, 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.
7. Whereas as per para 16.9 of the said MS Notice, the payment of "Gratuity" is optional as may be agreed in the CBA/AoA/SEA.
8. Whereas as per para 16.17 of the said MS Notice, provision relating to union subscription and fee also shall not be part of CBA and deduction, if any, shall be subject to the seafarer giving a clear written authorization to the employer.
9. Whereas recently news item has appeared of an FIR being lodged against a seafarer union with allegation of misappropriation of funds collected from seafarers. The Directorate has taken note of the news published in various News Papers alleging seafarer's wages being deducted and not deposited in SWFS/SPFO/gratuity funds by the Ship-Owners which would be in contravention of the above cited statutory provision of the MS Act 1958 as amended, MS Notices/Circulars and orders issued.
10. In view of the above the Director General of Shipping hereby directs FOSMA/MASSA/INSA/ ICCSA or other Association, if any, and all shipping companies who are not members of any Association, the Ship Management companies and all seafarer unions to examine their accounts and confirm –
- Whether deductions towards SPF and SWF has been made and remitted to the SPFO and SWFS.
 - Whether any gratuity contribution has been made and if yes details of contribution made, corresponding fund and modality of accounting and remittance to beneficiaries.
 - Whether any deduction has been or is being made from seafarers for contributions towards provident fund and not being deposited to SPFO. Details thereof.
 - Whether any deduction is being made from seafarers for contributions towards welfare fund and not being credited to SWFS. Details thereof.
 - Whether there is any collection from seafarer contrary to provisions of Section 97 of MS Act 1958 as amended.
11. Whereas the affected parties have the legal recourse available with them to approach the Court of Competent Jurisdiction under section 436 read with section 439 of the MS Act, 1958, for adjudication of any alleged contravention of Section 97, the Director General of Shipping, keeping in view the objective set in the preamble of the Act, to foster the development and ensure the efficient maintenance of an Indian mercantile marine in a manner best suited to serve the national interests, and also as an abundant caution in the interest of seafarers, directs all the concerned stakeholders as below;
12. The FOSMA/MASSA/INSA/ ICCSA/or other Association of owners, employers, or recruiters, if any, and all shipping companies who are not members of any Association, the Ship Management companies and all seafarer unions to examine their CBA's/SEA/AOA and certify that they do not contain

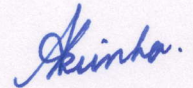
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any condition which violates any provision of the Merchant Shipping Act 1958, as amended, and Rules made there under e.g. Merchant Shipping (Maritime Labour) Rules, 2016, MS (RPS) Rules, 2016 and relevant Merchant Shipping Notices/Circulars/Orders and guidelines issued there-under with respect to employment of seafarers. It has been observed that some CBAs submitted to the Directorate still contain provision for contribution to funds other than SWFS/SPFO/Gratuity. These CBA's are also required to be re-examined and certified.

12.1. If any excess deduction has been made contrary to the provisions of MS Act 1958, or any of the DGS MS Notice, Order/Circular, to return the amount back to the seafarers voluntarily under intimation to the Directorate. Further any deduction made from seafarer's wages and not remitted to SPFO/SWFS/gratuity fund agreed in CBA/SEA/AOA be remitted to the concerned fund immediately.

13. Any deduction made or misappropriated in violation of the provisions of MS Act 1958, or any of the DGS MS Notice, Order/Circular would entail action under relevant provisions of M.S. Act, 1958.

14. This issues with the approval of the Director General of Shipping & Additional Secretary to the Government of India.



Ashish Sinha
Deputy Director General of Shipping (Crew)

To,

1. All stakeholders (owners/employers/recruiters/seafarers unions etc) through DGS Website.
2. Foreign Owners Representatives & Ship-managers Association, A 102, Fulcrum, Sahar Road, Andheri (East), Mumbai – 400099
3. Maritime Association of Ship-owners, Ship-managers & Agents, 301, 3rd Floor, B-Wing, Kanakia Wall Street, Andheri (East), Mumbai – 400093
4. ICC Shipping Association, Scindia House, basement, N.M. Marg, Ballard Estate, Mumbai – 400038
5. The Secretary, Indian National Ship Owners Association, 22, Market Tower 'F' Cuffe Parade, Mumbai - 400005.
6. Shipping Corporation of India.
7. All other non-member Shipping companies to any associations.
8. All Seafarers Unions (NUSI, MUI and others)