

**THE SHIPPING TRADE PRACTICES BILL, 2008**

**A  
Bill**

*to provide for bringing transparency in trade practices adopted by maritime transport logistics service providers in respect of services rendered by them for arranging transportation of containerized cargo; registration of such service providers and their obligations; mode and manner of fixing tariff by the service providers; EXIM (Export Import) and for matters connected therewith or incidental thereto.*

**BE it enacted by Parliament in the Fifty-ninth year of the Republic of India as follows:-**

**PART I  
PRELIMINARY**

- 1. (1) This Act may be called the Shipping Trade Practices Act, 2008. Short title, extent and commencement**
- (2) It extends to the whole of India except the State of Jammu and Kashmir. commencement**
- (3) It shall come into force on such date as the Central Government may by notification in the Official Gazette appoint.**
- 2. Unless otherwise expressly provided, the provisions of this Act shall apply to persons carrying out the functions of maritime transportation logistics service provider and such other service which is Application of Act.**

a part of logistic chain in regard to EXIM (export import) containerised cargo by:

(a) providing services in relation to carriage or transportation by sea or in combination with air, road or rail or any other mode;

(b) providing warehousing services including CFS/ICD operations as laid down under the Customs Act, 1962; or

(c) providing services relating to stuffing and destuffing of containers.

52 of 1962.

3. (1) In this Act, unless the context otherwise requires,—

Definitions.

(a) "appellate authority" means the appellate authority designated as such under sub-section (1) of section 16;

(b) "common carrier" means a person holding itself out to the general public to provide transportation by water or sea for passengers or for the purposes of exim containerized cargo between one port or point of receipt in India, and any other port, or point of delivery within the country or any other port or point of delivery in a foreign country for consideration, and

(i) assumes responsibility for such transportation from one port or point of receipt in India to the port or point of delivery at the destination within the country or abroad and;

(ii) utilizes, for all or part of that transportation, a vessel operating on the waterways or on high seas between ports in India and a port in a foreign country except that the term does not include a tramp ship or a chemical or liquid parcel tanker.

(c) "competent authority" means the competent authority designated as such under section 5;

(d) "maritime transportation logistics service" means services provided in relation to carriage or transportation by sea or in combination with air, road or rail or any other mode of transport provided by a non-vessel owning common carrier, a common carrier, a forwarding agent, a freight forwarder or a cargo consolidator, and other multimodal transport operators;

(e) "maritime transportation logistics service provider" means the person providing maritime transportation logistics service;

(f) "prescribed" means prescribed by rules made under this Act.

28 of 1993.

(2) The words and expressions not defined in this Act but defined in the Multimodal Transportation of Goods Act, 1993 shall have the meaning assigned to them in that Act.

**PART II**  
**REGISTRATION FOR PROVIDING MARITIME TRANSPORTATION**  
**LOGISTICS SERVICE**

4. No person shall carry on or commence the business of maritime transportation logistics service unless he is registered under this Act.

Registration to commence business of maritime transportation logistics services.

Provided that a person carrying out the business of maritime transportation logistics service immediately before the commencement of the Act, may continue to do so for a period of three months after such commencement:

28 of  
1993.

Provided further that if the maritime transportation logistics service provider has made an application for registration within the said period of three months, then, he may continue his business till the disposal of the application:

Provided also that a person registered under the Multimodal Transportation of Goods Act, 1993 shall, within a period of three months, after the commencement of this Act, comply with the requirement for registration under this Act, relating to the payment of fee, providing a bank guarantee or insurance cover, as the case may be, as are in excess of the Multimodal Transportation of Goods Act, 1993.

5. The Central Government may by notification, designate an officer, not below the rank of a Director to the Government of India, to be the competent authority, for the purposes of this Act and provide it with such other officers and staff as may be considered necessary.

Appointment of competent authority.

6. (1) An application for grant of registration, to commence the business of maritime transportation logistics service provider, shall be made to the competent authority in such manner and in such form as may be prescribed.

Application for grant of registration.

(2) The application shall accompany—

(i) such fee as may be prescribed, which shall not be less than ten thousand rupees;

(ii) a bank guarantee of such value as may be prescribed, which shall not be less than ten lakh rupees;

(iii) an insurance of such value, from an underwriter providing for third party liability cover, of not less than the package liability, as may be prescribed.

(3) On receipt of an application under sub-section (1), the competent authority may, after making such inquiries as it considers necessary and by order in writing, either grant or refuse to grant the registration within a period of ninety days from the date of receipt of the application complete

*in all respects:*

Provided that no order of refusal shall be made unless—

(a) the applicant has been given a reasonable opportunity of being heard; and

(b) the grounds on which registration is refused is recorded in the order.

(4) A registration granted under this section—

(a) shall be valid for a period of five years from the date of issue unless it is cancelled under section 11;

(b) may be renewed from time to time after the expiry of five years, for a further period of five years in the manner specified under section 10; and

(c) shall be in such form, and be subject to such conditions, as may be prescribed.

(6) An application for registration under this Act shall only be considered from a person whose place of business is registered in India under any law for the time being in force.

(7) The registration certificate shall be non transferable.

7. (1) Every person who provides maritime transportation logistics service shall publish the tariff for the services provided by him in such manner as may be prescribed, and shall be bound by the tariff so published unless such tariff is modified in the manner aforesaid.

Obligation of persons registered.

(2) The tariff published under sub-section (1) shall not be modified to the disadvantage of the service receiver without giving prior notice in such manner as may be prescribed.

8. The registration certificate and the published tariff shall be displayed at each and every premises of the maritime transportation logistics service provider at a conspicuous place accessible to the public.

Display of registration certificate.

9. (1) No common carrier shall transport cargo on account of a shipper known to be a maritime transportation logistics service provider unless the carrier has ascertained that such service provider is registered under this Act.

Proof of compliance.

(2) No maritime transportation logistics service provider shall use a common carrier to transport cargo unless he has ascertained that the common carrier is registered under the provisions of this Act or the

**Multimodal Transportation of Goods Act, 1993.**

10. (1) An application for renewal of registration shall be made to the competent authority, not less than ninety days before the date of expiry mentioned in the registration certificate, in such form as may be prescribed and shall be accompanied by the fees and documents required under sub-section (2) of section 6.

**Renewal of  
registration.**

(2) The competent authority shall pass an order on the application for renewal of registration within a period of thirty days from the date of receipt of application complete in all respects.

(3) On receipt of an application under sub-section (1), the competent authority may, after making such inquiries as it considers necessary and by order in writing, renew or refuse to renew the registration:

Provided that no order of refusal shall be made except after giving the applicant a reasonable opportunity of being heard.

11. (1) The registration made under this Act shall be subject to production of the bank guarantee and the insurance cover every year to the satisfaction of the competent authority.

**Termination,  
suspension  
and  
cancellation  
of  
registration.**

(2) The registration shall be deemed to be suspended from the date on which the bank guarantee or the insurance cover is lapsed.

(3) The competent authority on a complaint or otherwise may, if it is satisfied, at any time after registration that prima facie sufficient grounds for cancellation of registration exists, issue orders for suspension of registration till the matter is finally disposed off.

(5) The competent authority on a complaint or otherwise may, if it is satisfied, at any time after registration that—

(a) .any declaration made in, or in relation to any application under this Act is incorrect or false; or

(b) any provision of this Act or the rules made thereunder has been contravened by the maritime transportation logistics service provider,

cancel the registration:

Provided that considering the nature and circumstances of the contravention under this sub-section, the competent authority may impose a fine not exceeding ten lakh rupees in lieu of cancellation of the registration.

(6) No order under this section shall be made without giving an opportunity of being heard to the maritime transportation logistics service

provider.

12. *In case of contravention of any provision of this Act or the rules made thereunder or any condition of the registration, if any service receiver is subjected to suffer any financial loss, then, the competent authority may direct to pay out of the fine, if any, imposed under the proviso to sub-section (5) of section 11, the financial loss and interest thereon to such receiver:*

**Compensation for financial loss suffered by service receiver**

*Provided that if such fine is not paid or the fine so imposed is insufficient to make good the loss or if the registration is cancelled, the competent authority may realise the amount from the bank guarantee as may be required to compensate the service receiver towards the loss and the interest due thereon and for the satisfaction of the fine.*

### **PART III**

#### **TARIFF PUBLICATION SYSTEM**

13. *Every maritime transport logistic service provider shall in addition to publishing his tariff under section 7, make available his tariff to the public inspection in an automated tariff publication system as may be notified in the Official Gazette by the competent authority, showing thereon all its charges, classification, conditions and practices on its own or through any transport group that has been established and also the date of expiry of the bank guarantee provided by such service provider under this Act and the date of expiry of policy of the insurance obtained by him.*

**Manner of tariff publication.**

### **PART IV**

#### **MANNER OF LODGING COMPLAINTS AND DISPOSAL THEREOF**

14. (1) *The shipper, consignee, consigner or any person who provides the maritime transport logistics service may make a complaint for violation of any provision of this Act or the rules made thereunder, in such manner as may be prescribed.*

**Making of complaints and disposal thereof.**

(2) *The competent authority or an officer authorised by it in this behalf shall investigate the complaint of violations of any provision of this Act or the rules made thereunder, received under sub-section (1) against the service provider.*

15. (1) *Any person aggrieved by an order of the competent authority under this Act may, within a period of ninety days from the date on which the order is communicated to him, appeal to the appellate authority in such manner and on payment of such fees as may be prescribed:*

*Provided that the appellate authority may entertain an appeal after the expiry of the said period and within a period of one year if it is satisfied that the appellant was prevented by sufficient cause from filing of the appeal in time.*

**Appeals.**

*(2) On receipt of an appeal under sub-section (1), the appellate authority shall, after giving the parties a reasonable opportunity of being heard and after making such enquiry as it may consider necessary, dispose of the appeal within a period of ninety days, and the decision of the appellate authority thereon shall be final.*

*16. (1) The Central Government may by notification, designate an officer, not below the rank of the Joint Secretary to the Government of India, to be the appellate authority, for the purposes of this Act.*

**Appointment of appellate authority.**

*(2) The Central Government may, for efficient discharge of functions by the appellate authority, provide it with such officers and staff as the Government considers necessary.*

## **PART V**

### **MISCELLANEOUS**

*17. If any person, who is registered under this Act for providing maritime transportation logistics service, contravenes any provision of this Act or any rule made thereunder or who commits a breach of any of conditions of the registration, shall be punishable with a fine which may extend to ten lakh rupees.*

**Penalty.**

*18. No suit, prosecution or other legal proceeding shall be against the competent authority, the appellate authority or any officer authorised by it in respect of anything in good faith done or intended to be done under this Act.*

**Indemnity.**

*19. (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.*

**Power of Central Government to make rules.**

*(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—*

*(a) the form of application and the manner of making such application for grant of registration under sub-section (1) of section 6;*

*(b) the fees to be paid under clause (i); the period for which, and the form in which, the bank guarantee is to be given under clause (ii); and the insurance cover under clause (iii) of sub-section (2) of section 6;*

*(c) the form and the conditions of the registration under clause (c) of sub-section (5) of section 6;*

*(d) the procedure and manner of publication and revision of tariff by the person registered for providing maritime transportation*

*logistics service under sub-section (1) and the manner of giving notice for change of tariff under sub-section (2) of section 7;*

*(e) the form of application for renewal of registration under sub-section (1) of section 10;*

*(f) the manner of making complaints under sub-section (1) of section 14;*

*(g) the manner of making appeals and the fees to be paid under sub-section (1) of section 15;*

*(h) any other matter which is to be or may be prescribed.*

*(3) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session, or the successive sessions aforesaid, both Houses agree in making any modification in the rule or regulation shall thereafter have effect only in such modified form or be of no effect, as the case may, be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or regulation.*

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