

**Crew Branch Circular No. 03 of 2014**

**Sub: Engagement of seafarers on board ships –req.**

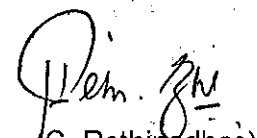
The Merchant Shipping Act, 1958 was enacted to ensure the efficient maintenance of an Indian mercantile marine in a manner best suited, to serve the national interests. The provisions of the said act apply to any vessel which is registered in India/ which is required by this Act to be registered/ any vessels which is within India including the territorial waters thereof.

2. The provision of seamen and apprentice working on board such vessels including their provision for employment/ engagement, protection of seamen in respect of litigation etc. are elaborately included in the part VII of the said Act. Section 100 & 101 stipulates conditions on seamen's employment agreement & collective bargaining agreement which any ship-owner/employer has to follow while engaging any seamen. Section 149 (9) also states that "Nothing contained in the Industrial Disputes Act, 1947 (14 of 1947), shall apply to any dispute between seamen or any class of seamen or any union of seamen and the owners of ships in which such seamen are employed or are likely to be employed."

3. In view of the above, such seamen who are engaged on board the vessels, registered under the M.S. Act, and having Seamen Employment Agreement (SEA) i.e. Article of Agreement(AOA)/Collective Bargaining Agreement (CBA) are covered under the provision of M.S. Act, 1958 as amended as per the said SEA/CBA. In several cases, it is learnt that inspection authorities are indicating that the seafarers have to be treated as contract labour whereas such personnel are seamen as they are signing a seamen employment agreement under an applicable CBA. However, it may be noted that such seamen/seafarers serving on board the vessels and engaged under provisions indicated above are seafarers, covered under M.S. Act, 1958.

4. Considering the above facts, it is clarified that the concerned authorities at all the Indian ports may please take note of the facts explained herein for not treating the seamen who are otherwise signing a seamen Employment Agreement with applicable CBA and governed under M.S. Act, 1958 as amended, as contract labour.

4. This issues with the approval of the Director General of Shipping & ex- officio Additional Secretary to the Govt. of India.

  
(C. Rethinadhas)  
Deputy Director General of Shipping (Crew)

Labour enforcement offices through Ministry of Labour and Employment, Shram Shakti Bhawan, Rafi Marg, New Delhi-110001.

Copy to;

1. All Port Trusts.
2. Indian Port Association 1<sup>st</sup> Floor, South Tower, NBCC Place, Bhisma Pitamah Marg, Lodgi Road, New Delhi- 110003.
3. Dredging Corporation of India, Dredge House, Port Area, Visakhapatnam- 530035.
4. Principal Officers, MMDs, Mumbai/Kolkata/Chennai/Kochi/Kandla.
5. Surveyors-in-Charge, Mercantile Marine Departments, Vizag/Tuticorin/Port Blair/Jamnagar/ Marmagao/ New Mangalore/ NOIDA.
6. INSA/ICCSA
7. FOSMA/MASSA
8. MUI/NUSI
9. Nautical Branch/ Training Branch/ Engineering Branch, DGS, Gol.
10. Hindi Branch, DGS, Gol, for translation.
11. Computer Branch, DGS, for hoisting in the website of DG Shipping.

Copy submitted for an information to the Secretary to the Govt. of India, Ministry of Shipping, Transport Bhavan, 1, Parliament Street, New Delhi- 110 001.

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