

UPDATES IN SHIPPING LAWS

At



Firm's Founder Sir Dinshah Mulla's statues
in Bombay High Court

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THE MAJOR PORT AUTHORITIES BILL, 2016

➤ Aim of the bill:-

- Empowering autonomy and flexibility in all major ports;
- An autonomous board will succeed the existing Board of Trustees. 11 Board Members will represent various stake holders including railways, customs, revenue, local state governments, road authorities, etc.
- Representation of each stake holder is to ensure transparent decision making process, seamless project execution, ease of doing business with reduced gestation period & cost efficiency.
- Decentralizes decision making;
- Ensures transparency in operations;
- Brings in greater efficiency & professional approach in governance;
- The new structure will aid expansion of the port infrastructure;
- Requiring compliance with Corporate Social Responsibility on lines of Companies Act, 2013.

THE MAJOR PORT AUTHORITIES BILL, 2016

➤ Powers of the Board:-

- On promulgation of the act, TAMP will stand dissolved and its functions of fixing tariffs and rates will devolve on the Board in relation to:
 - services performed at the port;
 - access to and usage of the ports' assets; and
 - different classes of goods & vessels.

Rate fixing must be compliant with Competition Act, 2002 & other applicable laws.

- Utilization of property, assets and funds for the development of the major ports;
- Make & publish rules on the ports' assets:
 - Declaring availability of ports' assets;
 - Developing/ providing infrastructure facilities; and
 - Providing exemption/ remission from payment of any charges on goods & services.
- Lease land for port-related use upto 40 years, for non-port related use upto 20 years without GOI approval;
- to raise loans like listed commercial companies without seeking prior sanction of GOI unless loans exceed 50% of its capital reserves.

THE MAJOR PORT AUTHORITIES BILL, 2016

➤ **Public-Private Partnership (PPP)**

The Board will fix the tariff for the initial bidding process;

- Concessionaires free to fix the actual tariffs based on market conditions;
- The concessionaires to notify the tariff to the Board;
- Establishing an Adjudicatory Board for:
 - adjudicating on disputes relating to Major Ports and PPP concessionaires;
 - reviewing existing stressed PPP projects;
 - suggesting measures to revive stressed projects; and
 - considering complaints received from port users.

THE MERCHANT SHIPPING BILL, 2016

The Bill seeks to bring reforms in the shipping sector to promote ease of doing business, and develop Indian coastal shipping. The bill replaces the Merchant Shipping Act, 1958, and repeals the Coasting Vessels Act, 1838.

➤ Key features of the bill:-

▪ Establishment of Boards

- Establishment of a National Shipping Board, comprising of 6 MPs and 16 stakeholders. They represent the GOI, ship-owners and seafarers.
- The Board will advise the GOI on development of Indian shipping.
- Establishment of Seafarers Welfare Board by GOI to introduce welfare measures for the seafarers.

▪ Registration

- All vessels under the Merchant Shipping Act, 1958 and the Coasting Vessels Act, 1938 for the whole of India are to be registered.
- Providing for registration of rigs on Shipping Registrar, hence enabling mortgages thereon to be registered with MMD.

- The bill provides mechanism for transfer of ownership and sale of the vessels including rigs.
 - Recognition to Indian-controlled tonnage as a separate category.
 - Substantially-owned vessels (+ 50%) & vessels on Bareboat-cum-Demise charter by Indians are to be registered as Indian Vessels.
 - An Indian vessel may be registered in another country subject to certain conditions.
- Dispenses issue of licenses to Indian flag vessels for coastal operations and for clearance by the Custom authorities.

THE MERCHANT SHIPPING BILL, 2016

▪ **Seafarers**

- The shipowners are required to enter into agreements with every seafarer.
 - Labour standards under Maritime Labour Convention, 2006 will apply to seafarers.
 - Establishment of Tribunal to resolve disputes between seafarers and employees.
 - Mandatory for shipowners to take insurance of the crew on vessels solely engaged in coastal trading
 - Providing for civil liability in case of damage caused due to oil pollution by vessels
 - Dispenses with the requirement of signing of articles of agreement by the crew before the Shipping Master so as to facilitate early employment of seafarers.
- The bill will conform with the seven Conventions of the IMO namely:-
 - The Intervention Convention, 1969;
 - The Search and Rescue Convention, 1979;
 - The Protocol for Prevention of Pollution from Ships, Annex VI to Marine Pollution Convention;
 - The Convention for Control and Management of Ships Ballast Water and Sediments, 2004;
 - The Nairobi Wreck Removal Convention, 2007;
 - The Salvage Convention, 1989; and
 - The International Convention for Bunker Oil Pollution Damage, 2001.
 - All ships must comply with SOLAS regulations.

THE ADMIRALTY (JURISDICTION & SETTLEMENT OF MARITIME CLAIMS) BILL, 2016

The Bill consolidates the existing laws on civil matters of Admiralty jurisdiction of courts, Admiralty proceedings on Maritime Claims, and Arrest of ships. The Bill repeals the Admiralty Court Act, 1861, the Colonial Courts of Admiralty Act, 1890 and the Colonial Courts of Admiralty (India) Act, 1891.

➤ **Key features of the bill:-**

- Confers Admiralty jurisdiction on High Courts located in coastal states of India.
- This jurisdiction extends up to territorial waters.
- The jurisdiction is extendable, by GOI notification, up to exclusive economic zone or any other maritime zone of India or islands constituting part of the territory of India
- It applies to every vessel within the jurisdiction **irrespective of place of residence or domicile of owner.**
- Excludes warships and naval auxiliary or other vessels used for non-commercial purposes, inland vessels and vessels under construction.
- Admiralty Courts can adjudicate on a set of maritime claims and the order for their priorities.
- Courts arrest any vessel within their jurisdiction for providing security against a maritime claim which is the subject of a proceeding.
- Liability in respect of selected maritime claims on a vessel passes on to its new owners by way of maritime liens subject to a stipulated time limit.

Thank You



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