

Rep. by Act.....19...of 1988, S.2 & Sch.I

THE MERCHANT SHIPPING (AMENDMENT) ACT, 1979

No 20 of 1979

[4th May, 1979.]

An Act further to amend the Merchant Shipping Act, 1958.

BE it enacted by Parliament in the Thirtieth Year of the Republic of India as follows:—

1. This Act may be called the Merchant Shipping (Amendment) Act, 1979.

Short title.

44 of 1958.

2. In the Merchant Shipping Act, 1958 (hereinafter referred to as the principal Act), after Part VI, the following Part shall be inserted, namely:—

Insertion of new Part VIA.

PART VIA

OBLIGATION OF CERTAIN CERTIFICATE HOLDERS TO SERVE GOVERNMENT OR IN INDIAN SHIPS

87A. In this Part, unless the context otherwise requires,—

Definitions.

(a) "appointed day" means the date on which the Merchant Shipping (Amendment) Act, 1979, comes into force;

(b) "certificate" means—

(i) a certificate of competency referred to in section 78;

or

(ii) a certificate of service referred to in section 80; or

(iii) a certificate of competency or service referred to in section 86,

which has been obtained by any person by availing of training facilities in any of the merchant navy training establishments in India or experience of sea service on board any Indian ship or Indian Naval ship;

(c) "Government" includes—

(i) a Board of Trustees constituted under the Major Port Trusts Act, 1963, for any port,

38 of 1963.

(ii) a corporation established by or under a Central, Provincial or State Act,

(iii) a Government company within the meaning of section 617 of the Companies Act, 1956, and

1 of 1956.

(iv) a Merchant Navy Training Institution financed wholly or mainly by Government;

(d) "suitable employment", in relation to the holder of any certificate, means employment in a capacity for which the holding of such certificate is an essential qualification.

Holders of certificates to serve the Government or in Indian ships for a certain period.

87B. (1) Every citizen of India who obtains, on or after the appointed day, a certificate shall be liable to serve the Government, or in any Indian ship, for such period not extending beyond four years from the date on which he obtains such certificate or for such shorter period as the Central Government may, by a general or special order published in the Official Gazette, specify.

(2) No citizen of India who has obtained, on or after the appointed day, a certificate shall accept any employment other than an employment under the Government or in any Indian ship, before the expiry of the period during which he is liable to serve the Government or in any Indian ship in accordance with the provisions of sub-section (1) and the orders made thereunder.

(3) Notwithstanding anything contained in sub-section (1) or sub-section (2), a citizen of India who has obtained, on or after the appointed day, two or more certificates shall not be liable to serve under the Government or in any Indian ship for any period or periods exceeding, or, as the case may be, exceeding in the aggregate, seven years or such shorter period as the Central Government may, by a general or special order published in the Official Gazette, specify.

Exemption from section 87B.

87C. (1) When any person referred to in section 87B has failed to secure suitable employment within a reasonable period from the date on which he applied for the same, he may make an application to the Director-General for exempting him from the requirements of sub-sections (1) and (2) of that section and if the Director-General is satisfied that the grounds stated in the application justify the exemption sought for he shall, by order, exempt such person from the requirements of those sub-sections.

(2) The Director-General may either on his own motion or on an application made by any person referred to in section 87B, by

order in writing, exempt such person from the requirements of sub-sections (1) and (2) of that section, if the Director-General is satisfied

(a) that it is necessary so to do for compliance with any request made by the Government of any foreign country to make available the services of Indian personnel for meeting shortage of qualified personnel in its ships or shore establishments, or for compliance with any request made by any agency of the United Nations Organisation for making available Indian personnel for providing consultancy services on its behalf in technical co-operation or technical assistance programme in any country; or

(b) that such person is likely to suffer undue hardship if he is not so exempted.

(3) An application for exemption under sub-section (1) or sub-section (2) shall set out clearly all the particulars on the basis of which such exemption is applied for.

(4) Every such application shall be disposed of by the Director-General as expeditiously as possible and where the Director-General refuses to grant the exemption applied for, he shall record his reasons therefor and communicate the same to the applicant.

(5) Where, within a period of forty-five days of the date of receipt of any such application, the Director-General does not refuse to grant the exemption applied for, or does not communicate the refusal to the applicant, the Director-General shall be deemed to have granted the exemption applied for.

(6) Where the Director-General refuses to grant the exemption applied for, the applicant may prefer an appeal against such refusal to the Central Government within thirty days of the receipt of the order of the Director-General refusing the exemption and the Central Government may make such orders as it deems fit:

Provided that the Central Government may admit any appeal after the expiry of the period aforesaid, if it is satisfied that the appellant had sufficient cause for not preferring the appeal in time:

Provided further that no order confirming the order of the Director-General shall be made under this sub-section without giving the appellant an opportunity to represent his case.

87D. Every citizen of India who obtains, on or after the appointed day, a certificate, shall furnish, in such form and at such intervals as may be prescribed, particulars of the certificate or certificates obtained by him and of his employment.

Particulars of certificate, etc., to be furnished.

3. In section 377 of the principal Act,—

(a) after sub-section (1), the following sub-section shall be inserted, namely:—

Amendment of section 377.

“(1A) Any certificate within the meaning of clause (b) of section 87A may be cancelled or suspended for any specified period by the Central Government if the person to whom such

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**REPEALED**

certificate has been granted has contravened the provisions of sub-section (1) or sub-section (2) of section 87B:

Provided that no order under this sub-section shall be passed by the Central Government unless the person concerned has been given an opportunity of making a representation against the order proposed.”;

(b) in sub-section (2), for the words, brackets and figure “sub-section (1) or”, wherever they occur, the words, brackets, figures and letter “sub-section (1) or sub-section (1A) or” shall be substituted.