

# Delay in submitting application for licence under Section 406 & 407 of M.S.Act, 1958.

## Shipping Development Circular No. 3 of 2002

Dated 30.12.2002

**Sub : Delay in submitting application for licence under Section 406 & 407 of M.S.Act, 1958.**

Sir,

I am directed to invite a reference to this office letter of even number dated 8.11.02 forwarding therewith the guidelines for chartering of foreign flag vessels. It has been observed that some of the companies / exporters are applying for charter permission on same date or even after the commencement date of the laycan. Thereafter, there is hardly any time for processing in the Directorate. It has also been reported that in few cases, vessel have moved without proper licence under section 406/407 of M.S. Act which is contravention of the law. I would like to draw your attention towards Section

410 of the M.S. Act and also relevant penalties under section 436 which are reproduced below :

410. No port clearance until licence is produced - No customs collector shall grant a port clearance to a ship in respect of which a licence is required under this Part until after production by the owner, master or agent of such a licence".

Section 436 - Sr.No.122 and 123

122.

(a) If a ship is taken to sea in contravention of sub section (1) of section 406 or if a ship engages in the coasting trade in contravention of sub-section (1) of section 407 ,  
or  
(b) if, without reasonable excuse, any limitation or condition contained in a licence granted under section 406 or section 407 is contravened.

406(1),407(1)

406,407

The master or owner of the ship or in the case of a ship other than the Indian ship, the master, agent in India of the owner or the charterer of the ship in respect of which the contravention has taken place shall be liable to imprisonment which may extend to six months, or fine which may extend to one thousand rupees, or both.

123.

If a person to whom a licence under section 406 or section 407 has been granted fails to comply with section 409.

409

Fine which may extend to one hundred rupees

I would like to draw attention to various provisions of the guideline issued on 08.11.02 where the minimum mandatory period has been prescribed in which the applicant should apply to D.G. Shipping prior to laycan. In clause 6 of the guidelines provision for penalty for deviation have also been stipulated.

It is requested to adhere to Para 2.1 of the guidelines strictly. In case, the application comes late or comes after laycan period, it will not be possible to process the case and the application will be returned to the applicant. No ex-post-facto approval will be considered.

Further, it is noticed that some of the companies do not furnish their proposal in complete form. Processing fee is not given with the proposal or requisite statutory certificate and other certificates are not enclosed while submitting the proposal. Therefore, for these deficiencies in the proposal, this office has to send the letter for compliance and the proposal can be further processed only after receipt of the same. This results in

unnecessary and avoidable work. The proposals which are found incomplete, shall be liable to be returned to the applicant.

It is therefore requested to take necessary action as above in submitting the complete proposal within stipulated period along with all documents and statutory certificates and appropriate fees.

Yours faithfully,

**Sd/-**

**(Naresh Salecha)**

**Sr.Dy. Director General of Shipping**