

LAW APRIL 4, 1977, no. 135

Rules concerning the profession of
shipping-agent.

(Free translation)

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RULES CONCERNING THE PROFESSION OF SHIPPING-AGENT

Article 1

Anyone who carries out an activity as shipping-agent within the territory of the Italian State will be subject to the rules of the present law.

The practice of shipping-agent activity requires the registration in the shipping-agent register, as indicated by Article No. 6.

The shipping-agent register shall include the owners of individual Firms, the Directors of those Companies whose main activity is shipping-agency and the institors of said Firms or Companies.

The Companies with prevailing State capital, which run shipping services, may act as shipping-agents on behalf of other carriers, bound to them through special agreements approved by the Ministry, but under the observance of the rules established by articles 3 and 4, and of the tariffs established by article 16 of this law.

Article 2

Will be considered as a shipping-agent whoever carries out shipping-agent activities such as: assisting the Master with regard to local authorities or third persons, receiving or delivering goods, embarking and disembarking passengers, chartering, arranging contracts for transportation of goods and passengers, issuing all respective documents, or any other similar activity related to the care of all interests to him entrusted.

The foresaid activities may be carried out under express or tacit commission, with or without representation, received from the Owner or from the Carrier, with or without agency contract, of a continuous or an occasional character.

Article 3

Before the sailing of a foreign ship from the port where the agent is operating, said shipping-agent has to obtain by his commissioner — shipowner, charterer or carrier — the availability, in the Italian territory, of the amount of money in foreign currency, sufficient to guarantee the fulfilment of the obligations contracted through the Agent during the call of the ship in the port. Besides

the cases indicated by article 181 of the Navigation Code, the maritime authority shall deny the granting of clearing papers to foreign vessels, if the Captain did not tender (together with the integrative declaration of sailing, established by article 179 of the Navigation Code) a statement issued by the local shipping agent, certifying that the latter has the availability of the amount in foreign currency in the Italian territory. The shipping-agent of a foreign ship, on the arrival of the ship to the port where he operates, has to deliver to the Harbour Master a note indicating the name and address of the shipowner, or the charterer, or the carrier from whom he has received the commission. If the commission was given to him through an intermediary, he shall also indicate name and address of said intermediary.

Article 4

The shipping-agent who engages Italian or foreign workers for embarking on a ship with nationality other than that of the worker, shall (before embarkation) assure and certify to the local authorities, under his own responsibility, that the workers have been insured as to invalidity and old age, for the foreseen period of enlistment with the Fondo di Previdenza Marinara and for illness and accidents with insurance Firms or Companies (Italian or foreign) which should guarantee an insurance coverage not lower than compulsory coverages according to Italian laws.

The Merchant Marine Ministry establishes, by a special decree, the conditions which have to be satisfied by the Italian or foreign insurance entities which intend to insure the workers being embarked on foreign ships, according to the foregoing paragraph.

Before the engagement, the shipping-agent should also give to the Harbour Master evidence that Owners have tendered a proper bank or insurance guarantee for the payment of wages to the seamen during the enlistment period.

The embarkation of the foresaid workers in subject to the issuance of a corresponding permit by the competent Maritime authority, after ascertaining that the worker has been insured, according to the first paragraph of this Article, and that the enlistment contract (as to by-laws and as to the economic aspect) does not include stipulation which would be in contrast with the fundamental principles contained in the existing national collective contracts. The foresaid permit shall be denied when the Maritime authorities should by any means, also using the technical cooperation of Registro Italiano Navale, find out that security, hygiene and habitability requirements of a foreign ship where the worker should be embarked, are not, at least, equivalent to those established for the ships of the Italian merchant marine, of similar type and characteristics.

Article 5

The shipping-agent or the person who carry out the shipping-agent activity, according to the fourth paragraph of article 1, who fail to observe the conditions established by art. 4, will be punished by arrest up to two years and a fine from 1 to 50 million Lire.

The conviction involves the cancellation from the register indicated in Art. 6 of this law.

In case of not observing the conditions and prescriptions established in Articles 3 and 4, the shipping-agent will be jointly responsible, with the foreign shipowner, of all obligations assumed by the latter through the agency.

Everyone who carries out any kind of activity directed to the engagement of seamen, on account of third persons, without being registered in the shipping-agents register, as indicated by Art. 6, will be punished by imprisonment from one to five years.

Article 6

At the Chambers of commerce, industry, handicraft and agriculture of every locality, where a Maritime Director's office exists, a register of shipping-agents will be kept including all those who are qualified to carry out the activities indicated by Art. 2, in a locality placed in the area of the respective Maritime Director's Office. Wherever necessary, by decree of the Merchant Marine Ministry, other registers may be kept at the Chambers of commerce, industry, handicraft and agriculture, in which territory a Maritime Department Office exists. If the shipping-agent is a legal representative, Director or an institor of a Company, besides his name, also that of the Company shall be shown on the register.

Article 7

At the Chamber of commerce, industry, handicraft and agriculture, as indicated by Art. 6, a commission is created (by a Decree of the Ministry of Merchant Marine in agreement with the Ministry of industry, commerce and handicraft) presided by a magistrate chosen among three nominees, indicated by the competent Judicial Council and composed by:

- the Maritime Director or his delegate, or, in the case indicated by the second paragraph of Art. 6, the Head of Maritime Department;
- a representative of the Chamber of commerce, industry, handicraft and agriculture, of the locality where the commission has its seat;
- two representatives of the shipping-agents chosen by nomination of the Agents association;

prisonment of two or a maximum of five years, or for foreign currency offences for which the law establishes imprisonment;

- e) Not be in bankruptcy.
 - f) Have done at least two years of professional training.
 - g) Submit to an oral examination before the commission indicated by Art. 7.
- Such exam is aimed to check the knowledge about the usual commercial shipping documents, about the legal knowledge as to professional activity and the English language.

Article 10

The examination foreseen in letter g) of the foregoing Art. 9 will take place at the Chamber of commerce, industry, handicraft and agriculture whose register of shipping-agents the registration is applied.

The subjects and modalities of this exam are established by a Merchant Marine Ministry decree.

By the same decree, in order to integrate the commission indicated in Art. 7, a university teacher of legal matters and a teacher of the English language are nominated.

Article 11

Once the favourable decision of the examining commission is obtained, the applicant shall (within thirty days from the communication of the decision) lodge for the guarantee money indicated in Art. 8 letter c).

If such term elapses without the guarantee being lodged, the applicant loses the right to the registration in the register of shipping-agents. Such loss is declared by the commission indicated by Art. 7.

Article 12

The registration in the shipping-agents register, at the Chamber of commerce, is also open to citizens of Countries members of the European Economic Community, who are in possession of the requirements of the present law; they should also know the Italian language and go through exam indicated by Art. 9, letter g).

On the registration in the shipping-agents register, the persons indicated by the first paragraph will have to lodge the caution established by Art. 8 letter c).

- two representatives of the seamen's union nominate by the more representative Seamen's Union;
- two representatives of the shipowners, nominated by the respective associations;
- a member of the Chamber of commerce, industry, handicraft and agriculture will act as secretary.

Article 8

The commission mentioned in the preceding Art. 7 will:

- a) decide about the applications for registration, transfers or cancellations from the register. In case of applications for registration, it seeks the advice of the most representative seamen unions, territorially competent and of the shipowners associations;
 - b) look after the cancellation from the register of any member that failed to fulfill any of the required conditions for the registration;
 - c) establish, according to the importance of the locality the amount of the guarantee to be lodged for the registration in the register;
 - d) provide for the publication and posting of the registration lists at the port-offices, maritime offices and chambers of commerce belonging to the corresponding area or Maritime Department;
 - e) apply the disciplinary measures against the registered members;
 - f) provide for the examination, as indicated by Art. 9, letter g), by a teaching staff, according to the last paragraph of Art. 10.
- Any decision of this commission will be communicated to the Chamber of commerce and Maritime authorities for its corresponding territory.

Article 9

Anyone who wants to carry out shipping-agent activity shall apply for registration in the shipping-agent register as indicated by Art. 7.

The candidates for registration must:

- a) Have the full exercise of their civil rights.
- b) Have attained a high-school degree.
- c) Reside in the locality where they intend to carry out the shipping-agent activity.
- d) Have had no convictions for offences against the public administration, against administration of justice, against public faith, against public economy, against industry and commerce, against patrimony, for smuggling or any other non negligent offence, for which the law establishes a minimum im-

the appeal acts as suspension of the decisions, as indicated by letter a) and e) of Art. 13:

as to the decision indicated by letter b) of Art. 8, the central commission may decide the suspension of said decision.

The decision of the central commission is final.

Article 15

For each commission, indicated by Art. 7 and 14, temporary members are designed in a number not over that of effective members, with the same criteria established for the designation of these last ones.

The commission members are in charge for four years and may be re-elected. The commission decide by absolute majority of votes. In case of parity the president's vote prevails. The presence of at least two thirds of the members is essential for the validity of the decisions.

Article 16

The Ministry of Merchant Marine (within 60 days of the enactment of the present law) establishes, by decree, the minimum and maximum compulsory tariffs to be paid to the shipping-agents for their services. These tariffs are established on the basis of proposals of the national shipping agents associations and with advice of the Superior Board of the Merchant Marine. The periodical review of the tariffs is provided for through the same procedures.

Article 17

The shipping-agents will be included in the shipping insurance system through a special convention which is to be ruled by special by-laws, within 6 months since the validity of this law acted by the Minister of Labour and social insurance, in agreement with the Ministers of Merchant Marine and of the Treasury.

Article 18

The cessation of the professional activity ascertained by the commission, indicated by Art. 7, entails the cancellation from the shipping-agents register. The bankruptcy of the member involves the cancellation from the register.

Article 13

The shipping-agent who reveals professional secrecy or becomes guilty of abuses or faults in the exercise of his profession or of any acts which are against the professional dignity, will be submitted to disciplinary proceeding.

The sanctions which the commission mentioned in Art. 7, may apply after perusing acts and documents, after assuming all pertinent information and after hearing the concerned party, are the following:

- a) Oral warning;
- b) Written warning;
- c) Public censure;
- d) Suspension for a fixed period of time, not longer than six months;
- e) Cancellation from the register and confiscation of the guarantee.

In case the tariffs established by Art. 16 are not applied or in case of non-obervance of the rules established by Art. 3, the commission orders the suspension for a fixed time, not over six months. In case of recidive the cancellation from the register will be ordered.

The cancellation is also ordered against the shipping-agent who has been convicted for one of the offences indicated by Art. 9 (letter d), or for seriously compromising his reputation and professional dignity.

Article 14

At the Merchant Marine Ministry a commission is established (by decree of the same Ministry, in agreement with the Ministry of commerce and handicraft) presided by a Cassation Court magistrate, chosen among three members nominated by the Superior Board of the Judicature and composed by an official from the Merchant Marine Administration, with qualification not inferior to division director:

an official from the Administration of Industry, commerce and handicraft, with qualification not inferior to division director;

four representatives of the shipping-agents, nominated by the national associations;

three representatives of the seamen, nominated by the most representative national union organization;

two representatives of the shipowners associations;

one representative of the Italian Chambers of commerce Union;

an official of the Merchant Marine Administration will act as secretary and will have a qualification not inferior to section director;

appeal is admitted to the Central Commission against the decisions of the local commission, within thirty days from the date of the communication to the concerned party of the decision;

All subjects indicated by the first paragraph of this article are considered in charge until the decision of the commission is made.

Article 23

The law of April 29, 1940, No. 496 and any other legal rule contrary to the present law are abrogated.

Article 24

All appeals which, since the being in force of the present law, will result pending at the central Commission, according to Art. 13 of the law April 29, 1940, No. 496, will be returned to the commission indicated by Art. 14.

Rome, April 4, 1977

Anyhow when the shipping-agent has been authorized to continue temporarily his activity, the cancellation will be suspended until the end of said time. The bankrupt member may be registered again if he is requalified, by judicial sentence, for the cases indicated by Art. 143, No. 1 and 2 of the royal decree, March 16, 1942, No. 267.

Article 19

Anyone who carries out abusively the activity of shipping agent will be punished according to Art. 348 of the Penal Code.

Article 20

The superintendence of the shipping-agent profession is assigned to the Ministry of Merchant Marine.

Article 21

The expenses for the functioning of the commission, indicated by Art. 7 of this law, will be charged on the budget of the Chamber of commerce of the locality where the commission has its seat.

The budgeted expense of Lire 1.000.000 for the functioning of the Commission (for the financial year of 1977) will be covered by the normal appropriation established by chapter No. 1107 for the provisions of expenses of the Merchant Marine Ministry and by the corresponding chapter for the next budget.

Article 22

The right to obtain the entry in the registers, indicated by the proceeding Art. 6, is granted to the holders of individual Firms and to the legal representatives of these Companies which, at the enforcement of this law, will result in the registers indicated by Art. 2 of the Law April 29, 1940 No. 496.

The same right is granted to the institors of such enterprises or societies whose powers have been registered before the enactment of this law with the condition that they have to be in possession of the requirements established by Art. 9, letters a), c), d), e).

The application for the registration has to be lodged with the commission indicated by Art. 7 within six months since the enactment of this law.