

ERGO

Analysing developments impacting business

GOVERNMENT NOTIFIES NEW RULES FOR CERTIFICATION OF PERSONS TO OPERATE RADIO EQUIPMENT ON MERCHANT VESSELS

31 July 2024

On 24 July 2024, the Government of India through the Department of Telecommunication (DoT) published the draft Telecommunications (Commercial Radio Operator's Certificate of Proficiency to Operate Global Maritime Distress and Safety System) Rules, 2024 (Draft Rules) in the Official Gazette.

The Draft Rules have been published for information of all persons likely to be affected by it and will be taken into consideration after expiry of 30 days from the date of its publication in the Official Gazette. Any objections or suggestions in respect of the Draft Rules can be submitted to DoT within such 30-day period.

Background

The Draft Rules have been published pursuant to provisions of the Telecommunication Act, 2023 (Telecom Act) that *inter alia* empowers the Central Government to grant certification to any person to operate a radio equipment on notified vessels / vehicles and those registered under the Merchant Shipping Act, 1958.

According to the Draft Rules, the operation of Global Maritime Distress and Safety System (GMDSS) (i.e., an internationally agreed set of safety procedures, frequencies, types of equipment and communication protocols for maritime safety both onboard ships and onshore, that operate using terrestrial and satellite radio technology) will not be permitted without certificate granted pursuant to it.

The Draft Rules will replace the existing framework regulating GMDSS under the Indian Wireless Telegraphy (Commercial Radio Operator's Certificate Proficiency and License to Operate GMDSS) Rules, 1994 (Old Rules) that were issued under the Indian Telegraph Act, 1885.

Key provisions of the Draft Rules:

- a. **Types of Certificates:** The Draft Rules permit issuance of two categories of certificates, i.e. GMDSS General Operator's Certificate (GMDSS-GOC) and GMDSS Restricted Operator's Certificate (GMDSS- ROC) (collectively, Certificate(s)) to citizens of India who are above the age of 18 years, fulfill the prescribed eligibility criteria and have undergone practical training on GMDSS equipment in any of the Central Government (i.e., the DoT) approved institutes for a continuous period of two weeks and one week, respectively. The Draft Rules effectively eliminate two categories of certificates that were issued under the Old Rules, viz., the First-Class Radio Electronic Certificate and License and the Second-Class Radio Electronic Certificate and License. The DoT may permit issuance of Certificates to non-citizens subject to conditions it may impose from time to time.

- b. **Application process:** A person who has undergone practical training and meets other eligibility criteria under the Draft Rules can make an application (in the prescribed form) to take exams to obtain a Certificate after payment of fees of INR 1,000 only. The DoT will prescribe the syllabus, place, manner and time for the examination, which will be held in English. The Draft Rules do not prescribe any kind of criminal prosecution for impersonation / misrepresentation by any candidate sitting for such examinations, as was set out under the Old Rules.
- c. **Validity of Certificate:** The DoT will issue a provisional certificate with 6 months' validity to successful candidates, which can be used to apply for the Certificate of the relevant category within the 6-month period. GMDSS-GOC Certificate will be valid for a period of 20 years from the date of declaration of exam results, and can be subsequently renewed, while the GMDSS-ROC will have a lifetime validity. This validity period is much longer than the validity of three to five years granted for certificates issued under the Old Rules.
- d. **Compliance conditions:** Each Certificate issued by DoT will be subject to the terms and conditions set out under the (i) Convention of the International Telecommunication Union signed at Geneva in 1992 as revised and ratified by the Government of India (International Telecommunication Convention), and (ii) regulations adopted by the World Radiocommunication Conference (Geneva 1995) as revised and ratified by the Government of India (Radio Regulations).
- e. **Obligations of Certificate holders:** A Certificate holder can be required to (i) furnish the Certificate as per the requirements of the DoT, (ii) be bound by any modifications, cancellations, revocations of the conditions governing the grant of the Certificate, as published on the official website and portal and notified by email to the Certificate holder, and (iii) not disclose, reproduce or use in any way the contents, origin, destination, existence or fact of receipt of any message received that a Certificate holder is not entitled to receive.
- f. **Suspension / cancellation conditions:** DoT may suspend / cancel the Certificate in case a Certificate holder has (i) failed to comply with the provisions of the International Telecommunication Convention and the Radio Regulations or rules in respect of operation of radio equipment, or (ii) willfully furnished false or incorrect information to the DoT.

Comments

The Draft Rules essentially apply to radio operators of a specific class of vessels / vehicles as notified by the Central Government (outlined in Section 46 of the Telecom Act). GMDSS is a worldwide system for automated emergency signal communication for ships at sea mandated by the International Maritime Organisation governed by the International Convention for the Safety of Life at Sea (which sets out minimum safety standards in the construction, equipment and operation of merchant ships).

Therefore, the operation of GMDSS on merchant ships is only permitted to be undertaken by certified radio operators. The Draft Rules will replace the Old Rules and are aimed at simplifying procedures for acquiring Certificates to operate GMDSS. It appears that an effort has been made to streamline the process and introduce measures towards simplifying compliances, which resonates with the Government's overall objective towards ease of doing business.

- Harsh Walia (Partner); Shobhit Chandra (Counsel) and Khyati Goel (Associate).

For any queries please contact: editors@khaitanco.com