

## **Ports Act, 1908.**

### THE PORTS ACT, 1908

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69. [Repealed.]

THE FIRST SCHEDULE.- Ports, Vessels Chargeable, Rate of Port Dues and Frequency of Payment

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### 1. Title & extent

(1) This Act may be called the Ports Act, 1908.

(2) It shall extend, save as otherwise appears from its subject or context,-

(a) to the ports mentioned in the First schedule, and to such, parts of the navigable rivers and channels leading to such ports respectively as have been declared to but subject to Act XXII of 1855 (for the Regulation of Ports and Port-dues) or to the Indian Ports Act, 1875, or to the Indian Ports Act, 1889;

(b) to the other ports or parts of navigable rivers or channels to which the Government, in exercise of the power hereinafter conferred, extends this Act.

(3) But nothing in section 31 or section 32 shall apply to any port, river or channel to which the section has not been specially

### 2. Savings

Nothing in this Act shall –

(i) apply to any vessel belonging to, or in the service of, His Majesty If, the Central Government or a Provincial Government], or to any vessel of war belonging to any Foreign Prince or State, or

(ii) deprive any person of any right of property or other private right, except as hereinafter expressly provided, or

(iii) affect any law or rule relating to the customs or any order or direction lawfully made or given pursuant thereto.

### 3. Definitions

In this Act, unless there is anything repugnant in the subject or context,-

(1) "Magistrate" means a person exercising powers under the Code of Criminal Procedure, 1898, not less than those of a Magistrate of the second class:

(2) "master", when used in relation to any vessel, means, subject to the provisions of any other enactment for the time being in force, any person (except a pilot or harbour-master) having for the time being the charge or control of the vessel:

(3) "pilot" means a person for the time being authorized by the Government to pilot vessels:

(4) "port" includes also any part of a river or channel in which this Act is for the time being in force:

(5) "port-officer" is synonymous with master-attendant:

(6) "ton" means a ton as determined or determinable by the rules for the time being in force for regulating the measurement of the net tonnage of British ships: and

(7) "vessel" includes anything made for the conveyance by, water of human beings or of property:

(8) "major port" means any port which the Central Government may by notification in the official Gazette declare, or may under any law for the time being in force have declared, to be a major port:

(9) "Government", as respects major ports, for all purposes, and, as respects other ports, for the purposes of making rules under clause (p) of section 6 (1) and of the appointment and control of port health-officers under section 17, means the Central Government, and save as afore- said, means the Provincial Government.

## CHAPTER II

### POWERS OF THE GOVERNMENT

4. Powers to extend or withdraw the Act or certain portions thereof

(1) The Government may, by notification in the official Gazette,-

(a) extend this Act to any port in which this Act is not in force or to any part of any navigable river or channel which leads to a port and in which this Act is not in force;

(b) specially extend the provisions of section 31 or section 32 to any port to which they have not been so extended;

(c) withdraw this Act or section 31 or section 32 from any port or any part thereof in which it is for the time being in force.

(2) A notification under clause (a) or clause (b) of sub section (1) shall define the limits of the area to which it refers.

(3) Limits defined under sub-section (2) may include any piers, jetties, landing-places, , wharves, quays, docks and other works made on behalf of the public for convenience of traffic, for safety of vessels, or for the improvement, maintenance or good government of the port and its approaches, whether within or without high-water-mark, and, subject to any rights of private property therein, any portion of the shore or bank within fifty yards of high-water-mark.

(4) In sub-section (3) the expression "high-water-mark" means the highest point reached by ordinary spring tides at any season of the year.

5. Alteration of limits of ports

(1) The Government may, subject to any rights of private property, alter the limits of any port in which this Act is in force.

(2) When the Government alters the limits of a port under sub-section (1), it shall declare or describe, by notification in the official Gazette, and by such other means, if any, as it thinks fit, the precise extent of such limits.

6. Powers to make port-rules

(1) The Government may, in addition to any rules which it may make under any other enactment for the time being in force, make such rules-5, consistent with this Act, as it thinks necessary for any of the following purposes, namely:-

(a) for regulating the time and hours at and during which, the speed at which, and the manner and conditions in and on which, vessels generally or vessels of any class defined in the rules, may enter, leave or be moved in any port subject to this Act;

(b) for regulating the berths, stations and anchorages to be occupied by vessels in any such port;

(c) for striking the yards and top masts, and for rig&g-in the booms and yards, of vessels in any such port, and for swinging or taking-in davits, boats and other things projecting from such vessels;

(d) for the removal or proper hanging or placing of anchors, spars and other things being in or

attached to vessels in any such port;

(e) for regulating vessels whilst taking-in or discharging passengers, ballast or cargo, or any particular kind of cargo, in any such port, and the stations to be occupied by vessels whilst so engaged;

(ee) for regulating the manner in which oil or water mixed with oil shall be discharged in any such port and for the disposal of the same;

(eee) for regulating the bunkering of vessels with liquid fuel in any such port and the description of barges, pipe lines or tank vehicles to be employed in such bunkering;

(f) for keeping free passages of such width as may be deemed necessary within any such port, and along or near to the piers, jetties, landing-places, wharves, quays, docks, moorings and other works in or adjoining to the same, and for marking out the spaces so to be kept free;

(g) for regulating the anchoring, fastening, mooring and unmooring of vessels in any such port;

(h) for regulating the moving and warping of all vessels within any such port and the use of warps therein;

(i) for regulating the use of the mooring buoys, chains and other moorings in any such port;

(j) for fixing the rates to be paid for the use of such moorings when belonging to the Government, or of any boat, hawser or other thing belonging to the Government;

(jj) for regulating the use of piers, jetties, landing places, wharves, quays, warehouses and sheds when belonging to the Government, and for fixing the rates to be paid for the use of the same;

(k) for licensing and regulating catamarans plying for hire and flats and cargo, passenger and other boats plying whether for hire or not, and whether regularly or only occasionally, in or partly within and partly without any such port and for licensing and regulating the crews of any such vessels and for determining the quantity of cargo or number of passengers or of the crew to be carried by any such Vessels and may b, such rules provide for the fees payable in respect 0 any such license, and in the case of passenger vessel plying for hire, for the rates of hire to be chartered an4 the conditions under which such vessels shall be compelled to ply for hire, and further for the condition under which any license may be revoked;

(l) for regulating the use of fires and lights within any such port;

(m) for enforcing and regulating the use of signals or signal lights by vessels by day or by night in any such port;

(n) for regulating the number of the crew which must tm on board any vessel afloat within the limits of any suct port;

(o) for regulating the employment of persons engaged in cleaning or painting vessels, or in working in the bilges, boilers or double bottoms of vessels in any such port;

(p) for the prevention of danger arising to the public health by the introduction and the spread of and infectious or contagious disease from vessels arriving at, or being in, any such port, and for the prevention of the conveyance of infection or contagion by means of any vessel sailing from any such port, and in particular and without prejudice to the generality of this provision, for-

(i) the signals to be hoisted and the places of anchorage to be taken up by such vessels having any case, or suspected case of any infectious or contagious disease on board, or arriving at such port from a Port in which, or in the neighbourhood of which, there is believed to be, or to have been at the time when the vessel left such port, any infectious or contagious disease;

(ii) the medical inspection of such vessels and of persons on board such vessels;

(iii) the questions to be answered and the information to be supplied by masters, pilots and other persons on board such vessels;

(iv) the detention of such vessels and of persons on board such vessels;

- (v) the duties to be performed in cases of any such disease by masters, pilots and other persons on board such vessels;
- (vi) the removal to hospital or other place approved by the health-officer and the detention therein of any person from any such vessel who is suffering or suspected to be suffering from any such disease;
- (vii) the cleansing, ventilation and disinfection of such vessels or any part thereof and of any articles therein likely to retain infection or contagion, and the destruction of rats or other vermin in such vessels; and
- (viii) the disposal of the dead on such vessels; and
- (q) for securing the protection from heat of the officers and crew of vessels in any such port by requiring the owner or master of any such vessel-
  - (i) to provide curtains and double awnings for screening from the sun's rays such portions of the deck as are occupied by, or are situated immediately above, the quarters of the officers and crew;
  - (ii) to erect windsails so far as the existing portholes or apertures in the deck admit of their being used for ventilating the quarters of the officers and crew;
  - (iii) when the deck is made of iron and not wood-sheathed, to cover with wooden planks or other suitable non-conducting material such portions of the deck as are situated immediately above the quarters of the officers and crew;
  - (iv) when the quarters used by the crew and the galley are separated by an iron bulk-head only, to furnish a temporary screen of some suitable non-conducting material between such quarters and the galley.
- (2) The power to make rules under sub-section (1) is subject to the condition of the rules being made after previous publication: Provided that nothing in this sub-section shall be construed to affect the validity of any rule in force immediately before the commencement of the Indian Ports Act, 1889, and continued by section 2, sub-section (2), of that Act.
- (3) If any person disobeys any rule made under clause (p) of sub-section (1), he shall be punishable for every such offence with fine which may extend to one thousand rupees.
- (4) If a master fails wholly or in part to do any act prescribed by any rule made under clause (p) of sub-section (1), the health-officer shall cause such act to be done, and the reasonable expenses incurred in doing such act shall be recoverable by him from such master.

### CHAPTER III

#### PORT-OFFICIALS AND THEIR POWERS AND DUTIES

##### 7. Appointment of conservator

- (1) The Government shall appoint some officer or body of persons to be conservator of every port subject to this Act.
- (2) Subject to any direction by the Government to the contrary,-
  - (a) in ports where there is a port-officer, the port-officer shall be the conservator;
  - (b) in ports where there is no port-officer, but where there is a harbour-master, the harbour-master shall be the conservator.
- (3) Where the harbour-master is not conservator, the harbour-master and his assistants shall be subordinate to, and subject to the control of, the conservator.
- (4) The conservator shall be subject to the control of the Government, or of any intermediate authority which the Government may appoint.

##### 8. Power of conservator to give and enforce directions for certain specified purposes

(1) The conservator of any Port subject to this Act may, with respect to any vessel within the port, give directions for carrying into effect any rule for the time being in force therein under section 6.

(2) If any person wilfully and without lawful excuse refuses or neglects to obey any lawful direction of the conservator, after notice thereof has been given to him, he shall, for every such offence, be punishable with fine which may extend to one hundred rupees, and in the case of a continuing offence with a further fine which may extend to one hundred rupees for every day during which, after such notice as aforesaid, he is proved to have wilfully and without lawful excuse continued to disobey the direction.

(3) In case of such refusal or neglect, the conservator may do, or cause to be done, all acts necessary for the purpose of carrying the direction into execution, and may hire and employ proper persons for that purpose, and all reasonable expenses incurred in doing such acts shall be recoverable by him from the person so refusing or neglecting to obey the direction.

#### 9. Power to cut warps and ropes

The conservator of any such port may, in case of urgent necessity, cut, or cause to be cut, any warp, rope, cable or hawser endangering the safety of any vessel in the port or at or near to the entrance thereof.

#### 10. Removal of obstruction within limits of ports

(1) The conservator may remove, or cause to be removed, any timber, raft or other thing, floating or being in any part of any such port, which in his opinion obstructs or impedes the free navigation thereof or the lawful use of any pier, jetty, landing-place, wharf, quay, dock, mooring or other work on any part of the shore or bank which has been declared to be within the limits of the port and is not private property.

(2) the owner of any such timber, raft or other thing shall be liable to pay the reasonable expenses of the removal thereof, and if such owner or any other person has without lawful excuse caused any such obstruction or impediment or causes any public nuisance affecting or likely to affect such free navigation or lawful use, he shall also be punishable with fine which may extend to one hundred rupees.

(3) The conservator or any Magistrate having jurisdiction over the offence may cause any such nuisance to be abated.

#### 11. Recovery of expenses of removal

(1) If the owner of any such timber, raft or other thing, or the person who has caused any such obstruction, impediment or public nuisance as is mentioned in the last foregoing section, neglects to pay the reasonable expenses incurred in the removal thereof, within one week after demand, or within fourteen days after such removal has been notified in the official Gazette or in such other manner as the Government by general or special order directs, the conservator may cause such timber, raft or other thing, or the materials of any public nuisance so removed, or so much thereof as may be necessary, to be sold by public auction;

and may retain all the expenses of such removal and sale out of the proceeds of the sale, and shall pay the surplus of such proceeds, or deliver so much of the thing or materials as may remain unsold, to the person entitled to receive the same;

and, if no such person appears, shall cause the same to be kept and deposited in such manner as the Government directs;

and may, if necessary, from time to time, realize the expenses of keeping the same, together with the expenses of sale, by a further sale of so much of the thing or materials as may remain unsold.

#### 12. Removal of lawful obstructions.

(1) If any obstruction or impediment to the navigation of any port subject to this Act has been

lawfully made, or has become lawful by reason of the long continuance of such obstruction or impediment, or otherwise, the conservator shall report the same for the information of the Government, and shall, with the sanction of the Government, cause the same to be removed or altered, making reasonable compensation to the person suffering damage by such removal or alteration.

(2) Any dispute arising concerning such compensation shall be determined according to the law relating to like disputes in the case of land required for public purposes.

13. Fouling of Government moorings.

(1) If any vessel hooks or gets foul of any of the buoys or moorings laid down by or by the authority of the {Government} in any such port, the master of such vessel shall not, nor or mooring for the purpose of unhooking or getting clear from the same without the assistance of the conservator;

and the conservator, immediately on receiving notice of such accident, shall assist and superintend the clearing of such vessel;

and the master of such vessel shall, upon demand, pay such reasonable expenses as may be incurred in clearing the same.

(2) Any master or other person offending against the provisions of this section shall, for every such offence, be punishable with fine which may extend to one hundred rupees.

14. Raising or removal of wreck impeding navigation within limits of port.

(1) If any vessel is wrecked, stranded or sunk in any such port so as to impede, or be likely to impede, the navigation thereof, the conservator may cause the vessel to be raised, removed or destroyed.

(2) If any property recovered by a conservator acting under sub-section (1) is unclaimed or the person claiming it fails to pay the reasonable expenses incurred by the conservator under that sub-section and a further sum of twenty percent. of the amount of such expenses, the conservator may sell the property by public auction, if the property is of a perishable nature, forth-with, and, if it is not of a perishable nature, at any time not less than six months after the recovery thereof.

(3) The expenses and further sum aforesaid shall be payable to the conservator out of the sale-proceeds of the property, and the balance shall be paid to the person entitled to the property recovered, or, if no such person appears and claims the balance, shall be held in deposit for payment, without interest, to any person thereafter establishing his right thereto:

Provided that the person makes his claim within three years from the date of the sale.

15. Power to board vessels and enter buildings.

(1) The conservator or any of his assistants may, when-ever he suspects that any offence against this Act has been, or is about to be, committed, or whenever it is necessary for him so to do in the performance of any duty imposed upon him by this Act, and the person appointed under this Act to receive any port dues, fees or other charges, payable in respect of any vessel, may, whenever it is necessary for him so to do in the performance of any duty imposed upon him by this Act.

either alone or with any other person, board any vessel, or enter any building or place, within the limits of any port subject to this Act.

(2) If the master of the vessel, or any person in possession or occupation of the building or place, without lawful excuse, refuses to allow any such person as is mentioned in sub-section

(1) to board or enter such vessel, building or place in the performance of any duty imposed upon him by this Act, he shall for every such offence be punishable with fine which may extend to two hundred rupees.

16. Power to require crews to prevent or extinguish fire.

(1) For the purpose of preventing or extinguishing fire in any port subject to this Act, the conservator or port-officer may require the master of any vessel within the port to place at his disposal such number as he requires, not exceeding three-fourths, of the crew then under the orders of such master.

(2) Any master refusing or neglecting to comply with such requisition shall be punishable with fine which may extend to five hundred rupees, and any seaman then under his orders who, after being directed by the master to obey the orders of the conservator or port-officer for the purpose aforesaid, refuses to obey such orders, shall be punishable with fine which may extend to twenty-five rupees.

17. Appointment and powers of health-officer.

(1) The {Government} may appoint at any port subject to this Act an officer to be called the health-officer.

(2) A health-officer shall, subject to the control of the {Government}, have the following powers, within the limits of the port for which he is appointed, namely:-

(a) with respect to any vessel, the powers conferred on a shipping-master by the Indian Merchant Shipping Act, 1859, section 71;

(b) power to enter on board any vessel and medically examine all or any of the seamen or apprentices on board the vessels;

(c) power to require and enforce the production of the log-book and any other books, papers or documents which he thinks necessary for the purpose of enquiring into the health and medical condition of the persons on board the vessel;

(d) power to call before him and question for any such purpose all or any of those persons and to require true answers to any questions which he thinks fit to ask;

(e) power to require any person so questioned to make and subscribe a declaration of the truth of the statements made by him.

18. Indemnity of Government against act or default of port-official or pilot.

The Government shall not be responsible for any act or default of any conservator, port-officer or harbour-master, of any port subject to this Act, or of any deputy or assistant of any of the authorities aforesaid, or of any person acting under the control or direction of any such authority, deputy or assistant, or for any act or default of any pilot, or for any damage sustained by any vessel in consequence of any defect in any of the moorings, hawsers or other things belonging to the Government which may be used by the vessel:

Provided that nothing in this section shall protect [the Government] from a suit in respect of any act done by or under the express order or sanction of the Government.

## CHAPTER IV

### RULES FOR THE SAFETY OF SHIPPING AND THE CONSERVATION OF PORTS.

#### GENERAL RULES

19. Injuring buoys, beacons and moorings.

(1) No person shall, without lawful excuse, lift, injure, loosen or set adrift any buoy, beacon or mooring fixed or laid down by, or by the authority of, the [Government] in any port subject to this Act.

(2) If any person offends against the provisions of this section, he shall for every such offence be liable, in additions to the payment of the amount of damages done, to fine which extend to two thousand rupees, or to imprisonment for a term which may extend to two years.

20. Wilfully loosening vessel from moorings.

If any person wilfully and without lawful excuse loosens or removes from her moorings and

vessel within any such port without leave or authority from the owner or master of the vessel, he shall, for every such offence, be with imprisonment for a term which may extend to six months.

#### 21. Improperly discharging ballast.

(1) No ballast or rubbish, and no other thing likely to form a bank or shoal or to be detrimental to navigation, shall, without lawful excuse, be cast or thrown into any such port or into or upon any place on shore from which the same is liable to be washed into any such port, either by ordinary or high tides, or by storms or land-floods [and no oil or water mixed with oil shall be discharged in or into any such port, to which any rules made under clause (ee) of sub-section 6 apply, otherwise than in accordance with such rules].

(2) Any person who by himself or another so casts or throws any ballast or rubbish or any such other thing [or so discharges any oil or water mixed with oil], and the master of any vessel from which the same is so cast, [thrown or discharged], shall be punishable with fine which may extend to five hundred rupees, and shall pay any reasonable expenses which may be incurred in removing the same.

(3) If, after receiving notice from the conservator of the port to desist from so casting or throwing any ballast or rubbish or such other thing [or from so discharging any oil or water mixed with oil], and master continues so to cast, [throw or discharge the same], he shall also be liable to simple imprisonment for a term which may extend to two months.

(4) Nothing in this section applies to any case in which the ballast or rubbish or such other thing is cast or thrown into, [or the oil or water mixed with oil is discharged in or into,] any such port with the consent in writing of the conservator, or within any limits within which such act may be authorized by the [Government].

#### 22. Graving vessel within prohibited limits.

If any person graves, breaches or smokes any vessel in any such port contrary to the directions of the conservator, or at any time or within any limits at or within which such act is prohibited by the [Government], he and the master of the vessel shall for every such offence be punishable with fine which may extend to five hundred rupees each.

#### 23. Boiling pitch on board vessel within prohibited limits.

If any person boils or heats any pitch, tar, resin, dammer turpentine, oil or other such combustible matter on board any vessel within any such port, or at any place within its limits where such act is prohibited by the [Government], or contrary to the directions of the conservator, he and the master of the vessel shall for every such offence be punishable with fine which may extend to two hundred rupees each.

#### 24. Drawing spirits by unprotected artificial light.

If any person, by an unprotected artificial light, draws off spirits on board any vessel within any port subject to this Act, he and the master of the vessel shall for every such offence be punishable with fine which may extend to two hundred rupees each.

#### 25. Warping.

(1) Every master of a vessel in any port subject to this Act shall, when required so to do by the conservator, permit warps or hawsers to be made fast to the vessel for the purpose of warping any other vessel in the port, and shall not allow any such warp or hawser to be let go until required so to do.

(2) A master offending against sub-section (1) shall be punishable for every such offence with fine which may extend to two hundred rupees.

#### 26. Leaving out warp or hawser after sunset.

(1) A master of a vessel shall not cause or suffer any warp or hawser attached to his vessel to be left out in any port subject to this Act after sunset in such a manner as to endanger the

safety of any other vessel navigating in the port.

(2) A master offending against sub-section (1) shall be punishable for every such offence with fine which may extend to two hundred rupees.

27. discharge of fire-arms in port.

If any person, without lawful excuse, discharges any fire-arm in any port subject to this Act, or on or from any pier, landing-place, wharf or quay thereof, except a gun loaded only with gunpowder for the purpose of making a signal of distress, or for such other purpose as may be allowed by the [Government], he shall for every such offence be punishable with fine which may extend to fifty rupees.

28. Penalty on master omitting to take order to extinguish fire.

If the master of any vessel in which fire takes place while lying in any such port wilfully omits to take order to extinguish the fire or obstructs the conservator or the port-officer, or any person acting under the authority of the conservator or port-officer, in extinguishing or attempting to extinguish the fire, he shall be punishable with imprisonment which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

29. Unauthorized person not to search for lost stores.

(1) No person, without the permission of the conservator, shall, in any port subject to this Act, creep or sweep for anchors, cables or other stores lost or supposed to be lost therein.

(2) If any person offends against the provisions of sub-section (1), he shall be punishable with fine which may extend to one hundred rupees.

30. Removing stones or injuring shores of port prohibited.

(1) No person without the permission of the conservator shall in any port subject to this Act remove or carry away any rock, stones, shingle, gravel, sand or soil or any artificial protection from any part of the bank or shore of the port;

and no person shall sink or bury on such bank or shore, whether the same is public or private property, any mooring-post, anchor or any other thing, or do any other thing which is likely to injure or to be used so as to injure such bank or shore, except with the permission of the conservator, and with the aid or under the inspection of such person, if any, as the conservator may appoint to take part in or overlook the performance of such work.

(2) If any person offends against sub-section (1), he shall for every such offence be punishable with fine which may extend to one hundred rupees and shall pay any reasonable expenses which may be incurred in repairing any injury done by him to the bank or shore.

31. Moving of vessels without pilot or permission of harbour-master.

(1) No vessel of the measurement of two hundred tons or upwards shall enter, leave or be moved in any port to which this section has been specially extended without having a pilot, harbour-master or assistant of the port-officer or harbour-master on board;

and no vessel of any measurement less than two hundred tons and exceeding one hundred tons shall enter, leave or be moved in any such port without having a pilot, harbour-master or assistant of the port-officer or harbour-master on board, unless authority in writing so to do has been obtained from the conservator or some officer empowered by him to give such authority: [Provided that the [Government] may, by notification in the {official Gazette}, direct that in any port specified in such notification the provisions of this sub-section shall not apply to sailing vessels of any measurement not exceeding a measurement so specified.]

[(2) Notwithstanding anything in sub-section (1), the owner or master of a vessel which is by that sub-section required to have a pilot, harbour-master or assistant of the port-officer or harbour-master on board, shall be answerable for any loss or damage caused by the vessel or by any fault of the navigation of the vessel, in the same manner as he would have been if he had not been so required by that sub-section:

Provided that the provisions of this sub-section shall not take effect till the first day of January, 1918, or such earlier date as the {Central Government} may notify in that behalf in the {official Gazette}.]

[(3) If any vessel, except in case of urgent necessity, enters, leaves or is moved in the port contrary to the provisions of sub-section (1), the master of the vessel shall for every such offence be punishable with fine which may extend to two hundred rupees, unless upon application to the proper officer the master was unable to procure a pilot, harbour-master or assistant of the port-officer or harbour-master to go on board the vessel.

32. Provision of certain vessels with fire extinguishing apparatus.

(1) Every vessel exceeding the measurement of two hundred tons and lying in any port to which this section has been specially extended shall be provided with a proper force-pump and hose and appurtenances, for the purpose of extinguishing any fire which may occur on board.

(2) The master of such a vessel who, having been required by the conservator to comply with the provisions of sub-section (1), neglects or refuses, without lawful excuse, so to do for the space of seven days after such requisition, shall be punishable with fine which may extend to five hundred rupees.

## CHAPTER V

### PORT-DUES, FEES AND OTHER CHARGES

33. Levy of port-dues.

(1) [Subject to the provisions of sub-section (2),] in each of the ports mentioned in the first schedule such port-due, not exceeding the amount specified for the port in the third column of the schedule as the [Government] directs, shall be levied on vessels entering the port and described in the second column of the schedule, but not oftener than the time fixed for the port in the fourth column of the schedule.

(2) The [Government] may, by notification in the [official Gazette], alter or add to any entry in the first schedule relating to ports [in [Pakistan] or, as the case may be, in the Province], and this power shall include the power to regroup any such ports.

[(3)] Whenever the [Government] declares any other port to be subject to this Act, it may, by the same or any subsequent declaration, further declare,

(a) in the terms of any of the entries in the second column of the first schedule, the vessels which are to be chargeable with port-dues on entering the port,

(b) the highest rates at which such dues may be levied in respect of vessels chargeable therewith, and

(c) the times at which such vessels are to be so chargeable.

[(4)] All port-dues now Levi able in any port shall continue to be so Levi able until it is otherwise declared in exercise of the powers conferred by this section.

[(5)] An order increasing or imposing port-dues under this section shall not take effect till the expiration of sixty days from the day on which the order was published in the [official Gazette].

34. Variation of port-dues by Government.

the [Government] may, [after consulting the authority appointed under section 36,] exempt, [subject to such conditions, if any, as it thinks fit to impose, any vessel or class of vessels] entering a port subject to this Act from payment of port-dues and cancel the exemption, or may vary the rates at which port-dues are to be levied in the port, in such manner as, having regard to the receipts and charges on account of the port, it thinks expedient, by reducing or raising the dues, or any of them [or may extend the periods for which any vessel or class of vessels entering a port shall be exempt from liability to pay port-dues]:

Provided that the rates shall not in any case exceed the amount authorized to be taken by or

under this Act.

35. Fees for pilotage and certain other services.

(1) Within any port subject to this Act, fees may be charged for pilotage, hauling, mooring, re-mooring, hooking, measuring and other services rendered to vessel, at such rates as the [Government] may direct.

(2) The fees now chargeable for such services shall continue to be chargeable unless and until they are altered in exercise of the power conferred by sub-section (1).

36. Receipt, expenditure and account of port-charges.

(1) The [Government] shall appoint some officer or body of persons at every port at which any dues, fees or other charges are authorized to be taken by or under this Act to receive the same and, subject to the control or the [Government], to expend the receipts on any of the objects authorized by this Act.

(2) Such officer or body shall keep for the port a distinct account, to be called the port fund account, showing, in such detail as the [Government] prescribes, the receipts and expenditure of the port, and shall publish annually as soon after the first day of [July] as may be practicable an abstract, in such form as [the Government] prescribes, of the account for the past financial year.

(4) All money received under this Act at or on account of any port subject to this Act, excluding receipts on account of pilotage but including

(a) fines,

(b) proceeds of waifs, and

(c) any balance of the proceeds of a sale under section 14 where no right to the balance has been established on a claim made within three years from the date of the sale, shall be credited in the port fund account of the port.

(5) All expenses incurred for the sake of any such port, excluding expenses on account of pilotage but including—

(a) the pay and allowances of all persons upon the establishment of the port,

(b) the cost of buoys, beacons, lights and all other works maintained chiefly for the benefit of vessels being in or entering or leaving the port or passing through the rivers or channels leading thereto,

(c) pensions, allowances and gratuities of persons who have been employed in the port under this or any other enactment relating to ports and port-dues, or such portion of those pensions, allowances and gratuities as the [Government] may by rule determine,

(d) with the previous sanction of the [Government], contributions towards the support of public hospitals or dispensaries suitable for the reception or relief of seamen or otherwise towards the provision of sanitary superintendence and medical aid for the shipping in the port and for seamen whether ashore or afloat belonging to vessels in the port, and

(e) with the like sanction, contributions towards sailors' homes, institutes, rest-houses and coffee-houses and for other purposes connected with the health, recreation and temporal well-being of sailors,

shall be charged to the port fund account of the port.

(6) Subject to the provisions of any local law as to the disposal of any balance from time to time standing to the credit of a port fund account, any such balance may be temporarily invested in such manner as the [Government] may direct.

37. Grouping of ports.

(1) The [Provincial Government] may direct that for the purposes of the last foregoing section any number of ports [in the Province not being major ports] shall be regarded as constituting a single port, and thereupon all moneys to be credited to the port fund account under sub-section

(4) of that section shall form a common port fund account which shall be available for the payment of all expenses incurred for the sake of any of the ports.

(2) Where ports are grouped by or under this Act, the following consequences ensue, namely:-

(a) the [Provincial Government], in the exercise of its control over expenditure debitable to the common port fund account of the group, may, 4 make rules with respect to the expenditure of the fund for the sake of the several ports of the group on the objects authorized by this Act, 5 and

(b) the [Provincial Government] may exercise its authority under section 34 as regards all the ports in the group collectively or as regards any of them separately.

38. Receipts for port-charges.

The person to whom any dues, fees or other charges authorized to be taken by or under this Act are paid shall grant to the person paying the same a proper voucher in writing under his hand, describing the name of his office, the port or place at which the dues, fees or other charges are paid, and the name, tonnage and other proper description of the vessel in respect of which the payment is made.

39. Master to report arrival.

(1) Within twenty-four hours after the arrival within the limits of any port subject to this Act of any vessel liable to the payment of port-dues under this Act, the master of the vessel shall report her arrival to the conservator of the port.

(2) a master failing without lawful excuse to make such report within the time aforesaid shall for every such offence be punishable with fine which may extend to one hundred rupees.

(3) Nothing in this section applies to tug-steamers, ferry steamers or river steamers plying to and from any of the ports subject to this Act or to ballam boats plying to an from the port of Chittagong.

40. Conservator may in certain cases ascertain draught and charge expense to master.

If any vessel liable to the payment of port-dues is in any such port without proper marks on the stem and stern posts thereof for denoting her draught, the conservator may cause the same to be ascertained by means of the operation of hooking, and the master of the vessel shall be liable to pay the expenses of the operation.

41. Ascertainment of tonnage of vessel liable to port-dues.

In order to ascertain the tonnage of any vessel liable to pay port-dues the following rules shall be observed, namely:-

(1) (a) If the vessel is a British registered vessel or a vessel registered under the Registration of ships Act, 1841, or the Registration of Ships Act (1841) Amendment Act, 1850, or under any other law for the time being in force for the registration of vessels in [Pakistan], the conservator may require the owner or master of the vessel or any person having possession of her register to produce the register for inspection.

(b) If the owner or master or such person neglects or refuses to produce the register or otherwise to satisfy the conservator as to what is the true tonnage of the vessel in respect of which the port-dues are payable, he shall be punishable with fine which may extend to one hundred rupees, and the conservator may cause the vessel to be measured, and the tonnage thereof to be ascertained, according to the mode of measurement prescribed by the rules for the time being in force for regulating the measurement of British vessel, and in such case the owner or master of the vessel shall also be liable to pay the expenses of the measurement.

(2) If the vessel is not a British registered vessel or a vessel registered under the Registration of Ships Act, 1841, or the Registration of ships Act (1841) Amendment Act, 1850, or under any other law for the time being in force for the registration of vessels in [Pakistan], and the owner or master thereof fails to satisfy the conservator as to what is her true tonnage according to the

mode of measurement prescribed by the rules for the time being in force for regulating the measurement of British vessels, the conservator shall cause the vessel to be measured and the tonnage thereof to be ascertained, according to the mode aforesaid, and in such case the owner or master of the vessel shall be liable to pay the expenses of the measurement.

(3) If the vessel is a vessel of which the tonnage cannot be ascertained according to the mode of measurement mentioned in clause (1) and (2), the tonnage of the vessel shall be determined by the conservator on such an estimate as may seem to him to be just.

42. Distraint and sale on refusal to pay port-charges.

If the master of any vessel in respect of which any port-dues, fees or other charges are payable under this Act, refuses or neglects to pay the same on demand, the authority appointed to receive such port-dues, fees or other charges may distrain or arrest the vessel, and the tackle, apparel and furniture belonging thereto or any part thereof, and detain the same until the amount due is paid;

and in case any part of the port-dues, fees or other charges or the costs of the distress or arrest or of the keeping of the vessel or other thing distrained or arrested, remains unpaid for the space of five days next after any such distress or arrest, may cause the vessel or other thing distrained or arrested to be sold, and with the proceeds of such sale may satisfy the port-dues, fees or other charges and the costs including the costs of sale remaining unpaid, and shall render the surplus, if any, to the master of the vessel upon demand.

43. No port-clearance to be granted until port charges are paid.

The officer of [the Government] whose duty it is to grant a port-clearance for any vessel shall not grant such clearance—

(a) until her owner or master, or some other person, has paid or secured to the satisfaction of such officer the amount of all port-dues, fees and other charges, and of all fines, penalties and expenses to which the vessel or her owner or master is liable under this Act;

(b) until all expenses, which by the Merchant Shipping Act, 1894, section 207, are to be borne by her owner, incurred since her arrival in the port from which he seeks clearance, have been paid.

44. Port-charges payable in one port recoverable at any other port.

(1) If the master of any vessel in respect of which any such sum as is mentioned in the last foregoing section is payable causes her to leave any port without having paid the sum, the authority appointed to receive port-dues, fees and other charges at the port under this Act may require in writing the authority appointed to receive port-dues, fees and other charges under this Act at any other port in [Pakistan] to which she may proceed, or in which she may be, to levy the sum.

(2) The authority to whom the requisition is directed shall proceed to levy such sum in the manner prescribed in section 42, and a certificate purporting to be made by the authority appointed to receive port-dues, fees and other charges at the port where such sum as is mentioned in the last foregoing section became payable, stating the amount payable, shall be sufficient prima facie proof of such amount in any proceeding under section 42 and also (in case the amount payable is disputed) in any subsequent proceeding under section 59.

45. Penalty for evading payment of port-charges.

(1) If the master of a vessel evades the payment of an such sum as is mentioned in section 43, he shall be punishable with fine which may extend to five times the amount of the sum.

(2) In any proceeding before a Magistrate on a prosecution under sub-section (1), any such certificate as is mentioned in section 44, sub-section (2), stating that the master has evaded such payment, shall be sufficient prima facie proof of the evasion, unless the master show to

the satisfaction of the Magistrate that the departure of the vessel without payment of the sum was caused by stress of weather, or that there was lawful or reasonable ground for such departure.

(3) Any Magistrate having jurisdiction under this Act in any port to which the vessel may proceed, or in which she may be found, shall be deemed to have jurisdiction in any proceeding under this section.

46. Port-due on vessels in ballast.

A Vessel entering any port subject to this Act in ballast and not carrying passengers shall be charged with a port-due at a rate to be determined by the [Government] and not exceeding three-fourths of the rate with which she would otherwise be chargeable.

47. Port-due on vessels not discharging or taking in cargo.

When a vessel enters a port subject to this Act, but does not discharge or take in any cargo or passengers therein (with the exception of such unshipment and reshipment as may be necessary for purposes of repair), she shall be charged with a port-due at a rate to be determined by the [Government] and not exceeding half the rate with which she would otherwise be chargeable.

48. Port-due not to be chargeable in certain cases.

No port-due shall be chargeable in respect of—

(a) any pleasure-yacht, or

(b) any vessel which, having left any port, is compelled to re-enter it by stress of weather or in consequence of having sustained any damage.

49. Power to impose hospital port-dues.

(1) The [Central Government] may, by notification in the [official Gazette], order that there shall be paid in respect of every vessel entering any port subject to this Act, within a reasonable distance of which there is a public hospital or dispensary suitable for the reception or relief of seamen requiring medical aid, such further port-dues not exceeding one anna per ton as the {Central Government} thinks fit.

(2) Such port-dues shall be called hospital port-dues, and the [Central Government] shall, in making any order under sub-section (1), have regard to any contributions made under section 36, sub-section (5), clause (d).

(3) An order imposing or increasing hospital port-dues shall not take effect till the expiration of sixty days from the day on which the order was published in the [official Gazette].

(4) Whenever the [Central Government] is satisfied that proper provision has been made by the owners or agents of any class of vessels for giving medical aid to the seamen employed on board such class of vessels, or that such provision is unnecessary in the case of any class of vessels, it may, by notification in the [official Gazette], exempt such class of vessels from any payment under this section.

50. Application and account of hospital port-dues.

(1) Hospital port-dues shall be applied, as the [Central Government] may direct, to the support of any such hospital or dispensary as aforesaid, or otherwise for providing sanitary superintendence and medical aid for the shipping in the port in which they are levied and for the seamen belonging in the port in which they are levied and for the seamen belonging to the vessels therein, whether such seamen are ashore or afloat.

(2) The [Central Government] shall publish annually in the [official Gazette], as soon after the first day of April as may be, an account, for the past financial year, of the sums received as hospital port-dues at each port where such dues are payable, and of the expenditure charged against these receipts.

(3) Such account shall be published as a supplement to the abstract published under section 36, sub-section (2).

## CHAPTER VI HOISTING SIGNALS

51. Master to hoist number of vessel.

(1) The master of every inward or outward bound vessel, on arriving within signal distance of any signal-station established within the limits of any part of a river or channel leading to a port subject to this Act, shall, on the requisition of the pilot in charge of the vessel, signify the name of the vessel by hoisting the number by which she is known, or by adopting such other means to this end as may be practicable and usual, and shall keep the signal flying until it is answered from the signal-station.

(2) If the master of a vessel arriving as aforesaid offends against sub-section (1), he shall be punishable for every such offence with fine which may extend to one thousand rupees.

52. Pilot to require master to hoist number.

(1) Every pilot in charge of a vessel shall require the number of the vessel to be duly signalled as provided by the last foregoing section.

(2) When, on such requisition from the pilot, the master refuses to hoist the number of a vessel, or to adopt such other means of making her name known as may be practicable and usual, the pilot may, on arrival at the first place of safe anchorage, anchor the vessel and refuse to proceed on his course until the requisition has been complied with.

53. Penalty on pilot disobeying provisions of this Chapter.

Any pilot in charge of a vessel who disobeys, or abets disobedience to, any of the provisions of this Chapter, shall be punishable with fine which may extend to five hundred rupees for each instance of such disobedience or abetment, and, in addition, shall be liable to have his authority to act as a pilot withdrawn.

## CHAPTER VII PROVISIONS WITH RESPECT TO PENALTIES

54. Penalty for disobedience to rules and orders of the Government.

If any person disobeys and rule or order which a [Government] has made in pursuance of this Act and for the punishment of disobedience to which express provision has not been made elsewhere in this Act, he shall be punishable for every such offence with fine which may extend to one hundred rupees.

55. Offences how triable, and penalties how recovered.

All offences against this Act shall be triable by a Magistrate, and any Magistrate may, by warrant under his hand, cause the amount of any fine imposed upon the owner or master of any vessel, for any offence committed on board of the vessel or in the management thereof or otherwise in relation thereto, whereof the owner or master is convicted, to be levied by distress and sale of the vessel, and the tackle, apparel and furniture thereof, or so much thereof as is necessary.

56. Costs of conviction.

(1) In case of any conviction under this Act, the convicting Magistrate may order the offender to pay the costs of the conviction in addition to any fine or expenses to which he may be liable.

(2) Such costs may be assessed by the Magistrate and may be recovered in the same manner as any fine under this Act.

57. ascertainment and recovery of expenses and damages payable under this Act.

(1) If any dispute arises as to the sum to be paid in any case as expenses or damages under

this Act, it shall be determined by a Magistrate upon application made to him for that purpose by either of the disputing parties.

(2) Whenever any person is liable to pay any sum, not exceeding one thousand rupees, as expenses or damages under this Act, any Magistrate, upon application made to him by the authority to whom the sum is payable, may, in addition to or instead of any other means for enforcing payment, recover the sum as if it were a fine.

58. Cost of distress.

Whenever any fine, expenses or damages is or are levied under this Act by distress and sale, the cost of the distress and sale may be levied in addition to such fine, expenses or damages, and in the same manner.

59. Magistrate to determine the amount to be levied in case of dispute.

If any dispute arises concerning the amount leviable by any distress or arrest under this Act or the costs payable under the last foregoing section, the person making the distress or using the arrest may detain the goods distrained or arrested, or the proceeds of the sale thereof, until the amount to be levied has been determined by a Magistrate, who, upon application made to him for that purpose, may determine the amount, and award such costs to be paid by either of the parties to the other of them as he thinks reasonable, and payment of such costs, if not paid on demand, shall be enforced as if they were a fine.

60. Jurisdiction over offences beyond local limits of jurisdiction.

(1) Any person offending against the provisions of this Act in any port subject to this Act shall be punishable by any Magistrate having jurisdiction over any district or place adjoining the port.

(2) Such Magistrate may exercise all the powers of a Magistrate under this Act, in the same manner and to the same extent as if the offence had been committed locally within the limits of his jurisdiction, notwithstanding that the offence may not have been committed locally within such limits, and, in case any such Magistrate exercises the jurisdiction hereby vested in him, the offence shall be deemed, for all purposes, to have been committed locally within the limits of his jurisdiction.

61. Conviction to be quashed on merits only.

(1) No conviction, order or judgment of any Magistrate under this Act shall be quashed for error of form or procedure, but only on the merits, and it shall not be necessary to state, on the face of the conviction, order or judgment, the evidence on which it proceeds.

(2) If no jurisdiction appears on the face of the conviction, order or judgment, but the depositions taken supply that defect, the conviction, order or judgment shall be aided by what so appears in the depositions.

## CHAPTER VIII

### SUPPLEMENTAL PROVISIONS

62. Hoisting unlawful colours in port.

(1) If any vessel belonging to any [citizens of Pakistan or any Commonwealth citizen], or sailing under [Pakistan or British colours], hoists, carries or wears, within the limits of any port subject to this Act, any flag, jack, pennant or colours, the use whereof on board such vessel has been prohibited by the Merchant Shipping Act, 1894, or any other Statute now or hereafter to be in force, or by any proclamation made or to be made in pursuance of any such Statute, or by any of [the regulations] in force for the time being, the master of the vessel shall, for every such offence, be punishable with fine which may extend to fifty rupees.

(2) Such fine shall be in addition to any other penalty recoverable in respect of such an offence.

(3) The conservator of the port, or any officer of [the Pakistan Navy], may enter on board any such vessel and seize and take away any flag, jack, pennant or colours so unlawfully hoisted,

carried or worn on board the same.

63. Foreign deserters.

Any Magistrate, upon an application being made to him by the Consul of any Foreign Power to which section 238 of the Merchant Shipping Act, 1894, has, by an Order in Council [or order], been, or shall hereafter be, declared to be applicable, or by the representative of such Consul, and upon complaint on oath of the desertion of any seaman, not being a slave, from any vessel of such Foreign Power, may, until a revocation of such Order in Council [or order] has been publicly notified, issue his warrant for the apprehension of any such deserter, and, upon due proof of the desertion, may order him to be conveyed on board the vessel to which he belongs, or, at the instance of the Consul, to be detained in custody until the vessel is ready to sail, or, if the vessel has sailed, for a reasonable time not exceeding one month:

Provided that a deposit be first made of such sum as the Magistrate deems necessary for the subsistence of the deserter during the detention and that the detention of the deserter shall not be continued beyond twelve weeks.

64. Application of sections 10 and 21.

(1) The provisions of sections 10 and 21 shall be applicable to all ports heretofore or hereafter declared by the [Government] to be ports for the shipment and landing of goods but not otherwise subject to this Act, and may be enforced by any Magistrate to whose ordinary jurisdiction any such port is subject.

(2) Any penalties imposed by him, and any expenses incurred by his order, under the said provisions, shall be recoverable respectively in the manner provided in sections 55 and 57.

(3) In any of the said ports for the shipment and landing of goods the consent referred to in section 21, sub-section (4), may be given by the principal officer of customs at such port or by any other officer appointed in that behalf by the [Government].

65. Grant of sites for sailors' institutes.

Any local authority in which any immoveable property in or near a port is vested may, [with the previous sanction, in the case of a cantonment authority or the port authority of a major port, of the Central Government, and in other cases, of the Provincial Government], appropriate and either retain and apply, or transfer by way of gift or otherwise, the whole or any part of the property as a site for, or for use as, a sailors' home or other institution for the health, recreation and temporal well-being of sailors.

66. Exercise of powers of conservator by his assistants.

(1) All acts, orders or directions by this Act authorized to be done or given by any conservator may, subject to his control, be done or given by any harbour-master or any deputy or assistant of such conservator or harbour-master.

(2) Any person authorised by this Act to do any act may call to his aid such assistance as may be necessary.

67. Service of written notices of directions.

Any written notice of a direction given under this Act, left for the master of any vessel with any person employed on board thereof, or affixed on a conspicuous place on board of the vessel, shall, for the purposes of this Act, be deemed to have been given to the master thereof.

68. Publication of orders of Government.

Every declaration, order and rule of a [Government] made in pursuance of this Act shall be published in the [official Gazette], and a copy thereof shall be kept in the office of the conservator and at the custom-house, if any, of every port to which the declaration, order or rule relates, and shall there be open at all reasonable times to the inspection of any person without payment of any fee.

[68A. Authorities exercising jurisdiction in ports to co-operate in manoeuvres for defence of

port.

Every authority exercising any powers or jurisdiction in, or relating to, any port to which this Act for the time being applies shall, if so required by an officer authorised by general or special order of the [Central Government] in this behalf, cooperate in such manner as such officer may direct, in carrying out any manoeuvres in connection with any scheme or preparations for defence of the said port in time of war, and for this purpose shall, if so required, temporarily place at the disposal of such officer the services of any of its staff and the use of any of its vessels, property, equipment or other material:

Provided, firstly, that if any vessels are placed at the disposal of such officer in accordance with this section, the [Central Government] shall, in respect of the period during which they are so at his disposal, bear the running expenses of such vessels, and be responsible for any damage thereto.

Explanation. The expression "running expenses" in this proviso includes all outlay incurred in connection with the use of the vessels other than any charges for their hire, or for the wages of the officers and crews of such vessels:

Provided, secondly, that any officer making a requisition under this section shall exercise his powers in such a way as to cause as little disturbance to the ordinary business of the port as is compatible with the exigencies of the efficient carrying out of the manoeuvres:

Provided, thirdly, that no suit or other legal proceeding shall lie against any authority for any default occurring by reason only of compliance with a requisition under this section.

68B. Duties of the said authorities in an emergency.

Whenever the [Central Government] is of opinion that an emergency has arisen which renders it necessary that the duties imposed for the purposes specified in section 68A on the authorities therein mentioned, or other duties of a like nature, should be imposed on such authorities continuously during the existence of the emergency, [it] may, by general or special order, authorise any officer to require the said authorities to perform such duties until the [Central Government] is of opinion that the emergency has passed, and the said authority shall comply accordingly, and the provisions of the said section shall apply subject to the following modification, namely:-

The [Central Government] shall pay any authority, on whom a requisition has been made, such compensation for any loss or damage attributable to such requisition, and for any services rendered or expenditure incurred in complying therewith as, in default of agreement, shall be decided to be just and reasonable, having regard to the circumstances of the case, by the arbitration of a person to be nominated in this behalf by the [central Government], and the decision of such person shall be final.]

69. [ Repeal.] Rep. by the Repealing act, 1938 (I of 1938), s.2 and Schedule.